



Eugene City Council

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EUGENE CITY COUNCIL AGENDA

February 12, 2014

12:00 PM CITY COUNCIL WORK SESSION

Harris Hall

125 East 8th Avenue

Eugene, Oregon 97401

Meeting of February 12, 2014;
Her Honor Mayor Kitty Piercy Presiding

Councilors

George Brown, President	Pat Farr, Vice President
Mike Clark	George Poling
Chris Pryor	Claire Syrett
Betty Taylor	Alan Zelenka

CITY COUNCIL WORK SESSION

Harris Hall

- 12:00 p.m. **A. WORK SESSION/ACTION:**
Envision Eugene Implementation - An Ordinance Concerning Single Family Code Amendments for Accessory Buildings, Alley Access Lots and Secondary Dwellings, and for Protection Measures Specific to the University Area
- 12:45 p.m. **B. WORK SESSION:**
Consider Initiation of a Metro Plan Amendment for Property at 955 Coburg Road

**time approximate*

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EUGENE CITY COUNCIL

AGENDA ITEM SUMMARY



Work Session/Action: Envision Eugene Implementation - An Ordinance Concerning Single Family Code Amendments for Accessory Buildings, Alley Access Lots and Secondary Dwellings, and for Protection Measures Specific to the University Area

Meeting Date: February 12, 2014
 Department: Planning and Development
www.eugene-or.gov

Agenda Item Number: A
 Staff Contact: Alissa Hansen
 Contact Telephone Number: 541-682-5508

ISSUE STATEMENT

The City Council will deliberate and take action on a package of land use code amendments related to single-family housing in the R-1 Low Density Residential zone. The proposed amendments will:

1. Improve compatibility standards citywide for structures that are already allowed, including secondary dwellings, dwellings on existing alley access lots and accessory buildings;
2. Allow for new alley access lots in limited areas, subject to compatibility standards; and
3. Provide interim protection measures in the Amazon, Fairmount and South University neighborhoods to prohibit certain dwelling types and land divisions, and limit certain uses, until more comprehensive planning of these areas can be completed.

BACKGROUND

As part of Envision Eugene, the City Council initiated land use code amendments to promote secondary dwelling units and allow for new alley access lots. These amendments directly implement several Envision Eugene strategies under the housing affordability and neighborhood livability pillars. Specifically, these amendments achieve the following Envision Eugene strategies:

- Implement the goals of the Infill Compatibility Standards (ICS) project to prevent negative impacts and promote positive impacts of residential infill by integrating compatibility and design standards. These code amendments also directly support the recommendations developed by the Single-Family Dwelling Infill Committee of ICS pertaining to secondary dwelling units and alley access lots.
- Address housing affordability by expanding housing choice and variety by facilitating smaller housing types.
- Serve as land use efficiency strategies to help accommodate a portion of the city's 20-year need for single-family housing inside the current urban growth boundary (UGB). It is estimated that approximately 125 additional single-family homes (approximately 40 alley access lots and 85 additional secondary dwellings) over 20 years could be accommodated within the current UGB through these strategies.

Secondary Dwellings, Accessory Buildings and Alley Access Lots/Homes

These amendments represent the culmination of many years of public engagement and considerable community input, with the ultimate goal of fulfilling a strong community desire and long-standing interest to improve the compatibility of small-scale infill in the community's neighborhoods. Because of the broad applicability of these proposed standards (they would apply in all R-1 neighborhoods with the exception of Amazon, Fairmount and South University), and the diverse nature and character of the neighborhoods, they necessarily represent a balanced approach. It is essential that the proposed standards provide enough flexibility to ensure they work citywide in a variety of situations. In addition, care was taken to ensure that the proposed standards were not so restrictive that they would unduly discourage the construction of these development types.

University Area Interim Protection Measures

In addition to the code amendments related to secondary dwellings, accessory buildings and alley access lots/homes in the R-1 Low Density Residential zone, this package of code amendments includes interim protection measures for the existing single-family neighborhoods surrounding the University of Oregon (Amazon, Fairmount and South University), which have experienced a substantial increase in unintended housing development associated with the demand for student housing and the proximity of the university.

As part of Envision Eugene, the City is committed to completing area planning for the university neighborhoods, including consideration of specific design standards for housing to address impacts from proximity to the University of Oregon. However, this work is not slated to begin until after the local adoption of Envision Eugene. The interim protection measures are intended to limit further negative impacts until the area planning process is completed. It is expected that these interim measures would be replaced by a more comprehensive set of development and design standards established as part of the area planning effort. This planning effort will include important opportunities for neighbors and residents to weigh in on the types of standards that are important to them. Although the timelines for the area planning have not been fully determined, it is estimated that it will be completed in about two to three years. This means the interim protection measures would be in place for about two to three years, until they are replaced with permanent measures.

City Council Process

Following a unanimous recommendation for approval by the Eugene Planning Commission in October 2013 (see Attachment A for a summary of the Planning Commission's recommendation and deliberations), the City Council held a work session and a public hearing on the package of single-family code amendments.

At the November 18, 2013, City Council public hearing, testimony was received from 12 individuals. The vast majority of that testimony was focused on the interim protection measures for the University neighborhoods. Nine of the 12 individuals who provided testimony are residents of Amazon, Fairmount and South University neighborhoods (the neighborhoods where the University area interim protection measures are proposed to apply). Eight of the nine speakers voiced support for the interim protection measures and recommended that these

amendments be adopted immediately. They also raised concerns regarding the proposed secondary dwelling and alley access lot standards that would apply to the remainder of the city. One of the nine speakers expressed opposition to having the interim measures applied to the Amazon neighborhood.

The remaining three speakers included the Planning Commission chair, who confirmed the Planning Commission's recommendation as provided in the meeting materials was accurate; a representative from the Friendly Area Neighbors board, who conveyed the board's request to the City Council to delay action on the amendments; and a representative from 1,000 Friends of Oregon who suggested that the amendments do not go far enough to protect neighborhoods or to gain enough additional housing units.

Following the public hearing, the City Council voted to hold the public hearing record open for one week for additional testimony. Written testimony received at the public hearing and during the open record period will be provided to the City Council under separate cover. Following the open record period, City Council action on the amendments was postponed to allow for adequate time for review of public testimony. During this time, staff also attended a general meeting of the Friendly Area Neighbors to provide information and answer questions about the proposed code amendments.

Staff response to topics raised in public testimony is provided in a memo (Attachment B). As a result of the public testimony, staff is recommending two specific modifications to the ordinance. These modifications, which pertain to density requirements for secondary dwellings and maximum bedroom count for new dwellings in the university area, are addressed further in the memo.

The proposed ordinance and exhibits are included as Attachment C. As noted in the agenda item summary for the public hearing, the proposed amendment to allow for secondary dwellings in the university area subject to area-specific development standards was not complete in time to meet the City Charter requirement for the posting of the ordinance. Although it was not included in the ordinance, it was provided for the public and council's consideration at the hearing. This amendment has been incorporated into the attached ordinance.

The ordinance and exhibits also contain other minor revisions from the ordinances originally posted for public hearing. The ordinance and exhibits generally contain the following minor revisions:

- Reference corrections
- Updated figures (graphics enlarged and labels moved for clarity)
- Updated findings to address issues raised in testimony

Also, as previously noted in the agenda item summary for the public hearing, the ordinances have been combined into one ordinance, given the interdependence of the interim protection measures with the code amendments pertaining to alley access lots, secondary dwelling units, and accessory units.

A summary of the proposed amendments is provided as Attachment D.
The full record of materials is available for review in a binder located at the City Council Office and on the City's website at: <http://www.eugene-or.gov/index.aspx?NID=2088>

RELATED CITY POLICIES

Findings addressing the applicable approval criteria, including Statewide Planning Goals, the Metro Plan, and applicable refinement plans, are provided as an exhibit to the ordinance in Attachment C.

COUNCIL OPTIONS

Following deliberations, the City Council may consider the following options:

1. Adopt the ordinance.
2. Adopt the ordinance with specific modifications as determined by the City Council.
3. Deny the ordinance.

CITY MANAGER'S RECOMMENDATION

Following the council's deliberations on this request, the City Manager recommends approval of the ordinance as provided in Attachment C, with the specific modifications contained in Exhibit 1 to Attachment B.

SUGGESTED MOTION

Move to adopt Council Bill **xxxx** the ordinance contained in Attachment C, with the specific modifications contained in Exhibit 1 to Attachment B.

ATTACHMENTS

- A. Summary of Planning Commission Recommendation/Deliberations
- B. Staff Response to Testimony
- C. Proposed Ordinance and Findings
- D. Summary of Single-Family Code Amendments

FOR MORE INFORMATION

Staff Contact: Alissa Hansen
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Staff E-Mail: alissa.h.hansen@ci.eugene.or.us

**Summary of Planning Commission Recommendation
Single Family Code Amendments
October 21, 2013**

The Planning Commission voted unanimously (7 to 0) to recommend approval of the Single Family Code Amendments, with the following modifications:

Secondary Dwelling Units

- Building Size: Change primary residence to principal residence *[General agreement, no vote taken]*
- Ownership/Occupancy: Use majority ownership instead of percentage when determining ownership *[General agreement, no vote taken]*
- Minimum Wall Length: Modify to require a 2 foot deep by 5 foot wide minimum articulation on walls over 25 feet in length. Full height is intended to mean from floor to ceiling (allowing for cantilever floor joists). *[Straw vote 6-0-1 with Steve Baker indicating he was neutral]*

Alley Access Lots

- Distance from Street/Fire Access: Clarify distance requirement for lot and modify to require sprinklers in dwelling if any portion of house is beyond 150 feet of alley/street intersection *[Straw vote 7 to 0]*
- Lot Standards: Establish maximum lot size for new alley access lot size as 5,000 square feet *[General agreement, no vote taken]*
- Development Standards: Allow windows, dormers and balconies on second story of alley lot dwelling on any non-alley facing property line only with the written approval of the affected adjacent property owner, in lieu of requiring an adjustment review. *[Straw vote 7 to 0]*

Accessory Buildings

- Building size/setbacks: For lots 13,500 square feet or less in area, limit the total square footage of all accessory buildings to 1000 square feet. For lots greater than 13,500 square feet to 43,560 square feet, limit the total square footage of all accessory buildings to 10 percent of the lot area, not to exceed 3,000 square feet, and require 10 foot setback and 10:12 roof pitch. For lots greater than 43,600 square feet (one acre) in size, no limit on square footage of accessory buildings, but require 10 foot setback and 10:12 roof pitch. *[Straw vote 7 to 0]*

University Area Interim Protection Measures

- Timing/Sunset: Establish sunset date that interim measures would remain in effect for 42 months after the date of adoption. *[Straw vote 7 to 0]*
- Bedroom Count: Support 3 bedroom limit for new dwellings/remodels, with following exception: For any remodel that adds a bedroom or bedrooms beyond 3 bedrooms, the maximum number of unrelated individuals living in dwelling would be limited to 3 (instead of 5) as long as interim protection measures are in effect, and property owner would be required to record deed restriction stating such. *[Straw vote 7 to 0]*
- Occupancy: Add provision to require property owner to provide city with copy of current lease(s) or rental agreement(s) as a means of verifying occupancy (add as city wide provision) *[Straw vote 6 to 0]*
- Secondary Dwelling Units: Add development standards (see Exhibit 1 for draft development standards) to allow for secondary dwellings during the interim, subject to the 42 month sunset date. *[Straw vote 6 to 1 with John Jaworski voting in opposition due to preference for shorter sunset date.]*

Other Deliberation Topics

The Planning Commission discussed additional topics during their deliberations. However, the motions related to these topics did not pass, and as such are not included in their recommendation.

Secondary Dwelling Units

- Limit occupancy to 3 to 4 people and limit to 2 bedrooms *[general agreement to not add occupancy limit and to leave proposed bedroom limit]*
- Increase minimum lot size for detached secondary dwellings from 6,000 square feet to 6,225 square feet *[Straw vote 2 to 5 with Steve Baker and John Jaworski voting in favor. Those in favor indicated consistency with density requirements and concerns about compatibility, while those in opposition noted that new standards will improve compatibility, the interim standards will address pressures around the university, and satisfaction that existing requirement is consistent with density.]*

Alley Access Lots

- Lot Standards: Increase proposed minimum lot size from 2,250 to 3,600 square feet *[Straw vote 3 to 4 with Steve Baker, John Barofsky and John Jaworski voting in favor. Those in favor mentioned concerns about lot coverage, compatibility and density, while those in opposition noted that the proposed development standards, including building size and paving limitations would limit lot coverage, and that the advisory committee looked at these issues extensively.]*
- Setbacks: Increase building setbacks from 5 feet to 10 feet from the two property lines perpendicular to alley *[Straw vote 3 to 4 with Steve Baker, John Barofsky and John Jaworski voting in favor. Those in favor indicated concerns about privacy, compatibility and transition, and noted that Portland requires 10 foot setbacks. Those in opposition noted that the proposed 5 foot setback works with the proposed sloped setbacks and other development standards to ensure compatibility, and that changing one standard in isolation may result in unintended consequences, including more two story buildings.]*

University Area Interim Protection Measures

- Sunset date: Set a date certain of July 31, 2017 for interim measures to automatically sunset *[Straw vote 3 to 4 with Steve Baker, Rick Duncan and John Jaworski voting in favor. Those in favor expressed support for certainty and specificity, while those in opposition noted that if the timing of the ordinance adoption changes or if the effective date changes, then the 42 month timeline provides more flexibility.]*



Memorandum

Date: February 5, 2014
 To: Mayor and City Council
 From: Alissa Hansen, Planning Division
 Subject: Staff Response to Testimony/City Council - Single Family Code Amendments

This memo addresses major themes that have been raised in public testimony as part of the single family code amendments process, as well as those raised by the City Council. The issues are identified in bold below, followed by staff response.

SECONDARY DWELLINGS

1. Density

Testimony raised the issue that the existing provisions for secondary dwellings do not comply with the density requirements. Secondary dwellings are currently permitted outright in the R-1 Low Density Residential zone, and are subject to minimal development standards. The City has had a long practice of not counting secondary dwellings (whether attached or detached) when calculating density. As detailed in the findings attached to the draft ordinance, the City's practice is supported by the Metro Plan. To provide more clarity in the land use code regarding the City's long-standing practice that secondary dwellings are not counted in density calculations, staff recommends inclusion of the proposed code language provided in Exhibit 1 to this memo.

As noted in the Summary of the Planning Commission Recommendation (provided as Attachment A to the February 12, 2014 Agenda Item Summary), the Planning Commission did discuss the related topic of increasing the minimum lot size required for detached secondary dwellings. Ultimately, the majority of the Planning Commission (2 to 5 in a straw vote) did not recommend increasing the minimum lot size from 6,000 square feet to 6,225 square feet. The two commissioners voting in favor indicated consistency with density requirements and concerns about compatibility, while the five in opposition noted that new standards will improve compatibility, the interim standards will address pressures around the university, and satisfaction that the existing requirement is consistent with density. It was also noted that there are approximately 1,685 lots R-1 zoned lots between 6,000 and 6,225 square feet in lot area that would no longer be eligible to create a new detached secondary dwelling. State law requires the City to notify property owners, prior to a public hearing, when an allowed use on the property is proposed to be prohibited.

2. Development Standards

As noted above, secondary dwellings are permitted outright in the R-1 zone, subject to minimal development standards. The proposed code amendments are intended to improve the compatibility of secondary dwellings, and address such concerns as looming walls, solar access and privacy. Testimony suggested that the proposed amendments do not provide enough protections.

Because of the broad applicability of these standards (they would apply in all R-1 neighborhoods with the exception of Amazon, Fairmount and South University), and the diverse nature and character of our neighborhoods (including but not limited to lot size and layout, block patterns, topography, vegetation,

natural resources, and home size, style and architectural characteristics), it is necessary that the proposed standards provide enough flexibility to ensure they work citywide in a variety of situations. In addition, care was taken to ensure that the proposed standards were not so restrictive that they would unduly discourage the construction of this housing type.

The standards, as proposed, reduce allowed building heights (from two stories to one); apply a sloped setback; limit the number of bedrooms to two; substantially strengthen ownership/occupancy requirements while also providing allowance for a temporary leave of absence in certain circumstances; and provide an opportunity to seek an adjustment review under limited circumstances.

As noted in the Summary of the Planning Commission Recommendation (provided as Attachment A to the February 12, 2014 Agenda Item Summary), the Planning Commission did discuss certain development standards pertaining to secondary dwellings, specifically minimum wall length and occupancy. However, the Planning Commission did not recommend changing any other existing or proposed development standards.

The following table (Table 1) provides a summary comparison of the current code provisions and the proposed changes for secondary dwellings. Only the most significant changes are shown below.

Table 1

Secondary Dwellings		
Development Standard	Current Code	Proposed Change
Building Height Maximum	<p><i>Attached SDUs:</i> Same as main house (30 feet or 37 feet for roof slopes 6:12 or steeper)</p> <p><i>Detached SDUs:</i> If located within 20 feet of a property line, 15 feet or 22 feet for roof slopes 6:12 or steeper (Allows for 2 story)</p> <p>If located greater than 20 feet from a property line, 20 feet or 27 feet for roof slopes 6:12 or steeper</p>	<p><i>Attached SDUs:</i> no change</p> <p><i>Detached SDUs:</i> If located within 20 feet of a property line, 15 feet for roof slopes 5:12 or less (flatter) or 18 feet for roof slopes 6:12 or steeper. (Allows for 1 story)</p> <p>If located greater than 20 feet from a property line, 24 feet</p>
Sloped Interior Yard Setbacks	None	<p>Creates a building envelope that requires dwelling to slope away from interior yard setback starting at a building height of 12 feet above grade.</p> <p>For example, for a detached secondary dwelling, starting at the 5 foot interior yard setback, the dwelling would be limited in height to 12 feet, and then would be required would slope away from the interior property lines at a maximum roof slope of 6:12 (50%) rising to a maximum height of 18 feet. This would result in the ridge (tallest point) of the dwelling being a minimum of 17 feet from the interior property lines.</p>
Building Size	800 square feet	No changes to size. Clarifies how to measure
Bedroom Count	No limits	Maximum of 2 allowed

Ownership/Occupancy	Either the primary dwelling or the secondary dwelling must be occupied by the property owner	Strengthens current requirements by defining ownership and length of occupancy, requiring documentation to verify ownership and occupancy, requiring deed restriction and requiring verification every two years that requirements are met. These changes will assist in enforcement. Provides allowance for temporary leave under certain circumstances.
Parking	1 space required for secondary dwelling	No changes
Adjustment Review	None	Allows for adjustment review in limited situations: temporary leave, to allow a secondary dwelling over an accessory building, and to allow conversion of existing accessory building into secondary dwelling.

ALLEY ACCESS LOTS

1. Allowance for New Alley Access Lots

The testimony regarding alley access lots has been diverse. Some have suggested that new alley access lots should not be allowed, while other have indicated that the proposed standards for such lots do not provide adequate compatibility protections, and others have expressed concern that not enough new dwellings would be allowed or created, or that the standards are too restrictive.

The City Council directed that code amendments to allow for alley access lots be initiated through Envision Eugene, to accommodate more single family homes within the urban growth boundary. The proposed amendments to allow for new alley access lots with compatibility standards are an outcome of that directive. Under the proposed amendments, new alley access lots could be created in all neighborhoods with alleys, except that new alley access lots would be prohibited in Amazon, Fairmount and South University as part of the University Area interim protection measures.

Prior to the land use code update in 2001, alley access lots were allowed in all residential zones, without specific design or development standards addressing compatibility. City Council removed the allowance for such lots until design standards could be created. Through the Infill Compatibility Standards project, alley access lots were specifically identified as a desirable type of infill, if accompanied by design standards. Alley access lots are currently allowed in the S-C Chambers Special Area Zone and the S-JW Jefferson Westside Special Area Zone subject to standards that address design and compatibility. Two alley access lots have been created within these two areas since the adoption of those standards in 2006 and 2010 respectively. The alley access lot created in Chambers was already developed with a home, and the alley access lot created in Jefferson Westside has not been built on.

Because of the proposed limitation of where new alley lots can occur (125 feet from where the alley intersects with the street), we only expect to see approximately 40 lots created over the next 20 years (or an average of 2 per year). Due to this limitation, which is based on fire access requirements, all lots along an alley (especially those in the middle of a block) will not be eligible to create such lots. Rather, it will be limited to typically the second lot in from the alley/street intersection. Given these limitations, which would limit the overall number and impact of such lots within a neighborhood, the development is unlikely to overwhelm the alley or result in a significant increase in traffic.

In addition to the limitation on where alley access lots can be located, other proposed standards are intended to address looming walls, privacy concerns, incompatible building heights, excessive paving and lot coverage, and excessive bedrooms numbers, while ensuring that the proposed standards are not so

restrictive or costly that they would unduly discourage alley access lot creation and home construction. The proposed standards are further addressed later in this memo.

The proposed compatibility standards are also intended to apply to existing alley access lots in the R-1 zone (including within the neighborhoods proposed for the University area protection measures), as well as any newly created lots. There are approximately 90 existing alley access lot in the R-1 zone. Currently these lots are subject to the standard R-1 development standards (including height, lot coverage and parking). See Table 2 below for a comparison of the existing development standards and the proposed development standards.

2. Density/Lot Size Minimums

Testimony raised the issue that the proposed minimum lot size for new alley access lots (2,250 square feet) does not comply with the density requirements, and is not compatible with single family neighborhoods. As addressed in the findings attached to the draft ordinance, the proposed lot size is found to be consistent with density requirements. In short, the maximum density of a proposed alley access development site would be 9.68 units per acre, which is consistent with the Eugene Code and the Metro Plan.

While density requirements are not an issue, Council could choose to increase the minimum lot size for compatibility reasons. In that case, staff would be supportive of a revision that changes the minimum lot size to somewhere in the range of 3,000 square feet to 3,600 square feet.

As noted in the Summary of the Planning Commission Recommendation (provided as Attachment A to the February 12, 2014 Agenda Item Summary), the Planning Commission did deliberate and vote on a motion to increase the proposed minimum lot size. Ultimately, the majority of the Planning Commission did not recommend increasing the proposed minimum lot size from 2,250 to 3,600 square feet (3 to 4 in a straw vote). The three in favor of increasing the size mentioned concerns about lot coverage, compatibility and density, while the four in opposition noted that the proposed development standards, including building size and paving limitations would limit lot coverage, and that the advisory committee looked at these issues extensively.

3. Compliance with ADA

Testimony raised the issue that the provisions to allow for new alley access lots are in violation of the American with Disabilities Act (ADA). Staff consulted with the City Attorney's Office, who researched the issue and provided the following information:

In summary, the Americans with Disabilities Act (ADA) covers state and local government facilities, places of public accommodation and commercial facilities. The Architectural Barriers Act (ABA) covers facilities financed with federal funds. Neither Act is triggered by the proposed single family code amendments.

Testimony cited to ADA regulations related to "pedestrian access routes." The cited regulations require that certain existing pedestrian facilities that are located in the public right of way be readily accessible to and usable by pedestrians with disabilities. The ADA does not require the city to provide pedestrian facilities where they do not already exist. However, if a pedestrian facility exists, the city must make that pedestrian facility accessible to persons with disabilities. Accordingly, neither the ADA nor the ABA requires the city to provide or require new pedestrian facilities in order to make private dwellings on alley access lots accessible.

4. Development Standards

Testimony raised the issue that the proposed development standards for alley access lots should be changed to be similar, if not identical, to those proposed for secondary dwellings, which include a smaller

home size, lower building height and different sloped setback. These issues were also raised at the Planning Commission public hearing; however, the Planning Commission did not propose any changes except with regard to dormers and balconies.

The intent of the proposed alley access lot development standards is to ensure compatibility while allowing for some flexibility, in an effort to promote owner-occupancy of these houses. While secondary dwellings are intended to be subordinate to the main home on the property, and typically used as a rental property, a dwelling on an alley access lot is the main (and only) home on the property.

As noted in the Summary of the Planning Commission Recommendation (provided as Attachment A to the February 12, 2014 Agenda Item Summary), the Planning Commission did discuss certain development standards pertaining to alley access lots, specifically windows, dormers and balconies on second floors, and setbacks. However, the Planning Commission did not recommend changing any other existing or proposed development standards.

The following table (Table 2) provides a summary comparison of the current code provisions for dwellings on existing alley lots and the proposed changes (that would apply to existing and new lots). Only the most significant changes are shown below.

Table 2

Dwellings on Alley Access Lots		
Development Standard	Current Code (applies to existing lots)	Proposed Change (to apply to existing and newly created lots)
Building Size	No limits	1,000 square feet maximum. For two story structures, only 400 square feet of the 1,000 is allowed on the upper floor.
Bedroom Limit	No limits	3 maximum
Building Height Maximum	30 feet or 37 feet for roof slopes 6:12 or steeper	24 feet
Sloped Setback	No limits	Creates a building envelope that requires dwelling to slope away from interior yard setback starting at a building height of 14 feet above grade. For example, starting at the 5 foot interior yard setback, the dwelling would be limited in height to 14 feet, and then would be required would slope away from the interior property lines at a maximum roof slope of 8:12 (67%) rising to a maximum height of 24 feet. This would result in the ridge (tallest point) of the dwelling being a minimum of 20 feet from the interior property lines.
Windows	No limits	10 foot setback from property line for upper story windows
Dormers, Balconies	No limits	Not allowed on side or rear property line unless neighboring property owner agrees in writing
Parking	Minimum 1 space, no maximum, no paving limits	Minimum 1, maximum 2 spaces, limits paving to 400 square feet and limits garage size
Accessory Buildings	No limits	Limit to 400 square feet total

5. Alley Infrastructure

Testimony suggested that the impact on unimproved alleys needs to be further studied before new alley access lots should be allowed. As noted above, as proposed, the location of new alley access lots will be limited (125 feet from the alley/street intersection), which means such lots will be located towards the ends, rather than the middle, of alleys. As such, at most, there could only be a few alley access lots per block.

At the time a new alley access lot is created, if the alley does not meet the city's width or improvement standards (which are generally intended to ensure safe and serviceable streets and alleys), it would typically be required to meet such standards prior to development of the lots (through conditions of approval of the land division). In the case of alley access lots, many, if not most, of the alleys adjacent to potential alley access lots are currently unimproved.

The amendments propose a minimum 14-foot wide right-of-way width for the alley with a minimum improvement width of 12 feet. The alley could be improved with concrete, asphalt or gravel, depending on the existing conditions. The intent is that the alley would be improved from the street to the driveway/parking area of the alley access lot to provide safe and serviceable access to the newly created lot. This cost would be entirely the responsibility of the developer of the alley access lot.

The intent of these requirements is to ensure functional access to the alley access lot, not to require the entire alley to be fully improved. If the city and community desires that all alleys be fully improved, then a programmatic approach would need to be established.

UNIVERSITY AREA INTERIM PROTECTION MEASURES

1. Interim Standards to allow Secondary Dwellings

Based on public testimony, the Planning Commission recommended adding development standards to allow for secondary dwellings in the University area (rather than prohibit them as originally proposed). Staff supports this proposal; however, the draft code language was not complete in time to meet the City Charter requirement for the posting of the ordinance for the public hearing. Proposed interim development standards for secondary dwellings in the University area were provided as part of the public hearing materials and testimony at the City Council public hearing indicated strong support for these standards. These standards have been incorporated into the attached ordinance provided for council action.

2. Allowance for Duplexes

Testimony from one individual recommended that the interim protection measures be revised to allow for duplexes, subject to a maximum bedroom count of 3 per unit. This issue was not raised during the Planning Commission proceedings. If the City Council finds that allowing duplexes, with a maximum of 3 bedrooms per unit, appropriate in the interim, the ordinance can be revised as such.

3. Maximum Bedroom Limitation for Dwellings

Testimony raised the issue that the proposed limit of three bedrooms for new homes in the university area would place an undue burden on property owners proposing to build new single family homes for themselves, especially those with large families (such as multiple children or multi-generational living situations), or those wanting a guest room or home office (which would meet the definition of bedroom). To provide flexibility for such situations, it was recommended to allow for more than three bedrooms when the number of unrelated individuals in the dwelling is limited to three (as is proposed to be allowed for additions and remodels of existing homes in the university area).

As noted in the Summary of the Planning Commission Recommendation (provided as Attachment A to the February 12, 2014 Agenda Item Summary), the Planning Commission discussed and voted 7 to 0 in a straw vote to recommend supporting the three bedroom limit for new dwellings/remodels, with following exception: For any remodel that adds a bedroom or bedrooms beyond three bedrooms, the maximum number of unrelated individuals living in dwelling would be limited to three (instead of five) as long as interim protection measures are in effect, and property owner would be required to record deed restriction stating such. The Planning Commission's recommendation is included in the ordinance.

Based on testimony, staff recommends incorporating the same exception for new dwellings into the ordinance. Proposed code language is provided in Exhibit 1 to this memo for the City Council's consideration.

OTHER

1. Adjustment Review

Testimony raised concern that the proposed adjustment review criteria are too vague and could serve as a potential loophole to allow property owners to circumvent the intentions of the proposed new compatibility standards for secondary dwellings, alley access lots and accessory buildings.

The purpose of the adjustment review process is to encourage design proposals that respond to the intent of the code and creatively meet or exceed specific development standards. This process recognizes that while the land use code is typically one-sized fits all, individual lots and development sites are all different.

The adjustment review process, which was added as part of the land use code update in 2001, follows a Type II land use review, meaning there is public notice, including a comment period, Planning Director decision, and opportunity to appeal. Because it is a land use application process, a certain amount of subjectivity is expected. Only certain standards within the code are allowed to be adjusted. Each year approximately 11 adjustment review applications are submitted citywide (in most every zone).

During the early development of the single family code amendments, the notion of flexibility was raised as an important issue, given the variety of circumstances across the city. Based on past experience in applying other adjustment review criteria which are too vague (such as "is compatible with adjacent development") and not always relevant to the development standard being adjusted, we knew it was important to established parameters within that flexibility. To that end, we used the downtown adjustment review criteria, as well as criteria from the City of Santa Cruz, California as inspiration to create relevant and robust criteria that describe the type of development we would want to see. Additionally, only a very limited number of development standards are proposed to be adjusted.

2. Public Engagement Process

The public engagement process for these amendments has spanned multiple years and is grounded in the goals and recommendations of the Infill Compatibility Standards project. There has been considerable community input on these topics from a broad cross-section of neighborhood leaders and advocates, developers, architects and designers, property owners and other interested parties. Below is a high-level overview of the events that have occurred.

2007-2009	In response to City Council direction to address residential infill compatibility, the Infill Compatibility Standards Task Team was formed and met monthly from November 2007 to September 2009. The Task Team was comprised of 14 neighborhood association representatives, a Housing Policy Board representative,
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and five additional members with the perspectives of builders, developers, and designers of market-rate and affordable infill housing.

In 2008, the ICS Task Team provided an interim report to the Planning Commission that included an update on the work of the committees, including the Single Family Dwelling Infill Committee. At that time, the Committee focused on secondary dwelling units, alley access lots, flag lots and remodels, additions and conversions in South University, Fairmount and Amazon Neighborhoods.

As a result of their almost two years of research, public outreach, proposal development and refinement, the Task Team ultimately passed 16 sets of recommendations. In 2009, the Task Team passed motions recommending implementation of the recommendations outlined in the Single-Family Development Committee issue papers titled "Infill in R-1 Neighborhoods" and "Single-Family Dwelling Infill Committee Report on Flag Lot Development." These issue papers include recommendations related to secondary dwellings, accessory buildings, and alley access lots that informed the development of the code concepts.

2010	<p>A working group of ICS, the R-1 Infill/Flag Lot Implementation Team (RIFLIT), met and developed recommendations related to the issues raised by ICS pertaining to flag lots, lot coverage, sloped setbacks, secondary dwellings and alley access lots. This team was composed of individuals selected by the ICS Steering Committee who work closely with or live near and have carefully considered the kinds of development under discussion. Members include:</p> <ul style="list-style-type: none"> • Steve Gab (Former ICS co-chair, Rainbow Valley Design & Construction) • Sue Prichard (Former ICS co-chair, Amazon Neighbors, CRG/TRG member) • Michael Fifield (University of Oregon Architecture Professor) • Bill Randall (Planning Commissioner, Architect) • Mike Butler (Future B Homes) • Marilyn Mohr (Former River Road board member)
2010-2013	<p>On-going Envision Eugene public engagement, including multiple public open houses and workshops, mailings, public hearings, on-line surveys, e-newsletters, Facebook updates and frequent updates to the Planning Commission and City Council. The topic of single family housing, including strategies to provide for more single family homes within the existing urban growth boundary, was included in numerous outreach events.</p>
March 2011	<p>Draft Envision Eugene Proposal published. Includes strategies to allow for and promote secondary dwelling units and alley access lots.</p>
March 2012	<p>Envision Eugene Recommendation published. Includes strategies to allow for and promote secondary dwelling units and alley access lots.</p>
June 2012	<p>City Council initiated code amendments to allow and promote secondary dwellings units and alley access lots, as part of Envision Eugene strategies to accommodate single family homes within the existing urban growth boundary.</p>
2012-2013	<p>Single Family Advisory Group formed to review and vet code concepts and provide recommendations. The advisory group met seven times between October 2012</p>

and February 2013. The majority of the members were part of the original ICS/RIFLIT group. Members include:

- Steve Gab (Former ICS co-chair, Rainbow Valley Design & Construction)
- Sue Prichard (Former ICS co-chair, Amazon Neighbors, CRG/TRG member)
- Michael Fifield (University of Oregon Architecture Professor)
- Bill Randall (Planning Commissioner, Architect)
- Mike/Dane Butler (Future B Homes)
- Jon Belcher (Planning Commissioner, River Road Community Organization Chair, former chair of Amazon and Jefferson-Westside)
- Chris Stebbins (owner of design/build company, resident of Fairmount)
- Andrew Fisher (Friendly Neighborhood Association board member, Historic Review Board)
- Marilyn Mohr (Former River Road board member; invited, but did not attend)

November 2012	Planning Commission Work Session on progress of Single Family Code Amendments
December 2012	Project included in the Envision Eugene Implementation Update sent to Envision Eugene mailing list (525 email addresses)
May 2013	<ul style="list-style-type: none"> -Email to all neighborhood leaders asking for input on code concepts and invitation to meet -Project highlighted in Envision Eugene Newsletter sent to Envision Eugene mailing list -Meeting with members of Friendly Area Neighborhood and board to review Code concepts -Meeting with members of South University Neighborhood Association board to review code concepts -Meeting with members of Fairmount Neighbors board to review code concepts
June 2013	<ul style="list-style-type: none"> -Emails to interested parties regarding open house (distributed to 120+ emails including people interested in the topic or involved in a group or profession associated with neighborhood livability and infill, including neighborhood leaders and advocates, property owners, architects, designers and developers, Infill Compatibility Standards Task Team, and the Home Builder's Association) -Meeting with members of South University Neighborhood Association board -Meeting with members of Fairmount Neighbors board -Public Open House
July 2013	<ul style="list-style-type: none"> -Email to interested parties list to update and request feedback on concepts -Planning Commission Work Session -Meeting with members of Jefferson-Westside Neighborhood board
August 2013	<ul style="list-style-type: none"> -Email to interested parties list requesting review of draft code -Notice of public hearing mailed to neighborhood associations and others requesting notice -Measure 56 Notice mailed to property owners in Amazon, Fairmount and South University neighborhoods regarding interim protection measures -Legal Notice in Register Guard

- September 2013 -Emails to interested parties list regarding public hearing
 -Planning Commission public hearing on proposed code amendments
 -Email to interested parties list regarding public record left open
- October 2013 -Planning Commission Deliberations
 -Email to interested parties list regarding Planning Commission's recommendation
 -City Council Work Session
- November 2013 -Email to interested parties list regarding City Council Public Hearing
 -City Council Public Hearing
 -Email to interested parties list regarding public record left open

3. Enforcement

The issue of adequate enforcement of existing code provisions was raised in public testimony. Staff consulted with Code Compliance staff during the process of crafting the code amendments to ensure that the new provisions could be enforced and to identify and improve existing code language that can be difficult to enforce. Several of the amendments were crafted to specifically strengthen existing code provisions that can be difficult to enforce, including the ownership/occupancy provisions for secondary dwellings and the deed restriction provisions for accessory buildings.

