



Eugene City Council

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www.eugene-or.gov

EUGENE CITY COUNCIL AGENDA

May 17, 2021

7:30 p.m. EUGENE CITY COUNCIL PUBLIC HEARING

Due to Governor Kate Brown's Stay Home, Save Lives Executive Order to combat the spread of Covid-19, this meeting will be held remotely using virtual meeting technology. Information about online or other options for access and participation will be available at <https://www.eugene-or.gov/3360/Webcasts-and-Meeting-Materials>

Meeting of May 17, 2021; Her Honor Mayor Lucy Vinis Presiding

Councilors

Jennifer Yeh, President
Mike Clark
Randy Groves
Emily Semple

Claire Syrett, Vice President
Greg Evans
Matt Keating
Alan Zelenka

7:30 p.m. EUGENE CITY COUNCIL PUBLIC HEARING

1. **PUBLIC HEARING: An Ordinance Concerning Multiple-Unit Property Tax Exemptions and Amending Section 2.946 of the Eugene Code, 1971**
2. **PUBLIC HEARING: Granting an Exemption from the Application of Section 6.200 of the Eugene Code, 1971, and Providing for a Sunset Date**
3. **PUBLIC HEARING: An Ordinance Amending the Eugene-Springfield Metropolitan Area General Plan Diagram and the Whiteaker Plan Land Use Diagram to Redesignate the Property Identified as Assessor's Map 17-04-25-41, Tax Lot 7000 and Assessor's Map 17-04-25-42, Tax Lot 100 from Light-Medium Industrial to Mixed Use and Rezone the Property from I-2 Light-Medium Industrial with /SR Site Review Overlay to S-W Whiteaker Special Area with /SR Site Review Overlay**
4. **PUBLIC HEARING: An Ordinance Concerning Accessory Dwellings; Replacing the Term "Secondary Dwelling" with "Accessory Dwelling" Throughout the Eugene**

May 17, 2021, Public Hearing

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, 9.3065, 9.3115, 9.3125, 9.3126, 9.3210, 9.3215, 9.3310, 9.3510, 9.3615, 9.3625, 9.3626, 9.3810, 9.3811, 9.3815, 9.3910, 9.3915, 9.3970, 9.6410 And 9.8030 of that Code; Addressing the Oregon Land Use Board Of Appeals' Remand of Ordinance Nos. 20594, 20595, and 20625; and Providing an Effective Date

The Eugene City Council welcomes your interest in these agenda items. This meeting location is wheelchair-accessible. For the hearing impaired, an interpreter can be provided with 48 hours' notice prior to the meeting. Spanish-language interpretation will also be provided with 48 hours' notice. To arrange for these services, contact the receptionist at 541-682-5010. City Council meetings are telecast live on Metro Television, Comcast channel 21, and rebroadcast later in the week.

El consejo de la Ciudad de Eugene agradece su interés en estos asuntos de la agenda. El lugar de la reunión tiene acceso para sillas de ruedas. Se puede proveer a un intérprete para las personas con discapacidad auditiva si avisa con 48 horas de anticipación. También se puede proveer interpretación para español si avisa con 48 horas de anticipación. Para reservar estos servicios llame al 541-682-5010. Las reuniones del consejo de la ciudad se transmiten en vivo por Metro Television, Canal 21 de Comcast y son retransmitidas durante la semana.

<p>For more information, contact the Council Coordinator at 541-682-5010, or visit us online at www.eugene-or.gov.</p>

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Public Hearing: An Ordinance Concerning Multiple-Unit Property Tax Exemptions and Amending Section 2.946 of the Eugene Code, 1971

Meeting Date: May 17, 2021
Department: Planning & Development
www.eugene-or.gov

Agenda Item Number: 1
Staff Contact: Amanda D'Souza
Contact Telephone Number: 541-682-5540

ISSUE STATEMENT

Council is asked to hold a public hearing regarding an ordinance that fixes a discrepancy in the Multi-Unit Property Tax Exemption (MUPTE) program's green building provisions. The proposed change is to update the submission deadline related to the post-construction commissioning report (see Attachment A).

BACKGROUND

MUPTE is an incentive program to encourage high-quality, multi-unit downtown housing especially in areas well served by public transit. Both rental housing and multi-unit housing for home ownership are eligible; student housing is ineligible. Enabled by state law, the program provides a 10-year property tax exemption on qualified new multi-unit housing investments that occur within a specific, targeted area, that meet program requirements, and that are reviewed and approved by City Council. In 2015, after a two-and-a-half-year review, Council revised the MUPTE program criteria, process, and boundary (see Attachment B for a summary of program changes).

Commissioning Report Requirement

As part of the 2015 revisions to the MUPTE program, projects must demonstrate several required public benefits, including Green Building Features. To comply with this requirement, approved projects must perform at least 10% more efficiently than the energy code adopted by the State of Oregon.

The MUPTE program outlines several pathways that projects can utilize to meet the Green Building Features public benefit, one of which is review of the project by the City's Building and Permit Services staff. This pathway requires that developers a) submit an energy model prior to construction to demonstrate expected building performance, b) submit a commissioning report after construction to evaluate building performance, and c) annually submit multifamily occupancy energy use data during the exemption period.

Currently, the code and administrative rule includes two conflicting deadlines related to submission of the commissioning report (item b above):

May 17, 2021, Public Hearing – Item 1

- In Eugene Code, Section 2.946(2)(f)2.b.(2)(C), and Administrative Rule 2.945-C-1.2.2.2 the timing is stated as "prior to issuance of certificate of occupancy"
- In Administrative Rule 2.945-C-1.2, the timing is stated as "within 18 months of occupancy"

The typical practice in the building industry is to conduct commissioning reports after the building has been occupied (consistent with the timing in Administrative Rule 2.945-C-1.2), since this allows the report to document the actual performance of the building. As it is currently written, approved projects could jeopardize their MUPTE if they do not conduct a commissioning report prior to occupancy, which compromises the quality of the analysis.

The ordinance in Attachment A would clarify that the commissioning report should be submitted within 18 months after occupancy. (The proposed change modifies one sentence in Subsection (2)(f)2.b.(2)(C) of Section 2.946. The modifications are shown in bold and strikethrough in Attachment A.)

Next Steps

Council is scheduled to take action on this ordinance at the May 24, 2021 meeting. If the ordinance is approved, staff will initiate an update of the program's administrative rules to reflect the change.

PREVIOUS COUNCIL DIRECTION

[May 26, 2020 Meeting](#)

Council adopted an ordinance updating the MUPTE program to incorporate changes made by the State of Oregon related to the program's green building provisions and construction deadline (from January 1, 2022 to January 1, 2032).

[July 13, 2015 Work Session](#)

Council approved the ordinance amending and reinstating the Multi-Unit Property Tax Exemption program.

COUNCIL OPTIONS

No action is required at this time. Council action on the proposed ordinance is scheduled for May 24, 2021.

ATTACHMENTS

- Proposed Ordinance
- Summary of 2015 MUPTE Program Changes

FOR MORE INFORMATION

Staff Contact: Amanda D'Souza
 Telephone: 541-682-5540
 Staff E-Mail: adsouza@eugene-or.gov

May 17, 2021, Public Hearing – Item 1

ORDINANCE NO. _____

AN ORDINANCE CONCERNING MULTIPLE-UNIT PROPERTY TAX EXEMPTIONS AND AMENDING SECTION 2.946 OF THE EUGENE CODE, 1971.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Subsection (2)(f)2.b.(2)(C) of Section 2.946 of the Eugene Code, 1971, is amended to provide as follows:

2.946 Multiple-Unit Housing – Threshold Criteria and Public Benefits.

.....

(2) *Criteria for Approval.* No exemption may be approved under subsection (7) of section 2.945 of this code unless all of the following criteria are met:

.....

(f) *Green Building.*

.....

2. The project will perform at least 10% more efficiently than the performance established in the Oregon Zero Energy Ready Commercial Code (OZERCC).

.....

b. Green building requirements for four stories and above multiple-family buildings are as follows:

.....

(2) City review of the project demonstrates that:

.....

(C) Commissioning report ~~has been~~ **will be** provided prior to **within 18 months following** issuance of certificate of occupancy; and

.....

Section 2. The City Recorder, at the request of, or with the consent 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.

Passed by the City Council this

_____ day of _____, 2021

Approved by the Mayor this

_____ day of _____, 2021

City Recorder

Mayor

Summary of MUPTE Program & Process Diagram

MUPTE Program

MUPTE is an incentive program to encourage high quality, multi-unit downtown housing especially in areas well served by public transit. Both rental housing and multi-unit housing for home ownership are eligible; student housing is ineligible. Enabled by state law, the program provides a 10-year property tax exemption on qualified new multi-unit housing investments that occur within a specific, targeted area, that meet program requirements, and that are reviewed and approved by council. The objective strongly aligns with several of the pillars of Envision Eugene. Increasing the amount of multi-family housing in the downtown helps reduce pressure on urban growth boundary (UGB) expansion and protects existing neighborhoods, and takes advantage of existing infrastructure.

During the exemption period, property owners still pay taxes on the assessed value of the land and any existing improvements on the property. Council can deem commercial portions of a project to be a public benefit and include them as part of the exemption along with the residential portion.

In 2015, after a two-and-a-half year review, council revised the program criteria, process, and boundary. The program changes:

- Removed student housing as an eligible project type
- Increased the required energy efficiency
- Required higher quality design, with design at approval attached to the resolution
- Expanded neighborhood involvement
- Added a moderate-income housing contribution
- Added local economic impact plan
- Added demonstrated project need reviewed by an independent financial consultant
- Added a community member third-party review (MUPTE Review Panel described below)

See below for the process diagram and boundary map. The Required Public Benefit criteria are:

- Compact Urban Development
- Green Building Features (*ensuring building energy performance is 10% above code*)
- Local Economic Impact Plan (*including support for local businesses, minority and women business enterprises, and ensuring compliance with laws*)
- Moderate-Income Housing Contribution
- Project Design and Compatibility (*including scale, form, and quality of the building; mixture of project elements; relationship to the street and surrounding uses; and parking and circulation*)
- Historic and Existing Housing Sensitivity
- Project Need

MUPTE Review Panel

The 2015 MUPTE update established a Review Panel, tasked with providing a third-party review of individual applications for the City Manager. The Review Panel:

- Reviews the project applications, including the consultant's review of the project's financial projections.

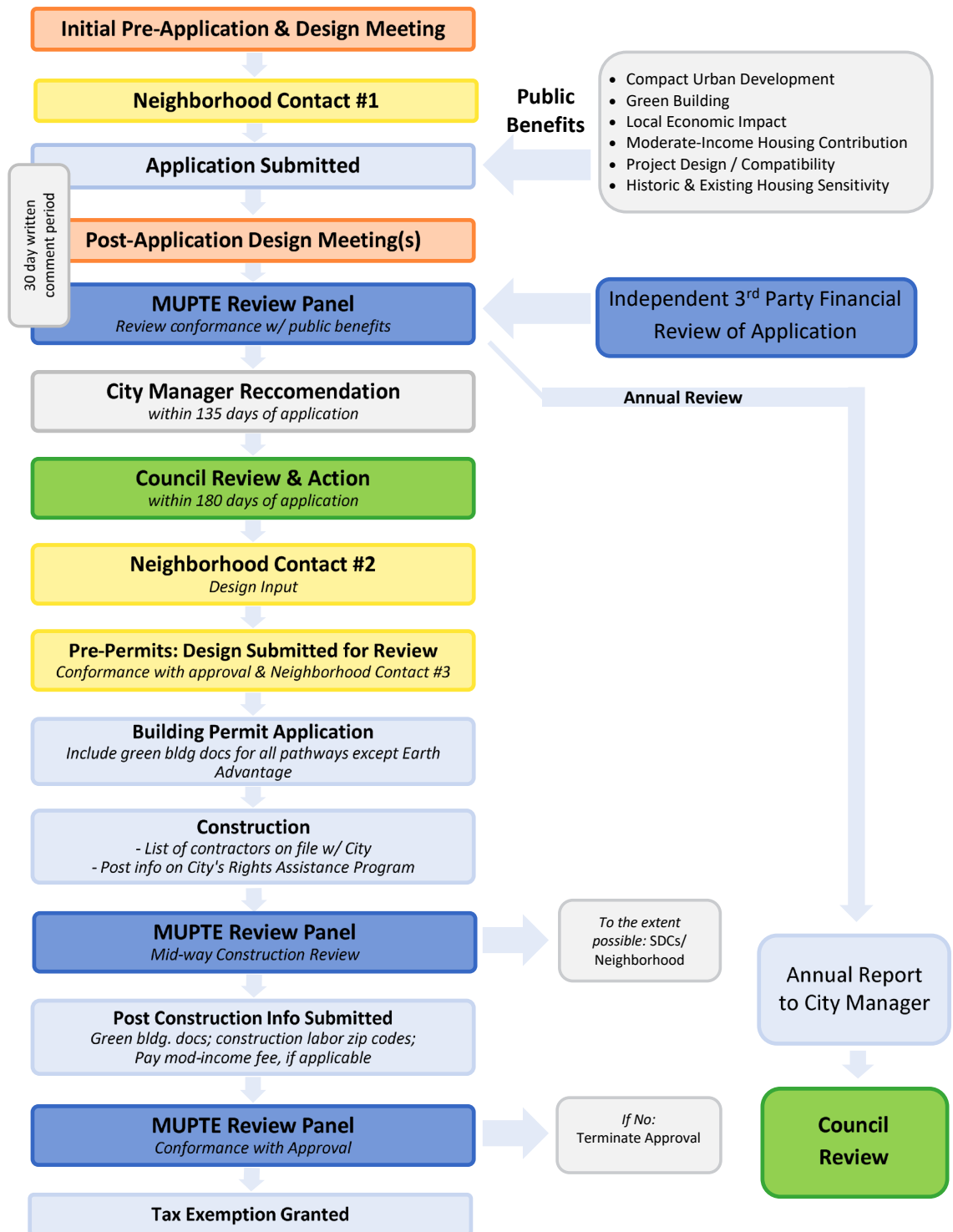
- Reviews the applicant's conformance with the Required Public Benefits and making recommendations regarding approval/denial of the tax exemption to the City Manager.
- Reviews the project's conformance with approval requirements midway through construction, at completion of construction, and during the exemption period.
- Assists the City Manager in preparing an Annual Report on progress of the approved projects, program volume cap, and reporting documentation.

The Review Panel consists of two at-large neighborhood representatives selected by neighborhood association boards, an additional two representatives selected by the board of the neighborhood association in which the proposed project is located, and six technical professionals selected by the City Manager from the following six groups: architects/green building specialists; building trades union; developers; environmental professionals; public health professionals; and human rights representatives. Prior Review Panel reports can be found at www.eugene-or.gov/MUPTE

MUPTE Boundary



MUPTE Application & Review Process



Annually:

- Moderate-income housing: Pay fee in years 3 – 10 or update lease rates on mod-income units & submit docs.
- BPS pathway energy usage, if applicable.

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Public Hearing: Granting an Exemption from the Application of Section 6.200 of the Eugene Code, 1971, and Providing for a Sunset Date

Meeting Date: May 17, 2021
Department: Public Works
www.eugene-or.gov

Agenda Item Number: 2
Staff Contact: Shelly Miller
Contact Telephone Number: 541-682-4888

ISSUE STATEMENT

The purpose of this public hearing is to provide an opportunity for public input regarding a proposed ordinance to provide a five-year exemption to the application of Eugene Code 6.200 (open burning) for prescribed burning by the Rivers to Ridges Partnership, including the U.S. Bureau of Land Management (BLM), The Nature Conservancy (TNC), and City of Eugene for ecological enhancement and maintenance of native vegetation and fuels reduction. The council is scheduled to take action on the proposed ordinance on May 24, 2021.

BACKGROUND

The prescribed use of fire, an important natural process, under carefully managed conditions and circumstances is currently referred to as ecological burning. Controlled ecological burns have been successfully conducted in West Eugene and in Suzanne Arlie Park south of Lane Community College, under a City Council exemption from the prohibition of open burning, since 1986. The purpose of the proposed ordinance is to extend this exemption and allow this work to continue for the next five years.

Over the next five years, agencies responsible for managing protected wetland sites in west Eugene propose controlled ecological burns on a maximum of 300 acres within the City limits annually. Exhibit A to the proposed ordinance shows the areas that are proposed for ecological burning at some point within the next five years, and is included as Attachment A. Attachment B is a map that depicts areas that were ecologically burned over the last five years. Attachment C is a copy of the Eugene Code Section 6.200, for which a five-year exemption is being requested.

Research to-date indicates that the optimal burn frequency for meeting site ecological goals in fire-adapted plant communities is once every three to six years. Thus, most of the sites will only be burned once during the next five-year period. Decisions of which parcels to propose for burning and when, are decided annually using information from site assessments. The areas selected for ecological burning typically include the highest quality native prairie remnants or restored sites under protective management. These are typically the sites that will benefit most from burning.

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Many of these prairie sites contain endangered plant species which have been shown to benefit from such burns.

Another benefit of ecological burns is reducing fuels in our natural areas. Heavy fuel loads can increase the risk of hotter, larger, and uncontrolled wildfires.

Safety Protocols

Controlled ecological burns are conducted only under the authority of an approved burn plan which identifies specific parameters under which the burn may be accomplished.

Burns will occur only on days when the weather conditions (temperature, relative humidity, and wind speed and direction) provide the proper window to conduct a safe burn, and only when sufficient resources and staffing are available to support planned operations.

Controlled ecological burns will be conducted by trained personnel from the U.S. Bureau of Land Management (BLM), The Nature Conservancy (TNC), the Eugene-Springfield Fire Department (ESFD), trained Parks and Open Space Division staff, contract crews, and other partner fire protection agencies (e.g., Oregon Department of Forestry). Prescribed fire operations also provide the additional benefit of using controlled burns as valuable wildland fire training opportunities for staff.

In order to conduct controlled ecological burns, partners must submit a permit application to Lane Regional Air Pollution Authority (LRAPA) that includes all the planned burn sites for the coming season. LRAPA reviews the application and issues a special permit. In addition, both LRAPA and the Oregon Department of Forestry are involved in determining whether burning can be conducted on a given day and site, based on the impact that expected weather conditions will have on smoke dispersal.

Potential impacts to adjacent properties from smoke depend largely upon the location of the property relative to the prevailing wind direction and atmospheric conditions at the time of the burn. Controlled burns would be conducted only under conditions where the prevailing winds are predicted to be coming primarily from the north or northeast. Thus, impacts to properties to the north, northeast, or east of the burn site would generally be negligible, as smoke is dispersed to the south and southwest. Burns would also be conducted under atmospheric conditions that result in optimal lift and dispersion of smoke outside of our region. The smoke column would likely be visible overhead from properties within a half mile of the burn sites. Some slight ash fall might also be experienced with most ash fall occurring within 500 feet downwind of the burn site.

Special precautions will be taken for burns at sites that are adjacent to manufacturing facilities where smoke is a special concern. Burns would only be conducted with prevailing winds that carry the smoke away from these facilities, and at a time when the manufacturing process is not in operation and air intake systems are not in use.

A benefit to nearby properties is the controlled reduction of fuels which can accumulate over time and increase the risk of uncontrolled wildfire.

Public Information

Postcards will be sent to all neighbors within ¼ mile of each burn unit. When burn season is active, the partners will maintain a web-based map and a Facebook page at <https://www.facebook.com/WillametteValleyPrescribedFire> to provide updates on active burns and near-term plans.

Additional Information

Video produced by City of Eugene staff with more detail on the benefits and managed risks of controlled ecological burns, including interviews with local experts:

<https://vimeo.com/529514426>

The Eugene Parks and Open Space website has information on its ecological burning program:

<https://www.eugene-or.gov/prescribedfire>

The Rivers to Ridges website has information on the partnership program:

<https://rivers2ridges.org/controlled-ecological-burn-program/>

Use of Controlled Ecological Burns in Willamette Valley Native Prairies:

<https://www.eugene-or.gov/DocumentCenter/View/61413/Alverson-Fire-Justification-White-Paper-20110504>

Comparison of Burning and Mowing Treatments in a Remnant Willamette Valley Wet Prairie:

<https://www.eugene-or.gov/DocumentCenter/View/61412/Nuckols-et-al-2011-Comparison-of-Mowing-and-Burning>

PREVIOUS COUNCIL DIRECTION

In 1986 and 1987, City Council first approved exceptions to the application of Eugene Code 6.200 to permit The Nature Conservancy to conduct controlled ecological burns in the Willow Creek Natural Area. Due to the recurring nature of these requests, in September 1990, Council approved a five-year exception for the Willow Creek Natural Area by Ordinance No. 19715. The five-year exception has been re-approved in consecutive five-year periods since and now includes other publicly owned land:

May 22, 1995 - Ordinance No. 20014,

June 25, 2001 - Ordinance No. 20231,

June 26, 2006 - Ordinance No. 20370,

June 13, 2011 - Ordinance No. 20476, and

June 13, 2016 - Ordinance No. 20565

This action is supportive of the West Eugene Wetlands Plan, adopted by the City Council on May 20, 1992 and amended numerous times since. It is also supportive of the Ridgeline Area Open Space Vision and Action Plan, published in February 2008, as a refinement of the Rivers to Ridges Vision and Strategies document endorsed by City Council on March 12, 2003.

COUNCIL OPTIONS

No action is required at this time. Council action on the proposed ordinance is scheduled for May 24, 2021.

ATTACHMENTS

- A. Proposed ordinance, including map of proposed ecological burn sites for 2021-26, (Exhibit A)
- B. Map of ecological burn sites from 2016-2020
- C. Copy of Eugene Code 6.200 Outdoor Burning

FOR MORE INFORMATION

Staff Contact: Shelly Miller
Telephone: 541-682-4888
Staff E-Mail: smiller@eugene-or.gov

ORDINANCE NO. _____

GRANTING AN EXEMPTION FROM THE APPLICATION OF SECTION 6.200 OF THE EUGENE CODE, 1971, AND PROVIDING FOR A SUNSET DATE.**The City Council of the City of Eugene finds as follows:**

A. Section 6.200 of the Eugene Code, 1971, (EC), proscribes the practice of open burning within the City of Eugene with specified exceptions to this ban. This ordinance, which makes a limited exception to EC 6.200, is a component of local measures designed to assure compliance with federal ambient air quality standards.

B. Maintenance and enhancement of air quality is critical to the health and welfare of metropolitan area residents, the area's ability to attract new businesses, and the avoidance of sanctions for noncompliance.

