



Memorandum

Date: May 8, 2009

To: Chris Jordan, City Manager

From: Chris Kerr, Acting Planning Director

Subject: All hotel application (AP-09-02 and CUP-09-01) correspondence between April 29 and May 8

Attached is all correspondence received regarding the Holiday Inn Express applications (AP-09-02 and CUP-09-01) between April 29, 2009 (date of last correspondence memo packet) and 11:11 AM on May 8, 2009.

Soppe, Tom

From: Kerr, Chris
Sent: Friday, May 08, 2009 11:11 AM
To: City Council
Cc: Jordan, Chris; Soppe, Tom
Subject: RE: Holiday Inn

John – The applicant has not provided this information – but I will forward this question to them for their attention. Thanks

Chris Kerr

From: Kovash, John
Sent: Friday, May 08, 2009 9:56 AM
To: Kerr, Chris
Cc: Council, WL
Subject: Holiday Inn

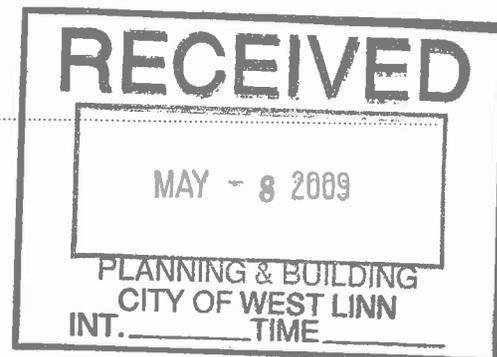
Hi Chris.

What size staff is anticipated for this hotel and where are they going to park? The hotel already has fewer parking spaces than rooms.

John

Soppe, Tom

From: Brad Kaul [kaul931@hotmail.com]
Sent: Friday, May 08, 2009 10:17 AM
To: karen.mohling@tvfr.com; Kerr, Chris; Soppe, Tom
Cc: vcp16@hotmail.com; spe_architects@msn.com
Subject: Fire Doc - West Linn Holiday Inn Express
Attachments: CUP 09-01 HEX- response.doc



Chris, Tom and Karen,

Attached is a response letter concerning the latest fire dept comment letter. As you know, we were going to address the fire officials concerns during the building permit review. I was trying to set up meeting with the building official and fire code official after receiving approval by the planning commission. Once the project was called up by the city council, I did not pursue the fire comments because of the call up.

First, we are required to provide access for a truck with aerial equipment (ladder truck) because of the building height. We have redesigned the porte cochere. With the current design, the ladder truck can park parallel to the building and not be covered by the porte cochere. We did this because of conversations we had with the fire code official.

As for two fire access roads, the code says that we must have two access roads. Of course, the parking lot is a fire access road and it provides access to the building. The second fire access road is Willamette Falls Drive. A fire truck can park at the Southeast corner of the site on the street and have access to the building that is less than 150 feet. There is a sidewalk that provides access to the south and east sides of the building.

All portions of the building must be within 150 feet of the fire truck access road. If the building is equipped with a fire sprinkler system the distance may be increased by the fire code official. Typically, in all other jurisdictions, the distance is doubled to 300 feet. If the fire code official will give us the typical increase in distance than we are in compliance with the fire code for fire access roads. FYI, the most remote part of the building (northeast corner) is no more than 200 feet from either of the proposed fire access roads. Therefore, if the fire code official gives only a modest 50 foot increase due to fire sprinklers we are in compliance with the code.

The civil engineer has confirmed that we have the required inside 28 foot radius and outside 48 foot radius in the parking lot access roads.

All other items on the list can be taken care of during permit review.

Thanks,

Brad Kaul
 Steve Elkins Architects
 425-827-3252

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TUALATIN VALLEY FIRE & RESCUE - SOUTH DIVISION
COMMUNITY SERVICES • OPERATIONS • FIRE PREVENTION

April 16, 2009

Chris Kerr
Planning Director
City of West Linn
22500 Salamo Road
West Linn, OR 97068

Re: CUP 09 – 01 Holiday Inn Express Site Plan – Exhibit B

Dear Mr. Kerr;

Thank you for the opportunity to review the proposed site plan surrounding the above named development project. Tualatin Valley Fire & Rescue does not endorse this proposal until the following items have been addressed and approved:

1) FIRE APPARATUS ACCESS ROAD DISTANCE FROM BUILDING AND TURNAROUNDS:

Provide an access road(s) that is within 150 feet of all portions of the exterior wall of the first story of the building as measured by an approved route around the exterior of the building. An approved turnaround is required if the remaining distance to an approved intersecting roadway, as measured along the fire apparatus access road, is greater than 150 feet. (IFC 503.1.1)

Response: What increase are you giving for a building with fire sprinklers? If you will give us a very modest 50 feet than all portions of the building are within the required distance from the fire access roads to all portions of the building. The access roads proposed consist of the parking lot and Willamette Falls Drive. The parking lot is a loop that provides a turn around.

2) ADDITIONAL ACCESS ROADS – COMMERCIAL: Where buildings exceed 30 feet in height or three stories in height shall have at least two separate means of fire apparatus access. Buildings or facilities having a gross area of more than 62,000 square feet shall be provided with at least two separate means of fire apparatus access. Buildings up to 124,000 square feet provided with fire sprinklers may have a single access. (IFC D104)

Response: Two access roads are provided as stated above.

3) AERIAL FIRE APPARATUS ACCESS: Buildings or portions of buildings or facilities exceeding 30 feet in height above the lowest level of fire department vehicle access shall be provided with approved fire apparatus access roads capable of accommodating fire department aerial apparatus. Overhead utility and power lines shall not be located within the aerial fire apparatus access roadway. Fire apparatus access roads shall have a minimum unobstructed width of 26 feet in the immediate vicinity of any building or portion of building more than 30 feet in height. At least one of the required access routes meeting this condition shall be located within a minimum of 15 feet and a maximum of 30 feet from the building, and shall be positioned parallel to one entire side of the building. (IFC D105)

Requirement depends on building height - buildings over 30 feet are required to provide access for Aerial Fire Fighting Apparatus.

Response: The porte cochere has been redesigned to provide clearance above the ladder truck. The ladder truck may park between 15 and 30 feet from the building in a parallel position.

