



Michael C. Robinson  
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September 8, 2014

AUDITOR

08 09/09/14 PM 12:37

**VIA EMAIL**

Ms. Linly F. Rees  
City Attorney  
City of Portland  
1221 SW Fourth Avenue, Suite 430  
Portland, OR 97204-1994

**Re: City of Portland Case Number LU 13-237078-ZC LDP**

Dear Ms. Rees:

I am writing on behalf of the applicant to extend the 120-day review period solely for the purpose of providing additional time for the City Council to deliberate to a tentative decision and issue a final decision.

The Portland City Council asked the applicant to extend the 120-day review period during the September 3, 2014 hearing. The applicant declined to do so at that time. The City Council closed the public hearing on September 3, 2014 and continued the matter for deliberation only until September 10, 2014 at 9:30 a.m.

Attached to this letter is a completed and signed City of Portland "Request for Extension of 120-Day Review Period" form. The form provides that the applicant has extended the 120-day review period for an additional 28 days from the current end of the review period on September 19, 2014 until October 17, 2014. The applicant has extended the 120-day review period solely for the purpose of deliberation by the City Council to a tentative decision and the issuance of a final decision.

My understanding from speaking to you is that if the City Council wishes to accept the extension of the 120-day review period, the City Council will continue deliberation from September 10, 2014 until October 1, 2014 at 10:00 a.m. so the full City Council can be present, adopt the final decision on October 15, 2014 and issue the final decision no later than October 17, 2014. If additional time is needed in which to issue the final decision, the applicant will grant a reasonable amount of time to do so.

76297-0005/LEGAL123421185.1

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Perkins Coie LLP

Ms. Linly Rees  
September 8, 2014  
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Please let me know if you have any questions. This letter contains no new evidence or argument as those terms are defined in ORS 197.763(9).

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael C. Robinson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michael C. Robinson

MCR:rsr  
Enclosure

cc: Mr. Vic Remmers (via email) (w/encl.)  
Mr. Mike Coyle (via email) (w/encl.)  
Ms. Rachel Whiteside (via email) (w/encl.)



City of Portland  
**Bureau of Development Services**  
Land Use Services Division

1900 SW Fourth Avenue, Suite 5000  
Portland, Oregon 97201  
Telephone: 503-823-7300  
TDD: 503-823-6868  
FAX: 503-823-5630  
www.portlandonline.com/bds

AUDITOR 08 09/09/14 PM 1:52 pm

## Request for Extension of 120-Day Review Period

State law requires the City to issue a final decision on land use reviews within 120 days of receiving a complete application. State law also allows the applicant to request in writing an extension of the 120-day review period for up to an additional 245 days. When extensions are requested, it is important to ensure that there is adequate time to accommodate the required public review, drafting the decision, and any required hearings (including appeals) within the extended review period. Generally, a final decision must be rendered approximately 60 days prior to the end of the review period in order to accommodate appeals.

If requesting an extension of the 120-day review period, please sign this form and return it to the Bureau of Development Services (BDS) planner assigned to your case.

### Case Information

1. Applicant Name: Vic Remmers, Everett Custom Homes
2. Land Use Case Number: LU # 13-237078-ZC LDP
3. BDS Planner Name: Rachel Whiteside

### Extension Request

Please check one of the following:

- ☒ Extend the 120-day review period for an additional 28 (insert number) days. Subject to purpose of extension as described in the letter dated 9/8/2014 from Michael Robinson to Linly Rees.  
Full Extension.

**The total number of extensions requested cannot exceed 245 days.**

By signing this form, I acknowledge that the 120-day review period for my land use review application will be extended for the number of days specified.

Applicant Signature: [Signature]

Date 9-8-14

**OPPOSE  
APPEAL****APPEAL OF WOODSTOCK NA****3-LOT LAND DIVISION 3936 SE REEDWAY ST LU 13-237078 ZC LDP**IF YOU WISH TO SPEAK TO CITY COUNCIL, **PRINT** YOUR NAME, ADDRESS, AND EMAIL.

