

## Memorandum

Date: June 1, 2009

To: Chris Jordan, City Manager

From: Chris Kerr, Acting Planning Director 

Subject: AP-09-02 and CUP-09-01 final applicant argument

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Attached is the applicant's written final argument, as was due today per the City Council's continuance decision of May 19, 2009. The Council should consider this information at the meeting of June 8, 2009 public hearing on this matter.

May 26, 2009

Vic Patel  
12700 SE McLoughlin Boulevard  
Milwaukie, Oregon 97222

Mr. Patel:

At your request, we recently completed a study of a vacant site located at 2400 Willamette Falls Drive in the city of West Linn, Clackamas County, Oregon. The land is proposed for development of a 70-room Holiday Inn Express. The intended use of the study was to serve as support in your application to the City of West Linn for a conditional use permit.

Our report was submitted to the West Linn City Council at a hearing on May 11. At a subsequent hearing on May 19, several members of the Council expressed their comments and questions concerning our findings. The purpose of this supplemental letter is to address the issues raised by the Council and to provide further clarification with respect to our conclusions.

Based on our review of the hearing videotapes, it appears that there are three issues of primary concern to the City Council with respect to our analysis.

- 1) What is the relationship between residual value and economic viability?
- 2) What would be the impact of reducing the scale of the proposed development?
- 3) What would be the impact of considering additional specific uses for the land?

### **Residual Value and Economic Viability**

A development is considered economically viable when the value of the project upon completion (or, in the case of a hotel, at stabilization) exceeds the development cost by a margin sufficient to cover the value of the land and provide an adequate return to the developer.

In our original study, the analysis of residual value was presented in Table 8 (Page 25). In this table, we estimated residual value for three potential uses: lodging, retail, and office.

Mr. Vic Patel  
Re: Holiday Inn Express, West Linn  
May 26, 2009  
Page 2



We first estimated the value per square foot under each development scenario. These estimates were based on the prices paid in recent sales of similar properties in the greater Portland area. In each case, our estimates of value for the subject were within the range of the available market data.

We then estimated development costs for each of the three property types. Structure costs were estimated based on data compiled and published by a national cost service. The cost of site development and mitigation was estimated by the project architect based on the requirements prescribed by the West Linn Planning Department.

The indicated residual value was estimated as the difference between the overall value and the development cost. Among the three scenarios, our estimates of residual value were \$720,000 (lodging), \$430,000 (retail), and \$360,000 (office). These estimates of residual value combined the value of the land and the residual profit that is expected to be earned by the developer. The land is assessed at about \$160,000. Net of this land value, the residual profit is estimated at \$560,000 (lodging), \$270,000 (retail), and \$200,000 (office).

Economic viability is evaluated by comparing the projected profit ratios to those prevailing in the market. Typically, the required ratio of expected profit to estimated cost varies inversely with the size of the project. For example, the typical profit ratio for a project costing \$2MM would be in the range of 20% to 25%. For a project costing \$4MM, the typical ratio range would be 10% to 15%. For a project costing \$6MM, the typical ratio range would be 8% to 12%.

For the three scenarios presented in our original study, the projected profit ratios were within the target range for the lodging scenario, and below the target ranges for the retail and office scenarios. Among these three options, only the proposed hotel is expected to generate sufficient profit to warrant development.

### **Scale of Development**

The second issue raised by the Council concerns the scale of development. The question is whether a smaller project would still be economically viable.

To address this issue, we have completed a sensitivity analysis. For each property type, we estimated residual value assuming (a) that the site would be developed to its maximum practical capacity, as determined by the architect, and (b) that the improvements would be built to only half the practical capacity. This analysis is presented in the accompanying table.

Mr. Vic Patel  
Re: Holiday Inn Express, West Linn  
May 26, 2009  
Page 3



For each property type, our estimates of residual value for smaller scale developments are negative; that is, the estimated development costs exceed the projected values even before land and profit. This is due primarily to the presence of the large fixed component (\$900,000) for site improvements and mitigation. When the proposed building area is reduced, the cost per square foot increases, ultimately exceeding the estimated value per square foot.

### **Potential Uses**

The final issue concerns the variety of potential uses on the site. In our study, we combined numerous individual uses into three generic categories: lodging, retail, and office. We recognize that each category could include a variety of specific uses. However, based on our analysis of sales and cost, we would not expect to see material differences in the estimates of residual value.

