

AGENDA

WASHINGTON COUNTY BOARD OF COMMISSIONERS

Agenda Category: Public Hearing – Fifth Reading and Fifth Public Hearing
Land Use & Transportation; County Counsel (CPO 7)

Agenda Title: **CONSIDER PROPOSED A-ENGROSSED ORDINANCE NO. 801 –
AN ORDINANCE AMENDING THE NORTH BETHANY
SUBAREA PLAN OF THE BETHANY COMMUNITY PLAN AND
THE COMMUNITY DEVELOPMENT CODE RELATING TO
DENSITY RESTRICTED LANDS AND THE NATURAL
FEATURES BUFFER WITH FENCING**

Presented by: Andrew Singelakis, Director of Land Use & Transportation
Alan Rappleyea, County Counsel

SUMMARY:

A-Engrossed Ordinance No. 801 proposes to amend the North Bethany Subarea Plan of the Bethany Community Plan and the Community Development Code relating to Density Restricted lands and the Natural Features Buffer with Fencing. A-Engrossed Ordinance No. 801 is posted on the County's land use ordinance web page at the following link:

www.co.washington.or.us/landuseordinances

After its September 20, 2016 public hearing on Ordinance No. 801, the Board directed engrossment of the ordinance to include the changes as provided in the staff report. The Board held its first hearing for A-Engrossed Ordinance No. 801 on October 18 and continued the hearing to October 25, 2016.

The staff report for the October 25, 2016 hearing will be provided to the Board prior to the hearing and posted on the above land use ordinance web page. Copies of the report will also be available electronically and at the Clerk's desk prior to the hearing.

Consistent with Board policy, testimony about the ordinance is limited to two minutes for individuals and five minutes for a representative of a group.

Clerk's Desk Item: Staff Report *(click to access electronic copy)*

DEPARTMENT'S REQUESTED ACTION:

Read A-Engrossed Ordinance No. 801 by title only and conduct the second public hearing for the engrossed ordinance. At the conclusion of the hearing, adopt A-Engrossed Ordinance No. 801 and associated findings.

COUNTY ADMINISTRATOR'S RECOMMENDATION:

I concur with the requested action.

ADOPTED

Agenda Item No.	<u>4.a.</u>
Date:	10/25/16

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR WASHINGTON COUNTY, OREGON

A-ENGROSSED ORDINANCE 801

An Ordinance Amending the North Bethany Subarea Plan of the Bethany Community Plan and the Community Development Code Relating to Density Restricted Lands and Natural Features Buffer With Fencing

The Board of County Commissioners of Washington County, Oregon (“Board”) ordains as follows:

SECTION 1

A. The Board recognizes that the Bethany Community Plan was adopted by Ordinance Nos. 263 and 265 and subsequently amended by Ordinance Nos. 345, 420, 471, 480, 551, 588, 610, 615, 620, 649, 702, 712, 730, 739, 744-745, 758, 771, 783, 789, 790, 799, 805, and 809.

B. The Board recognizes that the Community Development Code Element of the Comprehensive Plan (Volume IV) was readopted with amendments on September 9, 1986, by way of Ordinance No. 308, and subsequently amended by Ordinance Nos. 321, 326, 336-341, 356-363, 372-378, 380-381, 384-386, 392-393, 397, 399-403, 407, 412-413, 415, 417, 421-423, 428-434, 436-437, 439, 441-443, 449, 451-454, 456-457, 462-464, 467-469, 471, 478-481, 486-489, 504, 506-512, 517-523, 525-526, 528-529, 538, 540, 545, 551-555, 558-561, 573, 575-577, 581, 583, 588-589, 591-595, 603-605, 607-610, 612, 615, 617-618, 623-624, 628, 631, 634-635, 638, 642, 644-645, 648-649, 654, 659-662, 667, 669, 670, 674, 676-677, 682-686, 692, 694-698, 703-704, 708-709, 711-712, 718-720, 722, 725, 730, 732, 735, 739,

1 742-745, 754-758, 760, 762-763, 765-766, 769-776, 782-788, 791-792, 797-800, 802, 804,
2 809, and 813.

3 C. The Board recognizes that the North Bethany Subarea Plan of the Bethany
4 Community Plan, having been adopted in 2009 as the North Bethany Concept Plan which
5 established a framework for how new development should occur in the North Bethany area,
6 and modified in 2010 to establish the urban land use designations, or districts, to ensure
7 compliance and consistency between the various elements of the Washington County
8 Comprehensive Plan and the state and regional planning regulations for new urban areas, is in
9 need of further amendments to address development of density restricted lands and the natural
10 features buffer with fencing.

11 D. The Board recognizes that additional amendments to several elements of the
12 Comprehensive Plan text are necessary to address changes to the natural features buffer with
13 fencing, and to ensure compatibility between future urban development and adjacent farm
14 uses, and that these amendments are for the benefit of the health, safety, and general welfare
15 of the residents of Washington County, Oregon.

16 E. Under the provisions of Washington County Charter Chapter X, the
17 Department of Land Use and Transportation has carried out its responsibilities, including
18 preparation of notices, and the County Planning Commission has conducted one or more
19 public hearings on the proposed amendments and has submitted its recommendations to the
20 Board. The Board finds that this Ordinance is based on those recommendations and any
21 modifications made by the Board, as a result of the public hearings process.

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1 F. On September 29, 2015, this Ordinance was appealed to the Land Use Board
2 of Appeals (LUBA). The LUBA opinion, issued on April 13, 2016, remanded this
3 Ordinance for further consideration consistent with LUBA's order. The engrossments to this
4 Ordinance address the remand issues.

5 G. The Board finds and takes public notice that it is in receipt of all matters and
6 information necessary to consider this Ordinance in an adequate manner and finds that this
7 Ordinance complies with the Statewide Planning Goals, the standards for legislative plan
8 adoption as set forth in Chapters 197 and 215 of the Oregon Revised Statutes, the Washington
9 County Charter, the Washington County Community Development Code, and the Washington
10 County Comprehensive Plan.

11 SECTION 2

12 The following exhibits, attached hereto and incorporated herein by reference, are
13 adopted as amendments to the designated documents as follows:

14 A. Exhibit 1 (4 pages), Chapter 2, North Bethany Subarea Plan of the Bethany
15 Community Plan:

- 16 1. Section IV - Descriptions of North Bethany Subarea Plan and Maps,
17 'Density Restricted Lands';
- 18 2. Section V - North Bethany Subarea Design Elements, 'General Design
19 Elements';
- 20 3. Section VI - Neighborhood Design Elements, 'Northeast Neighborhood'; and
- 21 4. Section VII - Maps, Drawings, Tables and Guides, Community Plan Maps,
22 'Urban/Rural Edge'.

1 B. Exhibit 2 (10 pages), Community Development Code Section 390 - North
2 Bethany Subarea Overlay District.

3 SECTION 3

4 All other Comprehensive Plan provisions that have been adopted by prior ordinance,
5 which are not expressly amended or repealed herein, shall remain in full force and effect.

6 SECTION 4

7 All applications received prior to the effective date shall be processed in accordance
8 with ORS 215.427.

9 SECTION 5

10 If any portion of this Ordinance, including the exhibits, shall for any reason be held
11 invalid or unconstitutional by a body of competent jurisdiction, the remainder shall not be
12 affected thereby and shall remain in full force and effect.

13 SECTION 6

14 The Office of County Counsel and Department of Land Use and Transportation are
15 authorized to prepare planning documents to reflect the changes adopted under Section 2 of
16 this Ordinance, including deleting and adding textual material and maps, renumbering pages
17 or sections, and making any technical changes not affecting the substance of these
18 amendments as necessary to conform to the Washington County Comprehensive Plan format.

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1 SECTION 7

2 This Ordinance shall take effect on November 25, 2016.

3 ENACTED this 25th day of October, 2016, being the 5th reading
4 and 5th public hearing before the Board of County Commissioners of Washington
5 County, Oregon.

6 BOARD OF COUNTY COMMISSIONERS
7 FOR WASHINGTON COUNTY, OREGON

8 **ADOPTED**

9 *Andy Dreyer*
CHAIRMAN

10 *A. D. Nayla*
RECORDING SECRETARY

11 READING

PUBLIC HEARING

12 First August 18, 2015
13 Second Sept. 1, 2015
14 Third Sept. 20, 2016
15 Fourth October 18, 2016
16 Fifth October 25, 2016
17 Sixth _____

12 First August 18, 2015
13 Second Sept. 1, 2015
14 Third Sept. 20, 2016 (engrossment ordered)
15 Fourth October 18, 2016
16 Fifth October 25, 2016
17 Sixth _____

18 Rogers, Malinowski,
Terry, Schouten, &

19 VOTE: Aye: Dreyer

Nay: none

20 Recording Secretary: Ana D. Nayla Date: October 25, 2016

Chapter 2: North Bethany Subarea Plan of the Bethany Community Plan is amended to reflect the following:

IV. DESCRIPTIONS OF NORTH BETHANY SUBAREA PLAN AND MAPS

The North Bethany Subarea Plan is comprised of several plans, maps, and figures that are described below. These plans and maps are referenced throughout the North Bethany Subarea Design Elements and the Neighborhood Design Elements (see Section V and Section VI, respectively). The plans and maps are in Section VII.

