

# REFINEMENT PLAN FREQUENTLY ASKED QUESTIONS

JANUARY 6, 2016

*“The existing Whiteaker Neighborhood plan is 15 years old. We need to update the plan to ensure that it reflects the current needs and desires of the community. We need to rekindle a collective vision for the neighborhood and provide a chance for new ideas to emerge to solve key issues. The City will provide the necessary tools to create the plan while community members provide the energy and direction.”*

City Councilor Shawn Boles, address to the Whiteaker Planning Team, September 1992 (*Whiteaker Plan*, page 1)

## What is a “refinement plan”?

A refinement plan is a document adopted by the City Council that provides planning elements that are consistent with, but more specific than, the planning elements in the *Eugene-Springfield Metropolitan Area Plan (Metro Plan)*.

## What kinds of “planning elements” are in a refinement plan?

Here are definitions that are enumerated in the *Metro Plan*:

- **Goal** – “A broad statement of philosophy that describes the hopes of a community for its future. A goal may never be completely attainable but is used as a point towards which to strive.”
- **Objective** – “An attainable target that the community attempts to reach in striving to meet a goal. An objective may also be considered as an intermediate point that will help fulfill the overall goal.”
- **Policy** – “A statement adopted as part of the *Metro Plan* or other plans to provide a specific course of action moving the community toward attainment of its goals.”
- **Finding** – “Factual statement resulting from investigations, analysis, or observation.”

## What legal effect does a refinement plan have?

In simple terms, the City of Eugene must not take any action that is inconsistent with any policy in the *Metro Plan* or a refinement plan. With respect to land use and development, the City Council cannot adopt any land use code (e.g., a new zone) that conflicts with any policy; and the City cannot approve any land use action or development permit that conflicts with any policy.

## What types of refinement plans are there?

There are three categories of refinement plans:

- **Neighborhood Refinement Plans** address a broad range of subjects with respect to the geographical area of one or more city-chartered neighborhood organization(s). Typically, a neighborhood plan will address at least land use and development, housing and transportation, and may address public facilities and service, recreational needs and other subjects.
- **Special Area Refinement Plans** address a (typically narrower) range of planning subjects with respect to an area that comprises portions of two or more neighborhood organizations.

- **Functional Refinement Plans** address a specific planning subject (e.g. transportation). The geographic area can be local, citywide or regional.

**What is the relationship of refinement plan policies to *Metro Plan* policies?**

By law, the City cannot adopt any refinement plan policy that conflicts with a *Metro Plan* policy. A refinement plan policy can, however, be more specific than a *Metro Plan* policy, as long as it doesn't create an inherent conflict.

**How are policies applied?**

In general, a policy can provide one of the following:

- *Aspirational* direction to City Council and the City Manager in adopting code, adopting administrative rules, allocating funds and/or promulgating programs.
- *Prescriptive* direction to City Council and the City Manager in adopting code, adopting administrative rules, allocating funds and/or promulgating programs.
- *Prescriptive* approval criteria for land use applications, development permits and other applications

**Are policies similar to code, as far as land use applications and development permits?**

Not all policies are enforceable in the same way as approval criteria in Eugene's land use code. To be effectively applied as an approval criteria, a policy must be expressed in *prescriptive* language ("shall"), rather than *aspirational* language ("should").

In addition, policies that begin with language such as "The City shall *consider* ..." or "The City shall *strive to* ..." are generally not at all effective (in Eugene) in constraining land use applications or development permits. A policy needs to express an approval criteria in direct, well-defined terms in order to be enforceable. Here are examples of each form:

Not effective: "*The City shall discourage rezoning of residential properties to non-residential zones ....*"

Effective: "*The City shall not approve rezoning of residential properties to non-residential zones ....*"

Finally, for a policy to directly constrain any land use application or development permit related to housing, the policy must be expressed in *clear and objective* terms. Thus, a policy that "Housing within the Central Residential Subarea shall be compatible with the residential character of that area" would not be enforceable as a mandatory approval criteria because "compatible" is discretionary, not clear-and-objective. On the other hand, a policy that "All structures within the Central Residential Subarea shall have no portion that is higher than 40 feet above grade" would be enforceable. In fact, the city's land use code would have to be consistent, as well.

