



## CITY OF LAKE OSWEGO Planning Commission Minutes April 27, 2015

### 1. CALL TO ORDER

Chair Randy Arthur 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 Chair Randy Arthur, Vice Chair Ed Brockman, and Commissioners Adrienne Brockman, Bill Gaar, John LaMotte, Todd Prager and Bill Ward. Council Liaison Joe Buck was also present.

Staff present were Scot Siegel, Planning and Building Services Director; Debra Andreades, Senior Planner; Sarah Selden, Senior Planner; Evan Boone, Deputy City Attorney; and Iris McCaleb, Administrative Support.

### 3. COUNCIL UPDATE

Councilor Buck updated the Commission on Council actions and activities.

### 4. COMMISSION FOR CITIZEN INVOLVEMENT

Chair Randy Arthur reported on recent Commission participation in community meetings and a neighborhood tour. He acknowledged receipt of an e-mail from Skip Ormsby. Commissioner Ward offered an update on the Mayor's meetings with Neighborhood Association Chairs.

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

Dianne Cassidy, 3601 Wren Street, Lake Oswego, 97035, conveyed comments from Skip Ormsby. He invited the Commission to tour the Birdshill Neighborhood. He asked for a review of the process of assigning citizens to boards and committees. In regard to the Foothills District and other planning projects he expressed concern the City was not taking railroad requirements for crossings into consideration. He indicated he was concerned about what was happening on the Willamette River shoreline.

### 6. MINUTES

#### 6.1 March 9, 2015

Commissioner A. Brockman **moved** to approve the Minutes of March 9, 2015 as amended by Chair Randy Arthur and Commissioner LaMotte. Commissioner Ward **seconded** the motion and it **passed 7:0**.

#### 6.2 March 23, 2015

Commissioner A. Brockman **moved** to approve the Minutes of March 23, 2015 as amended by Commissioners LaMotte and Ward. Commissioner LaMotte **seconded** the motion and it **passed 7:0**.

**7. PUBLIC HEARINGS**

**7.1 Substandard Lots - Community Development Code Amendments (LU 15-0017)**

Request from the City of Lake Oswego for an amendment to the Community Development Code definition of "Lot" to specify when development may occur on substandard lots. The Commission will also consider amendments to other sections of the Code that will add criteria for development on substandard lots and requirements regarding lot line adjustments involving substandard lots.

Chair Randy Arthur opened the hearing. Mr. Boone outlined the applicable procedure and criteria. At time of declarations Commissioner E. Brockman stated that he was a real estate broker.

***Staff Report***

Ms. Andreades discussed the proposed definition for a developable substandard lot: if the lot did not meet the zone's minimum lot size, it would be combined with abutting lots under common ownership until it met the minimum lot size of the zone. She clarified that if aggregation was not possible, development on the substandard lot would be subject to land use review and could be required to meet other requirements included in the package of proposed amendments.

Staff presented two examples where an aggregation would be possible: a substandard lot next to a regular-sized lot in First Addition Neighbors-Forest Hills Neighborhood Association (FAN-FH); and multiple lots in common ownership on Arrowhead Court which included an irregularly-shaped substandard lot.

Ms. Andreades explained that two options had been explored for regulating development on substandard lots: a quantitative approach that would limit development on a substandard lot to a percentage of what would be allowed on a standard-sized lot; or, a compatibility review. Ms. Andreades suggested that a compatibility review might be a better option because it would be more flexible in response to different situations and because developers might look for loopholes in the quantitative approach in order to get additional floor area.

With regard to the quantitative option, Ms. Andreades noted that she had prepared tables with examples of the proposed reductions on various sized lots; in addition, architect Ralph Tahrán provided case studies with drawings of code-complying dwellings that might result from this approach.

Mr. Boone had responded to public comments expressing concern that the staff's proposed definition of 'Lot' was not clear enough by providing an alternative definition to consider labeled 'Possible Revision to address terms 4-28-15.' Staff distributed a handout sheet containing both definitions. With regard to public comments regarding exactly what 'commonly owned' lots meant, Mr. Boone advised that this was a policy decision. He indicated that currently it would have to be identical ownership. He presented a definition the City had used in the past which specified 'any abutting lot or lots in the same ownership shall be considered one lot.'

