

City Of Springfield
Development Services Department
February 6, 2007

Staff Report

Applicant: City of Springfield	Journal No. LRP2006-00037
Request: To make text amendments to the Springfield Development Code, Articles 26—Hillside Development Overlay District. The purpose is to extend the ability to locate cluster development on all qualified hillsides with slopes of 15-25%. Article 26 currently allows cluster development on slopes between 15-25% on south-facing slopes only.	ProcedureType: Type IV-- Legislative
Attachments: Attachment 2: Summary of Proposed Changes to Articles 26 in Legislative Format. Attachment 3: Background—Hillside Development Overlay District Attachment 4: Planning Commission Order	

I. Executive Summary

The proposed amendments to Article 26—Hillside Development Overlay District (HDOD) are intended to: 1) extend the ability to locate cluster development to all-facing hillsides with slopes of between 15 and 25%; 2) adjust the formula for computing the acreage for density transfers to avoid double counting of eligible land and 3) to strengthen existing health and safety provisions in the Article by requiring emergency access and water lines for fire suppression to be constructed, tested and approved by the Fire Marshall and the SUB Water Department prior to Final Plat approval and/or the transfer of lots/parcels.

The practice of cluster development on slopes between 15 and 25% is already allowed by Article 26 on south-facing hillsides. The proposed amendments would allow that practice to be extended to all-facing hillsides between 15 and 25%, where such a development is deemed to be safe through a review process that includes a rigorous geo-technical analysis.

The proposed amendments to the HDOD relate to inquiries that have been made by area developers and the larger issue of Springfield's remaining vacant buildable residential land. Table 1—Vacant and Buildable Lands by Slope was produced by Lane Council of Governments for the Homebuilders Association of Lane County in 2005 as part of a larger report. The table shows that about 48% of Springfield's remaining land zoned for low density residential development is located on slopes of 15% or more.

Table 1. Vacant Buildable Land in Springfield by Slope

Plan Designation	Vacant Buildable Acres	Percentage of Total LDR Land
Low Density Residential		
Slope:		
Up to 15%	1145.5	51.9%
15 to 25	446.9	20.2%
Greater than 25	615.3	27.9%
Total LDR	2207.7	

With almost half of Springfield’s remaining single-family residential inventory located on slopes affected by the HDOD, a review of the standards is appropriate as new development is poised to impact these lands. Cluster development is a tool which is designed to help communities to protect natural resource areas from development while allowing property owners to “transfer” some of the development density that they are losing to another, less sensitive site.

Article 26 allows development on steep slopes, but requires large lots. Generally, larger lot sizes mean lower development density. Article 26 makes provisions for density transfers (cluster development) in areas affected by slopes. The idea is to credit developers for not developing on steep slopes by allowing them to increase the density of development on land with lesser slope. The developer must agree to protect the steeper slopes from any future development to be allowed the increased density (density transfer).

Section 26.050 of Article 26 describes two options for development on slopes that affect density. Option “A” requires increasingly larger lots for homes on increasingly steeper slopes. Option “B” allows for a transfer of density from steep areas to lesser slopes to achieve higher development density. Development density is capped at 8 dwelling units per acre, which is less than the 10 units per acre allowed within the LDR zone.

Under Option B density transfer can be made to land with slopes up to 15%. Density transfers may be made to slopes up to 25% on south-facing slopes. No rationale is offered for allowing density transfers on steeper south facing slopes and not on other slopes. A staff review of the legislative history of Article 26 failed to reveal the reason for the limitation.

Through a series of meetings between public works engineering, environmental services, and planning staff, no specific reason could be identified for limiting cluster development on 15-25% slopes to just south-facing hillsides. The critical issue that was identified was the need to conduct a thorough geotechnical review of each site to determine if the area is stable enough support increased development. The same concern for requiring a rigorous geotechnical review was promoted by private practice engineers and a developer who were interviewed. The private practice engineer further suggested that developers be required to fund a “peer review” of the geotechnical report for a property (at the discretion of the City) to verify the accuracy of the findings and recommendations of report.