- 4) **REMOTENESS:** Where two access roads are required, they shall be placed a distance apart equal to not less than one half of the length of the maximum overall diagonal dimension of the property or area to be served, measured in a straight line between accesses. (IFC D104.3)

Response: *The area to be served would be the building. The building diagonal is 166 feet. The proposed distance between fire access roads is 217 feet.*

- 5) **FIRE APPARATUS ACCESS ROAD WIDTH AND VERTICAL CLEARANCE:** Fire apparatus access roads shall have an unobstructed width of not less than 20 feet, and an unobstructed vertical clearance of not less than 13 feet 6 inches. Where fire apparatus roadways are less than 26 feet wide, "NO PARKING" signs shall be installed on both sides of the roadway and in turnarounds as needed. Where fire apparatus roadways are more than 28 feet wide but less than 32 feet wide, "NO PARKING" signs shall be installed on one side of the roadway and in turnarounds as needed. Where fire apparatus roadways are 32 feet wide or more, parking is not restricted. (IFC 503.2.1)

Response: *The fire apparatus access roads will be striped and no parking signs will be provided as required. The width and height is provided as required above.*

- 6) **FIRE APPARATUS ACCESS ROADS WITH FIRE HYDRANTS:** Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be 26 feet. (IFC D103.1)

Response: *Fire Hydrant location will be determined during building permit review. If a hydrant is required it will be placed at the front of the building where we have a 28'-8" wide road width.*

- 7) **NO PARKING SIGNS:** Where fire apparatus roadways are not of sufficient width to accommodate parked vehicles and 20 feet of unobstructed driving surface, "No Parking" signs shall be installed on one or both sides of the roadway and in turnarounds as needed. Roads 26 feet wide or less shall be posted on both sides as a fire lane. Roads more than 26 feet wide to 32 feet wide shall be posted on one side as a fire lane. Signs shall read "NO PARKING - FIRE LANE" and shall be installed with a clear space above grade level of 7 feet. Signs shall be 12 inches wide by 18 inches high and shall have red letters on a white reflective background. (IFC D103.6)

Response: *O.K. signs will be placed along the fire lane as required.*

- 8) **SURFACE AND LOAD CAPACITIES:** Fire apparatus access roads shall be of an all-weather surface that is easily distinguishable from the surrounding area and is capable of supporting not less than 12,500 pounds point load (wheel load) and 75,000 pounds live load (gross vehicle weight). You may need to provide documentation from a registered engineer that the design will be capable of supporting such loading. (IFC D102.1)

Response: *O.K. the road will be designed to meet such loading requirements. This documentation will be provided during the building permit process.*

- 9) **TURNING RADIUS:** The inside turning radius and outside turning radius shall be not less than 28 feet and 48 feet respectively, measured from the same center point. (IFC 503.2.4 & D103.3)

Response: *The parking lot accommodates the required radii required.*

- 10) **PAINTED CURBS:** Where required, fire apparatus access roadway curbs shall be painted red and marked "NO PARKING FIRE LANE" at approved intervals. Lettering shall have a stroke of not less than one inch wide by six inches high. Lettering shall be white on red background. (IFC 503.3)

Response: *O.K. the road will be marked as required.*

- 11) **GATES:** Gates securing fire apparatus roads shall comply with all of the following: (IFC D103.5)
Minimum unobstructed width shall be 16 feet, or two 10 foot sections with a center post or island.
Gates shall be set back at minimum of 30 feet from the intersecting roadway.
Gates shall be of the swinging or sliding type

Manual operation shall be capable by one person
Electric gates shall be equipped with a means for operation by fire department personnel
Locking devices shall be approved.

Response: No gates are proposed.

- 12) **COMMERCIAL BUILDINGS - REQUIRED FIRE FLOW:** The required fire flow for the building shall not exceed 3,000 gallons per minute (GPM) or the available GPM in the water delivery system at 20 psi, whichever is less as calculated using IFC, Appendix B. A worksheet for calculating the required fire flow is available from the Fire Marshal's Office. (IFC B105.2)

Please provide a completed Fire Flow calculation worksheet for approval - instructions are available on our website: www.tvfr.com. Also, please provide a current fire flow test of the nearest fire hydrant demonstrating available fire flow at 20 psi residual pressure.

Response: fire flow will be determined during the building permit review.

- 13) **FIRE HYDRANTS – COMMERCIAL BUILDINGS:** Where a portion of the building is more than 400 feet from a hydrant on a fire apparatus access road, as measured in an approved route around the exterior of the building, on-site fire hydrants and mains shall be provided. This distance may be increased to 600 feet for buildings equipped throughout with an approved automatic sprinkler system. (IFC 508.5.1)

Please provide hydrant locations for approval.

Response: Hydrant location will be determined during building permit review.

- 14) **FIRE HYDRANT NUMBER AND DISTRIBUTION:** The minimum number and distribution of fire hydrants available to a building shall not be less than that listed in Appendix C, Table C 105.1.

Considerations for placing fire hydrants may be as follows:

- Existing hydrants in the area may be used to meet the required number of hydrants as approved. Hydrants that are up to 600 feet away from the nearest point of a subject building that is protected with fire sprinklers may contribute to the required number of hydrants.
- Hydrants that are separated from the subject building by railroad tracks shall not contribute to the required number of hydrants unless approved by the fire code official.
- Hydrants that are separated from the subject building by divided highways or freeways shall not contribute to the required number of hydrants. Heavily traveled collector streets only as approved by the fire code official.
- Hydrants that are accessible only by a bridge shall be acceptable to contribute to the required number of hydrants only if approved by the fire code official.

Response: Hydrant location will be determined during building permit review.

- 15) **FIRE HYDRANT DISTANCE FROM AN ACCESS ROAD:** Fire hydrants shall be located not more than 15 feet from an approved fire apparatus access roadway. (IFC C102.1)

Response: Hydrant location will be determined during building permit review.

- 16) **REFLECTIVE HYDRANT MARKERS:** Fire hydrant locations shall be identified by the installation of reflective markers. The markers shall be blue. They shall be located adjacent and to the side of the

centerline of the access road way that the fire hydrant is located on. In case that there is no center line, then assume a centerline, and place the reflectors accordingly. (IFC 508.5.4)

Response: Hydrant markings will be confirmed during building permit review.

- 17) **FIRE HYDRANT/FIRE DEPARTMENT CONNECTION:** A fire hydrant shall be located within 100 feet of a fire department connection (FDC). Fire hydrants and FDC's shall be located on the same side of the fire apparatus access roadway. FDCs shall normally be remote except when approved by the fire code official. (IFC 912.2) ***Show FDC location for approval.***

Response: The FDC location will be determined during building permit review.

- 18) **ACCESS AND FIRE FIGHTING WATER SUPPLY DURING CONSTRUCTION:** Approved fire apparatus access roadways and fire fighting water supplies shall be installed and operational prior to any combustible construction or storage of combustible materials on the site. (IFC 1410.1 & 1412.1)

Response: We will place this note on our drawings. This will ensure that the general contractor gets these items installed prior to placing combustible materials on site.

