



### PLANNING COMMISSION ADOPTION OF FINAL FINDINGS

*Date of Adoption: November 13, 2017*

- FILE NUMBERS:** CP-17-0002: General Development (Concept) Plan  
DP-17-0003: Detailed Development Plan for Phase 1  
NR-17-0004: Natural Resource Overlay District Verification
- APPLICANT:** 1750 Blankenship Rd, Ste. 400  
West Linn, OR 97068
- OWNER:** Hackett Hospitality Group, LLC  
1419 W. Main Street  
Battleground, WA 98604
- REQUEST:** Approval for General Development Plan for Abernethy Place, a mixed-use project including Hotel, Multi-Family, Retail/Commercial and Office Use to be constructed in two phases over 10-years as well as a Detailed Development Plan for Phase 1 which includes construction of a Hotel and parking lots.
- LOCATION:** 415 17th Street + no address on Washington Street  
Map number 2-2E-29CA, Tax Lots 601, 900, 1000, 1100, 1200, 1300, 1301
- REVIEWERS:** Pete Walter, AICP, Planner  
Laura Terway, AICP, Community Development Director  
Carrie Richter, City Attorney  
Wendy Marshall, PE, Public Works Development Services Manager
- DECISION:** Approval with Conditions (Conditions of Approval Attached).

**PROCESS: Type III Quasi-Judicial Public Hearing.** Pursuant to OCMC 17.50. C. Type III decisions involve the greatest amount of discretion and evaluation of subjective approval standards, yet are not required to be heard by the city commission, except upon appeal. In the event that any decision is not classified, it shall be treated as a Type III decision. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and the planning commission or the historic review board hearing is published and mailed to the applicant, recognized neighborhood association(s) and property owners within three hundred feet. Notice must be issued at least twenty days pre-hearing, and the staff report must be available at least seven days pre-hearing. At the evidentiary hearing held before the planning commission or the historic review board, all issues are addressed. The decision of the planning commission or historic review board is appealable to the city commission, on the record. The city commission decision on appeal from the historic review board or the planning commission is the city's final decision and is appealable to LUBA within twenty-one days of when it becomes final.

## I. INTRODUCTION

In this matter, the Planning Commission of the City of Oregon City (“Planning Commission”) approved the following related applications (“Applications” or “Project”): (1) General Development Plan for Abernethy Place, a mixed-use project including hotel, multi-family, retail/commercial, and office use, and (2) Detailed Development Plan for Phase 1 of the development, which includes construction of a hotel and surface parking, including six adjustments to City standards, and (3) a Natural Resources Overlay District Review (verification), all on approximately four acres of real property zoned Mixed Use Downtown and generally located north of 17<sup>th</sup> Street and west of Washington Street (Map Nos. 2 2E 29CA Tax Lots 601, 900, 1000, 1100, 1200, 1300, and 1301) (“Property”). OCMC 17.65.070 allows for adjustments to development standards as a means to foster large-scale development, while identifying and mitigating their impacts on surrounding properties and public infrastructure, an applicant may request one or more adjustments to the applicable development regulations as part of the master planning process. The applicant requested the following six adjustments:

- (1) 17.34.060.D.2 - Adjustment to Maximum building height of 45’ within 500 feet of the End of the Oregon Trail Interpretive Center. The applicant requested an adjustment to allow a building height of 66' 1" as measured from street grade.
- (2) 17.62.055.F - Adjustment to minimum ceiling height of fourteen feet for first floor of commercial Building. The applicant requested a minimum ceiling height of 12 feet.
- (3) 17.54.100.B.4 - Adjustment to maximum combined height of fence and retaining wall of eight feet. The applicant has requested a combined height of 15 feet.
- (4) 17.62.057.L.2 - Adjustment to window projection / recess requirement for the main hotel windows.
- (5) 17.62.055.H.2 - Adjustment to minimum wall articulation to reduce the depth of required wall plane projections or recesses from 3 percent to 2.8 percent for floors 2-5.
- (6) 17.62.055.D.3 - Adjustment to side orient the main facade with a primary vehicular entry Porte Cochere on the side of the building for Phase 1 and to allow an enhanced façade and pedestrian entry facing Washington Street.

In support of this approval, the Planning Commission adopts the following findings of fact and conclusions of law.