In the case of retail space, users tend to purchase shell space with the expectation of installing the appropriate tenant improvements. For this reason, the shell prices for a potential coffee shop, toy store, or clothier will be similar to one another. In the case of office space, users tend to be relatively interchangeable, with minimal alteration required upon turnover.

In considering potential uses of the subject site, we took into account the uses in place on neighboring parcels. Several nearby parcels are improved with low-rise offices, suggesting that small scale office use also could be appropriate on the subject site. However, these structures appear to predate the current zoning and setback requirements. For this reason, it is unlikely that their developers incurred the same scale of mitigation costs as are being required for the proposed hotel. Had the current regulations been applied to these projects, it is our opinion that the offices in place today would never have been developed.

This letter references data presented in our study dated May 11, 2009, and is intended to be read and considered in conjunction with that document. Our original study and this supplemental letter have been prepared in conformance with the current Uniform Standards of Professional Appraisal Practice as they relate to general consulting assignments.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "John D. Gordon".

John D. Gordon, MAI  
State Certified General Appraiser  
OR Certificate C000237, exp 3/31/2011

Mr. Vic Patel  
Re: Holiday Inn Express, West Linn  
May 26, 2009  
Page 4



I certify that, to the best of my knowledge and belief:

- 1) The statements of fact contained in this report are true and correct.
- 2) The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and is my personal, impartial and unbiased professional analyses, opinions and conclusions.
- 3) I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- 4) I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- 5) My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- 6) My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this report.
- 7) My analyses, opinions and conclusions were developed and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice* as they relate to general consulting assignments.
- 8) I have made a personal inspection of the property that is the subject of this report.
- 9) Tyler R. Tennyson, GVA Kidder Mathews, Bellevue, provided significant professional assistance to the person signing this certification.
- 10) The reported analyses, opinions and conclusions were developed and this report has been prepared, in conformity with the requirements of the *Code of Professional Ethics and Standards of Professional Appraisal Practice* of the Appraisal Institute.
- 11) The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
- 12) As of the date of this report, John D. Gordon, MAI has completed the requirements of the continuing education program of the Appraisal Institute.

  
John D. Gordon, MAI  
State Certified General Appraiser  
OR Certificate C000237, exp 3/31/2011

Mr. Vic Patel  
Re: Holiday Inn Express, West Linn  
May 26, 2009  
Page 5

**Table A**  
**Sensitivity Analysis**

	<u>Lodging</u>		<u>Retail</u>		<u>Office</u>	
<b>Sales Comparison</b>						
Indicated Value/Sq Ft	\$160	\$160	\$250	\$200	\$200	\$200
Buildable Area	44,000	22,000	10,000	5,000	20,000	10,000
Indicated Value	\$7,040,000	\$3,520,000	\$2,500,000	\$1,000,000	\$4,000,000	\$2,000,000
<b>Cost Comparison</b>						
Adjusted Base Costs	\$111.94	\$111.94	\$96.80	\$96.80	\$136.81	\$136.81
Buildable Area	44,000	22,000	10,000	5,000	20,000	10,000
Total Building Costs (rd)	\$4,930,000	\$2,460,000	\$970,000	\$480,000	\$2,740,000	\$1,370,000
Furnishings & Equipment	\$490,000	\$245,000	-	-	-	-
Tenant Improvements	-	-	\$200,000	\$100,000	-	-
Site Improvements and Mitigation	\$900,000	\$900,000	\$900,000	\$900,000	\$900,000	\$900,000
Total Costs	\$6,320,000	\$3,605,000	\$2,070,000	\$1,480,000	\$3,640,000	\$2,270,000
Typical Viability Range	8%-12%	10%-15%	15%-20%	20%-25%	10%-15%	15%-20%
<b>Residual Value and Economic Viability</b>						
Indicated Residual Value	\$720,000	-\$85,000	\$430,000	-\$480,000	\$360,000	-\$270,000
Land (Assessed Value)	\$160,000	\$160,000	\$160,000	\$160,000	\$160,000	\$160,000
Residual Profit	\$560,000	-\$245,000	\$270,000	-\$640,000	\$200,000	-\$430,000
Ratio to Development Cost	8.9%	-6.8%	13.0%	-43.2%	5.5%	-18.9%



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June 1, 2009

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

**Re: Final applicant letter - Holiday Inn Express – Willamette Falls Dr.**

Dear Madame Mayor, City Council and City Staff;

Per the City Council Meeting on May 19<sup>th</sup>, council has allowed us to submit rebuttal to some questions that were left hanging at the end of the meeting. These issues include how we have addressed the comprehensive plan (specifically goal 5) and how we can prove that the hotel has no more impact on the Water Resource Area than any other use that is economically viable.

