



Memorandum

Date: May 18, 2009

To: Chris Jordan, City Manager

From: Chris Kerr, Acting Planning Director 

Subject: More AP-09-02 and CUP-09-01 correspondence

Attached is all of the correspondence for these applications received since May 12, 2009, as of 5:00 PM May 18, 2009.

Kerr, Chris

From: [REDACTED]
Sent: Monday, May 18, 2009 2:57 PM
To: Galle, Patti; Carson, Jody; Kovash, John; Burgess, Scott; Teri Cummings
Cc: Kerr, Chris
Subject: Holiday Inn Stormwater Treatment

Dear Mayor and Councilors:

I am concerned by some ambiguity in the amount of water resource area impacted by the storm water treatment facility of the proposed Holiday Inn. Staff finding 12 and staff finding 20 conflict as to if WRA land is impacted at all.

Then in paragraph nine of staff memorandum from Tom Soppe to the Planning Commission, dated January 6, 2009, staff states, "the proposed location of the storm water treatment facility is more than 25 feet within the water resource area." Staff justifies the encroachment "due to the limited room elsewhere on site."

Staff therefore finds that the site area is inadequate in size for the proposed use.

The application for a conditional use permit must be denied pursuant to CDC 60.070(A)(1)(a)

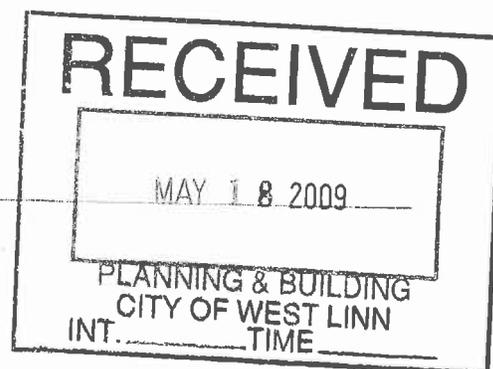
1. The site size and dimensions provide:
 - a. Adequate area for the needs of the proposed use;

Encroachment greater than 25 ft is not allowed by CDC 32.050(M), which is an approval criterion, and would require a variance for which the applicant has not applied.

Thank you for considering my comments. I hope they are helpful to your decision.

Sincerely,

Karie Oakes



A Good Credit Score is 700 or Above. See Yours in Just 2 Easy Steps!

Soppe, Tom

From: [REDACTED]
Sent: Monday, May 18, 2009 2:20 PM
To: Soppe, Tom
Cc: Kerr, Chris; Galle, Patti; Carson, Jody; Kovash, John; Burgess, Scott; Teri Cummings
Subject: Holiday Inn

Mr. Soppe,

I note from your email dated May 11, 2009, to Chris Kerr, that you have attempted to address my concern for knowing the amount of wetlands and waterway impacted by development of the Holiday Inn.

You state, "This encroachment appears to be approximately 725 square feet at the very most, which is less than 0.02 acres." You attribute this to the public sidewalk at the southeast corner and to the south end of the walkway linking the hotel and street.

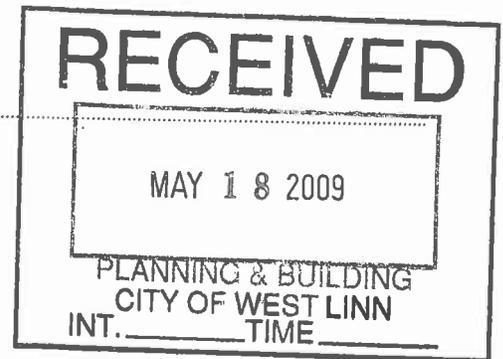
While I appreciate your effort, I can not determine from the site plan where there is a walkway linking the hotel and the street. The burden of proof is on the applicant to show the amount of waterway and wetland that will be impacted. As I stated in my email to Mr. Kerr on May 11, the Dept. of State Lands measures the amount of impact by volume: 50 cubic yards, and not by square feet.

Mr. Soppe, since you know this application so well, would you please point out where in the applicant's submittal does he provide this burden of proof?

Thank you in advance for your reply and also for submitting this email and your reply to the records for CUP-01-09 and AP-02-09.

Karie Oakes

A Good Credit Score is 700 or Above. See Yours in Just 2 Easy Steps!



Kerr, Chris

From: [REDACTED]

Sent: Monday, May 18, 2009 1:57 PM

To: Galle, Patti; Carson, Jody; Kovash, John; Burgess, Scott; Teri Cummings

Cc: Kerr, Chris

Subject: Comments on Holiday Inn

Please submit my attached comments for the records of CUP-01-09 and AP-02-09 regarding the development of the Holiday Inn.

Thank you,

Karie Oakes

A Good Credit Score is 700 or Above. See Yours in Just 2 Easy Steps!

Soppe, Tom

From: Kerr, Chris
Sent: Monday, May 18, 2009 4:46 PM
To: [REDACTED]
Cc: Soppe, Tom
Subject: RE: Holiday Inn

We are placing all correspondence received into both files but they are different files in our office. Staff believes that the AP approval is dependant on the CUP – therefore the CUP is being voted on first.

Thanks
Chris

From: [REDACTED]
Sent: Monday, May 18, 2009 1:51 PM
To: Kerr, Chris
Subject: Re: Holiday Inn

Mr. Kerr:

Does that mean that the record for the CUP does not contain the record for the AP and vice versa? If so, how can that be, since one is dependent upon the other?

Karie Oakes

-----Original Message-----
From: Kerr, Chris <[REDACTED]@on.gov>
To: [REDACTED]
Sent: Mon, 18 May 2009 12:57 pm
Subject: RE: Holiday Inn

You're description of the record and consolidated hearing is correct.

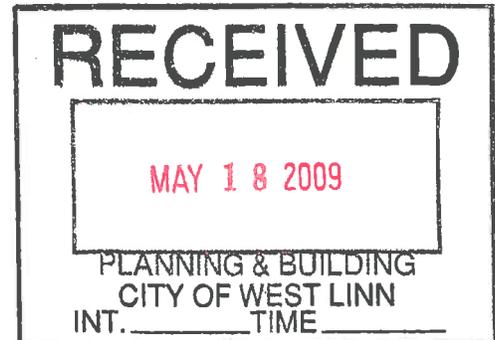
Thanks
Chris

From: [REDACTED]
Sent: Monday, May 18, 2009 8:25 AM
To: Kerr, Chris
Subject: Holiday Inn

Mr. Kerr,

Would you please clarify for me how you are keeping the record for the Holiday Inn? It is confusing because there are two files AP-09-02 and CUP-09-01 and there are two decisions, but there is one hearing for both. It appears that the applications for this development are not consolidated in one file but are consolidated only for the purpose of the hearing.

