



### TYPE I NATURAL RESOURCE OVERLAY DISTRICT VERIFICATION

*May 19, 2017*

**FILE NUMBER:** NR 17-03: Type I Natural Resource Overlay District Verification

**APPLICANT:** Rian Park Development, Inc.  
P.O. Box 2559  
Oregon City, OR 97045

**OWNERS:** 32E07C Tax Lot 1001 (Wheeler Family Enterprises, LLC)  
32E07C Tax Lots 1100, 1180 (David H. Wheeler Sr. Trust)  
32E07C Tax Lot 1291 (Donald W. & Roxanne O. Wheeler)  
31E12D Tax Lots 1700, 1790 (Wheeler Family Enterprises, LLC)

**CONSULTANT:** AKS Engineering & Forestry, LLC  
12965 SW Herman Road, Suite 100  
Tualatin, OR 97062

**REQUEST:** The applicant submitted a request for a Type I Natural Resource Overlay District Verification with a professionally prepared assessment to demonstrate that the subject site is not within the Natural Resource Overlay District.

**LOCATION:** NO SITUS ADDRESS: Clackamas County Tax Map: 32E07C,  
Tax Lots: 1001, 1180, & 1291 / 31E12D, Tax Lots: 1700 & 1790;  
and 19566 Central Point Rd, Oregon City, OR 97045,  
Clackamas County Tax Map: 32E07C, Tax Lot 1100

**ZONING:** “R-10”, Single Family Residential District

**DECISION:** Approval

**REVIEWER:** Pete Walter, AICP, Planner

**CRITERIA:** OCMC Chapter 17.49 – Natural Resource Overlay District  
OCMC Chapter 17.50 – Administration and Procedures

Type I decisions do not require interpretation or the exercise of policy or legal judgment in evaluating approval criteria and include lot line adjustments, zone changes upon annexation as provided in Section 17.06.050 for which there is no discretion provided, final plats, and final planned unit development plans where there are no material deviations from the approved preliminary plans. Because no discretion is involved, Type I decisions do not qualify as a land use, or limited land use, decision. The decision-making process requires no notice to any party other than the applicant. One representative from each of the city-recognized neighborhood associations, who has been identified by the neighborhood coordinator, will be distributed a monthly compilation of all Type I activities. The Community Development Director's decision is final and not appealable by any party through the normal city land use process. IF YOU HAVE ANY QUESTIONS ABOUT THIS APPLICATION, PLEASE CONTACT THE PLANNING DIVISION OFFICE AT (503) 722.3789.

## I. BACKGROUND

The subject properties are located southeast of Central Point Road on the southern boundary of the City. The area was historically pastureland, Christmas trees and orchard land that was brought into the Metro Urban Growth Boundary in 2001 or earlier in 1979. The lands in question were annexed to Oregon City in 2006 (File AN 16-02) and have a zoning designation of R-10 Single Family Residential. There has been a lot of recent subdivision and home construction in the area over the last 10 years abutting the site to the northwest, and it is anticipated that this land will be used in the same manner.

As shown in Figure 1, the subject site is partially located within the mapped Natural Resource Overlay District (NROD), and is thus subject to review by the City of Oregon City to ensure adequate protection of nearby water features and associated vegetated corridors.

The Oregon City Municipal Code protects degradation of water features enforcing a vegetated corridor consisting of native plantings adjacent to the identified feature (e.g. stream or wetland) to improve water quality and functions. The applicant has requested an exemption from the Natural Resource Overlay District. Approval of this verification application would exempt the property from further NROD review pursuant with Chapter 17.49 of the Oregon City Municipal Code.

