



# City Council Agenda

Mayor  
Sean VanGordon

City Council  
Damien Pitts, Ward 1  
Steve Moe, Ward 2  
Kori Rodley, Ward 3  
Leonard Stoehr, Ward 4  
Marilee Woodrow, Ward 5  
Joe Pishioneri, Ward 6

**City Manager:**  
Nancy Newton  
**City Recorder:**  
AJ Nytes 541.726.3700

City Hall  
225 Fifth Street  
Springfield, Oregon 97477  
541.726.3700  
Online at [www.springfield-or.gov](http://www.springfield-or.gov)

These meetings will be available via phone, internet using Zoom and in person. Members of the public wishing to attend these meetings electronically can call in or attend virtually by following the directions below. This information can also be found on the City’s website.

The meeting location is wheelchair-accessible. For the hearing-impaired, an interpreter can be provided with 48 hours’ notice prior to the meeting. For meetings in the Council Meeting Room, a “Personal PA Receiver” for the hearing impaired is available, as well as an Induction Loop for the benefit of hearing aid users.

To arrange for these services, call 541.726.3700.

**Meetings will end prior to 10:00 p.m. unless extended by a vote of the Council.**

All proceedings before the City Council are recorded.

November 28, 2022

5:30 p.m. Work Session  
Council Chambers with COVID-19 Precautions Required

or

Virtual Attendance

Registration Required:

Attend from your computer, tablet or smartphone:

Zoom

Meeting ID: 851 9381 7634

[https://us06web.zoom.us/webinar/register/WN\\_zU7x8uXMTrGQzKqsBnPjTg](https://us06web.zoom.us/webinar/register/WN_zU7x8uXMTrGQzKqsBnPjTg)

To dial in using your phone in Listen Only Mode:

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Oregon Relay/TTY: 711 or 800-735-1232

*(Council work sessions are reserved for discussion between Council, staff and consultants; therefore, Council will not receive public input during work sessions.*

*Opportunities for public input are given during all regular Council meetings)*

## CALL TO ORDER

ROLL CALL – Mayor VanGordon \_\_\_\_, Councilors Pitts \_\_\_\_, Moe \_\_\_\_, Rodley \_\_\_\_, Stoehr \_\_\_\_, Woodrow \_\_\_\_, and Pishioneri \_\_\_\_.

1. Camping Ordinance Update  
[Mary Bridget Smith] (20 Minutes)
2. Comprehensive Plan Map Clarification Project  
[Chelsea Hartman] (30 Minutes)
3. Climate Friendly and Equitable Communities Rulemaking Parking Requirements  
[Sandy Belson] (30 Minutes)

ADJOURNMENT

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**AGENDA ITEM SUMMARY**

**Meeting Date:** 11/28/2022  
**Meeting Type:** Work Session  
**Staff Contact/Dept.:** Mary Bridget Smith/CAO  
**Staff Phone No:** 541-744-4061  
**Estimated Time:** 20 Minutes  
**Council Goals:** Foster an Environment that Values Diversity and Inclusion

**SPRINGFIELD  
CITY COUNCIL**

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**ITEM TITLE:** CAMPING ORDINANCE UPDATE

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**ACTION REQUESTED:** Review new legal issues related to City’s camping ordinance and provide direction for next steps.

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**ISSUE STATEMENT:** The City’s camping ordinance is out of compliance with HB 3115 and must either be revised or repealed by July 1, 2023.

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**ATTACHMENTS:** [Attachment 1: League of Oregon Cities’ \*Guide to Persons Experiencing Homelessness in Public Spaces\*](#)  
[Attachment 2: PowerPoint Presentation](#)  
[Attachment 3: HB 3115](#)

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**DISCUSSION/  
FINANCIAL  
IMPACT:** The current municipal code section prohibiting camping on public property conflicts with recently passed HB 3115. That bill requires that local laws regulating camping must be objectively reasonable as to time, place and manner restrictions from the perspective of persons experiencing homelessness.

Springfield, like many cities, regulates camping by prohibiting persons from sleeping or camping on public property. Currently, prohibited camping is a violation punishable by a fine of up to \$720 (SMC Section 5.130). As the number of persons experiencing homelessness has increased, Courts have begun to issue decisions restricting a local government’s ability to regulate or prohibit sleeping on public property.

In 2019, the 9<sup>th</sup> Circuit issued their opinion in *Martin v. City of Boise* (920 F. 3d 584) which limited the City’s ability to regulate camping on public property. *Martin* was rooted in the 8<sup>th</sup> Amendment about cruel and unusual punishment. That case was followed by *Blake (Johnson) v. Grants Pass* (50 F. 4<sup>th</sup> 787) which expanded on *Boise* by introducing the concept of entitling people to keep themselves warm and dry and discussed what meaningful access to a shelter truly means. Those cases were then restated and codified into law by HB 3115. As a result, the City must reconsider its camping ordinance (SMC Section 5.130) which currently prohibits all camping on public property.

The purpose of this work session is to relay information about legal issues related to implementing HB 3115 and a list of issues and questions for the Council to consider as it works through this issue.

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# Guide to Persons Experiencing Homelessness in Public Spaces

JUNE 2022

# Guide to Persons Experiencing Homelessness in Public Spaces

Cities possess a significant amount of property – from parks, greenways, sidewalks, and public buildings to both the developed and undeveloped rights of way – sizable portions of a city belong to the city itself, and are held in trust for particular public purposes or use by residents. Historically cities have regulated their various property holdings in a way that prohibits persons from camping, sleeping, sitting or lying on the property. The historic regulation and management of a city’s public spaces must be reimagined in light of recent federal court decisions and the Oregon Legislature’s enactment of HB 3115, both of which direct cities to consider their local regulations within the context of available local shelter services for those persons experiencing homelessness.

As the homelessness crisis intensifies, and the legal parameters around how a city manages its public property contract, cities need guidance on how they can regulate their property in a way that respects each of its community members, complies with all legal principles, and protects its public investments. A collective of municipal attorneys from across the state of Oregon convened a work group to create this guide, which is intended to do two things: (1) explain the legal principles involved in regulating public property in light of recent court decisions and statutory enactments; and (2) provide a checklist of issues/questions cities should review before enacting or amending any ordinances that may impact how their public property is managed.

## Legal Principles Involved in Regulating Public Property

Two key federal court opinions, *Martin v. Boise* and *Blake v. Grants Pass*, have significantly impacted the traditional manner in which cities regulate their public property. In addition to these two pivotal cases, the Oregon Legislature enacted HB 3115 during the 2021 legislative session as an attempt to clarify, expand, and codify some of the key holdings within the court decisions. An additional piece of legislation, HB 3124, also impacts the manner in which cities regulate public property in relation to its use by persons experiencing homelessness. And, as the homelessness crisis intensifies, more legal decisions that directly impact how a city regulates its public property when it is being used by persons experiencing homelessness are expected. Some of these pending cases will seek to expand, limit, or clarify the decisions reached in *Martin* and *Blake*; other pending cases seek to explain how the well-established legal principle known as State Created Danger applies to actions taken, or not taken, by cities as they relate to persons experiencing homelessness.

### A. *The Eighth Amendment to the U.S. Constitution*

The Eighth Amendment to the U.S. Constitution states that excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted. In 1962, the U.S. Supreme Court, in *Robinson v. California*, established the principle that “the Eighth Amendment prohibits the state from punishing an involuntary act or condition if it is the unavoidable consequence of one’s status or being.” 370 U.S. 660 (1962).

## B. *Martin v. Boise*

In 2018, the U.S. 9<sup>th</sup> Circuit Court of Appeals, in *Martin v. Boise*, interpreted the Supreme Court’s decision in *Robinson* to mean that the Eighth Amendment to the U.S. Constitution “prohibits the imposition of criminal penalties for sitting, sleeping, or lying outside on public property for homeless individuals who cannot obtain shelter ... because sitting, lying, and sleeping are ... universal and unavoidable consequences of being human.” The court declared that a governmental entity cannot “criminalize conduct that is an unavoidable consequence of being homeless – namely sitting, lying, or sleeping.” 902 F3d 1031, 1048 (2018).

The 9<sup>th</sup> Circuit clearly stated in its *Martin* opinion that its decision was intentionally narrow, and that some restrictions on sitting, lying, or sleeping outside at particular times or in particular locations, or prohibitions on obstructing the rights of way or erecting certain structures, might be permissible. But despite the narrowness of the decision, the opinion only truly answered some of the many questions cities are rightly asking. After *Martin*, municipal attorneys could advise their clients in limited ways: some things were clear, and others were pretty murky.

One of the most commonly misunderstood aspects of the *Martin* decision is the belief that a city can never prohibit a person experiencing homelessness from sitting, sleeping or lying in public places. The *Martin* decision, as noted, was deliberately limited. Cities are allowed to impose city-wide prohibitions against persons sitting, sleeping, or lying in public, provided the city has a shelter that is accessible to the person experiencing homelessness against whom the prohibition is being enforced. Even if a city lacks enough shelter space to accommodate the specific person experiencing homelessness against whom the prohibition is being enforced, it is still allowed to limit sitting, sleeping, and lying in public places through reasonable restrictions on the time, place and manner of these acts (“where, when, and how”) – although what constitutes a reasonable time, place and manner restriction is often difficult to define.

A key to understanding *Martin* is recognizing that an analysis of how a city’s ordinance, and its enforcement of that ordinance, can be individualized. Pretend a city has an ordinance which prohibits persons from sleeping in city parks if a person has nowhere else to sleep. A person who violates that ordinance can be cited and arrested. A law enforcement officer finds 11 persons sleeping in the park, and is able to locate and confirm that 10 of said persons have access to a shelter bed or a different location in which they can sleep. If any of those 10 persons refuses to avail themselves of the available shelter beds, the law enforcement officer is within their rights, under *Martin*, to cite and arrest the persons who refuse to leave the park. The practicality of such an individualized assessment is not to be ignored, and cities are encouraged to consider the ability to make such an assessment as they review their ordinances, policies, and procedures.

What is clear from the *Martin* decision is the following:

1. Cities cannot punish a person who is experiencing homelessness for sitting, sleeping, or lying on public property when that person has no place else to go;
2. Cities are not required to build or provide shelters for persons experiencing homelessness;

3. Cities can continue to impose the traditional sit, sleep, and lie prohibitions and regulations on persons who do have access to shelter; and
4. Cities are allowed to build or provide shelters for persons experiencing homelessness.

After *Martin*, what remains murky, and unknown is the following:

1. What other involuntary acts or human conditions, aside from sleeping, lying and sitting, are considered to be an unavoidable consequence of one's status or being?
2. Which specific time, place and manner restrictions can cities impose to regulate when, where, and how a person can sleep, lie or sit on a public property?
3. What specific prohibitions can cities impose that will bar a person who is experiencing homelessness from obstructing the right of way?
4. What specific prohibitions can cities impose that will prevent a person who is experiencing homelessness from erecting a structure, be it temporary or permanent, on public property?

The city of Boise asked the United States Supreme Court to review the 9<sup>th</sup> Circuit's decision in *Martin*. The Supreme Court declined to review the case, which means the opinion remains the law in the 9<sup>th</sup> Circuit. However, as other federal circuit courts begin considering a city's ability to enforce sitting, sleeping and camping ordinances against persons experiencing homelessness, there is a chance that the Supreme Court may review a separate but related opinion to clarify the *Martin* decision and provide clarity to the outstanding issues raised in this guide.

### *C. Blake v. Grants Pass*

Before many of the unanswered questions in *Martin* could be clarified by the 9<sup>th</sup> Circuit or the U.S. Supreme Court, an Oregon federal district court issued an opinion, *Blake v. Grants Pass*, which provided some clarity, but also provided an additional layer of murkiness.

From the *Blake* case we also know the following:

1. Whether a city's prohibition is a civil or criminal violation is irrelevant. If the prohibition punishes an unavoidable consequence of one's status as a person experiencing homelessness, then the prohibition, regardless of its form, is unconstitutional.
2. Persons experiencing homelessness who must sleep outside are entitled to take necessary minimal measures to keep themselves warm and dry while they are sleeping.
3. A person does not have access to shelter if:

- They cannot access the shelter because of their gender, age, disability or familial status;
- Accessing the shelter requires a person to submit themselves to religious teaching or doctrine for which they themselves do not believe;
- They cannot access the shelter because the shelter has a durational limitation that has been met or exceeded; or
- Accessing the shelter is prohibited because the person seeking access is under the influence of some substance (for example alcohol or drugs) or because of their past or criminal behavior.

But much like *Martin*, the *Blake* decision left some unanswered questions. The key unknown after *Blake*, is: What constitutes a minimal measure for a person to keep themselves warm and dry – is it access to a blanket, a tent, a fire, etc.?

And while defining the aforementioned unknown question after *Blake* is most certainly difficult for cities, what cities must also keep ever present in their mind is the fact that the 9<sup>th</sup> Circuit Court of Appeals is presently reviewing the *Blake* decision. When the 9<sup>th</sup> Circuit finishes its review and issues an opinion, cities should reasonably expect the rules and parameters established by the Oregon district court in *Blake* to change. What types of changes should be expected, the severity of the changes, and when those changes will occur are questions municipal attorneys cannot answer at this time for their clients. Given the very real fluidity surrounding the legal issues discussed in this guide, before adopting any new policy, or revising an existing policy, that touches on the subject matter described herein, cities are strongly encouraged to speak with their legal advisor to ensure the policy is constitutional.

#### *D. House Bill 3115*

HB 3115 was enacted by the Oregon Legislature during its 2021 session. It is the product of a workgroup involving the LOC and the Oregon Law Center as well as individual cities and counties.

The bill requires that any city or county law regulating the acts of sitting, lying, sleeping or keeping warm and dry outside on public property must be “objectively reasonable” based on the totality of the circumstances as applied to all stakeholders, including persons experiencing homelessness. What is objectively reasonable may look different in different communities. The bill retains cities’ ability to enact reasonable time, place and manner regulations, aiming to preserve the ability of cities to manage public spaces effectively for the benefit of an entire community.

HB 3115 includes a delayed implementation date of July 1, 2023, to allow local governments time to review and update ordinances and support intentional community conversations.

From a strictly legal perspective, HB 3115 did nothing more than restate the judicial decisions found in *Martin* and *Blake*, albeit a hard deadline to comply with those judicial decisions was imposed. The bill provided no further clarity to the judicial decisions, but it also imposed no new requirements or restrictions.

#### *E. House Bill 3124*

Also enacted during the 2021 legislative session, HB 3124 does two things. First, it changes and adds to existing guidance and rules for how a city is to provide notice to homeless persons that an established campsite on public property is being closed, previously codified at ORS 203.077 *et seq.*, now found at ORS 195.500, *et seq.* Second, it gives instructions on how a city is to oversee and manage property it removes from an established campsite located on public property. It is important to remember that HB 3124 applies to public property; it is not applicable to private property. This means that the rules and restrictions imposed by HB 3124 are not applicable city-wide, rather they are only applicable to property classified as public.

HB 3124 does not specify, with any true certainty, what constitutes public property. There has been significant discussion within the municipal legal field as to whether rights of way constitute public property for the purpose of interpreting and implementing HB 3124. The general consensus of the attorneys involved in producing this guide is that rights of way should be considered public property for purposes of HB 3124. If an established homeless camp is located on rights of way, it should generally be treated in the same manner as an established camp located in a city park. However, as discussed below, depending on the dangers involved with a specific location, exceptions to this general rule exist.

When a city seeks to remove an established camp site located on public property, it must do so within certain parameters. Specifically, a city is required to provide 72-hour notice of its intent to remove the established camp site. Notices of the intention to remove the established camp site must be posted at each entrance to the site. In the event of an exceptional emergency, or the presence of illegal activity other than camping at the established campsite, a city may act to remove an established camp site from public property with less than 72-hour notice. Examples of an exceptional emergency include: possible site contamination by hazardous materials, a public health emergency, or immediate danger to human life or safety.

While HB 3124 specifies that the requirements contained therein apply to established camping sites, it fails to define what constitutes an established camping site. With no clear definition of what the word established means, guidance on when the 72-hour notice provisions of HB 3124 apply is difficult to provide. The working group which developed this guide believes a cautious approach to defining the word established at the local level is prudent. To that end, the LOC recommends that if, for example, a city were to enact an ordinance which permits a person to pitch a tent between the hours of 7 p.m. and 7 a.m., that the city also then consistently and equitably enforce the removal of that tent by 7 a.m. each day, or as close as possible to 7 a.m. Failing to require the tent's removal during restricted camping hours each day, *may*, given that the word established is undefined, provide an argument that the tent is now an established camp site that triggers the requirement of HB 3124.

In the process of removing an established camp site, oftentimes city officials will also remove property owned by persons who are experiencing homelessness. When removing items from established camp sites, city officials should be aware of the following statutory requirements:

- Items with no apparent value or utility may be discarded immediately;
- Items in an unsanitary condition may be discarded immediately;
- Law enforcement officials may retain weapons, drugs, and stolen property;
- Items reasonably identified as belonging to an individual and that have apparent value or utility must be preserved for at least 30 days so that the owner can reclaim them; and
- Items removed from established camping sites in counties other than Multnomah County must be stored in a facility located in the same community as the camping site from which it was removed. Items removed from established camping sites located in Multnomah County must be stored in a facility located within six blocks of a public transit station.

Cities are encouraged to discuss with legal counsel the extent to which these or similar requirements may apply to any camp site, “established” or not, because of due process protections.

#### *F. Motor Vehicles and Recreational Vehicles*

Cities need to be both thoughtful and intentional in how they define and regulate sitting, sleeping, lying, and camping on public property. Is sleeping in a motor vehicle or a recreational vehicle (RV) that is located on public property considered sitting, lying, sleeping, or camping on public property under the city’s ordinances and policies? This guide will not delve into the manner in which cities can or should regulate what is commonly referred to as car or RV camping; however, cities do need to be aware that they should consider how their ordinances and policies relate to car and RV camping, and any legal consequences that might arise if such regulations are combined with ordinances regulating sitting, lying, sleeping, or camping on public property. Motor and recreational vehicles, their location on public property, their maintenance on public property, and how they are used on or removed from public property are heavily regulated by various state and local laws, and how those laws interact with a city’s ordinance regulating sitting, lying, sleeping, or camping on public property is an important consideration of this process.

