

APR 27 2016

April 27, 2016

Eugene Planning Director  
c/o Erik Berg-Johansen, Associate Planner  
City of Eugene  
99 West 10th Avenue,  
Eugene, OR 97401

Re: City File No. PDF 15-2; Oakleigh Meadows PUD  
Appeal of Planning Director Decision

Dear Planning Director:

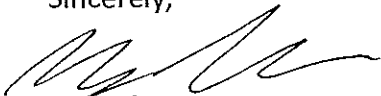
Enclosed is documentation appealing the Planning Director's approval of the final PUD (PDF 15-2). The following items are attached:

- City of Eugene Appeal form with appropriate signatures from the appellants
- Appeal notice
- Appeal Statement
- ~~Check for \$250 only to be cashed if the RRCO co-chair signature is argued to be invalid~~ BET
- Email documentation between the co-chair of the neighborhood association (RRCO), the City of Eugene Planning Department, and the primary appellant regarding a reduction in the appeal fee with RRCO co-chair signature

The appeal form has the appropriate co-chair signature from the RRCO board member (Clare Strawn) according to the email exchanges (attached). If for some reason the signature is invalid or the Planning Department argues that the form was not completed correctly, the enclosed check of \$250 is available to pay for the appeal. Otherwise, please confirm that the check is unneeded and I will void it.

Please let me know if you have any questions. You can reach me at [brynthoms@msn.com](mailto:brynthoms@msn.com) or at 541-543-1204.

Sincerely,

*disregard  
BET*  


Bryn Thoms, representing Oakleigh McClure Neighbors  
135 Oakleigh Lane



APR 27 2016

## APPEAL OF PLANNING DIRECTOR DECISION

This appeal form applies to appeals of interpretation of this Land Use Code made according to EC 9.0040(1) and to appeals to all Type II land use applications. The appeal of the Planning Director's decision provides for a review of an administrative decision by a higher review authority specified in this Land Use Code. The Planning Director's decision may be affirmed, reversed, or modified.

**Please check one of the following:**

- ☐ Adjustment Review, Minor
- ☐ Adjustment Review, Major
- ☐ Code Interpretation
- ☐ Hazardous Materials Review
- ☐ Historic Property Alteration
- ☐ Historic Property Demolition
- ☐ Historic Property Move
- ☐ Modification of a Conditional Use Permit
- ☐ Modification of a PUD Tentative
- ☐ Modification of a PUD Final
- ☐ Modification of a Site Review
- ☐ Modification of a Standards Review
- ☐ Modification of a Subdivision Plan

- ☐ Modification of a Willamette Greenway
- ☐ Partition Tentative
- ☐ Partition Final
- ☒ PUD Final
- ☐ Site Review
- ☐ Standards Review
- ☐ Subdivision Tentative
- ☐ Subdivision Final
- ☐ Traffic Impact Analysis
- ☐ Vacation Improved Public R-O-W
- ☐ Vacation Improved Public Easement
- ☐ Unimproved Public R-O-W with Re-dedication
- ☐ Variance

City File Name: Oakleigh Cohousing

City File Number: PDF 15-2

Date of Planning Director Decision: April 15, 2016

Date Appeal Filed: April 27, 2016

(This date must be within 12 days of the date of the mailing of the Planning Director's decision.)

- ☒ Attach a written appeal statement. The appeal statement shall include a written statement of issues on appeal and be limited to the issues raised in the appeal. The appeal statement shall explain specifically how the Planning Director's decision is inconsistent with applicable criteria. Please contact Planning staff at the Permit and Information center, 99 West 10<sup>th</sup> avenue, 541-682-5377, for further information on the appeal process.
- ☐ A filing fee must accompany an appeal of a Planning Director decision, with some exceptions for neighborhood groups. The fee varies depending upon the type of application and is adjusted periodically by the City Manager. Check with Planning staff at the Permit and Information Center to determine the required fee or check on the web at: [www.eugeneplanning.org](http://www.eugeneplanning.org)

[www.eugene-or.gov/planning](http://www.eugene-or.gov/planning)

**Acknowledgment**

I (we), the undersigned, hereby acknowledge that I (we) have read the above appeal form, understand the requirements for filing an appeal of a planning director decision, and state that the information supplied is as complete and detailed as is currently possible, to the best of my (our) knowledge.

