

Feedback on Draft Key Issues Summary

Suggested New Issues:

- **COS-20 (Pedestrian Definition)**
 - Definition of "Pedestrian." Many references in the code use the term "pedestrian" but do not also include wheelchair users and other categories of non-motorized, non-bicyclist users. Access and safety criteria should clearly apply to "non-motorized use(r)s of transportation facilities, including, but not limited to bicyclists, pedestrians, wheelchair users, child strollers, and individuals who have sight, hearing or mobility impairments or any other condition that affects their safety when travelling on public or private transportation facilities.

Comments on Issues:

- **COM-07 (Access Management Requirement)**
 - One of the issues with requiring access management compliance during a land division is that during the division there is typically no development proposed. Currently we respond to this and say "to be evaluated at time of building permit". Which is now an acceptable response. Because it doesn't get evaluated at time of a development permit. Requiring someone to guess at where the driveways go during a land division is a bit cart before the horse. And a time waster when it will simply be evaluated at time of building permit.
- **COM-11 (PUD/Subdivision Concurrent Review)**
 - A good question to ask is why is the PUD a 2 step process anyway. 2 separate applications. The Final PUD should be a document submitted that meets the conditions of approval. Like Site Review. There is no Tentative Site Review and then Final Site Review. Having 2 separate applications (regardless if there is a Subdivision) means 2 separate opportunities for appeal.
- **COM-14 (Duplicate Neighborhood/Applicant Meeting)/COO-10 (Neighborhood/Applicant Meeting Requirement)**
 - As an aside, recent experience has shown that the neighborhood meeting is now used as a delay tactic instead of how it was originally intended.
- **COM-15 (Special Safety Requirements Reference)**
 - EC 9.6845 addresses the safety of pedestrians, bicyclists and residents, but is not mandatory and is not clear and objective, but nonetheless addresses an essential City policy, as stated in the Council's resolution adopting "Vision Zero.: It should be replaced with adequate clear-and-objective standards that ensure the safety of non-motorized users.
 - Agree. Remove the reference to the standard.
- **COM-16 (Off-Site Bike/Ped Connections)**
 - Dealing with ped/bike access. The existing standards are not clear and objective and are only honored in the breach. The code needs to specific standards for adequate and safe access. Also see NA-1 comment on "pedestrian," above.

- Disagree. Don't add the criterion to CUP and SR. Remove it from all five applications. Many applications are for property in developed areas of town, frequently surrounded by existing built up property. Requiring connections by any other means than streets and sidewalks is not practical and in many instances not possible. Streets and sidewalks are there for pedestrians and bicyclists and work just fine.
- **COM-17 (Application Requirement Criterion)**
 - Really? Make it a criterion that the application submittal requirements have been met? Isn't that what completeness review is all about? There is no need to make yet another criterion. And, very significantly, regarding the application checklists - they are inconsistent, contradictory, poorly organized and go way beyond applicable criteria. If anything, the checklist should be shortened, left a checklist, and not made a criterion. BTW, who could possibly determine if an informational item is adequate? That in itself requires the use of discretion.
 - As a matter of state law you can only ask for information that is relevant to an approval criterion. There is an odd assumption that items on the check list are approval criteria (if I am understanding this issue correctly). You can't turn information items into approval criterion. And who will judge if the information is adequate. This action simply makes the standards less clear less objective.
 - "address transitions or buffers between different uses or zones" is in and of itself is not clear and objective. Existing building height per zone should be adequate. There is no way to define "bulk" so that it isn't limiting to someone. Market forces should take care of this. Each zone has height mins and max. This could simply be eliminated. This gets challenged at hearings as something different than the height allowed in the zone. Like somehow because it is a PUD the height should be less than everyone else. Screening-- Opponents see this and insist there must be a screen. Why do we screen housing from housing? Housing from Parks? Noise and glare-- tools for opposition. Less is more. Not add more to further define this. Overall-- eliminate don't complicate.
- **COS-02 (30-Foot Buffer Requirement for PUDs)**
 - I completely agree with the Description statement. Many, if not most PUDs in Eugene are in existing built up areas, on small sites, and, frequently surrounded by similar uses. Requiring a 30-foot setback is a waste of property. It negatively impacts the utilization of land, reducing the number of housing units that can be provided. In nearly all cases, it renders the use of clear & objective standards impossible because the site is simply not large enough to accommodate such a setback. However, the cited corresponding criterion (EC 9.8320(3)) will need some work. It is not anywhere close to clear & objective. What does "adequate" mean? What does "bulk" mean? "Location" can be described with setback dimensions, as can "Height" with specific dimensions. Oh, and how can one interpret "...including, but not limited to,..." That, too, is not clear & objective, it requires the use of discretion.
 - Eliminate the buffer. There is no buffer in a subdivision. Why is there an assumption that a PUD needs a buffer? That a PUD needs to hide itself (hide housing from housing). Setbacks should be the tool.

