CITY OF West Linn

Memorandum

TO: Chris Jordan, City Manager

FROM: Tom Soppe, Associate Planner

DATE: March 6, 2009

SUBJECT: Additional correspondence regarding AP-09-02 (Holiday Inn Express)

Attached are items of correspondence regarding AP-09-02 Holiday Inn Express received since the staff report was compiled, but before 1:00 PM on March 6, 2009. Staff has not had time to respond to these items at this time.

attachments

Distributed 3/9/09 cc Mtg

Soppe, Tom

From: GARY [hitesman@[redacted].net]
Sent: Friday, March 06, 2009 11:58 AM
To: Zak, Teresa; Soppe, Tom
Cc: City Council; Planning Commission; Galle, Patti
Subject: RE: BRAD KAUL's most unfortunate email and MY PITHY RESPONSE

To City Planner Tom Soppe,

I received a copy of an email from Brad Kaul, representing Steven P. Elkins Architects, who in an email dated February 26, stated that your actions (City or Tom Soppe?) are unfair in that "Gary's letter ***in the front of the binder which slanders our company without seeking the truth***.") I have just finished my call requesting to speak with Steve Elkin and ended up talking with Brad Kaul. It appears that Brad harbors some ill will and poor feelings. Since his design solution for the Holiday Inn Express is also poorly resolved and bodes ill will for our community, I have to conclude that he is at least genuine in his complaint and continuing actions.

I attempted to clarify the reasons and motivations of my claims to OBAE. I did inform him that it was not my intent to slander anyone and that my complaint to OBAE was completely within the regulations that OBAE enforces and based on objective facts that I had passed on to OBAE. Brad Kaul, in so many words, would not agree to recant his email and provided other sundry comments.

So that I am as transparent as possible, Brad did believe that I was being unfair in not mentioning that Steve Elkins IS a registered architect in Oregon. And the OBAE confirms that Steve Elkins is a registered architect in Oregon. But as I was told by OBAE, neither Brad Kaul nor the firm, Steven P. Elkins Architects, were registered at the time.

So to respond to Brad Kaul's misconceptions, that had been entered into the record and forwarded to the City Council without my knowledge, please let me provide you with the facts.

Up until the time that I had filed a complaint with OBAE, Brad Kaul was being represented by the applicant, VKNW, Inc. as the architect and had presented drawings with the Steven P. Elkins PC firm name placed at the upper right hand corner of the sheet. There were also articles and emails that OBAE was provided with indicating that Brad Kaul may have been misrepresented as an architect. (Please see State Regulations that stipulate the requirements for using that title.) The issue I was raising was not about the integrity of Steven P. Elkins PC or the application review process, but about the potential for misunderstanding or misinformation that may be associated through the use of the firm's logo. And as I have stated previously, state regulations compels professionals to contact OBAE with observations of potential violations. This is a nuance and a technicality, although for me underscores the deficient design solution that has been sold to the Applicant and City. Not an attempt at slander, which in the context of Brad's email is actually misused.

In short; Steven P. Elkins--->fine architect who is registered with the State of Oregon. AND now the firm as well. Bravo! As for Brad, ...we understand each other. I feel Steven P. Elkins PC should reconsider who they decide to unleash on an unexpecting world.

For the Record, Steve Elkins was registered with the State of Oregon as an architect. Brad Kaul has never been registered as an architect in Oregon. The firm of Steven P. Elkins, through the OBAE, or so I have been told by Brad, no thanks to me, is currently registered as an architecture firm with Oregon Board of Architectural Examiners with the rights to practice architecture in the State. Which, if factual, means that the public notice posted at the site now conforms with State Regulation and ending Steven P. Elkins PC foray into violations of the OBAE.

Gary Hitesman (Not licensed in the State of Oregon for 2009)

Soppe, Tom

From: [redacted]
Sent: Friday, February 27, 2009 8:14 PM
To: Soppe, Tom
Subject: holiday inn express

To the City Council and Tom Sopppe,

I am writing this hoping it is read by all. We have lived in the Willamette area for 31 years in the same house!

We of course have seen many changes. Progress and change is hard, but when it doesn't make sense its even harder.

I am referring to the Holiday Inn express. I of course have allot of reasons I am against it. The most obvious is our traffic problem on the 10th st / I-205/ Willamette Falls disaster. Let's see, I do believe the city and odot still are not agreeing on that. We do have our new market area that is filling and bringing more traffic to 8th court! With no light! Of course when I-205 backs up we endure more of that traffic. Not to mention the new flooding issue that was recently brought to our attention, right where the new Holiday Inn is to go in. The city does not claim its responsible for the wash out and odot claims its not. And now you want Holiday Inn when most people will be getting off around dinner time and leaving in the morning. Creating more traffic that no one wants to claim responsibility for!

