



Sept. 23, 2024

To: Washington County Board of Commissioners

From: Erin Wardell, Assistant Director  
Land Use & Transportation

Subject: **PROPOSED LAND USE ORDINANCE NO. 901 – An Ordinance Amending the Comprehensive Framework Plan for the Urban Area and All Community Plans Relating to Development in Areas Designated Significant Natural Resources, and PROPOSED ORDINANCE NO. 902 – An Ordinance Amending the Community Development Code Relating to Development in Areas Designated Significant Natural Resources**

## STAFF REPORT

**For the Oct. 1, 2024 Board of Commissioners Hearing**  
*(The public hearing will begin no sooner than 10:00 a.m.)*

### I. STAFF RECOMMENDATION

Conduct the public hearing for Ordinance Nos. 901 and 902. At the conclusion of the hearing:

- Order engrossment of **Ordinance No. 901** to include map change requests received by August 31, 2024 that are consistent with the criteria used to develop the inventory, as described in this staff report and shown in Attachment A.
- Order engrossment of **Ordinance No. 902** to reflect the changes described in this staff report and shown in Attachment B.
- Continue the hearing for the engrossed ordinances to October 22 and November 5 and direct staff to mail notice of the changes consistent with requirements of Chapter X of the County Charter.

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## II. PLANNING COMMISSION RECOMMENDATION

The Planning Commission (PC) considered Ordinance Nos. 901 and 902 at its meetings on July 24, August 21 and September 4. At its September 4 public hearing, the PC voted 7 – 0 to recommend approval of **Ordinance No. 901** to the Board of Commissioners with engrossment to include map change requests received by August 31, 2024, that are consistent with the criteria used to develop the inventory. The PC also voted 7 - 0 to recommended approval of **Ordinance No. 902** to the Board of Commissioners with engrossment to address a list of refinements to the proposed language. The PC discussion and the recommended changes for engrossment are discussed in Section VII starting on page 16 of this report.

## III. OVERVIEW

The County has undertaken revisions to its Comprehensive Plan documents to meet requirements of Statewide Planning Goal 5 (Natural Resources, Scenic and Historic Areas, and Open Spaces) and address legal mandates. Ordinance No. 901 proposes to amend the Comprehensive Framework Plan for the Urban Area Policy 10 regarding Significant Natural Resources (SNR) and Policy 41, Map B (Goal 5 Resources for Future Development Areas). It would also amend text, design elements, and the Significant Natural and Cultural Resources maps in each of the community plans to reflect updates to the County’s program to implement Goal 5 in the urban unincorporated area.

Ordinance No. 902 proposes to amend standards in the Community Development Code related to SNRs in the urban unincorporated area to ensure they are clear and objective and meet Goal 5 and Metro Urban Growth Management Functional Plan (UGMFP) Title 13 requirements. The standards will apply to properties with mapped SNRs as shown on updated maps in the community plans.

This staff report summarizes important legal and planning context for the changes proposed in these ordinances. In addition, it provides explanation and analysis of the changes in the proposed ordinances and demonstrates the County’s process and reasoning behind its recommendations to minimize potential legal challenges.

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#### **IV. BACKGROUND**

For over 40 years Washington County has had a program to protect significant natural resources, including fish and wildlife habitat such as wetlands and streams and forested areas, as required by Statewide Planning Goal 5. Over the past several years there have been changes to state requirements for housing development due, in large part, to the housing crisis. These include changes to needed housing statutes for areas within urban growth boundaries and the types of regulations that can be applied to protect natural resources. As a result of these changes and several legal challenges, the County must update its Goal 5 program.

The history of the County’s Goal 5 program is complicated and provides important context for consideration of Ordinance Nos. 901 and 902. A full discussion of the legal and policy framework for the County’s SNR regulations, historical context, details on the County’s application of state and Metro natural resource protection requirements for new development, and the County’s recent work to update its Goal 5 program are included in the [July 24, 2024, PC staff report](#). This information is summarized below.

##### **A. Statewide Planning Goal 5**

County authority to plan for significant natural resources comes from Statewide Land Use Planning Goal 5 (Natural Resources, Scenic and Historic Areas, and Open Spaces). Goal 5 covers more than a dozen types of resources ranging from wildlife habitat and open space to historic, cultural, and mineral and aggregate resources.

- Local governments were asked to create inventories to preserve, protect and plan for natural resources while also balancing this with the other goals to provide housing and economic development and meet transportation and other needs.
- Goal 5 Oregon Administrative Rules (OARs) establish a process for jurisdictions to identify and assess local natural resources considered important to the community,

decide on an appropriate level of protection, and adopt regulations reflecting those policy decisions.

- Goal 5 specifies a process to be followed but leaves it to each jurisdiction to determine its own specific policies and regulations.
- The original OARs were contained in Chapter 660, Division 16. Revised OARs were adopted in 1996 into a new Division 23. Jurisdictions that developed their programs under Division 16 rules (like Washington County) were allowed to continue to follow these rules as long as they didn't make substantive changes to their program. Division 16 rules **did not** require clear and objective standards. How this affects Washington County is discussed further in Section E., below.
- Division 23 rules, on the other hand, **do** require that implementing measures contain clear and objective standards (660-023-0050(2)).<sup>1</sup> They also provide for an alternative approval process that includes regulations that **are not** clear and objective, provided such regulations allow the landowner to choose the process and provide a level of protection for the resource that meets or exceeds the intended level determined under implementation of the rules (660-023-0050(3)).

#### **B. County Goal 5 Program**

In the early 1980s, the County completed its initial inventory of Goal 5 natural resources under the Division 16 rules, identifying locally significant fish and wildlife habitat in the unincorporated urban and rural areas. Policies and standards for identified natural resources were included in the County's comprehensive planning documents, allowing limited and safe development in areas with inventoried SNRs while identifying, protecting, enhancing and maintaining fish and wildlife habitat recognized as important.

The County's Goal 5 Program for the urban unincorporated area – including policies, processes and requirements – is contained in the following Comprehensive Plan Elements:

#### Volume II: Comprehensive Framework Plan for the Urban Area (CFP)

The CFP applies specifically to the County's urban unincorporated areas. It communicates the present and future needs of this area and includes policies and implementing strategies for regulating its future growth and development.

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<sup>1</sup> A standard is considered clear and objective if it meets any one of the following criteria:

- (a) It is a fixed numerical standard, such as a height limitation of 35 feet or a setback of 50 feet;
- (b) It is a nondiscretionary requirement, such as a requirement that grading not occur beneath the dripline of a protected tree; or
- (c) It is a performance standard that describes the outcome to be achieved by the design, siting, construction, or operation of the conflicting use, and specifies the objective criteria to be used in evaluating outcome or performance.