NAME (print)

ADDRESS AND ZIP CODE

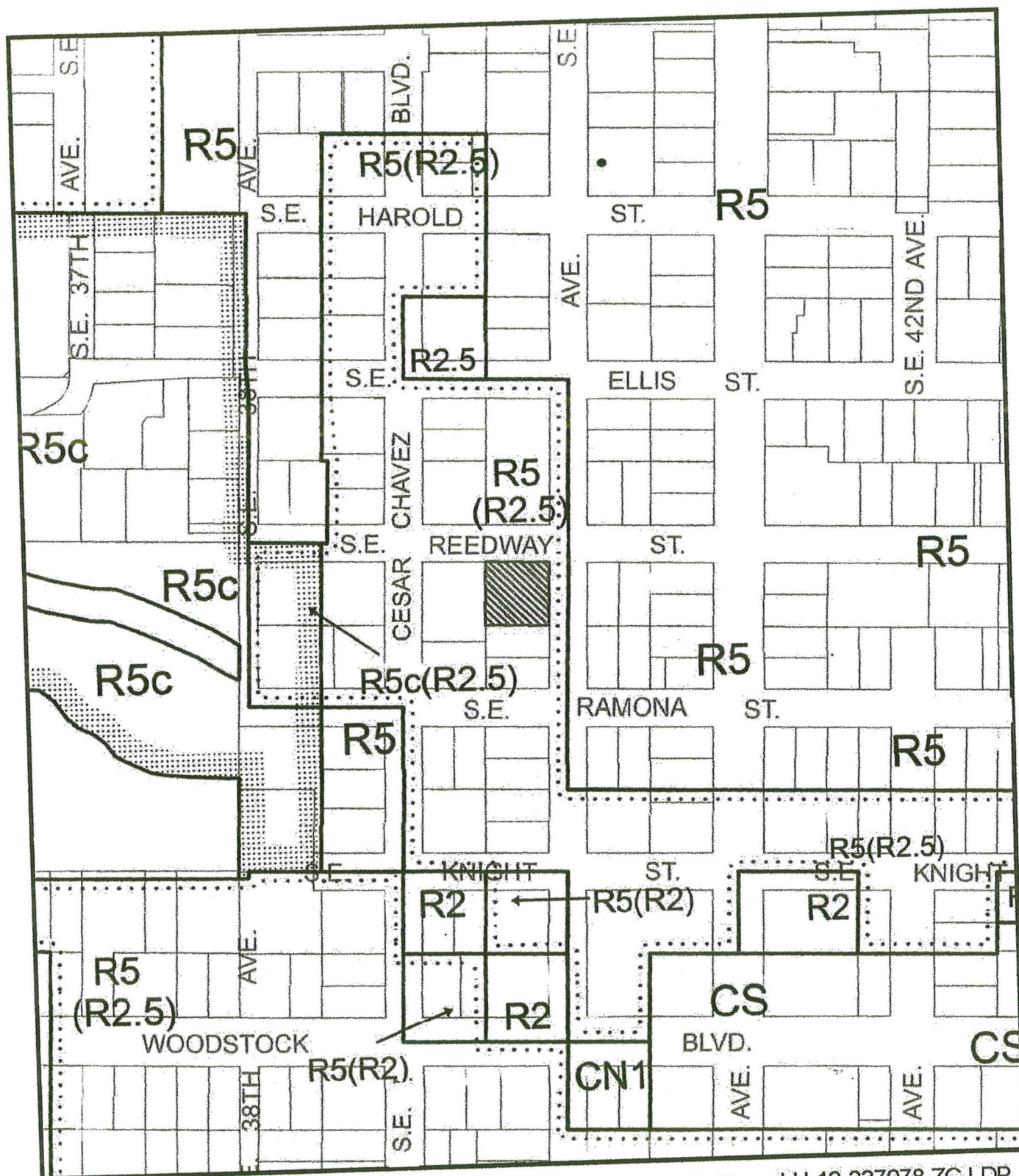
Email

✓ MICHAEL ROBINSON	1120 NW COUCH ST, TENTH FLOOR PORTLAND, OR 97209-4128	MROBINSON@PERANSOIE.COM

**SUPPORT  
APPEAL**
**APPEAL OF WOODSTOCK NA**
**3-LOT LAND DIVISION 3936 SE REEDWAY ST LU 13-237078 ZC LDP**
**IF YOU WISH TO SPEAK TO CITY COUNCIL, PRINT YOUR NAME, ADDRESS, AND EMAIL.**