C. The West Eugene Wetlands Plan (the Plan), adopted by the City Council on May 20, 1992 and amended numerous times since, sets forth policies for preserving significant wetlands in West Eugene, allowing development of lower quality wetlands, and establishing a system for mitigation of filled wetlands. The Plan also includes goals and policies for protecting and expanding populations and habitats of rare, threatened, or endangered plants, including Bradshaw's lomatium (*Lomatium bradshawii* – *delisted in February 2021*)), Willamette Valley daisy (*Erigeron decumbens* var. *decumbens*), and Kincaid's lupine (*Lupinus oreganus*), and policies for protecting and managing the native Willamette Valley wet prairie plant community. In addition, the Plan contains policies for managing the preserved wetlands in public ownership.

D. Experimental burns conducted in 1986, 1987, and 1991 in the Willow Creek natural area within habitat containing the above-mentioned plant species have resulted in expansion of populations of those plants in the areas burned. Controlled burns in 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, and 2018 on several sites have also been beneficial for enhancing and maintaining wetland and associated upland habitats. The first ecological burn implemented in the Ridgeline Area occurred in 2018 at Suzanne Arlie Park following extensive mechanical fuels reduction.

E. The Ridgeline Area Open Space Vision and Action Plan, published in February 2008, is based on the Rivers to Ridges Vision and Strategies document endorsed by City Council on March 12, 2003. This document establishes management principles for the safety of recreational users and the reduction of potential hazards inherent to the rural-urban interface found in Eugene's Ridgeline Area such as wildfire. In addition, the Ridgeline Area Open Space Vision and Action Plan recommends the implementation of prescribed fire (where feasible) to prevent woody vegetation from establishing in prairies and savannas and management of vegetation to help reduce risk of wildfire spreading to adjacent properties, also known as fuels reduction.

F. Management of natural areas and preservation of fire-adapted native plant communities requires controlled open burning of vegetation for ecological purposes and to foster growth of native species in the areas noted on the map attached as Exhibit A hereto and incorporated herein by reference. Repeated burning of vegetation in these areas will enhance or maintain natural areas to sustain fire-adapted plant and animal communities.

G. A limited and special exception to the open burning ban in EC 6.200 is necessary for the purposes outlined above. This limited exception is based upon the high costs and limited practicability of alternative vegetation management and control methods, the limited nature of the expected burns, air pollution control strategies that will be employed to prevent significant degradation of local air quality, the special recognition given to regionally rare habitat types described in comprehensive planning documents, the City's direct responsibility under those plans for preservation of the natural resources in this area, and the general public benefit derived from the preservation of this habitat, the reduction of fuels that contribute to uncontrolled wildfires, and the ecosystem services provided to the community. This limited exception is unique and should not serve as precedent for future exceptions for other purposes or signal any relaxation of the City's commitment to preservation of air quality.

H. Exceptions to the open burning ban for the management of wetlands in the West Eugene Wetlands Plan area have been previously granted by the City Council by Ordinance No. 19403 enacted August 13, 1986, Ordinance No. 19493 enacted July 27, 1987, Ordinance No. 19634 enacted September 11, 1989, Ordinance No. 19715 enacted September 12, 1990, Ordinance No. 19983 enacted September 12, 1994, Ordinance No. 20014 enacted May 22, 1995, Ordinance No. 20231 enacted June 25, 2001, Ordinance No. 20370 enacted June 26, 2006, Ordinance 20476 enacted June 13, 2011, and Ordinance No. 20565 enacted June 13, 2016. An exception is again necessary to ensure the continued proper and effective management of this valuable natural resource area.

NOW, THEREFORE,

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. The findings set forth above are adopted.

Section 2. The City shall continue to use its regulation of outdoor burning as one method for maintaining and improving air quality of the metropolitan area.

Section 3. An exception to the application of EC 6.200 is hereby granted to the Bureau of Land Management, Eugene Public Works Department and The Nature Conservancy to conduct periodic "Prescribed Ecological Burns" for the purposes of scientific research, fuels reduction and to foster growth of native plant species in any of:

- a. The "Ecological Burn Site" areas that are now inside the city limits of the City of Eugene, as shown on the map attached as Exhibit A hereto and incorporated herein by reference; and
- b. The "Ecological Burn Site" areas, as shown on the map attached as Exhibit A, that are annexed into the city limits after the adoption of this ordinance.

Section 4. The exception granted in Section 3 is subject to the following conditions:

- a. Prior to commencement of any burn, the Bureau of Land Management, Eugene Public Works Department or The Nature Conservancy shall give notice to the Eugene Fire Marshal and the Lane Regional Air Protection Agency and shall obtain the approval of those agencies to conduct the burn in the time, place and manner proposed.

- b. No more than 300 acres of open burning shall be conducted within the City of Eugene in any one calendar year.
- c. Environmental protection and fire suppression strategies, personnel, equipment, and other parameters (including wind direction, relative humidity, vegetation type) shall be approved in advance by the Eugene Fire Marshal and Lane Regional Air Protection Agency. The Bureau of Land Management, Eugene Public Works Department and The Nature Conservancy shall comply with all conditions imposed by those agencies.
- d. Burning shall only occur when wind and weather conditions are such that local air quality impacts are minimized and safety can be maintained.
- e. The Bureau of Land Management, Eugene Public Works Department and The Nature Conservancy assume responsibility for providing all equipment and personnel associated with the burn and for complying with all applicable federal, state and local laws.

Section 5. The exception granted by Sections 3 and 4 of this Ordinance, allowing periodic prescribed ecological burns under specific conditions, begins on the effective date of this Ordinance and ends on December 21, 2025.

Passed by the City Council this

_____ day of _____, 2021.

City Recorder

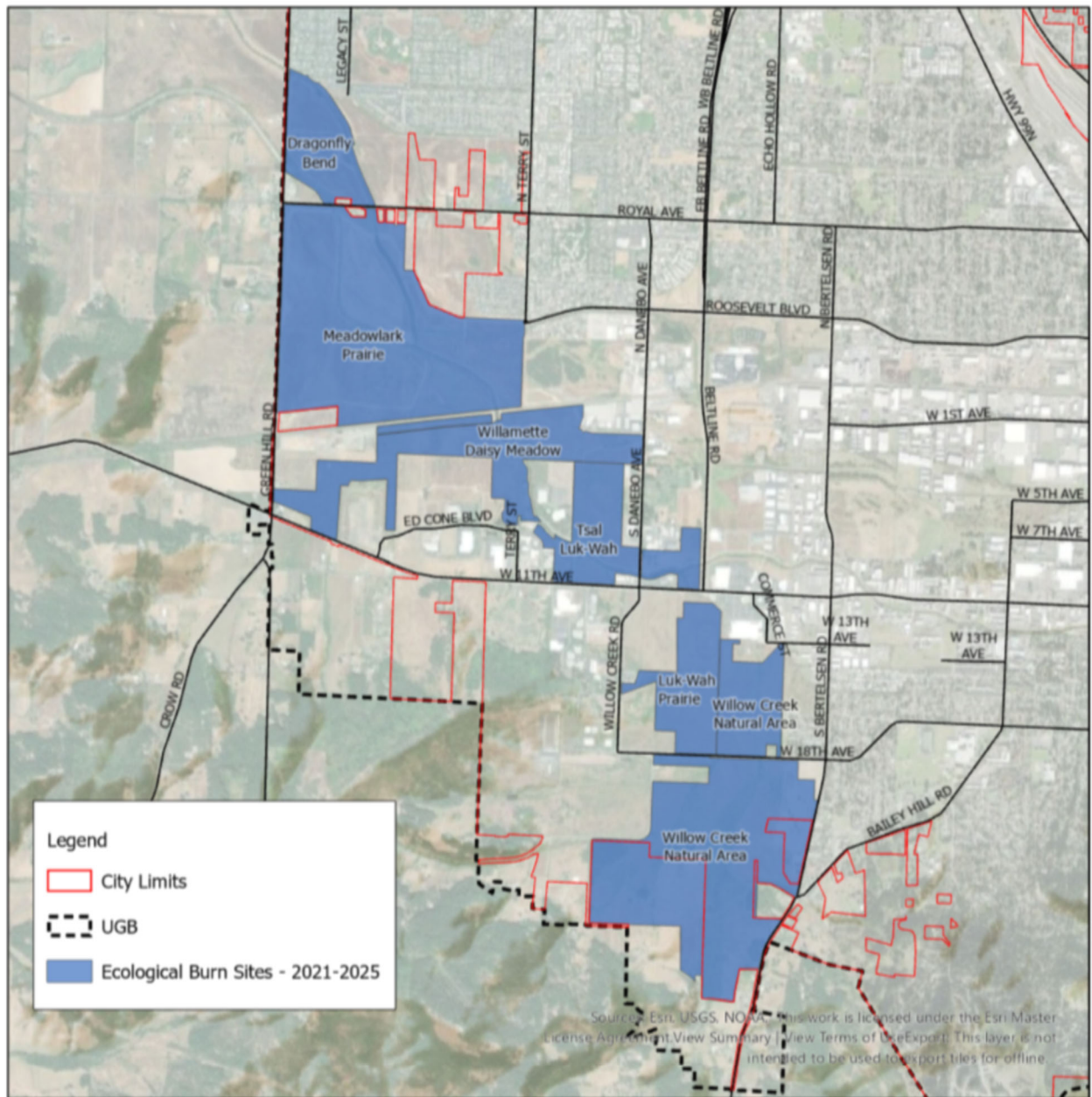
Approved by the Mayor this

_____ day of _____, 2021.

Mayor

EXHIBIT A

Ecological Burn Sites - 2021-2025 Within City Limits and/or Urban Growth Boundary

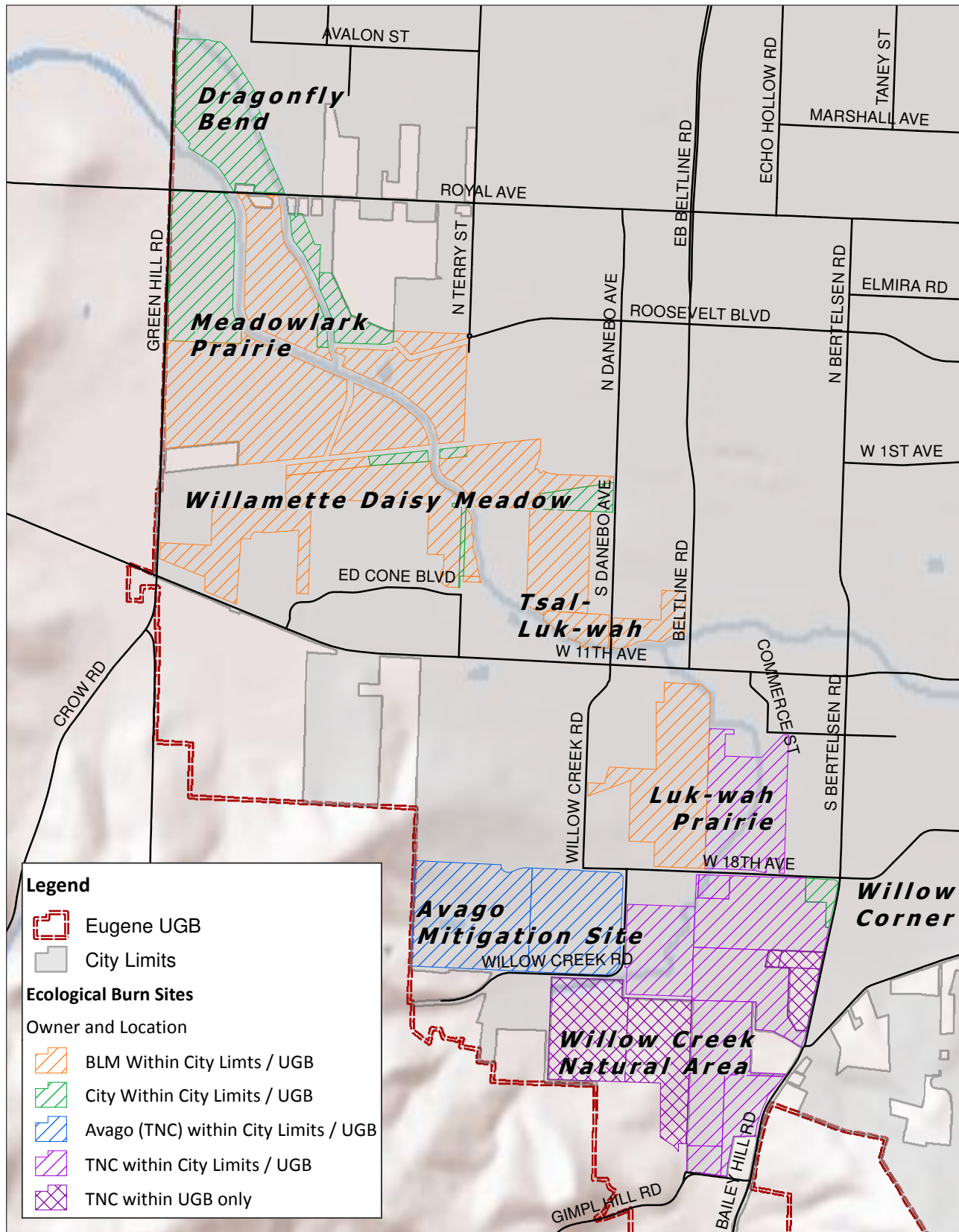


NOTE:
in most cases the actual area
burned will be a portion of the area
indicated

0 0.25 0.5 1 Miles



Ecological Burn Sites - 2016-2020
Within City Limits and/or Urban Growth Boundary (UGB)



NOTE:

In most cases the actual area burned will be a portion of the area indicated.



February 4, 2016



6.200 Outdoor Burning.

- (1) No person shall kindle, maintain or allow to be maintained, an outdoor fire, bonfire, rubbish fire or garbage fire; nor shall any person kindle, maintain or allow to be maintained a fire for the purpose of burning grass, hay or straw, tree limbs and trimmings; nor shall any person maintain or allow to be maintained a fire for land clearing operations, or commercial burning; nor shall any person kindle, maintain or allow to be maintained any other type of open burning with the following exceptions:
 - (a) Outdoor recreation fire used for cooking with the fire in a fireplace, barbecue set, or an outdoor fire used for cooking only.
 - (b) Recreation fire in an approved campsite in fire pits provided.
 - (c) Fires set and maintained for fire fighting training or training fire protection personnel.
 - (d) In cases of fire hazard that cannot in the judgment of the fire marshal be removed or disposed of in any other practical manner, a fire may be allowed by written permit only. Said permit is to be issued by the fire marshal.
- (2) No person shall accumulate or suffer or allow to accumulate material which in the judgment of the fire marshal constitute a fire hazard. Any such accumulation is a nuisance and subject to abatement as provided in this Code.

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Public Hearing: An Ordinance Amending the Eugene-Springfield Metropolitan Area General Plan Diagram and the Whiteaker Plan Land Use Diagram to Redesignate the Property Identified as Assessor's Map 17-04-25-41, Tax Lot 7000 and Assessor's Map 17-04-25-42, Tax Lot 100 from Light-Medium Industrial to Mixed Use and Rezone the Property from I-2 Light-Medium Industrial with /SR Site Review Overlay to S-W Whiteaker Special Area with /SR Site Review Overlay

Meeting Date: May 17, 2021
Department: Planning & Development
www.eugene-or.gov

Agenda Item Number: 3
Staff Contact: Rodney Bohner
Contact Telephone Number: 541-682-5437

ISSUE STATEMENT

City Council will hold a public hearing on a privately initiated Metro Plan Amendment and Refinement Plan Amendment to change the plan designation from Light Medium Industrial to Mixed Use, with a concurrent Zone Change from I-2 Light-Medium Industrial with partial /SR Site Review overlay to S-W Whiteaker Special Area zone with /SR Site Review overlay zone for the 1400 Cross Street properties (Assessor's Map 17-04-25-41, Tax Lot 7000 and Assessor's Map 17-04-25-42, Tax Lot 100) (City files: MA 20-2 / RA 20-2 & Z 20-8). The two tax lots total 4.62 acres and are located west of North Polk Street, northeast of Railroad Boulevard, and south of Cross Street. Maps showing the location of the subject property and existing zoning of the surrounding area are provided in Attachment A.

BACKGROUND

The applicant, 1400 Cross Street LLC, applied for a privately initiated, site-specific Metro Plan Amendment, Refinement Plan Amendment and concurrent Zone Change for the subject property with the goal of allowing a more diverse range of uses and businesses on the property that are compatible with existing nearby development.

The subject property is currently zoned I-2 Light-Medium Industrial and a change to S-W Whiteaker Special Area Zone will encourage the economic vitality of the area for employment and industrial, institutional, and commercial uses while also allowing a mix of residential dwellings. The S-W zone has a broad range of permitted uses. No single use is mandated or required within the area and the zone encourages both a mixture of uses within a building as well as within a block. As the current Light Medium Industrial land use designation does not support a zone change to S-W, site-specific amendments to the land use diagrams of the Metro Plan and the Whiteaker Plan are required. The application before the Council is for an amendment to change

May 17, 2021, Public Hearing – Item 3

the Metro Plan and Whiteaker Plan designations, and a concurrent Zone Change. If this application is approved, the subject property could be developed with any use permitted in the S-W zone, as identified in [EC Table 9.2450](#). Detailed maps showing the proposed redesignations and zoning changes are included as Exhibits A, B, and C of the draft ordinance (see the draft ordinance included as Attachment B to this AIS).

More details on this request can be found in the full record of application materials to date, which will be provided separately to Councilors on a thumb-drive. Otherwise, application materials can be made available in hardcopy or electronic format upon request. Materials can be viewed online here: <https://pdd.eugene-or.gov/LandUse/SearchApplicationDocuments?file=MA-20-0002>

Planning Commission Process & Recommendation

The Planning Commission held a public hearing on January 26, 2021 to consider the proposed amendments and zone change. The webcast of the meeting is available at <https://eugene.ompnetwork.org/sessions/161261?embedInPoint=4901&embedOutPoint=7186&shareMethod=link>. No public comments were received prior to the Planning Commission's public hearing. During the public hearing, Planning Commissioners received testimony from the applicant and heard testimony from several interested parties. Prior the close of the public hearing, the Planning Commission received a request to extend the open record period for additional testimony and evidence, consistent with State law (ORS 197.763).

Based on the testimony and commissioners' comments, staff identified an error contained within the applicant's Transportation Planning Rule Analysis. To allow the applicant an opportunity to revise their analysis and to provide ample opportunity for interested parties to review and respond to the changes, Planning Commission reopened the public record at their meeting on February 22, 2021. The webcast of the meeting is available at <https://eugene.ompnetwork.org/sessions/163081/eugene-planning-commission-meeting-february-22-2021>.

Following the close of this additional open record period, Planning Commission held final deliberations on March 29, 2021. The webcast of that meeting is also available at <https://eugene.ompnetwork.org/sessions/175511/eugene-planning-commission-meeting-march-29-2021>. Planning Commission deliberated and unanimously voted to recommend approval of the proposed plan amendments and zone change with a trip generation cap condition of approval.

City Council Process & Action

This request is subject to Metro Plan Amendment procedures at Eugene Code (EC) 9.7770-9.7735. Council's public hearing is also required to follow quasi-judicial procedures, and the decision must be based on the approval criteria from EC 9.7735, EC 9.8424 and EC 9.8865. Findings demonstrating compliance with these approval criteria are included as Exhibit D to the draft ordinance (included as Attachment B to this AIS). As a reminder, at the beginning of the hearing, Councilors will be asked to disclose any ex-parte contacts that may have occurred related to this request.

Notice of Council's public hearing on this request was provided April 29, 2021, in accordance with

May 17, 2021, Public Hearing – Item 3

Eugene Code requirements. No additional public testimony has been received since the March 29, 2021 Planning Commission meeting or in response to the most recent public notice. Any additional written testimony received in advance of the public hearing will be included in the record and forwarded to Councilors for consideration. Following close of the public hearing and record, Council is tentatively scheduled for deliberations and final action on July 12, 2021.

COUNCIL OPTIONS

No action is required at this time; however, options will be provided at the time of City Council deliberations and action scheduled for July 12, 2021.

ATTACHMENTS

- A. Subject Property and Zoning Maps
- B. Proposed Ordinance and Exhibits
 - Exhibit A: Proposed Metro Plan Designation Map
 - Exhibit B: Proposed Whiteaker Plan Designation Map
 - Exhibit C: Proposed Zone Change Map
 - Exhibit D: Findings

FOR MORE INFORMATION

Staff Contact: Rodney Bohner, Associate Planner
Telephone: 541-682-5437
Staff E-Mail: RBohner@eugene-or.gov

SUBJECT PROPERTY MAP

1400 Cross Street - Metro Plan Amendment, Refinement Plan Amendment and Zone Change (MA 20-2 / /RA 20-2 / Z 20-8)



 Subject Property

 Taxlots

 Streets



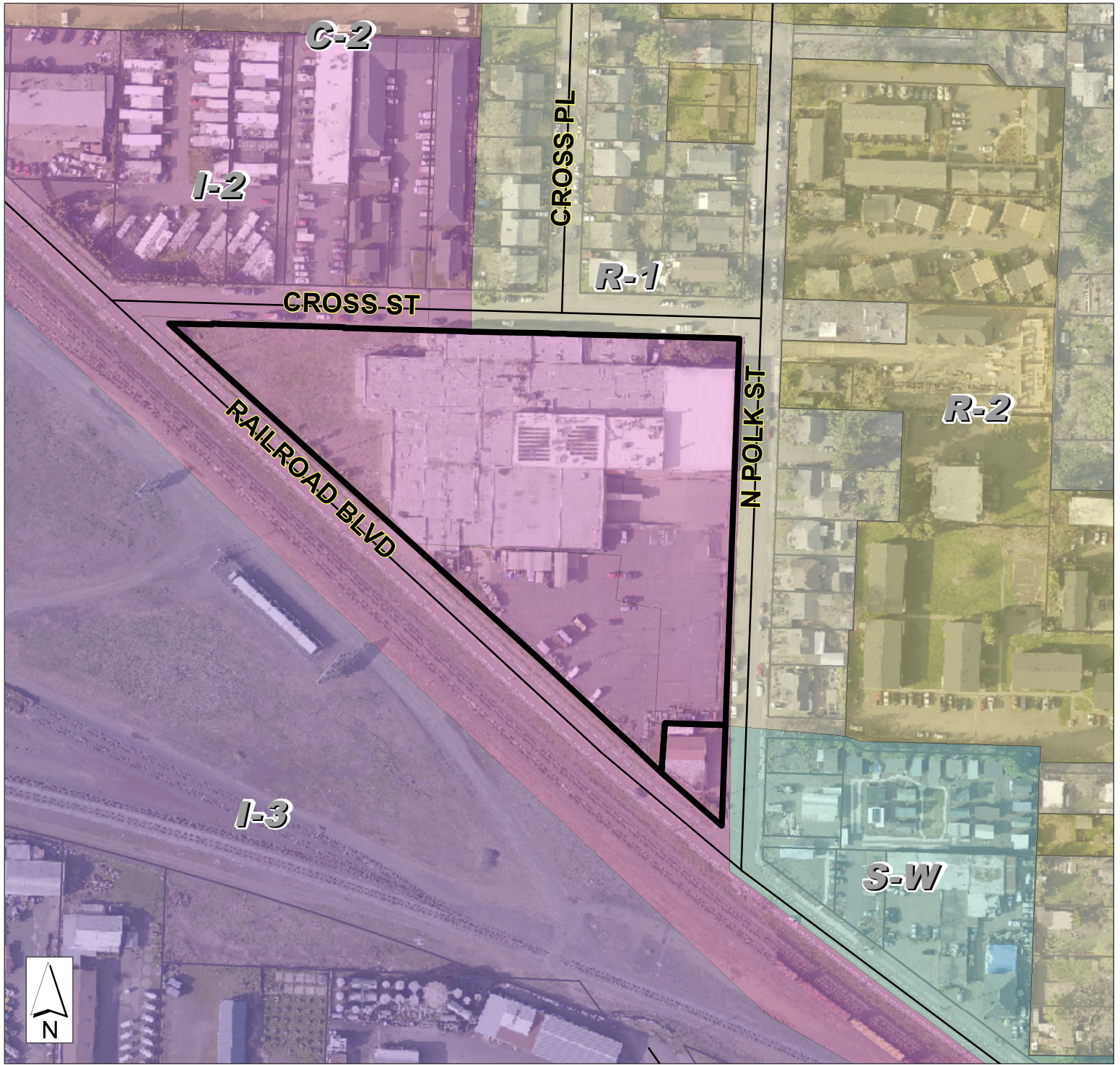
01/19/2021

Caution:
This map is based on imprecise
source data, subject to change,
and for general reference only.