### Volumes V to XIII and XVI to XVII: Community Plans

The County's 11 community plans<sup>2</sup> are adopted statements of County policy within the boundaries of specified urban unincorporated communities. They reflect the policies and strategies of the CFP for the urban unincorporated area and the unique conditions of each community planning area. Community plan maps identify land use districts, significant natural, historic and cultural resources and circulation routes. Plans include general design elements and subarea provisions on a range of planning topics. Proposed development, including land divisions, must meet community plan requirements and standards for SNRs as outlined in the Community Development Code.

### Volume IV: Community Development Code (CDC)

#### *CDC Section (§) 422, Significant Natural Resources*

Section 422 is the primary CDC section regulating development that might impact mapped SNRs. It outlines the SNR categories, requirements and development review process applicants must follow for development on sites with mapped SNRs in the urban and rural unincorporated areas. Regulations include restrictions on development and measures for enhancing degraded areas.

Since at least the late 1990s the County has applied development conditions or restrictions to areas mapped as Wildlife Habitat. These predated later Metro requirements and continued after changes made by Metro. These were, however, inconsistently applied through development reviews.

#### *Section 407-3, Tree Protection in Significant Natural Resource Areas*

Section 407-3 contains the County's current tree regulations. Trees subject to § 407-3 are limited to those located in identified SNR areas, flood plains and/or drainage hazard areas and trees previously identified for protection through a development action. Currently, § 422 does not contain specific standards for tree preservation or replacement that apply during the land use review process.

### **C. Tualatin Basin Program and Metro Title 13 Compliance**

Changes made to the Goal 5 OARs by the Land Conservation and Development Commission (LCDC) in 1996 gave Metro the authority to plan for fish and wildlife habitat protection in the Metro region. In 1996, Metro Council acknowledged the regional significance of fish and wildlife habitat and included their protection in Metro's Urban Growth Management Functional Plan (UGMFP).

- The County and other local governments and special districts in the Tualatin Basin<sup>3</sup> developed a regional comprehensive habitat protection program tailored to the Tualatin Basin in coordination with Metro.

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<sup>2</sup> There are officially 11 Community Plans, however, the Bethany Community Plan includes two chapters (Bethany and the North Bethany Subarea).

<sup>3</sup> The Tualatin Basin is the land area over which the streams and tributaries flow into the Tualatin River.

- The resulting Tualatin Basin Program was approved by Metro Council and incorporated into the UGMFP under Title 13, Nature in Neighborhoods.
- The Department of Land Conservation and Development (DLCD) acknowledged Title 13 to serve as compliance with Goal 5 for all jurisdictions within Metro.
- The Tualatin Basin approach used the Metro Regionally Significant Fish and Wildlife Habitat Inventory (Metro Inventory), which identified the following natural resources as significant:
  - Riparian Wildlife Habitat Class I, II, and III
  - Upland Wildlife Habitat Class A, B and C

The adopted Tualatin Basin Program recommendation to Metro concluded the greatest resource protection should apply to areas immediately adjacent to streambanks, where the highest-value resources are located. These are identified as Riparian Wildlife Habitat Class I and II on the Metro Inventory. Metro agreed that CWS’ *Design & Construction Standards* and local governments’ existing natural resource requirements provided adequate protection for those resource areas.

At the same time as the Tualatin Basin Program development, Oregon voters approved Ballot Measure 37 (2004), allowing property owners to claim compensation from state or local governments if their property values were reduced by environmental or land use regulations. The Tualatin Basin Partners agreed that, to avoid Measure 37 claims, they would use an incentive-based approach to encourage, but not require, protection of Metro’s Upland Wildlife Habitat Class A and B for areas within the UGB at that time. They also agreed that for UGB areas added **after** the date Title 13 was adopted, jurisdictions must require a level of protection for Upland Wildlife Habitat A and B areas as well.

The following table summarizes the adopted Tualatin Basin Program/Title 13 protections:

Habitat Type	Level of Protection
Regionally Significant Riparian Wildlife Habitat	Resource protection required
Upland Wildlife Habitat Class A and B in areas within UGB on Dec. 28, 2005	Incentive-based strategy to encourage resource protection
Upland Wildlife Habitat Class A and B in areas added to UGB after Dec. 28, 2005	Resource protection required

**D. County Changes to Address Metro Title 13**

In 2006, the County amended Section 422 to require proposed development on sites with certain resources identified on Metro’s Regionally Significant Fish and Wildlife Habitat Inventory Map (Metro Inventory Map) to also adhere to the criteria of § 422. Section 422 also requires projects to comply with other agencies’ permitting processes; for instance, CWS for stormwater management along streams, and Department of State Lands (DSL) and the U.S. Army Corps of Engineers (Army Corps or USACE) for water and wetlands permit requirements.

No changes to § 422 were adopted, however, to clarify that CWS' *Design & Construction Standards* were applied to sites with Metro Class I or II Riparian Habitat or County Water Areas and Wetlands and Fish and Wildlife Habitat. This was likely because applicants were already required to follow these standards in other sections of the code, primarily § 501-8, Standards for Development.

**E. Legal Challenges to County CDC requirements for SNRs**

Over the years, concerns were raised that the County's natural resource inventory was dated and not enough was being done to protect the remaining wildlife habitat in the urban areas. This concern was compounded by changes made to state law requiring only clear and objective standards for all housing, not just needed housing on buildable land.<sup>4</sup> As a result, the Board directed staff to prepare an in-depth review and assessment of the County's Goal 5 program as it related to the urban land use review process for sites with SNRs. The resulting *Significant Natural Resources Program Review and Assessment*<sup>5</sup> provided a series of recommendations to the Board as a starting point for discussion of amendments to the County's Goal 5 related policies and regulations.

In 2018, an approved land division was appealed by a few community members who were concerned about the County's application of its SNR regulations.<sup>6</sup> The Land Use Board of Appeals (LUBA) agreed with the County's Hearings Officer, who found that three standards in the County's SNR regulations in § 422 were unenforceable because they were not clear and objective.

In 2020, the LCDC found the County out of compliance with Goal 5 since the CDC sections that were no longer enforceable (since they were not clear and objective) were critical to the County's Goal 5 regulatory program. They issued an Enforcement Order directing the County to amend its CDC to meet the clear and objective standards requirement (ORS 197.307(4)) and imposed a limit on land use approvals involving development within the County's mapped Wildlife Habitat until the new standards were adopted.

To address these issues, the County adopted changes to its SNR standards through A-Engrossed Ordinance No. 869 in 2020. The intent was not to change the program decision but to make the subjective standards clear and objective. Upon County adoption, the 2020 Enforcement Order and the development limitations were lifted.

