From:

Peter Livingston <pl@bhlaw.com>

Sent:

Wednesday, June 11, 2014 12:31 PM

To: Cc:

'Karla.moore-love@portlandoregon.gov'

Subject:

Beaumont, Kathryn

Eastmoreland Neighborhood Association Appeal

Attachments:

Letter to Councilor Fritz.pdf

#### Dear Ms. Moore-Love:

Please find enclosed a letter addressed to Portland City Commissioner Amanda Fritz in her capacity as City Council President. Please distribute this letter to Commissioner Fritz and the other members of the Portland City Council in advance of tomorrow's City Council meeting.

Thank you for your assistance and courtesy.

Peter Livingston

Peter Livingston BLACK | HELTERLINE LLP 805 SW Broadway, Suite 1900 Portland, OR 97205 503.417.2153 (d) 503.224.5560 (p) 503.224.6148 (f) mailto:pl@bhlaw.com

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BLACK

HELTERLINELLP

TTORNEYS AND COUNSELORS AT LAW

PETER LIVINGSTON
DIRECT DIAL: (503) 417-2153
E-mail: pl@bhlaw.com
Admitted in Bar - Oregon and Washington

AUDITOR 06/12/14 AM 9:38

June 11, 2014

#### VIA E-MAIL

Ms. Amanda Fritz, Commissioner Portland City Council 1221 S.W. Fourth Avenue, Room 220 Portland, OR 97204

Reference: City of Portland Case File LU 13-219755 ZC AD LDP (HO 4130027);

Appeal of Hearings Officer's Approval of Zoning Map Amendment,

Partition and Adjustment Applications

#### Dear Councilor Fritz:

This office represents the Eastmoreland Neighborhood Association (ENA). Now that the application that was the basis for this appeal has been withdrawn, ENA wishes to notify the city that its courtesy in allowing a set-over of the appeal hearing has resulted in a successful outcome. ENA asks that the City Council remove this matter from its agenda permanently.

Very truly yours,

Peter Langs Ton

Peter Livingston

PL:res

cc: Kathryn S. Beaumont, Esq.

849583

June 2, 2014

Mr. Sean Williams, Planner City of Portland Bureau of Development 1900 SW 4th Avenue, Ste. 5000 Portland, Oregon 97201

Re: City of Portland File No. LU 13-219755 ZZ AB LDP (HO 4130027)

Dear Mr. Williams:

I am the applicant for the above-referenced application. I hereby withdraw the application.

Very truly yours,

Rob Humphrey

cc: Mr. Vic Remmers (via email)

Mr. Mike Robinson (via email)

Ms. Katherine Beaumont (via email)

From:

Commissioner Fritz

Sent:

Sunday, April 13, 2014 9:58 PM

To:

Moore-Love, Karla

Cc:

Tallant, Kimberly

Subject:

FW: Eastmoreland Neighborhood Association / Land Use Issue

Attachments:

Commissioner Fritz Eastmoreland Letter.docx

Please add to the record.

Amanda

Amanda Fritz

Commissioner, City of Portland

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From: Mandy Heaton [mailto:heatonm@reed.edu]

Sent: Tuesday, April 08, 2014 3:27 PM

To: Commissioner Fritz

Subject: RE: Eastmoreland Neighborhood Association / Land Use Issue

Dear Commissioner Fritz:

For your consideration, the attached letter was mailed to you today.

Sincerely.

### **MANDY HEATON**

Reed College, Office of Public Affairs

3203 SE Woodstock Boulevard | Portland OR | 97202

t: 503.777.7289 | c: 503.367.4374 | e: heatonm@reed.edu

Follow us: facebook.com/reedcollege | twitter.com/Reed College | instagram.com/reedcollege

From: Sent: Jack Bush <jackbush@icloud.com> Thursday, April 10, 2014 9:18 AM

To:

Moore-Love, Karla

Subject:

Hearing re: LU 13-219755 ZC AD LDP (HO 4130027)

Attachments:

Zoning Hearing-BUSH.docx; ATT00001.txt

I have been invited by the City to give testimony regarding the zoning decision appeal of LU 13-219755 ZC AD LDP (HO 4130027).

I understand the hearing before the City Council scheduled for this afternoon has been postponed. Please accept the attached 1-page document for consideration at the appropriate time.

