



# Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

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Salem, OR 97301-2540

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www.lcd.state.or.us



## NOTICE OF ADOPTED AMENDMENT

06/18/2009

**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 003-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. 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:** Wednesday, July 01, 2009

This amendment was submitted to DLCD for review prior to adoption. 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.

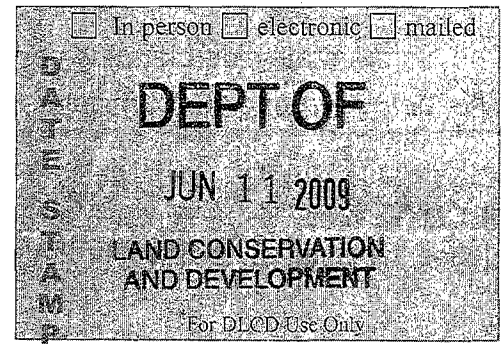
**\*NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

**Cc:** Nan Laurence, City of Eugene  
Gloria Gardiner, DLCD Urban Planning Specialist  
Ed Moore, DLCD Regional Representative

<paa> YA

# 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

Jurisdiction: **City of Eugene**

Local file number: **CA 09-1 & CA 09-2**

Date of Adoption: **June 8, 2009**

Date Mailed: **June 10, 2009**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 2/9/2009

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other:

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

1) Expand the list of commercial development standards eligible for the adjustment review process in the Downtown Plan boundary; 2) Create a new comprehensive set of approval criteria that would be applicable to any adjustment review within the Downtown Plan area; 3) Eliminate applicability of standards that do not address downtown development; 4) Allow responsibility for public notice mailings and sign posting for land use applications to be undertaken by applicants or third-party service rather than being the sole responsibility of the City.

Does the Adoption differ from proposal? No, no explanation is necessary

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

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

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

Specify Density: Previous: \_\_\_\_\_ New: \_\_\_\_\_

Applicable statewide planning goals:

- |                                     |                                     |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |
|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| <b>1</b>                            | <b>2</b>                            | <b>3</b>                 | <b>4</b>                 | <b>5</b>                 | <b>6</b>                 | <b>7</b>                 | <b>8</b>                 | <b>9</b>                 | <b>10</b>                | <b>11</b>                | <b>12</b>                | <b>13</b>                | <b>14</b>                | <b>15</b>                | <b>16</b>                | <b>17</b>                | <b>18</b>                | <b>19</b>                |
| <input checked="" type="checkbox"/> | <input checked="" 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...Yes (see date above)

45-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. 003-09 (17365) [15552]

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

Local Contact: **Nan Laurence**

Phone: **(541) 682-5340** Extension:

Address: **99 W. 10<sup>th</sup> Avenue**

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

City: **Eugene**

Zip: **97401-**

E-mail Address: **nan.laurence@ci.eugene.or.us**

## 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 Complete Copies (documents and maps) 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. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, or by emailing **larry.french@state.or.us**.
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 Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice 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 now access these forms online at **http://www.lcd.state.or.us/**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **larry.french@state.or.us** - **Attention: Plan Amendment Specialist**.

**COUNCIL ORDINANCE NUMBER 20433**

**COUNCIL BILL NUMBER 5001**

**AN ORDINANCE CONCERNING LAND USE REGULATIONS IN THE DOWNTOWN PLAN AREA AND NOTICE FOR LAND USE APPLICATIONS; AMENDING SECTIONS 9.2171, 9.2173, 9.2175, 9.3405, 9.3410, 9.4085, 9.4290, 9.4530, 9.5500, 9.7210, 9.7220, 9.7315, 9.7335, 9.7415, 9.7440, 9.7445, 9.7520, 9.7545, 9.7560, 9.7615, 9.7635, 9.7665, 9.7685 AND 9.8030 OF THE EUGENE CODE, 1971; AND ADDING SECTION 9.8007 TO THAT CODE**

**ADOPTED: June 8, 2009**

**SIGNED: June 9, 2009**

**PASSED: 7/1**

**REJECTED:**

**OPPOSED: Brown**

**ABSENT:**

**EFFECTIVE: July 10, 2009**

ORDINANCE NO. 20433

AN ORDINANCE CONCERNING LAND USE REGULATIONS IN THE DOWNTOWN PLAN AREA AND NOTICE FOR LAND USE APPLICATIONS; AMENDING SECTIONS 9.2171, 9.2173, 9.2175, 9.3405, 9.3410, 9.4085, 9.4290, 9.4530, 9.5500, 9.7210, 9.7220, 9.7315, 9.7335, 9.7415, 9.7440, 9.7445, 9.7520, 9.7545, 9.7560, 9.7615, 9.7635, 9.7665, 9.7685 AND 9.8030 OF THE EUGENE CODE, 1971; AND ADDING SECTION 9.8007 TO THAT CODE.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

**Section 1.** Subsections (6), (7), (8), (9), (11), (13), (15) and (16) of Section 9.2171 of the Eugene Code, 1971, are amended to provide as follows:

