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October 2, 2017

VIA EMAIL (SUBMITTED BEFORE 3:30 P.M.)

Ms. Denyse McGriff, Chair
City of Oregon City Planning Commission
221 Molalla Ave, Suite 200
Oregon City, OR 97045

Re: City of Oregon City File Nos. CP-17-0002, DP-17-0003 and NR-17-0004

Dear Chair McGriff and Members of the Oregon City Planning Commission:

This office represents Hackett Hospitality, LLC ("Hackett", or the "Applicant"). This letter and its enclosures are the Applicant's submittal prior to the close of the first evidentiary open record period on Monday, October 2, 2017 at 3:30 p.m. This letter and its attachments have been timely submitted to Mr. Pete Walter via email prior to 3:30 p.m.

1. Status of Review of the Application.

The Planning Commission closed the public hearing on September 25, 2017 following the Applicant's oral rebuttal but left the written record open as follows:

- Until Monday, October 2, 2017 at 3:30 p.m. for any person to submit argument and evidence;
- Until Monday, October 9, 2017 at 3:30 p.m. for any person to rebut argument and evidence received during the first open record; and
- Until Monday, October 16, 2017 at 3:30 p.m. for the Applicant only to submit final written argument without new evidence.

Submittals are to be directed to Mr. Pete Walter. The Planning Commission will reconvene on October 23, 2017 to deliberate to a tentative decision. No public testimony will be received at the October 23, 2017 public hearing.

2. Response to Issues Raised at the September 25, 2017 Public Hearing.

A. Testimony by Mr. James Nicita.

1. 1991 Draft End of the Oregon Trail Design Guidelines.

Mr. Nicita argues that the 1991 draft End of the Oregon Trail Design Guidelines (the "1991 Draft Guidelines") are approval standards for this application, although he does not explain why. Instead, he has submitted a four page document entitled "End of the Oregon Trail Master Plan and 1991 End of the Oregon Trail Design Guidelines as Planning and Regulatory Documents, Appendix 1-Appendix 4". None of the four appendices contain a reference to the Oregon City Commission, the City's legislative body, enacting the 1991 Draft Guidelines as approval standards. None of the four appendices show that the 1991 Draft Guidelines have ever been applied to an application.

The first page of the 1991 Draft Guidelines is marked "draft". The 1991 Draft Guidelines contain no reference to adoption by the Oregon City Commission. Page 3 of the 1991 Draft Guidelines states that the End of the Oregon Interpretive Center is to be the "heart" of the End of the Oregon Trail Historic District (the "EOT District"). However, nothing in the record shows that the Oregon City Commission ever adopted the EOT District. **Exhibit 1** is an email from Mr. Dan Fowler, former Oregon City Mayor, stating that he did not recall the 1991 Draft Guidelines being adopted by the Oregon City City Commission during his eight years as Mayor between 1991 and 1999. **Exhibit 2** is a September 27, 2017 email from Ian Johnson, Associate Deputy State historic Preservation Officer stating that his office has no record of an Oregon Trail Historic District listed in the National Registry of Historic Places, nor any information that the area was locally designated as historic.

Finally, Mr. Dan Fowler submitted a public records request to the Oregon City Recorder requesting that the City retrieve any documents or information demonstrating that the Oregon City City Commission adopted, or did not adopt, the "1991 End of the National Historic Oregon Trail Historic District Design Draft Guidelines". In response to that request, the City Recorder provided a significant amount of documentation from the Oregon City Urban Renewal Commission and the Oregon City City Commission from 1991-1994, including primarily meeting agendas and minutes of each body but also including resolutions and ordinances of the Oregon City City Commission. A review of those documents yielded no evidence that the Oregon City City Commission ever formally adopted the 1991 End of the National Historic Oregon Trail Historic District Draft Design Guidelines.

The 1991 Draft Guidelines contain a section entitled "IV. Implementation". Section IV calls for administration of the 1991 Draft Guidelines by an "EOTG District Design Review Board", which will implement the City of Oregon City Design Review Board. The Planning

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Commission can take official notice that there is no EOTG District Design Review Board that plays a role in the decision making for this application.

The 1991 Draft Guidelines, Section IV, also provides for a "design review procedure", which includes a requirement for a predesign conference, a preliminary plan review, a final plan review, City building permit review and construction review. The Planning Commission can take official notice that Oregon City Municipal Code Title 17 includes no requirement for this implementation as described in the 1991 Draft Guidelines.

It is apparent that the 1991 Draft Guidelines were intended to implement the EOT District. However, there is no evidence that the EOT District was ever adopted, let alone implemented, and notwithstanding that the 1991 Draft Guidelines have never been adopted or implemented, the fact that the historic district they were intended to implement has not been created means that the purpose of the 1991 Draft Guidelines is thwarted. The Planning Commission can take official notice of the City's official zoning maps to conclude that there is no such district, let alone one that applies to the present application.

2. The 1991 Draft Guidelines are not part of the Oregon City Comprehensive Plan.

Mr. Nicita argues that the Draft 1991 Guidelines supersede other requirements. First, while *Baker v. City of Milwaukee* holds that the comprehensive plan is the primary land use document in Oregon, in this case, there is no evidence that the 1991 Draft Guidelines were enacted by the Oregon City Commission, the City's legislative body.

The acknowledged Oregon City Comprehensive Plan (the "Plan") and its implementing land use regulations supersede the guidelines. The June 2004 Plan is more current that the 1991 Draft Guidelines. At most, the 1991 Draft Guidelines are incorporated by reference in the 1991 Downtown Community Plan which, is only an ancillary document to the Plan.

The Plan at page 4, under the heading "Implementing the Plan", states that "The Oregon City Comprehensive Plan is implemented through City Codes, ancillary plans, concept plans and master plans." In the following sections on Plan page 4, the 1991 Draft Guidelines are not mentioned. The Plan at page 11 notes the incorporation of the Downtown Community Plan's goals and policies into the Plan but importantly does not mention incorporation of the 1991 Draft Guidelines nor their adoption. The Plan at page 15 notes the Ancillary Plans that have been adopted as ancillary to the Plan since 1982. While this page notes 13 such documents, it does not list the 1991 Draft Guidelines. Finally, Plan page 17, Goal 2.2, "Downtown Oregon City", notes the "End of the Oregon Trail Area" but does not describe an End of the Oregon Trail District. Further, Planning Goal 2.2, "Downtown Oregon City" contains 13 policies, none of which mention the 1991 Draft Guidelines.

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Section 5 of the Plan is entitled "Open Spaces, Scenic and Historic Areas, and Natural Resources" and begins at page 27 of the Plan. Plan page 29 has two sections entitled "Historic Preservation" and "Preservation in Oregon City". Neither section describes the adoption of an End of Oregon Trail District nor the 1991 Draft Guidelines. Plan page 31 has a section entitled "Historic Districts". This sections lists three such districts and does not include a proposed End of Oregon Trail District. Finally, Planning Goal 5.3 at page 39 contains eight policies. None of the policies mention or describe an End of Oregon Trail District or the 1991 Draft Guidelines.