#### *G. State Created Danger*

In 1989, the U.S. Supreme Court, in *DeShaney v. Winnebago Cnty. Dep’t of Soc. Servs.*, interpreted the Fourteenth Amendment to the U.S. Constitution to impose a duty upon the government to act when the government itself has created dangerous conditions – this interpretation created the legal principle known as State Created Danger. 489 U.S. 189 (1989). The 9<sup>th</sup> Circuit has interpreted the State Created Danger doctrine to mean that a governmental

entity has a duty to act when the government actor “affirmatively places the plaintiff in danger by acting with ‘deliberate indifference’ to a ‘known or obvious danger.’” *LA Alliance for Human Rights v. City of Los Angeles*, 2021 WL 1546235.

The State Created Danger principle has three elements. First, the government’s own actions must have created or exposed a person to an actual, particularized danger that the person would not have otherwise faced. Second, the danger must have been one that is known or obvious. Third, the government must act with deliberate indifference to the danger. *Id.* Deliberate indifference requires proof of three elements:

“(1) there was an objectively substantial risk of harm; (2) the [state] was subjectively aware of facts from which an inference could be drawn that a substantial risk of serious harm existed; and (3) the [state] either actually drew that inference or a reasonable official would have been compelled to draw that inference.” *Id.*

Municipal attorneys are closely reviewing the State Created Danger principle as it relates to the use of public spaces by persons experiencing homelessness for three reasons. First, many cities are choosing to respond to the homeless crisis, the legal decisions of *Martin* and *Blake*, and HB 3115, by creating managed homeless camps where unhoused persons can find shelter and services that may open the door to many State Created Danger based claims of wrongdoing (e.g. failure to protect from violence, overdoses, etc. within the government sanctioned camp). Second, in California, at least one federal district court has recently ruled that cities have a duty to act to protect homeless persons from the dangers they face by living on the streets, with the court’s opinion resting squarely on the State Created Danger principle. Third, when imposing reasonable time, place, and manner restrictions to regulate the sitting, sleeping or lying of persons on public rights of way, cities should consider whether their restrictions, and the enforcement of those restrictions, trigger issues under the State Created Danger principle. Fourth, when removing persons and their belongings from public rights of way, cities should be mindful of whether the removal will implicate the State Created Danger principle.

In creating managed camps for persons experiencing homelessness, cities should strive to create camps that would not reasonably expose a person living in the camp to a known or obvious danger they would not have otherwise faced. And if there is a danger to living in the camp, a city should not act with deliberate indifference to any known danger in allowing persons to live in the camp.

And while the California opinion referenced above has subsequently been overturned by the 9<sup>th</sup> Circuit Court of Appeals, at least one federal district court in California has held that a city “acted with deliberate indifference to individuals experiencing homelessness” when the city allowed homeless persons to “reside near overpasses, underpasses, and ramps despite the inherent dangers – such as pollutants and contaminant.” *LA Alliance for Human Rights v. City of Los Angeles*, 2022 WL 2615741. The court essentially found a State Create Danger situation when a city allowed persons experiencing homelessness to live near interstates – a living situation it “knew” to be dangerous.

Before a city official enforces a reasonable time, place, and manner restriction which regulates the sitting, sleeping and lying of persons on public property, the official should review the enforcement action they are about to take in light of the State Created Danger principle. For example, if a city has a restriction that allows persons to pitch a tent on public property between the hours of 7 p.m. and 7 a.m., a city official requiring the person who pitched the tent to remove it at 7:01 a.m. should be mindful of all environmental conditions present at the time their enforcement order is made. The same thoughtful analysis should be undertaken when a city removes a person and their belongings from the public rights of way.

### **How Cities Proceed**

The law surrounding the use of public spaces by persons experiencing homelessness is newly emerging, complex, and ripe for additional change. In an effort to simplify, as much as possible, the complexity of this legal conundrum, below is an explanation of what municipal attorneys know cities must do, must not do, and may potentially do.

#### *A. What Cities Must Do*

In light of the court decisions discussed herein, and the recent House bills enacted by the Oregon Legislature, cities must do the following:

1. Review all ordinances and policies with your legal advisor to determine which ordinances and policies, if any, are impacted by the court decisions or recently enacted statutes.
2. Review your city's response to the homelessness crisis with your legal advisor to ensure the chosen response is consistent with all court decisions and statutory enactments.

If your city chooses to exclude persons experiencing homelessness from certain areas of the city for violating a local or state law, the person must be provided the right to appeal that expulsion order, and the order must be stayed while the appeal is pending.

3. If your city chooses to remove a homeless person's established camp site, the city must provide at least 72-hour notice of its intent to remove the site, with notices being posted at entry point into the camp site.
4. If a city obtains possession of items reasonably identified as belonging to an individual and that item has apparent value or utility, the city must preserve that item for at least 30 days so that the owner can reclaim the property, and store that property in a location that complies with state law.

#### *B. What Cities Must Not Do*

When the decisions rendered by the federal district court of Oregon and the 9<sup>th</sup> Circuit Court of Appeals are read together, particularly in conjunction with Oregon statutes, cities must not do the following:

1. Cities cannot punish a person who is experiencing homelessness for sitting, sleeping, or lying on public property when that person has no place else to go.
2. Cities cannot prohibit persons experiencing homelessness from taking necessary minimal measures to keep themselves warm and dry when they must sleep outside.
3. Cities cannot presume that a person experiencing homelessness has access to shelter if the available shelter options are:
  - Not accessible because of their gender, age, or familial status;
  - Ones which requires a person to submit themselves to religious teaching or doctrine for which they themselves do not believe;
  - Not accessible because the shelter has a durational limitation that has been met or exceeded; or
  - Ones which prohibit the person from entering the shelter because the person is under the influence of some substance (for example alcohol or drugs) or because of their past or criminal behavior.

### *C. What Cities May Potentially Do*

As previously noted, the recent court decisions, and those which are presently pending before the various federal district courts and in the 9<sup>th</sup> Circuit Court of Appeals, lack clarity in many key respects. This lack of clarity, while frustrating, also provides cities some leeway to address the homelessness crisis, specifically with how the crisis impacts the management of public property.

1. Cities may impose reasonable time, place and manner restrictions on where persons, including those persons experiencing homelessness, may sit, sleep, or lie. Any such regulation imposed by a city should be carefully vetted with the city's legal advisor.
2. Cities may prohibit persons, including those persons experiencing homelessness, from blocking rights of way. Any such regulation should be carefully reviewed by the city's legal advisor to ensure the regulation is reasonable and narrowly tailored.
3. Cities may prohibit persons, including those persons experiencing homelessness, from erecting either temporary or permanent structures on public property. Given that cities are required, by *Blake*, to allow persons experiencing homelessness to take reasonable precautions to remain warm and dry when sleeping outside, any such provisions regulating the erection of structures, particularly temporary structures, should be carefully reviewed by a legal advisor to ensure the regulation complies with all relevant court decisions and Oregon statutes.
4. If a city chooses to remove a camp site, when the camp site is removed, cities may discard items with no apparent value or utility, may discard items that are in an

unsanitary condition, and may allow law enforcement officials to retain weapons, drugs, and stolen property.

5. Cities may create managed camps where person experiencing homelessness can find safe shelter and access to needed resources. In creating a managed camp, cities should work closely with their legal advisor to ensure that in creating the camp they are not inadvertently positioning themselves for a State Created Danger allegation.

#### *D. What Cities Should Practically Consider*

While this guide has focused exclusively on what the law permits and prohibits, cities are also encouraged to consider the practicality of some of the actions they may wish to take. Prior to imposing restrictions, cities should work with all impacted staff and community members to identify if the suggested restrictions are practical to implement. Before requiring any tent pitched in the public right of way to be removed by 8 a.m., cities should ask themselves if they have the ability to practically enforce such a restriction – does the city have resources to ensure all tents are removed from public property every morning 365 days a year? If a city intends to remove property from a camp site, cities should practically ask themselves if they can store said property in accordance with the requirements of HB 3124. Both questions are one of only dozens of practical questions cities need to be discussing when reviewing and adopting policies that touch on topics covered by this guide.

### **Conclusion**

Regulating public property, as it relates to persons experiencing homelessness, in light of recent court decisions, legislative actions, and forthcoming judicial opinions is nuanced and complicated. It is difficult for cities to know which regulations are permissible and which are problematic. This guide is an attempt to answer some of the most common legal issues raised by *Martin, Blake*, HB 3115, HB 3124, and the State Created Danger doctrine – it does not contain every answer to every question a city may have, nor does it provide guidance on what is in each community’s best interest. Ultimately, how a city chooses to regulate its public property, particularly in relation to persons experiencing homelessness, is a decision each city must make on its own. A city’s decision should be made not just on the legal principles at play, but on its own community’s needs, and be done in coordination with all relevant partners. As with any major decision, cities are advised to consult with experts on this topic, as well as best practice models, while considering the potential range of public and private resources available for local communities. Cities will have greater success in crafting ordinances which are not only legally acceptable, but are accepted by their communities, if the process for creating such ordinances is an inclusive process that involves advocates and people experiencing homelessness.

### **Additional Resources**

The League of Oregon Cities (LOC), in preparing this guide, has obtained copies of ordinances and policies that may be useful to cities as they consider their own next steps. Additionally, several municipal advisors who participated in the development of this guide have expressed a willingness to share their own experiences in regulating public rights of way, particularly as it

relates to persons experiencing homelessness, with Oregon local government officials. If you believe these additional resources may be of use to you or your city, please feel free to contact a member of the LOC's [Legal Research Department](#).

### **Recognition and Appreciation**

The LOC wishes to extend its sincerest thanks to the municipal attorneys who assisted in the development of this guide. Attorneys from across Oregon came together over several months to vet legal theories, share best practices, and create this guide. These attorneys donated their time, experience, and resources – seeking nothing in return. And while a core team of attorneys was gathered to build this guide, the LOC recognizes that the team's work stands on the shoulders of every city and county attorney in Oregon who has been working, and who will continue to work, to assist their community in addressing the homelessness crisis. For those attorneys not specifically named below, please know your contributions are equally recognized and respected:

- Aaron Hisel, Montoya, Hisel & Associates;
- Chad Jacobs, Beery Elsner & Hammond;
- Eric Mitton, City of Medford;
- Kirk Mylander, Citycounty Insurance Services;
- Elizabeth Oshel, City of Bend;
- Mary Winters, City of Bend; and
- Grace Wong, City of Beaverton.

# Camping Ordinance and HB 3115

Presented by: City Attorney's Office



# Discussion Context

- This work session is intended to provide information about legal issues involved in addressing homelessness on City property and revising the City's camping ordinance.
- This work session does not address:
  - Homeless camp clean up
  - Housing
  - Camping on private property

# Current Camping Ordinance- Prohibits All Camping on Public Property

Sidewalk, street, alley, right of way, public park, road, parking lot

Bedding, sleeping bag, stove, fire, tent, lean-to shack, structure

Violation - fine only

# Federal Law

- 8<sup>th</sup> Amendment
- *Martin v. Boise*
- *Blake v. Grants Pass (X2)*

# Federal Law Takeaways

- *No criminal or civil punishment*
- *Can regulate - time, place and manner*
- *No requirement to build shelters*
- *True and actual access to a shelter*
- *Ability to stay warm and dry*

# State Law

- HB 3115 - restates *Martin and Blake*
- Any city or county law that regulates the act of sitting, lying, sleeping or keeping warm and dry outside on public property must be “objectively reasonable” based on the totality of the circumstances as applied to all stakeholders including persons experiencing homelessness.
- A person experiencing homelessness can challenge reasonableness in circuit court; not a private right of action but can be awarded attorney fees.
- Implement by July 1, 2023

# Undecided Legal Considerations

- What other involuntary acts or human conditions will be considered an unavoidable consequence of one's status or being?
- What about situations where jurisdictions collaborate to provide a shelter that serves multiple jurisdictions?
- What specific time, place and manner restrictions can cities impose to regulate when, where, and how a person can sleep, lie or sit on public property?
- What specific prohibitions can cities impose that will bar a person who is experiencing homelessness from obstructing the right of way?
- What specific prohibitions can cities impose that will prevent a person who is experiencing homelessness from erecting a structure on public property?

# State Created Danger

- A city has a duty to act when it affirmatively places a person in danger by acting with deliberate indifference to a known or obvious danger.
- Elements
  - City's own actions created or exposed a person to an actual particularized danger they would not have otherwise faced
  - Danger must have been one that was known or obvious
  - The city acted with deliberate indifference to the danger

## State Created Danger, Cont.

Think about this liability when evaluating:

- The creation of a managed camp
- The enforcement of reasonable time, place and manner restrictions

Local  
Camping  
Ordinances  
- Consider

Restrictions must be  
objectively reasonable

Comply with federal and  
state law

In place by 7/1/2023

# Conclusion

- This area of the law is developing
- Focus on jurisdiction specific solutions and 'show work' to avoid liability

**Enrolled**  
**House Bill 3115**

Sponsored by Representative KOTEK; Representatives DEXTER, MARSH, MCLAIN, POWER, REYNOLDS, WILDE, Senators DEMBROW, MANNING JR, RILEY

CHAPTER .....

AN ACT

Relating to the regulation of public property with respect to persons experiencing homelessness; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** (1) **As used in this section:**

(a) **“City or county law” does not include policies developed pursuant to ORS 203.077 or 203.079.**

(b)(A) **“Keeping warm and dry” means using measures necessary for an individual to survive outdoors given the environmental conditions.**

(B) **“Keeping warm and dry” does not include using any measure that involves fire or flame.**

(c) **“Public property” has the meaning given that term in ORS 131.705.**

(2) **Any city or county law that regulates the acts of sitting, lying, sleeping or keeping warm and dry outdoors on public property that is open to the public must be objectively reasonable as to time, place and manner with regards to persons experiencing homelessness.**

(3) **It is an affirmative defense to a charge of violating a city or county law described in subsection (2) of this section that the law is not objectively reasonable.**

(4) **A person experiencing homelessness may bring suit for injunctive or declaratory relief to challenge the objective reasonableness of a city or county law described in subsection (2) of this section. The action must be brought in the circuit court of the county that enacted the law or of the county in which the city that enacted the law is located.**

(5) **For purposes of subsections (2) and (3) of this section, reasonableness shall be determined based on the totality of the circumstances, including, but not limited to, the impact of the law on persons experiencing homelessness.**

(6) **In any suit brought pursuant to subsection (4) of this section, the court, in its discretion, may award reasonable attorney fees to a prevailing plaintiff if the plaintiff:**

(a) **Was not seeking to vindicate an interest unique to the plaintiff; and**

(b) **At least 90 days before the action was filed, provided written notice to the governing body of the city or county that enacted the law being challenged of an intent to bring the action and the notice provided the governing body with actual notice of the basis upon which the plaintiff intends to challenge the law.**

(7) **Nothing in this section creates a private right of action for monetary damages for any person.**

**SECTION 2.** **Section 1 of this 2021 Act becomes operative on July 1, 2023.**

**SECTION 3. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.**

**Passed by House April 15, 2021**

.....  
Timothy G. Sekerak, Chief Clerk of House

.....  
Tina Kotek, Speaker of House

**Passed by Senate June 9, 2021**

.....  
Peter Courtney, President of Senate

**Received by Governor:**

.....M,....., 2021

**Approved:**

.....M,....., 2021

.....  
Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2021

.....  
Shemia Fagan, Secretary of State

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**AGENDA ITEM SUMMARY****SPRINGFIELD  
CITY COUNCIL****Meeting Date:** 11/28/2022  
**Meeting Type:** Work Session  
**Staff Contact/Dept.:** Chelsea Hartman/DPW  
**Staff Phone No:** 541-726-3648  
**Estimated Time:** 30 Minutes  
**Council Goals:** Provide Financially Responsible and Innovative Government Services

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**ITEM TITLE:** COMPREHENSIVE PLAN MAP CLARIFICATION PROJECT

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**ACTION REQUESTED:** Provide guidance to staff on whether the recommendations for how to approach creating the draft Comprehensive Plan map align with Council’s preferences, or if Council prefers alternative approaches.**ISSUE STATEMENT:** The process of creating a property-specific Comprehensive Plan Map for Springfield requires several considerations about technical methodology as a basis for the map. Through discussion alongside the project’s Technical Resource Group, Project Advisory Committee, Planning Commission, and information learned from other jurisdictions, staff identified recommended options for map display and associated policy where needed. City Council’s guidance on how to proceed with key policy-related topics will inform next steps for creating the draft map.**ATTACHMENTS:** [Attachment 1: Briefing Memo](#)  
[Attachment 2: Eugene-Springfield Metropolitan Area General Plan \(Metro Plan\) Diagram](#)  
    a: 2004 version (officially co-adopted)  
    b: 2010 version (reflects more recent area-specific amendments)  
[Attachment 3: Advisory Body Membership](#)  
[Attachment 4: Tradeoffs of Mapping Options \(table\)](#)  
[Attachment 5: Visual Examples of Refinement Plan Display Options](#)  
[Attachment 6: Presentation Slides](#)**DISCUSSION/  
FINANCIAL  
IMPLICATIONS:** As part of continuing to develop the Springfield Comprehensive Plan, a key step is to create a map that interprets and clarifies the Metro Plan Diagram, including showing specific plan designations for each property in Springfield. Initiating the project was a high priority for City Council at its [April 5, 2021](#) work session.

Topics and options for helping map users better understand applicable comprehensive planning requirements for specific properties emerged during the course of the project. Staff will focus the work session on recommendations for visually representing policy-level planning information for: public rights-of-way, adopted neighborhood refinement plans, nodal development, and whether to allow flexibility in plan designation boundaries. Attachments 1 and 4 will inform the work session’s discussion.

The City is dedicating staff time to this project, which was awarded grant funding by the Oregon Department of Land Conservation and Development in November 2021. Creating a property-specific map will achieve efficiencies by improving customer service with providing timely, accurate information and will also help inform other projects, such as planning for future housing needs.

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**MEMORANDUM**

**City of Springfield**

**Date:** 11/28/2022

**To:** Nancy Newton

**COUNCIL**

**From:** Chelsea Hartman, Senior Planner  
Jeff Paschall, Community Development Director

**BRIEFING**

**Subject:** Comprehensive Plan Map Clarification Project

**MEMORANDUM**

**ISSUE:**

The process of creating a property-specific Comprehensive Plan Map for Springfield requires several considerations about technical methodology as a basis for the map. Through discussion alongside the project’s Technical Resource Group, Project Advisory Committee, Planning Commission, and information learned from other jurisdictions, staff identified recommended options for map display and associated policy where needed. City Council’s guidance on how to proceed with key policy-related topics will inform next steps for creating the draft map.