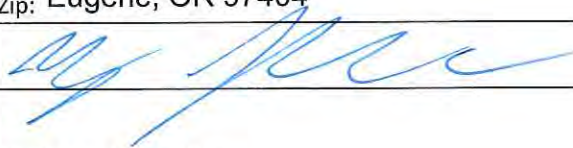
**APPELLANT:**

Name (print): Bryn Thoms Phone: 541-461-6343

Company/Organization: Oakleigh McClure Neighbors

Address: 135 Oakleigh Lane

City/State/Zip: Eugene, OR 97404

Signature: 

**APPELLANT'S REPRESENTATIVE:**

Name (print):

Company/Organization:

Address:

City/State/Zip: E-mail (if applicable):

Phone: Fax:

Signature:

IF this appeal is being filed by the affected recognized neighborhood association, complete the following:

Name of Association: River Road Community Organization, RRCO

Clare Strawn, co-chair RRCO  
Clare Strawn

[www.eugene-or.gov/planning](http://www.eugene-or.gov/planning)

## APPEAL STATEMENT

### RE DECISION APPROVING PLANNED UNIT DEVELOPMENT (FINAL)

#### OAKLEIGH MEADOWS CO-HOUSING – FILE PDF 15-2

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The following statement by appellant, who is a member of the **River Road Community Organization**, a City-chartered neighborhood association, lists the specific issues on appeal and identifies where the Planning Director's Decision is inconsistent with the criteria applicable to the above captioned application for approval of a planned unit development (final).

The River Road Community Organization neighborhood association encompasses the subject property, and the River Road Community Organization filed this appeal.

#### THE PLANNING DIRECTOR DECISION

On March 11, 2016, the City mailed a Notice of Land Use Action. This notice stated that public comments must be received by March 25, 2016.

April 15, 2016, the Planning Director approved a planned unit development (final) for the subject property. The Decision was mailed on April 15, 2016.

#### REFERENCED DOCUMENTS<sup>1</sup>

"Application" – Application for Final PUD approval

"Original Application" – Application approved under PDT 13-1

"Decision" – Planning Director Decision (PDF 15-2), dated April 15, 2016, 2016.

"Conte 3/25" – Comments by Paul Conte, dated March 25, 2016

#### PRELIMINARY PROCEDURAL ISSUE

Appellant reserves the right under ORS 197.763 and other applicable statutes to raise new issues and submit new evidence at the first evidentiary hearing, which is to be held by the Hearings Official.

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<sup>1</sup> Note that references to exhibits in the following sections are intended to assist the Hearings Official in understanding the assignments of error and are not intended as exhaustive references to all relevant evidence in the record.

## **PROCEDURAL ERRORS**

### **FIRST ASSIGNMENT OF ERROR**

Eugene Code (EC) requires that a Planning Director decision “state the facts relied upon in rendering the decision.”

**EC 9.7215 Decision.** Within 45 days of the city’s determination that an application is complete, unless the applicant agrees to a longer time period, the planning director shall approve, conditionally approve, or deny a Type II application. The decision shall include a brief statement that explains the criteria and standards considered relevant to the decision, state the facts relied upon in rendering the decision and explain the justification for the decision based upon the criteria, standards and facts set forth.

It is fundamental, of course, that a decision approving a final PUD application state unambiguously which documents represent the previously approved, tentative PUD, as well as the final PUD being approved.

The Decision does not identify the specific tentative PUD application, including the site plans and all relevant documents, that was approved under PDT 13-1 by the City in its Revised Final Decision on October 5, 2015.