- **COS-03 (20-Percent Slope Grading Prohibition)**
 - Humans have been building on steep slopes for millennia. It's not hard to do. It's not unsafe. You just need to do it correctly. I recommend eliminating the criterion completely. Similar to the referenced criterion above for buffers, the referenced corresponding criterion here is also very much not clear & objective. Need to define, with quantitative measures, the words "significant", "erosion", "failure", "hazard" and "impediment."
 - These criterion are opening everyone up for a different strategy of maneuvering around the code and/or opposing it. There is no good reason to limit development because of grading. If someone wants to building on very steep slopes at really high costs . .why should this matter. Slope limitations only serve one purpose . .to limit development. Humans have been building on steep slopes for a very long time. We even admire many of those places but we don't want them here?

- **COS-04 (One Acre Accessible Open Space for PUDs)**
 - As cited in this Item's description, this criterion, for similar reasons as for the 30-foot setback criterion, renders many sites off-limits to the clear & objective tract. Further, Eugene has a parks and open space system. It is the obligation of the city, not an individual property development, to provide recreation facilities and open space. Eliminate this criterion.
 - Why is this a criterion at all of the PUD. It isn't a criterion of other land use applications or of a General Track PUD. Many times its open space that is visually accessible but not physically accessible. Isn't that why we have a parks dept. If an open space requirement remains then consider allowing schools to count towards that criterion.

- **COS-05 (Limitation Over 900 Feet for PUDs)**
 - Agreed. This criterion negatively impacts the provision of housing, including housing on lands within the buildable lands inventory. The south hills of Eugene is full of development above 900 feet. They are some of the most desired neighborhoods in town. The visual impact of these neighborhoods from downtown or anywhere else in the city is negligible. The existing code criterion (EC 9.8325(12(a)) should be eliminated. The suggested use of the specific recommendation from the SHS should not be utilized as it too is not clear & objective. Utilizing the "...scale, bulk, height..." criterion, once it is made clear & objective, will work just fine.
 - The review sounds like a time consuming activity. Interesting that PUDs that were approved prior to 2008 with exact same criterion have developed above 900 feet and are not a blight on the city. Trees grow back.

- **COS-06 (Ridgeline Setback for PUDs)**
 - For the same reasons as cited in the criterion above (30-foot buffer, one acre open space and limitation over 900 feet), requiring a 300-foot ridgeline setback negatively impacts the ability to provide housing. The existing code criterion (EC 9.8325(12(b)) should be eliminated. The suggested use of the specific recommendation from the SHS should not be

utilized as it too is not clear & objective. Utilizing the “...scale, bulk, height...” criterion, once it is made clear & objective, will work just fine.

