



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: August 26, 2015
Jurisdiction: City of Corvallis
Local file no.: CPA11-00002, ZDC11-00005
DLCD file no.: 004-11

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 01/01/0001. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 69 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR chapter 661, division 10).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us

DLCD FORM 2

NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION



FOR DLCD USE
DEPT OF
File No.:
AUG 24 2015
Received:
LAND CONSERVATION
AND DEVELOPMENT

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See OAR 660-018-0040). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use Form 4 for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use Form 5 for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use Form 6 with submittal of an adopted periodic review task.

Jurisdiction: *City of Corvallis*
Local file no.: *CPA11-00002, et.al.*
Date of adoption: *August 17, 2015* Date sent: *August 19, 2015*

Was Notice of a Proposed Change (Form 1) submitted to DLCD?
 Yes/ Date (use the date of last revision if a revised Form 1 was submitted): *December 27, 2011*
 No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No
If yes, describe how the adoption differs from the proposal:

Local contact (name and title): *Kevin Young, Planning Manager*
Phone: *(541) 766-6572* E-mail: *Kevin.Young@CorvallisOregon.gov*
Street address: *501 SW Madison Ave.* City: *Corvallis* Zip: *97339-1083*
Corvallis, OR 97339-1083

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

Change from *57.7 ac. Low Density Res.* to *24.6 ac. Medium-High Density Res.* acres. A goal exception was required for this change. *no*

Change from *36.9 ac. Open Space-Conservation* to *70 ac. Open Space-Conservation* acres. A goal exception was required for this change.

Change from _____ to _____ acres. A goal exception was required for this change.

Change from _____ to _____ acres. A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address): *TL 1000, 1100, 1101 of Benton Co. 11-5-33 and TL 2300 of Benton Co. 11-5-28*
 The subject property is entirely within an urban growth boundary
 The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres: Non-resource – Acres:
Forest – Acres: Marginal Lands – Acres:
Rural Residential – Acres: Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres: Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres: Non-resource – Acres:
Forest – Acres: Marginal Lands – Acres:
Rural Residential – Acres: Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres: Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from 57.7 ac. PD(RS-6) to 24.6 ac. PD(RS-12) Acres:
Change from 36.9 ac. PD(CAG-OS) to 70 ac. C-OS Acres:
Change from to Acres:
Change from to Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation: PD Acres added: Acres removed: 70
Location of affected property (T, R, Sec., TL and address): same as above

List affected state or federal agencies, local governments and special districts:

Corvallis, Benton County

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

This is an action on remand from LVBA regarding the Campus Crest application (LVBA No. 2014-042). PAPA notice was previously provided on the local decision, which was appealed to LVBA, then Court of Appeals.



Community Development
Planning Division
501 SW Madison Avenue
Corvallis, OR 97333

CORVALLIS CITY COUNCIL NOTICE OF DISPOSITION

ORDER 2015-039

CASE: LUBA Remand concerning Campus Crest / The Grove - Comprehensive Plan Amendment, Zone Change, Conceptual and Detailed Development Plan, and Subdivision (CPA11-00002, ZDC11-00005, PLD13-00003, and SUB13-00001)

REQUEST: The applicant requests approval of a Comprehensive Plan Amendment to re-designate a 94.6 acre site comprised of 57.7 acres of Low Density Residential and 36.9 acres of Open Space – Conservation, to 24.6 acres of Medium-High Density Residential and 70 acres of Open Space – Conservation. Consistent with the Comprehensive Plan Amendment, the applicant requests approval to rezone 57.7 acres of PD(RS-6) – Low Density Residential with a Planned Development Overlay and 36.9 acres of PD(AG-OS) – Agriculture – Open Space with a Planned Development Overlay zoned land to 24.6 acres of PD(RS-12) – Medium High Density Residential with a Planned Development Overlay, and 70 acres of C-OS – Conservation – Open Space zoned land.

The applicant also requests approval of a Conceptual and Detailed Development Plan to develop a 296-unit apartment complex. As part of the development plan, the applicant requests approval of a Major Replat/Subdivision of Parcel 1 of Partition Plat 2001-04, to create three development parcels, two private street tracts, seven open space tracts, three stormwater drainage tracts, and right-of-way dedications for existing and proposed streets.

OWNER:

SA Group Properties, Inc.
Attn. David Casty
3121 Michelson Drive, Suite 500 LM-CA-DI6P
Irvine, CA 92612

APPLICANT:

Campus Crest Communities
Attn. Chris Russ
2100 Rexford Rd., Ste. 414
Charlotte, NC 28211

LOCATION: The subject property is located north of NW Harrison Blvd., about 0.4 miles east of SW 53rd Street, and south of the terminus of NW Circle Blvd. The site is to the north of the OSU Dairy Barn on Harrison Blvd. The site is comprised of tax lots 1000, 1100, and 1101 of Benton County Assessor's Map 11-5-33 and tax lot 2300 Of Benton County Assessor's Map 11-5-28.

