

West Linn Planning Commission

April 19, 2017

DR-17-01, Willamette Falls Drive.

Presented by Willamette Neighborhood Association, Gail Holmes, President.

April 19, 2017- WNA monthly meeting, Steven Sutherland, spoke at our meeting to share his concerns on the proposed Office/Retail Building. His office is adjacent to this proposed 2-story building and is one of the Historical Bungalows on Willamette Falls Drive. He is concerned this 2-story building will be towering over the (3) Bungalows. Steven was concerned with losing **ALL** of the trees on this lot, which give the street a **“City of Trees”** atmosphere and he is also concerned with the lack of parking.

- **The applicant** was also present and stated the City Planning Staff required a 2-Story Building, when she originally wanted to build a Bungalow style of a Building for her Accounting Firm. She wanted her building to fit in, not to overwhelm the neighboring businesses.
- **Several other Neighbors** thought the building was too large for the site and were very upset with CDC Chapter 58 which does not require parking per Business. This lack of parking on Willamette Falls Drive is causing a dire need in the Business District.
- **The Willamette Neighborhood Association** has worked long and hard to preserve our heritage and with this type of code, it is causing harm to our community.

WNA President Summary:

1. **Historic Preservation:** DR-17-01, Office Building & Retail, is jeopardizing (3) significant Historic Buildings, ranging in age from 1914 to 1921. All three are classified as Bungalow type of building and are on the **Oregon Historic Sites Map as "eligible and contributing"**. It is a sad day when the West Linn Planning Staff looks at these Historic Buildings as short-term tear downs and in the long range they **DO NOT MATTER**. I as WNA President had high expectations with the Historic Review Board, thinking they would do their due diligence and try to protect our Historic Buildings in Willamette and instead they have only been concerned with turning the Historic Willamette District into 2-story buildings with a little bit of faux historic facades and show no concern for the important Historic Buildings in the area. As an example; the Bungalow at **1832 Willamette Falls Drive** was lived in by Emil Volpp, an employee of Crown-Willamette Paper Co., in fact down by **The Willamette Park** there is a street named after him. Are we trying to erase our history?
2. **Community Development Code:** Chapter 58, has **NO PARKING REQUIREMENTS**, and this short-sighted code is killing the Willamette area. This project, if built anywhere else in West Linn, would be required to have **16 parking spaces** for Tenants and Customers. The Planning Staff has no contingency plan for any additional parking in Willamette. So, it would appear this code is **going to be a slow death** in this business district or **will our Neighbors on 8th Street** be effected and lose their residential parking due to the City's lack of planning?
3. **Massing of Scale:** In CDC, Chapter 55.100 (B) **Relationship to the natural and physical environment**, section (6). **Architecture;** a). scale shall be compatible with the existing structure(s) on site and on adjoining sites. b). it is appropriate that new buildings should architecturally transition in terms of bulk and mass to work with, **or fit, adjacent existing buildings**. "This a serious flaw with CDC chapter 58."

4. **Willamette National Registry District:** The Time era is **1895-1929**, so how did Staff in CDC chapter 58, come up with the time era 1880-1915. I expect consistency in our code and it should honor **our National Registry District!** The reason this is so important is the Historic Bungalows on Willamette Falls Drive were built in time era of 1914-1921 and they too should have the right to be protected.

As Planning Commissioners, I hope you can see the dilemma we are all in, including the applicant, due to the directions by city staff. We all want thoughtful development, one that honors our history and our neighbors.

Oregon Historic Site Record

LOCATION AND PROPERTY NAME			
address:	1742 Willamette Falls Dr West Linn, Clackamas County (97068)	historic name:	Batdorf-Buckles House
assoc addresses:	1742 7th Ave	current/other names:	Buckles, Albert William, House
location descr:		block/lot/tax lot:	51 / 2/3 of S 1/2 of 51 / 3/1E/02BA 1900
		twshp/rng/sect/qtr sect:	3S 1E 2
PROPERTY CHARACTERISTICS			
resource type:	Building	height (stories):	1.0
elig evaluation:	eligible/contributing	total elig resources:	1
prim constr date:	c.1914	second date:	
		total inelig resources:	0
primary orig use:	Single Dwelling	NR Status:	
second orig use:	Business	date indiv listed:	
primary style:	Bungalow (Type)	orig use comments:	low-pitched intersecting gable
secondary style:		prim style comments:	
primary siding:	Shingle	sec style comments:	
secondary siding:		siding comments:	Varigated Shingles
plan type:	Bungalow	architect:	
		builder:	
comments/notes:			
GROUPINGS / ASSOCIATIONS			
Survey/Grouping Included In:	Type of Grouping	Date Listed	Date Compiled
West Linn RLS 2008	Survey & Inventory Project		2008
West Linn, Willamette Falls Neighborhood, RLS 2008	Survey & Inventory Project		2008
SHPO INFORMATION FOR THIS PROPERTY			
NR date listed:	N/A	106 Project(s):	None
ILS survey date:		Special Assess Project(s):	None
RLS survey date:	10/29/2008	Federal Tax Project(s):	None
ARCHITECTURAL / PROPERTY DESCRIPTION			
<i>(Includes expanded description of the building/property, setting, significant landscape features, outbuildings and alterations)</i>			
<p>Decorative Features: gabled single bay front porch with massive square posts and ornamental truss; exposed rafters Other: Multi-light front door; enclosed back porch This house is one of numerous Bungalow style houses that were built throughout West Linn in the early decades of the 20th century. It is significant for being a well-preserved example of the style. The only apparent alterations appear to be the replacement of some windows. Characteristic features of the Bungalow style include the intersecting gable roof with exposed rafters, varigated shingle siding, and a projecting, single-bay porch with massive square posts and decorative truss. The house is located on the north side of 7th Avenue, a moderately trafficked road, in the center of the Willamette District commercial area.</p>			
HISTORY			
<i>(Chronological, descriptive history of the property from its construction through at least the historic period - preferably to the present)</i>			
<p>T. J. Gary originally bought the property from the Willamette Land Company in 1905. The property was mortgaged to local builder Noah Herren in 1914, it is believed that this is the date of construction. In 1917 George and Clara Batdorf purchased the property from Gary. The Batdorfs owned the property to at least 1927. It is assumed that the Batdorfs resided here during that time. George and Samuel ran the Batdorf Brother's General Merchandise store in willamette for over fifteen years. In 1930 the property was purchased by Albert B. Buckles. Buckles was married to Della Hathaway Batdorf. Born in Fontany, Kansas, in 1896, Buckles came to Oregon City where he established Buckle's Feed and Grain business, later expanding into the grocery business. A civic minded leader, buckles served on the City Council for four years, was treasurer of the Rosemont Community Club and an active member of the Elks lodge. Many of the City business' and offices closed out of respect for Buckles on his funeral. BIBLIOGRAPHY: Clackamas Co. rural Directory 1907. Oregonian, 13 March 1972, p. Sohns & Woodbeck, Clackamas Co. Directory 1916-17. TICOR Title Co. Records, Oregon City, Oregon. U.S. Census Records, 1910, 1920, 1930. DATE: 4/88 PREPARED BY: Koler/Morrison Consultants</p>			
RESEARCH INFORMATION			
Title Records	Census Records	Property Tax Records	Local Histories
Sanborn Maps	Biographical Sources	SHPO Files	Interviews
Obituaries	Newspapers	State Archives	Historic Photographs
City Directories	Building Permits	State Library	
Local Library:	University Library:		
Historical Society:	Other Respository:		
Bibliography:			

