

April 27, 2023

**Submitted Electronically**

Design Commission  
City Of Portland  
1900 SW Fourth Ave, Suite 5000  
Portland, Oregon 97201

**Re: LU 22-159396 AD – Appeal**  
**Hearing: April 20, 2023; 1:30 P.M.**

Dear Design Commissioners,

I am writing to clarify our position regarding the proposed project at 2788 Thurman Street, and the effect this project will have on the livability of our neighborhood.

To be clear, we understand and support many of the proposed features of this project. We understand that this project might take place despite our concerns or preferences for the type of development at the site. We had hoped, however, that the impact on the neighborhood residents would be considered as well as what is "allowed" within zoning code. The developer's intention to direct the project's most significant impact (trash collection, deliveries, noise, outdoor seating, and pedestrian traffic) towards the adjacent residential neighborhood rather than the commercially zoned area in which it is located, is frustrating and we feel our concerns are not being heard or duly considered.

Honestly, it hard to fathom how this project will comply with Portland's laws limiting noise that govern the site's southern boundary, and now, Mr. Standlee confirms that it will not. We suspect for them to comply with city noise restrictions, they will need a buffer such as Thurman Street in addition to the higher noise limits allowed in the commercial zone.

Specifically regarding the adjustment:

First, Nascent has still not yet shared the most current configuration of the planned project. When our HOA met with Nascent's representative, he mostly referred to an alternative plan that does not depend on the adjustment. From what we saw of that plan, it eliminated the driveway and the lower section is used to store garbage.

*This alternative site plan is preferable to us than what is allowed with the adjustment granted.* It seems to somewhat reduce the outdoor capacity that is adjacent to our residences versus that of the layout envisioned in the adjustment-dependent configuration. We hope the appeals board will reject adjustment and encourage this plan instead.

Second, the Trolley Car Lofts building is over 100 years old, and the brick requires periodic brickwork, such as tuckpointing and sealing. Should the setback be reduced to 6 feet, contractors will have to use scaffolding rather than a man lift to service the wall on the property line. A contractor has already advised us that for our upcoming work, this would increase the cost by 30% - 50%. Why should the HOA have to pay increased costs to maintain a shared wall

for an unnecessary adjustment? Especially considering Nascent has not been considerate of our requests for mostly minor changes to their design plan.

Third, it was noted in the appeal hearing that the Northwest Neighborhood Association approved the planned project. This is inaccurate as its approval was conditional upon Nascent doing a sound impact study with an audio engineer and having a Good Neighbor Agreement in place.

We have not seen a noise impact study completed by Nascent. Without this study, granting the adjustments and proposed plan as presented is extremely worrisome. Adjustments should not be granted until after a noise impact study is done for the project, both with and without the adjustment. This is especially evident after receiving Mr. Standlee's analysis.

Good Neighbor Agreements are non-enforceable. They depend upon the developer and its tenants being good neighbors, who are willing to work with residents. Thus far, Nascent has not cared to behave as a "good neighbor." I cite two obvious examples that are of concern. Nascent has not maintained 2788 NW Thurman Street since it purchased the site. The alley is currently strewn with trash, including garbage bags of leaves from November leaf day. In addition, when our HOA asked for site access to maintain a shared drain and maintain our wall, the response was not inspiring. We were told that we should hide the drain issue from the city and that Nascent owners would not discuss access to the wall if the HOA opposed the project.

Obviously, Nascent owners benefit from the wall being maintained. Out of self-interest, and consistent with the 100+ year history, the HOA will eventually be allowed to do this work, so why make the threat? After this encounter, we believe that if the adjustments are granted, then Nascent should have to bear the additional cost incurred for wall maintenance (see above).

While agreeing to a sound impact study, Nascent has not done (or shared the results of) this study. While agreeing to abide by a Good Neighbor Agreement, Nascent has not produced this document either. Since this is an unenforceable agreement shown as ineffective in the recent Cafe Nell situation, there is a particular sensitivity to relying on this anyway as a check on development.

Finally, we did not have the time we thought during the appeal hearing. Had we been given the time we believed we had during the appeal, we would have asked that the Commission impose the following as permit conditions:

1. Restrict operating hours so business closes by 10 pm. This allows time for restaurant shut down noise to be finished by 11 pm. Adjustment will allow for more activity on the south side of the project, so hours need to be clearly defined in advance of granting adjustment.
2. Ambient noise outside of the site remains < 55 decibel that city code requires in residential neighborhoods.
3. Prohibit outdoor live or recorded music on the south side of the building.
4. Prohibit outdoor cooking.
5. Ensure that the delivery van parking area is limited to delivery van use only and that it explicitly prohibits that space from being used for dining, music, or any other activity.
6. Parking is limited to delivery vehicles actively delivering or receiving goods.

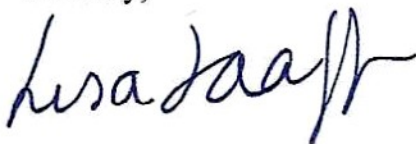
7. 8 ft fence along the patio on the 28th Ave side of the building. The fence should have 50% visibility or less. The gate can include a sliding gate to accommodate delivery van parking.
8. Patio access is to be from Thurman through the building rather than from NW 28th. The intention is to direct foot traffic and congregation away from the Residential area.
9. Given the majority of outdoor seating is currently on the south side, restrict sidewalk dining to Thurman Street.
10. Property Manager to be onsite during all operating hours
11. Vent kitchen odors so they do not reach the TLHOA and maintain air-conditioner and kitchen vent sounds in compliance with "2" above.
12. Perpetual Easement allowing Trolley Car Loft access to the shared wall and garage drain maintenance
13. Agreed concessions should also include a provision that Nascent lease to tenants have the corresponding restrictions.
14. If adjustment is granted, Nascent agrees to cover any cost difference between using a man lift and scaffolding for south wall maintenance.

At first glance, the 6-foot adjustment may seem to be a minimum imposition on the site's neighbors versus a 10' adjustment. However, more space on the southern side means the residential neighborhood bears the brunt of the noise from delivery trucks and garbage trucks, risks that this space will one day be used for more seating or events, and the HOA faces 30% - 50% additional costs for routine maintenance projects for a shared wall. There is frustration involved as well. It is difficult to support adjustments to make delivery and garbage collection easier for Nascent's project when Nascent ownership has been unwilling to address our most crucial concern: the noise that will come from outdoor dining being concentrated on the south - residential - side of the property.

We sincerely hope on reflection and consideration of the above and the sound engineer's report, the Commission will consider either denying the application, extending the hearing period by requiring the distribution of the site plans (both the adjustment/no adjustment versions), or include some/all of the above as approval conditions.

We thank you for your consideration.

Sincerely,



Lisa Taaffe



Elliot Levin