

City of Eugene Clear and Objective Housing Approval Criteria Update Stakeholder Focus Groups Summary

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Prepared for City of Eugene Planning Division

Introduction

The City hosted a series of stakeholder focus groups on June 11-12 to gather initial observations about residential development generally and the clear and objective approval criteria for housing specifically. The focus groups were part of the public involvement plan, intended to inform the land use code audit task of the Clear & Objective Housing Approval Criteria Update project. Over 50 stakeholders were invited, and 24 attended one of five focus group discussions. Stakeholders were identified within the development professionals community, including land use planners, engineers, developers, builders and attorneys; the housing advocate community, including service providers, nonprofit housing developers, and advocacy groups; and leaders of neighborhood associations. An additional discussion was conducted with City of Eugene staff involved in development review including planning, building and engineering staff.

Discussions included a short overview of clear and objective housing requirements and recent history, with the majority of discussion focused on opportunities and concerns around existing approval criteria and development standards, review processes, overarching development impacts, and desired opportunities for future development. Discussions were led by the City's project consultant, Elizabeth Decker of JET Planning. Discussions addressed housing issues generally, both directly and indirectly related to the clear and objective approval criteria for housing, and are generally reflected here to capture the breadth of discussions. Comments included here were distilled by the consultant and reported in the aggregate across all focus groups, without attribution to any specific individuals or groups, to capture the breadth of the discussion. Comments here are not weighted; comments voiced by multiple stakeholders were not given additional weight or repeated compared to comments shared by a single stakeholder, instead each comment is included here once.

Comments have been revised to use consistent terminology to describe the City's existing code structure. The two residential review tracks in the Eugene Code include the "Needed Housing" track with clear and objective criteria in compliance with state requirements in ORS 197.307, and the "General" track which includes more discretionary review criteria and allows for more design flexibility to meet those criteria. These two tracks are referred to here as the "clear and objective track" and the "discretionary track."

'Needed Housing' Interpretations

- Various interpretations of 'needed housing' by different groups
- Desire for a local definition of 'needed housing' that relates to Eugene's specific needs to replace current code reference to state definition

- Differing interpretations of state law, and whether it requires clear and objective criteria for all residential projects or all needed housing (however defined)
- Desire to change the code titles from ‘needed housing track’ to ‘clear and objective track’ for greater clarity
- Belief that review under clear and objective criteria is a ‘fast track’ to approvals
- Desire to allow as many residential projects as possible to use the clear and objective track, other desire to limit which projects can use the clear and objective track
- Desire to use code to facilitate as much housing as possible

Two-track Review System and Relationship Between Criteria in Each Track

- Opinion that clear and objective criteria’s relationship to discretionary criteria is not always clear
- Observation that current approval criteria arose out of 2001 HBA Appeal to the Oregon Land Use Board of Appeals (LUBA) and may have been written in reaction and possibly not actively designed to maximize project quality and efficient review
- Need to compare approval criteria in discretionary and clear and objective tracks for each review type to determine whether issues are equivalently addressed
- Uncertainty about whether applications have to pick one track or the other, or whether projects can pick to meet some clear and objective criteria and some discretionary criteria
- Question about how to seek an adjustment from a criteria or standard under either track, whether requesting an adjustment should automatically put a project into a discretionary track

Multi-family Projects

- Observation that project review was working relatively well through site review
- Observation that many multifamily projects are by-right development, building permit only, which includes review to meet multifamily standards
- Recommendation to review multifamily standards themselves, look for more discretionary words like ‘compatible’ or ‘appropriate’ or ‘practicable,’ but generally thought to be clear and objective, with mutual agreement about how to apply to proposed projects
- Concern there may be discretion involved to interpret development standards relating to:
 - Cul-de-sac parking courts, dead ends
 - Requirement for building presence along the street frontage
 - Front door/entrance oriented to the street
 - Building articulation
- Comments about open space requirements, consideration of how new development can be livable by including adequate open space, but also concern that open space requirements are too high

