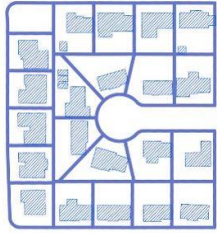


CLEAR & OBJECTIVE HOUSING APPROVAL CRITERIA UPDATE

This report is a compiled set of the issues identified by interested parties during Phase 1 outreach efforts.

DRAFT SUMMARY
OF KEY ISSUES
Dated August 21, 2018



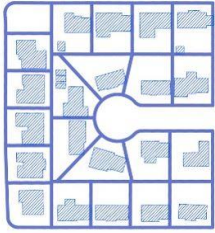
CLEAR & OBJECTIVE Housing Approval Criteria Update

DRAFT Summary of Key Issues

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CLEAR & OBJECTIVE Housing Approval Criteria Update

DRAFT Summary of Key Issues

Introduction

As part of the Envision Eugene urban growth boundary (UGB) process, in 2015, the Eugene City Council provided direction on housing by initiating several projects. These included establishing a baseline urban growth boundary (UGB), establishing urban reserves, growth monitoring, and updating the City's needed housing (clear and objective) regulations for land use applications. Related to the City's needed housing regulations, the Council specifically directed the following:

- Update the City's procedures and approval criteria for needed housing applications.
- Target for City consideration of proposed updates: within 1 year of State acknowledgement of the baseline UGB.

Multiple factors contribute to the need to update the City's existing land use application approval criteria and procedures for housing developments. As identified during the Envision Eugene process, Eugene will need to accommodate approximately 15,000 new homes within our urban growth boundary (UGB) by 2032. We will need to find a way to efficiently accommodate this growth while preserving the community's values regarding livability, public health and safety, and natural resource protection.

Oregon Revised Statute (ORS) 197.307(4) requires that housing developers must have access to an approval process that applies only clear and objective standards, conditions, and procedures regulating the development of housing. In addition, ORS 197.307(4)(b) requires that the clear and objective standards, conditions, and procedures may not discourage housing through unreasonable cost or delay. Standards, conditions and procedures regulating the development of housing include development standards such as setbacks and building height that apply to housing at the time of building permit, as well as land use application approval criteria that apply to the development of housing.

In 2001-2002, as part of a major update to the City's land use code, the Eugene City Council adopted a two-track system for the following types of land use applications: partitions, subdivisions, site reviews, conditional use permits and planned unit developments. One track allows applicants to use the "clear and objective" approval criteria required by ORS 197.307(4). In Eugene's land use code, these clear and objective tracks are called the "Needed Housing" tracks. The Needed Housing tracks are intended to offer a predictable path to approval for housing projects that meet the approval criteria contained in the track. The City also offers land use applicants an alternative process that includes discretionary (i.e. subjective) approval criteria. The discretionary track is designed to allow more flexibility in how projects

may meet development standards. In Eugene’s land use code, these discretionary tracks are called “General” tracks. Housing applicants are entitled to choose either track.

Through this project, Eugene’s existing clear and objective land use application approval criteria and procedures will be evaluated and may be updated to meet the following goals:

- accommodate growth on lands available within our current UGB
- continue to provide a clear and objective path to land use approval for all housing as required by State law
- guide future development in a way that reflects our community’s values

The Clear & Objective Housing: Approval Criteria Update kicked off earlier this year, following State acknowledgement of the baseline UGB in January 2018. As detailed in the [project charter](#) and [public involvement plan](#), this project will be completed in four phases. Phase 1, the current phase, includes outreach to stakeholders, an external land use code audit, and an internal legal analysis that helped to identify the range of issues to be addressed within the scope of this land use code update. Phase 1 culminates in this Summary of Key Issues report.

About This Report

As part of Phase 1 outreach, staff reached out to stakeholders to solicit input on identifying key issues to be addressed within the scope of the Clear & Objective Housing Approval Criteria Update. Outreach included listening sessions, focus group sessions, phone calls, and in-person follow-up sessions. Staff hosted multiple focus group sessions June 11 and 12, 2018 to gather stakeholder observations regarding residential development and to solicit specific input on how the City’s current clear and objective criteria are working. The questions posed to the focus groups included what criteria and procedures are working; what criteria and procedures should be fixed or removed; and, what topics are not addressed by the current approval criteria that should be. The focus group sessions were facilitated by the project consultant performing the land use code audit, Elizabeth Decker of JET Planning. Over 50 stakeholders were invited to participate and the following 24 people representing neighborhood associations and residents, housing builders and developers, design professionals, housing advocates and affordable housing providers attended:

Bill Aspegren	Carolyn Jacobs
Thomasina Bates	Margie James
Jon Belcher	John Jaworski
Sara Bergsund	Kaarin Knudson
Ron Bevirt	Colin McArthur
Gwen Burkard	Steve Ochs
Renee Clough	Emily Reiman
Paul Conte	Rick Satre
Ted Coopman	Carol Schirmer
Michael DeLuise	Nathaniel Teich
Laurie Hauber	Tom Walter
Maureen Jackson	Stacey Yates

In addition to these stakeholders, a session was held with City of Eugene development review staff from Planning, Public Works and Land Use. Prior to the focus group sessions, input was provided by the [Home Builders Association](#) of Lane County and their legal counsel, [Bill Kloos](#).

After the focus group sessions, staff and the consultant received additional comments via email over the following three-week period. Using the information collected—in addition to doing a review of the Eugene land use code relevant to housing applications, the City’s long-range plans, and recent land use decisions including appeals—Ms. Decker completed a code audit identifying areas of the land use code where she feels opportunities to improve efficiency and effectiveness for housing applications exist ([Appendix A](#)). In addition, Ms. Decker provided summaries of the input from the focus group sessions ([Appendix B](#)) and follow-up email submissions ([Appendix C](#)).

This Summary of Key Issues Report (informed by the results of the consultant’s code audit and the feedback from community outreach and internal development review staff) is a compiled set of the issues identified by interested parties. Staff received many responses, with topics ranging over a broad spectrum of issues with diverse (at times contradicting) concerns associated. The defined scope and timeline for this project require a strong focus on issues specific to the clear & objective approval criteria. Many issues were identified that do not fit within the current scope, as described further in this report. However, some out-of-scope issues may merit further study. To the extent possible, staff will share information with other appropriate staff and keeping track of issues outside the scope of the current project to flag for potential, future update efforts.

To organize a high volume of issues, and to assist stakeholders in focusing our limited time on issues most relevant to project outcomes, staff sorted the issues identified by interested parties into three groups: items that are maintenance-level, significant items that require more discussion, and items that are outside the scope of this project.

Maintenance Issues: Several identified issues represent procedural changes or amendments that would create consistency between the Needed Housing (clear and objective) and General (discretionary) review tracks or consistency with other sections of the land use code. These issues will continue to be considered as part of the update; however, they require only maintenance-level code revisions that are relatively straightforward. Therefore these maintenance level issues do not require discussion time during the working group sessions. Although community members may comment on any issue they wish, maintenance-level issues offer readily-available solutions that require less attention and discussion relative to larger, more challenging issues that will require working group attention. Staff recommend focusing comment on proposed maintenance concepts during the next phase.

Significant Issues for Discussion: This category of issues represents the core challenges identified in the clear & objective approval criteria. These issues are recommended as the focus of working group discussions and development of proposed solutions.

Out of Scope Issues: This category includes identified, key issues that may warrant being considered by the City but cannot be addressed within the scope of the Clear & Objective Update for a variety of reasons, as described for each issue. Although staff recommends

focusing comment on “significant issues for discussion,” interested parties wishing to comment further on out of scope issues are invited to suggest relative priorities for potential, future code updates through the code improvement program.

This report is organized to present the maintenance issues first, followed by issues that require more discussion, and finally, issues that are outside the scope of this project. Within each section, the issues are provided in no particular order regarding priority. For each issue, the following information is provided:

Description: Includes an explanation of the particular key issue. **Issue descriptions are based on information provided by interested parties – they do not represent the views or recommendations of City staff. Just because an issue is raised in this report does not mean that the City perceives the issue as a problem or that the issue will be addressed in the proposed code amendments that are ultimately presented to the City Council. The issue descriptions are simply a restatement of feedback provided by interested parties.** To the extent possible, the words of the source of the particular key issue were used. In cases where there was not much to go by, staff attempted to interpret the issue and provide additional context. In other cases, given the amount of information provided, the issues were summarized.

Applies to: Identifies the type of the land use application(s) that the issue applies to. Currently, there are clear and objective approval criteria for five types of land use applications: conditional use permits, site reviews, partitions, planned unit developments and subdivisions.

Existing Code Section(s): Provides the pertinent section number(s) of Eugene Code Chapter 9 (land use code).

Existing Code Language: Includes excerpts of the relevant land use code sections.

Possible Action: Suggests one or more possible solutions. **These do not represent the only possible solutions or the staff recommended solution for a particular issue.** Rather, they are provided to help the reader begin to think of ways to solve the issue. In many cases, these proposed possible actions came directly from the source of the particular key issue. **Also, just because a possible action is suggested in this report does not imply or otherwise mean that it will be the preferred solution.** As detailed in the project charter, during Phase 2 of the project, this Summary of Key Issues report will be used as part of the stakeholder working group meetings where the issues will be reviewed and vetted, and concepts (actions or solutions to address the issue) will be generated and evaluated.

Improvement: Lists the potential type of improvement the possible action would result in based on the categories of: efficiency, effectiveness, consistency, statutory compliance, and value implementation.

Source: Identifies where the issue originated – the audit, stakeholders or staff.

As noted above, the Eugene land use code currently includes two adopted review tracks for land use applications related to housing. This two-track system was based on the prior statutory requirement to have clear and objective standards, conditions and procedures for “needed housing” developments (as

defined by State law) and the allowance to have an alternative, discretionary process. The two tracks currently adopted are called the “Needed Housing” track (meets the clear and objective requirement) and the “General” track (optional discretionary track). Recent changes to State law now require that all housing have access to clear and objective standards. Given this change in State law, calling the track that meets the clear and objective requirement “Needed Housing” is confusing since all housing is now entitled to this review. For this reason, throughout this report and other project documents, staff will refer to the two tracks as the “clear and objective” track and the “discretionary” track. This is one of the “issues” we are looking forward to addressing as part of the project.

Key Issues: Maintenance Items

Maintenance items are those key issues that represent policy neutral procedural changes or amendments that bring consistency between the two review tracks, with other sections of the land use code or with State law. For ease of reference, Clear & Objective Maintenance items are identified with a “COM” preceding the issues number.

ISSUE #: COM-01 (NEEDED HOUSING CRITERION)

Description: Each of the five land use application types includes an approval criterion that requires the applicant to demonstrate that the proposed housing is “needed housing” as defined by State statutes. This criterion is no longer relevant, because, as a result of recent changes to state law, all housing, not just needed housing, must have access to a clear and objective review track.

Senate Bill 1051, which became effective in August 2017, amended ORS 197.307(4) to require local governments “adopt and apply only clear and objective standards, conditions and procedures regulating the development of housing, including needed housing.” Previously, the statute only applied to “needed housing on buildable land.” With the revision to the statute, it is clear that all housing in Eugene is entitled to clear and objective criteria.

Applies To: Conditional Use, Partition, Planned Unit Development, Site Review, and Subdivision

Existing Code Section(s): EC 9.8100(1), EC 9.8220(1), EC 9.8325(1), EC 9.8445(1), EC 9.8520(1)

Existing Code Language:

(1) *The applicant has demonstrated that the proposed housing is needed housing as defined by State statutes.*

Possible Action: Remove this criterion from the approval criteria for conditional use, partition, planned unit development, site review, and subdivision applications.

