Oct. 12, 2020

To: Washington County Board of Commissioners

From: Andy Back, Manager
Planning and Development Services

Subject: **PROPOSED A-ENGROSSED LAND USE ORDINANCE NO. 869 – An Ordinance Amending the Rural/Natural Resource Plan, Certain Community Plans, and the Community Development Code Relating to Development in Areas Designated Significant Natural Resources and Planned Developments**

STAFF REPORT

For the Oct. 20, 2020 Board of Commissioners Hearing
(The public hearing will begin no sooner than 10 a.m.)

I. STAFF RECOMMENDATION

Conduct the first required public hearing on the engrossed ordinance. At the conclusion of public testimony, continue the hearing to Oct. 27.

II. OVERVIEW

After its Sept. 29 public hearing for proposed Ordinance No. 869, the Board of Commissioners (Board) directed engrossment of the ordinance and continued the hearing to Oct. 20 and Oct. 27. The Board further directed staff to provide notice of the changes and engrossment hearings schedule as required by Chapter X of the County Charter.

A copy of A-Engrossed Ordinance No. 869 and its accompanying notice is included in the Board's meeting materials.

III. BACKGROUND

The primary focus of Ordinance No. 869 is to address Community Development Code (CDC) natural resource provisions that are not clear and objective as they relate to residential development in the urban area, as required by state law. An Enforcement Order from the Land Conservation and Development Commission (LCDC) found the County out of compliance with Statewide Planning Goal 5 because three CDC natural resource provisions were not clear and objective, and therefore unenforceable as applied to new residential development. The Order included an injunction on new applications that may impact mapped *Wildlife Habitat*. While this ordinance revises CDC significant natural resource (SNR) language to address existing subjectivity, its intent is to maintain existing policy direction.

Board of Commissioners Sept. 29 Hearing Summary

Proposed changes to the filed ordinance were provided to the Board in the staff report for the Sept. 29 meeting. At that meeting the Board held its second hearing on Ordinance No. 869, which included testimony from eight individuals/groups. In addition to issues raised in earlier testimony, comments were made that:

- The ordinance was not maintaining the same level of protection as currently provided.
- 100% of *Upland/Wildlife Habitat* should be protected until scientific analysis was done.
- The ordinance should be continued into next year for further discussion.
- Review by the Oregon Department of Fish and Wildlife (ODFW) was needed.
- Impacts on affordable housing should be considered.
- Habitat Assessment *Guidelines* are not yet done, and the ordinance is incomplete without these.
- The Public should have the opportunity to review the *Guidelines* before they are adopted.
- Community plan sections are unenforceable and should also be fixed.
- We are here because the state took extreme action with a moratorium.

Additional information is included in the Analysis section on several of these comments. Attachment A to this staff report is a summary of all comments received to date on this ordinance and staff's response. Attachment B includes additional written testimony received since the Sept. 29 Board meeting.

The Board indicated its interest in retaining the option to adopt an ordinance that addresses the requirements of the LCDC Enforcement Order to ensure the County's regulations are clear and objective this ordinance season. Discussion included what is required to meet the Order versus what might be broader policy questions for discussion. Discussion included questions about the *Guidelines* and the timeline and process for adoption. At least one Board member was interested in having the Planning Commission (PC) review the *Guidelines* before they came to the Board. County Counsel advised this would be unusual but could be done.

As part of the Board's discussion, the Chair noted it would be most helpful for the PC to focus its deliberations at the Oct. 7 hearing on whether the ordinance provides clear and objective standards to meet the requirements of the Enforcement Order. The Board confirmed its interest in having the PC continue with its deliberations on the proposed regulations and discussed options for the timing of engrossment and future hearings. The Board voted 5 to 0 to order engrossment of the ordinance with the changes that were described in the staff report and contained in the Attachment.

Ordinance Notification

Notice 2020-07 regarding A-Engrossed Ordinance No. 869 was mailed Oct. 9 to parties on the General and Individual Notification Lists (PC, community participation organizations (CPOs), cities, special service districts and interested parties) describing changes to Ordinance No. 869 and listing the two hearing dates for the engrossed ordinance. A Constant Contact message was also sent to those on the interested parties lists for ordinances in general and for this ordinance in particular. Notice was also posted on Long Range Planning's land use ordinance webpage.

IV. ANALYSIS

This section includes additional information on several issues raised at the Sept. 29 Board hearing and a summary of the Oct. 7 Planning Commission meeting.

Conversations with ODFW on Ordinance

Testimony from CPO 4M, Kenneth Dobson, and others questioned whether staff had informed ODFW of the ordinance. Land Use & Transportation (LUT) staff has provided the filed ordinance and proposed revisions to ODFW staff and has met several times with them about the content of the ordinance. ODFW staff asked clarifying questions about the changes, specifically how the proposed Preservation Area requirement matches up with the current "mitigation" requirement and other possible strategies for additional habitat preservation. They acknowledged the County is unique in addressing *Wildlife Habitat* as an SNR. They were supportive of adding areas to the inventory (e.g., white oak), however LUT clarified that this ordinance was not addressing inventory changes. ODFW was interested in serving on a Technical Advisory Committee if changes to the County inventory or overall program were to be contemplated and in providing guidance on developing the Habitat Assessment *Guidelines*.

ODFW staff requested to be added to the County's agency notification list and are supportive of providing limited input on development projects with SNRs, especially on sites with threatened and endangered species, and may advise and provide recommendations. They indicated their primary focus is on monitoring fish passage and Big Game Habitat areas outside the Urban Growth Boundary (UGB), and that they had limited staffing capabilities to comment on all SNR development projects. No formal comments on the ordinance have been received to date.

Habitat Assessment Guidelines

As discussed in earlier staff reports, Habitat Assessment *Guidelines* will detail how the Assessments must be prepared and further ensure consistent preparation and review. Guidelines are currently under development with the assistance of an environmental consultant. The *Guidelines* will be administered comparable to technical methodologies used for other disciplines such as traffic engineering and grading. Staff believes these technical guidelines are important and they are expected to be presented for Board consideration and adoption by Resolution and Order (R&O) prior to the effective date of the ordinance, and not directly through A-Engrossed Ordinance No. 869.

While not required on technical guidelines of this nature, at least one Board member expressed interest in having the PC consider the *Guidelines* prior to Board action. Staff has developed a tentative schedule that includes time for internal review and consultation with ODFW, two work sessions at the Planning Commission (Nov. 17 and Dec. 2), a Board Work Session Dec. 8, and Board consideration for adoption through R&O on Dec. 15. The effective date of A-Engrossed Ordinance No. 869 has been set as Dec. 15 to coincide with expected adoption of the R&O by the Board.

Planning Commission Oct. 7 Meeting Summary

The PC considered A-Engrossed Ordinance No. 869 on Oct. 7. Two people testified on the changes to the filed ordinance. During deliberations, PC members expressed appreciation to those that provided written or verbal testimony, including those addressing specific aspects of the ordinance, contributing to changes to ensure the ordinance was clear and objective. The PC also appreciated that staff incorporated many of the changes based on the testimony received. The PC voted 5 to 2 to recommend approval of A-Engrossed Ordinance No. 869 to the Board.

The majority of the PC sought to focus on considering clear and objective standards relevant to the LCDC Enforcement Order, as encouraged by the Board. Several also highlighted the need to balance potentially competing goals to expand housing opportunity and protect natural resources. Several PC members were interested in stronger natural resource protections that would better reflect public testimony received and at least one sought more extensive public outreach. At least one member believed that near-term needs of addressing climate change through stronger natural resource protections should be prioritized, and that Comprehensive Plan policy on SNR protection be reinforced through more stringent development standards. At least one PC member believed the Preservation Area requirement was not preserving enough and that this measure was not equivalent to the existing “seriously interfere” language.

A PC member noted that the ordinance addresses what can happen on private land and that there were limits to how much the County can regulate for the public interest. Collectively, the PC communicated its interest in involvement on future SNR-related efforts. The PC was interested in reviewing the Habitat Assessment *Guidelines* and for public participation in this process. Draft PC deliberations for Sept. 16 and Oct. 7 are included as Attachment C.

V. SUMMARY OF ENGROSSMENT

The Board directed staff to make several changes to Ordinance No. 869. The changes, incorporated into A-Engrossed Ordinance No. 869, are generally described below:

- Change references to SNR categories in the Comprehensive Framework Plan for the Urban Area, the Rural/Natural Resource Plan and the CDC.
- Provide additional clarification of potentially subjective language and/or remove potentially subjective language in various sections, including:
    - CDC § 422-2 (Lands Subject to this Section) – clarify reference to Metro mapping.
    - CDC § 422-3 (Submittal Requirements) – delete reference to natural resource professional, detail acceptable methodologies for field verification, clarify that Habitat Assessment methodology will be contained in *Guidelines* and clarify when submittal requirements can be waived for projects outside the UGB.
    - CDC § 422-4 (Allowable Uses and Activities within Significant Natural Resource Areas) – delete reference to more stringent requirements and to enhancement, better define sufficient buildable land, and provide detail on fencing standards.
    - CDC § 422-5 (Tree Preservation in Habitat Area(s)) – clarify intent and applicability sections, delete discretionary variance process, and clarify fence design and replacement planting requirements.
    - CDC § 422-6 (Significant Natural Areas) – provide clear and objective standards for screening and buffering landscaping and setback from Significant Natural Areas within the UGB.
    - Add a definition and clarify language in various sections.
- Change requirement for when SNR review is required to apply to sites that contain or are within 100 feet (as opposed to 150 feet) of a mapped resource.
- Increase minimum size of Preservation Area and add exception from preservation requirements for sites with small habitat areas.
- Add requirement for plant establishment and maintenance report for Preservation Area planting.
- Add maintenance activities to list of potential encroachments into Preservation Areas.
- Clarify that Goal 5 mineral and aggregate resources are not subject to CDC § 422 requirements.

List of Attachments
The following attachments identified in this staff report are provided:

Attachment A: Public Testimony Summary Table on Ordinance No. 869
Attachment B: Public testimony received subsequent to Sept. 29 Board staff report
Attachment C: Draft Planning Commission deliberations for Sept. 16 and Oct. 7 meetings

Attachment A

Summary of Public Testimony for Ordinance No. 869 as of 10/12/20

Name	Date	Summary	Staff Response
Susan Nolte	7/31/20	Supports more natural resource protection, infrastructure has destroyed and impeded habitat connectivity	Policy position
Julie Ketchum	7/31/20	Supports more natural resource protection, as too much development has occurred in Cooper Mountain area without tree protection in place	Policy position
Jim Long, CPO 4M	8/4/20	Submittal materials: Independent natural resource professional should field verify habitat, not consultant's natural resource professional Policy position: Protect more habitat Not related to ordinance development - SNR report issues - Audit Wildlife Habitat	Agree clarification is needed for Habitat Assessment guidelines. If standardized and uniform, will provide adequate information of habitat areas for preservation. Field verification Preservation Area requirements are clear and objective. It is common practice to require development applicant to provide assessment materials. All other jurisdictions surveyed required development applicant to submit habitat assessments done by applicant's consultant. Other issues addressed by Mr. Long are policy questions and exceed scope of Board direction on Ord. No. 869.
Fran Warren	8/5/20 email 8/18/20 letter	Clear and objective standards: Subjective language in parts, should be revised or ordinance delayed until corrected Policy considerations - Include additional resources in inventory and application of Section 422 - Missing Wildlife Habitat has not been included in original inventory - Climate Action Plan needed by County - Greater habitat protection needed - community says headwaters need to be included Technical corrections Various technical corrections suggested	Agree that all code language applicable to urban unincorporated residential development should be clear and objective. Changes are proposed to address clear and objective criteria Policy considerations are beyond scope of Board direction on ordinance. Board could direct further study as work program task, including updating inventory. Agree with technical corrections and possible formatting changes for clarity.

Name	Date	Summary	Staff Response
Matt Sprague	8/11/20	Variety of comments - Adding Class I and II Riparian Resources from Metro Inventory - Riparian Corridor should be removed as Vegetated Corridor covers it - Fencing issues - "or near" is too ambiguous for Habitat Preservation areas - Size of replacement trees is not clear - SNA provision is not clear and objective - Open space - park provider notice is not needed Planned Development (PD) standards - Water-related resources should be allowed to count for at least 50% PD open space - Allow Section 408 bicycle/pedestrian trails to count as PD recreation facilities	- Clarification of Metro Inventory from Tualatin Basin Program, not an addition - Riparian corridor is existing language and applied to rural - Changes to fencing and mitigation table were made for clarity Planned Development (PD) standards - Including already required Preservation Areas to count for open space does not provide added community benefit and trade-off for flexibility of Planned Development - A-Eng. Ord. No. 853 (2019) specifically excluded Section 408 bicycle/pedestrian trails from counting as PD recreation facilities
Urban Greenspace Institute	8/13/20	Generally supportive of clear and objective standards and offering incentives for greater habitat protection Water-Related Fish and Wildlife Habitat standards: Supportive Upland/Wildlife Habitat standards: Develop menu of options with minimum clear and objective standards Field verification: Supportive of approach, and require applicants reference more up-to-date maps, like identified white oak habitat Policy considerations - Develop policies that address Climate Change, equity, biodiversity and connected habitats - Tree code for all development and include oaks mapping to SNR - Use alternative analysis to mitigate Wildlife Habitat - Update to inventory needed - Include Metro's Regionally Significant Fish and Wildlife Habitat Ongoing monitoring: Include searchable database for mitigation areas and for monitoring	Upland/Wildlife Standards Ordinance provides two options with clear and objective standards Field Verification Updates to Goal 5 inventory are beyond scope of this ordinance Policy Considerations Beyond scope of Ordinance Ongoing monitoring Expected future work program task

Name	Date	Summary	Staff Response
Baker Rock Resources	8/17/20	Exception/rules needed for Mineral and Aggregate, a Goal 5 Resource	For mineral/aggregate resources, CDC Section 422 is superseded by OAR 660-023-0180. Until/unless the CDC is amended to comply with this OAR, it will continue to be superseded when it comes to processing of a new or expanding Goal 5 quarry. An exclusion that clarifies Section 422 is not applicable to Goal 5 mineral/ aggregate sites and adds references to the applicable OAR and Policy 7 of the RNRP is included in a new Section 422-11.
Tualatin Riverkeepers	8/18/20	Upland/Wildlife Habitat standards (422-5) - Habitat Area needs a clear definition - Variance allowance for the Preservation Area needs to exceed standardized outcomes, not just meet them - Mitigation table should be clarified to specify number of trees removed and size of area to be replanted Clear and objective standards: Section 422-7 is subjective for rural Policy considerations - Purpose statement needs improvement and Code section needs a new vision statement to guide implementation - Need a tree preservation code	Upland/Wildlife Habitat standards Changes to Section 422-5 have been made to clarify and better define Preservation Areas: - Voluntary discretionary path has been deleted - Revisions to the mitigation table have been made Clear and objective standards New Section 422-7 mitigation standard for SNR habitat in rural area can continue to be subjective under original OARs Policy Considerations Beyond scope of Ordinance
THPRD	8/18/20	Add the following items to Section 422-5.4 A. (Allowed encroachments into required Preservation Area): a. Restoration and maintenance of Significant Natural Resource areas b. Nature trail maintenance Planned Development (PD) standards: Amend Section 404-4.5 F.(4)(d) to allow publicly subsidized fee-for-use facilities to be included as Planned Development recreation facilities	Maintenance related items have been added. Staff does not recommend the fee for use request since the scale, size, and community draw of the publicly subsidized fee-for-use facilities of THRPD facilities are not consistent with the intended scale, size and service area of the PD recreational facilities described in Section 404-4 and not likely to be part of a PD.
CCI	8/18/20	Supports continuance of public hearing to provide additional testimony	Staff concurred and hearing(s) were continued
Ken Dobson	8/19/20	Clear and objective standards - “generally located” (422-2) - Natural Resource Professional (422-3.1)	Clear and objective standards - Staff concurs with some of the comments and changes have been made. Others that are

Name	Date	Summary	Staff Response
		- Methodology terms not clear and objective (422-4.1) - Enhancement not clear and objective (422-4.1 F.) - Rural habitat mitigation standard (422-7) new SB 1051 applies or state OAR Division 23 applies - Significant Natural Areas standard is subjective <u>*Water-Related Fish and Wildlife Habitat* standards</u> - No substantive protections for this SNR but Policy 10 of the Comprehensive Framework Plan for the Urban Area (CFP) and Goal 5 rules require County to inventory additional resources and protect them. Federal, state and local requirements are not sufficient and not meant to overlap with County requirements - Waiver of standards for rural area gives too much discretion to planner - Commercial logging and agricultural uses should not be allowed to conflict with SNRs in rural <u>Upland/Wildlife Habitat</u> - Discretionary path for *Upland/Wildlife Habitat* not clear and objective - Asserts that CWS regulations and other federal and state requirements do not achieve County Goal 5 program goals to protect identified habitat	descriptive terms and not standards have been retained. - The mitigation standard for SNR habitat has been revised under 422-7 and now applies to rural land only, which can continue to be subjective under original OARs and is not applicable under SB 1051 - Significant Natural Area standards have been revised to ensure they are clear and objective. <u>Habitat standards</u> - Tualatin Basin Program codified under Title 13 and acknowledged by DLCD that water-related resources should receive the greatest protection and CWS vegetated corridor requirements provided the necessary protection. Decision on *Upland/Wildlife Habitat* was to lightly limit development, and percentage of preservation area standard supports this decision. See staff reports for further discussion. - Policy 10 of the CFP includes Implementation policies that recognize the Tualatin Basin program and Implementation strategy (i) of the CFP states the County shall, "Coordinate with CWS to adopt or amend local standards, which ensure that fish and wildlife habitats are adequately protected and enhanced in compliance with local, regional and state and federal requirements." - Waiver of submittal requirements have been modified to more clearly state requirements for waiver of materials (Section 422-3.6). - No changes are made to the current allowances for rural area activities relative to SNRs (Section 422-4.2) - Discretionary path for *Upland/Wildlife Habitat* has been deleted.

Name	Date	Summary	Staff Response
Planning Commissioner Matt Wellner	8/16/20	Comments addressed in separate memo attached to Staff Report for Sept. 2 meeting.	

Oral Testimony at Aug. 19 Planning Commission Hearing			
Mary Manseau	8/19/20	Field Verification Don't reduce requirement to evaluate SNRs on a site if they are within 250 ft. of mapped SNR, as identified in the 1998 Director's Interpretation Upland/Wildlife Habitat - Preservation Area should not be based on past mitigation areas, more protection is needed based on community's desires - Require fencing for Preservation Areas - Some technical fixes are in order, to clarify standards and ensure habitat areas are protected. PD Standards - Amend Section 404-4.5 to allow powerline corridors to count toward PD open space requirement.	Field Verification This requirement was originally found in the 1998 Director's Interpretation and based in part on staff consultation on mapping scale concerns. Based on staff review and comparison with the Metro Model Code, the distance was reduced to 100 ft. Upland/Wildlife Habitat - Increased protection of habitat would entail a new policy directive - Fencing requirements have been made clear and objective. Requiring fencing is an addition and outside scope of this ordinance. - Technical fixes and other amendments to clarify provisions are proposed - Additional information on field verification and PD standards below with written testimony
Ken Dobson	8/19/20	Reiterated points in written testimony above	See response to written comments, above.
Ezra Hammer, HBA	8/19/20	Field verification - 150 ft. is arbitrary and not reasonable	See response above
Fran Warren	8/19/20	Supports efforts to continue this issue and develop more comprehensive changes, the short turn around is not sufficient to address this important issue. Includes references to previous written testimony	Board direction to focus on addressing the Enforcement Order this ordinance season. Not all policy options can be vetted in this timeframe.
Jim Long, CPO 4M	8/19/20	- Many standards in proposed code changes are not clear and objective - Request greater habitat preservation, does not go far enough	- Addressing clear and objective standards is a priority for this ordinance - Policy position for Board consideration

Name	Date	Summary	Staff Response
Ted Labbe, Urban Greenspaces Institute	8/19/20	Upland/Wildlife Habitat - Preservation areas of 15% is inadequate - Amount of preservation should be based on overall size of SNR area and consideration of quality of habitat - Mitigation should be scale - based on lot size Habitat Assessments - Technical reviewer of Habitat Assessments - Habitat Assessment "recognized methodology" is not clear and objective	Upland/Wildlife Habitat Staff considered alternative methodologies intended to implement outcomes similar to those achieved under the previous subjective standard consistent with current policies, as addressed in the staff report for the August 19 PC meeting. Other comments are policy positions for Board consideration Habitat Assessments It is common practice to require applicant to provide assessment materials. All other jurisdictions surveyed required development applicant to submit habitat assessments done by applicant's consultant. Guidelines will address methodology. CDC language modified.

Written Testimony Between Aug. 19 and Sept. 2 Planning Commission hearings			
Mary Manseau	8/19/20	Field verification No reduction to requirement applicants evaluate SNRs on their site if they are within 250 ft. of mapped SNR, as identified in the 1998 Director's Interpretation Upland/Wildlife Habitat - Preservation Area should not be based on past mitigation areas, community desires more protection - Require fencing for Preservation Areas - Some technical fixes are in order to clarify standards and ensure habitat areas are protected PD standards - Amend Section 404-4.5 to allow powerline corridors to count toward PD open space requirement	Field verification Staff is recommending 100 ft as a more appropriate distance to use when identifying proximate SNRs, with rationale discussed above. Upland/Wildlife Habitat - Increased protection of habitat would entail a new policy directive. - Fencing requirements are beyond the scope of the ordinance. - Amendments to clarify provisions are proposed. PD standards This request is not recommended at this time, as the focus of this ordinance is on clear and objective standards to meet the Enforcement Order. It could be considered in a future update.

Name	Date	Summary	Staff Response
Diana Nicolay-Biles	8/22/20	<u>Policy consideration</u> Oppose proposed Ord. No. 869. Believes developers could: - unilaterally redraw the boundaries of mapped SNRs through "field verification" using whatever methodologies their consultants choose - develop up to 85% of what is left within the redrawn boundaries Minimizes protections afforded to SNRs in favor of more housing that will accelerate the loss of urban wildlife habitat in the county. Once these resources are gone, they are lost forever	<u>Policy consideration</u> - Field verification methodologies have been modified to reference specific requirements consultants must use to identify resources - Referenced *Upland/Wildlife Habitat* percentage of 15% would be adjacent to existing Water-Related Fish and Wildlife protected area, otherwise 25% - Balance between housing and resources is a policy consideration for the Board as part of this ordinance
Linda Broussard	8/23/20	Oppose proposed Ord. No. 869 as it does not make adequate provision to preserve essential wildlife habitat, wildlife corridor connectivity and forest lands	Policy position for Board consideration
Paul and Debbie Brodie	8/25/20	Oppose adoption of proposed Ord. No. 869 as it leaves too much wiggle room for developers to skirt habitat preservation. Suggest requiring mitigation with native plant species and promoting wildlife corridor connectivity	Policy position for Board consideration

Written Testimony Received Subsequent to Publication of Planning Commission Staff Report for Sept. 2 Hearing			
Heidi Fox	8/26/20	-Agree with Fran Warren testimony -Request ordinance approval be postponed -More work is needed to meet “clear and objective requirements” and to address SNR Assessment	Policy position for Board consideration
Lucinda Kimble	8/26/20	-Ordinance 869 does not protect natural resources carefully enough especially in riparian areas -Large trees are needed in all areas open to consideration for development, not in just urban areas. -Trees serve multiple purposes environmental purposes -More than 25% should be set aside as “protected”	Policy position for Board consideration Tree preservation regulations outside SNRs is a policy position for Board consideration

Name	Date	Summary	Staff Response
Ted Labbe, UGI	8/27/20	- Request County consider how proposed SNR and tree code update impacts vulnerable communities in unincorporated urban areas - County proposal to continue applying tree code only in and around mapped SNRs will disproportionally impact urban County residents who live distant from SNRs, parks, and natural areas - Requests adoption of a tree code that protects and benefits all residents - Consider incorporating by reference the following tools: Metro Regional Barometer and Trust for Public Land ParkScore - Apply CDC section 407 to all of the County unincorporated urban area	County tree code is beyond scope of this ordinance Various suggestions are policy positions for potential future Board consideration
Janelle St. Pierre	8/27/20	- Concerned about requirements in CDC 422-5.3 – Required Preservation Area. As development densities have increased, little wildlife habitat remains except for larger parcels or protected areas and what remains is fragmented - Critical to protect what is left. Existing maps are limited and don't include a lot of important wildlife habitat and connections between habitats Recommendations to protect 25% of habitat is inadequate and the proposal for 15% next to a riparian area or vegetated corridor is worse. The areas need the same level of protection that vegetated corridors receive with the preservation requirements linked to the actual habitat type	See staff reports for justification of percentages – this is a policy choice for Board Concerns with inventory are beyond scope of this ordinance.
Ezra Hammer, HBA	8/28/20	Ordinance 869 should respond to the current development moratorium <u>Issues the County should address to ensure housing at reasonable prices</u> - Section 422-2 – Expands the areas delineated as SNRs through addition of Metro's Class I and II Riparian Habitat. This would add new land into the Goal 5 planning process without providing notice - Section 422-3 – Expanding the reach to 150 feet of a mapped or established resource would increase the amount of area required to further analyze SNRs. - Section 404-4.5.E.2.a – Allow preserved *Water Areas and Wetlands* and *Water Related Fish and Wildlife Habitat* to count toward 100% of Planned Development open space to provide greater flexibility while maximizing SNR preservation	- Section 422-2: This section does not add any areas, but rather clarifies those areas on the Metro Inventory Map that are to be considered in the analysis. This is not currently defined. - Section 422-3: Current Director's Interpretation states projects within 250' of a mapped SNR are subject to the section, however this is not consistently applied. Staff recommends this be set at 100', consistent with Metro Model Code. Section 404: Staff recommends against expanding areas allowed to count toward PD open space to specifically encourage preservation of *Upland/Wildlife Habitat*. Other areas will be preserved through other requirements.

Name	Date	Summary	Staff Response
Judy Anderson	8/29/20	- Support requiring each new development have open space. It is important to have green space and natural wetlands - Developers should be required to include at least three levels of housing – starter homes or apartments, moderate and affluent housing in the development	Comments noted.
Jeanette Rothberg	8/29/20	- Reconsider the ordinance - People need housing but animals need places to live as well - More and more of the environment is being destroyed, making it less accessible to wildlife and other aspects of nature	Comments noted.
Pat Forsyth	8/30/20 PC BOC	- Postpone action on Ordinance 869 until it is rewritten to ensure protections for Goal 5 SNR Wildlife Habitats. Support CPOs/CCI calls for strong action - Ordinance 869 does not resolve issues raised by LCDC injunction. - CDC Section 422-5.4 mitigation with baby trees and shrubs do not offset the loss of mature habitat - Proposed policy still relies on voluntary actions, mitigation and non-specific incentives that don't protect Goal 5 resources - Where is information on what happened to SNR areas that were annexed? - The pie chart shows 15 % of remaining SNR *Wildlife Habitat* as "preserved". Preserved means mitigation was done, not that habitat was preserved - CDC Section 422-3.6 should default to Goal 5 Guidance - Ask the County to support the Public Trust Doctrine <u>Suggested ordinance changes</u> - Reduce encroachment percentage - Require removal of invasive species in a different area of the SNR to compensate - To avoid conflict of interest, ODFW biologist should do SNR field verifications - Explore a partnership with Metro's Nature in the Neighborhoods program to purchase and manage SNRs as they become available along wildlife corridors - Address subjective language in ordinance: enhancement, recognized methodology, more stringent, natural resource professional, habitat assessment, mitigation, serious interference and more	Changes were made to the filed ordinance to ensure regulations are clear and objective, as required by LCDC Enforcement Order. The County does not maintain information about areas annexed to cities, though cities would use the SNR information provided by the County in their decisions. Most other comments are policy positions for Board consideration Public funds are available from Metro's Nature in Neighborhoods program due to a bond measure approved in 2006 and renewed in 2019, Measure 26-178. It is anticipated to generate over $ 457 M over the next 5 years. Natural resource acquisition and habitat restoration are priorities for these funds. Metro Bond measures are another important component of the Tualatin Basin Goal 5 program which includes establishing revenue sources such as the Storm Water Maintenance fee anticipated to generate over $95 M over 20 years, with enhancement, culvert replacement and tree plantings for the Tualatin Basin. (Tree for All)

Name	Date	Summary	Staff Response
Mary Brown	8/30/20	Agree with testimony from Fran Warren regarding protecting natural resources and wildlife habitat	Comments noted.
Maxine Francisco	8/30/20	Wildlife habitats need to be protected and natural resources preserved	Comments noted.
	8/31/20	- Oppose proposed ordinance - does not include thorough and thoughtful considerations and proposed CDC changes are not clear and objective - Limited wildlife habitat has been disappearing significantly in the last 20 years. Proposed changes must protect existing wildlife and natural resources being lost due to housing development, cites Cooper Mountain - Assessments need to be conducted by unbiased biologists and the updated report should be audited for accuracy - An effective "wildlife corridor" won't fit into the newly proposed guidelines. The mobility of wildlife varies and does not neatly fit in the 25% guidelines. - A developer must provide recommendations to reduce the impacted area and/or offset habitat loss. Planter strips and street trees don't mitigate loss - Proposed changes are centered on objectives of human developers, not consider wildlife - In Cooper Mountain, the impact of water quality on a neighborhood pond affected a frog species on Oregon's Sensitive Species List being documented by THPRD. Egg counts drastically declined after development. - It is important to correctly document year-round streams - Charts, pictures and data were included in testimony	The ordinance addresses clear and objective standard requirements. As noted earlier, it is common practice to require development applicant to provide assessment materials. All other jurisdictions surveyed required development applicant to submit habitat assessments done by applicant's consultant. Other comments are policy comments for Board consideration.
Fran Warren	8/31/20	- Testimony notes perceived conflict of statewide goals: 2 (Land Use Planning), 5 (Natural Resources), and 10 (Housing) - No clear and objective section for an incentive to reduce a housing lot footprint in favor of protecting more wildlife habitat, trees and open spaces - Challenge development community to create needed housing with a smaller footprint - Many families are looking to have multiple generations living nearby. This is the ideal time to consider duplex type of housing options. - Request to add Section 404-4.1 Planned Development Review to provide the applicant explicit and specific incentive options to build smaller homes or homes on smaller lots when there is potential habitat which may be contiguously preserved	Housing related policies, including requirement to allow duplex and smaller housing options, will be considered by the Board as part of future work on HB2001 implementation, and not as part of the current ordinance.

Name	Date	Summary	Staff Response
John Klor, Reusser Court HOA	8/31/20	- Agree with comments from Fran Warren - Ordinance does not adequately protect Cooper Mountain SNRs - Opposed to policy changes that minimize protections by law	Comments noted.
Whitney Crandall	8/31/20	- Value protected natural areas in the County. Benefits: habitats for urban wildlife, improved water quality, reducing potential heat islands - Goal 5 states "programs will protect natural resources and conserve scenic, historic and open space resources for present and future generations". The state acknowledged a failure to uphold the standard set by Goal 5, including periodic review of the quantity and quality of SNRs - Developers have been able to clear-cut and remove mature/ established trees, and planting street trees and shrubs doesn't mitigate removal of established mature trees and shrubs - Wildlife Corridors are disrupted - Independent professionals should perform the field verification of SNR for development to limit impacts - Need clear and objective statements - Prior to adopting the ordinance, the County needs to determine the remaining SNRs and access the most essential wildlife habitat and ecosystems	See answers above regarding preparation of reports by independent professionals. The ordinance as proposed for engrossment, addresses clear and objective standard requirements. Other comments are policy comments for Board consideration.
Eric Squires	9/1/20	- Opposed to Ord. 869 as filed and requests Goal 5 program be Tier 1 task - Section 422-2 needs absolute clarity. Suggest reference to SNR inventory. Include statement where habitat can be included if not already identified <u>Cooper Mountain Focus</u> - A new SNR inventory is critical. Habitat mapping is out of date. - Suggests a "species specific" tree canopy inventory led by CWS. - Enhanced protections for trees in locations that connect greenways to water provides connectivity needed for habitat - Metro last completed habitat mapping in 2003. An updated inventory should occur before UGB expansion - Comments about Beaverton Comprehensive and Community Planning	Comments noted. New inventory and tree code are outside the scope of this ordinance The County is not responsible for Beaverton work on Cooper Mountain planning.

Name	Date	Summary	Staff Response
Ken Dobson	9/1/20	<u>Comments on Supplemental Staff Report</u> - Requests County provide proposed language and allow additional opportunity for public comment - States fundamental problems using DSL and CWS methodology to determine boundaries of County designated Goal 5 resources. They involve separate statutory schemes designed for protecting wetlands and water quality and do not address other habitat features or the presence of fish and other wildlife. This does not match CDC Section 422 definitions in existing or proposed language. - The Court of Appeals in Plotkin (2000) held that areas delineated as wetlands under the federal Clean Water Act do not necessarily overlap areas designated as SNRs on the County Goal 5 map - Many proposed rules are still not "Clear and Objective" as required under the Needed Housing Statute. Examples listed include: "generally", "consistent", "recognized methodologies", does not identify specific "statutory and Metro requirements", - OAR 660-023-0050 requires Goal 5 rules to be Clear and objective and applies to any post-acknowledgement. This applies to proposed Ordinance 869 because it amends and adopts land use regulations. Staff notes the standards only apply when adopting new policies and used for the rural area - The County must coordinate with the Oregon Department of Fish and Wildlife (ODFW) when implementing the new SNR rules - The County should take time in implementing new rules to address other SNR requirements that are not clear and objective	Revised language was provided on Sept. 16 and an additional Planning Commission and Board of Commissioners hearings and opportunity to comment were provided. Two additional Board hearings are required on engrossed ordinance. As detailed in earlier staff reports, in the mid-2000's, the County participated in the Tualatin Basin Program, which followed the Goal 5 process and was codified under Metro Title 13 and acknowledged by DLCD following the process of OAR 660-023-0080 (Metro Regional Resources). The Tualatin Basin decision found that water-related resources should receive the greatest protection, though no areas received *complete* protection. The Tualatin Basin Program decision acknowledged that water quality and habitat considerations may have interdependent and complimentary objectives and providing habitat near stream banks help both habitat on stream banks and improve water quality which provides multiple benefits including keeping water temperatures cooler for safe fish passage of threatened and endangered species. As the greatest protections are for areas adjacent to streams, CWS Design and Construction standards evaluate adjacent stream banks (Vegetated Corridor) and require development bring these areas to good condition for stream health, which also protects and improves overall habitat in these locations. The CWS Vegetated Corridor needs to be identified in order to apply the limited permitted use in § 422-4.1(F). The Plotkin decision was made prior to the Tualatin Basin Program and Title 13 and prior to including Metro's Class I and II Riparian Habitat areas in the CDC applicability section. A Goal 5 ESEE was conducted for

			these resources, policies were added, and they are subject to the requirements of § 422. Categories are not changing on SNR maps but verified through clearer field verification process and consideration of current onsite conditions that clarify what applicants must do to "identify the location" of the SNR. Changes have been made in the engrossed ordinance to further clarify the standards and definition added to assist in meaning of terms Section 422 standards for the rural area are not changing but specifying the type of SNR that applies and that it only applies to habitat outside the UGB. This standard was adopted prior to the Division 23 OARs that require clear and objective standards and thus the OAR cited does not apply. Notice to ODFW is required only when updating Wildlife Habitat Inventory per OAR 660-023-0110(6). However, County has provided ODFW staff with the proposed ordinance language and has met with ODFW staff several times. Staff will coordinate with ODFW on developing Guidelines. ODFW staff will be included in agency notification on development projects and may provide comments. County is under Enforcement Order and must make timely changes to CDC to be clear and objective by May 2021. Other changes may be considered by Board as new Work Program tasks.
Ruth Green	9/1/20	- Oppose Ordinance No. 869. Goal 5 and Title 13 need to be addressed - Significant Natural Resources need protections. On Cooper Mountain there is a steep ravine with underground artesian wells and natural springs that flow to Rigert Road. The ravine is protected and use as deer habitat. Deer use the waterway system to climb Kemmer Road, cross over to the water tanks, and make their way to the Cooper Mountain Nature Park - Asks the County to obey the DLCD enforcement requirement for wildlife habitat on Cooper Mountain	Comments noted.

Name	Date	Summary	Staff Response
Diana Nicolay-Biles	9/1/20	- Oppose adoption of Ordinance 869 as proposed - Calls for clear and objective language protecting both SNR wildlife habitat land to-be developed and protected - Historically developers use the minimum setback standards and maximum density allowed. This leads to clear cutting areas of large trees, loss of erosion control and the creation of heat islands - The County needs to take a longer-term view of verified SNRs. Field verifications should be performed independently by professionals not connected to a developer or the County - Requests the best part of the SNR remain intact as open space and the degraded portion of the SNR developed - Tree mitigation doesn't work. Once clear cut, planting trees in different locations doesn't mitigate the loss - As SNR properties areas are destroyed by housing development, accelerated loss of urban wildlife habitat areas identified and protected years ago occurs - The ordinance should require Design Review for new developments to require compatibility with existing neighborhoods	See answers above regarding preparation of reports by independent professionals. The ordinance as proposed for engrossment, addresses clear and objective standard requirements. Other comments are policy comments for Board consideration. Unfortunately, the requirement for clear and objective standards does not lend itself to make a qualitative assessment of the habitat with a consensus as to what constitutes the "best part of the SNR" Other comments noted or outside scope of ordinance
Donald Alexander	9/1/20	- The County has changed the approach to development. The County values housing density over livability. SNRs provide some balance to the County drive for housing density - Ordinance 869 seems like the County intends to violate the spirit of LCDC regulations governing SNRs. The purpose of the ordinance is to clarify rules governing development in SNRs. The Ordinance does nothing to protect wildlife, greenspace or livability - Dismayed by County's lack of serious consideration of citizen input and request staff prepare an additional alternative proposal for public review and comment - Ordinance should retain greater levels of protection of SNRs as originally contemplated in the County's Comprehensive Plan - ODFW should provide a level of review and oversight to a proposed "field verification" process	Based in large part on public and Planning Commission comments a number of changes have been made to the filed ordinance. As such, staff believes the ordinance, as proposed for engrossment, addresses clear and objective standard requirements. Land Use and Transportation staff and ODFW staff have discussed draft ordinance language and process considerations. At this point ODFW has not provided comments on the ordinance. Other comments are policy comments for Board consideration.

Name	Date	Summary	Staff Response
Tanya Rosencrance	9/1/20	- It is time for the County to establish clear and objective standards to protect SNRs - We agree with Urban Greenspaces Institute to require field verification of SNRs and to use additional, updated natural resources information when making development decisions - Urban tree protection is needed and should apply to ALL neighborhoods - The Tualatin Valley watershed needs protection to include larger areas adjacent to streams and wetlands to preserve biodiversity and quality of life	The ordinance as proposed for engrossment, addresses clear and objective standard requirements. Other comments are policy comments for Board consideration. Evaluating each site by quality of habitat would be similar to current practice, which has been considered a subjective decision which violates the clear and objective mandate of SB 1051 and LUBA decisions. The Tualatin Basin Program has many non-regulatory measures, including acquisition bond measures and development fees that protect the Tualatin River watershed. CDC standards are one part of the overall program to protect fish and wildlife habitat and improve watershed health.
Dale Feik, WC CAN	9/1/20	- Proposed Ordinance 869 does not satisfy Goals 5 (Natural Resources) or 2 (Land Use Planning) - Purpose of Goal 5 is different from that of CWS and Division of State Lands. Ordinance 869 doesn't protect natural resources as required by Goal 5. - The ordinance allows developers to destroy the remaining 15 or 20 percent of originally mapped Goal 5 *Wildlife Habitat* with "development potential". Applicants can destroy that if they plant baby trees and shrubs. - Concerned Fish and Wildlife was removed from proposed code language - Use time allowed under the enforcement order to solicit additional public comments and involve the ODFW - The ordinance should affect SNRs inside and outside the UGB, particularly related to tree removal - Language is not clear and/or objective: cites specific language - We support comments from the Tualatin Riverkeepers - Definitions should be defined by independent biologists - The lack of tree code disproportionately affects housing in areas of lower incomes. The value of preserving trees is not quantified in the policy. Support wildlife habitat and tree canopy	County Goal 5 Program was acknowledged in 1984 and Metro approved County's Goal 5 Program in 2005 through approval of Tualatin Basin Program. Certain CDC sections were determined not to be clear and objective, and this ordinance addresses those concerns. Reference to Goal 2 is unclear. Land Use and Transportation staff and ODFW staff have discussed draft ordinance language and process considerations. At this point ODFW has not provided comments on the ordinance. The regulations apply both inside and outside the UGB, as provide in the specific sections. See answers above regarding preparation of reports by independent professionals and changes were made to clarify replacement planting must occur onsite. Other comments regarding tree code and amount of protection are policy comments for Board consideration. Other comments noted.

Name	Date	Summary	Staff Response
Susan Nolte	9/1/20	- Protections for Natural Resource areas in the County is inadequate. - The tree protections are so weak as to be nonexistent - There is a stand of mature Oregon White Oak trees at Brugger Rd and 160th that are not identified as a SNR area. The overlay maps are not accurate - Trees planted in July 2019 in conjunction with the Springville Rd and 185th intersection are showing extreme stress due to lack of water. There is no follow up to ensure trees planted to replace mature trees survive - Five examples of development affecting SNRs are given - Support Urban Greenspace Institute and Tualatin Riverkeepers comments	Comments noted.
Anne Goldfeld	9/1/20	- The ordinance lacks specificity, strength, and plans for evaluation - Quantitative measures should be determined, and environmental justice issues need to be addressed - Adopt suggestions of local environmental nonprofit organizations - Apply Section 407 to unincorporated areas in the County - Strengthen the ordinance by taking into consideration scientific research on climate change, the importance of nature in neighborhoods and on mental health, and the value of trees to the environment, wildlife and people - Enforce the strictest protections for SNRs, especially tree protections, both inside and outside SNRs	Comments noted. Some comments reflect policy choices that are beyond the scope of this ordinance. No substantive comments have been made about how the changes proposed in this ordinance impact environmental justice issues beyond suggestion of new policies for Board consideration. Implementation measures may be developed after ordinance is adopted
Scot Dobberfuhl	9/1/20	- Opposed to proposed changes to Ordinance 869 - New housing projects have made him aware of irreversible consequences if code changes that favor urban development over preserving ever-dwindling natural resources - Ordinance 869 would grant developers too much unregulated power to redraw the boundaries of existing SNR areas with methodologies that favor their own interests - Developers success depends on maximizing profits through development. It is naïve to assume that habitat preservation is a primary concern - Finding a balance is not always possible. It seems the County is prioritizing development policies that will reduce or remove existing protections to SNRs when preserving undeveloped areas are more important than ever	Comments noted.

Name	Date	Summary	Staff Response
Michael Donoghue	9/1/20	- Some Section 422 definitions seem vague. They do not seem objective protections for SNRs that have teeth for County enforcement - Allowing applicants to choose "natural resource professionals" to determine SNR boundaries with "field verification" is flimsy and open to self-serving interpretation. The County is ceding the protection of SNRs to applicants - Wildlife habitat needs to be of sufficient size with quality native vegetation to support wildlife and wildlife corridors need contiguous pathways sufficiently wide with tree/brush coverage to provide for animal safety. At some point SNRs become too small to be meaningful - An independent field verification by an expert beholden to the citizens of the County. - The 2003 Renaissance Point II development on North Cooper Mountain used the developer expert and the hearings officer ruled there was nothing the SNA designation legally authorized him to do. The SNA defined area is no longer on the map. What good is the designation if it can't be protected and preserved? - Do not approve Ordinance 869. Allow more time for planners and SNR experts to include stricter definitions and have the County responsible for designation and protection of SNRs	Reference to the natural resource professional has been deleted and changes were added to the definition of drip line boundary to clarify outer limit of *Upland/Wildlife Habitat* area. Some comments reflect policy choices that have not been incorporated into County's comprehensive plan and go beyond the scope of this ordinance. Board directive was to consider current policies and make standards clear and objective, not adopt standards that are "stricter" than current.
Kay Nakamoto	9/1/20	- Very opposed to Ordinance 869 - Have tried to slow down housing developments in the Cooper Mountain area to promote careful planning. Concerned about wildlife habitats, natural resources, and tree preservation	Comments noted.
Roger Staver	9/1/20	- Further study and more revisions are needed to 869 - Current proposed changes are disjointed and far too objective to be enforceable	The ordinance as proposed for engrossment addresses clear and objective standard requirements.
Lynne Minich	9/1/20	- Stop destroying the natural resources on Cooper Mountain - Save one of the last remaining natural areas in the County	Comments noted.
John Williams	9/2/20	- Support protecting mature trees at 183rd and NW West Union. The mature trees are good habitat for large birds. They are in a vegetated area, but are just outside of the area designated on the map and are not protected - Protect coastal and sequoia redwoods as native species	Comments noted.

Name	Date	Summary	Staff Response
Andy Haugen	9/2/20	- Protect natural resources, the ordinance does not do enough to protect upland habitat - Tree protection should cover all trees, not just in UGB - Create a County Tree Heritage Program to protect heritage trees that may not be covered by the state program - Many trees are lost to infrastructure projects (Willamette Water Pipeline Installation) and other building and development - Requiring only 25% preservation is not enough to maintain the function and value of habitat - Prevent habitat fragmentation and save biodiversity.	Comments noted. Tree protection regulations for the unincorporated area is beyond the scope of this ordinance and could be a policy choice for Board consideration in future work programs.
David Leary	9/2/20	- Purchased property mapped with SNR and wildlife habitat to build a house. Due to the LCDC enforcement order, nothing can be done with the property. - Aware of ambiguity and the need for clarity - Urge doing what is necessary to lift enforcement order	Comments noted.
Jason Clinch	9/2/20	- Ordinance doesn't do enough to protect upland habitat. - Protect all trees >24 inches, not just within UGB and designated preservation areas - Proposed language is not clear and objective - Habitat preservation areas should be based on the assessed function and value of the habitat for proposed impact. The ratio should be based on science. 25% may not be enough to maintain the function and value of a habitat - Preserving habitat fragmentation and preserving biodiversity are important. The percentage of habitat required to be preserved next to a riparian corridor should not be less than the preservation requirement	Comments noted. Larger trees can be protected in a Preservation Area. Regulations protect entire Preservation Area including understory, not just trees. Habitat Preservation Areas must be brought up to 'good condition' so preserved areas will be planted to achieve that standard. If preservation next to already protected riparian area, could add more width to existing habitat corridors and encourage new development to make choice to protect higher quality habitat rather than an isolated parcel. Countywide tree code is beyond scope of this ordinance.
John Brieling	9/1/20	- Washington County has long term water supply and quality issues - Engineering, design, and construction work with the environment to store and provide water while saving fish, wildlife and the environment	County coordinates with special districts to make sure infrastructure needs are met, including water needs. CWS manages Healthy Stream Plan and County supports this for fish and wildlife habitat benefits.

Name	Date	Summary	Staff Response
Fran Warren	9/5/20	- Request approval of Ordinance 869 be postponed to allow changes to ordinance to meet clear and objective requirements. There are still major issues that need to be addressed - County was an early adopter of Oregon's Goal 5, but has fallen behind in applying Title 13 and in providing incentives and standards for preserving Significant Natural Resources - The acknowledged Goal 5 program for SNRs is located throughout multiple elements of the Comprehensive Plan. It makes it difficult for applicant and residents to research processes and policies - Examples provided where "clear and objective" statements are not met in ordinance as submitted <u>Major issues still to be addressed</u> - There are no specific provisions for the protection of Oregon White Oaks - Ordinance applies to riparian or upland/wildlife habitat areas that are specifically at or near designated "water/watershed" only - Required preservation area requirements are minimal - The County has no Climate Change Action Plan and no allowance for modifications to habitat protection guidelines due to climate change - The County Wildlife Inventory is out-of-date - Revise the SNR review process to include technical reviewers with expertise in natural resources including outside agency reviewers - County needs to standardize habitat report requirements and add them to the CDC - Table included for comparison of model code for jurisdictions	A number of changes are included in the engrossed ordinance to address concerns with clear and objective standard requirements. Community Development Code addresses development standards. Policies are in other elements of the comprehensive plan and describe policies. Policies are not enforceable but help guide intention of the regulations. These regulations do not address individual trees. Comments address other policy choices the Board can consider but are beyond the scope of this ordinance. The Habitat Assessment addresses the size, extent and type of habitat with the methodology that will be outlined in the Guidelines. Guidelines will be objective, so no discretion available, outside neutral reviewer is not necessary to assess objective standards. Guidelines will be adopted by the Board through Resolution and Order and not a land use decision.
Ona Golonka	9/7/20	- Concerned about loss of habitat - Significant Natural Resource areas need more protection and should be regarded with equal or greater importance than development - Place more objective measures and language related to protecting habitat in the CDC. Without clear and objective regulations, confusion and complications will arise and loopholes will be found	The ordinance as proposed for engrossment addresses clear and objective standard requirements. Other comments noted.
Fran Warren	9/9/20	- Request postponement of the approval of Ordinance 869 - Critical to focus on preserving wildlife corridors and connectivity to save critical wildlife and habitat	Ordinance hearing was continued for further consideration.

Name	Date	Summary	Staff Response
Kathy Stallkamp, CCI	9/10/20	- Ordinance 869 does not satisfy Land Use Goals 5 (Natural Resources) and 2 (Land Use Planning) - As written, the ordinance does not protect natural resources. Proposed language allows developers to destroy the remaining 12 percent of originally mapped Goal Wildlife Habitat with "development potential." Only a 15 or 25 percent "preservation area" is called for and there is a provision for applicants to destroy that if they plant small trees and shrubs. - ODFW was removed from code language. - Suggested language for CDC Section 422-3.1 – A Significant Natural Resource Field Verification prepared by an independent natural resource professional from the ODFW … - Remove terms that may lead to subjective analysis as they are not clear and/or objective - Support Tualatin Riverkeepers letters dated Nov. 25, 2019 and Aug. 18, 2020 - Definitions are not in a single location - Support environmental equity as it relates to protecting Wildlife Habitat and tree canopy - There are no calculations for incentives commensurate with ecological value of habitat - Code should require mitigation within Washington County drainage basins	County Goal 5 Program was acknowledged in 1984 and Metro approved County's Goal 5 Program in 2005 through approval of Tualatin Basin Program. Certain CDC sections were determined not to be clear and objective, and this ordinance addresses those concerns. Reference to Goal 2 is unclear. The County's SNR standards in CDC Section 422 were found by the Land Use Board of Appeals (LUBA) not to be clear and objective and thus unenforceable. Once County adopts clear and objective standards, will satisfy Goal 5, which requires jurisdictions adopt standards that meet policy objectives. Policies are not changing, but rather regulations are clarifying requirements, which is what Goal 5 requires. Priority is for clear and objective standards- so not necessary for independent reviewer when standards are objective and methodology standardized. Methodology for value of habitat to good condition will be in Habitat Assessment Guidelines. Comments related to policy are noted.
Diane Dickoff	9/14/20	- The ordinance must include protections for Natural Areas, add to open, tree lined areas with water and streams created to help with wildfires and stop temperature increases - The County has allowed wall to wall houses that don't have room to plant a tree and increase traffic - Increased traffic exhaust is polluting wetlands and destroying habitat that animals use for their home - Stop developers from removing trees and keep planned parks	Comments noted.
Helen Krieger	9/14/20	- Few natural areas have been preserved within city limits, but not in the unincorporated areas in the County - Recommend further editing of Ordinance 869	Many acres of riparian and upland habitat have been protected through the County development review process through mitigation and preservation in tracts. Other Comments noted.

Name	Date	Summary	Staff Response
Planning Commissioner Eric Urstadt	9/14/20	Comments addressed in separate memo	
Amy Johnson	9/14/20	- Natural resources should be protected - Ordinance 869 does not do enough to protect upland habitat - Tree protection should be changed to cover all trees, not just those in the UGB - Requiring only 25% to be preserved is not enough to maintain the functions and values of the habitat, the percentage should be larger - Preventing habitat fragmentation and saving biodiversity are important. The percentage of habitat required to be protected when next to a riparian corridor should not be less than the greater preservation requirement. Allowing less habitat to be preserved near streams could lead to habitat fragmentation and loss of biodiversity	Comments noted. Policy considerations regarding trees go beyond scope of this ordinance. Preservation Area rationale discussed earlier and in staff reports, but intent was to incentivize protection of higher value riparian habitat as addressed in Tualatin Basin Program decision.
Jennifer MacDonald	9/14/20	- Protect the little native habitat that still remains in the County - Ordinance 869 does not do enough <u>Suggested improvements</u> - Preserve existing wildlife corridors to allow for thriving biodiversity, especially near riparian areas, where it should not be less than the general preservation requirement - Expand preservation areas. The current amount is not enough to support wildlife - Old growth trees are crucial to healthy wildlife habitat. It is critical to protect all large trees, not just the ones inside the UGB	Comments noted.
Megan Rutherford	9/14/20	- Strengthen natural resources by making changes to Ordinance 869 - Tree protections should cover all trees, not just those in the UGB - Requiring only 25% to be preserved is not enough to maintain the functions and values of the habitat - Preventing habitat preservation and saving biodiversity are important. - The percentage of habitat required to be preserved when next to a riparian corridor should not be less than the general preservation requirement. Allowing less habitat to be preserved near streams could lead to habitat fragmentation and loss of biodiversity	Changes to policies concerning increasing tree preservation go beyond scope of this ordinance. Preservation Area rationale discussed earlier and in staff reports, but intent is to incentivize higher value riparian habitat as addressed in Tualatin Basin Program decision.

Name	Date	Summary	Staff Response
Stephen Funk	9/14/20	- Oppose current Ordinance 869 - Natural resources and wildlife habitat must be preserved <u>Change in current draft ordinance</u> - The percentage of habitat required to be preserved when next to a riparian corridor should not be less than the general preservation requirement. Allowing less habitat to be preserved near streams could lead to habitat fragmentation and loss of biodiversity - Requiring only 25% to be preserved is not enough to maintain the functions and values of the habitat. Habitat preservation areas should be increased - Tree protection should cover all trees, not just those in the UGB - Please slow the process and make a real effort to publicize the process	Comments noted. A tree code is outside of the limited scope of this ordinance. Notice for this ordinance and hearing dates have followed the standard process and comply with state law for a post acknowledgement plan amendment.
Roberta Sommer	9/14/20	- Natural Resources should be protected - Ordinance 869 does not do enough to protect upland habitat - Tree protection should cover all trees, not just those in the UGB - Requiring only 25% to be preserved is not enough to maintain the functions and values of the habitat. Habitat preservation areas should be increased - The percentage of habitat required to be preserved when next to a riparian corridor should not be less than the general preservation requirement. Allowing less habitat to be preserved near streams could lead to habitat fragmentation and loss of biodiversity - Science needs to be respected and the current ordinance does not reflect science - The pandemic has prevented public awareness - Current wildfires indicate responsible stewardship of natural resources is essential	A tree code is outside the limited scope of this ordinance and is a policy consideration for the Board. Preservation Area considerations noted and rationale for % are discussed in staff reports.
Maureen Dannen	9/15/20	- Natural spaces, trees, and wildlife habitats should be preserved and protected - Ordinance 869 has omissions and/or loopholes regarding protections of upland habitat in many of existing and proposed developments - Biodiversity is key to preserving a stable ecosystem. Species are interdependent in a healthy, functioning community. Allowing less habitat to be preserved near streams leads to habitat fragmentation and a resulting loss of biodiversity	Comments noted.