5/18/2009



Karie Oakes

A Good Credit Score is 700 or Above. See Yours in Just 2 Easy Steps!

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.

A Good Credit Score is 700 or Above. See Yours in Just 2 Easy Steps!

Karie Oakes
1125 Marylhurst DR
West Linn, OR 97068

May 18, 2009

RE: CUP-09-01; Conditional Use Permit for development of a MOTEL

Dear Mayor Galle and Councilors Carson, Burgess and Kovash:

This application should be denied because it does not meet all the criteria for a conditional use permit and there are no conditions of approval that would allow it to meet the criteria. I find no evidence in the application materials that substantiate the following criteria.

60.070 APPROVAL STANDARDS AND CONDITIONS

A. The Planning Commission shall approve, approve with conditions, or deny an application for a conditional use, except for a manufactured home subdivision in which case the approval standards and conditions shall be those specified in Section 36.030, or to enlarge or alter a conditional use based on findings of fact with respect to each of the following criteria:

1. The site size and dimensions provide:

a. Adequate area for the needs of the proposed use; and,

2. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, and natural features.

This site is inappropriate and inadequate for the proposed development of the Holiday Inn. The site is mostly constrained by the water resource area (WRA) and the applicant has chosen to propose a motel that is too large to build within the buildable land outside of the water resource area. As a consequence, the applicant has applied for a variance to allow development of 21,569 sf of WRA and to encroach on the minimum 15 ft setback from the WRA.

The standard protections for the WRA do not allow development in the WRA and require a 100 ft transition setback and an additional 15 ft building setback.

The applicant feigns hardship if strict application of the standards is applied, when in fact, the applicant has imposed hardship upon himself when choosing a plan that is inappropriate in scale and design for the site. A motel may even be an inappropriate use for this site. The applicant has not considered a smaller motel that is designed to respect the protections afforded the WRA. His desire for a Holiday Inn franchise should not determine hardship.

Consider that the applicant did not initially apply for the CUP even though the applicant knew that a motel was not an allowed use in the commercial zone when he satisfied the criterion CDC 32.090(B)(1) listing the uses allowed on the subject property. It is in the record for the Planning Commission's decision.

The above approval criteria for the CUP are absolutely primary to deciding this application. It is possible that the applicant tried to avoid the CUP because he knew that by the very nature of his application, he could not satisfy the approval criteria for the CUP.

The City Council decision for the CUP is discretionary. Please exercise your best discretion when determining if this site is adequate and appropriate for the proposed motel.

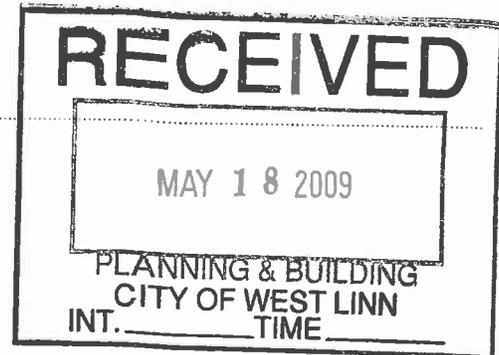
Thank you very much.

Sincerely,

Karie Oakes

Soppe, Tom

From: Ed Schwarz [REDACTED]
Sent: Saturday, May 16, 2009 1:27 PM
To: Soppe, Tom
Cc: Kerr, Chris
Subject: CUP-09-01 -- Holiday Inn Express



Mr. Soppe,

Please place this email in the record for the subject application.

I am opposed to granting the Conditional Use Permit for the Holiday Inn Express application (CUP-09-01).

My concerns relate to the application's request for a "hardship" variance based on West Linn's code and the lack of compliance with applicable fire safety guidelines.

Hardship Clause

In a recent article in the West Linn Tidings (*West Linn's Holiday Inn saga continues*, West Linn Tidings, May 14, 2009) it was stated that the developer is requesting a hardship variance because the project would not otherwise be economically viable.

Quoting from the article,

"But opponents worry about the environmental impact on the land, which contains a creek and is made up mostly of wetlands and sensitive areas around them. Developers need a permit to build in those protected areas, as well as a variance to build more than the permit would allow. Their case hinges on whether the project qualifies for a 'hardship' provision in city code, which allows for reductions in building standards in protected areas when achieving them 'would deprive an owner of **all** economically viable use of the land.'" (Emphasis added)

The article goes on to state that,

"In notes prepared before Monday's meeting, Kovash said the hotel applicants didn't prove a large hotel was the only economically viable use of the property. 'The developable land is demonstrably adequate for a viable business,' he wrote. However, in a new economic feasibility study commissioned by Vic Patel of VK Northwest Investments, real estate analyst John Gordon offered a contrasting opinion. He pegged the hotel's value at \$720,000 after subtracting its costs, compared to \$430,000 and \$360,000 for retail or office spaces, respectively."

I agree wholeheartedly with Councilor Kovash. West Linn's code is clear in that the developer is required to demonstrate that denial of the variance request would preclude construction of **any** economically viable project on the site. This is obviously not the case as the developer's own real estate analyst stated that retail or office spaces could be constructed and would have a positive value after subtracting costs. Our city code does not require granting the variance request to obtain the greatest possible value for the developer – it only allows for granting of the request if the developer can show that not granting it would prevent **any** economically viable use of the land. This is obviously not the case and the requested hardship variance should not be granted.

Fire Safety

In an April 16, 2009 email to Chris Kerr, Karen Mohling of Tualatin Valley Fire & Rescue states that the application, as currently submitted, is severely lacking when it comes to meeting even the most rudimentary requirements for fire safety. Specifically, she states that there are not two points of access to the site, the fire access road is not within 150 feet of the back of the building, and there is no access for aerial truck operations. Even though given the opportunity by Chris Kerr, in his email of April 17, 2009, to explain how they will mitigate for these shortcomings, I am unable to find where the developer has addressed the concerns of TVF&R.