DECISION: On April 21, 2014, the City Council approved the requested Comprehensive Plan Amendment, Zone Change, Planned Development, and Subdivision. The Council's decisions on the Comprehensive Plan Amendment and Zone Change were appealed to the Oregon Land Use Board of Appeals (LUBA), which, on October 28, 2014, remanded one subassignment of error to be addressed by the City Council. Because the Planned Development and Subdivision decisions were not appealed, they are final decisions, including the approved conditions of approval associated with these applications. However, both decisions are contingent upon approval of the Comprehensive Plan Amendment and Zone Change.

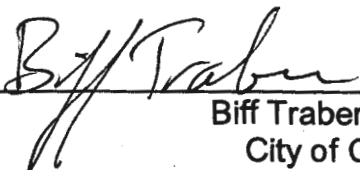
The subassignment of error identified by LUBA in their remand decision regarded the need for findings to demonstrate that the concerns raised by Karl Birky, PE, of Project Delivery Group (PDG) in relation to Goal 12 and the Transportation Planning Rule, had been considered and found to be unpersuasive. That decision was appealed to the Oregon Court of Appeals, which affirmed LUBA's decision without opinion on March 18, 2015. Following this decision, LUBA notified the City that LUBA's Opinion and Order was final. The applicant subsequently requested that the City Council address the issue identified on remand.

The City Council met on August 17, 2015, to consider additional findings citing to information within the existing record addressing the issue identified on remand. No additional written or verbal testimony was accepted. The City Council deliberated and decided to accept the additional findings addressing the issue identified on remand.

The City Council has adopted the attached additional findings. The proposal, staff report, hearing minutes, and complete record may be reviewed at the Community Development Department, Planning Division, City Hall, 501 SW Madison Avenue; or online, in the City archives, at:

<http://archive.corvallisoregon.gov/Browse.aspx?dbid=0&startid=419826>

If you are an affected party and wish to appeal the City Council's decision, an appeal must be filed with the Oregon Land Use Board of Appeals within 21 days of mailing of the decision for the Comprehensive Plan Amendment and Zone Change. Appeals must be filed by 5:00 pm on the final day of the appeal period. When the final day of an appeal period falls on a weekend or holiday, the appeal period shall be extended to 5:00 pm on the subsequent work day.



Biff Traber, Mayor
City of Corvallis

Signed this 17 day of August, 2015.

BEFORE THE CITY COUNCIL
OF THE CITY OF CORVALLIS, OREGON

SUPPLEMENTAL FINDINGS OF FACT AND CONCLUSIONS OF LAW RESPONDING TO
THE ISSUE FROM LUBA ON REMAND RELATED TO APPROVAL OF THE LAND USE
APPLICATIONS FOR CAMPUS CREST/THE GROVE

In the matter of Applications for: (1) a Post-Acknowledgment Plan Amendment to the City of Corvallis Comprehensive Plan to Re-Designate 57.7 Acres of Low Density Residential and 36.9 Acres of Open Space- Conservation as 24.6 Acres of Medium-High Density Residential and 70 Acres of Open Space- Conservation; (2) a Zoning Map Amendment to Re-Designate 57.7 Acres of PD(RS-6) and 36.9 Acres of PD(AG-OS) to 24.6 Acres of PD(RS-12) and 70 Acres of C-OS; (3) Conceptual and Detailed Development Plans to Develop a 296-Unit Apartment Complex; and (4) Major Replat/ Subdivision to Create Three Development Parcels, Two Private Street Tracts, Seven Open Space Tracts, Three Stormwater Drainage Tracts, and Right-of-Way Dedications for Streets, on Property Comprised of Tax Lots 1000, 1100, and 1101 of Benton County Assessor's Map 11-5- 33 and Tax Lot 2300 of Benton County Assessor's Map 11-5-28.

On Remand from LUBA: *Goodmonson v City of Corvallis*, Or LUBA (LUBA No. 2014-042 October 28, 2014).

CITY FILES:
CPA11-00002
ZDC11-00005

PLD13-00003
SUB13-00001

I. Introduction

In the original proceedings, the Corvallis City Council ("City Council") considered applications from Campus Crest Communities ("Applicant") for a post-acknowledgment comprehensive plan amendment ("PAPA Application"), a corresponding zoning map amendment ("Zone Change Application"), a conceptual development plan ("CDP"), a detailed development plan ("DDP"), and major replat/subdivision ("Subdivision"), to allow development of 296 multi-family residential dwelling units.

For the reasons explained in the April 22, 2014 Findings and Conclusions of Law, and based upon the identified evidence, analysis, argument and proposed conclusions in the record, the City Council found that the Applications satisfied all applicable approval criteria. The City Council found that the Conceptual and Detailed Development Plan and Subdivision applications met all applicable approval criteria— subject to satisfaction of the 47 conditions of approval identified in the Notice of Disposition for this decision. The City Council also rejected opponents' issues and contentions which were contrary to the findings and conclusions of law which supported approval of the Applications. Following the City Council's decision approving the subject applications, two appeals were filed (LUBA Nos. 2014-040 & 2014-042) with the Land Use of Board of Appeals ("LUBA").

