



Planning and Building Services Department Supplemental Report #1

TO: Planning Commission

FROM: Denny Egner, AICP
Assistant Planning Director/
Long Range Planning Manager

Original Staff Report	09-09-08
Supplemental Report #1	01-15-10

DATE: January 15, 2010

SUBJECT: LU 08-0052 (General Housekeeping CDC Amendments) and LU 08-0054
(Housekeeping Amendments with Policy Implications)
January 25, 2010 Planning Commission Public Hearing

I. INTRODUCTION

On January 25, 2010, the Planning Commission is scheduled to reopen its hearings on proposed Community Development Code amendments (LU 08-0052 and LU 08-0054). The hearings regarding these case files were continued while the Commission focused its efforts on sensitive lands amendments and infill amendments. This report provides background information, a proposed approach, and a schedule for Commission consideration.

II. BACKGROUND

The proposed code amendments were first brought to the Planning Commission in early 2008 in a series of work sessions intended to familiarize the Commission with the material. During the work sessions, the Commission chose to split the code amendments into two batches: General Housekeeping (LU 08-0052) and Housekeeping Amendments with Policy Implications (LU 08-0054). The public hearings regarding these proposals occurred on September 22, 2008. Much of the testimony at that hearing focused on sensitive lands. Minutes from the hearing can be found at the City website:

http://www.ci.oswego.or.us/plan/planning_commission/2008PCAgendasandMinutes.htm

The housekeeping amendments are part of regular code maintenance conducted by the planning staff. As issues arise during the regular day-to-day use of the development code, staff takes note of sections that are not clear or where there are internal conflicts with city policies or normal practices. In the past, staff has bundled these amendments together and brought them forward to the Commission and Council on an annual or bi-annual basis. From 2005 to 2008, due to Commission work on the Lake Grove Village Center Plan, the regular schedule of updates was delayed. The delay resulted in a lengthy, complicated set of amendments.

EXHIBIT D-1
LU 08-0054

III. APPROACH AND SCHEDULE

A. Approach

Staff proposes the following approach for addressing the Code Amendments:

- Address the general housekeeping amendments as the highest priority. These should be relatively straightforward and not require a high level of policy discussion.
- Review the proposed housekeeping “policy” amendments and prioritize the issues that should be addressed. Make a recommendation on the high priority issues and move them forward through the hearing and adoption process.
 - Lake Corporation representatives have asked that the amendments to the lake setback be a high priority item.
 - The development review staff is in the process of reviewing the set of amendments to identify which should be considered a high priority from their perspective. This list will be available as supplemental information prior to the January 25 work session.
- Review the remaining “policy” amendments as the lowest priority.

B. Schedule

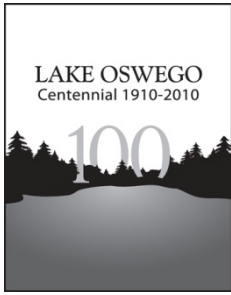
The following schedule is proposed:

- January 25 – Open hearings on LU 08-0052 and LU 08-0054. Determine the approach and discuss the schedule for both case files. Hold a work session on general housekeeping amendments.
- Continue LU 08-0052 to February 8 or March 8 depending on progress.
 - Continue LU 08-0054 to April 12.
- February 8 – Work session or hearing on general housekeeping. Possibly hold a work session on housekeeping “policy” amendments.
- March 8 – Conclude work on general housekeeping. Hold a work session on high priority “policy” amendments.
- March 22 – Work session on high priority “policy” amendments.
- April 1 – Tentative date – Open house on high priority “policy” amendments.
- April 12 – Public hearing on high priority “policy” amendments,
- April 26 – Conclude work on high priority “policy” amendments. Develop schedule and hearing process for remaining “policy” amendments.
- May – July Complete work on other “policy” amendments.

IV. RECOMMENDATION

Staff recommends preparing for the January 25 hearing and work session by reviewing the summary documents for both LU 08-0052 and LU 08-0054 and by examining the staff report and proposed code language for LU 08-0052. The summaries and code language are in your binders and are available on line at: [http://www.ci.oswego.or.us/plan/CDC-2008/CDC-2008-Link to LU Pages.htm](http://www.ci.oswego.or.us/plan/CDC-2008/CDC-2008-Link%20to%20LU%20Pages.htm).

EXHIBIT D-1
LU 08-0054



Planning and Building Services Department Memorandum

TO: Planning Commission

FROM: Debra Andreades, AICP, Senior Planner

DATE: July 21, 2010

SUBJECT: LU 08-0054 (Ordinance 2526) Priority Items

In preparation for discussion of LU 08-0054 (Ordinance 2526), Planning staff reviewed the proposed code amendments in January of this year and ranked them in order of importance based on concerns that have arisen in administering the code. From this evaluation, a summary was produced and submitted to the Commission on January 25, 2010. The attached summary, Exhibit F-2 of LU 08-0054, is being re-submitted to facilitate the Commission's prioritization of proposed code sections for review.

In reviewing the summary, there were many that were considered high priority from the perspective of staff. Based on another review of this list with Hamid Pishvaie, we recommend the following items for review:

1. Height of structure-window well exceptions, LOC 50.02
2. Lot coverage-not counting the first two feet of eaves, LOC 50.02
3. Definition of Net Developable Acre-eliminate Net Buildable Acre so only one definition, LOC 50.02
4. All Willamette River Greenway issues-for ease of administering this code section, LOC 50.15
5. Zoning standards in R-0: Lot coverage change to 55% from 40%, LOC 50.06.040(1)
6. Setbacks-Allow driveway bridges, trams in the setback, LOC 50.22.045
7. Three issues dealing with Parking, LOC 50.55
8. Front setback plane exception: extend 6:12 slope line forward LOC 50.06, 50.07 and 50.08
9. PD's:75% of the minimum lot size should not require lots to be larger than base zone 50.17.015(3)

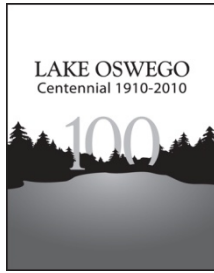
Several code sections (e.g. the Willamette River Greenway) have some proposed amendments that may be ranked as critical and some that are not. The Commission may elect to include all of the amendments in one code section for consideration whether or not it was ranked high by staff.

It should also be noted that there are several amendments regarding Secondary Dwelling Units that staff would like to bring forward in a separate work session to be scheduled in early September. The purpose of the work session will be to not only address the proposed amendments but to also focus on the City Council's desire to make it easier for property owners to establish secondary dwelling units.

Attachments: Exhibit F-2 (LU 08-0054)

Planning Commission Work Session - 07/26/10
LU 08-0054 Priority Items

**EXHIBIT D-2
LU 08-0054**



Planning and Building Services Department Memorandum

TO: Planning Commission

FROM: Debra Andreades, AICP
Senior Planner

DATE: August 3, 2010

SUBJECT: LU 08-0054 (Ordinance 2526)

Based on discussion at the July 26th meeting, staff recommends dividing Ordinance 2526 into five sections for the purpose of review, indicated below. Note that the amendments proposed for LOC 50.69, Conditional Uses occurred during review of LU 08-0052 and the amendments proposed to LOC 50.30, Secondary Dwelling Units, will be brought to the Commission as a separate item.

<u>Section #</u>	<u>Subjects</u>
1.	LOC 50.02, All Definitions (10)
2.	Zoning LOC 50.05 (<i>split zones</i>) LOC 50.06 (<i>minimum density, lot coverage, design</i>) LOC 50.07 (<i>lot depth</i>) LOC 50.08 (<i>lot depth</i>) LOC 50.22 (<i>subdivision height, setbacks: exceptions & special street</i>)
3.	LOC 50.15, Willamette River Greenway (<i>clarifies permitted uses and criteria</i>) LOC 50.17, Planned Developments (<i>clarifies base zone exceptions & review</i>) LOC 50.20, Flaglots (<i>lot depth and clarification of screening & buffering</i>) LOC 50.30, Special Requirements for Type of Facility (<i>Home Occupations</i>) LOC 50.70, Non-Conforming Uses (<i>clarifications: repair, destruction, expansion</i>)
4.	LOC 50.55, Parking (<i>various amendments to 6 sections of the standard</i>)
5.	Miscellaneous Issues: LOC 50.13, Industrial zones (<i>amendments to 2 sections re: permitted uses</i>) LOC 50.14, Accessory & Temporary uses (<i>accessory uses-clarifies limitations</i>) LOC 50.40 and 50.41, Drainage (<i>clarifies applicability & approval standards</i>) LOC 50.42, Weak Foundation Soils (<i>clarifies, approval standards & procedure</i>) LOC 50.43, Hillside Protection (<i>clarifies applicability & approval standards</i>) LOC 50.68, Variances (<i>clarifies variance classifications</i>) LOC 50.79, Types of Development and Review Criteria (<i>clarification for each type</i>)

EXHIBIT D-3
LU 08-0054

STAFF REPORT
CITY OF LAKE OSWEGO

————PLANNING AND BUILDING SERVICES DIVISION————

APPLICANT:

City of Lake Oswego

FILE NO:

LU 08-0054, Ordinance 2526

PROPERTY OWNERS:

N/A

STAFF:

Debra Andreades, AICP

LEGAL DESCRIPTION

N/A

DATE OF REPORT:

October 11, 2008

LOCATION:

Citywide

DATE OF HEARING:

October 25, 2010

COMP. PLAN DESIGNATION:

N/A

ZONING DESIGNATION:

N/A

NEIGHBORHOOD ASSOCIATION:

All

I. APPLICANT'S REQUEST

The City is proposing to amend Lake Oswego Community Development Code (LOC Chapter 50) for the purpose of clarifying and updating various sections. The amendments that are the subject of this report have policy implications while eliminating text ambiguity and updating Oregon statutory changes, as well as clarifying the text so that it reflects existing code interpretations. The sections proposed for revision relate to several general topic areas and are more fully described in Section III-A of this report. Ordinance 2526, which would enact these changes, is attached as Exhibit A-1. A summary of the code changes is attached as Exhibit F-1.

EXHIBIT D-4
LU 08-0054

II. APPLICABLE REGULATIONS

A. City of Lake Oswego Comprehensive Plan:

- Goal 1 Citizen Involvement, Policies 1 and 5
- Goal 2 Land Use Planning, Section 1, Land Use Policies and Regulations, Policy 23
- Goal 5 Open Spaces, Historic and Natural Areas, Section 1, Fish & Wildlife Habitat, Policy 1; and Section 6, Open Space, Polices 1 and 9
- Goal 6 Air, Water and Land Resources, Section 2, Water Resources Quality
- Goal 7 Natural Disasters and Hazards, Section 3, Landslides, Erosion and Unstable Soils
- Goal 15 Willamette River Greenway

B. City of Lake Oswego Community Development Code:

- LOC 50.75.005 Legislative Decision Defined.
- LOC 50.75.010 Criteria for Legislative Decision
- LOC 50.75.015 Required Notice to DLCDC
- LOC 50.75.020 Planning Commission Recommendation Required
- LOC 50.75.025 City Council Review and Decision

C. Statewide Planning Goal or Administrative Rule adopted pursuant to ORS Chapter 197

- Goal 1 Citizen Involvement
- Goal 2 Land Use Planning
- Goal 5 Natural Resources, Scenic and Historic Areas, and Open Spaces
- Goal 6 Air, Water and Land Resources Quality
- Goal 7 Areas Subject to Natural Hazards
- Goal 15 Willamette River Greenway

III. FINDINGS

A. Background and Discussion:

Several portions of the Community Development Code (CDC) need to be clarified. The purpose of the proposed updates is to correct errors, eliminate text ambiguity, and update the code in response to the Oregon statutory changes. Code updates will also clarify the text so that it reflects existing code interpretations, and facilitate its use. In addition, the changes address select substantive issues that have been identified by staff. This process is part of the City’s on-going effort to make the regulations more user friendly for developers, residents, and staff.

The proposed amendments have been divided into five categories (below) based on subject matter rather than numerical code sections, to facilitate review by the Planning Commission. This report lists the criteria for all five categories.

Ordinance 2526 (Exhibit A-1) contains all five review sections, organized numerically. Exhibit F-1 includes a summary of all amendments in numerical order. Article 50.02.005 of Exhibit F-1 is a brief summary of the reason for the proposed revision.

Code Sections to be Amended

The following proposed updates to the CDC apply to properties throughout the City.

