



AGENDA

Meeting Location:

Sloat Room—Atrium Building
99 W. 10th Avenue
Eugene, OR 97401

Phone: 541-682-5481
www.eugene-or.gov/pc

The Eugene Planning Commission welcomes your interest in these agenda items. Feel free to come and go as you please at any of the meetings. This meeting location is wheelchair-accessible. For the hearing impaired, FM assistive-listening devices are available or an interpreter can be provided with 48 hour notice prior to the meeting. Spanish-language interpretation will also be provided with 48 hour notice. To arrange for these services, contact the Planning Division at 541-682-5675.

MONDAY FEBRUARY 4, 2019 – REGULAR MEETING (5:30 p.m. to 7:30 p.m.)

A. PUBLIC COMMENT

The Planning Commission reserves 10 minutes at the beginning of this meeting for public comment. The public may comment on any matter, **except for items scheduled for public hearing or public hearing items for which the record has already closed.** Generally, the time limit for public comment is three minutes; however, the Planning Commission reserves the option to reduce the time allowed each speaker based on the number of people requesting to speak.

B. WORK SESSION: CLEAR AND OBJECTIVE UPDATE

Staff: Jenessa Dragovich, JDragovich@eugene-or.gov, 541-682-8385

C. ITEMS FROM COMMISSION AND STAFF

1. Other Items from Staff
2. Other Items from Commission
3. Learning: How are we doing?

Commissioners: Steven Baker; John Barofsky; Tiffany Edwards (Vice Chair); Lisa Fragala; Chris Ramey; William Randall; Kristen Taylor (Chair)

AGENDA ITEM SUMMARY
February 4, 2019

To: Eugene Planning Commission

From: Jenessa Dragovich, City of Eugene Planning Division

Subject: Clear & Objective Update: Draft Code Language – Batch 1 Items

ISSUE STATEMENT

Staff requests that the Planning Commission review and provide feedback on the Clear & Objective Housing: Approval Criteria Update draft land use code language for implementing Batch 1 recommendations.

BACKGROUND

Eugene's existing clear and objective approval criteria are being reevaluated and updated. Proposed updates must meet the following goals:

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

The project will identify land use approval criteria and procedures to be updated, added, or removed to improve efficiency in complying with State requirements for clear and objective regulations, while still effectively addressing development impacts.

In July 2015, as part of the City Council's direction on the UGB, Council directed staff to begin an update to the City's procedures and approval criteria for needed housing applications (the Clear & Objective Housing: Approval Criteria Update), and to bring proposed updates back for their consideration within one year of UGB acknowledgement. The UGB was acknowledged by the State in January 2018. Our target is to request City Council action on a staff proposal for updated approval criteria in early 2019. If so directed, staff will then move forward with the formal adoption process.

The Clear & Objective project is being completed in four phases and is currently in Phase 3, Draft Code Writing. During Phase 2, draft recommendations for addressing key issues identified during Phase 1 as within the scope of the project were split in to two batches. Batch 1 includes all maintenance issues and significant issues that are less complex. Batch 2 includes the remaining significant issues that are more complex. Recommendations for both batches have been advanced to the code writing stage.

The following dates are key project check-ins with Planning Commission and City Council:

May 8, 2018	Project overview and introduction with Planning Commission
May 30, 2018	Project overview and introduction with City Council
June 25, 2018	Planning Commission approval of the Public Involvement Plan
September 11, 2018	Summary of Key Issues Report provided via email
November 19, 2018	Planning Commission review of Batch 1 recommendations
November 26, 2018	Planning Commission summary of feedback on Batch 1 items
November 26, 2018	City Council advanced Batch 1 recommendations to draft code writing
December 10, 2018	Planning Commission review of Batch 2 recommendations
December 11, 2018	Planning Commission review of Batch 2 recommendations
January 23, 2019	City Council advanced Batch 2 recommendations to draft code writing

DRAFT CODE LANGUAGE

The Draft Preferred Concept Report (provided with the November 19, 2018 agenda packet) was the outcome of Phase 2 of this project. The report presented staff recommendations on how to address the 37 key issues identified during Phase 1 of the project (and described in the [Summary of Key Issues Report](#)).

The recommendations were derived using input from the working groups, research into the issues and possible concepts, consultation with internal staff who work with the land use application review process daily, and a concept evaluation rubric for the 19 significant issues. Planning Commission reviewed and provided feedback on all recommendations over the course of four work sessions in November and December. Recommendations, as modified by Planning Commission, were advanced to draft code writing by Council in two batches. **Attachment A** contains draft land use code language for implementing Batch 1 recommendations. Note that one item, COS-01 (Clear & Objective Compatibility) has been moved to Batch 2 for draft code language.

PLANNING COMMISSION ROLE

The Planning Commission is requested to review and provide feedback on the draft land use code language for Batch 1.

A copy of the draft land use code language was provided to interested parties on January 16, 2019. Feedback was requested over the following two-week period. Comments received as of the date of this Agenda Item Summary are provided in **Attachment B**. Any additional comments will be forwarded to the Planning Commission.

NEXT STEPS

Staff anticipates bringing Batch 2 draft code amendments to Planning Commission in March or April for review and refinement.

Proposed draft code language for both batches will then be brought to Council for review, prior to the start of the formal adoption process. The formal adoption process will include Planning Commission public hearing and recommendation to City Council, followed by City Council public hearing and action.

The [project website](#) is updated regularly with information about where we are in the process as well as resources as they are available.

ATTACHMENTS

- A. Draft Land Use Code Language for Batch 1 Issues
- B. Public comments received as of January 31, 2019

FOR MORE INFORMATION

Staff Contact: Jenessa Dragovich, Senior Planner

Telephone: 541-682-8385

Email: jdragovich@eugene-or.gov

Clear & Objective Proposed Amendments - Batch 1

December 16, 2018 - DRAFT

Proposed text in ***bold italic***

Proposed deletions in [~~bracketed strike-out~~]

Information describing the proposed code change is provided below each section. Please refer to the [Draft Preferred Concepts Report](#) for more detailed information on the referenced issues.

Definitions

9.0500 **Definitions.** As used in this land use code, unless the context requires otherwise, the following words and phrases mean:

Pedestrian. Any person afoot or using any type of wheelchair.

This change implements the recommendation for COS-20 (Pedestrian Definition), to add a definition for the term 'pedestrian' based on the Oregon Revised Statutes (ORS) definition with a minor modification. ORS defines pedestrian as "any person afoot or *confined in a wheelchair*." [Emphasis added] The minor modification is to replace "confined to a wheelchair" with "using any type of wheelchair."

Commercial Zones

9.2181 **Special Standards for Table 9.2180.**

- (1) Lot area, frontage, and width minimums may be adjusted in accordance with the provisions of EC 9.8030(1). Modifications may be approved through a planned unit development. (For planned unit development procedures refer to EC 9.7300 General Overview of Type III Application Procedures and for approval criteria refer to EC 9.8320 Tentative Planned Unit Development Approval Criteria - General/~~Discretionary~~ or EC 9.8325 Tentative Planned Unit Development Approval Criteria – Housing/Clear and Objective.)

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called "General/Discretionary" and the Needed Housing track is proposed to be called "Housing/Clear and Objective."

Employment and Industrial Zones

9.2471 **Special Standards for Table 9.2470.**

- (1) Lot area, frontage, and width minimums may be adjusted pursuant to the provisions of EC 9.8030(1) of this land use code. Modifications may be approved through a site review or planned unit development. (For planned unit development procedures refer to EC 9.7300 General Overview of Type III Application Procedures and for

approval criteria refer to EC 9.8320 Tentative Planned Unit Development Approval Criteria – General/Discretionary.)

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General approval criteria. The General track is proposed to be called “General/Discretionary.”

Natural Resource Zone

9.2520 Natural Resource Zone Land Use and Permit Requirements. The provisions of the NR zone do not exempt a person or property from state or federal laws and regulations that protect water quality, wetlands, or other natural areas. In cases where the NR zone overlaps with the /WB wetland buffer overlay zone or the /WP waterside protection overlay zone, only the provisions of the NR zone are applied.

(2) Uses Subject to a Conditional Use Permit. The following uses are permitted conditionally in the NR zone:

- (a) Nature interpretive centers and wetland research facilities, when such centers or facilities are specified in or consistent with adopted plans or policies.
- (b) Maintenance facilities for storage of equipment and materials used exclusively for maintenance of wetlands and other natural resource areas.

Conditional use permit approval shall be based upon conformance with EC 9.2530 Natural Resource Zone Development Standards (2) through (19), in addition to EC 9.8090 Conditional Use Permit Approval Criteria -General/Discretionary.

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General approval criteria. The General track is proposed to be called “General/Discretionary.”

Public Land Zone

9.2687 Special Standards for Table 9.2686.

- (1)** Lot area, frontage, and width minimums may be adjusted pursuant to the provisions of EC 9.8030(1) of this land use code. Modifications may be approved through a planned unit development. (For planned unit development procedures refer to EC 9.7300 General Overview of Type III Application Procedures and for approval criteria refer to EC 9.8320 Tentative Planned Unit Development Approval Criteria - General/Discretionary or EC 9.8325 Tentative Planned Unit Development Approval Criteria – Housing/Clear and Objective.)

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called “General/Discretionary” and the Needed Housing track is proposed to be called “Housing/Clear and Objective.”

Residential Zones

9.2751 Special Development Standards for Table 9.2750.

- (2)** Maximum building height, minimum building setbacks, and maximum building dimensions may be modified with an approved planned unit development permit. (For planned unit development procedures refer to EC 9.7300 General Overview of

Type III Application Procedures and for approval criteria refer to EC 9.8320 Tentative Planned Unit Development Approval Criteria - General/**Discretionary** or **EC 9.8325 Tentative Planned Unit Development Approval Criteria – Housing/Clear and Objective.**

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called “General/Discretionary” and the Needed Housing track is proposed to be called “Housing/Clear and Objective.”

9.2761 Special Standards for Table 9.2760.

(1) 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, ***or with an approved adjustment review associated with an approved planned unit development in any zone.***

This change is related to COM-05 (Planned Unit Development Adjustment/Modification). Change needed to retain the ability to adjust these standards under a discretionary adjustment review option as the existing PUD allowance to modify them by showing consistency with the purpose of PUD (EC 9.8300) is proposed to be removed.

Downtown Westside Special Area Zone

9.3216 Special Development Standards for Table 9.3215.

- (1)** Maximum building height, minimum building setbacks, and maximum building dimensions may be modified with an approved planned unit development permit. (For planned unit development procedures refer to EC 9.7300 General Overview of Type III Application Procedures and for approval criteria refer to EC 9.8320 Tentative Planned Unit Development Approval Criteria - General/**Discretionary** or **EC 9.8325 Tentative Planned Unit Development Approval Criteria – Housing/Clear and Objective**)

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called “General/Discretionary” and the Needed Housing track is proposed to be called “Housing/Clear and Objective.”

9.3221 Special Standards for Table 9.3220.

- (1)** Lot area, frontage, and width minimums may be modified with an approved planned unit development permit. (For planned unit development procedures refer to EC 9.7300 General Overview of Type III Application Procedures and for approval criteria refer to EC 9.8320 Tentative Planned Unit Development Approval Criteria - General/**Discretionary** or **EC 9.8325 Tentative Planned Unit Development Approval Criteria – Housing/Clear and Objective.**)

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called “General/Discretionary” and the Needed Housing track is proposed to be called “Housing/Clear and Objective.”

Jefferson Westside Special Area Zone

9.3626 **Special Development Standards for Table 9.3625.**

- (9) Maximum building height and minimum building setbacks may be modified with an approved planned unit development permit. (For planned unit development procedures refer to EC 9.7300 General Overview of Type III Application Procedures and for approval criteria refer to EC 9.8320 Tentative Planned Unit Development Approval Criteria - [General] ***Discretionary*** or EC 9.8325 Tentative Planned Unit Development Approval Criteria - Clear and Objective.)

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called "General/Discretionary" and the Needed Housing track is proposed to be called "Housing/Clear and Objective."

Riverfront Park Special Area Zone

- 9.3725 **S-RP Riverfront Park Special Area Zone Review Procedures.** The master site plan for developments proposed within the S-RP zone shall be reviewed through the conditional use permit process provided in this land use code. For the purpose of this review, the following criteria shall be applied in lieu of the criteria provided in EC 9.8090 Conditional Use Permit Approval Criteria - General/***Discretionary***.

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General approval criteria. The General track is proposed to be called "General/Discretionary."

Wetland Buffer Overlay Zone

- 9.4830 **/WB Wetland Buffer Overlay Zone Land Use and Permit Requirements.** Within the /WB overlay zone, there are 2 categories of uses: those allowed by the base zone or special area zone outside of the /WB area, and a more restrictive list of uses allowed within the /WB area.

(2) Within /WB Areas:

- (c) Uses Permitted Conditionally. The following uses are permitted conditionally in the /WB overlay zone:
1. Nature interpretive centers, when specified in or consistent with adopted plans or policies.
 2. Maintenance facilities for storage of equipment and materials used exclusively for maintenance and management of wetlands and natural areas.

Conditional use permit approval shall be based upon conformance with EC 9.2530 Natural Resource Zone Development Standards (2) through (19) in addition to the conditional use criteria contained in EC 9.8090 Conditional Use Permit Approval Criteria – General/***Discretionary***.

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General approval criteria. The General track is proposed to be called "General/Discretionary."

Telecommunication Facilities

9.5750 Telecommunication Devices-Siting Requirements and Procedures.

- (2) **Siting Restricted.** No telecommunication facility, as defined in this land use code, may be constructed, modified to increase its height, installed or otherwise located within the city except as provided in this section. Depending on the type and location of the telecommunication facility, the telecommunication facility shall be either an outright permitted use, subject to site review procedures, or require a conditional use permit.
- (b) Site Review. A telecommunication facility which, pursuant to subsections (3) through (5) of this section, is subject to site review shall be processed in accordance with the site review procedures of this land use code. The criteria contained in this section, as well as the criteria contained in EC 9.8440 Site Review Approval Criteria – General/Discretionary, shall govern approval or denial of the site review application. In the event of a conflict in criteria, the criteria contained in this section shall govern. No development permit shall be issued prior to completion of the site review process, including any local appeal.
- (c) Conditional Use Permit. A telecommunication facility which, pursuant to subsections (4) or (5) of this section, requires a conditional use permit shall be processed in accordance with the conditional use permit procedures of this land use code, except that the variance provisions shall not apply. The criteria contained in EC 9.8090 Conditional Use Permit Approval Criteria –General/Discretionary and subsections (6) and (7) of this section shall govern approval or denial of the conditional use permit application. In the event of a conflict in criteria, the criteria contained in subsections (6) and (7) of this section shall govern. No development permit shall be issued prior to completion of the conditional use permit process, including any local appeal.