Name	Date	Summary	Staff Response
Eileen Sleva	9/15/20	- Concerned developers will be able to build on the County's last remaining areas designated as significant natural resources - The County is out of compliance with state regulations, take the time to get it right	Comments noted.
Linden Jeffers	9/15/20	- Natural resources should be protected - Ordinance No. 869 does not do enough protect upland habitat - Slow down the ordinance process to allow for citizen involvement. People have been distracted by the Covid-19 pandemic and wildfires happening in our region - Strongly disagree the Review Authority should have discretion to waive any of the submittal requirements for development in rural areas that harbor most of the ecologically significant SNRs	Comments noted. County has injunction in place and is responsible for amending the CDC to be clear and objective in a timely manner.
Chris Olson	9/15/20	- Natural resources should be protected - Ordinance 869 does not do enough to protect upland habitat - City of Tualatin and Washington County are the only larger communities in the County that do not have a comprehensive urban tree preservation code - Only requiring permits for tree cutting within urban SNRs contribute to the ongoing loss of urban trees and reduction of forest canopy - Do not rush into land development approvals without the input from the County citizens - Some ordinance sections need more work	Comments noted. County has injunction in place and is responsible for amending the CDC to be clear and objective in a timely manner.
Debby Garman	9/15/20	- Natural resources should be protected. More work needs to be done to protect large trees; increase, not reduce habitat preservation areas. - Policy should be based by science-based action to save essential biodiversity and ensure habitat is preserved - Ordinance 869 does not do enough to protect upland habitat - Slow down the ordinance process to allow for citizen involvement. People have been distracted by the Covid-19 pandemic and wildfires happening in our region and are not aware of the work around ordinance 869 - County stewardship since the original inventory of SNRs has reduced the retained resources to a mere 15% or the original natural wealth	County does not have a tree code and the Board directive has been to address the Enforcement Order and develop clear and objective standards for SNRs, not a County wide tree code. Board may consider development of a tree code across the unincorporated area in future Work Program discussions.
Dale Feik	9/16/20	- Support testimony of Urban Greenspaces Institute, Tualatin Riverkeepers and Ken Dobson	Comment noted.

Name	Date	Summary	Staff Response
Jeffry Gottfried	9/16/20	- Witnessed destruction of many natural areas and there remain natural lands that deserve protection <u>Supports</u> - Comprehensive ordinance that protects trees, especially in urban areas - Protect all remaining mapped upland habitat - Evaluation of lands for protection in development should be reviewed by other professional biologists independent of the County - The County should update resource inventory to protect Oregon White Oak and other important trees	Policy position for Board consideration ODFWs role is primarily on regulating fish and wildlife through the harvest and enhancement of fish populations and advising on conservation strategies for habitats with threatened and endangered species. They have limited staff capacity to evaluate development projects and may comment on them as they are able. Staff will coordinate with ODFW on development of Habitat Assessment Guidelines.
Ken Dobson	9/16/20	- Staff states Ordinance 869 only clarifies existing rules and does not constitute a departure from current SNR policies. This does not follow Comprehensive Plan Policy 10. - Proposed Ordinance 869 will allow developers to destroy 75-85% of designated Wildlife Habitat SNRs. Allowing the destruction of up to 85% of a designated Wildlife Habitat is neither pursuing “all reasonable methods” for preservation nor retaining “the wooded character and habitat” of the area - The proposed changes to the rules governing riparian SNRs mark a departure from existing policies - The proposed new rules give developers and their consultants essentially free reign in preparing site assessments using whatever methodologies the private consultants choose to utilize	Policy position for Board consideration. Tualatin Basin Program and Metro Title 13 provided requirements for County and other local jurisdictions to follow for regulations pertaining to riparian corridors. County plan policies and strategies need to be considered in their entirety and in context with other strategies. Staff believes the proposed regulations retain the current policy direction.
Blaine Ackley	9/18/20	- Property is within affected Goal 5 significant natural resources and three subdivisions are near or adjoin property - Impossible to mitigate or compensate for loss of a 400-year-old fir tree - Developers make mistakes. Unless there are hard and fast rules that are ENFORCED to prevent it from happening, preserving natural resources will get lost due to development pressure - During the development process, planning staff usually makes mitigation recommendations that are proposed by the developer. Many newly planted trees get removed because not enough space is allowed for tree roots and they grow into sidewalks causing problems - Trees, streams and wetlands support critical natural ecosystems - Take time with the ordinance and do the right thing - Protect Significant Natural Resources with strong rules and regulations	Certain trees of specific species or size have not been included as mapped resources unless considered as a Significant Natural Resource through the original inventory process and identified in the community plans.

Name	Date	Summary	Staff Response
Thomas & Masako Janovsky	9/22/20	- Most residents are uninformed on the issues in this ordinance - Support continuance of the ordinance to allow time to listen to the people	Ordinance hearing was continued for additional time for review.
Ashley Short, Tualatin Riverkeepers	9/23/20 10/6/20	- Tualatin Riverkeepers protects and restores the Tualatin River watershed <u>Comments supplement to Aug. 18</u> - The 25% and 15% preservation area is based on faulty assumptions. The SNR assessment pointed out the wildlife/upland protections that tried to save more than 25% did not work as intended. Preservation areas should be justified with scientific reasoning and use an ecosystem-based analysis to determine with portion of the habitat should be preserved - Encourage Washington County to model SNR code on Portland's code and use the approach across the county, not just inside the UGB. Portland uses a watershed-based approach that protects upland habitat to the same extent they protect riparian areas and vegetative corridors - The new standards do not adequately replace the mitigation requirements for any "serious interference" with SNRs. Allowing destruction of 75% to 85% of habitat without mitigation is a departure of the old SNR program and is less protective of upland/wildlife habitat. This is in conflict with the stated goals of the County's Comprehensive Plan Policy 10 - Requirement for a neutral professional field verification is still missing. Using a neutral professional is the best way to ensure accurate and above-board field verifications - Appreciate work done, however, Tualatin Riverkeepers do not support adoption of ordinance	Main objectives with the changes to § 422 are to comply with the Tualatin Basin Program and continue with current policy direction while making the regulations clear and objective, not to adopt new policies that would strengthen regulations. Increased protection of habitat based on habitat quality would entail a new policy directive. An additional incentive has been added to Planned Developments (§ 404) to allow development to use all of the preserved onsite *Upland/Wildlife Habitat* to meet Open Space requirements. Since the previous standard was not clear and objective, results varied, and quality of habitat was not always considered. Since the preservation area is required to be brought to good condition, quality habitat will be preserved over time rather than inconsistent areas with differing outcomes. Habitat quality decisions can be subjective, and the requirement is for these regulations to be clear and objective. Numeric standards are clear and objective. Engrossed ordinance removes reference to natural resource professional as it was not clear and objective. As long as field verification and assessment can be done consistent with the methodology, the particular credentials are not deemed necessary. This is consistent with the procedures of other agencies that also require technical reports, such as CWS.

Name	Date	Summary	Staff Response
Maggie Myers	9/25/20	- Oppose amendments that allow future development on lands or removal of protections of natural resource areas - Expand land, tree, wildlife protections; stop destructive developer practices - Trees and open spaces provide critical carbon filtration to mitigate the most extreme effects of climate change	Comments noted.
Fran Warren	9/25/20	- Request the approval of Ordinance 869 as proposed be postponed. Proposed engrossments are closer, but more time is needed for changes - More resources need added to the 2021 Work Program for a Climate Action Plan and a Tree Code - Upland wildlife habitat and headwaters are essential elements in maintaining ecosystems and wildlife corridors and connectivity - Section 422-5.3 has 500 sq. ft. space minimum space reserved for protecting SNRs. 500 sq. ft. is a start, but with no tree code, it is not adequate to protect needed understory of remaining mature trees - Case file information was submitted with a summary of the information	Class I and II Riparian Habitat on Metro's Inventory Map are subject to Section 422 standards, and headwaters are considered under CWS Design and Construction Standards. Other policy considerations are beyond the scope of this ordinance.
Tanya Rosencrance	9/25/20	- Three emails to PC members thanking them for: o Advocacy of marginalized areas and populations, it is time to address those discrepancies and make corrections o Belief in environmental science o Postpone ordinance until it is scrutinized more closely - Agree that site-specific conditions fragment a plan that should be bigger and more encompassing if progress moving forward is to be made	Comments noted.
Brett Campbell	9/28/20	- Consider the preservation of natural spaces for parks and recreational opportunities that benefit community members of all incomes	Comments noted.
Maria Choban	9/28/20	- Five emails to PC members thanking them for: o Moving into the 21st century and looking forward to future centuries and concern for the environment and surrounding natural habitat o How the Planning Commission meeting was run o Asking questions and clarifications o Pointing out there were difficult to understand passages and supporting more time to read the information o Agreeing the time frame was too short to digest the changes to Ordinance 869 and moved to not rush this iteration of the ordinance - The community is thinking about the future and preserving natural habitat	Comments noted.

Name	Date	Summary	Staff Response
Mary Manseau	9/29/20	- Delay adoption of the ordinance until all Planning Commission (PC) issues have been identified and addressed - Proposed engrossments are a step in the right direction, but more changes need to be implemented - Historically a bad job has been done preserving wildlife habitat, but habitat preservation is being based on historical data - As proposed, the ordinance would significantly reduce wooded parcels to a size that would interfere with the ability for the areas to function as high quality habitat for wildlife - The CDC should ensure the best *Upland/Wildlife Habitat* and the most significant trees identified during the process are preserved - Under Section 422-5, parcels with less than 2,000 square feet of Habitat Area are exempt from having to comply with SNR regulations and that does not make sense especially when a large site has a small area of habitat under 2,000 sq. ft., they would not be required to preserve any of it - Piecemealing SNR areas on a lot-by-lot basis will ensure adequate resources are not preserved when development is complete - Section 422-3 needs additional work. The minimum preservation area of 500 square feet does not go far enough – trees need more area - Substantial construction fencing that is not easily moved is needed to prevent damage to SNR areas to be preserved. Fencing would delineate the boundary between the SNR and privately-owned property - Screening and buffering should be required for all SNR areas, not just for Significant Natural Areas (SNAs) - Powerline corridors should qualify as Open Space for Planned Developments. Powerline corridors can serve a public good as Open Space serving as trails, ball fields, and community gardens	Preservation areas % is based on past implementation of standards. New policies to strengthen requirements have not been developed with this ordinance, as staff was directed to develop clear and objective regulations within current policy direction. Standards are required to be clear and objective. Since the minimum Preservation Area is 500 Sq. ft., which is 25% of 2,000 sq. ft., the engrossed ordinance includes an exception from the standards for projects with less than 2,000 sq. ft. of Habitat Area. Habitat quality can be subjective, and the requirement was to develop clear and objective standards to comply with Enforcement Order. By requiring Preservation Area habitat be brought to Good Condition using a set planting plan, an applicant could select “better” habitat to avoid further plantings and cost or increase value of developed properties. County does not have standards that protect certain trees, inventory did not specify certain trees as more significant than others. Vegetation in the habitat areas can serve as screening and buffering between the more active uses. Fencing standards have been added but not all development sites may warrant fencing, and requirements for fencing go beyond current policy direction. Fencing can have implications for safe wildlife passage. Powerline request goes beyond the scope of this ordinance and needs further study.

Name	Date	Summary	Staff Response
Jim Long, CPO 4M	9/29/20	- CPO 4M is against Ordinance 869 because it is not "clear and objective" code that protects Goal 5 Wildlife Habitat - Proposed ordinance changes were not seen prior to the CPO meeting. County documents are needed earlier to receive comments from the CPO. CPO meeting schedules vary and may not allow a quick turnaround to review documents - With the pandemic and protests there has minimal media coverage of this issue. Continue the hearing so more citizens can learn about the issues and provide input. Take the full time allowed by the LCDC enforcement order - CPO provided suggested CDC language <u>CPO outstanding questions</u> - Did PC receive copies of LCDC enforcement order and injunction materials? - Why did the County approve the SNR report before the LCDC ruling on the enforcement order? - Why doesn't the code language provide total protections for habitat? - Why is the County continuing to assume development in wildlife habitats? - Has Washington County used an independent biologist (e.g., ODFW) or otherwise to review ordinance language? - Has the County engaged in any consultation or coordination with ODFW?	Changes have been made to the filed ordinance to address any remaining standards that were not clear and objective. PC hearings on this ordinance have been continued several times, and the ordinance will have been considered during at least four PC hearings. The Board has held two hearings on the ordinance and two additional hearings are required for the engrossed ordinance. The PC has been briefed on the LCDC Enforcement Order on several occasion, and materials are available. The ordinance is intended to maintain current policy direction and not to expand protections. Staff has provided the draft ordinance language to ODFW and it is available for any independent biologist to review. Staff has met with ODFW and discussed ordinance provisions as well as possible future review of Guidelines by ODFW staff. Other comments noted.
Ken Dobson	9/29/20	- Some proposed rules are still not "clear and objective" even with the proposed engrossments and could be subject to legal challenges - A vote on the ordinance would be premature without the opportunity for the public to comment on the "Habitat Assessment Guidelines" and methodologies - OAR 660-023-0050 applies to any post acknowledgement plan amendment to the Goal 5 program, which Ordinance 869 does - LCDC recommended (but did not require) the County amend other rules and requirements that may be out of compliance. The County has not followed the recommendation and other rules are out of compliance with Goal 5 and the Needed Housing Statute - The proposed ordinance is a departure from existing Goal 5 policies in the Comprehensive Plan	The PC will have an opportunity to review the Habitat Assessment Guidelines and provide input to the Board prior to adoption. The Board will review the Guidelines in work session and consider adoption of the Guidelines by Resolution and Order. The effective date of the ordinance will match that for the Guidelines. The Board will determine whether CDC changes are in line with current policies and whether the SNR standards provide "reasonable methods for preservation…, without penalty for the potential loss of density" under Policy 10a in the CFP. The County is not embarking on a new Goal 5 process but rather clarifying aspects of the Tualatin Basin

		- Resources that should be inventoried: Riparian corridors including water and riparian areas and fish habitat; wetlands, wildlife habitat - County's SNR policies are in Comprehensive Plan Policy 10. Reasonable methods used to preserve SNRs prior to development and development of tree conservation standards to regulate removal or damage to tree and vegetation in identified SNR areas within the unincorporated urban area - Proposed Ordinance 869 will allow developers to destroy 75-85% of designated Wildlife Habitat SNRs. This is significant interference without good mitigation. The new practice to "lightly protect" designated wildlife habitat is not in the Comprehensive Plan - Following historic files in protecting 25% of resources follows a broken system that allows developers to exploit standards that are not clear and objective to destroy large portions of designated SNRs - Proposed changes to rules for riparian SNRs are also a departure from existing policies. Many of the specified required enhancements removed by the proposed ordinance are clear and objective - The new rules have so many exceptions and waivers that the purported SNR protections are illusionary. The exceptions to the new tree removal allow almost all trees in unincorporated areas of the County to be removed - County reliance on CSW and DSL rules that substitute for County standalone rules are misguided. CWS and County Goal 5 regulations serve separate purposes and do not necessarily overlap in scope and substance. CWS protections are not designed to not protect habitat. CWS regulations expressly state they are intended to be applied in combination with other local regulations and do not excuse the County from complying with Goal 5 requirements. This will invite legal challenges - Taking the presence of fish and wildlife out of the verification process runs contrary to the spirit of Goal 5 - The County must coordinate with Oregon Department of Fish and Wildlife in implementing the new SNR rules	Program and existing standards. Under the Tualatin Basin Economic, Social, Environmental and Energy (ESEE) analysis *no* areas were expected to receive *complete* protection. Development in Class I and II Riparian Habitat was to be strictly to moderately limited. For all other resource areas inside the UGB prior to 2005, development was to be lightly limited, meaning establishing voluntary and incentive measures. Such measures were adopted through Ord. No. 662 in 2006, including habitat friendly development practices to incentivize rather than regulate protection for wildlife habitat areas. The County proposes to go further than required by Title 13 by clarifying the existing standard for *Upland/ Wildlife Habitat* with clear and objective standards. The limited allowed uses in Section 422-4.1 for water-related resources are not changing, but staff is clarifying that applicants can alter the vegetation only when approved by CWS. This clarifies current practice and is consistent with the requirements of Title 13. As the Tualatin Basin Program work determined, despite having distinct purposes between water quality and habitat conservation, applying CWS Design and Construction Standards for Sensitive Areas requirements does result in improvement in overall ecological health for both fish and wildlife habitat. Metro Title 13 acknowledges this regional approach and specifies that jurisdictions participating in the Tualatin Basin Program must follow aspects of CWS requirements to be compliant with Title 13. DLCD acknowledged Metro Title 13 and Metro approved Tualatin Basin Program (3.07.1330 (b)(5) Implementation Alternatives for Cities and Counties), thus County complies with Goal 5 based on implementation of the program through Ord. No 662 in 2006. Staff response to other comments provided above.

Name	Date	Summary	Staff Response
Pat Forsyth	9/30/20	- CDC 422-3.6 historically allowed developers to destroy 75% or more of upland Goal 5 SNRs and wasn't a policy found anywhere in the CDC or Comprehensive Plan - LCDC's injunction was issued to prevent further "significant loss of such wildlife habitat areas" pending clear and objective protective code, so Ordinance 869's job is to protect the habitats - Use available lands outside of SNRs for affordable development, do not allow developers to build on sites with SNRs - Goal 5 resources should be preserved	Changes were made to the filed ordinance to ensure regulations are clear and objective, as required by LCDC Enforcement Order. Other comments noted. Some are policy considerations for further Board direction.
Paul Whitney	10/1/20	- Worked on Technical Advisory Committee for Title 13 and Metro inventory identified and classified Riparian and Upland Habitat - Believed a political decision was made at that time not to protect the best identified Upland Habitat but to purchase Upland Habitat where possible, which may not be the very best available. Washington County has allowed development on many of these quality upland habitat sites - Believes Protection Area percentage is worse because it does not take quality of habitat into account - Metro's inventory should be updated and used for identifying the Class I and II habitats are the only way to protect - Developers should not be allowed to choose as it may add to fragmentation of the habitat and protection of less valuable habitat - New mapping is needed to protect and assess upland/wildlife habitat	Comments noted. Policy considerations like updating and classifying habitat go beyond the scope of this ordinance and could be considered as part of future work programs. County participated in Tualatin Basin Program and implemented Title 13 to strictly and moderately limit development in Class I and II Riparian Habitat and added incentives and other non-regulatory measures for protecting Upland/Wildlife Habitat. Changes proposed clarify existing standards for *Upland/Wildlife Habitat* by quantifying the required preservation areas.
Dale Feik, WC CAN	10/5/20	- Asked Planning Commissioners and Board to read attachment: James Hansen 60 Minutes interview – Science behind climate change - Disagree with Eric Urstadt comments about forest management practices	Comments noted.
Atsuko Rothberg	10/6/20	- Request approval of Ordinance No. 869 be postponed to provide comprehensive policy - The ordinance will accelerate the loss of sensitive wildlife habitat - Ordinance language is still not clear and objective. Examples were given - Referred to Fran Warren research for unaffordable housing being built far from transportation and destroying sensitive habitat Other issues addressed by staff as part of testimony submitted on 8/31/20	Comments noted. Some are policy considerations for further Board direction.

Name	Date	Summary	Staff Response
Planning Commissioner Deborah Lockwood	10/6/20	Comments addressed in separate memo	
Cesar Grandjean	10/7/20	- Need land use policies that protect and preserve the remaining SNRs - Policies must be driven by scientific research addressing climate change and the effects on the quality of air, land, and water - Strict water quality regulations are needed to protect the health and future of the Tualatin River Watershed - Fish and wildlife must be protected by NOT fragmenting routes/habitats - Strict DEQ regulations must be enforced - Mature trees must be respected - The most protective measures must be taken - Opposed proposed gas station at the corner of 185th and West Union	Comments noted. Policy considerations go beyond the scope of this ordinance and could be considered as part of future work programs.
Anne Ashton Goldfeld	10/7/20	- Given global climate change crisis, the County has a moral and ethical imperative to protect and preserve remaining SNRs to highest degree - The policies must be informed by scientific research addressing the effect of climate change on the quality of air, land, and water - The most protective measures must be enacted immediately	Comments noted.
Masao Jankovsky	10/7/20	- Over years, south side of Rock Creek PCC has dramatically changed with rapid development. Congestion and pollution have changed the environment. Rabbits are gone and coyotes and cougars are on the THPRD paths even during the day - Question if air quality is safe and water clean - Planning has to be organized, calculated and anticipate needs and benefits of the future - With the effects of climate change, people must live without harming natural resources and wild animals for future generations - Land use policies should use science and protect remaining SNRs - DEQ and EPA regulations and guidelines must be strict - Ordinance 869 is still vague and needs to be changed. It is not enough	Comments noted. Policy considerations go beyond the scope of this ordinance and could be considered as part of future work programs.

Name	Date	Summary	Staff Response
Individual letters from: • Brittyn Lindsey • Cindy Cuellar • Elizabeth Silver • Fuhua Xu • Mallory Hiefield • Maria Choban • Marta Amar • Matt Hiefield • Peggy Erick • Roger & Pat Sandquist • Sallie Fogarty • Sheri Hiefield • Terrace Strand • Shawna Hartung • Shelley Signett • John Signett • Robert & Nicolette Steele • Jodi Bean	10/7/20	- Need land use policies that protect and preserve the remaining SNRs - Policies must be driven by scientific research addressing climate change and the effects on the quality of air, land, and water - Strict water quality regulations are needed to protect the health and future of the Tualatin River Watershed - Fish and wildlife must be protected by NOT fragmenting routes/habitats - Strict DEQ regulations must be enforced - Mature trees must be respected - The most protective measures must be taken	Comments noted. Tualatin Basin Program is focused on environmental health of Tualatin River basin.
Tanya Rosencrance	10/7/20	- Quote from Ron Wyden re: climate crisis is real… it's going to take a full-time effort from each of us if we want to slow it down and save our planet - Ordinance 869 should acknowledge this - The ordinance needs to reflect the latest science for future development - Maximizing profits today at the expense of SNRs is not a viable solution	Comments noted.

Name	Date	Summary	Staff Response
Ken Dobson	10/7/20	- In the supplemental staff report staff referred to Metro's Tualatin Basin Program. The program was designed to protect "regionally significant" resources - Ordinance 869 seeks to modify the County's Goal 5 program as it relates to "locally significant" Goal 5 resources identified in the County's original ESEE analysis. The County program predates and is independent of the Metro's program and in unaffected by the County's adoption of the regional plan in 2006 - LCDC recognized the distinction in the June 1 enforcement order	The Tualatin Basin Program (2005) conducted a local ESEE analysis of the Metro regionally identified resources in the Regionally Significant Fish and Wildlife Inventory. The County determined the appropriate level of protection based on local analysis conducted by the Tualatin Basin Partners. These were to Strictly to Moderately Limit Riparian Habitat and Lightly Limit other SNRs. The Tualatin Basin Program was considered a second Goal 5 process conducted by the Tualatin Basin Partners for the Tualatin Basin watershed in the urban area, not an "independent" Goal 5 process, per Policy 10. Staff could not find any references in the comprehensive planning documents that indicate a difference between "locally significant" and "regionally significant" resources and whether the SNRs should have different standards or that there is a different Goal 5 purpose intended. In any case, the changes proposed in A-Engrossed Ord. No. 869 modify subjective standards to make them clear and objective. This is the case with former Section 422-3.6. Clear and objective Preservation Area requirements are proposed to operationalize the subjective language of 422-3.6. LCDC recognized that the County had regulations that were not clear and objective, making that the focus of the change.
Maria Fernandez-Diaz	10/7/20	- Bachelor's in chemical engineering, master's in environmental engineering and worked the last 20 years in environmental field - Support sustainable development - Be innovative and promote growth, but take care of environment/health - County is a model of growth and green projects and should be proactive with regard to environmental issues - Against proposed gas station next to a wetland (Bethany Lake)	Comments noted.

Name	Date	Summary	Staff Response
Jim Long, CPO 4M	10/7/20	Information in addition to letter submitted on 9/29/20 - CPO 4M still opposed to Ordinance 869 and asks ordinance be continued to spring for more time to evaluate proposed amendments - All County residents are constituents of DLUT, not just the developers - CDC 422.3 - How is reducing from 150 to 100 feet more protection? - Ask field verifications be completed by an independent natural resource professional from ODFW - Submittal requirements removed district biologist from ODFW. Follow-up requirements removed ecologist and biologist. This in contrast to public opinion <u>Outstanding questions</u> - Clarification of ODFW communications for ordinance - What does the Buildable Lands Inventory state about the number of acres available "potential" and SNRs - Will the County support inventory of city SNRs to help understand "wildlife corridors"	Comments noted. Responses related to ODFW are discussed above. Other comments not related to ordinance development and go beyond scope of this ordinance.

WASHINGTON COUNTY
OREGON

Public Testimony Received
Subsequent to Staff Report for 9/29/20
Board of Commissioners Meeting

Department of Land Use & Transportation
Planning and Development Services • Long Range Planning
155 N First Avenue, Suite 350, MS 14, Hillsboro, OR 97124-3072
phone: 503-846-3519 • fax: 503-846-4412
www.co.washington.or.us/lut • lutplan@co.washington.or.us

Attachment B

Received 10/09/20
Wash. Co. LUT

From: Niki Steele <nsteele@pcc.edu>
Sent: Wednesday, October 7, 2020 2:25 PM
To: Michelle Miller
Subject: [EXTERNAL] ORDINANCE #869

Dear Planning Commissioners,

I am writing to comment on proposed Ordinance #869.

Washington County has changed dramatically in the past decades due to population growth and development. It is imperative that we go forward with land use policies that protect and preserve our remaining SNRs and that these policies be driven by current scientific research addressing climate change and its effects on the quality of air, land, and water.

We need strict water quality regulations to protect the health and future of the Tualatin River Watershed.

We must protect fish and wildlife by NOT fragmenting their routes and habitats.

Clean air is not guaranteed, as we have experienced this summer and past summers. Strict DEQ regulations must be enforced. The importance of mature trees needs to be respected.

I am asking that the most protective measures be undertaken right now . The future and livability of our County depend on it.

Thank you.

ROBERT & NICOLETTE STEELE
19875 NW METOLIUS DRIVE
PORTLAND, OREGON 97229

--
Sent from Gmail Mobile

Received 10/09/20
Wash. Co. LUT

From: Rosencrance <tanya.rosencrance@gmail.com>
Sent: Wednesday, October 7, 2020 10:48 AM
To: Michelle Miller
Cc: Andy Back; Kathryn Harrington
Subject: [EXTERNAL] Ordinance 869

Dear Commissioners,

A quote from Ron Wyden this morning:

....climate crisis is real. We're seeing its impact all around us, and it's going to take a full-time effort from each and every one of us if we want to slow it down and save our planet.

Ordinance 869 should acknowledge this.

A 22-year old ordinance needs to reflect the latest science for future development. We are all interdependent and responsible for future generations. Maximizing profits today at the expense of SNRs is not a viable solution.

Sincerely,

Tanya Rosencrance
19200 NW Illahe St
Portland, OR 97229

Received 10/09/20
Wash. Co. LUT

From: Zeet <zeeted@frontier.com>
Sent: Wednesday, October 7, 2020 10:45 AM
To: Michelle Miller
Subject: [EXTERNAL]

Dear Planning Commissioners,
I am writing to comment on proposed Ordinance #869.
Washington County has changed dramatically in the past decades due to population growth and development. It is imperative that we go forward with land use policies that protect and preserve our remaining SNRs and that these policies be driven by current scientific research addressing climate change and its effects on the quality of air, land, and water.
We need strict water quality regulations to protect the health and future of the Tualatin River Watershed.
We must protect fish and wildlife by NOT fragmenting their routes and habitats.
Clean air is not guaranteed, as we have experienced this summer and past summers. Strict DEQ regulations must be enforced. The importance of mature trees needs to be respected.
I am asking that the most protective measures be undertaken right now . The future and livability of our County depend on it.
Thank you.
John Signett
18900 NW Lapine St.
Portland, OR 97229

Received 10/07/20
Wash. Co. LUT

From: Shawna Hartung <shawnahartung@gmail.com>
Sent: Wednesday, October 7, 2020 5:24 PM
To: Michelle Miller <Michelle_Miller@co.washington.or.us>
Subject: [EXTERNAL]

Dear Planning Commissioners, I am writing to comment on proposed Ordinance #869. Washington County has changed dramatically in the past decades due to population growth and development. It is imperative that we go forward with land use policies that protect and preserve our remaining SNRs and that these policies be driven by current scientific research addressing climate change and its effects on the quality of air, land, and water. We need strict water quality regulations to protect the health and future of the Tualatin River Watershed. We must protect fish and wildlife by NOT fragmenting their routes and habitats. Clean air is not guaranteed, as we have experienced this summer and past summers. Strict DEQ regulations must be enforced. The importance of mature trees needs to be respected. I am asking that the most protective measures be undertaken right now . The future and livability of our County depend on it. Thank you. Shawna Hartung and family

Received 10/07/20
Wash. Co. LUT

KENNETH P. DOBSON
ATTORNEY AT LAW

telephone: (971) 717-6582
email: landlaw.oregon@gmail.com
www.pdxlandlaw.com

0324 S.W. Abernethy Street
Portland, Oregon 97239

October 6, 2020

VIA ELECTRONIC MAIL

Michelle Miller
Senior Planner
Washington County Department of Land Use & Planning
155 N. 1st Avenue, Suite 350
Hillsboro, Oregon 97124
michelle_miller@co.washington.or.us

Re: *Proposed Ordinance 869 – Third Supplemental Comments*

Ms. Miller:

As you know, I represent Jill Warren. Please accept this letter as Ms. Warren's third supplemental comments concerning proposed Ordinance 869 and include them in the record for the October 7, 2020 Planning Commission meeting.

In its supplemental staff report, County staff attempted to address many of the public comments critical of proposed Ordinance 869 by frequently referencing Metro's Tualatin Basin Program. It is important to understand that Metro's Goal 5 program was designed to protect "regionally significant" resources. In developing the program, Metro and various local jurisdictions undertook a new ESEE analysis to identify regionally significant resources to be protected by the program. These resources generally included areas identified as Class I and II riparian habitat areas.

By contrast, Proposed Ordinance 869 seeks to modify the County's Goal 5 program as it relates to "locally significant" Goal 5 resources identified in the County's original ESEE analysis. The County's local Goal 5 program predates and is independent of Metro's regional Tualatin Basin Program and was unaffected by the County's adoption of the regional Goal 5 program in 2006. In fact, the LCDC recognized that distinction when issuing its June 1 enforcement order and found that the Tualatin Basin Program was not a suitable substitute for the County's pre-existing Goal 5 program. Accordingly, the County's repeated reliance on the Metro regionally significant Goal 5 program is misplaced and cannot justify the proposed sweeping elimination of protections for locally identified Goal 5 resources.

Sincerely,

Kenneth P. Dobson

Received 10/07/20
Wash. Co. LUT

From: Marta Amar <martica52@yahoo.com>
Sent: Tuesday, October 6, 2020 6:24 PM
To: Michelle Miller <Michelle_Miller@co.washington.or.us>
Subject: [EXTERNAL] Ordinance 869

Dear Planning Commissioners,

I am writing to comment on proposed Ordinance #869.

Washington County has changed dramatically in the past decades due to population growth and development. It is imperative that we go forward with land use policies that protect and preserve our remaining SNRs and that these policies be driven by current scientific research addressing climate change and its effects on the quality of air, land, and water.

We need strict water quality regulations to protect the health and future of the Tualatin River Watershed.

We must protect fish and wildlife by NOT fragmenting their routes and habitats.

Clean air is not guaranteed, as we have experienced this summer and past summers. Strict DEQ regulations must be enforced. The importance of mature trees needs to be respected.

I am asking that the most protective measures be undertaken right now . The future and livability of our County depend on it!

Thank you,

Marta Amar
19655 NW Quail Hollow Dr
Portland, OR 97229

Received 10/07/20
Wash. Co. LUT

From: Maria Choban <mariachoban@gmail.com>
Sent: Tuesday, October 6, 2020 6:28 PM
To: Michelle Miller <Michelle_Miller@co.washington.or.us>
Subject: [EXTERNAL] Ordinance #869: Testimony for October 7, 2020 WC Planning Commission meeting

Dear Washington County Planning Commissioners,

I am writing to comment on proposed Ordinance #869.

Washington County has changed dramatically in the past decades due to population growth and development. It is imperative that we go forward with land use policies that reflect current and future Washington County. We must protect and preserve our remaining SNRs for the future residents. We must set our policies according to current scientific research addressing climate change and its effects on the quality of air, land and water.

We need strict water quality regulations to protect the health and future of the Tualatin River Watershed. We must protect fish and wildlife by NOT fragmenting their routes and habitats.

Clean air is not guaranteed, as we have experienced this summer and past summers. Strict DEQ regulations must be enforced.

The importance of mature trees needs to be respected.

I am asking that the most protective measures be undertaken right now. The future and livability of our Washington County depend on it.

Thank you,
Maria Choban
4255 NW 174th Avenue
Portland, OR 97229

Received 10/07/20
Wash. Co. LUT

-----Original Message-----
From: Elizabeth Silver <midgesilver2003@yahoo.com>
Sent: Tuesday, October 6, 2020 6:42 PM
To: Michelle Miller <Michelle_Miller@co.washington.or.us>
Subject: [EXTERNAL] Ordinance 869

Dear Planning Commissioners,

I am writing to comment on proposed Ordinance #869.

Washington County has changed dramatically in the past decades due to population growth and development. It is imperative that we go forward with land use policies that protect and preserve our remaining SNRs and that these policies be driven by current scientific research addressing climate change and its effects on the quality of air, land, and water.

We need strict water quality regulations to protect the health and future of the Tualatin River Watershed.

We must protect fish and wildlife by NOT fragmenting their routes and habitats.

Clean air is not guaranteed, as we have experienced this summer and past summers. Strict DEQ regulations must be enforced. The importance of mature trees needs to be respected.

I am asking that the most protective measures be undertaken right now. The future and livability of our County depend on it.

Thank you,

Elizabeth Silver
18715 NW Tolovana
Portland OR 97229

Received 10/07/20
Wash. Co. LUT

From: Cesar Grandjean <cesar.grandjean@gmail.com>
Sent: Tuesday, October 6, 2020 6:48 PM
To: Michelle Miller <Michelle_Miller@co.washington.or.us>
Subject: [EXTERNAL] Protect Bethany Lake Environment

Dear Planning Commissioners, I am writing to comment on proposed Ordinance #869. Washington County has changed dramatically in the past decades due to population growth and development. It is imperative that we go forward with land use policies that protect and preserve our remaining SNRs and that these policies be driven by current scientific research addressing climate change and its effects on the quality of air, land, and water. We need strict water quality regulations to protect the health and future of the Tualatin River Watershed. We must protect fish and wildlife by NOT fragmenting their routes and habitats. Clean air is not guaranteed, as we have experienced this summer and past summers. Strict DEQ regulations must be enforced. The importance of mature trees needs to be respected. I am asking that the most protective measures be undertaken right now . The future and livability of our County depend on it thus I oppose to the Chevron Gas Station proposal for the corner of 185th Avenue and West Union. Thank you.

Cesar Grandjean
19860 NE Quail Hollow Dr
Portland, OR 97229
(503) 729-9036
Cesar.Grandjean@gmail.com

Received 10/07/20
Wash. Co. LUT

From: Pat Sandquist <patsandquist@frontier.com>
Sent: Tuesday, October 6, 2020 6:54 PM
To: Michelle Miller <Michelle_Miller@co.washington.or.us>
Subject: [EXTERNAL] Public Hearing, Oct7

Dear Planning Commissioners,

I am writing to comment on proposed Ordinance #869.
Washington County has changed dramatically in the past decades due to population growth and development. It is imperative that we go forward with land use policies that protect and preserve our remaining SNRs and that these policies be driven by current scientific research addressing climate change and its effects on the quality of air, land, and water.

We need strict water quality regulations to protect the health and future of the Tualatin River Watershed. We must protect fish and wildlife by NOT fragmenting their routes and habitats. Clean air is not guaranteed, as we have experienced this summer and past summers.

Strict DEQ regulations must be enforced. The importance of mature trees needs to be respected. I am asking that the most protective measures be undertaken right now . The future and livability of our County depend on it.
Thank you.

Roger and Pat Sandquist
18925 NW Lapine St.
Portland, OR 97229

Received 10/07/20
Wash. Co. LUT

From: Margaret Erick <merick99@gmail.com>
Sent: Tuesday, October 6, 2020 7:06 PM
To: Michelle Miller <Michelle_Miller@co.washington.or.us>
Subject: [EXTERNAL] Re: Ordinance #869

Dear Planning Commissioners, I am writing to comment on proposed Ordinance #869. Washington County has changed dramatically in the past decades due to population growth and development. It is imperative that we go forward with land use policies that protect and preserve our remaining SNRs and that these policies be driven by current scientific research addressing climate change and its effects on the quality of air, land, and water. We need strict water quality regulations to protect the health and future of the Tualatin River Watershed. We must protect fish and wildlife by NOT fragmenting their routes and habitats. Clean air is not guaranteed, as we have experienced this summer and past summers. Strict DEQ regulations must be enforced. The importance of mature trees needs to be respected. I am asking that the most protective measures be undertaken right now . The future and livability of our County depend on it. Thank you.

Peggy Erick
Rock Creek Resident

Received 10/07/20
Wash. Co. LUT

-----Original Message-----
From: Sheri Hiefield <shiefield@icloud.com>
Sent: Tuesday, October 6, 2020 7:53 PM
To: Michelle Miller <Michelle_Miller@co.washington.or.us>
Subject: [EXTERNAL] Ordinance #869

Dear Planning Commissioners,

I am writing to comment on proposed Ordinance #869.

Washington County has changed dramatically in the past decades due to population growth and development. It is imperative that we go forward with land use policies that protect and preserve our remaining SNRs and that these policies be driven by current scientific research addressing climate change and its effects on the quality of air, land, and water.

We need strict water quality regulations to protect the health and future of the Tualatin River Watershed.

We must protect fish and wildlife by NOT fragmenting their routes and habitats.

Clean air is not guaranteed, as we have experienced this summer and past summers. Strict DEQ regulations must be enforced. The importance of mature trees needs to be respected.

I am asking that the most protective measures be undertaken right now . The future and livability of our County depend on it.

Thank you.
Sheri Hiefield
16680 NW Argyle Way
Portland, OR 97229

shiefield@mac.com

Received 10/07/20
Wash. Co. LUT

-----Original Message-----
From: Sallie Fogarty <salliefogarty@comcast.net>
Sent: Tuesday, October 6, 2020 7:57 PM
To: Michelle Miller <Michelle_Miller@co.washington.or.us>
Subject: [EXTERNAL] Ordinance #869

>
> Dear Planning Commissioners,
>
> I am writing to comment on proposed Ordinance #869.
>
> Washington County has changed dramatically in the past decades due to population growth and development. It is imperative that we go forward with land use policies that protect and preserve our remaining SNRs and that these policies be driven by current scientific research addressing climate change and its effects on the quality of air, land, and water.
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> We need strict water quality regulations to protect the health and future of the Tualatin River Watershed.
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> We must protect fish and wildlife by NOT fragmenting their routes and habitats.
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> Clean air is not guaranteed, as we have experienced this summer and past summers. Strict DEQ regulations must be enforced. The importance of mature trees needs to be respected.
>
> I am asking that the most protective measures be undertaken right now. The future and livability of our County depend on it.
>
>Thank you,
Sallie Fogarty
15914 NW Saint Andrews Dr.
Portland, Oregon
97229
Sent from my iPhone

Received 10/07/20
Wash. Co. LUT

From: Mallory Hiefield <mhiefield@gmail.com>
Sent: Tuesday, October 6, 2020 8:09 PM
To: Michelle Miller <Michelle_Miller@co.washington.or.us>
Subject: [EXTERNAL] Ordinance 869

Dear Planning Commissioners, I am writing to comment on proposed Ordinance #869. Washington County has changed dramatically in the past decades due to population growth and development. It is imperative that we go forward with land use policies that protect and preserve our remaining SNRs and that these policies be driven by current scientific research addressing climate change and its effects on the quality of air, land, and water. We need strict water quality regulations to protect the health and future of the Tualatin River Watershed. We must protect fish and wildlife by NOT fragmenting their routes and habitats. Clean air is not guaranteed, as we have experienced this summer and past summers. Strict DEQ regulations must be enforced. The importance of mature trees needs to be respected. I am asking that the most protective measures be undertaken right now . The future and livability of our County depend on it. Thank you.

Received 10/07/20
Wash. Co. LUT

-----Original Message-----
From: Brittyn Lindsey <greatbrittyn@yahoo.com>
Sent: Tuesday, October 6, 2020 6:28 PM
To: Michelle Miller <Michelle_Miller@co.washington.or.us>
Subject: [EXTERNAL] Ordinance 869

Dear Planning Commissioners,

I am writing to comment on proposed Ordinance #869.

Washington County has changed dramatically in the past decades due to population growth and development. It is imperative that we go forward with land use policies that protect and preserve our remaining SNRs and that these policies be driven by current scientific research addressing climate change and its effects on the quality of air, land, and water.

We need strict water quality regulations to protect the health and future of the Tualatin River Watershed.

We must protect fish and wildlife by NOT fragmenting their routes and habitats.

Clean air is not guaranteed, as we have experienced this summer and past summers. Strict DEQ regulations must be enforced. The importance of mature trees needs to be respected.

I am asking that the most protective measures be undertaken right now . The future and livability of our County depend on it.

Thank you.

Brittyn Lindsey
17532 NW Springville Rd. Unit 2
Portland, OR 97229

Sent from my iPhone

Received 10/07/20
Wash. Co. LUT

From: Matthew Hiefield <matthiefield@mac.com>
Sent: Tuesday, October 6, 2020 8:31 PM
To: Michelle Miller <Michelle_Miller@co.washington.or.us>
Subject: [EXTERNAL] Ordinance #869

Dear Planning Commissioners, I am writing to comment on proposed Ordinance #869. Washington County has changed dramatically in the past decades due to population growth and development. It is imperative that we go forward with land use policies that protect and preserve our remaining SNRs and that these policies be driven by current scientific research addressing climate change and its effects on the quality of air, land, and water. We need strict water quality regulations to protect the health and future of the Tualatin River Watershed. We must protect fish and wildlife by NOT fragmenting their routes and habitats. Clean air is not guaranteed, as we have experienced this summer and past summers. Strict DEQ regulations must be enforced. The importance of mature trees needs to be respected. I am asking that the most protective measures be undertaken right now . The future and livability of our County depend on it. Thank you.

Matt Hiefield
16680 N.W. Argyle Way
Portland, Oregon
97229

Received 10/07/20
Wash. Co. LUT

From: Annee Ashton Goldfeld <goldfeld@aya.yale.edu>
Sent: Tuesday, October 6, 2020 6:59 PM
To: Michelle Miller <Michelle_Miller@co.washington.or.us>
Subject: [EXTERNAL] proposed Ordinance #869

Dear Planning Commissioners, I am writing to comment on proposed Ordinance #869. Given the global environmental and existential crisis of climate change, Washington County has a moral and ethical imperative to enact land use policies that protect and preserve our remaining SNRs to the highest degree. These policies must be informed by current scientific research addressing the effects of climate change on the quality of air, land, and water. I ask, especially on behalf of future generations, that the most protective measures be enacted immediately.
Thank you. Anne Ashton Goldfeld, MSW, MPH
18090 NW Cornell Rd. A
Beaverton, OR 97006

Received 10/07/20
Wash. Co. LUT

From: Shelley Signett <shellsig@frontier.com>
Sent: Wednesday, October 7, 2020 9:55 AM
To: Michelle Miller <Michelle_Miller@co.washington.or.us>; Theresa Cherniak <Theresa_Cherniak@co.washington.or.us>
Subject: [EXTERNAL] Proposed Ordinance #869 comment

I am writing to comment on the proposed Ordinance #869 to amend significant natural resource regulations.

As caretakers of our environment, I feel it is critically important that our land use policies be upgraded to protect and preserve our significant natural resources. These policies should be driven by current scientific research addressing climate change and its effects on the quality of air, land, and water.

We need strict water quality regulations to protect the health and future of the Tualatin River Watershed. We must protect fish and wildlife by NOT fragmenting their routes and habitats. Clean air is not guaranteed, as we have experienced this summer and past summers. Strict DEQ regulations must be enforced. The importance of mature trees needs to be respected.

I appeal to you to take the most protective measures possible right now. The future and livability of our County depend on it.

Thank you for your consideration.

Shelley Signett
18900 NW Lapine St.
Portland, OR 97229
shellsig@frontier.com

Received 10/07/20
Wash. Co. LUT

-----Original Message-----
From: Cindy Cuellar <cfcue1@gmail.com>
Sent: Tuesday, October 6, 2020 10:41 PM
To: Michelle Miller <Michelle_Miller@co.washington.or.us>
Subject: [EXTERNAL] Ordinance #869

Dear Planning Commissioners,

I am writing to comment on proposed Ordinance #869.

Washington County has changed dramatically in the past decades due to population growth and development. It is imperative that we go forward with land use policies that protect and preserve our remaining SNRs and that these policies be driven by current scientific research addressing climate change and its effects on the quality of air, land, and water.

We need strict water quality regulations to protect the health and future of the Tualatin River Watershed.

We must protect fish and wildlife by NOT fragmenting their routes and habitats.

Clean air is not guaranteed, as we have experienced this summer and past summers. Strict DEQ regulations must be enforced. The importance of mature trees needs to be respected.

I am asking that the most protective measures be undertaken right now . The future and livability of our County depend on it.

Thank you.

Cindy Cuellar
5375 NW Shoreline Way
Portland, OR 97229

Received 10/07/20
Wash. Co. LUT

Dear Planning Commissioners,

I am writing to comment on proposed Ordinance #869.

Washington County has changed dramatically in the past decades due to population growth and development. It is imperative that we go forward with land use policies that protect and preserve our remaining SNRs and that these policies be driven by current scientific research addressing climate change and its effects on the quality of air, land, and water.

We need strict water quality regulations to protect the health and future of the Tualatin River Watershed.

We must protect fish and wildlife by NOT fragmenting their routes and habitats.

Clean air is not guaranteed, as we have experienced this summer and past summers. Strict DEQ regulations must be enforced. The importance of mature trees needs to be respected.

I am asking that the most protective measures be undertaken right now . The future and livability of our County depend on it.

Thank you.

Terrace Strand
4365 NW Neskowin Ave
Portland OR
97229

Received 10/07/20
Wash. Co. LUT

Dear Planning Commissioners,

I am writing to comment on proposed Ordinance #869.

Washington County has changed dramatically in the past decades due to population growth and (over)development. We cannot keep losing green space and natural habitat so someone can drive two miles less for gas or grocery.

It is imperative that we go forward with land use policies that protect and preserve our remaining SNRs and that these policies be driven by current scientific research addressing climate change and its effects on the quality of air, land, and water.

We need strict water quality regulations to protect the health and future of the Tualatin River Watershed.

We must protect fish and wildlife by NOT fragmenting their routes and habitats, nor polluting their waters.

Clean air is not guaranteed, as we have experienced this summer and past summers, and what we see globally. Strict DEQ regulations must be enforced. The importance of mature trees needs to be respected and maintained because it takes an hour to cut down an old tree, but a century to grow it.

I am asking that the most protective measures be undertaken right now. The future and livability of our County depend on it. We cannot recreate wetlands and the great outdoors for our children. We must protect what we have.

Thank you for your time and attention,

Jodi

Jodi Bean

19885 NW Metolius Dr

Portland, OR 97229

Received 10/07/20
Wash. Co. LUT

From: Fuhua Xu <fhxu@hotmail.com>
Sent: Tuesday, October 6, 2020 10:29 PM
To: Michelle Miller <Michelle_Miller@co.washington.or.us>
Subject: [EXTERNAL] Re: Ordinance #869

Dear Planning Commissioners, I am writing to comment on proposed Ordinance #869. Washington County has changed dramatically in the past decades due to population growth and development. It is imperative that we go forward with land use policies that protect and preserve our remaining SNRs and that these policies be driven by current scientific research addressing climate change and its effects on the quality of air, land, and water. We need strict water quality regulations to protect the health and future of the Tualatin River Watershed. We must protect fish and wildlife by NOT fragmenting their routes and habitats. Clean air is not guaranteed, as we have experienced this summer and past summers. Strict DEQ regulations must be enforced. The importance of mature trees needs to be respected. I am asking that the most protective measures be undertaken right now . The future and livability of our County depend on it. Thank you. Fuhua Xu
E-mail: fhxu@hotmail.com

Received 10/07/20
Wash. Co. LUT

Dear Planning Commissioners, I am writing regarding to Ordinance #869.

We live in South side of PCC Rock Creek.

Washington County, especially our area, has changed dramatically over the past years. Due to rapid significant development, we see lots of changes in environment. Our street is more congested. Animals (especially Coyote and Cougars) are coming out for food onto the THPRD walking path even during the day. They are beautiful, but scary at the same time. They also must be scared when the construction started!! We lost the scenery of rabbits hopping around in the bushes.
It is not only the animals that get problems from these significant changes. At the beginning of the pandemic, the Bethany QFC or Aloha Costco was packed with so many people. Are we safe when big earth quick hit the region? School district is trying to accommodate the number of students changing the school boundary. Some people who bought own house in the new development area are complaining about lack of gas stands!! What about fires/police stations? (We are having more crime cases.)
What about hospitals? (We are hearing much more sirens day and night.) What about the pollution people create? Is our air quality safe level for human and animals? Is our water clean enough?

When the cities are planned to develop, it is significantly important to plan well how all those subjects will be met the needs of the demand. Infrastructures, hospitals, schools, police / fire stations, parks, recreation facilities, stores, gas stations, all has to be met to the community's needs. In Washington County, we witnessed some luck of the balance of those when the developer comes in and start to build houses. We believe the planning has to be more careful, and foresee the future needs ahead of time.

Now, some states in USA is experiencing the massive effect of the climate change including Oregon. This did not actually started recent years in other countries, and many regions of the world. And it is getting worse each year.
Why we have to face to this outcome? The answer is clear.
It is the time to develop our idea how people should live without harming the nature to reduce this cricis for all of us including all the wild animals and the nature resources for the future generations.

It is important to develop the city to meet the demand of houses / businesses, but the planning has to be really well organized and calculate all the benefits for the future.

The Ordinance#869 is seems like not completely meet/ collaborate to all the issues we have, somehow still vague. Simply not enough.

It is important to have land use policies that protect and preserve our remaining SNRs which goes with all the development plans for decades, and over. Strict DEQ, EPA regulations and guideline must be reflect. All the science has to be reflect. Oregon has been a beautiful place, and so famous for its' natural environment. Washington County also should carefully protect all those natural resources for the future. Our county should develop wisely, not only economically beneficial.
To do so, we believe it has to be more detailed regulations, and need to have some changes to Ordinace #869. Thank you so much.

Masao Jankovsky

5188 NW 177th Ave
Portland, OR 97229

Neighbors Working Together!

CPO4M

Received 10/07/20
Wash. Co. LUT

October 7, 2020

Washington County Planning Commission
c/o Kevin Moss, Clerk to the Board
155 N. First Avenue, MS-22
Hillsboro, Oregon 97124
WashCoClerk@co.washington.or.us

RE: Proposed Ordinance 869 Significant Natural Resource areas (SNR)

At our 4th Wednesday CPO meeting, the membership empowered the steering committee to draft this letter opposing Ordinance #869 as written over two months ago because it is 'subjective' but not 'clear and objective' code that actually protects Goal 5 Wildlife Habitat. We had not seen the proposed language changes before our meeting. Now that that the steering committee as seen the staff's proposed language changes CPO-4M still opposes #869A.

In the early 1970s, Governor Tom McCall, champion of our statewide land use laws, said in speeches "we have to protect this thing called "Oregon". And that protection includes all living creatures and their habitat.

The current County's Dept. of Public Health mission statement is: protect people, animals, and the environment. At our CPO meeting last week, a representative from the Sheriff's office said that they historically have received quite a positive response from the public about wildlife. Recently, birds and other wildlife appear to have appreciated the societal slowdown of the pandemic, with cleaner air, less traffic, less noise, etc.

For years CPO-4M has been stating that Washington County is out of compliance with Goal 5 environmental protections. Fourteen months ago, CPO-4M testified asking the Board of Commissioners put a moratorium on DLUT approval of applications involving biologically and ecologically irreplaceable SNRs. The County response was continued denials of violating Goal 5 environmental protections.

There are reasons why 'conservation' comes before 'development' in the Oregon Land Conservation and Development Commission (LCDC) name.

The Department of Land Conservation and Development because of the pandemic gave Washington County until May 1st to have 'clear and objective' standards. Even though the LCDC unanimously approved the Enforcement Order in May, media coverage has been minimal on this issue.

The media has given understandable coverage of the protests, riots, pandemic numbers, and re-opening of the economy. These are good reasons to continue hearings about this ordinance, so that more citizens can learn about the issues and provide input.

The constituents of the Dept. of Land Use and Transportation (DLUT) are not just the developers, but all residents and their quality of life countywide. Landowners know if their property has SNR Goal 5 environmental protections and requirements that they need to adhere to.

Specific requests/suggestions for specific language:
There distinction between Metro's Goal 5 program for "regionally significant" resources and the County's Goal 5 for "locally significant resources."
Tualatin Basin

However, CPO-4M wants also wanted to specifically raise the issue of the County's consultation with ODFW. The supplemental staff report states that the County has been in touch with ODFW, but beyond that, we have not seen anything regarding the substance of the communications.
What was asked of ODF&W?
Knowing what exactly ODFW said to the County about the proposed ordinance is important and should be disclosed and be made part of the public discussion.

Ask for WC support for inventory of city SNRs.

Regarding the previous language, CPO-4M stated:
422.3
Reducing from 150 to 100 feet is providing less protection than more.
Please tell us how this is more protection as Public Involvement and Engagement Report shows was requested from many community members?

422-3.1 A Significant Natural Resources Field Verification (Field verification) prepared by an independent natural resource professional from Oregon Department of Fish & Wildlife that identifies . . .

Submittal requirements (4) takes out district biologists from Oregon Department of Fish and Wildlife. Follow-up requirements removes ecologist and biologist. This is contrary what the public has been asking.

The terms "Comprehensive Plan" vs. "Community Plan" cause confusion.

There are many outstanding Questions:

Did Planning Commission members receive and read copies of both the "good case" recommendation by LCDC staff, the Enforcement Order, and the Injunction?

Why did the county approve the SNR report before the LCDC ruling on the Enforcement Order? It seems like the final report should have the state Enforcement Order and injunction in it.

Why doesn't the Ord. 869 code language provide total protections for habitat?

Why is the county continuing to assume development in wildlife habitats?

What does the Buildable Lands Inventory state about the number of acres available "potential . . . and SNRs?

Will the county support an inventory of city SNRs to help understand 'wildlife corridors'?

Has the County used an independent biologist (e.g., Oregon Department of Fish and Wildlife) or others to review the language in either proposed Ordinance 869 or 869A?

How has the county engaged any consultation or coordination with ODF&W?
Who at ODF&W did the county talk to? What are their qualifications?
What specifically are ODF&W Comments? We want to see them and have them included as part of the record for this proposed Ordinance.

Did ODF&W help with this ordinance language? Or will ODF&W help on Guidelines?

During this era of climate changes, replanting is not enough for these precious and irreplaceable resources. Once the SNRs are gone, they are gone forever.