- 19) **KNOX BOX:** A Knox Box for building access may be required for this building. For gates securing an emergency access road a Knox box or Knox padlock will be required; a Knox switch will be required for electrically operated gates. Please contact the Fire Marshal's Office for an order form and instructions regarding installation and placement. (IFC 506)

Response: No building access restriction will be in place. No need for knox box will exist for emergency access to the site. However, we will place this note on the plans so that the contractor provides emergency access to the site if he decides to gate of the site for security reasons.

- 20) Complete the Building Survey Form prior to the issuance of the Building Permit:
http://www.tvfr.com/Dept/fm/brochures/document_files/building_survey_form_ifc.pdf

- 21) Resubmit plans for final approval.

If you have questions, please call me at (503) 612-7012.

Sincerely,

Karen Mohling

Karen Mohling
Deputy Fire Marshal

Soppe, Tom

From: Soppe, Tom
Sent: Friday, May 08, 2009 10:12 AM
To: Kerr, Chris
Subject: RE: Holiday Inn

I can't find that they ever did.

Tom Soppe
Associate Planner
City of West Linn
22500 Salamo Road
West Linn, OR 97068

From: Kerr, Chris
Sent: Friday, May 08, 2009 10:01 AM
To: Soppe, Tom
Subject: FW: Holiday Inn

Do you know if this has been offered into the record by the applicant?

From: Kovash, John
Sent: Friday, May 08, 2009 9:56 AM
To: Kerr, Chris
Cc: Council, WL
Subject: Holiday Inn

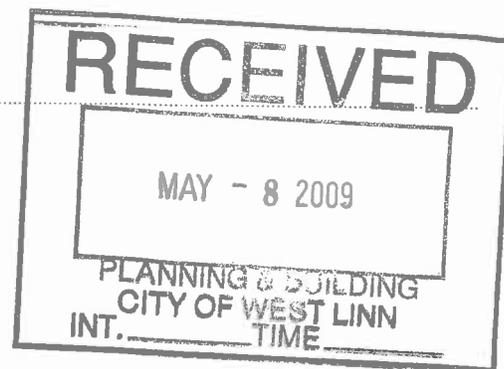
Hi Chris.

What size staff is anticipated for this hotel and where are they going to park? The hotel already has fewer parking spaces than rooms.

John

Soppe, Tom

From: GARY [hitesman@comcast.net]
Sent: Thursday, May 07, 2009 5:07 PM
To: Kerr, Chris
Cc: Soppe, Tom; karieokee@aol.com; 'Teri Cummings'
Subject: RE: appeal process_99.280



Chris,

My bad. I read 99.170 which I can tell by reading the hearing was by the book.

I still am confused by a hearing being defined as "de novo" at the same time having legal counsel state that only Chapters 32, 55, 75, 19 and 60 will be used for criteria. I consider myself lucky that legal stated 19 and 60 during the initial hearing, because up to that point, the written announcement was saying only 32, 55, and 75 would apply.

Pretending that legal counsel had not allowed 19 and 60, the code would allow the council to disregard anything I might have said on 19 and 60? If de novo does not restrict which criteria, but the rules by the attorney allow the council to disregard potentially relevant information; doesn't that make 'de novo' moot?

I am aware that Councilor Jones used this approach to ignore relevant information on the Office Building application by the Costens.

I have decided that Chapter 99 is not very nice. And this meets Goal One? I know why most normal or well educated people stay home.

So unless the attorney tells the Council Chapter 99 should also be considered, the council will not use the criteria in 99 to decide, will they? I think the attorney is over stepping his bounds and unfairly limiting public input by getting specific. Am I right? He should stick to the script below?

Cheers, Gary

From: Kerr, Chris [mailto:ckerr@westlinnoregon.gov]
Sent: Thursday, May 07, 2009 4:38 PM
To: GARY
Cc: Soppe, Tom
Subject: RE: appeal process_99.280

Gary – It's my understanding that the de novo hearing doesn't / didn't / won't restrict which criteria people could speak on, only that their comments relate to criteria in the Code, since that is what the decision is based on. As with all QJ items, the Council must base their decision on the applicable criteria.

Our standard prepared language read prior to the hearing is (something along the lines of.....)

"All testimony and evidence must be directed toward these criteria or other criteria in the Comprehensive Plan or other land use regulations which the person testifying believes apply to the decision.

The application before the City Council this evening must be decided based on these criteria. Despite the importance of other issues that may be raised during the public hearing, the authority of the Council is limited only to those issues that address compliance with the applicable criteria. The applicant has the burden of proving that the application complies with all relevant criteria."

5/8/2009

Soppe, Tom

From: Kerr, Chris
Sent: Thursday, May 07, 2009 4:38 PM
To: GARY
Cc: Soppe, Tom
Subject: RE: appeal process_99.280

Gary – It's my understanding that the de novo hearing doesn't / didn't / won't restrict which criteria people could speak on, only that their comments relate to criteria in the Code, since that is what the decision is based on. As with all QJ items, the Council must base their decision on the applicable criteria.

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The application before the City Council this evening must be decided based on these criteria. Despite the importance of other issues that may be raised during the public hearing, the authority of the Council is limited only to those issues that address compliance with the applicable criteria. The applicant has the burden of proving that the application complies with all relevant criteria."

Thanks again.
Tom- for the record.

Chris K.

From: GARY [mailto:]
Sent: Thursday, May 07, 2009 2:20 PM
To: Kerr, Chris; Soppe, Tom
Cc: 'Teri Cummings'
Subject: appeal process_99.280

Chris, I am reviewing compliance to Chapter 99 and as a novice, have found several potential discrepancies that warranted denying the application when I first identified the application as incomplete.

Here, I want to address the inappropriateness of how Council started out the first meeting. Limitations affecting de novo should be clarified and de novo enacted during the May 11 hearing.

Prior to beginning of the initial hearing of the Holiday Inn, counsel put out that only certain chapters would be discussed during the hearing.

I read 99.280 as;

99.280 TYPE OF APPEAL OR REVIEW HEARING AND SCOPE OF REVIEW

A. All appeals and reviews shall be *de novo*.

5/7/2009

Soppe, Tom

From: GARY [REDACTED]
Sent: Thursday, May 07, 2009 3:45 PM
To: Kerr, Chris; Soppe, Tom
Cc: [REDACTED]; 'Teri Cummings'
Subject: Misapplication of 99.070 by legal representative

I do not dismiss the claim that the Council has authority to hear this application under 99.070. I claim that the Council does not have the authority to invent new ways of proceeding with a hearing when the criteria for the hearing have not been met.