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General approval criteria. The General track is proposed to be called “General/Discretionary.”

General Standards for All Development

9.6010 Applications Proposing [Needed] Housing.

- (1) As used in EC chapter 9.6000, the term “applications proposing ~~[needed]~~ housing **to be reviewed with clear and objective approval criteria**” includes:
- (a) Applications that are proceeding (or have proceeded) under EC 9.8100, 9.8220, 9.8325, 9.8445, or 9.8520; or
- (b) Applications for **housing** developments ~~[permits]~~ for **residential** uses permitted outright in the subject zone that are **entitled to clear and objective standards pursuant to state statutes** ~~[proposed housing is needed housing as defined by state statutes]~~.
- (2) The term does not include an application that could have proceeded under EC 9.8100, 9.8220, 9.8325, 9.8445, or 9.8520, but the applicant elected to proceed under the discretionary approval process.

The changes listed above are related to COM-12 (Review Track Renaming). The changes revise and clarify references in the general standards contained in EC chapter 9.6000 that only apply to proposals reviewed under the clear and objective approval criteria.

“needed housing” → “housing to be reviewed with clear and objective approval criteria”

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 ***to be reviewed with clear and objective approval criteria*** shall include a certification from an Oregon licensed Engineering Geologist or an Oregon licensed Civil Engineer with geological experience stating:

9.6815 Connectivity for Streets.

(2) Street Connectivity Standards.

(e) Except for applications proposing [needed] housing ***to be reviewed with clear and objective approval criteria***, all applicants shall show that the proposed street alignment shall minimize excavation and embankment and avoid impacts to natural resources, including water-related features.

9.6845 Special Safety Requirements. Except for applications proposing [needed] housing ***to be reviewed with clear and objective approval criteria***, 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.

9.6865 Transit Facilities.

- (1)** Except for applications proposing [needed] housing ***to be reviewed with clear and objective approval criteria***, the city manager may require provisions, including easements, for transit facilities where future transit routes are required on streets extending through or adjacent to the area of the development, and where a need for bus stops, bus pullouts or other transit facilities within the development has been identified, provided the city makes findings to demonstrate consistency with constitutional requirements.
- (2)** Except for applications proposing [needed] housing ***to be reviewed with clear and objective approval criteria***, where the provision of transit stops, bus pullouts or other facilities along a public street requires a right-of-way or paving width greater than that listed in Table 9.6870 Right-of-Way and Paving Widths and where a need for transit service within the development has been identified, the planning director or public works director, depending upon the type of application being processed, may require that additional right-of-way or paving be provided.

The changes listed above are related to COM-12 (Review Track Renaming). The changes revise and clarify references in the general standards contained in EC chapter 9.6000 that only apply to proposals reviewed under the clear and objective approval criteria.

“needed housing” → “housing to be reviewed with clear and objective approval criteria”

9.6885 Tree Preservation and Removal Standards.

- (3) Adjustment to Standards.** Except for applications being processed under EC 9.8100 Conditional Use Permit Approval Criteria - [Needed] Housing/Clear and Objective, EC 9.8325 Tentative Planned Unit Development Approval Criteria - [Needed] Housing /Clear and Objective, EC 9.8445 Site Review Approval Criteria – [Needed] Housing /Clear and Objective, or EC 9.8520 Subdivision, Tentative Plan

Approval Criteria - ~~[Needed]~~ Housing ***/Clear and Objective***, 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.

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called "General/Discretionary" and the Needed Housing track is proposed to be called "Housing/Clear and Objective."

Application Procedures

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, ***except for 3-lot partitions and tentative subdivisions that implement an approved tentative planned unit development,***
 - (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).

This change is related to COM-14 (Duplicate Neighborhood/Applicant Meeting) and would provide an exception for subdivisions and partitions when processed in conjunction with a planned unit development.

Application Requirements and Criteria

- 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,]~~ ***housing to be reviewed with clear and objective approval criteria*** shall be processed pursuant to EC 9.8520 **Subdivision, Tentative Plan Approval Criteria – ~~[Needed]~~ Housing/*Clear and Objective*.** No development permit shall be issued by the city prior to approval of the cluster subdivision.

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called "General/Discretionary" and the Needed Housing track is proposed to be called "Housing/Clear and Objective."

- 9.8055 **Cluster Subdivision- Approval Criteria – General/*Discretionary*.** The planning director shall approve, approve with conditions, or deny a proposed cluster subdivision. Approval or approval with conditions shall be based on the following:
- (1) The proposed subdivision complies with:

- (a) EC 9.8515 Subdivision, Tentative Plan Approval Criteria- General/**Discretionary** except for the standards related to EC 9.2760 Residential Zone Lot Standards; and

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General approval criteria. The General track is proposed to be called "General/Discretionary."

9.8085 Conditional Use Permit Application Requirements.

- (1) Conditional use applications shall be processed in accordance with the application procedures contained in EC 9.7000 through 9.7835, Application Procedures.
- (2) When a conditional use permit is required for the proposed use, no development permit application shall be accepted by the city until the hearings official or planning commission approves the conditional use permit, and then only in accordance with the terms and conditions of that conditional use permit.
- (3) If the proposal includes ~~[needed housing, as defined by state law]~~ **housing**, the written statement submitted with the conditional use permit application shall clearly state whether the applicant is electing to use the ~~[general]~~ **discretionary** approval criteria in EC 9.8090 Conditional Use Permit Approval Criteria – General/**Discretionary** instead of the approval criteria found in EC 9.8100 Conditional Use Permit Approval Criteria – ~~[Needed] Housing/Clear and Objective~~.

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called "General/Discretionary" and the Needed Housing track is proposed to be called "Housing/Clear and Objective." It also revises subsection (3) consistent with state law that proposals including housing, not just needed housing, are entitled to clear and objective approval criteria.

9.8090 Conditional Use Permit Approval Criteria – General/Discretionary**.** A conditional use permit shall be granted only if the proposal conforms to all of the following criteria:

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General approval criteria. The General track is proposed to be called "General/Discretionary."

9.8100 Conditional Use Permit Approval Criteria- ~~[Needed] Housing/Clear and Objective. Unless the applicant elects to use the discretionary criteria contained in EC 9.8090 Conditional Use Permit Approval Criteria – General/Discretionary, for housing applications entitled to clear and objective review pursuant to state statute,~~ 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:

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called "General/Discretionary" and the Needed Housing track is proposed to be called "Housing/Clear and Objective." This change also clarifies that this section is only applicable to "housing applications entitled to clear and objective review pursuant to state statute."

- (1) ~~[The applicant has demonstrated that the proposed housing is needed housing as defined by State statutes.]~~ **Hold for new compatibility criterion.**

This change is related to COM-01 (Needed Housing Criterion). Changes to recent state law mean that housing, not just needed housing, is entitled to clear and objective standards. This change would remove the requirement that the applicant demonstrate that the proposed housing is needed housing, consistent with the change to state law. Subsection (1) will be held for the new compatibility criterion related to COS-01 (Clear & Objective Compatibility). While COS-01 was part of Batch 1 concepts, draft code changes will be available along with Batch 2 code changes as it required more time.

- (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]~~ ***the provisions of 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.]~~

This change is related to COM-09 (Natural Resource Protection Requirement). The proposed change revises the criterion to removes subsection (b) per the recommendation outlined in the Draft Preferred Concepts Report.

- (4) The proposal complies with all ~~[applicable standards, including, but not limited to:~~
- (a) ***EC 9.2000 through EC 9.4170 regarding lot dimensions and density requirements for the subject zone and overlay zone.***
 - (b) ***EC 9.6500 through EC 9.6505 Public Improvement Standards.***
Renumber remaining subsections
 - (i) ***EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways.***
 - (j) ***All other applicable development standards for features explicitly included in the application.***
 - (ik) 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.

This change to subsection (a) is related to COM-02 (Applicable Standards Reference for CUPs) and would add clarity around which development standards apply; and COM-04 (Overlay Zone Standards) as it would extend the range of the referenced code sections to include all overlay zones.

The changes to subsections (b), (i), and (j) are related to COM-02 (Applicable Standards Reference for CUPs) and would require compliance with additional development standard.

- (5) Public improvements as required by this land use code or as a condition of ~~[tentative plan]~~ approval ***will be*** ~~[have been]~~ completed ***prior to issuance of a development permit***, 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.

This change is related to COM-03 (Bonding Requirement). The proposed change revises the timing of the requirement for completion or bonding of public improvements to prior to issuance of a development permit.

- (6) ***If the standards addressed under EC 9.8100(4) require a public street, or if the applicant proposes the creation of a public street, the proposal will provide pedestrian and bicycle circulation within the development site, as well as to adjacent residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks located within ¼ mile radius of the development site, provided the city makes findings to demonstrate consistency with constitutional requirements.***

This change is related to COM-16 (Off-Site Bike/Ped Connections). The proposed change adds a requirement that already applies to partitions, subdivisions, and planned unit developments. Minor revision to add clarity to the requirement is also proposed.

- (7) ***The applicant has submitted a letter from the Eugene/Springfield Fire Marshal's office stating that the proposed partition complies with the applicable Eugene Fire Code (2014) requirements regarding fire apparatus access roads and fire protection water supply, or will comply subject to conditions of approval that are specified in the letter.***

This change is related to COS-08 (Emergency Response). The proposed criterion would require a letter from the Fire Marshal's office to address Emergency Response concerns regarding fire apparatus access and fire protection water supply.

9.8105 Conditional Use Permits within the NR Natural Resource Zone or /WB Wetland Buffer Overlay Zone.

- (2) **Criteria for Hearings Official Approval.** Applications for conditional use permits within the NR natural resource zone or /WB wetland buffer overlay zone shall be processed and scheduled for public hearings in the same manner as other conditional use permit applications, except that NR standards (2) through (19) listed in EC 9.2530 Natural Resource Zone Development Standards shall be considered as additional criteria along with the criteria listed in EC 9.8090 Conditional Use Permit Approval Criteria – General/Discretionary.

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General approval criteria. The General track is proposed to be called "General/Discretionary."

9.8205 Applicability of Partition, Tentative Plan Applications.

- (1) 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.
- (2) A ***tentative plan application to partition land*** ~~[application that also involves a PUD request]~~ may ***be submitted and reviewed concurrently with the*** ~~[not be submitted until a decision on the]~~ tentative PUD ***application following a Type III application procedure*** ~~[approval is final]~~. ***If a partition application that also involves a PUD request is not submitted concurrently with the tentative PUD, the partition application may not be submitted until a tentative PUD is approved.*** (Refer to EC 9.8305 Applicability.)
- (3) ***If the partition tentative plan application is not reviewed concurrently with the tentative PUD, No*** development permit shall be issued by the city prior to approval of the tentative partition application. ***If the tentative partition is reviewed concurrently with the tentative PUD application, no development permit shall be issued by the city prior to approval of the final PUD application.***

This change is related to COM-11 (PUD/Subdivision Concurrent Review). The proposed revisions would allow concurrent review of tentative partition applications when the proposal also involves a PUD.

9.8210 Partition, Tentative Plan Application Requirements. In addition to the provisions in EC 9.7010 Application Filing, the following specific requirements apply to partition tentative plan applications:

- (4) If the proposal includes ~~[needed housing, as defined by State statutes]~~ ***housing***, the written statement submitted with the partition application shall clearly state whether the applicant is electing to use the ~~[general]~~ ***discretionary*** approval criteria in EC 9.8215 Partition, Tentative Plan Approval Criteria- General/Discretionary instead of the approval criteria found in EC 9.8220 Partition, Tentative Plan Approval Criteria- [Needed] Housing/Clear and Objective.

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called "General/Discretionary" and the Needed Housing track is proposed to be called "Housing/Clear and Objective." It also replaces the term "needed housing" with "housing," consistent with state law that proposals including housing, not just needed housing, are entitled to clear and objective approval criteria.

9.8215 Partition, Tentative Plan Approval Criteria- General/Discretionary. The planning director shall approve, approve with conditions, or deny a partition, with findings and conclusions. Approval, or approval with conditions, shall be based on compliance with the following criteria:

9.8220 Partition, Tentative Plan Approval Criteria- [Needed] Housing/Clear and Objective. ***Unless the applicant elects to use the discretionary criteria contained in EC 9.8215 Partition, Tentative Plan Approval Criteria- General/Discretionary, for housing applications entitled to clear and objective review pursuant to state statute,*** ~~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 State statutes, the planning director shall approve or approve with conditions a partition]~~ based on compliance with the following criteria:

~~[(1) The applicant has demonstrated that the proposed housing is needed housing as defined by State statutes.] *Renumber remaining subsections.*~~

These changes are related to COM-12 (Review Track Renaming) and revise code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called "General/Discretionary" and the Needed Housing track is proposed to be called "Housing/Clear and Objective." This change also clarifies that this section is only applicable to "housing applications entitled to clear and objective review pursuant to state statute."

It also relates to COM-01 (Needed Housing Criterion) as it removes subsection (1), the requirement to demonstrate that housing is 'needed housing,' consistent with state law that proposals including housing, not just needed housing, are entitled to clear and objective approval criteria.

(21) The proposed partition complies with all of the following:

- (a) ~~[Lot standards of]EC 9.2000 through [9.3980]~~ **9.4170** regarding applicable parcel dimensions and density requirements **for the subject zone and overlay 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:
- (k) ~~[EC 9.6880 through EC 9.6885 Tree Preservation and Removal Standards.]~~
Renumber remaining subsection
Renumber remaining subsections

This change to subsection (a) is related to COM-04 (Overlay Zone Standards) as it would extend the range of the referenced code sections to include all overlay zones.

The change to subsection (k) is related to COS-10 (Partition Tree Preservation) and proposes removal of the criterion.
*Note that this removal is consistent with the discretionary track alternative which does not require tree preservation for partitions.