Improvement: Statutory Consistency

Source: Audit, Staff

ISSUE #: COM-02 (APPLICABLE STANDARDS REFERENCE)

Description: One of the clear and objective conditional use permit approval criteria requires compliance with “all applicable standards including, but not limited to” those standards listed in the subsection. This wording is inconsistent with similar criteria for other application types, which require compliance with “all of the following” standards and include a comprehensive list of standards. In addition, the list of standards does not include several standards addressed under the discretionary track:

- EC 9.2000 through 9.4170 regarding lot dimensions, solar standards, and density requirements for the subject zone and overlay zone;
- EC 9.6500 through 9.6505 Public Improvement Standards; and
- EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways
- Where the proposal is to establish non-residential uses subject to residential density requirements on development sites in the residential zone category, it shall achieve the minimum and maximum density requirements in accordance with Table 9.2750 Residential Zone Development Standards, unless specifically exempted elsewhere in this code or granted a modification through an approved conditional use permit. For purposes of calculating “net density,” the acreage of land considered shall include the entire development site and exclude public property, such as public streets, parks, and other public facilities.

Applies To: Conditional Use

Existing Code Section(s): EC 9.8100(4)

Existing Code Language:

- (4)** *The proposal complies with all applicable standards, including, but not limited to:*
- (a) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas - Standards.*
 - (b) EC 9.6710(6) Geological and Geotechnical Analysis.*
 - (c) EC 9.6730 Pedestrian Circulation On-Site.*
 - (d) EC 9.6735 Public Access Required.*
 - (e) EC 9.6750 Special Setback Standards.*
 - (f) EC 9.6775 Underground Utilities.*
 - (g) EC 9.6780 Vision Clearance Area.*
 - (h) EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.*
 - (i) An approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.*

Possible Action: Add additional development standards to EC 9.8100(4) and revise the language to ensure compliance with all applicable standards.

Improvement: Effectiveness, Consistency

Source: Audit

ISSUE #: COM-03 (BONDING REQUIREMENT)

Description: One of the clear and objective approval criteria for conditional use permits and site reviews requires that public improvements be constructed or bonded before the application is approved. The timing of this criterion may be problematic for developers as it requires that improvements be constructed or bonded at the time an application is submitted for review, when

those improvements are not required or specified in the conditions of approval until issuance of the decision. This criterion has no equivalent in the discretionary track for conditional use or site review, and matches a criterion for final subdivisions and final partitions, suggesting that it is more appropriate for a final review in a two-step process. The intent of the criterion could effectively be met by applying a condition of approval based on EC 9.8100(4) and EC 9.8445(4)(b) which require compliance with EC 9.6500 through 9.6505 Public Improvement Standards.

The final planned unit development criteria do not include a requirement to complete or bond for public improvements. Instead, this is listed as an application requirement.

Applies To: Conditional Use, Site Review, Planned Unit Development

Existing Code Section(s): 9.8100(5), 9.8445(5), 9.8360(4)

Existing Code Language:

- (5)** *Public improvements as required by this land use code or as a condition of tentative plan approval have been completed, or:*
- (a) A performance bond or suitable substitute as agreed upon by the city has been filed with the city finance officer in an amount sufficient to assure the completion of all required public improvements; or*
 - (b) A petition for public improvements and for the assessment of the real property for the improvements has been signed by the property owner seeking the conditional use permit, and the petition has been accepted by the city engineer.*

Possible Action: Either remove this criterion from conditional use permit and site review, or revise the timing specified to construct or bond for required public improvements. Add a criterion to the final planned unit development approval criteria, similar to that required for final subdivision, to require that public improvements be completed or bonded prior to approval of the final application, for planned unit developments not associated with land divisions.

Improvement: Effectiveness, Consistency

Source: Audit, Stakeholder(s)

ISSUE #: COM-04 (OVERLAY ZONE STANDARDS)

Description: The discretionary tracks for partitions, planned unit developments, site reviews, and subdivisions include a criterion that requires compliance with lot dimensions and density requirements in the base and overlay zones. However, the clear and objective tracks limits compliance with the lot dimensions and density requirements to the base zones, and does not explicitly require compliance with lot dimension and density requirements in overlay zones.

Applies To: Partition, Planned Unit Development, Site Review, Subdivision

Existing Code Section(s): EC 9.8220(2)(a), EC 9.8325(7)(a), EC 9.8445(4)(a), EC 9.8520(3)(a)

Existing Code Language:

- (2)** *The proposed partition complies with all of the following:*
- (a) Lot standards of EC 9.2000 through 9.3980 regarding applicable parcel dimensions and density requirements. . .*

Possible Action: Revise the clear and objective track approval criteria for partition, planned unit development, site review, and subdivision to include compliance with the lot dimensions and density requirements in overlay zones. Use the same language provided for the discretionary track applications: “Lot standards of EC 9.2000 through 9.4170 regarding applicable parcel dimensions and density requirements.” Consider adding to conditional use permits (see related Issues # COM-02 and COM-05).

Improvement: Effectiveness

Source: Audit

ISSUE #: COM-05 (PLANNED UNIT DEVELOPMENT ADJUSTMENT/MODIFICATION)

Description: The clear and objective track for planned unit developments include a criterion that requires compliance with “all applicable development standards explicitly addressed in the application except where the applicant has shown that a modification is consistent with the purposes as set out in EC 9.8300 Purpose of Planned Unit Development.” This criterion appears to overlap with the option to modify standards that apply to planned unit development through an approved adjustment pursuant to EC 9.8015. EC 9.8325(7) requires compliance with a list standards, and also states that an “approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.”

Applies To: Planned Unit Development

Existing Code Section(s): EC 9.8325(7), EC 9.8325(11)

Existing Code Language:

- (7)** *The PUD complies with all of the following:*
- (a) EC 9.2000 through 9.3980 regarding lot dimensions and density requirements for the subject zone. Within the /WR Water Resources Conservation Overlay Zone or /WQ Water Quality Overlay Zone, no new lot may be created if more than 33% of the lot, as created, would be occupied by either:*
 - 1. The combined area of the /WR conservation setback and any portion of the Goal 5 Water Resource Site that extends landward beyond the conservation setback; or*
 - 2. The /WQ Management Area.*
 - (b) EC 9.6500 through 9.6505 Public Improvement Standards.*
 - (c) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas - Standards.*
 - (d) EC 9.6710(6) Geological and Geotechnical Analysis.*
 - (e) EC 9.6730 Pedestrian Circulation On-Site.*

- (f) *EC 9.6735 Public Access Required.*
- (g) *EC 9.6750 Special Setback Standards.*
- (h) *EC 9.6775 Underground Utilities.*
- (i) *EC 9.6780 Vision Clearance Area.*
- (j) *EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.*

An approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.

- (11)** *The PUD complies with all applicable development standards explicitly addressed in the application except where the applicant has shown that a modification is consistent with the purposes as set out in EC 9.8300 Purpose of Planned Unit Development.*

Possible Action: Determine whether both options are necessary or whether they could be combined into a single process to modify standards.

Improvement: Efficiency

Source: Audit, Stakeholder(s)

ISSUE #: COM-06 (NON-CONFORMING REFERENCE)

Description: As part of a clear and objective partition or subdivision, new non-conforming situations must not be created, meaning that any existing dwelling or structure on the property must continue to comply with applicable development standards, such as setbacks, lot coverage, density, use and parking, after the land is divided. Because there are only a few nonconforming situations that would be created by land divisions, this criterion could be more specific for added clarity.

Applies To: Partition, Subdivision

Existing Code Section(s): EC 9.8220(3), EC 9.8520(4)

Existing Code Language:

9.8220(3) *The proposed partition will not cause any existing improvements on proposed lots to be inconsistent with applicable standards in this land use code.*

9.8520(4) *The proposed subdivision will not cause any existing improvements on proposed lots to be inconsistent with applicable standards in this land use code.*

Possible Action: Consider cross-referencing residential use, density and development standards, parking standards and other pertinent standards.

Improvement: Consistency

Source: Audit

ISSUE #: COM-07 (ACCESS MANAGEMENT REQUIREMENT)

Description: There is a clear and objective track criterion for partitions that requires compliance with access management guidelines of the agency having jurisdiction over the street. This may not be necessary, because to the extent that the partition meets the requirements of EC 9.6735 Public Access Required (which requires the proposal to meet the City’s access management requirements), the partition would meet this criterion. Other jurisdictions, such as Lane County, have their own authority and so it would be more appropriate to add a statement to this affect as an informational item in the decision.

Applies To: Partition

Existing Code Section(s): EC 9.8220(4)

Existing Code Language:

- (4)** *Partitions abutting collector and arterial streets comply with access management guidelines of the agency having jurisdiction over the street.*

Possible Action: Determine whether this criterion provides value or if it is redundant and should be removed.

Improvement: Efficiency

Source: Audit

ISSUE #: COM-08 (PERPENDICULAR LOT SIDES)

Description: The discretionary criteria for partitions and subdivisions include a requirement that "As far as is practicable, lot side lines run at right angles to the street upon which the lots face, except that on curved streets they are radial to the curve." This requirement is not included in the clear and objective criteria.

Applies To: Partition, Subdivision

Existing Code Section(s): N/A

Existing Code Language: N/A

Possible Action: Consider adding criteria to the clear and objective partition and subdivision tracks with language requiring side lot lines be perpendicular (or within an acceptable range) to the street.

Improvement: Consistency

Source: Audit

ISSUE #: COM-09 (NATURAL RESOURCE PROTECTION REQUIREMENT)

Description: There is discrepancy between how the clear and objective criterion for protecting natural resource areas is written for various application types. The criterion for conditional use includes a minimum 50 foot buffer beyond the perimeter of the natural resource areas, whereas the criterion for planned unit developments, site reviews and subdivisions do not include this additional protected buffer. Additionally, this criterion is not included in the clear and objective approval criteria for partitions.

Applies To: Conditional Use, Partition, Planned Unit Development, Site Review, Subdivision

Existing Code Section(s): EC 9.8100(3)(b), EC 9.8325(4)(b), EC 9.8445(3)(b), EC 9.8520(7)(b)

Existing Code Language:

9.8100(3)(b) *Natural resource areas designated on the comprehensive plan diagram as “Natural Resource” are protected. Protection shall include the area of the resource and a minimum 50 foot buffer around the perimeter of the natural resource area.*

9.8325(4)(b) *Natural resource areas designated on the comprehensive plan diagram as “Natural Resource” are protected.*

9.8445(3)(b) *Natural resource areas designated on the comprehensive plan diagram as “Natural Resource” are protected.*

9.8520(7)(b) *Natural resource areas designated on the comprehensive plan diagram as “Natural Resource.”*

Possible Action: Revise the criterion for planned unit development, site review, and subdivision to add that protection includes the area of the resource itself and a 50-foot buffer, similar to specificity in the natural resources criterion for conditional use. Consider adding the revised criterion to the approval criteria for partitions.

Improvement: Consistency, Effectiveness

Source: Audit

ISSUE #: COM-10 (SOLAR LOT STANDARDS)

Description: The solar lot standards apply to the creation of lots within subdivisions in the R-1 Low Density Residential and R-2 Medium Density Residential zone. Compliance with the solar lot standards is specifically called out as an approval criterion in the clear and objective track for tentative planned unit developments (EC 9.8325(10)), even though standards apply at the time of subdivision. This ensures that any lot layout proposed in a planned unit development will be consistent with the solar lot standards at the time of subdivision, as planned unit developments and subdivisions cannot be reviewed concurrently. While there is not a separate approval criterion that directly addresses the solar lot standards for subdivisions, compliance with EC

9.2000 through 9.3980 is required, which includes a link to the solar lot standards at EC 9.2790 (see EC 9.2761(1)(b)).

Applies To: Planned Unit Development, Subdivision

Existing Code Section(s): EC 9.8325(10), EC 9.8520(3)(a), EC 9.2790

Existing Code Language:

9.8325(10) *Lots proposed for development with one-family detached dwellings shall comply with EC 9.2790 Solar Lot Standards (these standards may be modified as set forth in subsection (11) below).*

9.8520(3) *The proposed subdivision complies with all of the following, unless specifically exempt from compliance through a code provision applicable to a special area zone or overlay zone:*

- (a) *EC 9.2000 through 9.3980 regarding lot dimensions and density requirements for the subject zone. . .*

9.2761 Special Standards for Table 9.2760. *[Table 9.2760 contains the Residential Zone Lot Standards]*

(1) Lot Standards.

