

From: lrusch@usa.net
To: [Besley, David](#)
Subject: comment on CASE FILE NUMBER: LU 22-159396 AD
Date: Monday, November 14, 2022 3:14:09 PM



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Hi,

I live at 2757 NW Raleigh Street near the proposed development CASE FILE NUMBER: LU 22-159396 AD.

I love the idea and the layout and think it will be a nice addition to the neighborhood.

Thanks,

Elizabeth Rusch (she/her)
(503) 896-0953 C
www.elizabethrusch.com

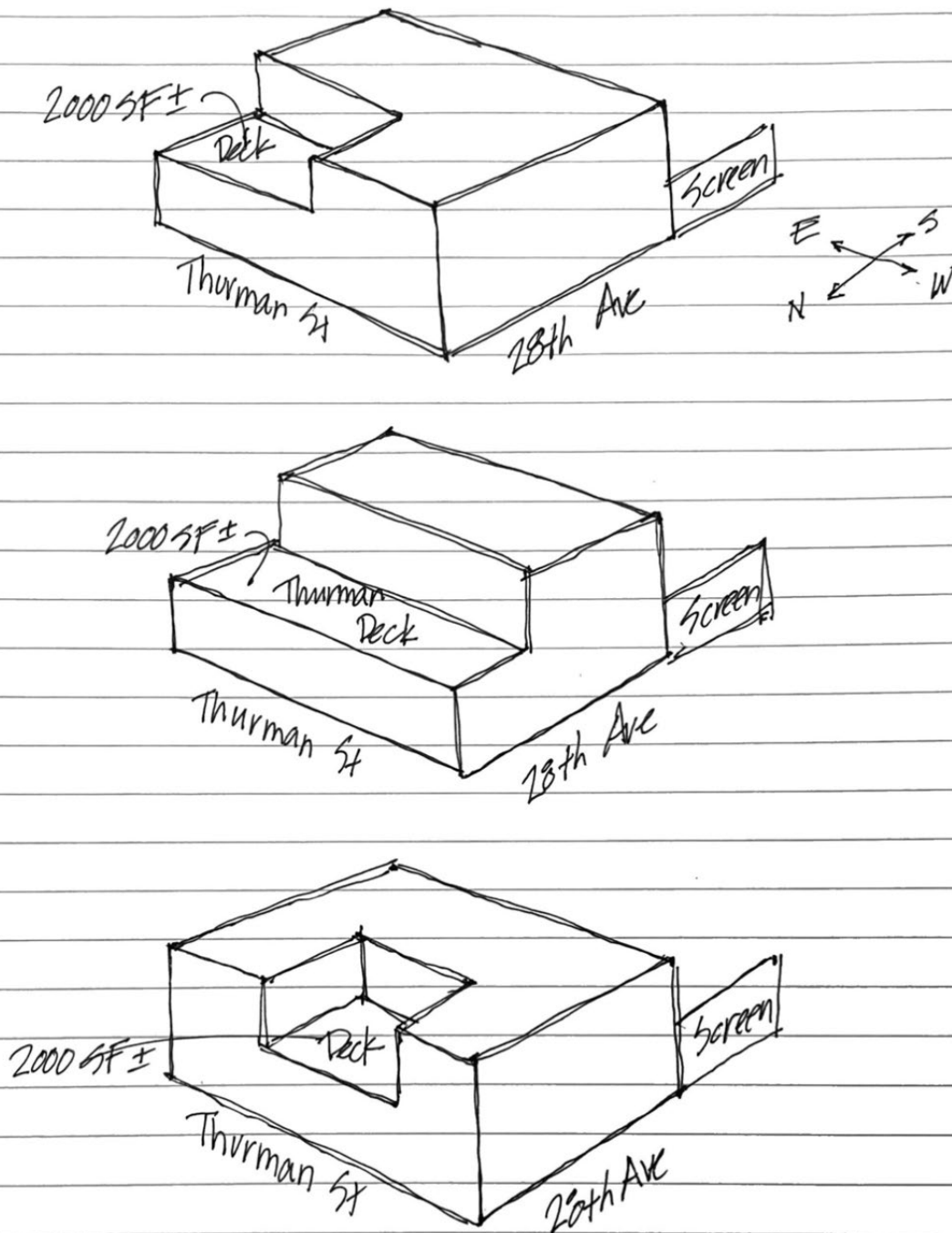
From: [Mary DeVries](#)
To: [Besley, David](#)
Subject: Case #LU-22-259396 AD Response to Notification
Date: Thursday, December 8, 2022 5:01:35 AM
Attachments: [image.png](#)

Dear David,

My comments regarding the proposal for the Food Hall & Beer Garden are submitted herewith.

I am a neighbor on the opposite side of 28th Ave and the proposed project is visible and within earshot of my home. Therefore I will be significantly impacted by the use of the exterior areas if the adjustments are approved. As designed, the outdoor areas would easily accommodate 175 to 200 people as presented; although the owner stated that they “couldn’t imagine that there would be that many people using the outdoor space at any given time”. Looking at the open space next to the Trolley House lofts I see no way the proposal will improve the quality of use of my home, or of the neighborhood. Rather it would negatively impact the surrounding residents with respect to noise, cooking smells, smoking, garbage storage, frequent trash pick-up and loading activities. In addition the owner has not defined the hours of use or whether there will be music, assembly functions or curbside dining, only that they may be open starting at 7 AM and late into the evening.

The adjustments needed to carry out this scheme are the antithesis of the zoning code and should be denied. The plan to develop the current 2,500 SF south portion of the site for outdoor dining and drinking, specifically abutting the residential zone without buffers or screening is of no benefit to the neighbors. The proposed added 1,000 SF deck above the rear yard overlooking the ground floor would be enhancements, **only for the benefit of the patrons of the bar/restaurant**. Further, the proposed addition to the building in the required setback includes the most unattractive uses including trash removal, mechanical and electrical equipment, circulation and loading area. These uses are proposed in an area of the site specifically designated to provide a buffer protecting the privacy and peaceful nature of the neighboring homes from the higher density and noisier activities anticipated here. In addition to the maintenance functions, the design proposed provides outdoor seating for drinking, congregating and dining in the areas closest to the neighbors. Such uses should be curtailed to the busier portion of the site on Thurman St. The planning code specifies that when a commercial use is adjacent to an “R” zone the residences should be shielded from the noise and proposed activity. Here are just 3 concepts for other ways to orient the outdoor uses which would better shield our low scale residential area from the activities of the food hall as required by code:



There is no inherent reason why the applicant cannot maintain a 10 foot setback, but for the fact that they plan to use this space for large outdoor gatherings weekends and evenings interfering with the peace and quiet currently enjoyed by the surrounding residents.

In addition, the proposed loading truck area immediately next to the Trolley Car Lofts is totally unattractive and will be noisy throughout the day. The planning code requires loading areas to have a 5 ft landscape buffer from the adjacent residences for this precise reason. The loading area also may not be located in the 10 ft setback, placing a truck area 15 ft to the north of the Trolley Car lofts and 5 feet to the east of the street facing property line. The neighbors

prefer that the entire rear yard be shielded from view, protecting our privacy, containing the noise and odors as well as restricting pedestrian traffic into the site from 28th Ave, other than in a possible emergency. Approval of the multiple adjustments provide the opportunity for unlimited active use of the space which will be incredibly disruptive to this otherwise quiet neighborhood bordering the site.

In response to the possible justifications for allowing these adjustments:

A. Granting the adjustment will NOT equally or better meet the purpose of the regulation to be modified

This proposal specifically provides for activity in the required setback that is objectionable in terms of noise and privacy of the surrounding residences.

The landscaping proposed is only for the benefit of the patrons of the bar/restaurant and would not provide any buffer for the residents to the south or the west as required by the planning code. Further roof decks at the 2nd floor will create more noise and clatter, detracting from the character of this quiet residential area.

B. If in a residential zone, the proposal WILL significantly detract from the livability AND appearance of the residential area:

The site borders a residential zone along the south side and is directly across from a residential area to the west. The neighbors do not want visibility into or from within towards our homes.

The property owner to date has had trash and junk piled in the existing back yard as well as debris on their sidewalks, detracting from the appearance of the area.

The open courtyard will impinge on the privacy and quiet enjoyment of the neighbors to the south and the west. The acoustic effects of the adjacent brick wall may create even louder sound reverberation. The development team hasn't addressed this issue. It requires further study.

C. More than one adjustment is being requested, the cumulative effect of the adjustment results in a project which is chaotic and disharmonious with the overall purpose of the zone.

The cumulative effect of the zoning adjustments results in a project which allows large crowds of people to gather in a space which is adjacent to a quiet residential zone. The combined adjustments create a final project which promotes loud crowds to gather daily and into the evening without protections for the neighbors. Furthermore, the outdoor experience can easily be accommodated on the north and east of the property where it is ONLY interfacing with property in the CM Zone, shielding the residents to the south and west from the increased activity.

D. City-designated resources and historic resources are preserved, and

The applicant has not shown any attention to retaining or restoring the original historic elements of the building.

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

The proposed landscaping is inadequate and the combined adjustments amplify the impacts on the neighbors. They would reduce the minimum required buffers of space and landscaping to non-existent buffers while claiming that the vibrant nature of the proposal will enhance the area and create community. Introducing a noisy exposed outdoor dining and gathering space adjacent to the property line is a setup for bad relations between the future occupants of the project and the surrounding neighbors. The project as designed exacerbates the impact due to

proximity of loud public use so close to the neighbors.

F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practical, or
The proposal as submitted does not include any specific environmental improvements.

Further to the above objections, the developer also has the food carts at 22nd Place which while enjoyed by many neighbors has created chaos for the nearby homeowners. The site is overcrowded and unpleasant for residential neighbors. As a result both adjacent properties were sold this year, and one of the 2 is being converted to commercial use. Similarly Cafe Nell's expansion has resulted in neighborly discord, the potential for which should be avoided through forethought and design choices that respect the reasonable needs of quieter neighbors in the adjacent residential zone. The project sponsor is attempting to create a neighborhood nuisance and should be redirected by the planning department to meet codes as well as to propose a project which would serve the common good.

Thank you for your consideration of these concerns as to the impact of the proposed project on the existing residents of the area. Please confirm receipt of this email at your earliest convenience.

Sincerely,

Mary DeVries
[2803 NW Savier St.](#)
[Portland, OR 97210](#)
415.307.6122

From: Mary DeVries
To: Beslev, David
Subject: Fwd: NWDA Planning Committee DRAFT Agenda - Dec 1 2022
Date: Thursday, December 1, 2022 12:09:53 PM



The City's email systems have identified this email as potentially suspicious.
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David,
I wanted to let you know I sent this to the members of the NWDA Planning committee as well as some closer neighbors. Erik has not replied to my emails or phone messages although he did respond to this group earlier today.
Best,
Mary DeVries
2803 NW Xavier St.

----- Forwarded message -----

From: Mary DeVries <mary@abacusre.com>
Date: Thu, Dec 1, 2022 at 12:04 PM
Subject: Re: FW: NWDA Planning Committee DRAFT Agenda - Dec 1 2022
To: BCMWelch@gmail.com <BCMWelch@gmail.com>, Gayle Kvernland <gaylek@teleport.com>, Steve Pinger <steve@sspdev.com>, Wendy.Hawkins@gmail.com <Wendy.Hawkins@gmail.com>, alisonbhardin@gmail.com <alisonbhardin@gmail.com>, bristol.kelley@gmail.com <bristol.kelley@gmail.com>, <dennisharper@protonmail.com>, <elliogygansner@hotmail.com>, galatzsue@gmail.com <galatzsue@gmail.com>, greg.theisen@gmail.com <greg.theisen@gmail.com>, <hauseregina@gmail.com>, <jeremy.sacks@stoel.com>, jozell.johnson@gmail.com <jozell.johnson@gmail.com>, <jreca@aol.com>, <katelyncalvelli@gmail.com>, <lkojaku@outlook.com>, parker@carbongrp.com <parker@carbongrp.com>, <ravrilakas@comcast.net>, <todd@mailboxblue.com>
CC: Jim McAdoo <quidam8@yahoo.com>, Lisa Selman <lselman31@gmail.com>, <MaryDeVries1@gmail.com>, Olivia Horgan <oliviahorgan@fastmail.fm>, <hauseregina@gmail.com>, <levinelliot@gmail.com>, nebpotech <nebpotech@gmail.com>

Thank you all for your time this morning. I don't know what the weight of the NWDA will be but I feel that the larger concerns of the immediate neighbors are being minimized by Erik and the Architect and being overlooked by the Planning committee. I am asking each of you to consider what your personal reaction would be to having a beer hall/wine bar with capacity for 175 people on outdoor decks overlooking your home operating from 7 AM - 10 PM and possibly midnight or even later on weekends.