~~[(4) Partitions abutting collector and arterial streets comply with access management guidelines of the agency having jurisdiction over the street.] *Renumber remaining subsections*~~

This change to subsection (a) is related to COM-07 (Access Management Requirement) and would remove the criterion (this criterion is redundant and unnecessary as other jurisdictional agencies already have the authority to require compliance with their guidelines).

- (53)** If the provisions of EC 9.8220(2) require a public street, or if the applicant proposes the creation of a public street, the following criteria also apply:
- (a) The proposed land uses and densities within the partition are consistent with the land use designation(s) shown on the comprehensive plan diagram, as refined in any applicable refinement plan.
 - (b) Provision of pedestrian, bicycle and transit circulation among buildings located within the development site, as well as to adjacent and 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.

~~[(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.]~~

- (4) ***The applicant has submitted a letter from the Eugene/Springfield Fire Marshal's office stating that the proposed partition complies with the applicable Eugene Fire Code (2014) requirements regarding fire apparatus access roads and fire protection water supply, or will comply subject to conditions of approval that are specified in the letter.***

The changes above are related to COS-14 (19 Lot Rule—Motor Vehicle Dispersal) and COS-08 (Emergency Response). The proposed replacement of (c) with the new criterion at subsection (4), that would require a letter from the Fire Marshal's office, is necessary as the Land Use Board of Appeals determined that (c) is not clear and objective.

9.8310 Tentative Planned Unit Development General Application Requirements.

- (5) **[Needed] Housing.** If the proposal includes ~~[needed housing, as defined by State statutes]~~ **housing**, the written statement submitted with the PUD application shall clearly state whether the applicant is ***proceeding under: (a)[electing to use] the [general] approval criteria in EC 9.8320 Tentative Planned Unit Development Approval Criteria- General/Discretionary; or (b) [instead of] the approval criteria [found] in EC 9.8325 Tentative Planned Unit Development Approval Criteria- [Needed] Housing/Clear and Objective.***

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called "General/Discretionary" and the Needed Housing track is proposed to be called "Housing/Clear and Objective." It also replaces the term "needed housing" with "housing," consistent with state law that proposals including housing, not just needed housing, are entitled to clear and objective approval criteria.

- 9.8320 Tentative Planned Unit Development Approval Criteria- General/Discretionary.** The hearings official shall approve, approve with conditions, or deny a tentative PUD application with findings and conclusions. Decisions approving an application, or approving with conditions, shall be based on compliance with the following criteria:

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General approval criteria. The General track is proposed to be called "General/Discretionary."

- 9.8325 Tentative Planned Unit Development Approval Criteria – [Needed] Housing/Clear and Objective.** ***Unless the applicant elects to use the discretionary criteria contained in EC 9.8320 Tentative Planned Unit Development Approval Criteria- General/Discretionary, for housing applications entitled to clear and objective review pursuant to state statute,*** ~~the hearings official shall approve, conditionally approve, or deny the PUD application [with findings and conclusions. Unless the~~

applicant elects to use the general criteria contained in EC 9.8320 ~~Tentative Planned Unit Development 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 PUD] based on compliance with the following criteria:

These changes are related to COM-12 (Review Track Renaming) and revise code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called “General/Discretionary” and the Needed Housing track is proposed to be called “Housing/Clear and Objective.” This change also clarifies that this section is only applicable to “housing applications entitled to clear and objective review pursuant to state statute.”

~~[(1) The applicant has demonstrated that the proposed housing is needed housing as defined by state statutes.]~~ **Hold for new compatibility criterion.**

This change is related to COM-01 (Needed Housing Criterion). Changes to recent state law mean that housing, not just needed housing, is entitled to clear and objective standards. This change would remove the requirement that the applicant demonstrate that the proposed housing is needed housing, consistent with the change to state law. Subsection (1) will be held for the new compatibility criterion related to COS-01 (Clear & Objective Compatibility). While COS-01 was part of Batch 1 concepts, draft code changes will be available along with Batch 2 code changes as it required more time.

- (4) For areas not included on the city’s acknowledged Goal 5 inventory, the PUD preserves existing natural resources by compliance with [all of the following:
- ~~(a) The provisions of EC 9.6880 to EC 9.6885 Tree Preservation and Removal Standards, [(not subject to modifications set forth in subsection (11) below)].~~
 - ~~[(b) Natural resource areas designated on the comprehensive plan diagram as “Natural Resource” are protected.]~~

This change is related to COM-09 (Natural Resource Protection Requirement). The proposed change revises the criterion to removes subsection (b) per the recommendation outlined in the Draft Preferred Concepts Report.

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

~~[(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.]~~

This change is related to COS-14 (19 Lot Rule—Motor Vehicle Dispersal) and COS-08 (Emergency Response). The proposed replacement of (c) with the new criterion at subsection (11) below, that would require a letter from the Fire Marshal’s office, is necessary as the Land Use Board of Appeals determined that (c) is not clear and objective.

- (7) The PUD complies with all of the following:
- (a) EC 9.2000 through ~~[9.3980]~~ **9.4170** regarding **applicable** lot dimensions and density requirements for the subject zone **and overlay 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:

(k) *All applicable development standards explicitly addressed in the application.*

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.

The change to subsection (a) is related to COM-04 (Overlay Zone Standards) as it would extend the range of the referenced code sections to include all overlay zones.

The addition of subsection (k) is related to COM-05 (Planned Unit Development Adjustment/Modification). The proposed change would remove the modification allowance currently allowed under subsection (11) below (text to be deleted), but retain the ability to use approved adjustments to show compliance with applicable standards.

(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~~].

This change is related to COM-05 (Planned Unit Development Adjustment/Modification). The proposed change removes the modification allowance currently allowed under subsection (11) below (text to be deleted). Exceptions and exemptions to these requirements are allowed per EC 9.2790(3) and (4), respectively.

(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.~~] *The applicant has submitted a letter from the Eugene/Springfield Fire Marshal's office stating that the proposed development complies with the applicable Eugene Fire Code (2014) requirements regarding fire apparatus access roads and fire protection water supply, or will comply subject to conditions of approval that are specified in the letter.*

This change is related to COS-14 (19 Lot Rule—Motor Vehicle Dispersal) and COS-08 (Emergency Response). The proposed replacement of (6)(c) above with this new criterion at subsection (11), that would require a letter from the Fire Marshal's office, is necessary as the Land Use Board of Appeals determined that (6)(c) is not clear and objective.

9.8360 Planned Unit Development, Final Plan Application Requirements. In addition to the provisions in EC 9.7010 Application Filing, the following specific requirements apply to PUD final plan applications:

[~~(4) 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 subdivision, and the petition has been accepted by the city engineer.]~~

This change is related to COM-03 (Bonding Requirement). The proposed change would make this requirement an approval criterion rather than an application requirement.

- 9.8365 Final Planned Unit Development Approval Criteria.** The planning director shall approve, approve with conditions, or deny a final PUD application, ***based on compliance with the following criteria:***~~[- Approval shall include a finding that the final PUD plan conforms with the approved tentative PUD plan and all conditions attached thereto.]~~
- (1) ***The final PUD plan conforms with the approved tentative PUD plan and all conditions attached thereto.***
 - (2) ***For final PUDs not associated with a land division, public improvements as required by this land use code or as a condition of tentative plan approval will be completed prior to issuance of a development permit, 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 subdivision, and the petition has been accepted by the city engineer.***

This change is related to COM-03 (Bonding Requirement). The proposed change would make this requirement an approval criterion rather than an application requirement.

- 9.8440 Site Review Approval Criteria- General/Discretionary.** The planning director shall approve, conditionally approve, or deny the site review application. Approval or conditional approval shall be based on compliance with the following criteria:

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General approval criteria. The General track is proposed to be called "General/Discretionary."

- 9.8445 Site Review Approval Criteria- [Needed] Housing/Clear and Objective.** **Unless the applicant elects to use the discretionary criteria contained in EC 9.8440 Site Review Approval Criteria- General/Discretionary, for housing applications entitled to clear and objective review pursuant to state statute,** ~~the planning director shall approve, conditionally approve, or deny the site review application. [Unless the applicant elects to use the general criteria contained in EC 9.8440 Site Review 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 site review]~~ based on compliance with the following criteria:

These changes are related to COM-12 (Review Track Renaming) and revise code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called "General/Discretionary" and the Needed Housing track is proposed to be called "Housing/Clear and Objective." This change also clarifies that this section is only applicable to "housing applications entitled to clear and objective review pursuant to state statute."

- ~~[(1) The applicant has demonstrated that the proposed housing is needed housing as defined by State statutes.] *Hold for new compatibility criterion.*~~

This change is related to COM-01 (Needed Housing Criterion). Changes to recent state law mean that housing, not just needed housing, is entitled to clear and objective standards. This change would remove the requirement that the applicant demonstrate that the proposed housing is needed housing, consistent with the change to state law. Subsection (1) will be held for the new compatibility criterion related to COS-01 (Clear & Objective Compatibility). While COS-01 was part of Batch 1 concepts, draft code changes will be available along with Batch 2 code changes as it required more time.

- (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]~~ **the provisions of** EC 9.6880 through EC 9.6885 Tree Preservation and Removal Standards.
~~[(b) Natural resource areas designated on the comprehensive plan diagram as "Natural Resource" are protected.]~~

This change is related to COM-09 (Natural Resource Protection Requirement). The proposed change revises the criterion to removes subsection (b) per the recommendation outlined in the Draft Preferred Concepts Report.

- (4) The proposal complies with all of the following ~~[standards]:~~
(a) EC 9.2000 through ~~[9.3980]~~ **9.4170** regarding **applicable** lot dimensions and density requirements for the subject zone **and overlay zone**.
(b) **EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways.**

**Renummer remaining subsections*

The change to subsection (a) is related to COM-04 (Overlay Zone Standards) as it would extend the range of the referenced code sections to include all overlay zones.

The proposed addition of subsection (b) is related to COM-13 (Site Review Street Standards).

- (5) Public improvements as required by this land use code or as a condition of ~~[tentative plan]~~ approval **will be** ~~[have been]~~ completed **prior to issuance of a development permit**, 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 subdivision, and the petition has been accepted by the city engineer.

This change is related to COM-03 (Bonding Requirement). The proposed change revises the timing of the requirement for completion or bonding of public improvements to prior to issuance of a development permit.

- (6) ***If the standards addressed under EC 9.8100(4) require a public street, or if the applicant proposes the creation of a public street, the proposal will provide pedestrian and bicycle circulation within the development site, as well as to adjacent residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks located within ¼ mile radius of the development site, provided the city makes findings to demonstrate consistency with constitutional requirements.***

This change is related to COM-16 (Off-Site Bike/Ped Connections). The proposed change adds a requirement that already applies to partitions, subdivisions, and planned unit developments. Minor revision to add clarity to the requirement has also been proposed.

- (7) ***The applicant has submitted a letter from the Eugene/Springfield Fire Marshal's office stating that the proposed development complies with the applicable Eugene Fire Code (2014) requirements regarding fire apparatus access roads and fire protection water supply, or will comply subject to conditions of approval.***

This change is related to COS-08 (Emergency Response). The proposed criterion would require a letter from the Fire Marshal's office to address Emergency Response concerns regarding fire apparatus access and fire protection water supply.

9.8505 Applicability of Subdivision, Tentative Plan Applications.

- (1) 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.
- (2) ***A tentative plan application to subdivision land may be submitted and reviewed concurrently with the [application that also involves a PUD request may not be submitted until a decision on the] tentative PUD application following a Type III application procedure [approval is final]. If a subdivision application that also involves a PUD request is not submitted concurrently with the tentative PUD, the subdivision application may not be submitted until a tentative PUD is approved. (Refer to EC 9.8305 Applicability.)***
- (2) ***If the subdivision tentative plan application is not reviewed concurrently with the tentative PUD, No development permit shall be issued by the city prior to approval of the tentative subdivision tentative plan application. If the tentative subdivision is reviewed concurrently with a PUD application, no development permit shall be issued by the city prior to approval of the final PUD application.***

This change is related to COM-11 (PUD/Subdivision Concurrent Review). The proposed revisions would allow concurrent review of tentative subdivision applications when the proposal also involves a PUD.

9.8510 Subdivision, Tentative Plan Application Requirements. In addition to the provisions in EC 9.7010 Application Filing, the following specific requirements shall apply to tentative subdivision plan applications:

- (5) If the proposal includes ~~[needed housing, as defined by State statutes]~~ **housing**, the written statement submitted with the subdivision application shall clearly state whether the applicant is electing to use the ~~[general]~~ **discretionary** approval criteria in EC 9.8515 Subdivision, Tentative Plan Approval Criteria- General/Discretionary instead of the approval criteria found in EC 9.8520 Subdivision, Tentative Plan Approval Criteria- [Needed] Housing/Clear and Objective.

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called "General/Discretionary" and the Needed Housing track is proposed to be called "Housing/Clear and Objective." It also replaces the term "needed housing" with "housing," consistent with state law that proposals including housing, not just needed housing, are entitled to clear and objective approval criteria.

- 9.8515 Subdivision, Tentative Plan Approval Criteria – General/Discretionary.** The planning director shall approve, approve with conditions, or deny a proposed subdivision. Approval, or approval with conditions shall be based on compliance with the following criteria:
- (2) Approval does not impede the future best use of the remainder of the property under the same ownership or adversely affect the development of the remainder or any adjoining land or access thereto, based on the provisions of this land use code. For subdivisions involving phasing, it shall be demonstrated that each sequential phase will maintain consistency with the provisions of EC 9.8515 Tentative Subdivision Approval Criteria – General/Discretionary.

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General approval criteria. The General track is proposed to be called "General/Discretionary."

- 9.8520 Subdivision, Tentative Plan Approval Criteria – [Needed] Housing/Clear and Objective.** Unless the applicant elects to use the discretionary criteria contained in EC 9.8515 Subdivision, Tentative Plan Approval Criteria- General/Discretionary, for housing applications entitled to clear and objective review pursuant to state statute, the planning director shall approve, conditionally approve, or deny the subdivision application. ~~[Unless the applicant elects to use the general criteria contained in EC 9.8515 Subdivision, 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 subdivision]~~ based on compliance with the following criteria:
- ~~[(1) The applicant has demonstrated that the proposed housing is needed housing as defined by State statutes.]~~ **Renumber remaining subsections**

These changes are related to COM-12 (Review Track Renaming) and revise code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called "General/Discretionary" and the Needed Housing track is proposed to be called "Housing/Clear and Objective." This change also clarifies that this section is only applicable to "housing applications entitled to clear and objective review pursuant to state statute."

