



## CITY OF LAKE OSWEGO Planning Commission Minutes September 28, 2015

### 1. CALL TO ORDER

Vice Chair LaMotte called the meeting to order at 6:30 p.m. in the Council Chambers of City Hall, 380 A Avenue, Lake Oswego, Oregon.

### 2. ROLL CALL

Members present were Vice Chair John LaMotte and Commissioners Ed Brockman, Robert Heape and Bill Ward. Chair Randy Arthur and Commissioner Adrienne Brockman were excused. Commissioner William Gaar was absent. Council Liaison Joe Buck was also present.

Staff present were Scot Siegel, Planning and Building Services Director; Anne MacDonald, Stormwater Quality Coordinator; Evan Boone, Deputy City Attorney; and Iris McCaleb, Administrative Support.

### 3. COUNCIL UPDATE

Councilor Buck updated the Commission on Council activity and actions.

### 4. COMMISSION FOR CITIZEN INVOLVEMENT – GENERAL UPDATES

Vice Chair LaMotte and Commissioners Ward and E. Brockman provided updates on the Mayor's Meetings with Neighborhood Association Chairs, the Lake Grove Village Center Parking Plan Committee and the Southwest Employment Area Planning Advisory Committee. Vice Chair LaMotte and Commissioner Heape reported that they had toured the Palisades Neighborhood on September 20; and a tour of the Old Town Neighborhood was tentatively scheduled for October 10. Vice Chair LaMotte noted that the Lake Oswego Redevelopment Agency (LORA) was to discuss East End planning on September 30. When asked if *Hello L.O.* distribution could be expanded in the Birdshill area, Mr. Siegel stated that he believed Public Affairs had recently renewed the contract with the vendor and if the City Council wanted to broaden the notification it would be considered when the contract was reviewed next year.

### 5. CITIZEN COMMENT – Regarding issues not on the agenda

None.

### 6. MINUTES

#### 6.1 August 10, 2015

Vice Chair LaMotte **moved** to approve the Minutes of August 10, 2015, as amended by Commissioner Ward. Commissioner Ward **seconded** the motion and it **passed 4:0.**

**7. CONTINUED PUBLIC HEARING**

**7.1 Natural Resources Program and Sensitive Lands Revisions (LU 15-0019)**

A request from the City of Lake Oswego to amend the Comprehensive Plan (text and map), Community Development Code, and Zoning Map. Ordinance 2687 would amend the Comprehensive Plan by adopting a new Healthy Ecosystems chapter, replacing Plan provisions under Goal 5 (Open Spaces, Scenic and Natural Resources), Goal 6 (Air Resources Quality), and Goal 15 (Willamette River Greenway). The ordinance would also amend the Community Development Code (CDC) and Zoning Map to implement revisions to the Sensitive Lands overlay districts (LOC 50.05.010 and LOC 50.07.004.8), consistent with the Healthy Ecosystems chapter. Code cross-references contained in the CDC, LOC 42 (Streets and Sidewalks), LOC 47 (Signs), and LOC 55 (Trees) were also to be amended for consistency with the CDC. Continued from September 14, 2015. Staff coordinator was Scot Siegel, Planning and Building Services Director.

Vice Chair LaMotte opened the hearing. Mr. Boone outlined the applicable criteria and procedure. At time of declarations Commissioner Ward related that he owned property with a Sensitive Lands overlay.

***Public Testimony***

Michael Buck, 3155 Edgemont Road, Lake Oswego, 97035, indicated it was time to forward the draft legislation to the City Council. He discussed that the public was now more knowledgeable about the function and value of their green infrastructure. He commented that those with natural resources on their properties who were preserving and enhancing them were providing benefits to all and should be thanked for continuing a healthy legacy for future generations. The Commissioners thanked Mr. Buck for his work in natural areas and for encouraging others to work in natural areas.

