

To: Andrew Gulizia, Land Use Services, City of Portland, Andrew.gulizia@portlandoregon.gov
Cc: Diem Le, 6360 McEwan Road, Lake Oswego, Oregon 97035, lediempdx@gmail.com
From: Frederic Cann, 1205 SW Cardinell Drive, Unit 801, Portland, Oregon 97201, fcann@fcann.com
Re: LU 20-134213 AD

Applicant: Diem Le

Site Address: SW Upper Hall Ave and SW 16th Street, Portland, Oregon

This is my response to the November 3, 2020, Notice of a Type II Proposal in Your Neighborhood.

I own the two lots immediately to the North of and adjoining Applicant's property. I also own the lot diagonally to the NW. I also have a land use approval, LU 18-118430 AD, which authorizes me to build a causeway in the right of way across a portion of SW 16th to the West of Applicant's property. I also live about five blocks from Applicant's site.

I want to start this response by saying, I am NOT opposed to the development of Applicant's property. I know that when one owns property next to undeveloped property (a situation common to both of us), there will be development, and, I know that what goes around comes around.

I also am not opposed to the specific requests made by Applicant. I am not opposed to reducing the setback on SW 16th to zero. I am not opposed to the request to increase the maximum building height as requested.

The purpose of my response is to make an early statement of my interests as the owner of neighboring properties. I trust the City through its review process and appeals, in this application and all of the others which she will have to make to bring this project to fruition, to adequately evaluate Applicant's proposals.

I observe several items on the plans (drawn by "Diem Le's partner") which raise concerns that must be addressed in the development process, albeit not necessarily at this point.

The proposed ecology block wall to support the driveway, and its probable footings, most likely impinge on the footprint of my approved causeway. Applicant's drawings should show the location of my causeway.

On the site plan there is mention of a private storm drainage easement to the east of the proposed house. That suggests that the person who drew these plans believe that storm runoff may be drained onto some kind of trench system on the lot to the east, which is to the south of my lot. It may be that when Ms. Yamalova short platted her property, she granted such an easement, but that does not mean that an in-ground drainage system can actually be installed. I will strongly object to any drainage system that surcharges natural drainage uphill of my property. The geotechnical report that I obtained states that all intensification of drainage on these steeply sloped properties must be directed into off site storm drainage systems, i.e., through piping to the City storm drainage system that is already in SW 16th. One could also build a new drainage system along the edges of my property to SW Hall Street below (I conditionally offered to give an easement for such a drainage system to Ms. Le's predecessor Ms. Yamalova).

LU 20-134213 AD Exhibit F-1

Applicant's roof plan indicates down spouts at each corner, and "galvanized gutter system. Contractor to specify and locate downspouts." No. The geotechnical engineer will design the storm drainage system for the reasons that I stated above.

The drawings also state, in respect of all footings, "Confirm footing depth by geotech during construction." I am pretty confident that the geotechnical engineer will have to be involved very substantially before construction.

In my discussions with Applicant's predecessor Ms. Yamalova, which I have shared with Ms. Le, I expressed concern that construction on Applicant's property will increase demands for lateral support from my property, during and after construction, beyond that imposed by Applicant's property in its natural state. I think that is solvable but this is a necessary and not insubstantial engineering project.

The driveway is planned to be constructed in the street right of way. I don't oppose that, because I have to do the same thing, but the driveway system and wall must be constructed in such a way as not to restrict my use of the right of way to access my lot to the north of Applicant's lot.

There are also issues with the existing sewer main in SW 16th that the new wall will cross, and the PGE lines that will cross above the new driveway at a very low elevation. These are problems that can be solved with money and engineering, and I hope that Ms. Le can solve them without making things worse for me.

All in all, I wish Ms. Le Godspeed.

Regards,



11-12-2020

Frederic Cann

1205 SW Cardinell Drive, Unit 801

Portland, Oregon 97205

503 226 6529

fcann@fcann.com

Gulizia, Andrew

From: Leslie Kahl <kahl@ohsu.edu>
Sent: Tuesday, November 17, 2020 4:02 PM
To: Gulizia, Andrew
Subject: land use review

Dear Mr. Gulizia –

I live in the home at 1558 SW Upper Hall, several hundred feet below Lot 1, Partition plat 2003-51, where a Type II proposal is being considered. Although I would, of course, prefer that the lot remain undeveloped, I fully recognize the owner's right to build there. However, I do have several concerns. First, the lot was one of two carved out of a larger parcel, with generous allowance of variances to facilitate that. As such, it is smaller than the standard lot in the area. It was sold with many restrictions on what could be developed, including setback and height restrictions. The owner knew, or should have known, about those limitations when the lot was purchased. I believe that the height variance being requested will allow a home that is out of proportion to both the lot and the houses on either side of it (mine included). Yes, many of the older homes in the neighborhood stand taller than the proposed home, but of those built in the past 30 – 40 years, most do not. There are not many houses on SW Upper Hall itself to compare this to, but a quick walk down adjacent streets, including SW Cardinell, SW Rivington, SW Myrtle Court and SW Myrtle Drive shows that nearly all the houses there have respected the height restrictions and fit with the character of their neighbors. This one would not.

My second concern is the very real possibility of landslide on the lot. Currently, a trio of large pines anchors the land. I understand that these are not protected by city code. It is hard to imagine how a home of the dimensions proposed could be built on the lot without removing some or all of the trees. I trust that your group will insure that the builder takes steps to minimize the slide risk.