**How are prescriptive plan policies different than approval standards in zoning code?**

Prescriptive plan policies are specifically intended to be written in a language that ordinary citizens can understand and that embody the "rules" that the community wants enforced. Code is where all the details are described. The intent is that code will be a good-faith implementation of the policies and not inject provisions that allow an applicant to circumvent the community's intent for plan policies.

Unfortunately, in Eugene, there are three problems with that intended relationship:

- a. Many policies aren't written in an adequately prescriptive way, and

- b. City staff have too frequently created code provisions that don't fully and faithfully reflect the intent of plan policies, and
- c. City staff, hearings officials and the Eugene Planning Commission have generally applied policies in the *least* limiting manner, often rendering the policies ineffective at protecting against incompatible development.

### **Where do refinement plans fit into the Statewide Planning Goals framework?**

The following is taken from the state pamphlet titled: "Oregon's Statewide Planning Goals & Guidelines," available on-line at:

[http://www.oregon.gov/LCD/docs/goals/compilation\\_of\\_statewide\\_planning\\_goals.pdf](http://www.oregon.gov/LCD/docs/goals/compilation_of_statewide_planning_goals.pdf)

"Since 1973, Oregon has maintained a strong statewide program for land use planning. The foundation of that program is a set of 19 Statewide Planning Goals. The goals express the state's policies on land use and related topics, such as citizen involvement, housing, and natural resources.

"Oregon's statewide goals are achieved through local comprehensive planning. State law requires each city and county to have a comprehensive plan and the zoning and land-division ordinances needed to put the plan into effect. For Eugene, the "comprehensive plan" includes the *Metro Plan* and all refinement plans.

"It's no coincidence that *Citizen Involvement* is the first among Oregon's 19 statewide planning goals. Extensive citizen participation has been the hallmark of the state's planning program from the outset. Every city and county has a Committee for Citizen Involvement (CCI) to monitor and encourage active citizen participation." (Unfortunately, Eugene did away with its independent CCI some time ago and assigned the Planning Commission as the "CCI.")

Neighborhood Refinement Plans and Special Area Refinement Plans are two of the key instruments in the statewide planning framework that provide a *meaningful* way for citizens who live, work or are otherwise actively engaged within a specific neighborhood area, to establish goals and policies that apply to their own community.

Learn more about Statewide Planning Goals at: <http://www.oregon.gov/lcd/pages/goals.aspx>

### **How are refinement plans adopted?**

In simple terms, the legal process involves these steps:

1. City Council approves a work plan to develop a refinement plan
2. Develop a draft plan
3. Provide public review and a public hearing before the Planning Commission
4. Planning Commission recommendation to City Council
5. Public review and public hearing before City Council
6. Adoption by City Council
7. Review and acknowledgement by the State Land Conservation and Development Commission (LCDC)

The specific requirements for these steps is laid out in Oregon Revised Statutes (ORS) and Eugene Code Chapter 9.

### **How are draft refinement plans developed?**

There are various approaches that the City Council can set in motion. The process to develop a draft functional refinement plan that covers the entire city, for example the "Transportation Plan," may be

managed by a combination of City staff and “process” consultants with one or more “advisory” bodies comprised of citizens and/or additional consultants with specific expertise in the functional area.

The most common approach to develop a draft neighborhood refinement plan (which would also apply to a special area refinement plan) is to have the process led by a “Planning Team” comprised of residents, local business proprietors, property owners and others (e.g., school principals) who are actively engaged in the area that is covered by the plan.

In the past, the respective neighborhood organization has appointed all or most of the members of the Planning Team that develops a draft Neighborhood Refinement Plan. The Planning Team is assisted by non-voting staff and/or consultants.

