

April 15, 2021

Via Email Only

Attn: Maurice Brenyah-Addow
(mbrenyah@oaklandca.gov)
Planning & Building Dept.
City of Oakland

**Re: 6142 Ruthland Road, Oakland (APN: 048G-7415-031-00)
Case File No. PLN20164**

Dear Mr. Brenyah-Addow:

Our office represents Eric Lee and Judy Chang (“**Clients**”), the owners of the property located 6132 Ruthland Road, Oakland, California 94611 (the “**Lee/Chang Property**”). The Lee/Chang Property shares an eastern property line with 6142 Ruthland Road (the “**Subject Parcel**”), the lot for which Shan Masuda (“**Applicant**”) is applying to construct a multi-level 2,760 SF residence with an attached 525 SF two-car garage and attached 610 SF ADU Cat-2 on an upslope vacant lot and the related tree protection permit (the “**Project**”) identified as PLN20164 and T2000101 (collectively, the “**Application**”). As their immediate neighbors, our Clients, and others in the neighborhood, will be significantly harmed by the Project if the City grants this Application.

We request that the City’s Planning & Building Department (the “**Department**”) deny this Application because, among other reasons, the Application does not meet relevant sections of the City of Oakland General Plan, applicable specific plans, Oakland Planning Code, and has adverse impacts on the neighborhood and surrounding area. Furthermore, the Subject Parcel is in the Very High Fire Hazard Severity Zone and Earthquake Induced Landslide Zone, which acknowledge that the area is prone to fire risk and earthquake induced landslide risk. For these reasons, the City should impose mitigation measures to any proposed project at the Subject Parcel such as reduced density, reduced lot coverage, greater setbacks, fire resistant materials, and adequate evacuation routes. Finally, our Clients have a prescriptive easement on the Subject Parcel that needs to be resolved before any planning approval or construction activity commences.

HISTORY AND BACKGROUND

Fire and Earthquake Danger in Glen Highlands

Nestled in the Oakland hills, and less than a mile from Lake Temescal, the Subject Parcel can be informally described as a part of the Glen Highlands Neighborhood. Preserved

advertisements dating back to the 1920s still accurately describe the neighborhood as beautiful, wooded, and rustic.

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Over the years, the neighborhood developed into an idyllic haven for families, where slow and respectful traffic means that neighbors are frequently seen leisurely walking their dogs despite the winding and narrow streets. Tragedy struck the otherwise tranquil community in 1991, when a firestorm later known as the “Tunnel Fire” destroyed nearly 3,000 homes and killed 25 people. Early containment attempts were throttled in no small part by excessive crowding of cars in the narrow, winding streets, preventing firefighters from readily accessing pivotal areas and water sources. Devastation wrought by the firestorm was also exacerbated by the sheer density and proximity of homes and vegetation.¹

Today, Glen Highlands consists mainly of traditional and accordant homes, many of which were rebuilt and thus similarly designed immediately post-1991 in a synchronized style. Another

¹ <https://www.usfa.fema.gov/downloads/pdf/publications/tr-060.pdf>

hallmark of the neighborhood is design intended to preserve as much nature and greenspace as possible, resulting in lush and vibrant landscapes. While each home has its own character and charm, together they form a harmoniously cohesive neighborhood with no single home attracting undue attention as a sore thumb or monument to opulence.

Prescriptive Easement

Eric Lee and Judy Chang have greatly enjoyed building their lives in this neighborhood for the past fifteen years, the entire duration of which the Subject Parcel has remained vacant. In 2008, Eric Lee and Judy Chang undertook a significant landscaping in their backyard, which involved commencing use of a portion of the Subject Parcel. Since 2008, (which is well beyond the five-year minimum required to form prescriptive easement in California), Eric Lee and Judy Chang have enjoyed continuous and uninterrupted use of this substantial portion of the Subject Parcel in an open and notorious manner. At the time such use commenced, the owner of the Subject Parcel began consistently vocalizing their displeasure to our Clients, confirming that such use was hostile—and thus cementing their legal right to a prescriptive easement for this portion of the parcel.²

Proposed Plans

The Applicant's proposed plans are immediately startling on their face, as seen in the image below.



