



# AGENDA

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

**Meeting Location:**  
Sloat Room—Atrium Building  
99 W. 10<sup>th</sup> Avenue  
Eugene, OR 97401

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

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## **MONDAY, JANUARY 27, 2020 – REGULAR MEETING (11:30 a.m. to 1:30 p.m.)**

### **A. PUBLIC COMMENT**

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

### **B. WORK SESSION: CLEAR AND OBJECTIVE UPDATE**

Staff: Jenessa Dragovich, [JDragovich@eugene-or.gov](mailto:JDragovich@eugene-or.gov), 541-682-8385

### **C. ITEMS FROM COMMISSION AND STAFF**

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

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

**AGENDA ITEM SUMMARY**  
**January 27, 2020**

**To:** Eugene Planning Commission

**From:** Jenessa Dragovich, Senior Planner, City of Eugene Building and Permit Services Division

**Subject:** Clear & Objective Housing: Approval Criteria Update

**ISSUE STATEMENT**

Staff requests that the Planning Commission review and provide feedback on the revised draft land use code language for tree preservation and removal standards included in the Clear & Objective project and discuss three additional items as requested by Council.

**BACKGROUND**

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

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

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

In July 2015, as part of the City Council's direction on the UGB, Council directed staff to begin an update to the City's procedures and approval criteria for needed housing applications (the Clear & Objective Housing: Approval Criteria Update), and to bring proposed updates back for their consideration within one year of UGB acknowledgement. The UGB was acknowledged by the State in January 2018 and the project formally kicked off that Spring. In May 2019, City Council reviewed the proposed code amendments. At that time, staff provided feedback from the Planning Commission on a few items that did not receive unanimous support from the commission. Council directed staff to return to Planning Commission to address those concerns and then move forward with the formal adoption process.

The Clear & Objective project is being completed in four phases, each of which builds on the next. In Phase 1, key issues to be addressed in the process were identified, and in Phase 2, recommendation for addressing the key issues were drafted. Phase 3 was the code drafting stage, and Phase 4, the current phase, is the formal adoption process.

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

<a href="#">May 8, 2018</a>	Project overview and introduction with Planning Commission
<a href="#">May 30, 2018</a>	Project overview and introduction with City Council
<a href="#">June 25, 2018</a>	Planning Commission approval of the Public Involvement Plan
September 11, 2018	Summary of Key Issues Report provided via email
<a href="#">November 19, 2018</a>	Planning Commission review of Batch 1 recommendations (maintenance/less complex issues)
<a href="#">November 26, 2018</a>	Planning Commission summary of feedback on Batch 1 items
<a href="#">November 26, 2018</a>	City Council advanced Batch 1 recommendations to draft code writing
<a href="#">December 10, 2018</a>	Planning Commission review of Batch 2 recommendations (more complex issues)
<a href="#">December 11, 2018</a>	Planning Commission review of Batch 2 recommendations
<a href="#">January 23, 2019</a>	City Council advanced Batch 2 recommendations to draft code writing
<a href="#">February 4, 2019</a>	Planning Commission review of Batch 1 draft code amendments
<a href="#">April 16, 2019</a>	Planning Commission review of Batch 2 draft code amendments (1 of 3)
<a href="#">April 23, 2019</a>	Planning Commission review of Batch 2 draft code amendments (2 of 3)
<a href="#">April 30, 2019</a>	Planning Commission review of Batch 2 draft code amendments (3 of 3)
<a href="#">May 20, 2019</a>	City Council advanced draft code amendments to formal adoption

#### **DRAFT CODE LANGUAGE**

The draft code writing phase was based on the [Draft Preferred Concept Report](#), which was the outcome of Phase 2. The report presented staff recommendations on how to address the 37 key issues identified during Phase 1 of the project (and described in the [Summary of Key Issues Report](#)). The recommendations from the Draft Preferred Concept Report were derived using input from working groups, research into the issues and possible concepts, consultation with internal staff who work with the land use application review process daily, and a concept evaluation rubric for the 19 significant issues. Planning Commission reviewed and provided feedback on all preferred concept recommendations over the course of four work sessions. Approved concepts were then advanced to the code writing stage by City Council.

Based on the approved concepts, draft land use code language was crafted using the help of consultants (for tree preservation and transition standards), researching other examples and best practices, and with internal review from city staff that work with the land use code on a daily basis.

