



CITY OF  
**West Linn**

## Memorandum

Date: December 19, 2008

To: Chris Jordan, City Manager

From: Chris Kerr, Senior Planner 

Subject: Additional public comments on the LUBA remand of the office building approval at 5750 Hood Street (AP-08-01)

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For Council consideration, please find attached all written public testimony received by this office since the Agenda Bill package was prepared on December 10, 2008.

Attachments

**Kerr, Chris**

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**From:** Laura Horsey [laura@easystreet.net]  
**Sent:** Thursday, December 18, 2008 3:33 PM  
**To:** King, Norm  
**Cc:** Kerr, Chris  
**Subject:** Monday's hearing on Hood St.

Dear Mayor King:

I would like to request 20 minutes time for testimony at the hearing Monday on the 5750 Hood St. application. Gordon Howard suggested that this amount of time was his recommendation given that my husband and I were the petitioners in the LUBA case on this matter. However, he indicated this was to be confirmed by Bryan Brown. Bryan also agreed with this time period, but indicated he would need to get it confirmed. We have not yet had confirmation. I realize you have discretion on this matter and so I am making this request for 20 minutes to you directly.

Best regards, Laura

Laura Horsey  
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Theresa M. Cummings  
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97068

December 18, 2008

RE: LUBA Remand of Hood St. AP-08-01

Dear Mayor King and West Linn City Council,

I have been hoping that reasonable solutions to the issues that triggered the LUBA remand of 5750 Hood St. (Ap-08-01) would come forward. Unfortunately, the revisions, while playing with semantics, offer no meaningful improvements, have lost ground on safety and integrity and left key questions unanswered. The oversized building would create too much adverse impact to the riparian ravine and the steep narrow residential street. I don't know how much reduction can occur before a new application would be compelled but perhaps a mixed use or another idea would be better anyway. Here are my main questions:

1. Does removing the south side walkway and rear exit door improve the application?

**Transportation Planning Rule (TPR) 7. (e): "Paths shall provide direct routes that pedestrians will use between buildings, adjacent right-of way, and adjacent commercial developments"..**

This reduces the total disturbed area but restricts emergency access and fails to meet TPR. Reducing the building size or changing the use could offers a better solution

2. Is the south retaining wall a "structure" subject to rear setback limits?

**CDC 2.060 defines a structure as "something constructed or built and having a fixed base on, or fixed connection to, the ground or another structure, and platforms walks, and driveways more than 30" above grade and not over any basement or story below.**

According to the **diagram on pg 34**, the south retaining wall is attached to another structure, has a fixed base on the ground and rises more than 30" above grade. The wall structure extends to the end of the outside lot, beyond the 25 ft setback from the rear property line. If true, setback criteria of **21.0709(A)(4)(c) and 34.060** has not been met.

3. Will the new storm water outflow facility increase erosion or slope instability?  
How will that facility and the fill above it stay put on the 58% slope?

**32.090 (A) requires a finding that the proposed development does not increase danger to life and property due to flooding and erosion.**

**CDC 32.010 (B) states; Control and prevent flooding and erosion for the protection of public health and safety.**

No Geotechnical report, data or finding exists to reassure that fill combined with increased runoff velocity discharged at that point will not increase potential erosion and slope failure hazards for both buildings and the stream.

4. Why is compliance with the 5000 sq ft disturbance limit left unclear and the surface water treatment facility left unplanned?

**The 12/10/08 staff recommendation 4.(page 7) states: "If final on site and Hood St widening impervious area exceeds 5000sq ft..." And then offers surface water facility alternatives in case it is later found the limit is exceeded.**

A surface water treatment plan that meets criteria of **Chapter 33** is required **prior** to approval. Otherwise, a second evidentiary public hearing should complete the process.  
**(ORS197.191 (1))**

Does it make sense to risk another mistake? We need assurance that the 5000 sq ft limit will not be exceeded this time. Street improvements impact drainage ways no matter who owns them. The area should be included in the calculations.

5. Does parking lot redesign adequately address all safety and security issues?

**CDC 55.100(J) Crime prevention and safety/defensible spaces subsection 7 states, "Lines of sight shall be reasonably established so that the development site is visible to police and residents."**

The rear parking area is obscured from view especially in the areas behind the walls. In addition, areas behind the underground parking walls will also not be visible. It is not reasonable to assume that suspicious activity will be viewed from the back room of the library considering that visibility if the area will be screened with vegetation. The library is not open during later hours when hazardous activities are most likely to occur. The fact that this underground lot will have only one opening to the street makes it seem even more vulnerable to undetected crime than a gated structure used for comparison in West Linn Central Village. (3/4/08 Staff report #12, pg. 9) Only extremely infrequent drive by surveillance will occur due to the Hood St. location, a steep narrow dead-end street serving only two existing residences. Common sense will lead most people to avoid this potentially dangerous situation but that offers no relief to nearby residents. The underground parking lot should be gated, similar the other underground structure nearby.

6. Do the plan revisions offer adequate vehicle access and turnaround radius?

**CDC Section 48.030(B) states, "In no case shall the design of the service drive or drives require or facilitate the backward movement or other maneuvering of a vehicle with a street."**

The 3/4/08 staff report (issue 15) suggests turnaround can be accomplished in the following ways: **"A car or truck wishing to turn around within the parking structure will be able to use one of the vacant parking spots or if necessary, can turn around in the clear wheelchair area that is part of the accessible parking space. Smaller cars will be able to turn around in the drive itself."**

The remedies suggested rely on the possibility of vacant spaces. The facility is apparently not designed to accommodate safe turnaround of larger delivery, maintenance or service vehicles in order to avoid backing out onto the street, clearly a danger to pedestrians approaching the parking entrance.