Due to time limitations of volunteerism, CPO-4M membership comments on the engrossments will not be able to be formulated and approved until the next CPO-4M meeting on Oct. 28th, after all the scheduled public hearings before the PC and BoC. And other CPOs meet less frequently than CPO-4M and may also not be able to comment on the new language if engrossed. Because of that and the outstanding questions, CPO-4M asks that these discussions on versions of Ordinance 869 continue into next spring. The public needs more time to review the proposed amendments.

Last May, LCDC was sensitive enough to the complexities of these issues and the citizen limitations due to the pandemic to grant Washington County until May 1, 2021 to have 'clear and objective' policies. The County should take the full time allocated by the LCDC to ensure the new rules are grounded in sound science and have the County has thought through how this will play out in real life, especially considering all the loopholes and exceptions.

We hope these discussions about to engrossed language continues.

Yours truly,

Jim Long, Chair
503-647-0021

Received 10/07/20

Wash. Co. LUT

Dear Planning Commissionaires,

I am writing to comment on proposed Ordinance #869.

I have a bachelor's degree in chemical engineering and a master's in environmental engineering. I have worked for the last two decades in the environmental field and you can see my credentials in Linkedin. I worked for the largest environmental consulting company for seven years, and have been first-hand witness of environmental issues in Western United States. I have been a resident of Washington County for the past 15 years, and with my husband, an engineer working in high tech, have raised our three wonderful children in this county. We are supporter of sustainable development, we need to be innovative and should promote growth, but need to take care of the environment and health. Washington County is a model of growth and green projects, but we have to be proactive with regard to the environmental issues that are affecting our county and the world. For instance, I never thought, that I had to actively participate against a proposed gas station next to a wetland. But it is happening in Bethany Lake. The risks to ecological habitats and human health of this project outweigh the benefit of the applicant, and should not be permitted. I have worked cleaning up hydrocarbon spills from as far as a Cold War Air Force in Alaska to the heart of Los Angeles, and I can assure you that there is not enough time or money to clean up a spill. We need gas stations, but not where they pose an immediate risk. We need to continue growing and being competitive, but we need to be proactive with our health and environment.

Thank you.
Maria Fernandez-Diaz
5039532613
18715 NW Lapine Street, Portland Oregon

Received 10/06/20
Wash. Co. LUT

From: Deborah Lockwood <deborahlockwood50@gmail.com>
Sent: Monday, October 5, 2020 6:10 PM
To: LUT Planning <lutplan@co.washington.or.us>
Subject: [EXTERNAL] Re: Testimony received in Ordinance No. 869
Importance: Low

Hi Theresa,

Thanks for sending this. I have 2 questions:

Where would I find the policy direction to "lightly limit" development? I'd like to see that in context to understand it better.

Also, does 2019's HB 2829 have any bearing on managing natural areas in Washington County? I will send the text separately.

Thank you.

Deborah

WASHINGTON COUNTY
OREGON

Staff Responses to Commissioner Lockwood Questions Regarding Ordinance No. 869 Submitted on Oct. 6, 2020

1) Where would I find the policy direction to "lightly limit" development? I'd like to see that in context to understand it better.

Staff Response: The policy direction to "lightly limit" development within areas with Upland Habitat originated with the Tualatin Basin Program decision – the Goal 5 analysis conducted by the County and the other Tualatin Basin Partners in 2005. Known as the Tualatin Basin Program, it was ultimately adopted by Metro and incorporated into Title 13 of the Urban Growth Management Functional Plan as one of the ways jurisdictions can comply with Goal 5.[1] Jurisdictions can exceed, but at the least must meet the standards set in Title 13.
There are options outside the Tualatin Basin program for other jurisdictions, but the County meets Title 13 by implementing the Tualatin Basin program.

"Lightly limit" is one of the policy decision categories that was used in Tualatin Basin Program when considering how much to limit uses that conflict with identified Significant Natural Resources.

Within the Tualatin Basin Program, it was determined that development on higher value Riparian Habitat *inside* the CWS Vegetated Corridor was to be moderately to strictly limited, depending on where it was located and when it was added to the UGB. Riparian Habitat *outside* the CWS Vegetated Corridor was to be moderately limited. And all other resources, including Upland Habitat, were to be lightly limited. Under the adopted Program, lightly limited actually meant that only voluntary and incentive-based approaches would be used to encourage preservation of these resources.[2]

Within the program, the terms had the following specific meanings:

Strictly Limit: Protection, conservation, enhancement and mitigation are required. Projects must be designed to avoid impacting these areas and may not encroach into these areas except under limited circumstances as provided for under CWS Design and Construction standards.

[1] 660-023-0080 Metro Regional Resources (3) Metro may adopt one or more regional functional plans to address all applicable requirements of Goal 5 …... Such functional plans shall be submitted for acknowledgment under the provisions of ORS 197.251 and 197.274. Upon acknowledgment of Metro's regional resource functional plan, local governments within Metro's jurisdiction shall apply the requirements of the functional plan for regional resources, rather than the requirements of this division.

[2] The Tualatin Basin ESEE Report and Program Report Materials from 2004 are not available online, however, they are available to review upon request at the LUT offices.

Moderately Limit: Conservation and restoration will be encouraged in these areas. Density reduction would be allowed provided conserved resource lands are permanently protected. Resources in these areas would be targeted for restoration or enhancement projects.

Lightly Limit: The focus of these areas is on education and incentives for the implementation of low impact development (LID) and green design approaches.

The requirement was that these approaches be carried through in local jurisdictions' development regulations through adoption of policies and requirements for habitat friendly development practices. The County did this through Ordinance No. 662 in 2006.

At the time, the County did not change CDC § 422-3.6, which had existed prior to the Title 13 Tualatin Basin program decision changes. That section required that "…there shall be a finding that the proposed use **will not seriously interfere** with the preservation of fish and wildlife areas and habitat identified in the Washington County Comprehensive Plan, **or how the interference can be mitigated**." [Emphasis added] What it meant to seriously interfere or to mitigate were not well defined and these have been interpreted differently over time.

In developing a replacement for the subjective standards found in the current regulations as part of Ordinance No. 869, the County considered the possibility of deleting the standard altogether as it applied to *Upland/Wildlife Habitat* since the determination through the Tualatin Basin decision was that development in these areas be "lightly limited". However, since some protections had been in place over time through the subjective provisions of § 422-3.6, staff adopted the *concept* of "lightly limiting" development – though going beyond the requirements of the Tualatin Basin Program - through establishment of a specified percentage of *Upland/Wildlife Habitat* to be protected.

Reasonable people can disagree on what it might mean to lightly limit development in this context. The staff proposal is based in part on the average amount of *Upland/Wildlife Habitat* preserved through development applications under the existing rules. This is in keeping with maintaining the current policy direction under the existing regulations.

In summary, there was a subjective standard in place that required some degree of mitigation if there was serious interference with *Upland/Wildlife Habitat*. The intent of existing regulations and policy direction was not to preserve all of this resource, and in fact most recent policy direction through the Tualatin Basin program decision was to lightly limit development by means of voluntary and incentive-based approaches. Staff has proposed measures that go beyond what is strictly required under Metro Title 13/Tualatin Basin decision to acknowledge that the County had existing regulations that provided a measure of protection for these areas. Staff expanded on the concept and modified the term "lightly limit" to apply in this circumstance.

Since recent changes to state law now require all standards applied to residential development be clear and objective, a clear and objective percentage requirement was proposed. Subjectivity in terms of quality of habitat and specific situations on specific sites is not allowed under the clear and objective requirement. Staff acknowledges this is difficult regarding natural resources, which is an inherently subjective area.

2. Does 2019's HB 2829 have any bearing on managing natural areas in Washington County?

Staff Response: This legislation authorizes the establishment of the Oregon Conservation and Habit fund for the Oregon Department of Fish and Wildlife. The potential for the Fund to play a meaningful role in the management of natural areas in the County is not yet known. No legislative appropriations to seed the Fund has been finalized and future appropriations are dependent on both Legislative budgetary priorities and securing non-state funding. Should funding be secured, it will be appropriated by an advisory body on a competitive basis to "to carry out activities that serve to protect, maintain or enhance fish and wildlife resources in Oregon" with a focus on voluntary activities by individual property owners prioritized in the Oregon Conservation Strategy.

Purchase of natural resource lands by partner agencies from willing sellers is another part of the County's overall Goal 5 program – the CDC regulations are another aspect of that overall program. Staff could provide future briefings on this aspect of the program if the PC has interest.

For example, the recent Metro Parks and Natural Area bond is potential source of funds for a variety of recreational and open space uses, including the preservation and restoration of natural areas to enhance water quality and conserve habitat areas. Historically, such projects have been located outside of the UGB, staff has talked internally about trying to prioritize these funds for projects that preserve urban habitat. Staff have also talked with THPRD about purchasing certain such areas, for instance lands adjacent to the Cooper Mountain Natural Area. Since THPRD relies on willing sellers they unfortunately often aren't able to purchase such lands. Purchase of some of these lands may be a more effective strategy in preserving large contiguous habitat areas rather than trying to do this through individual development projects.

Received 10/06/20
Wash. Co. LUT

October 5, 2020

Washington County
Planning Commission and Board of Commissioners
155 N. First Avenue
Hillsboro, OR 97124

From: Atsuko Rothberg
7926 SW Oviatt Dr.
Beaverton, OR 97007

Re: Proposed Land Use Ordinance No. 869

I would like to continue to request that the approval of the Ordinance No. 869 amendments as submitted to be postponed, so that Washington County LUT team will be able to conduct further research and provide fully comprehensive and appropriate policy. As Mrs. Fran Warren researched and visualized for us in her testimony dated on 9/25/20, a very small portion of the sensitive wildlife habitats have been reserved until today. This amendment to Ordinance No. 869 will accelerate sensitive wildlife habitat loss to a greater and more significant extent, so I am strongly against for this amendment.

1. "needed housing" = "affordable housing" (?)

While my neighbors and I were trying to protect the Wildlife Habitat on SW Rigert Rd, I exchanged a couple of emails with Paul Schaefer, a Senior Planner at Washington County Department of Land Use & Transportation. He mentioned a couple of **that the current ordinance is not clear and objective *(Reference A).*** I think I found a hint in these messages.

I believe the word "needed housing" needs to be qualified as being defined by a specific governing process like the Housing Market Analysis & Needs Assessment report. At this point, ALL housing can be considered as "needed housing" because this wording is not clear.

In the "Housing Market Analysis & Needs Assessment, Chapter 3" which was thoroughly researched and published by the Washington County, **it clearly states what kind of housing is "needed."**

https://www.co.washington.or.us/CommunityDevelopment/Planning/upload/Consolidated-Plan-Ch-3-Housing-Market-Analysis-Needs-Assessment.pdf

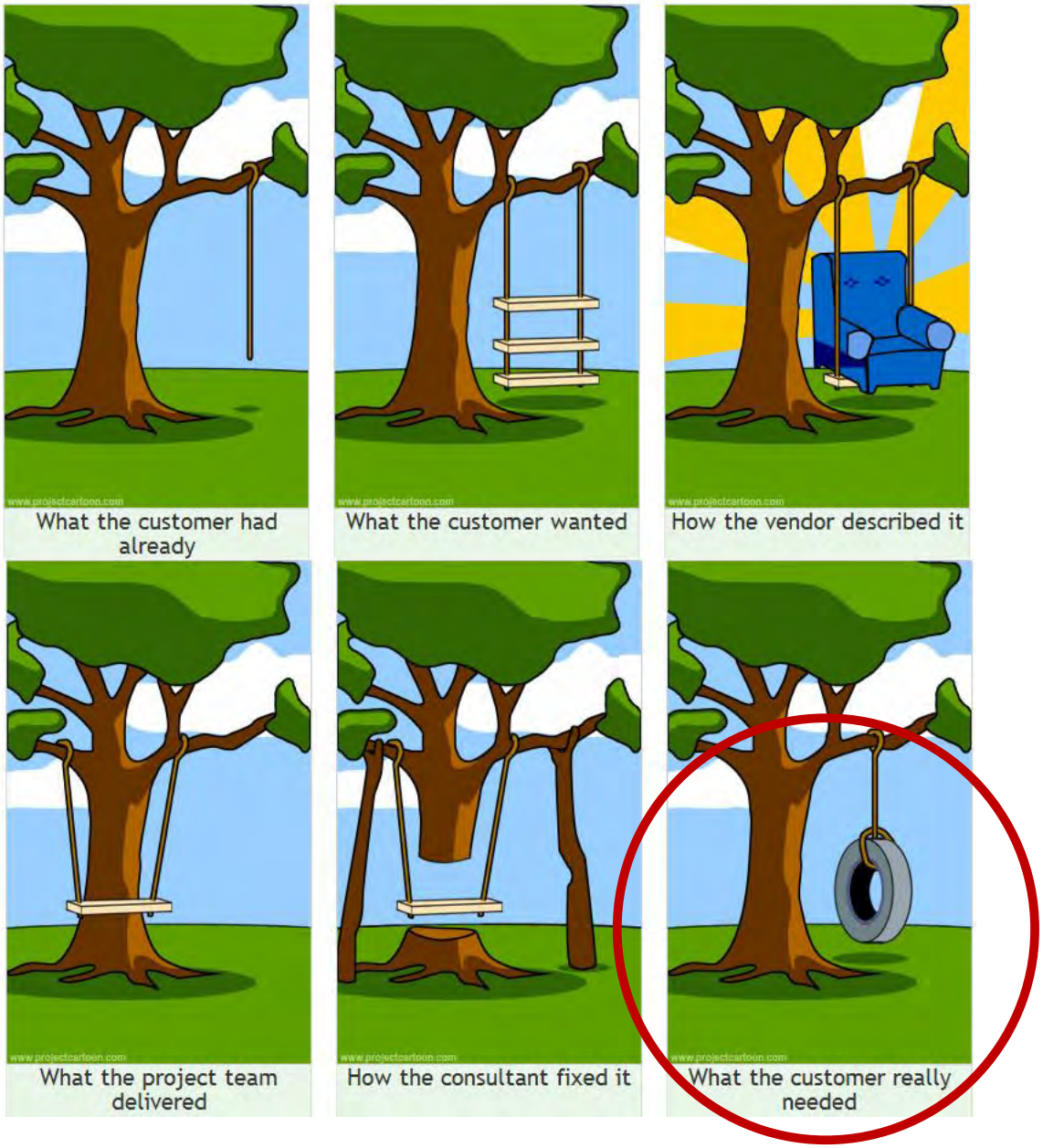
It talks about **the demand for low-cost affordable housing far exceeds the supply** and also, ethnic and racial minorities comprise a disproportionate percentage of lower income households, and in what area these people reside in Washington County. ***(Reference B)***

As Commissioner Poddar pointed out at the meeting on 9/16/20, those population tend to utilize public transportations, and most sensitive wildlife habitats are located far from train stations or bus stops. If **"Needed Housing" is "Affordable Housing**," why we are not prioritizing those people's needs?

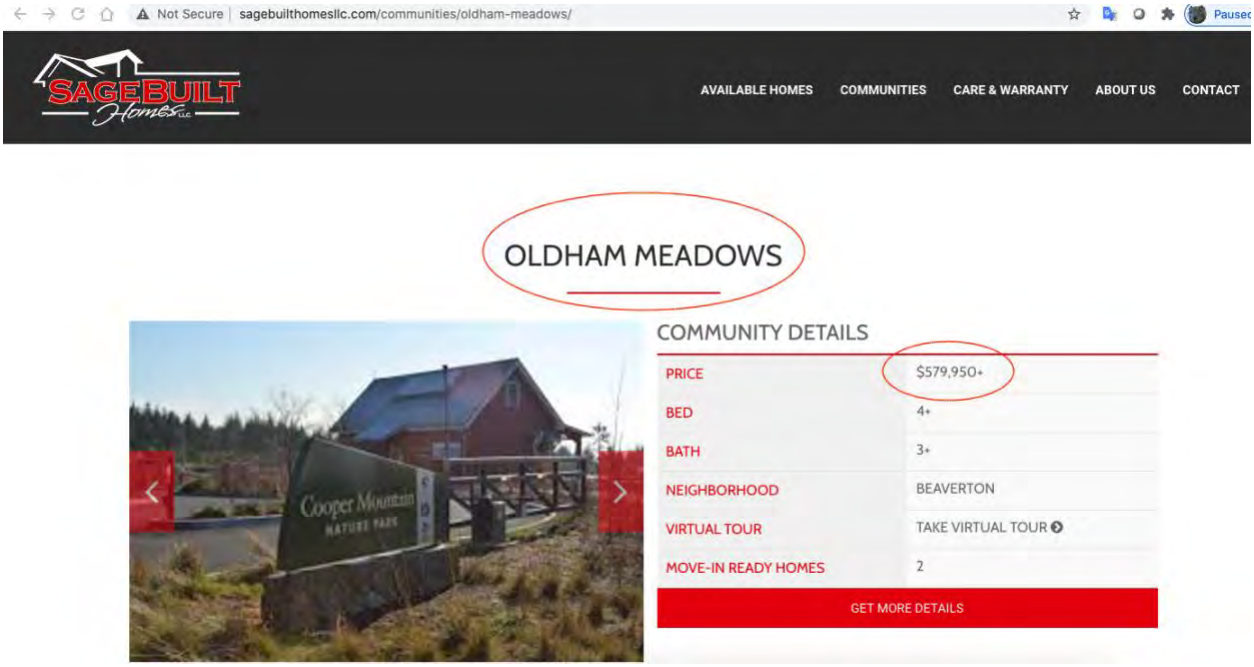
As Mrs. Fran Warren showed the results of her research, many unaffordable houses have been built by destroying sensitive wildlife habitats. Those houses are not only far from public transportations, but also those are not really "needed housing" according to the county's Needs Assessment. Has

the Long-Range Planning Division staff been working with a team who conducted this Housing Needs Assessments?

Let's focus on what people are really asking, **which is affordable housing**.



Below is the developer's website, and the satellite images in 2002 and 2019. As you can see, Oldham Meadows were built by destroying the sensitive wildlife habitat. The housing prices are far more than what we can consider as "affordable housing."



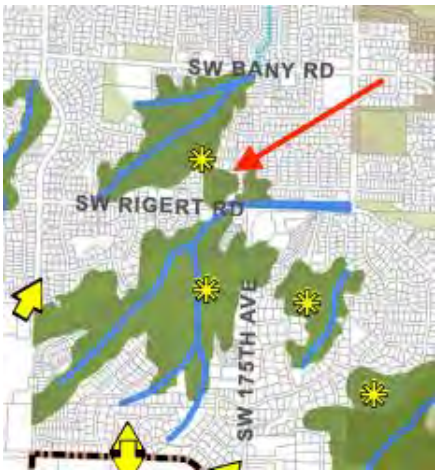
http://sagebuilthomesllc.com/communities/oldham-meadows/

April 2002	May 2019 Oldham Meadows

Images by Google earth

2. **<u>Wildlife Corridor and SNR assessment</u>**

A Wildlife Corridor should not be excluded from consideration in these amendments. How can we mitigate or protect the wildlife if we do not consider how wildlife live and move about? If you solely limit the SNR area to 25% (or 15%) without considering a trail for wildlife, we will destroy entire wildlife habitats.



The above-mentioned property on SW Rigert Rd is a functioning wildlife corridor, which will be destroyed in order to build “needed (???)” 11 houses which are not affordable and which are not really needed housing per Housing Market Analysis & Needs Assessment report. This under 2 acres of small property connects bigger wildlife habitats in the north and the south, and the wild animals have been traveling through this small property.

Even though the applicant said he would reserve 25% of the property to "mitigate" this habitat, this land will lose its function as a corridor, and separate those bigger habitats (North and South) and will end up putting those bigger habitats at risk. ***(see the sensitive wildlife habitat map above and Reference C)***

In addition, I appreciate for the staff response to my written testimony submitted on 8/31/20. https://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/upload/869_PC_SR_Supplemental_100720_wAtts_web.pdf. I think there is a misunderstanding, so I would like to explain. I understand and appreciate that it is common practice to require development applicant to provide assessment materials and it is a requirement for applicant to submit habitat assessment. I totally agree this is good practice, this is important and this should be required. What I am concerned about is inaccuracies and biases of the SNR Assessment report (paid for by the developer??). I think the assessments need to be done by an unbiased/ independent biologist, and the information on the report needs to be true and accurate.

Staff Response
Comments noted
Comments noted
The ordinance addresses clear and objective standard requirements.
As noted earlier, it is common practice to require development applicant to provide assessment materials. All other jurisdictions surveyed required development applicant to submit habitat assessments done by applicant's consultant.
Other comments are policy comments for Board consideration.

For this reason, please include "SNR assessment should be conducted by 'unbiased/ independent' and 'experienced' biologists, and also, 'require audits'." The SNR assessment report for the property mentioned above had a number of errors which also appeared to be advantageous to the developer. ***(Reference C and D.)*** For example, very simple acreage calculation mistakes were obvious, and labeling SNR conditions as "poor" after the developer or his contractors had cut down trees and clear bushes. We should avoid any of these false data because these reports are used for the land use staff reports and the approval decision.

3. <u>Is a mitigated area really mitigating?</u>

Building codes are very detailed and clear because it is very important to make sure houses are built while maintaining safety. But at the same time those "minimum requirements" become "the standard" as many developers would go with the bare minimum to take the full advantage. I know we are talking about Ordinance No. 869 here instead of talking about the building codes. But I think it's safe to assume if we say 25% (or 15%) of mitigation in these amendments, many developers will go with the bare minimal whether the property is functioning as a wildlife corridor or not.

I understand that it is easier if we use a certain number just like the building codes, but we have to be very careful when adding something like this to regulations because our environment is complicated, and we have to take it into considerations many aspects like, what kind of natural resources exist on/ and around the property, how the land is functioning, location of good SNR..etc. The purpose of mitigation is to minimize the negative impacts to wildlife habitats or natural resources, but if we just rely on the number 25% (or 15%) without considering various aspects, mitigation area will not meet its purpose.

An example of this showed in ***(Reference C)*** which is not considering wildlife corridor or Good SNR, and select random 25% of a property (which is not Good SNR) as a "mitigation" which will end up blocking the animals' mobilities.
We cannot just give a number and try to take a One-Size-Fits-All type of approach. We have to look at all the different conditions, functions and see how we can minimize the impact. We have to check what exists in the nearby area, as well. So, **it is essential identify/ define how we measure the success of mitigation/ selecting the right mitigation area.**

April 2002

May 2019
Oldham Meadows

Small red circle in the map (May 2019) is the “mitigated” area, and its street view is below.

Do you think this fenced small area is really mitigating the wildlife habitat?

In conclusion, I strongly believe, and would like to request the followings:

- Define how “needed housings” is determined in the regulation to achieve the purpose of this amendment so we can prioritize affordable housing which is in current a demand in Washington County and will allow us to accurately focus in the future.
- Define **how we should measure the successful mitigation** which really meets the purpose of ‘mitigation’ and ‘protect’ wildlife on the property and the surrounding environment. Blanket percentage reserved is problematic as noted.
- Prohibit development that is destroying sensitive wildlife habitats/ corridor in the Washington County. (because, like I showed the example of Oldham Meadows, those expensive houses which are replacing those sensitive wildlife habitats which do not appear to be actually “needed housing.”)

Thank you for your time and considerations.

Respectfully,

Atsuko Rothberg
atsukorothberg@frontier.com

References:

Reference A:

Paul Schaefer

RE: [EXTERNAL] Wash. Co. L2000048-S

To: Atsuko Rothberg, Cc: Louisa Bruce

June 12, 2020 at 12:00 PM

Details

PS

Atsuko,

Staff reviewed the SNR Report and the findings are in the Staff Report as it pertains to the recommendation for approval. Unfortunately, regulatory limits exist due to LUBA's finding that the County's Goal 5 regulation (422-3.6) – which led to the Enforcement Order – were not clear and objective. This finding was made in association with regulations affecting "needed housing". To wit, staff was without much in the way of regulatory ability, for example, to require a larger natural resource open space tract in Rigert Commons.

Long Range Planning Division staff is currently working tirelessly on an ordinance to address the lack of clear and objective standards (to address the Enforcement Order). The goal is to adopt new Section 422 regulations this ordinance season.

Please let me know if you have any questions.

Paul

Paul Schaefer I Senior Planner
Washington County Department of Land Use & Transportation
Planning and Development Services I Current Planning
155 N First Avenue, Suite 350 MS13 I Hillsboro, OR 97124
(503) 846-3832 direct I (503) 846-2908 fax
paul_schaefer@co.washington.or.us I www.co.washington.or.us/lut

Washington County Roads on Twitter on Facebook
Plan Responsibly. **Build** Safely. **Live** Well.
Staff continues to work remotely, as most services are provided online, via email, phone, or mail/courier delivery. We urge all customers to continue to conduct business remotely whenever possible to help mitigate the spread of COVID-19.

Current Planning updates

LUT Services available online

Paul Schaefer

RE: [EXTERNAL] Wash. Co. L2000048-S

To: Atsuko Rothberg, Louisa Bruce

June 10, 2020 at 4:39 PM

PS

Long story short, staff reviewed the proposed development and the SNR Assessment in which the biologist concluded that much of the resource was impacted from the house and human activities in the vicinity around the house. Staff concurred that the proposed open space tract, which will be enhanced, will help mitigate the impacts to the existing SNR. The applicant also opined that the open space tract was the largest area that would allow the development of the housing, which is needed housing.

Please let me know if you have any questions.

Paul

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Current Planning updates

LUT Services available online

Reference B:

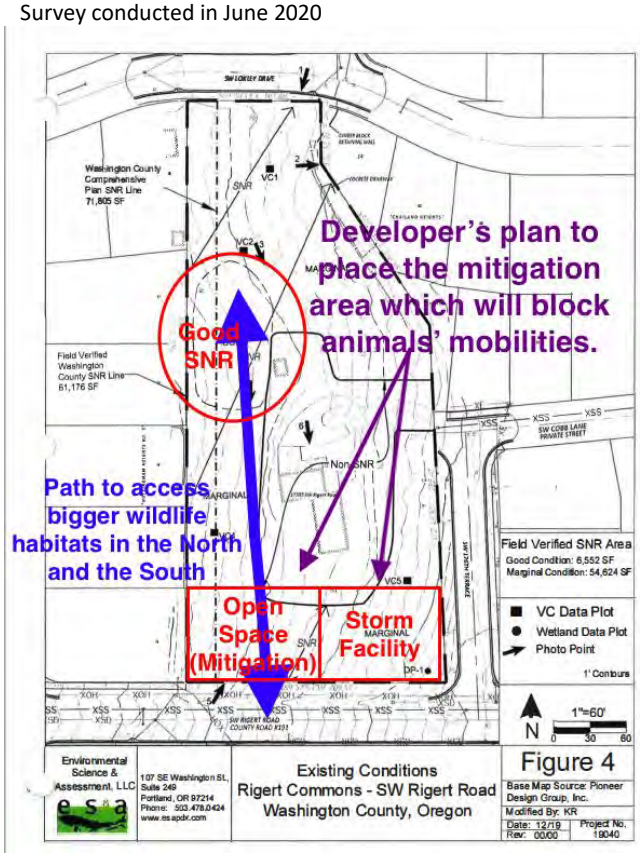
"Housing Market Analysis & Needs Assessment, Chapter 3" by the Washington County
https://www.co.washington.or.us/CommunityDevelopment/Planning/upload/Consolidated-Plan-Ch-3-Housing-Market-Analysis-Needs-Assessment.pdf

Reference C:

Deer Mobility Map

- X = location deer spotted
- Orange circle = no fence to block their paths
- Red-line = path
- Green circle = bigger habitat (North)

Survey conducted in June 2020



Reference D:
SNR Assessment by Environmental Science & Assessment, LLC
Full SNR Assessment report (PDF) is attached.

Page 2 of SNRA

EXISTING CONDITIONS

This "assessment" was done after the develoer/ his contractors cut the trees and cleared the bushes on Goal 5 property.

The 1.92-acre parcel is bordered on the south by SW Rigert Rd. on the east by SW 176th Terrace and on the north by SW Loxley Drive (Figure 1-2). The site has a residential structure, with an ancillary building 75 feet north, at approximately the center of the lot (Figure 4). This developed portion of the lot adjacent to the buildings is vegetated in the understory with dense Himalayan Blackberry (*Rubus armeniacus*) and English Ivy (*Hedera helix*) (Photo 6). The house and surrounding area are in degraded condition due to high percent invasive cover.

The undeveloped area of the lot is primarily mature forest with >50% aerial cover Douglas Fir (*Pseudotsuga menziesii*), with a small area in the northeastern

Environmental Science & Assessment, LLC *ES&A No. 19040*

Page 4 of SNRA

A scenic feature is mapped at the northern edge of the study area on the Washington County *Aloha- Reedville- Cooper Mtn. Community Plan,* but the feature is not directly adjacent to the site and would not be impacted by development.

Actually, a scenic feature is directry adjacent to the site.

Picture taken right next to this site on July 21, 2020

Page 7 of SNRA

Numbers are so off.....

Page 7

1.92 acre should be 83,635.2 SF instead of 82,833 SF

The total site area is 82,833 SF. About 26% of site (21,657 SF) is already developed by the single-family residence so development of this area is not considered SNR habitat impact. Approximately 66% of site (54,625 SF), is SNR wildlife habitat considered to be in marginal condition due to low understory diversity and high percent invasive plant cover. The remaining 8% (6,552 SF) is SNR wildlife habitat considered to be in good condition due to high percent native cover and diversity. ***Table 1*** outlines the total site area.

Table 1*: SNR Habitat Condition Summary*

6,552 + 54,625=61,176??

Mistake?

Area	Habitat Condition	% Invasive cover	% Native cover	Area (SF)
SNR: Wildlife Habitat	Good	20	80	6,552
SNR: Wildlife Habitat	Marginal	46-53	47-58	54,625
			Total SNR area	**61,176**
Existing development	Degraded	*98	*2	21,657
			Total area	**82,833**

Data from Appendix D: Vegetated Plot Data Forms; *No plots were taken in degraded area surrounding existing residence, field notes and photos were used to determine percent cover.

Page 8 of SNRA

CONCLUSION

The SNR habitat impacted by development is primarily marginal condition, with a relatively small area of good condition habitat in the northern end of the site. While some forest functions will be lost with removal of tree cover in the interior of site, the site plan maximizes, to the greatest extent possible, habitat connectivity to the offsite resources to support the existing bird movement through the site. Since other wildlife use through the site was likely limited to start, the proposed development will not further cut off any wildlife travel corridors or restrict access to surrounding habitats.

Please se the Deer Mobility Map, survey conducted in Jun 2020.

Though the development will impact 6,552 SF of higher quality forested area Reference C onsite, the preserved area will be enhanced through removal of invasive species and shrub and tree planting to mitigate this impact and create an area of 8,192 square-feet of high-quality forested habitat (Figure 5), increasing high quality habitat onsite by about 25%. The open space and storm facility tract in southern end of site will preserve a native forest community and together with the storm facility planted to Clean Water Services standards with native shrubs and forbs,

Environmental Science & Assessment, LLC

Received 10/06/20
Wash. Co. LUT

TECHNICAL MEMORANDUM

DATE: January 31, 2020

TO: Washington County Planning

CC: Wayne Hayson

FROM: Jack Dalton and Kim Sanderford

RE: Proposed Rigert Commons Development – 17707 SW Rigert Road - Beaverton, Oregon (Tax Lot # 1S119CD 01000)

Environmental Science & Assessment, LLC (ES&A) was contracted by the applicant to conduct a Significant Natural Resource (SNR) assessment for a proposed residential subdivision housing project on a 1.92-acre study area located at 17707 SW Rigert Rd. in Washington County, Oregon (Tax Lot # 1S119CD 01000) (Figure 1). The study area is in the southeast corner of Township 1 south, Range 1 West, Section 19.

This assessment was conducted for the proposed 11-lot Rigert Commons residential development to address Section 422 of the Washington County Community Development Code (CDC) regarding Significant Natural Resources (Washington County 2016). The lot is mapped as SNR for Wildlife Habitat in the Washington County Aloha – Reedville – Cooper Mtn. Community Plan (except the western most edge) and is mapped as Metro Upland Habitat – Class B (Figure 3).

Field data was collected to assess the presence or absence of SNRs (Appendix D, E), and wetland determination data was collected at one location to document the lack of wetland conditions in the lowest topographic point on site (Appendix C). The mixed forest habitat boundary on site was field verified. Adjacent and surrounding areas were investigated to determine adjacency and potential indirect impacts to off-site habitat.

The following appendices are included with this report:

Appendix A: Figures
Appendix B: Site Photographs
Appendix C: Wetland Delineation Data Form
Appendix D: Vegetated Plots Data Forms
Appendix E: Wildlife Habitat Assessment Rating System

METHODOLOGY

Two levels of investigation were used to evaluate the presence of Sensitive Areas. The first level included a review of existing available background data and maps. The second level consisted of an onsite evaluation.

Reviewed background data included the following information:

- Aerial Photography and Topography (Metro Data Resource Center's MetroMap, 2019);
- Washington County Comprehensive Plan Aloha – Reedville – Cooper Mtn. Community Plan (2016)
- Web Soil Survey of Washington County, Oregon (Natural Resource Conservation Service [NRCS], 2019).
- National Wetland Inventory (NWI), US Fish and Wildlife Service, 2019

ES&A staff conducted the onsite SNR assessment on December 6, 2019. Potential wetland areas on the parcel were evaluated using the methodology provided in the Army Corps of Engineers *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region*, (U.S. Army Corps of Engineers, 2010). Existing plant communities and wildlife habitat were evaluated using the Wildlife Habitat Assessment (WHA) rating system (Appendix E). The WHA rating system was developed by staff from the Audubon Society, the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, the Oregon Department of Fish and Wildlife, and the Wetland Conservancy.

The scope of the site assessment is consistent with guidance provided by Section 422 of the Washington County Community Development Code (Washington County 2005) and the Community Development Code Interpretation, Article IV Section 422 (also known as the "Grillo Interpretation") (Grillo 1998).

EXISTING CONDITIONS

The 1.92-acre parcel is bordered on the south by SW Rigert Rd. on the east by SW 176th Terrace and on the north by SW Loxley Drive (Figure 1-2). The site has a residential structure, with an ancillary building 75 feet north, at approximately the center of the lot (Figure 4). This developed portion of the lot adjacent to the buildings is vegetated in the understory with dense Himalayan Blackberry (*Rubus armeniacus*) and English Ivy (*Hedera helix*) (Photo 6). The house and surrounding area are in degraded condition due to high percent invasive cover.

The undeveloped area of the lot is primarily mature forest with >50% aerial cover Douglas Fir (*Pseudotsuga menziesii*), with a small area in the northeastern

corner of the lot with <50% Douglas Fir aerial cover (Photo 2). Other mature trees in the canopy are Bigleaf Maple (*Acer macrophyllum*), Pacific Madrone (*Arbutus menziesii*), and Wild Cherry (*Prunus avium*) (Photo 5). The understory has generally moderate diversity of native shrubs, with the areas closest to SW Loxley Rd. in the north and SW Rigert Rd. in the south with 47-58% relative native shrub cover, and a smaller area of good diversity in the center of the lot with 80% relative native shrub cover (Photos 3-5, Appendix D.) Oceanspray (*Holodiscus discolor*), Tall Oregon Grape (*Mahonia aquifolium*), Serviceberry (*Amelanchier alnifolia*), Western Beaked Hazelnut (*Corylus cornuta*), Baldhip Rose (*Rosa gymnocarpa*), and Snowberry (*Symphoricarpos albus*) are some of the native shrubs represented in the understory.

The herbaceous layer ranges from 40-95% English Ivy (*Hedera helix*) cover across all undeveloped sections of the site spreading up into trees in areas with higher density, except in the northeastern corner, where herb layer is 90% Periwinkle (*Vinca minor*) (Photo 2).

Soil survey mapping indicates 2 soil types onsite. The site soils are non-hydric Cornelius and Kinton silt loams, with 12- 20% slopes in the northwestern portion of the site, and 30-60% slopes in the southeastern portion of the site (Map Units 11D &11F, Rating 4). (NRCS, Web Soil Survey, 2019).

Wetland Determination

One wetland determination plot was taken at the lowest natural point in the southeast corner of the lot. This point was 4 feet above SW Rigert Rd., 17 feet NW of where a steep bank slopes down to the intersection of SW Rigert Rd. and SW 176th Terrace (Figure 4).

Vegetation in the plot include Pacific Madrone (*Arbutus menziesii*), Tall Oregon Grape (*Mahonia aquifolium*), Hawthorne (Crataegus sp.), Wild Cherry (*Prunus avium*), Douglas Fir (*Pseudotsuga menziesii*), Bigleaf Maple (*Acer macrophyllum*), and English Ivy (*Hedera helix*) (Photos 3-5). No wetland plant indicators are present. The soil profile from 0-18 inches was Silt Loam, 10YR 2/2, with no sub-surface hydrology. No wetland soil indicators are present, and no wetland hydrology is present (DP 1; Appendix C).

The site is not located within a Local Wetland Inventory (LWI) study area and no wetlands are mapped for the site on the NWI.

MAPPED SNR AREAS

The Washington County *Aloha- Reedville- Cooper Mtn. Community Plan* maps sensitive wildlife habitat on most of the site except the western edge (Figure 3). The mapped area is made up of good, marginal, and degraded condition forest based on native vegetative cover and the presence of invasive understory

species (Appendix D). ES&A determined in the field that the degraded area around the current residence is not significant wildlife habitat and revised the SNR area based on vegetated cover data collected in the field to accurately represent the SNR area (Figure 4).

An on and off-site sensitive determination was completed as part of the Clean Water Services (CWS) site assessment. An unnamed drainage flows from ~150 feet southeast of the SE site corner through a developed lot to a culvert ~250 feet east of the southeast site corner where it passes under SW Rigert Rd. into Hubert Lee Cain Wetlands Natural Area (Figure 3). There would be no impacts to these Sensitive Areas or their associated Vegetated Corridors because SW Rigert Rd., a busy 2 lane paved road, separates the lot from the creek drainage.

CWS reviewed the pre-screen application for this site and issued a service provider letter (CWS No. 19-003631) stating the project will not impact any existing or potentially sensitive areas on or near the site.

A scenic feature is mapped at the northern edge of the study area on the Washington County *Aloha- Reedville- Cooper Mtn. Community Plan,* but the feature is not directly adjacent to the site and would not be impacted by development.

Wildlife Habitat Assessment (Wildlife Habitat)

The wildlife assessment score for the field verified SNR on site totaled 45 out of a potential of 96 with enhancement potential of 63 out of 96 (Appendix E). Based on the habitat assessment, most functions were rated in the moderate to moderate-high range and enhancement potential was moderate, but there is potential for improvement of the understory shrub and herbaceous cover diversity. The high cover of understory invasive species throughout the site lowered the habitat functions for food and cover, although the forested canopy cover and limited native shrub cover in the understory provide structural components in the SNR habitat.

The mixed forest community on site provides good canopy cover in most of the site. However, interior of site around the existing development has been cleared for the main residence and ancillary building and driveway, so this portion of site was not considered significant (Figure 4).

The forest community lacks understory plant diversity in most of the site (Appendix D). Only a small area in the northwest end of site had a higher diversity of understory species and low invasive cover. The SNR in the rest of the site is moderate, with a low shrub and herbaceous species diversity (average of 53% native cover) and high cover of invasive groundcover (i.e., English ivy and Himalayan blackberry). While the forest cover provides some cover and escape

habitat elements, the limited understory structure and lack of connection to off-site open space habitats limits these functions in the on-site SNR habitat.

Perching snags are available nearby and a couple of snags are present within the edge of the site. Food resources are moderate due to the limitation of the multi-storied vegetative structure in most of the site, and diverse plant cover is lacking throughout site. Nesting use by birds is likely present with smaller species but is limited by lack of connection to off-site open space.

There are no water resources on site and the nearest stream/riparian community is south of SW Rigert Road, which cuts off direct connection to off-site habitat south of site. Additionally, the site is surrounded by existing residential development north, east and west, with limited tree cover or open space. For these reasons, the SNR habitat on site is isolated from off-site habitat, which greatly restricts wildlife travel from off-site areas into the site, except for passerine bird migration and seasonal foraging. Overall, the surrounding development likely greatly limits most wildlife use.

Wildlife species detected onsite are listed on the WHA forms (Appendix B). The SNR area also likely provides habitat for other wildlife species that commonly occur in forested habitats within western Washington County.

PROPOSED DEVELOPMENT

The proposed Rigert Commons project is an 11-lot residential development with access from SW Cobb Lane at the end of SW 176th Terrace which connects to a private street extending north from Cobb Lane to the back of the northeastern most lot. The site plan preserves the current residence as one of the eleven lots in the interior of site at end of the proposed Cobb Lane.

The site plan provides a rectangular 8,192 square-foot area in the southwestern site corner as undeveloped open space, and a 7,230 square-foot stormwater facility tract in the southeastern site corner (Figure 4). Together these two tracts preserve existing forest vegetation and provide a facility comprised of native species planted to CWS storm water facility planting standards. The combined 15,422 square-foot area of the two tracts in the southern portion of the site will buffer the site from the nearest offsite sensitive areas (Figure 5).

A 10-foot wide strip along SW Rigert Road at the southern site edge will be cleared as road right of way, requiring removal of some trees (Figure 5). Additionally, a wall for the stormwater facility along the shared boundary of the storm facility tract and the open space tract will require removal of several trees, as will the grading required to install the storm water facility. All tree removal is accounted for in the proposed SNR enhancement/mitigation plan.

SNR IMPACT ASSESSMENT

The 11-lot Sage Built Homes project was evaluated to determine if the proposed project complies with the Washington County CDC Section 422 for Significant Natural Resources. ES&A reviewed the proposed project site plan, mapped and assessed the SNR on site, and evaluated potential impacts to SNR areas, including sensitive wildlife habitat and indirect impacts to offsite resources.

Section 422-1 states:

> *The intent and purpose of these standards is to permit limited and safe development in areas with significant natural resources, while providing for the identification, protection, enhancement and perpetuation of natural sites, features, objects and organisms within the county, here identified as important for their uniqueness, psychological or scientific value, fish and wildlife habitat, educational opportunities or ecological role.*
>
> *Development within riparian areas, Water Areas and Wetlands, or Water Areas and Wetlands and Fish and Wildlife Habitat shall comply with applicable state and federal regulatory guidelines.*

Section 422-3.1 states:

> *The required master plan and site analysis for a site which includes an identified natural resource shall:*
> *A.*
> *Identify the location of the natural resource(s), except in areas where a Goal 5 analysis has been completed and a program decision adopted pursuant to OAR 660, Division 23 (effective September 1, 1996);*
> *B.*
> *Describe the treatment or proposed alteration, if any. Any alteration proposed pursuant to Section 422-3.1 B. shall be consistent with the program decision for the subject natural resource; and*
> *C.*
> *Apply the design elements of the applicable Community Plan; or the applicable implementing strategies of the Rural/Natural Resource Plan Element, Policy 10, Implementing Strategy E which states:*
>
> > *"Implement the recommendations of the Oregon Department of Fish and Wildlife Habitat Protection Plan for Washington County and to mitigate the effects of development in the Big Game Range within the EFU, EFC and AF-20 land use designations."*

Section 422 3.6 states:

> *For any proposed use in a Significant Natural Resource Area, there shall be a finding that the proposed use will not seriously interfere with the preservation of fish and wildlife areas and habitat identified in the Washington County Comprehensive Plan, or how the interference can be mitigated. This section shall not apply in areas where a Goal 5 analysis has been completed and a program decision has been adopted that allows a "conflicting use" to occur pursuant to OAR 660-023-0040(5)(c) (effective September 1, 1996).*

The total site area is 82,833 SF. About 26% of site (21,657 SF) is already developed by the single-family residence so development of this area is not considered SNR habitat impact. Approximately 66% of site (54,625 SF), is SNR wildlife habitat considered to be in marginal condition due to low understory diversity and high percent invasive plant cover. The remaining 8% (6,552 SF) is SNR wildlife habitat considered to be in good condition due to high percent native cover and diversity. ***Table 1*** outlines the total site area.

Table 1*: SNR Habitat Condition Summary*

Area	Habitat Condition	% Invasive cover	% Native cover	Area (SF)
SNR: Wildlife Habitat	Good	20	80	6,552
SNR: Wildlife Habitat	Marginal	46-53	47-58	54,625
			Total SNR area	**61,176**
Existing development	Degraded	*98	*2	21,657
			Total area	**82,833**

Data from Appendix D: Vegetated Plot Data Forms; *No plots were taken in degraded area surrounding existing residence, field notes and photos were used to determine percent cover.

The SNR habitat impacted by development is primarily in marginal condition, with a relatively small area of good condition habitat in the northern end of the site. While the forest structure will be removed from the northern end of site, forest cover will still be present to support the existing bird movement through the site. Since other wildlife use through the site was likely limited to start, the proposed development will not further cut off any wildlife travel corridors or restrict access to surrounding habitats. The open space and storm facility tract in the southern end of site will preserve a native forest community and, together with the planted facility, buffer the site development from the nearest off-site SNR habitat south of SW Rigert Road (Figure 5).

SNR MITIGATION

The proposed mitigation for impacts discussed in the previous section, are allowed under CDC Section 422-3.6 and the Grillo Interpretation.

The site plan preserves 8,192 SF (13%) of field verified SNR onsite, which will be enhanced to good condition with the following measures:

A. Removal of invasive species including Himalayan Blackberry (*Rubus armeniacus*) and English Ivy (*Hedera helix*)
B. Installation of 230 shrub plantings to increase percent native cover and total plant diversity (***Table 2***)
C. Installation of 20 tree plantings to offset those removed in the storm water facility grading and road right of way clearing (***Table 2***)

The proposed 8,192 SF open space tract will increase total good condition SNR wildlife habitat onsite by about 1,640 SF, or 25% from existing onsite conditions. Figure 5 provides the site plan with included SNR mitigation area.

***Table 2**: Recommended Plant List for SNR Open Space Enhancement*

Common Name	Scientific Name	Plant Form/Size [1]	Plant Spacing (ft on center)	Total plants[2]
SNR OPEN SPACE AREA (8192 SF)				
Shrubs				
Serviceberry	*Amelanchier alnifolia*	1 gal/18"	single	20
Salal	*Gaultheria shallon*	1 gal/12"	clusters 3-5	30
Oceanspray	*Holodiscus discolor*	1 gal/18"	single	30
Tall Oregon Grape	*Mahonia aquifolium*	1 gal/6"	single	20
Swordfern	*Polystichum munitum*	1 gal/24"	clusters 3-5	50
Baldhip Rose	*Rosa gymnocarpa*	1 gal/18"	single	10
Thimbleberry	*Rubus parviflorus*	1 gal/1.5'	single	20
Red elderberry	*Sambucus racemosa*	1 gal/1.5'	single	20
Snowberry	*Symphoricarpos albus*	1 gal/1.5'	clusters 3-5	30
Trees				
Pacific Madrone	*Arbutus menziesii*	1 gal/18"	single	10
Douglas Fir	*Pseudotsuga menziesii*	1 gal/18"	single	10
			TOTAL	**250**

NOTES: [1] Substitutes for plant form (e.g. bare root) and species may be used based on availability.
[2] Individual species quantities to be determined in landscape

CONCLUSION

The SNR habitat impacted by development is primarily marginal condition, with a relatively small area of good condition habitat in the northern end of the site. While some forest functions will be lost with removal of tree cover in the interior of site, the site plan maximizes, to the greatest extent possible, habitat connectivity to the offsite resources to support the existing bird movement through the site. Since other wildlife use through the site was likely limited to start, the proposed development will not further cut off any wildlife travel corridors or restrict access to surrounding habitats.

Though the development will impact 6,552 SF of higher quality forested area onsite, the preserved area will be enhanced through removal of invasive species and shrub and tree planting to mitigate this impact and create an area of 8,192 square-feet of high-quality forested habitat (Figure 5), increasing high quality habitat onsite by about 25%. The open space and storm facility tract in southern end of site will preserve a native forest community and together with the storm facility planted to Clean Water Services standards with native shrubs and forbs,

buffer the site development from the nearest off-site SNR habitat south of SW Rigert Road

All these measures will ensure that the project does not seriously interfere with the long-term preservation of existing wildlife habitat on-site, meeting CDC 422-3.6 requirements.

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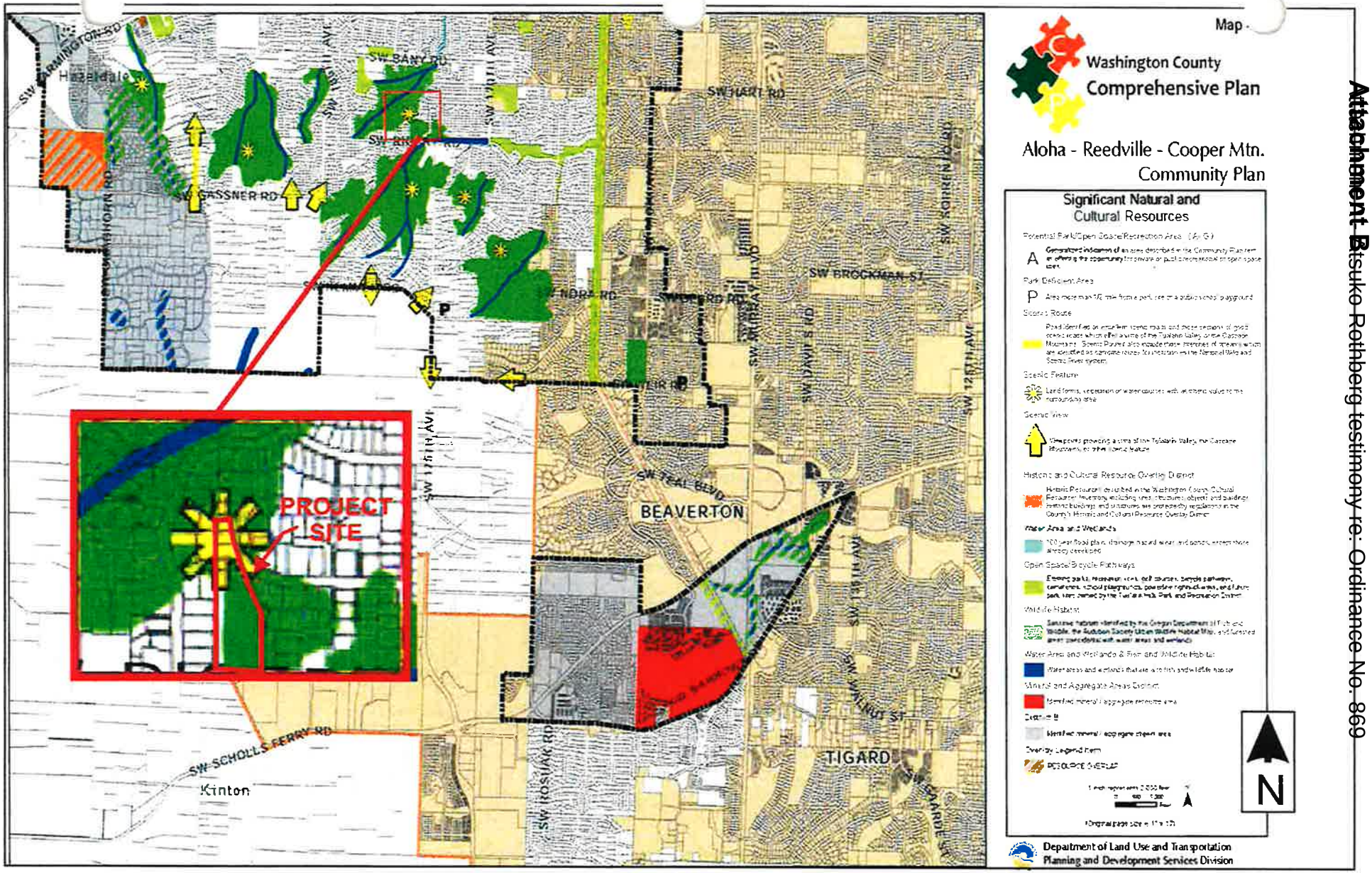
APPENDIX A: FIGURES

Source: MetroMap, https://gis.oregonmetro.gov/metromap/.

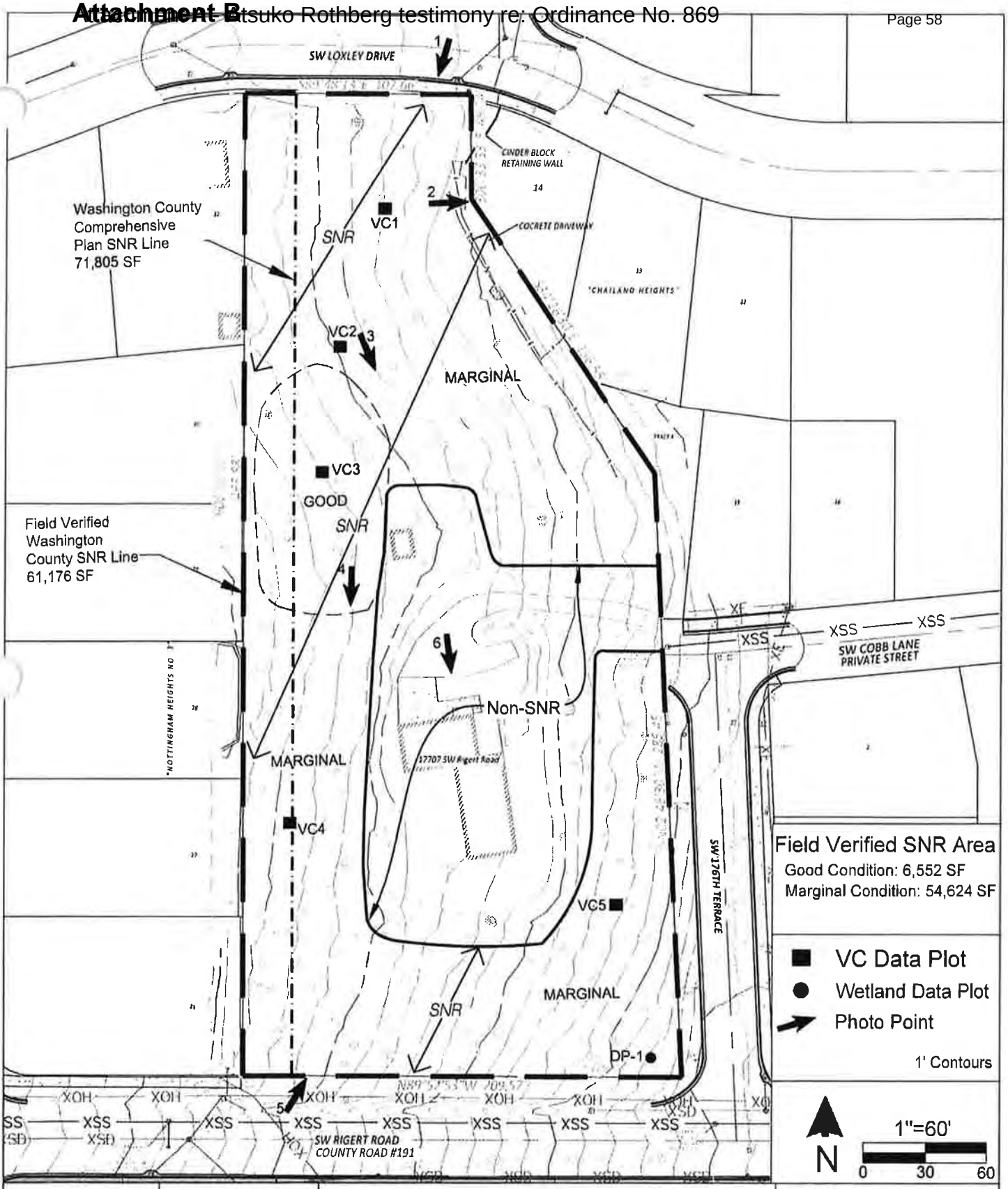
Environmental Science & Assessment, LLC	Vicinity Map Rigert Commons - SW Rigert Road Washington County, Oregon	Figure 1 Approx. Scale: 1in. = 500 ft.