## II. PROCEDURAL FINDINGS

### A. Initiation of Application

The Planning Commission finds that the Applications were properly initiated. A landowner may initiate a land use permit request by filing an application with the Planning Division on the required form and accompanied by necessary supporting documentation. Oregon City Municipal Code (“OCMC”) 17.50.060. In this case, Hackett Hospitality Group, LLC and Historic Properties, LLC (together, “Applicant”) are owners of the Property and signed the required forms. Applicant’s representatives submitted the necessary supporting documentation to the City. On the basis of these facts, the Planning Commission finds that the Applications have been properly initiated.

### B. Notices

The Planning Commission finds that the City gave proper notice of the public hearings for the Applications as follows:

- On June 1, 2017, the City mailed an initial notice to owners of property within 300 feet of the Property, to any City-recognized neighborhood association, and to affected agencies, at least 20 days in advance of the first Planning Commission public hearing in this matter, as required by OCMC 17.50.090.B (and in excess of the notice radius required by ORS 197.763(2)(a)(A)).
- The City published notice of the hearing in this matter in *The Clackamas Review/Oregon City News* on June 14, 2017, for a week, which was more than 20 days in advance of the Planning Commission public hearing in this matter, as required by OCMC 17.50.090.
- Applicant posted signs on the subject property advising of the pending hearing in accordance with the requirements of OCMC 17.50.100.
- Applicant met with the Two Rivers Homeowners Association on January 25, 2017, and with the McLoughlin Neighborhood Association on February 2, 2017.
- The City also provided notice to the Citizens Involvement Committee, neighborhood association chairs, the Natural Resources Committee, affected agencies and jurisdictions, and posted the application materials on the City website.

After a public comment contended in an August 14, 2017 email that the City's notice of public hearing was inadequate because it did not list applicable Oregon City Comprehensive Plan ("OCCP") policies, the City provided revised notice of the public hearing as follows:

- On August 18, 2017, the City mailed a revised notice of public hearing to the same parties to whom the City mailed the original notice. The revised notice listed applicable OCCP policies as well as identified Applicant's additional adjustment requests. The notice does not identify the Oregon City Downtown Plan or the End of the Oregon Trail Master Plan; however, the Planning Commission finds that this is not error for the reasons explained below, these plans do not contain approval criteria that are relevant and applicable to the Applications.
- On August 18, 2017, the City emailed the revised public notice to Neighborhood Association chairs, affected agencies and jurisdictions, and the Natural Resources Committee.
- On August 18, 2017, Applicant posted notice of the continued public hearing on the Property.
- On August 23, 2017, the City caused the revised public hearing notice to be published in *The Clackamas Review/Oregon City News* on August 23, 2017.

As explained above, the Planning Commission accepted testimony pertaining to the Applications after providing these notices on June 1, 2017, including oral testimony on August 14, 2017, September 11, 2017, and September 25, 2017, and written testimony pursuant to the open record periods ending on October 9, 2017.

On the basis of these facts, the Planning Commission finds that the City gave proper notice of the Applications and the hearings relating to the Applications.

### **C. Planning Commission Proceedings**

The Planning Commission finds that its hearing procedures in this matter complied with applicable law. On July 24, 2017, the Planning Commission, with a quorum present, opened the hearing in this matter and, at Applicant's request, continued the matter to August 14, 2017. No one testified at the July 24, 2017 hearing.

On August 14, 2017, the Planning Commission reconvened and conducted a continued hearing in this matter. A quorum of the Planning Commission was present at the meeting. At the commencement of the hearing, Chair Denyse McGriff introduced the

item and made the announcements required by ORS 197.763. Chair McGriff inquired whether any members needed to disclose any *ex parte* communications, site visits, conflicts of interest, or bias. Chair McGriff and Commissioners Mabee, Mahoney, Johnson, Geil, and Espe disclosed site visits. Chair McGriff and Commissioner Mabee also attended the McLoughlin Neighborhood Association meeting where Applicant made a presentation about the Project. Commissioner Geil disclosed participating in and reading online comments about the Project in a social media chat room. The comments were submitted into the record. No one challenged the jurisdiction of the Planning Commission or any of its members to participate in this matter. After these disclosures, the Planning Commission accepted oral and written testimony from staff, Applicant and its representatives, and members of the public. After that, the Planning Commission approved a motion to continue the matter to September 11, 2017.