Our historical Willamette Village has come along way! Let's not lose what we're trying to create. Holiday Inn Express has not a historical value. We really have no need for one. Go up a couple of exits. More access to more than is offered here.

I think cleaning up and preserving the creek and wetlands for our kids and next generation would be more beneficial. Build a historical history/gift shop or an educational spot for school kids or the many bicyclers and joggers to enjoy.

Let's all think green!!!!! Thank You Eric and Rita Cederquist 2475 5th Ave.

Regarding City Council review of Holiday Inn Express March 6, 2009

Dear Honorable Mayor and City Councilors,

The possibility of a hotel, particularly in the Willamette area where tourists, travelers and family members could stay is certainly welcome. Such a sizable structure would definitely have a strong bearing in a community valued for natural beauty and historical characteristics. My hope for such a facility is that we use the utmost care to strive for the best outcome. I am concerned that for whatever reasons, several codes and criteria were either misunderstood or somehow overlooked. Thank you for providing your precious time and attention to review this application. I believe it will allow an opportunity to clarify the interpretation of the hardship clause and other code provisions for the sake of better planning for our city.

"We shape our buildings, thereafter, they shape us"... Winston Churchill

Turning to the January 6, 2009 Memorandum, following the order of issues raised by Associate planner Tom Soppe, the **fire code requirements** come first. If you read the Jan. 6, 2009 correspondence from Fire Marshall's office, Karen Mohling, it says," The site plan is no better than before- there are several fire code requirements that are still not met that make it difficult to perform fire and rescue work at this site". Also, "Tualatin Valley Fire & Rescue does not endorse this proposal until the following items have been addressed and approved." Therefore, I strongly urge you not to approve this application without seeing a definite plan that satisfies the unmet safety criteria before you. Public safety is too important to be decided later outside of a public hearing, left to staff as proposed in condition of approval **#9**. If you call for a secondary evidentiary hearing for fire safety codes be sure to request an extension of 120 days.

Parking, if placed under a smaller and more sustainable LEED eligible building, it would significantly reduce the area of disturbance and offer a more appealing configuration to a historic district where expansive parking lots are uncommon.

I agree with Mr. Soppe that the site must not be divided for the purpose of gaining more area of disturbance when there is actually one owner and one use for the lot. Therefore, only **up to** 5000 square feet of disturbance is allowed under the hardship clause. However, I submit that Soppe's opinion that the hardship clause was "clearly intended for residential lot situations" is incorrect. Chapter 32 applies to "**all** zones and uses within the city" **(CDC 32.020)**. The hardship clause is placed to avoid a situation that would deprive **all** use of a property as protected by the constitution. The constitution doesn't guarantee anyone "economic viability", even though some people may think it should. Since the term "economically viable use" offers no parameters, we should look at the other businesses surviving nearby. They are all significantly smaller. They may or may not have encroached into the wetland areas when they were built. I see no justification for a hardship clause because this is a commercial site just like the rest.

Why violate the riparian codes that apply when an application is filed? No one argues to use asbestos these days, right? Riparian codes are there to keep buildings safe from water and to keep water moving from one site to the next safe for all those who live in and drink it. Riparian codes require restoration, not disturbance. By the way, we can call this stream Bernert Creek, just for the record.

CDC **32.090 (B)** requires at least a **15 ft setback** on each side of a wetland, but the building will be closer. With known flooding in the area, I can't imagine why. The storm-water treatment facility, located "more than 25 ft within the water resource area" also exceeds the limit according to Soppe. To avoid those two discrepancies, Applicant seeks approval through further variances in CDC 75. Amazing considering that variances in **CDC 75.060** are only allowed in the event that extraordinary circumstances disallow a right enjoyed by other property owners surviving in the same zone or vicinity. **See any big hotels nearby?**

The hardship clause requires evidence it is the least amount of disturbance possible. If zoned **only** for a hotel the need to exceed the 5000 sq ft. limit would make sense. Oddly enough, **this commercial site is actually not zoned for a hotel.** It was not applied under **CDC 19.060 (20) Conditional Use for transient lodging!** That triggers **CDC 60.070 (1) (a)** which then requires "adequate area for aesthetic design treatment to mitigate any possible adverse effect from the use on surrounding properties and uses." **OOPs?**

The Jan 21, 2009 Planning Commission minutes bring up the issue of whether a Department of State Lands (**DSL**) permit was required. Soppe twice states that the wetland area is "too small to require a permit" and citing that the wetlands consultant determined the area is "**less than one-tenth of an acre".** Conversely, the **Dec. 13, 2007 DSL letter** states that the **wetland area is .25 acres** and requires a permit to fill or excavate 50 cubic yards or more. The final approval Condition of Approval #4 calls for satisfying DSL in replacement of the culvert, but the initial DSL letter recommended working with DSL staff on "an appropriate site design **before** completing the city or county land use approval process". Just for the record, **Schott and Associates Biologist and Wetland Specialist Nov. 2006** also reports the Bernert Creek and wetland site is **0.25 acres (10,734.99 sf)** but notes it as "preliminary" report to "use at your own risk unless reviewed by DSL."

