APPLICANT: City of Lake Oswego for the Evergreen Neighborhood Association

PROPERTY OWNERS: N/A

LEGAL DESCRIPTION N/A

LOCATION: R-7.5 zone within the Evergreen Neighborhood Association boundaries: See map, Exhibit E1.

East End Commercial District: See map, Exhibit E2.

COMP. PLAN DESIGNATION: N/A

NEIGHBORHOOD ASSOCIATION: Evergreen Neighborhood Association

REQUEST: Amendment to the City of Lake Oswego Community Development Code to include a new Evergreen R-7.5 Overlay District and modifications to the Downtown Redevelopment Design District Standards.
I. APPLICANT’S REQUEST

The City of Lake Oswego is making this application for the Evergreen Neighborhood Association to amend the text of the Lake Oswego Community Development Code (LOC) to include the Evergreen R-7.5 Overlay District [Exhibit F-1] and modifications to the Downtown Redevelopment Design District Standards [Exhibit F-2].

II. APPLICABLE CRITERIA

A. City of Lake Oswego Comprehensive Plan
   - Goal 2: Land Use Planning
     - Section 1 Land Use Policies and Regulations, Policy 4b and 24
     - Section 2 Community Design and Aesthetics, Policy 1
   - Goal 12: Transportation, Goal 3: Neighborhood Collectors and Local Residential Streets, Policy 5a, Goal 4: Land Use and Transportation Relationships, Policy 4
   - Special District Plans
     - Evergreen Neighborhood Plan
       - Land Use: Residential Goal and Policy 1
     - First Addition Neighborhood Plan
     - Street Design and Traffic Goal
     - Downtown Commercial District Goal: Policy 1
   - Old Town Neighborhood Plan
     - Commercial Land Uses: Policy 4b

B. Metro Urban Growth Management Functional Plan
   - Title 1: Accommodation of Growth
   - Title 2: Regional Parking Policy
   - Title 6: Regional Accessibility

C. Transportation Planning Rule (Chapter 660, Division 12)

D. Oregon Statewide Planning Goals
   - Goal 1: Citizen Involvement
   - Goal 2: Land Use Planning
   - Goal 12: Transportation

E. Lake Oswego Development Code Procedural Requirements
   - LOC 50.01.010 Purpose
   - LOC 50.75 Legislative Decisions
III. SUMMARY/ORGANIZATION

This memo addresses two separate recommendations to implement the 2005 Evergreen Neighborhood Plan:

- The creation of a new Evergreen R-7.5 Overlay District (New Article LOC 50.08-A)
- Amendments to the Downtown Redevelopment Design District Standards (LOC 50.65)

Upon reviewing proposals against applicable decision making criteria, it has been determined that the recommended Evergreen R-7.5 Overlay District and amendments to the Downtown Redevelopment District Design Standards, Section 50.65.060 Parking Lot Design comply with these criteria and the general policies of the City of Lake Oswego. It is proposed that the Planning Commission recommend these Community Development Code amendments for adoption by the City Council.

Staff is recommending that the Planning Commission reject the proposed new section of the Downtown Redevelopment Design District Standards pertaining to a two-part traffic study. Requiring a two-part study creates uncertainty for a developer and the neighborhood and would greatly complicate the development approval process.

Staff’s analysis of the plan consists of two parts:

1. A summary of major issues, and

2. Specific findings and conclusions that show how the code amendments comply with all applicable Lake Oswego Comprehensive Plan Goals and Policies, Statewide Planning Goals, and Metro Functional Plan requirements.

IV. SUMMARY OF MAJOR ISSUES

A. BACKGROUND SUMMARY
Public Involvement
Development of the recommended code amendments was led by the Evergreen Neighborhood Association and a five member neighborhood planning committee, starting with their work on the Evergreen Neighborhood Plan (the Plan) in 2003. During the two years it took to develop the neighborhood plan, the Evergreen neighborhood planning committee made significant efforts to involve the neighborhood in development and review of the Plan. Public involvement included neighborhood discussions on issues, concerns and opportunities, and presentations of the draft plan based on this input. Special efforts were also made to include the business community in the development of the Plan. Notices of neighborhood meetings about the Plan were given by mail to all members of the Evergreen Neighborhood Association.