7. Will overflow parking utilize the residential property frontage if parking is not allowed in front of the building?

**3/4/08 staff report issue 13, (Is Hood St. too narrow north of Burns St?) states, "Upon further review, staff believes that the width is clearly not adequate to allow on-street parking along the 30 ft of project frontage on Hood Street south of the proposed driveway entrance to the parking lot. Staff therefore recommends that the Council add the following conditions of approval":**

**"The applicant shall place no parking signs or markings along the project frontage on Hood Street to the satisfaction of the City Engineer."**

This really brings into focus whether a building of this size and use is suitable for this particular site.

8. Is an **oversized** building the primary cause of the problem? Does it disturb the **minimum necessary area** in order to allow the proposed use?

**CDC 32.090 (A),.. Development may disturb the minimum necessary area to allow the proposed use or activity, and in any situation no more than 5,000 sq ft of the water resource area, including access roads and driveways, subject to the erosion and sediment control standards in CDC Chapter. 31, and subject to a finding that the development does not increase danger to life and property due to flooding and erosion.**

Application for this 4200 sq ft building, located almost entirely in a steep riparian ravine, fails to explain why a smaller building site that would disturb the MINIMUM necessary area is not possible.

According to **Gordon Howard's comparative analysis (Finding No. 17, Agenda bill 08-03-09 page 107)**, this **4200 sq ft. building is 1/3 larger than the average size of nine other commercial buildings in the area.** Much smaller office/ commercial buildings located on lots that are not constrained by steep riparian slopes operate successful businesses in the area.

There is no apparent justification for allowing a building this large considering that it is located in an area not normally considered appropriate for construction.

In Summary;

I regret the need to recommend denial, because I know that an incredible amount of time and money has gone into this. I hate to see this application set precedence for the Hardship clause. Way too many corners were cut in this attempt to squeeze an oversized building onto a heavily constrained lot. It is also too much for the steep, narrow little dead-end section of Hood Street that serves only two houses.

Perhaps a mixed use residential building would transition well into the neighborhood and fit on this site?

Another idea could involve merging with the adjacent lot in order to utilize the setback area between buildings. That would reduce impacts to the riparian zone and the neighborhood. The location could offer the key advantage of visibility of the Burns Street frontage. Perhaps maybe even additional parking opportunities for the library?

I believe a better solution is possible.

Thank you for your time and consideration in making this important decision.  
Best regards,

Theresa Cummings

**Kerr, Chris**

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**From:** GARY [hitesman@comcast.net]  
**Sent:** Thursday, December 18, 2008 1:40 PM  
**To:** Kerr, Chris  
**Cc:** Wyatt, Kirsten; laura@easystreet.net  
**Subject:** [QUAR] Hood Street Remand  
**Importance:** Low

Chris,

I have 'cruised' the City memo regarding AP-08-01 and would like to compliment the City on providing the ease of access to this information. I would also like to compliment you on the clarity of your review and professionalism. There is a consistency of objective and qualitative analysis in your reports that make it a pleasure to read.

For starters, I have a question regarding the Background, on Page One. In the memo, it states;

*The City's approval of the project was appealed to LUBA. In a Final Opinion and Order dated October 7, 2008 (attached as Exhibit CC-4), LUBA remanded the approval to the City on two specific grounds, which are the issues to be considered by the Council at the December 22, 2008 hearing as described above.*

What is the process in place that defines the limitations for consideration by the Council? Wouldn't an arbitrary limitation of review constitute the form of another appeal? ( I am not claiming the statement made is arbitrary; this is a hypothetical question at this point. I don't know the technical definition of arbitrary as it applies to LUBA at the moment or why the specific grounds are all that will be discussed.)

Due to the process in submitting a claim to LUBA, the issue is usually defined in scope and narrow in definition. If there are other items that are part of the application that may be appealed to LUBA, what is the process for stating the concern to the Council for their deliberation? Right now, I see the possibility of multiple CDC violations that may be unaddressed. (Again, I do not know enough at this time to validate any of this, so the question is hypothetical.) My interest would be to facilitate discussion and not waste city resources or the council's time. Thank you.

Gary Hitesman

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**From:** Julia Simpson [mailto:juliasimpson.pdx@gmail.com]  
**Sent:** Friday, December 19, 2008 1:40 PM  
**To:** LAURA HORSEY; Jordan, Chris  
**Subject:** 5750 Hood St., W.L.

This is for the Dec. 22, 2008 City Council hearing concerning the Coston office building LUBA decision at 5750 Hood St. in West Linn. Please add to the documentation for the hearing. Thank you.

I believe that this office building should be redesigned to a more appropriate size and scale. The current plan is too large for the 5000 sq. foot lot and the parking garage is obscured from view for police surveillance and for safety. The parking lot and utility area should not encroach on the riparian area despite the "hardship" clause in order to save the habitat, save the view from the library (and the available light) and stay within it's own proper footprint. The potential amount of traffic invited by this office building would be more than the narrow street can handle. The entire project, because of the hardship clause and the other items mentioned in this letter, provides a terrible precedent for future (infill) building in West Linn.

Julia Simpson  
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12/19/2008