Mr. Tahrán then presented case studies with drawings based on the quantitative approach tables in the staff report. He explained that he had applied the prescribed reductions to 3,000 sf, 4,000 sf, and 5,000 sf lots in an R-7.5 zone, while trying to maximize the square footage on them. Mr. Tahrán explained that to get the maximum allowed square footage on the 3,000 sf lot the structure necessarily had a long and narrow footprint, with maximum allowed lot

coverage, and the height was 25-28 feet; he noted that it would be a challenge to have a third story. On the 4,000 sf lot he found it was possible to design a home that he thought might be appropriate in a lot of areas: a three bedroom, 2.5 bath home that was 25 feet high and maximized lot coverage. He found that designing a home on the 5,000 sf lot was not difficult and it was possible to have a reasonably-sized home that met code and fit into many neighborhoods. Mr. Tahrán cautioned that there were other existing standards in place that also controlled, such as the side yard wall plane standard. He related that the City of Portland did not impose side yard setback planes so it was possible for people to build three stories there.

#### ***Questions of Mr. Tahrán***

Mr. Tahrán clarified that more floor area could be built under current code than what the quantitative tables would allow, advising that the structures in the case studies generally had about 25% less square feet. He added that design standards also controlled the shape of the building envelope. He discussed the existing code exception that allowed up to 6 feet more height for multiple roof forms. With regard to compatibility of a smaller house, Mr. Tahrán anticipated it could be compatible with its neighborhood because the proportionality formula seemed reasonable and because the new development would have larger setbacks than some existing homes that had been built under older codes. He suggested the extra 600 square footage allowed for a garage could be reduced to 500 sf.

There was discussion about using the garage for required parking space because people sometimes did not use their garages for parking vehicles. Commissioner A. Brockman suggested perhaps the square footage for a garage could be made additional square footage for the house and two carport spaces could be allowed in the front yard setback.

#### ***Questions of Staff***

Staff and the Commissioners discussed the differences between the proposed compatibility review and Residential Infill Design (RID) review. They noted that RID focused on architectural design and that the proposed approach was to use criteria similar to existing criteria for legalizing illegal lots. Staff clarified that they understood the Commission was concerned about the impacts of development with regard to parking, traffic and drainage and the relation of the envelope to the lot. Staff stated that it was assumed an owner would have to show house plans in the proposed compatibility review.

When asked if an applicant could be granted more height, square footage, etc. during the compatibility review than they could have under the quantitative approach, staff clarified that was up to the Commission. They advised that a compatibility review looked at a specific site in its specific context. They explained that the concept of compatibility review was to start with what was standard and then allow the reviewing authority to change the limit, depending on the context. Ms. Andreades clarified that if the City adopted the quantitative method that specified the allowable dimensions on a substandard lot there would be situations where it might not allow a workable design and then the owners may apply for a variance or exception.

Staff clarified that the proposed quantitative approach included ministerial review and that currently a building permit for a house is issued under a ministerial review process; the ministerial process does not involve compatibility review or conditioning authority. Staff explained that the minor and major review processes gave the City conditioning authority to require a developer to mitigate the impacts of development such as making street improvements; the assumption was that this kind of analysis was made at the time a minor development request was approved and the related mitigation requirements were imposed as conditions of approval at that time.

Mr. Boone was asked to and described the Measure 49 claims response process. He explained that if the regulation impacted fair market value, the City Council had a choice of either paying the difference in value or waiving the regulation on that specific property.

Mr. Boone discussed proposed language related to development permitted on a nonconforming lot in a residential zone. He explained that the development was to comply with all applicable code provisions, including, but not limited to, setbacks, height limits, and lot coverage requirements. He clarified that the provisions could be modified if the development proposed on the lot did not have a significant negative impact on the neighborhood in terms of scale; noise; traffic; parking; buffers; and loss of privacy on adjacent properties. He advised if the Commission felt that none of those standards should ever be increased they would need to change this provision.

Commissioner Ward suggested that the Commission should plan at some future time to consider how to address the issue of how development of several new homes had been allowed to occur on both sides of a 13-foot wide street.

### ***Public Testimony***

Frank Whalen, Ridgeway Road, Lake Oswego, 97034, submitted written testimony suggesting language to resolve a problem that the proposed definition of 'Lot' did not include a lot smaller than zone minimum size under single ownership with no contiguous property. He indicated that would, in effect, condemn someone's land so they could not legally develop it.