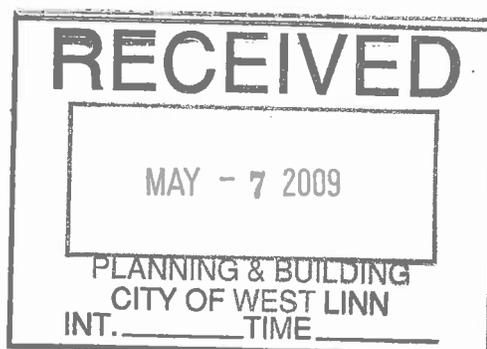
99.070 CONSOLIDATION OF PROCEEDINGS

Whenever an applicant requests more than one approval and more than one approval authority is required to decide the applications, the proceedings shall be consolidated so that one approval authority shall decide all applications in one proceeding. In such cases, the hearings shall be held by the approval authority having original jurisdiction over one of the applications under Section 99.060, in the following order of preference: City Council, Planning Commission, or the Planning Director, except for expedited land division applications which shall be processed as described in ORS Chapter 197.

In this instance, the application(s) do not fulfill the public involvement criteria elsewhere in the code. 99.070 does not absolve the applicant from providing the due diligence that all other applications of this type must go through.

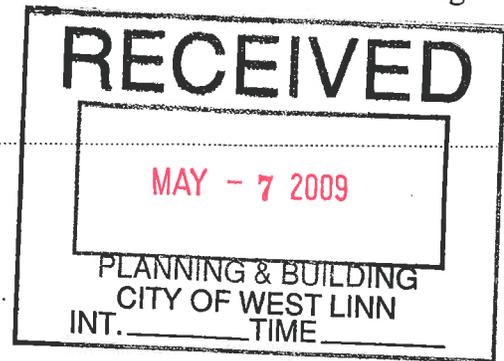
Section 99.070 has been misinterpreted by City counsel and misapplied. 99.070 does not grant the right or privilege to either applicant or City Council to hear a consolidated hearing when the applicant has accidentally or intentionally skipped a compliance step.

In other words, Section 99.070 does not allow the council to ignore the fact that the applicant has not met the minimal requirements of the CDC. Under these conditions, I believe the Council would be acting against its' best interests and would be setting poor precedent by ignoring the formal hearing process as prescribed in Chapter 99.



Soppe, Tom

From: GARY [redacted]
Sent: Thursday, May 07, 2009 3:25 PM
To: Kerr, Chris; Soppe, Tom
Cc: [redacted]; City Council
Subject: 99.330 Revocation of the Holiday Inn Application



Based on the information I have reviewed in the Holiday Inn Application and the information lacking, I believe the City Council should be spending time on more important issues. My reasoning is thus;

- A) The application was identified as incomplete and therefore should be revoked. Chapters 19 and Chapters 60, which refer to the conditional use requirements for transient accommodations in a GC zone, were not addressed by the applicant. Section 99.330 is provided below, with my commentary;
- B) I am assuming this section applies to appeals to City Council and not to just LUBA.
- C) I assume the Interim Planning Director has the authority to exercise the authority vested with Planning Director and is required to make the specified determination
- D) **This application should go back to the Planning Commission.**

99.120 AMENDMENTS

This section explains how amendments to projects subject to the quasi-judicial decision making process are processed. (ORD 1568)

A. An amendment application shall be required if the Planning Director determines that the proposed revisions will change the project by a factor greater than ten percent in a quantifiable manner (e.g. number of proposed lots, square footage of proposed buildings, number of parking spaces, relocation of building footprints). Non-quantifiable changes shall also require an amendment if they result in significant differences between approved project and the revised project, or if the changes call into question compliance with a relevant approval criterion. (ORD 1568) (The lack of an earlier Conditional Use or newly submitted application meets this criteria, which triggers 99.330.)

B. Amendments shall be reviewed by the initial decision-making authority. For example, if the Planning Commission heard the application initially, then it would hear the amendment application. (Again, another rationale for having the Planning commission reassert it's purview.)

D. If the proposed revisions will change the project by a factor greater than 25 percent in a quantifiable manner, or if the land area upon which the project is proposed changes, then a new application shall be required. (If the conditional use application triggered (D), then a new application should be enforced.)

99.330 REVOCATION OF APPROVALS - FAILURE TO FULFILL CONDITIONS

B. Substantial changes, alterations, or amendments to the substance of the conditions of approval shall be processed as a new administrative action per Section 99.120. (I have attached this section above.)

1. Substantial changes in an application made after approval, but without applicant seeking approval under Section 99.120 shall result in revocation of approval after notice and opportunity to appeal revocation order. *(I understand this to mean that with substantial changes, i.e. no conditional use application submitted or information provided, the approval should have been revoked.)*

2. Director determination of what does or does not constitute substantial changes, alterations, or amendments are appealable to the City Council by anyone having standing in the original land use decision. *(Using the standing authority I have been granted, I would like to know WHY the lack of a conditional use application and lack of proof were NOT deemed substantial.)*

Assuming that the application will not be revoked and the city has potentially shrugged off it's responsibilities as established under this section, then the hearings should address 99.330(E) first and foremost.

E. states, "The hearings authority may, after a hearing conducted pursuant to this chapter, (That being the Planning Commission?) modify or revoke any approval granted pursuant to this chapter, for any of the following reasons:

1. A material misrepresentation or mistake of fact made by the applicant in the application or in testimony and evidence submitted, whether such misrepresentation be intentional or unintentional; or,

4. A material misrepresentation or mistake of fact or policy by City in the written or oral report regarding the matter whether such misrepresentation be intentional or unintentional. (ORD 1568)

F. In the event that a revocation hearing is deemed appropriate, per CDC 99.330 (A), (time limitations)the hearing shall be conducted by the decision-making authority that granted the final city approval. (And that would be the Planning Commission?) The Planning Director or the approval authority with jurisdiction may initiate revocation proceedings. The Planning Director's decisions made without a public hearing, the Planning Commission shall hold a public hearing on the proposed revocation. (ORD. 1474, ORD 1568)

Soppe, Tom

From: GARY [mailto:gary@compstnet]
Sent: Thursday, May 07, 2009 2:30 PM
To: Kerr, Chris; Soppe, Tom
Cc: [mailto:kerr@acil.com]; 'Teri Cummings'
Subject: 99.110

Chris, in this second email, I read 99.110 as not being met. The application should be denied.

