



**Comprehensive Plan
Citizen Advisory Committee
Meeting #30**

**November 29, 2012
Lake Oswego City Hall, 380 A Avenue
4:00 pm – 6:00 pm**

PLEASE NOTE THIS SUMMARY IS NOT A WORD FOR WORD DOCUMENTATION OF ALL INFORMATION PRESENTED AT THE MEETING. TO SEE THE INFORMATION PRESENTED AND DISCUSSED PLEASE REFER TO THE MEETING MATERIALS ON THE CAC MEETING WEB PAGE:

<http://welovelakeoswego.com/citizen-committees/cac-meetings/>

Members in attendance: Sally Moncrieff (Chair), Jim Johnson (Vice Chair), Dorothy Atwood, Tom Brennan, Christopher Clee, Doug Cushing, Nancy Gronowski, Liz Hartman, Bob Needham and Lynda O’Neill.

Members not in attendance: Katie Abbott (resigned), Tom Fahey, Bill Gaar, Teri Oelrich and David White

Staff in attendance: Laura Weigel, Beth St. Amand, Kirstin Greene (Cogan Owens Cogan)

PUBLIC COMMENT

None.

CAC COMMENTS

Mr. Brennan, Ms. Hartman and Mr. Johnson represented the CAC at the Nov. 20 Council hearing on the Complete Neighborhoods and Housing action area. The Council approved it 6:1 with only a slight refinement of the affordable housing language. Mr. Brennan described what happened at the Council hearing. Mr. Johnson had addressed the issue of up-zoning and explained that any request for a zone change had to also go through the process in the Land Use section. Mr. Johnson related that he was concerned about LONAC’s opposition. The organization was worried about compatibility issues, however the organization should understand that what was proposed better protects the neighborhoods than the existing language.. The Council seemed to understand that the revised policy was an improvement. Councilor Moncrieff related that Councilor Kehoe and Ms. Selden had worked out different language related to affordable housing during a break in order to ensure it was really clear. She thanked the three CAC representatives for their efforts.

The CAC asked about a new Council liaison and Councilor Moncrieff explained that a new liaison would likely be assigned in January or February of 2013. Bob Needham volunteered to Chair the January 17 meeting since the Vice-Chair Jim Johnson would be out of town. Mr. Johnson will Chair the January 31 meeting.

Mr. Clee joined the meeting at the end of this discussion and reported that he had taken the proposed residential zoning policy language to his neighborhood association and they did not like it. They wanted to keep the existing Plan language. Ms. Greene explained briefly what happened at the hearing. It was pointed out that Jim Bolland a representative from LONAC had testified to keep the 1994 language and Mr. Clee acknowledged that Mr. Bolland was generally the person from the FAN neighborhood who provided feedback for him to share at the CAC meetings.

Mr. Brennan commented that he had been surprised to learn that the 1994 Comprehensive Plan update process had been a handful of volunteers working with staff. It had not been a truly representative and comprehensive public involvement process like the current process.

REGULAR BUSINESS

- **Agenda Review & Announcements**

Ms. Weigel announced the Comprehensive Plan overview handout was available for the CAC to share with people. It would also be a primer for new Council members. Ms. Abbott had resigned from the CAC because of other commitments. Ms. Weigel asked the group to send her the names of people who might be interested in representing the young adult (age 18 to 35) category. The Council hearing on Economic Vitality was the next Tuesday. Mr. Cushing and Mr. Gaar would be presenting and Mr. Brennan might be there too. Comments about the October 25, 2012, Meeting Summary were to be submitted by the end of the week.

- **Overview of Comprehensive Plan language**

Ms. St. Amand distributed a portion of draft guidelines regarding language used in the Comprehensive Plan. She observed the challenge was to use legal lingo, but make it understandable. She highlighted the main points. In just about every policy the Plan was directing the City as an entity. If a policy was directing someone else that needed to be clearly called out. The process was removing away from mandatory, directive, language such as 'require.' Follow through was important. When a policy said 'may' or 'ensure' it should also say how that would happen. Providing the 'opportunity' for something or calling for the City to 'consider' something just set the stage for it so it could happen. Development-related policies showed the general direction to go in when it was time to amend or revise the development code. A Plan policy could be directed at an entire category of development, but not one individual application. When it came to applying development standards, there should not be two sets or levels of standards. People should look to the CDC, not the Comprehensive Plan. There were guidelines, not hard and fast rules. It depended on the context of what the Plan was trying to accomplish.