Thank you for your consideration.

Leslie Kahl

LU 20-134213 AD
Exhibit F-2

Gulizia, Andrew

From: Doug Metzker <dgmetzker@msn.com>
Sent: Friday, November 20, 2020 11:52 AM
To: Gulizia, Andrew
Subject: re: type II proposal LU 20-134213 AD

BDS Plan Review, Case File LU 20-134213 AD

To: Andrew Gulizia, Land Use Services (Andrew.Gulizia@portlandoregon.gov)

I own and reside at 1525 SW College St and abut the property in question on its east border. My concerns include the probable removal of very large Douglas Fir trees within 25' of my north lot line and 25' of the east line of the lot under discussion. I refer you to CASE FILE NUMBER: LUR 01-00633 MP AD dated 4/17/02 where those trees are protected as stipulated in the city's decision. A further concern is to the inappropriateness of the scale of the proposed house. Granting the exception request of an additional 20' of elevation will result in a structure that looms over my home. The result will be a severe impact on my privacy. I'm not opposed to development of the property and if it were about 15' lower, I feel it would be far more compatible with the existing neighborhood. As an observation, "downhill"-side homes in this part of Portland are almost always *built down* with most of the mass below street level.

Doug Metzker
503-224-5582

LU 20-134213 AD Exhibit F-3



Mr. Gulizia - I recently met with several neighbors of this proposed development; in general, they agree that the lot is potentially buildable (with some concerns), and there were few objections per se to a house being built here. However, there was firm opposition to at least one of the requested Adjustments - height.

Neighbors did express some concerns with landslide hazard - there have been several of varying sizes along SW College and SW Upper Hall in the last few years - and questions about the safety of the driveway and the sharp blind curve immediately above it. This sharp bend in the road, coupled with the slope of the street and surrounding terrain (and speed of many drivers!) would make it difficult for cars coming down SW 16th to see a resident pulling in or out of this driveway, and vice versa. At the least, cars should be forbidden from reversing out of this driveway and developer required to build a 'mushroom' driveway design or other acceptable solutions.

As to the Adjustments:

33.110.220B Setbacks. Neighbors seemed to understand the issue with the SW 16th right of way, and have no concerns with these reductions.

33.110.215.D.1 Height. Neighbors were firm in their opposition to this increase in maximum building height; for being out-of-character for the neighborhood, for looming above properties adjacent and below, and for setting an undesirable precedent of allowing height increases in a residential area.

While many nearby homes may be tall, particularly above the intersection of SW 16th and SW College, many of the residences along SW Upper Hall and SW College are not; in addition, many of these taller homes appear to have been built before height codes. More recent construction throughout the SW Hills (and the NW Style of architecture in general) has a tradition when building on a steeply-sloped site of one story at street level and the rest of the house below - a tradition often acknowledged in staff Findings (1). This allows a reduction in mass at street level without compromising square footage, prevents a 'canyon' effect on the street from upslope homes and tall structures on the downhill side, and allows for a more open skyline. It's also just neighborly, allowing those who live around you more light and a better view, as well as preserving vistas for those passing through, and from below.

This proposal asks for an Adjustment of over 19' above the measuring point, with a height as viewed from the sidewalk of Upper Hall of 27' above grade. For comparison, the house downslope (1558 SW Upper Hall St) has a height mid-gable of roughly 12.5 feet, and a roof ridge height of 17.5 feet as measured at the front (street-level) stoop. Similarly-scaled homes are adjacent down SW College.

We also note that the issue of building height here has come up before, in a 2002 land use case which created this parcel (LUR-01-00633 MP AD): in it Staff agreed with

LU 20-134213 AD
Exhibit F-4

neighbors and Neighborhood Associations as to the effects of building height and mass on the character of a neighborhood:

Findings: *The livability and appearance of the residential area surrounding the site is partially defined by dramatic views of Portland and the mountains to the east, as well as the heavily forested character of the lots themselves. These features were mentioned most often in the letters that staff received from concerned neighbors and the neighborhood association. After a visit to the site, staff also concurs that the view and the vegetated character significantly contribute to the livability of the area.*

In an attempt to create a suitable building site on proposed Parcel 1 that would preserve the view and vegetation on the site and on neighboring properties to the greatest extent possible, the applicant submitted conceptual building plans (Exhibit C-3). These plans show a home design that begins only slightly above the level of the nearest developed street (SW Upper Hall) and steps down the hillside in a manner that does not obstruct many of the windows of the home of the nearest uphill neighbor (on Tax Lot 6300). - pg 7

Clearly, Staff at the time felt that height, mass, and orientation of any proposed structure here were critical to ensuring that they “do not detract from the livability or appearance of the surrounding residential area.”

The height standards exist to

- ...promote a reasonable building scale and relationship of one residence to another;
- They promote options for privacy for neighboring properties; and
- They reflect the general building scale and placement of houses in the city's neighborhoods.

In this case, the structure fails to meet all three conditions.

