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**EUGENE HEARINGS OFFICIAL**

**APPEAL OF ADMINISTRATIVE ORDER NUMBER 58-10-17  
EXPANDING THE BOUNDARIES OF RESIDENTIAL PERMIT PARKING IN  
THE SOUTH UNIVERSITY NEIGHBORHOOD**

**Appellants:** Greg Bryant Sheryl and Volker Engelbert

**Date of Administrative Order:** February 8, 2011

**DECISION:** Administrative Order 58-10-17 was promulgated in accordance with Administrative Rule R-5.040-C.2(b) and is upheld except as it is applied to Tax Lot 2400, Lane County Assessor's Map 18-03-05-24; Tax Lot 2500, Lane County Assessor's Map 18-03-05-24 (fronting Alder Street and E. 22<sup>nd</sup> Avenue); and Tax Lot 3700, Lane County Assessor's Map 18-03-05-13.

**Findings**

1. On February 8, 2011 the Eugene Traffic Engineer issued Administrative Order No 58-10-17, expanding the boundaries of the Residential Parking Zone A in the South University Neighborhood association (SUNA) area. During calendar year 2010, four residents of the SUNA requested that a residential permit parking zone be expanded but city staff convinced them to withdraw their request in lieu of a more comprehensive proposal by the City Traffic Engineer.

Finding E. of Administrative Order 58-10-17 concludes that "...expanding the existing boundaries of the SUNA residential permit parking Zone A is necessary to meet the objectives of the policies set forth in Administrative Rule R-5.040 and meets the criteria for approval set forth in R-5.040-F." It further states that "Failure to establish the zone would create a hardship for the area's residents and would contribute to traffic congestion in the area."

The findings included Finding F, which included a statement that Rule 58-10-17 met the criteria for approval set forth in Administrative order R-5.040-F. Finding F also included the statement that "Failure to establish the zone would create hardship for the area's residents and would contribute to traffic congestion in the area."

Administrative Order 58-10-17 also contained Order 5. "If, by action of a hearing official having jurisdiction to review this administrative order, any portion of this administrative order is stricken or the boundaries of the SUNA residential permit parking Zone A is modified, such action by the hearings official shall have no effect on the validity of any other section or provision hereof, all of which will remain in full force and effect."

2. On March 17, 2011, Greg Bryant, owner of properties at 2173 and 2193 Alder Street (Tax Lots 2400 and 2500, Lane County Assessor's Map 18-03-05-24) filed an appeal of Administrative Order 58-10-17. Mr. Bryant's appeal of the administrative order included several issues, among which were a general objection to the inconvenience for guests of residents of the expanded parking zone and a general objection to the lack of a poll of residents.
3. An undated appeal to Administrative Order 58-10-17 was filed by Sheryl and Volker Engelbert of 1065 E 22<sup>nd</sup> Street (Tax Lot 3700, Lane County Assessor's Map 18-03-05-13). The Engelbert appeal objected particularly to the creation of parking restrictions on their block. They asserted that the analysis for their block was incorrect, and that it did not need the restrictions because there was no shortage of parking spaces on their block. The Engelberts did acknowledge that other blocks in the area needed the parking restrictions.
4. The University is bordered on three sides by residential areas. Over the years, existing parking on the University have been replaced by classrooms and other University buildings. In addition, new student housing facilities have been constructed and the need for parking spaces generated by these structures have often exceeded that required by the zoning code. The reduction of campus parking spaces and the increase in the cost of parking permits and parking meter charges have contributed to the desire of University faculty and students to utilize nearby unregulated parking spots during the school week.
5. In June of 2010, the SUNA Board of Directors discussed a proposal to expand the Residential Permit Program in the area. The City of Eugene mailed out flyers on July 30, 2010 that contained information about the proposed expansion of the Residential Permit Program. The flyer went out to 1,374 addresses, including properties located within 100 feet of the proposed district. Feedback from the flyer consisted of 21 responses in support and 9 responses in opposition. The issue was also covered in the August 5, 2010 Eugene City Council newsletter and the SUNA Fall newsletter (mailed October 4, 2010). On February 7, 2011, a postcard was mailed to 670 residents affected by the proposed change in on-street parking. After notification of the proposed administrative rule, the City received five responses in favor and three responses in opposition.
6. Administrative Order 58-92-07 was adopted in 1992 to establish and govern Residential Parking Districts and set out rules (R-5.040) for the implementation of the Residential Parking Program. The stated purpose and intent of the rule was to: "eliminate commuter parking in established residential areas; minimize the adverse impact of motor vehicles on local residential streets, minimize spill-over parking from nearby high-employment sites; and the promotion of transit and alternative modes of transportation by discouraging long-term employee parking."
7. An event parking district was established for the Fairmount Neighborhood in August of 2010 through Administrative Order No. 58-10-15. The district regulates parking Monday through Sunday, 7:00 am to 11:00 pm. Since the