Lastly, I have to ask, is re-vegetating parkland we already own in exchange for giving up Bernert Creek wetland and habitat area a good enough deal? I support a hotel, but considering that this goes at least five times over the 5000sq ft hardship limit and well beyond two other setbacks without justification, it sounds pretty weak. I would love to see a future hotel with underground parking that would be designed nicely to fit with the historical district..and last but not least, high LEED qualifications. All that would be nice.

Thank you oncel again for your precious time taken in considering my comments

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Sincerely, Teri Cummings

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MAR - 6 2009
PLANNING & BUILDING
CITY OF WEST LINN
INT. _____ TIME _____

Madam Mayor Patti Galli

Councilors Burgess, Carson, Cummings, and Kovash

From: Gary Hitesman-Hidden Springs Resident

From the **AGENDA BILL 2009-03-09C** worksheet, I intend to address the **Policy Questions for Council Consideration:** How much, if any, variance is necessary to exercise the property right to develop site in an economically viable way, and therefore does this application meet all necessary criteria?

But before I can do that, I request your consideration regarding the zoning of the site and the requirements as listed within CDC Chapter 19, General Commercial (GC). I believe your consideration is justified in that this is a de Nova appeal and as I will address, pertains tangentially to the hardship clause.

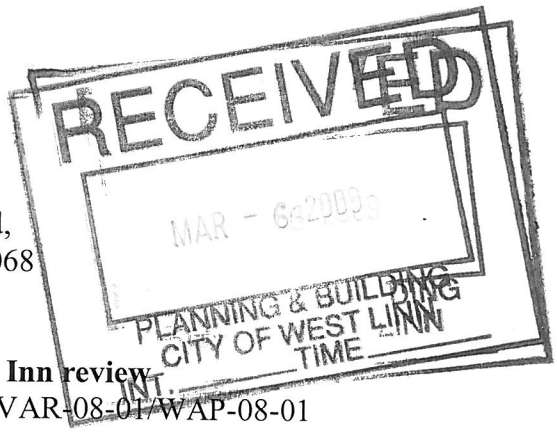
If you read through both current and past versions of CDC Chapter 19, you will see that "transient lodging" is defined as a Conditional Use, not a Permitted Use under the GC land zone designation.

You may note that under CDC 19.030, PERMITTED USES, Hotels, motels, Transient Housing or any such other associated building type is not located within the Section. However, Transient lodging is located under #20 within 19.060, Conditional Use. CDC19.060 stipulates "The following are conditional uses which may be allowed in this zone subject to the provisions of Chapter 60, Conditional Uses: ".

I am unable to find a request for a conditional use or find any reference to it that satisfies the most basic requirements under Chapter 19 and provisions of Chapter 60. This potential oversight raises some very serious contentions, which would take me way over 3 minutes to address. There are so many things wrong with this oversight that I quite frankly do not know where to begin.

Assuming that the application is still deemed complete and I dust the dirt of my keister, the question is how will the council rule on economic viability based on the proposal being a conditional use versus a permitted use? Allowing the oversight in not addressing the impropriety of Use, what kind of property rights are we implying or negating when we start addressing economic viability?

Begging your consideration further, there are not only issues regarding Chapter 32, but issues regarding Chapter 55, the issue of density, fit with the TSP, 10th Street Task Force findings, Willamette Neighborhood Aspirations and Planning objectives, site selection and appropriateness, Completeness of site modification studies, current environmental damages, Sustainability Goals and aspirations and other minor inconsistencies.



Chris Jordan,
City of West Linn,
22500 Salamo Road,
West Linn, OR, 97068

Feb. 6, 2009

Re: 3/9/09 Holiday Inn review
File DR-08-01/VAR-08-01/WAP-08-01

Dear Mr. Jordan,

Would you please ensure this letter is forwarded to all the City Council prior to the 6pm meeting on 3/9 and is part of the official record.

I urge the Council to **DENY** a variance to our code protecting wetlands and riparian areas (WRA Chapter 32).

As a person who spent almost a decade trying to get this Goal 5 code finally implemented, I do **not** want to see it undermined. Was all that money, time, expert opinion and public input only a sham?

I am certain that the 50 or so West Linn High School students that waited and testified in front of the Planning Commission in support of Wetlands never dreamed that a documented Wetlands in West Linn would be allowed to be compromised to prevent "hardship" to a multinational corporation.

There is nothing wrong with a hotel in West Linn. We simply need to have sites developed **WITHIN** our codes to protect what we have .

Sincerely,

Greg Morse,
18335 Nixon Avenue,
West Linn, 97068