- **Community Health and Public Safety**

URBANIZATION GOALS AND POLICIES (See Attachment 2: Staff Memorandum and Attachment 3.a: Urbanization Draft Goals and Policies, Annexation Overview.) The CAC had expressed interest in the

history of annexation. Ms. St. Amand had distributed a background report in the packet (3.a. Annexation Overview). The City currently dealt with annexation in reactive mode. The only incentive it offered was that it invited property owners in proximity to a property to be annexed to annex without a fee.

A. Urban Service Boundary and Urban Growth Boundary Policies

A.2. In any areas where the Urban Service Boundary has been expanded, new development will be required to pay for the extension of urban services*.

Mr. Cushing had previously questioned whether requiring new development to pay the full cost of extending urban services was going too far. That language has been removed. The CAC needed to clarify whether this was just about major utilities not about other services, such as police and fire.

Proposed new policy A.6: When expanding the USB, provide incentives to identify, preserve and designate historic resources. Ms. O'Neill had previously suggested a policy like this to protect things like historic burial grounds.

B. Stafford Basin Policies

B.1 Support retention of the Upper Stafford Basin as a rural enclave within the region providing access to small community farms, sustainable agriculture, and parkland in close proximity to the city center.

The CAC had previously asked that the term 'small community farms' be removed. Ms. St. Amand confirmed it would be. The CAC had previously suggested defining what 'Upper Stafford Basin' meant. She pointed out an area that Mr. Egner had suggested. It used Childs Road as a demarcation line. Mr. Johnson questioned the need to define a boundary. He opined that what was suggested looked too much like gerrymandering. Councilor Moncrieff recalled some Councilors were concerned about how far Stafford went. Mr. Cushing cautioned that the County or the Stafford Hamlet might have drawn their own boundaries. Mr. Johnson commented that he was not worried about jurisdictional lines because the Plan reflected Lake Oswego policy and the City should not be afraid to advocate for what it thought should happen in the area that influenced Lake Oswego. He suggested following topographic contours and physical drainage or ridgelines instead of creating artificial boundaries. The policy was about the transition between areas that would influence Lake Oswego and areas that would influence the two other cities. Rosemont Road was not the right boundary because what happened on the south side of the road would have implications for Lake Oswego - especially if the Luscher Farm Master Plan was adopted. Mr. Cushing pointed out that the angle from a point where Stafford intersected with the river to points south of Luscher was a definite break that could serve as an edge between Lake

Oswego's and West Linn's spheres of influence. Staff planned to look at contours, revise the map and present it to the CAC again in January. They planned to make this policy consistent with a similar Inspiring Space & Places policy. Councilor Moncrieff observed the group wanted to define 'Upper Stafford Basin' and generally supported it having rural character.

B.2 Support a rural buffer between the Stafford Basin and adjacent communities that allows agricultural and other supportive uses such as open space, and maintains the individual character of each community.

Ms. Hartman inquired whether it would be appropriate to talk about having low density residential to indicate the size of development. Staff advised this policy had that kind of language before it was modified. They explained the area would not urbanize within the time frame of the Comprehensive Plan and things like 'sprawl' would only happen after it was urbanized. Mr. Johnson recalled prior planning commissions had talked about the concept as clusters of density with open space in between. That could help maintain the overall rural character of the area. He liked that the proposed language talked about the overall look and having buffers without specifying something like 'five acre lots.' Mr. Cushing recalled that people had been concerned that annexing the tennis center site would lead to significant expansion of housing in that area.

