



CITY OF LAKE OSWEGO Planning Commission Minutes March 11, 2013

1. CALL TO ORDER

Chair William Gaar called the meeting to order at 6:30 p.m. in the Council Chambers of City Hall, 380 A Avenue.

2. ROLL CALL

Members present included Chair William Gaar; Vice Chair Jim Johnson and Commissioners Randy Arthur, Pujá Bhutani, Todd Hennelly*, Todd Prager and Sandi Swinford. Council Liaison Jon Gustafson was also present.

*Arrived at 6:35 p.m.

Staff present were Debra Andreades, Senior Planner; Ron Bunch, Planning and Building Services Director; Dennis Egner, Assistant Planning Director; Laura Weigel, Associate Planner; Andrea Christenson, Natural Resources Planner; Paul Espe, Associate Planner; David Gilbey, Water Quality Program Coordinator; Evan Boone, Deputy City Attorney; and Iris McCaleb, Administrative Support.

3. CITIZEN COMMENT (Regarding issues not on the agenda)

Gary Buford, Camelot Court, Lake Oswego, related that the Fire Department recommended separating tree canopies by at least 15 feet on heavily forested land so wildfire could not spread. He advised that a property owner could not do that because neither the Tree Code nor the Sensitive Lands Ordinance allowed removal and thinning of trees for the purpose of avoiding wildfires.

Charles (Skip) Ormsby, SW Birdshill Road, Portland, 97279-8502, stated that he was the Chair of the Birdshill CPO/NA. He expressed concern that the population forecast was not being reconciled with infrastructure capacity and transportation models. He asked the City to work on that.

4. COUNCIL UPDATE

Councilor Gustafson reported that the Council had awarded the water intake station contract; adopted an action plan; and considered flood map revisions and annexations. He indicated that they were about to hold budget meetings; discuss where to go with the North Anchor project; consider allowing certain fitness uses in the Industrial Park Zone (LU 12-0051); be briefed on possible changes to the Sensitive Lands program; and hold a work session on Annual Code Amendments (LU 12-0054).

5. MINUTES

5.1 December 10, 2012

Commissioner Swinford **moved** to approve the Minutes of December 10, 2012 as amended by Commissioners Prager, Swinford and Bhutani. Commissioner Bhutani **seconded** the motion and it **passed 7:0**.

5.2 January 28, 2013

This item was carried over to the next meeting.

5.3 February 11, 2013

Commissioner Arthur **moved** to approve the Minutes of February 11, 2013. Commissioner Hennelly **seconded** the motion and it **passed 6:0:1**. Commissioner Bhutani abstained.

6. PUBLIC HEARING

6.1 Comprehensive Plan Map and Zoning Map Amendments – RC and RP District Designations on 13150 Riverside Drive and Adjacent Right-of-Way (LU 12-0053)

A request from the City of Lake Oswego for amendments to the Comprehensive Plan Map and Zoning Map to designate a Resource Protection (RP) District for a Class I stream corridor and wetland, an RP District for a Class II stream corridor, and a Resource Conservation (RC) District for a tree grove on 13150 Riverside Drive (21E02BA03000) and adjacent railroad right-of-way (21E02BA04000). If approved the RP and RC Districts would be applied upon the pending annexation (AN 12-0014).

Chair Gaar opened the public hearing. Commissioner Bhutani reported a site visit. No one present challenged any Commissioner's right to hear the application.

Staff Report

Ms. Christenson explained that the railroad right-of-way was being proposed for annexation because property had to be contiguous with an existing City boundary in order to be annexed. She advised that this hearing was about designating the RP and RC Districts, not annexation. She pointed out the configurations of the tree grove, perennial and intermittent streams, and wetlands on the map. She reported the results of evaluating, scoring and ranking them were that they were all significant and that the Economic, Social, Environmental and Energy (ESEE) analysis results showed the social, environmental and energy impacts were all positive. She concluded that for those reasons the City proposed to protect the resources in RC and RP Districts.

Questions of Staff

During the questioning period Ms. Christenson pointed out that the tree grove was associated with an adjacent RP District. She clarified that TriMet had not applied to have its property annexed but there was a precedent for annexing the right-of-way. She clarified that the property was being considered for designation due to the proposed annexation, not because it was identified as a proposed addition to the Sensitive Lands Atlas in past years. She clarified that the City evaluated potential natural resources on a property at the time of annexation, but the code also allowed RP and RC Districts to be added to properties within the City limits. She confirmed that the Commission could decide to agree or not agree with the ESEE findings she recommended.

Public Testimony

There was no public testimony in support of the proposal.

Opponents

Alan Green, Riverside Drive, Lake Oswego, testified that he had just purchased the property and that the prior owner had applied for the annexation. He questioned how scientific the Habitat Assessment Score (HAS) was, noting that scores were scribbled, crossed out, changed and appeared to be borderline in meeting the thresholds. He related that he would be willing to pay another company to do another evaluation. He disagreed with the result of the analysis of economic impacts that indicated designation would have negligible economic impacts. He explained if he had known about the annexation request he would have negotiated with the sellers for a price differential. He advised the steep topography would likely prevent properties being added at the bottom of the hill; and the resource overlays were over half of the property, which was overgrown and posed fire risk. He asked how he would know where the resources were located when he was weeding. He said he had no plans to remove the trees and noted that at the property used to be on a septic system but was now on sewer.