BASE ZONING MAP

1400 Cross Street - Metro Plan Amendment, Refinement Plan Amendment and Zone Change (MA 20-2 / RA 20-2 / Z 20-8)



- Subject Property
- Taxlots
- Streets
- C-2 Community Commercial
- I-2 Light-Medium Industrial
- I-3 Heavy Industrial
- R-1 Low-Density Residential
- R-2 Medium-Density Residential
- S Special Area

0 75 150 300 Feet

Caution:
This map is based on imprecise
source data, subject to change,
and for general reference only.

01/19/2021



ORDINANCE NO. _____

AN ORDINANCE AMENDING THE EUGENE-SPRINGFIELD METROPOLITAN AREA GENERAL PLAN DIAGRAM AND THE WHITEAKER PLAN LAND USE DIAGRAM TO REDESIGNATE THE PROPERTY IDENTIFIED AS ASSESSOR'S MAP 17-04-25-41, TAX LOT 7000, AND ASSESSOR'S MAP 17-04-25-42, TAX LOT 100, FROM LIGHT MEDIUM INDUSTRIAL TO MIXED USE AND REZONE THE PROPERTY FROM I-2 LIGHT MEDIUM INDUSTRIAL WITH /SR SITE REVIEW OVERLAY TO S-W WHITEAKER SPECIAL AREA WITH /SR SITE REVIEW OVERLAY.

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

A. On July 14, 2020, 1400 Cross Street, LLC submitted applications for a Type I amendment to the Eugene-Springfield Metropolitan Area General Plan (Metro Plan) plan diagram, an amendment to the Whiteaker Plan land use diagram, and a concurrent zone change to redesignate and rezone the property identified as Assessor's Map 17-04-25-41, Tax Lot 7000 and Assessor's Map 17-04-25-42, Tax Lot 100. The applicant requested a Metro Plan designation change from the Light-Medium Industrial designation to a Mixed Use designation. Approval of the Metro Plan amendment results in the automatic concurrent amendment of the Whiteaker Plan land use diagram, giving the subject property a Mixed Use designation under the Whiteaker Plan. The zone change requested by the applicant would rezone the subject property from I-2 Light-Medium Industrial with a partial /SR Site Review overlay to S-W Whiteaker Special Area with /SR Site Review overlay over the entire property.

B. On January 26, 2021, the Eugene Planning Commission held a public hearing on the application. The Eugene Planning Commission recommended that the Eugene City Council adopt the proposed amendments to the Metro Plan plan diagram as shown in Exhibit A, and the Whiteaker Plan land use diagram as shown in Exhibit B.

NOW, THEREFORE,

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. The Eugene-Springfield Metropolitan Area General Plan land use diagram is amended to redesignate the property identified as Assessor's Map 17-04-25-41, Tax Lot 7000 and Assessor's Map 17-04-25-42, Tax Lot 100 from Light-Medium Industrial to Mixed Use, as depicted on Exhibit A attached hereto and incorporated herein by reference.

Section 2. Consistent with the provisions of section 9.7730(5) of the Eugene Code, 1971, the Land Use Diagram located between pages 36 and 39 of the Whiteaker Plan is amended to redesignate the property identified as Assessor's Map 17-04-25-41, Tax Lot 7000 and Assessor's Map 17-04-25-42, Tax Lot 100 from Light-Medium Industrial to Mixed Use, as depicted on Exhibit B attached hereto and incorporated herein by this reference.

Section 3. The property identified as Assessor's Map 17-04-25-41, Tax Lot 7000 and Assessor's Map 17-04-25-42, Tax Lot 100, is rezoned from I-2 Light-Medium Industrial with a partial /SR Site Review overlay to S-W Whiteaker Special Area with /SR Site Review overlay as

depicted on Exhibit C attached hereto and incorporated herein by this reference.

Section 4. The findings set forth in the attached Exhibit D are adopted in support of this Ordinance.

Section 5. Based on the findings set forth in Exhibit D attached hereto and adopted as findings in support of this Ordinance, the following limitation on development of the property identified as Assessor's Map 17-04-25-41, Tax Lot 7000 and Assessor's Map 17-04-25-42, Tax Lot 100 is hereby imposed:

Site development shall be limited so as to generate no more than 328 PM peak hour vehicle trips as determined by the most current edition of the Institute of Transportation Engineers Trip Generation Manual. The City may allow development intensity beyond this maximum number of peak hour vehicle trips if the applicant submits to the appropriate approving agencies a transportation impact analysis demonstrating the proposed intensification of use is consistent with the Transportation Planning Rule (TPR) criteria outlined in Oregon Administrative Rule (OAR) 660 012-0060. The applicant shall seek, and the City shall consider such approval using the City's Type II land use application procedure.

Section 6. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct, and independent provision and that holding shall not affect the validity of the remaining portions of this Ordinance.

Passed by the City Council this

_____ day of _____, 2021

City Recorder

Approved by the Mayor this

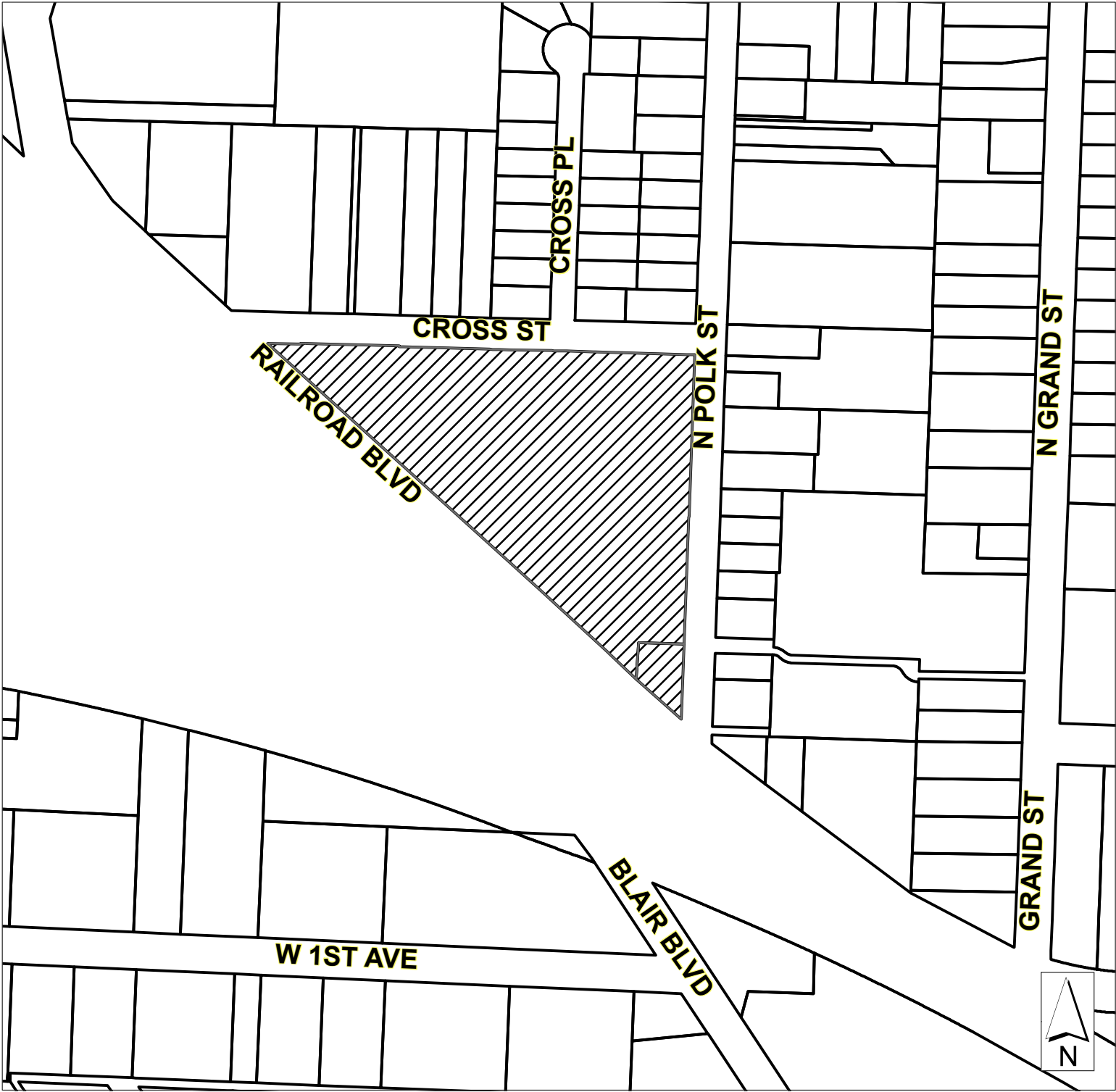
_____ day of _____, 2021.

Mayor

Metro Plan Designation

Exhibit A

1400 Cross Street - City File: MA 20-2 / RA 20-2 / Z 20-8
Metro Plan Amendment, Refinement Plan Amendment & Zone Change



 Mixed Use

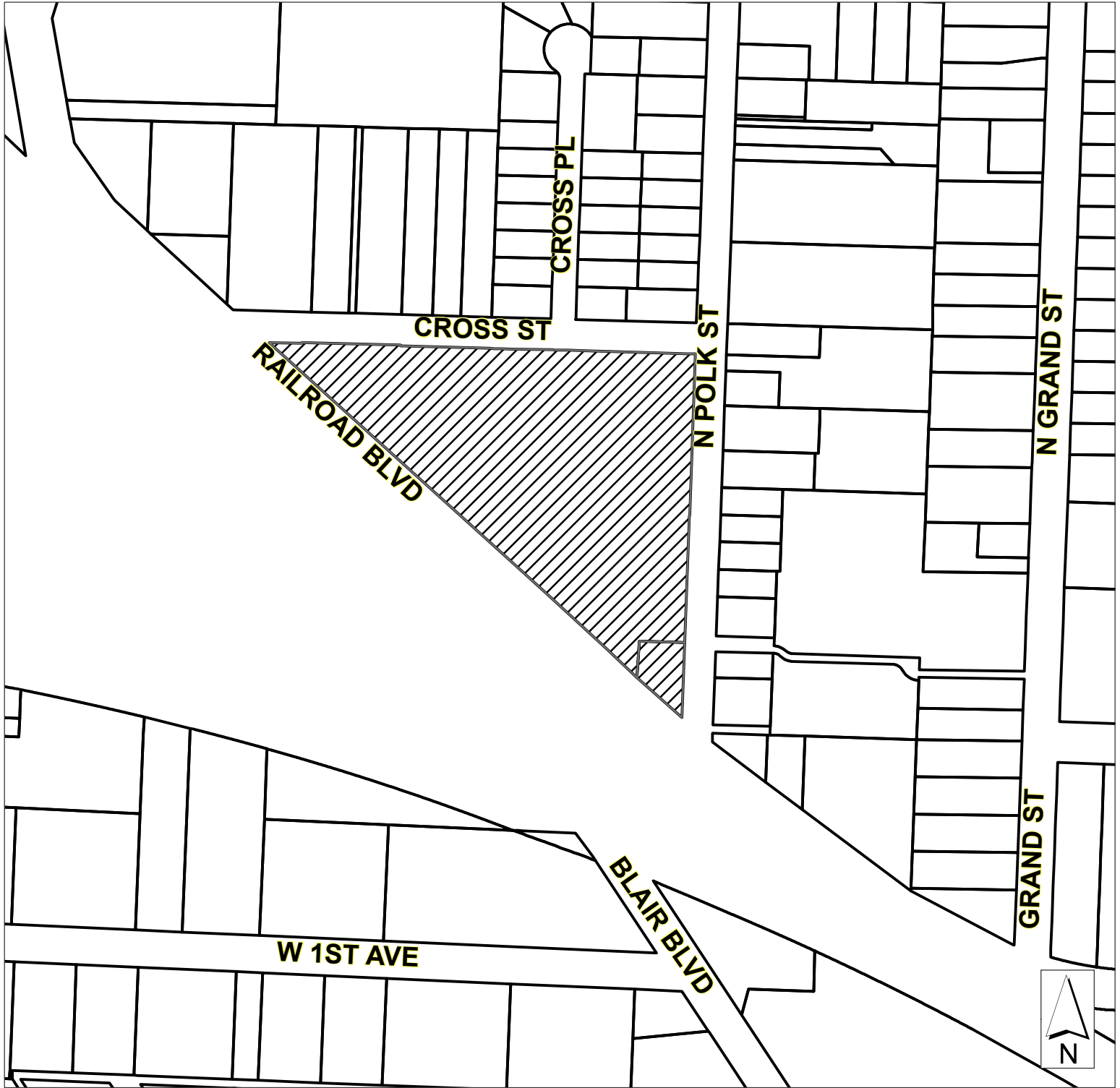
 Taxlots



Refinement Plan Designation

1400 Cross Street - City File: MA 20-2 / RA 20-2 / Z 20-8

Metro Plan Amendment, Refinement Plan Amendment & Zone Change



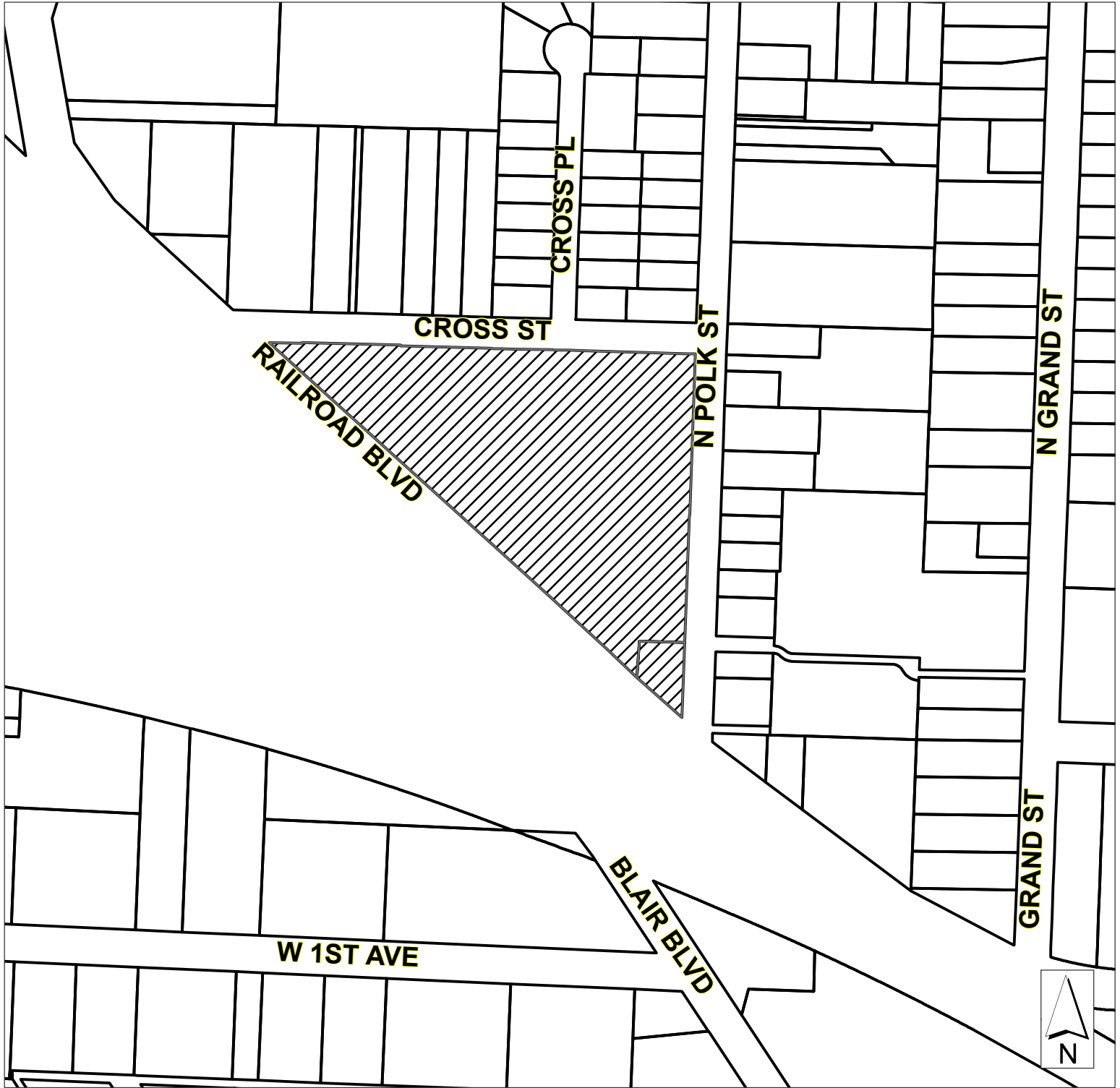
 Mixed Use

 Taxlots

Zone Change

1400 Cross Street - City File: MA 20-2 / RA 20-2 / Z 20-8

Metro Plan Amendment, Refinement Plan Amendment & Zone Change



 S-W Whiteaker Special Area Zone with /SR Site Review Overlay

 Taxlots

**FINDINGS IN SUPPORT OF AMENDING THE EUGENE-SPRINGFIELD
METROPOLITAN AREA GENERAL PLAN DIAGRAM AND WHITEAKER PLAN
LAND USE DIAGRAM TO REDESIGNATE THE PROPERTY IDENTIFIED AS
ASSESSOR'S MAP 17-04-25-41, TAX LOT 7000 AND ASSESSOR'S MAP 17-04-25-
42, TAX LOT 100, FROM LIGHT MEDIUM INDUSTRIAL TO MIXED USE AND
REZONE THE PROPERTY FROM I-2 LIGHT-MEDIUM INDUSTRIAL WITH /SR SITE
REVIEW OVERLAY TO S-W WHITEAKER SPECIAL AREA WITH /SR SITE REVIEW
OVERLAY.**

APPLICATION OVERVIEW

Name (File Numbers): 1400 Cross Street (MA 20-2 / RA 20-2 / Z 20-8)

Map No. / Tax Lots: 17-04-25-41 / 7000 and 17-04-25-42 / 100

The applicant is seeking an amendment to the Eugene-Springfield Metropolitan Area General Plan (Metro Plan) land use diagram, with a concurrent Refinement Plan Amendment (Whiteaker Plan), and Zone Change. The requested changes are outlined in Table 1, below.

1400 Cross Street Metro Plan/Refinement Plan Amendment & Zone Change			
Application (File #)	Current	Proposed	Acres
Metro Plan Amendment (MA 20-2)	Light-Medium Industrial	Mixed Use	4.62
Refinement Plan Amendment (RA 20-2)	Light-Medium Industrial	Mixed Use	4.62
Zone Change (Z 20-8)	Light-Medium Industrial	S-W Whiteaker Special Area with /SR Site Review	4.62

Table 1: Current/Proposed Plan Designations and Zoning

The subject property is located west of North Polk Street, northeast of Railroad Boulevard, and south of Cross Street. The site is comprised of two Tax Lots (Map 17-04-25-41, Tax Lot 7000 and Map 17-04-25-42, Tax Lot 100) and is 4.62 acres in size. Existing industrial businesses are located on Tax Lot 100, and one retail business located on Tax Lot 7000.

FINDINGS

This request for a Metro Plan Amendment (Type I) and concurrent applications are subject to the land use application procedures in the Eugene Code (EC) 9.7700-9.7735. The Metro Plan Amendment process at EC 9.7730(5) also triggers the need for an amendment to the Whiteaker Plan, which is the applicable refinement plan for this area. Per EC 9.8005, the requested Refinement Plan Amendment and Zone Change are being processed concurrently.

The following findings address details of the proposal in the context of compliance with the applicable approval criteria at EC 9.7735, EC 9.8424, and EC 9.8865. Those criteria are provided below (in **bolded text**), including findings addressing compliance with each.

METRO PLAN AMENDMENT

The applicant's requested Metro Plan Amendment proposes to change the land use designation of the subject property from Light-Medium Industrial to Mixed Use. It qualifies as a Type I amendment as it only involves a change to the land use diagram and no text amendments to the plan are proposed or required. The following findings address the applicable approval criteria for the Metro Plan Amendment request:

EC 9.7735 (1): The proposed amendment is consistent with the relevant Statewide Planning Goals.

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

The City's provisions for citizen involvement ensure the opportunity for citizens to be involved in all phases of the planning process and set out requirements for such involvement. The proposal does not include any changes to the City's citizen involvement program. The City's land use code implements Statewide Planning Goal 1 through its noticing requirements, which include:

- A pre-application neighborhood/applicant meeting (01/23/2020)
- Notice to the Oregon Department of Land Conservation and Development (12/22/2020)
- Referrals and notice sent to Lane County and the City of Springfield (01/06/2021)
- Public notice for the Planning Commission public hearing to consider the applications, which includes: mailing notice to interested parties and adjacent property owners (12/24/2020); posting of the notice on-site (01/08/2021); and, publishing the notice in a local newspaper (01/08/2021).