These are major deficiencies and should preclude this application's approval until they have been remedied.

5/18/2009

Approving the application as-is would appear to open up the city to serious liability should the hotel be built and subsequently suffer a fire which could have been more effectively fought had these remedies been in place.

In summary, I am opposed to the application as it currently stands because the hardship request should not be granted and the lack of a remedy for the issues brought up by TVF&R.

Regards,
Ed Schwarz
West Linn

Soppe, Tom

From: Kerr, Chris
Sent: Friday, May 15, 2009 4:20 PM
To: Soppe, Tom
Subject: FW: Holiday Inn Express
Attachments: Karie_Oakes_Letter_CC_05_15_09.doc

Tom – for the record

From: [REDACTED]
Sent: Friday, May 15, 2009 3:16 PM
To: Galle, Patti; Carson, Jody; Kovash, John; Burgess, Scott; Teri Cummings
Cc: Kerr, Chris
Subject: Holiday Inn Express

Dear Mayor Galle, City Councilors and Mr. Kerr:

Please find attached, my comments regarding AP-09-02 Holiday Inn.

Thank you,

Karie Oakes

An Excellent Credit Score is 750. See Yours in Just 2 Easy Steps!

Karie Oakes
1125 Marylhurst DR
West Linn, OR 97068

May 15, 2009

Re: File No. AP-09-02, Review of Planning Commission approval to build a 70-unit **motel** on a site containing Bernert Creek and wetlands.

Dear Mayor Galle and Councilors Carson, Burgess and Kovash:

Thank you for reviewing this decision. This application has many errors, but I will focus on one- enough for denial.

- 1) The City erred when it determined that the applicant could seek a Class II variance for the amount of development proposed in the Water Resource Area.

West Linn Community Development Code Chapter 75 provides for variances from the **applicable zoning requirements**. Chapter 32 Water Resource Area Protections are not zoning requirements.

75.000 VARIANCE

75.010 PURPOSE

The purpose of this chapter is to provide standards for the granting of variances from the applicable zoning requirements of this Code where it can be shown that, owing to exceptional and extraordinary circumstances related to a specific piece of property, the literal interpretation of the provisions of applicable zone would create a burden upon a property owner with no corresponding public benefit, except that no use variance shall be granted. (ORD. 1442)

75.020 CLASSIFICATION OF VARIANCES

B. A Class II variance will involve a significant change from the zoning requirements and may create adverse impacts on adjacent property or occupants, and includes the following variances:

- 1. A variance which allows a structure to encroach into a required setback area as follows:*
 - a. Front yard setback by more than two feet.*
 - b. Side yard setback by more than two feet.*

Clearly, the language of this code section provides a variance only to zoning regulations.

In 2007 West Linn adopted its Wetland and Riparian Land Inventory and revised and combined Chapters 30 Natural Drainage ways and Chapter 32 Wetland and Riparian Area to the current Chapter 32. The water resource area overlay zoning map was deleted, specifically, the West Linn Riparian Corridors Map June 2006. See ORD 1545.

The provision for the deleted WRA overlay zone was:

CDC 30.000 Wetland and Riparian Area Applicability states:

A. *“The Wetland and Riparian Area (WRA) zone is an overlay zone. The WRA zone is delineated on the West Linn zoning map.”*

In my previous letter to the Planning Commission, dated January 14, 2009, I called attention to the fact that there are currently two sections “C” for CDC 32.090 and that the second one:

C. Any further reduction of the standards of this chapter shall require approval of a Variance pursuant to CDC Chapter 75

does not belong in the current code and should have been revised out when the WRA overlay zone was revised out.

I hope this additional evidence and close examination of Chapter 75 and Chapter 32 provisions will **establish a finding that the applicant cannot apply for a Class II Variance for a Reduction in Standards pursuant to 32.090** (emphasis added)

B. ...Development on such lots shall not disturb more than 5,000 square feet of the water resource area, including access roads and driveways, ...

C. If a reduction in standards is granted pursuant to criteria of CDC 32.090(B), the reduction shall be subject to the following conditions:

1. The minimum width of the water resource area's transition and setback area shall be 15 feet on each side of a wetland or drainage course.

“Shall be” is mandatory language per CDC and should not be allowed a variance.

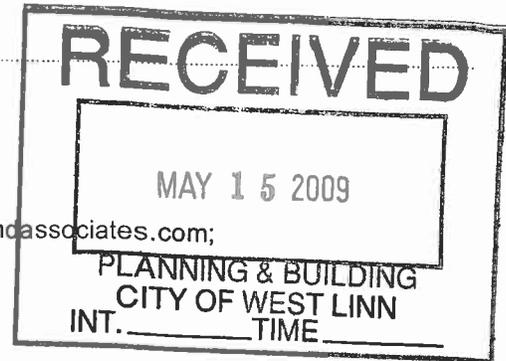
I urge you to reverse the Planning Commission decision to approve DR 08-01/VAR 08-01/WAP 08-0, by your authority in AP-09-02.

Sincerely,

Karie Oakes

Soppe, Tom

From: Brad Kaul [kaul931@hotmail.com]
Sent: Friday, May 15, 2009 1:17 PM
To: Soppe, Tom; Kerr, Chris
Cc: vcp16@hotmail.com; trtlwt@worldnet.att.net; dale@schottandassociates.com;
spe_architects@msn.com
Subject: Fire Review



Tom and Chris,

I wanted to write a letter in response to the issues brought up about the lack of fire official approval. First, I want to thank Karen Mohling from TVFR for her careful review. Like Karen said at the last council meeting, the fire review cannot be completed until the full extent of the project is revealed. We have not yet been allowed to submit the building for review by the building code or fire code officials. The layout of the building has a tremendous impact on how to fight a fire and the dangers associated. Therefore, it is impossible for the fire code official to approve the project because they only see half of the issues.

We understand that project cannot be built until fire code approval is received. We are so confident in our experience as architects, engineers and developers that this building will be proven safe and acceptable to the fire code official that we accept the risk associated because this is something that happens in all projects.

We would never build a building that put people lives unnecessarily in jeopardy. The corporate plan reviewers of Holiday Inn Express would not allow us to place peoples lives unnecessarily in jeopardy. The fire and life safety provisions will be checked by the architect, the engineers, the city building official, the fire department, the city public works department, the police department, and finally the toughest reviewers of all... the corporate plans reviewers of Holiday Inn Express.

