



LEGISLATIVE STAFF REPORT AND RECOMMENDATION

Revised

December 11, 2019

FILE NO.: GLUA 19-00002: LEG 19-00001 & LEG 19-00005

HEARING DATES: Planning Commission
Monday, October 14, 2019
7:00 p.m., City Hall - Commission Chambers
625 Center Street, Oregon City, OR 97045

APPLICANT: Oregon City Public Works Department
John Lewis, P.E., Public Works Director
Josh Wheeler, P.E. Assistant City Engineer
Bob Balgos, P.E. Project Engineer
625 Center Street, Oregon City, Oregon 97045

REPRESENTATIVE: Brown and Caldwell, Consulting Engineers
6500 SW Macadam Avenue, Suite 200, Portland, OR 97239

REVIEWER: Christina Robertson-Gardiner, AICP, Senior Planner

REQUEST: Updates to the Oregon City Stormwater and Grading Design Standards and Stormwater Master Plan.

LOCATION: City-wide.

RECOMMENDATION: Staff recommends approval of the proposed amendments to the Stormwater and Grading Design Standards and approval of the Stormwater Master Plan as an ancillary document to the Oregon City Comprehensive Plan to the Planning Commission and City Commission.

17.50.170 - Legislative hearing process.

A. Purpose. Legislative actions involve the adoption or amendment of the city's land use regulations, comprehensive plan, maps, inventories and other policy documents that affect the entire city or large portions of it. Legislative actions which affect land use must begin with a public hearing before the planning commission.

B. Planning Commission Review.

1. Hearing Required. The planning commission shall hold at least one public hearing before recommending action on a legislative proposal. Any interested person may appear and provide written

or oral testimony on the proposal at or prior to the hearing. The community development director shall notify the Oregon Department of Land Conservation and Development (DLCD) as required by the post-acknowledgment procedures of ORS 197.610 to 197.625, as applicable.

2. The community development director's Report. Once the planning commission hearing has been scheduled and noticed in accordance with Section 17.50.090(C) and any other applicable laws, the community development director shall prepare and make available a report on the legislative proposal at least seven days prior to the hearing.

3. Planning Commission Recommendation. At the conclusion of the hearing, the planning commission shall adopt a recommendation on the proposal to the city commission. The planning commission shall make a report and recommendation to the city commission on all legislative proposals. If the planning commission recommends adoption of some form of the proposal, the planning commission shall prepare and forward to the city commission a report and recommendation to that effect.

C. City Commission Review.

1. City Commission Action. Upon a recommendation from the planning commission on a legislative action, the city commission shall hold at least one public hearing on the proposal. Any interested person may provide written or oral testimony on the proposal at or prior to the hearing. At the conclusion of the hearing, the city commission may adopt, modify or reject the legislative proposal, or it may remand the matter to the planning commission for further consideration. If the decision is to adopt at least some form of the proposal, and thereby amend the city's land use regulations, comprehensive plan, official zoning maps or some component of any of these documents, the city commission decision shall be enacted as an ordinance.

2. Notice of Final Decision. Not later than five days following the city commission final decision, the community development director shall mail notice of the decision to DLCD in accordance with ORS 197.615(2).

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

IF YOU HAVE ANY QUESTIONS ABOUT THIS APPLICATION, PLEASE CONTACT THE PLANNING DIVISION OFFICE AT (503) 657-0891.

I. Proposal

Stormwater management is a key element in maintaining and enhancing livability within the City of Oregon City (City). There is a direct link between stormwater runoff and the City's surface and groundwater quality and quantity. As land is developed, creation of new impervious surfaces and loss of vegetation increases stormwater runoff during rainfall events, altering the natural hydrologic cycle. Without stormwater management, the increase in flows erodes stream channels and limits groundwater recharge. In addition, runoff that flows over roadways, parking areas, rooftops, and other impervious surfaces collects pollutants that are transported within the watershed to streams, rivers, and groundwater resources. Properly managing stormwater is vital to protecting our water resources for a great number of uses, including fish and wildlife habitat, recreation, and drinking water.

The City of Oregon City is seeking to adopt a new Stormwater Master Plan (SMP or Master Plan) to supersede all previously adopted city-wide and basin-specific drainage plans. The SMP identifies

drainage system deficiencies and improvements necessary to address these deficiencies as capital improvements necessary to accommodate growth. The SMP will guide the City in planning for and expending funds allowing for orderly and efficient stormwater system improvements throughout the City and to the bounds of the urban growth boundary.

The City of Oregon City is also seeking to amend its 2015 Stormwater and Grading Design Standards (Design Standards). The Design Standards prescribe standards for the planning and design stormwater conveyance and management systems. As required by City Code, the Design Standards apply to the development of all public and private projects throughout the City.

The new SMP assumes that all future stormwater improvements will be developed consistent with the Design Standards.

The scope of the amendments to the Design Standards is limited to providing greater clarification and instruction to applicants consistent with the City's current implementation practices. No changes in applicable land uses prescribed by zoning regulations are proposed. Therefore, the Standards and the Master Plan do not allow any uses which are more intensive than currently allowed today. Rather, the update of the Plan and the Standards will allow the City to have plans and standards in place which will allow the City to manage present and future stormwater needs as development occurs.

Stormwater Master Plan

The City of Oregon City (City) developed the citywide Master Plan to guide stormwater-related priorities and capital improvement projects (CIPs) over the next 10 to 15 years.

The City is currently managing more than 174 miles of stormwater infrastructure, including significant areas of aging systems. At the same time, development rates and projections indicate that the stormwater system will require continued expansion to accommodate future growth. The City's previous Drainage Master Plan was completed in 1988 and is no longer relevant following nearly 30 years of development across the city. The City needs a proactive plan to address immediate capacity needs, replace aging infrastructure, and provide regional solutions to larger flooding and water quality challenges. The updated CIP list, adopted as part of the Master Plan, and selected programmatic approaches included in this Master Plan will facilitate a prioritization of the City's resources and support future resource and financial planning.

Examples of recommended Capital Improvement Projects from the CIP list are:

- John Adams Basin Capacity Improvements to alleviate flooding and replace aging infrastructure. The storm pipes in this basin are among the oldest in the City and well past their expected life.

- Rivercrest Neighborhood Infrastructure Improvements to address an insufficient storm drain system. Portions of the neighborhood currently conveys stormwater into the sanitary system.
- The Cove Water Quality Improvements to address water quality. Stormwater entering Clackamette Cove is primarily runoff from industrial, commercial and other land use that can generate high pollutant loads. The areas were developed prior to water quality requirements, so the discharge entering the cove is primarily untreated.
- Newall Canyon Outfall Assessment to evaluate the stormwater outfalls in the Newall Canyon area. This area has several locations where erosion, bank sloughing and landslides have occurred during and following storm events. The assessment will identify significant problem locations and concept plans will be developed to stabilize degrading systems

The Master Plan documents the means and methods used to evaluate the City's drainage infrastructure and natural systems. Results of the evaluations conducted provide the City with CIPs and programmatic stormwater actions for implementation. The study area for this Master Plan covers drainage areas to receiving water bodies including Abernethy Creek, the Clackamas River, Beaver Creek, and the Willamette River.

Upon approval, this Stormwater Master Plan shall be incorporated as ancillary to the Oregon City Comprehensive Plan.

II. Public Involvement and Public Comment

Public Notice

Notice of the first evidentiary Planning Commission public hearings for the proposal was published in the local paper and along with the Planning Commission agenda was transmitted to neighborhood associations, departments, and variance agencies such as Metro, Tri-Met and Clackamas County.

In accordance with ORS 197.610 and OAR 660-018-000, a Post Acknowledgement Plan Amendment will be provided to the Oregon Department of Land Conservation and Development within 20 days of the City's final decision. The first notice to DLCD was sent more than 35 days in advance of the hearing.

The applicant, Oregon City Public Works Department, has presented the update for input to the Development Stakeholders Group on May 9, 2019. The update was provided on the City's website during the months of February through May 2019. Local civil engineering consultants and developers were notified via email on February 5, 2019 and April 24, 2019. The standards were presented in a City Commission Work Session on May 7, 2019. The City Commission considered these standards for approval on July 17, 2019. These standards will also be presented before the Planning Commission in October 2019 prior to approval by the City Commission.

Public comments provided throughout the previously described planning process have been incorporated into the document as needed.