NAME (print)	ADDRESS AND ZIP CODE	Email
✓ Terry Griffiths	4128 SE Reedway 97202	treeterry@yahoo.com
✓ Merrilee Spence	4219 SE Reedway <del>97202</del>	ecnepsma@comcast.net
✓ LES SZIGETHY	4227 SE REEDWAY 97206	lesmusic815@GMAIL
✓ Paul Anuschat (Rebecca)	4016 SE Reedway 97202	pranline@gmail.com
✓ BECKY LUENING	5209 SE 60TH AVE 97206	becky.pdx@gmail.com
✓ Mary Kay Tetreault	3937 SE Reedway 97202	tetreaultmk@pdx.edu
✓ LEN NORWITZ	4008 SE RAMONA 97202	len@nworwitz@comcast.net
✓ Corrine Lyons	3908 SE Reedway 97202	lyons5@comcast.net
✓ Jeff Kreter	5605 SE 41 <sup>st</sup> Ave 97202	Kretarmer@gmail.com

Submitted by  
Terry Griffiths  
9/03/2014



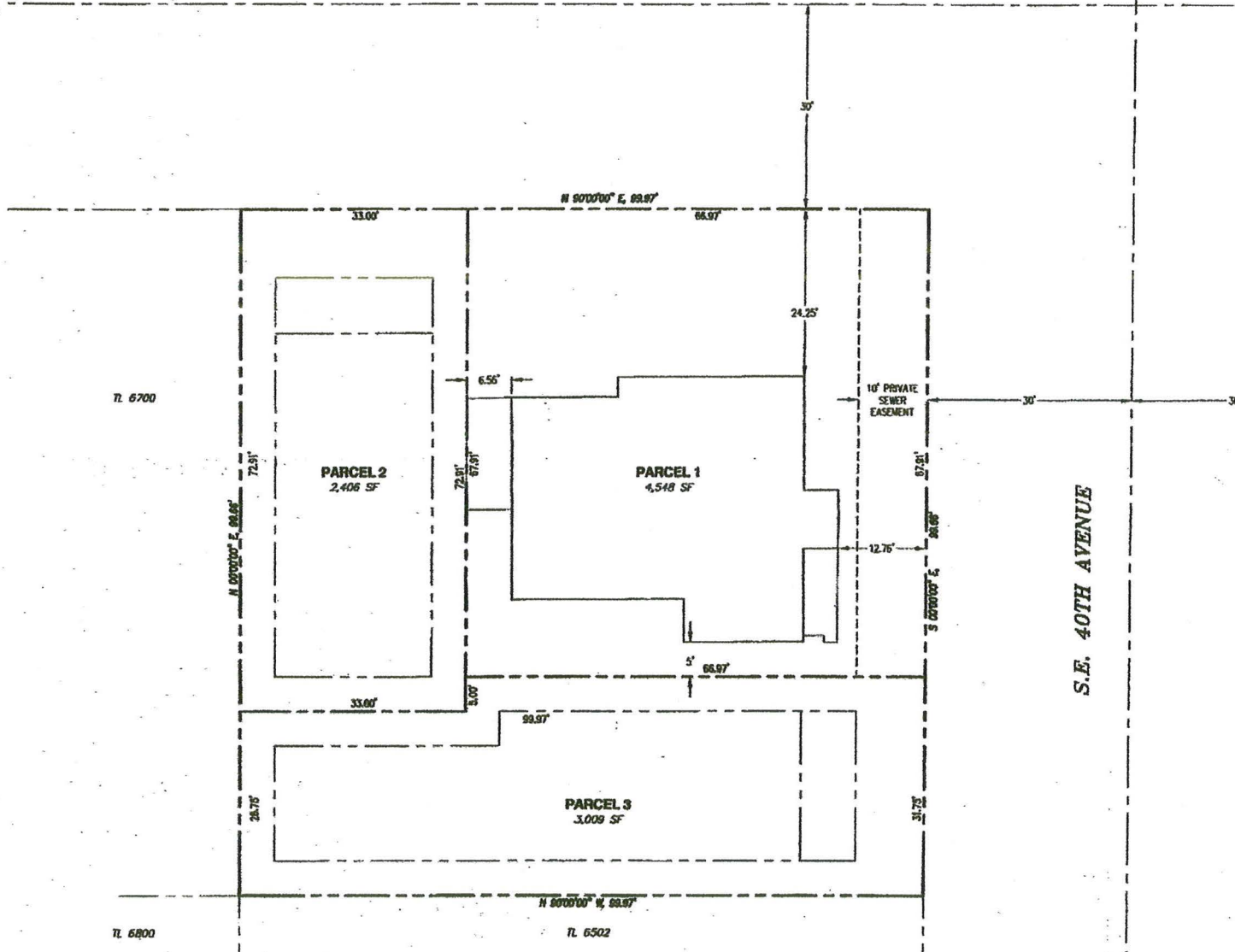
**ZONING**



File No. LU 13-237078 ZC,LDP  
1/4 Section 3634  
Scale 1 inch = 200 feet  
State Id 1S1E13DA 6600  
Exhibit B (Dec 16, 2013)

Submitted by  
Terry Griffiths  
9/03/2014

S.E. REEDWAY STREET



Greetings councilors Fish, Novick, Fritz, Saltzman and Mayor Hales – for the record my name is Len Norwitz and I reside a block or five houses down from the partition in question - 3936 SE Reedway St - at 4008 SE Ramona St. I like the neighborhood and want to report that just this past Monday a good number of us closed down the street and had our fourth annual Labor Day block party. We would have invited you but the feelings out there are not too warm what with skinny houses; demolitions and the return to speculation that a revived housing market has created. I know the reason we are here is that a zoning plan set up in the 1980's in anticipation of growth ~~tried to predict and allow~~ – is now at odds with our world in 2014. And thanks for hearing this issue out ... as it is typical of heated conversations that are going on throughout this town.

I am here to quickly emphasize the issues of neighborhood livability, the conundrum we all have in the area of trusting in our public officials and public workers and then the idea of rewarding bad actors at a time when the public is fed up with the rhetoric around all three of these things.

None of the answers we are producing these days are working well around the issue of trust - and I say we – because I am employed as political staff person for a public employees union. We are all under larger microscopes to do more with less and live up to ideals that we talk about and campaign on ... all the time. So are we walking our talk here or is this just another example of ...”well the zoning code allows such and such” and “well they are trying to follow all the rules” ... and “well we think we are doing right by the need for infill” and... on and on?