Within the guidelines developed by the franchise are requirements that exceed those of the building and fire codes. This is because the hotel franchises know hotels and the safety associated with them better than anyone in the world. They are the experts and they let us know it every time we work with them.

We look forward to working with TVFR and the West Linn building officials to make sure that this is a building that protects the publics health, welfare and safety. That is our #1 job!

Thanks,

Brad Kaul
Steven P Elkins Architects
425-827-3252

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Soppe, Tom

From: Soppe, Tom
Sent: Friday, May 15, 2009 1:04 PM
To: 'Brad Kaul'
Cc: Kerr, Chris
Subject: Information today

Brad,

I tried to call a couple times earlier; the man who answered put me through to your voicemail but it would always cut out with a busy signal and a hang up before your voicemail answered, fyi.

Thanks for the email on the numbers this morning; Chris wants to touch base with you later on that on the phone to make sure we understand exactly what the numbers mean.

Also, I just wanted to make sure you are still getting us all the other information; most importantly your statement regarding whether you see the need for DSL/ACOE permits and your statement about the fire safety issue.

Thanks,

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

Soppe, Tom

From: Teri Cummings
Sent: Friday, May 15, 2009 12:08 AM
To: Soppe, Tom
Subject: RE: Holiday Inn

How odd, when a commercial motel probably has more employees due to shorter stays and higher level of service than residential.

Teri

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

From: Soppe, Tom
Sent: Thu 5/14/2009 4:51 PM
To: Teri Cummings
Subject: RE: Holiday Inn

Teri,

That section refers to residential facilities (including hotels that are acting as residential i.e. SROs), not transient lodging. It specifies "residential hotel, rooming and boarding houses" and is in the Residential Parking Space Requirements category A, whereas we are using the one in the commercial section "Hotel, motel, tourist court, or bed and breakfast". This is a commercial not residential facility so the latter, 46.090(C)(7) applies.

Thanks,

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

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

From: Teri Cummings
Sent: Wednesday, May 13, 2009 11:23 PM
To: Soppe, Tom
Subject: RE: Holiday Inn

What about 46.090 A.4. ?

Teri

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

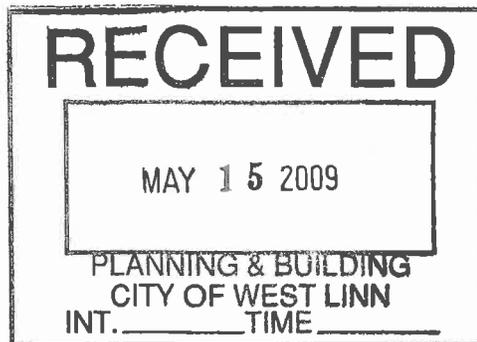
From: Soppe, Tom
Sent: Wed 5/13/2009 8:29 AM
To: Teri Cummings; Kerr, Chris; City Council
Cc: Jordan, Chris
Subject: RE: Holiday Inn

Per 46.090(C)(7) hotels and motels are required to have "One space for each guest room" without any additional employee parking stipulations specified.

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

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

From: Teri Cummings
Sent: Tuesday, May 12, 2009 9:01 PM
To: Kerr, Chris; City Council
Cc: Jordan, Chris; Soppe, Tom



Soppe, Tom

From: Soppe, Tom
Sent: Thursday, May 14, 2009 4:51 PM
To: Teri Cummings
Subject: RE: Holiday Inn

Teri,

That section refers to residential facilities (including hotels that are acting as residential i.e. SROs), not transient lodging. It specifies "residential hotel, rooming and boarding houses" and is in the Residential Parking Space Requirements category A, whereas we are using the one in the commercial section "Hotel, motel, tourist court, or bed and breakfast". This is a commercial not residential facility so the latter, 46.090(C)(7) applies.

Thanks,

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

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From: Teri Cummings
Sent: Wednesday, May 13, 2009 11:23 PM
To: Soppe, Tom
Subject: RE: Holiday Inn

What about 46.090 A.4. ?
Teri

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From: Soppe, Tom
Sent: Wed 5/13/2009 8:29 AM
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Subject: RE: Holiday Inn

Per 46.090(C)(7) hotels and motels are required to have "One space for each guest room" without any additional employee parking stipulations specified.

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

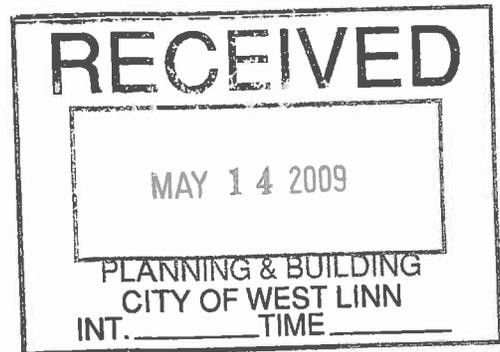
-----Original Message-----

From: Teri Cummings
Sent: Tuesday, May 12, 2009 9:01 PM
To: Kerr, Chris; City Council
Cc: Jordan, Chris; Soppe, Tom
Subject: RE: Holiday Inn

Chapter 46 requires 1 space per 2 employees right?
Teri

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

From: Kerr, Chris
Sent: Fri 5/8/2009 11:10 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

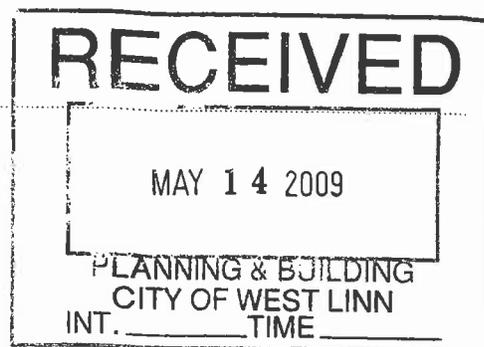
Hi Chris.

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: Kerr, Chris
Sent: Thursday, May 14, 2009 1:36 PM
To: GARY
Cc: City Council; Jordan, Chris; Soppe, Tom
Subject: RE: My appreciation



Thanks Gary - I'll add this to the record.

Keep in mind that Staff advised Councilor Carson and the CC to continue the meeting to May 19 - as this will meet all legal requirements and provide for full public input. The 120 days expiration date is May 22 (which can only be extended by the applicant). It is in the city's best interest to have the CC render this decision rather than the courts. As you know, the City has an obligation to conclude the hearing by that date - or have the Court decide - in all likelihood, approving the application.