**COUNCIL GOALS/**

**MANDATE:**

Provide Financially Responsible and Innovative Government Services

**BACKGROUND:**

For decades, Eugene and Springfield shared a comprehensive plan: the Eugene-Springfield Metropolitan Area General Plan (“Metro Plan”). The Metro Plan was created as the sole, long-range plan (a public policy and vision document) for metropolitan Lane County, including Springfield and Eugene. Both cities recently established separate urban growth boundaries based on a determination of land supplies needed to meet anticipated growth. As a result, comprehensive planning is evolving toward city-specific plans.

Moving from one comprehensive plan structure to another is resource-intensive, so Springfield is developing the Springfield Comprehensive Plan in phases. A key step is to create a Comprehensive Plan Map that clarifies the boundaries of plan designations on the Metro Plan Diagram (adopted as an 11” x 17” paper map shown in Attachment 2a) on a property-specific basis. Questions about policy-based information affect map display.

**Project Initiation & Direction**

Initiating the Comprehensive Plan Map Clarification project was a high priority at City Council’s April 5, 2021 work session, particularly with the project’s purpose and goals in mind. In November 2021, the Oregon Department of Land Conservation and Development awarded funding for the project.

**Project Purpose & Goals**

The Comprehensive Plan Map Clarification Project will create a property-specific Comprehensive Plan Map for Springfield. This map will add greater certainty for Springfield’s plan designations as compared to the Metro Plan Diagram which currently guides decisions about how to use land within the region.

The Metro Plan Diagram does not meet today’s needs for showing which plan designations, general land use types, apply to each property within the region. The Metro Plan Diagram is a

“broad brush,” graphic depiction of projected land uses and major transportation corridors but is largely not property-specific.

Clarifying the location of the plan designations by interpreting the Metro Plan Diagram for each property within Springfield’s urban growth boundary will provide a solid understanding of existing policies and plan documents in a visual way and will streamline the land use research process with better property lookup tools.

### **Why this Work Matters**

- **Local Ownership & Decision-Making:** This map, which will show plan designations for each property within Springfield’s land use jurisdiction, will become one part of the Land Use Element (a chapter) of the Springfield Comprehensive Plan.
- **Better Service:** The property-specific Comprehensive Plan map will provide timely, accurate information. It will provide property research tools to the public that are convenient, quick to access, and easy to use—ultimately providing confidence in decisions. In addition to a PDF map, it will become part of Springfield’s existing property research tool (MapSpring), which is [an online interactive map that is free to access](#). Users will be able to identify a plan designation for specific properties throughout Springfield with this tool without immediate reliance on staff for basic answers.
- **Large Projects on the Horizon & Requirements:** Springfield must adopt its Housing Capacity Analysis by December 2025. Having an accurate Comprehensive Plan map on which to base the inventory of buildable residential lands to inform the Housing Capacity Analysis is a desirable first step that this project will address.
- **Barriers Identified:** Research during this project will identify conflicts between a property’s zoning and its plan designation. Understanding the magnitude of this barrier to development can help the City determine the priority of addressing that issue.

### **Process to Inform the Draft Map**

Staff have approached this project with a mix of technical, document-focused mapping research and through informed conversations to seek input on mapping approaches.

- A Technical Resource Group (TRG) and Project Advisory Committee (PAC) have provided insight on desired outcomes for the map through a series of three meetings each. Their roles are to provide suggestions to staff, but they do not vote on a recommendation to Planning Commission or Council. The TRG represents a variety of agencies who work with Springfield. The PAC, appointed by the Springfield Committee for Citizen Involvement, is comprised of people with experiences and perspectives that range from Springfield’s residents at-large who are committed to serving the community to professionals in land use planning (some of whom also live in Springfield). A list of TRG and PAC membership is in Attachment 3.
- Staff interviewed seven cities across Oregon about their mapping decisions.
- Research by staff was simultaneously underway to research properties that required interpretation of the Metro Plan’s designation boundaries.

Additional community engagement per the project’s Community Engagement Plan will begin once a draft map is ready.

### **DISCUSSION:**

The following are a subset of the full set topics discussed with the TRG and PAC. These topics will inform key policy direction needed to proceed with creating a draft map. On November 1, 2022, Planning Commission discussed the following topics and provided general feedback in support of staffs’ recommendations. As staff continue property research, input on whether staffs’

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recommended approach to these topics aligns with City Council’s preferences will inform how to proceed.

The adoption package for this project will include amendments to the Springfield Development Code as needed to address these topics and to recognize that the Springfield Comprehensive Plan Map applies instead of the Metro Plan Diagram.

## **I. Should the Comprehensive Plan Map Designate Public Rights-of-Way?**

**Topic Context:** The scale of the Metro Plan Diagram (Attachment 2) only allows labelling of major streets with black lines and does not show public rights-of-way. When the City converted hand-drawn, paper neighborhood refinement plan maps to an electronic database and digital map using our Geographic Information System, the City did not designate rights-of-way. For the most part, the City “zones” rights-of-way as shown on the Zoning Map. Options:

- **Option 1:** Designate public rights-of-way (and show them as such on the map)
- **Option 2:** Do not designate public rights-of-way

### **Recommended Map Approach– Option 2: Do not designate public rights-of-way**

#### **Rationale:**

Not designating rights-of-way avoids further complicating the land use application process. From a map user perspective, not designating public rights-of-way will better-orient map readers to locations of interest (for example, streets will be left uncolored, which allows room for contrast and labels and provides readers a quick visual reference of street layout without covering important information with colored lines).

Attachment 4 provides a list of tradeoffs for all options considered.

#### **Implications:**

The City’s approach to zoning of public rights-of-way has been inconsistent. As such, staff further recommend treating rights-of-way the same in the Zoning Map as the Comprehensive Plan Map.

Applications to vacate public rights-of-way would start with the subject right-of-way as a “blank slate” when pursuing development projects since the right-of-way would be undesignated and not zoned until the time of vacation.

New written policy corresponding to the Map will specify how to determine the appropriate plan designation and land use district (zone) to assign to the right-of-way based on the designation and zoning of the property attached to it (the adjacent “parent” property)<sup>1</sup>. For example, procedures could specify that the vacated right-of-way would take on the plan designation of the adjacent property. The vacated right-of-way would continue to take on the adjacent property’s land use district without the need to formally amend the Zoning Map as currently allowed by Code (SDC 5.20.140). Eliminating the need for a Plan Designation and Zoning Map Amendment is also possible because right-of-way vacations follow a Type 4 application review process that meets public input requirements for decisions to determine a property’s proper plan designation and land use district.

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<sup>1</sup> If the application is submitted concurrently with a Plan Amendment or Zone Change application, the application could propose that the right-of-way take on the requested plan designation and/or zone.

## **II. Should the Comprehensive Plan Map display information about adopted neighborhood refinement plans? If so, how?**

**Topic Context:** The property-specific Comprehensive Plan Map creates a visual opportunity to direct map users to applicable plan designations and documents for their properties. Currently, certain applications for land use approval (e.g., Discretionary Uses, Zoning Map Amendments) must determine whether the request to allow a particular use is consistent with the Metro Plan and (if applicable) an adopted neighborhood refinement plan. For properties within the boundary of a refinement plan, the refinement plan’s designation takes precedence.

The role of a refinement plan designation has not been the same over time. In some refinement plans, the refinement plan designation is the same as the Metro Plan designation. In other refinement plans, the refinement plan designation is a more specific and separate designation than the more general Metro Plan designation. This policy structure affects how staff and the public access information they need. With this in mind, four mapping options were considered (with a fifth hybrid option added by staff following input from the project’s advisory bodies):

- **Option 1:** Show the Metro Plan Diagram designations as currently named with property lines, but leave a “white space” (or “hole”) where an adopted refinement plan applies. Map users would look at the refinement plan maps to learn the designation of a property.
- **Option 2:** Show the Metro Plan Diagram designations as currently named with property lines for all properties throughout Springfield without showing any information about refinement plans. This option would mean no boundary lines or “holes” for the refinement plans. In this case, properties within refinement plan areas may have two plan designations— one as per the Comprehensive Plan Map and a more specific one in refinement plan maps.
- **Option 3:** Show all the various refinement plan designations on the Comprehensive Plan Map without changing any names of the refinement plan designations. Metro Plan Diagram designations, where different or less specific than refinement plan designations, would be discarded.
- **Option 4:** Show the refinement plan designations on the map where applicable but consolidate similar designations to streamline and minimize the legend. Metro Plan designations, where different than refinement plan designations, would be discarded. Amend refinement plan text as needed to match the new Comprehensive Plan designations.
- **Hybrid Option 3/4:** For refinement plan areas, show most of the refinement plan designations (as in Option 3) but consolidate all Mixed Use designations into one and consolidate designations similar to Parks and Open Space, Public Land, etc. Individual refinement plan maps retain existing, detailed designations. Do not amend refinement plan text.

Attachment 5 provides visual examples of the four options originally presented to the project’s advisory bodies. These examples are early concepts intended to guide discussion. There will be time to improve the map that reflects the preferred approach.

**Recommended Map Approach— Hybrid Option 3/4:** For refinement plan areas, show most of the refinement plan designations (as in Option 3) but consolidate all Mixed Use designations into one and consolidate designations similar to Parks and Open Space, Public Land, etc. Do not amend refinement plan text.

**Rationale:**

Showing information about where refinement plans apply on the Comprehensive Plan Map can make property research more efficient and helps ensure that the due diligence process does not miss an important piece of information.

Consolidating the names of some plan designations in the spirit of Option 4 eliminates clutter and makes the map more readable. Staff recommend not fully going with Option 4 for various reasons. Several refinement plans have detailed text descriptions of certain designations that serve special purposes. It would be difficult to capture the nuanced or specific refinement plan requirements if the refinement plans' written content required amendments to adopt generalized plan designations. Leaving the refinement plan text as presently in place honors specific locations as currently described, which also reduces the need for staff resources.

This project can take advantage of existing technology with Springfield's online interactive map (MapSpring) to show the specific refinement plan designations in the spirit of Option 3. With this tool, users have the option to turn certain information on or off of the map screen and can view as much or as little of the detailed refinement plan as desired.

Attachment 4 provides a list of tradeoffs for the four basic options originally considered and discussed with the advisory bodies.

**Implications:**

Boundaries of each adopted refinement plan will appear on the printed (PDF) map and on MapSpring. Comprehensive Plan designations will apply outside refinement plan areas. Within the refinement plan areas, the plan designation will be at a property-specific level but in a simplified way for some properties (Mixed Use and designations such as Parks and Open Space, Public Land, etc.) while retaining existing detailed, refinement plan designations for other properties where possible. Refinement plan maps and text regarding the purpose and nuance of specific designations will not change.

Generalized/simplified names for some refinement plan designations will appear in the printed map, while MapSpring has potential for providing more specific information. The printed version would be similar to Option 4; only the generalized plan designations would appear within the boundaries of refinement plan areas. MapSpring could produce Option 3 because more information about refinement plan designations could be easily displayed.

Examples of designations to be simplified are as follows: The designations of Mixed Use 2, 2a, 2b, and 3 from the East Main Refinement Plan are examples of how detailed refinement plan designations can consolidate into one Mixed Use designation on the Comprehensive Plan Map. The East Main Refinement Plan boundary would be shown on the printed map with a note to alert map users to go to the applicable refinement plan or online interactive map for more specificity. There are other ways to streamline the map by consolidating other legend items similar to the Government, Government and Education, Parks and Open Space, Public Land and Open Space, and Public/Semi-Public designations.

### **III. Should the Comprehensive Plan Map show Nodal Development Areas? If so, how?**

**Topic Context:** The representation of Nodal Development Areas throughout Springfield is inconsistent. In some instances, Nodal Development designations are treated as an "overlay" (i.e., an additional plan designation that applies over the top of the "base" plan designation). Nodal Development acts as a base plan designation in other locations. The interest in whether to

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show Nodal Development Areas on Springfield's Comprehensive Plan Map and how to show them comes from the origins and current applicability of Nodal Development.

Nodal Development Areas came from the Eugene-Springfield Metropolitan Area Transportation Plan (TransPlan), originally adopted in 2002 as one of the metro region's documents guiding decisions about how to meet the area's transportation needs over a 20-year period. TransPlan is a functional plan of the Metro Plan. The Metro Plan incorporates portions of TransPlan's information for Plan consistency and for compliance with Oregon Statewide Planning Goal 12. The Metro Plan recognizes Nodal Development Areas by carrying them forward onto the Metro Plan Diagram<sup>2</sup> (Attachment 2b) and explaining them in its text.

TransPlan's Nodal Development strategy came from the requirement to respond to the State's Transportation Planning Rule (TPR), intended to provide mixed use areas served by multi-modal transportation facilities that reduce reliance on single-occupant vehicles. While Nodal Development Areas are no longer a required component of the current TPR, many of the locations adopted as Nodal Development Areas continue to serve a purpose of meeting the City's goals for mixed use development served by multi-modal transportation networks.

Options:

- **Option 1:** Represent as previously adopted (some overlays, some base designations)
- **Option 2:** Represent all as base designations
- **Option 3:** Represent all as "overlays"

**Recommended Map Approach— Option 3: Show Nodal Development Areas on the Comprehensive Plan Map as "overlays" and treat Nodal Development Areas the same way across Springfield for consistency**

**Rationale:**

Showing Nodal Development Areas on the Comprehensive Plan Map will provide an accessible information resource desired by those who work with the City. Doing so will allow users of the map, including those who work with land use applications, to minimize the number of places they need to remember to look to determine applicable land use requirements for a property. As compared to representing Nodal Development Areas as-adopted (where some Nodal Development Areas are overlays only or base plan designations only), the consistency and predictability of Springfield's treatment of nodal development areas will eliminate potentially confusing inconsistencies and allow for a clean map. Showing the Nodal Development Areas as an overlay designation, as opposed to a base plan designation, may also simplify future comprehensive planning work to replace the "nodal development" concept from TransPlan to a more modern approach to mixed use and multi-modal development, such as "Climate-Friendly Areas<sup>3</sup>".

Attachment 4 provides a list of tradeoffs for all options considered.

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<sup>2</sup> The 2004 version is official. While a number of Diagram amendments have been approved and acknowledged since 2004, Springfield, Eugene, and Lane County have not yet undertaken a joint action to adopt a new, replacement diagram. The 2004 version does not show Nodal Development Areas in Springfield. The 2010 and later versions of the Diagram show these areas.

<sup>3</sup> The Climate-Friendly and Equitable Communities rules amend the Transportation Planning Rule and require that Springfield adopt one or more "Climate Friendly Areas".

**Implications:**

Showing Nodal Development Areas on the Comprehensive Plan Map will make users aware that policies containing language about Nodal Development will continue to apply. Nodal Development will no longer be shown as both an overlay and base designation. Instead, outlines will surround these locations and be labelled as Nodal Development Areas. Base designations will appear inside the line. Where Nodal Development base designations will no longer apply as a result, there will be new base designations for each property within these areas.

The result is no change in policy intent but a change in how Nodal Development Areas appear. Properties with only a Nodal Development base designation will change to a Mixed-Use designation, as Mixed-Use is consistent with the original intent of designating properties as Nodal Development.

#### **IV. Should some areas on the Comprehensive Plan Map have flexible designation boundaries? If so, in what cases?**

**Topic Context:** The primary focus of this project is to interpret the Metro Plan Diagram's designation boundaries where there is a lack of property-specific clarity. The boundary between the Diagram's designation boundaries is open to interpretation based on the scale of the original map; it is an approximately 300-foot wide line. Through the research to define where a line between designations falls, staff determined that some properties have more than one plan designation (i.e., a "split designation"). There is an opportunity to consider the effects split designations for specific situations as outlined below. Options:

- **Option 1:** Set the boundaries (lines) between plan designations so they are fixed
- **Option 2:** Allow for some flexibility in the boundaries with clear parameters
- **Option 3:** Keep the boundaries entirely flexible

#### **Recommended Map Approach— Option 2: Allow for some flexibility in the boundaries with clear parameters**

**Rationale:**

This approach balances interests of providing some level of certainty for development sites (which an entirely "set in stone" map would provide) while accommodating for unknown or changing circumstances of the development process by allowing a defined level of flexibility. The Metro Plan currently allows room for interpretation of boundaries, though it has been criticized for its ambiguity creating the need for lengthy and costly land use application processes along with potentially contentious outcomes. Specifying how flexible and where the plan designation boundaries can shift addresses the issues presented by the Metro Plan and allows the findings of Springfield's Buildable Land Inventories to remain valid.

Attachment 4 provides a list of tradeoffs for all options considered.

**Implications:**

The tax lot boundaries of each property will be clear along with what appears to be specific boundaries for each plan designation. The map will not show areas where there is flexibility to interpret and possibly move the boundary applies; accompanying text can describe this option for flexibility. This approach will result in clarifying policy language in the Springfield Comprehensive Plan text and in the Development Code. However, a general note on the map may be provided.

Staff will need to define appropriate parameters and thresholds for when the option to shift a plan designation boundary would be allowed without necessitating a Comprehensive Plan

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Amendment. For example, whether a minimum property size is needed and the maximum amount of “shift” that would be allowed. To determine the maximum amount a plan designation can shift, percentage or numeric standards would apply.