Consideration of the amendments and zone change began with a Planning Commission public hearing on January 26, 2021, providing an opportunity for members of the public to provide verbal testimony in addition to written comments. Following consideration and deliberations, the Planning Commission will provide a recommendation to the City Council. The Eugene City Council will then hold a public hearing to consider the proposal. Each public hearing will present an opportunity for interested parties to provide testimony to the Planning Commission and City Council for their consideration.

Based on these findings, the proposed Metro Plan Amendment is consistent with Statewide Planning Goal 1.

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

In accordance with Statewide Planning Goal 2, the requested Metro Plan Amendment is being processed according to Eugene's land use code, which specifies the procedure and criteria for

consideration of the request. The requested Metro Plan amendment qualifies as a Type I amendment as defined in EC 9.7705 because the only requested change is to the Metro Plan's land use diagram, for lands located wholly within the City of Eugene. Consistent with EC 9.7715(1), the request for an amendment was initiated by a representative for the property owners. Per EC 9.7705(1), this Type I amendment requires approval by City of Eugene only. The subject property is entirely within the Eugene City limits and there is no regional impact associated with this request to amend the Metro Plan land use designation. As the application follows the procedural requirements established by Eugene's land use code, the amendment is consistent with Statewide Planning Goal 2.

The Statewide Planning 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 its citizens. To comply with the Goal 2 coordination requirement, the City provided notice of the proposal and opportunity to comment to Lane County, Lane Council of Governments, City of Springfield, the Oregon Department of Transportation and the Oregon Department of Land Conservation and Development.

There are no exceptions to Statewide Planning Goal 2 required for this amendment. Therefore, the amendments are consistent with Statewide Planning Goal 2.

Goal 3: Agricultural Lands - To preserve agricultural lands.

The amendment is for property located within the urban growth boundary and does not affect any land designated for agricultural use. Based on this finding, Statewide Planning Goal 3 does not apply.

Goal 4: Forest Lands - To preserve forest lands.

The amendment is for property located within the urban growth boundary and does not affect any land designated for forest use. Based on this finding, Statewide Planning Goal 4 does not apply.

Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces - To protect natural resources and conserve scenic and historic areas and open spaces.

There are no Goal 5 resources located on the subject property. This amendment does not create or amend the City's list of Goal 5 resources, does not amend a code provision adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5, nor does it allow new uses that could be conflicting with a significant Goal 5 resource site. Therefore, Statewide Planning Goal 5 does not apply.

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

The proposed change to the Metro Plan does not impact the existing regulations that implement the air, water, and land resources quality protections. Given this fact, any future development will be subject to City regulations and other state and federal requirements, ensuring that future developments will be consistent with this Goal. Based on these findings, the amendment is consistent with Statewide Planning Goal 6.

Goal 7: Areas Subject to Natural Hazards - To protect people and property from natural hazards.

Goal 7 requires that local government planning programs include provisions to protect people and property from the following natural hazards: floods, landslides, earthquakes and related hazards, tsunamis, coastal erosion and wildfires. The Goal prohibits a development in natural hazard areas without appropriate safeguards. The subject property is not located within known areas of natural disasters or hazards. The subject property is outside the flood zone and is not subject to hazards normally associated with wildfires or tsunamis. Other hazards can be mitigated at the time of development based on applicable land use code provisions, building codes and building techniques. The map amendment does not affect the City's restrictions on development in areas subject to natural disasters and hazards. Based on these findings, the amendment is consistent with Statewide Planning Goal 7.

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

Goal 8 ensures 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 amendment does 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.

Statewide Planning Goal 9 requires cities to evaluate the supply and demand of commercial and industrial land relative to community economic objectives. This Metro Plan Amendment is only related to lands designated as industrial. The Administrative Rule for Statewide Planning Goal 9 (OAR 660 Division 9) requires that the City provide for at least an adequate supply of sites of suitable sizes, types, location, and service levels for a variety of industrial and commercial uses consistent with plan policies.

The Employment Lands Supply Study 2012-2032 (ELSS) is included as Appendix B in the City's comprehensive plan, Envision Eugene, and complies with the requirements of Goal 9 and the corresponding Administrative Rule.

The ELSS classifies the subject properties as "developed commercial and industrial lands." See Employment Land Supply (2012) Figure 5, map tile 11 of 18. Based on this classification, the subject property was not included in the inventory of available or developable employment lands within Eugene's Urban Growth Boundary. Therefore, while the subject property may have some developable area, the proposed amendment to the Metro Plan will have no impact on the City's adopted available or developable employment land capacity.

Further, OAR 660-009-010(4) includes specific requirements for changes in plan designation that involve land in excess of two acres within an existing urban growth boundary from an industrial use designation to a non-industrial use designation, or another employment use designation to any other use designation. Goal 9 requires that the City provide for at least an adequate supply of sites of suitable size, types, locations, and service level for a variety of industrial and commercial uses consistent with Metro Plan Policies. Oregon Administrative Rule 660-009-000 et seq. (Division 9) establishes the applicability of Goal 9 rules. OAR 660-009-0010(4) states:

For a post-acknowledgement plan amendment under OAR chapter 660, division 18, that changes the plan designation of land in excess of two acres within an existing urban growth boundary from an industrial use designation to a non-industrial use designation, or another employment use designation to any other use designation, a city or county must address all applicable planning requirements, and:

- a) Demonstrate that the proposed amendment is consistent with its most recent economic opportunities analysis and the parts of its acknowledged comprehensive plan which address the requirements of this division; or*
- b) Amend its comprehensive plans to incorporate the proposed amendment, consistent with the requirements of this division; or*
- c) Adopt a combination of the above, consistent with the requirements of this division.*

The proposed Metro Plan Amendment involves a plan designation change of land in excess of four acres from a Light-Medium Industrial land use to Mixed Use designation. For the purposes of the City's ELSS, mixed use designations are grouped under the broad category of commercial uses. Therefore, because the proposed amendment proposes changes to the plan designation of land in excess of four acres from an industrial use to another employment use designation, OAR 660-009-010(4) applies.

For the purpose of demonstrating consistency with the ELSS, it is important to discuss how the ELSS categorizes the subject site and to review past measures the City has implemented to increase employment development based on the ELSS findings. The ELSS divides forecasted industrial employment growth into tax lot site sizes ranging from less than 10 acres or larger

than 10 acres. At just over 4.5 acres, the subject site falls into forecast for sites under 10 acres. The ELSS identified 404 acres of developable industrial lands less than 10 acres in size. Based on forecasted land need, the ELSS forecast calculated a surplus of 121 acres. Due to this identified surplus and in combination with deficiencies with other employment land types, the City pursued strategies to increase the supply of employment land capacity and efficiency such as consolidating small sites into larger sites and rezoning some areas zoned industrial to a new E-2 Mixed Use Zone (Envision Eugene Implementation: Employment and Industrial Zone Changes and Code Amendments; City Files CA 13-4 and Z 13-8). These efficiency measures resulted in a deficiency of 26 small-industrial acres. The City addressed this deficiency by including some smaller industrial sites in the Clear Lake UGB expansion area.

As discussed above, the ELSS does not identify the subject property in the inventory of available or developable industrial employment lands. In terms of potential loss of over four acres of designated industrial employment lands, the ELSS supports the proposed amendment following on the heels of the ELSS measures to increase capacity and efficiency of employment lands broadly within the urban growth boundary. First, the proposed amendment and zone change would permit a mixture of commercial and industrial uses with an emphasis on employment use flexibility while avoiding creating a non-conforming situation regarding current industrial development. Further, by allowing for more employment use types than in the industrial plan designation and zoning, the proposed mixed-use designation and zoning allows for greater employment capacity and reduces the need to expand the UGB for employment lands.

Additional findings addressing the relevant policies of the Metro Plan and Envision Eugene, consistent with OAR 660-009-0010(4)(a), are provided below under EC 9.7735(2) and (3) and are incorporated herein by reference.

Further contextual analysis demonstrating how the proposed amendment supports Statewide Planning Goal 9 generally is included in the applicant's narrative.

Given these facts, the requested Metro Plan Amendment will not adversely impact the ability to provide opportunities for a variety of economic activities.

Based on these findings, the proposal is consistent with Statewide Planning Goal 9.

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

Goal 10 requires that communities plan for and maintain an inventory of buildable residential land for needed housing units. The Administrative Rule for Statewide Planning Goal 10 (OAR 660 Division 8) states that "the mix and density of needed housing is determined in the housing needs projection. The Envision Eugene Residential Lands Supply Study (RLS), which includes Eugene's Housing Needs Assessment (HNA), determined that Eugene meets the demand for low, medium, and high-density residential land. Further, the Buildable Land Inventory (BLI) recognized the subject site as developed and designated for industrial development.

The RLS recognizes that Eugene has some additional new housing land supply made available through redevelopment of “developed” commercial land. In this case, the proposed amendments and zone change provide an opportunity to add 4.62 acres of mixed-use land which allows for the ability to develop low- to high-density residential uses that would not otherwise be allowed under the existing industrial plan designation and zoning. This allowance would create additional housing opportunities which exceed HNA and BLI assumptions, consistent with Goal 10.

The proposed amendments do not leave the City with less than adequate residential land supply in the types, locations, and affordability ranges affected. However, the fact remains that the site is currently developed with existing industrial uses and no plans for redevelopment of the site are under consideration at this time.

Based on these findings, the proposal meets the Goal 10 requirements to the extent they could be construed as being applicable in this case.

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

The amendment does not affect the City’s provision of public facilities and services. Based on this finding, Statewide Planning Goal 11 does not apply. However, as a note, all necessary public services exist or are readily available near the subject site.

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

Statewide Planning Goal 12 requires a determination of whether the proposed Metro Plan Amendment will significantly impact an existing or planned transportation facility. OAR 660-012-0060, the Transportation Planning Rule (TPR), implements Goal 12 for proposed amendments to the Metro Plan diagram, such as this application. The TPR contains the following requirement:

OAR 660-012-0060(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.

Kelly Sandow, PE, of Sandow Engineering, prepared a TPR analysis on behalf of the applicant to demonstrate consistency with Statewide Planning Goal 12 requirements and the Eugene 2035 Transportation System Plan (TSP). The analysis calculated an assumed “worst-case development” scenario for the existing and proposed land use designations and zoning to quantify potential transportation impacts for a 20-year planning horizon. The assumption was based on the total site area, a rate of development based on proposed zoning and a high traffic impact use allowed in the existing (I-2) and proposed (S-W) zone. City staff concurred with the scope of the study, and the analysis was initially found to be consistent with the agreed upon scope of work.

The applicant’s TPR analysis concluded that the proposed amendment and zone change will not significantly affect the operation of the studied intersections, in accordance with OAR 660-012-0060(1). This is supported by findings included within the analysis that verify the proposed amendment and zone change does not significantly affect any transportation facility, citing compliance with OAR 660-012-0060(1)(a) through (c). The analysis concludes that because OAR 660-012-0060(1) is satisfied and there is no significant effect, the remaining OAR subsections (2) through (11) do not apply.

While staff initially concurred with the consultant’s methodology and findings, it was found that there is a significant effect that needs to be addressed under the TPR, contrary to the applicant’s TPR conclusions. A significant effect was triggered under OAR 660-012-0060(1)(c)(C) due to impact to the intersection at River Road and Railroad Boulevard (also NW Expressway) and Railroad Boulevard and Polk Street.

Additionally, staff reevaluated the assumptions and conclusion of the applicant’s TPR analysis and found one key issue with the applicant’s assumptions. The applicant’s worst-case scenario proposed a 5,000 square foot convenience store, which is only allowed in the I-2 zone under

certain limitations. One such limitation, under EC 9.2451(4) requires convenience stores (up to 5,000 square feet) in the I-2 zone to be located on development sites with frontage on an arterial street (major or minor). However, this site does not front an arterial street. Railroad Boulevard, the highest classification street fronting the subject property, is classified as a major collector. Therefore, a “convenience store” cannot be reasonably be considered as an allowed use on the subject property as part of the applicant’s TPR assumptions.

The applicant’s traffic engineer provided revised reasonable worst-case scenario findings on March 1, 2021 (Sandow Engineering TPR Trip Cap Memorandum). The applicant’s revised assumptions eliminated the convenience store use and decreased the percentage of lot coverage committed to landscaping, stormwater facilities, and setbacks. The applicant also added “car repair, paint, and body shop” as a proposed use which is permitted in the I-2 zone. The revised worst-case peak hour trip generation count decreased from 453 PM peak hour trips to 328 PM peak hour trips. The revisions to the reasonable worst-case scenario under current zoning more accurately reflect a reasonable worst-case scenario considering the I-2 permitted uses and development standards. The applicant’s traffic engineer further defends the revised assumptions by comparing local precedents in their March 15, 2021 memorandum.

The proposed amendments and zone change continue to result in a “significant effect” under OAR 660-012-0060(1)(c)(C) due to impact to the intersection at River Road and Railroad Boulevard (also NW Expressway) and Railroad Boulevard and Polk Street, as discussed further below.

The City uses Level of Service (LOS) as our performance standard to determine significant effect and the adopted performance standard is a minimum LOS E, at all intersections outside of the downtown area. LOS can be generally described as a measure of the amount of time delay expected at a given intersection. LOS ranges from A to F, with A indicating the most desirable condition and F indicating the most unsatisfactory condition. The applicant’s traffic study identified two intersections within the study area that do not meet the minimum LOS standard at the end of the planning period for the current designation or the amended designation. The intersection of River Road and Railroad Boulevard (also NW Expressway) is projected to perform at LOS “F” at the end of the planning period. The intersection of Railroad Boulevard and Polk Street is also projected to perform at LOS “F” at the end of the planning period. Therefore, the increased number of vehicle trips generated by the proposed amendment will further degrade the performance of an existing facility such that it would not meet the performance standards identified in the TSP. Based on these facts, the requested change triggers a significant effect under TPR subsection (1)(c)(C). When a significant effect is determined, a remedy to mitigate increased degradation is required to ensure compliance with the TPR’s subsection (2).

OAR 660-012-0060(2) If a local government determines that there would be a significant effect, then the local government must ensure that allowed land uses are consistent with the identified function, capacity, and performance standards of the facility measured at

the end of the planning period identified in the adopted TSP through one or a combination of the remedies listed in (a) through (e) below, unless the amendment meets the balancing test in subsection (2)(e) of this section or qualifies for partial mitigation in section (11) of this rule. A local government using subsection (2)(e), section (3), section (10) or section (11) to approve an amendment recognizes that additional motor vehicle traffic congestion may result and that other facility providers would not be expected to provide additional capacity for motor vehicles in response to this congestion.

- (a) Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.*
- (b) Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of this division; such amendments shall include a funding plan or mechanism consistent with section (4) or include an amendment to the transportation finance plan so that the facility, improvement, or service will be provided by the end of the planning period.*
- (c) Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.*
- (d) Providing other measures as a condition of development or through a development agreement or similar funding method, including, but not limited to, transportation system management measures or minor transportation improvements. Local governments shall, as part of the amendment, specify when measures or improvements provided pursuant to this subsection will be provided.*
- (e) Providing improvements that would benefit modes other than the significantly affected mode, improvements to facilities other than the significantly affected facility, or improvements at other locations, if the provider of the significantly affected facility provides a written statement that the system-wide benefits are sufficient to balance the significant effect, even though the improvements would not result in consistency for all performance standards.*

(A) The provider of the significantly affected facility provides a written statement that the system-wide benefits are sufficient to balance the significant effect, even though the improvements would not result in consistency for all performance standards;

(B) The providers of facilities being improved at other locations provide written statements of approval; and

(C) The local jurisdictions where facilities are being improved provide written statements of approval.

Neither staff nor the applicant proposes measures listed in subsections (a) through (c) or (e). The following trip cap condition is recommended as a simple remedy and is a mitigation tool consistent with OAR 660-012-0060(2)(d). It limits future development's transportation impact

to a level the same as the current plan designation and zoning. To calculate the number of trips for the trip cap condition, the analysis uses the most reasonable buildout scenario under the current plan designation and zoning, which was calculated in the applicant's updated trip cap analysis. The result of the trip cap is that a change in plan designation and zoning will have no greater impact on the transportation system than the current designation and zone.

Recommended Trip Cap Condition of Approval

Site development shall be limited so as to generate no more than 328 PM peak hour vehicle trips as determined by the most current edition of the Institute of Transportation Engineers Trip Generation Manual. The City may allow development intensity beyond this maximum number of peak hour vehicle trips if the applicant submits to the appropriate approving agencies a transportation impact analysis demonstrating the proposed intensification of use is consistent with the Transportation Planning Rule (TPR) criteria outlined in Oregon Administrative Rule (OAR) 660 012-0060. The applicant shall seek, and the City shall consider such approval using the City's Type II land use application procedure.

This trip cap condition provides an enforceable, ongoing requirement limiting traffic generation to a level consistent with the current Metro Plan designation. Therefore, the proposed Metro Plan amendment (and zone change) will not increase trip generation, thereby demonstrating compliance with the requirements of the TPR. With the inclusion of the trip cap condition, the proposal meets the requirements of Statewide Planning Goal 12, the Transportation Planning Rule, and the City's TSP.

Based on these revised findings and proposed condition of approval, the proposal is consistent with Statewide Planning Goal 12.

Goal 13: Energy Conservation - To conserve energy.

The proposed change to the Metro Plan's land use diagram will not amend or otherwise involve any land use regulations that implement this Goal. 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, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

The amendments do not affect the City's provisions regarding the transition of land from rural to urban uses. Based on this finding, 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, nor is the subject property located within the adopted Willamette Greenway boundary. Based on this finding, Statewide Planning Goal 15 does not apply.

Goals 16 – 19: Estuarine Resources; Coastal Shorelands; Beaches and Dunes; and Ocean Resources

There are no estuarine, beach and dune, coastal, or ocean resources related to the property affected by these amendments. Based on this finding, Statewide Planning Goals 16 through 19 do not apply.

Based on the findings above, the Metro Plan Amendment complies with Statewide Planning Goals and the approval criterion at EC 9.7735(1) is met.

EC 9.7735(2): The proposed amendment does not make the Metro Plan internally inconsistent.

No policies within the Metro Plan appear to serve as mandatory approval criteria, nor do any appear to be directly relevant to this site-specific amendment. Therefore, the proposed amendment does not present any conflict with Metro Plan policies nor make the Metro Plan internally inconsistent. Based on these findings, this criterion is met.

EC 9.7735(3): When the city-specific local comprehensive plan also applies, the proposed amendment is consistent with the city-specific local comprehensive plan.

The city-specific local comprehensive plan for the City of Eugene is the Envision Eugene Comprehensive Plan. The following policies from the Envision Eugene (EE) Comprehensive Plan provides relevant, general support for the amendment to the Metro Plan Diagram:

EE Policy 3.1 Employment growth. Plan for an employment growth rate that is identified in the current adopted Economic Opportunities Analysis. Strive to capture a majority of the region's employment growth within the City of Eugene.

EE Policy 3.21 Parcel assembly. Facilitate reconfiguration of smaller vacant or underutilized industrial parcels to create redevelopment opportunities within the urban growth boundary.

EE Policy 3.35 Neighborhood vitality. Recognize the vital role of commercial facilities that provide services and goods in complete, walkable neighborhoods throughout the

community. Encourage the preservation and creation of affordable neighborhood commercial space to support a broad range of small business owners across all neighborhoods.

Each of the policies above come from Economic Development Chapter of the EE Comprehensive Plan. The applicant contends that the proposed amendment will diversify industrial and commercial uses permitted on the site as well which can better serve the Whiteaker Neighborhood and broader Eugene community. The proposed amendment and concurrent zone change will expand the variety of uses permitted on the property while applying additional development standards meant to promote overall neighborhood compatibility between otherwise noncompatible uses (i.e. low-density residential and industrial). Based on these facts, the proposed amendment and concurrent zone change are generally supported by the EE Economic Development policies cited above.

The Transportation chapter of Envision Eugene states that the Eugene 2035 Transportation System Plan (TSP) serves as the transportation element for the comprehensive plan. As noted in the findings related to Statewide Planning Goal 12, the Metro Plan Diagram amendment is consistent with the City's TSP, and therefore consistent with the transportation element of Envision Eugene. No transportation policies appear to be directly relevant to this site-specific Metro Plan Amendment, nor do they serve as mandatory approval criteria for the amendment.

Based on these findings, the proposed Metro Plan Amendment is consistent with Envision Eugene, the City's local comprehensive plan.

REFINEMENT PLAN AMENDMENT

The proposed Metro Plan Amendment also triggers the need for an amendment to the Whiteaker Plan (WP), which is the applicable refinement plan for this area. The subject property is located in the South Sladden Subarea, as identified in the WP. The WP's land use diagram designates the property as Light-Medium Industrial. Per EC 9.7730(5)(b), since no text amendment is required, the refinement plan designation would change automatically to Mixed Use to remain consistent with the Metro Plan. This only occurs if the amendment to the Metro Plan land use designation is approved. The following findings address the applicable approval criteria for the related refinement plan amendment:

EC 9.8424(1): The refinement plan amendment is consistent with all of the following:

(a) Statewide planning goals.

The findings addressing consistency with the Statewide Planning Goals are included above under Metro Plan Amendment approval criterion EC 9.7735(1), incorporated herein by reference. Based on those findings, the proposal is consistent with the Statewide Planning Goals.

(b) Applicable provisions of the comprehensive plan.

Per the findings above under Metro Plan Amendment approval criteria EC 9.7735(2) and EC 9.7735(3), incorporated herein by reference, the proposal is consistent with the provisions of the comprehensive plan.

(c) Remaining portions of the refinement plan.

The proposed amendment to the refinement plan only includes the automatic amendment to the land use diagram through the procedures identified at EC 9.7730(5). No other amendments to the WP are proposed.

The subject property is located in the South Sladden Area, Subarea 9, of the WP. The plan designations of this area, which vary considerably, include a designation of mixed use along West 1st Avenue and Railroad Boulevard adjacent to the subject property. In this subarea the following policy is applicable:

2. In the South Sladden area, change the zoning of parcels designated on the Whiteaker Plan Diagram as mixed use to Whiteaker MU-W. Apply the site review subdistrict to all property zoned MU-W.