99.110 THE DECISION-MAKING PROCESS OF THE APPROVAL AUTHORITY

A. The decision shall be **based on proof by the applicant** that the application ***fully*** complies with:

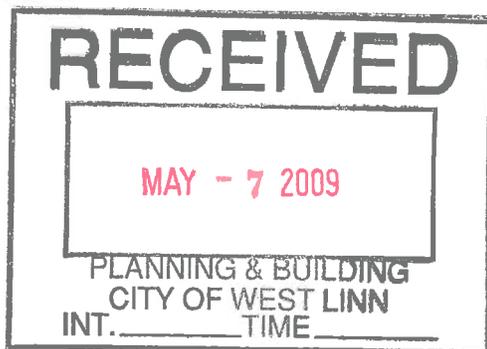
1. The applicable standards of any provision of this Code or other applicable implementing ordinance. (Proof by the applicant was not provided. Applicable standards like 19 and 60 were not submitted during the regulated process.)

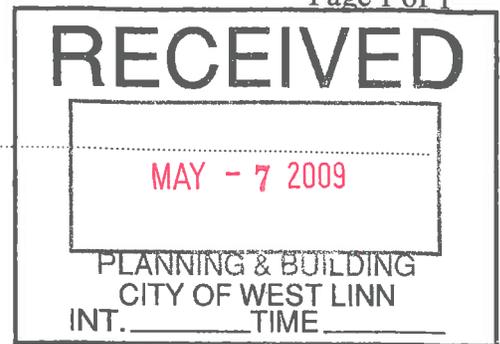
B. Consideration may also be given to:

1. A mistake or inconsistency in the Comprehensive Plan or Zoning Map as it relates to the property which is the subject of the development application; (This does not apply)and,

2. Factual oral testimony or written statements from the parties, neighborhood plans, ***other persons*** and other governmental agencies relevant to the existing conditions or factors in sub-sections ***(A)*** or ***(B)***(1) above. (I provided oral testimony that the client had not submitted a complete application and that the process should be remanded back to the Planning Commission because of A.1 not being met.)

Reason #2 why the Planning Director should deny the application. Even with opportunities of consideration, applicant failed there too. Yet, why am I being denied due consideration as granted to persons with standing? Application at time of the hearing does not fully comply nor has proof been submitted.





Soppe, Tom

From: GARY ~~Teri Cummings~~
Sent: Thursday, May 07, 2009 2:20 PM
To: Kerr, Chris; Soppe, Tom
Cc: ~~Teri Cummings~~; Teri Cummings
Subject: appeal process_99.280

Chris, I am reviewing compliance to Chapter 99 and as a novice, have found several potential discrepancies that warranted denying the application when I first identified the application as incomplete.

Here, I want to address the inappropriateness of how Council started out the first meeting. Limitations affecting de novo should be clarified and de novo enacted during the May 11 hearing.

Prior to beginning of the initial hearing of the Holiday Inn, counsel put out that only certain chapters would be discussed during the hearing.

I read 99.280 as;

99.280 TYPE OF APPEAL OR REVIEW HEARING AND SCOPE OF REVIEW

A. All appeals and reviews shall be *de novo*.

1. The record of the previous application, hearing, and decision shall be incorporated and considered as part of the appeal procedure.

How can legal counsel say what it said last time and how can the restrictions on de novo be supported?

The section goes on to state;

2. If any party requests a continuance of the appeal or review hearing, the City Council may grant a continuance to allow a further hearing or may allow only written submissions. The City Council may limit the scope of any additional testimony or argument after the initial hearing on appeal or review.

Then, and only after the hearing has been continued, can speech be channeled and restricted as allowed.

Please provide me with an answer, if possible, prior to the upcoming hearing and include it into the record.

5/7/2009

MAY - 7 2009

PLANNING & BUILDING
 CITY OF WEST LINN
 TIME

Soppe, Tom

From: GARY [REDACTED]
Sent: Thursday, May 07, 2009 11:38 AM
To: Await, Charles; 'patti galle'; 'Jody carson'; 'Todd Iselin'; Spir, Peter; Holmes, Gail; Neff, Tom; Pierce, Midge; City Council; Jordan, Chris; Wyatt, Kirsten
Cc: Planning Commission; 'Chrissy Curran'; Soppe, Tom; Kerr, Chris; 'Kevin Bryck'; 'Ken Pryor'; 'Roberta Schwarz'; 'REENA MARKSITY'; 'Hidden Springs Neighborhood Assoc.'
Subject: RE: Willamette Fire Station, TVF&R case 09-0384

To the Honorable Madam Mayor Patti Galli, City Councilors, and Others,

I support Mr. Awalt's clarion call to stop TVF&R from destroying the cultural heritage of Willamette any further. Starting with the issues of congestion and traffic safety at 10th Street, many decisions made in 2008 have set into motion a series of calamities equivalent to "a perfect storm" of planning maladies. Mr. Awalt's observations, having been ignored and unenforced by the City of West Linn, state very clearly the negative impacts and damage to the neighborhood character if TVF&R is allowed to continue on their present course.

I am also aware of Peck/Smileys' track record and will advocate they be asked to present other options and concepts for meeting both City and TVFR needs.

I am not a historic preservationist and was surprised to find out that the State of Oregon provides guidance only for historic preservation but carries no authority or enforcement to back up historic preservation claims like the ones mentioned below. Enforcement and decisions rest solely within the purview of the City.

This issue underscores what I have seen as a humungous oversight on the part of City Management. This issue also highlights the reason why a Planning Director is so desperately needed. Sadly, TVF&R's plans for a fire station were not looked at in terms of context and negative impacts to the area. Because there appears to be a lack of coordination between all the disparate plans and efforts, the problems Mr. Awalt defines for us have been allowed to go unanswered.

I strongly believe that our City should be working harder to protect our existing resources and stop band aid solutions, or hastily half baked schemes, that provide lesser value and cheapen the image of West Linn.

The Willamette Neighborhood, after many years of successful renovations and urbanized development, is at a tipping point of destroying the existing character due to rampant and poorly executed growth. Growth, or improvements, should STOP to allow for a more comprehensive solution to take shape first.

As one idea, placing TVF&R onto the proposed hotel site and facilitating a hotel development on land existing at the fire station and in adjacent parcels resolves many issues and provides some tantalizing synergies. Given the outstanding efforts of concerned citizens working on the Main Street program, the TSP, other development projects, local NA aspirations, ODOT concerns, and residential property protections should all be planned in tangent with the Main Street Program.