All the issues raised by the Appellants in LUBA No. 2014-040 ("Hess, et al") were rejected by LUBA, and those petitioners did not appeal LUBA's Final Opinion and Order to the Court of Appeals. Accordingly, the issues raised in that appeal have been conclusively resolved. All the issues, except one, raised by the Appellant in LUBA No. 2014-042 (Goodmonson) were rejected by LUBA. LUBA Case No. 2014-042 then underwent additional appellate review before returning to the City for its decision on the single remand issue. A brief procedural history of that remand issue follows.

Petitioner Goodmonson, in LUBA case 2014-042, raised four Assignments of Error containing several sub-assignments. With one exception, LUBA rejected each asserted assignment of error and all related sub-assignments. The sole exception is the second sub-assignment raised within the First Assignment of Error. Goodmonson appealed LUBA's Final Opinion and Order to the Court of Appeals (A158203). In the appeal before the Court of Appeals, Goodmonson asserted that LUBA erred in affirming the City on the first of three sub-assignments of error raised in the First Assignment of Error. Goodmonson, did not challenge LUBA's decision sustaining his asserted error related to the second sub-assignment of error and remanding that issue to the City. Goodmonson did not challenge LUBA's decision affirming the City on the related third sub-assignment raised in the First Assignment of Error. Goodmonson challenged LUBA's decision affirming the

City's decisions related to the Second and Third Assignments of Error. In sum, because Goodmonson did not appeal LUBA's decision affirming the City's decision related to the third sub-assignment of error in the First Assignment of Error and did not appeal LUBA's decision affirming the City's decision related to the Fourth Assignment of Error, those matters are conclusively resolved.

The Court of Appeals, without opinion, affirmed LUBA's Final Opinion and Order, and Goodmonson did not appeal the Court of Appeals decision. Consequently, the only issue not conclusively resolved is the second sub-assignment of error presented in the First Assignment of Error raised by Petitioner Goodmonson before LUBA and the Court of Appeals. That single issue is now before the City Council on remand. These supplemental findings do not attempt, nor is it the City Council's intent that any person construe, these findings to address any issue already conclusively resolved by LUBA, the Court of Appeals, or by legal doctrines of "law of the case" or "waiver". These supplemental findings are limited to the sole issue remanded to the City "for the city to adopt findings addressing the TPR issue raised by Birkby [sic]." *Goodmonson v City of Corvallis*, __ Or LUBA __,14 (LUBA No. 2014-042 October 28, 2014). Consequently, in this remand proceeding, the City Council's consideration is limited to the PAPA and Zone Change Applications—to the extent implicated by the Transportation Planning Rule, hereinafter (TPR).

II. Summary of Project

The Applicant proposed to develop a 296-unit apartment complex and related parking, landscaping, stormwater, and infrastructure (together, "Project") on approximately 94.6 acres of property located north of NW Harrison Boulevard, about 0.4 miles east of SW 53rd Street and south of the terminus of NW Circle Boulevard ("Property"). The Project will comprise approximately 24.6 acres. Applicant proposes to preserve the balance of the Property (approximately 70 acres) as open space.

In order to develop the Project, Applicant requested and the City approved the following

- Post-Acknowledgment Amendment to the City of Corvallis ("City") Comprehensive Plan to Re-Designate 57.7 Acres of Low Density Residential and 36.9 Acres of Open Space-Conservation as 24.6 Acres of Medium-High Density Residential and 70 Acres of Open Space- Conservation;
- Zoning Map Amendment to Re-Designate 57.7 Acres of PD(RS-6) and 36.9 Acres of PD(AG-OS) to 24.6 Acres of PD(RS-12) and 70 Acres of C- OS;

- Conceptual and Detailed Development Plans to Develop a 296-Unit Apartment Complex; and
- Major Replat/Subdivision to Create Three Development Parcels, Two Private Street Tracts, Seven Open Space Tracts, Three Stormwater Drainage Tracts, and Right-of-Way Dedications for Streets.

III. Appeals & Subsequent Proceedings.

Petitioners Hess, et al and Goodmonson filed their respective appeals, the City and Applicant (Intervenor before LUBA) filed responsive briefs, and on October 28, 2014, LUBA entered its Final Opinion and Order affirming the City's decision and rejecting all issues raised in challenging that decision, with the sole exception—the second subassignment of error presented in Goodmonson's First Assignment of Error. On November 3, 2014, Council directed staff to prepare supplemental findings responding to the issue on remand for consideration at its December 1, 2014, meeting. On November 10, 2014, the City provided notice of its intent to consider adoption of supplemental findings to address the issue of remand from LUBA. Thereafter, the City received Goodmonson's Notice of Intent to Appeal LUBA's decision to the Court of Appeals. On March 18, 2015, following briefing by the parties, the Court of Appeals affirmed without opinion LUBA's Final Opinion and Order. On May 6, 2015, at the conclusion of the appellate review appeal period, LUBA notified the City that LUBA's Opinion and Order was final. Accordingly, jurisdiction over this matter returned to the City to resolve the issue on remand.