Thank you,

Jack Bush 3622 SE Malden St. Portland, Oregon 97202 April 10, 2014

TO: The Portland City Council

FROM: Jack Bush, 3622 SE Malden St. Portland, Oregon, 97202

RE: Decision of Gregory Frank, hearings officer, February 13, 2014, regarding property at 3058 Woodstock Boulevard. [LU 13-21975 ZC AD LDP (HQ 4130027)].

On January 21, 2014, I submitted comments to Mr. Frank in opposition to this zoning proposal. As a result of that submission I was invited by the City to submit comments on the appeal of Mr. Frank's decision.

The Comprehensive Plan and the Zoning Code make frequent reference to the "appearance and livability" of neighborhoods and to the "preservation of the character" of Portland neighborhoods. I suggest that the City has launched itself on a course that renders these phrases meaningless.

Recent land use decisions systematically discount and ignore considerations of appearance, livability, and the character of neighborhoods.

One example: In his decision, Mr. Frank gives lip service to "the appearance and livability" of this part of Eastmoreland, then (in an exercise of circular logic) eliminates this factor from consideration in his decision. (p. 40)

Land use decisions are broken up into smaller decisions, each of which avoids consideration of appearance, livability, and the character of the neighborhood. The result is an outcome for which no one has weighed the overall effect.

One example: In his decision, Mr. Frank finds that "the creation of one additional through lot will not, *in and of itself*, significantly impact the appearance and livability of the residential area...." (p. 42. Italics added.)

In numerous recent decisions the City has chosen a path of disregard for the character, appearance, and livability of Portland neighborhoods. This is not an issue only for posh neighborhoods like Eastmoreland. It's an issue for any neighborhood with a sense of pride and neighborhood identity.

The best judges of the qualities that define the appearance, livability, and character of a neighborhood are the people who live there. Neighborhood opinion cannot be the only criteria for land use decisions, but when that opinion is systematically discounted and ignored, "appearance, livability, and neighborhood character" become empty words.

The language of the Comprehensive Plan and existing zoning regulations provide ample grounds for the City to change its course. It should do so.

From:

Robinson, Michael C. (Perkins Coie) <MRobinson@perkinscoie.com>

Sent:

Wednesday, April 09, 2014 8:38 AM

To:

Moore-Love, Karla; Williams, Sean; Beaumont, Kathryn

Subject:

Eastmoreland Appeal

Attachments:

RE: Vote to halt the development of 3058 Woodstock.

Dear Ms. Moore-Love, will the attached e-mail be part of the record that is before the Portland City Council on Thursday? If so, I need to ask the Council not to accept it because it contains new evidence not part of the Hearings Officer's record. The Council hearing is "on the record" and new evidence cannot be accepted.

Thanks. Mike

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\* \* \* \* \* \* \* \* \* \*

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From: Sent:

Peter Livingston <pl@bhlaw.com> Wednesday, April 09, 2014 3:31 PM

To:

Moore-Love, Karla

Cc:

Ty Wyman (TWyman@dunncarney.com); kbeaumont@portlandoregon.gov; McCullough,

Rober

Subject:

City of Portland Case File LU 13-219755 ZC AD LDP (HO 4130027)

Attachments:

FINAL - letter to Ms. Amanda Fritz, Commissioner.pdf

Dear Ms. Moore-Love,

Please find attached a letter addressed to Portland City Commissioner Amanda Fritz in her capacity as City Council President. Please distribute this letter to Commissioner Fritz and the other members of the Portland City Council in advance of tomorrow's appeal hearing on the above-referenced case file.

Thank you for your assistance in this matter.

Peter Livingston BLACK | HELTERLINE LLP 805 SW Broadway, Suite 1900 Portland, OR 97205 503.417.2153 (d) 503.224.5560 (p) 503.224.6148 (f) mailto:pl@bhlaw.com

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BLACK

HELTERLINELL

TTORNEYS AND COUNSELORS AT LAV

PETER LIVINGSTON
DIRECT DIAL: (503) 417-2153
E-mail: pl@bhlaw.com
Admitted in Oregon and Washington

April 9, 2014

# VIA E-MAIL

Ms. Amanda Fritz, Commissioner Portland City Council 1221 S.W. Fourth Avenue, Room 220 Portland, OR 97204

Reference: City of Portland Case File LU 13-219755 ZC AD LDP (HO 4130027);

Appeal of Hearings Officer's Approval of Zoning Map Amendment,

Partition and Adjustment Applications

#### Dear Councilor Fritz:

We represent the Eastmoreland Neighborhood Association ("ENA"). This short letter is for the simple purpose of confirming the statements in Michael Robinson's letter regarding the captioned appeal.