Erik did not respond to questions about reconsidering the design to internalize the design, thereby drastically reducing the impact on the neighbors. He also did not agree to close off visual access to the first level loading or dining areas. Both Elliot and I raised these questions. Others asked about reorientating the deck towards Thurman and expressed concern about the acoustics of the space. Erik only addressed the delivery/garbage truck portion of the design and did not respond other than to say they were concerned about future neighbors across the street - so much for the existing neighbors. At least future neighbors will have the luxury of deciding whether to buy property across the street from his project - which we don't.

Like all of you, I enjoy the quiet scenic surroundings and while I appreciate the idea of having a vibrant gathering space close by I do not think it would be appropriate to force the neighbors to experience this from outside the venue. And requesting multiple adjustments against the residential interface simply points to the disregard for those of us most exposed.

Please consider this in any communication with the project sponsors and the planning department.

Regards,

Mary DeVries

On Tue, Nov 29, 2022 at 11:40 AM Steve Pinger <steve@sspdev.com> wrote:

Attached:

- [2788 NW Thurman BDS Type II Notice – Adjustment Review](#)

From: Steve Pinger <steve@sspdev.com>
Sent: Monday, November 28, 2022 3:40 PM
To: 'bcmwelch@gmail.com' <bcmwelch@gmail.com>; 'elliottgansner02@hotmail.com' <elliottgansner02@hotmail.com>; 'greg.theisen@gmail.com' <greg.theisen@gmail.com>; 'John Czarniecki' <jreca@aol.com>; 'JoZell.Johnson@gmail.com' <JoZell.Johnson@gmail.com>; 'lkojaku@outlook.com' <lkojaku@outlook.com>; 'parker@carbongrp.com' <parker@carbongrp.com>; 'Vrilakas, Roger' <ravrilakas@comcast.net>; 'Sacks, Jeremy' <jeremy.sacks@stoel.com>; 'Bristol Kelley' <bristol.kelley@gmail.com>; 'DennisHarper' <DennisHarper@protonmail.com>; 'todd zarnitz' <todd@mailboxblue.com>; 'Wendy Hawkins' <wendy.hawkins@gmail.com>
Cc: 'allan@nwexaminer.com' <allan@nwexaminer.com>; 'Erik Opsahl' <erik@savierdevelopment.com>; 'vskryha@aol.com' <vskryha@aol.com>; 'barbara shepherd' <bgsxoxo@gmail.com>; 'millyguitron@outlook.com' <millyguitron@outlook.com>; 'William First' <firstwil@cbhs.edu>; 'Rebecca Lee' <2801middlebury@gmail.com>; 'P Michael Mackey' <lunamando@gmail.com>; 'Corinne Frechette' <corinnemfrechette@gmail.com>; 'julietkane@me.com' <julietkane@me.com>; 'NWNW Admin' <admin@nwnw.org>; NWDA Archive <nwda.archive@gmail.com>; hauseregina@gmail.com; Rick Michealson <rick@icppdx.com>; 'David Snyder' <dw_snyder@hotmail.com>; 'Peter Grabel' <petergrabel@gmail.com>; 'KS Brown CA Uraiqat' <sevegraceportland@gmail.com>
Subject: NWDA Planning Committee DRAFT Agenda - Dec 1 2022

Draft agenda for this week's meeting is below:

Attached:

- [2788 NW Thurman](#) submittals

From: [John Utz](#)
To: [Besley, David](#)
Subject: Case # 159396 AD
Date: Monday, December 5, 2022 12:27:55 PM

David Besley, Land Use Services
Re: LU 22-159396 AD

Mr. Besley,

We are John and Jo Ann Utz, owners/residents of a condo at 2761 NW Savier St., part of the Trolley Car Lofts HOA.

We are responding to the referenced land use review for 2788 NW Thurman, the property directly north of our building. This response is individual on our part, as the HOA president for our building will have a response as well, representing all owners. Our general sentiments regarding this proposal are in agreement with those of the HOA.

Simply stated, we specifically oppose the adjustment to the 10 foot setback and waiving of the Landscape Buffer. We offer the following reasons:

1. Our rooftop deck faces directly on the proposed development. We also have bedroom windows and 4 opening skylights on the same level. You can literally look across our parapet wall and see, smell and hear all activity. The proposed 2-story restaurant dining and drinking will bring all of this so much closer.
2. Our first-floor bedroom has 2 skylights that open unto the deck area and are very important to us because they are our only way of accessing outside fresh air. During the operation of a previous outdoor restaurant, we were plagued by noise, cooking odors, and late night partying. In fact, this restaurant tenant had a wood smoker operating which forced us off our deck and required us to keep our skylights closed due to the harsh smoke and odor. HOA complaints fell on deaf, often hostile ears.
3. Reducing the setback and eliminating landscaping will allow the developer to expand the building and crowd in even more activity, noise, and restaurant cooking odors closer to our building and home than ever before. It will allow outside access to a second floor dining area facing our home, deck, and bedroom at eye level. This is not a compatible use situated closely to residential zoning. It deprives us of our privacy, general livability, and will effect a loss of property value.
4. Reducing the alley setback to 6 feet will make it very difficult, if not impossible, for our building to maintain the exterior north brick wall. Not to mention the increased expense to all of us for restoration work under difficult physical circumstances.

In summary, regarding the City's own stated "Relevant Approval Criteria" this proposal DOES "detract significantly from the livability and appearance of the residential area."

You or anyone on your staff are welcome to come to our condo and see the potential problems. When we purchased in 2002, we were aware of restaurant use on the property but this proposal is a major expansion, with multiple tenants posing multiple problems with loss of enjoyment and potential loss of property value for all of us.

Thank you for your consideration,

Sincerely, John and Jo Ann Utz

From: [Claire Hanway](#)
To: [Besley, David](#)
Subject: LU 22-159396 AD
Date: Monday, December 5, 2022 5:36:55 PM

Just wanted to let you know my husband and I are happy to hear about the changes requested for this zoning project so someone will develop the old tavern into a more enjoyable and usable space in the neighborhood.

Claire
2923 NW Savier St

From: [nebptech](#)
To: [Besley, David](#)
Subject: Comments - Case File Number: LU 22-159396 AD
Date: Monday, December 5, 2022 5:37:47 PM

Hello Mr. Besley,

I urge you to reject the Land Use proposal Case File Number: LU 22-159396 AD.

Below are my comments which outline my opposition.

David Besley

Case File Number: LU 22-159396 AD

Land Use Services

Bureau of Development Services

City of Portland, Oregon

Dear Sir:

This document is my written comments in regards to the Land Use Proposal Case File Number: LU 22-159396 AD concerning the Site Address of 2788 NW Thurman St. in regards to your communication of November 17, 2022.

I urge you to reject this proposal as it does not conform to the Relevant Approval Criteria Section.

Relevant Approval Criteria Section A states, "Granting the Adjustment will equally or better meet the purpose of the regulation to be modified." The proposal does not address this criteria. It lists the setback and loading space changes the developer would like to make, but it in no way describes how granting the adjustment "equally or better meets the purpose of the regulation." All of the described changes in the proposal reduce the standards in the Portland Zoning Code, so they do not "better meet" them. It would seem that the Portland Zoning Code standards exist for specific purposes. One possible purpose is to provide space between commercial and residential properties and this proposal does not meet that criteria. Therefore, this proposal should be rejected.

The neighborhood does not have a deficit of food establishments that offer outdoor seating. There are already sufficient venues within walking distance of this address, and none are on

this scale or impact the neighbors like this.

Relevant Approval Criteria Section B states, “If in a residential, CI1, or IR zone, the proposal will not significantly detract from the livability, or appearance of the residential area, or if an OS, C, E, I, or CI2 zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the the area; and.” The proposal violates this Approval Criteria in regards to livability. The lower level outdoor seating, the external stairs, the stadium seating provide no privacy screening for the properties across the street on NW 28th Ave. Therefore, due to the impact on livability and the residential nature of nearby properties, the proposal should be rejected.

The scale of this project impacts livability with respect to noise, and the proposal does not offer any remediation for the residential properties in the vicinity. As this impacts livability, the proposal should be rejected.

The scale of this project will impact livability in regards to increased carbon emissions from automobile traffic, and parking. The number of potential food vendors implies the needed volume of diners to support those businesses will be detrimental to the residential nature of NW 28th Ave, the surrounding neighborhood, and the livability. Therefore, this proposal should be rejected.

Additionally, the Northwest District Plan called for promoting the commercial nature of Northwest Thurman. All of the adjacent commercial buildings are focused on NW Thurman. Regardless, of the classification of NW 28th Ave. between NW Thurman and NW Savier, this proposal does not support that intention of the Northwest District Plan. The proposal concerns developing space on the property on the opposite side of the property from NW Thurman. Development of the south-side of adjacent commercial buildings are either non-existent, or enclosed. This proposal is not consistent with the footprint of other commercial buildings in the vicinity. The development in this setback, loading area is inconsistent with the residential nature of my property, and the other residential properties along NW 28th Ave. between NW Thurman and NW Savier. The proposal should therefore be rejected.

Relevant Approval Criteria Section E states, “Any impacts resulting from the adjustment are mitigated to the extent practical; and”. Granting approval of this adjustment leads to the creation of the outdoor seating area, the stairs, and the stadium seating, it provides no mitigation for the neighbors in residences across from the setback, loading area. It does not mitigate noise and without an adequate privacy screen for NW 28th Ave, it provides no mitigation for the residential nature of those properties which are homes where people live. For this reason, the proposal should be rejected.

It is hoped the comments above illustrate the many concerns regarding how this proposal is inconsistent with the Relevant Approval Criteria. The scale of this proposal is inconsistent with the nature of the adjacent commercial properties, the residential properties along NW

28th Ave., and the surrounding neighborhood. It does not promote the livability or residential nature of the area. And that these comments allow you to decide to reject this proposal

Peter Beninato

1715 NW 28th Ave.

Portland, OR 97210

From: [Michael Kirk](#)
To: [Besley, David](#)
Subject: Resident of 2928 NW Savier in Support of 2788 NW THURMAN ST Development
Date: Monday, December 5, 2022 8:08:47 PM

Hello David,

I'm writing to express support of the development on 2788 NW THURMAN ST. I live at 2928 NW Savier St, Portland, OR 97210.

One of the reasons I moved to this neighborhood was for the local restaurants. Two of which (Mai Phai Thai and Crackerjacks), were sadly closed due to the pressures of the pandemic. This site (the former location of Crackerjacks) has become a run down building and an eye sore to the neighborhood. It needs to be re-built.

In my time in this neighborhood, restaurants have been part of the character and served as a way to bring the community together. While I can't be certain what types of businesses will move in, this development may help bring back some of this community feel that was lost when Crackerjacks and Mai Phai Thai closed.

The designs seem reasonable and I see it as a net positive for the neighborhood. Thank you for your consideration.

Mike Kirk

From: [thedruma](#)
To: [Besley, David](#)
Subject: Rezoning on Thurman Street at Old CrackerJacks
Date: Wednesday, December 7, 2022 3:10:13 PM

Dear Mr. Besley,

Most who line here on Thurman are alarmed at the proposed zoning adjustments being sought after by developers interested in the old Cracker Jacks establishment. The adjustments are clearly not in line with the long time residential character of the 27-28 block of Thurman. Granted there are some small scale commercial interests, but they are not even close to the scale being proposed. Even the back patio of Cracker Jacks was often a source of disturbance of the peace and I had to call that establishment many times to have them turn the music off during the evening. Drunk people like their music loud! The new zoning promises more of this and any assurances by any developers are very likely going to be nothing but hot air.

This is only one aspect of the problem. Others to take into consideration are traffic and congestion issues. Since Thurman is the gateway to the part, it is a busy street already at a level dangerous to pedestrians. Parking is also at a complete premium and tax paying residential citizens should not have to fight with restaurant patrons for the few spaces that are available. This is especially true given the scope of the expansions envisioned and planned for. The pressures created will encourage people to park where they should not, as I have often also experienced.