IV. Applicable Approval Criteria

The approval criteria applicable to the remand issue are the same as applied in the original proceedings. The relevant portion of the Transportation Planning Rule (TPR) is set out in OAR 660-012-0060 and is necessary to consider and respond to the issue on remand. Council finds that applicable Land Development Code (LDC) provisions for this remand procedure are expressed in LDC 2.0.060.

At the July 20, 2015, public meeting, the Council determined that the Record in these proceedings, as settled by LUBA, is sufficient to address the issue on remand and determined LDC 2.0.60(a)(2) to be the appropriate procedure to use in responding to the remand issue. The City provided public notice of the Council's intent to take action on August 17, 2015. The notice provided that the City Council's decision on remand would be limited to the single TPR issue remanded by LUBA and that the City would not accept additional testimony and evidence, but the public was invited to attend the meeting and would be provided an opportunity to rebut Councilors' declarations of conflict of interest and/or ex parte contacts.

V. Issue on Remand.

As described in these findings and explained in the City Attorney's Memorandum, a single issue is presented on remand from LUBA. As the Findings in the City's Original Decision expressed, the City concluded that the proposed comprehensive plan amendment and zone change applications complied with the Transportation Planning Rule expressed in OAR 660-012-0060, the "TPR." The City's Findings related to the TPR are set out in the City Attorney Memorandum. Petitioner's issue with those findings and LUBA's conclusion are set out below.

A. Petitioner's argument at LUBA.

The Council notes that LUBA identified Petitioner Goodmonson's argument concerning the issues raised by Karl Birky¹ as follows:

In his second subassignment of error, Goodmonson argues that the city's findings are inadequate to explain why the city chose to rely on intervenor's traffic engineer's trip generation assumptions and methodology, instead of relying on information submitted by a traffic engineer retained by opponents, Birkby, that called that methodology into question. As explained above, the opponent's traffic engineer's testimony questioned the use of the ITE Land Use Code-220 trip generation estimates due to the presumed use of the apartments for student housing, and cited to a Florida Department of Transportation Study that concluded that student housing (presumably in Florida) generates more trips than typical multi-family apartments generate. Goodmonson argues that the city's supplemental and incorporated findings do not address the issue raised by Birkby. *Goodmonson v City of Corvallis*, __ Or LUBA __, 12 (LUBA No. 2014-042 October 28, 2014).

The Council notes that LUBA described the City's error as:

Nothing in the above-quoted findings regarding the TPR responds to Birkby's testimony, and the city and intervenor do not point to any other properly incorporated findings that address the issues that Birkby raised. That issue appears to be a legitimate issue regarding compliance with the TPR that requires some response. The city and intervenor offer no basis for LUBA to affirm the city's determination of compliance with the TPR in the absence of findings addressing that issue. Accordingly, we agree with Goodmonson that remand is warranted for the city to adopt findings addressing the TPR issue raised by Birkby. *Id.* at 14.

¹ City Council notes that LUBA referred to opponent's professional engineer as "Birkby." Council has reviewed the Record and finds no reference to a professional engineer named Birkby testifying in the proceedings. The Council notes a professional engineer named Birky did testify. Accordingly, Council understands LUBA's reference of "Birkby" to mean Birky or Project Delivery Group or PDG. The Council will refer to Birkby, Project Delivery Group or PDG as "Birky".

B. Birky's testimony.

The Council notes that Karl Birky's testimony is set out in a Memorandum dated November 26, 2013. The Memorandum appears in the LUBA Record between pages 4102 and 4107, and the same memo is duplicated in other places in the LUBA Record. The Memorandum is appended to these findings at App-2. The Council understands the issues raised by Birky in his memorandum to include three concerns:

1. Alleged failure to explain why Harrison Boulevard traffic volume declines with the Campus Crest project; and
2. Alleged understatement of traffic generation and incorrect distribution of traffic; and
3. Alleged failure of the traffic analysis to demonstrate compliance with the Transportation Planning Rule.

C. The Responsive Testimony, Analysis and Conclusions.

The City Council notes that the Applicant's professional engineers presented testimony and evidence responding to each of the three concerns raised by Birky. The Applicant's Traffic Engineer Julie Sosnovske, P.E. of DKS, in a memorandum dated December 2, 2013, directly responded to the Project Delivery Group (Birky) Memorandum. App-29. Rec-4065. The Council incorporates by this reference Ms. Sosnovske's full responses from the December 2, 2013 memorandum. The Council provides a summary of the responses below, and includes additional evidence from the record which also responds or relates to each of the Birky issues:

First Birky Issue:

Alleged failure to explain why Harrison Boulevard traffic volume declines with the Campus Crest project.

Although this issue could be viewed as distinct from the TPR and thus beyond the issue on remand, with an abundance of caution, the City Council responds to this issue to the extent it could be construed to implicate the TPR issues raised by Birky.