Ms. Gronowski was concerned that the proposed language painted different pictures for different readers. Staff clarified that anything that was not within the UGB was technically 'rural.' It could not be urbanized until it was bought in. They agreed that what 'urbanized' meant could be made clearer. The question was what rural development would look like. Ms. Atwood observed that B.1. language, 'rural enclave' and B.2. language, 'between the Stafford Basin and adjacent communities' was not clear enough about whether the Basin was going to be the buffer or contain the buffers. Mr. Johnson clarified this was about the 'Upper Stafford Basin' and not the 'Stafford Basin.' He and Councilor Moncrieff suggested saying, 'a rural buffer between the future urbanized parts of the Upper Stafford Basin and Lake Oswego and other communities.' That would mean keeping Lake Oswego and West Linn from running together. He noted that Gresham and Sandy had the same kind of separation policies.

Councilor Moncrieff suggested replacing 'rural enclave' with 'rural character' in Policy B.1. Staff planned to make it consistent with a similar policy in the Inspiring Space & Places chapter and to add a cross reference. They would clarify what urbanizable area was; which communities the policy was talking about; and that this was Lake Oswego's interest and reflected what was important to that community. Councilor Moncrieff commented that it also meant that if Borland Road was urbanized there should be a buffer between the urbanized Stafford Hamlet and Lake Oswego. Staff planned to

work on the map and do more work on policies B.1. and B.2. and bring those items back to the CAC in January.

B.3 If concept planning occurs for the Stafford Basin Urban Reserve:

- a. **Participate in a primary decision-making role.**
- b. **Advocate for the following plan features to be included:**
 - i. **Development of a walkable, transit-oriented, mixed-use town center near the I-205/ Stafford interchange.**
 - ii. **A design and development pattern that results in strong transportation and transit connections to the east and west along I-205.**
 - iii. **Concurrent provision of high-capacity transit service along I-205.**
 - iv. **In the Upper Stafford Basin, provision of land uses such as urban agriculture that complement existing agriculture and parkland uses.**
- c. **Support the area's inclusion in the UGB only if i.-iv. are part of the final plan.**

This policy would allow the City to be prepared and advocate for these principles when planning discussions begin. The CAC generally did not support a suggestion to specify, 'If concept planning occurs for the Stafford Basin Urban Reserve by any entity' because this was Lake Oswego policy that told the City what it was supposed to do. Ms. St. Amand advised that 'Participate' meant the City was going to be at the table and have a say in what was going to happen. 'Advocate' meant that when it was at the table it would say it wanted to see even though it did not have the authority to make it happen. Councilor Moncrieff confirmed that a County-City memorandum of understanding assured that the City would participate in any concept planning of the Basin. The CAC modified the policy to refer to the 'Upper Stafford Basin.' They suggested item B.3.b.iv. was more closely tied to B.2 buffers. Staff would make those changes.

C. Annexation Policies

C.1. Extraterritorial extension of sewer and water services:

- a. **Except as provided in section (b), Require unincorporated property shall be required to annex prior to the receipt of City sanitary sewer service except as provided in section (b).**
- b. **Any of the properties designated in Figure 30 may be provided with City sanitary sewer service prior to annexation if all of the following conditions are met:**
 - i. **The property is within the Lake Oswego Urban Services Boundary;**
 - ii. **An existing sanitary sewer line operated by the City, to which connection can be made in accordance with subsection (iv) below, is within 300 feet of the property;**
 - iii. **The County has found that the septic system serving the property is failing and the County has directed connection to a sanitary sewer system;**

- iv. The plan for extension of a sanitary sewer line to be connected to the City sanitary sewer line has been approved by the City Engineer; and**
- v. Immediate annexation of the property is not feasible and the Owner has executed a consent for future annexation**

C.5. Require annexation prior to review of development permits of unincorporated property proposed for development which requires City sewer or water facilities.

Ms. St. Amand anticipated that C.5. language might be changed to reflect a move toward concurrent reviews. She noted Policy C.1. would allow people to connect prior to annexation if there were health and safety hazards. Mr. Cushing observed C.5. seemed very restrictive in that one had to annex before anyone would talk to them about development. Staff agreed C.1. was a fragmented sentence. 'Extraterritorial' meant 'beyond the Urban Service Boundary' or 'beyond existing City services' and that should be clearer. After legal staff advised the City did not require 'non-remonstrance' C.1.b.v. language had been updated.