- Concerns about compatibility of new development and surrounding development, as approved through site review, specifically that new development does not match character or massing of existing neighborhood
- Comments about needing transitions between sites with different uses or zones, whether screening or height stepbacks or other, that are not currently addressed through multifamily standards
- Recommendation to add cross-reference in the clear and objective track for site review to street standards for connectivity because it is currently missing
- Support for more detailed review of project design as part of site review, rather than by-right development, to ensure character and design of new projects is compatible with existing neighborhoods
- Question about whether ‘needed housing’ multi-family projects automatically trigger site review, whether it is necessary since clear and objective site review criteria just require compliance with the multi-family standards
 - Observation that site review is normally triggered by /SR overlay
 - Desire to limit site review and feeling that it has been applied too widely, desire to apply to as few projects as possible
- Recommendation to review when PUD is required for multifamily projects, relatively rare, but a few sites are subject to/ PD overlay zone, uncertainty about why or when it should be required, and to consider removing PUD review if and when it applies to multifamily projects
- Observation that some student housing projects are approved as multi-family housing as by-right development, and projects can generate neighborhood objections

Conditional Use Permits

- Observation that clear and objective track is generally limited to assisted living facilities, which are the only housing type that requires a conditional use permit

Partitions

- Observation that the discretionary track is more commonly used compared to the clear and objective track, perhaps out of habit, and also because there are few perceived problems with the discretionary track
- Observation that the discretionary track does not require compliance with EC 9.6880-9.6885 Tree Preservation and Removal Standards, whereas it is required for the clear and objective track
- Observation that most projects tend to get approved and are less controversial
- Question about rationale and need for criteria for 13,500-SF minimum lot to partition into a flag lot, and greater setbacks for those flag

Subdivisions

- Less discussion about subdivisions generally compared to the PUD review requirements, perhaps because many of the main issues are resolved through PUD review before tentative subdivision is filed
- Concern whether subdivision could be used on its own, or if PUD was required
- Observation that most recent land division projects, through subdivision or PUD, tend to be 30 lots or fewer, many in the 6-20 lot range because of available land and infrastructure availability

Planned Unit Developments (PUDs)

- PUDs seem to be the biggest concern for all groups, with little certainty for developers about how to move a project forward and demonstrate that it meets criteria, and concerns by neighbors that projects are creating disproportionate impacts with little effective review
- Applicability of PUD is a concern, when it is required:
 - PUDs required in South Hills Study area, stemming from 1974 South Hills Study requirement for PUD review in the study area, tied to elevation and slopes
 - PUDs also required within /PD overlay zone, little discussion about changing the map or extent of the overlay with this project
 - PUDs can also be required based on use (for instance, multi-family housing in the R-1 Low Density Residential zone requires PUD approval)
- Concern that PUD requirement in South Hills Study area is a barrier to development
 - Concerns that the South Hills Study is difficult to meet because it is not clear and objective, no other refinement plans are cross-referenced in clear and objective approval criteria
 - Question about whether compliance with South Hills Study can be required through clear and objective review since it is so discretionary and aspirational
- Question of whether a clear and objective PUD is even possible, or if the clear and objective option should be something more similar to subdivision review
- Observation that generally PUDs are meant to provide some flexibility and benefits in exchange for greater amenities like open space and buffering, but concerns whether that balance is working
 - Concerns that the discretionary PUD review track does not offer enough flexibility to offset design requirements
 - Concerns that PUDs are too flexible with the option for ‘proposed noncompliance’ under both discretionary and clear and objective tracks, which permit adjustments to development standards through the PUD rather than a separate adjustment review application
 - Concerns that ‘proposed noncompliance’ is used too widely, without clear direction for staff on how to review, and whether it can be integrated into a clear and objective review process
- Concerns that the clear and objective track for PUDs is practically or wholly unworkable