**9.2171 Special Commercial Zone Development Standards for Table 9.2170.**

- (1) Exceptions to the general height restrictions for commercial structures stated in Table 9.2170 Commercial Zone Development Standards are contained in:
  - (a) EC 9.6715 Height Limitation Areas.
  - (b) EC 9.6720 Height Exemptions for Roof Structures and Architectural Features.
- (2) Subject to the limitations in subsection (1) of this section, in the C-2, C-3, or C-4 zones, no portion of a building located within 50 feet of a residential zone shall exceed the maximum building height permitted in the abutting residential zone.
- (3) Subject to the limitations in subsection (1) of this section, the maximum permitted building height for main or accessory buildings in the GO zone shall not exceed 35 feet in height within 50 feet of an abutting AG, R-1, or R-2 zone. Otherwise, main and accessory building height maximums shall not exceed 50 feet.
- (4) Exceptions to the general minimum front and interior yard setback requirements stated in Table 9.2170 Commercial Zone Development Standards are contained in:
  - (a) EC 9.6745 Setbacks - Intrusions Permitted.
  - (b) EC 9.6750 Special Setback Standards.
- (5) The maximum front yard setbacks stated in Table 9.2170 Commercial Zone Development Standards, shall apply only to new buildings and any building addition that increases the length of the building facade facing a street, internal accessway, private drive, or shopping street as defined in EC 9.2175(3) by at least 100%. For purposes of this subsection, front yard setback may be measured from a public street or from the edge of the sidewalk furthest from the curb of an internal accessway, private drive, or shopping street. In addition, all new buildings and the portion of the development site specifically affected by the new building are subject to the requirements of this subsection. **(See Figure 9.2171(5) Maximum Front Yard Setbacks, Building Orientation, and Entrances.)**
  - (a) In C-1, at least 80% of all street facing facades of the building must be within the specified maximum front yard setback.
  - (b) In C-2 and C-3, a minimum of 25% of all street facing facades must be within the specified maximum front yard setback, or, orientation to an internal accessway, private drive, or shopping street as defined in EC

- 9.2175(3) is permitted in compliance with EC 9.2173(4)(a).
- (c) In GO, at least 60% of all street facing facades of the building must be within the specified maximum front yard setback.
  - (d) Vehicular parking and circulation is not permitted in between the street and the portion of the building that is used to comply with this subsection.
  - (e) Buildings fronting on a street must provide a main entrance facing the street on any facade of the building within the front yard setback. A main entrance is a principal entrance through which people enter the building. A building may have more than one main entrance. Buildings having frontage on more than one street shall provide at least one main entrance oriented to a street.
  - (f) The land between the portion of a building complying with EC 9.2171(5)(a) or (b) and a street must be landscaped or paved with a hard surface for use by pedestrians. If a hard surface is provided, the area must contain at least the equivalent of 1 pedestrian amenity for every 200 square feet of hard surface. The use of porous materials for hard surfacing is encouraged. Residential developments are exempt from this subsection. **(See Figure 9.2171(5)(e) Landscaped or Paved Pedestrian Area with Pedestrian Amenities.)**
  - (g) The maximum front yard setback may be exceeded if the area between the building and the front property line is landscaped or paved for use by pedestrians. The area must contain at least the equivalent of 1 enhanced pedestrian amenity for every 200 square feet of hard surface. **(See Figure 9.2171(5)(e) Landscaped or Paved Pedestrian Area with Pedestrian Amenities.)**
- (6) Where lot lines abut property within a residential zone category, the minimum interior yard setback for any building shall be 10 feet. Within the Downtown Plan Area as shown on Map 9.2161(6) Downtown Plan Map, adjustments to this section may be made based on the criteria in EC 9.8030(16).
  - (7) Minimum interior yard setbacks for large commercial facilities on a lot adjacent to or facing a residential zone shall be 30 feet. Within the Downtown Plan Area as shown on Map 9.2161(6) Downtown Plan Map, adjustments to this section may be made based on the criteria in EC 9.8030(16).
  - (8) In addition to the minimum landscape area requirements of Table 9.2170 Commercial Zone Development Standards, the following landscape standards apply to new buildings, and the portion of the development site specifically affected by the new building and shall be subject to the requirements of this subsection.
    - (a) Minimum Landscape Area Required. In all commercial zones, except C-3, a minimum of 10 percent of the development site shall be landscaped with living plant materials. All required landscaping shall comply with landscape standards beginning at EC 9.6200 Purpose of Landscape Standards. Any required landscaping, such as for required front or interior yard setbacks or off-street parking areas, shall apply toward the development site minimum landscape requirement. The area of exterior landscaping on the roof of a building or exposed terrace may be used to meet the 10% minimum landscaping standard. Up to 50% of the landscape area may be a hard surface for recreational or enhanced pedestrian space.