Mr. Clee observed that C.1.b.iii. meant that if one's septic system was failing that would override everything else. Mr. Johnson advised state law required the sewer connection if the property was within 300 feet of a sewer line. Councilor Moncrieff observed that if it was more than 300 feet away an easement would be necessary. Ms. St. Amand explained that the language, 'is failing' was used so the connection policy applied to a system that had not yet officially and completely failed and could pose a health issue. Mr. Johnson cautioned that some people replaced failed septic systems without a county permit so the county would not know it failed.

Mr. Clee asked for the rationale behind requiring people to connect to sewer if their septic system failed. Councilor Moncrieff explained that when development was too dense the earth could not absorb what was coming from all of the leaching fields. It got into the waterways and the lake. That happened even if the septic systems were working but there were too many fields. Mr. Johnson related that there were areas with a type of soil that did not effectively clean the material. He would look at putting in the infrastructure there so people had no choice but to annex when their systems failed. He recalled areas where sewer service was forced on property owners because of the health hazard. He reported that half of his neighborhood wanted to connect to sewer and half did not. Ms. St. Amand advised the current policy reflected a 2009 Council decision to remain reactive and not provide any additional incentives. However, the new Wastewater Master Plan called for a lot of work to be done to improve the overall system. The question would need to be answered eventually. Ms. Atwood suggested inserting language that would allow an exception for new and tested alternative technology that did not require centralized infrastructure. Staff suggested that could be discussed when the CAC looked at the Wastewater section of the Public Facilities Plan.

C.2 The City may initiate island annexations as allowed by state law to:

- a. Create logical City boundaries;**
- b. Provide economic and efficient provision of City services to existing and proposed development within the subject area, and to adjacent land; and,**
- c. Equitably distribute costs for those city services enjoyed by residents of island areas.**

Mr. Cushing suggested this policy should address the health issue as well. Mr. Johnson anticipated legislation would be proposed to address cities' frustration that un-annexed areas were using city services and not paying for them.

C.6 Provide incentives to encourage owners of property within the Urban Services Boundary to voluntarily annex to the City.

Councilor Gudman had commented on this proposed policy at the last CAC meeting. He had suggested this might create an equity issue for people who had annexed before there were incentives. Ms. St. Amand suggested that might depend on what the incentives were. Tax abatement for a period of years might be an equity issue, but not putting infrastructure down the street. People still had to pay to connect to it. The question was whether it was important to pursue annexations by providing incentives and trying to bring in as many unincorporated areas and get as many people as possible off septic. Mr. Needham recalled that people were motivated to come into the City when there was a reason to do so. The proposed policy would offer incentives to people who did not have any other incentive to annex or really did not want to. His own neighborhood was not interested in being part of the City because of the restrictions that came with it. They had a private water company, septic systems and a county road. Staff suggested the implementation planning phase could distinguish where the policy was applied and why. She asked if the City should encourage an area to annex if it already had all the services it needed and did not see any advantage in annexing. Ms. Atwood observed that septic systems created a community health issue. Mr. Cushing commented that this policy was written as a '30,000 foot level' policy and keeping it at that high level might make sense at the moment. Staff asked if the CAC wanted to specifically call out septic systems here. Mr. Johnson anticipated that large tracts were going to annex in order to develop because they wanted city services and could not get them any other way. The county would not let them divide if they had septic. The real issue might be the islands. The real reason for incentives was to get people who already used city services and sewer to want to come into the city so the City had the income. Ms. Greene recalled this had been a very challenging subject for the citizens at the summit. Mr. Johnson noted another reason to be in the city was that the county did not enforce things like zoning. Staff observed consensus to keep C.6. as written and make some changes to C.1. and C.2. All the options for types of direct and indirect incentives and new technology could be looked at during the action planning phase. The CAC planned to finish discussing this section next month.