The design is noticeably and substantially divergent from any other home in its vicinity, and it towers preposterously over its immediate neighbor, the Lee/Chang Property. Consisting

² In California, [t]o establish the elements of a prescriptive easement, the claimant must prove use of the property, for the statutory period of five years, which use as been (1) open and notorious; (2) continuous and uninterrupted; (3) hostile to the true owner; and (4) under claim of right." *Mehdizadeh v. Mincer* (1996) 46 Cal.App. 4th 1296, 1305, 54 Cal.Rptr.2d 284.)

entirely of overtly modern lines, angles, and contrasting colors, the design is farcically discordant from any other adjacent property.

The Subject Parcel itself consists of one of the steepest inclines in the neighborhood, which the proposal admits exceeds a 20% slope. Runoff, mudslides, and fire safety are constant and essential concerns for this parcel given the nature of its incline, density of vegetation, and proximity to adjacent homes.

The application for a tree removal permit creates a complex scenario. In protecting the existing oak trees on the property, the Project includes a structure dangerously close to at least one non-wildfire safety compliant oak tree would remain. The Applicant must reduce the size of the structure so that the oak tree may remain while increasing the distance from the oak tree to the structure. However, we are additionally doubtful that a project of this size, with the earthwork that will be required, can take place without damaging or killing the existing protected oak trees.

The proposed construction would be four and half stories high, with heights that reach forty-two feet and six inches. The design also includes an Additional Dwelling Unit (the “ADU”), which would consist of 610 square feet. The two-car garage alone is 525 SF. The narrow and winding road on which the parcel is located only allows for parking on one side of the street (because allowing parking on both sides would exacerbate fire safety issues, a vital lesson learned from the Tunnel Fire). The traffic impacts and parking impacts from such a large home, particularly with such a large garage, will be damaging to the neighborhood.

INCORRECT PROJECT DATA

Incorrect HERS Checklist

It appears the Applicant has mistakenly included a Home Rating System Checklist for a completely unrelated property, namely “2004 Linden Street.” (Plan Set, page 7.) It is not possible to appropriately comment on a substantial portion of the proposed plans, as it is entirely unclear whether they relate to the Subject Parcel.

The image shows a screenshot of a 'NEW HOME RATING SYSTEM, VERSION 7.0' checklist for 'SINGLE FAMILY CHECKLIST'. The form includes the GreenPoint Rated logo and the address '3004 Linden St.' The text on the form states: 'The GreenPoint Rated checklist tracks green features incorporated into the home. GreenPoint Rated is administered by Build It Green, a non-profit whose mission is to promote healthy, energy and resource efficient buildings in California. The minimum requirements of GreenPoint Rated are: verification of 50 or more points; Earn the following minimum points per category: Community (2), Energy (25), Indoor Air Quality/Health (6), Resources (6), and Water (6); and meet the prerequisites CALGreen Mandatory, HS-1, JS-1, O1, O7. The criteria for the green building practices listed below are described in the GreenPoint Rated Single Family Rating Manual. For more information please visit www.builditgreen.org/greenpointrated. Build It Green is not a code enforcement agency. A home is only GreenPoint Rated if all features are verified by a Certified GreenPoint Rater through Build It Green.' The form also indicates 'New Home Single Family v. 7.0.1' and 'Measures'.

Property Development Standards and Missing Lot Details

The plan set for the Project incorrectly identifies the minimum lot area as 2500/4000 SF. The actual minimum lot area in the RH-4 zone is 6,500 SF or 8,000 SF. (Oakland Planning Code, Table 17.13.03.) The project data table in the plan set does not show actual minimum and maximums, instead it cites the percentages from the Planning Code. This makes it difficult to determine whether the Project details fit within the development standards. (Plan Set, page 1.) The plans do not identify the actual maximum lot coverage area in square feet based on the actual lot size. (Id.) The plans do not include the floor area; the detail is simply missing. (Id.) The plans do not show the calculation for the FAR. In addition, the FAR is incorrectly rounded down from 41% to 40% where a 0.5 FAR is allowed, assuming the floor area is calculated accurately. (Plan Set, page 1; Planning Code Table 17.13.04.) It is unclear whether the total floor area is correct because the plan set does not show how the total floor area is calculated; it appears not to include the portion of the garage over 440 SF. (Plan Set, page 1.) The floor area calculation does not include the square footage of the ADU, however, the plan set does not address whether the ADU meets relevant City and State criteria but instead simply assumes, without providing support, that this square footage should not be included.

