



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED AMENDMENT

03/20/2012

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Eugene Plan Amendment
DLCD File Number 002-12

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Tuesday, April 03, 2012

This amendment was not submitted to DLCD for review prior to adoption pursuant to OAR 660-18-060, the Director or any person is eligible to appeal this action to LUBA under ORS 197.830 to 197.845.

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Steve Ochs, City of Eugene
Angela Lazarean, DLCD Urban Planner
Ed Moore, DLCD Regional Representative

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FORM **2**

DLCD

Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

In person electronic mailed

DATE STAMP

DEPT OF

MAR 14 2012

LAND CONSERVATION AND DEVELOPMENT

For Office Use Only

Jurisdiction: **City of Eugene**

Local file number: **Z 10-9**

Date of Adoption: **11/15/2011**

Date Mailed: **3/9/2012**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date:

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Zone Change from R-3 Limited High Density Residential to R-4/92/SR High Density Residential with a 92 unit per acre maximum and Site Review overlay.

Does the Adoption differ from proposal?

Zone Change condition of approval was added by the Planning Commission on appeal restricting number of bedrooms on the site to a maximum of 107.

Plan Map Changed from: **NA**

to: **NA**

Zone Map Changed from: **R-3**

to: **R-4/92/SR**

Location: **669, 647, 631 East 15th Avenue**

Acres Involved: **0.7 acres**

Specify Density: Previous: **56 du per acre**

New: **92 du per acre**

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD File No. 002-12 (19238) [16969]

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: **Steve Ochs, Associate Planner**

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Fax Number: **541-682-5572**

City: **Eugene**

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ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)

per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

**FINAL ORDER, FINDINGS, AND CONCLUSIONS
OF THE EUGENE PLANNING COMMISSION:
OBO ENTERPRISES (Z 10-9)**



I INTRODUCTION

The application on appeal requests City approval of a zone change from R-3, Limited High-Density Residential to R-4/92/SR, High-Density Residential with a 92 unit per acre density maximum and site review overlay zone. The Hearings Official approved the zone change, imposing the requested density cap of 92 units per acre through a condition of approval. Concurrent with the zone change application, and inherently contingent upon the zone change approval, the applicant submitted (and the Hearings Official approved) applications for needed housing site review (SR 11-2) and adjustment review (ARA 11-6). Although the site review and adjustment review applications are not the subject of this appeal, the record for this zone change appeal includes the material that was presented to the Hearings Official for all three applications. If the zone change is affirmed, the approved site review and adjustment review applications would allow the applicant to construct the four-story, 63-unit apartment complex with a basement parking garage as proposed and approved in SR 11-2 and ARA 11-6. The subject property is located at 631, 647 and 669 East 15th Avenue, on the north side of East 15th Avenue between Hilyard and Patterson Streets.

The Eugene Hearings Official held the initial evidentiary public hearing for this matter on August 24, 2011. He issued a decision approving the zone change and related, concurrent applications on October 3, 2011. On October 17, 2011, an appeal of the zone change approval was filed by Deborah Healey on behalf of the West University Neighbors. The West University Neighbors' appeal includes 2 primary appeal issues with related sub-assignments of error under each, as reflected in the appellant's written statement. These assignments of error are further addressed below. The appeals assert that the Hearings Official erred in his findings and decision with respect to the applicable Eugene Code (EC) approval criteria for zone changes at EC 9.8865(1) and (2).

On October 21, 2011, in accordance with EC 9 7655(1), the City mailed written notice of the appeal hearing to the applicant, the appellant, the West University Neighbors, all persons who submitted written comments in regard to the original application, and all persons who requested notice. The written notice included the required elements set forth in EC 9 7655(2).

The Planning Commission held a public hearing on this appeal on November 1, 2011. At the public hearing, Kristen Taylor provided oral testimony on behalf of the applicant. Deborah Healey provided oral testimony on behalf of the appellant, the West University Neighbors. Carolyn Jacobs, Bill Aspegren and Paul Conte provided additional testimony in support of the appeal. No rebuttal testimony was provided by the applicant. Written testimony was also provided by the parties and other individuals at the hearing which is included in the record and considered by the Planning Commission in its final decision, unless specifically excluded below.

The Planning Commission closed the public hearing on November 1, 2011 and deliberated on the appeal issues at subsequent meetings held November 3rd, November 8th and November 14th 2011. The Planning Commission voted to affirm the Hearings Official's decision approving the subject zone.

change, with supplemental findings which are provided below with respect to each related assignment of error

II. RECORD BEFORE THE PLANNING COMMISSION

The Planning Commission's record consists of all evidence and argument placed before, and not rejected by, the Planning Commission prior to its final decision. Under the provisions of EC 9 7095(1)(a), the Planning Commission hereby takes official notice of the following material

- 1 Attachment B of Paul Conte's appeal testimony dated November 1, 2011 which includes 4 pages of former Eugene Code excerpts.
- 2 Attachment C of Paul Conte's appeal testimony dated November 1, 2011 which includes a two page excerpt from the 1982 Metro Plan
- 3 Attachment D of Paul Conte's appeal testimony dated November 1, 2011 which includes Ordinance No 19995

These documents and Mr Conte's references to them were not offered to the Hearings Official for his consideration. While the documents were considered by the Planning Commission, they were only found to be relevant to the Planning Commission's decision on appeal where the documents are specifically referenced, if at all, in this Final Order

III FINDINGS OF FACT AND CONCLUSIONS OF LAW

After consideration of the applicable law and all argument and evidence in the record, the Planning Commission finds that the subject application meets all applicable zone change approval criteria from EC 9.8865, with supplemental findings provided below in response to the appeal. In the event of any conflict between the Hearings Official's decision and this Final Order, this Final Order shall control

As noted above, the appeal is comprised of 2 primary appeal issues with related sub-assignments of error. Each assignment of error is set forth below, followed by the Planning Commission's supplemental findings and conclusions of law as to each one

First Assignment of Error

The Hearings Official erred in finding the proposal meets the following approval criterion for a zone change: EC 9.8865(1): The proposed zone change is consistent with the applicable provisions of the Metro Plan. The written text of the Metro Plan shall take precedence over the Metro Plan diagram where apparent conflicts exist. (Reference Decision at 3 through 7)

A. The Hearings Official did not correctly interpret the following Metro Plan policy:

- A.2 *Residentially designated land within the UGB should be zoned consistent with the Metro Plan and applicable plans and policies; however, existing agricultural zoning may be continued within the area between the city limits and the UGB until rezoned for urban uses.*

For this assignment of error, the appellant's written statement incorporates the text from their arguments under appeal issues 2A, 2B and 2C, which assert that the Hearings Official erred by misinterpreting applicable refinement plan requirements. In other words, the appellant does not assert that the R-4 zone is inconsistent with the Metro Plan High-Density Residential designation. Instead, it asserts that the R-4 zone is inconsistent with other "applicable plans and policies" in the West University Refinement Plan (WURP). Appellant argues that the Hearings Official erred in his analysis of that refinement plan.

The Hearings Official addresses Metro Plan policies on pages 3-7 of the decision (pages 21-25 of the record) and refinement plan policies on pages 7-10 of the decision (pages 25-28 of the record). The Metro Plan land use diagram designates the subject property for High-Density Residential use. The Planning Commission notes that a zone change to R-4 High-Density Residential is consistent with this Metro Plan designation. In addition, it is noted that the existing R-3, Limited High-Density zoning also implements the High-Density Residential designation, as both R-3 and R-4 have a minimum density of 20 units per acre.

In addressing the West University Refinement Plan (WURP) the Hearings Official was correct in concluding that the zone change proposed in this case complies with the plan text and policies as is discussed further under the second assignment of error, below. This determination is unique to the site and applications submitted in this case. As described more fully below, the specific development proposal submitted with the zone change application, and the related ability to impose the density cap and site review overlay provided the Hearings Official and Planning Commission with sufficient detail to find consistency with the refinement plan policies. In finding, below, that the Hearings Official did not err when he found that the proposed zone change complies with the applicable refinement plan, the Planning Commission also finds that the Hearings Official did not err in determining that the zone change also complies with Metro Plan Policy A.2 noted above.

The Planning Commission therefore denies the first assignment of error, sub-assignment A, with respect to the zone change approval criterion at EC 9.8865(1).

B. The Hearings Official did not correctly interpret the following Metro Plan policies either individually or when considered together:

A.11 Generally locate higher density residential development near employment or commercial services, in proximity to major transportation systems or within transportation-efficient nodes.

The appellant asserts that by not addressing this policy, the Hearings Official's interpretations "rob all meaning and effect from the R-3 zone." The Hearings Official did not specifically address this policy, but correctly noted on pages 3 and 4 of the decision (pages 21-22 of the record) that not all text in a comprehensive plan may be used as approval criteria. The Planning Commission finds that the Hearings Official did not err in apparently finding that Policy A.11 provides broad policy direction to the City when determining through legislative action where to locate higher-density residential development and is not intended to apply as a decisional standard in this instance of a site-specific

zone change application

Even if the policy could also be read to apply to the proposed zone change from R-3 to R-4/92/SR, the policy has marginal utility compared to legislative actions that have implemented it and better define its meaning and application in the West University neighborhood. In this instance, as a site specific zone change request, Policy A.11 has been implemented by the legislative framework already established through the WURP and the approval criteria for zone changes which require consistency with the adopted refinement plan. Read in this context, and thus properly considered and balanced within the existing legislative framework established for the area, Policy A.11 is met so long as the proposed zone change complies with the more specific provisions of the adopted refinement plan.

Nonetheless, the subject property has already been designated for High-Density Residential in the Metro Plan and "Medium and High Density Residential" in the WURP. The Hearings Official correctly concluded that both the R-3 and R-4 zones could implement these land use designations. The subject property is also generally located near employment and commercial services in Eugene's downtown area and the University of Oregon campus area, in proximity to major transportation systems including arterial City streets which connect with the State highway system, consistent with Policy A.11. Contrary to opposing testimony in the appeal, Planning Commission finds that the policy, taken alone or in context with other Metro Plan policies, does not include sufficiently specific language to further direct the distribution of R-3 and R-4 zoning in this instance, or to otherwise restrict the allowable zoning to only R-3. As such, we turn to the more specific language of the applicable refinement plan for guidance in our interpretation of adopted plan provisions regarding the subject property (discussed in more detail below).

The Planning Commission also rejects the argument that the Hearings Official's interpretations in approving this zone change "rob all meaning and effect from the R-3 zone." There are other subareas within the WURP that remain zoned R-3 with applicable refinement plan language that restricts the ability to rezone to R-4, unlike the subject property. The Central Residential Area of the WURP, to the west of the subject property, is similarly zoned R-3 and designated for Medium and High Density Residential on the WURP land use diagram and High Density in the Metro Plan. However, the land use diagram text for that area states that it "was zoned R-3 and that designation remains today. The existing zoning should be retained (page 63 WURP)." This context within the WURP is instructive, in that the adjacent Hilyard to Patterson Area where the subject property is located does not include this type of restrictive language. Therefore, unlike the subject property, in the Central Residential Area, the R-3 Limited High-Density Residential zone is the only residential zone that would implement the residential plan designations in both the Metro Plan and WURP. As such, Hearings Official correctly interprets that both the R-3 and R-4 zones could be considered for the site, and nothing in the adopted plans precludes the applicant's ability to request the change. A site-specific review is necessary to determine whether R-4 is appropriate for a particular site in this "Medium and High Density Residential" subarea of the WURP, considering the particular development proposal that was placed before the Hearings Official. As described more fully below, the specific proposal in this case demonstrates that R-4/92/SR is consistent with the applicable plan policies. This conclusion is unique to this site and the specifics of the proposed development.

A.12 Coordinate higher density residential development with the provision of adequate infrastructure and services, open space and other urban amenities.

The Hearings Official addresses this policy on pages 4-5 of his decision (pages 22-23 of the record), noting that some type of concurrency analysis is required to coordinate the increased density with adequate infrastructure. The Planning Commission finds that the Hearings Official did not err in relying on the applicant's September 14, 2011 rebuttal letter (pages 45-50 of the record) which notes that an open space exemption is allowed in the existing R-3 zoning as well as R-4 zoning, and further notes that the proposal provides a central courtyard and open space features to ensure adequate open space. Additionally, the Hearings Official's findings on page 10 of the decision (page 28 of the record) in regards to EC 9.8865(3), correctly confirm that the zone change can be served with adequate infrastructure through the orderly extension of key urban services. The Planning Commission confirms that the Hearings Official also correctly relied on the concurrent site review development proposal, at least in part, in responding to this policy.

A.13 Increase overall residential density in the metropolitan area by creating more opportunities for effectively designed infill, redevelopment, and mixed use while considering impacts of increased residential density on historic, existing and future neighborhoods.

The Planning Commission's additional findings and conclusions regarding Policy A.13, as provided under Appeal Issue 1 C below, are incorporated herein by reference.

A.15 Develop a wider range of zoning options such as new zoning districts, to fully utilize existing Metro Plan density ranges.

The appellant asserts that the Hearings Official's decision, which addresses this Policy A.15 on page 6 (page 24 of the record) "robs all meaning and effect from the R-3 zone." The Planning Commission finds that the Hearings Official was correct in determining that this policy provides broad policy direction to the City for purposes of the City's legislative actions. To the extent it may be applicable or relevant with respect to appellant's argument that this interpretation "robs all meaning and effect from the R-3 zone", the Planning Commission's response to argument set out above in response to Policy A.11 is incorporated here by this reference.

A.17 Provide opportunities for a full range of choice in housing type, density, size, cost, and location

Again, the appellant asserts that the Hearings Official's interpretation of this policy "robs all meaning and effect from the R-3 zone." The Hearings Official does not specifically identify this policy as one that applies in the context of individual zone change applications, but nonetheless addresses it on page 7 of his decision (page 25 of the record). He correctly concludes that the proposed zone change is not inconsistent with this policy. To the extent it may be applicable or relevant with respect to the appellant's argument here, the above response to Policy A.11 is incorporated here by this reference. The Planning Commission finds that the Hearings Official did not err. Policy A.17 is aspirational and not intended to apply as an approval standard for individual zone change applications. The opponent's statement that approval of the proposed zone change effectively reduces the overall range of choice in housing type, density, size, cost and location does not reference and is not supported by any evidence in the record.

A.18 Encourage a mix of structure types and densities within residential designations by reviewing and, if necessary, amending local zoning and development regulations.

The Hearings Official addresses this policy on page 7 of his decision (page 25 of the record), correctly determining that this policy provides broad direction to the City for legislative actions and is not intended to apply as an approval standard for individual zone change applications. As with Policy A.11 and others noted above, the appellant asserts that the Hearings Official's interpretation "robs all meaning and effect from the R-3 zone," and that the Hearings Official's decision effectively usurps Council's legislative authority by relegating the R-3 zone to a meaningless role. For the reasons described above in response to Policy A.11, incorporated here by this reference, the decision does not render R-3 zoning meaningless and correctly determines that in this case, R-3 is only one of two appropriate zones that implement the applicable plan designations.

A.25 Conserve the metropolitan area's supply of existing affordable housing and increase the stability and quality of older residential neighborhoods, through measures such as revitalization, code enforcement; appropriate zoning, rehabilitation programs, relocation of existing structures, traffic calming, parking requirements, or public safety considerations. These actions should support planned densities in the area.

The appellant asserts that the Hearings Official erred by not adequately considering the impacts of increased residential density allowed by the R-4/92/SR zone on the stability and quality of the existing, older West University Neighborhood.

The Hearings Official addresses this policy on page 7 of his decision (page 25 of the record), noting that the policy primarily lists several actions for the City to take to achieve specific goals, only one of which, "appropriate zoning," could relate to review of individual development applications. He then determines that, to the extent the policy does apply to this zone change application, "the existing zoning would allow the applicant to remove existing single-family dwellings and construct multi-family residences. Thus a change to the higher density zone that would have the same effect of removing existing dwellings would not be inconsistent with this policy." The Hearings Official's decision also incorporated the applicant's findings with respect to Metro Plan policy A.25.

The policy has marginal utility compared to legislative actions that have implemented it and better define its meaning and application in the West University neighborhood. In this instance, as a site specific zone change request, Metro Plan Policy A.25 has been implemented by the legislative framework already established through the WURP and the approval criteria for zone changes which require consistency with the adopted refinement plan. As relevant here, the related refinement plan designation, text and policy language addressing "appropriate zoning" for the area are further addressed below in response to the appellant's second assignment of error. That response is incorporated here by this reference. Read in this context, and thus properly considered and balanced within the existing legislative framework established for the area, the more general language Metro Plan Policy A.25 is met so long as the proposed zone change complies with the more specific provisions of the adopted refinement plan.

As discussed further below, the proposed zone change which the Hearings Official approved with a concurrent site review approval, and the imposition of a 92 unit per acre density limitation and site review zoning overlay, will ensure future development impacts on the surroundings are appropriately addressed. To the extent the policy applies to this application, the R-4/92/SR zoning is therefore appropriate.

The Planning Commission therefore denies the first assignment of error, sub-assignment B and finds that the proposed zone change complies with the applicable Metro Plan policies in accordance with EC 9 8865(1).

C. The Hearing Official's interpretations conflict with the ORS 174.010 requirement that where there are several provisions or particulars such construction is, if possible, to be adopted as will give effect to all.