In November 2005, the City Council adopted the Evergreen Neighborhood Plan. The Plan directed staff and neighbors through its Action Steps to develop the code amendments presented in this staff report. Following Plan adoption, the planning committee reconvened and worked with staff to refine the code concepts from the neighborhood plan. Development of the recommended overlay code included a detailed character analysis of the R-7.5 zone of the Evergreen neighborhood. Committee members and staff surveyed each of the zone’s 200 properties to record characteristics including roof pitch, number of stories, window type, and entry features. This data was used to clarify original code concepts and further support the development of an overlay zone.

Information about the EC zone code concepts was sent to property owners, and additional meetings were conducted with the Downtown Business District Association, Chamber of Commerce, Gramor Development, and the First Addition Neighborhood Association to solicit their feedback and on the proposed changes.

The Evergreen Neighborhood Association voted at their August 2006 general membership meeting to approve the refined code changes recommended by the plan committee. Following this meeting, committee members conducted individual outreach to those neighborhood members who did not support the overlay code changes. These meetings included further explanation and analysis of what could or could not be done with their specific properties under the proposed code. A final community dialog event was held in January 2007, and was noticed by mail to all Evergreen neighbors.

On November 8, 2007, an open house was held at City Hall to review the recommendations and answer questions from neighbors. Notification of the open house and proposed code changes was mailed to all property owners in the R-7.5 zone of the Evergreen neighborhood, and in the EC Zone, as well as all recognized neighborhood associations as part of the required Measure 56 and Legislative notices. Approximately fifteen people attended this open house. Questions about the overlay district were focused on better understanding how it
applied to individual properties, and plan committee members again offered to visit with homeowners to determine what changes could be done under the recommended overlay code. During the open house presentation, staff also explained the concerns they have about the Downtown Redevelopment Design District amendments, and meeting attendees responded by sharing their concerns about future increases in neighborhood traffic, and the need for an alternate solution should the Planning Commission not recommend approval of the proposed amendment to the Downtown Redevelopment Design District standards requiring a two part traffic study.

Planning Commission Work Session
On November 5, 2007, the Planning Commission held a work session on the proposed amendments.

The Commissioners raised questions about the level of nonconformance that would result from the increase in street side yard setbacks, and the type of design that may result from requiring an additional five feet of setback only for portions of a structure over sixteen feet tall.

In discussion of the Downtown Redevelopment Design District amendments, the Commissioners supported concerns voiced by staff and the City Attorney’s Office and suggested staff look into alternatives to address the neighborhood concerns. Suggested alternatives include: having a third party review the traffic study at the time of development review, requiring the developer supply additional evidence with its application to provide greater assurance of the traffic study’s accuracy, to engage in additional negotiation with the developer at the outset, or to identify measures from the East End Redevelopment Plan that could serve to mitigate for neighborhood traffic impacts. Staff will be presenting alternatives for further discussion at the November 26th public hearing. Staff plans to move forward in addressing the neighborhood traffic concerns based on this discussion, and will set a date to update the planning commission on progress.

Evergreen R-7.5 Overlay District (New Article LOC 50.08-A)
The Evergreen Neighborhood Association proposes an overlay district that would add or modify three parts of the underlying R-7.5 base zone within the Evergreen neighborhood boundaries, and would be implemented through a new article in the Community Development Code. The overlay is intended to ensure that residential development occurs in a way that is compatible with the unique character of the Evergreen Neighborhood by assuring greater consistency in style and scale between buildings. The text below notes additional regulations or modifications to the base zone that would apply within the overlay district.
New regulations are marked with underlined text and include:

1. **Roof Pitch:**
   Roof pitch on new accessory structures exceeding 100 square feet in size, shall match the roof pitch of the primary structure, but in no case shall the roof pitch be less than 4/12. Boat houses are exempt from this requirement.

2. **Yard Setbacks:**
   The side yard setback adjacent to a street for portions of any structure that exceed 16 feet in height shall be 25 feet on arterials and collectors and 15 feet on local streets.

The following amended regulation is marked with underlined text. Deletions are marked with a strikethrough.