Sincerely,

Tom Barbara
2736 NW Thurman

From: [Richard Hicks](#)
To: [Besley, David](#)
Subject: case file number, LU 22-159396 AD
Date: Wednesday, December 7, 2022 3:11:41 PM
Attachments: [variance.doc2.pdf](#)
[ATT00001.htm](#)



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To: David Besley, Land Use Services
Re: case file #: LU 22-159396 AD

Please see attached PDF. Thanks. Richard Hicks

To: David Besley, Land Use Services
City of Portland
Bureau of Development Services

Re: case file #: LU 22-159396 AD

Please note that I live with my family of four directly across the street on 28th Ave from the proposed repurposing project at the corner of NW 28th and Thurman. **I am writing in opposition to the requested variance.** The proposed changes are presented without enough information to adequately assess necessity (incomplete drawings and inadequate information about the business to be operated at that location) and lack an argument in support of the needed variance in the provided materials. The sparse presentation comes across as either a bad faith attempt to communicate or one rife with naiveté about what might be needed by those effected to make a reasoned contribution or judgement.

But from what I can discern from the minimal packet (one strangely populated with so little information) and from neighborhood conversations is that the owners plan to substantially increase the service capacity at the location so that what was once a small restaurant / bar will become a space that houses nine or more mini-restaurants and provides indoor and outdoor areas for patrons to eat and drink.

The increased scale of a service business operating within the umbrella of this new larger repurposed building not only is a substantial change from the previous scale of business in that space but will, if successful, lead to a major increase in noise and traffic from patrons, and because of the open roof deck cause a measurable loss of privacy to adjacent neighbors. The noise from a regular trash-pick-up routine as well as from delivery trucks on 28th, for such a large number of restaurants, will be intrusive probably on a daily basis, as would the smoke and odors from so many kitchens operating simultaneously.

To restate - **I oppose the variance as requested due to livability concerns.** More information is needed about the scale of the operation and about mitigation related to visual privacy from the roof deck, cooking odors from multiple kitchens, the trash and delivery routine and location, parking impacts and noise. **Alternatives to the current plans should be explored that will have less impact on the adjacent neighborhood residents and align better with the intentions of current land use and zoning rules** (for example - could deliveries be received and trash be gathered and picked up on Thurman which is already zoned as a commercial corridor? Could the roof deck be enclosed by a privacy barrier or shifted to look over Thurman rather than into the neighborhood on 28th etc).

And please require applicants to at least make a sincere effort to communicate the entirety of plans in future outreach. Complete information is necessary to contextualize the impacts and necessity of the request.

Thanks

Richard Hicks
1725 NW 28th Ave.

From: [Linda Walton](#)
To: [Besley, David](#)
Subject: Fwd: Objection to Proposed Zoning Adjustment 2788 NW Thurman
Date: Wednesday, December 7, 2022 4:01:05 PM

----- Forwarded message -----

From: **Linda Walton** <wananling@gmail.com>
Date: Wed, Dec 7, 2022 at 3:53 PM
Subject: Objection to Proposed Zoning Adjustment 2788 NW Thurman
To: <David.Besley@portlandoregon.edu>
Cc: <MaryDeVries@gmail.com>

Dear David Besley,

As a longtime resident of the neighborhood surrounding the former Crackerjacks Tavern, I want to register my strong objection to the proposed zoning adjustment. The proposed development would dramatically alter the immediate area, and bring with it a totally different level of noise and congestion. Currently, there are two commercial businesses in the same block, a restaurant and a cafe, both of which fit the neighborhood profile and don't disrupt the daily lives of those living near them. This would be totally different. Crackerjacks was a neighborhood tavern (and the adjoining artist studios were also a plus for the neighborhood and a sad loss). But the proposed development would bring a huge and problematic change to the neighborhood, essentially setting up a non-neighborhood establishment that would draw in traffic to add to parking congestion and the general noise level.

We've put up with the loss of older buildings and the erection of condos and apartments, with and without parking, but this would really change the neighborhood for the worse.

I also find it objectionable that I have not received notice of this before a letter arrived today from another neighborhood resident. Why wasn't there earlier notice from the city about this proposed adjustment? And the deadline for comment is in 24 hours!

Sincerely,
Linda Walton
2865 NW Raleigh St.

From: [Greg Passmore](#)
To: [Besley, David](#)
Subject: NW Thurman / 28th Development / Crackerjacks
Date: Wednesday, December 7, 2022 5:11:28 PM

Hi David,

I'm a homeowner on the same block as this project (on the thurman side, 2748 nw thurman) and I support this project. I received a letter from a " Mary DeVries" asking me to email you and show opposition to the project. She says she owns the house at 2803 Savier and recently moved here for the quiet neighborhood. Turns out the letter she sent me was mailed from San Francisco, and she has her house listed for rent, so I'm not sure what her motives really are.

Anyway, I'm somewhat concerned about parking overrun with this new development (i have to park on the street), but otherwise welcome it with open arms.

Thanks,
Greg Passmore

David.besley@portlandoregon.gov

CASE FILE NUMBER: LU 22-159396 AD

Applicant: Philip Sydnor Integrate Architecture & Planning 1919 N Kilpatrick Portland, OR 97217 Phone: 503.528.9899, Email: phil@integratearch.com

Owner's Agent: Erik Opsahl Savier Development 2724 NW Savier St Portland, OR 97210

Owner: Nascent Collective LLC PO Box 29107 Portland, OR 97296

Site Address: 2788 NW THURMAN ST

Dear David,

My comments regarding the proposed Food Hall & Beer Garden at the subject property are included here.

My spouse and I have lived on NW 29th for almost 27 years. The intensity of use proposed is inappropriate for this mostly residential neighborhood.

In order to be approved, this proposal must comply with the approval criteria of Title 33.

The relevant criteria are:

A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified;

It's hard for me to understand how adjusting a buffer to reduce or eliminate the buffer can meet the purpose of an established regulatory buffer. The basic definition of a buffer is "1. a person or thing that prevents incompatible or antagonistic people or things from coming into contact with or harming each other." Oxford English Dictionary. Or we can use Websters – as used by the Oregon Appellate Courts and LUBA - where the relevant definition of a buffer is "something that serves as a protective barrier".

Under either definition, (and both may be applicable), reducing or eliminating the "buffer" cannot "equally or better meet the purpose" of the buffer. The whole point of a buffer here is to prevent incompatible or antagonistic people or things from coming into contact with each other, or to serve as a "protective barrier." I am perplexed as to how reducing or eliminating a buffer will "equally or better meet" the purpose of a buffer, particularly where, as here, we have a residential use and Cm2d zone immediately adjacent to the proposed adjustment – and the buffer is presumably in place to serve as a protective barrier between the two sometimes incompatible uses.

If the purpose of a buffer is to buffer, the adjustments needed to carry out this proposed scheme cannot meet the adjustment criteria standard and should be denied. The plan to develop the current 2,500 SF south portion of the site for outdoor dining and drinking, specifically abutting the residential zone without buffers or screening. This is of no benefit to the neighbors and would, in a reasonable view of things, seem to call out for a larger buffer than the zoning code currently provides, not less of one. The proposed added 1,000 SF deck above the rear yard overlooking the ground floor would be enhancements only for the benefit of the patrons of the bar/restaurant. There will be no buffer for the impacts of this proposed use – noise travelling to neighbors - and no good neighbor agreement will solve that, as suggested by NWDA. Witness the ongoing nonsense occurring at Café Nell where a good neighbor agreement has apparently been in place for quite some time, but to no avail.

Further, the proposed addition to the building in the required setback includes the most unattractive uses including trash removal, mechanical and electrical equipment, circulation and loading area. These uses are proposed in an area of the site specifically designated to provide a buffer protecting the privacy and peaceful nature of the neighboring homes in the residential zone from the higher density and noisier activities anticipated here. In addition to the maintenance functions, the design proposed provides outdoor seating for drinking, congregating, dining and a “beer hall” in the areas closest to the neighbors. Such uses should be limited to the busier portion of the site on Thurman St. or kept indoors. The planning code specifies that when a commercial use is adjacent to an “R” zone the residences should be shielded from the noise and proposed activity. I am aware of no shield for the noise that will occur here.

Perhaps a buffer would help?

B. If in a residential, CI1, or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, I, or CI2 zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

It strains credulity to think that this intensive proposed use will not detract from the livability of the adjacent residentially zoned areas or is consistent with the desired character of those areas. This is a residential area. The subject property was, for decades, an unobjectionable, low intensity use at the very end of the Cm2d zone. This proposal will put what looks to be one of the highest intensity uses in all of Northwest Portland with the largest potential for crowds, noise traffic, parking issue, and undesirable operational impacts like garbage service and so on at the very end of the zone. While this development might be appropriate on NW 23rd St. it is seriously out of place and scale and inconsistent with the desired character of this area where proposed.

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;

For over two decades, I was a patron of the Crackerjack’s bar and other small businesses over time in the subject building. Crackerjack’s was a neighborhood bar, with operations largely though not exclusively confined to the interior of the building. Employees from ESCO came over for lunch. Yes, there were, rarely, some rowdy customers, but never in our experience was there a crowd of 175-200 people gathered at the premises at any one time as there would be under the current proposal for the space. Certainly, Crackerjack’s was never a “beer hall” with 175-200 people milling around outside.

The current proposal represents a major increase in the intensity of the use of the site. A crowd of that size is inappropriate for this residential neighborhood. Impacts that must be considered under a cumulative impacts analysis include noise, parking, traffic, the effects of business operations on neighbors, risk of DUI on our streets and the inconsistent nature of the proposed enterprise with exclusively residential zoned areas adjacent to the subject property. This proposal specifically provides for activity in the required setback that is objectionable in terms of noise and privacy of the surrounding residences.

History is important in terms of the desired character of the area and cumulative impacts. Crackerjack’s customers often walked to and from the bar. It was a low key, neighborhood operation and hardly a destination that attracted clientele from outside of the area. The bar did not generate car traffic, parking demand, parking problems or to my knowledge, many drunken drivers parking and driving through my

neighborhood. The proposed operation is not a neighborhood operation like its predecessor but instead a destination venue “beer hall” which will attract people from outside the neighborhood, a substantial percentage of whom will no doubt drive to the site.

Increasing the intensity of use of this site in the proposed fashion will likely add pressure to meter parking on my street in the future – NW 29th Ave, in addition to the other impacts noted above, causing impacts outside of the CM2d zone in the exclusively residential R 5 zone where I live. Approval of the multiple adjustments will provide the opportunity for unlimited active use of the space which will be incredibly disruptive to this otherwise quiet neighborhood bordering the site. These are cumulative impacts that must be considered given that two concurrent adjustments are being requested.

The cumulative effect of the zoning adjustments results in a project which allows large crowds of people to gather in a space which is adjacent to a quiet residential zone. The combined adjustments create a final project which promotes loud crowds to gather daily and into the evening without protections for the neighbors. Furthermore, the outdoor experience could easily be accommodated on the north and east of the property where it is ONLY interfacing with property in the CM Zone, shielding the residents to the south and west from the increased activity.

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

One way to mitigate some impacts here would be to place the outdoor elements of the proposal facing Northwest Thurman St. rather than immediately adjacent residential properties – or keep them indoors. However, even doing that will not mitigate for noise, parking traffic and operational issues resulting from this proposal. My understanding is that other commenters have proposed design changes that might mitigate some of these issues to the site developers. I understand those modifications were dismissed out of hand. Not encouraging in terms of that good neighbor agreement the NWDA suggests.

I’ve lived here a long time and intend to continue doing so. This proposal would allow an intensity of use that is inconsistent with the character of my neighborhood and those who live near or adjacent to the subject site. No buffers should be relaxed or eliminated.

Thank you for your consideration of these concerns as to the impact of the proposed project on the existing residents of the area.

John DeVoe
1725 NW 29th Ave
Portland, Oregon 97210
streamflowguy@gmail.com

From: [Susie Stragnell](#)
To: [Besley, David](#)
Subject: Case File Number, LU 22-159396 AD
Date: Wednesday, December 7, 2022 8:25:13 PM

Hi David,

I'm writing about the Revised Notice of a Type II Proposal in my neighborhood. I have some serious concerns about the size and scope of the proposal. (Case File Number, LU 22-159396 AD)

I've lived in this neighborhood for almost 30 years and part of the charm is the community - neighbors caring about other neighbors - as well as the walkability and the availability of many businesses on NW Thurman (and a few tucked into the neighborhood on NW 24th). These are mostly small places that are in keeping with the neighborhood.

While there is already an existing tavern on this property, it sits in the middle of a residential zone - in fact it abuts residentially zoned sites. The proposal should fit in the neighborhood and there should be no exceptions to the setbacks. The proposals significantly detract from the livability and appearance of the residential area and aren't in keeping with the desired character of the area. Let's think about fitting the scale and character of the neighborhood.