1. The City Council finds that the Applicant's Engineer Sosnovske responded to this issue by noting that the traffic volume on Harrison Boulevard is expected to decline with development of the Campus Crest project because the project would construct the Circle Boulevard extension as part of the proposed Campus Crest project. Traffic that would use the Circle Extension is assumed to shift from 53rd Street, Walnut Boulevard, Harrison Street, 36th Street, and 29th Street. App-30, Rec-4066.

2. Additionally, the City Council finds instructive the December 31, 2013, Memorandum from Matt Grassel P.E. of the City's PW/ Engineering/ Development

Services Department as it relates to this issue Mr. Birky raised. The Council accepts and adopts the analysis and conclusions set forth therein. See, App-32, Record 4061. Specifically, the Council summarizes the analysis addressing the reduction of traffic volume on Harrison Boulevard, noted by Engineer Grassel, as:

Circle Blvd. extension is expected to change the traffic patterns in the area regardless of the type of development that occurs on this property. Traffic that would use the new Circle Blvd. was assumed to shift from 53rd Street, Walnut Blvd., Harrison Street, 36th Street, and 29th Street. App-34, Rec-4063.

In sum, the City Council concludes that the Applicant's and City's Engineers have provided an adequate explanation as to why Harrison Boulevard traffic volume would decline with construction of the Campus Crest development, and the City Council finds the summarized responses above to be sufficient explanation. The City Council adopts the analysis and concludes that the Campus Crest development, because of the Circle Boulevard extension, will not "significantly affect" the Harrison Street transportation facility as that phrase is understood for purposes of the Transportation Planning Rule.

Second Birky Issue:

Alleged understatement of traffic generation and incorrect distribution of traffic.

The City Council notes that the Applicant's Engineer, Ms. Sosnovske, referenced and considered findings from the December 2, 2013, Mackenzie letter in analyzing and responding to Birky's concerns that the Applicant's Transportation Impact Analysis understated the traffic generation of the proposed Campus Crest Project. Engineer Sosnovske utilized the Mackenzie findings, along with the Florida Department of Transportation (FDOT) study (App-7, Rec-1515), to conclude that: "The trip generation rate used in the TIA is appropriate given the higher bicycle and pedestrian mode split observed in the vicinity of the Oregon State University Campus." App-30, Rec-4066. Engineer Sosnovske explained that conclusion as follows:

The Mackenzie letter dated December 2, 2013 demonstrates that the pedestrian and bicycle mode split is significant in the OSU campus area. Within a 1 to 1.5 mile buffer of campus, where the proposed project is located, bicycles and pedestrians account for about 41 percent of all person trips during the AM peak period and 43 percent during the PM peak period. PDG [Birky Memo] includes an Auburn University Master's Thesis evaluating Trip and Parking Generation for Student-Oriented Housing Developments, dated May, 2013. While the Auburn study indicates a trip rate similar to that in the FDOT study, the study also includes mode split data (percentage of

trips made by various modes of travel, including pedestrian, bicycle, transit and motor vehicle) indicating that 84 percent of all PM peak hour trips were made by automobiles. This is almost twice as high as the 43 percent of trips made by driving/carpooling that has been observed at Oregon State (see Mackenzie letter dated December 2, 2013). Adjusting the trips estimated by the FDOT rate (277 PM peak hour trips) and applying the OSU auto mode split would result in 141 PM peak hour trips, less than the 183 PM peak hour trips estimated using ITE. App-30, Rec-4066.

Additionally, Engineer Sosnovske explained that the FDOT study supports her analysis, because that study states:

Also evident is the significant impact pedestrian and transit facilities can have on trip generation rates. The comparison of rates from both the 2008 Baltimore Avenue and 2007 Auburn studies show that trip generation can be much less than average when there are true multimodal travel options available. App-30, Rec-4066.

Finally, Engineer Sosnovske noted that:

It has also been documented in the FDOT study that students make a higher percentage of trips during the day and evening, outside of typical peak periods due to their varying class schedules and active late night social life. Since traffic volumes on the adjacent street network are lower during these times, the impact on mobility (level of service) is less. App-31, Rec-4067.

In short, the City Council finds Engineer Sosnovske's analysis persuasive and adopts it.

Trip generation rates.

A central thrust of Birky's concern centers on the Applicant's traffic engineer's use of the ITE 220 *apartment* dwelling unit variable for trip generation calculations over Birky's preferred *student housing* dwelling unit variable (to be determined by a local study) as the independent variable in calculating trip generation for modeling purposes. The City Council finds instructive the following testimony on this issue:

1. Christopher Clemow, PE, PTOE, opined that the ITE rates reflect an industry standard developed after conducting numerous traffic analyses across a variety of locations and circumstances. App-40, Rec-3166.
2. Traffic Engineers at Mackenzie noted that the DKS trip generation estimate was conservative: "The DKS Associates prepared transportation impact analysis (TIA) conservatively does not assume additional trip reductions for non-automobile trips such as bicycling, walking, or transit. It is important to note this is an especially conservative assumption, given the Campus Crest development is a student housing

apartment complex located 1.5 miles (walking/street distance) from the OSU Memorial Union Building, and a significant number of students will make trips using alternate modes. For all trip types, CHNA and PDG materials both indicate the walking mode share decreases significantly for trip lengths greater than one (1) mile in length. To address CHNA and PDG comments, data specific to OSU and the Corvallis area that was collected as part of the 2012 OSU Base Transportation Model Update and Collaboration Corvallis projects was used to evaluate trip mode share. After further data examination, Mackenzie concludes that even at trip lengths up to 1.5 miles, the majority of students travel to and from the OSU campus during the AM and PM peak periods by non-automobile modes." App-36, Rec-3161.