Source: MetroMap, https://gis.oregonmetro.gov/metromap/.

Environmental Science & Assessment, LLC esa	Aerial Map Rigert Commons - SW Rigert Road Washington County, Oregon	Figure 2 Approx. Scale: 1in. = 200 ft.



Environmental Science & Assessment, LLC	Washington County SNR Rigert Commons - SW Rigert Rd. Washington County, Oregon	Approx. Scale: 1in. = 1000 ft.	Figure 3



Environmental Science & Assessment, LLC
esa
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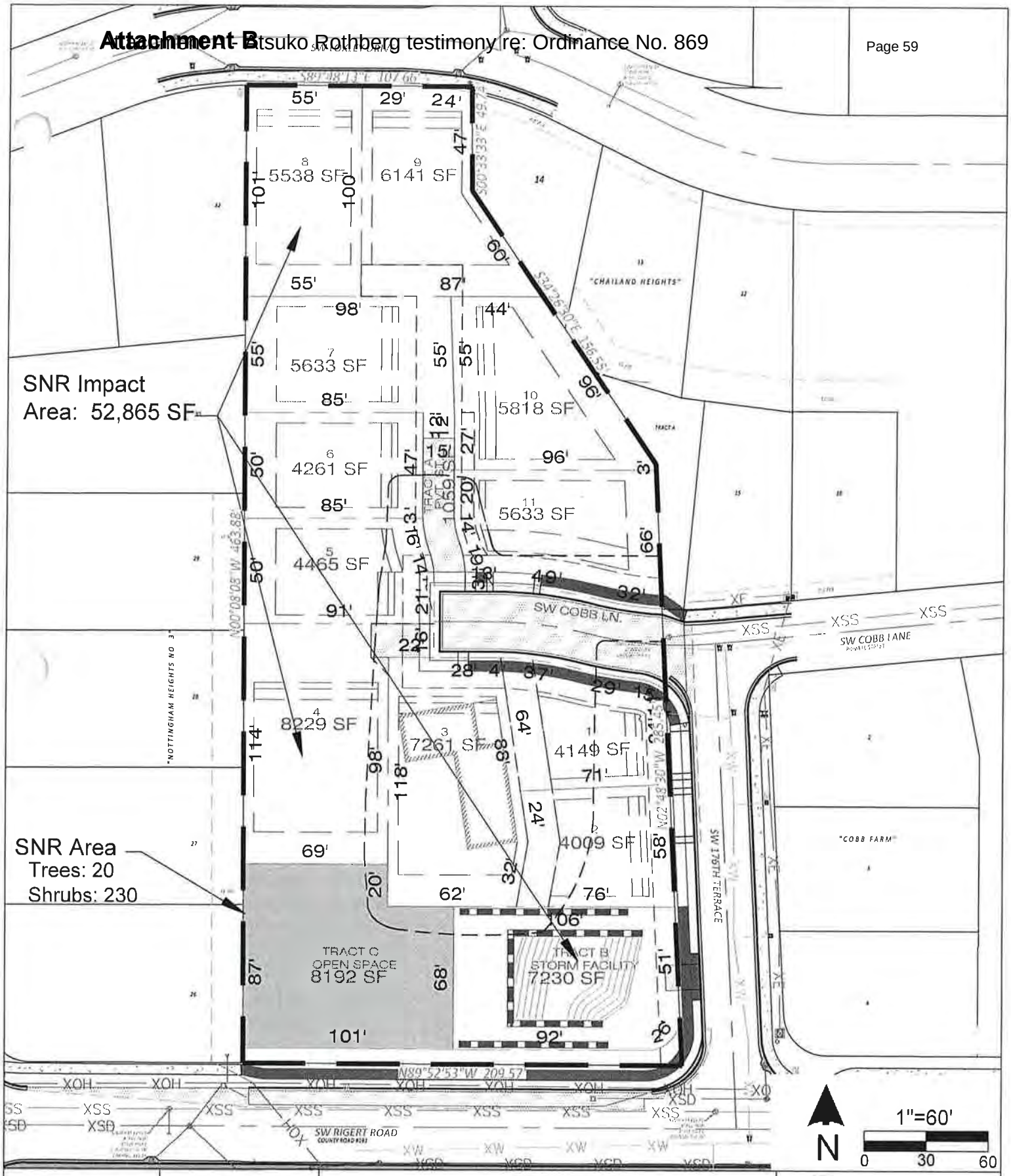
Portland, OR 97214
Phone: 503.478.0424
www.esapdx.com

Existing Conditions
Rigert Commons - SW Rigert Road
Washington County, Oregon

Figure 4

Base Map Source: Pioneer Design Group, Inc.
Modified By: KR
Date: 12/19
Rev: 00/00
Project No. 19040



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Site Plan
Rigert Commons - SW Rigert Road
Washington County, Oregon

Figure 5

Base Map Source: Pioneer Design Group, Inc.

Modified By: KR

Date: 12/19

Rev: 00/00

Project No. 19040

APPENDIX B: SITE PHOTOS

Photo 1: View south from north property boundary along SW Loxley Dr.

Photo 2: View east from degraded area in north-eastern corner of site

Photo 3: View southeast from degraded area in north-central area of site

Photo 4: View south from area with higher shrub diversity in central-western area of site

Photo 5: View northeast from SW Rigert Rd. towards southern property boundary

Photo 6: View south towards existing house with degraded area surrounding

APPENDIX C: WETLAND DETERMINATION DATA

WETLAND DETERMINATION DATA FORM – Western Mountains, Valleys, and Coast Region

Project/Site: Sage Built Homes/SW Rigert Rd. City/County: Washington County Sampling Date: 12/6/2019

Applicant/Owner: Sage Built Homes State: OR Sampling Point: DP-1

Investigator(s): K. Sanderford, J. Dalton Section, Township, Range: Section 19, Township 1 south, Range 1 west

Landform (hillslope, terrace, etc.): forested Local relief (concave, convex, none): _____ Slope (%): <10%

Subregion (LRR): A-Northwest Forests and Coasts Lat: 45.462594 Long: -122.859123 Datum: _____

Soil Map Unit Name: Cove Silty Clay Loam (Map unit rating 13) NWI classification: n/a

Are climatic / hydrologic conditions on the site typical for this time of year? Yes X No _____ (If no, explain in Remarks.)

Are Vegetation _____, Soil _____, or Hydrology _____ significantly disturbed? Are "Normal Circumstances" present? Yes X No _____

Are Vegetation _____, Soil _____, or Hydrology _____ naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes _____	No X	**Is the Sampled Area within a Wetland?** Yes _____ No X
Hydric Soil Present?	Yes _____	No X	
Wetland Hydrology Present?	Yes _____	No X	

Remarks: DP-1 is in the SE corner of the plot on the natural grade at the lowest point onsite. There is a steep slope down to the road from the natural edge. DP-1 is 17' NW from Doug Fir in SE corner of lot (Figure 3).

VEGETATION – Use scientific names of plants.

Tree Stratum (Plot size: 30' diameter)	Absolute % Cover	Dominant Species?	Indicator Status
1. Pseudotsuga menziesii	60		FACU
2. Acer macrophyllum (Jack)	20		FACU
3.			
4.			
	80 = Total Cover		
Sapling/Shrub Stratum (Plot size: 30' diameter)			
1. Arbutus menziesii	10		NL
2. Mahonia nervosa	10		FACU
3. Crataegus sp.	10		FAC
4. Mahonia aquifolium	2		FACU
5. Prunus sp.	2		FACU
	34 = Total Cover		
Herb Stratum (Plot size: 5' diameter)			
1. Hedera helix	90		FACU
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
	90 = Total Cover		
Woody Vine Stratum (Plot size: _____)			
1.			
2.			
	_____ = Total Cover		

% Bare Ground in Herb Stratum 10% leaf litter

Dominance Test worksheet:

Number of Dominant Species That Are OBL, FACW, or FAC: _____ (A)

Total Number of Dominant Species Across All Strata: _____ (B)

Percent of Dominant Species That Are OBL, FACW, or FAC: _____ (A/B)

Prevalence Index worksheet:

Total % Cover of:	Multiply by:
OBL species _____	x 1 = _____
FACW species _____	x 2 = _____
FAC species _____	x 3 = _____
FACU species _____	x 4 = _____
UPL species _____	x 5 = _____
Column Totals: _____ (A)	_____ (B)

Prevalence Index = B/A = _____

Hydrophytic Vegetation Indicators:

___ 1 - Rapid Test for Hydrophytic Vegetation

___ 2 - Dominance Test is >50%

___ 3 - Prevalence Index is ≤3.0[1]

___ 4 - Morphological Adaptations[1] (Provide supporting data in Remarks or on a separate sheet)

___ 5 - Wetland Non-Vascular Plants[1]

___ Problematic Hydrophytic Vegetation[1] (Explain)

[1]Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Hydrophytic Vegetation Present? Yes _____ No X

Remarks:

SOIL

Sampling Point: DP-1

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (inches)	Matrix Color (moist)	Matrix %	Redox Features Color (moist)	Redox %	Type[1]	Loc[2]	Texture	Remarks
0-18	10YR 2/2	100					silt loam	

[1]Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. [2]Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)

- ___ Histosol (A1)
- ___ Histic Epipedon (A2)
- ___ Black Histic (A3)
- ___ Hydrogen Sulfide (A4)
- ___ Depleted Below Dark Surface (A11)
- ___ Thick Dark Surface (A12)
- ___ Sandy Mucky Mineral (S1)
- ___ Sandy Gleyed Matrix (S4)
- ___ Sandy Redox (S5)
- ___ Stripped Matrix (S6)
- ___ Loamy Mucky Mineral (F1) **(except MLRA 1)**
- ___ Loamy Gleyed Matrix (F2)
- ___ Depleted Matrix (F3)
- ___ Redox Dark Surface (F6)
- ___ Depleted Dark Surface (F7)
- ___ Redox Depressions (F8)

Indicators for Problematic Hydric Soils[3]:

- ___ 2 cm Muck (A10)
- ___ Red Parent Material (TF2)
- ___ Very Shallow Dark Surface (TF12)
- ___ Other (Explain in Remarks)

[3]Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if present):

Type: _____

Depth (inches): _____

Hydric Soil Present? Yes ___ No X

Remarks:

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one required; check all that apply)

- ___ Surface Water (A1)
- ___ High Water Table (A2)
- ___ Saturation (A3)
- ___ Water Marks (B1)
- ___ Sediment Deposits (B2)
- ___ Drift Deposits (B3)
- ___ Algal Mat or Crust (B4)
- ___ Iron Deposits (B5)
- ___ Surface Soil Cracks (B6)
- ___ Inundation Visible on Aerial Imagery (B7)
- ___ Sparsely Vegetated Concave Surface (B8)
- ___ Water-Stained Leaves (B9) **(except MLRA 1, 2, 4A, and 4B)**
- ___ Salt Crust (B11)
- ___ Aquatic Invertebrates (B13)
- ___ Hydrogen Sulfide Odor (C1)
- ___ Oxidized Rhizospheres along Living Roots (C3)
- ___ Presence of Reduced Iron (C4)
- ___ Recent Iron Reduction in Tilled Soils (C6)
- ___ Stunted or Stressed Plants (D1) **(LRR A)**
- ___ Other (Explain in Remarks)

Secondary Indicators (2 or more required)

- ___ Water-Stained Leaves (B9) **(MLRA 1, 2, 4A, and 4B)**
- ___ Drainage Patterns (B10)
- ___ Dry-Season Water Table (C2)
- ___ Saturation Visible on Aerial Imagery (C9)
- ___ Geomorphic Position (D2)
- ___ Shallow Aquitard (D3)
- ___ FAC-Neutral Test (D5)
- ___ Raised Ant Mounds (D6) **(LRR A)**
- ___ Frost-Heave Hummocks (D7)

Field Observations:

Surface Water Present? Yes ___ No ✓ Depth (inches): _____

Water Table Present? Yes ___ No ✓ Depth (inches): _____

Saturation Present? (includes capillary fringe) Yes ___ No ✓ Depth (inches): _____

Wetland Hydrology Present? Yes ___ No X

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

APPENDIX D: VEGETATED CORRIDOR DATA FORMS

VEGETATED CORRIDOR DATA SHEET

Client/Project Name: Sage Homes- Rigert Road	Site Address: 17707 SW Rigert Rd.	Plot ID: VC-1
Township/Range/Section:		
Tax Map:	Lot(s):	
Brief Description of Plot Location: Site is semi-rectangular lot with southern edge along Rigert Rd.		
Site Investigator Name: Kim Sanderford, Jack Dalton	Date of Investigation: 12/6/2019	
Plant Community Type:		

Herbaceous Stratum	Percent Aerial Cover	Percent Relative Cover	Native? (1) Yes	Native? (1) No	Noxious?(2) Yes	Noxious?(2) No	Invasive? (3) Yes	Invasive? (3) No
1 *Polystichum munitum*	10	5	X			X		X
2 *Vinca minor*	90	46		X		X	X	
3		0						
4		0						
5		0						
6		0						
7		0						
8		0						
9		0						
10		0						
Shrub Stratum		0						
1 *Holodiscus discolor*	5	3	X			X		X
2 *Mahonia aquifolium*	10	5	X			X		X
3 *Ilex aquifolium*	5	3		X		X	X	
4 *Corylus cornuta*	10	5	X			X		X
5 *Rosa pisocarpa*	5	3	X			X		X
6 *Rubus armeniacus*	5	3		X	X		X	
7 *Arbutus menziesii*	1	1	X			X		X
8 *Gaultheria shallon*	1	1	X			X		X
9		0						
10		0						
Tree Stratum		0						
1 *Corylus cornuta*	30	15	X			X		X
2 *Pseudotsuga menziesii*	20	10	X			X		X
3 *Prunus avium*	5	3		X		X	X	
4		0						
5		0						
6		0						
7		0						
8		0						
9		0						
Total	197	100						

Total percent relative native species cover	47%
Total percent aerial cover of tree canopy	56%
Total percent relative cover of non-native, noxious, and invasive species	53%

	Good Condition (native species >80% of the community and tree canopy >50% aerial cover)
x	Marginal Condition (native species 50-80% of the community and tree canopy 26-50% aerial cover)
	Degraded Condition (native species <50% of the community and tree canopy <25% aerial coverage)

Comments: Marginal condition because aerial cover is >50%, but native species <50%

(1) Portland Plant List 2011, (2) Noxious Weed List ODA (3) R 07-20, Clean Water Services June, 2007

VEGETATED CORRIDOR DATA SHEET

Client/Project Name: Sage Homes- Rigert Road	Site Address: 17707 SW Rigert Rd.	Plot ID: VC-2
Township/Range/Section:		
Tax Map:	Lot(s):	
Brief Description of Plot Location: Site is semi-rectangular lot with southern edge along Rigert Rd.		
Site Investigator Name: Kim Sanderford, Jack Dalton	Date of Investigation: 12/6/2019	
Plant Community Type:		

Herbaceous Stratum	Percent Aerial Cover	Percent Relative Cover	Native? (1) Yes	Native? (1) No	Noxious? (2) Yes	Noxious? (2) No	Invasive? (3) Yes	Invasive? (3) No
1 *Polystichum munitum*	15	7	x			x		x
2 *Hedera helix*	85	40		x	x		x	
3		0						
4		0						
5		0						
6		0						
7		0						
8		0						
9		0						
10		0						
Shrub Stratum		0						
1 *Ilex aquifolium*	5	2		x		x	x	
2 *Amelanchier alnifolia*	5	2	x			x		x
3 *Rubus ursinus*	1	0	x			x		x
4 *Corylus cornuta*	10	5	x			x		x
5 *Prunus avium*	5	2		x		x	x	
6 *Holodiscus discolor*	1	0	x			x		x
7		0						
8		0						
9		0						
10		0						
Tree Stratum		0						
1 *Pseudotsuga menziesii*	80	38	x			x		x
2 *Prunus avium*	5	2		x		x	x	
3		0						
4		0						
5		0						
6		0						
7		0						
8		0						
9		0						
Total	212	100						

Total percent relative native species cover	53%
Total percent aerial cover of tree canopy	65%
Total percent relative cover of non-native, noxious, and invasive species	47%

	Good Condition (native species >80% of the community and tree canopy >50% aerial cover)
x	Marginal Condition (native species 50-80% of the community and tree canopy 26-50% aerial cover)
	Degraded Condition (native species <50% of the community and tree canopy <25% aerial coverage)

Comments: Marginal because total native species cover is closer to lower end of spectrum, only 53%, even though aerial cover is >50%

(1) Portland Plant List 2011 (2) Noxious Weed List, CDA (3) R 07-20 Clean Water Services June 2007

VEGETATED CORRIDOR DATA SHEET

Client/Project Name: Sage Homes- Rigert Road	Site Address: 17707 SW Rigert Rd.	Plot ID: VC-3
Township/Range/Section:		
Tax Map:	Lot(s):	
Brief Description of Plot Location: Site is semi-rectangular lot with southern edge along Rigert Rd.		
Site Investigator Name: Kim Sanderford, Jack Dalton	Date of Investigation: 12/6/2019	
Plant Community Type:		

Herbaceous Stratum	Percent Aerial Cover	Percent Relative Cover	Native? (1) Yes	Native? (1) No	Noxious?(2) Yes	Noxious?(2) No	Invasive? (3) Yes	Invasive? (3) No
1 *Polistichum munitum*	40	18	x			x		x
2 *Hedera helix*	40	18		x	x		x	
3 *Mahonia nervosa*	15	7	x			x		x
4 *Vancouveria hexandra*	5	2	x			x		x
5		0						
6		0						
7		0						
8		0						
9		0						
10		0						
Shrub Stratum		0						
1 *Ilex aquifolium*	5	2		x		x	x	
2 *Rosa gymnocarpa*	5	2	x			x		x
3 *Corylus cornuta*	10	4	x			x		x
4 *Holodiscus discolor*	15	7	x			x		x
5 *Arbutus menziesii*	1	0	x			x		x
6 *Symphoricarpus albus*	5	2	x			x		x
7 *Prunus emarginata*	1	0	x			x		x
8 *Rubus ursinus*	10	4	x			x		x
9		0						
10		0						
Tree Stratum		0						
1 *Pseudotsuga menziesii*	75	33	x			x		x
2		0						
3		0						
4		0						
5		0						
6		0						
7		0						
8		0						
9		0						
Total	227	100						

Total percent relative native species cover	80%
Total percent aerial cover of tree canopy	75%
Total percent relative cover of non-native, noxious, and invasive species	20%

x	Good Condition (native species >80% of the community and tree canopy >50% aerial cover)
	Marginal Condition (native species 50-80% of the community and tree canopy 26-50% aerial cover)
	Degraded Condition (native species <50% of the community and tree canopy <25% aerial coverage)

Comments: Condition is good in this area of lot due to high percent relative native species cover combined with high percent aerial cover

(1) Portland Plant List 2011 (2) Noxious Weed List, ODA (3) R 07-20 Clean Water Services June, 2007

VEGETATED CORRIDOR DATA SHEET

Client/Project Name: Sage Homes- Rigert Road	Site Address: 17707 SW Rigert Rd.	Plot ID: VC-4
Township/Range/Section:		
Tax Map:	Lot(s):	
Brief Description of Plot Location: Site is semi-rectangular lot with southern edge along Rigert Rd.		
Site Investigator Name: Kim Sanderford, Jack Dalton	Date of Investigation: 12/6/2019	
Plant Community Type:		

Herbaceous Stratum	Percent Aerial Cover	Percent Relative Cover	Native? (1)		Noxious?(2)		Invasive? (3)	
			Yes	No	Yes	No	Yes	No
1 *Polystichum munitum*	5	2	x			x		x
2 *Hedera helix*	95	46		x	x		x	
3		0						
4		0						
5		0						
6		0						
7		0						
8		0						
9		0						
10		0						
Shrub Stratum		0						
1 *Amelanchier alnifolia*	1	0	x			x		x
2 *Holodiscus discolor*	1	0	x			x		x
3 *Acer macrophyllum*	1	0	x			x		x
4 *Corylus cornuta*	1	0	x			x		x
5 *Mahonia aquifolium*	1	0	x			x		x
6		0						
7		0						
8		0						
9		0						
10		0						
Tree Stratum		0						
1 *Pseudotsuga menziesii*	100	49	x			x		x
2		0						
3		0						
4		0						
5		0						
6		0						
7		0						
8		0						
9		0						
Total	205	100						

Total percent relative native species cover	54%
Total percent aerial cover of tree canopy	100%
Total percent relative cover of non-native, noxious, and invasive species	46%

	Good Condition (native species >80% of the community and tree canopy >50% aerial cover)
x	Marginal Condition (native species 50-80% of the community and tree canopy 26-50% aerial cover)
	Degraded Condition (native species <50% of the community and tree canopy <25% aerial coverage)

Comments: Condition is marginal because though shrub layer is sparse, it has diverse native shrubs

(1) Portland Plant List 2011, (2) Noxious Weed List ODA (3) R 07-20, Clean Water Services June 2007

VEGETATED CORRIDOR DATA SHEET

Client/Project Name: Sage Homes- Rigert Road	Site Address: 17707 SW Rigert Rd.	Plot ID: VC-5
Township/Range/Section:		
Tax Map:	Lot(s):	
Brief Description of Plot Location: Site is semi-rectangular lot with southern edge along Rigert Rd.		
Site Investigator Name: Kim Sanderford, Jack Dalton	Date of Investigation: 12/6/2019	
Plant Community Type:		

Herbaceous Stratum	Percent Aerial Cover	Percent Relative Cover	Native? (1)		Noxious?(2)		Invasive? (3)	
			Yes	No	Yes	No	Yes	No
1 *Hedera helix*	90	35		x	x		x	
2 *Rubus ursinus*	5	2	x			x		x
3		0						
4		0						
5		0						
6		0						
7		0						
8		0						
9		0						
10		0						
Shrub Stratum		0						
1 *Arbutus menziesii*	5	2	x			x		x
2 *Rubus armeniacus*	15	6		x	x		x	
3 *Toxicodendron diversolobum*	5	2	x			x		x
4 *Amelanchier alnifolia*	5	2	x			x		x
5 *Craetagous monogyna*	1	0		x		x	x	
6 *Acer macrophyllum*	10	4	x			x		x
7 *Mahonia aquifolium*	10	4	x			x		x
8 *Symphoricarpus albus*	10	4	x			x		x
9 *Prunus avium*	1	0		x		x	x	
10 *Rosa gymnocarpa*	10	4	x			x		x
Tree Stratum		0						
1 *Pseudotsuga menziesii*	85	33	x			x		x
2 *Acer macrophyllum*	5	2	x			x		x
3		0						
4		0						
5		0						
6		0						
7		0						
8		0						
9		0						
Total	257	100						

Total percent relative native species cover	58%
Total percent aerial cover of tree canopy	90%
Total percent relative cover of non-native, noxious, and invasive species	42%

	Good Condition (native species >80% of the community and tree canopy >50% aerial cover)
x	Marginal Condition (native species 50-80% of the community and tree canopy 26-50% aerial cover)
	Degraded Condition (native species <50% of the community and tree canopy <25% aerial coverage)

Comments: Condition is marginal because of high percentage of blackberry and ivy

(1) Portland Plant List 2011 (2) Noxious Weed List ODA (3) R 07-20 Clean Water Services June 2007

APPENDIX E: WILDLIFE HABITAT ASSESSMENT

UPLANDS
Wildlife Habitat Assessment

			45	63
Unit No.	Location: Rigert Road	Sq. Ft.	Score	
Comments				

COMPONENT		DEGREE			SCORE *	SCORE **	COMMENTS
FOOD	Variety	Low 0	Medium 5	High 11	5	7	Low shrub and herb spp diversity
FOOD	Quantity & Seasonality	None 0	Limited 5	Year Around 11	5	7	Low shrub and herb spp diversity; high inv herb cover
FOOD	Proximity in Cover	None 0	Nearby 5	Immediately Adjacent 11	4	6	Shrub cover lacking most of site; surrounded by develop
COVER	Structural Diversity	Low 0	Medium 5	High 11	4	6	Low shrub and herb spp diversity
COVER	Variety	Low 0	Medium 5	High 11	4	6	Low shrub and herb spp diversity; high inv herb cover
COVER	Nesting	Low 0	Medium 4	High 8	5	7	Good tree cover; limited by high surrounding human disturbance
COVER	Escape	Low 0	Medium 4	High 8	5	7	Some forest structure; low shrub; no off-site habitat directly adjacent
COVER	Seasonality	None 0	Limited 4	Year Around 8	6	7	Good tree cover; shrub/herb limited

* Existing ** Enhancement Potential

ADDITIONAL VALUE							
DISTURBANCE	Physical	Permanent 0	Temporary 2	Undisturbed 4	2	3	Isolated habitat by surrounding development
DISTURBANCE	Human	High 0	Medium 2	Low 4	2	3	Understory cleared; interior around building disturbed
INTERSPERSION		Low 0	Medium 4	High 9	2	2	Low structure; homogeneous forest habitat
UNIQUE FEATURES 0 - 4		Wildlife Flora Scenic	Rarity of Habitat Type Educational Potential		1	1	Low wildlife use; low scenic; high invasive herbaceous; Low shrub/herb spp diversity

Developed with the Assistance of

Mike Houck - Audubon Society
Ralph Rogers - U.S. Army Corps of Engineers
Dennis Peters - U.S. Fish & Wildlife Service
Diana Hwang - U.S. Fish & Wildlife Service
Gene Herb - Oregon Dept. of Fish & Wildlife
Jack Broome - Wetland Conservancy

Bureau of Planning
City of Portland, Oregon

Observed Species

American Robin
Song Sparrow
Dark-eyed Junco
Mourning Dove
Red-breasted Nuthatch
Canada Geese (FO)
Stellar Jay
Red-tailed hawk (FO)
Bewick's wren
Black-capped chickadee

FO = Fly Over

Attachment B

Received 10/05/20
Wash. Co. LUT

From: Dale Feik <dfeik33@comcast.net>
Sent: Monday, October 5, 2020 5:49 AM
To: Andy Back <Andy_Back@co.washington.or.us>; Michelle Miller <Michelle_Miller@co.washington.or.us>
Cc: WC CAN Board <board@wc-can.org>; Gerritt Rosenthal <gerrittr@earthlink.net>; Ashley Short <ashley@tualatinriverkeepers.org>; Ted Labbe <ted@urbangreenspaces.org>; 'Fran Warren' <fran.warren@frontier.com>; 'Ken Dobson' <landlaw.oregon@gmail.com>; 'mary manseau' <marymanseau@gmail.com>
Subject: [EXTERNAL] Hearing comment: Ordinance No. 869 - Significant Natural Resources (SNR) , October 7, 2020

To: Andy Back & Michelle Miller, Planning and Development Services

Please forward this email ASAP with the attachment titled:

'James Hansen 60 minutes Science behind climate change.docx

to the Planning Commission members and to the County Commissioners. I will reference it when I make oral hearing comment before the Planning Commission October 7, 2020 at 1:30 pm.

I read Eric Urstadt' s 'Attachment B' letter to the Washington County - DLUT about Proposed Land Use Ordinance No. 869 and respectfully disagree with some of his statements about forest management practices. Mr. Urstadt wrote his statements not as a member of the Planning Commission but as an individual citizen. I am asking Mr. Urstadt and all Commissioners to view the 13-minute 60-minute report about forest management and climate change.
After you open the attachment to this email, you can also read the transcript of the story, but watching the interview is more informative to watch because of the video clips.

Protecting all of the Natural Resources (Significant Natural Resources) that we can possible protect should be our goal - even the smallest amount available in the proposed Ordinance 869.

Sincerely,

Dale Feik, Chair, Washington County Citizen Action Network (WC CAN)

Cc:

1. WC CAN Board of Directors: Brian Beinlich, Dan Bloom, Glen Claybrooks, Deke Gundersen, Faun Hosey, Jim Long, Greg Malinowski, Gerritt Rosenthal, Ellen Saunders, MaryLu Savana 2. Ashley Short, Executive Director of Tualatin River Keepers 3. Ted Labbe, Executive Director of Urban green spaces 4. Fran Warren, former Intel employee who did extensive research related to Housing and SNR 5. Ken Dobson, attorney 6. Mary Manseau, longtime advocate for the Natural Environment

Received 10/05/20
Wash. Co. LUT

https://www.cbsnews.com/news/western-wilfires-record-temperatures-california-60-minutes-2020-10-04/

The climate science behind this year's wildfires and powerful storms

Is climate change reversible? Scott Pelley speaks with the "father of climate science" and others for an answer.

At least 31 have died in the largest wildfires in California history. The east is defending itself against twice the usual number of tropical cyclones. And what may be the highest temperature ever recorded on Earth came in August in the United States. It's a torrid 2020 and it was forecast 32 years ago. In the 1980's, a NASA scientist named James Hansen discovered that climate change, driven by carbon emissions, was upon us. His graphs, of three decades ago, accurately traced the global rise in temperature to the year 2020. Last week, we had a lot of questions for Hansen. Are these disasters climate change? Do things get worse? Is it too late to do anything? But before we get to the causes, let us show you the effects.

- **Climate scientists on Earth's two futures**
- **From the 60 Minutes Archive: Covering climate change**

Butte County, California, Volunteer Fire Station 61.

Scott Pelley: How long has the fire station been here?

Reed Rankin: About 35 years.

Scott Pelley: And how long have you been here?

Reed Rankin: 28 and a half years.

Reed Rankin

Reed Rankin is chief of what was Station 61. He's spent his life in the community of Berry Creek. He's on the school board and built his home with his own hands.

Scott Pelley: Tell me what your home looks like right now.

Reed Rankin: Nothin' but a foundation with a metal roof on top of it. It's completely burned down.

Scott Pelley: School burned down.

Reed Rankin: Yeah. Completely. All the buildings on it burned down. Nothin'-- nothin' left.

Fifteen people died in that inferno, the second week in September, north of Sacramento, where the central valley folds into the Sierra Nevada.

Thom Porter: These are fires that nobody, when I started in this business, ever even dreamed of happening in California. Not even close.

California State Fire Chief Thom Porter 'started in this business' in 1999. That year just over one million acres burned. By 2007, it was a million and a half. In 2018, two million. This season, nearly four million acres have burned so far.

Climate isn't the only reason. Decades of aggressively putting out every forest fire allowed brush to pile up like kindling. But the warming climate has intensified heat and drought. Chief Porter showed us the length of the fire lines he's defending right now would stretch from LA to New York.

Thom Porter

Thom Porter: They talk about career fires. And a career fire was sometimes on the order of 10,000 to 50,000 acres. 50,000, that was crazy.

Scott Pelley: The kind of thing a firefighter would see once in his career.

Thom Porter: Correct. Once in a career. it dawned on me at one point that career fires are happening every single year, right now, today, there are ten fires in California that are 100,000 acres plus, and one that's 850,000 acres plus.

Four percent of the state has burned in total. The largest fires were ignited by storms, but because the air is so dry the rain evaporated before it reached the ground, leaving chief porter fighting dry lightning.

Thom Porter: I'm afraid, without significant change in the moisture that we get from the atmosphere we're gonna continue to see this getting worse and worse and worse.

Scott Pelley: How much of California can burn?

Thom Porter: Every acre in California can and will burn someday.

California smoke blew more than 2,000 miles to the east and drifted over the Pennsylvania farm of retired NASA scientist James Hansen. His 1988 paper on carbon and climate accurately predicted temperatures up to the far-off year of 2020.

James Hansen: Yeah, we're seeing exactly what we expected. But I expected that governments would be wise enough that they would begin to adopt policies to preserve the future for young people. But they haven't done that yet.

Hansen is the father of climate change science. For 32 years he was director of NASA's Goddard Institute for Space Studies. Today, at 79, he runs the program on climate science at Columbia University.

Scott Pelley: What is your forecast for the next 30 years?

James Hansen: Well, if we don't change anything, then we're going to continue to see more and more of these extreme regional events because the physics is quite simple. As you add more greenhouse gases to the atmosphere, you increase the heating of the surface. So, at the times and places where it's dry you get more extreme droughts. The fire seasons become longer. The fires burn hotter. But at the times and places where it's wet, you get more evaporation of the water. And you get warmer, moist air, which provides greater rainfall. And it's the fuel for storms.

This summer, the Atlantic Basin has soaked beneath 23 tropical storms or hurricanes, double the usual number. Death Valley, California, hit 130 degrees -- now being evaluated as a world record. And Los Angeles reached 120.

Michael Mann: People ask, are we dealing with a new normal? And the sobering answer is, that's the best-case scenario. A new normal is the best-case scenario 'cause that sorta means, well, we've got a new situation and we just have to learn how to deal with it. But it's much worse than that. So, there are surprises in store and we're seeing some of those surprises play out now.

Michael Mann is a geophysicist whose work on past climate showed today's rate of warming began with the Industrial Revolution. Mann is a lightning rod for deniers, but his research has been verified again and again. Mann is director of the Earth System Science Center at Penn State and a member of the National Academy of Sciences.

Scott Pelley: But there've always been fires in the west. There've always been hurricanes in the east. How do we know that climate change is involved in this?

Michael Mann

Michael Mann: Well, there are a number of independent sort of sources of information, lines of evidence that tell us that this isn't natural, that this is human-caused. Let's look at the big picture, the warming of the planet a little less than 2 degrees Fahrenheit warming of the planet since pre-industrial time. Now, people ask, well, couldn't that happen naturally? Well, it turns out that if you look at the factors that are driving natural changes right now -- small but measurable fluctuations in the brightness of the sun, Volcanic eruptions -- they tell us that earth should've cooled slightly over the past half-century.

Here's what he means. In that yellow line at bottom, NASA has measured a steady decline in heat from the sun since the 1950's. But the red line, the temperature of the Earth, has only increased.

Michael Mann: We can only explain that warming when we include the human factor of increased greenhouse gas concentrations; in particular, carbon dioxide from the burning of fossil fuels.

Scott Pelley: Well, the president says about climate change, science doesn't know.

Michael Mann: The president doesn't know. And he should know better. He should know that the world's leading scientific organizations, our own U.S. National Academy of Sciences, and national academies of every major industrial nation, every scientific society in the United States that's weighed in

on the matter. This is a scientific consensus. There's about as much scientific consensus about human-caused climate change as there is about gravity.

That's what President Trump heard last month from Wade Crowfoot, head of California's Natural Resources Agency, which includes fire fighting.

Wade Crowfoot to President Trump on 9/14/20: Because if we ignore that science and sort of put our head in the sand and think it's all about vegetation management, we're not going to succeed together protecting Californians.

President Trump: Okay. It'll start getting cooler. You just watch.

Crowfoot: I wish science agreed with you.

President Trump: Well, I don't think science knows, actually.

Wade Crowfoot: Well, with respect, I think he's wrong and he's on the wrong side of history.

Wade Crowfoot

This is the unmasked Wade Crowfoot, who reminded us California emerged from a five-year drought in 2016.

Wade Crowfoot: In that drought, which we called a mega-drought-- hasn't happened at that level in a thousand years. We experienced communities in California literally running out of water.

And where California dried out is now the site of the largest single fire in state history, called the Creek Fire.

Wade Crowfoot: So that's an existential challenge. We lost over 160 million trees in the Sierra Nevada mountain range as a result of that drought. The fire that burned the hottest and most dangerous, the Creek Fire, was in the epicenter of that tree mortality. It ran so hot that it created a smoke cloud 50,000 feet in the sky.

Scott Pelley: What was the impact of all the smoke

Wade Crowfoot: So consider this. Fifty million Americans on the West Coast suffered through weeks of the worst air quality on the planet.

Scott Pelley: You didn't have to live anywhere near the fires to be affected by them.

Wade Crowfoot: Not at all. Throughout California the smoke was so bad that our kids couldn't play outside. And folks were discouraged from even spending any time outdoors.

Scott Pelley: I did my first climate story more than 20 years ago and I remember, at the time, being told that there would be terrible fires and terrible hurricanes in 100 years; that this was a problem for our great-grandchildren. What changed?

Michael Mann: what we're finding is that many of these changes can happen faster than we thought they could. We didn't really expect to see substantial loss of ice from the two major continental ice sheets, the Greenland Ice Sheet and the Antarctic Ice Sheet. But now, the satellite measurements and in situ measurements tell us that they're already losing ice. They're already beginning that process of collapse. It's already contributing to sea level rise, decades ahead of schedule.

Still, geophysicist Michael Mann told us warming can be stopped. Oceans and forests would begin to absorb excess carbon in a matter of years if emissions, principally from coal-fired power plants, are reduced close to zero. Former NASA scientist James Hansen believes the way to do that is for governments to tax cheap fossil fuels to make them more expensive than clean alternatives.

James Hansen

James Hansen: They have these wishful thinking agreements like Kyoto Protocol and the Paris Agreement. Every country says, "We'll try to do better." That won't work. What we need is to have an increasing price on the fossil fuels and do it in a way that the public will accept.

Scott Pelley: At what point does it become too late?

James Hansen: It becomes too late if you get to the point that you cannot stop the ice sheet disintegration. That's the biggest point of no return. We can get to a point where we're going to get several meters of sea level rise out of our control. That's too late. We would lose our coastal cities. And more than half of the large cities in the world are on coastlines.

Scott Pelley: If we don't start to reduce the CO2 in the atmosphere, 50 years from now, someone doing research on this time might look at this interview and I wonder what you would like to say to them.

Michael Mann: That-- that's a tough question. I would say we did everything we could and we're sorry. We're sorry that we failed. But I don't think that's our future. I don't want that to be our future. That's a possible future. We have to recognize that. The worst visions that Hollywood has given us of dystopian futures are real possible futures if we don't act on this problem; the greatest crisis that we face as a civilization.

Produced by Maria Gavrilovic and Alex Ortiz. Broadcast associate, Ian Flickinger. Edited by April Wilson.

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Scott Pelley

Correspondent, "60 Minutes"

Attachment B

Received 10/02/20
Wash. Co. LUT

Paul Whitney, Ph.D.
12035 SW Bull Mtn. Rd
Tigard, Oregon 97224

October 1, 2020

I am a retired ecologist and have lived in Washington County since 1980 when my wife and I moved into our house on Bull Mtn. Rd. When working, I was the president of a mid-sized environmental consulting firm. Our clients included many Portland developers such as Arbor Homes (e.g., Arbor Rose – endangered species issues) and Marshall Development (e.g., Claremont - wetland issues). We also did work for the City of Portland and I did pro bono work for Portland METRO). An example of the work for the City was a request by BES to rewrite their River Renaissance Watershed report to better reflect upland and terrestrial wildlife issues. (https://www.portlandoregon.gov/citycode/article/72561#!/action=viewmore&type=latestPages)
While their report was exemplary for protecting aquatic resources, reviewers asked that BES incorporate similar protective language for terrestrial resources. BES hired me to do this.

My pro bono work for Portland METRO included participation on the Technical Advisory Committee for Title 13. This effort was spearheaded by Ken Helm, current Oregon legislator. I advocated for protection of upland wildlife habitats and managed to get upland significant resources mapped into METRO's Title 13 as Class I (best) and Class II (better) upland wildlife resources (refer to the following hyper text for map).
(https://databasin.org/datasets/afdbf390255549418f26855af59b2f79)
The METRO technical advisory committee was in full support of this classification system because it identified the best and better upland habitats on the landscape that should be protected. The push back from the development community was significant and David Bragdon, METRO councilor, offered a compromise that traded the Technical Advisory Committee recommendation for protecting Title 13 mapped resources for many millions of dollars of habitat protection that was subsequently used to purchase many areas that are now managed as natural areas. Note that this compromise was a "political" compromise not a scientific compromise. While wonderful parcels were purchased and preserved the parcels protected were often not the best of the best upland wildlife habitat available. As a result, many of the best upland habitats have been developed by Washington County ignoring the METRO Title 13 mapped resources by stating Washington County Goal 5 protection does not have to follow METRO's Title 13 mapping system.

Washington County's current plan to protect 25% or 15% of upland habitat resources depending on adjacent riparian resources is much worse than the compromise reached by David Bragdon for a variety of reasons. A primary concern is that the proposed protection relates to the value of the resources of a proposed development parcel NOT the landscape. Not addressing the protection of upland resources at the land scape level is not good. As a retired ecologist I certainly recommend updating the Title 13 METRO map to identify the best and better upland habitats on a landscape level. Considering that the METRO Title 13 map is 15 to 20 years old, it should be updated by a qualified wildlife biologist. Protecting the current Class I

and Class II habitats is the only way to assure that the best of the best significant natural upland resources will be protected. Allowing the developers to identify the best upland habitats on a localized property by property basis not only runs the risk of not protecting the best habitat it also runs the risk of not identifying corridors to and from adjacent properties not scheduled for development. Another way of stating this problem is to call out the risk of fragmentation of upland habitat. The problems and impact of habitat fragmentation are many and well accepted and too numerous to list here. Please refer to the following hypertext that addresses the problems associated with habitat fragmentation.
https://en.wikipedia.org/wiki/Habitat_fragmentation.

Also of concern is that the developer is proposed to identify the location of the 15% or 25% to be protected. While the developers have produced some wonderful projects in the METRO area they do not have the staff or expertise to identify the location of the 15% or the 25% highest value upland habitat on their parcels much less the landscape of Washington County.

Here I identify one primary and major problem with the proposed 869 Ordinance: Protecting Upland Habitat is not based on a current landscape-level map. The solution I propose is to refer back to the METRO Title 13 map and to propose procedures for identifying current best and better upland resources, how to avoid and if not possible, when and how to mitigate impacts on upland wildlife habitats. The City of Portland has built on the METRO Title 13 proposed procedure and the River Renaissance Report as cited here.
(https://www.portlandoregon.gov/bes/article/107808)
It is hoped Washington County can follow a similar path for avoiding and protecting the best and better upland wildlife habitats.

Paul Whitney Ph.D.

Received 10/01/20
Wash. Co. LUT

Washington County Planning Commission
and Board of Commissioners
c/o Michelle Miller, Sr. Planner
Dept. of Land Use and Transportation
Hillsboro, Oregon

September 30, 2020

Re: Proposed Ordinance 869

Reviewing public testimonies in the packet for our Planning Commission's Sept. 16 meeting, I saw that about 50 citizens (a couple letters had multiple signatures) testified, and all but two urged more protection for remaining Goal 5 habitats. Then came the terrifying wake-up call by fire. "As climate change increasingly puts public safety at risk, mature trees and their understory—within SNR habitats and elsewhere—are critical allies as our County responds to challenges posed by global warming." That's from my own Ordinance 869 testimony, before the fires. Now I can only plead for County leaders to do everything in your power to protect your constituency in part by taking any small step (they add up!) possible to fight climate change, including protection for our remaining SNR Wildlife Habitats! And that IS within the scope of proposed Ordinance 869.

At the Sept. 2 Planning Commission meeting, County staff said that increased protection of SNR Wildlife Habitats is beyond the scope of Ordinance 869 because that would entail a policy change and could only be addressed in the LRP for the next ordinance season. **The scope of 869 is to fulfill the Enforcement Order's requirement for clear and objective code that brings Washington County into compliance with Goal 5.** If CDC 422-3.6 historically allowed developers to destroy 75 percent or more of upland Goal 5 SNRs, that wasn't a policy found anywhere in the CDC or Comprehensive Plan. It was a malfunction of 422-3.6. Seems that any "mitigation" was accepted for destruction of irreplaceable mature habitat over the years, despite 422-3.6 being written in response to Goal 5 to supposedly protect these resources. LCDC's injunction was issued to prevent further "significant loss of such wildlife habitat areas" pending clear and objective protective code, so Ordinance 869's job is to protect the habitats. As written, it does just the opposite.

Even the meager 15 or 25 percent "preservation areas" could be destroyed if a developer "mitigated" with baby trees and shrubs (proposed CDC 422-5.4 Unauthorized Removal). And while County staff talked about policy changes, they didn't address the policy change involved in new code that requires NO mitigation for destroying most of an SNR, unlike the now invalidated 422-3.6, which called for "mitigation" of any "serious interference."

As written, 869 would invite further challenges at the state level and wouldn't stand a chance of LCDC approval.

Development interests are a vital part of our community to provide new homes. But available land outside SNRs provides that opportunity. Maybe low housing supply helps drive prices higher, but anyone paying attention can see that developers in general are building higher-end units, including many McMansions priced over $700K. Within a mile of my house, I can point to four Goal 5 Wildlife Habitats that have been replaced--or are currently being replaced--by subdivisions of large expensive homes. Why not help developers realize an attractive return for building affordable housing on land outside of SNRs? How about incentives for projects ranging from simple duplexes and fourplexes to innovations like the Kansas City "homes for the brave" apartments for veterans?

Whatever role forest management might play in current fires, we have had an astounding reality check showcasing the potential horror of our future unless we can counter climate change. That includes cherishing and protecting what remains of our mature habitats and their critical functions such as carbon absorption. This crisis isn't something looming off in the future. It's now, and no "mitigation" saplings can help us now. We need our mature Goal 5 resources like never before.

Thank you for considering my thoughts.

Sincerely,

Pat Forsyth
8101 SW Cedarcrest St.
Portland, OR 97223
Unincorporated
Washington County

WASHINGTON COUNTY
OREGON

Intra-Department Correspondence

Date: September 29, 2020

Received 09/29/20
Wash. Co. LUT

To: Board of Commissioners

From: Kevin Moss, Clerk to the Board

Re: **Public Testimony on Ordinance 869**

Commissioners,

We received 8 e-mails relating to testimony on Ordinance 869 – an ordinance amending the community development code relating to development in areas designated significant natural resources and planned developments.

Below is the opposition or support for the Ordinance. Attached are the emails.

Please note we also received 3 emails from Tanya Rosencrance giving thanks to the Planning Commission. They have been added to the end of the packet.

<u>Constituent Emails/Letters:</u>

Blaine Ackley – Opposed to Ordinance 869

Ashley Short – Opposed to Ordinance 869

Maggie Myers – Opposed to Ordinance 869

Tanya Rosencrance – Thanks to Planning Commission

Fran Warren – Opposed to Ordinance 869 – Additional Testimony received 9/28/20

Brett Campbell – Opposed to Ordinance 869 – Additional Testimony received 9/28/20

Ken Dobson – Opposed to Ordinance 869 – Additional Testimony received 9/29/20

Jim Long - Opposed to Ordinance 869 – Additional Testimony received 9/29/20

Mary Manseau - Opposed to Ordinance 869 – Additional Testimony received 9/29/20

5230 NW 137th Avenue
Portland, OR 97229

Received 09/29/20
Wash. Co. LUT

September 29, 2020

Michelle Miller, Long Range Planning
Washington County Department of Land Use and Transportation
155 N. First Avenue
Hillsboro, OR 97124

RE: Proposed Ordinance 869

Dear Ms. Miller,

Significant concerns remain with Ordinance 869. The proposed engrossments to Ordinance 869 are a step in the right direction. However, more changes need to be implemented to correct some serious oversights.

Preservation of only 15% of the wildlife/upland habitat is a joke. Is preservation of 25% even adequate? When historically we've done a bad job of preserving wildlife habitat, why are we basing the area we need to preserve on historical data. When the original inventories were completed in Bethany, only wooded areas of 5 acres or more could qualify as wildlife habitat--presumably because a parcel of at least 5 acres was needed to function as habitat. As proposed, we should be questioning whether we are significantly reducing these wooded parcels to a size that will seriously interfere with the ability for these areas to function as high quality habitat for wildlife.

Where are the provisions in this code that will ensure the best Wildlife/Upland Habitat and the most significant trees identified during the tree inventory and habitat evaluation and delineation process are preserved?

Within field verified Water Areas and Wetlands, Water-Related Fish and Wildlife Habitat, the proposed code in CDC 422-4 allows construction of detached dwelling and accessory structures on a lot of record when there is insufficient buildable area outside of the resource.

- An "A" should be added to 422-4 (E) to provide clarity that only one detached dwelling unit can be located in the resource.
- Is it clear whether ADU can be allowed?
- There appears to be no limitation on the size of the building footprint, including number of garages or number of accessory structures.
- Is it appropriate for code to allow a 12,000 square foot home with a 5-car garage and a covered tennis court within a verified Water Area SNR? Nothing in the current proposed code seems to prevent this as an option for a property owner.

Under the exemptions to Section 422-5 parcels with less than 2000 square feet of Habitat Area are exempt from having to comply with the SNR regulations. This exemption does not make sense

- The exemption applies whether the project site is a 1/4 acre site with a 2000 square foot Habitat Area (18% of lot would be SNR, but only 500 square feet or 5% would be required to be preserved without this limitation) or a 4 acre site with a 2000 square foot Habitat Area (1% of the lot is SNR, and .28% of the lot would be required to be preserved)
- The exemption applies regardless of whether this small Habitat Area is part of a larger preserved Habitat Area. Is the thinking that a small isolated SNR area with less than 2000 square feet has little value as habitat? If there is only 2000 square feet on a parcel, likely there is more habitat on an adjacent lot.

Piecemealing our SNR areas on a lot-by-lot basis will ensure we will not have not adequate resources preserved when development is complete.

Section 422-5.3 needs additional work:

- The minimum preservation area of 500 square feet is a step in the right direction, but it does not go far enough. A single mature Oregon White Oak--one of the most important habitat trees in our region--will need at least 2000 square feet to prevent impacts to the root zone. Impacts from development, including introduction of supplemental watering, changes in grade, soil compression, trenching or impervious surfaces within the root zone can be a death sentence for the tree.
- The Planting Matrix for the Preservation Area needs to be based upon the size of the area preserved and the existing vegetation. A 1000 square foot Preservation Area with a single Oregon White Oak does not need 4 additional trees. Similarly, a one acre Preservation Area should be required to have more than 5 large trees and 10 understory shrubs.

Fencing is critical both during development and when residents have moved into their homes. This critical need is missing from the proposed code.

- Construction fencing that is substantial and not easily moved is needed to prevent damage to SNR areas to be preserved. The SNR areas need to be protected from construction staging areas, including, but not limited to parking of vehicles and equipment, storage of building materials, and stockpiling of excess soil.
- To prevent residential yard creep into preserved SNR areas, wildlife friendly fencing needs to be placed at the edge of the SNR to delineate the boundary between the SNR and the privately owned property.

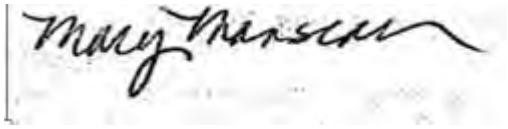
Screening and buffering should be called out in the Code for all SNR areas, not just for the SNA's:

- CPO 7 is dealing with a proposed gas station at the Mad Greek Deli location. This site is located between West Union Road and the SNR associated with Bethany Creek. Current code apparently will allow this station to be approved with a reduction in CWS required buffer, and although no set backs are required as the site is zoned Neighborhood Commercial, screening or buffering on the gas station site is not required because the "existing Goal 5 resources provide a substantial buffer between the proposed development.

Although specifically called out in Community Plan SNR mapping as Open Space, power line corridors are excluded from the proposed code to serve as Open Space for Planned Developments. Power line corridors preserved should qualify as Open Space for Planned Developments. These corridors can serve a public good as Open Space--serving as trails, ball fields and community gardens--rather than private parking lots or RV storage.

Recommendation to the board for adoption of this ordinance should be delayed until all issues identified by Planning Commission and the public have been addressed.

Sincerely,



Mary Manseau

KENNETH P. DOBSON
ATTORNEY AT LAW

Received 09/29/20
Wash. Co. LUT

telephone: (971) 717-6582
email: landlaw.oregon@gmail.com
www.pdxlandlaw.com

0324 S.W. Abernethy Street
Portland, Oregon 97239

September 28, 2020

VIA ELECTRONIC MAIL

Kevin Moss
Washington County Clerk to the Board
155 N. First Avenue, MS-22
Hillsboro, Oregon 97124
WashCoClerk@co.washington.or.us

Re: *Proposed Ordinances 869 and 869A*

Mr. Moss:

I represent Jill Warren. Please accept this letter as Ms. Warren's comments on proposed County Ordinances 869 and 869A which seek to amend provisions of the Community Development Code ("CDC") as it relates to lands designated as Significant Natural Resources ("SNRs") under the County's Goal 5 program. Please make sure these comments are made part of the official record for Board of Commissioner's upcoming meeting scheduled for September 29, 2020.

Even with the Proposed Engrossments, Some of Proposed Rules are Still Not "Clear and Objective" as Required Under the Needed Housing Statute

In its June 1, 2020 enforcement order, the Land Conservation and Development Commission ("LCDC") found that many of the County's SNR rules were not "clear and objective" as required by the "needed housing statute," which states in relevant part:

> "a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of housing, including needed housing." ORS 197.307(4).

Similarly, the Goal 5 implementing regulations state that local rules governing designated Goal 5 resources "shall contain clear and objective standards" OAR 660-023-0050.

The LCDC's findings are consistent with the Court of Appeals ruling in *Warren v. Washington County*, which invalidated CDC 422-3.3, 422-3.4, and CDC 422-3.6 for not being "clear and objective" as required under the needed housing statute. To remedy this non-compliance, the LCDC ordered the County to adopt clear and objective standards to replace the provisions invalidated by the Court of Appeals. However, as originally written, Ordinance 869 contained many rules that were not clear and objective and would most likely be not be approved

by the LCDC and will otherwise be subject to legal challenge should the County Commission choose to adopt them. After the public pointed out these problems, County staff made several proposed changes to the language of the ordinance. These changes have not yet been formally made to the proposed ordinance currently before the Board and the Planning Commission rejected a motion at its last meeting to recommend adopting the amendments, citing need for additional review and public comment. Accordingly, the proposed ordinance and amendments are not yet ready for a vote by the Board.

However, even with the staff's proposed changes were accepted by the Board, there would still be some vague and ambiguous language that would take Ordinance 869 out of compliance with the Needed Housing Statute, Goal 5, and the LCDC enforcement order. For example, proposed CDC 422-3.5 would require that applicants prepare a "habitat assessment" to evaluate and rate the different habitat values using "methodologies outlined in the Habitat Assessment Guidelines" is ambiguous and not clear and objective. However, the text of the proposed ordinance does not identify the "Habitat Assessment Guidelines" and it is unclear who or what will determine those "guidelines" or "methodologies." The proposed rule must specify exactly what standards shall be used.

In response to this problem, County staff state that they are working on developing "Habitat Assessment Guidelines" that would clarify the methodologies to be used. However, the County has so far not released the proposed language, leaving the proposed ordinance out of compliance. Although staff suggests the Board can adopt the guidelines separately from the rest of the ordinance, the specific methodologies to be used in evaluating proposed development and conservation in SNRs is a critical component of the new statutory scheme and must be part of the public discussion regarding the proposed ordinance as whole. Until the public has had an opportunity to consider and comment on the specific methodologies to be used in implementing the new rules, a vote on the proposed ordinance would be premature and improper.

In addition, proposed new CDC 422-3.7 retains almost verbatim the language of current CDC 422-3.6 invalidated by the Court of Appeals in *Warren v. Washington County*, which purports to restrict serious interference with SNRs outside the UGB unless the interference is "mitigated." Proposed Ordinance 869A also contains language in proposed CDC 422-3.6 that allows the County, "in its discretion," to waive various submittal requirements for SNRs outside the UGB, but does not provide any clear and objective criteria for the exercise of that discretion. These requirements are anything but clear and objective as required by the Goal 5 rules, in particular OAR 660-023-0050(2), which states:

> "When a local government has decided to protect a resource site under OAR 660-023-0040(5)(b), implementing measures applied to conflicting uses in the resource site and with its impact areas ***shall contain clear and objective standards***." (emphasis added).

