

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

A REQUEST FOR AMENDMENTS TO THE) LU 12-0032 -1796
COMPREHENSIVE PLAN MAP, COMPREHENSIVE) (CITY OF LAKE OSWEGO)
PLAN TEXT AND COMMUNITY DEVELOPMENT CODE) FINDINGS, CONCLUSIONS & ORDER
TO IMPLEMENT THE FOOTHILLS FRAMEWORK PLAN)

NATURE OF APPLICATION

The City is requesting amendments to the Comprehensive Plan Map, and text changes to the Comprehensive Plan to create a Foothills Special District Plan, and to the Community Development Code to create zoning standards for a new Foothills Mixed Use (FMU) zone, and to amend a portion of the Floodplain development standard. These amendments will implement the City Council’s Foothills Framework Plan to create a pedestrian-friendly mixed-use district in the Foothills area.

HEARINGS

The Planning Commission held public hearings and considered this application at its meetings of October 8 and October 22, 2012. The Commission received testimony at both meetings.

CRITERIA AND STANDARDS

A. Oregon Statewide Planning Goals

- Goal 1: Citizen Involvement
- Goal 9: Economic Development
- Goal 10: Housing
- Goal 12: Transportation

B. Transportation Planning Rule (Chapter 660, Division 12)

C. Regional Plans

- Regional Transportation Functional Plan (RTFP)-Title 4: Regional Parking Management
3.08.410 Parking Management
- Metro Urban Growth Management Functional Plan (UGMFP) -Title 3-,Sections 3.07.310-
3.07.370)- Water Quality, Flood Management and Fish and Wildlife Conservation

D. City of Lake Oswego Comprehensive Plan

- Goal 1: Citizen Involvement
- Goal 2: Land Use Planning
 - Section 1 Land Use Policies and Regulations
 - Section 2 Community Design and Aesthetics
- Goal 5: Open Spaces, Scenic and Natural Areas and Historic Resources
 - Section 1 Fish and Wildlife Habitat
 - Section 2 Vegetation
 - Section 4 Stream Corridors
 - Section 5 Scenic Lands
 - Section 6 Open Space

- 1 Goal 6 Air, Water and Land Quality
- 2 Section 2 Water Resource Quality
- 3 Goal 7 Areas Subject to Natural Disasters and Hazards
- 4 Section 1 Flood Hazards
- 5 Goal 9: Economic Development
- 6
- 7 Goal 10: Housing
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- 9 Goal 11: Public Facilities and Services
- 10 Section 2, Storm Water Management
- 11 Section 3, Water Treatment and Delivery
- 12 Section 4, Wastewater Collection and Delivery
- 13 Goal 12: Transportation
- 14 Goal 1-Major Street System-
- 15 Goal 4-Land Use and Transportation Relationships-
- 16 Goal 6-Walking
- 17 Goal 7-Bicycling
- 18 Goal 11-Parking
- 19 Goal 13: Energy Conservation
- 20
- 21 Goal 14: Urbanization
- 22
- 23 Goal 15: Willamette River Greenway
- 24
- 25

26 E. City of Lake Oswego Community Development Code (LOC Chapter 50)

- 27
- 28 LOC 50.01.003.3 Jurisdiction of Hearing Body
- 29 LOC 50.07.003.3.c Published Notice for Legislative Hearing
- 30 LOC 50.07.003.16.a Legislative Decisions Defined
- 31 LOC 50.07.003.16.b Criteria for Legislative Decision
- 32 LOC 50.07.003.16.c Required Notice to DLCD
- 33 LOC 50.07.003.16.d.iii Planning Commission Recommendation Required
- 34 LOC 50.07.003.16.e City Council Review and Decision
- 35

36 CONCLUSION

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38 The Planning Commission concludes that LU 12-0032, contingent upon the Council making a
39 specific finding that the proposed Amendment is in compliance with Metro’s Title 3, is in
40 compliance with all applicable criteria.

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42 FINDINGS AND REASONS

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44 The Planning Commission incorporates the staff report, dated October 1, 2012, and staff
45 memorandum, dated October 11, October 16 (parts 1 and 2) and October 19, 2012, (with all
46 exhibits attached thereto) as support for its decision, supplemented by the further findings and
47 conclusions set forth herein. In the event of any inconsistency between the supplementary
48 matter herein and the staff report, the matter herein controls. To the extent they are consistent
49 with the approval granted herein, the Commission adopts by reference its oral deliberations on
50 this matter.

