

HANSEN Alissa H

From: JEROME Emily N
Sent: Monday, September 16, 2019 6:23 AM
To: HANSEN Alissa H
Subject: Fwd: Delay a vote on code changes for ADU's

Begin forwarded message:

From: STEVEN SHANKMAN <mmws@comcast.net>
Date: September 15, 2019 at 10:14:44 PM PDT
To: mayorandcc@ci.eugene.or.us
Subject: Re: Delay a vote on code changes for ADU's
Reply-To: STEVEN SHANKMAN <mmws@comcast.net>

[EXTERNAL 

Dear Mayor Vinis and City Council Members,

I am writing to urge you to postpone a decision on additional code changes for ADUs until these issues are discussed in the normal public process involving neighborhood associations and residents. We depend on our elected representatives to approach matters of such importance to neighborhoods and the community judiciously. To rush ahead with a vote on these changes without addressing problems of parking, infrastructure, and short-term or airbnb rentals risks irreparable damage to our neighborhoods.

I hope that you will delay a vote on these changes until the public has a chance to weigh in.

Sincerely,

Marsha Shankman

HANSEN Alissa H

From: JEROME Emily N
Sent: Monday, September 16, 2019 6:21 AM
To: HANSEN Alissa H
Subject: Fwd: HB2001 and ADU ordinance

Begin forwarded message:

From: PEAK <robertr9@epud.net>
Date: September 15, 2019 at 8:57:28 PM PDT
To: mayorcouncilandcitymanager@ci.eugene.or.us
Subject: HB2001 and ADU ordinance

[EXTERNAL 

Your Honor, Councilors, and Mr. Ruiz:

I hope this finds you well. Please consider the following in your deliberations on the above-mentioned matters.

The City's website indicates that at a Work Session scheduled for 5:30 9/16, the Council will be discussing issues relating to "Accessory Dwellings." An article in The Register-Guard suggests that City staff, if not the Council, are operating on the assumption that HB2001 is and will remain valid law in Oregon. ("Eugene revisits accessory dwellings," 9/15/19, p. B1.)

I write to ask that in its deliberations, the Council take into account the prospect that House Bill 2001 may yet be successfully challenged in court and/or repealed at the next session of the Legislature.

I also understand substantial amendments regarding ADUs have been proposed without any opportunity for public consideration and comment. I therefore also propose that the Council delay a final vote on the proposed ordinance to comply with the public process requirement of State Planning Goal 1.

If HB2001 is not repealed or overturned in court, there is plenty of time for the Council to act on implementing its requirements. By the terms of Enrolled House Bill 2001 ("the Act"), Eugene, as a city subject to section 2 (2) of the Act, has until June 30, 2022 to adopt land use regulations or amend its comprehensive plan to implement section 2 of the Act. Section 2 (2) of the Act is the provision that applies the Act's requirements to cities with a population of 25,000 or more.

<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2001/Enrolled>.

The Act proposes to ride roughshod over the very concept of local control and public involvement in planning, and may be successfully challengeable on any of a number of possible grounds. To delay action to implement the Act locally pending the next legislative session and/or possible legal challenges would be eminently sensible under the circumstances.

HB2001 has been touted as a solution to the problem of inadequate affordable housing. This view of the Act is at this point no more than a hypothesis, and one supported by zero evidence, at that.

In an editorial published prior to the passage of HB2001, The Register-Guard ("The R-G" or "The Guard") presented a comprehensive discussion that established, in effect, that the bill had no basis in fact or logic, and that:

The real winners if HB2001 passes will be developers, not people who can't afford a home. The bill doesn't require that the new missing middle homes actually be affordable. The type of new construction that would happen under these zoning changes would be compact, modern multi-family buildings that take up entire lots. So long lawns and trees. Meanwhile, neighbors risk declining property values when noise increases, privacy decreases and an absentee landlord doesn't care.

The end of single-family zoning could even wind up being counterproductive, reducing the supply of affordable housing in many places. Developers looking to make a profit will target older homes for demolition. They will then replace them with nice new apartments and duplexes that maximize their profit. But those older homes are the places most likely to be affordable now.

"Leave single-family housing alone," The-Register Guard (March 25, 2019, posted online at <https://www.registerguard.com/opinion/20190325/leave-single-family-housing-alone>).

As the editorial pointed out, HB2001 is a one-size-fits-all solution to a complex problem.

After the bill's passage, The R-G editorialized again, this time advising that, in effect, opponents of HB2001 assume a supine position and let "the law" run over us. This despite the fact that the criticisms outlined in the initial editorial remained as valid and persuasive as when they were initially made.

However, if there are valid grounds in law upon which a court may hold HB2001 invalid, that would be a vindication of the real law, as opposed to HB2001's illegitimate provisions. And of course, if the Act is repealed in the next legislative session, it would no longer be the law in any sense of that word.

During the Legislature's consideration of HB2001, there was massive public opposition expressed in voluminous testimony. Yet the Legislature ignored that opposition. In its first editorial, The Guard assumed that Oregon House Speaker Tina Kotek, chief sponsor of HB2001, was acting with the best of intentions. Even based on that assumption, as the R-G's first editorial pointed out,

Eugene and other cities need to find creative ways to encourage more affordable housing. Those can't be some grand scheme hatched in Portland and championed by a House speaker whose district is in that city. As [Eugene City Councilor Jennifer Yeh](#) noted in written testimony to lawmakers, "Different communities experience different challenges and have different needs and each community should have the freedom to plan accordingly."

Passage of the Act and the LUBA remand are major developments raising issues of substantial complexity. All things considered, it would be eminently reasonable to postpone the expenditure of City resources, including but not limited to extensive revisions to the City Code, on compliance with HB2001 until the dust has fully settled, by either the resolution of any legal challenges that may be posed to the Act or by the outcome of the effort to repeal it in the next session of the Legislature. And compliance with State Planning Goal 1 warrants delaying a vote on ordinance provisions upon which the public has not had an opportunity to comment.