Staff explained that the prior owner had signed an irrevocable consent to annex in order to connect to the sewer. Mr. Green clarified he had no alternative HAS or ESEE reports of his own to submit to the Commission at the hearing.

Charles (Skip) Ormsby, SW Birdshill Road, Portland, Oregon 97279-8502, noted that the maps and visuals did not make it clear whether the drainage area covered all or just a portion of Tax Lot 4000. He reported there had been a lack of stormwater management in the area for years and he questioned how staff could say it was a contiguous stream when it was not clear what tax lots in the City were in what drainage basins. He was concerned that the staff report did not address the issues listed on his summary sheets and that the maps kept changing. He reported that Birdshill had been told they would know how the Sensitive Lands overlay worked at the time of annexation. He indicated that Birdshill did not understand the HAS system or the technical materials; they wanted specifics about which lots were affected by 'offsite mitigation'; what the ratio was and how it was determined. He reported that they had not been offered a seat at the table during the Second Look process. Mr. Ormsby held that the issue sheets he had submitted demonstrated the capriciousness of the Sensitive Lands program; it was not equitably applied in his own area or in other areas of the City. He observed that no members of the Willamette Trolley consortium were present.

Lauren Hughes, Westview Drive, Lake Oswego, testified on behalf of the LO Stewards, and asked the City to annex 13150 Riverside Drive without a Sensitive Lands overlay. They did not support adding the rail property with a Sensitive Lands designation because it was meaningless as the rail line was already there and it served as a transportation facility. They argued the proposed designation was discretionary and not required by the code or Metro; the only map the subject area was on (a 2008 map) had never been adopted; the Council had stopped further mapping of private residential property; and the evaluation processes were flawed, biased against the property owner, and unscientific. They held that the subject property was unlikely to be further developed; defining an 'associated tree grove' on this property was arbitrary and capricious because that definition had not been applied equally to other property. They advised that Metro offered an exclusion for areas that were already 'developed and committed' as this property was; and after annexation the subject property would be protected and regulated by the Community Development Code (CDC) just as the other 90% of the developed community was. She reported that the LO Stewards contended

that the Sensitive Lands program over-regulated treed areas and small drainage areas in exchange for lesser regulation of the larger water areas. They noted Council was looking at changing it and questioned why the subject property should be a 'trade.' They advised the Commission had the option to make this decision consistent with recent City decisions regarding other developed residential properties; look at the lot conditions; and not apply the overlay, which negatively impacted the new residents' enjoyment of their yard.

During the questioning period, Chair Gaar asked for the citations Ms. Hughes had referred to regarding loss of property value. She clarified that her point was that the ESEE analysis done for this application did not look at comparative property values while a previous ESEE analysis had done that; there were no comparisons in the record. Commissioner Prager asked her to cite the code that said this was a discretionary process. She indicated that the staff report cited LOC 50.01.004.4; 50.01.004.5; and 50.07.004.8.A. She noted the code said 'may' consider Sensitive Lands designations at time of annexation – it did not say 'shall.' She pointed out that it also referred to the Comprehensive Plan Map and this property was not on that map. She clarified that it was on a map that had never been approved or adopted.

Neither for Nor Against

Gary Buford, Camelot Court, Lake Oswego, cited LOC 50.01.004 that specified 'the city shall' notify where the Comprehensive Plan Map indicated an RC or RP designation on territory proposed for annexation. He noted the existing Sensitive Lands map did not show an overlay on the subject property. He noted the code specified 'the city may' conduct an ESEE analysis on territory to be annexed when there was evidence that a resource potentially qualified for RC or RP District designation. He observed the 2008 proposed Sensitive Lands map showed over 50% of the subject property as a tree grove. He advised there was risk of wildfire expanding through the contiguous tree canopy. He referred to state law regarding compensation for loss of value of private real property resulting from land use regulation and that an owner could file a claim for compensation if the desired use of their property was restricted by regulations enacted after January 1, 2007, and the enactment had reduced the fair market value of the property.

W. Gilmer, Fielding Road, Lake Oswego, stated his opposition to the sensitive lands designation and annexation of the railroad property and questioned the City's right to do that. He indicated that he did not object to the annexation of the subject property. Chair Gaar advised this hearing was not about annexation.

Barry Schlesinger, Fielding Road, Lake Oswego, was concerned that the proposed Comprehensive Plan Map amendment would adversely affect his property value. He requested that the record be kept open to allow him to submit additional evidence.

Chair Gaar **moved** to continue LU 12-0053 to March 25, 2013; leave the record open until 5:00 p.m. March 18, 2013 in order to accept evidence on the issue of reduction in property value; then accept rebuttal evidence/testimony until 5:00 pm. March 20, 2013. Commissioner Hennelly **seconded** the motion and it **passed 7:0**.

