



# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

[www.lcd.state.or.us](http://www.lcd.state.or.us)

### NOTICE OF ADOPTED AMENDMENT

October 7, 2008



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Eagle Point Plan Amendment  
DLCD File Number 003-08

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures\*

### **DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: October 21, 2008**

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

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 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 DATE SPECIFIED ABOVE.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist  
John Renz, DLCD Regional Representative  
Bunny Lincoln, City of Eagle Point

<paa> ya

# FORM 2

## DLCD NOTICE OF ADOPTION

This form **must be mailed** to DLCD **within 5 working days after the final decision** per ORS 197.610, OAR Chapter 660 - Division 18

(See second page for submittal requirements)

DEPT OF

OCT 03 2008

LAND CONSERVATION AND DEVELOPMENT

Jurisdiction: LAKE POINT

Local File No.: 08/09-02: Zet  
(If no number, use none)

Date of Adoption: 9.23.08  
(Must be filled in)

Date Mailed: 9.30.08  
(Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD:

- |   |   |
|---|---|
| <input type="checkbox"/> Comprehensive Plan Text Amendment        | <input type="checkbox"/> Comprehensive Plan Map Amendment |
| <input checked="" type="checkbox"/> Land Use Regulation Amendment | <input type="checkbox"/> Zoning Map Amendment             |
| <input type="checkbox"/> New Land Use Regulation                  | <input type="checkbox"/> Other:                           |

(Please Specify Type of Action)

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

INCREASED RESIDENTIAL DENSITY (RESIDENTIAL) IN TOWN CENTER MIXED USE DEVELOPMENT

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same". If you did not give notice for the proposed amendment, write "N/A".

Plan Map Changed from: \_\_\_\_\_ to: \_\_\_\_\_

Zone Map Changed from: \_\_\_\_\_ to: \_\_\_\_\_

Location: \_\_\_\_\_ Acres Involved: \_\_\_\_\_

Specify Density: Previous: 12 UNITS/ACRE New: 30 UNITS/ACRE

Applicable Statewide Planning Goals: HOUSING, ECONOMY, TRANSPORTATION

Was an Exception Adopted? Yes:  No:

Does Adopted Amendment affect the areas in unincorporated Washington County where the

Zoning Code applies? Yes  No

DLCD File No.: 003-08(17074)

Did the Department of Land Conservation and Development receive a notice of Proposed

Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes:  No:

If no, do the Statewide Planning Goals apply. **HOUSING/ECONOMY** Yes:  No:

If no, did The Emergency Circumstances Require immediate adoption. Yes:  No:

Affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: **BUNNY LINCOLN** Area Code + Phone Number: **541**

Address: **P.O. BOX 779** City: **EAGLE POINT**

Zip Code+4: **97524-0779** Email Address:

## ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**  
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

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

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the ANotice of Adoption is sent to DLCD.
6. In addition to sending the ANotice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only ; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to [Mara.Ulloa@state.or.us](mailto:Mara.Ulloa@state.or.us) - ATTENTION: PLAN AMENDMENT SPECIALIST.



## ORDINANCE NO. 2008 - 12

### AN ORDINANCE AMENDING ARTICLE III – C-1 RETAIL COMMERCIAL DISTRICT, SECTIONS 3.080 (DESCRIPTION AND PURPOSE) AND 3.082 (CONDITIONAL USES), EAGLE POINT ZONING ORDINANCE.

**WHEREAS,** the City of Eagle Point has acknowledged Comprehensive Plan Land Use and Zoning Maps delineating zoning designations, and a Zoning Ordinance to implement said maps; and

**WHEREAS,** said Maps and Ordinance may be amended from time to time, when found, by the Planning Commission and City Council, as part of a public hearing process, to be in the best interests of the City; and

**WHEREAS,** City review has determined the need to amend sections of the Ordinance related to mixed use residential density standards in the Town Center area zoned C-1 (Retail Commercial) based upon the following Findings:

- Town Center commercial property owners have requested City research into increasing the downtown residential, mixed use density to be more closely aligned with those of other communities.
- Staff research has determined that such densities typically range from twenty (20) to (60) units per acre, with thirty (30) units per acre (1,400 sq. ft. per unit) being the most common maximum.
- **Chapter 7, Goals & Policies** of the adopted **Town Center Plan** states the following goals for provision of quality housing in the Town Center:

#### **Housing Goal**

The Town Center is a vibrant, urban center with a large residential community supported by convenient services within easy walking distance.