The ENA joins the applicant in respectfully requesting that the Portland City Council open the public hearing on April 10, 2014 and continue it to a date and time certain at least sixty (60) days later.

The ENA joins the applicant in requesting that the City Council not take any testimony tomorrow, with the exception of statements from the parties' attorneys regarding the request that the public hearing be continued to a date and time certain.

Very truly yours,

Peter Livingston

PL:res

cc (via e-mail):

Michael C. Robinson, Esq. Kathryn S. Beaumont, Esq.

Robert F. McCullough



From:

Paciera, Reagan (Perkins Coie) < RPaciera@perkinscoie.com > on behalf of Robinson,

Michael C. (Perkins Coie) < MRobinson@perkinscoie.com>

Sent:

Wednesday, April 09, 2014 1:36 PM

To:

Moore-Love, Karla

Cc:

'vic@everetthomesnw.com'; 'neil@emeriodesign.com' (neil@emeriodesign.com);

pl@bhlaw.com; Ty Wyman (TWyman@dunncarney.com); kbeaumont@portlandoregon.gov

Subject: City of Portland Case File LU 13-219755 ZC AD LDP (HO 4130027);

Attachments:

Lt A. Fritz 001.pdf

Dear Ms. Moore-Love,

Please find enclosed a letter addressed to Portland City Commissioner Amanda Fritz in her capacity as City Council President. Please distribute this letter to Commissioner Fritz and the other members of the Portland City Council in advance of tomorrow's appeal hearing on the above-referenced case file.

Thank you in advance for your assistance and courtesy.

Mike,

Michael C. Robinson | Perkins Coie LLP 1120 N.W. Couch Street, Tenth Floor

Portland, OR 97209-4128 PHONE: 503.727.2264

MOBILE: 503.407.2578 FAX: 503.346.2264

E-MAIL: mrobinson@perkinscoie.com



\* \* \* \* \* \* \* \*

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From:

Commissioner Fritz

Sent:

Sunday, April 06, 2014 10:16 PM

To: Cc: greenets@comcast.net Moore-Love, Karla

Subject:

RE: Opposition to rezoning at 3058 SE Woodstock Blvd.

Thank you for your message. I will keep your comments in mind when this matter is before the Council.

Amanda

Amanda Fritz

Commissioner, City of Portland

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From: greenets@comcast.net [mailto:greenets@comcast.net]

Sent: Saturday, April 05, 2014 7:11 PM

To: Commissioner Fritz

Subject: Opposition to rezoning at 3058 SE Woodstock Blvd.

## Commissioner Fritz:

This email is to register my support of the Eastmoreland Neighborhood Association and its support of the 1980 Comprehensive Plan, and opposition to the change in zoning for the property at 3058 SE Woodstock.

Shannon Greene 6121 SE 32nd Avenue Portland, OR 97202



1120 N.W. Couch Street, Tenth Floor
Portland, OR 97209-4128
PHONE: 503.727.22000
FAX: 503.727.2222
www.perkinscole.com

Michael C. Robinson PHONE: (503) 727-2264 FAX: (503) 346-2264

EMAIL: MRobinson@perkinscole.com

April 9, 2014

#### VIA E-MAIL

Ms. Amanda Fritz, Commissioner Portland City Council 1221 SW Fourth Avenue, Room 220 Portland, OR 97204

Re: City of Portland Case File LU 13-219755 ZC AD LDP (HO 4130027); Appeal of Hearings Officer's Approval of Zoning Map Amendment, Partition and Adjustment Applications

Dear Councilor Fritz:

This office represents the Applicant. I am happy to report that the Applicant and the Appellants have reached a tentative agreement to resolve their dispute regarding this matter. However, final resolution of the matter will take at least forty-five (45) days. Therefore, the Applicant respectfully requests that the Portland City Council open the public hearing on April 10, 2014 and continue it to a date and time certain at least sixty (60) days later. During the sixty (60) day period, if the parties finalize their agreement, the Applicant will withdraw its Applications and the appeal will be moot. If a final settlement agreement is not reached, all parties would have an opportunity to testify in an "on the record" hearing before the City Council at the continued appeal hearing.

If the City Council continues the public hearing, the Applicant will extend the 120-day period in ORS 227.178(3) from May 24, 2014 to July 1, 2014.