Carolyn Jones, 2818 Poplar Way, Lake Oswego, 97034, supported the proposed flexibility for fully-encumbered lots, but had concerns about other aspects of the proposed program, including its complexity, the number of new properties to be added and the fairness of removing upland tree groves and placing more regulations on water feature owners. She discussed her concern about due process of law after finding that her own contested site was shown on the newest map. She questioned the fairness of increasing the buffers on her site from 25 to 60 feet (including the construction setback). She suggested holding an open house to help people better understand the proposal. She requested that the City list all excluded areas and show the reason for each exclusion. She asked the City to provide the value of all of the properties that had been taken or gifted to the City through deed restrictions. She asked staff to review use of Goal 5 procedures, noting that the Environmental, Energy, Social and Economic (ESEE) analyses had been done years ago and were obsolete. She discussed her concern that building in some sloped areas after the removal of Resource Conservation (RC) District protections would lead to more landslides. She indicated she could not find detailed maps of the Habitat Benefit Areas (HBA). She asked the Commission to consider the question of whether those lots had the same privilege as substandard lots.

During the questioning period Ms. Jones indicated that she anticipated that the legislation would reduce the value of her property because she would no longer be able to divide it to have one more lot. She noted the value of Lake Oswego lots averaged \$200,000.

Mr. Siegel clarified that under the proposed code it could be possible to divide the property to get multiple single-family dwellings based on the maximum development size for a fully-encumbered lot. He explained that in Ms. Jones' case the size was the amount of lot

coverage and floor area allowed on the R-15 zone's minimum size lot (15,000 sf) and that since lot coverage was in part based on height; for example, if the structure was higher than 31 feet maximum lot coverage was 25% or about 3,700 sf.

Ms. Jones described a "Catch 22" situation that if a house intruded into a stream corridor the owner also had to go through the Army Corps of Engineers' process. She cited major excavation in the Oswego Creek stream corridor by the Lake Corporation as an example that the law was applied unevenly on a discriminatory basis. Ms. MacDonald advised that the Corps and the Oregon Department of State Lands (ODSL) regulated only within ordinary high water, or to ordinary high water in the stream proper; they did not explicitly regulate floodplain areas beyond the stream buffers.

Commissioner Ward discussed that when a lot was largely encumbered by Sensitive Lands there might not be enough room after delineation and factoring setback requirements to locate the house where the owner wanted it or to have the maximum size house the zone would allow.

Mr. Siegel clarified that there were no Sensitive Lands designated on Ms. Jones' property so it was subject to LODS 3 and 4 and the LODS standards did not have any allowance for a fully-encumbered lot. He advised that there was no provision for allowing multiple dwellings in an area that was fully encumbered as was allowed under the current Sensitive Lands code and proposed under the draft code. He clarified that there was a required buffer of "at least 25 feet" from top of bank measured similarly to how the Resource Protection (RP) District buffer was measured. He related that staff had discussed this with Ms. Jones.

### ***Deliberations***

Mr. Siegel pointed out that staff had responded to all of the written testimony with the exception of the three exhibits they had received that day. In addition to the changes they proposed in Exhibit F-1 they now also recommended additional refinements to the Sensitive Lands Map in Exhibit E-3 – ESEE Analysis, 09/04/15. Those refinements related to Tree Groves TG-1, TG-18 and TG-19 and were not yet incorporated into the draft ordinance.

### **ATTACHMENT D: PROPOSED AMENDMENTS TO COMMUNITY DEVELOPMENT CODE 08/25/15**

The Commission continued their examination of the proposed code from where they left off at the previous hearing.

#### ***LOC 50.05.010 SENSITIVE LANDS OVERLAY DISTRICTS***

*Applicability, Exceptions – General.* The Commissioners recalled the overlay districts would be shown on a separate Sensitive Lands Map that would be part of the Comprehensive Plan. They discussed whether and how to show areas that were exempt because they were protected by conditions of approval of development that predated Sensitive Lands. Those developments were exempt for as long as they maintained the required protection.