- (b) *Solar standards may impose a more restrictive lot standard. (See EC 9.2790 Solar Lot Standards.)*

9.2790 Solar Lot Standards.

- (1) Applicability.** *Solar lot standards apply to the creation of lots within subdivisions in R-1 and R-2 zones.*
- (2) Solar Lot Requirements.** *In R-1 and R-2, at least 70% percent of the lots in a subdivision shall be designed as “solar lots” and shall have a minimum north-south dimension of 75 feet and a front lot line orientation that is within 30 degrees of the true east-west axis. For purposes of this subsection, a lot proposed for more than one dwelling unit shall count as more than one lot , according to the number of units proposed (e.g. a lot proposed for a fourplex shall be considered 4 lots). **(See Figure 9.2790(2) Solar Lot Requirements.)***

Possible Action: Consider removing standard from planned unit development approval criteria if subdivisions and planned unit developments can be reviewed concurrently (See Issue # COM-11, below). Suggest changing the reference across the board from “regarding lot *dimensions* and density requirements” to “regarding lot standards and density requirements” to make connection to solar lot standards more direct for subdivisions.

Improvement: Consistency, Efficiency

Source: Audit

ISSUE #: COM-11 (PUD/SUBDIVISION CONCURRENT REVIEW)

Description: Planned unit developments are a two-step process (tentative, followed by final). When there is an associated land division (subdivision or partition) to create new lots, the tentative planned unit development must be finalized prior to submittal of the tentative partition or subdivision. (EC 9.8205 and 9.8505) Together this means three stages of review for many developments: tentative planned unit development review, followed by final planned unit development and tentative subdivision or partition plan review combined, and finally, review of the final subdivision or partition plan. There may be opportunity to consolidate these reviews for greater efficiency, tentative planned unit development and subdivision or partition followed by final planned unit development and subdivision or partition, given that the criteria for tentative planned unit development and land divisions have significant overlap and could feasibly be reviewed concurrently.

Applies To: Partition, Planned Unit Development, Subdivision

Existing Code Section(s): EC 9.8205, EC 9.8505

Existing Code Language:

9.8205 ***Applicability of Partition, Tentative Plan Applications.** Requests to create 2 or 3 parcels shall be subject to the partition provisions of this land use code, following a Type II application procedure. A partition application that also involves a PUD request may not be submitted until a decision on the tentative PUD approval is final. (Refer to EC 9.8305 Applicability.) No development permit shall be issued by the city prior to approval of the tentative partition application.*

9.8505 ***Applicability of Subdivision, Tentative Plan Applications.** Requests to create 4 or more lots shall be subject to the subdivision provisions of this land use code under a Type II application process. A subdivision application that also involves a PUD request may not be submitted until a decision on the tentative PUD approval is final. (Refer to EC 9.8305 Applicability.) No development permit shall be issued by the city prior to approval of the subdivision tentative plan application.*

Possible Action: Revise to allow concurrent review of tentative subdivision or partition and tentative planned unit development applications.

Improvement: Efficiency

Source: Audit, Staff, Stakeholder(s)

ISSUE #: COM-12 (REVIEW TRACK RENAMING)

Description: Using the terms "Needed Housing" and "General" to identify the "Clear and Objective" track and the "Discretionary" track, respectively, is confusing now that State law mandates that all housing (not just needed housing) is entitled to clear and objective standards, conditions and procedures.

Applies To: Conditional Use, Partition, Planned Unit Development, Site Review, Subdivision

Existing Code Section(s): Multiple code references will need to be revised. Example provided below for EC 9.8220.

Existing Code Language:

Partition, Tentative Plan Approval Criteria- Needed Housing. *The planning director shall approve, conditionally approve, or deny the partition application. Unless the applicant elects to use the general criteria contained in EC 9.8215 Partition, Tentative Plan Approval Criteria- General, where the applicant proposes needed housing, as defined by the State statutes, the planning director shall approve or approve with conditions a partition based on compliance with the following criteria:*

Possible Action: Rename the review tracks “Clear and Objective” (instead of Needed Housing) and “Discretionary” (instead of General). Change references to these review tracks and to “Needed Housing” throughout Chapter 9 as needed.

Improvement: Statutory Compliance, Consistency

Source: Audit, Staff

ISSUE #: COM- 13 (SITE REVIEW STREET STANDARDS)

Description: The clear and objective criteria for site review does not include compliance with EC 9.6800 through 9.6875 Standards for Streets, Alleys, and Other Public Ways; however, it is included under the discretionary track.

Applies To: Site Review

Existing Code Section(s): N/A

Existing Code Language: N/A

Possible Action: Add compliance with EC 9.6800 through 9.6875 Standards for Streets, Alleys, and Other Public Ways as an approval criterion.

Improvement: Effectiveness, Consistency

Source: Staff, Stakeholder(s)

ISSUE #: COM-14 (DUPLICATE NEIGHBORHOOD/APPLICANT MEETING)

Description: Requiring a neighborhood/applicant meeting for tentative subdivisions or partitions in cases when one was already required for an associated tentative planned unit development is redundant and provides no clear benefit for either the neighbors or the applicant. The purpose of such a tentative subdivision or partition is to implement the associated planned unit development, which has already been reviewed through a neighborhood/applicant meeting.

Applies To: Partition, Planned Unit Development, Subdivision

Existing Code Section(s): EC 9.7007

Existing Code Language:

9.7007 Neighborhood/Applicant Meetings.

- (1) *This section applies to the following types of applications:*
 - (a) *Type II: 3-lot partitions, tentative subdivisions, tentative cluster subdivisions and design reviews;*
 - (b) *Type III: Only conditional use permits and tentative planned unit developments;*
 - (c) *Type IV applications that are not city-initiated;*
 - (d) *Metro Plan amendments that are not city-initiated.*
 - (e) *Within the /CL Clear Lake Overlay zone: development permits for a new building, change of use, building expansion that exceeds 25 percent of the existing building square footage on the development site, and land use applications (except Type I applications).*
- (2) *Prior to the submittal of an application listed in subsection (1) above, the applicant shall host a meeting for the surrounding property owners. The purpose of this meeting is to provide a means for the applicant and surrounding property owners and residents to meet to review the proposal, share information and identify issues regarding the proposal. The applicant may consider whether to incorporate solutions to these issues prior to application submittal.*

Possible Action: Provide an exception under the neighborhood/applicant meeting requirement at EC 9.7007 for subdivisions and partitions when processed in conjunction with a planned unit development.

Improvement: Efficiency

Source: Stakeholder(s), Staff

ISSUE #: COM-15 (SPECIAL SAFETY REQUIREMENTS REFERENCE)

Description: Partitions, planned unit development, and subdivisions require compliance with EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways; however, housing projects reviewed under clear and objective tracks are exempt from EC 9.6845, Special Safety Requirements.

Applies To: Partitions, Planned Unit Development, and Subdivisions

Existing Code Section(s): EC 9.8220(2)(b), EC 9.8325(6)(a), EC9.8520(3)(b), EC 9.6845

Existing Code Language:

9.8220(2) *The proposed partition complies with all of the following:*

(b) *EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways.*

9.8325(6) *The PUD provides safe and adequate transportation systems through compliance with all of the following:*

(a) *EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways (not subject to modifications set forth in subsection (11) below).*

9.8520(3) *The proposed subdivision complies with all of the following, unless specifically exempt from compliance through a code provision applicable to a special area zone or overlay zone:*

(b) *EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways.*

9.6845 ***Special Safety Requirements.*** *Except for applications proposing needed housing, where necessary to insure safety, reduce traffic hazards and promote the welfare of the general public, pedestrians, bicyclists and residents of the subject area, the planning director or public works director may require that local streets and alleys be designed to discourage their use by non-local motor vehicle traffic and encourage their use by local motor vehicle traffic, pedestrians, bicyclists, and residents of the area.*

Possible Action: Evaluate whether it is beneficial to remove the reference to the standard from the approval criteria list of applicable standards for partitions, planned unit developments, and subdivisions.

Improvement: Consistency

Source: Audit

ISSUE #: COM-16 (OFF-SITE BIKE/PED CONNECTIONS)

Description: Bike and pedestrian circulation/connectivity is not addressed for conditional use and site review under the clear and objective tracks. In contrast, partitions, planned unit developments, and subdivisions require connections to "nearby" residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks, provided the city makes findings to demonstrate consistency with constitutional requirements. "Nearby" means uses within 1/4 mile that can reasonably be expected to be used by pedestrians, and uses within 2 miles that can reasonably be expected to be used by bicyclists.

Applies To: Conditional Use, Site Review

Existing Code Section(s): N/A

Existing Code Language: N/A

Possible Action: Consider adding a clear and objective criterion to require off-site connections for bike and pedestrian ways, similar to partitions, planned unit developments and subdivisions.

Improvement: Consistency

Source: Stakeholder(s)

ISSUE #: COM-17 (APPLICATION REQUIREMENT CRITERION)

Description: Having application requirements met is not required for approval of an application.

Applies To: Conditional Use, Partition, Planned Unit Development, Site Review, Subdivision

Existing Code Section(s): N/A

Existing Code Language: N/A

Possible Action: Consider adding an approval criterion to each application type that requires that all application submittal requirements have been met.

Improvement: Effectiveness

Source: Stakeholder(s)

Key Issues: Significant Items

Items identified as “significant” are those key issues that raise policy implications and are recommended as a focus for additional working group discussion. Similar items or those that are interconnected are grouped. For ease of reference, Clear & Objective Significant items are identified with a “COS” preceding the issues number.

ISSUE #: COS-01 (CLEAR & OBJECTIVE COMPATIBILITY)

Description: Unlike the discretionary tracks, the clear and objective tracks for conditional use, planned unit development, and site review applications do not address compatibility, including the need to address transitions or buffers between different uses or zones.

Applies To: Conditional Use, Planned Unit Development, Site Review

Existing Code Section(s): N/A

Existing Code Language: N/A

Possible Action: Consider adding clear and objective criteria to address specific compatibility elements regarding building locations, bulk and height, screening, noise, and glare. See discretionary criteria at EC 9.8090(2) and (3) for conditional use, at EC 9.8320(12) for planned unit development and at EC 9.8440(1) for site review for reference. Also consider screening, height step backs, or other transition buffers for locations that neighbor different uses/zones—particularly when multi-family projects are located adjacent to lower-density areas, or when clustering intensifies development in a particular area.

Improvement: Value Implementation, Consistency

Source: Audit

ISSUE #: COS-02 (30-FOOT BUFFER REQUIREMENT FOR PUDs)

Description: The clear and objective approval criteria for planned unit developments require a 30-foot wide landscape buffer between a new planned unit development and surrounding properties. This may not be a preferred strategy to enhance compatibility between properties, or an efficient use of land. Where a planned unit development for housing is providing buffer from existing residential properties, it is not clear that there are significant differences between residential development within the planned unit development and the surrounding residential area to warrant buffering over and above the typical setbacks for the residential zones (typically 5 feet). The 30-foot buffer may instead isolate the planned unit development, making it less compatible and less integrated into the neighborhood. Dedication of a 30-foot perimeter buffer requires a large amount of land, and a disproportionate amount of land on smaller and/or

narrow sites, significantly decreasing development potential by putting land into a buffer that could otherwise be developed with housing.

➡ This issue is one of six related to the clear and objective criteria for planned unit development that contribute to limiting development feasibility of many sites. The cumulative effect of these six requirements is particularly limiting for those properties subject to the South Hills Study and additional criteria at EC 9.8325(12). The six criteria include the 30-foot buffer, 20% slope grading limitation, one-acre accessible open space, and South Hills Study criteria for high elevation (over 900 feet) development limitation, 300-foot ridgeline setback, and 40% common open space and clustering. (See related Issues COS-03, COS-04, COS-05, COS-06 and COS-07)

Applies To: Planned Unit Development

Existing Code Section(s): EC 9.8325(3)

Existing Code Language:

- (3) *The PUD provides a buffer area between the proposed development and surrounding properties by providing at least a 30 foot wide landscape area along the perimeter of the PUD according to EC 9.6210(7).*

9.6210 Description of Landscape Standards.

(7) Massed Landscape Standard (L-7).