Respectfully,
Robert Roth, 2510 Kincaid Street

HANSEN Alissa H

From: JEROME Emily N
Sent: Monday, September 16, 2019 6:21 AM
To: HANSEN Alissa H
Subject: Fwd: Please delay vote and hold public hearing re: ADU issues

Begin forwarded message:

From: Lauren Willis <lmw@uoregon.edu>
Date: September 15, 2019 at 8:15:19 PM PDT
To: "ALAN.ZELENKA@ci.eugene.or.us" <ALAN.ZELENKA@ci.eugene.or.us>,
"mayorandcc@ci.eugene.or.us" <mayorandcc@ci.eugene.or.us>
Subject: Please delay vote and hold public hearing re: ADU issues

[EXTERNAL 

To the Mayor and City Council,

I would like to request that the Council postpone a vote on the changes to satisfy SB 1051 and the initial part of HB 2001. While I realize that HB2001 and SB1051 are forcing the ADU issue, I strongly encourage the Council to delay passage of additional elements until both the staff and the public have a chance to weigh in. Please hold a public hearing and submit the changes to the normal public process.

Best,

Lauren Willis

SUN Resident

HANSEN Alissa H

From: JEROME Emily N
Sent: Monday, September 16, 2019 6:18 AM
To: HANSEN Alissa H
Subject: Fwd: Accessory Dwelling Units, Meeting agenda Sept 16

Begin forwarded message:

From: "John Quilter" <jquilter@peoplepc.com>
Date: September 15, 2019 at 2:00:52 PM PDT
To: <mayorcouncilandcitymanager@ci.eugene.or.us>
Subject: Accessory Dwelling Units, Meeting agenda Sept 16

[EXTERNAL 

Dear Mayor, Council and City Manager,

I am disappointed to read once again that House Bill 2020 takes away from local communities the ability to require that accessory dwelling units have the primary unit owner occupied. This will make it more likely that wealthy investors will buy up homes and build ADUs both of which will become rental units. One only need to drive around our neighborhoods and it is not difficult to pick out rental homes among the much better maintained owner occupied homes where pride of ownership is evidenced in overall upkeep and attractively maintained lawns and gardens that enhance the neighborhood appearance and environment. Why would we want to enrich some investors at the expense of many who have worked hard to buy one home in an attractive neighborhood of their choice and take pride in its appearance.

Oregon bemoans a concentration of wealth with a few, and this policy promotes just that by enriching real estate investors with multiple units, all rented, on one lot that was formerly restricted to one residence per lot.

Furthermore, the relaxation of onsite parking requirements are recipe for congested unattractive street exacerbated by our current "skinny street" policies. I envision neighbor to neighbor wars on who can park where and where guests can park let alone the additional residents occupying ADUs.

I see ADUs as possible in many areas but only with reasonable LOCAL restrictions not a one size fits all policy handed down from on high by Salem.

John F. Quilter

1450 Russet Drive

Eugene 97401



Virus-free. www.avast.com

HANSEN Alissa H

From: JEROME Emily N
Sent: Monday, September 16, 2019 6:18 AM
To: HANSEN Alissa H
Subject: Fwd: Postpone City Council's ADU changes

Begin forwarded message:

From: Alan Meyer <ameyer@uoregon.edu>
Date: September 15, 2019 at 12:41:11 PM PDT
To: "mayorandcc@ci.eugene.or.us" <mayorandcc@ci.eugene.or.us>
Subject: Postpone City Council's ADU changes

[EXTERNAL 

Dear Mayor Vinis,

I'm writing to ask you to recommend the postponement of any final decisions about changing Eugene's regulations regarding ADUs (in response to HB2001). These decisions ought to be based on more careful consideration of implications and impacts, along with an opportunity for input from affected stakeholders.

Thank you for your consideration.

Alan Meyer, Professor Emeritus of Management
Charles H. Lundquist College of Business
University of Oregon
Eugene, OR 97403-1208
email: ameyer@uoregon.edu
mobile: 541.206.2138

HANSEN Alissa H

From: JEROME Emily N
Sent: Monday, September 16, 2019 6:20 AM
To: HANSEN Alissa H
Subject: Fwd: South University Neighborhood and HB2001 and SB1051

Begin forwarded message:

From: Constance Van Flandern <supergenius66@yahoo.com>
Date: September 15, 2019 at 12:30:50 PM PDT
To: "ALAN.ZELENKA@ci.eugene.or.us"
<ALAN.ZELENKA@ci.eugene.or.us>, "mayorandcc@ci.eugene.or.us"
<mayorandcc@ci.eugene.or.us>, City Council & City Manager Mayor
<mayorcouncilandcitymanager@ci.eugene.or.us>
Subject: South University Neighborhood and HB2001 and SB1051
Reply-To: Constance Van Flandern <supergenius66@yahoo.com>

[EXTERNAL 

Dear Mayor and City Council,

I wish that you had a crystal ball while you make your critical decisions around the growth of Eugene. It's impossible to know the future of how new policies will change the character of the city, but we all want Eugene to mature in ways that benefit the most people. We want to be proud the the decisions we make now as they will have irreversible effects on Eugene and the way its citizens experience daily life.

Perhaps a look at the past will help inform future decisions. South University Neighborhood was originally incorporated into Eugene and named "Gross's Addition" in 1908. While the growth of Eugene was steady, selling lots in this new addition did not take off fully until Edison Elementary School was built in 1926. Once the new school was constructed the neighborhood filled in rapidly with families clamoring to live in the leafy, walkable neighborhood near school, work, parks, shopping and downtown. The neighborhood was affordable and attractive to a broad community. As it has grown, South University has become historic as one of the first residential neighborhoods of Eugene to still exist. Older residential neighborhoods were systematically infilled and then dismantled to make way for the parking lots, hospital buildings and commercial real estate of an expanding Eugene. In fact, many of the homes in the SUN were moved from those original neighborhoods in order to preserve them from destruction (including my house which was built in 1925 on 12th Avenue and moved to 20th Avenue in the SUN in August 1965). The SUN now faces the same future of destruction imminently if the City Council does not value it as essential in the character of Eugene. It is evident that developers and student residents do not concern themselves with the historic past, nor the character of the future, but only the profitability of the moment.

As a resident of the SUN, I understand that the neighborhood is centrally located in the heart of Eugene now, and that infill and density are critical to prevent city sprawl. However, I worry that the unique nature of this neighborhood and it's value to Eugene as a city will be drastically reduced if issues with parking, infrastructure, and additional rental issues are not addressed thoughtfully. It is obvious that any additional housing built near the University will be built for and competing with the student rental market-- which will not meet the goal of increasing affordable housing.

