

January 11, 2023

A P P L I C A N T ' S S T A T E M E N T

APPLICANT: John Gliebe
New Look Development
7685 SW Cirrus Drive, #32F
Beaverton, OR 97008

OWNER: Hail Capital, LLC
501 4th Street, #974
Lake Oswego, OR 97034

APPLICANT'S REPRESENTATIVE: Danelle Isenhardt, AICP
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6445 SW Fallbrook Place, Suite 100
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REQUEST: Minor Development – 2 lot confirmations, 4 serial lot line adjustments and an unavoidable RP crossing for the new sanitary main extension

SITE LEGAL DESCRIPTION: Tax Lots 100, 2902, 3000; Tax Map 21E 07CA
Waluga Park – West, Baleine Street and Inverurie Road rights-of-way
Lake Oswego, Oregon

SIZE: ~104,099 sq. ft. (TLs 100, 2902, and 3000 only)

LAND-USE DISTRICT: R-7.5 (TLs 100, 2902, and 3000)
PNA (Waluga Park – West)

LOCATION: Vacant lots north & east of 15868 Kimball Street, Waluga Park- West, and Baleine Stree and Inverurie Road rights-of-way

I. APPLICABLE REGULATIONS

- A. Lake Oswego Comprehensive Plan
- B. Lake Oswego Community Development Code:

Chapter 42:	Streets and Sidewalks
Section 42.03	Street Design Standards
Section 42.08	Sidewalks
Chapter 50:	Community Development Code
Section 50.02	Base Zoning Districts
Section 50.03	Use Regulations and Conditions
Section 50.04	Dimensional Standards
Section 50.05	Sensitive Lands Overlay District
Section 50.06	Development Standards
Section 50.07.007	Flag Lot Requirements
Chapter 55:	Trees
Section 55.02.035	Tree Removal in Conjunction with Major or Minor Development Permit
Section 55.02.080	Criteria for Issuance of Type II Tree Cutting Permits
Section 55.02.084	Mitigation Required
Section 55.08	Tree Protection

II. BACKGROUND:

The applicant is requesting approval for 2 lot confirmations, 4 serial lot line adjustments and an unavoidable RP crossing for the new sanitary main extension to serve the development. The parcels are approximately 104,099 sq. ft and are in the R-7.5 zone. Waluga Park – West is part of the project for the sanitary sewer extension and is in the PNA zone. Portions of Baleine Street and Inverurie Road rights-of-way are part of the project for the sanitary main extension. The subject property is identified by the Clackamas County assessor as Tax Lots 100, 2902, and 3000 of Tax Map 21E—07CA. The site is currently vacant. There is a delineated wetland on a portion of the property. This delineation was approved in LU22-0019 (See Exhibit 6).

The proposed new single-family detached dwellings will take access from 2 new and adjacent access lanes onto Kimball Street.

The abutting properties are all within the R-7.5 zone. Dedication and improvements are not required along the site’s Baleine Street or Inverurie Road frontages per the engineering pre-application notes (See Exhibit 3). Kimball Street is a County road. Per Clackamas County there are no required improvements or dedication along the site’s Kimball Street frontage (See Exhibit 11).

All necessary utilities (i.e., power, water, etc.) are presently available to the site, except for sanitary sewer, as illustrated on the existing conditions map (Exhibit 4). There are existing water mains in Baleine Street and Kimball Street. All 5 lots are

proposed to have water meters from the water main in Kimball Street (See Exhibit 4 – Preliminary Site Plan). A sanitary sewer main extension along the site’s Kimball Street, Baleine Street and Inverurie Road frontages and through a portion of Waluga Park- West is proposed (See Exhibit 8). This sanitary main extension will provide sewer service to all 5 proposed lots. Sewer laterals for all 5 parcels will be provided. Lots 1-3 will each have a private storm planter for treatment of stormwater for the new dwelling on the respective lot. Lots 4 and 5 will each have private drywells for treatment of stormwater for the new dwelling on the respective lot. A drywell is also proposed on Lot 4 for the stormwater for the access lanes.

III. FINDINGS

A. LAKE OSWEGO COMPREHENSIVE PLAN

COMMENT:

Except where required by the Lake Oswego Community Development Code, this application is not required to address the city’s goals and policies related to the development of land, since the Lake Oswego Comprehensive Plan is implemented by the code.

B. LAKE OSWEGO COMMUNITY DEVELOPMENT CODE

CHAPTER 42: STREETS AND SIDEWALKS

42.03 STREET DESIGN STANDARDS

42.08 SIDEWALKS

COMMENT:

Dedication and improvements are not required along the site’s Baleine Street or Inverurie Road frontages per the engineering pre-application notes (See Exhibit 3). Kimball Street is a County road. Per Clackamas County a there are no required improvements or dedication along the site’s Kimball Street frontage (See Exhibit 11).

Sidewalk is not proposed along any of the abutting street frontages as there are no existing sidewalks or pathways near this site. Baleine and Inverurie Road are both local level streets under the jurisdiction of the City of Lake Oswego. Baleine Street is not improved at all along the site frontage and is not proposed or required to be constructed for this development. Kimball Street is under the jurisdiction of Clackamas County. The County is not requiring sidewalk or any improvements along this frontage.

CHAPTER 50: COMMUNITY DEVELOPMENT CODE

50.02 BASE ZONING DISTRICTS

50.02.001 Residential Districts

1. Residential – Low Density Zones

a. Districts

The residential-low density zone districts are R-15, R-10, and R-7.5.

b. Purpose

To provide lands for single-family residential development with densities ranging from two to five dwelling units per gross acre.

COMMENT:

The site (Tax Lots 100, 2902 and 3000) is located in the R-7.5 District. The applicant is proposing 5 lots through a series of lot confirmations and lot line adjustments for single-family residential development.

50.02.003 Special Purpose Districts

3. Park and Natural Area Zone

a. Purpose

The purposes of the Park and Natural Area (PNA) zone are to:

- i. Protect, preserve, conserve and enhance natural areas, greenways and parks;**
- ii. Permit a wide range of passive and active recreational uses, and accessory uses, on property for the future use and enjoyment of the City and its residents;**
- iii. Implement Statewide Planning Goal 8, Recreational Needs; and**
- iv. Establish a master plan process for park planning and development.**

COMMENT:

Waluga Park – West is located in the PNA District. The proposed sanitary sewer main extension is going through a portion of the park to connect to an existing main.

50.03 USE REGULATIONS AND CONDITIONS

50.03.002 Use Table

COMMENT:

The proposed single-family detached dwellings are an allowed use in the R-7.5 District. Public utilities (minor) are an allowed use in the PNA District.

50.04 DIMENSIONAL STANDARDS

50.04.001 Dimension Table

1. Residential Low Density Zones

a. Dimensional Standards

Development in the R-7.5, R-10, and R-15 zones shall conform to the dimensional standards in Table 50.04.001-1 except as modified below.

Standard	Required	Proposed
Density Minimum Maximum	80% of max (2)	Not applicable – lot line adjustments
Minimum Lot Dimensions Area (sq. ft.) Width (ft.) Depth (ft.)	7,500 sf 50 ft --	Each lot line adjustment with dimensions are noted below. Final lot area and width for each lot are: Lot 1: 9,607 sq. ft., 83.81 ft. Lot 2: 9,570 sq. ft., 83.26 ft. Lot 3: 44,059 sq. ft., 373.68 ft. Lot 4: 13,592 sq. ft., 97.23 ft. Lot 5: 13,592 sq. ft., 97.22 ft.
Max. Floor Area Base calc.: 3,000 sq.ft. +[(actual lot size – 5,800 sq.ft.)* 0.19]	Additional floor area allowance per residential unit providing a garage (sq. ft.) 600	Allowed: Lot 1: 4,323 sq. ft. Lot 2: 4,316 sq. ft. Lot 3: 10,869 sq. ft. Lot 4: 4,694 sq. ft. Lot 5: 5,080 sq. ft. Proposed: Specific house plans have not been selected for this development.
Yard Setbacks Front Street Side Arterial/collector Local Interior Side Rear	25 ft. 20 ft. 15 ft. Total 15', 5 ft. min. 30 ft.	All lots: Each lot will meet setbacks during building permit review. Lot 4 is a new flag lot and will meet flag lot setbacks.
Maximum Lot Coverage 50.04.001.1.f	Based on height of structure	All lots: Building plans and height unknown at this time. Lots 4 and 5 are flag lots and will meet flag lot standards.
Maximum Base Height Flat Lot Lot with Sloping Topography Sloped Lot	30 ft. 34 ft. (5) 35 ft.	All lots: Building plans and height unknown at this time. Lots 4 and 5 are flag lots and will meet flag lot standards.

The development includes 4 successive lot line adjustments. Below is an explanation on how each lot confirmation and lot line adjustment step (4) meets required R7.5 lot dimensions.

Lot Confirmation 1 and Lot Line Adjustment 1

The lot line confirmed is the property line between Lots 69 and 70 of Lake Forest. This line is then moved (adjusted) to the west. Tract 1 (Lot 1 – final dimensions) is 9,607 sq. ft. in area and is 83.81 feet in width. Tract 1 retains frontage on the Baleine Street ROW and

Kimball Street. Tract 2 (portions of future Lots 2 and 3) is 22,592 sq. ft. and is 196.57 feet in width.