The Applicant also respectfully requests that the City Council not take any testimony tomorrow, with the exception of statements from the parties' attorneys regarding the request that the public hearing be continued to a date and time certain.

Ms. Amanda Fritz, Commissioner April 9, 2014 Page 2

I have asked the City Council Clerk to place this letter before you prior to the public hearing and to place a copy in the official Planning Department file for this matter.

Very truly yours,
Mulvil C PaliA

Michael C. Robinson

MCR:rsp

cc:

Mr. Vic Remmers (via email)

Mr. Neil Fernando (via email)

Ms. Katheryn Beaumont (via email)

Mr. Peter Livingston (via email)

Mr. Ty Wyman (via email)

From: Sent: Justin Wood <justinw@hbapdx.org> Wednesday, April 09, 2014 3:12 PM

To:

Moore-Love, Karla

Subject:

Eastmoreland Hearing - Council Testimony

To: Portland Mayor Charlie Hales & Fellow City Commissioners

Thank you for the opportunity to provide testimony to the Council regarding the hearing on the Eastmoreland Neighborhood Association appeal on the decision at 3058 SE Woodstock. I regrettably am unable to attend the hearing but I would like to ask the City Council to support the work done by City Staff and the Hearings Officer on this case. I would further ask that the Council reject the appeal and affirm the Hearings Officer's decision in this matter.

The Portland Zoning code provides the rules and roadmap for how residents, builders, developers and citizens of the City of Portland are to conduct building and development within the city. These codes apply to everyone and every neighborhood association. When an applicant is found to have met the approval criteria based on the zoning code, the decision should not be reversed because someone disagrees with the decision. One of the biggest issues we hear from our members is for jurisdictions to be consistent in the way that they enforce their code and provide certainty for what is allowed if you follow the code.

Further, I do not believe that there is any evidence to support the claim that the comprehensive plan amendment to change these lots to R5 was an error. By looking at the zoning map for the Eastmoreland Neighborhood, one will see that the entire residential area surrounding this one block is all zoned R5. This one block of approximately 20 lots is the only R7 zoned block South of Reed College that you can find on the area zoning map that is not R5.

While I realize this is out of the scope of this hearing, this is exactly the type of development that needs to be supported by the Portland City Council in order to meet our aspirations for infill and re-development within the Portland Metropolitan area. I realize that this isn't always the most popular decision to make with the neighborhoods who directly have the growth in their neighborhood, but it is the right decision if we want to achieve the goals of maintaining our Urban Growth Boundary and preserving the lands outside.

Thank you for your consideration,

#### Justin Wood

Associate Director of Government & Builder Relations
Home Builders Association of Metro Portland
t 503.684.1880 | c 503.997.7966 | f 503.684.0588 | hbapdx.org

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April 8, 2014

Commissioner Amanda Fritz City of Portland 1221 SW 4th Ave, Room 220 Portland, OR 97204

**Dear Commissioner Fritz:** 

The President's Office at Reed College was approached by the Eastmoreland Neighborhood Association and asked to review the Reed archives for any documentation or reference to a rezoning proposal of the SE Moreland Lane block (Official City of Portland Zoning Map 3633) from R7 to R5 during the City of Portland's 1980 Comprehensive Plan Process.

We have carefully reviewed our archives (including Heritage Master Plan, R. Ritz's Reed architecture work, archives files on Eastmoreland, Reed property acquisitions, Faculty Long-Range Plan Committee, etc.) and have found no record of a proposed change to facilitate an eventual rezone of the Moreland Lane block to R5 from R7. The nearest chronological Reed Master Plan (prepared by Zimmer, Gunsul, Frasca), we could find is dated November 30, 1989--and it has the zone R7 designation, without discussion of its history (Exhibit - A).

In sum, we agree with the conclusions of the Eastmoreland Neighborhood Association that no such comprehensive plan change was presented to the community during the 1980 Portland Comprehensive Plan process. If such a change had been proposed, notified, or approved, it would have appeared in our records.