To be clear, the process right now is about as close to Helter Skelter as any municipality has ever gotten to. The City has unresolved traffic issues on 10th Street. The available land for development in the area exceeds our infrastructure capability. The TSP is not being followed as crafted by DKS Engineering, but glosses over many of the unresolved traffic impacts at Willamette. There have been no traffic studies done at critical intersections. Some of the TSP mitigation plans are unachievable and pipe dreams. Other TSP proposals are being rushed to develop ahead of the priorities listed in the TSP. Worse still, is the unjustified and apparently nonexistent rationale for moving forward on some of these issues. Some proposals in the TSP were not discussed because the last council rushed the decision for approval. Then there are the land use impacts and loss of economic opportunity that have not been considered. There was the unmitigated environmental flooding off Salamo that occurred and is now the reason for a lawsuit against the City and ODOT. Retail Establishments will continue to suffer and will not reach optimization without a more coherent development plan. The City is also without a Planning

Director and unable to enforce the Comprehensive Plan or "Imagine West Linn" Document. How is it the Planning Department was allowed to gloss over the historic significance and evaluation of the existing landmark? Why does it appear that the Historic Advisory Board is being ignored by the Planning Commission and staff? Where is the Vision??!

Madam Mayor and City Council, your administration has many dedicated and passionate citizens who have an abiding faith and concern about the welfare and future of West Linn. Please don't allow bad decisions to stand when the process and regulations enacted are not followed. The lack of a Planning Director so hastily discarded without a back up plan is appalling to me. If I understand the City Charter correctly, the City Manager has the ultimate authority in how the departments are managed. **To resolve these issues, greater transparency, a more equivalent set of checks and balances, and better oversight of City Departments NEEDS to occur NOW. Yes, this potentially means a readjustment of resources and additional time and effort.** But the negative impacts of these hasty decisions will last for decades.

Much like the City Manager and Council have allowed further discussion on Dollar Street improvements to be debated, so I compel the same for the existing fire station at Willamette Falls Drive.

I encourage all neighborhoods to participate in this dialogue, as the actions of City Hall right now will have impacts to all of us.

Sincerely, Gary Hitesman

From: Charles Awalt [mailto:~~charles.awalt@ci.west-linn.or.us~~]
Sent: Thursday, May 07, 2009 8:14 AM
To: Chrissy Curran; patti galle; Jody carson; Offers; Gary Hitesman; Todd Iselin; Peter Spir; ~~willamettefalls@ci.west-linn.or.us~~; ~~tsoppe@ci.west-linn.or.us~~; ~~ckerr@westlinnoregon.gov~~
Subject: Willamette Fire Station, TVF&R case 09-0384

SHPO case 09-0584

Dear Ms. Curran

The letter from TVF&R addressed a number of changes to the building that they feel disqualifies it from National Register. Its importance to the community is not architectural, its cultural. This building helps define part of a cultural pattern in the community. All three period fire stations (Willamette, Sunset and Bolton) have community spaces. Willamette and Sunset have ball rooms on the second floor. In the case of the Willamette station it replaced the hall on the second floor of the Batdorf store built in the 1890s and located at 13th St and Willamette Falls Dr. The Batdorf hall, recently destroyed in a construction accident, had served as the first school, the first church, the social hall and meeting space for the early Willamette Falls community for 50 years. When the new fire station was built to replace the wood frame station, the community chose to upgrade their social hall as well. In addition to regular dances and weddings, this was the primary meeting space for the community until TVF&R took over the space when the volunteer fire crew was disbanded.

I wont go into the history of the building as a volunteer fire department. That is yet another tie to the community and the people who served there that needs to be considered.

TVF&R needed a space to house a 24 hour crew and asked the city for permission to convert the Willamette Fire stations ball room to living quarters. This was to be a temporary location and the space was to be returned to public use in the future. They were allowed to create quarters as long as they didnt damage the ball room in the process. They were allowed to install temporary walls as long as they didnt damage the walls or floor. The neighborhood saw the upgrading of the restrooms and the addition of air conditioning as a positive for the future usefulness of the building. Changes were done in such a way that the ball room can be returned to its

5/7/2009

original state in a community work weekend

The City should have gone through 358-653 with SHPO when they gave this and other stations to TVF&R. It took place in executive session as a contract negotiation with little or no public input. This is not the city building a new fire station, but TVF&R, a private company, operating as a Special Service District who owns the Willamette Fire station, as well as others in the city, and will own the new station upon completion. The city gave them the property at the time the bond was approved by the voters. With it came an intergovernmental agreement that requires TVF&R to build new fire stations. West Linn didnt require them to build on the sites of the old stations, but TVF&R would have to purchase property for construction if they chose not to. In the case of the Willamette station theres a lot twice the size across the street, but building there would require TVF&R purchasing land. West Linn may not have given away the property for demolition, but it was the obvious outcome. The property was given to a private business for redevelopment.

I asked once before, who is doing the evaluation of this property? Are they taking into consideration the impact the loss of this building will have? It has the potential of returning to its original service to the community. It is especially difficult seeing this property demolished. There is a significant need for an interpretive center in the city. A property large enough for a Willamette Meteor exhibit, including a full sized copy of the meteor, and an archiving for local history is needed. This buildings close proximity to the Willamette Falls Historic District would make it an ideal location. It is also an ideal location for a tourism office and a chamber of commerce. Im also concerned about ladder trucks entering into the small neighborhood pocket retail area. In addition, the massive scale of the building in relationship to the neighboring buildings is inappropriate. We are shoehorning this station into the neighborhood.

Why are we demolishing a building that has been so much a part of the community for the last 60 years when there is an empty lot across the street?

Charles Awalt

Soppe, Tom

From: Soppe, Tom
Sent: Thursday, May 07, 2009 10:18 AM
To: 'GARY'
Subject: RE: Holiday Inn Express Application_nEW OBSERVATION

Gary,

Sorry, I meant to respond to you about this earlier this morning; lots of distractions happening.

I have it and will give it to the front counter people now, and you can come listen to it anytime.

Tom Soppe
Associate Planner
City of West Linn
22500 Salamo Road
West Linn, OR 97068

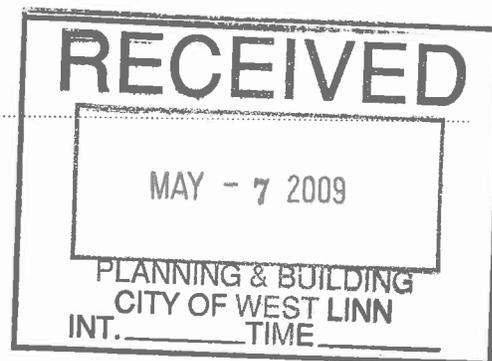
From: GARY [mailto:████████████████████@████████████████████]
Sent: Thursday, May 07, 2009 10:09 AM
To: Soppe, Tom
Subject: RE: Holiday Inn Express Application_nEW OBSERVATION

Do you have the audiotape? When can I hear it?

