

**BEFORE THE CITY COUNCIL FOR THE CITY OF  
LAFAYETTE, OREGON**

**An Ordinance to More Fully Address  
the Zone Change Approval Criteria  
For the Re-zoning of a 20 Acre Site  
Related to the City's Response to DLCD's  
December 2015 Remand of the City's  
Urban Growth Boundary Project** )  
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 ) **ORDINANCE NO. 633**  
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**THE CITY COUNCIL (the "Council") OF THE CITY OF LAFAYETTE, OREGON** (the "City") sat for the transaction of City business on Thursday, October 13, 2016 at 6:30 p.m. at the City Hall.

**WHEREAS**, on April 14, 2016, the Council passed Ordinance 629 which adopted a 20-year coordinated population projection for the City to 2033, added approximately 61 acres to the UGB, applied the Low Density Residential Comprehensive Plan Map designation to approximately 50 of the 61 acres and applied the Medium Density Residential Comprehensive Plan Map designations to approximately 11 of the 61 acres, and Re-zoned from the Low Density Residential (R-1) District to the Medium Density Residential (R-2) District approximately 20 acres in the city limits at the northwest corner of the City; and

**WHEREAS**, on August 3, 2016 the City submitted the Oregon Land Conservation and Development Department Form 4 with the necessary materials to the Oregon Land Conservation and Development Department; and

**WHEREAS**, on August 24, 2016, within the 21-day comment period, a letter of objection to the City's materials was submitted to the Oregon Land Conservation and Development Department setting forth three objections related to the re-zoning of the approximately 20 acre site; and

**WHEREAS**, after discussing the objections with the Oregon Land Conservation and Development Department staff, the City voluntarily withdrew its August 3, 2016 Form 4 submittal thereby allowing the Council to conduct a public hearing to address the objections; and

**WHEREAS**, on October 13, 2016 the City Council met to consider the proposed action, conducted a duly noticed public hearing at which time the public was given full opportunity to be present and heard on the matter, considered the information provided by City staff and the public, and passed a motion adopting the staff report dated October 13, 2016 addressing the three objections and containing findings to support re-zoning the approximately 20 acre site in the city limits from the Low Density Residential (R-1) District to the Medium Density Residential (R-2) District.

**NOW THEREFORE, THE CITY OF LAFAYETTE, OREGON, ORDAINS AS FOLLOWS:**

**Section 1.** The City Council of the City of Lafayette does hereby adopt the staff report to the City Council dated October 13, 2016 containing findings to address the three objections submitted to the Oregon Land Conservation and Development Department on August 24, 2016.

**Section 2.** The City Council of the City of Lafayette does hereby adopt those certain findings of fact, conclusionary findings and supporting documentation in Exhibit "A" attached hereto and by this reference made a part hereof.

**ADOPTED** by the Lafayette City Council on the 13th day of October, 2016.

**VOTE:** Ayes: 4 Nays: 0 Abstentions: 0 Absent: 1

**CERTIFIED:**

  
\_\_\_\_\_  
Chris Pagella, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Angela Speier, Assistant City Administrator

## ORDINANCE 633

### EXHIBIT "A"

#### BACKGROUND

In 2015 the City Council expanded the urban growth boundary (UGB). The city submitted the materials to the Oregon Department of Land Conservation and Development (DLCD) to determine that the work was consistent with the applicable Statewide Planning Goals, particularly Goal 14 (the UGB Goal). DLCD found the city's work was insufficient to accommodate the city's projected population increase for a 20-year period and remanded the decision back to the city to address the need for 93 additional dwellings.

On April 14, 2016 the City Council passed Ordinance 629 approving an urban growth boundary (UGB) expansion of about 61 acres (about 10 more acres than the 2015 decision) and changing the zoning on about 20 acres that was already in the City Limits from the Low Density Residential District (R-1) to the Medium Density Residential District (R-2).

A vicinity map showing the location of the 20 acre site is on the following page.

The city submitted the revised materials to the Oregon Department of Land Conservation and Development to determine that the work was consistent with the applicable Statewide Planning Goals, particularly Goal 14 (the UGB Goal). During the 21-day comment period, Ms. Carol Paddock submitted a 2-page letter to DLCD dated August 24, 2016 stating 3 objections (see Attachment 1).

The 2-page letter to DLCD dated August 24, 2016, included a 2-page letter to the Yamhill County Board of Commissioners dated June 7, 2016 with enclosures, a 1-page letter to the Lafayette City Council dated March 31, 2016 from Lorrain Paddock, and a 1-page letter to the Lafayette City Council dated March 31, 2016 from Carol Paddock (see Attachment 1).