Sincerely,

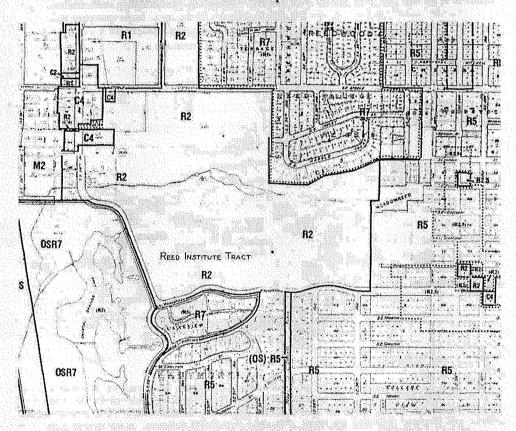
Mandy Heaton Executive Director of Public Affairs Reed College

CC: Hugh Porter, Vice President of College Relations, Reed College John Kroger, President, Reed College

#### Exhibit - A

Reed Master Plan (prepared by Zimmer, Gunsul, Frasca - dated November 30, 1989

When the College community is satisfied with the content of the master plan, it will be reviewed informally with Bureau of Planning staff to ensure that those issues of public concern which were identified at the pre-application conference have been adequately addressed. Formal application for a conditional use permit in respect of everything in the master plan will then be made. Within sixty days of application, a public hearing will be held. The Hearings Officer will issue a decision within ten working days and file it formally within five days. This decision will become final fifteen days after the filing date unless an appeal is lodged before that date. If an appeal is lodged, a hearing will be scheduled with the City Council within thirty days. When final approval of the master plan has been obtained, it will remain on file with the Bureau of Planning until it becomes obsolete, at which time an update or a new master plan will be requested by the Bureau. Every conditional use applied for by the College will be reviewed in the context of the filed master plan.



The Portland Zoning Map shows that the whole campus is zoned R2 for low-density, multifamily residential development. Colleges are permitted as a conditional use within this zone. All improvements therefore require a conditional use permit before a building permit can be issued.

From:

Commissioner Fritz

Sent:

Sunday, April 13, 2014 10:15 PM

To:

Karen Mularski Moore-Love, Karla

Cc: Subject:

RE:

Thank you for your comments. As this is a quasi-judicial matter on which the Council will rule, I am not allowed to respond to the substance of your message outside of the public hearing. Far from a back-room deal, everything on the case must be on the public record, which is why I am copying the Council Clerk with my reply.

I appreciate your concern regarding the development standards and zoning in neighborhoods. If you would like to change the rules governing development in Portland, please participate in the Comprehensive Plan update process being run by the Bureau of Planning and Sustainability under Mayor Hales. This process has the capacity to rewrite the development standards, and change the zoning maps. Information is here: <a href="https://www.portlandoregon.gov/bps/index.cfm?&c=57352">https://www.portlandoregon.gov/bps/index.cfm?&c=57352</a>

#### Amanda

Amanda Fritz Commissioner, City of Portland

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From: Karen Mularski [mailto:karenmularski@yahoo.com]

Sent: Tuesday, April 08, 2014 11:03 AM

To: Hales, Mayor; Commissioner Fish; Commissioner Fritz; Novick, Steve; Commissioner Saltzman

Cc: McCullough, Robert; Richard Mularski

Subject:

Mayor Hales, and Commissioners:

Please register our opposition to the process by which Everett Custom Homes seems to have found a loophole in the Comprehensive Plan and plans to re-zone, subdivide, and construct who-knows-what at SE 28th and Woodstock.

I support the position of the city in concept that we should be supporting increased density of homes in order to maintain green spaces surrounding the city and avert city "sprawl" so common in America's suburbias. Even if Everett intends to build something beautiful, it is important to us that the City remain firmly in line with due process and rules and regulations which voters have supported.

Neighborhood citizen involvement and approval with an open policy and vote, if needed, rather than back room wheeling and dealing is important to us; ethics should trump all other priorities, and the proposed way this zoning change is being implemented sounds a lot like a nefarious handshake that took place away from the public's checks and balances. This would set a scary precedent.

Thanks for your interest and for opposing this developer's aggressive stance.

Karen Mularski, MD Richard Mularski, MD Eastmoreland residents and lovers of Portland

From:

Williams, Sean <Sean, Williams@portlandoregon.gov>

Sent:

Thursday, June 12, 2014 8:37 AM

To:

Moore-Love, Karla

Subject:

FW: Withdrawl of Eastmoreland Application

Attachments:

Lt S. Williams.pdf

Karla – I'm not sure if you need this or not but attached is the letter from the applicant withdrawing the LU review application.