From: Soppe, Tom [mailto:tsoppe@westlinnoregon.gov]
Sent: Thursday, May 07, 2009 8:11 AM
To: GARY
Subject: RE: Holiday Inn Express Application_nEW OBSERVATION

Thanks, this will go in the record.

Tom Soppe
Associate Planner
City of West Linn
22500 Salamo Road
West Linn, OR 97068



From: GARY [mailto:████████████████████@████████████████████]
Sent: Wednesday, May 06, 2009 9:10 PM
To: Kerr, Chris; Soppe, Tom; City Council; Galle, Patti
Cc: 'Karie Okee'
Subject: RE: Holiday Inn Express Application_nEW OBSERVATION

The application shall be deemed incomplete based on 99.038 (1) & (5) e. & f. If an audiotape is available, I request access to the tape in an effort to obtain information and assure no misrepresentation of the project has been made to the NA. I provide this because 60.060(c) may not have been met as stated by the City's legal counsel's interpretation.

From: GARY [mailto:████████████████████@████████████████████]
Sent: Wednesday, May 06, 2009 8:24 PM
To: 'Kerr, Chris'; 'Soppe, Tom'; 'City Council'; 'Galle, Patti'

Due to the continued lack of evidence or submittal of proof that meets Chapter 19 and Chapter 60, this application should be denied.

Because the applicant did not meet Chapter 60 requirements, specifically 60.060 A, B, C, & D, the application should be denied outright. The City, by not enforcing the application process as detailed under 60.060, has forfeited the conveyance of jurisdiction and should call it in early on May 11. My earlier statement of improper jurisdiction still stands. The record leaves my claim unaddressed which leaves the decision open to be called by the Interim Planning Director. Applicant must meet the requirements as provided in the excerpt below, which would mean the planning commission might hear this application again after July 09, 2009. Because the applicant has failed to do so, the Planning director should execute the City's right to deny the application.

60.060 THE APPLICATION

- A. A conditional use application shall be initiated by the property owner or the owner's authorized agent. (Conditional Use application was initiated by West Linn Citizen and City. See back up documents)
- B. A prerequisite to the filing of an application is a pre-application conference at which time the Director shall explain the requirements and provide the appropriate forms as specified in Section 99.030 (B) and (C).
- C. A pre-requisite to the filing of an application is a meeting with the respective City recognized neighborhood association, per CDC Section 99.038, at which time the applicant will present his/her proposal and receive comments. (ORD. 1401) (This may have not been met based on legal counsel's interpretation.)
- D. An application for a conditional use shall include the completed application form and:
1. A narrative which addresses the approval criteria set forth in Section 60.070 and which sustains the applicant's burden of proof; and, (No narrative or proof of burden has ever been submitted.)
 2. A site plan as provided by Section 60.080.
- One original application form must be submitted. Three copies at the original scale and three copies reduced to 11 X 17 or smaller of all drawings and plans must be submitted. Three copies of all other items 60-3 must be submitted. When the application submittal is determined to be complete, additional copies may be required as determined by the Planning Department. (ORD. 1442)
- E. Names and addresses of all who are property owners of record within 300 feet of the site shall be determined by the Director. (Debatable. Out of sequence.)
- F. The applicant shall pay the requisite fee. (What does the City get for all the heart ache and citizen input that has gone into arguing what the client should have produced and the city enforced?)

Public Records Law Disclosure

This e-mail is a public record of the City of West Linn and is subject to public disclosure unless exempt from disclosure under Oregon Public Records Law. This email is subject to the State Retention Schedule.

No virus found in this incoming message.

Checked by AVG - www.avg.com

Version: 8.0.323 / Virus Database: 270.12.21/2101 - Release Date: 05/06/09 17:58:00

5/7/2009

Soppe, Tom

From: Kerr, Chris
Sent: Wednesday, May 06, 2009 3:51 PM
To: City Council
Cc: Jordan, Chris; Soppe, Tom
Subject: Holiday Inn Express
Attachments: ~\$ Memo AP-09-02 square footage calculations.doc

City Council members,

For your review, attached is a memorandum with supplemental information regarding the square footage calculations for the hotel proposal as well as some data on surrounding commercial properties.

Thanks

Chris Kerr
Senior Planner

City of West Linn
22500 Salamo Road, Suite 1000
West Linn, OR 97068
503-723-2538
fax-503-656-4106

Memorandum

Date: May 6, 2009

To: City Council

From: Chris Kerr, Acting Planning Director

Subject: Holiday Inn Express - Supplemental information regarding square footage calculations (CUP-09-01 and AP-09-02)

Staff is providing the following information to supplement the records for CUP-09-01 and AP-09-02. On the "Impact of Zone Change" page of their Power Point presentation, the applicant states that there is 19,176 square feet of buildable land on site. This refers to the amount of square footage outside the water resource transition area on site, meaning the figure does not include the additional 5,000 that may be allowed by the hardship provisions of CDC 32.090; and, without the additional square footage requested under the variance (Chapter 75). To clarify, under the provisions of CDC 32.090, there could be 24,176 square feet of buildable area on site without a variance per the applicant's calculations.

Additionally staff Finding 49 of the staff report to Planning Commission for DR-08-01/VAR-08-01/WAP-08-01 states that there is 0.17 acres of non-transition area acreage on site, which in addition to the 5,000 allowed by 32.090 in the transition area would mean 12-13,000 square feet of buildable area total. The discrepancy between Staff's estimated buildable area and the one provided by the applicant can be explained by the fact that staff's estimate of the acreage was made before the applicant provided a more exact calculation of the square footage inside and outside of the drainageway transition area. Staff's figure was an estimate that had to be made from City GIS calculations and measurements made with a scale on the applicant's submitted paper plans, whereas the applicant's subsequent calculations were presumably made with AutoCad or another more accurate electronic program that staff does not have access to. The applicant's designation of the transition area line in appears accurate to staff, and this is the one that should be utilized for the record.

For the purposes of analyzing the requested variance, on the next page is a table comparing the application's proposed development area to the developed area of other existing commercial properties in the greater 8th Court/Willamette Falls Drive area east of 10th Street. 21890 Willamette Drive, a commercial property in the Bolton neighborhood, is also included in the table at the request of a City Council member. The developed square footage reported for each address (except the subject site) is approximate and based on staff estimates using City GIS aerials. The total site square footage is taken from the square feet field of City GIS.