- Concern that no grading on slopes over 20% is not workable because grading isn't defined, slope calculations are strict, and portion of site over 20% slope is not quantified; some recommended a maximum of 25% or 30% to match assumptions in Eugene's Buildable Lands Inventory
- Concern that 300-ft ridgeline setback is difficult to meet because ridgeline is not defined, not mapped
- Concern that 30-ft perimeter buffer is problematic because it is not scaled to the project size and can make smaller site unbuildable once removed; smaller sites generally have to use the discretionary track because of this
- Questions about whether the 30-ft perimeter buffer is necessary as a transition because the transition is between housing and housing, some felt that meeting the setbacks for the zone should be enough of a transition between single-family homes rather than a 30-ft setback that could isolate or amplify the distinction between new and existing development
- Concern that the 19-lot rule is not clear and objective based on recent Oregon Land Use Board of Appeals (LUBA) case, requirement to "disperse" trips is confusing, and some felt that street connectivity standards elsewhere in code are sufficient
- Concern that 40% open space requirement for PUDs in South Hills Study area is unworkable because it is such a large amount of the site; suggestion to consider a possible trade-off of open space required in proportion to how much lot size reduction is requested in lieu of the straight 40% requirement
- For the South Hills Study area, concern that requirement for 1 acre of open space within ¼ mile is restrictive because it either limits development to areas near parks or requires dedication of an acre of land within the site
- Recommendation to add review standards for tree study, more than the current language that requires applicants simply to "consider" tree preservation but some standards requiring some preservation or replacement of trees
- Recommendation to add some review standards for geotech studies for the city to determine whether the project site is buildable or not, with recommendation to consider the timing of geotech study and level of detail so that more general information can be used to inform land use review and more site-specific information can wait until building permitting
- Concerns that multiple rounds of review create unnecessary cost and delay, specifically the current requirement for tentative PUD, followed by final PUD and tentative subdivision, then final subdivision (three steps). Recommendation to combine tentative PUD and tentative subdivision for single review process since they must meet similar criteria (two steps)
- Question about whether neighborhood meetings for tentative PUD and tentative subdivision could be combined

Project Design and Compatibility Issues

- Discussion about project design and compatibility issues and what qualities are necessary for new development to integrate with existing development

- Opinion that base zone setbacks should be enough in many circumstances to minimize impacts along the perimeter between neighboring properties within the same zone, but that more tools may be needed for transitions between zones
 - Recommendation to use height stepbacks, some vegetative buffering, to manage height and scale around the perimeter
 - Concern that walls or fences could increase divide between developments
 - Concern that large buffer can be isolating rather than increasing integration

Infrastructure Related

- Stormwater: Concerns about off-site impacts, some felt that stormwater reports and design were adequate to mitigate
 - Desire for more treatment options beyond rain gardens, consider mechanical treatment, front yards, and discharge to the Willamette
- Utilities: Little concern about adequacy of water and sewer service for new development, opinions that it is relatively easy to determine whether or not there is capacity to serve new development, not too discretionary
- Streets and connectivity:
 - Concerns that new streets are too narrow, but often they meet city standards. Fire department may be pushing for wider street standards in the future.
 - Some desire for limited use of cul-de-sacs rather than current loop requirement to provide more street layout options on constrained sites
- Traffic: Concerns about impacts, and concern that current review tools are not clear
 - Traffic Impact Analysis (TIA) is currently a separate review requirement, triggered by 100 trips or more
 - Concern that what constitutes a traffic “impact” under the TIA review could be discretionary
 - Recommendation to require a traffic study, but not separate TIA application, for all projects over 100 daily trips, not just PUDs
 - Concern about cumulative impacts of traffic from multiple projects, questions about how holistic the review is, how broadly traffic impacts are considered, the scope of the review, and need to include bike and pedestrian impacts
 - Observation that connectivity standards have to be met for new development, which could effectively replace the intention of the “19 lot” rule
 - Concern about interpreting some provisions of the connectivity standards, such as whether existing conditions “preclude” extension of streets
 - Opinion that connectivity and secondary access standards better meet the intent than the old 19-lot rule
 - Desire to see no gated communities or dead ends
- Concern about emergency access, specifically that it is not adequately addressed in PUD review

- Bike/ped connectivity: Generally interpreted to require connectivity within the site, desire to see off-site connections

Site Improvements

- Off-street parking: Concern about limiting cumulative impacts of on-street parking, if off-street parking is reduced or not evaluated
 - Concern that projections of decreasing car ownership are not happening, need to plan for more parking needs
- Open space: Some onsite, green open space desired for new residential projects
 - Concern about keeping open spaces safe, how to provide for ongoing oversight, lighting, sense of safety
- Landscaping: Observation that trees and landscaping can help manage transitions and smooth many building differences