Locations and situations where this flexibility could apply would be for:

- Large sites with split (multiple) plan designations (e.g., sites similar to Marcola Meadows), where specific plan designations can be assigned at later steps of the project (e.g., master plans) when development teams determine siting of infrastructure and buildings based on topography and drainage
- Areas where the Public Land, Government & Education and Parks & Open Space (or similar situation) designations touch
- Property Line Adjustments, Land Divisions, and Replats, if applied for under a Type 2 procedure

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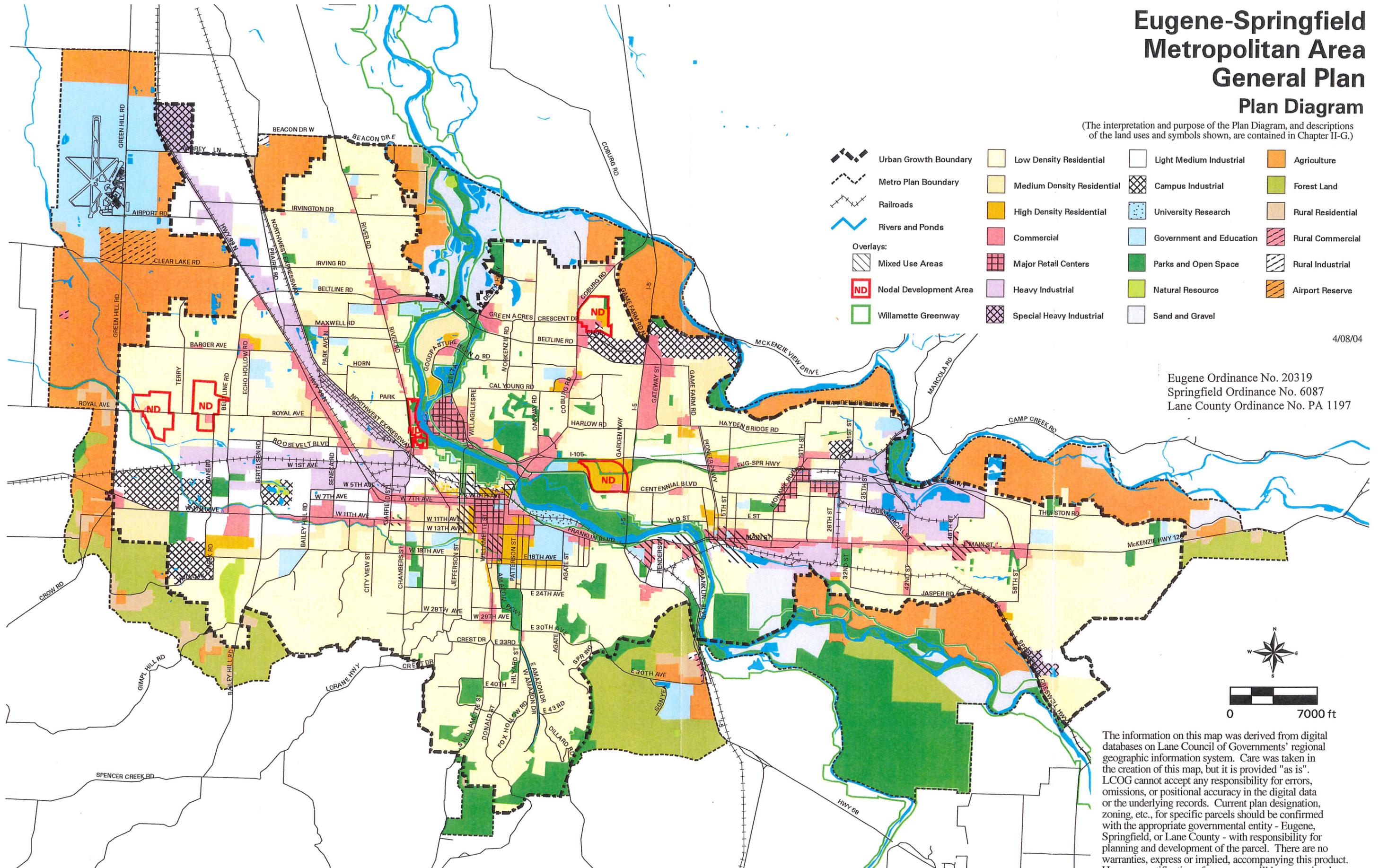
**RECOMMENDED ACTION:**

Provide guidance to staff on whether the recommendations for how to approach creating the draft Comprehensive Plan map align with Council’s preferences, or if Council prefers alternative approaches.

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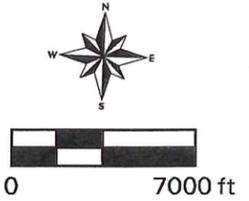
# Eugene-Springfield Metropolitan Area General Plan Plan Diagram

(The interpretation and purpose of the Plan Diagram, and descriptions of the land uses and symbols shown, are contained in Chapter II-G.)



4/08/04

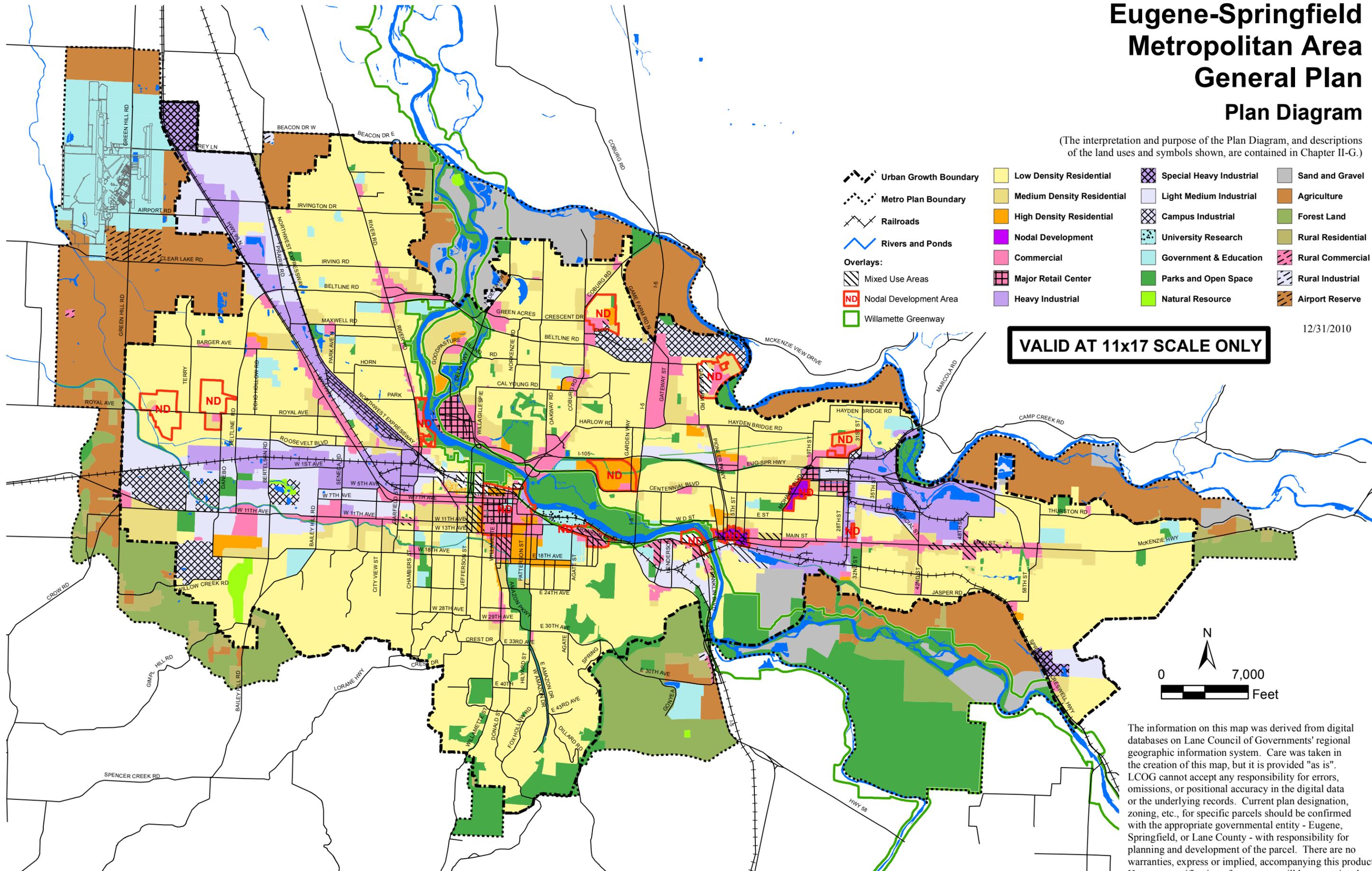
Eugene Ordinance No. 20319  
Springfield Ordinance No. 6087  
Lane County Ordinance No. PA 1197



The information on this map was derived from digital databases on Lane Council of Governments' regional geographic information system. Care was taken in the creation of this map, but it is provided "as is". LCOG cannot accept any responsibility for errors, omissions, or positional accuracy in the digital data or the underlying records. Current plan designation, zoning, etc., for specific parcels should be confirmed with the appropriate governmental entity - Eugene, Springfield, or Lane County - with responsibility for planning and development of the parcel. There are no warranties, express or implied, accompanying this product. However, notification of any errors will be appreciated.

# Eugene-Springfield Metropolitan Area General Plan Plan Diagram

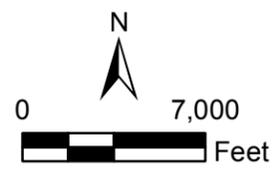
(The interpretation and purpose of the Plan Diagram, and descriptions of the land uses and symbols shown, are contained in Chapter II-G.)



- |                        |                            |                          |                   |
|------------------------|----------------------------|--------------------------|-------------------|
| Urban Growth Boundary  | Low Density Residential    | Special Heavy Industrial | Sand and Gravel   |
| Metro Plan Boundary    | Medium Density Residential | Light Medium Industrial  | Agriculture       |
| Railroads              | High Density Residential   | Campus Industrial        | Forest Land       |
| Rivers and Ponds       | Nodal Development          | University Research      | Rural Residential |
| <b>Overlays:</b>       | Commercial                 | Government & Education   | Rural Commercial  |
| Mixed Use Areas        | Major Retail Center        | Parks and Open Space     | Rural Industrial  |
| Nodal Development Area | Heavy Industrial           | Natural Resource         | Airport Reserve   |
| Willamette Greenway    |                            |                          |                   |

**VALID AT 11x17 SCALE ONLY**

12/31/2010



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## **Comprehensive Plan Map Clarification Project**

### **Advisory Body Membership**

#### **Project Advisory Committee**

- Alexis Biddle, 1000 Friends of Oregon
- Carrie (Morgan) Driggs, University of Oregon
- Earl McElhany, At-Large
- Katie Keidel, Metro Planning
- Phil Farrington, CDC Management Corp.
- Rick Satre, The Satre Group
- Sean Maxwell, At-Large
- Zach Galloway, TBG Architects + Planners

#### **Technical Resource Group**

- City of Eugene
- Oregon Department of Land Conservation and Development
- Lane Council of Governments
- Lane County
- Springfield Public Schools
- Springfield Utility Board
- Willamalane Park and Recreation District

## Considerations for Springfield's Tax Lot-Specific Comprehensive Plan Map

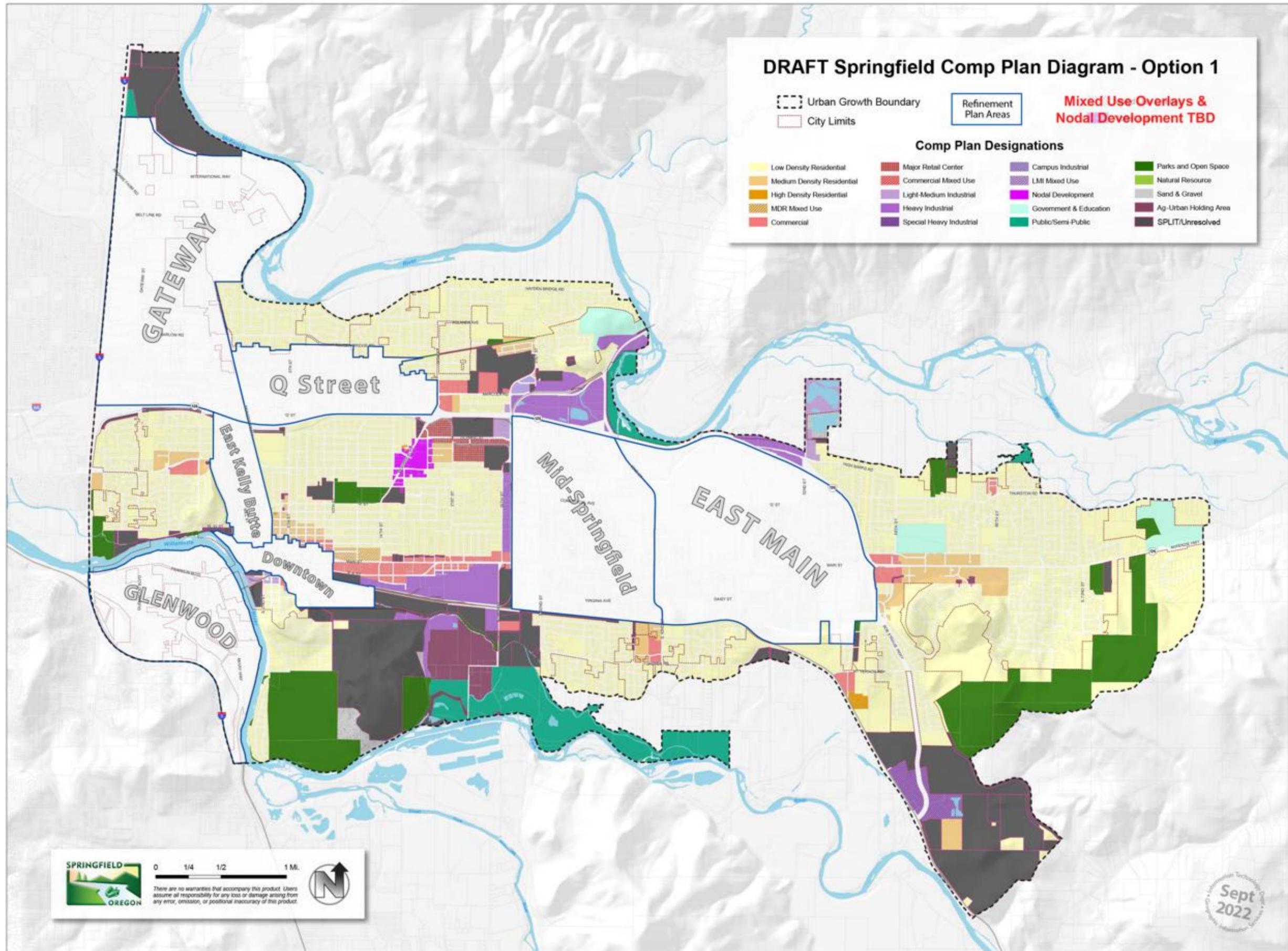
Options	Advantages	Disadvantages	Other Notes & Considerations
<b>Designating Public Rights-of-Way</b>			
<b>Option 1: Designate Rights-of-Way</b>			
Potentially less ongoing work to maintain the map so it is up-to-date.	Changing the designation of a public right-of-way would require a Plan Amendment process.		<p>Need to establish written policy for how plan designations would or would not be affected by right-of-way dedications and vacations.</p> <p>Possible need to create a policy in the Comprehensive Plan and have a corresponding Development Code provision similar to SDC 5.20.140 (Zoning of Vacated Right-of-Way) to address plan designations.</p> <p>Could explore a policy to provide authority to the mapping staff team to shift designation boundaries along with the automatic updates to the tax lot layer that comes from outside sources.</p>
	If public rights-of-way are both zoned and designated, there is potential for plan/zone conflicts that cannot be addressed through vacating the public-right-of-way.		
	Creates additional, ongoing map maintenance work for staff and creates issues of how to interpret where lines should go. The plan designation may be set by a legal description or may otherwise be static, but this would not be "rectified" by routine housekeeping updates to the tax lot layer in the map, where minor shifts in all of Springfield's tax lot boundaries occur.		
	Makes the PDF version of the Comprehensive Plan Map less legible due to greater difficulty in locating a property.		
<b>Option 2: Do Not Designate Rights-of-Way</b>			
Regional consistency: Eugene Code 9.1070 is a model for the policy Eugene will develop (not designating rights-of-way).	Possibility of the issue to require additional focused work. See notes column.		<p>Need to identify situations where tax-lotted areas (e.g., property acquired for roadways through purchase rather than dedication) should be treated as rights-of-way and not given a plan designation.</p>
Avoids plan/zone conflicts.			
Provides applicants requesting to vacate the public right-of-way a clearer path and result: No need to change an already-determined plan designation through a Plan Amendment process, and the plan designation and zoning that will apply will be that of the abutting subject property.			
The PDF version of the Comprehensive Plan Map would have greater legibility. "Finding your way" around Springfield would be easier.			
<b>Displaying Neighborhood Refinement Plan Information</b>			
<b>Option 1: Show the Metro Plan Diagram designations as currently named with property lines, but leave a "white space" (or "hole") where an adopted refinement plan applies. Map users would look at the refinement plan maps to learn the designation of a property.</b>			
Helps simplify the map legend with fewer layers of compliance shown.	Not a one-stop reference: additional searching for the separate refinement plan diagram required. This research would be required for all properties within refinement plan boundaries.		<p>Would need a note on the map or other text to make clear that the areas in the refinement plan boundaries have designations though not shown on the map. Consider labeling these areas with the applicable refinement plan title and hyperlinking for people viewing the PDF version of the map posted online.</p>
Fastest option for completing the map and preparing for adoption.			
Helps the mapping staff team to minimize need for coordination to update the map for Refinement Plan Amendments.			<p>Would need to resolve how to address any properties within a refinement plan area where the associated refinement plan text specifies that these properties presently include Metro Plan designations as separate from the refinement plan designation.</p>