- **COS-07 (40 Percent Open Space Requirement for PUDs)**

- Ditto above. Requiring that development be clustered is an artificial pre-determined construct. Who says clustering is better than dispersal? If anything clustering increases impact. And 40%? Since when can one leave 40% of a development site open and have it pencil? EC (9.8325(12)(c) should be deleted. Oh, and use instead the SHS recommendation regarding “...shallow slopes, lowest elevations, etc...” That in itself is contradictory. The shallowest slopes are usually located at the highest elevations. It’s a matter of geography that ridgetops are often flattened out (unless you’re the top of a volcano). Just look at Blanton Heights, Gillespie Butte, Hendricks Park. All examples of the natural formation of ridgetops in Eugene.
- This is found nowhere else in the code for any other land use application except a PUD which is required. This clearly limits possibilities for housing. Regarding possible action: How is this different than what we already have. Why is clustering going to help address visual impact. Dispersal might be the better solution. Clustering requires much tree removal in clustered areas. The South Hills are not mountains. Sometimes the highest points are the flattest areas. and the steepest slopes are the lower areas. Like rolling hills. Grounds for appeal and interpretation.

- **COS-08 (Emergency Response)**

- The staff, HO and EPC are not even evaluating actual impediments or risk. The code should not try to define these, but instead should rely on specific standards, particularly Eugene's own Fire Code and Adopted Street Standards.
- “Significant risk” in whose opinion. Will emergency response time eliminate properties from being developed? It hasn't prevented anyone from buying houses in those areas and those same people come out and use these types of criterion to prevent further development. This stuff has to be eliminated. Developers and people purchasing properties can assume the risk of living further away from designated response times. People that live in the country have made that decision. Put the responsibility back on to the decision makers not the land use code.

- **COS-09 (Conditional Use Requirement)**

- CUP should not have two tracks. Obviously, a "conditional" residential use allows something above and beyond the basic uses allowed by a zone. While the standards might be improved by clearer criteria, there is no need for separate tracks. It would be more functional to (perhaps) have separate criteria for residential and other uses and/or uses adjacent to residential zones (including special area zones). See NA-2, above.
- Amend the code so that housing in Eugene does not need a Conditional Use Permit. Ever. We’ve no shortage of SR and PUD requirements. And the Subdivision ordinance more than addresses anything of concern.

- **COS-09 (Conditional Use Requirement)/COS-12 (Site Review Requirement)/COS-16 (PUD Type III Process)**

- There appears to be no analysis of the fact that the statutes allow housing types (technically, residential uses) to be limited by zoning, as long as there is adequate capacity

for "needed housing." This potentially means that it would be lawful to provide clear-and-objective standards only as would be applied to single-family dwellings, allowed "outright" in R-1, and have the other forms of housing (e.g., multi-family) require (e.g.) a conditional use permit, which could have discretionary standards.*

*This comment came in as an item not addressed, but the three existing issues referenced are related. The interpretation of State statutes provided is not consistent with the City's; however, the comment could be adapted to propose a concept for the issues referenced.

- **COS-10 (Partition Tree Preservation)**
 - For the reasons cited, I agree completely. Eliminate the tree preservation requirement from the partition application.

- **COS-11 (Tree Preservation Consideration)**
 - NO!!!! Trees grow. They will grow back. Most existing trees on development sites are not native to the site. Many are non-native seeds deposited by wind, the errant hiker's boot or pant leg, or dropped from birds (from either end). Many are diseased and damaged. And since when is inventorying and accessing trees a practical and realistic use of time (and resources, i.e., cost)? Case in point – we have a 98-acre site in the south hills which by the best estimate possible has some 13,000 trees. Who's going to inventory those? At what impact to the affordability of housing? And for what benefit? The property is planned and zoned for residential development. The best possible action here is to, at most, leave the criterion as is.