For all of the above reasons, the Planning Commission can conclude that the 1991 Draft Guidelines are not part of the Plan and, therefore, do not supersede applicable Oregon City Municipal Code provisions. The Planning Commission can find that the 1991 Draft Guidelines are not approval standards for this application pursuant to ORS 227.173(1).

3. Oregon City Municipal Code ("OCMC") 17.40.060.B.1. and .2.

Mr. Nicita argues that the Applicant failed to comply with OCMC 17.40.060.B.1. and .2 (**Exhibit 3**). This standard is entitled "Archeological Monitoring Recommendation". This standard requires that for any application involving ground disturbance, such as this application, the Applicant shall send a letter to the Oregon State Historic Preservation Office, Archeological Division, indicating the level of recommended archeological monitoring at the site, or demonstrate the Applicant has notified the Oregon State Historic Preservation Office and the Oregon State Historic Preservation Office did not comment within 45 days of the notification. Additionally, the same requirement exists to notify the Confederated Tribes of the Grand Ronde, the Confederated Tribes of the Siletz, the Confederated Tribes of the Matella, the Confederated Tribes of the Warm Springs and the Confederated Tribes of the Yakama Nation (collectively, the "Tribes") or demonstrate that the tribes not respond within 45 days of notification by the Applicant.

Exhibit 4 is the City's January 24, 2017 email from Diliana Vassileva to the Tribes providing them with notice of a preapplication meeting for this application. 45 days after the January 25, 2017 email was March 17, 2017. With the exception of the response from the Confederated Tribes of the Grand Ronde (**Exhibit 5**) the other four tribes did not respond. The City also has a response from the State Historic Preservation Office (**Exhibit 6**). The memorandum from City staff dated September 29, 2017 shows that this is the usual practice for addressing OCMC 17.40.060.B.1. and 2. (**Exhibit 7**). While the Applicant did not notify either the State Historic Preservation Office or the Tribes, the City did do so.

It does not matter whether this required coordination was accomplished by the City or the Applicant. The Oregon Land Use Board of Appeals ("LUBA") has previously held that where some of the coordination obligation was conducted by the Applicant rather than the City, there was no prejudice to any person of substantial rights or legal error. *See Davenport v. City of*

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Tigard, 23 Or LUBA 565, 576 (1992) (holding that it does not matter who coordinates as long as coordination is accomplished). Just as in this case, the City followed the relevant requirements of the OCMC and provided notice of the application with the Oregon State Historic Preservation Office and the five Tribes. The staff report for the August 28, 2017 public hearing at pages 58 and 59 addresses this standard and finds it is satisfied. (**Exhibit 8**).

The Planning Commission can find that these documents are substantial evidence demonstrating the satisfaction of the standard.

4. Oregon City Urban Renewal Plan.

Mr. Nicita submitted the Oregon City Urban Renewal Plan into the record. Nothing in the Oregon City Urban Renewal Plan makes it an approval standard for this land use application. Nothing in the Oregon City Comprehensive Plan makes the Oregon City Urban Renewal Plan a relevant document.

The Planning Commission can find that the Oregon City Urban Renewal Plan is not an applicable approval criterion.

B. Testimony by Mr. Bob LaSalle.

Mr. LaSalle, Land Use Chair for the Park Place Neighborhood Association, began his testimony by saying that his neighborhood association was "totally in support" of the hotel. Nevertheless, he raised two issues regarding compliance with relevant approval standards

First, he noted that the hotel's main entrance was not located on Washington Street. As the Planning Commission knows, the Applicant is seeking an adjustment to allow the hotel's main entrance to be located so as not to face Washington Street and to be more than five feet away from Washington Street. Substantial evidence in the whole record demonstrates that the adjustment application satisfies the relevant approval standards. Further, the purpose of the adjustment is to allow the hotel to be sited in a way that preserves the view corridor from I-205 to the End of the Oregon Trail Interpretation Center (the "Center"). Mr. Jack Hammond, representing the Center, testified that a visual corridor between I-205 and the Center was very important for tourism. The visual corridor is also supported by the 1991 End of the Oregon Trail Plan, which states at page 43:

> **"Visitor anticipation of the End of the Oregon Trail Center will increase if glimpses of white-top flagons and livestock trundling across the meadow are seen from the adjacent highway."**

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Second, Mr. LaSalle argued that the hotel architecture is unrelated to the Hackett House. OCMC 17.62.050.3.a (**Exhibit 9**) requires that the development site be located within one of three identified areas and be adjacent to a designated historic landmark. While the hotel development site is adjacent to Hackett House, it is not located within one of the three identified areas. Therefore, OCMC 17.62.050.3.a does not apply to this application. Nevertheless, the Applicant has addressed relevant OCMC criteria in terms of impacts of the hotel on the Hackett House (**Exhibit 10**).

The Planning Commission can reject these issues.

C. Testimony by Mr. Paul Edgar.

Mr. Edgar argued that the hotel should be "linked" to the Hackett House. Mr. Hill's October 2, 2017 letter explains how the Hackett House's design is related to the hotel.

D. Testimony by Mr. Jay Pierce.

Mr. Pierce argued that the application does not meet the accessway requirements in OCMC 12.04.199 (**Exhibit 11**).

The Planning Commission can find, as explained by Mr. Lloyd in his September 25, 2017 letter, that the accessway requirements do not apply to this site. The site has adequate street continuity and there is not a lack of access points to and from the site.

The Planning Commission can reject these issues.

E. Testimony by Mr. Bill Daniels and Mr. Kim McCreedy, representing the McLaughlin Neighborhood Association ("MNA").

Mr. Daniels and Mr. McCready raised three issues in MNA's letter dated September 21, 2017. First, they argued a lack of design compatibility between the Hackett House and the hotel. For the reasons discussed above, the Planning Commission can reject these arguments.

Second, they argued that the 1991 Draft Guidelines apply. The Planning Commission can conclude, for the reasons explained in part 1 of this letter, above, that the 1991 Draft Guidelines are not applicable approval standards for this application.

Third, they argued that citizen involvement has not been satisfied because OCMC 17.50.055.2. and .5 have not been satisfied. The record before the Planning Commission includes a January 25, 2017 from Mr. Hermann, Chair of the Two Rivers Neighborhood Association, describing the neighborhood meeting at which two representatives of the Applicant and he were the only attendees of the meeting. **Exhibit 12** is an email dated September 29,

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2017, 2017 from Mr. Bryon Boyce indicating that pursuant to OCMC 17.50.055.5, the Neighborhood Association authorized an alternative means of communication instead of a certified letter, return receipt requested.

Moreover, the Planning Commission can find that OCMC 17.50.055 is not an approval standard. As the Planning Department correctly points out, OCMC 17.50.055 is a completeness requirement. Because the City has deemed the application complete pursuant to ORS 227.178(2), the completeness decision may not be reconsidered.

