

ORDINANCE NO. 2612-B

AN ORDINANCE OF THE LAKE OSWEGO CITY COUNCIL AMENDING LOC CHAPTER 50 (COMMUNITY DEVELOPMENT CODE) FOR THE PURPOSE OF COMPLIANCE WITH METRO TITLE 4 AND THE URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN RELATING TO CUMULATIVE RETAIL; AND ADOPTING FINDINGS (LU 012-0054-B).

WHEREAS, the City of Lake Oswego is required by the Metro Code to demonstrate compliance with Metro Title 4 (Industrial and Other Employment Areas) of the Urban Growth Management Functional Plan;

WHEREAS, Metro Title 4 (Metro Code 3.07.410 - .450) requires the City to impose limits on the cumulative square footage of retail sales uses in designated areas;

WHEREAS, the Community Development Code does not currently limit the cumulative square footage of retail sales uses in areas designated by Metro Title 4;

The City of Lake Oswego ordains as follows:

Section 1. The City Council hereby adopts the Findings and Conclusions (LU 12-0054-B-1822), attached as Exhibit 1.

Section 2. The Lake Oswego Code, Chapter 50 (Community Development Code) is hereby amended as shown on Exhibit 2 by deleting the text shown by ~~strikethrough~~ type and adding new text shown in double underline type. (Sections or subsections within LOC Chapter 50 that are omitted below, and not marked for deletion or addition, are neither amended nor deleted by this Ordinance.)

Section 3. Severability. The provisions of this ordinance are severable. If any portion of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

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Enacted at the regular meeting of the City Council of the City of Lake Oswego held on the 13th day of August, 2013.

AYES: Mayor Studebaker, Bowerman, Gudman, Gustafson, Jordan, O'Neill

NOES: None

ABSTAIN: None

EXCUSED: Kehoe



Kent Studebaker, Mayor

Dated: _____

ATTEST:

Catherine Schneider, City Recorder

APPROVED AS TO FORM:



David D. Powell, City Attorney

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BEFORE THE CITY COUNCIL
OF THE CITY OF LAKE OSWEGO

A REQUEST FOR AMENDMENTS TO THE)
COMMUNITY DEVELOPMENT CODE TO) LU 12-0054-B
CLARIFY AND UPDATE VARIOUS SECTIONS) (CITY OF LAKE OSWEGO)
)
[ORDINANCE No. 2612-B; amendments to MC,) FINDINGS & CONCLUSIONS
CR&D, and IP zones])

NATURE OF PROCEEDING

This matter came before the City Council pursuant to a recommendation by the Lake Oswego Planning Commission to approve amendments to the Lake Oswego Community Development Code (CDC) to clarify and update various sections, as well as to correct errors and to eliminate ambiguities and redundancies. During the public hearing process for LU 12-0054, an annual update of the Community Development Code, the City Council, on May 21, 2013, separated the question of amendments to other sections of LOC Chapter 50 (Ord. 2612-A) from these proposed amendments to the Mixed Commerce (MC), Campus Research and Development (CR&D) and Industrial Park (IP) zones (Ord. 2612-B).

HEARINGS

The Planning Commission held two public hearings and considered these amendments at its meetings of January 28 and February 11, 2013. Oral testimony was received from the public at the January 28, 2013 hearing.

The City Council held a study session on this matter on March 19, 2013, and held a public hearing to consider the Planning Commission’s recommendation on April 16, 2013, a

1 work session on May 21, 2013, and an additional public hearing on proposed Ord. 2612-B on
2 June 18, 2013.

3 **CRITERIA AND STANDARDS**

4 A. City of Lake Oswego Community Development Code

- 5 LOC 50.07.003.16.a Legislative Decisions Defined
- 6 LOC 50.07.003.15.c Public Notice and Opportunity for Public Comment
- 7 LOC 50.07.003.16.d Planning Commission Recommendation Required
- 8 LOC 50.07.003.16.e City Council Review and Decision

9 B. City of Lake Oswego Comprehensive Plan

- 10 Goal 1: Citizen Involvement, Policies 1 and 5
- 11 Goal 2: Land Use Planning, Section 1 Land Use Policies and Regulations, Policy 23
- 12 Goal 9: Economic Development, Polices 6, 8, 20 and 21

13 C. Metro Code

14 Metro Title 4 (Metro Code 3.07.410 - .450)

15 **FINDINGS AND REASONS**

16 The Council incorporates the January 28, 2013 Staff Report to the Planning
17 Commission, the February 8, 2013 Supplemental Staff Report to Planning Commission, the
18 February 25, 2013 Planning Commission findings, and the March 19, April 5, and June 12, 2013
19 Council Reports, with all exhibits, as support for its decision.