- 1) this structure will tower over its immediate neighbors, and share no relationship or sense of scale to the predominately low-slung buildings on and near this stretch of Upper Hall.
- 2) provided drawings clearly show that proposed balconies will have direct views into adjacent structures, eliminating privacy. In addition, these balconies appear to have been constructed solely for the purpose of accommodating a requirement that no more than 20% of the adjacent structure's windows be obscured; since this tenant or subsequent ones may simply hang plants, blinds, or any number of view impediments on this balcony it hardly seems to meet that requirement - covenants preventing such obstruction would be perhaps unlawful and certainly unenforceable. And a view of the neighbor's patio set is hardly the same as the existing vista. In any case, as the proposed structure sits a mere 16' feet or so from the existing house, the effect will be of a looming, oppressive wall with a knothole to look through.
- 3) In this area, most tall homes are set on the uphill side, allowing them to blend in unobtrusively to the hillside behind. Downhill homes tend to have a lower profile at street level, and the bulk of the structure descends the hill. Often, trees below obscure much of that bulk from the streetscapes below. In this case, the exaggerated height of the structure, coupled with its distance from the curb at SW Upper Hall, will cause it to resemble a giant hitch-hiker's thumb sticking up from side of the hill, jutting out of all

proportion to the surrounding houses and trees. In addition, removal of the trees to the east will reinforce this aspect, rendering it more objectionable.

SWHRL recently approved a height increase on a similarly sloped lot: LU 20-123417AD, 2420 SW Hoffman Ave. We did so because we agreed with BDS staffers who argued that the project blended well with other structures in the area, was adequately distanced from other structures for scale and privacy, and was screened by slope and vegetation in a manner which helped obscure its bulk from view.

SWHRL also objects to the Adjustment on principle of setting a bad precedent; once one home is over-height and out of scale, it skews future arguments of 'neighborhood character,' and more will follow.

Neighbors did indicate that they would consider a *lower* structure, even if it still needed an adjustment, and were happy to discuss that option. SWHRL concurs with neighbors this proposal does not meet relevant approval criteria:

B. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

and supports their willingness to consider a smaller adjustment. This has been indicated to the developer, who replied that the extra height "*is necessary for us to have the height so that we are not below street grade.*" We note that the code-allowed height of 439.5' **already** puts them above the Upper Hall grade, and that many SW-area homes sit entirely below grade.

Other concerns

As the lot is below 5000 sq. feet, the trees at the east end of the lot appear to have no protection. However, the 2002 decision is clear that these trees must remain in any development:

• *Removal of trees over 6" in diameter is prohibited within 25 feet of the east lot line of Parcel 1 and within 25 feet of the north lot line of Parcel 2, unless a report from a certified arborist shows that tree removal is needed for a diseased or dangerous tree - pg 8*

There is a diseased, ivy-covered maple(?) at the SW of this line of trees that warrants culling, but SWHRL objects to the healthy firs being removed. We do understand that development constraints on an LU case expire after a time, and new cases may have different rules, but Portland spends much time praising trees, and too little protecting them from development.

In sum, SWHRL joins the neighbors in objecting to the height adjustment and tree cutting, and asks that this Adjustment be denied.

Craig Koon
SWHRL Land Use chair
11/20/2020

(1) "*...but tall, rear building walls on the downslope side of properties is a typical building scale in the Southwest Hills.*" - *Findings, LU -20-123417AD pg. 6*

Gulizia, Andrew

From: Gregory J. Miner <gminer@batemanseidel.com>
Sent: Saturday, November 21, 2020 1:33 PM
To: Gulizia, Andrew
Cc: Gregory J. Miner; Susan Miner
Subject: Case File LU and 20-134213-AD

Mr. Gulizia-

This is our response to the city's November 3, 2020 Notice of Type II Proposal of applicant Diem Le to construct a new single dwelling house on the vacant lot at R538363 described as lot 1, Partition Plat 2003-51.

We are the owners of and reside at 1610 SW College Street which is southwest of the proposal at the corner of College and 16th Streets and have lived there for 34 years.

As explained herein, we object to the height adjustment requested of 27-28' above SW Hall Street pavement which will allow a 2-story building scale exposed above SW Hall. It will significantly detract from the livability and appearance of this residential area; will not equal or better meet the purpose of the existing height regulation; is not consistent with the overall purpose of the R-5 zone; and the significant negative and permanent impacts resulting from the proposed adjustment and the unwanted precedent of allowing the adjustment have not been shown to be mitigated to the extent practical.

We do not oppose the development of the lot, but oppose the height adjustment as it greatly exceeds current building heights on the east side of Upper Hall street

The applicable approval criteria(A-F) contained in Zoning Code Section 33.805.040 have not been met and the height adjustment requested must be denied.

1. We understand from the Notice that the Upper Hall pavement is at 432' elevation and that the new house under applicable city regulations has a 23' height limit outright which would place the top of roof at 439.5 ' elevation, or 7.5' above SWUpper Hall pavement.

2. As stated in the Notice, the proposed highest point requested is 458.65 ' elevation which means the top of roof proposed is 27-28' above SW Upper Hall pavement or 20' in excess of existing regulation. This allows a 2-story building scale above SW Upper Hall which does not exist now.

3. This request to build up to the two story roof height of 27-28' above Upper Hall should be denied as contrary to the approval criteria especially subsections A, B, C and E in Section 33.805.040.

4. We understand the purpose of the height regulation is stated in Zoning Code Section 33.110.215.A. The proposed two story building scale above SWUpper Hall is not a reasonable building scale, nor reflect the existing building scale adjacent to it, and does not promote a relationship of one residence to another - when comparing the two existing houses on the same east side of Upper Hall. It will not only tower above both of these existing houses, but also appear as a silo and be completely out of character and sense of place. It will negatively impact the privacy of the owner to the immediate south as she has advised.

5. The west elevation profile in Diem Le's plans shows 10' added height from lowest roof height to highest roof peak from the shed style roof. This added 10' height of roof has not been shown to be necessary to construct the house nor satisfy the approval criteria for an adjustment.