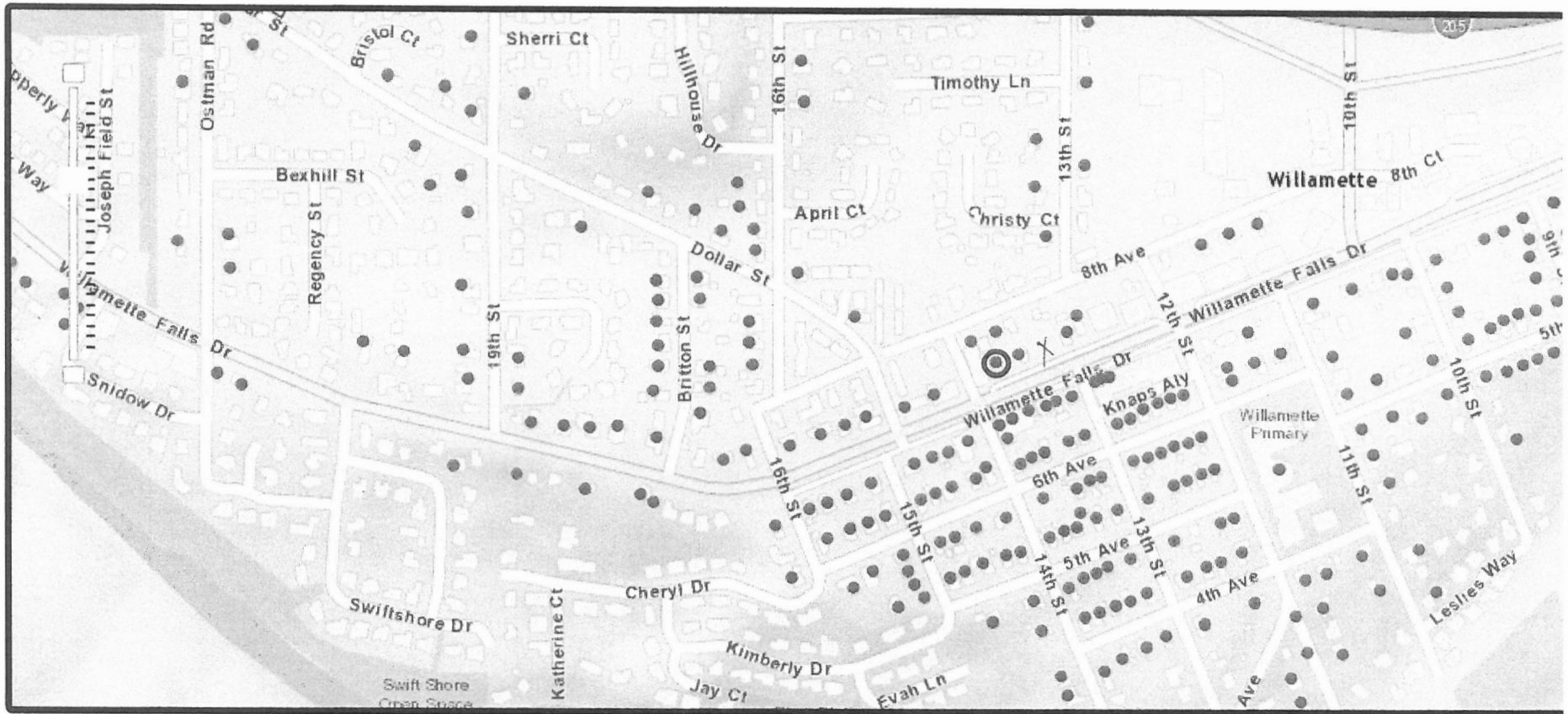
Oregon Historic Site Record

LOCATION AND PROPERTY NAME			
address:	1832 Willamette Falls Dr West Linn, Clackamas County	historic name:	Young, Mildred F, House; Maximum Health Clinic PC
assoc addresses:	1832 7th Ave	block/lot/tax lot:	52 / E 1/3 of block / 3/1E/02BA 1200
location descr:		twshp/rng/sect/qtr sect:	3S 1E 2
PROPERTY CHARACTERISTICS			
resource type:	Building	height (stories):	1.5
elig evaluation:	eligible/contributing	total elig resources:	1
prim constr date:	c.1921	second date:	
		total inelig resources:	0
primary orig use:	Single Dwelling	orig use comments:	
second orig use:	Business	prim style comments:	roof form: gable
primary style:	Bungalow (Type)	sec style comments:	
secondary style:		siding comments:	varigated shingles
primary siding:	Horizontal Board	architect:	
secondary siding:	Shingle	builder:	
plan type:	Bungalow		
comments/notes:			
Winterbrook study says 1921 for yr blt			
GROUPINGS / ASSOCIATIONS			
Survey/Grouping Included In:	Type of Grouping	Date Listed	Date Compiled
West Linn RLS 2008	Survey & Inventory Project		2008
West Linn, Willamette Falls Neighborhood, RLS 2008	Survey & Inventory Project		2008
SHPO INFORMATION FOR THIS PROPERTY			
NR date listed:	N/A	106 Project(s):	None
ILS survey date:		Special Assess Project(s):	None
RLS survey date:	10/29/2008	Federal Tax Project(s):	None
ARCHITECTURAL / PROPERTY DESCRIPTION			
<i>(Includes expanded description of the building/property, setting, significant landscape features, outbuildings and alterations)</i>			
Decorative Features: Massive rafter ends; varigated shingles Recessed full-width front porch with battered supports an polychrome brick pedestals and balustrade; rectangular bay window This House is one of numerous Bungalow style houses that were built throughtout West Linn in the early decades of the 20th century. It is significant for being a well-preserved example of the style. There are no apparent alterations to the exterior of the house. Characteristic features of the Bungalow style include the gable roof, horizontal lap and varigated shingle siding, and a full-width front porch with battered supports on polychrome brick supports. A contemporary garage with carport is located to the east of the house. The house is located on the north side of 7th Avenue, a moderately trafficked road, in the center of the Willamette District commercial area.			
HISTORY			
<i>(Chronological, descriptive history of the property from its construction through at least the historic period - preferably to the present)</i>			
Title company records indicate that the Willamette Falls company sold the property to Robert W. Baker in f1904. Baker retained ownership until 1921 when he sold the property to Glen Epler. It is believed that Baker was the original owner at the time of construction. It is unclear whether or not he lived in the house or not. The property changed hands several times, Emil Volpp purchased it in 1928. Volpp, an employee of Crown-Willamette Paper Co., resided in the house until 1933. The house remained in the family until 1952. BIBLIOGRAPHY: Clackamas Co. Probate Records, County Court House. Clackamas Co. Rural Directory, 1907 Sohns & Woodbeck, Clackamas Co. Directory 1916-17. TICOR Title Co. Records, Oregon City, Oregon. DATE: 4/88 PREPARED BY: Koler/Morrison Consultants			
RESEARCH INFORMATION			
Title Records	Census Records	Property Tax Records	Local Histories
Sanborn Maps	Biographical Sources	SHPO Files	Interviews
Obituaries	Newspapers	State Archives	Historic Photographs
City Directories	Building Permits	State Library	
Local Library:		University Library:	
Historical Society:		Other Respository:	
Bibliography:			

