

# CITY OF GARRISON

## CITY COUNCIL

MEETING PACKET FOR THE

July 3 , 2008

REGULARY SCHEDULED MEETING



## STAFF REPORT

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**Application:** Preliminary Condominium Plat

**Applicant:** OPM Hotels, LLC.

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**Background:** The application is for approval of a Preliminary Condominium Plat for the Garrison Inn and Suites. The Condominium Plat would create 40 individual units in the existing hotel; each of these units would be assigned an individual parcel number. This change would not alter the operation of the hotel, only how the ownership is structured.

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### Applicable Statutes:

#### 9.2 Preliminary Plat, Preliminary Condominium Plat or Metes and Bounds Subdivision resulting in at least one parcel less than 10 acres.

A Preliminary Plat, Preliminary Condominium Plat or Metes and Bounds Subdivision resulting in at least one parcel less than 10 acres shall contain the following data: (except as waived in advance by the Planning Commission); along with other reasonable information required by the Commission needed to make a proper evaluation of the proposal:

1. Proposed Design
  - A. Layout of proposed streets, walkways, driveways, blocks, lots, buildings if known, drawn to same scale as existing data.
  - B. Dimensions scaled to nearest 5 feet of all lot lines, street widths, easement widths and lakeshore lengths.
  - C. Buildable areas of proposed lots.
  - D. Structure setback lines from streets, lot lines and Ordinary High Water Mark and a designation of the buildable area on the parcel.
  - E. Proposed Green Space with area shown.
  - F. Proposed public dedication areas other than streets or walkways with the area shown.
  - G. Proposed City sewer or water system connections and extensions existing and proposed with grades shown.
  - H. Potential locations and estimated depth to water table for all proposed onsite sewage disposal systems, two per lot.
  - I. Information regarding adequacy of domestic water supply,
  - J. Proposed street standards and profiles.
  - K. Potential principal structure and accessory structure locations and elevations.
  - L. Extent of anticipated vegetation and topographic alterations.
  - M. Proposed covenants.
  - N. Name of subdivision and proposed street names, which shall not duplicate or be alike another plat previously recorded.

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### Findings of Fact:

1. A survey has been received from Registered Land Surveyor Chad Conner, license number 41643, which meets the minimum requirements of the ordinance.

2. The existing streets, walkways, driveways, lots, and buildings are drawn to scale on the survey and all appear to be conforming.
3. The proposed lots will not be buildable; the new condominium will consist of 40 existing rooms, which will be regulated by covenants.
4. The existing hotel and all structures meet all setbacks of the Commercial Zoning District.
5. The existing parcel is approximately 5.5 acres, with wetlands on the west side of the parcel.
6. Access to the parcel is through an existing road access easement off of Trunk Highway 169.
7. There are no plans for the proposed City sewer system connections and extensions as of this time. These extensions will be mandated by the Sanitary District.
8. The proposed Covenant Summary of Terms indicates that, "No reconfiguration of the dimensions of any unit will be allowed except as expressly set forth in the Declaration, and even then, only with written approval of the City and all other governmental authorities with legal jurisdiction"<sup>1</sup>.
9. The Covenant Summary of Terms also indicates that, "Owners and guests will not be allowed to engage in any conduct that changes or alters the continued use of the Units or Common Area as transient recreational housing (essentially the same as it has been as a hotel since it was built)."<sup>1</sup>
10. The City Engineer (WSN) indicated that "on behalf of the sanitary district we have contacted our surveyors. Our surveyors are one of the several consultants working for the applicant on this proposal. We informed them that since the use of the motel will be the same, the Sanitary District will use a motel (0.5 factor per unit) special assessment approach instead of a condominium (1.0 factor per unit) special assessment approach. This approach was only valid if the covenants were included indicating that the rooms would not be changed or combined, kitchen units would not be installed, individual washing machines would not be added, and the units would operate basically the same as they do today as a motel."<sup>2</sup>.
11. Review of the Covenant's Summary of Terms indicates that before any changes material or dimensional, must be approved by the City and all other governmental authorities with jurisdiction. Hence, while the Covenant's summary of terms does not expressly indicate that no kitchen units would be installed and individual washing machines would not be added, it provides a mechanism for disallowing any changes the City or any other applicable governmental authorities deem improper.
12. The location of the existing mound septic system has been indicated on the survey.
13. There is no City Municipal Water System. Each property owner in the City including this one is responsible for their own water system<sup>2</sup>.
14. No streets have been proposed, and the City Engineer has indicated there is no reason to upgrade at this time.
15. No further structures have been proposed for the property.
16. The City Engineer (WSN) has indicated that there was stormwater drainage concerns on a parcel to the North of the subject property several (5) years ago.

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<sup>1</sup> Garrison Inn & Suites Declaration of Restrictive Covenants. Summary of Terms. Appendix A

<sup>2</sup> Written Correspondence. Comments provided by the City Engineer (Tim Houle, WSN). 4/2/2008. Appendix B.

The City Engineer is not aware of any further issues since then, “since proposed use is basically the same, we do not have any comments to offer”<sup>2</sup>.

17. No anticipated vegetation and topographic alterations have been have been proposed.
18. A Declaration of Restrictive Covenants Summary of Terms has been received at this time.
19. At the time this report was prepared, revised Covenants for this preliminary plat have not yet been reviewed by the City Attorney.
20. The name of the Condominium Plat is Common Interest Community Number 1105 Garrison Inn Condominium.

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**Planning Commission Direction:** The City Council should review the findings of fact presented by Staff for consideration by the Council. Based upon these findings, the Council may approve or deny the application for preliminary plat, or table if additional information, such as final covenants, is required to make a decision on the application.

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**Staff Recommendation:** At the time this report was prepared proposed covenants had not been received. The purpose of these covenants is to explain the proposed ownership structure and how the facility will operate as a hotel through Common Interest Community (CIC) ownership structure. The City has received a copy of the Garrison Inn & Suites Declaration of Restrictive Covenants Summary of Terms, but no covenants at this time. Mr. Igor Lezner has been working with the applicant and City Attorney to review the final covenants prior to the City Council making a decision on the application.

Staff understands the Council would like to review the covenants to gain an understanding on how this facility would operate. Mr. Leznor’s office has assured staff that his office will review the covenants once they are received and provide direction to the City Council.

This application is essentially an application proposing a new ownership structure of the preexisting hotel facility. Rather than having one central owner of the hotel, the hotel would be owned collectively through the separate ownership of each unit within the hotel.

In our role, Staff provides a recommendation to the City Council based upon an analysis of the application. The application analysis conducted by Staff is provided for within the presented findings of fact. These findings tend to support the approval of the preliminary plat; however Staff recommends that if the Council should approve the preliminary, the following conditions should be included:

1. The use of the property as a hotel shall remain unchanged. Any changes in the use of the property shall require approval by the City.
2. Any changes to the covenants shall be submitted to the City for review and approval.
3. At the time of application for the final plat, the applicant shall reimburse the City for all costs invoiced by the City which was incurred in the review and processing of preliminary plat.