I propose that The Bureau of Development Services will deny the proposals.

Thank you for your time,

Susan L Stragnell

Proposal Notice for LU 22-159396 AD Page 3

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 ; and

D. City-designated scenic resources and historic resources are preserved (not applicable); and

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

F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable (not applicable).

From: [Glenn Ford](#)
To: [Besley, David](#)
Subject: Nascent Collective Llc
Date: Wednesday, December 7, 2022 10:08:20 PM

December 7, 2022

Mr. David Beasley

Land Use Services

Bureau of Development Services

City of Portland

Dear David,

My wife and I are residents of the Trolley Car Lot Building, 2759 NW Savier St. We are a party to and in agreement with the complaint lodged against Nascent Collective Llc by the Trolley Car Loft Home Owner's Association.

We have lived at this address since 1998 and have dealt with a range of issues stemming from the operation of the Crackerjack Tavern by two separate owners: noise, public drunkenness, barbecue smoke, etc... The demise of the Crackerjack was a welcome outcome in our opinion.

Unfortunately, the Nascent Collective Llc repurposing of the property brings greater concern. The scale of the project will magnify the problems posed by the Crackerjack. The livability of our home will be negatively impacted. The proposed large outdoor space facing our building rather than away and the encroachment on an established buffer zone will be detrimental to all of the homes in the immediate vicinity.

The only acceptable solution to the problem posited by Nascent, is to redesign the building utilizing the Thurman Street-facing portion of the building as the public gathering space. This aligns with existing dining establishments approved by the city and accepted by the neighborhood: the Clearing Cafe and the recently opened Alouette wine bar. Further, hours of operation must be limited to 9:30 PM. This time coincides with the closing at Alouette and grants residents the quiet hours needed to coexist with businesses.

My wife and I appreciate the opportunity to comment.

Sincerely,

Glenn and Deanna Ford

2759 NW Savier St.

Portland, Oregon 97210

Sent from my iPad

From: [Reinier Warschauer](#)
To: [Besley, David](#)
Subject: Proposed Zoning Adjustment / 28th & Thurman St Beer Garden
Date: Wednesday, December 7, 2022 10:45:40 PM

Reinier Warschauer
2856 NW Thurman Street
Portland, Or. 97210

December 7, 2022

Re: Proposed Zoning Adjustment / 28th & Thurman St Beer Garden

To : David Besley

Since 1998 I have enjoyed living half a block away of this location, and the previous setup on this location, a small bar like Crackerjacks was small scale and has been acceptable.

What is happening now seems outrages, the new Proposed Zoning Adjustment / 28th & Thurman St Beer Garden.

Changing the existing setback rules, moving closer to the neighboring block, and on top of this old structure adding an extra level and creating lots of extra outdoor seating will be very disturbing to a much bigger area than what crackerjacks was doing.

It does not look like that the applicant is willing to meet the intent and purposes of the setback as it moves all the undesirable activities of trash, deliveries, along with outdoor patios on both the ground and second floor and the subsequent noise, odor, etc into this buffer area with no proposal to lessen the impact on surrounding neighbors and **therefore this proposed zoning adjustment should be denied.**

Let's stick to the existing setback rules, keep this restaurant bar beer garden a lot smaller not create another Café Nell like situation on this corner

Sincerely,

Reinier Warschauer

From: [Lisa T](#)
To: [Besley, David](#)
Subject: Nascent Collective LLC proposed Food Hall and Beer Garden @ 2761 NW Thurman Street
Date: Wednesday, December 7, 2022 10:49:01 PM

David Besley
Planner
Bureau of Development Services
Land Use Services

Re: LU 22-159396 AD

Dear Mr. Besley,

My name is Lisa Taaffe and I am an owner/resident of a condo located at 1704 NW 28th Ave, part of the Trolley Car Lofts. My comments regarding the proposed plan to convert the former Crackerjack Restaurant at 2788 NW Thurman Street into a Food Hall and Beer Garden are submitted here for your consideration.

The bedroom and living room windows of our condo at 1704 NW 28th face 28th Street, which is a residential street in a residential neighborhood. This proposed project takes up the corner of NW Thurman and 28th, with the "open air" part of the proposed design located entirely on NW 28th, next to our condo.

My family will be directly impacted by the noise, trash/trash collection, crowds and cooking smells generated by this project. As designed, the outdoor area - which includes a deck with picnic tables and louvered glass doors that will open up to the deck, and stadium seating for "hanging out" - will accommodate over 100 people at one time (according to the owner during a recent meeting).

This project has concerned me since the beginning, but I wanted to give the owner a chance to explain in person, and see what he planned to do to mitigate noise, crowds and cooking smells.

After meeting with him yesterday, I do not feel reassured. He ignored our concerns and suggestions regarding placement of outdoor bar/eating area, as well as our worries over multiple kitchen ventilation emissions and sounds.

1. **First, since the property was purchased by the current owner, it has not been well maintained.** The fenced area that was previously outdoor seating for Crackerjack still has broken furniture, and random items not yet removed.

This worries me since it does not suggest the owner will take good care of property

that he is proposing to double in size.

2.

Second, the **design of the project situates an open seating deck and stadium seating on the 28th street side of the building**. This means it is oriented towards the residential neighborhood rather than the commercially zoned area on Thurman Street. During our meeting last night, the Owner was asked if he would could simply reorient the not yet built 2nd story so that the outside deck was overlooking commercially zoned Thurman street instead of our building. **Owner said No because he wants southern exposure for the outdoor deck**. He also stated that people would only be outside in summer.

This answer was, frankly, disingenuous considering the use of space heaters and tents during winter months for outdoor dining. In addition, he said reorienting the deck to the front, where it would **overlook an EMPTY LOT ON THURMAN STREET**, would be loud for people who may buy a condo if one is built on the empty lot in the future. We said, "Well they will have a choice to buy the condo or not. We don't."

This does not bode well for his willingness to accommodate neighborhood concerns once the project is operational.

Note, please, that **no one asked him to eliminate or minimize his planned outdoor eating spaces (which would be my ideal scenario, honestly)**. We asked him to **reorient** it to reduce the noise and number of people looking in bedrooms and decks.

3.

Residents of the Trolley Car lofts have skylights and rooftop decks as our outdoor space. We use those skylights to cool our condos, as well as allow fresh air in. Many of the owners spend a lot of time on the deck, and it is a selling point for our condos. The noise and smells from the 15 person outdoor eating area at The Crackerjack flowed into condos from skylights and was irritating all summer long. We all bought our condos knowing there was a bar next door that had a **small** outdoor eating area and lived with this inconvenience. As we have already lived through this on a small scale with Crackerjack and know the direction the sounds and cooking odors will go. Owner committed to bringing in an audio engineer during a neighborhood meeting last week, but has not yet moved on that and I am not sure what they can tell us that we haven't already experienced.

4.

The entire expansion of a 2nd floor will bring in more noise, more people, and more odors than a small neighborhood bar - particularly as the project involves multiple vendors providing food. It faces our outdoor decks and some owners' bedrooms. It is not compatible with residential zoning. It deprives us of privacy,

general livability and will negatively affect property values. **The current design impinges upon our right to use our property as we wish, and Owner's unwillingness to address this through design changes is a primary concern of this renovation.**

5.

Our unit in particular is impacted by foot traffic and smokers. Since smoking won't be allowed at the project, smokers will gravitate up NW 28th to talk and smoke. Previously, when smokers and talkers were under our windows at night, we had just a few people to send on their way. However, with the increased size of this project, there will no doubt be more smokers and more noise. I cannot walk over to a group of people hanging out drinking in stadium seating or a deck specifically provided for them to eat in, and tell them to move on as I'm trying to sleep. Given the owners lack of concern for us during the planning stage, I do not expect him or his manager to be responsive once the project is built.

If the project's outdoor space were reoriented towards NW Thurman rather than NW 28th, smokers would move down Thurman street towards businesses rather than towards residences on 28th Street and Savier. At the very least, it would reduce the number of people talking and smoking in front of my windows.

When this was discussed, the owner's response made no sense. He claims that this will be an upscale project not a dive bar, and thus will have a different clientele. People in this neighborhood smoke and talk just like people in other neighborhoods. As the only tenants owner seems certain of are a wine seller, a bar, and yet unnamed indoor food carts, I fail to see how this will reduce people eating, drinking, talking, leaving trash and smoking outside my condo.

6.

The design **reduces alley access for Trolley Car lofts to maintain the brick wall facing the proposed project.** It will result in increased costs for maintenance work. So in addition to our reduced property values, we will have increased maintenance costs.

7.

We were not provided answers to other questions we asked:

a.

What is the parking plan in an area with already limited parking (owner said it will be a neighborhood place so people will walk)?

b.

Perhaps most alarming (besides the refusal to consider reorienting the outdoor area to the commercial side of the building) is the owners inability to commit to operating hours. Will we begin having coffee patrons sitting on stadium steps at

6:30 or 7 am and bar patrons until midnight? This is very concerning.

C.

What types of food providers will be located in the building, and how do you plan to vent the cooking smells?

In conclusion, I fail to see how this project adds to the diversity of offerings, benefits the neighbors or enhances the neighborhood. We have a food court on 23rd place. We have struggling restaurants and bars along Thurman as well as on NW 21st, NW 22nd and NW 23rd. We have a food co-op on NW 23rd place and New Seasons on 21st if we need take out food. Adjacent to the proposed business, we have a coffee shop and wine bar, which this will most likely put out of business, leaving empty storefronts.

Finally, a neighborhood architect (Mary DeVries) has made recommendations to make this project have a smaller impact on the residential part of this neighborhood. We do not see these recommendations being considered by Eric.

I hope the planning board does not approve the project as it currently exists and works with the owner to come up with concrete ways this will minimize the negative impact on neighbors.

Regards,
Lisa Taaffe
1704 NW 28th Ave
Portland, OR 97210

From: [Zak S](#)
To: [Besley, David](#)
Subject: Re: Concerns about LU-22-159396
Date: Wednesday, December 7, 2022 11:15:30 PM

Dear David,

Since the deadline is tomorrow at 5pm, I will go ahead and send you my concerns regarding this land use adjustment request.

A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified

With respect to addressing the purpose of the regulation, the applicant has only addressed the privacy of the trolley car loft condominiums and has completely ignored the privacy of the other residents on 28th Ave who will be substantially impacted by the large overlooking deck.

The applicants have not addressed other purposes of the regulations -- "to match the desired use with the character of the area" and "to control the overall bulk of development". The proposed structure is certainly not harmonious or in character with other CM2 structures in the nearby blocks, both in terms of setback as well as bulk. This site would be the first exception and hence needs a careful review. The bulk of the development has the potential capacity of about 200 customers, all afternoon and evenings. That is completely out of character with any other commercial structure in the neighborhood by a large margin. The setbacks should be enforced and the adjustments should not be granted so that the high impact of supporting such a high capacity can be absorbed by the site and does not spill over to 28th Ave and the associated sidewalk. Isn't this the whole purpose of setback to contain the activities of the site?

The loading zone setback of 5' feet is already small for such a high capacity usage. The applicant has not articulated how reducing the setback to 0' will equal or better the purpose of this setback. Instead, the setback should be enforced so that the activities do not spill over to the street and the sidewalk.

B. If in a residential, CI1, or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, I, or CI2 zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area.

All the changes proposed degrades the livability and the appearance of the residential area. The applicant states that the open courtyard is a benefit to the neighborhood. It is not at all clear how it benefits anyone other than the establishment. Having a boisterous crowd, on a deck, adjacent to a residential block will only increase the noise and disturbance. There is also no mention of how late the establishment will be open or other constraints that could lessen the impact.

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.

Again, the applicant has not articulated how the cumulative impact of the adjustments will be consistent with the overall purpose. The development will create more impediments to this

pedestrian-friendly neighborhood. The garbage (see for example the lines of garbage bin at the applicants other development on food cart), the loading zone activities, the exceptionally high vehicular traffic with this disproportionately bulky development will cumulatively be detrimental to serving the local neighborhood which is the ultimate purpose of the mixed zone commercial designation.

Izhak Shafran
2824 NW Savier St

On Wed, Dec 7, 2022 at 4:07 PM Zak S <tamarindpdx@gmail.com> wrote:

Hi David,

I have concerns about the adjustment sort in the above application. I only heard about this project today. Should I have received a notice as well?

Is it possible to get an extension on the current deadline (Dec 8th, tomorrow) to understand this project fully so I can send my relevant concerns?