This policy was originally implemented through the zoning of the adjacent mixed-use designated areas (previously known as MU-W, Whiteaker Mixed Use District). That zone was subsequently reclassified as part of the City's land use code update in 2001 from MU-W to S-W, Whiteaker Special Area Zone. For consistency with this WP policy, the applicant has proposed to apply the /SR Site Review overlay zone. The applicant's concurrent proposal to rezone the subject property from I-2 to S-W/SR is consistent with the WP policy noted above.

There are no other policies in the WP that appear to serve as mandatory approval criteria or require further analysis in this instance, and the proposed plan amendment is otherwise consistent with the WP.

Based on the available information, EC 9.8424(1) is met.

EC 9.8424(2): The refinement plan amendment addresses one or more of the following:

- (a) An error in the publication of the refinement plan.**
- (b) New inventory material which relates to a statewide planning goal.**
- (c) New or amended community policies.**
- (d) New or amended provisions in a federal law or regulation, state statute, state regulation, statewide planning goal, or state agency land use plan.**
- (e) A change of circumstances in a substantial manner that was not anticipated at the time the refinement plan was adopted.**

The concurrent amendment to the plan designation on the Metro Plan diagram constitutes a “new or amended community policy” per EC 9.8424(2) above. Per the findings pertaining to the Metro Plan diagram amendment at EC 9.7735, incorporated herein by reference, the designation change is consistent with all Statewide Planning Goals and the existing Metro Plan policies. Therefore, if the requested Metro Plan Amendment is approved, the refinement plan must respond to remain consistent. Based on these findings, this criterion is met.

ZONE CHANGE EVALUATION

The applicant’s request includes a concurrent zone change request from I-2 Light-Medium Industrial to S-W Special Whiteaker Mixed Use with /SR Site Review overlay, to bring the zoning into conformance with the proposed Mixed Use plan designation. The following findings address the applicable approval criteria for the related zone change request:

EC 9.8865(1): 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.

According to EC 9.3905, the requested S-W Whiteaker Special Area Zone implements the mixed use designation of the Whiteaker Plan. The analysis and findings under the refinement plan amendment criteria, incorporated herein by reference, provide positive findings for consistency between the S-W, Whiteaker Special Area zoning and the mixed use designation of the Metro Plan. Therefore, as the current Metro Plan designation is Light-Medium industrial, consistency with this provision is contingent upon the approval of the Metro Plan Amendment to amend land use designation. With respect to Metro Plan policies, there appear to be no policies that would serve as mandatory approval criteria for this zone change or require further analysis beyond that provided above for the requested plan amendment.

Based on these findings, and with approval of the proposed Metro Plan Amendment, this criterion is met.

EC 9.8865(2): The proposed zone 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 subject property is within the boundaries of the Whiteaker Plan (WP), which is the applicable adopted refinement plan for the area of this request. The WP identifies the subject property as being designated for Light-Medium Industrial. However, according to the Metro Plan Amendment procedures at EC 9.7730(5)(b), if the requested plan diagram amendment is enacted and no text in the refinement needs to be amended, then the WP’s land use diagram is automatically amended to remain consistent with the Metro Plan. There are no text amendments proposed or otherwise required in this instance. Therefore, if the concurrent Metro Plan Amendment is approved, the WP’s land use diagram will automatically be amended and be consistent with the proposed zoning. Other than the policy addressed at EC 9.8424(1)(c)

above, no other policies listed in the WP appear to serve as mandatory approval criteria for this zone change or require further analysis beyond that provided above for the requested plan amendment.

Based on these findings, and with approval of the proposed plan amendment, this criterion is met.

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). The following summary addresses the availability of these key urban services and facilities as required under this criterion.

Wastewater: Adjacent to the subject property in the northwest corner is a 54-inch public sewer line flowing east from MH 9255 to 9373 and 9292 on Cross Street. Additionally, there is an 8-inch public wastewater line at MH10274 along Polk Street from Railroad Blvd to Cross Street.

Stormwater: Public Stormwater facilities exist within the right-of-way of both Polk and Cross Streets via weepholes in the curb and existing storm drains. There do not appear to be any downstream capacity issues within the area and any future development will be required to meet standards set forth in the Stormwater Management Manual and Chapter 9 of the Eugene Code.

Streets: The property has primary frontage on Railroad Blvd which is identified as a major collector, as well as access connections to both the local streets Polk Street and Cross Street. All roadways are owned and maintained by the City of Eugene and are fully paved, with sidewalks, curb and gutter, and additionally street trees and streetlights in several areas surrounding the property. Street standards will be required to be addressed at the time of any future development

Solid Waste: Collection service is provided by private entities. Regional disposal sites and the Short Mountain Landfill are operated by Lane County.

Water and Electric: Water and electrical services, operated by Eugene Water and Electric Board (EWEB) are available for extension to the property. Any future development will require coordination with EWEB staff to ensure that water and electric services comply with City standards and EWEB requirements.

Public Safety: Police protection for the subject property is consistent with service provision through the City. Fire protection will be provided by the Eugene/Springfield Fire Department. Emergency medical services are currently provided on a regional basis by the cities of Eugene and Springfield.

Transportation: The subject property is accessible to pedestrians, bicycles, and vehicles via the surrounding street network. Three public transit stops are located adjacent to the subject property. Sidewalks are present along all street frontages of the subject property.

Parks and Recreation: Parks and recreation programs are provided on a City-wide basis. The inclusion of the subject property in the City is sufficient evidence to demonstrate the minimum level of this key urban service is met.

Planning and Development Services: Planning and building permit services are provided for all properties located within the urban growth boundary by the City of Eugene. The Eugene Code, Chapter 9, will provide the required land use controls for future development of the subject property.

Communication: A variety of telecommunication providers offer communications services throughout the Eugene/Springfield area; therefore, these services are available, and this key urban service requirement is met.

Public Schools: The subject property is within Eugene School District 4J. As access to schools is evaluated on a district wide basis, the property's location within the school district is sufficient evidence to demonstrate the minimum level of this key urban service is met.

Based on these findings, this criterion is satisfied.

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

(o) EC 9.3905 Whiteaker Special Area Zone Siting Requirements.

The applicant has requested a change to the S-W Whiteaker Special Area zone. The specific siting standards for S-W are listed under EC 9.3905 and provided for ease of reference below.

EC 9.3905: S-W Whiteaker Special Area Zone Siting Requirements. In addition to the approval criteria at EC 9.8865 Zone Change Approval Criteria, the site must be planned for a special mix of uses in the Whiteaker Neighborhood Plan.

As the siting requirements state that S-W is limited to areas designated for mixed use in the WP, compliance with this provision is contingent upon the approval of the concurrent plan amendment. Therefore, the proposal complies with EC 9.3905.

Based on these findings, with approval of the proposed plan amendment, the siting requirements will be satisfied, and this criterion is met.

EC 9.8865(5) In cases where the NR zone is applied ...

This criterion does not apply because the proposed zone change does not include the NR zone.

OAR 660-012-0060 - Transportation Planning Rule

While not an approval criterion included in Eugene Code, zone change applications are required to demonstrate compliance with the State's Transportation Planning Rule under OAR 660-012-0060. Consistent with the findings under the Statewide Planning Goal 12, incorporated herein by reference, the proposed zone change is consistent with the Transportation Planning Rule.

CONCLUSION

Based on the available information and evidence, and the preceding findings of compliance with the applicable approval criteria, the proposed Metro Plan Amendment, Refinement Plan Amendment, and Zone Change comply with the applicable approval criteria, subject to the following condition of approval:

Trip Cap Condition of Approval

Site development shall be limited so as to generate no more than 328 PM peak hour vehicle trips as determined by the most current edition of the Institute of Transportation Engineers Trip Generation Manual. The City may allow development intensity beyond this maximum number of peak hour vehicle trips if the applicant submits to the appropriate approving agencies a transportation impact analysis demonstrating the proposed intensification of use is consistent with the Transportation Planning Rule (TPR) criteria outlined in Oregon Administrative Rule (OAR) 660 012-0060. The applicant shall seek, and the City shall consider such approval using the City's Type II land use application procedure.

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Public Hearing: 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, 9.3065, 9.3115, 9.3125, 9.3126, 9.3210, 9.3215, 9.3310, 9.3510, 9.3615, 9.3625, 9.3626, 9.3810, 9.3811, 9.3815, 9.3910, 9.3915, 9.3970, 9.6410 And 9.8030 of that Code; Addressing the Oregon Land Use Board Of Appeals’ Remand of Ordinance Nos. 20594, 20595, and 20625; and Providing an Effective Date

Meeting Date: May 17, 2021
Department: Planning and Development
www.eugene-or.gov

Agenda Item Number: 4
Staff Contact: Jeff Gepper
Contact Telephone Number: 541-682-5282

ISSUE STATEMENT

The City Council will hold a public hearing on a proposed ordinance to finalize the adoption of land use code amendments that implement a state law that governs the development of accessory dwelling units, Oregon Revised Statute (ORS) 197.312(5).

BACKGROUND

Housing availability and affordability have been a growing problem across Oregon for several years. In response to this ongoing housing shortage, the Oregon Legislature adopted a new law in 2017, now codified under ORS 197.312(5), with specific requirements for accessory dwelling units (ADUs). The 2017 law defined accessory dwelling units and required cities, including Eugene, to allow at least one accessory dwelling unit for each detached single-family dwelling in areas zoned for detached single-family dwellings, subject to reasonable local regulations relating to siting and design.

A detailed history of Eugene’s efforts to comply with ORS 197.312(5) pertaining to accessory dwellings is provided in Attachment A. These efforts began in 2018 and resulted in two appeals to Oregon’s Land Use Board of Appeals (LUBA), who sent the ordinances back (“remanded”) to the City Council for additional work. In addition, both LUBA and the Oregon Court of Appeals issued decisions that added some clarity to the state law and the Oregon Legislature passed another law that explicitly prohibited regulations that require owner-occupancy or on-site parking for ADUs. In January 2020, the City Council adopted an ordinance to address these changes and comply with state law, which was also appealed.

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Since the City Council adopted the ADU ordinance in January 2020, LUBA and the Oregon Court of Appeals have issued decisions that dictate how cities must interpret the 2017 law. These decisions were issued in a property-specific appeal filed against the City of Eugene (the Kamps-Hughes appeal) and in the appeal of the City's 2020 Ordinance itself. LUBA's and the Court's interpretations of the law clarify which types of regulations can, and cannot, be applied to ADUs. Their interpretations, and their remand of the City's 2020 Ordinance require the City Council to eliminate specific ADU regulations from the Eugene Code.

Based on LUBA's remand, the City Council is scheduled to consider proposed changes to the 2020 ordinance that would address these remaining issues and finalize compliance with state law. This is important because, although Eugene's land use code does not presently comply with state law, the provisions of ORS 197.312(5) apply directly. This means that the City must apply the statute directly at the time of a building permit submittal for an accessory dwelling, and certain accessory dwelling standards in Eugene's land use code can no longer be enforced.

Draft Ordinance

The proposed ordinance is drafted to explicitly address the remaining issues necessary to finalize compliance with state law. Using the interpretations issued by LUBA and the Court, we now know that the 2017 law imposes the following requirements on the City's regulation of ADUs:

1. On every lot in the City where the City's code allows a single-family dwelling, the code must also allow at least one ADU per single-family dwelling
2. The only development standards the City can impose on ADUs are standards that either:
 - a. Relate to where the ADU can be placed on an individual lot that has a single family dwelling ("siting"); or
 - b. The layout of the ADU or the materials used in the ADU's fabrication ("design")
3. The development standards described at 2. a. and b. must be "moderate," they cannot be "extreme," "absurd" or "excessive"

To draft the ordinance responding to these developments, staff started with Council's 2020 ordinance (Ordinance No. 20625) and made changes necessary to address LUBA's remand order and comply with the state law. A detailed summary of the proposed amendments to comply with ORS 197.312(5) is provided as Attachment B. Changes since Council's 2020 ordinance include amendments that:

- Allow, where not addressed in the 2020 ordinance, an accessory dwelling for each single-family dwelling allowed by the code, including on alley access lots and flag lots
- Remove regulations that include accessory dwellings in maximum density calculations
- Remove regulations that prohibit accessory dwellings based on lot area or lot dimensions
- Remove regulations that limit the number of people that can occupy an accessory dwelling or a property that includes an accessory dwelling
- Remove, where not addressed in 2020 ordinance, regulations that require on-site parking for accessory dwellings

The draft ordinance is provided in Attachment C. An annotated draft ordinance highlighting text to clearly identify which amendments are substantive changes from the ordinance that Council adopted in January 2020 was provided at the May 12, 2021 City Council Work Session.

Record of Materials for the City Council's Consideration

Because the City's consideration of the draft ordinance is a continuation of the process started in 2018, all of the materials that were compiled for the 2018 and 2020 process continue to be a part of the record for the Council's consideration. A link to all record materials and written testimony received as part of the remand process, since January 21, 2020, is provided as Attachment D.

Process/Next Steps

A work session was held on May 12, 2021 in preparation for this public hearing and future deliberations and potential action. This public hearing is a continuation of the Code Amendment process started in 2018, but is specifically responding to the most recent remand from LUBA requiring Eugene's code be amended to comply with state law.

Notice of the public hearing was sent to the Oregon Department of Land Conservation and Department (DLCD) on April 12, 2021 and mailed to interested parties on April 13, 2021. The draft ordinance and other pertinent information was posted on the City's website on April 16, 2021. While some of these notices may not be required, staff thought it prudent to offer ample opportunity for interested parties to review the materials leading up to the public hearing.

Following this Public Hearing, the City Council is scheduled to deliberate and potentially take action on the proposed ordinance finalizing compliance with ORS 197.312(5) on May 24, 2021.

PREVIOUS COUNCIL DIRECTION

[January 17, 2018 Work Session](#)

[January 22, 2018 Work Session](#)

Move to initiate land use code changes for a phased approach to implementation of Senate Bill 1051 related to secondary dwellings. (*Motion Passed*)

[April 16, 2018 Public Hearing](#)

[May 23, 2018 Work Session](#)

[June 11, 2018 Work Session](#)

Move to substitute Attachment B to the AIS, which is labeled "Ordinance 1 / Substitute Ordinance," in place of the Ordinance #1 now on the table.

Move to adopt Ordinance #2, Attachment C to the AIS. (*Motions Passed*)

[February 20, 2019 Work Session](#)

Move to direct the City Manager to prepare a proposed ordinance consistent with the council's direction on accessory dwelling units, and to schedule a public hearing on the proposed ordinance in response to LUBA's remand. (*Motion Passed*)

[May 20, 2019 Public Hearing](#)

[September 16, 2019 Work Session](#)

Move to not take action on the ordinance at the work session. (*Motion Passed*)

Move to direct the City Manager to come back with a memo addressing a 10-year property tax exemption for any additional property value attained from an ADU, an SDC discount or credit

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for ADUs, and other financial incentives identified by staff. *(Motion Passed)*

Move to direct the City Manager to revise the draft ordinance to eliminate the ADU standards for the AG, R-1, R-2, R-3, R-4 and S-E zones that apply only to flag lots, making ADUs on flag lots in those zones subject to the same flag lot standards that apply on regular (non-flag lot) lots in the same zone. *(Motion Tabled)*

Move to table the motion on flag lots. *(Motion Passed)*

October 23, 2019 Work Session

Move to direct the City Manager to revise the draft ordinance to remove the barriers to above-garage ADUs in the AG, R-1, R-2, R-3, R-4 and S-E zones by adjusting the standards for ADU building height and interior setback. *(Motion Passed)*

Move to direct the City Manager to revise the draft ordinance to remove barriers to ADUs on sloped lots in the AG, R-1, R-2, R-3, R-4 and S-E zones by adjusting the standards for ADU building height and interior setback. *(Motion Passed)*

January 21, 2020 Work Session

Move 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. *(Motion Passed with numerous Amendments noted in [January 21, 2020 Minutes](#))*

COUNCIL OPTIONS

No action is required at this time; however, options will be provided at the time of City Council deliberations and action scheduled for May 24, 2021.

ATTACHMENTS

- A. Land Use Code Amendment History for Accessory Dwelling Units (CA 18-1)
- B. Summary of Land Use Code Amendments
- C. Draft Ordinance
- D. Link to Record Materials and Public Testimony (Received between January 21, 2020 and May 5, 2021)

FOR MORE INFORMATION

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Land Use Code Amendment History

Accessory Dwellings Land Use Code Amendment – City File: CA 18-1

2017 - Adoption of Senate Bill 2051

In 2017, the Oregon Legislature adopted a new law, Senate Bill 1051 (“2017 law”) as part of its efforts to promote housing affordability statewide. Pertinent to this work session is the portion of the 2017 law that addresses “accessory dwelling units.” The 2017 law defines “accessory dwelling unit” as an “interior, attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling.” It requires: “A city with a population greater than 2,500 . . . shall allow in areas zoned for detached single-family dwellings the development of at least one accessory dwelling unit for each detached single-family dwelling, subject to reasonable local regulations relating to siting and design.”

2018 - City Council Process

To implement Senate Bill 1051, the City Council initiated a two-phased approach for land use code changes to implement the 2017 law. Phase 1 would address the 2017 law’s requirement that the City allow accessory dwelling units in more areas of the City (the “where” phase). The intent was to address, as a later Phase 2, the 2017 law’s requirement that accessory dwelling units be subject to only “reasonable local regulations relating to siting and design.”

In June 2018, the Council adopted ordinances (Ordinance Nos. [20594](#) and [20595](#)) that revised the land use code to allow accessory dwellings in additional zones. The ordinances also adopted the 2017 law’s “accessory dwelling” terminology. Notably, these ordinances made the accessory dwelling units in these additional zones subject to the development standards that were already set out in the land use code for secondary dwellings in the R-1 zone.

Ordinances Nos. 20594 and 20595 were appealed to The Oregon Land Use Board of Appeals (LUBA) by numerous parties. LUBA sent the ordinances back (“remanded”) to the City Council for additional work on November 29, 2018, meaning they are no longer in effect. LUBA’s 2018 decision is available [here](#). LUBA found that the ordinances were inconsistent with the 2017 law because they extended the applicability of the code’s R-1 zone development standards for secondary dwellings to the additional zones without addressing the part of the 2017 law that requires such development standards to be “reasonable local regulations relating to siting and design.”

2019/2020 - City Council Process

In 2019, staff provided the City Council with a list of the land use code standards that were raised / challenged in the 2018 LUBA appeal. Staff provided recommendations for each standard’s retention or elimination, based on the “reasonable regulation relating to siting

and design” requirement in the 2017 law, but the meaning of those terms was unclear. For each of the standards raised in the LUBA appeal, Council provided preliminary input and a draft ordinance was prepared to re-adopt the allowances for accessory dwellings and to eliminate from the land use code those development standards that, in this initial review, were found to not be “reasonable regulations relating to siting and design.”

On May 20, 2019, the City Council held a public hearing on the draft ordinance, hearing from 33 people. A majority of those who provided testimony (20 people) expressed support for removing barriers to accessory dwellings and for the provision of more affordable housing. Support was also expressed for eliminating even more of the standards that now apply to accessory dwellings and concern was expressed by some that Eugene is not doing enough to comply with the intent of the 2017 law. Testimony from others expressed concern that the actions could reduce the livability of existing neighborhoods.

In addition, before the City adopted the ordinance, LUBA issued an order in a different appeal that added *some* clarity to the statutory definition of “accessory dwelling unit.” Additionally, the Oregon Legislature adopted House Bill (HB) 2001 (“2019 law”) that explicitly prohibited regulations that require owner-occupancy or on-site parking.

Based on the testimony and new state-level developments, the City Council made numerous changes to the draft ordinance. In January 2020, the City adopted Ordinance No. [20625](#) based on these changes. However, the ordinance process was difficult due to some lack of clarity within State’s ADU law requirements. The City’s ordinance was appealed to LUBA by the Homebuilders Association and two groups of individuals.

2020/2021 - Court of Appeal Decision and LUBA Remand

Since the City Council adopted the ADU ordinance in January 2020, LUBA and the Oregon Court of Appeals have issued decisions that dictate how cities must interpret the 2017 law. These decisions were issued in a property-specific appeal filed against the City of Eugene (the Kamps-Hughes appeal) and in the appeal of the City’s 2020 Ordinance, itself. LUBA’s and the Court’s interpretations of the law clarify which types of regulations can, and cannot, be applied to ADUs. Their interpretations, and their remand of the City’s 2020 Ordinance require the City Council to eliminate specific ADU regulations from the Eugene Code. LUBA’s decision providing clear direction on the remaining issues is available [here](#).

Using the interpretations issued by LUBA and the Court, we now know that the 2017 law imposes the following requirements on the City’s regulation of ADUs:

1. On every lot in the City where the City’s code allows a single-family dwelling, the code must also allow at least one ADU per single-family dwelling.
2. The only development standards the City can impose on ADUs are standards that either:
 - a. Relate to where the ADU can be placed on an individual lot that has a single family dwelling (“siting”) ; or

- b. The layout of the ADU or the materials used in the ADU's fabrication ("design").
- 3. The development standards described at 2. a. and b. must be "moderate," they cannot be "extreme," "absurd" or "excessive."

Proposed changes to the 2020 ordinance that respond to these clear direction will be presented to the City Council for their consideration in 2021.

Summary of Land Use Code Amendments For April 16, 2021 Public Hearing

The ordinance for public hearing includes the re-adoption of those changes approved by the City Council in 2020 that have been subsequently affirmed (or otherwise validated) through the legal appeal process and adoption of additional code changes that are required due to orders of the Land Use Board of Appeals or the Oregon Court of Appeals since the City Council's 2020 action.