- (a) Required Materials. *Massed Landscape Standard (L-7) requires the installation and maintenance of all of the following:*
1. *Planting linear or non-linear vegetation listed in subparagraphs 2 through 5 of this subsection along the full length of the designated landscape area.*
 2. *2 canopy trees per 100 linear feet along arterial and collector streets;*
 3. *5 under-story trees per 100 linear feet along arterial and collector streets.*
 4. *60 shrubs per 100 linear feet along arterial and collector streets; and*
 5. *Living plant materials covering a minimum of 70 percent of required landscape area within 5 years of planting.*
- (b) Criteria for Adjustment. *This standard may be adjusted if consistent with the criteria of EC 9.8030(3)(h).*

Possible Action: Consider alternative strategies for improving compatibility (see separate key issue # COS-01 regarding compatibility) and when additional buffering is warranted. Provide additional detail defining “surrounding properties,” which has been interpreted to exclude public right-of-way, and consider other possible exemptions. Consider different sizes of buffer for different sizes of property.

The corresponding criterion in the discretionary track appears to be:

- EC 9.8320(3)** *The PUD will provide adequate screening from surrounding properties including, but not limited to, anticipated building locations, bulk, and height.*

Improvement: Effectiveness, Value Implementation

Source: Audit, Staff, Stakeholder(s)

ISSUE #: COS-03 (20 PERCENT SLOPE GRADING PROHIBITION)

Description: The clear and objective track for planned unit development and subdivision approval includes a requirement that prohibits grading on slopes that meet or exceed 20 percent. This may not be the most effective and efficient way to address potential impacts to steep slopes. It may have the effect of precluding development under the clear and objective track for sites with significant slopes, particularly for properties subject to the South Hills Study, or sites with unusual configurations where a portion of the site over 20 percent slope prevents the development potential of the remainder under the clear and objective track. There is no maximum slope where grading is prohibited under the discretionary track, and slope impacts are reviewed through a geological report. State standards presume that up to 25 percent slopes are developable for purposes of calculating buildable lands for development (OAR 660-008-0005(5)), and Eugene’s Buildable Lands Inventory (BLI) classifies lands up to 30 percent slopes as potentially developable.

➡ As noted previously, this issue is one of six related to the clear and objective criteria for planned unit development that contribute to limiting development feasibility of many sites. The cumulative effect of these six requirements is particularly limiting for those properties subject to the South Hills Study and additional criteria at EC 9.8325(12). The six criteria include the 30-foot buffer, 20% slope grading limitation, one-acre accessible open space, and South Hills Study criteria for high elevation (over 900 feet) development limitation, 300-foot ridgeline setback, and 40% common open space and clustering. (See related Issues COS-02, COS-04, COS-05, COS-06 and COS-07)

Applies To: Planned Unit Development, Subdivision

Existing Code Section(s): EC 9.8325(5), EC 9.8520(5)

Existing Code Language:

9.8325(5) *There shall be no proposed grading on portions of the development site that meet or exceed 20% slope.*

9.8520(5) *There shall be no proposed grading on portions of the development site that meet or exceed 20% slope.*

Possible Action: Review the 20 percent threshold to understand the scope of lands affected and rationale, and compared to maximum slopes presumed buildable in long-range plans. Consider exempting some defined grading activities, limited to small amounts of cut and fill, or as needed for specific site improvements such as utilities and access roads. Provide a definition of grading. Alternatively, consider another means to address development on slopes besides the current prohibition above 20 percent.

The corresponding criterion in the discretionary track appears to be:

9.8320(6) *The PUD will not be a significant risk to public health and safety, including but not limited to soil erosion, slope failure, stormwater or flood hazard, or an impediment to emergency response.*

Improvement: Effectiveness, Consistency

Source: Audit, Staff, Stakeholder(s)

ISSUE #: COS-04 (ONE ACRE ACCESSIBLE OPEN SPACE FOR PUDs)

Description: The clear and objective planned unit development criterion that requires open space to be located within ¼ mile of the site can limit development to sites near existing open spaces such as public parks, which may reduce those areas of the city that can be developed under the clear and objective track. Sites that have to provide open space internal to the development to satisfy this criterion may lose a significant amount of land due to the one-acre minimum requirement. This decreases housing development potential of the site and affects smaller sites disproportionately. This criterion might not be the most effective and efficient way to ensure access to recreation and open space for residents.

➡ As noted previously, this issue is one of six related to the clear and objective criteria for planned unit development that contribute to limiting development feasibility of many sites. The cumulative effect of these six requirements is particularly limiting for those properties subject to the South Hills Study and additional criteria at EC 9.8325(12). The six criteria include the 30-foot buffer, 20% slope grading limitation, one-acre accessible open space, and South Hills Study criteria for high elevation (over 900 feet) development limitation, 300-foot ridgeline setback, and 40% common open space and clustering. (See related Issues COS-02, COS-03, COS-05, COS-06 and COS-07)

Applies To: Planned Unit Development

Existing Code Section(s): 9.8325(9)

Existing Code Language:

(9) *All proposed dwellings within the PUD are within 1/4 mile radius (measured from any point along the perimeter of the development site) of an accessible recreation area or open space that is at least 1 acre in size and will be available to residents.*

Possible Action: Consider alternatives to address the intent of this criterion. Review existing accessible recreation areas and open spaces within a certain radius of lands on Eugene's buildable lands inventory. The discretionary track analogue is:

9.8320(8) *Residents of the PUD will have sufficient usable recreation area and open space that is convenient and safely accessible.*

Improvement: Effectiveness, Value Implementation

Source: Audit, Stakeholder(s)

ISSUE #: COS-05 (LIMITATION OVER 900 FEET FOR PUDs)

Description: The clear and objective planned unit development criterion that limits development on land above an elevation of 900 feet to one dwelling on lots in existence as of August 1, 2001 significantly limits development feasibility of sites.

➡ As noted previously, this issue is one of six related to the clear and objective criteria for planned unit development that contribute to limiting development feasibility of many sites. The cumulative effect of these six requirements is particularly limiting for those properties subject to the South Hills Study and additional criteria at EC 9.8325(12). The six criteria include the 30-foot buffer, 20% slope grading limitation, one-acre accessible open space, and South Hills Study criteria for high elevation (over 900 feet) development limitation, 300-foot ridgeline setback, and 40% common open space and clustering. (See related Issues COS-02, COS-03, COS-04, COS-06 and COS-07)

Applies To: Planned Unit Development

Existing Code Section(s): EC 9.8325(12)(a)

Existing Code Language:

- (12)** *For any PUD located within or partially within the boundaries of the South Hills Study, the following additional approval criteria apply:*
- (a) *No development shall occur on land above an elevation of 900 feet except that one dwelling may be built on any lot in existence as of August 1, 2001.*

Possible Action: Review the amount of land and lot patterns above 900 feet to determine how broadly this standard applies, and potential impacts on residential development feasibility. Consider how much development of these higher elevation sites is compatible with broader South Hills Study goals such as preservation of open space and views. Consider alternatives to implementing the pertinent specific recommendation from the South Hills Study:

That all vacant property above an elevation of 901' be preserved from an intensive level of development, subject to the following exceptions:

1. *Development of individual residences on existing lots: and*
2. *Development under planned unit development procedures when it can be demonstrated that a proposed development is consistent with the purposes of this section.*

The purposes of the section are as follows:

Ridgeline Park

Purpose

The south hills constitute a unique and irreplaceable community asset. The strong dominant landforms and wooded character present there combine to provide distinct areas of contrast in terms of texture and color from the normal pattern of urban development. By virtue of this contrast, the south hills function as a strong visual

boundary or edge for the city. The ridgeline of the south hills also marks the most southerly extension of the urban services areas. Further, there are areas within the south hills that are especially suitable for park sites for recreational use by present and anticipated population. In view of these factors, any areas recommended for preservation or park usage should serve one of the following purposes:

1. *To ensure preservation of those areas most visibly a part of the entire community;*
2. *To protect areas of high biological value in order to provide for the continued health of native wildlife and vegetation;*
3. *To ensure provision of recreational areas in close proximity to major concentrations of population;*
4. *To provide connective trails between major recreational areas;*
5. *To provide connective passageways for wildlife between important biological preserves;*
6. *To contribute to Eugene’s evergreen forest edge; and*
7. *To provide an open space area as a buffer between the intensive level of urban development occurring within the urban service area and the rural level of development occurring outside the urban service area.*

Improvement: Effectiveness, Value Implementation

Source: Audit, Stakeholder(s)

ISSUE #: COS-06 (RIDGELINE SETBACK FOR PUDs)

Description: The clear and objective planned unit development track includes a requirement for a 300-foot setback from the ridgeline for properties within the South Hills Study. This can impact residential development feasibility of subject sites by reducing site area that may be developed. This is especially impactful on smaller sites.

➡ As noted previously, this issue is one of six related to the clear and objective criteria for planned unit development that contribute to limiting development feasibility of many sites. The cumulative effect of these six requirements is particularly limiting for those properties subject to the South Hills Study and additional criteria at EC 9.8325(12). The six criteria include the 30-foot buffer, 20% slope grading limitation, one-acre accessible open space, and South Hills Study criteria for high elevation (over 900 feet) development limitation, 300-foot ridgeline setback, and 40% common open space and clustering. (See related Issues COS-02, COS-03, COS-04, COS-05, and COS-07)

Applies To: Planned Unit Development

Existing Code Section(s): 9.8325(12)(b)

Existing Code Language:

- (12)** *For any PUD located within or partially within the boundaries of the South Hills Study, the following additional approval criteria apply:*

- (b) *Development shall be setback at least 300 feet from the ridgeline unless there is a determination by the city manager that the area is not needed as a connection to the city's ridgeline trail system. For purposes of this section, the ridgeline trail shall be considered as the line indicated as being the urban growth boundary within the South Hills Study plan area.*

Possible Action: Consider whether this criterion effectively addresses the underlying goals of the South Hills Study, such as preservation of views and open space along the ridgeline, or could be modified to balance residential development feasibility and South Hills Study goals. Although it is not entirely clear which specific recommendation(s) of the South Hills study this criterion is intended to implement, the following is relevant:

That all development shall be reviewed for potential linkages with or to the ridgeline park system.

Improvement: Effectiveness, Value Implementation

Source: Audit, Stakeholder(s)

ISSUE #: COS-07 (40 PERCENT OPEN SPACE REQUIREMENT FOR PUDS)

Description: The clear and objective planned unit development track includes a criterion that requires a minimum 40 percent of the development site be retained as open space for properties within the South Hills Study. This can impact residential development feasibility by limiting area available for development.

➡ As noted previously, this issue is one of six related to the clear and objective criteria for planned unit development that contribute to limiting development feasibility of many sites. The cumulative effect of these six requirements is particularly limiting for those properties subject to the South Hills Study and additional criteria at EC 9.8325(12). The six criteria include the 30-foot buffer, 20% slope grading limitation, one-acre accessible open space, and South Hills Study criteria for high elevation (over 900 feet) development limitation, 300-foot ridgeline setback, and 40% common open space and clustering. (See related Issues COS-02, COS-03, COS-04, COS-05, and COS-06)

Applies To: Planned Unit Development

Existing Code Section(s): EC 9.8325(12)(c)

Existing Code Language:

(12) *For any PUD located within or partially within the boundaries of the South Hills Study, the following additional approval criteria apply:*

- (c) *Development shall cluster buildings in an arrangement that results in at least 40% of the development site being retained in 3 or fewer contiguous common open space areas. For purposes of this section, the term contiguous open space means open space that is uninterrupted by buildings, structures, streets, or other improvements.*

Possible Action: Consider how to balance clustering of residences with open space dedication to more effectively meet South Hills Study goals of clustering development in areas characterized by the shallowest slopes, lowest elevations, least vegetation, and least visual impact and encouraging open space in areas of the steepest slopes, highest elevations, most vegetation, and most significant visual impact. Also consider relationship to EC 9.8325(9) (see Issue # COS-04), and potential opportunity to combine open space requirements to achieve similar objectives. The pertinent specific recommendations from the South Hills Study appear to be:

That planned unit development procedures shall be utilized for the following purposes:

1. *To encourage clustering of development in areas characterized by:*
 - a. *Shallowest slopes*
 - b. *Lowest elevations*
 - c. *Least amount of vegetation*
 - d. *Least amount of visual impact.*
2. *To encourage preservation as open space those areas characterized by:*
 - a. *Intermediate and steep slopes*
 - b. *Higher elevations*
 - c. *Significant amounts of vegetation;*
 - d. *Significant visual impact.*

That developments be reviewed to encourage clustering of open space elements of different developments in order to preserve the maximum amount of continuous open space.