On September 11, 2017, the Planning Commission reconvened. Chair McGriff introduced the item and inquired whether any members needed to disclose any *ex parte* communications, site visits, conflicts of interest, or bias. Commissioner Mabee and Chair McGriff disclosed that they had received an email from Mark Matheson that was already in the record. Commissioner Henkin disclosed that he has occasionally stayed at two Hilton hotels, one being a Hampton Inn while on business. At this hearing, the Commission heard the applicant's request for two additional adjustments from development standards. No one challenged the commissioners on their disclosures.

On September 25, 2017, the Planning Commission reconvened. Commissioners Geil, Mabee and McGriff stated that they drive by the site regularly, and Chair McGriff stated that she visited the back yard of the Hackett House the week before and did not encounter anyone. No one challenged the commissioners on their disclosures.

At this hearing, Applicant presented its final oral rebuttal. Following this rebuttal, the Planning Commission closed the public hearing and approved a motion to hold the record open as follows:

- For a period of seven days, until October 2, 2017, to allow any party to submit argument or evidence on any topic;
- For an additional seven days, until October 9, 2017, to allow any party to rebut argument and evidence submitted during the first seven-day period; and,
- For an additional seven days, until October 16, 2017, to allow Applicant to submit final written argument.

On October 23, 2017, the Planning Commission reconvened. A quorum of the Planning Commission was present at the meeting. At the commencement of the hearing, Chair McGriff introduced the item. Chair McGriff inquired whether any members needed to disclose any *ex parte* communications, site visits, conflicts of interest, or bias. Chair McGriff and Commissioners Mabee and Geil disclosed additional site visits. No one challenged the jurisdiction of the Planning Commission or any of its members to participate in this matter. Then, the Planning Commission deliberated on the Applications. At the conclusion of its deliberations, the Planning Commission voted, 6-0, to recommend that the City Commission approve the Applications, subject to the conditions recommended in the City staff report, as amended by amendments to Conditions 17, 32 and 45 (detailed in substantive findings below).

Although a citizen contended that the City was improperly “fast-tracking” the Applications, that length of the public comment period and number of hearings demonstrate an adequate review process. The City has followed its required procedures in this matter, has provided multiple sets of notices, provided a lengthy and detailed staff report addressing approval criteria, and has conducted multiple hearings over the course of several months during its review.

On the basis of these facts, the Planning Commission finds that it conducted lawful proceedings in this matter consistent with established quasi-judicial principles and applicable local and state requirements.

### **III. SUBSTANTIVE FINDINGS**

#### **A. Incorporation.**

As findings in support of approval of the Applications, the Planning Commission adopts and incorporates by reference the following documents (but not the exhibits thereto): (1) the City staff report to the Planning Commission dated August 7, 2017, which is entitled “Type III-Master Plan and Detailed Development Plan Staff Report and Recommendation;” and (2) the City staff report to the Planning Commission dated September 1, 2017 and presented to the Planning Commission on September 11, 2017, which is entitled “Type III –Master Plan and Detailed Development Plan Supplemental Findings for Additional Adjustments Staff Report and Recommendation”. These documents are included in the record for this matter.

The Planning Commission finds that these documents are properly incorporated as findings because they are written in the nature of findings and specifically address whether the Applications comply with approval criteria and respond to other issues

raised during these proceedings. In the event of a conflict between these incorporated findings and the findings in this document, this document shall control.

## **B. Record.**

The Planning Commission based its decision upon the record in this matter, which includes all argument and evidence placed before, and not rejected by, the Planning Commission during the course of its proceedings. A copy of the record is available with the Planning Division.

The Planning Commission specifically denies two requests that items be excluded from the record as follows:

### **1. Letter from Two Rivers Homeowners Association.**

A citizen contended that the Planning Commission should reject the letter from the Two Rivers Homeowners Association because, according to the citizen, the homeowners association is inactive. Though testimony on the record refutes the citizen's contention that the association is active, the letter was placed before the Planning Commission while the public comment period was open and the citizen cites to no legal basis for the Planning Commission to reject the letter. Therefore, the Planning Commission denies the request.

### **2. Letter from Clackamas Heritage Partners Board of Directors.**

A citizen asserted that the Planning Commission should reject a letter from Clackamas Heritage Partners Board of Directors because Dan Fowler, one of the members of the Applicant, and Ms. Nancy Ide, a City Commissioner, are on the Clackamas Heritage Partners Board of Directors. The challenged letter notes that both Mr. Fowler and Ms. Ide recused themselves from participating in the vote by the Board of Directors. The letter was physically before the Planning Commission while the public comment period was open, and there was no legal basis to reject it. Therefore, the letter is properly part of the record.

