



Legislation Details (With Text)

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| File #: | PC 20-077 | Version: | 1 | Name: | 2nd Reading of Ordinance No. 20-1005, Amending the Natural Resources Overlay District and Approving File LEG-19-00006 |
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| Title: | Second Reading of Ordinance No. 20-1005, Amending the Natural Resources Overlay District and Approving File LEG-19-00006 | | | | |
| Sponsors: | Laura Terway | | | | |
| Indexes: | | | | | |
| Code sections: | | | | | |
| Attachments: | 1. Staff Report, 2. Ordinance No. 20-1005, 3. Exhibit A. Addition to NROD, 4. Legislative Findings - Revised, 5. Doug Neeley - Suggested Vegetated Corridor 3.06.2020, 6. 1. Land Use Application Form, 7. 2. Detailed Project Description 9.19.2019, 8. 3. Project Description 6.11.2019 for Owners, 9. 4. DSL Map of Wetland WD2016-0272final, 10. 5. Preliminary site plan of proposed Canemah cottage development w/ location of wetland, October 2017, 11. 6. Public Notices, 12. Planning Commission Comment Forms 2.10.2020, 13. Planning Commissioner Hearing Notes 2.10.2020, 14. 7a. Public Comment - Karen Blaha 2.3.2020, 15. 7b. Public Comment - Dennis Anderson 2.3.2020, 16. 7c. Public Comment - Julie Oppen 2.4.2020, 17. 8. City Commission Meeting Minutes 12/5/18, 12/6/17, 5/9/17, 11/15/17, 18. 9. Canemah Neighborhood Association Meeting Minutes, November 17, 2016, 19. 10. Natural Resources Committee Meeting Agenda, January 9, 2019, 20. 11. Natural Resources Committee Meeting Draft Minutes, February 14, 2018, 21. 12. Video Clip Link to City Commission Work Session, May 9, 2017, Item 3c., 22. 13. Wetland Delineation Report for 4th and Miller, Oregon City. EVREN Northwest, Inc. and Turnstone, 23. 14. Staff email correspondence with Department of State Lands, 02.03.2020, 24. Public Comment - James Nicita 2.10.2020, 25. Public Comment - Canemah Neighborhood Association 2.10.2020, 26. Public Comment - Sandra Lawson 2.6.2020, 27. Public Comment - Paul Edgar 2.7.2020, 28. Public Comment - Paul Edgar 2.10.2020, 29. Public Comment - Paul Edgar 2.11.2020, 30. Public Comment - Karla Laws 2.11.2020, 31. Public Comment - William Foster 02.12.2020, 32. Public Comment - Paul Edgar 2.21.2020, 33. City Commission Staff Presentation 3.04.2020, 34. City Commission Staff Report Item 6c 3.04.2020, 35. Citizen Comment Cards 3.04.2020, 36. Public Comment - Paul Edgar 3.04.2020, 37. Public Comment - Doug Neeley 5.20.2020, 38. Public Comment - Karen Blaha 5.20.2020 | | | | |

| Date | Ver. | Action By | Action | Result |
|----------|------|-----------------|--|--------|
| 6/3/2020 | 1 | City Commission | approve on second reading and final adoption | Pass |

Second Reading of Ordinance No. 20-1005, Amending the Natural Resources Overlay District and Approving File LEG-19-00006

RECOMMENDED ACTION (Motion):

Motion to approve the second reading of Ordinance No. 20-1005 to add additional land to the Natural Resources Overlay District and approve file LEG-19-00006.

EXECUTIVE SUMMARY:

On May 20, 2020 the City Commission approved the first reading of Ordinance No. 20-1005 with a modification for removal of the vegetative corridor on the Blaha property Tax Lot 3-1E-01AA-02300. Staff has prepared a revised Exhibit A to Ordinance No. 20-1005 that reflects the City Commission's

decision.

A wetland was identified during the development review process which had not been previously included in the Natural Resources Overlay District (NROD). The Natural Resources Overlay District protects water quality and function of streams, wetlands and adjacent habitat by surrounding the features with native plantings (called a vegetated corridor) which also result in a buffer between the features and development. In response to citizen requests and recommendations from the Planning Commission and the Natural Resources Committee, the City Commission directed staff to initiate a process to include the delineated feature within the NROD. Approval of this LEG-19-00006 would add the delineated portion of the previously unmapped wetland as well as some or all of the adjacent 50' vegetative corridor buffer to the Natural Resources Overlay District map. If approved, the area identified within the vegetated corridor adjacent to the wetland would be subject to the provisions within Chapter 17.49 of the Oregon City Municipal Code (OCMC). Based on City Commission direction and public testimony at the 3.18.2020 public hearing, staff has prepared a modified proposal, map and revised findings to support adding a vegetated corridor to an existing wetland.