In response, Staff states that this requirement "does require clear and objective standards but only when adopting *new* policies and uses for the rural area." The basis of the Staff's understanding of the applicability of this requirement is unclear, but what is clear is that the requirements of OAR 660-023-0050 apply to any post-acknowledgement plan amendment

("PAPA") to the Goal 5 program, which proposed Ordinance 869 is because it amends and adopts land use regulations. See OAR 660-023-0010(5) (defining PAPA to include any amendments or adoption to land use regulations).

In addition, the LCDC's enforcement order noted that other portions of the County Code are most likely not clear objective either and the Commission recommended (but did not require) that the County amend these other sections as well. The County has so far not followed this recommendation and other rules and requirements remain out of compliance with Goal 5 and the Needed Housing Statute. For example, a County Hearings officer recently refused to apply Design Element 1 of the Aloha-Reedville-Cooper Mountain Community Plan, which requires that "wooded areas" be "preserved and protected," because the requirements are not "clear and objective." Notice of Decision of the Hearing Officer, Case File L2000048-S/Appeal, p 18 (Aug. 25, 2020). The Hearing Officer's recent finding that the Community Plan requirements were unenforceable under the Needed Housing Statute will likely trigger yet another LCDC enforcement proceeding which could otherwise be avoided by taking the time allocated by the first enforcement order and making sure the County's other land use ordinances are updated and made clear and objective.

Proposed Ordinance 869 Marks a Radical Departure from the County's Existing Goal 5 Policies Set Forth in the Comprehensive Plan

In addition to not complying with the Needed Housing Statute's clear and objective requirements, many of the proposed new rules lack the level of substantive protections for SNRs required under Goal 5 and the County's Comprehensive Plan. Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces, provides, in part:

> "Local governments shall adopt programs that will protect natural resources and conserve scenic, historic, and open space resources for present and future generations. These resources promote a healthy environment and natural landscape that contributes to Oregon's livability.
>
> The following resources shall be inventoried:
>
> a. Riparian corridors, including water and riparian areas and fish habitat;
>
> b. Wetlands;
>
> c. Wildlife Habitat;
>
> Following procedures, standards, and definitions contained in commission rules, local governments shall determine significant sites for inventoried resources and develop programs to achieve the goal."

Goal 5's implementing regulations also require local governments to develop programs to protect certain types of natural resources, including riparian corridors and wildlife habitat. E.g., OAR

660-023-0090 (riparian corridors); OAR 660-023-0110 (wildlife habitat); see generally OAR 660-023-0050 (programs to achieve compliance with Goal 5).

Likewise, the County's own polices concerning SNRs are set forth at Comprehensive Plan Policy 10 and state: "It is the policy of Washington County to protect and enhance Significant Natural Areas." To further this stated policy, Comprehensive Plan Policy 10 goes on to set forth various implementing strategies, under which:

> "The County will:
>
> a. Identify Significant Natural Resources and directions for their protection or development in the community plans. Those directions shall assure that the unique values of Significant Natural Resources can be examined and ***that all reasonable methods for their preservation can be pursued prior to development***, without penalty for the potential loss of development density that may result.
>
> * * *
>
> h. Develop tree conservation standards to regulate the removal of or damage to trees and vegetation in identified Significant Natural Areas within the unincorporated urban area, in order to retain the wooded character and habitat of urban forested lands." (emphasis added).

Consistent with these implementing strategies, the County adopted CDC 422-3.6, which on its face, prohibited "significant interference" with mapped Goal 5 SNR resources unless that interference could be mitigated.

By contrast, proposed Ordinance 869 will allow developers to destroy 75 – 85% of designated Wildlife Habitat SNRs, which clearly constitutes "significant interference," without any mitigation (aside from perhaps enhancing the small amount of remaining areas to "good" condition by removal of non-native vegetation). According to staff, this approach furthers an apparently new policy to "lightly protect" designated Wildlife Habitat. However, nowhere in the Comprehensive Plan is there any language that supports a policy to "lightly protect" these areas. Instead, the Comprehensive Plan makes clear that "all reasonable methods for their preservation" should be pursued prior to development and that tree removal within SNRs be regulated in a manner "in order to retain the wooded character and habitat of urban forested land." Allowing the destruction of up to 85% of a designated Wildlife Habitat is neither pursuing "all reasonable methods" for preservation nor retaining "the wooded character and habitat" of the area."

In support of adopting a policy of "lightly protecting" designated wildlife SNRs, County staff stated it reviewed historic land use files and found that development in SNRs under the existing CDC provisions left, on average, approximately 25% of the resource areas protected. However, as noted by the Tualatin Riverkeepers in their comments, the small amount of wildlife habitat that ended up being protected is more a reflection of how the current system is broken and how developers have exploited the lack of clear and objective standards to permanently

remove large portions of designated SNRs that should have otherwise been protected under Goal 5 and the Comprehensive Plan. In fact, a County Hearings Officer in the Crestline decision at issue in *Warren v. Washington County* originally found that the applicant's proposal of mitigating the loss of 75% of a wildlife SNR by planting new, immature trees in an nearby riparian corridor would not comply with CDC 422-3.6's prohibition against "significant interference," but he was precluded from imposing that requirement because of recent amendments to the Needed Housing Statute.

In addition, the proposed changes to the rules governing riparian SNRs will also mark a departure from existing policies. Importantly, the existing regulations concerning activities in SNRs set forth a laundry list of requirements for "enhancements" in riparian SNRs. These detailed requirements include, among other things, performing a wildlife census, submitting the proposal to the ODFW for review and comment, and "to the maximum feasible extent," designing the development to minimize human activity directly adjacent to the Significant Natural Resource. CDC 422-3.4. The proposed new rules, however, delete all of these requirements. It is important to note that many of these existing rules regulating activities in riparian SNRs, such as preparing a wildlife census and submitting the proposal to ODFW for review and comment, are "clear and objective" and there is no need to delete them from the current proposal absent some shift in County policy regarding the riparian SNRs.

Fortunately, these problems can be easily rectified by increasing the amount of upland SNRs to be preserved to a much more reasonable percentage consistent with Goal 5 and the Comprehensive Plan such as 75-85%. In addition, the County could preserve the existing clear and objective requirements set forth in CDC 422-3.4 and make them applicable to any alteration of riparian SNRs. Although this might require some additional work by staff to make these revisions, it is better than rushing through a flawed ordinance that will give rise to further LCDC enforcement proceedings. Accordingly, the Board should use the time allocated by the enforcement order to ensure the rules comply with the spirit and letter of Goal 5 and the Comprehensive Plan.

Various Exceptions and Waivers Set Forth in the Proposed New Rules Render Many of the Purported Protections for SNRs Illusory

Moreover, the new rules are so riddled with exceptions and waivers, that they render what little protections that are afforded illusory. For example, the proposed ordinance provides an exception to the application of SNR wildlife habitat requirements for "[c]onstruction or alteration of a residence or accessory structure when located on an existing lot or parcel created prior to November 27, 2020." CDC 422-5.2(B). As written, this exception would allow a land use applicant to destroy 100% of wildlife habitat SNRs on a property without consequence provided they were not requesting a subdivision or other land partition. The proposed engrossments go even further and exempt from the rules development in wildlife SNRs of less than 2,000 square feet in size. CDC 422-5.2(E). Nowhere in Goal 5 or the Comprehensive Plan is any indication that the County intended to eliminate all special protections for designated wildlife habitat in these circumstances.

The proposed new CDC 422-4.2 allows outright activities such as farming and commercial timber harvesting in SNRs outside the UGB "when in compliance with the Oregon Forest Practices Act and Administrative Rules" and effectively offers no protection for those SNRs in violation of Goal 5 and the Comprehensive Plan. Deferring to Oregon Department of Forestry rules, that are necessarily already applicable to commercial timber harvesting, also renders CDC 422-4.2 meaningless.

The exceptions to new tree removal requirements under proposed CDC 422-5.2 largely swallow up any substantive protections for trees in SNRs. In particular, the exception under CDC 422-5.2A for tree removal activity permitted by the general requirements of CDC 407-3 is especially problematic because it would encompass almost all tree removal in unincorporated Washington County. This section essentially allows an applicant to rely on those general tree removal standards, which in turn provide an exception from the general tree removal permit requirements for subdivision applications. As written, the proposed rule will allow unchecked tree removal in designated SNRs for new subdivisions in violation of Goal 5 and the Comprehensive Plan.

Even the minimal protections offered by CDC 422-5.2 can be essentially waived under the proposed new CDC 422-5.5 which allows any removal of trees in violation of the new tree preservation requirements to be "mitigated" from a code compliance perspective by planting new immature trees and shrubs to replace trees unlawfully removed. In essence, this is a back door to evade the new requirements by allowing developers to engage in "mitigation" practices that are biologically unfeasible and encourages illegal tree removal in violation of the SNR rules.

It is unclear whether the County staff have thought through the consequences of including so many loopholes and exceptions into the proposed ordinance. Although the problems with how proposed Ordinance 869 interacts with the tree removal rules set forth CDC 407-3 have been raised in previous public comments, County staff has not addressed those concerns in its various staff reports to the Board and the Planning Commission. Additional time is needed to ensure that staff and the Board have considered how these exceptions and loopholes will play out in practice and understand the real-world consequence of including them in the proposed ordinance.

The County's Reliance on CWS and DSL Regulations is Misplaced

Several of the proposed new rules adopt by reference DSL and CWS regulations as an apparent substitute for County specific standalone rules. For example, CDC 422-3.1A.1 allows a development applicant to determine the boundaries of riparian SNRs "consistent with the methods currently accepted by the Oregon Department of State Lands (DSL) and/or Clean Water Services (CWS) (as applicable)." Similarly, CDC 422-3.1B.1 appears to limit the geographic scope of riparian wildlife habitat SNRs to what is shown on the CWS' vegetated corridor maps.

However, CWS and County Goal 5 regulations serve separate purposes and do not necessarily overlap in scope and substance. Simply deferring to existing CWS maps and regulations to determine the boundaries of the riparian SNRs would defeat the purpose of a having a separate Goal 5 program as contemplated by the Comprehensive Plan and CWS

regulations which both expressly recognize that the programs serve separate purposes. For example, Chapter 3 of the CWS regulations governing activities in "sensitive areas and vegetated corridors" state in relevant part:

> "***In combination with*** other state, federal, and local laws and ordinances, these requirements are intended to protect the beneficial uses of waters within the Tualatin River Basin and within the District." CWS Resolution & Ordinance 17-5, sec. 3.01.1 (April 2017) (emphasis added).
>
> "The Applicant shall obtain and comply with all permits and approvals required under applicable local, state and federal law." Id. sec. 3.01.4.

The County Comprehensive Plan also recognizes that, while there is some overlap, the CWS regulations were enacted to protect water quality and are not specifically designed to protect habitat, which is the express purpose of CDC section 422:

> "Riparian (streamside) areas are important natural features and ***are somewhat protected*** by Floodplain and Drainage Hazard Area provisions, and by Clean Water Services water quality provisions. Beyond these direct health and safety aspects, streamside areas are important as wildlife habitat corridors." WASHINGTON COUNTY COMPREHENSIVE FRAMEWORK PLAN FOR THE URBAN AREA, p. 18 (emphasis added).

Because the CWS regulations expressly state they are intended to be applied in combination with other local regulations and that those applying for CWS approval for activities in vegetated corridors must also comply with all local permits and approvals, they do not somehow excuse the County from complying with Goal 5's requirement of adopting programs to protect identified SNRs. In addition, the riparian lands designated by the County as Goal 5 resources are often more expansive than statutory wetlands protected under the Clean Water Act and analogous state laws and such locally made designations instead reflect "the county's judgment that the resource is significant and provides protection for listed areas against development." *See Plotkin v. Washington County,* 165 Or App 246, 997 P2d 226, 227-29 (2000) (the fact that a particular site may or may not otherwise contain wetlands not listed in the County's Goal 5 inventory is irrelevant in determining compliance with CDC chapter 422).

The idea that the boundaries of riparian SNRs under CDC Section 422 should match wetlands and vegetated corridors identified using methodologies under these separate statutory schemes also runs afoul with the how SNRs are defined under both the existing and proposed SNR rules. Specifically, CDC Section 422 classifies riparian SNRs into two categories: "Water Areas and Wetlands" and "Water Related Fish and Wildlife Habitat." The later of these two designations is defined under the proposed rules as "Water Related Areas that are also fish and wildlife habitat, including Riparian Corridors." The problem in using DSL and CWS methodologies to define the boundaries of "Water Related Fish and Wildlife Habitat" is that those methodologies rely on moisture dependent plants, soil types, bank slope, and proximity to certain defined waterways. None of these methodologies take into consideration the actual presence, or lack thereof, of fish and wildlife. Taking the presence of fish and wildlife out of the

field verification process entirely, as is now proposed, would render the term "Fish and Wildlife Habitat" as used in Section 422 superfluous and run contrary to the letter and spirit of Goal 5 and the Comprehensive Plan, which both require the County to adopt programs to protect "habitat." See, e.g., OAR 660-023-0110 (setting forth methodologies for identifying "wildlife habitat" under Goal 5 by reference to, among other things, habitat studies promulgated by the ODFW).

It is also important to note the County attempted to argue in the LCDC proceeding that the existence of these and other overlapping state and local regulatory programs kept it from falling out of compliance with Goal 5 even after the Court of Appeals had invalidated much of CDC chapter 422. The LCDC rejected that argument and found that these other programs are not an effective substitute for the invalidated county code provisions, which serve a separate purpose. The adoption by reference of whole sections of those other regulatory requirements in proposed Ordinance 869 is similarly misguided and will only invite similar legal challenges.

The County Must Coordinate with ODFW in Implementing the New SNR Rules

As noted by many members of the public, proposed Ordinance 869 (especially the field verification process) leaves out an important partner – the Oregon Department of Fish and Wildlife. The proposed new rules delete previous requirements that required applicants and the County to solicit ODFW's input in carrying out certain activities in SNRs. As a matter of policy and basic biology, ODFW's input is vital to implementing any new Goal 5 strategy to protect what few remaining SNRs are left. Moreover, ODFW's involvement in this process is also <u>required</u> under the Goal 5 rules.

Specifically, the Goal 5 rules require the notification and involvement of "public agencies." OAR 660-023-0060. Similarly, OAR 660-023-0110(6) requires local jurisdictions to coordinate with "appropriate state and federal agencies" when adopting programs intended to protect sensitive species habitat areas. As set forth in several of the public comments, areas affected by the proposed new rules include habitat for sensitive species. Accordingly, it is imperative that the County solicit input from ODFW before adopting any new rules that will result in long term impacts to fish and wildlife habitat.

Unfortunately, it does not appear that County staff has consulted with ODFW whatsoever and it is unclear whether any biologist hired by the County has reviewed the proposed new rules to determine whether the proposal to allow development of up to 85% of designated wildlife habitat is biologically sound. On the contrary, ODFW and multiple independent biologists were highly critical of the proposed development at issue in the *Warren v. Washington County* litigation, which called for removal of 75% of a designated wildlife habitat, and the proposed "mitigation" to offset that loss. That same level of removal or more would be permitted outright under the new rules, but without the mitigation requirement. Before the County embarks on a new regulatory policy that will lead to the permanent destruction of most of the wildlife habitat previously identified in its Goal 5 process, it should take the time to solicit ODFW's input to help determine whether the proposal is biologically feasible.

Thank you for your consideration of these comments and I look forward to continuing to work with the County to craft new clear and objective standards for development in SNRs that are grounded in biology and science and consistent with Goal 5 and the Comprehensive Plan.

Sincerely,

Kenneth P. Dobson

Received 09/29/20
Wash. Co. LUT

Neighbors Working Together!
CPO4M

September 29, 2020

Washington County Board of Commissioners
c/o Kevin Moss, Clerk to the Board
155 N. First Avenue, MS-22
Hillsboro, Oregon 97124
WashCoClerk@co.washington.or.us

RE: Proposed Ordinance 869 Significant Natural Resource areas (SNR)

CPO membership last week empowered the steering committee to draft this letter opposing Ordinance #869 as written over two months ago because it is 'subjective' but not 'clear and objective' code that actually protects Goal 5 Wildlife Habitat. We had not seen the proposed language changes before our meeting.

In the early 1970s, Governor Tom McCall, champion of our statewide land use laws, said in speeches "we have to protect this thing called "Oregon". And that protection includes all living creatures and their habitat.

I see the current County's Dept. of Public Health mission statement is: protect people, animals, and the environment. At our CPO meeting last week, a representative from the Sheriff's office said that they historically have received quite a positive response from the public about wildlife. Recently, birds and other wildlife appear to have appreciated the societal slowdown of the pandemic, with cleaner air, less traffic, less noise, etc.

For years CPO-4M has been stating that Washington County is out of compliance with Goal 5 environmental protections. Fourteen months ago, CPO-4M testified asking the Board of Commissioners put a moratorium on DLUT approval of applications involving biologically and ecologically irreplaceable SNRs. The County response was continued denials of violating Goal 5 environmental protections.

There are reasons why 'conservation' comes before 'development' in the Oregon Land Conservation and Development Commission (LCDC) name.

The Department of Land Conservation and Development because of the pandemic gave Washington County until May 1st to have 'clear and objective' standards. Even though the LCDC unanimously approved the Enforcement Order in May, media coverage has been minimal on this issue.

The media has given understandable coverage of the protests, riots, pandemic numbers, and re-opening of the economy. These are good reasons to continue hearings about this ordinance, so that more citizens can learn about the issues and provide input.

The constituents of the Dept. of Land Use and Transportation (DLUT) are not just the developers, but all residents and their quality of life countywide. Landowners know if their property has SNR Goal 5 environmental protections and requirements they need to adhere to.

Comments:
It was over two weeks since CPO-4M requested to receive copies of the final SNR Assessment Report, but did not receive it until I went to Hillsboro to pick one up in July. It's difficult for us to provide input when we don't have the proper documents.

As you know, both CPO-4M and the Committee for Community Involvement have asked the County Auditor's office for an audit to provide objective information. An audit will get an objective determination of what happened to the SNR acreage.

There are many outstanding Questions:

Did Planning Commission members receive and read copies of both the "good case" recommendation by LCDC staff, the Enforcement Order, and the Injunction?

Why did the county approve the SNR report before the LCDC ruling on the Enforcement Order? It seems like the final report should have the state Enforcement Order in it.

Why doesn't the Ord. 869 code language provide total protections for habitat?

Why is the county continuing to assume development in wildlife habitats?

Has Washington County used an independent biologist (e.g., Oregon Department of Fish and Wildlife) or otherwise to review the language in either proposed Ordinance 869 or 869A?

Has the county engaged any consultation or coordination with ODF&W?

Suggestions for specific language:
422-1 Add: quality of life in that paragraph

<u>422.3</u>
Reducing from 150 to 100 feet is providing less protection than more.
Please tell us how this is more protection as Public Involvement and Engagement Report shows was requested from many community members?

422-3.1 A Significant Natural Resources Field Verification (Field verification) prepared by an independent natural resource professional from Oregon Department of Fish & Wildlife that identifies . . .

Submittal requirements (4) takes out district biologists from Oregon Department of Fish and Wildlife.
Follow-up requirements removes ecologist and biologist. This is contrary what the public has been asking.
During this era of climate changes, replanting is not enough for these precious and irreplaceable resources.
Once the SNRs are gone, they are gone forever.

Due to time limitations of volunteerism, CPO-4M comments on the engrossments will not be able to be formulated and approved until the next CPO-4M meeting on Oct. 28th, after your next two public hearings. Other CPOs meet less frequently than CPO-4M and may also not be able to comment on the new language if engrossed. Because of that and the outstanding questions, CPO-4M asks that these discussions on versions of Ordinance 869 continue into next spring. The public needs more time to review the proposed amendments.

Last May, LCDC was sensitive enough to the complexities of these issues and the citizen limitations due to the pandemic to grant Washington County until May 1, 2021 to have 'clear and objective' policies. The County should take the full time allocated by the LCDC to ensure the new rules are grounded in sound science and have the County has thought through how this will play out in real life, especially considering all the loopholes and exceptions.

We will attempt to develop and provide further comments to the engrossed language submitted prior to either the Planning Commission or the Board's meetings and via public testimony next month and hope these discussions continue.

Yours truly,

Jim Long, Chair
503-647-0021

Received 09/28/20
Wash. Co. LUT

From: Brett Campbell <brettwriter@gmail.com>
Sent: Monday, September 28, 2020 2:48 PM
To: Todd Borkowitz <Todd_Borkowitz@co.washington.or.us>; Theresa Cherniak <Theresa_Cherniak@co.washington.or.us>; Michelle Miller <Michelle_Miller@co.washington.or.us>; Susan Aguilar <Susan_Aguilar@co.washington.or.us>; LUT Planning Commission <lutplanningcommission@co.washington.or.us>; Kathryn.Harrington@co.washington.or.us
Subject: [EXTERNAL] Constituent testimony on Ordinance 869
Importance: Low

Greetings: I can't attend the board meeting considering Ordinance 869, and can't speak to the specifics, but I want to urge the commissioners considering the ordinance to take into account one of our community's most important values — both economically and in quality of life — preservation of natural spaces. I moved here specifically because of the easy proximity of natural areas, including the hiking trails, Kaiser Woods, Tualatin Hills Nature Park, etc. The fact that I don't have to get in a car to enjoy the health and emotional benefits of nature has economic value. I pay more to live here solely to have that easy access just by walking out my door. And those public natural spaces are also available to our working-class neighbors who live in all ranges of affordable housing — not just those who can afford high-end homes.

And I'm not alone. The increasing number of workers who are lucky enough to be able to work remotely can choose to live literally anywhere — a trend accelerated by Covid. Just last week, NPR had a story about the boom in places of natural beauty like Sun Valley and various Colorado towns, fueled by California refugees fleeing smoke and high rents. We can attract them too. Put additional housing for them in areas that already have significant housing. Studies have shown that younger workers prefer denser, walkable neighborhoods with natural attractions nearby, compared to sprawly single family home neighborhoods. They can still have home offices. Please save our natural areas for parks and recreational opportunities that benefit today's community members of all income levels, as well as tomorrow's.
Thank you.

Brett Campbell
4255 NW 174th Ave. 97229-3001

Received 09/28/20
Wash. Co. LUT

Washington County
Planning Commission and Board of Commissioners
155 N. First Avenue
Hillsboro 97124

25 September 2020

Dear Commissioners:

From: Fran Warren (835 SW Touchmark Way – Portland, Unincorporated Washington County)

Re: PROPOSED LAND USE ORDINANCE NO. 869

I continue to request that the Commissions postpone approval of the Policy, as submitted, to allow the Washington County LUT Planners more time to make necessary adjustments but I also understand the Commissioners' concerns regarding incentives to remove the Oregon State Land Use injunction.

Three summary statements:

- Based on the 17 Casefile Developments used by the LUT Planners in the SNRA Document, I would say likely none of the homes fit the Affordable Housing Criteria. I have detailed data to back up this statement. We have lost 168 acres of documented SNR (not necessarily including Upland Habitat, etc). We have preserved 91 acres of SNR on a total of 275 acres of Washington County land to build 1050 dwellings.
- Virtually all of the Community responses have been against the approval of Policy 869 even with the engrossments.
- Policy 869, with the engrossments, is getting closer to what is essential to get through the 2020-2021 Development Application Year, but we need to add resources on the 2021 Annual WorkPlan to follow-through with the LUT Staff key recommendations as stated on PP51-52 of the Significant Natural Resource Assessment.

I appreciate the heavy workload on the Washington County Land Use and Planning Staff that has been required to rewrite Policy 869 in order to make this policy clear and more objective. I also hope that the Commissioners appreciate the incredible energy and expertise in the volunteer community of Washington County that has come forward in an attempt to continue the economic progress of the County while retaining the residents' Quality of Life and Significant Natural Resources. Upland Wildlife Habitat and Headwaters are essential elements in both maintaining both ecosystems and Wildlife Corridors and Connectivity. Several of us in the Washington County community have been working tirelessly to better understand this intricate balance so we may assist the LUT Planners to make better decisions in the future. We offer to partner with Washington County to protect what absolutely needs protection as part of a Climate Action Plan. Please hear our testimony and take heart in what we are attempting to explain.

The Planning Commissioners asked 4 very poignant questions. I've been researching these for the past few weeks to obtain actual specifics to be able to reply to their answers with physical data:

1) "What's the difference between all these different terms and types of Significant Resources?"
2) "What's the absolute minimum space that we should be reserving for SNR/Upland Habitat?"
3) "How many trees are we cutting down? How much Affordable Housing are we building in their place? Who's benefitting from all this? Where can I see examples of what we've been doing?"
4) What is the PIER feedback trend – specifically "How many residents submitted testimony FOR the Policy with the engrossment additions and how many were AGAINST the Policy as submitted with the additions?"

MY RESPONSES:

1) The fact that this question keeps coming up at Hearings (and has come up at City Planning Hearings in the past as well) supports my earlier request that Policy 869 include in its text the actual definitions being utilized for the terms such as Significant Natural Resources, Riparian Habitat, Upland Habitat, etc. The policy document refers to 7 different external sources for these and it's staggering for readers to manage to keep these critical terms straight.

2) Policy 869 Section 422-5.3 now states the minimum space reserved for protecting Significant Natural Resource is 500 sq ft. But note: the Protect Root Zone (PRZ) requirements of a mature Oregon White Oak is calculated based on tree crown and DPH – which can exceed 1200 sq ft. These trees can live 500 years, they're fire and disease-resistant and can be shelter to many indigenous species of birds and mammals. We have no tree code, and there is also no code to protect any specific significant specimen – the policy specifically refers to trees within the SNR. But what about those individual trees standing in the path of "Aloha Tomorrow?"

   So, my testimony here is that a flat 500 sq ft minimum may be a start, but it is definitely not adequate order to protect the needed understory for our mature trees remaining, especially in areas like unincorporated areas near lower mountain levels.

3) We, in the volunteer community, do not have access to all tree-cutting permits. And without doing major scientific calculations and historical tree-mappings, it is hard to say how many trees have actually been cut down. But what I have done is a detailed analysis of the 17 Casefiles used by the Washington County LUT Planners in the Significant Natural Resource Assessment as the baseline for the premise that Washington County has indeed met Goal 5, 30% Significant Natural Resource Preservation. My detailed observations are charted in a spreadsheet as EXHIBIT 1:
   a. "Housing is considered affordable when housing costs total no more than 30 percent of the household's gross income. Housing costs include: rent or mortgage payments (including insurance and taxes), and basic utility costs (electricity, water, garbage, etc.)." Per Washington County LUT.
   b. Washington County Median Household Income is about $83K/year (US Census); thus median (not low-end) affordable mortgage or rent would be ~$2K/month. Based on total costs and 3.3% mortgage rates (@80% loan) yields $375K maximum house price is Affordable.
   c. Of the 17 Developments built in SNR areas, the minimum sale price (which may actually be the *original* sale price at build and not current sale price) is: $355K (plus an astounding $195/mo HOA fee). This is Creekside Meadows – 31 units built on 1.5 acres with .2 acres of SNR preserved (16%). The median household income for Washington County is around $80K. Note also all potential rentals are $2100-$4K/month.
   d. Most of the developments are in the $600K+ range.
   e. I have addresses for a sampling of homes in each development so any Commissioner can go visit any site more easily.
      I also have broken out the actual acreage per development to see how many acres have been lost per development – and HOW the mitigated or PROTECTED acreage was put to use. This was very enlightening – if anyone is interested in learning more, I am happy to provide specifics.
      I am definitely learning to see trends and maybe even some "better choices" vs "choices to avoid."

MY RESPONSES (continued)

4) All of the Community feedback has been to request continuance of the hearings to request broadening the policy for greater protection of natural resources, especially upland habitat – except one letter from a representative of the Builders Association stating that the 150 ft boundary is arbitrary and should be eliminated.

I would like to thank Atsuko Rothberg for her invaluable assistance in helping slug through some of this tedious detail to come up with meaningful information.

In conclusion, I respect your dilemma feeling a need to push forward on removing the injunction on approvals of building application permits in areas with SNR present. But what I do ask, is if the Commissioners do proceed to approve Policy 869, that the LUT Planners be mindful of the information provided by so many learned professionals about what we could be doing to better protect our environment and plan for the future. And that The Planning Commission also learn from these examples as well. I am asking that the Board of Commissioners commit to serious support for 2020-2021 Annual Work Plan funding to continue the SNRA work as well as support for a Climate Action Plan and Tree Code.

Thank You for your quality time and considerations.

Fran Warren

Fran Warren

TABLE K-1: List of Land Use Case Files Reviewed SNRA May-20

ANNOTATED

Plat Name (application name, when different from plat)	Case File No. (indicates date of application rec'd & applicable CDC)		Community Plan	Tualatin Basin (2006 ordinances) planning		HOME SALES				APT/HOUSE RENTAL ESTIMATES		
				Before	After	MIN SALE PRICE & # UNITS	MAX SALE PRICE & # UNITS	HOA MONTH FEES	# OF AFFORDABLE UNITS	MIN RENT/MO & # UNITS	MAX RENT/MO & # UNITS	# OF AFFORDABLE UNITS
Y	Kaiser Woods	95-	Sunset West	✓		$ 406,691	$ 607,900	$ 12		$ 2,095	$ 2,713	
Y	(Cedar Gardens) Fleetwood	96-	Cedar Hills Cedar Mill–	✓		$ 589,000	$ 710,000			$ 2,759	$ 2,983	
Y	Autumn Hill	S/P	Bull Mountain1	✓		$ 454,100	$ 586,400	$75 - $275		$ 2,160	$ 2,682	
Y	(Williams Creek) Renaissance Pointe	00-	Cooper Mountain Aloha–Reedville–	✓		$ 760,900	$ 1,396,200	$ 80		$ 3,585	$ 4,460	
Y	Moss Creek	03-	Garden Home Raleigh Hills–	✓		$ 646,000	$ 754,000	$ 12		$ 2,764	$ 3,332	
Y	(Saltzman Heights) Bannister Heights	03-	Bethany	✓		$ 646,100	$ 762,900			$ 3,016	$ 3,497	
Y	Springville Commons	04-	Bethany	✓		$ 519,900	$ 582,600	$ 95				
Y	(Cedar Crest) Shellshear Woods	05-	Progress Metzger–	✓		$ 684,500	$ 729,900			$ 2,936	$ 3,074	
Y	Creekside Meadows	06-	Sunset West		✓	$ 355,000	$ 472,400	$ 195		$ 2,002	$ 2,307	
Y	Carissa Terrace	07-	Sunset West		✓	$ 449,400	$ 560,100	none		$ 2,129	$ 2,513	
Y	Twin Creeks Subdivision	10-	Cooper Mountain Aloha–Reedville–		✓	$ 570,000	$ 684,000	$ 7		$ 2,750	$ 2,691	
Y	Baseline Woods	12-	Sunset West		✓	$ 432,400	$ 533,300	$ 75		$ 2,174	$ 2,488	
Y	Findley Heights	14-	Bethany		✓	$ 914,988	$ 969,900	$ 94		$ 4,370	$ 7,534	

TABLE K-1: List of Land Use Case Files Reviewed SNRA May-20

ANNOTATED

Plat Name (application name, when different from plat)	Case File No. (indicates date of application rec'd & applicable CDC)		Community Plan	Tualatin Basin (2006 ordinances) planning		HOME SALES				APT/HOUSE RENTAL ESTIMATES		
				Before	After	MIN SALE PRICE & # UNITS	MAX SALE PRICE & # UNITS	HOA MONTH FEES	# OF AFFORDABLE UNITS	MIN RENT/MO & # UNITS	MAX RENT/MO & # UNITS	# OF AFFORDABLE UNITS
Y	Ash Creek Ridge	15-	Garden Home Raleigh Hills–		✓	$ 799,900	$ 799,900	$ 77				
Y	Everett Crest	15-	Cedar Hills Cedar Mill–		✓	$ 749,900	$ 749,900	---		$ 3,863	$ 3,863	
Y	(Davis Place) Davis Woods	16-	Bethany		✓	$ 524,000	$ 699,000	$ 40				
Y	Crestline	18-	Progress Metzger–		✓	N/A	N/A					
Y	NW Dale Ave.	18-	Cedar Hills Cedar Mill–		✓	N/A	N/A					
	[1]Davis Woods info unavail to calculate											

Based on the above detailed data,
None of the homes in the 17 Washington County SNRA LUT Casefiles fit the AFFORDABLE HOUSING CRITERIA

On average, we've lost SNR ACREAGE for each house 0.16

ℵ-1: List of Land Use Case Files Reviewe

Case File No. (indicates date of application rec'd & applicable CDC)		Community Plan	TOTAL # UNITS	TOTAL SITE ACREAGE	TOTAL ACRES PRESERVED	TOTAL SNR ACRES LOST - NOT INCL UPLAND HABITAT OR HEADWATER	PERCENT OF SITE PRESERVED	BEFORE 2006		
								TTL ACREAGE	TTL PRESERVED	% PRESERVED
Kaiser Woods	95-	Sunset West	200	66	22.4	43.6	34.0%			
(Cedar Gardens) Fleetwood	96-	Cedar Hills Cedar Mill–	28	5	0.7	4.4	13.0%			
Autumn Hill	S/P	Bull Mountain1	122	21.8	5.7	16.1	26.0%			
(Williams Creek) Renaissance Pointe	00-	Cooper Mountain Aloha–Reedville–	66	33.66	12.5	21.2	37.0%			
Moss Creek	03-	Garden Home Raleigh Hills–	23	5	0.4	4.6	7.6%			
(Saltzman Heights) Bannister Heights	03-	Bethany	84	22.7	10.7	12.0	47.0%			
Springville Commons	04-	Bethany	33	7.71	3.1	4.6	40.0%			
(Cedar Crest) Shellshear Woods	05-	Progress Metzger–	12	2.46	0.6	1.9	24.0%	164.33	55.9	34.0%
Creekside Meadows	06-	Sunset West	31	1.54	0.2	1.3	16.0%			
Carissa Terrace	07-	Sunset West	8	2.49	1.2	1.3	47.0%			
Twin Creeks Subdivision	10-	Cooper Mountain Aloha–Reedville–	94	36.95	17.0	20.0	46.0%			
Baseline Woods	12-	Sunset West	229	43.9	12.7	31.2	29.0%			
Findley Heights	14-	Bethany	81	14.4	N/A	N/A	N/A			

ℵ-1: List of Land Use Case Files Reviewe

Case File No. (indicates date of application rec'd & applicable CDC)		Community Plan	TOTAL # UNITS	TOTAL SITE ACREAGE	TOTAL ACRES PRESERVED	TOTAL SNR ACRES LOST - NOT INCL UPLAND HABITAT OR HEADWATER	PERCENT OF SITE PRESERVED	BEFORE 2006		
								TTL ACREAGE	TTL PRESERVED	% PRESERVED
Ash Creek Ridge	15-	Garden Home Raleigh Hills–	10	3.34	0.7	2.7	20.0%			
Everett Crest	15-	Cedar Hills Cedar Mill–	11	1.87	0.1	1.8	6%			
(Davis Place) Davis Woods	16-	Bethany	5	1.47	----	---[1]				
Crestline	18-	Progress Metzger–	6	2.8	1.9	0.9	68.0%			
NW Dale Ave.	18-	Cedar Hills Cedar Mill–	7	1.47	1.0	0.5	58.0%			
[1]Davis Woods info unavail to calculate			**1050**	**274.56**	**90.8**	**167.9**	**33.1%**	**110.23**	**34.8**	**31.6%**
								274.56	90.8	

TABLE K-2: Expanded Summary of Outcor SNRA PAGE K-3 ⇓ SNRA PAGE K-3 ANNOTATED

Plat Name (application name when different)	Significant Natural Resources 3	Title 13 Resources 4	Other rules & regulations5	Habitat Quality 7	Interspersion / Fragmentation 8	Outcomes (M = Mitigation, what is OS, etc?)9	TOTAL SITE ACREAGE	TOTAL ACRES PRESERVED =SUM(q*l	(includes avoided, preserved Portion of Site Preserved and represented as decimal ~ % Of Site	Of Resource
Kaiser Woods	W, WH, H, OS	R, U	DSL, USA	Moderate to high	C	P, OS	66	22.4	0.34	0.4
Fleetwood	H	U	CWS	where present Moderately high	C	P	5	0.7	0.13	0.37
Autumn Woods	WH, H, OS	R, U	DSL	N/A	F	P	21.8	5.7	0.26	0.83
Renaissance Pointe	WH, H	R, U	CWS	Moderate, high	C	P, OS	33.66	12.5	0.37	0.56
Moss Creek	H	U	CWS	moderate, good Low to	C	P	5	0.4	0.08	0.087
Bannister Heights	*H, W*	*R*	*CWS, DSL*	*N/A*	*C*	*P*	22.7	10.7	0.47	0.61
Springville Commons	W, H, OS	R, U	CWS, DSL	Low	F	P, OS	7.71	3.1	0.40	-0.1
Shellshear Woods	H	R	N/A	Low	F	P	2.46	0.6	0.24	0.45
Creekside Meadows	*WH, H*	*R, U*	*CWS, DSL*	*N/A*	*F*	*P, M*	1.54	0.2	0.16	-0.1
Carissa Terrace	*WH, H*	*R, U*	*CWS*	*Low, degraded*	*C*	*P*	2.49	1.2	0.47	0.61
Subdivision Twin Creeks	WH, H	R, U	CWS, DSL	N/A	C	P	36.95	17.0	0.46	0.61
Baseline Woods	W, WH, H	R	CWS	degraded Good, marginal,	W	P	43.9	12.7	0.29	0.44
Findley Heights	W, WH	R, U	CWS	N/A	W	M	14.4	N/A	N/A	N/A
Ash Creek Ridge	W	U	N/A	Little to no value	C	P	3.34	0.7	0.20	0.13
Everett Crest	H	U	N/A	High, low, developed	F	T	1.87	0.0 0.00	6%	trees within the Seven significant forested area high value
Davis Woods	*WH, H*	*R, U*	*CWS*	*Low, degraded*	*C*	*P*	1.47	1.0	0.68	-0.1
Crestline	WH, H	R, U	CWS	Degraded	W	P, T	2.8	1.6	0.58	0.75
NW Dale Ave.	None	R	CWS, DSL	N/A	W	P	0.62	0.3	0.48	N/A
							273.71	**90.7**		

3County designated and mapped Significant Natural Resources: **W** – *Water Areas and Wetlands*, **WH** – *Water Areas and Wetlands and Fish and Wildlife Habitat*, **H** – *Wildlife Habitat*, **OS** – *Open Space* 4Title 13 mapped Regionally Significant Goal 5 resources: **R** – Riparian Habitat, **U** – Upland Habitat 5 Other regulators: **USA** – United Sewer Agency (predecessor to CWS), **CWS** – Clean Water Services, **DSL** – Department of State Lands 6Field verification of mapped resources: **HC** – Highly Consistent with mapped resource, **GC** – Generally Consistent with mapped resource, **NC** – Not Consistent with mapped resource, **D** – Degraded 7 Habitat value: As determined in the applicant's Habitat Report. Note that multiple values are often assigned, especially on large or partially developed sites, when habitat values are not consistent across the entire site.

8**Level of interspersion or connectivity with other habitat: C – contiguous with off-site *Wildlife Habitat* at time of review, F – Isolated Fragment (contiguous when mapped), I – Isolated (not connected to other habitat), W – connectivity resulting only from** *Water Areas and Wetlands* or *Water Areas and Wetlands and Fish and Wildlife Habitat* (no upland habit connectivity). 9Outcomes: **P** – on-site preservation via nondevelopable tracts, **T** – preserved trees subject to CDC § 407 requirements that limit tree removal, **D** – dedication to public agency for open space purposes (includes trails and other recreational uses), **M** – off-site mitigation (through CWS/DSL requirements) 10Unable to calculate based on available information.

Received 09/28/20
Wash. Co. LUT

From: Kathryn Harrington
To: Board of County Commissioners
Subject: FW: [EXTERNAL] Re: Answering Affordable Housing Question and Ordinance 869 on Significant Natural Resources
Date: Monday, September 28, 2020 8:52:49 AM
Attachments: Narrative and Charts on Affordable housing-.pdf

Sharing for all commissioners.

Kathryn Harrington
Chair, Washington County Board of Commissioners
Pronouns: She/Her/Hers
Washington County
155 N First Ave/MS 22
Hillsboro, OR 97124
(503) 846-8681
Kathryn_Harrington@co.washington.or.us

For assistance, please contact
Elizabeth Mazzara Myers
Chief of Staff, Senior Staff Assistant to Chair Kathryn Harrington
Elizabeth_Mazzara-Myers@co.washington.or.us

From: Jeffrey S. Petrillo <jeffpetrillo@gmail.com>
Sent: Sunday, September 27, 2020 10:13 AM
To: fran.warren@frontier.com
Subject: [EXTERNAL] Re: Answering Affordable Housing Question and Ordinance 869 on Significant Natural Resources

Ms. Warren,

Thank you for your follow-up email and written testimony on Ord. 869.

I understand your position and support many elements of it. However, when it comes to legislative issues such as Ord. 869, our charge at the Planning Commission is to review and make recommendations to the elected officials (the Board of County Commissioners) who are the ones ultimately responsible for setting and implementing public policy.

Ord. 869 came before us with the specific charge of addressing, *"the recent Enforcement Order, which found the County out of compliance with Statewide Planning Goal 5 because three CDC natural resource provisions were not clear and objective, and therefore unenforceable as applied to new residential development. The Order included an injunction on new applications that may impact mapped Wildlife Habitat. As a result, the County cannot accept such applications until CDC changes are made to address standards found not to be clear and objective."* (page 2, Sec. IV, of the BCC Staff Report, dated 09/22/20)

Ord. 869 was not forwarded to the Planning Commission for consideration of a general tree protection ordinance or to make recommendations relating to a Climate Action Plan. Personally speaking, I support a tree ordinance for the urban, unincorporated parts of Washington County. And, I support Metro's climate strategy and want to see Washington County help meet those greenhouse emission goals.

As Chair of the Planning Commission, my job is to encourage and facilitate public

participation in land use issues while also ensuring a fair and equitable process. If an ordinance sent to us by the Board of Commissioners did not contemplate instituting county-wide tree protection or implementing policies related to climate change, then I view it as beyond our authority as an unelected body of public officials to recommend materially changing the scope of a proposed ordinance. Whether it is advocacy for county-wide tree protection or the building of a Westside Parkway, if the expanded scope was not the original intent of the ordinance as proposed and advertised to the public, then recommending a material change in the original scope and intent would shortchange members of the public unaware that such matters were under consideration by the County.

Therefore, I must agree with Staff's statement on page 10 of their report that reads as follows, ". . . *many other comments and positions [raised at the Planning Commission public hearings] are policy and strategy choices that would represent shifts in current policy direction. These are beyond the scope and direction provided by the Board, which was to maintain current policy direction established through the Comprehensive Plan and the Tualatin Basin decision and to address the Enforcement Order. Given the ordinance season, these shifts in policy cannot be adequately addressed prior to Nov. 1. These items may be appropriate for consideration when the Board reviews future Long Range Planning (LRP) work programs."*

Please note that I do not want not to discourage or stifle public comment relating to broader SNR concerns. It is an important public conversation to which you and other members of the public have contributed. But, as stated earlier, I believe it is our elected officials who are vested with setting public policy for the County--as well as the scope of the Planning Commission's work.

Thank you for reaching out to share your thoughts, which are always welcome (any day of the week).

Please note that the Board of Commissioners will be considering Ord. 869 on **Tuesday, Sept. 29th at 10:00 AM** and the Planning Commission will be holding its 4th public hearing on this ordinance on **October 7th at 1:30 PM.** I hope you plan to participate in those meetings.

Sincerely,

Jeff Petrillo
Chairperson - Planning Commission of Washington County
Phone: (503) 804-7246, Fax: (503) 389-1075
E-mail: jeffpetrillo@gmail.com
"We shape our buildings; thereafter they shape us." -Winston Churchill

Note: I realize I did not address the affordable housing comments in your email. That, in my opinion, is a longer conversation, and I would be happy to have a separate discussion on the topic. In the meantime, I attached some housing affordability research I prepared two years ago for a work project that you might find relevant. Also, the following web links help explain the current undersupply and underproduction of housing units in Oregon and the Portland MSA area.

- https://oregoneconomicanalysis.com/2017/12/14/why-housing-supply-matters/
- https://www.upforgrowth.org/research/housing-underproduction-oregon

https://www.upforgrowth.org/sites/default/files/2018-10/UFGHousingUnderproductionInOregon.pdf
- https://www.bizjournals.com/portland/news/2018/10/18/how-smart-growth-can-help-fill-oregons-155-000.html
- https://www.oregonmetro.gov/news/you-are-here-snapshot-housing-affordability-greater-portland
- https://www.kgw.com/article/entertainment/television/programs/straight-talk/value-of-jobs-report-oregon-straight-talk/283-4dd17d9c-4306-4726-bef8-6995c06012b0

On Sat, Sep 26, 2020 at 12:09 PM <fran.warren@frontier.com> wrote:

> Hello Jeff,
>
> My apologies for contacting you on the weekend, but I just want to give you every opportunity to catch up the information for the Planning Hearings.
>
> I was very moved by the very poignant questions regarding Affordable Housing and I've done some intense digging (that's how I got your email too!).
>
> I'm attaching my testimony for starters. I have lots of detail to back this up, so if you have any questions for which you might want answers, I will do my best
> to supply those answers with Public Information – based on Official documentation (and website URL's).
>
> Thank you so much for your amazing dedication and objectivity. I do hope that together, we can all help to make this a better world for our residents in Washington County.
>
> Take Good Care, Fran.
>
> Please Stay Safe – Stay Healthy
> "Nature is My Medicine"
>
> ---
>
> Virus-free. www.avg.com

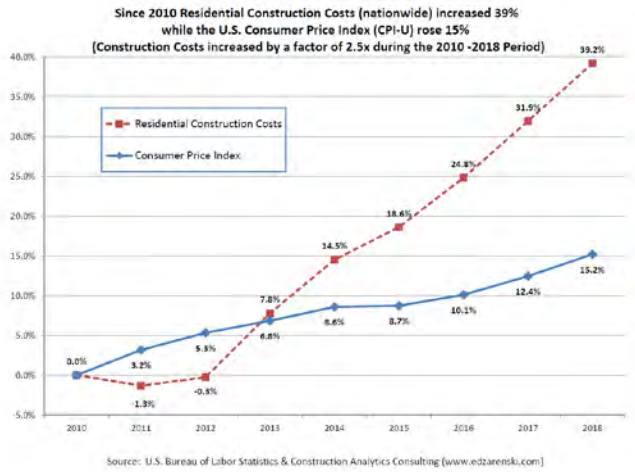
CAUTION: This email originated from outside the County. Exercise caution when opening attachments or clicking links from unknown senders. Always follow the guidelines defined in the KnowBe4 training when opening email received from external sources. Contact the ITS Service Desk if you have any questions.

Factors Contributing to the High Cost of Housing in Portland and Declining Affordability (not in any particular order)

By Jeffrey S. Petrillo, Petrillo Real Estate LLC - March 2019

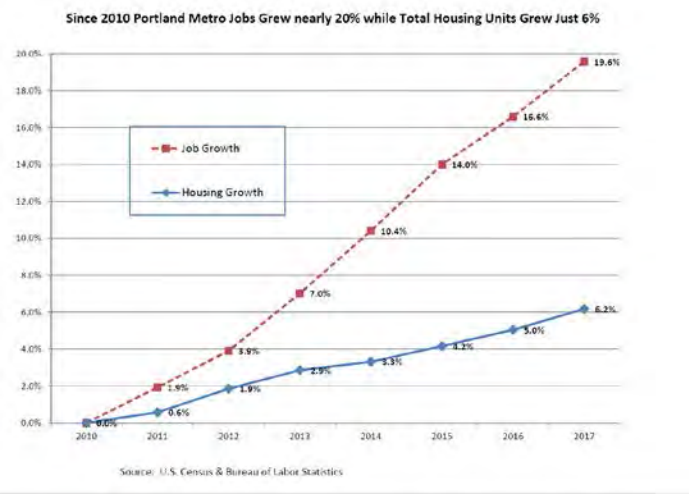
- **<u>Construction Costs:</u>** Sharply higher Construction Costs due to fewer construction workers as well as contractors and subs since end of last recession. Higher material costs (Tariffs on Canadian lumber). Higher land costs. Above-average number of projects being built post-recession due to a build-up of unmet demand during recession. Despite some recent easing, *"overall construction costs continue to rise nationwide in large part due to labor supply and demand dynamics that first surfaced during the recession and still have yet to resolve."* (World Property Journal). In the most recent one-year period, Construction Costs in metro Portland increased approx. 7%--one of the nation's highest increases. (PSU residential analysis)

  "At its core, development is based on a simple principle, value must exceed costs. The value of the completed apartment building must exceed the total cost to build that apartment building . . . I surveyed five active [Portland] apartment developers and contractors to get an idea of what has happened to costs in recent years . . . Based on this [2018] survey, the average annual construction cost increase has exceeded 12 percent per year since around 2014. Keep in mind the reported costs exclude some major items including land and any entrepreneurial incentive for the developer." (Patrick Barry, Barry & Associates)



- **<u>Housing Underproduction:</u>** Historic and chronic underproduction of SF and MF housing units since the end of the last recession due to higher construction costs, decrease in industry capacity, limited productivity gains in construction industry techniques, etc. Despite several years of increased housing production, only 610,000 units per year were added to the nation's stock of single family homes since the end of the last recession—well below the historical average of 1.1 million homes needed to just keep pace with population growth. This current supply imbalance will likely lead to continued competition and higher home prices and the same dynamics are at work in the rental market (Harvard housing). According to Zillow Economist Aaron Terrazas, "*Building activity came to a near-standstill when the*

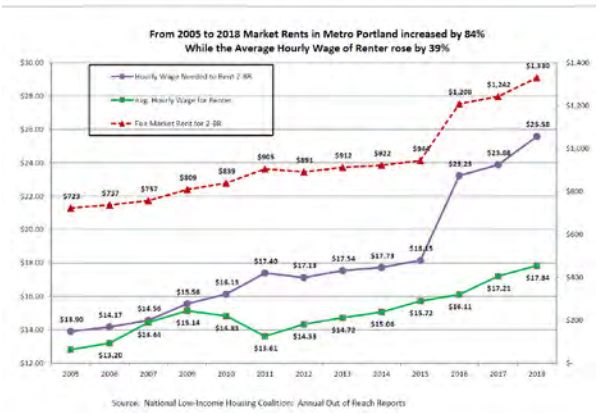
housing market collapsed, and now a decade later, years of underbuilding have left a gap of millions of homes missing from the American housing stock. . . What this means for buyers is a smaller supply of homes on the market, leading to increased competition and higher home prices." Chart of supply not keeping up with demand.

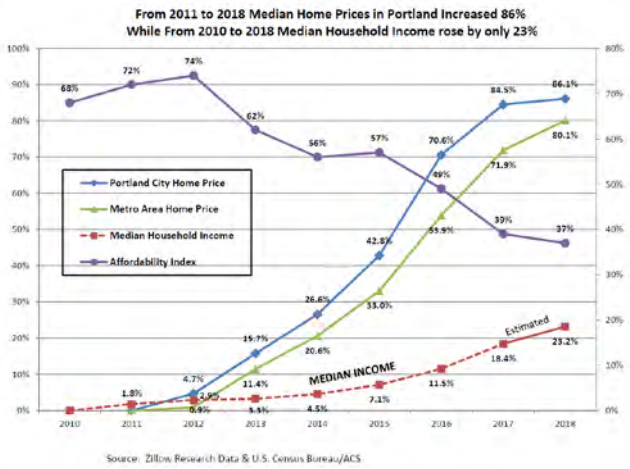


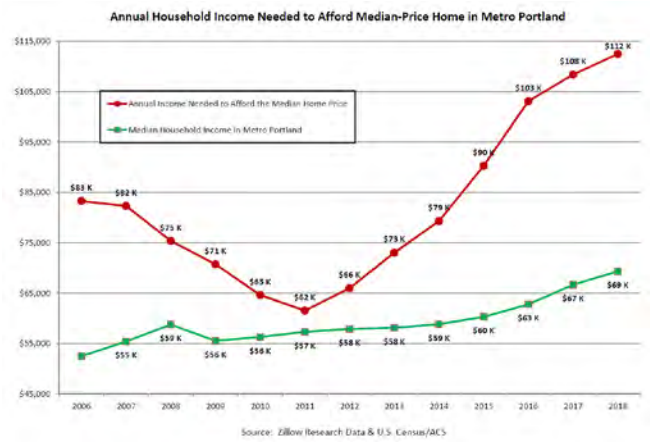
Oregon under-produced approx. 155,000 housing units from 2000 to 2015 (PSU/EconNW) And Metro study shows that Greater Portland is currently short about 48,000 of affordable homes for renters (Metro). And, this shortage is only likely to increase over the next decade. Data compiled by Hoyt Advisory Services projects that metro Portland will need 47,000 additional apartment homes by 2030 (25% of its current stock) to simply to keep up with demand. But, based on current construction rates, metro Portland will fall short of that number by over 14,000 rental units.

- **<u>Delays due to Regulatory, Land Use, & Permitting:</u>** Regulatory and Land Use policies and lengthy review processes (UGB, IZ, Red Tape, High impact & permit fees) have limited land supply, and increased the time, uncertainty, complexity, and risks of housing development.

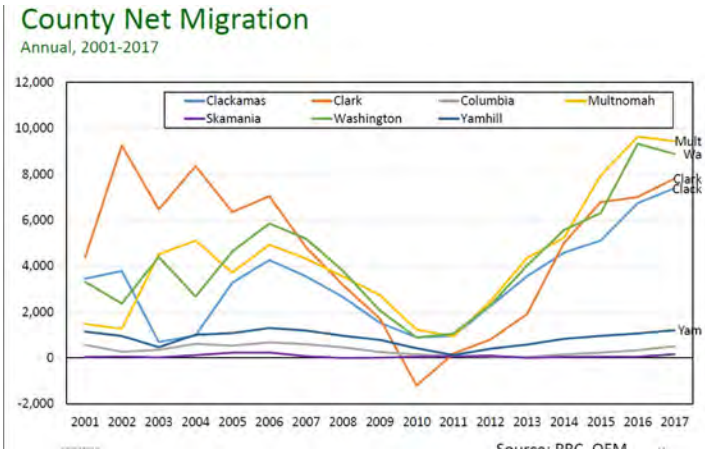
- **<u>Stagnant Income:</u>** Weak income growth among lower- and middle-income households that has not kept up with the sharply rising cost of housing. See AMI Charts.







- **<u>Above-avg. Population/In-migration Increase and Above-avg. Job Growth:</u>** Increase in housing demand as a result of strong job growth since 2012 and increases in population growth and in-migration. (in-migration Chart) The degree to which in-migration has contributed toward Portland's housing crisis shouldn't be underestimated. For the last 10 years, Oregon has remained one of the top three destinations for relocation in the nation. (see Chart) And, according the United Van Lines, Oregon has remained a popular destination for 31 of the 36 years that the company has been compiling these rankings—and it can be safely assumed that Portland has been the primary destination for the majority of these moves to Oregon. The combo of increasing net in-migration and underproduction of new housing has led to higher housing prices and rents in Portland. And, home ownership has become unaffordable for a growing portion of the Portland metro area. And while in-migration slowed a bit in 2018, population growth in the metro area is expected to continue grow at a rate almost double the national avg. Metro planners predict 300,000 more people will move to metro Portland between 2015 and 2025. (Pamplin article). From 2006 to 2015, the metro area underbuilt by 22,000 units relative to population growth (Oregonian). During the economic recovery, approx. 9 jobs were being created for each new rental unit delivered to the market. (MF PSU analysis).