DLCD staff and city staff discussed the objections and concluded that Objections 1 and 3 were without merit, but the city would need to respond to them, and there was insufficient information in the materials submitted (in the record) to address Objection 2. The city voluntarily withdrew its submittal to DLCD to enter additional information into the record to address, briefly, Objections 1 and 3 and to enter more information into the record to address Objection 2.



The purpose of the October 13, 2016 City Council public hearing is to enter into the record additional information regarding Objections 1, 2 and 3.

The August 24, 2016 letter lists three objections in bold print and supporting information follows each objection (see Attachment 1). The objections are listed below with the city's response to each.

**OBJECTION 1.**

Objection 1 is stated in bold on page 1 of the August 24, 2016 letter to DLCD (See Attachment 1). It states:

**"The city provided inadequate notice and opportunity to respond to options being considered for addressing the state's remand instructions."**

The objection goes on to indicate a City Council work session was held January 14, 2016, but "...notice was not provided to interested parties for this work session."

The objection was summarized in the last paragraph:

"Again, the broad array of options at the one meeting provided for public comment before the council (March 31) did not provide a reasonable opportunity for the public to know which of the 14 options were most viable and well-received by the council. It was very unclear. The public was not able to focus testimony."

**City Response:** The January 14, 2016 City Council work session was at the City Council's regular second Thursday of the month meeting and as usual a public agenda was available. Because it was a work session and not a public hearing, the work session was not required by any city or State provisions to be noticed to the parties who had participated in the UGB process up to that point.

The objection does not cite a city or State regulation that requires a notice be provided of a City Council work session for a land use issue.

Later in the year, the City Council conducted a properly noticed public hearing on March 10 which was continued to March 31, 2016, at which time the objector testified orally and in writing. A written notice was mailed to those who had participated in the UGB process up to that point 20-days prior to the March 10 hearing. The objector was on the list of those parties who were mailed a copy of the written notice.

A staff report was available on March 3, one week prior to the March 10 hearing. Thus, over two weeks were available to prepare for the hearing and one week was available for participants to familiarize themselves with the staff report.

The March 10 hearing was opened and immediately continued to March 31 because the City Manager could not attend due to an emergency family health matter that day. With the hearing continued, another 21-days was available for participants to familiarize themselves with the staff report and the issues and prepare their testimony.

The staff report for the March 10 and March 31 hearings included the following staff recommendation:

"Staff recommends the City Council review the staff report, receive any testimony at the public hearing, deliberate and pass a motion adopting, in preferred order, Combination 5, or 2 or 3."

The above quoted staff recommendation was in the staff report that was first available on March 3. The above quoted recommendation was in the staff report at the March 10 and March 31 hearings. It was clear that staff's priority options were, first, Combination 5, second, Combination 2 and third, Combination 3.

As of March 3 and continuing to March 10 and March 31, all the parties were aware that staff was encouraging and recommending the City Council focus on Combinations 5, 2 and 3, in that order and adopt Combination 5.

The staff report for the March 10 and March 31 hearings included the following summary of staff's number 1 priority, i.e., Combination 5, on pages 13 and 14:

"Combination 5:

- Item 1: 45 Add the 3 parcels (10 acres) at the Low Density Residential designation.
- Item 4: 9 Change the right-of-way assumption for the 40 acre area.
- Item 8: 46 Change the 20 acre "peninsula" from Low to Medium Density.  
100 dwellings.

Combination 5 would achieve the needed 93 units, but 46 of the increased units are ***due to changing from the Low to the Medium Density Residential designation.*** (Emphasis added.)

It was clear that staff's first priority, Combination 5, included changing the 20 acre "peninsula" from Low to Medium Density.

The staff report for the March 10 and March 31 hearings (pages 10 and 11) included an extended discussion of increasing the density on the 20 acre site under Subsection 2: "2.20 Acre Area: Change the Comprehensive Plan Map designation for all or part of the area."

CONCLUSION: Because Objection 1 does not cite a city or State provision that required a notice to be provided for the January 14, 2016 City Council work session, and because all the parties were notified and afforded an opportunity from March 3 (when the staff report was available to the public) to March 31 to become familiar with the staff report and prepare their testimony regarding the options being considered at the March 31, 2016 duly noticed public hearing, and because the staff recommendation's first priority was Combination 5 which included increasing the density on the 20 acre site, Objection 1 is unsubstantiated.

## OBJECTION 2.

Objection 2 is stated in bold font at the top of page 2 of the August 24, 2016 letter to DLCD (See Attachment 1). It addresses the rezoning of a 20 acre site from the R-1 to the R-2 District. It states:

"The city did not address zone change code requirements."

