

*Frank S. Whelan, Architect*

*April 23, 2015*

*City of Lake Oswego, Attention Iris McCaleb  
Planning Department, Third Floor  
380 A Avenue, PO Box 369  
Lake Oswego OR 97034*

*Ref: Substandard Lots (LU 15-0017/Ordinance 2666)*

*Dear Commissioners:*

*There are several issues regarding substandard lots I would like to raise. I believe it may be the Commission's intent to allow substandard lots that don't have contiguous commonly-owned property to continue to be developed. However, that is not the way the proposed amendment is worded.*

***Redefinition of "Lot"***

*The Commission is considering modifying the definition of what constitutes a "lot". The majority of present substandard lots do not meet the minimum lot dimensions for the zone. They also do not have any contiguously, common-owned lots (adequate or inadequate to meet the minimum standards of the zone). Therefore, the proposed amendment would change these properties from "lots" to "units of land" and in effect remove the owners' right to develop their property in accordance with the rules and regulations of the CDC.*

*I believe that would create a de jure condemnation of property and with it a requirement for compensation. This is question for counsel.*

*Planning staff has suggested to the writer that owners wishing to develop "units of land" may use the land use hearing process. This is both expensive and time consuming -- for both the owners and the Planning Department. And there is no guarantee the application would be approved. Considering the size of property, this is a somewhat draconian method to develop property. It would certainly dissuade prospective buyers from purchasing it. The net result would be a large reduction in land value. If it was determined that this was an unreasonable process, this might also constitute condemnation.*

*The issue might be resolved by adding the following sentence to the proposed definition:*

*"If a unit of land does not meet the minimum lot dimensions of the zone, has no contiguous, commonly-owned lots, and was zoned as a substandard lot prior to enactment of this amendment, it shall be considered a lot."*

***Equitable Treatment of Owners of Contiguous Common-Owned Substandard Lots***

*If the City decides that owners of substandard lots that don't own contiguous land should be able to develop their property, would not fairness dictate that other owners, solely because they happen to also own adjacent land, be treated equally and not be made to consolidate their property.*

**Caveat Emptor**

*The great majority if not all of the substandard sized lots in Lake Oswego were platted prior to surrounding neighbors purchasing property. It was incumbent upon those neighbors to make themselves aware of the environs prior to purchasing their properties. If adjacent substandard lots were unacceptable, they had the option to move elsewhere. Lack of due diligence and ignorance of the existence of these lots is not a reasonable argument to petition the Planning Commission to revise the code.*

*These lots had been platted and zoned, after the public was able to review and comment at open hearings. The final standards were then reviewed and accepted by the City. They have been clearly indicated on zoning maps available to the public for many years.*

**Fair is Fair**

*The owners of the substandard lots purchased them with the reasonable expectation that if they paid taxes on the unimproved property, abided by the rules and regulations of the zoning code, they would be able to develop the property at some future date. In a democracy a bond of trust exists between the citizens and their government that laws won't be changed to unfairly benefit one party at the expense of another.*

*To revise the CDC to require contiguous lots be combined to meet standard lot sizes would diminish the property values and cause an unreasonable penalty on the owners. One may question if reducing housing density and property taxes is in the public's interest. One can't question that it would be patently unfair to the present owners. In sports you don't change the rules of the game after you start playing.*

*The time to require contiguous substandard lots be combined to make a standard size lot was at the time you zoned the property – not now.*

*Thank you for consideration of these issues.*

*Sincerely*

*Frank S. Whelan, Architect*