Lot Line Adjustment 2

Lot line adjustment 2 is between Tract 2 of LLA 1 (above) and Tax Lot 2902. This lot line adjustment also creates access and utility easements for the future lots. Tract 1 includes future Lot 2, Lot 4 and a portion of Lot 3 and is 36,217 sq. ft. and is 140.17 feet in width. Tract 2 (Lot 5 – final dimensions) is 13,592 sq. ft. in area and is 97.22 feet in width. This tract is considered an existing flag lot and will have access from an access lane within the shown 20’ access and utility easement to the north and within the existing 15’ access and utility easement on the property to west and a new 10-foot easement north of the existing easement.

Lot Line Adjustment 3

Lot line adjustment 3 is between Tract 1 of lot line adjustment 2 and Tax Lot 100 (Lots 1 and 2 of Lake Forest). Tract 1 includes future Lots 2 and 3 and is 53,629 sq. ft. in area and is 466.78 feet in width. Tract 2 (Lot 4 – final dimensions) is 13,626 sq. ft. and is 97.23 feet in width. Tract 2 is a new flag lot. A parking easement is created with this lot line adjustment for Tract 2, the new flag lot, to meet the required parking standard for flag lots with an access lane.

Lot Confirmation 2 and Lot Line Adjustment 4

The line confirmed is the line between Lots 1 and 2 of Lake Forest. This line is then moved (adjusted) to the west to create Lots 2 and 3 in their final dimensions. Tract 1 (Lot 2 – final dimensions) is 9,570 sq. ft. in area and is 83.26 in width. Tract 2 (Lot 3 – final dimensions) is 44,059 sq. ft. in area and is 373.68’ in width.

g. Height – Additional Standards

A greater height than otherwise permitted is allowed for:

i. Single-Family Dwellings

Base building height may be increased by one ft. for every five additional ft. in yard setback on all sides, beyond the minimum code standards provided in Table 50.04.001-1 above.

COMMENT:

Specific house plans are unknown at this time. Therefore, the dwellings on Lots 1-3 will be required to meet height standards at the time of building permit. Lots 4 and 5 are flag lots and will meet height standards in the flag lot standards.

50.04.002 Special Street Setbacks

COMMENT:

Inverurie Road has a special street setback of 20 feet. The only lot that abuts Inverurie Road is proposed Lot 3. Due to the location of the existing wetland, there will be no structure near Inverurie Road and the special street setback will be more than met on this frontage.

50.05 OVERLAY AND DESIGN DISTRICTS

50.05.010 Sensitive Lands Overlay Districts

2. Applicability

This section applies to all lands designated RP or RC on the Sensitive Lands Map, and lands designated HBA where an HBA protection area is established pursuant to LOC 50.05.010(7).

a. Sensitive Lands Development Review Required

- i. Except as provided by subsections 2.b through 2.d of this section, development within:**

(1)The RP district, as defined in LOC 50.05.010.6.b;

COMMENT:

The RP district on Tax Lots 100, 2902, and 3000 has been delineated (LU22-0019 – See Exhibit 6). The area of the sewer main extension through Waluga Park – West and in the rights-of-way of Baleine Street and Inverurie Road have not been delineated and fully encumber the subject area. The applicant is not providing a resource delineation and accepts that the subject areas are fully within the RP District overlay. Therefore, the sewer main extension must comply with the RP District development and mitigation standards for the entire disturbance area within Waluga Park – West and the rights-of-way. This is addressed below.

3. Development Review

The development review procedures for sensitive lands overlay districts are found in LOC 50.07.004.8.

COMMENT:

This application follows the review procedures in 50.07.004.8.

4. Generally Applicable Standards for Lands with RP Districts, RC Districts, and HBA Protection Areas

d. Construction Standards

An owner shall submit a construction plan and narrative to the City Manager prior to any grading, clearing, or construction on a development site which contains an RP or RC district, or where the owner received development review approval under subsection (7) of this section, Habitat Benefit Areas (HBA) Incentives. The construction plan and narrative shall demonstrate that the following standards will be met:

- i. RC protection areas or RC districts where no protection areas have been approved, RP districts, and protection areas within an approved HBA development shall be protected during construction with either:**

(1)A minimum four-ft. tall chain link fencing secured with a minimum of four-ft. tall steel posts. The fencing shall be in place and

maintained for the duration of construction. In addition, temporary signage shall be placed on the fencing which shall clearly identify the resource district and shall state the penalty for violations of this section; or

(2)Such alternative method to subsection (4)(d)(i)(1) of this section that is approved by the City Manager to demarcate and protect the RCPA or RC/RP district from the adverse effects of construction activity upon the resources.

- ii. RC protection boundaries and RP district boundaries, as applicable, shall be located and staked by a qualified professional prior to placement of fencing and other protective measures.**
- iii. Hazardous Materials. The site shall be inventoried for hazardous materials, debris and noxious materials, and these materials shall be removed prior to the development of the site.**
- iv. No construction, demolition, grading, or site clearing shall begin until after protective measures, signs, and erosion control measures are in place and have been inspected and approved by the City Manager and all applicable permits have been issued. Fencing and other protective measures shall not be removed, even temporarily, without the permission of the City Manager.**
- v. No stockpiling of fill materials, or parking or storage of construction equipment shall be allowed within a resource district.**
- vi. When transportation facilities, pathways, utilities, or structures are approved within a delineated RP district, they shall be constructed in such a way that a minimum of excavation is required and so that no permanent draining or filling of a stream corridor or wetland will occur.**
- vii. Surface runoff and other water sources supplying hydrology to an RP district shall be designed and maintained so as not to adversely impact the functions and values of the resource.**
- viii. Any additional construction requirements imposed as conditions of approval or which may be required by the Development Standards, the Lake Oswego Building Code (LOC Chapter 45) or the Erosion Control Code (LOC Chapter 52).**

COMMENT:

The applicant has provided the construction plans for the sewer main extension (See Exhibit 8). The RP District will primarily be protected by tree protection fencing, which is generally 6 feet in height. Additional fencing will be provided as needed to protect the RP District outside of the construction area. Erosion control will be provided along the construction area. The applicant understands that construction, grading, or site clearing cannot begin until after protective measures, signs, and erosion control measures are in place and have been inspected and approved. The proposed sewer main extension is proposed to be constructed by boring within the RP district to minimize excavation so that no permanent draining or filling of the wetland will occur. Spoils from the boring of the sewer main will be taken out of the RP district (off-site).

e. Mitigation; Purpose

Mitigation is a way of repairing or compensating for adverse impacts to the functions and values of a natural resource caused by a development.

Mitigation may consist of resource area creation, restoration, or enhancement. Some examples of mitigation actions are construction of new wetlands to replace an existing wetland that has been filled, replanting trees, and restoring stream side vegetation where it is disturbed.

This subsection 4.e through LOC 50.05.010.4.g recognize that true replacement of mature or complex natural resource systems is difficult and can take many years. Mitigation is discouraged by first requiring that avoidance of development siting within the resource be explored. Then, if that is not possible, actions should be taken to minimize damage to the resource. Mitigation ratios are established according to the type of mitigation proposed and the value of the resource. Maintenance and monitoring of the mitigation measures are also required.

COMMENT:

Mitigation is provided by the proposed boring of most of the sewer main in the RP District. A trench is proposed in the gravel/pavement area of Inverurie Road, which is a nonconforming use. Mitigation is not required for this trench area. The other area that is trenched is in Kimball Street, which is in Clackamas County jurisdiction. For the entire sewer main extension 11 trees are proposed to be removed. Per the arborist, these trees are not healthy enough to survive the sewer main boring as the depth of the line is relatively shallow and will impact too many roots for trees that are dead (3 trees), or in critical (1 tree), or poor (7 trees). Four of the 11 trees are within the Baleine Street right-of-way. The other seven trees are partially or fully within Tax Lots 100 and 3000. Mitigation for these trees proposed for removal for the construction of the sewer main extension will be provided.

f. Progressive Mitigation Steps Required

The approving authority shall permit development allowable within an RC protection area or RP district only if it finds that the following progressive steps have been met:

i. Step #1 Avoidance

The applicant shall endeavor to avoid detrimental impacts on the resource altogether by providing alternative site plans along with the development proposal demonstrating that alternative designs have been explored. If disturbance of a resource district resource is proposed, the applicant shall first demonstrate that intrusion into the resource district cannot be avoided by a reduction in the size or configuration of the proposed development or by changes in the design that would avoid adverse effects on the resource while still allowing development of the property.

ii. Step #2 Minimization

If the applicant has endeavored to avoid detrimental impacts on the resource according to subsection 4.f.i of this section, and the reviewing authority finds that detrimental impacts cannot be avoided, then the applicant shall minimize impacts by demonstrating that:

- (1) Alternative and significantly different site plans and development locations on the subject site have been considered, and that the alternative chosen is the least environmentally damaging; and**
- (2) When mitigation is proposed, there will be no net loss of resource area, functions, or values as a result of development actions pursuant to LOC 50.05.010.4.g.v, Stream Corridors and Tree Groves, or LOC 50.05.010.4.g.vi, Wetlands, whichever is applicable.**