This omission violates EC 9.7215 and makes it impossible to determine whether the Final PUD application is consistent with the Original Application. That failure constitutes a procedural error that provides a basis for reversing a Planning Director decision because it prejudiced the substantial rights of appellant and other opponents of the PUD.

ORS 197.835(9)(a)(B). A party’s substantial rights under ORS 197.835(9)(a)(B) include an adequate opportunity to prepare and submit a case and a full and fair hearing. *Muller v. Polk County*, 16 Or LUBA 771, 775 (1988).

This error cannot be remedied simply by the City correcting the omission and submitting testimony to the Hearings Official because that would not provide opponents their right under EC 9.7210(3) to have 14 days to submit comments *prior to the Planning Director’s decision*; and if the Planning Director approves the final PUD based on the specifically identified applications, to file a local appeal, *based on the specific tentative and final PUD documents* relied upon in the decision.

**EC 9.7210 Notice of Application.**

\* \* \*

- (3) The notice shall allow a 14-day period for the submission of written comments, starting from the date of mailing. All comments must be received by the city within that 14-day period.

Therefore, the decision must be reversed.<sup>2</sup>

See Conte 3/25, Preliminary Procedural Issues #4.

## **SECOND ASSIGNMENT OF ERROR**

The Decision does not identify which specific PUD application, including site plans and all relevant documents, was approved under this Application (PDF 15-2).

This makes it impossible to determine whether the Final PUD application is consistent with the Original Application.

The arguments under the First Assignment of Error are incorporated herein by reference.

For the reasons explained under First Assignment of Error, the decision must be reversed

See Conte 3/25, Preliminary Procedural Issues #5.

## **SUBSTANTIAL EVIDENCE ERRORS**

### **THIRD ASSIGNMENT OF ERROR**

The Willamette Greenway (WG 13-1) has expired, and the PUD approval requires a valid Willamette Greenway approval.

Obviously, if the Willamette Greenway permit has expired, the final PUD application cannot be approved because the proposed PUD lies within the Willamette Greenway. The Planning Director did not address this objection to approval of the final PUD application at all<sup>3</sup>, as required.

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<sup>2</sup> EC 9.7600, which addresses an appeal of a Planning Director's decision states: "The planning director's decision may be affirmed, reversed, or modified." The decision cannot be remanded.

<sup>3</sup> The entirety of the Planning Director's decision other than under the specific conditions of approval is excerpted here. There is no mention of the Willamette Greenway.

"Public testimony was received from both opponents and proponents. A number of opponents, including Ms. Love and Mr. Thoms, infer that the arborist reports are inadequate[1]. However, staff finds that Mr. Sperry's updated report (dated January 14th, 2016) fulfills Condition of Approval #2, and opponents did not provide expert testimony (i.e. a third party arborist report) to challenge Sperry's findings. This issue is further detailed below under the evaluation of Condition of Approval #2.

"Various opponents also address the EWEB letter dated March 16, 2016. The letter states that a 14-foot wide public utility easement is required for the construction of water lines across the subject property. To correct this generalized statement present in the March 16th letter,



As explained under the First Assignment of Error (which is incorporated herein by reference), the City cannot simply “redo” the Planning Director’s decision during the appeal hearing because that would prevent opponents their rightful “adequate opportunity to prepare and submit a case.”

Accordingly, the decision must be reversed.

See Conte 3/25, Comments #1.

#### **FOURTH ASSIGNMENT OF ERROR**

The Application does not provide for safe access by fire trucks to conform with the PDT 13-1 approval findings under EC 9.8320(5)(a) and EC 9.8320(6). Specifically, the Application has not provided any means for a fire truck to reach the site under a condition where a “pumper” fire truck is in the normal position next to the fire hydrant that’s located in the right-of-way.

