

# Jefferson Westside Neighbors

A City-Chartered Neighborhood Association

[www.jwneugene.org](http://www.jwneugene.org)

November 4, 2011

Jon Ruiz, Manager  
City of Eugene  
777 Pearl Street, Room 105  
Eugene, Oregon 97401

RE: Notice of intent to petition the Land Conservation and Development Commission  
for an enforcement order

Dear Mr. Ruiz,

As directed by the **Jefferson Westside Neighbors** Executive Board, I am serving the City of Eugene notice that we intend to petition the Land Conservation and Development Commission for an enforcement order, as described in the attached request as required by OAR 660-045-0040.

The City is required by OAR 660-045-0045 to respond to this request within sixty (60) days.

Despite our best efforts to work with City staff on resolving this noncompliance, the Planning Division staff has been totally unresponsive, forcing us to take this action.

We would appreciate your prompt action to bring the City into compliance with the comprehensive plan.

Sincerely,



Paul Conte, Chair  
1461 W. 10th Ave.  
Chair@jwneugene.org 541.344.2552

cc:

Mayor Kitty Piercy  
Ward 1 Councilor George Brown

## 2011-2012 Executive Board

Paul Conte, Chair; Stephen Heider, Vice Chair

Kirsten Kelso, Treasurer; Sue Cummings; Angie Towle; Michael Kresko; Jess Hampton

ATTACHMENT

**INFORMATION AS REQUIRED BY OAR 660-045-0040**

**The Citizen's Request to the Affected Local Government or District**

(2) The citizen's request shall be in the form of a letter containing the following:

(a) the name, address, and telephone number of the requester:

Paul Conte  
1461 W. 10th Ave.  
Eugene, OR 97402  
541.344.2552  
pconte@picante-soft.com

(b) the name, address, and telephone number of the attorney, if any, who will represent the requester:

N/A

(c) the name and address of the affected local government or district:

City of Eugene  
777 Pearl Street, Room 105  
Eugene, Oregon 97401

(d) a clear statement of the requester's intent to *'petition the Land Conservation and Development Commission for an enforcement order pursuant to ORS 197.319 to 197.335:*

As directed by the Executive Board of the **Jefferson Westside Neighbors**, a city-chartered neighborhood organization, *I intend to petition the Land Conservation and Development Commission for an enforcement order pursuant to ORS 197.319 to 197.335:*

(e) the subsection of the statute on which the petition will be based (ORS 197.320(1) to ORS 197.320(10) or ORS 197.646(3)):

197.320(1)

(f) a statement of facts that establish a basis for seeking enforcement and for invoking the subsection of ORS 197.320 or ORS 197.646 cited by the requester:

(See next section.)

(3) The statement of facts required in subsection (2)(f) shall describe five matters:

(a) the specific provisions of the comprehensive plan, land use regulation, special district cooperative agreement, urban growth management agreement, goal, rule, or other regulation or agreement, as described in ORS 197.320(1) to 197.320(10) or ORS 197.646, with which the affected local government or district is alleged not to comply:

**Eugene-Springfield Metropolitan General Area Plan Update 2004.**

***Policy A.2*** *Residentially designated land within the UGB should be zoned consistent with the Metro Plan and applicable plans and policies; however, existing agricultural zoning may be continued within the area between the city limits and the UGB until rezoned for urban uses.*

**Policy A.9** Establish density ranges in local zoning and development regulations that are consistent with the broad density categories of this plan.

*Low density: Through 10 dwelling units per gross acre (could translate up to 14.28 units per net acre depending on each jurisdictions implementation measures and land use and development codes)*

*Medium density: Over 10 through 20 dwelling units per gross acre (could translate to over 14.28 units per net acre through 28.56 units per net acre depending on each jurisdictions implementation measures and land use and development codes)*

*High density: Over 20 dwelling units per gross acre (could translate to over 28.56 units per net acre depending on each jurisdiction's implementation measures and land use and development codes)*

**1982 Westside Neighborhood Plan** (the adopted refinement plan)

**Land Use Diagram – Eastern Residential / Mixed Use Area – Policy 1**

*This area shall continue to be recognized as appropriate for medium-density residential development. Although there is currently a mixture of land uses in the area, any further rezonings that would promote the conversion of residential uses to non-residential uses shall be discouraged.*

**Land Use Diagram – Northern Residential Area – Policy #1**

*The City shall recognize this area as appropriate for medium-density residential development.*

- (b) any case law or appellate rulings with which the affected local government or district is alleged not to comply:

*Oregon Supreme Court in Baker v. City of Milwaukie (21 OR 500 (1975)):*

*“Likewise, the City of Milwaukie, upon adopting a comprehensive plan, had a duty to implement that plan through the enactment of zoning ordinances in accordance therewith.*

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*In summary, we conclude that a comprehensive plan is the controlling land use planning instrument for a city. Upon passage of a comprehensive plan a city assumes a responsibility to effectuate that plan and conform prior conflicting zoning ordinances to it. We further hold that the zoning decisions of a city must be in accord with that plan and a zoning ordinance which allows a more intensive use than that prescribed in the plan must fail.”*

- (c) the nature of the noncompliance alleged in subsection (3)(a):

Despite repeated requests, the City of Eugene has allowed approximately 250 tax lots that are designated in the Eugene-Springfield Metropolitan Plan as “Medium Density Residential” (with a maximum density of 28.56 dwelling units per net) acre to remain zoned R-3 Limited High Density Residential (with a maximum density of 56 dwelling units per net acre).

- (d) the lands affected by the noncompliance alleged in subsection (3)(a):

All parcels currently zoned R-3 within the “Eastern Residential / Mixed Use Area” and the “Northern Residential Area” of the **1982 Westside Neighborhood Plan**.

(e) the corrective action the requester seeks from the affected local government or district:

Change the zone of the tax lots identified in 3.d, above, to R-2 Medium-Density Residential Zone, which is consistent with the Medium Density Residential comprehensive plan designation of the tax lots.

(4) If the requester alleges that a pattern of noncompliant decisions by the affected local government or district is the reason for seeking enforcement, the requester's statement of facts also shall describe the following:

N/A

(5) If the requester alleges that a practice of noncompliant decisions by the affected local government or district is the reason for seeking enforcement, the requester's statement of facts also shall contain the following:

N/A

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