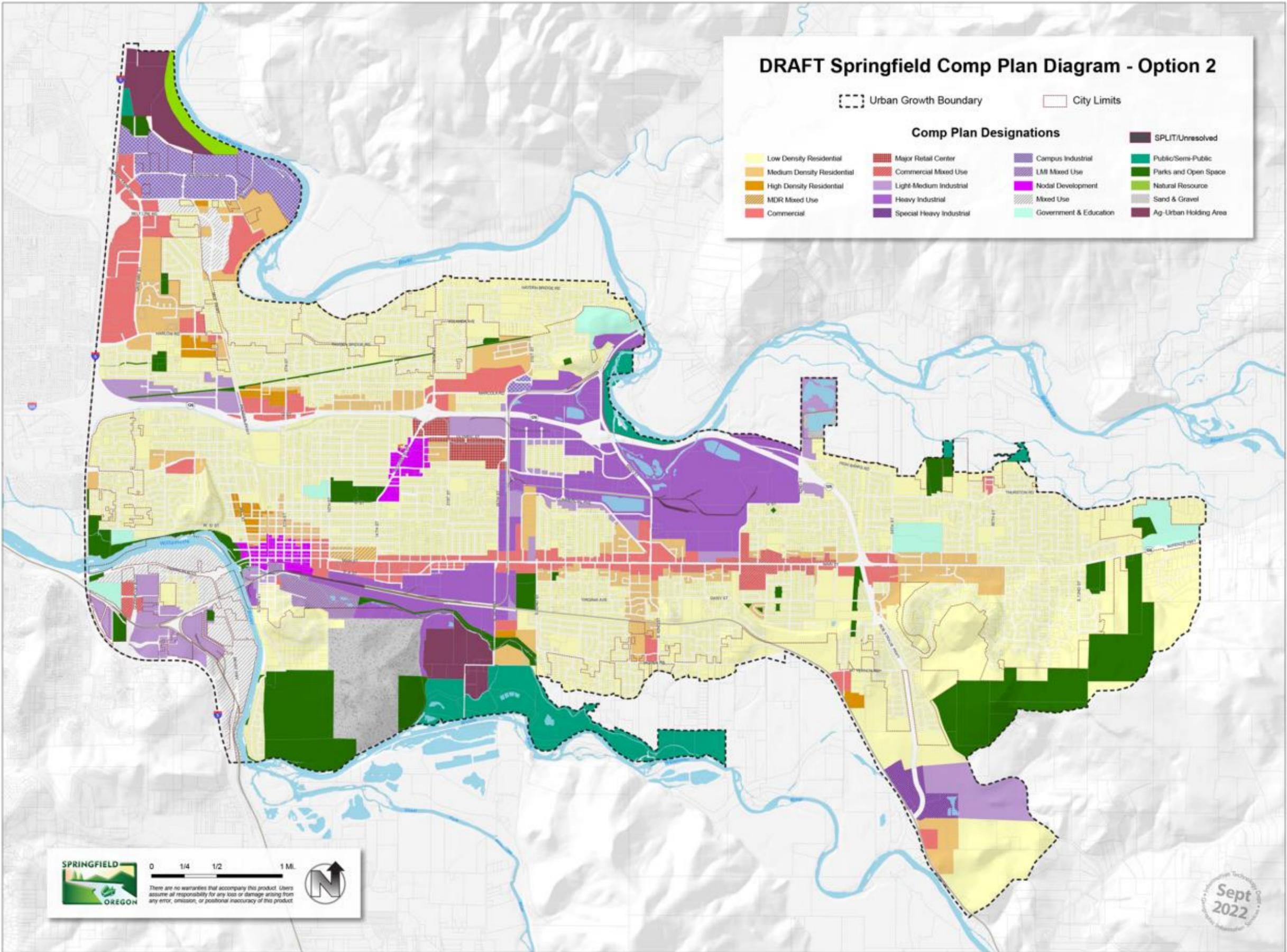
Options	Advantages	Disadvantages	Other Notes & Considerations
<b>Option 2: Show the Metro Plan Diagram designations as currently named with property lines for all properties throughout Springfield without showing any information about refinement plans. This option would mean no boundary lines or “holes” for the refinement plans. In this case, properties within refinement plan areas may have two plan designations– one as per the Comprehensive Plan Map and a more specific one in refinement plan maps.</b>			
Helps simplify the Comprehensive Plan map with fewer graphic elements and layers of compliance shown.	This would result in two plan designations for all properties within refinement plan boundaries: The Comprehensive Plan designation and the Refinement Plan designation, which creates redundancy in some cases.		
Faster to create as compared to Options 3 and 4.	Not a one-stop reference: additional searching for the separate refinement plan diagram required. This research would be required for all properties within refinement plan boundaries.		
	Potential to miss important information at time of property research due to the above referencing issue: Without notes on the map that may or may not be read, does not immediately make clear that refinement plan designations also apply (and supercede the designations on Comprehensive Plan Map). Not as simple for most people to understand, and would require awareness of need to read the Comprehensive Plan text and/or Development Code that another plan designation applies.		
<b>Option 3: Show all the various refinement plan designations on the Comprehensive Plan Map without changing any names of the refinement plan designations. Metro Plan Diagram designations, where different or less specific than refinement plan designations, would be discarded.</b>			
Would keep each refinement plan in-tact and on the same “level” as the rest of the city.	Creates a hard to read printed version of the map with very long legend with many designation names-- some of which are very nuanced and some of which might cause confusion in their similarities. However, not a concern for MapSpring (the online, interactive version of the map).	Could create subheadings in the map legend or other mini legend boxes to make clear which designations apply to each refinement plan.	
Users of the map become immediately aware of the applicable plan designation for a property (no need to search other places).	Takes longer to create as compared to Options 1 and 2.		
Helps map maintenance: staff would need to update only one map when a Plan Amendment occurs.			
<b>Option 4: Show the refinement plan designations on the map where applicable but consolidate similar designations to streamline and minimize the legend. Metro Plan designations, where different than refinement plan designations, would be discarded. Amend refinement plan text as needed to match the new Comprehensive Plan designations.</b>			
Addresses concern with the long llegend created by Option 3 by streamlining a bit.	Requires text amendments to refinement plans. Takes additional time to research and decide which amendments to propose. Outcome not guaranteed, as these amendments would also be part of public hearing and decision making process to adopt the Comprehensive Plan Map.	<p>Intended for the printable PDF version of the map. Potentially not needed for the online interactive map, which could more easily incorporate Option 3. Presents an opportunity for a hybrid of Options 3 and 4.</p> <p>Could consider an approach that achieves the intent of Option 4 without amending the Refinement Plan text (if so, map users will still need to know to go elsewhere for information about specific plan designations).</p> <p>Could consider possibilities of an interim step of this version. For example, could consolidate the Mixed Use variations of Mixed Use 2, 2a, 2b, and 3 on the map but retain the Parks &amp; Open Space, Public Land, Government &amp; Education, and similar variations, or vice versa.</p>	
Shows more specificity about refinement plan designations as compared to Options 1 and 2 and would mean a more streamlined research process as compared to Options 1 and 2.	Could lose nuance of the different variations of specific designations with this option. Risk of overlooking the different reasons for such specificity. For example, the planning intent for Parks & Open Space, Public Land, Government & Education, and similar variations as described in the text might not allow for aggregations, especially if the implementing zones have different lists of allowable uses. Potentially time intensive to determine why/why not to consolidate names by reading refinement plan text and by reviewing code language to determine which differences in designation labels are semantics or punctuation (a "clean up" opportunity) vs. which ones represent substantive/intentional differences in development intent.		
	Not a one-stop reference: Additional searching for the separate refinement plan diagram required but for potentially fewer properties (e.g., for Mixed Use properties) as compared to Options 1 and 2.		
	Takes longer to create as compared to Options 1 and 2.		

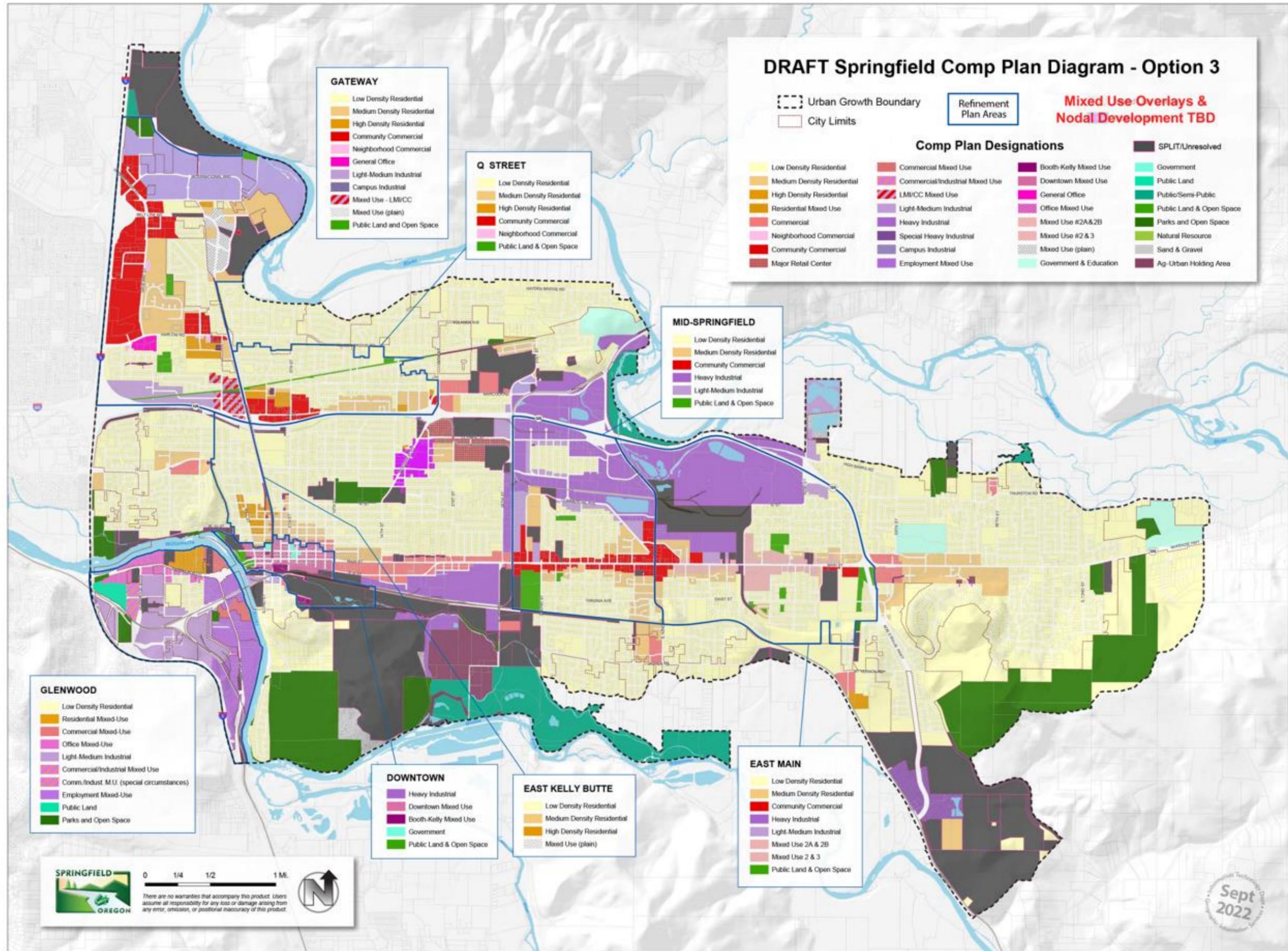
Options	Advantages	Disadvantages	Other Notes & Considerations
<b>Displaying Nodal Development Areas</b>			
<b>Option 1: Represent as previously adopted (some overlays, some base designations)</b>			
Aligns most directly with the scope of work to represent what was adopted.	Inconsistency remains and creates potential confusion about why some are overlays and others are base designations.		
	Creates additional complexity for staff involved with map maintenance.		
<b>Option 2: Represent all as base designations</b>			
Shows a consistent approach throughout Springfield.	Would change the text and diagrams of some of the more actively used refinement plans (for example, Glenwood).		Make sure policy intent of the Nodal Development designation remains the same.
	Takes more time to map this change as compared to Option 3.		
<b>Option3: Represent all as "overlays"</b>			
Aligns with zoning terms and practice (Nodal Development is treated as an Overlay District in the Springfield Development Code).	For the online interactive map (not applicable to a PDF, printable map): Someone may forget to "click"/turn on this layer of information.		Make sure policy intent of the Nodal Development designation remains the same.
Retains familiar terms in base designations (e.g., residential, commercial, industrial categories).	Would need to assign a base designation for the properties that currently only have Nodal Development as a base designation (Mohawk and portions of Downtown)--likely the Mixed Use designation, as its intent for providing a variety of uses in a concentrated space that supports multimodal transportation and minimizes automobile trips is consistent with Nodal Development.		
Shows a consistent approach throughout Springfield.			
The quickest way to get a visual overview of where Nodal Development Areas are located throughout Springfield.			
Easiest approach for map creation and for ongoing map maintenance (one layer to maintain and can be easily removed if Nodal Development Areas are renamed or otherwise removed in the future).			
<b>Providing Flexibility for Some Designation Boundaries (Large Split-Designated Development Areas &amp; For Other Specific Circumstances*)</b>			
<b>Option 1: Set the boundaries (lines) between plan designations so they are fixed</b>			
Leaves no question of what the plan designations are.	May not respond to on-the-ground reality at the time development is contemplated.		
No additional work needed to create new rules and procedures.	Would require the property owner to submit a Type 4 Plan Amendment application (costly, potentially lengthy application process) for small amounts of wiggle room (e.g., 10 feet).		
Maintains validity of Buildable Lands Inventory findings.			
<b>Option 2: Allow for some flexibility in the lines with clear parameters</b>			
Provides some ability to respond to on-the-ground reality at the time development is contemplated.	May create plan/zone conflicts unless policy is clear that the choice of plan designation must not create such conflicts.		
Requirements can be written in a clear, objective way to offer predictability/certainty while still allowing for wiggle room in plan designation boundaries.	Will require text to address this approach in the Springfield Comprehensive Plan and in the Development Code.		
Requirements can be written to not require property owners to submit a Type 4 Plan Amendment.			
Requirements can be written to maintain validity of Buildable Lands Inventory findings.			

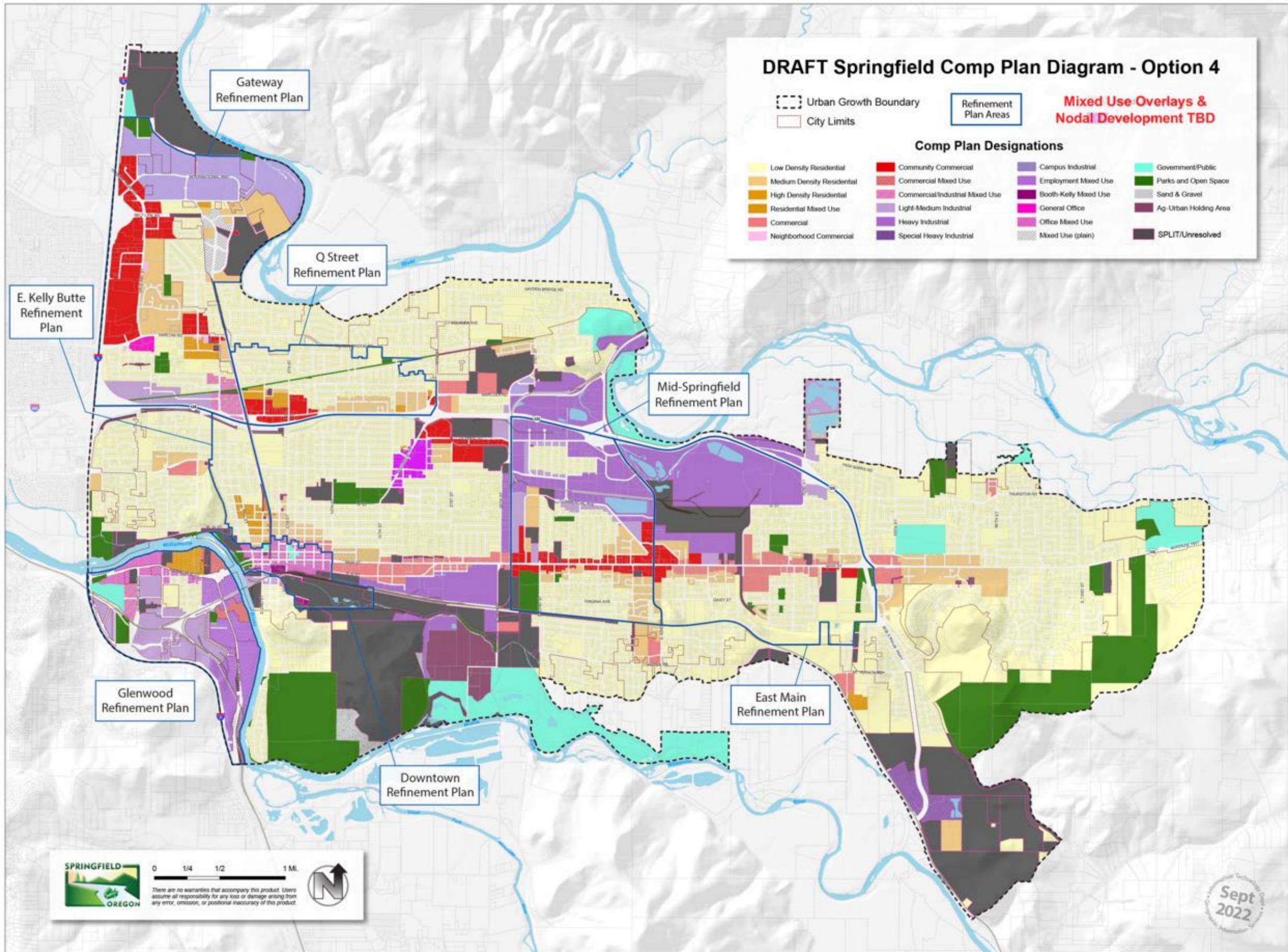
Options	Advantages	Disadvantages	Other Notes & Considerations
<b>Option 3: Keep the boundaries entirely flexible</b>			
Greatest ability to respond to on-the-ground reality at the time development is contemplated.		May create plan/zone conflicts unless policy is clear that the choice of plan designation must not create such conflicts.	
		Potential to affect Buildable Lands Inventory.	
		Lack of certainty may be perceived as too ambiguous and too similar to the issues presented by the Metro Plan Diagram: Could inhibit development (e.g., assessments, may complicate decision-making processes by requiring interpretation and findings related to the plan diagram designation), and create unintended consequences in map maintenance/updates.	
		Will require text to address this approach in the Springfield Comprehensive Plan and in the Development Code.	