A number of individuals submitted written and oral testimony in opposition at the City's Commission hearing on November 6. On December 3, city staff met with these individuals to get a better understanding of their objectives and concerns. Written minutes from that meeting are included in the record and a supplemental memorandum dated December 9 from the deputy city attorney responds to those concerns. This December 9 memo provides additional analysis and is intended to complement rather than supplant the analysis contained here.

III. DECISION-MAKING CRITERIA:

Oregon City Municipal Code Chapter 17.68 Zoning Changes and Comprehensive Plan Amendments

As this application was submitted on January 31, 2019, the code in effect on that date governs the application and does not include the recently adopted code amendments (August 2, 2019)

17.68.010 - Initiation of the amendment.

A text amendment to the comprehensive plan, or an amendment to the zoning code or map or the Comprehensive Plan map, may be initiated by:

- A. A resolution request by the City Commission;*
- B. An official proposal by the Planning Commission;*
- C. An application to the Planning Division; or.*
- D. A Legislative request by the Planning Division.*

All requests for amendment or change in this title shall be referred to the Planning Commission.

Finding: *The Public Works Department submitted the application to the Planning Division*

17.68.020 - Criteria.

The criteria for comprehensive plan amendment or text or map amendment in the zoning code are set forth as follows:

- A. The proposal shall be consistent with the applicable goals and policies of the comprehensive plan;*

Finding: Applicable goals and policies are identified within the body of the staff report.

- B. That public facilities and services (water, sewer, storm drainage, transportation, schools, police and fire protection) are presently capable of supporting the uses allowed by the zone or plan amendment, or can be made available prior to issuing a certificate of occupancy. Service shall be sufficient to support the range of uses and development allowed by the zone or plan amendment;*

Finding: Stormwater Master Plan: As discussed in this staff report, the Master Plan provides guidance for the timely, efficient and economic provision of stormwater service within the existing city and to new development areas within the Urban Growth Boundary consistent with the relevant goals, policies and implementing measures of the Comprehensive Plan. The proposed Master Plan is consistent with this policy.

Stormwater and Grading Design Standards: The Stormwater and Grading Design Standards provide technical guidance to design and construct projects outlined in the Stormwater Master Plan. The

Stormwater Master Plan is consistent with the policies and measures of the comprehensive plan; therefore, the Standards also are consistent with these policies by reference.

C. The land uses authorized by the proposal are consistent with the existing or planned function, capacity and level of service of the transportation system serving the proposed zoning district or plan amendment; and

Finding: No land use zoning amendments are proposed for this application. Capacity and level of service analysis are performed when land is proposed to be rezoned through this chapter.

D. Statewide planning goals shall be addressed if the comprehensive plan does not contain specific policies or provisions which control the amendment.

Finding: While the Comprehensive Plan provides applicable policies for this matter, staff has provided responses to the State Land Use Goals to supplement the staff review of this application.

Stormwater and Grading Design Standards

The City of Oregon City developed updated Stormwater and Grading Design Standards in 2015. These standards updated existing standards from 1999. The updated standards were created to change the methodology of stormwater requirements from peak flow modeling to flow duration modeling.

This revision of the 2015 Standards is to provide clarification to the existing standards where they have not been clear to staff and the development community. Examples of clarifications include:

- Replacing the Natural Resource notation from the abbreviation WQRA to the abbreviation NROD which is consistent with the references to natural resource areas in OCMC 17.49.
- More clearly define the exemptions from the stormwater requirements in 1.2.2 by providing further description and additional language.
- Changing the Checklist obligation to set forth a preliminary design checklist rather than a planning checklist to be in line with how engineers talk about this section of the standards.
- Clarify the stormwater management strategy hierarchy in Figure 2-2 that better explains how a designer should prioritize stormwater management options and alternatives.
- Explain how to use the BMP sizing tool for underground stormwater management.
- Change the minimum velocity requirements of storm sewers to be consistent with the Oregon Department of Transportation standards.

The City Commission has the ability to adopt revisions to these Standards as provided by OCMC 13.12.020.

The Standards also exist to keep the City in compliance with the National Pollution Discharge Elimination System Municipal Separate Storm and Sewer System (NPDES) MS-4 Permit which the City has been operating under since 1996.

Stormwater Master Plan Objectives

The goal of this Master Plan is to provide guidance in planning and designing stormwater conveyance and managing infrastructure to protect the natural and built environment for the next 10 to 15 years. The primary method for guidance is through a prioritized CIP list. This Master Plan is intended to be used in conjunction with both the City's National Pollutant Discharge Elimination System (NPDES) municipal

separate storm sewer system (MS4) permit, and Stormwater Grading and Design Standards, which outline the City's stormwater quality and quantity related obligations and programs. The NPDES MS4 permit requires the City to implement a Stormwater Management Plan (SWMP1) that outlines programmatic water quality best management practices (BMPs) to reduce pollutants in urban stormwater discharges to receiving waters.

The City's Stormwater Grading and Design Standards require developers to address stormwater quality and quantity impacts associated with new development and redevelopment activities. In addition to addressing aging infrastructure, future growth, water quality, flooding, and capacity issues, the City values the natural systems and spaces available to the community. Protecting and maintaining a healthy environment is important to maintaining a livable and healthy city. This Master Plan was developed to support the City's healthy management of these resources, including natural channel and riparian areas, habitat, and water bodies with beneficial uses such as fishing and recreation.

Stormwater and Grading Design Standards Objectives

The goal of the update is to provide clarification and correct errors within the Standards.

Consistency with Oregon City Comprehensive Plan

The 2004 Oregon City Comprehensive Plan calls for the periodic review and updating of the Comprehensive Plan and contains criteria for approving changes to the comprehensive plan. See p 16. . Review of the comprehensive plan should consider:

1. Plan implementation process.
2. Adequacy of the Plan to guide land use actions, including an examination of trends.
3. Whether the Plan still reflects community needs, desires, attitudes and conditions. This shall include changing demographic patterns and economics.
4. Addition of updated factual information including that made available to the City of regional, state and federal governmental agencies.

1. Plan implementation process.

Finding – Stormwater Master Plan: The applicant, Oregon City Public Works Department, has presented the update for input by the Citizen Involvement Committee, engineering community, Planning Commission and City Commission in accordance with the recommended method described in the Comprehensive Plan and pursuant to the applicable process described in Oregon City Municipal Code section 17.50.170. The plan implementation process is consistent with the Comprehensive Plan.

Finding – Stormwater and Grading Design Standards: The applicant, Oregon City Public Works Department, has presented the update for input to the Development Stakeholders Group on May 9, 2019. The update was provided on the City's website during the months of February through May 2019. Local civil engineering consultants and developers were notified via email on February 5, 2019 and April 24, 2019. The standards were presented in a City Commission Work Session on May 7, 2019. The City

Commission considered these standards for approval on July 17, 2019. These standards will also be presented before the Planning Commission in October 2019 prior to approval by the City Commission.

2. *Adequacy of the Plan to guide land use actions, including an examination of trends.*

Finding – Stormwater Master Plan: As an ancillary document to the Comprehensive Plan, the updated Master Plan provides an analysis of existing stormwater facilities and provides direction for future development, funding and needs. The plan provides a comprehensive review of the stormwater system and provides an adequate guide for future land use actions and the development of criteria to be utilized in development review.

The update includes updated construction cost estimates and contingencies for the planning and design of recommended stormwater system facilities for the City (See Appendix H).

Adoption of the document will assist with the guidance of land use actions and responds to new requirements for improved stormwater management as discussed above.

Finding – Stormwater and Grading Design Standards: The Standards created in 2015 were in response to the City's MS-4 Permit under the NPDES regulations. The Standards also moved to a Flow Duration model rather than Peak Stormwater Model to follow trends in climate as well as modeling trends in the region. In 2015, Clackamas County's Department of Water Environment Services developed a BMP Sizing Tool for Flow Duration Stormwater Modeling. The City of Wilsonville and Oregon City adopted this tool and stormwater modeling method. That tool has or its regulations have not been changed with this 2019 Update of the Stormwater and Grading Design Standards.

The revised Standards also update the terminology of a Natural Resource Area from WQRA (Water Quality Resource Area) to NROD (Natural Resource Overlay District) to be consistent with City Code 17.49 as well as OCMC 13.12.

