



Memorandum

Date: May 18, 2009

To: Chris Jordan, City Manager

From: Chris Kerr, Acting Planning Director 

Subject: Supplemental information from Staff for Holiday Inn Express:
AP-09-02 / CUP-09-01

In response to the information discussed and specific inquiries raised at the May 11, 2009 public hearing on the referenced item, please find below: (1) a slightly modified set of proposed conditions of approval, as well as, (2) responses to questions raised by the Council at the end of the previous meeting.

I. Conditions of approval

Below are Staff's proposed Conditions of Approval that will be applicable to both of the applications before the Council. Staff is recommending that Condition No. 2 be modified to allow for a more flexible sidewalk design along Willamette Falls Drive. Currently, the City is requiring the sidewalk to be setback at least six feet from the curb (this is reflected on the site plan); however, this may result in an undue encroachment into the adjacent wetland and stream. Therefore, Staff is recommending that this Condition be modified slightly (as shown in bold below) to allow for more flexibility in the location of this sidewalk. The purpose is to allow for the proposed sidewalk at the southeast corner of the site to be located as far from the water resource area as possible. The newly proposed language is: **"Excepting the portion of sidewalk adjacent to the southeast corner of the site which shall be sited as close to the roadway as possible to impact creek and wetland as little as possible."** The applicant and Planning and Engineering staff have agreed to this condition as it would reduce the impacts of public sidewalk on the drainageway and wetland.

Currently, Condition of Approval 7 reads, "*All pervious pavement in the parking lot shall be constructed of hard-surfaced materials, not gravel.*" This condition referred to an area of pervious pavement proposed on an earlier iteration of the plans. The plan approved by the Planning Commission, and which is under review by the Council, does not include pervious pavement (nor is it required per Code), therefore this condition is not necessary and is proposed for deletion.

Following is the current list of proposed conditions of approval:

1. The applicant shall plant only native plants in the stormwater treatment facility proposed on site and in the raingarden between the sidewalk and street (see Condition 2).
2. The applicant shall install an 8-foot wide sidewalk along Willamette Falls Drive, with a minimum 6-foot wide raingarden swale strip between the sidewalk and the street. **Excepting the portion of sidewalk adjacent to the southeast corner of the site which shall be sited as close to the roadway as possible to impact creek and wetland as little as possible.** The sidewalk shall be connected to the existing sidewalk to the east. Appropriate street trees and street lighting shall be planted in the raingarden swale strip. Applicant shall provide half-street improvements to the satisfaction of the Engineering Department. The infield implementation of the actual half-street construction shall be determined by the City Engineer.
3. A 6 foot wide sidewalk shall be installed connecting the building to Willamette Falls Drive.
4. The existing drainageway culvert under the existing driveway shall be replaced to the satisfaction of the Sewer and Storm Division of the Public Works Department.
5. The water line shall be installed to allow for eventual looping west to 8th Court. This and other aspects of connecting the site to the water system shall be done to the satisfaction of the Water Division of the Public Works Department.
6. The gravel parking spaces at the southwest corner of the site shall no longer be used for parking, as these areas will be occupied partly by vegetative buffer restoration area and partially by right of way improvements. Up to 9 spaces at the west end of the proposed parking lot may be shared with the law office currently using the gravel parking area to be abandoned. Any parking sharing agreed to in the future by the applicant must conform to the provisions of the CDC, including Chapter 46.
- ~~7. All pervious pavement in the parking lot shall be constructed of hard-surfaced materials, not gravel.~~
7. All areas of the site not proposed for development that are within the drainageway, wetlands, and their 100-foot transition areas shall be placed in a conservation easement protecting them from further development.
8. Alternate methods of construction mitigating the limited fire access shall be approved by the Building Official and the TVFR Fire Marshal at the time of building permit issuance. The building permit shall not be issued unless all alternative methods deemed necessary by the Building Official and the Fire Marshal are proposed by the applicant in the building permit submittal.
9. The section of the driveway between Willamette Falls Driveway and the fork in the driveway shall be 24 feet wide. The driveway approach shall be designed and constructed per the current City of West Linn Public Works standards.

10. The applicant shall provide the Engineering Department a drainage plan showing that runoff from the sidewalk on Willamette Falls Drive will sufficiently drain to the raingarden in the planter strip.
 11. The mitigation plan implemented at the building permit stage shall be based on the square footage of disturbed water resource area and disturbed water resource transition area in the final approved site plan. (this Condition was added prior to the
 12. **Prior to issuance of any engineering permits, applicant shall provide verification that no Department of State Lands or Army Corps of Engineers permits are necessary. If such permits are required, applicant shall provide evidence that they have been obtained prior to the issuance of any site improvement permits.**
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II. Responses to Council questions regarding the application.