imposition of the district, the amount of vehicle cruising in the Fairmount Neighborhood has dramatically decreased although it is understood that a portion of the vehicle demand shifted to the SUNA.

8. The enforcement of parking restrictions is provided by personnel who mark a vehicle's tire with chalk and then return to the same parking spot in a little more than the length of the parking restriction; normally two hours. A person in a two-hour parking space may have their tire marked near the end of a two hour period and by the time the parking enforcement person returns the car, if it remains, will have been parked for almost four hours. Thus, a three-hour parking restriction would theoretically allow a car to be parked for up to nearly six hours and a four-hour parking restriction would theoretically allow a car to be parked for up to nearly eight hours, without being ticketed.

### **Procedural issues**

The appeal by Mr. Bryant asserted that there is no popular desire or need for the expansion of parking restrictions in his neighborhood. This assertion is directly relevant to Administrative Rule R-5.040-F(d) which requires the consideration of "the desire and/or need of residents of the area for establishment of permit parking zones." In his April 12, 2011 Preliminary Decision on the Scope of Appeal, the Eugene Hearings Official (Milo Mecham) opined that the appeal of the administrative order was not confined to the residential blocks where the appellants reside but rather is relevant to the validity of the order in its entirety. Accordingly, a hearing on the two appeals was scheduled for June 3, 2011.

### **Justification for the Decision**

This is an appeal of Administrative Order 58-10-15. This issue is one of whether the administrative order is consistent with the regulation authorizing its action, Eugene Administrative Rule R-5.040, and not the legality of that administrative rule. In this context, Eugene Administrative Rule R-5.040-C.2 provides: *The Traffic Engineer may establish a residential permit parking zone in an area for which no application has been received providing:*

1. ***Establishment of the zone is necessary in order to meet the objectives of the policies set forth herein;***

Administrative rule R-5.040 does not have any explicitly stated policies, and Section R-5.040-B POLICY only notes that the "...regulations govern the establishment of or the withdrawal from residential permit parking zones within the City." Administrative Order 58-10-17 establishes the residential permit parking zone within an expanded portion of the SUNA.

The establishment of Residential Permit Parking Zone A in the SUNA is consistent with Demand Strategy 2.5 of Transportation Demand Management Policy #2 of TransPlan<sup>1</sup>, that provides:

*“Manage overflow parking impacts in residential areas through residential parking permit programs.”*

The objectives of the policies embodied in Administrative Order 58–10–17 can be identified in the “finding” found on page 7 of Administrative Order 58–92–07, which established Administrative Rule 5.040. This finding identified the “purpose and intent” of the rule as being threefold:

1. *Eliminate commuter parking in established residential areas;*

The SUNA is an established residential area and is neighborhood association recognized by the City of Eugene. Testimony from residents document that commuters to the University utilize unregulated parking spaces in the SUNA. Experience in other areas around the University where the residential permit parking has been employed has demonstrated that commuter parking is mostly eliminated where the residential permit parking has been employed. This is because most University classes are close to 80 minutes in duration and the two-hour restriction does not provide sufficient time for a student or faculty member to travel to the University, attend class, and travel back to the parking space to move their vehicle.

2. *Minimize the adverse impact of motor vehicles on local residential streets, minimize spill-over parking from nearby high-employment sites; and*

The University is a high-employment site that creates spill-over traffic in adjacent residential neighborhoods. Testimony and photographic evidence has documented that the adverse impact of motor vehicles on local residential streets that have been subject to the two-hour, residential permit parking zone have been minimized.

3. *The promotion of transit and alternative modes of transportation by discouraging long-term employee parking.*

The imposition of the two-hour, residential permit parking zone has proven to discourage long-term parking of University employees and students. By making it impractical or inconvenient to park in neighborhoods subject to the residential permit parking zone, University

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<sup>1</sup> Lane Council of Governments, TransPlan: The Eugene–Springfield Transportation System Plan (July 2002), Chapter 3, page 98.

faculty and students are encouraged to take transit or to use alternative modes of transportation to access the University.

