

COUNCIL ORDINANCE NO. 20696

**AN ORDINANCE CONCERNING THE SKINNER BUTTE HEIGHT LIMITATION
AREA AND THE DOWNTOWN RIVERFRONT SPECIAL AREA ZONE,
AMENDING FIGURES 9.3155(3)(A) AND 9.6715(3) OF THE EUGENE CODE,
1971.**

ADOPTED: October 11, 2023

SIGNED: October 16, 2023

PASSED: 6:2

REJECTED:

OPPOSED: Keating, Semple

ABSENT:

EFFECTIVE: November 16, 2023



ORDINANCE NO. 20696

AN ORDINANCE CONCERNING THE SKINNER BUTTE HEIGHT LIMITATION AREA AND THE DOWNTOWN RIVERFRONT SPECIAL AREA ZONE, AMENDING FIGURES 9.3155(3)(A) AND 9.6715(3) OF THE EUGENE CODE, 1971.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Figure 9.3155(3)(a) is amended as shown in Exhibit A to this Ordinance.

Section 2. Figure 9.6715(3) is amended as shown in Exhibit B to this Ordinance.


Section 3. The findings set forth in Exhibit C attached to this Ordinance are adopted as findings in support of this Ordinance.

Section 4. The City Recorder, at the request of, or with the concurrence of the City Attorney, is authorized to administratively correct any reference errors contained herein or in other provisions of the Eugene Code, 1971, to the provisions added, amended, or repealed herein.

Section 5. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof. Further, if this Ordinance is remanded back to the City Council for further action by the Oregon Land Use Board of Appeals, those sections, subsections, sentences, clauses, phrases, or portions that do not require action on remand shall be deemed separate, distinct, and independent provisions and such remand shall not affect their validity or effect.