**EC 9.8365 Final Planned Unit Development Approval Criteria.** The planning director shall approve, approve with conditions, or deny a final

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EWEB revisited their review of the proposal and sent a clarification letter on March 25th, 2016. The most recent letter states the following: ‘EWEB water has reviewed the site plans for the Oakleigh Meadows project and find the easements acceptable as shown on the site plan dated 3/25/16.’ EWEB stated an incorrect date (3/25/16) as the site plans under review were received by the City on February 11, 2016; however, staff confirms that the correct plan set was routed to EWEB for review, and therefore it can be assumed that EWEB made their comments based on the plans currently under review. Staff also concurs with EWEB that the proposed easements are acceptable.

“Mr. Conte and Mr. Thoms, both project opponents, state that the turning radius at the property’s western access point as shown on the final PUD plans is not consistent with the radius shown on tentative PUD plans. Ultimately, the applicant will need to show compliance with the Fire Code before a site development permit can be issued. If the turning radius needs to be slightly adjusted in order to comply, this change can be made during the building permit review process. It must also be noted no condition of approval from the tentative PUD approval addresses the turning radius issue; staff acknowledges this minor discrepancy but notes that a variety of Fire Code requirements remain to be met or otherwise resolved through the normal sequence of future site development and building permits necessary to construct the project.

“A number of project opponents express various other concerns with the project, and ultimately state the City should not approve the final PUD application. For example, neighbors express that the project is too large in scale, that the natural setting will be negatively impacted, and that increased traffic could make Oakleigh Lane unsafe. Staff has reviewed all the comments, and while some of this testimony addresses important issues that were considered during the tentative PUD process, ultimately none of the testimony provides a valid basis for denial of the final PUD.”

“[1] The applicant provided two arborist reports, both generated by Sperry Tree Care. During completeness review, staff found that the first report (dated July 24, 2014) did not adequately address tentative PUD Condition of Approval #2. An updated report (dated January 14, 2016) was submitted to address staffs comments.” Decision 2-3.

PUD application. Approval shall include a finding that the final PUD plan conforms with the approved tentative PUD plan and all conditions attached thereto.

The Eugene Planning Commission's Final Order included the following findings:

Under the findings related to EC 9.8320(5):

"EC 9.8320(5) The PUD provides safe and adequate transportation systems \* \* \* EC 9.8320(6)) does provide a means of addressing the safety of Oakleigh Lane for purposes of emergency response vehicles" EPC Final Order 4.

Under the findings related to EC 9.8320(6):

"The PC concludes that emergency response vehicles can access the proposed PUD solely via Oakleigh Lane and that the ability of Oakleigh Lane to safely accommodate emergency response vehicles is an issue that can be addressed in determining compliance with EC 9.8320(6).

\* \* \*

In order to ensure unimpeded emergency response pursuant to EC 9.8320(6), \* \* \*, consistent with Oakleigh Lane's function as a 'queuing street' \* \* \*." *Ibid* at 6.

The City must adopt findings based on substantial evidence that "final PUD plan conforms with the approved tentative PUD plan." This requires that the final PUD *not conflict* with the findings upon which the tentative plan was approved. EC 9.8365 is *not* limited only to demonstrating that conditions of approval are met.

As will be documented during the appeal process. The final PUD will conflict with the findings above because of physical impediments that render Oakleigh Lane unable to safely accommodate emergency vehicles.

The City did not evaluate this issue at all. As explained under the First Assignment of Error (which is incorporated herein by reference), the City cannot simply "redo" the Planning Director's decision during the appeal hearing because that would prevent opponents their rightful "adequate opportunity to prepare and submit a case."

Accordingly, the decision must be reversed.

See Conte 3/25, Comments #2d.

## **FIFTH ASSIGNMENT OF ERROR**



The decision completely ignored the fact that the western 2/3rds of Oakleigh Lane is within Lane County jurisdiction. There were several documents presented in the testimony for the final PUD that clearly demonstrates that that portion of the road is not under City of Eugene jurisdiction. That portion of Oakleigh Lane is not wide enough to meet the minimum standards for Local Access Roads within Lane County jurisdiction. This assignment of error is similar to the fourth assignment in that EC 9.8320(5)(a) "safe and adequate transportation systems" and EC 9.8320(6) "unimpeded emergency response" have not been met.