3. *Whether the Plan still reflects community needs, desires, attitudes and conditions. This shall include changing demographic patterns and economics.*

Finding – Stormwater Master Plan: As part of this effort, the consultant conducted technical analyses of the City's existing storm design standards. Since the manual is strictly an engineering document, any changes in demographic patterns and economics are reflected in the design requirements. For example, the stormwater design requirements for a dense multi-family development will differ from those for a low-density single-family residential lot. Adoption of the Stormwater and Grading Design Standards Manual will address necessary improvements to ensure the orderly review of stormwater, drainage and erosion control management to accommodate the projected growth envisioned in the City's Comprehensive Plan.

Finding – Stormwater and Grading Design Standards: As the Update to the Design Standards are for clarification and errors, not change in the actual technical standards, the Finding above for the Stormwater Master Plan also applies as a Finding to the Design Standards. With no structural changes in the Standards, the edits would not have any impact to demographic changes in the community.

4. *Addition of updated factual information including that made available to the City of regional, state and federal governmental agencies.*

Finding – Stormwater Master Plan: The consultant has included an analysis of the existing stormwater system based on available existing information provided by the City.

The projections of stormwater demand for existing and future service areas reflect updated population projections, recent comprehensive plan amendment areas (Park Place concept area and Beavercreek Road concept area), and new regulatory requirements at the state and federal level.

The City of Oregon City maintains benchmarks for service quality that are used to measure performance of the stormwater utility. The service standards set forth in this master plan are derived from regulations, rules, and recommendations established by a variety of sources including the Environmental Protection Agency (EPA). The Master Plan includes updated criteria based on the direct requirements of the City's existing NPDES MS4 permit. The addition of this updated information will allow the City to keep the Stormwater Master Plan current.

Finding – Stormwater and Grading Design Standards: The 2015 Standards were created based on the direct requirements of the City's existing NPDES MS4 permit. The 2019 Update provides no technical changes, only clarification, and remain in line with the requirements of the MS4 permit.

"Ancillary Plans. – Page 15

Since 1982, several documents have been adopted as ancillary to the 1982 Comprehensive Plan: the Public Facilities Plan (1990), Oregon City Transportation System Plan (2001), Oregon City Downtown Community Plan (1999), Oregon City Waterfront Master Plan (2002), City of Oregon City Water Master Plan (2003), City of Oregon City Sanitary Sewer Master Plan (2003), Drainage Master Plan (1988, updated in 1999 as the City of Oregon City Public Works Stormwater and Grading Design Standards), Caufield Basin Master Plan (1997), South End Basin Master Plan (1997), Molalla Avenue Boulevard and Bikeway Improvements Plan (2001), the Oregon City Park and Recreation Master Plan (1999), and the Oregon City Trails Master Plan (2004)."

*Note that the references to the updated master plan documents, including the Stormwater Master Plan proposed here will be updated with the future revision to the Comprehensive Plan.

Goal 5.4 Natural Resources-Identify and seek strategies to conserve and restore Oregon City's natural resources, including air, surface and subsurface water, geologic features, soils, vegetation, and fish and wildlife, in order to sustain quality of life for current and future citizens and visitors, and the long-term viability of the ecological systems.

Policy 5.4.1 Conserve and restore ecological structure, processes and functions within the city to closely approximate natural ecosystem structure, processes, and functions.

Finding – Stormwater Master Plan: Section 2 of the Master Plan identifies the natural systems within the City and describes the condition of these systems through assessments. Section 6 of the Master Plan outlines the assessments and field evaluations leading to capital project recommendations to address hydromodification, stream stability, water quality and flooding. The recommended capital projects in the Master Plan assume application of the City's Stormwater and Grading Design Standards which sets forth the requirements as described briefly in the Finding below. As a result, the proposed Master Plan will help to protect and conserve existing natural areas consistent with this policy.

Finding – Stormwater and Grading Design Standards: The introduction of the Stormwater and Grading Design Standards states the goal of these standards is to provide local engineers, developers, builders, and City staff clear guidance in planning and designing stormwater conveyance and management systems that are appropriate to the local climate, hydrogeology, and geology. The General Thresholds in section 1.2.1 of the Standards requires development within a Natural Resource Overlay District (NROD) follow certain guidelines. These guidelines were established in the 2015 adopted standards and have not been changed as part of this revision. Therefore, these Standards will continue to protect and conserve existing natural areas.

Goal 1.2 Community and Comprehensive Planning-Ensure that citizens, neighborhood groups, and affected property owners are involved in all phases of the comprehensive planning program.

Policy 1.2.1 Encourage citizens to participate in appropriate government functions and land-use planning.

Finding: This goal is implemented through the applicable Goals and Policies in Section 1 of the Oregon City Comprehensive Plan: Citizen Involvement. Development of the plan included a public involvement effort. The applicant, Oregon City Public Works Department, has presented the update for input to the Development Stakeholders Group on May 9, 2019. The update was provided on the City's website during the months of February through May 2019. Local civil engineering consultants and developers were notified via email on February 5, 2019 and April 24, 2019. The standards were presented in a City Commission Work Session on May 7, 2019. The City Commission considered these standards for approval on July 17, 2019.

Policy 5.4.8 Conserve natural resources that have significant functions and values related to flood protection, sediment and erosion control, water quality, groundwater recharge and discharge, education, vegetation and fish, and wildlife habitat.

Finding – Stormwater Master Plan: Section 2 of the Master Plan identifies the natural systems within the City and describes the condition of these systems through assessments. Section 6 of the Master Plan outlines the assessments and field evaluations leading to capital project recommendations to address hydromodification, stream stability, water quality and flooding. One recommended capital project for example is the Newell Canyon Outfall Assessment. The project will require further study to identify significant problem locations where erosion, bank sloughing and landslides have occurred during heavy storm events. The study will lead to a development of concept plans to stabilize the degrading systems. The recommended capital projects in the Master Plan is intended to apply the City’s Stormwater and Grading Design Standards which sets forth the requirements as described briefly in the Finding below. The proposed Master Plan is consistent with this policy.

Finding – Stormwater and Grading Design Standards: The introduction of the Stormwater and Grading Design Standards states the goal of these standards is to provide local engineers, developers, builders, and City staff clear guidance in planning and designing stormwater conveyance and management systems that are appropriate to the local climate, hydrogeology, and geology. The General Thresholds in section 1.2.1 of the Standards requires development within a Natural Resource Overlay District (NROD) should follow certain guidelines. The general design requirements establish water quality standards, stormwater management strategies, and LID Design criteria to protect the local environment. These guidelines were established in the 2015 adopted standards and have not been changed as part of this revision. Therefore, upon amendment, these Standards will remain consistent with this policy.

Policy 5.4.9-Protect and enhance riparian corridors along streams in Oregon City to increase shade, reduce streambank erosion and intrusion of sediments, and provide habitat for a variety of plants, animals, and fish.

Finding – Stormwater Master Plan: Section 2 of the Master Plan identifies the natural systems within the City and describes the condition of these systems through assessments. Section 6 of the Master Plan outlines the assessments and field evaluations leading to capital project recommendations to address hydromodification, stream stability, water quality and flooding. The recommended capital projects in the Master Plan is intended to apply the City’s Stormwater and Grading Design Standards which sets forth the requirements as described briefly in the Finding below. The proposed Master Plan is consistent with this policy.

Finding – Stormwater and Grading Design Standards: The introduction of the Stormwater and Grading Design Standards states the goal of these standards is to provide local engineers, developers, builders, and City staff clear guidance in planning and designing stormwater conveyance and management systems that are appropriate to the local climate, hydrogeology, and geology. The General Thresholds in section 1.2.1 of the Standards requires development within a Natural Resource Overlay District (NROD) should follow certain guidelines. The general design requirements establish water quality standards,

stormwater management strategies, and LID Design criteria to protect the local environment. Water Quality Requirements are also provided. These guidelines and requirements were established in the 2015 adopted standards and have not been changed as part of this revision. Therefore, upon amendment, these Standards will remain consistent with this policy.

Policy 5.4.12-Use a watershed-scale assessment when reviewing and planning for the potential effects from development, whether private or public, on water quality and quantity entering streams.

Finding – Stormwater Master Plan: Chapter 5 of Stormwater and Grading Design Standards address the requirements of a downstream analysis from development whether private or public. The Master Plan is intended to apply the City’s Stormwater and Grading Design Standards which sets forth the requirements as described in the Finding below. The proposed Master Plan is consistent with this policy.