K. Density Restricted Lands Map

The Density Restricted Lands Map identifies lands that have natural constraints in the form of wetlands, fish and wildlife habitat, estimated CWS vegetated corridors, open space, slopes greater than 25 percent, floodplains, and drainage hazard areas. These are important natural areas where development is precluded. These lands are given underlying land use designations. However, residential density was not assumed for these lands and not accounted for as buildable lands in the Title 11 concept planning process. Therefore, density transfers from density restricted lands are not allowed in North Bethany and development in density restricted lands is prohibited, except when permitted by provisions of this Community Plan and the Community Development Code (CDC). The Density Restricted Lands Map is intended to identify areas where residential development and density transfer are prohibited, with the exception of slopes greater than 25 percent that are located outside of the Natural Features Buffer on the Urban/Rural Edge Map. Development on slopes greater than 25 percent that are located outside of the Natural Features Buffer may be permitted if all CDC requirements are met, including the requirements of CDC Section 410 (Grading and Drainage).

~~For lands with slopes greater than 25 percent that are located within the Natural Features Buffer on the Urban/Rural Edge Map, residential development may be permitted at the top of slope to allow the construction of a row of dwellings along the top of slope as depicted on the applicable Neighborhood Plans. Construction of segments of the perimeter trail may also be permitted at the top of slope. Development at the top of these slopes shall comply with the requirements of CDC Section 390-18 and Section 410.~~

M. Urban/Rural Edge Map

The Urban/Rural Edge Map depicts the North Bethany Subarea boundaries that are adjacent to agricultural lands outside the Urban Growth Boundary. The map identifies the locations of three buffer types that are applicable to development: Fence-Only Buffer, Natural Features Buffer with Fencing, and Vegetation Buffer with Fencing. Development standards for the buffers are included in General Design Element 2 and CDC Section 390. The requirements for the urban/rural edge are provided to comply with Condition No. 6 of Metro Ordinance No. 02-987A. The purpose of the condition is to ensure that new development is compatible with adjacent agricultural practices.

V. NORTH BETHANY SUBAREA DESIGN ELEMENTS

All new development shall be consistent with the following design elements and Area of Special Concern requirements.

A. General Design Elements

1. Flood plains, drainage hazard areas, streams and their tributaries, and riparian wooded areas, steep slopes, scenic features, power line easements, and rights-of-way are preserved and protected by being designated as a Significant Natural Resource Area and/or Density Restricted Lands. In the design of new development, these areas shall be interconnected with the park and open space system and the stormwater and water quality management system consistent with the requirements and standards for CWS and THPRD.
2. To promote compatibility between agricultural activities on adjacent rural land and new urban development in the North Bethany Subarea, new development shall comply with the following requirements:
 - a. For land in the Natural Features Buffer with Fencing on the Urban/Rural Edge Map, no development is permitted, including alteration of existing vegetation, except as permitted by Community Development Code Sections ~~390-18~~ 390-19.2 and 19.4; and
 - b. The standards of CDC Section 390-19, including recording a waiver of the right to remonstrate against customarily accepted farm or forestry practices on nearby rural land.

VI. NEIGHBORHOOD DESIGN ELEMENTS

C. Northeast Neighborhood

The Northeast Neighborhood is bordered on the south by Road A. The northern and eastern boundaries are the UGB. On the west, the neighborhood boundary is the north-south powerline corridor and comes to a point where the Abbey Creek tributary and powerline corridor meet the northern UGB.

DESIGN ELEMENTS

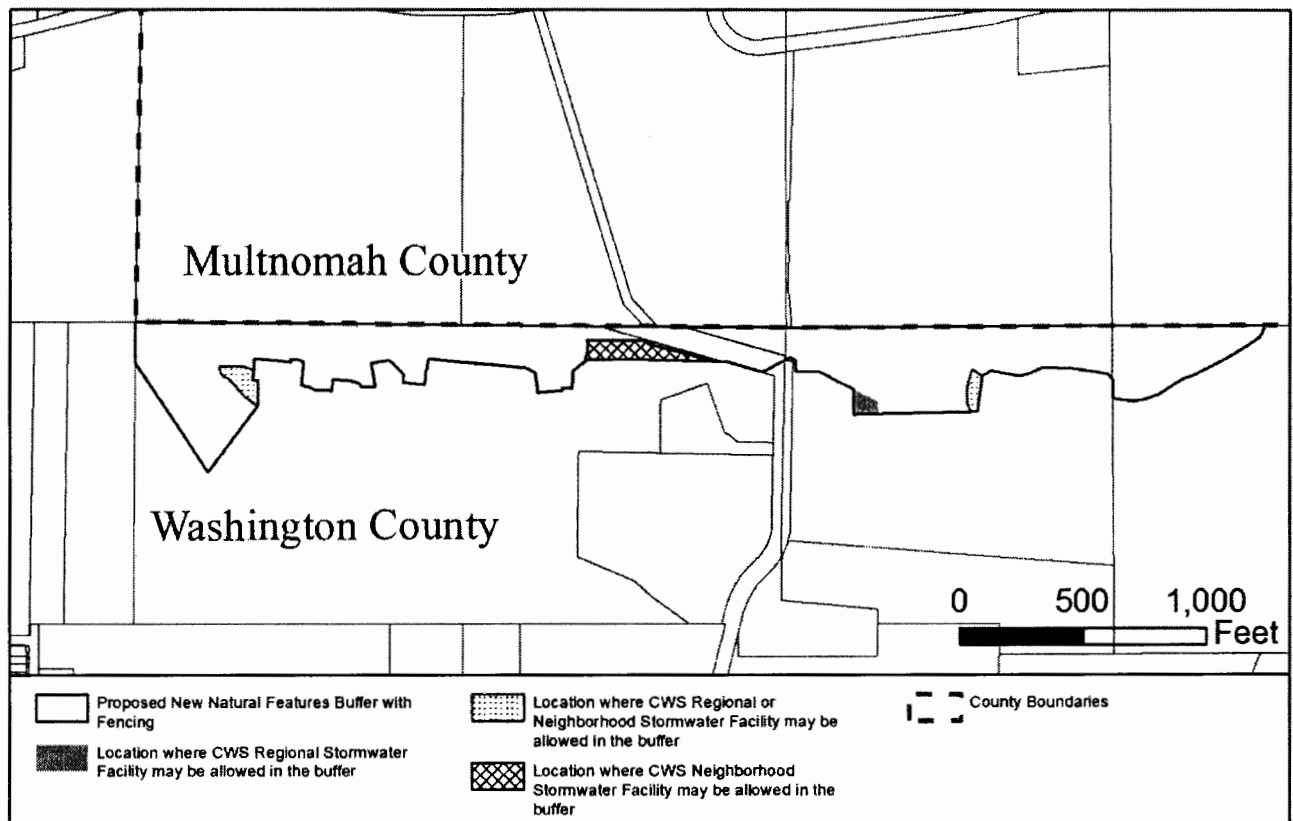
1. A neighborhood commercial site is adjacent to Primary Streets (P3) and Road A. The site is approximately one-half (1/2) acre. Building entrances and windows shall be included in these building façades. The site shall include a small public plaza to serve as a community gathering space, as described in ASC 8 (Road A Linear Park).
2. The neighborhood park shall be one and one-half (1 1/2) to two (2) acres contiguous to the western boundary of the Beaverton School District site.

3. A linear park along the southern edge of the neighborhood shall be consistent with Area of Special Concern 8.
4. Trails and pedestrian connections shown on the Parks, Trails and Pedestrian Connections Map shall be provided that are consistent with THPRD standards and that include the following elements:
 - a. Pedestrian connections to the eastern and northern boundary shall be provided in order to create public access to the trail network and opportunities for the community to enjoy the views toward the north and east. At least three access points shall be provided along each boundary for public access/viewing.
 - b. The necessary pedestrian connection extending between the northern termini of Primary Streets P3 and P16, if provided on-street, shall have an unobstructed width of 10 feet unless a lesser width is approved by THPRD.
5. The Northeast Neighborhood has eight Primary Streets. Primary Streets shall be provided in new development consistent with Section IV.C. (Primary Streets) and Section V.B. (Areas of Special Concern) of the North Bethany Subarea Plan. The intent of each Primary Street is provided below:
 - a. Primary Street (P14) provides direct access to the developable land west of NW Kaiser Road and aligns with the northern boundary of the school site.
 - b. Primary Street (P3) extends north-south from Road A to the northeast corner of the neighborhood. This route provides connectivity from the northeast corner of the Subarea to NW Springville Road while also providing an edge along the neighborhood park and the small neighborhood commercial site. The street shall extend to the north and terminate as a pedestrian access to the Perimeter Trail along the UGB.

VII. MAPS, DRAWINGS, TABLES AND GUIDES

C. Community Plan Maps

Natural Features Buffer with Fencing on the Urban/Rural Edge Map



*For Illustrative Purposes Only.

