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**BEFORE THE PLANNING COMMISSION
OF THE
CITY OF LAKE OSWEGO**

Approved
05/30/12

6 A REQUEST FOR COMMUNITY DEVELOPMENT) LU 08-0054 – 1784
7 CODE AMENDMENTS TO CLARIFY AND) (CITY OF LAKE OSWEGO)
8 UPDATE VARIOUS SECTIONS THAT MAY HAVE) FINDINGS, CONCLUSIONS & ORDER
9 POLICY IMPLICATIONS)

11 NATURE OF APPLICATION

12
13 Legislative amendments (Ordinance 2526) to the Lake Oswego Community Development Code to clarify
14 and update various sections. These provisions have been identified as having policy implications.

15
16 HEARINGS

17
18 The Planning Commission held public hearings and work sessions and considered this application at its
19 meetings of:

20 Hearings

21 09/22/08: testimony was combined with all the other CDC amendments (LU 08-0051, -0052, -0053)
22 01/26/09: no discussion, continued
23 03/23/09: no discussion, continued
24 08/10/09: no discussion, continued
25 09/30/09: no discussion, continued
26 01/25/10: discussion, received testimony, continued
27 02/08/10: no discussion, continued
28 04/26/10: no discussion, continued
29 07/12/10: no discussion, continued
30 08/23/10: no discussion, continued
31 08/30/10: discussion, continued
32 10/25/10: no discussion, continued
33 01/10/11: no discussion, continued
34 02/14/11: no discussion, continued
35 04/11/11: no discussion, continued
36 05/09/11: no discussion, continued
37 06/13/11: no discussion, continued
38 07/11/11: discussion, continued
39 07/25/11: cancelled due to lack of a quorum
40 08/08/11: discussion, continued
41 09/26/11: discussion, continued
42 10/24/11: discussion, continued
43 11/14/11: discussion, continued
44 11/28/11: discussion, continued
45 01/23/12: discussion, continued
46 02/27/12: no discussion, continued
47 04/09/12: discussion, received testimony, hearing closed (return on 05/30/12 with Findings)
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1 CRITERIA AND STANDARDS

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3 A. City of Lake Oswego Comprehensive Plan:

- 4
5 Goal 1 Citizen Involvement, Policies 1 and 5
6 Goal 2 Land Use Planning, Section 1, Land Use Policies and Regulations, Policy 23
7 Goal 7 Natural Disasters and Hazards, Section 3, Landslides, Erosion and Unstable Soils
8 Goal 15 Willamette River Greenway
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10 B. City of Lake Oswego Community Development Code¹:

- 11
12 LOC 50.75.005 Legislative Decision Defined.
13 LOC 50.75.010 Criteria for Legislative Decision
14 LOC 50.75.015 Required Notice to DLCD
15 LOC 50.75.020 Planning Commission Recommendation Required
16 LOC 50.75.025 City Council Review and Decision
17

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

- 19
20 Goal 1 Citizen Involvement
21 Goal 2 Land Use Planning
22 Goal 7 Areas Subject to Natural Hazards
23 Goal 15 Willamette River Greenway
24

25 CONCLUSION

26
27 The Planning Commission concludes that LU 08-0054 is in compliance with all applicable criteria.
28

29 BACKGROUND / SUMMARY OF FACTS

- 30
31 1. During the original review of proposed code amendments in 2008, the Commission found that the
32 package of amendments was too large to effectively review and that not all of the proposed
33 amendments were simply corrections or clarifications, codification of Planning Department’s
34 interpretations, or resolving of conflicts between code sections. Therefore, the Commission found
35 it necessary to separate the amendments into two parts: 1) LU 08-0052 - general amendments
36 with minor policy implications (Ordinance 2525, adopted on November 1, 2011); and 2) LU 08-
37 0054 (Ordinance 2526), amendments with policy implications, which are the subject of these
38 Findings.
39

40 During work sessions and hearings in 2008, most of the public testimony focused on sensitive lands
41 and neighborhood compatibility issues. The Commission decided to further separate portions of
42 the proposed amendments and consider them separately, including: 1) Infill Amendments (LU 08-
43 0053-Ordinance 2523-Comprehensive Plan and Ordinance 2524-CDC, enacted on 07/06/10, and

¹ Chapter 50 of the Lake Oswego Code was reorganized and renumbered effective April 19, 2012. The code references in these Findings, Conclusions and Order are to the prior version of Chapter 50 because those were the standards in effect at the time the application was filed. The prior version of Chapter 50 is available at: <http://www.codepublishing.com/OR/LakeOswego/html2/LakeOswego50X/LakeOswego50X.html>

1 06/01/10, respectively); 2) Sensitive Lands Amendments (LU 08-0051A-Ordinance 2527, enacted
2 on 04/21/09); and 3) Amendments with Minor Policy Implications (LU 08-0052 (Ordinance 2525),
3 enacted on December 1, 2011 and LU 08-0052A (Ordinance 2556), enacted on August 3, 2010.
4

- 5 2. Review of LU 08-0054 (Ordinance 2526) resumed in January 25, 2010. During the lengthy hearing
6 and deliberation process, some Commission members' terms expired or they left the Commission,
7 while others joined the Commission during the deliberation phase.
8
- 9 3. During review of LU 08-0052, the City Council remanded some items back to the Planning
10 Commission for further review (City Council discussion, October 4, 2011). Because those items
11 were part of the consolidated public hearing process of this application and for LU 08-0052, the
12 Planning Commission added those remanded items into its review of issues for these amendments.
13 These items were discussed in Planning Commission Staff Report #5, dated April 2, 2012.
14