I respectfully submit that this is a case study in a speculating leech getting rewarded for his laziness, greed and disrespect (now 16 months of a vacant/now decrepit structure that was and still could be a gem of a home in our area) to the history and tradition of this a Reed College neighborhood. And I think more importantly you are doing more and more damage to the tender trust that many of you have built with the public. I should know - as many of you come to my union for support each election cycle and we discuss how and why you can raise all boats in the tough times we live in by focusing on issues of wealth and income inequality – issues of racial/ethnic and gender equity and undoing past segregational policies. And you are going there around minimum wage policies; paid and sick leave and being watchful for other opportunities. I applaud that.

But his partition is not raising boats ... it is sinking them - and those that vote for this deal should be ashamed. These units will not be affordable – although for the square footage produced ... they should. For a couple more housing units you are messing with many tens of neighbors who pay really high property taxes and do the right things to make this city a better place every day. And those homes and folks we are pissing off and losing surely can be replaced by the tens of thousands that are coming to our city every year – they will not be missed by you and the bean counters upstairs ..... or over at the County coffers. We the neighbors will miss them – just as neighbors in other gentrified areas have – whether it be in North Portland or NE Alberta/Mississippi areas or trendy SE Hawthorne and the war zone that is SE Division.

I will close by saying disallow this guy's efforts and efforts like this that are surely popping up all over town – disallow them until these guys come to the neighborhood associations and make their cases and work with us on how to change the complexion of our communities with us having an honest say in the end results. Thank you very much.