3. **Front Setback Plane:**
   a. The front profile of a structure shall fit behind a plane that starts at the front yard setback line and extends upward to 16 feet in height, then slopes toward the rear of the lot at a slope of 6:12, up to the maximum allowed height at the peak, as illustrated in Appendix 50.07-C.
   b. Exceptions to the front setback plane. Any individual roof form may penetrate the front setback plane if it is less than one-third of the total structure width at 16 feet in height. Two or more separate and distinct roof forms, such as dormers, may project into the front setback plane if they are less than one-half of the total structure width at 16 feet in height.

Amendments to the Downtown Redevelopment Design District Standards (LOC 50.65)
The Evergreen Neighborhood Association proposes the following amendments to the Downtown Redevelopment Design District Standards intended to discourage cut-through traffic and ensure mitigation for neighborhood transportation impacts resulting from large-scale downtown development.

The following additions to the Downtown Redevelopment Design District Standards are marked with underlined text. Deletions are marked with a strikethrough:

**Section 50.65.060 Parking Lot Design**
Parking shall be designed in compliance with the following criteria:
1. Parking configuration and circulation shall be designed to provide access from streets within the District and direct traffic away from residential zones, particularly delivery vehicles. Off-site, signal or signage improvements may be required if needed to direct traffic away from residential zones.
Section 50.65.072 Traffic Study and Traffic Control Measures Required for Certain Commercial Uses; Security Deposit.

1. The applicant for development which adds or cumulatively results in 35,000 square feet or more GFA (in square feet) of commercial uses (as listed in Appendix 50.55-A, Section E) shall conduct two traffic studies. Their scope shall be determined by the City Engineer. The second study shall verify the projections and test the assumptions of the first study. The second study will also identify if mitigation is necessary to bring traffic levels into the parameters established by the City’s Comprehensive Plan. The studies shall be performed at the following periods:
   a. At the time an application is filed
   b. One year after the first certificate of occupancy is issued.

2. The City Engineer shall review studies for accuracy and the appropriateness of mitigation. If required for mitigation, the applicant shall install improvements or take appropriate traffic management measures within a time period determined by the City Engineer. This obligation shall be binding upon the property and shall be evidenced by a covenant recorded in the official records of the county clerk.

3. The City Manager’s review of the traffic reports and determination of any required improvements or traffic management measures shall be a ministerial review, and shall be the final decision of the City.

4. A security deposit of $10,000 shall be required to cover the cost of additional traffic measures required based on the second traffic study; the cost of implementing those measures shall not exceed a cost of $10,000. Until the final traffic study is complete, the security shall remain in the custody of the City or shall be placed in an escrow account subject to City control. The City Manager may accept alternative forms of security.

V. APPLICABLE APPROVAL CRITERIA

APPLICABLE CRITERIA - LAKE OSWEGO COMPREHENSIVE PLAN

Goal 2 Land Use Planning

Compliance with City Lake Oswego Comprehensive Plan Goal 2: Land Use Planning, Section 1, Land Use Policies and Regulation, Policies 4b and c, and 24.

POLICIES

4. Require land use regulations to:
   b. Promote compatibility between development and existing and desired neighborhood character;
   c. Provide for the implementation of neighborhood plans.
24. Comprehensively evaluate proposed land use actions to determine the full range of potential negative impacts and require applicants to provide appropriate solutions prior to approval.

**Findings:** The Evergreen R-7.5 Overlay District code and Downtown Redevelopment Design District Standards are consistent with and implements the Comprehensive Plan Goal 2, Land Use Planning, Section 1, Land Use Policies and Regulation chapter because its regulations:

- Maintain the neighborhood’s existing zoning and plan density designation consistent with the City’s objective of meeting the Metro housing allocation targets and implementation of the State’s Goal 10, and the Metro Housing Rule.
- Are intended to ensure that residential development occurs in a way that is compatible with the unique character of the Evergreen Neighborhood by assuring greater consistency in style and scale between buildings.
- Require developers to evaluate potential neighborhood traffic impacts resulting from proposed commercial development.
- Implements the goal, policies and action step of the Land Use: Residential chapter, and an action step of the Land Use: Commercial chapter of the adopted Evergreen Neighborhood Plan.