15 FINDINGS AND REASONS

16
17 The Planning Commission incorporates the staff report, dated October 11, 2010, and
18 supplemental reports and staff memoranda dated January 15, July 21, 2010 and August 3, 2010;
19 and July 5, 2011 and April 2, 2012 (with all exhibits attached thereto) as support for its decision,
20 supplemented by the further findings and conclusions set forth herein. Further, Exhibit F-7 of
21 LU 08-0054, the explanatory annotations of Commission discussion and section commentary
22 used and produced by the Commission during the review process is incorporated by reference.
23 In the event of any inconsistency between the supplementary matter herein and the staff report
24 and supplementary reports, the matter herein controls. To the extent they are consistent with
25 the approval granted herein, the Commission adopts by reference its oral deliberations on this
26 matter.
27

28 Following are the supplementary findings and conclusions of this Commission:
29

- 30 1. The Commission finds that the explanatory annotations and commentary in Exhibit F-7 of LU 08-
31 0054 records the Commission's process, questions and areas of agreement. The Commission asked
32 staff to return with additional information on certain issues (refer to Supplemental Staff Report #5,
33 dated April 2, 2012, and Exhibits F-5 and F-6). See the commentary in Exhibit F-8 for Commission
34 discussion and recommendation on these items and all of the amendments. The Commission
35 attempted to resolve most issues by unanimous consensus, but in a few cases the Commission
36 found it necessary to note a split of opinion, and move forward with the majority consensus as the
37 position of the Commission.
38
- 39 2. The Commission received written and verbal testimony in 2008 when all of the code amendments
40 were part of one package (subsequently separated into Ordinances 2523, 2524, 2525, 2525-A, and
41 2527. Ordinance 2526, the subject of these Findings is the last to be brought to the City Council. In
42 2008, the testimony centered on Sensitive Lands and uses in the lake setback-subjects which were
43 covered in prior ordinances.
44

45 During review of these amendments, the Commission received public testimony on the following
46 issue:
47

48 Telecommunication Facilities - Proposal to amend the priorities for co-locating a telecommunication
49 facility where the facility will project more than 10 feet higher than the existing facility. A

1 representative for AT&T stated that there may be unintended consequences due to recently
2 passed federal legislation. The Commission recommended approval of the amendment pending
3 legal analysis by the Deputy City Attorney regarding its relationship to the federal regulation (Exhibit
4 F-9).
5

6 Council Referred Items The City Council approved LU 08-0052 (Ordinance 2525) in November 2011
7 with the exception of three subjects that they referred back to the Planning Commission for
8 further discussion. Those issues are:

- 9 1. Sensitive Lands - Trails as permitted development in RC (Tree Groves) and RP Districts
10 (Stream Corridors and Wetlands)
- 11 2. Definition of "Public Transportation Facility"
- 12 3. Parks and Open Space Maintenance Standards.

13 With regard to the placement of trails and the definition of public transportation facility, the
14 Commission finds that no additional information or public concerns were received regarding these
15 issues and if there is a nexus to place the trail, the proposed amendments allow property owners
16 more flexibility in locating them. Therefore, referring to their earlier discussion on these issues
17 during the review of LU 08-0052, the Commission recommends approval of these amendments.
18 With regard to the issue of maintenance standards for Parks and Open Space; although staff
19 agreed with the Council that there may be situations where flexibility is needed and one
20 Commissioner agreed, the Commission finds that no additional information or public concerns
21 were received on this issue and, referring to their earlier discussion, voted 3-1 to recommend
22 approval of this amendment.
23

- 24 3. Exhibit F-8 contains the recommended amendments to the Lake Oswego Community Development
25 Code. The Commission concludes that LU 08-0054 (Ordinance 2526) complies with all applicable
26 legislative criteria, for the reasons set forth in the above referenced reports and memos.
27

28 ORDER

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30 IT IS ORDERED BY THE PLANNING COMMISSION of the City of Lake Oswego that:

- 31
32 1. The Planning Commission recommends that the code amendments to the Community
33 Development Code in Exhibit F-8 of these Findings and Conclusions be approved by the City
34 Council.
35

36 Note: The commentary highlighted in yellow are not a formal part of the proposed Ordinance
37 2526 of this Commission and are therefore not formally recommended by the Commission to the
38 Council for adoption, but rather are included to assist the Council and the public in summarizing
39 the reasons and effect of the recommended code revisions.
40

41 I CERTIFY THAT THIS ORDER was presented to and APPROVED by the Planning Commission of the City of
42 Lake Oswego.
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45 DATED this 30th day of May 2012.
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Jon Gustafson /s/
Jon Gustafson, Chair
Planning Commission

Iris McCaleb /s/
Iris McCaleb
Administrative Support

ATTEST:

PRELIMINARY DECISION - April 9, 2012

AYES: Glisson, Gustafson, Gaar, Prager
NOES: None
ABSTAIN: None
RECUSE: None
EXCUSED: Bhutani, Johnson

ADOPTION OF FINDINGS AND ORDER - May 30, 2012

AYES: Bhutani, Gaar, Glisson, Gustafson, Johnson, Prager
NOES: None
ABSTAIN: None
RECUSE: None
EXCUSED: None