



Waluga

Neighborhood

Association

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October 24, 2017

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City of Lake Oswego

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Lake Oswego, OR 97034

Re: LU 16-0063, Applicant Blue Dog Properties, LLC, 15948 Quarry Road, LO 97-35

Additional New Written Evidence for DRC Public Hearing Continuance

Parking

The Waluga Neighborhood Association (WNA) believes that the Minimum Parking Space interpretation is not reasonable and should be given more logical and rational interpretation. It is not consistent with the intended usage of the development being proposed which is a combination of both residential and commercial units.

Staff has found that "the most similar use" of a live/work dwelling is a two-bedroom multi-family dwelling unit. (Staff Report LU 16-0063, 2. Applicable Development Standards [LOC 50.06]; Parking [LOC 50.06.002] and Exhibit F-8).

The staff finding concludes that, per LOC 50.06.002-3 in lieu of a parking study, parking requirements may be established by determining the "most similar" use from Table 50.06.002-3(H). The findings conclude that live/work use is not either a mixed use or a conditional use, it is a type of use itself and does not involve either determining parking minimums for each different use, nor could they apply conditions for more parking beyond the "most similar" use.

We believe that Staff has erred in their findings by only considering a single "use" in applying LOC 50.06.002-3 in light of *Jacobs vs Clackamas County, Land Use Board of Appeals (LUBA) 2015-099*. LUBA addressed a scenario where the Applicant tried to split a development into two segments to avoid application permit standards that would otherwise prohibit the business use viewed as a whole. They found that both sets of requirements potentially apply to any components of the segmented use that are shared or overlap.

LUBA stated:

"In our view, where an applicant seeks approval of a unitary or closely related use or uses pursuant to two permits...the requirements of both permits apply to any components of the use or uses that are shared or overlap. Assuming that principle also applied to the example of the church and school cited by intervenors...any shared facilities, *such as a parking lot, would have to satisfy the parking standards of both, or if cumulative use is not an issue, the parking lot must satisfy the most rigorous set of standards.* The applicant would not be able to avoid the more rigorous set of standards for a shared facility or activity by satisfying the lesser set of standards."

Based on LUBA 2015-099, the parking determination must address the standards for all uses which is counter to Staff findings. Further, per LOC 50.10.03.2, Mixed Use is defined as “A development consisting of more than one broad category of use (e.g., commercial, industrial, residential, public use, or institutional).” The LU 16-0063 defines both commercial and residential categories of use and therefore should be considered Mixed Use. The Staff finding that a live/work unit is not a mix of uses “...because it is a specific type of use listed in the Use Table...” is inconsistent with the LUBA findings that require all uses to be considered, and it is inconsistent with the City’s definition for Mixed Use LOC 50.10.03.2 in that Staff finds the development is NOT a mix of uses under Table 50.06.001-2.

It is clear that all uses of a mixed use development must be included in determining the parking standards and it was not. When Staff interprets LOC 50.06.002.a.ii(6), they assume that only a single use is required to meet the “most similar” requirement. However, besides being inconsistent with the new evidence, it is also inconsistent with how parking requirements are required as in part (a) which is specific “...that parking spaces required shall equal the number...generated by the business or development use(s)”.

(6) When Use is Not Expressly Listed.

When the proposed use is not expressly listed within Table 50.06.002-3, the minimum number of required parking spaces shall be determined by using either "the use most similar" to the proposed use or a parking study, pursuant to Table 50.06.002-3(H). If the applicant elects to determine the number of parking spaces required by a parking study, the parking study shall comply with the following:

(a) The total number of parking spaces required shall equal the number of spaces determined to be necessary to accommodate the average peak parking demand generated by the business or development use(s).

Staff determines that the requirement is an “either / or” alternative inconsistent with a “both / and” conclusion supported by the evidence.

Based on the new evidence and LOC 50.06.002.a, it is clear that ALL uses must be considered. The wording in LOC 50.06 “...the use most similar” to the proposed use” DOES NOT preclude multiple uses. In addition, Exhibit F-8 acknowledges that if the commercial square footage was more significant (disproportionate), maybe the residential parking consideration could be overcome. We would point out that, for example, the commercial use table includes restaurants that require substantial parking (13.3 spaces per 1000 ft. sq.). Under the current ruling, tenants could open small restaurants in their space and generate significant parking needs.

Therefore, based on the new evidence, we request that the DRC find that the required Parking spaces be increased from 14 spaces (Table I) to 18 or more (Table II). (Based on the assumption that commercial usage will be similar or less than those of Office use (Table 50.06.002-3) as the Applicant has stated that the actual use will be determined by the Tenant.)

We would also like an indication from how the City would rule if, for example, a resident chose to provide a higher intensity use in their spaces (without increasing the square footage). Specifically, use the restaurant example.