**EXHIBIT D-4
LU 08-0054**

1. Definitions

(Article 50.02)

The definition section is being revised to clarify various sections of the code, including definitions of Floor Area and Net Developable Acre as well as how height is measured, having to do with window wells. The definition of lot depth is being proposed for elimination because unusual lot configurations have been proposed in the quest to comply with the lot depth dimensional requirement. Elimination of lot depth will not affect compliance with the minimum lot size requirement for the zone which remains.

2. Zoning

Changes to residential zones and neighborhood design standards are proposed for the following code sections:

Zoning Designations, Boundaries and Maps (Article 50.05)

Residential – Medium and High Density (Article 50.06)

Residential – First Addition District (Article 50.07)

Residential – Low Density (Article 50.08)

Exceptions to Site Development Standards and Special Determinations (Article 50.22)

Amendments to the residential zones include minor modifications in how to handle lots with split zones, clarifications to Lot Coverage, maximum floor areas, Setbacks, lot depth and design standards. Other code sections have been reorganized and reworded for greater clarity and readability. Specific changes that need more explanation are discussed, below.

One Year Exception for Site Development Limitations for New Subdivision Lots, found in LOC 50.22.020 is proposed for repeal. The reason for this was to ensure that in subdivisions where the site development standards are not “frozen” (as they are in Planned Developments), that an applicant has a year post-approval in which to apply for a building permit based on the code standards in effect at the time of approval even if the code standards have changed in the interim. In the past, most land divisions with more than three lots were processed as Planned Developments, therefore, this section would not be necessary. However, an amendment to the applicability section of the open space standard that was approved two years ago may lead to additional applications for subdivisions rather than PD’s.

3. Land Use

Greenway Management Overlay District (Article 50.15)

Planned Development Overlay (Article 50.17)

Flag Lots (Article 50.20)

Special Requirements for Type of Facility (Article 50.30)

Non-Conforming Uses (Article 50.70)

The amendments to the Greenway Management Overlay District are minor clarifications that do not reduce the protections for the Greenway Management area. The principal change eliminates the requirement for projects to go before the Development Review Commission (DRC), changing the language reference from “Development Review Commission” to “reviewing authority” in LOC 50.15.... This removes a burden from applicants but gives the City the option of taking a request to the DRC if the scope of the project demands it.

EXHIBIT D-4
LU 08-0054

The most important amendment to the Planned Development section (LOC 50.17) provides clarifications as to how future requests for modifications within a PD would be handled, depending on whether the PD was approved with adjustments to the underlying zone requirements or not. There are also clarifications to be added which conform to current practice as to how the lot coverage and floor areas are calculated in a PD.

The Home Occupation standards found in LOC 50.30 are proposed to be expanded to allow additional types of occupations that would be permissible. The permission is conditioned on the continued requirement to ensure that the home occupation would not alter the character of the neighborhood.

Two specific changes that need more explanation are discussed, below:

Flag Lot amendments include changes to the screening and buffering requirements. The question is whether mitigation for tree removal that is necessary for site development should be applied only at the time of lot creation, at the time of lot creation and also at building permit time, or whether cumulatively it should apply for any reason after lot creation. The Planning Commission will need to make a decision on one of these options.

Non-Conforming Uses amendments include changing the title of the article to “Non-Conforming Uses and Structures” to ensure that the title of the Article matches the scope of the Article. In addition, there are two provisions that seem contradictory, both of which concern the re-building of the non-conforming portions of a structure dealing with repairs. Staff notes that for single family, duplex, accessory structures and Historic Landmarks, the infill amendments approved this year replaced all of section 50.70.020 with an amendment that removes the 50% limitation and allows one to reconstruct a structure that was destroyed by a cause not under the control of the owner, to the extent that the structure did not conform. For causes that are under the control of the owner, including reconstruction due to lack of maintenance by the owner, the structure may only be reconstructed in a conforming manner, LOC 50.70.020(1)(b)(2). However, LOC 50.70.020(1)(d), allows maintenance of a non-conforming structure that does not enlarge or expand the structure. Staff notes that this may include reconstruction. This could become a problem of implementation due to the lack of a distinction between maintenance and reconstruction. In addition, LOC 50.70.030, which was not amended by the infill standards, allows non-bearing wall repair or replacement but also states that “Nothing in this Code shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe”. The Commission is asked to clarify these two portions of LOC 50.70.020 and determine if section 50.70.030 should be eliminated or modified.

4. Parking

(Article 50.55)

The amendments to the Parking standard include clarifications of the applicability section, and they more clearly describe the different methods and requirements of meeting the standard (numerical or parking study), and clarify Parking Requirement Modifiers in Appendix 50.55-C.

5. Miscellaneous Use, Building/Site Design and Development Standards

Industrial Zones (Article 50.13)

Accessory and Temporary Uses (Article 50.14)

Drainage Standards (Articles 50.40 and 50.41)

**EXHIBIT D-4
LU 08-0054**

Weak Foundation Soils (Article 50.42)
Hillside Protection (Article 50.43)
Variances (Article 50.68)
Conditional Uses (Article 50.69)
Types of Development and Review Criteria for Each Type of Development (Article 50.79)

The amendments to the Industrial Zones Section clarify the uses allowed by adding those that were analyzed and allowed under a “similar use” analysis, although not expressly listed. They also add “Pet Care, Daily” that is the result of requests from property owners. Staff notes that there is currently a separate proposal before the Planning Commission that addresses uses in the IP zone.

The amendments to the Accessory and Temporary Uses Section add a statement that allows heat pumps or mechanical equipment as long as they meet setbacks, consistent with current practice. They also increase the square footage of a guest house to 800 feet, consistent with the amendment to the definition of Guest House and provide clarifications for when the side and rear setback can be reduced for an accessory structure.

The amendments to the Drainage Standard eliminate its applicability to ministerial reviews and add a section that ensures that development will have no adverse affect on the drainage functions in natural resource areas.

The amendments to the Weak Foundation Soils Section specify in the Applicability section that a soils analysis will be required when the site is initially developed in ministerial, minor or major development, and clarify what that soils report shall contain.

Amendments to the Hillside Protection Standard make a similar addition to the Applicability section.

Amendments to the Variance Section specify what yard setback requirements are eligible for a Class 1 variance and clarify that a variance to street frontage is only allowed at the time of creation of subdivision lots.

Amendments to the Conditional Use section were part of the discussion of conditional use amendments to expand office uses in historic structures during the review of LU 08-0052 regarding whether general office uses, not just non-profit office uses should be allowed in the historic landmarks. The Commission discussed at that time whether the classification of the streets where the landmarks are located should be expanded to include major collectors and the Commission decided it should not. The Commission also decided that parking could be limited at the landmark site if providing what is required would detract from the significance of the landmark.

Finally, amendments to “Types of Development and Review Criteria for Each Type of Development” cross references the changes made to the Weak Foundation Soil and Hillside Protection Standards.

B. Compliance With Criteria for Approval:

LOC 50.75.010, indicates that a legislative decision is generally a policy decision which is up to the discretion of the City Council, but shall:

**EXHIBIT D-4
LU 08-0054**

1. Comply with any applicable state law;

There are no other known applicable state laws to review under this criterion.

2. Comply with any applicable Statewide Planning Goal or Administrative Rule adopted pursuant to ORS Chapter 197; and Statewide Planning Goal 1, Citizen Involvement

This Goal requires jurisdictions to develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process. The City's acknowledged Comprehensive Plan and Community Development Code contain all necessary requirements for a citizen involvement program which clearly defines the procedures by which the general public will be notified in the on-going land use planning process and enables citizens to comprehend the issues and become involved in decision making.

All required notification measures and opportunities for input as specified in these documents were provided during this process. The City has also followed the procedures required by ORS 227.186 (Ballot Measure 56) for notification of the owners of property proposed to be directly affected by the changes. As the proposed amendments may potentially affect properties owners throughout the City, this notice was sent citywide. An informational open house was held September 3, 2008, to share information about proposed updates and to answer citizen's questions. Public hearings will be held before the Planning Commission and City Council. Therefore, the process followed for this amendment is in compliance with Statewide Planning Goal 1.

Statewide Planning Goal 2, Land Use Planning

This Goal requires jurisdictions to develop a land use planning process and policy framework as a basis for all decisions and actions related to the use of the land and to assure an adequate factual basis for such decisions and actions. This application provides the required information and responses to the applicable approval standards for a Community Development Code text amendment and therefore is consistent with Statewide Planning Goal 2. Furthermore, the application has been coordinated with the applicable jurisdictions and agencies as required by Goal 2. Therefore, this amendment is in compliance with Statewide Planning Goal 2.

Statewide Planning Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces

This Goal requires jurisdictions to adopt programs that will protect natural resources and conserve scenic, historic and open space resources for present and future generations, promoting a healthy environment and natural landscape that contributes to Oregon's livability. Approval of these amendments will not result in the destruction of inventoried natural resources, scenic or historic areas and open spaces and is therefore in compliance with Statewide Planning Goal 5.

Statewide Planning Goal 6, Air, Water and Land Resources Quality

This Goal requires jurisdictions to maintain and improve the quality of the air, water and land resources of the state. Approval of these amendments will not result in a violation of the City's surface water management policies which regulates water quality and is implemented

**EXHIBIT D-4
LU 08-0054**

by the Drainage standard. Therefore, these amendments are in compliance with Statewide Planning Goal 6.

Statewide Planning Goal 7, Areas Subject to Natural Hazards

This Goal requires jurisdictions to protect people and property from natural hazards, including flood and slope hazards, by adopting and implementing local flood plain regulations that meet the minimum national requirements and standards for development on hillsides. Approval of these amendments will not affect the City's floodplain protections which are implemented by the Floodplain standard. With regard to slope hazards, these amendments exempt the area of lots that were determined to be developable during a land division review so that the lot is not reviewed for the same standard twice. The amendments do not affect the actual protections required by the development standards for steep slope areas on all lots. Therefore, the amendment is in compliance with Statewide Planning Goal 7.

Statewide Planning Goal 15, Willamette River Greenway

This Goal requires jurisdictions to protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway. Approval of these amendments will not remove the protections to the Willamette River which are a goal of the City's Comprehensive Plan and implemented by the Community Development code. Therefore, these amendments are in compliance with Statewide Planning Goal 7.

3. In the case of a legislative amendment to the Community Development Code, comply with any applicable provision of the Lake Oswego Comprehensive Plan.

Goal 1, Citizen Involvement, Policies 1 and 5

1. Provide opportunities for citizen participation in preparing and revising local land use plans and ordinances.
5. Seek citizen input through service organizations, interest groups and individuals, as well as through neighborhood organizations.

Findings: This application addresses policies 1 and 5 above.

Pursuant to the requirements of a legislative process, announcements for the proposed Community Development Code text amendments have been provided to all neighborhood associations. Notice of the proposed text amendments have been provided to all property owners within the City. Public hearings will be held before the Planning Commission and City Council. Citizens, interest groups, and neighborhood associations will have an opportunity to participate in the review of the proposed amendment during the City's public hearing processes. Notice has been provided consistent with City requirements. Adequate opportunities have been made available for citizen involvement with regard to this application.

Conclusion: The application complies with Goal 1, Citizen Involvement Policies 1 and 5.
Goal 2, Land Use Planning, Section 1, Land Use, Policy 23

23. Coordinate the development and amendment of City plans and actions related to land use with other county, state, Metro, federal agency and special district plans.

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Findings: This application provides the required information and responses to the applicable approval standards and therefore is consistent with Statewide Planning Goal 2. Additionally, the application has been coordinated with applicable jurisdictions and agencies such as DLCD, Metro, Clackamas County and Lake Oswego service providers as required by Goal 2.

Conclusion: The application complies with Goal 2, Section 1, Policy 23.

Goal 5, Open Space, Historic and Natural Areas, Section 1, Fish & Wildlife Habitat, Policy 1; and Section 6, Open Space, Policies 1 and 9

- Policy 1. Preserve and restore natural resources and lands which are important to fish and wildlife habitat including: “...the Willamette River Greenway...”
- Policies 1 & 9. Establish an open space network within and adjacent to the Urban Services Boundary (USB) which:”provides for maintenance of scenic resources and distinctive aesthetic qualities such as views of Mount Hood, Oswego Lake, the Willamette River...”

Findings: The proposed amendments to the Greenway Management Overlay District are intended to clarify what standards an applicant for development adjacent to the Greenway is required to meet. The amendments will not affect *compliance* with the Open Space standard, LOC 50.45, those lands subject to the Sensitive Lands Ordinance, LOC 50.16, or protection of those lands located in the Willamette River Greenway Management Area, LOC 50.15. These sections regulate impacts on upland vegetation and wildlife habitat that have been determined to be significant natural resources through the Goal 5 process.