Passed by the City Council this

11th day of October, 2023



City Recorder

Approved by the Mayor this

16 day of October, 2023

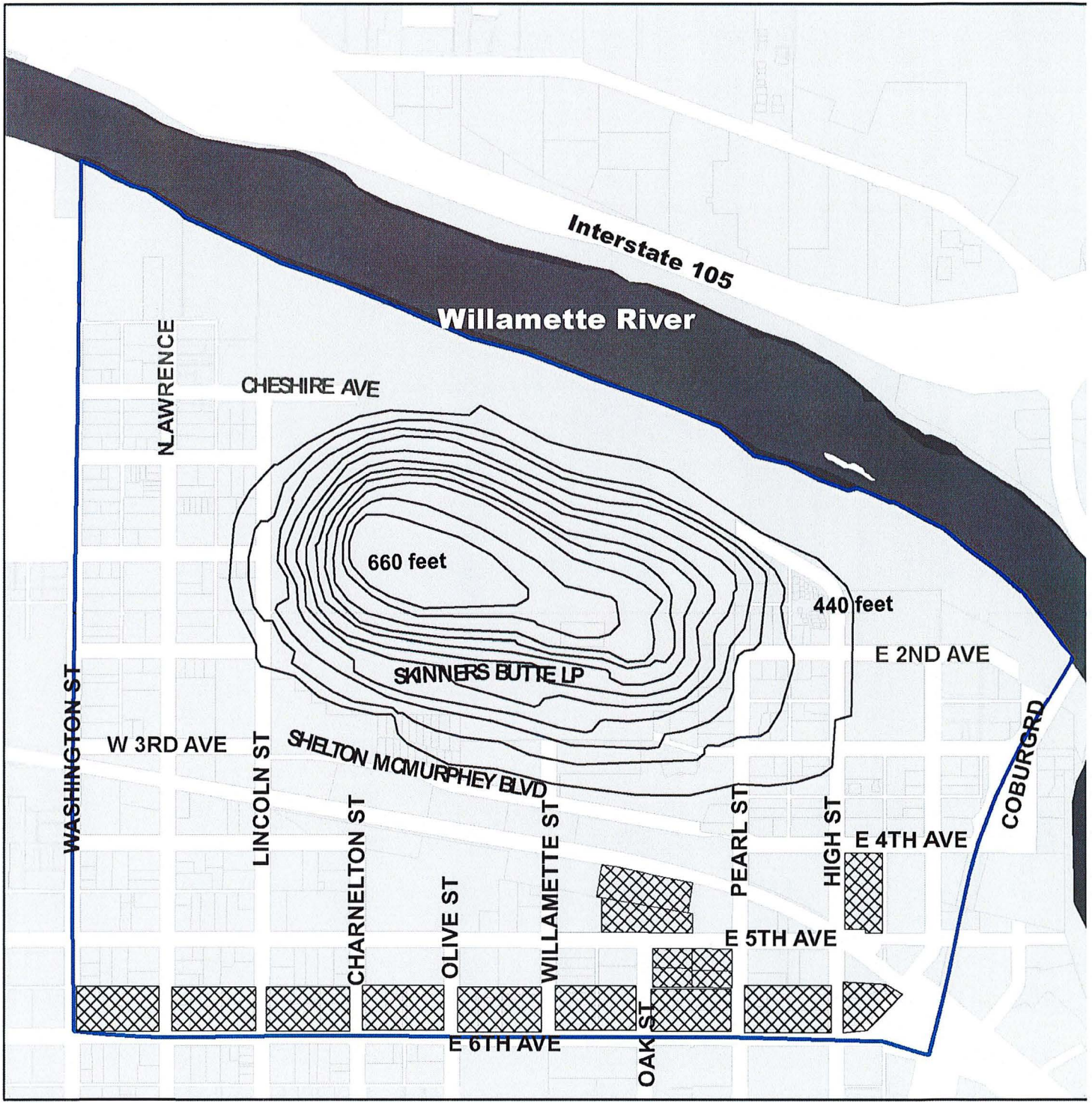


Mayor

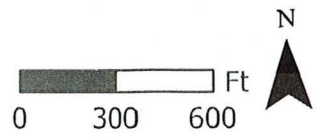


Figure 9.6715(3)

Skinner Butte Height Limitation Area

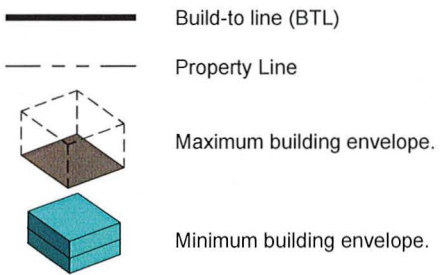


-  Skinner Butte Height Limitation Area Boundary
-  Opportunity Area

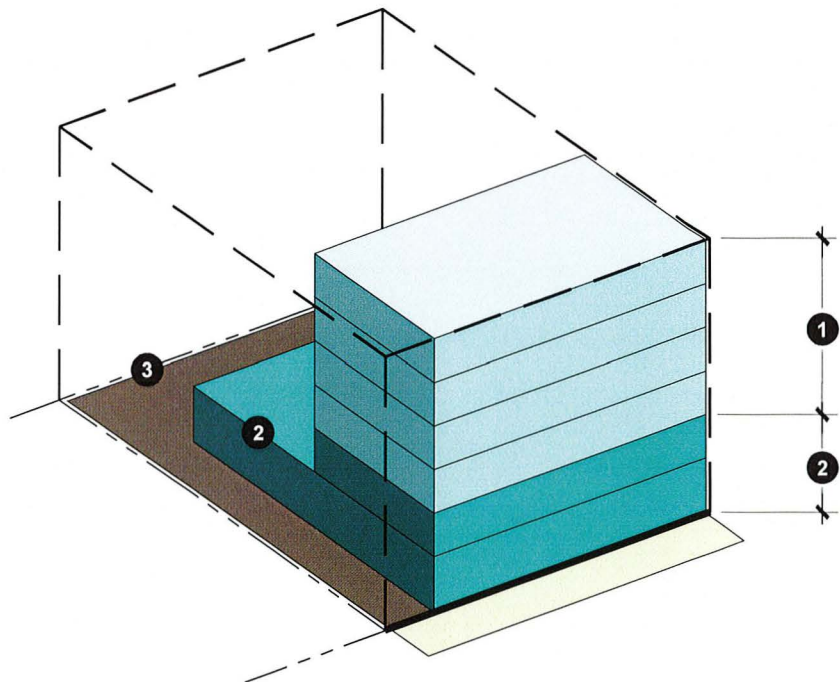


Proposed Figure 9.3155(3)(a)

KEY



- 1**
 Buildings shall be a maximum elevation of **500** feet above sea level, except that buildings or portions of buildings constructed within the Opportunity Area defined in Figure 9.6715(3) shall have a maximum height of 530 feet above mean sea level.
- 2**
 Buildings shall be a minimum of two stories; with **50** percent of the building footprint allowed to be one story.