\* Boundaries where one of the abutting plan designation lines falls into the categories of Public Land, Public Land & Open Space, Parks & Open Space, and similar designations; Property Line Adjustments; Land Divisions







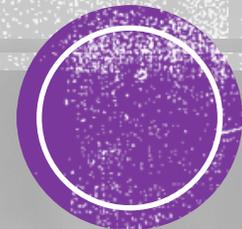




# Comprehensive Plan Map Clarification Project

City Council Work Session

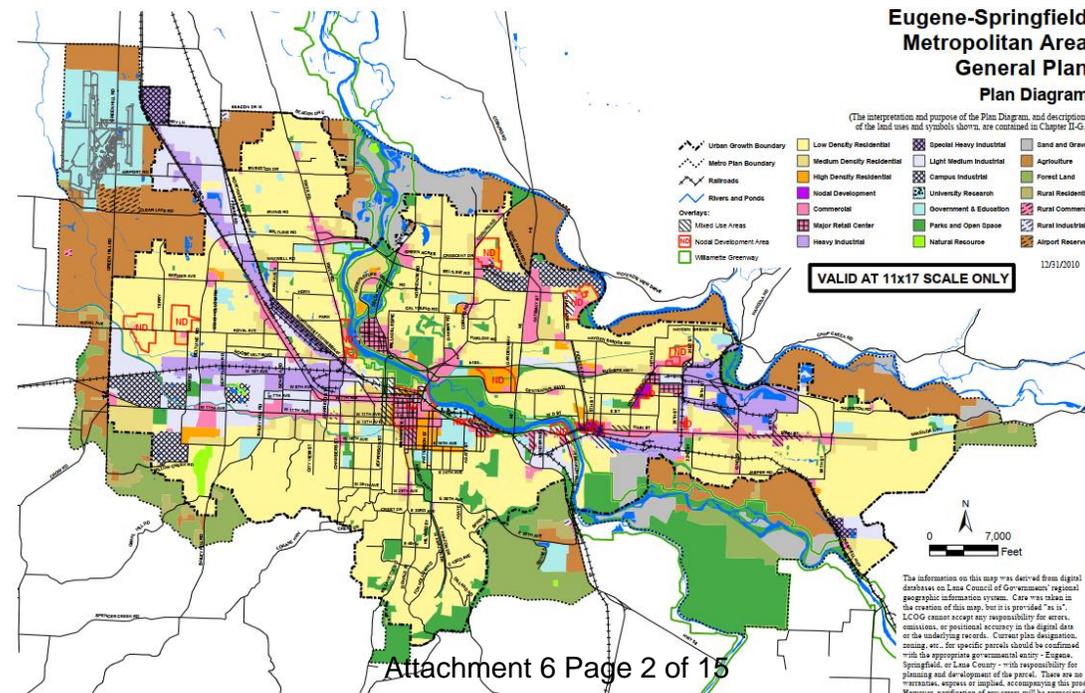
November 28, 2022



# Project Purpose

## Create a property-specific Comprehensive Plan Map for Springfield that...

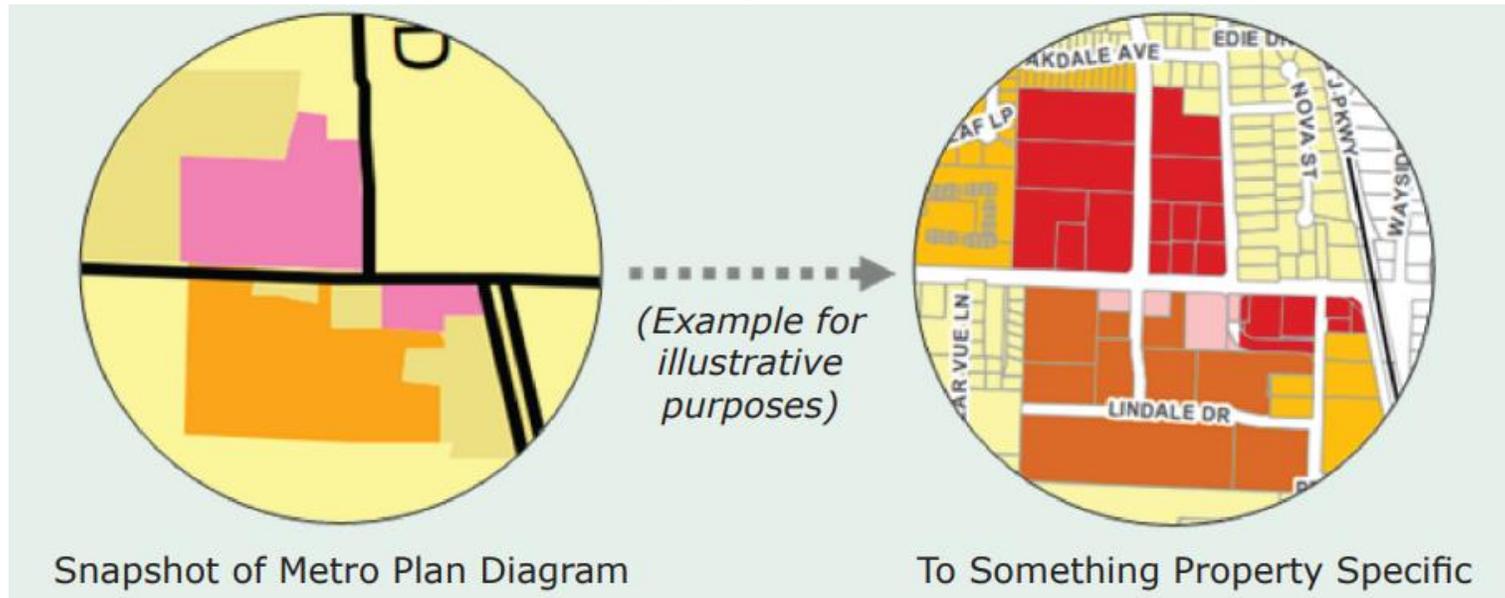
- Replaces the “broad brush” graphics of the Metro Plan Diagram



# Project Purpose

## Create a property-specific Comprehensive Plan Map for Springfield that...

- Replaces the “broad brush” graphics of the Metro Plan Diagram



- Adds greater certainty to Plan designations for properties in Springfield’s land use jurisdiction

# Project Purpose



# Why it Matters & Why Now

- Local Ownership & Decision-Making
- Better Service
- Large Projects on the Horizon & Requirements
- Barriers Identified





# Questions & Recommendations

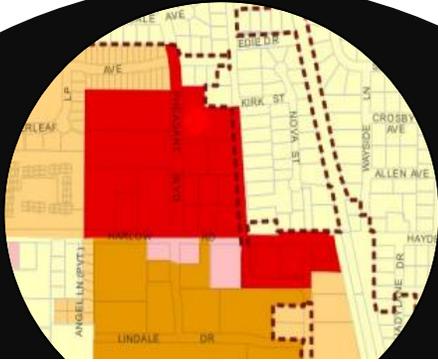
# Mapping Questions & Recommendations

## Should the Comprehensive Plan Map designate public rights-of-way?

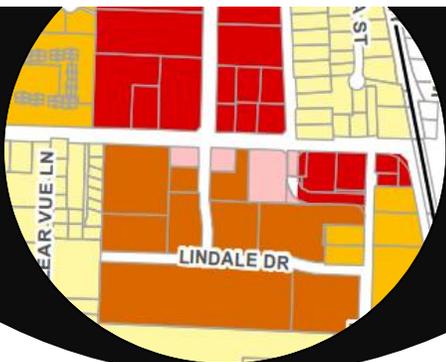
- Some major streets shown on the Metro Plan Diagram
- Public rights-of-way are given a land use designation
- No Metro Plan text that speaks to this topic



# Mapping Questions & Recommendations



**Should the Comprehensive Plan Map designate public rights-of-way?**



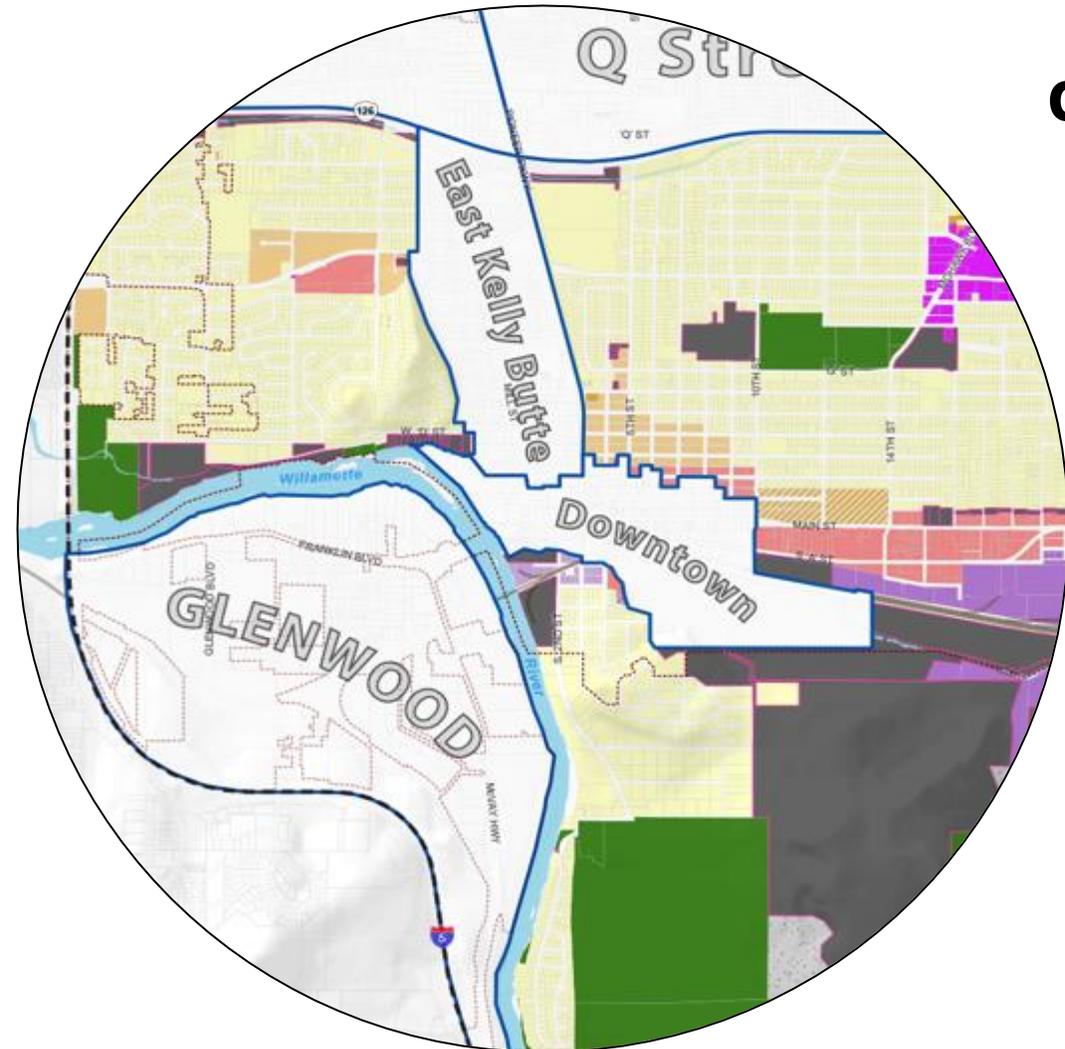
**Staff recommendation**

Do not designate

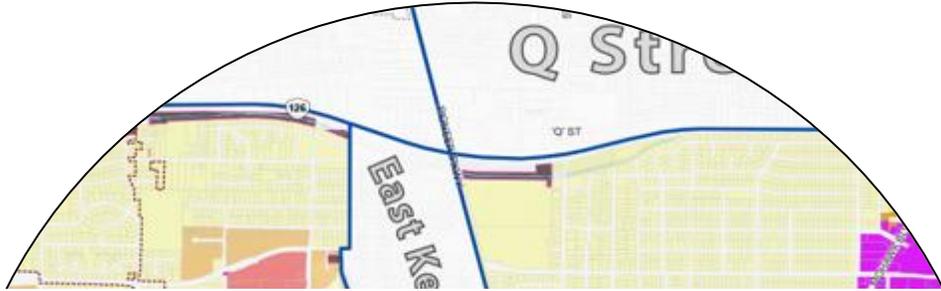
# Mapping Questions & Recommendations

**Should the Comprehensive Plan Map display information about neighborhood refinement plans? If so, how?**

- Need to know the refinement plan designation for certain land use approvals
- Refinement plan designation takes precedence over Metro Plan designation
- Implications for property research and finding maps



# Mapping Questions & Recommendations



**Should the Comprehensive Plan Map display information about neighborhood refinement plans? If so, how?**



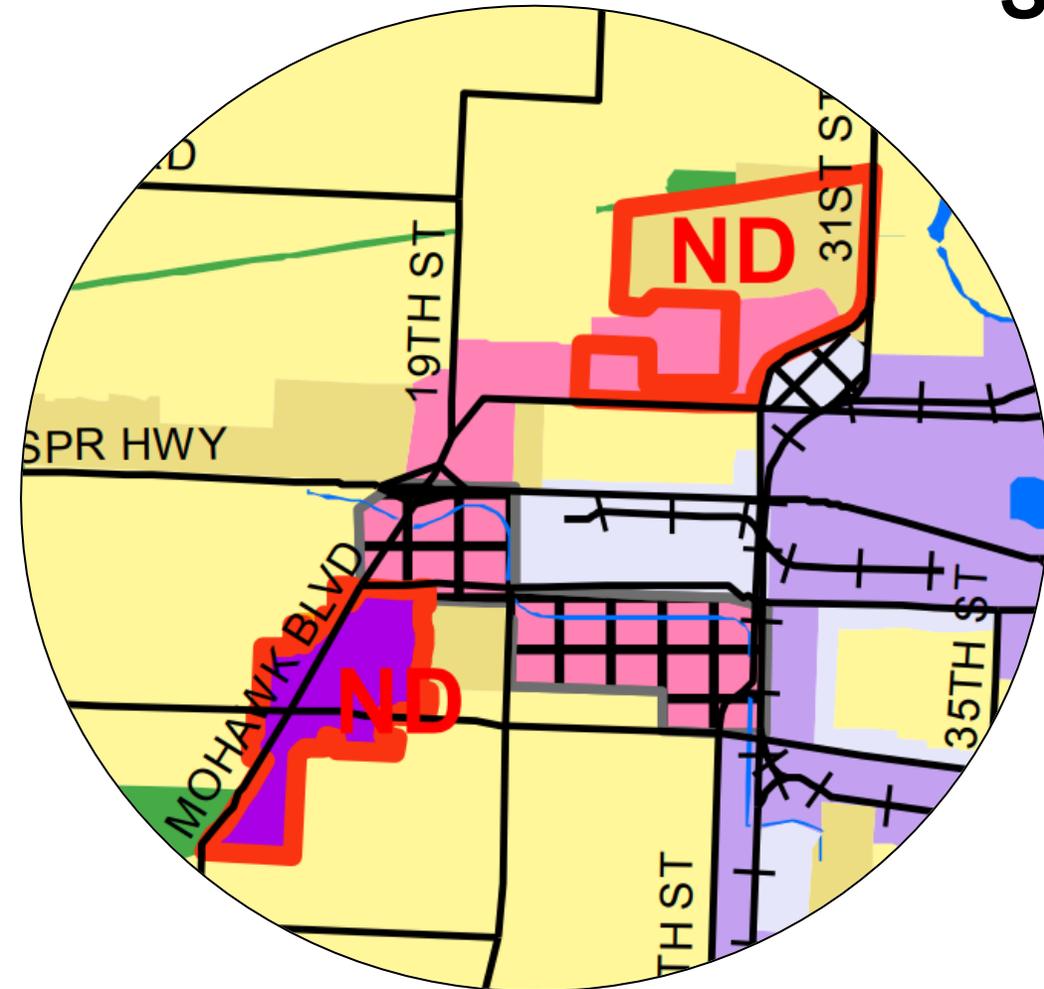
## Staff recommendation

- For interactive map, show refinement plan designations with detail
- For PDF map, show refinement plan designations but simplify designation names in legend & amend text (Mixed Use, Open Space); do not amend refinement plans

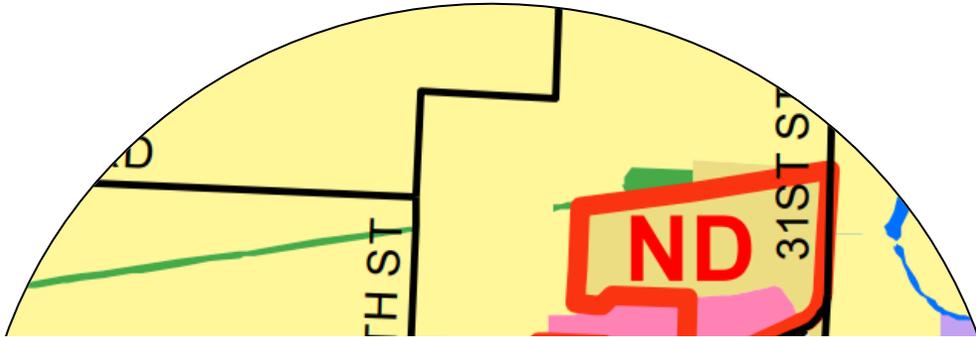
# Mapping Questions & Recommendations

**Should the Comprehensive Plan Map show Nodal Development? If so, how?**

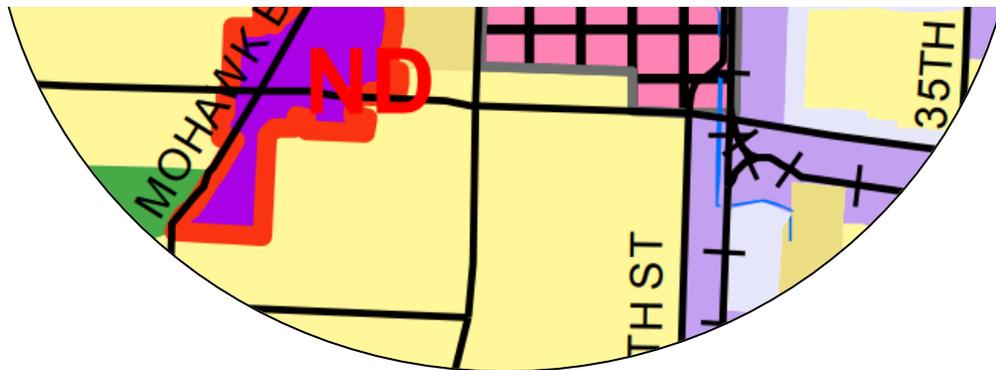
- Represented inconsistently throughout Springfield
- No longer a required component of the State's Transportation Planning Rule
- Continue to serve a local purpose of identifying and achieving multimodal transportation options