1 Following are the supplementary findings and conclusions of this Commission:
2

- 3 1. Written testimony was received at the hearing. The Planning Commission received oral
4 testimony at the hearing from two business/property owners in the District, the Chair of
5 the Old Town Neighborhood Association, and the general public.
6
7 2. There was testimony from two citizens that the public notice requirements for the public
8 hearing were not met, and Ms. O'Rourke-Meadors raised a "Point of Objection" to
9 postpone the public hearing due to "inadequate written notice." The "Point of Objection"
10 was taken under advisement.

11
12 The Commission received a memorandum from Deputy City Attorney Evan Boone on this
13 issue and the Commission concurs in the analysis and conclusion. The Commission finds
14 that the proposed amendments to implement the adopted Foothills Framework Plan are
15 legislative, that LOC 50.07.003.16.d directs public notice for legislative decisions to be
16 published pursuant to LOC 50.07.003.3.c, which requires notice to be published ten days
17 in advance, and the notice was mailed on 9/28/12 for the October 8 hearing, and that no
18 individual written notice to property owners is required. The Planning Commission finds
19 that the public notice requirements have been met, and the Commission denies the Point
20 of Objection raised by Ms. O'Rourke-Meadors on this point.

- 21
22 3. There was testimony questioning why Goal 5, Section 8 (Historic and Cultural
23 Resources) was not applicable because there are historic properties in the Foothills
24 District.

25
26 The Commission finds that no properties in the District are on the City's Landmark
27 Designation List (LOC 50.06.009.4), therefore, Goal 5 relating to Historic Resources is not
28 applicable.

- 29
30 4. There was testimony from Gary Buford, a property owner, that he was opposed to having
31 his commercial property on State Street included in the Foothills Special District Plan and
32 designated FMU on the Comprehensive Plan Map. He was satisfied that the applicant
33 subsequently modified the proposal so that his property was excluded from the Foothills
34 Special District Plan and from the FMU designation.

35
36 The Commission heard from staff that it was necessary for the properties to the north and
37 south of Mr. Buford's to be designated FMU because there are projects associated with
38 those properties in the Foothills Special District Plan and in the proposed Foothills Urban
39 Renewal Plan. There is no project in either the Special District Plan or Foothills Urban
40 Renewal Plan that is associated with Mr. Buford's property. Therefore, it was not
41 unreasonable to remove the Buford property from the proposed boundaries of the Foothills
42 Special District Plan.

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44 The Commission finds that there should not be a gap in the FMU Comprehensive Plan Map
45 designation along State Street, and in the possibility of FMU zoning designation. This will
46 provide the opportunity for development all along State Street to be consistent with the
47 Foothills Special District Plan. The Commission finds that the Buford property should be
48 part of the Foothills Special District Plan and of the Comprehensive Plan FMU designation
49 and that Attachment C to the Ordinance, the Comprehensive Plan Map, should reflect this.
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- 51 5. The Commission finds that the concerns of Portland's Bureau of Environmental Services
52 (BES) regarding the Tryon Creek Wastewater Treatment Plant (see Exhibit G-3) are
53 adequately addressed in regards to applicable criteria because the City of Lake Oswego is

1 working with BES as they update their public facilities plan to include performance and
2 design standards.
3

- 4 6. The Commission finds that text regarding scale and character should be added to the
5 purpose statement of the FMU zone standards in the amendments to the Community
6 Development Code. The purpose section, in Attachment H of the Ordinance, includes
7 additional text to address scale and character of the District.
8
- 9 7. Regarding the Oswego Point Setback, in proposed TABLE 50.04.001-14, Footnote 14, the
10 Commission finds that the intent of the Framework Plan was to provide an 85' setback from
11 the apartments / condominiums, rather than from the garages. Staff has reviewed the
12 distances between the existing Oswego Pointe habitable structures (condominiums /
13 apartments) and non-habitable structures (garages) and the property line between the
14 Oswego Pointe development and Foothills District and found that that the distance currently
15 exceeds 85 ft. Therefore the 85' setback should be met by any construction on the Oswego
16 Pointe site.
17
- 18 8. The Commission finds that the for minimum parking for commercial residential use (hotel) In
19 the Code should be revised from .25 spaces per room to 1.0 space per room because the
20 original assumption in the Framework Plan was based on higher level of transit service.
21
- 22 9. The Commission finds that the Special District Plan should reference the A Avenue
23 connection to the Foothills District and Willamette River. This shall be accomplished by
24 adding the following to Section 8 of the Special District Plan:
25
- 26 e. A pedestrian extension of A Avenue into the District is intended to provide a
27 connection from downtown Lake Oswego to the Willamette River via Oswego
28 Point Drive and the Curlicue trail.
29
- 30 10. The Commission finds that the following additional uses in the FMU zone are consistent with
31 its purpose, and the Foothills Special District Plan:
32
- 33 • Music schools (p5)
 - 34 • Other educational uses associated with private or public institutions (p5)
 - 35 • Vocational schools (p6)
 - 36 • Veterinarian's facilities, totally enclosed (p.10)
 - 37 • Delicatessen, table service permitted (p,12)
 - 38 • Restaurant, with or w/o lounge (p.13)
 - 39 • Specialty retail (antique stores, art galleries, jewelers) p.27