Skinner Butte/Downtown Riverfront Height Code Amendment (City File CA 23-2)

Overview

Skinner Butte/Downtown Riverfront Height Code Amendment: The goal of this site-specific land use code amendment is to increase allowed building heights on a single piece of property to facilitate additional development opportunities in the Downtown Riverfront. The City Council approved a similar amendment in 2023 which impacted six properties in the 5th Street Market area. Additionally, the City undertook a similar process in 2018 which resulted in an allowance for increased building heights along the entire southern half block between 5th and 6th Avenues and between Coburg Road and Washington Street. This code amendment allows for greater building heights on a property on the east side of High Street, between 4th and 5th Avenues (“the subject property”). The Community Development Division of the Planning and Development Department is the applicant for this amendment.

The subject property’s allowable building height is governed by the Skinner Butte Height Limitation Area (Eugene Code 9.6715(3)) and the S-DR Downtown Riverfront Special Area Zone Height Regulating Plan (Eugene Code 9.3155(3), Figure 9.3155 and Figure 9.3155(3)(a)). This amendment will increase allowable building heights on the subject property from 500 feet above sea level to 530 feet above mean sea level. This will result in an allowance for buildings up to approximately 100 feet in height on the subject property; development on this property was previously limited to approximately 70 feet in height.

Findings

Eugene Code Section 9.8065 requires that the following approval criteria (in ***bold italics***) be applied to a code amendment:

(1) The amendment is consistent with applicable statewide planning goals adopted by the Land Conservation and Development Commission.

Goal 1 - Citizen Involvement. To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

The City has acknowledged provisions for community involvement which ensure the opportunity for community members to be involved in all phases of the planning process and set out requirements for such involvement. The code amendment does not amend the citizen involvement program. The process for adopting this amendment complied with Goal 1 because it is consistent with the City’s acknowledged citizen involvement provisions.

A Notice of Proposed Amendment was filed with the Oregon Department of Land Conservation and Development on July 11, 2023, and a notice of the Planning Commission’s public hearing on the application was mailed on July 14, 2023. Notice was posted on the subject property along the frontage of the abutting improved streets and in three locations within 300 feet of the subject property on July 25, 2023. A public hearing was held before the Planning Commission on August 15, 2023, followed by

deliberations. Following deliberations, Planning Commission made a recommendation that the Eugene City Council approve the proposed code amendments.

The City Council held a public hearing on September 18, 2023. A notice of the public hearing was provided on September 8, 2023, in accordance with Chapter 9 of the Eugene Code.

These processes afford ample opportunity for citizen involvement consistent with Goal 1. Therefore, the code amendment is consistent with Statewide Planning Goal 1.

Goal 2 - Land Use Planning. *To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual basis for such decisions and actions.*

Eugene's land use code specifies the procedure and criteria that were used in considering this amendment. The record shows that there is an adequate factual basis for the amendment. The Goal 2 coordination requirement is met when the City engages in an exchange, or invites such an exchange, between the City and any affected governmental unit and when the City uses the information obtained in the exchange to balance the needs of the community.

To comply with the Goal 2 coordination requirement, the City engaged in an exchange about the subject of this amendment with affected governmental units. Specifically, the City provided notice of the proposed action and opportunity to comment to the Oregon Department of Land Conservation and Development as well as to Lane County and the City of Springfield. There are no exceptions to Statewide Planning Goal 2 required for this amendment. Therefore, the amendment is consistent with Statewide Planning Goal 2.

Goal 3 - Agricultural Lands. *To preserve agricultural lands.*

The amendment will only affect property located within the City of Eugene and does not affect any land zoned or designated for agricultural use. Therefore, Statewide Planning Goal 3 does not apply.

Goal 4 - Forest Lands. *To conserve forest lands.*

The amendment will only affect property located within the City of Eugene and does not affect any land zoned or designated for forest use. Therefore, Statewide Planning Goal 4 does not apply.

Goal 5 - Open Spaces, Scenic and Historic Areas, and Natural Resources. *To conserve open space and protect natural and scenic resources.*

OAR 660-023-0250(3) provides: Local governments are not required to apply Goal 5 in consideration of a PAPA unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if:

- (a) The PAPA creates or amends a resource list or a portion of an acknowledged plan or land use regulation adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5;*
- (b) The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list; or*

- (c) *The PAPA amends an acknowledged UGB and factual information is submitted demonstrating that a resource site, or the impact areas of such a site, is included in the amended UGB area.*

This amendment does not create or amend the City's list of Goal 5 resources, does not amend a land use code provision adopted to protect a significant Goal 5 resource or to address specific requirements of Goal 5, and does not amend the acknowledged urban growth boundary. Therefore, the amendment does not affect (a) or (c).