COMMENT:

The sewer main extension alignment is the best alignment to avoid as many trees in the RP District and provides mitigation by boring a majority of the sewer main. A trench is proposed in the gravel/pavement area of Inverurie Road, which is a nonconforming use. Mitigation is not required for this trench area. The other area that is trenched is in Kimball Street, which is in Clackamas County jurisdiction. For the entire sewer main extension 11 trees are proposed to be removed. Per the arborist, these trees are not healthy enough to survive the sewer main boring as the depth of the line is relatively shallow and will impact too many roots for trees that are dead (3 trees), or in critical (1 tree), or poor (7 trees). Four of the 11 trees are within the Baleine Street right-of-way. The other seven trees are partially or fully within Tax Lots 100 and 3000. Mitigation for these trees proposed for removal for the construction of the sewer main extension will be provided.

g. Mitigation Requirements

i. Mitigation Plan

When mitigation is proposed or required as part of a development application, or when required or imposed as a result of a violation of this Code, the applicant shall provide a mitigation plan prepared by a qualified professional that:

- (1) For proposed development, demonstrates compliance with LOC 50.05.010.4.f and this subsection 4.g. For mitigation of violations of this Code, demonstrates compliance with LOC 50.05.010.4.f.ii(2).**
- (2) Includes a maintenance and monitoring plan. The maintenance and monitoring plan shall include task timelines and quantitative goals to ensure the viability of the mitigation over time. As part of the monitoring plan, the applicant or other legally responsible agent shall provide an annual report to the City Manager for a one- to three-year period, as determined by the reviewing authority. The report shall be prepared by a qualified professional and shall document site conditions with narrative and pictures.**
- (3) Provisions for regular maintenance and periodic monitoring of the mitigation site, which shall be subject to review and approval by the City Manager.**

Failure to comply with an approved mitigation plan shall be deemed a violation of this Code and a public nuisance and may be enforced pursuant to LOC Articles 34.04, Civil Violations, and 34.08, Nuisances.

COMMENT:

For the entire sewer main extension 11 trees are proposed to be removed. Per the arborist, these trees are not healthy enough to survive the sewer main boring as the depth of the line is relatively shallow and will impact too many roots for trees that are dead (3 trees), or in critical (1 tree), or poor (7 trees). Four of the 11 trees are within the Baleine Street right-of-way. The other seven trees are partially or fully within Tax Lots 100 and 3000. Mitigation for these trees proposed for removal for the construction of the sewer main extension will be provided.

ii. Required Permits

If a Department of State Lands (DSL) wetland permit, Army Corps of Engineers, or other state or federal permit is also required, the City shall not issue a building permit until all applicable state and federal wetland permit approvals have been granted.

COMMENT:

If required, permitting from other entities will be obtained prior to construction.

iii. Mitigation Complete Prior to Further Action

Mitigation shall be completed prior to a final inspection, issuance of a final occupancy permit, or acceptance of a public improvement.

COMMENT:

The proposed mitigation will be completed prior to acceptance of the public improvement (sewer main).

iv. Location of Mitigation

On-site mitigation is required, where possible, taking into consideration the existing natural and human-made features of a site. If the reviewing authority finds that on-site mitigation is not possible, then off-site mitigation shall be permitted according to the following priorities, provided the applicant has the right to plant the area, and the planted area shall be preserved by a conservation easement, a deed restriction, such as a restrictive covenant, or other legal instrument acceptable to the City Manager:

- (1) Within the same drainage system (as defined by the Lake Oswego Surface Water Management Plan or the Winterowd Natural Resources Inventory) and within the City limits; or**
- (2) Outside of the drainage system, but inside the City limits; or**
- (3) Outside the drainage system and City limits, but within the Lake Oswego Urban Services Boundary.**

COMMENT:

Mitigation for the sewer main extension and the tree removal will be provided on site.

v. Stream Corridors and Tree Groves

When mitigation is proposed, the reviewing authority shall require a minimum mitigation ratio (area of resource district created or enhanced to area of resource district lost) of 1:1 for stream corridor and tree grove resources.

COMMENT:

There are no stream corridors on the site. The site is likely a tree grove and mitigation will need to be at 1:1 ratio.

vi. Wetlands

When wetland mitigation is proposed within an RP district, the reviewing authority shall require minimum mitigation ratios (area of wetland created or enhanced to area of wetland lost) as follows:

- (1)Wetlands Creation or Restoration – 2:1 ratio;**
- (2)Wetlands Enhancement – 3:1 ratio;**
- (3)Wetlands Creation, Restoration or Enhancement – 5:1 ratio where the wetland is a Class I RP district and is forested or contains a sensitive, threatened or endangered species as identified in an adopted ESEE inventory.**

COMMENT:

The proposed boring of the sewer main is the mitigation for the wetland in Baleine Street and Inverurie Road. There is no wetland disturbance above ground with the sewer main extension.

vii. Vegetation Restoration

Vegetation restoration shall be required to mitigate the loss of plant communities disturbed by development activities. Vegetation shall be required for all mitigation projects, including trees, shrubs, and ground cover plants, as identified on the Plant List. The restoration plants shall be selected to recreate a diverse and healthy plant community which is compatible with the resource.

COMMENT:

Vegetation restoration in the RP District for the removal of trees for the sewer main will be required. For the entire sewer main extension 11 trees are proposed to be removed. Per the arborist, these trees are not healthy enough to survive the sewer main boring as the depth of the line is relatively shallow and will impact too many roots for trees that are dead (3 trees), or in critical (1 tree), or poor (7 trees). Four of the 11 trees are within the Baleine Street right-of-way. The other seven trees are partially or fully within Tax Lots 100 and 3000. Mitigation for these trees proposed for removal for the construction of the sewer main extension will be provided.

viii. Planting Standards

(1) Required Plants and Plant Densities

- (a) All trees, shrubs and ground cover planted for mitigation shall be native plants as defined by the Plant List.**
- (b) Native trees and shrubs are required to be planted at a rate of five trees and 25 shrubs per every 500 sq. ft. of disturbance area (calculated by dividing the number of sq. ft. of disturbance area by 500, and then multiplying that result times five trees and 25 shrubs, respectively. Fractional results shall be rounded to the nearest whole number; for example, if there will be 330 sq. ft. of disturbance area, then 330 divided by 500 equals 0.66, and 0.66 times five equals 3.3, so three trees must be planted, and 0.66 times 25 equals 16.5, so 17 shrubs must be planted).**
- (c) Bare ground must be planted or seeded with native grasses or herbs.**

(2) Plant Size

Trees shall be at least one-half in. in caliper, measured at six in. above the ground level for field grown trees or above the soil line for container grown trees (the one-half in. minimum size may be an average caliper measure, recognizing that trees are not uniformly round), unless they are oak or madrone which may be one gallon size. Shrubs shall be in at least a one-gallon container or the equivalent in ball and burlap and shall be at least 12 in. in height.

(3) Plant Spacing

Trees shall be planted between eight and 12 ft. on-center and shrubs shall be planted between four and five ft. on-center, or clustered in single species groups of no more than four plants, with each cluster planted between eight and ten ft. on center. When planting near existing trees, the dripline of the existing tree shall be the starting point for plant spacing measurements.

(4) Plant Diversity

Shrubs shall consist of at least two different species. If ten or more trees are planted, no more than 50% of the trees may be of the same genus.

(5) Timing of Plantings

Except as approved by the City Manager, bare root trees shall be planted between December 1 and February 28, and potted plants between October 15 and April 30. The City Manager may approve a different planting schedule where the applicant has demonstrated that it will provide for the same or greater survival rate of tree and vegetation plantings.

(6) Invasive Vegetation

Invasive nonnative or noxious vegetation shall be removed within the mitigation area prior to planting.

(7) Tree and Shrub Survival

Plantings shall be inspected and subject to review and approval by the City Manager according to the schedule approved with the mitigation plan. Plants that die during the monitoring period must be replaced in-kind to the extent necessary to meet the required survival rate specified by the mitigation plan.

(8) Maintenance

To enhance survival of the mitigation plantings, the following practices are required:

- (a) Mulch new plantings a minimum of three in. in depth and 18 in. in diameter to retain moisture and discourage weed growth.**
- (b) Water new plantings one in. per week, between June 15 and October 15, through the duration of the monitoring period.**
- (c) Remove or control invasive or noxious vegetation throughout the maintenance period.**

COMMENT:

The mitigation plan will meet these standards.

ix. Bonding Period

- (1) Except as provided in subsection 4.g.ix(4) of this section, the applicant or property owner of a development subject to an approved mitigation plan, or a person who has a mitigation obligation as a result of a code violation, as applicable, shall post a performance bond or a letter of credit to the City that is equal to 120% of the value of the improvements installed pursuant to the plan for the duration of the required monitoring and maintenance period. The bond shall be posted prior to the issuance of a building permit to ensure the success of mitigation improvements and the survival of plant materials.**
- (2) The performance bond or the letter of credit will be released by the City after three years upon receiving proof that the mitigation measures have been successfully implemented according to approved plans. Following release of the financial guarantee, the property owner(s) or other designated party (such as a homeowners' association) shall remain responsible for maintenance of the resource.**
- (3) If mitigation improvements fail during the bonding period and the responsible party does not replace said improvements after notification by the City, the bond shall be forfeited and shall be used by the City to correct the problem pursuant to the mitigation plan and the conditions of approval.**

(4)Property owners of individual tax lots that are lots of record which are zoned for single-family residential or middle housing use, are not large enough to be further divided, and were in existence prior to the date this section becomes effective shall be exempt from these bonding requirements.