(1) Re-adoption of all the code changes that were included in the 2020 ordinance (which is no longer in effect) as follows:

- A. Changes the term “secondary dwelling” to “accessory dwelling” throughout the code
- B. Clarifies that an “accessory dwelling” is regulated differently than an “accessory building”
- C. Replaces the City’s definition of “secondary dwelling” with the State law’s definition of “accessory dwelling” provided at ORS 197.312(5)
- D. Adds “Accessory Dwellings” use category as an explicitly permitted use in the following zones:
 - AG Agricultural
 - R-2 Medium Density Residential
 - R-3 Limited High-Density Residential
 - R-4 High Density Residential
 - S-E Elmira Road Special Area Zone
 - S-HB Blair Boulevard Historic Commercial Special Area Zone
- E. Adds language to the S-JW Jefferson Westside Special Area Zone and S-C Chambers (R-2 Subarea) Special Area Zone to clarify that, in the code provisions for these zones, any dwelling that meets the definition of “accessory dwelling” will continue to be referred to as a “one-family dwelling”
- F. Applies the R-1 Low Density Residential zone standards for accessory dwellings to accessory dwellings in the following zones:
 - AG Agricultural
 - R-2 Medium Density Residential
 - R-3 Limited High-Density Residential
 - R-4 High Density Residential
 - S-E Elmira Road Special Area Zone
- G. Removes regulations that require either the primary dwelling or the accessory dwelling to be the principal residence of the property owner
- H. Removes regulations that regulate dog keeping differently for lots with accessory dwellings

- I. Removes, from some zones, regulations that require on-site parking for accessory dwellings and removes or revises regulations that regulate the development of required parking for accessory dwellings
- J. Increases building height/sloped setback inflection point from 8 feet to 10 feet (meaning the accessory dwelling can now be 10 feet in height at the interior yard setback, before sloping up to the maximum height)
- K. Removes barriers to above-garage accessory dwellings and accessory dwellings on sloped lots by adjusting standards to building height and interior setback
- L. Removes some prohibitions on accessory dwellings on flag lots

(2) Adoption of additional code changes (that were not included in the 2020 ordinance) to amend to amend or remove code provisions that were invalidated by rulings of the Oregon Court of Appeals in *Kamps-Hughes v. City of Eugene* as follows:

- A. Allows, where not addressed in the 2020 ordinance, an accessory dwelling for each single-family dwelling allowed by the code, including on alley access lots and flag lots
- B. Removes regulations that include accessory dwellings in maximum density calculations
- C. Removes regulations that prohibit ADUs based on lot area or lot dimensions
- D. Removes regulations that limit the number of people that can occupy an accessory dwelling or a property that includes an accessory dwelling
- E. Removes, where not addressed in 2020 ordinance, regulations that require on-site parking for accessory dwellings

ORDINANCE NO. _____

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, 9.3065, 9.3115, 9.3125, 9.3126, 9.3210, 9.3215, 9.3310, 9.3510, 9.3615, 9.3625, 9.3626, 9.3810, 9.3811, 9.3815, 9.3910, 9.3915, 9.3970, 9.6410 AND 9.8030 OF THAT CODE; ADDRESSING THE OREGON LAND USE BOARD OF APPEALS’ REMAND OF ORDINANCE NOS. 20594, 20595, AND 20625; AND PROVIDING AN EFFECTIVE DATE.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. The term “secondary dwelling” is replaced with “accessory dwelling” (including grammatical revisions for plural and a/an agreement) throughout the Eugene Code, 1971. Where this change occurs in the Code sections further amended by this Ordinance, this change is also shown.

Section 2. 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. In addition, for the purposes of EC 9.2700 through 9.2751, 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. ***An accessory dwelling is not an accessory building.***

Dwelling, [Secondary] Accessory. ~~[A dwelling unit that is located on the same 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.]~~ ***An interior, attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling.***

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 ~~an [secondary] accessory dwelling [unit],~~ the “premises” means the lot. ~~[(See EC 9.2751(17)(a)6. and (c)10.)]~~

Section 3. The “Dwellings” subsection in the “Residential” section in Table 9.2010 of the Eugene Code, 1971, is amended to provide as follows:

Table 9.2010 Agricultural Zone Uses and Permit Requirements	
	AG
Residential	
Dwellings	
One-Family Dwelling, 1 Per Lot	P
<i>Accessory Dwelling (1 Per Detached One-Family Dwelling on Same Lot)</i>	<i>P(2)</i>

Section 4. Section 9.2011 of the Eugene Code, 1971, is amended to provide as follows:

9.2011 Special Use Limitations for Table 9.2010.

- (1) Permitted in the AG zone, subject to the PRO zone standards in EC 9.2640.
- (2) ***Permitted in the AG zone, subject to the standards for accessory dwellings at EC 9.2751(17).***

Section 5. The following entries under the “Residential” section in Table 9.2740 of the Eugene Code, 1971, are amended to provide as follows:

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 [, including secondary 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.)					
[Secondary] Accessory Dwelling (Either Attached or Detached from Primary One-Family Dwelling on Same Lot)	P(2)		<i>P(2)</i>	<i>P(2)</i>	<i>P(2)</i>

Section 6. Subsection (2) of Section 9.2741 of the Eugene Code, 1971, is amended to provide as follows:

9.2741 Special Use Limitations for Table 9.2740.

- (2) ~~[Secondary]~~ **Accessory Dwellings.** ~~[Secondary]~~ ***One accessory*** dwelling[s are only permitted in R-1 and] ***is allowed for each detached one-family dwelling on the same lot,*** subject to the standards [beginning] at EC 9.2750 ***and EC 9.2751***~~[, except that new [secondary] accessory dwellings are prohibited on alley access lots].~~

Section 7. The following entries under the “Maximum Building Height,” “Minimum Building Setbacks,” “Maximum Lot Coverage” and “Secondary Dwellings” sections in Table 9.2750 of the Eugene Code, 1971, are amended to provide as follows:

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
Maximum Building Height (2), (3), (4), (5), (16), (17), (18)					
[Secondary] Accessory Dwelling	See (17)	--	[See (17)]	[See (17)]	[See (17)]
Minimum Building Setbacks (2), (4), (6), (9), (10), (11), (16), (17), (18)					
Interior Yard Setback for [Secondary] Accessory Dwellings	See (17)	--	[See (17)]	[See (17)]	[See (17)]
Maximum Lot Coverage (17), (18)					
Lots with [Secondary] Accessory Dwellings (Area-Specific)	See (17)(c)	--	--	--	--
[Secondary] Accessory Dwellings (17)					
General Standards	See (17)(a) and (b)	--	[See (17)(a) and (b)]	[See (17)(a) and (b)]	[See (17)(a) and (b)]
Area-Specific	See (17)(c)	--	--	--	--

Section 8. Figure 9.2751(16)(b)(3) is amended as shown in Exhibit A attached to this Ordinance; Figure 9.2751(17)(a)3.b.(2)(A), Figure 9.2751(17)(a)3.b.(2)(B) and Figure 9.2751(17)(a)3.c.(2), attached to this Ordinance at Exhibit A, are added; and Subsections (1), (17) and (18) of Section 9.2751 of the Eugene Code, 1971, are amended to provide as follows:

9.2751 Special Development Standards for Table 9.2750.

(1) Density.

- (a) The minimum residential density requirements set forth in Table 9.2750 do not apply to:
 1. ~~[Attached secondary]~~**Accessory** dwellings ~~[in R-1];~~
 2. Lots zoned R-2 that are less than a half-acre (21,780 square feet) and that were created before August 24, 2017;
 3. Lots or development sites in the R-3 or R-4 zones that are developed and are 13,500 square feet or less in size;
 4. Lots within a # overlay zone as described in EC 9.4050 to EC 9.4065; or
 5. Dwellings exclusively for low income individuals and/or families where all units are subsidized. For this purpose, low income means having income at or below 80 percent of the area median income as defined by the U.S. Department of Housing and Urban

Development. For these types of dwellings the minimum density is 10 units per net acre.

(Refer to Table 9.2750 Residential Zone Development Standards for the required net area per dwelling unit.)

- (b) The maximum residential density requirements set forth in Table 9.2750 do not apply to accessory dwellings.**
- (bc)** For purposes of this section, "net density" is the number of dwelling units per acre of land in actual residential use and reserved for the exclusive use of the residents in the development, such as common open space or recreation facilities.
- (ed)** For purposes of calculating net density:
1. The acreage of land considered part of the residential use shall exclude public and private streets and alleys, public parks, and other public facilities.
 2. In calculating the minimum net density required for a specific lot or development site, the planning director shall round down to the previous whole number.
 3. In calculating the maximum net density allowed for a specific lot or development site the planning director shall round up to the next whole number only for:
 - a. A lot or development site that is 13,500 square feet or more in area;
 - b. A lot or development site that is not abutting the boundary of, or directly across an alley from land zoned R-1; and
 - c. Fractions of .75 or above.In all other circumstances, the planning director shall round down to the previous whole number.
 4. At the request of the developer, the acreage described in 1., above, also may exclude natural or historic resources. For purposes of this section, natural resources include those designated for protection in an adopted plan and the area within natural resources protection or conservation setbacks that have been applied to the development site. For purposes of this section, historic resources include historic property and resources identified in an official local inventory as "primary" or "secondary." It may also include additional natural or historic resources upon approval of the planning director.
- (de)** Legally established buildings and uses conforming to the residential net density requirements in the R-2, R-3 and R-4 zones on December 7, 1994 are exempt from EC 9.1210 to 9.1230 Legal Nonconforming Situations, pertaining to nonconforming uses. This exemption is limited to development sites in the R-2, R-3, and R-4 zones on which residential buildings and uses existed, or in which a development permit or land use application was pending, on December 7, 1994. If such a building which is nonconforming as to minimum density is destroyed by fire or other causes beyond the control of the owner, the development site may be redeveloped with the previous number of dwelling unit(s) if completely rebuilt within 5 years. If not completely rebuilt within 5 years, the development site is subject to the density standards of this section.
- (ef)** Provided the number of dwelling units are not reduced below the number present at the time of historic landmark designation, changes in the

number of dwelling units within the historic property are exempt from the residential net density minimums.

* * *

(17) [Secondary] Accessory Dwellings[- in R-1].

(a) General Standards for Attached [Secondary] Accessory Dwellings.

Except as provided in subsection (c) below, **attached accessory** dwellings ~~[that are within the same building as the primary dwelling]~~ shall comply with all of the following:

~~[1. **Lot Area.** To allow a secondary dwelling, flag lots shall contain at least 12,500 square feet, excluding the pole portion of the lot, and shall have a minimum pole width as required under EC 9.2775(5)(e). All other lots shall contain at least 6,100 square feet.]~~

21. Building Size. The total building square footage of an **accessory** dwelling shall not exceed 10 percent of the total lot area or 800 square feet, whichever is smaller. Total building square footage is measured at the exterior perimeter walls and is defined as all square footage inside of the dwelling, including, but not limited to hallways, entries, closets, utility rooms, stairways and bathrooms.

32. Building Height/Interior Setback. Except for **accessory** dwellings on flag lots (see EC 9.2775), the following standards apply:

a. For **any portion of an** attached **accessory** dwelling[s] located within 60 feet of a front lot line, interior yard setbacks shall be at least 5 feet, and maximum building height shall be limited to that of the main building as per Table 9.2750.

b. For **any portion of an** attached **accessory** dwelling[s] located greater than 60 feet ~~[of]~~ **from** a front lot line, ~~[interior yard setbacks shall be at least 5 feet. In addition, at a point that is 8 feet above finished grade, the setback shall slope at the rate of 10 inches vertically for every 12 inches horizontally away from the property line to a maximum building height of 18 feet. (See Figure 9.2751(16)(b)3.)]~~ **the following standards apply:**

(1) Except as provided in subsection (2) below, interior yard setbacks shall be at least 5 feet. In addition, at a point that is 10 feet above finished grade, the setback shall slope at the rate of 10 inches vertically for every 12 inches horizontally away from the property line to a maximum building height of 18 feet. (See Figure 9.2751(16)(b)3. Building Height/Interior Setbacks)

(2) For an accessory dwelling located above a garage or located where there is a grade change of 5 feet or more when measured from lowest finished grade to highest finished grade at points within a 5-foot horizontal distance of the exterior walls of the accessory dwelling (See Figure 9.2751(17)(a)2.b.(2)(A) Building Height Calculation

& Sloped Setback for Sloped Lots), the following standards apply:

(A) For an interior lot line that is not addressed in (2)(B) below or an interior lot line that abuts an alley, the minimum interior yard setback from that lot line is 5 feet and the maximum building height is 25 feet.

(B) Where an interior lot line abuts property that is zoned R-1, R-1.5, S-C/R-1 or S-RN/LDR, the interior yard setbacks shall be at least 5 feet. In addition, at a point that is 18 feet above finished grade, the setback shall slope at the rate of 10 inches vertically for every 12 inches horizontally away from the property line to a maximum building height of 25 feet. If the building is setback a minimum of 20 feet from an interior property line, the sloped portion of the setback does not apply along that property line. (See Figure 9.2751(17)(a)2.b.(2)(B) Accessory Dwelling Above Garage)

c. Exceptions. If the accessory dwelling is above a garage or on a slope as described in EC 9.2751(17)(a)2.b.(2) above, the following exceptions apply:

(1) An accessory dwelling may intrude into the 5-foot interior yard if a 10-foot separation exists between the accessory dwelling and buildings on the abutting lot and if the owner of the accessory dwelling has secured and recorded in the office of the Lane County Recorder a maintenance access easement adjacent to the intruding side of the building. The easement shall provide a 5-foot wide access the entire length of the building and 5 feet beyond both ends and require the continuation of a 10-foot separation between buildings on the separate lots. The easement shall be on a form provided by the city and be subject to payment of a fee set by the city manager.

(2) An accessory dwelling's dormers may intrude into the sloped portion of any interior yard setback if:

(A) The total width of all dormers does not exceed fifty percent of the width of the roof on which the dormers are located (for hipped roofs, the width of the roof shall be measured at the eave); and

(B) The walls of the dormer(s) are set back a minimum of 2 feet from the face of all exterior building walls of the accessory dwelling.

(See Figure 9.2751(17)(a)2.c.(2) Dormer Placement & Size Calculation)

ed. The allowances for setback intrusions provided at EC 9.6745(3) do not apply within the setback described in

subsections a. and b. above, except that eaves and chimneys are allowed to project into this setback no more than 2 feet.

43. Minimum Attachment. The [secondary] **accessory** dwelling and the primary dwelling must share a common wall or ceiling for a minimum length of 8 feet to be considered attached.
- ~~[5. Maximum Bedrooms. The secondary dwelling shall contain no more than 2 bedrooms.~~
- ~~6. 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.~~
- ~~7. 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.~~
- ~~8. Temporary Leave. Notwithstanding subsection 7. 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. This standard may be adjusted in accordance with EC 9.8030(34).~~
- ~~9. 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.~~

~~10. 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 7. 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.~~

~~114. Additional Standards for [Secondary] Accessory Dwellings on Flag Lots. [Secondary] Accessory dwellings on flag lots are also subject to the standards at EC 9.2775(5)(e).~~

(b) General Standards for Detached [Secondary] Accessory Dwellings. In addition to the standards in subsection (a) of this section, detached [secondary] accessory dwellings shall comply with the following, except as provided in subsection (c) below:

1. Building Size. ***For an accessory dwelling located above a garage, up to 800 square feet of unheated garage or other unheated storage space attached to the accessory dwelling is allowed and is not counted in the total building square footage for the accessory dwelling. For other accessory dwellings, [U]p to 300 square feet of un[-]heated garage or other unheated storage space attached to the [secondary] accessory dwelling [unit] is allowed and is not counted in the allowable total building square footage for the accessory dwelling.***
2. Pedestrian Access. A pedestrian walkway shall be provided from the street or alley to the primary entrance of the [secondary] accessory dwelling. The pedestrian walkway shall be a hard surface (concrete, asphalt or pavers) and shall be a minimum of 3 feet in width.
3. Primary Entrance. The primary entry to ***an*** [secondary] accessory dwelling shall be defined by a covered or roofed entrance with a minimum roof depth and width of no less than 3 feet.
4. 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.
5. Building Height/Interior Setback. Except for [secondary]

accessory dwellings on flag lots (see EC 9.2775), the following standards apply:

- a. ***Except as provided in subsection b. below, [i]interior yard setbacks shall be at least 5 feet. In addition, at a point that is [8] 10 feet above finished grade, the setback shall slope at the rate of 10 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. (See Figure 9.2751(16)(b)3. Building Height/Interior Setbacks)***
- b. ***For an accessory dwelling located above a garage or located where there is a grade change of 5 feet or more when measured from lowest finished grade to highest finished grade at points within a 5-foot horizontal distance of the exterior walls of the accessory dwelling (see Figure 9.2751(17)(a)2.b.(2)(A) Building Height Calculation & Sloped Setback for Sloped Lots), the standards at EC 9.2751(17)(a)2.b.(2) and EC 9.2751(17)(a)2.c. apply.***
- ~~b.c.~~ The allowances for setback intrusions provided at EC 9.6745(3) do not apply within the setback described in a. ***or b. above, except that eaves and chimneys are allowed to project into this setback no more than 2 feet. [(See Figure 9.2751(16)(b)3.)]***
- ~~c.~~ This standard may be adjusted to allow for a secondary dwelling over an accessory building in accordance with EC 9.8030(34).]
6. 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 [Secondary] Accessory Dwelling Standards. ***Except as provided in this subsection (c), the standards at (a) and (b) do not apply to accessory dwellings within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association.*** The following standards apply to all new attached or detached [secondary] **accessory** dwellings in the R-1 zone within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association:
 - ~~[1. Lot Area. To allow for a 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.]~~
 - ~~31.~~ 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.]~~

52. Building Size. For lots ~~[at least 7,500 square feet and]~~ less than 9,000 square feet in area, the ~~[secondary]~~ **accessory** dwelling shall not exceed 600 square feet of total building square footage. For lots at least 9,000 square feet in area, the ~~[secondary]~~ **accessory** 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. ***For an accessory dwelling located above a garage, up to 800 square feet of unheated garage or other unheated storage space is allowed and is not counted in the total building square footage for the accessory dwelling.***
63. Minimum Attachment. The standards at EC 9.2751(17)(a)43. are applicable.
74. Maximum Bedrooms. For lots with a primary dwelling containing 3 or fewer bedrooms, the ~~[secondary]~~ **accessory** dwelling shall be limited to 2 bedrooms. For lots with a primary dwelling containing 4 or more bedrooms, the ~~[secondary]~~ **accessory** 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.]~~
95. Building Height/Interior 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 horizontal) away from the lot line until a point not to exceed a maximum building height of 18 feet.]~~ ***The standards at EC 9.2751(17)(b)5.a. and b. are applicable to detached accessory dwellings.***
- b. The allowances for setback intrusions provided at EC 9.6745(3) do not apply within the setback described in ~~[1]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)3.)

- ~~10. Dog Keeping. The standards at EC 9.2751(17)(a)6. are applicable.~~
- ~~11. Ownership/Occupancy Requirements. The standards at EC 9.2751(17)(a)7. are applicable.~~
- ~~12. Temporary Leave. The standards at EC 9.2751(17)(a)8. are applicable.~~
- ~~13. Deed Restriction. The standards at EC 9.2751(17)(a)9. are applicable.~~
- ~~14. Verification. The standards at EC 9.2751(17)(a)10. 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 at EC 9.2751(18)(a)11. are applicable to attached and detached secondary dwellings where primary vehicle access for the required parking is from an alley.]~~
 - ~~176. Pedestrian Access. The standards at EC 9.2751(17)(b)2. are applicable to attached and detached [secondary] **accessory** dwellings[, except that if primary vehicle access for the required parking is from an alley, the path must be provided from the alley].~~
 - ~~187. Primary Entrance. The standards at EC 9.2751(17)(b)3. are applicable to detached [secondary] **accessory** dwellings only.~~
 - ~~198. Outdoor Storage/Trash. The standards at EC 9.2751(17)(b)4. are applicable to detached [secondary] **accessory** dwellings only.~~
 - ~~209. Maximum Wall Length. The standards at EC 9.2751(17)(b)6. are applicable to detached [secondary] **accessory** dwellings only.~~
 - (d) Adjustment Review. ~~[The standards at [EC 9.2751(17)(a)8. regarding temporary leave and at EC 9.2751(17)(b)5. regarding building height (to allow for a secondary dwelling over an accessory building) may be adjusted in accordance with EC 9.8030(34). Additionally, a]~~An adjustment may be requested to convert an existing building into an **[secondary] accessory** dwelling in accordance with EC 9.8030(34) if the existing building does not meet the standards under EC 9.2751(17)(a) or (b). For **[secondary] accessory** dwellings, these are the only standards that may be adjusted. ~~[With the exception of EC 9.2751(17)(a)8. regarding temporary leave, t]~~These standards are not adjustable for **[secondary] accessory** dwellings within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association.
 - (e) Enforcement. Failure to adhere to the standards required under this section shall constitute a violation subject to the enforcement provisions of section 9.0010 through 9.0280 General Administration.
- (18) Alley Access Lots in R-1.**
- (a) General Standards.
 1. Applicability. Except as provided in (b) **and (c)** below, the following standards apply to development on alley access lots in R-1.
 2. Use Regulations. Alley access lots have the same land use regulations as the base zone ~~[except that there is no allowance for an accessory dwelling].~~
 3. Building Size. The total building square footage of a dwelling shall not exceed 10 percent of the total lot area or 800 square feet, whichever is smaller. Total building square footage is measured at the exterior perimeter walls and is defined as all square footage inside of the dwelling, including, but not limited to hallways, entries, closets, utility rooms, stairways and bathrooms.
 4. 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.
 5. Building Height/Interior Setback.
 - a. Interior yard setbacks shall be at least 5 feet, including along

the alley frontage. In addition, at a point that is 8 feet above finished grade, the setback shall slope at the rate of 10 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 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 and chimneys are allowed to project into this setback no more than 2 feet.
(See Figure 9.2751(16)(b)3.)
 - c. These standards may be adjusted in accordance with EC 9.8030(35).
6. Windows, Dormers and Balconies.
- a. Any window on the upper story must be located a minimum of 10 feet from any property line.
 - b. 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.
 - c. Balconies and other second floor outdoor areas are only allowed on the side of the dwelling facing the alley[7] and shall be setback at least 10 feet from the alley.
 - d. Notwithstanding b. and c. 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.
7. Bedrooms. The dwelling shall contain no more than 3 bedrooms.
8. 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.
9. 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.
10. Parking Spaces. There shall be a minimum of 1 and a maximum of 2 parking spaces on the lot.
11. Parking and Driveway.
- a. 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.
 - b. The maximum dimensions for a garage shall be 16 feet by 24 feet, with a maximum garage door width of 9 feet.
 - c. 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.
 - d. The maximum width for a driveway accessing a garage or carport shall be 12 feet.
 - e. The maximum dimensions for one parking space located perpendicular to the alley shall be 12 feet in width by 20 feet in depth.
 - f. 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.
 - g. The maximum dimensions for tandem parking spaces shall be 12 feet in width by 33 feet in depth.
 - h. 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.
 - i. 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.
 - j. No parking shall occur outside of the vehicle use area.
(See Figure 9.2751(18)(a)11.)
12. 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.
 13. 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.
 14. Accessory Buildings. Detached accessory buildings are allowed subject to the standards at EC 9.2751(16), except that the total square footage of all accessory buildings on an alley access lot is limited to 400 square feet.
 15. Adjustment Review. For alley access lots, EC 9.2751(18)(a)(5) is the only standard that may be adjusted. This standard is not adjustable for dwellings within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association.
- (b) Area – Specific Alley Access Lot Standards in R-1. Except as provided below, the standards in subsection (a) of this section apply to alley access lots existing as of April 12, 2014, in the R-1 zone within the city-recognized boundaries of Amazon Neighbors, Fairmount Neighbors and South University Neighborhood Association. In lieu of EC 9.2751(18)(a)(3) Building Size, the following applies:
1. 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.