21 The Waluga Neighborhood Association, by Jeff Novack, Chair, submitted three
22 questions (Exhibit E-9) at the June 18, 2013 public hearing, and the Council finds as follows:

- 23 1. What is the definition of “adjacent lots or parcels”? Metro Title 4 uses the
- 24 wording “***more than 60,000 square feet of retail sales area on a single lot or parcel, or on
- 25 contiguous lots or parcels, including those separated only by transportation right-of-way.”
- 26

1 Metro's use of the terms "contiguous lots ... including those separated only by a transportation
2 right-of-way" has the same meaning as "adjacent," defined in the Community Development
3 Code: "Adjacent: Touching; across a public right-of-way from; across an easement from; across
4 a small stream or creek from." LOC 50.10.003.2. Since the square footage limitation in the MC
5 zone will be in the Lake Oswego Community Development Code, the terms used should be as
6 defined in the City's Code, not as used in Metro's Code.
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8 2. In the CR&D zone, if there are more than three adjacent lots to a development
9 site, each using 20,000 sq. ft of commercial retail use, how will the City address the issue when
10 the development site is not able to use its 20,000 sq. ft [under Metro Code's 60,000 sq. ft.
11 limitation]? Each site would have a maximum permitted commercial retail use of 20,000 sq. ft.,
12 regardless of the amount of commercial retail use on adjacent parcels. When applying the
13 20,000 sq. ft. per site limitation to development opportunities in the entire zone, this is in
14 "substantial compliance" with the Metro Code provision 60,000 sq. ft. per site and adjacent
15 lots. "Substantial compliance" is permitted by the Metro Code, not merely identical
16 compliance.
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18 3. If the Kruse Development at the corner of Kruse Way and Carmen Drive (LU 12-
19 0052) has 54,000 sq. ft approved for commercial retail use (see next paragraph), will the
20 adjacent lots in the CR&D zone be prohibited from adding more than a cumulative net addition
21 of 6,000 sq. ft. of commercial retail use? Each lot in the CR&D zone (except for any lots
22 approved prior to the effective date of this Ordinance for more than 20,000 sq. ft.) will be
23 permitted to have up to 20,000 sq. ft. of commercial retail use, regardless of the amount of
24 square footage of commercial retail use on adjacent lots. This is in substantial compliance, not
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1 identical compliance, with the Metro Code provision, when applying the square footage
2 limitation to development opportunities in the entire zone.

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4 On June 3, 2013, the Development Review Commission approved a mixed use
5 development at the southwest corner of Kruse Way and Carman Drive that includes 54,000
6 square feet of retail uses (LU 12-0052), in the CR&D zone. The Commission found the mixed
7 use development complied with Metro Title 4 directly. The Council takes notice that at the
8 time of adoption of these findings, LU 12-0052 is on appeal to the Council, and the Council
9 therefore does not hereby determine whether the Commission's approval should or should not
10 be affirmed. The Council finds that *if* a development is applied for prior to the effective date of
11 this Ordinance, it should be permitted to continue to have the greater approved amount of
12 square footage of commercial retail use greater than the general square footage limitations of
13 commercial retail use of this Ordinance. The development application is subject to the
14 standards at the time of submission of the application, including direct compliance with Metro
15 Title 4. Therefore, the Council finds that these code amendments should preserve the ability of
16 the property owner to continue to have commercial retail use on the site in such amount of
17 square footage as approved in compliance with the standards existing at the time of the
18 property owner's application. Accordingly, the Council finds that the permitted uses in the
19 CR&D Zone should include the following text noted in **bold**:

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23 In the CR&D zone, cumulative retail uses shall not exceed 20,000 sq. ft. or 20% of the
24 total building floor area per lot, whichever is less. However, where a development was
25 applied for prior to [effective date of Ordinance], the 20,000 square foot limitation
26 does not apply; the maximum numerical limitation on cumulative retail uses shall not
exceed the retail square footage amount approved for the site.

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CONCLUSION

The City Council concludes that LU 12-0054-B complies with all applicable criteria and should be approved. The Council also concludes that proposed Ordinance 2612-B, which implements LU 12-0054-B, should be enacted.

50.03.002 USE TABLE

Exhibit 2
Ord. 2612-B

3. COMMERCIAL, MIXED USE, INDUSTRIAL, AND SPECIAL PURPOSE DISTRICTS USE TABLE

TABLE 50.03.002-2: COMMERCIAL, MIXED USE, INDUSTRIAL AND SPECIAL PURPOSE DISTRICTS USE TABLE																			
P = Permitted Use Blank = Not Permitted C = Conditional Use																			
[x] Table notes located at the end of the table																			
Use Cat.	Use Type	Commercial, Mixed Use, Industrial												Special Purpose			Use Specific Standards		
		N C	GC	HC	OC	EC	CR &D	MC	WLG- [32]				I	IP	IPO [37]	CI		PF	PNA
									OC	RMU	R-2.5	RLW							
RESIDENTIAL USES																			
Household Living	****																		
COMMERCIAL USES																			
Food and Beverage Services [8] , [9]	****																		
	Bakery							P										Seating area 700 sq. ft. or less	
	Bakery, baked foods manufactured elsewhere sold on premises	P	P	P	P	P	P	P										CR&D and MC zones: Not to exceed 20,000 sq. ft. floor area	
	Bakery, manufacturing – where on-site baked foods are sold within the building, <5,000 sq. ft.	P	P	P		P	P	P											
	Bakery, manufacturing – where on-site baked foods are sold within the building, >5,000 sq. ft.		P			P		P											
	Bar or cocktail lounge, no restaurant; use with retail malt beverage license		P	P		P		P											MC zone: Not to exceed 20,000 sq. ft. floor area