- (b) Minimum Landscape Standard. Unless otherwise specified in this land use code, required landscape areas must, at a minimum, comply with EC 9.6210(1) Basic Landscape Standard (L-1).
  - (c) Landscaping In Front Yard Setbacks. If a front yard setback contains a landscape planting bed, the planting bed shall be a minimum of 7 feet in width and shall comply, at a minimum, with EC 9.6210(1) Basic Landscape Standard (L-1).
  - (d) Landscaping In Interior Yard Setbacks Abutting Residential Zones. Landscape planting beds within the interior yard setbacks abutting a residential zone shall be a minimum of 7 feet in width and shall comply with EC 9.6210(3) High Screen Landscape Standard (L-3).
  - (e) Street Trees. Street tree requirements are specified in EC 7.280 Street Tree Program - Policies, Standards, Procedure.
  - (f) Within the Downtown Plan Area as shown on Map 9.2161(6) Downtown Plan Map, adjustments to subsections (8)(a), (8)(b) and (8)(c) may be made based on the criteria in EC 9.8030(16).
- (9) Fences.**
- (a) Types. The type of fence, wall or screen used in any situation is limited only by specific requirements stated in landscape standards beginning at EC 9.6200 Purpose of Landscape Standards.
  - (b) Locations and Heights.
    - 1. Fences up to 42 inches in height are permitted within the minimum or maximum front yard setback whichever is greater.
    - 2. Fences up to 8 feet high are allowed in interior yard setbacks.
    - 3. The height of fences that are not in required setback areas is the same as the regular height limits of the zone.
    - 4. Fences must meet standards in EC 9.6780 Vision Clearance Area. (See **Figure 9.2171(9) Fencing Standards in Commercial Zones and Figure 9.0500 Vision Clearance Area.**)
  - (c) Adjustments. Within the Downtown Plan Area as shown on Map 9.2161(6) Downtown Plan Map, adjustments to subsections (9)(a) and (9)(b) may be made based on the criteria in EC 9.8030(16).
- (10) Outdoor Storage Areas.** Except for plant nurseries, outdoor storage is not permitted in any commercial zone. All merchandise to be stored must be enclosed entirely within buildings or structures.
- (11) Outdoor Merchandise Display.**
- (a) Except for plants and garden supply products, outdoor merchandise display is not allowed in C-1 and GO zones.
  - (b) In the C-2 and C-4 zones, outdoor display of the uses listed in subsection 1. of this subsection, is permitted when in conformance with the standards listed in subsection 2. of this subsection.
    - 1. Plants and garden supply products; motor vehicle sales, service, and repair; new and used boat sales; large equipment sales and rentals; service station pump islands; vending machines; manufactured home sales; children's outdoor play equipment; and hot tubs.
    - 2. Outdoor merchandise display is not permitted in required setback areas. Except for plant and garden supply displays, outdoor display areas shall be set back a minimum of 7 feet from the front lot lines with required setbacks landscaped to at least the EC 9.6210(1) Basic Landscape Standard (L-1).

- (c) In the C-3 zone, outdoor merchandise display is permitted if all products are placed in an enclosure after business hours.
  - (d) Except for the Downtown Plan Area as shown on Map 9.2161(6) Downtown Plan Map, adjustments to subsection (b)2. of this section may be made based on criteria in EC 9.8030(2)(d). Within the Downtown Plan Area, adjustments to subsection (11)(b)2. may be made based on the criteria in EC 9.8030(16).
- (12) Garbage Screening.** All outdoor garbage collection areas shall be screened on all sides within a solid perimeter enclosure that meets the following standards:
- (a) Materials within enclosures shall not be visible from streets and adjacent properties.
  - (b) Required screening shall comply with EC 9.6210(6) Full Screen Fence Landscape Standard (L-6).
  - (c) Garbage collection areas shall not be located within required setbacks. Trash or recycling receptacles for pedestrians are exempt from these requirements.
- (13) Underground Utilities.** All utilities on the development site shall be placed underground. Except for the Downtown Plan Area as shown on Map 9.2161(6) Downtown Plan Map, adjustments to this section may be made based on criteria in EC 9.8030(5). Within the Downtown Plan Area, adjustments to this section may be made based on criteria in EC 9.8030(16). Refer also to EC 9.6775.
- (14) Delivery and Loading Facilities.**
- (a) Delivery and loading facilities are not permitted in required setback areas.
  - (b) On lots abutting parcels with a residential zone, delivery and loading facilities shall be set back a minimum of 10 feet from property lines with required interior yard setbacks landscaped to at least the standards in EC 9.6210(4) High Wall Landscape Standard (L-4).
- (15) Drive-Through Facilities.**
- (a) Application. The regulations in (b) through (e) of this subsection apply to the establishment of new drive through facilities, the addition of travel lanes for existing drive-through facilities in existing developments, and the relocation of an existing drive-through facility.
  - (b) Drive-Through Facilities in C-1 Zone. Drive-through facilities are not permitted in C-1 zones.
  - (c) Service Areas Setback and Landscaping. Service areas and stacking lanes shall be set back a minimum of 10 feet from all lot lines. Setback areas abutting a street shall be landscaped to at least the standards in EC 9.6210(1) Basic Landscape Standard (L-1). Interior yard setback areas must be landscaped to at least the standards in EC 9.6210(3) High Screen Landscape Standard (L-3).
  - (d) Driveway Entrances. All driveway entrances, including stacking lane entrances, must be at least 100 feet from an intersection, as measured along the property line from the tangent point of a corner radius and the closest edge of a driveway.
  - (e) Stacking Lanes. Design of stacking lanes shall conform with the requirements of EC 9.6415 Loading and Drive-Through Design Standards.
  - (f) Adjustments. Except for lots adjacent to land zoned residentially:



1. Outside of the Downtown Plan Area as shown on Map 9.2161(6) Downtown Plan Map, adjustments to subsection (c) Service Areas Setback and Landscaping may be made based on criteria at EC 9.8030(2) Setback Standards Adjustment.
  2. Within the Downtown Plan Area adjustments to subsection (c) Service Areas Setback and Landscaping and subsection (e) Stacking Lanes may be made based on the criteria at EC 9.8030(16).
- (16) Adjustments.** Except for the Downtown Plan Area as shown on Map 9.2161(6) Downtown Plan Map, adjustments to the minimum and maximum front yard setbacks in this section may be made, based on criteria at EC 9.8030(2) Setback Standards Adjustment. Within the Downtown Plan Area, adjustments to the minimum and maximum front yard setbacks in this section may be made, based on the criteria at EC 9.8030(16).