6.2 Comprehensive Plan and Community Development Code Amendments – Upper Drive and Boones Ferry Road (LU 08-0059A) and Comprehensive Plan and Community Development Code Amendments – 16722 Boones Ferry Road and 4925 Upper Drive (LU 12-0046)

A request from Randy Reeve, American Homes and Andrea Marek, RB Pamplin Corp. for the following (LU 08-0059A):

- Amendment of the West Lake Grove Design District boundary by including a 1.23 acre parcel at 4855 Upper Drive (a vacant parcel).
- Comprehensive Plan and Zoning Map amendment to change the Low Density Residential Designation (R-7.5) to West Lake Grove Office Commercial (WLG OC) on the northern portion of 4855 Upper Drive and WLG R-2.5 on the southern portion.
- Zoning Map Amendment to eliminate parking reserves and building areas on 4905 Upper Drive and 16710 Boones Ferry Road.
- Comprehensive Plan and Zoning Map amendment to change the WLG R-2.5 designation on the southwest corner of 4905 Upper Drive and the southeast corner of 16710 Boones Ferry Road to a designation of WLG OC
- Community Development Code text amendments for LOC Appendices 50.05 (Figures A-D and J-M) for 4855 and 4905 Upper Drive and 16710 Boones Ferry Road.

A request from the City of Lake Oswego for the following (LU 12-0046):

- Comprehensive Plan and Zoning Map amendments from WLG R-2.5 to a uniform designation WLG OC on the south side of the property located at 16722 Boones Ferry Road (21E07DC09300) and the east side of the property located at 4925 Upper Drive (21E07DD04600). These designations would extend into the proposed West Sunset Drive right-of-way, which currently carry no zoning designation.
- The zoning map amendment includes removal of parking reserves and building areas on both properties.

Chair Gaar opened the combined public hearing. Commissioners Arthur, Bhutani and Swinford each reported a site visit. Commissioner Arthur reported the Reeves were clients of his law firm for estate planning purposes. No one present challenged any commissioner's right to hear the matter.

Miguel Perez, Upper Drive, Lake Oswego, asked if any Commissioners had been directed by the applicants during their site visits. The Commissioners indicated they had not. Mr. Perez then indicated he was satisfied with their answers.

Staff Report

Mr. Espe presented the staff report for the joint application. He pointed out the locations on the maps as he described each request. He noted that Tax Lot 4300 (Reeve's property) was proposed to have two zones: WLG OC and WLG R-2.5. He advised that the R-2.5 portion would accommodate townhomes that would front on Upper Drive. He indicated that Tax Lots 4400 and 4500 were owned by Pamplin Corporation and that Tax Lots 4600 and 9300 were privately-owned lots currently outside the City. He advised that the City wanted to designate them WLG OC if they were annexed.

Mr. Espe discussed the adopted zoning map showing the WLG Design District. He pointed out the location of the future West Sunset Drive right-of-way; the circulation pattern; and the parking and building overlays. He noted that the District Plan assumed a developer would assemble and combine multiple properties to build a development. He noted that each of the three properties affected by the extension of West Sunset Drive were under separate ownership and it was not economically feasible for any one of them to build the roadway connection. He advised that a consolidated group of property owners would be needed to construct the roadway. Mr. Espe explained that an additional issue was that the intersection had actually been constructed about 60 feet northeast of where the Plan depicted it and that affected the alignment of the road extension and how much of Tax Lots 4500 and 4600 were impacted. He indicated that the proposed changes to parking and building overlays and circulation pattern would offer more design flexibility and more efficient redevelopment of

properties; facilitate the roadway extension; and facilitate internal access of Tax Lot 2200, which currently took access from Boones Ferry Road. He observed the West Lake Grove Design District Plan had not been as successful on this side of Boones Ferry Road as it had been on the other side. He indicated that a key question was whether the proposed changes would make it easier to implement the Plan on this side. Mr. Espe asked the Commissioners to look at a sketch of a possible roadway scenario that would accommodate the change in the location of the West Sunset Drive extension. He suggested that a shared access drive would help to control and consolidate site traffic and that including Tax Lot 4300 in the District would allow for additional development area and the internal access to Tax Lot 2200.

Mr. Espe discussed traffic and explained that they had looked at the original traffic study done in conjunction with the District plan and a 2008 analysis. He explained that the traffic studies both concluded that with the proposed changes additional peak hour traffic generated by development on Tax Lots 4300, 4400 and 4500 would not cause intersection service levels to exceed Level of Service (LOS) E. He indicated that staff distinguished between traffic generated by this development and the general background traffic level which was expected to cause most of the City's roadways to function at LOS F (failing) during PM Peak Hour by 2030. He reported that a study done in conjunction with the Boones Ferry Refinement Plan found that the level of service of the Boones Ferry Road/Bryant Road intersection could be improved to LOS D if Refinement Plan improvements were implemented.

Mr. Espe discussed neighborhood compatibility. He advised the new townhouses along Upper Drive would serve as a transition to the Upper Drive area and would be subject to very stringent Design District standards related to aspects like landscape buffers, planting density, and architectural design. He reported that the Lake Grove Neighborhood Association had written to say they supported the project with some reservations; they asked for close involvement with stakeholders and they wanted to retain the R-7.5 zoning designation on the south half of Tax Lot 4300. Mr. Espe explained that staff had compiled and summarized concerns raised in several letters written by three neighbors related to neighborhood character; traffic safety; overflow parking on Upper Drive; increased cut-through traffic on Upper Drive; that the proposed zoning would decrease property values; and a position that the District boundary should not be expanded into the neighborhood.