Len Norwitz

4008 SE Ramona St

Portland, OR 97202

lennorwitz@comcast.net 503-708-8594

Rebecca Luening  
5209 SE 60th Ave  
Portland, OR 97206  
503-774-9197  
becky.pdx@gmail.com

September 3, 2014

Portland City Council Members  
c/o Council Clerk  
1221 SW Fourth Ave., Room 130  
Portland OR 97204

RE: Appeal of Woodstock Neighborhood Association against Hearings Officer's decision to approve a zone change in conformance with the Comprehensive Plan and a 3-lot land division at 3936 SE Reedway St. (LU 13-237078 ZC LDP)

**Testimony Pertaining to I. Solar Access** (pp. 15-16 in Decision of the Hearings Officer)

According to the BDS literature, Portland's "solar access regulations encourage variation in the width of lots to *maximize solar access* for single dwelling detached development and *minimize shade on adjacent properties*." [emphasis added]

The findings of BDS Staff on the solar access approval criteria in the report dated May 16, 2014, supported by the Hearings Officer in his decision, ignore the fact that the subject proposal likely result serious loss of solar access, from both the south and the west, for the existing home on proposed Parcel 1, as well as loss of morning sun for the home on the adjacent property which lies just below and to the west of the subject lot.

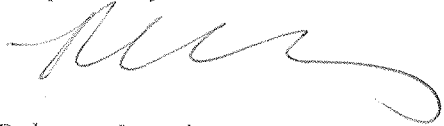
We would appreciate people actually coming into our neighborhoods and looking at these proposed building sites in person, and thinking about things like where the sun shines and how much light will be blocked if a lot is carved up in this way or that. In the absence of such consideration, I submit a photograph (Exhibit A) to illustrate the above points and provide a better sense of what is at stake here.

It has come to my attention, not just in the process of studying this particular proposal, but in watching the very tall, single dwelling detached developments that are being erected at record speed in our neighborhood, that Portland's Solar Access Regulations have no teeth, and I am puzzled why a city that is famous for rainy days and claims to be "green" wouldn't do everything in its power to preserve access to sunlight for as many residents as possible. Solar access is critical for everyone's mental health, for urban gardeners interested in growing their own food, and for solar power generation. I know all these things from personal experience, as I am an active gardener myself, and my husband and I have installed both solar PV and solar hot water systems, which function very well here, as long as you have decent solar access.

Appeal Statement  
LU 13-237078 ZC LDP  
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My husband and I moved to Portland partly because of its great reputation for sustainability. We fell in love with our neighborhood because of its economically mixed nature, the variety of housing, the many trees and beautiful gardens. Gardening is a meme here in Portland. Do you know that in inner Southeast the waiting list for community garden plots is over 200 names long? When I first spotted the "for sale" sign in front of the subject property (3936 Reedway St.), I thought, "What a nice property." I felt happy for whomever might come to own it. While not as historically significant as some, the home was thoughtfully designed to fit well on its corner lot. There is ample, though not extravagant, space on all four sides of the house, which suggests, to me at least, the potential for a very nice garden. It is situated to maximize sunlight coming into the house, and features a nice view to the west. If this lot split proposal is granted, all those great features will be squandered. And many people in our neighborhood will grieve the loss of yet another property, perfectly decent "as is," thoughtlessly altered, to be sacrificed to "the market."

Respectfully,



Rebecca Luening  
Woodstock Neighborhood Resident  
Chair, Woodstock Neighborhood Association

Attachment: Exhibit A

## EXHIBIT A



Even on a rainy day, the existing home on this property enjoys good light from the south (the direction this photographer was facing when capturing this shot), and from the west (to the right from this perspective). If this lot split is allowed, tall structures will be erected on both the south and west sides of the existing home, creating a chilly ambience in winter that will seriously detract from the value of this home. In addition, the home proposed to be constructed on the west-most lot if this property is allowed to be split, will significantly block morning light from the east for the nextdoor property immediately west, and downhill from the subject lot.

Gregory W. Stark  
5613 SE 41<sup>st</sup> Avenue  
Portland, OR 97202

City of Portland  
Land Use Services  
1221 SW Fourth Ave. #140  
Portland, OR 97204

July 27, 2014

AUDITOR 07/29/14 PM12:38

*emailed  
7/29  
pm*

To Whom It May Concern:

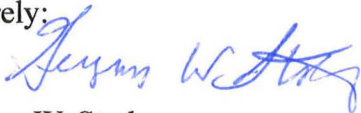
I was born in Portland, Oregon over sixty-three years ago and have resided in southeast Portland for the majority of my life. My wife and I own a home at 5613 SE 41<sup>st</sup> Avenue and have lived here for over 18 years. The Woodstock neighborhood is both very diverse and also very proud of the high standards we have in housing. The "village", as we call it, has a certain look that is both welcoming and friendly.