#### Sean

### Sean M Williams City Planner

City of Portland
Bureau of Development Services
1900 SW Fourth Ave, Suite 5000
Portland, OR 97201
P (503) 823-7612

F (503) 823-5630

E sean.williams@portlandoregon.gov

From: Robinson, Michael C. (Perkins Coie) [mailto:MRobinson@perkinscoie.com]

Sent: Friday, June 06, 2014 10:27 AM

To: Williams, Sean

Subject: FW: Withdrawl of Eastmoreland Application

From: Rapp, Reagan S. (Perkins Coie) On Behalf Of Robinson, Michael C. (Perkins Coie)

**Sent:** Friday, June 06, 2014 10:27 AM

**To:** 'kathryn.beaumont@portlandoregon.gov' **Cc:** Robinson, Michael C. (Perkins Coie)

Subject: Withdrawl of Eastmoreland Application

Dear Kathryn,

Please find attached a letter from the applicant withdrawing the application. I wasn't able to get the revised letter to him. Let me know if this letter is acceptable.

#### Mike

# Michael C. Robinson | Perkins Coie LLP

1120 N.W. Couch Street, Tenth Floor Portland, OR 97209-4128

PHONE: 503.727.2264 MOBILE: 503.407.2578 FAX: 503.346.2264

E-MAIL: mrobinson@perkinscoie.com



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From:

Commissioner Fritz

Sent:

Friday, March 07, 2014 11:53 AM

To:

'Langlois, Ruth' Moore-Love, Karla

Cc: Subject:

RE: Vote to halt the development of 3058 Woodstock.

Thank you for your message. Since the appeal is a quasi-judicial process, I am not allowed to comment on the content of your letter outside of the public hearing process. I am copying the Council Clerk so your comments become part of the record for this appeal. Thank you for participating in the process.

If you would like to change the rules and standards for what new homes should look like in your neighborhood, please participate in the discussions on future development in Portland that are currently under way. The option of establishing an historic conservation district in Eastmoreland could also be explored. Changes in zoning code regulations are being considered in the Bureau of Planning and Sustainability's process to update the Comprehensive Plan language and maps. Information on how to participate is posted here:

# http://www.portlandoregon.gov/bps/57352

The Comprehensive Plan update process is being led by Mayor Hales.

Amanda

Amanda Fritz Commissioner, City of Portland

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From: Langlois, Ruth [mailto:langloir@trimet.org]

Sent: Friday, March 07, 2014 10:53 AM

To: Commissioner Fritz

Subject: Vote to halt the development of 3058 Woodstock.

Good morning Commissioner Fritz,

I am writing you today to ask you to please consider the appeal of Eastmoreland Neighborhood Association, scheduled on April 10, and vote to halt the development of 3058 Woodstock.

My husband and I live at the south end of Eastmoreland (Crystal Springs Blvd) -- what we call the "normal" section of the neighborhood. By "normal" we mean middle-class, working professionals who love where we live, love our neighbors,

love Portland, and pay our taxes just like anyone else...Recently our neighbor directly to the west of us (of 20 years) could no longer care for herself and was forced to sell her home (of 40 years.) A sad, but reoccurring fact of life. She didn't want to sell to a developer that would mow down her "normal", 3 bedroom, 1 ½ bath ranch house that is in disrepair but solid, in order to slap up 2 "skinny" houses, with no thought about neighbors or surrounding areas, just to make a profit. We have several of these poorly-built creations throughout Eastmoreland. Some are only 5 years old and already in disrepair. Few have adequate off street parking. We are not anti-development. Simply want developers to LOOK at the areas where they want to build and design homes that blend in. I know it can be done as there are also new homes that have been built in our neighborhood that are crafted beautifully and do fit in.

Our wonderful neighbor didn't want to sell to a developer because she knew this type of development would completely ruin our quality of life. Over the years she watched us spend blood, sweat, a few tears, money and time improving our little, "normal" house (3 bed, one bath), replacing old good-neighbor fences with new ones, creating a better yard and green space between us and sharing our vegetable and flower gardens with all of our neighbors. We spend hours outside and love that we have a great neighborhood, with great neighbors that share our same beliefs of keeping our property clean, safe and wonderful.

I am PLEASED to say that a nice, young family bought the house next door and through their blood, sweat, perhaps tears, and time, they will love our neighborhood as much as we do.

Our story is a happy ending. Please vote so our Woodstock neighbors can have a happy one too!

Thank you for your thoughtful consideration by halting the development of 3058 Woodstock.

Respectfully,

Ruth and Dave Langlois 3817 SE Crystal Springs Blvd