ADDRESS	USE	APPROXIMATE DEVELOPED SQUARE FOOTAGE	SITE SQUARE FOOTAGE	APPROXIMATE PERCENTAGE OF SITE DEVELOPED
2400-50 Willamette Falls Drive	Proposed Holiday Inn Express	31,547 proposed	68,669	45.9%
2500 Willamette Falls Drive	Curves gym, other offices	16,600	24,744	67.1%
2350 Willamette Falls Drive	W. Linn Law Center & Professional Building	10,800	30,209	35.8%
2320 Willamette Falls Drive	Cell tower and small commercial building	14,100	27,235	51.8%
2180 8 th Court	Shari's	34,600	45,491	76.1%
2175 8 th Court	Oil Can Henry's	6,105	7,900	77.3%
2165 8 th Court	Willamette Car Wash	16,000	19,781	80.9%
2115 8 th Court	Chevron	25,300	28,400	89.1%
2110-70 8 th Court	Florist, salon, insurance, coffee house	23,500	24,527	95.8%
2100 8 th Court	McDonald's	32,000	33,069	96.8%
1673 10 th Street	Willamette Community med/dental	10,800	13,715	78.7%
21890 Willamette Drive	Vacant office building	21,500	27,600	77.9%

Please note that although the aforementioned Power Point refers to the "Impact of Zone Change", pre-application conference notes show that the 100-foot setback was already in place per the CDC on site at the time of the conference and was already related to the applicant at that time. As with any application, the standards used are those that are in place at the time of the application, which in this case is the 100-foot setback from the creek (or 50 feet from the edge of wetland, whichever is greater), which have applied to this site per the CDC since before the 2007 pre-application conference.

Cc: Chris Jordan; City Manager
 Planning file

Soppe, Tom

From: Kerr, Chris
Sent: Wednesday, May 06, 2009 9:56 AM
To: vipul patel; David@meadsmith.com
Cc: Jordan, Chris; Soppe, Tom
Subject: City Council hearing on hotel

Vic / David: As a follow-up to my call with Vic -

At the City Council worksession on Monday evening, the Council members asked for clarification on several items regarding the hotel application (I am summarizing below):

- 1) *The NA raised a concern about lighting. What did we do, or how did we resolve, this issue?*
- 2) *Pedestrian circulation pattern. Did we require this of the applicant? How did the applicant respond?*
- 3) *The application includes a 3 sided culvert. Could we not require a bridge?*
- 4) *Regarding design review - the application or comments describe the hotel as "like Astoria" and including "earth tones". What does this mean exactly and how will it fit into historic Willamette? The applicant should bring a materials/color board to the hearing.*

The worksessions are televised and I expect that the video is available by tomorrow for you to view on our website as well.

I will provide the Council with Staff's responses to these items in a memorandum to them on Friday - however, I believe it would be in your best interests to respond to some of these yourself (e.g. materials and color board for the meeting) - as well as the other concerns that I have provided to you previously (letter with specific Council questions for your attention and a letter from TVFR).

FYI - Electronic versions of the Staff reports are available online - links here-

<http://westlinnoregon.gov/planning/2400-willamette-falls-drive-conditional-use-permit-holiday-inn-express>
<http://westlinnoregon.gov/planning/review-planning-commission-decision-holiday-inn-express>

You may want to pass this email on to Brad K. as well.

Please give me a call to discuss these issues and the procedural details of the upcoming Monday night meeting.

Chris Kerr
503-723-2538

Soppe, Tom

From: Jordan, Chris
Sent: Tuesday, May 05, 2009 9:53 AM
To: Kerr, Chris; Green, Gene; Soppe, Tom; Wright, Dennis
Subject: Holiday Inn Express hearing

At last night's work session, the Council had the following questions/requests regarding the hotel application:

- 1) The NA raised a concern about lighting. What did we do, or how did we resolve, this issue?
- 2) Pedestrian circulation pattern. Did we require this of the applicant? How did the applicant respond?
- 3) The application includes a 3sided culvert. Could we not require a bridge?
- 4) Design review - the application or comments describe the hotel as "like Astoria" and including "earth tones". What does this mean exactly and how will it fit into historic Willamette? The applicant should bring a materials board to the hearing.
- 5) Council will want to be assured by staff that no changes to this project will need to be made to accommodate the 8th court connection to Willamette Falls Drive. For example, no additional street widening will be required in front of the hotel when the connection is made?

For a better understanding of these questions and comments by the Council, I would suggest you review the video tape of the meeting. This conversation began at about 8:47 and lasted about 5 minutes. You might also suggest that the applicant review it.

I told the Council that we would include responses to the above in a memorandum to be to the Council this Friday.

Thanks.

Soppe, Tom

From: Soppe, Tom
Sent: Thursday, April 30, 2009 3:25 PM
To: 'GARY'
Subject: RE: Poem For the Record on Holiday Inn.

Gary,

I'll put this email with its link (And your previous email and original email yesterday) in the record. You can present the poem if you would like- we won't be actually presenting any videos in our presentation.

Thanks,

Tom Soppe
Associate Planner
City of West Linn
22500 Salamo Road
West Linn, OR 97068

-----Original Message-----

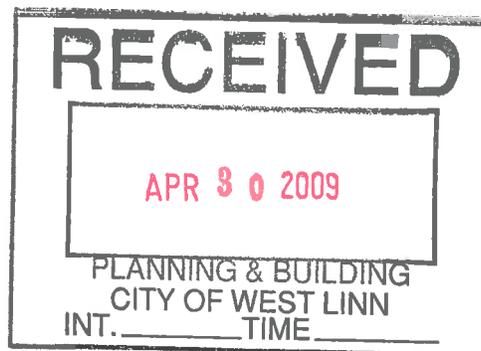
From: GARY [mailto:~~XXXXXXXXXX~~]
Sent: Thursday, April 30, 2009 2:44 PM
To: Kerr, Chris; Soppe, Tom
Subject: FW: Poem For the Record on Holiday Inn.

Tom,

I am hoping you might play this at the hearing, as I believe it might have merit. This comes to me from a West Linn High School Student.

Thanks for your consideration, Gary

<http://www.youtube.com/watch?v=42E2fAWM6rA>



Soppe, Tom

From: GARY [REDACTED]
Sent: Wednesday, April 29, 2009 1:27 PM
To: Kerr, Chris; Soppe, Tom
Cc: Planning Commission; Jordan, Chris; City Council
Subject: Downtown Willamette Master Plan Concept

Chris,

Any possibility that TVFR and the Holiday Inn would swap land? With the proposed roadway funds for Willamette, the additional off hour parking availability at Les Swab, and the property occupied by TVFR, I have envisioned a plan that retains the historic Fire Station, benefits the Holiday Inn, and provides TVFR with better ingress and egress. This also benefits traffic impacts to 8th Ave., and Tenth Street.

Cordially, Gary