As explained under the First Assignment of Error (which is incorporated herein by reference), the City cannot simply "redo" the Planning Director's decision during the appeal hearing because that would prevent opponents their rightful "adequate opportunity to prepare and submit a case."

Accordingly, the decision must be reversed.

See Conte 3/25, Comments #2c.

## **SIXTH ASSIGNMENT OF ERROR**

The decision erroneously found that the "final PUD plan conforms with the approved tentative PUD plan and all conditions attached thereto," specifically with respect to the turning radius where the driveway meets Oakleigh Lane and condition #5.

**"5. Prior to final PUD approval, the applicant shall dedicate a temporary emergency vehicle access easement over the on-site hammerhead and the access drive from Oakleigh Lane, and show this easement on the final PUD plans.**

"Staff confirms the applicant has dedicated a temporary emergency vehicle access easement consistent with the above condition. The easement was reviewed by City of Eugene Public Works staff and subsequently recorded at Lane County Deeds and Records. This condition is met." Decision 4.

The Decision ignores and attempts to evade the requirement that the final Application be consistent with the Original Application. The Decision does not dispute that the final Application has a substantially tighter turning radius where the driveway meets Oakleigh Lane than was approved for the Original Application.

Instead, the Decision attempts to sidestep the law by claiming:

"Ultimately, the applicant will need to show compliance with the Fire Code before a site development permit can be issued. If the turning radius needs to be slightly adjusted in order to comply, this change can be made

during the building permit review process. It must also be noted no condition of approval from the tentative PUD approval addresses the turning radius issue; staff acknowledges this minor discrepancy but notes that a variety of Fire Code requirements remain to be met or otherwise resolved through the normal sequence of future site development and building permits necessary to construct the project." Decision 2-3.

None of these dodges are relevant:

It is entirely incorrect that there was no related condition of approval. Condition #5 *explicitly* encompasses "the access drive from Oakleigh Lane."

The question of whether the Fire Code is or will be met is not the point. The fact is that the turning radius is a substantial factor in whether or not the application meets the criteria in EC 9.8320(6), which requires:

"The PUD will not be a significant risk to public health and safety, including but not limited to soil erosion, slope failure, stormwater or flood hazard, or an impediment to emergency response."

An inadequate turning radius is a potential impediment to emergency response. The Original Application was approved, based on a significantly greater turning radius than the current application. The City cannot dismiss opponents objection with a waive of the hand and "don't worry, we'll take care of it later during the building permit process" – when there's no public hearing process during building permit review and approval.

If the City would like to approve the application with a substantial change to an element that impacts the PUD tentative approval criteria and condition of approval, then it must provide the public with the same hearing rights as the process for approving a tentative PUD.

As explained under the First Assignment of Error (which is incorporated herein by reference), the City cannot simply "redo" the Planning Director's decision during the appeal hearing because that would prevent opponents their rightful "adequate opportunity to prepare and submit a case."

Accordingly, the decision must be reversed.

See Conte 3/25, Comments #2c.

## SEVENTH ASSIGNMENT OF ERROR

The Decision erred by relying on the erroneous assertion, unsupported by substantial evidence, that the final plan provides acceptable water facilities.

**"6. Prior to final PUD approval, the applicant shall provide documentation from EWEB, confirming that water facilities are available for the proposed development.**

“EWEB issued an ‘Availability of Water Service’ letter (dated February 11, 2016) that confirms water facilities are available for the proposed development. This condition is met.” Decision 5.

There is no documentation that the letter from EWEB, dated 3/25/16 was actually received by the City prior to 5:00 p.m., as required by the notice. Therefore, this letter should not be considered by the Hearings Official.