LU 20-134213 AD
Exhibit F-5

6. The WDY letter of October 22, 2020 on page 3 states the gable roof pitch is for solar potential from the south and vaulted ceilings for added light. The east elevation plan shows numerous windows on three floors below the upper floor, so there is significant light and solar already existing below the upper floor. The east elevation is the main source of solar and light since the south elevation is uphill from the proposed building.

7. Contrary to the statements on pages 2-4 of the WDY October 22, 2020 letter, the massive height adjustment significantly detracts from the closest neighbors livability and the existing character of their residence and neighborhood. Upper Hall is one of only two main entrances to Portland Heights(the other is Vista Ave) and having such a towering building looming at the very entrance where Upper Hall and 16th Streets introduce this historic and long standing neighborhood is a very negative event. Allowing a two- story building above the street on the downhill side impacts not only the residents but everyone who visits this unique hillside views ofPortland.

8. The minor partition in 2003 which formed the small lot of 3,000 sf in an R-5 zone from a single larger lot was based on City staff and neighborhood concerns and objections to a proposed structure significantly above Upper Hall street. The 2003 partition and legal formation of the lot- where this two story structure above the street is now proposed- was based on reducing the height so that it did not tower above the street. Ms. Le knows that the history of how this lot was created from the partition process and it was based on the City and neighbors wanting and respecting a lower height structure not looming above the street(such as now exists with the two residences on the east side of Upper Hall). This history and livability and neighborhood character needs to be respected and followed by denying the 28' expansion above Upper Hall pavement.

9. The WDY letter of October 22, 2020 on page 3 states without explanation or support, that there is no other reasonable economic use of the site. A 10' peaked roof does not and cannot make the house economic and a flat or lower roof suddenly make uneconomic.

It is applicant's burden to prove these bald conclusions of economic infeasibility and no facts have been submitted. These statements without any supporting analysis should be ignored.

10. The site is located at a dangerous part of Upper Hall street since it is a very steep uphill climb and turning uphill into the proposed driveway from the north will cross downhill traffic without seeing this oncoming danger because of the steep hill. Upper Hall Street is also elevated/ suspended from the ground in this area and very icy in winter because of the bridge-like effect.

11. Applicant and her engineer justify the greatly expanded height of two story building based on the uphill existing houses on the west side of Upper Hall and further up 16th Street. Many were built over 100 years ago without height codes and most importantly are on the uphill side where this type of hilltop design is commonplace inPortland Heights. This is also not relevant to the proposed 28' feet expansion above the street on the downhill east side where the regulation prohibits this over- story appearance and effect.

12. We understand that Ms.Le was notified of these and other neighbors' objections but chose to not to respond other than stating she wants the height adjustment.

13. We do not object to the setback adjustment as proposed.

Relief Sought-

Thank you for your attention to this letter of objection and respectfully recommend either a denial of the height adjustment and compliance with the existing code, or a slight/moderate adjustment, rather than 4x the existing 7.5' allowed above Upper Hall which is an unprecedented 28' two story building scale above Upper Hall.

Greg and Susan Miner
503-274-7024
1610 SW College Street
Portland , Oregon 97201

Sent from my iPhone

Gulizia, Andrew

From: Gregory J. Miner <gminer@batemanseidel.com>
Sent: Sunday, November 22, 2020 5:22 PM
To: Gulizia, Andrew
Cc: Gregory J. Miner; Faye Weisler; kahl@ohsu.edu
Subject: Fwd: Pics

Mr. Gulizia- Attached are 12 photos of the two existing homes taken from Upper Hall Street elevation perspective and looking east. One is above and right next to the proposed 2-story structure and the other is below and located the second lot away from it. I am copying the two owners.

The other photos are at street level of the unbuilt lot so the City staff can see the 27-28' impact and the out of character and negative effect of the expanded height 4x the existing code allowance. A simple drive by the affected area reveals the actual harm to the appearance, nature and the livability of this unique hillside neighborhood.

Please consider these photos as supplementing our written comments and objections emailed to you yesterday. Thank you.

Greg and Susan Miner
1610 SW College Street
Portland, Oregon 97201
503-274-7024

Sent from my iPhone

Begin forwarded message:

From: "Susan Miner" <mjrminers@comcast.net>
To: "Gregory J. Miner" <gminer@batemanseidel.com>
Subject: Pics

























Date: November 23, 2020

TO: Andrew Gulizia, Land Use Services
Andrew.Gulizia@portlandoregon.gov

RE: Case File Number: LU 20-134213
Comments in Response to Notice of a Type II Proposal in Your Neighborhood

Dear Mr. Gulizia:

I reside at 1598 SW Upper Hall Street, the neighbor to the immediate south of the proposed development. These are my written comments after reviewing the Notice of a Type II Proposal in Your Neighborhood in Case File Number LU 20-134213, including the Adjustment Request to Code Section 33.110.215.D Building Height Adjustment for Down Hill Steeply Sloping Lots, and provided drawings, in particular the ones showing the south elevation of the proposed development. I will also reference the 2002 Notice of a Type II Decision on a Proposal in Your Neighborhood, and the 2003 Notice of a Decision on a Final Plat Submittal in your Neighborhood, both in Case File Number LUR 01-00633 MP AD. These decisions granted the partition of the subject development lot after much neighbor concern and input.