In regard to (b), the property subject to the amendment does not contain any Goal 5 resources. However, the 1978 Scenic Sites Working Paper and accompanying map, which are a part of the City's adopted significant Goal 5 inventory (see Ordinance No. 20351), identifies Skinner Butte as a "Scenic Site" (as both a "Vista" and as containing "Prominent and Plentiful Vegetation"). Per OAR 660-023-0230, "scenic views and sites" are lands valued for their aesthetic appearance.

Skinner Butte has long been recognized and valued in the community for its aesthetic appearance, which is evidenced by the adoption of the Skinner Butte Height Limitation Area in 1968. Notably, this predates the adoption of Statewide Planning Goal 5 in December 1974. Section 9.6715(1) of the Eugene Code (EC) describes the purpose of height limitation areas as follows: "Certain geographical landmarks have scenic attributes that are of value to the community as a whole. To protect views to and from these landmarks, special limitations on building height are established on and around them."

While the properties immediately surrounding the subject property vary in the maximum building heights allowed by their base zoning and applicable overlays, the majority of surrounding properties are within the Skinner Butte Height Limitation Area and thus have a base height allowance that is the same as the subject property (500 feet above sea level). As a result of amendments to the Skinner Butte Height Limitation Area in 2018 and 2023, portions of the Skinner Butte Height Limitation Area allow building heights up to 530 feet above mean sea level on properties that previously allowed up to 500 feet. The current proposal would extend this higher limit to one additional property.

A variety of natural and artificial features in the general riverfront area currently block views of Skinner Butte or will block them in the future regardless of the Skinner Butte Height Limitation Area. The Ferry Street viaduct obscures the butte from many potential viewing locations in the general riverfront area. From locations west of the viaduct, views of the butte would be obstructed by a building on the subject property even if it were constructed within the currently allowed height limit, with the additional proposed height making no difference to the condition. From locations east of the viaduct, many views of the butte which currently exist will be blocked by either recently planted trees or buildings planned for construction in the Downtown Riverfront which are not included in the Skinner Butte Height Limitation Area.

Overall, a building taking full advantage of the proposed increased height limit would only negligibly impact views of Skinner Butte compared to a building constructed under the current limit. Additionally, the subject property is located roughly 700 feet from the base of Skinner Butte and 1,400 feet from the viewing area at the top of the butte. Given the distance between the subject property and Skinner Butte, the potential impact on views to and from the butte is minimal. Considering these factors, the proposed increase in allowable building height can be achieved in a way that is sensitive to Skinner Butte.

The remainder of the height limitation area will remain in place, and as these findings demonstrate, development that will be allowed by this amendment to the Skinner Butte Height Limitation Area does not interfere with the scenic value of the butte or the viewing of its prominent and plentiful vegetation to a greater extent than the development that would be allowed in the absence of this amendment. For all these reasons the amendment does not allow new uses that could be conflicting uses with a significant Goal 5 resource site. The amendment does not amend an acknowledged urban growth boundary. Therefore, the amendment is consistent with Statewide Planning Goal 5.

Goal 6 - Air, Water and Land Resource Quality. To maintain and improve the quality of the air, water and land resources of the state.

Goal 6 addresses waste and process discharges from development and is aimed at protecting air, water, and land from impacts from those discharges. The amendment does not affect the City's ability to provide for clean air, water, or land resources. Therefore, the amendment is consistent with Statewide Planning Goal 6.

Goal 7 - Areas Subject to Natural Disasters and Hazards. To protect life and property from natural disasters and hazards.

Goal 7 requires that local government planning programs include provisions to protect people and property from natural hazards such as floods, landslides, earthquakes and related hazards, tsunamis, and wildfires. The amendment does not amend or repeal any policies or regulations that protect people and property from natural hazards. Therefore, the amendment is consistent with Statewide Planning Goal 7.

Goal 8 - Recreational Needs. To satisfy the recreational needs of the citizens of the state and visitors, and where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Goal 8 ensures that recreational facilities are provided to Oregon residents and tourists and is primarily concerned with the provision of those facilities in non-urban areas of the state. The amendment does not affect the City's provisions for or access to recreation areas, facilities, or recreational opportunities. Therefore, the amendment is consistent with Statewide Planning Goal 8.