**Section 2.** Subsection (11) of Section 9.2173 of the Eugene Code, 1971, is amended to provide as follows:

**9.2173 Commercial Zone Development Standards - Large Commercial Facilities.**

- (11) Adjustments.** Except for the Downtown Plan Area, adjustments to the standards in this section may be made, based on criteria at EC 9.8030(6) Large Commercial Facilities Standards Adjustment. Within the Downtown Plan Area as shown on Map 9.2161(6) Downtown Plan Map, adjustments to the standards in this section may be made based on the criteria at EC 9.8030(16).

**Section 3.** Subsection (2) of Section 9.2175 of the Eugene Code, 1971, is amended to provide as follows:

**9.2175 Commercial Zone Development Standards - Large Multi-Tenant Commercial Facilities.**

- (2) Application of Standards.**
- (a) In addition to the standards in EC 9.2170 Commercial Zone Development Standards - General, and the standards in EC 9.2173 Commercial Zone Development Standards - Large Commercial Facilities the standards in this section apply to all development projects proposing at least 50,000 square feet of floor area within 3 or more new buildings on a development site, and the portion of the development site specifically affected by the new buildings.
  - (b) Notwithstanding subsection (2)(a) above, the standards in this section do not apply to development projects within the Downtown Plan Area as shown on Map 9.2161(6) Downtown Plan Map.

**Section 4.** Section 9.3405 of the Eugene Code, 1971, is amended to provide as follows:

**9.3405** S-F Fifth Avenue Special Area Zone Land Uses. The land use and permit requirements and special use limitations applicable in the S-F zone shall be those set out at EC 9.2160 and EC 9.2161 for uses in the C-2 zone.

**Section 5.** Section 9.3410 of the Eugene Code, 1971, is amended to provide as follows:

**9.3410** S-F Fifth Avenue Special Area Zone Development and Lot Standards. In the S-F zone the general standards set forth in this land use code governing development in the C-2 zone shall apply.

**Section 6.** Subsection (1)(b) of Section 9.4085 of the Eugene Code, 1971, is amended to provide as follows:

**9.4085** /BW Broadway Overlay Zone Development Standards.  
(b) Adjustment. The development standards in EC 9.4085(2) through (9) may be adjusted in accordance with the criteria for adjustment of standards within the Downtown Plan Area at EC 9.8030(16).

**Section 7.** Subsection (4) of Section 9.4290 of the Eugene Code, 1971, is amended to provide as follows:

**9.4290** Density and Development Standards. In addition to the requirements of the base zone, the following standards shall apply:  
(4) **Adjustments.** Except for the Downtown Plan Area as shown on Map 9.2161(6) Downtown Plan Map, an adjustment to any of the standards in this section may be made for /ND parcels with no alley access or with physical or legal constraints pursuant to the criteria beginning at EC 9.8015 of this land use code. Adjustments to this section may be made for any parcel within the Downtown Plan Area based on the criteria at EC 9.8030(16).

**Section 8.** Subsection (7) of Section 9.4530 of the Eugene Code, 1971, is amended to provide as follows:

**9.4530** /TD Transit Oriented Development Overlay Zone Development Standards.  
(7) **Adjustments.** Except for the Downtown Plan Area as shown on Map 9.2161(6) Downtown Plan Map, an adjustment to any of the standards in this section may be made pursuant to the criteria beginning at EC 9.8015 of this land use code. Within the Downtown Plan Area, adjustments to any of the standards in this section may be made based on the criteria at EC 9.8030(16).

**Section 9.** Subsection (2) of Section 9.5500 of the Eugene Code, 1971, is amended to provide as follows:

**9.5500 Multiple-Family Standards.**

**(2) Applicability of Multiple-Family Standards.**

- (a) Except for building alterations and building additions that increase the square footage of liveable floor area by less than 50%, multiple-family standards shall apply to all multiple family developments in all zones except commercial. In cases where the standards apply, they shall be considered applicable for the portion of the development site impacted by the proposed development.
- (b) Multiple family standards shall also apply to multiple family developments in commercial zones unless the entire ground floor, with the exception of areas for lobbies, stairs, elevators and bicycle storage for residents, is in non-residential use. Additional ground floor use standards in Table 9.2161 Commercial Uses Requirements in Mixed-Use Residential Developments also apply.
- (c) Notwithstanding subsections (a) and (b) above, multiple-family standards do not apply to multiple family developments in commercial zones within the Downtown Plan Area as shown on Map 9.2161(6) Downtown Plan Map.

**Section 10.** Section 9.7210 of the Eugene Code, 1971, is amended by adding subsection (5) to provide as follows:

**9.7210 Notice of Application.**

- (5) Responsibility and procedures for mailing and posting the notices described in this section may be established by administrative rule of the city manager adopted pursuant to section 2.019 of this code.

**Section 11.** Section 9.7220 of the Eugene Code, 1971, is amended by amending subsection (1), renumbering subsection (3) to (4), and adding a new subsection (3) to provide as follows:

**9.7220 Notice of Decision.**

- (1) Within 5 days after the planning director renders a decision, notice of the decision shall be mailed to the following:
  - (a) Applicant.
  - (b) Owner and occupants of the subject property.
  - (c) Neighborhood group or community organization officially recognized by the city that includes the area of the subject property.
  - (d) Any group or individual who submitted written comments during the comment period.
  - (e) Those groups or individuals who requested notice of the decision.
  - (f) Property owners and occupants of property located within 300 feet of the perimeter of the subject property.
- (3) Responsibility and procedures for mailing the notice described in this section may be established by administrative rule of the city manager pursuant to section 2.019 of this code.
- (4) Unless appealed according to the procedures in EC 9.7605 Filing of Appeal of

Planning Director's Decision, the planning director's decision is effective on the 13th day after notice of the decision is mailed.