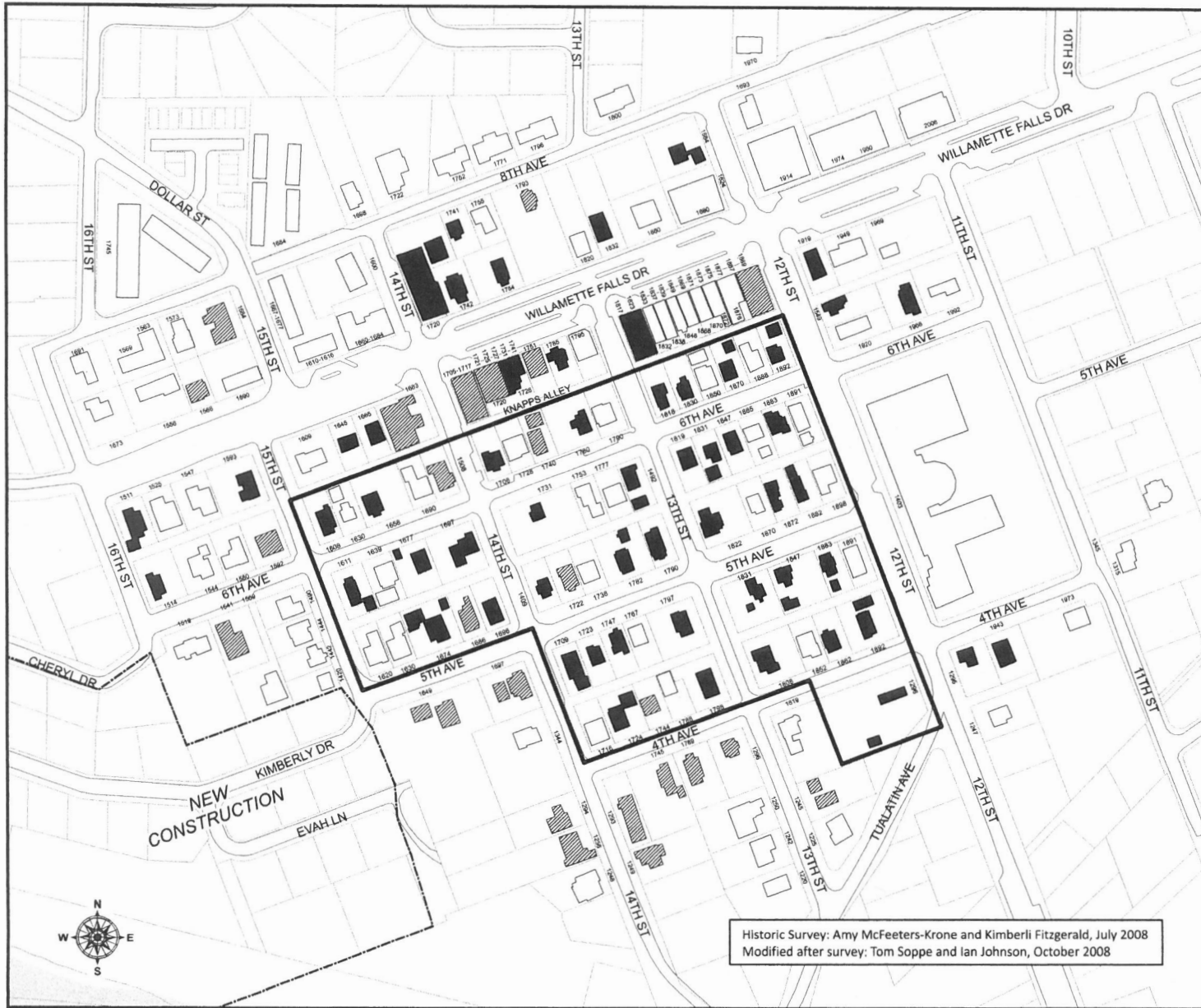
Oregon Historic Site Record

LOCATION AND PROPERTY NAME			
address:	1754 Willamette Falls Dr West Linn, Clackamas County	historic name:	
assoc addresses:		current/other names:	
location descr:		block/lot/tax lot:	
		twshp/rng/sect/qtr sect:	3S 1E 2
PROPERTY CHARACTERISTICS			
resource type:	Building	height (stories):	1.5
elig evaluation:	eligible/contributing	total elig resources:	1
prim constr date:	c.1920	second date:	
		total inelig resources:	0
		NR Status:	
		date indiv listed:	
primary orig use:	Single Dwelling	orig use comments:	
second orig use:			
primary style:	Bungalow (Type)	prim style comments:	
secondary style:		sec style comments:	
primary siding:	Shingle	siding comments:	
secondary siding:			
plan type:	Bungalow	architect:	
		builder:	
comments/notes:			
GROUPINGS / ASSOCIATIONS			
Survey/Grouping Included In:	Type of Grouping	Date Listed	Date Compiled
West Linn, Willamette Falls Neighborhood, RLS 2008	Survey & Inventory Project		2008
SHPO INFORMATION FOR THIS PROPERTY			
NR date listed:	N/A	106 Project(s):	None
ILS survey date:		Special Assess	
RLS survey date:	10/29/2008	Project(s):	None
		Federal Tax	
		Project(s):	None
ARCHITECTURAL / PROPERTY DESCRIPTION			
<i>(Includes expanded description of the building/property, setting, significant landscape features, outbuildings and alterations)</i>			
Refer to scanned documents links.			
HISTORY			
<i>(Chronological, descriptive history of the property from its construction through at least the historic period - preferably to the present)</i>			
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RESEARCH INFORMATION			
Title Records	Census Records	Property Tax Records	Local Histories
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City Directories	Building Permits	State Library	
Local Library:		University Library:	
Historical Society:		Other Respository:	
Bibliography:			

Oregon Historic Sites Map



	Resource ID	Name	Address	City	County
	656565	Batdorf-Buckles House	1742 Willamette Falls Dr	West Linn	Clackamas