Finding – Stormwater and Grading Design Standards: The introduction of the Stormwater and Grading Design Standards states the goal of these standards is to provide local engineers, developers, builders, and City staff clear guidance in planning and designing stormwater conveyance and management systems that are appropriate to the local climate, hydrogeology, and geology. The general thresholds in section 1.2.1 provide direction on when the requirements apply to a project. The general design requirements establish water quality standards, stormwater management strategies, and LID Design criteria to protect the local environment. Water Quality Requirements are also provided. A downstream analysis of existing systems is required these Standards. These guidelines and requirements were established in the 2015 adopted standards and have not been changed as part of this revision. Therefore, upon amendment, these Standards will remain consistent with this policy.

Policy 5.4.13-Adopt and/or establish standards for all new development that promote the use of pervious surfaces and prevent negative ecological effects of urban storm- water runoff on streams, creeks and rivers.

Finding – Stormwater Master Plan: Chapter 4 of Stormwater and Grading Design Standards describes the methods and criteria for selecting and designing stormwater management facilities including impervious area reduction techniques for all new development. The Master Plan is intended to apply the City’s Stormwater and Grading Design Standards which sets forth the requirements as described in the Finding below. The proposed Master Plan is consistent with this policy.

Finding – Stormwater and Grading Design Standards: The Standards provide a Stormwater Management Strategy Hierarchy which promotes the use of infiltration and Best Management Practice (BMP) solutions. This section of the Standards was revised to provide clarity and explanation to the existing adopted standards from 2015. The revision only provides clarity and does not add to or change the intent of the existing standards. Therefore, upon amendment, these Standards will remain consistent with this policy.

Policy 5.4.16-Protect surface water quality by:

- *providing a vegetated corridor to separate protected water features from development*
- *maintaining or reducing stream temperatures with vegetative shading*
- *minimizing erosion and nutrient and pollutant loading into water*
- *providing infiltration and natural water purification by percolation through soil and vegetation*

Finding – Stormwater Master Plan: Section 5 of the Master Plan describes water quality priorities, retrofit evaluations and the regulatory requirements of the NPDES MS4 Permit. The Master Plan identifies areas of water quality deficiencies within the City and provides recommended capital projects and the continuing use of programmatic actions. The Master Plan is intended to apply the City’s Stormwater and Grading Design Standards which outline the City’s stormwater quality and quantity related obligations and programs. The proposed Master Plan is consistent with this policy.

Finding – Stormwater and Grading Design Standards: The Standards provide a Stormwater Management Strategy Hierarchy which promotes the use of infiltration and Best Management Practice (BMP) solutions. Note that the highest priority of the hierarchy is infiltration and the use of vegetated areas. Amendments are proposed for this section to provide clarity and explanation to the existing adopted standards from 2015. The revision only provides clarity and does not add to or change the intent or the City’s practice of applying these existing standards. The Stormwater BMP Selection Guidance for Site Conditions Table 4-1 provides BMP solutions and alternatives. This table was not revised as part of this update. The Standards state a site must meet a specific water quality requirement that was adopted as part of the 2015 Standards. This revision does not change that requirement. The Standards provide a reference to the City of Oregon City Public Works Erosion and Sediment Control Standards. No change was made to this Standard as part of these revisions. Appendix A exists within the standards to provide guidance on facility plantings with plant lists and diagrams. This Appendix was revised for clarification and constructability and did not receive any structural changes, deletions or additions.

Goal 6.2 Water Quality-Control erosion and sedimentation associated with construction and development activities to protect water quality.

Policy 6.2.1-Prevent erosion and restrict the discharge of sediments into surface- and groundwater by requiring erosion prevention measures and sediment control practices.

Finding – Stormwater Master Plan: The Master Plan is intended to apply the City’s Stormwater and Grading Design Standards. These standards provide a reference to the City of Oregon City Public Works Erosion and Sediment Control Standards in Chapter 7. The proposed Master Plan is consistent with this policy.

Finding – Stormwater and Grading Design Standards: The Standards provide a reference to the City of Oregon City Public Works Erosion and Sediment Control Standards in Chapter 7. No change was made to this Standard as part of these revisions. Therefore, upon amendment, these Standards will remain consistent with this policy.

Policy 6.2.2-Where feasible, use open, naturally vegetated drainage ways to reduce stormwater and improve water quality.

Finding – Stormwater Master Plan: Chapter 2 of Stormwater and Grading Design Standards describe the City’s Stormwater Management Hierarchy Strategy whereas the highest priority is infiltration and use of vegetated areas. The Master Plan is intended to apply the City’s Stormwater and Grading Design Standards which sets forth the requirements as described in the Finding below. The proposed Master Plan is consistent with this policy.

Finding – Stormwater and Grading Design Standards: The Standards provide a Stormwater Management Strategy Hierarchy which promotes the use of infiltration and Best Management Practice (BMP) solutions. This section of the Standards was revised to provide clarity and explanation to the existing adopted standards from 2015. The revision only provides clarity and does not add to or change the intent of the existing standards. The Stormwater BMP Selection Guidance for Site Conditions Table 4-1 provides BMP solutions and alternatives. This table was not revised as part of this update. Note that the highest priority of the hierarchy remains as infiltration and the use of vegetated areas.

Comp Plan Goal 11.1 Provision of Public Facilities- Serve the health, safety, education, welfare, and recreational needs of all Oregon City residents through the planning and provision of adequate public facilities.

Finding – Stormwater Master Plan: The Master Plan is necessary to maintain compliance with Statewide Planning Goal 11, Public Facilities. Goal 11 requires that public facilities and services be provided in a timely, orderly and efficient manner. The goal’s central concept is that local governments should plan public services in accordance with the community’s needs as a whole rather than be forced to respond to individual developments as they occur. This includes stormwater service. As shown in the findings below, the proposed update of the Stormwater Master Plan is consistent with Goal 11.1.

Finding – Stormwater and Grading Design Standards: The Design Standards were created to serve the health, safety, education, welfare, and recreational needs of all Oregon City residents through the planning and provision of adequate public facilities. Public Facilities include, but are not limited to, stormwater detention, stormwater management areas, swales, ponds, storm sewers and appurtenances. These public facilities are designed by the technical standards found within the Stormwater and Grading Design Standards which were prepared to improve water quality, reduce

flooding, convey stormwater to safe appropriate areas, prevent stagnation, and provide signage and fencing for education and safety where appropriate.

Comp Plan Policy 11.1.1 -Ensure adequate public funding for the following public facilities and services, if feasible:

- *Stormwater management*

Finding – Stormwater Master Plan: The Master Plan includes a recommended Capital Improvement Program with a comprehensive and detailed discussion of cost estimates and options to assure that the existing and future stormwater facilities can be funded. The City will retain the financial consultant, FCS Group, to perform a stormwater utility rate and System Development Charge (SDC) analysis to determine if the current stormwater rates and SDCs need to be adjusted to finance the recommended stormwater Capital Improvement Program. With respect to the maintenance and rehabilitation of the existing system, the plan includes a detailed Rehabilitation and Replacement Program.

Finding – Stormwater and Grading Design Standards: The technical design standards do not inherently use public funding; however, the facilities once built may become public facilities which are maintained by the public through Oregon City Public Works using funding as outlined through rates and system development charges related to the Stormwater Master Plan. In many cases, private development designs and constructs these facilities using private funding and after a two year maintenance period, the facilities become owned and maintained by the City.

Comp Plan Policy 11.1.2-Provide public facilities and services consistent with the goals, policies and implementing measures of the Comprehensive Plan, if feasible.

Finding – Stormwater Master Plan: As discussed in this staff report, the Master Plan provides guidance for the timely, efficient and economic provision of stormwater service within the existing city and to new development areas within the Urban Growth Boundary consistent with the relevant goals, policies and implementing measures of the Comprehensive Plan. The proposed Master Plan is consistent with this policy.

Finding – Stormwater and Grading Design Standards: The Stormwater and Grading Design Standards provide technical guidance to design and construct projects outlined in the Stormwater Master Plan. The Stormwater Master Plan is consistent with the policies and measures of the comprehensive plan; therefore, the Standards also are consistent with these policies by reference.

Comp Plan Policy 11.1.3-Confine urban public facilities and services to the city limits except where allowed for safety and health reasons in accordance with state land-use planning goals and regulations. Facilities that serve the public will be centrally located and accessible, preferably by multiple modes of transportation.

Finding – Stormwater Master Plan: Stormwater facilities are anticipated to be exclusively sited within city limits unless constrained by a unique or unanticipated situation.