The expansion of the residential permit parking by the Traffic Engineer satisfies the above-described policy objectives and these objectives are relevant to the entire area covered by Administrative Order 58-10-17 as well as the Appellants' properties.

2. ***The proposal would meet the criteria for approval set forth in R-5.040-F had an application been submitted;***

***Eugene Administrative Rule R-5.040-F provides that approval of an application for establishment of a residential permit parking zone shall be based upon consideration of the following factors:***

- a. ***Whether there is consistently a significant amount of long-term spill-over parking from nearby high employment site or traffic generators;***

As a prelude to the adoption of Administrative Order 58-10-17, the Eugene Traffic engineer considered the responses to the July 2010 mailing to 1300 addresses in the area affected by the proposed residential permit parking zone restrictions. The SUNA Board of Directors has expressed concerns about the significant impact on parking spot demand occasioned by University students and staff and due to special events held at the University.

Twelve persons testified at the June 3, 2011 hearing on the appeals of Administrative Order 58-10-17. Five of these individuals testified in favor of the administrative order, seven, including the three appellants, testified in opposition.

- b. ***Whether residents frequently find it difficult to park on-street within close proximity to their residences;***

The City Traffic Engineer considered the feedback from the July 2010 flyers where numerous individuals complained that the presence of unregulated parking made it very difficult for them or their guests to find a parking spot near their residence. In most cases during the work-week, the spaces filled up early in the morning and remained that way until after 5:00 pm. The effectiveness in creating parking spaces through two-hour parking restrictions was demonstrated by a photo display of Potter Street submitted by Appellant Sheri Engelbert.

**c. *The proximity of public transportation to the area;***

The City Traffic Engineer has pointed out that there are two bus routes through SUNA.

**d. *The desire and/or need of residents of the area for establishment of permit parking zones;***

The desire and need of the residents in the affected portion of SUNA varies but the response to the July 2010 flyer was two to one in favor of the two-hour restrictions. Those in opposition have several concerns, not all of which are relevant to the imposition of the residential permit parking zone. For instance, several individuals testified that the cost of acquiring permits for contractors were very expensive and inconvenient. However, the parking permit requirement for contractors is a city-wide regulation and is only \$5 per day. Further, it seems like the permit issue would be largely irrelevant if there were no convenient place for them to park due to the presence of continuously occupied unregulated parking spots during weekday work hours.

One individual testified in opposition because the two-hour restrictions made it very difficult for employees working out of her residence to find a place to park. It must be pointed out that City of Eugene zoning regulations require that businesses provide on-site parking spots.

Several individuals testified that they might support three- or four-hour parking restrictions but information provided by the Traffic Manager indicated that these alternatives would result in *de facto* long-term parking because of parking enforcement procedures. (See Finding of Fact #9, above.)

**e. *The local and area-wide needs with respect to clean air, and the requirements of federal and state laws and regulations;***

The amount of vehicle emissions is closely associated with vehicle miles driven. It has been recognized by the Traffic Engineer that cruising to find long-term parking spots occurs in non-regulated parking areas, primarily in the mornings, as University staff and students vie for the these parking spots. While this parking frenzy subsides after the long-term parking spots are taken, the parking spots still attract additional traffic during the day in anticipation of one of the spots opening up. Once an area is posted as two-hour parking, the initial parking frenzy and subsequent cruising substantially dissipates, as the area is no longer suitable for University staff and students. However, it has also been pointed out that the parking restrictions have had the effect of pushing traffic to a different location.

Prior to the adoption of Administrative Order 58-10-17, the City has imposed the residential parking program to residential areas west, east, and southeast (Fairmont Neighborhood) of the University. In response to these restrictions, students and faculty looking for unregulated (i.e. long-term) parking spaces have gravitated to the SUNA. With the adoption of Administrative Order 58-10-17, the residential permit parking zone now extends six-blocks south of the University. The operating assumption is that at some point it will be more logical for the students and faculty affected by the restrictions to change their behavior; either find alternative transportation modes or pay for parking at the University. Whether the restrictions imposed by Administrative Order 58-10-17 will change the behavior of most of the individuals seeking long-term parking remains to be seen but it will clearly reduce vehicle emissions within the SUNA. If the restrictions are not effective enough in changing behavior then the Traffic Engineer will consider further expanding the residential permit parking zone.