Document Path: J:\Workgroups\GIS\Planning\Ordinances\2015\OrdXXX_NRM\Map2panel_FigureC.mxd

abcdef Proposed additions
abcdef Proposed deletions

Section 390 (North Bethany Subarea Overlay District) of the COMMUNITY DEVELOPMENT CODE is amended to reflect the following:

390-18 Density Restricted Lands

390-18.1 Intent and Purpose

Density Restricted Lands are intended to implement the policies of the Comprehensive Plan and North Bethany Subarea Plan by identifying areas in North Bethany where a more detailed level of analysis has been conducted through the planning process to identify areas not planned for residential development.

Section 390-18 refers to the corresponding Density Restricted Lands Map in the North Bethany Subarea Plan. The purpose of identifying Density Restricted Lands is to identify lands in North Bethany where density for future residential development has not been provided pursuant to standards under Title 11 of Metro's Urban Growth Management Functional Plan.

Density Restricted Lands are comprised of those areas where development is otherwise limited under applicable regulations, such as significant wetlands (Water Areas and Wetlands, per Section 422), water quality buffer areas (CWS' vegetated corridors), floodplains (FEMA 100-year floodplain, per Section 421), drainage hazard areas (per Section 421), parks and open spaces (per the Significant Natural and Cultural Resources map), and slopes greater than twenty-five (25) percent (per Section 410). In many cases these different categories of restricted areas overlap with one another.

390-18.2 Density Restricted Lands Designation

The boundaries of the Density Restricted Lands designation are defined as concurrent with the edge of the combined restricted area, represented by a composite of the various areas of applicability as defined in this Section. The Community Plan map depiction of Density Restricted Lands is based on best available information at the time of adoption, including a Local Wetland Inventory completed in February 2010. For some features, such as Drainage Hazard Areas, specific boundaries have not yet been determined.

Precise boundaries for Density Restricted Lands may be refined by specific site analysis, such as survey and wetland delineation, provided all applicable land categories are addressed. It is anticipated that more accurate, site-specific boundary data will be provided as part of a development application and that this more accurate information will be used to identify the delineated extent of the Density Restricted Lands designation on a given site. Community Plan maps may be periodically updated by the County to reflect any more accurate data that has been approved through development review.

390-18.4 Permitted Development

- A. Permitted uses are subject to applicable land use designation(s) and applicable regulations in the Community Plan, Community Development Code, and/or Clean Water Services' "Design and Construction Standards for Sanitary Sewer and Surface Water Management" or its successor. In cases of over-lapping regulation, the most restrictive shall dictate.
- B. For slopes greater than twenty-five (25) percent that are located outside of the Natural Features Buffer shown on the Urban/Rural Edge Map of the North Bethany Subarea Plan, development may be permitted if all CDC requirements are met, including the applicable requirements of CDC Section 410.
- ~~C. For slopes greater than twenty-five (25) percent that are located within the Natural Features Buffer shown on the Urban/Rural Edge Map of the North Bethany Subarea Plan, residential development may be permitted at the top of pre-existing slopes greater than twenty-five (25) percent slope when the following standards are met:~~
- ~~(1) The proposed development location does not conflict with trail locations designated by the Park, Trails and Pedestrian Connections Map of the North Bethany Subarea Plan.~~
 - ~~(2) The proposed development complies with all CDC requirements, including the applicable requirements of CDC Section 410.~~
 - ~~(3) Development may include a row of dwellings at the top of a greater than twenty-five (25) percent slope area. (See the applicable Neighborhood Plans in the North Bethany Subarea Plan for a depiction of these areas.)~~
 - ~~(4) The required minimum rear or side yard may be located in a greater than twenty-five (25) percent slope area.~~
 - ~~(5) Alterations to the top of pre-existing slopes greater than twenty-five (25) percent slope are permitted to allow construction of dwellings provided all construction is properly engineered, as determined by the Building Official. Building techniques may include the use of stepped foundations, retaining walls and fill.~~
 - ~~(6) No grading, excavation, clearing or filling of any kind is permitted until final approval of the development application and a grading plan is approved by the Building Official.~~
 - ~~(7) The remaining portion of the density restricted land area shall be placed in a tract and owned and maintained consistent with the standards of Sections 405-4 and 405-5 (ownership and maintenance of open space areas).~~
- ~~D. Alterations to the top of a greater than twenty-five (25) percent slope may be permitted to allow the construction of a trail and accessory viewing areas, provided that the development complies with the applicable requirements of CDC Section 410 and all construction is properly engineered, as determined by the Building Official. No grading, excavation, clearing or filling of any kind is~~

~~permitted until final approval of the development application and a grading plan is approved by the Building Official.~~

390-18.5 Prohibited Uses

Notwithstanding Section 390-18.4, the following uses are prohibited on Density Restricted Lands:

- A. Density transfers – Section 300-3.
- B. ~~Development or alteration of slopes greater than twenty-five (25) percent slope, located within the Natural Features Buffer shown on the Urban/Rural Edge Map of the North Bethany Subarea Plan, except as permitted by Sections 390-19.2 and 390-19.4.18.4.~~

390-18.6 Standards for Adjusting the Density Restricted Lands Map

The Density Restricted Lands Map in the Community Plan is based on best available information at the time of adoption. The mapped boundary of Density Restricted Lands may be refined as more accurate data is approved through development review, and as future Open Space areas are determined (e.g., Neighborhood Parks).

390-19 Urban/Rural Edge Standards

390-19.1 Intent and Purpose

The urban/rural edge standards are provided to comply with Metro Ordinance No. 02-987A, Condition 6, which required the County to adopt Comprehensive Plan provisions to ensure compatibility between urban uses and agricultural practices on adjacent land outside the UGB and designated for farm or forest use. Section 390-19 refers to the corresponding Urban/Rural Edge Map in the North Bethany Subarea Plan.

390-19.2 General Requirements:

- A. Street stubs and/or driveways are prohibited at all North Bethany boundaries that abut rural lands with Rural Reserves designations. In the circumstance where a pre-existing access easement or agreement to provide access was recorded prior to January 1, 2009, one (1) private street stub or driveway access will be allowed.
- B. The installation of fencing to discourage trespass onto rural lands by residents and pets in the urban area is required between proposed development and the North Bethany boundaries that are adjacent to rural lands. Where the required fencing is located along public use areas (such as trails), it shall be posted with signage that provides information about adjacent farm/forest uses, as approved by the Director.
- C. Prior to final land use approval, the applicant/owner of any pre-existing parcel within twelve hundred (1200) feet of rural property outside the Urban Growth Boundary shall sign and record in the Department of Assessment & Taxation

Recording Division of the County a waiver of right to remonstrate against customarily accepted farm and forest practices.

- D. Installation and ongoing maintenance of required buffer elements (fencing, existing vegetation, and buffer landscaping) is the responsibility of the development and shall comply with the standards of Sections 405-4 and 405-5 (ownership and maintenance of open space areas). For subdivisions, a Homeowner's Association (HOA) shall be required to maintain the fencing and landscaping, except as otherwise allowed in Section 390-19.4 (Natural Features Buffer with Fencing) and Section 390-19.5 (Vegetation Buffer with Fencing).
- ~~E. Maintenance of required buffer landscaping, and of existing vegetation within the Natural Features Buffer, shall include removal of non-native, invasive vegetation by means of hand implements.~~

390-19.4 Natural Features Buffer with Fencing

The following ~~standards~~ requirements apply to the proposed development of land ~~identified with that includes any portion of~~ the "Natural Features Buffer with Fencing" as shown on the Urban/Rural Edge Map of the North Bethany Subarea Plan:

- A. Placement of the land located within the "Natural Features Buffer with Fencing" as illustrated on the North Bethany Subarea Urban/Rural Edge Map into a tract or tracts.
~~No development, grading, vegetation removal, or other alteration shall be allowed within the tract, except for the removal of non-native and invasive vegetation by means of hand implements, the planting of native trees and shrubs for habitat restoration, and development of trail segments that are identified on the Parks, Trails, and Pedestrian Connections Map.~~
- B. ~~Installation of a minimum five (5) foot high fence (cyclone, wire mesh "no climb", or wood), located along the southern edge of the tract.~~ No development, grading, vegetation removal, or other alteration shall be allowed, except for the following:
- 1) Removal of non-native and invasive vegetation;
 - 2) The planting of native trees and shrubs for habitat restoration and to provide screening and buffering between urban and rural agricultural uses;
 - 3) The following Clean Water Services (CWS) stormwater and sanitary sewer facilities:
 - (a) CWS stormwater conveyance facilities;
 - (b) CWS in-riparian-corridor stormwater management approaches;

