

MINUTES

**Eugene City Council
Harris Hall, 125 East 8th Avenue
Eugene, Oregon 97401**

**January 21, 2020
5:30 p.m.**

Councilors Present: Betty Taylor, Emily Semple, Alan Zelenka, Jennifer Yeh, Mike Clark, Greg Evans, Claire Syrett, Chris Pryor

Mayor Vinis opened the January 22, 2020, work session of the Eugene City Council.

- 1. Work Session and Possible Action: An Ordinance Concerning Accessory Dwellings; Replacing the Term “Secondary Dwelling” with “Accessory Dwelling” Throughout the Eugene Code 1971; Making Additional Amendments to Sections 9.0500, 9.2010, 9.2011, 9.2740, 9.2741, 9.2750, 9.2751, 9.2775, 9.3060, 9.3115, 9.3125, 9.3210, 9.3215, 9.3310, 9.3510, 9.3615, 9.3625, 9.3810, 9.3811, 9.3815, 9.3910, 9.3915, 9.3970, 9.6410, and 9.8030 of that Code; and Addressing the Oregon Land Use Board Of Appeals’ Remand of Ordinance Nos. 20594 And 20595.**

AIC Planning Director Alissa Hansen gave a summary of proposed changes to accessory dwelling unit regulations.

Mayor Vinis recommended that council put the motion on the table before discussion; said she hopes that council lands on direction tonight so that the City is in compliance with state law, understanding that this is a shifting landscape.

MOTION: Councilor Semple, seconded by Councilor Yeh, moved to adopt an Ordinance Concerning Accessory Dwellings; Replacing the Term “Secondary Dwelling” with “Accessory Dwelling” Throughout the Eugene Code 1971; Making Additional Amendments to Sections 9.0500, 9.2010, 9.2011, 9.2740, 9.2741, 9.2750, 9.2751, 9.2775, 9.3060, 9.3115, 9.3125, 9.3210, 9.3215, 9.3310, 9.3510, 9.3615, 9.3625, 9.3810, 9.3811, 9.3815, 9.3910, 9.3915, 9.3970, 9.6410, and 9.8030 of that Code; and Addressing the Oregon Land Use Board Of Appeals’ Remand of Ordinance Nos. 20594 And 20595.

Discussion

- Mayor Vinis - said that her plan for the meeting was to start with councilors putting their specific motions on the table.
- Councilor Syrett - said she had planned to bring a motion to remove minimum lot sizes related to ADUs, but learned from staff that there are complicating factors in terms of related processes and asked staff to explain these complications; said that in the continuing work to comply with HB 2001, council will need to revisit how density requirements are defined and she hoped to address equity issues then; talked about a constituent recommending a slight change to the interior setback height limits, expanding from 8 to 10 feet, that would have minimal exterior impact, but opens up interior design options.

MOTION TO AMEND: Councilor Syrett, seconded by Councilor Pryor, moved to amend Section 8 of the ordinance to change the references from 8 feet to 10 feet currently located in EC 9.2751(17)(a)3.b, EC 9.2751(17)(b)5.a, EC 9.2751(17)(c)9.a, EC 9.2775(5)(e)3.a.

Discussion

- Councilor Clark – asked how HB 2001 alters the density calculation and how that will impact the issue of density; asked why it is a good idea to land on decisions around ADUs prior to LUBA’s decision coming up in a few weeks; asked about the definition of accessory dwelling unit and the mandate in HB 1051 to continue with clear and objective standards and if the City’s definition is clear and objective; said that a really clear definition of ADU will be needed in order to later address incentives; asked if the City could use its own definition for ADU and not the state’s.
- Councilor Taylor – said she thinks that in order to call something an accessory dwelling it needs to be accessory to something; said she supported discussing each item separately, noting that she would vote against the motion unless they are separated; said she did not think the state should preempt the City’s authority especially on land use issues and anything to resist the preemption should be considered.
- Councilor Semple – asked how Councilor Syrett’s amendment differs from Councilor Yeh’s amendment at the last work session regarding slope.
- Councilor Pryor – said he thinks the impact the proposed motion will have on aesthetics is minimal, but it improves the ability to have a decent-sized wall and so he is supportive.

VOTE ON MOTION TO AMEND: PASSED 8:0.

- Councilor Zelenka – said that he does not like this law because it’s a one-size-fits-all structure that will likely have many unintended consequences; spoke about the area around the university that has unique pressures related to student housing and that the bill will actually make low- to moderate-income housing disappear in this area; said keeping the two provisions in his motion are reasonable design and siting standards to maintain the livability in these areas related to maximum bedrooms and occupancy.

MOTION TO AMEND: Councilor Zelenka, seconded by Councilor Semple, moved to amend Section 8 of the ordinance to retain the standard entitled “Maximum Occupancy” currently located at EC 9.2751(17)(c)8 and to renumber the remaining subsections accordingly.