A-Engrossed Ordinance No. 869 was subsequently appealed to LUBA and remanded back to the County.<sup>7</sup> In 2021, LUBA found continued issues, primarily that the changes were

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<sup>4</sup> Changes made to Oregon Revised Statute (ORS) 197.307, through SB 1051 in 2017

<sup>5</sup> [https://washcomultimedia.s3.amazonaws.com/CMSBigFiles/SNRA\\_FINAL\\_05.14.20.pdf](https://washcomultimedia.s3.amazonaws.com/CMSBigFiles/SNRA_FINAL_05.14.20.pdf)

<sup>6</sup> *Warren v. Wash. Cnty.*, 296 Or. App. 595, 439 P.3d 581 (Or. Ct. App. 2019)

<sup>7</sup> Community Participation Organization 4M and Jill Warren v. Washington County, Or. LUBA 2020-110

substantive enough that the County needed to follow OAR Chapter 660 Division 23 and its mandated Goal 5 process steps when making changes to its standards that affect Goal 5 resources. Since the County’s Goal 5 Program was developed in the 1980s using the earlier Division 16 rules, the supporting Goal 5 documentation and analysis did not necessarily align with the more prescriptive elements of Division 23.

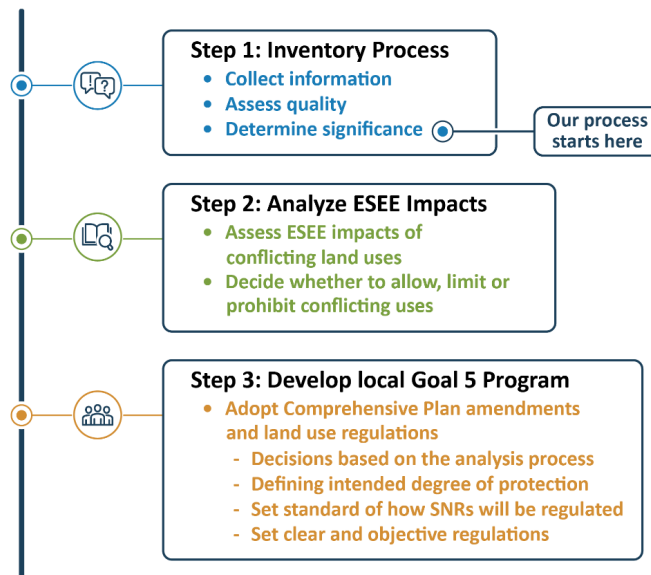
**F. 2023 Enforcement Order**

Since the County’s revised regulations were remanded, they did not go into effect, and therefore, the old regulations once again applied. On May 4, 2023, LCDC once again determined the County was out of compliance with Goal 5 and established a deadline of Oct. 1, 2024, for the County to adopt clear and objective standards. The Commission also agreed with the petitioner that a stay on new residential development applications affecting lands with Wildlife Habitat was warranted. This Enforcement Order and stay are currently in effect until the CDC is amended to address the natural resource standards deemed not to be clear and objective.<sup>8</sup>

**G. Board Direction and Limited Goal 5 Program Update**

On July 26, 2022, the Board directed staff to undertake a limited Goal 5 update following OAR Chapter 660 Division 23 requirements, and authorized funding for professional services to support the work. In January 2023, the County contracted with a consultant team led by MIG|Angelo Planning to assist with the update of the Goal 5 Significant Natural Resource program and public engagement for the project. The project, called *SNR: A Focused Look at Fish and Wildlife Habitat*, followed the three Goal 5 steps outlined in the graphic below:

**Figure 1. SNR: A Focused Look, Goal 5 Process**



<sup>8</sup> Commission, Findings, Conclusions and Order 23-ENF-001933



### Step 1: Goal 5 Inventory Update

The main purpose of the inventory work was to update the County's original mapping of the Wildlife Habitat SNR category. The Board directed staff to use existing Metro and Washington County inventories for the urban unincorporated area and identify the natural resources that remain significant. A secondary purpose was to consolidate and adjust the mapped boundaries of the County's water-related resource areas for accuracy and qualitative classification. The intent was to align the County's areas with Metro's Riparian Wildlife Habitat Classes I and II, as identified in Metro's Inventory Map.

The process and methodology for this work is outlined in the *Draft Habitat Inventory Report*, included as Attachment C to this staff report. It consisted first of consolidating Metro's habitat mapping (specifically Upland Wildlife Habitat Classes A and B, and Riparian Wildlife Habitat Classes I and II) with the County's original SNR mapping. No resource areas were added beyond those already on the County's or Metro's maps.

A methodology was then applied to determine the habitat areas still considered significant. Mapped habitat areas that were developed, did not contain visible vegetation, or were small, fragmented patches were removed from the maps. Upland Wildlife Habitat patches under 2 acres were retained when they contained Oregon White Oak based on Oregon Department of Fish and Wildlife's (ODFW) mapping. A preliminary updated inventory map was published on the County's website and made available to affected property owners in October 2023. Based on public input and further review by our consultants, further data cleanup and manual adjustments were made. More recent Goal 5 inventories prepared by cities or the County, in the case of North Bethany and Bonny Slope West, were incorporated into the updated maps.

The end product is an updated Goal 5 inventory that reflects the natural resources determined to be significant for the County's urban unincorporated area. The remaining significant natural resources were renamed as:

- Riparian Wildlife Habitat, and
- Upland Wildlife Habitat

### Step 2: Analyze ESEE Impacts

Once the significant resource sites were identified and inventoried, the next step was to conduct an analysis of the Economic, Social, Environmental and Energy (ESEE) consequences of a Goal 5 program decision to allow, limit or prohibit land uses that could conflict with significant natural resources. This work is documented in the *Draft Goal 5 Report: Metro Urban Growth Management Functional Plan Title 13 Compliance and Economic, Social, Environmental and Energy (ESEE) Analysis* (Attachment D).

The Goal 5 OARs establish procedures and requirements for an ESEE analysis. Within the Portland Metro region, the Goal 5 rules require that local governments comply with the

natural resource requirements in Metro’s UGMFP Title 13 for those resources that Metro has determined are Regionally Significant Resources.<sup>9</sup> Those include all Riparian Wildlife Habitat Class I and II and Upland Wildlife Habitat Class A and B in post-2005 UGB areas.

The *Draft Goal 5 Report* addresses compliance with Title 13 for Regionally Significant Resources. For all other habitat the County found to be significant, an ESEE analysis and program recommendations were required. The *Draft Goal 5 Report* calls these other habitat areas, “Locally Significant Resources.” The ESEE analysis builds on the Inventory process by evaluating the potential impacts from development on sites with Upland Wildlife Habitat that have been determined to be significant (the Locally Significant Resources), following the process outlined in OAR Chapter 660, Division 23.

The purpose of the ESEE analysis is to help determine the policies and standards that will carry out the program decision. To do this, the ESEE consequences that could result from decisions to allow, limit, or prohibit a conflicting use must be analyzed for each category of conflicting use (e.g., high intensity urban, parks/open space). A systematic approach using the ESEE analyses is intended to help communities consider and balance the trade-offs of allowing, limiting or prohibiting conflicting uses.