- (c) Regional and/or neighborhood stormwater facilities in the locations shown on the North Bethany Subarea Urban/Rural Edge Map. Grading and removal of native trees and vegetation related to these facilities shall not extend beyond the mapped stormwater facility locations;
 - (d) CWS underground sanitary sewer facilities and manholes within the southern ten (10) percent of the buffer to the minimum extent necessary to maintain gravity flow design;
 - (e) Mechanized construction equipment shall be allowed within the buffer only as required to construct and maintain the above stormwater and sanitary sewer facilities. All such work shall conform to applicable CWS construction and maintenance standards;
 - (f) Any disturbance in the buffer must be replanted to the "Natural Features Buffer with Fencing" planting standards.
- C. Prior to any site clearing, grading or construction, the applicant shall survey, stake and demarcate with standard orange construction fencing or its equivalent, the urban development edge of the "Natural Features Buffer with Fencing." This fencing shall remain undisturbed until the permanent buffer fence is installed.
- D. Installation of a minimum seven (7)-foot high solid wood, sight obscuring fence, located along the urban development edge of the Natural Features Buffer with Fencing. The intent is to establish a continuous fence along the "Natural Features Buffer with Fencing" to discourage trespass from urban areas into adjacent rural agricultural areas. The fence is not required where it would impede the function of a floodplain, drainage hazard area or wetland. The fence is not intended to extend into CWS vegetated corridors or sensitive areas.
- (1) The buffer fence shall connect with adjacent rear yard fences of residential lots and adjacent CWS fences along vegetated corridors and stormwater facilities so as to discourage trespass.
 - (2) On the west side of the unnamed Abbey Creek tributary on the property at Map 1N1 17B, Tax Lot 950, the buffer fence may be a minimum four (4) foot high split-rail fence.
 - (3) Where a regional or neighborhood stormwater facility is located within the buffer, the buffer fence shall be located on the buffer-facing side of the facility.
- E.G. An application for development approval of land that includes a "Natural Features Buffer with Fencing" may move the density from portions of the buffer tract that are not density-restricted lands to the remaining part of the development site.

- F.D. When an application for development approval of land that includes a “Natural Features Buffer with Fencing” proposes to move any density from the portions of the buffer tract that are not density-restricted lands, the application shall be denied unless the applicant demonstrates that the requirements of Sections 390 -19.4.A. ~~and through~~ 390-19.4.D. ~~above~~ will be met.
- G.E. At time of development, the Review Authority may require the following additional buffer measure, if an adjacent rural property owner provides evidence that the above requirements are not adequate to provide compatibility with agricultural practices on adjacent rural land, and the proposed fence would not impede the function of a flood plain, drainage hazard area or wetland.
- (1) Installation of a minimum four (4)~~five (5)~~-foot high fence (cyclone, wire mesh “no climb”, or split rail~~wood~~) adjacent to North Bethany’s north boundary, in addition to the required installation of a fence along the southern edge of the buffer tract.
- H. Installation of permanent landscape screening within the “Natural Features Buffer with Fencing” to reduce visual impacts and provide a physical separation between the urban uses and agricultural practices on adjacent rural lands. Landscape screening shall consist of a mix of native trees and shrubs, installed in accordance with the requirements in Section 390-19.4.I.(1) and 390-19.4.J.
- I. Prior to preliminary approval, development applications that include any portion of the “Natural Features Buffer with Fencing” shall be required to include:
- (1) An agricultural screening and buffering plan prepared by a registered landscape architect demonstrating that all requirements of this section will be met. The plan shall include the following:
- (a) Plan and cross-sectional views, to scale, clearly delineating the “Natural Features Buffer with Fencing” in relation to all adjacent property line(s), streets, and features such as creeks and proposed building envelopes. The plan shall show the proposed fencing and plantings in accordance with the standards in Sections 390-19.4.D and 390-19.4.J. If available at the time of plan submission, the plan shall also show buildings and structures, and other on-site improvements such as driveways, decks and retaining walls.
- (b) Identification, location and description of existing trees six (6) inches or greater in diameter at four (4) feet above grade to be preserved or removed (including common name, species and size) and extent of existing understory vegetation to remain. In the case of existing heavily vegetated areas, current aerial and ground level photos demonstrating dense tree and understory coverage may substitute for this requirement.

- (c) A plant list including a description (including common name and species) of proposed trees and shrubs to be planted, location, spacing and size (height or caliper).
- (2) A management plan prepared by a registered landscape architect for the establishment and ongoing maintenance of permanent buffer elements in accordance with Sections 390-19.2.D, 390-19.4.H, 390-19.4.L, 390-19.4.O and 390-19.4.P. The owner shall be responsible for implementation of the management plan. The following shall be included in the management plan:
- (a) Signatures and contact information of the owner and responsible party agreeing to the maintenance of permanent buffer elements. If ownership or responsible party changes, a replacement signature sheet shall be provided with the signatures and contact information of the new owner and/or responsible party.
- (b) Preliminary plat showing the "Natural Features Buffer with Fencing" tract subject to the management plan.
- (c) Planting dates for new landscape screening. The management plan shall take effect at the time the plantings are installed.
- (d) A two (2)-year plant establishment period shall be required. For this period, the following is required:
- (i) Inspections – a minimum of one (1) inspection prior to onset of growing season (March 1 through October 1) and one (1) toward the end of the growing season to establish the health of plantings and the need for any replanting.
- (ii) Watering – a watering schedule for new landscape screening, either through hand watering or temporary drip irrigation. The watering schedule shall include a transition plan for a gradual reduction in watering in order to maximize successful establishment. Unless otherwise approved when establishing the agricultural screening and buffering plan, watering shall be at a minimum rate of at least one (1) inch per week from June 15 through October 15.
- (iii) Plant replacement and preservation – dead or dying plants shall be replaced with plants of equal size and similar variety.
- (e) Provisions for weed, trash and debris removal.
- (f) Methods for managing agricultural pests such as vertebrate pests, invasive vegetation and crop threatening insects, including provisions for maintenance such as mowing to remove non-native

vegetation around newly planted trees and shrubs three (3) times per year.

(g) Provisions for ensuring access tracts are kept clear of vegetation and other flammable plant matter.

(h) Provisions for removal of any temporary irrigation.

(i) Provisions for an assessment prepared by a certified forester or other qualified professional and submitted to Current Planning Services five (5) years after completion of landscape screening installation documenting that at least seventy-five (75) percent of new buffer plantings remain in healthy condition.

(3) For land within the "Natural Features Buffer with Fencing" that is also within Clean Water Services' vegetated corridor or water quality sensitive areas, the planting requirements section of Clean Water Services' Design and Construction Standards (or its successor) shall supersede the standards of this Section.

J. The agricultural screening and buffering plan prepared under Section 390-19.4.I.(1) shall meet the following standards:

(1) Landscape screening shall consist of a layered canopy of native deciduous and evergreen trees and shrubs and shall be planted (for every five thousand (5000) square feet of the buffer) to the following standards:

Six (6) canopy trees

Eighteen (18) evergreen/conifer trees

Nine (9) understory trees

Thirty-six (36) shrubs

(2) Evergreen trees shall be a minimum of six (6) feet in height, fully branched, at the time of planting. Evergreen tree species shall have a minimum mature height of thirty (30) feet.

(3) Deciduous trees shall be fully branched, have a minimum caliper of one and one-half (1 1/2) inches and a minimum height of eight (8) feet at the time of planting. Deciduous tree species shall have a minimum mature height of thirty (30) feet.

(4) Unless otherwise approved when establishing the agricultural screening and buffering plan, shrubs shall be supplied in minimum one (1) gallon containers or eight (8)-inch burlap balls with a minimum spread of twelve (12) inches.

- (5) Containerized stock shall be installed from February 1 through May 1 and October 1 through November 15. Bare root stock shall be installed from December 15 through April 15. Plantings may be allowed outside these times if additional measures to ensure survival are specified in the management plan as required by Section 390-19.4.I.(2).
- (6) Plant layout and placement shall be consistent with naturally occurring plant communities. Trees and shrubs shall be in clustered groups that are staggered to provide a natural looking planting scheme and to provide screening between new developments and rural agricultural lands.
- (7) Trees and shrubs planted outside riparian areas shall be mulched a minimum of three (3) inches in depth and eighteen (18) inches in diameter, to retain moisture and discourage weed growth around newly installed plants.
- (8) For land within the "Natural Features Buffer with Fencing" that is also within Clean Water Services' vegetated corridor or water quality sensitive areas, the planting requirements section of Clean Water Services' Design and Construction Standards (or its successor) shall supersede the standards of this Section.
- (9) Areas within the "Natural Features Buffer with Fencing" that are located between a Clean Water Services vegetated corridor and the buffer's urban development edge and are less than five thousand (5000) square feet in size may utilize either Clean Water Services' standards for planting requirements in vegetated corridors, or the planting requirements of this Section.
- (10) In existing vegetated areas within the buffer, supplemental landscape screening shall be required to enhance existing native trees and shrubs to a level that is consistent with the minimum landscaping requirements of this Section.
- K. Prior to final approval, the applicant or owner shall record a five (5)-foot wide access tract to provide maintenance access from a public or private street to the "Natural Features Buffer with Fencing." The access tract shall be kept clear of vegetation and other flammable materials to provide for regular maintenance of buffer elements. A minimum of one (1) access tract shall be required per development or one (1) for every five hundred thirty (530) feet of street frontage pursuant to Section 408.
- L. All planting and maintenance of required buffer landscaping and existing vegetation within the "Natural Features Buffer with Fencing" shall be by means of hand implements. Maintenance shall include removal of non-native, invasive vegetation.