The October 22, 2020 Adjustment Request to Code Section 33.110.215.D Building Height Adjustment for Down Hill Steeply Sloping Lots submitted on behalf of the lot developer addresses select Approval criteria from Zoning Code Section 33.805.040 for the height adjustment request. However, before getting to the Approval Criteria, the Request makes several statements in their General statements that must be addressed. As one of several arguments to justify the additional height, the Request states: "This home finish floor must sit at this elevation to align the building effectively with the neighbor to the souths windows to maximize the building square footage potential." I do not see any criteria that supports maximizing building square footage. The alignment with my windows is only necessitated due to the massive square footage, addressed ante, and their attempt to technically comply with the 20% window obstruction restriction, while in practice violating the intention of the restriction. The building could end, other than a deck, as did the concept submitted in the Partition process, without overlap of 80% of my north facing windows.

The General statement continues: "The restrictions significantly limit the ability to construct a building that meets the integrity of the buildings in the neighborhood and also to develop to a square footage that makes economic sense." In addition to the lack of criteria supporting large square footage, I am not aware of any City criteria that seeks to maximize economic reward to the developer. As addressed in the 2002 Partition decision, the conceptual building plans submitted to the City and neighbors 'would result in a home that preserves the livability and appearance of the residential neighborhood.' That plan was not for a home of the height or mass of the proposed development.

The proposed square footage is **not** consistent with the size of homes in the neighborhood, the very homes that will be most adversely affected by the proposed development. The General section of the Adjustment Request provides the following information on square footage: "The basement will be a 1190 sf footprint, the lower floor will be 1480 sf foot print, the main floor

LU 20-134213 AD Exhibit F-7

will be 1039 sf foot print and the upper floor will be 1480 sf foot print **for a total 5,189 sf with approximately 3,850 sf of livable space once the approximate 320 sf single car garage space and 1,020 sq of stair and partition walls are removed which is consistent with surrounding developments.**”(emphasis added)

According to PortlandMaps, my home is 3253 square feet. The only home south of the proposed development on the same downward side of Upper Hall, at 1558 SW Upper Hall, is 3200 square feet, and the 3 houses immediately east of me and the development are 900 sq. ft at 1525 SW College St, 2934 sq. ft at 1517 SW College St. and 3316 sq. ft. at 1505 SW College St (which sits well below College Street).

Relevant sections of the Approval Criteria from Zoning Code Section 33.805.040 for the height adjustment request follow:

A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and in Zoning Code Section 33.110.215.A:

The height standards serve several purposes:

- *They promote a reasonable building scale and relationship of one residence to another;*
- *They promote options for privacy for neighboring properties; and*
- *They reflect the general building scale and placement of houses in the city's neighborhoods.*

The Adjustment Request addresses this Approval Criteria and Code Section with statements that are demonstrably not true or are irrelevant. They address the footprint of the building. The footprint could be slightly larger, and that would grant them additional square footage consistent with the conceptual plans submitted leading in part to the partition approval. The small footprint on a down slope lot does not improve the scale and relationship to neighbors. An adjustment request for a larger footprint but with a low-slung home that does not infringe on the protected 80% of my windows, does not loom over our homes and does not present the same privacy concerns, might meet with less resistance from neighbors.

The Request asserts that the adjustment is requested to “develop to a square footage that makes economic sense.” The height requested to gain square footage is greatly in excess of the residences most directly in proximity and impacted by the proposal. The height on top of a massive 5189 square foot house on that small lot is not a reasonable building scale. It is not reasonable in relationship to the neighboring residences.

Most demonstrably false is their assertion that “This height adjustment does not detract from either of the closest neighbors to the south, east or west.” As a neighbor to the south, the height adjustment, with concurrent mass of the structure, detracts tremendously from my enjoyment, my views, and my economic advantage (a position I believe the developer could understand).

The Request fails to mention the ‘options for privacy’. There are no options for privacy in the proposed development. I and the three homes to the east, will all suffer substantial infringement of our privacy. The proposed house would loom over us allowing the inhabitants to peer into our homes with no options other than to purchase blinds and keep our blinds closed, thus greatly diminishing the enjoyment and livability of our homes.

C. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone;

Two adjustments are requested, one for height and one for setback, so this criterion is applicable. The purpose of the R5 zone is described in Zoning Code Section 33.110.010. In part, the Zoning Section requires that “... *The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The site development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. In addition, the regulations provide certainty to property owners, developers, and neighbors about the limits of what is allowed.*”.

The Applicant fails to address this Section other than to acknowledge they are requesting more than one adjustment. The proposed development destroys the pleasing aesthetic of proportionate homes that build down the slope rather than loom above existing homes. The privacy of at least four homes is destroyed. If this proposal is approved, after relying on the City Decision in the 2003 partition, I do not know how neighbors can be afforded any certainty about the limits of what the City will allow.

E. Any impacts resulting from the adjustment are mitigated to the extent practical;

I strongly disagree with the assertion that “No significant negative impacts to surrounding developments are anticipated nor implied by the proposed adjustments. A greater positive impact will result from approval of the projects adjustments as this will bring one more single family home in an area needing new opportunities for single family dwellings.”

To the contrary, not only does the proposed plan have significant negative impacts to surrounding developments, but there have been no attempts to mitigate the negative impacts. The building is sited and sized to cover the entirety of the northern boundaries of my home. Very disturbingly, the design attempts to technically comply with the 2003 Partition Decision requiring no more than 20% obstruction of my north facing windows in the eastern 37 feet while effectively blocking the entirety of my windows and violating the intent of the Decision.