COMMENT:

A performance bond for the mitigation will be provided as required.

6. Standards Applicable to RP Districts

c. RP District Development Standards

i. In addition to compliance with any other applicable regulations, and subject to the requirement for compliance with subsection 6.c.iii of this section, the following development, use or activity on properties containing an RP district are permitted within the RP district, subject to the standards set forth in subsection 6.c.ii of this section:

(3) Utilities;

COMMENT:

The proposed new sewer main extension will be partially within and RP District in the right-of-way of Baleine Street. Therefore, this section is applicable.

ii. Except as provided in subsection (6)(d) of this section, Exceptions Where the RP District Prohibits All Reasonable Development Opportunities, all development listed in subsection (6)(c)(i) of this section is subject to environmental review and shall comply with the following standards:

(1)Specific Development Standards

(c)Utilities

Public or private utilities shall not be placed or expanded within an RP district unless tunneling under a resource will not cause any adverse effect upon the resource and the functions and values of a resource will be maintained, or there is no other practicable alternative. If a public or private utility is allowed within an RP district, mitigation shall be required pursuant to subsections (4)(e) through (4)(g) of this section. When applying the mitigation process to this section:

(i) Step #1 Avoidance. Sanitary sewer, water, power, gas, cable, telecommunications and storm drain lines shall be maintained in public rights-of-way and routed around significant resources rather than through a resource wherever possible, except that tunneling under a resource shall be permitted where tunneling will not cause any

adverse effect upon the resource or tree roots, and the functions and values of a resource will be maintained.

- (ii) Step #2 Minimization. Sanitary sewer, water, storm drain line and other subsurface crossings shall be made within 30° of perpendicular to the stream where practicable or feasible.**

(2) General Development Standards

In carrying out the permitted development activity, the applicant shall also comply with the following general development standards, if applicable to the proposed development, and the construction standards set forth in LOC [50.05.010.4.d](#):

(a) Resource Alterations

- (i) Streams shall not be impounded or diverted from their natural channels unless the applicant demonstrates:**

(A) The diversion or impoundment will cause minimum degradation or loss of natural features in the stream corridor, and

(B) The diversion will not cause erosion or otherwise cause damage downstream of the development site, and at least one of the following criteria are met:

(1) A diversion would return a previously altered stream to its original location,

(2) A stream channel occupies all or most of a legally created lot, or

(3) An impoundment is designed to reduce flooding or improve water quality.

- (ii) A wetland shall not be impounded or the hydrology of the wetland modified through such activities as draining the resource or enlargement of the resource to create a pond, unless it can be demonstrated that the criteria for allowing resource enhancement in subsection 6.c.ii(1)(f) of this section have been met.**

COMMENT:

The sewer main extension alignment is the best alignment to avoid as many trees in the RP District and provides mitigation by boring a majority of the sewer main. A trench is proposed in the gravel/pavement area of Inverurie Road, which is a nonconforming use. Mitigation is not required for this trench area. The other area that is trenched is in Kimball Street, which is in Clackamas County jurisdiction. For the entire sewer main extension 11 trees are proposed to be removed. Per the arborist, these trees are not healthy enough to survive the sewer main boring as the depth of the line is relatively shallow and will impact too many roots for trees that are dead (3 trees), or in critical (1 tree), or poor (7 trees). Four of the 11 trees are within the Baleine Street right-of-way. The other seven trees are partially or fully within Tax Lots 100 and 3000. Mitigation for these trees proposed for removal for the construction of the sewer main extension will be provided.

iii. Land Divisions and Lot Line Adjustments

The following standards apply to properties containing an RP district for applications for land divisions including partitions and subdivisions and to lot line adjustments:

- (1) Except where the creation of a lot is permitted under LOC 50.05.010.6.d, new lots proposed on lands that include an RP district shall have designated sites for buildings that are located outside of the RP district. A land division or lot line adjustment shall not create a lot that would necessitate an exception to LOC 50.05.010.6.d in order to site a dwelling upon the proposed lot.
- (2) Exception: This standard shall not apply to lots established as open space tracts, for transfer to a public agency or private trustee to manage as a natural area, or where the entire lot is included in a conservation easement that prohibits development on the site.
- (3) Permanent signage is required in planned developments and subdivisions to identify the RP district where any common open space protects an inventoried natural resource through conditions of approval. The signage shall be installed before any occupancy permit is issued. Such signage shall be reviewed as part of the development review process, and shall meet the standards of LOC Chapter 47.

COMMENT:

The proposed lot line adjustments include two lots that will have RP district area on the lot (Lots 3 and 4). The lot line adjustments do not create a lot that would necessitate an exception to LOC 50.05.010.6.d in order to site a dwelling on either Lot 3 or Lot 4. Permanent signage is not required as this is not a planned development or subdivision. This standard is satisfied.

50.06 DEVELOPMENT STANDARDS

50.06.001 Building Design

1. Applicability

This section is applicable as follows:

Structure Design- Residential Zones 50.06.001.2 R-7.5- A (applicable)

COMMENT:

These standards are not applicable with this lot line adjustment application. Compliance with these standards will be reviewed during building permit review for each lot.

50.06.002 Parking

COMMENT:

Per Table 50.06.002-3, the minimum required off-street parking space requirement for a single-family dwelling is 1 space per unit. Each lot will provide at least one off-street parking space with the garage and/or driveway on each lot. This standard is satisfied.

50.06.003 Circulation and Connectivity

50.06.003.1 Access/Access Lanes (Flag Lots)

b. Applicability

vi. Land divisions (partitions and subdivisions).

COMMENT:

This section is not applicable to lot line adjustments. However, this section is applicable to the newly created flag lot.

d. Standards for Access Lanes

- i. Twenty-ft.-wide easement.**
- ii. Access to two to three dwelling units – 12 ft. of pavement with a four-ft. shoulder on each side.**
- iii. One standard "on-lane" parking space shall be provided for each flag lot served by an access lane.**
- iv. Access lanes shall align with existing and/or planned streets or access lanes where practicable.**
- v. All new or modified driveways shall follow access spacing as shown in Table 50.06.003-2, Access Spacing, where practicable, and, as determined by the City Engineer, shall not create a traffic operational or safety conflict.**

COMMENT:

The access lane to the new flag lot will provide one standard parking space on the access lane (See Exhibit 4 – Site Plan).

50.06.003.2 On-Site Circulation – Driveways and Fire Access Roads

a. Applicability

This section is applicable to all development proposing a new use or an increased use on a site when the development will result in the construction of or the increased use of private streets, driveways, or parking lot aisles. Increased use shall be defined as an increase in trip generation or parking requirement.

COMMENT:

This section is applicable as the site is proposed to increase the use from vacant to 5 single-family dwellings through a series of lot confirmations and lot line adjustments.

b. Standards for Approval

i. Driveway Approaches – Locational Limitations and Restrictions

- (1) On corner lots where the adjacent streets are fully improved to their anticipated ultimate width, the nearest edge of a proposed driveway to the intersection shall be no closer than 30 ft. when measured from the projected curb of the street that is the most parallel to the alignment of the proposed driveway.**
- (2) On corner lots where the adjacent streets are not fully improved to their anticipated ultimate width, the nearest edge of a proposed driveway to the intersection shall be no closer than 30 ft. when measured from the lot corner, or if the corner is a radius, from the point of intersection of the tangents. If right-of-way dedication is required as a condition of approval, the lot lines after dedication shall be used as the basis for determining compliance with this standard.**

COMMENT:

Lot 1 is a corner lot. Baleine Street is not improved and is unlikely to ever be improved. The driveway for Lot 1 will come from the shared access lane at the rear of the lot. Therefore, the driveway (access lane) is greater than 30 feet from the intersection of Kimball Street and Baleine Street (See Preliminary Site Plan – Exhibit 4). This standard is satisfied.

- (3) On lots with less than 75 ft. of continuous frontage on a single public street, only one driveway shall be permitted along that frontage.**

COMMENT:

All of the lots (Lots 1-5) after the lot line adjustments will be greater than 75 feet in width. Therefore, this standard is not applicable.

- (4) All driveway approaches shall be located and designed so that the driver entering or exiting the driveway can see approaching traffic for a sufficient distance to make a safe entrance and exit. American Association of State Highway and Transportation Officials (AASHTO) standards shall be used in determining compliance with this standard.**

COMMENT:

The two access lanes (driveways) onto Kimball Street will be designed to meet City and County standards. Kimball Street is a County road. A preliminary sight distance letter is provided in Exhibit 7. This standard is satisfied.