Code Compliance staff provided the following information about the city's compliance program: Due to limited resources, enforcement is entirely complaint driven. There are two ways in which the City encourages people to assist Code Compliance efforts; one allows people to submit confidential complaints and the other anonymous. For land use and nuisance complaints the City asks that people submit confidential. For building code complaints the City will respond to anonymous complaints. This includes the creation of illegal units, garage conversions and additions done without the required permits.

The City has rules in place that allow staff to impose civil penalties, charge investigation fees and disconnect power should it become necessary. In most cases staff is able to achieve compliance without the use of these tools. In addition if staff determines the violator was aware of code requirements and the violation was intentional the rules provide for immediate penalty without issuance of an Order to Correct. While these tools are available and are used if necessary the Code Compliance team continues to focus on educating and working toward voluntary compliance.

4. Number of Units Estimated Per Year

One individual provided testimony that additional units should be targeted through these measures to avoid an urban growth boundary expansion for single-family homes. The estimate of how many additional single family dwellings can be expected through these strategies over the next 20 years was based in part on historic building permit activity and in part on a nationwide trend towards a desire for smaller housing types. In coordination with ECO Northwest, staff has made an optimistic, yet realistic estimate that a 50 percent increase in secondary dwelling units could be realized, for a total of 265 units during the 20 year period.

The estimates for alley access lots are more conservative given the geographic restrictions on where they can apply (only a small portion of the city's R-1 neighborhoods have existing alleys). Additionally, due to the Fire Marshal requirement that an alley access lot must be within 125 feet of an intersection with a street, the number of potential alley access lots is further reduced. ECO Northwest and staff have estimated that approximately 40 alley access lots can be expected over the next 20 years. This is based on an assumption that approximately 25 percent of the eligible lots with development potential will be subdivided under these provisions.

Both housing unit types (secondary dwelling units and alley access lots) will be monitored as part of the Envision Eugene monitoring program. This information will be reported on and evaluated at least every five years and if necessary, adjustments can be made.

Attachment

Exhibit 1: Recommended Modifications to Ordinance

Recommended Modifications to Ordinance Single Family Code Amendments

1. Secondary Dwellings/Density

Bold italic = Text to be inserted

Table 9.2740 Residential Zone Land Uses and Permit Requirements					
	R-1	R-1.5	R-2	R-3	R-4
Residential					
Dwellings. (All dwellings, <i>except secondary dwellings</i> , shall meet minimum and maximum density requirements in accordance with Table 9.2750 Residential Zone Development Standards unless specifically exempted elsewhere in this land use code. All dwelling types are permitted if approved through the Planned Unit Development process.)					

2. Maximum Bedroom Limitation for Dwellings in the University Area

Bold italic = Text to be inserted

~~***Bold italic***~~ = Text to be removed

9.2751 Special Development Standards for Table 9.2750.

- (17) ***Maximum Bedroom Count. In the R-1 zone within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association, the maximum allowable number of bedrooms in a dwelling shall be as follows:***
- ~~(a) ***New dwellings approved after _____ [effective date of ordinance] shall be limited to 3 bedrooms; or***~~
- ~~(b) ***Additions, expansions or alterations that add bedroom(s) to a dwelling in existence on _____ [effective date of ordinance] shall be limited to 3 bedrooms total, except that additional bedroom(s) may be added beyond 3 if, prior to the city’s issuance of a building permit for a new dwelling or for an ~~the~~ addition, expansion or alteration that adds bedroom(s), the owner records a deed restriction with the Lane County Clerk, on a form approved by the city, that includes the following provisions:***~~
1. ***The maximum number of unrelated individuals living in the dwelling shall be limited to 3.***
 2. ***The deed restriction runs with the land and binds the property owner(s), heirs, successors and assigns.***
 3. ***The deed restriction may be terminated, upon approval by the city, when bedrooms are removed so that there are 3 bedrooms, or at such time as the city code no longer requires a bedroom/occupancy limit in accordance with this section.***

ORDINANCE NO. _____

AN ORDINANCE CONCERNING SINGLE FAMILY CODE AMENDMENTS FOR ACCESSORY BUILDINGS, ALLEY ACCESS LOTS AND SECONDARY DWELLINGS, AND FOR PROTECTION MEASURES SPECIFIC TO THE UNIVERSITY AREA; AMENDING SECTIONS 9.0500, 9.2735, 9.2740, 9.2741, 9.2750, 9.2751, 9.2760, 9.2761, 9.3125, 9.3626, 9.6105, 9.6410, 9.6505, 9.6745, 9.6775, 9.6870, 9.8030, 9.8405 AND 9.8415 OF THE EUGENE CODE, 1971; ADDING SECTIONS 9.1245, 9.2737 AND 9.2779 TO THAT CODE; AND PROVIDING AN EFFECTIVE DATE.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. The following definitions in Section 9.0500 of the Eugene Code, 1971, are amended to provide as follows:

9.0500 **Definitions.** As used in this land use code, unless the context requires otherwise, the following words and phrases mean:

Accessory Building. Any authorized, detached building subordinate to the main building on the same development site. ***For the purposes of EC 9.2700 through 9.2779, in the R-1 zone, an accessory building that shares a common wall with the primary dwelling for less than 8 feet is considered a detached accessory building.***

Alley Access Lot/Parcel. A lot, [or] parcel ***or lot of record*** abutting an alley and not abutting a street and created from the rear portion of an existing lot or parcel. For purposes of EC 9.3050 through 9.3065, an alley access lot or parcel is one that abuts an alley but does not abut a street.

Bedroom. [~~Within a multiple-family dwelling, a~~] **A** bedroom is any room that either:

- (A) Is designated as a bedroom on a development plan submitted to the city;
- (B) Is included in the number of bedrooms stated in an advertisement, rental or sales contract, marketing material, loan application, or any other written document in which the owner, or an authorized agent of the owner, makes a representation regarding the number of bedrooms available in the dwelling; or
- (C) Meets all of the following:
 1. Is a room that is a "habitable space" as defined by the current Oregon Structural Specialty Code (OSSC) or Oregon Residential Specialty Code (ORSC);
 2. Meets the OSSC or OSRC bedroom requirements for natural light, ventilation, and emergency escape and rescue windows;
 3. Is a room that is accessed by a door on an interior wall and that does not provide access to another room except for a bathroom, toilet room, closet, hall, or storage or utility space.

Dwelling, Secondary. A dwelling unit that is located on the same [~~parcel~~] **lot** as a primary one-family dwelling that is clearly subordinate to the primary one-family

dwelling, whether a part of the same structure as the primary one-family dwelling or a detached dwelling unit on the same lot. ***Either the secondary dwelling or the primary dwelling must be occupied by the property owner.***

Kennel. An establishment or premises on which 4 or more dogs over 6 months of age are kept or maintained, whether by owners of the dogs or by persons providing facilities and care, and whether or not for compensation, not including the temporary keeping of one additional dog for up to 6 months in any 12-month period. For purposes of this definition, if the “premises” consists of a lot that contains a main dwelling and a secondary dwelling unit, the “premises” means the lot. **(See EC [9.2741(2)(a)5.] 9.2751(16)(a)5.).**

Section 2. Section 9.1245 of the Eugene Code, 1971, is added to provide as follows:

9.1245 Legal Pre-Existing Structures. *The structures listed in Table 9.1245 Legal Pre-Existing Structures shall be considered to be pre-existing as long as such structures were legally established. These structures may continue, and are not subject to the provisions of sections 9.1200 through 9.1230. Determinations as to whether a particular structure qualifies as a pre-existing structure shall be made by the Planning Director.*

<i>R-1 Low Density Residential</i>	<i>Secondary Dwelling</i>	<i>Limited to those in existence on _____ [effective date of ordinance]</i>
<i>R-1 Low Density Residential</i>	<i>Accessory Building</i>	<i>Limited to those in existence on _____ [effective date of ordinance]</i>
<i>R-1 Low Density Residential</i>	<i>Alley Access Lot Dwelling</i>	<i>Limited to those in existence on _____ [effective date of ordinance]</i>
<i>R-1 Low Density Residential within the within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association</i>	<i>Secondary Dwelling, Rowhouse, Duplex, Triplex, Fourplex, Flag Lot, Alley Access Lot, Dwellings with 4 or more bedrooms, Accessory Building</i>	<i>Limited to those in existence on _____ [effective date of ordinance]</i>

Section 3. Section 9.2735 of the Eugene Code, 1971, is amended to provide as follows:

9.2735 Residential Zone Siting Requirements. In addition to the approval criteria[!] of EC 9.8865 Zone Change Approval Criteria, a property proposed for the R-1.5 zone shall not exceed the area needed to accommodate up to 8 rowhouse lots and shall be located at least 500 feet, as measured along existing street public right-of-way, from any other property zoned R-1.5. ***Zone changes to R-1.5 are prohibited within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association.***

Section 4. Section 9.2737 of the Eugene Code, 1971, is added to provide as follows:

9.2737 Residential Occupancy Requirements. *Occupancy of a dwelling is limited by the definition of family at EC 9.0500. The city manager may require a property owner to provide copies of lease or rental agreements documenting compliance with occupancy limits.*

Section 5. The text of Section 9.2740 of the Eugene Code, 1971, and the following entry in Table 9.2740, are amended to provide as follows:

9.2740 Residential Zone Land Use and Permit Requirements. The following Table 9.2740 Residential Zone Land Use and Permit Requirements identifies those uses in the residential zones that are:

- (P) Permitted[~~, subject to zone verification~~].
- (SR) Permitted, subject to an approved site review plan or an approved final planned unit development.
- (C) Subject to an approved conditional use permit or an approved final planned unit development.
- (PUD) Permitted, subject to an approved final planned unit development.
- (S) Permitted, subject to [~~zone verification and~~] the Special Development Standards for Certain Uses beginning at EC 9.5000.
- (#) The numbers in () in the table are uses that have special use limitations that are described in EC 9.2741 Special Use Limitations for Table 9.2740.

The examples listed in Table 9.2740 are for informational purposes and are not exclusive. Table 9.2740 does not indicate uses subject to Standards Review. Applicability of Standards Review procedures is set out at EC 9.8465.

Table 9.2740 Residential Zone Land Uses and Permit Requirements					
	R-1	R-1.5	R-2	R-3	R-4
Residential					
Dwellings. (All dwellings shall meet minimum and maximum density requirements in accordance with Table 9.2750 Residential Zone Development Standards unless specifically exempted elsewhere in this land use code. All dwelling types are permitted if approved through the Planned Unit Development process.)					
Rowhouse (One-Family on Own Lot Attached to Adjacent Residence on Separate Lot with Garage or Carport Access to the Rear of the Lot)	P(3)	P(3)	P	P	P

Section 6. Subsections (2), (3), (4), (5), and (6) of Section 9.2741 of the Eugene Code, 1971, are amended to provide as follows, and by moving the provisions of (2)(a) and (b) to Section 9.2751(16) as shown in Section 9 of this Ordinance:

9.2741 **Special Use Limitations for Table 9.2740.**

(2) **Secondary Dwellings.** Secondary dwellings are only permitted in R-1 and are subject to the standards [below] **beginning at EC 9.2750, except that new secondary dwellings are prohibited on alley access lots.**

~~[(a) Secondary dwellings that are within the same building as the primary dwelling shall comply with all of the following:~~

- ~~1. The dwelling shall not exceed 800 square feet unless occupying the full story of a multi-story structure with ground floor residential use.~~
- ~~2. Either the primary dwelling or the secondary dwelling shall be occupied by the property owner.~~
- ~~3. There shall be at least 1 off-street parking space on the property.~~
- ~~4. Except for flag lots, the lot shall be at least 4,500 square feet. Flag lots shall contain at least 13,500 square feet to permit a secondary dwelling.~~
- ~~5. No more than 3 dogs shall be permitted on the lot, not including the temporary keeping of one additional dog for up to 6 months in any 12-month period.~~

~~(b) In addition to the standards in subsection (a) of this section, detached secondary dwellings shall comply with the following:~~

- ~~1. Except for flag lots, the lot shall be at least 6,000 square feet. Flag lots shall contain at least 13,500 square feet.~~
- ~~2. If located within 20 feet of a property line, the maximum building height shall not exceed 15 feet.~~
- ~~3. Provide a pedestrian walkway from the street or alley to the primary entrance of the secondary dwelling.~~
- ~~4. The primary entrance to a secondary dwelling shall be defined by a roofed porch.~~
- ~~5. Outdoor storage and garbage areas shall be screened from view from adjacent properties and those across the street or alley.~~

~~Prior to issuance of a final occupancy permit for the secondary dwelling (or the primary dwelling if it is constructed later), the owner shall provide the city with a copy of a notice that has been recorded with the Lane County Clerk that documents the requirement that the secondary dwelling or primary dwelling is, and will remain, owner/occupied.]~~

(3) **Rowhouses.**

(a) ***In R-1, new rowhouses are prohibited within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association.***

(b) In R-1.5, rowhouses shall comply with all of the following:

- (a)1. **Maximum Building Size:** Eight rowhouses in a building, no more than 180 feet in width.
- (b)2. **Minimum Interior or Rear Open Space Required:** 400 square feet per rowhouse with a minimum smallest dimension of 14 feet.
- (c)3. Auto access and parking shall be provided from the alley to the rear of the lot; there shall be no auto access from the front of the lot.
- (d)4. Siting requirements of EC 9.2735.

(4) **Duplex.** When located in R-1, a duplex shall conform to 1 of the following standards **below, except that new duplexes are prohibited within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and**

South University Neighborhood Association:

- (a) The duplex was legally established on August 1, 2001.
- (b) The duplex is on a corner lot abutting public streets as provided in EC 9.2760 Residential Zone Lot Standards, which is at least 8,000 square feet in size.
- (c) The duplex is on a lot that was identified as being developable for a duplex on a subdivision plat.
- (5) **Triplex.** When located in R-1, a triplex shall be on a lot that was identified as a triplex lot in a subdivision, **except that new triplexes are prohibited within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association.**
- (6) **Four[-]plex.** When located in R-1, a fourplex shall be on a lot that was identified as a four[-]plex lot in a subdivision, **except that new fourplexes are prohibited within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association.**

Section 7. Section 9.2750 of the Eugene Code, 1971, is amended to provide as follows:

9.2750 Residential Zone Development Standards. In addition to applicable provisions contained elsewhere in this code, the development standards listed in this section and in EC 9.2751 to EC 9.2777 shall apply to all development in residential zones. In cases of conflicts, standards specifically applicable in the residential zone shall apply.

The following Table 9.2750 sets forth the residential zone development standards, subject to the special development standards in EC 9.2751.

Table 9.2750 Residential Zone Development Standards (See EC 9.2751 Special Development Standards for Table 9.2750.)					
	R-1	R-1.5	R-2	R-3	R-4
Density (1)					
Minimum Net Density per Acre	No Minimum	--	10 units	20 units	20 units
Maximum Net Density per Acre	14 units	--	28 units	56 units	112 units
Maximum Building Height (2), (3), (4), (5)					
Main Building. Includes Secondary Dwellings Within the Main Building, but does not include main building on an Alley Access Lot.	30 feet	35 feet	35 feet	50 feet	120 feet
Main Building on Alley Access Lot	See EC 9.2779(4)	--	--	--	--
Accessory Building. [Includes Secondary Dwellings Detached from Main Building (See EC 9.2741(2)(b) if located within 20 feet of property line.)]	[20 feet] See (15)	20 feet	25 feet	30 feet	30 feet
Secondary Dwelling Detached from Main Building	See (16)	--	--	--	--

Table 9.2750 Residential Zone Development Standards (See EC 9.2751 Special Development Standards for Table 9.2750.)					
	R-1	R-1.5	R-2	R-3	R-4
Minimum Building Setbacks (2), (4), (6), (9), (10), (11)					
Front Yard Setback (excluding garages and carports)	10 feet	10 feet	10 feet	10 feet	10 feet
Front Yard Setback for Garage Doors and Carports [(12)](11)	18 feet	--	18 feet	18 feet	18 feet
Interior Yard Setback (except where use, structure, location is more specifically addressed below)(7)	5 feet or minimum of 10 feet between buildings	--	5 feet or minimum of 10 feet between buildings	5 feet or minimum of 10 feet between buildings	5 feet or minimum of 10 feet between buildings
Interior Yard Setback for Education, Government and Religious Uses.	15 feet	--	15 feet	15 feet	15 feet
Interior Yard Setback for Buildings Located on Flag Lots in R-1 Created After December 25, 2002 (See EC 9.2775(5)(b))	10 feet	--	--	--	--
Interior Yard Setback for Alley Access Lots in R-1	See EC 9.2779(4)	--	--	--	--
Area-[s]Specific Interior Yard Setback	--	--	--	See (8)	See (8)
Maximum Lot Coverage					
All Lots, Excluding Alley Access Lots in R-1 and Rowhouse Lots	50% of Lot	--	50% of Lot	--	--
Alley Access Lots in R-1	See EC 9.2779(4)	--	--	--	--
Rowhouse Lots	75% of Lot	75% of Lot	75% of Lot	75% of Lot	75% of Lot
Outdoor Living Area [(13)](12)					
Minimum Total Open Space	--	--	20% of dev. site	20% of dev. [S]site	20% of dev. [S]site
Fences [(14)](13)					
[(Maximum Height Within Interior Yard Setbacks)]	6 feet	42 inches	6 feet	6 feet	6 feet
[(Maximum Height within Front Yard Setbacks)]	42 inches	42 inches	42 inches	42 inches	42 inches
Driveways and Parking Areas [(15)](14)					
General Standards	--	--	--	See [(15)] (14)(b)	See [(15)] (14)(b)
Area-Specific	See (14)(a)	--	--	--	--
Accessory Buildings in R-1 (15)					

Table 9.2750 Residential Zone Development Standards (See EC 9.2751 Special Development Standards for Table 9.2750.)					
	R-1	R-1.5	R-2	R-3	R-4
General Standards	See (15)(a)	--	--	--	--
Area-Specific	See (15)(b)	≡	≡	≡	≡
Secondary Dwelling Units (16)					
General Standards	See (16)(a)-(b)	--	--	--	--
Area-Specific	See (16)(c)	--	--	--	--
Maximum Bedroom Count (17)					
Area-Specific	See (17)	--	--	--	--

Section 8. Figure 9.2751(14)(b)1. is relabeled as Figure 9.2751(13)(b)1. as shown on Exhibit A attached hereto; Figure 9.2751(15) is relabeled as Figure 9.2751(14)(b) as shown on Exhibit B attached hereto; Figure 9.2751(15)(a)2.a. is added as shown on Exhibit C attached hereto; Figure 9.2751(16)(b)5.a. is added as shown on Exhibit D attached hereto.

Section 9. Subsections (3) and (8) of Section 9.2751 of the Eugene Code, 1971, are amended; subsection (11) is deleted and subsections (12) – (15) are renumbered as (11) - (14) respectively; renumbered subsections (13) and (14) are amended; and new subsections (15), (16) and (17) are added to provide as follows:

9.2751 Special Development Standards for Table 9.2750.

(3) Building Height.

- (a) Except as provided in (b) and (c) below, in the R-3 and R-4 zone, the maximum building height shall be limited to 30 feet for that portion of the building located within 50 feet from the abutting boundary of, or directly across an alley from, land zoned R-1.
- (b) For that area bound by Patterson Street to the west, Agate Street to the east, East 18th Avenue to the north and East 20th Avenue to the south:
 1. In the R-3 zone between 19th and 20th Avenues, the maximum building height is 35 feet.
 2. In the R-4 zone west of Hilyard Street, the maximum building height is 65 feet.
 3. In the R-4 zone east of Hilyard Street, the maximum building height is:
 - a. 35 feet within the area south of 19th Avenue;
 - b. 50 feet within the half block abutting the north side of 19th Avenue;
 - c. 65 feet within the half block abutting the south side of 18th Avenue.

(See Figure 9.2751(3)).

- (c) For that area bound by Hilyard Street to the west, Kincaid Street to the east, East 13th Alley to the north and East 18th Avenue to the south the maximum building height is 65 feet.

(See Figure 9.2751(3)).

- (d) An additional 7 feet of building height is allowed for roof slopes of 6:12 or steeper in the R-1, R-2, R-3 and R-4 zones, **except that this additional building height allowance is not permitted for secondary dwellings, accessory buildings in the R-1 zone, or development on alley access lots.**

- (8) Area-Specific Interior Yard Setback.** For R-3 and R-4 zoned properties located in the area bound by Hilyard Street to the west, Agate Street to the east, East 19th Avenue to the north and East 20th Avenue to the south and that are abutting or across an alley from R-1 zoned property:

- (a) The interior yard setback shall be a minimum of 10 feet from the property line abutting or across an alley from R-1 zoned property; and
 (b) At a point that is 25 feet above finished grade, the setback shall slope at the rate of 7 inches vertically for every 12 inches horizontally away from the property line abutting or across an alley from R-1 zoned property until a point not to exceed allowable building height at EC 9.2751(3)(b).

The allowances for setback intrusions provided at EC 9.6745(3) do not apply within the setback described in (a) and (b) above, except that eaves and chimneys are allowed to project into this setback no more than 2 feet. **(See Figure 9.2751(8))**

- ~~[(11) Alley access parcels shall be subject to the provisions of this section for all yards, including the yard adjacent to the property line separating the alley access parcel from the original parent parcel. Alley access parcels have only interior yard setbacks. There are no front yard setbacks since there is no frontage on a street.]~~

- (121)** The 18 foot setback requirement for garages and carports is measured through the centerline of the driveway from the front property line to either the garage door or to the frontmost support post of a carport.

- (132)** For multiple-family projects, refer to EC 9.5500(9) Open Space.

(143) Fences.

- (a) Types. The type of fence (including walls or screens) used is subject to specific requirements stated in the landscape standards beginning at EC 9.6200 Purpose of Landscape Standards. The standards apply to walls, fences, and screens of all types including open, solid, wood, metal, wire, masonry or other material. Use of barbed wire and electric fencing is regulated in EC 6.010(d) Fences.
- (b) Location and Heights.
1. Fences up to 42 inches in height are permitted within the required front yard setback. For corner lots or double frontage lots, a fence between 42 inches and 6 feet in height is permitted within one of the two front yard setbacks, so long as for corner lots, this fence cannot extend past a line created by an extension of the front wall of the dwelling. **(See Figure 9.2751[(14)](13)(b)1.)**
 2. Fences up to 6 feet in height are permitted within the required interior yard setback.
 3. The height of fences that are not located within the required setback areas is the same as the regular height limits of the zone.

4. Fences must meet the standards in EC 9.6780 Vision Clearance Area.
- (154) **Driveways and Parking Areas [in R-3 and R-4].**
- (a) ***R-1 Zone.*** *Within the city-recognized boundaries of the Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association, the following standards apply when a new dwelling or a new parking area serving residential uses is created in the R-1 zone, except for alley access lots, flag lots, and lots on the east side of Fairmount Boulevard:*
1. *A lot shall have no more than one driveway accessed from a street.*
 2. *The total number of parking spaces shall be limited to 2 per lot, not including parking within a garage.*
 3. *The driveway and associated parking shall be perpendicular to the street.*
 4. *A driveway and associated parking area shall not exceed 22 feet in width by 18 feet in depth for side by side parking spaces, or 12 feet in width by 33 feet in depth for tandem parking spaces.*
 5. *Driveways and associated parking spaces shall be hard-surfaced with asphalt, concrete, pavers or grass-crete. No parking shall be allowed outside of the hard-surfaced area.*
- (b) ***R-3 and R-4 Zones.*** Except for development subject to the Multi-Family Development standards at EC 9.5500 and development authorized through a planned unit development approved prior to June 15, 2012, the following standards apply when a new dwelling or new parking area serving residential uses is created in the R-3 or R-4 zones.
- (a) 1. Except for corner lots, a lot may have no more than one driveway accessed from a street. For corner lots, one driveway on each street frontage may be provided if allowed per EC 9.6735.
 - (b) 2. Abutting lots may share a driveway provided such a driveway is allowed under Chapter 7 of this code. When shared driveways are provided, no additional driveways are permitted on that street frontage for either lot sharing the driveway.
 - (c) 3. Except for a driveway and associated parking area shared by two adjoining lots ("shared driveway"), no driveway or associated parking area shall be located in the interior yard setback adjacent to a property line, except in an interior yard setback that is adjacent only to an alley.
 - (d) 4. Consistent with the standards in this subsection, a driveway and associated parking area may be located between any structure and the street or alley.
 - (e) 5. When a driveway and associated parking area is provided from an alley, the driveway and associated parking area shall not extend further than the street facing façade of the building closest to the street.
 - (f) 6. Except for shared driveways and as provided in [(h)] 8. below, when a driveway and associated parking area is accessed from a street, the driveway and associated parking area shall not exceed 22 feet in width. Shared driveways and associated parking areas shall not exceed 24 feet in width.

- ~~(g)~~7. Except as provided in [~~(h)~~] 8. below, a driveway and associated parking area accessed from a street shall be a minimum of 18 feet in depth and a maximum of 33 feet in depth, measured from the front lot line. The driveway and associated parking area shall be perpendicular to the adjacent street.
- ~~(h)~~8. When a parking area is provided behind the structure and accessed from a street, the driveway shall be perpendicular to the street until it serves the associated parking area and shall not exceed 20 feet in width.
- ~~(i)~~9. All portions of required front yard setbacks not otherwise covered by a legal driveway or by projecting building features as allowed per EC 9.6745(3) shall be landscaped and maintained with living plant material, except that a pedestrian path, not to exceed 4 feet in width, may be allowed from the street to the entrance of a dwelling. The pedestrian path shall be separated from any vehicle use areas by a minimum of 3 feet. The area between the vehicle use area and the pedestrian path shall be landscaped and maintained with living plant material.
- ~~(j)~~10. No parking shall occur in the landscaped portion of the required front yard setback.
- ~~(k)~~11. Adjustments to the standards in subsection [~~(i)~~] 9. may be made, based on the criteria at EC 9.8030(30).

(See Figure 9.2751[~~(45)~~](14)(b))

(15) Accessory Buildings in R-1.

- (a) **General Standards.** *Except as provided in subsection (b) below, the following standards apply to all new accessory buildings in the R-1 zone that are detached or that share a common wall with the primary dwelling for less than 8 feet:*

1. Building Size.

- a. *For accessory buildings on development sites (with a dwelling) that are 13,500 square feet or less in area, the maximum square footage of all accessory buildings shall not exceed 1,000 square feet.*
- b. *For accessory buildings on development sites (with a dwelling) that are greater than 13,500 square feet and less than 43,560 square feet, the maximum square footage of all accessory buildings shall be 10 percent of the area of the development site but in no case shall the total square footage of all accessory buildings exceed 3,000 square feet.*
- c. *For accessory buildings on development sites 43,560 square feet or greater in area, or on development sites with a non-residential use, there is no building size limitation.*

For the purposes of calculating area, all floors of a multi-story structure shall be included.

2. Building Height/Setback.

- a. *For accessory buildings on development sites (with a dwelling) that are 13,500 square feet or less in area, interior yard setbacks shall be at least 5 feet. In addition, at a point that is 12 feet above finished grade,*

- the setback shall slope at 6:12 pitch horizontally away from the property line to a maximum building height of 22 feet. (See Figure 9.2751(15)(a)2.a.)*
- b. For accessory buildings on development sites greater than 13,500 square feet in area or on development sites with a non-residential use, the interior yard setback shall be at least 10 feet. In addition, at a point that is 12 feet above finished grade, the setback shall slope at 10:12 pitch horizontally away from the property line to a maximum building height of 25 feet.*
- 3. Use. No accessory building shall be rented, advertised, represented or otherwise used as an independent dwelling. An accessory building shall be limited to 2 plumbing fixtures, except that an accessory building may have 3 plumbing fixtures if, prior to the city's issuance of a building permit for the accessory building, the owner records a deed restriction with the Lane County Clerk, on a form approved by the city, that includes the following provisions:*
- a. The accessory building may not be rented, advertised, represented, or otherwise used as an independent dwelling.*
- b. The deed restriction runs with the land and binds the property owner(s), heirs, successors and assigns.*
- c. The deed restriction may be terminated, upon approval by the city, at such time as the city code no longer limits the use of said accessory building for residential uses, or upon removal of the accessory building.*
- 4. Pre-existing Structures. Legally established accessory buildings that conform to the development standards required in the R-1 zone prior to _____ [effective date of ordinance] are subject to Table 9.1245 Legal Pre-Existing Structures.*
- 5. Adjustment Review. The standards in EC 9.2751(15)(a)1. and 2. regarding building size and building height/setback may be adjusted, based on the criteria at EC 9.8030(34). For accessory buildings in the R-1, these are the only standards that may be adjusted.*
- (b) Area-Specific Standards. The following standards apply to all new accessory buildings associated with a dwelling in the R-1 zone within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association that are detached or that share a common wall with the primary dwelling for less than 8 feet:*
- 1. In addition to any accessory buildings legally established prior to _____ [effective date of ordinance], one accessory building is allowed.*
- 2. The accessory building shall not exceed 400 square feet in area.*
- 3. The accessory building shall not exceed 18 feet in height.*
- 4. An accessory building greater than 200 square feet in area shall have a minimum roof pitch of 6 inches vertically for*

every 12 inches horizontally.

5. **No accessory building shall be rented, advertised, represented or otherwise used as an independent dwelling.**
 6. **The accessory building shall not include more than one plumbing fixture.**
 7. **For an accessory building with one plumbing fixture, prior to the city's issuance of a building permit for the accessory building, the owner shall provide the city with a copy of a deed restriction on a form approved by the city that has been recorded with the Lane County Clerk. The deed restriction must include the following statements:**
 - a. **The accessory building shall not be rented, advertised, represented or otherwise used as an independent dwelling.**
 - b. **If the property owner is unable or unwilling to fulfill the requirements of the Eugene Code for use of the accessory building, then the property owner shall discontinue the use and remove the plumbing fixture from the building.**
 - c. **Lack of compliance with the above shall be cause for code enforcement under the provisions of the applicable Eugene Code.**
 - d. **The deed restriction shall lapse upon removal of the accessory building or removal of the plumbing fixture. The City must approve removal of deed restriction.**
 - e. **The deed restriction shall run with the land and be binding upon the property owner, heirs and assigns and is binding upon any successor in ownership of the property.**
- (16) **Secondary Dwelling.**
- (a) **General Standards for Attached Secondary Dwellings. Except as provided in subsection (c) below, secondary dwellings that are within the same building as the primary dwelling shall comply with all of the following:**
 1. **Lot Area. To allow for a secondary dwelling, the lot shall contain at least 4,500 square feet except that flag lots shall contain at least 13,500 square feet.**
 2. **Building Size. The secondary dwelling shall not exceed 800 square feet of total building square footage, measured at the exterior perimeter walls. Total building square footage is defined as all square footage inside of the dwelling, including, but not limited to hallways, entries, closets, utility rooms, stairways and bathrooms.**
 3. **Minimum Attachment. The secondary dwelling and the primary dwelling must share a common wall or ceiling for a minimum length of 8 feet to be considered attached.**
 4. **Maximum Bedrooms. The secondary dwelling unit shall contain no more than 2 bedrooms.**
 5. **Dog Keeping. No more than 3 dogs shall be permitted on the lot, not including the temporary keeping of one additional dog for up to 6 months in any 12-month period.**

6. **Ownership/Occupancy Requirements.** *Either the primary dwelling or the secondary dwelling shall be the principal residence of the property owner. The principal residence must be occupied for a minimum of 6 months of each calendar year by a property owner who is the majority owner of the property as shown in the most recent Lane County Assessor's roll. If there is more than one property owner of record, the owner with the majority interest in the property shall be deemed the property owner. Any property owner of record holding an equal share in the property may be deemed the majority owner if no other owner owns a greater interest. The principal residence cannot be leased or rented when not occupied by the property owner. Prior to the city's issuance of the building permit for the secondary dwelling (or the primary dwelling if it is constructed later) the property owner must provide the city with a copy of the property deed to verify ownership and two forms of documentation to verify occupancy of the primary residence. Acceptable documentation for this purpose includes voter's registration, driver's license, homeowner's insurance, income tax filing, and/or utility bill. When both the primary and secondary dwelling are constructed at the same time, such documentation must be provided prior to final occupancy.*
7. **Temporary Leave.** *Notwithstanding subsection 6. above, a property owner may temporarily vacate the principal residence for up to one year due to a temporary leave of absence for an employment, educational, volunteer opportunity, or medical need. The property owner must provide the city proof of temporary leave status from the property owner's employer, educational facility, volunteer organization or medical provider, and a notarized statement that the property owner intends to resume occupancy of the principal residence after the one year limit. During the temporary leave, the property owner may rent or lease both units on the property. Leaves in which property owner is temporarily absent shall not be consecutive and shall not occur more than once every 5 years.*
8. **Deed Restriction.** *Prior to issuance of a building permit for the secondary dwelling (or the primary dwelling if it is constructed later), the owner shall provide the city with a copy of a deed restriction on a form approved by the city that has been recorded with the Lane County Clerk. The deed restriction must include a reference to the deed under which the property was acquired by the present owner and include the following provisions:*
- a. *One of the dwellings must be the principal residence of a property owner who is the majority owner of the property. Requirements for occupancy shall be determined according to the applicable provisions of the Eugene Code.*

- b. *The deed restriction runs with the land and binds the property owner(s), heirs, successors and assigns.*
 - c. *The deed restriction may be terminated, upon approval by the City, when one of the dwellings is removed, or at such time as the city code no longer requires principal occupancy of one of the dwellings by the owner.*
9. **Verification.** *At least once every two years, the property owner shall provide to the city documentation of compliance with the ownership and occupancy requirements of subsection 6. above. The property owner must provide a copy of the current property deed to verify ownership and two forms of documentation to verify occupancy of the principal residence. Acceptable documentation for this purpose includes voter's registration, driver's license, homeowner's insurance, income tax filing, and/or utility bill.*
- (b) **General Standards for Detached Secondary Dwellings.** *In addition to the standards in subsection (a) of this section, detached secondary dwellings shall comply with the following, except as provided in subsection (c) below:*
- 1. **Lot Area.** *To allow for a secondary dwelling, the lot shall contain at least 6,000 square feet, except that flag lots shall contain at least 13,500 square feet.*
 - 2. **Building Size.** *Up to 300 square feet of un-heated garage or storage space attached to the secondary dwelling unit is allowed and is not counted in the allowable total building square footage.*
 - 3. **Pedestrian Access.** *A pedestrian walkway shall be provided from the street or alley to the primary entrance of the secondary dwelling. The pedestrian walkway shall be a hard surface (concrete, asphalt or pavers) and shall be a minimum of 3 feet in width.*
 - 4. **Primary Entrance.** *The primary entry to a secondary dwelling shall be defined by a covered or roofed entrance with a minimum roof depth and width of no less than 3 feet.*
 - 5. **Outdoor Storage/Trash.** *Outdoor storage and garbage areas shall be screened from view from adjacent properties and those across the street or alley with a minimum 42-inch tall 100-percent site obscuring fence or enclosure on at least three sides.*
 - 6. **Building Height/Sloped Setback.**
 - a. *For detached secondary dwellings located within 20 feet of a property line:*
 - (1) *Interior yard setbacks shall be at least 5 feet. In addition, for roof slopes less than 5:12, at a point that is 12 feet above finished grade, the setback shall slope at the rate of 6 inches vertically for every 12 inches horizontally away from the property line until a point not to exceed a maximum building height of 15 feet.*
 - (2) *Interior yard setbacks shall be at least 5 feet. In addition, for roof slopes 5:12 or greater, at a point*

that is 12 feet above finished grade, the setback shall slope at the rate of 6 inches vertically for every 12 inches horizontally away from the property line until a point not to exceed a maximum building height of 18 feet.