The appellant asserts that the Hearings Official did not cite any specific aspect of the Site Review overlay that made R-4/92/SR consistent with Metro Plan Policy A.13. The cited statute provides: "In the construction of a statute, the office of the judge is simply to ascertain and declare what is, in terms or in substance, contained therein, not to insert what has been omitted, or to omit what has been inserted; and where there are several provisions or particulars such construction is, if possible, to be adopted as will give effect to all."

A.13 Increase overall residential density in the metropolitan area by creating more opportunities for effectively designed in-fill, redevelopment, and mixed use while considering impacts of increased residential density on historic, existing and future neighborhoods.

The Hearings Official addresses this policy on pages 5 and 6 of his decision (pages 23-24 of the record), noting that this policy seems to provide direction to the City Council to increase density and consider several factors when doing so. In fact, this is a policy that applies to the entire Eugene-Springfield Metropolitan area, which includes land governed by the City of Eugene, City of Springfield and Lane County. The Hearings Official goes on to note that the Eugene City Council has implemented this policy in the geographic area of the subject zone change application by adopting a refinement plan and zoning code that allow high density in certain areas. The Hearings Official also found that because the City has adopted two zones that implement the Metro Plan's high-density residential plan designation, it is appropriate to consider the site-specific impacts of changing the zoning to the higher density zone in this case on the "existing and future neighborhood." The Planning Commission agrees that this policy provides direction for legislative actions involving increased density, and also agrees that it is appropriate to consider the policy in the context of this particular zone change application to the extent the zone change will result in an increase in residential density.

The Hearings Official determined that the applicant's analysis did not support their assertion that impacts of increased density were considered, other than the addition of the site review overlay. The Hearings Official, instead, relies on the application of the site review overlay to determine consistency with this policy. The Hearings Official went on to note that it was not obvious how the site review overlay would address the impacts to historic, existing and future neighborhoods, but found that it was

intended to do so based on the context of the WURP, and that intention was enough to meet the intent of the policy. The Planning Commission does not agree with the Hearings Official's analysis.

The Planning Commission finds that the Hearings Official erred in addressing this policy by failing to consider additional density-related impacts and evidence in the record provided by the applicant to address these additional impacts. The Planning Commission finds that the Hearings Official should have considered additional factors, not just the application of the site review overlay, to determine whether the application is consistent with this policy. As it relates to this particular zone change request, it is only relevant to address such impacts based on the change between the R-3 and R-4 zones.

On page 5 of his decision (page 23 of the record), the Hearings Official addresses transportation issues, noting that the applicant provided a Transportation Planning Rule (TPR) analysis that resulted in a finding of no significant effect. For purposes of the TPR, the applicant's analysis found that development to the maximum number of units allowed under R-4 zoning would result in 15 additional p.m., peak-hour trips. The proposed development (with the 92 unit per acre density cap) would result in an additional 10 p.m. peak hour trips over the existing R-3 zoning (and 5 less p.m. peak hour trips than the maximum R-4 density). The Hearings Official points out that the applicant's traffic analysis in the written statement asserted that trips per unit went down as building height went up, and the TPR analysis relied on trip generation that was the same as the R-3 zone per unit. While this point was correct, the Hearings Official should have relied further on this TPR analysis which concluded there was no significant effect on the transportation system.

The TPR analysis provided by Branch Engineering on behalf of the applicant (page 749 of the record) analyzes R-3 traffic impacts versus R-4 traffic impacts and includes nearby intersection performance evaluation. The analysis concludes that as a result of the zone change, there would be no significant or adverse impact on the operating characteristics of the existing roadway system and demonstrates that the R-4 zoning encourages traffic patterns focusing on bicycle and pedestrian traffic with little vehicular impact. The Hearings Official, on page 12 of his decision (page 30 of the record), ultimately concludes that the proposal would result in no significant effect on any existing facilities consistent with the TPR. Given the information and analysis provided by the applicant, the Hearings Official should have also concluded that the application adequately addressed traffic-related impacts on the neighborhood from increased density as a result of the zone change, in the context of Metro Plan Policy A.13.

While in many cases zone changes do not include a specific development proposal, the Hearings Official in this case had the benefit of a concurrent site review application. With the benefit of the additional evidence in this case, the Planning Commission finds that off-site parking impacts, open space and building bulk and height are all additional factors that should be considered as the result of higher density. In this case, the building height is limited by way of an approval condition limiting the development to 51 feet, only 1 foot higher than the existing R-3 zone maximum of 50 feet. The parking requirements for the subject property as set forth in EC Table 9.6410 are based on the number of bedrooms as the property is within the boundaries of the City recognized association of West University Neighbors. As indicated in the applicant's September 14, 2011 letter to the Hearings Official (pages 45-50 of the record), the proposed development, as approved through the concurrent site review application, includes primarily 1 and 2 bedroom units with 6 three bedroom units for a total of

107 bedrooms The development proposal provides 71 parking spaces in a basement floor garage, exceeding the minimum requirement of 50 spaces (if the 25% parking reduction had been taken) The applicant also noted in this letter that the owner could develop the exact proposed development under the existing R-3 zoning by making changes to the roof pitch to reduce the height by one foot and reduce the number of units, while increasing the bedroom count. Under this hypothetical R-3 proposal, the overall number of units would need to be reduced but, in the R-3 hypothetical, the number of bedrooms could be increased from the 107 that have been approved through the concurrent site review application under the R-4/92/SR zoning, to 113 bedrooms. While Planning Commission recognizes the R-3 proposal is hypothetical, it does demonstrate that the change to R-4/SR/92 with the development plans approved in this instance provides a reduction in the number of potential overall bedrooms, and the Planning Commission finds that the number of overall bedrooms is an important factor in evaluating the true impacts of increased density in the context of Metro Plan Policy A.13 As such, the Planning Commission has added a condition of approval below, ensuring the property will be developed with no more than 107 bedrooms as proposed

As noted in the September 14, 2011 letter from Kristen Taylor (pages 45-50 of the record), while the development is exempt from open space requirements because of the density it achieves, the same exemption is available in the R-3 zone Therefore, open space requirements would not necessarily change between the R-3 and R-4 zoning. The applicant provides additional evidence that the bulk and mass were also considered noting that the building is configured in a horseshoe design to break up the massing along East 15th Avenue and it exceeds articulation and window coverage requirements in the applicable Multi-Family development standards. To ensure the development will be constructed as designed, a condition was established for the concurrent site review approval (pages 30-42 of the record) which requires the following "Development on this site shall be limited to 4-stories (with a maximum building height of 51 feet per EC 9.0500), include a maximum of 63 units and shall also include an additional basement floor on-site parking garage "

The Planning Commission considers these additional factors and also incorporates the applicant's September 14, 2011 rebuttal letter from Kristen Taylor (pages 45-50 of the record) as further evidence that the impacts of the increased residential density were considered, consistent with Metro Plan Policy A.13 The Planning Commission finds that application of the site review overlay, a density cap at 92 units per acre (R-4 otherwise allows up to 112 units per acre) and, as addressed above, a development plan through concurrent site review approval, all contribute to this proposal's success in addressing potential future impacts from increased residential density in this case

As relevant context here, the WURP finds that site review is an appropriate tool to address impacts from higher-density R-4 development. WURP Policy 21, while directly applicable to a different area north of East 13th Avenue, requires site review for R-4 development to ensure it is compatible with surroundings, and considerate of historic and natural features While the code's needed housing site review criteria used in this instance do not include discretionary compatibility standards, the evidence provided by the applicant as part of that concurrent application provides demonstration of compliance with Metro Plan Policy A.13

In this appeal issue, the appellant argues again that the Hearings Official has removed all meaning and effect of the R-3 zone in implementing the Metro Plan, and in this case, that his interpretations conflict with the rules for statutory interpretation at ORS 174.010 However, as explained above in response to

policy A.11, incorporated here by this reference, there is an adjacent subarea within the WURP that is currently zoned R-3 with applicable refinement plan language that restricts the ability to rezone to R-4, unlike the subject property. The Central Residential Area of the WURP, to the west of the subject property, is similarly zoned R-3 and designated for Medium and High Density Residential on the WURP land use diagram and High Density in the Metro Plan. However, the land use diagram text for that area states that it " was zoned R-3 and that designation remains today. The existing zoning should be retained (page 63 WURP) " Therefore, unlike the subject property, in the Central Residential Area, the R-3 Limited High Density Residential zone is the only residential zone that would implement the residential plan designations. This context within the WURP is instructive, in that the adjacent Hilyard to Patterson Area where the subject property is located does not include this type of restrictive language. As such, the Planning Commission confirms that the Hearings Official correctly interprets that in this case the R-4 zone is allowed, and nothing in the adopted plans precludes the applicant's ability to request the change.

As described above, the Planning Commission finds that the Hearings Official erred by not considering additional factors and evidence beyond application of the site review overlay, in determining that Metro Plan Policy A.13 was met. With the modified findings above regarding this issue, and the condition of zone change approval added below, the Planning Commission denies the appellants first assignment of error, sub-assignment 1.C.

The maximum number of bedrooms on the site shall be limited to 107, based on the definition of "bedroom" that is included in EC 9.0500 at the time of this order and attached as Exhibit A. Approval through the City's zone change process will be required to lift or modify this cap on the number of bedrooms.

Second Assignment of Error

The Hearings Official erred in finding that the proposal meets the following approval criterion for zone change:

EC 9.8865(2): The proposed change is consistent with applicable adopted refinement plans. In the event of inconsistencies between these plans and the Metro Plan, the Metro Plan controls. (Reference Decision at 7 through 10.)

A. The Hearings Official erroneously interpreted the West University Refinement Plan (WURP) Medium and High Density Residential designation as encompassing the entirety of the High Density Residential density range.

The appellant asserts that the correct interpretation for an allowed density range in this case only spans the upper portion of the Medium-Density Residential designation and a lower portion of the High-Density Residential range.

The Hearings Official addresses the WURP land use designation on pages 7-8 of the decision (pages 25-26 of the record), noting that the land use diagram designates the subject property and adjacent properties in a subarea between Hilyard and Patterson Streets for "Medium and High Density Residential" (see WURP, page 56). The refinement plan does not appear to provide a more specific description of this designation other than the "buffer" language addressed under

assignment of error 2B, below This combined designation for medium and high density residential use is interpreted to allow both R-3 and R-4 zones which are also consistent with the corresponding High-Density Residential designation in the Metro Plan The existing R-3 and proposed R-4 zones are thus consistent with the refinement plan, by implementing the High-Density Residential designation that requires over 20 dwelling units per acre In this case, the language in the refinement plan does not limit which zone implements the high-density residential use, as is done elsewhere in the Central Residential Area (see WURP, page 62), but the Planning Commission finds that it was appropriate to include the proposed density limitation and site review overlay based on the land use diagram text described below

The Planning Commission therefore denies the second assignment of error, sub-assignment A, with respect to the zone change approval criterion at EC 9.8865(2)

B. The Hearings Official erroneously interpreted the following policy statement in the WURP, which applies to the subject site:

West University Refinement Plan, Land Use Diagram Text, Page 62 The area between Hilyard and Patterson from 18th to the alley south of 13th is currently zone R-3 and is developed with mostly single-family dwellings and apartment buildings. This area should be a buffer between the campus high-density housing area and the woonerf area to the west. The area is residential in character and should remain so.

The appellant asserts that the Hearings Official misinterpreted the land use diagram text in finding that the proposal was consistent with the required role of the area as a "buffer between the campus high density housing area and woonerf area to the west." The Hearings Official addresses this text on pages 9-10 of his decision (pages 27-28 of the record) The Hearings Official based his interpretation on a past Planning Commission interpretation of the WURP text on appeal, involving a similar zone change request from R-3 to R-4/82/SR (page 571 of the record) The appellant asserts that the Planning Commission and Hearings Official erred in that 1994 zone change request by simply concluding in that case that the density limitation and a height limit satisfied the "buffer" requirement, without explanation.

While the Hearings Official does analyze the impact of the development as a "buffer" on page 6 of his decision (page 24 of the record), in that context he was addressing a more general Metro Plan policy (A.13) The Planning Commission finds that the applicant provided additional information which the Hearings Official should have also relied on in determining that the zone change was consistent with the "buffer" language of the WURP, noted above

As noted in the applicant's zone change written statement on page 10 (see page 511 of the record) in order to determine the intended role of the area as a "buffer," the plan areas to the east and west should be understood The Central Residential Area (woonerf) area located to the west is currently zoned R-3, and text describing the area notes that it shall remain so. The maximum building height in the Central Residential Area, based on the R-3 zoning is 50 feet with a maximum density of 56 dwelling units per acre The Campus High Residential area to the east is primarily zoned R-4 with a building height maximum of 65 feet, and a maximum density of 112 units per acre The subject property is in the area described to be a buffer between these other areas.

The Planning Commission finds that the factors described in more detail below are relevant here, in addressing the more specific text of the WURP. The applicant proposed a 92 unit per acre density cap, which limits the overall potential impact by reducing the density below the maximum that would otherwise be allowed by the R-4 zone. The applicant also proposed (and the Hearings Official approved) application of the site review overlay. As discussed above, the site review overlay is a tool that is appropriate to address impacts from future development of the subject property.

While not the subject of this appeal, the applicant voluntarily provided a concurrent development plan under the code's needed housing site review requirements, in order to show the neighborhood and decision makers how they intend to develop the site and thereby address concerns about potential impact in the area. The applicant proposed a four-story, 63-unit apartment complex with a basement parking garage. The proposed building height of 51 feet is only 1 foot above the R-3 maximum, while 14 feet less than the 65 feet allowed in the R-4 area to the east. The Hearings Official also provided a condition of approval in the related Site Review, to require that: "Development on this site shall be limited to 4-stories (with a maximum building height of 51 feet per EC 9.0500), include a maximum of 63 units and shall also include an additional basement floor on-site parking garage." The applicant provides additional evidence that the bulk and mass was considered, noting that the building is configured in a horseshoe design to break up the massing along East 15th Avenue, and it exceeds articulation and window coverage requirements in the applicable Multi-Family development standards. The applicant also provided depictions of the development and surrounding area (pages 51-54 of the record), to show how the building related to the neighborhood and provided a buffer between campus high density housing and the woonerf area, consistent with the WURP text noted above.

The Transportation Planning Rule (TPR) Analysis provided by Branch Engineering on behalf of the applicant (see page 749 of the record) also analyzes R-3 traffic impacts versus R-4 traffic impacts. Based on the trip generation data provided, the proposed development would generate 10 more p.m. peak hour trips than the maximum R-3 development and 5 less trips than the maximum R-4 development on the subject site. The analysis also concluded that the R-4 designation and property location encourages traffic patterns focusing on bicycle and pedestrian traffic with little vehicular impact, consistent with the area as buffer.

The Planning Commission notes with particular importance that in this zone change request, that we are able to rely at least in part on evidence provided through the concurrently approved site review application, in finding compliance with both the Metro Plan and WURP. More specifically, the concurrent development proposal provides unique, site-specific evidence addressing factors such as building height and bulk, parking, open space and traffic that supports our determination that the proposed zone change will remain consistent with the WURP requirement that this subarea should remain as a "buffer" between adjacent subareas. In this way, the Planning Commission's approval of the R-4/92/SR zone change in this case does not predetermine the outcome of a future request to rezone from R-3 to R-4 or provide a precedent that future R-4 requests for other property in this subarea would necessarily comply with the land use diagram text. The determination in each case must be made based on the attributes of that proposal and its unique impacts.

With the additional findings above, the Planning Commission concludes that the proposed zone change from R-3 to R-4/92/SR is consistent with the intent of the language above to remain as a buffer. The

Planning Commission therefore denies the second assignment of error, sub-assignment B, with respect to the zone change approval criterion at EC 9.8865(2)

C. *The Hearings Official erroneously interpreted the following policy statement in the WURP land use diagram, which applies to the subject site:*

West University Refinement Plan, Land Use Diagram Text, Page 57 This land use diagram reinforces existing zoning patterns and does not call for any zoning reclassifications.

The appellant asserts that the intent of this policy is to maintain existing zoning patterns and consequently, it does not allow rezoning to R-4. The Hearings Official includes a more complete excerpt of the land use diagram text on page 8 of his decision (page 26 of the record), which is repeated below for reference and is instructive in response to this appeal issue.

The land use diagram text (WURP, page 57) states:

The Land Use Diagram and its accompanying text will be used along with policies of the West University Refinement Plan, as well as other adopted goals, policies, and plans to evaluate individual land use proposals.

In nearly every case there is more than one zoning district that could be applied and still provide for the suggested land use patterns (emphasis added) This land use diagram reinforces existing zoning patterns and does not call for any zoning reclassifications.

The appellant relies only on the last sentence above to assert that the intent is to maintain existing zoning patterns. When taken in context with the prior sentence, which notes that more than one zoning district could be applied for and still provide for the suggested land use pattern, the text clearly does not prohibit a zone change as proposed in this instance. Rather, the proposal is consistent with this diagram text, and for the reasons already described, the proposed R-4/92/SR zoning is consistent with the WURP.

The Planning Commission therefore denies the second assignment of error, sub-assignment C, with respect to the zone change approval criterion at EC 9.8865(2).

IV CONCLUSION

The Eugene Planning Commission has reviewed the record and the appellant's assignments of error, and considering all of the available evidence and argument, has voted to affirm the decision of the Hearings Official to approve the zone change for OBO Enterprises (Z 10-9) as modified with the supplemental findings above and the following condition of approval.