- (5) The maximum width of a driveway approach, measured where the edges of the driveway meet the right-of-way, shall be governed as follows:**
 - (a) Single-family residential with garage door(s) facing the street: 12 ft. per garage or carport stall, or surface parking space, but not to exceed 30 ft.**
 - (b) Single-family residential with side-loading garage: 24 ft.**
 - (c) All other uses: 24 ft. unless otherwise justified by the recommendations of a traffic study.**

COMMENT:

Driveways in front of the garages will be designed to meet the standards above at the time of building permit for each dwelling. This standard is satisfied.

ii. Driveway Widths

Driveways shall conform to the minimum width requirements of LOC 15.06.610 (Oregon Fire Code Adopted) and LOC 50.06.002, Parking.

COMMENT:

Specific building plans are unknown at this time. This standard will be addressed at the time of building permit review.

iii. Driveway Grades

- (1) The maximum grade of a driveway serving one single-family structure shall be 20%. If the grade exceeds 15%, then the residence must be provided with alternative methods for fire suppression, i.e., sprinklering.**
- (2) The maximum grade of a driveway for all other uses shall be 15%.**
- (3) For all uses except residential structures of four units or less, there shall be a landing area where a driveway used by multiple drivers meets the public street. The landing area shall be a minimum of 25 ft. long and shall have a maximum grade of 5%. The length and grade of the landing area described in this subsection presupposes that the abutting street has been fully improved to its ultimate anticipated width. If a driveway is proposed on a street that is not fully improved, and the development proposal is anticipated to proceed prior to the improvement of the street, the City Engineer shall determine the location and grade of the future street improvement and the applicant shall design the driveway and site grading so that this standard will not be compromised when the street is improved in the future.**
- (4) Along the traveled way, grade breaks shall not exceed an algebraic difference of 9% unless accomplished by the construction of a vertical curve complying with the City's Standard Details.**
- (5) The maximum cross-slope of a driveway shall be 5%, except for that portion of a driveway which must blend with an adjacent street grade that exceeds 5%. When blending is necessary, the length of the blended section shall be limited to 30 ft.**

COMMENT:

The maximum grade of the individual parcel driveways will meet the above standard and be addressed at the time of building permit review. Driveway grade will not exceed 15%.

- iv. Fire Access Lanes**
- v. Turnarounds**

COMMENT:

The access lane for Lots 1-3 is just over 150 feet in length and does not have a turnaround. Lots 1 and 2 can be served from Kimball Street for fire access. Lot 3 will be constructed with

a fire suppression system (sprinklers). The access lane for Lots 4 and 5 is over 150 feet in length. Both new dwellings on Lots 4 and 5 will be constructed with a fire suppression system (sprinklers). This standard is satisfied.

c. Standards for Construction

COMMENT:

The individual private driveways will be constructed in compliance with all City standards including those related to slope, drainage and surface materials.

50.06.006 Geologic Hazards and Drainage

3. Stormwater Management Standards

a. Applicability

Stormwater management requirements are applicable to all development where:

- i. Greater than 1,000 sq. ft. of impervious surface is created; or**
- ii. The sum of impervious surface created and/or replaced is greater than 3,000 sq. ft.; or**
- iii. Maintenance is performed on greater than or equal to 3,000 sq. ft. of existing impervious surface that results in an additional offsite hydrological impact.**

COMMENT:

Stormwater management requirements are applicable to the proposed lot line adjustments as greater than 1,000 sq. ft. of impervious surface will be created.

b. Standards for Approval

The applicant must demonstrate that, based upon LOC Article [38.25](#), Stormwater Management Code, the capacity, type, location, feasibility and land area required of the proposed stormwater management system and stormwater disposal facilities as well as any connection to off-site facilities can be provided.

Stormwater management measures and requirements are detailed in LOC [38.25.001](#) through [38.25.190](#) and in the current version of the Lake Oswego Stormwater Management Manual.

COMMENT:

All drainage systems are designed to meet City standards and are shown on the preliminary site plan. A preliminary storm drainage report for each lot (Lots 1-5) is included with the application materials (see Exhibit 5). These reports also address the drainage of the access lanes.

Lots 1-3 will each have a private storm planter for treatment of stormwater for the new dwelling on the respective lot. Lots 4 and 5 will each have private drywells for treatment of stormwater for the new dwelling on the respective lot. A drywell is also proposed on Lot 4 for the stormwater for the access lanes.

Stormwater treatment for each lot will be constructed with the individual home construction, per City standards. The storm planters and drywells have been sized appropriately for the maximum dwelling size and other impervious surfaces on each lot (i.e., driveway, walkway, etc.). The exact locations of the storm planters/drywells for these lots will be determined during building permit review.

The applicant proposes low impact methods such as storm planters/drywells, constructed on each lot to provide stormwater quality treatment and quantity control per City standards. All new impervious areas will be managed through the new individual private systems on each respective lot.

50.06.008 Utilities

3. Standards for Approval

a. Utilities Required

The following utilities, whether on or off site, shall be provided to all development in the City of Lake Oswego, in accordance with City Engineering Division's policies, design standards, technical specifications and standard details:

- i. Sanitary sewer systems;**
- ii. Water distribution systems;**
- iii. Sidewalks and any special pedestrian ways and bicycle paths;**
- iv. Street name signs;**
- v. Traffic control signs and devices;**
- vi. Street lights, which shall be served from an underground source of power;**
- vii. Underground utility and service facilities, as required;**
- viii. Streets;**
- ix. Provision for underground T.V. cable.**

The City Manager may require that utility designs be prepared by a registered engineer.

COMMENT:

All necessary utilities exist at the site, except sanitary sewer, and will be provided to the individual lots (See Exhibit 4). A sanitary sewer main extension is proposed to serve the lots on the subject site (See Exhibit 8).

- b. Easements or right-of-way for utilities and associated and related facilities shall be provided by the property owner. Easements for anticipated future utilities or extensions may be required by the City Manager.**

COMMENT:

Dedication is not required along any of the abutting site street frontages. A 20' wide access and utility easement is proposed over Lots 1 and 2 for the benefit of Lots 2 and 3. A 15' wide access and utility easement currently exists on the abutting property to the west of Lots 4 and 5. This will be used along with an additional 10' wide access easement over Lots 1 and 2 to provide for a total of 25' in width for access and utilities for Lots 4 and 5. This standard is satisfied.

- c. Sanitary sewers shall be installed to serve the development and to connect the development to existing mains.**

COMMENT:

A sanitary sewer main extension along the site's Kimball Street, Baleine Street and Inverurie Road frontages and through a portion of Waluga Park- West is proposed (See Exhibit 8). This sanitary main extension will provide sewer service to all 5 proposed lots. Sewer laterals for all 5 parcels will be provided.

- d. Design shall take into account the capacity and grade to allow for desirable future extension beyond the development, and where required by the City Manager, extended to the upstream property line to allow for such future extension.**

COMMENT:

The proposed sanitary extension in Kimball Street, Baleine Street and Inverurie Road will be designed to account for capacity and grade to allow for future extensions beyond this development.

- e. All sanitary sewers and appurtenant structures shall be designed and constructed in conformance with City Engineering Division's policies, design standards, technical specifications and standard details, and shall include, but not be limited to, such items as:**
 - i. Pipe size and materials;**
 - ii. Manholes;**
 - iii. Cleanouts;**
 - iv. Backfill requirements;**
 - v. Service laterals.**

COMMENT:

All necessary sanitary sewer facilities will be designed and constructed to meet City standards.

- f. All development shall be served by service lines, main water lines and fire hydrants which are connected to City mains or the water mains of water districts which provide service within the City.**

COMMENT:

There are existing water mains in Baleine Street and Kimball Street. All 5 lots are proposed to have water meters from the water main in Kimball Street (See Exhibit 4 – Preliminary Site Plan).

- g. Design of water system improvements shall take into account provision for extension beyond the development to adequately grid or loop the City system.**

COMMENT:

Extension through the site to serve surrounding properties is not necessary.

- h. One water service line shall be provided to each lot in a development, or if the development does not include lots, to each building in the development. Each structure with plumbing shall connect to the water system. The system shall be designed to supply fire flow requirements of LOC Chapter 45.**

COMMENT:

There are existing water mains in Baleine Street and Kimball Street. All 5 lots are proposed to have water meters from the water main in Kimball Street (See Exhibit 4 – Preliminary Site Plan).

4. Standards for Construction

COMMENT:

All utilities will be designed and constructed to meet City requirements.

50.07.007.2 Flag Lots

a. Purpose; Applicability

i. The purpose of the flag lot section is to:

- (1) Enable the efficient use of residential land and public facilities and services,**
- (2) Provide standards for site, building, and design compatibility of the new development with the existing neighborhood character,**
- (3) Reduce the area of impervious surface resulting from redundant access paving, and improve the appearance where pavement is necessary, and**
- (4) Minimize the disturbance of natural resources.**

ii. The provisions of this section shall apply to all land divisions and lot line adjustments creating flag lots in residential zones, and to any development occurring on a flag lot in a residential zone created after September 6, 1998.

iii. Compliance with Zone Standards. Flag lots shall comply with the requirements of the underlying zone except where noted in this article. A land division or lot line adjustment creating a flag lot shall also comply with any specific residential design criteria contained within an applicable adopted neighborhood plan.

iv. Parcelization Plan

In addition to the general application requirements for land divisions or lot line adjustments, an application to create a flag lot shall include a conceptual plan of complete parcelization of the subject property, and shall include a site plan illustrating the location of existing structures on adjacent parcels. The reviewing authority may impose conditions in order to ensure that parcelization of the subject property will not preclude the development of surrounding properties. Such conditions may be related (but not limited) to access, circulation, building location, utility availability, and natural resource protection.