**Conclusion:** The Evergreen Neighborhood Plan conforms to Lake Oswego Comprehensive Plan, Goal 2, Policy 4b and c.

### Goal 2 Land Use Planning, Section 2 Community Design and Aesthetics

**Compliance with Lake Oswego Comprehensive Plan, Goal 2 Land Use Planning, Section 2: Community Design and Aesthetics, Policies 1a and 4.**

**Policies**

1. Enact and maintain regulations and standards which require:
   a. New development to enhance the existing built environment in terms of size, scale, bulk, color, material and architectural design

4. Ensure that both public and private development enhance the aesthetic quality of the community.

**Findings:** The Evergreen R-7.5 Overlay District code is consistent with and implements the Comprehensive Plan Goal 2, Land Use Planning, Section 2: Community Design and Aesthetics because its regulations:
Conform to and are consistent with the goals of this chapter to maintain and enhance appearance and design quality.
Seek to further define the appearance and design quality of this individual neighborhood
Enacts standards that require new development to be consistent with the scale and style of existing development and the desired character of the Evergreen neighborhood.

**Conclusion:** The R-7.5 Overlay District code conforms to Lake Oswego Comprehensive Plan, Goal 2, Section 2: Community Design and Aesthetics, Policies 1a and 4.

**Goal 12: Transportation**

Compliance with Lake Oswego Comprehensive Plan, Goal 12, Goal 3: Neighborhood Collectors and Local Residential Streets, Policies 2, and 5a, and Goal 4: Land Use and Transportation Relationships, Policy 4.

**GOAL**

Lake Oswego shall develop a system of neighborhood collectors and local residential streets which preserves the quiet, privacy and safety of neighborhood living and which has adequate but not excessive capacity, necessary to accommodate planned land uses.

**POLICIES**

2. The City shall, in conjunction with the neighborhood association, plan for, develop and maintain a local residential street system at a service level and scale which:
   
   a. Recognizes the need for safety for all modes of travel,
   b. Recognizes the multi-use functions of neighborhood streets for walking, bicycling and social interaction, and which preserves the privacy, quiet and safety of neighborhood living,
   c. Provides for safe access to abutting land; and,
   d. Allows adequate and safe circulation from residential properties to the major streets system and neighborhood activity centers.

5. The City shall ensure that new development which will use new and existing neighborhood collectors and local residential streets is compatible with these street's function and character. Development approval of new land uses shall ensure that:
   
   a. The quiet residential quality of neighborhood streets is fostered and maintained.
GOAL 4
Amendments to land use designations, densities, and design standards within the Lake Oswego Comprehensive Plan shall be reviewed to ensure that traffic generation does not exceed the present design capacity and function of the planned transportation system.

POLICIES
4. The City shall require that a proposed increase in land use intensity be accompanied by a detailed traffic analysis, using current information which finds that existing streets and intersections both on and off site will accommodate the projected traffic increases, or; necessary improvements can be constructed which are in conformance with the Comprehensive Plan Transportation Map. Mitigation of negative impacts (noise, aesthetics, safety, bicycle and pedestrian mobility) shall be paid for by the developer of the property.

- Findings: The purpose of the proposed Downtown Redevelopment Design District amendments is to provide a “second look” to assure that the initial traffic study meets the requirements of this Policy. However, staff finds that the second study complicates the development approval process by creating uncertainty and extending the development review process beyond an initial approval.

Conclusion: The proposed code amendments conform to Lake Oswego Comprehensive Plan, Goal 12, Transportation, Goal 3, Policies 2, 3, 4 and 5a.

SPECIAL DISTRICT PLANS

EVERGREEN NEIGHBORHOOD PLAN

<table>
<thead>
<tr>
<th>Evergreen Land Use: Residential Goal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Compliance with Evergreen Neighborhood Plan, Land Use: Residential Goal, Policy 1</td>
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</table>

GOAL
Maintain and enhance the appearance and character of the residential areas of the Evergreen neighborhood.

POLICIES
1. Work to ensure that development occurs in a way that is compatible with the unique character of the Evergreen neighborhood.

Findings: The Evergreen R-7.5 Overlay District code is consistent with and implements the Evergreen Neighborhood Plan Land Use: Residential goal because its regulations seek to ensure:
- Maintenance of the unique character of the Evergreen neighborhood.
- Development that is compatible with the Evergreen neighborhood character.

**Conclusion:** The Evergreen R-7.5 Overlay District code conforms to Evergreen Neighborhood Plan Land Use: Residential Goal, Policy 1.

