

## UNDERSTANDING THE CITY COUNCIL DECISION TO PROHIBIT REZONING OF R-1 LOTS

By Paul Conte

At their October 21, 2015 work session, the Eugene City Council adopted Councilor Mike Clark's motion 5-3:

*"Direct the city manager to:*

- 1) *Reschedule the public hearing on the South Willamette Special Area Zone to January 19, 2016.*
- 2) *Engage the affected neighbors and property owners and bring back revised zoning and plan amendments for public hearing on January 19th that will accomplish the following:*
  - a) *Does not change the plan designation or rezone any property currently zoned R-1 or immediately adjacent to a property zoned R-1, unless none of the adjacent properties have an existing single-family home or duplex and the owner agrees to the rezoning.*
  - b) *Ensures that use and development standards for all properties that are not zoned R-1 will protect R-1 property residents' livability, including:*
    - i) *Protecting residents' visual privacy in their homes and backyards, especially from significant intrusion from occupants of structures that are two or more stories; and*
    - ii) *Protecting residents from significant negative impacts from structures that block solar access or reasonable sight lines; and*
    - iii) *Protecting residents from significant negative impacts arising from vehicle use and loading.*
- 3) *Follow the direction above with respect to all future planning and proposals for the new comprehensive plan, code and plan amendments (previously identified by staff) on transit corridors that may impact R-1 properties."*

Councilors Clark, Brown, Poling, Taylor and Evans voted in favor.

Councilors Zelenka, Syrett and Pryor voted against. Mayor Piercy opposed the motion, but does not vote except in a tie.

Here are the effects of the motion, by section:

1. Reschedules the public hearing on SW-SAZ from November 9 to next year – January 19.  
Based on the rest of the motion, the proposed ordinance that will be the subject of the public hearing will be very different than the one proposed by staff – at least with respect to the rezoning of R-1 and adjacent properties.
2. This is pretty clear and direct: The staff must revise the proposed code, as well as the associated plan amendments, in time for the public hearing. Staff are directed to "engage" the public again, but no specific actions are specified.
  - a. With one exception, no R-1 lots or lots adjacent to R-1 lots are to have their zone changed.  
The "R-1" zone is Eugene's only low-density residential zone. Accordingly, it's effectively the only zone meant for single-family, detached houses, most commonly with just one house per lot. "Granny cottages" and some other secondary dwellings are also allowed. Corner lots

allow duplexes. There are other exceptions, but R-1 is commonly thought of as the zoning appropriate for “single-family neighborhoods.”

So, in approximate terms, this provision says: “Don’t rezone the single-family neighborhoods in the South Willamette area.”

The intent is to prohibit a new zone that dramatically changes the R-1 rules regarding density, number of dwellings per lot, lot size, lot frontage, building height, building setbacks and many other development standards that have been in place in many single-family neighborhoods for decades.

But this provision goes further. It prohibits rezoning lots that are *adjacent* to single-family neighborhoods (that is, adjacent to R-1). The intent is to prevent the intensification of development on adjacent properties which would potentially have negative impacts on the single-family neighborhoods.

Keep in mind that Eugene already has some inadequate zoning standards for non-R-1 zones that are adjacent to R-1 zones. For example, “commercial zones” (such as the C-2 zone that covers most of the lots on both sides of Willamette Street) allows uses that could have negative impacts on the adjacent R-1 lots. So, this provision is a stopgap against making things worse, but there still remains the need to take additional steps to fix the existing code to fully protect adjacent single-family neighborhoods. That’s what section 2.b does, as discussed below.

The “plan designation” is a legally-binding element of the *Eugene-Springfield Metro Plan*. In most cases, existing R-1 lots are designated “Low Density Residential,” which has no minimum density, and a maximum density of about 14 dwellings per acre.

One of the “sleepers” in the staff’s SW-SAZ proposal was that numerous R-1 lots were to be redesignated as “High Density Residential,” which has *no maximum density*. Combined with the SW-SAZ proposal to allow much smaller lots, this change would have allowed a dramatic, “stealth” increase in density, even without rezoning. The motion prohibits that.

Note the limited exception, which is for lots that don’t have any dwellings and aren’t adjacent to any dwellings. There aren’t many R-1 lots such as this, but there may be a few commercial lots and this recognizes that in those exceptional cases, zone changes could be considered, if appropriate.

- b. This section provides some specific guidance in protecting single-family neighborhoods from negative impacts of adjacent, *non-single-family* (i.e., non-R-1 zone) development.

Note that the motion didn’t attempt to address negative impacts that can occur from incompatible development on an adjacent R-1 lot. For example, Eugene’s “solar access” standards are very weak; and a tall, poorly-sited single-family house can block an adjacent yard’s solar access.

But the three concerns that are addressed in the subsections are among the most critical problems that can arise as zoning is changed along transit corridors, such as South Willamette Street.

The three subsections are clear in which potential impacts they address. However, the language (“protect” and “significant negative impacts”) do not set any specific metric or means to comply with council’s directive. Nevertheless, council’s intent should be clear. The motion did not qualify “protect,” nor did the motion use words like “balance” or “consider,”

etc. The intent was clear, especially from the deliberations: Do not tradeoff the livability of single-family neighborhoods in order to further density goals.

The precise forms of “significant negative impact” and adequate means for protection are details that a *genuine, community-driven* process must determine.

3. Finally, council made clear that protecting the livability of single-family neighborhoods was a priority; and *all* future staff work on planning and implementation of policies and code for transit corridors (such as Coburg Road, W. 6<sup>th</sup> & 7<sup>th</sup> Avenues, etc.) *must* comply with the directions in the first two sections.

Thus, the council has (at last) clarified that single-family neighborhoods are not to be sacrificed or compromised to allow more dense residential development or more intense commercial development.

A council majority could potentially make changes that would strengthen or undermine this motion, which is the reason residents of single-family neighborhoods must stay vigilant, support the councilors who passed this motion and demand the mayor and other three councilors make no attempt to undermine or weaken the motion.