Mr. Espe reported staff had found that the materials submitted by the applicants and staff demonstrated the proposed amendments complied with the applicable criteria. He stated that staff recommended approval of the applications.

Questions of Staff

During questioning Mr. Espe clarified what the proposed zoning was for each tax lot:

Tax Lot 9300: WLG OC (the WLG R-2.5 would be removed)

Tax Lot 4500: WLG OC

Tax Lot 4600: WLG OC

Tax Lot 4400: WLG OC

Tax Lot 4300: Northern two-thirds WLG OC; southern third WLG R-2.5

Staff recalled that the West Sunset Drive intersection had not been built where it was shown on the Plan for reasons related to accommodating the development on the other side of the intersection. They noted that West Sunset Drive also connected to Boones Ferry Road at an angle and the roadway needed to be realigned to connect with Boones Ferry Road at a ninety degree angle. Staff clarified that the Boones Ferry Refinement Plan anticipated that plan's

improvements would raise the Boones Ferry Road/Bryant Road intersection from LOS F to D by 2018.

Commissioner Hennelly anticipated a lot of drivers would opt to take Upper Drive to the new intersection to turn onto Boones Ferry Road. Commissioner Bhutani inquired about options to reduce traffic impacts on Upper Drive. She observed the street cross section was not the same as on the north side. She asked if the new townhomes would be similar to those on the north side. Mr. Espe described options the traffic consultant suggested: only allowing drivers to leave the development via a right turn out onto Boones Ferry Road (not on Upper Drive); using some kind of device to allow drivers to enter, but not exit the development from Upper Drive; and either blocking the Upper Drive/Boones Ferry Road intersection entirely or only allowing right in/right out movements. He clarified that no changes were proposed to the street cross section. He noted that the new townhomes would be similar to the existing townhomes in that they would be attached, single-family, townhomes that could be 35 feet high. He indicated that they would be subject to review by the Development Review Commission (DRC).

Commissioner Prager inquired how flexible the adopted circulation plan was. Staff advised it would control where the reciprocal access between parcels could be located and provide general direction regarding where the development would take access to the public roadways. Mr. Espe indicated that it would mean consolidated driveways onto West Sunset Drive instead of multiple individual access points on Upper Drive. He suggested that the new townhomes could front on Upper Drive, but be accessed from the West Sunset Drive extension.

Mr. Espe explained the Comprehensive Plan designation change for Tax Lots 9300 and 4300 would mean that if and when they were annexed they would be zoned that way.

Commissioner Swinford inquired how the City achieved buy-in and agreement of property owners to work together to implement the Plan. She asked if the roadway extension had to be built before redevelopment could occur. Mr. Espe advised that portions of the roadway could be developed as individual property owners came in for their projects. He indicated an additional option would be for the properties to be consolidated under one owner so that the roadway could be constructed all at once. He reported that typically each developer was required to build a half street improvement along their development's fair share of the roadway; however, sometimes cities constructed a roadway all at once and set up a zone of benefit. He clarified that as properties in the zone developed they would pay their fair share of the cost.

Commissioner Swinford asked how the WLG OC on Tax Lot 4300 would be accessed if there was no proposal to develop Tax Lot 4400. Staff explained that the access plan would be implemented over time as properties were developed. He indicated that the design review process would look at whether the proposed access met the general framework for access and circulation, which called for all of their parking lots to connect and gain access from the West Sunset Drive extension.

Commissioner Johnson asked staff for a copy of the list of land uses permitted in the WLG OC. Commissioner Prager asked if the proposed expansion could be reviewed at the same time as an actual development proposal. Mr. Espe reported that had been considered; the applicant had provided a conceptual design plan that showed a commercial office located on the corner and the parking and townhomes on the edge of West Sunset Drive; however, upon further examination it had been determined that there was not enough property to build the townhomes in accordance with the Design District standards related to aspects like setbacks

and buffers. Staff further stated that future buildings and parking spaces on the subject lots would rely on the District's architectural design standards for the building setbacks and massing, required landscape buffers, and retention of existing large trees along the common boundaries between the future development and the neighborhood. Staff advised these specific design elements were not within the scope of the zone change review.

Applicant

Randy Reeve, Taylors Crest Lane, Lake Oswego, observed the West Lake Grove Design District had been in place for 14 years and had been successfully implemented on the other side of Boones Ferry Road, but not a single project had been initiated on his side. He pointed out that the application explained what the problems were and proposed a solution that was the best possible use for the property.