**Section 12.** Subsection (2) of Section 9.7351 of the Eugene Code, 1971, is amended, and a new subsection (5) is added, to provide as follows:

**9.7315 Public Hearing Notice.**

- (2) At least 30 days prior to the hearing, written notice of the public hearing and the nature of the request shall be mailed to all of the following:
  - (a) Applicant.
  - (b) Owners and occupants of the subject property.
  - (c) Owners and occupants of property located within 500 feet of the perimeter of the subject property.
  - (d) Neighborhood group and community organization officially recognized by the city council that includes the area of the subject property.
  - (e) Community organizations that have submitted written requests for notification.
  - (f) For Willamette Greenway permits, public hearing notice shall also be provided to the Oregon Department of Transportation.
- (5) Responsibility and procedures for mailing and posting the notices described in this section may be established by administrative rule of the city manager adopted pursuant to section 2.019 of this code.

**Section 13.** Section 9.7335 of the Eugene Code, 1971, is amended by amending subsection (1), renumbering subsection (3) to (4), and adding a new subsection (3) to provide as follows:

**9.7335 Notice of Decision.**

- (1) Within 5 days after the hearings official or historic review board renders a decision, notice of the decision shall be mailed to the following:
  - (a) Applicant.
  - (b) Owner of the subject property.
  - (c) Neighborhood group or community organization officially recognized by the city that includes the area of the subject property.
  - (d) Any group or individual who provided written or oral testimony prior to the close of the public comment period.
  - (e) For Willamette Greenway permits, to the Oregon Department of Transportation.
- (3) Responsibility and procedures for mailing the notice described in this section may be established by administrative rule of the city manager pursuant to section 2.019 of this code.
- (4) Unless appealed pursuant to EC 9.7655 Filing of Appeal of Hearings Official or Historic Review Board Initial Decision, the decision is final on the 13<sup>th</sup> day after notice of the decision is mailed.

**Section 14.** Subsection (2) of Section 9.7415 of the Eugene Code, 1971, is amended, and a new subsection (6) is added to provide as follows:

9.7415

**Public Hearing Notice.**

- (2) At least 30 days before the planning commission public hearing, written notice of the hearing and the nature of the request shall be mailed to all of the following:
  - (a) Applicant.
  - (b) Owners and occupants of property that is the subject of a proposed application.
  - (c) Owners and occupants of property located within 300 feet of the perimeter of the subject property.
  - (d) The neighborhood group and community organizations officially recognized by the city council that includes the area of the subject property.
  - (e) Community organizations that have submitted written requests for notification.
- (6) Responsibility and procedures for mailing and posting the notices described in this section may be established by administrative rule of the city manager adopted pursuant to section 2.019 of this code.

**Section 15.** Subsections (1) and (3) of Section 9.7440 of the Eugene Code, 1971, are

amended, and a new subsection (4) is added to provide as follows:

9.7440

**Public Hearing Notice.**

- (1) At least 10 days before the city council hearing, written notice of the hearing shall be mailed to all of the following:
  - (a) Applicant.
  - (b) Owner of the subject property.
  - (c) Any person who has submitted written or oral testimony in a timely manner during the planning commission hearing procedures.
  - (d) Any person who requested notice of the planning commission's decision.
- (3) For street name change applications, notice shall be published in a local newspaper with general circulation within the city at least one time during the week immediately preceding the week of the city council hearing. The notice shall state the time and place of the hearing, describe the nature of the application, and inform the public of the opportunity to provide testimony.
- (4) Responsibility and procedures for mailing and publishing the notices described in this section may be established by administrative rule of the city manager pursuant to section 2.019 of this code.

**Section 16.** Subsection (1) of Section 9.7455 of the Eugene Code, 1971, is amended,

and a new subsection (3) is added, to provide as follows:

9.7455

**Notice of Decision.**

- (1) Within 5 days of the decision, written notice of the decision shall be mailed to all of the following:
  - (a) Applicant.
  - (b) Any person who has submitted written or oral testimony in a timely manner during the city council hearing procedures.
  - (c) Any person who requested notice of the city council's decision.

- (d) In the case of a refinement plan amendment, the Oregon Department of Land Conservation and Development.
- (3) Responsibility and procedures for mailing the notice described in this section may be established by administrative rule of the city manager pursuant to section 2.019 of this code.

**Section 17.** Subsections (2) and (3) of Section 9.7520 of the Eugene Code, 1971, are amended, and a new subsection (4) is added, to provide as follows:

**9.7520 Public Hearing Notice.**

- (2) At least 30 days before the planning commission public hearing, written notice of the hearing and the nature of the request shall be mailed to all of the following:
  - (a) Lane County and City of Springfield planning directors.
  - (b) All neighborhood groups officially recognized by the city council.
  - (c) Community organizations that have submitted written requests for notification.
- (3) At least 20 days prior to the planning commission public hearing, notice of the public hearing shall be published in a local newspaper of general circulation within the city.
- (4) Responsibility and procedures for mailing and publishing the notices described in this section may be established by administrative rule of the city manager pursuant to section 2.019 of this code.

**Section 18.** Section 9.7545 of the Eugene Code, 1971, is amended to provide as follows:

**9.7545 Public Hearing Notice.** At least 10 days before the city council hearing, written notice of the hearing shall be mailed to the following:

- (1) Any person who provided oral or written testimony in a timely manner during the planning commission hearing procedures.
- (2) Any person who requested notice of the planning commission's decision.
- (3) Responsibility and procedures for mailing the notice described in this section may be established by administrative rule of the city manager pursuant to section 2.019 of this code.