The ESEE analysis results in decisions on how to implement the trade-offs it identifies through the County’s plan and regulatory documents. The recommended decisions for Upland Wildlife Habitat in pre-2006 UGB areas based on the cumulative results from the *Draft Goal 5 Report* include:

<b>Conflicting Use Category<sup>10</sup></b>	<b>Outcome</b>
High Intensity Urban (HIU), including commercial, industrial and mixed-use land use districts	Allow
Other Urban (OU), including all residential and Institutional land use districts	Lightly Limit
Non/Future Urban (NFU), including Farm/Forest land	Lightly Limit
Parks/Open Space, Utilities, and Transportation	Allow

### Step Three: Develop Goal 5 Program Decision

Once the decision was made in the ESEE on the level of protection for the Locally Significant Resources, policies and regulations were developed reflecting the policy decision. These are the changes to the CFP, community plans and the CDC provisions proposed in Ordinance Nos. 901 and 902 and discussed further in this report.

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<sup>9</sup> OAR 660-023-0800(3) “Upon acknowledgement of Metro’s regional resource functional plan, local governments within Metro’s jurisdiction shall apply the requirements of functional plan for regional resources rather than the requirements of this division.”

<sup>10</sup> Land uses in each category are included in Table II-2 and II-3 on pages 5-7 of the Draft Goal 5 Report.

#### **H. Public Involvement**

Public involvement on the *SNR: A Focused Look* project was extensive and included a 17-member Technical Advisory Committee (TAC) to advise staff. Community outreach included:

- Attendance at community and cultural events
- Outreach to Community Based Organizations by the Office of Equity Inclusion and Community Engagement (OEICE)
- Mailed letters to approximately 4,000 property owners with significant natural resources
- Periodic project updates to an interested parties list of over 400 people
- In-person Community Forums in the fall and spring and an Online Open House
- Outreach website and all event materials in Spanish and English
- Outreach and presentations to interested community, environmental and developer groups

Public input informed the work at all stages, including refinements to the inventory, the ESEE Analysis and the CDC regulations. The Public Input and Engagement Report, included as Attachment E, includes a summary of the outreach for the project.

#### **I. Ordinance Notification**

Notice 2024-02 regarding proposed Ordinance No. 901 and 902 was mailed on June 28, 2024, to parties on the General and Individual Notification Lists (community participation organizations, cities, special service districts, and interested parties). An amended Notice 2024-02 for Ordinance No. 901 and 902 was mailed July 3, 2024, to the same parties to clarify when the staff reports would be available and how parties could access the report. Copies of the notices and ordinances were provided to the PC at that time. A display advertisement regarding the ordinance was published June 25 in *The Oregonian* newspaper.

Measure 56 Notice was mailed July 3, 2024, to 3,201 property owners, notifying them of the changes proposed by Ordinance No. 901 and 902.

### **V. ANALYSIS**

The second half of this Staff Report focuses on the changes to the various Comprehensive Plan documents proposed in Ordinance Nos. 901 and 902. The primary objective of these ordinances is to update County plan elements to reflect the updated proposed Goal 5 program resulting from Title 13 and the ESEE analysis. The changes need to comply with Statewide Planning Goal 5 and related administrative rules, Metro UGMFP Title 13 for Regional Resources, and state law requirements to be clear and objective (see description of clear and objective standards on page 4 of this staff report).

**A. Resource Document**

As the new background reports supporting the County's updated Goal 5 program, the *Habitat Inventory Report* and the *Goal 5 Report* will become part of Volume IA of the County's Comprehensive Plan – the Resource Document. As noted, drafts of these reports are contained in Attachments C and D. They form part of the Findings for these ordinances and will be adopted by the Board by Resolution & Order (R & O) when the ordinances are adopted.

**B. Ordinance No. 901, Comprehensive Framework Plan for the Urban Area and Community Plan Amendments**

Ordinance No. 901 proposes to amend the Comprehensive Framework Plan and each of the community plans for the urban unincorporated area to reflect updates to the County's Goal 5 program, as described below.

Comprehensive Framework Plan

**Policy 10**, *Biological Resources and Natural Areas*, is slightly amended to clarify it is County policy to “protect and enhance Significant Natural Resource Areas.” It includes implementing strategies and methods for the preservation of SNRs prior to development. The implementing strategies for Policy 10 have been amended over the years, including changes prompted by the Tualatin Basin Program decision and compliance with Title 13.

Several implementing strategies are proposed to be changed to reflect the updated Goal 5 program decision. Lastly, the Summary Findings and Conclusions are amended to add a description of the 2024 update to the County's Goal 5 program. Importantly, the implementing strategy changes include clarifying that SNR requirements for development are now included in the CDC, rather than the community plans. (Strategy d)

**Policy 41**, Map B, shows the Goal 5 Resources for future development areas. Ordinance No. 901 deletes and replaces this with a map reflecting the updated inventory.

Community Plans

Originally, the County's Goal 5 program relied on the community plans for implementation, and the plans included design elements intended as directions for development of particular areas or sites with SNRs. The plans also identified Areas of Special Concern (ASCs), where specific design opportunities or constraints were noted. Since the plans were mostly done in the early 1980s, over time areas developed or were annexed to a city and the design elements were no longer applicable. These design elements are proposed to be removed through Ordinance No. 901.

Other design elements and ASCs related to SNRs are subjective and cannot be enforced. Since standards imposed on development, particularly residential development, must be clear and objective, these design elements and ASCs are proposed to be removed. A summary

description of the County's updated Goal 5 process was added to memorialize the 2024 update process in each of the community plans.

All the community plan SNR Maps have been updated to reflect the updated inventory mapping and the new categories. The SNR Maps also show whether the habitat is within a post-2005 UGB expansion area. Older Goal 5 categories like Scenic Views or Scenic Routes were not changed as part of this project and remain on the SNR maps.

**C. Ordinance No. 902, Community Development Code**

Ordinance No. 902 proposes amendments to the standards in the CDC related to SNRs in the urban unincorporated area to ensure they are clear and objective and meet statewide planning Goal 5 and Metro Title 13 requirements. The standards will apply to properties with mapped SNRs as shown on updated maps in the community plans. The ordinance includes two Exhibits:

- Exhibit 1 includes changes to § 422, Significant Natural Resources. This section includes the majority of regulations regarding SNRs.
- Exhibit 2 includes conforming amendments to multiple sections of the CDC to help implement § 422 and further support the Goal 5 Program decision.

Exhibit 1: Section 422, Significant Natural Resources

Section 422 regulates development on properties with Significant Natural Resources. Currently the same regulations apply to both the rural and urban area. The first major change proposed in Ordinance No. 902 is to separate the urban and rural regulations. SNR regulations for the rural areas do not, at this time, have the same requirements for clear and objective standards as do areas inside the UGB. The regulations for the rural area are therefore not being changed at this time, though they will be considered as part of a future planning effort. Since no substantive changes are proposed for rural regulations, they remain under Division 16 provisions. The rural area provisions are renumbered as §§ 422-20 through 422-23.

The remainder of this report focuses on the regulations for areas inside the UGB. New provisions applicable to areas *inside* the UGB are included in proposed §§ 422-1 to 422-13.