Conclusion: The application complies with Goal 5, Open Space, Historic and Natural Areas, Section 1, Policy 1 and Section 6, Policies 1 and 9.

Goal 6, Air, Water and Land Resources Quality, Section 2, Water Resources Quality, Policy 5

5. Require all development to:
- a. Comply with applicable local, state and federal water quality and erosion control standards; and
 - b. Implement measures to minimize run-off from the development site during and after construction.

Findings: The proposed amendments satisfy Policy 5 above because the amendments do not affect *compliance* with LOC 50.40 and 50.41, the Drainage standards which regulate the City’s surface water management policy and water quality standards. The proposed amendments to the Drainage standard, LOC 50.41, are to clarify the applicability section and the standards for approval.

Conclusion: The application complies with Goal 6, Water and Land Resources Quality, Section 2, Water Resources Quality, Policy 5.

**EXHIBIT D-4
LU 08-0054**

Goal 7, Areas Subject to Natural Disasters and Hazards, Section 1, Flood Hazards, Policy 3, and Section 3, Landslides, Erosion and Unstable Soils, Policy 2

3. Review development proposals, including public facilities, filling and grading, within areas subject to flooding to ensure protection of life and property from flood hazards.
2. Regulate density and intensity of land use in areas with the potential for unstable soils, known or potential landslide hazards and soil erosion hazard areas; in accord with the degree of hazard.

Findings: This application satisfies Policy 3 because the amendments will not affect *compliance* by development applications with the City’s floodplain protections or hillside protection which are implemented by the Drainage standards, LOC 50.40 and 50.41, Weak Foundation Soils Standard, LOC 50.42, Hillside Protection Standard, LOC 50.43, and Floodplain standard, LOC 50.44, ensuring protection of adjacent properties and flood management areas. The proposed amendments to these sections are clarifications to the applicability and standards for approval sections.

Conclusion: The application complies with Goal 7, Sections 1, Policy 3 and Section 3, Policy 2.

Goal 12, Transportation, Section 11, Parking, Policy 1

1. Develop parking regulations that require off-street employee and customer parking and loading facilities commensurate with the size and relative needs of each new development, balanced with the need to reduce auto trips, encourage alternative transportation and retain the natural drainage system.

Findings: This application satisfies Policy 1 because the amendments provide clarification for how to calculate the parking requirements and do not change the parking requirements themselves nor affect compliance by development applications with the City’s Parking standard, LOC 50.55 or Drainage standard with regard to parking facilities, LOC 50.40 and 50.41.

Conclusion: The application complies with Goal 12, Section 11, Policy 1.

Goal 15, Willamette River Greenway Management Area

Manage lands within and adjacent to the Greenway to protect and restore natural vegetation.

Findings: The proposed amendments to the LOC 50.15, the Greenway Management Overlay District are intended to clarify what standards an applicant for development adjacent to the Greenway is required to meet. This application satisfies Goal 15 because the proposed amendments will not affect compliance with the Willamette River Greenway Management Overlay that provides protection to the Willamette River.

C. Lake Oswego Community Development Code Procedural Requirements

LOC 50.01.010	Purpose
LOC 50.05.005	Zoning Districts
LOC 50.05.010	Zoning Map
LOC 50.79.030	Major Development

**EXHIBIT D-4
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LOC 50.77.007	Burden of Proof
LOC 50.77.030	Application Procedures
LOC 50.82.005-.020	Review of Major Development Applications and Appeals
LOC 50.83	Hearings before a Hearing Body
LOC 50.75.005	Legislative Decision Defined
LOC 50.75.010	Criteria for Legislative Decision
LOC 50.75.015	Required Notice to DLCD
LOC 50.79.020	Planning Commission Recommendation Required
LOC 50.79.025	City Council Review and Decision

Findings: The application has been submitted, noticed and reviewed in accordance with the City of Lake Oswego Community Development Code requirements.

Conclusion: The record indicates that the application complies with all of the above applicable procedural requirements.

IV. CONCLUSION

The proposed amendments are in compliance with City Comprehensive Plan policies, state laws, and statewide planning goals.

V. RECOMMENDATION

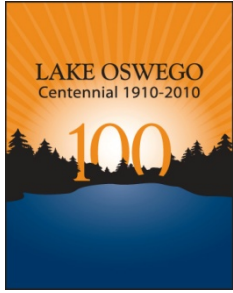
Staff recommends **approval** of the proposed amendments to the Community Development Code, to provide clarification and correction, update relevant sections to comply with Oregon statutory changes, revise relevant sections to reflect current City practices and interpretations and address several policy issues.

EXHIBITS:

- A. Ordinances
 - A-1 Ordinance 2526, dated August 7, 2008 (includes Attachment B)

**Please note that the ordinance was previously submitted. Copies of Attachment B have been provided to the Planning Commission under separate cover. The document can be found on the City's web site under Case File LU 08-0054 at: <http://www.ci.oswego.or.us/plan/casef.htm>.*
- B. Findings, Conclusions and Order (No current exhibits; reserved for hearing use)
- C. Minutes (No current exhibits; reserved for hearing use)
- D. Staff Reports (No current exhibits; reserved for hearing use)
- E. Graphics/Plans (No current exhibits; reserved for hearing use)
- F. Written Materials
 - F-1 Summary of Code Changes (previously submitted and available on website noted above)
- G. Letters (No current exhibits; reserved for hearing use)

**EXHIBIT D-4
LU 08-0054**



SUPPLEMENTAL STAFF REPORT

TO: Planning Commission

FROM: Debra Andreades, AICP, Senior Planner

DATE: July 5, 2011

SUBJECT: LU 08-0054
Discussion of Accessory Structures and Definitions
July 11, 2011 Planning Commission Work Session

Original Staff Report (combined)	09-09-08
Supplemental Report # 1	01-15-10
Supplemental Report #2	07-21-10
Supplemental Report #3	08-03-10
Staff Report LU 08-0054	10-11-10
Supplemental Report #4	07-05-11

Introduction/Background

The Planning Commission is beginning its review of the proposed code amendments in Ordinance 2526, considered to have greater policy implications than those in Ordinance 2525, (which the Commission previously recommended for approval to the City Council). At the July 11th meeting, the Commission will begin by having a discussion of the issues surrounding accessory structures. The Commission will also be reviewing the proposed amendments to the Definitions section, LOC 50.02. This report presents some of the issues with regard to accessory structures.

Code Amendments Pertaining to Accessory Structures

Generally, the proposed amendments in LU 08-0054 are intended to simplify the regulations by creating consistency of form; that is, the same site development limitations for accessory structures across all residential zones. The commentary found in LU 08-0054 (not reproduced in this report) explains the recommendation for consistent treatment of accessory structures in relation to primary structures so that each zone has a primary and accessory height limitation, and similar exceptions to height (see Matrix, Attachment 2). The Commission should note, however, that in First Addition (R-6 zone) there are standards adopted as part of infill that responded to unique conditions resulting from smaller lots generally accessed from the alleys. In addition, recently approved amendments allow certain lake-related structures in the Oswego Lake setback.

In considering further amendments, the goal is to simplify the code. To this end, staff created a list of Code-Writing Filters in response to the Code-Reorganization work by Clarion (see Exhibit F-2). With regard to accessory structures, this could be accomplished by regulating them based on their form/size rather than their use, which can apply to many properties rather than a few, increase flexibility and limit the layers of regulation in the Code. In addition, this can avoid a land use review process for accessory structures, through the use of clear and objective standards.

Analysis/Discussion

Use of Accessory Structures

An accessory structure can be used in many different ways: (shed, studio, play structure, gazebo, guest house, garage, SDU, home occupation, etc.). The size of an accessory structure can vary depending on the use. Should the way an accessory structure is used determine the site development limitations? Or rather, since uses can change

**EXHIBIT D-5
LU 08-0054**

over time, should setback limitations of accessory structures be determined by the scale (of the structure (height, lot coverage and maximum floor area)?

A smaller structure could be located closer to the property line, regardless of use. If the use is what determines the site development limitations, it can become more complicated. For instance, refer to the proposed amendments to Section 50.30.005, Home Occupations. Currently 25% of a *dwelling* can be devoted to a home occupation and this has been interpreted as a prohibition of use of accessory structures for home occupations. The result is that home occupations could occur in an attached garage but not in a detached garage. The proposed amendments would remove the primary dwelling/accessory structure distinction and establish a maximum of 600 square feet of floor area that can be used for home occupation. Another question is whether the same limitations should apply to accessory structures on flag lots as compared with those on regular lots [one proposed amendment would not allow exceptions to side and rear yard setback for accessory structures on flag lots, as if a flag lot were considered a different kind of use; LOC 50.14.005(5)]. Finally, amendments found in LOC 50.14.005(5)(a)(2) would eliminate the requirement for AC units to maintain a 5-foot separation from the primary structure in order to have a reduced setback. This is consistent with allowing the scale of the structure to determine the site development limitation.

Form of Accessory Structure

The site development limitations (setbacks, height, etc.) of accessory structures dictate the form they will take. The proposed amendments are intended to resolve inconsistencies of form such as that found in the R-2 high density zone where the setback for a primary structure is 7 feet or 5 feet depending on height and the setback for an accessory structure is 10 feet regardless of height. To be consistent with other zones, an accessory structure should have the same setbacks or less than those of the primary structure; not greater setbacks. An inconsistency is also found in LOC 50.06.055(3) and (5) where the base height of all structures does not differentiate between primary and secondary structures. Another example of inconsistency is found in the low density residential zones: some zones allow a height exception for accessory structures and some do not. See Attachment 2, a matrix that shows current code limitations for accessory structures in residential zones, for comparison.

Commission Discussion

Beyond resolving inconsistencies in the code as part of the proposed amendments, staff suggests the following discussion topics regarding accessory structures:

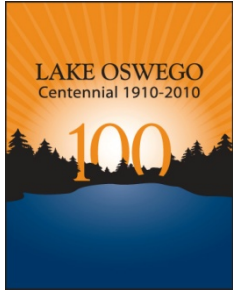
Use: Should regulations for accessory structures be the same regardless of use as a shop, garage, shed, SDU or home occupation, etc. If the Commission determines that they should be regulated differently, what characteristics separate one use from another: noise, privacy, activity?

Form: If the Commission determines that consistency of form is more important than use, should larger accessory structures be more strictly regulated if they exceed a certain scale? If so, this could mean that conversion of a low scale structure into a taller structure may require a process that reviews such elements as roof form, window and door locations or prohibits certain uses.

Exhibits:

F-3 Code Writing Filters

F-4 Matrix of Current Code Limitations-Accessory Structures (Residential Zones)



SUPPLEMENTAL STAFF REPORT

TO: Planning Commission

FROM: Debra Andreades, Senior Planner

DATE: April 2, 2012

SUBJECT: LU 08-0054
Clarification of Remaining Issues
April 9, 2012 Planning Commission Hearing

Original Staff Report (combined)	09-09-08
Supplemental Report #1	01-15-10
Supplemental Report #2	07-21-10
Supplemental Report #3	08-03-10
Staff Report LU 08-0054	10-11-10
Supplemental Report #4	07-05-11
Supplemental Report #5	04-02-12

Introduction/Background

The Planning Commission is reviewing the proposed code amendments in Ordinance 2526, which it considered to have greater policy implications than those in Ordinance 2525, (approved by the City Council in November 2011). At the April 9th meeting, the Commission will finish reviewing the proposed amendments in the material dated August 7, 2008 (found in the binder you have in your possession), from page 141 to page 156 (50.65 Downtown Redevelopment District Design Standards, 50.68, Variances; 50.70 Non-conforming Uses; and 50.79 Types of Development and Review Criteria for Each Type of Development).

The Commission will also be discussing several previously reviewed issues that the Commission asked staff to return with additional information, as well as four amendments from Ordinance 2525 that were referred back to the Commission by the City Council for further discussion. This report addresses those issues.