40
41 and that Attachment H-1 to Exhibit A-1.1 should be revised to list these uses as Permitted
42 Uses in the FMU zone.
43

44 The Commission notes that drive-through restaurants would not be consistent with the
45 purposes of the FMU zone. In the Commercial Use Table, Attachment H-1 of Exhibit A-1.1,
46 the use "Restaurant, take out only; or which includes a drive-in window" is shown as a
47 Permitted Use, but is also subject to the FMU zone-wide applicable restriction by Footnote
48 32: "No drive-through businesses are allowed in the West Lake Grove Design District or
49 FMU zone." Thus, the net effect is that "Restaurant, take out only" is the only type of use
50 permitted in this use classification.
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11. The Commission finds that:

- The Comprehensive Plan map amendment creating the FMU designation,
- The Comprehensive Plan amendments adding a new Foothills Special District Plan, and amendments to Goals 9, 12 and 14, and
- The amendments to the Community Development Code that create a zoning standards for a new FMU zone,

implement the Foothills Framework Plan and that they are in compliance with Metro’s Urban Growth Management Functional Plan, which encourages mixed-use pedestrian friendly development.

12. Regarding the amendment to the LOC 50.05.011.7 (Flood Management Area Development Standards), which proposes to eliminate balanced cut and fill requirements for fill in quantities greater than ten cubic yards within the floodplain depicted on LOC Figure 50.05.011-D that is zoned FMU and located at least 200 feet from the Ordinary High Water elevation of Tryon Creek and the Willamette River the Commission finds, based upon the testimony and technical analysis submitted the applicant’s consultant, Vigil Agrimis, that there would be no net rise, and that the flood management area that is depicted and located as described above does not function as a floodplain.

13. The Commission had significant concerns whether the amendment to LOC 50.05.011.7 (“Amendment”) complies with Metro’s Title 3. As a result, the Commission’s recommendation to the Council is contingent upon the Council making a specific finding that the proposed Amendment is in compliance with Metro’s Title 3. The Commission finds that such a determination is necessary to ensure compliance with Goal 7 of the Comprehensive Plan.

RECOMMENDATION

IT IS RECOMMENDED BY THE PLANNING COMMISSION of the City of Lake Oswego that, **contingent upon the Council making a specific finding that the proposed Amendment is in compliance with Metro’s Title 3**, LU 12-0032, Ordinance 2599 (Exhibit A-1.2, as revised pursuant to Findings No. 6, 7, 8, 9 and 10), be approved by the City Council.

I CERTIFY THAT THESE FINDINGS, CONCLUSION, AND RECOMMENDATION were presented to and APPROVED by the Planning Commission of the City of Lake Oswego.

DATED this 14th day of November 2012.

Jon Gustafson/s/
Jon Gustafson, Vice Chair
Planning Commission

Iris McCaleb /s/
Iris McCaleb
Administrative Support

APPROVED 11/14/12

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ATTEST:

PRELIMINARY DECISION - October 22, 2012

AYES: Arthur, Bhutani, Gaar, Gustafson, Johnson, Swinford
NOES: Prager
ABSTAIN: None
EXCUSED: None

ADOPTION OF FINDINGS AND RECOMMENDATION - November 14, 2012

AYES: Arthur, Bhutani, Gustafson, Swinford
NOES: Prager, Swinford
ABSTAIN: None
EXCUSED: Johnson