The maximum number of bedrooms on the site shall be limited to 107, based on the definition of "bedroom" that is included in EC 9.0500 at the time of this order and attached as Exhibit A. Approval through the City's zone change process will be required to lift or modify this cap on the number of bedrooms.

The Planning Commission notes with particular importance that in this zone change request, that we are able to rely at least in part on evidence provided through the concurrently approved site review application, in finding compliance with both the Metro Plan and WURP. More specifically, the concurrent development proposal provides unique, site-specific evidence addressing factors such as building height and bulk, parking, open space and traffic that supports our determination that the proposed zone change will remain consistent with the WURP requirement that this subarea should remain as a "buffer" between adjacent subareas. In this way, the Planning Commission's approval of the R-4/92/SR zone change in this case does not predetermine the outcome of a future request to rezone from R-3 to R-4 or provide a precedent that future R-4 requests for other property in this subarea would necessarily comply with the land use diagram text. The determination in each case must be made based on the attributes of that proposal and its unique impacts.

Accordingly, zone change approval is hereby affirmed. The foregoing findings and conclusions are adopted as the Final Order of the Eugene Planning Commission for OBO Enterprises (Z 10-9) this 15th day of November, 2011.



Jeffrey Mills, Chair
Eugene Planning Commission

Exhibit A

Bedroom. Within a multiple-family dwelling, a bedroom is any room that either:

- (A) Is designated as a bedroom on a development plan submitted to the city;
- (B) Is included in the number of bedrooms stated in an advertisement, rental or sales contract, marketing material, loan application, or any other written document in which the owner, or an authorized agent of the owner, makes a representation regarding the number of bedrooms available in the dwelling, or
- (C) Meets all of the following
 1. Is a room that is a "habitable space" as defined by the current Oregon Structural Specialty Code (OSSC) or Oregon Residential Specialty Code (ORSC),
 2. Meets the OSSC or OSRC bedroom requirements for natural light, ventilation, and emergency escape and rescue windows;
 3. Is a room that is accessed by a door on an interior wall and that does not provide access to another room except for a bathroom, toilet room, closet, hall, or storage or utility space

**DECISION OF THE HEARINGS OFFICIAL
ZONE CHANGE/TENTATIVE PARTITION/ADJUSTMENT REVIEW
Z 10-9, SR 11-2, ARA 11-6**

Application File Name (Numbers):

OBO Enterprises – 15th & Patterson Apartments (Z 10-9, SR 11-2 and ARA 11-6)

Applicant's Request:

Zone change from R-3 Limited High Density Residential to R-4/92/SR High Density Residential with a 92 unit per acre density maximum and the site review overlay zone. Concurrent request for Needed Housing Site Review approval and Adjustment Review approval.

Subject Property/Location:

Tax Lots 400, 500 and 600 of Assessor's Map 17-03-32-33; Located at 631, 647 and 669 East 15th Avenue on the north side of East 15th Avenue between Hilyard Street and Patterson Street.

Relevant Dates:

Zone Change application submitted on October 22, 2010; Site Review application submitted May 3, 2011; Adjustment Review application submitted May 20, 2011. Concurrent applications deemed complete on May 20, 2011; public hearing date scheduled for August 24, 2011.

Applicant's Representative:

Kristen Taylor, TBG Architects & Planners Inc. (541) 687-1010

Lead City Staff:

Steve Ochs, Associate Planner, Eugene Planning Division, Phone: (541) 682-5453.

Summary of the Public Hearing

The hearings official held a public hearing on this application on August 24, 2011. The hearings official stated he had no conflicts of interests and had no *ex parte* communications to disclose. No person objected to the hearings official conducting the hearing.

Steve Ochs, Associate Planner, Gabe Flock, Senior Planner, and Becky Taylor, Assistant Planner, were present and spoke for the city. Staff recommended approval of the application. Kristen Taylor, the applicant's representative, and Bill Olson, the property owner, spoke at the hearing.

The hearings official received 4 exhibits at the hearing, which are listed in the index of record that staff has prepared.

There was a request to hold the record open. The hearings official established the following post-hearing record schedule. All new evidence and testimony would be due by 5:00 pm on September 7, 2011. Rebuttal would be due by 5:00 pm on September 14, 2011. The applicant's final argument (no new evidence permitted) would be due September 21, 2011.

Documents Considered by the Hearings Official

Staff has prepared an index of the record for this matter. The hearings official has reviewed the index and confirms that the index is complete and that he considered all of the documents listed in the index.

Site Characteristics and Present Request:

The present request is for zone change, site review and adjustment review approvals that would enable the redevelopment of a 0.7 acre property, which includes 3 tax lots on the north side of East 15th Avenue between Hilyard and Patterson Streets. The applicant requests a zone change from R-3, Limited High-Density Residential to R-4/92/SR, High-Density Residential with a 92 unit per acre density maximum and site review overlay zone. The applicant has also requested concurrent site review approval under "Needed Housing" provisions, for a four-story, 63-unit apartment complex with a basement parking garage. Adjustment review has also been requested to adjust the multi-family standards at EC 9.5500(5)(d) regarding upper story entrances, and maximum building dimensions at EC 9.5500(6)(a). The only access to the new apartment complex would be from East 14th Avenue Alley.

The subject properties are currently developed with two houses and an existing apartment complex. The two houses have a secondary, contributing historical ranking but no formal designation as a City landmark or National Register historic property. The applicant plans to demolish one house and the apartment complex due to their deteriorating condition and relocate one of the houses (on Tax Lot 500) to another site due to its excellent condition.

The subject property is located in a predominately residential area and is surrounded on all sides by properties zoned R-3. The R-3 zoning extends one block to the north, and three blocks to the south and west. One exception is a two-story apartment complex located across East 15th Avenue to the south, which is zoned R-4/SR/82, High-Density Residential with the site review overlay and a density maximum of 82 units.¹ Other properties to the south are a mixture of multi-family developments and single family homes. Directly to the west, the properties are

¹ The staff report stated this building was three stories in height, but West University Neighbors commented that this apartment complex is two stories (25 feet) in height and built to a density of only 61 units per acre. The applicant's context map (Sept. 7, 2011) similarly shows this building as two stories.

developed with a two story single family home and two, two-story duplexes. Further to the west, the area is developed with a church (Central Presbyterian Church) and a mixture of apartments and single family residences. To the north across East 14th Alley are two-story (nine unit) and three-story (twenty-one unit) apartment complexes. Further to the north, properties are developed with multi-family and single family homes with a commercial area north of that. The three properties directly to the east are developed with two duplexes and a single family home. Further to the east, there are two blocks of properties zoned R-4 High-Density Residential with a 65-foot maximum building height and then PL Public Land zoning on the University of Oregon campus.

For additional details of the request and site characteristics, please refer to the applicant's written statement and other supporting application materials, as well as the following staff evaluation and other attachments.

Evaluation of Zone Change Request

EC 9.8865(1): The proposed zone change is consistent with applicable provisions of the Metro Plan. The written text of the Metro Plan shall take precedence over the Metro Plan diagram where apparent conflicts or inconsistencies exist.

Before analyzing any Metro Plan policies, the hearings official notes that LUBA has made clear that not all text in a comprehensive plan may be used as approval criteria. In fact, LUBA observed with respect to a 2003 City of Eugene zone change application, "As our cases have recognized, local governments face a 'recurring problem' in 'identifying the relevant approval standards, if any, in the local government's comprehensive plan.'" *Bothman v. City of Eugene*, 51 Or LUBA 426, 438 (2006) (quoting *Save Our Skyline v. City of Bend*, 48 Or LUBA 192, 209 (2004)). LUBA further explained:

"[E]ven where a plan provision might not constitute an independently applicable mandatory approval criterion, it may nonetheless represent a relevant and necessary consideration that must be reviewed and balanced with other relevant considerations, pursuant to ordinance provisions that require, as does EC 9.8865(1) and (2), consistency with applicable plan provisions."

Id. at 439. Whether a specific provision applies to a quasi-judicial application, depends first on whether the Metro Plan "itself expressly assigns a particular role to some or all of the plan's goals and policies." *Id.* (citing *Save Our Skyline*, 48 Or LUBA at 210). If there is no express role, then it is appropriate to consider the text and context of the particular provision.

The Metro Plan defines "policy" as: "A statement adopted as part of the *Metro Plan* or other plans to provide a specific course of action moving the community toward attainment of its goals." Metro Plan, Glossary, V-4. This definition indicates that policies are actions relating to communities, not specific land use applications. This is in comparison to the definition of "policies" in the West University Refinement Plan (WURP) described below, which states that

policies are “guidance for decision-making related to the plan area. City programs, actions, and decisions, such as zone changes, traffic pattern changes, and capital improvements, will be evaluated on the basis of their ability to implement these policies as well as other adopted City goals and policies.” WURP at 3.

The Metro Plan does not provide an express role for using policies as decisional standards, thus, it is appropriate to review each policy at issue for its text and context.

The Metro Plan land use diagram designates the subject property for High-Density Residential use. A zone change to R-4 High-Density Residential is consistent with this designation. It is noted that the existing R-3, Limited High-Density zoning also implements the High-Density Residential designation as both R-3 and R-4 have a minimum density of 20 units per acre. The Metro Plan (Page II-G-3) describes High Density Residential as having over 20 units per acre.

The hearings official notes that the typical zone change application involves a change to a higher density as specified in the Metro Plan. In that context, it is appropriate to read many of the Metro Plan policies as giving broad policy direction to the city and thus not applicable to individual zone change applications. Here, the proposed zone change is from one high-density zone to an even higher density zone, both of which administer the Metro Plan high density land use designation. Thus, there must be a presumption that the Planning Commission and City Council already followed the broad direction in the Metro Plan policies in setting the lower of the two high density zones. Thus it is appropriate to read the relevant Metro Plan policies as applicable to this individual zone change application, even if they would not be applicable to the more typical situation where the proposal would bring the zoning into compliance with the Metro Plan land use designation for the first time.

Further complicating the analysis here, the application argues that it could design a building in full compliance with the density requirements of the R-3 zone, yet have the same number of residents in that overall apartment building, simply by adding additional bedrooms to some units. See Applicant’s Written Statement (May 3, 2011 at 11) and Rebuttal (Sept. 14, 2011). The hearings official is unsure that simply creating more three and four-bedroom units would create the same impact as a larger number of smaller units. For example, larger units could be rented by families with small children that do not drive, but might use the courtyard area and neighborhood amenities differently. Nevertheless, the hearings official is mindful that the code measures density exclusively by number of units per acre, but some impacts are best measured by number of individuals.

The South University Neighborhood Association, West University Neighbors, and Jefferson Westside Neighbors stated that the application was not consistent with several Metro Plan policies:

Residential Land Use and Housing Element Policy A.12 (page III-A-7): Coordinate higher density residential development with the provision of adequate infrastructure and services, open space, and other urban amenities.

This policy requires some type of concurrency analysis to coordinate increases of density development with adequate infrastructure. The hearings official concurs with the applicant's analysis about infrastructure, services, and urban amenities in its application statement, but Jefferson Westside Neighbors and West University Neighbors both argue the application does not demonstrate compliance with open space requirements. The applicant's analysis in its application states that the zone change would provide adequate open space due to close proximity to an existing park on East 14th Ave (application statement at 7). The neighborhood associations argue the application would be exempt from open space requirements because its density would be in excess of 90 units per acre (citing EC 9.5500(9) and Table 9.5500(9)), and Jefferson Westside Neighbors states that the existing park is "tiny" (Conte testimony, Aug, 24, 2011 at 18). The applicant's rebuttal (Sept. 14, 2011) contained additional analysis—specifically that if the zone change were denied, the applicant could build at a density greater than 45 units per acre and be similarly exempt from open space requirements (see EC Table 9.550(9)), and that the proposed apartment building provides a central courtyard and other open space features that are nearly equivalent to the code requirements. This latter statement demonstrates that the application would provide additional coordinated open space. The application complies with Metro Plan Residential Land Use and Housing Element Policy A.12.

Residential Land Use and Housing Element Policy A.13 (page III-A-7): Increase overall residential density in the metropolitan area by creating more opportunities for effectively designed in-fill, redevelopment, and mixed use while considering impacts of increased residential density on historic, existing and future neighborhoods.

This policy seems to provide policy direction to the City Council to increase density and consider several factors when doing so. The City Council has done so by adopting a refinement plan and zoning code that allow high density in certain areas. The subject property is within one of the high-density areas. Here, where there are two zones that could be considered high-density, it is appropriate for the hearings official to consider impacts of changing the zoning to the higher high-density zone on historic, existing and future neighborhoods from this zone change request.

The applicant responds to this policy with a lengthy discussion of the West University Refinement Plan and claims that the proposal considers impacts of increased residential density by developing at a density of only 92 units per acre instead of the 112 units per acre that the R-4 zone would allow. (Application Statement at 8). The applicant argues that overall trips per dwelling unit decreases as density increases. The applicant cites several ITE codes and their average trip generation, suggesting that traffic would either stay about the same or decrease. This is not accurate. The hearings official notes that Table 3 of the applicant's Transportation Planning Rule (TPR) analysis determined the Mid-Rise Apartment (Land Use Code 223) of the Institute of Traffic Engineer's (ITE) Trip Generation, 8th Edition to be the most appropriate category to apply to both zones (see Trip Generation, page 14). Actual traffic impact is addressed below in the findings concerning the Transportation Planning Rule (finding no

significant impact of an additional 15 trips during PM peak hour without considering the density limitation).

Other than discussing transportation issues, which as noted above, was not internally consistent with its TPR analysis, the applicant provides no analysis of the impact of increasing the density from 56 units per acre (39 units max on this .70-acre parcel) to the proposed 92 units per acre (63 units max on this .70-acre parcel). Here, such analysis is important; there is a one-block strip of R-4 zoning to the east of Hilyard St., but to the west of Hilyard St., the remainder of the high-density area is R-3 (with one exception—the parcel immediately south of the subject parcel, across 15th Ave, which is zoned R-4/SR/82). The applicant and the neighborhood associations commented that this strip of R-4 zoning was intended to be a buffer between the R-3 zoning (Woonerf area) and the university. The applicant argues that it is considering such impacts by reducing density to 92 units per acre as compared to the 112 units per acre generally allowed in the R-4 zone, by adding architectural features that resemble features on residences, and by requesting a /SR Site Review overlay. Of these considerations, only the application of the /SR Site Review overlay directly addresses the impact of increased density. While it is not obvious to the hearings official how extending the /SR Site Review overlay accomplishes this, it is intended to do so² (see, e.g., Land Use, Housing and Commerce Policy 51³ (WURP p. 51)). With the addition of the /SR Site Review overlay any development on the site would address impacts to historic, existing and future neighborhoods. The application complies with Metro Plan Residential Land Use and Housing Element Policy A.13.

Residential Land Use and Housing Element Policy A.15 (page III-A-8): Develop a wider range of zoning options such as new zoning districts, to fully utilize existing Metro Plan density ranges.

This policy directs the city to develop zoning options such as new zoning districts; the focus on new zoning districts suggests that this policy applies at the time the Planning Commission and City Council take legislative action on the zoning code. This policy does not apply to individual land use applications. The South University Neighborhood Association argues that this policy does not encourage eliminating any of the residential zones; however, the hearings official notes that a zone change does not eliminate that zone from the zoning code. All of the neighborhood associations argue that approving this zone change would have the effect of compressing the R-3 and R-4 zones, thus reducing the range of zoning options. The hearings official does not address this, because these comments do not argue that the City has not “developed” a wider range of zoning options; the policy focuses on developing a wider range of zoning districts—not where those zoning districts should be.

² It is not for the hearings official to question the wisdom of efficacy or the Eugene Code, but rather to apply it as written.

³ Policy 21 states, “All new development in the R-4 zone north of 13th Avenue in the plan area shall be subject to site review so that it is efficient, workable, safe, compatible with surroundings, and considerate of historic and natural features.”

Residential Land Use and Housing Element Policy A.17 (page III-A-8): Provide opportunities for a full range of choice in housing type, density, size, cost, and location.

In response to this policy, the applicant notes that the zone change provides choice by allowing a denser housing development. The hearings official, however, notes that such higher density exists less than one block to the east, and notes that the applicant itself stated that it could provide an equal number of bedrooms without changing the zoning (simply by reducing the number of units, but increasing the number of bedrooms in some of the units. This application thus does not provide any additional choice that would not otherwise exist without the zone change. However, it does not limit choice either; the proposal is not inconsistent with this policy.

Residential Land Use and Housing Element Policy A.18 (page III-A-8): Encourage a mix of structure types and densities within residential designations by reviewing and, if necessary, amending local zoning and development regulations.

The text of this policy makes it applicable actions after a review of zoning and development regulations; it thus appears to apply to legislative actions, not to individual development proposals.

Residential Land Use and Housing Element Policy A.25 (page III-A-10): Conserve the metropolitan area's supply of existing affordable housing and increase the stability and quality of older residential neighborhoods, through measures such as revitalization; code enforcement; appropriate zoning; rehabilitation programs; relocation of existing structures; traffic calming; parking requirements; or public safety considerations. These actions should support planned densities in these areas.

This policy could apply to individual development applications. It lists several actions for the City to take to achieve specific goals; only one of which, "appropriate zoning," could relate to review of individual development applications. Here, however, the existing zoning would allow the applicant to remove existing single-family dwellings and construct multi-family residences. Thus a change to the higher density zone that would have the same effect of removing existing dwellings would not be inconsistent with this policy.