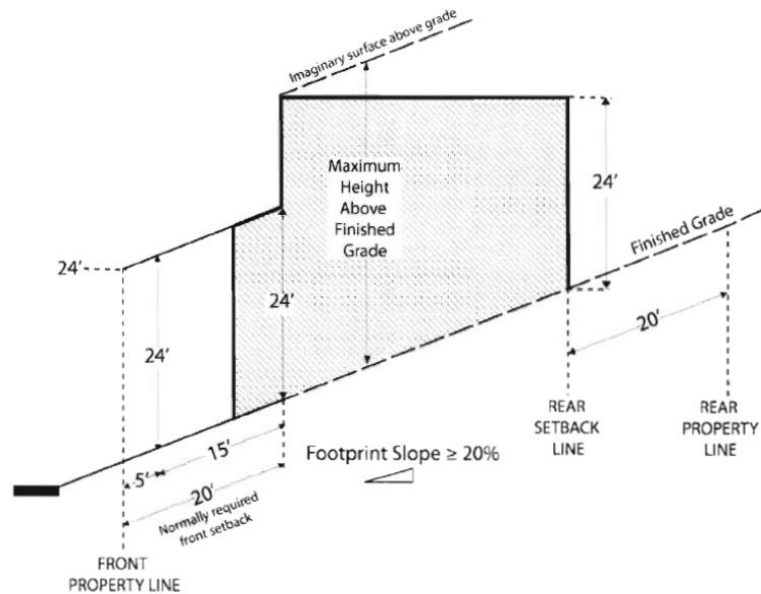
Finally, it is unclear from the plans how the proposed construction will drain rainwater or flash flooding. Left with no details to the contrary, our Clients must assume that all the water resulting from hardscaping will gravitate onto the Lee/Chang Property, destabilizing the steep hill behind it.

Property Slope

Based on the greater than 20% slope of the Property on an upslope lot, the maximum height of the structure is 32 feet. (Planning Code Table 17.13.05.) It appears the project exceeds this limit, however, the plan set does not provide enough detail to determine whether the height actually does exceed this limit. The image below is an illustration of a proper plan set that tracks the finished grade and shows an imaginary surface above grade. (Id.)

The maximum height from the finished or existing grade (whichever is lower) within twenty feet of the front property line cannot exceed twenty-four feet. (Planning Code Section Table 17.13.05.) The plan set does not clearly show this detail, and the Department cannot make a determination of compliance until the Applicant revises these plans.

Upslope



This plan set does not show necessary lines and measurements. It instead only shows floor and ceiling heights as compared to elevation. This is insufficient, needs to be corrected, and indicates a structure that is too tall based on the slope, violating the maximum height limit.

REQUIREMENTS

Regular Design Review Criteria

Section 17.136.050 of the Oakland Planning Code sets forth a series of mandatory regular design review criteria. Regular design approval may be granted *only* if the proposal conforms to *all* of the following general design review criteria, as well as to any and all other applicable design review criteria.

A. The proposed design must create a building well related to the surrounding area in its: setting, scale, bulk, height, materials, and textures.

The setting for the neighborhood is traditional and somewhat rustic, comprised mostly of one to two-story single-family homes built in the early 1990s, each built in a manner that blends well into their respective landscape/hill. No single home towers over any other, as they are largely of the same relatively modest but livable scale. While some homes vary slightly in height or lot, the majority are simply two stories. The materials and textures veer toward traditional wood and painted panels, with neutral and inoffensive colors and textures.

By contrast, the proposed design deviates sharply from the setting, attempting to introduce an entirely new and aggressively modern style to the neighborhood. The proposed structure greatly and visibly exceeds the scale for all other homes in the immediate vicinity, and the difference in scale would be immediately apparent and distracting to passersby. Similarly, the bulk of the Project

appears substantially unlike and greater than that of the surrounding homes. Most troubling, the proposed height almost comically surpasses that of all surrounding properties; at a glance it looks to be double the height of the immediately adjacent Lee/Chang Property. Finally, the material and textures are completely foreign to the neighborhood, consisting of contrasting wood and steel planes, presumably to achieve a sleek, cutting-edge, and modern architectural look. Regardless of subjective taste and opinion, these textures and materials objectively deviate from the prevailing architectural concepts regularly seen throughout the neighborhood.