OLD TOWN NEIGHBORHOOD PLAN

POLICIES

4. Commercial Land Uses
   b. Traffic shall be routed away from residential properties. This may be accomplished by such methods as careful location of access points, traffic routing within the development, and relations of that routing to neighboring residential uses and streets and installation of any required capital improvements such as left turn lanes. Traffic studies maybe required to determine impacts.

**Findings:** The Downtown Redevelopment Design District code amendments are consistent and implement the Old Town Neighborhood Plan Commercial Land Use Policy 4b because its regulations seek to ensure:

- Traffic is directed away from residential zones.
- Mitigation for traffic impacts on residential streets resulting from commercial development.

However, staff submits that this policy is equally applicable to the initial traffic study, and current code requirements and procedures already are in place in compliance with this policy.

**Conclusion:** The Downtown Redevelopment Design District code amendments conform to Old Town Neighborhood Plan Commercial Land Uses Policy 4b, but staff concludes that current code requirements and procedures already are in place in compliance with this policy.

FIRST ADDITION NEIGHBORHOOD PLAN

| First Addition Street Design and Traffic Goal |
| Compliance with First Addition Neighborhood Plan, Street Design and Traffic Goal, Policy |
GOAL:
Provide for safe, multi-modal access to all areas of FAN in a manner that retains the quiet, convenience and livability of the neighborhood.

POLICIES

1. Reduce traffic speeds and volumes in compliance with the Transportation Chapter guidelines for Local Streets, to make them safer for pedestrians, bicyclists and auto users.

2. Encourage traffic volumes that are within the limits set by the Comprehensive Plan, Transportation Chapter for all street classifications within FAN.

3. Reduce auto through-trips on residential streets in FAN by:
   a) Using traffic control or traffic management devices, where warranted, and
   b) Promoting the efficient movement of traffic on Collectors and Arterials within and bordering the neighborhood.

First Addition Downtown Commercial District Goal
Compliance with First Addition Neighborhood Plan, Downtown Commercial District Goal, Policy 1.

GOAL:
Work with the City to promote the village atmosphere of the Downtown Business District and preserve the residential character of the neighborhood bordering the commercial zone.

POLICIES

1. Ensure that commercial uses do not result in traffic in excess of volumes allowed by the Transportation Chapter of the Comprehensive Plan.

Findings: The Downtown Redevelopment Design District code amendments are consistent and implement the First Addition Neighborhood Plan Street Design and Traffic Goal, Policies 1, 2, and 3, and Downtown Commercial District Goal, Policy 1 because its regulations seek to ensure:

- Mitigation for traffic impacts in order to provide safe streets for all traffic modes.
- Traffic volumes on local streets that are within the parameters of the Comprehensive Plan.
However, staff submits that this policy is equally applicable to the initial traffic study, and current code requirements and procedures already are in place in compliance with this policy.

**Conclusion:** The Downtown Redevelopment Design District code amendments conform to First Addition Neighborhood Plan Street Design and Traffic Goal, Policies 1, 2, and 3, and Downtown Commercial District Goal, Policy 1, but staff concludes that current code requirements and procedures already are in place in compliance with this policy.

**CONSISTENCY WITH METRO’S URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN**

The Metro Urban Growth Functional Plan was approved November 21, 1996 by the Metro Council, and became effective February 19, 1997. The purpose of the plan is to implement the Regional Urban Growth Goals and Objectives (RUGGO), including the 2040 Growth Concept. The Functional Plan must be addressed when Comprehensive Plan Map Amendments are proposed through the quasi-judicial or legislative processes.

The following responses address compliance with the Metro Functional Plan.

**Response:**

**Title 1 — Accommodation of Growth.** This title requires changing local plans, if necessary, to increase permitted densities to assure sufficient capacity for the 2040 Growth Concept. The Evergreen R-7.5 Overlay District and the Downtown Redevelopment Design District amendments are consistent with this title in that they maintain current Plan and Zoning Map densities within the Neighborhood Boundaries. Overall, the City of Lake Oswego has found that the City’s current zoning designations when developed at allowed densities are in substantial compliance with this title.

**Title 2 — Regional Parking Policy.** This title regulates the amount of parking permitted by use for jurisdictions in the Metro region. This title is not applicable to the code recommendations.