The applicant provided additional findings responding to other Metro Plan policies in its written statement (see applicant's written statement, pages 6-9). Those findings are incorporated here by reference.

The application complies with the relevant Metro Plan policies.

EC 9.8865(2): The proposed change is consistent with applicable adopted refinement plans. In the event of inconsistencies between these plans and the Metro Plan, the Metro Plan controls.

The West University Refinement Plan (WURP) is the adopted refinement plan applicable to this zone change request. The WURP land use diagram designates the subject property and adjacent properties between Patterson Street and Hilyard Street for “Medium and High Density Residential” (see WURP, page 56). As the refinement plan does not appear to provide a more specific description of this designation or further distinction, this combined designation for medium *and* high density residential use is interpreted to be consistent with both correlating designations in the Metro Plan. The existing R-3 and proposed R-4 zones are thus consistent with the refinement plan, by implementing the High-Density Residential designation that requires over 20 dwelling units per acre.

The land use diagram text (WURP, page 57) states:

The Land Use Diagram and its accompanying text will be used along with policies of the West University Refinement Plan, as well as other adopted goals, policies, and plans to evaluate individual land use proposals. . . .

. . . In nearly every case there is more than one zoning district that could be applied and still provide for the suggested land use patterns. This land use diagram reinforces existing zoning patterns and does not call for any zoning reclassifications.

Further evaluation of relevant policies and text of the adopted refinement plan is thus appropriate and discussed in more detail below.

Land Use, Housing and Commerce Policies

Policy 1. The City of Eugene will use the Land Use Diagram and policies of this plan along with other City policies in making land use and other decisions regarding the plan area. The Land Use Diagram is a generalized map and graphic depiction of the policies and proposals of this plan and the Community Goals and Policies. It is a supplement to, and a refinement of, the General [Metro] Plan Diagram (see WURP, page 49)

This policy provides direction to the City in making this zone change decision. As noted above, the WURP land use diagram indicates the area is appropriate for “Medium and High Density Residential.” Both the existing R-3 and proposed R-4 zoning are consistent with this designation.

Land Use, Housing and Commerce Proposals

Proposal 9. The City should institute review procedures and standards for large developments in medium- to high-density zones to ensure livability and minimize possible adverse environmental impacts. Large developments should be defined by the number of living units and/or development site size. Flexible development standards should be employed.

The applicant asserted in its written statement that the WURP does not require /SR on the subject lots, and the staff report concurred with this statement. While this "proposal" is directed at the City, and such proposals are only suggestions for how to implement plan policies (see WURP, page 3), the language seems to support the applicant's request, generally and at least in part, to apply site review and density limitation overlays in this case. The applicant also correctly notes that the City has adopted multi-family standards (see EC 9.5500) since the refinement plan was adopted. With or without the proposed overlays, the multi-family standards help to implement the purpose of the "Hilyard to Patterson Area" in this instance, as a buffer in the context of the refinement plan (see applicant's written statement, page 12). The multi-family standards are applicable to the concurrent request for site review approval, and are further addressed as part of the site review evaluation, below.

The staff report noted that the applicant's suggestion to impose a condition of zone change (or site review) approval, that would limit building height to a maximum of 51 feet, cannot be established through the zone change process as a site specific approval criterion (as was the case in Z 94-18). As such, the applicant's proposal to limit building height is addressed as part of the concurrent and voluntary request for "Need Housing" site review approval, below.

Plan Text⁴

The area between Hilyard and Patterson from 18th to the alley south of 13th is currently zoned R-3 and is developed with mostly single family dwellings and apartment buildings. This area should be a buffer between the campus high-density housing area and the woonerf residential area to the west. The area is residential in character and should remain so. (WURP, page 62).

The staff report stated that the applicant's written statement thoroughly addresses this plan text. The hearings official has reviewed that statement and found only the following assertion directly relevant:

[this area] is appropriate for Medium and High-Density Residential land uses and is intended to be a buffer between the *Campus High-Density Residential Area* to the east and the *Central Residential Area* (woonerf area) to the west. The *Central Residential Area* (woonerf area) located to the west of the *Hilyard to Patterson Area*, clearly indicates that Medium- and High-Density Residential is appropriate for the woonerf area. Therefore, consistent with the Metro Plan's High-Density Residential land use designation, the refinement plan indicates that high-density residential is appropriate for all three of these areas (*Campus High-Density Residential Area*, *Hilyard to Patterson Area* and *Central Residential Area*).

⁴ As noted above, WURP, p. 57 states that plan text is used along with policies to evaluate individual land use proposals.

Applicant's Written Statement (May 3, 2011) at 10. Albeit a bit confusing, the applicant seems to argue that because the Metro Plan designates the entire area as high-density residential, and the WURP specifies "medium and high-density," this proposal for the highest density zone is not inconsistent with the buffer concept described in the plan text. In the only other prior zone change within this Hilyard to Patterson Area (R-3 to R-4/SR/82, see file no. 94-18), the planning commission apparently addressed an argument concerning the role of this area as a buffer between the Campus High-Density Residential Area and the Central Residential Area (woonerf area). The Planning Commission essentially concluded that the 1994 proposal was consistent with the buffer concept because it was providing a density that was between the densities allowed in the R-3 and R-4 zones.⁵ The staff report noted that there is no clear basis under adopted policy or current code criteria to impose a density limit (staff report at 4), but the hearings official notes that the Planning Commission's prior interpretation of this plan text provides precedent for doing so. Despite the neighborhood's extensive and well-crafted arguments about the purpose and best use of the buffer zone here, the hearings official must follow the Planning Commission's interpretation of the plan text. Because the application here proposes a density in between the densities allowed in the R-3 and R-4 zones, it is consistent with the Planning Commission's interpretation of this plan text.

EC 9.8865(3): The uses and density that will be allowed by the proposed zoning in the location of the proposed change can be served through the orderly extension of key urban facilities and services.

Key urban facilities and services referred to in the above criterion are defined in the Metro Plan as including wastewater service, stormwater service, transportation, water service, fire and emergency medical services, police protection, City-wide parks and recreation programs, electric service, land use controls, communication facilities, and public schools on a district-wide basis (see Metro Plan page V-3). The minimum level of key urban facilities and services are defined in the Metro Plan and include wastewater service, stormwater service, and transportation facilities.

Public Works staff confirms that the minimum level of key urban facilities and services are defined in the Metro Plan and include wastewater service, stormwater service, and transportation facilities. The uses and density that will be allowed by the proposed R-4 zoning can be served by existing wastewater, stormwater, and transportation systems. No capacity or conveyance deficiencies have been identified in the City's master plans for the existing 12-inch wastewater and 15-inch stormwater system located within the abutting East 15th Avenue. Similarly, no capacity (i.e. level of service) or operational issues (e.g. crash history) have been identified for the surrounding street network, which is further discussed under the following Transportation Planning Rule evaluation below.

⁵ The hearings official is concerned that the Planning Commission did not provide any guidance for determining an appropriate mid-range density between R-3 and R-4 in this buffer, which, as West University Neighbors suggests, could lead to zoning for an "owner/developer's convenience" rather than as part of comprehensive process (WUN letter, Sept. 7, 2011 at 1).

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

(f) EC 9.2735 Residential Zone Siting Requirements.

As the applicant notes, the residential zone siting requirements referred to in EC 9.2735 pertain to the R-1.5 zone and are inapplicable in this case. The proposed zone change is to R-4. Additionally, while there are no specific siting requirements referenced under this criterion for the proposed overlay zones, the applicant's written statement does address the purpose and applicability of the density limitation and site review overlays (beginning at EC 9.4000) as further support for the proposal (see applicant's written statement, pages 14-16).

EC 9.8865(5): In cases where the NR zone is applied based on EC 9.2510(3), the property owner shall enter into a contractual arrangement with the City to ensure the area is maintained as a natural resource area for a minimum of 50 years.

The criterion is also inapplicable, as the proposed zone change does not include the NR zone.

Transportation Planning Rule

The Transportation Planning Rule (TPR) (OAR 660-012-0060(1)) applies to zone change applications. This zone change does not implicate the changing of the functional classification of an existing or planned transportation facility or the changing of standards implementing a functional classification system. As a result, for this application, the TPR requires additional analysis to determine if the proposed zone change would significantly affect an existing or planned transportation facility, as defined in OAR 660-012-0060(1). The first question is to determine whether the proposed zone change would "significantly affect" an existing or planned transportation facility. If the answer is yes, then the TPR applies and further consideration is required. If the answer is no, then no further consideration is required. The applicant submitted a TPR Analysis prepared by Branch Engineering that concluded the proposed zone change from R-3 to R-4 would not significantly affect the transportation system.

The applicant's TPR analysis evaluated the transportation system (see Table 1, page 3, for studied intersections) to confirm that there are neither existing operational issues (see Crash Analysis, page 5) nor existing or projected performance issues (see Table 5, page 22). Public Works staff confirms that the performance requirement of the studied intersections is Level of Service (LOS) "D". The applicant's analysis shows how this LOS is exceeded (performing better than LOS "D") under existing and future conditions, under both the R-3 and R-4 zonings. The analysis includes evaluation of existing performance of the intersections and performance at the planning horizon year of 2015. The City's planning horizon year has recently changed to 2027, but as the application was submitted and deemed complete prior to this change it is subject to the rules in effect at the time of application. Additionally, given the small increase in trips noted below (15 at PM peak hour without the density limitation proposed by the applicant) and the LOS "C" at all evaluated intersections, Public Works staff note that even if

the planning horizon year change were to be 2027 there is no indication that the proposal would have a significant effect on the transportation system.

The analysis measured the potential impact on the transportation system between the existing and proposed zoning by comparing reasonable worst-case development scenarios that would be permissible under each zoning district, namely, the maximum permitted density of each. For the 0.70 acre site, the analysis determined that 39 dwelling units could be built under the existing R-3 zoning, based on an allowable density of 56 units per acre, compared to 78 dwelling units that could be built under the R-4 zoning and its permitted density of 112 dwelling units per acre. As shown on Table 3 of the applicant's analysis, the Mid-Rise Apartment (Land Use Code 223) of the Institute of Traffic Engineer's (ITE) Trip Generation, 8th Edition was determined to be the most appropriate category to apply to both zonings (see Trip Generation, page 14). The resultant PM peak hour trip generation, which is consistent with the unit of measurement used by the City to establish the transportation system's LOS performance, was determined to be 15 trips under the R-3 zoning and 30 trips under the R-4 zoning (see Table 3, page 15).

While the above projection doubles the number of peak trips between the existing and proposed zonings, Public Works staff confirms that a net increase of 15 trips is insignificant in terms of evaluating impacts on the transportation system. City expectations for evaluating a development's impact on the transportation system are established locally under Administrative Order No. 58-02-02-F Standards for Traffic Impact Analysis. Those standards, which are based on ITE and industry standards for traffic engineering, identify 100 PM peak hour trips or more as warranting traffic impact analysis. Further, when such an analysis is required, the report content is only expected to include intersections that would receive 50 or more additional trips from the proposed development. These units of measurement are only provided here to put the net 15 trips anticipated above into context and to support the "insignificant" conclusion. While the analysis is appropriately based on the reasonable worst-case development scenario, Public Works staff also points out that the applicant proposes a density limitation of 92 units per acre, to be applied as an overlay zone. This would obviously reduce the incremental trip generation.

Given the current operating levels of the adjacent streets, the contribution of trips will not exacerbate existing traffic problems in the area. The traffic volumes and trip distribution of the applicant's analysis confirm that the proposal will not change the functional classification of adjacent streets. Therefore, the proposed zone change results in no significant effect on any planned or existing facilities under OAR 660-012-0060(1)(a), (b) or (c) and, therefore, OAR 660-012-0060(2) is inapplicable in this instance.

Evaluation of Site Review Request

The applicant chose to have this request reviewed under the Needed Housing standards.

EC 9.8445(1): The applicant has demonstrated that the proposed housing is needed housing as defined by State statutes.

Oregon Revised Statute defines needed housing as follows:

197.303 "Needed housing" defined. (1) As used in ORS 197.307, until the beginning of the first periodic review of a local government's acknowledged comprehensive plan, "needed housing" means housing types determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels. On and after the beginning of the first periodic review of a local government's acknowledged comprehensive plan, "needed housing" also means:

- (a) Housing that includes, but is not limited to, attached and detached single-family housing and multiple family housing for both owner and renter occupancy;*
- (b) Government assisted housing;*
- (c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490; and*
- (d) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions.*

With regard to ORS 197.303(1), the City's housing needs projection is embodied in the Eugene-Springfield Metropolitan Area Residential Lands and Housing Study 1999 Draft Supply and Demand Technical Analysis (ESRLS) and 1999 Draft Site Inventory Document. The City's housing needs projection identifies a need for:

- *Single-family detached housing, including manufactured dwellings on lots;*
- *Single family attached housing;*
- *Multi-family housing; and*
- *Manufactured dwelling parks.*

In order to establish that the type of housing proposed for development is "needed housing," an applicant must show that the proposed housing falls within one of the housing types identified in the City's housing needs projection or one of the types of housing identified in the statutes as "needed housing." The applicant's proposal is for multi-family housing, which is identified as needed housing within the ESRLS and at ORS 197.303(1)(a), consistent with this criterion. No further analysis of the proposed housing type is necessary to demonstrate that the proposed housing falls within a needed housing category and therefore it is allowable for the proposed application to be reviewed under the needed housing criteria rather than the general criteria.

EC 9.8445(2) For a proposal for multiple family developments, the proposal complies with the standards contained in EC 9.5500 Multiple Family Standards.

Land Use Management staff (LUMS) reviewed the proposal for compliance with the multi-family standards of EC 9.5500. Referral comments from LUM staff confirm that the proposal complies with all multi-family standards except for to EC 9.5500(5)(c) Upper Story Building

Entrances and EC 9.5500(6)(a) Maximum Building Dimension standards. The applicant has requested an adjustment to these two standards. The adjustment review to adjust these two standards is included and approved below at EC 9.8030. The findings and condition of the Adjustment Review are included herein by reference. The applicant's written statement includes a detailed analysis of compliance with the multi-family standards on pages 10 through 20 of the written statement, which are incorporated herein by reference demonstrating compliance with the multi-family standards.

Land Use Management staff also reviewed the proposal for compliance with other applicable development standards. The findings, conditions and conclusions of this review is included below at EC 9.8445(4)(k). Given the findings and approved adjustments the application complies with the standards contained at EC 9.5500, this criterion is met.

EC 9.8445(3) For areas not included on the city's acknowledged Goal 5 inventory, the proposal will preserve existing natural resources by compliance with all of the following:

- (a) The proposal complies with EC 9.6880 through EC 9.6885 Tree Preservation and Removal Standards.**
- (b) Natural resource areas designated on the Metro Plan diagram as "Natural Resource" are protected.**

Regarding subsection (a), as shown on the applicant's Existing Conditions and Tree Removal Plan Sheet C0 there are six significant trees on the development site.

In regards to the trees on the subject property, the applicable tree preservation and removal standards at EC 9.6885(2) require the "consideration" of three categories of trees for preservation or removal.

The applicant has provided information regarding the size, health and location of the existing trees. The application materials are sufficient to demonstrate that consideration has been given to preservation of the significant trees on the subject property. Given the high density zoning of the property and given the location of the proposed development, the trees cannot be preserved. There are 4 existing Hawthorne street trees in the public right of way along East 15th Avenue. In regards to the street trees, the applicant's written statement notes that Urban Forestry staff has visited the site and approved the removal of the trees, subject to the provisions at EC 6.305. The trees will be replaced with new trees listed on the City's approved street tree list.

Regarding subsection (b), the subject property is not designated on the Metro Plan as a "Natural Resource," therefore subsection (b) is not applicable.

Based on the findings and condition above, this criterion is satisfied.

EC 9.8445(4) The proposal complies with all of the following standards (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.):

(a) EC 9.2000 through 9.3915 regarding lot dimensions and density requirements for the subject zone.

The provisions of EC 9.2750, Residential Zone Development Standards, and EC 9.2760, Residential Zone Lot Standards, are applicable in this instance given the proposed R-4 zoning of the subject property. The proposed net density of 92 dwelling units per acre (63 units on .7 acres) is within the allowable net density range proposed by the concurrent zone change. There are no proposed changes regarding lot dimensions, nor have any adjustments to lot dimensions been sought or deemed as necessary. This criterion is met.

(b) EC 9.6500 through 9.6505 Public Improvement Standards.

This section authorizes the City to require dedication of easements for public utilities and access under certain circumstances. This section also prohibits obstructions within public easements. Available information indicates neither existing nor proposed public easements. Public Works staff identifies no need for public easements of the subject property. Based on these findings, the development complies with this standard.

With regard to EC 9.6505(1) Water Supply, according to the applicant's statement, this property is served by EWEB for water and electric systems. EWEB referral comments confirm that water service will be provided in accordance with EWEB policies and procedures. There is an existing 8-inch cast iron water main on the north side of E. 15th Avenue.

Additional information related to water and electric service that are generally addressed as part of the building permit process are included at the end of this decision for the applicant's benefit.