Finally, they argued that the 45-foot high adjustment for the hotel is not satisfied. The 45-foot building height is subject to an adjustment which is satisfied by applicable approval by substantial evidence demonstrating that the applicable approval criteria are met. The adjustment allows the Applicant to construct a narrower but taller building, thus preserving the view corridor between I-205 and the Center.

The Planning Commission can reject these issues.

3. Geotechnical Report.

To the extent persons have argued that the application has not properly considered the soils on the site, the record contains the complete May 9, 2017 Geotechnical Report by GeoDesign consisting of 71 pages.

4. Traffic Impact Analysis.

To the extent persons have argued that the application has failed to adequately consider traffic impacts, the record contains the complete April 18, 2017 Traffic Impact Analysis by Lancaster Engineers consisting of 290 pages. The August 14, 2017 staff report at page 36 addresses the Traffic Impact Analysis.

5. Access Across the Union Pacific Railroad Right of Way via 17th Street.

To the extent persons have argued that 17th Street should be used to connect Main Street, **Exhibit 13** is the comment from the Oregon Department of Transportation ("ODOT") stating that the 17th Street public crossing was "permanently closed".

6. Conclusion.

For the reasons contained in this letter, the Planning Commission can reject issues raised by opponents of this application and find that the Applicant has met its burden of proof to demonstrate by substantial evidence that the applicable approval criteria are satisfied. The Applicant respectfully requests that the Planning Commission tentatively approve the

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application, including modified conditions of approval, which include the September 25, 2017 recommendation by the City's Traffic Engineer, Mr. John Replinger, that Condition of Approval 17 be modified (**Exhibit 14**).

Very truly yours,

Michael C. Robinson

MCR:rsr
Enclosures

cc: Mr. Dan Fowler (w/encls.) (via email)
Mr. Mark Foley (w/encls.) (via email)
Mr. Lloyd Hill (w/encls.) (via email)
Mr. Robin Chard (w/encls.) (via email)
Mr. Tom Sisul (w/encls.) (via email)
Mr. Mike Ard (w/encls.) (via email)
Mr. Pete Walter (w/encls.) (via email)
Ms. Carrie Richter (w/encls.) (via email)

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EXHIBITS

Exhibit 1	October 1, 2017 Email from Dan Fowler.
Exhibit 2	September 27, 2017 Email from Ian Johnson.
Exhibit 3	OCMC 17.40.060.B.1 and .2.
Exhibit 4	January 24, 2017 Email from Diliana Vassileva to the Tribes
Exhibit 5	February 27, 2017 Letter from Confederated Tribes of the Grand Ronde.
Exhibit 6	July 14, 2017 Letter from the Oregon State Historic Preservation Office.
Exhibit 7	September 29, 2017 Memorandum from Peter Walter Regarding OCMC 17.40.060.D.1 and 2 and 17.62.060.D.1 and 2.
Exhibit 8	August 28, 2017 Supplemental Staff Report, Finding on OCMC 17.40.060.D.1 and 2.
Exhibit 9	OCMC 17.62.050(3)(a).
Exhibit 10	October 2, 2017 Letter from Lloyd Hill.
Exhibit 11	OCMC 12.04.199.
Exhibit 12	September 29, 2017 Email from Bryon Boyce.
Exhibit 13	August 28, 2017 Supplemental Staff Report Reviewing Oregon Department of Transportation ("ODOT") Comment.
Exhibit 14	September 26, 2017 Letter from City Traffic Engineer John Replinger, P.E. regarding Condition of Approval 17.

Robinson, Michael C. (POR)

From: Dan Fowler <DanF@abernethycenter.com>
Sent: Sunday, October 01, 2017 3:45 PM
To: Robinson, Michael C. (POR)
Subject: Approval of End of the Oregon Trail Design Guidlines

Michael,

I had the privilege to serve as mayor from January 1991 to January 1999. During that time I do not recall the Commission approving design guideline for the End of the Oregon Trail area.

Dan Fowler

EXHIBIT 1
Page 1 of 1

From: JOHNSON Ian * OPRD [mailto:Ian.Johnson@oregon.gov]
Sent: Wednesday, September 27, 2017 12:25 PM
To: Delmar, David (POR)
Subject: RE: End of Oregon Trail Design Guidelines

Thanks for contacting our office. We have no record of an Oregon Trail Historic District listed in the National Register of Historic Places. Oregon does not have a State Register. It is possible that this area was locally designated as historic, but we would not have a record of that information. There are a number of properties in the area that have been determined eligible for listing in the National Register or that are listed. Listing is honorific, but listed properties are often subject to local land use regulation.

If you have not already, I would contact the local planning office to see if the area is locally designated.

Thanks.

Ian

Ian P. Johnson | Associate Deputy State Historic Preservation Officer
Desk: 503.986.0678 cell: 971.718.1137

D. Archeological Monitoring Recommendation. For all projects that will involve ground disturbance, the applicant shall provide,

1. A letter or email from the Oregon State Historic Preservation Office Archaeological Division indicating the level of recommended archeological monitoring on-site, or demonstrate that the applicant had notified the Oregon State Historic Preservation Office and that the Oregon State Historic Preservation Office had not commented within forty-five days of notification by the applicant; and
2. A letter or email from the applicable tribal cultural resource representative of the Confederated *Tribes* of the Grand Ronde, Confederated *Tribes* of the Siletz, Confederated *Tribes* of the Umatilla, Confederated *Tribes* of the Warm Springs and the Confederated *Tribes* of the Yakama Nation indicating the level of recommended archeological monitoring on-site, or demonstrate that the applicant had notified the applicable tribal cultural resource representative and that the applicable tribal cultural resource representative had not commented within forty-five days of notification by the applicant.

From: Diliana Vassileva [mailto:dvassileva@orcity.org]
Sent: Tuesday, January 24, 2017 2:13 PM
To: THPO@ctwsbnr.org; THPO <THPO@grandronde.org>; TearaFarrow@ctuir.org; rkentta@ctsi.nsn.us; johnson@yakama.com

Subject: Development Review in Oregon City -- Multiple Properties

Good afternoon,

Oregon City's municipal code requires notice be send to selected Tribes and SHPO before development involving ground disturbance may occur. Oregon City will not be reviewing projects on archeological criteria, but we want to make sure that the applicant is aware of any potential archeological issues as early in the process as possible.

Please review the attached document and return any comments regarding potential archeological issues to me **within 45 days** and your comments will be forwarded to the applicant.

Thank you and please feel free to contact me with any additional questions or concerns.

Diliana Vassileva
Assistant Planner
Planning Division
City of Oregon City
PO Box 3040
221 Molalla Avenue, Suite 200
Oregon City, Oregon 97045
Direct - 503.974.5501
Planning Division - 503.722.3789
Fax 503.722.3880

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Think **GREEN** before you print.