The specific text of the amendments are scattered throughout Article 26. Please see Attachment 1 to examine the proposed changes in legislative format that show the existing text and highlight changes.

II. Procedural Requirements

Procedural requirements for amending the Springfield Development Code (SDC) are described in Article 8 and Article 14.

Article 8 indicates that the Planning Director, Planning Commission, City Council or a resident of the City can initiate amendments to the SDC. Such amendments are reviewed under a “Type IV” procedure and require public hearings before the Planning Commission and the City Council. Type IV procedures are detailed in Article 3.100 of the SDC. The proposed revisions to Articles 26 have been initiated by the Planning Director.

Article 14.030 (2) requires that legislative land use decisions be advertised in a newspaper of general circulation, providing information about the legislative action and the time, place and location of the hearing.

Findings:

- #1. The Planning Director has initiated these amendments to Article 22—Hillside Development Overlay District. The amendments are not site specific and fall under the definition of a legislative action.
- #2. A “DLCD Notice Proposed Amendment” was mailed to the Department of Land Conservation and Development on December 19, 2007, alerting the agency to the City’s intent to amend the Article 26. The notice was mailed more than 45 days in advance of the first evidentiary hearing as required by ORS 197.610. No comment has been received from the Department concerning the amendments.
- #3. Notice of the public hearing concerning this matter was published on January 26, 2007 in the Eugene Register Guard, advertising both the hearing before the Springfield Planning Commission on February 6 and the City Council on February 20, 2007. The content of the notice followed the direction given in Section 14.030 (2) of the SDC for legislative actions.

Conclusion:

Procedural requirements described in Article 8 and Article 14 of the SDC have been followed. Notice requirements established by DLCD for amending the Development Code have also been followed.

IV. Decision Criteria and Findings

Article 8 describes the criteria to be used in approving an amendment to the SDC. It states that in reaching a decision, the Planning Commission and the City Council must adopt findings which demonstrate conformance with “1) *the Metro Plan*; 2) *applicable State statutes*; and to 3) *applicable State-wide Planning Goals and Administrative Rules*.”

Criterion #1 “Conformance with the Metro Plan”

Findings

- #4. The Eugene-Springfield Metropolitan Area General Plan (Metro Plan) is the basic guiding land use policy document for the City of Springfield. A text search related to development on steep slopes and hillside development yielded little specific policy.
- #5. Steep slopes are recognized as a development constraint for residential lands by findings made in Section A—Residential Element (pg. III-A-2).
- #6. Section E—Environmental Design Element, Policy E.8 states, “Site planning standards developed by local jurisdictions shall allow for flexibility in design that will achieve site planning objectives while allowing for creative solutions to design problems” (pg. III-E-3).
- #7. The Springfield Development Code (SDC) implements the Metro Plan. It contains various planning policies and standards including Article 26—Hillside Development Overlay District which sets forth standards for development on hillsides with a slope of 15% and greater. When the Springfield Development Code was adopted in May 1986, it was found by the City Council to be consistent with the Metro Plan. The Development Code was subsequently acknowledged by the Land Conservation and Development Commission as being consistent with the Metro Plan and with Statewide Planning Goals.
- #8. Section 26.010 of the Hillside Development Overlay District makes the following purpose statement:
 - “The HD Overlay District ensures that development in hillside areas:
 - Minimizes the potential for earth movement and resultant hazards to life and property;
 - Protects water quality by minimizing soil erosion and siltation;
 - Retains and protects natural vegetation, natural water features and drainageways, scenic quality and open space by minimizing vegetation removal in sloped areas;
 - Assure compatibility with new development with surrounding areas;

Encourages site and building design that is consistent with the natural topography in order to minimize the cost of public infrastructure;

Provides for adequate access for emergency services and protects the public health and safety.”