It also relates to COM-01 (Needed Housing Criterion) as it removes subsection (1), the requirement to demonstrate that housing is 'needed housing,' consistent with state law that proposals including housing, not just needed housing, are entitled to clear and objective approval criteria.

- (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~~ **9.4170** regarding **applicable** lot dimensions and density requirements for the subject zone **and overlay 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:

The change to subsection (a) is related to COM-04 (Overlay Zone Standards) as it would extend the range of the referenced code sections to include all overlay zones.

- (6) The proposed subdivision provides ~~[safe and adequate transportation systems through compliance with the following:]~~ **for the**
- ~~[(a)—P]~~ **P** provision of pedestrian, bicycle and transit circulation among buildings located within the development site, as well as to adjacent and 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.
 - ~~[(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.]~~

This change is related to COS-14 (19 Lot Rule—Motor Vehicle Dispersal) and COS-08 (Emergency Response). The proposed replacement of (b) with the new criterion at subsection (11) below, that would require a letter from the Fire Marshal’s office, is necessary as the Land Use Board of Appeals determined that (c) is not clear and objective.

- (7) For areas not included on the city’s acknowledged Goal 5 inventory, the subdivision will preserve existing natural resources by compliance with ~~[all of the following:]~~
- ~~(a)—The proposal complies with]~~ **the provisions of** EC 9.6880 through EC 9.6885 Tree Preservation and Removal Standards.
 - ~~[(b)—Natural resource areas designated on the comprehensive plan diagram as “Natural Resource.”]~~

This change is related to COM-09 (Natural Resource Protection Requirement). The proposed change revises the criterion to removes subsection (b) per the recommendation outlined in the Draft Preferred Concepts Report.

- (11) ***The applicant has submitted a letter from the Eugene/Springfield Fire Marshal's office stating that the proposed partition complies with the applicable Eugene Fire Code (2014) requirements regarding fire apparatus access roads and fire protection water supply, or will comply subject to conditions of approval.***

This change is related to COS-14 (19 Lot Rule—Motor Vehicle Dispersal) and COS-08 (Emergency Response). The proposed replacement of (6)(b) above with this new criterion at subsection (11), that would require a letter from the Fire Marshal’s office, is necessary as the Land Use Board of Appeals determined that (6)(b) is not clear and objective.

DRAGOVICH Jenessa L

From: Paul Conte <paul.t.conte@gmail.com>
Sent: Thursday, January 17, 2019 2:56 PM
To: DRAGOVICH Jenessa L
Subject: Re: Clear & Objective Update: Open Comment on Batch 1 Draft Code Language
Attachments: CommentsReBatch1DraftCode.pdf

Jenessa,

Please see the attached assessment and recommendations on "Batch 1."

This took a good bit of my time to provide a careful review, including several typos, but more importantly some practical and important aspects that need attention.

I would appreciate reciprocal review of my feedback and getting questions and comments about my recommendations so that I can be sure they are as well-founded as possible.

This process provides a rare chance to fix at least a few of the code's flaws that have been abused by some applicant's attorneys.

These are the four main issues.

Priority #1 -- Safe and adequate access for emergency response.

Residents are at risk of harm or death with the current code and it's (mis)interpretation by staff. Relying on the EFC is an excellent approach, but it must be ironclad. I've recommended some revisions to strengthen the criterion. I think I referenced all five forms of the land use action. It's critical that this criterion be added to all five "Discretionary" tracks because otherwise, their approval criteria do not adequately protect the public.

Emily Jerome should review the issue of whether there's any exposure in the EFC criteria for not themselves being "clear and objective." This is a gnarly issue, and Emily is the only one in the City Attorney's office that is competent to ensure the criteria will withstand an appeal by Kloos and the Homebuilders.

Priority #2 -- Adequately ensuring completion of required public improvements. CUP and Site Review fall in one category and Partition, PUD and Subdivision in another, based on timing. I think the comments and suggested revisions should be clear and non-controversial. If you don't see it that way, please let me know your concerns.

Priority #3 -- The exception to bonding etc. After the experience watching Mittge and Sommers contort the clear intent of the PUD's current bonding requirements, I have no confidence that the new exception (re "lot division") won't open a means of unforeseen structuring, timing and legal machinations to dodge the intended requirement. I see no burden in having the same requirement stated in two places. Again, please let me know if you see a compelling reason for this added exception.

Priority #4 -- Required maps for PUD final. This is another requirement that Mittge and Sommers misled the HO, LUBA and CoA on. If we could count on honest applicant and city attorneys, the current application requirement would be properly enforced. Unfortunately, that is demonstrably unwise, and this needs to be buttoned down, as I've recommended.

Despite my belief that the overall project is seriously flawed, I would prefer to testify to Council that at least "Batch 1" make some important and solid recommendations. If we can adequately address the above four issues, that would be easy for me to do.

Thank you,

Paul
541.344.2552

Accredited Earth Advantage
Sustainable Homes Professional

On Wed, Jan 16, 2019 at 6:26 PM DRAGOVICH Jenessa L <JDragovich@eugene-or.gov> wrote:
Greetings!

The draft code amendments for Batch 1 issues (all maintenance issues and the less complex significant issues) are now available for review and comment. Attached you will find a document with Batch 1 proposed amendments organized numerically. Brief explanations are provided that include the issue names/numbers for easy reference to the [Draft Preferred Concepts Report](#) (in case you need a refresher or want more background information).

Over the next two weeks, please review the draft code language for Batch 1 and provide feedback to me by **Wednesday, January 30**. We will go over the draft code language, along with any feedback we receive, with the Planning Commission beginning on February 4.

We are available for questions and will be holding two Office Hour sessions during the open comment period. If you want to bring your questions, or just walk through the changes one by one with us, please try to attend one of the following sessions:

OFFICE HOURS

Thursday, January 24th

4:00-6:00 p.m.

Saul Conference Room (3rd floor)

Friday, January 25th

11:00-1:00 p.m.

Room 2021 (2nd floor)

Office Hours will be in the Atrium building located at 99 West 10th Avenue

If you have questions but can't make it to one of these, call or email me!

A note about a minor change... while the preferred concept for COS-01 (Clear and Objective Compatibility) already received support from Planning Commission and City Council, we have decided to release the draft code for the new compatibility criterion along with Batch 2.

Speaking of Batch 2, Planning Commission reviewed the recommended preferred concepts for the eight remaining Key Issues in early December. Links to the webcasts and meeting materials are available on the [project website](#). We will be returning to Council next Wednesday, January 23, for a work session to go over these items, and the Planning Commission feedback, before proceeding with Batch 2 draft code writing.

Best,

Jenessa Dragovich | Senior Planner

Eugene Planning Division | Land Use Planning
99 West 10th Avenue | Eugene Oregon 97401
Phone 541.682.8385 | Fax 541.682.5572

Visit the [Planning Website](#)

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**Assessment & Recommendation on
Clear & Objective Proposed Amendments - Batch 1 December 16, 2018**

Submitted on January 17, 2019 for the record by;
Paul Conte
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9.8100 Conditional Use Permit Approval Criteria- [Needed] Housing/*Clear and Objective*.

(5) Public improvements as required by this land use code or as a condition of ~~[tentative plan]~~ approval ***will be*** ~~[have been]~~ completed ***prior to issuance of a development permit***, 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.

This change is related to COM-03 (Bonding Requirement). The proposed change revises the timing of the requirement for completion or bonding of public improvements to prior to issuance of a development permit.

Comment

I believe the intent is to essentially extend the time at which the improvement must be completed to a time before any permit is issued for the proposed development. The reason stated for this is that a CUP is a one-step process and what conditions may be imposed are unknown. Addressing this is reasonable, but the text of the amendment is flawed.

There is an inherent conflict in the first sentence: If a required public improvement requires a development permit, the permit for the improvement cannot be issued until the improvement is completed. In that situation, fulfilling the first alternative would be impossible, and either (a) or (b) would be required.

Also, note that the proposed code does not change the timing required for satisfying (a) or (b), if the developer chooses one of those alternatives.

Most importantly, the verb “will be” provides no assurance that a condition of approval will be fulfilled, as required by case law governing the use of conditions of approval to satisfy approval criteria. An unconvincing argument might be made that withholding project permits would provide adequate assurance, but that doesn’t at all cover the case where a developer might dig up a street and then have financial difficulties completing the improvement.

The flaws can be partially addressed by different timing for public improvements “required by this land use code” versus “or as a condition of approval.”

Recommendation

Replace the proposed amendment with the following:

(5) *Prior to application approval* [P]public improvements as required by this land use code 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.

(6) *All conditions of approval that require a public improvement that has not been completed at the time of approval must explicitly require that, prior to the issuance of any permit for the proposed development, other than permit(s) necessary for the required public improvement:*

(a) *The public improvement be completed; or*

(b) *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*

(c) *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.*

Obviously, this could be organized as two subsections of (5) instead of adding a new section. Also, the proposed additional sections (6) and (7) may need to be renumbered.

IMPORTANT! This code also needs to be added to the discretionary approval criteria EC 9.8090 *et seq* to ensure effective completion of required public improvements.

* * * * *

Also under EC 9.8100:

(7) *The applicant has submitted a letter from the Eugene/Springfield Fire Marshal's office stating that the proposed partition complies with the applicable Eugene Fire Code (2014) requirements regarding fire apparatus access roads and fire protection water supply, or will comply subject to conditions of approval that are specified in the letter.*

This change is related to COS-08 (Emergency Response). The proposed criterion would require a letter from the Fire Marshal's office to address Emergency Response concerns regarding fire apparatus access and fire protection water supply.

Comment

The text appears to have a cut-and-paste error by referring to "the proposed partition" instead of "the proposed conditional use permit".

The correct term from the EFC is "fire protection water supplies" (plural).

This is a critically needed criterion for the public safety and to conform to the policies and practices that City Council has adopted for "Vision Zero."

The intended approach is sound – the Fire Marshal should be have authority and responsibility for determining compliance with all Eugene Fire Code provisions.

However, the proposed text is insufficient, but easily fixed. Case law requires that a City’s approval or denial of a land use application be based on findings in the record that are supported by substantial evidence. Therefore, any determinant letter from the Fire Marshal must include such findings.

It would provide clarity to reference which sections of the fire code are intended.

The City Attorney should coordinate with the Fire Marshal to ensure that all criteria in the reference sections conform to the “clear and object” requirement. For example, 503.1.2 Additional access allows the *fire code official* to require more than one fire apparatus access road “based on potential impairment.” Since the “clear and objective” requirement for approval criteria is obviously an impossible standard to meet in all cases that require expert evaluation of a complex context, it may be impossible to eliminate all possible discretion. This flaw in the statute should not be used as an excuse to simply “neuter” the Fire Marshal’s authority to impose necessary conditions for the public safety.

Recommendation

Replace the proposed amendment with the following

(7) The applicant has submitted a letter from the Eugene/Springfield Fire Marshal's office stating that the proposed conditional use permit complies with the applicable Eugene Fire Code (2014) requirements regarding fire apparatus access roads (i.e., Section 503), fire protection water supplies (i.e., Section 507), and all appendices and other sections of the Eugene Fire Code (2014) reference therein; or will comply subject to conditions of approval that are specified in the letter. The letter shall contain findings, based on substantial evidence, for determining whether or not, and under what feasible and adequate conditions of approval, the proposed conditional use permit does or would comply.

IMPORTANT! This code also needs to be added to the discretionary approval criteria EC 9.8090 *et seq* to ensure effective completion of required public improvements.

* * * * *

9.8220 Partition, Tentative Plan Approval Criteria- [Needed] Housing/Clear and Objective.

(4) The applicant has submitted a letter from the Eugene/Springfield Fire Marshal's office stating that the proposed partition complies with the applicable Eugene Fire Code (2014) requirements regarding fire apparatus access roads and fire protection water supply, or will comply subject to conditions of approval that are specified in the letter.

Recommendation

Replace the proposed amendment with the same form (but using “partition”) as recommended above for EC 9.8100(7).

IMPORTANT! This code also needs to be added to the discretionary approval criteria EC 9.8215 *et seq* to ensure safe emergency response.

* * * * *

9.8325 Tentative Planned Unit Development Approval Criteria – [Needed] Housing/*Clear and Objective*.

~~(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.]~~ ***The applicant has submitted a letter from the Eugene/Springfield Fire Marshal's office stating that the proposed development complies with the applicable Eugene Fire Code (2014) requirements regarding fire apparatus access roads and fire protection water supply, or will comply subject to conditions of approval that are specified in the letter.***

Recommendation

Replace the proposed amendment with the same form (but using “partition”) as recommended above for EC 9.8100(7).

IMPORTANT! This code also needs to be added to the discretionary approval criteria EC 9.8320 *et seq* to ensure safe emergency response.

* * * * *

9.8360 Planned Unit Development, Final Plan Application Requirements. In addition to the provisions in EC 9.7010 Application Filing, the following specific requirements apply to PUD final plan applications:

~~[(4) 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 subdivision, and the petition has been accepted by the city engineer.]~~

This change is related to COM-03 (Bonding Requirement). The proposed change would make this requirement an approval criterion rather than an application requirement.

Comment

Subsection (1) must also be an approval criterion:

(1) Applications shall contain final maps and supplemental materials required to demonstrate compliance with tentative plan conditions of approval.

In the recent approval and appeals of the Final PUD application for Oakleigh Meadows Cohousing, the applicant’s attorney successfully argued that this requirement could be ignored because it was an application requirement, not an approval criteria. The result made it impossible for opponents to even know how the required widening of Oakleigh Lane’s pavement was to be accomplished and how it might impinge upon property owners along the, as yet undisclosed, segments of Oakleigh Lane that would be widened. Shamefully, the City Attorney supported the applicant in this ruse, betraying her ethical responsibilities and duty to the citizens for whom she is supposed to be working.

Because we have such unscrupulous “players” both as applicants and City employees, this obvious requirement must be moved to be an approval criterion. The term “required” must also be clarified as not being explicitly required in the text of a condition of approval, but rather necessary for the City and

participants in the proceedings to evaluate all elements of the development, including public improvements, that will be implemented.