The purpose of these standards is to protect significant habitat for their ecological function, maintain and enhance water quality by limiting impervious surfaces near streams and water areas, retain habitat as an amenity for the community and balance conservation of the resources with the economic use of the land. It is also to provide clear and objective standards as well as optional discretionary processes consistent with state requirements.

The standards apply to properties that contain mapped Significant Habitat on the Significant Natural and Cultural Resources Maps in the Community Plans and Map B in CFP Policy 41 (collectively known as the SNR Maps). Significant Habitat includes:

- **Riparian Wildlife Habitat**
  - Water Areas including wetlands, rivers, streams and open water habitats (e.g., lakes and ponds); and
  - An associated riparian buffer, which is the area within a specified distance of a Water Area.
- **Upland Wildlife Habitat**, which primarily includes forests and woodlands adjacent to the Riparian Wildlife Habitat.

For Riparian Wildlife Habitat, the County must adhere to the Metro requirements of Title 13. These strictly and moderately limit development in the verified Riparian Habitat boundary by requiring applicants to follow *CWS Design and Construction Standards* for development proposed within this area. The development standards proposed in Ordinance No. 902 that apply to Riparian Wildlife Habitat are consistent with existing standards in place to limit development within the verified Riparian Wildlife Habitat boundary. The clear and objective standards developed through this process are consistent with Title 13.

Trees provide important habitat for wildlife as well as clean our air and water, connect communities and support physical and mental health. Native trees provide the best habitat for native wildlife. Through outreach we heard our community especially values certain native trees, including Oregon White Oak, Willamette Valley Ponderosa Pine, and the Pacific Madrone. Based on this input, the focus of the Upland Wildlife Habitat regulations is on native tree retention and replacement, with extra value placed on these species. A Native Tree List is proposed for adoption by the Board as part of this process (Attachment F).

For Upland Wildlife Habitat in pre-2006 UGB expansion areas, the ESEE analysis concluded that development standards should lightly limit development. However, for post-2005 UGB expansion areas, Title 13 requires jurisdictions to include protections for Upland Wildlife Habitat Class A and B. Proposed § 422 complies by providing a greater degree of protection for Upland Wildlife Habitat in post-2005 UGB areas compared to the pre-2006 UGB areas. The proposed tree retention and replacement standards for development on sites with Upland Wildlife Habitat provide mitigation for the tree values lost through development in these resource areas at a level considered consistent with the “Lightly Limit” decision.

For Upland Wildlife Habitat, § 422 provides three options for applicants to demonstrate compliance. Applicants may choose the path they prefer:

- A clear and objective requirement for tree retention and replacement of 50% of the tree value points identified on the tree inventory (80% for post-2005 UGB areas)
- An optional alternative path requiring establishment of a tree canopy preservation area of 30% of the Upland Wildlife Habitat (60% for post-2005 UGB areas), with a 5% reduction if adjacent to the verified Riparian Wildlife Habitat
- An optional alternative path requiring submittal of a detailed environmental report and mitigation plan

Both alternative paths for Upland Wildlife Habitat meet or exceed the intended level of protection provided by the clear and objective path, as discussed in the *Draft Goal 5 Report*.

Specific sections of the proposed ordinance were addressed in detail in the PC staff reports for their [July 24](#), [Aug. 21](#) and [Sept. 4](#) meetings.

## VI. PUBLIC TESTIMONY

The PC conducted three hearings on Ordinance Nos. 901 and 902. Testimony on Ordinance Nos. 901 and 902 was received both in writing and orally at the PC meetings. Oral testimony is summarized in the PC Deliberations, Attachment G. All written testimony is included in Attachment H. The staff reports for these hearings discuss some of the issues raised from the testimony submitted. Following are the themes from the testimony received:

- Support from DLCD on the County’s work to find a balance between preserving habitat, meeting development needs, and respecting private property rights in the community
- Support from THPRD on the content of the ordinances
- Questions about the mapping:
  - Property owner requests for changes to the proposed SNR inventory map (to address actual changes in site conditions or because the owner did not wish to have a resource shown on their property)
  - General questions about the proposed updates to the SNR mapping, such as why certain areas identified by Metro and other agencies weren’t included (for example, Metro Upland Wildlife Habitat Class C and ODFW Priority Wildlife Connectivity Areas)
- Concerns about the impact on individual properties
  - Property owner concerns about the impact of the proposed mapping and regulations on the continued use and enjoyment of individual properties
  - Property owner concerns about the potential economic impact of the proposed mapping and regulations
- Concerns that the proposed regulations are not sufficiently protective of SNRs
  - Too many allowed uses in the Riparian Wildlife Habitat areas
  - Inadequate Riparian Wildlife Habitat buffers
  - Too many exemptions from Upland Wildlife Habitat requirements
  - Additional protection should be given to specific categories of trees (ex: Oaks, heritage trees, and trees in ODFW Priority Wildlife Connectivity Areas)
  - Questions about the scientific basis for the tree value points
  - The proposed regulations are too “tree-centric” with not enough focus on understory health and quality of habitat
  - A limited amount of Upland Wildlife Habitat remains

- Concern that the proposed regulations will negatively impact small housing developments on land added to the UGB prior to 2006
- Comments about monitoring and enforcement, including concerns about:
  - How the proposed regulations will be enforced
  - How compliance will be monitored
  - Interest in increasing the maintenance period for newly planted mitigation trees beyond two years due to climate change
- Questions about the inclusion of rural regulations in Ordinance No. 902, since the focus of the ordinance is on the urban area

**Staff Response:** *These issues and staff's responses are addressed in detail in the staff reports for the PC meetings. Many of the comments were made throughout the process, not just at the hearings. Some changes were made to the draft regulations prior to filing the ordinances to address comments, and some limited additional changes are recommended for engrossment. However, some community members remain concerned about the level of resource protection proposed through the ordinances and believe it is not enough.*

*Goal 5 requires a specific process be followed but does not prescribe the outcomes. Part of that process is an analysis of the balancing and trade-offs associated with allowing uses that might conflict with the resources, such as housing. For Riparian Wildlife Habitat, a Metro Regional Resource, Metro's analysis and requirements were used for the conflicting uses and proposed regulations are consistent with those. For Upland Wildlife Habitat that was inside the UGB before Metro Title 13 was adopted (Dec. 28, 2005), no specific level of protection is required. However, since the County previously had mapped Wildlife Habitat and some provisions for its protection, we have proposed to continue some level of protection for these (updated) resources.*

*The ESEE analysis resulted in a determination that certain uses that might conflict with the resources should be "Lightly Limited", and others should be "Allowed". These are described in detail in the Draft Goal 5 Report. While some community members may not be happy with that level of protection, we have followed the appropriate process and the Board's initial direction to maintain a similar level of protection to what we currently have.*

## **VII. PLANNING COMMISSION DISCUSSION AND PROPOSED AMENDMENTS**

The three PC hearings on Ordinance Nos. 901 and 902 included robust discussions of the proposed ordinances. The staff reports for these hearings provided the background and analysis on the ordinances and discussion of issues raised in testimony. Following is a summary of the PC's discussion of the ordinances, their recommendations, and staff's response and recommendation.