In any case, this letter is essentially a “referral response” that is an integral document associated with the application, and which must have been made available to the public so the public had reasonable time to respond during the comment period.

There is no evidence in the record to support the Planning Director’s claim that EWEB actually reviewed the “correct set of plans,” as the Planning Director claims. No plans at all were attached to either of EWEB’s letters, so it is impossible to know which (if any) plans EWEB reviewed between EWEB’s letter dated 3/16/16 and the letter dated 3/25/16.

It should be noted that the original referral letter from EWEB (dated August 20, 2013) required a 14 ft easement for water line looping to connect the Oakleigh main to the McClure main. The second EWEB letter (3/16/16) again stated that a minimum 14 feet easement would be required for the water line connection across the site. The Site plans in the application materials dated November 12, 2015 show a 10 ft EWEB easement. Simply based on this, this condition is not met.

Further, a Letter of Water Availability is required to have a financial guarantee document from the developer that shows they can pay for upgrades.

Further, the letter provides no evidence, and there is none in the record, to explain why EWEB changed its position from prior technical reviews.

“EWEB water has reviewed the site plans for the Oakleigh Meadows project and find the easements acceptable as shown on the site plan dated 3/25/16.”

Despite the fact that EWEB is a public agency, nevertheless, the City cannot rely on a single sentence that provides a conflicting, purely conclusory statement, at the last minute, and that provides no explanation or substantial evidence to support such a conflicting conclusion. A reasonable person would not rely on this sentence to make a decision as critical as final approval of such an impactful PUD.

The Planning Director must base findings only on substantial evidence in the record as of 5:00 p.m. March 25, 2016 when the record was closed for

comments. To do otherwise would prejudice my substantial rights under due process, ORS and Eugene Code.

**EC 9.7085 Quasi-Judicial Hearings - Burden of Proof.** The burden of proof is upon the applicant. A decision to resolve the issues presented shall be based upon reliable, probative and substantial evidence in the record. (Emphasis added.)

The Decision does nothing more than provide unsupported conclusions made by a planner (who signed the decision) in order to sidestep the legal requirements of EC 9.7085:

“... therefore it can be assumed that EWEB made their comments based on the plans currently under review. Staff also concurs with EWEB that the proposed easements are acceptable.” Decision at page 2.

This *assumption* is not sufficient under the law; a decision by the Planning Director needs to abide by the law’s requirement for reliable evidence, not an unqualified planner’s assumptions. There is nothing in the record to show that any planning staff evaluated EWEB’s conclusory statement or even has the competency to make such an analysis.

As explained under the First Assignment of Error (which is incorporated herein by reference), the City cannot simply “redo” the Planning Director’s decision during the appeal hearing because that would prevent opponents their rightful “adequate opportunity to prepare and submit a case.”

Accordingly, the decision must be reversed.

See Conte 3/25, Comments #2a.

## **EIGHTH ASSIGNMENT OF ERROR**

The Decision erred by relying on an inadequate and unreliable analysis that the trees proximal to the site would not be at risk was not properly done. The report submitted did not address the potential impacts on utility trenching and other factors.

Therefore, the Decision failed to demonstrate that the final PUD conforms with the following condition of approval.

**“b) The final PUD plans shall show landscaping along the north property line consistent with the applicant's proposed landscape plan (Sheet L2 of Exhibit PH-69), but moved south within the required 5-foot setback outside of the newly dedicated right-of-way for Oakleigh Lane. The applicant shall also revise the site plans to show landscaping that meets the City's L-2 standard at EC9.6210, within the required 10-foot setback along the remainder of the north property line, but without the requirement for additional canopy trees. As part of the final PUD**



**application, the applicant's arborist shall assess whether this landscaping would jeopardize the health of the cedar trees to the north. If so, no landscaping shall be required.**

"The applicant has revised the landscaping plans to be consistent with the specifications outlined in the above condition of approval. More specifically, the landscaping along the north property line has been moved within the 5-foot setback (outside the dedicated right-of-way), and a note has been added to Sheet L2 confirming that landscaping within the 10-foot setback along the north property line will be to the L-2 standard (but without canopy trees). In regards to the last part of the condition, Sperry's arborist report states that future landscaping is not expected to jeopardize the subject cedar trees. This condition is met." Decision 7.