The Planning Commission discussed draft land use code language over four full work sessions. A summary of Planning Commission's review of draft code language is provided in Attachment A. Following Planning Commission's discussion, the City Council reviewed the draft amendments and passed the following motion:

*Advance draft land use code language substantially consistent with Attachment C to this AIS but also reflecting Planning Commission discussion regarding tree preservation, 300-foot setback, 20 percent slope and quarter-mile open space to the formal adoption process.*

## **PLANNING COMMISSION FOLLOW UP ITEMS BASED ON COUNCIL MOTION**

### ***Tree Preservation and Removal Standards***

When Planning Commission reviewed the proposed Clear & Objective land use code amendments, the language grappled with the most was the proposed tree preservation and removal standards. The existing standards under the clear and objective path are minimal and arguably ineffective. The preferred concept was to add a criterion that would set a minimum preservation requirement, allow mitigation, and implement a tree rating scale. The first draft achieved these goals; however, several commissioners were concerned with the overall complexity of the code, a costly tree tagging requirement, a lack of options (especially for large development sites), and that the proposed mitigation ratio was too high. The Commission expressed that they wanted sufficient time during formal adoption to help refine the language before making their formal recommendation to Council. Staff shared this concern with Council, and in response, Council amended the original motion to allow the project to move forward with additional review from the commission before starting the public hearing process. In the time since the Council meeting, staff has significantly revised the draft code language to address the Planning Commission's concerns. The revised draft standards have been substantially simplified by removing the complicated rating system and using a simpler method to determine minimum preservation. The proposed tagging system was removed, a new alternative preservation area option was added, the list of approved replacement tree species was expanded, and the mitigation ratio was reduced. The revised draft tree preservation and removal standards are provided as Attachment B.

### ***300-foot Ridgeline Setback***

The second follow-up item is related to changes to an existing 300-foot ridgeline setback requirement for planned unit developments. See Attachment C for additional background information and existing and proposed code language. There was some concern from commissioners around the origin and intent of the provision. Some commissioners suggested that the criterion be reevaluated and some supported removal rather than revision. Since that discussion, staff looked for further background on the provision in hopes of providing better context for considering removal or revision. The origin and intent are not well documented, and staff continues to believe that the existing criterion was intended to ensure the City's ability to acquire the ridgeline trail system. Given that there is no remaining land inside the UGB identified for the ridgeline park system, this criterion is potentially unnecessary. The 300-foot setback is arbitrary and applies to properties that border the UGB regardless of elevation. Also, the UGB was used because it is an adopted boundary that meets the needs of being clear and objective; however, the UGB does not follow the ridgeline exactly. There is not a clear and objective method to describe the actual ridgeline.

As this item was identified as a topic to revisit with the Commission, staff proposes two options. One option is to remove the criterion altogether, as previously supported by four commissioners. Staff analysis of the South Hills Study found no direct connection to policy requirements; therefore, removal is feasible. The second option is to proceed with the staff recommended revision. The proposed

revision limits the applicability to areas above 900 feet elevation and maintains the ability for the city manager to waive the requirement upon determination that the area is not needed for a connection to the city's ridgeline trail system. Staff is supportive of full removal and also appreciates that some might prefer the more conservative approach of option two.

### ***20 Percent Slope Grading Prohibition and One Acre Accessible Open Space for PUDs***

The last two follow-up items received support from six out of seven commissioners. They were flagged by Council since they did not receive unanimous support. Summaries of the issues, along with existing and proposed code language, are provided in Attachment C.

Regarding the 20 percent slope grading prohibition, one commissioner was neutral given concerns around adopting a landslide hazard map in connection to proposed geotechnical requirement changes, specifically about whether it would render any areas as non-buildable.

Regarding the one acre open space for PUD requirement, one commissioner voted against the proposed amendments as they are not in favor of the previously approved concept from Phase 2.

Since both of these issues received majority support for the proposed amendments, staff recommends the Commission determine whether to reopen discussion on these items or proceed based on the previous straw poll results with majority support.

### **PLANNING COMMISSION ROLE**

The Planning Commission is requested to review and suggest refinements to the revised draft Tree Preservation and Removal Standards, included in Attachment B, and to reevaluate and provide direction on the three remaining issues outlined in Attachment C. A follow-up meeting is scheduled for February 11, 2020 in case an additional work session is needed.