**Section 19.** Subsection (1) of Section 9.7560 of the Eugene Code, 1971, is amended, and a new subsection (4) is added, to provide as follows:

**9.7560 Notice of Decision.**

- (1) Within 5 days of the decision, written notice of the decision shall be mailed to all of the following:
  - (a) Any person who provided oral or written testimony in a timely manner during the city council hearing procedures.
  - (b) Any person who requested notice of the city council's decision.
  - (c) The Oregon Department of Land Conservation and Development.
- (4) Responsibility and procedures for mailing the notice described in this section may be established by administrative rule of the city manager pursuant to

section 2.019 of this code.

**Section 20.** Subsection (1) of Section 9.7615 of the Eugene Code, 1971, is amended, and a new subsection (3) is added, to provide as follows:

**9.7615 Public Hearing Notice.**

- (1) At least 20 days prior to the hearing, written notice shall be mailed to all of the following:
  - (a) Applicant.
  - (b) Owner of the subject property.
  - (c) Appellant.
  - (d) Neighborhood group or community organization officially recognized by the city that includes the area of the subject property.
  - (e) Any person who provided written comments prior to the close of the public comment period.
  - (f) Owners of property within 100 feet of the perimeter of the subject property.
- (3) Responsibility and procedures for mailing the notice described in this section may be established by administrative rule of the city manager pursuant to section 2.019 of this code.

**Section 21.** Section 9.7635 of the Eugene Code, 1971, is amended by adding subsection (3) to provide as follows:

**9.7635 Notice of Decision.**

- (4) Responsibility and procedures for mailing the notice described in this section may be established by administrative rule of the city manager pursuant to section 2.019 of this code.

**Section 22.** Subsection (1) of Section 9.7665 of the Eugene Code, 1971, is amended, and a new subsection (3) is added, to provide as follows:

**9.7665 Public Hearing Notice.**

- (1) At least 10 days prior to the hearing, written notice of the hearing shall be mailed to the following:
  - (a) Applicant.
  - (b) Owner of the subject property.
  - (c) Appellant.
  - (d) Neighborhood group or community organization officially recognized by the city that includes the area of the subject property.
  - (e) Any person who submitted written comments in regards to the original application.
  - (f) Any person who requested notice of the previous decision or of the appellate hearing.
- (3) Responsibility and procedures for mailing the notice described in this section may be established by administrative rule of the city manager pursuant to section 2.019 of this code.

**Section 23.** Section 9.7685 of the Eugene Code, 1971, is amended by adding a new subsection (3) to provide as follows:

**9.7685**     **Notice of Decision.**

- (3) Responsibility and procedures for mailing the notice described in this section may be established by administrative rule of the city manager pursuant to section 2.019 of this code.

**Section 24.** Section 9.8007 of the Eugene Code, 1971, is added to provide as follows:

- 9.8007**     **Notice.** Where EC 9.7100-9.7685, or administrative rules referenced in those code sections, require an applicant to mail, post or publish notice, the city shall not approve the subject application(s) if the applicant has not submitted a signed affidavit of notice affirming that the applicant has provided notice as required.

**Section 25.** Subsection (16) of Section 9.8030 of the Eugene Code, 1971, is amended to provide as follows:

- 9.8030**     **Adjustment Review - Approval Criteria.** The planning director shall approve, conditionally approve, or deny an adjustment review application. Approval or conditional approval shall be based on compliance with the following applicable criteria.

(16) **Downtown Plan Area.** Where this land use code provides that a development standard applicable within the Downtown Plan Area as shown on Map 9.2161(6) Downtown Plan Map may be adjusted, approval of the request shall be given if the applicant demonstrates consistency with all of the following:

- (a) The requested adjustment will allow the project to achieve an equivalent or higher quality design than would result from strict adherence to the standards through:
1. A building orientation, massing, articulation and façade that contribute positively to the surrounding urban environment; and
  2. An overall site and building design that creates a safe and attractive pedestrian environment. Design elements for this purpose may include special architectural design features, high quality materials, outdoor seating, pedestrian-scaled lighting, prominent entries facing the street, multiple openings or windows, and a significant use of clear, untinted glass.
- (b) Impacts to any adjacent residentially-zoned property are minimized. Design elements for this purpose may include treatment of building massing, setbacks, screening and landscaping.
- (c) For adjustments pursuant to EC 9.2171(13) only, placing utilities underground would be unreasonably onerous to the applicant.

**Section 26.** The City Recorder, at the request of, or with the concurrence of the City Attorney, is authorized to administratively correct any reference errors contained herein or in



other provisions of the Eugene Code, 1971 to the provisions added, amended, or repealed herein.

Passed by the City Council this

8<sup>th</sup> day of June, 2009

Elizabeth J. Jost  
AIC City Recorder

Approved by the Mayor this

9th day of June, 2009

Kitty Peery  
Mayor

## EXHIBIT A

### Findings

#### Downtown Code Amendments (City File CA 09-1) Land Use Application Noticing Requirements (City File CA 09-2)

**Code Amendment** Eugene Code Section 9.8065 requires that the following approval criteria (in bold and italics) be applied to a code amendment:

- (1) The amendment is consistent with applicable statewide planning goals adopted by the Land Conservation and Development Commission.***

***Goal 1 - Citizen Involvement.*** To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

The City has acknowledged provisions for citizen involvement which insure the opportunity for citizens to be involved in all phases of the planning process and set out requirements for such involvement. The action taken did not amend the citizen involvement program. The process for adopting these amendments complied with Goal 1 because it is consistent with the citizen involvement provisions. Furthermore, the proposed amendments to public notice provisions do not formally change current noticing responsibilities, the required content, or who is required to receive such notices.