Please visit us at 221 Molalla Avenue, Suite 200 between the hours of 8:30am-3:30pm Monday through Friday.
PUBLIC RECORDS LAW DISCLOSURE: This e-mail is subject to the State Retention Schedule and may be made available to the public.

The Confederated Tribes of the Grand Ronde Community of Oregon

Historic Preservation Department
Phone (503) 879-2185
1-800 422-0232
Fax (503) 879-2126

8720 Grand Ronde Rd
Grand Ronde, OR 97347

February 27, 2017

Diliana Vassileva
Assistant Planner, Planning Division
City of Oregon City
PO Box 3040
221 Molalla Avenue, Suite 200
Oregon City, Oregon 97045

RE: Development Review in Oregon City -- Multiple Properties

Greetings Dilianna,

The Confederated Tribes of Grand Ronde have reviewed Oregon City Projects PA 16-61, PA 16-62, PA 16-63, PA 16-64, PA 17-01, and PA 17-02. We have concerns about the probability of cultural resources being located at these project locations. We recommend that subsurface archaeological investigations be done at each location prior to any construction.

Should you have any questions, please contact me at (503) 879-1675.

Respectfully,

Christopher Bailey
Cultural Protection Specialist
Cultural Protection
Historic Preservation
Confederated Tribes of the Grand Ronde Community of Oregon

chris.bailey@grandronde.org
503-879-1665

Oregon
Kate Brown, Governor

Parks and Recreation Department
State Historic Preservation Office
725 Summer St NE Ste C
Salem, OR 97301-1266
Phone (503) 986-0690
Fax (503) 986-0793
www.oregonheritage.org

July 14, 2016

Ms. Diliana Vassileva
City of Oregon City Planning
221 Molalla Ave
Ste 200
Oregon City, OR 97045

RE: SHPO Case No. 16-0405
City of Oregon City, PA-16-05, PA 16-30
4 story hotel
415 17th Street (2S 2E 29), Oregon City, Clackamas County

Dear Ms. Vassileva:

Our office recently received a request to review your amended application for the project referenced above. In checking our statewide archaeological database, it appears that there have been no previous surveys completed near the proposed project area. However, the project area lies within an area generally perceived to have a high probability for possessing archaeological sites and/or buried human remains. In the absence of sufficient knowledge to predict the location of cultural resources within the project area, extreme caution is recommended during project related ground disturbing activities. Under state law (ORS 358.905 and ORS 97.74) archaeological sites, objects and human remains are protected on both state public and private lands in Oregon. If archaeological objects or sites are discovered during construction, all activities should cease immediately until a professional archaeologist can evaluate the discovery. If you have not already done so, be sure to consult with all appropriate Indian tribes regarding your proposed project. If the project has a federal nexus (i.e., federal funding, permitting, or oversight) please coordinate with the appropriate lead federal agency representative regarding compliance with Section 106 of the National Historic Preservation Act (NHPA). If you have any questions about the above comments or would like additional information, please feel free to contact our office at your convenience. In order to help us track your project accurately, please reference the SHPO case number above in all correspondence.This letter refers to archaeological resources only. Comments pursuant to a review for above-ground historic resources will be sent separately.

Sincerely,

Dennis Griffin, Ph.D., RPA
State Archaeologist
(503) 986-0674
dennis.griffin@oregon.gov

OREGON CITY

Community Development – Planning

221 Molalla Ave. Suite 200 | Oregon City OR 97045
Ph (503) 722-3789 | Fax (503) 722-3880

Date: September 29, 2017

To: Chair McGriff and Planning Commission

From: Pete Walter, AICP, Planner

Re: Tribal Notification Requirements - Archeological Monitoring Recommendation

The City adopted notification requirements for Archeological Monitoring Recommendations in 2008. The following code language was adopted as part of the City's Subdivision, Minor Partition, Historic Overlay District, and Site Plan and Design Review code in sections 16.16.20, 16.08.025, 17.40.060, and 17.62.060. The code provides as follows:

H. Archeological Monitoring Recommendation. For all projects that will involve ground disturbance, the applicant shall provide:
1. A letter or email from the Oregon State Historic Preservation Office Archaeological Division indicating the level of recommended archeological monitoring on-site, or demonstrate that the applicant had notified the Oregon State Historic Preservation Office and that the Oregon State Historic Preservation Office had not commented within forty-five days of notification by the applicant; and
2. A letter or email from the applicable tribal cultural resource representative of the Confederated Tribes of the Grand Ronde, Confederated Tribes of the Siletz, Confederated Tribes of the Umatilla, Confederated Tribes of the Warm Springs and the Confederated Tribes of the Yakama Nation indicating the level of recommended archeological monitoring on-site, or demonstrate that the applicant had notified the applicable tribal cultural resource representative and that the applicable tribal cultural resource representative had not commented within forty-five days of notification by the applicant.
If, after forty-five days notice from the applicant, the Oregon State Historic Preservation Office or the applicable tribal cultural resource representative fails to provide comment, the city will not require the letter or email as part of the completeness review. For the purpose of this section, ground disturbance is defined as the movement of native soils.

The requirement applies to all projects that may have ground disturbance and early noticing ensures that the Oregon State Historic Preservation Office (SHPO), and tribal contacts the Confederated Tribes of the Grand Ronde, Confederated Tribes of the Siletz, Confederated Tribes of the Umatilla, Confederated Tribes of the Warm Springs and the Confederated Tribes of the Yakama Nation provide notice to the applicant of potential archeological monitoring requirements, in addition to the state and federal laws that apply. In an abundance of caution, Planning Division staff provides this notice to SHPO and the Tribes upon receipt of every pre-application conference request, rather than only the projects which include ground disturbance.