Historic Survey: Amy McFeeters-Krone and Kimberli Fitzgerald, July 2008
 Modified after survey: Tom Soppe and Ian Johnson, October 2008

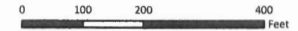
Willamette Falls Neighborhood National Register Historic District

District Map

Legend

Building Outlines, by type

- EC: Eligible Contributing
- NC: Non-Contributing
- NP: Not in Period
- District Boundary, 15.4 acres
- Taxlots
- Streets
- Address Numbers



Taxlot Base Source: Metro RLIS

This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

H:\Historic\willamette\HistoricDistrict_ColoredMap\Expanded_2010\Feb.mxd | K. Anu | 2-24-2010

April 19, 2017

Dear Members of the West Linn Planning Committee:

I urge you to NOT approve project DR-17-01, the proposed development adjacent to 1754 Willamette Falls Drive for three primary reasons: The size & scale relative to surrounding buildings, removing significant trees, and the worsening of an already bad parking situation.

To be clear, I am not against development. I believe an economically vibrant community benefits all of us. While not always easy, balancing the interests of commerce & business with the values & aesthetics of the neighborhood is of utmost importance.

SIZE & SCALE

I am the property and business owner at 1742 Willamette Falls Drive, adjacent to the proposed site. I moved my office into this 110 year old bungalow style office because I fell in love with the area's historic nature and the unique look and feel of the street. In particular, the 2 block section between the General Store and Fire Station, with its old homes, offices and large trees which are beautiful and special. A 6,000 square foot office complex is out of scale with this area and would dwarf the two adjacent bungalow style offices and detract from the aesthetics of the block. My office would be in the permanent shadow of this structure. The visual of the proposed structure in context (shown between the neighboring properties) as submitted to the Committee by attorney Ken Kaufmann on April 4th, is breathtaking and not in a good way. A picture is worth a thousand words.