Zak (neighbor on the Savier block)

From: [Sue Galatz](#)
To: [Besley, David](#)
Subject: Development - 28th and Thurman
Date: Thursday, December 8, 2022 6:23:49 AM

Dear David and the City Planning Team,

I'm reaching out regarding the proposed development at NW 28th and Thurman (previously Crackerjacks location).

The possibility of having a refreshed commercial business on the corner, one that thrives and enhances the neighborhood without detriment to the residents and the peaceful environment, is promising.

I've lived on Savier Street between NW 27th and 28th for nearly 30 years. Our block is a tight community - some might say "block goals" - and represents the best of Portland's neighborly vibe. Erik (the developer) also resides on the block and is part of the block family.

My concerns aren't with Erik or the idea of development. The challenge is how to find the balance and solution that's a win/win for the business and neighborhood. the business.

My three concerns are:

- Increased noise levels - both decibel and operating hours. How can noise be limited and filtered after 9 pm.
- Increased traffic and parking on nearby residential streets (what parking demands are currently estimated)
- Vagrancy and loitering in outdoor area. Can outdoor areas not be accessible during non-business hours?

Preserving the peaceful environment is key. Our block is quiet. Let's keep it that way.

At a time when the property taxes are at a peak and the state of the city is not, let's not give people another reason to be disenchanted. Let's set this up to succeed for everyone.

Thanks for your time and would appreciate understanding how neighbor concerns are addressed.

Best,
Sue Galatz

From: [g.s](#)
To: [Besley, David](#)
Subject: Fwd: Beer Hall development at NW Thurman St & 28th Ave
Date: Thursday, December 8, 2022 8:31:25 AM

Dear David,

As a resident and property owner in the Willamette Heights neighborhood we are excited to learn of the Beer Hall development at NW Thurman St & 28th Ave. Having walkable, entertaining places nearby is a hallmark of life in Portland. However, we need to be conscientious in our design and planning so these new developments provide positive experiences and not nuisances for adjacent neighbors. For example, the applicant does not meet or exceed the intent and purposes of the setback as it moves all the undesirable activities of trash, deliveries, along with outdoor patios on both the ground and second floor and the subsequent noise, odor, etc into this buffer area with no proposal to lessen the affects on surrounding neighbors and therefore should be denied.

Mary DeVries has pointed out some very insightful issues (and solutions) to the proposed development and I completely concur with her stance to deny the allowance. The project needs further refinement, study and input from neighbors in the proximity of the development in order to serve the community in a positive way.

Thank you for your time,

Greg Simons and Anne Harris
2847A NW SAVIER ST 97210

Greg Simons, Studio G
founder | designer | craftsman
custom fabrication + special projects
hand-crafted furniture made in Portland, Oregon
studioGcreations.com
971-279-7032

From: [Jordon, Shelley Ilene](#)
To: [Besley, David](#)
Subject: Proposed Zoning Adjustment / 28th & Thurman St Beer Garden
Date: Thursday, December 8, 2022 9:17:18 AM

Shelley Jordon
2473 NW Pettygrove St
Portland, OR 97210
503 313 1806

December 7, 2022

Re: Proposed Zoning Adjustment / 28th & Thurman St Beer Garden

Dear David Besley

I am a long-time home owner and resident of Northwest Portland and take daily walks down Thurman Street to and from Forest Park. After reviewing the proposal for the new Proposed Zoning Adjustment / 28th & Thurman St Beer Garden **I strongly oppose it!**

This is a quiet residential neighborhood, not a busy thoroughfare and allowing an establishment of this scale would be disruptive and have all kinds of negative impact on the quality of life of nearby residents; including noise, garbage, parking issues, deliveries and rodents. We should keep the existing setback rules and have the restaurant bar beer garden built within the current guidelines.

I believe that this proposed zoning adjustment should be denied.

Sincerely,



Shelley Jordon

From: martin.davidson
To: Besley, David
Subject: Proposed Zoning Adjustment/28th & Thurman Street Beer Garden
Date: Thursday, December 8, 2022 9:54:38 AM

David:

I am writing by way of comment for the proposed Zoning Adjustment for the property located at 28th & Thurman Streets in the old Crackerjacks location. I have lived in this NW Neighborhood for 35 years and have seen it change quite a bit over that time. I believe most of these changes have enhanced its livability. I have not been able to open a link that describes the project fully but have been informed by a concerned neighbor about its potential scope. While I don't object to the revitalization of this property, the information I have been given suggests a much larger impact than was provided by Crackerjacks.

My concerns are two fold:

(1) Our neighborhood has no more room for additional parking. The Zone M parking has pushed more long term parking into the area above 25th resulting in less street parking for residents of the area. I know of two cars that are owned by people living below 25th that are parked for weeks at a time between 27th and 28th so that they can avoid paying for a parking permit. In addition, many people park above 25th and walk to 23rd to avoid the paid parking. The addition of a new, large project such as the one proposed on 28th & Thurman would exacerbate this situation. Without some allowance for off street parking somewhere outside the residential areas of NW Portland that surround this project, I can not support a project of this scale.

(2) As I understand it, there is nothing that would preclude sidewalk and street seating on 28th between Thurman and Savier streets. While I don't object to such seating on Thurman, bleeding this seating onto 28th would be unfair to the adjacent residential properties especially if it is to be a beer garden. The noise generated by such a use could cause a degradation of livability for the neighbors on 28th. In addition, any rooftop seating should be buffered to the south for the same reasons.

Best regards,
Martin Davidson
2756 NW Raleigh Street
Portland, OR 97210
503.313.8556

December 8, 2022

Dear Mr. Besley:

It has just come to my attention that the proposed changes to the previous tavern, known as “Crackerjacks,” on the SE corner of Northwest Thurman and 28th Street require a significant number of variances from the existing use code.

As a long-time resident on Thurman, I have seen many changes to the neighborhood--infill provided for by new housing density codes, small businesses and shops have appeared in previous residential buildings, and traffic has increased. None of these developments have disrupted the existing fabric of what is essentially a residential community that has long existed on the edges of both a commercial and industrial zone. Those who chose to live in the surrounding blocks are happy to have the opportunity to patronize local businesses, many of which provide essential services to support the surrounding area. We have a vibrant, thriving population with an excellent elementary school (Chapman), public housing, and a mix of multi-family dwellings, single family homes, and a community center (Friendly House) which offers daycare, meals, and assistance to elderly and fragile families.

This proposal and the list of variances the owners are requesting to the existing code demonstrate a complete lack of awareness of the surrounding blocks. It will “significantly detract from the livability or appearance of the residential area.” The previous 80-year-old tavern on this site, (Crackerjacks/Swanee’s) was a good neighbor and was “right-sized” for the surrounding housing. It was a thriving business; the previous tenants who lost their lease when the building was sold had just made some improvements and to my knowledge its clientele were rarely disruptive. The owners were respectful and cognizant they were on the edge of a residential neighborhood. There is nothing consistent with adding a second-floor patio, 9 small restaurants, and an open space to support the local neighbors “which can be mitigated” when reviewing livability.

I would also point out that the proliferation of outside seating opportunities that were created during covid to sustain businesses is now under review across the city due to conflicting building codes, noise nuisance, and traffic concerns. One only needs to see the chaos that nearby Café Nell has created by its expansion and the poisonous relationships between that business and surrounding community to be concerned about replicating the same problem on this quiet corner. Threats of litigation, angry confrontations and hostility have arisen because a small business, to maintain operations during covid has expanded its footprint beyond the capacity of the surrounding blocks. We should not allow the same scenario to play out here. Granting an adjustment for this tavern to add outside dining, decks, sidewalk seating, etc. is completely unrelated to covid, and if the owner’s business model relies on packing 150-200 people into a small space and assuming that the sidewalks are sufficient to absorb them is not a sufficient argument to create a nuisance that nearby residences must tolerate.

While the NWDA has approved this plan in theory with the proviso that a Good Neighbor Agreement be drafted to address issues that will inevitably arise by approval of the adjustment, I am not confident that these property owners will adhere to it. They have already shown a lack of good will through ignoring the impact that their overcrowded food cart pod elsewhere in the neighborhood has had on surrounding residences and businesses. Again, citing the Café Nell debacle, GNA hold very little value and virtually no legal authority.

I know that Mary DeVries has provided a detailed and thorough analysis of the proposal and suggested some other options for you to review. I would also add that although you find “D. City-designated scenic resources and historic resources are preserved (**not applicable**)”, this building is directly adjacent to an older building which houses a small restaurant and spa. Failing to require some preservation of the historic character of one of the oldest neighborhoods in the city should be considered. Further, I have additional questions:

- If the adjustment is granted, with the extensive remodeling of this building what LEED provisions are required
- What noise, smell, and pollution mitigations are included
- Since clearly this plan intends to create a “destination beer garden” that does not rely on neighborhood foot traffic, have you considered the impact additional car traffic will create? Public transportation is not a practical option since during the last year, the Thurman Tri-Met bus line has been cut dramatically and does not operate during evenings and weekends.
- The plan does not offer any replacement of trees—isn’t preserving our urban canopy important?

If the building owners are sincere in their commitment to developing a good neighbor relationship with the surrounding community, I suggest they hold a public meeting at Friendly House to discuss their plans and answer questions before you approve adjustments. This neighborhood has worked cooperatively with many developers and business owners over the years. It is why the community is a desirable and attractive place to live. If they want to be part of it, respecting and listening to our concerns is a good first step.

Sincerely,

Joni Marie Johnson

From: [Gayle Kvernland](#)
To: [Besley, David](#)
Subject: LU 22-159396 AD; NW 28th and Thurman
Date: Thursday, December 8, 2022 10:53:55 AM

Mr. Besley:

I am writing this email in opposition to the proposed development at NW 28th and Thurman. My property is adjacent to Peter Beninato's and Mary DeVries' and is located at 2817 NW Savier Street. I have not done the extensive research into the law and codes as Mr. Beninato and Ms. DeVries have, but I echo their objections.

I have lived in my home for 28 years. Crackerjack's was at the 28th and Thurman location for most of that time I believe. The owner of Crackerjack's respected the neighborhood and it's people. The business was never noisy. The outdoor seating was quite limited and was partially obscured by fencing. The current proposal would not only open up the first floor outdoor seating to view from the street, the proposed modification would create additional noise due to the increase in seating and lack of sufficient buffer. Further, the addition of a second floor outdoor seating area and stadium seating would cause additional noise that would be amplified by the upper story location. The proposed idea of having music and entertainment on the second floor would be an additional nuisance. The current proposal would interfere with my ability to enjoy my deck and backyard due to the increase in noise. The statement by the architect that "adding a second floor with open space for outdoor seating to support the local neighborhood" is ridiculous.

Although I realize that the property is zoned for commercial use, the proposed plan for 9 different eating establishments designed for high volume turnover would increase the amount of traffic into the neighborhood. Crackerjack's attracted primarily a local clientele, however it is apparent the new proposal would be intended to attract people from out of the neighborhood thus creating additional vehicle traffic. I already tolerate the traffic associated with the annual Swift's pilgrimage to Chapman School which results in people parking their cars blocking my driveway. I foresee the same problem with the proposed changes at the property. Further the numerous delivery trucks that would be required to service 9 different food providers in the location would create additional noise and large vehicle traffic.

Very truly yours,

Gayle Kvernland

From: [Kehoe, Patrick](#)
To: [Besley, David](#)
Subject: LU 22-159396 AD
Date: Thursday, December 8, 2022 11:02:31 AM

Dear David:

I'm looking at the *REVISED Notice of a Type II Proposal* regarding the property on the corner of 28th and Thurman.

This is an ill-advised proposal. Most of the time when restaurants are in the middle of residential areas they tend to lean toward being a raucous intrusion of the residential neighborhood rather than a vibrant improvement in the character of that neighborhood. This is especially so when there is outdoor dining and multiple restaurants. Listing my objections would start with the noise of outdoor dining, including the noise of a crowd and the music of a party. The smells of a restaurant shouldn't be overlooked either. Not everyone wants to regularly smell the food preparation of food they may or may not like. We can't forget the smell of cigarettes either. I grew up with smoking parents and I never got used to it. Don't forget the increase in litter in the form of cigarette butts. (There will be more litter overall too.)

And try as we might, we haven't shed our need for automobiles just yet, so we shouldn't forget the lack of parking in the neighborhood. Patrons will block driveways, park in driveways, or take their half out of the middle of two spots. Everything bad about automobile will increase in the neighborhood.