Regarding EC 9.6505(2) Sewage This subsection requires all developments to be served by wastewater systems of the city, in compliance with the provisions of Chapter 6 of this code. The applicant proposes to utilize two existing service laterals from the public system located within East 15th Avenue. Public Works staff confirms this is acceptable, subject to a more detailed review for compliance with plumbing code requirements at the time of development. Based on these findings and future building permit requirements, the development will comply with this standard.

EC 9.6505(3) Streets and Alleys require the developer to pave streets and alleys adjacent to the development site to the width specified in EC 9.6870 Street Width. Paving is required to comply with applicable design standards, which includes provisions for drainage, curbs and gutters, sidewalks, street trees, and street lights.

EC 9.6870 requires East 15th Avenue to have a paving width between 20 and 34 feet, based on its medium-volume residential classification. Consistent with these standards, the abutting segment of East 15th Avenue has 33 feet of paving with drainage, curb and gutter, sidewalks, street trees, and street lights. The applicant proposes to remove the existing driveway on East 15th Avenue and restore the curb and gutter, sidewalk, and planter strip at the time of development. The applicant also proposes to remove four existing street trees adjacent to the subject property. The applicant indicates that new trees will be planted at the time of development. To ensure compliance with these street improvement standards as proposed, the following condition of approval is necessary.

The final site plan shall note the following future permit requirements: "The access connection on East 15th Avenue shall be closed consistent with applicable standards, which includes restoration of the curb and gutter, sidewalk, and planter strip. Street tree removal and replacement planting is subject to review and approval by the Urban Forester during the building permit process."

EC 9.6870 requires the adjacent alley to have 12 feet of paving, which functions as a secondary-access alley and facilitates one-way travel. Although driveway access to the development will be exclusively from the alley, via three new access connections to surface and subsurface parking areas within the building envelope, properties abutting the alley also have public street frontage that provide primary public and emergency vehicle access. The alley has a continuous driving surface between the intersecting Hilyard and Patterson streets, enabling one-way travel. The existing pavement width is 14 feet, which meets or exceeds these standards.

Based on the above findings, condition, and future building permit requirements, the development will comply with these standards.

Regarding EC 9.6505(4) Sidewalks, there are existing setback sidewalks along East 15th Avenue, no further sidewalks are required in the right-of-way.

In regard to EC 9.6505(5) Bicycle Paths and Accessways, This standard, which establishes design and construction criteria, does not apply because no bicycle paths or public accessways are proposed or required.

(c) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas - Standards.

Public Works staff concurs with the applicant that the subject property is not within a Special Flood Hazard Area per the Flood Insurance Rate Map 41039C1137F issued by the Federal Emergency Management Agency.

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(d) EC 9.6710 Geological and Geotechnical Analysis.

Unless exempt under 9.6710(3)(a)-(f), in lieu of compliance with subsections (2), (4), and (5) of this section, applications proposing needed housing shall include a certification from an Oregon licensed Engineering Geologist or an Oregon licensed Civil Engineer with geological experience stating:

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

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

The applicant's geotechnical investigation prepared by Branch Engineering meets the above criterion by confirming the absence of geological hazards and the suitability of the site for the proposed development.

(e) EC 9.6730 Pedestrian Circulation On-Site.

The applicant's proposal provides on-site pedestrian paths from every unit to all other units on the development site and from the building to the right of way, this criterion is satisfied

(f) EC 9.6735 Public Access Required.

This standard requires development sites to have frontage on, or access to, a public street and establishes location criteria for access connections. The subject property has public access via its frontage on East 15th Avenue; however, vehicle access is proposed exclusively via the adjacent alley. The existing driveway on East 15th Avenue is to be closed during the building permit process. Three new driveways will be constructed off the alley to facilitate vehicle access to on-site parking spaces. Public Works staff confirms this proposal complies with applicable public access requirements.

(g) EC 9.6750 Special Setback Standards.

These standards prescribe setbacks for future public easements and right-of-way to facilitate related public improvements, such that buildings and stormwater management facilities will also comply with required setbacks from lot lines. As confirmed previously, the adjacent rights-of-way are improved to applicable street and alley standards; therefore, special setbacks for future right-of-way acquisition is neither proposed nor required. Further, the existing rights-of-way meet or exceed the width requirements at EC 9.6780, as follows: East 15th Avenue has 66 feet, exceeding the 60-foot maximum; and the alley has 14 feet, as required for secondary access. The adjacent rights-of-way also accommodate public utilities such that additional or

future public easements are not necessary. Based on these findings, the development complies with these standards.

(h) EC 9.6775 Underground Utilities.

EWEB staff indicated no concern with this development. As indicated on the applicant's plans, all new utilities will be placed underground, consistent with this criterion. This criterion is satisfied.

(i) EC 9.6780 Vision Clearance Area.

This standard defines a vision clearance area at street intersections, which does not apply to the subject property because it is located mid-block.

(j) EC 9.6791 through 9.6797 regarding stormwater destination, pollution reduction, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.

Stormwater runoff from the development is proposed to be collected and treated on-site by private stormwater management facilities before overflowing to the public stormwater system located within the abutting East 15th Avenue. The applicant's proposal is supported by a stormwater analysis prepared by Branch Engineering. Compliance with applicable stormwater development standards is as follows.

EC 9.6791 Stormwater Destination applies to all development in order to protect life and property from flood and drainage hazards by maintaining the capacity of the city's stormwater conveyance system. This standard requires stormwater drainage facilities to be designed and constructed according to adopted plans and policies, and in accordance with standards in EC Chapters 6 and 7, and the stormwater destination provisions and the facility design requirements set forth in the Stormwater Management Manual. An applicant proposing new development must submit documentation to the city showing the stormwater destination into which the proposed development will be disposed. The applicant's stormwater analysis confirms that the existing 15-inch stormwater system located within East 15th Avenue has adequate capacity to receive the proposed overflow from the on-site stormwater management facilities. The analysis also demonstrates how the development will result in less impervious surface area than existing site conditions. The collection system and connection point will be required to meet plumbing code and applicable specifications at the time of development. Based on these findings and future permit requirements, the development will comply with this standard.

The purpose of EC 9.6792 Stormwater Pollution Reduction is to reduce the impacts that urbanization is having on the city's water quality by requiring development to capture and treat its stormwater runoff. Pollution reduction facilities are required to comply with the Stormwater Management Manual. The applicant proposes to install a privately-owned and operated

treatment manhole that complies with the city's approved list of proprietary stormwater treatment technologies. The applicant's analysis provides sizing calculations demonstrating compliance with the city's Stormwater Management Manual. Facility installation will be reviewed in greater detail during the building permit process for compliance with applicable specifications. Based on these findings, the development will comply with this standard.

The intent of EC 9.6793 Stormwater Flow Control Headwaters is to protect waterways in the headwaters area from the erosive effects of increases in stormwater runoff peak flow rates and volumes resulting from development. This standard applies to sites in the headwaters area that drain directly to a headwater stream or drain into a pipe that discharges into a headwater stream. The subject property does not meet this applicability provision.

The purpose of EC 9.6794 Stormwater Oil Control is to protect the city's stormwater system from oil and grease from stormwater runoff of impervious surface areas on properties that produce high concentrations of these pollutants. The proposed development does not include uses that would require control by this standard.

The intent of EC 9.6794 Stormwater Source Control is to prevent stormwater pollution by eliminating the pathways that may introduce pollutants into stormwater. This standard applies to the solid waste storage area for trash collection and recycling. The applicant acknowledges this requirement and proposes to hydraulically isolate stormwater runoff from this facility and direct it to the wastewater system. Public Works staff confirms this proposal complies with this standard, subject to construction specifications being adhered to during the building permit process.

The purpose of EC 9.6796 Dedication of Stormwater Easements is to ensure that city-maintained stormwater facilities can be accessed by the city for routine and emergency maintenance consistent with applicable stormwater development standards and where necessary to extend public drainage facilities and services to adjoining undeveloped property. Public drainage facilities are neither proposed nor required; hence, there is no need for public stormwater easements.

The purpose of EC 9.6796 Stormwater Operations and Maintenance is to ensure that stormwater management facilities are operated and maintained in a manner consistent with the stormwater development standards. This standard applies to all facilities designed and constructed in accordance with the stormwater development standards. This section also specifies when, and under what conditions, the public will accept function maintenance. Consistent with these standards, the applicant proposes private operation and maintenance of the on-site stormwater management facilities. To ensure compliance with EC 9.6797(3)(c), as proposed, the following condition of approval is warranted.

The following note shall be added to the final site plan:

"On-site stormwater management facilities will be privately owned and operated. An operation and maintenance plan will be developed consistent with the City's Stormwater Management Manual, and notice of this plan will be recorded, during the building permit process."

- (k) **All other applicable development standards for features explicitly included in the application.**

The applicant has specifically addressed several additional development standards for features included as part of the proposed development. In addition to those findings provided under EC 9.8445(2) above regarding compliance with multi-family standards, incorporated herein by reference, additional findings are included below to address those specific features as they relate to applicable development standards.

In accordance with EC 9.2751(1)(c)3., the maximum net density allowed for R-4/92/SR for this development site would be 63 dwelling units. The proposed 64 dwelling units exceed the maximum density allowed in the proposed R-4 zone.

Compliance could not be verified on certain development standards based upon the Site Review application. Therefore the following condition of approval is warranted:

The following notes shall be added to the final site plans:

"Compliance with the following applicable development standards will be determined at the time of building permit review:

- Outdoor Lighting Standards contained in EC 9.6725
- Landscape Plans contained in EC 9.6230
- Garbage Screening contained in EC 9.6740"

"All permanent signs within the development shall conform to Eugene Sign Code Sections 9.6600 to 9.6680, or the corresponding provision of any future law."

To ensure development of the subject site occurs consistent with the development proposed by the applicant, the applicant has requested that the specifications of a 4-story (maximum 51-foot building height per EC 9.0500), 64 unit apartment (which has subsequently been reduced to 63 units) complex with basement floor on-site parking garage be imposed a condition of approval to be attached to the decision. Therefore the following condition of approval is proposed:

A note shall be added to the final site plan indicating that "Development on this site shall be limited to 4-stories (with a maximum building height of 51 feet per EC 9.0500), include a maximum of 63 units and shall also include an additional basement floor on-site parking garage."

Any remaining applicable development standards will be subsequently addressed as part of the building permit review for the proposed structure. Therefore, based on the findings above and conditions at EC 9.8445(2), included herein by reference, the proposal complies with this criterion.

EC 9.8445(5) Public improvements as required by this land use code or as a condition of tentative plan approval have been completed, or:

- (a) A performance bond or suitable substitute as agreed upon by the city has been filed with the city finance officer in an amount sufficient to assure the completion of all required public improvements; or**
- (b) A petition for public improvements and for the assessment of the real property for the improvements has been signed by the property owner seeking the subdivision, and the petition has been accepted by the city engineer.**

No public improvements are required; therefore, the proposal complies with this criterion.

Evaluation of Adjustment Review Request

The applicant is requesting adjustments to EC 9.5500(5)(c) Upper Story Building Entrances and EC 9.5500(6)(a) Maximum Building Dimension. Those criteria are provided below (In bold), including findings addressing compliance with each.

The applicant is requesting an adjustment to EC 9.5500(5)(c) the Upper Story Building Entrance requirement that upper story entrances serve no more than two units. Per EC 9.5500(5)(d) adjustments can be made to the entrance requirement, based on the criteria at EC 9.8030(4).

EC 9.8030 Adjustment Review - Approval Criteria.

- (4) Building Orientation and Entrance Standards Adjustment. Where this land use code provides that building orientation and entrance standards may be adjusted, the standards may be adjusted upon finding that the proposal complies with one of the following:**
 - (a) Promotes compatibility with adjacent property.**
 - (b) Creates building orientations and entrances that achieve all of the following:**
 - 1. Support and augment the building setback, massing and architectural details.**
 - 2. Achieve an attractive streetscape with a strong building presence on existing and future streets.**
 - 3. In the case of multiple-family developments, provides socialization benefits to residents.**

As shown in the applicant's elevations, the proposal includes a hip roof design and units that are oriented towards a common courtyard located at the center of a horseshoe shaped building with the opening towards East 15th Avenue.

Subsection (4)(a) requires the proposal to promote compatibility with adjacent property. The proposal promotes compatibility with adjacent properties through building design, and height that is very similar to permitted height in the surround zone. After the hearing, the applicant submitted a context map that shows a number of buildings in the vicinity of 2, 3 and 4 stories in height. The primary orientation of units to the courtyard will orient socialization to the center of the development not to the outside of the development adjacent to neighboring properties. Building design such as roof type and architectural details such as recesses and patios add to the residential character and promote compatibility.

In regards to (4)(b)(1), the proposal supports and augments the building setback, massing and architectural detail, given that the proposed design includes a building presence on the street while incorporating architectural details such as landscaping recesses, projections and multiple height roofs. (see sheets A2 and A3).

In regards to subsection (4)(b)(2) the proposed achieves an attractive streetscape by placing the building within 15 feet of the street for over 140 feet of the total 168 feet of frontage on East 15th. Windows and articulation along East 15th Avenue further contribute to the street presence. After the hearing, the applicant provided a conceptual drawing of a seating area and portico adjacent to the sidewalk. This feature will add interest and attraction to the streetscape.

In regards to subsection (4)(b)(3) this multi-family development is designed so that primary and front entrances of the building face a common central courtyard. The units will share walkways that are connected to the courtyard and remainder of the development site to provide socialization opportunities and benefits consistent with this criterion. Additionally, the applicant's findings on pages 26 through 28 in regards to the adjustment criterion are incorporated here by reference to show compliance with this section.

Given the findings above the proposed adjustment to Upper Story building entrance standards at EC 9.5500(4)(c) is granted.

The applicant is also requesting an adjustment to EC 9.5500(6)(a) Maximum Building Dimension as allowed at EC 9.5500(6)(c) with criterion set forth at EC 9.8030(8)(a)

EC 9.8030 Adjustment Review - Approval Criteria.

- (8) **Multiple-Family Standards Adjustment.** Where this land use code provides that the multiple-family standards may be adjusted, the standards may be adjusted upon finding that the design achieves all of the following:
- (a) **Maximum Building Dimension.** The requirements set forth in EC 9.5500(6)(a) may be adjusted if the proposal creates building massing and/or facades that:
1. Create a vibrant street facade with visual detail.
 2. Provide multiple entrances to building or yards.

The applicant is requesting an adjustment to the maximum building dimension of 150 feet as the total street facing façade is 169 feet. While the maximum dimension is 169 feet, the building is designed in a horseshoe configuration with the open side towards East 15th. As a result the portions of the building closest to East 15th are only 144 feet in length and are separated.

In regards to subsection (a)(1) the proposed design brings the majority of the building close to the street and provides a recessed main entry onto East 15th Avenue. Parking is provided from the rear of the building to allow uninterrupted pedestrian access to East 15th. Visual detail including windows and large recesses and projections provide a street façade with visual detail. And, as noted above, the applicant provided a conceptual drawing of a seating area and portico adjacent to the sidewalk, which will create visual interest and help create a more vibrant street façade by encouraging people to tarry on the sidewalk. Additionally, the applicant's findings are incorporated herein by reference to show compliance with this subsection. Therefore the adjustment to EC 9.6105(3)(a) Long Term Bicycle Standards is granted.

In regards to subsection (a)(2) as shown on the applicant's site plan there are numerous walkways to the building from both East 15th Ave and East 14th Alley consistent with the criterion.

Per the findings above, adjustments are granted to EC 9.5500(5)(c) Upper Story Building Entrances and EC 9.5500(6)(a) Maximum Building Dimension.

Decision of the Hearings Official

Based upon the available information and findings set forth in the preceding evaluation, the hearings official APPROVES the zone change from R-3 Limited High Density Residential to R-4/92/SR High Density Residential with a 92 unit per acre density maximum and site review overlay in Z 10-9. The hearings official also APPROVES the concurrent Needed Housing Site Review application SR 11-2 and Adjustment Review application ARA 11-6. The Site Review approval is conditioned upon the following conditions of approval.

Conditions of Site Review Approval

1. The final site plan shall note the following future permit requirements: "The access connection on East 15th Avenue shall be closed consistent with applicable standards, which includes restoration of the curb and gutter, sidewalk, and planter strip. Street tree removal and replacement planting is subject to review and approval by the Urban Forester during the building permit process."
2. The following note shall be added to the final site plan:

"On-site stormwater management facilities will be privately owned and operated. An operation and maintenance plan will be developed consistent with the City's

Stormwater Management Manual, and notice of this plan will be recorded, during the building permit process.”

3. The following notes shall be added to the final site plans:

“Compliance with the following applicable development standards will be determined at the time of building permit review:

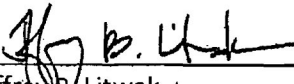
- Outdoor Lighting Standards contained in EC 9.6725
- Landscape Plans contained in EC 9.6230
- Garbage Screening contained in EC 9.6740”

“All permanent signs within the development shall conform to Eugene Sign Code Sections 9.6600 to 9.6680, or the corresponding provision of any future law.”

4. A note shall be added to the final site plan indicating that “Development on this site shall be limited to 4-stories (with a maximum building height of 51 feet per EC 9.0500), include a maximum of 63 units and shall also include an additional basement floor on-site parking garage.”

Dated this 3 day of October 2011.

Mailed this 3 day of October 2011.