It is worth noting that the Applicants did not want to build this massive structure when they purchased the land. During my first encounter with them, they indicated they had wanted to build a smaller bungalow style structure that matched the offices on either side but that the City staff told them it would not be allowed. At the recent Willamette Neighborhood Association meeting on April 12th, the Applicant reiterated this point. To the extent the City advised the Applicants they could not develop the property with a smaller bungalow style structure that more closely matched the size and design of the adjacent offices, that is inconsistent with the City code. The design review approval criteria specifically require that the proposed structure be compatible with the scale and design of the adjacent properties. CDC 55.100(B)(6) & 25.040(A)(1). I am hopeful that a revised design, that meets the Applicants' original desire, can be worked out with the City. It would be better for all parties.

TREES

Each morning as I drive by Fields Bridge Park, I pass the "Welcome to West Linn" sign. Prominently featured on it is a large tree. The large tree is featured on all the "Welcome" signs, the City website and newsletters. As a community, we have embraced the beauty and historical significance they provide.

The proposed development would involve removing 3 enormous trees, 2 cedars which have been deemed 'significant' by the City Arborist. Besides being well over 100 years old, the 3 trees in question are beautiful and provide a natural barrier between our properties. In addition, their removal would violate specific rules put in place to protect them.

The Applicant's primary justification for removing these significant trees is based on a false statement. The Revised Application for this project (dated February 15, 2017), which is available for public inspection, lists the Applicants' rationale for wanting the trees removed (Section 55.100 B 2 (c), at the top of page 4). It reads, in part, "The adjacent property owners on both sides of this property have shared their concerns with the Applicant that whenever there is a major storm or ice conditions they suffer roof damage and/or major site clean-up on their building/sites. They have expressed their support for the removal of these trees in order to ensure a safe environment...". This statement is not true in several respects. And in fact, quite the opposite is true. The Applicant submitted this statement in the Revised Application before reaching out to me. The Applicant sent me and the other property owner an email on February 20, 2017, encouraging us to reach out to the City about previous damage caused by these trees or our concerns about the potential for it. I responded on February 20, 2017 that these trees had not been a problem, I am not concerned about potential damage from the trees and I do not support their removal. On March 9, 2017, I advised the City staff of this misrepresentation in the Revised Application but for unexplained reasons my March 9 email was not included among the public comments in this Application. Based on the location of these significant trees near my property line, I've had the most to lose over the past 8 years. I have had no issues whatsoever from the 2 significant cedar trees – despite multiple wind and ice storms during the past two years including the recent "50 year windstorm". We had some branches come down from the fir tree several years ago but they did not cause damage and we have had no issues since.

The other justification for removing these trees noted in the Revised Application is that the property is otherwise unbuildable. While retaining the trees is certainly not compatible with the proposed large scale design, I was unable to locate any analysis for this "all or nothing" proposition. It is incumbent on the Applicant to show the impact of retaining some or all of these trees and prove that the property would be unbuildable if any of these trees were retained. Since the two significant trees are located in the back corner of the property, I highly doubt retaining these trees would render the rest of the property unbuildable.

An application to remove all 3 of these trees (2 significant cedars + 1 large fir) was filed pursuant to Chapter 8.63 of the Municipal Code on February 8th. The reason cited in the application is the trees are too close to the footprint of the *proposed* building and that retaining them makes the property unbuildable. These reasons do not satisfy any of the 12 criteria considered as aspects likely to warrant approval of a tree removal permit. Conversely, nearly all the criteria considered as aspects likely to warrant denial of a permit appear to be met including: visual prominence, generally healthy and sound structure, significant size, acts as a privacy barrier for adjacent properties. My fear is IF this proposal is approved contingent on tree removal, it would put the City Arborist in an unfair and untenable "no win" situation in which he might feel compelled to approve even though it does not satisfy the approved criteria.

Another problem is that the very large fir tree straddles the property line, which means that it is a jointly owned tree. I am in the process of obtaining a survey to confirm this fact. I could not, in good faith, grant permission for its removal based on the problems inherent in the current proposal.

I don't believe any of us want Willamette Falls Drive to become end-to-end concrete and buildings. Removing these trees would be a real loss to the overall look, feel and character of the block and would take away what has been a natural privacy barrier for my office. There are not valid reasons to remove them. Being "in the way" of a proposed development of inappropriate size and scale is not a good reason.

PARKING

As most of us are aware, there is already congested parking in the Willamette district. The historic General Store (adjacent to my office on the other side) coming back on line in several months (which we're all looking forward to), will unfortunately add to this situation. A new 6,000 square foot structure of this type would typically require 16 parking spots. An advantage of having a business in Willamette is the easy access from the freeway and easy parking. I fear we will all lose customers as this situation worsens. Approving this project now sets a bad precedent until a more comprehensive parking solution is found or the Code parking requirements are changed. It is encouraging to see the Handris development at the other end of the street *voluntarily* incorporating additional parking into their design.

SUMMARY

In summary, the current proposal should not be approved due to its inappropriately large size and scale, the multiple issues related to the trees, and the impact it will have on the parking situation. To reiterate, I am not against development of this property and I believe I want what the Applicant wants (but which the City apparently did not originally allow) – a smaller scale bungalow style office design. I urge the City to work with the Applicant to allow this. I believe it would address the problems inherent in the current proposal: size, scale and architecture compatibility with the immediately surrounding bungalows, the ability to keep the significant trees, much less of an impact to the parking situation and preserving the look and feel of our street between the General Store and the Fire Station. Thank you for your consideration.

Respectfully submitted,

Steve Sutherland
Property and business owner at 1742 Willamette Falls Drive
Adjacent to the proposed development



Proposed new commercial office space to be located at 1754 Willamette Falls Drive (DR 17-01, City of West Linn)

Submitted to Jennifer Arnold, Associate Planner (jarnold@westlinnoregon.gov).