Analysis/Discussion

Breezeways (Definition: Detached)

Within the residential zones, there are different setback requirements for attached vs. detached structures. On page 11 of the binder, a definition of “detached” is proposed, as a separation of three feet or more from eave to eave as sufficiently substantial to consider two structures “detached”. (This also coincides with the three-foot separation required by the Building Code for fire wall separation). This would prevent two buildings from being detached technically and therefore benefitting from accessory structure setbacks for one of them, while appearing visually as a single mass because they may be only inches apart. The Commission agreed with this proposal but wanted to exempt breezeways and mechanical equipment from the 3-foot minimum separation requirement, meaning that a breezeway attaching two structures would not render the structures “attached”. Staff originally had suggested limiting the size of the breezeways; however, upon further analysis by the Development Review Division, staff withdraws that recommendation and supports allowing breezeways without any limitation on size. Please see Exhibit F-5 for a detailed analysis of this subject. The proposed revised definition for “Detached” is as follows:

Detached: A horizontal separation of three feet or more between the subject structure and nearby structures. The separation shall be from eave to eave, or where there are no eaves, the separation shall be

EXHIBIT D-6
LU 08-0054

measured between the walls of the two structures. If the distance of separation is less than three feet between two structures, they shall be considered “attached”. Breezeways and mechanical units (such as heat pumps and air conditioning units) are not considered a part of a structure for the purpose of measuring the distance between structures.

Staff notes that a breezeway that does not result in the attachment of two structures is consistent with the Infill code amendments adopted in 2010. This also removes a tool used by some designers, as described in Exhibit F-5, to construct a larger accessory structure that is not connected to the primary structure, except by a breezeway.

Lot coverage For Lots That Are Partially Underwater (Definition: Lot Coverage)

On pages 18-20 of the binder, staff proposed to clarify the definition of lot coverage by stating underwater portions of lakefront lots were excluded from lot area for purposes of determining lot coverage. Based on further analysis by the Development Review Division (Exhibit F-6), staff withdraws this proposed amendment and recommends the current lot coverage definition to be retained.

R-2 zone setbacks for Accessory Structures

Currently, R-2 zone does not establish specific setbacks for accessory structures and they are regulated by the “other structures” section of the Setback Table as indicated on page 35 of the binder. LU 08-0052 (Ordinance 2525) added “primary” and “and all Accessory Structures” standards to make it clear that accessory structures were subject to the “other structures” section until addressed by the Planning Commission during this review of LU 08-0054. The proposed amendment here is intended to resolve inconsistencies of form. Example: In the R-2 zone where the setback for a primary structure is 7 feet or 5 feet depending on height, the setback for an accessory structure is 10 feet regardless of height. To be consistent with other zones, an accessory structure should have the same setbacks or less than those of the primary structure, not greater setbacks. Commission consensus (4-0) was that the side yard setback for accessory structures should be the same as for the primary structure. This inconsistency is also found for the front yard setback. Therefore, staff recommends further revision to the R-2 zone table to include the front yard setback.

Height Exceptions and Setbacks in the WLG (West Lake Grove Design District) Zone

Throughout review of these code amendments, staff has recommended consistent treatment of accessory structures in relation to the primary structures so that each zone has a primary and accessory structure height limitation, and the same allowed exceptions to height. Currently the code allows height exceptions in all zones for primary and accessory structures except in the West Lake Grove Design District (WLG) which does not allow height exceptions for either primary or secondary structures. The question for the Commission is whether height exceptions should continue to be prohibited in the WLG zone for primary and accessory structures and whether to make accessory structures height limitations consistent with accessory structures in other zones. Currently the height of an accessory structure in the WLG zone is allowed to be the same as the primary structure with no height exceptions allowed. To be consistent with other zones, staff proposes that the accessory structure be limited to 24 feet in height or the height of the primary structure, whichever is less, as proposed on page 63 of the binder.

In addition, staff is proposing no setback for accessory structures in the WLG zone when a structure is *not* abutting a single family zone (page 64 of the binder).

The overall question for the Commission is whether the above-discussed amendments make sense for the WLG zone. Staff notes that the WLG R-2.5 is a Town Home Residential zone that is a part of the WLG District, whereas the other WLG zones are all mixed use zones (WLG OC/R-2.5; WLG OC/NC and WLG R-2.5/W). In the context of a mixed use district, a lesser height for accessory structures and continued prohibition on height exceptions would not be out of context as the height exceptions discussed above apply to residential zones only.

Willamette River Greenway

In the Willamette River Greenway, tree removal must be reviewed as a minor development.

staff has asked whether tree removal that is not associated with development or for landscaping purposes can be exempt from Greenway Management Overlay review (page 77 of the binder). This refers to Dead or Hazardous trees in the Greenway. Staff has reasoned that these trees could be reviewed under the Tree Code if mitigation can be required under the Tree Code. However, under the Tree Code, mitigation does not apply to dead and hazardous trees. The Willamette River Greenway is a resource area. The only way to require mitigation in this area is through LOC 50.15, the Willamette River Greenway Overlay. Therefore, staff is withdrawing the proposed amendment in the applicability section and all tree removal applications in the Greenway will continue to be reviewed as a minor development.

Additional items under LOC 50.15.010(2):

- On page 78 of the binder, staff recommended deletion of subsection (i) because “public safety and protection of public and private property” and “necessary public access” are not criteria that can be reasonably determined. When private development is proposed, a nexus must be found to exact improvements for off-site development, and the focus should be that the proposed development *maintains* the existing level of public safety and protection of public and private property, not that the development create an additional level of public safety. This is in accordance with the “mitigate negative impacts” requirements under Dolan and the conditioning authority in LOC 50.79.040. Therefore, rather than deleting the whole section, staff proposes to modify the language substituting the word “maintained” for the current language of “provided”, as follows:
 - i. ~~Public safety and protection of public and private property will be provided~~ maintained to the maximum extent practicable, especially from vandalism and trespass.
- On page 79 of the binder, staff proposed deletion of subsection (k), which is one of the criteria for approval: “Necessary public access will be provided to and along the river including pedestrian, bicycle and water related uses”. Staff recommends this because providing public access should not be a criterion for approval for all development. Goal 15 of the Comprehensive Plan, the Willamette River Greenway, requires that “plans and implementing measures” provide for “adequate access to the river with emphasis on urban and urbanizable areas.” This appropriately is addressed through city plans for the area, rather than specific development applications. If public access is needed to mitigate the adverse impacts of a particular development and meets the Dolan requirements, access can be obtained through the conditioning authority in LOC 50.79.040.

Flag lots

LOC 50.20.035 addresses screening and buffering and landscape installation for flag lots. On pages 89-90 of the binder regarding tree removal mitigation, the question arose whether “site development” applied only for development at the time of lot creation, or at any later time, when removal of trees was necessary for development on the flag lot. Relying on context and rules of statutory construction to answer the question, staff concluded that “site development” is applicable only at the time of lot creation. In the interest of making it clear, staff provided three options for re-wording this section. The Commission said that post-lot creation should only refer to site development requirements to develop the site and not any time thereafter, which is Option 2 on page 90 of the binder. Staff amended the language to reflect this recommendation.

4. Tree removal mitigation: A minimum of one evergreen or deciduous tree, ~~of a species which will attain a minimum of 30 feet in height,~~ shall be planted at a 1:1 ratio where practicable in order to mitigate the removal of existing trees necessary for site development as a part of the creation of the flag lot or for the first dwelling constructed on the flag lot. The mitigation trees shall be of a species which will attain a minimum of 30 feet in height. Deciduous trees at planting shall be a minimum of 2 inch caliper and evergreen trees shall be a minimum of 8 feet tall.

Original Staff commentary: The question arose whether “site development” was applied only for development at the time of lot creation, or at any later time, when removal of trees was necessary for development on the flag lot. The Deputy City Attorney relied on context and rules of statutory construction to answer the question. (He concluded that “site development” is only at the time of lot creation.) The Planning Commission considered three options (lot creation development; lot creation and first dwelling construction, and perpetuity) and concluded that enhanced tree mitigation should apply to development on the lot that both occurs at the time of lot creation and for the construction of the dwelling that inevitably follows, but not in perpetuity.

A second question arose regarding flag lot tree removal mitigation: if flag lots are to retain the trees on the site to screen and mitigate the flag lot, staff suggests that tree removal for any reason (Type I, Type II, dead, hazardous, emergency, or verification tree removal) should require mitigation, given the screening and buffering element required for approval of flag lots. No additional code text is needed to address this concern. Mitigation of tree removal for trees that were used for screening, regardless of cause, can be achieved through the Tree Code’s mitigation requirement, LOC 57.02.094: “The City may impose conditions of approval on any tree cutting permit if the condition is reasonably related to preventing, eliminating or mitigating a negative impact or potential impact on natural features or processes or on the built environment of the neighborhood which is as created or contributed to by the approved tree removal.”

Special Street Setback

On page 93 of the binder is the list of streets that are subject to Special Street Setbacks. The listing for Boones Ferry Road currently indicates a special street setback of “50 feet, superseded by a corridor study”. As you are aware, the Boones Ferry Refinement Plan has been completed, but no corridor study has been adopted. Therefore, staff is proposing to strike this language because adoption of a corridor study is no longer being considered. [Note: Per the Boones Ferry Refinement Plan, the right-of-way varies depending on the location. The Engineering Division will be working on a new survey to determine the right-of-way widths and thus the special street setback reference line. After the survey is completed, the special street setback will be tied to the survey. In the meantime, the 50’ special street setback remains.]

General Exceptions to Setbacks

On page 97 of the binder, under LOC 50.22.045 (General Exceptions to Setbacks), staff is recommending the addition of subsection (5) which would exempt equipment for public services (i.e. utility boxes, etc.) from setbacks – a reflection of current practice. The Commission previously discussed this issue and asked staff for further analysis on the following questions:

1) Should there be size limitations,

Staff does not believe it is appropriate to dictate the size of utility boxes because they are based on the capacity needs as determined by the service providers.

2) Whether the service providers must show why alternative locations cannot be found,

In the past, staff has requested that applicants involve the public service providers early in the site planning process, requesting that equipment location be shown on site plans. However, by all accounts, the companies have been resistant and despite the applicant indicating a possible location, those locations can change in the field during construction. Staff has asked, where possible, utility boxes be buried underground. Staff believes that the Commission makes a good point regarding alternative locations and suggests that requiring the applicant to show alternative locations be made part of the code language in order to require early public service provider cooperation.

3) *Concern that the added code language could result in other types of public service structures such as a pump house being included in the exemption, and*

The definition of “structure” is:

“That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. //...” .

With this definition, there is no distinction between a utility box and a pump house, and both are considered equipment for public service. However, a pump house generally requires a development review permit based on the applicability of LOC 50.45, the Building Design Standard (“Minor and major development: development involving a structure for commercial, industrial, institutional, public use (including major public facilities and minor public facilities),”). The City currently does not require a development review permit for utility boxes. Therefore, staff agrees with the Commission that the list should be made exclusive of structures such as a pump house.

4) *Whether there should be screening requirements.*

LOC 50.47 (Landscaping, Screening and Buffering standards) currently requires screening for public or private utilities, as follows:

“For commercial, institutional, industrial development, multiple dwelling, manufactured home parks, office campus, and major public facilities:

- a. Screening and buffering shall be required:
 - i. To mitigate noise, lighting or other impacts from dissimilar uses.
 - ii. To screen public or private utility and storage areas

With this provision, the City has the authority to require landscape screening around public service equipment.

Recommendation:

In conclusion, staff recommends the following amended code language for public service equipment exemption from setbacks:

5. **Equipment for public service, e.g., utility meters, transformers, telephone switching equipment (but excluding such structures as pump houses) are permitted in a required yard provided the service provider can show that no other location is possible.**

Secondary Dwelling Units

Pages 100-102 of the binder contain proposed code language intended to clarify the requirements for Secondary Dwelling Units (SDU’s) and page 11 contains a proposed expansion of the SDU definition, in order to conform to current practice (whether located within a primary structure or as an accessory structure). The Commission previously discussed possibly holding these amendments for a larger discussion of housing issues during the Comprehensive Plan process. At the April 9th work session, the “Complete Neighborhoods and Housing” portion of the Comprehensive Plan update process will be discussed, which includes a proposed action item at the policy level to provide incentives for SDUs in order to help meet housing goals. Staff believes that the code language on pages 101-102 and the definition on page 11 neither make any substantive changes nor are they related to those policy issues. The amendments simplify and clarify the requirements, placing a size limitation on the unit and removing those portions of the current definition that are difficult to enforce, such as the number of persons residing in the SDU. The current discretionary standards are not proposed to be amended at this time.

Staff will be returning to the Commission this summer to discuss the issue of clear and objective standards for SDUs as part of the work related to the Comprehensive Plan process, specifically compliance with Housing Goal 10, to ensure that all housing types are allowed under non-discretionary standards.