Regarding the comments directed towards my actions as acting PD- I respectfully and strongly disagree, but would be happy to discuss with you.

*Thanks
Chris Kerr*

From: GARY [mailto: [REDACTED]]
Sent: Wednesday, May 13, 2009 9:07 AM
To: Kerr, Chris
Subject: Re: My appreciation

Thank you. I will review the economic feasibility over the Internet and lament the rigidity of the decision and Councilors' Carsons' desire to shut this thing down as quickly as possible.

I will add that the economic feasibility report, as presented, did not address how it supported any of the requirements of the CDC. It is ABSOLUTELY AMAZING to me that we, as residents of the City we live in, are always admonished and reminded that we must keep our comments solely to components of the CDC. And even then, limited to comment on only those that the City Attorney claims to be valid. Yet, City staff and legal council offer interesting word play similes, skew intent and definitions, and do not enforce applicants to present under the same requirements as you do residents. Not once during the real estate appraisers delivery, which by the way, went way over the time limit, did he relate relevant code that would help in deciding the application. Again, the report is clearly irrelevant to Chapter 32 and 75. And the architect used adjectives without providing evidence or relating his unsubstantiated claims back to the code.

Despite Councilor Burgess's comments regarding Chapter 55, even he acknowledges the weakness of what was submitted by the client. Yet, he will vote to approve it anyway.

It was amazing to both witness and experience the City's obstinacy in trying to rush this

5/14/2009

Soppe, Tom

From: Soppe, Tom
Sent: Wednesday, May 13, 2009 3:59 PM
To: 'vipul patel'; 'Brad Kaul'; 'dale@schottandassociates.com'
Cc: Kerr, Chris
Subject: conference call Thursday on councilor questions

Vic, Brad, and Dale

Please coordinate with each other regarding when tomorrow (Thu) you would be able to do a conference call with Chris and I, then call Chris ASAP today or early tomorrow to set this up. If all three of you can't work out a mutual time tomorrow, keep in mind that Brad is the most important for us to talk to although all three or at least two is best. Chris and I are here 8-5 and are flexible.

Below I've listed the councilor's concerns as we heard them Monday night. Please keep in mind this is not every issue that you will need to address. Also, please watch the video yourselves to get these concerns down yourselves. The video is towards the bottom of the page on this link:

<http://westlinnoregon.gov/planning/review-planning-commission-decision-holiday-inn-express>

Note regarding one of the items below, you do still need to address what was in John Kovash's comments in writing that came a few days before the meeting, as well as everything brought up verbally by the councilors Monday.

Thanks,
Tom

Councilor concerns:

Could use be reduced in square footage to help the transition area, i.e. by parking under the building?

Is there another stream that comes downhill by the oak tree or on the property to the west?

Should there be crosswalks across WF Dr to stairways? How is public sidewalk on WF Dr connecting to the properties to the east and west?

Lack of sidewalks within the parking lot for use by those walking from the hotel to car and back, and distance from furthest parking space to front door

Reaffirm that 5,000 sq ft is measured against all lots combined

Reaffirm that Chapter 55 has been covered

Lot coverage seen as all one site- reaffirm. But answer what lot coverage would be for each individual lot.

Issue of 20 foot setback from arterial required in 19

Should driveway go over 3 sided culvert or bridge? There's no longer a driveway crossing the water because of the flood washout- how does this change what has been reported as existing conditions and measurement of intrusion into transition area, and how does it affect question of whether there should be bridge or 3-sided culvert here.

Definition of transition area in "non-functioning state"

Floodplain on site- is building out of it and what are regulations on this?

Materials board wanted

5/13/2009

Is pavement pervious?

How is sidewalk at east end of site getting across the water?

Issue of restaurants to west vs sidewalk to hotel being on east end of property

Fire safety has to be addressed

Are DSL/ACOE permits needed?

What about interface between creek and WF Dr sidewalk along side it. Will there be a wall, or something else?

What does "CMP" mean on the site plan

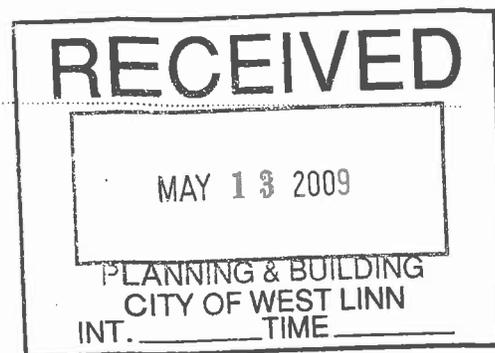
Location of ROW-property line on site plan

John Kovash notes from before hearing

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

Soppe, Tom

From: Laura Horsey [laura@easystreet.net]
Sent: Wednesday, May 13, 2009 3:38 PM
To: Kerr, Chris
Cc: Soppe, Tom
Subject: Re: Comments on Holiday Inn information



Thanks Chris and thanks for copying Tom. I had intended to do so. Regards, Laura

On May 13, 2009, at 3:33 PM, Kerr, Chris wrote:

Thanks – I'll add this to the record

Chris Kerr

From: Laura Horsey [mailto:laura@easystreet.net]
Sent: Wednesday, May 13, 2009 2:47 PM
To: Galle, Patti; Carson, Jody; Burgess, Scott; Kovash, John; Teri Cummings; Kerr, Chris; Spir, Peter
Subject: Comments on Holiday Inn information

Hello Mayor, Councilors and Planning Staff:

I am including below and as an attachment one page of commentary on the Holiday Inn proposal.

Regards, Laura
Laura Horsey
laura@easystreet.net

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.

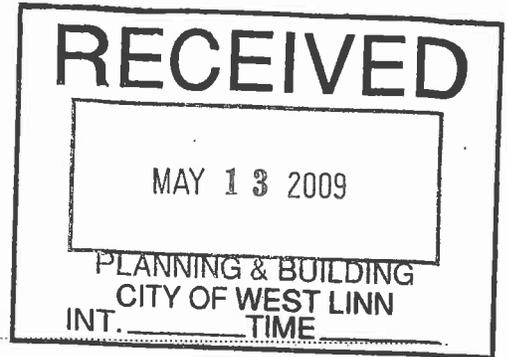
To: Mayor Galle and West Linn City Councilors
From: Laura Horsey, 5725 Hood St. West Linn
Date: May 13, 2009
Re: Proposal for Holiday Inn in Wetlands Area
Cc: West Linn Planning Department Staff

My comments are in response to information presented at Monday's city council hearing on the Holiday Inn proposal and to clarify information I previously submitted. I am opposed the application as proposed.