Additionally, engineers at Mackenzie concurred with DKS' analysis, noting that ITE Land Use Code 220 "has a large number of data points" and "represents an average of the development type." App-40, Rec-3166.

3. The City has classified and analyzed similar multi-family residential projects, including the nearby Harrison Apartments, under ITE Land Use Code 220. App-40, Rec-3166.

4. The Council notes that the Staff Report discussion of the Transportation Impact Analysis, with associated trip generation and the Transportation Planning Rule conclusions are set out at pages 401 to 406 of the Record. The Council finds that discussion also instructive.

5. A portion of the December 31, 2013, Memorandum from Matt Grassel P.E. of the City's PW/ Engineering/ Development Review Department relates to the concerns raised by Birky. App-32, Rec-4061. The Council summarizes Mr. Grassel's analysis and conclusions:

For apartments, the other published variables are persons and vehicles. There is not currently a published ITE rate for bedrooms. The ITE data for dwelling units has the largest sample size at 90 studies vs. 28 studies of persons as the independent variable during the pm peak hour. For a comprehensive plan amendment and zone change, dwelling unit is the most appropriate variable for trip generation because the comprehensive plan designation and zoning districts for residential uses are based on the number of dwelling units per acre, not persons, bedrooms or vehicles.

Staff uses various references, including ODOT and ITE, in evaluating if information submitted by the applicant is reasonable. Two ODOT documents staff uses for reference are: ODOT's *Development Review Guidelines 2005 (& 2013)*, and ODOT's *Best Practices for Traffic Impact Studies*. Excerpts from the ITE Handbook were submitted in the testimony dated December 2, 2013. Staff would point to section 2.2 of the ITE Trip Generation Handbook for determination of the appropriate independent variable, including the discussion regarding tenants (attached): "The preferred independent

variable should be stable for a particular land use type and not a direct function of actual site tenants.”

Staff has also considered the number of studies for each independent variable (dwelling units vs. persons) in the ITE trip generation data for apartments (code 220). The ITE studies include a data plot, which can be used to compare independent variables in relation to the number of samples with similar size independent variables. This information suggests that based on the number of existing studies that utilize dwelling units as the independent variable for a traffic impact analysis, the use of dwelling units as the independent variable is likely to produce the most consistent results. In summary, staff’s evaluation of trip generation for this application is consistent with professional engineering standards and past City practice related to multifamily projects including those that are primarily intended for student housing. App-35, Rec-4064.

6. Proponent Peter Ramsing offered testimony of his review of the Applicant’s Traffic Impact Analysis— as informed by an April 12, 2012, Spack Technical Memorandum regarding trip generation study of student housing. Mr. Ramsing testified that:

Student housing developments generate much fewer trips than traditional multi-family apartment complexes. Student housing developments do not generate traditional peak hour trips. Trips are staggered throughout the day with no heavy AM or PM trips. As a result, you find a much reduced traffic impact when you compare the Spack Consulting student housing figures against the Campus Crest traffic study. Specifically, the numbers from the Spack Consulting study show that Campus Crest’s project will generate 690 fewer trips per day than the figures in Campus Crest’s own traffic study. This is even when you take a look at the figures by the bed! Furthermore, the Spack Consulting numbers suggest there will be 225 less Peak hour trips per day than what is provided for in the Campus Crest study. App-44-45, Rec-5281-5282.

7. Mike Spack P.E., P.T.O.E., in his Study concluded that: “Overall, it was found student housing apartments generate approximately a third the amount of traffic compared to a similarly sized, generic apartment building.” App-46, Rec-5283.

8. The Council notes, finds the analysis persuasive, adopts and summarizes a portion of DKS’ September 16, 2013, Memorandum:

The first thing to address is that the Florida study (conducted by Florida Department of Transportation) for student house was done so with the purpose “to determine the best Florida -specific trip generation ... ” The

study was focused on Florida drivers, Florida students, and Florida trip characteristics. That is one reason why the ITE Trip Generation Manual is created to be homogenous across the United States with an industry approved methodology for trip generation that is not specific to one region or state. As cited in the FDOT study: "The variation in the rates for the number of bedrooms suggest the variable may require more data points before any assumptions can be drawn. Also evident is the significant impact pedestrian and transit facilities can have on trip generation rates. The comparison of rates from both the 2008 Baltimore Avenue and 2007 Auburn studies show that trip generation can be much less than average when there are true multimodal travel options available."