#### **Housing Policies**

- Plan, encourage and support the construction and renovation of quality downtown housing, over a wide range of types, prices and rents, making Town Center housing available to all economic groups.
- To establish an annual target of new, and renovated, residential units to be constructed in the downtown.
- Encourage and support residential in-fill and new residential development consistent with the urban design objectives of the Town Center Plan.
- Where appropriate and feasible, encourage development of upper-story residential units through renovation of space in older buildings above ground floor commercial space.

WHEREAS, all requirements for legal notifications and public hearings have been fulfilled; now, therefore,

**THE CITY OF EAGLE POINT ORDAINS AS FOLLOWS:**

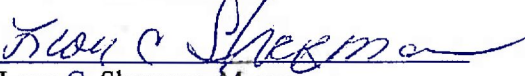
**Section 1 - Findings of Fact.** The Council hereby adopts the **Findings of Fact** contained within the whole record.

**Section 2 – Text Amendments.** The Council hereby adopts the amendments to the text of **Article III** of the **Eagle Point Zoning Ordinance**, attached and incorporated herein as **Exhibit "A"** (**Article III – C-1 Retail Commercial Zone, Sections 3.080 (Description and Purpose) and 3.082 (Conditional Uses).**)

**Section 3. Severability** In the event any provision or clause of this ordinance is deemed to be void, invalid or unenforceable, that provision or clause shall be severed from the remainder of this ordinance so as to not cause the invalidity or unenforceability of the remainder of this ordinance. In that event, all remaining clauses and provisions shall continue in full force and effect.

**Section 4. Effective Date.** The Ordinance amendment shall become effective thirty (30) days after formal adoption by the City Council.

APPROVED by the City of Eagle Point this **23rd** day of **September, 2008.**

  
Leon C. Sherman, Mayor

Attest:

  
Dena Roberts, Recorder

BUSINESS OF THE CITY COUNCIL  
EAGLE POINT, OREGON

AGENDA STATEMENT

and

STAFF REPORT

Item Number: 5.1/10.2  
Meeting Date: Sept. 23, 2008

ITEM TITLE:

Ordinance 2008-12 – A public hearing to consider amendments to **EP Zoning Ordinance, Article III – C-1 Retail Commercial Zone, Sections 3.080 (Description and Purpose) and 3.082 (Conditional Uses)** establishing a residential density of 1 unit/1,400 sq. ft. of land in the Town Center Retail Commercial District when proposed as part of a mixed use, commercial/residential project.

Applicant: City of Eagle Point

SUBMITTED BY: Bunny Lincoln

SUMMARY EXPLANATION: Based upon discussions with developers and property owners regarding the City's downtown residential densities (when combined with mixed use, commercial development as required in the zone), Staff and the Economic Development Commission have researched how the existing density standards (2,400 sq. ft./unit (14 units/acre)) compare to similar development opportunities in other cities. In all cases, Eagle Point's acreage standard of 2,400 sq. ft./unit (14 units/acre) is significantly less than other communities, and may create constraints on optimizing site designs.

Research determined that average densities range from twenty (20) in smaller towns to 60 units/per acre in larger cities. The most common maximum land density is thirty (30) units/acre (1,400 sq. ft./unit). The Economic Development Commission reached a unanimous consensus to recommend the thirty (30) units/acre maximum density standard to the City Council for adoption.

The implementation of this density increase necessitates amendments to two (2) sections of the Zoning Ordinance that relate to mixed use in the downtown commercial zoning district. (See Exhibit "A".)

Finding (Amendments):

**Article IX – Amendment(s)**, allows amendments to be made to the Zoning Map and Ordinance whenever such a change is found to be warranted for the benefit of the community. As in this case, the City may initiate such an amendment on its own, or

standard land use application may be made to the City by an individual/multiple property owners or agents thereof.

Legal notifications must be made to the **State Department of Land Conservation and Development**, as well as all those agencies/individuals entitled to them.

Public hearings are held before both the Planning Commission and City Council.

Any amendment(s) are adopted by Ordinance.

All required legal notification, advertisements and public hearings have been held in conjunction with the approval process or the proposed amendment(s).