I am writing you today to protest the proposed dividing of a lot at 3936 SE Reedway Street, LU 13-237078 ZC LDP (HO 4140005).

I agree with the Woodstock Neighborhood Association (see enclosed) that this partition is not compatible with existing lots in the neighborhood. There are, to my knowledge, no such lots in the neighborhood. I, and most all the neighbors I have spoken with on this matter, really don't want houses squeezed into overbuilt lots. We don't want this to be the beginning of a trend. This is not the standard we want for our unique neighborhood.

I am asking you as a concerned citizen, taxpayer and Woodstock resident to disapprove this proposed partition.

Sincerely:



Gregory W. Stark  
5613 SE 41<sup>st</sup> Avenue  
Portland, OR 97202  
503-706-4764



July 10, 2014

Rachel Whiteside  
Bureau of Development Services  
City of Portland

RE: Woodstock Neighborhood Association Appeal of LU 13-237078 ZC LDP

Please accept this letter as a formal response from the Woodstock Land Use Committee on behalf of the Woodstock Neighborhood Association in response to case file LU 13-237087 ZC LDP. We believe the proposed zone change and associated partition are not consistent with all applicable sections of Title 33 of the City's code. The applicant has failed to demonstrate that the proposal meets all applicable review criteria.

We believe the Hearings Officer has incorrectly granted approval and request your consideration regarding the findings previously submitted by the Woodstock Neighborhood Association and the information contained within this letter.

**33.611.200 Lot Dimension Regulations**

***C. Minimum lot width. Each lot must meet one of the following regulations. Lots that do not meet these regulations may be requested through Planned Development Review. Adjustments to the regulations are prohibited.***

- 1. Each lot must be at least 36 feet wide; or***
- 2. Minimum lot width may be reduced below 36 feet, if all of the following are met:***

- a. On balance, the proposed lots will have dimensions that are consistent with the purpose of this section;***
- b. The minimum width for lots that will be developed with detached houses may not be reduced below 25 feet;***
- c. If the lot abuts a public alley, then vehicle access must be from the alley. This requirement will be imposed as a condition of approval of the land division;***
- d. Lots must be configured so that development on the site will be able to meet the garage limitation standard of Subsection 33.110.253.E, at the time of development;***
- e. Lots that will be developed with attached houses must be configured so that 60 percent of the area between the front lot line and the front building line can be landscaped at the time of development; and***
- f. In areas where parking is not required by this Title, lots may be proposed that will not accommodate onsite vehicle access and parking. Such lots do not have to meet the requirements of subparagraphs 2.c and d. As a condition of approval of the land division, the property owner must execute a covenant with the city. The covenant must:***



- (1) State that the owner will develop the property without parking, and that a driveway for access to on-site parking may not be created in the future, unless it is in conformance with regulations in effect at the time;*
- (2) Meet the requirements of Section 33.700.060, Covenants with the City; and*
- (3) Be attached to, and recorded with the deed for the new lot.*

**Finding:** The applicant is proposing two of the three lots to be less than the 36 feet in width and therefore must demonstrate that the proposed lots meet 33.611.200(C)2 a-f. The applicant fails to demonstrate the proposed lot widths are consistent with the purpose of this section and the purpose of the Chapter as detailed below.

**33.611.200 Lot Dimension Regulations**

**A. Purpose.** *The lot dimension regulations ensure that:*

- Each lot has enough room for a reasonably-sized attached or detached house;*
- Lots are of a size and shape that development on each lot can meet the development standards of the R2.5 zone;*
- Lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future;*
- Each lot has room for at least a small, private outdoor area;*
- Lots are wide enough to allow development to orient toward the street;*
- Each lot has access for utilities and services;*
- Lots are not landlocked;*
- Lots don't narrow to an unworkable width close to the street; and*
- Lots are compatible with existing lots while also considering the purpose of this chapter;*

**Finding:** We submit that the proposed 3-lot partition is NOT compatible with existing surrounding lots. The Hearing's Officer noted the following:

*The Hearings Officer finds "compatibility" standards such as the one in purpose statement No. 9 to be particularly vexing from a legal standpoint because they are so subjective as to be nearly meaningless as a standard.*

We agree that the standard is not clear and objective, however we believe the standard to be very meaningful as it is intended to address "compatibility", a concept that is not easily quantified. Review of a proposal against purpose statement No. 9 requires the reviewing authority to exercise discretion and weigh the information provided by those that are affected by the decision. We believe the Hearing Officer failed to do this, as the Neighborhood clearly articulated concern for the proposed



development during the initial comment period, in person at the hearing and now again through this appeal process.