Finding – Stormwater and Grading Design Standards: Stormwater and Grading Design Standards are only for use within the City Limits as stated within Chapter 1 of the Standards and as permitted through the City’s MS4 permit.

Comp Plan Policy 11.1.4-Support development on underdeveloped or vacant buildable land within the city where public facilities and services are available or can be provided and where land-use compatibility can be found relative to the environment, zoning, and Comprehensive Plan goals.

Finding – Stormwater Master Plan: Chapter 7 of the Master Plan describes recommended Capital Improvement Projects for current and future needs to address water quality issues, capacity/flooding, asset management, and natural systems health. This analysis is based on future land use as shown on figure 2-6 and storm system capacity evaluation in Chapter 3. The analysis includes underdeveloped and vacant buildable land within the city and the urban growth boundary (See Figure ES-1). In most cases the extension of new stormwater services will occur in existing or planned public right-of-ways as part of development in accordance with applicable public works standards, land division laws and zoning regulations, including applicable environmental overlay district standards depending on where development occurs. The adopted city development code standards are sufficient to assure land use compatibility of proposed stormwater improvements are identified in the plan and are within the adopted land use categories in the City’s Comprehensive Plan. The proposed Master Plan is consistent with this policy.

Finding – Stormwater and Grading Design Standards: The Stormwater and Grading Design Standards provide technical guidance for the design and construction of stormwater and grading improvements on underdeveloped and vacant land. The General Thresholds as outlined in section 1.2.1 provide cases when the Standards apply. Section 1.2.2 provides Exemptions for when the Standards do not apply.

Comp Plan Policy 11.1.5-Design the extension or improvement of any major public facility and service to an area to complement other public facilities and services at uniform levels.

Finding – Stormwater Master Plan: The Master Plan is designed to meet system services standards for existing and future development within the UGB. The review of the system needs includes review of the following:

2. Study Area Characteristics-

2.1 Location

2.2 Topography

2.3 Soils

2.4 Land Use	
2.5 Climate and Rainfall	
2.6 Natural Systems	
2.7 Stormwater Infrastructure System	
2.8 Recent Projects	
2.9 Stormwater Program Management	
3. Storm System Capacity Evaluation	
3.1 Capacity Evaluation Approach	
3.2 Problem Area Identification	
3.3 Problem Area Classification	
3.4 Levels of Service	
3.5 Model Development Summary	
3.6 Model Results	
3.7 Capital Improvement Project Analysis	
4. Storm System Condition Assessment	
4.1 Background	
4.2 System Assessment	
4.3 Repair and Replacement Program	
5. Water Quality/Retrofit Assessment	
5.1 Water Quality Priorities	
5.2 Water Quality Treatment Overview	
5.3 Retrofit Evaluation	
5.4 Water Quality/Retrofit Recommendations	

Finding: These analyses reflect typical stormwater system industry standards. The plan includes a detailed analysis of levels of service and existing and projected stormwater demand within the UGB based on the City's comprehensive plan. Pursuant to these requirements, stormwater facilities are typically required to be extended to a new development area at the same time as other public facilities such as sanitary sewer, domestic water, and emergency services. The proposed Master Plan is consistent with this policy.

Finding – Stormwater and Grading Design Standards: The Standards are established to provide consistent uniform requirements for stormwater and grading improvements which are either private or public facilities.

Comp Plan Policy 11.1.7-Develop and maintain a coordinated Capital Improvements Plan that provides a framework, schedule, prioritization, and cost estimate for the provision of public facilities and services within the City of Oregon City and its Urban Growth Boundary.

Finding – Stormwater Master Plan: The plan includes a detailed Capital Improvements Program. The plan includes prioritization of capital improvement projects (CIPs) to serve capacity issues,

environmental benefits and benefits to the stormwater system, although the exact timing of these improvements is currently unknown. The plan also provides a discussion of the factors that will affect the timing of the rehabilitation and replacement program for existing facilities. The proposed Master Plan is consistent with this policy.

Finding – Stormwater and Grading Design Standards: The Design Standards do not relate to Capital Improvement Plans; therefore, Comp Plan Policy 11.1.7 does not apply.

Goal 11.4 Stormwater Management-

Comp Plan Goal 11.4 Stormwater Management-Seek the most efficient and economical means available for constructing, operating, and maintaining the City's stormwater management system while protecting the environment and meeting regional, state, and federal standards for protection and restoration of water resources and fish and wildlife habitat.

Finding – Stormwater Master Plan: A stormwater utility rate study and SDC analysis will be performed by the financial consultant to determine the most efficient and economic means to fund the Capital Improvement Program and the Repair and Replacement Program. The goal's central concept is that local governments should plan public services in accordance with the community's needs as a whole rather than be forced to respond to individual developments as they occur. As described in Section 5, the plan addresses meeting the regulatory requirements for protection of the fish and wildlife habitat by the implementation of the City's Stormwater and Grading Design Standards as described in the Finding below. The city is covered by an MS4 NPDES permit for stormwater discharges where evaluation is included to review the water quality treatment facilities across the city. The Oregon Department of Environmental Quality is required to conduct a water quality assessment of the state's water bodies every two years as part of the water quality standards program.

Finding – Stormwater and Grading Design Standards: Adoption of the Revised Stormwater and Grading Design Standards do not change what was approved in 2015 which ensured efficient and economical means available for constructing, operating, and maintaining the City's stormwater management system while protecting the environment and meeting regional, state, and federal standards for protection and restoration of water resources and fish and wildlife habitat. Design standards exist to guide developers and engineers how to provide stormwater management, conveyance, and grading. Design standards provide the technical guidance to design projects within a master plan or which are required based on thresholds directed by OCMC 13.12. The Design Standards provide the technical standards that do not change the degree by which the requirements are needed compared to the existing 2015 Stormwater and Grading Design Standards which precede this revision. Protection of properties, resources, and other items that are regulated by the Stormwater and Grading Design Standards do not reduce the protections to these systems in any way compared to the 2015 Standards that are currently adopted.

Comp Plan Policy 11.4.1-Plan, operate, and maintain the stormwater management system for all current and anticipated city residents within Oregon City’s existing Urban Growth Boundary and plan strategically for future expansion areas.

Finding – Stormwater Master Plan: The purpose of updating the Master Plan is to assure that all current and anticipated city residents within the Urban Growth Boundary can receive a dependable and high-quality stormwater system as the city continues to develop. This includes maintenance, and where needed, upgrading the existing system as well as serving future expansion areas. The proposed Master Plan is consistent with this policy.

Finding – Stormwater and Grading Design Standards: Adoption of the Revised Stormwater and Grading Design Standards do not change what was approved in 2015 which explains in Chapter 8 how a Stormwater Management Facility is to be operated and maintained as referenced on OCMC 13.12.

Comp Plan Policy 11.4.2-Adopt “green streets” standards to reduce the amount of impervious surface and increase the use of bioswales for stormwater retention where practicable.

Finding – Stormwater Master Plan: As described in Section 5, implementing a green streets retrofit program for areas in need of additional treatment and opportunistically implementing along with roadway improvements by replacing landscape strips with stormwater planters to provide treatment for existing roadways and residential areas. The proposed Master Plan is consistent with this policy.

Finding – Stormwater and Grading Design Standards: Adoption of the Revised Stormwater and Grading Design Standards do not change what was approved in 2015 which describe site assessment and planning for stormwater management facilities which includes ‘green’ standards such as infiltration or bioswales and has a requirement for LID improvements (low impact development). The Design Standards do not specifically address ‘green streets’, only ‘green’ standards.

Comp Plan Policy 11.4.3-Ensure parking lot designs that mitigate stormwater impacts. Take measures to reduce waterflow and increase water absorption through the use of bioswales, vegetated landscaped islands with curb cuts to allow water inflow, and tree planting.

Finding – Stormwater Master Plan: Chapter 2 in the City’s Stormwater and Grading Design Standards address site planning design objectives to reduce the impact of stormwater runoff from development including parking areas. Tables A-1 to A-3 in Appendix A from the Design Standards provide tree planting options through the use of stormwater planters, rain gardens and swales in parking areas.

Finding – Stormwater and Grading Design Standards: As described in the Finding above, the 2015 standards as well as the 2019 Update provide options for “LID Facilities”. Adoption of the Revised Stormwater and Grading Design Standards do not change what was approved in 2015.