I hope you will be listening to SUNA about it's unique history and challenges to best meet the goals HB2001 and SB1051 purport to solve. Together we can work to grow Eugene wisely while preserving the essential characteristics that keep Eugene unique.

Thank you,

Constance Van Flandern

HANSEN Alissa H

From: JEROME Emily N
Sent: Monday, September 16, 2019 6:17 AM
To: HANSEN Alissa H
Subject: Fwd: ADU vote

Begin forwarded message:

From: Nancy Meyer <nancydmeyer6@gmail.com>
Date: September 15, 2019 at 11:20:42 AM PDT
To: "*Eugene Mayor, City Council, and City Manager"
<MayorCouncilandCityManager@ci.eugene.or.us>, Eugene Mayor Council
<mayorandcc@ci.eugene.or.us>
Subject: ADU vote

[EXTERNAL 

Dear Mayor and City Council,

While we realize that HB2001 and SB1051 are forcing the ADU issue, we strongly encourage the Council to delay passage of additional elements until both the staff and public have a chance to weigh in.

SUNA is the second densest neighborhood in town. Over half our population rents housing and many homes already have ADU's. Moving ahead on issues that ignore problems with parking, infrastructure, and additional rental issues (including short term rentals) without public input is going to profoundly impact these issues in our community.

This is not simply about 'livability' – but about making the right decisions to support all our communities. I think it's clear that additional housing near the University will be competing with the student rental market rather than the stated goal of increasing much-needed affordable housing. Given that filling this need is the stated goal of HB2001 and SB1051, and that SUNA has been working with the city to achieve this – let's continue having this important discussion.

I hope the Council is able to step back and make sure decisions are made with the input of neighborhood associations and the public – all of whom will agree that we need to increase density in a way that truly encourages affordable housing.

Thank you,
Nancy Meyer
Co-Chair, SUNA

HANSEN Alissa H

From: JEROME Emily N
Sent: Monday, September 16, 2019 6:16 AM
To: HANSEN Alissa H
Subject: Fwd: ADU Work-Session

Begin forwarded message:

From: "Bill Aspegren" <aspegren@comcast.net>
Date: September 14, 2019 at 4:40:01 PM PDT
To: <mayorcouncilandcitymanager@ci.eugene.or.us>
Subject: ADU Work-Session

[EXTERNAL 

I would like to request that the Council postpone a vote on the changes to satisfy SB 1051 and the initial part of HB 2001. Instead ask for a public hearing and submit the changes to the normal public process.

Neither the remand of the LUBA decision concerning ADUs or changes for HB 2001 have had a public hearing and this is the first time the recommended code changes for ADUs has been available. Any vote to approve the changes seems premature.

Thank You,

Bill Aspegren

HANSEN Alissa H

From: JEROME Emily N
Sent: Monday, September 16, 2019 6:16 AM
To: HANSEN Alissa H
Subject: Fwd: Issues with Proposed ADU Ordinance

Begin forwarded message:

From: Jefferson Westside Neighbors <jwneugene@gmail.com>
Date: September 14, 2019 at 12:54:05 PM PDT
To: "Cc: *Eugene Mayor, City Council, and City Manager"
<mayorcouncilandcitymanager@ci.eugene.or.us>
Subject: **Issues with Proposed ADU Ordinance**

[EXTERNAL 

Dear Mayor and Councilors,

Among the many deficiencies with the details of the Proposed ADU Ordinance is that it has a direct impact on the parking criteria for the Jefferson-Westside Special Area Zone and the Chambers Special Area Zone. These Special Area Zones were crafted through a robust democratic community process. The Special Area Zones are holistically designed and you can't just start picking them apart without considering how changes will impact other elements of the zones. Any exploration of changes should be in consultation with the Jefferson Westside Neighbors or the impacted property owners and residents in the S-JW and S-C Zones.

While state mandates have forced the issue of ADUs, the details of how this expansion of allowed dwellings is executed is something that needs a more work and a lot more community involvement as mandated by State Planning Goal 1. That fact that many elements of the proposed ordinance were inserted after the public comment period is also troubling.

While their impact on the shortage of housing will negligible, ADUs can be a great addition to our housing mix. Many lots in the JWN have ADUs. However, we need to take the time do it right the first time. Please send this ordinance back to staff and have them follow through on the public process.

Sincerely,
Ted M. Coopman, Chair,

--

Jefferson Westside Neighbors
Executive Board
Eugene, OR
www.jwneugene.org

HANSEN Alissa H

From: SELSER Lindsay R
Sent: Monday, September 16, 2019 6:56 AM
To: HANSEN Alissa H; HOSTICK Robin A
Cc: KAYE Lydia S
Subject: FW: Comments re proposed ADU ordinance
Attachments: Comments re ADU CONTE Sep 13 2019.pdf

FYI – also cc'd Lydia as there is a mention of short term rentals in here...

From: Paul Conte <paul.t.conte@gmail.com>
Sent: Friday, September 13, 2019 6:56 PM
To: *Eugene Mayor, City Council, and City Manager <MayorCouncilandCityManager@eugene-or.gov>
Subject: Comments re proposed ADU ordinance

[EXTERNAL 

September 13, 2019

Mayor and Councilors,

Please give careful consideration to the attached comments.

There are several serious issues with the proposed “ADU” ordinance that warrant your deferring action and soliciting additional public comment on the staff proposal.

- A. The ordinance fails to meet the requirements of ORS 197.307(4) that “a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of housing ...” This deficiency is clearly remandable by LUBA.
- B. The ordinance removes the owner-occupancy requirement, but the City hasn’t provided for any Goal 1 - Citizen Involvement process to consider alternative approaches to mitigate the potential impacts of speculative investment in redevelopment of single-family neighborhood areas.
- C. The ordinance does nothing to limit the conversion of both dwellings to “Airbnb’s.”
- D. The ordinance unnecessarily removes limits on the *maximum* vehicle use area, thus exacerbating storm water runoff issues and negative impacts on adjacent residents.
- E. The ordinance unnecessarily removes standards for alley access parking and driveways, thus exacerbating potential impacts.
- F. The ordinance unnecessarily removes prohibition of ADUs on *new* flag lots, but the City hasn’t provided for any Goal 1 - Citizen Involvement process to consider alternative approaches to mitigate the potential impacts of additional ADUs on flag lots.
- G. The ordinance unnecessarily negates the unique, flexible parking criteria for the Jefferson-Westside Special Area Zone and the Chambers Special Area Zone without having any consultation with the Jefferson Westside Neighbors or the impacted property owners and residents in the S-JW and S-C Zones.