The process to draft the code amendments related to downtown employed significant public involvement opportunities. The need for a comprehensive review of existing downtown zones emerged as part of the initial Downtown Visioning effort in 1999 and was included as an implementation strategy in the Downtown Plan, adopted in April, 2004. In May, 2004 staff introduced the topic of a review of Downtown Area Zoning at the Eugene Planning Commission. Since that time, Planning and Development staff met with the Eugene Planning Commission, the Eugene Redevelopment Advisory Committee, and City Council on multiple occasions, in addition to hosting public workshops.

The Planning Commission public hearing on both sets of code amendments was duly noticed to the City of Springfield, Lane County, all neighborhood organizations, as well as community groups and individuals who have requested notice. In addition, notice of the public hearing was also published in the Register Guard. The City Council then held a duly noticed public hearing to consider approval, modification, or denial of the code amendments. These processes afford ample opportunity for citizen involvement consistent with Goal 1. Therefore, the amendments are consistent with Statewide Planning Goal 1.

***Goal 2 - Land Use Planning.*** To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual basis for such decisions and actions.

The Eugene Land Use Code specifies the procedure and criteria that were used in considering these amendments to the code. The record shows that there is an adequate factual base for the amendments. The Goal 2 coordination requirement is met when the City engages in an exchange, or invites such an exchange, between the City and any affected governmental unit and when the City uses the information obtained in the exchange to balance the needs of the citizens. To comply with the Goal 2 coordination requirement, the City engaged in an exchange about the subject of these amendments with all of the affected governmental units. Specifically, the City provided notice of the proposed action and opportunity to comment to Lane County, Springfield and the Department of Land Conservation and Development.

There are no Goal 2 Exceptions required for these amendments. Therefore, the amendments are consistent with Statewide Planning Goal 2.

Goal 3 - Agricultural Lands. *To preserve agricultural lands.*

The amendments are for property located within the urban growth boundary and do not affect any land designated for agricultural use. Therefore, Statewide Planning Goal 3 does not apply.

Goal 4 - Forest Lands. *To conserve forest lands.*

The amendments are for property located within the urban growth boundary and do not affect any land designated for forest use. Therefore, Statewide Planning Goal 4 does not apply.

Goal 5 - Open Spaces, Scenic and Historic Areas, and Natural Resources. *To conserve open space and protect natural and scenic resources.*

*OAR 660-023-0250(3) provides: Local governments are not required to apply Goal 5 in consideration of a PAPA unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if:*

- (a) The PAPA creates or amends a resource list or a portion of an acknowledged plan or land use regulation adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5;*
- (b) The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list; or*
- (c) The PAPA amends an acknowledged UGB and factual information is submitted demonstrating that a resource site, or the impact areas of such a site, is included in the amended UGB area.*

These amendments do not create or amend the city's list of Goal 5 resources, do not amend a code provision adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5, do not allow new uses that could be conflicting uses with a significant Goal 5 resource site and do not amend the acknowledged UGB. Therefore, Statewide Planning Goal 5 does not apply.

Goal 6 - Air, Water and Land Resource Quality. *To maintain and improve the quality of the air, water and land resources of the state.*

Goal 6 addresses waste and process discharges from development, and is aimed at protecting air, water and land from impacts from those discharges. The amendments do not affect the City's ability to provide for clean air, water or land resources. Therefore, Statewide Planning Goal 6 does not apply.

Goal 7 - Areas Subject to Natural Disasters and Hazards. *To protect life and property from natural disasters and hazards.*

Goal 7 requires that local government planning programs include provisions to protect people and property from natural hazards such as floods, land slides, earthquakes and related hazards, tsunamis and wildfires. The Goal prohibits a development in natural hazard areas without appropriate safeguards. The amendments do not effect the City's restrictions on development in areas subject to natural disasters and hazards. Further, the amendments do not allow for new development that could result in a natural hazard. Therefore, Statewide Planning Goal 7 does not apply.

Goal 8 - Recreational Needs. *To satisfy the recreational needs of the citizens of the state and visitors, and where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.*

Goal 8 ensures the provision of recreational facilities to Oregon citizens and is primarily concerned with the provision of those facilities in non-urban areas of the state. The plan amendments do not effect the city's provisions for recreation areas, facilities or recreational opportunities. The Downtown Plan area is served by a variety of parks including Alton Baker and Skinner Butte Parks. Access to the recreation opportunities provided by these parks will not be affected as a result of the code amendments related to downtown. Therefore, Statewide Planning Goal 8 does not apply.

Goal 9 - Economic Development. *To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.*

The Administrative Rule for Statewide Planning Goal 9 (OAR 660, Division 9) requires cities to evaluate the supply and demand of commercial land relative to community economic objectives. The Eugene Commercial Land Study (October 1992) was adopted by the City of Eugene as a refinement of the Metro Plan, and complies with the requirements of Goal 9 and its Administrative Rule.

The Eugene Commercial Lands Study acknowledged that the inventory of commercial land is dynamic and that different commercial needs need to be accommodated through a variety of means. An emphasis of the Study is to encourage higher intensity in-fill and redevelopment of commercial lands by constraining the supply of new commercial land.