**Title 3 — Water Quality and Flood Management Conservation.** This title is not applicable to the code recommendations.

**Title 4 — Retail in Employment and Industrial Areas.** This Title does not apply.

**Title 5 — Neighbor Cities and Rural Reserves** defines Metro’s policy regarding areas outside of the Urban Growth Boundary. These codes would apply within the Urban Growth Boundary; therefore, this Title does not apply.
Title 6 — Regional Accessibility. This title recognizes the link between mode split, levels of congestion, street design and connectivity in creating a transportation system that works and supports the desired land use concept. This Title does not apply.

Title 7 — Affordable Housing. This title is advisory only and recommends that local jurisdictions implement tools to facilitate development of affordable housing. This Title does not apply.

Title 8, 9, and 10 require compliance, performance measures and definitions for implementation of the Functional Plan, and are not applicable.

Conclusion: The Evergreen R-7.5 Overlay District and the Downtown Redevelopment Design District amendments comply with the relevant Titles of the Metro Functional Plan.

COMPLIANCE WITH THE OREGON TRANSPORTATION PLANNING RULE
(CHAPTER 660, DIVISION 12)

This State of Oregon Administrative Rule applies to amendments to comprehensive plans, functional plans and land use regulations (OAR 660-12-060(1)). The rule is applicable because the application requests amendment of the City of Lake Oswego Community Development Code.

OAR 660-12-060(1) and (2) provides as follows:

(1) Amendments to comprehensive plans, functional plans and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity and level of service of the facility. This shall be accomplished by either: (a) limiting allowed land uses to be consistent with the plan functions, capacity and level of service of the transportation facility; (b) amending the TSP [Transportation System Plan] to provide transportation facilities adequate to support the proposed land uses consistent with the requirements of this division; (c) altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.

(2) A land use regulation amendment significantly affects the transportation facility if it: (a) changes the functional classification of an existing or planned transportation facility; (b) changes a standard implementing a functional classification system; (c) allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or (d) would
reduce the level of service of the facility below the minimum acceptable level identified in TSP.”

**Findings/Conclusion:** OAR 660-12-060(1) and (2) is not applicable because the Evergreen R-7.5 Overlay District and Downtown Redevelopment Design District amendments do not propose to change land use designations or the functional classification of streets.

**OREGON STATEWIDE PLANNING GOALS**

Goal 1, Citizen Involvement, Goal 2, Land Use Planning; Goal 12, Transportation.

The Evergreen R-7.5 Overlay District and amendments to the Downtown Redevelopment Design District Standards comply with the above relevant Oregon Statewide Planning Goals as follows:

**Goal 1: Citizen Involvement**
The Evergreen R-7.5 Overlay District and Downtown Redevelopment Design District amendments are in conformance to all procedural requirements of the Lake Oswego Zoning and Development Codes and has been reviewed to be consistent with the Citizen Involvement Goals of the City’s acknowledged Comprehensive Plan.

**Goal 2: Land Use Planning**
The Evergreen R-7.5 Overlay District has been reviewed and determined to be consistent with the City’s acknowledged land use planning and policy framework. This review has determined that there is a factual basis to approve the Evergreen R-7.5 Overlay District in that it is consistent with all applicable criteria. The Plan has also been coordinated with all applicable jurisdictions and agencies.

**Goal 12: Transportation**
The Evergreen R-7.5 Overlay District has been reviewed and determined to be consistent with the Statewide Planning Goal 12 in that the proposed goals and policies support the development of a multi-modal transportation system in the neighborhood. Staff notes, however, that the requirement for a second traffic study does not further this Goal, in that the initial traffic study and imposed conditions of approval are already required to support the development of a multi-modal transportation system in the neighborhood.

In addition, the recommended addition to the Downtown Redevelopment Design District Standards calling for a two-part traffic study has been reviewed and staff finds the requirement would not comply with ORS 227.173, which requires that development be approved (with any necessary conditions of approval), based upon evidence in the record. Staff submits that once the traffic improvements
have been required based upon the initial traffic study, there is no additional substantial evidence in the record to require subsequent traffic improvements.

Finally, staff wonders what the impact would be on an approved development, if upon review of the second study major improvements were found to be needed. If the applicants then fails to comply, would that result in revocation of the development permit pursuant to LOC 50.86.030? (“The applicant or successor in interest failed to maintain or use the property in accordance with the approved permit or conditions of approval.”)