It's fair to say most people are respectful of their neighbors wherever they are, but it's equally true that when alcohol is introduced the number of respectful people measurably declines. The time frame of the usual boisterous behaviors involving alcohol contributes to my objections. It's always in the evenings going well into the night. I think wrapping that time frame up with "into the foreseeable future" would paint it with the appropriate brush.

I'll add that the owner is a limited liability corporation with a nebulous name and a PO box for an address. I can't imagine any concern, complaint, request, or question being addressed with anything more than some content free statement meant to placate. But mostly I think they'll just be unreachable.

I think the addition of a regular big party in the vicinity will surely make for a less livable neighborhood.

Thank you
Patrick Kehoe

Sage

The information contained in this email transmission may constitute confidential information. If you are not the intended recipient, please take notice that reuse of the information is prohibited.

From: [James Thompson](#)
To: [Besley, David](#)
Cc: darlene@nwnw.org; planningchair@northwestdistrictassociation.org
Subject: case file number LU 22-159396 AD
Date: Thursday, December 8, 2022 12:35:42 PM

greetings:

i am writing to oppose granting an adjustment to the Portland Zoning Code for the above referenced case.

the applicant fails to show how the proposed adjustments are equal to or better at 'meeting the purpose of the regulation to be modified'. the reduction of the required minimum 10 foot building setback to 6 feet, the waiver of the building landscape buffer, the reduction of the loading space setback, and the waiver of the loading zone landscaping requirement appear to only benefit the applicant's desire to expand the footprint of the existing buildings, and would create noise and visual disturbances for the adjacent residential property and the surrounding neighborhood.

likewise, the applicant fails to show how the proposed adjustments and the resultant noise and visual disturbances, along with aesthetic impacts, would not 'significantly detract from the livability and appearance of the adjacent residential area'.

clearly, the materials submitted for citizen review are inadequate.

the drawings mistakenly label both streets fronting the site as 'nw 28th avenue'; fail to delineate the existing two separate buildings currently occupying the site and their relationship to the proposed plan; fail to clearly describe the intended use of the remodeled buildings, the proposed changes of use, or the resultant increase in noise levels, foot traffic, parking demands, and garbage collection; fail to describe proposed new exterior building materials, their acoustic properties, or their appearance; fail to describe the uses of or relationship between the added ground floor rooms, the second floor balcony, and other parts of the existing and/or new building, or why such uses could not be accommodated within the existing building footprint; fail to describe legitimate reasons for the new construction's encroachment into the setback required by the zoning code; fail to show how the visual, acoustic, and aesthetic impacts of the requested adjustments are 'mitigated to the extent practical', apparently by planters

significantly smaller than the landscape buffers required by the zoning code; and, fail to adequately describe how 'the cumulative effects of the adjustments result in a project consistent with the overall purpose of the zone' and the required setbacks and buffers between adjacent zones.

as a neighbor of the proposed development, i can speak to the livability and appearance of the adjacent neighborhood. current outdoor seating for nearby restaurants already creates undesirable noise and visual clutter, and impacts the walkability of public sidewalks. reducing the setback between the proposed development and adjacent buildings and squeezing a loading zone, storage area, outdoor stadium seating, and a second floor balcony into the existing 'alleyway' between the two existing masonry buildings will create many negative impacts for the adjacent neighborhood while only creating positive results for the developer and the proposed occupying businesses.

thank you for your consideration,

james thompson
2743 nw thurman street
suite 7
portland, oregon
97210-2252



Northwest District Association

December 8, 2022

David Besley
Bureau of Development Services
1900 SW 4th Avenue
Portland, Oregon 97201

RE: LU 22-159396 AD – 2788 NW Thurman St. Adjustment Review

The NWDA Planning Committee reviewed the Revised Notice of Type II Proposal submittal, dated Nov 17 2022, for the above referenced project on Dec 1 2022. We offer the following comments for your consideration.

Overall

- The NWDA strongly supports the general project concept, including the renovation and repurposing of the existing streetcar-era building.

Requested Adjustments

This proposal needs to comply with the following approval criteria:

- A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and*
- B. If in a residential, C11, or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area;*

The subject property, and the location of the requested Adjustments, abuts a residential area directly to the south and adjacent to the west. The proposal includes outdoor seating areas for food service uses next to these residential areas on both the ground and upper levels. This arrangement has the potential of creating noise and operational conflicts that need to be addressed for the proposal to not *significantly detract from the livability of the adjacent residential area*.

Accordingly, the NWDA makes its support of the project conditioned on the provision of these measures:

1. Professional acoustic engineering review of all exterior mechanical equipment to assure acceptable operating noise levels, including the use of plantings for attenuation;
2. An executed Good Neighbor Agreement, negotiated in good faith by the applicant and the affected neighbors, to address any anticipated operational issues arising from the proposed uses and the location of exterior public seating areas.

Best Regards,
the Northwest District Association

Steve Pinger
member, Planning Committee

the Northwest District Association is a 501(c)3 tax-exempt organization

2824 NW Thurman Street
Portland, OR 97210

December 7, 2022

City of Portland, Oregon
Bureau of Development Services
Attn: David Besley
1900 SW 4th Avenue, Ste 5000
Portland, OR 97201
David.Besley@portlandoregon.gov

Dear Mr. Besley,

I am writing in response to Case File Number LU 22-15993 AD. I submit the following comments for consideration in the review of the applicant's proposal:

Relevant Approval Criteria

- A) *Granting the adjustment will equally or better meet the purpose of the regulation to be modified. "The purpose of the setback requirements for areas that abut residential zones promote commercial/mixed use development that will maintain light, air and the potential for privacy for adjacent residential zones". Additionally, "the minimum building setbacks along local service streets adjacent to residential zones work together with requirements for step downs in building height to ensure that there is a transition in street frontage characteristics to lower scale residential zones. In these situations, the building set back regulations promote street frontages with landscaping and residential uses to provide a transition and cohesive street environment with similar street frontage characteristics on both sides of the street with limited exterior display and storage to minimize impacts on nearby residentially zoned areas".*

With the above setback regulations, the applicant has not clearly demonstrated how they will equally or better meet the requirements in the design and information provided in the Type II Proposal Notice. Based on the architectural drawings, all the "back of house" functions – trash enclosure area, electrical, and loading area in addition to the second-floor patio and first floor staircase will encroach into the 10-foot required setback and, in some cases, a zero setback is proposed. Additionally, the applicant is asking for a waiver on the L3/L4 landscaping buffers required in the 10-foot setback, thereby eliminating any design elements to mitigate the impacts of the project on the surrounding residential neighborhood through visual screening and sound buffering measures. The landscaping proposed for the site is limited to planter boxes within the private spaces of the property with no outward public benefit, particularly to the South and West of the site. Applicant has not provided any evidence or reasoning as to why the setback cannot be achieved given current site conditions or that the requirement would unduly encumber the building from its intended use. It should also be noted that the drawings provided in the original notice mailed out did not adequately represent the full scale of the redevelopment of this property, with expansion into the building to the East and the addition of a second floor and outdoor patios. It was only upon request from residents and in working closely with City staff (Besley) that this information was provided in a supplemental notice.

- B) *If in an OS, C, E, I or C12 zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area.***

The site address and front door are currently oriented toward NW Thurman Street which is designated as a Neighborhood Collector. However, the two adjustments requested by the applicant are to be accommodated along NW 28th Street, a local service street, with residents directly to the South and West in an RMI zone. With the owner's intent to create an open-air environment that could potentially accommodate up to 175-200 patrons of the food hall with lower and upper patios along with trash and loading areas fully exposed to the street, neighbors in the immediate vicinity will not only have a full view of the business activity but be subject to any noise and odors generated from the day-to-day operations. If the zoning and required setbacks are intended to provide a transition between the commercial and residential uses, the adjustments requested seems to be at odds with that purpose, placing a significant amount of the operations, delivery, waste, dining, foot traffic etc. toward the Southwest corner of the site, thereby imposing the greatest burden on nearby residential neighbors. Outside of the CM1 and CM2 zones along NW Thurman Street ending at the corner of NW 28th, all surrounding zoning is residential – RM1, RM5, RM3, and R7. It should also be noted that in the "Willamette Flats" sounds echo in the valley and carry up into the hillside. Applicant has not provided any information in the notice that would indicate mitigation measures have been incorporated into the design to specifically address these issues.

- 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.***

While the subject site is designated CM2, it directly abuts an RM1 zone of low-scale single and multifamily dwellings. In such cases, City of Portland code requires a 10-foot setback to provide a buffer between the two uses. As the applicant is requesting two adjustments to within six feet and zero feet of the South property line, the adjustments should be denied unless measures to mitigate the encroachment and its impacts on the adjacent residential uses along NW 28th Avenue to the West and South are adequately addressed. The mandatory zoning setback also allows for sufficient fire, life, and safety access and separation between the commercial and residential uses. As an owner of RM1 property that directly abuts CM2 property that was granted setback adjustments of less than 10 feet when built, there is a significant amount of constant negotiation and communication regarding easement access, noise, trash storage, landscaping, odors, parking, stormwater drainage, etc. that has occurred over a 20-year period with a majority of the burden falling on the RM1 owner to manage as the CM2 owner does not live onsite 24/7. A minimum setback requirement of ten feet does not prohibit or place an undue burden on the applicant to operate the building as intended and therefore the full 10-foot setback can be achieved. See also response to Question B above.

- D) Not applicable.**
- E) Any impacts resulting from the adjustment are mitigated to the extent practical.**

Applicant has not provided enough information in the notice to fully evaluate the criteria. As proposed, there are no mitigation measures incorporated into the design to specifically address the negative impacts of the adjustments on the surrounding residential zones. Further, applicant has not provided any justifications as to why the setback can't be achieved given current site conditions and access. See responses to Questions A, B, and C above.

F) Not applicable.

In closing, the applicant has not indicated in their application why the minimum setback requirement of 10-feet cannot be achieved or if the adjustments were granted what mitigation measures would be incorporated into the design to meet the intent and purpose of the regulation and standards to create a buffer and transition between the commercial and residential zones.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "L. M. Selman", with a long horizontal flourish extending to the right.

Lisa M. Selman

From: [David Greenstein](#)
To: [Besley, David](#)
Subject: Proposed Zoning Adjustment / 28th & Thurman St Beer Garden
Date: Thursday, December 8, 2022 2:10:39 PM

Re:Proposed Zoning Adjustment / 28th & Thurman St Beer Garden

Attn. David Besley

As a 30yr resident of NW Portland I have seem much change but **large restaurant/ entertainment venues** have been primarily focused on 21st and 23rd avenues.

This planned development invites a honky tonk environment to a primarily quiet residential neighborhood, brining undesirable activities... trash, deliveries, along with outdoor patios on both the ground and second floor. There are insufficient contingencies provided for buffering this neighborhood from these additional activities **therefore this proposed zoning adjustment should be denied.**

Sincerely,

David Greenstein

2473 NW Pettygrove St.
Portland, Oregon 97210
Cell: 503.313.2248

David Besley
Case File Number: LU 22-159396 AD
Land Use Services
Bureau of Development Services
City of Portland, Oregon

December 8, 2022

Dear Mr. Besley,

I am writing regarding the proposed development by Nascent Collective LLC at 2788 NW Thurman St. I attended the NWDA Planning Meeting where the developer and architect presented the project and I've seen the proposed floor plans and site designs.

I have lived at the corner of NW 28th and NW Savier St. in the RM1 Zone since 2013. I have a direct view of the proposed development from my property, especially the rooftop deck and loading/delivery/garbage zone.

I share the concerns expressed in my neighbors' letters. The proposed development, with two setback reduction requests, detracts from the small scale and quiet character of our block, which is primarily residential and a safe pedestrian route to Chapman Elementary school.

I'm hopeful the developer can reconsider the design to enhance rather than detract from this peaceful residential block.

Sincerely,

Olivia Horgan
2804 NW Savier St.
Portland, OR 97210

From: [Jim McAdoo](#)
To: [Besley, David](#)
Subject: Nascent Collective LLC Case File Nbr: LU 22-159396 (Revised Nov 7 2022)
Date: Thursday, December 8, 2022 2:39:52 PM

Nascent Collective LLC Land Use Notice LU 22-159396 (Revised 7Nov2022) Trolleycar Lofts Homeowners Association Comments Dec 8 2022

Context

Trolleycar Lofts Homeowners Association (TLHOA) a six (6) condominium since 1998 in NW Portland with ten (10) residents.

Trolleycar Lofts (TL) a former 1914 industrial/warehouse masonry building re-developed into six (6) residential lofts in 1996-1998. Located in RM1-Residential Multi-Dwelling zone.