Recommendation

Either move subsection (1) to be under 9.8365 (as recommended for subsection (5)) or leave both subsections (1) and (5) under 9.8360 and add compliance with the application requirements as an approval criteria. See below for recommended code amendments.

Revise the subsection text to make it clear and objective, as follows:

- (1) Applications shall contain final maps and supplemental materials ~~[required to]~~ **that**
- (a) Fully describe all elements of the proposed development, both on-site and off-site, and including all revisions or additions to the tentative plan; and**
- (b) ~~[e]~~ **Demonstrate compliance with tentative plan conditions of approval.**

* * * * *

9.8365 Final Planned Unit Development Approval Criteria. The planning director shall approve, approve with conditions, or deny a final PUD application, ***based on compliance with the following criteria:***~~[- Approval shall include a finding that the final PUD plan conforms with the approved tentative PUD plan and all conditions attached thereto.]~~

- (1) The final PUD plan conforms with the approved tentative PUD plan and all conditions attached thereto.***
- (2) For final PUDs not associated with a land division, public improvements as required by this land use code or as a condition of tentative plan approval will be completed prior to issuance of a development permit, 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 subdivision, and the petition has been accepted by the city engineer.***

This change is related to COM-03 (Bonding Requirement). The proposed change would make this requirement an approval criterion rather than an application requirement.

Comment

Subsection (1) must also be an approval criterion; see above for discussion and recommended text.

The qualifier “For final PUDs not associated with a land division” should be eliminated. While it appears that it’s an attempt to eliminate redundancy, the term “associate with” not clear and objective and opens a huge loophole. If a Partition or Subdivision and PUD are processed together, they may nonetheless give rise to a separate set of conditions of approval. In cases where the qualification wouldn’t create any opportunity for mischief, there would be no burden on the applicant, who would nonetheless be required to meet only the same set of requirements for bonding, etc.

Recommendation

Alternative A.

Leave the existing subsections under 9.8360 Application Requirements. Amend (1), as described above. Do not change (4). Add as a first subsection of 9.8365 Approval Criteria, as follows.

9.8365 Final Planned Unit Development Approval Criteria. The planning director shall approve, approve with conditions, or deny a final PUD application, ***based on compliance with the following criteria:***[- Approval shall include a finding that the final PUD plan conforms with the approved tentative PUD plan and all conditions attached thereto.]

(1) The Final PUD application complies with the application requirements in EC 9.8360.

(2) The final PUD plan conforms with the approved tentative PUD plan and all conditions attached thereto.

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Alternative B

Remove the existing four subsections (or at the very least, subsections (1) and (4) from under 9.8360 Application Requirements, and add the removed sections to under of 9.8365 Approval Criteria. Amend (1), as described above. Do not change (4).

* * * * *

9.8445 Site Review Approval Criteria- [Needed] Housing/Clear and Objective.

(5) Public improvements as required by this land use code or as a condition of [tentative plan] approval ***will be*** [have been] completed ***prior to issuance of a development permit***, 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 subdivision, and the petition has been accepted by the city engineer.

Recommendation

Use the same language as recommended above for EC 9.8100(5)

* * * * *

(7) The applicant has submitted a letter from the Eugene/Springfield Fire Marshal's office stating that the proposed development complies with the applicable Eugene Fire Code (2014) requirements regarding fire apparatus access roads and fire protection water supply, or will comply subject to conditions of approval.

Recommendation

Replace the proposed amendment with the same form (but using "site review") as recommended above for EC 9.8100(7).

IMPORTANT! This code also needs to be added to the discretionary approval criteria EC 9.8435 *et seq* to ensure safe emergency response.

* * * * *

9.8515 Subdivision, Tentative Plan Approval Criteria – General/Discretionary.

9.8520 Subdivision, Tentative Plan Approval Criteria – [Needed] Housing/Clear and Objective.

(11) The applicant has submitted a letter from the Eugene/Springfield Fire Marshal's office stating that the proposed partition complies with the applicable Eugene Fire Code (2014) requirements regarding fire apparatus access roads and fire protection water supply, or will comply subject to conditions of approval.

Replace the proposed amendment with the same form (but using “subdivision”) as recommended above for EC 9.8100(7). (Don’t copy over the “submitted” typo.)

IMPORTANT! This code also needs to be added to the discretionary approval criteria EC 9.8515 *et seq* to ensure safe emergency response.

DRAGOVICH Jenessa L

From: Carol Schirmer <carol@schirmersatre.com>
Sent: Tuesday, January 29, 2019 10:57 AM
To: DRAGOVICH Jenessa L
Subject: Clear and Objective comments
Attachments: Batch 1_PROPOSED DRAFT CODE_Guide. 1-29-19pdf.pdf

Jenessa:

Attached are my comments on the first draft.

Please let me know if you would like to have further discussion about any of this (like you have time ;0)

In a nut shell my biggest concerns are as follows:

- Adding the Fire Marshal letter. Another layer of bureaucracy. They regularly disagree with or don't understand that the street standards have been adopted and therefore cannot be over ridden by fire. They have made statements about Capital Hill that are still causing us problems as we work our way through the appeals. Their comments are regularly ambiguous and suggestive of less than perfect conditions which facilitates neighbors using that as a tool for delay and/or denial of housing. We have many existing non-conforming roads and a letter from the Fire Marshal stating concerns about safety creates a path for discretion. I am not saying that we should build homes where it is unsafe but safety is a relative term and we all think about it differently. If we were really concerned about public safety we would do a lot more tree removal (for example). And that is never going to happen
- I love that there is no neighborhood meeting for Subdivisions that execute a PUD. My question is this: Why have a PUD and a Subdivision at all if a PUD is simply a Subdivision as so many in the south hills are.
- Why is a PUD a 2 application process. Where is the utility in that.
- Why a neighborhood meeting for a 3 lot partition? Neighborhood meetings cost \$2000 (contacting co-chairs, arranging for a meeting place, cost of the meeting place, mailings and postage, sign creation, sign posting, preparing for the meeting, holding the meeting, compiling all the data after the meeting for submittal, notarizing documents). The intent of the neighborhood meeting is to inform as well as get input on possible revisions. On a 3 lot partition typically nothing is going to change as a result of the neighborhood meeting. Neighbors have been lead to believe otherwise.
- There is not always an Adjustment Review for some of the items that the flexibility of the PUD purpose statement provides.

Thanks for including us in the process.

Thanks
carol

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Clear & Objective Proposed Amendments - Batch 1

December 16, 2018 - DRAFT

Proposed text in ***bold italic***

Proposed deletions in [~~bracketed strike-out~~]

Information describing the proposed code change is provided below each section. Please refer to the [Draft Preferred Concepts Report](#) for more detailed information on the referenced issues.

Definitions

9.0500 **Definitions.** As used in this land use code, unless the context requires otherwise, the following words and phrases mean:

Pedestrian. Any person afoot or using any type of wheelchair.

This change implements the recommendation for COS-20 (Pedestrian Definition), to add a definition for the term 'pedestrian' based on the Oregon Revised Statutes (ORS) definition with a minor modification. ORS defines pedestrian as "any person afoot or *confined in a wheelchair*." [Emphasis added] The minor modification is to replace "confined to a wheelchair" with "using any type of wheelchair."

Commercial Zones

9.2181 **Special Standards for Table 9.2180.**

- (1) Lot area, frontage, and width minimums may be adjusted in accordance with the provisions of EC 9.8030(1). Modifications may be approved through a planned unit development. (For planned unit development procedures refer to EC 9.7300 General Overview of Type III Application Procedures and for approval criteria refer to EC 9.8320 Tentative Planned Unit Development Approval Criteria - General/Discretionary or EC 9.8325 Tentative Planned Unit Development Approval Criteria – Housing/Clear and Objective.)

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called "General/Discretionary" and the Needed Housing track is proposed to be called "Housing/Clear and Objective."

Employment and Industrial Zones

9.2471 **Special Standards for Table 9.2470.**

- (1) Lot area, frontage, and width minimums may be adjusted pursuant to the provisions of EC 9.8030(1) of this land use code. Modifications may be approved through a site review or planned unit development. (For planned unit development procedures refer to EC 9.7300 General Overview of Type III Application Procedures and for

approval criteria refer to EC 9.8320 Tentative Planned Unit Development Approval Criteria – General/Discretionary.)

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General approval criteria. The General track is proposed to be called “General/Discretionary.”

Natural Resource Zone

9.2520 Natural Resource Zone Land Use and Permit Requirements. The provisions of the NR zone do not exempt a person or property from state or federal laws and regulations that protect water quality, wetlands, or other natural areas. In cases where the NR zone overlaps with the /WB wetland buffer overlay zone or the /WP waterside protection overlay zone, only the provisions of the NR zone are applied.

(2) Uses Subject to a Conditional Use Permit. The following uses are permitted conditionally in the NR zone:

- (a) Nature interpretive centers and wetland research facilities, when such centers or facilities are specified in or consistent with adopted plans or policies.
- (b) Maintenance facilities for storage of equipment and materials used exclusively for maintenance of wetlands and other natural resource areas.

Conditional use permit approval shall be based upon conformance with EC 9.2530 Natural Resource Zone Development Standards (2) through (19), in addition to EC 9.8090 Conditional Use Permit Approval Criteria -General/Discretionary.

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General approval criteria. The General track is proposed to be called “General/Discretionary.”

Public Land Zone

9.2687 Special Standards for Table 9.2686.

- (1)** Lot area, frontage, and width minimums may be adjusted pursuant to the provisions of EC 9.8030(1) of this land use code. Modifications may be approved through a planned unit development. (For planned unit development procedures refer to EC 9.7300 General Overview of Type III Application Procedures and for approval criteria refer to EC 9.8320 Tentative Planned Unit Development Approval Criteria - General/Discretionary or EC 9.8325 Tentative Planned Unit Development Approval Criteria – Housing/Clear and Objective.)

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called “General/Discretionary” and the Needed Housing track is proposed to be called “Housing/Clear and Objective.”

Residential Zones

9.2751 Special Development Standards for Table 9.2750.

- (2)** Maximum building height, minimum building setbacks, and maximum building dimensions may be modified with an approved planned unit development permit. (For planned unit development procedures refer to EC 9.7300 General Overview of

Type III Application Procedures and for approval criteria refer to EC 9.8320.

Tentative Planned Unit Development Approval Criteria - General/Discretionary or

EC 9.8325 Tentative Planned Unit Development Approval Criteria -

Housing/Clear and Objective

There are other criteria that are adjusted by showing consistency with the PUD purpose statement for which there is currently no Adjustment Review Path. Unless AR options are increased this revision limits the inherent flexibility of the PUD. The adjustment review for lot standards requires meeting the purpose statement of that zone. Please look in the R-1 zone purpose statement and just imagine how difficult that will be. There isn't much about that statement that justifies creating land locked lots, smaller lots, etc. which is part of the flexibility of the PUD. This code revision does not facilitate housing. It simply moves the argument to a different section of the code.

This change is related to COM-12 (Review Track Renaming) and Needed Housing approval criteria. The General track is proposed to be called "Housing/Clear and Objective."

9.2761 Special Standards for Table 9.2760.

(1) 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, ***or with an approved adjustment review associated with an approved planned unit development in any zone.***

This change is related to COM-05 (Planned Unit Development Adjustment/Modification). Change needed to retain the ability to adjust these standards under a discretionary adjustment review option as the existing PUD allowance to modify them by showing consistency with the purpose of PUD (EC 9.8300) is proposed to be removed.

Downtown Westside Special Area Zone

9.3216 Special Development Standards for Table 9.3215.

- (1)** Maximum building height, minimum building setbacks, and maximum building dimensions may be modified with an approved planned unit development permit. (For planned unit development procedures refer to EC 9.7300 General Overview of Type III Application Procedures and for approval criteria refer to EC 9.8320 Tentative Planned Unit Development Approval Criteria - General/Discretionary or EC 9.8325 Tentative Planned Unit Development Approval Criteria - Housing/Clear and Objective)

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called "General/Discretionary" and the Needed Housing track is proposed to be called "Housing/Clear and Objective."

9.3221 Special Standards for Table 9.3220.

- (1)** Lot area, frontage, and width minimums may be modified with an approved planned unit development permit. (For planned unit development procedures refer to EC 9.7300 General Overview of Type III Application Procedures and for approval criteria refer to EC 9.8320 Tentative Planned Unit Development Approval Criteria - General/Discretionary or EC 9.8325 Tentative Planned Unit Development Approval Criteria - Housing/Clear and Objective.)

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called "General/Discretionary" and the Needed Housing track is proposed to be called "Housing/Clear and Objective."

I know this is not part of this exercise but making any revisions to this zone at this juncture does not render development in this zone any more feasible. This is the worst written least understandable section of the entire land use code. This code section goes far to prevent infill and necessary housing.

Jefferson Westside Special Area Zone

9.3626 **Special Development Standards for Table 9.3625.**

- (9) Maximum building height and minimum building setbacks may be modified with an approved planned unit development permit. (For planned unit development procedures refer to EC 9.7300 General Overview of Type III Application Procedures and for approval criteria refer to EC 9.8320 Tentative Planned Unit Development Approval Criteria - [General] ***Discretionary*** or EC 9.8325 Tentative Planned Unit Development Approval Criteria - Clear and Objective.)

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called "General/Discretionary" and the Needed Housing track is proposed to be called "Housing/Clear and Objective."

Riverfront Park Special Area Zone

- 9.3725 **S-RP Riverfront Park Special Area Zone Review Procedures.** The master site plan for developments proposed within the S-RP zone shall be reviewed through the conditional use permit process provided in this land use code. For the purpose of this review, the following criteria shall be applied in lieu of the criteria provided in EC 9.8090 Conditional Use Permit Approval Criteria - General/***Discretionary***.

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General approval criteria. The General track is proposed to be called "General/Discretionary."

Wetland Buffer Overlay Zone

- 9.4830 **/WB Wetland Buffer Overlay Zone Land Use and Permit Requirements.** Within the /WB overlay zone, there are 2 categories of uses: those allowed by the base zone or special area zone outside of the /WB area, and a more restrictive list of uses allowed within the /WB area.

(2) Within /WB Areas:

- (c) Uses Permitted Conditionally. The following uses are permitted conditionally in the /WB overlay zone:
1. Nature interpretive centers, when specified in or consistent with adopted plans or policies.
 2. Maintenance facilities for storage of equipment and materials used exclusively for maintenance and management of wetlands and natural areas.