Section 9.010 states that the ordinance may be amended whenever the public necessity and convenience and general welfare require such amendment.

Ordinance text amendments may require Findings related to their compliance with **Statewide Planning Goals** and the **City's Comprehensive Plan**:

**Finding (State Planning Goal 9 – Economic Development, Chapter VIII – EP Comprehensive Plan) and the EP Town Center Plan:** Provision of mixed use development opportunities (when combined with a mandated commercial component), at a residential density optimizing the potential to stimulate market demand for downtown activities and create a vibrant Town Center environment, satisfies the spirit and intent of both State and local land use criteria, as well as meeting the goals of the City's adopted Town Center Plan.

**Finding (State Planning Goal 10 – Housing and Chapter V – EP Comprehensive Plan):** Increasing the mixed use residential density in the Town Center Commercial District will provide additional housing opportunities, potentially more affordable than those located in other parts of the community, and satisfying Statewide Planning Goals designed to optimize densities within existing urban boundaries.

**Finding (State Planning Goal 12 – Transportation, the Transportation Planning Rule) and Chapter VII – EP Comprehensive Plan):**

When approving any zone change, the City must make a Finding related to the ODOT Transportation Planning Rule, and how the amendment may affect their transportation system. If ODOT feels that there may be a negative impact(s), mitigation measures must be conditioned. In the case of this specific proposal, because residents will actually be living closer to local services, it is anticipated that traffic pressure on the street system will **decrease** due to the creation of a more pedestrian oriented living environment.


Increase of the Town Center's density (when residential development is proposed as a component of the mixed commercial/residential use provisions in the current land development ordinance) will create a wider variety of economic and site design options for potential developers, thus encouraging a more compact urban form for the City. As

outlined in the Town Center Plan, vigorous mixed use development will also provide a more pedestrian friendly environment in the downtown core.

A residual effect of this scenario will be the reduction of vehicular traffic pressure on City streets and Highway 62, due to the envisioned expansion of centralized local services to meet the needs of the adjacent residents, who now look outside of Eagle Point to secure the same services. Furthermore, while public transit is not currently available in Eagle Point, the adopted Town Center Plan focuses the provision of such service, whenever it may occur, out of the downtown core.

The City's provision of a mixed use concept with a more contemporary density (30 EDU/acre), its integration of land use and transportation, and accompanying reduction in ADTs, is consistent with TPR goals.

**APPROVED FOR SUBMITTAL:** \_\_\_\_\_

  
City Administrator

**RECOMMENDATION:** The Economic Development Commission and Staff recommended that the Commission recommend that the City Council adopt the Findings and Ordinance as presented.

The Planning Commission held a public hearing on **September 16, 2008**, and voted by voice vote, to recommend Council's adoption of the Findings and approval of the amendments as presented.

**COUNCIL ACTION:**

1. Denial.
2. Continue the matter.
3. Adopt the Findings and approve the amendment.
4. Adopt the Findings and approve the amendments with stipulated changes.