Then, it lists two of the five approval criteria in the Lafayette Zoning and Development Ordinance (LZDO) the objector believes should have specifically been addressed (Section 3.102.03, [A], 2, and 3.102.03, [A], 4).

The objection goes on to state, in part:

"I raised these references [approval criteria A, 2 and A, 4] in regard to emergency access issues (mentioned at the beginning of this letter)...."

The beginning of the August 24, 2016 letter (1st paragraph) states, in part:

"A significant portion of this site is relatively narrow in configuration and encircled on three sides by forested ravines, and I am concerned about fire safety, emergency

access, and evacuation,... The increased density of the new zone compounds all of these."

**City Response.** The following city response first addresses the two specific bullet point approval criteria in the August 24 letter, i.e., A, 2, and A, 4, and then addresses the remaining criteria, i.e., A,1; A,3; and A, 5.

**3.102.03, A, 2. "The uses permitted in the proposed zone can be accommodated on the proposed site without exceeding its physical capacity."**

1. The uses permitted in the R-2 District (LZDO, 2.103.02, Permitted Uses, R-2) that are applicable to the UGB decision are detached single family dwellings, attached single family dwellings (such as townhouses), duplexes, and multi-family dwellings (3 or more dwellings such as apartments and condominiums). Number 7, below, addresses multi-family development.

2. The LZDO, 1,200.02, Definitions, does not define "physical capacity," thus it is not clear what "physical capacity" means and there is no local guidance elsewhere in the LZDO explaining how to determine the "physical capacity" of a residential property.

3. This response uses "buildable land" acres to define the "physical capacity" of the 20 acre site. Oregon Administrative Rule 660-024, Urban Growth Boundaries, defines "Buildable Land" as follows:

**660-024-0010**

**Definitions**

In this division, the definitions in the statewide goals and the following definitions apply:

(1) "Buildable Land" is a term applying to residential land only, and has the same meaning as provided in OAR 660-008-0005(2).

OAR 660-008, Interpretation of Goal 10 Housing, and its Subsection -0005(2) defines Buildable Land as follows:

(2) "Buildable Land" means residentially designated land within the urban growth boundary, including both vacant and developed land likely to be redeveloped, that is suitable, available and necessary for residential uses. Publicly owned land is generally not considered available for residential uses. Land is generally considered "suitable and available" unless it:

(a) Is severely constrained by natural hazards as determined under Statewide Planning Goal 7;

(b) Is subject to natural resource protection measures determined under Statewide Planning Goals 5, 6, 15, 16, 17 or 18;

(c) Has slopes of 25 percent or greater;

(d) Is within the 100-year flood plain; or

(e) Cannot be provided with public facilities.

4. The city's April 14, 2016 Ordinance 629, Exhibit "B" addresses the physical capacity of the 20 acre site in terms of the portion of the property that is buildable and the portion that would not be buildable due to creeks with their steep slopes and vegetated corridors.

5. The city's April 14, 2016 Ordinance 629, Exhibit "B" addresses the physical capacity of the 20 acre area in the 6th paragraph on page 7. It recognizes that a portion of the 20 acre site is steeply sloped and assumes that, due to the steep slopes and the Millican Creek bottomland, 4 of the 20 acres (20%) would not be buildable. Based on 4 acres not being buildable and 2.4 acres being used for public street rights-of-way, the calculation in the 6th paragraph shows 13.6 acres would be developable and 118 lots meeting the 5,000 square foot minimum lot size in the R-2 District could be accommodated on the proposed site without exceeding its physical capacity. The 118 dwellings (46 more than would be created in the R-1 District) were included in the tally to provide sufficient land to accommodate a total of 93 additional dwellings. The 6th paragraph is quoted below.

*With the Medium Density Residential Comprehensive Plan Map designation and R-2 District applied to the 20 acres, and assuming 20% is steep slopes and Millican Creek bottomland, 16 acres would be available for development ( $20 \text{ ac} \times .2 = 4$  and  $20 - 4 = 16$  acres). And assuming 15% of the 16 acre area, or 2.4 acres, is used for public rights-of-way ( $16 \text{ ac} \times .15 = 2.4 \text{ ac.}$  and  $16 - 2.4 = 13.6 \text{ ac.}$ ), 13.6 acres, or 592,416 sq. ft., would be developable ( $13.6 \text{ ac} \times 43,560 \text{ sq. ft. per acre} = 592,416 \text{ sq. ft.}$ ). At 5,000 square feet per lot, 118 lots could be developed ( $592,418 \text{ sq. ft.} / 5,000 \text{ sq. ft. per lot} = 118 \text{ lots}$ ).*

6. The City's April 14, 2016 Ordinance 629, Exhibit "B," addresses the physical capacity of the 20 acre site in the 7th paragraph on page 7. It recognizes that the Millican Creek riparian corridor on the west side and the East Millican Creek riparian corridor on the south and east sides provide a natural amenity and would not be developed. The result is the physical capacity of the 20 acre site would not be exceeded. The 7th paragraph is quoted below.

