



Laurel Hill Valley Citizens

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September 9, 2015

Mr. Fred Wilson, Hearings Official
c/o Gabriel Flock
Planning
City of Eugene
99 West 10th Ave.
Eugene OR 97401

Re: Z-15-005 - Laurel Hill Valley Citizen's Association 2nd Open Record Submittal

Dear Mr. Wilson:

This letter comprises part of the arguments submitted during the second open record period relating to the Zone Change application for the Laurel Ridge property. LHVC previously submitted written comments regarding this matter on August 14, at the hearing on August 26th, and again on September 2nd, 2015.

Applicant's 9/2/15 Testimony - a Study in Self-Contradiction and Obfuscation

"Mea culpa, me culpa, mea maxima culpa. I was wrong."

That is how the applicant's land use consultant starts his letter of 9/2/15. He admits to having overlaid the boundary survey oriented to True North, and the Metro Plan Diagram to State Plane Coordinate System. Or does he?

In the following two-and-a-half pages, he backpedals from this statement and tries to confuse the issue, ending finally on page 3 (2nd paragraph) with this statement regarding the adopted 2004 version of the Metro Plan:

"If rotating the north arrow was not an intentional decision, with a methodology, justifications, and findings supporting such, it can only be viewed as an error in the construction of the diagram. Causing further concern that it may be just that - a scrivener's error - is that on the currently available Metro Plan diagram, date 12/31/2010, the only one available at the above-referenced website, the north arrow appears to have been rotated back to its previous orientation, thus matching the 1980 and 1987 diagrams".

Oh, so now it's not really an error of Schirmer-Satre, it's actually an error of the "scrivener" that the north arrow is rotated 2 degrees on the 2004 version.

What an unbelievably disingenuous statement!!!

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After all the testimony that was already in the record, and given the applicant's own evidence in the form of the 4 different versions of the Metro Plan Diagram (1980, 1987, 2004, and 2010), we do KNOW what the problem is. But the applicant wants us to believe that because they can't figure it out, nobody can.

The Metro plan itself states (see also online pages 477 and 478 of the Applicant's 9/2 submission) that questions regarding the Metro Plan should be directed to either the City of Eugene, City of Springfield, Lane County, or LCOG. **Questions regarding the diagram itself and its periodic updates should be directed to LCOG.**

When LHVC first noted the discrepancy regarding the north arrows, WE DID EXACTLY THAT!. We contacted LCOG and found out what the problem is. And we submitted this as testimony, we explained it at the hearing: The latest version of the ESRI software does not auto-rotate the North Arrow to True North anymore. LCOG has not implemented the manual work-around for that issue except on the "Unofficial MetroPlan Diagram" submitted by LHVC as part of the first round of evidence.

Rather than go through two-and-a-half pages of inconsequential speculation, the applicant's consultant could have called the authors of the Metro Plan Diagram and found out what LHVC determined months ago. Mystery solved.

The applicant submits 4 versions of the Metro Plan Diagram (1980, 1987, 2004 and 2010). Even cursory review of these four versions shows that the entire diagram is rotated to place North at the top of the page on the 1980 and 1987 versions, where essentially N-S roads run straight up-down and E-W roads run straight left-to-right on the page. On the 2004 and 2010 version the entire diagram is rotated to the State Plane Coordinate System (2° clockwise), and N-S roads do not run straight up and down on the page. The official 2004 Metro Plan Diagram has the N arrow rotated to match the diagram. THIS IS NOT ROCKET SCIENCE.

Are a Fuzzier Diagram and Even Fewer "Referents" Really Better?

Despite their previous protestations to the contrary, the Applicant now admits that they did not use the scanned 2004 diagram in their application. They used the digital version. Besides their admission, this can now be proven, because in their never-ending quest for authenticity, they have now actually scanned the printed (copied) version and are proposing to use it.

Once again, the applicant's land use consultant is making a huge issue out of nothing. The small print in the right lower corner of the ADOPTED 2004 METRO PLAN DIAGRAM states in the first sentence:

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“The information on this map was derived from digital databases on Lane Council of Governments’ regional geographic information system...” (Emph. Added)

Even then (2004), LCOG produced the map from digitized GIS maps. It was not hand-drawn even at that time. The applicant would (and I’m sure does and will) argue that maybe LCOG changed digital boundaries in this vicinity surreptitiously between 2004 and now. But detailed review shows that is not the case. The digital version used by the applicant is identical to the scanned version of the printed 2004 diagram that LHVC was provided with by City Planning staff (submitted in our 9/2/15 packet).

On the other hand, the poor quality of their “highest-resolution” scan allows the applicant to try to slide things around to their advantage. This is even more true because in their latest version, they have now eliminated the City Limits and UGB in the areas where those lines are not coincident with their property boundary. The applicant’s audacity in reducing their few “referents” even more is astonishing. The applicant claims that they are limited in their choice of referents by LUBA’s decision. Nonsense!

LUBA placed absolutely no limits on the number of referents that can or should be used to determine the location of the POS line on the parcel. LUBA touches on the use of some referents on Page 16 (starting at line 20):

“Admittedly the Metro Plan Diagram and the annexation map are at different scales, but the common referents provided by the East 30th Avenue right-of-way, the curve and the two intersections are sufficient to determine, even without reference to the UGB line, that at least some portion of the southwest corner of the subject property is within the POS designation. Based on those referents alone, the city could easily conclude that some portion of the southwestern corner of the subject property bordering the East 30th Avenue right-of-way is designated POS.”