### **NEXT STEPS**

Staff anticipates commencing the formal adoption process, as directed by Council, after the Planning Commission reviews and refines the revised draft Tree Preservation and Removal Standards and discusses the remaining issues. The formal adoption process will include opportunity for additional public comment and will include a Planning Commission public hearing and recommendation to City Council, followed by City Council public hearing and action.

It is important to note that the proposed code language is still draft, and staff expects language to evolve during the formal adoption process as we continue to receive feedback and analyze the draft language to best achieve the approved recommendations.

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

**ATTACHMENTS**

- A. Summary of Planning Commission Review of Draft Amendments
- B. Draft Land Use Code Language for Tree Preservation and Removal Standards
- C. Summary of Remaining Issues Related to Draft Code Language

**FOR MORE INFORMATION**

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## Clear & Objective Update

### Summary of Planning Commission Review of Draft Code Language

The Planning Commission discussed draft land use code language for Batch 1 and Batch 2 over four full work sessions. Staff asked commissioners to consider whether the draft code language generally satisfied the 30 recommendations approved previously by the Commission and City Council. It is important to note that the proposed code language is still draft, and staff expects language to change before and during the formal adoption process as we continue to receive feedback and analyze the draft language to best achieve the approved recommendations. Below is a summary of the Commission's support and suggestions as we move into the adoption process.

#### ***Batch 1 Draft Amendments (February 4, 2019)***

Batch 1 contains draft language implementing all maintenance items and several less complex significant items. Through straw poll votes, all proposed code language was supported unanimously. A few items generated discussion regarding minor changes and/or considerations that staff will carry forward.

#### ***Batch 2 Draft Amendments (April 16, April 23, and April 30, 2019)***

Batch 2 contains draft language implementing the more complex significant items. Most of the proposed code language was supported unanimously. The proposals that did not receive unanimous support are addressed below:

- *Changes to EC 9.6885 Tree Preservation and Removal Standards* – Planning Commission grappled with this item. The majority could support the proposed approach; however, several had shared concerns regarding:
  - Complexity of the proposed tree rating system
  - The requirement to physically tag trees in the field (added cost burden)
  - Lack of alternative options or choices for applicants
  - The proposed mitigation (replanting) ratio being too high

In response, the draft language has been revised to remove the tagging requirement, reduce the mitigation ratio, and add an alternative option. Staff will continue to explore options for making the rating system less complex and providing additional options prior to the formal adoption process. Planning Commission expressed that they would like to have sufficient time to help refine the language through the formal adoption process.

- *Elimination of the prohibition on grading slopes of 20 percent or greater for Planned Unit Developments and Subdivisions* – One commissioner was neutral on this given concerns around adopting a landslide hazard map in connection to proposed geotechnical requirement changes.
- *Changes to the PUD One-Acre Open Space requirement* – One commissioner is not in favor of the previously approved recommended concept for this item.
- *Change to the 300-foot Ridgeline Setback requirement for PUDs* – The Planning Commission had significant discussion about the intent and origin of this requirement, including the 300-foot setback. Some had concern that if the intent was to protect the

ridgeline trail, and no remaining land within the UGB is identified for acquisition by the City, then the criterion might be unnecessary. Others noted concerns that the Urban Growth Boundary, which the setback is actually measured from, is not an accurate marker for the ridgeline. Several commissioners suggested the criterion be reevaluated. In an initial straw poll, only one commissioner supported the proposed language. In an alternative straw poll, to eliminate the original criterion, four commissioners supported elimination, one commissioner did not, and two commissioners refrained from voting based on wanting more information. In response, staff suggests moving forward with the draft language as proposed to seek additional input from the public during the formal adoption process.

- *Elimination of the 40% Open Space requirement for PUDs in the South Hills area* – One commissioner is not in favor of the previously approved recommended concept for this item.

## CLEAR & OBJECTIVE PROPOSED AMENDMENTS

### Draft Tree Preservation and Removal Standards (Revised)

For background information on the proposed amendments, refer to the [Preferred Concepts Report](http://www.eugene-or.gov/3947/Clear-Objective) available on the project website at: [www.eugene-or.gov/3947/Clear-Objective](http://www.eugene-or.gov/3947/Clear-Objective)

Proposed text in ***bold italic***

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

### Definitions

**9.0500 Significant Tree.** A living, standing tree having a trunk with a minimum cumulative diameter breast height of 8 inches, or, when there are multiple trunks, having a minimum cumulative diameter breast height of 8 inches, considering the 2 largest trunks measured at 4.5 feet above mean ground level at the base of the trunk or trunks.