*The city's development history indicates the 20 acre area will likely be developed for detached single family dwellings, but the Millican Creek riparian corridor on the west side of the property and the East Millican Creek riparian corridor on the south and east sides of the property provide a significant natural amenity for townhouse development, therefore, the 46 additional units may be an underestimate.*

7. The City's April 14, 2016 Ordinance 629, Exhibit "B," addresses the physical capacity of the 20 acre site in the 8th paragraph on page 7. It recognizes that because the City has only 1 multi-family development of 32 units on 3.2 acres, the property will likely be built with detached single family dwellings, however, it could be built with multi-family dwellings because they are a permitted use in the R-2 District. It recognizes that if multi-family dwellings are built, only 16 acres of the 20 acre site would be buildable which is consistent with the physical capacity of the site due to steep slopes and the riparian corridor discussed above in the 6th and 7th paragraphs of Exhibit "B." The 4-acre area of the natural amenity would not be developed. The result is the physical capacity of the 20 acre site would not be exceeded. The 8th paragraph of Exhibit "B" is quoted below.



*The R-2 District also allows multi-family development and, assuming 16 net buildable acres and a density of 10 du/ac which is the density of the city's one multi-family development (32 units on 3.2 acres), 160 multi-family dwellings could be built on the site. Again, the 46 additional units may be an underestimate.*

8. The City's April 14, 2016 Ordinance 629, Exhibit "B," addresses the physical capacity of the 20 acre site in the 8th, 9th and 10th paragraphs on page 26. The paragraphs describe how the 20 acre site was the location of the approved 2008 Lafayette View Estates Subdivision/PUD composed of 72 single family detached subdivision lots on 11.65 net buildable acres. Open Space Tracts C, D and E comprised 6.12 acres of the 20 acre site. Additionally, public rights-of-way comprised 2.69 acres. Based on the Subdivision/PUD with Tracts C, D and E designated for open space, the approval showed the site could be developed without exceeding its physical capacity. The 8th, 9th and 10th paragraphs are quoted below.

*Tax Lot 4, 4, 01 300 is 60 acres and the southern 20 acres is in the NW corner of the city limits. It was the subject property for Lafayette View Estates, a 72 lot PUD approved in 2008. It is confined by Millican Creek on the west with its side slopes that are greater than 25% slope and by East Millican Creek on the south and east with its side slopes that are greater than 25% slope. During the recession the developer did not keep the approval current, thus the approval lapsed and the project was not built. The gross density was 72 du's on 20.46 acres or 3.5 du per gross acre ( $72\text{du} / 20\text{ ac} = 3.5\text{du}/\text{ac}$ ). The net density was greater and was based on 11.65 net buildable acres for 72 du's, or 6.18 du per net acre ( $72\text{du} / 10.61\text{ ac} = 6.79$ ). The net density was calculated as follows.*

*Of the PUD's 20.46 total acres, 6.12 acres (open space tracts C, D and E) were not buildable due to steep slopes and the Millican Creek and East Millican Creek riparian corridors which left 14.34 acres for development ( $20.46\text{ ac} - 6.12\text{ ac}$ ). The public street rights-of-way were 2.69 acres (19% of the 14.34 acres for development) which reduced the 14.34 acres to 11.65 net acres available for housing ( $14.34 - 2.69$ ). The net density was 6.18 du per net acre (72 du's divided by 11.65 ac).*

*Because Lafayette View Estates was a PUD, the lot sizes were allowed to be of various sizes to fit the topography. The steep slopes and the Millican Creek and East Millican Creek riparian corridors were not proposed for development. The average lot size was 6,420 square feet with lot sizes varying from 6,000 to 21,564 square feet with 56 lots (78% of the lots) between 6,000 to 7,000 square feet.*

9. The City's April 14, 2016 Ordinance 629, Exhibit "B," addresses the physical capacity of the 20 acre site in the last paragraph on page 32 and the first paragraph on page on 33. The paragraphs describe how the 20 acre site is bordered by Millican Creek and East Millican Creek which removes 4 acres from the buildable acre inventory, it is in the shape of a peninsula and it has an upper area that is buildable. The two paragraphs are quoted below.