**I. Goal 5 Comprehensive Plan**

As part of the Conditional Use Application, which city staff recommends for approval, we were required to show how we meet the requirements of the city's comprehensive plan. In the application, each goal was addressed individually. During our last City Council meeting, the Mayor wanted assurances that goal 5 was specifically addressed. This goal has been addressed and we would like to assure the Mayor of such by elaborating below. Goal 5 requires that development practices be Habitat friendly. Below are the ways in which the proposed Holiday Inn Express complies with Goal 5 and enhances the habitat that exists.

- 1) The current state of the water resource area is unhealthy as defined in Chapter 32.050.K. Chapter 32.050.K defines a healthy WRA as having 80% ground coverage of native trees, shrubs and groundcover. A healthy WRA also has 50% tree canopy coverage. The existing WRA on this site has a total area of 49,950 s.f. According to the existing conditions analysis done by the Schott's and Associates, only 12% of the existing WRA has native trees, shrubs and groundcover and only 8% of the WRA has tree canopy coverage. There is over 10,000 s.f. of impervious surface that are within the WRA that, in it's current state, contributes to the erosions, sedimentation, flooding, and pollution of Burnett Creek, wetlands and water resource areas.

As a result of the Hotel Development the health of the Riparian Corridor will be substantially increased (over 400% more native trees, shrubs and groundcover and over 500% more tree canopy). There exists only 6,000 s.f. (12% of 49,950 s.f.) of healthy native trees, shrubs and groundcover in the WRA which our development will increase to 27,000 s.f. through revegetation of the unhealthy areas and eradicating the invasive/non-native species. There also only exists 4000 s.f. (8% of 49,950) of tree canopy which our development will increase to over 20,000 s.f. through the planting of additional trees. Last, we will be controlling the storm run-off that is currently uncontrolled. Now that the storm water is under control the water can be detained on site to minimize the outflow, treat the water to remove sedimentation and pollution, and decrease stream temperatures by cooling the water below ground.

Off site, in the city right-of-way, adjacent to the Hotel's Southern property line, Willamette Falls Drive does not have storm controls, a sidewalk or a bike lane. The road is within feet of Bernert Creek and storm water is dumped directly into the creek along with the pollutants the water carries. The WRA habitat is in need of protection from these pollutants as well as the flood controls that storm controls will provide. The street frontage improvements that are proposed include a 6'-0" wide rain garden strip that will filter the pollutants from the street's storm water while minimizing the rate at which water that is allowed to enter the creek. This proposal will reduce the impact this site has on flooding downstream.

The proposed development is consistent with the provisions of Goal 5 in the following ways:

- a) The proposed development will enhance the existing riparian corridor by removing the overgrown non-native, and invasive species that currently smother and hide the existence of Bernert Creek. Once the invasive species are removed, native species of trees, shrubs and groundcover will be planted. The newly revegetated riparian corridor will provide increased and more diverse habitat for local wildlife and create new vistas for passers-by traveling along the new sidewalk, bike lane, and neighboring residences.
- b) The proposed development will decrease the adverse erosion, sedimentation and pollution that currently impact and damage the wetlands, riparian and habitat areas. This will be done by eliminating uncontrolled storm run-off from impervious surfaces that are pervasive within the existing site (Willamette Falls Drive and Old Willamette Falls drive that cuts across the site). The storm water from the city right-of-way will be controlled through the introduction of a rain garden. The storm water of the parking lot and building roof will be controlled, released at a rate less than that which currently exists. The storm water will be treated to remove sediments and pollutions so that the water is ready to be released into the ground, WRA and creek.
- c) A large white oak is being preserved. A small cluster of trees that currently shade a small section of Bernert creek will be preserved. During the

revegetation of the site, the existing habitat will be enhanced, restored and expanded from 6,000 s.f. of existing healthy habitat to 27,000 s.f. of healthy habitat. An abundance of new shade trees will be introduced into the WRA, parking lot and areas outside the WRA.