#9. The proposed amendments provides for cluster development on hillsides with a slope between 15 and 25% with certain standards and prior analysis meant to ensure that such development meets the purposes listed in Finding #8. Such cluster development is currently allowed on south-facing as described in Section 26.050, “Option B.” The amendments would extend cluster development to all-facing hillsides with 15-25% slope. The same standards for geotechnical reporting and other planning and engineering analysis remain in place.

#10. Cluster development is a widely recognized tool for addressing site design problems while achieving the objective of making the best use of land of inventoried residential land on constrained sites while protecting valuable natural areas. The amendments clarify and facilitate the greater use of cluster development, consistent with the Metro Plan policies cited in Findings #5 and #6.

Conclusion

The findings show that the proposed amendments facilitate Metro Plan policies and are consistent with those few policies related to hillside development found in the Metro Plan. The proposed amendments to Article 26, based on the findings included above, are consistent with the Metro Plan. It is the conclusion of staff that the proposed amendments comply with this criterion.

Criterion #2 “Conformance with Applicable State Statutes”

Finding

#11. A text search of the Oregon Revised Statutes yielded no references to hillside development or development on steep slopes that prevent or limit their location as a land use policy. The statutes authorized the establishment of Oregon’s Statewide Planning Goals which include Goal 7—Areas Subject to Natural Disasters and Hazards.

Conclusion

The Oregon Revised Statutes appear to be silent on the specifics of hillside development policy. The statutes do address hillside development issues through Statewide Planning Goal 7 which is discussed below under Criterion #3.

For lack of a prohibition against it, hillside development and cluster development are presumed to be allowable development forms. This action clarifies how cluster

development on hillsides may be accomplished in a safe manner that is sensitive to multiple community purposes.

The proposed amendments to Articles 26, based on the findings included above, are consistent with applicable state statutes. It is the conclusion of staff that the proposed amendments comply with this criterion.

Criterion #3 “Applicable State-wide Planning Goals and Administrative Rules”

Findings

Compliance with Administrative Rules

- #12. A text search of the Oregon Administrative Rules (OAR) yielded no references to specific policies related to hillside development or cluster development. OAR Division 15 describes Oregon’s Statewide Planning Goals. Goal 7—Areas Subject to Natural Hazards is among the Goal listed.
- #13. Statewide Planning Goal 7 states that “Local governments shall adopt comprehensive plans (inventories, policies and implementing measures) to reduce risk to people and property from natural hazards. Among these hazards are “landslides.”
- #14. The standards found in Article 26 are intended to protect the community from landslides and related hazards caused by improper development of slopes. The proposed amendments embrace the existing standards while allowing the extension of cluster development to all-facing slopes and not just south facing slopes.
- #15. The proposed amendments include strengthen provisions for emergency access and water lines in hillside areas and precludes the finalizing of plats or sale of lots before such facilities have been tested and approved by the Fire Marshal.

Compliance with Statewide Planning Goals

- #16. ***Goal 1 – Citizen Involvement.*** Goal 1 calls for "the opportunity for citizens to be involved in all phases of the planning process."

The proposed amendments to Article 26 were the subject of legislative public hearings advertised in the Eugene Register Guard on January 26, 2007. The Planning Commission is conducting a public hearing on February 6, 2007. The City Council is scheduled to hold a public hearing on February 20, 2007.

- #17. ***Goal 2 – Land Use Planning.*** Goal 2 outlines the basic procedures of Oregon's statewide planning program. It says that land use decisions are to be made in accordance with a comprehensive plan, and that suitable "implementation ordinances" to put the plan's policies into effect must be adopted.

The Eugene-Springfield Metropolitan Area General Plan (Metro Plan) is the acknowledged comprehensive plan that guides land use planning in Springfield. Various adopted refinement plans and specific area plans provide more detailed direction for planning under the umbrella of the Metro Plan. The SDC implements the policies and direction of the Metro Plan. The proposed amendments to Articles 26 will modify existing standards for development that implement adopted policies found in the Metro Plan as cited in Findings #8-#10 above.