Supplemental Site plans provided to the City by the applicant in March 2016 presents the critical root zone (CRZ) and the protected CRZ for the cedar trees north of the north property boundary. A utility figure is presented in the Site Plans provided in the application materials submitted to the City on November 12, 2015. There is no correlation of the location of the subsurface utilities north of the Building 1 and Building 2 and the protected CRZ. It appears that subsurface utilities are proposed within the protected CRZ, yet there is no discussion of protection measures in the application materials. Sperry's three letters do not identify protection measures for utility trenching, which is included in "all construction impacts", thus the condition has not been met.

To add, there is no consideration of future bike path improvements, utilities, or general construction activities that may take place in the protected CRZ (newly acquired right of way immediately south of TL 200). The City has an obligation to make all bike/pedestrian paths safe by placing concrete or making the surface smooth and consistent. This is the same obligation the City has to repairs sidewalks that are a hazard. Presumably the City will plan to improve the bike path connector in the future to make it safe to serve public access. These improvements are part of the PUD and are relied upon as part of the public benefit in the land use change, thus they are part of "all construction impacts." These improvements may very likely include construction of a 12 ft wide concrete path, which would cover a significant area of the protected CRZ. This was not addressed by Sperry. The condition has not been met.

As explained under the First Assignment of Error (which is incorporated herein by reference), the City cannot simply "redo" the Planning Director's



decision during the appeal hearing because that would prevent opponents their rightful "adequate opportunity to prepare and submit a case."

Accordingly, the decision must be reversed.

See Conte 3/25, Comments #2b.

## **NINTH ASSIGNMENT OF ERROR**

The Decision erred because it did not ensure the PUD would comply with the requirement for to ensure a minimum of 14 feet of paving width, in any areas where the paving width is currently less than 14 feet within the existing right-of-way.

**"c) Prior to occupancy of any dwellings in the PUD, the applicant shall improve Oakleigh Lane to ensure a minimum of 14 feet of paving width, in any areas where the paving width is currently less than 14 feet within the existing right-of-way. The applicant shall obtain any necessary permits for the required street improvements, and shall provide documentation of compliance upon completion.**

"Through the building permit process the City will require compliance with this condition (final occupancy will not be granted until it is met). In their application narrative, the applicant also acknowledges the condition and confirms it will be met." Decision 7.

The final PUD plan must either include evidence that it is feasible to widen Oakleigh Lane as required, and the approval of the final PUD must also include the same condition of approval as in the EPC Final Order.

Accordingly, the Planning Director's decision must be reversed or modified.

## **CONCLUSION**

The multiple errors and misinterpretations made by the Planning Director require the Hearings Official to reverse this decision and deny this planned unit development (final) application.

Respectfully submitted this 27th day of April, 2016.

**FOR APPELLANTS**



Bryn Thoms

**River Road Community Organization**



**Notice of Land  
Use Decision**

File Name: Oakleigh Cohousing (PDF 15-2)  
Date of Notice: April 15, 2016  
Location: End of Oakleigh Lane

On April 15, 2016, the Eugene Planning Director approved a final planned unit development for a co-housing development.

A copy of the application, decision, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for review at the Planning Division and may be obtained at a reasonable cost. This notice, the Planning Director's decision, application materials, and general information about the land use application process and criteria may be accessed by visiting <http://www.eugene-or.gov/3208/Land-Use-Application-Information>.