LAKE OSWEGO DEVELOPMENT CODE PROCEDURAL REQUIREMENTS

| LOC 50.01.010 | Purpose |
| LOC 50.75 | Legislative Decisions |
| LOC 50.75.005 | Legislative Decisions Defined |
| LOC 50.75.1505 | Criteria for a Legislative Decision |
| LOC 50.75.015 | Required Notice to DLCD |
| LOC 50.75.020 | Planning Commission Recommendation Required |
| LOC 50.75.025 | City Council Review and Decision |
| LOC 50.75.030 | Effective Date of Legislative Decision |

The City of Lake Oswego has conformed to all procedural requirements, evidence of which is contained in the record.

VI. CONCLUSION/RECOMMENDATION

Staff has found that LU 07-0029, the Evergreen R-7.5 Overlay District and Downtown Redevelopment Design District amendments conform to all applicable decision-making criteria.

Staff endorses the Evergreen R-7.5 Overlay District and amendments to the Downtown Redevelopment Design District Standards, Section 50.65.060 Parking Lot Design, and recommends this Community Development Code amendment to the City Council for approval.

Staff does not recommend the approval of the new section of the amendments to the Downtown Redevelopment Design District Standards pertaining to a two-part traffic study.
EXHIBITS

A. Notice of Appeal [No current exhibits reserved for hearing use]
B. Findings and Conclusions [No current exhibits; reserved for hearing use]
C. Minutes: [No current exhibits; reserved for hearing use]
D. Staff Reports [No current exhibits; reserved for hearing use]
E. Graphics:
   E-1 Map of Evergreen R-7.5 Overlay District Boundaries
   E-2 Map of East End Commercial District Boundaries
F. Written Materials:
   F-1 Draft Ordinance 2500
   F-2 Draft Ordinance 2501
G. Letters:
   G-1 Neither for Nor Against (None)
   G-2 In Favor (None)
   G-3 Opposed (None)
Exhibit E-1
AN ORDINANCE OF THE LAKE OSWEGO CITY COUNCIL AMENDING CHAPTER 50 OF THE LAKE OSWEGO CODE TO ADD NEW ARTICLE 50.08A RELATING TO EVERGREEN R-7.5 OVERLAY DISTRICT

The City of Lake Oswego ordains as follows:

The Lake Oswego Code is hereby amended by adding new text shown in **bold and underlined type** as follows:

Section 1. A new Article 50.08A is hereby added to the Lake Oswego Community Development Code, Chapter 50 to read as follows

**Article 50.08A** Evergreen R-7.5 Overlay District.

Section 2. A new Section 50.08A.005 is hereby added to read as follows

**50.08A.005 Purpose.**

The purpose of the overlay is to ensure that residential development occurs in a way that is compatible with the unique character of the Evergreen Neighborhood by assuring greater consistency in style and scale between buildings.

Section 3. A new Section 50.08.010 is hereby added to read as follows

**50.08A.010 Applicability.**

This article applies to all land within the Evergreen Overlay District, as shown on Appendix 50.08A-010.

Section 4. A new Section 50.08A.015 is hereby added to read as follows

**50.08A.015 Relationship to Other Development Standards.**

To the extent that any requirement of this Article imposes a regulation relating to the same matter as regulation in LOC Article 50.08, this Article shall prevail.

Section 5. A new Section 50.08A.020 is hereby added to read as follows

**50.08A.020 Accessory Structure Roof Pitch.**

Roof pitch on new accessory structures exceeding 100 square feet in size, shall match the roof pitch of the primary structure, but in no case shall the roof pitch be less than 4/12. Boat houses are exempt from this requirement.

Section 6. A new Section 50.08A.025 is hereby added to read as follows

**50.08A.025 Yard Setbacks.**

The side yard setback adjacent to a street for portions of any structure that exceed 16 feet in height shall be 25 feet on arterial and collectors and 15 feet on local streets.
Section 7. A new Section 50.08A.030 is hereby added to read as follows

50.08A.030 Front Setback Plane.

a. The front profile of a structure shall fit behind a plane that starts at the front yard setback line and extends upward to 16 feet in height, then slopes toward the rear of the lot at a slope of 6:12, up to the maximum allowed height at the peak, as illustrated in Appendix 50.07-C.

b. Exceptions to the front setback plane. Any individual roof form may penetrate the front setback plane if it is less than one-third of the total structure width at 16 feet in height. Two or more separate and distinct roof forms, such as dormers, may project into the front setback plane if they are less than one-half of the total structure width at 16 feet in height.