- b. For detached secondary dwellings located 20 feet or more from all property lines, the maximum building height is 24 feet.*
 - c. The allowances for setback intrusions provided at EC 9.6745(3) do not apply within the setback described in a. above, except that eaves, chimneys and gables are allowed to project into this setback no more than 2 feet. (See Figure 9.2751(16)(b)5.a.)*
- 7. Maximum Wall Length. Along the vertical face of the dwelling, offsets shall occur at a minimum of every 25 feet by providing at least one of following: recesses or extensions, including entrances, a minimum depth of 2 feet and a minimum width of 5 feet for the full height of the wall. Full height is intended to mean from floor to ceiling (allowing for cantilever floor joists).**
- (c) Area-Specific Standards. The following standards apply to all new attached or detached secondary dwellings in the R-1 zone within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood:**
- 1. Lot Area. To allow for secondary dwelling, the lot shall contain at least 7,500 square feet.**
 - 2. Lot Dimension. The boundaries of the lot must be sufficient to fully encompass an area with minimum dimensions of 45 feet by 45 feet.**
 - 3. Lot Coverage. The lot shall meet the lot coverage requirements for R-1, except that all roofed areas shall be included as part of the calculation of lot coverage.**
 - 4. Vehicle Use Area. The maximum area covered by paved and unpaved vehicle use areas including but not limited to driveways, on-site parking and turnarounds, shall be limited to 20 percent of the total lot area.**
 - 5. Building Size. For lots at least 7,500 square feet and less than 9,000 square feet in area, the secondary dwelling shall not exceed 600 square feet of total building square footage. For lots at least 9,000 square feet in area, the secondary dwelling shall not exceed 800 square feet of total building square footage. Total building square footage is defined as all square footage inside of the dwelling, including, but not limited to hallways, entries, closets, utility rooms, stairways and bathrooms.**
 - 6. Minimum Attachment. The standards at EC 9.2751(16)(a)3. are applicable.**
 - 7. Maximum Bedrooms. For lots with a primary dwelling containing 3 or fewer bedrooms, the secondary dwelling shall be limited to 2 bedrooms. For lots with a primary dwelling containing 4 or more bedrooms, the secondary dwelling shall**

- be limited to 1 bedroom.*
8. **Maximum Occupancy.** *For lots with a primary dwelling containing 3 or fewer bedrooms, the secondary dwelling shall be limited to 3 occupants. For lots with a primary dwelling containing 4 or more bedrooms, the secondary dwelling shall be limited to 2 occupants.*
 9. **Building Height/Interior Sloped Setback.** *For detached secondary dwellings:*
 - a. *The interior yard setback shall be at least 5 feet from the interior lot line. In addition, at a point that is 8 feet above grade, the setback shall slope at the rate of 10 inches vertically for every 12 inches horizontally (approximately 40 degrees from vertical) away from the lot line until a point not to exceed a maximum building height of 18 feet.*
 - b. *The allowances for setback intrusions provided at EC 9.6745(3) do not apply within the setback described in a. above, except that eaves, chimneys and gables are allowed to project into this setback no more than 2 feet.*
 10. **Dog Keeping.** *The standards at EC 9.2751(16)(a)5. are applicable.*
 11. **Ownership/Occupancy Requirements.** *The standards at EC 9.2751(16)(a)6. are applicable.*
 12. **Temporary Leave.** *The standards at EC 9.275(16)(a)7. are applicable.*
 13. **Deed Restriction.** *The standards at EC 9.2751(16)(a)8. are applicable. In addition, the applicable occupancy limitation at EC 9.2751(16)(c)8. above must be included in the deed restriction.*
 14. **Verification.** *The standards at EC 9.2751(16)(a)9. are applicable.*
 15. **Parking.** *For the primary dwelling, there shall be a minimum of one and a maximum of two parking spaces on the lot. There shall be one additional parking space on the lot for the exclusive use for the occupants and guests of the secondary dwelling.*
 16. **Alley Access Parking and Driveway.** *The standards EC 9.2779(4)(k) are applicable to attached and detached secondary dwellings where primary vehicle access for the required parking is from an alley.*
 17. **Pedestrian Access.** *The standards at EC 9.2751(16)(b)3. are applicable to attached and detached secondary dwellings, except that if primary vehicle access for the required parking is from an alley, the path must be provided from the alley.*
 18. **Primary Entrance.** *The standards at EC 9.2751(16)(b)4. are applicable to detached secondary dwellings only.*
 19. **Outdoor Storage/Trash.** *The standards at EC 9.2751(16)(b)5. are applicable to detached secondary dwellings only.*
 20. **Maximum Wall Length.** *The standards at EC 9.2751(16)(b)7. are applicable for detached secondary dwellings only.*
- (d) **Adjustment Review.** *The standards at EC 9.2751(16)(a)7. regarding*

temporary leave and at EC 9.2751(16)(b)6. regarding building height (to allow for a secondary dwelling over an accessory building) may be adjusted in accordance with EC 9.8030(35). Additionally, an adjustment may be requested to convert an existing building into a secondary dwelling in accordance with EC 9.8030(35) if the existing building does not meet the above standards. For secondary dwellings, these are the only standards that may be adjusted. These standards are not adjustable for secondary dwellings within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood.

- (e) **Pre-Existing Structures.** *Legally established secondary dwellings that conform to the development standards required in the R-1 zone prior to _____ [effective date of ordinance] are subject to Table 9.1245 Legal Pre-Existing Structures.*
 - (f) **Enforcement.** *Failure to adhere to the standards required under this section shall constitute a violation subject to the enforcement provisions of section 9.0000 through 9.0280 General Administration.*
- (17) **Maximum Bedroom Count.** *In the R-1 zone within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association, the maximum allowable number of bedrooms in a dwelling shall be as follows:*
- (a) *New dwellings approved after _____ [effective date of ordinance] shall be limited to 3 bedrooms; or*
 - (b) *Additions, expansions or alterations that add bedroom(s) to a dwelling in existence on _____ [effective date of ordinance] shall be limited to 3 bedrooms total, except that additional bedroom(s) may be added beyond 3 if, prior to the city’s issuance of a building permit for the addition, expansion or alteration that adds bedroom(s), the owner records a deed restriction with the Lane County Clerk, on a form approved by the city, that includes the following provisions:*
 - 1. *The maximum number of unrelated individuals living in dwelling shall be limited to 3.*
 - 2. *The deed restriction runs with the land and binds the property owner(s), heirs, successors and assigns.*
 - 3. *The deed restriction may be terminated, upon approval by the city, when bedrooms are removed so that there are 3 bedrooms, or at such time as the city code no longer requires a bedroom/occupancy limit in accordance with this section.*

Section 10. Section 9.2760 of the Eugene Code, 1971, is amended to provide as follows:

9.2760 Residential Zone Lot Standards. The following Table 9.2760 sets forth residential zone lot standards, subject to the special standards in EC 9.2761.

Table 9.2760 Residential Zone Lot Standards (See EC 9.2761 Special Standards for Table 9.2760.)					
	R-1	R-1.5	R-2	R-3	R-4

Table 9.2760 Residential Zone Lot Standards (See EC 9.2761 Special Standards for Table 9.2760.)					
	R-1	R-1.5	R-2	R-3	R-4
Lot Area Minimum (1)					
Lots, except Rowhouse Lots, Small Lots, Duplex Lots, Triplex Lots, Fourplex Lots, Residential Flag Lots, Duplex Division Lots, Alley Access Lots	4,500 square feet	--	4,500 square feet	4,500 square feet	4,500 square feet
Small Lots (2)	Per Cluster Subdivision or PUD	--	2,250 square feet or per Cluster Subdivision or PUD	2,250 square feet or per Cluster Subdivision or PUD	2,250 square feet or per Cluster Subdivision or PUD
Rowhouse Lots (3) (Rowhouse lots shall be indicated on the final plat and shall be developed with a rowhouse.)	1,600 square feet	1,600 square feet	1,600 square feet	1,600 square feet	1,600 square feet
Duplex Lots (In R-1, a duplex lot shall be indicated on the final subdivision plat as developable as a duplex. Such lots may not be created by a partition. Alternatively, a duplex lot may be located on a corner lot that contains at least 8,000 square feet.)	8,000 square feet	--	--	--	--
Triplex Lots (In R-1, lots shall be indicated on the final subdivision plat as developable as a triplex. Such lots may not be created by a partition)	12,000 square feet	--	--	--	--
Fourplex Lots (In R-1, lots shall be indicated on the final plat and shall be developed as a fourplex.)	16,000 square feet	--	--	--	--
Residential Flag Lot (4) (Existing lot shall be at least 13,500 square feet.)	6,000 square feet	--	6,000 square feet	6,000 square feet	6,000 square feet
Duplex Division Lots (8) (Existing lot shall be at least 8,000 square feet.)	3,600 square feet	--	3,600 square feet	3,600 square feet	3,600 square feet
Alley Access Lot (11) (Existing lot or lots shall be at least 9,000 square feet)	2,250 square feet	--	--	--	--
Lot Frontage Minimum (1)					
Interior Lot	50 feet	20 feet	35 feet (9)	35 feet (9)	35 feet (9)
Corner Lot	50 feet	20 feet	35 feet (9)	35 feet (9)	35 feet (9)
Curved Lot	35 feet	20 feet	35 feet (9)	35feet (9)	35feet (9)
Cul-de-sac Bulb Lot	35 feet	20 feet	20 feet	20 feet	20 feet

Table 9.2760 Residential Zone Lot Standards (See EC 9.2761 Special Standards for Table 9.2760.)					
	R-1	R-1.5	R-2	R-3	R-4
Residential Flag Lot (4)					
1 Lot	15 feet		15 feet	15 feet	15 feet
2 to 4 Lots	25 feet		25 feet	25 feet	25 feet
Rowhouse Lot	15 feet	15 feet	15 feet	15 feet	15 feet
Alley Access Lot (11)	0 feet	--	--	--	--
Lot Width Minimum (1)					
Interior Lot (7)	50 feet	20 feet	35 feet (9)	35 feet (9)	35 feet (9)
Corner Lot	50 feet	20 feet	35 feet (9)	35 feet (9)	35 feet (9)
Curved Lot	35 feet	20 feet	35 feet (9)	35 feet (9)	35 feet (9)
Cul-de-sac Bulb Lot	35 feet	20 feet	20 feet	20 feet	20 feet
Residential Flag Lot (4)	50 feet		--	--	
Rowhouse Lot	15 feet	15 feet	15 feet	15 feet	15 feet
Alley Access Lot (11)	50 feet	--	--	--	--
Lot Area Maximum (5)					
{{[New subdivisions and partitions only]}, except for Alley Access Lots	13,500 square feet	--	--	--	--
Alley Access Lot	5,000 square feet	--	--	--	--
Housing Mix Maximum (6)					
Duplex	See EC 9.2741(4)	–	–	–	–
Triplex	See EC 9.2741(5)	–	–	–	–
Four[-]plex	See EC 9.2741(6)	–	–	–	–

Section 11. Subsections (2), (3), (4) and (8) of Section 9.2761 of the Eugene Code,

1971, are amended, and a new subsection (11) is added, to provide as follows:

9.2761 Special Standards for Table 9.2760.

- (2) **Small Lots.** Lots shall comply with other small lot provisions unless approved as a cluster subdivision or a Planned Unit Development (PUD). (See EC 9.2770 Small Lot Standards for R-2, R-3 and R-4 Zones.)
- (3) **Rowhouse Lots.**
- (a) In R-1, rowhouse lots can be created only in a subdivision created after August 1, 2001 that contains 10 or more lots and where the overall residential density in the subdivision complies with Table 9.2750 Residential Zone Development Standards, **except that the creation of new rowhouse lots is prohibited within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association.**
- (b) In all zones, rowhouses shall have street frontage for the residence and alley access for off-street parking.
- (4) **Flag Lots.**
- (a) No variances to residential flag lot standards are allowed.

- (b) ~~[Minimum lot area excludes the pole portion of the lot.]~~ ***The creation of new flag lots is prohibited in the R-1 zone within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association.***
- (c) Other residential flag lot standards also apply. (See EC 9.2775 Residential Flag Lot Standards for R-1, R-2, R-3 and R-4.)
- (8) ***Duplex Division Lots.*** Duplex division lots shall comply with other duplex division provisions. (See EC 9.2777 Duplex Division Lot Standards.)
- (11) ***Alley Access Lots.***
 - (a) ***The creation of new alley access lots is prohibited in the R-1 zone within the boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association.***
 - (b) ***Alley access lots shall comply with other alley access lot standards. (See EC 9.2779 Alley Access Lot Standards.)***

Section 12. Figure 9.2779(4)(e)1. is added as shown on Exhibit E attached hereto;

Figure 9.2779(4)(k) is added as shown on Exhibit F attached hereto; and Section 9.2779 of the Eugene Code, 1971, is added to provide as follows:

9.2779 Alley Access Lot Standards

- (1) ***Purpose. To provide opportunities for single family housing variety and choice, home ownership, and affordable housing, and to promote the efficient use of residential land by allowing the creation of a lot that fronts an alley rather than a street. Development standards are included to specifically address design considerations and compatibility.***
- (2) ***Land Division Regulations.***
 - (a) ***Original Lot. The original lot or lots shall be a minimum of 9,000 square feet in area prior to the creation of the alley access lot. If the original lot(s) meet(s) the required lot area and dimensions to create a flag lot or an alley access lot, only an alley access lot shall be created.***
 - (b) ***Front Lot: The street fronting lot shall meet the lot standards for R-1 lots***
 - (c) ***Lot Area. The alley access lot shall be a minimum of 2,250 square feet, a maximum of 5,000 square feet and shall not exceed 40 percent of the area of the original lot.***
 - (d) ***Lot Width. The alley access lot shall have a minimum width of 50 feet, and shall abut the alley for a minimum width of 50 feet.***
 - (e) ***Lot Depth. No portion of the alley access lot shall have a depth of less than 35 feet.***
 - (f) ***Distance from Street. The corner of the alley access lot closest to the street shall be a maximum of 125 feet from the centerline of the alley where it intersects with the curb of the street.***
 - (g) ***Alley Improvement. The minimum improvement width for the alley shall be 12 feet.***
- (3) ***Use Regulations. Alley access lots have the same land use regulations as the base zone except that there is no allowance for a secondary dwelling unit.***

- (4) **Development Standards.**
- (a) **Applicability.** *The following standards apply to all alley access lots existing as of _____ [effective date of ordinance] and to new alley access lots.*
- (b) **General.** *All base zone requirements must be met, unless otherwise stated in this section.*
- (c) **Building Size.** *An alley access lot dwelling shall not exceed 1,000 square feet of total building square footage, measured at the exterior perimeter walls. For alley access lots, total building square footage is defined as all square footage inside of the dwelling, including, but not limited to hallways, entries, closets, utility rooms, stairways and bathrooms. For one and one-half story structures, a maximum of 400 square feet of the total building square footage can be on the upper floor.*
- (d) **Lot Coverage.** *Alley access lots shall meet the lot coverage requirements for R-1, except that all roofed areas shall be included as part of the calculation of lot coverage.*
- (e) **Building Height/Interior Setback.**
1. *Interior yard setbacks shall be at least 5 feet, including along the alley frontage. In addition, at a point that is 14 feet above finished grade, the setback shall slope at the rate of 8 inches vertically for every 12 inches horizontally away from the property line perpendicular to the alley until a point not to exceed a maximum building height of 24 feet.*
 2. *The allowances for setback intrusions provided at EC 9.6745(3) do not apply within the setback described in 1. above, except that eaves, chimneys and gables are allowed to project into this setback no more than 2 feet.
(See Figure 9.2779(4)(e)1.)*
- (f) **Windows, Dormers and Balconies.**
1. *Any window on the upper story must be located a minimum of 10 feet from any property line.*
 2. *Up to two dormers are allowed on the side of the dwelling facing the alley. Dormers are limited to a maximum width of 10 feet. Dormers are not allowed on the remaining sides of the dwelling.*
 3. *Balconies and other second floor outdoor areas are only allowed on the side of the dwelling facing the alley, and shall be setback at least 10 feet from the alley.*
 4. *Notwithstanding 2. and 3. above, dormers and balconies are not allowed on the second floor of a dwelling on any non-alley facing property line unless the affected adjacent property owner consents in writing on a form approved by the city.*
- (g) **Bedrooms.** *The dwelling shall contain no more than 3 bedrooms.*
- (h) **Primary Entrance.** *The primary entry to the dwelling shall be defined by a covered or roofed entrance with a minimum roof depth and width of no less than 3 feet.*
- (i) **Pedestrian Access.** *The dwelling shall be served by a minimum three foot wide hard-surfaced/hard-scaped (paved, concrete or pavers) pedestrian walkway from the alley, or from the front street*

- via an easement. The pedestrian walkway must be recognizable and distinct (different color, materials and/or texture) from the driveway and parking area, but is not required to be separated from the driveway or parking area.*
- (j) **Parking Spaces.** *There shall be a minimum of 1 and a maximum of 2 parking spaces on the lot.*
- (k) **Parking and Driveway.**
1. *Only one covered or enclosed parking space may be provided (carport or garage). The covered or enclosed parking space shall be counted towards the total number of parking spaces.*
 2. *The maximum dimensions for a garage shall be 16 feet by 24 feet, with a maximum garage door width of 9 feet.*
 3. *The minimum setback for a garage shall be 5 feet from the alley. If the garage is setback greater than 5 feet from the alley, it must be setback a minimum of 15 feet and the area between the garage and the alley shall be counted towards one parking space.*
 4. *The maximum width for a driveway accessing a garage or carport shall be 12 feet.*
 5. *The maximum dimensions for one parking space located perpendicular to the alley shall be 12 feet in width by 20 feet in depth.*
 6. *The maximum dimensions for two side by side parking spaces perpendicular to the alley shall be 20 feet in width by 20 feet in depth.*
 7. *The maximum dimensions for tandem parking spaces shall be 12 feet in width by 33 feet in depth.*
 8. *Only one parking space parallel to the alley shall be allowed, and such space shall not exceed 10 feet in width and 20 feet in length along the length of alley.*
 9. *The total vehicle use area, including but not limited to driveways and on-site parking, but not including parking space in garage, shall not exceed 400 square feet.*
 10. *No parking shall occur outside of the vehicle use area.
(See Figure 9.2779(4)(k))*
- (l) **Distance from Street/Fire Safety.** *If any portion of the exterior walls of the first story of the dwelling is greater than 150 feet from the centerline of the alley where it intersects with the curb of the street, as measured by a route approved by the fire code official, the dwelling shall be equipped throughout with multi-purpose residential sprinklers as defined in National Fire Protection Association Standard 13D.*
- (m) **Trash and Recycling.** *Outdoor storage and garbage areas shall be screened from view from adjacent properties and those across the alley with a minimum 42-inch tall 100-percent site obscuring fence or enclosure on at least three sides.*
- (n) **Accessory buildings.** *Detached accessory buildings are allowed subject to the standards at EC 9.2751(15), except that the total square footage of all accessory buildings on an alley access lot is limited to 400 square feet.*

- (5) **Adjustment Review.** *The development standards in subsections EC 9.2779(4)(e) regarding building height/setback, may be adjusted in accordance with EC 9.8030(36). For alley access lots, this is the only standard that may be adjusted.*

Section 13. The following entries in Table 9.3125(3)(g) of Section 9.3125 of the Eugene Code, 1971, are amended to provide as follows:

Table 9.3125(3)(g) S-CN Chase Garden Node Special Zone Development Standards (See EC 9.3126 Special Development Standards for Table 9.3125(3)(g).)			
	C	HDR/MU	HDR
Fences - Maximum Height			
Front Yard	(See EC 9.2170(6))	42 inches (See EC 9.2751[(44)] (13))	42 inches (See EC 9.2751[(44)] (13))
Interior Yard	(See EC 9.2170(6))	6' (See EC 9.2751[(44)] (13))	6' (See EC 9.2751[(44)] (13))

Section 14. Subsection (8) of Section 9.3626 of the Eugene Code, 1971, is amended to provide as follows:

9.3626 Special Development Standards for Table 9.3625.

(8) Fences.

- (a) Types. The type of fence (including walls or screens) used is subject to specific requirements stated in the landscape standards beginning at EC 9.6200 Purpose of Landscape Standards. The standards apply to walls, fences, and screens of all types including open, solid, wood, metal, wire, masonry or other material. Use of barbed wire and electric fencing is regulated in EC 6.010(d) Fences.
- (b) Location and Heights.
 - 1. Fences up to 42 inches in height are permitted within the required front yard setback. For corner lots or double frontage lots, a fence between 42 inches and 6 feet in height is permitted within one of the two front yard setbacks, so long as for corner lots, this fence cannot extend past a line created by an extension of the front wall of the dwelling. **(See Figure 9.2751[(44)](13)(b)1.)**
 - 2. Fences up to 6 feet in height are permitted within the required interior yard setback.
 - 3. The height of fences that are not located within the required setback areas is the same as the regular height limits of the zone.
 - 4. Fences must meet the standards in EC 9.6780 Vision Clearance Area.

Section 15. The following entry in Table 9.6105(5) of Section 9.6105 of the Eugene Code, 1971, is amended to provide as follows:

Table 9.6105(5) Minimum Required Bicycle Parking Spaces		
Uses	Required Bicycle Parking (Minimum 4 bicycle spaces required unless -0- is indicated.)	Type and % of Bicycle Parking
Lodging		
Hotel, Motel, and similar business providing overnight accommodations	1 per 10 guest [bed]rooms.	75% long term 25% short term

Section 16. Subsection (1) of Section 9.6410 of the Eugene Code, 1971, and the following entry in Table 9.6410 of Section 9.6410 are amended to provide as follows:

9.6410 Motor Vehicle Parking Standards.

- (1) **Location of Required Off-Street Parking Spaces.** Required off-street parking shall be on the development site or within 1/4 mile or 1320 feet of the development site that the parking is required to serve.
 - (a) All required parking shall be under the same ownership as the development site served, except through a city approved agreement that binds the parking area to the development site. The off-street parking space requirement for a multi-family dwelling may be satisfied through an agreement that provides parking located on another multi-family dwelling’s development site only if the party requesting approval demonstrates that, after the agreement is executed, both development sites will meet the current code’s minimum off-street parking space requirement. Each parking space provided through a city approved agreement must have a permanent sign of at least 1 square foot that indicates the name or address of the multi-family dwelling for which the parking is reserved.
 - (b) Except as provided in EC 9.2751[~~(15)(e)~~](**14)(b)3. Driveways and Parking Areas in R-3 and R-4**, parking areas may be located in required setbacks only as permitted in EC 9.6745 Setbacks - Intrusions Permitted.
 - (c) Tandem parking spaces may be utilized to meet off-street parking requirements for multi-family dwellings in the R-3 and R-4 zones within the boundaries of the [C]city recognized West University Neighbors and South University Neighborhood Association. Those tandem spaces may only be located in an underground parking area or at least 30 feet from a public street within a parking area that can be accessed only from an alley. **(For tandem parking on alleys, see Figure 9.6410(1)(c)).** Tandem parking spaces may not be utilized to meet off-street parking requirements for other types of development in any area.

Table 9.6410 Required Off-Street Motor Vehicle Parking	
Uses	Minimum Number of Required Off-Street Parking Spaces
Lodging	
Hotel, Motel, and similar business providing overnight accommodations	1 per guest [bed]room.

Section 17. Subsection (3) of Section 9.6505 of the Eugene Code, 1971, is amended to provide as follows:

9.6505 Improvements - Specifications. All public improvements shall be designed and constructed in accordance with adopted plans and policies, the procedures specified in Chapter 7 of this code, and standards and specifications adopted pursuant to Chapter 7 of this code. Additionally, all developments shall make and be served by the following infrastructure improvements:

(3) Streets and Alleys.

- (a) The developer shall grade and pave all streets and alleys in the development site. All paving shall be to the width specified in EC 9.6870 Street Width and provide for drainage of all such streets and alleys, and construct curbs and gutters, sidewalks, street trees and street lights within the development site according to the Design Standards and Guidelines for Eugene Streets, Sidewalks, Bikeways and Accessways and standards and specifications adopted pursuant to Chapter 7 of this code and other adopted plans and policies.
- (b) The developer shall pave streets and alleys adjacent to the development site to the width specified in EC 9.6870 Street Width, unless such streets and alleys are already paved to that width, provided the [C]city makes findings to demonstrate consistency with constitutional requirements. All paving shall provide for drainage of all such streets and alleys, and construct curbs and gutters, sidewalks, street trees and street lights adjacent to the development site according to the Design Standards and Guidelines for Eugene Streets, Sidewalks, Bikeways and Accessways and standards and specifications adopted pursuant to Chapter 7 of this code and other adopted plans and policies.
- (c) The standard at (3)(b) may be adjusted if consistent with the criteria of EC 9.8030(19).
- (d) ***Notwithstanding (a), (b) and (c) above, for alley access lots, the developer may improve the alley adjacent to the development site with a temporary surface, designed and constructed in accordance with the city’s adopted temporary surface permit procedures.***

Section 18. Subsections (6) and (7) of Section 9.6745 of the Eugene Code, 1971, are amended to provide as follows:

9.6745 Setbacks-Intrusions Permitted.

- (6) **Driveways.** Except as provided in EC 9.2751[(45)(c)](14)(b)3. Driveways and Parking Areas in R-3 and R-4, in any zone, driveways or accessways providing ingress and egress to or from parking spaces, parking areas, parking garages, or structured parking shall be permitted, together with any appropriate traffic control devices, in any required setback.
- (7) **Parking Spaces in Required Setbacks.**
- (a) Except as provided in EC 9.2751[(45)](14) Driveways and Parking Areas [in R-3 and R-4], in areas with a broad zone category of residential, as depicted in Table 9.1030 Zones, parking in required front and interior yard setbacks is permitted with the following restrictions:
1. Parking spaces in required front yard setbacks are permitted in conjunction with a one family dwelling, secondary dwelling, or duplex, provided the parking spaces are located on driveways.
 2. For lots and parcels with at least 50 feet of frontage, driveways shall cover a maximum of one-half of the area in the required front yard setback. All portions of required front yard setbacks not otherwise covered by legal driveways shall be landscaped and maintained.
 3. Within the required front yard setback, recreational vehicles, boats, boat trailers, and other vehicles not in daily use, may only be parked on the paved driveway portion of the required front yard setback. No parking shall occur in the landscaped portion of the required front yard setback. These vehicles not in daily use, are allowed to park in the front setback for not more than 48 consecutive hours.
 4. Recreational vehicles, boat trailers, and other vehicles not in daily use, are permitted to be located in the required interior yard setbacks.
- (b) In areas with the broad zone category of commercial or industrial, as depicted in Table 9.1030 Zones, except for the C-1, C-2 and I-1 zones, parking spaces and parking areas are permitted in any required interior yard setback.

Section 19. Section 9.6775 of the Eugene Code, 1971, is amended to provide as follows:

9.6775 Underground Utilities.

- (1) ***Exemptions from Underground Utility Standards. The following are exempt from the undergrounding requirement of this section:***
- (a) ***Temporary uses on a development site.***
 - (b) ***New utility connections to structures or buildings with legally established above ground utility service.***
 - (c) ***Secondary dwellings that can be served from an existing legally established above ground utility service to the primary dwelling on the development site.***
 - (d) ***Dwellings on alley access lots that can be served from an existing above ground utility-owned structure.***
- (2) ***Underground Utility Standards.*** All new on-site utilities shall be placed underground if there is a utility-owned structure immediately adjacent to the development site, unless adjusted pursuant to the provisions of EC 9.8030(5).

ATTACHMENT C

[This provision does not apply to temporary uses on a development site or to new utility connections to structures or buildings with legally established above ground utility service.] This requirement is satisfied if the applicant verifies in writing that utilities will be placed underground concurrent with planned future development to occur within 12 months. Exceptions shall be made for such features as padmounted transformers, switch cabinets, back flow prevention devices and closures needed to safely operate and maintain utility systems.

Section 20. Table 9.6870 in Section 9.6870 of the Eugene Code, 1971, is amended to provide as follows:

Table 9.6870 Right-of-Way and Paving Widths		
Type of Street or Alley	Right-of-Way (for Public Streets and Alleys only)	Paving Width
Major Arterials	100' – 120'	68' – 94'
Minor Arterials	65' – 100'	46' 70'
Major Collector	60' – 75'	32' – 44'
Neighborhood Collector	40' 55'	20' – 43'
Bicycle and Pedestrian Accessway:		
With Fire Accessibility	20'	20'
Without Fire Accessibility	10'	10'
Local Streets		
Alley (secondary access <i>or access to an alley access lot in R-1</i>) [only]	14'	12'
Alley (primary access)	20'	12' one-way travel 20' two-way travel
Access Lane	40' – 55'	21' – 28'
Low Volume Residential	45' – 55'	20' – 28'
Medium Volume Residential	50' – 60'	20' – 34'
Commercial and Industrial	55' – 70'	30' – 44'
Cul-de-sac Bulb Radius:		
Residential	48.5''	35'
Non-residential	62'	50'

*Measured from face to face of curbs

Section 21. Subsection (30) of Section 9.8030 of the Eugene Code, 1971, is amended, and subsections (34), (35) and (36) are added, to provide as follows:

9.8030 Adjustment Review - Approval Criteria. The planning director shall approve, conditionally approve, or deny an adjustment review application. Approval or conditional approval shall be based on compliance with the following applicable criteria.

(30) Driveways and Parking Areas in R-3 and R-4. The standards at EC 9.2751[(15)(i)](14)(b)9. may be adjusted if the applicant demonstrates that any hardscaped or non-landscaped areas are separated from the driveway and associated parking area, and that vehicle access and parking is physically precluded.

(34) Accessory Buildings in R-1. Building Height/Setback or Building Size.