2. This standard may not be adjusted.
- (c) ***The standards in (a) and (b) do not apply to accessory dwellings. Accessory dwellings on alley access lots in R-1 shall comply with the standards at EC 9.2751(17).***

Section 9. Subsections (4) and (5)(e) of Section 9.2775 of the Eugene Code, 1971, are amended to provide as follows:

9.2775 Residential Flag Lot Standards for R-1, R-2, R-3 and R-4.

- (4) **Use Regulations.** Residential flag lots have the same land use regulations as the base zone except~~[:]~~***that***
 - ~~[(a) H]home occupations are not allowed on residential flag lots of less than 13,500 square feet[:].~~
 - ~~[(b) Secondary dwellings are not allowed on flag lots less than 12,500 square feet,; and~~
 - ~~[(c) Secondary dwellings are not allowed on flag lots that did not exist or were not approved prior to August 29, 2014.]~~
- (5) **Development Standards.**
 - (e) **Additional Standards for [Secondary] Accessory Dwellings on Flag Lots.**
 - ~~1. Access Pole Width. To allow for a secondary dwelling on flag lots existing or approved prior to August 29, 2014, that do not have legal access other than the individual or combined pole, the minimum width of the individual or combined pole shall be 25 feet.~~
 - ~~2. Access. No more than four dwellings (including primary and secondary dwellings) may take access off an individual pole or combined poles.]~~
 - 31. Building Height/Interior Setback.**
 - a. ***Except as provided in subsection b. below, [H]interior yard setbacks shall be at least 10 feet. In addition, at a point that is [8] 10 feet above finished grade, the setback shall slope at the rate of 10 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 for detached [secondary] accessory dwellings and the maximum building height of the primary dwelling for attached [secondary] accessory dwellings.***
 - b. ***For an accessory dwelling located above a garage or located where there is a grade change of 5 feet or more when measured from lowest finished grade to highest finished grade at points within a 5-foot horizontal distance of the exterior walls of the accessory dwelling (See Figure 9.2751(17)(a)2.b.(2)(A) Building Height Calculation & Sloped Setback for Sloped Lots), the following standards apply:***
 - (1) For an interior lot line that is not addressed in b.(2) below, the minimum interior yard setback from that lot line is 10 feet and the maximum building height is 25 feet.***

(2) *Where an interior lot line abuts property that is zoned R-1, R-1.5, S-C/R-1 or S-RN/LDR,, the interior yard setbacks shall be at least 10 feet. In addition, at a point that is 18 feet above finished grade, the setback shall slope at the rate of 10 inches vertically for every 12 inches horizontally away from the property line to a maximum building height of 25 feet. If the building is setback a minimum of 20 feet from an interior property line, the sloped portion of the setback does not apply along that property line. (See Figure 9.2751(17)(a)2.b.(2)(B) Accessory Dwelling Above Garage)*

c. Exceptions. *If the accessory dwelling is above a garage or on a slope as described in EC 9.2775(5)(e)1.b. above, an accessory dwelling's dormers may intrude into the sloped portion of any interior yard setback if:*

- (1) *The total width of all dormers does not exceed fifty percent of the width of the roof on which the dormers are located (for hipped roofs, the width of the roof shall be measured at the eave); and*
- (2) *The walls of the dormer(s) are set back a minimum of 2 feet from the face of all exterior building walls of the accessory dwelling.*

(See Figure 9.2751(17)(a)2.c.(2) Dormer Placement & Size Calculation)

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

~~[c. This standard may be adjusted to allow for a secondary dwelling over an accessory building in accordance with EC 9.8030(34).]~~

42. Driveway Standards.

a. Paving. The driveway paving width shall be as follows:

- (1) For flag lots served by an individual pole, the minimum driveway width shall be 12 feet, and the maximum driveway paving width shall be 20 feet.
- (2) For flag lots served by a combined pole, the driveway width shall be 20 feet or a lesser width as approved by the fire code official.

b. Driveway Setbacks. The driveway paving shall be setback from the edge of the pole as follows:

- (1) For flag lots that are served by an individual pole, the driveway paving shall be setback a minimum of six feet.
- (2) For flag lots that are served by a combined pole, the driveway paving shall be setback a minimum of 2.5 feet.

c. Driveway Use. Parking is not allowed on any portion of the pole.

- d. Landscaping. The entire length of both sides of the pole, within the area between the driveway paving and the edge of the pole, shall be landscaped to meet the Low Screen Landscape Standard (L-2) in EC 9.6210(2)(a), except as follows:
 - (1) The shrubs required for continuous screen at EC 9.6210(2)(a)1. shall be at least 45 inches high within three years and maintained at a height not to exceed 60 inches, with the intent to minimize headlight glare;
 - (2) The canopy tree requirement at EC 9.6210(2)(a)2., is not applicable; and
 - (3) In lieu of a masonry wall or berm, a solid wood fence may be permitted where the bottom of the fence is no higher than 12 inches above grade and the top of the fence is at least 45 inches above grade.
53. Exceptions. Exceptions to driveway setback and landscaping standards are allowed where the affected adjacent property owners consent in writing on a form approved by the city.
64. Adjustments. The standards at EC 9.2775(5)(e)42.b. and d. regarding driveway setbacks and landscaping may be adjusted in accordance with EC 9.8030(34)(~~d~~)(b).

Section 10. Subsection (2) of Section 9.3060 of the Eugene Code, 1971, is amended to provide as follows:

- 9.3060 S-C Chambers Special Area Zone – Land Use and Permit Requirements and Special Use Limitations.** Except where the standards in EC 9.3065 S-C Chambers Special Area Zone Development Standards specifically provide otherwise:
- (2) The land use and permit requirements and special use limitations applicable in the S-C/R-2 subarea shall be those set out at EC 9.2740 and EC 9.2741 for uses in the R-2 zone, ***except that any additional (interior, attached or detached) residential structure that is used in connection with or that is accessory to a single family dwelling may be permitted on a lot only as an additional “One-Family Dwelling” and not as an “Accessory Dwelling.”***

Section 11. Subsections (2)(a) and (3)(a) of Section 9.3065 of the Eugene Code, 1971, are amended to provide as follows:

- 9.3065 S-C Chambers Special Area Zone – Development Standards.**
- (2) **Development Standards Applicable in the S-C/R-1 Subarea.** Except as provided in this subsection, the development standards applicable in the S-C/R-1 Subarea shall be those set forth in EC 9.2750 to EC 9.2777 for the R-1 zone, Special Development Standards for Certain Uses in EC 9.5000 through EC 9.5850, and the General Standards for all Development in EC 9.6000 through 9.6885.

- (a) Lot Size Minimums for Flag Lots. In lieu of any conflicting provisions in EC 9.2750 to 9.2777 for flag lots in the R-1 zone, the following standards apply for flag lots in the S-C/R-1 subarea:
1. Single dwellings [~~and attached secondary dwellings~~]: minimum lot size 4,500 square feet.
 - ~~[2. Detached secondary dwellings: minimum lot size 6,000 square feet.]~~
 32. The original lot, prior to creation of the flag lot, is not subject to a minimum lot size of 13,500 square feet.
- In calculating the lot area, only the flag portion of the lot (exclusive of the pole) is counted.

* * *

(3) Development Standards Applicable in S-C/R-2 Subarea. Except as provided in this subsection, the development standards applicable in the S-C/R-2 subarea shall be those set out in EC 9.2750 to 9.2777 for the R-2 zone, Special Development Standards for Certain Uses in EC 9.5000 through EC 9.5850, and the General Standards for all Development in EC 9.6000 through 9.6885.

- (a) Density Standards. In lieu of the density standards for the R-2 zone in Table 9.2750 and EC 9.2750(1), there is no minimum density requirement regardless of lot size, and the following maximum density standards apply:
1. For lots with street access:
 - a. One dwelling unit **and one additional one-family dwelling as described in 9.3060(2) per lot** if the lot area is less than or equal to 4,500 square feet.
 - b. Two dwelling units **and for each detached one-family dwelling, one additional one-family dwelling as described in 9.3060(2)** if the lot area is greater than 4,500 square feet and less than or equal to 9,200 square feet.
 - c. Three dwelling units **and for each detached one-family dwelling, one additional one-family dwelling as described in 9.3060(2)** if the lot area is greater than 9,200 square feet.
 2. For alley access lots: One dwelling unit **and one additional one-family dwelling as described in 9.3060(2)** regardless of lot size.

* * *

Section 12. The “Dwellings” subsection in the “Residential” section in Table 9.3115 of the Eugene Code, 1971, is amended to provide as follows:

Table 9.3115 S-CN Chase Node Special Area Zone Land Uses and Permit Requirements			
Land Use Type	C	HDR/MU	HDR
Residential			

Table 9.3115 S-CN Chase Node Special Area Zone Land Uses and Permit Requirements			
Land Use Type	C	HDR/MU	HDR
Dwellings [(All dwellings shall meet minimum and maximum density requirements for development within the Chase Gardens Plan area.)]			
One Family Dwelling per lot (Includes zero lot line dwellings)		P	P
Accessory Dwelling (1 Per Detached One-Family Dwelling on Same Lot)		P	P
Controlled Income and Rent Housing where density is above that normally required in the zoning district but does not exceed 150% of the maximum permitted density. (Shall comply with multiple-family standards in EC 9.5500.		S	S
Rowhouse (One-family on own lot attached to adjacent residence on separate lot)	P(3)(4)	P(3)(4)	P(3)(4)
Duplex (Two-family attached on the same lot)		P	P
Tri-plex (Three family attached on the same lot) (See EC 9.5500)		P	P
Four-plex (Four-family attached on the same lot) (See EC 9.5500)		S	S
Multiple Family (3 or more dwellings on the same lot) (See 9.5500)	S	S	S
Manufactured Home Park (See 9.5400)			P(5)

Section 13. In Table 9.3125(3)(g) of the Eugene Code, 1971, a “Density” heading is added and the row thereunder for “Minimum Net Density per Acre” is amended; and the row for “Accessory Building” under the “Maximum Building Height” heading is 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
Density (1)(2)			
Minimum Net Density per Acre [(1)]	20 units/acre if all residential in a single building	20 units [(2)(b)]	20 units [(2)(a)]
Maximum Next Density	112	112	112

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
Minimum Building Height	At least 2 functional floors if located along Garden Way		
Maximum Building Height (3)			
Main Building	50' commercial, 120' residential or residential above commercial	120' except (3); 35' or 2 stories within 50' of Garden Way	120'
Accessory Building. [Includes Secondary Dwellings Detached from Main Building]		30'	30'
Accessory Dwellings Detached from Main Building		30'	30'

Section 14. Subsection (2) of Section 9.3126 of the Eugene Code, 1971, is amended to provide as follows:

9.3126 Special Development Standards for Table 9.3125(3)(g).

(2) ~~[Minimum]~~ Density.

- (a) ~~HDR Subarea.~~ **Minimum density a** Applies to new residential development except rowhouses **and Accessory Dwelling Units.**
- (b) ~~HDR/MU Subarea.~~ **Minimum density a** Applies to new development except rowhouses **and Accessory Dwelling Units.**
- (c) **Maximum density applies to all new residential development except Accessory Dwelling Units.**

Section 15. The "Dwellings" subsection in the "Residential" section in Table 9.3210 of the Eugene Code, 1971, is amended to provide as follows:

Table 9.3210 S-DW Downtown Westside Special Area Zone Uses and Permit Requirements	
	S-DW
Residential	
Dwellings (All dwellings types are permitted if approved through the Planned Unit Development process.)	
One-Family Dwelling (1 Per Lot)	P
[Secondary] Accessory Dwelling ([Either Attached or Detached from Primary One-Family Dwelling]) 1 Per Detached One-Family Dwelling on Same Lot)	P
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
Duplex	P
Tri-plex (Three-Family Attached on Same Lot)	P
Four-plex (Four Family Attached on Same Lot)	P
Multiple-Family (3 or More Dwellings on Same Lot) (See EC 9.5500)	P

Section 16. Subsection (2) of Section 9.3215 of the Eugene Code, 1971, is amended to provide as follows:

- 9.3215 S-DW Downtown Westside Special Area Zone Development Standards.**
(2) Residential Standards. Except as provided in this section or EC 9.3216 Special Development Standards for Table 9.3215, all residential development shall be subject to the standards established for the R-4 zone. ***Accessory dwellings shall be subject to the R-4 standards, except EC 9.2751(17).***

Section 17. The “Dwellings” subsection in the “Residential” section in Table 9.3310 of the Eugene Code, 1971, is amended to provide as follows:

Table 9.3310 S-E Elmira Road Special Area Zone Uses and Permit Requirements	
	S-E
Residential	
Dwellings	
One-Family Dwelling (1 Per Lot)	P
<i>Accessory Dwelling (1 Per Detached One-Family Dwelling on Same Lot)</i>	<i>P</i>
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
Duplex (Two-Family Attached on Same Lot)	P
Multiple Family (3 or More Dwellings on Same Lot) (See EC 9.5500)	PUD

Section 18. Subsection (1) of Section 9.3510 of the Eugene Code, 1971, is amended to provide as follows:

- 9.3510 S-HB Blair Boulevard Historic Commercial Special Area Zone Uses.** The S-HB zone designation is based on the area’s association with the city’s working class and the mix of residential, commercial and light industrial uses within the zone. The S-HB zone is the commercial core of the residential districts located to the east and west of the zone. The Whiteaker Plan Land Use Diagram reflects four underlying land use designations for this zone of residential, commercial, mixed use, and parks. Uses permitted within the S-HB zone are as follows:
- (1) Areas Designated for Low and Medium Density Residential.** Allowable uses are:
- (a) One-family dwellings.
 - (b) *Accessory Dwellings (1 Per Detached One-Family Dwelling on Same Lot).***
 - ~~(b)~~ Duplexes.
 - ~~(c)~~ Triplexes.
 - ~~(d)~~ Four-plexes.
 - ~~(e)~~ Multiple-family dwellings.
 - ~~(f)~~ Home occupations.

(g

Section 19. Section 9.3615 of the Eugene Code, 1971, is amended to provide as follows:

- 9.3615 S-JW Jefferson Westside Special Area Zone Land Use and Permit Requirements and Special Use Limitations.** The land use and permit requirements and special use limitations applicable in the S-JW Jefferson Westside Special Area Zone shall be those set out at EC 9.2740 and EC 9.2741 for uses in the R-2 zone, except:
- (1)** ~~[(1)]~~ The following uses listed on Table EC 9.2740 are prohibited in the S-JW Jefferson Westside Special Area Zone:
 - (1a)** Correctional Facilities.
 - (2b)** C-1 Neighborhood Commercial Zone permitted uses, unless such a use is specifically listed in another row on Table 9.2740 as an allowable use under the “R-2” column.
 - (2)** ***Any additional (interior, attached or detached) residential structure that is used in connection with or that is accessory to a single family dwelling may be permitted on a lot only as an additional “One-Family Dwelling” and not as an “Accessory Dwelling.”***

Section 20. Subsections (3), (7) and (8) of Section 9.3625 of the Eugene Code, 1971, are amended to provide as follows:

- 9.3625 S-JW Jefferson Westside Special Area Zone Development Standards.**
- (3)** Alley development standards.
 - (a)** Primary Vehicle Access. For the purposes of this section, “primary vehicle access” means the primary means by which inhabitants take vehicular access to a dwelling or on-site parking space(s) provided for a dwelling. Primary vehicle access is determined as follows:
 1. On an alley access only lot, every dwelling’s primary vehicle access is the alley.
 2. On a lot that is not an alley access only lot and that, consistent with access standards in the EC, could take vehicular access from an alley, a dwelling’s primary vehicle access is:
 - a. The street, when there is only one dwelling on the lot.
 - b. When there are multiple dwellings on the lot, for each on-site parking space that complies with the standards applicable in the S-JW special area zone and that can only be accessed and exited via a street (i.e., cannot use the alley for entry or exit), one dwelling is considered to take primary vehicle access from the street. The remainder of the dwellings shall be considered to take primary vehicle access from the alley.
- If there are one or more dwellings with the alley as primary vehicle access, the dwelling(s) closest to the alley shall be considered to have primary access from the alley. In cases where multiple dwellings are equidistant from the alley and not all of them take primary access from the alley, the

property owner may designate which dwellings take primary access from the alley. The provisions in this subsection (3)(a)2.b. may be adjusted based on the criteria of EC 9.8030(26)(2).

3. On all lots not addressed in 1. or 2., above, all dwellings' primary vehicle access is the street.
- (b) No more than one dwelling on the same development site may take primary vehicle access from an alley unless the site also abuts a street that the alley intersects.
- (c) On any lot that contains one or more dwellings whose primary vehicle access is an alley, there must be at least an undivided 400 square-foot open space area (not including buildings, parking or driveways) abutting the alley. Except as provided in 4., below, the open space area:
 1. shall abut the alley for at least 25% of the length of the lot line abutting the alley;
 2. shall be a minimum of 10 feet in depth for the entire extent that the open space area abuts the alley; and
 3. may include areas that are within setbacks.
 4. The open space required in this subsection (c) may be placed behind parallel parking abutting the alley.
- (d) For a dwelling whose primary vehicle access is an alley:
 1. The dwelling may not have more than three bedrooms.
 2. If the dwelling is in the residential building closest to the alley, then the dwelling shall include a main entrance that is visible from the alley (see Figure 9.3625(3)(d)2.) and meets one of the following conditions:
 - a. Faces the alley;
 - b. Faces the side of the lot and meets all the following conditions:
 - (1) The entrance opening is not more than 8 feet from the building façade facing the alley and nearest the alley;
 - (2) The entrance includes a covered porch of at least 30 square feet;
 - (3) The porch abuts both the façade containing the entrance and a façade facing the alley; or
 - c. Faces the side of the lot and meets all the following conditions:
 - (1) The entrance opening is no more than 8 feet from the building façade facing the alley and nearest the alley.
 - (2) The entrance provides direct resident access to a head-in parking area on the same side of building.
 - (3) The entrance includes a covered porch of at least 20 square feet.
 - (4) The façade facing the alley includes windows that total at least 8 feet wide when measured at 5' above the floor of the first story and that have a minimum area of at least 20 square feet.
 3. One on-site parking space, accessible from the alley, per dwelling is required. ***This parking requirement does not apply to an additional one-family dwelling, as described at EC 9.3615(2).***

* * *

(7) Parking Standards.

(a) Except as provided in (3)(d)3. above **and (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) The parking space requirement in (a), above, does not apply:

- 1. To an additional one-family dwelling, as described in 9.3615(2); or**
- 2. To one dwelling that has primary vehicle access from the street and no more than three bedrooms, when there are two or more dwellings and there is no on-street parking space as defined in subsection (7)(a) above.**

(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.

(See Figure 9.3625(7)(b) Vehicular (No) Parking Areas).

(8) The following Table 9.3625 sets forth the S-JW Special Area Zone development standards, subject to the special development standards in EC 9.3626.