The 2002 Notice of a Type II Decision on a Proposal in Your Neighborhood, referenced above, addressed the concern of the then-owner of my property that the proposed house would obscure the view from his house. The OPDR Staff responded that ‘although the City does not protect views from private land, the number of Adjustments needed to accomplish the requested land division does warrant mitigation of an appropriate nature.’ The Staff stated the applicant proposed appropriate mitigation through revised plans to address this concern and multiple other neighbor concerns. The revised plan presented a home that **built down the slope**, not up, and provided clearance to at least 80% of my north facing windows.

In response to concerns about the height of the proposed building, the OPDR Staff in 2002 responded that ‘staff concurs that because of the multiple Adjustments needed to create an additional building parcel, there is a nexus to Adjustment criterion 33.805.B, the overall impact of the Adjustment to the livability and appearance of the residential area. The applicant has made a good faith effort to satisfy the concerns over view loss resulting from development on Parcel 1 by submitting a preliminary building design that preserves a large portion of the view from both the neighboring tax lot 6300 (mine) and from SW Upper Hall Street.’ Staff acknowledged there could be issues discovered at development that could necessitate alterations to the heights shown in the

conceptual plan. However, current applicant shows no new issues to justify an adjustment. Applicant repeatedly asserts that the height is needed to maximize the developer's economic benefit. Which results in a direct reduction of economic benefit to neighbors.

In its Partition Findings, the City found that 'to create a suitable building site' on the lot 'that would preserve the view and vegetation of the site and on neighboring properties to the greatest extent possible', the applicant submitted plans that show **'a home design that begins only slightly above the level of the nearest developed street (SW Upper Hall) and steps down the hillside in a manner that does not obstruct many of the windows of the home of the nearest uphill neighbor (on Tax lot 6300)'**, which is my home.

While the City left some flexibility, the Staff found that a number of conditions were required for approval of the partition, that the impact on the livability and appearance of the residential area would be preserved 'through careful building placement and ..design of the development; and that 'Staff recommends conditions that will ensure that future development.. will conform substantially to the limits of development portrayed on the conceptual building plans.

The specific restriction that development within the easternmost 37 feet shall be situated so that it does not obstruct more than 20 percent of the window areas of the north facade of my home must be read in the context of the Staff's findings. The purpose of the restriction was to preserve the view of my property, in light of the multiple adjustments granted for development of that parcel. Further, the definition of 'obstructs' window area as overlapping the window area when the building elevations are overlaid is intended to clarify the purpose of preserving the view from my home. Staff contemplated a home that stepped down the hillside so as not to obstruct my windows. To the contrary, the proposed development, with a cut-out peephole aligned with my windows, does not accomplish that purpose. The proposed development allows for total obstruction of the windows by placement of any number of items that people place on decks or balconies. One image provided to me by the City indicates decks, and one does not. I have no background in reading development drawings and cannot state with certainty what is proposed. But it is evident that there is an attempt to comply with the very most minimal technical interpretation of the condition, while not complying with the purpose and reasonable interpretation of the condition.

The Proposed development fails to mitigate impacts resulting from the requested adjustment, does not seem to even attempt to mitigate impacts, offers no substantial reasons allowed in the Code for the adjustment and in fact perpetuates the errors that the Code and the Partition process attempted to avoid.

The Adjustment Request proceeds to address issues that are not in the City Code:

Applicant states that "Application of the regulation will preclude the reasonable economic use of the site."

Clearly , application of the regulation would not preclude **all** reasonable economic use of the site. It would only preclude the preferred maximum economic use.

While I cannot ascertain exactly what is meant in the next sentence , it appears applicant is claiming the additional height/square footage is required or the 'quality of view would be significantly lost due to limited use of the main floor.' The view from that lot will still be unimpeded north and east without the additional height. My view, on the other hand, is significantly impeded by the

construction of the building both higher than allowed and encroaching into the supposedly protected easternmost 37 feet of the lot.

Many homes in this neighborhood that have no views have sold for very, very large sums. A view can add desirability to a home, but again, this home will have views north and east if built according to the plans submitted during the partition process. The added height and square footage are not needed for the home to have economic viability and are in direct contravention of the City Findings that created the lot and allowed the lot to be developed.

Applicant then claims that “ If the requested adjustment is not granted the building permit cannot be revised to proceed forward with construction and the site and project will not be economically feasible.” As I am not familiar with the building permit process, I reached out to the City Planner on this Proposal. He explained there is currently “no building permit applied for or approved for the vacant lot at this time. If the Adjustment Review is approved with the plans the applicant submitted, the building permit plans couldn’t be revised to be larger or taller without applying for another Adjustment Review. If the Adjustment Review is not approved with the plans they submitted, they could revise the plans. (And in fact they would need to revise the plans in order to get a building permit if their current plans are not approved.)” Thus this statement by the Applicant appears to be false.

Another false statement is that ‘all impacts resulting from the proposed adjustment are being mitigated to the maximum extent practical. The project does not significantly impact any of the neighbor’s homes as it objectively pertains to the standards of typical home and neighborhood construction. “ I am not familiar with ‘standards of typical home and neighborhood construction.” I am certain, however, that the proposal does not take into account mitigation of impact on my home. It is clear throughout the Proposal that the reasons for maximum height are for maximum square footage and view, to maximize the economic advantage to the applicant. A perfectly appealing home could be built on the property without looming over my home and impinging on the protections for my view from the north facing windows, thus greatly negatively impacting the current livability and future economic prospects for my home and several other homes to the east.