- Councilor Semple – said she had mixed feelings about this motion because she wants it to be fair to everyone, but also agreed that the university area is a different situation; expressed concern about using the “cookie cutter” approach, but there are neighborhood differences.
- Councilor Clark – said he agrees with the intent of the motion and that the university area reflects a different use around an event center; said he’d like to leave the ordinance broad and general because what Eugene looks like today might change for tomorrow and other areas might also be impacted later; said he would not support the motion, though he likes the idea.
- Councilor Taylor – said she would vote for the motion if it applied all neighborhoods but was not supportive if it is only restricted to university neighborhoods.
- Councilor Evans – asked what the affect would be if the motion was applied to all neighborhoods.
- Councilor Clark – asked what argument was used in favor of the standard as reasonably related to siting and design.

- Councilor Syrett – said she doesn’t love the exception framework but recognizes the particular pressures that these neighborhoods have been under; said the current exceptions that these neighborhoods have are for valid reasons and she would vote in favor of the motion.
- Councilor Pyror – said there was a reasonable argument to be made for why neighborhoods are different; asked how the bedroom and occupancy exceptions relate to the removal of owner-occupancy in the state bills; said he would support the motion.
- Councilor Semple – asked if this is one of the issues that is being challenged now; asked if the “five unrelated people rule” comes in when figuring out occupancy; asked what the effect would be of deciding one way or another as far as getting remanded or sued; asked about the difference between regulations and CC&Rs; asked how it will shift things if all R-1 zones become R-2 zones with HB 2001 and the refinement zones are mostly R-2 zones; said she thinks this might make the refinement plans moot.
- Councilor Yeh – said she was not in favor of either of Councilor Zelenka’s motions because she does not think that these motions will get at some of the behavioral problems that people have.
- Councilor Taylor – said that if HB 2001 is implemented, every neighborhood will be threatened and she would prefer if this applied to all neighborhoods; said she would vote for the proposed amendment asked about the enforcement of CC&Rs.
- Councilor Clark – said that Western Title has a record of all CC&Rs and they are not hard to find; asked if the City will issue a permit if it knows about existing CC&Rs and if advisement is given when individuals apply for permits.
- Councilor Zelenka – said he’s often surprised about what students put up with in cramming a ridiculous number of young adults into small spaces; said this impacts the livability of the neighborhoods; said that his amendments are directly related to design and siting and he hoped council would support the motion.
- Councilor Semple - asked if having five unrelated people in a house is a complaint-driven issue and whether it could be addressed in the university area by simply taking complaints.

VOTE ON MOTION TO AMEND: PASSED 7:1, Councilor Yeh opposed.

MOTION TO AMEND: Councilor Zelenka, seconded by Councilor Clark, moved to amend Section 8 of the ordinance to retain the standard entitled “Maximum Bedrooms” currently located at EC 9.2751(17)(c)7 and to renumber the remaining subsections accordingly.

- Councilor Taylor – said the motion should apply to the whole city.

VOTE ON MOTION TO AMEND: PASSED 7:1, Councilor Yeh opposed.

- Councilor Semple – said that her potential motions came from constituents related to the JWN and S-C refinement areas, acknowledging her respect for these standards and the complicated nature of the issue; explained that while her motions address parking, the state is eliminating any requirements for on-site parking; asked how that affects these refinement zones; asked who would challenge it if council made the refinement zones different; said she’d like to protect the zones but doesn’t know how to do that if council isn’t addressing parking.

MOTION TO AMEND: Councilor Semple, seconded by Councilor Clark, moved to amend section 18 to delete the entire proposed amendment to subsection 9.3625(3)(d)3; and to replace the entirety of the proposed amendment to subsection 9.3625(7) with the following: (7) Parking Standards. (a) Except as provided in (3)(d)3. Above and subsection (7)(b), below, each dwelling shall have one on-street or on-site vehicle parking space for every three bedrooms, rounded up to the next whole number

(i.e. a four-bedroom dwelling must have at least two parking spaces). For purposes of this subsection, each uninterrupted twenty feet of lot line that abuts a street right-of-way where parking is legal within the entirety of that twenty feet shall count as one on-street parking space. The twenty feet may not include any portion of a curb cut. (b) When there are two or more dwellings and there is no on-street parking space, as defined in subsection (7)(a), above, the parking space requirement shall be waived for one dwelling that has primary vehicle access from the street and no more than three bedrooms. [(b)](c) No portion of a vehicle parking area may be located in the area defined by the Street Setback minimum standard (i.e., from which structures, other than permitted intrusions, are excluded) or between the street and the residential building façade that faces, and is closest to, the street. And to renumber the code sections and cross-references accordingly.