- d) The expanded and newly healthy riparian areas will be protected by a fence and the areas will be managed to ensure that the invasive non-native species are not allowed to take control. See the November 2008 Water Resource Report which covers many topics including monitoring. Below is an excerpt for your benefit....

### **Goals**

The goal of the enhancement plan is to enhance 32,074.45 sf (0.74 acres) at Fields Bridge Park and 17,480.21 sf of enhancement on the subject property. It is also a goal to replace low quality upland such as the existing onsite Vegetated Corridor, with an Vegetated Corridor that provides high functional capacity and values of functions.

### **Objectives**

The objective is to replace a low to moderate-quality Vegetated Corridor to a high value and functional Vegetated Corridor at both the project site and the enhancement areas in Fields Bridge Park. The enhancement areas will be created to provide wildlife habitat and thermoregulation functions for the Tualatin River, and the onsite drainage way and wetland.

### **Success Criteria**

A survivorship of 80% is proposed for the tree and shrub plantings after three years. Invasive species should not exceed 20% cover.

### **Mitigation Monitoring**

A three-year monitoring effort of the mitigation area is proposed. The monitoring biologist will complete a field investigation of the site and submit an annual written report to the City of West Linn.

The following explains the timing of the monitoring, the photograph documentation, and the vegetation assessment.

#### *Timing*

The monitoring methods will involve a yearly site visit from the monitoring biologist to inspect the sites and do a stem count and species inventory. This should be at the middle of the growing season (near the end of August). If the plants of the mitigation sites appear to be stressed, the monitoring biologist may suggest irrigation during the summer months.

## Photographs

Permanent photo-stations will be established at the mitigation sites. These photo points will be placed in such a way as to give an overview of the general condition of the site. These photo points will be shown on the mitigation plan.

## Vegetation Assessment

Percent survivorship of woody species will be estimated by counting the dead of each species, and then subtracting that number from the number planted. This number will be divided by the number planted, then multiplied by 100 to obtain the percentage of survivorship.

Canopy cover or herbaceous species (Quadrat sampling) will be estimated by the monitoring biologist using five one sq. micro-plots.

**Table 1. Performance Standards, Monitoring Methods, Contingencies**

Performance Standard	Monitoring Methods	Contingency
Survival of planted species	Stem Counts Species inventory	Plant additional vegetation, weed control, substrate amendment, herbivore control
Herbaceous cover	Arial cover (quadrant sampling)	Plant additional vegetation, weed control, substrate amendment, herbivore
Woody cover	Arial cover (line intercept sampling) Arial cover (belt-transect or large area plot sampling)	Plant additional vegetation, weed control substrate amendment, herbivore control

### **Contingency Plan**

Numerous problems can prevent a mitigation area from developing as proposed. Contingency measures will be designed and implemented once the problems have been identified. Possible corrections include animal disturbances, or incorrect species for the local conditions. The

vegetation will be monitored by the project biologist. If, during the monitoring process problems are identified corrective measures will be determined and implemented. If survival of planted individuals proves to be inadequate then additional vegetation and/or weed control will be needed to insure the 80% survival at the end of the three years. Herbivore control may also be needed.

Plant mortality may come from many causes. The main causes are weak nursery stock and water stress. If survivorship of any planted species falls below 80%, the cause of the mortality will be assessed. If the mortality is due to inappropriate placement of the plant in relation to the hydrology of the site, adjustments to the replanting site will be recommended by the monitoring biologist. In the event of weak nursery stock, the mortality should be immediately evident (within a few days) and should be detected in the review of the planting.

The contingency measures for herbivory and plant mortality (often linked) are to replant the affected plants and protect them. Plantings can be surrounded by plant cages formed by 3' chicken wire to protect them from damage from beavers and nutria. If the individual plant cages are not sufficient to deter the beavers, fencing the entire area with 3' chicken wire may be needed to ensure success of the site. If small rodent girdling of the plantings is the problem, the base of the tree may need to be protected with a rodent guard.

In the event of an extended drought, irrigation may be necessary to ensure establishment of the plantings. If mortality is due to water stress, watering of the site will be done up to 7 times during the period from July 1 to August 31.

Invasive species will be controlled before planting takes place. If cover of invasive species becomes greater than 20%, more dramatic control measures will need to take place. These include cutting the canes of Himalayan blackberry in summer and applying, by painting or daubing (not spraying) new sprouts with an herbicide approved for use near water and in wetlands. This application should be done in 2 months after cutting and again in late summer or early fall (if needed). Reed canary grass will be sprayed with Rodeo prior to any excavation. Areas not graded will also be sprayed. Follow-up treatments will occur on an as-needed basis.

