

**ORDINANCE 2829**

**AN ORDINANCE OF THE CITY OF LAKE OSWEGO CITY COUNCIL AMENDING THE COMPREHENSIVE PLAN MAP AND ZONING MAP FROM PNA TO CR&D AND MODIFYING THE RESOURCE OVERLAYS FROM RC DISTRICT TO HBA DISTRICT FOR 4403 KRUSE WAY (TAX LOT 21E08BB04900); AMENDING THE COMMUNITY DEVELOPMENT CODE TO ADD A NEW SUBSECTION 50.02.002.2.c.iv; AND ADOPTING FINDINGS. (LU 17-0070)**

WHEREAS, a notice of public hearing for consideration of this Ordinance was duly given in a manner required by law; and,

WHEREAS, a public hearing was held before the Planning Commission on September 9, 2019, and October 14, 2019 and before the Lake Oswego City Council on November 5, 2019, to consider the proposed Comprehensive Plan map and Zoning map amendments, resource overlay amendments, and an amendment to LOC Chapter 50 to add a new subsection LOC 50.02.002.2.c.iv; and

WHEREAS, the owner of the abutting parcel, Map 21E08BB05500 consents to the provisions of Section 3 below, as required for approval of LU 17-0070;

The City of Lake Oswego ordains as follows:

**Section 1.** The City Council adopts the Findings and Conclusions (LU 17-0070) in Attachment A.

**Section 2.** For 4403 Kruse Way (Tax Map 21E08BB04900), the Comprehensive Plan Map and Zoning Map are amended to change the designations from PNA (Park and Natural Area) to CR&D (Campus Research and Development), and to change the resource overlays from RC (Resource Conservation) to HBA (Habitat Benefit Area), as shown on Attachments B and C.

**Section 3.** Section 50.02.002.2.c of the Lake Oswego Code is amended, as shown in Attachment D, by adding as a new subsection Section 50.02.002.2.c.iv.

**Section 4.** Effective Date of this Ordinance: Pursuant to Lake Oswego City Charter, Section 34, this ordinance shall be effective on the 30<sup>th</sup> day after its enactment.

Enacted at the regular meeting of the City Council of the City of Lake Oswego held on 19<sup>th</sup> day of November, 2019.

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AYES: Mayor Studebaker, Manz, O'Neill, LaMotte, Nguyen, Wendland, Kohlhoff

NOES: None

ABSTAIN: None

EXCUSED: None

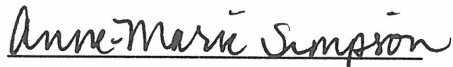


Kent Studebaker, Mayor



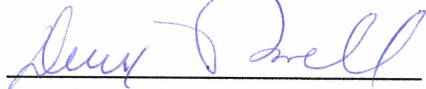
Dated

ATTEST:



Anne-Marie Simpson, City Recorder

APPROVED AS TO FORM:



David Powell, City Attorney

BEFORE THE CITY COUNCIL  
OF THE CITY OF LAKE OSWEGO

3 COMPREHENSIVE PLAN MAP AND ZONING 4 MAP AMENDMENTS FROM PNA TO CR&D; 5 MODIFICATION OF THE RESOURCE OVERLAY FROM RC TO HBA FOR PROPERTY AT 4403 KRUSE WAY; ORDINANCE 2829	LU 17-0070  (BOONES & KRUSE LIMITED PARTNERSHIP)  FINDINGS, CONCLUSIONS & ORDER
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**NATURE OF PROCEEDINGS**

This matter came before the City Council on a recommendation from the Planning Commission to approve an application for:

1. Comprehensive Plan Map and Zoning Map amendments from PNA (Park and Natural Area) to CR&D (Campus Research and Development); and
2. A Modification of the resource overlay from the RC (Resource Conservation) to HBA (Habitat Benefit Area).

The Planning Commission also recommended certain code text amendments to ensure that the map amendments and future development of the site meet the applicable Comprehensive Plan Criteria.

**HEARINGS**

The Planning Commission held a public hearing and considered this matter on September 9, 2019. On October 14, 2019, the Planning Commission adopted findings, conclusions and an order recommending approval of LU 17-0070 with certain code amendments. The City Council held a public hearing and tentatively approved LU 17-0070 on November 5, 2019. The following exhibits were submitted after the Planning Commission hearing.