This existing definition is provided for reference as it pertains to the draft Tree Preservation and Removal Standards – no changes are proposed at this time as the term is used throughout the land use code.

### General Standards for All Development

**9.6885 Tree Preservation and Removal Standards.**

\* \* \*

- (2) **Tree Preservation and Removal Standards. *Unless exempt under subsection (b) below, [N]no*** permit for a development activity subject to this section shall be approved until the applicant [~~submits plans or information, including a written report by a certified arborist or licensed landscape architect, that~~] demonstrates compliance with the following standards:
- (a) ~~The materials submitted shall reflect that consideration has been given to preservation in accordance with the following priority:~~
- ~~1. Significant trees located adjacent to or within waterways or wetlands designated by the city for protection, and areas having slopes greater than 25%;~~
  - ~~2. Significant trees within a stand of trees; and~~
  - ~~3. Individual significant trees.]~~
- (a) ***For the purposes of this subsection (2), the South Hills Area is defined as all property located within the City's adopted Urban Growth Boundary, above an elevation of 500 feet, and:***
- 1. South of 18th Avenue,***
  - 2. South of Franklin Boulevard and East of the intersection of 18th Avenue and Agate Street, or***
  - 3. If 18th Avenue were extended from the intersection of 18th Avenue and Willow Creek Road directly west to the Urban Growth Boundary, the area south of that extension of 18th Avenue.***
- (b) ***Exemptions. A proposed development shall be exempt from the requirements of EC 9.6885(2) if any of the following apply:***

1. *Except within the South Hills Area, the development site is 20,000 square feet or less.*
  2. *Five or fewer significant trees exist on the development site prior to development.*
  3. *The development site is in the R-1.5 Rowhouse zone.*
- (c) **Tree Preservation Requirements.** *Significant trees must be protected and preserved in accordance with the requirements of Table 9.6855(2)(c). Minimum preservation is based on the sum of the total existing Diameter Breast Height (d.b.h.) of significant trees within each specific location category prior to development.*

<b>Table 9.6885(2)(c) Tree Preservation</b>	
<b>Location Category</b>	<b>Minimum Preservation</b>
<i>Outside the South Hills Area</i>	<b>40%</b>
<i>Within the South Hills Area, between 500 feet and 900 feet elevation</i>	<b>50%</b>
<i>Within the South Hills Area, at or above 900 feet elevation</i>	<b>60%</b>

1. ***A Tree Preservation and Removal Plan is required except as provided in EC 9.6885(2)(b) or EC 9.6885(2)(c)3. The plan must be prepared by a certified arborist or licensed landscape architect and shall provide the following:***
  - a. ***A table, organized by the location categories listed in Table 9.6885(2)(c), listing all significant trees on the development site and including the following information for each listed tree:***
    - (1) ***Diameter Breast Height (d.b.h.)***
    - (2) ***Preservation, removal or mitigation status***
    - (3) ***Common name, genus and species***
  - b. ***A site plan that includes the following information:***
    - (1) ***The locations of all significant trees on the development site, the Diameter Breast Height (d.b.h.) for each significant tree, the location of the critical root zone (CRZ) for each significant tree, and whether each significant tree is to be preserved, removed, or mitigated according to EC 9.6885(2)(c)2.***
    - (2) ***The location of all existing and/or proposed public and private utility easements, driveways, and areas of grading or excavation on the development site.***
    - (3) ***The location of all existing and proposed development on the site.***
    - (4) ***Proposed lot or parcel boundaries.***
    - (5) ***For development sites with any portion located within the South Hills Area, identification of areas at or above 500 feet elevation and areas at or above 900 feet elevation.***

- c. **A statement by the preparer that the Tree Preservation and Removal Plan meets EC 9.6885(2)(c) Tree Preservation Requirements.**
2. **Mitigation. An applicant may elect to mitigate a portion of the minimum preservation of significant trees on the development site as provided below:**
    - a. **For locations below 900 feet in elevation, an applicant may mitigate up to 50 percent of the minimum preservation required according to Table 9.6885(2)(c).**
    - b. **Mitigation is not available for significant trees located on portions of the development site at or above 900 feet in elevation.**
    - c. **Each significant tree designated for mitigation must be replaced with one tree selected from the approved species listed in Table 9.6885(2)(c)2 upon removal. At the time of planting, deciduous trees used for replacement must have a minimum diameter of 2 inches as measured by American Association of Nurserymen Standards and evergreen trees used for replacement must be a minimum of 6 feet in height.**