Ken Sandblast, Planning Resources, Lake Oswego, used slides to illustrate his presentation. He talked about what was happening on each side of Boones Ferry Road in terms of connectivity and access and what the existing Plan, zoning and Design District required in terms of connectivity, street cross section and standards such as buffering, setbacks, and parking. He indicated that the roadway requirements created constraints to development that had been "fixed" on the other side of the intersection. He reported that he had served on the task force that helped plan the district and recalled that the intent of the size limitations on buildings and the many other standards was to make the design district compatible with the nearby residential uses. He explained that the WLG R-2.5 development was subject to numerous design standards and advised the road extension would have the greatest impact to Pamplin's properties (Tax Lot 4500 and Tax Lot 4400). He noted that Tax Lot 4600, owned by a separate private party would also be impacted by the roadway. He added that future development was complicated by the fact that two of them already had split-zoning with WLG R-2.5 zoning. Mr. Sandblast advised that when all of the District requirements were applied the result was that it was not physically possible for WLG R-2.5 development in this location. He advised that this reduced the economic incentive to develop this part of the district and to build the roadway. He explained that the applicant's solution was to include Tax Lot 4300 in the District and change its zoning so that four units of WLG R-2.5 housing that met all of the base zone standards and District requirements were possible on the southern portion of Tax Lot 4300 and could serve as a transitional use to the adjacent residential area. He advised that the applicant was merely relocating the planned WLG R-2.5 two-unit potential that did not fit on Tax Lot 9300 to Tax Lot 4300.

Mr. Sandblast summarized that the applicant's solution would eliminate the planned commercial driveway access to Upper Drive and it took two driveways from Boones Ferry Road and consolidated them into one; it provided the necessary land area to meet parking requirements and setbacks; it eliminated the split zoning and relocated WLG R-2.5 to where it would serve as transitional use and maintain compatibility. He pointed out that the new internal access linked all of the parcels including Tax Lot 4400 and Tax Lot 2200 to each other and via one connection to West Sunset Drive. He acknowledged it would require the cooperation of all of those property owners to negotiate easements to make that happen and that it had happened on the other side of Boones Ferry Road. He noted that the signalized intersection was already built and paid for and the developments would be subject to development review. He reported that the conceptual plan indicated how it could be implemented, but it was not the final plan; it would however, set the stage for the property owners and the private market to solve the problems. He indicated that the applicants' proposal represented a large part of the solution and they were working with the City to solve the entire problem together.

Mr. Sandblast advised that present access located at the west end of Upper Drive at its intersection with Boones Ferry Road was never intended to be permanent access. He recalled that when the District was created, everyone anticipated the new signalized intersection and that staff had explained the Boones Ferry Refinement Plan addressed the Boones Ferry Road/Bryant intersection. He referred to discussions about changing the Comprehensive Plan so the West Lake Grove Design District was absorbed into the Lake Grove Village Center. He explained the Comprehensive Plan kept them separate because the West Lake Grove Design District had a different character, smaller scale development and specific uses. He recalled that the intersection had been located in the subject area because it was supposed to be the key activity center of the West Lake Grove Design District. He advised that the applicants did not intend to change that vision, add more traffic, or have more impact; they just wanted to develop a project that was consistent with the adopted plan.

Public Testimony

Proponents

Mike Buck, Edgemont Road, Lake Oswego and Jerry Nierengarten, Twin Fir Road, Lake Oswego, testified for Bernie Harrington, Chair of the Lake Grove Neighborhood Association. Mr. Buck related they agreed with the analysis and that something needed to change, but they were not proponents of the entire proposal. They did not support WLG R-2.5 on the southern portion of Tax Lot 4300; and wanted to retain R-7.5 zoning. They would leave it to the Commission to determine whether the buffer should split it one-third: two-thirds, or more, or less. He reported that when the Association board met with the neighbors they heard that Citizens liked what the plan envisioned because it protected the neighborhood and they were hoping for increased property values. He added that the board had taken a comprehensive look and wanted to implement the West Lake Grove Design District while minimizing impacts and providing appropriate mitigation so there was a win/win result for everyone. Mr. Buck discussed the three prevailing negative views the board had heard during the discussion with neighbors:

1. Preference for the status quo. Mr. Buck indicated the status quo did not serve the corridor or the neighborhood as it should. The east side of Boones Ferry Road was a clear contrast to the west side. It had been left undeveloped for 14 years since the Plan was adopted. Something constructive had to happen to allow for property consolidation and better accessibility and internal circulation while not permitting commercial use on Upper Drive.
2. The six-foot easement that divided commercial from residential was a "sacred cow." This buffer existed for very good reasons and had served them well. It permanently marked the boundary of the Lake Grove Village Center plan Mr. Buck supported. When the West Lake Grove Design District was being formed maintaining this line was not tested because it was viewed as the "Maginot Line." He said it was now time to revisit how this property could best serve the goals of the Design District as well as the goals of the adjoining neighborhood. The six-foot easement had never been utilized as a pathway. All lines had to make sense for the greater good. They were not suggesting the line disappear, but that it be moved to achieve overarching community goals. The Design District looked like a fighter jet with part of a wing missing on the east. That should have been looked at when the Plan was adopted. Now it was the Commission's responsibility to look at it and ensure there was symmetry and the district on both sides Boones Ferry Road could be developed.
3. If one property was rezoned from residential to commercial it would start a domino effect leading to full scale rezoning. Mr. Buck indicated that what was unique about this property and only this property was that rezoning the parcel into both commercial and residential helped implement the West Lake Grove Design District. The Association board members

vigorously rejected any move by any other property owner on Upper Drive or in this area to rezone in the future. The zone change with its related amendments was singular and exemplary.