I do not have the knowledge or ability to evaluate the calculations presented regarding the requested height adjustment. I have discussed this issue with several neighbors and their opinions indicate a much larger adjustment is being requested than stated in the Adjustment Request. Of course City staff who will review the requested adjustment will have the requisite knowledge. I defer to other parties on the particulars of the amount of adjustment.

Thank you very much for your consideration of my concerns and input regarding the proposed development and request for adjustments.

Faye Weisler

Gulizia, Andrew

From: Julie Vigeland <julie@thevigelands.com>
Sent: Monday, November 23, 2020 11:17 AM
To: Gulizia, Andrew
Subject: Case file # LU20-134213

Mr. Gulizia -

I reside, with my husband, at 1517 SW College Street. I/we are very concerned about the Type II Proposal in our neighborhood. Suffice it to say that we support our neighbor who is directly impacted by this non-conforming house in the neighborhood. Her arguments are valid as are those of other directly impacted neighbors.

My husband and I moved to our home in June of 1991. Clearly over time our view has been impacted by the growth of trees and the construction of large buildings downtown. That is just a fact of time that we accept.

But this proposed construction is singularly disruptive of the neighborhood in the over-sized design. There is no concern on the part of the developer as to the neighborhood or neighbors. This is highly concerning.

For my husband and me we have two real concerns that cause us to write and ask for a halt/denial to the development:

1. Hill destabilization: While the elimination of the trees would improve our view, there is no questions that they would destabilize an already fragile hill. We watched the hill above the development below cause the hill to literally fall into the construction area. All was halted while huge retaining walls were constructed. The loss of trees (which happened below us further down College St.) as well as the deep cuts into the hill caused the damage. Why in the world would we not realize that this is going to happen again....this time above us.

We live on an extremely fragile hill and that is a fact.

Taking any action that will undoubtedly further destabilize the hill makes no sense at all.

I can just imagine the impending lawsuits!

2. Loss of property value due to precedent: My husband and I are now in our mid-70's. While we hope to be able to stay in our home for years to come there will come a point when we will probably need to move to a one level home. We will want to sell our home.

The precedent that would be set by allowing this developer to skirt the rules as to views is just inconceivable. Like it or not, those who purchase homes in the area buy them in great part due to the views. Eliminating, ignoring, or flaunting the guidelines for view retention is like reducing the value of our homes in one fell swoop. Eliminate the views or greatly decrease them and you are allowing the developer to literally steal from us! The value of our home is what we have built up

LU 20-134213 AD
Exhibit F-8

over time. It is part of estate planning! If our neighbor should sell his lots and use this precedent for development...our home is directly impacted value-wise.

That is not fair.

That is not wise.

And that is not being good stewards of the City.

We hope to hear back from you very soon and learn that the City values those have invested in and maintained their properties.

New rules do NOT make good neighbors.

Regards -

Julie and Ted Vigeland

1517 SW College St.

Gulizia, Andrew

From: Kaaren Demorest <kaaren9@comcast.net>
Sent: Monday, November 23, 2020 2:07 PM
To: Gulizia, Andrew
Subject: Variance on Upper Hall

1. My understanding is that David Fowler requested a permit to build on the lot north of this lot and our neighbor, Mr Lamb got an agreement with the city that Fowler's house could be no higher than the existing fence. This was early 90's.
2. The city may not understand that Upper Hall is the secondary route for everyone above us to get to the city. If cars are parked at the curb, it becomes a single lane. And, the corner of 16th and College becomes a blind spot for anyone trying to back out of a driveway onto Upper Hall
3. We received no notice of this variance thus my tardy comments

Kaaren Demorest
1581 SW Upper Hall

Sent from my iPad

LU 20-134213 AD
Exhibit F-9

Gulizia, Andrew

From: Harry Demorest <HDemorest@cfpwood.com>
Sent: Monday, November 23, 2020 3:54 PM
To: Gulizia, Andrew
Subject: Zoning variance on upper hall

We have been out of the country since 10-29. We reside at 1581 sw Upper Hall which I understand is directly across from the lot requesting the variance. We strongly oppose this variance. I raised our objections when they applied for a variance 1-2 years ago. As anyone who has visited the property can easily see having driveway access from Upper Hall is highly dangerous. Many years ago a height restriction was put on that property to protect view lines. Also the owner was required to keep vegetation trimmed below those sight lines which the current owner has been in violation off for several years. I am happy to answer any questions you have. Thanks for your consideration.

Sent from my iPad

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LU 20-134213 AD Exhibit F-10

Gulizia, Andrew

From: David Christian <David@cablehill.com>
Sent: Monday, November 23, 2020 7:28 PM
To: Gulizia, Andrew
Subject: Type II proposal objection

Dear Mr. Gulizia –

I own the home at 1597 SW Upper Hall Street, just West of Partition plat 2003-51, where a Type II proposal is being considered. I have several concerns related to this development. In prior negotiations that were blessed by the city, several restrictions around the nature of a future residential build were negotiated and agreed upon such as what could be developed, including setback and height restrictions. The owner knew, or should have known, about those limitations when the lot was purchased. I believe that the height variance being requested will allow a home that is out of proportion to both the lot and the houses on either side and will detract from the current livability of the neighborhood. Yes, many of the older homes in the neighborhood stand taller than the proposed home, but of those built in the past 30 – 40 years, most do not. There are not many houses on SW Upper Hall itself to compare this to, but a quick walk down adjacent streets, including SW Cardinell, SW Rivington, SW Myrtle Court and SW Myrtle Drive shows that nearly all the houses there have respected the height restrictions and fit with the character of their neighbors. This one would not. I have no issues with this lot being developed, yet the design should fit within the character and existing height restrictions.