Where this land use code provides that the standards for accessory buildings in R-1 may be adjusted, the building height/setback or building size standards may be adjusted upon demonstration of all of the following:

- (a) **The location and design of the accessory building maintains a compatible relationship to adjacent properties and does not significantly impact the privacy, light, or solar access of adjacent properties.**
 - (b) **The exterior design of the building maintains the scale of the neighborhood.**
 - (c) **The design of the building relates to the design of the primary dwelling and shall not visually dominate it or the surrounding properties.**
- (35) Secondary Dwellings. Where this land use code provides that the standards for secondary dwellings may be adjusted, the standards may be adjusted upon demonstration by the applicant that the applicable corresponding criteria are met.**
- (a) **Temporary Leave. A property owner make exceed the temporary leave provisions by one additional consecutive year if the property owner submits proof of temporary leave status from the property owner's employer, educational facility, volunteer organization or medical provider.**
 - (b) **Conversion of Existing Building. A legally established building existing as of _____ [effective date of ordinance] may be converted to a secondary dwelling if it complies with all of the following:**
 - 1. **The secondary dwelling is limited to 800 square feet in total building square footage, and occupies the first floor of a multi-story building or is limited to one-story.**
 - 2. **The exterior design of the building is compatible with the existing dwelling on the lot, such as through building form, height, and construction materials.**
 - 3. **The exterior design of the building maintains the scale of the neighborhood.**
 - 4. **The location and design of the building maintains a compatible relationship to adjacent properties and does not significantly impact the privacy, light, solar access or parking of adjacent properties.**
 - (c) **Building Height. A detached secondary dwelling may be located above a detached accessory building if the secondary dwelling is limited to 500 square feet in area, the building does not exceed 24 feet in building height, and complies with all of the following:**
 - 1. **The exterior design of the building is compatible with the primary dwelling on the lot, such as through building form, height, and construction materials.**
 - 2. **The exterior design of the building maintains the scale of the neighborhood.**
 - 3. **The location and design of the building maintains a compatible relationship to adjacent properties and does not significantly impact the privacy, light, solar access or parking of adjacent properties.**

4. *Access stairs, decks, balconies, entry doors and large windows are oriented to the primary dwelling to the greatest extent possible, or to an alley if applicable. Windows that impact the privacy of the neighboring side or rear yard have been minimized.*
 5. *The design of the building relates to the design of the primary dwelling and shall not visually dominate it or the surrounding properties.*
- (36) **Alley Access Lots. Building Height/Interior Setback.** *Where this land use code provides that the development standards for alley access lots in R-1 may be adjusted, the building height/interior setback may be adjusted upon demonstration of all of the following:*
- (a) *The exterior design of the dwelling maintains the scale of the neighborhood.*
 - (b) *The location and design of the dwelling maintains a compatible relationship to adjacent properties and does not significantly impact the privacy, light, or solar access of adjacent properties.*
 - (c) *The impacts of windows or balconies to the privacy of the neighboring side or rear yard have been minimized such as through design, location, open space or landscaping.*
 - (d) *The design of the dwelling does not visually dominate the surrounding properties.*

Section 22. Subsection (3) of Section 9.8405 of the Eugene Code, 1971, is amended to provide as follows:

9.8405 Applicability of Property Line Adjustment Applications.

- (3) *A property line adjustment application may not be utilized to create flag lots or alley access lots.*

Section 23. Subsection (6) of Section 9.8415 of the Eugene Code, 1971, is added to provide as follows:

- 9.8415 Property Line Adjustment Approval Criteria.** The planning director shall approve, approve with conditions, or deny the property line adjustment application. Approval or approval with conditions shall be based on compliance with the following criteria:
- (6) *Within the R-1 zone in the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association, property lines may only be adjusted up to 5 feet, measured perpendicularly from the current location of the property line. A Property Line Adjustment allowed under this section may be up to 10 feet if the adjustment is necessary to accommodate an encroachment that existed as of _____[effective date of ordinance].*

Section 24. The findings set forth in Exhibit G attached to this Ordinance are adopted as findings in support of this Ordinance.

Section 25. 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 26. 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.

Section 27. This Ordinance shall take effect pursuant to Section 32 of the Eugene Charter 2002, or on the date of its acknowledgement as provided in ORS 197.625, whichever is later.

Passed by the City Council this
___ day of _____, 2013

Approved by the Mayor this
___ day of _____, 2013

City Recorder

Mayor

Figure 9.2751(13)(b)1.

Fences

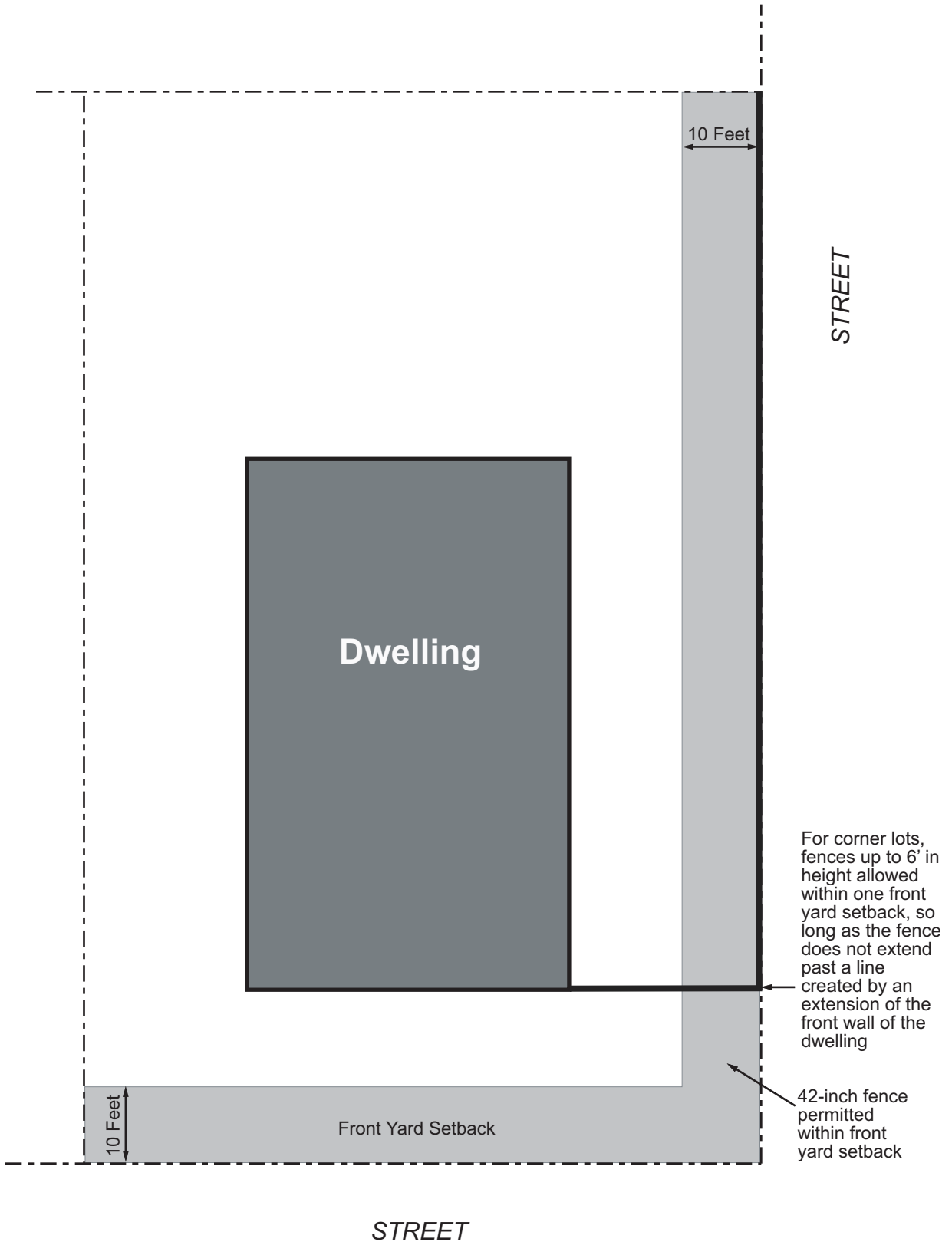


Figure 9.2751(14)(b) Driveways and Parking Areas in R-3 and R-4

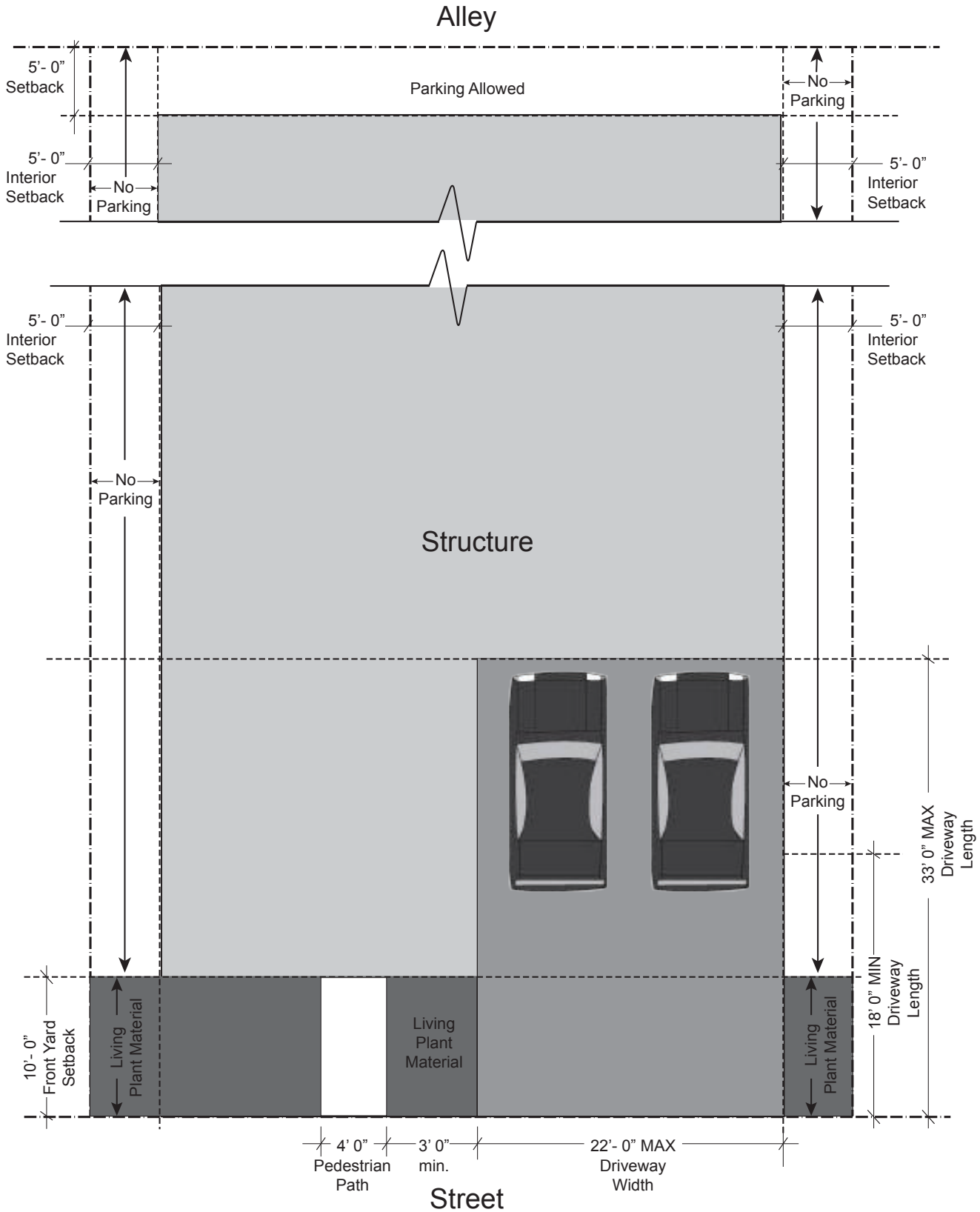


Figure
9.2751(15)(a)2.a

Accessory Buildings - Interior Yard Setbacks

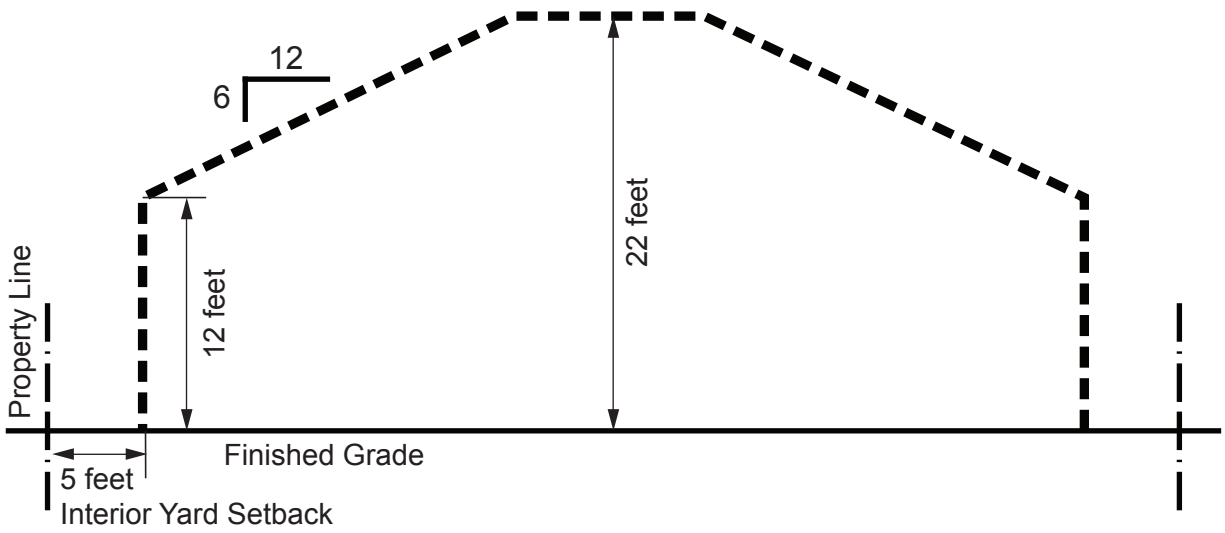


Figure 9.2751(16)(b)5.a **Detached Secondary Dwellings - Interior Yard Setbacks**

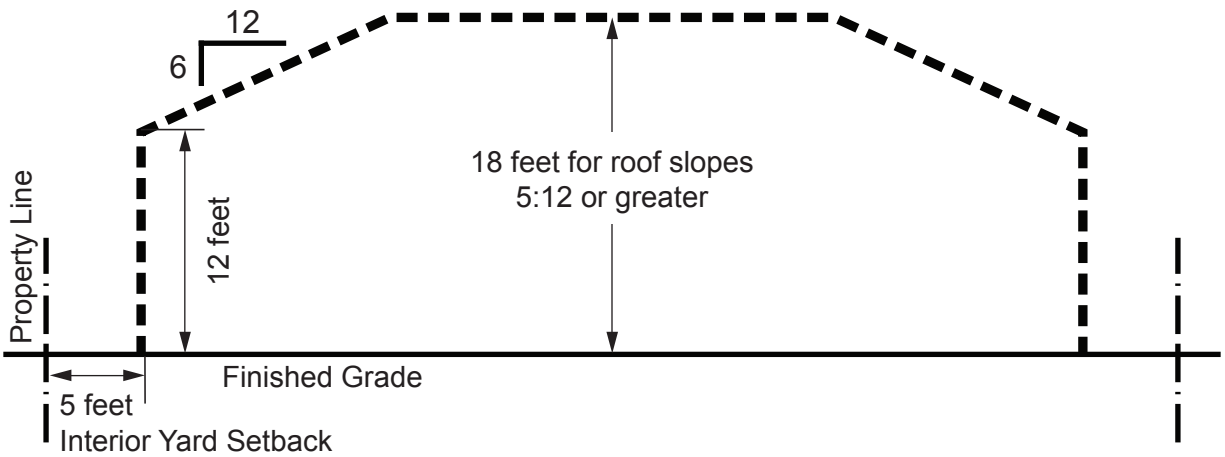
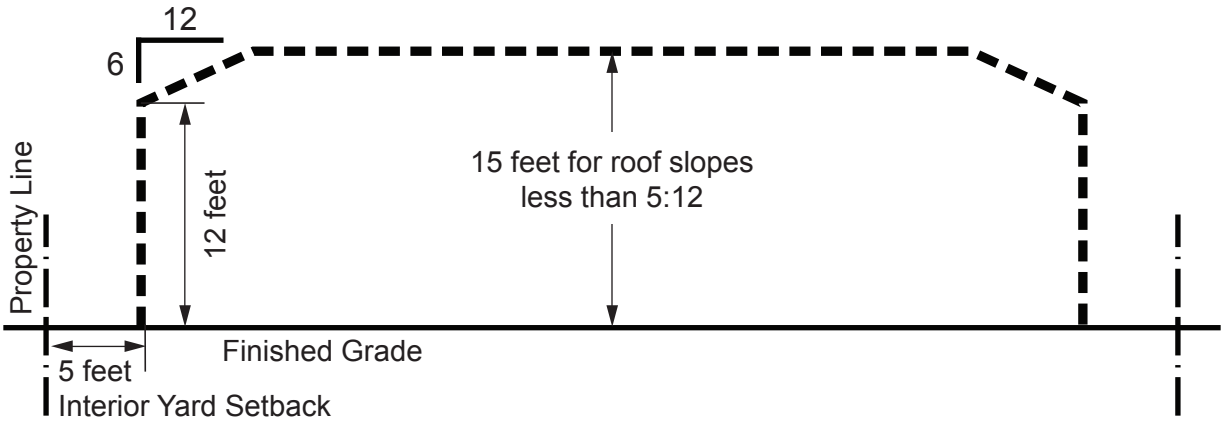


Figure
9.2779(4)(e)1

Interior Yard Setbacks for Alley Access Lots

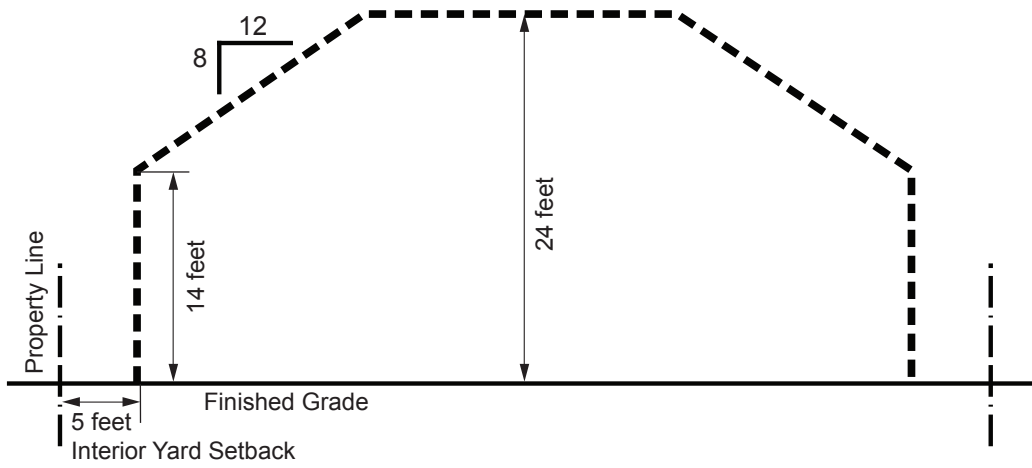
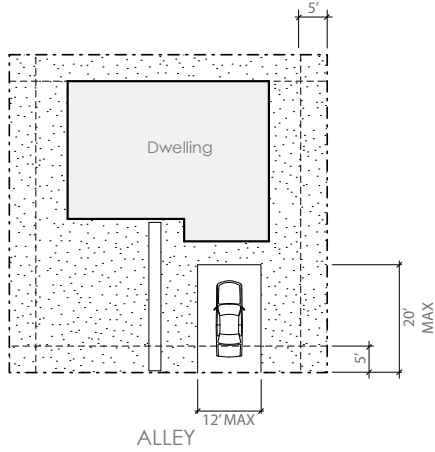


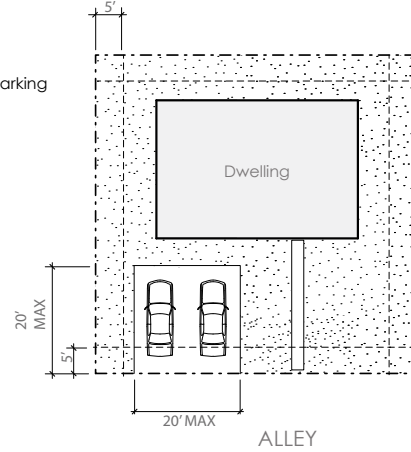
Figure 9.2779(4)(k)

Parking and Driveway for Alley Access Lots

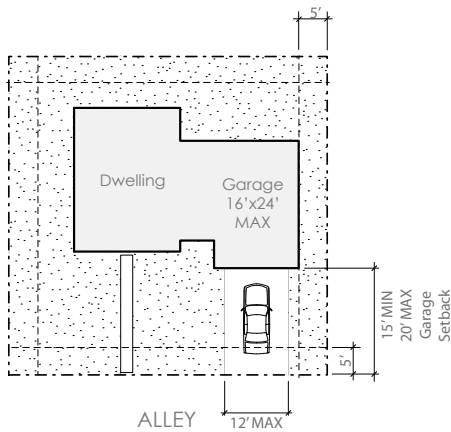
OPTION A:
Single Perpendicular Parking
400 SF MAX



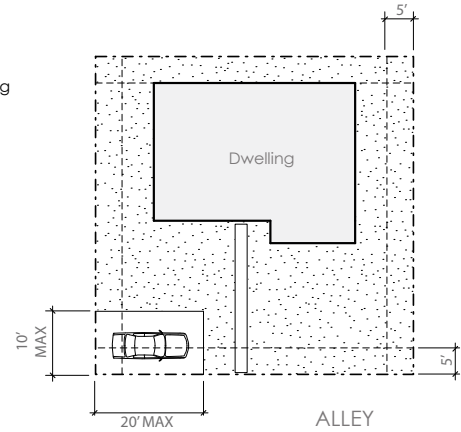
OPTION B:
Side by Side Parking
400 SF MAX



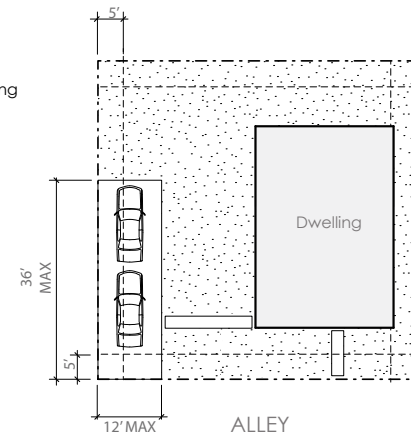
OPTION C:
Attached Parking and
Single Parking Combination
400 SF MAX



OPTION D:
Parallel Parking
400 SF MAX



OPTION E:
Tandem Parking
400 SF MAX



--- Property Line
- - - - - Setbacks

Exhibit G

Preliminary Findings**Single Family Land Use Code Amendments
(City File CA 13-3)****Overview**

The goal of these amendments is to implement several Envision Eugene strategies under the housing affordability and neighborhood livability pillars. These amendments are also necessary as part of the city's strategy to accommodate more of the city's 20 year need for single-family housing (low density residential) inside the current urban growth boundary (UGB). Specifically, these amendments are part of a package of land use efficiency strategies the city is relying on to accommodate approximately 125 additional single-family homes inside the UGB.

This package of land use code amendments of the R-1 Low Density Residential zone achieves the following:

- Improves compatibility standards citywide for structures that are already allowed, including secondary dwellings, dwellings on existing alley access lots and accessory buildings;
- Allows for new alley access lots in limited areas, subject to compatibility standards; and
- Provides interim protection measures in the Amazon, Fairmount and South University neighborhoods to prohibit certain dwelling types and land divisions, and limit certain uses until more comprehensive planning of these areas can be completed.

Land Use Code Amendments (CA 13-1)

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 citizen involvement which insure the opportunity for citizens to be involved in all phases of the planning process and set out requirements for such involvement. The amendments do not amend the citizen involvement program. The process for adopting these amendments complied with Goal 1 because it is consistent with the citizen involvement provisions.

The early concepts for these amendments emerged out of the city's Infill Compatibility Standards (ICS) project (beginning in 2007), which was led by a task team that included 14 neighborhood association representatives, a Housing Policy Board representative, and five additional members with the perspectives of builders, developers, and designers of market-rate and affordable infill housing.

The initial code concepts were largely influenced by the previous work of the ICS project, specifically the Single-Family Dwelling Subcommittee and R-1 Infill/Flag Lot Implementation Team (RIFLIT), as

Exhibit G

well as the Neighborhood Livability Working Group, best practices from other cities, and a review of Eugene land use code. Once drafted, the code concepts were reviewed and vetted by an external advisory group comprised of neighborhood advocates, designers and builders with expertise in single family housing, and two Planning Commissioners. The majority of the members of the advisory group were also part of the original ICS/RIFLT team.

The concepts for the protection measures are a result of numerous conversations and processes held over the past several years, including Envision Eugene, the Neighborhood Livability Working Group, Infill Compatibility Standards project and other code amendment processes, relating to the intense development pressures currently experienced in the single family neighborhoods surrounding the university.

Prior to the start of the formal adoption process, the code concepts were sent out for broad public feedback to over 120 individuals that are interested in the topic or involved in a group or profession associated with neighborhood livability and infill, including neighborhood leaders and advocates, property owners, architects, designers and developers, Infill Compatibility Standards Task Team, and the Home Builder's Association. Other engagement and information opportunities included an open house in June 2013, highlighting the project in the May edition of the Envision Eugene e-newsletter, an open invitation to neighborhood leaders and other interested parties to meet about the amendments, and the establishment of a project web page.

The Planning Commission public hearing on the proposal was duly noticed to all neighborhood organizations, community groups and individuals who have requested notice, as well as to the City of Springfield and Lane County. In addition, notice of the public hearing was also published in the Register Guard. The City Council will hold a duly noticed public hearing to consider approval, modification, or denial of the code amendments. These processes afford ample opportunity for citizen involvement consistent with Goal 1. Therefore, the proposed ordinance 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.

The Eugene land use code specifies the procedure and criteria that were used in considering these amendments. The record shows that there is an adequate factual base for the amendments. 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 citizens. To comply with the Goal 2 coordination requirement, the City engaged in an exchange about the subject of these amendments with all of the affected governmental units. Specifically, the City provided notice of the proposed action and opportunity to comment to Lane County, Springfield and the Department of Land Conservation and Development. There are no exceptions to Statewide Planning Goal 2 required for these amendments. Therefore, the amendments are consistent with Statewide Planning Goal 2.

Goal 3 - Agricultural Lands. To preserve agricultural lands.

Exhibit G

The amendments are for property located within the urban growth boundary and do not affect any land designated for agricultural use. Therefore, Statewide Planning Goal 3 does not apply.

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

The amendments are for property located within the urban growth boundary and do not affect any land 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.*

These amendments do not create or amend the City's list of Goal 5 resources, do not amend a code provision adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5, do not allow new uses that could be conflicting uses with a significant Goal 5 resource site and do not amend the acknowledged urban growth boundary. Therefore, Statewide Planning Goal 5 does not apply.

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 amendments do not affect the City's ability to provide for clean air, water or land resources. Therefore, Statewide Planning Goal 6 does not apply.

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, land slides, earthquakes and related hazards, tsunamis and wildfires. The Goal prohibits a development in natural hazard areas without appropriate safeguards. The amendments do not affect the City's restrictions on development in areas subject to natural disasters and hazards. Further, the amendments do not allow for new development that could result in a natural hazard. Therefore, Statewide Planning Goal 7 does not apply.

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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 the provision of recreational facilities to Oregon citizens and is primarily concerned with the provision of those facilities in non-urban areas of the state. The amendments do not affect the City's provisions for or access to recreation areas, facilities or recreational opportunities. Therefore, Statewide Planning Goal 8 does not apply.

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 Eugene Commercial Lands Study (1992) was adopted by the City of Eugene as a refinement of the Metro Plan, and complies with the requirements of Goal 9 and the corresponding Administrative Rule. As the amendments are specific to residential development standards in the R-1 Low Density Residential zone, which implements the low density residential Metro Plan designation, the amendments do not impact the supply of industrial or commercial lands. Therefore, the amendments are consistent with Statewide Planning Goal 9.

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

Goal 10 requires communities to provide an adequate supply of residential buildable land to accommodate estimated housing needs for a 20-year planning period. The Residential Lands Study (1999) was adopted by the City of Eugene as a refinement of the Metro Plan, and complies with the requirements of Goal 10 and the corresponding Administrative Rule. According to the Residential Lands Study, there is sufficient buildable residential land to meet the identified land need.

The proposed amendments related to accessory buildings, alley access lots and secondary dwellings do not impact the supply of residential buildable land. No land is being re-designated from residential use to a nonresidential use, and the amendments do not otherwise diminish the lands available for residential use. Rather, the amendments increase the capacity of existing residential land, increasing the number of dwelling units without adversely impacting the residential land inventory.

The proposed amendments related to the University area protection measures do not impact the supply of residential buildable land. No land is being re-designated from residential use to a nonresidential use, and the amendments do not otherwise diminish the lands available for residential use. The proposed changes could potentially decrease the number of residential units that can be accommodated on certain parcels of residentially designated land. However, it is projected that the changes could result in only 22 fewer homes being built. The existing surplus of residential land, based on various actions Eugene and Springfield have taken to decrease the amount of acreage (approximately 1250 to 178 acres, considering a low or high demand assumption), is sufficient to accommodate the possible 22 displaced dwellings.

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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 Study. Therefore, the amendments are 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 amendments do 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 proposed amendments do not change the functional classification of a transportation facility or change the standards implementing a functional classification system. Therefore, the amendments do not have a significant effect under (a) or (b). In regards to (c), the level of residential and development currently permitted through existing code and zoning regulations will remain essentially the same as a result of these amendments, with the exception of up to 22 dwellings as a result of the

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University are protection measures, and thus will not result in the degradation of any transportation facility. The relatively small number of homes that are expected to be developed as a result of the secondary dwelling unit and alley access lot provisions will have a negligible impact on any transportation facility. Therefore, the amendments do 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 amendments do not impact energy conservation. Therefore, Statewide Planning Goal 13 does not apply.

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

The amendments do 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 amendments do not contain any changes that affect the Willamette River Greenway regulations, 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 effected by these amendments. Therefore, these goals are not relevant and the amendments will not affect compliance with Statewide Planning Goals 16 through 19.

(2) *The amendment is consistent with applicable provisions of the Metro Plan and applicable adopted refinement plans.*

Applicable Metro Plan Policies

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

Residential Land Use and Housing Element

Residential Density Policies:

- A.9 *Establish density ranges in local zoning and development regulations that are consistent with the broad density categories of this plan.*

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Low density: Through 10 dwelling units per gross acre (could translate up to 14.28 units per net acre depending on each jurisdictions implementation measures and land use and development codes)

Medium density: Over 10 through 20 dwelling units per gross acre (could translate to over 14.28 units per net acre through 28.56 units per net acre depending on each jurisdictions implementation measures and land use and development codes.)

High density: Over 20 dwelling units per gross acre (could translate to over 28.56 units per net acre depending on each jurisdictions implementation measures and land use and development codes)

This policy was raised in public testimony. The proposed code amendments apply to the city's R-1 Low Density Residential Zone, which implements the Metro Plan's low density residential land use plan designation. The Eugene Code density provisions for the R-1 zone, which are not proposed to be changed as part of these amendments, are consistent with the above policy in that they allow for a maximum of 14 units per net acre. Consistent with this policy, the proposed single-family code amendments do not change or conflict with the density range for low density residential.

Testimony identified the proposed lot size for new alley access lots as being in conflict with the above density range for low density residential. When applying the Eugene Code density provisions to a land divisions (partitions and subdivisions), they are applied to the development site being divided. In the case of a 9,000 square foot development site (the minimum proposed size for the original lot prior to creation of an alley access lot) being divided into two lots, the resulting density is 9.68 or 10 (rounded) units per net acre. A net density of 10 units per acre is consistent with Eugene Code density provisions for the R-1 zone, and falls within the appropriate range above.

Testimony also identified that the existing provisions for secondary dwellings units do not comply with the density requirements for R-1 zoning in the land use code or with the low density residential designation in the Metro Plan. Secondary dwellings are currently permitted outright in the R-1 zone, subject to certain development standards. These include minimum lot area, which require a minimum lot size of 4,500 square feet to allow for an attached secondary dwelling and 6,000 square feet to allow for a detached secondary dwelling unit. Testimony states that allowing two units on the specific minimum lot area exceeds maximum allowable density in the R-1 zone and low density residential plan designation (14 units per net acre). These minimum lot area requirements, which were adopted in 2002 (Ordinance No. 20270) are not proposed to be changed as part of these code amendments.

Secondary dwellings (previously called accessory dwellings prior to the 2001 land use code update) have long been permitted within the City of Eugene's R-1 zone as a means to promote opportunities for small scale infill, to make efficient use of land, and to fulfill the Metro Plan's overall goals and policies to increase overall residential density. The City of Eugene typically approves building permits for an average of 9 secondary dwellings per year. Historically, these dwellings have not been counted when calculating residential density. This approach is consistent with how many communities across the state treat secondary dwellings (including City of Springfield and Portland) and is supported by

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Department of Land Conservation and Development (DLCD) staff.

Regarding consistency with the Metro Plan, the above policy provides a density range that depends on “dwelling units” for its density calculation. However, it does not dictate how that calculation is done and what dwelling units are counted in that calculation. The city has had a long practice of not counting secondary dwelling units (whether attached or detached) in the density “dwelling per net acre” calculation. The City of Springfield, which also does not count secondary dwellings towards density requirements, calculates density the same way and therefore interprets the Metro Plan density language in the same way the City of Eugene has historically interpreted it. While the historical practice alone is not enough to justify the city’s policy not to count secondary dwelling units, it goes a long way in explaining the rationale behind the practice.

This approach is further supported by other text and policies in the Metro Plan, including text that calls for an overall average of about six units per gross acre for new construction (Policy 24 on page II-C-7 and text on page II-G-3), and policy A.13 that calls for increasing overall residential density by creating more opportunities for effectively designed infill (see full text of policy below). Allowing for secondary dwellings without counting them towards residential density provisions is an effective means of gradually increasing overall average density on a city wide scale. The proposed code amendments strengthen the current design standards (including lowering building heights and adding sloped setbacks) and address neighborhood compatibility.

Additionally, Policy A.16, which allows for the development of zoning districts which overlap the established Metro Plan density ranges to promote housing choice and result in either maintaining or increasing housing density in those districts, lends support to the City’s practice regarding secondary dwellings and density. While not entirely germane to the City’s current allowance for secondary dwellings in the current R-1 Low Density Residential zone, this policy acknowledges that the City of Eugene (and Springfield) can develop zoning that overlaps with the above density ranges.

In 2002, the City adopted a package of amendments concerning secondary dwellings and flag lots. As part of that package, the City Council adopted provisions related to minimum lot area. The provisions, with some exceptions, allowed attached secondary dwellings to be constructed on lots at least 4,500 square feet in area. For detached secondary dwellings, the minimum lot size was set at 6,000 square feet. The allowance of two dwelling units on 4,500 and 6,000 square foot lots exceeded the density range in the Metro Plan. However, the approach of not counting the secondary dwelling unit in the density calculation was found, at that time, to be consistent with the applicable Metro Plan policies and Statewide Planning Goals, and was subsequently acknowledged by the state.

The City Council is entitled to interpret the Metro Plan and to determine how density calculations are done. Given all of the above findings, the City Council finds that the density ranges set forth in Metro Plan Residential Density Policy A.9 do not dictate or preclude any particular method of calculating net density. The City’s past practice, other provisions of the Metro Plan (specifically those promoting small-scale infill), and assumptions made by the City Council in adopting previous code provisions, support the current practice. Accordingly, the City Council affirms the practice of not counting secondary dwelling units in the calculation of residential net density and finds the City’s practice, now clearly codified in the code, is consistent with Metro Plan Residential Density Policy A.9.