Dense native herbaceous vegetation and the development of a healthy tree and shrub layer will help control establishment of reed canary grass, however, if stands do establish, immediate measures should be taken to ensure control of this species. Close mowing of the grass and direct application of approved herbicide should keep the grass from overtaking the mitigation area.

## II. Hardship Provision Economic Viability.

How can we support the idea that this development encroaches on the least amount of Riparian Corridor setback area. ...What is the smallest development that can be placed on each lot that is economically viable.

- 1) Please see the attached supplement to John Gordons GVA Kidder Mathews feasibility study.
- 2) There are 4 legal lots that make up this development
- 3) 3 of the legal lots meet the requirements of Chapter 19 for legal lot size, frontage requirements, etc.
- 4) Each lot has the right to be developed individually.
- 5) If the city does not approve the development of a hotel, a greater amount of Water Resource Area will be disturbed by 3 separate developments with 3 separate access locations across Bernert Creek that will provide access to 3 separate buildings (see below for further elaboration).
- 6) Chapter 32 states that a lot that was legally created prior to the creation of this code may be allowed to disturb 5,000 s.f. of Water Resource Area. These lots were purchase prior to the creation of this code and all lots are in the same state as they were prior to the creation the current version of the West Linn CDC. Therefore, we have 3 legal lots within the WRA and could disturb 5,000 s.f. on each lot without need of a variance. The variance we are seeking should be seen as an average of 2,147 s.f. per lot not 16,440 s.f..
- 7) Council has asked why we can't build a small office building like those properties to the East and West. If the three lots were to be built out as small office buildings than we would build out each legal lot individually. This would mean 3 separate buildings. The lawyers office to the west is the smaller of the adjacent office buildings and is roughly 4,500 s.f. of building. According to the CDC chapter 46, 13 parking stalls would be required (one van accessible) , a driveway, trash/recycling and fire truck access in and out. This would mean that the development requires 2,268 s.f of parking stalls plus 3,276 s.f of driveway to serve the parking stalls plus whatever length of driveway is needed to get from the street to the parking area. To place the lawyers office on any one of our 3 lots, the sum total of this development would require 10,044 s.f. plus a driveway crossing Bernert creek.

The Western most lot has 4,500 s.f. of buildable land outside the WRA. To build the lawyers office, we would disturb 5,544 s.f. plus 3.300 s.f. of driveway crossing Bernert Creek for a grand total of 8,844 s.f. of disturbed WRA.

The middle lot is entirely within the WRA. Therefore, we would be required to disturb over 10,044 s.f. of WRA plus 1500 s.f. of driveway to cross Bernert Creek for a grand total of 11,544 s.f. of disturbed WRA.

Last, the eastern most lot has 9,000 s.f. of buildable area outside the WRA. This lot would be required to disturb 1,044 s.f. plus 2.700 s.f. of driveway to cross Bernert Creek for a grand total of 3,744 s.f.

The sum total of disturbance for the three lots equals 24,332 s.f. of disturbance which is roughly 3,000 s.f. more disturbed area than the proposed Holiday Inn Express hotel.

- 8) The neighbors directly to the east and west disturb an average of 8,000 s.f. of water resource area. If our neighbors were to build today, they would be required to ask for a variance to disturb an additional 3,000 s.f. of Water Resource area. We are only asking for an average of 2,140 s.f.
- 9) The hotel development has the least impact on the Water Resource area when considered against developing each of the 3 lots individually as stated above. Also, it is not feasible to build 13,500 s.f. of building across the 3 lots per the GVA Kidder Mathews report. The report states that even if we built 20,000 s.f. of office the return wouldn't be enough to prove viable. Last, this site is much more expensive to build on due to the city requiring street frontage improvements along Bernert Creek and revegetation and restoration of all unhealthy WRA. Hotels use land more efficiently than any other use because it can be built taller (small footprint) and uses fewer parking stalls per square foot of building. To minimize the impacts on the Water Resource Area the approvals from the neighborhood and planning commission to build a Holiday Inn Express hotel should be upheld by the City Council.

Sincerely,

Brad Kaul  
Steven P. Elkins Architects Inc PS