B. The proposed design must protect, preserve, or enhance desirable neighborhood characteristics.

The prevailing aesthetic of the neighborhood fosters a sense of community, inclusivity, and calm. The proposed design varies too wildly from prevailing themes to adequately protect, preserve, or enhance desirable neighborhood characteristics. The proposed structure would loom over its immediate neighbor, introducing substantial privacy and view issues further described below, and presents a completely different energy to the otherwise traditional and quaint neighborhood. Whereas the existing neighborhood has been piecemeal designed to maintain and incorporate as much original nature and greenspace as possible, the proposed design appears to provide for excessive amounts of concrete and stairs in lieu of preserving natural spaces. Finally, the addition of these two separate units with only a two-car garage between them will assuredly present parking issues on a narrow road that is already at capacity. Ultimately, inserted haphazardly into an otherwise thematically unified neighborhood, the proposed design connotes a harsh elitism.

C. The proposed design must be sensitive to the topography and landscape.

The proposed design does not match other nearby homes' dedication to blending into the hills and landscape. Instead, it juts out dramatically from the hillside, drawing the eye to its alarming total height and pronounced angles. Moreover, the proposed design sets the structure in a manner that is not parallel with its immediately adjacent neighbor, positioning its front facade at an odd angle untethered to the street or parcel lines. The proposed design appears to miss every opportunity to preserve existing nature in favor of the addition of more paved square footage or stairs leading to its fourth level. The proposed design is therefore insensitive to topography and landscape.

D. Because it is situated on a hill, the design and massing of the proposed building must relate to the grade of the hill.

The massing of the proposed building seems entirely incongruous with the very steep slope of the hill. By piling four and a half stories nearly on top of each other over such a slope, it stands out in a dramatic fashion, rather than harmonizing with the gradient of the hill. The layout and insistence on additional height mandates an excessive amount of paved stairs along the border of the Subject Parcel, which fights with the grade of the hill rather than working with it.

E. The proposed design must conform in *all* significant respects with the Oakland General Plan and with any applicable design review guidelines or criteria, district plan, or development control map which have been adopted by the Planning Commission or City Council.

As further described below, the proposed design fails to conform with many other applicable design review guidelines and criteria.

Other Applicable Criteria and Considerations

a. The Oakland Design Review Manual for One and Two-Unit Residences

The Oakland Design Review Manual for One and Two-Unit Residences³ is intended to complement zone regulations and residential review procedures in order to provide certainty and predictability in the design review process. Its objectives are to:

(1) Create a safe, attractive and stable neighborhoods.

The neighborhood currently successfully hosts families of all shapes and sizes and encourages leisurely strolls through streets where greenery has been thoroughly preserved. The proposed design neither creates nor enhances the safety, attractiveness, or stability of the neighborhood. To begin with, the proposed design would add to traffic and parking issues on an already narrow street, in a Very High Fire Hazard Severity Zone. Further, the proposed design creates an unattractive rift in the otherwise cohesive character and nature of the neighborhood. Finally, the proposed design destabilizes the neighborhood by introducing a mammoth abnormality to the otherwise consistent array of two-story traditional homes. Worse, permitting this design to proceed could open the door to further excessively large and jarring additions to any existing vacant lots, essentially upending the otherwise harmonious status quo of the neighborhood.

(2) Maintain property values.

Our Clients (and likely many other neighbors) harbor serious and warranted concerns about the impact of this proposed design on their home value, particularly with regard to the structure's imposition on our Clients' views and privacy. The proposed design would significantly curtail our Clients' primary views. Furthermore, the proposed addition of several balconies and massive windows mere feet from our Clients' property would fundamentally alter our Clients' very use and enjoyment of substantial spaces within their home and curtilage. Such additions which significantly impact not only our Clients' property value, but likely the value of several other lots in the immediately surrounding vicinity.

³ Due to time constraints, the following is based on the most readily available copy of the Oakland Design Review Manual, adopted on June 15, 2005, which we believe to be the most recent version; to the extent any of its contents have since been updated and vary from the content herein, our clients seek to preserve the ability to assess such contents. In the meantime are confident the goals and objectives likely remain fundamentally the same.

(3) Provide attractive and highly livable housing that meets the needs of all Oakland residents.