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- A.12 Coordinate higher density residential development with the provision of adequate infrastructure and services, open space, and other urban amenities.*

This policy was raised in public testimony. To the extent that allowing for alley access lots in limited areas in the R-1 Low Density Residential zone constitutes higher density residential development as referenced in this policy, the provision of adequate infrastructure and services will be reviewed through the land division process for each individual proposal for the creation of an alley access lot. The approval criteria for partitions and subdivisions, as provided for in the Eugene Code, require compliance with the City's standards for streets, alleys and other public ways and for public improvement.

- A.13 Increase overall residential density in the metropolitan area by creating more opportunities for effectively designed in-fill, redevelopment, and mixed use while considering impacts of increased residential density on historic, existing and future neighborhoods.*

The intent of the amendments pertaining to secondary dwellings and alley access lots is to allow for compatible infill, consistent with this policy. The addition of standards addressing building height and sloped setbacks for secondary dwellings and alley access lots is to ensure that such has minimal impact on surrounding properties in existing neighborhoods.

Housing Type and Tenure Policies

- A.17 Provide opportunities for a full range of choice in housing type, density, size, cost and location.*
- A.18 Encourage a mix of structure types and densities within residential designations by reviewing and, if necessary, amending local zoning and development regulations.*
- A.20 Encourage home ownership of all housing types, particularly for low-income households.*

Consistent with these policies, the amendments provide for more opportunities for smaller housing types for both rental (secondary dwelling units) and homeownership (alley access lots) within existing single family neighborhoods.

Design and Mixed Use Policies

- A.23 Reduce impacts of higher density residential and mixed-use development on surrounding use by considering site, landscape, and architectural design standards or guidelines in local zoning and development regulations.*

This policy was raised in public testimony. To the extent that allowing for alley access lots in limited areas in the R-1 Low Density Residential zone constitutes higher density residential development as referenced in this policy, the amendments are consistent with this policy in that they add design

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standards to address building height, setbacks, upper story windows, dormers and balconies, parking area and building size. These standards will also apply to existing alley access lots (created when such lots were previously allowed in the R-1 zone), which are currently subject to the development standards that apply to typical R-1 lots.

- A.24 *Considering adopting or modifying local zoning and development regulations to provide a discretionary design review process or clear and objective design standards, in order to address issues of compatibility, aesthetics, open space and other community concerns.*

Consistent with this policy direction, the amendments related to secondary dwellings, accessory buildings and alley access lots all include clear and objective design standards that address compatibility and aesthetics, and also include a discretionary path (adjustment review) to allow for flexibility, while maintaining compatibility, under certain circumstances.

Existing Housing Supply and Neighborhoods Policies

- A.25 *Conserve the metropolitan area's supply of existing affordable housing and increase the stability and quality of older residential neighborhoods, through measures such as revitalization; code enforcement; appropriate zoning; rehabilitation programs; relocation of existing structures; traffic calming; parking requirements; or public safety considerations. These actions should support planned densities in these areas.*

- A.26 *Pursue strategies that encourage rehabilitation of existing housing and neighborhoods.*

Consistent with these policies, the intent of the University area interim protection measures is to conserve the supply of existing affordable housing in the Amazon, Fairmount and South University neighborhoods, as well as increase the stability in these three neighborhoods, which have experienced an increase in unintended housing associated with the demand for student housing and the proximity of the University of Oregon. The type of development experienced recently in these areas, including remodels to increase the number of bedrooms in single-family homes, as well as the construction of single family homes with five or more bedrooms, is geared towards students. As such, these homes are no longer viable options in terms of affordability or functionality for other populations. The proliferation of high-occupancy student housing and loss of a variety of housing types is causing instability. The interim protection measures are intended to limit this type of development and stabilize the neighborhoods until more comprehensive planning can be completed.

Transportation Element

Land Use Policies

- F.4. *Require improvements that encourage transit, bicycles, and pedestrians in new commercial, public, mixed use and multi-unit residential development.*

This policy was raised in public testimony. This policy is not applicable to the proposed code amendments because the amendments do not involve or affect commercial, public, mixed use or

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multi-unit residential development.

Transportation System Improvements: Roadway Policies

F.14 Address the mobility and safety needs of motorists, transit users, bicyclists, pedestrians, and the needs of emergency vehicles when planning and constructing roadway system improvements.

This policy was raised in public testimony as applying to the proposed amendments to allow for alley access lots. This policy is not applicable to alleys, because, as stated in TransPlan, this policy is relevant to the region's roadway system, which is comprised of arterial and collector streets.

Transportation System Improvements: Bicycle Policies

F.22 Construct and improve the region's bikeway system and provide bicycle system support facilities for both new development and redevelopment/expansion.

This policy was raised in public testimony as applying to the proposed amendments to allow for alley access lots. As stated in TransPlan, the bicycle policies are focused on directing bicycle system improvements, such as expansion of the existing regional network, the provision of safety improvements and the addition of adequate support facilities. This policy is not applicable to the proposed amendments for alley access lots, as it applies to system improvements at the regional level rather than individual sites.

Transportation System Improvements: Pedestrian Policies

F.26 Provide for a pedestrian environment that is well integrated with adjacent land uses and is designed to enhance safety, comfort, and convenience of walking.

This policy was raised in public testimony as applying to the proposed amendments to allow for alley access lots. This policy is not applicable to the proposed amendments for alley access lots as it is intended to apply on a broader scale (system improvements) than an individual single family lot.

Applicable Refinement Plans

Given the broad applicability of these amendments (R-1 Low Density Residential zoning applies throughout the city), all adopted refinement plans were reviewed for consistency. It is noted that the secondary dwelling unit and accessory buildings amendments apply citywide. Areas with existing alley access lots or where new alley access lots could potentially be created, given the existence of alleys, include areas covered by the Fairmount/U of O Special Area Study, Jefferson/Far West Refinement Plan, South Hills Study and the Whitaker Plan. Additionally, new alleys could be created through a subdivision process citywide. The University area protection measures fall within the areas covered by the Fairmount/U of O Special Area Study (1982), the 19th and Agate Special Area Study (1988) and the South Hills Study (1974).

No relevant policies were found in the following adopted refinement plans:

- Bethel-Danebo Refinement Plan (1982)
- Bethel-Danebo Refinement Plan Phase II (1977)
- Central Area Transportation Study (2004)
- Comprehensive Stormwater Management Plan (1993)

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- Eugene Commercial Lands Study (1992)
- Eugene Downtown Plan (2004)
- Eugene (EWEB) Downtown Riverfront Specific Area Plan (2013)
- Laurel Hill Neighborhood Plan (1982)
- 19th and Agate Special Area Study (1988)
- Riverfront Park Study (1985)
- South Hills Study (1974)
- South Willamette Subarea Study (1987)
- TransPlan (2002)
- Walnut Station Specific Area Plan (2010)
- Westside Neighborhood Plan (1987)
- West University Refinement Plan (1982)
- Whiteaker Plan (1994)
- Willow Creek Special Area Study (1982)
- Resolution No. 3862 Adopting the West 11th Commercial Land Use Policy and Refining the Eugene-Springfield Metropolitan Area General Plan (1984)
- Resolution No. 3885 Establishing Areas for the Application of C-4 Commercial-Industrial District Zoning, and Amending Resolution No. 3862 (1984)

Findings addressing relevant provisions of applicable refinement plans are provided below.

Fairmount/U of O Special Area Study (1982)

Although there are no policies in this refinement plan that directly address the amendments or constitute mandatory approval criteria, the below text from the Land Use Diagram Text of the plan is relevant to the University area interim protection measures, as they relate to the Fairmount neighborhood. As these amendments apply within the Low Density Residential area, and are intended to preserve and maintain the existing single family character, they are consistent with, and supported by this text.

Low Density Residential

This area generally encompasses the south and east portions of the special study area. This area is to remain in low-density residential use with emphasis on preserving and maintaining the single-family character which currently exists.

Jefferson Far West Refinement Plan (1983)

The following residential policies in the Land Use Element of the plan lend general support for the amendments:

2.0 Increase the opportunity for home ownership in the area.

3.0 Encourage a mixture of housing densities and types to allow a diverse population group to live in the area.

The amendments related to secondary dwelling units and alley access lots are consistent with these policies in that they provide the opportunity for smaller single family housing types, and the alley access lot provisions provide the opportunity for home ownership.

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Additionally, the following policies in Land Use Element (following the land use diagram) are relevant:

2. Central Low-Density Residential Area

The low-density designation recognizes existing residential development and land uses. The City shall continue to recognize the residential character of the area and provide incentives for public and private rehabilitation of rundown structures. In addition, the City shall encourage block planning, infilling, and shared housing. Access to housing units off of alleys shall be accommodated when not in conflict with other policies and goals.

4. South Low-Density Residential Area

This area shall be recognized as appropriate for low-density residential use. The City shall encourage the rehabilitation of rundown structures, block planning, infilling, and shared housing.

15. Low Density Residential Area

This area shall be recognized as appropriate for low-density residential use. The City shall explore methods of encouraging an increase in residential density yet maintaining the character of the area. The City shall encourage block planning, infilling, and shared housing. Access to housing units off of alleys shall be accommodated when not in conflict with other policies and goals.

Within all three of these low density residential subareas of the plan, the City is directed to encourage infilling. Consistent with this policy direction, the amendments related to secondary dwellings and alley access lots are intended to encourage compatible infill housing. Additionally, the amendments to allow for alley access lots and the associated compatibility standards are consistent with the policy direction to accommodate access to housing units off alleys when not in conflict with other policies and goals.

River Road-Santa Clara Urban Facilities Plan (1987)

The following policies from the Residential Land Use section are relevant:

- 1.0 Recognize and maintain the predominately low-density residential character of the area consistent with the Metro Plan.*
- 2.0 Provide a diversity of housing types in the area. Available techniques include encouraging reinvestment and rehabilitation of existing housing stock and the use of development standards that provide for clustering or planned unit development.*

The amendments attempt to strike a balance between maintaining the character of existing low density neighborhoods and providing a diversity of housing types in the area, consistent with this policy. While the amendments continue to allow for secondary dwellings in recognition of the importance of this small single-family housing type, they also include standards to improve the compatibility of these dwellings.

Willakenzie Area Plan (1992)

Although there are no policies in this refinement plan that directly address the amendments or constitute mandatory approval criteria, the following land use policy lends general support for the

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amendments:

Residential Policies

1. *Maintain the existing low-density residential character of existing Willakenzie neighborhoods, while recognizing the need to provide housing for all income groups in the city.*

4. *Encourage a mixture of housing densities and types to address the housing needs of a diverse population.*

The amendments attempt to strike a balance between maintaining the character of existing low density neighborhoods and providing housing for all income levels, consistent with this policy. While the amendments continue to allow for secondary dwellings in recognition of the importance of this housing type, they also include standards to improve the compatibility of these dwellings.

TransPlan (2002)

Several policies from TransPlan were raised in public testimony as applying to the proposed amendments. Those policies are addressed above under the Metro Plan, as identical policies are included in the Metro Plan. Those findings are incorporated herein by reference as demonstration of compliance with these policies.

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 amendments do not establish a special area zone. Therefore, this criterion does not apply to these amendments.

Summary of Proposed Single Family Code Amendments

Secondary Dwelling Units

The goal is to promote legal and compatible secondary dwelling units by clarifying ownership and occupancy requirements and improving design and compatibility by addressing looming walls, privacy, and building heights. The land use code currently allows secondary dwelling units (SDUs) in the R-1 Low Density Residential zone and includes limited development standards. The amendments would establish design standards such as sloped building setbacks.

Note: A related concurrent Envision Eugene implementation project is studying the possibility of restructuring system development charges (SDCs) to incentivize secondary dwelling units. Proposed code amendments include:

- Clarifying that the property owner must be the majority owner of the property, that the primary dwelling or secondary dwelling must be the principal residence of the property owner, and that the property owner must occupy the primary dwelling or secondary dwelling for at least 6 months of each calendar year. Providing allowance for temporary leave of absence.
- Requiring property owner to provide documentation verifying ownership and occupancy and to sign deed restriction
- Limiting building height to 15 feet for secondary dwelling with roof pitch less than 5:12 and 18 feet for roof pitch 5:12 or greater
- Limiting number of bedrooms to 2
- Allowing for overhead utility lines (instead of undergrounding) in certain cases
- Clarifying for attached structures, that the primary dwelling and secondary dwelling must share common wall for a minimum of 8 feet
- Providing for adjustment to allow a secondary dwelling over a garage subject to relevant criteria
- Providing for adjustment to allow for existing legal accessory building to be converted to secondary dwelling subject to relevant criteria

Accessory Buildings

The goal is to promote compatibility, and to clarify distinction between accessory buildings and dwellings. The land use code currently allows accessory buildings (such as detached garages, sheds and studios) in conjunction with a single family dwelling in the R-1 Low Density Residential zone, and includes limited development standards (building setbacks and height limits). Proposed code amendments include:

- For residential accessory buildings on lots less than 13,500 square feet, limiting building size; for lots between 13,500 and 43,560 square feet, limiting building size, requiring greater setback and sloped setback; and for lots over 43,600 square feet, requiring greater setback and sloped setback.
- Clarifying that an accessory building cannot be used as a dwelling, and limiting number of plumbing fixtures to two per building, but allowing for accessory buildings with three plumbing fixtures if property owner to signs deed restriction limiting use of building
- Limiting height, yet providing for adjustment to building height/setback or building size subject to relevant criteria

Alley Access Lots/Houses

The goal is to allow for the creation of a lot that fronts an alley rather than a street and is created from the rear portion of an existing lot, including design and compatibility standards that address looming walls, privacy, parking areas and building heights. The design standards are also proposed to apply to existing alley access lots as well as new alley access lots in the R-1 zone. This type of land division was previously allowed in the R-1 zone prior to the adoption of the 2001 land use code update, without specific standards addressing compatibility. Proposed code amendments include:

Lot Standards for Creating Alley Access Lots

- Minimum area of original lot: 9,000 square feet. Could be created from one lot or from two consolidated lots.
- Alley access lot size: minimum 2,250 square feet and not to exceed 40 percent of street lot; maximum lot size of 5,000 square feet

- Alley access lot dimensions: minimum 50 feet frontage/lot width and a minimum lot depth of 35 feet
- If original lot(s) eligible for both flag lot division and alley access division, require alley access lot
- For fire access, require nearest corner of lot to be within 125 feet from alley/street intersection
- Minimum alley width: 14 feet of right of way and 12 feet of paving
- Alley surfacing requirements: Pave or allow for gravel through a temporary surfacing permit. Consider allowing alternative paving methods.

Design/Development Standards for Houses on new and existing Alley Access Lots

- Limiting home size to 1,000 square feet in floor area. For one and one-half story dwellings, limit square footage on second floor to 400.
- Calculating lot coverage based on all roofed areas
- Limiting building height to 24 feet with sloped setbacks
- Limiting balconies or other second floor outdoor spaces, dormers and upper story windows
- Limiting number of bedrooms to 3
- Requiring house to be defined by a covered or roofed entrance with a minimum depth of three feet
- Requiring house to be served by a minimum three-foot wide hard-surfaced pedestrian walkway from alley or from the front street via an easement
- Requiring minimum of 1 parking space and maximum of 2 parking spaces
- Allowing options for location and types of parking and providing maximum dimensions for parking spaces and garages
- Limiting total vehicle use area (driveways and on-site parking) to a maximum of 400 square feet
- Limiting size and height of garages and other detached accessory structures to 400 square feet
- Prohibiting secondary dwelling units on alley access lots
- Allowing for overhead utility lines in certain cases (as opposed to undergrounding)
- Providing for adjustments to allow for design flexibility for building height/setback or windows, dormer, balconies subject to relevant criteria

University Area Interim Protection Measures

The goal is to establish interim protection measures for existing single-family neighborhoods surrounding the University of Oregon. As part of Envision Eugene, the city is committed to completing area planning for the university neighborhoods. However, this work is not slated to begin until following the local adoption of Envision Eugene, including a Eugene-specific urban growth boundary. Interim protection measures in the form of land use code amendments are intended to limit further negative impacts until the area planning process is completed. The interim measures would focus on the R-1 zoned areas in the South University, Fairmount and Amazon neighborhoods, which have experienced an increase in unintended housing associated with the demand for student housing and the proximity of the University of Oregon. These measures would remain in place until the area planning process is complete. It is expected that these interim measures would be replaced by a more comprehensive set of development and design standards established as part of the area planning effort.

Proposed code amendments include:

- Prohibiting new rowhouses, duplexes and other forms of attached housing
- Prohibiting new rezonings to R-1.5 Rowhouse zone
- Prohibiting the creation of new flag lots and new alley access lots, but apply compatibility standards for existing alley access lots (as part of citywide standards addressed above)
- Adding area specific development standards for secondary dwellings
- Limiting number of bedrooms in single-family residences (new and remodels)
- Limiting the size and number of accessory buildings
- Limiting the location and extent of parking allowed in front yards

Envision Eugene Single Family Code Amendments



-71-

SINGLE FAMILY CODE AMENDMENTS



- Envision Eugene Goals
- Summary of Amendments
- Recap of Public Hearing Process



ENVISION EUGENE GOALS



- Implement the goals of Infill Compatibility Standards project
- Address housing affordability
- Meet a portion of the city's 20 year need for single family housing



Eugene's existing neighborhoods provide the foundation for the community's overall livability. As new development brings change throughout Eugene's neighborhoods, we will undertake the following strategies to help ensure a high level of livability, deter negative impacts, and make positive changes:

1. Minimum and maximum allowable densities in the land use code will not be changed in order to meet our residential land need for Envision Eugene. Future actions (such as land use code changes and plan amendments) that impact allowable density in neighborhoods will only be undertaken through a public process (such as area planning or neighborhood planning) that integrates the compatibility goals of the Infill Compatibility Standards (ICS)

Infill Compatibility Standards

Infill Compatibility Standards are a set of recommendations from a community task force to help new development fit and function better in Eugene's existing neighborhoods. Some recommendations have been implemented while others are pending further action. For more information on specific recommendations, see www.eugene-or.gov/infill.



Affordable Housing often pertains to not-for-profit housing developments that offer lower cost housing through government subsidies. Housing Affordability refers to a broader concept of subsidized and market-rate housing that is affordable to the various income levels that make up a community's population. Over the past thirty years, housing costs in Eugene (both renting and purchasing) have far outpaced increases in wages. The result is that in 2010, 44% of Eugene households were considered housing cost burdened. Housing cost burdened is a federal guideline that means that 30 percent or more of a household's income is spent on housing costs.

A mixture of housing types at various levels of affordability will help meet our community's diverse and changing needs. To meet the housing affordability needs of all Eugene residents today and in the future, we will undertake the following strategies:

1. Plan for a higher proportion of new housing stock to be multi-family than the 39% of multi-family that currently exists. Increasing the proportion of multi-family housing is intended to expand the variety of housing types and the prices available, and to address shifting demographic trends towards an aging population and smaller household size.

Approximately 15,000 new homes are expected to be constructed in the next 20 years. A mix of 55% single-family and 45% multi-family is being planned for the new homes. When combined with Eugene's existing inventory of housing, this represents an overall mix of 60% single-family and 40% multi-family homes.

Housing Affordability

A typical national standard used to determine housing affordability is that a household should pay no more than 30 percent of their income on housing. In 2010, 44 percent of Eugene households paid more than 30 percent (58 percent of renters, 31 percent of homeowners).

Multi-Family Housing

Multi-family housing is typically attached housing including building types like duplexes, triplexes, small and large apartment complexes, and condominiums.



Duplex Small scale apartments West Town on 8th

Infill Compatibility Standards and promoting compatibility and forms.

Support low-density flag lots, lot coverage, and alley access lots as part of addressing issues identified by the Commission into the ongoing Code Revision Pillar).

That uses incentives development on by residents. tion see www.eugene-or.gov/infill.



Neighborhood planning

Our livable neighborhoods is vital great place to live, work, and in the future.

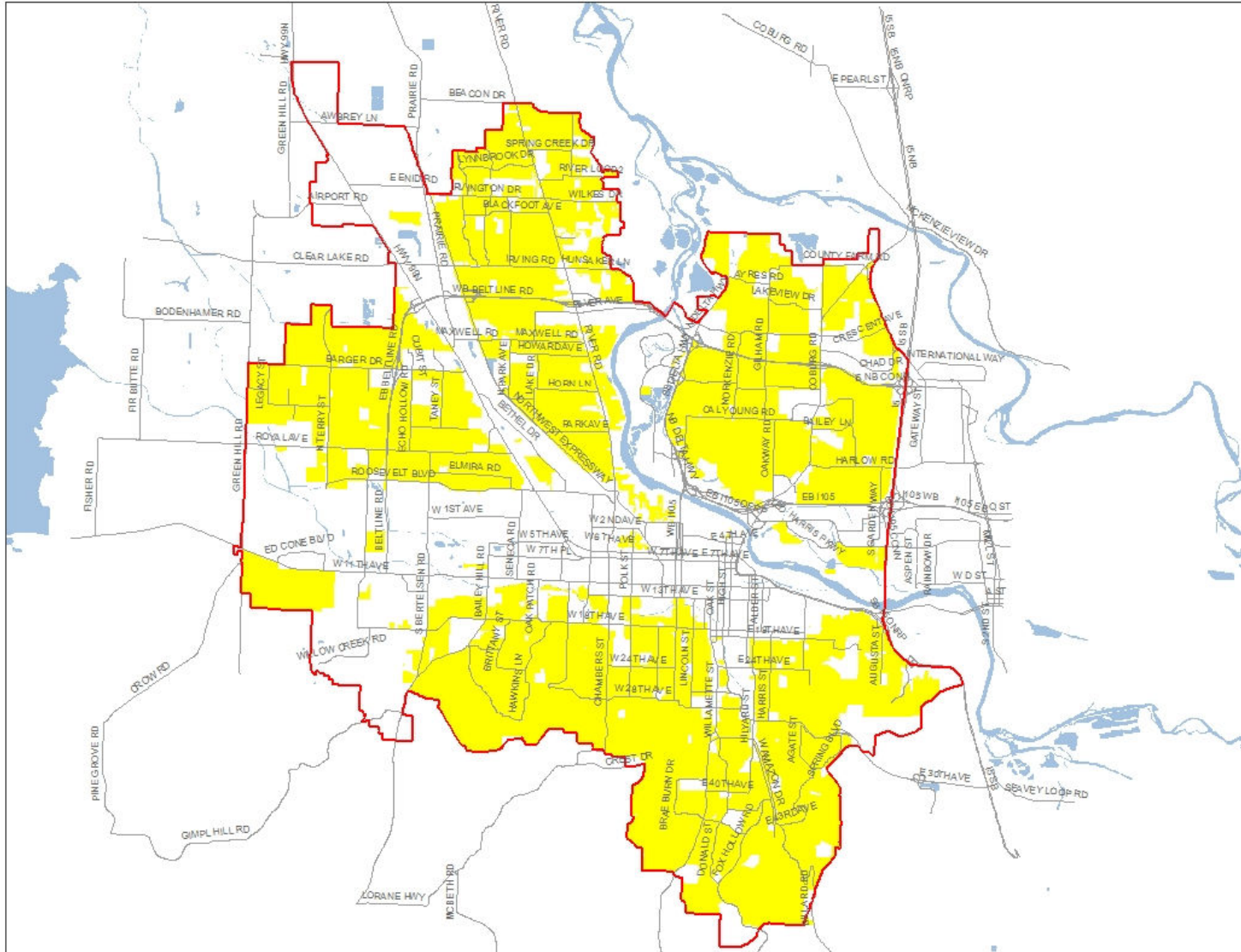
R-1 Low Density Residential Zone

- Improve compatibility standards citywide for
 - secondary dwelling units (currently allowed)
 - accessory buildings (currently allowed)
 - existing alley access lots
- Allow for new alley access lots
- Add University Area Interim Protection Measures

PROPOSED AMENDMENTS



R-1 Low Density Residential Zoning



-75-

Secondary Dwellings



Rainbow Valley Design and Construction



Rainbow Valley Design and Construction



Secondary Dwellings

- Strengthen owner/occupancy provisions
- Limit building height to one story
- Add sloped setbacks
- Limit number of bedrooms to two

PROPOSED AMENDMENTS



Current Code

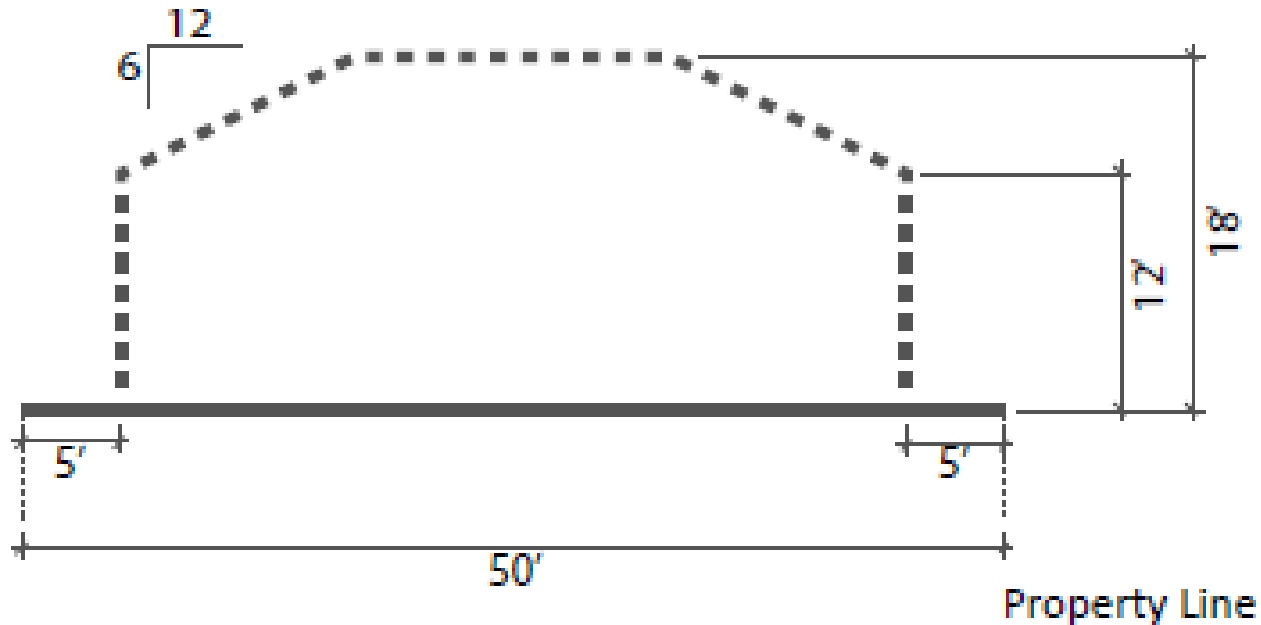


Proposed Code

Secondary Dwellings

Issues Raised in Testimony

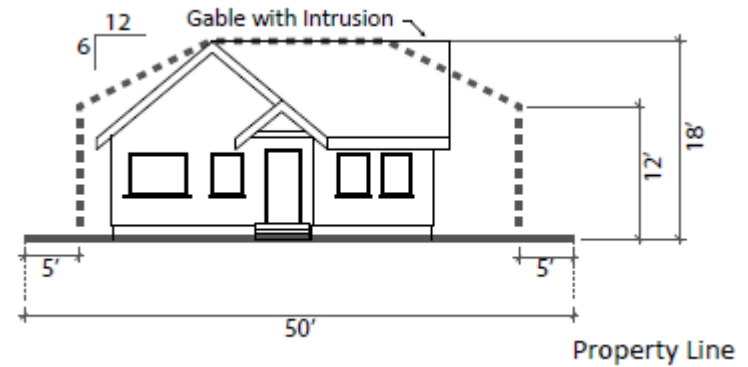
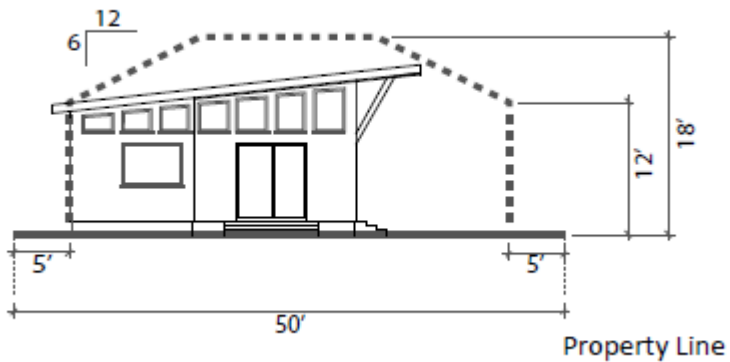
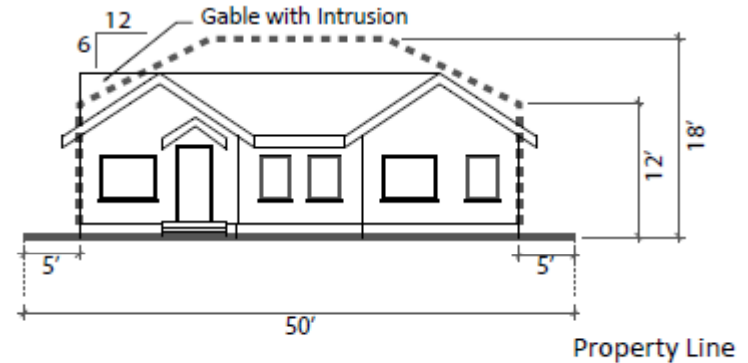
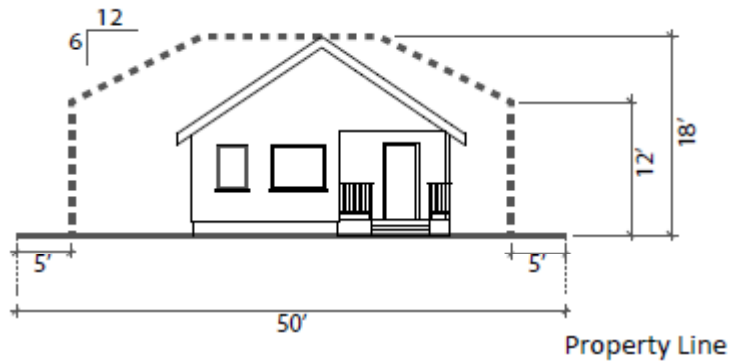
- Density Requirement
- Development standards (height/sloped setback)



PROPOSED AMENDMENTS



Secondary Dwellings



Accessory Buildings



PROPOSED AMENDMENTS



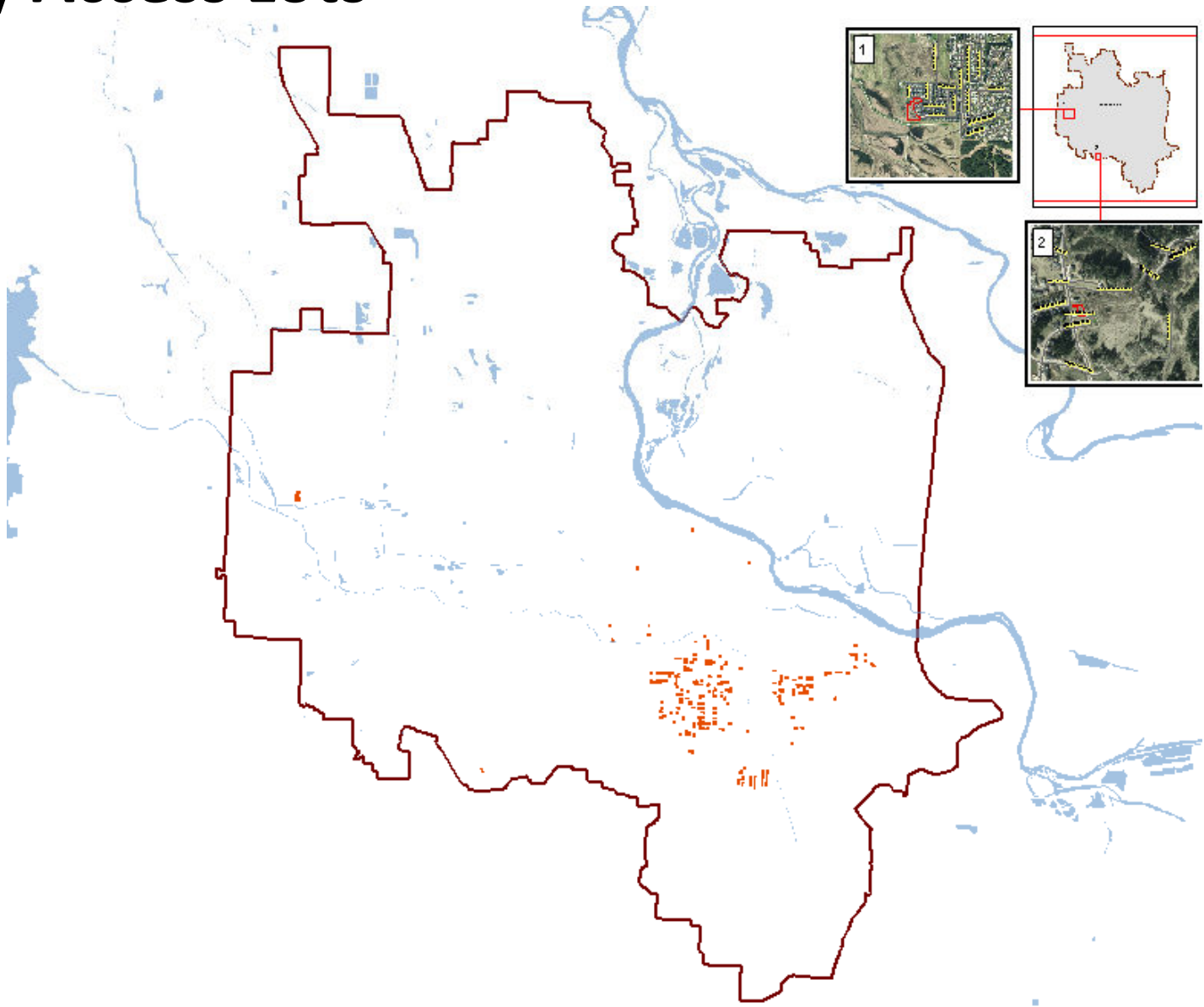
Accessory Buildings

- Limit building height/adding sloped setbacks
- Limit building size on smaller lots
- Increase setbacks on larger lots
- Limit number of plumbing fixtures