Comp Plan Policy 11.4.4-Maintain existing drainageways in a natural state for maximum water quality, water resource preservation, and aesthetic benefits.

Finding – Stormwater Master Plan: The Master Plan is intended to apply the City’s Stormwater and Grading Design Standards which outline the City’s stormwater quality and quantity related obligations and programs to provide a comprehensive review of the City based on current Design Standards to determine system deficiencies. One of the purposes of the Stormwater and Grading Design Standards is to minimize the introduction of pollutants and provide water quality treatment of stormwater runoff to preserve the beneficial uses of drainageways, lakes, ponds, wetlands, and other sensitive areas; however, the Master Plan does not further restrict or more fully allow any changes to the environment and infrastructure. It only addresses existing deficiencies based on the Stormwater and Grading Design Standards. Another purpose is to maintain the pre-development stormwater runoff characteristics to minimize effects on the drainageways such as sediment transport, erosion, and degradation generally associated with urbanization, through the use of Low Impact Development (LID) facilities and/or flow controls to address hydromodification. Projects are established by the Master Plan which were determined by an analysis of the City based on the Stormwater and Grading Design Standards. This project lists consists of capital projects like Scattering Canyon Stormwater Improvement and Coffee Creek Stream Restoration. The Scattering Canyon Project will enhance a current outfall and channel at the canyon to reduce erosion while addressing the lack of water quality and enhancing aesthetics. The Coffee Creek Project addresses flooding issues, the lack of water quality and providing stream stability to the existing drainageway.

Finding – Stormwater and Grading Design Standards: Adoption of the Revised Stormwater and Grading Design Standards do not change what was approved in 2015 which requires maintaining of existing drainageways, easements, water resource preservation, and water quality on conjunction with OCMC 13.12 and OCMC 17.49 . Chapter 3 refers to OCMC 17.49 and Chapter 5 refers to drainageways and easements while Chapter 8 refers to maintenance.

Comp Plan Policy 11.4.5-Design stormwater facilities to discharge surface water at pre-development rates and enhance stormwater quality in accordance with criteria in City of Oregon City Public Works Stormwater and Grading Design Standards.

Finding – Stormwater Master Plan: Part of the objective of the Master Plan is to design stormwater facilities in accordance with the criteria in City of Oregon City’s Stormwater and Grading Design Standards. Chapter 4 in the Design Standards describes the methods and criteria for selecting and

designing stormwater management facilities for projects. A flow control requirement when discharging surface water shall be designed so that the duration of peak flow rates from post-development conditions shall be less than or equal to the duration of peak flow rates from pre-development conditions for all peak flows between 42 percent of the 2-year peak flow rate up to the 10-year peak flow rate. Water quality facilities shall be designed to capture and treat 80 percent of the average annual runoff volume to the MEP with the goal of 70 percent total suspended solids removal.

Finding – Stormwater and Grading Design Standards: Adoption of the Revised Stormwater and Grading Design Standards do not change what was approved in 2015 which describes how stormwater facilities shall discharge surface water at pre-development rates and enhance stormwater quality. Stormwater Management requirements and exemptions are stated in Chapter 1.

Comp Plan Policy 11.4.6-Regularly review and update the above standards to reflect evolving stormwater management techniques, maintenance practices, and environmental compatibility.

Finding – Stormwater Master Plan: Stormwater Management Implementation Plan establishes an annual program to inspect and assess the condition of the City’s infrastructure and set the City up with a greater understanding of the system and the areas in need of imminent repair and replacement. Along with the implementation plan, current and future regulations and design standards will aid in ensuring that new development and redevelopment do not exacerbate any existing problems or place new stresses on the current system. Chapter 8 in the Stormwater and Grading Design Standards describes the requirement to perform regular maintenance to all stormwater management facilities.

Finding – Stormwater and Grading Design Standards: This revision of the 2015 Standards is to provide clarification to the existing standards where they have not been clear to staff and the development community. OCMC 13.12 provides direction to the City Commission to adopt updated standards from time to time. The goal of the update is to provide clarification and correct any errors within the Standards.

Comp Plan Policy 11.4.7-Provide stormwater management services and monitor, report and evaluate success of the services consistent with the NPDES MS-4 permit requirements.

Finding – Stormwater Master Plan: Section 2 of the Master Plan describes the City’s Stormwater Program Management services that includes maintenance and programmatic stormwater activities. Program implementation is documented annually in the City’s NPDES MS4 permit annual report. The evaluation of stormwater discharge is included to review the water quality treatment facilities across the city under the NPDES MS4 permit. The Oregon Department of Environmental Quality is required to conduct a water quality assessment of the state’s water bodies every two years as part of the water quality standards program. The proposed Master Plan is consistent with this policy.

Finding – Stormwater and Grading Design Standards: See above Finding. The Design Standards themselves do not apply to Comp Plan Policy 11.4.7. The NPDES requirements of the MS4 permit is what makes the City required to follow this Comp Plan Policy.

STATEWIDE PLANNING GOAL 1:

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Finding: Complies as Proposed. This goal is implemented through the applicable Goals and Policies in Section 1 of the Oregon City Comprehensive Plan: Citizen Involvement. Development of the plan included an public involvement effort. The applicant, Oregon City Public Works Department, has presented the update for input to the Development Stakeholders Group on May 9, 2019. The update was provided on the City’s website during the months of February through May 2019. Local civil engineering consultants and developers were notified via email on February 5, 2019 and April 24, 2019. The standards were presented in a City Commission Work Session on May 7, 2019. The City Commission considered these standards for approval on July 17, 2019.

STATEWIDE PLANNING GOAL 2:

To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Finding: Complies as Proposed. This goal is implemented through the applicable Goals and Policies in Section 2 of the Oregon City Comprehensive Plan: Land Use. Because the plan is an ancillary document to the City’s Comprehensive Plan, the application was processed pursuant to the legislative hearing process outlined in Section 17.50.170 of the Oregon City Municipal Code.

Goal 2 also provides that the public and “affected governmental units” be given the opportunity to review and comment on proposed amendments. In furthering that effort, the City has provided the Oregon Department of Fish and Wildlife notice of the proposed amendment and requested comment and no response was received.

STATEWIDE PLANNING GOAL 3: Agricultural Lands and GOAL 4: Forest Lands

Finding: Not Applicable. By definition, Oregon City does not have rural resource lands such as for agricultural or forest use within its city limits or UGB and therefore those goals are not applicable.

STATEWIDE PLANNING GOAL 5:

To protect natural resources and conserve scenic and historic areas and open spaces.

Finding: Complies as Proposed. This goal requires the “protection of natural resources” through an inventory, conflict analysis and protection evaluation scheme that is prescribed by Oregon Administrative Rule 660, Chapter 23.

OAR 660-023-0250 specifies the circumstances that trigger Goal 5 review. In relevant part, an amendment affects a Goal 5 resource if the post-acknowledgment plan amendment (PAPA) “amends a resource list or a portion of an acknowledged plan or land use regulation adopted in order to protect a significant Goal 5 resource.” Adoption of a new Stormwater Master Plan and the proposed minor amendments to the Stormwater and Grading Design Standards do not alter the City’s existing riparian or wetland inventories.

That said, the 2019 Stormwater Master Plan triggers Goal 5 review because it will be adopted as an ancillary document to the City’s Comprehensive Plan and one of the purposes for its adoption is to improve water quality throughout the City, including Goal 5 designated streams and tributaries.

Goal 5 applies to the proposed amendments to the Stormwater and Grading Design Standards because drainage for nearly all development must comply with these standards. OCMC 17.62.050(6) and 17.52.030(C). The stated purpose for implementing the Design standards is to “help protect water resources which, in turn, will benefit human health, fish and wildlife habitat, recreational resources, and drinking water.” Water quality is enhanced by “protecting sensitive areas and the required vegetative buffers.” Design Standards p 1-1. Therefore, Goal 5 review is triggered for both the Stormwater Master Plan and the Design Standards.

Where Goal 5 review is triggered under OAR 660-023-0250(3), the local government is not necessarily obligated to undertake each of the many sequential steps in the Goal 5 process identified in the rule. *Johnson v. Jefferson County*, 56 Or LUBA 25, 39-40, aff'd 221 Or App 190, 189 P3d 34 (2008); *NWDA v. City of Portland*, 50 Or LUBA 310, 338 (2005); *NWDA v. City of Portland*, 47 Or LUBA 533, 543 (2004), *rev'd on other grounds*, 198 Or App 286, 108 P3d 589 (2005); *Home Builders Assoc. v. City of Eugene*, 41 Or LUBA 370, 443-44 (2002). Rather, which and how many of the substantive steps in the Goal 5 decision process must be revisited, if any, and to what extent, will depend on the nature of the amendments, the existing acknowledged program, the particular Goal 5 resource and the conflicting use at issue. *Cosner v. Umatilla County*, 65 Or LUBA 9, 22 (2012).