The following is a summary of the questions directed for Staff to respond to by the Council. Other questions raised by the Council were directed towards the applicant and the applicant may be able to provide additional information on these questions below as well.

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

There is no creek and wetlands besides on the property to the west, besides Bernert Creek itself and the wetlands that overlap onto the project site.

Staff has several additional site visits to confirm these exact features and has seen no evidence of even an intermittent stream in the area of 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?

Staff has discussed adding a crosswalk to the plan, but is not required by code. It would be up to the Council to decide whether a condition of approval is needed to install one, and to make findings to that effect. At the east end of the site across from the intersection of Willamette Falls Drive and 6th Street, there is no stairway as the frontage road is at grade. At the west end of the site, across from the intersection of the frontage road and 7th Street, there is a stairway between the frontage road and Willamette Falls Drive. The other stairway between Willamette Falls Drive and the frontage road is located at 8th Street, a block west of the site.

Along the frontage road along the south side of Willamette Falls Drive, sidewalks are continuous from 10th Street east to 6th Street at the east end of the site. On the north side of Willamette Falls Drive east of 10th Street, there is an asphalt path below street grade that is continuous to 8th Street, leaving just one block of the north side of

Willamette Falls Drive without pedestrian facilities between 8th Street and the site. There is a sidewalk along the frontage of the property to the east of the site. The sidewalk proposed along the front of the site will connect to this sidewalk.

Concern about 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?

There is not a code requirement to provide sidewalks within the parking lot. It is up to Council to decide whether a condition of approval and findings should be adopted to install one. If this is added, it would affect the total amount of square footage developed in the transition area. As proposed, all parking spaces are at maximum 200 feet from the porte cochiere. This is measured “as the crow flies”, but even a route involving walking the shortest distance (without crossing parking spaces, green space, or water resources) between the porte cochiere and the furthest parking space would only involve walking approximately 206 feet. Having the sidewalk connecting the building to the street at the east end of the site improves fire safety and adds just 300 feet to a pedestrian’s walk to/from restaurants to the west, compared to having the sidewalk enter the site at the driveway entrance.

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

The 32.090 provision allowing up to 5,000 square feet in the water resource transition area is being applied by staff to the site as a whole, not to the individual lots on site. This development is being reviewed and evaluated as a single project. As part of the description of the impacted areas, the applicant analyzed each lot separately, and as a whole. The applicant’s analysis also divides the site into several categories including “non-functioning” water resource area; this refers to transition area that already has the existing driveway developed in it. However, **please note that Staff’s analysis does not recognize the non-functioning water resource area or the separate lots.** Our calculations propose the 5,000 square foot limit for the entire site and do not allow for any ‘credit’ for existing development areas - such as the driveway.

Reaffirm that Chapter 55 has been covered

As part of both the original design review application and the CUP application, Chapter 55 has been addressed in detail. See findings 20-46 in the December 3, 2008 staff report to the Planning Commission in the AP-09-02 packet as well as findings 23-49 in the CUP-09-01 staff report.

Reaffirm that lot coverage is measured with this as all one site.

Yes, as with the 5,000 square foot provision, staff is employing the lot coverage provision on the site as a whole, not on the individual taxlots. The lot coverage as proposed is 15.7% on the site as a whole, which is acceptable as 19.070(A)(5) sets the maximum lot coverage in the GC zone as 50%.

Issue of 20 foot setback from arterial required in Chapter 19.

(Note: the analysis below was also provided in Finding No. 15 of the CUP-09-01 staff report. Findings 11-22 of the CUP-09-01 staff report respond to all of the standards of Chapter 19 General Commercial.)

19.070(A)(7) states, “For lot lines that abut an arterial, there shall be no minimum yard dimensions or minimum building setback area, and the maximum building setback shall be 20 feet.” The proposed setback for the hotel is approximately 67 feet, because of Bernert Creek and the wetlands in the front of the property along the street. The building is more than 20 feet from the abutting arterial street, Willamette Falls Drive. As stated in 19.070(A): “Except as may be otherwise provided by the provisions of this Code, the following are the requirements for uses within this zone.” (emphasis by staff)

The hotel is proposed with the additional setback from the street in order to disturb the minimum amount of sensitive areas possible on the site. Chapter 32 requires the hotel to be built outside the drainageway and wetlands. Even with the hardship provisions and variance requested in the application reviewed in AP-09-02, the goal is to keep the hotel as far as practically possible from the drainageway and wetlands. If the front of the hotel was 20 feet from the street, parts of the hotel would be inside the current course of the creek and wetlands, and much of the rest of it would be on the creek bank. 32.050(B) says “Proposed developments shall be so designed as to maintain the existing natural drainageways...”, and 32.050(C) says “Development shall be conducted in a manner that will minimize adverse impact on water resource areas.” Because of the creek/wetlands across the entire front of this site, there is no way any development on this site could comply with 19.070(A)(7).