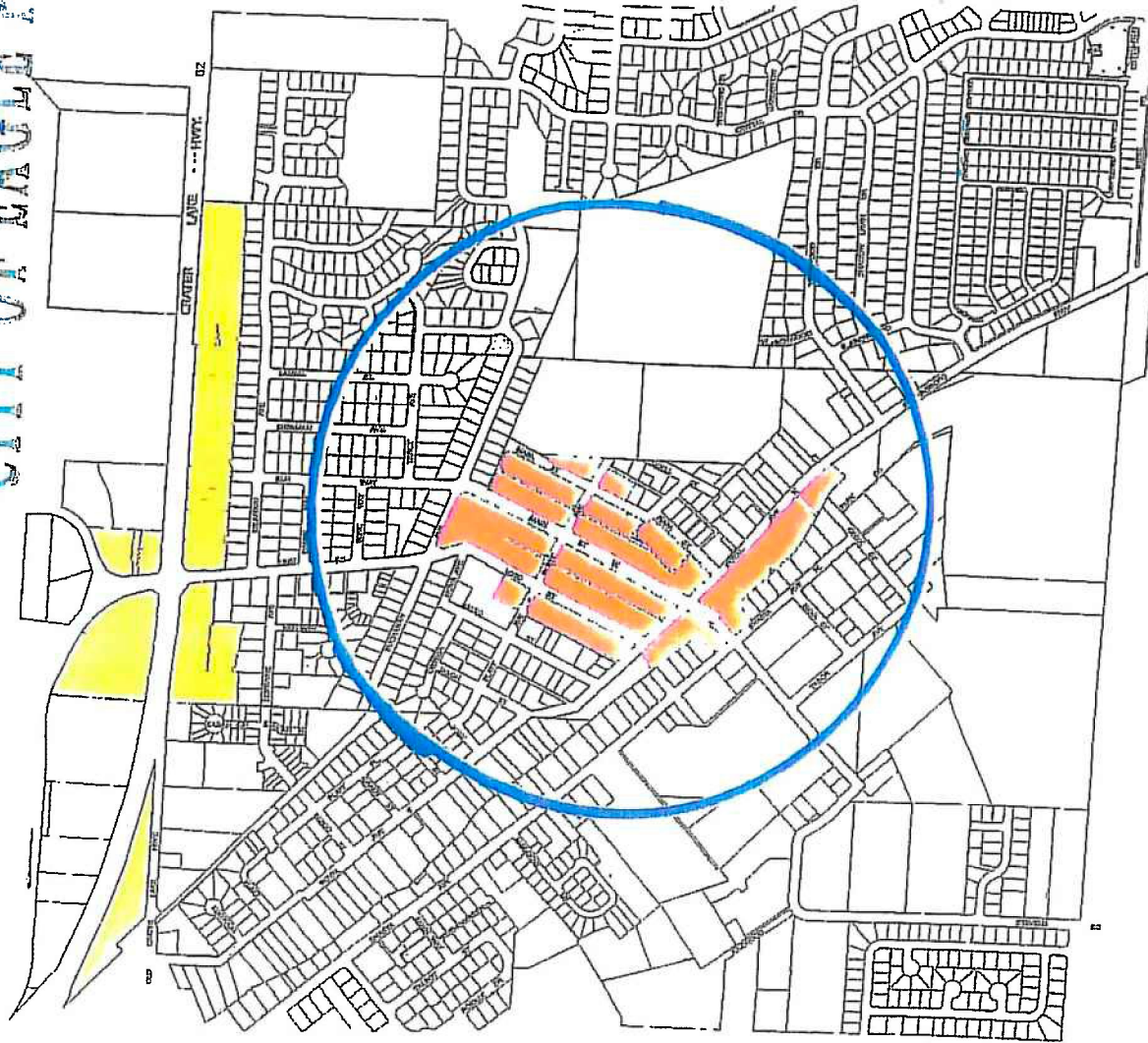


**MAP**

# TOWN CENTER PLAN

EXHIBIT  
A-1

CITY OF EAGLE POINT



### LEGEND



-  Hwy. 62 Commercial Lands
-  Town Center Commercial Lands

Figure 3.1 COMMERCIAL LANDS

# **APPROVAL CRITERIA**

Planning Application  
Procedural and Approval Criteria

TYPE: REZONE

STATEWIDE PLANNING GOALS

GOAL 9 - Economic Development

GOAL 10 - Housing

GOAL 12 - Transportation

COMPREHENSIVE PLAN

Chapter V - Housing

Chapter VII - Transportation

Chapter VIII - Economic Development

ZONING ORDINANCE

ARTICLE III - ZONING DISTRICTS (C-1 DOWNTOWN COMMERCIAL)

ARTICLE IX - AMENDMENTS (ZONING ORDINANCE)

- Section 9.010    *General*
- Section 9.020    *Initiation of Amendment*
- Section 9.030    *Application*
- Section 9.040    *Planning Commission Procedure*
- Section 9.050    *Planning Commission Action*
- Section 9.060    *City Council Procedure*
- Section 9.070    *City Council Action*

OTHERS RELEVANT

TRANSPORTATION PLANNING RULE

TOWN CENTER PLAN

# ADOPTING ORDINANCE

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APPROVED by the City of Eagle Point this **23rd** day of **September, 2008.**

\_\_\_\_\_  
Leon C. Sherman, Mayor

Attest:

\_\_\_\_\_  
Dena Roberts, Recorder

# EXHIBIT "A"



C - 1 RETAIL COMMERCIAL DISTRICT

SECTION

3.080	Description and Purpose
3.081	Permitted Buildings and Uses
3.082	Buildings and Uses Permitted Conditionally
3.083	Yard Regulations
3.084	Building or Structural Height Limitations
3.085	Lot Regulations
3.086	Parking Requirements
3.087	Fences and Walls