## **C. Additional Issues.**

### **1. Stormwater contentions do not provide a basis to deny the Applications.**

A citizen contends that the Applicant must demonstrate that there will be no toxic discharges from parking lot stormwater runoff. In response, Applicant's civil engineer, Tom Sisul, P.E., submitted a letter explaining that the City has adopted Stormwater and

Grading Design Standards, that compliance with these standards will ensure that the project will not release toxic discharges, and that it is feasible for the project to comply with the Stormwater and Grading Design Standards. A copy of this letter is included in the record. The letter also explains that Mr. Sisul has over 30 years of experience designing stormwater drainage systems, so he is well-qualified to address this issue.

The citizen also contends that Applicant must obtain a waste discharge permit for construction of its stormwater system pursuant to ORS 468B.050. This statute requires a developer to obtain a water quality permit before discharging any waste into waters of the State. *Id.* There are several potential exceptions to the statute. ORS 468B.053. The City has not incorporated these statutes into its local approval criteria, and the statutes themselves do not state that they must be addressed as a prerequisite to issuing a local land use permit. Therefore, they are not mandatory approval criteria that the City must address with this review. Because these permit standards are a matter of state law, they will apply (or not apply) based upon their own terms. A City determination that they will apply or not apply is not required and will not override state law. Accordingly, the City is not required to adopt findings of compliance or non-compliance with these statutes in its decision.

The Planning Commission denies Mr. Nicita's contentions on this issue.

**2. Because the City Commission never adopted the End of the Oregon Trail Master Plan ("Master Plan") and Design Guidelines ("Design Guidelines") either directly or through incorporation, these documents are not mandatory approval criteria applicable to the Applications.**

The City must approve or deny the applications based upon approval criteria set forth in the OCMC. ORS 197.763(5)(a); ORS 227.173(1). The City has not set forth the Master Plan and Design Guidelines in the OCMC, either directly or by incorporation.

Although a number of citizens argued that the City Commission "effectively" or "constructively" adopted the Master Plan and Design Guidelines on December 19, 1990, the Planning Commission denies this contention for two reasons. First, the law does not recognize "effective" or "constructive" adoption; the City Commission must follow specific procedures to adopt a document, and if that does not occur, the City Commission has not adopted the document. The citizens do not contend that the City Commission followed its formal procedures to adopt the Master Plan or Design Guidelines. Second, the meeting minutes for the December 19, 1990 City Commission meeting have not been submitted into the record. The minutes were not submitted from the public and the City Recorder also did not locate any record that the City Commission has adopted these items. Therefore, there is no basis to conclude that the City Commission adopted the Master Plan and Design Guidelines.



The fact that the City has taken various steps outside of the land use process to further the effort to develop the End of the Oregon Trail Interpretive Center does not make the Master Plan and Design Guidelines mandatory approval criteria applicable to a land use application. Further, there is no authority to conclude that these non-land use actions prevent the City from claiming that the Master Plan and Design Guidelines are not applicable in this context.

Further, the City Commission's adoption of the Downtown Community Plan ("DCP"), which included the Design Guidelines in a Technical Appendix, did not adopt the Design Guidelines as approval criteria. Ample evidence has been submitted to support this conclusion. The Staff Report was presented initially to the Planning Commission on November 8, 1999 and continued to November 22, 1999. The November 22, 1999 staff memorandum to the Planning Commission for the DCP states that the DCP proposal consists of two phases: (1) Phase I is to adopt the DCP and to add the Chapter P policies to the comprehensive plan; and (2) Phase II is to consider "changed zoning, new Plan Map designations, overlay districts, design guidelines and the like," which will form the "package of implementing measures for the project." November 22, 1999 Planning Commission memorandum from Sidaro Sin, Associate Planner at Page 1<sup>1</sup>. Thus, this statement makes clear the legislative intent that adoption of the DCP did not adopt Design Guidelines as mandatory approval criteria.

The staff report continues by explaining that the OCCP would control over the DCP in the event of a conflict:

"During the public testimony, the question was raised, if the proposed Downtown Community Plan was adopted as an ancillary document to the Comprehensive Plan, but Phase II of the implementation process was not completed (i.e. no Comprehensive Plan amendment or zone change was adopted), what would be the guiding document, the Comprehensive Plan or the Downtown Community Plan?