Mr. Buck related that the board had heard one legitimate concern about traffic on Upper Drive. He reasoned that as development evolved in the District, the street should be made a City street and improved and traffic calming measures should be considered.

Mr. Nierengarten saw the need for a more comprehensive plan for the area around the Boones Ferry Road/Upper Drive intersection and the larger area. He pointed out that it might call for no left turns at the new West Sunset Drive intersection. He suggested that if Bryant was improved with a very workable left turn lane that might encourage people to stay on Bryant and make a left on Boones Ferry Road/Bryant instead of using Upper Drive to get to Boones Ferry Road. He observed that Upper Drive was not designed for that level of traffic.

Russ Diehl, Upper Drive, Lake Oswego, stated that he owned one of the commercial buildings across the street at Sunset Crossing and that he had served on the committee that helped develop the West Lake Grove Design District. He indicated that developers had built buildings and townhomes on the north side which were all fully occupied and the traffic signal was built and paid for. He pointed out that the zone change would allow the extension of West Sunset Drive to be done in a proper way and that Commercial buildings could be built on Boones Ferry Road and residential homes would be on Upper Drive. He noted that it would allow options related to the current Upper Drive/Boones Ferry Road connection and it would be a win/win result for everyone.

Dennis Denton, Garibaldi, Lake Oswego, stated that he represented Dee Denton, owner of 16722 Boones Ferry Road, Lake Oswego. He commented that the improvements across Boones Ferry Road showed good, managed growth. He noted that speed bumps could be used to address cut through traffic.

Opponents

Miguel Perez, Upper Drive, Lake Oswego, indicated that the line creating the problem (the 'Maginot line' Mr. Buck referred to) ran along Tax Lot 4300 along an old, six-foot wide, horse path and that when the District was created people wanted to keep the neighborhood the same and create a nice commercial development along Boones Ferry Road. He read aloud from a 2008 email from the president of the Lake Grove Neighborhood Association regarding the creation of the West Lake Grove Design District. He stated that she indicated that at each meeting she had stated in unequivocal terms that Lake Grove Neighborhood Association (LGNA) did not want commercial interests encroaching into their single-family neighborhood. Mr. Perez explained that was how properties were chosen to be included in the design district. He emphasized that they were equally focused on what went into the district and what was excluded. He questioned why the road was needed and wondered if the Bryant intersection was going from LOS F to D because some of the traffic would use Upper Drive. He asked the Commissioners to consider that kids played there. He asked whether they wanted his neighborhood to look like the one along Firwood. He said the District had been created with "a line in the sand" that assured residents their property would retain its value. He asked the Commission not to bail out a developer who wanted to turn their property into an office complex at the expense of residents' property values. That was not fair.

Don Conklin, Upper Drive, Lake Oswego, made the following three points:

1. The initial assembly of properties for the West Lake Grove Design District had not been a casual decision. Tax Lot 4300 [sic] had been identified as benefiting the neighborhood if it stayed residential and stayed outside the District. It would change the character of the local area if the line was moved. The easement had been referred to as 'antiquated', but it was along Mr. Conklin's property and he considered it a wonderful, defensive, element to guarantee the property he owned and the one adjacent to his would remain residential.
2. The bundling of LU 12-0046 was confusing. The zoning was not really recognized today in that there was no commercial property or multifamily where the Design District said it can be. The proposed change would allow commercial development or commercial zoning directly on Upper Drive further east.
3. The neighborhood association letter should not be categorized as "in favor." At best it was on the fence. One of the things Mr. Conklin supported was keeping R-7.5 on the Upper Drive side of Tax Lot 2300 [sic] instead of rolling it to R-2.5 as Reeve proposed.

Chair Gaar asked if Mr. Conklin's primary concern was that if Tax Lot 4300 was pulled into the District there would be increased traffic on Upper Drive; or if he just did not want the line to shift. Mr. Conklin answered that the "sea change" would be that cut through traffic would use the West Sunset extension. He clarified that the primary negative effect related to the change at Tax Lot 4300 was that including it would go against a long standing separation line between commercial and residential that had made it a very livable area for a long period of time and helped maintain the value of the residences. He held that as soon as that line started to soften that would change; when residential properties were on the same street as commercial properties the residential properties became less valuable. Commissioner Bhutani asked if he was or was not opposed to removing the existing R-2.5 zoned area. Mr. Conklin responded that he was not particularly happy about the change, but he had to pick his battles and that was probably a "done deal," there was going to be R-2.5 on Upper Drive.