Goal 9 - Economic Development. To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Goal 9 requires cities to evaluate the supply and demand of commercial land relative to community economic objectives. The amendment does not impact the supply of industrial or commercial lands. Instead, the amendment increases the capacity of existing land zoned to allow mixed use development by allowing additional building height. Therefore, the amendment is consistent with Statewide Planning Goal 9.

Goal 10 - Housing. To provide for the housing needs of citizens of the state.

Goal 10 requires the City to provide an adequate supply of residential buildable land to accommodate the City's estimated housing needs for a 20-year planning period. The Envision Eugene Residential Land Supply Study (2012-2032) was adopted by the City of Eugene in 2017 as a refinement of the Envision

Eugene Comprehensive Plan and complies with the requirements of Goal 10 and Chapter 660, division 008 of the Oregon Administrative Rules.

The amendment does not alter or amend the City's adopted Envision Eugene Residential Land Supply Study. The subject property is designated High Density Residential with Mixed Use and Nodal Development. The amendment does not impact the supply of residential buildable land, because the subject property is classified as "Committed or Protected Lands." These categories are distinct from "Vacant" or "Partially Vacant Residential Lands" because they were not considered as having future development or redevelopment potential when the Residential Land Supply Study was done (see Residential Land Supply Study Part I – Page 5. Land in government ownership was classified as "Committed" as part of the study.) The amendments will not re-zone or re-designate land from residential use to a nonresidential use. Accordingly, the amendments do not impact the supply or availability of residential lands included in the documented supply of "buildable land" that is available for residential development as inventoried in the acknowledged Residential Lands Supply Study. Finally, the amendments will increase maximum building height on the affected property, which will allow for the development of a greater number of residential units than the number of units that could have been built without the amendment. The amendment is consistent with Statewide Planning Goal 10.

Goal 11- Public Facilities and Services. To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

The amendment does not affect the City's provision of public facilities and services. Therefore, Statewide Planning Goal 11 does not apply.

Goal 12- Transportation. To provide and encourage a safe, convenient and economic transportation system.

The Transportation Planning Rule (OAR 660-012-0060) contains the following requirement:

- (1) *If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:*
- (a) *Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*
 - (b) *Change standards implementing a functional classification system; or*
 - (c) *Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.*
 - (A) *Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*
 - (B) *Degrade the performance of an existing or planned transportation facility such*

- that it would not meet the performance standards identified in the TSP or comprehensive plan; or*
- (C) *Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.*

The amendment does not change the functional classification of a transportation facility, change the standards implementing a functional classification system, or degrade the performance of a facility otherwise projected to not meet performance standards. Therefore, the amendment does not have a significant effect under (a) or (b). In regard to (c), the level of increased development that may result from the additional building height would have a negligible impact on any transportation facility. Therefore, the amendment does not significantly affect any existing or future transportation facilities. Based on the above findings, the amendment is consistent with Statewide Planning Goal 12.

Goal 13 - Energy Conservation. To conserve energy.

The amendment does not negatively impact energy conservation. Instead, increased capacity for development on the subject property allows for additional construction of buildings that are likely to consume less energy per unit area than the same uses would consume in a smaller building. Goal 13 is also concerned with the provision of efficient transportation options; the amendment would provide for denser development which is more suited to public transit and other forms of energy efficient transportation. Based on these findings, the amendment is consistent with Statewide Planning Goal 13.

Goal 14 - Urbanization. To provide for an orderly and efficient transition from rural to urban land use.

The amendment does not affect the City's provisions regarding the transition of land from rural to urban uses. Therefore, Statewide Planning Goal 14 does not apply.

Goal 15 - Willamette River Greenway. To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

The amendment does not contain any changes that affect the Willamette River Greenway regulations, nor is the subject property within the adopted Greenway boundary; therefore, Statewide Planning Goal 15 does not apply.

Goal 16 through 19 - Estuarine Resources, Coastal Shorelands, Beaches and Dunes, and Ocean Resources.

There are no coastal, ocean, estuarine, or beach and dune resources related to the property affected by this amendment. Therefore, these goals are not relevant, and the amendment will not affect compliance with Statewide Planning Goals 16 through 19.

(2) The amendment is consistent with applicable provisions of the comprehensive plan and applicable adopted refinement plans.

Applicable Metro Plan Policies

The following policies from the *Metro Plan* (identified below in *italics*) are applicable to this amendment. To the extent that the following policies constitute mandatory approval criteria, based on the findings provided below, the amendment is consistent with and supported by the applicable provisions of the *Metro Plan*.

Environmental Design Element

E.5 Carefully develop sites that provide visual diversity to the urban area and optimize their visual and personal accessibility to residents.