**f. *Whether the designation may result in a reduction in total vehicle miles driven within the City;***

Similar to the impact on air quality, the question of whether the designation will result in a reduction of total vehicle miles driven is dependent upon whether the depth of the residential permit parking zone restrictions is sufficient to change behavior. It has been shown that the imposition of two-hour parking restrictions reduces the amount of traffic circulation in the areas subject to the restrictions but it has also been pointed out that the parking restrictions have had the effect of pushing traffic to a different location. Only time will tell whether Administrative Order 58-10-17 will reduce total vehicle miles traveled through a forced change in driving behavior or whether the residential permit parking zone will have to be extended to neighborhoods farther away from the University. The former is the stated assumption and hope of the Traffic Engineer.

**g. *The zone is a minimum of one block and is in a residential area; and***

The residential permit parking zone created (extended) by Administrative Order 58-10-17 is more than one block in size and is located within the South University Neighborhood Area.

**h. *The ability of the City to recover all costs associated with the establishment of the permit parking zone through permit fees and fines for violations thereof.***

The City Traffic Engineer has opined that permit fees and parking violation fines pay for the establishment of the residential permit parking zone.

The standard is that the Traffic Engineer must consider the above-listed factors. Based upon the testimony offered and the June 1, 2011 memorandum from the Traffic Engineer, I must conclude that these factors were considered in his decision to impose residential permit parking through the adoption of Administrative Rule 58-10-17.

3. ***Failure to establish the zone would create a hardship for residents in the area or contribute to traffic congestion in the area.***

For the most part, opponents and proponents of Administrative Order 58-10-17 agree that most SUNA residents that live in close proximity to unregulated parking spaces experience traffic congestion during workweek mornings and, to a lesser degree, during the day. They also seem to agree that the residential permit parking zone will reduce traffic congestion in the SUNA. The question of whether the presence of unregulated parking spaces creates a hardship largely depends upon the individual situation of the resident. For instance, those residents who have long driveways and adequate on-site parking are less inconvenienced than those who find it necessary to park in the street. It appears from the feedback received from the July 2010 flyers that residents experiencing some hardship from the presence of unregulated parking outnumber those who do not by a ratio of two to one. It is clear from the experience gained through the implementation of the residential permit parking zone in other areas around the University that the imposition of the zone will remove existing hardships for a majority of residents and lessen existing traffic congestion in the area.

The appellants do not feel that unregulated parking adjacent to their properties constitutes a hardship. Testimony from Appellant Sheryl Engelbert was that if forced to choose between unregulated parking and two-hour parking, she should would select the former situation. The Engelbert's house takes access onto East 22<sup>nd</sup> Avenue and prior to the adoption of Administrative Rule 58-10-17, an unregulated parking area fronted their house. I do not believe that the record contains sufficient evidence to conclude that failure to impose the residential permit parking zone along this portion of East 22<sup>nd</sup> Avenue would create a hardship for the resident's in this area, or the Engelberts in specific, or significantly contribute to traffic congestion.

The Appellant Greg Bryant owns two properties at the southeast corner of the intersection of East 22<sup>nd</sup> Avenue and Alder Street. Prior to the adoption of Administrative Rule 58-10-17, an unregulated parking area was located in front of these two properties. As with the Engelbert appeal, I do not believe that the record contains sufficient evidence to conclude that failure to impose the

residential permit parking zone along this portion of Alder Street or East 22<sup>nd</sup> Avenue would create a hardship for the resident's in this area, or resident's of the Bryant properties in specific, or significantly contribute to traffic congestion.

**Conclusion**


The adoption of Administrative Rule 58-10-17, as a whole, is consistent with the criteria of Administrative Rule R-5.040-C.2. The evidence in the record, however, does not establish that the criterion R-5.040-C.2.(c) has been satisfied as it is applied to the appellants. Therefore, the unregulated parking spots that front the property of the appellants shall remain unregulated.

**Judicial Review**

This decision, which is otherwise final upon the below-listed date, may be appealed by Writ of Review as provided by ORS 34.010 through 34.100.

Dated, issued, and mailed this 13th day of June, 2011.

*Respectfully submitted,*



**Gary Darnielle**  
**Eugene Hearings Officer**