Telecommunications Facilities

Pages 102-114 of the binder contain code amendments to LOC 50.30.015-Specific Standards for Telecommunications Facilities. The main objective of revisions to this section is to amend the priorities for co-locating a telecommunication facility where the facility will project more than 10 feet higher than the existing facility so that a utility pole would be used before an existing building. The remainder of the amendments to this section; are intended to clean up the language and remove redundancies. The Commission previously discussed having a separate meeting to discuss the compatibility issues related to Telecommunication Facilities. Only the amendment on page 109 related to the noise effect of Ancillary Facilities is in this category. This amendment and/or other compatibility issues can be part of a future Commission discussion.

Drainage

Pages 116-117 of the binder concerns the Drainage Standard which currently states that alteration of drainage patterns should not “adversely affect” other property. One of the amendments seeks to define “adversely affect” and contained within that definition is a reference to the damage that would occur during a “10-year design storm”. In previous discussions, the Commission requested clarification of the term “10-year design storm”.

The City is currently updating its Storm water Design Manual (part of compliance with the 2011/2012 MS4 Storm water Permit from DEQ), which was not in process at the time the amendment was first proposed. Staff withdraws the proposed amendment pending further coordination and review with the Engineering staff during the update of the Design Manual.

Ordinance 2525- Amendments Referred back to the Commission by City Council

Background: In LU 08-0052 (CDC with Minor Policy Implications), the Planning Commission recommended amendments to the Community Development Code on May 23, 2011 (Ordinance 2525). After taking public comment on July 19, 2011, the City Council tentatively approved proposed Ordinance 2525 *with amendments*. Ordinance 2525, as amended, was adopted on November 1, 2011; effective December 1, 2011.

Following is a discussion of three sections of Ordinance 2525 that were referred back to the Planning Commission, along with a summary of the Council discussion/direction, for further Planning Commission review and deliberation. [The summary is taken from the video recording of the October 4, 2011 Council meeting, available at: <mms://208.71.205.11/TRMSVOD/7545-1LOCC100411.wmv> ; the relevant period of the Council discussion is noted below.]

Items Referred Back to Planning Commission for further consideration and recommendation:

- A1. Sensitive Lands - Trails as permitted development in RC District (Tree Groves)
- A2. Sensitive Lands - Trails as permitted development in RP Districts (Stream Corridors and Wetlands)
- A3. Definition of “Public Transportation Facility”
- B. Parks and Open Space Maintenance Standards

- A1. Sensitive Lands - Trails as permitted development in RC District (Tree Groves)**
- A2. Sensitive Lands - Trails as permitted development in RP Districts (Stream Corridors and Wetlands)**

Summary: The original proposal to allow community connector trails in RC/RP Districts because regional trails are already allowed in the RC/RP Districts. The Planning commission had noted that community trails in the RC/RP Districts would only occur if there is a nexus for doing so as a part of a land use application. The Council thought that

this would allow the City to place a trail in RC/RP Districts whether or not there was a nexus between the proposed development and the trail.

1. Council Direction / Deliberation (1:47:25 – 1:58:58, 2:00:00 to 2:04:55)

The Council noted that it was premature to allow community connector trails in the resource area since the Trails Master Plan Map has not been adopted and it needs to be revised in order to be coordinated with the Transportation Systems Plan. The Council stated that a thorough review of the impacts of the amendment on the resource areas was desired.

2. Proposed Text Referred Back to the Planning Commission

Section 50.16.060 RC District Development Standards.

...

3. Development Standards. If the proposed types of development are permitted within the RC District or its buffer, the development activity, use or activity shall comply with the following standards, and the construction standards set forth in LOC 50.16.095:

- a. Streets, Driveways, Lake Trams, and Public Transportation Facilities.

- i. Driveways shall be set back at least 5 feet from, and shall not be placed through an RC Protection Area unless there is no other practicable method of access to the buildable areas of property served by the driveway.

- ii. Public or private streets, trams to access Oswego Lake, and public transportation facilities shall be set back at least 5 feet from, and shall not be placed in or through an RCPA unless:

.....

- B. for public transportation facilities (other than trails designated as a regional trails, community connector trails, or local access trails on the City's Trails and Pathway Master Plan), there is no other suitable location nearby for siting the public transportation facilities which would provide equal or greater public use of the public transportation facilities.

...

- D. for trails designated as a regional trail, [community connector trail, or local access trail](#) on the City's Trails and Pathway Master Plan, they may be located within an RCPA provided the trail width shall be no greater than 12 feet wide (as determined by the standards in the City's Trails and Pathway Master Plan),

- iii. If allowed within the Protection Area and five-foot setback pursuant to this criterion, the applicant shall comply with the following requirements:

- A. Streets, private streets, driveways and bridges shall be the minimum width necessary to while also allowing for safe passage of vehicles and/or pedestrians.

- B. The amount of disturbance for driveways shall be minimized through use of shared access for abutting lots and access through easements for adjacent lots;

- C. If applicable, the applicant shall plan for future extension of shared access, access easements, or private streets to access potential new building sites in order to avoid subsequent encroachments into the Protection Area and five-foot setback area;

- D. The applicant shall mitigate for loss of Protection Area by increasing the size of the protection area, where feasible, to compensate for the area of the RC Protection Area used for the public or private street, driveway, or public transportation facility, or by complying with the mitigation requirements in LOC Sections 50.16.100 to 50.16.110.

....

Original Commentary from Staff: There is an omission of the exclusion of trails from this reference to public transportation facilities, as there is specific development criterion for regional trails in subsection D below.

Section 50.16.075 RP District Development Standards

2.

iv. Streets, Driveways, Lake Trams and Public Transportation Facilities.

...

D. Public streets and public transportation facilities shall not be placed in or through an RP District or its buffer unless:

(1) For public streets, there is no other practical method of providing for access to buildable parcels.

(2) For public transportation facilities (other than trails designated as a regional trails, community connector trails, or local access trails on the City's Trails and Pathway Master Plan), there is no other suitable location nearby for siting the public transportation facilities which would provide equal or greater public use of the public transportation facilities.

(3) For trails designated as a regional trails, [community connector trails, or local access trails](#) on the City's Trails and Pathway [Master](#) Plan, they may be located within an RP District provided the trail width shall be no greater than as determined by the standards in the City's Trails and Pathway Master Plan,

E. If allowed pursuant to the subsections of this criterion (iv), the applicant shall comply with the following criteria.

(1) Streets, driveways and bridges shall be the minimum width necessary to protect resources within the RP district or buffer while also allowing for safe passage of vehicles and/or pedestrians.

(2) Stream and/or wetlands crossings shall be avoided. Where unavoidable, the applicant shall use bridges or arched culverts that are wildlife friendly and do not disturb the natural stream bed. The number of stream or wetland crossings for driveways shall be minimized through use of shared access for abutting lots and access through easements for adjacent lots;

(3) If applicable, the applicant shall plan for future extension of shared access, access easement, or private streets to access potential new building sites in order to avoid subsequent encroachments into the RP District or buffer;

(4) The applicant shall mitigate for loss of any portion of an RP Resource pursuant to LOC 50.16.100 to 50.16.110.

Original Commentary from Staff: With the inclusion of community connector trails and local access trails, rather than reciting the maximum trail/pathway in the CDC, reference would be to the standards in the City's Trails and Pathway Master Plan.

A3. Definition of "Public Transportation Facility"

Summary: Proposed new text in the definition of "Public Transportation Facility" is related to the previous issue of community connector trails in RC/RP Districts, if they are defined as Public Transportation Facilities.

1. Council Direction / Deliberation (2:00:00 – 2:04:55)

Staff interpreted the Council's previous decision to also include a related deletion of the proposed new text in the "Public Transportation Facilities" Definitions (LOC 50.02.005) relating to community collector and local access trails. Otherwise, if community connector and local access trails are defined as a type of "public transportation facility," they would be permitted development within Sensitive Lands under current text of LOC 50.16.060 (RC Overlay District) and 60.16.075 (RP Overlay District).

2. Proposed Text Referred Back to the Planning Commission

Section 50.02.005 Definitions.

Public Transportation Facilities. Those facilities that are associated with a transportation system, such as bus stops, transit centers, light rail, trails designated as a regional, -community connector, or local access trails on the City’s Trails and Pathway Master Plan, and similar facilities, but excluding public or private streets.

Original Commentary from Staff: Regional trails, community connector trails, and local access trails, as designated on the City’s Trails and Pathway Master Plan, would be defined as “public transportation facilities” and would be permitted development within sensitive lands

B. Parks and Open Space Maintenance Standards

Summary: This amendment relates to the Homeowners Association’s (HOA) responsibility for maintenance of private open space in Planned Developments and the manner of enforcement should the open space not be maintained. The Council did not support the “one size fits all” approach and was concerned about the City suing the HOA in order to ensure maintenance of the open space.

1. Council Direction / Deliberation (1:14:30 – 1:25:54)

The Council noted that (1) this could be accomplished through methods other than through Code, such as conditions of approval; (2) there may be a need for the ability to negotiate the details of the maintenance plan; (3) the proposal was not within the parameters of “policy light” and felt the Planning Commission should have the opportunity for a full discussion. The Council took notice that the Planning Commission could well, following its re-consideration, return the issue to the Council as was originally submitted, but the Planning Commission should have the opportunity to talk about it one more time, focusing on it independently from any other item that was being discussed as a part of Ordinance 2525.

2. Proposed Text Referred Back to the Planning Commission

Section 50.46.020 Standards for Maintenance

1. Maintenance.

a. Natural Areas. Natural areas shall remain in natural condition existing at the time of their designation, except as follows:

i. Removal of invasive plants (i.e., see the Plant List).

ii. Removal of litter,

iii. Installation and maintenance of any soft surface trails (note: see LOC 50.16.060(3)(e) and 50.16.075(2)(a)(v)(B)).

iv. Irrigation and maintenance of trees and vegetation as necessary for their survival.

v. Planting of trees and vegetation necessary to maintain the functions and values of the natural resource, but primarily not for decorative landscaping purposes.

vi. Repair of any natural waterway or wetland which is necessary to maintain the functions and values of any waterway or wetland resource within the natural area,

vii. Installation of any signage that identifies or protects the natural resource, natural vegetation, and passive recreation facilities.

viii. Removal of any hazardous trees, pursuant to LOC Article 55.02 (note: condition of approval may require tree to be converted to a wildlife tree).

ix. Installation and maintenance of fencing that complies with the following:

(1) No taller than 3 feet,

(2) Non-sight obscuring, and

(3) No wire mesh or cyclone fence.

Such fencing shall be compliant with the provisions of LOC 45.15 regarding Standards for Construction and Standards for Maintenance of fences, and, if applicable, LOC 50.16.065 or 50.16.075.

b.Parks. Parks shall be maintained by undertaking the following:

i. Any activities permitted in Natural Areas above.

ii. Repair of any natural waterway or wetland which is necessary to maintain the functions and values of any waterway or wetland resource within the park.

iii. Installation of any signage that identifies or protects the park facilities or vegetation.

iv. Installation and maintenance of recreation facilities.

2. Responsibility and Enforcement. Maintenance of private open space shall be the common responsibility of the lot owners, which may be exercised through a homeowners association. If not maintained in accordance with this section, the City of Lake Oswego may enforce the maintenance obligations against the association and lot owners as provided in the covenants.

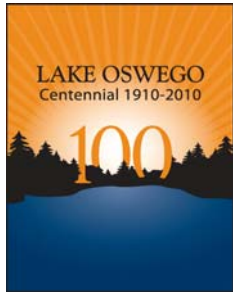
Staff attempted to provide a consistent way to deal with maintenance of open space in Planned Developments, however, staff agrees with the Council that there may be situations where flexibility is needed. Staff notes that the issues of maintenance of private open space and homeowners association's responsibilities are currently addressed in LOC 50.17.020, LOC 50.79.040(2)(i) and LOC 50.90.010(3). If the Commission agrees with the Council, staff proposes an alternative to the above language:

The applicant shall submit an open space maintenance plan for review and approval of the City Manager.

Exhibits:

F-5 Staff Memo-Breezeway Exemption, dated March 30, 2012

F-6 Staff Memo- Lot Coverage for Partially Submerged Lots, dated March 26, 2012



CITY OF LAKE OSWEGO

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PO Box 369
Lake Oswego, OR 97034

503-635-0270
www.ci.oswego.or.us

MEMORANDUM

TO: Lake Oswego Planning Commission

CC: Debra Andreades, Senior Planner
Hamid Pishvaie, Assistant Planning Director

FROM: Evan P. Boone, Deputy City Attorney

SUBJECT: LU 08-0054/Corrections to Attachment B of Recommended Ord. 2526 (Exhibit F-8)

DATE: August 2, 2012

Commission Action Requested:

A motion to adopt Exhibit F-8A of LU 08-0054, correcting scrivener errors in Exhibit F-8 and adding an illustrative graphic, as part of the Commission's recommendation to the City Council for revisions to the Community Development Code (CDC) in LU 08-0054.