G. An exterior lighting plan, drawn to scale, showing type, height, and area of illumination.
H. Archeological Monitoring Recommendation. For all projects that will involve ground disturbance, the applicant shall provide:
1. A letter or email from the Oregon State Historic Preservation Office Archaeological Division indicating the level of recommended archeological monitoring on-site, or demonstrate that the applicant had notified the Oregon State Historic Preservation Office and that the Oregon State Historic Preservation Office had not commented within forty-five days of notification by the applicant; and
2. A letter or email from the applicable tribal cultural resource representative of the Confederated Tribes of the Grand Ronde, Confederated Tribes of the Siletz, Confederated Tribes of the Umatilla, Confederated Tribes of the Warm Springs and the Confederated Tribes of the Yakama Nation indicating the level of recommended archeological monitoring on-site, or demonstrate that the applicant had notified the applicable tribal cultural resource representative and that the applicable tribal cultural resource representative had not commented within forty-five days of notification by the applicant.
If, after forty-five days notice from the applicant, the Oregon State Historic Preservation Office or the applicable tribal cultural resource representative fails to provide comment, the city will not require the letter or email as part of the completeness review. For the purpose of this section, ground disturbance is defined as the movement of native soils.
I. Such special studies or reports as the community development director may require to obtain information to ensure that the proposed development does not adversely affect the surrounding community or identified natural resource areas or create hazardous conditions for persons or improvements on the site. The community development director shall require an applicant to submit one or more development impact statements, as described in Section 16.12.050, upon determination that (1) there is a reasonable likelihood that traffic safety or capacity improvements may be required; (2) the proposal could have significant adverse impacts on identified natural resource areas, including areas designated as being within the natural resources overlay district; or (3) the proposal would be located on or could have significant adverse impacts on natural hazard areas, including the geologic hazard and flood plain overlay districts. The community development director shall determine which types of development impact statements are necessary and provide written reasons for requiring the statement(s). The development impact statements shall include the information described in Sections 16.12.070, 16.12.080, and 16.12.120 [and this Section] 17.62.040.
J. The community development director may waive the submission of information for specific requirements of this section or may require information in addition to that required by a specific provision of this section, as follows:
1. The community development director may waive the submission of information for a specific requirement upon determination either that specific information is not necessary to evaluate the application properly, or that a specific approval standard is not applicable to the application. If submission of information is waived, the community development director shall, in the decision, identify the waived requirements, explain the reasons for the waiver, and state that the waiver may be challenged on appeal and may be denied by a subsequent review authority. If the matter is forwarded to the planning commission for initial review, the information required by this paragraph shall be included in the staff report;
2. The community development director may require information in addition to that required by a specific provision of this section upon determination that the information is needed to evaluate the application properly and that the need can be justified on the basis of a special or unforeseen circumstance. If additional information is required, the community development director shall, in the decision, explain the reasons for requiring the additional information.
K. If the applicant has not already done so as some other part of the land use review process, the applicant shall submit an erosion control plan that complies with the applicable requirements of Chapter 17.74 of this code.
Finding: Complies with Condition. The submittal requirements meet this standard and the application was deemed complete. The Community Development Director has not waived any submittal requirements. A copy of

the pre-application proposal was forwarded to SHPO, the Confederated Tribes of the Grand Ronde, Confederated Tribes of the Siletz, Confederated Tribes of the Umatilla, Confederated Tribes of the Warm Springs and the Confederated Tribes of the Yakama Nation requesting comments. Comments were received from the Confederated Tribes of the Grand Ronde recommending that subsurface archeological investigations be conducted prior to ground disturbance. A standard comment letter from SHPO was received advising the applicant of applicable state laws protecting cultural resources under ORS 358.905 and ORS 97.74. The applicant shall coordinate as needed to complete the necessary investigations prior to any ground disturbance.

It is reasonable, practicable and likely that the applicant can meet this standard through a Condition of Approval.

17.62.050 - Standards.

A. All development shall comply with the following standards:

1. Landscaping, A minimum of fifteen percent of the lot shall be landscaped. Existing native vegetation shall be retained to the maximum extent practicable. All plants listed on the Oregon City Nuisance Plant List shall be removed from the site prior to issuance of a final occupancy permit for the building.

Finding: Complies with Condition. The applicant did not provide a calculation for the percentage of landscaping. The project is in the Mixed Use Downtown zone. Chapter 17.34.060.I requires a minimum of 10% of the site area to be landscaped including parking. The submitted stormwater site assessment indicates that the site is 2.15 acres (93,654 square feet) and that the amount of new and replaced impervious area (buildings and paved areas) will equal 62,137 square feet for phase 1. (62,137 ÷ 93,654 = 0.66 or 66%). All non-impervious areas shall be landscaped pursuant to OCMC 17.62.050.A.(1). Staff estimates based on this that the amount of landscaping will be approximately 34% of the site. See "Planting Plan", L1.0 showing required landscaping. Prior to issuance of a building permit, the applicant shall provide a calculation of the amount of landscaping on the site for both phases prior to issuance of a building permit.

It is reasonable, practicable and likely that the applicant can meet this standard through a Condition of Approval.

a. Except as allowed elsewhere in the zoning and land division chapters of this Code, all areas to be credited towards landscaping must be installed with growing plant materials. A reduction of up to twenty-five percent of the overall required landscaping may be approved by the community development director if the same or greater amount of pervious material is incorporated in the non-parking lot portion of the site plan (pervious material within parking lots are regulated in OCMC 17.52.070).

Finding: Complies as proposed. The applicant's landscaping plans Sheet L1.0 indicate compliance with this standard. The applicant has not proposed the use of pervious paving materials in order to reduce the amount of landscaping required.

b. Pursuant to Chapter 17.49, landscaping requirements within the Natural Resource Overlay District, other than landscaping required for parking lots, may be met by preserving, restoring and permanently protecting native vegetation and habitat on development sites.

Finding: Not applicable. The applicant has applied for verification that the site is not regulated by the Natural Resources Overlay District. See section 17.49 for findings.

c. The landscaping plan shall be prepared by a registered landscape architect and include a mix of vertical (trees and shrubs) and horizontal elements (grass, groundcover, etc.) that within three years will cover one hundred percent of the Landscape area. No mulch, bark chips, or similar materials shall be allowed at the time of landscape installation except under the canopy of shrubs and within two feet of the base of trees. The

3. Building structures shall be complimentary to the surrounding area. All exterior surfaces shall present a finished appearance. All sides of the building shall include materials and design characteristics consistent with those on the front. Use of inferior or lesser quality materials for side or rear facades or decking shall be prohibited.

   a. Alterations, additions and new construction located within the McLoughlin Conservation District, Canemah National Register District, and the Downtown Design District and when abutting a designated Historic Landmark shall utilize materials and a design that incorporates the architecture of the subject building as well as the surrounding district or abutting Historic Landmark. Historic materials such as doors, windows and siding shall be retained or replaced with in kind materials unless the community development director determines that the materials cannot be retained and the new design and materials are compatible with the subject building, and District or Landmark. The community development director may utilize the Historic Review Board's Guidelines for New Constriction (2006) to develop findings to show compliance with this section.

October 1, 2017

VIA EMAIL

Ms. Denyse McGriff, Chair
City of Oregon City Planning Commission
221 Molalla Avenue, Suite 200
Oregon City, Oregon 97045

RE: City of Oregon City Planning Files CP-17-0002, DP-17-0003, NR-17-0004 & Response to Hotel Design Compatibility Issues

Dear Chair McGriff and Members of the Oregon City Planning Commission:

Hill Architects is the Architect for the Abernethy Place Masterplan project which is being developed by Hackett Hospitality, LLC ("Hackett" or "the Applicant").

On September 22, 2017 we submitted a letter addressing the design of the hotel, specifically addressing compatibility with the End of the Oregon Trail Interpretive Center and the Hackett House. Additional questions were raised related to the compatibility of the hotel design with the adjacent Hackett House during the September 25th planning commission hearing. We are submitting this letter to further clarify the compatibility of the design of the hotel with the end of the Oregon Trail interpretive center and the Hackett House.