- M. Prior to occupancy of the first unit in any development phase that abuts or includes the "Natural Features Buffer with Fencing," the applicant or owner shall demonstrate that installation of all required planting and fencing consistent with the approved screening and buffering plan has occurred.
- N. By February 15 of each of the two (2) years following the planting establishment period, the applicant or owner shall submit to Current Planning Services a monitoring and maintenance report for buffer landscaping prepared by a certified forester or other qualified professional. The report shall include:
- (1) Dates of inspections, as required by Section 390-19.4.I.(2);
 - (2) Status of plantings, including assessment of plan health and recommendations for plan care and replacement of any dead or dying plants; and
 - (3) Recommendations for changes to the management plan to ensure plan establishment and retention.
- O. The applicant or owner shall be responsible for installing and maintaining the required buffer landscaping for the first two (2) years after installation. After the first two (2) years, the HOA or buffer tract owner shall be responsible for maintenance of all buffer landscaping.
- P. Five (5) years after installation of required planting, the applicant or owner shall submit to Current Planning Services an assessment documenting that at least seventy-five (75) percent of new buffer plantings (measured in each five thousand [5000] square feet of the buffer) remain in healthy condition, as required by Section 390-19.4.I.(2). If this survival rate has not been achieved, the assessment shall make recommendations to restore landscape screening to meet this standard, and the HOA or owner shall be responsible for implementing the recommendations to maintain landscape screening. The assessment shall be submitted to Current Planning Services to ensure compliance with required landscape screening requirements of Section 390-19.4.J.

AGENDA

WASHINGTON COUNTY BOARD OF COMMISSIONERS

Agenda Category: Action – Land Use & Transportation (CPO 7)

Agenda Title: ADOPT FINDINGS FOR A-ENGROSSED ORDINANCE NO. 801

Presented by: Andrew Singelakis, Director of Land Use & Transportation

SUMMARY:

A-Engrossed Ordinance No. 801 amends the North Bethany Subarea Plan of the Bethany Community Plan and the Community Development Code. A-Engrossed Ordinance No. 801 is posted on the County's land use ordinance web page at the following link:

www.co.washington.or.us/landuseordinances

Post acknowledgment comprehensive plan amendments are amendments made to the county's Comprehensive Plan after it was acknowledged by the State Department of Land Conservation and Development as complying with the Statewide Planning Goals. ORS 197.615 requires that such amendments be accompanied by findings setting forth the facts and analysis showing that the amendments are consistent with the applicable Statewide Planning Goals, Oregon Revised Statutes, State Administrative Rules and the applicable provisions of Washington County's Comprehensive Plan.

Additionally, as required by Title 8 of Metro's Urban Growth Management Functional Plan (UGMFP), any amendment to a comprehensive plan or implementing ordinance shall be consistent with the requirements of the UGMFP.

Attached is the Resolution and Order to adopt the findings for A-Engrossed Ordinance No. 801. Prior to the October 25, 2016 meeting, the proposed findings will be provided to the Board, posted on the above land use ordinance web page, and available at the Clerk's desk.

Attachment: Resolution and Order

Clerk's Desk Item: Ordinance Findings (*click to access electronic copy*)

DEPARTMENT'S REQUESTED ACTION:

Adopt the findings for A-Engrossed Ordinance No. 801 and authorize the Chair to sign the Resolution and Order memorializing the action.

COUNTY ADMINISTRATOR'S RECOMMENDATION:

I concur with the requested action.

RO 16-139

Agenda Item No.	<u>5.a.</u>
Date:	10/25/16

1 IN THE BOARD OF COMMISSIONERS
 2 FOR WASHINGTON COUNTY, OREGON

3 In the Matter of Adopting) RESOLUTION AND ORDER
 4 Legislative Findings in Support)
 of A-Engrossed Ordinance No. 801) No. 16-139

5 This matter having come before the Washington County Board of Commissioners at its
 6 meeting of October 25, 2016; and

7 It appearing to the Board that the findings contained in "Exhibit A" summarize relevant facts
 8 and rationales with regard to compliance with the Statewide Planning Goals, Oregon Revised
 9 Statutes and Administrative Rules, Washington County's Comprehensive Plan, and titles of Metro's
 10 Urban Growth Management Functional Plan relating to A-Engrossed Ordinance No. 801; and

11 It appearing to the Board that the findings attached and herein incorporated as "Exhibit A"
 12 constitute appropriate legislative findings with respect to the adopted ordinance; and

13 It appearing to the Board that the Planning Commission, at the conclusion of its public hearing
 14 on August 5, 2015, made a recommendation to the Board, which is in the record and has been
 15 reviewed by the Board; and

16 It appearing to the Board that, in the course of its deliberations, the Board has considered the
 17 record which consists of all notices, testimony, staff reports, and correspondence from interested
 18 parties, together with a record of the Planning Commission's proceedings, and other items submitted
 19 to the Planning Commission and Board regarding this ordinance; it is therefore,

20 RESOLVED AND ORDERED that the attached findings in "Exhibit A" in support of
 21 A-Engrossed Ordinance No. 801 are hereby adopted.

22 DATED this 25th day of October, 2016


	AYE	NAY	ABSENT
23 DUYCK	✓	—	—
SCHOUTEN	✓	—	—
24 MALINOWSKI	✓	—	—
ROGERS	✓	—	—
25 TERRY	✓	—	—

APPROVED AS TO FORM:

BOARD OF COMMISSIONERS
 FOR WASHINGTON COUNTY, OREGON



 Chairman

26 

 County Counsel
 For Washington County, Oregon

27 

 Recording Secretary

EXHIBIT A

FINDINGS FOR A-ENGROSSED ORDINANCE NO. 801

AN ORDINANCE AMENDING THE NORTH BETHANY SUBAREA PLAN OF THE BETHANY COMMUNITY PLAN AND THE COMMUNITY DEVELOPMENT CODE RELATING TO DENSITY RESTRICTED LANDS AND THE NATURAL FEATURES BUFFER WITH FENCING

October 25, 2016

- Part 1 – General Findings
- Part 2 – Statewide Planning Goal Findings
- Part 3 – Transportation Planning Rule Findings
- Part 4 – Metro Regional Transportation Plan Findings
- Part 5 – Metro Regional Transportation Functional Plan Findings
- Part 6 – Metro Urban Growth Management Functional Plan Findings
- Part 7 – Findings for Metro Ordinance No. 02-987A (Exhibit B)

Part 1: GENERAL FINDINGS

A-Engrossed Ordinance No. 801 proposes to amend the Washington County Comprehensive Plan by amending the North Bethany Subarea Plan (Chapter 2 of the Bethany Community Plan), and its implementing land use regulations in the Community Development Code (CDC). A-Engrossed Ordinance No. 801 includes amendments that make minor modifications to the configuration of the Natural Features Buffer with Fencing that was originally adopted in 2011 by A-Engrossed Ordinance No. 739. The ordinance adds new landscape screening and buffering requirements for the area within the buffer, and adds more stringent requirements for fencing along the southern (urban) edge of the buffer. These measures are intended to ensure compatibility between new urban development within North Bethany and agricultural practices on adjacent Exclusive Farm Use (EFU) zoned land outside the Urban Growth Boundary (UGB) consistent with Condition 6 of 2002 Metro Ordinance No. 02-987A.

The proposed findings address applicable approval criteria and also respond to the reason that the Oregon Land Use Board of Appeals (“LUBA”) remanded the County’s decision in *Forest Park Neighborhood Association v. Washington County*, __ Or LUBA __ (LUBA No. 2015-071, April 13, 2016). LUBA remanded the County’s decision because it found that additional evidence and findings were necessary to address issues of compatibility between the Abbey Creek Stables and future urban growth inside the Portland Metropolitan Urban Growth Boundary (the “UGB”). A-Engrossed Ordinance No. 801 addresses the issue of noise from urban development and its impact on the Abbey Creek

Stables and additional compatibility issues by revising the ordinance requirements for landscaping, setbacks between urban and rural uses, and fencing requirements so that compatibility between urban uses and farm and forest uses on agriculturally-zoned land outside the UGB will be ensured.

Key Provisions:

North Bethany Subarea Plan:

- Removes language that currently allows residential development at the top of slope on lands with slopes greater than 25 % that are located within the “Natural Features Buffer with Fencing.”
- Revises the Urban/Rural Edge Map to make minor modifications to the configuration of the “Natural Features Buffer with Fencing.” With the modifications, the proposed buffer width varies from approximately 120 feet to approximately 600 feet.
- Allows Clean Water Services (CWS) regional and neighborhood stormwater facilities in four locations within the “Natural Features Buffer with Fencing.”

Community Development Code:

- Removes text within Section 390 that currently allows residential development at the top of slope on lands with slopes greater than 25 % that are located within the “Natural Features Buffer with Fencing.”
- Allows limited types of CWS stormwater and sanitary facilities within the “Natural Features Buffer with Fencing.”
- Establishes new landscape screening and buffering standards within the “Natural Features Buffer with Fencing” to ensure compatibility between new urban development within North Bethany and agricultural practices on adjacent rural lands outside the Urban Growth Boundary.
- Adds more stringent requirements for fencing along the southern (urban) edge of the “Natural Features Buffer with Fencing.”