1. The economic analysis provided at the meeting is a requirement of the hardship provision under Chapter 32. As such it should provide rationale only for the 5,000 maximum disturbance of the riparian area. To the applicant's credit the report format follows the language of the code by evaluating alternative scenarios for use. However, by code it is not part of a specified rationale for the much larger variance request. The hardship provision economic analysis test is intended to "make whole" property owners who are adversely impacted by the adoption of Chapter 32. Beyond that, the city has no obligation to lower its code standards to allow a developer a viable return on a private investment. As with most investments the property investor/developer assumes risk.
2. The applicant provided photographs of its Astoria Holiday Inn that is described as a model for the design of its West Linn location. I have walked the path that separates the Holiday Inn from the Columbia River where it is nicely sited to view of ship traffic on the river. It is hard to imagine a site more different than the proposed West Linn site beside the 205 Freeway within green space. The hotel setting in Astoria is dominated by the wide expanse of the Columbia; it has minimal landscaping and I believe no natural vegetation. Why do the developers and staff believe this same design to be suitable in the West Linn location? I am particularly concerned that the large white building would provide very high color contrast with the surroundings, reminiscent of the white wall of the Albertson's store starkly visible from 205 -- considered an eyesore and a design mistake by many. An alternative color scheme -- darker and more natural in tone--would be a much better fit for the setting.
3. In a January 14th memo to the planning commission I raised the issue of the correct calculation of disturbed area within the context of Chapter 32. The applicant and staff are still using an incorrect understanding of disturbed area, principally by limiting its calculation to the perimeter of the building and paved areas. Doing so fails to include in the calculation the areas disturbed by construction including excavation, foundation work, utility placement and so on. Chapter 32 consistently describes such areas as disturbed even if subsequently re-planted. (Only in the context of mitigation is a distinction drawn between "disturbed" and "permanently disturbed.") Further, while driveways are excluded from the calculation, previously existing disturbances such as any utility uses and vacated roadway not used for the driveway are to be included in the disturbed area calculation. Since the disturbed area as planned greatly exceeds the 5,000 sq. ft. envisioned by the hardship clause, the practical effect of this error is to under-calculate the variance request. The applicant has not provided plans or information to delineate the true extent of the disturbed area. This is important in several contexts including the "shall disturb the minimum necessary" language of the hardship clause, and as encouragement to use construction techniques (such as alternative foundation designs) that minimize disturbance from heavy equipment in this riparian area. The error may also have a bearing on the size of the area required for mitigation.

Soppe, Tom

From: Kerr, Chris
Sent: Wednesday, May 13, 2009 9:26 AM
To: City Council
Cc: Jordan, Chris; Soppe, Tom
Subject: FW: My appreciation



From: GARY [mailto:████████████████████]
Sent: Wednesday, May 13, 2009 9:07 AM
To: Kerr, Chris
Subject: Re: My appreciation

Thank you. I will review the economic feasibility over the Internet and lament the rigidity of the decision and Councilors' Carsons' desire to shut this thing down as quickly as possible.

I will add that the economic feasibility report, as presented, did not address how it supported any of the requirements of the CDC. It is ABSOLUTELY AMAZING to me that we, as residents of the City we live in, are always admonished and reminded that we must keep our comments solely to components of the CDC. And even then, limited to comment on only those that the City Attorney claims to be valid. Yet, City staff and legal council offer interesting word play similes, skew intent and definitions, and do not enforce applicants to present under the same requirements as you do residents. Not once during the real estate appraisers delivery, which by the way, went way over the time limit, did he relate relevant code that would help in deciding the application. Again, the report is clearly irrelevant to Chapter 32 and 75. And the architect used adjectives without providing evidence or relating his unsubstantiated claims back to the code.

Despite Councilor Burgess's comments regarding Chapter 55, even he acknowledges the weakness of what was submitted by the client. Yet, he will vote to approve it anyway.

It was amazing to both witness and experience the City's obstinacy in trying to rush this application through after such an abysmal lack of quality assurances and nonexistent genuineness. When I got up to speak, I was both appalled at the restrictions placed upon public participation and watch proceedings established to undermine the intent of Chapter 19 and 60. "Consolidation"? Yeah, right.

The icing on the cake is to get city legal counsel to start bullying councilors. What Genius! Since when has a legal representative of the City been allowed to object to a Councilor sitting during a quasi-judicial hearing? I know there is nothing in the CDC that gave Monahan the right. And when asked, no one on the council, not the applicant, and not anyone in the audience gave any objections. In fact, I withheld my objections to Councilor Burgess hearing this case but held off due to the oppressed concerns of others. Are lawyers representing the city allowed to object and "go rogue" like a so called "activist" judge?

Why is the Planning Department, City Manager, and councilor Carson and Burgess subverting

public input out from the planning process, even after the mayor's claim for more public involvement and transparency? It is actions from yourself, certain councilors, the city attorney, and city manager that make these proceedings univiting, pointless, and hostile to the people. You are supposedly looking after this in terms of public welfare?

It appears, as someone mentioned, that the City is looking to sidestep the ineptitude of the Planning Department and force residents with means to take their grievances to LUBA. And even then, the City is trying to subvert that opportunity as well. I have been playing nice. But the City's absence in overseeing this application over two years has got to be embarrassing! Really, in all of over two years no one at City Hall saw the implications inherent between zoning, Chapter 19 and 60? This is all very shameful! I blame management for allowing this waste of effort of time and limikted resources to go unchecked for so long and KEEP trying to sweep it under the rug.

Please forward to the City Council and thank you for putting this into the record.