Setting aside whether the proposed design is subjectively attractive in a vacuum, its deviation from the general character of the neighborhood is objectively unattractive in the context of the family lifestyle the neighborhood has so carefully evolved to cultivate. Moreover, it is difficult to ascertain the livability of a structure with such a large discrepancy between the square footage of the floor plan for the main home versus the square footage of the proposed ADU. It is further difficult to imagine whether either unit will meet the needs of all Oakland residents in terms of affordability with so many missing details from the design plans.

(4) Safeguard the City's architectural heritage.

As described above, architecturally and thematically the neighborhood benefitted from having many of its homes re-built in the same time period immediately following the Tunnel Fire. Accordingly, the existing homes all naturally share the commonality of prevailing trends and styles during that period. The proposed design ignores this architectural heritage completely in favor of making a bold statement as a monument to modernism.

In support of these objectives (among many criterion, not all of which are herein listed) the Design Review Manual dictates that a project shall (1) make a reasonable effort to maintain the most significant views from primary living spaces of existing residences in close proximity; (2) make a reasonable effort to minimize privacy impacts; (3) have an architectural composition of form well related to one another in proportion, scale, geometry and style; (4) complement neighborhood scale, development patterns and not disrupt neighborhood appearance; (5) be compatible with existing residences; and (5) for hillside projects, use methods that blend with the hillside setting, minimize the building's prominence and perceived bulk.

Criterion No 8 in particular describes in detail requirements for ensuring that new construction relates well to existing visual patterns or "contexts," specifically by examining a context area consisting of the five lots on each side of the project and ten closest lots across the street.

Finally, the Design Review Manual provides additional guidance on ensuring that a project makes a reasonable effort to maintain the most significant views from primary living spaces of existing residences on lots in close proximity to the project site.

As described above and throughout, the proposed design fails to account for any of these criteria, as compared with the qualifying lots in proximity. The design plan's own renderings demonstrate a large impact on the Lee/Chang Property's views, and it is not difficult to imagine the enormous strain that would be presented by the constant fear of individuals present on the proposed balconies or windows facing into their existing Property.

b. Prescriptive Easement Law in California

In California, [t]o establish the elements of a prescriptive easement, the claimant must prove use of the property, for the statutory period of five years, which use as been (1) open and notorious; (2) continuous and uninterrupted; (3) hostile to the true owner; and (4) under claim of

right.” *Mehdizadeh v. Mincer* (1996) 46 Cal.App. 4th 1296, 1305, 54 Cal.Rptr.2d 284.) By contrast with claims for adverse possession, a prescriptive easement does not require any payment of taxes. *Gilardi v. Hallam* (1981) 30 Cal. 3d 317, 321-322. Where a claimant successfully establishes a prescriptive easement, they therefore gain not title, but the right to make a specific use of someone’s property. *Mesnick v. Caton* (1986) 183 Cal.App.3d 1248, 1256.

Our Clients commenced open and notorious use of a portion of the Subject Parcel in 2008—and ever since the owner has repeatedly relayed their displeasure, confirming that such use was both known to the owner, and hostile to their wishes. With the statutory period of five years having now passed, our clients enjoy a prescriptive easement over this area, which grants them the right to ongoing specific use of such space. Accordingly, any proposed design needs to account for this easement and ensure that their right of use will be preserved and protected.

c. Categorical Exemptions Do Not Apply to Projects that Could Have a Significant Effect on the Environment

California Environmental Quality Act (CEQA) is to be interpreted to afford the fullest possible protection to the environment within the reasonable scope of the statutory language. *Creed-21 v. City of San Diego* (App. 4 Dist. 2015) 184 Cal.Rptr.3d 128, 234 Cal.App.4th 488 A categorical exemption will not apply if a project could have a significant effect on the environment. (*Salmon Protection and Watershed Network v. County of Marin*, 125 Cal. App. 4th 1098, 23 Cal. Rptr. 3d 321, 35 Env’tl. L. Rep. 20015 (1st Dist. 2004).

While we understand the Applicant’s claim to qualify for a categorical exemption as a “small structure,” said exemption will need to yield to the need to investigate potential significant effects on the environment—particularly where landslide, mudslide and fire safety concerns exist.

ANALYSIS

At the outset, it must be stated that our clients understands the Subject Parcel is a buildable lot. Our clients request simply that any and all construction take place in compliance with all applicable design and safety guidelines. With that in mind, the below application of relevant law and guidelines renders this project unable to be approved in its current form.