*The 20 acre area is bordered to the west by Millican Creek and to the south and east by East Millican Creek which makes the 20 acre area a peninsula. It has steep slopes down to Millican Creek on the west and down to East Millican Creek on the south and east. The upper, buildable area is at approximately the same elevation as the 40 acre portion of the same tax lot to the north.*

*Prior to the 2008 recession a 72 lot subdivision/PUD was approved (Lafayette View Estates) for the "peninsula," but it was not built. With the change to R-2, and assuming*

*20% is steep slopes and Millican Creek bottomland, 16 acres would be available (20 ac x .2 = 4 and 20 - 4 = 16 acres). And assuming 15% of the 16 acres, or 2.4 acres, is used for public rights-of-way (16 ac x .15 = 2.4 ac. and 16 - 2.4 = 13.6 ac.), 13.6 acres, or 592,416 sq. ft., would be developable (13.6 ac x 43,560 sq. ft. per acre = 592,416 sq. ft.). At 5,000 square feet per lot, 118 lots could be developed (592,418 sq. ft. / 5,000 sq. ft. per lot = 118 lots).*

10. The approved 2008 Lafayette View Estates Tentative Subdivision/PUD Plan included a public street system proposed to be built to city standards that showed every lot with frontage on a public street for access. The public street system would be available and adequate for emergency access by police, fire and medical vehicles. The street system would allow residents to exit the area in the event of a wildfire or a landslide. The development was required to comply with the emergency access requirements of the Statewide Fire Code. A new development would be required to comply with the emergency access requirements of the Statewide Fire Code. The issue of wildfires and landslides is more appropriately addressed in a separate LZDO amendment process targeted at adopting wildfire and landslide development standards citywide.

11. The Lafayette Fire Department is provided copies of Subdivision/PUD applications as a standard procedure for review and comment. The 2008 Subdivision/PUD complied with the Statewide Fire Code for street access, street width and cul-de-sac turning radius and any future Subdivision/PUD would be required to comply with the Statewide Fire Code.

12. The potential for a wildfire or a landslide for the 20 acre site is no different than for any other property inside or outside the city limits, or for any other Willamette Valley city. Inside the Lafayette city limits urban development in all the city's zoning Districts is protected by the Lafayette Fire Department and the Yamhill County Sheriff. Urban development inside the city limits and immediately outside the city limits exists along the South Yamhill River, Millican Creek, East Millican Creek, Martin Creek and Henry Creek, and all those creeks have steep side slopes with riparian vegetation. The issue of wildfires and landslides is more appropriately addressed in a separate LZDO amendment process targeted at adopting wildfire and landslide development standards citywide.

13. Examples of existing residential development in the R-2 District next to the above listed creeks are at the west end of W. 9th Street, along N. Canyon View Drive and along W. 2nd Place Circle. The residential development on those streets has not experienced wildfires or landslides. Where the 20 acre site is upzoned to the R-2 District, it is no different than for any other property in the R-2 District next to the above listed creeks at the west end of W. 9th Street, along N. Canyon View Drive and along W. 2nd Place Circle. The issue of wildfires and landslides is more appropriately addressed in a separate LZDO amendment process targeted at adopting wildfire and landslide development standards citywide.

14. The 2008 approved Subdivision/PUD Tentative Plan included a public street system proposed to be built to city standards. The Tentative Plan showed the east-west street at the north end of the 20 acre site to have a 50 foot wide public right-of-way with a 36 foot wide paved street width (inside of curb to inside of curb). The approved Tentative Plan showed the remaining north-south and east-west local streets throughout the development to have 48 foot wide public rights-of-way with 34 foot wide paved street widths (inside of curb to inside of curb). The 36 and 34 foot wide paved streets would be adequate to accommodate firefighting and medical vehicles responding to a dwelling fire, a wildfire, a landslide or a medical emergency. The public street system would also allow residents to exit the area in the event of a dwelling

fire, a wildfire, a landslide or a medical emergency. The issue of wildfires and landslides is more appropriately addressed in a separate LZDO amendment process targeted at adopting wildfire and landslide development standards citywide.

15. The above approved Subdivision/PUD included public water, sewer and storm drain systems proposed to be built to city standards that showed every lot would be served with public water, public sewer and public storm drainage. The public water system included fire hydrants in accordance with the Lafayette Public Works Construction Code and the Statewide Fire Code. A new R-2 District development would be required to provide fire hydrants consistent with the Lafayette Public Works Construction Code and the Statewide Fire Code which would be available to fight a wildfire. The issue of wildfires and landslides is more appropriately addressed in a separate LZDO amendment process targeted at adopting wildfire and landslide development standards citywide.

CONCLUSION: The proposed R-2 District can be accommodated on the 20 acre site without exceeding the site's physical capacity. LZDO, Section 3.102.03, A, 2, is met.