Also, 55.200(B)(7)(c) says “Commercial, office, and multi-family projects shall be built as close to the adjacent main right-of-way as practical... Reduced frontages by buildings on public right-of-ways... may be allowed due to extreme topographic (e.g., slope creek, wetlands, etc.) conditions or compelling functional limitations, not just inconveniences or design challenges.” The slope of the Bernert Creek bank and the creek and wetlands themselves are extreme topographic conditions that allow for the lack of building frontage directly on (or within 20 feet of) the street.

Section 19.070(A)(7) clearly defers to other applicable sections of the CDC. In this case, the more restrictive requirements of CDC Chapter 32 are applicable to the development. The proposal meets all of the criteria of this section.

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

The Engineering Department believes that the proposed three-sided culvert will provide the necessary stormwater capacity and enhancements required by the City. A bridge could also be designed to satisfy the requirements, but would place a significant financial and continuing maintenance burden on the property owner.

Definition of transition area in “non-functioning state”.

This term is used by the applicant to describe the transition area that is already developed, in this case the driveway. This calculation includes the area where the culvert/driveway was washed out by the flood and/or removed by post-flood work. For the purposes of meeting Chapter 32 hardship provisions, staff has not recognized this area as anything other than transition area or provided the applicant with any 'credit' for this area.

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

Chapter 27 Flood Management Area only applies to the 100-year and 500-year floodplains of the Willamette and Tualatin rivers and the 1996 flood areas of these rivers. Chapter 27 therefore does not apply to the site. Only Chapter 32 regulates the site's and the proposed building's relationship to Bernert Creek and the onsite and nearby wetlands. The applicant has been asked to provide the finished floor elevation of the proposed building to Council.

Materials board wanted

The applicant has been advised to bring more details of of the materials/ colors.

Is pavement pervious?

The applicant no longer proposes pervious pavement. This is so all stormwater falling on pavement on the site will be directed to the stormwater treatment facility, rather than allowing untreated water to seep through pervious pavement into the soil. Condition of Approval 7, as recommended in the initial applications, is now moot as this regulates the material used for formerly proposed pervious pavement.

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

The sidewalk will be built on an existing culvert that extends on the site from the property to the east.

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

The sidewalk meets the CDC access requirements. The location at the east end of the site adds 300 feet to a much longer walk to restaurants and other amenities (compared to walking through the parking lot). Also, this location aids in fire safety as it provides a way to access the street from this end of the site.

Fire safety should be more fully addressed.

The applicant has provided a letter of response regarding this. However, Staff is aware that several fire safety issues have yet to be resolved, but this is true of all development review applications. It's important to note that the City will not (would not) issue permits for a structure that does not meet all fire safety requirements. As with all applications, there are many ways for an applicant to address TVFR requirements. We have included an additional 'insurance' condition of approval that reiterates this. The review at the site plan level is concerned with whether the site

plan can provide for sufficient upgrades to TVFR standards. Only when such upgrades satisfying TVFR occur will a building permit ever be issued.

Are DSL/ACOE permits needed?

The applicant has indicated on the record (and has been asked to do so again at the hearing on May 19th) that the proposal will not require DSL or ACOE permitting. However, for additional 'insurance', Staff is proposing that this be stated as a newly proposed condition of approval. This will ensure that, even though it is not believed to be necessary, the appropriate permit will be required if necessary.

What about interface between Bernert Creek/wetlands and the Willamette Falls Drive sidewalk along side? Will there be a wall, or something else?

As currently proposed on the site plan, a block retaining wall 12-15 feet tall will need to be installed in the water resource area along the sidewalk in the southeast area of the site. However, staff proposes an additional condition, discussed above, that will give more flexibility in design to allow for preservation of a larger portion of WRA. This would prevent or greatly reduce actual placement of the sidewalk on Willamette Falls Drive in the creek and wetland. The Engineering Department approves of this condition as well.

Identify the location of ROW-property line on site plan.

Staff is amending our graphic to indicate this more clearly.

The site includes 4 lots.

There are no CDC provisions prohibiting using combined lots as a common site, with lot coverage, setbacks, etc. based on the site as a whole as if it were one lot. There are multiple commercial developments in West Linn where multiple parcels make up one commercial development. The applicant may choose to consolidate the lots with the County surveyor, but doing so would not require a land development permit through the City. The City has a long and consistent history of not requiring commercial projects with multiple parcels to be consolidated into one parcel.