Conditional use permit approval shall be based upon conformance with EC 9.2530 Natural Resource Zone Development Standards (2) through (19) in addition to the conditional use criteria contained in EC 9.8090 Conditional Use Permit Approval Criteria – General/***Discretionary***.

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General approval criteria. The General track is proposed to be called "General/Discretionary."

Telecommunication Facilities

9.5750 Telecommunication Devices-Siting Requirements and Procedures.

- (2) **Siting Restricted.** No telecommunication facility, as defined in this land use code, may be constructed, modified to increase its height, installed or otherwise located within the city except as provided in this section. Depending on the type and location of the telecommunication facility, the telecommunication facility shall be either an outright permitted use, subject to site review procedures, or require a conditional use permit.
- (b) Site Review. A telecommunication facility which, pursuant to subsections (3) through (5) of this section, is subject to site review shall be processed in accordance with the site review procedures of this land use code. The criteria contained in this section, as well as the criteria contained in EC 9.8440 Site Review Approval Criteria – General/Discretionary, shall govern approval or denial of the site review application. In the event of a conflict in criteria, the criteria contained in this section shall govern. No development permit shall be issued prior to completion of the site review process, including any local appeal.
- (c) Conditional Use Permit. A telecommunication facility which, pursuant to subsections (4) or (5) of this section, requires a conditional use permit shall be processed in accordance with the conditional use permit procedures of this land use code, except that the variance provisions shall not apply. The criteria contained in EC 9.8090 Conditional Use Permit Approval Criteria –General/Discretionary and subsections (6) and (7) of this section shall govern approval or denial of the conditional use permit application. In the event of a conflict in criteria, the criteria contained in subsections (6) and (7) of this section shall govern. No development permit shall be issued prior to completion of the conditional use permit process, including any local appeal.

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General approval criteria. The General track is proposed to be called “General/Discretionary.”

General Standards for All Development

9.6010 Applications Proposing [Needed] Housing.

- (1) As used in EC chapter 9.6000, the term “applications proposing ~~[needed]~~ housing **to be reviewed with clear and objective approval criteria**” includes:
- (a) Applications that are proceeding (or have proceeded) under EC 9.8100, 9.8220, 9.8325, 9.8445, or 9.8520; or
- (b) Applications for **housing** developments ~~[permits]~~ for **residential** uses permitted outright in the subject zone that are **entitled to clear and objective standards pursuant to state statutes** ~~[proposed housing is needed housing as defined by state statutes]~~.
- (2) The term does not include an application that could have proceeded under EC 9.8100, 9.8220, 9.8325, 9.8445, or 9.8520, but the applicant elected to proceed under the discretionary approval process.

The changes listed above are related to COM-12 (Review Track Renaming). The changes revise and clarify references in the general standards contained in EC chapter 9.6000 that only apply to proposals reviewed under the clear and objective approval criteria.

“needed housing” → “housing to be reviewed with clear and objective approval criteria”

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 ***to be reviewed with clear and objective approval criteria*** shall include a certification from an Oregon licensed Engineering Geologist or an Oregon licensed Civil Engineer with geological experience stating:

9.6815 Connectivity for Streets.

(2) Street Connectivity Standards.

(e) Except for applications proposing [needed] housing ***to be reviewed with clear and objective approval criteria***, all applicants shall show that the proposed street alignment shall minimize excavation and embankment and avoid impacts to natural resources, including water-related features.

9.6845 Special Safety Requirements. Except for applications proposing [needed] housing ***to be reviewed with clear and objective approval criteria***, 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.

9.6865 Transit Facilities.

- (1)** Except for applications proposing [needed] housing ***to be reviewed with clear and objective approval criteria***, the city manager may require provisions, including easements, for transit facilities where future transit routes are required on streets extending through or adjacent to the area of the development, and where a need for bus stops, bus pullouts or other transit facilities within the development has been identified, provided the city makes findings to demonstrate consistency with constitutional requirements.
- (2)** Except for applications proposing [needed] housing ***to be reviewed with clear and objective approval criteria***, where the provision of transit stops, bus pullouts or other facilities along a public street requires a right-of-way or paving width greater than that listed in Table 9.6870 Right-of-Way and Paving Widths and where a need for transit service within the development has been identified, the planning director or public works director, depending upon the type of application being processed, may require that additional right-of-way or paving be provided.

The changes listed above are related to COM-12 (Review Track Renaming). The changes revise and clarify references in the general standards contained in EC chapter 9.6000 that only apply to proposals reviewed under the clear and objective approval criteria.

“needed housing” → “housing to be reviewed with clear and objective approval criteria”

9.6885 Tree Preservation and Removal Standards.

- (3) Adjustment to Standards.** Except for applications being processed under EC 9.8100 Conditional Use Permit Approval Criteria - [Needed] Housing/Clear and Objective, EC 9.8325 Tentative Planned Unit Development Approval Criteria - [Needed] Housing /Clear and Objective, EC 9.8445 Site Review Approval Criteria – [Needed] Housing /Clear and Objective, or EC 9.8520 Subdivision, Tentative Plan

Approval Criteria - ~~[Needed]~~ Housing **/Clear and Objective**, 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.

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called "General/Discretionary" and the Needed Housing track is proposed to be called "Housing/Clear and Objective."

Application Procedures

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, ***except for 3-lot partitions and tentative subdivisions that implement an approved tentative planned unit development,***
- (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).

This should be removed. 3 lot partitions are a fairly benign land use division and the added cost (approximately \$2000) to hold a neighborhood meeting is not defensible.

This change is related to COM-14 (Duplicate Neighborhood/Applicant Meeting) and would provide an exception for subdivisions and partitions when processed in conjunction with a planned unit development.

Application Requirements and Criteria

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,]~~ ***housing to be reviewed with clear and objective approval criteria*** shall be processed pursuant to EC 9.8520 Subdivision, Tentative Plan Approval Criteria – ~~[Needed]~~ Housing/Clear and Objective. No development permit shall be issued by the city prior to approval of the cluster subdivision.

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called "General/Discretionary" and the Needed Housing track is proposed to be called "Housing/Clear and Objective."

This seems confusing. Wouldn't it be easier to add a Housing/Clear and Objective Tract so it is clear that there are 2 tracks. Instead of one being under the applicability statement and on having its own code section? Glad to see Cluster Subdivision has a C&O track.

9.8055 Cluster Subdivision- Approval Criteria – General/Discretionary. The planning director shall approve, approve with conditions, or deny a proposed cluster subdivision. Approval or approval with conditions shall be based on the following:

(1) The proposed subdivision complies with:

- (a) EC 9.8515 Subdivision, Tentative Plan Approval Criteria- General/**Discretionary** except for the standards related to EC 9.2760 Residential Zone Lot Standards; and

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General approval criteria. The General track is proposed to be called "General/Discretionary."

9.8085 Conditional Use Permit Application Requirements.

- (1) Conditional use applications shall be processed in accordance with the application procedures contained in EC 9.7000 through 9.7835, Application Procedures.
- (2) When a conditional use permit is required for the proposed use, no development permit application shall be accepted by the city until the hearings official or planning commission approves the conditional use permit, and then only in accordance with the terms and conditions of that conditional use permit.
- (3) If the proposal includes ~~[needed housing, as defined by state law]~~ **housing**, the written statement submitted with the conditional use permit application shall clearly state whether the applicant is electing to use the ~~[general]~~ **discretionary** approval criteria in EC 9.8090 Conditional Use Permit Approval Criteria – General/**Discretionary** instead of the approval criteria found in EC 9.8100 Conditional Use Permit Approval Criteria – ~~[Needed] Housing/Clear and Objective~~.

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called "General/Discretionary" and the Needed Housing track is proposed to be called "Housing/Clear and Objective." It also revises subsection (3) consistent with state law that proposals including housing, not just needed housing, are entitled to clear and objective approval criteria.

- 9.8090 Conditional Use Permit Approval Criteria – General/**Discretionary**.** A conditional use permit shall be granted only if the proposal conforms to all of the following criteria:

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General approval criteria. The General track is proposed to be called "General/Discretionary."

- 9.8100 Conditional Use Permit Approval Criteria- ~~[Needed] Housing/Clear and Objective. Unless the applicant elects to use the discretionary criteria contained in EC 9.8090 Conditional Use Permit Approval Criteria – General/Discretionary, for housing applications entitled to clear and objective review pursuant to state statute,~~** 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:

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called "General/Discretionary" and the Needed Housing track is proposed to be called "Housing/Clear and Objective." This change also clarifies that this section is only applicable to "housing applications entitled to clear and objective review pursuant to state statute."

- (1) ~~[The applicant has demonstrated that the proposed housing is needed housing as defined by State statutes.]~~ **Hold for new compatibility criterion.**

This change is related to COM-01 (Needed Housing Criterion). Changes to recent state law mean that housing, not just needed housing, is entitled to clear and objective standards. This change would remove the requirement that the applicant demonstrate that the proposed housing is needed housing, consistent with the change to state law. Subsection (1) will be held for the new compatibility criterion related to COS-01 (Clear & Objective Compatibility). While COS-01 was part of Batch 1 concepts, draft code changes will be available along with Batch 2 code changes as it required more time.

- (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]~~ ***the provisions of 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.]~~

This change is related to COM-09 (Natural Resource Protection Requirement). The proposed change revises the criterion to removes subsection (b) per the recommendation outlined in the Draft Preferred Concepts Report.

- (4) The proposal complies with all ~~[applicable standards, including, but not limited to:~~
- (a) ***EC 9.2000 through EC 9.4170 regarding lot dimensions and density requirements for the subject zone and overlay zone.***
 - (b) ***EC 9.6500 through EC 9.6505 Public Improvement Standards.***
Renumber remaining subsections
 - (i) ***EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways.***
 - (j) ***All other applicable development standards for features explicitly included in the application.***
 - (ik) 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.

This change to subsection (a) is related to COM-02 (Applicable Standards Reference for CUPs) and would add clarity around which development standards apply; and COM-04 (Overlay Zone Standards) as it would extend the range of the referenced code sections to include all overlay zones.

The changes to subsections (b), (i), and (j) are related to COM-02 (Applicable Standards Reference for CUPs) and would require compliance with additional development standard.

- (5) Public improvements as required by this land use code or as a condition of ~~[tentative plan]~~ approval ***will be*** ~~[have been]~~ completed ***prior to issuance of a development permit***, 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

It has always been difficult to know exactly what pedestrian and bike circulation means. Are sidewalks not enough within a development site? Does bike circulation always mean bike paths or are the streets themselves not enough? And then what does that mean provide circulation to adjacent residential etc within 1/4 mile. Does that mean if there are no sidewalks to residential etc. within a 1/4 mile that the applicant has to provide sidewalks off site for 1/4 mile as well. See Capital Hill opposition for how this might have been interpreted. If these code criterion are not crystal clear as to how they manifest in the built environment then they are items for appeal and delay of housing,

vements; or
d for the assessment of the real property
d by the property owner seeking the
on has been accepted by the city

This change is related to COM-05 (Bonding Requirement). The proposed change revises the timing of the requirement for completion or bonding of public improvements to prior to issuance of a development permit.

- (6) ***If the standards addressed under EC 9.8100(4) require a public street, or if the applicant proposes the creation of a public street, the proposal will provide pedestrian and bicycle circulation within the development site, as well as to adjacent residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks located within ¼ mile radius of the development site, provided the city makes findings to demonstrate consistency with constitutional requirements.***

This change is related to COM-16 (Off-Site Bike/Ped Connections). The proposed change adds a requirement that already applies to partitions, subdivisions, and planned unit developments. Minor revision to add clarity to the requirement is also proposed.

- (7) ***The applicant has submitted a letter from the Eugene/Springfield Fire Marshal's office stating that the proposed partition complies with the applicable Eugene Fire Code (2014) requirements regarding fire apparatus access roads and fire protection water supply, or will comply subject to conditions of approval that are specified in the letter.***

This change is related to COS-08 (Emergency Response). The proposed criterion would require a letter from the Fire Marshal's office to address Emergency Response concerns regarding fire apparatus access and fire protection water supply.

9.810

This will create unintended consequences. Fire seems to disagree with the adopted road widths in the transportation plan. However, since they are adopted, they are approvable. This leaves the door open for discretionary decisions by fire about what is safe. See comments on the Capital Hill PUD that has caused the applicant no end of grief and challenges. And continues to do so currently. There are some roads that can not be brought up to current 'safe' standards where residents currently live. This is fraught with challenges for future PUDs. The question is: How does this additional layer facilitate housing. Or better yet 'how does it not delay or prevent housing'.

Force Zone or /WB Wetland

ions for conditional use permits
d buffer overlay zone shall be
e same manner as other
standards (2) through (19) listed
Standards shall be considered
EC 9.8090 Conditional Use

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General approval criteria. The General track is proposed to be called "General/Discretionary."

9.8205 Applicability of Partition, Tentative Plan Applications.

- (1) 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.
- (2) A ***tentative plan application to partition land*** ~~[application that also involves a PUD request]~~ may ***be submitted and reviewed concurrently with the*** ~~[not be submitted until a decision on the]~~ tentative PUD ***application following a Type III application procedure*** ~~[approval is final]~~. ***If a partition application that also involves a PUD request is not submitted concurrently with the tentative PUD, the partition application may not be submitted until a tentative PUD is approved.*** (Refer to EC 9.8305 Applicability.)
- (3) ***If the partition tentative plan application is not reviewed concurrently with the tentative PUD, No*** development permit shall be issued by the city prior to approval of the tentative partition application. ***If the tentative partition is reviewed concurrently with the tentative PUD application, no development permit shall be issued by the city prior to approval of the final PUD application.***

This change is related to COM-11 (PUD/Subdivision Concurrent Review). The proposed revisions would allow concurrent review of tentative partition applications when the proposal also involves a PUD.

9.8210 Partition, Tentative Plan Application Requirements. In addition to the provisions in EC 9.7010 Application Filing, the following specific requirements apply to partition tentative plan applications:

- (4) If the proposal includes ~~[needed housing, as defined by State statutes]~~ ***housing***, the written statement submitted with the partition application shall clearly state whether the applicant is electing to use the ~~[general]~~ ***discretionary*** approval criteria in EC 9.8215 Partition, Tentative Plan Approval Criteria- General/Discretionary instead of the approval criteria found in EC 9.8220 Partition, Tentative Plan Approval Criteria- [Needed] Housing/Clear and Objective.