PROPOSED AMENDMENTS



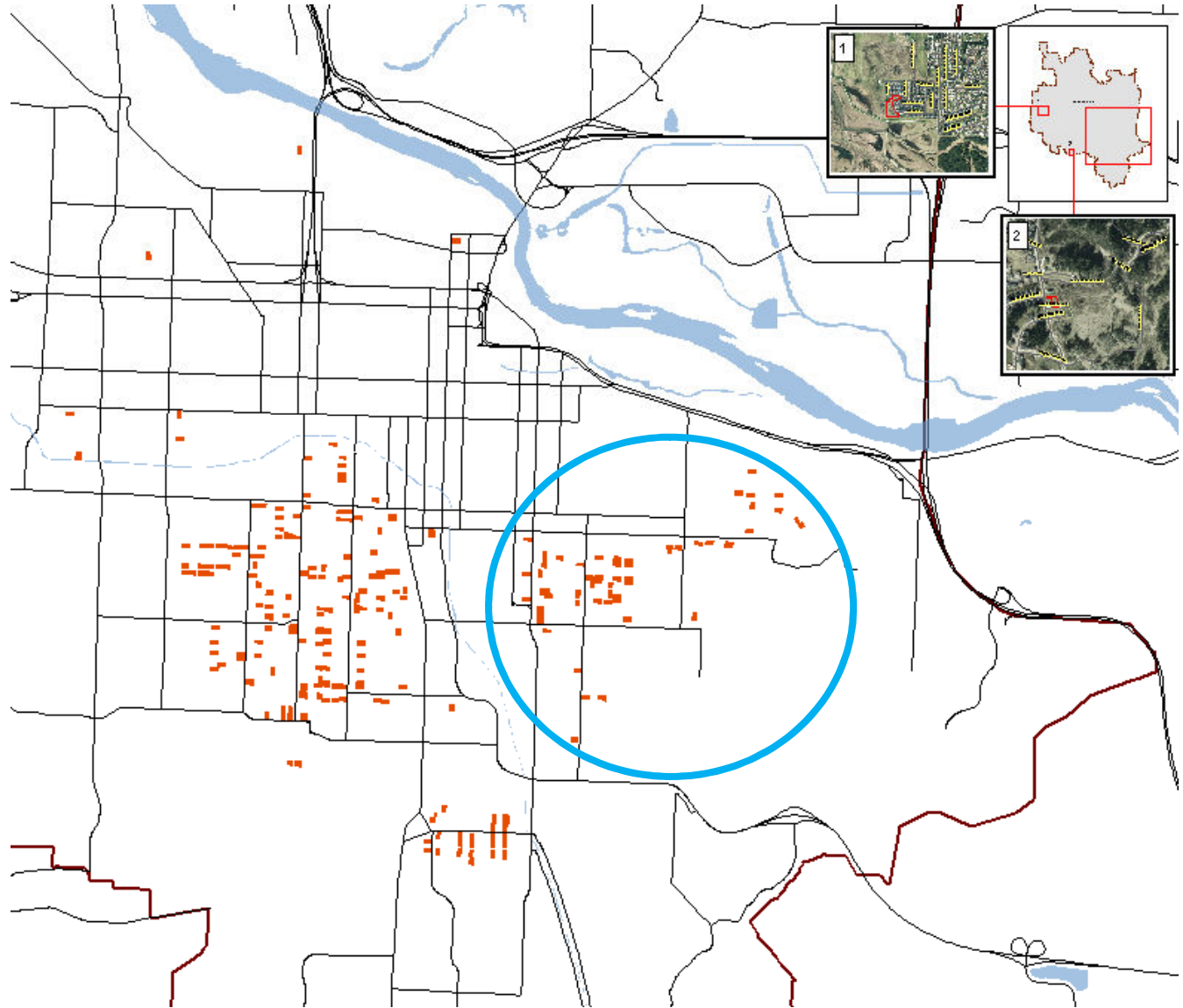
Alley Access Lots



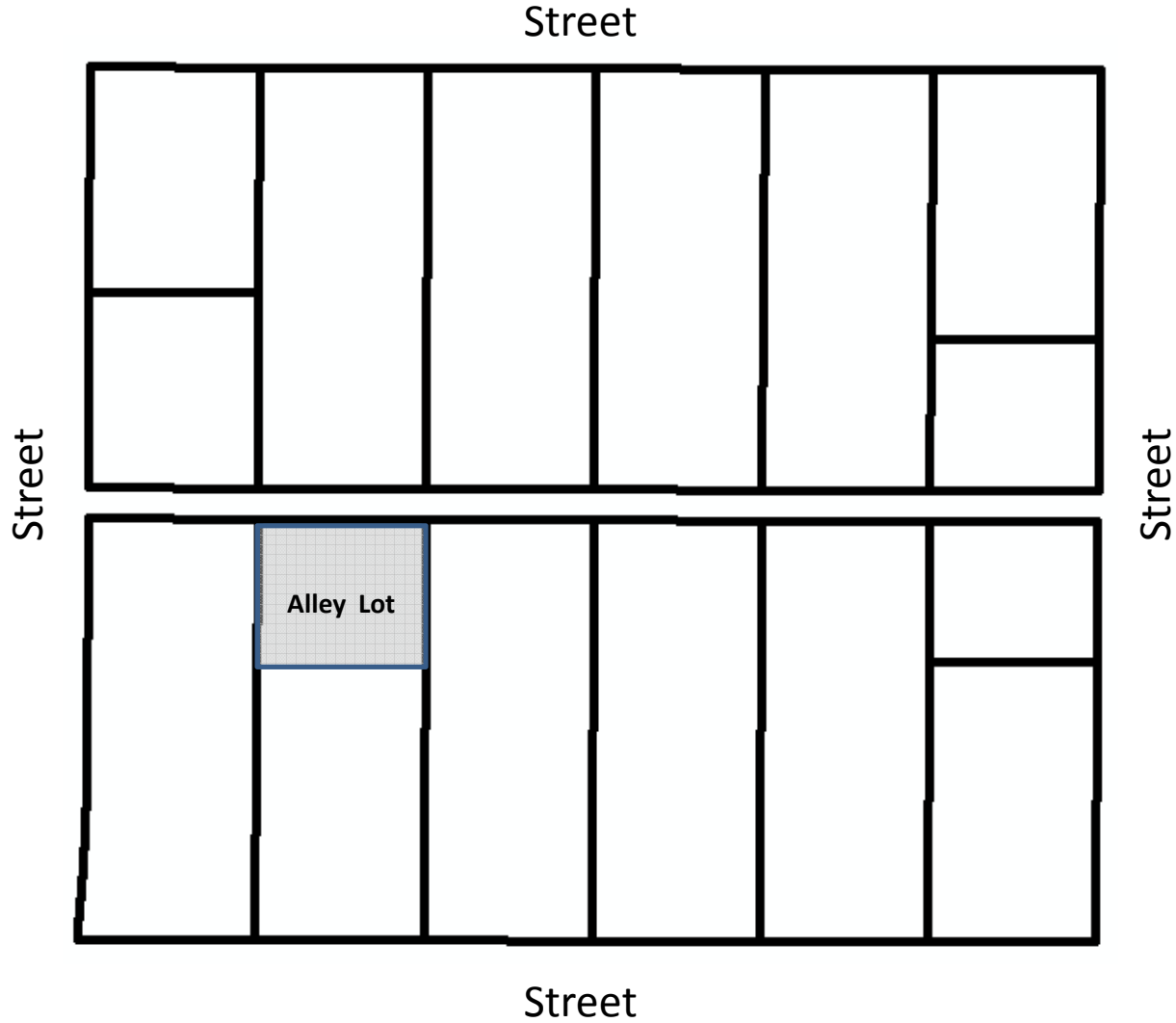
PROPOSED AMENDMENTS



Alley Access Lots



Alley Access Lots



Alley Access Lots

- Limit home size
- Limit building height /requiring sloped setbacks
- Limit balconies, dormers, upper story windows
- Limit number of bedrooms to three
- Limit total area for driveways and parking
- Limiting size and height of accessory buildings

PROPOSED AMENDMENTS



Current Code



Proposed Code



Alley Access Lots

Issues Raised in Testimony

- Development standards
- Alley improvement
- Density

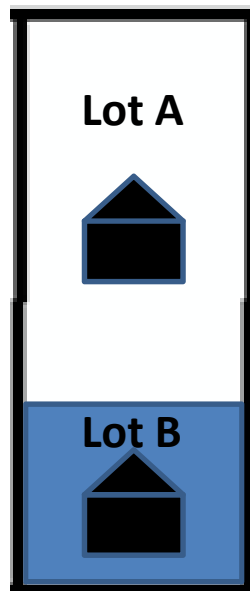
Alley Access Lots

Example 1

Density per Lot

Lot A = 1 Dwelling on 6,750 Square Feet

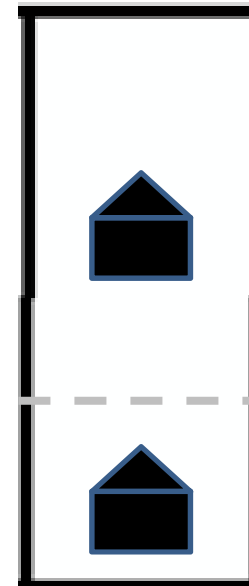
Lot B = 1 Dwelling on 2,250 Square Feet



Example 2

Density per Development Site

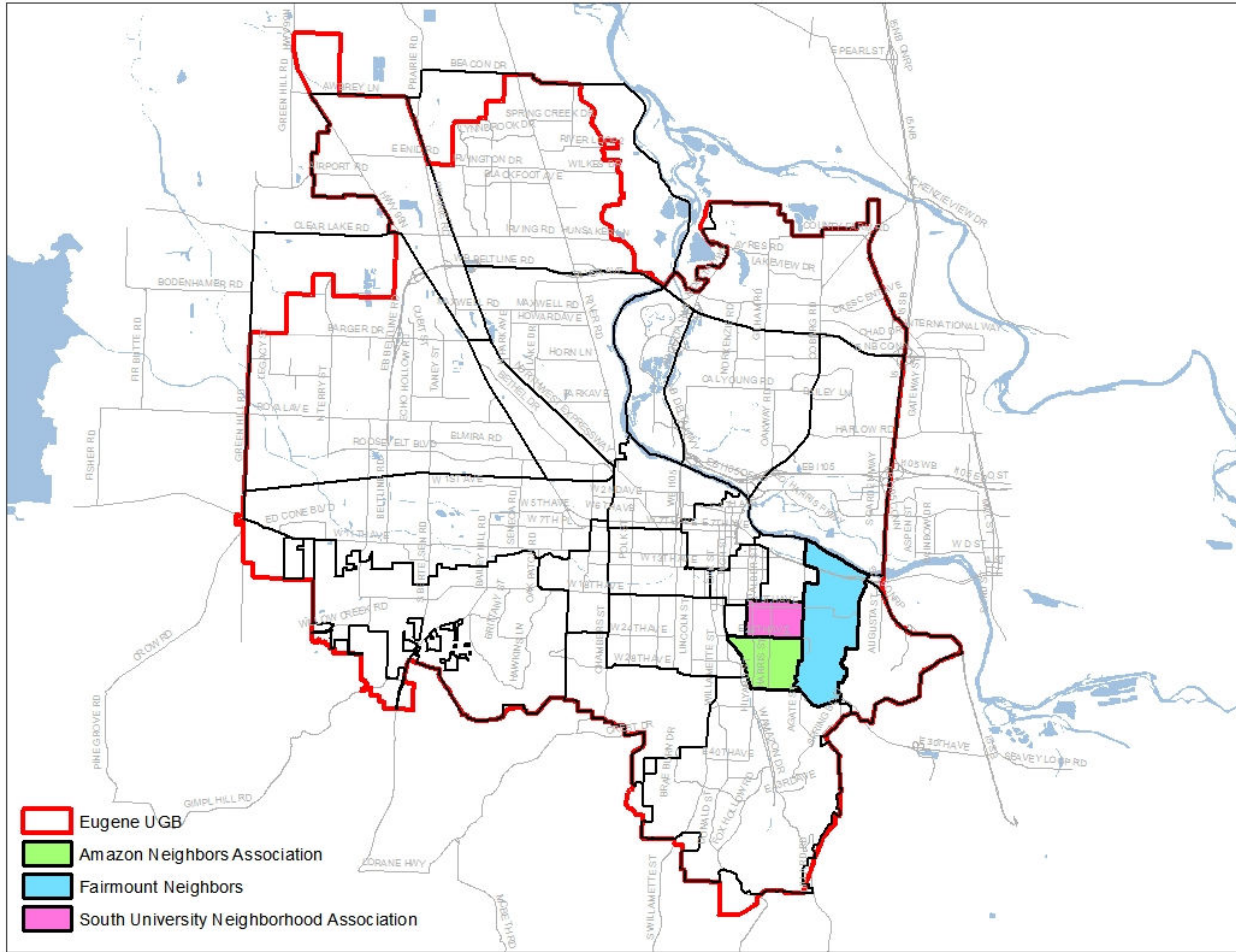
= 2 Dwellings on 9,000 Square Feet



PROPOSED AMENDMENTS



University Area Interim Protection Measures



University Area Interim Protection Measures

Prohibits

- new rowhouses and duplexes
- new rezonings to R-1.5 Rowhouse zone
- new flag lots
- new alley access lots (add compatibility standards to existing lots)

Limits

- add area-specific standards for secondary dwellings
- number of bedrooms in single-family homes
- size/number of accessory buildings
- location/extent of parking allowed in front yards
- property line adjustments

University Area Interim Protection Measures

Issues Raised in Testimony

- Secondary dwellings
- Amazon neighborhood
- Bedrooms in new homes

Planning Commission

- September 2013 public hearing
- Planning Commission recommendations

City Council

- November 2013 public hearing and testimony

Recommended Modifications

Secondary Dwellings

- Further clarification regarding density requirements

University Area Interim Protection Measures

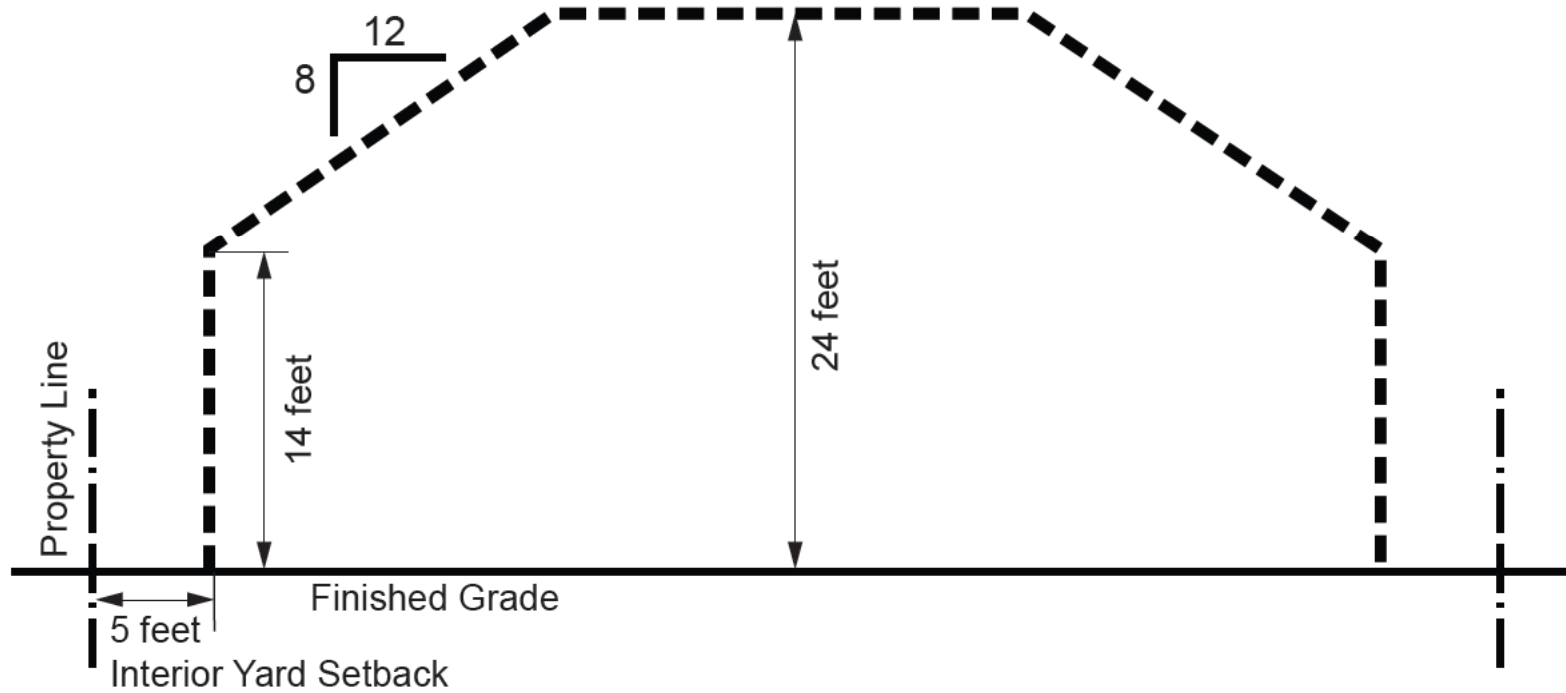
- Bedroom allowance for new homes

SINGLE FAMILY CODE AMENDMENTS



Questions?

SINGLE FAMILY CODE AMENDMENTS



EUGENE CITY COUNCIL

AGENDA ITEM SUMMARY



Work Session: Consider Initiation of a Metro Plan Amendment for Property at 955 Coburg Road

Meeting Date: February 12, 2014
 Department: Planning and Development
www.eugene-or.gov

Agenda Item Number: B
 Staff Contact: Steve Nystrom
 Contact Telephone Number: 541-682-8385

ISSUE STATEMENT

This work session is being held to consider whether City Council should initiate a metro plan amendment process to designate the property at 955 Coburg Road as low-density residential (LDR).

BACKGROUND

The property in question is located at 955 Coburg Road and is approximately one acre in size (Attachment A). The current owner, Amber Benson, applied for a zone change from R-1, low-density residential to R-2, Medium-Density Residential (MDR) in January 2013. In May 2013, the Hearings Official determined that the zone change request was consistent with the metro plan and refinement plan designation of Medium-Density Residential (MDR) and approved the proposed zone change. That decision was appealed to the Planning Commission, which upheld the zone change approval in a unanimous 7-0 vote in September 2013. That decision was subsequently appealed to the Land Use Board of Appeals (LUBA). While this case would likely have been decided by now, the parties involved agreed to table the appeal for the time being.

Land Use History

When this item was first discussed by the council on December 11, 2013, the council raised some questions about the original Willakenzie Area Plan (WAP) adoption process that occurred in 1992. The City Attorney gave a brief history of that process explaining that both the Planning Commission and City Council specifically addressed this parcel in 1992, and ultimately decided to retain the medium-density designation. Attachment B provides a brief history of the site, including the WAP adoption process. Attachments C and D include excerpts from the Planning Commission minutes and subsequent council-adopted ordinance in 1991/1992, where both bodies stated their intention to maintain the subject property as MDR. As noted in those minutes, the Planning Commission unanimously adopted a specific motion that concerned only this property, with the motion recommending that the council retain the medium density residential designation for this property. That motion by the Planning Commission and the subsequent adoption by the council demonstrate that the current Metro Plan designation was not the result of a clerical or housekeeping error back in 1992. Attachment E is a copy of the Planning Commission's recent decision and findings for the Benson zone change.

Existing Conditions

The property lies on the east side of Coburg Road which is classified as a major arterial street and one of the key transit corridors of Envision Eugene. The parcels fronting along the east side of Coburg Road, between Harlow Road and Bailey Lane, contain a mixture of medium- and low-density residential land. Development along this section of Coburg Road also varies. Properties immediately adjacent to the site are either developed with single-family residences or are vacant, while other properties contain apartments, cluster housing and churches. Properties further north and south of the site are primarily designated MDR, High-Density Residential and Commercial. These properties contain a mixture of multi-family housing and commercial buildings. Attachment F is a copy of the adopted Metro Plan map. Attachment G provides a more detailed representation of current land use designations in the area, with the acknowledgement that this map is not officially adopted at this scale. Attachment H is a brief fact sheet comparing the key standards for R-1 vs. R-2 zoning, to aid in this discussion.

Amendment Process

The land use code allows metro plan amendments to be initiated in one of two ways: 1) Property owners may request amendments of their own property, or 2) City Council may initiate amendments for any parcel or parcels. A site specific metro plan amendment requires a public hearing and recommendation from the Planning Commission, followed by a public hearing and action by the City Council. If not challenged, this process would typically take several months to complete. The criteria for a metro plan amendment are as follows:

- The amendment must be consistent with the relevant statewide planning goals
- The amendment must not make the metro plan internally inconsistent

City-initiated metro plan amendments are typically initiated as part of larger planning efforts, such as Envision Eugene, Walnut Station Mixed-Use Center and the Downtown Code Amendments. Amendments of individual tax lots such as the subject parcel are typically made by the property owner themselves. Given that this parcel is not a part of a larger planning effort, and the property owner is in opposition to this initiation, staff would need to assume the responsibility of preparing and processing the application. Staff resources would need to be shifted away from other priority items, such as Envision Eugene, in order to accomplish this work.

As a practical matter, the property owner may decide to submit the necessary application for development under the currently approved R-2 zoning, before adoption of any amendment becomes effective. Under this scenario, an R-2 development could proceed even if the property is later re-designated to low-density residential.

Finally, if the council is inclined to initiate this amendment process, the council should consider whether a concurrent zone change is needed as well. While a Metro Plan amendment such as this, if approved, automatically amends the refinement plan designation, it would not address the current R-2 zoning that has been approved by the Planning Commission. If it is the council's intent to ensure this parcel is developed under the R-1 standards, the council should initiate a concurrent zone change as well.

RELATED CITY POLICIES

If the council initiates the Metro Plan amendment process, the proposal will be subject to review under EC 9.7700-9.7750 (Metro Plan Amendment Procedures), including compliance with all statewide planning goals.

COUNCIL OPTIONS

The City Council has the following options:

- 1) Initiate amendment of the Metro Plan to change 955 Coburg Road from Medium-Density Residential to Low-Density Residential.
- 2) Postpone a decision on whether to initiate a Metro Plan amendment until after the LUBA appeals process is complete.
- 3) Take no action.

CITY MANAGER'S RECOMMENDATION

The City Manager recommends that the council take no action.

SUGGESTED MOTION

None.

ATTACHMENTS

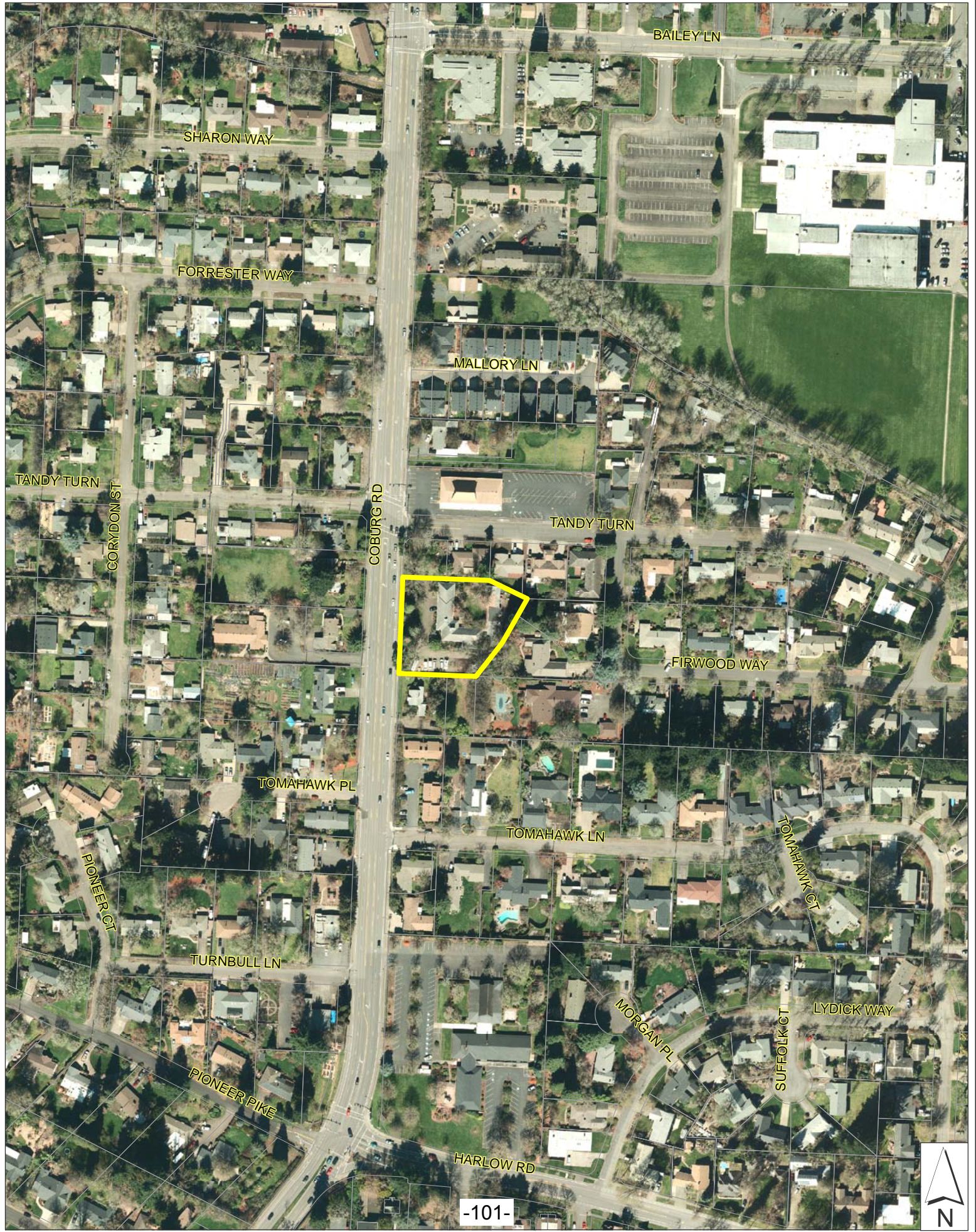
- A. Vicinity Map (Aerial)
- B. Parcel History Timeline
- C. November 12, 1991, Planning Commission Meeting Minutes (Excerpt)
- D. City Council Ordinance and related exhibits; June 8, 1992
- E. Planning Commission Final Order: Benson Zone Change Appeal
- F. Metro Plan Diagram
- G. Existing Land Use Designations: Coburg Road Corridor
- H. Zoning Comparison: R-1 vs. R-2

FOR MORE INFORMATION

Staff Contact: Steve Nystrom
Telephone: 541-682-8385
Staff E-Mail: steven.a.nystrom@ci.eugene.or.us

Benson Property - Coburg Road

Item B.



Benson Property History

- 1987: Metro Plan shows subject site as Medium Density Residential (MDR)
- Sept. 1991: Draft Willakenzie Area Plan (WAP) forwarded to the Planning Commission. Includes recommendation from Willakenzie Planning Team to designate the McHolic (Benson) property as Low-Density Residential (LDR)
- Sept. 1991: Mr. McHolic requests that Planning Commission retain subject parcel as MDR
- Nov. 1991: Planning commission unanimously recommends city council retain MDR designation for McHolic property
- June 8, 1992: City Council adopts WAP. Map shows LDR designation at the time of adoption.
- June 8, 1992: City Council adopts Metro Plan Amendments to implement the WAP. This ordinance includes an exhibit approving multiple changes/amendments. Included in this exhibit is specific language directing that the McHolic property be removed from LDR designation, thereby retaining the MDR designation. In addition, a map is attached showing specific parcels to be redesignated to LDR. The McHolic property is not included in this LDR area.
- Sept. 1992: WAP reflects MDR designation for McHolic property as adopted by Council ordinance.
- 1992-present: Subsequent printings of the Metro Plan have continually shown the subject property as MDR

Amended

S U M M A R Y M I N U T E S

Planning Commission
McNutt Room--City Hall

November 12, 1991
7 p.m.

PRESENT: Ken Tollenaar, President; Jenny Sirnio, Vice President; Gerry Gaydos, John Van Landingham, Nancy Nathanson, Greg Evans, Ellen Wojahn, members; Jan Childs, Allen Lowe, Jim Croteau, staff; John Brown, Randy Hledik, Willakenzie Planning Team.

I. WORK SESSION: WILLAKENZIE REFINEMENT PLAN

Amended

dential to medium-density residential, and the Meadowlark Elementary School site from government education to low-density residential.

Ms. Nathanson amended the motion that language be added to clarify that the intent that the three redesignations is not to meet Metro Plan goals for increasing residential land, but rather, to control the possibility that the sites could be developed as a use other than educational.

The amendment passed unanimously, 7:0.

The motion passed unanimously, 7:0.

4. Wylie Site South of Centennial

Mr. Lowe directed attention to page 73 of the draft plan, referring to an area that is designated high-density residential. He said that the area does not appear on the Metro Plan Amendments map. The planning team decided to change the designation on that parcel south of Centennial Boulevard and west of I-5 from high-density residential to low-density residential. Testimony at the public hearing requested that the Planning Commission consider allowing a designation that would allow flexibility for the developer. Staff concluded that a low-density designation would satisfy the requests. Mr. Brown said that several residents expressed concern about this area, maintaining that a designation of high-density would encroach upon the existing single-family residential neighborhood. Residents were concerned about traffic, land use patterns, and the character of the area.

Ms. Wojahn supported a designation of low-density residential. She spoke of a letter suggesting that cluster housing might be suitable for the parcel. She wondered whether site review or the PUD process would be required for cluster housing. Mr. Croteau said that a cluster subdivision process would be followed, which would involve site review. Ms. Wojahn said that a cluster subdivision would result in smaller lots and perhaps aid in affordable housing. She wondered whether the commission could encourage such development. Mr. Croteau said that site design will most likely be the driving constraint on the parcel not affordability.

Mr. Van Landingham moved, seconded by Mr. Gaydos, to redesignate the 14-acre Wylie property south of Centennial Boulevard and east of I-5 to low-density residential. The motion passed unanimously, 7:0.

Ms. Nathanson left the meeting at 8:45 p.m.

5. McHolic Request on Coburg Road

Mr. Lowe directed attention to Metro Plan Amendment Area #5. He said that the planning team recommends to redesignate the area from medium-density to low-density residential. He said that the area contains a church and several

Amended

properties zoned R-1. Mr. McHolic owns the northern parcel and requests that his property remain medium-density residential, citing the limited use for single-family development. Mr. Lowe said that the planning team did not make a decision on that particular property. The group briefly discussed the surrounding uses.

In response to a question from Mr. Van Landingham, Mr. Croteau said that the area is developed as low-density residential now. Mr. Lowe said that Mr. McHolic has expressed an intent to develop the property as medium-density residential.

Mr. Van Landingham moved, seconded by Ms. Wojahn, to redesignate parcels within Metro Plan Amendment Area #5 from medium-density residential to low-density residential. The motion passed, 5:0 (Mr. Gaydos abstained).

Ms. Sirnio moved, seconded by Ms. Wojahn, to retain the medium-density residential designation for Mr. McHolic's property. The motion passed, 5:0 (Mr. Gaydos abstained).

6. Eastwood Lane

Mr. Lowe referred to the map depicting the Eastwood Lane property and the accompanying Metro Plan Amendment Area #6. Mr. Lowe said that testimony was received from the owner of property on the north side of Eastwood Lane, six parcels to the west of Oakway Road. The owner requests that his property remain medium-density. Mr. Van Landingham said that testimony was heard a few years ago requesting that the property remain low density.

Mr. Van Landingham moved, seconded by Ms. Sirnio, to support the planning team's recommendation regarding Eastwood Lane, thereby denying the redesignation to medium-density residential of the property six parcels to the west of Oakway Road on the north side of Eastwood Lane.

7. Willagillespie Area

Mr. Lowe referred to the three areas in question: Amendment areas #9 (10 acres south of Robin Hood); Area #11 (across Willagillespie); and the school site. The testimony included several letters opposing the medium-density residential and the commercial designations. A couple of letters supported medium-density residential but opposed commercial.

Mr. Tollenaar said that these areas have potential for medium-density residential development because they are large and areas #9 and #11 have no compatibility issues.

Mr. Brown said that the planning team thought medium-density residential development would be possible without encroaching on the existing develop-

Attachment D

ORDINANCE NO. 19856

**AN ORDINANCE AMENDING THE EUGENE-
SPRINGFIELD METROPOLITAN AREA GENERAL PLAN
DIAGRAM AND ADOPTING A SEVERABILITY CLAUSE.**

The City Council of the City of Eugene finds as follows:

1. The City of Eugene has initiated amendments to the Eugene-Springfield Metropolitan Area General Plan (Metro Plan) pertaining to the plan designation for 26 areas within the Willakenzie planning area.
2. Adoption of these proposed amendments has been recommended by the Eugene, Springfield, and Lane County Planning Commissions. Notice of the public hearings before the Planning Commission and City Council has been given as required by Eugene Code, 1971, Section 9.134.
3. The proposed amendments to the Metro Plan diagram are necessary as an implementation of the Willakenzie Area Plan Diagram.
4. The proposed plan amendments are consistent with applicable Statewide Planning Goals, and meet other criteria for approval of Metro Plan amendments as required by Section 9.128 of the Eugene Code as shown in the findings attached as Exhibit A and incorporated herein by reference.

NOW, THEREFORE,

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. The findings set forth above and incorporated herein by reference and the findings contained in Exhibit A attached hereto are adopted.

Section 2. The Metro Plan Diagram on page II-E-17 is amended in the Willakenzie planning area, as revised in Exhibit B, to provide as follows, and as shown graphically in Exhibit C attached hereto:

1. Change in designation from Low Density Residential to Medium Density Residential for a 15 acre site located on the south side of Goodpasture Island Road between Happy Lane and Tabor Street.
2. Change designation from Government and Education to Low Density Residential for a 25 acre site north of Cal Young Road at Queens Way between Norwood and Willakenzie Road.