Section 3.080 Description and Purpose

This District is intended to create, preserve and enhance attractive commercial areas serving the shopping and personal service needs of residents of the surrounding area. Within the downtown core of the City, **as designated in the adopted Town Center Plan**, the Retail Commercial District may include residential uses, to provide a mixture of shopping and living environments (see ORD. #2001-18). C-1 Districts shall be located along major streets, and may be of any size, from a small area to serve the needs of a neighborhood to a large District to serve commercial traffic in the downtown area or adjacent to Highway 62.

Section 3.081 Permitted Buildings and Uses

- A. Retail stores and shops supplying commodities or performing service, including shopping centers, and stores or shops in which up to fifty

percent (50%) of the floor area is used for manufacture of items sold on the premises, such as picture frames or furniture.

- B. Professional or business offices.
- C. Personal service and convenience establishments, such as Laundromats, dry cleaners, beauty shops, health clubs, banks, etc.
- D. Eating, entertainment and dancing establishments.
- E. Off-street parking lots and garages.
- F. Buildings and uses owned by the City of Eagle Point.
- G. Accessory buildings normal and incidental to allowed uses.
- H. Temporary uses and sidewalk sales approved by the City Council.
- I. Adult businesses, provided they are located at least one hundred (100) feet from the following uses: Public or private schools, churches, public parks, the downtown Civic Center, including the City Hall and Library, day care facilities, and video or game arcades.
- J. Existing residences and additions thereto.
- K. Churches.
- L. Home Occupations in existing residential dwellings only subject to Section 4.100.

**Section 3.082 Buildings and Uses Permitted Conditionally**

The Planning Commission may grant a Conditional Use Permit in accordance with the standards and procedure set forth in Article VI for any such other buildings or uses as the Commission determines to be in keeping with the District purposes. Such other uses shall not have any different or more detrimental effect upon the adjoining neighborhood areas than permitted uses in the zone. In addition, the following are conditional uses which may be authorized, and for which a Conditional Use Permit is required:

- A. All allowable uses not conducted wholly within a permanent, fully enclosed building, except off-street parking facilities, temporary uses, and sidewalk sales.
- B. Public and semi-public utility and service buildings, structures and uses.
- C. In the area designated as **Commercial on the adopted Town Center Plan and Central Commercial** on the Comprehensive Plan map, residential uses and planned unit developments **when developed in conjunction with a commercial component**. Mobile home parks or subdivisions shall not be permitted. Such uses shall be subject to the requirements of the R-4 (High Density Multiple Family) District, except as follows: (See ORD. #2001-18 and Ord. 2008-13.)
  - 1. There shall be no lot width, depth, or minimum size limitations. ~~This exception does not affect the requirement for 2,400 square feet per dwelling unit.~~
  - 2. **The mixed use, high density residential standard shall allow a maximum of 30 units/acre (1,400 square feet per unit).**
  - 3. Interior side yard setbacks shall be five (5) feet from the first story, ten (10) feet for each additional story, where abutting an R-1 District.
  - 4. Alley side yard setbacks shall be ten (10) feet where abutting an R-1 District.
- D. Any uses, including those listed as Permitted uses above, which, in the opinion of the Planning Director, are of a size, character, or location such that they may cause disturbing, dangerous, or damaging noise, odor, traffic, vibration, hazard of fire or explosion, or similar impacts on surrounding properties.
- E. Drive-up services or windows.
- F. Automobile service stations and related uses.
- G. Churches, schools, clubs, lodges, and meeting halls; care or lodging of indigent persons.

- H. Bars, cocktail lounges, night clubs, including facilities which have entertainment and/or sale of alcoholic beverages, but not including restaurants which serve alcohol solely as part of their food service function.

Section 3.083                      Yard Regulations

In the C-1 District each lot shall have yards of the following size unless otherwise provided for in Article IV or Article XI.