There is plenty of time for the Council to consider these issues and make well-informed and thoughtful decisions on each one.

Unfortunately, the staff has once again failed to engage the community after the major events of HB 2001 and the LUBA remand. The proposed ordinance is legally flawed, as is the lack of public process on the *new* amendments. If Council were to adopt an ordinance at Monday's meeting, it would be subject to appeal, delay and likely remand.

The appropriate action by the City Council is to provide direction to the City Manager to address the above issues (and possibly others) by engaging the community and to bring back a satisfactory, revised ordinance. (Unfortunately, the City Manager failed to list this as an option.)

Thank you,

Paul Conte

**Accredited Earth Advantage
Sustainable Homes Professional**

Comments re proposed ADU Code Amendments

September 13, 2019

Submitted by Paul Conte
1461 W. 10th Ave., Eugene, OR 97402

Dear Mayor and Councilors,

There are several serious issues with the proposed “ADU” ordinance that warrant your deferring action and soliciting additional public comment on the staff proposal.

- A. The ordinance fails to meet the requirements of ORS 197.307(4) that “a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of housing ...” This deficiency is clearly remandable by LUBA.
- B. The ordinance removes the owner-occupancy requirement, but the City hasn’t provided for any Goal 1 – Citizen Involvement process to consider alternative approaches to mitigate the potential impacts of speculative investment in redevelopment of single-family neighborhood areas.
- C. The ordinance does nothing to limit the conversion of both dwellings to “Airbnb’s.”
- D. The ordinance unnecessarily removes limits on the *maximum* vehicle use area, thus exacerbating storm water runoff issues and negative impacts on adjacent residents.
- E. The ordinance unnecessarily removes standards for alley access parking and driveways, thus exacerbating potential impacts.
- F. The ordinance unnecessarily removes prohibition of ADUs on *new* flag lots, but the City hasn’t provided for any Goal 1 – Citizen Involvement process to consider alternative approaches to mitigate the potential impacts of additional ADUs on flag lots.
- G. The ordinance unnecessarily negates the unique, flexible parking criteria for the Jefferson-Westside Special Area Zone and the Chambers Special Area Zone without having any consultation with the Jefferson Westside Neighbors or the impacted property owners and residents in the S-JW and S-C Zones.

There is plenty of time for the Council to consider these issues and make well-informed and thoughtful decisions on each one.

A. The ordinance fails to meet the requirements of ORS 197.307(4) that “a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of housing ...”

As has been previously pointed out numerous times, the added definition of “Dwelling, Accessory” is not clear and objective because “used in connection with or that is accessory to a single-family dwelling” is highly discretionary. Unless this issue is addressed, the ordinance will be appealed and remanded again.

City Council needs to invite public comments on how to define these criteria in clear and objective terms in light of HB 2001 and the LUBA remand.

B. The ordinance removes the owner-occupancy requirement, but the City hasn’t provided for any Goal 1 – Citizen Involvement process to consider alternative approaches to mitigate the potential impacts of speculative investment in redevelopment of single-family neighborhood areas.

Allowing ADUs without any owner-occupancy requirement is not just a mockery of the whole concept of “accessory dwelling,” it creates a huge new financial incentive to large, out-of-area,

speculative real estate investors to profit by widespread intensive development – or more likely *redevelopment* – of targeted, single-family areas that aren’t protected by CC&Rs. The inexplicable LUBA interpretation of the statutes just threw more gas on the fire, and the proposed removal of limits on bedrooms and occupants would further fuel speculative redevelopment. What’s now possible is to redevelop single-family lots as two market-rate rentals or condominiums. There is substantial, credible research that this radical change won’t produce housing that’s affordable, but instead will result in displacement and development of upscale housing.

Keep in mind that as soon as the proposed ordinance would go into effect, Measure 49 would act as a “ratchet,” and the Council would find its hands tied in reimposing adequate criteria to protect neighborhoods on wholesale transformation.

Consequently, the Council needs to hear from the public, as well as direct staff to develop alternative criteria to mitigate the potentially sweeping impacts of removing owner-occupancy.

As just one potential code requirement, the Council could amend the code as follows:

“No individual or party may own, directly or indirectly, a share in more than one ADU in Eugene.”

This restriction would not in any way hinder a traditional ADU on the owner’s own property (whether or not he or she resided on the property), and would also allow a person to have a single two-rental property in addition to his or her on residence on a different property.

Another alternative would be to have a general limit on ADUs to one bedroom, with an option for an additional bedroom if the owner filed a deed restriction as currently required for Secondary Dwelling Units.

C. The ordinance does nothing to limit the conversion of both dwellings to “Airbnb’s.”

The City Attorney has asserted (falsely) that the City does not regulate the use of dwellings in residential zones as Airbnb’s *in any way*. Under that legal assumption, the proposed ordinance would create a huge incentive to add so-called “ADUs” and turn both dwellings on a lot into Airbnb’s, further destabilizing neighborhoods.

The Council should include a provision in the ordinance that an ADU cannot be used as a short-term rental. (This also would require a definition for “short-term rental” to be added to the code.)

D. The ordinance unnecessarily removes limits on the maximum vehicle use area, thus exacerbating storm water runoff issues and negative impacts on adjacent residents.

It appears that staff has misinformed the City Council by stating in the AIS that off-street parking requirement is “the only change from the draft ordinance provided for the May 20, 2019 City Council public hearing.” In fact, the proposed ordinance also removes EC 9.2751(17)(c)4, which limits the amount of a lot that is covered by vehicle use areas:¹

“Vehicle Use Area. The maximum area covered by paved and unpaved vehicle use areas including but not limited to driveways, on-site parking and turnarounds, shall be limited to 20 percent of the total lot area.

There is absolutely nothing in HB 2001 that requires this limit to be removed. In fact, by eliminating a parking requirement, this limit is even more easily met by a proposed ADU addition. This standard should be retained to address both storm water runoff and vehicle use impacts on adjacent neighbors.