We remind the City and Applicant that if actual usage is greater than the expected use that the standards be adjusted appropriately as noted in Exhibit F-8 and LOC 50.07.003.13.a.ii(15). In light of the findings that parking is based on a Residential use even though the Commercial use is undefined, we would like clarification from the City on two additional issues: (1) What will cause the parking to be adjusted once the commercial use is defined by a tenant and (2) How will changes in commercial be considered in light of the

conclusion that the Parking is based on being Residential use only?

Type of Use	Req'd Spaces per Unit	Units	Req'd Spaces
1 BDR	1.25	3	3.75
2 + BDR	1.5	2	3
Live/Work	1.5	5	7.5
			15
Allowance	-10%		-1.425
Required			14

Table I: Staff Calculation for Required Parking

Type of Use	Req'd Spaces per Unit	Units	Req'd Spaces
1 BDR	1.25	3	3.75
2 + BDR	1.5	7	10.5
	Sq. Ft	Spaces per 100 ft sq	
Commercial	1200	3.3	3.96
			19
Allowance	-10%		-1.821
Required			18

Table II: Corrected Calculation for Required Parking

There is no way to monitor and enforce or adjust requirements for parking based on the actual commercial use. The property could sub-lease or be used for any GC activity...it could be a small restaurant, UPS or FedEx drop-off or a Starbucks... Furthermore, a residential only development in a GC zone is not allowed. So only choosing a residential use results in a use that is not allowed and is not consistent with the zoning.

So by definition, we are resulting in a development where only residential use is factored into the parking. By definition there is no allowance for any commercial activity allowed for the property and the zone. This is further exasperated in that there is really no “overflow” area to park when all parking is full unless you park at Albertson’s, Banner Bank, Avian Clinic, and/or a couple blocks up Quarry, and there are no sidewalks on that side of the street. We are led to believe that by combining two types of use and creating a new name for this use—Live/Work—that since this creates something that has not previously been defined by the City and does not have an exact match in their Parking table, that only a single use from the Parking table can be applied.

This is again inconsistent with both the current application of parking standards and common sense application of code. We see in Jacobs vs Clackamas that all use needs to be considered in such determinations. We see the Code definition for Mixed Use that includes both residential use and commercial use, yet an alternative definition was applied for parking in this case. Why? We are setting up a situation where on Day-1 there will not be enough parking to support any commercial use of the property. Further, there is no ability to regulate parking based on any commercial use in the future and this will be a serious irreversible problematic situation.

Past history for parking miscalculations

In nearby developments we can cite specific examples where minimum parking calculations were not applied correctly thereby resulting in vehicle spillage onto to Oakridge Road between Boones Ferry and Quarry Roads. #1. Oakridge Park HUD Senior apartment complex (4255 Oakridge Rd.) and #2. Wells Fargo Bank (15955 & 15987 Boones Ferry Road).

For # 1. It was falsely assumed that for 44/one bedroom apartments and one/2 bedroom apartment, that 21 on-site parking spaces was adequate because the developer was able to convince the City and then Council in an Appeal that the residents would not be able to afford to own vehicles and therefore only 21 on-site spaces would be adequate. And as a condition to this development in the event of additional parking needs, the Lake Grove Presbyterian Church (LGPC) agreed to provide additional overflow parking spaces in their parking lot. Only a parking management plan was required, however. There is no provision to enforce the residents who were assigned to the church overflow parking spaces to ensure that they were actually using these spaces. Residents, who do not have reserved spaces at Oakridge Park, are assigned spaces at the LGPC. The church is located 4 blocks away. It is accessed across at busy intersection at BF and Oakridge/Reese Roads and finally along unimproved Reese Road. This is an unreasonable, unworkable, unsafe and unenforceable parking management plan. No resident of Oakridge Park is actually utilizing this alternative parking plan. Therefore the spillage of overflow parking has always occurred along Oakridge Road along the area of Oakridge Park Apartment complex. Currently there are approximately 10 residents who own cars who are choosing to park along both sides of Oakridge Road, sometimes illegally, because they do not have assigned parking spaces at the Oakridge Park facility. Also, no consideration was given towards calculating on-site parking spaces for caregivers, visitors, service, delivery, landscape maintenance etc.

For # 2. The Wells Fargo Bank initially proposed 30 parking spaces for their new bank, but that number exceeded the maximum number of parking spaces allowed by code for commercial development (125%). So in an effort to rectify this, staff suggested partitioning the lot into two parcels, hoping that the partitioned property fronting Oakridge Road would not compromise the maximum parking space limit and still allow for enough on-site spaces. Instead this effort only created more problems for the bank. The total number of bank employees (10) were not included in the parking calculations and ultimately created a parking space shortage even after the property was partitioned. The property fronting Oakridge Road only added 7 more parking spaces. The bank is currently limiting their employees to only on-street parking, thereby exacerbating the problems on Oakridge Road and surrounding areas. On Oakridge Road there is only room for one oncoming vehicle to pass at any one time. This stretch of roadway is also regularly used by mail trucks and school buses. This situation adds to an extremely unsafe and frustrating situation for all who live, work and use this roadway. Residents, visitors, caregivers, service and delivery companies, business employees, etc. are all competing for on-street parking. Vehicles parking along the street have destroyed landscaping along both sides of the road where there are existing businesses and residential buildings. On-street parking also block access to two mailboxes on the North side of the roadway. We do not want to see this happen on Quarry Road, if this application is approved as proposed.