Liz Martin, Cedar Street, Lake Oswego, 97034, indicated that she was the Vice Chair of the Hallinan Heights Neighborhood Association; she read aloud her written testimony. She cited Comprehensive Plan goals in regard to compatibility and neighborhood livability. Ms. Martin discussed photographs of development at 1028 Cedar Street and explained how Hallinan Heights had been affected by the creation and development of substandard lots. She noted that the problems included lack of sufficient right-of-way for safe and legal on-street parking and pedestrian safety; new houses that were out of proportion with and closer to the street than the rest of the homes along the street; the orientation of new houses toward narrow Bickner Street when Cedar was more logical; loss of privacy and views; water/drainage problems caused by overbuilding; a rat problem; and that neighbors had not been able to participate in the ministerial approval process.

Ms. Martin supported the quantitative option with minor development review. She said substandard lots should not be allowed to be created through lot line adjustments because that did not uphold the code. She noted the recent Hallinan Heights development did not meet the drafted criteria Mr. Boone had just discussed. She called for clearly understandable code language that did not have to be interpreted; for applying common sense; and for changing the perception that the City was working against the neighborhood.

Commissioner LaMotte observed that the City had not had the ability to negotiate an exaction to widen Bickner Street even though there was enough room in the setbacks of each lot along Bickner Street to widen it and the developer was going to install a sewer in the middle of the street and then repave it.

Staff clarified that current code allowed someone to do a lot line adjustment as long as they did not increase the degree of nonconformity of a lot; the result might be a larger but still substandard-sized lot. They explained that the scenario in Hallinan Heights was that there were existing legal lots that had been drastically reconfigured through lot line adjustments and

then consolidated to reduce the number of lots. Commissioner E. Brockman discussed that there was a difference in the way lots in Hallinan Heights had been created; some had been created by deed and then adjusted by a developer and some, like the 5,000 sf historically platted lots, had been platted when the neighborhood was platted. He advised that they were both allowed and legal under current code.

Ms. Martin was asked what was the smallest size of substandard lot the neighborhood would accept and if they were in favor of requiring aggregation of historically platted, commonly-owned, substandard lots (for example requiring aggregation of two 5,000 sf lots in the R-7.5 zone) in order to reach the minimum zone size. She indicated she could not answer for the neighborhood yet; they had a meeting scheduled.

Wendy McLennan, Spruce Street, Lake Oswego, 97034, read aloud her written testimony. She encouraged the Commission to approve the requirement of aggregation of lots. She supported, first and foremost, a quantitative (proportional and measureable) option for building on substandard lots; and, secondarily, a compatibility review that took neighbors' input and neighborhood character seriously. She testified that current code had created problems for her neighborhood related to pedestrian safety, parking, privacy, emergency vehicle circulation and drainage. Recalling the situation on Bickner Street she suggested requiring two off-street parking spaces per dwelling and counting the garage in the square footage allowance because garages were often used for storage. She held that the draft code relating to lot line adjustment did not deal with "real-life" density increases. She advocated requiring lot line adjustments to create lots that met zoning standards, period. However, if the City allowed building on substandard lots through lot line adjustments the associated criteria should be measurable. She considered 'significant negative impact' a lower standard than 'maintaining and preserving character.'

Ms. McLennan was asked if she favored a strict aggregation requirement that did not take into account historic patterns of platted lots; an example was the pattern of historically platted 5,000 sf lots in the R-7.5 zone; should someone who owned two of those lots have to aggregate them? She related her personal feeling that if the City was going to allow people to build on substandard lots the lots should not be smaller than 5,000 sf and development on them should be proportional. Ms. McLennan anticipated the proportional option would provide more open spaces. She advised that design was also important. She asked if there was language in the proposal that would allow the City to tell a developer, for example, that the house was a little too big, or that the setbacks needed to be increased.

Commissioner Ward discussed a concept of creating homeowners' associations in existing neighborhoods who would have the power to approve house plans, colors and materials in order to maintain compatibility in that neighborhood.