**3.102.03, A, 4. "Adequate public facilities, services, and transportation networks are in place or are planned to be provided concurrently with the development of the property."**

1. The City's April 14, 2016 Ordinance 629, Exhibit "B" addresses the adequacy of public facilities, services, and transportation for the 20 acre site in the 8th, 9th and 10th paragraphs on page 26. The paragraphs describe how the 20 acres were the site of the approved 2008 Lafayette View Estates Subdivision/PUD composed of 72 single family detached subdivision lots on 11.65 net buildable acres. Open Space Tracts C, D and E comprised 6.12 acres of the 20 acre site. Public rights-of-way comprised 2.69 acres. The approved 2008 Lafayette View Estates PUD included the installation of public water lines, public sewer lines, public storm drainage lines and public streets. Due to the severe recession the public infrastructure was not installed and the approval of the Tentative Plan lapsed. The property remains undeveloped. The approved Tentative Plan included plans to provide, concurrently with the development of the property, adequate public facilities and transportation to serve the dwellings. Even though the public facilities were not constructed due to the recession, a future application to develop the property would, similarly, be required to include plans to provide, concurrently with the development of the property, adequate public facilities. The 8th, 9th and 10th paragraphs are quoted below.

*Tax Lot 4, 4, 01 300 is 60 acres and the southern 20 acres is in the NW corner of the city limits. It was the subject property for Lafayette View Estates, a 72 lot PUD approved in 2008. It is confined by Millican Creek on the west with its side slopes that are greater than 25% slope and by East Millican Creek on the south and east with its side slopes that are greater than 25% slope. During the recession the developer did not keep the approval current, thus the approval lapsed and the project was not built. The gross density was 72 du's on 20.46 acres or 3.5 du per gross acre ( $72du / 20 ac = 3.5du/ac$ ). The net density was greater and was based on 11.65 net buildable acres for 72 du's, or 6.18 du per net acre ( $72du / 10.61 ac = 6.79$ ). The net density was calculated as follows.*

*Of the PUD's 20.46 total acres, 6.12 acres (open space tracts C, D and E) were not buildable due to steep slopes and the Millican Creek and East Millican Creek riparian corridors which left 14.34 acres for development ( $20.46 ac - 6.12 ac$ ). The public street rights-of-way were 2.69 acres (19% of the 14.34 acres for development) which reduced*

*the 14.34 acres to 11.65 net acres available for housing (14.34 - 2.69). The net density was 6.18 du per net acre (72 du's divided by 11.65 ac).*

*Because Lafayette View Estates was a PUD, the lot sizes were allowed to be of various sizes to fit the topography. The steep slopes and the Millican Creek and East Millican Creek riparian corridors were not proposed for development. The average lot size was 6,420 square feet with lot sizes varying from 6,000 to 21,564 square feet with 56 lots (78% of the lots) between 6,000 to 7,000 square feet.*

2. Given the 2008 Subdivision/PUD Tentative Plan approval lapsed due to the recession, a future residential development proposed on the property will be subject to the provisions of the LZDO, especially Section 3.107.02, Submittal Requirements for Subdivisions and PUD's. The application materials must show a significant amount of information including:

3.107.02, A, 2, g, Direction of drainage and approximate grade of abutting streets.

3.107.02, A, 2, h. Streets proposed and their names, approximate grade, and radius of curves.

3.107.02, A, 2, i. Any other legal access to the subdivision or PUD other than a public street.

3. In addition to the above, a Subdivision/PUD application is required by the LZDO to show the development complies with the requirements of:

LZDO, 2.201.03, Application of Public Facility Standards, and the table "Public Facilities Improvement Requirements."

LZDO, 2.202, Transportation and Access Standards, including but not limited to:

2.202.03, General Provisions.

2.202.04, General Right-of-Way and Improvement Widths.

2.202.06, Construction Specifications.

2.202.07, Private Streets.

LZDO, 2.204, Storm Drainage, including but not limited to:

2.204.03, Plan for Storm Drainage and Erosion Control.

2.204.04, General Storm Drainage Standards.

LZDO, 2.205, Utility Lines and Facilities, including but not limited to:

2.205.02, Standards (A - H).

LZDO, 2.208, Development Standards For Land Divisions, including but not limited to:

2.208.03, Standards For Lots or Parcels.

2.208.04, Standards For Blocks.

2.208.05, Improvement Requirements.

4. To show compliance with the above LZDO sections, the application would include plans showing the development would provide, concurrently with the development of the property, adequate public facilities.

5. The City's April 14, 2016 Ordinance 629, Exhibit "B" addresses the adequacy of transportation for the 20 acre site in paragraph 6 on page 56. The paragraph describes how the 20 acres are not now easily accessed, i.e., only via the narrow Haylen Drive through an existing neighborhood, and how, if the 40 acres to the north is added to the UGB, other options for access to the 20 acre site will be available through the 40 acre area abutting to the north. Paragraph 6 is quoted below.