Regards,
Gary Hitesman

age ----

From: "Chris Kerr" <ckerr@westlinnoregon.gov>
To: "GARY" <[REDACTED]>, "City Council" <CCouncil@westlinnoregon.gov>, "Chris Jordan" <cjordan@westlinnoregon.gov>
Cc: "Tom Soppe" <tsoppe@westlinnoregon.gov>
Sent: Tuesday, May 12, 2009 4:43:46 PM GMT -08:00 US/Canada Pacific
Subject: RE: My appreciation

Gary – the Council's decision is to have the hearing on Tuesday, May 19th and to leave the record open until 5:00 on May 18th. Materials received on the 22nd will not be considered by the CC. However, you may have time to review the applicant's economic feasibility study sooner– we have added it online -

http://westlinnoregon.gov/files/projects/Applicant_Submittal.pdf

Thanks
Chris K.

From: GARY [mailto:[REDACTED]]
Sent: Monday, May 11, 2009 11:31 PM
To: City Council; Jordan, Chris; Kerr, Chris
Cc: Soppe, Tom; [REDACTED]
Subject: My appreciation

I appreciate the opportunity to speak in front of you tonight and apologize for extending the hearing into the night.

I watched the discussion regarding keeping the record open and again, appreciate the opportunity to respond to the new information submitted by the applicant, which is the cost analysis justifying the hardship claim. This has potential impacts and opens up threads of connectivity to other issues.

I will be out of State until March 20. Assuming I am able to access the copy of the real estate appraisal, I may be able to assess the submittal for relevance and applicabilty and will speak to it at the next meeting, if allowed. Regardless, any information I might submit would not likely arrive until the 22nd.

5/13/2009

Soppe, Tom

From: Soppe, Tom
Sent: Wednesday, May 13, 2009 8:30 AM
To: Teri Cummings; Kerr, Chris; City Council
Cc: Jordan, Chris
Subject: RE: Holiday Inn

Per 46.090(C)(7) hotels and motels are required to have "One space for each guest room" without any additional employee parking stipulations specified.

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

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

From: Teri Cummings
Sent: Tuesday, May 12, 2009 9:01 PM
To: Kerr, Chris; City Council
Cc: Jordan, Chris; Soppe, Tom
Subject: RE: Holiday Inn

Chapter 46 requires 1 space per 2 employees right?
Teri

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

From: Kerr, Chris
Sent: Fri 5/8/2009 11:10 AM
To: City Council
Cc: Jordan, Chris; Soppe, Tom
Subject: RE: Holiday Inn

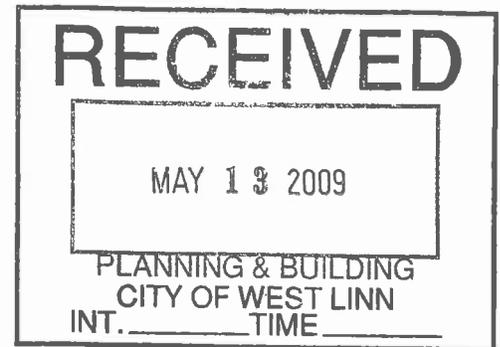
John - The applicant has not provided this information - but I will forward this question to them for their attention. Thanks

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.



Kerr, Chris

From: Teri Cummings
Sent: Tuesday, May 12, 2009 9:01 PM
To: Kerr, Chris; City Council
Cc: Jordan, Chris; Soppe, Tom
Subject: RE: Holiday Inn

Re: 11 S-13

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John

Soppe, Tom

From: Kerr, Chris
Sent: Tuesday, May 12, 2009 4:44 PM
To: GARY; City Council; Jordan, Chris
Cc: Soppe, Tom
Subject: RE: My appreciation

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*Thanks
Chris K.*

From: GARY [mailto:gary@westlinn-oregon.gov]
Sent: Monday, May 11, 2009 11:31 PM
To: City Council; Jordan, Chris; Kerr, Chris
Cc: Soppe, Tom; tom.soppe@westlinn-oregon.gov
Subject: My appreciation

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If I could submit the information by the 18th, I would be happy to oblige. If it is not sent til the 22nd, should I bother?

Mr. Chris Kerr, Please let me know what you would advise.

By the way, there is criteria in Chapter 19. I believe staff is incorrect. Because transient housing is defined as a conditional use, Chapter 19 refers you to Chapter 60, which has plenty of criteria that was glossed over with the use of a thesarus.

Also, no one will walk to downtown, it is too far.

The other issue is evidence has not been provided to justify the applicants claims for Chapter 55 and 60.

Hurray for Burgess! There are a lot of issues that need to be addressed. I hope the applicant gets around to doing it.

Hurray for the Mayor! The presentation brought me to the verge of sleep. By the time I got up, I couldn't wait to get out! (The longest 20 minutes seemed like 43 minutes. hmmm) You are correct in insisting the applicant do better. This should be an exciting project. This deserves a better presentation that answers to the CDC.

5/13/2009

Soppe, Tom

From: Teri Cummings
Sent: Tuesday, May 12, 2009 2:27 PM
To: GARY; City Council; Jordan, Chris; Kerr, Chris
Cc: Soppe, Tom [REDACTED]
Subject: RE: My appreciation

Gary thank you so much for contributing your valuable time and attention to give citizen input on this difficult application. Hopefully a turning point in planning West Linn
Sincerely, Teri

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

From: GARY [mailto:[REDACTED]]
Sent: Mon 5/11/2009 11:30 PM
To: City Council; Jordan, Chris; Kerr, Chris
Cc: Soppe, Tom; [REDACTED]
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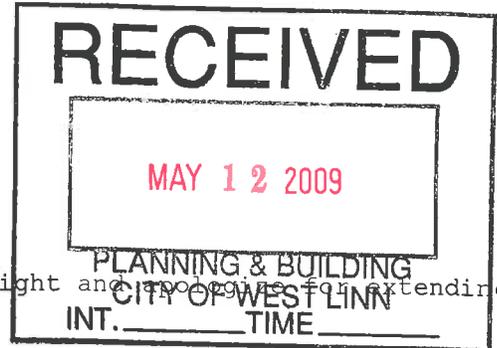
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Soppe, Tom

From: Kerr, Chris
Sent: Tuesday, May 12, 2009 10:48 AM
To: Soppe, Tom
Subject: FW: West Linn Holiday Inn Express

Fyi -

From: [REDACTED]
Sent: Tuesday, May 12, 2009 10:44 AM
To: Brad Kaul
Cc: Kerr, Chris; spe architects; vcp16@hotmail.com
Subject: Re: West Linn Holiday Inn Express



Hi Brad,

Thanks for your response. I just wanted to make sure that you realize that all the improvements you describe with the street, sidewalk and rain garden are actually located in the right of way, not on your property. These improvements would probably be required of any developer on that property, so I would think that point should be made when discussing the square footages in disturbing the water resource area. Whatever that square footage is, it would be required of any developer of that property, no matter the usage of the property (office building, restaurant, etc). I believe that point is one that relates to the both the WRA and to the economic use of the property, and should be made to the city officials.