 - RE "consideration" more effectively" Trees grow where they grow. The good ones don't grow on the edges and the less healthy where open would like to develop buildings. The tree standards have consistently held up projects from staff through public input. If you want development in the UGB then propose tree replacement. Is the code really going to read "evaluate the trees. Tell us its health and we will deny your project based on the health of particular trees". It takes a lot of time and money to evaluate trees (we currently have a project with 12,000 trees. Road are going to go where it makes sense : in other words, reducing impact to topography and limiting erosion is the goal, not which trees should we save) Tree preservation has never made sense in the context of development in an limited UGB. If the city is going to require particular trees to be preserved (and how is this going to be evaluated) then the city should just purchase the land for preservation)

- **COS-12 (Site Review Requirement)**
 - The Eugene Code is very well developed with a thorough and comprehensive set of development standards. EC 9.2700 through 9.2777 covers it all. Remove the requirement for SR for R-1.

 - Many of the properties that have SR overlay got the designation long ago. Chapter 9 and Chapter 7 together far exceed any Site Review requirements. This is a typically redundant necessary process that adds cost and delay.

 - Site Review should not have two tracks. The kind of requirements for Site Review applicable to residential development should be in the residential zoning code itself, being applied in specific areas, for certain situations and/or for certain types of housing. While the

standards might be improved by clearer criteria, there is no need for separate tracks. It would be more functional to (perhaps) have separate criteria for residential and other uses and/or uses adjacent to residential zones (including special area zones).

- **COS-13 (Geotechnical Requirement)**
 - Limit the need for geotechnical investigation to public improvements and areas of known soils, groundwater or geological issues.
 - “multiple levels of review” adding unnecessary cost. Why not require it at building permit when the structural info is submitted.
- **COS-14 (19-Lot Rule—Motor Vehicle Dispersal)**
 - As stated, this criterion has been found to be discretionary. There’s nothing more to say. Eliminate it.
 - Remove it and let common sense prevail. There are some places in the hills where one can't go up and over to connect to the nearest street to meet this requirement.
- **COS-15 (Traffic Impact)**
 - “Analysis” by its very nature requires the use of discretion in generating a report and evaluating its compliance with criteria. Therefore, it is not clear & objective and should not be a criterion in the clear & objective tract.
 - Eliminate this as a land use application. It is an information tool, just like a geotech report or storm water analysis. Leaving this in the discretionary realm makes it an appeal-able application.
 - This needs serious attention. Staff has not properly interpreted or enforced requirements. Further, the cumulative impact of multiple developments must be addressed.
- **COS-16 (PUD Type III Process)**
 - The recommendation that this be a Type II process is absurd! In fact PUDs out to require approval by elected officials. Staff treats PUDs as way to get around development criteria that protect neighborhoods and impacted residents.
 - The Type III process, by its very nature is discretionary. It is not clear & objective. Why do we have PUDs at all? What do they accomplish? If their intent it to provide an alternative path for a development proposal (I.e., the PUD purpose statement), then they may have a role in the discretionary tract but certainly not in the clear & objective tract.
 - The better question is why have PUDs at all. In the hills they are simply Subdivisions. With an additional PUD process tacked on. Perhaps a PUD is an aspirational concept that is not utilized. Neighbors regularly come out in force against multi-family housing in R-1 so why would any one cluster buildings in a PUD in any other sense than t cluster them around a road. So basically what you end up with is a subdivision because neighbors have made it clear they don't want renters or multi-family housing near them. That is the realty of the market. A PUD might be an old fashioned idea.
- **COS-18 (Arborist and Landscape Architect Requirement)**
 - Agreed. Make it either or, not both.