Section 8. The Lake Oswego Community Development Code Chapter 50 Appendix is hereby amended by adding the Evergreen Overlay District map as shown on attached Exhibit A (Appendix 50.08A-010).

Section 9. The provisions of this ordinance are severable. If any portion of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

Enacted at the meeting of the Lake Oswego City Council of the City of Lake Oswego held on the __________ day of __________________, 2007.

AYES:

NOES:

ABSENT:

ABSTAIN:

Judie Hammerstad, Mayor

Dated:

ATTEST:

Robyn Christie, City Recorder

APPROVED AS TO FORM:

David D. Powell
City Attorney
EXHIBIT A
APPENDIX 50-08A-010
R-7.5 Evergreen Residential Overlay District
DRAFT
ORDINANCE No. 2501

AN ORDINANCE OF THE LAKE OSWEGO CITY COUNCIL AMENDING ARTICLE 50.65 OF THE LAKE OSWEGO CODE RELATING TO PARKING LOT, TRAFFIC STUDY AND TRAFFIC CONTROL MEASURES IN EAST END (EC) ZONE

The City of Lake Oswego ordains as follows:

Article 65 of Chapter 50 of the Lake Oswego Code is hereby amended by adding the text shown in bold, underlined type and deleting the text shown in strikethrough type, as follows:

Section 1. Section 50.65.060 of the Lake Oswego Code is hereby amended by adding the text shown in bold, underlined type and deleting the text shown in strikethrough type, as follows:

50.65.060 Parking Lot Design
     Parking shall be designed in compliance with the following criteria:
     1. Parking configuration and circulation shall be designed to provide access from streets within the District and direct traffic away from residential zones, particularly delivery vehicles. Off-site, signal or signage improvements may be required if needed to direct traffic away from residential zones.
     2. Driveways to parking areas shall be located to avoid breaking the storefront pattern along primary pedestrian ways. First Street south of “B” Avenue shall be considered a primary pedestrian way.
     3. Parking lots and structures shall be sited and designed to mitigate adverse lighting and noise impacts on residents. The reflection of sound by the Lake surface shall be specifically considered.

Section 2. A new Section 50.65.072 is hereby added to read as follows:

50.65.072 Traffic Study and Traffic Control Measures Required for Certain Commercial Uses; Security Deposit.
1. The applicant for development which adds or cumulatively results in 35,000 square feet or more GFA (in square feet) of commercial uses (as listed in Appendix 50.55-A, Section E) shall conduct two traffic studies. Their scope shall be determined by the City Engineer. The second study shall verify the projections and test the assumptions of the first study. The second study will also identify if mitigation is necessary to bring traffic levels into the parameters established by the City’s Comprehensive Plan. The studies shall be performed at the following periods:
   a. At the time an application is filed.
   b. One year after the first certificate of occupancy is issued.
   c. The City Engineer shall review studies for accuracy and the appropriateness of mitigation. If required for mitigation, the applicant shall install improvements or take appropriate traffic management measures within a time period determined by the City Engineer. This obligation shall be binding upon the property and shall be evidenced by a covenant recorded in the official records of the county clerk.
   d. The City Manager’s review of the traffic reports and determination of any required improvements or traffic management measures shall be a ministerial review, and shall be the final decision of the City.
   e. A security deposit of $10,000 shall be required to cover the cost of additional traffic measures required based on the second traffic study; the cost of implementing those measures shall not exceed a cost of $10,000. Until the final traffic study is complete, the security shall remain in the
custody of the City or shall be placed in an escrow account subject to City control. The City Manager may accept alternative forms of security.

Section 3. The provisions of this ordinance are severable. If any portion of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

Enacted at the meeting of the Lake Oswego City Council of the City of Lake Oswego held on the ______ day of __________________, 2007.

AYES: 

NOES: 

ABSENT: 

ABSTAIN: 

__________________________
Judie Hammerstad, Mayor

Dated: ______________________

ATTEST: 

__________________________
Robyn Christie, City Recorder

APPROVED AS TO FORM:

__________________________
David D. Powell
City Attorney