Suzanne Elstad, Cedar Street, 97034, called for the following changes to the code related to substandard lots: Development or creation of those lots should be recognized as an increase in density; and, the decision would not be made using the ministerial review process. She noted that under current code a neighborhood of 200 homes could increase to 400 with no improvement of streets and parks because the developer was not required to do it. She recalled the Engineering Department had initially recommended that Bickner Street be widened and improved and that Cedar Street be improved and repaved to Cornell; however, the improvements were not required of the developer of 1028 Cedar Street because of the determination that the development included five legal lots of record and was not an increase in density. She indicated that development on substandard lots should not be processed using the ministerial review process because it did not allow for checks and balances. She

commented that neighbors deserved to have input on changes in their neighborhood, especially changes that were not in compliance with current zoning.

Carol Radich, Ellis, Lake Oswego, 97034, who earlier in the meeting had registered her intent to speak, was not present when called to testify.

Diana Boom, Evergreen, Lake Oswego, 97034, related that she lived on a historically platted substandard lot in the R-7.5 zone. She indicated she agreed with the aggregation requirement; she agreed with redefining 'Lot' using either of the proposed definitions; she agreed development on a substandard lot that could not be aggregated should be limited to one dwelling; and, she agreed with the quantitative option - which would make development proportional - together with a minor development review process.

Staff was asked if just applying the R-7.5 zone's lot coverage, setbacks and Floor Area Ratio (FAR) limits on a small lot would make the house on it proportionately smaller without the proposed quantitative standards. Ms. Andreades clarified that the FAR standard formula was based on lot size so a house on a smaller lot would be allowed less floor area. The proposed quantitative option would make the house even smaller. She confirmed that the quantitative option included ministerial review but the Commission could decide to recommend it with minor development review.

Melissa Lavin, Cedar Street, Lake Oswego, 97034, discussed that the photographs that had been presented showed the recent Hallinan Heights development did not work in terms of taking care of the citizens and developing neighborhoods that met the Comprehensive Plan. She explained that she had purchased her home because of its green, spacious, unique and livable neighborhood character. She indicated that the recent development in Hallinan Heights was something one could find anywhere else and was not compatible with the neighborhood; enormous new homes hovered over older, smaller homes; and she was concerned that might happen next to her home. She discussed that this was the opportunity for the City to get rid of platted lots from 1890's that made no sense; enforce the zoning laws that protected neighborhoods; and ensure that neighbors had a say in the process. She advocated having clear and objective rules that everyone understood.

Wendie Kellington, Chandler Road, Lake Oswego, 97034, an attorney, testified she did not support the proposed definition of 'Lot.' She asked the Commissioners to think from the perspective of a couple who bought a parcel of land in 1972 and then bought the lot next door in 1976 as an investment, intending to will the two lots to their two kids. She explained that if the City adopted the proposed ordinance the two lots would become one lot and would not be saleable as two lots; the taxes that had been paid were for nothing; and a large family investment was reduced to zero. She discussed that this was a Constitutional private property rights issue: the "denominator parcel" issue.

Ms. Kellington discussed that this was not just a substandard lot issue but the reality of investment in Lake Oswego; even in neighborhoods of big homes on big lots, bigger homes were being built and dwarfing big homes. She questioned whether proportionately shrinking dwellings to fit on lots would give the City a result of a more pleasing dwelling to look at or if it would solve other problems they were trying to address such as a narrow right-of-way. She advised that if there was a problem related to ministerial decision-making they should consider that state law required decisions about needed housing to be based on clear and objective standards. She cautioned against making a change that would have the unintended consequence of destroying investments and family estate planning. In defining a nonconforming lot she cautioned the Commissioners to be careful and read the new language carefully because there could be significant unintended consequences. Ms. Kellington

suggested that the Commission should consider for example, whether people would be able to add something like a kitchen or garage on a nonconforming lot; and that if a couple bought an acre and then the half acre next door with a big Sensitive Lands overlay on it, they could end up with no lot to build on unless they went through the proposed discretionary review. She mentioned the proposal was very ambiguous when the direction had been to make things clearer, more objective, and less complicated.

During the questioning period Ms. Kellington was asked if she could suggest something short of the shrink-to-fit concept approach that would work and not raise a 'takings' issue. She was asked how they should deal with neighborhood impacts of decrease in green space and runoff when someone built on a substandard lot in an area zoned for larger lots. She clarified that she had responded to the hearing notice which only indicated the topic was the definition of 'Lot' and her response to these questions was off-the-cuff. She did not think the kinds of concerns they had been hearing would be solved by the aggregation provision; the same problems such as drainage impacts also happened in neighborhoods of big houses on big lots because the City did not have a really well developed storm system.