¹ This code section was not removed in the May 20, 2019 proposed ordinance, so the public has not had a chance to provide testimony – another remandable error.

E. The ordinance unnecessarily removes standards for alley access parking and driveways, thus exacerbating potential impacts.

Similarly, staff appears to have misinformed the Council by not pointing out that the proposed ordinance also removes EC 9.2751(17)(c)16, which limits the amount of a lot that is covered by vehicle use areas:²

Alley Access Parking and Driveway. The standards at EC 9.2751(18)(a)11. are applicable to attached and detached [secondary] **accessory** dwellings where primary vehicle access for the required parking is from an alley.

EC 9.2751(18)(a)11. Parking and Driveway.

- a. Only one covered or enclosed parking space may be provided (carport or garage). The covered or enclosed parking space shall be counted towards the total number of parking spaces.
- b. The maximum dimensions for a garage shall be 16 feet by 24 feet, with a maximum garage door width of 9 feet.
- c. The minimum setback for a garage shall be 5 feet from the alley. If the garage is setback greater than 5 feet from the alley, it must be setback a minimum of 15 feet and the area between the garage and the alley shall be counted towards one parking space.
- d. The maximum width for a driveway accessing a garage or carport shall be 12 feet.
- e. The maximum dimensions for one parking space located perpendicular to the alley shall be 12 feet in width by 20 feet in depth.
- f. The maximum dimensions for two side by side parking spaces perpendicular to the alley shall be 20 feet in width by 20 feet in depth.
- g. The maximum dimensions for tandem parking spaces shall be 12 feet in width by 33 feet in depth.
- h. Only one parking space parallel to the alley shall be allowed, and such space shall not exceed 10 feet in width and 20 feet in length along the length of alley.
- i. The total vehicle use area, including but not limited to driveways and on-site parking, but not including parking space in garage, shall not exceed 400 square feet.
- j. No parking shall occur outside of the vehicle use area.

(See Figure 9.2751(18)(a)11.)

There is absolutely nothing in HB 2001 that requires these standards to be removed, and they provide important protection against negative impacts on residents of other properties on the alley.

F. The ordinance removes prohibition of ADUs on new flag lots, but the City hasn't provided for any Goal 1 – Citizen Involvement process to consider alternative approaches to mitigate the potential impacts of additional ADUs on flag lots.

HB 2001 Section 12 does not prohibit *retention* of an *existing* provision prohibiting ADUs on *new* flag lots. Flag lots themselves are extremely problematic because of the substantial impacts they can create on adjacent property owners. The Council should retain this provision, particularly because the long-standing owner-occupancy requirement has been removed, which itself had provided substantial mitigation of potential impacts on adjacent residents.

² This code section also was not removed in the May 20, 2019 proposed ordinance, so the public has not had a chance to provide testimony – another remandable error.

G. The ordinance unnecessarily negates the unique, flexible parking criteria for the Jefferson-Westside Special Area Zone and the Chambers Special Area Zone without any consultation with the Jefferson Westside Neighbors or the impacted property owners and residents in the S-JW and S-C Zones.

The proposed ordinance amends **Table 9.6420 Required Off-Street Motor Vehicle Parking** to state that “[An] additional one-family dwelling in the S-JW Jefferson-Westside Special Area Zone or the R-2 subarea of the S-C Chambers Special Area Zone” does not require off-street parking. There are several problems with this amendment, which could have been avoided if staff had bothered to consult the JWN Chair.

First, both zones allow more than one “additional one-family dwelling,” so the amendment would remove any parking requirement for all additional dwellings. Only the second one-family dwelling on a lot (or development site) may qualify for the “ADU” exception to off-street parking.

Second, the S-JW Zone has a very sophisticated provision for parking requirements – which minimizes on-site parking spaces – and that is based on bedroom count, not whether a dwelling is the second dwelling on the lot. In addition, the standard allows on-street parking to count.

EC 9.3625(7) Parking Standards.

(a) Except as provided in (3)(d)3. above, each dwelling shall have one on-street or on-site vehicle parking space for every three bedrooms, rounded up to the next whole number (i.e. a four-bedroom dwelling must have at least two parking spaces). For purposes of this subsection, each uninterrupted twenty feet of lot line that abuts a street right-of-way where parking is legal within the entirety of that twenty feet shall count as one on-street parking.

Thus, in most cases, at least one dwelling that has three or fewer bedrooms will not require an off-street parking space. To handle the rare case where there is no on-street parking space, and a second dwelling is proposed, this criterion could be amended to provide an exception that no off-street parking space is required for the second dwelling if it has no more than one bedroom.

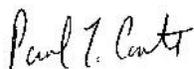
However, Council should send the draft ordinance back to the staff to consult with the JWN in order to develop the most appropriate solution for Council to consider.

* * * * *

In summation, the staff has once again failed to engage the community after the major events of HB 2001 and the LUBA remand. The proposed ordinance is legally flawed, as is the lack of public process on the *new* amendments. If Council were to adopt an ordinance at Monday’s meeting, it would be subject to appeal, delay and likely remand.

The appropriate action by the City Council is to provide direction to the City Manager to address the above issues (and possibly others) by engaging the community and to bring back a satisfactory, revised ordinance. (Unfortunately, the City Manager failed to list this as an option.)

Respectfully,



Paul Conte

HANSEN Alissa H

From: YEH Jennifer K
Sent: Friday, September 13, 2019 7:23 AM
To: *Eugene Mayor, City Council, and City Manager
Cc: HANSEN Alissa H; JEROME Emily N
Subject: ADU Ordinance

Mayor, Councilors and City Manager,

On Monday, Sept 16 I will be making several motions in relation to our ADU discussion. I do not have the exact wording yet, but the motions will be designed to eliminate barriers to ADUs, create consistency, enhance the livability of our community and ensure our land use rules are reasonable.

The four motions are in the areas of:

Flag lots

Alley Access Lots

Building Height

Sloped Setback

Thank you,

Jennifer

Jennifer Yeh

Eugene City Council

Ward 4

HANSEN Alissa H

From: SELSER Lindsay R
Sent: Thursday, September 12, 2019 11:36 AM
To: HANSEN Alissa H; HOSTICK Robin A
Subject: FW: Eugene alone imposes minimum lot size for ADUs

From: ZELENKA Alan <AZelenka@eugene-or.gov>
Sent: Thursday, September 12, 2019 10:15 AM
To: Matt McRae <matt@ourchildrenstrust.org>
Cc: *Eugene Mayor, City Council, and City Manager <MayorCouncilandCityManager@eugene-or.gov>
Subject: Re: Eugene alone imposes minimum lot size for ADUs

Good point Matt. Thanks got the info.