Jeffrey B. Litwak
Hearings Official

SEE NOTICE OF HEARINGS OFFICIAL DECISION FOR STATEMENT OF APPEAL RIGHTS



ZONE CHANGE / SITE REVIEW / ADJUSTMENT REVIEW STAFF REPORT

Application File Name (Numbers):

OBO Enterprises – 15th & Patterson Apartments (Z 10-9, SR 11-2 and ARA 11-6)

Applicant's Request:

Zone change from R-3 Limited High Density Residential to R-4/92/SR High Density Residential with a 92 unit per acre density maximum and the site review overlay zone. Concurrent request for Needed Housing Site Review approval and Adjustment Review approval.

Subject Property/Location:

Tax Lots 400, 500 and 600 of Assessor's Map 17-03-32-33; Located at 631, 647 and 669 East 15th Avenue on the north side of East 15th Avenue between Hilyard Street and Patterson Street.

Relevant Dates:

Zone Change application submitted on October 22, 2010; Site Review application submitted May 3, 2011; Adjustment Review application submitted May 20, 2011. Concurrent applications deemed complete on May 20, 2011; public hearing date scheduled for August 24, 2011.

Applicant's Representative:

Kristen Taylor, TBG Architects & Planners Inc. (541) 687-1010

Lead City Staff:

Steve Ochs, Associate Planner, Eugene Planning Division, Phone: (541) 682-5453.

Purpose of Staff Report:

The Eugene Code (EC) requires City staff to prepare a written report concerning any zone change request. As the applicant is including concurrent Type II Site Review and Adjustment Review applications, these will also be processed as Type III land use applications and are included in the following staff report. In accordance with the Type III land use application procedures (EC 9.7320), the staff report is printed and available seven days prior to the public hearing on the request, to allow citizens an opportunity to learn more about the request and to review the staff analysis of the application. The staff report provides only preliminary information and recommendations. The Hearings Official will also consider additional public testimony and other materials presented at the public hearing before making a decision on the applications.

The Hearings Official's written decision on the application is generally made within 15 days after close of the public record, following the public hearing (EC 9.7330). For reference, the quasi-judicial hearing procedures applicable to this request are described at EC 9.7065 through EC 9.7095.

Site Characteristics and Present Request:

The present request is for zone change, site review and adjustment review approvals that would enable the redevelopment of a 0.7 acre property, which includes 3 tax lots on the north side of East 15th Avenue between Hilyard and Patterson Streets. The applicant requests a zone change from R-3, Limited High-Density Residential to R-4/92/SR, High-Density Residential with a 92 unit per acre density maximum and site review overlay zone. The applicant has also requested concurrent site review approval under "Needed Housing" provisions, for a four-story, 6-unit apartment complex with a basement parking garage. Adjustment review has also been requested to adjust the multi-family standards at EC 9.5500(5)(d) regarding upper story entrances, and maximum building dimensions at EC 9.5500(6)(a). Access to the new apartment complex would be from East 14th Avenue Alley, only.

The subject properties are currently developed with two houses and an existing apartment complex. The two houses have a secondary, contributing historical ranking but no formal designation as a City landmark or National Register historic property. The applicant plans to demolish one house and the apartment complex due to their deteriorating condition and relocate one of the houses (on Tax Lot 500) to another site due to its excellent condition.

The subject property is located in a predominately residential area and is surrounded on all sides by properties zoned R-3. The R-3 zoning extends one block to the north, and three blocks to the south and west. One exception is a three story apartment complex located across East 15th Avenue to the south, which is zoned R-4/SR/82, High-Density Residential with the site review overlay and a density maximum of 82 units. Other properties to the south are a mixture of multi-family developments and single family homes. Directly to the west, the properties are developed with a two story single family home and two, two-story duplexes. Further to the west, the area is developed with a church (Central Presbyterian Church) and a mixture of apartments and single family residences. To the north across East 14th Alley are two-story (nine unit) and three-story (twenty-one unit) apartment complexes. Further to the north, properties are developed with multi-family and single family homes with a commercial area north of that. The three properties directly to the east are developed with two duplexes and a single family home. Further to the east, there are two blocks of properties zoned R-4 High-Density Residential with a 65-foot maximum building height and then PL Public Land zoning on the University of Oregon campus.

For additional details of the request and site characteristics, please refer to the applicant's written statement and other supporting application materials, as well as the following staff evaluation and other attachments.

Application Referrals and Public Hearing Notice:

Upon deeming the concurrent applications complete on May 20, 2011, staff provided information concerning the application to other appropriate City departments, public agencies, and the affected neighborhood group (West University Neighbors) on May 25, 2011. Relevant referral comments are incorporated into the following evaluation of compliance with the applicable criteria. The public hearing is scheduled for August 24, 2011.

Public notice of the concurrent applications and hearing was mailed on July 14, 2011. No written public testimony has been received as of the date of this staff report. Any written testimony received after preparation of this report but prior to the public hearing will be forwarded to the Hearings Official for consideration in making a decision. Public testimony, written or otherwise, may also be presented at the public hearing and submitted into the record for this matter.

Staff Evaluation:

In accordance with EC 9.7330, the Hearings Official is required to approve, approve with conditions, or deny these land use applications for a zone change, site review and adjustment review. The decision must be based on, and be accompanied by, findings that explain the criteria and standards considered relevant to the decision. It must also state the facts relied upon in rendering the decision, and explain the justification for the decision based upon the criteria, standards, and facts set forth.

To assist the Hearings Official in rendering a decision on the application, staff presents the following zone change, site review and adjustment review approval criteria (shown below in **bold** typeface), with findings related to each, based on the evidence available as of the date of this staff report. Staff has also provided a recommendation to the Hearings Official following the staff evaluation, below.

Zone Change

EC 9.8865(1): The proposed zone change is consistent with applicable provisions of the Metro Plan. The written text of the Metro Plan shall take precedence over the Metro Plan diagram where apparent conflicts or inconsistencies exist.

The Metro Plan land use diagram designates the subject property for High-Density Residential use. A zone change to R-4 High-Density Residential is consistent with this designation. It is noted that the existing R-3, Limited High-Density zoning also implements the High-Density Residential designation as both R-3 and R-4 have a minimum density of 20 units per acre. The Metro Plan (Page II-G-3) describes High Density Residential as having over 20 units per acre.

In this instance, there appear to be no additional Metro Plan policies or provisions that serve as mandatory approval criteria for the proposed zone change, but several policies do provide additional context and general support for the request. To the extent that additional findings provided in the applicant's written statement are relevant, they are considered and incorporated here by reference in support of finding that the proposed zone change is consistent with the Metro Plan (see applicant's written statement, pages 6-9).

EC 9.8865(2): The proposed change is consistent with applicable adopted refinement plans. In the event of inconsistencies between these plans and the Metro Plan, the Metro Plan controls.

The West University Refinement Plan (WURP) is the adopted refinement plan applicable to this zone change request. The WURP land use diagram designates the subject property and adjacent properties between Patterson Street and Hilyard Street for "Medium and High Density Residential" (see WURP, page 56). As the refinement plan does not appear to provide a more specific description of this designation or further distinction, this combined designation for medium *and* high density residential use is interpreted to be consistent with both correlating designations in the Metro Plan. The existing R-3 and proposed R-4 zones are thus consistent with the refinement plan, by implementing the High-Density Residential designation which requires over 20 dwelling units per acre.

The land use diagram text on (see WURP, page 57) provides additional guidance in in this case by noting that, “In nearly every case there is more than one zoning district that could be applied and still provide for the suggested land use patterns. This land use diagram reinforces existing zoning patterns and does not call for any zoning reclassifications. This plan diagram is a refinement of the Metropolitan Area General Plan and, like the General [Metro] Plan, must be used in conjunction with plan text and other City plans and policies to evaluate individual proposals.” Further evaluation of relevant policies and text of the adopted refinement plan is thus appropriate and discussed in more detail below.

Land Use, Housing and Commerce Policies

Policy 1. The City of Eugene will use the Land Use Diagram and policies of this plan along with other City policies in making land use and other decisions regarding the plan area. The Land Use Diagram is a generalized map and graphic depiction of the policies and proposals of this plan and the Community Goals and Policies. It is a supplement to, and a refinement of, the General [Metro] Plan Diagram (see WURP, page 49)

This policy provides direction to the City in making this zone change decision. As noted above, the adopted WURP land use diagram indicates the area is appropriate for “Medium and High Density Residential.” Both the existing R-3 and proposed R-4 zoning are consistent with this designation. There appear to be no other refinement plan policies which serve as mandatory approval criteria in this case, but additional plan text which describes the subject area and its role as a buffer area between the adjacent “campus high-density housing area” (to the east east) and “woonerf residential area” (to the west) is particularly relevant and considered in more detail below as it relates to the applicant’s proposed overlay zoning. Specifically, the plan text following the land use diagram (see WURP, page 62) describes the “Hilyard to Patterson Area” where the subject property is located, in relevant part, as follows:

The area between Hilyard and Patterson from 18th to the alley south of 13th is currently zoned R-3 and is developed with mostly single family dwellings and apartment buildings. This area should be a buffer between the campus high-density housing area and the woonerf residential area to the west. The area is residential in character and should remain so.

The applicant’s written statement thoroughly addresses this plan text and those findings are incorporated here by reference (see applicant’s written statement, pages 10-12). While the City agrees with the applicant’s interpretation that their proposed density limitation and site review overlays are not expressly required by the refinement plan, and the City would have no clear basis under applicable adopted policy or current code criteria to impose them, the applicant has nevertheless proposed these overlays as a means to address the impact of increased density on the West University neighborhood and the potential broader intention of this buffer area. In this instance, there are no code provisions which appear to preclude such a voluntary application of zoning overlays. While the proposed application of overlays would not be “in response to adopted plan policies,” it could be considered “necessary to address future development considerations” in this case. See EC 9.8860(2). The application of overlays in this case is also generally consistent with the intent of Proposal 9 in the refinement plan (see WURP, page 52):

The City should institute review procedures and standards for large developments in medium-

to high-density zones to ensure livability and minimize possible adverse environmental impacts. Large developments should be defined by the number of living units and/or development site size. Flexible development standards should be employed.

While this “proposal” is directed at the City, and such proposals are only suggestions for how to implement plan policies (see WURP, page 3), the language seems to support the applicant’s request, generally and at least in part, to apply site review and density limitation overlays in this case. The applicant also correctly notes that the City has adopted multi-family standards (see EC 9.5500) since the refinement plan was adopted. With or without the proposed overlays, the multi-family standards help to implement the purpose of the “Hilyard to Patterson Area” in this instance, as a buffer in the context of the refinement plan (see applicant’s written statement, page 12). The multi-family standards are applicable to the concurrent request for site review approval, and are further addressed as part of the site review evaluation, below.

Also, irrespective of any overlay, site review can also be applied for under “Needed Housing” provisions as in this instance, according to EC 9.8430(3). It is noted that the proposed density limitation appears to correlate with this specific development proposal, but there is no further direction or criteria under which to evaluate the appropriateness of the specific limitation of 92 units per acre in this instance.

The applicant’s materials (see Exhibits F and G to applicant’s written statement) also make reference to a 1994 zone change approval (Z 94-18) that occurred for property to the directly to the south, across East 15th Avenue, which established a site review overlay and density limitation under “old code” provisions. While some aspects of that decision are not directly pertinent as a result of code changes limiting the application of site review since that time (i.e. inability to establish new, site specific criteria as part of a zone change), the Hearings Official and Planning Commission’s interpretation of the plan text and role of the subject buffer area does appear to provide relevant background and support for the applicant’s proposal. One major distinction worth noting is that the applicant’s suggestion to impose a condition of zone change (or site review) approval, that would limit building height to a maximum of 51 feet, cannot be established through the zone change process as a site specific approval criterion (as was the case in Z 94-18). As such, staff addresses the applicant’s proposal to limit building height as part of the concurrent and voluntary request for “Need Housing” site review approval, below.

EC 9.8865(3): The uses and density that will be allowed by the proposed zoning in the location of the proposed change can be served through the orderly extension of key urban facilities and services.

Key urban facilities and services referred to in the above criterion are defined in the Metro Plan as including wastewater service, stormwater service, transportation, water service, fire and emergency medical services, police protection, City-wide parks and recreation programs, electric service, land use controls, communication facilities, and public schools on a district-wide basis (see Metro Plan page V-3). The minimum level of key urban facilities and services are defined in the Metro Plan and include wastewater service, stormwater service, and transportation facilities.

Public Works staff confirms that the minimum level of key urban facilities and services are defined in the Metro Plan and include wastewater service, stormwater service, and transportation facilities. The uses and density that will be allowed by the proposed R-4 zoning can be served by existing

wastewater, stormwater, and transportation systems. No capacity or conveyance deficiencies have been identified in the City's master plans for the existing 12-inch wastewater and 15-inch stormwater system located within the abutting East 15th Avenue. Similarly, no capacity (i.e. level of service) or operational issues (e.g. crash history) have been identified for the surrounding street network, which is further discussed under the following Transportation Planning Rule evaluation below.

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

(f) EC 9.2735 Residential Zone Siting Requirements.

As the applicant notes, the residential zone siting requirements referred to in EC 9.2735 pertain to the R-1.5 zone and are inapplicable in this case. The proposed zone change is to R-4. Additionally, while there are no specific siting requirements referenced under this criterion for the proposed overlay zones, the applicant's written statement does address the purpose and applicability of the density limitation and site review overlays (beginning at EC 9.4000) as further support for the proposal (see applicant's written statement, pages 14-16).

EC 9.8865(5): In cases where the NR zone is applied based on EC 9.2510(3), the property owner shall enter into a contractual arrangement with the City to ensure the area is maintained as a natural resource area for a minimum of 50 years.

The criterion is also inapplicable, as the proposed zone change does not include the NR zone.

Transportation Planning Rule

The Transportation Planning Rule (TPR) (OAR 660-012-0060(1)) applies to zone change applications. This zone change does not implicate the changing of the functional classification of an existing or planned transportation facility or the changing of standards implementing a functional classification system. As a result, for this application, the TPR requires additional analysis to determine if the proposed zone change would significantly affect an existing or planned transportation facility, as defined in OAR 660-012-0060(1). The first question is to determine whether the proposed zone change would "significantly affect" an existing or planned transportation facility. If the answer is yes, then the TPR applies and further consideration is required. If the answer is no, then no further consideration is required. The applicant submitted a TPR Analysis prepared by Branch Engineering, which concludes that the proposed zone change from R-3 to R-4 will not significantly affect the transportation system.

The applicant's TPR analysis evaluated the transportation system (see Table 1, page 3, for studied intersections) to confirm that there are neither existing operational issues (see Crash Analysis, page 5) nor existing or projected performance issues (see Table 5, page 22). Public Works staff confirms that the performance requirement of the studied intersections is Level of Service (LOS) "D". The applicant's analysis shows how this LOS is exceeded (performing better than LOS "D") under existing and future conditions, under both the R-3 and R-4 zonings. The analysis includes evaluation of existing performance of the intersections and performance at the planning horizon year of 2015. The City's planning horizon year has recently changed to 2027, but as the application was submitted and deemed complete prior to this change it is subject to the rules in effect at the time of application. Additionally, given the small increase in trips noted below (15 without the density limitation proposed

by the applicant) and the LOS "C" at all evaluated intersections, Public Works staff note that even if the planning horizon year change were to be 2027 there is no indication that the proposal would have a significant effect on the transportation system.

The analysis measured the potential impact on the transportation system between the existing and proposed zoning by comparing reasonable worst-case development scenarios that would be permissible under each zoning district, namely, the maximum permitted density of each. For the 0.70 acre site, the analysis determined that 39 dwelling units could be built under the existing R-3 zoning, based on an allowable density of 56 units per acre, compared to 78 dwelling units that could be built under the R-4 zoning and its permitted density of 112 dwelling units per acre. As shown on Table 3 of the applicant's analysis, the Mid-Rise Apartment (Land Use Code 223) of the Institute of Traffic Engineer's (ITE) Trip Generation, 8th Edition was determined to be the most appropriate category to apply to both zonings (see Trip Generation, page 14). The resultant PM peak hour trip generation, which is consistent with the unit of measurement used by the City to establish the transportation system's LOS performance, was determined to be 15 trips under the R-3 zoning and 30 trips under the R-4 zoning (see Table 3, page 15).

While the above projection doubles the number of peak trips between the existing and proposed zonings, Public Works staff confirms that a net increase of 15 trips is insignificant in terms of evaluating impacts on the transportation system. City expectations for evaluating a development's impact on the transportation system are established locally under Administrative Order No. 58-02-02-F Standards for Traffic Impact Analysis. Those standards, which are based on ITE and industry standards for traffic engineering, identify 100 PM peak hour trips or more as warranting traffic impact analysis. Further, when such an analysis is required, the report content is only expected to include intersections that would receive 50 or more additional trips from the proposed development. These units of measurement are only provided here to put the net 15 trips anticipated above into context and to support the "insignificant" conclusion. While the analysis is appropriately based on the reasonable worst-case development scenario, Public Works staff also points out that the applicant proposes a density limitation of 92 units per acre, to be applied as an overlay zone. This would obviously further reduce the incremental trip generation.

Given the current operating levels of the adjacent streets, the contribution of trips will not exacerbate existing traffic problems in the area. The traffic volumes and trip distribution of the applicant's analysis confirm that the proposal will not change the functional classification of adjacent streets. Therefore, the proposed zone change results in no significant effect on any planned or existing facilities under OAR 660-012-0060(1)(a), (b) or (c) and, therefore, OAR 660-012-0060(2) is inapplicable in this instance.