As the study indicates, the provision of multimodal facilities (like the site is providing with connections to other facilities) can help to lower the potential for trip making potential. In addition, the study also states: "Daily rates by vehicle for the 2012 FDOT study were similar to ITE LU 220 Apartment, but PM peak rates were lower. This may be because student travel patterns are more spread out throughout the day due to differing class schedules and other activities or to the relative uncertainty associated with these values." Because the question hinges on the fact that the ITE rate is based on number of rooms and not bedrooms or vehicles (measured by number of parking spaces), a sensitivity test was done for the PM peak hour for the other input variables (persons, and vehicles). The number of persons generated approximately 270 PM peak hour trips (after a 10% reduction for transit, a 10% reduction for bicycle/pedestrian use, and a 5% reduction for carpools). We felt these were appropriate reductions based on the most recent Oregon State University mode share results which would indicate up to 43% of mode share to those four categories (bicycle 10%, pedestrian 25%, transit 3%, and carpool 5%). Given the same types of parameters for number of vehicles, the PM peak hour would generate approximately 344 total trips. While both of these would indicate a higher potential than the number of dwelling units, the existing zoning would generate up to 350 total PM peak hour trips, and all analysis indicates the same mitigation measures necessary for adequate intersection operations to meet jurisdictional standard. In addition, other studies indicate that the potential for trip making on a per dwelling unit would actually be less than the standard ITE rate. The Spack study conducted near the University of Minnesota showed a lower average trip making potential than ITE rates for categories. We also worked with the City of Corvallis when preparing to conduct the study to determine an appropriate methodology for trip generation, and the ITE rate for dwelling units was selected based on all of this information. App-50-51, Rec-2293-94.

In short, the City Council finds the above cited analysis persuasive, adopts it and concludes that the ITE 220 apartment dwelling unit was the preferred and reasonable independent variable for use in the trip generation methodology.

2. Traffic distribution.

The Council notes that in responding to Birky's concerns challenging traffic distribution, Ms. Sosnovske's December 2, 2013 memorandum stated:

While the Corvallis Area Metropolitan Planning Organization (CAMPO) model was used as a basis for trip distribution, adjustments were made to reflect the unique character of the college students that would reside in the proposed Campus Crest housing project, as described on page 16 of the TIA. An example is that the CAMPO model indicated a higher percentage of trips oriented northeast on Circle, likely due to employment opportunities in northeast Corvallis. This percentage was adjusted downward and the percentage of traffic going toward the OSU campus was adjusted upward.

It should be noted that while, overall, most trips made by students are expected to be oriented toward the OSU campus, many motor vehicle trips may be oriented to other destinations. Students may be more likely to walk or ride their bike to campus due to proximity to campus, parking costs, or parking location relative to their classes. However, shopping, work, and service trips are more likely to be made by motor vehicle. The trip distribution shown in the TIA reflects *motor vehicle* trips made during morning and evening peak hours, which are likely to be distributed differently than trips made by all modes, including walking and biking. App-31, Rec-4067.

In summary, the City Council finds persuasive the analysis summarized above and adopts it. In addition, the City Council incorporates the analysis and findings as elaborated in the context provided by the associated testimony, reports and memoranda identified above and appended. Finally, the City Council finds the analysis described above adequate to demonstrate that the City Council considered, but rejected, Mr. Birky's testimony and concerns, when the City Council adopted findings concluding the Applicant had demonstrated compliance with the TPR.

Third Birky issue:

Alleged failure of the traffic analysis to demonstrate compliance with the Transportation Planning Rule.

The Council notes that in response to Birky's concern that the Applicant's TIA did not consider the worst case scenario contemplated by the proposed zone change, Ms. Sosnovske points out that the DKS February 5, 2013 memorandum does demonstrate compliance with the TPR by conducting the required "worst case scenario" analysis. App-31, Rec-4067. The Council notes that the DKS February 5, 2013 Memorandum was considered, along with the findings submitted in DKS memoranda dated September 30, 2013 (App-52, Rec-2534) and April 25, 2013 (App-64, Rec-676), as part of the DKS Supplemental Transportation Analysis dated

November 19, 2013. App-57, Rec-4212. By this reference the Council incorporates the analysis, findings and conclusions of those memoranda while highlighting the following excerpted points:

DKS worst case analysis, as summarized:

- Expected trip generation for the overall site was determined assuming reasonable worst-case development under the proposed zoning, using the Institute of Transportation Engineer's Trip Generation Manual, RS-12 zoning allows medium-high density residential development, with a minimum of twelve to a maximum of twenty dwelling units per acre. Twenty units per acre were assumed as a reasonable worst-case assumption. A County Park was assumed for the OS portion of the site, since it would represent worst-case development under the proposed zoning (C-OS) and since published trip generation data was available for this use. App-60, Rec-669.
- The highest vehicle trip generation was estimated to be 350 trips during the p.m. peak hour, assuming the reasonable worst-case development scenario under *existing zoning*, which was based on six single family units per acre density for a total of 347 dwelling units. App-57, Rec-4212.
- The expected vehicle trip generation was *lower* if the *proposed* 296-unit apartment complex was constructed. Research has shown that apartments generate less vehicle traffic, in part because of lower household incomes compared to an average single-family household. For that case, the vehicle trip total was estimated at 183 trips. App-57, Rec-4212.
- Public comments at previous Planning Commission hearings cited a Florida study of student apartments that showed a higher trip rate. If that higher rate were applied to the proposed apartment complex in Corvallis, it would yield 277 trips. App-57, Rec-4212.