The Hearings Officer further finds to appropriate definition for "compatible" to be:

*capable of existing together without discord or disharmony*

Within our previous correspondence we demonstrated the proposed lot widths are not similar, they are significantly smaller than the lots that surround the subject property. We believe the concerns raised by neighbors, our neighborhood association and residents throughout Southeast Portland need to be addressed and taken into account during land use reviews, especially in this situation.

The minimum 36 foot wide lot was arrived at by the community as the minimum standard. In those special circumstances where an applicant is permitted to go below this standard there is a significant test that needs to be met. We believe that lots should only be permitted to be reduced in width below 36 feet when it can be found that those lots are compatible with the surrounding lots. We content they are not.

Not only do the lots as proposed not meet the standard, approval of this request will essentially reduce the minimum lot width for each subsequent land division within the neighborhood, incrementally further eroding livability of the neighborhood. This is contrary to the intent of the standard itself. We have areas within our neighborhood that have single family detached lots that are less than 36 feet in width, in proximity to these areas the reduction could be found to be compatible.

In this specific instance the lots are not compatible. This finding is supported by the lack of lots within proximity to the site with similar dimensions, the concern or "discord" raised by the immediate neighbors and unanimously supported by the Woodstock Neighborhood Board. This partition cannot be found to be "harmonious" or "without discord" as currently proposed.

The applicant can resubmit the partition request and address the standards of the R 2.5 without the need to reduce the lot width.

**33.611.010 Purpose**

***This chapter contains the density and lot dimension requirements for approval of a Preliminary Plan for a land division in the R2.5 zone. These requirements ensure that lots are consistent with the desired character of the zone while allowing lots to vary in size and shape***



*provided the planned intensity of the zone is respected. This chapter works in conjunction with other chapters of this Title to ensure that land divisions create lots that can support appropriate structures in accordance with the planned intensity of the R2.5 zone.*

**Finding:**

The overall purpose statement for the chapter notes that the chapter is intended to work in conjunction with other chapters within Title 33. Reducing the lot widths is inconsistent with the intent of Chapter 33.639, as the resulting lots will not provide adequate solar access to the adjacent or proposed properties. The current proposal does not meet threshold to allow for reduced lot width as proposed. The applicant has the ability to pursue a Planned Development to allow for the lot width to be reduced below 36 feet.

The *requirements* identified above are those minimum standards set forth in the code. The ability to deviate from those standards should only be granted in specific circumstances. In this case the applicant fails to meet all of the criteria.

As elected official you have a duty to enforce the laws of the community to the benefit of all those involved. This appeal represents an opportunity for you to act on community concerns and exercise the discretion that is afforded to you in this instance. We recognize that you have the ability to approve and/or deny each land use request before you. You can approve the zone change and deny the partition. We would respectfully request that both be denied, at a bare minimum the partition request must be denied.

Please adopt the findings provided by the Woodstock Neighborhood Association and deny the proposal before you.

Respectfully,

Terry Griffiths  
Land Use Chair  
Woodstock Neighborhood Association

July 27, 2014

AUDITOR 07/29/14 PM12:38

emailed  
7/29  
pr

To: The Land Use Hearing Officer  
1221 SW Fourth Ave Room 140  
Portland, OR 97204

Re: File number LU 13-237078 ZC LDP - Woodstock neighborhood appeal

I am writing to let you know that I do not think the lot should be partitioned because it is not consistent with the existing lots. Three houses on that lot will stick out like a sore thumb.

Please review this decision and weigh the information provided by the appeal and those of us in this Portland neighborhood.

Thank you for listening to our concerns.

Sincerely,



Teresa Purpura  
5613 SE 41  
Portland, OR 97202