Nascent Collective LLC (Nascent) owns since late 2020, a 1914 single story frame/masonry commercial building at 2788 NW Thurman Street 97210. Located in CM2D (MU-N) zone.

Nascent and TL masonry buildings built in 1914 by Beno & Ballis, two real estate developers in Portland, OR. TL building later sold in early 1920's.

Nascent's single story building has an existing 11' x 100' paved alley separating TL building's North exterior masonry wall from Nascent's building's South exterior masonry wall and Bureau Development Services *unapproved* outdoor bar/dining area adjacent to the alley.

(See: https://www.portlandmaps.com/detail/property/2761-NW-SAVIER-ST/R290538_did/).

Alley had been most recently used by long-established tavern from 1950 until July 2020 and ceramic art studio from 1970 until October 2022 to access/support their businesses. Has also been used by garbage/recycling collectors, beverage/food vendors, and other services/suppliers for those businesses as well as the owner.

Nascent Land Use Notice

Nascent's Nov 2, 2022 and Nov 7, 2022 (Revised) land use proposals to BDS Land Use Services describe a building re-developed from one (1) story to two (2) story commercial use.

Includes an upper courtyard/lower courtyard on the first floor and roof decks on the second floor.

Proposal identifies nine (9) "Vendor" spaces. Two (2) largest to be covered under separate TI permits. Seven (7) smallest permitting plans not specified.

Second floor has two (2) entries: an internal elevator and a stairwell from the first floor alley adjacent to 2 outdoor bar/dining courtyards on the Nascent building's south side.

Stairwell accesses a second floor outdoor stadium seating and customer gathering areas for second floor tenants.

An existing 11' alley is proposed to be developed into a 10'x18' loading zone, 6'x30' pedestrian access, and 10'x50' electrical meter/garbage/recycling storage area.

Building outdoor roof deck/courtyard noise control effected primarily through shrubbery planters and reducing width in 30' of alley length from 11' to 6'.

Comments:

Integrate Architecture and Planning November 3, 2022 letter to David Besley, Planner, BDS Land Use Services leads with Project Description assertion “to support the local neighborhood.”

Instead, residential area affected by Nascent’s development proposal includes the livability of TLHOA on NW Savier Street/NW 28th Avenue.

Moreover, also affects the livability of the residences on NW 28th Avenue from NW Thurman Avenue up to and including a block each on the east and west sides of the NW 28th Avenue/NW Savier Street intersection. Residences are in RM1 and R5 zones.

The “intent of the (City of Portland’s) zoning setback requirement is to “maintain light, air, and the potential for privacy for adjacent residential zones.”

The proposed layout *does not* as stated “exceed the 10’ minimum setback along *most* of the south property line.” Set back is also reduced from 10’ to 6’ for 30’ or 30% of the 100’ alley.

TLHOA finds that proposed adjustment under “Relevant Approval Criteria,” does not “equally or better meets the purpose of the regulation.” and does “detracts significantly from the livability and appearance of the residential area.”

Moreover, TLHOA has six (6) specific concerns/recommendations about Nascent’s Land Use Notice:

(1) Restricting 30’feet of the alley width from existing 11’ to 6’ will:

- Reduce TLHOA access to and significantly increase the future maintenance/repair cost of its North exterior masonry wall.
- Increase Nascent delivery, foot traffic, and garbage/recycling collection noise levels in alley affecting the livability of TLHOA’s six(6) lofts, penthouses, and roof decks.
- Increase probability of loaded garbage/recycling containers moving in the 6’ wide alley section from storage to loading zone, damaging TLHOA’s North exterior wall.

TLHOA requests that Nascent maintain a 10’ width for the entire 100’ length of the alley. Fully comply w/Portland Zoning Code minimum setback to residential zone.

Moreover, TLHOA and Nascent develop mutually agreeable plan to ensure cost-effective, timely maintenance to TLHOA's North masonry wall if/when required.

(2) Proposed large second floor and first floor roof deck outdoor areas if used for bar/dining businesses, can/will contribute noise levels migrating to TLHOA's lofts' second floor penthouse/roof deck and first floor living areas.

Levels cannot be fully mitigated by the proposed shrubbery landscaping.

TLHOA lofts 1704, 2777, and 2761 roof deck/living areas are more directly affected by Nascent. However, loft 2781 roof deck use also will be affected at times by Nascent.

TLHOA requests that Nascent re-design its noise control measures to significantly reduce noise migration into Trolleycar Lofts and adjacent residences on NW 28th Avenue/NW Savier Street.

Such measures to include also include any and all live music performances that may be held in any outdoor areas in the Nascent building.

Nascent's measures are to be in compliance with City of Portland Chapter 18.10 Maximum Permissible Sound Levels, 18.10.010 Land Use Zones for Commercial/Mixed Use (i.e. Nascent) that affect Residential (i.e. Trolleycar Lofts) as shown in Figure 1 Permissible Sound Levels Zone Categories of Use.

(3) Nascent's proposed multiple kitchens on two (2) floors w/centralized venting, present unique architectural engineering problems and system solution. Will likely require a scrubber to control system's emissions and other measures to manage its sound.

TLHOA requests that Nascent adopt best practice kitchen venting emissions and sound controls to reduce impact on TLHOA's livability.

(4) TLHOA's garage floor drain's wye elbow located adjacent to TL building's North exterior masonry wall on south side of Nascent's proposed 6' wide alley. Retaining TL garage floor drain connection to Nascent's existing or new combined sewer and providing bollard protection to drain's wye elbow, will be required to ensure drain's long-term TLHOA utility.

TLHOA requests that Nascent provide long-term sewer connection for and protection to TLHOA's garage floor drain wye elbow in alley.

(5) Metro's food scraps requirement in 2023 and beyond (See: <https://www.oregonmetro.gov/food-scraps-policy>). Compliance will affect alley storage requirements as well as noise and rodent control.

TLHOA requests that Nascent include in its revised Bureau Development Services Land Use Notice and/or Building Permit, its plan as to how Nascent will comply with Metro's food scrap requirement in 2023/beyond.

(6) Masonry repair will be required to TL North exterior masonry wall when former Nascent tenant's two (2) ceramic kiln sheds' roofs are removed from wall as shown in Exhibit 2 Partial Floor Plans A1.2.

TLHOA requests that Nascent repair TL's North exterior masonry wall after the

two (2) shed roofs are removed or reimburse TLHOA for its masonry contractor to repair wall.

Regards

James C McAdoo

James C. McAdoo President

Trolleycar Lofts Homeowners Association

2781 NW Savier Street

Portland OR 97210

(503) 740 9604

From: [Mark samuel](#)
To: [Besley, David](#)
Subject: Proposed Zoning Adjustment/28th & Thurman St Beer Garden
Date: Thursday, December 8, 2022 3:18:59 PM

Dear Mr. Besley,

I am writing with regard to the proposed development of the beer garden/ restaurants at 28th and Thurman Streets. I am a property owner/ resident at Thurman Courtyard Condominium at 2743 NW Thurman St.

I have looked at the proposal in an attempt to better understand the impact this project would have on the neighborhood, and I have serious concerns.

A high density indoor and outdoor facility will include excessive trash and trash collection, cooking smells and smoke, foot traffic both during and after business hours, evening and nighttime noise and lighting, and traffic issues in an area in which residents already face a challenging parking environment. There remains a portion of the proposal as yet "undetermined" which may further exacerbate all of these issues.

In short, a high density facility of this sort risks considerable damage to the health and safety of a residential neighborhood. The surrounding homeowners in particular will lose the sense of privacy and security they now enjoy.

I hope that the City Planning Department will consider these concerns and adhere to the current code which was designed to allow a type of mixed use development which does not portend such negative impact on local residents.

Sincerely,
Mark Samuel and Wanda Meyer-Price

From: [Bob Clay](#)
To: [Besley, David](#)
Cc: planningchair@northwestdistrictassociation.org; darlene@nwnw.org
Subject: Case File Number: LU 22-159396 -
Date: Thursday, December 8, 2022 3:50:07 PM

December 8, 2022

David Besley, Land Use Services
Bureau of Development Services

RE: LU 22-159396

Dear Mr. Besley,

I am writing concerning the Revised Notice of a Type II Proposal for land use approval for redevelopment and repurposing of the building at 2788 NW Thurman Street, Portland Oregon, the site of the previous Cracker Jacks Tavern.

While I appreciate the positive aspects that renovating the vacant and semi-dilapidated building could make to street frontage pedestrian friendly and welcoming, I am however concerned about the off-site affects of a proposed expansion to accommodate many more late night tavern goers than was possible in its previous incarnation.

My wife and I are neighbors living at NW 26th and Savier St. I regularly walk by the site each week for dog walks, exercise and business. The previous use was very active and noisy late into the night. I don't find anything in the proposal that proposes to ameliorate off-site conditions deleterious to adjacent residential uses. Among those items noise, table and chair structures blocking pedestrian use, cooking odor, street side garbage, or tobacco smoke. The sidewalks and parking strips surrounding the site are narrow. In the past I have had to stop and navigate my way around patrons who spilled out onto the sidewalk and parking strip, most of whom were smoking and drinking. Occasionally I witnessed arguments and aggressive behavior. Accordingly, I would object to any tables and chairs that would reduce the pedestrian clearance along NW 28th frontage allowing patrons to smoke and drink in the public right-of-way.

It seems like the proposal is trying to shoehorn many more patrons than the site reasonably can be accommodated given its tight configuration. In light of these concerns, I must object to adjustments that would allow an expansion and that would permit a roof top beer garden adjacent to the residentially zoned portion of the site. Such an expansion will spread noise and increase patron occupancy. It will add traffic congestion and additional spill-over parking demand to the surrounding residential neighborhood. I must also object to the proposed design and two adjustments.

Any open beer garden space should be redesigned to open onto NW Thurman Street - a commercial transit street.

There are good reasons why this site and those other uses along NW Thurman Street that abut residential uses are in a Design Overlay Zone and this proposal should take that into account. As well, the streetcar loft development, while not an official historic structure, is nevertheless a significant high ranked historic building on the City of Portland Historic Resources Inventory.

Given the cumulative affect of the adjustments and resulting increased in occupancy and patronage, I recommend the adjustments be denied until the above affects are satisfactorily addressed through redesign or conditions of approval. At the very least a Good Neighbor Agreement should be required.

Thank you for your consideration.

Sincerely,

Bob Clay

2623 NW Savier Street
Portland, Oregon 97210

From: [Susan Stone](#)
To: [Besley, David](#)
Subject: Proposed Zoning Adjustment at NW 28th and Thurman
Date: Thursday, December 8, 2022 3:50:12 PM

Dear Mr. Besley:

Thank you for considering my comments and the views of many long time neighbors.

The zoning variations that have been proposed for the former Crackerjack site will allow one business property owner to use their property in a way that not only conflicts with our quiet residential neighborhood, but threatens to drive some of us older long-time residents out of the neighborhood we have lived in and loved for decades.

I have lived at 2856 NW Savier Street in a 120 year old house for over 30 years. My uphill neighbor has been here almost 30 years, and the 91 year old neighbor next to her has been here for 50 years. All of us are older, retired, and have no access to parking other than on Savier St. We all moved to this neighborhood because its character has always been a calm, quiet one where we could park our cars to get groceries and everything else in and out of our homes. We have lengthy uphill outdoor staircases to our front porches so parking near our homes is critical to our ability to age in place.

Without close access to this curbside parking many of us, frankly, would have to move. It is abundantly clear that the intense, out-of-character development allowed by the adjustments will make our homes and the parking in front of our homes inaccessible most of the time.

Further, the adjustments conflict with the character of the residential neighborhood that surrounds the business property. It's fair to say that the proposed adjustments even put the proposed use in conflict with the small local businesses that have been in that location for decades. The volume of customers allowed by the intense development would dramatically change the character of one of Portland's oldest and most cherished neighborhoods...all to provide restaurants and a huge Beer Garden when similar amenities are available within blocks. I don't need to elaborate on the traffic, trash, noise and odor impacts—they are obvious. What a poor trade-off!

Oregon has an Urban Boundary to allow farms to flourish and to keep development from overwhelming farmland. The same concept reasonably applies in urban areas. Intense restaurant and bar development should be located in places that do not threaten quiet, long-standing residential areas and the people who live there.

As an additional insult, I and other neighbors did not learn about the proposal until LAST NIGHT! We were not informed about a project that threatens to drastically reduce the livability of our neighborhood and the useability and value of our properties, especially for those of us who have limited mobility and greater age. The utter lack of notice to those seriously affected is unconscionable. Exactly how long has this project been in the works??