- (a)      Front Yard Setback    0 feet  
EXCEPTION: The front yard shall be 15 feet for the purpose of calculating fence heights.
- (b)      Side yard setback    0 feet  
EXCEPTION: Ten (10) feet per story when adjacent to a residentially zoned district, and 15 feet on a street side yard for the purpose of calculating fence heights.
- (c)      Rear yard setback    0 feet  
EXCEPTION: Ten (10) feet per story when adjacent to a residentially zoned district.
- (d)      General Requirements
1.      All yards shall be permanently maintained.
  2.      The Site Plan Committee may require additional setbacks, landscaping, or screening where appropriate.
  3.      Any parking lot or area shall be setback at least five (5) feet from any front or side yard property line and the setback area shall be landscaped. The Site Plan committee may allow

exceptions to this requirement where special circumstances make such exception beneficial to the overall site design, and where the landscaping and esthetic effect of the five (5) foot setback is offset with design features on other parts of the site.

**Section 3.084                      Building or Structural Height Limitations**

In the C-1 District, there are no building or structural height limitations, except within one hundred (100) feet of a residential zone, in which case the height limitations of the residential zone shall apply.

**Section 3.085                      Lot Regulations**

(a)     Area and Dimensions.

In the C-1 District the minimum lot area shall be 6,000 square feet, and the lot shall have a minimum width of 60 feet, except in the area designated Central Commercial in the Comprehensive Plan, where there shall be no lot area or dimension requirements.

(b)     Coverage and Density Requirements.

In the C-1 District, there are no lot coverage and density requirements, except as provided in the yard setback and off-street parking requirements.

**Section 3.086                      Parking Requirements**

Off-street parking shall be provided on-site as required by Article V, except that, in the area designated Central Commercial in the Comprehensive Plan, the Site Plan Committee may waive the on-site parking requirements for an individual lot or business where off-street parking is provided within four hundred (400) feet of the lot, to the standards of Article V.

**Section 3.087                      Fences and Walls**

In the C-1 District, fences, hedges, and walls shall not exceed 3 ½ feet in height above the sidewalk grade, within the front yard setback area or street side yard setback area. Vision clearance shall be required on all street corner lots. On an interior lot a wall, fence or hedge not more than eight (8) feet in height may be located anywhere on the lot to the rear of the required front yard or street side yard setback line.

When a C-1 District adjoins a residential district, the Site Plan Committee or Planning Commission may require that a fence, wall or hedge be erected along and immediately adjacent to the abutting property line that is the zone boundary. All fences, walls and hedges shall be properly constructed, maintained, trimmed and kept in good condition and repair.

# **ODOT COMMENTS**

## Bunny Lincoln

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**From:** PYLES David [David.PYLES@odot.state.or.us]  
**Sent:** Friday, September 05, 2008 11:27 AM  
**To:** Bunny Lincoln  
**Cc:** Robert Miller  
**Subject:** ODOT notice acknowledgement: PA#08/09-02:ZCH (Downtown Mixed Use Residential Density)

Bunny:

The Oregon Department of Transportation appreciates the opportunity to review and comment on the city's proposed amendment to the Eagle Point Zoning Ordinance (city file no. PA#08/09-02:ZCH) to allow Residential use densities for mixed use development in the city's downtown commercial area to be increased from the current one (1) unit / 2,400 s.f., to the proposed one (1) unit / 1,440 s.f. of gross land area. We understand the amendment effectively revises the code to allow 30 residential units per acre, from the existing 18 units per acre, within the Eagle Point downtown area. The code amendment triggers consideration of the Transportation Planning Rule (OAR 660-012).

We have no comment on the proposed code amendment. No significant effect to state highways facilities is anticipated. As advisory comments, we recommend the city consider future action and coordination planning with ODOT to address traffic signal progression along the Highway 62 corridor from the OR-62 / Shasta Drive intersection, to the OR-62 Crystal Drive intersection. Future signal progression analysis and planning will assist to increase and benefit system efficiency and safety within this transportation corridor.

We appreciate the city's coordination of relevant data and facts of the proposed residential mixed use code amendment. We look forward to working with Eagle Point on future projects. Please contact me if you have questions or require additional information concerning this correspondence. Please enter this communication into the PA#08/09-02:ZCH record, and copy me on the city's final decision. Thank you.

Kind regards,

**David J. Pyles | Development Review Planner III**  
The ODOT Region 3 / District 8 | 100 Antelope Rd. | White City, OR 97503  
☎: (541) 774.6399 | 🖨: (541) 774.6349 | ✉: [David.Pyles@odot.state.or.us](mailto:David.Pyles@odot.state.or.us)