Most Popular Relocation Destinations in the U.S. by Year
(United Van Lines' Annual National Movers Study)

Rank	2009	2010	2011	2012	2013	Rank
1st	Wash. D.C.	Wash. D.C.	Wash. D.C.	Wash. D.C.	Oregon	1st
2nd	Oregon	Oregon	Oregon	Oregon	S. Carolina	2nd
3rd	Arkansas	N. Carolina	Nevada	Nevada	N. Carolina	3rd
4th	Nevada	Idaho	N. Carolina	N. Carolina	Wash. D.C.	4th
5th	Wyoming	S. Carolina	Florida	S. Carolina	S. Dakota	5th

Rank	2014	2015	2016	2017	2018	Rank
1st	Oregon	Oregon	S. Dakota	Vermont	Vermont	1st
2nd	S. Carolina	S. Carolina	Vermont	Oregon	Oregon	2nd
3rd	N. Carolina	Vermont	Oregon	Idaho	Idaho	3rd
4th	Vermont	Idaho	Idaho	Nevada	Nevada	4th
5th	Florida	N. Carolina	S. Carolina	S. Dakota	Arizona	5th

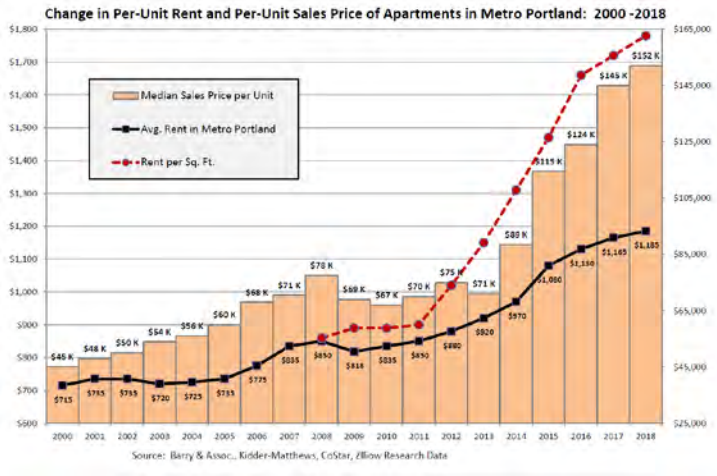
- **<u>"Upscaling" of affordable Class B-/C rental units by Investors:</u>** An important component of the housing stock affordable to lower-income households is unsubsidized, market-provided rental housing that rent at lower cost. In fact, most lower-income households do not receive any government housing assistance and live in this type of market-rate housing. (SW Corridor Study). Inexpensive apartments such as these make up the lion's share of the region's supply of affordable homes and that supply has been dwindling. Unregulated, mid-quality apartments (with relatively-affordable rents) are disappearing as landlords and investors sell or upgrade their buildings and subsequently raise rents. Research by Portland State University shows that 90 percent of apartment buildings sold between 2006 and 2017 were these type of modest, less expensive apartments. (Metro article). There is interest by multifamily investors (both nationally and local) in the purchase of older Class B- and Class C apartment buildings (unsubsidized rentals) in Portland metro area who are then upgrading the units and re-leasing them at higher rents. The result is displacement of lower- and middle-income renters and a reduction in the stock of affordable, unsubsidized rentals. Between 2006 and 2016, the nation's lowest-cost rental stock shrank by more than 20% in 89 metro areas—despite a 21% increase in the total number of rentals nationwide. (Harvard housing). Chart showing changing affordability in Portland rents (PSU/Econ NW).

Figure 1: Changing affordability in Portland rents

The other aspect of this story is that 100,000 middle wage jobs in Portland were lost during the last recession and the replacement jobs since 2012 have mostly been high-wage professional jobs and low-wage, unskilled jobs. (PSU state of the economy). Due to favorable risk-adjusted investment returns, multifamily housing enjoys a most-favored status among real estate investors and lenders with the result being increasing amounts of capital being poured into the sector driving up the per-unit purchase price of rental units—along with a concomitant increase in rents. The sale of multifamily properties in recent years in metro Portland has been disproportionately unsubsidized apartments with relatively affordable rents. *"There have been over two thousand transactions of such buildings in the Portland metro area from 2006 to 2017—over 68,000 units of housing. These sales are accelerating, with over 20 percent occurring in just the last 18 months."* (SW Corridor Study). As sale prices for multifamily rental properties in metro Portland have increased, the preservation of affordable rents in metro Portland has become more challenging. Regionally, the average sale price increased by 78 percent between 2010 and 2017 while during this period there was a 43 percent increase in the average asking rent. (Metro Report & SW Corridor Study). The result is an increasing number of rent-burdened households. Current estimates show that over 41% of renters in metro Portland are paying more than 35% of their income on rent (Hoyt Advisory Services 2017).

There is some debate among experts about the cause-and-effects of "upscaling." But, whether its high rents causing investors to bid up apartment prices or high apartment prices leading to rent increases to justify a higher purchase price, the result is the same: a vicious cycle whereby rent increases lead to higher apartment prices and higher apartment prices lead to higher rents. And, this is how a housing crisis for renters begins to take root.

See Chart of sale price of apt units and rent increase plus changing affordability of Portland rents.



- **<u>The AirBnb Effect:</u>** Large Increase in the number of housing units in Portland being used for short-term rentals via AirBnb and other online booking sites resulting in a reduction in the existing stock of long-term rentals. There has also been an impact on home prices. <u>A recent study at UCLA</u> found that—on average--an increase in Airbnb listings in popular locations leads to higher house prices and rental rates and lower rates of homeowner occupancy within those areas. The researchers found . . . "evidence that home-sharing indeed increases housing costs by reallocating long-term rentals to the short-term market." An audit by the City of Portland in October 2017 indicated there were over 4,600 active AirBnb listings operating within the city at that time—with over 2/3 of those listings offering entire homes or apartment units for short-term rental. (Oregonian Aug. 2018).

- **<u>Demographic Changes in Household size:</u>** The average household has shrunk in size over the last several decades (3.4 pp/hsld in 1975 to 2.6pp/hsld in 2016), and single-person households have increased in number (14% in 1975 to 36% in 2016). The result is a net increase in the need for more housing units per 1,000 people, as well as for smaller-sized housing units. See Table on demo changes

Since 1975 the Average Home in the U.S. has Steadily Grown in Size and Amenities while Household Size has Shrunk.

	1975	2016	% Change
Avg. Square Feet of Home	1,535 SF	2,422 SF	58%
Avg. Square Feet Per Person	450 SF	930 SF	106%
Homes with 3+ Bedrooms	21%	46%	220%
Homes with 3+ Car Garages	<1%	22%	60%
Average Household Size	3.4	2.6	-24%
Single-Person Households	14%	36%	260%

- **<u>Lack of "Middle Housing" (2-plexes, 3-plexes, Quads, cottages, cluster homes):</u>** Since WW-II, zoning practices, land use policies, consumer tastes, and home builder trends have resulted in a bifurcated housing market with multifamily development serving one end of the market and construction of increasingly larger and more expensive homes serving the other with a dearth of small homes and plexes in the middle ("the missing middle"). Cite states or table shown above: The avg. sq. ft of homes in 1975 was 1,535 sf and by 2016 had increased to 2,422 sf. The percentage of 3+ BR homes in 1975 was 21% and was 46% in 2016. From 1975 to 2016, the avg. residential square-feet allocated per-person rose 106%. And, 3+ size garages increased from 1% of the housing market in 1975 to 22% in 2016.

Since 1975 the Average Home in the U.S. has Steadily Grown in Size and Amenities while Household Size has Shrunk.

	1975	2016	% Change
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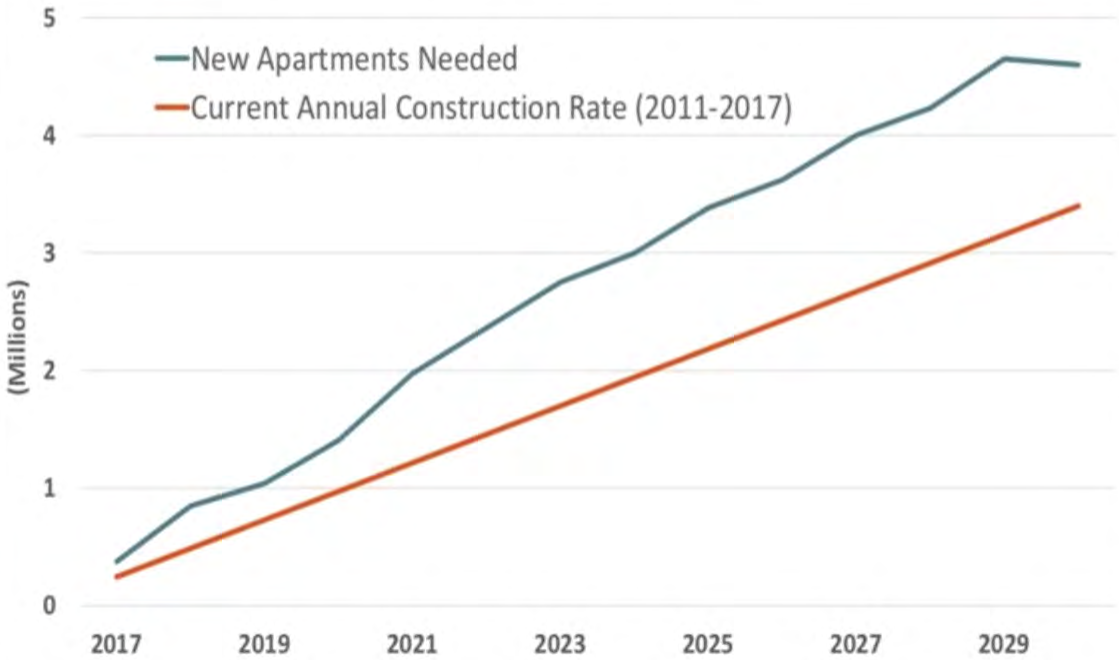
Rental Supply Not Keeping Up with Demand

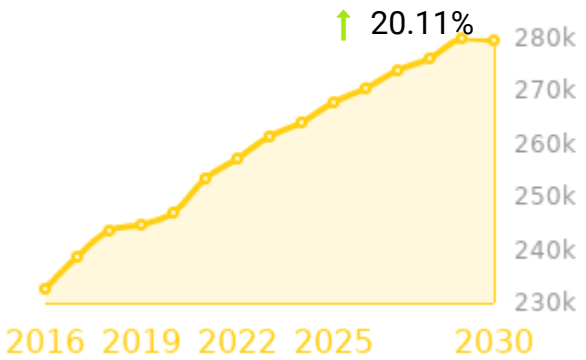
4.6 Million Apartments Needed by 2030



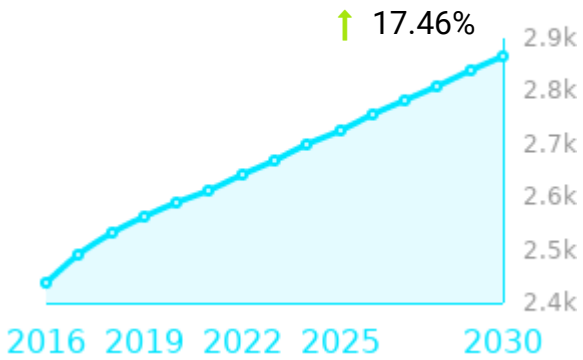
Source: Hoyt Advisory Services; NMHC/NAA; U.S. Census Bureau.

Portland

New research shows that demand for apartments is on the rise. Whether it's young professionals, couples, families or empty nesters, this metro will need to add 47k new apartment homes by 2030



Apartment Household Growth



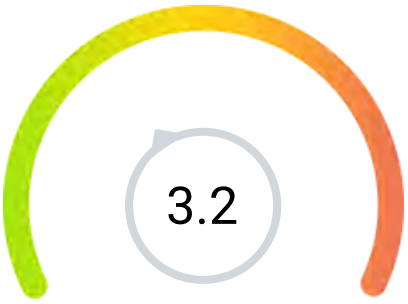
Population Growth

New Apartments Needed

Avg Annual Construction Rate (2011-2016)

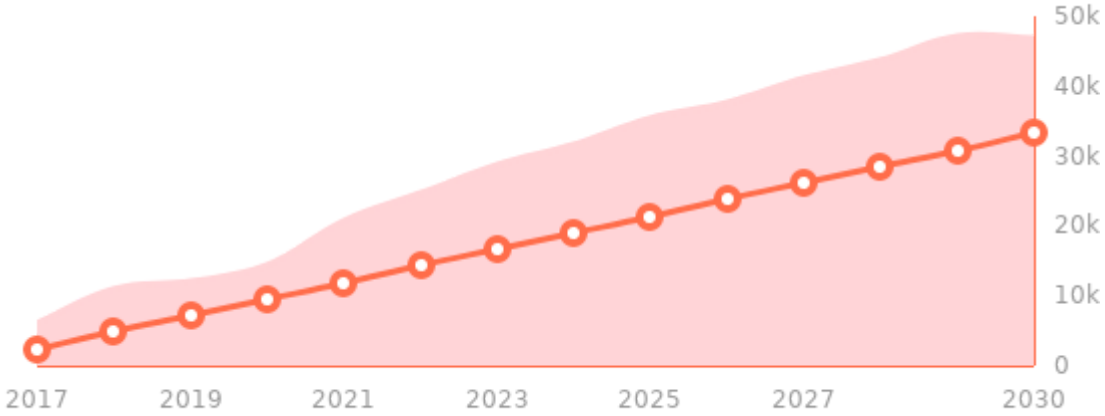
46,788 Apartment Homes Needed in **Portland**

BARRIERS TO APARTMENTS CONSTRUCTION



Easier Harder

Index based on local regulations and available land



We Need to Build More

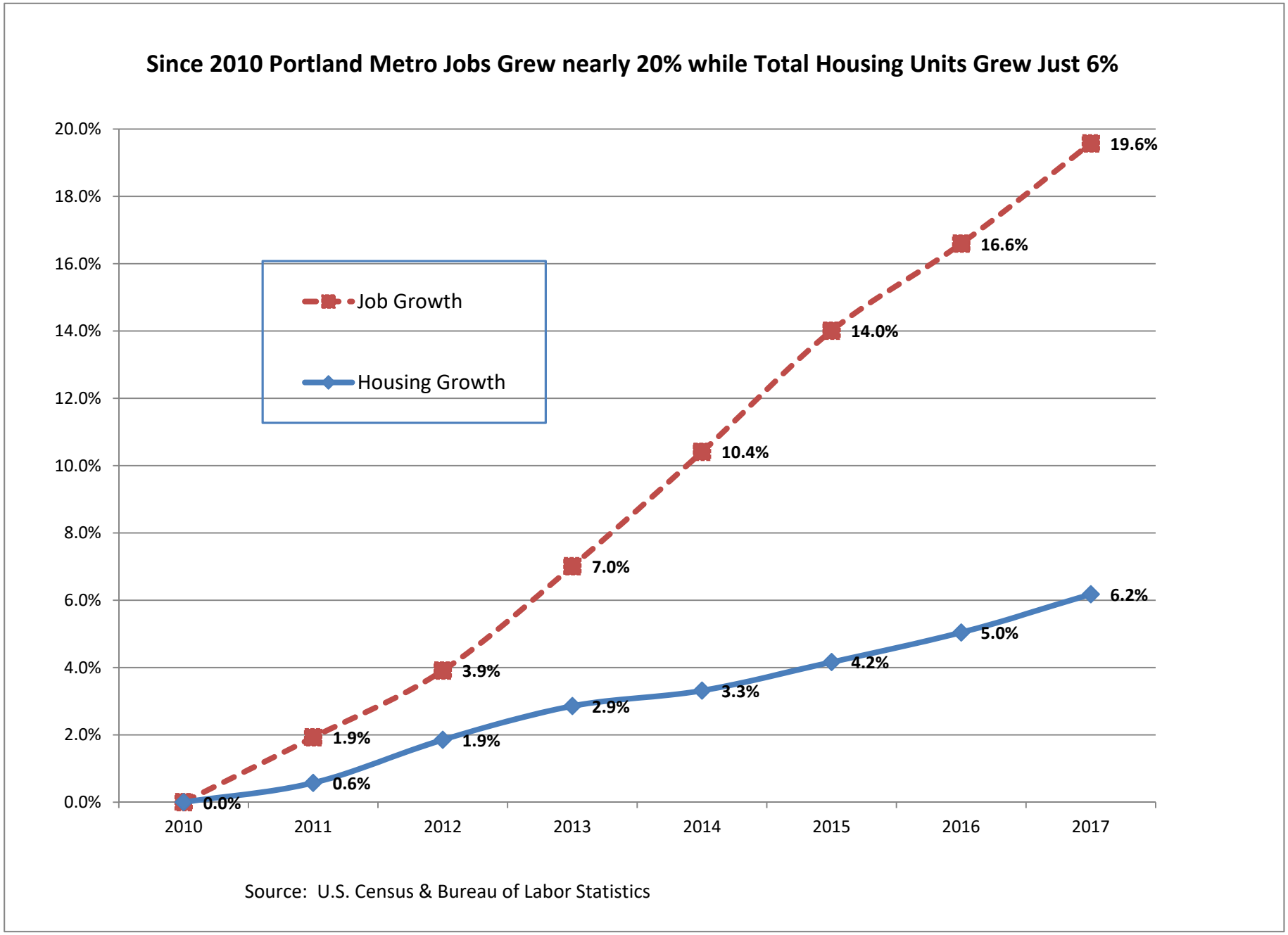
Apartment demand is growing and the industry needs to keep up. However, producing enough new apartments to meet demand requires new development approaches, more incentives and fewer restrictions

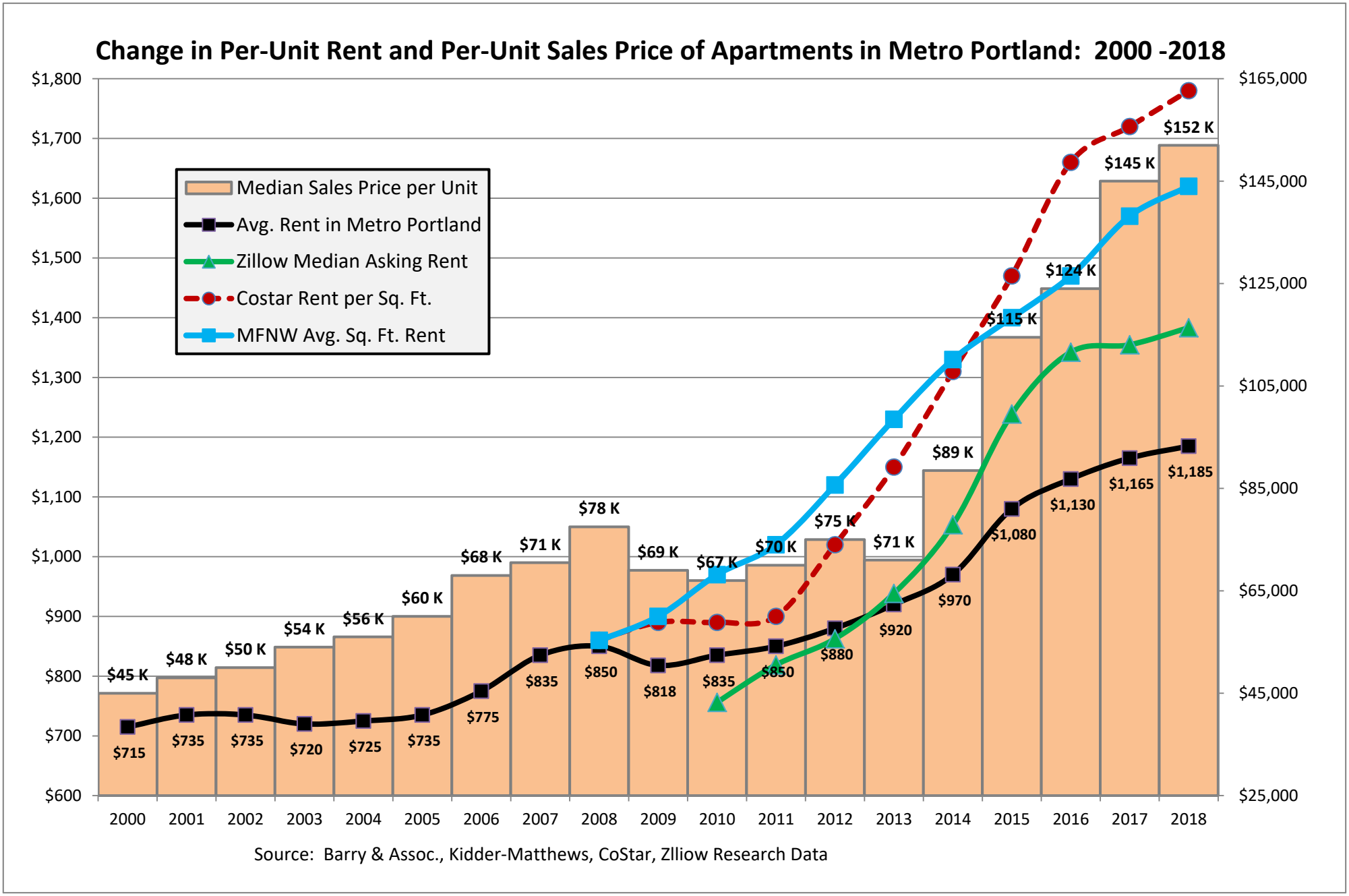
MARKET SNAPSHOT

339.1k	174.8k	$7.1b	70.5k
Apartment Residents	Apartment Homes	Economic Contribution	Total Jobs Supported

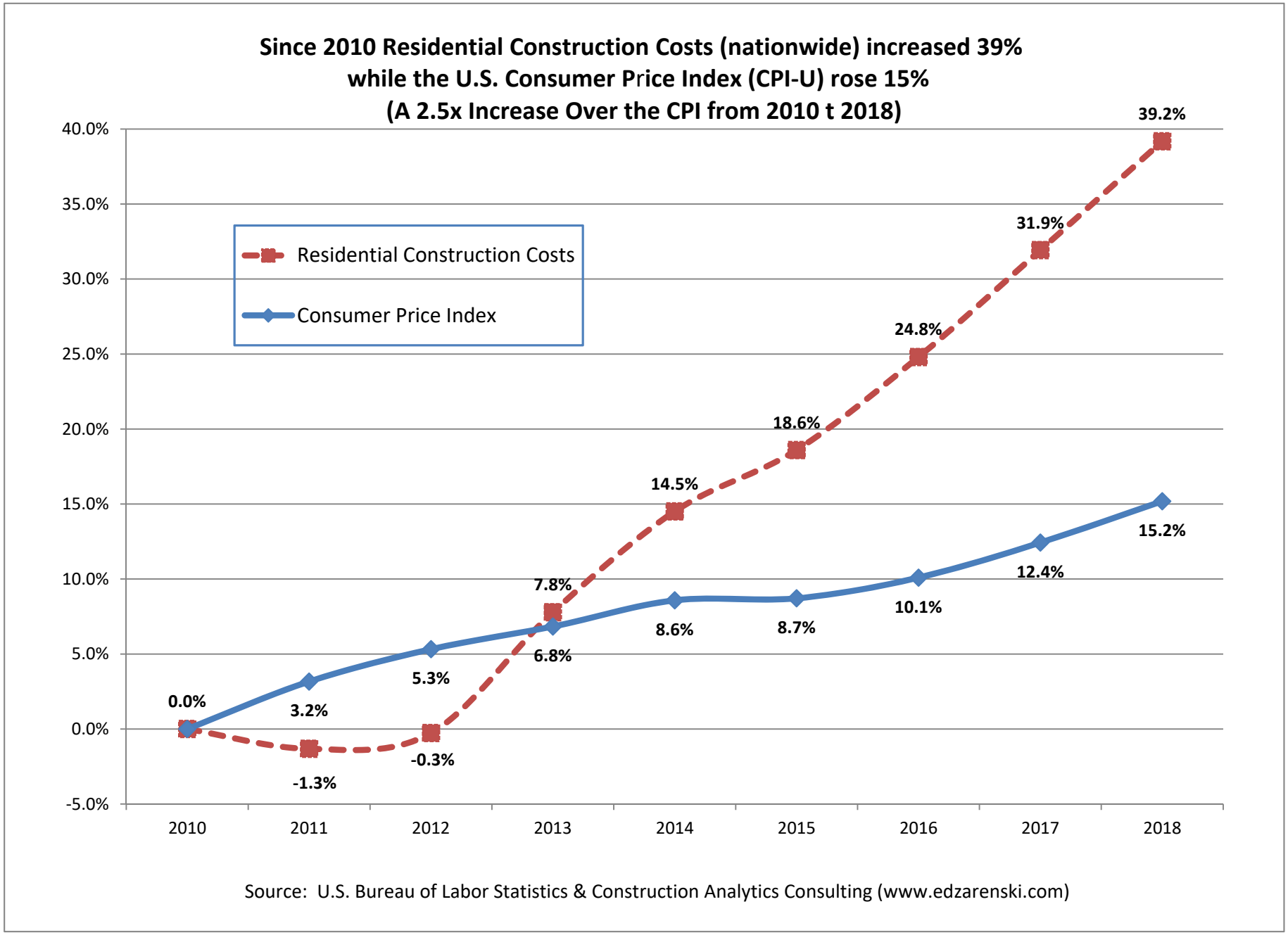
NMHC NATIONAL MULTIFAMILY HOUSING COUNCIL

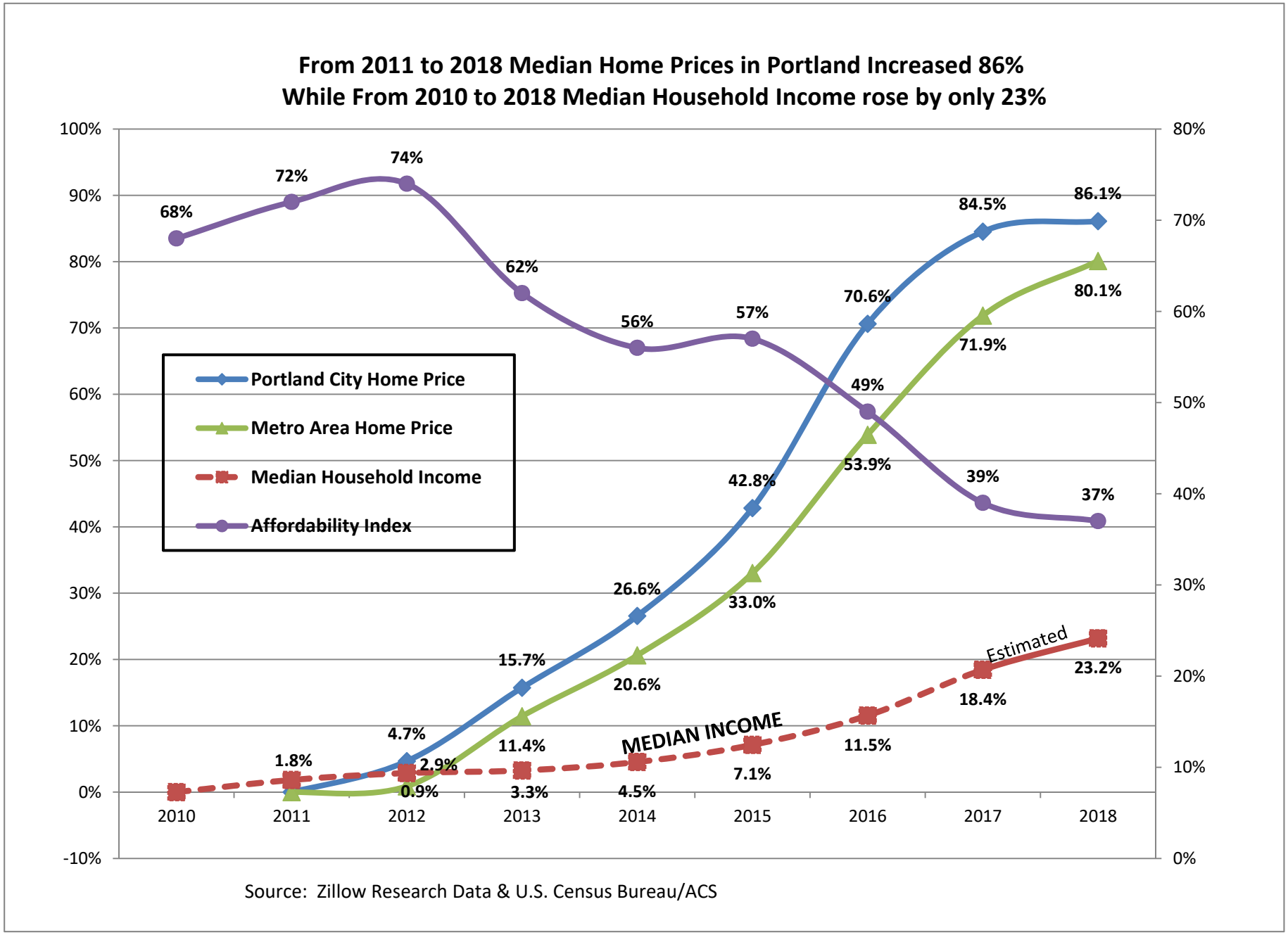
NAA NATIONAL APARTMENT ASSOCIATION


Since 2010 Portland Metro Jobs Grew nearly 20% while Total Housing Units Grew Just 6%
20.0%
18.0%
16.0%
14.0%
12.0%
10.0%
8.0%
6.0%
4.0%
2.0%
0.0%
Job Growth
Housing Growth
0.0%
1.9%
3.9%
7.0%
10.4%
14.0%
16.6%
19.6%
0.0%
0.6%
1.9%
2.9%
3.3%
4.2%
5.0%
6.2%
2010
2011
2012
2013
2014
2015
2016
2017
Source: U.S. Census & Bureau of Labor Statistics

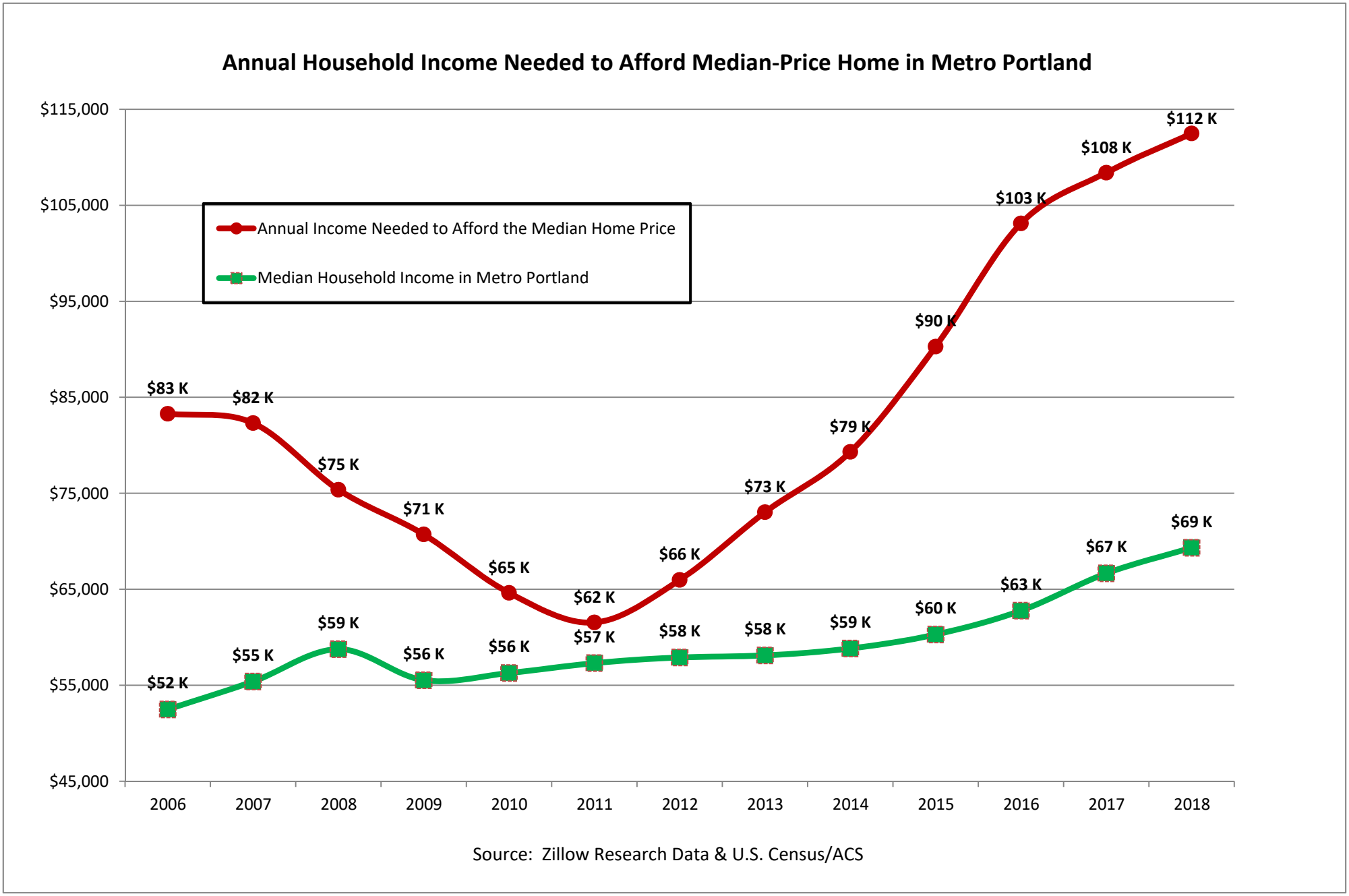


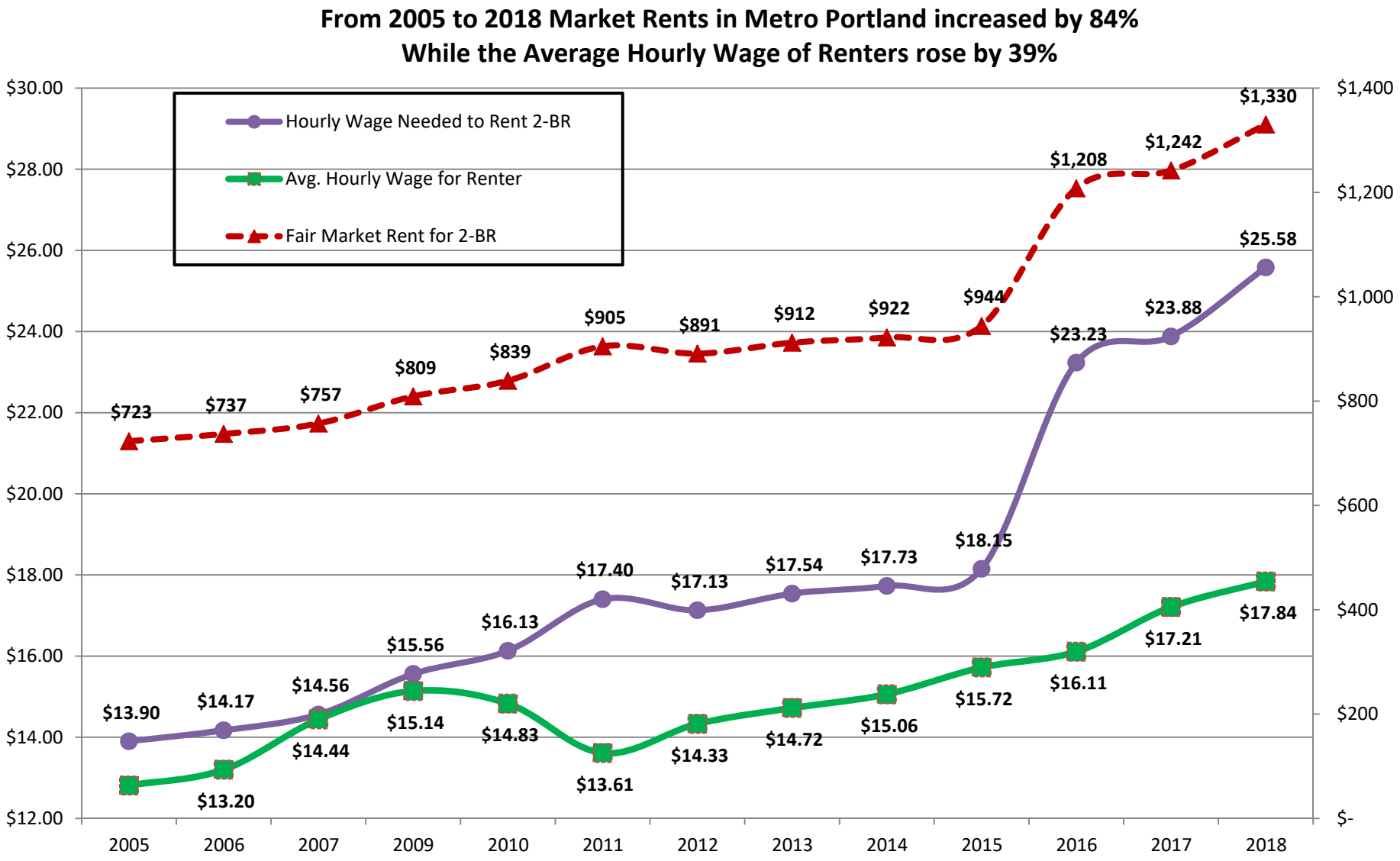
Source: Barry & Assoc., Kidder-Matthews, CoStar, Zlliow Research Data


Since 2010 Residential Construction Costs (nationwide) increased 39%
while the U.S. Consumer Price Index (CPI-U) rose 15%
(A 2.5x Increase Over the CPI from 2010 t 2018)
Residential Construction Costs
Consumer Price Index
40.0%
35.0%
30.0%
25.0%
20.0%
15.0%
10.0%
5.0%
0.0%
-5.0%
2010
2011
2012
2013
2014
2015
2016
2017
2018
0.0%
-1.3%
-0.3%
7.8%
14.5%
18.6%
24.8%
31.9%
39.2%
3.2%
5.3%
6.8%
8.6%
8.7%
10.1%
12.4%
15.2%
Source: U.S. Bureau of Labor Statistics & Construction Analytics Consulting (www.edzarenski.com)



Source: Zillow Research Data & U.S. Census Bureau/ACS


Annual Household Income Needed to Afford Median-Price Home in Metro Portland
$115,000
$105,000
$95,000
$85,000
$75,000
$65,000
$55,000
$45,000
Annual Income Needed to Afford the Median Home Price
Median Household Income in Metro Portland
$83 K
$82 K
$75 K
$71 K
$65 K
$62 K
$66 K
$73 K
$79 K
$90 K
$103 K
$108 K
$112 K
$52 K
$55 K
$59 K
$56 K
$56 K
$57 K
$58 K
$58 K
$59 K
$60 K
$63 K
$67 K
$69 K
2006
2007
2008
2009
2010
2011
2012
2013
2014
2015
2016
2017
2018
Source: Zillow Research Data & U.S. Census/ACS



Source: National Low-Income Housing Coalition: Annual Out of Reach Reports

Most Popular Relocation Destinations in the U.S. by Year

(United Van Lines' Annual National Movers Study)

Rank	2009	2010	2011	2012	2013	Rank
1st	Wash. D.C.	Wash. D.C.	Wash. D.C.	Wash. D.C.	**Oregon**	1st
2nd	**Oregon**	**Oregon**	**Oregon**	**Oregon**	S. Carolina	2nd
3rd	Arkansas	N. Carolina	Nevada	Nevada	N. Carolina	3rd
4th	Nevada	Idaho	N. Carolina	N. Carolina	Wash. D.C.	4th
5th	Wyoming	S. Carolina	Florida	S. Carolina	S. Dakota	5th

Rank	2014	2015	2016	2017	2018	Rank
1st	**Oregon**	**Oregon**	S. Dakota	Vermont	Vermont	1st
2nd	S. Carolina	S. Carolina	Vermont	**Oregon**	**Oregon**	2nd
3rd	N. Carolina	Vermont	**Oregon**	Idaho	Idaho	3rd
4th	Vermont	Idaho	Idaho	Nevada	Nevada	4th
5th	Florida	N. Carolina	S. Carolina	S. Dakota	Arizona	5th

Since 1975 the Average Home in the U.S. has Steadily Grown in Size and Amenities while Household Size has Shrunk.

	1975	2016	% Change
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Average Household Size	3.4	2.6	-24%
Single-Person Households	14%	36%	260%

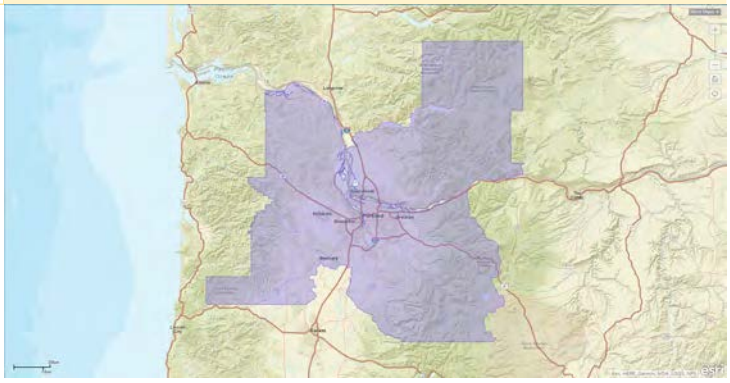
METRO MULTIFAMILY DEMAND OVERVIEW

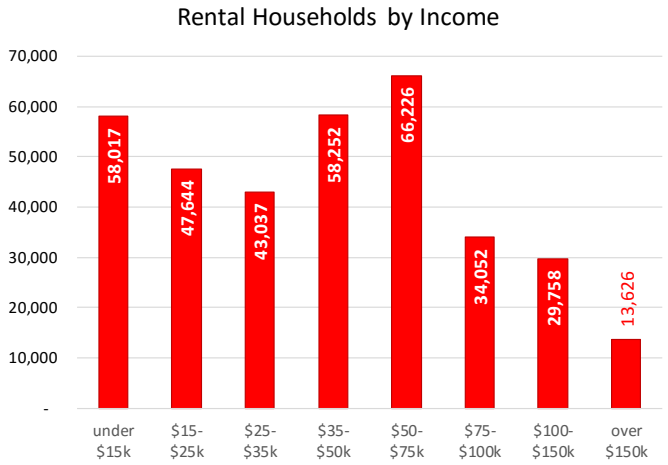
PORTLAND

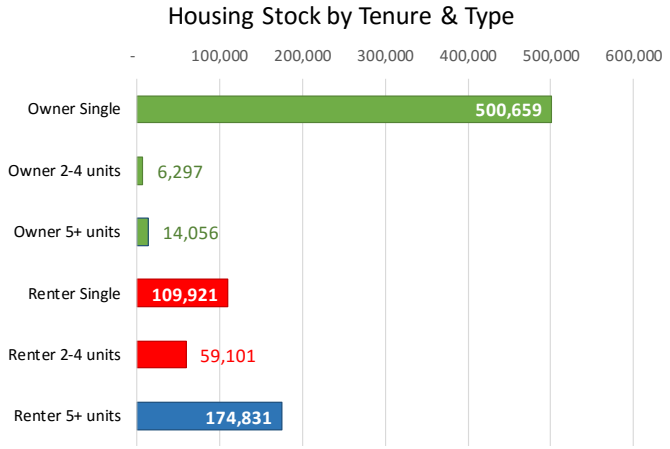
Substantial net in migrations fueled a surge in rental households and continue to drive demand. Rental households bring strong incomes and a mix of ages. Economic trends are superlative. With relatively younger rental stock and 37% seen in STAR units, the overall supply is balanced today. Ahead is steady and consistent multifamily demand through 2030.

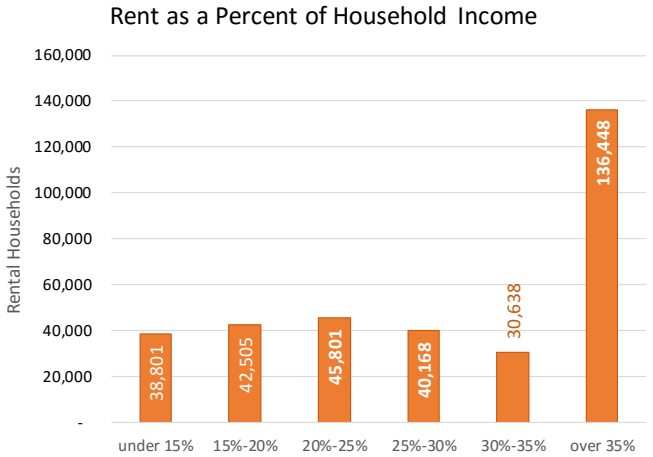
Definitions on back

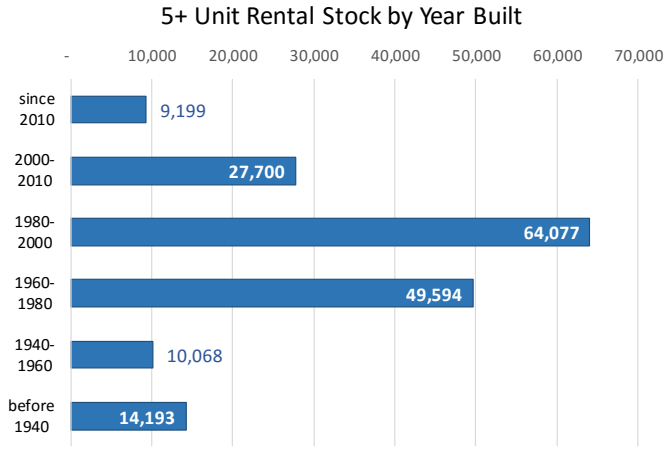
DEMAND RANKING	AFFORD-ABILITY	MF SUPPLY RESTRICTIONS	STAR* SHARE
21	125	3.2	37%

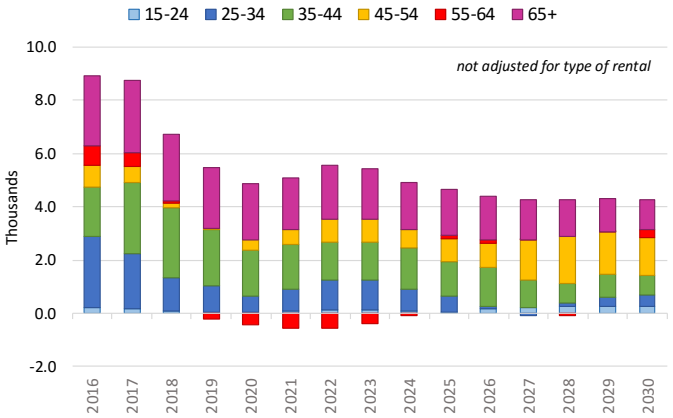


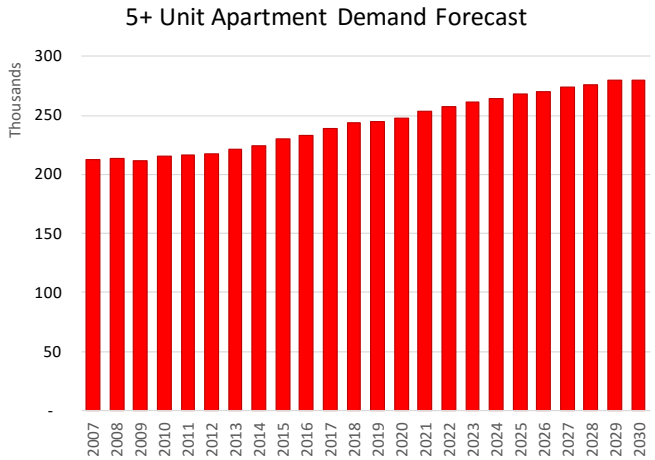




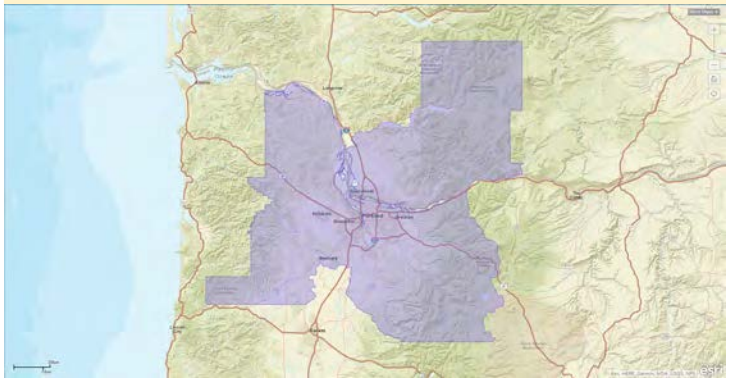


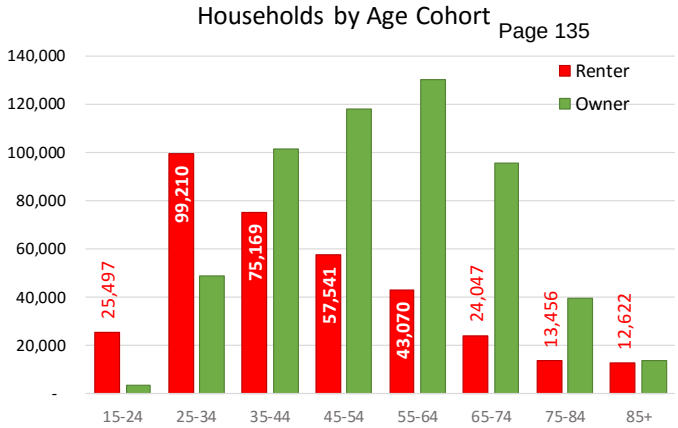


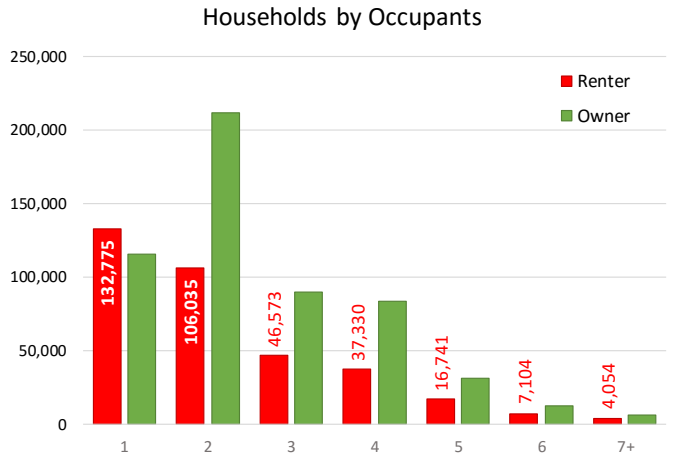


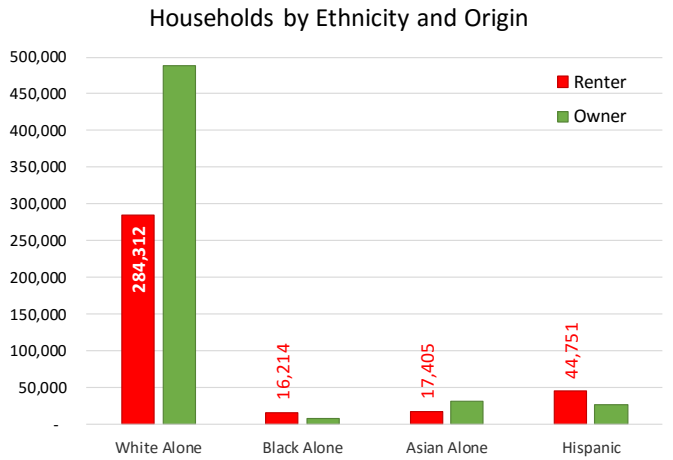


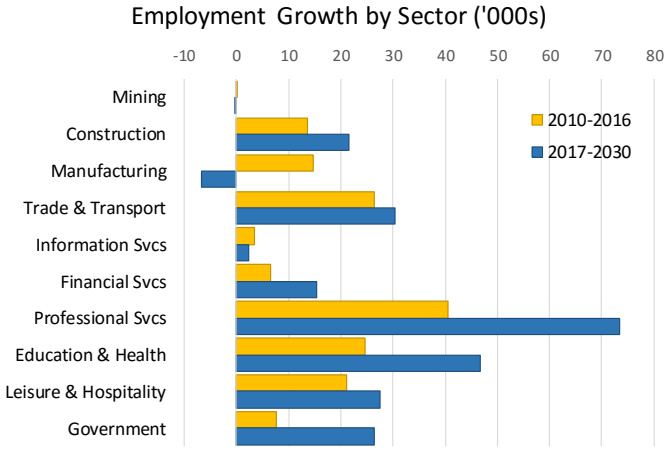
PORTLAND page 2

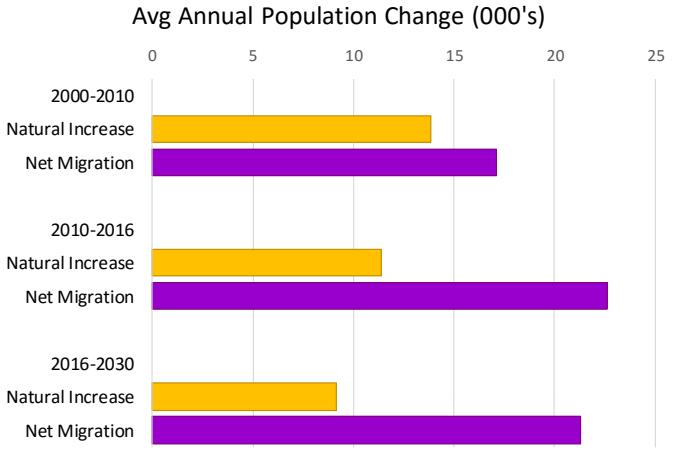












RANKING and DEFINITIONS:

METRO RANKING is the relative rank among 50 multifamily Metro markets based upon the average of HAS forecasted total Metro multifamily demand 2017-2030 and its percent of current Metro rental households, ranging from 1 (Dallas-Fort Worth) to 50 (Cleveland).

AFFORDABILITY INDEX is the ratio of median family income to the minimum income to qualify for purchase of a single-family home at the median existing home resale price under standard mortgage underwriting today, then multiplied by 100 to convert to a 100 point index (e.g., an index of 100 indicates that the median family income equals the qualifying income). This index ranges from 69.4 (San Jose) to 290.7 (Cleveland) with a Metro average of 178.0

MF SUPPLY RESTRICTIONS is an HAS composite of the Wharton Residential Land Use Restrictions Index and the Lacroix percent of available Metro land not yet developed. This index ranges from 19.5 (Honolulu) to –6.0 (New Orleans) with a Metro average of 2.0.

STAR SHARE is that share of Metro rental housing stock with five or more units HAS qualified as ***S**econd-**T**ier **A**ffordable **R**entals or those non-institutional sites of typically lower unit count, lower quality and greater age, a critical and ongoing multifamily supply component. Using CoStar® ratings of 1-5 for sites of five units or more, STAR is the lower ratings of 1-2. This share ranges from 61% (Los Angeles) to 17% (Austin) with a Metro average of 36%.