Table 9.3625 S-JW Jefferson Westside Special Area Zone Development Standards (See EC 9.3626 Special Development Standards for Table 9.3625.)	
Density(1)	
Minimum Dwellings Per Lot	
Lots less than 13,500 Square Feet	--
Lots 13,500 square feet and larger	1 dwelling per lot for every 6,750 square feet (fractional values are rounded down to the nearest whole number)
Maximum Dwellings Per Lot(1)	
Alley Access Only Lot	1 dwelling and 1 additional one-family dwelling as described in 9.3615(2) per lot
Lots [less than 2,250] up to 4,499 square feet	[No additional dwellings after December 14, 2009] 1 dwelling and 1 additional one-family dwelling as described in 9.3615(2) per lot
[Lots between 2,250 and 4,499 square feet]	[1 dwelling per lot]
Lots between 4,500 and 8,999 square feet	2 dwellings and, for each detached one family dwelling, 1 additional one-family dwelling as described in 9.3615(2) per lot

Table 9.3625 S-JW Jefferson Westside Special Area Zone Development Standards (See EC 9.3626 Special Development Standards for Table 9.3625.)	
Lots 9,000 square feet and larger	1 per lot for every 4,500 square feet (fractional values are rounded down to the nearest whole number) and, for each such detached one family dwelling, 1 additional one-family dwelling as described in 9.3615(2)
Maximum Building Height (2) (9)	
Minimum Building Setbacks (3) (4) (5) (9)	
Maximum Lot Coverage (6) (7)	50%
Maximum Vehicle Use Area (6)	20%
Common and Private Open Space (7)	
Fences (8)	
(Maximum Height Within Interior Yard Setbacks)	6 feet
(Maximum Height within Front Yard Setbacks)	42 inches

Section 21. Subsection (g) is added to subsection (1) of Section 9.3625 of the Eugene Code, 1971, to provide as follows:

9.3626 Special Development Standards for Table 9.3625.

- (1) Density. For purposes of determining the maximum allowable dwellings on a lot:
- (g) ***Additional one-family dwellings as described in 9.3615(2) are not subject to the provisions of (1) and shall not be considered within the calculations of dwellings or bedrooms.***

Section 22. The “Dwellings” subsection in the “Residential” section in Table 9.3810 of the Eugene Code, 1971, is amended to provide as follows:

Table 9.3810 S-RN Royal Node Special Area Zone Land Uses and Permit Requirements					
	LDR	MDR	RMU	CMU	MSC
Residential					
Dwellings. (All dwellings shall meet minimum and maximum density requirements for development within the Royal Specific Plan area. All dwelling types are permitted.)					
One-Family Dwelling (1 Per Lot, includes zero lot line dwellings)	P	P	P		
[Secondary] Accessory Dwelling (Either Attached or Detached from Primary One-Family Dwelling) 1 Per Detached One-Family Dwelling on Same Lot)	P(1)	P(1)	P(1)		

Table 9.3810 S-RN Royal Node Special Area Zone Land Uses and Permit Requirements					
	LDR	MDR	RMU	CMU	MSC
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(2) (3)	P(2) (3)	P(2) (3)	P(2) (3)	P(2) (3)
Duplex (Two-Family Attached on Same Lot)	P	P	P		
Tri-plex (Three family attached on the same lot) See EC 9.5500	P	P	P	P	
Four-plex (Four-Family Attached on Same Lot) See EC 9.5500	P	P	P		
Multiple-Family (3 or More Dwellings on Same Lot) See EC 9.5500	S(3) (9)	S(3) (9)	S(3) (9)	S(3) (9)	S(3) (9)
Manufactured Home Park. Shall comply with EC 9.5400 or site review.	S - SR (4)	S - SR (4)			
Controlled Income and Rent Housing where density is above that normally permitted in the zoning district but does not exceed 150% of the maximum permitted density. (Shall comply with multiple-family standards in EC 9.5500.)	S (9)	S (9)			

Section 23. Subsection (1) of Section 9.3811 of the Eugene Code, 1971, is amended to provide as follows:

9.3811 Special Use Limitations for Table 9.3810.

- (1) **[Secondary] Accessory Dwellings.** ~~[Secondary]~~ **Accessory** dwellings shall conform to all of the following:
- (a) The dwelling shall not exceed 800 square feet unless occupying the full story of a multi-story structure with ground floor residential use.
 - ~~[(b) Either the primary dwelling or the secondary dwelling shall be occupied by the property owner.~~
 - ~~(c) There shall be at least 1 off-street parking space on the property.~~
 - ~~(d) The dwelling shall be located on a lot that is not a flag lot.]~~
 - (eb) Detached ~~[secondary]~~ **accessory** dwellings shall:
 - ~~[1. Comply with the residential density limitations in Table 9.3815(3)(n) Royal Node Special Area Zone Development Standards.]~~
 - 21. Provide a pedestrian walkway from the street or alley to the primary entrance of the ~~[secondary]~~ **accessory** dwelling.
 - 32. The primary entrance to ~~an [secondary]~~ **accessory** dwelling shall be defined by a roofed porch.
 - 43. 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, the owner shall provide the city with a copy of a notice that has been recorded with the Lane County Clerk that documents the secondary dwelling or primary dwelling is owner/occupied.]~~

Section 24. The “Maximum Building Height” section in Table 9.3815(3)(n) of the Eugene Code, 1971, is amended to provide as follows:

Table 9.3815(3)(n) S-RN Royal Node Special Zone Development Standards (See EC 9.3816 Special Development Standards for Table 9.3815(3)(n).)					
	LDR	MDR	RMU	CMU	MSC
Maximum Building Height					
Main Building	35 feet	35 feet	50'	50'	50'
Accessory Building [Includes Secondary Dwellings Detached from Main Building]	25 feet	25 feet	50'	50'	50'
<i>Accessory Dwellings Detached from Main Building</i>	<i>25 feet</i>	<i>25 feet</i>	<i>25 feet</i>		

Section 25. The “Accessory Uses” section, and the “Dwellings” subsection of the “Residential” section in Table 9.3910 of the Eugene Code, 1971, are amended to provide as follows:

Table 9.3910 S-W Whiteaker Special Area Zone Uses and Permit Requirements	
	S-W
Accessory Uses	
Accessory Uses. Examples related to residential uses include a garage, storage shed, bed and breakfast facility (see EC 9.5100)[,] and home occupations (see EC 9.5350)[,] and secondary dwellings (see EC 9.2741(2)) . Examples relating to commercial and employment and industrial uses include security work, administration activity and sales related to industrial uses manufactured on the same development site, and storage and distribution incidental to the primary use of the site.	P
Residential	
Dwellings	
One-Family Dwelling	P(2)
<i>Accessory Dwelling (1 Per Detached One-Family Dwelling on Same Lot)</i>	<i>P</i>
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(2)
Duplex (Two-Family Attached on Same Lot)	P(2)
Tri-plex (Three-Family Attached on Same Lot)	P(2)
Multiple Family (3 or More Dwellings on Same Lot) (See EC 9.5500)	P(2)

Section 26. The first paragraph and subsection (1) of Section 9.3915 of the Eugene Code, 1971, are amended, and a new subsection (13) is added, to provide as follows:

9.3915 S-W Whiteaker Special Area Zone Development and Lot Standards. Except as provided in subsections (5) to [(12)] **(13)** of this section, sections 9.6000 to 9.6885 General Standards for All Development in this land use code shall apply within this S-W zone. In the event of a conflict between the general development standards of this land use code and the standards set forth in this section, the specific provisions of this section shall control.

- (1) **Residential Standards.** Except as provided in subsections (5) to [(12)] **(13)** of this section, all residential development shall be subject to the standards established for the C-2 zone.

* * *

- (13) **Accessory dwellings shall be subject to the standards established at EC 9.2750 and EC 9.2751(17).**

Section 27. Subsection (4)(a) of Section 9.3970 of the Eugene Code, 1971, is amended to provide as follows:

9.3970 S-WS Walnut Station Special Area Zone Development Standards Applicable to All Properties in the Walnut Station Special Area Zone.

(4) Parking Requirements.

- (a) Required off-street motor vehicle parking. The following minimum and maximum parking standards apply instead of the standards in Table 9.6410. The provisions in EC 9.6410(1)(a) through (c), EC 9.6415 (1) through (3), EC 9.6420(1), (2), (3)(a), (b), and (e), (4), (5), and (6), apply to the siting and design of parking and loading facilities in the Walnut Station area. Uses not listed do not have a parking requirement.

Use	Minimum Number of Off-street Parking Spaces	Maximum Number of Off-Street Parking Spaces
Residential	<p><i>No off-street parking spaces are required for accessory dwellings.</i></p> <p>Except as provided in an adjustment pursuant to EC 9.8030(29), the minimum number of required parking spaces <i>for all other residential uses</i> shall be .5 parking spaces per dwelling unit.</p>	Except for required parking spaces for persons with disabilities, a maximum of 2.25 parking spaces are allowed per dwelling unit.
Non-Residential Uses	Except as provided in an adjustment pursuant to EC 9.8030(29), the minimum number of required parking spaces shall be 1 parking space for every 660 square feet of gross floor area.	Except for required parking spaces for persons with disabilities, spaces provided in park and ride lots operated by a public transit agency, and spaces within structured parking with two or more levels, the maximum number of parking spaces is 1 parking space per every 250 square feet of gross floor area.

Section 28. The following entry in the “Dwellings” subsection of the “Residential” section in Table 9.6410 of the Eugene Code, 1971, is amended to provide as follows:

Table 9.6410 Required Off-Street Motor Vehicle Parking	
Uses	Minimum Number of Required Off-Street Parking Spaces
Residential	
Dwelling	
[Secondary] Accessory Dwelling (Either attached or detached from primary one-family dwelling on same lot) / Additional one-family dwelling in the R-2 subarea of the S-C Chambers Special Area Zone	[1 per dwelling.] 0

Section 29. Subsection (34) of Section 9.8030 of the Eugene Code, 1971, is amended 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.

(34) [Secondary] Accessory Dwellings. Where this land use code provides that the standards for [secondary] **accessory** 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 may 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.]~~

(ba) Conversion of Existing Building. A legally established building existing as of August 29, 2014, may be converted to an [secondary] **accessory** dwelling if it complies with all of the following:

1. The existing structure satisfies all [secondary] **accessory** dwelling standards except the applicable sloped setback under Building Height/Interior Setback at EC 9.2571(17)(a)32. or EC 9.2751(17)(b)5.
2. The [secondary] **accessory** dwelling is limited to 600 square feet in total building square footage~~[-, and 15 feet in height].~~
3. If the existing structure is closer than 5 feet to an interior property line, ~~[the adjacent property owner must provide written consent pursuant to EC 9.2751(7)]~~ **there must be a 10-foot separation between the accessory dwelling and buildings on the abutting lot and the owner of the accessory dwelling must secure and record in the office of the Lane County Recorder a maintenance access easement adjacent to the intruding side of the building. The easement shall provide a 5-foot wide access the entire length of the building and 5 feet beyond both ends and require the continuation of a 10-foot separation between buildings on the separate lots. The easement shall be on a form provided by the city and be**

subject to payment of a fee set by the city manager.

- ~~[(c) **Building Height.** A secondary dwelling may have a maximum building height of up to 24 feet if all of the structure that would fall within the scope of the “Building Height/Sloped Setback” standard is at least 20 feet from all interior property lines and within the sloped setback.]~~
- (db) ~~[**Secondary**]~~ **Accessory Dwellings on Flag Lots.** Where natural features or other physical conditions make it impracticable to comply with the driveway setback and landscape screening requirements, the following adjustments are allowed:
1. Except as provided in 2. below, the driveway setback may be reduced to no less than four feet; however, in no event shall the setback be reduced more than is necessary to enable the driveway to meet the minimum driveway width, or
 2. The driveway setback may be reduced to no less than one foot, and screening requirements may be reduced or eliminated, where
 - a. The zoning of the adjacent property does not allow for residential uses; and
 - b. The impacts of the adjacent uses would not be significantly worse under the reduced setback or lessened screening.

Section 30. The findings in support of this Ordinance are included in the records compiled for this Ordinance and Ordinances 20594, 20595, and 20625, including the final orders issued by the Oregon Land Use Board of Appeals and the Court of Appeals.

Section 31. 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 32. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof. Further, if this Ordinance is remanded back to the City Council for further action by the Oregon Land Use Board of Appeals or the Oregon Court of Appeals, those sections, subsections, sentences, clauses, phrases or portions of this Ordinance that are not the subject of the remand shall be deemed separate, distinct and independent provisions and such remand shall not affect their validity or effect.

Section 33. The code amendments made by this Ordinance are required for compliance with ORS 197.312(5), which is now in effect. Therefore, pursuant to the provisions of Section 32(2) of the Eugene Charter of 2002, with the affirmative vote of two-thirds of the members of the City Council, this Ordinance shall become effective upon adoption by the Council and approval by the Mayor, or passage over the Mayor's veto.

Passed by the City Council this

_____ day of _____, 2021

City Recorder

Approved by the Mayor this

_____ day of _____, 2021

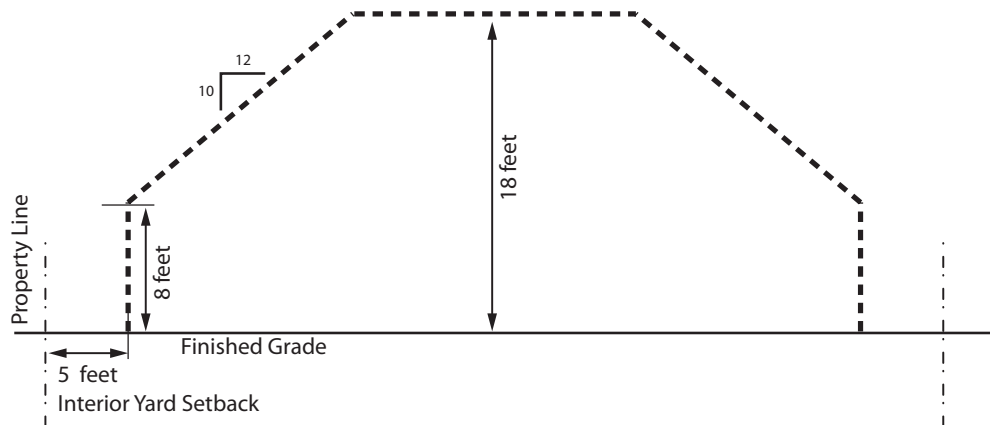
Mayor

Figure
9.2751(16)(b)3.

Building Height /Interior Setbacks for:

- Accessory Buildings (Area-Specific)
- Alley Access Lots (General and Area-Specific)
- Accessory Dwellings (General and Area-Specific)

Accessory Buildings and Alley Access Lots



Accessory Dwellings

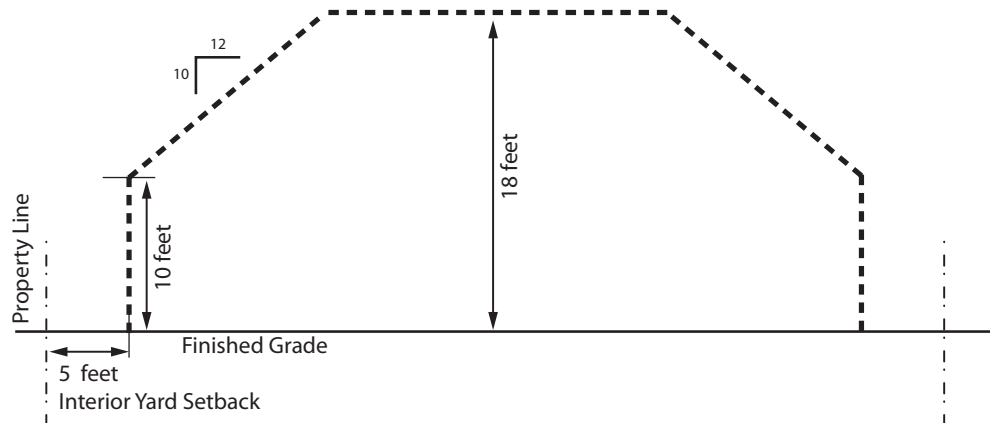


Figure
9.2751(17)(a)2.b.(2)(A)

**Building Height Calculation & Sloped Setback
for Sloped Lots**

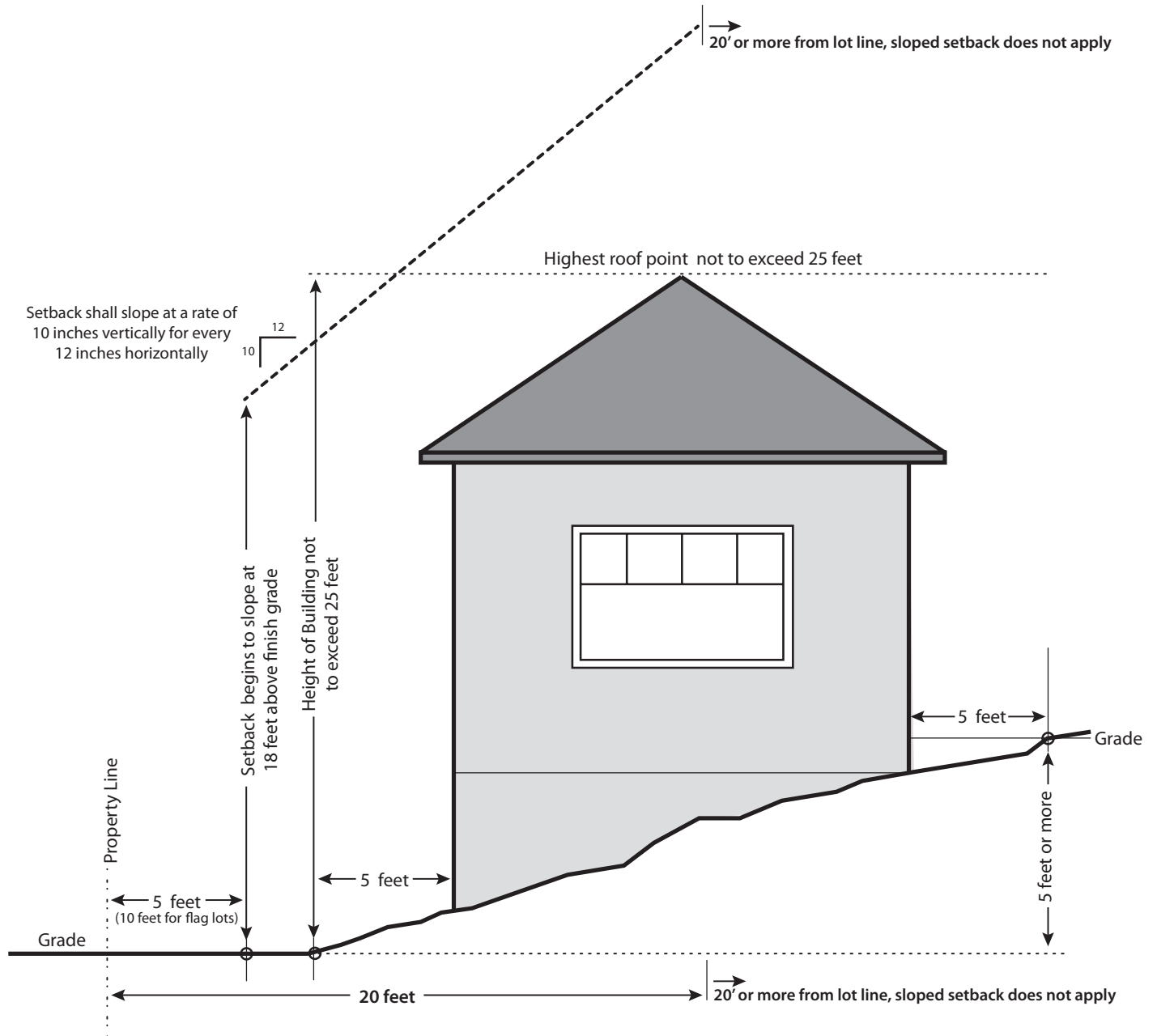


Figure
9.2751(17)(a)2.b.(2)(B)

Accessory Dwelling Above Garage

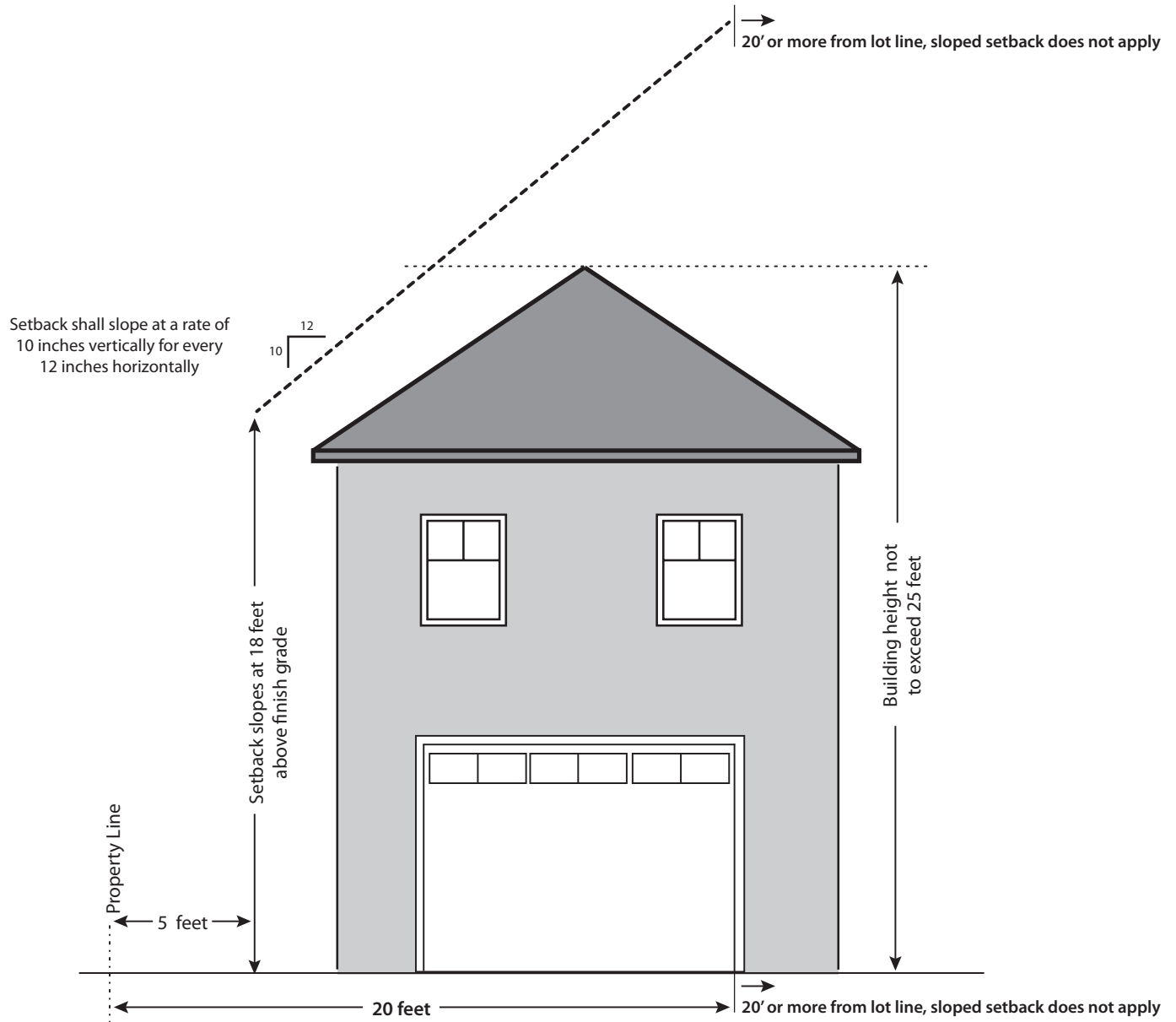


Figure
9.2751(17)(a)2.c.(2)

Dormer Placement & Size Calculation



CA 18-1: Finalizing Compliance with ORS 197.312(5)
Record Materials

January 21-2020 through May 5, 2021

- Public Testimony from January 21, 2020 through May 5, 2021:
 - https://www.eugene-or.gov/DocumentCenter/View/61481/CA-18-1_Testimony_2020-01-21-to-2021-05-05?bidId
- LUBA Final Order, No. 2020-015 from 11/24/2020:
 - <https://www.eugene-or.gov/DocumentCenter/View/60571/ADU-LUBA-Decision-112420?bidId>
- Doc 13. Intervenor-Respondent's Cross Petition:
 - <https://www.eugene-or.gov/DocumentCenter/View/61473/Doc-13-Intervenor-Respondents-Cross-Petition?bidId>
- Doc 17. Intervenor-Petitioner's Cross-Petition:
 - <https://www.eugene-or.gov/DocumentCenter/View/61474/Doc-17-Intervenor-Petitioners-Cross-Petition?bidId>
- Doc 18. Petition of Home Builders Association:
 - <https://www.eugene-or.gov/DocumentCenter/View/61475/Doc-18-Petition-of-Home-Builders-Association?bidId>
- Doc 20. Brief of Respondent (LUBA 2020-015):
 - <https://www.eugene-or.gov/DocumentCenter/View/61469/Doc-20-Brief-of-Respondent?bidId>
- Doc 22. Reply of Home Builders Association to City's Brief:
 - <https://www.eugene-or.gov/DocumentCenter/View/61470/Doc-22-Reply-of-Home-Builders-Association-to-Citys-Brief?bidId>
- Court of Appeals Final Order from 7/1/2020 (Kamps-Hughes):
 - <https://www.eugene-or.gov/DocumentCenter/View/61471/Kamps-Hughes-COA-July-1-2020?bidId>
- LUBA Final Order, No. 2019-115 from 02/26/2020 (Kamps-Hughes):
 - <https://www.eugene-or.gov/DocumentCenter/View/61472/Kamps-Hughes-LUBA-decision?bidId>