Background:

LU 08-0054 consisted of "CDC Update with Policy Implications" amendments. Consideration of these CDC amendments, originally initiated in 2008, were delayed for consideration of other CDC revisions [notably, LU 08-0051 (Sensitive Lands); LU 08-0052 (CDC Update with Minor Policy Implications); and LU 08-0053 (Residential Infill)].

The Commission reviewed the revisions in LU 08-0054 in the "old" CDC format, prior to the CDC Code Reorganization, and tentatively adopted the LU 08-0054 amendments at its April 9, 2012 meeting.

During the process of considering these code amendments, the CDC was reorganized, effective April 20, 2012. Before adopting the "final" version of the LU 08-0054 CDC amendments, it was necessary to convert the revisions from the "old" CDC numbering and format to the new CDC Code Reorganization numbering and format. I was tasked with doing so, and presented it to the Commission at its May 30, 2012 hearing:

- Exhibit F-7: Proposed Chapter 50 Amendments-Chronological and Annotated, in Old Chapter 50 Format (05/30/12); and
- Exhibit F-8: Proposed Chapter 50 Amendments - Attachment B to Ordinance 2526, in New Chapter 50 Format (05/30/12)

EXHIBIT D-7
LU 08-0054

The Commission adopted Findings, Conclusion and Order, including recommended Ord. 2526 with Attachment B CDC Amendments (Exhibit F-8) on May 30, 2012.

Correction of Errors / Omitted Graphic

In the process of converting the Commission's CDC recommendations from "old" Chapter 50 format to "reorganized" Chapter 50, scrivener errors occurred. In Attachment 1, *Corrections to Attachment B – Ord. 2526 [Planning Commission Recommendation, May 30, 2012]*:

- a. The May 30, 2012 Attachment B (Exhibit F-8) version is shown, along with an arrow to highlight the error.
- b. "Correction Commentary" explaining the error and correction; and
- c. The proposed Corrected Version of the section is shown.

It was also noted that there was an intended graphic for LOC Table 50.04.001-11 to illustrate the text change for the maximum building height for R-W (Waterfront Cabana) zoned lots, but the graphic was not produced. Staff has included the graphic which illustrates the text change.

Exhibit F-8A, the corrected version of Exhibit F-8, Attachment B to Ord. 2526, is distributed to the Commission members electronically with this memo, rather than reprinting all 102 pages. Attachment 1 illustrates only those portions of Exhibit F-8A that needed to be corrected which will be found in the final version of Exhibit F-8A, upon approval by the Commission A hard copy of Exhibit F-8A will be available at the August 13 Commission meeting.

Procedure:

Because scrivener errors and the additional graphic are intended to conform Attachment B of proposed Ordinance 2526 to the actual Planning Commission recommendation, the Commission may approve a revised Exhibit F-8A as part of General Business; no public hearing is required.

Note: Planning Commission members appointed to the Commission after May 30, 2012 may vote on this legislative correction to the Commission's May 30, 2012 recommendation, upon finding from the record (this memo and the attachment) that Exhibit F-8A is a correction of scrivener errors, so that the revised Exhibit F-8A is a true reflection of the Planning Commission's May 30, 2012 recommendation.

Attachments:

1. Corrections to Attachment B – Ord. 2526, 08/02/12

CORRECTIONS TO ATTACHMENT B – ORD. 2526
 [PLANNING COMMISSION RECOMMENDATION, May 30, 2012]

ERROR VERSION

50.04.001 DIMENSIONAL TABLE
2. RESIDENTIAL MEDIUM DENSITY ZONES
a. Dimensions

a. Dimensions

Development in the R-DD, R-5, and R-6 zones shall conform to the dimensional standards in Table 50.04.001-3 except as modified below:

TABLE 50.04.001-3: RESIDENTIAL – MEDIUM DENSITY ZONES DIMENSIONS				
	R-6	R-5	R-DD	Comments/Additional Standards

MAX. HEIGHT (FT.)				50.04.001.2.g
Primary Structure	28	--	28	
Flat Lot	28	28	--	
Sloping Lot	[5]	[5]	--	
Sloped Lot	32	35	--	
Accessory Structure	Lesser of 24 or height of roof form of primary structure	Lesser of 24 or height of roof form of primary structure	28	50.04.001.2.g[6]
****	<p>[6] Building height exceptions shall not exceed the building height of the primary structure.</p>			

Max. Height: Consistent treatment of accessory structures vis-à-vis primary structures so that each zone has a primary and accessory height limitation, and similar exceptions to height. This amendment (1) establishes a 24' specific height limitation for accessory

structures, rather than the zone height limitation also applying to accessory structures. (2) Because there would now be a different height for accessory structures, the general exceptions to height currently applicable to accessory structures are formatted for accessory structures. (3) Height is nevertheless limited to no higher than the roof form of the primary structure.

Zones	Distinction between Primary and Accessory	Single Family Dwelling Height Exceptions	Peak-a-Boo Exceptions for Accessory Structure?
High Density	No	Yes	Yes
R-6	Yes	Yes	No
Low Density	Yes	Yes	No
DD	No	Yes	Yes
West Lake Grove	No	No	No

CORRECTION COMMENTARY: The comment reference to 50.04.001.2.g[6] is not needed because the reference to LOC 50.04.001.2.g is already in “Max Height” above. Footnote [6] is not needed because it says that the building height exceptions shall not exceed the building height of the primary structure, which is the same thing as “lesser of 24 ft. or height of roof from of primary structure.” Added “ft.” after 24, to reflect it is a distance measurement.

CORRECTED VERSION

50.04.001 DIMENSIONAL TABLE
2. RESIDENTIAL MEDIUM DENSITY ZONES
a. Dimensions

a. Dimensions

Development in the R-DD, R-5, and R-6 zones shall conform to the dimensional standards in Table 50.04.001-3 except as modified below:

TABLE 50.04.001-3: RESIDENTIAL – MEDIUM DENSITY ZONES DIMENSIONS				
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MAX. HEIGHT (FT.)				50.04.001.2.g
Primary Structure	28	--	28	
Flat Lot	28	28	--	
Sloping Lot	[5]	[5]	--	
Sloped Lot	32	35	--	
Accessory Structure	Lesser of 24 <u>ft.</u> or height of roof form of primary structure	<u>Lesser of 24 ft. or height of roof form of primary structure</u>	28	

Max. Height: Consistent treatment of accessory structures vis-à-vis primary structures so that each zone has a primary and accessory height limitation, and similar exceptions to height. This amendment (1) establishes a 24’ specific height limitation for accessory structures, rather than the zone height limitation also applying to accessory structures. (2) Because there would now be a different height for accessory structures, the general exceptions to height currently applicable to accessory structures are formatted for accessory structures. (3) Height is nevertheless limited to no higher than the roof form of the primary structure.

Zones	Distinction between Primary and Accessory	Single Family Dwelling Height Exceptions	Peak-a-Boo Exceptions for Accessory Structure?
High Density	No	Yes	Yes
R-6	Yes	Yes	No
Low Density	Yes	Yes	No
DD	No	Yes	Yes
West Lake Grove	No	No	No

ERROR VERSION

50.04.001 DIMENSIONAL TABLE
3. RESIDENTIAL HIGH DENSITY ZONES
a. Dimensions

a. Dimensions

Development in the R-W, R-3, R-2, and R-0 zones shall conform to the development standards in Table 50.04.001-11 except as modified below:

TABLE 50.04.001-11: RESIDENTIAL – HIGH DENSITY ZONES DIMENSIONS					
	R-W	R-3	R-2	R-0	Comments/Additional Standards
DENSITY					50.04.001.3.b

MAX. LOT COVERAGE					50.04.001.3.d
Lot Coverage	100	50	Table 50.04.001-12	55 40	

MAX. BASE HEIGHT (FT.)					50.01.004.3.f
Flat Lot	--	28	28	28	
Lots with Sloping Topography	--	[4]	[4]	[4]	
Sloped Lot	--	35	35	35	
From the mean water level surface of Oswego Lake <u>Surface Elevation</u>	24/ <u>27</u> <u>[5]</u>	--	--	--	

[5]. For any portion of the lot above the Oswego Lake Surface Elevation, maximum building height shall not exceed 24 ft. For any portion of the lot at or below the Oswego Lake Surface Elevation, maximum building height shall not exceed 27 ft above the Oswego Lake Surface Elevation. The maximum building height of 27 ft above the Oswego Lake Surface Elevation shall extend landward until it meets the 24 ft height limit for the portion of the lot above the Oswego Lake Surface Elevation. Appendix 50.06 XX).

CORRECTION COMMENTARY:

Lot Coverage – R-0 Zone: Transposition error. Current Lot Coverage is 40 and it is to be raised to 55.

R-W Building Height: (1) There was an intended graphic for LOC Table 50.04.001-11 to illustrate the text change for the maximum building height for R-W (Waterfront Cabana) zoned lots, but the graphic was not produced.

AND

50.04.001 DIMENSIONAL TABLE

3. RESIDENTIAL HIGH DENSITY ZONES

f. Height – Additional Standards

iv. ~~Height in the~~ R-W Zone

~~No structure in the R-W zone can exceed 24 ft. in height. Height is measured from the mean water level surface (elevation 98.6) of the water. For any portion of the lot at or below the Oswego Lake Surface Elevation, maximum building height shall not exceed 27 ft above the Oswego Lake Surface Elevation. For any portion of the lot above the Oswego Lake Surface Elevation, maximum building height shall not exceed 24 ft. The maximum building height of 27 ft above the Oswego Lake Surface Elevation shall extend landward until it meets the 24 ft height limit for the portion of the lot above the Oswego Lake Surface Elevation. Appendix 50.06 XX).~~

This amendment (1) applies the height limitation *when the ground is above the Lake Elevation* at the ground level, rather than at the Lake Elevation; currently the height limitation is based on the Lake Elevation and extended out from the lake, which results in a lessening permitted height, based on the slope of the ground; and (2) increases 24 feet height over the Lake Elevation to 27 feet, to account for the minimum floor level in the Flood Management flood zone.

There are different datum points which are used for purposes of determining elevation in the Lake Oswego area. Although these different datum points result in different numerical representations of elevation, they are the same elevation. Rather than listing the various datum point methods each time the Oswego Lake elevation is stated, this amendment refers to the new definition, for code readability.

CORRECTION COMMENTARY: This subsection (iv) has been incorporated into the Maximum Building Height Table 50.04.001-11, footnote 5, for the R-W zone, so it is not needed as an additional standard.

AND

v. Exceptions to Base Building Height

In addition to the maximum structure height determined by subsections (i) – (iv) above,
~~A~~a greater height than otherwise permitted is allowed as follows:

This amendment clarifies that the exceptions for roof form are in addition to the exceptions for project height.

CORRECTION COMMENTARY: With the deletion of the R-W zone (subsection iv) as an additional standard, because it has been incorporated into Table 50.04.001-11, this subsection should be renumbered to (iv) and the reference in the first line to (iv) should be (iii).