Ed and Jan Gehrig, Upper Drive, Lake Oswego. Mr. Gehrig recalled Upper Drive had always been zoned for single-family dwellings. He opposed allowing multifamily along Upper Drive and pointed out that it was inconsistent with the fact that three brand new homes were being built along Upper Drive and one was just across the street from Tax Lot 4300. He indicated he preferred to see a plan that did not require the Reeve's property to be WLGR-2.5. He recalled that the property had once been the site of a big home that burned down. He indicated he thought Pamplin's idea of having a parking area with a berm to keep it from being visible from Upper Drive was a possibility. He indicated he was still somewhat ambivalent about West Sunset Drive going all the way through to connect with Upper Drive. He suggested it was not necessary to bring it all the way down to meet Upper Drive; it could go down just far enough to funnel traffic into the commercial developments along Boones Ferry Road. He indicated he would like to see a different plan that protected the single-family development concept on Upper Drive and put no commercial on Upper Drive. He thought it would be possible to have a plan that did that and still allowed most of the commercial development planned on Reeve's property; Reeve could build a very nice home on his property instead of townhomes.

Commissioner Swinford inquired where Mr. Gehrig would have Upper Drive connect to Boones Ferry Road if he did not want West Sunset Drive to go all the way through. Mr. Gehrig responded that he wanted to see a plan that kept it where it was.

Neither for Nor Against

Lauren Hughes, Westview Drive, Lake Oswego, spoke on behalf of LO Stewards. She contrasted how the City had addressed the trees on the Green property and other private residential properties with sensitive lands on them with how it addressed them on the subject properties. She noted the staff report did not address Goals 5 or 6 and that the City would

allow development on these properties for economic development reasons and use the current CDC and the Tree Code. She interpreted a statement in the staff report that indicated the existing tree canopy would be protected 'to the extent possible' to mean if they needed to cut trees down they would. She observed that the City seemed to be able to change the Comprehensive Plan Map for the benefit of a few and for economic development when her group had been trying for years to change it to relieve residential property owners with sensitive lands; they had been told it was difficult to change it. She recalled a section in the Sensitive Lands code that said when a citizen saw potential natural resources which were not on the sensitive lands map they could call that to the City's attention and the City was required to do a review and Economic, Social, Environmental, and Energy (ESEE) analysis. She said there were trees on the subject properties that qualified for sensitive lands protection. She asked the City to conduct the review and that the Commission hold the record open until it could be done.

Rebuttal

Mr. Reeve explained he had changed his original plan to make his property entirely commercial after the neighbors told him it was wrong to have commercial all the way down to Upper Drive. He stated that he was aware that the R-2.5 that was already planned in the district could not be done because of the split zoning, so he proposed to move it to the lower section of his property. He said he was hearing that they would prefer to have it zoned R-7.5 to be more in tune with the rest of the neighborhood and he agreed with them. He clarified that he was hearing that they were fine with commercial as long as it stayed up close to Boones Ferry Road and they preferred to have R-7.5 instead of the WLG R-2.5. He said he felt the same way.

Mr. Sandblast pointed out there was already commercial zoning touching Upper Drive to the west. He clarified that WLG R-2.5 was attached housing, not multifamily housing. He noted the applicant was eliminating commercial vehicular access from Upper Drive and that there would be some additional commercial traffic that came down, but it would be a very small amount. He explained the applicant had proposed WLG R-2.5 for two primary reasons. One was because several members of the neighborhood had requested that as an alternative to making the entire property office commercial and more importantly, doing that was consistent with why the District included the WLG R-2.5 in the first place. He noted that he had served with the group that helped plan the district and that they had first looked at making it a larger district and then shrunk it at the request of area stakeholders. Mr. Sandblast explained that the applicant had proposed moving the WLG R-2.5 to his property in order to be consistent with the District's plan for a transitional housing type; having R-7.5 there did not create a transition from commercial use. He indicated that a more recent reason for keeping the WLG R-2.5 was to prevent net loss of any sort of housing. Mr. Sandblast addressed the domino theory. He noted the applicant was four years into the process, so it was not 'easy.' He recalled the Albertson's change had solved a problem for one lot and had not resulted in a domino effect. He observed that the sentiment of the community was to respect residential areas. He indicated the applicant was solving a problem that should have been solved at the time the District was created. He explained that bundling the applications fixed the whole problem at once. He observed that it would allow one property owner to solve his problem, but ultimately it was a solution for the community to the problem that the District plan was not going forward. He advised this was a Comprehensive Plan and Zoning decision and the applicant would be back later to go through the development review process.

Ms. Hughes asked the Commission to keep the record open. Mr. Espe advised the trees on the subject property were not an identified resource, either on the maps or in any inventories. He explained that Goals 5 and 6 were not addressed in the staff report because the

regulations that would apply to them were the Tree Code and any Community Development Standards related to trees.

Commissioner Johnson **moved** to continue LU 08-0059A and LU 12-0046 to March 25, 2013; leave the record open for additional written testimony until 5:00 p.m. on March 18; accept rebuttal submissions until 5:00 p.m. on March 20, 2013; and start deliberations on March 25. Chair Gaar **seconded** the motion and it **passed 7:0**.

Commissioner Bhutani left the meeting.

7. WORK SESSION

7.1 Comprehensive Plan Update – Surface Water (PP 10-0007) and Draft Stormwater Management Manual (PP 12-0020)

Review draft Public Facilities and Services goals and policies for Surface Water Management (existing Goal 6, Section 5 and Goal 11, Section 5). These policies are part of the Community Health & Public Safety Action Area.