BACKGROUND:

On March 4, 2020 and March 18, 2020, the City Commission considered file LEG-19-00006 as recommended by the Planning Commission. Following public testimony and discussion, the City Commission directed staff to prepare a modified map of the proposed wetland addition to the Natural Resources Overlay District depicting a narrower 10' wide vegetated corridor for the wetland abutting 514 4th Avenue (Tax Lot 3-1E-01AA-02300), and tentatively approved the LEG-19-00006. The effect of the narrower vegetated corridor would continue to meet the approval criteria and the goals and policies of the Natural Resources Overlay District OCMC 17.49 and the Oregon City Comprehensive Plan as discussed in the staff report, while addressing the concerns of the Planning Commission. The Comprehensive Plan (P. 116) anticipates the challenges associated with "balancing private property rights with public goals and needs as the City adopts new programs and regulations aimed at shaping the city's built and natural environment." In particular, the modified vegetated corridor would better achieve consistency with Oregon City Comprehensive Plan Goal 2.4 - Neighborhood Livability;

Goal 2.4 Neighborhood Livability

"Provide a sense of place and identity for residents and visitors by protecting and maintaining neighborhoods as the basic unit of community life in Oregon City while implementing the goals and policies of the other sections of the Comprehensive Plan."

Furthermore, the modified vegetated corridor helps to balance the goals of environmental protection and water quality with the right of property owners to reasonably develop their property with the permitted land uses in the underlying residential zone district, thus achieving consistency with Oregon City Comprehensive Plan Policy 2.4.4;

Policy 2.4.4

Where environmental constraints reduce the amount of buildable land, and/or where adjacent land differs in uses or density, implement Comprehensive Plan and zoning designations that encourage compatible transitional uses.

Oregon City Municipal Code Chapter 17.49 protects water quality and function of streams, wetlands and adjacent habitat by surrounding the features with native plantings (called a vegetated corridor) which also result in a buffer between the features and development. The NROD discourages development within the vegetated corridor and requires mitigation for disturbances if they occur. The

City's authority is limited to regulating the area around a stream or wetland, and not the feature itself.

The authority to regulate the vegetated corridor in Chapter 17.49 of the Oregon City Municipal Code, Natural Resources Overlay District (NROD), is implemented with an officially adopted map of the the NROD boundaries. A wetland was identified during the development review process which had not been previously included in the Natural Resources Overlay District (NROD). The development delineated the boundaries of the wetland onsite. In response to citizen requests and recommendations from the Planning Commission and the Natural Resources Committee, the City Commission directed staff to initiate a process to include the delineated feature within the NROD.

Additional studies were not conducted to further delineate the portions of the wetland not on the development site. The City Commission identified revisiting the issue of updating the city-wide wetland inventory as a potential project with the Comprehensive Plan Update.

On February 10, 2019, the Planning Commission voted 4-0 to recommend approval of file LEG-19-00006, the proposed amendment to Natural Resources Overlay District Map, to the City Commission for their consideration, with the following modification: *The amendment shall not affect any portion of 514 4th Avenue (Tax Lot 3-1E-01AA-02300)*. The Planning Commission provided the following rationale for the modified recommendation:

- the amendment as originally proposed impacts a disproportionately large percentage of 514 4th Avenue (Tax Lot 3-1E-01AA-02300);
- only a limited number of property owners are affected;
- the Planning Commission wishes to allow the future development of 514 4th Avenue (Tax Lot 3-1E-01AA-02300);
- the proposal is unfair to the owner of 514 4th Avenue (Tax Lot 3-1E-01AA-02300) since the neighboring property was allowed to develop without a vegetated corridor;
- the proposal would reduce the property value of 514 4th Avenue (Tax Lot 3-1E-01AA-02300).

Proposal LEG-19-00006 is to include a wetland and associated vegetated corridor within the City's Natural Resources Overlay District by amending the Overlay District Map. The effect of the overlay district map amendment, if approved, will be to apply the protections and standards of OCMC 17.49 to the subject properties upon which the wetland and surrounding vegetated corridor exist.

OPTIONS:

1. Approve LEG-19-00006 as proposed
2. Approve LEG-19-00006 with the modification that the amendment does not affect any portion of 514 4th Avenue (Tax Lot 3-1E-01AA-02300).
3. Approve LEG-19-00006 with the modification directed by the City Commission
4. Continue LEG-19-00006 to the June 3rd hearing
4. Deny LEG-19-00006