Hathaway Koback
Connors LLP

520 SW Yamhill St.
Suite 235
Portland, OR 97204

E. Michael Connors
503-205-8400 main
503-205-8401 direct

mikeconnors@hkcllp.com

April 19, 2017

VIA HAND DELIVERY

Planning Commission
City of West Linn
22500 Salamo Road
West Linn, OR 97068

Re: File No. DR-17-01
Class II Design Review – New Two-Story Office Building
My Client: Sutherland Properties, LLC

Dear Commissioners:

This firm represents Sutherland Properties, LLC (“Sutherland”), that owns and operates a business on the property located at 1742 Willamette Falls Drive, West Linn, OR. Sutherland’s property and business is located adjacent to the property for the above-referenced Class II Design Review Application to approve an approximate 6,000 square foot, two-story office building (the “Application”). We are submitting these written comments in response to the Application. As explained in this letter, the Application does not comply with several applicable approval criteria and therefore should be denied.

1. The size and design of the proposed development is not compatible with the adjacent properties as required by CDC 55.100(B)(6).

The Class II Design Review approval criteria specifically require the proposed structure to be compatible with the size and design of the adjacent properties. West Linn Community Development Code (“CDC”) 55.100(B)(6)(a) requires that the “proposed structure(s) scale shall be compatible with the existing structure(s) on site and on adjoining sites” and contextual design is required, which means a design “respecting and incorporating prominent architectural styles, building lines, roof forms, rhythm of windows, building scale and massing of surrounding buildings in the proposed structure.” CDC 55.100(B)(6)(b) provides that “it is appropriate that new buildings should architecturally transition in terms of bulk and mass to work with, or fit, adjacent existing buildings.” The proposed development does not comply with CDC 55.100(B)(6) based on its size and design.

The proposed building does not comply with CDC 55.100(B)(6) because it is significantly larger than either of the adjacent buildings. The approximately 6,000 square foot office complex will

be way out of scale with the buildings in this area and will dwarf the two adjacent offices. Our client's building is a single story building with a building footprint of approximately 930 square feet. The proposed building is a two-story building with more than three times the size of building footprint. The proposed building is substantially larger and would cast a permanent shadow over both adjacent buildings.

The proposed building is also inconsistent with the design of the two adjacent buildings. Both adjacent buildings are bungalow style buildings. The proposed building is not a bungalow style and will look completely out of place next to the adjacent buildings. This contrasting style is precisely what CDC 55.100(B)(6) is intended to prevent and is particularly problematic because both adjacent buildings are eligible for historic designation as shown on the attached Oregon Historic Site Database for these properties. The City should not approve a new building with a contrasting style that will detract from the design of two adjacent building eligible for historic designation.

It is also important to note that the applicant originally wanted to propose a smaller bungalow style structure that more closely matched the size and design of the adjacent offices, but the City staff erroneously advised the applicant it would not be allowed. Not only is a smaller bungalow style structure allowed, it is required by CDC 55.100(B)(6). The Planning Commission should deny the Application and encourage the applicant to propose a revised design that meets their original objectives, the desires of the surrounding community and the requirements of CDC 55.100(B)(6). Such an approach would be a win-win for all affected parties.

2. The applicant's proposal to remove three significant trees is inconsistent with CDC 55.100(B)(2) and the evidence in the record.

The Class II Design Review approval criteria require the applicant to protect and preserve all significant trees as part of the development. CDC 55.100(B)(2) provides that all significant trees "shall be protected pursuant to the criteria of subsections (B)(2)(a) through (f) of this section." CDC 55.100(B)(2)(b) requires the applicant to set aside a minimum 20% of the property as a protected area for significant trees. Even if more than 20% of the property is comprised of significant trees or tree clusters, the applicant is encouraged to save the significant trees. CDC 55.100(B)(2)(b). The applicant failed to demonstrate compliance with these approval criteria for several reasons.

The applicant claims that it cannot preserve these trees because it is not possible to accommodate the proposed development if these trees are retained, but it has the standard backwards. The proposed development is required to accommodate the significant trees – not the other way around. If the applicant cannot fit the proposed development on the property and preserve these significant trees, the applicant is required to consider a smaller development that could accommodate these existing trees. That is especially the case since the massive office building in this case is not compatible with the size and scale of the adjacent buildings.

The applicant's claim that preserving the significant trees would decrease the useable area by 50% is completely unsubstantiated and lacks the required supporting evidence. The applicant has the burden of proving compliance with all of the approval criteria based on the preponderance of evidence. *Fasano v. Board of County Commissioners*, 264 Or 574, 586, 507

P2d 23 (1973). The protected area for significant trees is a defined standard that can be measured - it includes the dripline and 10 feet. CDC 55.100(B)(2)(b). At a minimum, the applicant must show the size of this protected area on the property to prove the impact of preserving these trees. In this case, the applicant failed to provide this basic information and relies solely on general and unsubstantiated statements about the impact of preserving these trees. We believe that the applicant failed to show the actual size of the protected area because it would not support their unsubstantiated claim. The applicant's bald statements regarding the impact of the protected area are not sufficient and the applicant must show the actual protected area based on the driplines for the trees.

The applicant erroneously assumes an all-or-nothing approach to the significant trees, when in fact it must evaluate the preservation of each significant tree. The applicant only considered the impact of preserving *all* of the significant trees, when in fact it must consider the ability to preserve *each* of the trees. If the applicant can preserve *any* of these significant trees, CDC 55.100(B)(2)(b) requires it to do so. Since two of the significant trees are located in the back corner of the property, it is impossible for the preservation of one or both of these trees to render the entire property unbuildable.