The intent of this amendment is to permit taller buildings on a certain specific property while still preserving the views to and from Skinner Butte. The height standards in the amendment are still more restrictive than those in adjacent zones or other areas of the Downtown Riverfront Special Area Zone, so they will preserve views to and from Skinner Butte.

E.6 Local jurisdictions shall carefully evaluate their development regulations to ensure that they address environmental design considerations, such as, but not limited to, safety, crime prevention, aesthetics, and compatibility with existing and anticipated adjacent uses (particularly considering high and medium density development locating adjacent to low density residential).

Consistent with this policy, the amendment provides a creative solution to preserving the views to and from Skinner Butte while promoting commercial and residential development downtown.

Envision Eugene Comprehensive Plan

The Envision Eugene Comprehensive Plan does not contain any policies relevant to this amendment.

Applicable Refinement Plans

The Eugene Downtown Plan (2004) contains policies relevant to this amendment:

Chapter 1: Strong Regional Center, Policy 1. Downtown development shall support the urban qualities of density, vitality, livability and diversity to create a downtown, urban environment.

The amendment supports the development of a denser, more peopled downtown. Additionally, it represents regulatory flexibility that makes residential development more appealing to property owners as an alternative to leaving downtown land as vacant lots, surface parking, or similar uses with significant negative externalities. The amendment and its promotion of additional residential units, vitality, and downtown livability are consistent with this policy.

Chapter 2: Building a Downtown, Policy 2. Use downtown development tools and incentives to encourage development that provides character and density downtown.

Reasonable use of tools such as height limitation areas in combination with incentives such as increased

height allowances can achieve the multiple goals of downtown density, appreciation of natural landscapes, and the other priorities embodied in the Skinner Butte Height Limitation Area. The amendment is consistent with this policy.

Chapter 3: Great Streets, Policy 1. Emphasize Broadway, Willamette Street, 5th and 8th Avenues as Great Streets through public improvements and development guidelines.

Include portions of these streets as follows:

- *Willamette between 5th and 13th Avenues*
- *Broadway between Lincoln and Hilyard*
- *5th Avenue between Lincoln and High Street
(with potential extension to the Willamette River)*
- *8th Avenue between Willamette Street and the Willamette River.*

5th Avenue is a key linkage between the Downtown Riverfront—including the affected property—and the rest of downtown, and its continued importance to downtown has led to the development growing around it: the 5th Street Market. Flexibility in development standards around this great street will incentivize filling gaps in the streetscape. Additionally, with the completion of the 5th Avenue extension to the Riverfront, this area has become an important connection between downtown and the Willamette River. The amendment is consistent with this policy.

Chapter 5: Living Downtown, Policy 1. Stimulate multi-unit housing in the downtown core and on the edges of downtown for a variety of income levels and ownership opportunities.

The amendment would open new options for development on the subject property, including higher counts of residential units than would be possible under the current code. The amendment is consistent with this policy.

Chapter 6: Downtown Riverfront, Policy 4. Facilitate dense development in the courthouse area and other sites between the core of downtown and the river.

5th Avenue has been extended into the Downtown Riverfront and now represents a major corridor for connection between downtown and the river. Existing and future developments are poised to make this area one of the busiest subdistricts in the city's core. The amendment would facilitate denser development in key locations, and it is therefore consistent with this policy.

Based on the above findings, the proposal is consistent with and supported by the applicable provisions of these adopted plans.

(3) The amendment is consistent with EC 9.3020 Criteria for Establishment of an S Special Area Zone, in the case of establishment of a special area zone.

The amendment does not establish a special area zone. Therefore, this criterion does not apply.



Memorandum

Date: October 12, 2023

To: Katie LaSala, City Recorder

From: Lauren Sommers, Assistant City Attorney *LAS*

Subject: Corrections to Ordinance No. 20696

It has come to our attention that Exhibits A and B to Ordinance No. 20696, which was adopted on October 11, 2023, are incorrectly labeled.

Please effect the following scrivener error corrections:

1. Please relabel the existing Exhibit A, **Figure 9.6715(3), Skinner Butte Height Limitation Area**, as Exhibit B
2. Please relabel the existing Exhibit B, **Proposed Figure 9.3155(3)(a)**, as Exhibit A and retitle the exhibit as **Figure 9.3155(3)(a) S-DR Zone Height Standard "A."**

These corrections are authorized by Section 4 of Ordinance No. 20696. Please attach a copy of this memo to Ordinance No. 20696.