**G Exhibits: Public Comments**

In Opposition:

- Exhibit G-210 Letter from Waluga Neighborhood Association
- 1 Exhibit G-211 Email from T-Cox
- Exhibit G-212 Email from Forest Condo HOA
- 2 Exhibit G-213 Email from L-Hoagland
- Exhibit G-214 Letter from K-Salamanca
- 3 Exhibit G-215 Email from D-Carlson

4 **CRITERIA AND STANDARDS**

5 A. **City of Lake Oswego Community Development Code-Procedure [Chapter 50]:**

- 6 LOC 50.07.003.1.b Burden of Proof
- 7 LOC 50.07.003.3 Notice of Public Hearing
- 8 LOC 50.07.003.4 Hearings before a Hearings Body
- 9 LOC 50.07.003.5 Conditions of Approval
- 10 LOC 50.07.003.7 Appeals
- 11 LOC 50.07.003.15 Major Development (excluding subsection a and d.ii).
- 12 LOC 50.07.003.16.a.ii Legislative Decision Defined (Quasi-judicial Comp. Plan and  
Zone Map Amendments to be processed via Major  
Development)
- 13 LOC 50.07.003.16.c Required Notice to DLC
- 14 LOC 50.07.003.16.d Planning Commission Recommendation Required
- 15 LOC 50.07.003.16.e City Council Review and Decision
- 16 LOC 50.07.004.8 Sensitive Lands Designations, Map Corrections and  
Delineations

13 B. **City of Lake Oswego Comprehensive Plan Policies:**

14 **Land Use Planning**

- 15 Policy A-1 (a,b,c,i)
- 16 Policy A-6
- 17 Policies B-2, B-6
- 18 Policy D-1, D-7 Land Use Administration
- 19 Policies E-1 (a-g), E-2(b) Comprehensive Plan Amendments

18 **Community Culture (Civic Engagement)**

- 19 Policies 1, 2, 4 and 5 Citizen Involvement

20 **Complete Neighborhoods and Housing [Buildable Lands and Housing Needs Analysis]**

- 21 Policies A-1.d, A-3, A-4 Housing Location and Quality High Density
- 22 Policy B-1 Housing Choice and Affordability

22 **Economic Vitality**

- 23 Policies A-1, A-3, A-4, Economic Development
- 24 Policies B-1 (a-j), B-2 Employment zones

25 **Connected Community**

- 26 Policies B-1, Transportation Choices

1 Policies C-1, C-3, C-6, C-8 Efficiency  
2 Policies F-2, F-3 and F-7 Livability  
3 Policies G-3, Sustainability

4 **Community Health and Public Safety**

5 Policy 1 Sound Quality

6 **Healthy Ecosystems**

7 Policy 6, Natural Resources

8 Policies 3 and 5, Air Quality

9 C. Metro Urban Growth Management Functional Plan

10 Title 1: Housing Capacity [MC 3.07.120.E]

11 Title 6: Centers, Corridors, Station Communities and Main Streets [MC 3.07.640]

12 Title 7: Housing Choice [MC 3.07.730]

13 D. Transportation Planning Rule (Chapter 660, Division 12)

14 OAR 660-12-0060(1)

15 E. Oregon Statewide Planning Goals

16 Goal 6: Air, Water and Land Resources

17 Goal 10: Housing

18 Goal 12: Transportation

19 F. Waluga Neighborhood Plan

20 Goal 1: Policies 2, 3 Citizen Involvement

21 Goal 2: Policies 6 Land Use Planning

22 Goal 5: Policy 1, Open Spaces, Scenic and Historic Areas and Natural Resources

23 Goal 9: Policies 6, and 9 Economic Development

24 Goal 10: Policy 3 Housing

25 Goal 11: Policy 1 Public Facilities and Services

26 Goal 11: Water Treatment and Delivery, Policy 1

Goal 12: Policies 5, 13 Transportation

**FINDINGS AND REASONS**

22 As findings supporting its decision, the City Council incorporates the Planning  
23 Commission staff report, dated August 29, 2019 (Exhibit D-1), the Planning Commission's  
24 Findings, Conclusions and Order dated October 14, 2019 (Exhibit B-1), and the staff Council  
25 Report dated October 25, 2019 (with all exhibits), together with the following supplemental  
26

1 findings of the City Council. If there is any inconsistency between the supplemental findings and  
2 the incorporated materials, the supplemental findings control.