Improvement: Effectiveness, Value Implementation

Source: Audit, Stakeholder(s)

ISSUE #: COS-08 (EMERGENCY RESPONSE)

Description: The clear and objective tracks for conditional use, planned unit development, and site review applications do not include a criterion for protecting emergency response.

Applies To: Conditional Use, Planned Unit Development, Site Review

Existing Code Section(s): N/A

Existing Code Language: N/A

Possible Action: Consider adding a clear and objective criterion to address that the proposal does not create a significant risk or impediment to emergency response. See similar criteria under the discretionary tracks for conditional use (EC 9.8090(7)), planned unit development (EC 9.8320(6)) and site review (EC 9.8440(4)) (see below). Add specificity as to what “significant risk” and “impediments” includes.

EC 9.8090(7) *The proposal does not create any significant risk to public health and safety, including but not limited to soil erosion and flood hazard, or an impediment to emergency response.*

EC 9.8320(6) *The PUD will not be a significant risk to public health and safety, including but not limited to soil erosion, slope failure, stormwater or flood hazard, or an impediment to emergency response.*

EC 9.8440(4) *The proposal will not be a significant risk to public health and safety, including but not limited to soil erosion, slope failure, stormwater or flood hazard, or an impediment to emergency response.*

Improvement: Effectiveness, Consistency, Value Implementation

Source: Audit

ISSUE #: COS-09 (CONDITIONAL USE REQUIREMENT)

Description: The clear and objective conditional use approval criteria largely cross-reference other standards already applicable to development—in other words, standards that would already be applied at time of building permit. There are only limited provisions for traditional consideration of the compatibility of the proposed conditional use and surrounding properties. Conditional use permits for housing are rare as they are only required for limited types of housing (assisted care, boarding and rooming houses, campus living organizations, and single room occupancy (SRO)).

Applies To: Conditional Use

Existing Code Section(s): 9.8100

Existing Code Language:

- 9.8100** **Conditional Use Permit Approval Criteria- Needed Housing.** *The hearings official shall approve, conditionally approve, or deny the conditional use permit application. Unless the applicant elects to use the general criteria contained in EC 9.8090 Conditional Use Permit Approval Criteria - General, where the applicant proposes needed housing, as defined by the State statutes, the hearings official shall approve or approve with conditions a conditional use based on compliance with the following criteria:*
- (1)** *The applicant has demonstrated that the proposed housing is needed housing as defined by State statutes.*
 - (2)** *If applicable, the proposal complies with the standards contained in EC 9.5500 Multiple-Family Standards.*
 - (3)** *For areas not included on the city’s acknowledged Goal 5 inventory, the proposal will preserve existing natural resources by compliance with all of the following:*
 - (a)** *The proposal complies with EC 9.6880 to EC 9.6885 Tree Preservation and Removal Standards.*
 - (b)** *Natural resource areas designated on the comprehensive plan diagram as “Natural Resource” are protected. Protection shall include the area of the resource and a minimum 50 foot buffer around the perimeter of the natural resource area.*

- (4)** *The proposal complies with all applicable standards, including, but not limited to:*
 - (a) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas - Standards.*
 - (b) EC 9.6710(6) Geological and Geotechnical Analysis.*
 - (c) EC 9.6730 Pedestrian Circulation On-Site.*
 - (d) EC 9.6735 Public Access Required.*
 - (e) EC 9.6750 Special Setback Standards.*
 - (f) EC 9.6775 Underground Utilities.*
 - (g) EC 9.6780 Vision Clearance Area.*
 - (h) EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.*
 - (i) An approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.*
- (5)** *Public improvements as required by this land use code or as a condition of tentative plan approval have been completed, or:*
 - (a) A performance bond or suitable substitute as agreed upon by the city has been filed with the city finance officer in an amount sufficient to assure the completion of all required public improvements; or*
 - (b) A petition for public improvements and for the assessment of the real property for the improvements has been signed by the property owner seeking the conditional use permit, and the petition has been accepted by the city engineer.*

Possible Action: Consider changing housing types away from conditional uses (could be permitted outright or subject to site review), or developing clear and objective criteria to address compatibility concerns with assisted care, boarding and rooming houses, campus living organizations, and single room occupancy (SRO) (See related Issues # COM-02 and COS-01)

Improvement: Effectiveness, Value Implementation

Source: Audit

ISSUE #: COS-10 (PARTITION TREE PRESERVATION)

Description: For partitions, there is an inconsistency between the two review tracks regarding tree preservation. The clear and objective track requires compliance with EC 9.6880 through EC 9.6885 Tree Preservation and Removal Standards, whereas the discretionary track does not. The discretionary track is more commonly used, likely due to this difference. The partition is a tool for infill development that has a longstanding practice and intent of allowing minor land use processing to encourage development. Tree preservation and removal standards at EC 9.6880 through EC 9.6885 already apply to development of housing, based on the size of the parcel.

Applies To: Partitions

Existing Code Section(s): 9.8220(2)(k)

Existing Code Language:

9.8220(2) *The proposed partition complies with all of the following:*

...

(k) *EC 9.6880 through EC 9.6885 Tree Preservation and Removal Standards.*

Possible Action: Consider removing compliance with tree preservation standards (EC 9.6880 through EC 9.6885) from the clear and objective track to bring consistency between the paths.

Improvement: Consistency, Value Implementation

Source: Audit, Staff

ISSUE #: COS-11 (TREE PRESERVATION CONSIDERATION)

Description: Under the clear and objective track for all application types, the written report required from a certified arborist or licensed landscape architect must only show that "consideration" has been given to preservation of significant trees (defined term).

Applies To: Conditional Use, Partition, Planned Unit Development, Site Review, Subdivision

Existing Code Section(s): EC 9.6885(2)(a)

Existing Code Language:

(2) *Tree Preservation and Removal Standards.* *No permit for a development activity subject to this section shall be approved until the applicant submits plans or information, including a written report by a certified arborist or licensed landscape architect, that demonstrates compliance with the following standards:*

(a) *The materials submitted shall reflect that consideration has been given to preservation in accordance with the following priority:*

1. *Significant trees located adjacent to or within waterways or wetlands designated by the city for protection, and areas having slopes greater than 25%;*
2. *Significant trees within a stand of trees; and*
3. *Individual significant trees.*

Possible Action: Consider additional standards to bolster requirement to show "consideration" more effectively, such as by including specific measurable preservation requirements particularly for the types of significant trees identified in the standard. Standards for those priority tree categories could be developed to better support tree protection or other equivalent measures to support tree canopy development.

Improvement: Effectiveness, Value Implementation

Source: Audit, Staff, Stakeholder(s)

ISSUE #: COS-12 (SITE REVIEW REQUIREMENT)

Description: The clear and objective criteria for site review are limited in scope compared to the discretionary track, largely relying on compliance with other code standards. Many multiple-family residential projects are allowed outright and reviewed for compliance with code standards such as Multiple Family Standards (See EC 9.5500) at the time of building permit review. Site review has limited applicability for residential projects and is usually triggered by site-specific /SR overlay zoning rather than a blanket requirement for certain types of housing. As noted elsewhere in this report, the site-specific criteria that were historically addressed as part of site review were codified as development standards during the 2001 Land Use Code Update.

Applies To: Site Review

Existing Code Section(s): N/A

Existing Code Language: N/A

Possible Action: Consider whether site review should be required for housing choosing the clear and objective track or whether compliance with applicable standards is sufficient. If extra review is warranted, consider what additional clear and objective criteria could be applied through site review to provide a more thorough review designed to “maintain or improve the character, integrity and harmonious development of an area,” beyond straight compliance with code standards. (Site review purpose statement, EC 9.8425) See related issue pertaining to compatibility at Issue # COS-01.

Improvement: Efficiency, Effectiveness, Consistency

Source: Audit, Staff, Stakeholder(s)

ISSUE #: COS-13 (GEOTECHNICAL REQUIREMENT)

Description: The standards for geological and geotechnical review for projects developed under clear and objective criteria are “one-size-fits all,” requiring certification from a licensed engineer that the development activity either will not be impacted by geological instability problems, or that design methods may be used to safely address any such impacts. The review standards for discretionary projects include three levels of review with increasing complexity depending on potential for impacts.

Applies To: Conditional Use, Partition, Planned Unit Development, Site Review, Subdivision

Existing Code Section(s): 9.6710(6)

Existing Code Language:

- 9.6710 *Geological and Geotechnical Analysis.***
(6) *Needed Housing.* *Unless exempt under 9.6710(3)(a)-(f), in lieu of compliance with subsections (2), (4), and (5) of this section, applications proposing needed housing shall include a certification from an Oregon licensed*

Engineering Geologist or an Oregon licensed Civil Engineer with geological experience stating:

- (a) That the proposed development activity will not be impacted by existing or potential stability problems or any of the following site conditions: springs or seeps, depth of soil bedrock, variations in soil types, or a combination of these conditions; or*
- (b) If proposed development activity will be impacted by any of the conditions listed in (a), the methods for safely addressing the impact of the conditions.*

If a statement is submitted under (6)(b), the application shall include the applicant's statement that it will develop in accordance with the Engineer's statement.

Possible Action: Consider the level of detail needed for geotechnical review with each of the five review types, whether multiple levels of review could be developed as review options for clear and objective projects and applied based on the level of detail needed at the time of land use review compared with that needed with building permit review when final structures are fully designed.

Improvement: Effectiveness

Source: Audit, Staff, Stakeholder(s)

ISSUE #: COS-14 (19 LOT RULE—MOTOR VEHICLE DISPERSAL)

Description: The clear and object track criterion for partitions, planned unit developments and subdivision that requires the dispersal of motor vehicles onto more than one street when more than 19 lots or parcels take access from a local street was found to be discretionary by the Land Use Board of Appeals (LUBA). As such, the City can no longer apply this criterion to applications under the clear and objective track.

Applies To: Partition, Planned Unit Development, Subdivision

Existing Code Section(s): EC 9.8220(5)(c), EC 9.8325(6)(c), EC 9.8520(6)(b)

Existing Code Language:

- 9.8220(5)(c)** *The street layout of the proposed partition shall disperse motor vehicle traffic onto more than one public local street when the sum of proposed partition parcels and the existing lots utilizing a local street as the single means of ingress and egress exceeds 19.*
- 9.8325(6)(c)** *The street layout of the proposed PUD shall disperse motor vehicle traffic onto more than one public local street when the PUD exceeds 19 lots or when the sum of proposed PUD lots and the existing lots utilizing a local street as the single means of ingress and egress exceeds 19.*
- 9.8520(6)(b)** *The street layout of the proposed subdivision shall disperse motor vehicle traffic onto more than one public local street when the subdivision exceeds 19 lots or*

when the sum of proposed subdivision lots and the existing lots utilizing a local street as the single means of ingress and egress exceeds 19.

Possible Action: Consider whether street connectivity standards in EC 9.6815 accomplish the same access and connectivity goals as this criterion. Remove or revise the criterion accordingly.

Improvement: Statutory Compliance, Effectiveness, Efficiency

Source: Audit, Staff, Stakeholder(s)

ISSUE #: COS-15 (TRAFFIC IMPACT)

Description: Compliance with Traffic Impact Analysis (TIA) review is explicitly required as an approval criterion under the discretionary tracks for conditional use, planned unit development and subdivision, but not for projects under the clear and objective tracks. Separate TIA review can also be triggered by projects meeting the TIA applicability standards, including generating over 100 peak hour vehicle trips. Due to the discretionary nature of the TIA criteria, they are not suitable for projects using the clear and objective track.