CORRECTED VERSION

50.04.001 DIMENSIONAL TABLE

3. RESIDENTIAL HIGH DENSITY ZONES

a. Dimensions

a. Dimensions

Development in the R-W, R-3, R-2, and R-0 zones shall conform to the development standards in Table 50.04.001-11 except as modified below:

TABLE 50.04.001-11: RESIDENTIAL – HIGH DENSITY ZONES DIMENSIONS					
	R-W	R-3	R-2	R-0	Comments/Additional Standards
DENSITY					50.04.001.3.b

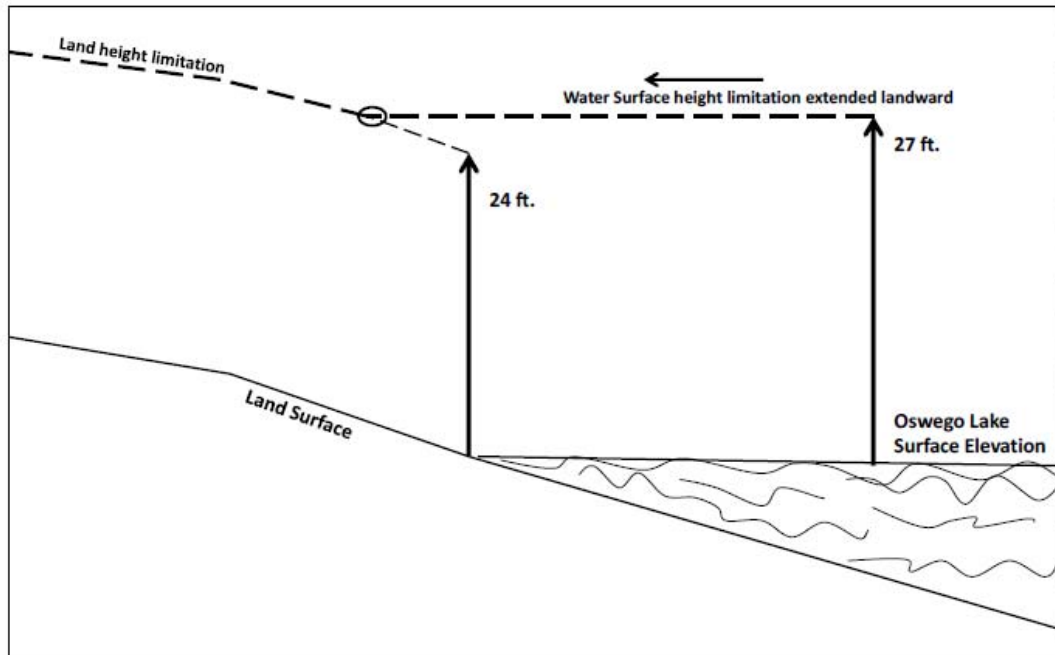
MAX. LOT COVERAGE					50.04.001.3.d
Lot Coverage	100	50	Table 50.04.001-12	40 55	

MAX. BASE HEIGHT (FT.)					50.01.004.3.f
Flat Lot	--	28	28	28	
Lots with Sloping Topography	--	[4]	[4]	[4]	
Sloped Lot	--	35	35	35	
From the mean water level surface of Oswego Lake <u>Surface Elevation</u>	24/ <u>27</u> [5]	--	--	--	

[5]. For any portion of the lot above the Oswego Lake Surface Elevation, maximum building height shall not exceed 24 ft. For any portion of the lot at or below the Oswego Lake Surface Elevation, maximum building height shall not exceed 27 ft above the Oswego Lake Surface Elevation. The maximum building height of 27 ft above the Oswego Lake Surface Elevation shall extend landward until it meets the 24 ft height limit for the portion of the lot above the Oswego Lake Surface Elevation. See Table 50.04.001-11[5].

Table 50.04.001-11 [5]

Height Measurement for R-W Zoned Lots



This amendment applies the height limitation *when the ground is above the Lake Elevation* at the ground level, rather than at the Lake Elevation; currently the height limitation is based on the Lake Elevation and extended out from the lake, which results in a lessening permitted height, based on the slope of the ground; and (2) increases 24 feet height over the Lake Elevation to 27 feet, to account for the minimum floor level in the Flood Management flood zone.

There are different datum points which are used for purposes of determining elevation in the Lake Oswego area. Although these different datum points result in different numerical representations of elevation, they are the same elevation. Rather than listing the various datum point methods each time the Oswego Lake elevation is stated, this amendment refers to the new definition, for code readability.

AND

~~iv. Height in the R-W Zone~~

~~No structure in the R-W zone can exceed 24 ft. in height. Height is measured from the mean water level surface (elevation 98.6) of the water.~~

The R-W building height (amended) has been incorporated into Table 50.04.001-11, and specifically footnote 5. Therefore this is no longer needed as an “additional” building height standard.

iv. Exceptions to Base Building Height

In addition to the maximum structure height determined by subsections (i) – (iii) above,
A greater height than otherwise permitted is allowed as follows:

This amendment clarifies that the exceptions for roof form are in addition to the exceptions for project height.

ERROR VERSION

50. 04.001 DIMENSIONAL TABLE

4. COMMERCIAL, MIXED USE, AND INDUSTRIAL ZONES

b. West Lake Grove Zones

i. WLG Town Home Residential (WLG R-2.5)

i. WLG Town Home Residential (WLG R-2.5)

1) Site Development Limitations

Yard Setbacks. The following exterior wall setbacks shall be required in the WLG R-2.5 zone, except as modified by LOC [50.04.003.1](#), Additional Dimensional Exceptions.

TABLE 50.04.001-15: WLG R-2.5 YARD SETBACKS		
Structure Type	Yard Type	Setback Distance
	Abutting Single Family Residential Zone	
Permitted Primary Use	Front (from property line)	10 ft.
	Rear and Side (abutting a single family residential zone)	25 ft.
	Rear and Side (not abutting a single family residential zone)	10 ft.
Accessory Structures	Front, Rear, and Side	15 ft.
	Not Abutting Single Family Residential Zone	
Primary Use	Front	10 ft.
	Rear	10 ft.
	Side – exterior wall	10 ft.
	Side – common wall	0 ft.

CORRECTION COMMENTARY: The 2nd “rear and side (not abutting a single family residential zone)” was moved down into that category, but not deleted. It should have been, since this is not in the “Not Abutting Single Family Residential Zone” category.

CORRECTED VERSION

50.04.001 DIMENSIONAL TABLE
4. COMMERCIAL, MIXED USE, AND INDUSTRIAL ZONES
b. West Lake Grove Zones
i. WLG Town Home Residential (WLG R-2.5)

i. WLG Town Home Residential (WLG R-2.5)

1) Site Development Limitations

Yard Setbacks. The following exterior wall setbacks shall be required in the WLG R-2.5 zone, except as modified by LOC [50.04.003.1](#), Additional Dimensional Exceptions.

TABLE 50.04.001-15: WLG R-2.5 YARD SETBACKS		
Structure Type	Yard Type	Setback Distance
<u>Abutting Single Family Residential Zone</u>		
Permitted <u>Primary</u> Use	Front (from property line)	10 ft.
	Rear and Side (abutting a single family residential zone)	25 ft.
	Rear and Side (not abutting a single family residential zone)	10 ft.
<u>Accessory Structures</u>	<u>Front, Rear, and Side</u>	<u>15 ft.</u>
<u>Not Abutting Single Family Residential Zone</u>		
<u>Primary Use</u>	<u>Front</u>	<u>10 ft.</u>
	<u>Rear</u>	<u>10 ft.</u>
	<u>Side – exterior wall</u>	<u>10 ft.</u>
	<u>Side – common wall</u>	<u>0 ft.</u>

ERROR VERSION

50.03.002 USE TABLE

3. COMMERCIAL, MIXED-USE, INDUSTRIAL, AND SPECIAL PURPOSE DISTRICTS USE TABLE

TABLE 50.03.002-2: COMMERCIAL, MIXED-USE, INDUSTRIAL & SPECIAL PURPOSE DISTRICTS USE TABLE																			
P = Permitted Use Blank = Not Permitted C = Conditional Use																			
[x] Table notes located at the end of the table																			
Use Cat.	Use Type	Commercial, Mixed-Use, Industrial											Special Purpose			Use Specific Standards			
		NC	GC	HC	OC	EC	CR&D	MC	WLG- [32]				I	IP	CI		PF	PNA	
									OC	RMU	R-2.5	RLW							

COMMERCIAL USES																			
Vehicle/equipment sales and services	Boat sales, boat repair ; boat storage													p	<u>P</u>				

Animal and related services	Pet care, daily, fully conducted within building	C	P	P	C	P	C	C						<u>P</u>	<u>P</u>				

CORRECTION COMMENTARY: Boat Repair and Boat Storage were added a permitted used in the I zone, but not in the IP zone. In the IP zone, boat storage only was added as a permitted use.

TABLE 50.03.002-2: COMMERCIAL, MIXED-USE, INDUSTRIAL & SPECIAL PURPOSE DISTRICTS USE TABLE																
P = Permitted Use Blank = Not Permitted C = Conditional Use																
[x] Table notes located at the end of the table																
Use Cat.	Use Type	Commercial, Mixed-Use, Industrial											Special Purpose		Use Specific Standards	
		N C	G C	H C	O C	E C	C R & D	M C	WLG- [32]			I P	C I	P F		P N A
									O C	R M U	R-2.5					

COMMERCIAL USES																
Vehicle/equipment sales and services	Boat sales, boat repair															
	boat storage															

Animal and related services	Pet care, daily, fully conducted within building	C	P	P	C	P	C	C								

ERROR VERSION

50.03.004 ACCESSORY STRUCTURES AND USES

2. ACCESSORY STRUCTURES

b. Setback Reduction for Accessory Structures

b. ~~Setback~~ Reduction of Side or Rear yard Setbacks for Accessory Structures

This amendment makes formatting changes to clarify the applicability of reductions to regular and flag lots, and to the applicability of the exceptions.

i. Regular Lot. On a non-flag lot, A-a rear yard setback may be reduced to three ft. and a side yard may be reduced to five ft. for an accessory structure in a residential zone if the structure complies with the following ~~four~~ criteria:

(2) For an accessory structure less than four feet, The-the accessory structure is detached from other buildings by ~~five-three~~ ft. or more.

Section 50.14.005(5)(b) is problematic for mechanical equipment like AC units, heat pumps and generators. The requirement that these very small accessory structures be located at least 5 feet from any other structure in order to reduce the side and/or rear setback to 3 feet really limits their placement in many instances, particularly older homes with non-conforming setbacks and newer homes that are maxed out. Planning Staff thinks the reason for the 5 foot separation makes sense for larger accessory structures (sheds, greenhouses, etc.) in order to keep a reasonable visual separation, but for these small units, which are usually under 4 feet tall, it doesn't. In order to comply with 50.14.005(5), these noise producing units are actually moved closer to the neighbor than necessary, and often fall right in the middle of a pathway along the side of the house. Staff proposed the change that would exempt mechanical equipment under a certain size (height, width and depth) from the separation requirement, while still meeting all the other criteria under 50.14.005(5).

The separation distance between accessory and primary structures is changed from 5 to 3 ft., to meet the same separation distance for "detached" structures.

CORRECTION COMMENTARY: The original version (as published) incorporated a height element by the use of the phrase “taller than 3 feet.” During the PC hearings, that was changed to “lower than 4 feet”. When converted to Code Reorg format, consistent wording was desired and it was noted that “CODE REORG: Subsection (2) changed “lower than” to “less than”. However, that resulted in a loss of the height element: “less than four feet”. Solution: add “in height”.

CORRECTED VERSION

50.03.004 ACCESSORY STRUCTURES AND USES

2. ACCESSORY STRUCTURES

b. Setback Reduction for Accessory Structures

b. ~~Setback~~ Reduction [of Side or Rear yard Setbacks](#) for Accessory Structures

(2) [For an accessory structure less than four feet in height, ~~The~~ the](#) accessory structure is detached from other buildings by ~~five~~ [three](#) ft. or more.

Section 50.14.005(5)(b) is problematic for mechanical equipment like AC units, heat pumps and generators. The requirement that these very small accessory structures be located at least 5 feet from any other structure in order to reduce the side and/or rear setback to 3 feet really limits their placement in many instances, particularly older homes with non-conforming setbacks and newer homes that are maxed out. Planning Staff thinks the reason for the 5 foot separation makes sense for larger accessory structures (sheds, greenhouses, etc.) in order to keep a reasonable visual separation, but for these small units, which are usually under 4 feet tall, it doesn't. In order to comply with 50.14.005(5), these noise producing units are actually moved closer to the neighbor than necessary, and often fall right in the middle of a pathway along the side of the house. Staff proposed the change that would exempt mechanical equipment under a certain size (height, width and depth) from the separation requirement, while still meeting all the other criteria under 50.14.005(5).

The separation distance between accessory and primary structures is changed from 5 to 3 ft., to meet the same separation distance for “detached” structures.

ERROR VERSION

50.05.009 GREENWAY MANAGEMENT OVERLAY DISTRICT

3. PERMITTED USES

3. PERMITTED USES

The following uses are permitted within the GM District.

g. Maintenance and repair as necessary for the continuance of an allowed existing use or improvement.

Maintenance and repair activities are not a “use” of the property and are addressed as exempt from permit requirements under LOC 50.07.003(12).

CORRECTION COMMENTARY: This subsection was inadvertently not marked for deletion in Exhibit F-8. It had been marked for deletion in the PC recommendation, Exhibit F-7. The commentary did not change, and there was no PC discussion to retain this subsection.

CORRECTED VERSION:

50.05.009 GREENWAY MANAGEMENT OVERLAY DISTRICT

3. PERMITTED USES

3. PERMITTED USES

The following uses are permitted within the GM District.