I. The Proposed Design Fails to Meet Any of the Mandatory Regular Design Review Criteria, Because the Project as a Whole Presents A Unwelcome and Excessively Incongruous Eyesore

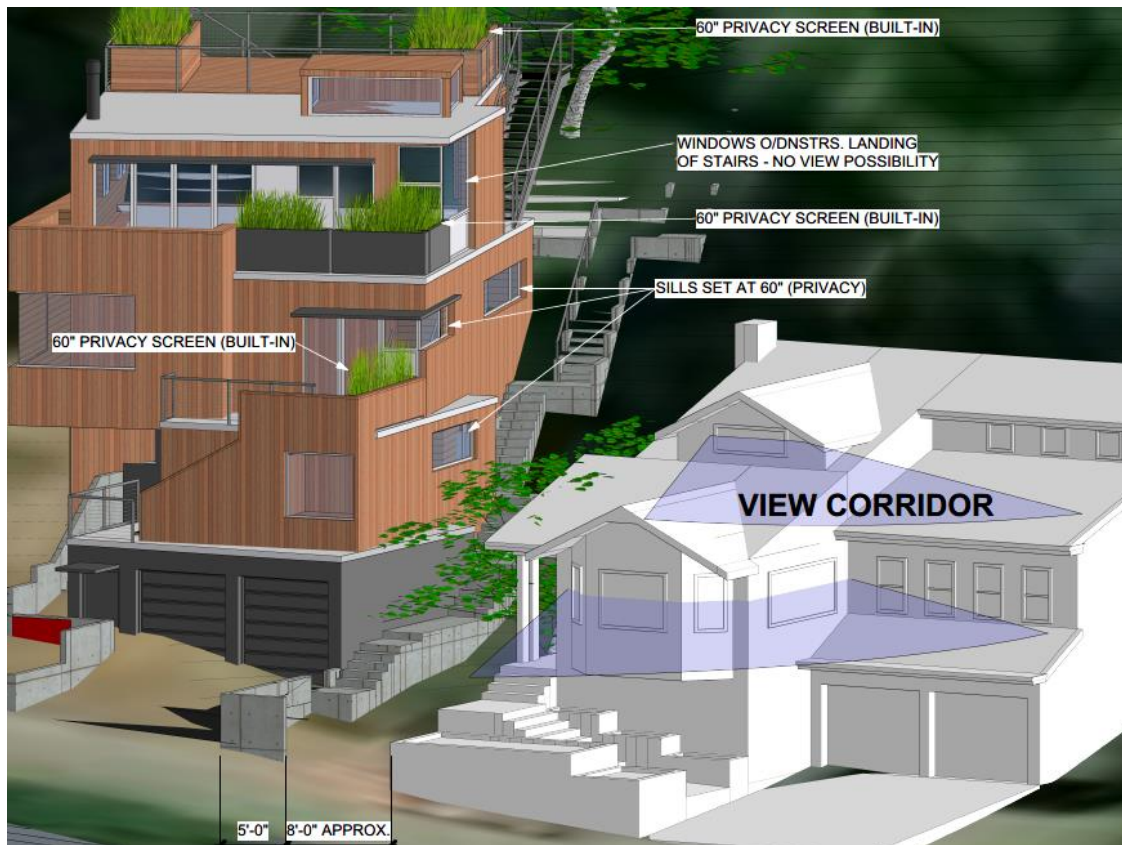
On a purely design and aesthetic level review alone, the proposed design appears to have been made completely without regard to the prevailing character of the existing neighborhood. If permitted to proceed as-is, the addition of this enormous structure would single-handedly throw off the balance of the neighborhood. It towers over not only its immediate neighbor, but the vast majority of surrounding structures. It additionally represents a completely different architectural theme and style that is fundamentally incohesive with the existing traditional feel of the neighborhood.

In a nutshell, the proposed design evokes a brash departure from what the neighborhood has naturally evolved to be. Instead of a complementary addition to the family-oriented array of

single family and two-story homes, the Project seeks to inject an excessively dominant display of newness. For these reasons the City should require the proposed project to at a very least undergo a re-design focused on addressing and satisfying these mandatory criteria.