3 Following are the supplemental findings of the City Council:

4 1. **Traffic Impacts, Parking and Access.** The Council received testimony that  
5 the future development resulting from the zone change would negatively impact traffic at the  
6 intersection of Kruse Way and Carman Drive, and access to the site and parking would  
7 negatively impact Carman Drive (Exhibits G-210, G-211, G-212, G-214 and G-215). These issues  
8 were previously raised at the Planning Commission hearing and were addressed in the Planning  
9 Commission’s Findings, Conclusion and Order (Exhibit B-1). The Council concurs with the  
10 Commission’s findings.

11 2. **Traffic Management Measures.** The Waluga Neighborhood Association  
12 submitted testimony expressing concerns regarding the potential for future uses of the site to  
13 exceed the required traffic management measures in the recommended code amendments to  
14 LOC 50.02.002.2.d that limit the p.m. peak traffic trips to 98 as projected in the applicant’s  
15 traffic impact study (Exhibit G-210). This issue was previously addressed in the Planning  
16 Commission’s Findings, Conclusions and Order (Exhibit B-1).

17 The Council concurs with the Commission’s recommendation that a code  
18 amendment be adopted that would require applicants for development on the site to submit a  
19 Traffic Impact Analysis (TIS) with each development application, documenting existing p.m.  
20 peak hour traffic exiting the site, and identifying traffic management measures consistent with  
21 LOC 50.02.002.2.d, as applicable, to ensure the functioning of Kruse Way and the adjacent  
22 street intersections within Service Level “E” during the p.m. peak hour. Any new business is  
23 required to apply for a business license where the p.m. trip count for such use will reviewed by  
24 Planning staff.

25 The Council finds, based upon the conceptual plan, traffic impact study, existing  
26 development standards including LOC 50.02.002.2.d and LOC 50.07.003.5.a.iii, and the  
recommended code amendments requiring traffic management measures, that the applicant

1 has demonstrated that it is feasible for a level of development to occur under the CR&D zone  
2 designation that will mitigate potential traffic impacts.

3           **3. Park and Natural Area Zone.** The Council received written testimony that  
4 maintaining the PNA zone is necessary for the character of the neighborhood and the aesthetic  
5 character of Lake Oswego, rather than allowing future development of asphalt and a building  
6 (Exhibit G-213). The testimony cites no applicable Comprehensive Plan policy or other approval  
7 criteria. This issue was previously raised at the Planning Commission hearing and was addressed  
8 in the Planning Commission’s Findings, Conclusion and Order. The Council concurs with the  
9 Commission’s findings.

10           **4. Environmental Impacts/Tree Removal.** The Council received written  
11 testimony that future development could have negative impacts on wildlife habitat, and that  
12 the proposed driveway may require removal of several trees located on the Pearl Assisted  
13 Living Facility (Exhibits G-210 and G-215). The testimony cites no applicable Comprehensive  
14 Plan policy or other approval criteria. This issue was previously raised at the Planning  
15 Commission hearing and was addressed in the Planning Commission’s Findings, Conclusion and  
16 Order. The Council concurs with the Commission’s findings.

17           **5. Building Height and Buffering/Screening from The Forest Condos.** The  
18 Commission received testimony that staff’s proposed code amendment limiting building height  
19 to 45 feet would not sufficiently mitigate the negative impact to The Forest Condos to the east  
20 regarding privacy and property values (Exhibits G-211, G-212 and G-215). The testimony cites  
21 no applicable Comprehensive Plan policy or other approval criteria. This issue was previously  
22 raised at the Planning Commission hearing and was addressed in the Planning Commission’s  
23 Findings, Conclusion and Order. The Council concurs with the Commission’s findings.

24 **CONCLUSION**

25           The City Council concludes that LU 17-0070, as recommended by the Planning  
26 Commission, complies with all applicable criteria and should be approved. The Council also  
concludes that proposed Ordinance 2829, which implements LU 17-0070 consistent with the