The code amendments related to downtown are specifically intended to facilitate downtown development and redevelopment in accordance with the Downtown Plan. The amendments do not affect the amount of land designated or zoned for commercial use and will have no direct impact on the existing supply of or any existing commercially designated land. Therefore, the code amendments are consistent with Statewide Planning Goal 9.

Goal 10 - Housing. *To provide for the housing needs of citizens of the state.*

Goal 10 requires that communities plan for and maintain an inventory of buildable residential land for needed housing units. Although some of the amendments related to downtown address residential development standards, the land use code amendments do not impact the supply or availability of residential lands included in the documented supply of "buildable land" that is available for residential development as inventoried in the acknowledged 1999 Residential Lands Study. Therefore, the amendments are consistent with Statewide Planning Goal 10.

Goal 11- Public Facilities and Services. *To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.*

The amendments do not effect the City's provision of public facilities and services. Therefore, Statewide Planning Goal 11 does not apply.

Goal 12- Transportation. *To provide and encourage a safe, convenient and economic transportation system.*

Goal 12 is implemented through the Transportation Planning Rule (TPR, OAR 660-12). TransPlan provides the regional policy framework through which the TPR is enacted at the local level.

The code amendments will not significantly affect any transportation facility. The level of development currently permitted through existing code and zoning regulations will remain the same. No change in the functional classification of streets will result from these amendments. In addition, no changes are proposed to the standards that implement the functional classification system. Therefore, the amendments are consistent with Statewide Planning Goal 12.

Goal 13 - Energy Conservation. *To conserve energy.*

The amendments do not impact energy conservation. Therefore, Statewide Planning Goal 13 does not apply.

Goal 14 - Urbanization. *To provide for an orderly and efficient transition from rural to urban land use.*

The amendments do not affect the City's provisions regarding the transition of land from rural to urban uses. Therefore, Statewide Planning Goal 14 does not apply.

Goal 15 - Willamette River Greenway. *To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.*

The amendments do not contain any changes that affect the regulation of areas within the Willamette River Greenway, therefore, Statewide Planning Goal 15 does not apply.

Goal 16 through 19 - Estuarine Resources, Coastal Shorelands, Beaches and Dunes, and Ocean Resources.

There are no coastal, ocean, estuarine, or beach and dune resources related to the property effected by these amendments. Therefore, these goals are not relevant and the amendments will not affect compliance with Statewide Planning Goals 16 through 19.

**(2) *The amendment is consistent with applicable provisions of the Metro Plan and applicable adopted refinement plans.***

The code amendments related to land use application noticing requirement include minor changes to the Land Use Code that do not raise any significant policy issues. Given the minor nature of these amendments, there are no relevant Metro Plan policies affected by this action. Furthermore, these amendments do not address any adopted refinement plans.

Regarding the code amendments related to the Downtown Plan area, there are no relevant Metro Plan policies affected by this action. These code amendments apply to areas within the Downtown Plan, the West University Refinement Plan, the Whiteaker Plan and the Jefferson Far West Refinement Plan, all of which are applicable adopted refinement plans. In addition, the Commercial Lands Study, the Eugene-Springfield Transportation System Plan (TransPlan) and the Central Area Transportation Study (CATS) are also considered applicable adopted refinement plans. Findings addressing relevant provisions of applicable refinement plans are provided below.

**Downtown Plan**

The Downtown Plan contains numerous policies supporting mixed use and density in downtown. The Downtown Plan states that, “[w]ith the exception of Policy IV 3, relating to EWEB’s riverfront property, the policies in the Downtown Plan are aspirational, and cannot be the basis for denial of public or private proposals regarding change in the downtown.” Even though the policies are not mandatory, it is worth noting that the proposal is consistent with the following policies:

- I.2. Downtown development shall support the urban qualities of density, vitality, livability and diversity to create a downtown, urban environment.*
- II.2. Use downtown development tools and incentives to encourage development that provides character and density downtown.*
- V.1. Stimulate multi-unit housing in the downtown core and on the edges of downtown for a variety of income levels and ownership opportunities.*

The intent of the code amendments is to implement the Downtown Plan by insuring that appropriate zoning and code regulations are in place to set the stage for desired dense, mixed-use downtown development. The code amendments address these policies by providing additional flexibility for downtown projects while still achieving an equivalent or higher quality urban environment.

**Jefferson Far West Refinement Plan**

Although there are no policies in this refinement plan that directly address the code amendments or constitute mandatory approval criteria, the following policy in the Neighborhood Economic Development Element of the plan lends general support for the amendments:

*3.0 Take actions to continue to attract investment by the private sector in the central city.*

#### **Commercial Lands Study**

The Commercial Lands Study is considered a refinement to the Metro Plan. To the extent that the following policies constitute mandatory approval criteria, the code amendments are consistent with these policies in that the amendments assist private developers to invest in the downtown area by removing impediments in the land use code.

*6.0 Promote redevelopment of existing commercial areas and compact, dense growth by encouraging business to revitalize and reuse existing commercial sites.*

*7.0 Recognize private sector costs of redevelopment, especially in the downtown area, and offer public incentives to assist redevelopment efforts.*

There are no policies from West University Refinement Plan, the Whiteaker Plan, TransPlan or the Central Area Transportation Study (CATS) that are applicable to the proposed amendments related to downtown.

**(3) *The amendment is consistent with EC 9.3020 Criteria for Establishment of an S Special Area Zone, in the case of establishment of a special area zone.***

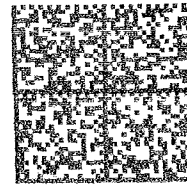
The amendments do not establish a special area zone. Therefore, this criterion does not apply to these amendments.

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