*When the 40 acre area is developed, a road could be included that would provide appropriate access to the 20 acre area that is in the NW corner of the city and is south of the SW portion of the 40 acre area. The 20 acre area and the 40 acre area are in a single ownership, in one deed and in one tax lot. Currently, the only access to the 20 acre area is a narrow local street, Haylen Drive, running through a neighborhood. If the 40 acre area is not added to the UGB and the 20 acre area is developed, all the trips generated by the 20 acre development would be funneled onto Haylen Drive and significantly and negatively affect the property owners along Haylen Drive.*

6. In addition to the information in paragraph 6 in Exhibit "B," above, with the 40 acre area abutting to the north of the 20 acre site added to the urban growth boundary, two or possibly three public streets would serve the 20 acre site. The paved public street system would be adequate to accommodate firefighting and medical vehicles responding to a dwelling fire, a wildfire, a landslide or a medical emergency. The public street system would also allow residents to exit the area in the event of a dwelling fire, a wildfire, a landslide or a medical emergency. The issue of wildfires and landslides is more appropriately addressed in a separate LZDO amendment process targeted at adopting wildfire and landslide development standards citywide.

7. A future Subdivision/PUD would be required to provide public water, sewer and storm drain systems built to city standards that would serve every lot with public water, public sewer and public storm drainage. The public water system would be required to include fire hydrants in accordance with the Lafayette Public Works Construction Code and the Statewide Fire Code which would be available to fight a wildfire. The issue of wildfires and landslides is more appropriately addressed in a separate LZDO amendment process targeted at adopting wildfire and landslide development standards citywide.

CONCLUSION: Adequate public facilities, services, and transportation networks are in place or are planned to be provided concurrently with the development of the property. The LZDO requires adequate public facilities, services, and transportation networks to be provided concurrently with the development of the property. LZDO, Section 3.102.03, A, 4, is met.

This concludes the city's response to the two specific bullet point criteria in the August 24 letter, i.e., A, 2 and A, 4.

The following address the remaining zone change criteria, i.e., A, 1; A, 3; and A, 5.

**3.102.03, A, 1. "The proposed zone is appropriate for the Comprehensive Plan Map designation on the property and is consistent with the description and policies for the applicable Comprehensive Plan Map designation."**

1. The Lafayette Comprehensive Plan Map includes two residential Comprehensive Plan Map designations. They are the Low Density Residential Comprehensive Plan Map designation and the Medium Density Residential Comprehensive Plan Map designation. The density of the Low Density Residential Comprehensive Plan Map designation is less than the density of the Medium Density Residential Comprehensive Plan Map designation.
2. In the Lafayette Zoning and Development Ordinance (LZDO) the Low Density (R-1) District's minimum lot size is 7,500 square feet (2.102.04, A) and the Medium Density (R-2) District's minimum lot size is 5,000 square feet (2.103.04, A). The density of the Low Density (R-1) District is less than the density of the Medium Density (R-2) District.
3. The Low Density Residential Comprehensive Plan Map designation is implemented by the Low Density Residential (R-1) District and the Medium Density Residential Comprehensive Plan Map designation is implemented by the Medium Density Residential (R-2J) District.
4. The UGB process included re-designating the 20 acre site from the Low Density Residential Comprehensive Plan Map designation to the Medium Density Residential Comprehensive Plan Map designation to provide sufficient land for the identified number of needed dwellings. The 20 acre site must be rezoned from the R-1 District to the R-2 District because its Low Density Residential Comprehensive Plan Map designation is changed to the Medium Density Residential Comprehensive Plan Map designation. The re-zoning from the Low Density Residential (R-1) District to the Medium Density Residential (R-2) District follows-up on the Comprehensive Plan Map re-designation and applies the Medium Density Residential (R-2) District to the Medium Density Residential Comprehensive Plan Map designated site.
5. The Lafayette Comprehensive Plan does not include a description of the Comprehensive Plan Map designations, nor does it include policies for the applicable Comprehensive Plan Map designations. The criterion's requirement that "The proposed zone...is consistent with the description and policies for the applicable Comprehensive Plan Map designation" is not applicable.

CONCLUSION: The proposed Medium Density Residential (R-2) District is appropriate for the Medium Density Residential Comprehensive Plan Map designation on the 20 acre site and the requirement that "The proposed zone...is consistent with the description and policies for the applicable Comprehensive Plan Map designation" is not applicable because the Lafayette Comprehensive Plan does not include a description of the Comprehensive Plan Map designations, nor does it include policies for the applicable Comprehensive Plan Map designations. LZDO, Section 3.102.03, A, 1, is met.