The applicant misrepresented the condition of these trees and the position of the adjacent property owners. The applicant's primary justification for removing these significant trees is as follows: "The adjacent property owners on both sides of this property have shared their concerns with the Applicant that whenever there is a major storm or ice conditions they suffer roof damage and/or major site clean-up on their building/sites. They have expressed their support for the removal of these trees in order to ensure a safe environment..." Revised Application, dated February 15, 2017, p.4. This statement is patently false in several respects. The applicant submitted this statement in the Revised Application before even reaching out to our client, which did not occur until the applicant sent an email on February 20, 2017. Our client responded to this February 20, 2017 email and clarified that these trees had not been a problem, our client is not concerned about potential damage from the trees and does not support their removal. The applicant never corrected this statement. In a March 9, 2017 email, our client advised the City staff of this misrepresentation but for unexplained reasons the March 9 email was not included among the public comments to the Historic Review Commission.

The applicant cannot unilaterally remove the large fir tree because it is located partially on our client's property and therefore is jointly owned. Numerous courts have held that a tree whose trunk straddles the property line is owned jointly by both affected property owners. *Young v. Ledford*, 37 So3d 832 (2009); *Alvarez v. Katz*, 124 A3d 839 (2015); *Happy Bunch, LLC v. Grandview North, LLC*, 142 Wash App. 81 (2007); *Rhodig v. Keck*, 421 P2d 729 (1966). The trunk of the large fir tree is located partially on our client's property. Since the tree is jointly owned and our client objects to its removal, the applicant will be required to design the building around this tree.

3. The applicant failed to justify the variance requests under CDC 58.100.

CDC 58.100 sets forth the requirements for seeking a variance to the CDC Chapter 58 standards. CDC 58.100 provides: “In those circumstances where a design proposal cannot meet the standards, or proposes an alternative to the standard, the Historic Review Board may grant a variance in those cases where one of the following criteria is met: (A) The applicant can demonstrate by review of historical records or photographs that the alternative is correct and appropriate to architecture in the region, and especially West Linn, in 1880 – 1915; or (B) The applicant is incorporating exceptional 1880 – 1915 architecture into the building which overcompensates for an omission.”

The Application includes three Class II variance requests: (1) metal awnings, as opposed to the canvas or vinyl awnings required by CDC 58.090(C)(11); (2) pedestrian level windows along 70% of the building front as opposed to the 80% required by CDC 58.090(C)(15); and (3) a 10-foot recess of the entry door from the building line as opposed to the 3 to 5-foot requirement under CDC 58.090(C)(13). The applicant failed to justify these variances in several respects.

The applicant is only entitled to request two variances. CDC 75.050(E) provides: “Not more than two Class II variances may be approved for any one lot or parcel in a continuous 12-month period.” Therefore, the applicant cannot request more than two variances.

After this limitation on the number of variances was noted in public comments, the applicant suddenly and erroneously claimed that it no longer needs the third variance request to get around this limitation. However, the applicant’s claim that it does not need the third variance is wrong. The applicant claims it no longer needs a variance to CDC 58.090(C)(13) because the entry doors will be setback 5 feet from the south *property line*. Staff Report, p.26. However, CDC 58.090(C)(13) requires that the “doors shall be recessed three to five feet back from the *building line*.” Measure from the building line, as opposed to the property line, the proposed development does not comply with CDC 58.090(C)(13) and is not entitled to another variance.

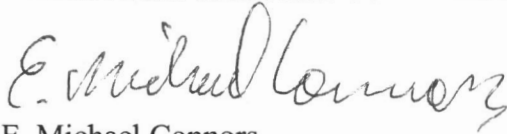
The applicant’s justification for the variance requests do not satisfy CDC 58.100. The applicant is requesting a variance for the metal awnings because they are a “more durable roofing material.” Application, Chapter 58 criteria, p.7. Durability is not a basis for granting a variance under CDC 58.100. The applicant is requesting a variance for less than 80% windows on the frontage “due to structural limitations.” Application, Chapter 58 criteria, p.4. Structural limitations are not a basis for granting a variance under CDC 58.100 and the applicant provided no evidence supporting its claim of structural issues. The applicant is requesting a variance for the entry door recess because it is “consistent with the adjacent neighboring buildings.” Application, Chapter 58 Criteria, p.7. Consistency with adjacent buildings is not a basis for granting a variance under CDC 58.100 and it is not justified in this instance given how many other features of the proposed building are different than or inconsistent with the adjacent buildings.

Conclusion

The Planning Commission should deny the Application because it fails to comply with several approval criteria. The proposed development is an inappropriate size and design compared to the adjacent buildings in violation of CDC 55.100(B)(6), will result in the removal of three significant trees in violation of CDC 55.100(B)(2) and does not satisfy the variance criteria set forth in CDC 58.100. The Planning Commission should deny the Application and encourage the applicant to propose a revised design for a smaller bungalow style structure that can meet their original objectives and the approval criteria noted above.