II. *The Proposed Design Further Falls Short of Several Design Guidelines, Because it Fails to Account for Neighborhood Character Preservation, or the Preservation of Existing Views and Privacy*

The proposed design's own visualization of its impact on the Lee/Chang's view corridor shows what appears to be a roughly 50% decrease in their views from their front facing windows. While our clients understand that the Subject Parcel is buildable and may not remain vacant in perpetuity, several steps could and should be taken to reduce the impact of the proposed structure on their existing residence. The Oakland Design Review Manual contains a series of techniques that reduce impacts on neighboring properties—such as stepping back or angling the footprint of the proposed building away from the view corridor. Here, the proposed design does virtually the opposite: the footprint is intentionally not parallel, and instead angles *toward* the Lee/Chang Property, with an irregular rectangle positioned on the first level in manner where it is closest to the center living area and level of the Lee/Chang Property. While the proposed design includes some areas stepped away from the footprint, none seem to be placed with the Lee/Chang Property in mind, and instead are perplexingly angled *closer* to and/or facing the Lee/Chang Property in the manner most intrusive to their primary views.



Similarly, the proposed design seems to shirk any and all techniques designed at protecting privacy. The above image shows multiple windows and outdoor living spaces from which an individual could readily peer into or otherwise observe the activities of those in the Lee/Chang Property. Moreover, the adjacent stairway spans the line of the properties'; border, inviting heavy foot traffic to the space immediately abutting the Lee/Chang Property (as opposed to the other side which currently abuts another vacant lot, for example).

Ultimately, this design simply does not account for neighborhood character preservation neither on a micro level with regard to the Lee/Chang Property, nor on a macro level with regard to the rest of the neighborhood. Existing homes in the neighborhood are largely self-contained within their own parcel, surrounded by well maintained landscaping that helps the homes protect privacy and autonomy while blending into the existing landscape and preserving nature. The proposed design neglects to account for any of these interests, despite the fact that it appears several design changes could easily better reflect such interests. Therefore, it is not only appropriate but necessary that the City impose mitigation measures to ensure that construction abide by criteria relating to views, privacy, and preservation of the neighborhood.

III. *The Proposed Design Cannot Proceed As-Is Because it Neglects to Account for and Fails to Preserve Eric Lee and Judy Chang's Prescriptive Easement (and Right of Ongoing Use) of a Portion of the Subject Parcel*

Our Clients have legally earned and now enjoy a prescriptive easement (in other words, a right of use) of a portion of the Subject Property. Specifically, a roughly thirteen foot by three foot area located at the property line in the rear. This space has been used and enjoyed openly and notoriously by our Clients for over ten years. In 2008, as a part of their landscaping project, our Clients installed a specially designed wooden fence set back from the retaining wall in order to protect their backyard and young children from wildlife (deer, skunks, etc.). The fence was designed as a part of a cohesive backyard project that ultimately won an award in Sunset Magazine and was featured prominently on houzz.com.⁴ Our Clients use the easement for the continuation of the fence set back from the retaining wall, and have filled the space with small rocks and decorative plantings.

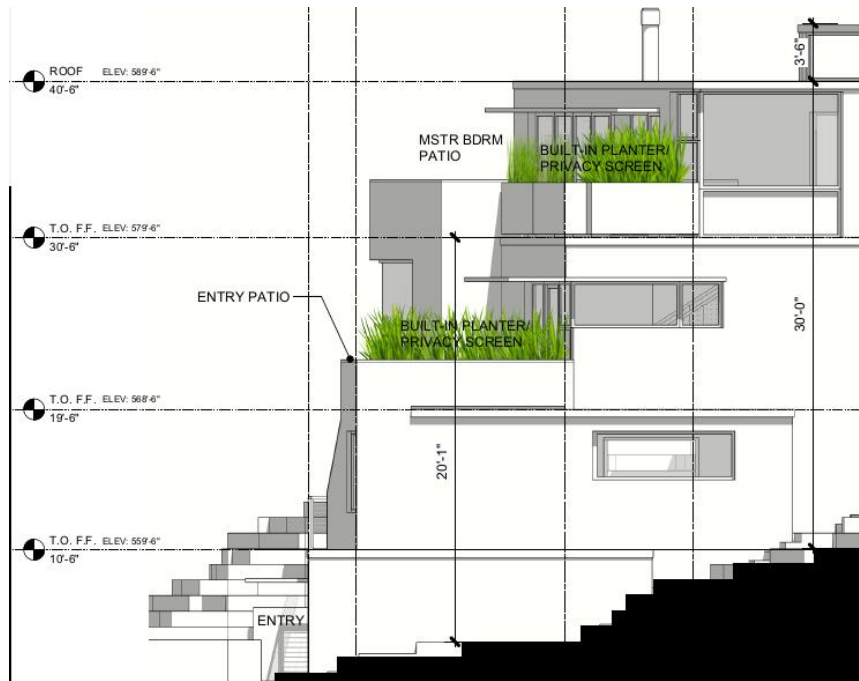
The owner of the Subject Parcel expressed displeasure when our Clients first commenced use of this space, and continued to object intermittently over the years by visiting to the inspect the lot and threatening to sue our Clients. Said interactions were always confrontational and hostile. Having satisfied each of the required elements for establishing a prescriptive easement, our Clients are therefore legally entitled to continue such use free from interference.