**Table 9.6885(2)(c)2. Approved Species List**

<b>Genus and Species</b>	<b>Common Name</b>
<b><i>Abies koreana</i></b>	<b>Silver Korean fir</b>
<b><i>Abies pinsapo</i></b>	<b>Spanish fir</b>
<b><i>Acer circinatum</i></b>	<b>Vine Maple</b>
<b><i>Acer ginnala</i></b>	<b>Amur Maple</b>
<b><i>Acer glabrum var. douglasii</i></b>	<b>Rocky Mountain Maple</b>
<b><i>Acer griseum</i></b>	<b>Paperbark Maple</b>
<b><i>Acer macrophyllum</i></b>	<b>Big Leaf Maple</b>
<b><i>Alnus rhombifolia</i></b>	<b>White Alder</b>
<b><i>Alnus rubra</i></b>	<b>Red Alder</b>
<b><i>Amelanchier alnifolia</i></b>	<b>Pacific Serviceberry</b>
<b><i>Arbutus menziesii</i></b>	<b>Pacific Madrone</b>
<b><i>Arbutus unedo</i></b>	<b>Strawberry Madrone</b>
<b><i>Arbutus 'Marina'</i></b>	<b>Marina Strawberry Tree</b>
<b><i>Betula nigra</i></b>	<b>River Birch</b>
<b><i>Calocedrus decurrens</i></b>	<b>Incense Cedar</b>
<b><i>Carpinus betulus</i></b>	<b>European Hornbeam</b>
<b><i>Carpinus caroliniana</i></b>	<b>American Hornbeam</b>
<b><i>Castanopsis cuspidata</i></b>	<b>Japanese Chinquapin</b>
<b><i>Catalpa speciosa</i></b>	<b>Northern Catalpa</b>
<b><i>Cedrus atlantica</i></b>	<b>Atlas Cedar</b>
<b><i>Cedrus deodara</i></b>	<b>Deodar Cedar</b>
<b><i>Cedrus libani</i></b>	<b>Cedar of Lebanon</b>
<b><i>Celtis occidentalis</i></b>	<b>Common Hackberry</b>

**Table 9.6885(2)(c)2. Approved Species List**

<b>Genus and Species</b>	<b>Common Name</b>
<i>Chrysolepis chrysophylla</i>	Golden Chinquapin
<i>Cinnamomum chekiangense</i>	Camphor Tree
<i>Cornus nuttallii</i>	Pacific Dogwood
<i>Corylus colurna</i>	Turkish Filbert
<i>Cupressus arizonica</i>	Arizona cypress
<i>Cupressus bakeri</i>	Modoc cypress
<i>Fraxinus latifolia</i>	Oregon Ash
<i>Fraxinus ornus</i>	Flowering Ash
<i>Ginkgo biloba</i> (fruitless cultivars only)	Ginkgo
<i>Koelreuteria paniculata</i>	Goldenrain Tree
<i>Maackia amurensis</i>	Maackia
<i>Nyssa sylvatica</i>	Tupelo, Black Gum
<i>Ostrya virginiana</i>	American Hophornbeam
<i>Oxydendrum aroboreum</i>	Sourwood
<i>Parrotia persica</i>	Persian Ironwood
<i>Picea smithiana</i>	Morinda spruce
<i>Pinus ponderosa</i>	Ponderosa Pine
<i>Pinus ponderosa</i> var. <i>benthamania</i>	Willamette Valley Ponderosa Pine
<i>Pinus wallichiana</i>	Himalayan pine
<i>Pistacia chinensis</i>	Chinese Pistachio
<i>Platanus acerifolia</i>	London Plane
<i>Prunus virginiana</i>	Chokecherry
<i>Pseudotsuga menziesii</i>	Douglas Fir
<i>Quercus acutissima</i>	Sawtooth Oak
<i>Quercus agrifolia</i>	Coast Live Oak
<i>Quercus bicolor</i>	Swamp White Oak
<i>Quercus chrysolepis</i>	Canyon Live Oak
<i>Quercus douglasii</i>	Blue Oak
<i>Quercus frainetto</i>	Hungarian Oak
<i>Quercus gambelii</i>	Gambel Oak
<i>Quercus garryana</i>	Oregon White Oak
<i>Quercus hypoleucoides</i>	Silver Oak
<i>Quercus ilex</i>	Holly Oak
<i>Quercus kelloggii</i>	California Black Oak
<i>Quercus lobata</i>	Valley Oak
<i>Quercus macrocarpa</i>	Bur Oak
<i>Quercus myrsinifolia</i>	Chinese Evergreen Oak
<i>Quercus phellos</i>	Willow Oak
<i>Quercus shumardii</i>	Shumardii Oak
<i>Quercus suber</i>	Cork Oak