**ORDINANCE NO. 901**

A number of requests for map changes were received by staff prior to the start of PC hearings as well as through public testimony for the hearings. Some modifications were requested to address actual changes in site conditions (e.g., the resource no longer exists, or the mapping covers a developed area). In some cases, property owners requested changes because they didn't wish to have a resource shown on their property but lacked evidence supporting their opinion that the resource was not present on their property. Staff indicated in PC meetings that a deadline for map changes of Aug. 31, 2024, was needed to allow sufficient time for staff and consultant review and to prepare changes to Ordinance No. 901.

**Planning Commission Recommendation:** The PC recommended the Board adopt Ordinance No. 901 with engrossment to amend the community plan maps to include map change requests received by Aug. 31, 2024, that are consistent with the criteria used to develop the inventory.

**Staff Response and Recommendation:** *Staff concurs with the PC recommendation. Staff and the environmental consultant reviewed all requests received as of Aug. 31, 2024, based on the criteria used to develop the inventory included in the Draft Habitat Inventory Report. Those requests that met the criteria are included in Attachment A. Requests that did not provide sufficient information to evaluate or were not consistent with the criteria were not recommended for a map change.*

**ORDINANCE NO. 902**

At its Sept. 4 meeting, PC discussion focused on the provisions of Ordinance No. 902, the amendments to the CDC. The PC deliberated and voted on a series of potential changes to the ordinances. Each of those topics were discussed in depth, differing opinions were offered, and votes were taken. Most votes were split, indicating the differing opinions on the PC. The PC then voted 7 – 0 to recommend adoption of the ordinances to the Board with the changes that had been voted on.

PC recommendations for engrossment focused on the following CDC Sections:

§422-4.3	Exemptions from standards and requirements for tree removal in Upland Wildlife Habitat for construction, maintenance and repair of public park projects, utilities, transportation facilities, and mineral and aggregate operations
§422-4.4	Exemption from standards and requirements for tree removal in Upland Wildlife Habitat for legally established lots 0.5 acres or smaller
§422-7	Type I Tree Removal Permit Requirements for Certain Properties with Significant Habitat within the UGB
§422-9	Reduction in Tree Value Points requirement for sites 2 acres or under within the pre-2006 UGB area
Various	Maintenance, monitoring, and enforcement provisions

Following is a detailed discussion of the PC's deliberations, recommended changes to Ordinance No. 902, staff's response and recommendations for engrossment, if different from the PC. The recommendations are summarized at the end.

Exemptions (§ 422-4, 422-4.3)

Not all development is subject to the requirements of § 422. Proposed language in § 422-4 addresses many of the concerns heard from property owners about activities they believed should not require a permit, such as routine yard maintenance or when tree removal is necessary for the upkeep of a residential property. Proposed exemptions from the requirements of the § 422 standards include:

- Removal of hazardous, diseased or dying trees
- Maintenance, repair or improvements for work that occurs within the existing development footprint
- Tree removal as part of a stream enhancement authorized by CWS
- Tree removal on commercial tree farms

The PC was supportive of the Significant Habitat exemptions but had concerns about specific exemptions for tree removal in Upland Wildlife Habitat contained in § 422-4.3. These exemptions are for construction, maintenance and repair of public park improvements or projects, public transportation facilities, utility lines, and mineral extraction on approved sites.

Public testimony included some concern that public parks, utility lines, transportation facilities and mineral and aggregate sites were being exempted from the Upland Wildlife Habitat requirements. Some believed these uses should be subject to regulation and mitigation requirements, like other uses and other types of development. The Tualatin Hills Park & Recreation District (THPRD) supported the proposed regulations and exemption.

**PC Discussion and Recommendation:** The PC discussed the public benefits these facilities provide and the potential costs if the exemption were narrowed. Some noted the community planning process involved in park planning that balances the community's desires for resource protection with active park uses. Others noted that to make needed connections the location of many transportation and utility facilities is limited. Regarding transportation facilities, one PC member suggested the exemption could be limited to existing right-of-way or road widening projects. Some expressed the sentiment that these public uses should follow the same standards as private development, despite the public purpose and benefit of these uses.

After a robust discussion, the PC voted 6 – 0 with one abstention to recommend that public parks, public facilities (including transportation and utilities), and mineral extraction not be completely exempt from the proposed standards.

**Staff Response and Recommendation:** *For Upland Wildlife Habitat areas, public parks, utility and transportation facilities are proposed to be exempt from the requirements of § 422 pursuant to the “Allow” decision in the Draft ESEE Analysis (See Draft Goal 5 Report). The project team recognizes that the construction of new streets and utilities within subdivisions could have a significant impact on Upland Wildlife Habitat. However, the economic, social and energy benefits of providing utilities and transportation facilities were found to outweigh the negative environmental impacts that could result from their development within Upland Wildlife Habitat areas. The analysis balanced connectivity and lowering vehicle miles traveled with protection of habitat. It would be difficult to exempt only existing projects as those terms would be challenging to define and to determine whether a roadway was new or existing.*

*Regarding the public park exemption, the intent was to codify existing community plan Design Elements that exempted public parks and playgrounds from the requirement for a tree removal permit. Public parks serve the County residents’ long-term need for open space, natural areas and active park uses and provide amenities that on balance provide important social benefits. The Draft Goal 5 Report ESEE analysis found that an “Allow” decision was appropriate based on these social benefits and the limited impact that park use generally has on Significant Habitat.*

*Mineral and aggregate are also Goal 5 resources. Regulations for this use are found in state statute and supersede County standards for natural resources.*

*For these reasons, staff recommends only two small changes to the exemptions found in § 422-4.3.A. through D. These would limit the parks exemption to pre-2006 UGB areas consistent with Title 13 and clarify that the transportation facilities exemption also includes associated improvements (such as drainage facilities). Should the Board wish to further limit the parks exemption it could consider possibly limiting it to Active Use parks. Should the Board wish to limit the transportation facilities exemption, it could limit it to Arterials, Collectors and Neighborhood Routes and associated improvements.*

Lot size exemptions from Upland Wildlife Habitat requirements (§ 422-4.4)

Through the inventory process, residential properties under 0.5 acre with at least one visible structure were removed from the County’s updated inventory. These smaller properties often had limited development potential and, in some cases, had been through the County land use review process and subject to the County’s SNR standards.

Since there is a possibility that a property under 0.5 acre may have been unintentionally included in the inventory, an exemption in the SNR standard was included to provide equal treatment to those smaller properties that matched the methodology in the *Draft Habitat Inventory Report*.