Applies To: Conditional Use, Planned Unit Development, Site Review, Subdivision

Existing Code Section(s): N/A

Existing Code Language: N/A

Possible Action: Consider developing additional clear and objective approval criteria for conditional use, planned unit development, site review and subdivision applications to ensure review of potential transportation impacts.

Improvement: Effectiveness, Value Implementation

Source: Audit, Staff, Stakeholder(s)

ISSUE #: COS-16 (PUD TYPE III PROCESS)

Description: For housing applications that trigger a planned unit development, a Type III quasi-judicial application process (Hearings Official decision, appealable to Planning Commission) may not be necessary or warranted since the approval is based on clear and objective criteria.

Applies To: Planned Unit Development

Existing Code Section(s): EC 9.7305, EC 9.7045(1) and (2)

Existing Code Language:

9.7305 *Type III Application Requirements and Criteria Reference.* *The following applications are typically reviewed under the Type III review process according to the requirements and criteria set forth for each application as reflected in the beginning reference column in Table 9.7305. To accommodate a request for concurrent review, the city may instead review multiple applications according to the highest applicable type.*

Table 9.7305 Type III Application Requirements and Criteria	
Type III Applications	Beginning Reference
Adjustment Review (when part of a Type III Application)	EC 9.8015
Conditional Use Permits (CUP)	EC 9.8075
Historic Landmark Designation	EC 9.8150
Planned Unit Development, Tentative Plan	EC 9.8300
Willamette Greenway Permit	EC 9.8800
Zone Changes*	EC 9.8850

9.7045 ***Description of Quasi-judicial Decisions Type II, Type III, Type IV.*** *Quasi-judicial decisions follow either a Type II, Type III or a Type IV process. A quasi-judicial decision concerns a specific site or area, and involves the exercise of discretion in making a decision.*

- (1)** *A Type II process is based on a review of criteria that requires a limited amount of discretion. The Type II process includes public notice of the application and an opportunity for citizens to provide comments prior to the decision. The process does not include a public hearing unless the decision is appealed. Notice of the decision is provided to allow the applicant or an adversely affected person to appeal the decision to a higher local review authority.*
- (2)** *A Type III process is a decision-making process in which a hearings official or the historic review board makes the initial decision. The Type III process includes public notice and a public hearing, as well as the opportunity for a local appeal to be filed by the applicant, an individual who testified orally or in writing during the initial public hearing, or affected neighborhood group.*

Possible Action: Consider whether the planned unit development process should be required or whether an alternative Type II review track (Planning Director approval, appealable to Hearings Official) is appropriate for housing applications choosing the clear and objective option.

Improvement: Efficiency

Source: Stakeholder(s)

ISSUE #: COS-17 (DOES NOT HAMPER PROVISION OF PUBLIC OPEN SPACE)

Description: The clear and objective track for subdivisions does not have an equivalent requirement to "not hamper" provision of public open space as found in the discretionary track.

Applies To: Subdivision

Existing Code Section(s): N/A

Existing Code Language: N/A

Possible Action: Consider a clear and objective alternative to address this concern. The discretionary criterion is:

9.8515(5) *The proposed subdivision will:*

- (c) *Not hamper the adequate provision of publicly owned open space for recreation needs.*

Improvement: Consistency

Source: Audit

ISSUE #: COS-18 (ARBORIST AND LANDSCAPE ARCHITECT REQUIREMENT)

Description: The requirement for both an arborist and landscape architect on the required professional design team for a planned unit development is duplicative, considering that tree preservation can be reviewed by either an arborist or landscape architect, as specified in the tree preservation written report requirements in EC 9.6885(2).

Applies To: Planned Unit Development

Existing Code Section(s): EC 9.8310(2)(b)

Existing Code Language:

- (2) *Project Coordinator and Professional Design Team.*** *The tentative PUD application shall identify the PUD project coordinator and the professional design team and certify compliance with the following:*
- (a) *Project Coordinator.* *The project coordinator shall:*
 - 1. *Be the liaison between the applicant and the city.*
 - 2. *Ensure that the required plans are prepared and executed according to any required conditions.*
 - 3. *Either be a member of the American Institute of Certified Planners or licensed in the state of Oregon to practice architecture, civil engineering, or landscape architecture.*

The project coordinator, or at least one design team member, shall attend all public meetings at which the proposal is discussed.
 - (b) *Professional Design Team Designation.* *Unless waived by the planning director, the professional design team shall consist of at least the following professionals:*
 - 1. *Oregon licensed arborist.*
 - 2. *Oregon licensed architect.*
 - 3. *Oregon licensed civil engineer.*
 - 4. *Oregon licensed landscape architect.*
 - 5. *Oregon licensed land surveyor.*

Possible Action: Consider revising to allow for one or the other, a landscape architect or arborist, on the professional design team.

Improvement: Efficiency

Source: Stakeholder(s)

ISSUE #: COS-19 (STREET STANDARDS MODIFICATIONS)

Description: Currently, projects can vary stated maximums for block length, street connectivity, and cul-de-sac/emergency vehicle turnarounds where physical conditions, such as topography or natural resources, or existing physical development precludes compliance with the standard.

Applies To: Partition, Planned Unit Development, Subdivision

Existing Code Section(s): EC 9.6810, EC 9.6815(2)(g), EC 9.6820

Existing Code Language:

9.6810 Block Length. *Block length for local streets shall not exceed 600 feet, unless an exception is granted based on one or more of the following:*

- (1) Physical conditions preclude a block length 600 feet or less. Such conditions may include, but are not limited to, topography or the existence of natural resource areas such as wetlands, ponds, streams, channels, rivers, lakes or upland wildlife habitat area, or a resource on the National Wetland Inventory or under protection by state or federal law.*
- (2) Buildings or other existing development on adjacent lands, including previously subdivided but vacant lots or parcels, physically preclude a block length 600 feet or less, considering the potential for redevelopment.*
- (3) An existing public street or streets terminating at the boundary of the development site have a block length exceeding 600 feet, or are situated such that the extension of the street(s) into the development site would create a block length exceeding 600 feet. In such cases, the block length shall be as close to 600 feet as practicable.*
- (4) As part of a Type II or Type III process, the developer demonstrates that a strict application of the 600-foot requirement would result in a street network that is no more beneficial to vehicular, pedestrian or bicycle traffic than the proposed street network and that the proposed street network will accommodate necessary emergency access.*

9.6815(2) Street Connectivity Standards.

- (g) In the context of a Type II or Type III land use decision, the city shall grant an exception to the standards in subsections (2)(b), (c) or (d) if the applicant demonstrates that any proposed exceptions are consistent with either subsection 1. or 2. below:*
 - 1. The applicant has provided to the city, at his or her expense, a local street connection study that demonstrates:*
 - a. That the proposed street system meets the intent of street connectivity provisions of this land use code as expressed in EC 9.6815(1); and*
 - b. How undeveloped or partially developed properties within a quarter mile can be adequately served by alternative street layouts.*
 - 2. The applicant demonstrates that a connection cannot be made because of the existence of one or more of the following conditions:*

- a. *Physical conditions preclude development of the connecting street. Such conditions may include, but are not limited to, topography or likely impact to natural resource areas such as wetlands, ponds, streams, channels, rivers, lakes or upland wildlife habitat area, or a resource on the National Wetland Inventory or under protection by state or federal law.*
- b. *Buildings or other existing development on adjacent lands, including previously subdivided but vacant lots or parcels, physically preclude a connection now or in the future, considering the potential for redevelopment.*

9.6820(5) *As part of a Type II or Type III process, an exception may be granted to the requirements of (1), (3) and (4) of this section because of the existence of one or more of the following conditions:*

- (a) *Physical conditions preclude development of the connecting street. Such conditions may include, but are not limited to, topography or likely impact to natural resource areas such as wetlands, ponds, streams, channels, rivers, lakes or upland wildlife habitat areas, or a resource on the National Wetland Inventory or under protection by state or federal law.*
- (b) *Buildings or other existing development on the subject property or adjacent lands, including previously subdivided but vacant lots or parcels, physically preclude a connection now or in the future, considering the potential for redevelopment.*

Possible Action: Consider options to allow modification to the numerical standards in these sections specifically for clear and objective applications. Consider additional standards to bolster “preclude” language, and/or consider requiring modifications to these standards to be reviewed through adjustment review beginning at 9.8015. (See related issues COM-02 and COM-13 regarding applying the street standards to conditional use permits and site reviews)

Improvement: Effectiveness

Source: Stakeholder(s)

Key Issues: Out of Scope

Items identified as “out of scope” are key issues that address topics identified by community members and may warrant being considered by the City but cannot be addressed within the scope of the Clear & Objective Update because they:

- have broader applicability beyond the clear and objective land use application approval criteria or procedures
- are too large in scale to address given the timeline for this update
- are being addressed through a separate project that is underway
- do not address the clear and objective land use application approval criteria or procedures

For ease of reference, Clear & Objective Out-of-Scope items are identified with a “COO” preceding the issues number.

ISSUE #: COO-01 (MULTI-FAMILY STANDARDS REVIEW)

Description: The multi-family development standards (which apply to development of three or more housing units on one site) need to be clearer with regard to the standards for cul-de-sac parking courts, dead ends; requirement for building presence along the street frontage; front door/entrance oriented to the street; and building articulation.

Applies To: All land use applications and building permits proposing multi-family housing

Existing Code Section(s): EC 9.5500

Possible Action: Review multi-family development standards

Source: Stakeholder(s)

Scope Conflict: The current project scope is limited to evaluating clear and objective land use application approval criteria or procedures for housing. Evaluating the multi-family developments standards would be a significant undertaking and such an effort would require review and public involvement beyond the scope and timeline of the Clear & Objective Update.

ISSUE #: COO-02 (STORMWATER TREATMENT OPTIONS)

Description: There are not enough treatment options for construction of private streets to meet the stormwater quality standards.

Applies To: General Standard

Existing Code Section(s): EC 9.6792(3)(c)

- (c) *For land use applications proposing construction of a private street or shared driveway, stormwater quality facilities to treat the runoff from the proposed private street or shared driveway shall be selected from the Stormwater*

Management Manual and shall be based on the following priority order: infiltration, filtration.

- 1. An infiltration or filtration treatment facility to treat the stormwater runoff from the shared driveway or private street can be sized to treat the stormwater runoff from the proposed one and two family dwelling lots or parcels that adjoin the shared driveway or private street based on full buildout of those lots or parcels.*
- 2. If the infiltration or filtration facility is not sized to treat the stormwater runoff from the adjoining lots or parcels at full build out, all lots or parcels created by the land division application must comply with EC 9.6792(3)(d)-(g) at the time of development permit application.*

Possible Action: Revise EC 9.6792(3)(c) to allow mechanical treatment as an option for private streets, similar to that allowed for construction of public streets.

Source: Stakeholder(s)

Scope Conflict: The stormwater standards have broad applicability beyond housing and the clear and objective land use application approval criteria or procedures for housing, and should be addressed as a separate project that focuses specifically on stormwater.

ISSUE #: COO-03 (STREET WIDTH STANDARDS)

Description: New streets are too narrow.

Applies To: General Development Standard

Existing Code Section(s): EC 9.6870

Possible Action: Change street width requirements.

Source: Stakeholder(s)

Scope Conflict: The City's *Design Standards and Guidelines for Eugene Streets, Sidewalks, Bikeways and Accessways* have broad applicability beyond the clear and objective land use application approval criteria or procedures for housing. Public Works Engineering has initiated a separate project to review these standards, and will be proposing new street standards, which will be available for public review and comment.

ISSUE #: COO-04 (DISCRETIONARY TRACK CHANGES)

Description: Criteria around "significant risk" and "minimal off-site impacts" in the discretionary track for planned unit developments are not adequately defined to effectively minimize impacts to pedestrians, bicyclists and other non-motorized road users.