Tree Preservation

- Desire to preserve trees, including individual trees on development sites, other concerns about how to preserve trees generally within the City but recognizing need to remove selected trees on development sites
- Concerns about when an arborist report is needed and how it is interpreted, whether it is discretionary, what it means to demonstrate that trees were “considered” in the development plans as required under the review standards
- Concern that the critical root zone is too extensive, twice as large as other cities, makes it too hard to preserve trees even if desired
- Desire for multiple ways to meet tree preservation standards, whether preserving on site, mitigating off site, or paying fee in lieu
- Desire to consider urban forest more holistically, including private trees, trees in right-of-way and public trees
- Desire to preserve larger stands of trees on larger sites rather than individual trees on infill sites, compare their relative value
- Desire to prioritize big canopy trees, legacy landscaping, so that development is designed around trees and not the other way around
- Desire to promote sturdy, resilient, native tree species
- Recommendation to use street trees as a unifying neighborhood feature
- Recommendation to consider sizing street tree canopy to match setbacks
- Observation that trees can be replanted, so perhaps less important to retain existing trees and could be more flexible to mitigate

Building Design

- Interest in compatibility of future homes and existing development

- Idea that some form-based elements could help
- Idea to match development patterns of the neighborhood rather than new development that looks “photoshopped in”
- Idea that if development fits the R-1 standards, then it should by definition be considered compatible, and does not necessarily have to respond to development in the immediate vicinity
- Idea that some limits on massing, articulation and materials could be appropriate, setbacks could be tied to building height
- Currently no requirement to share building designs for PUDs/subdivisions during review, is done at building permit phase and have to meet R-1 dimensional standards

General Observations on Housing Development Process and Development Standards

- Concerns that the public review process is difficult and time-consuming with little certainty about reaching a decision, can take years and years and many appeals
- Concerns that neighborhood groups’ main tactic is delay, outlasting developers to prevent any development
- Concern that neighborhood groups need more education and support to counterbalance developer influence
- Concerns about distrust in the review process at this point, neighbors less engaged and don’t understand the process
- Perception that a public process derails a project, and should be avoided at all costs, to avoid being bogged down in controversy, confusion and fear
- Desire to see a clear, by-right option for all projects, with an optional discretionary, flexible track
- Some questions about the public notice procedures for new development:
 - Is it sent to neighborhood association representatives, or could it be?
 - Why a 500-ft notification radius, and could it be adjusted more broadly; sometimes doesn’t include all residents of a particular community
 - Some concern that the language on the notice postcards doesn’t make sense
- Concern that neighborhood meetings may not serve clear purpose in addition to the mandated public process, that they come relatively late in the design process so they are more about providing information but give the neighbors an inaccurate idea that it is a design charrette
- Concern that appeals and delay have reduced available housing in the city, more homes could have been built to help house increasing population
- Concern that City is not adequately reviewing full impacts of development
- Concerns about City capacity and expertise to review expert studies, such as traffic, stormwater and geotech, and whether the City relies too heavily on materials and opinions from the applicant

- Concerns about how City and Planning Commission can best use and review expert reports in a clear and objective manner
- Discussion about the timing of expert reports in the review process and the level of detail available at different points in the process
 - Wetlands may be needed upfront
 - Some geotech may be needed upfront, but detailed report may be more appropriate at time of building permit
- Concerns about how to evaluate the strength and applicability of materials submitted, who can be considered an expert and what should be considered as evidence
- Desire to rely upon existing system-level infrastructure planning during the review process that has already been completed to support future development, like transportation, parks, water and sewer
- Observation that most of the “easy” sites have been developed, and what’s left is challenging to develop both because of site characteristics and City review requirements
- Concern that limitation of 33% of a building lot can be constrained water resources lands is too limiting
- Concern that maximum lot sizes are pushing people out to acreage in the country and there should be an option to develop high-end homes on ½-acre lots
- Concerns about planned development and its impacts to neighborhoods, too many units or not sensitive to neighborhood context
- General observation that R-1 base zone allows a pretty diverse pattern of development, density, creating variety and potential compatibility issues within R-1
 - Desire to see density calculated based on development capacity, differentiated for different areas
 - Desire for density to be the same throughout the city, and let it be self-regulating based on development capacity of a given site
- Desire to review lot frontage requirements for single-family homes, that the 50-foot standard indirectly limits density and requires a PUD to modify
- Discussion about what compatibility fundamentally means: what does it mean for development to be compatible with a neighborhood? Is anything allowed by R-1 inherently compatible in an R-1 zone, or does it need to relate to pattern of existing development?
- Desire for new development to demonstrate how it enhances an existing neighborhood and adds to the city
- Question about what options exist for cottage housing and cluster subdivisions, generally desire for future development of clear and objective criteria for these and other missing middle housing options as they are introduced in the city
- Concern that no clear and objective track exists for Willamette Greenway permit
- General observation that flood hazard, natural hazard requirements were being met with reviews, were not mentioned as significant impediments to development