Ms. Kellington was asked whether the City needed to have more ability to negotiate fixing undersized streets with developers of regular and substandard lots. The example offered was the developer who built five houses in Hallinan Heights and did not have to fix the street. She commented that it was easy to put a black hat on developers and make them pay exactions, widen streets and give away property; they were clever and would avoid common ownership. She advised that the Commission should think about families and whether they should make the development of a family's investment subject to what other people wanted there. She confirmed the City should be able to require a developer to fix the road that served their development if the City required that of everyone, including developers of standard-sized lots. She questioned what additional impacts were generated by a 5,000 sf lot compared with a 7,500 sf lot. She agreed with Commissioner LaMotte that in a situation of development of multiple houses on large or small lots that was impacting the street, the street should have to be fixed.

Gay Hendrix, Lakeview Blvd., Lake Oswego, 97035, indicated she had recently found out she owned a substandard lot. She was concerned that the City would not allow anything to be built on it or, if she wanted to sell it no one would want to buy it because they had to go through a process and the neighbors would have to agree.

Don Duwe, Sylvan Court, Lake Oswego, 97034, who earlier in the meeting had registered his intent to speak, was not present when called.

Donald Mattersdorff, Bullock Street, Lake Oswego, 97034, discussed that his family had owned two houses in Hallinan Heights for many years and each house had been built in the middle of a parcel consisting of two combined 5,000 sf platted lots. He noted that there were many homes in that same special situation in the neighborhood. He suggested the aggregation language could be tailored to address the special situation. He framed the issue in Hallinan Heights as whether a developer could combine a standard and substandard lot and then divide the parcel into two substandard lots. He held that it would severely impact the neighborhood. He stated that he supported the part of the proposal that would require aggregation of lots under common ownership for the purpose of meeting the zoning code because it was a clear solution. He questioned whether anyone could say with certainty that the proposal would diminish the value of their property; he thought it would enhance the livability, attractiveness and overall value of the neighborhood. He related that his family would have no problem with an aggregation requirement as they were likely to still own their two properties many years in the future. He opined that properties in the neighborhood would

be less valuable if they were divided into two tiny lots with two homes on them that created extra impacts, such as traffic.

During the questioning period Mr. Mattersdorff clarified that his family's two parcels each consisted of two small lots and that his residence had been built in the middle of his parcel. He explained that on his parent's parcel the platted lot line had been moved so the house no longer straddled the line. He confirmed that he was advocating aggregating two 50' x 100' lots to preserve their R-7.5 zoning and that in his case it would be creating a 10,000 sf lot.

Carole Ockert, Cumberland Road, Lake Oswego, 97034, spoke for the First Addition Neighbors-Forest Hills Neighborhood Association (FAN-FH). They supported the concept of consolidating substandard lots to create a lot that meets the zone standard when possible. However, the lot line adjustment language staff proposed seemed to undermine creation of zone-compliant-size lots by allowing the option to create slightly larger lots that were still substandard. She recalled staff's example of adjacent R-6 lots that were a full-sized lot and a smaller lot next to it. She asked the Commissioners to think about the neighbor who would see those lots combined and then split in the middle into two substandard lots. She advised that in FAN-FH substandard lots were often between two standard-sized lots.

Ms. Ockert related the board's position that the size of the home on a substandard lot should be proportionately reduced, with zone-compliant setbacks; height should be limited to 22 feet and not be influenced by comparisons with nearby homes on full-sized lots; and the code needed to specifically state the directly-proportional reduction to the dwelling's permitted floor area and any bonus floor area. She believed that was reflected in Table 1. In regard to value she discussed that two recent sales of homes on a standard and a substandard lot in FAN-FH demonstrated that the marketplace corroborated such reduction as full-price was not spent for a substandard size lot.

During the questioning period Ms. Ockert clarified the minor development process should not allow development to exceed the setbacks and the proportional sizes shown in Table 1. When asked if an existing two-lot (6,000 sf and 5,500 sf), corner property at E and 3<sup>rd</sup> should have to be combined to be built on, she clarified she would not require the two lots to be aggregated. She indicated that development on the substandard lot should be per their substandard lot approach option.