There were concerns that a notation on the map might confuse homeowners about what type of review was required and that what was reported in title company reports might discourage potential buyers. Comments offered during the discussion included that the status of those areas needed to be made very clear; that potential buyers could look at the CC&Rs; that in some cases those areas were more rigorously protected than they would be under Sensitive Lands regulations and people should be aware of that; that the City did not have information on the condition of some areas that were supposed to be protected; and, that there were some very small planned developments with resource areas whose homeowners associations might

need technical assistance from the City if existing non-Sensitive Lands protections were to be verified after this legislation was adopted.

Staff recommended putting annotation on the Sensitive Lands map to identify that as of a certain date the area had been found to be exempt from Sensitive Lands code. Mr. Siegel and Mr. Boone advised against removing the Sensitive Lands overlay in these areas because if an exempted development lapsed in protecting and maintaining the area per the approved conditions of approval and the exemption was voided the resource was not protected at all. They explained that a rezoning process would be necessary to reapply the overlay. Mr. Boone advised that they could not rely on the CC&Rs because compliance meant compliance with the conditions themselves that required the regulations in effect at the time of approval to be met. Mr. Siegel added that the owners needed to understand what those restrictions were.

Commissioner Ward recalled a subdivision development where the developer set aside more land in open spaces than the Sensitive Lands overlay showed based on an analysis of the tree groves and input from the Audubon Society. He suggested finding a method of identifying such areas. Commissioner E. Brockman discussed that the permitting system should flag looking at conditions of approval as early as the platting stage.

Mr. Siegel anticipated that staff would identify the planned developments they had verified as being in compliance and put a related annotation on the map. He commented that with some programming the GIS system map would allow the user to click on any lot and see a notation that indicated it was exempt and cited the relevant code. He advised that when someone came in for a building permit, staff would look at the conditions of approval of the development for any restrictions on open space/conservation easements. He indicated that staff would contact some title companies to get an understanding of how they did their searches and what information they pulled for reports and then consider how the City could make the information readily available. Commissioner Ward indicated that he agreed with the staff suggestion in the Comment box that 'the Sensitive Lands Map should contain a notation where the general exception (b.i.) is known to apply.'

*Applicability of Exceptions was expanded.* Mr. Boone pointed out that the proposed text under 2.b. expanded applicability to more properties because it referred to a resource within the boundaries of any 'development permit;' for example, it would apply to a resource protected as part of commercial development approval.

*Mitigation Requirements, Required permits.* Staff advised that this provision indicated that the City would not issue a building permit until all applicable state and federal wetland permit approvals had been granted. The Commission questioned how many different regulatory agencies the City had to be concerned about. Ms. MacDonald advised that the Oregon Department of State Lands (DSL) regulated dredging or fill in Waters of the State and the Army Corps of Engineers (the Corps) wetland regulatory program regulated fill into Waters of the U.S. She explained that the DSL and the Corps had a joint permitting process and DSL was sometimes the designated reviewing body for the Corps. She clarified that an application was submitted to both agencies and that the Oregon Department of Fish and Wildlife (ODFW) could weigh in on some specific projects – but typically not single-family residences – in regard to timing of construction and work in a stream. Ms. MacDonald advised that the ODFW was also involved with endangered species and the Oregon Department of Environmental Quality (DEQ) was involved in applying National Marine Fisheries Service regulations related to endangered aquatic species that went to sea. She also pointed out that the Federal Emergency Management Agency (FEMA) was involved when there was fill in a designated flood plain.

*STANDARDS APPLICABLE TO RC AND HBA OVERLAY DISTRICTS*

*RC and HBA District Protection Areas, criteria for location of RC/HBA protection area (5.b.iv) including (3) The location of the protection area shall be designed to protect development from blow-down hazards; and (6) The protection area shall be designed to protect a contiguous canopy and a clustered configuration that does not fragment lands within an RP or RC district, or a HBA protection area.*

Staff clarified what two terms meant: 'Blow-down hazard' was increased risk that interior trees would be blown down after certain other trees in the grove were removed and 'Cluster configuration' was about avoiding fragmenting wildlife habitat. The Commission questioned whether the code ever allowed developments to have fragmented canopy if that was done to protect a very significant isolated stand. Mr. Siegel confirmed it did; however, if the area was too fragmented it failed to perform. Mr. Boone advised if all eight criteria could not be met the balancing test was to protect the most environmentally significant part of the resource and in that situation the result might be having some areas that were not contiguous.