1 Planning Commission's recommendation, should be enacted.

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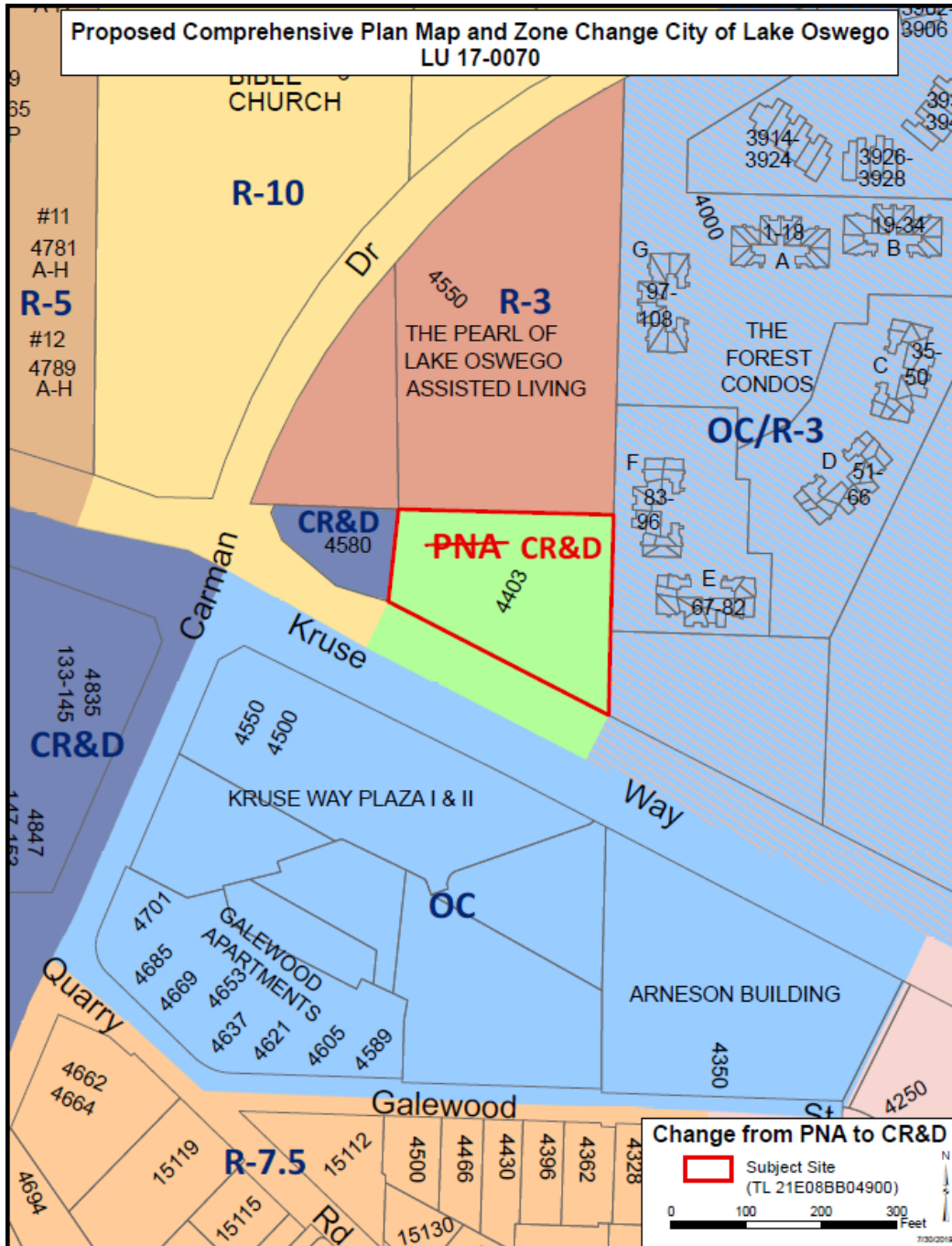
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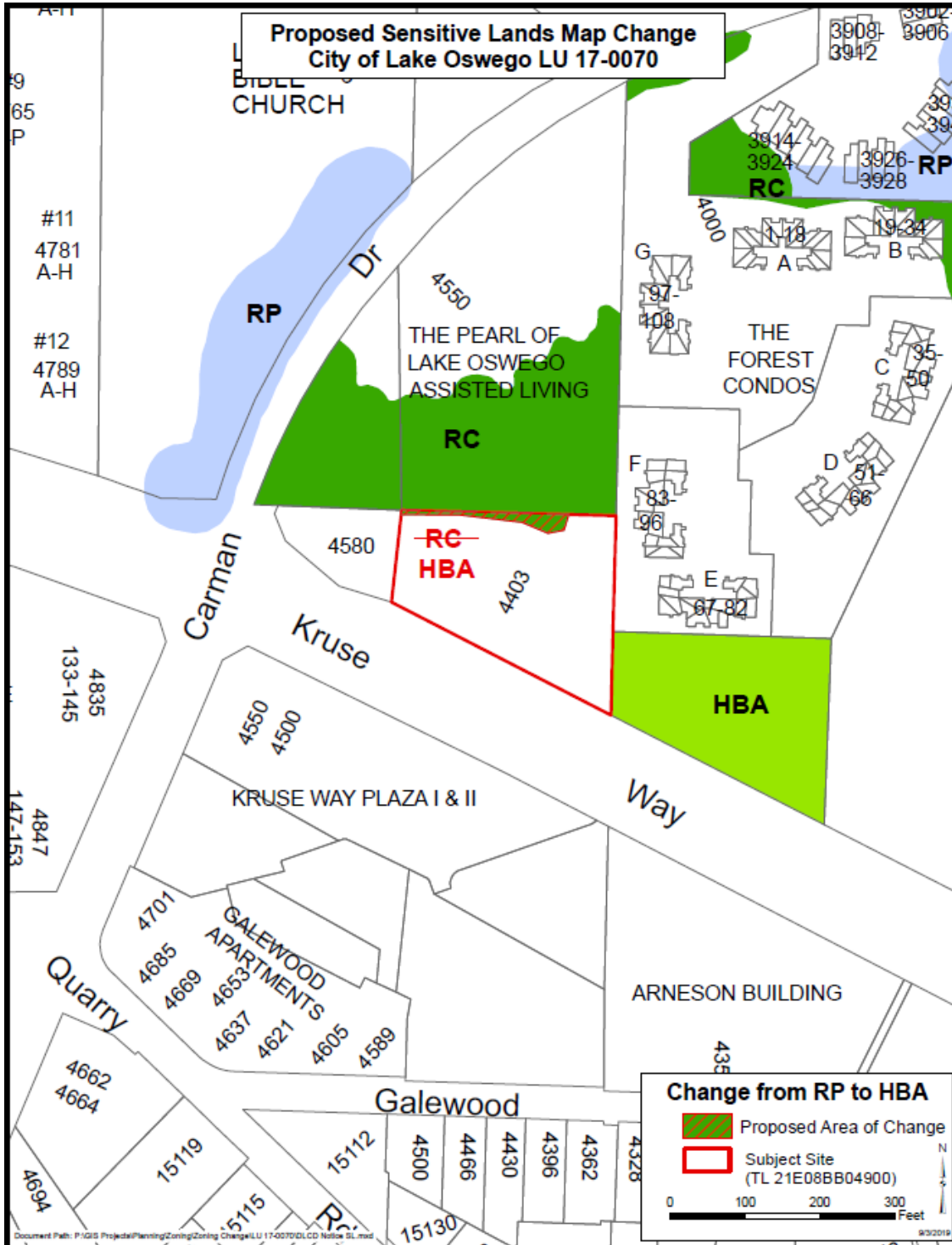
**ATTACHMENT B**  
**Ordinance 2829**  
**LU 17-0070**  
**Comprehensive Plan Map and Zoning Map Changes**