- #18. **Goal 3 – Agricultural Land.** Goal 3 defines "agricultural lands." It then requires counties to inventory such lands and to "preserve and maintain" them through farm zoning.

This goal does not apply within adopted, acknowledged urban growth boundaries. The City of Springfield does not have any agricultural zoning districts. These amendments do not apply outside the urban growth boundary and, because of limitations on commercial and industrial development without full urban services, generally do not apply outside the city limits. All land in the City's urban transition area carries City zoning. An exception to this goal was taken in 1982 when the comprehensive plan was acknowledged.

- #19. **Goal 4 – Forest Land.** This goal defines forest lands and requires counties to inventory them and adopt policies and ordinances that will "conserve forest lands for forest uses."

This goal does not apply within adopted, acknowledged urban growth boundaries. The City of Springfield does not have any forest zoning districts. These amendments do not apply outside the urban growth boundary and, because of limitations on commercial and industrial development without full urban services, generally do not apply outside the city limits. All land in the City's urban transition area carries City zoning. An exception to this goal was taken in 1982 when the comprehensive plan was acknowledged.

- #20. **Goal 5 – Open Spaces, Scenic and Historic Areas, and Natural Resources.** Goal 5 covers more than a dozen natural and cultural resources such as wildlife habitats and wetlands. It establishes a process for each resource to be inventoried and evaluated.

The amendments to Articles 26 do not repeal, replace or void existing Metro Plan policy or Development Code regulations with respect to any identified natural resources. No changes to supporting ordinances or policy documents adopted to comply with Goal 5 are affected by these amendments.

Goal 6 – Air, Water and Land Resources Quality. This goal requires local comprehensive plans and implementing measures to be consistent with state and federal regulations on matters such as groundwater pollution. The amendments to Article 26 do not repeal, replace or void existing Metro Plan policy or Development Code regulations with respect to any identified air, water or land resource issues. No changes to supporting ordinances or policy documents adopted to comply with Goal 6 are affected by these amendments.

#21. **Goal 7 – Areas Subject to Natural Disasters and Hazards.** Goal 7 deals with development in places subject to natural hazards such as floods or landslides. It requires that jurisdictions apply "appropriate safeguards" (floodplain zoning, for example) when planning for development there.

All sites within Springfield that are subject to these hazards (floodplain, erosion, landslides, earthquakes, weak foundation soils) are inventoried through a variety of sources. The proposed amendments do not remove or exempt compliance with other Code standards that may apply to development.

The standards found in Article 26 are intended to protect the community from landslides and related hazards caused by improper development of slopes. The proposed amendments embrace the existing standards while allowing the extension of cluster development to all-facing slopes and not just south facing slopes.

The proposed amendments include strengthen provisions for emergency access and water lines in hillside areas and precludes the finalizing of plats or sale of lots before such facilities have been tested and approved by the Fire Marshal.

#22. **Goal 8 – Recreational Needs.** This goal calls for each community to evaluate its areas and facilities for recreation and develop plans to deal with the projected demand for them. Willamalane Park and Recreation District is the entity responsible for park planning, development and maintenance in the urban transition area as well as the city limits. The proposed amendments do not alter policies encouraging the provision of recreational facilities or the incorporation of community open space in development design.

#23. **Goal 9 – Economic Development.** Goal 9 calls for diversification and improvement of the economy. It asks communities to inventory commercial and industrial lands, project future needs for such lands, and plan and zone enough land to meet those needs. The amendments to Articles 26 do not repeal, replace or void existing Metro Plan policy or Development Code regulations with respect to any economic development issues. No changes to supporting ordinances or policy documents adopted to comply with Goal 9 are affected by these amendments.