Mary Bresnahan, Bickner Street, Lake Oswego, 97034, submitted written testimony. She stated that she did not support the proposal and that the problem was overstated. She explained that if a house was well-maintained it was worth more "as-is" and if it was run down it would benefit the neighborhood to allow for new and diverse housing stock on two lots. She indicated that she had supported the Cedar Street project and that the Craig's had a right to develop their land as they saw fit. She commented that the neighborhood asking the Craig's to not create so much density placed an undue burden on them. She related her experience that four houses using Bickner Street was not a problem and that she had no problem walking the neighborhood. She asked the Commission to honor property rights and let individual property owners decide what they wanted to do with their property. When asked if people could park on Bickner, Ms. Bresnahan responded only on their own property. She clarified her 10,000 sf property could be split into two 5,000 sf lots because it was composed of two 5,000 sf historically platted lots.

Marylou Colver, Leonard Street, Lake Oswego, 97034, speaking for the Lake Oswego Preservation Society, read aloud her written testimony. She discussed that the Comprehensive Plan spoke about preservation of neighborhood character; historic preservation; and encouraging remodeling, restoration and reuse of existing housing. She



advised that crowding houses in via lot line adjustments and development of substandard lots had long term impacts on neighborhood livability. She reported that the Society did not think the adjustments should be ministerial decisions because citizens could not participate and appeal. She discussed the impact on neighborhood character; for example, there were homes in FAN-FH on more than one lot that were prime targets for developers to redevelop with larger houses. She advised that Hallinan Heights was the second oldest neighborhood with landmark properties that should be protected according to the Comprehensive Plan's Historic Preservation goal. She discussed that undesignated historic homes and diverse and affordable housing stock was being lost and that the character of a neighborhood was changed by development of larger new homes. She talked about the hazard of lead paint particulates from demolition activity and the impacts of removal of trees and noise. With regard to property owners' rights she discussed that the owners' choices impacted the community and that the impacted neighbors should have a voice in the process and ability to appeal. She asked the Commission to not let nineteenth century plats supersede their contemporary zoning standards; not to allow ministerial lot line adjustments to be used to build multiple homes where there was one existing home; and to give residents a voice in the process.

Commissioner Ward related from experience that much material from houses being demolished was being recycled for reuse and that he had looked and found the deconstruction option was quite expensive. Ms. Colver clarified that the issue was that the code did not require deconstruction/recycling. She knew of two homes that had been demolished with all of the contents in them.

Dianne Cassidy, Wren Street, Lake Oswego, 97034, indicated the City should look at retaining its character by maintaining the integrity of zoning standards. She noted the proposed definition of 'Lot' did not specifically prohibit creation of substandard lots. She would specify that substandard lots should not be created to be used as buildable lots. She indicated she did not want the code to allow land divisions that would allow skinny houses such as they saw in Portland as they would impact livability and quality of life. She suggested the Commissioners use as a guide a document offered by the National Trust for Historic Preservation regarding what was 'compatible.' She hoped there were not too many "orphan lots" (smaller lots that could not be aggregated) as development on them would bring Portland density, which was not suburban density. Ms. Cassidy indicated she was not sure whether state statutes regarding vacating lot lines to create a buildable lot meant that automatically occurred; and, there should not be questions about what was a legal and buildable lot. She agreed with previous testimony that a larger lot retained a lot more value than skinny lots. She advised that what was proposed would not reduce the value of someone's property; and, aggregation of a small lot would make it a more valuable piece of land, especially as larger parcels of land became scarcer.

Lisa Vopel, 5655 Kenny Street, Lake Oswego, 97035, related that the development pattern in her neighborhood was partitions and that owners needed to understand that if they had an existing house on a substandard lot in a neighborhood that was not built out as it was zoned, what was proposed would not really change much for them. She clarified that they would not need to tear down the house and it should not decrease the property's value. She suggested the Commission look at how other cities were addressing this issue and cautioned them not to create something new and innovative as it was going to come back to bite them.

Commissioner E. Brockman inquired if what was proposed would mean someone who wanted to replace an existing house on a 5,000 sf lot with a new house would have to go through a lot of hoops to do it. Ms. Andreades confirmed that there would be a process to go through if it was a substandard lot in the R-7.5 zone.