The project site is not located in one of the Historic Districts which have been established in Oregon City. The Hackett House is listed on the National Historic Register. Although the End of the Oregon Trail Interpretive center provides information about history, it is not a Historic Landmark.

1. Response to Oregon City Comprehensive Plan Policies.

The Oregon City Comprehensive Plan Goal 5.3 addresses goals related to Historic Resources. The policies associated with Goal 5.3 are intended to *"Encourage the preservation and rehabilitation of homes and other buildings of historic or architectural significance in Oregon City,"* include the following:

Policy 5.3.1 Encourage architectural design of new structures in local Historic Districts, and the central Downtown area to be compatible with the historic character of the surrounding area.

As noted above, the project is not located in either the central Downtown area, or one of the designated historic districts. Consequently, this policy does not apply to this project.

Policy 5.3.2 Evaluate the establishment of Historic and Conservation Districts to preserve neighborhoods with significant examples of historic architecture in residential and business structures.

This policy is not applicable to this project application.

Policy 5.3.3 Promote the designation of qualifying properties outside Historic and Conservation Districts as historic.

As noted above the Hackett House has already been placed on the National Historic Register by one of the proponents of the project. This Policy is met.

HILL ARCHITECTS
1750 BLANKENSHIP ROAD • SUITE 400 • WEST LINN OR 97068 • TEL 503 305 8033 • FAX 503 305 8034

Policy 5.3.4 Support the preservation of Oregon City's historic resources through public information, advocacy and leadership within the community, and the use of regulatory tools and incentive programs.

This policy is not applicable to this project application.

Policy 5.3.5 Support efforts to obtain historic designation at the city, state and national levels for public and private historic sites and districts. Natural and cultural landscapes should also be considered.

As noted above the Hackett House has already been placed on the National Historic Register by one of the proponents of the project. Other aspects of this policy are not applicable to this project application. This Policy is met.

Policy 5.3.6 Maintain Oregon City's status as a Certified Local Government in the National Historic Preservation Program.

This policy is not applicable to this project application.

Policy 5.3.7 Encourage property owners to preserve historic structures in a state as close to their original construction as possible while allowing the structure to be used in an economically viable manner.

This policy is not mandatory because it uses the work "encourage". The Abernethy Place Masterplan has been designed specifically to allow the Hackett House to remain in its original location. The proposed design leaves the existing landscaping around the house and proposes enhanced new landscaping consistent with the historic character of the house. As explained during our presentation, the developers of the project intend to maintain architectural integrity of the Hackett house which is currently used as office space. Any modifications to the Hackett House will be reviewed and approved by the city including the Oregon City Historic Review board as required by the Oregon City Municipal code. This Policy is met.

Policy 5.3.8 Preserve and accentuate historic resources as part of an urban environment that is being reshaped by new development projects.

This policy specifically acknowledges that the urban environment is *"being reshaped by new development projects*." As we explained during our presentation to the planning commission, the hotel has been designed to preserve and accentuate the Hackett house and to comply with applicable provisions of the Oregon City Municipal Code. As outlined below we believe that the design of the project is consistent with the requirements of Policy 5.3.8., and that this policy has been met.

One applicable design regulation which applies to the design of the hotel is OCMC 17.62.050.A.3 which provides the following:

OCMC 17.62.050.A.3 Buildings structures shall be complimentary to the surrounding area. All exterior surfaces shall present a finished appearance. All sides of the building shall include materials and design characteristics consistent with those on the front. Use of inferior or lesser quality materials for side and rear facades or decking shall be prohibited.

As we explained during our presentation to the Planning Commission, as we developed the design of the hotel, we consulted with the Board of Directors for the End of the Oregon Trail Interpretive

Center, and the Oregon City Historic Review Board to seek advice and recommendations regarding the design of the hotel. The specific recommendations which have been incorporated into the hotel design to make it complimentary to the surrounding area include the following:

1 Orient the hotel perpendicular to Washington Street to present a narrower and less massive façade facing the End of the Oregon Trail Interpretive Center.

2 Increase the height of the hotel to allow the size of the building footprint to be reduced allowing the Hackett House to remain in its original location without being surrounded on two sides by the new hotel.

3 Use a traditional architectural form with a clearly differentiated base, shaft and top similar to other historic buildings in Oregon City.

4 Incorporate traditional architectural elements into the design, such as simple rectangular punched window openings, reminiscent of the Hackett House and other historic structures in downtown Oregon City.

5 Use natural materials, such as stone quarried in the state of Oregon, and wood siding.

6 Use high quality materials which are consistent with the Guidelines for New Construction Oregon City Historic Districts, as further described below, to present a Finished Appearance.

7 Incorporate artwork which relates to the historic nature of the site.

The application meets the requirements of OCMC 17.62.050.A.3. The hotel exterior finishes are all high quality architectural finishes such as native Oregon stone, wood finish siding, and plaster siding. These high quality materials are used on all four facades of the hotel.

2. **Response to Mr. Nicita**

Mr. Nicita has argued that OCMC 17.62.050.A.3.(a), which provides the following, should also apply to the design of the hotel:

OCMC 17.62.050.A.3.(a) Alterations, additions and new construction located within the McLoughlin conservation District, Canemah National Register District, and the Downtown Design District and when abutting a designated Historic Landmark shall utilize materials and design that incorporates the architecture of the subject building as well as the surrounding district or abutting Historic Landmark. Historic materials such as doors, windows and siding shall be retained or replaced with in kind materials unless the community development director determines that the materials cannot be retained and the new design and materials are compatible with the subject building and District of Landmark. The community development director may utilize the Historic Review Board's Guidelines for New Construction (2006) to develop findings to show compliance with this section.

Please note that some of the requirements outlined above relate to additions and alterations. We have designed the hotel to comply with Historic Review Board's Guidelines for New Construction (2006) even though this standard does not apply to the hotel since the proposed project is not located within one of the Historic Districts.

As we developed the design for the hotel, we considered the following:

1 We have designed the hotel to leave the site of the adjacent Hackett House unchanged with landscaping providing an appropriate historic setting without moving the house to a new site or wrapping the new construction around two sides of the house.

2 The new hotel which is located behind the Hackett House will be screened with a backdrop of large existing evergreen trees and new large caliper native evergreen trees.

3 The Style and building form and composition and building materials have been designed to be consistent with the Historic Review Board's Guidelines for New Construction in Historic Districts including the following:

a. The building style is compatible with the historic building.

b. The hotel building uses "*simple and well-proportioned building forms and rooflines, especially at the primary façade when new is viewed alongside the historic. Avoid complicated non-rectangular forms and "busy" compositions."* The hotel provides a compatibly designed well-proportioned building form with simple building forms and rooflines. This provides a compatible backdrop particularly when considering the evergreen tree screening which will to accentuate the historic house.

c. The hotel building design is a *"classic timeless design which will not become dated in a short time."*

d. The hotel design utilizes traditional window sizes and configurations and traditional floor to floor heights.

e. The design is not an *"overly plain, unattractive building with minimal texture."*

f. The hotel design *"utilizes materials and design that conveys a sense of quality and craftsmanship."*

g. The hotel will incorporate interpretive artwork related to the historic location.