Multifamily Overview provided for NMHC/NAA by Hoyt Advisory Services (HAS) in collaboration with Dinn Focused Marketing and Whitegate Real Estate Advisors. All metrics are year-end 2016 data from the US Bureau of Census, CoStar®, CBRE Econometrics®, Moody's Analytics®, ESRI® and other sources. Forecasts are modeled by the HAS team based upon the most current data available and are estimates subject to unforeseen changes in economic environment, capital markets, property markets and national or local policies and laws. All licenses, data, logos and publishing may only be used with permission. **For more detailed analyses and multifamily market consulting, contact NMHC, NAA or the HAS team listed in the publication appendix.**

NMHC NATIONAL MULTIFAMILY HOUSING COUNCIL
NAA NATIONAL APARTMENT ASSOCIATION
HAS
University of San Diego SCHOOL OF BUSINESS
WREA
dfm
Version 1

2018 OREGON HOUSING PROFILE

NATIONAL LOW INCOME HOUSING COALITION

Across Oregon, there is a shortage of rental homes affordable and available to extremely low income households (ELI), whose incomes are at or below the poverty guideline or 30% of their area median income (AMI). Many of these households are severely cost burdened, spending more than half of their income on housing. Severely cost burdened poor households are more likely than other renters to sacrifice other necessities like healthy food and healthcare to pay the rent, and to experience unstable housing situations like evictions.

SENATORS: Jeff Merkley and Ron Wyden

KEY FACTS

134,438 OR 22%
Renter Households that are extremely low income

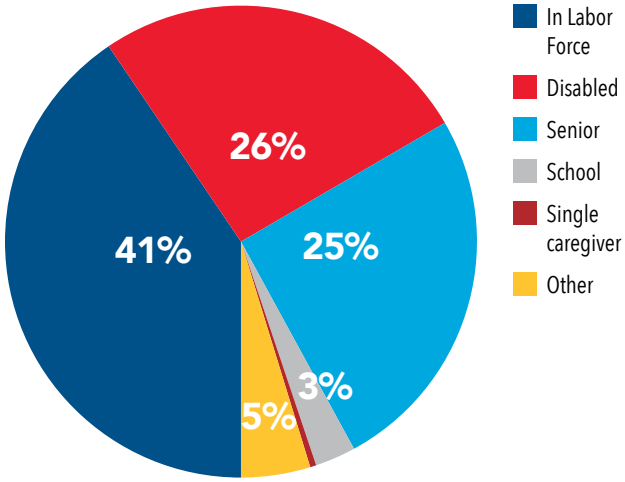
$24,300
Maximum income of 4-person extremely low income households (state level)

-101,393
Shortage of rental homes affordable and available for extremely low income renters

$44,214
Annual household income needed to afford a two-bedroom rental home at HUD's Fair Market Rent.

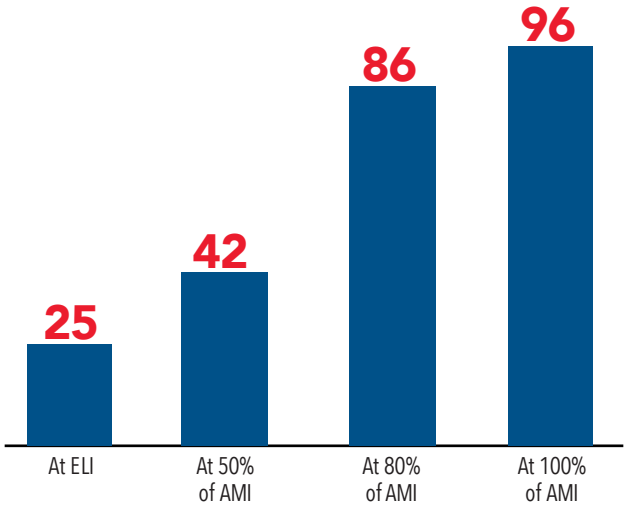
76%
Percent of extremely low income renter households with severe cost burden

EXTREMELY LOW INCOME RENTER HOUSEHOLDS



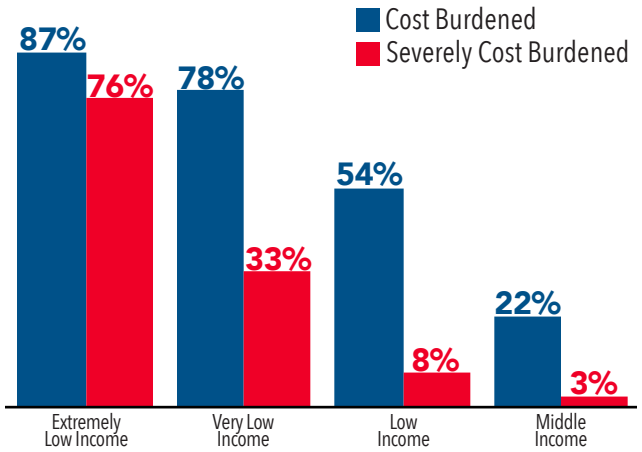
Note: Mutually exclusive categories applied in the following order: senior, disabled, in labor force, enrolled in school, 1-adult caregiver of a child under 7 or a person with a disability, and other. Nationally, 10.5% of extremely low income renter householders are a non-disabled/non-senior adult caregiver of a young child or disabled person, more than three-quarters of whom are in the labor force and 2% of whom are in school.
Source: 2016 ACS PUMS.

AFFORDABLE AND AVAILABLE HOMES PER 100 RENTER HOUSEHOLDS



Source: NLIHC tabulations of 2016 ACS PUMS

HOUSING COST BURDEN BY INCOME GROUP



Renter households spending more than 30% of their income on housing costs and utilities are cost burdened; those spending more than half of their income are severely cost burdened.
Source: NLIHC tabulations of 2016 ACS PUMS.

Updated: 06/26/2018

1000 Vermont Avenue, NW, Suite 500, Washington, DC 20005 **WWW.NLIHC.ORG**

Extremely Low Income = 0-30%* of AMI
Very Low Income = 31%*-50% of AMI
Low Income = 51-80% of AMI
Middle Income = 81%-100% of AMI
Note:*Or poverty guideline, if higher.

Received 09/28/20
Wash. Co. LUT

From: Maria Choban <mariachoban@gmail.com>
Sent: Monday, September 28, 2020 8:46 AM
To: Todd Borkowitz <Todd_Borkowitz@co.washington.or.us>
Cc: Kathryn Harrington <Kathryn_Harrington@co.washington.or.us>
Subject: [EXTERNAL] Thank you note to WC Planning Commissioner Deborah Lockwood c/o Todd Borkowitz, Associate Planner @ WC Planning Commission

Commissioner Lockwood,

On Wednesday, September 16, 2020, I attended the Washington County Planning Commission meeting regarding the changes to Ordinance 869.

I've lived in Washington County for most of my life. I am almost 59 years old. I was moved by your concern about the environment and our surrounding beautiful natural habitat; that you brought up tough questions we should address and shouldn't just shunt off to future generations. While I do not have children, I am concerned that the children and grandchildren in Washington County will have the opportunity to enjoy the natural beauty I got to enjoy growing up in this beautiful area.

I've watched Washington County move from a mostly rural farming community to the home of Nike, Intel and the Silicon Forest. Now, I'm witnessing the proliferation of neighbors and neighborhoods and their vocal defense of natural habitat -- both on NextDoor and as I engage with various trail users (many of whom work in high tech). It's weird living through these changes, almost like I'm a ghost visiting different eras. This is not the Washington County of the farm rural 1960's and 70's or the pro-growth 1980s and 90s. I'm hearing and seeing a community thinking more about the future and preserving the natural habitat for that future.

I am new to this process of witnessing planning commission meetings; this was my first meeting. It provided a great chance to actually see and hear how each Planning Commissioner represented Washington County. I was stunned -- both that there were at least three who have moved into the 21st century with its new challenges, and equally stunned that there were at least three who are in denial about how Washington County has changed and seem to be living in the past (which I remember well).

Thank you for moving into the 21st century and looking forward to future centuries.
Maria Choban
4255 NW 174th Avenue
Portland, OR 97229

Received 09/28/20
Wash. Co. LUT

From: Maria Choban <mariachoban@gmail.com>
Sent: Monday, September 28, 2020 8:48 AM
To: Todd Borkowitz <Todd_Borkowitz@co.washington.or.us>
Cc: Kathryn Harrington <Kathryn_Harrington@co.washington.or.us>
Subject: [EXTERNAL] Thank you note to WC Planning Commissioner Jeff Petrillo c/o Todd Borkowitz, Associate Planner @ WC Planning Commission

Commissioner Petrillo,

On Wednesday, September 16, 2020, I attended the Washington County Planning Commission meeting regarding the changes to Ordinance 869.

Thank you for chairing the meeting with sensitivity and backbone. I appreciated the time you took observing and explaining Robert's Rules so that this important meeting proceeded fairly. I appreciated your sensitivity as you helped Commissioner Poddard articulate her motion and her deference to Commissioner Beaty's motion; I felt she was speaking for me and for probably many others like me in the community who felt this new iteration of Ordinance 869 was rushed. I appreciated your strength when bringing up the conflict of interest issue. It really worried me when it first came up prior to the six minute recess, and I was relieved to hear you address it immediately after the recess.. For me, transparency = trust. Thank you. I'm hoping the Washington County Planning Commission can allay my fears that indeed, there is no conflict of interest with Commissioner Wellner or any of the other commissioners on the board.

I've lived in Washington County for most of my life. I am almost 59 years old. I am new to this process of witnessing planning commission meetings; this was my first meeting. It provided a great chance to actually see and hear how each Planning Commissioner represented Washington County. I was stunned -- both that there were at least three who have moved into the 21st century with its new challenges, and equally stunned that there were at least three who are in denial about how Washington County has changed and seem to be living in the past (which I remember well). I've watched Washington County move from a mostly rural farming community to the home of Nike, Intel and the Silicon Forest. I'm now witnessing the proliferation of neighbors and neighborhoods and their vocal defense of natural habitat -- both on NextDoor and as I engage with various trail users (many of whom work in high tech). This is not the Washington County of the farming-rural 1960's and 70's or the pro-growth 1980s and 90s and early 2000's. I'm hearing and seeing a community thinking more about the future and preserving the natural habitat for that future.

Thank you for listening and chairing with grace and strength,
Maria Choban
4255 NW 174th Avenue
Portland, OR 97229

Received 09/28/20
Wash. Co. LUT

From: Maria Choban <mariachoban@gmail.com>
Sent: Monday, September 28, 2020 8:44 AM
To: Todd Borkowitz <Todd_Borkowitz@co.washington.or.us>
Cc: Kathryn Harrington <Kathryn_Harrington@co.washington.or.us>
Subject: [EXTERNAL] Thank you note to WC Planning Commissioner Sushmita Poddar c/o Todd Borkowitz, Associate Planner @ WC Planning Commission

Commissioner Poddar,

On Wednesday, September 16, 2020, I attended the Washington County Planning Commission meeting regarding the changes to Ordinance 869.

Thank you for standing up for all of us who thought there was not enough time to read and understand the amended version of the ordinance because it only came out the afternoon before the evening meeting. Thank you for fighting to introduce a new motion to give more time to study these new additions. Thank you for asking the questions and clarifications on questions I'm sure we all had (I certainly had them).

I felt you were one of us and that you took your role as our representative seriously. I felt listened to and I learned a lot about how to gently push back against impatient commissioners who seemed tired of continuing the discussion.

I've lived in Washington County for most of my life. I am almost 59 years old. I've watched Washington County move from a mostly rural farming community to the home of Nike, Intel and the Silicon Forest. I'm now witnessing the proliferation of neighbors and neighborhoods and their vocal defense of natural habitat -- both on NextDoor and as I engage with various trail users (many of whom work in high tech). This is not the Washington County of the rural farming 1960's and 70's or the pro-growth 1980s and 90s and early 2000's. I'm hearing and seeing a community thinking more about the future and preserving the natural habitat for that future.

I am new to the process. This was my first time witnessing a planning commission meeting. You were right when you acknowledged that there were folks (like me) out there who were hearing these arguments for the first time.

This was a great chance to actually see and hear how each Planning Commissioner represented Washington County. I was stunned both that there were at least three who have moved into the 21st century with its new challenges, and equally stunned that there were at least three who are in denial about how Washington County has changed and seem to be living in the past (which I remember well).

Thank you for moving into the 21st century.
Maria Choban
4255 NW 174th Avenue
Portland, OR 97229

Received 09/28/20
Wash. Co. LUT

From: Maria Choban <mariachoban@gmail.com>
Sent: Monday, September 28, 2020 8:49 AM
To: Todd Borkowitz <Todd_Borkowitz@co.washington.or.us>
Cc: Kathryn Harrington <Kathryn_Harrington@co.washington.or.us>
Subject: [EXTERNAL] Thank you note to WC Planning Commissioner Ian Beaty c/o Todd Borkowitz, Associate Planner @ WC Planning Commission

Commissioner Beaty,

On Wednesday, September 16, 2020, I attended the Washington County Planning Commission meeting regarding the changes to Ordinance 869.

Thank you for standing up with Commissioner Poddar regarding the too-short time frame to digest the changes to Ordinance 869.

I've lived in Washington County for most of my life. I am almost 59 years old. I am new to this process of witnessing planning commission meetings; this was my first meeting. It provided a great chance to actually see and hear how each Planning Commissioner represented Washington County. I was stunned -- both that there were at least three who have moved into the 21st century with its new challenges, and equally stunned that there were at least three who are in denial about how Washington County has changed and seem to be living in the past (which I remember well).

I've watched Washington County move from a mostly rural farming community to the home of Nike, Intel and the Silicon Forest. Now, I'm witnessing the proliferation of neighbors and neighborhoods and their vocal defense of natural habitat -- both on NextDoor and as I engage with various trail users (many of whom work in high tech). It's weird living through these changes, almost like I'm a ghost visiting different eras. I appreciate that you moved to not rush this new iteration of Ordinance 869. This is not the Washington County of the rural 1960's and 70's or the pro-growth 1980s and 90s. I'm hearing and seeing a community thinking more about the future and preserving the natural habitat for that future.

Thanks for your sane, calm voice,
Maria Choban
4255 NW 174th Avenue
Portland, OR 97229

Received 09/28/20
Wash. Co. LUT

From: Maria Choban <mariachoban@gmail.com>
Sent: Monday, September 28, 2020 8:50 AM
To: Todd Borkowitz <Todd_Borkowitz@co.washington.or.us>
Cc: Kathryn Harrington <Kathryn_Harrington@co.washington.or.us>
Subject: [EXTERNAL] Thank you note to WC Planning Commissioner Eric Urstadt c/o Todd Borkowitz, Associate Planner @ WC Planning Commission

Commissioner Urstadt,

On Wednesday, September 16, 2020, I attended the Washington County Planning Commission meeting regarding the changes to Ordinance 869.

Thank you for jumping in to point out that there were too many convoluted and difficult to understand passages. Thank you for voting to give us and you more time to read and understand these difficult passages.

I've lived in Washington County for most of my life. I am almost 59 years old. I am new to this process of witnessing planning commission meetings; this was my first meeting. It provided a great chance to actually see and hear how each Planning Commissioner represented Washington County. I was stunned -- both that there were at least three who have moved into the 21st century with its new challenges, and equally stunned that there were at least three who are in denial about how Washington County has changed and seem to be living in the past (which I remember well). I've watched Washington County move from a mostly rural farming community to the home of Nike, Intel and the Silicon Forest. I'm now witnessing the proliferation of neighbors and neighborhoods and their vocal defense of natural habitat -- both on NextDoor and as I engage with various trail users (many of whom work in high tech). This is not the Washington County of the farming-rural 1960's and 70's or the pro-growth 1980s and 90s and early 2000's. I'm hearing and seeing a community thinking more about the future and preserving the natural habitat for that future.

Again, thank you for your vote to take time to understand the new language in Ordinance 869,

Maria Choban
4255 NW 174th Avenue
Portland, OR 97229

Received 09/25/20
Wash. Co. LUT

From: Rosencrance <tanya.rosencrance@gmail.com>
Date: September 24, 2020 at 10:17:21 PM PDT
To: Todd Borkowitz <Todd_Borkowitz@co.washington.or.us>
Cc: Michelle Miller <Michelle_Miller@co.washington.or.us>, Kathryn Harrington <Kathryn_Harrington@co.washington.or.us>, Andy Back <Andy_Back@co.washington.or.us>
Subject: [EXTERNAL] Please Forward to Commissioner Petrillo and Ccs

Dear Commissioner Petrillo,

I would like to thank you for your thoughtful, respectful and positive tone while chairing the 9/16 Planning Commission meeting re: Ordinance 869.

I appreciated your patience and ability to maintain order in that very lengthy session (even when others may have appeared to feel negative).

Ordinance 869 is extremely important and necessary to make sure our future will be healthy on so many different levels. Thank you also for postponing consideration until it is scrutinized more closely.

Sincerely,

Tanya Rosencrance
tanya.rosencrance@gmail.com
19200 NW Illahe St
Portland, OR 97229

Received 09/25/20
Wash. Co. LUT

From: Rosencrance <tanya.rosencrance@gmail.com>
Sent: Thursday, September 24, 2020 11:04 PM
To: Todd Borkowitz <Todd_Borkowitz@co.washington.or.us>
Cc: Michelle Miller <Michelle_Miller@co.washington.or.us>; Kathryn Harrington <Kathryn_Harrington@co.washington.or.us>
Subject: [EXTERNAL] Pls Forward to Commissioner Lockwood & CCs

Dear Commissioner Lockwood,

This is a letter of thanks for your comments and input during the 9/16 meeting re: Ordinance 869.

It was quite obvious to me that you respect and believe in the importance of our natural environment and that our future literally *depends* on it.

I am in agreement that site-specific conditions fragment a plan that should be bigger and more encompassing if we are to make real progress moving forward. Thanks for your belief in environmental science.

Best,

Tanya Rosencrance
19200 NW Illahe St
Portland, OR 97229

tanya.rosencrance@gmail.com

Received 09/25/20
Wash. Co. LUT

From: Rosencrance <tanya.rosencrance@gmail.com>
Sent: Thursday, September 24, 2020 10:42 PM
To: Todd Borkowitz <Todd_Borkowitz@co.washington.or.us>
Cc: Michelle Miller <Michelle_Miller@co.washington.or.us>; Kathryn Harrington <Kathryn_Harrington@co.washington.or.us>
Subject: [EXTERNAL] Please Forward to Commissioner Podar & CCs

Dear Commissioner Podar,

I would like to thank you for your thoughts and comments during the 9/16 meeting re: Ordinance 869.

It was quite apparent to me and many others that you take your position very seriously and believe that the citizens of Washington County should have a voice in these matters.

I was especially appreciative that you advocated for marginalized areas and populations as it's about time we address those discrepancies and make corrections.

Sincerely,

Tanya Rosencrance
19200 NW Illahe St
Portland, OR 97229

tanya.rosencrance@gmail.com

Received 09/25/20
Wash. Co. LUT

From: Board of County Commissioners
To: myers.maggie.a@gmail.com; Board of County Commissioners
Subject: RE: Constituent Inquiry - All Board members
Date: Wednesday, September 16, 2020 4:27:05 PM

Good Afternoon Maggie,

Thank you for sending in testimony on Ordinance 869. It will be shared with the Board and saved for the meeting record.
Thank you

Kevin Moss, MBA
Kevin Moss | Clerk to the Board
Washington County Administrative Office
155 N 1st Ave., Suite 300, MS 21, Hillsboro OR 97124
Main: 503-846-8685 | Direct: 503-846-8301
Kevin_moss@co.washington.or.us

From: noreply@co.washington.or.us <noreply@co.washington.or.us>
Sent: Wednesday, September 16, 2020 4:11 PM
To: Board of County Commissioners <BCC@co.washington.or.us>
Subject: Constituent Inquiry - All Board members

Email for: All Board members

Name:
Maggie Myers

Email address:
myers.maggie.a@gmail.com

Is this inquiry in reference to a property within Washington County?
No

Property address:

Property ZIP code:

Message:

Hi, I'm writing in regards to Ordinance 869 which proposes to amend land use development on land considered natural resources and wildlife habitats. I strongly oppose any amendments to allow for future development on these lands or removal of any protections for natural resource areas of our county. Furthermore, we need to expand protections for land, trees and wildlife and stop developers from entering our county and engaging in new construction. Population increase and the need for housing is often cited as the need for destructive practices. Our county has ample urban areas in which old buildings and sites could be modified for housing. The threat of climate change has never been more real to us than in this moment. Trees and green spaces provide critical carbon filtration and help mitigate some of the most extreme effects of climate change such as heat and drought. Please do not compound the devastating conditions that are already having a dangerous impact on our region by allowing protected lands to become more development projects.

Attachment provided: No

The following response was emailed to constituent following their inquiry:
Thank you for your email. If your inquiry requires a response, someone will be in contact with you soon. If your inquiry is a comment or information to be shared with the Board and staff, please be assured that it will be.

Again, thank you for taking the time to write us.

ADVISORY: Information contained in this email is "Level 3 – Restricted" per the Oregon Statewide Policy Information Asset Classification 107-004-050. Users are requested to maintain the privacy and security of this information. Forwarding or copying to unsecured recipients is strictly prohibited.

Received 09/23/20

Wash. Co. LUT

TUALATIN RIVERKEEPERS.

11675 SW Hazelbrook Road, Tualatin, Oregon 97062

503-218-2580 • tualatinriverkeepers.org

info@tualatinriverkeepers.org

September 23, 2020

Washington County Planning Commission
155 N. First Ave
Hillsboro, OR 97124

Submitted via email

Re: Supplemental Comments Proposed Ordinance No. 869 updating SNR Code Sections

Tualatin Riverkeepers (TRK) is a community-based organization that protects and restores the Tualatin River watershed. We build watershed stewardship through engagement, advocacy, restoration, access, and education. We appreciate the opportunity to provide these supplemental comments on Draft A-Engrossed Ordinance No. 869 amending code sections impacting Significant Natural Resources (SNRs).

TRK appreciates all the hard work staff has completed and continues to do on this ordinance. We also appreciate the Planning Commission giving the public more time to examine the new language. After reading the proposed language we feel it is important to supplement our comments from August 18th to address the changes proposed and the serious concerns we continue to have with the ordinance. We will address our concerns below by topic.

I. The 25% and 15% Preservation Area is Based on Faulty Assumptions

During the Planning Commission meeting on September 16th when asked by a Commissioner how the 25% was selected staff indicated that when they looked at the historical record 25% was about the percentage of upland habitat that was saved on those sites. Since the new standards are just supposed to replace old standards and keep the same level of protection, this appeared to make sense. However, there is a problem with this logic. Setting the preservation percentage at the same level we were seeing under the old standards assumes that the applications in the past were as protective as the program

attempted to be. Given the SNR Assessment's conclusions from earlier this year, we know that is not the case. One of the points made in the report was that the wildlife/upland habitat protections were not working as intended.[1] That means that the County was unsuccessful in protecting upland/wildlife SNRs. Therefore, the 25% and 15% are not adequate amounts of preservation area to meet the Comprehensive Plan's goal to do everything possible to save mapped SNRs[2] and does not adequately replace the intended preservation goals of the old program. In other words, the SNR program tried to protect more than 25% of upland/wildlife habitat and was unsuccessful. The County should not "double-down" on these inadequate protections by codifying the protection of only 25% or 15% of upland/wildlife habitat.

Instead of using historical data with inadequate protections, preservation areas should be justified with scientific reasoning and use an ecosystem-based analysis to determine which portion of habitat should be preserved on the site. All Goal 5 resources need to be addressed on an ecosystem-based watershed analysis. Portland's Bureau of Environmental Services (BES) does take a watershed-based approach and protects upland habitat to the same extend they protect riparian areas and vegetative corridors. BES even used a scientific foundation to support their watershed management process and as part of their guiding principles. In the document laying out their scientific foundation they state the following reasons why taking this approach is necessary:

> Although many improvements have been made over the years, many fish and wildlife populations continue to decline, suggesting that a new approach to managing natural resources is needed. Indeed, current scientific evidence suggests that *species and their habitats form a complex, integrated ecological system*, and that when this system functions successfully the result is both a healthy environment overall and adequate abundance, productivity and diversity of individual species, including those that are of particular economic or cultural interest to humans.[3]

If Washington County hopes to save fish and wildlife populations, then the County must also turn to an ecological-based approach. Anything less will not protect the functions and values that make SNRs significant. We therefore encourage Washington County to model their SNR code after Portland's code and to take this approach across the whole county, not just inside the UGB. Any decisions regarding when and where upland habitat should be protected should take into consideration the value of that upland habitat as laid out in the BES report, Chapter 2: Scientific Foundations.[4]

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[1] The Assessment talked about the program trying to preserve wildlife habitat using incentives and noted that "[v]oluntary measures have been in place for many years, and have not often been used as a strategy to protect additional Wildlife Habitat." (draft Significant Natural Resources Assessment page 41).

[2] "[A]ll reasonable methods for their preservation can be pursued prior to development . . ." Comprehensive Plan Policy 10.

[3] The Framework for Integrated Management of Watershed Health, Chapter 2: Scientific Foundation, BES, (December 2005) *available at* https://www.portlandoregon.gov/bes/article/108293 (page 2-1) (emphasis added).

[4] Describing a few benefits of Upland habitat: "Upland areas also intercept precipitation, slow runoff and filter nutrients and pollutants before they make their way to streams. This is especially important in urban areas, where large portions of the

II. The New Standards Do Not Adequately Replace the Mitigation Requirements for Any "Serious Interference" with SNRs

The new standards also seem to have done away with the need to mitigate any serious impacts to the SNRs. Instead, the new standards allow destruction of up to 75% or 85% of the upland/wildlife habitat and the remaining portion must be enhanced to "good condition." This enhancement, while a good requirement, does not appear to fully mitigate for the loss of 75% or 85% of the upland habitat area. Allowing destruction of 75% or 85% of the habitat without mitigation appears to be a departure from the old SNR program and is less protective of upland/wildlife habitat. This change also seems to conflict with the stated goals of the County's Comprehensive Plan Policy 10.

III. Requirement for a Neutral Professional Field Verification Still Missing

We are concerned that staff removed the requirement that a natural resource professional do the field verification from section 422-3.1. It is not clear to TRK that including the methods for verification instead ensures that a professional does the verification. We also continue to be concerned that those developing a particular property would be hiring the person doing the verification. Using a neutral professional would be the best way to ensure accurate and above-board field verifications. At the very least please consider adding a requirement that a neutral person do the field verification with the methods specified in the engrossed standards.

IV. Miscellaneous

Finally, TRK has several smaller comments and lists them here in bullet form:

- We appreciate and support the addition of several definitions including defining "Habitat Area".
- We oppose the change in 422-5.2 (E) which allows an exemption for up to 2,000 square feet. This exemption is much too big given the small amount of mapped habitat/wildlife area left in the County.
- We support the removal of the discretionary path in 422-5.3.
- We support the addition of 422-5.3(C)(6) to require a monitoring and maintenance report on the enhancement done in preservation areas.

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landscape may be impervious (Booth and others 2001). Uplands also provide crucial habitat values for wildlife species at various stages in their life cycle, including breeding, feeding, foraging, dispersal and over-wintering (Hollenbach and Ory 1999). Eighty-nine percent of all terrestrial species in the Portland area, including several bat and owl species, western gray squirrel, and red tree vole, are associated with upland habitats." The Framework for Integrated Management of Watershed Health, Chapter 2: Scientific Foundation, BES, (December 2005) *available at* https://www.portlandoregon.gov/bes/article/108293 (page 2-18).

V. Conclusion

Although we appreciate the massive amount of work staff and Commissioners have put into this ordinance, unfortunately there are still serious problems. Without stronger minimum preservation area requirements, TRK cannot support the adoption of this ordinance. The 25% and 15% preservation area requirements are less protective than the old SNR program tried to be and does not adequately replace the mitigation requirements of the old standard. We hope the County will address this downgrading of protection for upland/wildlife habitat in their deliberations and require staff to significantly increase the minimum amount of upland/wildlife habitat preserved on each site. Thank for the opportunity to submit these supplemental comments on Draft A-Engrossed Ordinance No. 869.

Sincerely,

Ashley Short
Tualatin Riverkeeper & In-House Counsel
Tualatin Riverkeepers
Ashley@tualatinriverkeepers.org

Received 09/22/20
Wash. Co. LUT

-----Original Message-----
From: Tomas & Masako Jankovsky <TMJankovsky@msn.com>
Sent: Saturday, September 19, 2020 11:41 AM
To: Todd Borkowitz <Todd_Borkowitz@co.washington.or.us>
Subject: [EXTERNAL] To Ms. Poddar (Land Use Commissioner -At large) C/O Mr. Borkowitz

Ms. Poddar,

We, as Washington County resident, participated to listened to the public hearing for Ordinance # 869 on Sep, 16th.

We wanted to send you our deep appreciation to you. Your effort was so clear and transparent, and fair to all.
To listen to this kind of County Planning Commission Meeting is quite new to us, and we learned and realized how important to pay attention to those hearings as a resident.

One commissioner said during the meeting that many residents don't care how this Ordinance will go. But we believe that is a wrong connotation. We would rather believe that simply people are not informed well about what is going on in Washington County's Land Use, and do not realize what is going on or which direction we are heading to.

Until we were informed about this #869 Ordinance through a SSN (Nextdoor.com), we had no idea about this Ordinance at all. However, once we notified recently, we realized this Ordinance is a very big issue to all the existent residents in Washington County.
We believe the issue is long time huge issue not only for the existent resident, but all the next generation to pass on to.

We were so relieved how the meeting went this time, because of you and the other commissioners who supported your motion to review the Ordinance.
So we just wanted to tell you our huge appreciation to you to be so careful, and pay attention to all the people's voices. (which is only from the people who is aware of this Ordinance #869. It is only a small part of people who lives in Washington County now.)

Thank you so much, and wishing you to continue to do your great job.
Looking forward to see your smile on the Zoom meeting again soon.

Tomas and Masako Jankovsky
(Rock Creek/ Bethany area resident)

Eric Urstadt
39290 NW Murtaugh Road
North Plains, OR 97133

Received 09/14/20
Wash. Co. LUT

Washington County - Department of Land use and Transportation
Attn: Long Range Planning PROPOSED LAND USE ORDINANCE – No. 869
155 N. First Avenue, Suite: 350
Hillsboro, OR 97124

PROPOSED LAND USE ORDINANCE – No. 869

This letter is written to address my many concerns with the proposed ordinance as currently drafted. I am on the Planning Commission (PC). It is my experience that if my views do not agree with the Washington County Department of Land Use and Transportation - Long Range Planning personnel (staff) then my ideas are largely ignored. Therefore, I am writing this to make sure that it goes on record. These comments represent my ideas and not that of the Planning Commission.

The County has a set of SNR rules (and other rules) that are not clear and concise. I have agreed with this for years, and I have mentioned this periodically to staff, but that went nowhere. Finally, someone has pressed the issue and it the County seems pressed to fix the issue. I'm happy the County wants to fix one of the many places where their code is not clear and concise.

For some reason, the Planning staff has steered this project to drift far, far from the goal of the project and has added all sorts of other concepts that have nothing to do with the issue at hand. The issue is that the SNR code is not clear and concise and to fix that only.

It is my strong opinion that the County simply address the clear and concise issues with the SNR's as was directed and leave any changes to code for another day. I may not be able to attend the next meeting, but I that is what I believe should happen. If this is done, there is no need to read the remainder of this letter.

New regulations:

A vocal portion of the public have sent in many letters asking for "riders" to add into the SNR code to further limit what can be done with a property, put burden on others, add layers of county regulations, for no demonstrated or proven benefit to the public. The County Staff has tried diligently to meet many of the concerns brought up in these letters, but in the course of this, staff has gotten way off course and have now muddied the waters and stifled the project. (In my opinion, county staff should have simply addressed the vocal parties by stating that those are valid concerns, but they are not part of the issue we are trying to resolve.)

If the County does plan to forge ahead with adding several layers of regulations to SNR, they should also do the following at the same time or before adding such new regulations.

Compile accurate list of true SNR's:

SNR's – as I have mentioned twice before, the county should be making sure that these areas are SIGNIFICANT, NATURAL and a RESOURCE ***before*** continuing to have this large amount of bureaucracy tied to these lands. Below are examples that I have noted in my 20+ years in dealing with Washington County Land Use planning (in mainly the rural areas).

1. Flood Plains and floodways are significant, but are not a resource. They are significant because they are a "hazard"; however, they are far from a "resource". They are governed by the Federal Emergency Management Agency (FEMA) regulations and the County must abide by these FEMA regulations. All the County Code needs to do is call out compliance with FEMA regulations and this should be good enough (maybe require an engineer stamp that the any submitted plans are compliant with FEMA code. The County's section 421 addresses FEMA. Because Floodways and Floodplains are not "resources", they are certainly not SNR's. No Floodplain or floodway is truly an SNR and they should not be subject to the SNR Section (Section 422) at all. Floodplains and floodways should be removed from the SNR maps. These areas are often large portions of a property and this is a huge burden to add Section 422 on top of Section 421 when it is not needed.
2. Many of the streams that are SNR's have not ever been evaluated and are not "significant" in any way. It is my understanding that when SNR's were created, the County simply added every blue line on the United States Geological Survey (USGS) topographic maps and made them SNR's. The USGS made blue line to represent what they thought were intermittent (running in winter only and year- round streams). It does not make sense that each and every tiny stream is "significant". I bet the county staff cannot state the "significance' of most of the SNR's; they just state "That's how we do things".
3. Furthermore, in my practice it was not unusual to find that these streams were simply a ditch made to drain a farm field or make a field more farmable. Some SNR's are tiled fields that have been tiled to create useable farmland many years prior to the SNR code, but after the USGS maps were made. Often they are not even running year-round. So sometimes mapped SNR's do not exist, or are man-made (not NATURAL). It seems obvious to me that these places, even though mapped as SNR's are not truly Significant Natural Resources and they should be removed from the SNR maps. I don't see much benefit at all to the public to create a streamside buffer where there never was one or to "untile" drained farmlands that were tiled to create better soil conditions to grow our food and crops.

My point here is that many of the mapped SNR's are NOT significant and NOT resources and/or NOT Natural and they should be inventoried and removed so that proper attention is given to true SNR's. Furthermore, all wetlands and stream are already regulated by DEQ, DSL, ACE, and in the UGB, CWS and sometimes other agencies such as ODF&W. If there truly is a significant wetland or wildlife area in the UGB, then by all means protect it. That was the intent of the planning rules, not just a haphazard way to add regulations to insignificant areas. <u>The county needs a valid accounting of truly significant natural areas</u>. We need to know what we have before figuring out how to protect it.

<u>The new regulations appear to be a taking:</u>

I believe that the additional regulations being added to the SNR rules are a "taking" or close to it. It is certainly a "power" or "land grab" by the county. The county will get to regulate more of your land with

ever more regulations and limitations. I seems illegal and illogical to take away the use of lands without compensating the landowner. If the SNR's get expanded as it seems the current policy changes are going, certainly less residences will be allowed per tract. This hurts the landowner and has minimal gain to the public. It may be a positive to adjoining neighbors that don't want the view from their parcel to change from a field or trees to homes. But if the public truly values the difference, they should be wanting to pay the landowner for the difference. This once was a key concept in land use planning that is almost now forgotten. Make sure the public benefit exists before adding huge regulations and expense:

New regulations contrary to past direction:

Personally, I see very little benefit to the public, but much added cost to future developments and therefore increases in housing costs. This contradicts the goals of the county commissioners to create affordable housing.

Wildlife areas and wildlife corridors in the UGB:

Wildlife corridors are a critical and valid component of wildlife management for survival of certain species. Wildlife corridors are important for some types of wildlife, but I doubt there is ever a case for it in our UGB. For example elk, cougar, or bear populations may need corridors to interbreed between habitat areas, but to put these in the UGB is not promoted by any study that I know of. Keep to the plan: Concentrate the urban development in the UGB and leave the wildlife habitat outside the UGB unless something is truly significant.

I believe everyone wants to save and protect wildlife, but I seriously doubt that these SNR rules will save any threatened or endangered species (TES). Rather they will be home for racoons, rats, skunks, squirrels, etc., that will not have their natural predators to keep their populations in check. If coyotes and cougars and bears did get into these areas, the public will want them removed. Just what are we gaining with all of this? I have worked on several Interdisciplinary teams working on Environmental Impact Statements (EIS). In every EIS, if habitat was required to be protected, it had to be connected to a proven need for habitat for a TES, but in this case, it just wildlife habitat in general. This makes no sense, especially in the UGB.

When land use was first implemented, the main idea was to concentrate homes and businesses in urban areas so save on roads, utility, and adverse impacts on wildlife. The farm aand forest zones were there to be home for the wildlife. In this case the county wants to save wildlife habitat in the *urban* areas. We should save *all* of the "significant" wildlife areas, but not save *any and every* wildlife habitat in the UGB. This thinking is counter to all land use planning as I see it.

I heard in the last meeting that the County is now planning to save "Oak Savanna" in the UGB. What species are you managing for? Other thasn the oak trees, will target species ever thrive or even exist in the UGB? It makes no biological sense to save Oak Savannah in the urban areas, but is *sounds* good.

There has been much discussion over the lack of specificity in the measure. It is doubtful this will be overcome if adding extra layers of environmental constraints. This is because the county personnel are not knowledgeable in wetlands, wildlife, forestry, or most related environmental topics.

Avoid any new tree ordinances (especially countywide):

Based on the letters collected, it seems many want tree protections, but none of these people are trained in forestry and/or forest management. They think that cutting almost any tree is bad. That is ridiculous to anyone trained in forest management. Oregon State University has one of the best forestry schools in the world; use this resource; a conversation with most any forest professional would tell you that forests need to be actively managed to stay healthy, not left alone.

I drive through the city and UGB areas, I see plenty of trees. Some (most?) of the newer developments have less trees, but only because Metro is requiring minimum densities and tiny lot sizes. If lots were bigger, more trees would be left. Therefore, it is reasonable to say that Metro has created the lack of trees in the new developments withing the UGB.

The county wants to inventory every tree (over 6" DBH), but for what purpose? I have been involved in these tree inventory projects and it's a waste of time and money. You might end up "saving" one tree or two, but the working involved for a couple trees is not worth the tree. Staff has mentioned that they will likely only want native species saved. But most (if not all) of the species required in planter strips in urban areas are non-native. This is because native trees often grow so fast that they are detrimental to roads, sidewalks, and underground utilities.

The current SNR plan is creating livable new homes with reasonable open areas and I think the Planning Commissioners should look at some of the newer developments to see if these big code changes need to occur, and to ponder if the new proposed regulations will actually lead to a measurable benefit to the public.

The county does not have experts in forestry and tree health. I suspect the county is not even aware of what forestry professionals are available and what they do or how they do it. This is why staff will not be able to prepare a tree ordinance that is clear and concise or effective. They simply do not have that expertise, and they should not be expected to take a couple classes and regulate it.

Some in the UGB want to cut their trees to be able to garden. That seems a reasonable idea. Why is it up the county to decide if someone can cut a tree to garden? What if someone is allergic to the pollen, or just want more sun and less leaf debris? What if the tree is damaging their foundation? Another layer of county oversight is bad for the public.

More regulations = more costs:

How many agencies do you need to regulate the same thing? The agencies often disagree with each other. More bureaucracy means more delays, more costs, and does not help our housing shortage or make housing more affordable.

- Wetlands are already regulated by Army Corps of Engineers (ACE), the Division of State Lands (DSL), and the Department of Environmental Quality (DEQ) and often other agencies depending on the project; why add another layer of bureaucracy?
- Wildlife is regulated by Oregon Department of Fish and Wildlife (ODFW), the National Marine and Fisheries Service (NMFS); why add another layer of bureaucracy?
- DEQ regulates for clean water and erosion; why add another layer of bureaucracy?
- Within the UGB, Clean Water Services (CWS) is another level of control in the UGB above and beyond DSL and ACE. When CWS got their power to regulate "riparian" areas, the boundaries were extended far beyond where most other counties or agencies would consider a riparian area. This is what we have and it seems reasonable to leave this as is for now.
- ODFW biologists should not be used to map wildlife areas in Washington County. A private, trained biologist should be used. ODFW staff are often very difficult to get to look at your project. They have their own duties and being at the beck and call of a developer or the county is not one of them. ODFW would need more staff, and I doubt they can just add staff when they want. Private consulting biologists are the best way to get this done in a fair and efficient manner. The county mentioned they likely would add new biological review staff and add new review fees.
- The Oregon Department of Forestry (ODF) already regulates timber harvesting and forest management statewide; why add another layer of bureaucracy?

Adding another other county review is very troubling to me and will add considerable cost and confusion.

<u>Open areas:</u>

Put the open areas where people will use and value them.

Metro should have planned for parks and open spaces, or allowed densities to be lower in some areas, but obviously their plan fell quite short of what is desired.

As one of my commissioners mentioned, I do think most people want more parks and open spaces. In residential areas. This may be a common thread in most of the letters. It makes the neighborhoods much more pleasant to live in and brings a source of community if there is a central park for new developments. THIS is what the measure should be addressing. I'm told that developments seem to be trending to smaller sites, and usable parks are therefore more difficult to create from the developer's standpoint.

We should be giving incentives for more centralized parks and usable open spaces not the opposite.

<u>Leaving Trees in residential areas and global warming:</u>

The connection between additional SNR trees to saving us from global warming is unfounded. If houses cannot be built in one place, they will have to be built in another area. So, a tree saved in one location

will just mean a tree cut in another location for a house further out from the roadways, utilities, and the urban area.

Also, because fast growing trees create wood by combining water and taking carbon dioxide (from the atmosphere) they do help reduce the amount of carbon dioxide in the air. If the mature trees are made into wood and wooden houses or furniture, then the carbon is stored in that wooden product. However, saving mature trees does not significantly reduce carbon dioxide from the air. This is because mature trees do not remove as much carbon dioxide as younger fast-growing saplings do. At some age they begin to rot and will actually give off more carbon dioxide than they take in. The fact is, to remove carbon dioxide from the air, it would be best to remove (or harvest) mature trees and replace them with younger trees. People that want to reduce carbon dioxide in the air should be promoting the harvest of mature trees and responsible forestry, not saving mature trees from harvest.

Public letters and facts:

It is great that people can write letters to promote their opinions. Some letters come from large-well funded agencies that can write amazingly convincing letters, but commissioners should be careful.

The Urban Greenspaces Institute makes great generalizations about race and income levels, climate change, and environmental injustice issues in an attempt to make the tree ordinance county wide. I find many of their arguments invalid. They seem to believe that cutting trees adds to global warming when the fact is that cutting trees and replanting them is what allows the growing trees to remove carbon from the atmosphere. The way to permanently remove carbon from the atmosphere is to harvest trees, then create wood products. The use of the wood products serves to store the carbon in that form outside of the atmosphere. Then grow more trees in the space where trees were harvested to remove more carbon-dioxide form the air.

The Urban Greenspaces Institute showed a number of charts and graphs that looked professional. In many of the charts, the data points were widely scattered. Yet they implied linear relationships from a scattering of data. This makes me question the whole letter.

County Staff off track:

Presumably because of the letters sent in, staff has “teed up” measures for a countywide tree ordinance. This again has nothing to do with the issue at hand. But it staff is promoting this by stating it will be considered for next years work plan. Staff should stick to the goal and not tee up any idea that anyone brings up. It is difficult to get on the work list, but if staff “tees” it up, it is much higher likelihood to be brought up.

County-wide tree ordinance likely illegal:

I'm not an attorney but I'm almost certain that the statutes pertaining to the Oregon Department of Forestry (ODF) do not allow local jurisdictions to regulate tree harvest. Therefore, a county wide tree ordinance would be illegal.

If a county-wide tree ordinance was created and implemented, it would likely cause so much added expense that the timber industry would be severely hurt. If you want to ruin the timber industry in Washington county add a county wide tree ordinance. This certainly the reason why the state legislature won't allow local regulations of tree harvesting. And if you can't make money on land zoned for forestry, why even plant any trees? Your new county tree ordinance will result in people stopping to manage their lands for timber, the opposite of what the county wants to accomplish.

Summary:

Just clear up the current SNR language and don't add layers of bureaucratic control when its's not needed and will further increase housing costs and delay housing projects.

Sincerely,

Eric Urstadt

WASHINGTON COUNTY
OREGON

Staff Responses to Commissioner Urstadt Comments and Questions Regarding Ordinance No. 869 Submitted on Sept. 14, 2020

1) **The County should compile an accurate list of true SNR's. The County should ensure areas are significant, natural and a resource before requiring this level of bureaucracy tied to the lands.**

   Staff Response: The County's Goal 5 program relies on mapping done in the 1980s and to an extent the mid-2000s. At those times, resources were inventoried and those determined to be significant were mapped on community plans and in the Rural/Natural Resource Plan. Regulations were adopted into the Community Development Code (CDC) to address development within those areas and the extent of any limitations. The County's regulations and the changes proposed in Ordinance No. 869 are based on this initial assessment of the resources and the Goal 5 process completed for the Tualatin Basin Program in 2005. Changes to the resource mapping and determinations of significance would require a new Goal 5 process and assessment of Economic, Social, Environmental and Energy (ESEE) impacts. This is not within the scope of the current ordinance.

2) **The new regulations appear to be a taking. Taking use of land should be compensated. Current policy changes are expanding SNRs and will reduce housing development.**

   Staff Response: Staff does not view the proposed regulations as an expansion of the current requirements regarding SNRs, but rather a refinement of current regulations, codification of current requirements in a Director's Interpretation, and establishment of clear and objective standards to replace currently subjective standards.

   Current regulations require that a proposed project "will not "seriously interfere with the preservation of fish and wildlife areas and habitat… or how the interference can be mitigated." Since this statement is not further defined in the CDC, currently mitigation could range from minimal requirements, like clustering development away from a resource to the preservation of a majority of the resource, depending on the site conditions, the site assessment and the proposal. The proposed clear and objective standards are based on current practice, and in particular the percentages proposed for preservation of Upland/Wildlife Habitat are an extrapolation from current and past development review practices. Staff therefore believes the proposed standards codify existing practices.

   Whether a regulation may be a taking is a technical legal issue that is made on a case-by-case basis depending on the particular facts of an individual property/proposed development.

   Impacts on housing development are addressed in 3) below.

Department of Land Use & Transportation
Planning and Development Services • Long Range Planning
155 N First Avenue, Suite 350, MS 14, Hillsboro, OR 97124-3072
phone: 503-846-3519 • fax: 503-846-4412
www.co.washington.or.us/lut • lutplan@co.washington.or.us

3) Concern with increased housing costs contrary to affordable housing goals.

Staff Response: Statewide planning goals and Metro requirements require the County to balance potentially competing goals. Goal 10 (Housing) is not more important than Goal 5 (Natural Resources, Scenic and Historic Areas, and Open Spaces) – communities must determine the appropriate balance for their jurisdiction. This is what the County did in the 1980s through the first SNR inventory and program development and again in the mid-2000s with the Tualatin Basin program decision and associated code and plan changes. As noted, the current proposed changes do not change the policy direction from those earlier Goal 5 program decisions but serve to clarify and operationalize the CDC language. As such, staff does not expect the regulations as proposed will increase housing costs.

4) The focus of wildlife areas and corridors should be in the rural area. The plan is to keep urban development within the UGB.

Staff Response: The County's Comprehensive Plan presumes land within the Urban Growth Boundary (UGB) is suitable for development except in limited circumstances – and one of those limited circumstances is when SNRs are present. In those areas, there are limitations to development as provided in the CDC.

Much of the focus of the SNR inventory was originally on Big Game Habitat outside the UGB, identified by the Oregon Department of Fish and Wildlife Habitat Conservation Plan. Big Game Habitat makes up the majority of the approximately 192,400 acres of Wildlife Habitat outside the UGB. An additional approximately 23,500 acres of Water Areas and Wetlands, and 37,400 acres of Water Areas and Wetlands and Fish and Wildlife Habitat are also located outside the UGB.

However, Statewide Planning Goal 5 and Metro Title 13 require the County to address resources in both the urban and rural area. As noted in staff reports on this ordinance, much of the focus of SNR protections are on the highest value water-related riparian resources located within and along streambanks and wetlands. These areas are critical not only for water quality and quantity reasons, but also for their ability to serve as wildlife habitat and corridors within the urban area. Upland/Wildlife Habitat areas are the sensitive habitats, including forested areas coincidental with water areas and wetlands, and under the Tualatin Basin program protection was to be encouraged through voluntary incentive-based approaches rather than strict regulation.

Certainly, from an acreage protected standpoint, the County protects far more SNR in the rural area. Staff understands the Commissioner's point of view and acknowledges there are more conflicts in the urban area; however, state law does not restrict Goal 5 to just the rural area.

5) Avoid a new tree ordinance, particularly countywide. Forests need to be actively managed. The County doesn't have experts in forestry and tree health. Another layer of County oversight is bad for the public.

Staff Response: Staff is not proposing a tree code or any further regulations on trees outside of those for the SNR areas. This topic has been raised in the past with the Board of Commissioners and it is expected to be a topic of discussion in the next Long Range Planning (LRP) Work Program. It is not clear whether the Board will want to include this topic in a future work program.

6) **More regulations = more costs. There are already other agencies regulating the same areas identified as SNRs. Adding County review will add cost and confusion.**

   Staff Response: Current County regulations already include requirements for Significant Natural Resource areas and this ordinance is intended to clarify those requirements and ensure they are clear and objective. Additional references are made to other agency reviews of the areas identified as water-related resources and follow the same delineation standards and application materials to delimit the resources as those of the applicable agency (e.g., Department of State Lands (DSL), U.S. Army Corps of Engineers, and Clean Water Services). Staff anticipates that applicants will be able to reuse submittal materials in some cases as the proposed changes intend to streamline and coordinate processes.

7) **Give incentives for parks and usable open spaces.**

   Staff Response: The focus of this ordinance is on natural resources (not parks) and the intent of the comments is unclear. Even within more parks and open space, the County would need to consider how to address SNRs in the urban area.

8) **Arguments connecting race and income levels, climate change, and environmental justice to a countywide tree code are invalid.**

   Staff Response: Comment noted.

9) **Concern that staff has "teed up" a countywide tree ordinance.**

   Staff Response: Given the public interest expressed in the past and through this ordinance in a tree code for the urban unincorporated area, staff has noted it is likely to be part of discussions with the Board during next year and/or future years' LRP Work Programs. Staff is not recommending development of a tree code at this time, only that it be considered by the Board during Work Program discussions.

10) **A countywide tree code would likely be illegal.**

   Staff Response: Most public comments about a tree code have focused on the urban unincorporated area, not the rural area. Staff acknowledges that the Oregon Forest Practices Act supersedes local authority to regulate forestry activities outside the UGB on forest lands, in accordance with ORS 527.722 (4).

   Tree codes in some form are often administered within urban areas to monitor and regulate existing and new trees. The County currently has standards (§ 407-3) and policies (Policy 10.h) in the Comprehensive Framework Plan for the Urban Area that describe the community's interest in tree removal and protection measures in the urban areas, especially if the site contains SNRs. Other policies are identified for certain areas within the various community plans. As noted above, however, staff is not recommending development of a tree code beyond SNR areas at this time. This would be a work program decision by the Board of Commissioners.

Attachment C

WASHINGTON COUNTY
OREGON

WASHINGTON COUNTY PLANNING COMMISSION (PC)
WEDNESDAY, SEPT. 16, 2020

Proposed Ordinance No. 869 – An Ordinance Amending the Community Development Code (CDC) Relating to Development in Areas Designated Significant Natural Resources (SNRs) and Planned Developments

Draft Deliberations

PC Members Present: Ian Beaty, Mark Havener, Deborah Lockwood, Anthony Mills, Jeff Petrillo, Sushmita Poddar (joined at 7 p.m.), Eric Urstadt, and Matt Wellner. Absent: (none).

Staff Present: Andy Back, Planning and Development Services; Theresa Cherniak, Michelle Miller, Todd Borkowitz, and Susan Aguilar, Long Range Planning (LRP); Jacquilyn Saito, County Counsel.

Summary

a. **Ordinance No. 869 (cont. from Aug. 19, 2020)**
Michelle Miller, Senior Planner with the LRP Community Planning group provided a PowerPoint presentation to the PC on the proposed ordinance. It contained a brief overview of the presentation, description of the ordinance's objectives, detailed discussion on recommended changes and public input received, and the project timeline.

Staff Recommendation
- Conduct the public hearing on Ordinance No. 869 and hear oral testimony.
- Recommend approval of Ordinance No. 869 to the Board of Commissioners (Board) with engrossment as proposed by staff and provided prior to the meeting.

PC Questions and Comments
- Will the Board decide on Sept. 29 on whether to engross Ordinance No. 869?
- How many development applications were halted because of the enforcement order?
- How much of the approved development on sites with significant natural resources in the past years was truly affordable? Who are the beneficiaries of Ordinance No. 869?
- What are some examples of significant natural areas in the urban unincorporated area?
- Late amendments do not allow for an equitable process. The PC should delay a vote on Ordinance No. 869 until Oct. 7 so that it has time to fully understand the proposed ordinance's amendments and ramifications.

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Written Testimony

- Donald Alexander
- Atsuko Rothberg
- John Williams
- Jason Clinch
- Ona Golonka
- Diane Dickoff
- Kenneth Dobson, Attorney at Law
- Jeffry Gottfried
- Dale Feik, Chair – Washington County Citizen Action Network (WC CAN)
- Fran Warren

Oral Testimony

- Atsuko Rothberg (7926 SW Oviatt Drive, Beaverton, OR)
  - Noted that proposed changes make it much easier for wildlife habitat to be destroyed.

- Diana Nicolay-Biles (7958 SW Oviatt Drive, Beaverton, OR)
  - Does not want more housing at the expense of losing natural areas.
  - Shared concerns about a property on Cooper Mountain with SNRs. Some residents voiced opposition to development on the property and filed complaints about tree cutting as the development continued.
  - Recommended that the County not approve Ordinance No. 869 until residents agree on the scope of SNR protections.

- Kenneth Dobson, Attorney at Law (0324 SW Abernethy Street, Portland, OR)
  - Has concerns about interrelationship between CDC Section 422 (Significant Natural Resources) and 407-3 (Tree Preservation and Removal) and stated that staff should prevent new ways for SNR protections to be circumvented.
  - Asked about habitat assessment guidelines and whether they were reviewed by a biologist.
  - Believes ordinance is departure from Comprehensive Plan policies and will only "lightly protect wildlife habitat" when policies require significant habitat protection be done "as much as possible."
  - Contended that Vice Chair Wellner has a conflict of interest.
  - Stated the Tualatin Basin Program protects regionally significant SNRs and is not intended to protect locally significant natural resources.

- Dale Feik (3363 Lavina Drive, Forest Grove, OR)
  - Supports approach mentioned by Commissioner Rogers to take time to implement new rules to avoid future rulings on SNR regulations by Land Conservation and Development Commission (LCDC).
  - Stressed staff should enlist Oregon Department of Fish and Wildlife in crafting new rules.
  - Contended Vice Chair Wellner has a conflict of interest and should recuse himself.

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- Jim Long, Chair of CPO 4M (10655 SW Hall Boulevard, Tigard, OR)
  - Indicated CPO 4M has not had enough time to review Ordinance No. 869.
  - Believes there are no time requirements for approving the proposed ordinance this year.
  - Stated Ordinance No. 869 does not rid CDC Section 422 of subjective language.
  - Shares concerns about conflict of interest of certain PC members.

- Fran Warren (835 SW Touchmark Way, Portland, OR)
  - Stressed that oaks need a special buffer determined by an arborist to ensure their protection.
  - Shared data on housing affordability of lots developed with SNRs that she will share with the Planning Commission.