The Washington County Board of Commissioners (Board) finds that certain Statewide Planning Goals (Goals) apply to the amendments to the CDC and the Plan only to the extent noted in specific responses to applicable Goals, and that each amendment complies with the Goals. Goals 15 (Willamette River Greenway), 16 (Estuarine Resources), 17 (Coastal Shorelands), 18 (Beaches and Dunes), and 19 (Ocean Resources) and implementing Oregon Administrative Rules (OAR) are not addressed because these resources are not located within Washington County.

The County is also required to make findings that the amendments are consistent with the requirements of Metro’s Urban Growth Management Functional Plan (UGMFP). These findings are addressed in this decision.

Part 2:
STATEWIDE PLANNING GOAL FINDINGS

The purpose of the findings in this document is to demonstrate that A-Engrossed Ordinance No. 801 is consistent with applicable Goals. The County's Plan was adopted to implement the Goals and was acknowledged by the Land Conservation and Development Commission (LCDC). The County follows the post-acknowledgement plan amendment (PAPA) process to update the Plan with new state and regional regulations as necessary, and relies in part upon these prior state review processes to demonstrate compliance with all necessary requirements. In addition, none of the proposed changes to the map and text of the Plan implicate a Goal compliance issue. The following findings are provided to demonstrate ongoing compliance.

Goal 1 - Citizen Involvement

Goal 1 addresses Citizen Involvement by requiring the implementation of a comprehensive program to stimulate citizen participation in the planning process. Washington County has an acknowledged citizen involvement program that provides a range of opportunities for citizens and other interested parties to participate in all phases of the planning process. In addition, Chapter X of the County's Charter sets forth specific requirements for citizen involvement during review and adoption of land use ordinances. The County followed these requirements for the adoption of A-Engrossed Ordinance No. 801.

Goal 2 - Land Use Planning

Goal 2 addresses Land Use Planning by requiring an adequate factual base to support a decision, as well as coordination with affected governmental entities. Washington County has an acknowledged land use planning process that provides for the review and update of the various elements of the Plan, which includes documents such as the Rural/Natural Resource Plan, Comprehensive Framework Plan for the Urban Area (CFP), Community Plans, Community Development Code (CDC), and Transportation System Plan (TSP). Washington County utilized this process to adopt A-Engrossed Ordinance No. 801.

The County provided notice to all affected governmental entities including Department of Land Conservation and Development (DLCD), Metro, Clean Water Services (CWS) and the Tualatin Hills Park and Recreation District (THPRD). Comments received from affected governmental entities and members of the public regarding A-Engrossed Ordinance No. 801 were addressed as part of the proceedings.

Goal 3 - Agricultural Lands

Goal 3 seeks to preserve and maintain agricultural lands for farm use, consistent with existing and future needs for agricultural products, forest and open space, and with the state's agricultural land use policies. Policy 15, Implementing Strategies (a) and (f), of the Rural/Natural Resource Plan include provisions for the preservation of agricultural lands.

The buffer area is within the Portland metropolitan area UGB, in the North Bethany Subarea of the Bethany Community Plan. The buffer was established to address potential impacts

from development at the urban/rural edge. Condition 6 of Metro Ordinance No. 02-987A provides that:

“...the...county...shall adopt provisions in its comprehensive plan and zoning regulations – such as setbacks, buffers and designated lanes for movement of slow-moving farm machinery – to ensure compatibility between urban uses in an included study area and agricultural practices on adjacent land outside the UGB zoned for farm or forest use.”

Properties located outside of the UGB in Multnomah County and adjacent to North Bethany’s urban/rural edge are zoned Exclusive Farm Use (EFU). Adjacent rural agricultural properties have a history of pasture, wheat/row crops and livestock uses. The property in livestock use is an equestrian facility (Abbey Creek Stables) that stables horses and provides equine training and riding on the property.¹ Abbey Creek Stables has riding trails for cross-country riding in close proximity – within 10 feet in some areas – to the North Bethany UGB boundary.

In 2011, the Board adopted A-Engrossed Ordinance No. 739, which established buffers and urban/rural edge standards to address Condition 6 of Metro Ordinance No. 02-987A. The types of issues that may impact compatibility between urban and agricultural uses include visual impacts/loss of privacy, noise, trespass and potential stormwater runoff. The buffers and urban/rural edge standards were tailored to the adjacent agricultural uses and conditions along North Bethany’s interface with the UGB. For a portion of North Bethany’s northern edge, the Board adopted a variable width “Natural Features Buffer with Fencing” (buffer) separating North Bethany urban development and adjacent agricultural uses.

A-Engrossed Ordinance No. 801, which is focused on amendments to the “Natural Features Buffer with Fencing,” provides measures in the Community Plan and CDC standards that work to ensure compatibility between urban uses and adjacent agricultural practices along a portion of North Bethany’s northern edge. The standards require placement of the buffer into a separate tract with a variable width of approximately 120 to 600 feet, for the purpose of providing screening and physical separation between urban and agricultural uses. The buffer’s width will maximize the distance between people and homes in the urban area and adjacent agricultural uses. The distance will reduce sights and sounds reaching the rural area.

Permanent landscape planting within the buffer will also provide screening of urban sights and sounds. Landscape planting will consist of a layered canopy of native deciduous and evergreen trees and shrubs at specific numbers per every 5,000 square feet of the buffer. The level of landscape plantings, along with existing buffer vegetation, will achieve a dense and diverse native vegetated screen over time, and will provide a continual and permanent screen between urban and agricultural practices. These standards result in an

¹ ORS 215.203(2)(a) provides that farm uses include the stabling and training of equines.

intense landscaped buffer that separates urban and rural agricultural uses and limits visual and noise impacts on adjacent agricultural practices.

A-Engrossed Ordinance No. 801 also requires the provision of trespass-discouraging fencing along the southern edge of the buffer tract and northwestern portions of the North Bethany boundary. Installation of a minimum 7-foot high, solid wood, sight-obscuring fence located along the southern (urban) edge of the buffer tract provides a physical barrier that, in combination with required landscaping, will discourage trespassing onto agricultural lands and reduce urban sights and sounds.

A required landscape screening and buffering plan must be submitted prior to preliminary development approval to demonstrate how all screening and buffering standards will be met, including landscaping and fencing. The CDC standards require that the plan be prepared by an Oregon registered landscape architect.

The standards also provide for the maintenance and preservation of the buffer plantings. A required management plan ensures that the applicant or owner is responsible for implementation of the management plan. The management plan ensures that new buffer landscaping is properly established by requiring a two-year plant establishment period during which the owner shall inspect new buffer landscaping, irrigate new landscape plantings (either by hand watering or temporary drip irrigation), and replace dead or dying plants with living plants of equal size and similar variety. The plan also requires ongoing weeding, invasive plant and pest management, and trash removal. For each of the two years following the plant establishment period for buffer landscaping, a monitoring and maintenance report prepared by a certified forester or other qualified professional is required. After five years, the plantings are required to be assessed by a qualified professional to determine whether, at a minimum, 75 % of all plantings remain in healthy condition.

The measures in A-Engrossed Ordinance No. 801 will meet the requirement to preserve and maintain existing adjacent agricultural lands by enhancing the “Natural Features Buffer with Fencing” adjacent to a portion of North Bethany’s urban/rural edge.

Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces

Goal 5 addresses the protection of natural resources and the conservation of scenic, cultural, and historic areas and open spaces by requiring local programs to protect these resources in order to promote a healthy environment and natural landscape that contributes to Oregon’s livability for present and future generations.

In addition, OAR 660-023-0250 requires application of current Goal 5 provisions to post-acknowledgment plan amendments (PAPAs) when the PAPA creates or amends a resource list or a portion of an acknowledged plan or land use regulation that protects a significant Goal 5 resource, or allows new uses that could be conflicting uses with a particular Goal 5 site.

CFP Policies 10, 11, and 12, Policies 7, 9, 10, 11, 12, and 13 of the Rural/Natural Resource Plan, and various sections of the Community Plans and the CDC include provisions for the protection of Goal 5 resources.

A-Engrossed Ordinance No. 801 does not amend any of the Goal 5 significant natural resource designations adopted as part of the North Bethany Subarea of the Bethany Community Plan. The amendments made by A-Engrossed Ordinance No. 801 are consistent with the County’s acknowledged policies and standards for the protection of Goal 5 resources, as well as those set forth in OAR 660 Division 23.

Goal 7 - Areas Subject to Natural Hazards

Goal 7 requires the implementation of local land use programs that reduce the risk to people and property from natural hazards such as floods, landslides and earthquakes. Policy 8 of the CFP and Policy 8 of the Rural/Natural Resource Plan set out the County’s policy to protect life and property from natural disasters and hazards.

A-Engrossed Ordinance No. 801 does not amend applicable Plan policies and strategies or CDC sections related to natural disasters and hazards. The majority of the “Natural Features Buffer with Fencing” is within mapped landslide susceptible areas. Existing CDC Section 410-4 (Landslide Study Area Requirements) is applicable to all areas within the county that are mapped as landslide susceptible areas. This CDC section requires development applications for lands within 250 feet of a lot or parcel with existing slopes of 25 % or greater to include a geotechnical engineering report documenting that the proposed development of the site will be stable and safe.