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called "General/Discretionary" and the Needed Housing track is proposed to be called "Housing/Clear and Objective." It also replaces the term "needed housing" with "housing," consistent with state law that proposals including housing, not just needed housing, are entitled to clear and objective approval criteria.

9.8215 Partition, Tentative Plan Approval Criteria- General/Discretionary. The planning director shall approve, approve with conditions, or deny a partition, with findings and conclusions. Approval, or approval with conditions, shall be based on compliance with the following criteria:

9.8220 Partition, Tentative Plan Approval Criteria- [Needed] Housing/Clear and Objective. ***Unless the applicant elects to use the discretionary criteria contained in EC 9.8215 Partition, Tentative Plan Approval Criteria- General/Discretionary, for housing applications entitled to clear and objective review pursuant to state statute,*** ~~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 State statutes, the planning director shall approve or approve with conditions a partition]~~ based on compliance with the following criteria:

~~[(1) The applicant has demonstrated that the proposed housing is needed housing as defined by State statutes.] *Renumber remaining subsections.*~~

These changes are related to COM-12 (Review Track Renaming) and revise code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called "General/Discretionary" and the Needed Housing track is proposed to be called "Housing/Clear and Objective." This change also clarifies that this section is only applicable to "housing applications entitled to clear and objective review pursuant to state statute."

It also relates to COM-01 (Needed Housing Criterion) as it removes subsection (1), the requirement to demonstrate that housing is 'needed housing,' consistent with state law that proposals including housing, not just needed housing, are entitled to clear and objective approval criteria.

(21) The proposed partition complies with all of the following:

- (a) ~~[Lot standards of]EC 9.2000 through [9.3980]~~ **9.4170** regarding applicable parcel dimensions and density requirements **for the subject zone and overlay 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:
- (k) ~~[EC 9.6880 through EC 9.6885 Tree Preservation and Removal Standards.]~~
Renumber remaining subsection
Renumber remaining subsections

This change to subsection (a) is related to COM-04 (Overlay Zone Standards) as it would extend the range of the referenced code sections to include all overlay zones.

The change to subsection (k) is related to COS-10 (Partition Tree Preservation) and proposes removal of the criterion.
*Note that this removal is consistent with the discretionary track alternative which does not require tree preservation for partitions.

~~[(4) Partitions abutting collector and arterial streets comply with access management guidelines of the agency having jurisdiction over the street.] *Renumber remaining subsections*~~

This change to subsection (a) is related to COM-07 (Access Management Requirement) and would remove the criterion (this criterion is redundant and unnecessary as other jurisdictional agencies already have the authority to require compliance with their guidelines).

- (53)** If the provisions of EC 9.8220(2) require a public street, or if the applicant proposes the creation of a public street, the following criteria also apply:
- (a) The proposed land uses and densities within the partition are consistent with the land use designation(s) shown on the comprehensive plan diagram, as refined in any applicable refinement plan.
 - (b) Provision of pedestrian, bicycle and transit circulation among buildings located within the development site, as well as to adjacent and 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 to be used by bicyclists.

Same as comments above with respect to fire marshal weighing in on roads and their adequacy. Existing non-conforming conditions exist in many places. Places too expensive and disruptive to widen a road to bring it up to current 'safe' standards. Life is a risk. Not everything can be made perfectly safe. And what once was considered safe is now considered safe is now up for re-evaluation?

~~partition shall disperse motor vehicle traffic
street when the sum of proposed partition
ing a local street as the single means of~~

- (4) ***The applicant has submitted a letter from the Eugene/Springfield Fire Marshal's office stating that the proposed partition complies with the applicable Eugene Fire Code (2014) requirements regarding fire apparatus access roads and fire protection water supply, or will comply subject to conditions of approval that are specified in the letter.***

The changes above are related to COS-14 (19 Lot Rule—Motor Vehicle Dispersal) and COS-08 (Emergency Response). The proposed replacement of (c) with the new criterion at subsection (4), that would require a letter from the Fire Marshal's office, is necessary as the Land Use Board of Appeals determined that (c) is not clear and objective.

9.8310 Tentative Planned Unit Development General Application Requirements.

- (5) **[Needed] Housing.** If the proposal includes ~~[needed housing, as defined by State statutes]~~ **housing**, the written statement submitted with the PUD application shall clearly state whether the applicant is ***proceeding under: (a)[electing to use] the [general] approval criteria in EC 9.8320 Tentative Planned Unit Development Approval Criteria- General/Discretionary; or (b) [instead of] the approval criteria [found] in EC 9.8325 Tentative Planned Unit Development Approval Criteria- [Needed] Housing/Clear and Objective.***

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called "General/Discretionary" and the Needed Housing track is proposed to be called "Housing/Clear and Objective." It also replaces the term "needed housing" with "housing," consistent with state law that proposals including housing, not just needed housing, are entitled to clear and objective approval criteria.

9.8320 Tentative Planned Unit Development Approval Criteria- General/Discretionary. The hearings official shall approve, approve with conditions, or deny a tentative PUD application with findings and conclusions. Decisions approving an application, or approving with conditions, shall be based on compliance with the following criteria:

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General approval criteria. The General track is proposed to be called "General/Discretionary."

9.8325 Tentative Planned Unit Development Approval Criteria – [Needed] Housing/Clear and Objective. ***Unless the applicant elects to use the discretionary criteria contained in EC 9.8320 Tentative Planned Unit Development Approval Criteria- General/Discretionary, for housing applications entitled to clear and objective review pursuant to state statute,*** ~~the hearings official shall approve, conditionally approve, or deny the PUD application [with findings and conclusions. Unless the~~

~~applicant elects to use the general criteria contained in EC 9.8320 Tentative Planned Unit Development 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 PUD] based on compliance with the following criteria:~~

These changes are related to COM-12 (Review Track Renaming) and revise code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called “General/Discretionary” and the Needed Housing track is proposed to be called “Housing/Clear and Objective.” This change also clarifies that this section is only applicable to “housing applications entitled to clear and objective review pursuant to state statute.”

~~[(1) The applicant has demonstrated that the proposed housing is needed housing as defined by state statutes.] *Hold for new compatibility criterion. *~~

This change is related to COM-01 (Needed Housing Criterion). Changes to recent state law mean that housing, not just needed housing, is entitled to clear and objective standards. This change would remove the requirement that the applicant demonstrate that the proposed housing is needed housing, consistent with the change to state law. Subsection (1) will be held for the new compatibility criterion related to COS-01 (Clear & Objective Compatibility). While COS-01 was part of Batch 1 concepts, draft code changes will be available along with Batch 2 code changes as it required more time.

- (4) For areas not included on the city’s acknowledged Goal 5 inventory, the PUD preserves existing natural resources by compliance with ~~[all of the following:~~
- ~~(a) The provisions of EC 9.6880 to EC 9.6885 Tree Preservation and Removal Standards, [(not subject to modifications set forth in subsection (11) below)].~~
 - ~~[(b) Natural resource areas designated on the comprehensive plan diagram as “Natural Resource” are protected.]~~

This change is related to COM-09 (Natural Resource Protection Requirement). The proposed change revises the criterion to removes subsection (b) per the recommendation outlined in the Draft Preferred Concepts Report.

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

~~[(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.]~~

This change is related to COS-14 (19 Lot Rule—Motor Vehicle Dispersal) and COS-08 (Emergency Response). The proposed replacement of (c) with the new criterion at subsection (11) below, that would require a letter from the Fire Marshal’s office, is necessary as the Land Use Board of Appeals determined that (c) is not clear and objective.

- (7) The PUD complies with all of the following:
- (a) EC 9.2000 through ~~[9.3980]~~ **9.4170** regarding **applicable** lot dimensions and density requirements for the subject zone **and overlay 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:

(k) All applicable development standards explicitly addressed in the application.

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.

The change to subsection (a) is related to COM-04 (Overlay Zone Standards) as it would extend the range of the referenced code sections to include all overlay zones.

The addition of subsection (k) is related to COM-05 (Planned Unit Development Adjustment/Modification). The proposed change would remove the modification allowance currently allowed under subsection (11) below (text to be deleted), but retain the ability to use approved adjustments to show compliance with applicable standards.

- (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)].~~

Here is an example of where there is no Adjustment Review path for this. And now the only other path for flexibility is removed.

to COM-05 (Planned Unit Development Adjustment/Modification). The proposed change removes the modification allowance currently allowed under subsection (11) below (text to be deleted). Exceptions and exemptions are allowed per EC 9.2790(3) and (4), respectively.

- (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.]~~ ***The applicant has submitted a letter from the Eugene/Springfield Fire Marshal's office stating that the proposed development complies with the applicable Eugene Fire Code (2014) requirements regarding fire apparatus access roads and fire protection water supply, or will comply subject to conditions of approval that are specified in the letter.***

This change is related to COS-14 (19 Lot Rule—Motor Vehicle Dispersal) and COS-08 (Emergency Response). The proposed replacement of (6)(c) above with this new criterion at subsection (11), that would require a letter from the Fire Marshal's office, is necessary as the Land Use Board of Appeals determined that (6)(c) is not clear and objective.

9.8360 Planned Unit Development, Final Plan Application Requirements. In addition to the provisions in EC 9.7010 Application Filing, the following specific requirements apply to PUD final plan applications:

- ~~[(4) 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 subdivision, and the petition has been accepted by the city engineer.]~~

This change is related to COM-03 (Bonding Requirement). The proposed change would make this requirement an approval criterion rather than an application requirement.

- 9.8365 Final Planned Unit Development Approval Criteria.** The planning director shall approve, approve with conditions, or deny a final PUD application, ***based on compliance with the following criteria:*** ~~Approval shall include a finding that the final PUD plan conforms with the approved tentative PUD plan and all conditions attached thereto.]~~
- (1) ***The final PUD plan conforms with the approved tentative PUD plan and all conditions attached thereto.***
 - (2) ***For final PUDs not associated with a land division, public improvements as required by this land use code or as a condition of tentative plan approval will be completed prior to issuance of a development permit, 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 subdivision, and the petition has been accepted by the city engineer.***

This change is related to COM-03 (Bonding Requirement). The proposed change would make this requirement an approval criterion rather than an application requirement.

- 9.8440 Site Review Approval Criteria- General/Discretionary.** The planning director shall approve, conditionally approve, or deny the site review application. Approval or conditional approval shall be based on compliance with the following criteria:

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General approval criteria. The General track is proposed to be called "General/Discretionary."

- 9.8445 Site Review Approval Criteria- [Needed] Housing/Clear and Objective.** **Unless the applicant elects to use the discretionary criteria contained in EC 9.8440 Site Review Approval Criteria- General/Discretionary, for housing applications entitled to clear and objective review pursuant to state statute,** ~~the planning director shall approve, conditionally approve, or deny the site review application. [Unless the applicant elects to use the general criteria contained in EC 9.8440 Site Review 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 site review]~~ based on compliance with the following criteria:

These changes are related to COM-12 (Review Track Renaming) and revise code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called "General/Discretionary" and the Needed Housing track is proposed to be called "Housing/Clear and Objective." This change also clarifies that this section is only applicable to "housing applications entitled to clear and objective review pursuant to state statute."

- ~~[(1) The applicant has demonstrated that the proposed housing is needed housing as defined by State statutes.] *Hold for new compatibility criterion.*~~

This change is related to COM-01 (Needed Housing Criterion). Changes to recent state law mean that housing, not just needed housing, is entitled to clear and objective standards. This change would remove the requirement that the applicant demonstrate that the proposed housing is needed housing, consistent with the change to state law. Subsection (1) will be held for the new compatibility criterion related to COS-01 (Clear & Objective Compatibility). While COS-01 was part of Batch 1 concepts, draft code changes will be available along with Batch 2 code changes as it required more time.

- (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]~~ **the provisions of** EC 9.6880 through EC 9.6885 Tree Preservation and Removal Standards.
(b) ~~Natural resource areas designated on the comprehensive plan diagram as "Natural Resource" are protected.]~~

This change is related to COM-09 (Natural Resource Protection Requirement). The proposed change revises the criterion to removes subsection (b) per the recommendation outlined in the Draft Preferred Concepts Report.

- (4) The proposal complies with all of the following ~~[standards]:~~
(a) EC 9.2000 through ~~[9.3980]~~ **9.4170** regarding **applicable** lot dimensions and density requirements for the subject zone **and overlay zone**.
(b) **EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways.**

**Renummer remaining subsections*

The change to subsection (a) is related to COM-04 (Overlay Zone Standards) as it would extend the range of the referenced code sections to include all overlay zones.

The proposed addition of subsection (b) is related to COM-13 (Site Review Street Standards).

- (5) Public improvements as required by this land use code or as a condition of ~~[tentative plan]~~ approval **will be** ~~[have been]~~ completed **prior to issuance of a development permit**, 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 subdivision, and the petition has been accepted by the city engineer.

This change is related to COM-03 (Bonding Requirement). The proposed change revises the timing of the requirement for completion or bonding of public improvements to prior to issuance of a development permit.

- (6) ***If the standards addressed under EC 9.8100(4) require a public street, or if the applicant proposes the creation of a public street, the proposal will provide pedestrian and bicycle circulation within the development site, as well as to adjacent residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks located within ¼ mile radius of the development site, provided the city makes findings to demonstrate consistency with constitutional requirements.***

This change is related to COM-16 (Off-Site Bike/Ped Connections). The proposed change adds a requirement that already applies to partitions, subdivisions, and planned unit developments. Minor revision to add clarity to the requirement has also been proposed.

Same concern as above when fire marshal is included.

- (7) ***The applicant has submitted a letter from the Eugene/Springfield Fire Marshal's office stating that the proposed development complies with the applicable Eugene Fire Code (2014) requirements regarding fire apparatus access roads and fire protection water supply, or will comply subject to conditions of approval.***

This change is related to COS-08 (Emergency Response). The proposed criterion would require a letter from the Fire Marshal's office to address Emergency Response concerns regarding fire apparatus access and fire protection water supply.