**3.102.03, A, 3. "Allowed uses in the proposed zone can be established in compliance with the development requirements in this Ordinance."**

The City's April 14, 2016 Ordinance 629, Exhibit "B," addresses development on the 20 acre site in the 8th, 9th and 10th paragraphs on page 26. The paragraphs describe how the 20 acre site, which was in the R-1 District at that time, received Tentative Plan approval from the city in 2008 for the Lafayette View Estates Subdivision/PUD. It was composed of 72 single family

detached lots on 11.65 net buildable acres. Open Space Tracts C, D and E comprised 6.12 acres of the 20 acre site. Public rights-of-way comprised 2.69 acres. The 10th paragraph shows the smallest lots were 6,000 square feet and the average was 6,420 square feet.

When the Medium Density Residential District (R-2) is applied to the site, the minimum lot size will be 5,000 square feet for a detached single family dwelling and it will be smaller for attached single family dwellings (townhouses) and multi-family dwellings (apartments). When building permits are submitted for dwellings on lots, they must show compliance with the city's requirements for development in the R-2 District. Changing the zone from R-1 to R-2 means the minimum lot size will be reduced from 7,500 square feet to 5,000 square feet and a future Subdivision/PUD on the site will be required to meet the R-2 minimum lot size requirement as well as any other applicable requirements. The site can be developed and meet the R-2 standards. The 8th, 9th and 10th paragraphs are quoted below.

*Tax Lot 4, 4, 01 300 is 60 acres and the southern 20 acres is in the NW corner of the city limits. It was the subject property for Lafayette View Estates, a 72 lot PUD approved in 2008. It is confined by Millican Creek on the west with its side slopes that are greater than 25% slope and by East Millican Creek on the south and east with its side slopes that are greater than 25% slope. During the recession the developer did not keep the approval current, thus the approval lapsed and the project was not built. The gross density was 72 du's on 20.46 acres or 3.5 du per gross acre ( $72\text{du} / 20\text{ac} = 3.5\text{du}/\text{ac}$ ). The net density was greater and was based on 11.65 net buildable acres for 72 du's, or 6.18 du per net acre ( $72\text{du} / 10.61\text{ac} = 6.79$ ). The net density was calculated as follows.*

*Of the PUD's 20.46 total acres, 6.12 acres (open space tracts C, D and E) were not buildable due to steep slopes and the Millican Creek and East Millican Creek riparian corridors which left 14.34 acres for development ( $20.46\text{ac} - 6.12\text{ac}$ ). The public street rights-of-way were 2.69 acres (19% of the 14.34 acres for development) which reduced the 14.34 acres to 11.65 net acres available for housing ( $14.34 - 2.69$ ). The net density was 6.18 du per net acre (72 du's divided by 11.65 ac).*

*Because Lafayette View Estates was a PUD, the lot sizes were allowed to be of various sizes to fit the topography. The steep slopes and the Millican Creek and East Millican Creek riparian corridors were not proposed for development. The average lot size was 6,420 square feet with lot sizes varying from 6,000 to 21,564 square feet with 56 lots (78% of the lots) between 6,000 to 7,000 square feet.*

CONCLUSION: The allowed residential uses in the R-2 District can be established in compliance with the development requirements in the LZDO. LZDO, Section 3.102.03, A, 3, is met.

**3.102.03, A, 5. "The following additional criteria shall be used to review all nonconforming residential changes:"** The additional criteria are in Subsection A, 5, a, b and c.

CONCLUSION: Criterion A, 5, is not applicable because the proposed re-zoning from the R-1 to the R-2 District does not involve nonconforming residences or residential nonconformities. The 20 acre site is vacant. There are no nonconformities on the site.

## OVERALL CONCLUSION FOR OBJECTION 2, ZONE CHANGE CRITERION.

The zone change criteria set forth in LZDO, 3.102.03, A, 1 - 4, have been met and criterion A, 5, is not applicable.

### OBJECTION 3.

Objection 3 is stated in bold on page 2 of the August 24, 2016 letter to DLCD (See Attachment 1). It states:

"Statewide Planning Goal 7, Natural Hazards, was not addressed."

The objection goes on to state, "The unique nature of the site is not addressed in relation to the zone change." It also expresses concerns with "...potential wildfire and landslides."

**City Response.** The LZDO, Section 3.102.03, A, 1 - 5, Criteria For Zone Changes, do not require zone map changes to address the Statewide Planning Goals.

**CONCLUSION:** Because the LZDO's zone map change approval criteria do not require zone map changes to address the Statewide Planning Goals, Objection 3 is unsubstantiated.