Alan Zelenka
Eugene City Councilor

On Sep 10, 2019, at 3:25 PM, Matt McRae <matt@ourchildrenstrust.org> wrote:

[EXTERNAL 

Mayor and Council,

I mentioned during my testimony yesterday that in a search of 16 other Oregon cities, including all cities in Lane County, no other municipality had a minimum lot size specifically for ADUs. Eugene is alone in this regard.

Below is a snapshot of the summary table from page 43 of the attached report. It lists the cities surveyed and the findings regarding minimum lot size. Yes, some cities limit construction of ADUs to only those lots that meet the minimum size for the zone, but none had a *separate* lot size minimum for ADUs.

<Screen Shot 2019-09-10 at 3.07.51 PM.png>

Regards,
Matt McRae
Climate Policy Strategist
Our Children's Trust
541.514.6066

<ADU_CodeAnalysis.pdf>

HANSEN Alissa H

From: SELSER Lindsay R
Sent: Tuesday, September 10, 2019 5:20 PM
To: HANSEN Alissa H; HOSTICK Robin A
Subject: FW: Eugene alone imposes minimum lot size for ADUs
Attachments: ADU_CodeAnalysis.pdf

FYI

From: Matt McRae <matt@ourchildrenstrust.org>
Sent: Tuesday, September 10, 2019 3:25 PM
To: *Eugene Mayor, City Council, and City Manager <MayorCouncilandCityManager@eugene-or.gov>
Subject: Eugene alone imposes minimum lot size for ADUs

[EXTERNAL 

Mayor and Council,

I mentioned during my testimony yesterday that in a search of 16 other Oregon cities, including all cities in Lane County, no other municipality had a minimum lot size specifically for ADUs. Eugene is alone in this regard.

Below is a snapshot of the summary table from page 43 of the attached report. It lists the cities surveyed and the findings regarding minimum lot size. Yes, some cities limit construction of ADUs to only those lots that meet the minimum size for the zone, but none had a *separate* lot size minimum for ADUs.

Comparative Code Chart

For the purposes of this analysis, the zoning code as relates to ADUs for 16 other cities in Oregon were examined. The Cities selected were either comparable to Eugene in population (between 50,000 and 200,000 population) or location (cities with populations over 2,500 in Lane County.) A brief summary of these city's codes is below.

City	Population	Last Update	Owner Occupancy	Lot Size Minimum	Density	Square Footage	Height Limit	Parking Required
Salem	165,265	2017	No	No	Exempt	900/75%	25 feet	0
Gresham	110,505	2018	No	No	Exempt	750*/50%	Base	1
Hillsboro	101,920	Unclear	No	Legal Lot	Silent	750	Base	1
Beaverton	97,000	2002	No	No	Silent	800/50%	Base	1
Bend	89,505	2018	No	No	Exempt	600*	25 feet	1
Medford	80,375	2018	No	No	Exempt	900/75%	Base	0
Springfield	60,865	2018	No	Legal Lot	Silent	800/100%	Base	1
Corvallis	59,280	2018	Yes	Legal Lot	Silent	900/40%	Base	0
Albany	53,145	2007	Yes	Legal Lot	Silent	750/50%	24 feet	3*
Tigard	52,785	2018	No	No	Silent	800/100%	25 feet	1
Cottage Grove	10,005	2018	No	No	Exempt	800	28 feet	1
Florence	8,795	2018	No	Legal Lot	Exempt	1000/75%	Base	1
Junction City	6,125	2003	Yes	No	Silent	800	25 feet	1
Creswell	5,455	2018	No	No	Exempt	800**	110% of primary	0
Veneta	4,790	2017	No	No	Silent	600/50%	28 feet	3*
Oakridge	3,280	2004	Yes	No	Exempt	800	20 feet	2

- **Lot Size:** "No"- City permits ADU on lot with no reference to lot size. "Legal Lot"- City permits ADUs on lots that meet legal lot requirements elsewhere in the code.

Regards,
 Matt McRae
 Climate Policy Strategist
 Our Children's Trust
 541.514.6066

HANSEN Alissa H

From: Ted Taylor <juliated@comcast.net>
Sent: Sunday, September 8, 2019 4:40 PM
To: *Eugene Mayor, City Council, and City Manager
Cc: HANSEN Alissa H
Subject: Regarding ADUs and other infill issues

[EXTERNAL 

Dear council and mayor,

As a homeowner and landlord in Eugene, I would like to see the city do much more to remove barriers to infill in Eugene. I have not studied all the code regulations, changes required by HB 2001 and the city's proposed changes, but from my limited perspective I would urge:

- Reduction of the city's minimum lot size for R-1 zoning from 4,500 sq. ft. to 4,000 sq. ft. or less.
- Eliminating the requirement for duplexes to be on corner lots of at least 8,000 sq. ft. Other cities have allowed two-story duplexes or triplexes on much smaller lots.
- Allowing ADUs on properties that are NOT owner-occupied. That current rule really discourages ADUs.

Thanks,
Ted Taylor
2020 McLean Blvd.
Eugene, OR 97405

HANSEN Alissa H

From: Brett Webber <brett.t.webber@gmail.com>
Sent: Saturday, September 7, 2019 7:35 AM
To: HANSEN Alissa H; *Eugene Mayor, City Council, and City Manager
Subject: City Council Position on ADUs

[EXTERNAL 

Hello,

My name is Brett Webber, and I am a resident of the River Road neighborhood. I want to express my support for the City Council reducing restrictions on ADUs in Eugene. I am a homeowner interested in building an ADU as elder-housing for my aging (and not in good health) father. I support the following elements of ADU guidelines:

1. Remove the off-street parking requirement. My elderly father will not likely drive into his old age, so a parking spot is useless to him. Furthermore, our neighborhood has a plethora of street parking which could accommodate parking for another tenant should I have the opportunity to rent to a non-relative.
2. Waive SDC fees - as I am looking to build an affordable structure, this would have a major impact on my budget and allowing me to build it sooner rather than later. Please consider removing SDC fees to encourage homeowners to take action.
3. Affordable housing - Everyone needs affordable housing at some point in their lives: students, young adults, families in crisis, and the elderly. By allowing families to build ADUs, you are allowing us to respond to our needs without taking city resources.