Site Review Evaluation

Staff findings and recommendation regarding the needed housing site review criteria at EC 9.8445 (shown below in **bold** typeface) is included below.

EC 9.8445(1): The applicant has demonstrated that the proposed housing is needed housing as defined by State statutes.

Oregon Revised Statute defines needed housing as follows:

197.303 "Needed housing" defined. (1) As used in ORS 197.307, until the beginning of the first periodic review of a local government's acknowledged comprehensive plan, "needed housing" means housing types determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels. On and after the beginning of the first periodic review of a local government's acknowledged comprehensive plan, "needed housing" also means:

- (a) Housing that includes, but is not limited to, attached and detached single-family housing and multiple family housing for both owner and renter occupancy;
- (b) Government assisted housing;
- (c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490; and
- (d) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions.

With regard to ORS 197.303(1), the City's housing needs projection is embodied in the Eugene-Springfield Metropolitan Area Residential Lands and Housing Study 1999 Draft Supply and Demand Technical Analysis (ESRLS) and 1999 Draft Site Inventory Document. The City's housing needs projection identifies a need for:

- Single-family detached housing, including manufactured dwellings on lots;
- Single family attached housing;
- Multi-family housing; and
- Manufactured dwelling parks.

In order to establish that the type of housing proposed for development is "needed housing," an applicant must show that the proposed housing falls within one of the housing types identified in the City's housing needs projection or one of the types of housing identified in the statutes as "needed housing." The applicant's proposal is for multi-family housing which is identified as needed housing within the ESRLS and at ORS 197.303(1)(a), consistent with this criterion. No further analysis of the proposed housing type is necessary to demonstrate that the proposed housing falls within a needed housing category and therefore it is allowable for the proposed application to be reviewed under the needed housing criteria rather than the general criteria.

EC 9.8445(2) For a proposal for multiple family developments, the proposal complies with the standards contained in EC 9.5500 Multiple Family Standards.

Land Use Management staff (LUMS) reviewed the proposal for compliance with the multi-family standards of EC 9.5500. Referral comments from LUM staff confirm that the proposal complies with all multi-family standards except for to EC 9.5500(5)(c) Upper Story Building Entrances and EC 9.5500(6)(a) Maximum Building Dimension standards. The applicant has requested an adjustment to these two standards. The adjustment review to adjust these two standards is included and approved below at EC 9.8030. The findings and condition of the Adjustment Review are included herein by reference. The applicant's written statement includes a detailed analysis of compliance with the multi-family standards on pages 10 through 20 of the written statement, which are incorporated herein by reference demonstrating compliance with the multi-family standards.

Land Use Management staff also reviewed the proposal for compliance with other applicable development standards. The findings, conditions and conclusions of this review is included below at

EC 9.8445(4)(k). Given the findings and approved adjustments the application complies with the standards contained at EC 9.5500, this criterion is met.

EC 9.8445(3) For areas not included on the city's acknowledged Goal 5 inventory, the proposal will preserve existing natural resources by compliance with all of the following:

- (a) The proposal complies with EC 9.6880 through EC 9.6885 Tree Preservation and Removal Standards.**
- (b) Natural resource areas designated on the Metro Plan diagram as "Natural Resource" are protected.**

Regarding subsection (a), as shown on the applicant's Existing Conditions and Tree Removal Plan Sheet C0 there are six significant trees on the development site.

In regards to the trees on the subject property, the applicable tree preservation and removal standards at EC 9.6885(2) require the "consideration" of three categories of trees for preservation or removal.

The applicant has provided information regarding the size, health and location of the existing trees. The application materials are sufficient to demonstrate that consideration has been given to preservation of the significant trees on the subject property. Given the high density zoning of the property and given the location of the proposed development, the trees cannot be preserved. There are 4 existing Hawthorne street trees in the public right of way along East 15th Avenue. In regards to the street trees, the applicant's written statement notes that Urban Forestry staff has visited the site and approved the removal of the trees, subject to the provisions at EC 6.305. The trees will be replaced with new trees listed on the City's approved street tree list.

Regarding subsection (b), the subject property is not designated on the Metro Plan as a "Natural Resource," therefore subsection (b) is not applicable.

Based on the findings and condition above, this criterion is satisfied.

EC 9.8445(4) The proposal complies with all of the following standards (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.):

- (a) EC 9.2000 through 9.3915 regarding lot dimensions and density requirements for the subject zone.**

The provisions of EC 9.2750, Residential Zone Development Standards, and EC 9.2760, Residential Zone Lot Standards, are applicable in this instance given the proposed R-4 zoning of the subject property. The proposed net density of 92 dwelling units per acre (63 units on .7 acres) is within the allowable net density range proposed by the concurrent zone change. There are no proposed changes regarding lot dimensions, nor have any adjustments to lot dimensions been sought or deemed as necessary. This criterion is met.

- (b) EC 9.6500 through 9.6505 Public Improvement Standards.**

This section authorizes the City to require dedication of easements for public utilities and access under certain circumstances. This section also prohibits obstructions within public easements.

Available information indicates neither existing nor proposed public easements. Public Works staff identifies no need for public easements of the subject property. Based on these findings, the development complies with this standard.

With regard to EC 9.6505(1) Water Supply, according to the applicant's statement, this property is served by EWEB for water and electric systems. EWEB referral comments confirm that water service will be provided in accordance with EWEB policies and procedures. There is an existing 8-inch cast iron water main on the north side of E. 15th Avenue.

Additional information related to water and electric service that are generally addressed as part of the building permit process are included at the end of this decision for the applicant's benefit.

Regarding EC 9.6505(2) Sewage This subsection requires all developments to be served by wastewater systems of the city, in compliance with the provisions of Chapter 6 of this code. The applicant proposes to utilize two existing service laterals from the public system located within East 15th Avenue. Public Works staff confirms this is acceptable, subject to a more detailed review for compliance with plumbing code requirements at the time of development. Based on these findings and future building permit requirements, the development will comply with this standard.

EC 9.6505(3) Streets and Alleys require the developer to pave streets and alleys adjacent to the development site to the width specified in EC 9.6870 Street Width. Paving is required to comply with applicable design standards, which includes provisions for drainage, curbs and gutters, sidewalks, street trees, and street lights.

EC 9.6870 requires East 15th Avenue to have a paving width between 20 and 34 feet, based on its medium-volume residential classification. Consistent with these standards, the abutting segment of East 15th Avenue has 33 feet of paving with drainage, curb and gutter, sidewalks, street trees, and street lights. The applicant proposes to remove the existing driveway on East 15th Avenue and restore the curb and gutter, sidewalk, and planter strip at the time of development. The applicant also proposes to remove four existing street trees adjacent to the subject property. The applicant indicates that new trees will be planted at the time of development. To ensure compliance with these street improvement standards as proposed, the following condition of approval is necessary.

The final site plan shall note the following future permit requirements: "The access connection on East 15th Avenue shall be closed consistent with applicable standards, which includes restoration of the curb and gutter, sidewalk, and planter strip. Street tree removal and replacement planting is subject to review and approval by the Urban Forester during the building permit process."

EC 9.6870 requires the adjacent alley to have 12 feet of paving, which functions as a secondary-access alley and facilitates one-way travel. Although driveway access to the development will be exclusively from the alley, via three new access connections to surface and subsurface parking areas within the building envelope, properties abutting the alley also have public street frontage that provide primary public and emergency vehicle access. The alley has a continuous driving surface between the intersecting Hilyard and Patterson streets, enabling one-way travel. The existing pavement width is 14 feet, which meets or exceeds these standards.

Based on the above findings, condition, and future building permit requirements, the development

will comply with these standards.

Regarding EC 9.6505(4) Sidewalks, there are existing setback sidewalks along East 15th Avenue, no further sidewalks are required in the right-of-way.

In regard to EC 9.6505(5) Bicycle Paths and Accessways, This standard, which establishes design and construction criteria, does not apply because no bicycle paths or public accessways are proposed or required.

(c) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas - Standards.

Public Works staff concurs with the applicant that the subject property is not within a Special Flood Hazard Area per the Flood Insurance Rate Map 41039C1137F issued by the Federal Emergency Management Agency.

(d) EC 9.6710 Geological and Geotechnical Analysis.

Unless exempt under 9.6710(3)(a)-(f), in lieu of compliance with subsections (2), (4), and (5) of this section, applications proposing needed housing shall include a certification from an Oregon licensed Engineering Geologist or an Oregon licensed Civil Engineer with geological experience stating:

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

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

The applicant's geotechnical investigation prepared by Branch Engineering meets the above criterion by confirming the absence of geological hazards and the suitability of the site for the proposed development.

(e) EC 9.6730 Pedestrian Circulation On-Site.

The applicant's proposal provides on-site pedestrian paths from every unit to all other units on the development site and from the building to the right of way, this criterion is satisfied

(f) EC 9.6735 Public Access Required.

This standard requires development sites to have frontage on, or access to, a public street and establishes location criteria for access connections. The subject property has public access via its frontage on East 15th Avenue; however, vehicle access is proposed exclusively via the adjacent alley. The existing driveway on East 15th Avenue is to be closed during the building permit process. Three new driveways will be constructed off the alley to facilitate vehicle access to on-site parking spaces. Public Works staff confirms this proposal complies with applicable public access requirements.

(g) EC 9.6750 Special Setback Standards.

These standards prescribe setbacks for future public easements and right-of-way to facilitate related public improvements, such that buildings and stormwater management facilities will also comply with required setbacks from lot lines. As confirmed previously, the adjacent rights-of-way are improved to applicable street and alley standards; therefore, special setbacks for future right-of-way acquisition is neither proposed nor required. Further, the existing rights-of-way meet or exceed the width requirements at EC 9.6780, as follows: East 15th Avenue has 66 feet, exceeding the 60-foot maximum; and the alley has 14 feet, as required for secondary access. The adjacent rights-of-way also accommodate public utilities such that additional or future public easements are not necessary. Based on these findings, the development complies with these standards.

(h) EC 9.6775 Underground Utilities.

EWEB staff indicated no concern with this development. As indicated on the applicant's plans, all new utilities will be placed underground, consistent with this criterion. This criterion is satisfied.

(i) EC 9.6780 Vision Clearance Area.

This standard defines a vision clearance area at street intersections, which does not apply to the subject property because it is located mid-block.

(j) EC 9.6791 through 9.6797 regarding stormwater destination, pollution reduction, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.

Stormwater runoff from the development is proposed to be collected and treated on-site by private stormwater management facilities before overflowing to the public stormwater system located within the abutting East 15th Avenue. The applicant's proposal is supported by a stormwater analysis prepared by Branch Engineering. Compliance with applicable stormwater development standards is as follows.

EC 9.6791 Stormwater Destination applies to all development in order to protect life and property from flood and drainage hazards by maintaining the capacity of the city's stormwater conveyance system. This standard requires stormwater drainage facilities to be designed and constructed according to adopted plans and policies, and in accordance with standards in EC Chapters 6 and 7, and the stormwater destination provisions and the facility design requirements set forth in the Stormwater Management Manual. An applicant proposing new development must submit documentation to the city showing the stormwater destination into which the proposed development will be disposed. The applicant's stormwater analysis confirms that the existing 15-inch stormwater system located within East 15th Avenue has adequate capacity to receive the proposed overflow from the on-site stormwater management facilities. The analysis also demonstrates how the development will result in less impervious surface area than existing site conditions. The collection system and connection point will be required to meet plumbing code and applicable specifications at the time of development. Based on these findings and future permit requirements, the development will comply with this standard.

The purpose of EC 9.6792 Stormwater Pollution Reduction is to reduce the impacts that urbanization

is having on the city's water quality by requiring development to capture and treat its stormwater runoff. Pollution reduction facilities are required to comply with the Stormwater Management Manual. The applicant proposes to install a privately-owned and operated treatment manhole that complies with the city's approved list of proprietary stormwater treatment technologies. The applicant's analysis provides sizing calculations demonstrating compliance with the city's Stormwater Management Manual. Facility installation will be reviewed in greater detail during the building permit process for compliance with applicable specifications. Based on these findings, the development will comply with this standard.

The intent of EC 9.6793 Stormwater Flow Control Headwaters is to protect waterways in the headwaters area from the erosive effects of increases in stormwater runoff peak flow rates and volumes resulting from development. This standard applies to sites in the headwaters area that drain directly to a headwater stream or drain into a pipe that discharges into a headwater stream. The subject property does not meet this applicability provision.

The purpose of EC 9.6794 Stormwater Oil Control is to protect the city's stormwater system from oil and grease from stormwater runoff of impervious surface areas on properties that produce high concentrations of these pollutants. The proposed development does not include uses that would require control by this standard.

The intent of EC 9.6794 Stormwater Source Control is to prevent stormwater pollution by eliminating the pathways that may introduce pollutants into stormwater. This standard applies to the solid waste storage area for trash collection and recycling. The applicant acknowledges this requirement and proposes to hydraulically isolate stormwater runoff from this facility and direct it to the wastewater system. Public Works staff confirms this proposal complies with this standard, subject to construction specifications being adhered to during the building permit process.

The purpose of EC 9.6796 Dedication of Stormwater Easements is to ensure that city-maintained stormwater facilities can be accessed by the city for routine and emergency maintenance consistent with applicable stormwater development standards and where necessary to extend public drainage facilities and services to adjoining undeveloped property. Public drainage facilities are neither proposed nor required; hence, there is no need for public stormwater easements.

The purpose of EC 9.6796 Stormwater Operations and Maintenance is to ensure that stormwater management facilities are operated and maintained in a manner consistent with the stormwater development standards. This standard applies to all facilities designed and constructed in accordance with the stormwater development standards. This section also specifies when, and under what conditions, the public will accept function maintenance. Consistent with these standards, the applicant proposes private operation and maintenance of the on-site stormwater management facilities. To ensure compliance with EC 9.6797(3)(c), as proposed, the following condition of approval is warranted.

The following note shall be added to the final site plan:

"On-site stormwater management facilities will be privately owned and operated. An operation and maintenance plan will be developed consistent with the City's Stormwater Management Manual, and notice of this plan will be recorded, during the building permit process."

(k) All other applicable development standards for features explicitly included in the application.

The applicant has specifically addressed several additional development standards for features included as part of the proposed development. In addition to those findings provided under EC 9.8445(2) above regarding compliance with multi-family standards, incorporated herein by reference, additional findings are included below to address those specific features as they relate to applicable development standards.

In accordance with EC 9.2751(1)(c)3., the maximum net density allowed for R-4/92/SR for this development site would be 63 dwelling units. The proposed 64 dwelling units exceed the maximum density allowed in the proposed R-4 zone.

Compliance could not be verified on certain development standards based upon the Site Review application. Therefore the following condition of approval is warranted:

The following notes shall be added to the final site plans:

“Compliance with the following applicable development standards will be determined at the time of building permit review:

- Outdoor Lighting Standards contained in EC 9.6725
- Landscape Plans contained in EC 9.6230
- Garbage Screening contained in EC 9.6740”

“All permanent signs within the development shall conform to Eugene Sign Code Sections 9.6600 to 9.6680, or the corresponding provision of any future law.”

To ensure development of the subject site occurs consistent with the development proposed by the applicant, the applicant has requested that the specifications of a 4-story (maximum 51-foot building height per EC 9.0500), 64 unit apartment (which has subsequently been reduced to 63 units) complex with basement floor on-site parking garage be imposed a condition of approval to be attached to the decision. Therefore the following condition of approval is proposed:

A note shall be added to the final site plan indicating that “Development on this site shall be limited to 4-stories (with a maximum building height of 51- feet per EC 9.0500), include a maximum of 63 units and shall include a basement floor on-site parking garage.”

Any remaining applicable development standards will be subsequently addressed as part of the building permit review for the proposed structure. Therefore, based on the findings above and conditions at EC 9.8445(2), included herein by reference, the proposal complies with this criterion.

EC 9.8445(5) Public improvements as required by this land use code or as a condition of tentative plan approval have been completed, or:

- (a) A performance bond or suitable substitute as agreed upon by the city has been filed with the city finance officer in an amount sufficient to assure the completion of all required public improvements; or**

- (b) A petition for public improvements and for the assessment of the real property for the improvements has been signed by the property owner seeking the subdivision, and the petition has been accepted by the city engineer.**

No public improvements are required; therefore, the proposal complies with this criterion.

Adjustment Review

The applicant is requesting adjustments to EC 9.5500(5)(c) Upper Story Building Entrances and EC 9.5500(6)(a) Maximum Building Dimension. Those criteria are provided below (**in bold**), including findings addressing compliance with each.

The applicant is requesting an adjustment to EC 9.5500(5)(c) the Upper Story Building Entrance requirement that upper story entrances serve no more than two units. Per EC 9.5500(5)(d) adjustments can be made to the entrance requirement, based on the criteria at EC 9.8030(4).

EC 9.8030 Adjustment Review - Approval Criteria.

- (4) Building Orientation and Entrance Standards Adjustment. Where this land use code provides that building orientation and entrance standards may be adjusted, the standards may be adjusted upon finding that the proposal complies with one of the following:**
- (a) Promotes compatibility with adjacent property.**
- (b) Creates building orientations and entrances that achieve all of the following:**
- 1. Support and augment the building setback, massing and architectural details.**
 - 2. Achieve an attractive streetscape with a strong building presence on existing and future streets.**
 - 3. In the case of multiple-family developments, provides socialization benefits to residents.**

As shown in the applicant's elevations proposal includes a hip roof design and units which are oriented towards a common courtyard located at the center of a horseshoe shaped building with the opening towards East 15th Avenue.