- Janelle St. Pierre (8145 SW 87th Avenue, Portland, OR)
  - Noted upland habitat is critical for different species – especially Oregon White Oak, where one tree can host over 300 other species.
  - Stated proposed rules for protecting 15% of habitat adjacent to riparian and 25% if not gives development applicants tremendous discretion. Not helpful for habitat protection - not all habitat has the same ecological value and higher value habitat is often where people want to locate a house.
  - Highlighted riparian habitat is already generally protected, but protecting upland habitat is an opportunity to preserve other species, especially ones that people can better engage with.
  - Noted that upland habitat is particularly beneficial for pollinators.

<u>PC Deliberations</u>

- Vice Chair Wellner responded to contentions regarding whether he could participate in the proceedings as a result of potential conflicts of interest related to his work. Wellner disclosed his work activities and responded that he had no conflicts of interest.
- Comments were made that the PC has discussed SNR issues for over one year and should vote to act on the proposed ordinance, even if doing so may be unpopular. Others believed more time was needed to review changes proposed.
- Several Commission members believed Ordinance No. 869 should focus only on correcting the clear and objective language ordered by LCDC, not go beyond to address broader SNR-related issues.
- Comments were made about the recent passage by the Board of an equity resolution and that as a result the PC has a responsibility to listen to community voices, do the homework and make a recommendation. We haven't yet had the chance to review and understand all the materials.
- Discussion about the 25% preservation requirement for upland areas. Some believed this reflects past practices, and wondered whether this ordinance should reflect the direction the County seeks to go in the future? The proposed approach isn't scientific. Others believed the focus should only be on making existing standards clear and objective and not going beyond current policy direction.
- Questions about the balancing needed between protecting SNRs while providing housing affordable to the community.
- Discussion of the timing of action on the ordinance and whether the PC should delay a vote by two weeks so that both PC members and the community can fully read and understand the proposed amendments. Some believed it was time to move forward and others believed more time was needed.

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Vote
Commissioner Mills motioned to recommend approval of Ordinance No. 869 to the Board with the engrossment proposed by staff. Commissioner Havener seconded motion.

After discussion, Commissioner Havener motioned to call for the question (shutting down deliberations on the issue). Commissioner Mills seconded the motion to call the question. Chair Petrillo noted the motion must be acted upon immediately, is not debatable, and requires a two-thirds majority (six votes) to take effect. **Vote: 6-2. Motion passed**.

Yes: Beaty, Havener, Lockwood, Mills, Urstadt, and Wellner; **No:** Petrillo and Poddar.

The Planning Commission then voted on the original motion to recommend approval of Ordinance No. 869 to the Board with the engrossment proposed by staff. **Vote: 3-5. Motion failed.**

Yes: Havener, Mills, and Wellner; **No:** Beaty, Lockwood, Petrillo, Poddar, and Urstadt.

Commissioner Poddar proposed a motion to make amendments to add clear and concise (objective) language in Ordinance No. 869 and allow the PC additional time to review and consider it on Oct. 7. Commissioner Poddar withdrew her motion.

Commissioner Beaty motioned to postpone the consideration of Ordinance No. 869 to Oct. 7 to consider the current language as proposed by staff and allow the public additional time to submit testimony to the PC. Commissioner Urstadt seconded the motion. **Vote: 6-2. Motion passed.**

Yes: Beaty, Lockwood, Petrillo, Poddar, Urstadt, and Wellner; **No**: Havener and Mills.

End of deliberations.

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Attachment C

WASHINGTON COUNTY
OREGON

WASHINGTON COUNTY PLANNING COMMISSION (PC)
WEDNESDAY, OCT. 7, 2020

Proposed A-Engrossed Ordinance No. 869 – An Ordinance Amending the Community Development Code (CDC) Relating to Development in Areas Designated Significant Natural Resources (SNRs) and Planned Developments

Draft Deliberations

PC Members Present: Ian Beaty, Mark Havener, Deborah Lockwood, Anthony Mills, Jeff Petrillo, Sushmita Poddar, and Matt Wellner. Absent: Eric Urstadt.

Staff Present: Andy Back, Planning and Development Services; Theresa Cherniak, Michelle Miller, Suzanne Savin, Carine Arendes, Todd Borkowitz, and Susan Aguilar, Long Range Planning (LRP); Jacquilyn Saito, County Counsel.

Summary

a. A-Engrossed Ordinance No. 869 (cont. from Sept. 16, 2020)
Michelle Miller, Senior Planner with the LRP Community Planning group, provided a PowerPoint presentation to the PC on the proposed ordinance. It contained a brief overview of the ordinance, highlighting the timeline, past PC discussions, objectives and context, proposed changes for engrossments, public input received, and Board of Commissioners (Board) action.

Staff Recommendation
- Conduct the public hearing on A-Engrossed Ordinance No. 869 and hear oral testimony.
- Recommend adoption of A-Engrossed Ordinance No. 869 to the Board, which will reflect the changes described in the staff report and shown in Attachment A.

PC Questions and Comments
- Questions about the factors controlling the effective date of the ordinance and moving forward versus waiting until May 2021?
- Opinion that the proposed minimum preservation areas are materially different from the "should not seriously interfere" intent for SNRs.
- Questions about the change in threshold distance for requiring an SNR assessment from 150 to 100 feet?
- Questions about public comments received, how many were in favor of the ordinance versus in opposition, and whether there had been comments from any development applicants with sites containing SNRs?
- Question whether applicants could request an exception to the injunction in the interim if this ordinance were to be delayed until spring 2021?

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- Comment that the Board Chair wanted the PC to focus on whether the ordinance has clear and objectives standards to satisfy the enforcement order.

Written Testimony

- Blaine Ackley
- Tomas and Masako Jankovsky
- Ashley Short – Tualatin Riverkeepers
- Tanya Rosencrance
- Fran Warren
- Brent Campbell
- Mary Manseau
- Paul Whitney
- Pat Forsyth
- Dale Feik, Chair – Washington County Citizen Action Network (WC CAN)
- Atsuko Rothberg
- Kenneth Dobson, Attorney at Law
- Marta Amar
- Maria Choban
- Elizabeth Silver
- Cesar Grandjean
- Pat Sandquist
- Peggy Erick
- Sheri Hiefield
- Sallie Fogarty
- Mallory Hiefield
- Brittyn Lindsey
- Matt Hiefield
- Anne Ashton Goldfeld
- Shelley Signett
- Cindy Cuellar
- Fuhua Xu
- Masao Jankovsky
- Jodi Bean
- Terrace Strand
- Maria Fernandez-Diaz
- Jim Long, Chair – CPO 4M

Oral Testimony

- Dale Feik, Chair – WC CAN (3363 Lavina Drive, Forest Grove, OR)
  - Shared a statement from James Hansen on climate change included with written testimony.
  - Highlighted concern about the amount of land not being preserved.
  - Stressed that trees are important to the earth and that forests are being affected by wildfires due largely to climate change.
  - Supports postponing this ordinance.

  - Supports applying a 250-foot threshold for requiring SNR assessments.

- Jim Long, Chair of CPO 4M (10655 SW Hall Boulevard, Tigard, OR)
  - Indicated CPO 4M and other CPOs will meet after the Board hearings on A-Engrossed Ordinance No. 869 and will not have time to review it.
  - Recommends the ordinance be postponed until 2021.
  - Reiterated questions and statements from his written testimony on this ordinance and highlighted written testimony on A-Engrossed Ordinance No. 869 submitted by others.

PC Deliberations

- The Board cannot further engross this ordinance beyond the proposed A-Engrossed Ordinance No. 869 this calendar year; a voter approved change to the County Charter could allow for consideration of this ordinance as soon as January 2021 should the Board not take action this year.
- PC deliberations should focus on clear and objective standards relevant to the Enforcement Order and injunction; even standards that appear clear and objective could have nuances that make them subject to different interpretations.
- Proposed A-Engrossed Ordinance No. 869 reflects consideration of past comments from the PC.
- This proposed ordinance needs to be adopted to lift the injunction so projects can continue; additional costs incurred on development will result in higher housing costs.
- Could zoning to allow more residential dwellings in non-SNR designated areas within single dwelling districts aid in the protection of SNRs?
- While the proposed minimum preservation areas would make CDC Section 422 more clear and objective, the minimums are still inconsistent with the overall intent of protecting SNRs.
- The County's Comprehensive Plan prescribes housing affordability and Goal 5 resources protection; the PC must advise toward balancing these goals.
- Interest by one PC member in ensuring preservation of natural resources for current and future generations by preserving at eh maximum extent, not the minimum required. Development should be seamless with nature, not at the cost of it. Climate change should be considered. The County should set an example for other jurisdictions in the region to follow.
- The proposed ordinance has been vastly improved due to feedback from the PC and the general public and should move forward.
- The PC should be proud of its commitment to public participation, as demonstrated in its holding of four hearings on this ordinance. This extensive public involvement should be seen as a primary reason for the PC's support in recommending Board approval of the proposed ordinance.

Final Vote

Commissioner Mills motioned to recommend Board adoption of A-Engrossed Ordinance No. 869. Commissioner Havener seconded the motion. **Vote: 5-2. Motion passed**.

Yes: Beaty, Havener, Mills, Petrillo, and Wellner; **No**: Lockwood and Poddar.

End of deliberations.

WASHINGTON COUNTY
OREGON

PROPOSED A-ENGROSSED LAND USE ORDINANCE NO. 869
Individual and General Notice 2020-07
Oct. 9, 2020

Initial notice was provided to interested parties July 24, 2020 regarding proposed **Ordinance No. 869**. After public hearings for Ordinance No. 869, the Board of Commissioners (Board) ordered substantive amendments to this ordinance. These changes have been incorporated into proposed **A-Engrossed Ordinance No. 869**. As required by Chapter X of the County Charter, the Board has directed staff to prepare and provide you with notice of these amendments.

Who is Affected

Residents, businesses and property owners in unincorporated Washington County near Significant Natural Resources (SNRs) as mapped in community plans or the Rural/Natural Resource Plan or classified as Class I and II Riparian Habitat on Metro's Regionally Significant Fish & Wildlife Habitat Inventory Map.

What Land is Affected

Land in unincorporated Washington County mapped with Significant Natural Resources in community plans or the Rural/Natural Resource Plan or classified as Class I and II Riparian Habitat on Metro's Regionally Significant Fish & Wildlife Habitat Inventory Map.

ORDINANCE PURPOSE:

Ordinance No. 869 proposed to amend the Community Development Code (CDC) related to significant natural resources in the development review process to establish clear and objective standards, clarify requirements, and allow protected habitat areas to meet open space requirements in planned developments. Amendments are proposed for further clarification. Public hearings on **A-Engrossed Ordinance No. 869** are as follows:

PUBLIC HEARING INFORMATION/LOCATION:

Hearings are in the auditorium of the
Charles D. Cameron Public Services Building, 155 N. First Ave., Hillsboro

Board of Commissioners

10 a.m.	**6:30 p.m.**
Oct. 20, 2020	Oct. 27, 2020

Board meetings are being conducted virtually on Zoom.
See page 3 for details.

At its Oct. 27 public hearing, the Board may choose to adopt the ordinance, make changes to it, continue the hearing to a future date, or reject the ordinance. If adopted Oct. 27, it is anticipated to become effective Dec. 15, 2020.

Department of Land Use & Transportation
Planning and Development Services • Long Range Planning
155 N. First Ave., Suite 350, MS14, Hillsboro, OR 97124-3072
phone: 503-846-3519 • fax: 503-846-4412
www.co.washington.or.us/lut • lutplan@co.washington.or.us

SUMMARY OF ORDINANCE NO. 869 AS ORIGINALLY FILED:

- Require development applications to include a Habitat Assessment and Field Verification to confirm boundaries and condition of Significant Natural Resource areas.
- Allow waiver of submittal requirements for projects outside the Urban Growth Boundary (UGB).
- Add references to Clean Water Services' (CWS) Design & Construction Standards and federal and state agency requirements within the list of allowed uses in water-related SNR areas.
- Replace the section on enhancement of certain degraded water-related habitat with requirements to meet CWS standards.
- Require a specified percentage of certain wildlife habitat area to be preserved when development occurs (Preservation Area).
- Establish standards for tree protection within Preservation Areas, including enhancement and replanting.
- Provide a voluntary discretionary path if preservation requirements cannot be met.
- Allow the entire preserved Upland/Wildlife Habitat area to count toward open space requirements for Planned Developments.
- Provide clarifications and add cross references within other sections of the CDC.

SUMMARY OF CHANGES TO ORDINANCE NO. 869:

- Update references to SNR categories in the Comprehensive Framework Plan for the Urban Area, the Rural/Natural Resource Plan and the CDC.
- Provide additional clarification of potentially subjective language and/or remove potentially subjective language in various sections, including:
  - CDC § 422-2 (Lands Subject to this Section) – clarify reference to Metro mapping.
  - CDC § 422-3 (Submittal Requirements) – delete reference to natural resource professional, detail acceptable methodologies for field verification, clarify that Habitat Assessment methodology will be contained in Guidelines and clarify when submittal requirements can be waived for projects outside the UGB.
  - CDC § 422-4 (Allowable Uses and Activities within Significant Natural Resource Areas) – delete reference to more stringent requirements and to "enhancement," better define sufficient buildable land and provide detail on fencing standards.
  - CDC § 422-5 (Tree Preservation in Habitat Area(s)) – clarify intent and applicability sections, delete discretionary variance process, and clarify fence design and replacement planting requirements.
  - CDC § 422-6 (Significant Natural Areas) – provide clear and objective standards for screening and buffering landscaping and setback from Significant Natural Areas within the UGB.
- Change requirement for when SNR review is required to apply to sites that contain or are within 100 feet (as opposed to 150 feet) of a mapped resource.
- Increase minimum size of Preservation Area and add exception from preservation requirements for sites with small habitat areas.
- Add requirement for plant establishment and maintenance report for Preservation Area.
- Add maintenance activities to list of potential encroachments into Preservation Areas.
- Clarify that Goal 5 mineral and aggregate resources are not subject to CDC § 422 requirements.

AFFECTED LAND USE PLANNING DOCUMENTS:

Rural/Natural Resource Plan

- Goal 5 Resources Map

Community Plans

- Significant Natural and Cultural Resources Maps of the ALOHA – REEDVILLE – COOPER MOUNTAIN, BETHANY, BULL MOUNTAIN, CEDAR HILLS – CEDAR MILL, EAST HILLSBORO, METZGER – PROGRESS, RALEIGH HILLS – GARDEN HOME, SHERWOOD, SUNSET WEST, WEST TIGARD and WEST UNION Community Plans

Community Development Code

- 106 – Definitions
- 201 – Development Permit
- 404 – Master Planning
- 407 – Landscape Design
- 422 – Significant Natural Resources
- Various Sections

HOW TO SUBMIT COMMENTS:

Washington County remains committed to broad community engagement and transparency of government and during the COVID-19 pandemic will host virtual meetings on Zoom. **Advance registration is required to provide testimony on agenda items or additional communication at designated times.**

For Board registration instructions and contact information, please visit the How to Testify webpage: **https://www.co.washington.or.us/BOC/Meetings/How-to-Testify.cfm**

- Submissions for oral or written testimony, including email must be received at least two hours prior to the meeting time.
- Include the author's name and address with any public testimony.

Staff Contact

Michelle Miller, Senior Planner, michelle_miller@co.washington.or.us, 503-846-8101

During facility closures the ordinance is available for review on the Land Use Ordinances webpage: **www.co.washington.or.us/landuseordinances**

Once facilities are re-opened, the ordinance will be available for review at the following locations:

- Department of Land Use & Transportation
- Cedar Mill Community Library and Tigard Public Library
- Community Participation Organizations (CPOs), call 503-846-6288

FILED

OCT 08 2020

Washington County
County Clerk

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR WASHINGTON COUNTY, OREGON

A-ENGROSSED ORDINANCE 869	An Ordinance Amending the Rural/Natural Resource Plan, Certain Community Plans, and the Community Development Code Relating to Development in Areas Designated Significant Natural Resources and Planned Developments

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

SECTION 1

A. The Board recognizes that the Rural/Natural Resource Plan Element of the Comprehensive Plan (Volume III) was readopted with amendments, by way of Ordinance No. 307, and subsequently amended by Ordinance Nos. 342, 383, 411, 412, 458, 459, 462, 480, 482, 499, 539, 547, 572, 574, 578, 588, 598, 606, 609, 615, 628-631, 637, 643, 648, 649, 653, 662, 671, 686, 733, 740, 753, 764, 772, 776, 785, 796, 809, 813, 814, 822, 824, 828, 840, and 854.

B. The Board recognizes that the Aloha-Reedville-Cooper Mountain Community Plan was adopted by Ordinance Nos. 263 and 265 and subsequently amended by Ordinance Nos. 292, 294, 344, 367, 418, 420, 471, 480, 551, 552, 588, 610, 615, 620, 649, 653, 674, 683, 776, 783, 785, 799, and 857.

C. 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, 552, 588, 610, 615, 620, 649, 702, 712, 730, 739, 744, 745, 758, 771, 783, 789, 790, 799, 801, 809, 838, 843, 846, and 866.

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D. The Board recognizes that the Bull Mountain Community Plan was adopted by Ordinance Nos. 263 and 265 and subsequently amended by Ordinance Nos. 368, 420, 480, 487, 547, 551, 552, 588, 610, 615, 659, 666, 783, 785, and 799.

E. The Board recognizes that the Cedar Hills-Cedar Mill Community Plan was adopted by Ordinance Nos. 263 and 265 and subsequently amended by Ordinance Nos. 346, 369, 396, 418, 420, 450, 471, 480, 484, 526, 551-553, 588, 609, 610, 620, 631, 732, 783, 799, 802, and 809.

F. The Board recognizes that the East Hillsboro Community Plan was adopted by Ordinance Nos. 278 and 280 and subsequently amended by Ordinance Nos. 349, 420, 480, 532, 551, 588, 610, 615, 686, 783, 785, and 799.

G. The Board recognizes that the Metzger-Progress Community Plan was adopted by Ordinance No. 236 and subsequently amended by Ordinance Nos. 278, 280, 350, 364, 420, 471, 480, 551, 552, 588, 608, 610, 783, and 799.

H. The Board recognizes that the Raleigh Hills-Garden Home Community Plan was adopted by Ordinance No. 215 and subsequently amended by Ordinance Nos. 278, 280, 292, 347, 365, 408, 420, 471, 480, 551, 552, 588, 608, 610, 683, 758, 783, and 799.

I. The Board recognizes that the Sherwood Community Plan was adopted by Ordinance Nos. 263 and 265 and subsequently amended by Ordinance No. 370, 420, 480, 551, 588, 610, 615, 649, 783, and 799.

J. The Board recognizes that the Sunset West Community Plan was adopted by Ordinance No. 242 and subsequently amended by Ordinance Nos. 278, 280, 292, 294, 348,

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366, 418, 420, 480, 485, 503, 526, 531, 532, 551-553, 588, 610, 620, 717, 760, 780, 783, and 799.

K. The Board recognizes that the West Tigard Community Plan was adopted by Ordinance Nos. 263 and 265 and subsequently amended by Ordinance Nos. 292, 294, 480, 601, and 799.

L. The Board recognizes that the West Union Community Plan was adopted by Ordinance Nos. 263 and 265 and subsequently amended by Ordinance Nos. 420, 480, 551, 588, 610, 671, 694, 783, and 799.

M. 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, 742-745, 754-758, 760, 762, 763, 765, 766, 769-776, 782-788, 791, 792, 797-802, 804, 809-811, 813-815, 820, 822-824, 826-828, 831-835, 838, 840-842, 845-847, 851, 853, 855-859, 864, 866, and 867.

N. On June 1, 2020, the Land Conservation and Development Commission issued an enforcement order requiring Washington County to amend its comprehensive plan with

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regard to specific aspects of its significant natural resource regulations to comply with ORS 197.307(4) on or before May 1, 2021. ORS 197.307(4) requires local governments to apply only clear and objective standards, conditions, and procedures to the development of needed housing within the urban area. The Board recognizes that such changes are necessary for the health, safety, and welfare of the residents of Washington County, Oregon.

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

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

SECTION 2

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

A. Exhibit 1 (1 page) amends the Rural/Natural Resource Plan 'Goal 5 Resources' Map.

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B. Exhibit 2 (1 page) amends the Community Plans 'Significant Natural and Cultural Resources' maps.

C. Exhibit 3 (13 pages) amends the following provisions of the Community Development Code:

1. Section 422 – Significant Natural Resources.

D. Exhibit 4 (5 pages) amends the following provisions of the Community Development Code:

1. Section 106 – Definitions;
2. Section 201 – Development Permit;
3. Section 404 – Master Planning;
4. Section 407 – Landscape Design; and
5. Various Sections.

SECTION 3

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

SECTION 4

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

SECTION 5

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

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SECTION 6

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

SECTION 7

This Ordinance shall take effect December 15, 2020.

ENACTED this _____ day of _____, 2020, being the _____ reading and _____ public hearing before the Board of County Commissioners of Washington County, Oregon.

BOARD OF COUNTY COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON

_____
CHAIR KATHRYN HARRINGTON

_____
RECORDING SECRETARY

READING	PUBLIC HEARING
First _____	First _____
Second _____	Second _____
Third _____	Third _____
Fourth _____	Fourth _____
Fifth _____	Fifth _____
Sixth _____	Sixth _____

VOTE: *Aye:* _____ *Nay:* _____

Recording Secretary: _____ Date: _____

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The ‘Goal 5 Resources’ Map of the RURAL/NATURAL RESOURCE PLAN is amended to reflect the following:

- References to ‘Water Area & Wetland and Fish & Wildlife Habitat’ will be changed to ‘Water-Related Fish and Wildlife Habitat’

- References to ‘Wildlife Habitat’ will be changed to ‘Upland/Wildlife Habitat’

abcdef Proposed additions
~~abcdef~~ Proposed deletions

The 'Significant Natural and Cultural Resources' maps of the ALOHA – REEDVILLE – COOPER MOUNTAIN, BETHANY, BULL MOUNTAIN, CEDAR HILLS – CEDAR MILL, EAST HILLSBORO, METZGER – PROGRESS, RALEIGH HILLS – GARDEN HOME, SHERWOOD, SUNSET WEST, WEST TIGARD AND WEST UNION COMMUNITY PLANS are amended to reflect the following:

- References to 'Water Area and Wetland and Fish and Wildlife Habitat,' 'Water Area and Wetlands & Fish and Wildlife Habitat,' 'Water Area/Wetland and Fish/Wildlife Habitat' and 'Water Area & Wetland and Fish and Wildlife Habitat' will be changed to 'Water-Related Fish and Wildlife Habitat'

- References to 'Wildlife Habitat' will be changed to 'Upland/Wildlife Habitat'

abcdef Proposed additions
~~abcdef~~ Proposed deletions

Sections of the COMMUNITY DEVELOPMENT CODE are amended to reflect the following:

1. SECTION 422 – SIGNIFICANT NATURAL RESOURCES

422-1 Intent and Purpose

The intent and purpose of this Section ~~these standards~~ is to permit limited and safe development in areas with identified significant natural resources, while providing for the identification, protection, enhancement and perpetuation of natural sites, features, objects and organisms within the county, here identified as important for their uniqueness, psychological or scientific value, fish and wildlife habitat, educational opportunities or ecological role.

Development on sites with Significant Natural Resources ~~within riparian areas, Water Areas and Wetlands, or Water Areas and Wetlands and Fish and Wildlife Habitat~~ shall comply with the requirements of this Section and all applicable local, state and federal regulations.~~ory guidelines.~~

422-2 Lands Subject to this Section

Those areas generally identified in the applicable community plan or the Rural/Natural Resource Plan Element as one of the Significant Natural Resources described below and verified on-site through the process described in Section 422-3.1. ~~and a~~Areas identified as Class I and II Riparian Habitat ~~Regionally Significant Fish & Wildlife Habitat~~ on Metro's ~~current~~ Regionally Significant Fish & Wildlife Habitat Inventory Map shall be evaluated using the field verification methodology and process in Section 422-3.1.

Significant Natural Resources have been classified in the c~~C~~ommunity p~~P~~lans or the Rural/Natural Resource Plan Element by the following categories:

422-2.1 **Water Areas and Wetlands.** 100-year flood plain, drainage hazard areas, ponds, except those already developed.

422-2.2 **Water-Related~~Areas and Wetlands and~~ Fish and Wildlife Habitat.** Water-~~areas and wetlands~~related areas that are also fish and wildlife habitat, including the Riparian Corridor.

422-2.3 **Upland/Wildlife Habitat.** Identified s~~S~~ensitive habitats~~identified by the Oregon Department of Fish and Wildlife, the Audubon Society Urban Wildlife Habitat Map, and~~, including forested areas coincidental with water areas and wetlands.

422-2.4 **Significant Natural Areas.** Sites of special importance, in their natural condition, for their ecological, scientific, and educational value.

422-3 Submittal Requirements~~Criteria for Development~~

~~422-3.1~~ An application for development on a site that contains or is within 100 feet of a mapped or otherwise established Significant Natural Resource area as described in

Section 422-2 must submit the following materials in addition to t~~T~~he required master plan and site analysis in Section 404. ~~which includes an identified natural resource shall:~~

422-3.1 A Significant Natural Resources Field Verification (Field Verification) that identifies the limits of any applicable Significant Natural Resource area located on the site, as described below.

A. Water Areas and Wetlands. Identification of limits of resources based on the following:

(1) Oregon Department of State Lands (DSL) methodology for delineating water areas and wetlands found in the *1987 U.S. Army Corps of Engineers Wetlands Delineation Manual* (*1987 Manual*) or its successor and/or Chapter 3 of the most current Clean Water Services (CWS) *Design and Construction Standards* for the Water Quality Sensitive Area (Sensitive Area). Permit/assessment-related materials submitted to DSL or CWS may be used to satisfy this requirement.

(2) Methodology in Section 421 for flood plain and drainage hazard areas.

B. Water-Related Fish and Wildlife Habitat. Identification of limits of resources based on the following:

(1) Chapter 3 of the most current CWS *Design and Construction Standards* for the Vegetated Corridor. A CWS Service Provider Letter may be used to satisfy this requirement.

(2) Section 106 definition of Riparian Corridor.

C. Upland/Wildlife Habitat. Identification of limits of resources based on delineation of the outer drip-line boundary of the tree canopy cover identified in Section 422-3.4 (tree inventory) and described in Section 422-3.5 (Habitat Assessment).

~~A. Identify the location of the natural resource(s), except in areas where a Goal 5 analysis has been completed and a program decision adopted pursuant to OAR 660, Division 23 (effective September 1, 1996);~~

422-3.2~~B.~~ Extent of ground disturbance proposed for development, description of ~~Describe~~ the treatment or proposed alteration to the field-verified Significant Natural Resource area, and identification of the proposed area of preservation when required per Section 422-5.~~if any. Any alteration proposed pursuant to Section 422-3.1 B. shall be consistent with the program decision for the subject natural resource; and~~

422-3.3~~C.~~ A description of how ~~Apply~~ clear and objective ~~the~~ design elements of the applicable c~~C~~ommunity p~~P~~lan apply to the urban development site; or how the Rural/Natural Resource Plan Element, Policy 10, Implementing Strategy e. applies to the rural development site. ~~which states:~~

~~"Implement the recommendations of the Oregon Department of Fish and Wildlife Habitat Protection Plan for Washington County and to mitigate the effects of development in the Big Game Range within the EFU, EFC and AF-20 land use designations."~~

422-3.4 A tree inventory as required in Sections 404 and 407.

422-3.5 A Habitat Assessment that identifies the size, extent and type of wildlife habitat located in the field-verified Water-Related Fish and Wildlife Habitat and Upland/Wildlife Habitat. The Assessment will evaluate and rate the different habitat values using the methodology outlined in the Habitat Assessment Guidelines.

422-3.6 For development applications outside the UGB that contain mapped Significant Natural Resources, the Review Authority may, at its discretion, waive submittal requirements of Section 422-3 when proposed development is more than 100 feet from significant natural resource areas mapped as Water Areas and Wetlands or Water-Related Fish and Wildlife Habitat and the submittal addresses how Rural/Natural Resource Plan Element Policy 10, Implementing Strategy e. applies to the development site (Section 422-3.3).

~~**422-3.2 Open Space Inside the UGB:**~~ [Section moved to end]

~~A. Shall be identified as provided in Section 404-1, Master Planning - Site Analysis;~~

~~B. When located in a park deficient area as identified on the significant natural resource map, the applicant shall notify the appropriate park provider of the proposed development.~~

422-~~3.3~~4 Allowable Uses and Activities within Significant Natural Resource Areas

Development within a field-verified~~Riparian Corridor,~~ Water Area~~s~~ and Wetland~~s,~~ and Water-Related ~~Areas and Wetlands and~~ Fish and Wildlife Habitat is subject to the following:

422-4.1~~A.~~ No new or expanded alteration of the vegetation or terrain ~~of the Riparian Corridor (as defined in Section 106) or a significant water area or wetland (as identified in the applicable Community Plan or the Rural/Natural Resource Plan)~~ shall be allowed except for the following~~:~~ uses and activities:

~~(1~~A.~~)~~ Construction, maintenance and repair of streets, street c~~C~~rossings ~~for streets~~, roads or other public transportation facilities.

~~(2~~B.~~)~~ ~~Construction or reconstruction of streets, roads or other public transportation facilities.~~

~~(3)~~ Installation, maintenance or construction of the following utilities: sanitary and storm sewer and water lines, electric, communication and signal lines; and gas distribution and transmission lines.

~~(~~C.~~4)~~ Wildlife viewing areas and recreation or nature trails.

~~(~~D.~~5)~~ Bank maintenance, restoration or stabilization, including riprapping for erosion control, of a river or other watercourse or body of water provided there is compliance with the requirements of Section 421-4.6~~. This use is not subject to Section 422-3.5 or Section 422-3.6.~~ and the applicant's CWS Service Provider Letter or associated permit materials submitted to DSL and/or the U.S. Army Corps of Engineers (USACE).

~~(~~E.~~6)~~ Detached dwelling~~s~~ and accessory structures on a lot of record, provided there is insufficient suitable, existing buildable land area to permit construction outside the verified ~~riparian corridor (as defined in Section 106) or a significant~~ W~~w~~ater A~~a~~rea and~~or~~ W~~w~~etland or Water-Related Fish and Wildlife Habitat ~~(as identified in the applicable Community Plan or the Rural/Natural Resource Plan)~~ and all required local, state or federal permits are obtained. Sufficient buildable land area is defined as the area required for the proposed structures plus a 10-foot perimeter around the proposed dwelling.

~~(~~F.~~7)~~ An alteration as required by the applicant's CWS Service Provider Letter or as permitted by DSL or the USACE.~~Where it can be demonstrated, with concurrence of the Clackamas District biologist or other applicable district biologist of the Oregon Department of Fish and Wildlife, that a riparian corridor, Water Areas and Wetlands, or Water Areas and Wetlands and Fish and Wildlife Habitat has been degraded, an enhancement of these areas which conforms to the definition and criteria listed in Section 422-3.4 may be permitted through a Type II procedure.~~

~~Enhancement or alteration of a non-degraded portion of these areas is permitted when it is in conjunction with and it is needed to support the enhancement of the degraded area. Where development is proposed that would have negative impacts on these areas it is the county's policy to follow state and federal regulatory guidelines for mitigation proposals.~~

~~(~~G.~~8)~~ All activities and uses associated with an expansion or alteration of Barney Reservoir and Henry Hagg Lake/Scoggins Dam; including but not limited to impoundment structures, water diversion and transmission facilities, road construction and related land alterations. Such activities and uses may be permitted through a Type III procedure.

H. All public use airport related uses and activities allowed pursuant to Section 387-4.

I. Wetland mitigation, creation, enhancement and restoration within public use airport approach surface areas and airport direct impact boundaries shall be allowed upon demonstration of compliance with the requirements of Section 388-9.

J. Fencing adjacent to stream buffers or other wildlife habitat areas, if it is split rail or other design that allows for the passage of wildlife by meeting the following design requirements:

(1) The lowest horizontal fence element must be at least 18 inches off the ground for passage of fawns and smaller mammals.

(2) The highest horizontal fence element must be no more than 42 inches in height to allow adult deer or elk passage.

(3) Fencing shall not include woven wire, cyclone fencing, or contain barbed wire elements.

422-4.2 ~~(9)~~ In addition, ~~in the Rural/Natural Resource Area~~within all Significant Natural Resource areas outside the UGB, the following uses and activities are permitted:

A.~~(a)~~ Propagation or harvesting of timber for personal consumption, provided that the use of a caterpillar tractor, yarder, backhoe, grader or similar heavy mechanized equipment is prohibited;

B.~~(b)~~ Commercial forestry activities when in compliance with the Oregon Forest Practices Act and Administrative Rules; ~~and~~

C.~~(c)~~ Farming or raising of livestock not utilizing a structure; and~~.~~

D.~~(d)~~ Operations for the exploration for and production of geothermal resources, oil and gas.

422-4.3~~C.~~ Where development or alteration of the R~~r~~iparian C~~c~~orridor is permitted under the above exceptions, the flood plain and drainage hazard area development criteria in Section 421 shall be followed.

~~Fencing adjacent to stream buffers or other wildlife habitat areas shall be designed to allow the passage of wildlife. Designs must incorporate openings appropriately sized and spaced to accommodate passage of wildlife common to urban Washington County (common mammals needing access to streams in urban Washington County include but are not limited to: deer, beaver, coyote, muskrat, rabbit, raccoon and skunk).~~

~~422-3.4 Enhancement of a degraded riparian corridor, Water Areas and Wetlands, or Water Areas and Wetlands and Fish and Wildlife Habitat permitted by Section 422-3.3 A. (7) shall meet the following:~~

~~A. For the purposes of Section 422-3.3 A. (7) an enhancement is a modification, as a result of which no later than 5 years after completion of the project, the quality and/or quantity of the natural habitats is measurably improved in terms of animal and plant species numbers, number of habitat types, and/or amount of area devoted to natural habitat.~~

~~B. Proposal Preparation~~

~~In order to determine whether a proposed modification will result in an enhancement, preparation of the proposal, as well as construction and planning work, shall be guided by a professional wildlife biologist or ecologist with experience and credentials in water areas/wetlands and riparian areas enhancement and who has reviewed the sources and their relevant references listed in Section 422-3.4.~~

~~C. Submittal Requirements~~

~~(1) The proposal shall include detailed information and mapping of the site, including all of the following subjects:~~

~~(a) Hydrology, including 100-year flood and 25-year flow events/surface water flow patterns, and groundwater information, if available;~~

~~(b) Substrate(s) and existing rates of sedimentation;~~

~~(c) Existing vegetation, including species list and community types, with approximate percent coverage, and all trees 6 inches in diameter or larger;~~

~~(d) Animal life census (macrofauna species list), preferably based on mid-April to mid-May field observations, but at least conducted during spring, summer and/or early fall.~~

~~(2) The proposal shall include a color photographic record (taken sometime between mid-spring and mid-fall) showing the major portion of the site at sufficient detail to compare with the later transformation.~~

~~(3) The proposal shall include a map showing the expected outcome of the proposed enhancement, with detailed description of how this is to be accomplished.~~

~~(a) To the maximum feasible extent, the overall design of the site shall minimize parking and human activity directly adjacent to the Significant Natural Resource, and where avoidable shall incorporate special design techniques (e.g., thick or thorny vegetation or fencing) to reduce adverse impacts such as littering and harassment of wildlife and damage to vegetation.~~

~~(b) A surrounding vegetation buffer of closely spaced (6 feet to [8 feet) trees and shrubs shall be included within the outer 25 feet of the Significant Natural Resource area unless there are special circumstances or design measures.~~

~~(c) All plant materials shall be indicated in terms of number and size. Except for the outer perimeter of the buffer area, all plants shall be of a native species unless agreed to by the Clackamas District biologist or other applicable district biologist of the Oregon Department of Fish and Wildlife.~~

~~(d) As many existing trees over 6 inches in diameter as possible shall be preserved.~~

~~(e) Vegetation plantings (e.g., trees and shrubs) which overhang standing water are encouraged. (Native vegetation is preferred.)~~

~~(f) Measures for the prevention of undesirable monotypic plant dominance, especially reed canary grass and blackberries, shall be included, such as periodic removal or application of herbicides agreed to by the Clackamas District biologist or other applicable district biologist of the Oregon Department of Fish and Wildlife.~~

~~(g) Ponds shall have varying open water depth up to a least 3 feet, unless required otherwise by the Oregon Department of Fish and Wildlife, Oregon Division of State Lands or the U.S. Corps of Engineers, and where the natural grade permits shall have gently sloped shores on at least two sides.~~

~~(h) Islands are encouraged to be two feet above normal water level, flat-topped, spaced every one-quarter acre of open water, and no smaller than 450 square feet where possible.~~

~~(i) Rocks and large tree trunks are encouraged to be placed in water areas.~~

~~(4) The proposal shall be submitted by Washington County to the biologist for the Clackamas District or other applicable district biologist of the Oregon Department of Fish and Wildlife for review and comment, as well as to other regulating agencies with jurisdiction to review the proposed enhancement, including the Division of State Lands and the Army Corps of Engineers.~~

~~(5) The proposal shall include arrangement to ensure frequent and regular litter or trash clean-up unless dedicated to Tualatin Hills Park and Recreation District or any other jurisdiction.~~

~~(6) As an alternative to the submittal requirements identified above, Clean Water Services (CWS) may provide the applicable U.S. Army Corps of Engineers or Oregon Department of State Lands permit and/or a CWS Service Provider Letter which demonstrates compliance.~~

~~D. Follow-up Requirements~~

~~(1) The county shall require as a condition of approval that a detailed report by a wildlife biologist or ecologist, with map and color photographs, shall be submitted to the county by the current property owner 2 years after completion of the modification and again after 5 years. The reports shall document the current condition of the resource. These two follow-up reports shall be submitted by the county to the biologist for the Clackamas District or other applicable district for review and comment. If the approved enhancement plan has not been completed in 5 years, the current property owner shall submit plans to the county Department of Land Use & Transportation for rectifying any significant deficiencies. Once approved, the amended plan shall be implemented.~~

~~(2) The county may modify or revoke the development permit for the enhancement, or take other necessary enforcement measures to ensure compliance with these standards.~~

~~(3) As an alternative to the reporting requirements identified in D.(1) and (2) above, CWS may submit applicable U.S. Army Corps of Engineers or Oregon Department of State Lands monitoring reports 2 years after completion of the modification and again after 5 years.~~

422-5 Tree Preservation in Habitat Area(s)

These standards are intended to encourage the preservation of stands of trees and other vegetation providing habitat value in or near existing habitat, particularly native species, and ensure such preservation occurs prior to development, while allowing development as envisioned in community plans.

422-5.1 Applicability

Inside the UGB, the following tree preservation criteria apply to review of Type II and III development actions. As used in this section, Habitat Area consists of the field-verified Upland/Wildlife Habitat plus any portion of the Riparian Corridor located outside the CWS Vegetated Corridor.

422-5.2 Exceptions

The following are not subject to Section 422-5:

A. Tree removal permitted under Section 407-3 (Tree Preservation and Removal).

B. Construction or alteration of a residence or accessory structure when located on an existing lot or parcel created prior to November 27, 2020.

C. A building permit for a previously approved development project, as long as the lotting pattern has not been modified and the land division was approved prior to November 27, 2020.

D. Development associated with the regionally significant educational or medical facilities at Portland Community College, Rock Creek Campus, 17865 N.W. Springville Road, Portland as identified on Metro's Regionally Significant Educational or Medical Facilities Map.

E. Development on a site with a Habitat Area of less than 2,000 square feet.

422-5.3 Required Preservation Area(s)

Preservation of a portion of the total Habitat Area on the development site is required, as follows:

A. The area required for preservation (Preservation Area) shall be determined based on either (1) or (2), below, but shall in no case be less than 500 square feet:

(1) A minimum of 25% of the Habitat Area (Option 1); or

(2) A minimum of 15% of the Habitat Area, when located adjacent to an on- or off-site Riparian Corridor or CWS Vegetated Corridor (Option 2).

B. The Preservation Area(s) shall:

(1) Be configured to result in a linear corridor or a cluster of trees.

(2) If using 422-5.3 A. (2) (Option 2), contain a minimum number of trees and associated understory shrubs, meeting one of the following:

	A	B
Minimum Amount	5 large trees and at least 10 understory shrubs	10 smaller trees and at least 10 understory shrubs
Description	Deciduous canopy trees, as defined in Section 106, of 12" Diameter at Breast Height (DBH) or greater with overlapping canopy or conifer trees of 24" DBH or greater. Understory shade tolerant perennial woody shrubs with multiple woody stems less than 30' at mature growth.	Deciduous canopy trees, as defined in Section 106, of 6" – 12" DBH or greater with overlapping canopy or conifer trees of 12" DBH or greater. Understory shade tolerant perennial woody shrubs with multiple woody stems less than 30' at mature growth.

C. Additional Standards

Preservation Areas are subject to the following requirements:

(1) Native trees and understory vegetation shall be retained.

(2) The Preservation Area shall be enhanced to Good Condition, as defined in the Habitat Assessment Guidelines. Invasive species shall be removed, and native plants shall be installed and maintained in accordance with Section 407-8.

(3) Trees in a hazardous condition, as determined by a certified arborist, may be felled for safety. The trunk and stump shall be left within the Preservation Area to serve as habitat for wildlife, unless diagnosed by a certified arborist with a disease necessitating removal to protect the remaining trees.

(4) The propagation or harvesting of timber for personal consumption or commercial sales is prohibited.

(5) Area shall be preserved in a nonbuildable tract or conservation easement subject to deed restrictions that provide for ownership and maintenance responsibility by a homeowners' association or other property owner(s).

(6) To ensure any planting done to achieve Good Condition is successfully established, by February 15 of the second year following the planting, the applicant or owner shall submit to Current Planning Services a monitoring and maintenance report prepared by a certified forester or landscape architect that includes:

(a) Dates of inspection(s).

(b) Status of plantings.

To ensure plant establishment and retention, if less than 75% of plants have been retained, the report shall provide recommendations for plant care and replacement of any dead or dying plants.

422-5.4 Activities Within the Preservation Area (Encroachments)

Activities that occur within the required Preservation Area(s) (Encroachments) are prohibited unless they meet the following:

A. Allowed encroachments into the required Preservation Area(s):

(1) Fencing adjacent to stream buffers or other wildlife habitat areas, if it is split rail or other design that allows for the passage of wildlife by meeting the following design requirements:

(a) The lowest horizontal fence element must be at least 18 inches off the ground for passage of fawns and smaller mammals.

(b) The highest horizontal fence element must be no more than 42 inches in height to allow adult deer or elk passage.

(c) Fencing shall not include woven wire, cyclone fencing, or contain barbed wire elements.

(2) Bank maintenance, restoration or stabilization, including riprapping for erosion control, of a river or other watercourse or body of water provided there is compliance with the requirements of Section 421-4.6 and current CWS *Design and Construction Standards* (as applicable).

(3) Alteration of the Riparian Corridor, Sensitive Area, or Vegetated Corridor as approved through a CWS Service Provider Letter.

(4) Installation, maintenance or construction of the following utilities: sanitary and storm sewer and water lines, electric, communication and signal lines; and gas distribution and transmission lines.

(5) Wildlife viewing areas and recreation or nature trails.

(6) Maintenance activities, including restoration planting and replacement or upkeep of viewing areas and trails.

B. Required replacement planting for encroachment in Preservation Area(s) When any area is disturbed by an allowed encroachment, such encroachment shall be identified in the master plan and site analysis, including identification of trees proposed for removal consistent with Section 407-3.3 B. Replacement planting that meets the following standards is required:

(1) Any trees removed from the Preservation Area(s) must be replaced using the methodology listed in (a) or (b) below that results in the greater number of replacement trees and understory shrubs.

(a) Size of trees:

Size of tree to be removed (DBH, in inches)	Number of native trees and understory shrubs to be planted
6-12	2 trees and 3 shrubs
13-18	3 trees and 6 shrubs
19-24	5 trees and 12 shrubs
25-30	7 trees and 18 shrubs
Over 30	10 trees and 30 shrubs

(b) Area of encroachment. One native tree and 5 native understory shrubs for every 100 square feet of encroachment into the Preservation Area(s).

(2) The application narrative shall identify which option will be utilized and address how it results in the greater number of replacement trees and understory shrubs.

(3) Replacement planting must be completed prior to the issuance of any certificate of occupancy. Installation and maintenance shall occur in accordance with Section 407-8.

(4) All replacement planting must occur on the applicant's site, either within or contiguous to the Preservation Area(s); provided, however, that if the planting occurs outside the Preservation Area(s) the applicant shall cause the planted area to be preserved by executing a deed restriction, such as a restrictive covenant.

422-5.5 Unauthorized Removal

Unauthorized removal of trees in the Preservation Area is subject to the compliance standards in Section 215 (Code Compliance). Notwithstanding Section 215, unauthorized removal of trees may be mitigated subject to compliance with the standards of 422-5.3.

422-~~3.5~~6 Significant Natural Areas

A. Within the UGB, the features of significance for each Significant Natural Area are identified by the applicable community plan. In order to reduce impacts on the identified unique or fragile character or features of the Significant Natural Area, development plans shall provide:

(1) Screening and buffering landscaping that meets or exceeds that required by Section 411-6.3, located between the identified significant features and the proposed use on the site; and

(2) A 20-foot setback from features of significance to proposed structures and any formal outdoor gathering spaces.

B. Outside the UGB, a~~A~~ny development ~~requiring a permit from Washington County~~ which is proposed in a Significant Natural Area, as identified by ~~the applicable Community Plan or~~ the Rural/Natural Resource ~~Area~~ Plan ~~Element~~, shall reduce its impact, to the maximum extent feasible, on the unique or fragile character or features of the Significant Natural Area. Appropriate impact reducing measures shall include:

(1)~~A.~~ Provision of additional landscaping or open space; and

(2)~~B.~~ Relocation of the proposed site of a building, structure or use on the lot.

422-~~3.6~~7 Water-Related Wildlife Habitat or Upland/Wildlife Habitat outside the UGB

For any proposed use in a ~~Significant Natural Resource Area~~Water-Related Wildlife Habitat or an Upland/Wildlife Habitat outside a UGB and as identified in the Rural/Natural Resource Plan, there shall be a finding that the proposed use will not seriously interfere with the preservation of fish and wildlife areas and habitat identified in the Washington County Comprehensive Plan, or how the interference can be mitigated. ~~This section shall not apply in areas where a Goal 5 analysis has been completed and a program decision has been adopted that allows a "conflicting use" to occur pursuant to OAR 660-023-0040(5)(c) (effective September 1, 1996).~~

422-8 Open Space Inside the UGB: [moved from former Section 422-3.2]

Open Space identified on a Significant Natural and Cultural Resources map in a community plan:

A. Shall be identified as provided in Section 404-1, Master Planning - Site Analysis.

B. When located in a park deficient area as identified on the map, the applicant shall notify the appropriate park provider of the proposed development.

422-~~4~~9 Density Transfer

Areas designated as a Significant Natural Resource may be eligible for density transfer as specified in Section 300-3.

422-~~5~~10 State and Federal Regulatory ~~Guidelines~~ Requirements

Development within a Significant Natural Resource Area field-verified boundary ~~riparian corridor, Water Areas and Wetlands, or Water Areas and Wetlands and Fish and Wildlife Habitat,~~ shall obtain all required local, state and federal permits.

422-11 Goal 5 Mineral and Aggregate Resources

The provisions of Section 422 are superseded by those of Policy 7 of the Rural/Natural Resource Plan and OAR 660-023-180 for the development of new or expanded Goal 5 Mineral and Aggregate Resources.

Sections of the COMMUNITY DEVELOPMENT CODE are amended to reflect the following:

1. SECTION 106 – DEFINITIONS

106-68 Drip-line boundary. The outermost edge of the canopy of an individual tree or the canopy of a group of trees; when delineating the drip line on the ground, it will appear as an irregular shape defining the canopy's perimeter.

2. SECTION 201 – DEVELOPMENT PERMIT

201-2 Exclusions from Permit Requirement

The following activities are permitted in each district but are excluded from the requirement of obtaining a development permit. Exclusion from the permit requirement does not exempt the activity from otherwise complying with all applicable standards, conditions and other provisions of this Code. The activities set forth below are not excluded from the requirement to obtain approval of erosion control measures to the extent the activity is subject to Section 426.

***

201-2.6 Propagation or cutting of trees ~~except as specified in Section 407-3~~ provided the trees are not designated as a S~~s~~ignificant N~~n~~atural R~~r~~esource area in an urban Community Plan, designated for preservation through the master planning process for a development, designated for preservation in a prior development action or when inside the UGB, located within a flood plain or drainage hazard area;

***

3. SECTION 404 – MASTER PLANNING

404-4 Planned Development

The Planned Development review process provides flexibility in standards and the location of permitted uses, compensated through innovative design and the provision of common or private open space and/or the preservation of Significant Natural Resources. The Planned Development review process shall not be utilized in transit oriented districts or in the North Bethany Subarea of the Bethany Community Plan. The Planned Development standards applicable to the North Bethany Subarea are in Section 390-17.

404-4.1 Planned Development Review

Modifications to development standards as detailed in this Section may be approved through a Planned Development review process if the applicant submits written evidence and site and building plans to support the requested modifications and there is a finding by the Review Authority that the following can be achieved by the proposal:

***

abcdef Proposed additions
~~abcdef~~ Proposed deletions

C. Site design retains to the greatest extent feasible existing natural features, such as drainage swales, slopes, ridgelines, rock outcroppings, vistas, natural plant formations and trees; ~~and~~

D. Open space and recreational facilities are provided as required in this Section~~,~~ and are improved and landscaped to reflect the intended character of the development~~.~~; and

E. Significant Natural Resource areas are preserved as required in this Section.

***

404-4.4 Modification of Standards through the Planned Development.

Upon submission of an on- and off-site Site Analysis as described in Section 404-1, and Section 422 as applicable, and when the request conforms to the standards of this Code, the Review Authority may modify the standards below within the prescribed limits.

***

404-4.5 Standards for Required Open Space

Site design shall comply with the following standards for open space:

***

E. Areas used as Planned Development required open space shall be approved by the Review Authority. Open space shall be in addition to that required by Section 405-1 and other Code standards, except as listed below.

(1) Commercial or Institutional Planned Development proposals shall be allowed to count the following area(s) on the subject property as Planned Development open space as specified below, provided that the area(s) are not used for parking (see Section 421-13).

(a) ~~on the subject p~~Property ~~mapped or~~ delineated as Water Areas and Wetlands or ~~flood plain, drainage hazard, wetland, wetland buffer,~~ Water-Related Fish and W~~w~~ildlife H~~h~~abitat per Section 422, ~~riparian~~ identified as open space area, or otherwise designated as a Significant Natural Resource in a Community Plan, toward up to 50% of Planned Development open space~~, provided that the area is not used for parking (see Section 421-13)~~.

(b) Property delineated under Section 422 as Upland/Wildlife Habitat or Riparian Corridor outside CWS Vegetated Corridor and preserved in a nonbuildable tract or conservation easement, toward up to 100% of Planned Development open space.

(2) Planned Developments that include residential dwelling units shall be allowed to count the following area(s) on the subject property as Planned Development open space as specified below, provided that the area(s)

are not used for parking (see Section 421-13). Amenities such as boardwalks, paths, trails and/or viewing areas that are accessible to all residents and/or tenants of the development must be provided in, or adjacent to, these areas.

(a) Property ~~mapped or~~ delineated as Water Areas and Wetlands or ~~flood plain, drainage hazard, wetland, wetland buffer,~~ Water Related Fish and W~~w~~ildlife H~~h~~abitat per Section 422, ~~riparian~~ identified as open space area, or otherwise designated as a Significant Natural Resource in a Community Plan, toward up to 20% of Planned Development open space.~~, provided that the area is not used for parking (see Section 421-13). Amenities such as boardwalks, paths, trails and/or viewing areas that are accessible to all residents and/or tenants of the development must be provided in, or adjacent to, these areas.~~

(b) Property delineated under Section 422 as Upland/Wildlife Habitat or Riparian Corridor outside CWS Vegetated Corridor and preserved in a nonbuildable tract or conservation easement, toward up to 100% of Planned Development open space.

(3) Areas of the site that are used to meet requirements of Section 411 (Screening and Buffering) may count toward Planned Development open space requirements, provided they meet the standards listed in 404-4.5 D. (1) and (2).

F. Recreational Facilities Standards for Open Space

Open space required by Section 404-4.5 A. shall meet the following standards for recreational facilities:

***

(3) Pedestrian and bicycle facilities required by Section 408 may not be counted as Planned Development recreational facilities. However, pedestrian and bicycle facilities on the development site required by Section 408 may count toward the open space requirement in 404-4.5 A. (1) and (2), provided they meet the standards listed in 404-4.5 D. (1) and (2).

(4) Recreational facilities used to meet requirements of Section 404-4.5 F.:

(a) ~~m~~May be placed within ~~the Planned Development open space or within~~ a building (such as a fitness center).~~,~~

(b) May be placed within the Planned Development open space, except that allowed recreational facilities are limited to viewing platforms, wildlife observation areas, and/or bike and pedestrian trails within any Significant Natural Resource category described in Section 404-4.5 E. (1) or (2).

(c) ~~but s~~Shall not be located within an area utilized for another Code-required use or activity (including parking and loading, private and public street rights-of-way, solid waste and recycling facilities), except as specifically allowed by this Section~~.~~; and

~~(5)~~(d)~~Recreational facilities used to meet requirements of Section 404-4.5F. m~~May not include for-profit or fee-for-use facilities.

***

4. SECTION 407 – LANDSCAPE DESIGN

407-3 Tree Preservation and Removal

407-3.1 Applicability

A permit is required for ~~Section 407-3 applies to~~ all tree removal that is not excluded from development permits~~ required~~ by Section 201-2 or is not in conjunction with another Type II or Type III development action. Tree removal in conjunction with a Type II or Type III development action in areas identified in the applicable Community Plan as Significant Natural Resources is subject to the review standards in Section 422-5.

407-3.2 Exemptions from Tree Removal Permit Requirement

The requirements of Section 407-3 do not apply to the following:

A. Trees identified and approved for removal through a Type II or III procedure in an approved Development Plan; ~~or~~

B. Removal of trees in conjunction with the development of a "conflicting use" of a Significant Natural Resource as specified in the applicable community plan, which was allowed pursuant to OAR 660-023-0040(5)(c) (effective September 1, 1996), through a Type IV process; ~~or~~

C. Trees in a hazardous condition which present~~s~~ an immediate danger to health or property, except within an approved Preservation Area any hazardous tree removal must meet the requirements of Section 422-5; or

D. Trees that are removed as part of stream enhancement or ecological rehabilitation activities as directed and approved by Clean Water Services.

407-3.3 Submission Requirements

Applications for tree removal shall include the following information:

A. Written narrative containing:

(1) A description of the size, species and condition (e.g., diseased, healthy) of each tree or group of trees, proposed for removal or replacement;

(2) An explanation of the purpose of removal;

(3) A description of any associated flood plain or drainage hazard area alterations;

(4) Findings addressing the application requirements of Section 422; and

(5) Findings addressing ~~relevant~~ clear and objective design elements of the applicable community plan.

***

407-3.5 Removal Standards:

A. Compliance with Section 422-5 and any other applicable Code requirement; and

***

407-8 Installation and Maintenance

407-8.1 Landscape plant materials will be installed to current nursery industry standards (practices detailed in the most current American National Standards Institute (ANSI) A300 Standards).

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5. VARIOUS SECTIONS

- References to 'Water Areas and Wetlands and Fish and Wildlife Habitat' will be changed to 'Water-Related Fish and Wildlife Habitat'
- References to 'Wildlife Habitat' will be changed to 'Upland/Wildlife Habitat'