The first step in the general Goal 5 process is to compile an inventory of resources to determine which resources are significant. OAR 660-023-0030. The proposed amendment does not alter or amend the City's riparian or wetland inventories.¹ The quantity, quality and significance determinations for riparian resources similarly remains unchanged. Therefore, this inventory analysis step is not applicable to the City's adoption of a Stormwater Master Plan or Design Standards. That said, the Stormwater Master Plan does include a natural systems assessment that was completed to evaluate physical stream conditions to identify impacts from stormwater runoff. Field evaluations of the health of each stream are set forth in Table 6-1 of the Plan which, in turn, led the City to identify capital project locations for improving water quality depending on these results. Therefore, to the extent that any sort of inventory was required, the analysis set forth in Section 6 of the Stormwater Master Plan satisfies this requirement.

The second step is determining a program to achieve Goal 5 based on “an analysis of the economic, social, environmental, and energy (ESEE) consequences that could result from a decision to allow, limit,

¹ Further OAR 660-023-0250(4) provides that:

“Consideration of a PAPA regarding a specific resource site, or regarding a specific provision of a Goal 5 implementing measure, does not require a local government to revise acknowledged inventories or other implementing measures, for the resource site or for other Goal 5 sites, that are not affected by the PAPA, regardless of whether such inventories or provisions were acknowledged under this rule or under OAR 660, division 16.”

The only components of the City's land use plan or regulations that are germane for Goal 5 evaluation are the Stormwater Master Plan and those portions of the Stormwater and Grading Design Standards that are subject to amendment. The City is not under any obligation to consider its existing plan or regulations, the level or extent of existing protections of riparian corridors, instream water and the habitat within rivers and creeks that are not subject to amendment.

or prohibit a conflicting use.” OAR 660-023-0040. A “conflicting use” is defined by OAR 660-023-0010 to include “a land use, or other activity reasonably and customarily subject to land use regulations, that could adversely affect a significant Goal 5 resource.” Identification of certain capital stormwater improvement projects proposed for construction within the Stormwater Master Plan does not “allow, limit or prohibit a conflicting use” to a greater or lesser degree than if these projects were proposed before the Master Plan was adopted. Development of the Plan-identified projects must comply with all applicable plan and land use regulations just like private development would. In other words, where capital improvements are proposed within Natural Resource Overlay District regulated riparian setback areas, including the addition of any new impervious surface, compliance with OCMC 17.49 standard will be required. Any stormwater facility development within historic districts or on landmarks are reviewed for compliance with OCMC 17.40 Historic Overlay District and the Design Guidelines for New Construction. Therefore, adoption of the Stormwater Master Plan does not “allow, limit or prohibit” a “conflicting use” to any greater or lesser degree than currently allowed and therefore, no further analysis of ESEE consequences is necessary.

As for the Stormwater and Grading Design Standards, the proposed amendments add clarity to existing standards rather than impose any significant substantive changes. To the extent changes occur, the only effects will be to further limit development that could conflict with riparian areas in favor of providing greater protection for Goal 5 inventoried riparian resources. Given that the proposed amendments will have a negligible impact on development, compliance with Goal 5 can be achieved through a very limited ESEE analysis. *See Cosner supra*. As a result, examples of the clarifications along with a discussion of the identified ESEE consequences include:

- Replacing the Natural Resource notation from the abbreviation WQRA to the abbreviation NROD which is consistent with the references to natural resource areas in OCMC 17.49. This change in terminology will not change how development occurs, stormwater is treated or how riparian resources are protected. There are no ESEE consequences resulting from this change.
- More clearly define the exemptions from the stormwater requirements in 1.2.2 by providing further description and additional language. These amendments do not alter the stormwater obligations or opportunities currently provided within the existing standards. There are no ESEE consequences resulting from this change.
- Changing the Checklist obligation to set forth a preliminary design checklist rather than a planning checklist to be in line with how engineers talk about this section of the standards. Again, this is a procedural submittal requirement that will have no impact on timing or cost of development.
- Clarify the stormwater management strategy hierarchy in Figure 2-2 that better explains how a designer should prioritize stormwater management options and alternatives. These amendments do not alter review procedures or submittal requirements, so in that way, development would not be affected any differently with this revision than it is handled now.
- Explain how to use the BMP sizing tool for underground stormwater management. This revision provides greater explanation and does not alter the substantive standards for underground retention and/or treatment. The only impact may be reduce project development costs resulting from the greater regulatory clarity.
- Increasing the minimum velocity requirements of storm sewers to be consistent with the Oregon Department of Transportation standards. The minimum velocity allowed for conveyance of

storm water under existing standards is 2.5 feet per second rather than 3.0 feet per second, as proposed in this amendment. Moving water through pipes more quickly makes it less likely that standing water remains collecting pollutants along the way. Increasing stormwater velocity requirements will require negligible changes in construction methods that are unlikely to have any effect on development improvement costs.

With the minor amendments to the Stormwater and Grading Design Standards, the City has chosen to amend its program to achieve Goal 5 with respect to inventoried riparian resources, by adopting additional measures to protect those resources from an identified conflicting development uses. The proposed amendments will adjust the balance the City initially struck in its initial ESEE analysis and its program to achieve the goal only slightly in ways that will improve water quality and, if it has any effect on development, that effect will be negligible to non-existent. Goal 5 is achieved.

STATEWIDE PLANNING GOAL 6:

To maintain and improve the quality of the air, water and land resources of the state.

Finding: Complies as Proposed. This goal requires that discharges from future development not threaten to violate applicable state and federal environmental quality standards. Water pollutants conveyed through stormwater is a “discharge” subject to Goal 6. Compliance with Goal 6 requires a finding “explaining why it is reasonable to expect that applicable state and federal environmental quality standards can be met by the proposed use. ...This is sufficient to establish compliance with the overall requirement of Goal 6 ...” *Salem Golf Club v. City of Salem*, 28 Or LUBA 561, 581 (1995). As pointed out above, adoption of the Stormwater Master Plan and amendments to the Stormwater and Grading Design Standards will not increase the amount of discharge or the level of pollutants reaching streams or tributaries. Rather, adoption of the proposed ordinances will improve water quality through the construction of capital improvements and additional clarity in detention and treatment requirements proposed for adoption. All development within the City must continue to comply with regional, state and federal standards for water quality.

ORS 486B.025 and 050 prohibit the discharge of pollutants into waters of the state below certain thresholds without a permit issued by the Department of Environmental Quality (DEQ). DEQ regulates stormwater runoff from the discharge points owned by the City of Oregon City through the National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Discharge Permit, issued to Clackamas County and its co-permittees (Oregon City, Lake Oswego, Gladstone, West Linn, Milwaukie, Wilsonville, Happy Valley, Johnson City, Rivergrove, the Oak Lodge Sanitary District, Clackamas County Service District No. 1, and the Surface Water Management Agency of Clackamas County). Stormwater carrying pollutants from private property into the City’s stormwater system is authorized pursuant to this permit.

The adoption of the Stormwater Master Plan and Stormwater and Grading Design Standard amendments are necessary to further implement the City’s obligations to remain in compliance with the NPDES MS4 Permit. The Master Plan prioritizes planning and designing stormwater conveyance and managing infrastructure to protect the natural and built environment for the next 10 to 15 years. The primary method for guidance is through a prioritized capital improvement program allowing the City to access grants and other funding sources to make the necessary improvements.

The NPDES MS4 permit requires the City to implement a Stormwater Management Plan that outlines programmatic water quality best management practices (BMPs) to reduce pollutants in urban stormwater discharges to receiving waters. One of the identified BMPs is the development and implementation of design requirements for new development and redevelopment projects, which Oregon City implements through the Stormwater Grading and Design Standards. Given that the Stormwater Master Plan and Design Standards are required by and have been designed to fully implement the state and federal clean water standards, there is a reasonable expectation that all public and private development will similarly occur in compliance with these standards and Goal 6 is satisfied. *See Friends of the Applegate Watershed v. Josephine County*, 44 Or LUBA 786, 802 (2003) and *Salem Golf Club v. City of Salem*, 28 Or LUBA 561, 583 (1995).