~~g. Maintenance and repair as necessary for the continuance of an allowed existing use or improvement.~~

Maintenance and repair activities are not a “use” of the property and are addressed as exempt from permit requirements under LOC 50.07.003(12).

ERROR VERSION

50.05.010 SENSITIVE LANDS OVERLAY DISTRICTS

5. STANDARDS APPLICABLE TO RC DISTRICTS

c. RC District Development Standards

iii. Development Standards

iii. Development Standards

If the proposed types of development are permitted within the RC District, the development activity, use or activity shall comply with the following standards, and the Construction Standards set forth in LOC 50.05.010.4.d:

(1) Streets, Driveways, Lake Trams, and Public Transportation Facilities

(b) Public or private streets, trams to access Oswego Lake, and public transportation facilities shall be set back at least five ft. from, and shall not be placed in or through an RCPA unless:

(iv) For regional, community connector trail or local access trails (designated ~~as a regional trail~~ on the City's Trails and Pathway Master Plan), they may be located within an RCPA provided the trail width shall be no greater than 12 feet wide (as determined by the standards in the City's Trails and Pathway Master Plan),

There is an omission of the exclusion of trails from this reference to public transportation facilities, as there is specific development criterion for regional trails in subsection D below.

CORRECTION COMMENTARY: "Trails" is separated from modifying "regional", as it did previously. By eliminating "trail" in "community connector", then "trails" applies to all three types of trails.

CORRECTED VERSION

50.05.010 SENSITIVE LANDS OVERLAY DISTRICTS

5. STANDARDS APPLICABLE TO RC DISTRICTS

c. RC District Development Standards

iii. Development Standards

iii. Development Standards

If the proposed types of development are permitted within the RC District, the development activity, use or activity shall comply with the following standards, and the Construction Standards set forth in LOC 50.05.010.4.d:

(1) Streets, Driveways, Lake Trams, and Public Transportation Facilities

(b) Public or private streets, trams to access Oswego Lake, and public transportation facilities shall be set back at least five ft. from, and shall not be placed in or through an RCPA unless:

(iv) For regional, [community connector, or local access](#) trails (designated ~~as a regional trail~~ on the City's Trails and Pathway Master Plan), they may be located within an RCPA provided the trail width shall be no greater than 12 feet wide (as determined by the standards in the City's Trails and Pathway Master Plan),

There is an omission of the exclusion of trails from this reference to public transportation facilities, as there is specific development criterion for regional trails in subsection D below.

ERROR VERSION

50.05.010 SENSITIVE LANDS OVERLAY DISTRICTS

6. STANDARDS APPLICABLE TO RP DISTRICTS

c. RP District Development Standards

(d) Streets, Driveways, Lake Trams and Public Transportation Facilities

(d) Streets, Driveways, Lake Trams and Public Transportation Facilities

(iv) Public streets and public transportation facilities shall not be placed in or through an RP District unless:

(B) For public transportation facilities (other than regional trails), there is no other suitable location nearby for siting the public transportation facilities which would provide equal or greater public use of the public transportation facilities.

(C) For regional community connector trails, or local access trails (designated on the City's Trails and Pathway Master Plan), they may be located within an RCPA provided the trail width shall be no greater than 12 feet wide (as determined by the standards in the City's Trails and Pathway Master Plan),

With the inclusion of community connector trails and local access trails, rather than reciting the maximum trail/pathway in the CDC, reference would be to the standards in the City's Trails and Pathway Master Plan.

CORRECTION COMMENTARY: The redlining – similar to 50.05.010.5.c.iii above – got dropped. Also, the extra “trail” in “community connector trail” should be deleted, for the same reason as in 50.05.010.5.c.iii.

CORRECTED VERSION

50.05.010 SENSITIVE LANDS OVERLAY DISTRICTS

6. STANDARDS APPLICABLE TO RP DISTRICTS

c. RP District Development Standards

(d) Streets, Driveways, Lake Trams and Public Transportation Facilities

(d) Streets, Driveways, Lake Trams and Public Transportation Facilities

(iv) Public streets and public transportation facilities shall not be placed in or through an RP District unless:

(B) For public transportation facilities (other than regional trails), there is no other suitable location nearby for siting the public transportation facilities which would provide equal or greater public use of the public transportation facilities.

(C) For regional, community connector, or local access trails (designated ~~as a regional trail~~ on the City's Trails and Pathway Master Plan), they may be located within an RCPA provided the trail width shall be no greater than 12 feet wide (as determined by the standards in the City's Trails and Pathway Master Plan),

With the inclusion of community connector trails and local access trails, rather than reciting the maximum trail/pathway in the CDC, reference would be to the standards in the City's Trails and Pathway Master Plan.

ERROR VERSION

50.06.002 PARKING

2. STANDARDS FOR APPROVAL

a. Vehicle Parking

a. Vehicle Parking

ii. Number of Required Parking Spaces.

The number of required parking spaces under this Article shall be determined by either the Numerical Method [subsection (1)] or the Parking Study method [subsection (2)] below.

(1) Numerical Method.

Refer to Tables 50.06.002-1, -50.06.002-2, and 50.06.002-3 to determine the number of parking spaces required. The minimum number of parking spaces specified for each type of use shall include reductions to parking requirements pursuant to subsection (v)(1) below and Table 50.06.002-3~~are the minimum standards. Fractional space requirements shall be counted as the next highest whole space.~~

This amendment requires the reduction factors to be applied, in order to reduce the number of parking spaces. This is generally used by developers, but should be required when calculating the maximum amount of parking in subsection ii below.

The “fractional space rounding” is moved into the below table.

<u>Table 50.06.002-1: Numerical Method of Determining Minimum Parking Spaces Required</u>	
<u>Determine:</u>	<u>Method of Determining:</u>
<u>Floor Area Amount</u>	<u>1. From Table 50.06.002-2, determine if floor area is used to calculate the number of parking spaces required for the use(s). (Floor Area per Parking Space)</u> <u>2. Apply the “Floor Area Adjustment for Retail Use on Ground Floor” exemption, if applicable, to the Floor Area Amount.</u>

CORRECTION COMMENTARY: The “Floor Area Adjustment for Retail Use on Ground Floor” exemption in the Floor Area Amount, subsection (2) was originally considered for parking adjustments to be recommended for the Downtown Redevelopment Design District. Staff eventually decided not to recommend that exemption, but that Adjustment was inadvertently not removed from the Table explaining how to calculate the Minimum Parking Spaces Required.

CORRECTED VERSION

50.06.002 PARKING

2. STANDARDS FOR APPROVAL

a. Vehicle Parking

a. Vehicle Parking

ii. Number of Required Parking Spaces.

The number of required parking spaces under this Article shall be determined by either the Numerical Method [subsection (1)] or the Parking Study method [subsection (2)] below.

(1) Numerical Method.

Refer to Tables 50.06.002-1, -50.06.002-2, and 50.06.002-3 to determine the number of parking spaces required. The minimum number of parking spaces specified for each type of use shall include reductions to parking requirements pursuant to subsection (v)(1) below and Table 50.06.002-3~~are the minimum standards. Fractional space requirements shall be counted as the next highest whole space.~~

This amendment requires the reduction factors to be applied, in order to reduce the number of parking spaces. This is generally used by developers, but should be required when calculating the maximum amount of parking in subsection ii below.

The “fractional space rounding” is moved into the below table.

<u>Table 50.06.002-1: Numerical Method of Determining Minimum Parking Spaces Required</u>	
<u>Determine:</u>	<u>Method of Determining:</u>
<u>Floor Area Amount</u>	<u>From Table 50.06.002-2, determine if floor area is used to calculate the number of parking spaces required for the</u>

	use(s). (Floor Area per Parking Space)
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ERROR VERSION

50.06.006 GEOLOGIC HAZARDS AND DRAINAGE

3. DRAINAGE STANDARDS

a. Drainage Standards for Ministerial and Minor Development

a. Drainage Standards for ~~Ministerial and~~ Minor Development

i. Applicability

CORRECTION COMMENTARY: The additions to the title were omitted. They were in Exhibit F-7
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CORRECTED VERSION

50.06.006 GEOLOGIC HAZARDS AND DRAINAGE

3. DRAINAGE STANDARDS

a. Drainage Standards for Ministerial and Minor Development

a. Drainage Standards for ~~Ministerial and~~ Minor Development Other Than Partitions, Subdivisions and Certain Structures.

i. Applicability

ERROR VERSION

50.07.007 LAND DIVISIONS

4. PLANNED DEVELOPMENT OVERLAY

d. Authorization

d. Authorization

ii. Dimensional Exceptions

(1) The reviewing authority may grant exceptions to ~~the lot size, front setback plane, maximum side yard plane, lot dimension and front and rear setback requirements of the underlying zone~~ requirements (except for the zone requirements and limitations listed below) if the applicant demonstrates that the proposed PD provides the same or a better sense of privacy, appropriate scale and open space as a PD designed in compliance with the standard or standards to which an exception is sought. The reviewing authority shall consider the factors listed in subsection (2) below in determining whether to approve the exceptions. ~~The considerations in granting the exceptions are set forth in subsection (2) below:~~

(b). Lot Coverage and Floor Area Limitations.

(i). The aggregate lot coverage for all of the lots shall not exceed the maximum lot coverage based on the net buildable area of the project,

The addition of “net buildable” area of the project, and removal of the “as a whole” reference conforms with current practice of deducting the street area from the project area, in determining the lot coverage.

CORRECTION COMMENTARY: As a result of change in the definition of “net developable acre”, “net buildable area” is proposed be to eliminated, with “Net Developable Acre.”
Commentary revised.

(ii). The total floor area of all lots, as modified by subsection (a), shall not exceed the aggregate of the floor areas as determined based upon the respective lot area and the floor area methodology required by the zone.

The current code provision is unclear how FAR is allocated “based upon the project as a whole” upon the project area, or the aggregate of the FA that would result upon applying the FAR to the lots within the project, and then a reallocation of the total FAR back to the lots. Staff has been applying the “FAR upon the lots” method, with the applicant reallocating the FA back. This amendment continues the historical practice, establishing the maximum FA as the cumulative total of the FA of all lots within the project. However, since the FAR is a zone limitation, the internal allocation would be required to meet the PD criteria, so that the FA is allocated based upon “appropriate scale”, but with a maximum cap on the FA for the entire project.

CORRECTION COMMENTARY: The subsection (a) clause was intended to refer in the original PC discussions to subsection ii(1). (See Exhibit F-7, pg. 159). However, although that subsection does not allow modification of zone standards, and the floor area standard is a zone standard, the floor area per parcel would not be modified in a PD—it is allowed to be redistributed amongst the lots, with the total floor area not being affected. Accordingly, the reference to “as modified by subsection (a)” is not necessary.

CORRECTED VERSION

50.07.007 LAND DIVISIONS

4. PLANNED DEVELOPMENT OVERLAY

d. Authorization

d. Authorization

ii. Dimensional Exceptions

(1) The reviewing authority may grant exceptions to ~~the lot size, front setback plane, maximum side yard plane, lot dimension and front and rear setback requirements of the underlying zone~~ requirements (except for the zone requirements and limitations listed below) if the applicant demonstrates that the proposed PD provides the same or a better sense of privacy, appropriate scale and open space as a PD designed in compliance with the standard or standards to which an exception is sought. The reviewing authority shall consider the factors listed in subsection (2) below in determining whether to approve the exceptions. ~~The considerations in granting the exceptions are set forth in subsection (2) below:~~

(b). Lot Coverage and Floor Area Limitations.

- (i). The aggregate lot coverage for all of the lots shall not exceed the maximum lot coverage based on the net developable acre of the project,

The addition of “net developable acre” [formerly “net buildable” area, proposed for repeal] of the project, and removal of the “as a whole” reference conforms with current practice of deducting the street area from the project area, in determining the lot coverage.

- (ii). The total floor area of all lots shall not exceed the aggregate of the floor areas as determined based upon the respective lot area and the floor area methodology required by the zone.

The current code provision is unclear how FAR is allocated “based upon the project as a whole” upon the project area, or the aggregate of the FA that would result upon applying the FAR to the lots within the project, and then a reallocation of the total FAR back to the lots. Staff has been applying the “FAR upon the lots” method, with the applicant reallocating the FA back. This amendment continues the historical practice, establishing the maximum FA as the cumulative total of the FA of all lots within the project. However, since the FAR is a zone limitation, the internal allocation would be required to meet the PD criteria, so that the FA is allocated based upon “appropriate scale”, but with a maximum cap on the FA for the entire project.