*RC District and HBA Protection Area Development Standards, Development Standards.* Mr. Siegel was asked to define 'practicable.' He read the definition aloud: 'Capable of being done after considering and balancing costs, existing technology, and logistics in the light of overall project purposes.' There was a question related to the development standards for *Resource Enhancement Projects (7)*. How could invasive species be removed without harming the non-invasive species among them? Ms. MacDonald explained that there was a lot of manual work; they waited until after the nonnative species had died back or whacked the blackberry canes a little above ground level. She commented that realistically, where there were only a few native species left they were probably not going to survive. Commissioner E. Brockman cautioned that developers might think that asking for forgiveness was better than asking for permission, noting it would be hard to prove damage done after the fact.

*STANDARDS APPLICABLE TO RP DISTRICTS*

*RP District and Construction Setback Requirements.* The RP district shall include the delineated stream or wetland and a protected riparian area. Staff proposed to change Section ii. which had been drafted to specify buffer widths as follows:

- (1) *Class I Wetlands and Class II Wetlands abutting Class I Stream Corridors – 30 ft.*
- (2) *Other Class II Wetlands – 25 ft.*
- (3) *Class I Stream Corridors – 30 ft.*
- (4) *Class II Stream Corridors – 25 ft.*

The staff recommendation was now to have it say that riparian areas were measured outward and were based on the Sensitive Lands map, and to replace the specified dimensions with a range of buffer widths of 25' to 50' or 30' to 50', depending on the designation. Mr. Siegel advised that the actual dimension would depend on factors such as whether the buffer had been modified to aggregate some RC with RP and steepness of ravine. He clarified that because that was shown on the Sensitive Lands Map this provision should refer the reader to the Sensitive Lands Map. The Commissioners asked staff to specifically include the Lidar method in the list of tools the City Manager could use to approve delineation because it would be used. Staff recommended and the Commission agreed to use the term 'remote sensing' instead because it was more general and included LiDAR.

*RP District Development Standards related to Tree Removal.* The Commission questioned whether this text had to be here or if there could just be a cross reference to the tree code. Staff discussed that having it here offered convenience and clarity and ensured tree code

requirements were not overlooked. Mr. Boone advised the Commission to leave it in the development code because the tree code was not land use regulation and because the Hazard tree provision (iii.) was unique to Sensitive Lands, as it called for any portion of the tree that was not likely to be hazardous to be retained for wildlife habitat and natural resources.

*RP District Development Standards related to Utilities.* Staff discussed that historically the approach to placing utility lines down creeks had been to avoid disturbing the resource unless there was no other way and that later, tunneling was added as being automatically permitted because it was considered a method that did not disturb the resource. Staff clarified that mitigation was required when tunneling did not work, or when the start and/or end of the tunnel was in the RP District.

#### *HABITAT BENEFIT AREAS (HBA) INCENTIVES*

*Scope.* Mr. Siegel confirmed the incentives program was limited to dividable properties because the City was trying to limit the scope of the program to upland tree groves where removal of an RC district would not meet the De Minimis test, which were those that Metro would be most concerned about.

*Incentive – Tax reduction program.* Mr. Siegel and the Commissioners discussed the incentive of a tax reduction program for private property owners who voluntarily protected the resources on their properties. Staff reported that the ODFW had indicated that they were willing to work with the City to establish a program locally, which would include reporting methods and protocols. Commissioners' comments during this discussion included that they might find the program required too much administration but they should at least explore the idea; and, that it was important to offer as many incentives for HBAs as possible to encourage property owners to participate.