#24. **Goal 10 – Housing.** This goal specifies that each city must plan for and accommodate needed housing types, such as multifamily and manufactured housing. The amendments to Articles 26 do not repeal, replace or void existing Metro Plan policy or Development Code regulations with respect to any housing issues. No changes to supporting ordinances or policy documents adopted to comply with Goal 10 are affected by these amendments.

The proposed amendments may encourage more efficient development of residential land located on hillsides by facilitating cluster development as a means of increasing development density while protecting sensitive natural areas.

#25. Goal 11 – Public Facilities and Services. Goal 11 calls for efficient planning of public services such as sewers, water, law enforcement, and fire protection.

The Eugene-Springfield Metropolitan Public Services and Facilities Plan (PFSP) is a refinement plan of the Metro Plan that guides the provision of public infrastructure, including water, sewer, storm water management, and electricity. The amendments to Articles 26 do not repeal, replace or void existing Metro Plan policy or Development Code regulations with respect to any public facilities. No changes to supporting ordinances or policy documents adopted to comply with Goal 11 are affected by these amendments.

The proposed amendments include strengthen provisions for emergency access and water lines in hillside areas and precludes the finalizing of plats or sale of lots before such facilities have been tested and approved by the Fire Marshal.

#26. Goal 12 – Transportation. The goal aims to provide "a safe, convenient and economic transportation system."

Section 660-012-0060 of the Transportation Planning Rules requires evaluation of a comprehensive plan or land use regulation amendment to determine if an amendment to the Springfield Development Code significantly affects a transportation facility. The proposed amendments do not: change the functional classification of an existing or planned transportation facility; change standards implementing a functional classification system; allow types of levels of use which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or reduce the level of service of a facility below the minimum acceptable level identified in the Metropolitan Area Transportation Plan (TransPlan).

#27. Goal 13 – Energy Conservation. Goal 13 declares that "land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles."

The amendments to Articles 26 do not repeal, replace or void existing Metro Plan policy or Development Code regulations with respect to energy conservation. No changes to supporting ordinances or policy documents adopted to comply with Goal 13 are affected by these amendments.

#28. Goal 14 – Urbanization. This goal requires cities to estimate future growth and needs for land and then plan and zone enough land to meet those needs.

The amendments to Articles 26 do not repeal, replace or void existing Metro Plan policy or Development Code regulations with respect to Springfield's inventory of buildable lands. No changes to supporting ordinances or policy documents adopted to comply with Goal 14 are affected by these amendments.

The proposed amendments may increase the viable use of lands within the UGB that are currently shown on the residential land inventory that are constrained by steep slopes. Cluster development has been used effectively in some communities to safely develop some hillside areas, without undue loss of property value for land owners, while preserving steeper areas as community open space.

#29. ***Goal 15 – Willamette River Greenway.*** Goal 15 sets forth procedures for administering the 300 miles of greenway that protects the Willamette River.

The proposed amendments to Articles 26 do not change the obligation to comply with the City's existing standards for development with respect to the Willamette River Greenway. The Greenway provisions allow development of permitted uses in the underlying zone, provided that all other Greenway requirements are satisfied. The City's adopted, acknowledged Greenway ordinance will not be changed.

#30. ***Goals 16 through 19 – Estuarine Resources, Coastal Shorelands, Beaches and Dunes, and Ocean Resources.*** There are no coastal, ocean, estuarine, or beach and dune resources within the City's jurisdiction. These goals do not apply in Springfield.

Conclusion

The proposed amendments to Articles 26, based on the findings included above, are consistent with Oregon Administrative Rules and Oregon's Statewide Planning Goals. It is the conclusion of staff that the proposed amendments comply with this criterion.

V. Conclusion and Recommendation of Staff

Based on the findings of staff with respect to the criteria defined in Article 8 for approving amendments to the SDC, staff find the proposed amendments to Articles 26 to be consistent with these criteria and recommend approval of the amendments to Article 26.

VI. Attachments

Attachment 1: Summary of Proposed Changes to Articles 26 in Legislative format.

Attachment 2: Planning Commission Order