Further, regarding the allegation that the Goal 6 is violated because the Stormwater Master Plan and the Design Standards do not require development to comply with state and federal water quality standards, all development within the City, including those stormwater capital improvement projects called out within the Stormwater Master Plan, must comply with the grading and erosion control standards set forth in OCMC 17.47. OCMC 17.47.040 provides, in relevant part, “Where this document imposes restrictions that are more stringent than regional, state and federal law, the provisions of this document shall govern. However, nothing in this chapter shall relieve any party from the obligation to

comply with any applicable federal, state or local regulations or permit requirements.” Further, the Oregon City Comprehensive Plan provides: “Waste discharges, defined as solid waste, thermal, noise, atmospheric and water contaminants and pollutants that cause harm to human health or the environment, must not “violate or threaten to violate federal or state statutes.” See also similar requirements in the Grading Standards as well. Therefore, all development occurring within the City must comply with the applicable state and federal clean water standards. To the extent that there is any doubt about the City requiring compliance with state and federal standards for pollution conveyance through stormwater that might occur beyond the scope of the City’s NPDES permit, ORS 468B.025 provides an independent statutory limitation there as well. See *Nicita v. City of Oregon City*, ___ Or LUBA ___ (LUBA No. 2016-045, January 25, 2017) and *Graser-Lindsey v. City of Oregon City*, ___ Or LUBA ___, (LUBA No. 2016-044, November 22, 2016).

Through these amendments, the City is taking further steps to remain in compliance with state and federal environmental water quality standards. Such actions comply with Goal 6.

STATEWIDE PLANNING Goal 7:

To protect life and property from natural disasters and hazards.

Finding: Not Applicable. This proposal does not change any regulations related to natural hazards in Oregon City, including Geologic Hazard and floodplain overlay districts.

STATEWIDE PLANNING GOAL 8:

To satisfy the recreational needs of the citizens of the state and visitors, and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Finding: Not Applicable. This proposal does not affect any parks or recreation facilities in Oregon City.

STATEWIDE PLANNING GOAL 9:

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Finding: Complies as Proposed. The adoption of these standards will allow the City to approve new development in the area that contributes to economic vitality.

STATEWIDE PLANNING Goal 10:

To provide for the housing needs of citizens of the state.

Finding: Complies as Proposed. This proposal allows for greater housing opportunities by creating a clear and objective process for reviewing and approving stormwater facilities relating to housing development.

STATEWIDE PLANNING GOAL 11:

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Finding: Complies as Proposed. This goal is implemented through the applicable Goals and Policies in Section 11 of the Oregon City Comprehensive Plan: Public Facilities. As stated in Section 11, the Master Plan is necessary to maintain compliance with Statewide Planning Goal 11, Public Facilities. Goal 11 requires that public facilities and services be provided in a timely, orderly and efficient manner. The goal’s central concept is that local governments should plan public services in accordance with the community’s needs as a whole rather than be forced to respond to individual developments as they occur. This includes stormwater service. As shown in the findings below, the proposed update of the Stormwater Master Plan is consistent with Goal 11.1.

The Design Standards were created to serve the health, safety, education, welfare, and recreational needs of all Oregon City residents through the planning and provision of adequate public facilities. Public Facilities include, but are not limited to, stormwater detention, stormwater management areas, swales, ponds, storm sewers and appurtenances. These public facilities are designed by the technical standards found within the Stormwater and Grading Design Standards which were prepared to improve water quality, reduce flooding, convey stormwater to safe appropriate areas, prevent stagnation, and provide signage and fencing for education and safety where appropriate.

STATEWIDE PLANNING GOAL 12:

To provide and encourage a safe, convenient and economic transportation system.

Finding: Complies as Proposed. This goal is implemented at the local level through the applicable Goals and Policies in the updated TSP, Section 2 (The Vision). This goal is also implemented at the state level through the Transportation Planning Rule (TPR), OAR 660-012. Creating a clear and objective process for reviewing and approving stormwater facilities relating to transportation development, provides the city and residents with additional cost details needed to make complicated transportation decisions.

STATEWIDE PLANNING GOAL 13: To conserve energy.

Land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles.

Finding: Complies as Proposed. This goal is implemented through the applicable Goals and Policies in Section 13 of the Oregon City Comprehensive Plan: Energy Conservation. The city promotes the efficient use of land and conservation of energy through its Comprehensive Plan and Zoning Code and through the implementation of public facility improvements and building codes. Higher density and mixed use zoning, land division, and site plan design standards promote more compact development patterns, and promote bicycling and walking instead of relying on the automobile for routine errands. New annexations are required to show that public utilities can be efficiently extended to new urban areas. Metro-approved Concept Plans are required prior to annexation to the city to assure that urban services and amenities will be developed in logical places as the community develops. Building codes require that new homes and businesses conserve energy through choice of materials, insulation, and installation of efficient plumbing, heating and cooling systems. The proposed stormwater and grading standards will assure that public facilities are efficiently used and that energy is conserved. Finally, the creation of green street standards and requirements of Low Impact Stormwater Development in the stormwater analysis look for approaches that do not overbuild infrastructure when not needed.

CHAPTER 17.50 ADMINISTRATION AND PROCEDURES

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

Finding: Complies as Proposed. The proposed Legislative application is being reviewed pursuant to the Type IV process. Notice was posted online and posted in the paper.

17.50.050 Preapplication Conference

A. Preapplication Conference. Prior to submitting an application for any form of permit, the applicant shall schedule and attend a preapplication conference with City staff to discuss the proposal. To schedule a preapplication conference, the applicant shall contact the Planning Division, submit the required materials, and pay the appropriate conference fee. At a minimum, an applicant should submit a short narrative describing the proposal and a proposed site plan, drawn to a scale acceptable to the City, which identifies the proposed land uses, traffic circulation, and public rights-of-way and all other required plans. The purpose of the preapplication conference is to provide an opportunity for staff to provide the applicant with information on the likely impacts, limitations, requirements, approval

standards, fees and other information that may affect the proposal. The Planning Division shall provide the applicant(s) with the identity and contact persons for all affected neighborhood associations as well as a written summary of the preapplication conference. Notwithstanding any representations by City staff at a preapplication conference, staff is not authorized to waive any requirements of this code, and any omission or failure by staff to recite to an applicant all relevant applicable land use requirements shall not constitute a waiver by the City of any standard or requirement.

B.A preapplication conference shall be valid for a period of six months from the date it is held. If no application is filed within six months of the conference or meeting, the applicant must schedule and attend another conference before the city will accept a permit application. The community development director may waive the preapplication requirement if, in the Director's opinion, the development does not warrant this step. In no case shall a preapplication conference be valid for more than one year.

Finding: Complies as Proposed. On February 13, 2018, a pre-application meeting was held. The application was filed with the City within one year of the pre-application meeting. These criteria are met.

17.50.055 Neighborhood Association Meeting

Finding: Complies as Proposed. This is a citywide application, no specific neighborhood association was identified and is not required with the code that as in effect in January 31, 2019

17.50.060 Application Requirements.

Finding: Complies as Proposed. All application materials required are submitted with this narrative.

17.50.070 Completeness Review and 120-day Rule.

Finding: Complies as Proposed. This is a Legislative Decision, there is not 120 day deadline for making a final city decision.

17.50.080 Complete Application--Required Information.

Finding: Complies as Proposed. This land use application was submitted on January 31, 2019
The application was deemed complete on August 27, 2019

17.50.090 Public Notices.

Finding: Complies as Proposed. Posted on the Oregon City website and in a general circulation newspaper. Staff provided email transmittal of the application and notice to affected agencies including the Oregon Department of Fish and Wildlife, and to all Neighborhood Associations requesting comment.

17.50.100 Notice Posting Requirements.

Finding: Complies as Proposed. No signs were posted as there is no specific property involved for this proposed Legislative amendment.

RECOMMENDATION

Based on the findings identified above, the proposal to amend Stormwater Master Plan and Stormwater Grading and Design Standards appears to comply with the review criteria. Staff recommends approval of Planning file GLUA 19-00002: LEG 19-00001 & LEG 19-00005.

EXHIBITS

- 1) Applicant's Submittal
- 2) Draft Stormwater Master Plan
- 3) Draft Stormwater Grading and Design Standards