The Planning Team for a Neighborhood Refinement Plan has responsibility not just for creating draft goals, objectives, policies and implementation recommendations. In addition the Planning Team has responsibility for ensuring effective citizen involvement, including outreach, education and involvement of the members of the neighborhood organization.

The draft Neighborhood Refinement Plan produced by the respective Planning Team goes to the full neighborhood organization for consideration and possible revision before the draft is submitted to the broader public process (i.e., steps 3 through 7, above).

A similar process, with a Planning Team, is appropriate for a Special Area Refinement Plan that covers land use and development, housing and transportation (and possibly other subjects). In this case, all or most Planning Team members would be appointed from the geographic area covered by the plan.

### **What is the rationale for all or most Planning Team members to be from the geographic area covered by a Neighborhood Refinement Plan or Special Area Refinement Plan?**

There are two solid reasons for this approach to the group that will create the first draft plan:

1. Citizens who live, run local business in, own property, run schools and so on have by far the greatest “stake” in the policies that will govern the future of their neighborhood community.
2. These same citizens have much deeper and broader knowledge of, and connections within, the neighborhood community. This provides a foundation for guiding the public process and development of sound policies for which planners and consultants that are not community member are no substitute.

### **How can citizens who have no training or experience in planning and public policy draft a refinement plan?**

The statutory framework put in place to implement Oregon’s Statewide Planning Goals intended that refinement plans, especially Neighborhood Refinement Plans, would be written in clear language that ordinary citizens could craft and comprehend.

The prior successful development of ten Neighborhood Refinement Plans by Planning Teams in Eugene has demonstrated that this approach works. All that’s needed is the availability of some staff and/or consultant time that the Planning Team can call on as needed.

### **Won’t limiting the Planning Team to community members in the geographic area of the plan result in “NIMBYism” or otherwise purely parochial draft policies?**

Experience demonstrates that isn’t what happens. First, keep in mind that ultimately the only way that any policy in a draft Neighborhood Refinement Plan created by a Planning Team gets adopted is by action of the City Council. Prior to City Council action, a draft Neighborhood Refinement Plan must hold

up well as it goes through review by the neighborhood organization, general public, Planning Commission and finally City Council.

Past Planning Teams have understood that the draft they produce must represent the outcome of a *genuine* community process and must also address city-wide issues such as affordable housing, compact development and wise use of resources. The advantage of a *community-based* Planning Team is that they have the essential knowledge of how to integrate broader, city-wide goals in the most effective way within their own community.

### **Aren't Neighborhood Refinement Plans prohibitively expensive and time consuming?**

Again comparing the experiences of Planning Teams with staff-led processes demonstrates that a Planning Team can produce a substantial draft refinement plan that has broad community support within two years or less and requiring no more than one FTE of staff time. (The Whiteaker Planning Team produced the draft *Whiteaker Plan* in about one year.)

In contrast, the entire south Willamette area planning process has taken five years and (according to City Councilor Greg Evens) has cost around two million dollars. The "Minor Code Amendments Process" (MiCAP) was another lengthy and expensive staff-led process that resulted in only about two dozen relatively minor code changes.

Because Planning Team members are closer to the community, they can more efficiently and effectively conduct the essential "discovery" process to determine what the community supports. This results in less costs and less risk of the planning process "blowing up" late in the process.

### **How are Special Area Refinement Plans similar Neighborhood Refinement Plans?**

The simplest way to think of a Special Area Refinement Plan is as a (typically) smaller geographic area and a more limited set of planning subjects than a Neighborhood Refinement Plan.

Accordingly, the use of a Planning Team, as described above is also the most effective approach to developing a draft Special Area Refinement Plan.

### **What if I have more questions or want to comment?**

Send your questions or comments to [info@TrustTheNeighbors.org](mailto:info@TrustTheNeighbors.org)