**Figure 1: Subject Site and Mapped NROD**

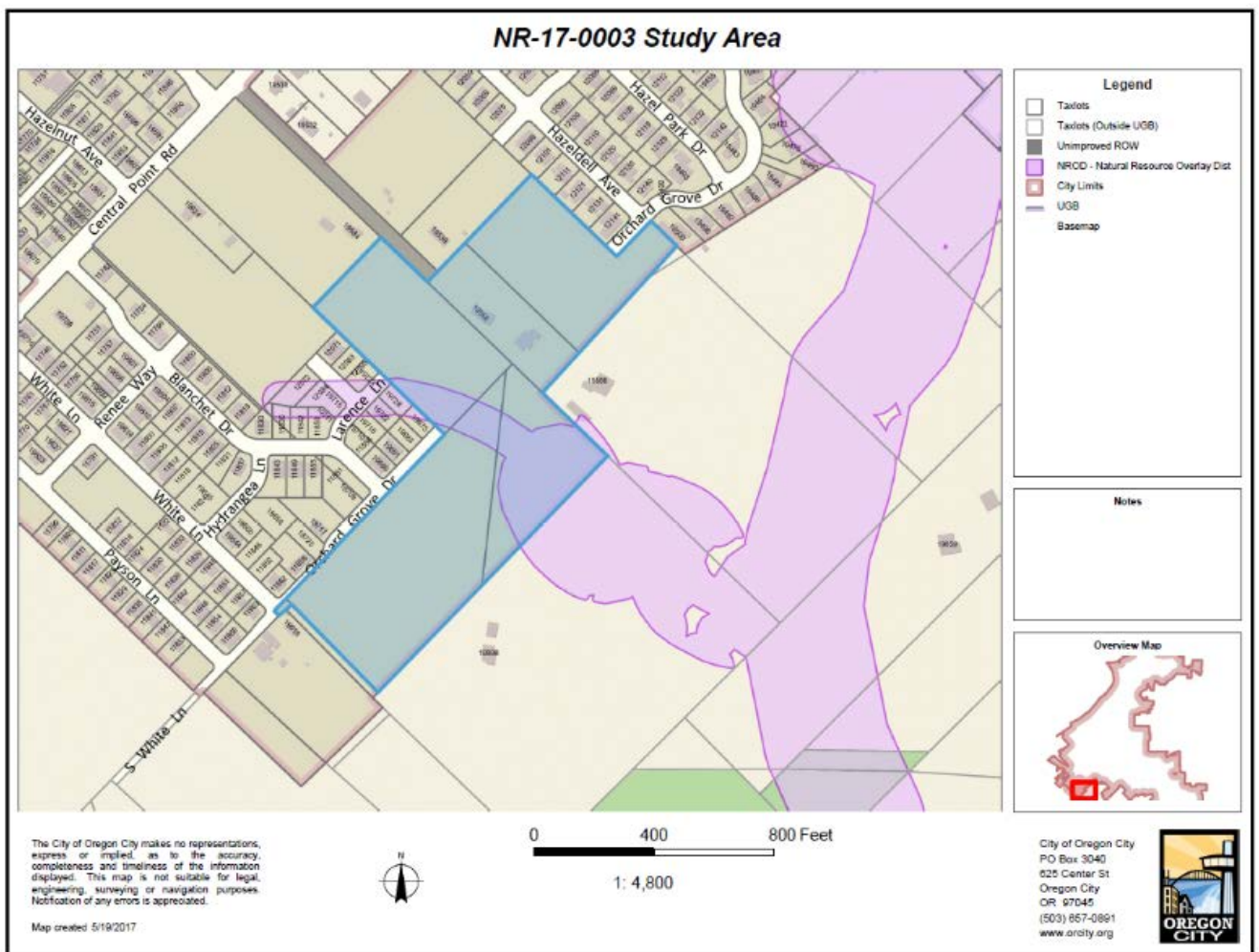


Figure 2: Existing Conditions Map from Applicant's Natural Resources Assessment



## II. ANALYSIS AND FINDINGS

### CHAPTER 17.49 NATURAL RESOURCE OVERLAY DISTRICT

#### 17.49.250 Verification of NROD Boundary

*The NROD boundary may have to be verified occasionally to determine the true location of a resource and its functional values on a site. This may through a site specific environmental survey or, in those cases where existing information demonstrates that the NROD significance rating does not apply to a site-specific area. Applications for development on a site located in the NROD area may request a determination that the subject site is not in an NROD area and therefore is not subject to the standards of Section 17.49.100. Verifications shall be processed as either a Type I or Type II process.*

**Finding: Applicable.** The City of Oregon City's maps show a perennial stream that originates off-site to the west and flows into the center of the subject site. A Natural Resource Assessment dated April 3, 2017 has been prepared concluding that no potentially jurisdictional Title 3 wetlands or waters, or associated vegetated corridors were documented on-site and that the stream identified in the City's mapping is not present on the subject property. No development is associated with this application and it has been determined that a Type I NROD Verification application can accomplish the requested concurrence that the subject property is not in an NROD area.

#### 17.49.255 - Type I verification.

A. Applicants for a determination under this section shall submit a site plan meeting the requirements of [Section 17.49.220](#), as applicable.

**Finding: Complies as Proposed.** The applicant submitted a Natural Resource Assessment prepared by Lindsey Obermiller, Natural Resource Specialist, including site plans in accordance with Section 17.49.220, as applicable. The Natural Resource Assessment included in the application materials includes site plans and conclusions that no evidence of the characteristics found in criteria B.1. – B.6. exist on the subject site.