Applies To: Planned Unit Development

Existing Code Section(s): EC 9.8320(7), EC 9.8320(11)

- (7) *Adequate public facilities and services are available to the site, or if public services and facilities are not presently available, the applicant demonstrates that the services and facilities will be available prior to need. Demonstration of future availability requires evidence of at least one of the following:*
- (a) *Prior written commitment of public funds by the appropriate public agencies.*
 - (b) *Prior acceptance by the appropriate public agency of a written commitment by the applicant or other party to provide private services and facilities.*
 - (c) *A written commitment by the applicant or other party to provide for offsetting all added public costs or early commitment of public funds made necessary by development, submitted on a form acceptable to the city manager.*
- (11) *The proposed development shall have minimal off-site impacts, including such impacts as traffic, noise, stormwater runoff and environmental quality.*

Possible Action: Revise discretionary track criteria.

Source: Stakeholder(s)

Scope Conflict: This issue only addresses approval criteria from the discretionary track; does not address the clear and objective land use application approval criteria or procedures for housing.

ISSUE #: COO-05 (PUBLIC NOTICE REQUIREMENTS)

Description: Public notices can be hard to understand and are not sent to enough surrounding neighbors.

Applies To: Application Procedure

Possible Action: Increase the notification radius and make the language on the notice more understandable.

Source: Stakeholder(s)

Scope Conflict: Public notices are mailed for a wide range of land use applications. As such, this issue has broad applicability beyond clear and objective land use application approval criteria or procedures for housing.

ISSUE #: COO-06 (RIVER ROAD AREA DEVELOPMENT IMPACTS)

Description: Need to address development and infrastructure impacts in the River Road area.

Applies To: Conditional Use, Partition, Planned Unit Development, Site Review, Subdivision

Existing Code Section(s): N/A

Possible Action: Add criteria to address urban/rural interface areas.

Source: Stakeholder(s)

Scope Conflict: This is an area-specific request best addressed under the current River Road -

Santa Clara Neighborhood planning efforts currently underway. See <https://www.eugene-or.gov/3558/River-Road---Santa-Clara-Neighborhood-Pl>

ISSUE #: COO-07 (RESIDENTIAL REQUIREMENT FOR NEW COMMERCIAL)

Description: There is a missed opportunity to require upper-story residential use on top of new commercial.

Applies To: New commercial development

Existing Code Section(s): N/A

Possible Action: Add requirement for commercial/retail developments to include a residential component.

Source: Stakeholder(s)

Scope Conflict: This Issue is broader than clear and objective land use application approval criteria or procedures for housing.

ISSUE #: COO-08 (NATURAL FEATURE MAP ERRORS)

Description: Natural features are sometimes mapped incorrectly.

Applies To: All development sites with mapped natural features

Existing Code Section(s): N/A

Possible Action: Create an easy, efficient path to fix map errors so that a site can be evaluated for what actually exists.

Source: Stakeholder(s)

Scope Conflict: This issue has applicability beyond the clear and objective land use application approval criteria or procedures for housing.

ISSUE #: COO-09 (SURVEYING REQUIREMENT REFERENCE)

Description: There is a discretionary track criterion for planned unit development that is a statement of fact regarding future compliance with state or local survey requirements. The criterion does not have an equivalent in the clear and objective track. This "criterion" may not be necessary as it is more of an informative statement.

Applies To: Planned Unit Development

Existing Code Section(s): EC 9.8320(13)

Existing Code Language:

(13) *If the tentative PUD application proposes a land division, nothing in the approval of*

the tentative application exempts future land divisions from compliance with state or local surveying requirements.

Possible Action: Consider removing the criterion and adding an informational item to the decision.

Source: Audit

Scope Conflict: This issue addresses approval criterion from the discretionary track; does not address clear and objective land use application approval criteria or procedures for housing.

ISSUE #: COO-10 (NEIGHBORHOOD/APPLICANT MEETING REQUIREMENT)

Description: Neighborhood/applicant meetings give neighbors the false impression that they are a design charrette.

Applies To: See list at EC 9.7007(1) below.

Existing Code Section(s): EC 9.7007

Existing Code Language:

9.7007 **Neighborhood/Applicant Meetings.**

- (1)** *This section applies to the following types of applications:*
 - (a) Type II: 3-lot partitions, tentative subdivisions, tentative cluster subdivisions and design reviews;*
 - (b) Type III: Only conditional use permits and tentative planned unit developments;*
 - (c) Type IV applications that are not city-initiated;*
 - (d) Metro Plan amendments that are not city-initiated.*
 - (e) Within the /CL Clear Lake Overlay zone: development permits for a new building, change of use, building expansion that exceeds 25 percent of the existing building square footage on the development site, and land use applications (except Type I applications).*
- (2)** *Prior to the submittal of an application listed in subsection (1) above, the applicant shall host a meeting for the surrounding property owners. The purpose of this meeting is to provide a means for the applicant and surrounding property owners and residents to meet to review the proposal, share information and identify issues regarding the proposal. The applicant may consider whether to incorporate solutions to these issues prior to application submittal.*
- (3)** *The neighborhood/applicant meeting shall be held on a weekday evening, starting no earlier than 5:00 p.m. and starting no later than 7:00 p.m., or on a weekend no earlier than 10:00 a.m. and no later than 6:00 p.m., at a location within the city that is in, or is as close as practicable to, the boundaries of the city-recognized neighborhood association in which the proposal is located, if any.*
- (4)** *If the subject property is located within the boundaries of a city-recognized neighborhood association, the applicant must contact the applicable*

neighborhood association by registered or certified mail, proposing three possible dates and times for the meeting. The neighborhood association should reply to the applicant within 14 days and specify on which of the proposed three suggested dates the meeting should be held. If the neighborhood association does not reply to the applicant's letter within 14 days, the applicant may schedule the neighborhood meeting on any one of the three proposed dates without further delay.

- (5)** *The applicant shall mail notice of the meeting:*
 - (a) At least 14 days and no more than 28 days prior to the meeting;*
 - (b) To:*
 - 1. Owners and occupants of properties:*
 - a. within 300 feet of the subject property for Type II and IV applications (except as provided below in subsection (5)(b)1.b.); or*
 - b. within 500 feet of the subject property for Type III applications, Metro Plan amendments, and development permits and land use applications listed in subsection (1)(e), above;*
 - 2. Any city-recognized neighborhood associations whose boundaries are within 300 feet of the subject property;*
 - 3. The city planning director;*
 - 4. The city engineer; and*
 - 5. For applications within the /CL Clear Lake Overlay Zone, the Lane Regional Air Protection Agency, Lane County Public Health Department, and the City's Toxics Right-to-Know program; and*
 - (c) That states the date, time and location of the meeting and briefly discusses the nature and location of the proposal.*
- (6)** *Failure of a property owner or occupant to receive notice shall not invalidate the neighborhood/applicant meeting procedure.*
- (7)** *The applicant shall post notice of the meeting by posting a waterproof sign on the subject property at least 14 days before the meeting. The notice, containing the information described in (5)(c) above, shall be supplied by the applicant.*
- (8)** *The applicant shall provide the proposed site plan at the meeting for review.*
- (9)** *The applicant shall prepare and keep meeting notes identifying the major points that were discussed and expressed, and a sign-in sheet identifying the persons attending.*
- (10)** *The applicant is required to hold one meeting prior to submitting an application for a specific site, but may hold additional meetings if desired.*
- (11)** *If an applicant fails to include in its application the materials described in EC 9.7010, the application shall be deemed incomplete.*
- (12)** *Applications shall be submitted to the city within 180 days of the neighborhood/applicant meeting. If an application is not submitted in this time frame, or if the site plan submitted with the application does not substantially conform to the site plan provided at the meeting, the applicant shall be required to hold a new neighborhood/applicant meeting.*

Possible Action: Consider eliminating the requirement for neighborhood meetings or revising to be more meaningful.

Source: Stakeholder(s)

Scope Conflict: The neighborhood/applicant meeting procedures apply to application types beyond housing and the clear and objective approval criterion. In addition, this issue is too large in scale to address within the timeline of the Clear & Objective Update.

ISSUE #: COO-11 (ON-STREET PARKING IMPACTS)

Description: Need to evaluate impacts to on-street parking from new housing developments.

Applies To: All housing developments

Existing Code Section(s): N/A

Existing Code Language: N/A

Possible Action: Consider adding standards to address on-street parking.

Source: Stakeholder(s)

Scope Conflict: On-street parking impacts is an issue that is broader than the clear and objective housing approval criterion.

ISSUE #: COO-12 (WILLAMETTE GREENWAY CRITERIA)

Description: There is not a clear and objective review track for Willamette Greenway permits. Recent challenges to whether the City can subject housing applications to the discretionary approval criteria of the Willamette Greenway permit are currently unresolved.

Applies To: Development within the adopted Willamette River Greenway Boundary

Existing Code Section(s): EC 9.8815

Existing Code Language:

9.8815 *Willamette Greenway Permit Approval Criteria and Standards.* *Willamette Greenway permit approval may be granted only if the proposal conforms to all the criteria in subsections (1) through (4), and the applicable standards of subsection (5) as follows:*

- (1)** *To the greatest possible degree, the intensification, change of use, or development will provide the maximum possible landscaped area, open space, or vegetation between the activity and the river.*
- (2)** *To the greatest possible degree, necessary and adequate public access will be provided along the Willamette River by appropriate legal means.*
- (3)** *The intensification, change of use, or development will conform with applicable Willamette Greenway policies as set forth in the Metro Plan.*
- (4)** *In areas subject to the Willakenzie Area Plan, the intensification, change of use, or development will conform with that plan's use management considerations.*

- (5)** *In areas not covered by subsection (4) of this section, the intensification, change of use, or development shall conform with the following applicable standards:*
- (a) Establishment of adequate setback lines to keep structures separated from the Willamette River to protect, maintain, preserve, and enhance the natural, scenic, historic, and recreational qualities of the Willamette Greenway. Setback lines need not apply to water related or water dependent activities as defined in the Oregon Statewide Planning Goals and Guidelines (OAR 660-15-000 et seq.).*
 - (b) Protection of significant fish and wildlife habitats as identified in the Metropolitan Plan Natural Assets and Constraints Working Paper. Sites subsequently determined to be significant by the Oregon Department of Fish and Wildlife shall also be protected.*
 - (c) Protection and enhancement of the natural vegetative fringe along the Willamette River to the maximum extent practicable.*
 - (d) Preservation of scenic qualities and viewpoints as identified in the Metropolitan Plan Natural Assets and Constraints Working Paper.*
 - (e) Maintenance of public safety and protection of public and private property, especially from vandalism and trespass in both rural and urban areas to the maximum extent practicable.*
 - (f) Compatibility of aggregate extraction with the purposes of the Willamette River Greenway and when economically feasible, applicable sections of state law pertaining to Reclamation of Mining Lands (ORS Chapter 517) and Removal of Material; Filling (ORS Chapter 541) designed to minimize adverse effects to water quality, fish and wildlife, vegetation, bank stabilization, stream flow, visual quality, noise, safety, and to guarantee necessary reclamation.*
 - (g) Compatibility with recreational lands currently devoted to metropolitan recreational needs, used for parks or open space and owned and controlled by a general purpose government and regulation of such lands so that their use will not interfere with adjacent uses.*
- As used in this section, the words "the greatest possible degree" are drawn from Oregon Statewide Planning Goal 15 (F.3.b.) and are intended to require a balancing of factors so that each of the identified Willamette Greenway criteria is met to the greatest extent possible without precluding the requested use.*
- (6)** *When site review approval is required, the proposed development will be consistent with the applicable site review criteria.*
- (7)** *The proposal complies with all applicable standards explicitly addressed in the application. An approved adjustment to a standard pursuant to provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.*

Possible Action: Develop clear and objective criteria for housing applications proposed within the Willamette Greenway.

Source: Stakeholder(s)

Scope Conflict: Pending legal matter. In addition, this is a substantial, emerging issue that is too extensive and as yet too unclear to address within the timeline of the Clear & Objective Update.

ISSUE #: COO-13 (33 PERCENT CONSERVATION OVERLAY LIMITATION)

Description: The limitation of no more than 33 percent of a lot being occupied by /WR Water Resource or /WQ Water Quality overlay is too restrictive.