The proposed hotel design including the elements described above, is consistent with the requirements of OCMC 17.62.050.A.3.(a). We believe that this demonstrates that the hotel has been designed to "*Preserve and accentuate historic resources as part of an urban environment that is being reshaped by new development projects"* and consequently Oregon City Comprehensive Plan Policy 5.3.8 has been met.

Mr. Nicita has argued that the requirements of 17.62.050.A.3(a) require the hotel to be designed in an "Eastlake-style" to match the Hackett House using wood siding and other traditional materials which match the construction of the Hackett House. Mr. Nicita has provided examples of buildings designed in the Eastlake style including among others the car wash located on Hwy 213 in Oregon City.

Although the project is not located in one of the Historic Districts and the guidelines do not directly apply, The Oregon City Guidelines for New Construction in Historic Districts provides recommendations and guidelines for materials for new construction for buildings located in Historic Districts and this guidance can be used to confirm that the proposed design of the hotel is compatible with the Hackett House. The guidelines specifically caution that *"New buildings should not overstate the historic style reference"*, and note that *"a wide variety of currently available materials and products are acceptable provided the resultant appearance is complementary with the buildings of the historic period."*

Section 6 of The Oregon City Guidelines for New Construction in Historic Districts provides guidelines for specific elements of the building construction. It is important to note that these "Element Guidelines" call for different design elements and materials for residential and commercial structures. For example, while the

element guidelines for residential structures calls for the use of "*sloped roofs"* with "*wood shingles, composition shingles or metal shingles*," the guidelines for commercial roofs recommend "*a low slopped roof hidden from street view by a parapet.*" Similarly while the guidelines for siding call for residential buildings to use *"wood siding or materials which have the appearance of horizontal wood siding"* and *"sawn wood shingles (painted) in secondary areas for ornamental detail"* they also note that wall finishes for commercial projects should use *"Traditional materials including cement plaster (stucco), and coated and painted concrete."* They go on to clarify that *"Cement plaster in a sand or fine texture; integrally finished or painted or materials having a similar appearance; and smooth surfaced or fine textured painted concrete."* are appropriate materials for commercial structures.

As we explained at the planning commission hearing and as outlined above, the hotel uses architectural forms and materials which are consistent with the recommendations of the Oregon City Guidelines for New Construction in Historic Districts. Specifically the painted metal and glass window systems, natural stone, synthetic plaster siding, and wood finish siding are all building materials that are recommended by the guidelines for new construction in historic districts.

After considering Mr. Nicita's comments and suggestions, we have explored alternative approaches to the design of the hotel which might incorporate additional design features which reference the Hackett House without *"overstating the historic style reference"*. At the planning commission hearing we submitted a revised rendering of the hotel as viewed from Washington Street showing a new circular window and narrower wood siding on the Tower element facing Washington Street. These elements provide two additional architectural references to the Hackett House. We believe that the Hotel design with the Street facing tower with a round window element as the most prominent feature clearly references the historic design of the Hackett House with its tower with a round element as its most prominent design features. The design change to incorporate the round window into the hotel design will be subject to be review and approval by Hilton Hotels.

3. Conclusion.

You have heard testimony in support of the project design from members of both the End of the Oregon Trail Board, and the Oregon City Historic Review Board. We believe that the proposed design which incorporates high quality materials, and classic design elements and features including the tower with round window referencing the Hackett House will compliment both the Hackett House and the End of the Oregon Trail Interpretive Center, and clearly demonstrate that the design of the hotel is compatible with the Hackett House and in compliance with applicable Oregon city standards and regulations.

As outlined above, we believe that Comprehensive Plan Goal 5.3, and the associated policies and the applicable provisions of the Oregon City Municipal code have been met. For the reasons contained in this letter, the Planning Commission can find that the design of the hotel is in compliance with applicable approval criteria. The applicant requests that the Planning Commission approve the application with reasonable conditions of approval.

Sincerely,

Hill Architects

Lloyd W. Hill AIA

Enclosures
Cc:
Mr. Alkesh Patel
Mr. Dan Fowler
Mr. Michael Robinson
13647/15708 /CF

View from corner of Washington & Abernrethy

Hampton Inn & Suites by Hilton

Oregon City • Oregon

Hackett Hospitality Group

Hill Architects

1750 Blankenship Road • Suite 400 • West Linn • Oregon 97068

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12.04.199 - Pedestrian and bicycle accessways.

Pedestrian/bicycle accessways are intended to provide direct, safe and convenient connections between residential areas, retail and office areas, institutional facilities, industrial parks, transit streets, neighborhood activity centers, rights-of-way, and pedestrian/bicycle accessways which minimize out-of-direction travel, and transit-orientated developments where public street connections for automobiles, bicycles and pedestrians are unavailable. Pedestrian/bicycle accessways are appropriate in areas where public street options are unavailable, impractical or inappropriate. Pedestrian and bicycle accessways are required through private property or as right-of-way connecting development to the right-of-way at intervals not exceeding three hundred thirty feet of frontage; or where the lack of street continuity creates inconvenient or out of direction travel patterns for local pedestrian or bicycle trips.

A. Entry points shall align with pedestrian crossing points along adjacent streets and with adjacent street intersections.

B. Accessways shall be free of horizontal obstructions and have a nine-foot, six-inch high vertical clearance to accommodate bicyclists. To safely accommodate both pedestrians and bicycles, accessway right-of-way widths shall be as follows:

   1. Accessways shall have a fifteen-foot-wide right-of-way with a seven-foot wide paved surface between a five-foot planter strip and a three-foot planter strip.

   2. If an accessway also provides secondary fire access, the right-of-way width shall be at least twenty-three feet wide with a fifteen-foot paved surface a five-foot planter strip and a three-foot planter strip.

C. Accessways shall be direct with at least one end point of the accessway always visible from any point along the accessway. On-street parking shall be prohibited within fifteen feet of the intersection of the accessway with public streets to preserve safe sight distance and promote safety.

D. To enhance pedestrian and bicycle safety, accessways shall be lighted with pedestrian-scale lighting. Accessway lighting shall be to a minimum level of one-half-foot-candles, a one and one-half foot-candle average, and a maximum to minimum ratio of seven-to-one and shall be oriented not to shine upon adjacent properties. Street lighting shall be provided at both entrances.