# Mapping Questions & Recommendations



**Should the Comprehensive Plan Map show Nodal Development? If so, how?**



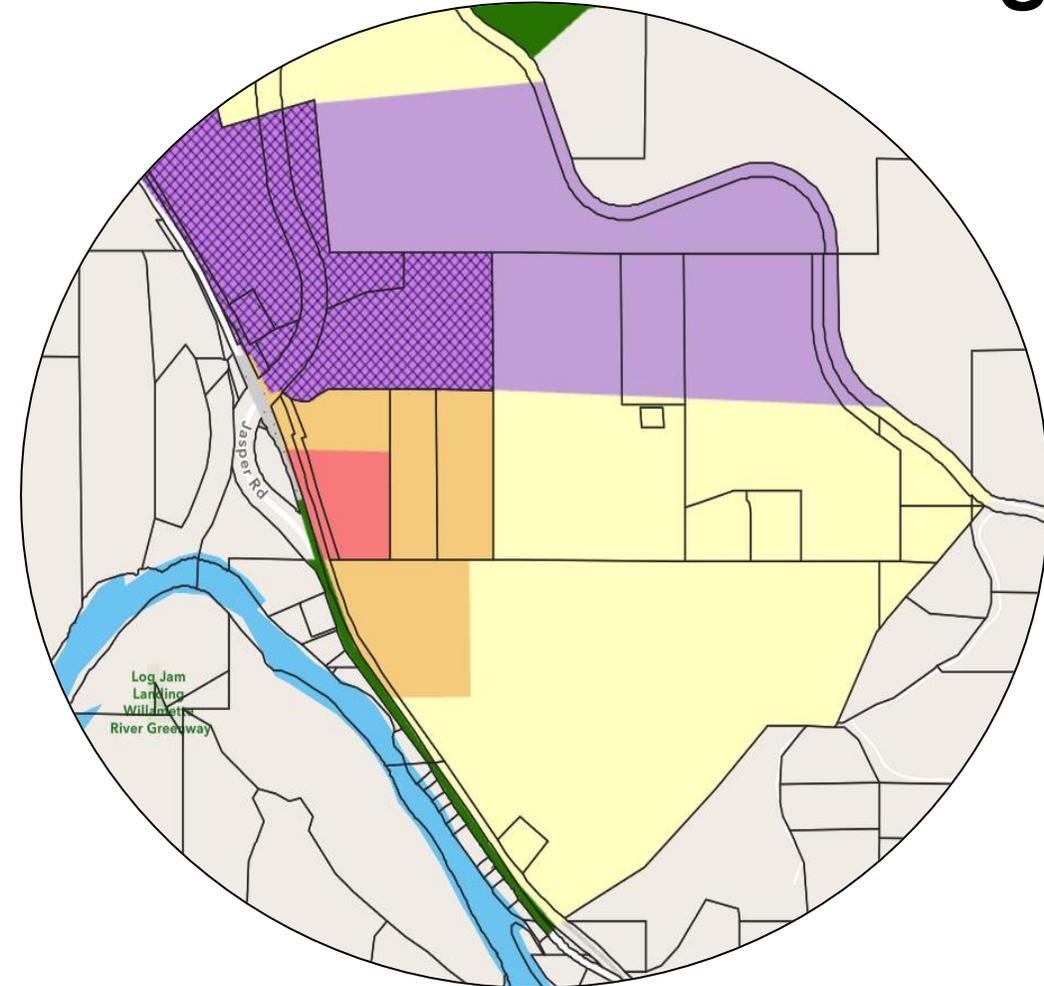
## Staff recommendation

Represent all  
as overlays

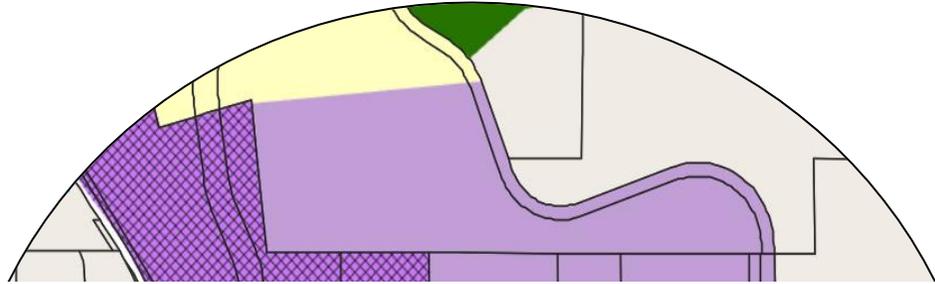
# Mapping Questions & Recommendations

**Should some areas on the Comprehensive Plan Map have flexible designation boundaries? If so, in what cases?**

- Current boundary between two designations (colors) is 300-ft. wide
- Consider implications for properties with more than one plan designation

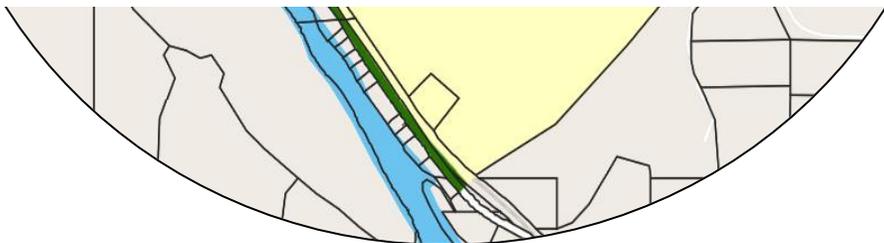


# Mapping Questions & Recommendations



**Should some areas on the Comprehensive Plan Map have flexible designation boundaries?**

**If so, in what cases?**



## Staff recommendation

Allow some flexibility with clear parameters

A background map showing a street grid, water bodies, and various colored zones. The map includes labels for streets such as 'HAYDEN BRIDGE RD', 'DAMP CREEK RD', 'ONE 1/2 MI WAY', 'ANTENNA RD', 'W O ST', 'E 1 ST', 'E 2 ST', 'E 3 ST', 'E 4 ST', 'E 5 ST', 'E 6 ST', 'E 7 ST', 'E 8 ST', 'E 9 ST', 'E 10 ST', 'E 11 ST', 'E 12 ST', 'E 13 ST', 'E 14 ST', 'E 15 ST', 'E 16 ST', 'E 17 ST', 'E 18 ST', 'E 19 ST', 'E 20 ST', 'E 21 ST', 'E 22 ST', 'E 23 ST', 'E 24 ST', 'E 25 ST', 'E 26 ST', 'E 27 ST', 'E 28 ST', 'E 29 ST', 'E 30 ST', 'E 31 ST', 'E 32 ST', 'E 33 ST', 'E 34 ST', 'E 35 ST', 'E 36 ST', 'E 37 ST', 'E 38 ST', 'E 39 ST', 'E 40 ST', 'E 41 ST', 'E 42 ST', 'E 43 ST', 'E 44 ST', 'E 45 ST', 'E 46 ST', 'E 47 ST', 'E 48 ST', 'E 49 ST', 'E 50 ST', 'E 51 ST', 'E 52 ST', 'E 53 ST', 'E 54 ST', 'E 55 ST', 'E 56 ST', 'E 57 ST', 'E 58 ST', 'E 59 ST', 'E 60 ST', 'E 61 ST', 'E 62 ST', 'E 63 ST', 'E 64 ST', 'E 65 ST', 'E 66 ST', 'E 67 ST', 'E 68 ST', 'E 69 ST', 'E 70 ST', 'E 71 ST', 'E 72 ST', 'E 73 ST', 'E 74 ST', 'E 75 ST', 'E 76 ST', 'E 77 ST', 'E 78 ST', 'E 79 ST', 'E 80 ST', 'E 81 ST', 'E 82 ST', 'E 83 ST', 'E 84 ST', 'E 85 ST', 'E 86 ST', 'E 87 ST', 'E 88 ST', 'E 89 ST', 'E 90 ST', 'E 91 ST', 'E 92 ST', 'E 93 ST', 'E 94 ST', 'E 95 ST', 'E 96 ST', 'E 97 ST', 'E 98 ST', 'E 99 ST', 'E 100 ST'. The map also shows water bodies in blue and green, and various colored zones in orange, pink, and green. A large white text 'Discussion' is overlaid on the map.

# Discussion

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**AGENDA ITEM SUMMARY**

**Meeting Date:** 11/28/2022  
**Meeting Type:** Work Session  
**Staff Contact/Dept.:** Sandy Belson/DPW  
**Staff Phone No:** 541-736-7135  
**Estimated Time:** 30 Minutes  
**Council Goals:** Mandate

**SPRINGFIELD  
CITY COUNCIL**

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**ITEM TITLE:** Climate Friendly and Equitable Communities Rulemaking Parking Requirements

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**ACTION REQUESTED:** Choose Option 1 (No on-site parking required) or Option 2 (Limit and manage parking) as to how to comply with the state mandate to comply with the Climate Friendly and Equitable Rules.

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**ISSUE STATEMENT:** In response to Executive Order 20-04, the Department of Land Conservation and Development (DLCD) adopted administrative rules that have wide ranging requirements for metropolitan areas in Oregon. The City of Springfield is mandated to comply with these requirements affecting land use and transportation.

This agenda item focuses on the parking component of the administrative rules. There are two main phases of the rules:

Phase 1: As of December 31, 2022, the City will no longer be able to require on-site parking for any new development near frequent transit corridors and for certain residential and childcare uses throughout the City.

Phase 2: By June 30, 2023, the City will also have a choice of removing all onsite parking requirements for development in the rest of the Urban Growth Boundary UGB, or to take a multi-faceted approach to regulating parking in certain areas and establishing parking management programs. Option 2 includes 3 possible policy choices for implementation. Generally, Option 2 requires significant funding and staffing, and does not result in significant flexibility.

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**ATTACHMENTS:** [Attachment 1: Memorandum](#)  
[Attachment 2: Map showing area affected by the frequent transit routes](#)  
[Attachment 3: Parking Flowchart](#)  
[Attachment 4: PowerPoint presentation](#)

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**DISCUSSION/  
FINANCIAL  
IMPACT:** This work session aims to provide further context and information for the implications and degree of flexibility for Option 1 and Option 2. Per the City Council's request, the work session includes information on the effect of the parking rules on ADA parking as well as the potential effects of the unbundling regulations on people with low incomes.

The financial impact of implementation of the parking rules varies widely depending on which Option the city pursues. Either Option may result in a need for increased enforcement both by community service officers for on-street parking and code enforcement officers for inappropriate on-site parking. Option 2 would involve public hearings regarding amendments to city codes, some of which would need co-adoption by Lane County. Option 2 would also require staff resources to set up new programs to work with property owners to unbundle parking and potentially with large employers to set up commute benefits for employees.

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# MEMORANDUM

City of Springfield

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**Date:** 11/28/2022  
**To:** Nancy Newton **COUNCIL**  
**From:** Jeff Paschall, Community Development Director **BRIEFING**  
Sandy Belson, Comprehensive Planning Manager  
Sophie McGinley, Planner  
**Subject:** Climate Friendly and Equitable Communities **MEMORANDUM**  
Rulemaking Parking Requirements

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**ISSUE:** In response to Executive Order 20-04, the Department of Land Conservation and Development (DLCD) adopted administrative rules that have wide ranging requirements for metropolitan areas in Oregon. The City of Springfield is mandated to comply with these requirements affecting land use and transportation.

This agenda item focuses on the parking component of the administrative rules. There are two main phases of the rules:

Phase 1: As of December 31, 2022, the City will no longer be able to require on-site parking for any new development near frequent transit corridors and for certain residential and childcare uses throughout the City.

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## COUNCIL GOALS/

### MANDATE:

Council Goals: Mandate

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## BACKGROUND:

### Background on Climate Friendly and Equitable Communities Rules

In March 2020, Governor Kate Brown issued Executive Order 20-04 directing state agencies to take actions to reduce and regulate greenhouse gas emissions and mitigate the impacts of climate change while also centering the needs of Oregon's most vulnerable communities. In response, the Oregon Land Conservation and Development Commission directed the Department of Land Conservation and Development (DLCD) to draft updates to Oregon's transportation and land use planning rules. The Commission adopted the Climate Friendly and Equitable Communities (CFEC) permanent rules on July 21, 2022. These rules set new standards for land use and transportation plans in Oregon's eight metropolitan areas - Albany, Bend, Corvallis, Eugene-Springfield, Grants Pass, Medford-Ashland, Portland Metro, and Salem-Keizer. The intent is to encourage walking, biking, taking the bus, and switching to electrical vehicles. The rules also state an intent to require that the city allow more dense developments in areas of "high quality transit service", bring different land uses (housing, employment, shopping, and parks) close together, and make them walkable.

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## Review of October 22 Work Session - Parking Under CFEC

On October 22, 2022, staff presented the City Council an overview of the CFEC parking rules. Phase 1 requires that the City eliminate on-site parking requirements for new development starting on January 1, 2023 for:

- Areas within ½ mile (straight-line distance or walking distance) of the EmX or Route 11<sup>1</sup>
- Certain types of housing and childcare facilities<sup>2</sup>

Also starting in January, for areas outside of frequent transit networks, the City may not require more than one parking space per residential unit developments that have more than one dwelling unit on a single legal-established property.

Phase 2 of the CFEC parking rules present 3 options for complying with city-wide parking rulemaking: Option 1 requires that cities eliminate all required on-site parking for new development city-wide. Options 2 and 3 allow for the preservation of parking minimums in a few small areas of the city while requiring programmatic and policy changes for the majority of the city.

The Council agreed to not pursue Option 3 and requested more information about Options 1 and 2, with an emphasis on how these Options would affect accessible parking for people with disabilities and a look at the potential impacts of unbundling parking for residential units on people with low incomes. Unbundling parking requires that parking spaces be rented, leased, or sold separately from the unit.

## CFEC PARKING OPTION 2

Option 2 includes several components that must be in effect by the end of June 2023.

### Regulatory Changes to Development Code

In the areas where parking minimums are still allowed, the City would need to make the following changes to the Development Code:

- Required parking may be provided off-site, within 2,000 feet pedestrian travel
  - Provision of shared parking shall be allowed to meet parking mandates (currently Springfield allows shared parking in some but not all cases)
  - Minimum parking requirements shall be reduced by one off-street parking space for each three kilowatts of capacity in solar panels or wind power that will be provided in a development
  - Minimum parking requirements shall be reduced by one off-street parking space for each dedicated car-sharing parking space in a development. Dedicated car-sharing parking spaces shall count as spaces for meeting minimum parking requirements
  - Minimum parking requirements shall be reduced by two off-street parking spaces for every electric vehicle charging station provided in a development. Parking spaces that include
- 

<sup>1</sup> See map of existing frequent transit corridors and buffer, Attachment 2

<sup>2</sup> Facilities and homes designed to serve people with psychosocial, physical, intellectual or developmental disabilities, including but not limited to a: residential care facility, residential training facility, residential treatment facility, residential training home, residential treatment home, and conversion facility as defined in ORS 443.400; Child care facility as defined in ORS 329A.250; Single-room occupancy housing; Residential units smaller than 750 square feet; Affordable housing as defined in OAR 660-039-0010; Publicly supported housing as defined in ORS 456.250; Emergency and transitional shelters for people experiencing homelessness; and Domestic violence shelters.

electric vehicle charging while an automobile is parked shall count towards required parking; and

- Minimum parking requirements shall be reduced by one off-street parking space for every two units in a development above minimum requirements that are fully accessible to people with mobility disabilities.

*Note: The reductions to the minimum required parking are cumulative, meaning that they could result in eliminating any required on-site parking. The City would not be allowed to cap the parking reductions at a certain percentage of required parking. This means that developers could combine as many of the parking reductions as they can, which could result in developers not being required to provide any parking, even if there is a minimum parking requirement.*

### **Parking in Climate Friendly Areas**

Another component of the CFEC rules that requires that cities designate Climate Friendly Areas that are sufficient to accommodate at least 30 percent of the housing units necessary to meet all current and future housing needs. These areas will be similar to what Springfield has designated “nodal development”—they will accommodate a variety of uses supported by bicycle, pedestrian, and transit infrastructure. For these Climate Friendly Areas and areas “near” Climate Friendly Areas (parcels that include land within one-quarter mile distance of the City’s designated Climate Friendly Areas), the City can choose one of two approaches to parking.

1. Eliminate on-site parking requirements for Climate Friendly Areas and areas near Climate Friendly Areas OR
2. Manage parking by:
  - Adopting a parking benefit district with paid on-street parking and some revenues dedicated to public improvements in the area
  - Requiring no more than ½ parking space per dwelling unit and that the spaces be unbundled for multi-family development. Multi-family development is defined as development with 5 or more dwelling units.
  - Eliminating on-site parking requirements for commercial uses

### **Unbundling Parking for Multi-Family Housing**

The City would need to require that parking be unbundled for multi-family development. This unbundling would be required for both existing and new multi-family housing within ½ mile of frequent transit corridors which currently include the EmX and Route 11. Also, as noted above, within Climate Friendly Areas, parking for multi-family development must be unbundled unless the Council has adopted a parking benefit district.

### **Fair Parking Policies**

The City would have to implement 3 of the following 5 policy choices:

1. A requirement that parking spaces for each residential unit in developments that include five or more leased or sold residential units on a lot or parcel be unbundled parking. Cities and counties may exempt townhouse and rowhouse development from this requirement;
  2. A requirement that parking spaces serving leased commercial developments be unbundled parking;
  3. A requirement for employers of 50 or more employees who provide free or subsidized parking to their employees at the workplace provide a flexible commute benefit of \$50 per month or the fair market value of that parking, whichever is greater, to those employees eligible for that free or subsidized parking who regularly commute via other modes instead of using that parking;
  4. A tax on the revenue from commercial parking lots collecting no less than 10 percent of income, with revenues dedicated to improving transportation alternatives to drive-alone travel; and
-

5. A reduction of parking mandates for new multifamily residential development to no higher than one-half spaces per unit, including visitor parking.

## **Staff Analysis of Option 2**

### Unbundling Parking

Unbundling parking allows tenants to opt out of paying for spaces and landlords could charge market rate for use of parking spaces. Currently, residents indirectly pay for their parking that is “bundled” within their rental rate, even if they do not use their parking. The requirement to unbundle parking would apply to both existing and new development. The intent of unbundling is to separate the cost of parking from the cost of rent and potentially lower costs for people who do not own a vehicle. In some places, unbundling parking from leases has achieved the desired result of saving costs for people who do not use parking (and therefore do not have to pay for parking). However, because the State rules do not include the ability to require that this unbundling not increase existing rent on housing units, this program may have a disproportionate impact on people with low incomes. Unbundling has not yet been applied city-wide in cities comparable to Springfield to fully understand its potential impacts. However, there is precedent for potential implications from when parking has been charged separately from residential and commercial uses. The following information reflects anecdotal research and potential outcomes from implementing the state’s unbundling policy, as written.

### *Unbundling and Landlords*

The unbundling provision would require that landlords charge for on-site parking separately from the rent they charge for the unit. This would require amending their leases, calculating market-rate rates for their parking, and potentially adjusting their rent. Additionally, landlords would have to enforce the use of parking to ensure that only those who are paying for the parking are using the parking. This new enforcement requirement could have disproportionate impact on smaller developments that are owned and operated by independent landlords or small business owners. If landlords contract out the enforcement, this added cost could be reflected in rent, potentially raising rental rates. Additionally, the new administrative cost of registering license plates and issuing permits could be reflected in rent, potentially raising rental rates. If people are required to pay for their own parking without passing its cost off to others (like tenants), developers would have a strong incentive to “right size” parking instead of oversupply it. Although charging for parking separately from rent could increase landlord profit, it could also increase operating costs for administration and enforcement.