The Comprehensive Plan would be the guiding document because no Comprehensive Plan amendment or zone change has been adopted at this time. Therefore, any proposed applications would refer to the existing Comprehensive Plan for guidance on goals and policies."

November 22, 1999 Staff Memorandum at Page 4<sup>2</sup>. Finally, the existence of passing references in OCCP Goal 2, Policy 2.2.11, 9.6.2, and 9.6.3 to the End of the Oregon Trail

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<sup>1</sup> This excerpt is from a memorandum submitted into the record on October 23, 2017 as an Exhibit entitled "Nicita 1<sup>st</sup> Open Record Evidence 10.02.2017". Page 1580 of 2071.

<sup>2</sup> Same Source as above. Page 1583 of 2017.

area does not cause the Master Plan and Design Guidelines to be applicable to the Applications.

Whether plan policies are approval standards applicable to individual permit decisions is determined by reference to the words used in the particular plan policy and the structure of the plan itself. The 1999 Comprehensive Plan provides:

In 1999, the goals and policies from the *Oregon City Downtown Community Plan (1999)* were added to the 1982 Comprehensive Plan. The goals and policies have been incorporated in the economic development and housing sections of this comprehensive plan (Sections 9 and 10 respectively). *The Downtown Community Plan* in its entirety (Phase 1) is considered ancillary to the Comprehensive Plan. (See Section 2, Land Use, Pages 9 and 15. )

The Comprehensive Plan elevated the End of the Oregon Trail site as a significant recreation site that is protected by a number of mandatory Plan policies that fully implement the objectives found in the Master Plan and Design Guidelines. The Planning Commission finds the following plan policies controlling development in the area surrounding the End of the Oregon Trail:

Policy 9.6.1 Protect historic, recreational, and natural resources as the basis for tourism, such as the Historic Downtown Area.

Policy 9.6.2 Ensure land uses and transportation connections that support tourism as an important aspect of the City's economic development strategy. This could include connections to the End of the Oregon Trail Interpretive Center and the train depot.

Policy 9.6.3 Provide land uses in the Downtown Historic Area, 7th Street corridor, and the End of the Oregon Trail Interpretive Center that support tourism and visitor services. Page 70.

The Commission finds that locating a hotel within walking distance of both the train station and the End of the Oregon Trail will support tourism and enhance visitors experience within the City. As discussed in greater detail below, frontage improvements along Washington Street, along with the development of commercial / retail uses, will enhance bicycle and pedestrian connectivity. Further, the orientation and design of the hotel, will protect the Hackett House and the End of the Oregon Trail site.

Because the City Commission never adopted the Master Plan and the Design Guidelines as approval criteria, the provisions of these documents do not operate as approval criteria applicable to the Applications. The Planning Commission finds that goals and policies from the Master Plan and Design Guidelines were aspirational. Where particular goals and policies were intended to be binding, they have been incorporated into the Comprehensive Plan, which are fully satisfied by this proposal. The Planning Commission denies Mr. Nicita's contentions on this issue.

**3. With the proposed conditions of approval, the proposal will be compatible with the Hackett House and the End of the Oregon Trail.**

Given that the Hackett House is a designated historic landmark and the End of the Oregon Trail are identified as a recreational resource providing tourism opportunities within the Comprehensive Plan, the Planning Commission feels that it is important to consider whether the hotel proposal will detract from the tourist benefits realized by these resources. First, the Planning Commission finds the testimony submitted by the End of the Oregon Trail Board of Director's compelling in noticing that siting the hotel perpendicular to Washington Street leaves a critical view corridor from Hwy 217 to the "wagon hoops."

With regard to historic compatibility, the Planning Commission appreciated the fairly simple, and understated hotel design rather than an approach that mimicked the Eastlake style of the Hackett House. The use of a traditional architectural form with a clearly delineated base, shaft and top, incorporating natural materials, wood siding, and simple rectangular, symmetrical punched windows are all reminiscent of historic structures in downtown Oregon City.

The planting of large deciduous and evergreen trees in the area between the Hackett House and the rear of the hotel will emphasize and frame the Hackett House, as well as mitigate for aesthetic impacts resulting from the adjustment for additional building height. To ensure this result, the Commission amended condition 32 to require the planting of large caliper deciduous and evergreen trees. The Planning Commission urges the selection of trees that will provide a dense screen within six months of planting.