HAZARDS GOALS AND POLICIES (see Attachment 2: Staff memorandum / Attachment 4: Hazards Draft Goals and Policies)

The current Comprehensive Plan addressed Flood Hazards, Earthquakes Hazards, and Landslides, Erosion and Unstable Soils. Three more hazards would be added to the new Plan: Severe Storm Events, Volcanoes, and Wildfires. The 2010 Natural Hazards Mitigation Plan (NHMP) addressed them. It was an action plan and the code already reflected what it called for. The new Plan would reflect that document too.

A. General Hazard Policies

A proposed umbrella policy would simply call for the City to coordinate with all the regulatory agencies. Staff agreed to clarify what DLCD stood for. They anticipated that the related mapping and inventories would be kept up to date. They confirmed that the City's Plan complied with all of the general policies and approaches in the county plan.

B. Flood Policies

5. Allow development density within the floodway fringe to be transferred to higher portions of the development site.

Ms. St. Amand clarified that this was about FEMA-related constraints in floodways. It was not the same issue as the Metro-related issue of cut and fill in the Foothills flood management area. Ms. Atwood was concerned that this policy might be too technical for a Comprehensive Plan. Staff explained they had taken some technical things out of the new Plan, but they left things in that had to be there for compliance reasons. One example was the Wastewater Master Plan. This policy would basically allow innovative designs or other approaches that were a different way of dealing with those sites. The density transfer had to be on the same site.

C. Earthquake Policies

No discussion.

D. Landslides, Erosion and Unstable Soil Policies

Mr. Cushing asked if any of these polices applied to situations like a recent one when a house fell of the side of a hill. A court had ruled the City was not responsible. Ms. St. Amand observed a reason for having a related policy in the Comprehensive Plan was because home owners insurance did not cover earth movement.

1. Continue updating maps within the Lake Oswego Urban Services Boundary with the best and most current information to minimize hazards associated with soil erosion, landslides and unstable soils.

Mr. Brennan inquired where to look for soil maps. Staff clarified they were found in the CDC. They would include a cross reference to tell people where to look. Certain types of soils triggered additional requirements for development, such as a geotechnical report. Mr. Brennan related that the 'loose soils' description for the soil type under his residence was not a geologic term. Ms. St. Amand advised it had been used in the 1960s. The intention was to update inventories, including that particular inventory.

- 2. Implement regulations, standards and incentives to protect life and property from hazards associated with landslides, soil erosion and unstable soils to ensure:**
 - c. Open space preservation of slopes which cannot be developed because of severe landslide and erosion hazard;**
- 4. Control erosion through the following measures:**
 - b. Land identified with a potential for high erosion hazard will be maintained in open space, unless appropriate evidence demonstrates that engineering can effectively overcome soil and slope limitations.**

Ms. Gronowski suggested the 2.c. and 4.b. required more explanation. Ms. St. Amand agreed and would reword it. When staff used the term 'open space' here it meant 'undeveloped areas.' Policy 4.b. was intended to encourage development away from areas most directly impacted by hazards. She encouraged the CAC to email her with any additional comments.

PUBLIC COMMENT

None.

CAC COMMENTS

The CAC acknowledged that this was Councilor Moncrieff's last meeting as her City Council term ends in early January 2013. She was thanked for her hard work and support.

ADJOURNMENT

Councilor Moncrieff adjourned the meeting at 6:00 p.m.

DRAFT Guidelines for Drafting Comprehensive Plan Language

- Goals should be short, broad and begin with a verb.
- Policies should also start with a verb. They should support the goal(s), but are more specific. Policies indicate either measures or the general approach the City will take to achieve the goals, or a policy to develop methods to achieve the goal (although the measure or general approach may not yet be decided).
- Who does the Plan direct? For the most part, the goals and policies are written to direct the actions of the *City of Lake Oswego*, the legal entity located at City Hall (denoted by “City” with a capital C). It guides the decisions that the City makes on the subjects addressed in the Plan.

The Plan may also express the community’s desire that others participate with the City or undertake certain actions to achieve the Plan’s goals, but others are not required by law to consider or comply with the stated goals and policies. In cases where the policy is directed toward the community at-large, language should clearly call this out. For example, discretionary language will be used – the Plan cannot require the community at-large to follow a particular policy, and often it will be a suggested type of incentive or voluntary act that the City would encourage the community at-large to achieve.