**Table 9.6885(2)(c)2. Approved Species List**

<b>Genus and Species</b>	<b>Common Name</b>
<i>Quercus wislizeni</i>	<i>Interior Live Oak</i>
<i>Rhamnus purshiana</i>	<i>Cascara Buckthorn</i>
<i>Salix lucida ssp. Lasiandra</i>	<i>Pacific Willow</i>
<i>Salix scouleriana</i>	<i>Scouler's Willow</i>
<i>Sciadopitys verticillata</i>	<i>Japanese Umbrella Pine</i>
<i>Sequoia sempervirens</i>	<i>Coast Redwood</i>
<i>Sequoiadendron giganteum</i>	<i>Giant Sequoia</i>
<i>Styrax japonicus (japonica)</i>	<i>Japanese Snowbell</i>
<i>Taxodium distichum</i>	<i>Bald Cypress</i>
<i>Taxus brevifolia</i>	<i>Pacific Yew</i>
<i>Thuja plicata</i>	<i>Western Red Cedar</i>
<i>Tilia americana</i>	<i>American Linden</i>
<i>Tilia tomentosa</i>	<i>Silver Linden</i>
<i>Tsuga canadensis</i>	<i>Canadian hemlock</i>
<i>Tsuga heterophylla</i>	<i>Western Hemlock</i>
<i>Tsuga mertensiana</i>	<i>Mountain hemlock</i>
<i>Tsuga sieboldii</i>	<i>Southern Japanese hemlock</i>
<i>Ulmus americana</i>	<i>American Elm</i>
<i>Ulmus carpinifolia</i>	<i>Smoothleaf Elm</i>
<i>Ulmus parvifolia</i>	<i>Chinese Elm</i>
<i>Ulmus propinqua</i>	<i>Japanese Elm</i>
<i>Umbellularia californica</i>	<i>California Bay Laurel</i>

**3. Tree Preservation Area Alternative.**

**a. A Tree Preservation and Removal Plan is not required if the applicant chooses to preserve at least 50 percent of the total existing d.b.h. of significant trees on the development site within one or more tree preservation area(s) and the following requirements are met:**

- (1) Tree preservation area(s) must be delineated and shown on a site plan submitted for approval by the City. Preservation area(s) must encompass the entire critical root zone areas for all significant trees preserved to meet the minimum 50 percent preservation requirement.**
- (2) Applicant must provide written certification from a certified arborist or licensed landscape architect stating that the area(s) designated for tree preservation include(s) at least 50 percent of the total existing d.b.h. of significant trees on the development site.**

**b. Mitigation is not allowed when the Tree Preservation Area Alternative is used to meet tree preservation requirements.**

4. **Protection Standards.** *The following notes must be included on the final plan set submitted for approval by the City and shall apply at the time of development:*
- a. *“Protective fencing for trees identified to be preserved shall be installed by the applicant and inspected by the City prior to beginning any development activities. All protective tree fencing must remain in place until completion of all construction activities; any relocation, removal, or modification of the protective fencing shall only occur under the direction of a certified arborist and a written explanation of the reason for the relocation, removal, or modification of the protective fencing from the certified arborist must be provided to the City.”*
  - b. *“At the time of building permit, a site plan in compliance with the approved tree preservation and removal plan is required.”*
  - c. *“No excavation, grading, material storage, staging, vehicle parking or other construction activity shall take place within protective tree fencing areas.”*
  - d. *“The removal of trees not designated to be preserved is not required; removal may occur at the applicant or future owners’ discretion.”*
  - e. *“In the event a tree designated to be preserved must be removed because it is dead, diseased, or hazardous, documentation of the tree’s dead, diseased or hazardous condition by a certified arborist must be provided to the City prior to tree removal. The tree must be replaced with one replacement tree selected from the approved species list in Table 9.6885(2)(c)2. At the time of planting, replacement deciduous trees must have a minimum diameter of 2 inches as measured by American Association of Nurserymen Standards, and replacement evergreen trees must be a minimum of 6 feet in height.”*

