



Laurel Hill Valley Citizens

Co-Chairs

Gunnar Schlieder
Jan Wostmann

Secretary

Stephanie Midkiff

Treasurer

Betty Hemmingsen

Executive

Committee

Adam Jones
Bill Blix
Betty Hemmingsen
Betty Hosokawa
Deborah Kelly
Kathleen Frazer
Kaye Downey
Mitch Hider
Natalie Whitson
Paul Orum
Seamus Corbett
Sheryl Kelly
Susan Ratzlaff

September 9, 2015

Mr. Fred Wilson, Eugene Hearings Official
c/o Eugene Planning Department
99 West 10th Ave.
Eugene OR 97401

Re: Response to September 2, 2015 submission by applicant for Laurel Ridge Z15-5

Dear Mr. Wilson:

This final argument from LHVC contains no new evidence and introduces no new issues. It is one of two letters summarizing the LHVC position with regard to Z15-5, and relies on evidence in the public record as of 9/2/2015.

There is really only one issue in contention that blocks the approval of Z15-5, that is compliance with approval criteria **EC 9.8865(1): The proposed zone change is consistent with applicable provisions of the Metro Plan.**

It is our assertion that the applicant has not met their burden of proof in claiming that either of the two most recent maps of their property in relation to the Metro Plan Diagram is accurate. Exhibit L: ZC-4: Adopted 2004 Metro Plan Map Rotated, is perhaps slightly closer to reality than their previous versions, while Exhibit M: ZC-4: Adopted 2004 Metro Plan Map Not Rotated, is unchanged from previous versions and has all the inaccuracies highlighted by LHVC in previous testimony. Even Exhibit L is still too far removed from know facts in the record to be a basis for approval.

Our argument has a number of facets, they are:

1. All layers in any map must be rotated to the same interpretation of North.
2. More than one referent must be used to accurately align the layers on the applicant's maps.
3. LHVC has presented maps that show the correct registration of the subject property onto the Metro Plan Diagram, and these maps all show a substantially larger POS designated area than the latest maps presented by the applicant.
4. Given the repeated misrepresentation of their methodology by the applicant, their latest submission cannot be trusted and is incomplete.

We will detail each of these points below.

Identical Northern Rotation

The applicant repeatedly claimed, both in written and oral testimony, that they had rotated their map layers to the same interpretation of north before they were combined. They now admit this was false. But rather than correct their mistake, they are suggesting that perhaps the 2° rotation of the 2004 Metro Plan Diagram might be a 'scriveners error'. Even the untrained eye looking at an 11 x 17 version of the 2004 Metro Plan Diagram can see that the north/south roads are rotated clockwise to the same degree that the compass arrow is rotated. There is no error of any kind, LCOG is simply following ORS 93.312 (in evidence) which says that the Oregon State Plane Coordinate System must be used for land use maps. While the applicant's Exhibit L: ZC-4: Adopted 2004 Metro Plan Map Rotated removes one of the distortions of their previous version of ZC-4, it was not the largest distortion demonstrated by LHVC in public testimony on August 26, 2015.

Lack of Sufficient Referents

The larger of the two distortions contained in the version of ZC-4 that was considered at the public hearing is the misalignment along the single referent 30th Avenue.

The LUBA decision (2013-098, in evidence) on the previous zone change request for this property states that the LUBA panel used multiple referents to reach their determination that a portion of the subject property was designated as POS:

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 any reference to the UGB line, that at least some portion of the southwest corner of the subject property is within the POS designation. (LUBA 2013-098, p. 16)

In addition to these four referents mentioned by LUBA, the 2004 Metro Plan Diagram also depicts Bloomberg Park, which is in close proximity to the subject property. All of these referents have survey information which is readily available, and could have been used by the applicant to correctly locate their property along 30th Avenue. Instead the applicant uses a single referent, which allows them to slide the map of their tax lot along 30th Avenue to the position that is most advantageous to them. At the public hearing, LHVC pointed out that this slide toward the northwest had the result of putting the Eugene city limits at a position that is clearly not correct. The applicant has responded to the demonstration of this obvious distortion by removing the city limits from their most recent version of ZC-4, hoping that their sleight of hand would go unnoticed. (Also see testimony from Gunnar Schlieder regarding remaining evidence of improper alignment along 30th Avenue.)

Using the Best Tools and Information

Laurel Hill Valley Citizens has presented various maps that show the correct location of the subject property on the Metro Plan Diagram. We have exhaustively explained the methodology used, and why these maps are correct (see testimony from Gunnar Schlieder). We have approached the challenge of locating the subject property on the Metro Plan Diagram in several different ways. Each method reached a virtually identical configuration for the POS portion of the subject property. We present these maps not as alternatives for the Hearings Official to adopt, but simply as another demonstration that the applicant got it wrong. The most

relevant error being that the applicant's maps significantly reduce that portion of their property which is designated POS on the 2004 Metro Plan Diagram.

Credibility

The applicant's spokespersons repeatedly went out of their way to tell the story of how they had obtained a paper copy of the original 2004 ordinance that adopted the current version of the Metro Plan, and how they had used a scanned version of the map therein as the basis for their work. In his letter of September 2, Mr. Sartre now admits this was untrue. This same letter starts with an apology for repeatedly misrepresenting the rotation of the two map layers. Additionally, their most recent versions of ZC-4 deliberately omit the city limits because it would successfully show the misalignment of the two layers. It is also worth noting that while new maps have been submitted since the hearing, the application narrative, including for instance the acreage calculation, is apparently the same.

These three misrepresentations, and the internal inconsistency between the maps and the narrative, whether intentional or otherwise, fatally undermine the applicant's credibility. There is no reason to believe that the September 2, 2015 submission by the applicant is any more reliable than previous submissions. The only remedy at this point is to have a neutral agency, such as LCOG, position the subject property at the correct location on the Metro Plan Diagram.

Conclusion

Laurel Hill Valley Citizens asks the Hearings Official to deny Z15-5 because it fails to comply with EC 9.8865(1).

Respectfully submitted,

Jan Wostmann

Co-Chair, Laurel Hill Valley Citizens

2645 Riverview St.

Eugene, OR 97403