- Opinion that future development, annexation and infrastructure to serve River Road area will be a challenge, but planned for and will be needed. Desire to add approval criteria to address urban/rural interface in these areas

Project Process

- Concern that project is moving too fast
- Questions about which stakeholders were included and if the net has been cast broadly enough
- Concern that project needs to move forward quickly and stick to approved timeline to help facilitate housing development

General Observations

- Concern about lack of affordable housing options, and desire to create a range of housing at different price points
- Support for City leadership to implement code revisions to support more housing that will apply to all future projects, to limit conflict over individual development projects
- Concern that expanding housing and maintaining neighborhood livability should not be presented as opposing goals
- Range of concerns and observations around the Capital Hill project:
 - Project is upsizing utilities to serve the neighborhood in addition to the project itself
 - Concern that the accumulation of clear and objective requirements would have made the site unbuildable, forcing it through the discretionary PUD review track
 - Concerns about emergency access
 - Concerns around channeling stormwater onto the Ribbon Trail
 - Concerns about geologic hazards, information available
 - Concerns around whether there is a clear and objective way to develop the site
 - Concerns around what reasonable development expectations should be for the site, size could range from handful of units to 60+, currently proposed ~30
- Example of Oaks at 14th transitional housing project: lengthy approval process complicated by PUD overlay and review by circuit court, other appeals before eventually affirmed
- Example about two-story apartment building built adjacent to existing single-family Craftsman, some felt it was incongruous
- Concern about missed opportunity for upper-story residential use on top of the new Whole Foods
- Desire to see commercial/retail development be required to include a residential component, or pay a fee for affordable housing
- Interest in incentives for higher density residential development, mixed-use development
- Desire to see more variety of homes in new developments, possibly requirement for PUDs to incorporate a mix of housing types or price levels

- Desire for missing middle housing to transition between zones, like R-1 to R-4; use transect development
- Recognition that one size doesn't fit all for standards
- Opinion that some existing neighborhoods may need to be retrofitted to provide services, 20-minute destinations
- Opinion that some development is affected by neighborhood perceptions of what kind of people would live in "affordable" projects, may incite opposition
- Concern that there is prejudice against renters and rental housing projects
- Concern about how solar setbacks are met in development, also need to consider how trees in setbacks may block solar access
 - Question about why solar setbacks only apply on larger lots over 7,000 SF
 - Observation that solar standards for subdivisions can impact street layout
- Concern that street tree planting requirements that require a bond for work in the right-of-way and high insurance coverage are making it difficult and expensive to plant street trees
- Concern that natural features are sometimes mapped incorrectly, and a site-specific, easy map correction process is needed
- Concern that there are conflicts in the code, which currently require applicants to apply for adjustments to resolve the conflicts when the City should take responsibility to fix
- Concern that appeal fees are too low, question why they are lower for neighbors
- Desire to see SDCs scaled to match size of development, possibly by square foot, not one-size-fits-all for all new homes
- Concern that cumulative impacts of infill development is stressing the core areas of city, stressing old, inadequate systems
- Desire to relieve pressure on urban area by developing larger lots on the City's perimeter to share the load and balance housing capacity
- Concern that the Buildable Lands Inventory and planning assumptions were unrealistic, and include "phantom inventory" of land that cannot actually be developed, meaning capacity is too low to support actual need for housing development
- Desire to spread out density, consider different standards by zone/neighborhood
- Recommendation to think of neighborhood leaders as local experts and resources, to develop standards that reflect neighborhood-level diversity
- Desire for more informal interface between City planners and neighbors outside of individual cases, like coffee or happy hour events
- Endorsement of the use of Special Area zones, because each has been negotiated, are more specific to the area and less contentious to apply, despite higher upfront costs
 - Jefferson/Westside example, some felt it successful and some did not
 - South Willamette example, concerns about why it failed to get adopted by Council
 - Perception that Whiteaker was successful, Walnut Station working okay

- Concern about the 2014 code changes to limit development in three neighborhoods around the University, concern that they are protectionism and should be revisited
- Questions about applicability of CC&Rs, and how they may limit application of City's clear and objective criteria for housing