**(b)d) Street Tree Removal.** *If the proposal includes removal of any street tree(s), removal of those street trees has been approved, or approved with conditions according to the process at EC 6.305 Tree Felling Prohibition.*

- (3) Adjustment to Standards.** Except for applications being processed under EC 9.8100 Conditional Use Permit Approval Criteria - [Needed] Housing/Clear and Objective, EC 9.8325 Tentative Planned Unit Development Approval Criteria - [Needed] Housing /Clear and Objective, EC 9.8445 Site Review Approval Criteria – [Needed] Housing /Clear and Objective, or EC 9.8520 Subdivision, Tentative Plan Approval Criteria - [Needed] Housing /Clear and Objective, adjustments to these standards may be made, subject to compliance with the criteria for adjustment in EC 9.8030(13) Tree Preservation and Removal Standards Adjustment.

Clear & Objective Update  
Summary of Remaining Issues Related to Draft Code Language

**300-foot Ridgeline Setback**

The clear and objective planned unit development track includes a requirement (see EC 9.8325(12)(b) provided below) for a 300-foot setback from the ridgeline for developments in the South Hills Study area. This can impact residential development feasibility of subject sites by reducing site area that may be developed and is especially impactful on smaller sites.

Approved Concept: Revise to make setback applicable to areas above 900 feet elevation.

Existing Code Language:

- (b) *Development shall be setback at least 300 feet from the ridgeline unless there is a determination by the city manager that the area is not needed as a connection to the city's ridgeline trail system. For purposes of this section, the ridgeline trail shall be considered as the line indicated as being the urban growth boundary within the South Hills Study plan area.*

Proposed Code Language:

- (b) Development **on any portion of the development site located above 900 feet elevation** shall be setback at least 300 feet from the ridgeline unless there is a determination by the city manager that the area is not needed as a connection to the city's ridgeline trail system. For purposes of this section, the ridgeline [trail] shall be considered as the line indicated as being the urban growth boundary [~~within the South Hills Study plan area~~].

Planning Commission Feedback:

Concern with the lack of clarity around the origin and intent, effectiveness, and relevancy of the criterion. In the initial straw poll, only one commissioner supported the proposed language. An alternative poll to remove the criterion altogether received the support of four commissioners, one opposed, and two refrained from voting because they wanted more information on origin and intent.

Staff Response:

The origin and intent appear to come from the South Hills Study, though the criterion does not implement a policy requirement directly. The closest related policy is as follows:

*That all development shall be reviewed for potential linkages with or to the ridgeline park system.*

Staff assessment is that the intent was to ensure that areas near the ridgeline would be protected from development in case they were needed for the ridgeline trail. That said, the actual ridgeline is not easily defined or mapped – especially in a clear and objective manner -- so the UGB was used as a proxy method instead. Also, there is no land within the UGB currently identified for acquisition for the ridgeline trail system.

Staff recommends the Planning Commission revisit this item and proposes two possible options:

- 1) Remove the criterion – there are strong indications that the criterion is no longer relevant given the successful acquisition of the ridgeline park system, not effective given the UGB is not the actual ridgeline, and not beneficial for the efficient use of land.
- 2) Support the changes proposed by staff as a compromise that addresses some of the concerns by reducing the number of properties affected by making the setback applicable only to areas over 900 feet elevation.

### ***20 Percent Slope Grading Prohibition***

The clear and objective tracks for planned unit development and subdivision approvals include a requirement (see EC 9.8325(5) provided below) that prohibits grading on slopes that meet or exceed 20 percent. This may not be the most effective and efficient way to address potential impacts to steep slopes. It may have the effect of precluding development under the clear and objective track for sites with significant slopes, particularly for properties subject to the South Hills Study, or sites with unusual configurations where a portion of the site over 20 percent slope prevents the development potential of the remainder under the clear and objective track. There is no maximum slope where grading is prohibited under the discretionary track, and slope impacts are reviewed through a geological report. State standards presume that up to 25 percent slopes are developable for purposes of calculating buildable lands for development (OAR 660-008-0005(5)), and Eugene’s Buildable Lands Inventory (BLI) classifies lands up to 30 percent slopes as potentially developable.

