



G A R V E Y S C H U B E R T B A R E R

MEMORANDUM

TO: Oregon City Planning Commissioners
FROM: Carrie Richter, Deputy City Attorney
DATE: November 20, 2015
RE: Beaver Creek Road Concept Plan Summary

A number of Planning Commissioners have asked for a quick outline of LUBA's decision and how staff is recommending that the City respond to LUBA's decision. This memorandum is intended to provide a summary of the arguments made by petitioner Graser-Lindsey, the City's response and how the findings respond to LUBA's decision.

In the LUBA case, the petitioner raised three assignments of error. The first addressed the amount of industrial lands in the plan, the second with utility and natural resource issues and the third with the process for adoption. LUBA did not reach several of the arguments, finding that the concept plan did not designate sufficient industrial lands to meet a Metro requirements. A copy of LUBA's decision is attached for your reference.

Applicable Standards

Before turning the petitioner's arguments, it is important to identify the standards that the City must meet in adopting a concept plan. The BRCP is an amendment to the City's comprehensive plan and, when the City amends its plan, it must make findings that the amendments are consistent with the statewide planning goals, Metro code requirements and the City's existing Comprehensive Plan - including any ancillary transportation and utility master plans. In addition to those requirements, when Metro amended the UGB bringing rural land into the urban area, the City was also obligated to plan those areas consistently with Metro's Urban Growth Management Functional Plan Title 11. Part of Title 11 planning requires compliance with the Regionally Significant Industrial, Industrial or Employment design types, set forth in Metro's UGMFP Title 4.

LUBA's Decision & Title 4 Industrial Lands

When LUBA reviewed the BRCP, the Metro Title 4 map identified 308 acres with an Industrial design concept and the Beaver Creek Road Concept Plan designated only 121 net acres - the North Employment Campus - for industrial uses. LUBA found that the City failed to designate sufficient industrial lands to comply with the Title 4 design type requirements.

After LUBA's decision, the City Commission decided not to revise the BRCP to designate more industrial land. Instead, in 2010, as part of adopting a new regional population and employment range forecast, Metro found that the identified deficiency in industrial lands would be remedied

by including additional lands for industrial uses north of the City of Hillsboro. Metro went on to identify a shortage in residential lands that justified reducing the amount of Title 4 designated industrial lands within the City of Oregon City to 220.41 gross acres that is estimated to yield approximately 123 acres for industrial uses. As a result of Metro's Title 4 map amendment, the BRCP, as adopted in 2010, now complies with Metro's Title 4 land designations.

Transportation and Utility Plans

In addition, to the industrial land issue, the petitioner challenged the adequacy of the City's findings in the inventory of infrastructure demands. The challenges included challenges to the financing approaches for transportation, parks, police, fire and solid waste, and schools and whether serving the Beavercreek area would impact services and costs on the city as a whole.

When the BRCP was originally adopted, it was evaluated against transportation and other utility plans in place at that time, which did not contemplate development demands in the areas covered by the BRCP. As a result, the BRCP attempted to analyze those impacts in the first instance but because LUBA did not weigh in on those issues, we do not know if those findings were adequate.

Since that time, the City has adopted new transportation system, water, sewer master plans as well as new low impact development stormwater standards. These utility master plans assumed development at the levels set out in the BRCP and included updated lists of projects and costs necessary to serve the BRCP area. As a result, these master plans more fully flesh out service demand, their costs, and explain how utilities will be funded so as not to increase costs to existing City residents.

The findings for the BRCP have been revised to include consideration of these updated plans. Since the City decided to open the record to allow consideration of these new plans, it made sense to revisit the provision of parks, schools, police and fire adequacy issues as well.

Natural Resources and Landslides

The petitioner also argued that the City failed to adequately protect streams and wetlands as well as protect for natural hazards and landslides. As the draft findings provide, the City's natural resource and hazard overlay zone protections already in the City's code will be applicable to all development within the BRCP area responds to these issues.

Public Process

Finally, with regard to public process, the petitioner argued before LUBA that the hybrid BRCP put forward by the Citizen Involvement Committee (CIC) did not consider "community input [or] adequately reflect community desires." As pointed out in the findings, the CIC held multiple meetings to consider three different concept plans. The CIC voted to put forward the hybrid plan which was fully vetted by the Planning Commission and City Commission over numerous public hearings. Petitioner was given a full and fair opportunity to present oral and



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written testimony during the previous proceedings and will have the same opportunity during the City's limited review of the record on remand.

Conclusion

It is important to remember that staff has not made any amendments to the Beavercreek Concept Plan document. Rather, the only revisions appear in the findings supporting the concept plan as originally drafted and with new, more current evidence addressing the Title 4 map issues, the utility and natural feature issues raised by the petitioner in the LUBA appeal.

We look forward to discussing this issue with you further during the hearing.

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