COMMENT:

This section applies to the new flag lot (Lot 4) only. Lot 4 will be a new flag lot after the lot confirmations and lot line adjustments. Both Lots 4 and 5 (flag lots) will access off the southern access lane with an access easement. A parcelization plan has not been included as the proposed lot line adjustments are at maximum density and the overall site design will not preclude the development of the surrounding properties.

c. Access

- i. When creating flag lots, the reviewing authority shall require that access to the flag lots is consolidated into a single shared access lane with the non-flag lot(s) or off site, wherever practicable. If not practicable, then new lots may have individual access points.**
- ii. Flag lots shall have access to a public or private street; however, actual street frontage shall not be required.**
- iii. A driveway shall be used to serve a single lot. An access lane shall serve no more than three lots total, up to two of which may be flag lots.**
 - (1) Driveway widths shall be a minimum of 12 ft. Driveway length, construction standards, and turnaround requirements shall be determined by LOC 50.06.003.2, On-Site Circulation – Driveways and Fire Access Roads.**
 - (2) See LOC 50.06.003.1.d, Standards for Access Lanes, for width of access lanes.**
- iv. No more than two driveways (whether to flag lot or non-flag lots) or access lanes shall be permitted within a distance equal to the minimum lot width of the underlying zone, or within 50 ft. of each other if no minimum exists, as measured from the closest edge of each driveway or access lane.**
- v. All dwellings on flag lots must post an address at the beginning of the driveway or access lane. The address shall be no less than six in. tall,**

must be on contrasting background, plainly visible, and must indicate the direction to the dwelling.

COMMENT:

Both Lots 4 (new flag lot) and Lot 5 (existing flag lot) will access off the south access lane with an access easement. Lots 4 and 5 do not have street frontage. Access is through a minimum 25' wide access easement on Lots 1 and 2 and 15' of this easement is on the property directly to the west (total of 25'). The paved driveway (access lane) is 12-feet in width with 4' gravel shoulders on either side. The proposed driveway has access to Kimball Street (a County road) and is adjacent to the northern access lane that will serve Lots 1-3. The County does not have an issue with the driveway spacing per the email in Exhibit 11. An entrance permit from the County will be obtained for the access lane. This standard is satisfied.

d. Lot Configuration Requirements

i. Determination of Front Yard

The front yard shall be determined as follows:

- (1) Except for a lot that fronts on a public street, the front yard(s) of a flag lot shall be measured from the access lane (see LOC 50.07.007.2.e.v for setback requirements).**

Exception: For a flag lot at the farthest end of the access lane or a flag lot serves by a driveway, the zone front yard setback shall apply and is measured from either the property line most parallel to the public street or the property line most parallel to the orientation of the projected access lane or driveway (see Figure 50.07.007-B).

ii. Lot Width

Lot width shall be measured by a line connecting two points on opposite side yard property lines, that will result in a line parallel to the front yard.

iii. Lot Size

Area of access easement or flagpole shall be deducted from the gross acreage of the flag lot. The "flag" portion of the lot shall be equal to or exceed the square footage of the underlying zone.

COMMENT:

The front yard for Lot 4 is the west line of the property as it is adjacent to the access lane. Lot width for Lot 4 is 97.23 feet, which exceeds the required minimum of 50 feet. The area of Lot 4 is 11,562 sq. ft. (net) with the access lane and parking easement not included. Lot 4 meets the minimum lot size standard of 7,500 sq. ft. This standard is satisfied.

e. Building and Site Design Standards

i. Building Orientation

The reviewing authority shall require the following:

- (1) Except for dwellings on flag lots at the farthest end of the access lane or flag lots served by a driveway, new dwellings on flag lots shall have the front of the house oriented towards the access lane.**
- (2) Buildings shall be oriented to provide the maximum separation and privacy from existing dwellings on abutting lots outside of the partition site. The reviewing authority may require conditions of approval to include measures such as specific building locations, increased setbacks, additional height restrictions, location and orientation of windows and other openings.**

COMMENT:

There is no building plan at this time for either flag lot. However, the applicant is aware that the dwelling on Lot 4 will need to face towards the west property line. This standard is satisfied.

ii. Maximum Structure Height

The height of a single-family residential structure and any accessory structures on a flag lot shall not exceed:

- (1) For flag lots created after August 14, 2003, the taller of:**
 - (a) Twenty-two ft., or**
 - (b) The average height of all dwellings on properties abutting the development site, as determined prior to the time of creation of the flag lot. Where there is no dwelling on the abutting property or where a dwelling is located more than 100 ft. away from the development site:**
 - (i) The maximum height permitted in the underlying zone shall be used for calculating the average, except:**
 - 1. In cases where the abutting property is zoned to permit a height greater than that allowed on the subject site, then the maximum height for the zone in which the subject site is located shall be substituted and used to calculate the average.**

COMMENT:

The surrounding houses have been surveyed for height. The maximum height for both flag lots (Lots 4 and 5) is 22' based on the average height of the dwellings adjacent to the site (20.9').

Height Data (estimated):

TL 200: no building – defaults to 28'
TL 300: 27.6'
TL 400: 14.4'
TL 2801: 24.2'
TL 2901: 10.3'

(3) Modification of Approved Building Height

The maximum building height of single-family residential structures and accessory structures on a flag lot (whether created prior to or after August 14, 2003) may be modified from that previously determined at the time of creation of the flag lot to the average height of all dwellings on properties abutting the development site. Where there is no dwelling on the abutting property or where a dwelling is located more than 100 ft. away from the development site, then the maximum height permitted in the underlying zone shall be used for calculating the average. In cases where the abutting property is zoned to permit a height greater than that allowed on the subject site, then the maximum height for the zone in which the subject site is located shall be substituted and used to calculate the average. Where an existing structure on an abutting lot exceeds the maximum height allowed by the underlying zone, then the maximum height permitted by the underlying zone shall be used for purposes of calculating the average.

An application for modification of maximum building height for a flag lot shall be processed pursuant to LOC 50.07.003.11, Modification of Development Permits, as a new application. The City Manager may execute and record amendments to previously recorded development restrictions.

(4) Exceptions to Maximum Structure Height

A greater height than otherwise permitted for roof forms or architectural features, such as cupolas or dormers, may be allowed pursuant to LOC 50.04.001.1.g.ii, 50.04.001.2.g.ii, or 50.04.001.3.f.v(2).

COMMENT:

No modification or exception is requested at this time.

iii. Access Lane Siting

The access lane shall be located no closer than five ft. to any existing dwellings.

COMMENT:

The access lane is located at least five feet away from any abutting dwellings. Abutting property dwelling wall (closest) is noted on the existing conditions map. This standard is satisfied.

iv. Setback Requirements

- (1) The standard front yard setback of the zone shall be superseded by the following front yard requirement: A minimum 15-ft. front yard setback is required from the access lane, except that a 20-ft. setback is required from the access lane to the front of a garage or carport when the garage or carport opening faces the access lane. For flag lot partitions or subdivisions that receive a minor variance to the determination of the front yard, per LOC 50.08.002.2.m, the setbacks from the access lane described above shall apply. For purposes of this standard, the access lane shall include the projected extension of the access lane through the property as illustrated in Figure 50.07.007-B: Access Lane.**

Exception: This provision does not apply to the flag lot(s) at the farthest end of the access lane. In such case, the front zone yard shall apply and be measured from either the property line most parallel to the public street or the property line most parallel to the orientation of the projection of the access lane.

- (2) Where a flag lot abuts a lot in a residential district of lower density, the greater setback requirements of the more restrictive district shall apply for those yards which have abutting property lines.**
- (3) The side and rear yard setbacks shall be established at the time of flag lot creation, subject to the following requirements:**
 - (a) The sum of the side and rear yard setbacks on flag lots shall be not less than:**
 - (ii) Forty-five ft. in the R-7.5 zone; and**
 - (b) In applying the flexible standard, provide yard dimensions that are similar to the yard dimensions of primary structures on abutting properties that are not part of the partition site and that abut the rear or side yards of the flag lots, but in no event shall the rear or side yard established under this section be less than:**
 - (i) Ten ft. in the R-15, R-10 and R-7.5 zones; and**

COMMENT:

The applicable setbacks are shown on the site plans for both flag lots (See Exhibit 4). This standard is satisfied.

v. Lot Width Requirements

The lot width dimension of a flag lot shall be not less than the minimum lot width requirements of the underlying zone.

COMMENT:

Lot width for Lot 4 is 97.23 feet and for Lot 5 is 97.22 feet, which exceeds the required minimum of 50 feet. This standard is satisfied.

vi. Lot Coverage and Floor Area

For the purposes of calculating lot coverage and floor area on flag lots, the area of access easement or flag pole shall be deducted from the gross square footage of the flag lot.