Finally, there are two elementary schools and the Friendly House child care facility within blocks of the proposed development. Every year during the Swift migration we experience a large influx of

people to the neighborhood, speeding around looking for parking, paying no attention to children crossing the street. It's tough enough to survive that month-long influx—and we love the Chapman Swifts. What the adjustments would precipitate is this sort of influx year-round with no benefit to anyone but the business owner...a less-than-stellar property owner even before the adjustment request.

I urge you to please NOT APPROVE ANY ADJUSTMENTS that would allow this project to progress. At the very least postpone the decision to allow people to comment. Also, I'm aware that Mary DeVries has proposed changes that might lessen the neighborhood impact. These should be fully considered. The stakes are simply too high to rush ahead and acquiesce to the desires on one property owner at the expense of the home owners who were here first.

Thank you again for your consideration. Please to not approve the adjustments!

Susan Stone
2856 NW Savier St.
Portland, OR 97210

From: [Regna Merritt](#)
To: [Besley, David](#)
Subject: Comment on Case File LU22-159396 AD
Date: Thursday, December 8, 2022 4:12:29 PM

Dear David Besley,

Please accept these comments on Case File LU22-159396 AD

I just learned of this proposal yesterday evening. I have owned the property at 2826 NW Thurman since 1993. I raised my children there, sent them to school at Chapman and Lincoln, and am very attached to my neighbors and my neighborhood. I request that you deny the application because it will irreparably harm the livability and desirability of a place I love.

Noise, light and sound pollution affect my property and the ability of adults and children to study, work and sleep there. The proposed expansion to a second story with OUTSIDE balconies will bring unwanted noise, light and sound pollution into our quiet neighborhood. This pollution cannot be mitigated by paltry planters. In fact, why are these pollutants not even considered (in the posted planning documents) when the source will be immediately adjacent to RM1 zoning. In its current state, this proposal WILL SIGNIFICANTLY DETRACT FROM THE LIVABILITY of the RM1 area and of my property, zoned R5.

Additionally, my property does not have a driveway or a garage. We rely on street parking. That will become even more scarce with the dramatic increase in the capacity of this establishment. Public transportation has been reduced in recent years, making bus transit home from this proposed building in the evening unworkable. Bringing more cars in the evening into this neighborhood with narrow streets also increases threats to those who bicycle home from work and after-school activities.

Questions: Why is a site map viewed from the North not available? How many businesses and of what type will there be? Will alcohol be served on the premises? Will there be music and/or any type of entertainment outside? At what volume? What will be the hours of this establishment or establishments? Why is this information not available on-line?

Please incorporate by reference the comments and concerns of my neighbors Joni Mair Johnson and Mary DeVries. Please deny this application and help us maintain the peace, safety and liveability of our neighborhood.

Thank you for considering these comments,
Regna Merritt

From: [Elliot Levin](#)
To: [Besley, David](#)
Subject: Case File LU 22-159396 AD
Date: Thursday, December 8, 2022 4:40:31 PM

December 8, 2022

David Besley
Land Use Services

Re: LU 22-159396 AD

Dear Mr. Besley,

My name is Elliot Levin, and I am an owner/resident of a condo located at 1704 NW 28th Ave. Our property is immediately adjacent to the former Crackerjack Restaurant at 2788 NW Thurman Street.

Scale of Project

The proposed project at this property causes us grave concern as the scale of the proposed adjustment is far beyond the prior operation at the Crackerjack Restaurant. When Crackerjack operated, there was usually a handful of customers and a single kitchen. This proposal will start with a minimum of four kitchens, and over time, as tenants change, it could increase to as many as seven.

The scale and design of the project will allow 150 – 200 people in the outdoor spaces at a given time. The proposed layout will direct the accompanying noise into our condo. By comparison, Crackerjack generally had only a handful of outdoor customers.

On two occasions, I attended meetings with the project developer. We have asked that he consider options for reorienting the property to direct noise and foot traffic toward the commercial zone on Thurman. He refuses to consider that option. At first, he explained that he didn't want to do this due to the new apartments or condos planned for the opposite side of Thurman. When asked why he would prioritize nonexistent future owners over those already nearby who don't have a choice of locating next to his project, the excuse pivoted to wanting the decks to have a southern exposure. Mr. Opsahl has made it clear that he will not consider reorienting the property. The only mitigation he offers is to consult with an acoustic engineer.

Mr. Opsahl's southern exposure comes at an extreme cost to us. The project's height elevates noise from street level to near or above the parapet wall on our roof. As most of our units do not have air conditioning, we rely on venting skylights to cool our units. Now it is hard to imagine that we will be able to use our venting skylight (or street windows, for that matter) to cool our condo. My neighbors are going to find themselves in a similar situation. Frankly, I find it unconscionable that he is making a conscious choice to direct the noise and activity of the project towards the residential neighborhood versus the commercially zoned area on Thurman to gain a "southern exposure" at the expense of his neighbors.

6' Set back

Our building is over 100 years old, and the brick requires periodic brickwork, such as tuckpointing. Should the setback be reduced to 6 feet, our contractors will have to use scaffolding rather than a man lift to service the wall on the property line. We've already been advised by the contractor for our upcoming work that this would increase the cost by 30%.

The movement of trucks, goods, and garbage/recycling containers increases the risk of damage to our north wall. Damage that may not be readily identifiable due to the layout of the proposed structure. Providing a driveway for delivery trucks, storing garbage alongside our north wall, and adding stadium seating on a staircase to increase capacity adds no value to the neighborhood and will escalate the project's impact on those adjacent to it.

Smokers

In the past, smokers have gravitated from Crackerjacks to the windows alongside our condo. Ours is an old building, and thus the smoke enters our condo. Can you put conditions on the project requiring that they provide and enforce a smoking area on Thurman?

Exhaust Smoke and related noise

M. Osphault has indicated that he will ensure the exhaust system noise and output is engineered to minimize their impact. Given the prevailing winds, can you make it a condition that he ensures this is indeed the case?

Garbage smells and rodents

The location of the garbage and associated smells and rodents are a concern. Given the impact this could have on his business, Mr. Opsahl will be self-interested in ensuring this is kept under control. However, if he doesn't, what is the recourse?

Mr. Besley, I have tried to limit my comments. Our HOA will also send comments pertaining to more technical issues. I have focused on liveability issues directly affecting my condo. I worry that Mr. Opsahl's has chosen a design that seems to maximize the project's impact on his neighbors by directing noise and operations to the residential RM1 zone to the south of his property. We depend on you to protect our RM1 neighborhood by 1) denying the requested adjustments, 2) Limiting operating hours to no later than 10 pm, 3) requiring that the venting be silent and that odor and smoke do not infringe on the neighboring property, 4) require the property monitor smokers.

We fear the impact this project will have on our home's liveability and are worried that this will blossom into another Café Nell. I realize some or all of the above will be beyond your authority, but I also understand that by asking for the adjustment, you have the authority to place some conditions on the project. I hope that you will do so.

I sincerely thank you for considering my thoughts.

Sincerely,
Elliot Levin

From: [Jill Walworth](#)
To: [Besley, David](#)
Subject: Case File Number, LU 22-159396 AD
Date: Thursday, December 8, 2022 4:54:41 PM

Hi David,

I am contacting you in regards to the Revised Notice of a Type II Proposal (Case File Number, LU 22-159396 AD) . I am primarily concerned about its potential to significantly and negatively impact the livability and general character of the neighborhood. This concern is based on the size, scope, exceptions to set backs and character of the business (sounds like a glorified multi food cart situation minus the carts) proposed to occupy the corner of 28th and Thurman.

I have lived a block from the existing tavern for 20 years. As is, it fits into the neighborhood as do the other small businesses tucked into it. The current proposed use is not aligned with the character of the neighborhood and will be a significant detraction. In addition to issues stated above, I'm concerned about noise, trash, cooking odors and lack of parking which is already an issue.

There should be no exceptions to the setbacks and the proposal should fit the scale and character of the neighborhood. I am in favor of the Bureau of Development services denying the proposal.

Thank you in advance for your consideration,

Jill T Walworth

From: [Ernest Cooper](#)
To: [Besley, David](#)
Subject: FW: total support for the new restaurant being proposed on the corner of NW 28th and NW Thurman
Date: Thursday, December 8, 2022 4:58:40 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image006.png](#)

See below.

Yours truly,

Ernest Cooper CRS, ABR, SRES, SFR
Principal Broker | Cooper Realty llc
2301 NW Thurman Ste Q | Portland, OR 97210
Cell: 503-515-8426 | Fax: 503-821-7755
2020 President of PMAR's Master's Circle
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[Oregon Real Estate Agency Disclosure Pamphlet](#)
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From: Ernest Cooper
Sent: Thursday, December 8, 2022 4:56 PM
To: david.besley@portlandoregon.edu
Cc: mscottharvey@comcast.net
Subject: total support for the new restaurant being proposed on the corner of NW 28th and NW Thurman

Dear Mr. Besley,

My husband and I are in total support of the new restaurant being proposed.

Many argue about forecasted noise???? This will be a better establishment with a better clientele than what was there previously and that bar caused NO problems in the neighborhood.

I'm a Realtor and four other Realtors that live in this immediate area neighborhood feel that this is going to improve the neighborhood and cause more reasons for the values to maintain and appreciate, especially for those folks that live above the bridge in Willamette Heights. This will be a fine spot to come dine and they don't have to drive far.

Please let me know if you have any questions.

Yours truly,

Ernest Cooper CRS, ABR, SRES, SFR
Principal Broker | Cooper Realty llc
2301 NW Thurman Ste Q | Portland, OR 97210
Cell: 503-515-8426 | Fax: 503-821-7755
2020 President of PMAR's Master's Circle
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December 8, 2022

Dear Mr. Besley,

I am writing to express my thoughts about the proposal for the Food Hall & Beer Garden on NW Thurman and 28th.

My family has lived on the 2800 block of Thurman Street for nearly 25 years and have loved living in this special place—a quiet, lovely residential neighborhood next to small businesses. In my opinion, the proposed construction of a Food Hall and Beer Garden, which could accommodate 175-200 people and which would have a large outdoor serving area, would negatively and significantly alter the livability and appearance of our neighborhood in terms of traffic, noise, nuisance smells, trash, and safety (increased DUI).

I am not well versed in city zoning codes, but it's clear to me that the addition of such a large-scale operation, consisting of multiple restaurants and multi-storied outdoor consumption of alcohol next door and across the street from residences would be detrimental to residents.

I wish to express my agreement with comments sent to you by many of my neighbors, including Mary DeVries, Joni Johnson, John DeVoe, and Lisa Selman. I hope there will be ample opportunity at a public meeting for neighbors to meet with developers and city officials to air our concerns and ask questions before this proposal goes forward. That would show the intention of the developers to be good neighbors.

Thank you for your consideration.

Best regards,

Stacey Vallas
2856 NW Thurman St.

From: [Joel Soltman](#)
To: [Besley, David](#)
Subject: Re: Appeal - request to speak in support of the project @ 2778 NW Thurman
Date: Monday, April 3, 2023 11:53:12 AM

Thanks I will try to make the meeting also, but here is my written statement:

It is clear from the two appeal submissions that my neighbors don't like change. They don't think of the upside to the neighborhood, to the community, to the city, but only of the immediate negative impact this potential development could create on themselves. Reading their appeals, it is clear to me that they are hiding behind the required zoning variations requested to actually just act as general impediments to this development.

Let's go on a hypothetical, what if this development had been entirely within zoning codes, but there was still a right of appeal. Would these two appeals still have occurred? I'm almost certain the answer is "yes" since these appeals are not about the specific infractions but rather about the general dislike of this development bringin "unwelcome noise, smells and overflow diners" onto the sidewalk.

Even just considering this appeal is going to certainly drive away the next developer who wants to get bold, creative, and helpful in fixing this city's chronic housing issues and deal with an overly paternalistic building code. Do the right thing and let this approval go through.

On Tue, Mar 28, 2023 at 5:58 PM Besley, David <David.Besley@portlandoregon.gov> wrote:

Hi Joel,

Thank you for reaching out. You and any other supporters of the proposal are welcome/encouraged to attend the meeting and vocalize your views. The approximate schedule is as follows:

- Hearing presentation order:
 - Staff (10 minutes)
 - Appellant (10 minutes)
 - Supporters of Appellant (2 minutes each)
 - Principal opponent of the appeal (15 minutes)
 - Other opponents of the appeal (2 minutes each)**
 - Appellant rebuttal (5 minutes)