Thank you for your consideration - and I hope the City Council will embrace this opportunity to allow ADUs. I'm not asking the City to build it for me - just to remove barriers to me solving my own need for affordable housing for my community.

Thank you,

Brett Webber
Resident of River Road

HANSEN Alissa H

From: peardaughter . <peardaughter@gmail.com>
Sent: Friday, September 6, 2019 7:20 AM
To: *Eugene Mayor, City Council, and City Manager; HANSEN Alissa H
Subject: ADUs in Eugene

[EXTERNAL 

Hello,

I'm writing to voice my support for more encouraging policies at the city and council level that would support ADU development in our neighborhoods. I support and appreciate the City Council's initial efforts to remove the owner occupancy rule, but they need to go further. I would like to see them remove the off-street parking requirement as well as waive SDC fees (as many other cities have done) to encourage development. This reduce the burden on homeowners and make ADUs a viable alternative to address the affordable housing crisis in Eugene.

I would like to build an ADU in my back yard in order to house my father-in-law who is in poor health without any thoughtful retirement plan. I foresee a day when he will have little social security income and no way to support himself in the next 10 years. Thus, it is appealing to me to build an ADU, rent it for several years to recoup the cost of building, and then have a low-cost housing option for my father-in-law when he retires or can no longer work due to health. ADUs are a viable option for affordable housing that ALL communities should have the option to use for their extended family and community members.

I strongly encourage you to waive the off-street parking rule as well as waive SDC fees for ADU development.

Sincerely,

Ellen Webber
Resident of River Road Neighborhood

HANSEN Alissa H

From: Eliza Kashinsky <eliza@tastypie.org>
Sent: Tuesday, September 3, 2019 7:22 PM
To: *Eugene Mayor, City Council, and City Manager
Cc: HANSEN Alissa H
Subject: ADU Comment- CA 18-1
Attachments: EKADUComment090119.pdf

[EXTERNAL 

Good evening--

I hope your summer recess has been enjoyable. In light of recent decisions/actions at the state that affect ADUs, I have one additional comment to add to the record regarding the proposed ADU ordinance prior to your discussions in two weeks. It is attached. Thank you!

Eliza Kashinsky

Sunday, September 1st, 2019

DELIVERED VIA EMAIL

Eugene Mayor, City Council, and City Manager
City Manager's Office
125 East 8th Ave
Eugene, OR 97401

Re: CA 18-1, Accessory Dwelling Units

Dear Mayor, City Councilors, and City Manager:

As you prepare for your deliberations on changes to Eugene's code related to Accessory Dwelling Units in September, I would like to add some additional input to my two previous comments of [May 15th](#) and [January 27th](#) in light of two recent actions that will likely have impact on this matter. Notably, the State Legislature passed [HB 2001](#), which provides additional information regarding reasonable regulations related to siting and design, and LUBA remanded the City's decision in the second [Kamps-Hughes ADU zone verification request](#). Both of these actions could affect the decisions the Council makes regarding Eugene's ADU code.

The substance of my request remains the same as in previous comments—namely, that Council passes the ordinance removing owner occupancy, with modifications removing additional regulations which are either not related to siting and design or not reasonable. As always, I appreciate the opportunity to share my thoughts on this issue.

Parking

The draft code presented to Council retains Eugene's requirement for an additional off-street parking space associated with an ADU. The City finds that this is related to the siting and design of the ADU. However, HB 2001 clarifies that parking requirements are not regulations related to siting and design. Section 7 of that bill amends ORS 197.312 to include section 5(b)(B) which reads "'Reasonable local regulations relating to siting and design' does not include owner-occupancy requirements of either the primary or accessory structure or requirements to construct additional off-street parking."

Therefore, the Council should modify the ordinance before it to strike 9.2751(17)(c)15 from the Eugene Code, and strike from table 9.6410 the 1 per dwelling minimum number of required off street parking spaces for accessory dwelling units. This will remove Eugene's requirement for additional off-street parking for ADUs, and ensure compliance with SB 1051 and HB 2001.

Owner-Occupancy

The draft ordinance already includes removing owner-occupancy requirements from the Eugene code; however, much of public testimony surrounding this ordinance has centered on if the City should retain its owner-occupancy requirement. It should not.

HB 2001 settled the question as to if owner-occupancy is a regulation related to siting and design. Section 7, cited above, clarifies that owner-occupancy requirements are not a regulation related to siting and design. However, an argument has been put forward that even if owner-occupancy is not a regulation related to siting and design, it is still permissible as part of the definition of an ADU—that owner occupancy is what makes a unit "accessory" or "connected," as opposed to just a second unit. The fact that the State Legislature chose to include owner-occupancy as one of two types of ADU

regulations it clarified in HB 2001 shows their clear intent that owner-occupancy should not be a criteria for ADUs.

In addition, in *Kamps-Hughes v. City of Eugene (II)* (LUBA No. 2019-028), LUBA found that owner-occupancy is not a methodology to determine if a dwelling is “accessory” or “connected to” a primary dwelling. At issue in that decision was if the second dwelling that Mr. Kamps-Hughes wishes to build on his property is in fact an “accessory dwelling unit” under ORS 197.312(5). In this case, the City argued that Mr. Kamps-Hughes hadn’t shown that the unit in question was “accessory to” or “used in connection with” the primary dwelling, in part because Mr. Kamps-Hughes didn’t guarantee that he would live on the property. LUBA didn’t provide an abundance of clarity as to what *would* demonstrate that a unit was used in connection with or accessory to a primary dwelling when it remanded the City’s rejection of Mr. Kamps-Hughes ADU, and in fact issued a split decision (with the prevailing opinion being that the unit was used in connection with the primary dwelling, and the concurring opinion being that the unit was accessory to the primary dwelling.) However, both the majority and concurring opinion agreed that owner-occupancy was not necessary to show that a unit was accessory or connected to the primary dwelling.