Very truly yours,

HATHAWAY KOBACK CONNORS LLP



E. Michael Connors

EMC/pl

Enclosures: Historic Site Record – 1742 Willamette
Historic Site Record – 1754 Willamette

Oregon Historic Site Record

LOCATION AND PROPERTY NAME			
address:	1742 Willamette Falls Dr West Linn, Clackamas County (97068)	historic name:	Batdorf-Buckles House
assoc addresses:	1742 7th Ave	current/other names:	Buckles, Albert William, House
location descr:		block/lot/tax lot:	51 / 2/3 of S 1/2 of 51 / 3/1E/02BA 1900
		twmshp/rng/sect/qtr sect:	3S 1E 2
PROPERTY CHARACTERISTICS			
resource type:	Building	height (stories):	1.0
elig evaluation:	eligible/contributing	total elig resources:	1
prim constr date:	c.1914	NR Status:	
		total inelig resources:	0
		date indiv listed:	
primary orig use:	Single Dwelling	orig use comments:	low-pitched intersecting gable
second orig use:	Business	prim style comments:	
primary style:	Bungalow (Type)	sec style comments:	
secondary style:		siding comments:	Varigated Shingles
primary siding:	Shingle	architect:	
secondary siding:		builder:	
plan type:	Bungalow		
comments/notes:			
GROUPINGS / ASSOCIATIONS			
Survey/Grouping Included In:	Type of Grouping	Date Listed	Date Compiled
West Linn RLS 2008	Survey & Inventory Project		2008
West Linn, Willamette Falls Neighborhood, RLS 2008	Survey & Inventory Project		2008
SHPO INFORMATION FOR THIS PROPERTY			
NR date listed:	N/A	106 Project(s):	None
ILS survey date:		Special Assess Project(s):	None
RLS survey date:	10/29/2008	Federal Tax Project(s):	None
ARCHITECTURAL / PROPERTY DESCRIPTION			
<i>(Includes expanded description of the building/property, setting, significant landscape features, outbuildings and alterations)</i>			
Decorative Features: gabled single bay front porch with massive square posts and ornamental truss; exposed rafters Other: Multi-light front door; enclosed back porch This house is one of numerous Bungalow style houses that were built throughout West Linn in the early decades of the 20th century. It is significant for being a well-preserved example of the style. The only apparent alterations appear to be the replacement of some windows. Characteristic features of the Bungalow style include the intersecting gable roof with exposed rafters, varigated shingle siding, and a projecting, single-bay porch with massive square posts and decorative truss. The house is located on the north side of 7th Avenue, a moderately trafficked road, in the center of the Willamette District commercial area.			
HISTORY			
<i>(Chronological, descriptive history of the property from its construction through at least the historic period - preferably to the present)</i>			
T.J. Gary originally bought the property from the Willamette Land Company in 1905. The property was mortgaged to local builder Noah Herren in 1914, it is believed that this is the date of construction. In 1917 George and Clara Batdorf purchased the property from Gary. The Batdorfs owned the property to at least 1927. It is assumed that the Batdorfs resided here during that time. George and Samuel ran the Batdorf Brother's General Merchandise store in willamette for over fifteen years. In 1930 the property was purchased by Albert B. Buckles. Buckles was married to Della Hathaway Batdorf. Born in Fontany, Kansas, in 1896, Buckles came to Oregon City where he established Buckle's Feed and Grain business, later expanding into the grocery business. A civic minded leader, buckles served on the City Council for four years, was treasurer of the Rosemont Community Club and an active member of the Elks lodge. Many of the City business' and offices closed out of respect for Buckles on his funeral. BIBLIOGRAPHY: Clackamas Co. rural Directory 1907. Oregonian, 13 March 1972, p. Sohns & Woodbeck, Clackamas Co. Directory 1916-17. TICOR Title Co. Records, Oregon City, Oregon. U.S. Census Records, 1910, 1920, 1930. DATE: 4/88 PREPARED BY: Koler/Morrison Consultants			
RESEARCH INFORMATION			
Title Records	Census Records	Property Tax Records	Local Histories
Sanborn Maps	Biographical Sources	SHPO Files	Interviews
Obituaries	Newspapers	State Archives	Historic Photographs
City Directories	Building Permits	State Library	
Local Library:	University Library:		
Historical Society:	Other Respository:		
Bibliography:			

Oregon Historic Site Record

LOCATION AND PROPERTY NAME			
address:	1754 Willamette Falls Dr West Linn, Clackamas County	historic name:	
assoc addresses:		current/other names:	
location descr:		block/lot/tax lot:	
		twنشp/mng/sect/qtr sect:	3S 1E 2
PROPERTY CHARACTERISTICS			
resource type:	Building	height (stories):	1.5
elig evaluation:	eligible/contributing	total elig resources:	1
prim constr date:	c.1920	total inelig resources:	0
	second date:	NR Status:	
		date indiv listed:	
primary orig use:	Single Dwelling	orig use comments:	
second orig use:		prim style comments:	
primary style:	Bungalow (Type)	sec style comments:	
secondary style:		siding comments:	
primary siding:	Shingle	architect:	
secondary siding:		builder:	
plan type:	Bungalow		
comments/notes:			
GROUPINGS / ASSOCIATIONS			
Survey/Grouping Included In:	West Linn, Willamette Falls Neighborhood, RLS 2008	Type of Grouping	Date Listed
		Survey & Inventory Project	Date Compiled
			2008
SHPO INFORMATION FOR THIS PROPERTY			
NR date listed:	N/A	106 Project(s):	None
ILS survey date:		Special Assess	None
RLS survey		Project(s):	
date:	10/29/2008	Federal Tax	None
		Project(s):	
ARCHITECTURAL / PROPERTY DESCRIPTION			
<i>(Includes expanded description of the building/property, setting, significant landscape features, outbuildings and alterations)</i>			
Refer to scanned documents links.			
HISTORY			
<i>(Chronological, descriptive history of the property from its construction through at least the historic period - preferably to the present)</i>			
Refer to scanned documents links.			
RESEARCH INFORMATION			
Title Records	Census Records	Property Tax Records	Local Histories
Sanborn Maps	Biographical Sources	SHPO Files	Interviews
Obituaries	Newspapers	State Archives	Historic Photographs
City Directories	Building Permits	State Library	
Local Library:		University Library:	
Historical Society:		Other Respository:	
Bibliography:			