Approved Concept: Remove the prohibition and rely on the geotechnical analysis to address slope stability.

Existing Code Language:

- (5) *There shall be no proposed grading on portions of the development site that meet or exceed 20% slope.*

Proposed Code Language:

~~[(5) There shall be no proposed grading on portions of the development site that meet or exceed 20% slope.]~~

Planning Commission Feedback:

Six commissioners supported the proposed amendment. One commissioner was neutral given concerns around adopting the landslide hazard map in connection to proposed geotechnical requirement changes, specifically about whether it would render any areas as non-buildable.

Staff Response:

Adoption of the map does not identify any areas to be non-buildable. The proposed map would be used as a clear and objective way to identify an *existing* risk factor and ensure that the geotechnical report addresses the risk. The State version of the map is already publicly available and adopting our own version allows us to include it in a clear and objective way. Staff recommends the Commission determine whether to reopen discussion on this item or proceed based on the previous straw poll with majority support.

***One Acre Accessible Open Space for PUDs***

The clear and objective planned unit development criterion, see EC 9.8325(9) provided below, requires open space to be located within ¼ mile of the site. This can limit development to sites near existing open spaces such as public parks, which may reduce those areas of the city that can be developed under the clear and objective track. Sites that do not meet this requirement must provide on-site open space and may lose a significant amount of land due to the one-acre minimum requirement. This decreases housing development potential of the site and affects smaller sites disproportionately. This criterion might not be the most effective and efficient way to ensure access to recreation and open space for residents.

Approved Concept: Revise required distance from open space from ¼ mile to ½ mile and make onsite requirement scalable.

Existing Code Language:

- (9) *All proposed dwellings within the PUD are within 1/4 mile radius (measured from any point along the perimeter of the development site) of an accessible recreation area or open space that is at least 1 acre in size and will be available to residents.*

Proposed Code Language:

- (97) ~~[All proposed dwellings within the PUD are within 1/4 mile radius (measured from any point along the perimeter of the development site) of an accessible recreation area or open space that is at least 1 acre in size and will be available to residents.] PUDs proposed on development sites that are two acres or larger must comply with either subsection (a) or subsection (b) below:~~**

- (a) The PUD is located within 1/2-mile of a public park, public recreation facility, or public school (determined using the shortest distance as measured along a straight line between a point along the perimeter of the development site and a point along a property line of a public park, public recreation facility, or public school); or**
- (b) Except as provided in EC 9.8325(8)(b)1, the PUD shall provide common open space within the development site equal to a minimum of 10 percent of the development site or 14,500 square feet, whichever is greater.**
  - 1. If the PUD includes lot areas smaller than the minimum lot area allowed in the base zone, then common open space must be provided as follows:**
    - a. If the average lot area is within 10 percent of the minimum lot area of the base zone, then the PUD shall provide common open space within the development site equal to a minimum of 15 percent of the development site or 14,500 square feet, whichever is greater.**
    - b. If the average lot area is more than 10 percent below the minimum lot area of the base zone, then the PUD shall provide common open space within the development site equal to a minimum of 20 percent of the development site or 14,500 square feet, whichever is greater.**
  - 2. Common open space shall be provided in one separate tract of land, except that developments providing more than 29,000 square feet of common open space may include up to three common open space tracts provided no tract is less than 14,500 square feet.**
  - 3. Ownership of the common open space tract(s) must be dedicated to all lot or parcel owners within the development site.**
  - 4. Each common open space tract must include a portion with minimum dimensions of 70 feet by 70 feet.**
  - 5. Common open space tracts must have a minimum of 20 feet of lot frontage along an existing or proposed public way or private street.**
  - 6. Common open space tracts do not have to meet lot standards.**

Planning Commission Feedback:

Six commissioners supported the proposed amendment. One commissioner remains not in favor of the previously approved concept from Phase 2.

Staff Response:

The proposed amendments implement the approved concept by revising the required distance from existing public open space from 1/4-mile to 1/2-mile distance and adding a scalable on-site open space requirement. Staff recommends the Commission determine whether to reopen discussion on this item or proceed based on the previous straw poll with majority support.