Paden Prichard, 6<sup>th</sup> Street, Lake Oswego, 97034, submitted written testimony. He discussed that the definitions proposed by staff and by Mr. Boone fell short in regard to legally created historical lots and wondered if it would result in Measure 49 claims and questioned if it was consistent with clear and objective standards. He discussed that if the compatibility review was the same as design review it was subjective and that aggregation could create incompatibility. He commented that in his neighborhood of mostly R-7.5 lots there were some larger lots that had been aggregated in the past and that huge houses had been built on them next to small ranch houses. He related that his experience with existing R-7.5 dimensional standards was they had worked pretty well to create compatible homes in the Evergreen Neighborhood. He advised the Commission to be aware that existing infill standards could create incompatibility by allowing larger houses; for example, some roof forms could be up to six feet higher than the 22 foot limit that had been suggested for new projects on substandard lots. He advised that developers were using the extra square footage allowance for garages for the house instead. He opined that flag lots should be subject to much more stringent review. He agreed with adopting a requirement to deconstruct and related his own experience doing that. He cautioned the Commission to be careful when they talked about “everything being proportional” as the setbacks should be the same as the standards for the zone, not proportionally smaller. He agreed that lot line adjustments should be subject to review and not ministerial developments.

Jim Bolland, 5<sup>th</sup> Street, Lake Oswego, 97034, spoke for the Lake Oswego Neighborhood Action Coalition (LONAC). He raised the issue that Mr. Boone’s introduction of a new definition of ‘Lot’ might necessitate Measure 56 notice. He indicated that the proposal was complicated and confusing and advised the City to look at how other communities had dealt with the issue of lot aggregation and then make the language clearer. He indicated he hoped the goal was not to maximize the square footage on substandard lots. In regard to recent development in Hallinan Heights he questioned why a development the size of 17 or 18 units was not required to be master planned. He related that when the Infill Task Force revised the Flag Lot code they envisioned three units on a country lane, not a road serving 8 lots. He observed that this contributed to the problem in Hallinan Heights. He asked the Commission to work on the problem, that the increase in density should have required a road or addressed the issues on Bickner Street.

Mr. Bolland discussed that small lots of 3,000 sf had been platted in Evergreen Neighborhood in the 1880s, but the historical development pattern was houses built on two-lot parcels. He indicated that the City’s interpretation regarding legal lot of record a few years ago was a radical change to the pattern and affected neighborhood character. He asked the Commission to fix that problem as he was not sure the proposal fixed it. He discussed that the proposed language did not address compatibility of Planned Developments (PD), which were already allowed to reduce lot sizes to 5,600 sf in the R-7.5 zone. He suggested that the PD process could be used to avoid the new requirements and he was concerned about a design review process as it was contrary to having clear and objective standards. He commented that staffs’ interpretations of code were getting stranger and did not seem to match code; and, contrary to the intent of the task force that recommended it, the Residential Infill Design (RID) process was being used to build larger homes than would be allowed under the regular zoning code. He asked the Commission not to adopt anything that did not solve what they knew was happening in Hallinan Heights and Evergreen.

When asked about balancing property rights on historically platted lots and aggregation requirements, Mr. Bolland indicated that Evergreen had not developed according to the plat, so he could not answer the question legally. He suggested that if they followed the Comprehensive Plan policy regarding neighborhood character, they should not discourage that pattern; that was not a property rights issue. Mr. Bolland stated that most people who

bought lots there did not know their property was on two skinny lots at the time they purchased it; and he did not know many who bought property there with the intent of putting two houses on it. He noted the proposed change would double the number of housing units there.

Susan Heichel, Lund Street, Lake Oswego, 97034, owned a parcel consisting of two 50-foot lots with the house in the middle. She was concerned the proposal was going to diminish the value of her property. She had no plans to sell it, but asked the Commission to consider that allowing properties like hers to be divided into two smaller lots for two smaller houses would create affordable homes within walking distance to school for families and bring in more tax revenue. She commented that people now wanted smaller houses and yards and noted that the State had limited growth.