Mr. Siegel suggested the Commission consider the program scope/target: Would it be for areas that would have otherwise been regulated as RC Districts, or have a broader scope that included riparian areas that had the regulatory protections? He related that ODFW staff had indicated they would be most interested in seeing it applied to the upland areas where the City was removing regulation, but they had not said they would not consider it elsewhere. Commissioner Ward suggested it should apply to all Sensitive Lands owners. Vice Chair LaMotte indicated they should at least look at doing that and if they found it had to be tailored more to HBA as an incentive then they would need to look at doing that. Mr. Siegel clarified that the proposal did not rely on this or any of the voluntary measures to maintain the comparable level of protection and the certainty of protection required under Metro Title 13. He advised that staff's ESEE analyses and findings supported the proposed changes to RC and HBA without relying on the incentives. He commented that the incentives provided an additional measure of protection through encouragement of habitat-friendly development.

Vice Chair LaMotte **moved** to recommend that the City Council continue to explore the potential of a state tax reduction program through the ODFW and have staff report back to the City Council and the Planning Commission. Commissioner Ward **seconded** the motion and it **passed 4:0.**

*Incentive – Height Bonus.* Commissioner Heape discussed that this incentive was not necessary; he was concerned about allowing increased height; and there would still be incentives offering increased floor area and tax reduction. The consensus was to remove it from the listed incentives.

*Incentive – Lot Coverage and Floor Area.* Allow lot coverage and floor area standards to be applied with reference to the total site area (based on the minimum lot area standard of zone) as allowed for RP districts. Mr. Siegel explained the amount of permitted lot coverage and floor area for a home would be calculated and then the developer would be allowed to reallocate it based on the number of zone-sized lots that could be on the site and on the habitat conservation principles in the proposal.

*Development Review of Applications in HBAs, Shared driveways.* This standard called for a proposed development to utilize shared driveways, as applicable, to minimize resource area disturbance. Staff clarified 'as applicable' meant in locations where there were two lots where shared driveways were required or allowed. Staff noted that examples were flag lots and two lots on a collector or higher classification street.

#### ***SENSITIVE LANDS DESIGNATIONS, MAP CORRECTIONS AND DELINEATIONS***

*Criteria for Designating Property within an Overlay District.* Mr. Siegel clarified that the designation criteria were from the existing code; based on input from Metro and direction from City Council the proposal maintained the City's existing inventory of significant streams and wetlands. He clarified that it did not remove or add any RP District to the Sensitive Lands program, meaning that they were not adding any new streams or wetlands but there were segments of streams that would now be mapped based on the current definition of stream.

Mr. Siegel confirmed that staff would revise *Table 50.07.004-A: Stream and Wetland Riparian Area Measurement* to reflect the ranges of buffer widths they had discussed under *Standards Applicable to RP Districts, RP District and Construction Setback Requirements*.

The Commission had questions about 'streams' that had evolved as runoff from development. Staff clarified that a manipulated/straightened segment of a stream remained a 'stream' and a created 'ditch' was a manmade water conveyance channel (not a manipulated stream). They related that one could not put a rubber duck in it and have it end up in the river, for example. Commissioner E. Brockman discussed that he did not think it was right to burden a landowner with a ditch that might carry the rubber duck but that had been created artificially by subdivision drainage. He added that the result might even have wetland characteristics.

Ms. MacDonald advised that the City was required to maintain water quality compliance of Waters of the State and even a created water body could be considered Waters of the State if it was connected and water quality in that location could have downstream impacts. She advised that a good number of those types of water body segments were not mapped as having Sensitive Lands protections. She advised that because they now had more accurate Lidar mapping technology they had found existing streams that flowed when there was a really wet winter that had never been mapped. Commissioner Ward asked if the runoff from his downspouts, which drained into a ditch that flowed into Oswego Lake, was Waters of the State. Ms. MacDonald indicated it could be if there was a well-defined bed and bank to the channel and it was fully connected.

*Figure 50.07.004-A: Wetland and Stream Corridor Measurement\*.* Staff agreed to ensure that this graphic illustration of a cross-section reflected the buffer widths in the related table in the proposed code.