3. Change designation from Medium Density Residential to High Density Residential for a 16 acre site on the north side of Cal Young Road at Willakenzie Road.
4. Change designation from Medium Density Residential to Low Density Residential for a 17 acre site on the east side of Coburg Road between Elysium and Beltline Road.
- * [5. Change designation from Medium Density Residential to Low Density Residential for a 6 acre site on the east side of Coburg Road between Harlow Road and Tandy Turn.
6. Change designation from Medium Density Residential to Low Density Residential for a 14 acre site on the west side of Oakway Road between Eastwood Lane and Fairway Loop.
7. Change designation from Medium Density Residential to Low Density Residential for a 6 acre site west of Coburg Road between Oakmont Way and Pioneer Pike.
8. Change designation from Medium and High Density Residential to Commercial for a 29 acre site south of Country Club Road between Delta Highway and Coburg Road.
9. Change designation from Low Density Residential to Medium Density Residential for a 22 acre site south of Robin Hood between Delta Highway and Willagillespie Road.
10. Change designation from Low Density Residential to Medium Density Residential for a 9 acre site east of Willagillespie Road between Rio Glen Drive and Clinton.
11. Change designation from Low Density Residential to Medium Density Residential for a 13 acre site east of Willagillespie Road between Clinton and Abbie Lane.
12. Change designation from Medium Density Residential to High Density Residential for a 36 acre site north of Valley River Center between the Willamette River and Goodpasture Island Road.
13. Change designation from Government and Education to Medium Density Residential for a 31 acre site at Kingsley Road, between the Willamette River and Goodpasture Island Road.
14. Change designation from Low Density Residential to Medium Density Residential for a 21 acre site south of Ayres Road between Delta Highway and Gilham Road.
15. Change designation from Medium Density Residential to Low Density Residential for a 22 acre site east of Coburg Road between Crescent Drive and Hillview #1.

16. Change designation from Low Density Residential to Medium Density Residential for a 10 acre site located at the northwest corner of Ayres Road and Gilham Road.
17. Change designation from Low Density Residential to Medium Density Residential for a 30 acre site located south of Devon between Gilham Road and County Farm Loop.
18. Change designation from Low Density and Medium Density Residential to Special Light Industrial for a 77 acre site north of Chad Drive between Shadow View and Interstate 5.
19. Change designation from Special Light Industrial to Commercial for a 10 acre site east of Coburg Road between Crescent Drive and Chad.
20. Change designation from Medium Density Residential and Light Medium Industrial to High Density Residential for a 70 acre site north of Centennial Boulevard, west of Interstate 5.
21. Change designation from Low Density Residential to Medium Density Residential for a 15 acre site on the east side of Delta Highway north of Ayres Road.
22. Change designation from Low Density Residential to Commercial for a 13 acre site on the north side of Coburg Road at the County Farm Loop intersection.
23. Change designation from Medium Density Residential to Commercial for a 9 acre site north of Cal Young Road between Willakenzie Road and Coburg Road.
24. Change designation from Medium Density Residential to High Density Residential for a 6 acre site east of Coburg Road between Crescent Drive and Kinney Loop.
25. Change designation from Low Density Residential to Medium Density Residential for a 15 acre site north of Coburg Road at the intersection of County Farm Loop.
26. Change designation from Medium Density Residential to High Density Residential for a 12 acres site north of County Farm Road between Club Road and Willagillespie Road.

Section 3. The Plan Diagram amendments outlined above take precedence over any other inconsistent textual provisions of the Metropolitan Area General Plan.

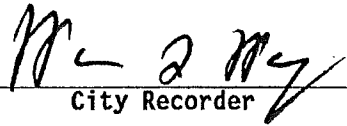
Section 4. These Metro Plan amendments shall become effective when identical amendments have been adopted by Lane County and the City of Springfield.

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.

Passed by the City Council this

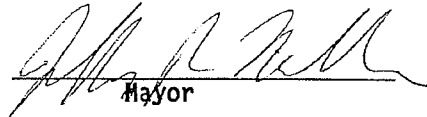
8th day of June, 1992



City Recorder

Approved by the Mayor this

8th day of June, 1992



Mayor

EXHIBIT B

EUGENE CITY COUNCIL METRO PLAN AMENDMENT REVISIONS

Among the recommendations on the draft Willakenzie Area Plan forwarded to the elected officials by the Eugene Planning Commission were proposed amendments to the Metro Plan. The following Metro Plan amendments were adopted by the Eugene City Council: (maps of the revisions are attached)

* Amendment # 5 - Proposed area reduced by approximately 1 acre. Remove Tax Lot 101, Assessor's Map 17-03-20-4-4 (McHolick Parcel); change acreage, number of tax lots and text.

Amendment # 9 - Add Gheen Irrigation Co. parcels to area designated for Medium Density Residential use; change acreage, number of tax lots and text.

Amendment # 10 - Delete. Area of this proposed amendment added to area of Amendment # 9 (above).

Amendment # 15 - Add 10 acres to the acreage total, change number of tax lots involved, and change map of affected area to reflect enlargement of area proposed for Medium Density Residential designation.

Amendment # 18 - Add 10 acres to the acreage total, change number of tax lots involved, and change map of affected area to reflect enlargement of area proposed for Medium Density Residential designation.

Amendment # 19 - Add Tax Lot 3000, Assessor's Map 17-03-16-0 0 to the area designated for Special Light Industrial development, change the acreage total, number of tax lots affected and description of amendment.

Amendment # 20 - Delete this amendment proposal for Light Medium Industrial designation east of Old Coburg Road. Area involved in this amendments added to the area proposed for Special Light Industrial designation in Amendment # 19.

Amendment # 23 - Delete this amendment. Removal of Tax Lot 4703, Assessor's Map 17-03-21-2 3 from proposal results in change of less than 5 acres.

Amendment # 24 - Change acreage total to 15 acres. Change map to reflect enlargement of area proposed for Medium Density Residential designation.

Amendment # 28 - Change acreage total to 15 acres. Change map to reflect enlargement of area proposed for Medium Density Residential designation.

Amendment # 29 - Add an amendment to 12 acres north of County Club Road from Medium Density Residential to High Density Residential.

EXHIBIT C

WILLAKENZIE AREA PLAN METRO PLAN DIAGRAM AMENDMENTS

The draft Willakenzie Area Plan proposes 29 separate amendments to the Metropolitan Area General Plan Diagram. The Eugene Planning Commission, during its deliberations on the plan, recommended a number of changes to the proposed amendments (see Exhibit B). Among those changes were recommendations to 1) change the designation in one area from Commercial to Medium Density Residential, 2) add acreage to several other areas proposed for a Medium Density Residential designation, and 3) change the designation in one area from Light Medium Industrial to Special Light Industrial. The changes proposed by the Eugene Planning Commission have resulted in the deletion of three proposed Metro Plan Amendments.

The Eugene City Council adopted one Metro Plan amendment not considered by the Eugene Planning Commission. That amendment is identified as Amendment # 29. The attached maps and descriptions of each amendment include those changes adopted by the Eugene City Council.

Amendment 5

Location: East of Coburg Road between Harlow Road and Tandy Turn.

Acreage: 6

Number of Tax Lots included in Proposed Amendment: 6

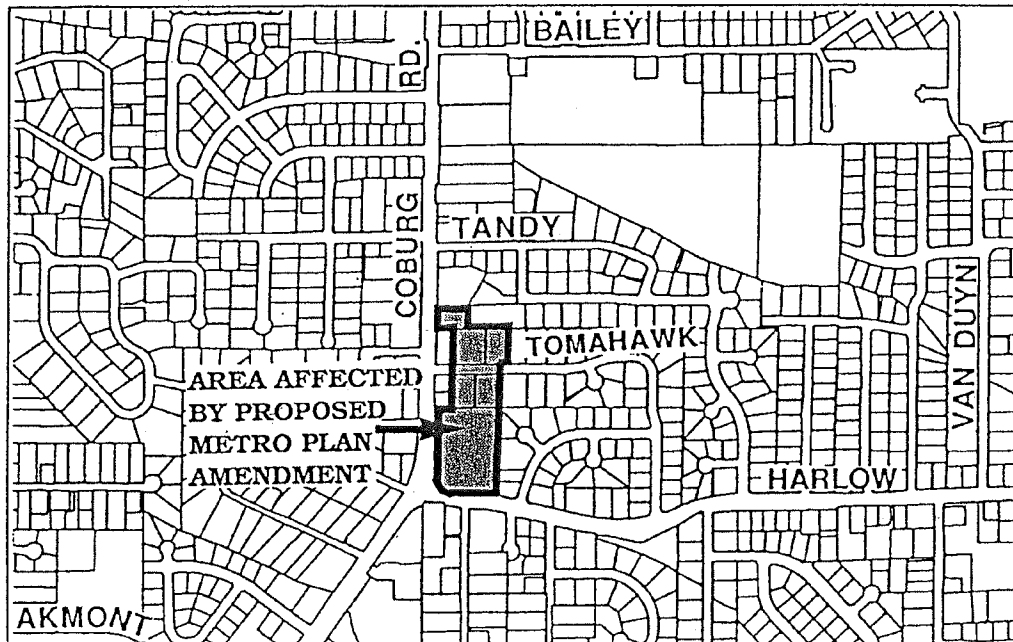
Current Zoning: RA Suburban Residential and RI Low Density Residential

Current Use: Vacant, single family residential, religious.

Current Metro Plan Designation: Medium Density Residential

Assessors Map: 17-03-20-44; Tax Lots 01700, 04300, 04400, 04700, 04801, 04900

If there are inconsistencies between the list of affected tax lots and the map (below), the map prevails.





Eugene Planning Commission

FINAL ORDER OF THE EUGENE PLANNING COMMISSION ON APPEAL OF A ZONE CHANGE APPROVAL FOR BENSON, AMBER (Z 13-2)

I. INTRODUCTION

This Final Order concerns an appeal of the decision by the Eugene Hearings Official (HO) to approve a zone change request for Benson, Amber (Z 13-2). The application requests approval of a zone change from R-1 Low-Density Residential to the R-2 Medium-Density Residential zone. The subject site is located on the west side of Coburg Road immediately south of Tandy Turn.

The initial staff report found the application was consistent with the applicable Eugene Code (EC) zone change criteria at EC 9.8865, and recommended that the HO approve the request. On May 30, 2013, the HO issued his decision finding that the zone change request was consistent with the applicable approval criteria. However, he declined staff's recommendation to apply the Site Review (/SR) Overlay.

On June 11, 2013, on behalf of the Harlow Neighbors Association, Jennifer Yeh filed an official Appeal Statement that totaled three primary assignments of error and 26 subassignments. The appeal asserted that the HO erred in finding the zone change request consistent with the Metro Plan and the Willakenzie Area Plan, a local refinement plan. The Planning Commission (PC) held a public hearing on the appeal on July 9, 2013. The PC subsequently entered into deliberations on September 16 and 23, 2013.

As required by the Eugene Code, the appeals are based on the record and limited to the assignments of error contained in the appeal statements submitted. As described below in *Section III. Findings of Fact and Conclusions of Law*, the PC resolves the assignments of error through affirmation of the HO decision and adoption of supplemental findings regarding the Willakenzie Area Plan and /SR Overlay.

II. RECORD BEFORE THE PLANNING COMMISSION

The record before the PC consists of all the items that were physically before, and not rejected by, the PC prior to its final decision. EC 9.7655(2) limits the nature of evidence that the PC can consider on appeal as follows: "The record from the proceeding of the Hearings Official ... shall be forwarded to the appeal review authority. No new evidence pertaining to the appeal issues shall be accepted." The PC's decision on the appeal is based upon consideration of all relevant evidence and argument within the official record.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The PC findings and conclusion regarding the official appeal statement are provided below and attached hereto. Pursuant to EC 9.7680, the PC may reverse a decision of the HO only if it can demonstrate that he failed to properly evaluate the application or make a decision consistent with applicable approval criteria. Those approval criteria are found in EC 9.8865 and discussed below.

EC 9.8865(1) Provides: The proposed change is consistent with applicable provisions of the Metro Plan. The written text of the Metro Plan shall take precedence over the Metro Plan diagram where apparent conflicts or inconsistencies exist.

The HO summarized the history of the relevant ordinances related to adoption of the Willakenzie Area Plan in 1992 and more recent relevant amendments to the Metro Plan. In determining that the subject site was designated Medium Density Residential (MDR), the HO explored the relevant legislative history regarding the WAP adoption. HO decision, page 10-12. The HO specifically focused on Ordinance No. 20319, adopted by the Eugene City Council in 2004, which adopted a new Metro Plan diagram. That is the Metro Plan diagram that exists today, and controls in this case. Based on the Metro Plan Diagram, which designated the subject property MDR, the HO concluded that the requested zone change complies with this approval criterion. The Planning Commission finds that the extensive legislative history confirms the City's Council's intent to maintain the MDR designation for the subject parcel, as adopted in Ordinance No. 19856, and as currently depicted in the Metro Plan diagram adopted by Ordinance No 20319. Therefore, on this criterion, the PC affirms the HO's decision in its entirety, thereby finding the site is designated Medium Density Residential and is appropriate for the zone change from R-1 Low Density Residential to R-2 Medium Density Residential. The HO's decision is adopted by reference and attached here as Attachment A. With this affirmation, the PC has resolved the issues in sub-assignments of error 1.A, 2.A, and the whole of assignment of error 3.

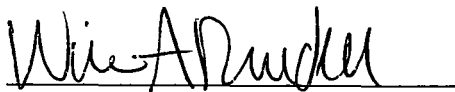
However, the PC finds that the HO erred in his decision to not address the approval criterion at EC 9.8865(2). While the HO refused application of the /SR Overlay, that is due to his decision to not address Willakenzie Area Plan policies. The Willakenzie Area Plan provides policy support for the application of the /SR Overlay. On this criterion, the PC modifies the HO decision and adopts supplemental findings (Attachment B). With this modified decision, the PC dispenses with the question of the Site Review Overlay and resolves sub-assignments of error 1.B, 1.C, 2.B, and 2.C.

To properly dispense with all remaining subassignments of error in the official Appeal Statement and resolve all issues raised by the PC in deliberations, supplemental findings have been made on Willakenzie Area Plan, Harlow Subarea Policy 4 and potential conditions of approval applied at the time of a zone change application. The resolution of these issues addresses subassignments of error 2.B, 2.C, 2.D, and 2.E.

IV. CONCLUSION

After consideration of the applicable law and all argument and evidence in the record, the Eugene Planning Commission finds that the subject zone change application for Benson, Amber (Z 13-2) meets all applicable zone change criteria from EC 9.8865, with supplemental findings as provided in Attachment B. All Assignments of Error in the official Appeal Statement have been resolved. The HO's decision to approve the zone change is affirmed, and his decision is modified to apply the Site Review Overlay, thereby resulting in an approval of the zone change to the Medium-Density Residential zone with the Site Review Overlay (R-2/SR).

In the event of any conflict between the HO's decision and this Final Order, this Final Order shall prevail. The foregoing findings and conclusions are adopted as the Final Order of the Eugene Planning Commission on appeal of the zone change approval for Benson, Amber (Z 13-2), on this 30th day of September, 2013.



William Randall, Chair
Eugene Planning Commission

Attachments:

- A – Decision of the Hearings Official
- B – Supplemental Findings

**DECISION OF THE HEARINGS OFFICIAL
FOR THE CITY OF EUGENE, OREGON**

ZONE CHANGE REQUEST

Application File Name (Numbers):

Benson (Z 13-2)

Applicant's Request:

Zone change from R-1 Low-Density Residential to R-2 Medium-Density Residential.

Subject Property/Location:

Tax Lot 00101 of Lane County Assessor's Map 17-03-20-44; Located on Coburg Road immediately south of Tandy Turn.

Relevant Dates:

Zone Change application submitted on January 18, 2013; application deemed complete on February 15, 2013; public hearings held on April 10, 2013 and April 24, 2013.

Applicant's Representatives:

Anne DeLaney, Bergsund Delaney Architecture & Planning
Michael Reeder, Arnold Gallagher, PC

Lead City Staff:

Zach Galloway, Associate Planner, Eugene Planning Division, Phone: (541) 682-545485.

Summary of the Public Hearing

The Hearings Official held a public hearing on this application on April 10, 2013, and a continued hearing on April 24, 2013. The Hearings Official stated he had no conflicts of interests and had no *ex parte* communications to disclose. No person objected to the Hearings Official conducting the hearing.

Zach Galloway, Associate Planner, and Gabe Flock, Senior Planner, were present for both hearings. Mr. Galloway presented the staff report at the April 10, 2013 hearing. Mr. Galloway also submitted into the record legislative history of the Willakenzie Area Plan ("WAP") and associated Metro Plan amendments. Exhibit NN. The 11 x 17 version of the Metro Plan Diagram was also submitted (Exhibit OO) as was a memorandum from the city attorney (Exhibit QQ). In response to a question, Mr. Galloway explained that the relationship between the Metro Plan and the various refinement plans is that they are intended to work together to inform future planning. If an inconsistency between the Metro Plan and a refinement plan

were discovered, the Metro Plan would prevail. Staff concluded that applicant's proposal was consistent with both the Metro Plan and the WAP, and recommended approval.

The applicant's representative Anne DeLaney provided a brief overview of the subject property, and agreed with the conclusions of the staff report as to the applicable Metro Plan policies. She suggested that as to Policy 4 of the Harlow subarea of the WAP ("Policy 4"), the language was aspirational rather than binding on the question of whether the subject property must remain in low density residential zoning.

The applicant's attorney Michael Reeder testified that the question of whether the subject property can be rezoned to medium density residential was controlled by the Metro Plan and generally agreed with the city attorney's memo in Exhibit QQ. He argued that the Metro Plan Diagram is controlling this instance and is parcel specific with regard to the subject property. He further argued that the Harlow subarea map in the WAP currently shows the subject property as appropriate for medium density residential zoning. Mr. Reeder further identified Ordinance no. 19856 as the historical source for identifying the subject property for future medium density residential zoning. He argued that the companion ordinance adopting the WAP, Ordinance no. 19855, did not contain any specific treatment of the subject property, and therefore, concluded there was no conflict between the ordinances.

Multiple individuals testified in opposition to the application at the April 10, 2013 hearing. Jennifer Yeh testified that the Harlow Neighbors Executive Committee had concluded that Policy 4 required the subject property to remain in low density residential zoning. Exhibits P and TT. She also requested that the written record remain open or that the hearing be continued to allow review of the documents submitted in Exhibit NN. The Hearings Official acknowledged that request and referred the question to the end of the hearing. Mr. Jon Young also testified that his family had moved to the area to get away from higher density residential use, and that even the site review process recommended by staff could not ameliorate the perceived impacts on the neighborhood. Exhibit UU.

Mr. Paul Conte objected to the perceived late submission of Exhibit NN and argued, consistent with his letter of April 8, 2013, that the public deserved more time to review the exhibit. Exhibit II. The applicant later agreed to and requested that the hearing be continued in part to address Mr. Conte's concerns. Mr. Conte explained his understanding of the connection between the Metro Plan and the city's refinement plans. It was his position that the 2004 revisions to the Metro Plan did not change the relationship between plan and the various refinement plans including the WAP. He argued that the applicable Metro Plan Diagram and associated policy II.G.2 was not sufficient to identify the subject property as a medium density residential because the map was insufficient to enable a reviewer to determine property lines between lots. He further argued that the map associated with the Harlow subarea of the WAP was meant just to be explanatory, and therefore, according to the WAP, reference to Policy 4 was necessary to determine appropriate zoning for the subject property. In his opinion, Policy 4 intentionally excluded the subject property from the potential to be rezoned to medium density residential. He argued that the current version of the Harlow subarea map, which

shows the subject property as medium density residential, was the result of a mapping error that occurred sometime after the adoption of the WAP in 1992.

Attorney Zack Mittge, representing Jennifer Haugen and Richard Hansen, testified primarily on transportation related issues consistent with the letter he submitted in Exhibit XX. He asserted that the application failed to adequately assess traffic impacts because the applicant had not submitted a traffic impact analysis. Without a more detailed analysis, he argued, the transportation components of the Metro Plan could not be adequately addressed. In particular, he argued that baseline conditions needed to be established to determine whether adequate capacity is available on nearby roads and intersections. He disputed the applicant's position that a zone change qualifies for an exception under the Transportation Planning Rule – OAR 660-012-0060(9). He argued that the exception does not automatically apply to all requested zoning changes, and therefore, the applicant must show consistency with the city's Transportation System Plan as well as the Comprehensive Plan.

During the applicant's rebuttal time, the applicant agreed to continue the hearing to April 24, 2013, and to toll the 120 day statutory deadline by 14 days. Mr. Reeder argued that the WAP is parcel specific as to future zoning as demonstrated in the Land Use Board of Appeals decision *Knutsen v. City of Eugene*, and that the Harlow subarea map showed the subject property as medium density residential. He asserted that the Metro Plan Diagram and WAP maps were not required to be boundary line specific because lot lines frequently change, but zoning designations could be determined by reference to a map.

At the conclusion of the April 10, 2013 public hearing, the Hearings Official continued the hearing to April 24, 2013, and did not impose any restrictions on submissions of argument or evidence for the period between the two hearings.

At the April 24, 2013 continued hearing, planning staff again gave a brief overview of the application, and submitted a memorandum summarizing additional information submitted into the record by the planning staff. Exhibit PPP.

Again, Anne DeLaney provided a brief introduction to the application and explained that the applicant had decided to submit a traffic impact analysis (Exhibit KKK) although the city's zone change criteria did not require one.

Mr. Reeder provided a letter with attachments dated April 24, 2013, and provided testimony related to that letter. Exhibit RRR. He argued that the 2004 Metro Plan amendments added policy II.G.2 which clarified the circumstances in which the Metro Plan Diagram was to be parcel specific as to zoning designation. He argued that the Metro Plan had been amended several times since the WAP was approved in 1992, and in each instance the amendments were considered to be consistent with the refinement plans including the WAP. Any inconsistencies between the amendments and the refinement plan, he argued, had to be taken up at the time of the amendment, not at the present time. The end result, he argued, was that Metro Plan policy II.G.2 currently controlled the zoning designation of the subject property, and that

Harlow subarea Policy 4 was no longer applicable. Mr. Reeder then suggested an alternative finding, that even if Policy 4 were to be deemed applicable, harmonizing Policy 4 and the WAP mapping, which depicts the subject property as medium density residential, strongly suggests that the mapping error alleged by Mr. Conte was incorrect.

On the issue of traffic impacts, Mr. Reeder argued that OAR 660-012-0060(9) applies in this instance and that so long as a jurisdiction has and acknowledge comprehensive plan and transportation system plan, that the TPR is satisfied for a proposed zoning change. He testified that the applicant had decided to go beyond the strict requirements for zone changes and present additional information in the form of a TIA to further demonstrate that traffic impacts would not be so severe that existing facilities could not accommodate the change. The applicant's traffic engineer provided testimony explaining the TIA. As a final matter Mr. Reeder objected to the staff recommendation that the Site Review Overlay provisions be applied as part of approving the zone change. He argued that those provisions are not required under the current circumstances and that the applicant did not agree with staff's recommendation.

Several neighbors testified in opposition to the application. In general, the testimony focused on existing traffic conditions in the area. The neighbors questioned whether the TIA included impacts from buildings that were in construction currently. The testimony also provided anecdotal instances of problems with the proposed access to the property and crossing traffic on this busy section of Coburg Road.

Mr. Mittge again testified on traffic issues. His response to the applicant's TIA was that it demonstrated a "significant impact" on a transportation facility. His reason for asserting that conclusion was that the TIA showed certain turning movements at nearby intersections being below the LOS required by the city. He continued to argue that OAR 660-012-0060(9) did not exempt the proposed zoning change from compliance with the TPR because the proposal was not consistent with the city's Comprehensive Plan or Transportation System Plan. He also criticized the TIA for not considering queuing or center lane impacts caused by additional left turn movements at nearby intersections, and objected that pedestrian impacts were not taken into account.

Mr. Conte provided testimony by phone. He provided a summary of his testimony in Exhibit WWW. The bulk of his testimony was directed at explaining why, in his opinion, the September 1992 version of the WAP was not the plan adopted by the City Council. He argued strenuously that a June 1991 version of the WAP was actually the document adopted, and that the 1991 Draft WAP did not approve medium residential zoning for the subject property. He also explained his theory as to why the mapping mistake had carried through to the 1992 WAP currently utilized by planning staff. He argued that this mapping mistake carried through to a 2000 amendment to the Metro Plan Diagram, which shows the property as a medium density residential. His conclusion was that the Metro Plan Diagram inherited the mapping error that was alleged in the adoption of the WAP in 1992. He also alleged that Ordinance no. 19855 (and possibly ordinance no. 19856) were not properly adopted because Lane County never ratified

the ordinances as required by the Metro Plan. He suggested that if the zone change were approved that the Site Review Overlay could be required as a condition of approval.

The applicant's traffic engineer provided a brief rebuttal on traffic issues. He disputed the assertion that an intersection must be considered as falling below the required LOS if even one turning movement did not meet the applicable standard. He explained that the TIA did account for future traffic generation from other potential developments along Coburg Road. He stated that the TIA assessed impacts to Tandy Turn based on specific counts taken in 2010 and projected forward to 2013.

Mr. Reeder reiterated the applicant's position that OAR 660-012-0060(9) provided an exception for zone changes, and that the traffic policies in the WAP did not apply to the application. He once again clarified that applying the Site Review Overlay to any approval was not mandatory and that the applicant objected to any such condition.

In response to requests made during the hearing, the Hearings Official left the written record open on the following schedule: 1) argument and evidence on any topic could be submitted by 5 PM May 1, 2013, 2) responsive argument only would be accepted until 5 PM May 8, 2013, and 3) the applicant's final comment was due by 5 PM May 15, 2013.

With the exception of one alleged procedural error, which is discussed below, argument and evidence was submitted during the open record period without objection. The applicant submitted a final comment on May 15, 2013, and thereafter the record closed. Exhibit IIIII.

Site Characteristics and Present Request:

The applicant is requesting approval to change the zoning of the subject property (Tax Lot 00101 of Assessor's Map 17-03-20-44), located along Coburg Road between Tandy Turn to the north and Tomahawk Lane to the south. The total area of request is approximately 0.99 acres in size. Adjacent lands to the north, east, south, and west are developed with low-density, single-family residences. The subject property is in close proximity to numerous services and amenities via Coburg Road, a major arterial, and the interconnected local residential street network. Both Sheldon Plaza and the Oakway Center are within ½ mile, and several neighborhood schools are less than 1 mile away.

Documents Considered by the Hearings Official

The Hearings Official has considered all the documents listed in the "Hearings Official Exhibit List for Benson, Amber (Z 13-2)" which is included in the record.

Procedural Issues

Before addressing the substantive zone change criteria identified below, the Hearings Official deems it important to respond to several procedural objections and certain testimony submitted prior to the close of the record.

Timeliness of the Staff Report - The day before the scheduled public hearing on April 10, 2013, planning staff submitted numerous documents into the record which mostly consisted of legislative history for adoption of the WAP and amendments to the Metro Plan made in 1992.¹ Several members of the public including Mr. Conte objected to the timing of these submissions, arguing that due to the number and length of the documents, it was unreasonable to expect the public to formulate a sufficient response before the hearing took place. Mr. Conte argued that any use of these documents as a source for statements or conclusions in the staff report made those documents part of the staff report itself, which therefore, violated the rule requiring staff reports to be available seven days before the initial public hearing. This issue was discussed at some length during the April 10, 2013 hearing.

The Hearings Official does not agree that background documentation upon which a staff report relies necessarily becomes a part of the report for purposes of state statute. Even if that were the case, no procedural error could result here because the Hearings Official, the applicant, and participating parties agreed to continue the public hearing 14 days in part to allow response to the newly submitted information. That allowance for additional time to respond, and the allowance for the additional open record period after the April 24, 2013 public hearing, provided sufficient time for all participants to make their case either at a public hearing or in written testimony contained in the record. Therefore, the Hearings Official concludes that no prejudice to the participants' substantial rights occurred during the hearing process. *Emmert v. Clackamas County*, __Or LUBA__ (LUBA No. 2011-052, January 4, 2011).

Notice - During the public hearings, two different arguments were made regarding sufficient "notice" of the hearing process. The first type of argument involved various participants alleging that they believed they had not been provided sufficient written notice of the application or time to respond. However, those objections were made either in writing prior to the initial public hearing or at that initial public hearing itself. As such, those objecting had the opportunity to testify at the April 10, 2013 hearing or the continued hearing on April 24, 2013. Even if the allegations that proper notice had not been provided were found to be valid, the opportunity to testify at both public hearings and submit written testimony into the record cured any potential procedural error connected with the required notice of this application.

The second notice argument emerged late in the written record. Several letters were submitted alleging that individual neighbors did not remember receiving notice of the year 2004 Metro Plan amendments. Exhibits PPPP, SSSS, UUUU, XXXX, BBBB. While these letters may be intended for some other purpose, to the extent they are intended to demonstrate procedural errors invalidating the City Council's legislative amendments to the Metro Plan made in 2004, they are of no legal significance as the time to appeal alleged errors associated with those amendments has long since passed. In addition, it is questionable that individual notice would have been required in 2004 in any case since the nature of the amendments to the Metro Plan was legislative rather than quasi-judicial. Notice in a newspaper of general circulation would have been sufficient to inform the public of proposed changes to the Metro Plan at that time.

¹ Exhibits EE, FF, NN, OO, PP, QQ, RR.

Traffic Impact Analysis - As described above, the applicant decided to submit a traffic impact analysis in support of the application. The TIA states that the protocols used to undertake the analysis are the same as those required by the state Transportation Planning Rule. Exhibit KKK. In response to the TIA, Mr. Conte made several objections. Exhibit NNN. The Hearings Official has reviewed the alleged errors and rejects all of them. The criteria that apply to zone changes do not require a TIA to be submitted as part of the application, and therefore, the application was complete prior to the submission of the TIA as determined by staff. The TIA represents additional evidence which the applicant was entitled to submit in support of the application and does not represent a substantive change in the application. The addition of the TIA to the record does not warrant an additional or revised notice to property owners within the notice area. Participants at both hearings had the opportunity to respond to the TIA, both at the April 24, 2013 hearing, and during the open record period, and many individuals did so.

Petition – The Harlow Neighborhood Residents submitted a petition signed by numerous neighbors objecting to the zone change. Exhibit AAAA. The petition essentially states that the individuals oppose the proposed zone change because the subject property is only appropriate for low density residential use as opposed to medium density residential use. While the Hearings Official wishes to acknowledge the well over 100 signatures on the petition, it is not possible or appropriate to give the petitioners' argument any greater weight simply due to the number of individuals that agree with the stated position. Such a consideration might be appropriate for a legislative process, but this is a quasi-judicial proceeding in which the determining factor is whether the application meets the applicable code criteria for zone changes. To that extent, the Hearings Official did not give additional weight to the argument set forth in the petition.

Exhibit TTTT – During the open record period, Mr. Conte attempted to have a particular version of the 2004 Metro Plan Diagram submitted into the record. Apparently a miscommunication with staff, and the time needed to print the map from city records resulted in Mr. Conte's inability to submit the version of the map he desired into the record before May 1, 2013 at 5 PM. For this reason, it is the Hearings Official's understanding that Exhibit TTTT is not the version of the map that Mr. Conti desired to have printed and placed in the record. Exhibit HHHHH. As a result, Mr. Conte requested that a corrected version of the map, which was "referred to by Ordinance 20319" either be placed in the record or that the Hearings Official take "official notice" of that map. In response to this request, to the extent that it is necessary to rely on the map identified by Mr. Conte in Exhibit HHHHH, the Hearings Official will take official notice of that map. I have also reviewed the record and believe that the portion of that map with which Mr. Conte is concerned is also attached to Exhibit GGGG, and therefore, already part of the record. More importantly, at the Hearings Official's request, planning staff placed the full version of Ordinance no. 20319, which adopted the 2004 amendments to the Metro Plan, into the record with all its exhibits, including Exhibit C which was the adopted Metro Plan Diagram identified in the ordinance. The Hearings Official views that version of the Metro Plan Diagram as being the definitive and adopted version of the Metro Plan Diagram associated with Ordinance no. 20319.

Evaluation of Zone Change Request

The Eugene Code, EC 9.7330 and 9.8865, requires the Hearings Official to review an application for a zone change and consider pertinent evidence and testimony as to whether the proposed change is consistent with the criteria required for approval.

EC 9.8865(1): The proposed zone change is consistent with applicable provisions of the Metro Plan. The written text of the Metro Plan shall take precedence over the Metro Plan Diagram where apparent conflicts or inconsistencies exist.

Determining consistency with EC 9.8865(1 & 2) depends primarily on whether the proposed zone change is consistent with the text of the Metro Plan and the Metro Plan Diagram. In determining the meaning of a statute, the method set forth in *PGE v. BOLI*, 317 Or 606 (1993) requires an examination of the text and context of the given provision. The same analysis applies to the construction of local ordinances. *Ramirez v. Hawaii T & S Enterprises, Inc.*, 179 Or App 416, 425 (2002). The methodology has been modified slightly by the Oregon Supreme Court's ruling in *State v. Gaines*, 346 Or 160 (2009) which found that while the correct analysis still begins with the text and context of the given provision, legislative history can also be relied upon even where the text itself does not on its face appear to be ambiguous. The goal of this analysis is to ascertain and apply the City Council's intent regarding the code provisions or planning documents in question.

After reviewing the record, and considering the bewildering amount of discussion concerning the history and adoption of the WAP in 1992, it is the Hearings Officials conclusion that the text of Metro Plan regarding the application of the Metro Plan Diagram is sufficient to resolve the question of whether the application is "consistent with" the Metro Plan and the WAP. Based on the record, it appears that the last substantive amendment to the Metro Plan occurred in 2004. By Ordinance no. 20319, the City Council adopted a new Metro Plan Diagram, replacing the prior version in its entirety, and provided additional guidance on the question of when and where the Metro Plan Diagram should be considered parcel specific.² The version of Ordinance no. 20319 in the record at Exhibit FFF is a strikeout version which shows newly adopted language as well as prior language which was either retained or deleted from the Metro Plan. The Hearings Official will rely on this version because it sets forth both the current text of the Metro Plan and shows language changes which to some extent represent legislative history which may be helpful in understanding the intent behind the amendments.

In the Metro Plan section entitled "Use of the Metro Plan" there are several statements that help illustrate the intent of the drafters.