These are examples of a series of blunders in underestimating the need and lack of foresight for total parking spaces for various developments in this area. They are also clear examples of allowing the size of development buildings to sacrifice much needed space that should be allowed for adequate on-site and on-street vehicle parking. The parking capacity in this area is at a critical unsafe level.

For these reasons we respectfully ask that you deny LU 16-0063 with their present proposal because the amount of parking spaces provided for this over-developed property is grossly inadequate. The four garage parking spaces in building A cannot be included as part of the entire parking calculations for this development. This leaves only 10 viable spaces for the remaining six residential and total office spaces. As mentioned in our initial testimony on October 16, 2017, absolutely no spaces are provided for guests, employees, visitors, utility/repair trucks/vans, mail deliveries, landscape maintenance service, shuttle service, Tri-Met Lift, emergency medical services, office and/or residential parties, open houses and other events. It would be irresponsible and negligent in not requiring the developer to provide more parking spaces on this site. Seeking yet an additional variance to simply reduce the width of the ADA required parking space by emphasizing the hardship concern by needing to reduce the size of total living space in Building B is an unreasonable and unacceptable request.

There does not exist anywhere in the City code that gives the City the ability to allow so many variances and to misinterpret the zone use to under-calculate the necessary parking spaces for a developer and it is clear that this is an attempt over-develop a once zoned single family residential property. If our suggested option to remove Building B from the proposed plan is accepted, then a large tree grove would be saved and more space for parking could be provided. Five variance requests outlined in the staff report could be eliminated (first 5 bullet points on page 1 of the Staff report).

Sidewalk

Though the Waluga Neighborhood values its large stands of Douglas Fir trees, the applicant, if they accept our option to eliminate Building B from their proposal, could also seriously consider a possible narrower sidewalk to meander around the large stand of trees in the public right of way, as per City Engineer, Todd Knepper's report outlined in Exhibit F-4, pp. 6-7:

1. *“(page 6)The Engineering staff has reviewed the development proposal and field conditions in the context of the City’s codes, improvement policies and TSP and makes the following recommendations. Factors considered in the Engineering Division’s evaluation of Quarry Road include its functional classification and the following site specific factors:*
 - *(page 6) It appears a minimum of 10’ right-of-way dedication will be required for the street improvements along the entire site frontage. Sufficient right-of-way dedication shall be provided so that all of the required mitigating public street frontage improvements are located entirely within the right-of-way. **(The only exception is that a public sidewalk easement will be allowed if the sidewalk needs to jog around an existing tree that will be preserved).***
 - *(page 7) The new curb and gutter and sidewalk shall match into the existing curb and sidewalk on the abutting property to the south. At the north end of the site, the sidewalk shall transition back to the edge of the road with an asphalt ramp.**
1. *(page 7)For this development, the applicant shall construct street frontage improvements along the entire site frontage. As conditions of approval on the proposed development, the City will require the following mitigations to alleviate impacts created or increased by the proposed development:*
 - *Construct pavement widening to achieve a travel lane and parking strip and construct a new concrete curb and gutter and an 8’ wide concrete sidewalk along the entire site frontage. The new curb and gutter and sidewalk shall match into the existing curb and sidewalk on the abutting property to the south. At the north end of the site, the sidewalk shall transition back to the edge of the road with an asphalt ramp”.**

*It is possible that perhaps a variance could be requested to slightly narrow the sidewalk on portion of the frontage of this property where it will line up to the existing sidewalk to the south, because the Banner Bank sidewalk is only 5 ft 6 in. wide. And since there is no sidewalk along the frontages of the Avian Clinic or the Lincoln Asset Management properties, it wouldn't make sense to over build an 8 ft sidewalk leading to nowhere.

Concluding Remarks

We are aware that the applicant has taken many months by trying to squeeze their ambitious plans onto this property and we appreciate their efforts to save some trees, but they are overlooking other huge concerns that exist in our neighborhood: the lack of enough parking and the ramifications as a result of parking shortages. Waluga Neighborhood will not tolerate the continual approval of development applications without giving serious consideration to providing enough parking for each proposal. Downsizing the applicant's proposal by eliminating building B, would solve many of the challenges that the applicant is facing today. There is nothing in the current City Codes and Ordinances that precludes approving this application simply because the developer wants to maximize their profits and their “financial bottom line.” Tastefully planned and designed, we believe that this could be a win win for the developer, City and our neighborhood association residents and surrounding business neighbors. After all, it will be the Waluga Neighborhood residents and businesses who will remain here long after Blue Dog Properties, LLC has gone.

Sincerely,

Cheryl Uchida and Cindy Maddox
Waluga Neighborhood Association Co-Chairs