#### **ATTACHMENT C. SENSITIVE LANDS MAP**

Mr. Siegel clarified that the Commission was looking at the same draft map they had been provided with at the September 14 hearing. Staff now recommended additional changes

responding to public testimony to finalize the map. If the Commission voted to recommend approval of the map with the staff-recommended changes it would be finalized and provided with the findings.

When asked about a mapped RC district that did not contain any trees, Mr. Siegel clarified that the current proposal was not updating the map to delineate tree groves. He explained that delineation would happen if the owner elected to apply for HBA incentives and to qualify for HBA incentives they would have the option to protect 50% of the grove or restore an area equal to 25% of former RC (now HBA) area. He pointed out that the latter option encouraged replanting of trees in those areas.

When asked when and how often future map corrections would be made, Mr. Siegel advised the online GIS system map would be updated in real time. He indicated that the date would always be on a map that was printed out and the reader would be advised to check with the City to ensure they were working from the most up-to-date map.

Vice Chair LaMotte summarized that they had been looking at the map for several meetings and since then staff had worked with property owners and recommended additional changes. He pointed out that the Commission had requested some changes related to notations in regard to lands owned by homeowners associations and that was the map and direction they would be deliberating on and approving as part of the package.

*Individual commissioners offered their comments about the process and proposed legislation.* Commissioner Ward related that he could not vote for it and would abstain. He discussed his concern that the onus was being placed on property owners and that the City should have stepped up to the plate to intervene in favor of the private property owners a long time ago. He acknowledged that they had come a long way in a different direction and that with this proposal the City was yielding to agencies outside of the City in ways that were not really necessary.

Staff was asked if the City had pushed back – if staff had gone back to talk with the agencies after the agencies sent the letters in the record. Mr. Siegel related that the feedback from the agencies had not come as a surprise and that during his time as Planning Director Metro's feedback had been fairly consistent about the alternative approach and what Metro could or could not accept in the way of reducing riparian protections. He reported that after they received the input from the DEQ the City Council had made a strategic decision to coordinate the Sensitive Lands reforms with the Total Maximum Daily Load (TMDL) compliance plan and use more accurate Lidar mapping technology. He related that coordination/negotiation with three different agencies with different sets of rules had not been easy, but the consultation was early, ongoing, and the feedback was consistent and strong. He advised that staff and the City Council had stood up to assert what they believed was a fairly progressive and aggressive stance on regulatory reform and the agencies had responded to it. Mr. Siegel reported that in May the City Council provided direction to go the route of reducing regulations as much as they could to the extent that they could show that other regulations and programs were already in effect that provided a comparable level of protection; and, to offer more flexibility and incentives for property owners to do what the majority of property owners in Lake Oswego already did – take care of their property as good stewards. He pointed out that Metro, the DLCD and the DEQ were notified but had not submitted testimony at this hearing. He did not know if that meant they were content with it, but the lack of that testimony spoke to the City's early and ongoing communication, homework and due diligence.

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Ms. MacDonald related that at the time the Tualatin TMDL was promulgated the regulated communities had done a lot of critiquing of TMDL details. They had definitely pushed back on behalf of private property owners and rate payers. She recalled that after the TMDL had been approved by the Oregon Environmental Quality Commission, Oregon Administrative Rules said the regulated entities were legally obligated to comply with it and try to implement it. She clarified that the DEQ looked at riparian buffers as a best management practice and it was up to individual jurisdictions to figure out how they were going to protect riparian areas. She indicated that the City's approach was similar to what other jurisdictions in the Portland metropolitan area had done and was not necessarily dictated by Metro.

Commissioner E. Brockman discussed that he believed the proposed legislation was the best solution they were going to come up with without legally challenging the no-rollback provision. He recalled that he had been consistent in advising that if the City did not challenge the no-rollback doctrine legally they would probably end up where they were today – they would not have the significant reductions of regulations on private lands that Commissioner Ward wanted them to push for. He discussed that the isolated tree grove appeal demonstrated that there was only so much pushing the City could do. He also noted there was not 100% consensus about how much protection they should have as there were a significant number of people in the City who were very concerned about protection of their tree groves, wetlands, and riparian areas.