The PC received testimony from a developer requesting the exemption from the Upland Wildlife Habitat requirements for lots 0.5-acre or smaller be increased so that lots up to 3 acres in size would be exempt. The developer believed the tree removal and replacement standards would make development on residential infill lots between 0.5 acre and 3.0 acres extremely difficult.

**PC Discussion and Recommendation:** Some PC members believed the proposed maximum lot size exemption was too small, and that it would limit infill development potential. They noted the urban area is where more intense development is likely to occur because of allowed densities and existing infrastructure, but smaller infill sites are often more challenging to make financially feasible. One PC member noted that Upland Wildlife Habitat in pre-2006 Urban Growth Boundary (UGB) expansion areas is not subject to mandated Metro Title 13 protection. The member believed that, on balance, providing housing in the urban unincorporated area was more important than retaining Upland Wildlife Habitat since this area is intended to become more urbanized over time. Some thought that smaller lots are challenging to develop regardless of new SNR standards and should not be further regulated so that they can achieve their maximum redevelopment potential.

Other PC members believed that the 0.5 acres was an adequate lot size exemption and did not think changes to the exemption standard were necessary. They were supportive of SNR protections and believed that it was important that the smaller lots should also be required to comply with the tree retention and replacement standards and that the standards adequately reflected the balance of needed housing with habitat protection.

The PC voted 4 – 3 to recommend engrossment of Ordinance No. 902 to the Board to increase the maximum lot size exempted from the mapped Upland Wildlife Habitat development standards from 0.5 acres to 2 acres in the pre-2006 UGB area.

The PC also discussed a different revision to the standards to reduce the impact on smaller infill projects should the Board not wish to make this change. That revision would reduce the percentage of tree points to be preserved on lots 2 acres or smaller within the pre-2006 UGB area. This concept is discussed further below.

**Staff Response and Recommendation:** *Staff does not support expanding the lot size exemption beyond the 0.5-acre threshold for properties with Upland Wildlife Habitat in the pre-2006 UGB area for a number of reasons.*

*Per the Draft Goal 5 Report, there are 389 acres of Upland Wildlife Habitat in the pre-2006 UGB area with a residential land use designation. Of that 389 acres:*

- *120 acres are publicly owned (parks, open space, homeowner association)*
- *269 acres are privately owned*

*Of that 269 acres of privately owned Upland Wildlife Habitat:*

- *152 acres are on properties with both Upland and Riparian Wildlife Habitat and not eligible for exemption*
- *117 acres are remaining Upland Wildlife Habitat and subject to the exemption*

*The following table breaks down the 117 acres subject to the exemption based on lot size.*

	Impacted lots by area			
	0.5 to 1 acre	Over 1 acre to 2 acres	Over 2 acres to 3 acres	Over 3 acres
Total acreage of Upland Wildlife Habitat	43	43	23	5
Number of lots	138	60	18	5
Average % of Upland Wildlife Habitat per lot	43 %	52 %	53%	23%

*The table illustrates that expanding the exemption to lots up to two acres, as recommended by a majority of the PC, would result in very few residential lots and land area within the pre-2006 UGB area being subject to the Upland Wildlife Habitat requirements (23 residential lots containing 28 acres). There would be no protections for the 86 acres of Upland Wildlife Habitat on the almost 200 residential lots that are smaller than two acres.*

*Staff believes this change would require revisions to both the Draft Habitat Inventory Report and the Draft Goal 5 Report to ensure our process is legally defensible under the Goal 5 Rules. Revisions to the Draft Habitat Inventory Report would include updating the methodology for determining significance, rerunning the inventory maps, and preparing updated community plan maps. In addition, the mapped Upland Wildlife Habitat would need to be reevaluated by the environmental consultant to see if there were any habitat patches remaining that were 2 acres or larger after the smaller lots had been removed. This would be a time-consuming process and could result in even fewer acres and lots being protected.*

*Finally, the Draft Goal 5 Report would need to be revised to reconsider the amount of remaining habitat subject to the development standards. It would require us to reanalyze the conflicting uses based on the priority the PC has given infill housing and whether it outweighed Upland Wildlife Habitat protection and remained consistent with the “Lightly Limit” ESEE decision.*

*Revising both reports would take time and resources and further delay the ordinance process.*

*Based on the impact this change would have on the amount of Upland Wildlife Habitat subject to the standards and the required changes to the supporting documents, staff does*

*not support this change. The totality of the testimony received supports more of a balanced approach for the SNR standards for Upland Wildlife Habitat rather than an exclusion for residential properties under 2 acres.*

*Staff instead recommends the Board consider an alternative that would reduce the standard for smaller lots and provide even greater flexibility to these smaller sites, while retaining a level of protection that meets the ESEE decision to “Lightly Limit” development. This alternative was also discussed by the PC and supported if the Board did not change the lot size exemption to 2 acres. The alternative would be to reduce the percentage of tree value points required in Section 422-9.5 (Tree Retention and Replacement Requirements) for sites 2 acres and smaller within the pre-2006 UGB area. This alternative is discussed later in this report.*

#### Type I Tree Removal Permit Requirements for Certain Properties with Significant Habitat within the UGB (§ 422-7)

This section proposes a simple Type I tree removal permit for removal of trees within the Upland Wildlife Habitat under two limited circumstances. These standards respond to comments we heard from property owners that they wanted to manage tree removal at their discretion on their already developed properties without a complicated process.

Ordinance No. 902 language allows trees to be removed with a Type I permit when they are:

- Within a 5,000 square foot disturbance area, provided the lot contains one or more existing dwellings, or
- Within 10 feet of an existing habitable building

**PC Discussion and Recommendation:** The PC had significant discussion about whether to increase the 5,000 square foot maximum size of the disturbance area. One PC member suggested that a 10,000 square foot maximum disturbance area would better account for the canopy size of larger trees, better accommodate typical site uses and be more consistent with community concerns. Most believed the 5,000 square foot maximum disturbance area was too limiting and some believed that 10,000 square feet was more reasonable. However, while most were comfortable with recommending an increase, some did not feel comfortable recommending a specific size of disturbance area.

The PC also discussed increasing the perimeter distance around existing buildings where trees could be removed. They agreed that 10 feet was too close considering that large trees’ roots could cause damage to a building’s foundation or fall on the building at that close range. Some PC members also believed that accessory buildings for horses and livestock should be included in the type of building allowed within these provisions.

The PC voted 4 – 3 to recommend engrossment of Ordinance No. 902 to increase the maximum disturbance area for a Type I tree removal permit for lots with an existing dwelling to 10,000 square feet.

The PC unanimously agreed to recommend engrossment to increase the proposed maximum perimeter distance from an existing building where trees could be removed through a Type I tree removal permit, though they did not agree on a specific distance.