9.8505 **Applicability of Subdivision, Tentative Plan Applications.**

- (1) 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.
- (2) ***A tentative plan application to subdivision land may be submitted and reviewed concurrently with the [application that also involves a PUD request may not be submitted until a decision on the] tentative PUD application following a Type III application procedure [approval is final]. If a subdivision application that also involves a PUD request is not submitted concurrently with the tentative PUD, the subdivision application may not be submitted until a tentative PUD is approved. (Refer to EC 9.8305 Applicability.)***

- (2) ***If the subdivision tentative plan application is not reviewed concurrently with the tentative PUD, No development permit shall be issued by the city prior to approval of the tentative subdivision tentative plan application. If the tentative subdivision is reviewed concurrently with a PUD application, no development permit shall be issued by the city prior to approval of the final PUD application.***

This change is related to COM-11 (PUD review of tentative subdivision application).

This is an excellent change. Another great change would be to examine why the PUD is 2 separate applications. Or why a PUD is required if the PUD simply looks like a subdivision. Why is a PUD not a one application process like a Site Review, where the last step is to meet the conditions of approval. Not submit another application. There is no utility in this. And it is a very expensive process. For example there was nothing to be gained on the Capital Hill PUD by having to do both a PUD and a Subdivision except for some slight flexibility in lot frontage. Pretty much both applications (PUD and Subdivision) were identical.

9.8510 **Subdivision, Tentative Plan Application Requirements.** In addition to the provisions in EC 9.7010 Application Filing, the following specific requirements shall apply to tentative subdivision plan applications:

- (5) If the proposal includes ~~[needed housing, as defined by State statutes]~~ **housing**, the written statement submitted with the subdivision application shall clearly state whether the applicant is electing to use the ~~[general]~~ **discretionary** approval criteria in EC 9.8515 Subdivision, Tentative Plan Approval Criteria- General/Discretionary instead of the approval criteria found in EC 9.8520 Subdivision, Tentative Plan Approval Criteria- [Needed] Housing/Clear and Objective.

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called "General/Discretionary" and the Needed Housing track is proposed to be called "Housing/Clear and Objective." It also replaces the term "needed housing" with "housing," consistent with state law that proposals including housing, not just needed housing, are entitled to clear and objective approval criteria.

- 9.8515 Subdivision, Tentative Plan Approval Criteria – General/Discretionary.** The planning director shall approve, approve with conditions, or deny a proposed subdivision. Approval, or approval with conditions shall be based on compliance with the following criteria:
- (2) Approval does not impede the future best use of the remainder of the property under the same ownership or adversely affect the development of the remainder or any adjoining land or access thereto, based on the provisions of this land use code. For subdivisions involving phasing, it shall be demonstrated that each sequential phase will maintain consistency with the provisions of EC 9.8515 Tentative Subdivision Approval Criteria – General/Discretionary.

This change is related to COM-12 (Review Track Renaming) and revises code references to the currently named General approval criteria. The General track is proposed to be called "General/Discretionary."

- 9.8520 Subdivision, Tentative Plan Approval Criteria – [Needed] Housing/Clear and Objective.** Unless the applicant elects to use the discretionary criteria contained in EC 9.8515 Subdivision, Tentative Plan Approval Criteria- General/Discretionary, for housing applications entitled to clear and objective review pursuant to state statute, the planning director shall approve, conditionally approve, or deny the subdivision application. ~~[Unless the applicant elects to use the general criteria contained in EC 9.8515 Subdivision, 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 subdivision]~~ based on compliance with the following criteria:
- ~~[(1) The applicant has demonstrated that the proposed housing is needed housing as defined by State statutes.]~~ **Renumber remaining subsections**

These changes are related to COM-12 (Review Track Renaming) and revise code references to the currently named General and Needed Housing approval criteria. The General track is proposed to be called "General/Discretionary" and the Needed Housing track is proposed to be called "Housing/Clear and Objective." This change also clarifies that this section is only applicable to "housing applications entitled to clear and objective review pursuant to state statute."

It also relates to COM-01 (Needed Housing Criterion) as it removes subsection (1), the requirement to demonstrate that housing is 'needed housing,' consistent with state law that proposals including housing, not just needed housing, are entitled to clear and objective approval criteria.

- (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~~ **9.4170** regarding **applicable** lot dimensions and density requirements for the subject zone **and overlay 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:

The change to subsection (a) is related to COM-04 (Overlay Zone Standards) as it would extend the range of the referenced code sections to include all overlay zones.

- (6) The proposed subdivision provides ~~[safe and adequate transportation systems through compliance with the following:]~~ **for the**
- ~~[(a)—P] provision of pedestrian, bicycle and transit circulation among buildings located within the development site, as well as to adjacent and 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.~~
- ~~[(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.]~~

This criterion has always been unclear as to what is specifically being requested. Look at Capital Hill objections for how this can be interpreted differently. If one is providing circulation (i.e. sidewalks) in the development site then what does TO nearby areas mean, Does that mean sidewalks have to be extended beyond the development site to reach those areas. What is it this is really asking for. What problem is it trying to solve. It is unclear and open to interpretation.

ted to COS-14 (19 Lot Rule—Motor Vehicle Dispersal) and COS-08 (Emergency Response). The ent of (b) with the new criterion at subsection (11) below, that would require a letter from the Fire necessary as the Land Use Board of Appeals determined that (c) is not clear and objective.

- (7) For areas not included on the city's acknowledged Goal 5 inventory, the subdivision will preserve existing natural resources by compliance with ~~[all of the following:]~~
- ~~(a)—The proposal complies with] the provisions of EC 9.6880 through EC 9.6885 Tree Preservation and Removal Standards.~~
- ~~[(b)—Natural resource areas designated on the comprehensive plan diagram as "Natural Resource."]~~

This change is related to COM-09 (Natural Resource Protection Requirement). The proposed change revises the criterion to removes subsection (b) per the recommendation outlined in the Draft Preferred Concepts Report.

- (11) ***The applicant has submitted a letter from the Eugene/Springfield Fire Marshal's office stating that the proposed partition complies with the applicable Eugene Fire Code (2014) requirements regarding fire apparatus access roads and fire protection water supply, or will comply subject to conditions of approval.***

The Fire Marshal criterion throughout this document is very problematic. It is yet another layer of unnecessary bureaucracy. There is nothing clear and objective about this. The decision is left up to the discretion of whom ever is tasked with reviewing land use decisions and in the past that has been inconsistent at best.

) and COS-08 (Emergency Response). The on (11), that would require a letter from the Fire ined that (6)(b) is not clear and objective.

DRAGOVICH Jenessa L

From: Renee C <reneec@branchengineering.com>
Sent: Wednesday, January 30, 2019 12:28 PM
To: DRAGOVICH Jenessa L
Subject: RE: Clear & Objective Update: Open Comment on Batch 1 Draft Code Language

Jenessa,

Thank you for the opportunity to provide input. The comments below are typed as I make my first reading through the material. I'll try to edit them if I notice later that I misunderstood something.

9.2761

My understanding of a PUD is that it was developed as a land division process that allowed more discretionary flexibility than the standard subdivision process. Because of history that is irrelevant to this conversation, we are now confronted with the odd situation of discretion-less PUDs. I understand and support the proposed text change in the context of a C&O PUD. However, I don't believe that housing affordability would benefit from the text change in the context of discretionary PUDs. This is the exact type of flexibility that discretionary PUD were developed to address so it seems illogical to take that out and move it to a different application. Additionally, PUDs are NOT cheap for the applicant and, in the case of a discretionary PUD, to add an adjustment review cost to that when the applicant is already making an application capable of performing the discretion seems to be the opposite of addressing affordability.

9.7007

Thank you! I appreciate this change. It has been a frustration for me to hold meetings on applications that follow PUDs. It will help affordability to not hold a meeting that really can't accomplish anything due to the constraints of the PUD approval.

9.8100(7)

I'm not clear on the logic behind this change. My understanding is that the Fire Marshal's office performs a referral review on all CUP applications. This change appears to either move their review to before an application is made or result in the Fire Marshal's office performing duplicate reviews. In the first case, pushing the time and effort of coordinating a review onto the applicant won't help with housing affordability since it will increase cost by making more consultant billable hours. And the same for the second case. Additionally, what will be in place to ensure the Fire Marshal's office performs a timely review? A request outside of an application has no mandated timeline which could easily leave an applicant waiting months while the request is repeatedly set aside in favor of applications with a timeline.

9.8205

Thank you! This will help with housing affordability by reducing the amount of time from start to all approvals in hand.

9.8220(2/1)(k)

I fully support removing the tree standards. It seems logical since no form of them shows up in the discretionary track.

9.8220(4)

Please refer to my comment under 9.8100(7)

9.8325(11)

Please refer to my comment under 9.8100(7)

9.8360

This seems logical and to fit the most efficient work flow.

9.8445(7)

Please refer to my comment under 9.8100(7)

9.8505

Please refer to my comment under 9.7007

9.8520(11)

Please refer to my comment under 9.8100(7)

Please feel free to reach out if any of my comments are not clear.

Renee

Renee Clough, PLS, PE, AICP Principal

BRANCH ENGINEERING, INC.

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www.branchengineering.com

From: DRAGOVICH Jenessa L [mailto:JDragovich@eugene-or.gov]

Sent: Wednesday, January 16, 2019 6:26 PM

Subject: Clear & Objective Update: Open Comment on Batch 1 Draft Code Language

Greetings!

The draft code amendments for Batch 1 issues (all maintenance issues and the less complex significant issues) are now available for review and comment. Attached you will find a document with Batch 1 proposed amendments organized numerically. Brief explanations are provided that include the issue names/numbers for easy reference to the [Draft Preferred Concepts Report](#) (in case you need a refresher or want more background information).

Over the next two weeks, please review the draft code language for Batch 1 and provide feedback to me by **Wednesday, January 30**. We will go over the draft code language, along with any feedback we receive, with the Planning Commission beginning on February 4.

We are available for questions and will be holding two Office Hour sessions during the open comment period. If you want to bring your questions, or just walk through the changes one by one with us, please try to attend one of the following sessions:

OFFICE HOURS

Thursday, January 24th

4:00-6:00 p.m.

Saul Conference Room (3rd floor)

Friday, January 25th

11:00-1:00 p.m.

Room 2021 (2nd floor)

Office Hours will be in the Atrium building located at 99 West 10th Avenue

If you have questions but can't make it to one of these, call or email me!

A note about a minor change... while the preferred concept for COS-01 (Clear and Objective Compatibility) already received support from Planning Commission and City Council, we have decided to release the draft code for the new compatibility criterion along with Batch 2.

Speaking of Batch 2, Planning Commission reviewed the recommended preferred concepts for the eight remaining Key Issues in early December. Links to the webcasts and meeting materials are available on the [project website](#). We will be returning to Council next Wednesday, January 23, for a work session to go over these items, and the Planning Commission feedback, before proceeding with Batch 2 draft code writing.

Best,

Jenessa Dragovich | Senior Planner

Eugene Planning Division | Land Use Planning
99 West 10th Avenue | Eugene Oregon 97401
Phone 541.682.8385 | Fax 541.682.5572

Visit the [Planning Website](#)

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Please consider the environment before printing this message

DRAGOVICH Jenessa L

From: Ed McMahon <ed@hbalanecounty.org>
Sent: Wednesday, January 30, 2019 4:44 PM
To: DRAGOVICH Jenessa L
Subject: Fwd: Clear and Objective Phase 1

Comments from Bill. I'm still letting them sink in. I have an interest in hearing your comments after review.

Thanks,

Ed McMahon
HBA of Lane County
Sent from my iPhone

Begin forwarded message:

From: Bill Kloos <billkloos@landuseoregon.com>
Date: January 30, 2019 at 4:36:49 PM PST
To: "Ed McMahon at HBA (ed@hbalanecounty.org)" <ed@hbalanecounty.org>
Cc: Bill Kloos <billkloos@landuseoregon.com>, Mike Reeder <mreeder@oregonlanduse.com>, "Carol Schirmer (Carol@schirmersatre.com)" <Carol@schirmersatre.com>
Subject: FW: Clear and Objective Phase 1

Ed –

To summarize our discussion on the Phase 1 issues, here is a short list of shortly stated issues. We can elaborate on any of these as will be useful to the City. To be more accurate, we have elaborated on most of these points at great lengths in written materials to the City in the past years. So, we are really restating here what we have rested before.

1. The code needs to include simple, plain English authorization to each decision maker in the City to apply the state law, including the Needed Housing Statute, directly to development applications. The City attorney has forbidden the Planning Commission and Director from doing this. The Hearings Official knows better and applies the state law, generally, but applicants lose the benefit of that right when the matter gets to the Planning Commission.
2. The code needs to include simple, plain language authorization to apply state law, including the Needed Housing Statute to all development applications for housing, including building permits, not just statutory permits, and limited land use decisions. The City Attorney has told the staff that simple building permits do not get the direct benefit of the NHS.
3. The changes to the code relating to tree preservation, as they relate to NHS applications, are hard to follow. The code needs to reflect the bright line division put into the code in 2001. If a land use decision is being made, all tree removal decisions get made in the context of that decision. If an owner just wants to kill a tree ala carte, then they go to Chapter 6. The City is making subdividers, who include a tree removal plan, also get a Chapter 6 tree removal permit. This violates the code and the prohibition in the statute against unreasonable cost and delay.

4. The proposal to allow combination of a tentative subdivision plan and a tentative PUD plan is a baby step in the right direction. The amendment needs to go further. For situations where an owner invokes her right to clear and objective standards, the code needs to allow a single application process for both subdivision and PUD standards. If all the standards are clear and objective, all the standards should be meetable in a single application. Doing otherwise can't be justified under the NHS unreasonable cost and delay standard.
5. This language is being added to the clear and objective track.

(7) The applicant has submitted a letter from the Eugene/Springfield Fire Marshal's office stating that the proposed partition complies with the applicable Eugene Fire Code (2014) requirements regarding fire apparatus access roads and fire protection water supply, or will comply subject to conditions of approval that are specified in the letter.

- (a) Is this language also being added to the discretionary track? If not why not?
 - (b) The Eugene Fire Code (2014) needs to be scrubbed to remove any discretionary standards.
 - (c) If the Eugene Fire Code is to be applied as a zoning code standard, then it needs to be adopted and acknowledged as a land use regulation.
6. I question the need for two tracks – one discretionary and one clear and objective. Other cities do just fine with a single track and the understanding that they need to apply state law directly. Eugene should return to doing the same. That will nullify the effort that the city has attempted to write into the code over the last two decades, which is to have a punishing set of clear and objective standards that leverage applicants into the discretionary track.

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