My second concern is the possibility of landslide on the lot. Currently, a trio of large pines anchors the land. I understand that these are not protected by city code. It is hard to imagine how a home of the dimensions proposed could be built on the lot without removing some or all of the trees. I trust that your group will insure that the builder takes steps to minimize the slide risk.

Thank you for your consideration.

David Christian

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LU 20-134213 AD Exhibit F-11

Gulizia, Andrew

From: Susie Barrios <susiebarrios@gmail.com>
Sent: Tuesday, November 24, 2020 12:56 PM
To: Gulizia, Andrew
Subject: BDS Plan Review, Case File LU 20-134213 AD

BDS Plan Review, Case File LU 20-134213 AD

To: Andrew Gulizia, Land Use Services (Andrew.Gulizia@portlandoregon.gov)

Dear Mr. Gulizia

This is our response to the city's November 3, 2020 Notice of Type II Proposal of applicant Diem Le to construct a new single dwelling house on the vacant lot at R538363 described as lot 1, Partition Plat 2003-51.

My wife and I own and reside at 1505 SW College St. We are concerned about the proposed building plan and Adjustment Request to Code Section 33.110.215.D Building Height Adjustment for Down Hill Steeply Sloping Lots. Our home sits on the downhill slope referred to in this request. Our understanding of the approval criteria to granting the Adjustment Request includes that the adjustment will equally or better meet the purpose of the regulations to be modified in Zoning Code Section 33.110.215.A. Specifically, the height standards promote a reasonable building scale and relationship of one residence to another, reflect the general building scale and placement of houses in the city's neighborhoods, and promote options for privacy for neighboring properties.

It is clear that these criteria are not met with this proposed height adjustment, which is four times the existing 7.5' allowed above Upper Halland which is an unprecedented 28' two story building scale above Upper Hall. Our privacy would be severely impacted by this proposed plan, both in the proposed scale of the building and the looming height this would create over the hillside. We are also concerned about the removal of two large Douglas Fir trees that provide screening and hillside stability. There is precedent to restricting both the removal of these trees and exceeding the height standards for our hillside (CASE FILE NUMBER: LUR 01-00633 MP AD dated 4/17/02).

We believe a moderate height adjustment would accommodate both the privacy issues and preserve the neighborhood character, rather than the request being proposed. We hope that you will consider the real concerns that we and our neighbors have and deny this proposed Adjustment Request.

Thank you for your attention to this matter.

David and Susie Barrios
1505 SW College St.
Portland Or, 97201

LU 20-134213 AD Exhibit F-12

Gulizia, Andrew

From: Eli Schmitz <eschmitz02@gmail.com>
Sent: Tuesday, November 24, 2020 1:36 PM
To: Gulizia, Andrew
Subject: Case File LU and 20-134213-AD

Dear Mr. Gulizia,

Good afternoon. My name is Eli Schmitz. My wife Caroline and I own the Gaston Holman house at 1960 SW 16th Ave. I am writing today to voice my concerns over the proposed development on SW Upper Hall, Case File LU and 20-134213-AD.

I concur with my neighbors that while I do not oppose development of the lot in question, I do oppose the development exceeding the city's code on height above SW Hall. Allowing the height increase would set a precedent in the neighborhood and impede the views of neighbors. Whatever economic gain this project will benefit from by building above the city's current codes will surely decrease the value of existing homes.

We respect and support the developers right to build, the city's density agenda, and the owner's attempt to build on a challenging lot. We ask that the same respect and support be given to the families in this neighborhood in regards to view protection. This project should abide by the city's current codes.

On a separate note, it is noted that the proposed driveway is positioned in a very dangerous section of the road. I hope that a traffic survey is being conducted. It would be great to get some safety measures in place before a bad accident occurs.

Thank you for sending the documents regarding public comment. I look forward to welcoming the new neighbor to our slice of Portland heaven. I hope the city can do it's part to ensure everyone's issues and concerns are addressed as much as possible.

Please feel free to contact me directly if needed.

Sincerely,

Eli Schmitz
(503) 804-9358

Sent from my iPad

LU 20-134213 AD Exhibit F-13

Jerald M Powell

1924 SW Madison Street

Portland Oregon 97205

November 24th, 2020

Bureau of Development Services
1900 SW 4th Ave,
Portland OR, 97201

Attn: Andrew Gulizia, Land Use Services

RE: LU 20-134213


Dear Sir:

I was the Goose Hollow Planning Committee Chairman in 2002, and a participant in the application for approval of a partitioning, FP 01-00633 MP AD. I can state unequivocally that the partition was approved with the building proposed at that time, *exhibit "C" of that approval*, and would not have been approved had a building of the size, scale and off site impact of the building now proposed been proposed at that time.

The proposal sets aside the 2003 decision, in direct opposition to the language of that decision and to which I strenuously object.

Yes, times change, and so do public notions of design and scale. The proposed building enabled by the above captioned suite of "adjustments" permits a structure that not only dwarfs its neighbors, but also imposes a limitation on development of adjacent vacant properties and in so doing limits the development potential of several presently vacant and developable building sites.

Thank you,



Jerald M Powell. AICP (retired)

LU 20-134213 AD Exhibit F-14