Any person who is adversely affected or aggrieved by this decision, or who is mailed this written notice, may appeal the decision and pay an appeal fee in accordance with procedures listed in Section 9.7600 of the Eugene Code. The Planning Director's decision will not become final until the 12 day period for filing a local appeal has expired. In this case, any appeal must be received by 5 p.m. on April 27, 2016. Appeal procedures, forms, and fee information are available at the City's Permit and Information Center or on our web site. In accordance with Section 9.7055 of the Eugene Code, the Eugene Hearings Official will consider any appeals of this land use application.

**For questions, contact: Erik Berg-Johansen, Assistant Planner**  
Phone: 541-682-5437, E-mail: [erik.berg@ci.eugene.or.us](mailto:erik.berg@ci.eugene.or.us)

## Bryn Thoms

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**From:** Sandy Thoms <sandythoms@msn.com>  
**Sent:** Monday, April 25, 2016 10:14 AM  
**To:** Bryn Thoms  
**Subject:** Erik Confirmation email

Also, confirmation from Erik regarding where to sign the form.

Sandy Thoms

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----- Original message -----

**From:** Jon Belcher <jbelcher@efn.org>  
**Date:** 4/21/16 4:05 PM (GMT-08:00)  
**To:** Anne and Terry Love <molly2003@msn.com>, Cameron Ewing <cameronewing5@gmail.com>, Clare Strawn <clarestrawn@gmail.com>, "Dixon, Lynn" <ld61069@gmail.com>, Jolene Siemsen <jolenesiemsen@gmail.com>, Jon Belcher <jbelcher@efn.org>, Mary Walston <lotsoscots@mac.com>, Michael Lambros <michael@dreamteammedia.com>, Steve Norris <steve\_norris@hotmail.com>  
**Subject:** FW: Confirmation email

Confirmation.

*Jon Belcher (jbelcher@efn.org)*

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**From:** BERG-JOHANSEN Erik [mailto:Erik.Berg@ci.eugene.or.us]  
**Sent:** Thursday, April 21, 2016 4:00 PM  
**To:** BELCHER Jon (SMTP)  
**Subject:** RE: Confirmation email

Hi Jon,

Your statements below are correct, and please get in touch if you have any other questions. Thanks,

*Erik Berg-Johansen | Assistant Planner  
Planning Division | City of Eugene  
99 West 10th Avenue | Eugene, OR 97401  
541.682.5437 | [erik.berg@ci.eugene.or.us](mailto:erik.berg@ci.eugene.or.us)*

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**From:** Jon Belcher [mailto:jbelcher@efn.org]  
**Sent:** Thursday, April 21, 2016 2:19 PM

**To:** BERG-JOHANSEN Erik

**Subject:** Confirmation email

Please confirm that to reduce the fee for appeal of the Planning Director's decision on the Oakleigh Meadow Co-Housing Final PUD plan to the Eugene Hearings Official, the Type II Appeal Form needs to show the name of the River Road Community Organization on the last line of the form and below that the printed name of either or both Neighborhood Association Co-Chair(s) with the appropriate signature(s)..

I also understand that the form needs to be submitted by 5 PM on Wednesday April 27th.

Thank you.

/s/

Jon Belcher ([jbelcher@efn.org](mailto:jbelcher@efn.org))

## Bryn Thoms

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**From:** Sandy Thoms <sandythoms@msn.com>  
**Sent:** Monday, April 25, 2016 10:12 AM  
**To:** Bryn Thoms  
**Subject:** RRCO appeal approval vote

Here is this, for the record.

Sandy Thoms

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**From:** Jbelcher@efn.org  
**To:** sandythoms@msn.com  
**Subject:** RE: OMC  
**Date:** Wed, 20 Apr 2016 15:29:31 -0700

This is the motion passed by the board on Monday night:

The River Road community organization board based upon a motion approved by the general meeting on November 11, 2013 reaffirms the RRCo decision to support either parties appeal of the hearings official approval of the final PUD to the planning commission ( if we are unable to bring it before the general meeting of the RRCO).

Is there going to be a neighbor appeal to the Hearings Official? (to the hearings official - my error on the process).

*Jon Belcher (jbelcher@efn.org)*