The following amendment shall be made to the Lake Oswego Comprehensive Plan Map and to the Zoning Map for the referenced property: 4403 Kruse Way (21E08BB04900).



ATTACHMENT C  
 Ordinance 2829  
 LU 17-0070  
 Sensitive Lands Resource Overlay Modifications

The following amendment shall be made to the Lake Oswego Sensitive Lands Resource Overlays for the referenced property: 4403 Kruse Way (21E08BB04900).



**50.02.002 COMMERCIAL, INDUSTRIAL, MIXED USE ZONES**

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**2. SPECIFIC STANDARDS FOR COMMERCIAL, MIXED USE, AND INDUSTRIAL ZONES**

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**c. Standards Applicable to Specific Locations**

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**iv. Kruse Way/Carman Drive Site.**

**The site consists of properties located at 4403 Kruse Way and 4580 Carman Drive located northeast of the intersection of Kruse Way and Carman Drive (Tax Lots 4900 and 5500 of Tax Map 21E08BB).**

**(1). An irrevocable, executed, recordable joint access easement for the benefit of the site consistent with the conceptual site plan in LU 17-0070, Exhibit E-011 shall be submitted with any development application for either property.**

**(2). The combined uses of the site are limited to the p.m. peak hour trip generation of 98 trips, as stated in the traffic impact study submitted in LU 17-0070, Exhibit F-005.**

**(3). A Traffic Impact Study shall be submitted with any development application for the site, documenting existing p.m. peak hour traffic exiting the site and identifying traffic management measures consistent with LOC 50.02.002.2.d, to ensure the functioning of Kruse Way and the adjacent street intersections do not exceed Service Level "E" during the p.m. peak hour.**

**(4). The maximum building height on the site is 45 feet.**