A-Engrossed Ordinance No. 801 amendments state that development within the “Natural Features Buffer with Fencing” is generally not allowed, except for limited types of CWS stormwater and sanitary facilities. Development of such facilities within the buffer, if proposed, will be subject to all applicable CDC requirements, including those of CDC Section 410-4.

Plan compliance with Goal 7 is maintained with the amendments made by A-Engrossed Ordinance No. 801. The amendments are consistent with the County’s acknowledged policies and standards for regulating development exposed to potential natural disasters and hazards addressed by Goal 7.

Goal 8 - Recreational Needs

Goal 8 requires local jurisdictions to satisfy the recreational needs of citizens and visitors by planning and providing for the siting of necessary recreational facilities. Policies 33, 34, and 35 of the CFP, Policy 24 of the Rural/Natural Resource Plan and the individual Community Plans address the recreational needs of the citizens and visitors of Washington County.

The North Bethany Subarea of the Bethany Community Plan incorporates a plan for various park locations and sizes, accompanied by a network of multimodal off-street

recreational trails and on-street connections. This program of land for recreational facilities is consistent with the level of service standards for the identified park service provider, as described in the THPRD Master Plan. A-Engrossed Ordinance No. 730 adopted the mechanisms necessary to facilitate implementation of the park and trail plan and acquisition and development of park and trail sites by THPRD, and specified the types of assurances that were required for each park and trail amenity prior to removal of the Future Development 20-Acre (FD-20) district.

Two segments of planned THPRD trails are located along the edge of the current “Natural Features Buffer with Fencing.” The westerly segment is designated as an off-street trail, and the easterly segment is a necessary pedestrian connection that may be provided either by an off-street trail or as part of a street. These segments provide a more complete trail network in the area.

The North Bethany Subarea Plan specifies that the final location and configuration of all parks and trails will be determined by THPRD, either prior to, or as part of the development review process. Additionally, the Northeast Neighborhood design elements in the North Bethany Subarea Plan require a minimum of three access points to the northern boundary for public access and viewing. This will also be required during the development review phase. Trail segments and viewing opportunities into the rural area planned by THPRD are maintained with the amendments made by A-Engrossed Ordinance No. 801.

Plan compliance with Goal 8 is maintained with the amendments made by A-Engrossed Ordinance No. 801. The amendments are consistent with the County’s acknowledged policies and strategies for satisfying recreational needs as required by Goal 8.

Goal 11 - Public Facilities and Services

Goal 11 requires a plan for the orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development. Policies 15, 25, 26, 27, 28, 29, 30, and 31 of the CFP, and Policy 22 of the Rural/Natural Resource Plan address the provision of public facilities and services in the urban and rural areas of unincorporated Washington County. The CDC requires that adequate public facilities and services be available for new development.

Previous ordinances regarding North Bethany concept planning (A-Engrossed Ordinance No. 712 and A-Engrossed Ordinance No. 730) addressed major infrastructure needs. Service providers were identified and plan maps adopted that identified major facility improvements necessary to provide urban services for planned development in the North Bethany Subarea. These include trunk lines and capacity increases for sanitary sewer service, regional facilities for stormwater, facility improvements to provide water service, necessary parks and trails locations, urban road maintenance, existing and future school sites and the location of a planned fire station. Necessary law enforcement services will be provided when the Subarea is annexed to the existing Enhanced Sheriff’s Patrol District

(ESPD). In all cases, these plans have been coordinated with designated service provider agencies.

A-Engrossed Ordinance No. 801 states that development is generally not allowed within the “Natural Features Buffer with Fencing,” but adds allowances for limited types of CWS stormwater and sanitary facilities within the buffer. Development of such facilities, if proposed, will be subject to all applicable CDC provisions, including those of CDC 410-4 (Landslide Study Area Requirements).

Plan compliance with Goal 11 is maintained with the amendments made by A-Engrossed Ordinance No. 801. The amendments are consistent with the County’s acknowledged policies and strategies for the provision of public facilities and services as required by Goal 11.

Goal 12 - Transportation

Goal 12 requires the provision and encouragement of a safe, convenient, multimodal, and economic transportation system. Policy 32 of the CFP, Policy 23 of the Rural/Natural Resource Plan, and in particular the TSP, describe the transportation system necessary to accommodate the transportation needs of Washington County. Implementing measures are contained in the TSP, Community Plans, and the CDC.

A-Engrossed Ordinance No. 712 provided a framework for the transportation system both within and in the vicinity of the North Bethany Subarea Plan. Its amendments were consistent with the County’s acknowledged policies and strategies for the provision of transportation facilities and services as required by Goal 12 and OAR 660-012-0060, the Transportation Planning Rule.

A-Engrossed Ordinance No. 801 amendments do not include amendments to the transportation system, or increases to allowable density for the North Bethany area, therefore, the amendments are consistent with Goal 12.

Goal 13 - Energy Conservation

Goal 13 requires developed land uses to be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles. Policies 36, 37, 38, 39, and 40 of the CFP, and Policy 25 of the Rural/Natural Resource Plan address energy conservation in the urban and rural areas of unincorporated Washington County. The CDC implements the energy conservation policies by establishing standards that promote energy efficient development, especially in Article IV (Development Standards).

The North Bethany Subarea Plan of the Bethany Community Plan and Concept Plan adopted by A-Engrossed Ordinance No. 712, and the land use designations adopted by A-Engrossed Ordinance No. 730, call for the efficient use of vacant land by maximizing densities and locating higher densities along high capacity transportation corridors. A-Engrossed Ordinance No. 739 removed the FD-20 designation from the subarea and applied the urban land use designations that provide these densities. A-Engrossed

Ordinance No. 801 maintains the adopted densities implemented by the urban land use designations.

Plan compliance with Goal 13 is maintained with the amendments made by A-Engrossed Ordinance Nos. 712, 730, 739, and 801. The amendments are consistent with the County's acknowledged policies and strategies for promoting energy conservation as required by Goal 13.

Goal 14 - Urbanization

Goal 14 requires provisions for the orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities. Policies 13, 14, 16, 17, 18, 19, 41, and 42 of the CFP address urbanization within the Regional Urban Growth Boundary. The CDC implements the urbanization policies by establishing standards to promote appropriate urban development. The Community Plans implement the urbanization policies by designating sufficient land for appropriate development.

The properties that comprise the North Bethany Subarea of the Bethany Community Plan were found to be in compliance with Goal 14 when they were brought into the UGB. However, Metro brought these properties into the UGB subject to Condition 6 of Metro Ordinance No. 02-987A, which requires the County to adopt provisions in its Comprehensive Plan and zoning regulations to ensure compatibility between urban uses in an included study area and agricultural practices on adjacent land outside the UGB zoned for farm or forest use. The County adopted buffers and urban/rural edge standards to address this condition in 2011, via A-Engrossed Ordinance No. 739.

A-Engrossed Ordinance No. 801 proposes minor modifications to the configuration of one of the buffers, the "Natural Features Buffer with Fencing," located along a portion of North Bethany's northern edge. A-Engrossed Ordinance No. 801 also proposes modifications to the urban/rural edge standards for this buffer, including enhanced landscaping within the buffer, and more stringent fencing requirements along its southern (urban) edge. Findings for compliance with Metro Condition 6 are provided in Part 7 of this document (Findings for Metro Ordinance No. 02-987A), Item #6.

A-Engrossed Ordinance No. 801 does not result in an increase in the number of units allowed in the area because no changes are proposed to the density restricted lands designation. Plan compliance with Goal 14 is maintained with the amendments made by A-Engrossed Ordinance No. 801. The amendments are consistent with the County's acknowledged policies and strategies for urbanization as required by Goal 14.

Part 3:

TRANSPORTATION PLANNING RULE (OAR 660-012) FINDINGS

The Transportation Planning Rule, OAR Chapter 660, Division 012, implements Goal 12. OAR 660-012-0060(1) applies to amendments to acknowledged plans and land use regulations. In such cases, a local government is required to demonstrate no “significant effect” on transportation facilities from the post acknowledgement amendment. The Board finds that because A-Engrossed Ordinance No. 801 does not allow additional density, there can be no additional vehicle trips as a result of the post acknowledgement plan amendment. Therefore, the Board finds that there is no possibility of a significant effect as a result of adopting A-Engrossed Ordinance No. 801.

Part 4:

METRO REGIONAL TRANSPORTATION PLAN (RTP) FINDINGS

A-Engrossed Ordinance No. 801 is consistent with the Metro Regional Transportation Plan (RTP) published on July 17, 2014. RTP Section 5.7.1 requires that local plans be implemented consistent with the Regional Transportation Functional Plan (RTFP). The RTP provisions are satisfied because the County’s TSP is consistent with the RTFP. Findings concerning the RTFP are discussed in Part 5 below. A-Engrossed Ordinance No. 801 does not add or modify any planned regional transportation facilities or make changes to existing facilities that would be inconsistent with the RTP.