Linda Rudawitz, 6<sup>th</sup> Street, Lake Oswego, 97034, indicated that she had submitted written testimony. She advised that staff had used her property as an example during their discussion of aggregation of a standard lot with a substandard lot. She indicated she would never want to see the two lots aggregated and then split in half; she advised the existing house was within the setbacks on the larger lot. She was concerned about losing the viability of the smaller, 30-foot lot for a cottage to retire to, and her investment in it and the taxes she had paid on it as a developable lot. She held that after aggregation it would only have minimal value as additional back yard space. She hoped the Commission would find ways to address the existing legitimate problems they had related to redevelopment in FAN-FH which stemmed from staff's interpretation of the code, which allowed larger houses. She indicated she preferred to have rules that could be clearly understood and applied. When the Commission asked, staff clarified a Secondary Dwelling Unit on the aggregated lot would be limited to 800 sf. Ms. Rudawitz recalled the case study showed a larger house.

Christian Manz, Laurel Street, Lake Oswego, 97034, noted that he submitted written testimony. He explained that their home was on two, 5,000 sf platted lots and that when his neighbor sold their property in 2007 the buyer developed two houses on those two 5,000 sf lots. Mr. Manz related the house behind him was very high and only a few feet from the fence, so he had planted trees to buffer it. He contrasted building one huge house on a 10,000 sf lot (which would not reflect neighborhood character) with the potential to build two nice affordable houses on the two 5,000 sf lots for their two kids. When asked, he clarified he was not sure if the setback of the house behind his was a full setback as he had not measured it.

Chair Arthur closed the public hearing and asked staff to identify the key issues. Staff reviewed a list of questions that would need to be answered during the process, starting with what definition of 'Lot' to use and which or what combination of approaches the Commission wanted to recommend.

Mr. Siegel recalled the history and the multi-layered issues and observed that there was a procedural concern. He noted that neighbors had testified they were concerned about the lot line adjustment process and questioned if the concern stemmed from the element of surprise. He indicated that increasing density was a concern, whether real or a perception, because lots platted in the 1800s had not been platted envisioning the automobile; the impacts on public facilities like streets, drainage and parking; or the scale of the homes going in. He pointed out that the related Comprehensive Plan policies were summarized in the staff report, including protecting neighborhood character; planning for adequate public facilities; and having citizen involvement in decision making. He noted Comprehensive Plan Policy B.8 addressed nonconforming legal lots. He advised the Commissioners to trace back how the issues began, look to the Comprehensive Plan, and consider the testimony.

The Commissioners discussed that this was an important topic that they needed to spend more time on in order to understand it and make a good recommendation to the City Council. Comments offered included that a lot of the problems might not have anything to do with substandard lots; there were substandard lots throughout the City, including some along the lake that were 25 feet wide; and the issues were of both a technical nature (for example, how the Hallinan Heights developer reconfigured substandard lots) and policy issues (such as an aggregation requirement and disallowing garage bonuses and 6 foot additional height). Staff was to email each Commissioner a copy of the questions outlined for him/her to think about before the continued hearing.

Commissioner A. Brockman **moved** to continue LU 15-0017 to May 11, 2015. Commissioner LaMotte **seconded** the motion. Discussion followed. Commissioner E. Brockman suggested it was a complex issue and they needed even more time to deal with it. The vote was conducted and the motion **passed 6:1** with Commissioner E. Brockman voting against.

In regard to whether Measure 56 notice was necessary Mr. Boone discussed that the core concept was the same in both his and staff's definition and it was within the subject matter of the notice that had already been published.

7.2 Multiple Duplexes - Community Development Code Amendments (LU 15-0010)

A request from the City of Lake Oswego for an amendment to the Community Development Code definition of "Duplex" to specify that it is a single detached building on its own lot. The Commission will also consider code amendments related to a new residential use category, multi-dwelling development (which would be permitted in zones that permit multi-family dwellings); to the clear and objective Building Design standards; to the open space set aside in the R-0 zone; and to make corrections to the Residential Use Table.

Commissioner LaMotte **moved** to continue LU 15-0010 to May 11, 2015. Commissioner Ward **seconded** and the motion **passed 7:0**. Later, during Schedule Review, Commissioner A. Brockman **moved** to continue the hearing from May 11 to June 22, 2015. Commissioner Gaar **seconded** and the motion **passed 6:1**. Commissioner E. Brockman voted against.

8. **SCHEDULE REVIEW**

The Commission rescheduled consideration of the multiple duplex issue.

9. **OTHER BUSINESS - PLANNING COMMISSION**

None.

10. **ADJOURNMENT**

There being no other business Chair Arthur adjourned the meeting at 11:10 p.m.

Respectfully submitted,

Iris McCaleb /s/  
Iris McCaleb  
Administrative Support