With regard to an "emergency vehicle use easement", or any other easement, I certainly would be willing to listen to whatever your client might propose.

I just missed a phone call from you, but need to head off to a meeting. I'll try to make contact with you on the way.

Doug McDowell
503-936-4369

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

From: "Brad Kaul" <kaul931@hotmail.com>
To: [REDACTED]
Cc: ckerr@westlinnoregon.gov, "spe architects" <spe_architects@msn.com>, vcp16@hotmail.com
Sent: Tuesday, May 12, 2009 10:26:02 AM GMT -08:00 US/Canada Pacific
Subject: RE: West Linn Holiday Inn Express

Hi Doug,

Thanks for the response. I want to assure you that we have properly located the water resource area and we have a survey that we used to locate all features. The aerial photo presented by the city staff was not intended to be an accurate representation. However, the site plan we submitted is very accurate.

I want to make sure that you realize that our plans propose a widening of the street, an added

6' wide rain garden (to treat storm water) and 8 foot sidewalk as required by the city public works department.

Thanks for the response!

I have a question for you.... what would be your thoughts on providing emergency vehicle access (fire trucks) on the east side of your property? If this building gets approved someday, and a fire occurs, the fire department will likely use your parking lot due to the proximity to the building. The fire department has asked that we request an "emergency vehicle access easement" from you. I will give you a call to discuss further.

Thanks again.

Brad Kaul
Steve Elkins Architects
425-827-3252

Date: Tue, 12 May 2009 09:18:22 +0000
From: [REDACTED]
To: kaul931@hotmail.com
Subject: Fwd: West Linn Holiday Inn Express

Hi Brad,

Forwarding to you after Steve's e-mail address didn't work.

Doug McDowell
503-936-4369

----- Forwarded Message -----

From: [REDACTED]
To: "Chris Kerr" <ckerr@westlinnoregon.gov>, "Steve Elkins" <Steve@spe-architects.com>
Sent: Tuesday, May 12, 2009 2:06:12 AM GMT -08:00 US/Canada Pacific
Subject: West Linn Holiday Inn Express

Chris and Steve,

I am Doug McDowell, property owner of the commercial office building at 2500 Willamette Falls Drive, the property east and adjacent to that of the proposed Holiday Inn Express.

I watched on television Monday evening the meeting of the West Linn City Council. The issue of the area of the water resource area (WRA) that will be disturbed is perhaps the most significant issue of the whole discussion, and so I feel compelled to note what could be a major error in the calculation of the square footage numbers presented. I believe I noted (I can't find this slide on-line to confirm) that the PowerPoint presentation slide prepared by the West Linn Planning Department which showed the property site plan superimposed on the aerial photo of the property had the property site plan placed in the wrong location. It appeared that the south property line was placed almost adjacent to the edge of the Willamette Falls Drive roadway, which is not the case. The edge of the right-of-way is approximately 15 to 20 feet north of the edge of the roadway. The way to confirm the proper location of the property site

5/12/2009

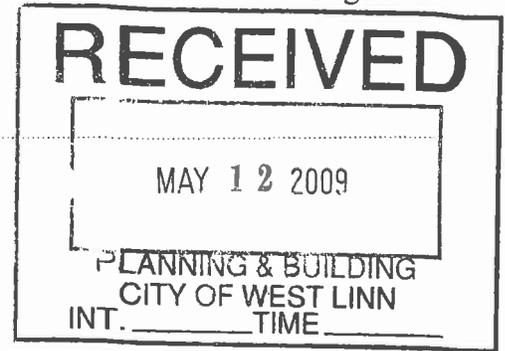
plan onto the photo is to note the location of the large white oak tree located near the northeast corner of the property. On the PowerPoint it appeared the tree was located outside the property line. Another check is to place the north property line on the state I-205 right-of-way fence line, if it is visible in the photo. It would seem that this discrepancy might significantly affect the calculations which resulted in the 21,569 sf (as I recall the number) of WRA area disturbed.

The Stephen P. Elkins site plan attached to the April 6, 2009 Conditional Use Narrative (online page 17) does show the tree in its correct position. This site plan, however, does not show the south property line, which is the edge of the City's right of way. It might be helpful to those involved if this were shown on the site plan, which would then give perspective to how much of the WRA is on City property and how much on the HIE property.

Thank you for your time in consideration of these comments.

Yours very truly,
Ralph D. (Doug) McDowell
503-936-4369

Hotmail® goes with you. [Get it on your BlackBerry or iPhone.](#)



Soppe, Tom

From: Kerr, Chris
Sent: Tuesday, May 12, 2009 9:27 AM
To: [REDACTED]
Cc: Soppe, Tom
Subject: RE: West Linn Holiday Inn Express

Thanks Doug – I'll confirm the location of the property lines and the square footage calculations.

Call me with any questions.

*Chris Kerr
 Interim Planning Director
 723-2538*

From: [REDACTED]
Sent: Tuesday, May 12, 2009 2:06 AM
To: Kerr, Chris; Steve Elkins
Subject: West Linn Holiday Inn Express

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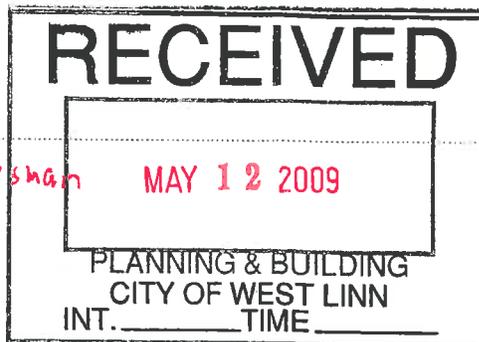
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5/12/2009

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From: [REDACTED] Gary Hitesman
Sent: Monday, May 11, 2009 11:31 PM
To: City Council; Jordan, Chris; Kerr, Chris
Cc: Soppe, Tom; [REDACTED]
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