"The Metro Plan Diagram is a graphic depiction of: (a) the broad allocation of projected land use needs in the metropolitan area, and (b) goals, objectives, and policies embodied in the text of the Metro Plan. Some of the information shown on tThe Metro Plan Diagram depicts includes land use designations categories *

² Section 3 of the adopting ordinance itself states: "Section 3. The Metro Plan Diagram is removed, superseded and replaced by the Metro Plan Diagram, as amended and set forth in Exhibit C attached and incorporated herein, which is hereby adopted as an amendment of the Metro Plan."

* ** Ordinance no. 20319 p. I-4.³

The text and the textual changes identified in this passage strongly suggest that the City Council intended that the Metro Plan Diagram move from a generalized map of land use categories to a depiction of actual land use designations. In particular, the substitution of the word "designations" for the word "categories" shows an intent that in some circumstances individual parcels would have a clear land use designation for future use. At the same time, the city Council retained the following language unchanged from previous versions of the Metro Plan.

“In addition, it is important to recognize that the written text of the Metro Plan takes precedence over the Metro Plan Diagram where apparent conflicts and inconsistencies exist. The Metro Plan Diagram is a generalized map which is intended to graphically reflect the broad goals, objectives, and policies. As such, it cannot be used independently from or take precedence over the written portion of the Metro Plan. Ordinance no. 20319 p. I-5.

The opponents argue that this language demonstrates that in all instances the Metro Plan requires a consideration of both the text, the Metro Plan Diagram, and any associated refinement plans for a proposed zone change. However, that argument ignores the important qualification to the first sentence - "where apparent conflicts and inconsistencies exist." The opponents' reading does not harmonize this provision with the passage identified above as required by ORS 174.020. Their interpretation would require the Metro Plan text and text of the WAP to take precedence over the Metro Plan Diagram even where no inconsistencies or conflicts were apparent. That is incorrect.

The balance of the above passage identifying the Metro Plan Diagram as a generalized map must also be harmonized with yet another amendment made in Ordinance no. 20319 which added information and guidance on how to use the Metro Plan Diagram itself. That new language states:

Since its initial adoption in 1982, the Metro Plan Diagram designations have been transitioning to a parcel-specific diagram. As part of this transition, the boundaries of Plan designation areas in the Metropolitan UGB are determined on a case-by-case basis, where no parcel-specific designation has been adopted.

* * *

The Plan designation of parcels in the Metro Plan Diagram is parcel specific in the following cases:

- 1. Parcels shown on the Metro Plan Diagram within a clearly defined Plan designation, i.e. parcels that do not boarder more than one Plan designation. Ordinance no. 20319, p. II-G-2.**

³ Text in **bold** is newly added language. Underlined text was deleted.

The plain reading of this new section is that where the Metro Plan Diagram is clear enough to determine the plan designation for an individual parcel, then the Metro Plan Diagram illustrates the City Council's planning intent for that parcel. The city attorney's office provided a memorandum which analyzed this provision and concluded that the circumstance described in subsection 1 above appeared to apply to the subject property. Exhibit QQ. The Hearings Official agrees with that analysis and incorporates it here by reference. The location and shape of the subject property (lot 101) is easily recognizable in the official version of the Metro Plan Diagram as being "designated" as medium density residential. A reasonable person viewing the Metro Plan Diagram⁴ would conclude that the subject property is designated medium density residential. This constitutes substantial evidence demonstrating that the Metro Plan Diagram is clear enough to show that the subject property is an identifiable parcel "within a clearly defined plan designation" that borders only one other plan designation, that being low density residential. Therefore, the Metro Plan Diagram is parcel specific for the subject property, and the designation is clearly medium density residential.

Mr. Conte made two arguments disputing the clarity or accuracy of the Metro Plan Diagram. The first was that at least for the subject property the Metro Plan Diagram was not property line specific enough to determine whether all or just part of the property was intended to be within a certain land use designation. Second, that with respect to the subject property, the Metro Plan Diagram is in error due to a mapping mistake brought forward from the adoption of the WAP in 1992. The Hearings Official rejects both arguments.

I can find no requirement in the Metro Plan or the applicable provisions of the city code that require the Metro Plan Diagram to be accurate down to the inch regarding property boundaries. According to the text of the Metro Plan identified above, a parcel's designation can be determined so long as it is within a clearly defined plan designation. Again, the subject property is clearly discernible in both location and plan designation. The Hearings Official can find no credible evidence in the record that would substantiate Mr. Conte's suggestion that the subject property might be some type of split zone designation, and for the reasons discussed below that possibility is a nil set.

As to Mr. Conte's second argument, I conclude that there is no merit in the notion that the subject property's designation in the Metro Plan Diagram is a result of a mapping error. Leaving aside for the moment the very complex argument regarding the WAP mapping set forth by Mr. Conte and Mr. Kabeiseman in Exhibits W, WWW, XXX and GGGGG, the record contains convincing evidence that the origin of the subject property's designation in the Metro Plan Diagram is Ordinance no. 19856 which amended the Metro Plan Diagram to specifically designate the subject property medium density residential.

In 1992, the City Council adopted the WAP (Ordinance no. 19855) and associated amendments to the Metro Plan Diagram (Ordinance no. 19856). Exhibit FF. Since the Metro Plan is the primary planning document at issue in this application, it is Ordinance no. 19856 that is mostly if not solely

⁴ As shown on Exhibit C of Ordinance 20319 and the 11 x 17 Metro Plan Diagram in Exhibit RR.

significant to this application. Before discussing the amendments adopted in Ordinance no. 19856, it is important to note Section 3 of the adopting ordinance itself which reads:

" The Plan Diagram amendments outlined above take precedence over any other inconsistent textual provisions of the Metropolitan Area General Plan."

This language can only be read to make the Metro Plan Diagram itself the predominate if not sole source of the land use designations identified for the individual parcels identified in the ordinance. Section 2 of Ordinance no. 19856 sets forth changes to the Metro Plan Diagram in the Willakenzie planning area - "as revised in Exhibit B, to provide as follows and as shown graphically in Exhibit C." Amendment number 5 in Section 2 states:

"Change designation from Medium Density Residential to Low Density Residential for a 6 acre site on the east side of Coburg Road between Harlow Road and Tandy Turn."

The revision for this 6 acre site in Exhibit B, which at the time included the subject property (lot 101) specifically takes the subject property out of the amendment identified in Section 2, number 5. That revision states:

"Amendment # 5 - proposed area reduced by approximately 1 acre. Remove Tax Lot 101, Assessor's map 17-03-20-44 (McHolick); change acreage, number of tax lots and text."

As stated in Section 2, that change was made and illustrated graphically in Exhibit C in a map associated with "Amendment 5." That map shows the subject property just to the north of the mapped lots labeled as "Area Affected by Proposed Metro Plan Amendment." In addition, text associated with the map states: "Current Metro Plan Designation: Medium Density Residential."

The amendments to the Metro Plan Diagram made in Ordinance no. 19856 contain two important pieces of information that illustrate the City Council's intent. First, the subject property was initially proposed to be included in a group of properties that were to change from medium density residential designation to low density residential. That means, at the time Ordinance no. 19856 was adopted, the Metro Plan Diagram already designated, in some fashion, the subject property as medium density residential. Second, the subject property was specifically removed from the group of properties proposed to be redesignated from medium density residential to low-density residential. That planning designation has traveled with the subject property since Ordinance no. 19856 was adopted in 1992. Thus, that the property is identified in a parcel specific way on the current Metro Plan Diagram cannot possibly be construed as a mistake or a mapping error brought forward by the WAP planning and mapping process. That much is illustrated by reference to the text of Ordinance no. 19856. To the extent that legislative history is relevant, the applicant has identified discussion regarding the subject property (McHolick) in the Planning Commission work session which led up to the

recommendations made to the City Council which were acted upon in Ordinance no. 19856. That legislative history is contained in the November 12, 1991 summary minutes of the Planning Commission's work session at pages 8-9. Exhibit NN. Those minutes show that the former owner, Mr. McHolick, requested that with regard to Metro Plan "Amendment 5" identified above, that his property remain medium density residential. The Planning Commission agreed to Mr. McHolick's request by a vote of 5:0. Exhibit NN. This legislative history supports the text of Ordinance no. 19856 and demonstrates amply that the subject property has been intentionally designated medium density residential in the Metro Plan Diagram since 1992.⁵

For all the reasons set forth above, the Hearings Official finds that the application is consistent with the Metro Plan and the Metro Plan Diagram. The portions of the staff report entitled "Residential Land Use and Housing Element, Transportation Element and Energy Element" are adopted by the Hearings Official by this reference to the extent they are consistent with the findings set forth above and the balance of this decision. The application of the Site Review Overlay to this application is discussed below.

EC 9.8865(2): The proposed change is consistent with applicable adopted refinement plans. In the event of inconsistencies between these plans and the Metro Plan, the Metro Plan controls.

The staff report analyzes the application's consistency with both the WAP and the Harlow subarea map and policies. Staff concluded because the Harlow subarea map shows the subject property as medium density residential, and the potentially applicable policies could be construed to not foreclose the rezoning of the subject property to medium density residential, that the proposal is consistent with the WAP.

Mr. Conte and numerous neighbors argued strenuously that Harlow subarea Policy 4 specifically forecloses the subject property from becoming medium density residential, and that the Harlow subarea map is the subject of a mapping error.⁶ Based on the assertion that the Harlow subarea map is in error, these opponents argued that Policy 4 must control, and by its own terms excludes the subject property from medium density residential designation.

The city attorney, apparently out of an abundance of caution, urges the Hearings Official to consider Harlow subarea Policy 4, even though the city attorney concludes that the Metro Plan and the Metro Plan Diagram are definitive with respect to the medium density residential designation of the subject property. Exhibit QQ. The city attorney suggests that considering Policy

⁵ Mr. Conte and his attorney argue that Ordinance no. 19856 cannot be deemed fully adopted because it was not ratified by the City of Springfield and Lane County. This appears to be incorrect. Exhibit NN contains City of Springfield Ordinance 5654 and Lane County Ordinance PA 1020, both of which adopt the same treatment of Mr. McHolick's property retaining its medium density residential status. The Hearings Official also considers this argument to represent an impermissible collateral attack on the validity of Ordinance no. 20319. See Exhibit WWW.

⁶ See Exhibits P, U, V, W, X, Y, Z, GG, HH, KK, LL, TT, , JJJ, WWW for example.

4 would be wise in light of the two LUBA cases in *Bothman v. City of Eugene*.

Although the Hearings Official understands the city attorney's call for caution, for the reasons set forth below it is difficult to understand how considering Policy 4 substantively could change the legislative decision made in 1992 by the City Council and carried forward in the most recent update of the Metro Plan in 2004. The reason for my hesitance is in consideration of the following policy set forth in the Metro Plan:

“In all cases the Metro Plan is the guiding document and refinement plans and policies must be consistent with the Metro Plan. Should inconsistencies occur the Metro Plan is the prevailing policy document.” Ordinance no. 20319 p. 1-5&6.

The Hearings Official views the City Council's legislative decisions adopting Ordinance no. 19856, and the subsequent wholesale replacement of the Metro Plan Diagram in 2004 which retained the medium density residential status of the subject property to be the preeminent statement on the zoning designation of the subject property. If the above identified policy statement is to be meaningfully adhered to, it is not possible, at least given the facts of this quasi-judicial application, to interpret the WAP, including Harlow subarea Policy 4, to disallow the proposed medium density residential use.

The key facts of this quasi-judicial application are that the applicant seeks a zone change that conforms to the land use designation already adopted for that property in the Metro Plan. This is a significant difference from the facts at issue in the *Bothman* cases where the applicant sought to rezone the property at issue away from the Metro Plan medium density residential designation to a different designation – Commercial. Here, the applicant is merely asking that the zoning be made to conform to the land use designation already allowed by the Metro Plan. The City Council made a specific decision about the planning designation of the subject property in Ordinance no. 19856. It simply does not follow that the City Council would make that decision with the intention that future application of WAP could contradict that specific planning designation. Even if the WAP policies and mapping were determined to be inconsistent with the current Metro Plan designation for the subject property, the Metro Plan designation must prevail in order to adhere to the clear intent of the City Council in Ordinance no. 19856.

For these reasons, the Hearings Official deems it imprudent to set forth any findings responding to Mr. Conte's extensive theory that the subject property was incorrectly mapped in the 1992 WAP adoption, and that as a result the policies set forth in the WAP must be considered – leading in his view to a denial of the application. Exhibit W, WWW, XXX, and GGGG. To do so, would be to participate in a “but for” form of legal analysis which represents the danger of becoming an advisory opinion. If this decision is appealed, and the Hearings Official's analysis under EC 9.8865(1) is found to be in error, then the WAP policies might become relevant and applicable. Until that time, speculating on what version of the WAP mapping was adopted in 1992 and how the subject property came to be mapped medium density residential on the

Harlow subarea map serves no meaningful purpose. To be clear, the Hearings Official is not taking any position on the whether Mr. Conte's mapping error theory is correct or incorrect.

It is worth noting that the case *Knutson Family LLC v. City of Eugene*, 48 Or LUBA 399 (2005), which several participants cite to demonstrate the interaction between the city's refinement plans and the Metro Plan, was decided based on the rules and regulations in place in 2003 when that application was deemed complete. The case does not, and cannot, circumscribe how the 2004 amendments to the Metro Plan, specifically the provisions which allowed identification of parcel specific designations, are to be applied. To the extent that opponents of the application have argued that somehow the 2004 amendments to the Metro Plan could be invalidated or undone by reference back to older (1992) refinement plans, *Knutson* does not support that proposition. The Hearings Official agrees with the applicant that each subsequent amendment to the Metro Plan after 1992 implicitly assumed that the refinement plans would be interpreted to be consistent with any new amendments to the Metro Plan, not the other way around.

EC 9.8865(3): The uses and density that will be allowed by the proposed zoning in the location of the proposed change can be served through the orderly extension of key urban facilities and services.

Key urban facilities and services are defined in the Metro Plan as: wastewater service, stormwater service, transportation, water service, fire and emergency medical services, police protection, City-wide parks and recreation programs, electric service, land use controls, communication facilities, and public schools on a district-wide basis (see Metro Plan page V-3). As confirmed by referral comments from Public Works staff, the minimum level of key urban facilities and services are currently available.

As noted above, multiple participants at the hearings and others submitting written comments were concerned about perceived traffic impacts resulting from residential development that could occur on the subject property. Much of this testimony was anecdotal, communicating frustration with existing levels of traffic, concerns about the safety of ingress and egress into the subject property, and queuing and pass-through movements at the nearby intersections. Exhibits MM, UU, FFFF, LLLL, QQQQ. Mr. Mittge submitted two letters questioning the application's ability to comply with the Metro Plan, the transportation policies of the WAP, and the Transportation Planning Rule. Exhibit XX and VVV.

The requirements of the TPR are discussed below. At least partially in response to Mr. Mittge's comments, the applicant submitted the TIA discussed above. The TIA shows that the increase in density allowed by the zone change would result in 52 additional daily trips, and 8 peak hour trips. Exhibits KKK and RRR. By any measure, this is not a significant increase. The applicant also submitted rebuttal comments from her traffic consultant responding to Mr. Mittge's arguments concerning: the LOS for surrounding intersections, safe access to the subject property, potential impact on Tandy Turn, potential impact on pedestrians, and how the TIA accounted for traffic caused by future development in the area. Exhibit OOOO.

The Hearings Official finds that the TIA constitutes substantial evidence that the surrounding road system and intersections will operate at sufficient capacity and level of service. Both the TIA and the applicant's traffic engineer's rebuttal sufficiently address the arguments raised in Mr. Mittge's two letters and oral testimony at both hearings. Furthermore, no evidence was submitted which in any way directly contradicted or undercut the conclusions in the TIA to the extent that the information could not be considered reliable. The Hearings Official is sympathetic to the neighbors' frustration with existing traffic conditions and fears that those conditions could worsen. However, the anecdotal experiences related during the hearing and in the written testimony represent opinion, and are not sufficient to contradict the evidence submitted in the TIA which shows that the surrounding road system will continue to function adequately through the planning horizon if the zone changes allowed.

EC 9.8865(4): The proposed zone change is consistent with the applicable siting requirements set out for the specific zone in:

(f) EC 9.2735 Residential Zone Siting Requirements.

The residential zone siting requirements contain specific restrictions on the location of the R-1.5 rowhouse zoning district, and therefore, it is not applicable to the proposed zone change.

EC 9.8865(5): In cases where the NR zone is applied based on EC 9.2510(3), the property owner shall enter into a contractual arrangement with the City to ensure the area is maintained as a natural resource area for a minimum of 50 years.

The proposed zone change does not include the NR zone; this criterion does not apply.

Transportation Planning Rule

The staff report includes a thorough consideration of the application's compliance with the TPR. The Hearings Official adopts that analysis here by this reference and concludes that the application complies with the TPR. The analysis below is simply meant to supplement the findings in the staff report with respect to Mr. Mittge's arguments about the applicability of OAR 660-012-0060(9).

Mr. Mittge argues that because the application does not "comply" with various Metro Plan policies (F.15 and F.36 for example), and WAP policies, that the exception in OAR 660-012-0060(9) is unavailable. Exhibit VVV. As explained above, the applicant's TIA and additional testimony in Exhibit OOOO demonstrate that the proposed zone change can comply with all applicable Metro Plan and WAP transportation policies. Nevertheless, a zone change application's compliance with the Metro Plan, and the city's TSP – the TransPlan is not what is required to qualify for the exception allowed in OAR 660-012-0060(9). The language of OAR 660-012-0060(9) is as follows:

(9) Notwithstanding section (1) of this rule, a local government may find that an amendment to a zoning map does not significantly affect an existing or planned transportation facility if all of the following requirements are met.

(a) The proposed zoning is consistent with the existing comprehensive plan map designation and the amendment does not change the comprehensive plan map;

(b) The local government has an acknowledged TSP and the proposed zoning is consistent with the TSP; and

(c) The area subject to the zoning map amendment was not exempted from this rule at the time of an urban growth boundary amendment as permitted in OAR 660-024-0020(1)(d), or the area was exempted from this rule but the local government has a subsequently acknowledged TSP amendment that accounted for urbanization of the area.

The “notwithstanding” language refers to the TPR’s overarching requirement that a zoning map amendment that would “significantly impact” a transportation facility will require some type of mitigation or “remedies” identified in the rule. This notwithstanding language makes clear that OAR 660-012-0060(9) is intended to be a substitute for OAR 660-012-0060(1) where a zone change is requested and the proposal meets the criteria set forth in OAR 660-012-0060(9)(a-c).

The plain meaning of the words in OAR 660-012-0060(9)(a) demonstrates that Mr. Mittge’s assertion that an applicant for zone change us demonstrate compliance with Metro Plan policies is incorrect. That provision only requires that the proposed zoning is consistent with the existing comprehensive plan map “designation” and no concurrent amendment of the comprehensive plan map is sought. As discussed in the findings for EC 9.8865(1) above, the application is consistent with the existing Metro Plan and Metro Plan Diagram “designation” for the subject property. Thus, no examination of underlying transportation policies in the Metro Plan is necessary to satisfy OAR 660-012-0060(9)(a).

As for compliance with OAR 660-012-0060(9)(b), Exhibit LLL explains the interaction between the TransPlan and the Metro Plan. That document explains that the TransPlan’s planned transportation facilities were developed based on the Metro Plan’s land-use designations. Consistent with the explanation given in the staff report, the city attorney’s explanation in Exhibit LLL states:

"Accordingly, without something to the contrary in TransPlan, if a subject property held its current designation in 2001 when TransPlan was adopted and the proposed zone is consistent with the current designation, the proposed zone is consistent with TransPlan. Put another way, if a subject property held its current designation in 2001, TransPlan’s transportation facility planning would have been based on the current designation; a zone consistent with the current

designation is supported by, and consistent with, TransPlan's planned transportation facilities."

As explained above, this record shows that the subject property did indeed hold its current Metro Plan designation in 2001. The Hearings Official agrees with the city attorney's conclusions in Exhibit LLL, and finds that the application complies with OAR 660-012-0060(9)(b). Furthermore, the Hearings Official has not been directed to any information that would indicate that allowing the proposed rezoning would in some way be inconsistent with TransPlan.

Site Review Overlay

Staff recommended that the Site Review Overlay be imposed essentially as a condition of approving the zone change to allow further review and comment on any future multi-unit development on the subject property. Staff rely on Metro Plan policies A.23 and A.13 as justification for the recommendation.

The applicant objects to imposition of the SR overlay and argues that neither A.23 nor A.13 provide mandatory language requiring the SR overlay to be imposed. Exhibit RRR and WWWW. Instead, the applicant suggests that the Multiple Family Design Standards of EC 9.5500 will apply to the any future multi-unit development proposal, and will serve the purposes of A.23 and A.13 just as well. The applicant suggests that a prior Hearings Official zone change decision in Z-10-05, where the subject property was located in the Willakenzie Plan Area and proposed for R-2 zoning, did not impose the SR overlay because EC 9.5500 would accomplish the same objectives.

The Hearings Official agrees with the applicant. The subject property is not subject to the SR overlay by virtue of being within the designated SR overlay zone under EC 9.4400, and the language in Metro Plan policies A.23 and A.13 represents planning directives rather than mandatory approval criteria. Certainly if those policies were intended to require that zone change approvals be subject to site plan review, then the language would so state. ORS 174.010. I am not directed toward any other language in the city code which would provide authority to impose the SR overlay as a condition of approval in this instance.

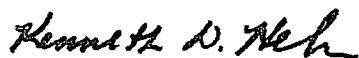
Although it would be preferable for the applicant to voluntarily accept the SR overlay procedures, that is not the case. Given the similarity between this application and the application at issue in Z-10-05, I adhere to the reasoning set forth in that decision and decline to impose the SR overlay here.

Decision

Based upon the available evidence and preceding findings, the Hearings Official APPROVES the applicant's request for a zone change from R-1 to R-2 medium density residential zoning.

Dated this 30th day of May, 2013.

Mailed this 30^m day of May 2013.



Kenneth D. Helm
Hearings Official

SEE NOTICE OF HEARINGS OFFICIAL DECISION FOR STATEMENT OF APPEAL RIGHTS

SUPPLEMENTAL FINDINGS

The Hearings Official did not adopt the staff findings that address relevant refinement plan policies. The Hearings Official ended his analysis under EC 9.8865(2) by addressing the designation issue. The Planning Commission believes that findings that address applicable policies are relevant, even though it determines that the property is designated medium density residential. Accordingly, the Planning Commission adopts the following supplemental findings.

On the question of the Willakenzie Area Plan and, more specifically, the application of /SR Site Review Overlay, the Planning Commission finds it necessary to modify the Hearings Official's decision and adopt supplemental findings.

EC 9.8865(2) Provides: The proposed change is consistent with applicable adopted refinement plans. In the event of inconsistencies between these plans and the Metro Plan, the Metro Plan controls.

Eugene Code 9.4410 states that the /SR Overlay review process is applicable where "required by a refinement plan." The Planning Commission finds that the Willakenzie Area Plan provides policy direction to apply the /SR Overlay to the subject site at the time of zone change. Residential Policy 8 provides general direction and intended outcome, while the Proposed Action 8.1 offers means to achieve the intent.

8. Promote compatibility between low-density residential land uses and medium- to high-density residential land uses.

8.1 Apply the site review /SR suffix to all parcels designated medium- or high-density residential land use which directly abut low-density residential land uses.

Although Proposed Actions are not city council adopted policy, they are recommended actions that are available to achieve the stated policy—here, promoting compatibility between low-density and medium density residential uses. Proposed Action 8.1 is stated very forcefully. The Planning Commission finds that the Proposed Action anticipated that the imposition of the /SR suffix would be appropriate at the time of specific zone changes, at which time the decision making body could specifically analyze the subject property and surrounding land uses. Given the strong language in Proposed Action 8.1, along with the additional policy directives outlined below, the planning commission finds that imposition of the /SR Overlay is required by the applicable refinement plan.

Further, the Willakenzie Area Plan Land Use Policy 5 indicates Council's intent to apply the /SR Overlay. That policy states that "site review procedures ... shall be considered for properties which abut or face one another, when the uses permitted ... are potentially incompatible." The Planning Commission finds that the current Eugene Code provisions lack development

standards to ensure adequate transitions between low- and medium-density residential uses; therefore, those uses are potentially incompatible and the /SR Overlay is considered appropriate in this context where properties zoned low-density residential abut the subject site.

The Planning Commission finds that local context distinguishes the subject site from past precedents where the /SR Overlay was not applied. The official record includes two cases where application of the /SR Overlay was denied by a local Hearings Official. However, two significant factors are different here. First, the subject site is bound on all sides by properties zoned low-density residential, whereas the past precedents were primarily bound by properties zoned R-2 Medium Density Residential. Also, the Hearings Official in both past cases asserted that the City's adopted Multi-Family development standards effectively replaced and negated the need for application of the /SR Overlay. The Planning Commission disagrees with this reading of the past legislative action, and can find no indication of the City Council intent on which to base such assertions. Furthermore, the Planning Commission finds that the Multi-Family development standards are limited in their scope, primarily addressing the design and orientation of buildings. The site review standards, on the other hand, address a much wider range of development issues, including natural resource protection, tree preservation and impacts on adjacent transportation systems. Therefore, the policy direction in favor of applying the /SR Overlay to address compatibility remains in effect in the Willakenzie Area Plan, and it should be applied to the subject site.

In this case, the relevant Metro Plan policies (A.13 and A.23) are not mandatory approval criteria for the zone change. However, Policies A.13 and A.23 direct that attention is given to the transitions between higher density residential development and existing low density residential uses. Each is supportive of, not contradictory to, the application of the /SR Overlay.

Lastly, while Willakenzie Area Plan Land Use Policies 3 and 6 are not mandatory approval criteria for the zone change request, each lends further support for the application of the /SR Overlay. Policy 3 calls for the retention of "existing significant vegetation...to provide buffering between ... low-density and higher density residential uses." Policy 6 is a general policy to "minimize land use conflicts by promoting compatibility." The /SR Overlay is the most appropriate local tool to advance this policy direction.

Based on the supplemental findings stated here, the Planning Commission modifies the Hearings Official's decision (Attachment A) by replacing in whole the final four paragraphs of page 17 under the heading *Site Review Overlay* with the findings stated herein.

Harlow Subarea, Policy 4.

The Hearings Official declined to adopt any findings regarding Willakenzie Area Plan, Harlow Subarea Policy 4. According to the decision, he deemed it "imprudent" to set forth findings addressing possibly irrelevant WAP policies. The Planning Commission disagrees with the HO's position, and instead, finds it appropriate to address Willakenzie Area Plan, Harlow Subarea

Policy 4. The official record includes a thorough analysis of the legislative history concerning the subject site and adoption of the WAP. Based on that analysis, the Planning Commission finds that Policy 4 was included in the WAP at the time of plan adoption, which was concurrent with the City Council's legislative act to retain the Metro Plan designation as MDR on the subject site. The policy directs the city to "consider" properties within a certain area as appropriate for low-density residential uses. The legislative history is clear that the city did consider the subject property's appropriate designation, and decided it should be retained as MDR. Thus, the Planning Commission resolves this question with its affirmation of the Hearings Official's decision to find the site designated MDR.

Conditions of Approval

On the question of conditions of approval (e.g., maximum height, density caps), as articulated in Sub-assignment of Error 2.B, the Planning Commission rejects this argument and finds the /SR Overlay an appropriate tool to address the question of compatibility between different uses. Without a proposed development to review, applying such conditions is premature.

Eugene-Springfield Metropolitan Area General Plan Plan Diagram

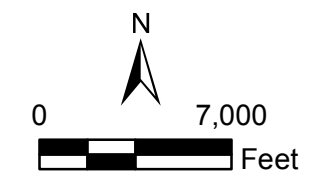
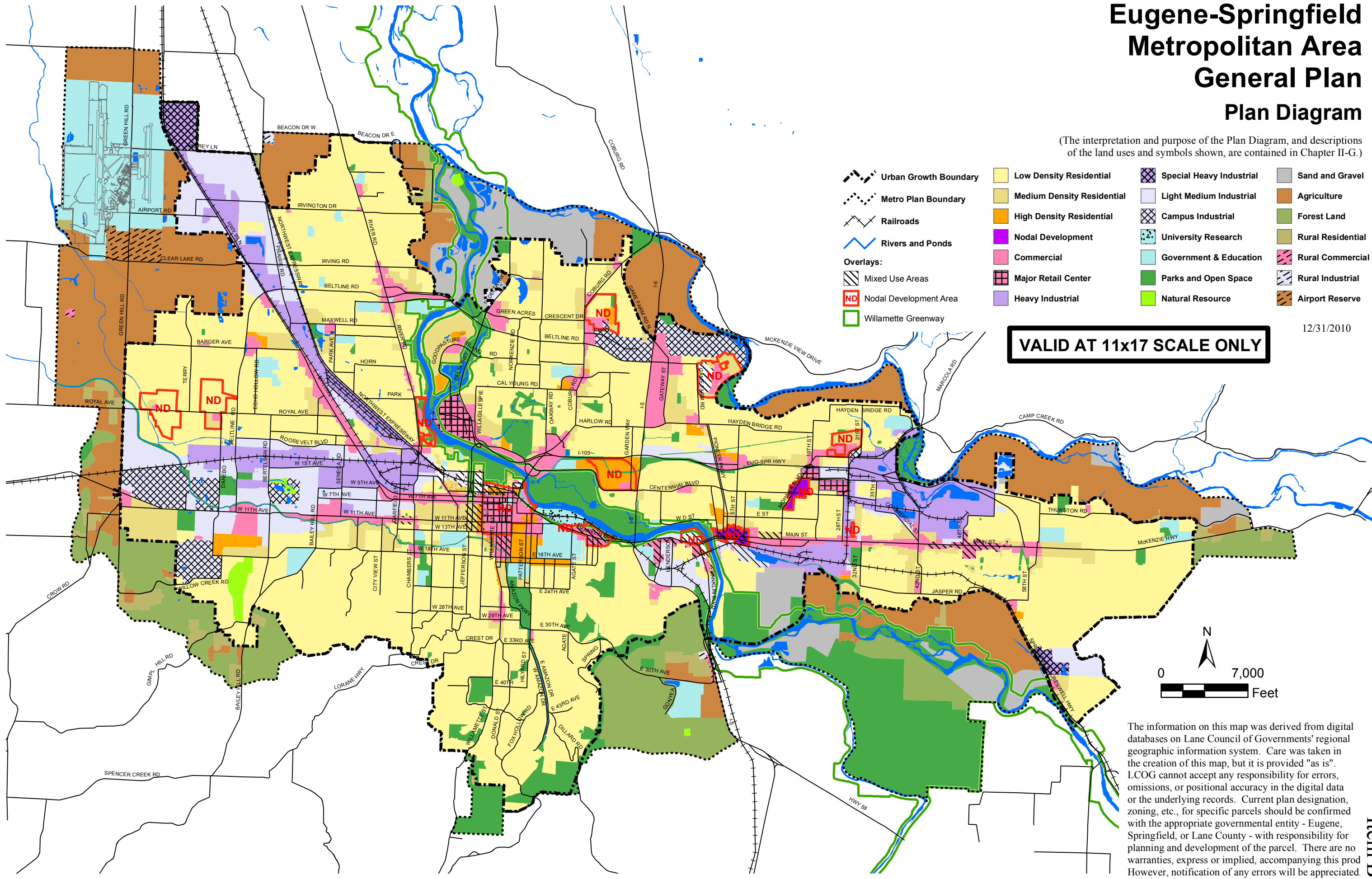
(The interpretation and purpose of the Plan Diagram, and descriptions of the land uses and symbols shown, are contained in Chapter II-G.)

- | | | | | | | | |
|------------------|------------------------|--|----------------------------|--|--------------------------|--|-------------------|
| | Urban Growth Boundary | | Low Density Residential | | Special Heavy Industrial | | Sand and Gravel |
| | Metro Plan Boundary | | Medium Density Residential | | Light Medium Industrial | | Agriculture |
| | Railroads | | High Density Residential | | Campus Industrial | | Forest Land |
| | Rivers and Ponds | | Nodal Development | | University Research | | Rural Residential |
| Overlays: | | | Commercial | | Government & Education | | Rural Commercial |
| | Mixed Use Areas | | Major Retail Center | | Parks and Open Space | | Rural Industrial |
| | Nodal Development Area | | Heavy Industrial | | Natural Resource | | Airport Reserve |
| | Willamette Greenway | | | | | | |

VALID AT 11x17 SCALE ONLY

12/31/2010

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The information on this map was derived from digital databases on Lane Council of Governments' regional geographic information system. Care was taken in the creation of this map, but it is provided "as is". LCOG cannot accept any responsibility for errors, omissions, or positional accuracy in the digital data or the underlying records. Current plan designation, zoning, etc., for specific parcels should be confirmed with the appropriate governmental entity - Eugene, Springfield, or Lane County - with responsibility for planning and development of the parcel. There are no warranties, express or implied, accompanying this prod However, notification of any errors will be appreciated.

Item B.

Attachment H**Key land use requirements: R-1 and R-2 zoning**

The following table provides a list of key uses and development standards that apply to the R-1, Low-Density Residential Zone and the R-2, Medium Density Residential Zone.

ALLOWED USES

Uses Allowed	R-1 Zone	R-2 Zone
Single-Family Residence	Permitted	Permitted
Multi-family housing	Requires PUD approval	Permitted (Special Standards)
Churches, Schools	Conditional Use Permit (CUP) required	CUP required
Clinics	Prohibited	Prohibited
Assisted Care Facility (over 6 people)	CUP required	CUP required
Day Care	Allowed with special standards	Allowed with special standards
Neighborhood Commercial Uses (C-1)	Requires PUD	Requires PUD or CUP with special standards
Other commercial uses	Prohibited	Prohibited

LOT AND DEVELOPMENT STANDARDS

Required Standard	R-1 Zone	R-2 Zone
Density	0-14 units/acre	10-28 units/acre
Building Height	30 ft.	35 ft.
Side/Rear setbacks	5 ft.	5 ft.
Lot coverage	50% of the site	50% of the site
Open Space	0	20% of the site
Minimum lot size	4,500 sq. ft	4,500 sq. ft.
Small lot allowance	Requires Cluster Subdivision or PUD	2,250 sq. ft. (with standards)
Minimum lot width	50 ft.	35 ft.
Building Mass, Scale, Articulation	None	Multi-Family Housing: <ul style="list-style-type: none"> • Prohibits large uninterrupted facades • Limits building length • Limits exterior entrances
Landscaping	None	20% of the site

Note: Please see EC 9.2700-9.2777 for a detailed list of applicable standards