- Mayor Vinis – asked for clarification about what this motion would be changing from the draft ordinance.
- Councilor Clark – asked about Eugene’s density and how that number related to other cities; suggested that other city’s densities are different than Eugene’s; said that the legislature didn’t take livability factors into account when they decided the reasonable criteria for siting and design; said parking is one of the most obvious livability issues, influencing the ability for buses and garbage trucks to drive within street lanes; said the parts of town in Councilor Semple’s motion are where the most likely dangerous realities will occur by forcing more cars to the street; said the legislature was wrong and the City should be able to require on-site parking for each of the people who live in a dwelling.
- Councilor Zelenka – asked if the amendment would basically put a requirement on ADUs to have either on-street or on-site parking; said the state legislation explicitly prohibits local regulations related to owner-occupancy requirements or requirements to construct additional off-street parking; asked if the amendment would require in some circumstances additional off-street parking; asked how an on-street parking space is determined for a dwelling.
- Councilor Pryor – clarified that this amendment is specific to properties with a second dwelling, not all property; asked about the scale of impact if this motion were to pass; said he doesn’t want to change regulations to address a problem that doesn’t exist in some areas, but if the intent of the motion is to restrict this to an area that is already having parking problems, he could support the proposed remedy; expressed concerns about running afoul of state law that might have to roll back later.
- Councilor Syrett – clarified that this amendment would only apply to JWN zone for any ADU development; asked about waiver of parking requirement for one dwelling that has a primary vehicle access from the street and no more than three bedrooms and how that would apply to an ADU above a garage or backyard cottage without vehicle access; said she has too many questions about the impact and will not support the amendment.
- Councilor Taylor – said East Amazon no longer has street parking and asked if that meant that those houses could not have an accessory dwelling; said she has a problem with this motion only applying to Jefferson Westside.
- Councilor Clark – said he would vote in favor of the motion because there won’t be a lot of ADUs built in Jefferson Westside; talked about the traffic issues that will impact River Road and Santa Clara where ADUs are likely to be built; suggested that this will help inform how this amendment will apply in one area when the question comes up if it should be applied in other areas later.

VOTE ON MOTION TO AMEND: PASSED 6:2, Councilors Yeh and Syrett opposed.

MOTION TO AMEND: Councilor Semple, seconded by Councilor Clark, moved to amend section 25 to replace the proposed additional text: Additional one family dwelling in the SJW Jefferson Westside Special Area Zone or the R-2 sub area of the SC Chambers Special Area Zone in Table 9.6410 with the following text: For one additional one family dwelling in the R-2 subarea of the SC Chambers Special Area Zone.

- Mayor Vinis – asked for clarification about what the current ordinance says and what it would say if this motion were passed.
- Councilor Zelenka – clarified that the motion would strike “SJW Jefferson Westside Special Area Zone or”; asked if this motion would make the code consistent with the last motion passed.
- Councilor Yeh – asked for further clarification about how this motion clarifies the first motion; asked if these changes will comply with state requirements.

VOTE ON MOTION TO AMEND: PASSED 8:0.

MOTION TO DIVIDE: Councilor Taylor, seconded by Councilor Clark, moved to give the City Manager final direction for preparing of the draft ordinance through separate motions that address each of the regulatory topics originally set out in the 2/20/2019 Summary and Initial Analysis of Accessory Dwelling Regulation Matrix.

- Councilor Pryor - said council had been talking about this for so long and he didn't see the benefit of breaking up the ordinance, that it's in a comprehensive form and council should move forward on the ordinance as a package.
- Councilor Syrett – said she was going to vote against the motion because council had discussed each issue on an individual basis and taken votes along the way and she didn't see the purpose in doing that again.
- Councilor Clark – said some of council's specific questions couldn't be answered yet and there were some that are dependent upon LUBA's decision; said he was uncomfortable with portions of the proposed motion, especially the lack of a clear definition for an ADU; said he would vote in favor of the motion but wished for greater clarity.
- Councilor Semple – said that council had already talked about all of these issues and at this point they needed to make some decisions to move forward, acknowledging that case law will clarify and develop things; said she was ready to move on to the next phase.
- Councilor Zelenka – said council had discussed each of these issues individually and he was ready to move on.

VOTE ON MOTION TO DIVIDE: FAILED 2:6, Councilors Taylor and Clark voted in favor.

- Councilor Semple – asked staff to go over the issues related to flag lots.
- Councilor Taylor – said she would be voting against the motion because she didn't want to get rid of owner occupancy requirements, opposed allowing ADUs on flag lots, and expressed concern that affordable housing will get torn down and luxury places will be built instead.
- Councilor Zelenka – said he would reluctantly vote in favor; said he thought parts of the ordinance will be counterproductive, but that the intent of the state law was clear and these changes make the City's code in compliance with the law.

VOTE ON MAIN MOTION AS AMENDED: PASSED 6:2, Councilors Taylor and Clark opposed.

The meeting adjourned at 7:02 p.m.

Respectfully submitted,

Beth Forrest

Beth Forrest
City Recorder

(Recorded by Elena Domingo)