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		N C	GC	HC	OC	EC	CR &D	MC	WLG- [32]				I	IP	IPO [37]	CI		PF	PNA
									OC	RMU	R-2.5	RLW							
	Concession facilities																	P	
	Delicatessen (table service permitted)																	P [38]	IPO zone: Not to exceed 2,000 sq. ft. floor area
Food and Beverage Services (continued)	Delicatessen, no table service	P	P	P	P	P	P	P	P	[6]									CR&D and MC zones: Not to exceed 20,000 sq. ft. floor area
	Food markets, over 25,000 sq. ft. floor area		P/C [7]	P		P [8]		P [9]											
	Food markets, under 25,000 sq. ft. floor area	P	P	P		P		P											
	Restaurant with or without associated lounge	P	P	P	P	P	P	P		P [10]									CR&D and MC zones: Not to exceed 20,000 sq. ft. floor area
	Restaurant without associated lounge														P [38]				IPO zone: Not to exceed 2,000 sq. ft.
	Restaurant, take out only; or which includes a drive-in window		C [11]	P															
	Specialized food stores (such as coffee shop or juice bar)	P	P	P		P		P		P					P [38]				MC zone: Not to exceed 20,000 sq. ft. floor area IPO zone: Not to exceed 2,000 sq. ft. in

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Use Cat.	Use Type	Commercial, Mixed Use, Industrial												Special Purpose			Use Specific Standards		
		N C	GC	HC	OC	EC	CR &D	MC	WLG- [32]				I	IP	IPO [37]	CI		PF	PNA
									OC	RMU	R-2.5	RLW							
	Under 10,000 sq. ft. floor area	P [2 0]	P [20]	P [20]	P [2 0]	P [2 0]	P [20]	P [20]							P [39]				
	General retail sales, under 5,000 sq. ft. in WLG OC zone							P [24]											
	Orthopedic equipment and supplies, rental, sale and service		P			P	P	P							P				IPO zone: Less than 20,000 sq. ft. floor area
	Retail establishments [25]												C	C					IP zone: Not to exceed 20,000 sq. ft. of floor area
	Specialty retail (antique stores, art galleries, jewelers) in WLG							P [34]			P								WLG RLW zone: 50.04.001.4.b.i.i
	Sign shop		P			P						P	P [3]	P [3]					

[1] At a net site density of 2,500 sq. ft./lot area per unit area allowed in conjunction with office uses in the same building.

[8] In the EC zone, the cumulative square footage of a single commercial business on a site shall not exceed 35,000 sq. ft. Not to exceed 35,000 sq. ft. (See also LOC 50.02.002.2.b.iii.).

[9] In the MC zone, the cumulative square footage of retail business(s) or building(s) on a site shall not exceed 60,000 sq. ft. (i) on a single lot or parcel, or (ii) on adjacent lots or parcels.

In the CR&D zone, cumulative retail uses shall not exceed 20,000 sq. ft. or 20% of the total building floor area per lot, whichever is less. However, where a development was applied for prior to Sept. 12, 2013, the 20,000 square foot limitation does not apply; the maximum numerical limitation on cumulative retail uses shall not exceed the retail square footage amount approved for the site. Not to exceed 60,000 sq. ft. per building or business. (See also LOC 50.02.002.2.b.iii.)

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		N C	GC	HC	OC	EC	CR &D	MC	WLG- [32]				I	IP	IPO [37]	CI		PF	PNA
									OC	RMU	R-2.5	RLW							
		<p>[22]-Not to exceed 35,000 sq. ft. floor area per business-Reserved.</p> <p>[23]-Not to exceed 60,000 sq. ft. floor area per building or businessReserved.</p> <p>****</p> <p>[36]-Residential use at R 7.5, R 10, and R 15 density not permitted in the CR&D zone Reserved.</p> <p>****</p>																	

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50.05.008 INDUSTRIAL PARK OVERLAY DISTRICT

5. SPECIAL REQUIREMENTS

- a. Except as set forth below, all special requirements of LOC 50.02.002.2.b.iv, Specific Standards in the Industrial and Industrial Park Zones, shall apply within the Industrial Park Overlay District.
- b. No retail use shall be approved in the IPO zone with more than 20,000 sq. ft. of floor area:
 - i. In a single building, or
 - ii. On a single lot or parcel, or
 - iii. On adjacent lots or parcels ~~contiguous lots or parcels, including those separated only by public right-of-way.~~
- c. Commercial self-storage is allowed subject to the following standards:
 - i. The minimum FAR shall be 1.5:1.
 - ii. There shall be no roll up or "overhead" doors on the ground level that are visible from an arterial or collector street.
 - iii. Loading and docking areas shall be internal to the building and screened from street views.
 - iv. The building exterior shall be articulated using a variety of materials and colors. At least 20% of a street-facing facade shall be glass.