From the majority opinion:

“For purposes of ORS 197.312(5), residential use does not depend upon the identity of the residents or the residents’ legal estate with respect to the residential dwelling structure. That is, neither residence must be occupied by the owner in order for the residential use of the two structures to be in connection with each other.”

From the concurring opinion:

“Traditionally, zoning does not consider whether a structure is occupied by a renter or an owner when describing a use category. A single-family residence is a single-family residence whether occupied by a renter or a homeowner. A multi-family unit is a multi-family unit whether or not the occupant owns or rents the unit. A single-family residence owned for investment purposes remains a single-family residence. The ownership structure is irrelevant to the nature of the use.”

Council should remove owner-occupancy requirements for ADUs from the Eugene code, as outlined in the draft ordinance.

Lot Size Minimums, Application of Density Maximums, Lot Dimensions, and Alley Access Lot Prohibition

HB 2001 did not specifically address if lot size minimums, density limits, lot dimensions, and prohibitions on particular types of lots (such as flag or alley access lots) were reasonable regulations related to siting and design, perhaps because Eugene is somewhat unique in applying these types of restrictions to ADUs. However, the language surrounding duplexes in HB 2001 provides some additional clarity for this question.

The City has argued that regulations that specify the characteristics of a lot that are necessary to permit an ADU qualify as “siting” regulations. In my previous comment, I contended that the legislature, by specifying that each detached single-family home shall be permitted at least one ADU, had intended that the necessary lot characteristics were the ones required to permit a single-family home. In Section

2 (part 2(b)) of HB 2001, the legislature said that cities such as Eugene shall allow the development of “A duplex on *each lot or parcel zoned for residential use* that allows for the development of detached single-family dwellings.” (emphasis added)

Where duplexes are currently permitted in R-1-type zones around the state, a common requirement is to require a larger lot size for the duplex than is required for a single-family dwelling. Eugene requires that duplexes in R-1 be on corner lots of at least 8,000 square feet, compared to 4,500 square feet required for a single-family dwelling. By specifying that each lot that allows a detached single-family home must also permit a duplex, the Legislature is rejecting the idea that lot characteristics such as lot size minimums can be used to prohibit duplexes. This adds support to the interpretation that the language in SB 1051 allowing reasonable regulations related to siting and design was not intended to include lot characteristics such as lot size as regulations related to “siting.”

If nothing else, at some point in the next three years, the City will need to revise its zoning code to permit two units (in the form of a duplex) on all lots in residential zones that allow detached single-family homes, regardless of lot size or density maximums. It seems unreasonable to allow two-homes-in-the-form-of-a-duplex on a 5,500 square foot lot but prohibiting two-homes-in-the-form-of-a-primary-and-accessory-dwelling on the same lot.

Therefore, the city should remove regulations that prohibit ADUs, but not single-family homes, based on the characteristics of the lot. This includes striking sections 9.2751(17)(a)1 and 9.2751(17)(c)5 (lot size minimums); striking the words “including secondary dwellings” from table 9.2740 in Residential Dwelling text, striking 9.2751(1)(a)1 and adding 9.2751(1)(f) “Accessory Dwelling Units are exempt from the minimum and maximum residential density standards set forth in Table 9.2750” (density); striking the words “except that new secondary dwellings are prohibited on alley access lots” from 9.2741(2) and the words “except that there is no allowance for a secondary dwelling” from 9.2751(18)(a)2 (alley access lots); and striking 9.2751(17)(c)2 (university lot dimensions.)

Renaming of ADUs in special area zones

In light of HB 2001 requirement that each lot that allows a detached single-family home also permit a duplex, the rationale behind not allowing ADUs to be called ADUs in the S-C and S-JW zones becomes even weaker. This is discussed more in-depth in previous comments; however, the primary motivation appears to be to ensure that homes on lots between 2,250 square feet and 4,499 square feet in the medium-density S-JW zone--which currently allow one dwelling, but not two--would not be permitted to construct a second dwelling in the form of an ADU. Given HB 2001’s mandate that all lots which permit a detached single-family home also permit a duplex, within three years these lots would be able to add a second dwelling anyway, regardless of what it is called. Therefore, it is recommended that this language not be reimplemented, as it just adds confusion to an already confusing and difficult discussion. *(Remove section 10 and section 17 from the proposed ordinance.)*

Sloped setbacks, size limits based on lot size, outdoor storage screening, separate lot coverage standards in the University area

Neither Kamps-Hughes II nor HB 2001 provided much additional clarity as to what types of regulations related to siting and design would be considered “reasonable.” While I agree with the City’s findings that sloped setback requirements, size limits on ADUs that are based on the size of the lot, outdoor storage/trash screening requirements, and the separate lot coverage standards in the University areas can justifiably be considered related to siting and design, I would disagree that they are reasonable, and

would urge the City to remove these regulations. My previous comments provide more in-depth rational and code citations.

Conclusion

The City has spent over two years wrestling with the requirements surround ADUs put forward in SB 1051. With the passage of HB 2001, we can no longer afford to drag the ADU debate out any further. Simply passing the ordinance before you to remove owner occupancy and other clearly impermissible regulations is a positive step, but it leaves many other steps undone. I urge you to remove the questionable regulations on ADUs from the Eugene code.

I thank you for your time and attention to this issue.

Eliza Kashinsky
eliza@tastypie.org
541-799-7102

HANSEN Alissa H

From: Shawn Kahl <shawnkahl@gmail.com>
Sent: Wednesday, August 28, 2019 8:58 AM
To: *Eugene Mayor, City Council, and City Manager; HANSEN Alissa H
Subject: ADU comment for City Council Public Forum

[EXTERNAL 

Hello,

My name is Shawn Kahl and I reside in Eugene, Ward 1. I am writing in support of changing the current ordinance regarding Land Use Code Amendments for Secondary/Accessory Dwellings, Senate bill 1051.

As a homeowner in Eugene, I would like to see more affordable housing options outside of large multi-plex units. I would also like to see people have more individual freedom to utilize their lots in a way that makes sense for them. I, myself, have considered adding a mother in-law cottage on my lot at 1040 West 17th Ave, but would be prohibited from doing so under the current ordinance.

I would like to see conditions such as off-street parking, lot size minimum, and type of lot changed to allow more structural development of additional dwellings.

Thank you,
Shawn Kahl

--

Thank you,

Shawn Kahl
Eugene, OR