COMMENT:

Maximum floor area for Lot 4 is 4,694 sq. ft. and for Lot 5 is 5,080 sq. ft. These areas were calculated using the lot areas (minus the easement areas on Lot 4) and includes 600 sq. ft. for a garage. Future building plans will be required to comply with this maximum allowed coverage for each parcel.

f. Screening, Buffering and Landscape Installation

- i. A minimum five-ft. landscape strip shall be provided between the access lane and the perimeter of the development site when the shared access lane is located along the perimeter of the development site. Where land area is not sufficient to accommodate a five-ft. wide landscape strip, the reviewing authority may impose conditions of approval to include measures that will provide effective buffering and screening. These measures may include landscaped islands, fencing, and meandering access lane.**

The reviewing authority shall require the landscape strip to be planted with trees and shrubs in order to mitigate the visual impact of wide expanses of pavement, and to provide a visual buffer between the access lane and the affected dwelling(s) located on abutting parcels. Plant materials used for screening and buffering shall be of a size to provide an effective screen within two years of planting. Trees shall be a minimum two-in. caliper, and shrubs shall be a minimum of five-gallon at time of planting. Maintenance of the buffer is an ongoing obligation of the property owner.

- ii. Existing mature vegetation and trees shall be integrated as screening where practicable. The reviewing authority may require dwelling and garage placement or orientation in a manner that will minimize the removal of specific trees, hedges, or other vegetation that would serve to screen the proposed structures from existing and potential surrounding homes.**
- iii. The perimeter of the flag lot(s) shall be screened from abutting lots outside of the development site with a six-ft. tall fence, except:**

- (1) Where a four-ft. fence is required by LOC 50.06.004.2.b.i, Fences, or where such screening would conflict with standards for Sensitive Lands Overlay Districts; or**
- (2) Where the fence would be located within a wetland or stream channel; or**

- iv. A landscaped buffer within the deepest side or rear yard provided in compliance with the flexible setback standard of LOC 50.07.007.2.e.iv(3), a minimum of six ft. in width, shall be created along the property line and planted with a deciduous or evergreen hedge, a minimum four ft. in height at planting, which shall grow to a height of six ft. within two years and shall be maintained at a minimum of that height. This requirement is not applicable where the deepest yard abuts Oswego Lake or railroad rights-of-way.

COMMENT:

Fencing (six-foot-tall) will be constructed around the sides and rear property lines of both lots, except for a portion of Lot 4 in the area of the RP district on the lot. In this area a 4-foot tall fence will be provided if needed. A 6-foot wide buffer along the rear property line (east side) of each lot is shown on the Site Plan. The landscaping buffer on Lot 4 is proposed only along the portion of the east lot line that is not in the RP area and buffer. Plantings will be designed to meet the standards of this code and installed with the dwelling. This standard is satisfied.

v. Tree Removal Mitigation

A minimum of one evergreen or deciduous tree shall be planted at a 1:1 ratio where practicable in order to mitigate the removal of existing trees necessary for site development as a part of the creation of the lot or for the first dwelling constructed on the lot. The mitigation trees shall be of a species which will attain a minimum of 30 ft. in height. Deciduous trees at planting shall be a minimum of two-in. caliper and evergreen trees shall be a minimum of eight ft. tall.

COMMENT:

Trees are addressed below in Chapter 55.

CHAPTER 55: TREES

55.02 Tree Removal

55.02.035 Tree Removal in Conjunction with Major or Minor Development Permit.

1. If a Major or Minor Development Permit applied for pursuant to LOC 50.07.003.15 or 50.07.003.14, respectively, would require or result in tree removal and/or a tree cutting permit as defined in this Chapter, compliance with LOC 55.02.080 shall be a criterion of approval of such development permit. Tree removals in conjunction with a Major or Minor Development Permit shall be considered in conjunction with such permit and shall be subject to the application, notice, hearing and appeal procedures applicable to the proposed Major or Minor Development pursuant to LOC 50.07.003.3.e, 50.07.003.7.a, 50.07.003.15.b, and 50.07.003.7. The required Notice for Major or Minor Developments that would require or result in tree removals shall include a site plan indicating the location of any trees proposed for

removal on the subject site. The proposed trees shall also be flagged with yellow flagging tape on site. Such flagging shall be maintained until a final decision on the proposal is rendered. The remaining, notice, hearing and appeal procedures in LOC Chapter 55 shall not apply to tree removals considered in conjunction with a Major or Minor Development request. Subsequent tree removals that have not been reviewed through either Major or Minor Development procedures shall be reviewed as provided in this Chapter.

COMMENT:

For the entire sewer main extension 11 trees are proposed to be removed. Per the arborist, these trees are not healthy enough to survive the sewer main boring as the depth of the line is relatively shallow and will impact too many roots for trees that are dead (3 trees), or in critical (1 tree), or poor (7 trees). Four of the 11 trees are within the Baleine Street right-of-way. The other seven trees are partially or fully within Tax Lots 100 and 3000. Mitigation for these trees proposed for removal for the construction of the sewer main extension will be provided.

Nineteen trees to be removed onsite for the access lanes and utilities to the proposed lots (reconfigured through PLAs).

In all 4 trees within the Baleine right-of-way and 27 trees onsite are proposed to be removed. Ten of these trees are dead (Trees 25, 34, 45, 255, 258, 259, 261, 265, 286, 295) and will be removed with a Type I removal permit for dead trees. Therefore, 21 trees are proposed to be removed with a Type II removal permit with the lot line adjustments and associated access lanes and RP review for the unavoidable crossing for the sewer construction. Therefore, mitigation is required for the Type II tree removal. Twenty deciduous trees and one conifer tree will be planted on the site (or within the right-of-way) for tree mitigation (for the Type II tree removal). Specific grading plans for the dwellings will impact some of the trees and any tree removal proposed will be requested during building permit phase on each parcel.

- 2. Once a final decision has been rendered on the Major or Minor Development Permit, trees that have been approved for removal as part of that decision shall be subject to the verification permit process. Applications for verifications shall be made on the application forms as prescribed by the City Manager and be accompanied by an application fee as established by resolution of the City Council. The purpose of the verification process is to ensure that the trees approved for removal are properly identified for removal in the field and that the trees that were not approved for removal are not inadvertently removed. Removal of trees in violation of such land use approval will be considered a violation of this Chapter. The criteria contained in LOC 55.02.080 shall not apply to verification applications for tree cutting permits.**

COMMENT:

The applicant will apply for a verification permit as required.

- 3. If a tree proposed to be removed has been specifically required to be preserved or protected as a condition of approval of a land use action pursuant to the Lake Oswego Community Development Code, the tree**

removal application shall be processed as a modification to that land use action and shall be reviewed subject to the criteria of LOC 55.02.080 by the body responsible for reviewing such land use actions. Such modification procedure shall not be required in cases of an emergency as provided in LOC 55.02.042(3), or when the tree is dead as provided in LOC 55.02.080(1) or is a hazard as provided in LOC 55.02.080(2).

COMMENT:

No prior land use action(s) prohibits the proposed tree removal.

55.02.080 Criteria for Issuance of Type II Tree Cutting Permits.

An applicant for a Type II tree cutting permit shall demonstrate that the following criteria are satisfied.

- 1. The tree is proposed for removal because it has outgrown its landscape area or the removal is part of a landscape plan, or in order to construct development approved or allowed pursuant to the Lake Oswego Code or other applicable development regulations. The City Manager may require the building footprint of the development to be staked to allow for accurate verification of the permit application;**
 - a. For the purposes of this section, a tree that has outgrown its landscape area may include, but is not limited to, a tree that has grown such that damage to a structure or facility cannot be avoided by pruning or other maintenance, a tree that has grown too large within a constrained space such as a deck or other built feature that was constructed around the tree, or thinning to improve the health of other trees.**
 - b. For purposes of this section, a "landscape plan" shall consist of plantings but may also include walkways, patios and other landscape features; the plan must include more than removing the tree for which the Type II permit is requested and planting required mitigation trees;**

COMMENT:

Twenty-one trees within the Baleine right-of-way and on-site (Type II) are being removed to allow for the sewer extension in Baleine Street and access lanes and private utility connections for all 5 lots off Kimball Street.

- 2. Removal of the tree, considering proposed mitigation measures, will not have a significant negative impact on erosion, soil stability, flow of surface waters, protection of adjacent trees, or existing windbreaks;**

COMMENT:

The removal of the 21 trees will not have a significant negative impact on erosion, soil stability, flow of surface waters, protection of adjacent trees, or existing windbreaks. Erosion Control measures will be placed around the site as necessary for construction of the sewer extension and the access lane construction. Twenty-one new trees will be planted on the site to mitigate for the tree removal. Stormwater from the new dwellings on each lot will be treated in a new drywell or storm facility on each parcel. A drywell is also proposed for the stormwater from the access lanes. Twenty-one (Type II) trees with a total 255" dbh will be removed for the construction of the sewer extension, access lanes, and private utility

connections off Kimball Street. The lot is slightly sloped. Adjacent trees will not be impacted by the proposed development and will be protected by fencing to the maximum extent possible.