- **COS-19 (Street Standards Modifications)**
 - If numerical standards can be developed, then use the Adjustment Review process as suggested.
 - These need to be clearer and enforced. Staff used every possible way to grant exceptions, resulting in safety and livability impacts to nearby neighbors.
- **COO-3 (Street Width Standards)**
 - It's fine if PWD is responsible -- but where is the required Citizen Involvement Plan ("CIP"). PWD staff have abused their role in applying street standards, and they need to have honest citizens involved from the very beginning.
- **COO-07 (Residential Requirement for New Commercial)**
 - If this were to get added then it would limit who comes to the market. All real estate is not the same and not everyone wants to build commercial, not everyone wants to build housing and definitely not everyone wants both. They are very different from a proforma perspective.
- **COO-10 (Neighborhood/Applicant Meeting Requirement)**
 - Some projects are so complex that there is no way a design team could go into a neighborhood meeting, change anything, and then be required to host another meeting because of the changes and submit it in the 6 month time frame so another neighborhood meeting doesn't have to be held. A possibility of 3 meetings. Recently the co-chairs told me that none of the dates worked. Please pick 3 others. You can imagine how complicated this gets especially when I suggested I couldn't and they threatened to make that part of the appeal. Everything about this requirement has become a tool for delay. These meetings cost about \$2000 per meeting. Project coordination, room rental, certified mail (someone has to walk over to the post office), post a sign on site, prepare for the meeting, hold the meeting, make a mailing list and check it twice, coordinate mailing with bulk mailing service, get a notary on the affidavit of posting, package up meeting materials for submittal. Please eliminate.
- **COO-12 (Willamette Greenway Criteria)**
 - As with PUDs, a Type III process by its nature is discretionary and should not be in the clear & objective tract.
 - Eliminate the need for the WG for housing. This is costly and unnecessary. Within the standards I don't see a place where staff would deny a single family house on an existing single family vacant lot. And yet, they lot owner is required to go through the process. Without appeals this comes to about \$15,000 with professional fees and city fees. Just added cost and delay for no reason.
- **COO-16 (Tree Preservation and Removal Standards)**
 - The question might be why is this a requirement at all. We recently had an experience where we had to apply for a Tree Removal permit in conjunction with a building permit. Building permit is a "by right" permit and the neighbor held up the permit by appealing the tree removal permit. The city was never going to deny the permit so why do we have to apply at all.

- **COO-17 (Minimum Lot Frontage)**
 - Yes!!! This is a developers choice. Not sure why this matters. Skinny houses going up in Portland actually look and fit into the neighborhoods. A PUD would end that opportunity.
- **COO-18 (Cluster Subdivision Clear & Objective Option)**
 - Consider allowing them outright. Why are clusters required to have individual lots then requiring a subdivision application. What is gained? A lot is lost however. The you would have to look at Multi-Family in R-1 which this becomes if the units aren't on individual lots.

Comments on Scope:

- **COO-1 (Multi-Family Standards Review)**
 - Good luck! avoiding an appeal by the Homebuilders if the MF standards aren't fixed.
- **COO-4 (Discretionary Track Changes)**
 - A ridiculous exclusion from this project, just because the language is in the "discretionary path." Fix it once and apply it everywhere.
- **COO-10 (Neighborhood/Applicant Meeting Requirement)**
 - They have become a tool for neighbors to slow down and disrupt the development process. Current city requirements are extremely proscriptive. They give false impressions to neighbors that they get to decide what occurs on someone's private property. Neighborhood meeting should be voluntary at most. This is not an Out-of-Scope issue. Neighborhood Meetings can be removed from clear & objective tract.
- **COO-12 (Willamette Greenway Criteria)**
 - Another ridiculous exclusion. Good luck! avoiding an appeal by the Homebuilders if the WG standards aren't fixed.
- **COO-14 (Conformance vs. Exaction)**
 - wouldn't require a code change if we had competent and honest planners who understood what the law is. Since that's not the case, it needs to be clarified in a coda, if not code. This is simple, and should be a "maintenance" item.
- **COO-15 (Privately Engineered Public Improvement Waivers)**
 - Staff has not properly or consistently applied established law for PEPs (both Chapter 7 and case law.) This is simple, and should be a "maintenance" item.
- **COO-17 (Minimum Lot Frontage)**
 - The C&O Project does not need to address the required minimums. It does need to clarify how residential lot frontage is measured. Staff misinterpretation allows a "frontage" to be arbitrarily shallow. It should be the depth of the front setback.