The proposed design ignores this prescriptive easement completely, apparently purporting to steamroll over the easement entirely, thus unlawfully severing our Clients' from their prescriptive easement.

⁴ <https://www.houzz.com/magazine/playtime-for-the-whole-family-stsetivw-vs~12486466>

IV. *The Proposed Design Violates Basic Height Restrictions and Other Relevant Requirements of the Oakland Planning Code*

Under any interpretation of the design plan, its height reaches at least 40 feet, and at points 43 and a half feet—which simply exceeds the maximum permissible height allowed by the Planning Code for parcels of this slope degree.



The result is obvious when looking at the proposed façade of the building next to the Lee/Chang Property alone. The Planning Code height restrictions exist not only for safety, but also to prevent scenarios exactly like this: the development of behemoth properties towering over and dominating existing homes. As described recently in a KQED article lamenting the unfettered invasion of architecturally divergent developments in the bay area: “big buildings, glass boxes, dark materials, pools and plazas on the inside -- all those elements are just today’s trend in luxury living, You can see it the most in New York, Miami and San Francisco. It speaks deliberately to a kind of *exclusivity*.” (Emphasis original.)⁵

The proposed design should not be permitted to fly in the face of existing Planning Code criteria, which exist to prevent this precise type of impact on undeserving neighbors. We therefore ask the City to hold the Applicants accountable to all applicable criteria in a strict and appropriate manner.

V. ***The Proposed Design Should be Subjected to CEQA Requirements, Including the Requirement of an Environmental Impact Statement, Because of its Potential***

⁵ <https://www.kqed.org/news/10429722/whats-up-with-s-f-s-bad-architecture>

**Significant Impact on the Environment Borne From the Unique and Treacherous
Degree of the Slope of the Parcel, Combined with the Historical Fire Risk
Associated with the Neighborhood**

The CEQA Guidelines explain that a project may not use a categorical exemption when there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. (CEQA Guidelines § 15300.2(c).) Here, the high wildfire risk and earthquake landslide risk create a reasonable possibility that the Project will have a significant effect on the environment, namely that it will increase the risk of the safety to the neighborhood. As a fire someday sweeps through the area, the oversized structure on the Subject Parcel will create a greater risk of fire spread to the neighboring properties. If the structure falls in the event of a fire or earthquake related landslide, it will fall downhill and may impact the road below causing residents to be trapped. With the increasing fire risk in California and the unendurability of structures in some areas, especially when matched with the prior fire in this community, the risk to the future occupants and neighbors is just too great. These risks could be reduced, as would be shown in a full environmental review, by reducing the size of the structure, requiring street widening in front of the Project, and setting the structure farther from the large oak trees.

Conclusion

The nature of the design for this proposed Project simply does not comport with either Oakland's Planning Code, Design Guidelines, and General Plan. The City should not approve this Project because of its imposition on the community. Instead, the Department should insist that the Applicant correct the errors in the Application and right-size the Project for its location.

We ask that you deny this project, or continue it to a later meeting so we may discuss a resolution of the concerns expressed herein. Our Clients are willing to work with the Applicant to bring a new home to this site, but not at the expense of neighborhood safety and consistency, critical and valuable views, and/or their privacy.

Very Truly Yours,

A handwritten signature in blue ink that reads "Laura Campbell". The signature is written in a cursive style and is positioned above the printed name.

Laura L. Campbell