The Plan does not direct land-use actions of third parties, i.e., property owners / developers; that is accomplished through adoption of code provisions consistent with Plan policies.

- What exactly does discretionary or mandatory language mean? **Mandatory, or directive,** language indicates that the City must undertake the specified action to achieve the stated result. It states that action is required, and is often signaled by the words “require” or “ensure.” It provides clear direction. If specific plan policies appear to conflict, the City will need to balance and weigh each applicable policy objective within the overall context of the Comprehensive Plan and Statewide Goals. As part of this process, the City will need to consider if the policies contain mandatory language (e.g., require) or more discretionary language* (e.g., may, encourage).

Discretionary language gives the City more options in deciding whether to undertake action and, if so, the implementation methods for the policy path are less clearly defined. It provides the opportunity for both regulatory and non-regulatory approaches (such as the voluntary use of incentives). It is often signaled by the word “may.”

- What is the City trying to achieve? Equally important as the mandatory / directive / discretionary language is how the policy describes the result to be achieved. If the stated result doesn't require a specific method or specific action, then the policy can be met, even without the specified result being achieved. Consider these examples:
 - "Ensure that X occurs" requires the decision maker to consider and select a method that the decision maker finds will achieve X. Whether that method is regulatory or voluntary is not specified; it is up to the decision maker to decide what will achieve the result stated.
 - "Require a third party to do X" means that a code provision must be adopted that requires the third party to do X.
 - "Require / Provide the opportunity for a third party to do X" means some action must be taken that allows the third party to do X, but the third party need not undertake X.
 - "Promote X" means that the City must encourage others to undertake X, but third parties need not undertake X. Promotion can be through a variety of methods (advertising; incentives, etc.)
 - "Consider requiring a third party to do X" means a code provision must be considered, but it does not require adoption. What is mandatory is the consideration, not that the third party be actually required to do X.
 - "The City may do X" means that the City may do X, but is not required to do X. Whether the City does X is discretionary or permissive; there is no obligation to do X.
- Avoid equivocal statements: use more concrete language. Keep verbs measurable and easily quantifiable: for example, avoid "encourage" or "address." These words do not provide clear guidance to staff or officials for implementation. As the examples above demonstrate, these words do not specify degree. Taking one step could be considered meeting the goal, even if a broader, multi-step implementation plan is necessary. Realize that as soon as you use these words, it dilutes the policy's impact.
- The Update has focused on removing policies that arguably may have been thought of as required of others when they acted, i.e., "regulatory" policies imposed on developers when seeking a development permit. These requirements should only be addressed in the Code, per state law and as a best practice, to ensure a single source for development requirements. Policies should address the City's actions and policies regarding development, not include requirements that could be considered land-use criteria for an individual development application. These become hidden obligations and should only be found and explicitly written into the CDC.

- The current Plan includes policies either arguably require development to meet certain criteria, or are a directive to the City Council to adopt regulations that accomplished the stated result,. For example, to clarify as a directive to the City Council, “Require new commercial and industrial development to” should read “Provide land use regulations and standards that ensure new commercial and industrial development....” It sounds wordier, but the action is more accurate. The CDC is where land use criteria should be found, not in the Comp Plan.
- The Comp Plan policies should provide direction for the criteria (for example, what should the CDC address? What are the parameters or performance levels?) but should not enumerate them.
- A good test is to review the policy and ask, “Does it include criteria that can apply only to a specific development application,” or does it state policies regarding development that could serve as direction for adoption of code regulations?

Questions to Ask:

- Are the goals or policies subject to individual interpretation? Since these goals and policies will be used to guide the City’s decision-making, including formulating land-use regulations, they should be clear as possible.
- Will we have to update this in a year? If so, then best as an action plan item.
- How will the City implement this goal or policy? Is it appropriate for the Comprehensive Plan?
- Is it clear who the policy applies to? The City or as a statement of encouragement to the community at-large?