### *Unbundling and Residential Tenants*

As explained above, the unbundling requirement could raise rental rates by having parking added to rent, or it could lower rents if subtracted from rent. If residents do not currently use parking, their costs may lower when they no longer have to pay for parking. If increased landlord costs are reflected in increased rents, there could be a disproportionate effect on people with low incomes who rely on parking and these tenants may ultimately be displaced. Furthermore, if landlords provide less parking than tenants require, accessing even the paid parking could be competitive. This could result in the rate for parking to increase and become unattainable for some tenants who rely on cars. This, combined with some tenants not wanting to pay for parking, could result in tenants overutilizing on-street parking, which could overcrowd neighborhoods, create safety hazards, and necessitate additional City enforcement. Alternatively, having to pay for parking could incentivize people who have access to transportation options to choose not to drive, lowering parking demand and reducing emissions.

### *Unbundling for Commercial Tenants*

Unbundling for leased commercial tenants would require that businesses that lease commercial space have the option to pay for parking separately and have the option to not pay for parking if

they do not require it. This could lower costs for some businesses that require less parking such as businesses near transit and businesses with less traffic (such as offices accessed only by appointment). If businesses are required to pay for their own parking without passing its cost off to others (like customers), developers would have a strong incentive to “right size” parking instead of oversupply it. When commercial parking is oversupplied and bundled into a commercial lease, this increases costs for businesses that are indirectly paying for that underutilized parking. However, for businesses that rely on large amounts of parking and could not opt out of or afford to lease the on-site parking, this may increase operating costs, disproportionately affecting smaller businesses with less capital.

### *Enforcing Unbundling*

As explained above, the unbundling requirement would necessitate enforcement by landlords, business owners and operators, and the City. The City would need to enforce improper parking on public rights-of-way. This could require increased law enforcement presence and could result in an increase in administrative time processing complaints and citations that could take away resources from more pressing and urgent matters. The City would need to create a new program and allocate staff time to educate property owners, business owners, and tenants about unbundling and enforce the unbundling requirement.

### Employer Provided Flexible Commute Option

This component of Option 2 is intended to provide an incentive to employees to not drive alone to work. This policy option would affect employers of 50 or more employees who provide free or subsidized parking to their employees at the workplace. It would require that employers provide a flexible commute benefit of \$50 per month or the fair market value of that parking, whichever is greater, to eligible employees. Employees would be eligible for the benefit if they regularly commute via other modes rather than driving and parking on-site. If employees don't drive to work, less land needs to be dedicated to parking for those employees, ultimately resulting in more efficient use of land and more compact development. However, nothing precludes developers from already providing this benefit on a voluntarily basis. Implementing this component of Option 2 would require the creation of a new City-operated and enforced program. The City would need staff capacity to identify all affected employers, determine if they provide free or subsidized parking, and then administratively ensure that there is a flexible community benefit provided to those employees. Presently, staff is unsure how to enforce compliance.

### Tax on Commercial Parking Lots

This would entail implementing a tax on the revenue from commercial parking lots collecting no less than 10 percent of income, with revenues dedicated to improving transportation alternatives to drive-alone travel. The City Council previously determined not to explore this option.

## **COMPARISON OF OPTIONS 1 AND 2**

### **Implications of Option 1**

Option 1 eliminates on-site parking requirements city-wide. This option does not preclude developers from providing parking and does not apply retroactively to existing development unless a property or portion thereof is redeveloped. The City could not require a minimum amount of on-site parking be provided at the time of development or redevelopment of a site. It may result in lower construction costs and therefore lower rental rates for developments that do not have to provide parking. It may also result in increased reliance on street parking. This shift may necessitate that the City implements future parking management programs and policies. A benefit of choosing this option is that if parking management is necessary, the City would have the flexibility to implement programs and policies that are tailored to Springfield's needs and not prescribed by the State, so long as parking minimums remain eliminated. Although the scope is

city-wide, its impact is ultimately less than the numerous requirements of Option 2.

### **Implications of Option 2**

Although Option 2 provides a degree of flexibility by allowing the City to require on-site parking in some parts of the City for some uses, its flexibility is outweighed by the limited ability to require on-site parking (even where allowed) and the need to develop and enforce new programs for parking management. The implementation of Option 2 may result in lowered costs for those who do not rely on parking, however it may also raise costs for those who do rely on parking. The rules of Option 2 would eliminate parking minimums for the majority of the City. The existing minimum parking requirements for the remaining areas would be affected by various situations that would give developers flexibility to lower them. Option 2 also would involve implementation and enforcement of components such as unbundled parking and flexible commute options which add a burden to not only city staff, but also to residential and commercial landlords and large business owners.

### **ADA PARKING**

A problem identified by the City Council in their previous work session was the effect on parking for people with disabilities. As currently written, the State rules do not allow the City to require ADA parking where parking minimums have been eliminated. The City has communicated with both the Department of Land Conservation and Development as well as the Building Codes Division (BCD) to flag this important problem. Presently, state attorneys are looking into this further. The City has asked BCD for flexibility and guidance and so far, have not confirmed that there is any flexibility under the rules to require on-site ADA parking. Under current interpretation of the rules, the only way to guarantee ADA parking would be if the City designates some on-street parking to be ADA compliant.

The scope of implications on the City's supply of ADA parking is difficult to predict. However, if the State's goal of the parking rules is realized and there is a reduction of all on-site parking over time, there likely will also be a reduction in ADA spaces available over time. Property owners could voluntarily provide ADA parking spots, even when not required. As noted above, for areas where there is a lack of ADA parking options, the City could redesignate existing on-street parking to be ADA, constructing ramps as needed to ensure access is ADA compliant.

### **TIMELINE**

As a reminder, these State rules must be complied with on a very fast timeline. All City action to comply must be in effect by June 30, 2023. The following contains a high-level project timeline:

*November 28, 2022* – Direction from City Council

*December 31, 2022* – Phase 1 parking rules go into effect

*January – May 2023 for Option 2* – Public hearing process for amendments to the Development Code and creation of new parking management programs

*June 30, 2023* - City-wide phase 2 parking rules implemented

If Council chooses Option 2, staff will identify the code amendments required immediately and start the public hearing process in early 2023.

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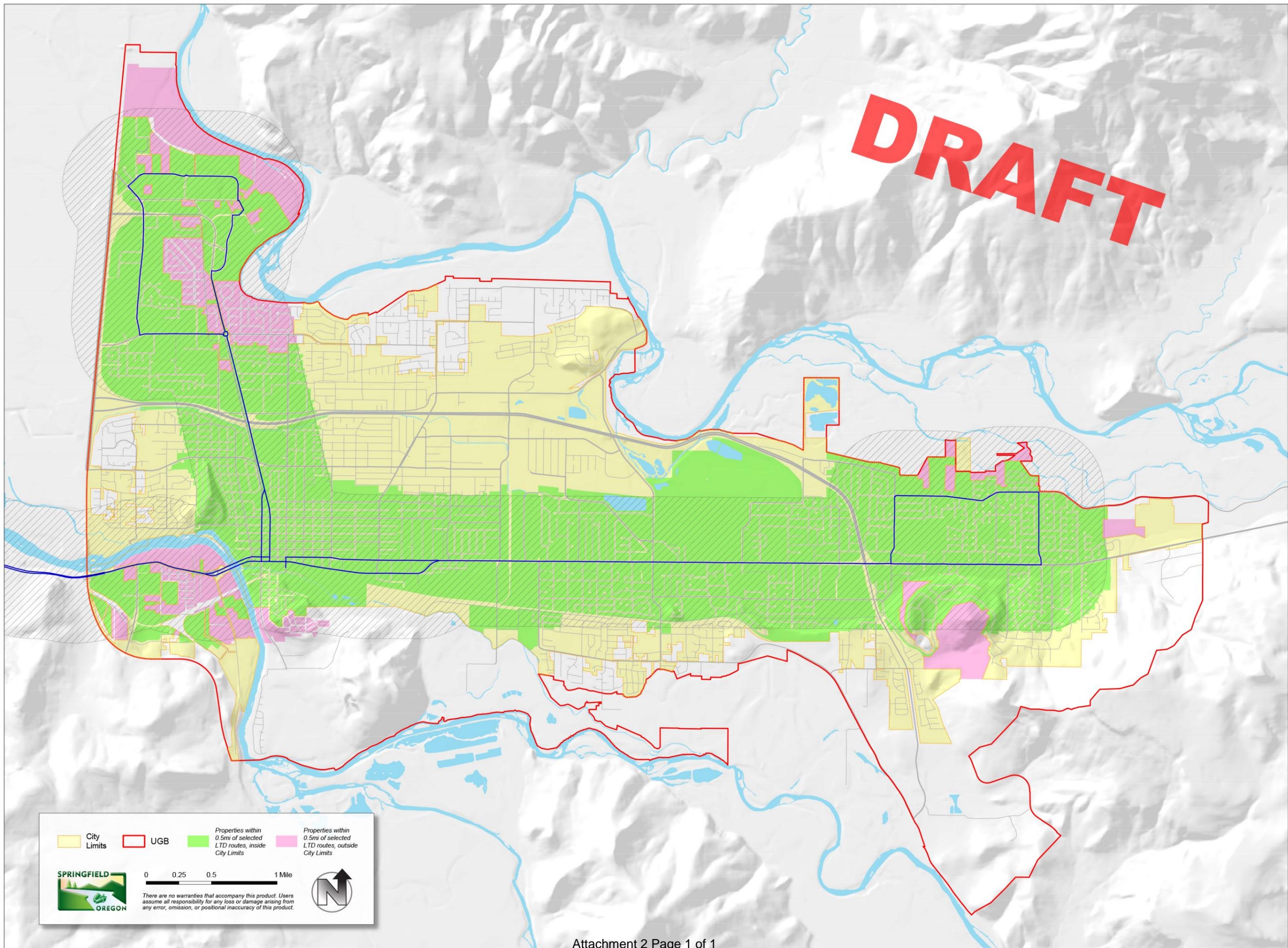
**RECOMMENDED ACTION:** Staff recommends Option 1: eliminate parking minimums city-wide. This option is the “cleanest” and most cost-efficient option to implement in Springfield. The city could defer to the state requirements and avoid code amendments for the time being. There may be a need for increased enforcement to ensure people do not park in no-parking areas. Option 1 would allow the city to maintain existing local policies such as parking maximums and the Downtown Parking Management Program.

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Although Option 2 does not mandate the elimination of parking minimums city-wide, its scope would reach the majority of the city—essentially rendering the geographical and use-based flexibility minimal. Additionally, the costs of implementation for Option 2 is significant and would require ongoing staff and funding to comply.

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**DRAFT**



# Option 1

Eliminate parking minimums city-wide

# Option 2

*Climate Friendly Areas*

*Choose 1*

Eliminate parking minimums

Adopt parking benefit district

Reduce parking requirements for residential uses

Eliminate parking requirements for commercial uses

Unbundle parking for multi-family

*Rest of City - Reduce required parking AND*

*Choose 3*

Unbundle multi-family parking

Unbundle leased commercial

Commute benefit by large employers

Tax commercial parking lots

0.5 spaces/unit for multi-family (for areas outside of CFAs and transit areas) that aren't already exempt



# Implementing Mandatory Climate Friendly and Equitable Communities Rulemaking *Parking Changes*

November 28, 2022

Attachment 4 Page 1 of 15



# Phases of Parking Rules

December 31, 2022



**Phase 1: Near Transit and  
Certain Uses**

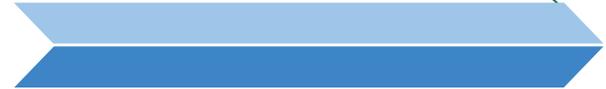
March 31, 2023



**Electrical Vehicle  
Conduits**

This won't be covered today,  
but is included in the Climate  
Friendly and Equitable  
Communities Rulemaking

June 30, 2023

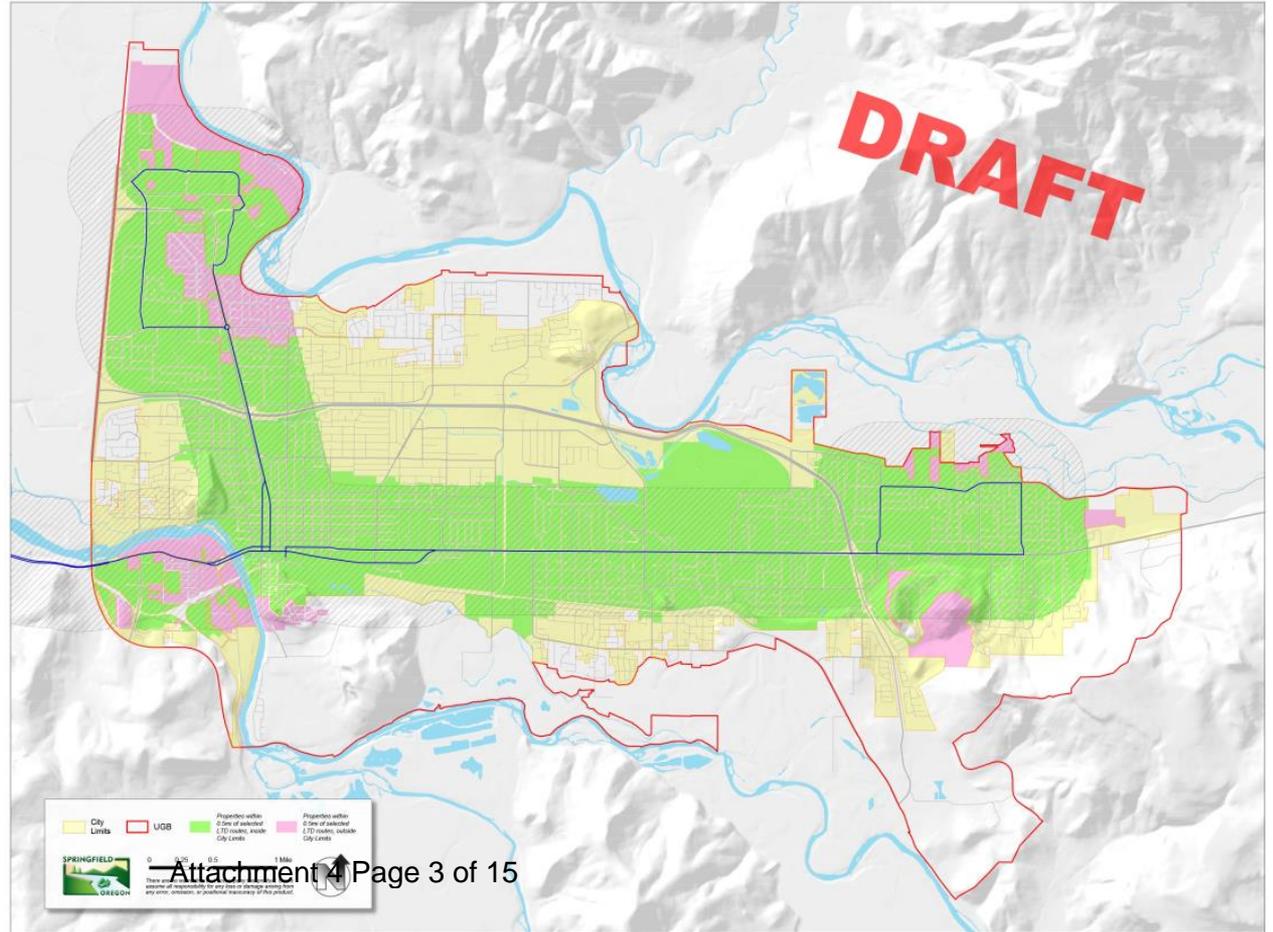


**Phase 2: Citywide  
Approach**



# Phase 1:

## Near Transit & Certain Uses





## Phase 1: Near Transit and Certain Uses

### Certain Uses:

- Small residential units
- Affordable units and public housing
- Childcare facilities
- Facilities for people with disabilities
- Shelters



## Choosing a Pathway

- **Option 1-** No minimum required parking city-wide
- **Option 2-** Limits parking and adds policies to manage parking

*If choose to pursue Options 2, would need to begin work immediately*



## Option 2 requires

- Reduce parking minimums based on shared parking, solar panels & wind power, EV charging, car sharing, parking space accessibility
- Allowing off-site parking (within 2000 feet) to meet parking requirement
- Must unbundle parking for multifamily units near frequent transit.

**And...**



## Option 2 for Climate Friendly Areas

Climate Friendly Areas are sufficient to accommodate at least 30 percent of the housing units necessary to meet all current and future housing needs. These areas will be similar to “nodal development” — they will accommodate a variety of uses supported by bicycle, pedestrian, and transit infrastructure.

- Remove parking minimums **or**
- Adopt parking management policies **and** unbundle parking for multifamily units



## ***Additional Option 2 – Parking Management Policies***

- Enact **3** out of the 5 policies:
  - Unbundle parking for residential units
  - Unbundle leased commercial parking
  - Flexible commute benefit for businesses with more than 50 employees
  - Tax on parking lot revenue
  - No more than ½ parking space per unit in multifamily development



## Option 1

Eliminate parking minimums city-wide

## Option 2

*Climate Friendly Areas*

*Choose 1*

Eliminate parking minimums

Adopt parking benefit district

Reduce parking requirements for residential uses

Eliminate parking requirements for commercial uses

Unbundle parking for multi-family



*Rest of City - Reduce required parking AND*

**Choose 3**

Unbundle multi-family parking

Unbundle leased commercial

Commute benefit by large employers

Tax commercial parking lots

0.5 spaces/unit for multi-family (for areas outside of CFAs and transit areas) that aren't already exempt



## Unbundling

*Unbundling* parking allows tenants to opt out of paying for spaces and landlords could charge market rate for use of parking spaces.

### Potential effects on:

- Landlords
- Tenants
- Leased commercial
- Enforcement



## Employer Provided Flexible Commute Option

Requires employers provide a flexible commute benefit of \$50 per month or the fair market value of parking (whichever is greater) to employees who regularly commute via other modes instead of using parking.

- Would affect employers of 50 or more employees who provide free or subsidized parking to their employees at the workplace.
- The City would need to create and enforce this program



## Degree of Flexibility of Option 2

- **Can't** regulate parking for:
  - Areas near frequent transit corridors
  - Certain uses
  - Climate Friendly Areas and land near Climate Friendly Areas\*
- Where able to regulate parking, reductions for:
  - Multi-family housing
  - Shared parking
  - Car-sharing
  - On-street parking credits

\*If the City decides to choose this option



## ADA Compliant Parking

As currently written, the State rules do not allow the City to require ADA parking where parking minimums have been eliminated.

- Department of Land Conservation and Development and the Building Codes Division
- Attorneys are looking into this further.
- The City has asked for flexibility and guidance and so far, have not confirmed that there is any flexibility under the rules to require ADA parking.
- Under current interpretation of the rules, the only way to guarantee ADA parking would be if the City designates some on-street parking to be ADA compliant.



# Questions