Commissioner Ward indicated the City should push back harder, even to the extent of going to LUBA in the interest of the private property rights of their citizens. He anticipated that courts would not support the no-rollback concept and indicated it should be challenged. He indicated that they should have stuck to their initial approach to revising Sensitive Lands that they had discussed in their earliest meetings. He clarified that the current draft legislation was not a terrible document, but it was not good enough.

Commissioner Heape indicated he agreed with Commissioner E. Brockman that the legislation should be moved forward, it was not perfect, but they could look at revising it in the future.

Vice Chair LaMotte discussed that it was time to move the legislation forward, that delay was hurting the City's brand because people who wanted to protect the environment thought it was bogged down and people who wanted regulations removed from the properties thought it was bad. He held that as much as they wanted no regulations on private property that was just not realistic; they were not going to change state and federal law. He noted that it was important to adopt the new Healthy Ecosystems Chapter of the Comprehensive Plan that established the goals and policy direction and that the implementing code had been tightened up and a lot of the arbitrariness had been taken out of it. He advised that after adoption the City would need to be good stewards of their public lands and assist private landowners by advising, educating and assisting them.

Vice Chair LaMotte **moved** to approve the Healthy Ecosystems Chapter of the Comprehensive Plan; the code revisions related to Sensitive Lands overlay districts; and the Sensitive Lands Map with the changes recommended by staff as modified by the Commission during deliberations. Commissioner E. Brockman **seconded** the motion.

Discussion followed. Commissioner E. Brockman agreed it was time to forward the legislation to the City Council since the Council's mission to try to protect private property rights had been fully vetted. Commissioner Heape reminded them the changes they had made included removing the HBA height incentive and map notations related to exempt developments. The

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**motion passed 3:0:1.** Commissioner Ward abstained. The vote on the findings, conclusions and order was scheduled for October 12, 2015.

### ***Annexation Policy Discussion***

The Commission discussed whether to recommend that the City resume evaluating unmapped resources on land to be annexed since the City Council had suspended the practice. After a brief discussion the Commission continued the discussion to the next meeting, anticipating that more Commissioners would be present. Staff planned to report on the history of the policy. A concern was raised that property owners might be delaying annexing because county regulations might not be as stringent as the City's. Staff was asked to compare the new Sensitive Lands program with what the counties required.

During this discussion Commissioner E. Brockman discussed that some owners of properties that had previously been proposed for designation but not mapped had annexed their properties after being notified of the City Council policy to not attempt to apply Sensitive Lands designations on properties being annexed.

Mr. Siegel advised that current code gave the City Manager the authority to initiate the designation process. He discussed that if the practice was resumed the City had a better base of information due to their more accurate mapping technology; they would, for example, look at unclassified streams and wetlands that were not mapped to see if they were significant or not. He advised that when someone selected an unincorporated area on the online interactive map they could see where another jurisdiction (e.g., county) had jurisdiction over the water features on that property.

Commissioner E. Brockman noted that the Commissioners had come to understand that water resources were regulated by other agencies as well as the City. He suggested the City not look to designate upland tree groves during annexation, because Metro did not force jurisdictions to protect upland habitat that had not been protected before. For an example he pointed out that West Linn did not specifically require tree grove protection unless the site was close to the Willamette River. Vice Chair LaMotte remarked that everyone in the City and those coming into the City should be part of the same plan and it should be applied fairly and equitably.

#### **8. SCHEDULE REVIEW**

Staff distributed an updated Forecast.

#### **9. OTHER BUSINESS – PLANNING COMMISSION**

None.

#### **10. ADJOURNMENT**

There being no other business Vice Chair LaMotte adjourned the meeting at 9:15 p.m.

Respectfully submitted,

Iris McCaleb /s/  
Iris McCaleb  
Administrative Support