The City Council notes, finds instructive and adopts City Planning Staff proposed findings and supporting analysis considering the TPR. App-96-102, Rec-400-406. The most relevant of those findings are:

- a. As noted on the top of page 2 in the application, the applicant considered the TPR when developing the proposed site plan, and tried to "limit the development potential" to be consistent with the TPR and to have impacts similar to previously approved development plans.
- b. To address the Transportation Planning Rule, the applicant provided Findings on the Transportation Planning Rule Significant Effect, dated February 5, 2013, and a Traffic Impact Analysis dated April 25, 2013. Both studies are by DKS Associates (Attachment M). See, App-59, Rec-668; App-64, Rec-676.

c. The traffic impact studies provided trip estimates for the existing comprehensive plan designation and the proposed comprehensive plan designation. A comparison based on the highest densities allowed under the Comprehensive Plan designation was provided.

d. ODOT provided an email to the City dated January 18, 2013, stating that they do not believe there will be a significant effect to the State Highway facilities associated with the Comprehensive Plan Change (Attachment I). See, App-95, Rec-574.

e. The estimated trips based on ITE standards show no expected significant effect on adjacent City streets between the existing Comprehensive Plan and the proposed Comprehensive Plan, due to the decrease in residential acreage and the increase in open space acreage. The decrease in residentially developable acreage generally offsets the increase in density.

In sum, the City Council finds that the Applicant adequately and persuasively responded to each of Birky's concerns and issues, and the City Council correctly concluded that the proposed comprehensive plan amendment and zone change applications complied with the TPR.

VI. Findings and Conclusions.

The City Council finds that the issues raised by Karl Birky were adequately considered and addressed. The City Council, in general, does not find the concerns raised in the Birky Memorandum persuasive, in light of all the evidence in the Record—including the summary portion which is set out in V. C. above. The City Council is satisfied that each of these concerns was adequately and substantively addressed. Accordingly, the City Council rejects the concerns and conclusions Mr. Birky raised.

The City Council finds that the Applicant, by and through its various traffic engineers and professionals, along with qualified City Staff, have provided technical analysis, findings and conclusions which the Council found (and continues to find) persuasive. Accordingly, the Council adopts the analysis, findings and conclusions set forth in V. C., above. The City Council also finds that the incorporated analysis and findings support the supplemental findings expressed in V. C., above. Consequently, the City Council concludes that:

1. A reasonable explanation for why Harrison Boulevard traffic volume will decline with the approval and construction of the Campus Crest project is provided in the Record. That explanation is an adequate response to the first issue raised by Birky, and provides no basis for the City Council to find

the comprehensive plan amendment or zone change would “significantly affect” Harrison Boulevard traffic volume for purposes of the Transportation Planning Rule.

2. The proposed Campus Crest project estimated ITE trip generation, as provided, summarized and explained by the Applicant’s Engineering Professionals and as explained by the City’s Engineering Professional and Planning Staff, is the preferred and proper trip generation methodology. That methodology, analysis, findings and conclusions did not understate generated traffic or distribution proposed by the Campus Crest Project in any manner that would classify as “significantly affecting” any relevant transportation facility for purposes of the Transportation Planning Rule.

3. The proposed Campus Crest project Traffic Impact Analysis, as initially set out, as described, as amplified, as supplemented, as explained and as incorporated, adequately considered and applied the proper worst-case analysis methodology in demonstrating compliance with the Transportation Planning Rule.

VII. Summary and Conclusion.

The City Council’s Findings and Conclusions addressing the TPR issues raised by Karl Birky are intended to provide the remedial response required by LUBA. The City Council does not intend for these Supplemental Findings and Conclusions to expand beyond LUBA’s direction to “adopt findings addressing the TPR issue raised by” Birky. The City Council adopts these Findings and Conclusions to supplement its original conclusion and decision that the proposed comprehensive plan amendment and zone change will not significantly affect transportation facilities within the meaning of the OAR 660-012-0060 part of the Transportation Planning Rule. Accordingly, the City Council reaffirms its prior decision approving the Post-Acknowledgment Plan Amendment and the Zoning Map Amendment applications.

Date this 17th day of August, 2015.

By: 
Mayor Biff Trabor

Appendix Items referenced in the Supplemental Findings may be found online at:

<http://archive.corvallisoregon.gov/0/doc/667399/Electronic.aspx>

Or may be reviewed at the Planning Division Office at City Hall, Main Level, 501 SW Madison Avenue, Corvallis. Copies are available for a reasonable fee.

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