Part 5:

METRO REGIONAL TRANSPORTATION FUNCTIONAL PLAN (RTFP) FINDINGS

Washington County has an acknowledged Transportation System Plan (TSP) adopted by two companion ordinances (A-Engrossed Ordinance No. 768 and A-Engrossed Ordinance No. 783) effective December 1, 2014.

A-Engrossed Ordinance No. 801 does not add or modify any planned regional transportation facilities or make changes to existing facilities that would be inconsistent with the Regional Transportation Plan (RTP).

A-Engrossed Ordinance No. 801 does not increase allowable residential density for the North Bethany area. Therefore, A-Engrossed Ordinance No. 801 does not result in traffic levels that change or degrade the existing motor vehicle performance standards, which can be maintained with a combination of existing funded transportation improvements (which are identified on the Financially Constrained RTP), and intersection improvements likely to be identified through the development review process. A-Engrossed Ordinance No. 801 is consistent with the RTFP.

Part 6:

METRO URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN FINDINGS

Section 3.07.810 of Title 8 of Metro’s Urban Growth Management Functional Plan (UGMFP) requires that County Comprehensive Plan changes be consistent with the UGMFP. The following A-Engrossed Ordinance No. 801 findings have been prepared to address Title 8 of the UGMFP.

Title 8 - Compliance Procedures

Title 8 sets forth Metro’s procedures for determining compliance with the UGMFP. Included in this title are steps local jurisdictions must take to ensure that Metro has the opportunity to review amendments to comprehensive plans.

At the time Ordinance No. 801 was filed (June 2015), Title 8 required jurisdictions to submit notice to Metro at least 45 days prior to the first evidentiary hearing for a proposed amendment to a comprehensive plan. Prior to notice being mailed, however, Metro provided correspondence indicating its consent to receiving notice 35 days prior to the first evidentiary hearing, consistent with current DLCD notice requirements. County staff delivered a copy of proposed Ordinance No. 801 to Metro on June 10, 2015, 35 days prior to the first evidentiary hearing.

When Ordinance No. 801 was filed in 2015, it proposed to reduce the width of the “Natural Features Buffer with Fencing” to a uniform 50-foot width. Metro submitted two (2) letters during the proceedings for Ordinance No. 801, dated July 10 and August 17, 2015. Metro’s July 10, 2015 letter stated a preference for the County to retain the existing variable-width buffer based on the extensive and detailed work completed by the County when the buffer was originally adopted in 2011.

Metro’s August 17, 2015 letter noted that Ordinance No. 801’s proposed 50-foot buffer was considerably smaller than the existing buffer adopted in 2011, and appeared to be less dependent on an analysis of the potential impacts to adjacent agricultural activities. However, the letter concluded that a 50-foot buffer was not inconsistent with Condition 6 when considering that the condition did not specify the means to achieve compatibility and based on the proposed additional buffer landscape screening and management.

In 2016, Ordinance No. 801 was engrossed (amended), and the amendments took Metro’s 2015 feedback into consideration. The reduced width 50-foot buffer that was originally proposed by the ordinance has been replaced in the engrossed ordinance by a variable width buffer of between 120 and 600 feet, which is similar to the original “Natural Features Buffer with Fencing” that was adopted in 2011.

The findings in this document demonstrate that the amendments made by this ordinance are in substantial compliance with the Urban Growth Management Functional Plan.

Part 7:
FINDINGS FOR METRO ORDINANCE NO. 02-987A

6. In Title 11 planning, the city or county with land use planning responsibility for Study Areas 84, 85, 86 and 87 (partial) shall adopt provisions in its comprehensive plan and zoning regulations - such as setbacks, buffers and designated lanes for movement of slow-moving farm machinery - to ensure compatibility between urban uses in an included study area and agricultural practices on adjacent land outside the UGB zoned for farm or forest use.

North Bethany is at the northern boundary of the UGB and is bordered by agricultural lands on the east, north and west. Metro adopted findings for its 2002 Ordinance No. 02-987A under the heading “Compatibility” that examined the conflicts between potential urban uses in North Bethany and adjacent agricultural uses. Metro found that, “*the Agricultural Compatibility Analysis shows that urbanization of the Bethany area will have relatively fewer impacts on agricultural activities in the same area...The alternative analysis also shows that existing forested areas and creeks have the potential to buffer farm operations from development.*” Additionally, Metro found that, “*the proposed expansion area is well-buffered from agricultural activities in the area.*” As discussed further in findings for Metro Ordinance No. 02-987A, Abbey Creek and the adjoining floodplain/riparian area and forested slopes form a substantial natural buffer separating the North Bethany area from resource land and existing rural neighborhoods to the north.

Properties located outside of the UGB in Multnomah County and adjacent to North Bethany’s urban/rural edge are zoned Exclusive Farm Use (EFU). These agricultural properties have a history of pasture, wheat/row crops, and livestock uses.² The property in livestock use is an equestrian facility (Abbey Creek Stables) that stables horses and provides equine training and riding on the property. Abbey Creek Stables has riding trails for cross-country riding in close proximity – within 10 feet in some areas – to the North Bethany UGB boundary.

In 2011, the Board of Commissioners adopted A-Engrossed Ordinance No. 739, which established urban/agricultural buffers to address 2002 Metro Ordinance No. 02-987A, Condition 6. For a portion of North Bethany’s northern edge, the Board adopted a “Natural Features Buffer with Fencing” (buffer) separating North Bethany urban development and adjacent agricultural uses, based on the existing Abbey Creek and adjoining floodplain/riparian area and forested slopes along the northern edge of North Bethany that function as a natural buffer. A-Engrossed Ordinance No. 801 makes minor modifications to the configuration of the “Natural Features Buffer with Fencing.” With the modifications, its width will vary from approximately 120 to approximately 600 feet.

The types of issues that may impact compatibility between urban and agricultural uses in the vicinity of North Bethany’s “Natural Features Buffer with Fencing” include visual

² ORS 215.203(2)(a) provides that farm uses include the stabling and training of equines.

impacts/loss of privacy, noise, trespass, and potential stormwater runoff. A-Engrossed Ordinance No. 801 proposes urban/rural edge standards for the “Natural Features Buffer with Fencing” that are designed to promote compatibility between urban uses within North Bethany and the adjacent agricultural uses and conditions along North Bethany’s northern edge, and address the potential impacts.

These standards include placement of the “Natural Features Buffer with Fencing” into a separate tract, for the purpose of providing screening and physical separation between urban and rural agricultural uses. The engrossed ordinance requires permanent landscape planting within the buffer, to consist of a layered canopy of native deciduous and evergreen trees and shrubs at specific numbers per every 5,000 square feet of the buffer. The level of landscape plantings, along with existing buffer vegetation, will achieve a dense and diverse native vegetated screen over time, and will provide a continual screen between urban and rural agricultural lands.

The landscaping standards, in combination with buffer setbacks of 120 to 600 feet, will result in an intense landscaped buffer using existing and new trees and shrubs that separates urban and rural agricultural uses, and limits view intrusion and noise impacts on adjacent agricultural practices. The buffer’s width and the required landscape plantings within it will also absorb stormwater, thus mitigating potential stormwater runoff impacts onto adjacent agricultural lands.

The standards also require the provision of trespass-d discouraging fencing along the southern edge of the buffer tract and northwestern portions of the North Bethany boundary. Installation of a minimum 7-foot high, solid wood, sight-obscuring fence will be required along the southern (urban) edge of the buffer tract to provide a physical and visual barrier. This fence, along with required landscaping, will discourage trespassing onto agricultural lands.

A required landscape screening and buffering plan submitted prior to preliminary development approval demonstrates how all screening and buffering standards will be met, including landscaping and fencing. The standards require that the plan be prepared by a registered landscape architect.

The standards also provide for the maintenance and preservation of the buffer plantings. A required management plan ensures that the applicant or owner is responsible for implementation of the management plan. The management plan ensures that new buffer landscaping is properly established by requiring a two-year plant establishment period during which the owner shall inspect new buffer landscaping, irrigate new landscape plantings (either by hand watering or temporary drip irrigation), and replace dead or dying plants with living plants of equal size and similar variety.

The management plan also requires ongoing weeding, invasive plant and pest management, and trash removal. For each of the two years following the plant establishment period for buffer landscaping, a monitoring and maintenance report prepared

by a certified forester or other qualified professional is required. After five years, the plantings are required to be assessed by a qualified professional to determine whether, at a minimum, 75 % of all plantings remain in healthy condition.

A-Engrossed Ordinance No. 801 requires the “Natural Features Buffer with Fencing” of between 120 and 600 feet in width to be placed into a tract. Development within the buffer tract is generally not allowed, except for limited types of CWS stormwater and sanitary sewer facilities. The buffer tract, combined with dense landscaping within the buffer, landscape management, and a 7-foot, solid wood fence along the southern (urban) side of the buffer, will provide an effective and permanent visual and physical barrier that ensures compatibility between the urban and agricultural uses.

The County is in compliance with this requirement. A-Engrossed Ordinance No. 801 includes revisions to the Comprehensive Plan and Community Development Code to promote compatibility and minimize potential conflicts between urban uses in North Bethany and agricultural practices on adjacent rural land outside the UGB.