*B. Alternatively, an applicant may request a Type I Verification determination by the community development director by making an application therefore and paying to the city a fee as set by resolution of the city commission. Such requests may be approved provided that there is evidence substantiating that all the requirements of this chapter relative to the proposed use are satisfied and demonstrates that the property also satisfies the following criteria, as applicable:*

- 1. No soil, vegetation, hydrologic features have been disturbed;*
- 2. No hydrologic features have been changed;*

**Finding: Complies as proposed.** The applicant has not requested that the Community Development Director make this determination. The Natural Resources Assessment and Wetland Determination Data Forms submitted by the applicant provides the necessary evidence that the criteria for exemption are met.

*3 There are no man-made drainage features, water marks, swash lines, drift lines present on trees or shrubs, sediment deposits on plants, or any other evidence of sustained inundation.*

**Finding: Complies as Proposed.** The Natural Resources Assessment and Wetland Determination Data Forms submitted by the applicant identify that the site did not have any observable water marks, swash lines, drift lines on trees or shrubs, sediment deposits on plants, or any other evidence of sustained inundation in the vicinity of the steel building onsite.

*4. The property does not contain a wetland as identified by the city's local wetland inventory or water quality and flood management areas map.*

**Finding: Complies as Proposed.** The City's local wetland inventory and NROD map do not identify a wetland at the property. The Natural Resources Assessment and Wetland Delineation Data Forms submitted by the applicant also conclude that the site and adjacent locations do not possess any jurisdictional Title 3 wetlands or waters, or associated vegetated corridors.

*5. There is no evidence of a perennial or intermittent stream system or other protected water feature. This does not include established irrigation ditches currently under active farm use, canals or manmade storm or surface water runoff structures or artificial water collection devices.*

**Finding: Complies as Proposed.** The Natural Resources Assessment and Wetland Determination Data Forms submitted by the applicant identify that the site did not contain evidence of perennial or intermittent stream or other protected water features.

*6. Evidence of prior land use approvals that conform to the City's existing Water Quality Resource Area Overlay District.*

*There is an existing physical barrier between the site and a protected water feature, including:*

- a. Streets, driveways, alleys, parking lots or other approved impervious areas wider than fifteen feet and which includes drainage improvements that are connected to the city storm sewer system, as approved by the city.*
- b. Walls, buildings, drainages, culverts or other structures and which form a physical barrier between the site and the protected water features, as approved by the city.*

**Finding: Complies as proposed.** The Highland Park subdivision uphill and abutting the property received land use approval which included a prior NROD exemption regarding the subject mapped resource (Planning File TP 15-01, NR 14-08).

*C. If a the city is not able to clearly determine, through the Type I verification process that the applicable criteria subsection B.1.—B.6. above are met the verification application shall be denied. An applicant may then opt to apply for a verification through the Type II process defined below.*

**Finding: Not Applicable.** The applicant's submittal adequately demonstrates that a protected feature and associated vegetated buffer are not present onsite, and that the criteria in subsections B.1-B.6 are met. A Type II verification is not required.

#### *17.49.260. Type II Verification*

**Finding: Not Applicable.** The application does not include a Type II Verification request.

#### *17.49.265 - Corrections to violations.*

*For correcting violations, the violator shall submit a remediation plan that meets all of the applicable standards of the NROD. The remediation plan shall be prepared by one or more qualified professionals with experience and credentials in natural resource areas, including wildlife biology, ecology, hydrology and forestry. If one or more of these standards cannot be met then the applicant's remediation plan shall demonstrate that there will be:*

*A. No permanent loss of any type of resource or functional value listed in Section 17.49.10, as determined by a qualified environmental professional;*

*B. A significant improvement of at least one functional value listed in section 17.49.10, as determined by a qualified environmental professional; and*

*C. There will be minimal loss of resources and functional values during the remediation action until it is fully established.*

**Finding: Not Applicable.** No violations have been reported. Therefore, a remediation plan for the violation is not required.

### **CHAPTER 17.50 - ADMINISTRATION AND PROCEDURES**

#### *17.50.030 Summary of the City's Decision-Making Processes.*

**Finding: Complies as Proposed.** The Natural Resource Overlay District verification application is being reviewed pursuant to the Type I process.

### **III. CONCLUSION AND DECISION**

Based on the analysis and findings presented in this report, and the substantial evidence in the application materials, the properties identified are exempt from further review under Chapter 17.49 of the Oregon City Municipal Code. Though the site is exempt from further NROD review, portions of the property also fall within the Geologic Hazards Overlay District and development is subject to compliance with OCMC Chapter 17.44, *Geologic Hazards* at the time of land division application.

### **EXHIBITS**

1. Vicinity Map (On File)
2. Map of the Site and Natural Resources Overlay District (On File)
2. Applicant's Submittal (On File)