Subsection (4)(a) requires the proposal to promote compatibility with adjacent property. the proposal promotes compatibility with adjacent properties through building design, and height that is very similar to permitted height in the surround zone. The primary orientation of units to the courtyard will orient socialization to the center of the development not to the outside of the development adjacent to neighboring properties. Building design such as roof type and architectural details such as recesses and patios add to the residential character and promote compatibility.

In regards to (4)(b)(1), the proposal supports and augments the building setback, massing and architectural detail, given that the proposed design includes a building presence on the street while incorporating architectural details such as landscaping recesses, projections and multiple height roofs. (see sheets A2 and A3).

In regards to subsection (4)(b)(2) the proposed achieves an attractive streetscape by placing the building within 15 feet of the street for over 140 feet of the total 168 feet of frontage on East 15th. Windows and articulation along East 15th Avenue further contribute to the street presence.

In regards to subsection (4)(b)(3) the this multi-family development is designed so that primary and front entrances of the building face a common central courtyard. The units will share walkways which are connected to the courtyard and remainder of the development site to provide socialization opportunities and benefits consistent with this criterion. Additionally, the applicant's findings on pages 26 through 28 in regards to the adjustment criterion are incorporated here by reference to show compliance with this section.

Given the findings above the proposed adjustment to Upper Story building entrance standards at EC 9.5500(4)(c) is granted.

The applicant is also requesting an adjustment to EC 9.5500(6)(a) Maximum Building Dimension as allowed at EC 9.5500(6)(c) with criterion set forth at EC 9.8030(8)(a)

EC 9.8030 Adjustment Review - Approval Criteria.

(8) Multiple-Family Standards Adjustment. Where this land use code provides that the multiple-family standards may be adjusted, the standards may be adjusted upon finding that the design achieves all of the following:

(a) Maximum Building Dimension. The requirements set forth in EC 9.5500(6)(a) may be adjusted if the proposal creates building massing and/or facades that:

- 1. Create a vibrant street facade with visual detail.**
- 2. Provide multiple entrances to building or yards.**

The applicant is requesting an adjustment to the maximum building dimension of 150 feet as the total street facing façade is 169 feet. While the maximum dimension is 169 feet, the building is designed in a horseshoe configuration with the open side towards East 15th. As a result the portions of the building closest to East 15th are only 144 feet in length and are separated.

In regards to subsection (a)(1) the proposed design brings the majority of the building close to the street and provides a recessed main entry onto East 15th Avenue. Parking is provided from the rear of the building to allow uninterrupted pedestrian access to East 15th. Visual detail including windows and large recesses and projections provide a street façade with visual detail. Additionally, the applicant's findings are incorporated herein by reference to show compliance with this subsection. Therefore the adjustment to EC 9.6105(3)(a) Long Term Bicycle Standards is granted.

In regards to subsection (a)(2) as shown on the applicant's site plan there are numerous walkways to the building from both East 15th Ave and East 14th Alley consistent with the criterion.

Per the findings above, adjustments are granted to EC 9.5500(5)(c) Upper Story Building Entrances and EC 9.5500(6)(a) Maximum Building Dimension.

Staff Recommendation:

Based upon the available evidence, preceding findings and optional condition, staff recommends that the Hearings Official grant approval to the applicant's request for a zone change from R-3 to R-4/92/SR and approve the site review and adjustment review subject to the conditions below.

Site Review Conditions of Approval

1. The final site plan shall note the following future permit requirements: "The access connection on East 15th Avenue shall be closed consistent with applicable standards, which includes restoration of the curb and gutter, sidewalk, and planter strip. Street tree removal and replacement planting is subject to review and approval by the Urban Forester during the building permit process."

2. The following note shall be added to the final site plan:

"On-site stormwater management facilities will be privately owned and operated. An operation and maintenance plan will be developed consistent with the City's Stormwater Management Manual, and notice of this plan will be recorded, during the building permit process."

3. The following notes shall be added to the final site plans:

"Compliance with the following applicable development standards will be determined at the time of building permit review:

- Outdoor Lighting Standards contained in EC 9.6725
- Landscape Plans contained in EC 9.6230
- Garbage Screening contained in EC 9.6740"

"All permanent signs within the development shall conform to Eugene Sign Code Sections 9.6600 to 9.6680, or the corresponding provision of any future law."

4. A note shall be added to the final site plan indicating that "Development on this site shall be limited to 4-stories (with a maximum building height of 51- feet per EC 9.0500), include a maximum of 63 units and shall include a basement floor on-site parking garage."

Attachments:

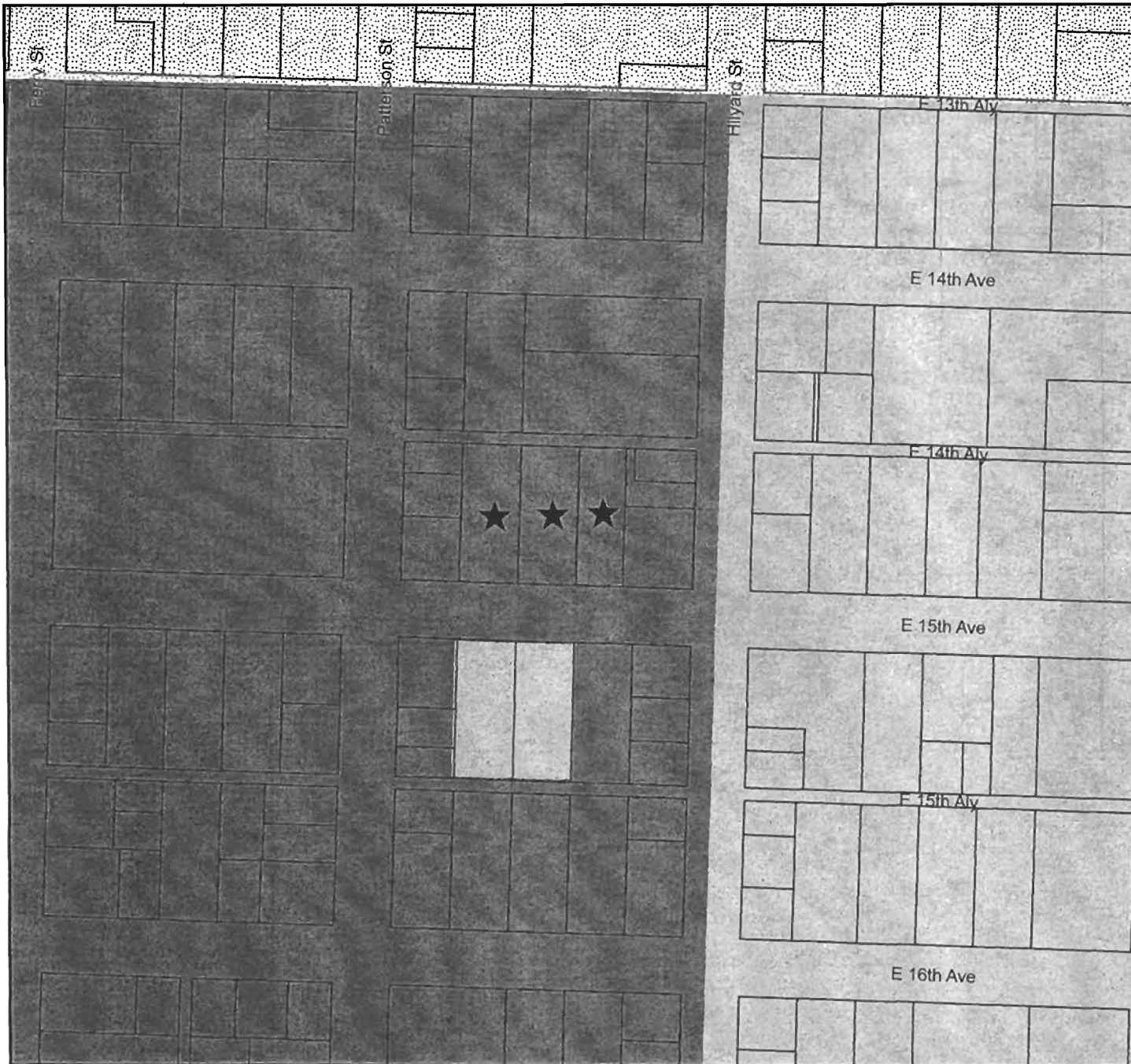
The entire application file is available for review at the Eugene Planning Division. The Hearings Official will be provided a copy of the application file and it will also be made available for review at the public hearing. The following items are also attached for reference:

- A. Vicinity Map
- B. Site Plan and Elevations

For More Information:

Please contact Steve Ochs, Associate Planner, Eugene Planning Division, at (541) 682-5453, or by e-mail, at steve.p.ochs@ci.eugene.or.us

OBO Enterprises (Z 10-9)



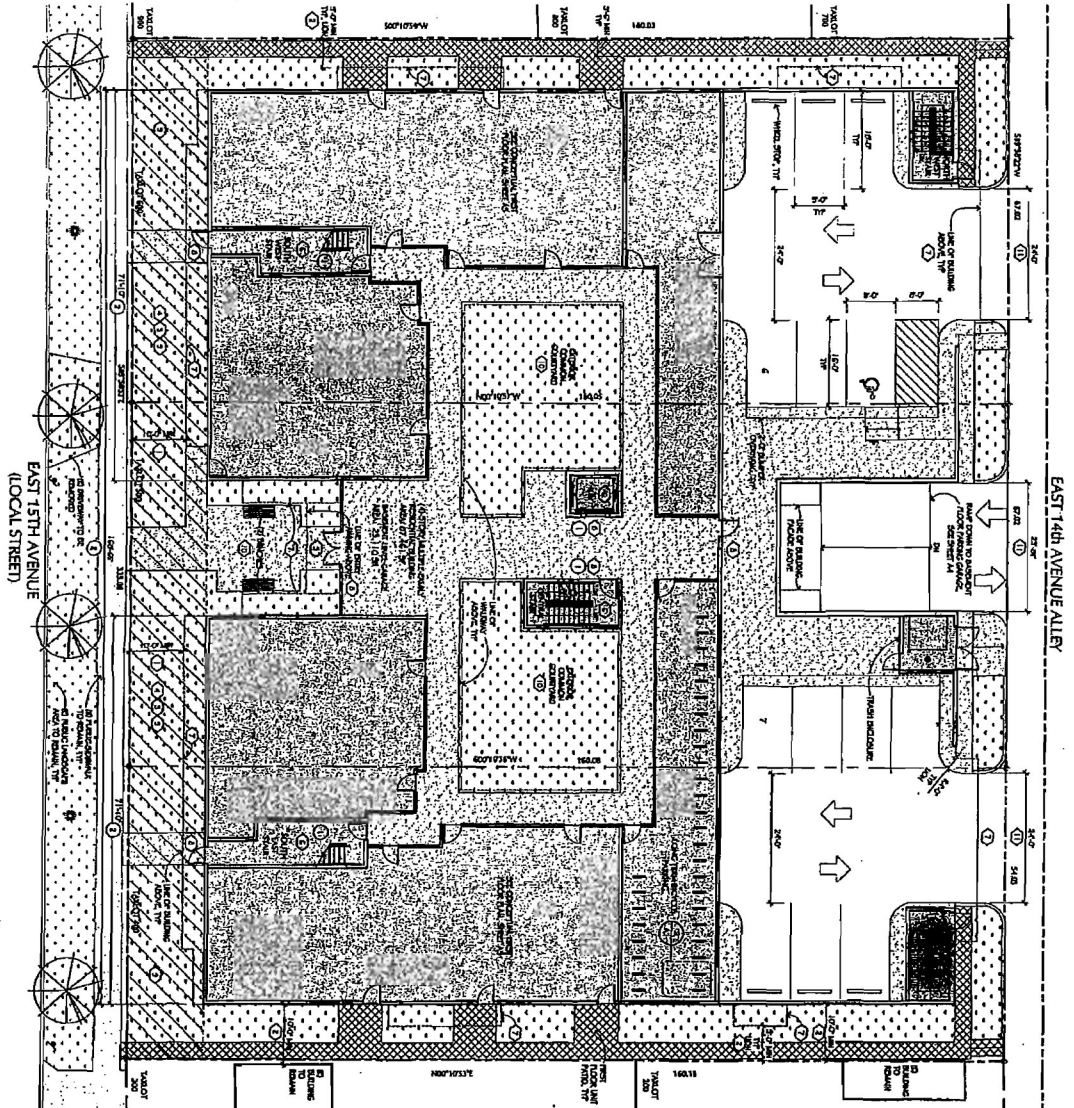
★ Subject Site

Proposed zone change from R-3 Limited High Density Residential to R-4/92 High Density Residential with 92 units per acre.

Zoning

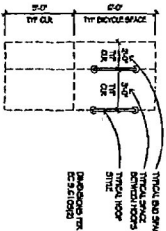
- C-2
- R-3
- R-4





SITE PLAN

BICYCLE PARKING PLAN



EAST 14th AVENUE ALLEY

EAST 15th AVENUE
(LOCAL STREET)

GENERAL NOTES

1. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL GOVERNMENT AND AGENCIES.
2. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL GOVERNMENT AND AGENCIES.
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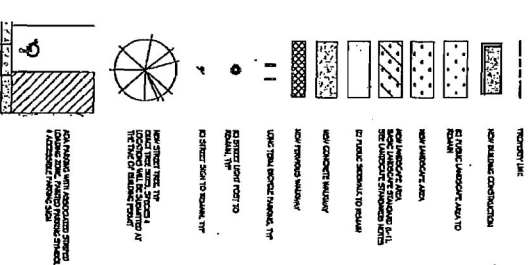
LAND USE CODE NOTES

1. RESIDENTIAL SINGLE-FAMILY
2. RESIDENTIAL MEDIUM-DENSITY
3. RESIDENTIAL HIGH-DENSITY
4. COMMERCIAL GENERAL
5. COMMERCIAL OFFICE
6. COMMERCIAL RETAIL
7. COMMERCIAL MIXED-USE
8. COMMERCIAL INDUSTRIAL
9. COMMERCIAL MANUFACTURING
10. COMMERCIAL RECREATION
11. COMMERCIAL CULTURAL
12. COMMERCIAL PUBLIC USE
13. COMMERCIAL INSTITUTIONAL
14. COMMERCIAL HEALTH CARE
15. COMMERCIAL EDUCATIONAL
16. COMMERCIAL RELIGIOUS
17. COMMERCIAL GOVERNMENT
18. COMMERCIAL UTILITIES
19. COMMERCIAL TRANSPORTATION
20. COMMERCIAL AIRPORT
21. COMMERCIAL MARINA
22. COMMERCIAL PORT
23. COMMERCIAL WAREHOUSE
24. COMMERCIAL DISTRIBUTION CENTER
25. COMMERCIAL LOGISTICS
26. COMMERCIAL INDUSTRIAL PARK
27. COMMERCIAL BUSINESS CENTER
28. COMMERCIAL FINANCIAL DISTRICT
29. COMMERCIAL DISTRICT CENTER
30. COMMERCIAL DOWNTOWN
31. COMMERCIAL URBAN CORE
32. COMMERCIAL TRANSIT ORIENTED DEVELOPMENT
33. COMMERCIAL INNOVATION DISTRICT
34. COMMERCIAL ARTS DISTRICT
35. COMMERCIAL CULTURAL DISTRICT
36. COMMERCIAL HISTORIC DISTRICT
37. COMMERCIAL PRESERVATION DISTRICT
38. COMMERCIAL SPECIAL DISTRICT
39. COMMERCIAL ZONING DISTRICT
40. COMMERCIAL PLANNING DISTRICT
41. COMMERCIAL DESIGN DISTRICT
42. COMMERCIAL DESIGNATION DISTRICT
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LANDSCAPE STANDARDS NOTES

1. LANDSCAPE STANDARDS SHALL BE AS FOLLOWS:
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LEGEND



PARKING CALCULATIONS

TYPE OF PARKING	NUMBER OF SPACES	TOTAL SQUARE FEET
STREET PARKING	10	1,000
OFF-STREET PARKING	50	5,000
BICYCLE PARKING	10	1,000
TOTAL	70	7,000

AREA CALCULATIONS

AREA	AREA (SQ. FT.)
TOTAL SITE AREA	100,000
BUILDING FOOTPRINT AREA	10,000
PARKING AREA	7,000
LANDSCAPE AREA	1,000
UNDEVELOPED AREA	82,000

TBC ARCHITECTS & PLANNERS, INC.
132 East Broadway
Eugene, Oregon 97401
Tel: (541) 687-0710
Fax: (541) 687-0825

15TH & PATTERSON APARTMENTS
SITE REVIEW, NEEDED HOUSING
OBO ENTERPRISES LLC
669, 647 & 631 EAST 15TH AVENUE
EUGEN 97401

SITE PLAN

PROJECT # 2008-4
OWNER OBO Enterprises LLC
DATE 11/18/09
SHEET **A1**

REVISIONS
DATE
BY
APP'D



Planning & Development

Planning
City of Eugene
99 West 10th Avenue
Eugene, Oregon 97401

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**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

DEPT OF
MAR 14 2012
LAND CONSERVATION
AND DEVELOPMENT