In other words, LUBA decided that the determination of presence of POS in the southwest corner of the property was possible by use of four referents alone. LUBA made no statement whatever limiting the number of referents for determining the actual extent of the POS designation on the property.

Any reputable land use consulting firm tasked with this determination would use the maximum number of possible referents to constrain the limits of the POS on the subject property. Schirmer-Satre decided that the absolute minimum number of referents (one) is more to their liking. Moreover, even using only the 30th Avenue center-line, after recently removing the City Limits and UGB from their survey map, the applicant’s registration of 30th Avenue is still abominable, especially in the westernmost area (see attached Figure with an enlargement of the pertinent portion of the applicant’s map).

Conclusions

In conclusion, the applicant's land use consultant has mistaken the LUBA decision in Z-12-0002 to mean that they are limited to using:

- ▶ A very bad scan of the 2004 Metro Plan Diagram.
- ▶ One referent only (30th Avenue Centerline).

The LUBA decision provides absolutely no basis for this opinion. "The tools at their disposal" in the LUBA opinion sets no limits on which tools can be utilized. As LUBA pointed out, the Metro Plan Diagram is digitized (yes, even the 2004 version) and, therefore, the digital version could well be considered a "tool". It provides significantly crisper boundaries between land use designations.

The tools at our disposal, even if we use only the snippet of the Metro Plan Diagram that the applicant is artificially limiting themselves to, consist of 30th Avenue, its curve, Spring Boulevard, Bloomberg Park, and the City Limits. This represents a sufficient number of referents to accurately constrain the location of the north boundary of the POS designation on the parcel.

Rather than artificially limiting the number of referents, LHVC first asked LCOG to provide a map depicting how their GIS system overlays the tax lots onto the Metro Plan diagram. This was submitted August 14th as part of our first document.

Then LHVC developed overlays of the subject lot onto the Metro Plan diagram using:

1. The applicant's own survey (ZC-2) and Metro Plan Diagram (ZC-3). The two maps were aligned using 30th Avenue, its curve, and the position of the City Limits relative to Spring Boulevard.
2. The applicant's own survey (ZC-2) and a high-resolution scan of the 2004 Metro Plan Diagram provided by City of Eugene Planning staff. The two maps were aligned using the same referents as under 1., above.
3. The applicant's Metro Plan Diagram (ZC-3) and Lane County Assessor's tax lot maps. In this case, the alignment was performed using 30th Avenue, Spring Boulevard, and Bloomberg Park (TL 800)

Although the registration was achieved using different combinations of referents, all four maps (LCOG's and the versions prepared by LHVC) are, for all practical purposes, identical. All referents fit on all maps. All maps are significantly crisper than those provided in the applicant's 9/2/15 submittal, including the scanned Metro Plan Diagram.

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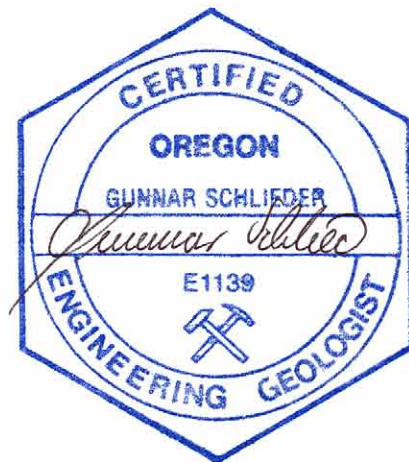
Recommendation

Given that the applicant's representatives have proven that, at least currently, they are incapable of producing a map of the POS boundary on the subject property which is free of gross errors and inaccuracies it is recommended to deny the current application on the basis of non-conformance with EC 9.8865 (1).

Sincerely,



Gunnar Schlieder, Ph.D., CEG
Co-Chair
Laurel Hill Valley Citizens



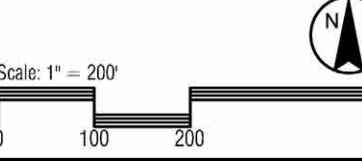
Expires 12/31/2015



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**ZONE CHANGE: METRO PLAN
DIAGRAM ON SUBJECT PROP.**
**LAURELRIDGE
MAP 18-03-10-00, LOTS 701 & 703**
NEAR 30TH AVENUE AND SPRING BLVD., EUGENE OREGON



#	Date	Description
1	9.2.15	Adopted 2004 MP Map

Project Number	1104
Drawn By	JOS/eks
Checked	RMS
Date	5-15-2015
Phase	ZONE CHANGE

ZC-4



**Area of Poor Registration
Due to NW Shift of Tax Lot**

- SURVEYED URBAN GROWTH BOUNDARY
- PROPOSED BOUNDARY BETWEEN POS AND LDR
- - - 30TH AVENUE CENTERLINE

1. CITY LIMITS AND URBAN GROWTH BOUNDARY BASED ON A 6.27.2011 SURVEY BY BRANCH ENGINEERING.
2. 30TH AVENUE CENTERLINE LOCATED USING RECORDED DATA FROM LANE COUNTY SURVEYOR'S OFFICE BY BRANCH ENGINEERING.
3. ADOPTED 2004 METRO PLAN MAP: IMAGE WAS SCANNED AND THEN ROTATED 2 DEGREES.

ADOPTED 2004 METRO PLAN MAP: ROTATED