**4. As proposed, the project will provide adequate pedestrian and bicycle connections consistent with the OCMC.**

OCMC 17.62.050.A.9 requires Applicant to provide a well-marked, continuous, and protected on-site pedestrian circulation system. The Planning Commission finds that the Applications satisfy this standard. As support for this conclusion, the Planning Commission relies upon Applicant's Pedestrian Circulation Plan (plan sheet 2.3), which

depicts pedestrian connections across the Property from 17<sup>th</sup> Street to the train station and includes connections to each of the buildings on the Property.

On September 25, 2017, the applicant submitted additional testimony regarding bicycle circulation consisting of a letter and diagram detailing pedestrian and bicycle circulation through the site and explaining prior agreements in place to provide for vehicular, bicycle and pedestrian connectivity between the site and additional affected property and abutting street and rights-of-way. The letter further explained that access easements will be provided for this purpose and making a clear distinction that dedication of property for this purpose, rather than an easement, is not required. The applicant agrees to Condition of Approval #45 and recommended that the Condition of Approval be amended to read as follows (items underlined to be added):

“#45. The applicant shall provide a public cross-access easement between the parcels to ensure pedestrian, bicycle and vehicle access is maintained. The easement shall provide mutual access between all of the properties onsite as well as with the adjacent train station and 17<sup>th</sup> Street. (P)”

Although the Planning Commission considered requiring the Applicant to provide a pathway along the railroad tracks, the Planning Commission determined, for three reasons, that this pathway is not necessary or required. First, the Planning Commission finds that a pathway along the railroad line is inconsistent with OCMC 12.04.199 and OCMC 17.62.050.(A).(2).(g), (h) and (i) , as it applies to the Property. This provision discusses connections between active places, which, in this case, is Washington Street, where Applicant has been required to place its buildings. The railroad line is located to the rear of the Property; therefore, a pathway to the rear of the Property will not support connections between active areas (either within the Property or between the Property and adjacent properties) as discussed in OCMC 12.04.199 and OCMC 17.62.050.(A).(2).(g), (h) and (i). The purpose of these code sections is to provide for vehicle, bicycle and pedestrian connectivity for the public through a development site and connecting to adjacent public streets and development sites with the use of easements where dedication of a public street is unnecessary and impractical. The applicant is required to make street improvements to the abutting Washington Street right-of-way including property dedication, widening of road pavement, bicycle lanes, a ten-foot wide sidewalk. Additional public street or pathway dedications through the site are not required since the required easement will provide the necessary connectivity. Second, the Planning Commission finds that installing a pathway along the railroad line may have adverse impacts on the remainder of the site design, including relocating buildings and parking. Third, the Planning Commission finds that the pathway may not be feasible due to topographic constraints.

Further, with regard to the need for a mid-block pedestrian access, the Planning Commission supports a modification of OCMC 12.04.195 because the existing railroad right-of-way precludes any opportunities to provide connections to the street system west of the tracks.

The Planning Commission finds that Applicant has provided adequate pedestrian and bicycle connections consistent with the OCMC.

#### **4. Modified conditions and additional recommendation.**

The Planning Commission amended two of City staff's proposed conditions of approval to clarify the intent of the conditions. Condition 17 was discussed and amended on September 25, 2017. Condition 32 was discussed and amended on October 23, 2017. As amended, these conditions read as follows:

- Condition 17. The applicant shall construct Washington Street along the site frontage including a center turn lane to provide for left turns into the site. Applicant shall provide additional traffic engineering analysis relating to the location of the site access that shows the location of proposed access will not have a significant adverse impact with queuing or traffic operations at adjacent traffic signals. (DS)
- Condition 32. The applicant shall provide revised landscaping plans that add a tree at the landscape island between the trash enclosure and the adjacent parking space at the rear of the hotel. Furthermore the applicant shall utilize large caliper deciduous and evergreen trees to provide a dense screen within six months of planting between the Hackett House and the hotel. (P)
- Condition 45. The applicant shall provide a public cross-access easement between the parcels to ensure pedestrian, bicycle and vehicle access is maintained. The easement shall provide mutual access between all of the properties onsite as well as with the adjacent train station and 17th Street. (P)

#### **IV. CONCLUSION**

Based upon the evidence and argument identified above, the Planning Commission finds that Planning Files CP-17-0002, DP-17-0003 and NR-17-0004 satisfy all applicable approval criteria and should be approved, subject to the conditions in the two staff

reports, as amended by the Planning Commission's amendments to Conditions of Approval 17, 32 and 45.