E. Accessways shall comply with Americans with Disabilities Act (ADA).

F. The planter strips on either side of the accessway shall be landscaped along adjacent property by installation of the following:

1. Within the three-foot planter strip, an evergreen hedge screen of thirty to forty-two inches high or shrubs spaced no more than four feet apart on average;
2. Ground cover covering one hundred percent of the exposed ground. No bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees;
3. Within the five-foot planter strip, two-inch minimum caliper trees with a maximum of thirty-five feet of separation between the trees to increase the tree canopy over the accessway;
4. In satisfying the requirements of this section, evergreen plant materials that grow over forty-two inches in height shall be avoided. All plant materials shall be selected from the Oregon City Native Plant List.

G. Accessways shall be designed to prohibit unauthorized motorized traffic. Curbs and removable, lockable bollards are suggested mechanisms to achieve this.

H. Accessway surfaces shall be paved with all-weather materials as approved by the city. Pervious materials are encouraged. Accessway surfaces shall be designed to drain stormwater runoff to the side or sides of the accessway. Minimum cross slope shall be two percent.

I. In parks, greenways or other natural resource areas, accessways may be approved with a five-foot wide gravel path with wooden, brick or concrete edgings.

J. The community development director may approve an alternative accessway design due to existing site constraints through the modification process set forth in Section 12.04.007.

K. Ownership, liability and maintenance of accessways. To ensure that all pedestrian/bicycle accessways will be adequately maintained over time, the hearings body shall require one of the following:

1. Dedicate the accessways to the public as public right-of-way prior to the final approval of the development; or
2. The developer incorporates the accessway into a recorded easement or tract that specifically requires the property owner and future property owners to provide for the ownership, liability and maintenance of the accessway.

(Ord. No. 13-1003, § 1(Exh. 1), 7-17-2013)

From: Bryon Boyce [mailto:bryony@birdlink.net]
Sent: Friday, September 29, 2017 4:58 PM
To: Pete Walter <pwalter@orcity.org>
Cc: Jerry Herrmann <jerry.herrmann@birdlink.net>; Dan Fowler <info@abernethycenter.com>; Bob Mahoney <emahoney240@msn.com>
Subject: Abernethy Place Documents

The accompanying (attached) letter, titled "Two Rivers Neighborhood Association Letter f.doc" was made in response to claims that this neighborhood association is inactive. As can be seen from that document, that claim is not based on fact. Several pertinent documents are attached.

On Jan. 25th of this year, the Chair of Two Rivers Neighborhood met with Mark Foley of Hackett House Hospitality Group and Lloyd Hill of Lloyd Hill Architects, who had requested that meeting. This was our normal quarterly meeting date. Details of that meeting are included in the attached document "20170125-signed.doc". In accordance with the below code, the Two Rivers Neighborhood Association accepted emails to communicate with Mark Foley in setting up the meeting. Communications were initiated with an email by Dan Fowler on December 9th, 2016 and continued by Mark Foley.

The Two Rivers NA President approved "other communication" besides a certified letter, return receipt requested, as allowed by OCMC 17.50.055.A.2.: "*The applicant shall send, by certified mail, return receipt requested letter to the chairperson of the neighborhood association and the citizen involvement committee describing the proposed project. Other communication methods may be used if approved by the neighborhood association.*"

Bryon Boyce
503-655-4457

No further public comments have been received as of August 4th, 2017.

Comments of the Public Works Department and Development Services Division are incorporated into this report and Conditions of Approval.
The Oregon Department of Transportation provided comments for the pre-application conference which are attached to the application. ODOT made the following comments:

ODOT RAIL COMMENTS
In 2003, per Order No. 50165, the 17th Street public crossing (No. C-756.30) was permanently closed prior to commencing passenger rail service at a stop in the City of Oregon City. The concrete crossing surface has been removed and is no longer a private crossing at 17th Street for the railroad. Access is not allowed for public use, including pedestrian connections, trails, and/or city use. There is an alternative, public route on 15th Street to cross under the tracks to access Main St as well as 14th Street and 12th Street. ODOT Rail and Public Transit Division cannot agree to making 17th Street crossing a public crossing due to Order No. 50165. 17th Street needs to be curbed to emphasize that it is not a thru street to prevent vehicles from accidently driving straight onto the tracks and potentially getting high centered (see attached image). Please change the plans and resubmit for review.
Property Location Adjacent to Rail Tracks
- The applicant shall install fencing along the property line fronting the rail tracks to ensure the safe operation of trains by preventing illegal trespassing of pedestrians across the tracks.
- The submitted Traffic Impact Analysis indicates that the intersections operating under ODOT jurisdiction are also projected to meet ODOT's respective performance standards, with the exception of OR 99-E at the I-205 ramp terminals. However, these intersections are specifically exempted from operational standards pursuant to OCMC 12.04.205(D).
While ODOT agrees with this statement, with the added site traffic the I-205/99E Southbound ramp intersection degrades from a 0.98 to 0.99 v/c ratio in the PM peak and the Northbound ramp intersection degrades from a 0.90 – 0.91 v/c ratio in the AM peak. The standard for ODOT ramp terminals is a 0.85 v/c ratio and anything above this causes safety concern due to the possibility of vehicles queuing back into the mainline. Additionally, the Oregon City TSP identifies two widening projects for these ramps (Projects D75, D76). Therefore, ODOT recommends that the City require the applicant to contribute a proportionate share to these TSP projects. While they are identified as long term projects, it is in the best interest of the City and the applicant to begin collecting funds towards these projects to ensure safe and efficient operations at the interchange so people can access their goods and services in the future.
Also, the TIA presents two alternatives for mitigation at 14th Street and Main. ODOT supports the alternative that converts 14th and 15th to one-way (Project D7, Option 1 and Project D8). Therefore, ODOT recommends that the City also collect a proportionate share towards those projects as well.
ODOT advises the applicant that development on the proposed site may be exposed to noise from heavy rail freight trains, passenger trains or transit vehicles. It is generally not the State's responsibility to provide mitigation for receptors that are built after the noise source is in place. Builders should take appropriate measures to mitigate the noise impacts.
Conditions of Approval have been recommended and attached this report to address ODOT's comments.

None of the comments provided indicate that an approval criterion has not been met or cannot be met through the Conditions of Approval attached to this Staff Report.

REPLINGER & ASSOCIATES LLC
TRANSPORTATION ENGINEERING

September 25, 2017

Mr. Pete Walter
City of Oregon City
PO Box 3040
Oregon City, OR 97045

SUBJECT: REVISED CONDITIONS OF APPROVAL – ABERNETHY PLACE MIXED-USE DEVELOPMENT – CP17-02

Dear Mr. Walter:

To avoid possible confusion about the implementation of the Conditions of Approval for this land use action, I recommend modification of Condition 17 as follows (Deletions are indicated by strikeout; additions by underlining):

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 ~~interfere~~ have a significant adverse impact with queuing or traffic operations at adjacent traffic signals ~~through the TSP planning horizon~~. (DS)

If you have any questions or need any further information concerning this review, please contact me at replinger-associates@comcast.net.

Sincerely,

John Replinger, PE
Principal

Oregon City\2017\CP17-02\Revised Contition #17