Ms. Weigel explained that Water and Surface Water related goals and policies had been combined because those utilities were managed together. The Commissioners examined the draft goals and policies. Commissioner Prager and Mr. Gilbey discussed the City's role in regulating the quality of the water in Oswego Lake. Mr. Gilbey advised that the City was the designated management agency responsible for lake water quality. He explained that the City did not test the quality of the water in the lake, but managed the quality of the lake water by managing the surrounding watersheds. He indicated that the City could monitor the lake, but did not because it would require more staffing resources and additional costs. He reported that the City partnered with and shared data with other jurisdictions and it had discussed doing that with the (private) Lake Oswego Corporation, which does the monitoring, but they had not shared data with the City.

Commissioner Hennelly stated that there was no definition of pollution and there should be. Staff agreed to insert a definition for Pollution and based on comments from the other Commissioners, insert cross references to the Healthy Ecosystems topic. The Commissioners marked the use of regulatory language like, "prohibit" and "maintain regulations that require" as an issue. Staff indicated that the City Attorney's office was going to look at them before the final package was considered for adoption. The Commissioners agreed to change to Policy B to refer to 'the lake' instead of 'lakes.' They suggested changes to the following specific policies and definitions.

Policy L (WQ8 in the tracked changes version): Improve the water quality of Oswego Lake and the Willamette and Tualatin Rivers by working with DEQ, Lake Oswego Corporation and area residents and businesses within the Lake's drainage basin to implement water quality programs and projects.

Commissioner Prager suggested revising this so it did not call out Lake Oswego Corporation (Lake Corporation) but called for *working with DEQ and the community*. He questioned calling out the Lake Corporation while not calling out any other interest groups, such as Riverkeepers, especially when the Lake Corporation was not responsible for meeting water quality. Commissioner Arthur stated that he would specifically name the Lake Corporation because it was the steward of Oswego Lake and it was important to work with them and the DEQ in regards to the water quality of Oswego Lake. Chair Gaar would put the focus on the Lake Corporation so it would be held accountable by referring to: *the community and the Lake*

Oswego Corporation. Mr. Gilbey advised that calling them out might benefit the City because the City needed all the partners it could get. He indicated that the Lake Corporation was a great partner when it came to enforcement because it reported when contactors polluted. Chair Gaar looked for consensus to keep 'Lake Oswego Corporation' in the policy and noted Commissioner Prager was the only one who wanted it removed.

Commissioner Johnson related that he did not disagree with Commissioner Prager, but he wanted to clarify that Lake Oswego Corporation was actually a property owner management agency and groups like Riverkeepers were advocacy groups which had no actual responsibility to manage the rivers. Commissioner Prager added an Action Item to bring a community wide effort to protect lake water quality.

New Policy M: Promote Low Impact Development (LID) to improve water quality, reduce impervious surfaces, promote infiltration, and preserve open space.

The Commissioners inquired what 'open space' was. Ms. Weigel indicated that she had gotten the definition from development review staff. Mr. Gilbey advised that there were many examples of dual use of open space to promote LID and preserve open space; one was using a basketball court as a water detention area in the wintertime. Chair Gaar saw no consensus to change or remove 'open space' but noted that Commissioner Swinford did not favor it.

Definitions:

Open Drainage Ways: Commonly used open surface drainage systems include shallow ditches, open channels, grassed waterways and sloped banks.

Staff agreed to broaden this definition to read: Commonly used open surface drainage systems include but are not limited to shallow ditches, open channels, grassed waterways and sloped banks.

Mr. Gilbey asked the Commissioners to provide feedback on the first draft of the Stormwater Management Manual. He reported that the City was revising the code to meet the requirements of the MS4 Permit and that a public comment period had been scheduled for the draft code and related manual. He advised that the trigger for a water quality facility would change from 6,060 square feet of new impervious area to 3,000 square feet of new or redeveloped impervious area. Mr. Gilbey assured the Commissioners that there would be a period of time, post adoption, to ensure all stakeholders understood the new regulations.

8. OTHER BUSINESS – PLANNING COMMISSION

Chair Gaar and Commissioner Johnson each voiced concern about the impact of accelerating the Comprehensive Plan process on the Commission's entire schedule; the quality of the final product; and the Citizens Advisory Committee (CAC). Chair Gaar planned to discuss it with the City Council. Commissioner Prager was concerned that the Council was dictating the Commission's schedule and he was concerned about rushing through Healthy Ecosystems.

Councilor Gudman, who was in attendance, related that the desire was to try to meet the original three-year deadline and acknowledged that good work had been done. He noted that there was acute awareness of the work load in the planning department. He believed the Council would likely extend the time period if the deadline could not be met. Commissioner Johnson referred to the full schedule and advised that this was the point in time to make that call.

9. OTHER BUSINESS – COMMISSION FOR CITIZEN INVOLVEMENT

None.

10. SCHEDULE REVIEW

None.

11. ADJOURNMENT

There being no other business Chair Gaar adjourned the meeting at 11:06 p.m.

Respectfully submitted,

Iris McCaleb /s/
Iris McCaleb
Administrative Support