- 3. Removal of the tree will not have a significant negative impact on the character or aesthetics of the neighborhood. This standard is met when removal of the tree(s) does not involve:**
- a. A significant tree;**
 - b. Alterations to the distinctive features or continuity of the neighborhood skyline, as viewed from all public streets and properties within 300 ft. of the property;**
 - c. A tree that serves as a visual screen between a residential zone and an abutting nonresidential zone, or between a low density residential zone and a medium or high density residential zone, or between a medium and high density residential zone;**
 - d. A street tree; or**
 - e. Greater than 50% of a stand of trees.**

Exceptions: This subsection (3) is not applicable when:

- a. A tree is likely to or will continue to cause damage to a permanent, viable existing structure, or to infrastructure, such as utilities or paved landscape features, that cannot be remedied through reasonable tree maintenance or pruning; or**
- b. Alternatives to the tree removal have been considered and no reasonable alternative exists to allow the property to be used as permitted in the zone. In making this determination, the City may consider alternative site plans or placement of structures (development purpose) or alternate landscaping designs (outgrown landscape area; landscape plan) that would lessen the impact on trees, so long as the alternatives continue to comply with other provisions of the Lake Oswego Code;**

COMMENT:

Four of the trees to be removed are street trees or trees within the right-of-way. One of these trees is dead (Tree 25). One of these trees within the right-of-way is also significant trees (trees of 15" dbh or greater). This is tree 28. However, this tree is in critical condition per the arborist. None of these trees are distinctive features in the neighborhood as they are all Oregon ash trees in poor, critical or dead condition.

The other twenty-seven trees to be removed on the site include 9 dead trees. Of the remaining viable trees there are 5 significant trees (Trees 39, 237, 293, 294, and 296). The proposed tree removal does not include screening between residential and non-residential properties or a 50% or greater of a stand of trees. The applicant is requesting an exception to removal of the 21 viable trees per exception b. above.

There are 13 trees (not including the dead trees) that are required to be removed to provide the two access lanes that provide access to all 5 lots and utilities from Kimball Road. There is not other alternative to providing access to all 5 lots without taking out trees. Designing these parcels to access onto Baleine Street would require a minimum half street improvement within mainly and RP District. This is not desired by the applicant or the city.

This would require the construction of a roadway within an existing unbuilt right-of-way. This would increase the number of trees that would be required to be removed.

There are 8 trees (not including dead trees) to be removed for the sewer main extension boring that is within Baleine Street. The removal of these 8 trees is due to their condition (critical or poor condition) and how close they are to the boring of the sewer line. These are all Oregon ash trees. The sewer extension alignment was designed to have the least impact on trees. The alternative to removing all of these trees would be to not construct the sewer extension. This alternative is not possible as the sewer extension is being required by the City.

4. Removal of the tree is not for the sole purpose of providing or enhancing views;

COMMENT:

The removal of the trees (Type II) is not for the sole purpose of providing or enhancing views. They are proposed for removal for the construction of the sewer extension, access lanes and private utilities off Kimball Street.

5. Removal of the tree is not contrary to another section of the Lake Oswego Code; and

COMMENT:

The removal of the trees (Type II) is not contrary to any other section of the Lake Oswego Code. Therefore, this standard is met.

6. The City shall require the applicant to mitigate for the removal of each tree pursuant to LOC 55.02.084. Such mitigation requirements shall be a condition of approval of the permit.

COMMENT:

Proposed mitigation trees will be shown on the tree plan.

55.02.084 Mitigation Required.

4. The mitigation requirement shall be satisfied as listed below. Except where subsection (4)(c) of this section applies, a mitigation plan shall be submitted showing the location, size, and species of mitigation trees, or in the case of large forested tracts, restocking of any new trees to replace the trees to be removed.

a. Replanting on Site. The applicant shall plant, for each tree removed:

- i. Invasive Tree Species Removal Permit. Removal from a public right-of-way or from an approved landscape plan, either a minimum one-and-one-half-in. caliper deciduous tree (measured six in. above the root ball) or a minimum six-ft.-tall evergreen tree for each tree removed. Removal from a Resource Conservation or Resource Protection overlay district, or Habitat Benefit Protection Area, either a**

minimum one-half in caliper deciduous tree or a minimum two-ft.-tall evergreen tree.

ii. **Type II Permit.** Either a minimum one-and-one-half-in. caliper deciduous tree or a six-ft.-tall evergreen tree for each tree removed. Mitigation for the removal of a native tree on the City's Master Plant List shall be with a species from the Native Mitigation Tree List.

A. **Exception:** Removal of a tree identified as a significant tree for development purposes shall require two minimum one-and-one-half-in. caliper deciduous trees (measured six in. above the root ball) or a minimum of two six-ft.-tall evergreen trees for each tree removed.

B. **Exception:** If tree removal is for the landscaping purpose of thinning to improve the health of other trees, mitigation shall be reduced to the extent there is insufficient space to replant elsewhere on the site and maintain tree health.

iii. **Other Tree Cutting Permits.** Either a minimum one-and-one-half-in. caliper deciduous tree or a six-ft.-tall evergreen tree for each tree removed. Mitigation for the removal of a native tree shall be with a native species.

The tree shall be planted according to the specifications in the City Tree Planting and Maintenance Guidelines as approved by City Council.

COMMENT:

Mitigation will be provided as required. The replacement trees will be planted on-site or within the right-of-way (as the trees to be removed are all right-of-way trees). Proposed mitigation trees will be shown on the tree plan.

55.08 Tree Protection

55.08.010 Applicability.

This article is applicable to any ministerial, minor, or major development.

55.08.020 Tree Protection Plan Required.

1. A Tree Protection Plan approved by the City Manager shall be required prior to conducting any development activities including, but not limited to clearing, grading, excavation, or demolition work on a property or site, which requires ministerial, minor, or major development approval.

COMMENT:

The tree protection plan is included and has been reviewed by the project arborist (Savatree Consulting Group). The final tree protection plan will be included with the engineering plan.

2. In order to obtain approval of a Tree Protection Plan; an applicant shall submit a plan to the City, which clearly depicts all trees to be preserved on the site. The plan must be drawn to scale and include the following:

- a. Location, species, and diameter of each tree on site and within 15 feet of the site;
- b. Location of the drip line of each tree;
- c. Location of existing and proposed roads, water, sanitary and storm sewer, irrigation, and other utility lines/facilities and easements;
- d. Location of dry wells and soakage trenches;
- e. Location of proposed and existing structures;
- f. Grade change or cut and fill during or after construction;
- g. Existing and proposed impervious surfaces;
- h. Identification of a contact person and/or arborist who will be responsible for implementing and maintaining the approved tree protection plan; and
- i. Location and type of tree protection measures to be installed per LOC 55.08.030.

COMMENT:

The required items are shown on the tree protection plan.

3. For minor or major development, the Tree Preservation Plan shall be prepared by an arborist and shall include an inventory of all trees on site, their health or hazard condition, and recommendations for treatment for each tree.

COMMENT:

The tree protection plan is included and has been reviewed by the project arborist (Savatree Consulting Group). The final tree protection plan will be included with the engineering plans and construction plan submittal for each parcel. The tree inventory is included in the application (See Exhibit 12 – Arborist Report).

55.08.030 Tree Protection Measures Required.

1. Except as otherwise determined by the City Manager, all required tree protection measures set forth in this section shall be instituted prior to any development activities, including, but not limited to clearing, grading, excavation or demolition work, and shall be removed only after completion of all construction activity, including landscaping and irrigation installation.
2. Chain link fencing, a minimum of 6 feet tall with steel posts placed no farther than ten feet apart, shall be installed at the edge of the tree protection zone or dripline, whichever is greater, and at the boundary of any open space tracts or conservation easements that abut the parcel being developed.
3. The fencing shall be flush with the initial undisturbed grade.
4. Approved signs shall be attached to the chain link fencing stating that inside the fencing is a tree protection zone, not to be disturbed unless prior approval has been obtained from the City Manager and arborist for the project.
5. No construction activity shall occur within the tree protection zone, including, but not limited to dumping or storage of materials such as building supplies, soil, waste items, or parked vehicles or equipment.

- 6. The tree protection zone shall remain free of chemically injurious materials and liquids such as paints, thinners, cleaning solutions, petroleum products, and concrete or dry wall excess, construction debris, or run-off.**
- 7. No excavation, trenching, grading, root pruning or other activity shall occur within the tree protection zone unless directed by an arborist present on site and approved by the City Manager.**

COMMENT:

The required tree preservation methods will be implemented as specified. Tree protection will be shown on the construction plans.

55.08.040 Inspection.

The applicant shall not proceed with any construction activity, except installation of erosion control measures, until the City has inspected and approved the installation of the required tree protection measures and a building and/or grading permit has been issued by the City.

COMMENT:

Construction activity will not proceed prior to City inspection of tree protection measures.

IV. SUMMARY AND CONCLUSIONS

Based upon the findings of this report and the submitted supplemental graphics material, the applicant has demonstrated compliance with the requirements of the relevant sections of the Lake Oswego Community Development Code for the requested lot line adjustments and RP crossing. Therefore, the request should be approved.