Applies To: Partition, Planned Unit Development, Subdivision

Existing Code Section(s): EC 9.8220(2)(a), EC 9.8325(7)(a), EC 9.8520(3)(a)

Existing Code Language:

9.8220(2) *The proposed partition complies with all of the following:*

- (a) *Lot standards of EC 9.2000 through 9.3980 regarding applicable parcel dimensions and density requirements. Within the /WR Water Resources Conservation Overlay Zone or /WQ Water Quality Overlay Zone, no new lot may be created if more than 33% of the lot, as created, would be occupied by either:*
- 1. The combined area of the /WR conservation setback and any portion of the Goal 5 Water Resource Site that extends landward beyond the conservation setback; or*
 - 2. The /WQ Management Area.*

9.8325(7) *The PUD complies with all of the following:*

- (a) *EC 9.2000 through 9.3980 regarding lot dimensions and density requirements for the subject zone. Within the /WR Water Resources Conservation Overlay Zone or /WQ Water Quality Overlay Zone, no new lot may be created if more than 33% of the lot, as created, would be occupied by either:*
- 1. The combined area of the /WR conservation setback and any portion of the Goal 5 Water Resource Site that extends landward beyond the conservation setback; or*
 - 2. The /WQ Management Area.*

9.8520(3) *The proposed subdivision complies with all of the following, unless specifically exempt from compliance through a code provision applicable to a special area zone or overlay zone:*

- (a) *EC 9.2000 through 9.3980 regarding lot dimensions and density requirements for the subject zone. Within the /WR Water Resources Conservation Overlay Zone or /WQ Water Quality Overlay Zone, no new lot may be created if more than 33% of the lot, as created, would be occupied by either:*
- 1. The combined area of the /WR conservation setback and any portion of the Goal 5 Water Resource Site that extends landward beyond the conservation setback; or*
 - 2. The /WQ Management Area.*

Possible Action: Consider revising the criterion to allow greater than 33 percent of a lot to be occupied by the /WR or /WQ Conservation Overlay zones.

Source: Stakeholder(s)

Scope Conflict: This issue has broad applicability beyond housing and the clear and objective land use application criterion. Additionally, the above-referenced standard for the /WR Water

Resources Conservation overlay zone was adopted as part of the City's efforts to achieve compliance with Statewide Planning Goal 5. Revising these standard could necessitate re-evaluating the City's Goal 5 Program, a substantial undertaking well beyond the scope of the Clear & Objective Update.

ISSUE #: COO-14 (CONFORMANCE VS. EXACTION)

Description: Need to distinguish between criteria that require conformance vs. exaction—criteria may require that certain features such as safe emergency access already be in place (conformance) but cannot require that a developer pay for such features (exaction).

Applies To: All

Existing Code Section(s):

Existing Code Language:

Possible Action: Change how criteria are evaluated by decision makers by relying more on conformance instead of limiting improvements based on constitutional requirements around exactions.

Source: Stakeholder(s)

Scope Conflict: This issue has broad applicability beyond the clear and objective land use application approval criteria or procedures for housing.

ISSUE #: COO-15 (PRIVATELY ENGINEERED PUBLIC IMPROVEMENT WAIVERS)

Description: The Privately Engineered Public Improvement process and standards allow for discretionary waivers to the actual standards in EC 9.6500 through 9.6505.

Applies To: EC 9.6500 through 9.6505 Public Improvement Standards

Existing Code Section(s): N/A

Existing Code Language: N/A

Possible Action: Consider not allowing discretionary waivers

Source: Stakeholder(s)

Scope Conflict: This issue does not address clear and objective land use application approval criteria or procedures for housing and would require further investigation to determine whether standards have been waived as part of the Privately Engineered Public Improvement process, as they already must be consistent with the land use application approval.

ISSUE #: COO-16 (TREE PRESERVATION AND REMOVAL STANDARDS)

Description: Tree protection and preservation was identified as an issue with broad concerns ranging from a need to implement more tree preservation methods to wanting tree removal to be allowed by-right (without restriction) for housing development.

Applies To: Conditional Use, Partition, Planned Unit Development, Site Review, Subdivision, by-right development

Existing Code Section(s): EC 9.6885

Existing Code Language:

9.6885 Tree Preservation and Removal Standards.

- (1) Exemptions from Standards.** *The standards in this section do not apply to activities regulated under EC 9.4900 through 9.4980, or an application for development activity that includes or will result in:*
- (a) Residential Lots Under 20,000 Square Feet. *Removal of significant trees from a parcel of property not subject to the provisions of subsection (c) of this section with an area of less than 20,000 square feet when:*
 - 1. *Such parcel is occupied by a one-family dwelling, secondary dwelling, or duplex;*
 - 2. *An application to construct a one-family dwelling, secondary dwelling, or duplex on such lot is being reviewed by the city. However, no significant trees may be removed prior to the approval of the development permit; or*
 - 3. *The city has entered into an agreement authorizing the start of construction for a one-family dwelling, secondary dwelling, or duplex.*
 - (b) Lots 20,000 Square Feet or Larger. *Removal of up to 5 significant trees within a period of 12 consecutive months from a parcel of property not subject to the provisions of subsection (c) of this section consisting of 20,000 or more square feet of area;*
 - (c) Land Use Approvals. *Any tree removal on property subject to an approved conditional use permit, planned unit development, site review, or subdivision that include a tree removal/preservation plan or conditions related to tree removal or retention. In those areas, that plan or city approved modifications thereto control tree removal. This exemption does not apply to the removal of a street tree, which must be authorized by a permit issued pursuant to EC 6.305;*
 - (d) Tree Removal Permit. *Any tree removal specifically authorized by, and carried out in conformity with a city-approved tree removal permit under EC Chapter 6.*
 - (e) Habitat Restoration. *Removal of trees by the city or as authorized by the city for the purpose of implementation of a city-approved habitat restoration plan, and the express purpose of the plan is to restore native plant communities, enhance fish or wildlife habitat, or similar restoration purposes;*
 - (f) Hazardous Trees.

1. *The removal of hazardous trees on private property, provided that prior to removal the property owner submits to the city a written evaluation of each tree proposed for removal prepared by a certified arborist declaring the tree(s) to be hazardous and recommending immediate removal. The written evaluation shall be on a form prescribed by the city manager pursuant to section 2.019 City Manager - Administrative and Rulemaking Authority and Procedures;*
 2. *The removal of hazardous trees by the city or under contract with the city, on public property or street right-of-way, provided the city's urban forester issues a written evaluation of each tree proposed for removal declaring the tree(s) to be hazardous and recommending immediate removal;*
- (g) *Fire Hazard Abatement. Removal of trees that the city fire marshal has declared in writing poses a potential fire hazard to existing structures;*
or
- (h) *Diseased or Dying Trees. Removal of a diseased or dying tree, provided that prior to its removal the property owner submits to the city a written evaluation of the tree prepared by a certified arborist certifying the unhealthy condition of the tree and recommending its immediate removal. The written evaluation shall be on a form prescribed by the city manager pursuant to section 2.019 City Manager - Administrative and Rulemaking Authority and Procedures.*
- (2) Tree Preservation and Removal Standards.** *No permit for a development activity subject to this section shall be approved until the applicant submits plans or information, including a written report by a certified arborist or licensed landscape architect, that demonstrates compliance with the following standards:*
- (a) *The materials submitted shall reflect that consideration has been given to preservation in accordance with the following priority:*
 1. *Significant trees located adjacent to or within waterways or wetlands designated by the city for protection, and areas having slopes greater than 25%;*
 2. *Significant trees within a stand of trees; and*
 3. *Individual significant trees.*
 - (b) *If the proposal includes removal of any street tree(s), removal of those street trees has been approved, or approved with conditions according to the process at EC 6.305 Tree Felling Prohibition.*
- (3) Adjustment to Standards.** *Except for applications being processed under EC 9.8100 Conditional Use Permit Approval Criteria - Needed Housing, EC 9.8325 Tentative Planned Unit Development Approval Criteria - Needed Housing, EC 9.8445 Site Review Approval Criteria - Needed Housing, or EC 9.8520 Subdivision, Tentative Plan Approval Criteria - Needed Housing, adjustments to these standards may be made, subject to compliance with the criteria for adjustment in EC 9.8030(13) Tree Preservation and Removal Standards Adjustment.*

Possible Action: Revise tree preservation and removal standards.

Source: Stakeholder(s)

Scope Conflict: The tree preservation and removal standards are development standards that have broad applicability beyond the clear and objective land use application approval criteria or procedures for housing.

ISSUE #: COO-17 (MINIMUM LOT FRONTAGE)

Description: The 50-foot minimum lot frontage requirement for lots created in the R-1 Low Density Residential zone limits density and requires a planned unit development to modify.

Applies To: Partition, Planned Unit Development, Subdivision

Existing Code Section(s): 9.2760, 9.2761(1)(c)

Existing Code Language:

Table 9.2760 Residential Zone Lot Standards (See EC 9.2761 Special Standards for Table 9.2760.)					
	R-1	R-1.5	R-2	R-3	R-4
Lot Width Minimum (1)					
<i>Interior Lot (7)</i>	<i>50 feet</i>	<i>20 feet</i>	<i>35 feet (9)</i>	<i>35 feet (9)</i>	<i>35 feet (9)</i>
<i>Corner Lot</i>	<i>50 feet</i>	<i>20 feet</i>	<i>35 feet (9)</i>	<i>35 feet (9)</i>	<i>35 feet (9)</i>
<i>Curved Lot</i>	<i>35 feet</i>	<i>20 feet</i>	<i>35 feet (9)</i>	<i>35 feet (9)</i>	<i>35 feet (9)</i>
<i>Cul-de-sac Bulb Lot</i>	<i>35 feet</i>	<i>20 feet</i>	<i>20 feet</i>	<i>20 feet</i>	<i>20 feet</i>
<i>Residential Flag Lot (4)</i>	<i>50 feet</i>		<i>--</i>	<i>--</i>	
<i>Rowhouse Lot</i>	<i>15 feet</i>	<i>15 feet</i>	<i>15 feet</i>	<i>15 feet</i>	<i>15 feet</i>

9.2761 Special Standards for Table 9.2760.

- (1) *Lot Standards.*
 - (a) *In determining lot area in a residential zone, the area within a public or private street or alley shall be excluded.*
 - (b) *Solar standards may impose a more restrictive lot standard. (See EC 9.2790 Solar Lot Standards.)*
 - (c) *Lot area, frontage, and width minimums may be modified with an approved cluster subdivision in R-1 or Planned Unit Development (PUD) in any zone.*

Possible Action: Review lot frontage requirements to consider allowing a lower minimum in certain circumstances without going through a planned unit development process.

Source: Stakeholder(s)

Scope Conflict: Evaluating the impacts of lot frontage requirements on density would require greater technical analysis that would be too large in scale to address given the timeline for the Clear & Objective update.

ISSUE #: COO-18 (CLUSTER SUBDIVISION CLEAR & OBJECTIVE OPTION)

Description: There is not a clear and objective track for cluster subdivisions. The cluster subdivision is an alternative discretionary review; however, if a clear and objective version of the cluster subdivision were available, it could facilitate development of some missing middle housing types.

Applies To: Subdivision

Existing Code Section(s): EC 9.8045

Existing Code Language:

9.8045 Applicability of Cluster Subdivisions. *Cluster subdivision provisions shall be applied when requested by the property owner and when the proposed subdivision meets the definition of cluster subdivision in section 9.0500 of this land use code. A subdivision application proposing needed housing, as defined in state statutes, shall be processed pursuant to EC 9.8520 Subdivision, Tentative Plan Approval Criteria - Needed Housing. No development permit shall be issued by the city prior to approval of the cluster subdivision.*

Possible Action: Consider developing a set of clear and objective criteria for cluster subdivisions.

Source: Stakeholder(s)

Scope Conflict: Creating a new application type is outside the scope of the Clear & Objective update. It is possible this issue may be considered as part of the Housing Tools and Strategies project. See <https://www.eugene-or.gov/3960/Housing-Tools-and-Strategies>