**Staff Response and Recommendation:** *Staff agrees with expanding the 5,000-square foot disturbance area to 10,000 square feet of buildable area. This exemption was intended to allow tree removal within a reasonable area for a house and related outdoor paved area. Staff recommends clarifying the language to specify that the 10,000 square foot maximum disturbance area is a total for the site and should include portions of the property that are not mapped as Significant Habitat.*

*To address the PC's concern with the definition of habitable buildings, staff recommends revisions to expand the definition to better include buildings that might house horses or livestock (only require two of four services (water, sewer, power and heat or equivalent services.) These are easily confirmed by Current Planning. Staff recommends extending the perimeter distance from the habitable building to 20 feet and clarifying how this is to be measured, to address the PC's concern.*

#### Tree Inventory and Retention Requirements for Significant Habitat in the UGB (§ 422-9)

Section 422-9 contains the clear and objective path for development within Upland Wildlife Habitat. This includes all mapped Significant Habitat that is outside the verified Riparian Wildlife Habitat boundary. Since the ESEE decision was to "Lightly Limit" conflicting uses within the Upland Wildlife Habitat, the tree retention and replacement requirements require a portion, but not all, trees to be preserved within this area. The minimum percentage of Tree Value Points required to be retained or replaced differs based on when the area came into the UGB.

For pre-2006 UGB areas, 50% of the Tree Value Points are required to be retained or replaced. For post-2005 UGB areas, a higher percentage (80%) of Tree Value Points are required to be retained or replaced, based on compliance with Title 13 requirements for Regionally Significant Resources. This percentage of habitat protection is comparable to Metro's Model Title 13 Ordinance for post-2005 Regionally Significant Resources as detailed in the *Draft Goal 5 Report*.

**PC Discussion:** The PC discussed the possibility of reducing the percentage of Tree Value Points required for small infill projects (2 acres or smaller) within the pre-2006 UGB area, to encourage this development and reduce barriers. They noted this could be an option they would recommend if the Board does not approve the 2-acre exemption as discussed above. However, they made no recommendation to the Board since the majority voted to exclude lots under two acres in size.

**Staff Response and Recommendation:** *As an alternative to the exemption for sites under two acres from the Upland Wildlife Habitat standards as recommended by the PC, staff*

*proposes to reduce the minimum Tree Value Points to 30% for sites under two acres within the pre-2006 UGB area. This flexibility addresses the concern that the majority of the PC had about retaining the developability of these smaller lots and allowing housing in urban unincorporated areas where development is intended. There would still be some tree retention or replacement required of these properties, but it may be easier for the applicant to manage on the smaller sites and still accommodate housing to the intended density.*

**Maintenance, Monitoring and Enforcement Provisions** (Various)

The PC heard testimony concerned about the County's ability to monitor and enforce the new provisions in the CDC and to ensure replacement planting is maintained during the establishment period and beyond. The city of Wilsonville requested "...a clear enforcement mechanism for tree removal that is later claimed to be emergency or nuisance under regulations such as Section 422-4.2..." and noted the city's requirements for enhanced mitigation and fines in this situation. The city also expressed disappointment that the County did not address resources that might have been removed over the past 10 years in its inventory.

**PC Discussion:** The PC discussed these issues and was concerned with the ability for the County to monitor and enforce these new regulations and maintain new planting. They requested that the Board direct staff to do further work to ensure the County provides sufficient monitoring and enforcement of the regulations and maintenance of replacement trees during the 2-year monitoring period and beyond.

**Staff Response:** *The County has minimal requirements in Chapter 1.14 of the County Code of Ordinances (not the Community Development Code) for violations of County Building and Land Use Code requirements. That Code relies on voluntary compliance and a complaint driven system. The process includes a notice of violation, hearings, appeals and possible monetary penalties. If directed by the Board of Commissioners as an implementation task for Ordinance No. 902, staff could work with County Counsel to develop enhanced enforcement requirements to better address removal of trees within natural resource areas. These might include specifically listing tree cutting within an SNR, increasing fines, and making it clear that fines are per tree. This work could be added to the 2025 – 2027 Work Program.*

**VIII. SUMMARY AND CONCLUSION**

The following table summarizes the issues identified by the PC, and the PC and staff recommendations to the Board. In some cases staff's recommendation differs from the PC, as described in detail in the section above.



Section	Topic	PC Recommendation	Staff Recommendation
422-4.3	Exemptions from standards and requirements for tree removal in Upland Wildlife Habitat for construction, maintenance and repair of public park projects, utilities, transportation facilities, and mineral and aggregate operations	Limit the exemptions for these activities and uses	Keep the exemptions as written, with minor changes to limit the parks exemption to pre-2006 UGB areas and allow associated improvements as part of the transportation facility exemption
422-4.4	Exemption from standards and requirements for tree removal in Upland Wildlife Habitat for legally established lots <b>0.5</b> acres or smaller	Increase the minimum lot size of exempt properties to lots over <b>2</b> acres within pre-2006 UGB area	Staff does not support, but does support an alternative reduction to tree value points to facilitate infill development (see 422-9 below)
422-7	Type I Tree Removal Permit Requirements for Certain Properties with Significant Habitat within the UGB	Expand the disturbance area and enlarge perimeter area where native trees can be removed through a simple Type I process	Staff supports with some clarifications and specific distances
422-9	Reduction in Tree Value Points requirement for sites 2 acres or under within the pre-2006 UGB area	No recommendation, but indicated support if lot size exemption increase is not approved	Staff supports reduction in Tree Value Points for sites 2 acres or under within the pre-2006 UGB area from 50% to 30%
Various	Maintenance, monitoring and enforcement	Direct staff to do further work to ensure the County provides sufficient monitoring and enforcement of the regulations and maintenance of replacement trees	Staff supports this PC recommendation and proposes to include this as part of the FY 2025-2027 Planning Work Program

Staff recommendation for other non-substantive clarifications

Since the draft CDC language was filed in June, staff has further reviewed the proposed language for clarity and consistency and recommends some non-substantive changes that would clarify the process for staff, applicants, and the public. One of these is to address questions about how the map modification in Section 422-12 would work and the effect of such modifications on the adopted community plan maps. The proposed engrossment clarifies that a further legislative map amendment will be required to change the community plan maps. It also adds a map modification category for projects that have received approval under the new

Section 422 provisions and preserve significant habitat in a tract or easement. This addresses an issue recently identified with the requirements for Middle Housing Land Divisions.

**All staff proposed language for Ordinance No. 902 engrossment is included in Attachment B.**

Other Planning Commission recommendation

Several PC members recommended that the Board consider development of a County heritage tree program to support the preservation of mature trees that provide and contribute to significant wildlife habitat. Staff noted we would mention this in the staff report and would recommend it be considered during the next Planning Work Program discussion set for spring 2025.

*List of Attachments*

The following attachments identified in this staff report are provided:

- Attachment A1: Summary of Proposed Changes for Ordinance No. 901 for Engrossment
- Attachment A2: Proposed Changes for Ordinance No. 901 for Engrossment
- Attachment B: Proposed Changes for Ordinance No. 902 for Engrossment
- Attachment C: Draft Habitat Inventory Report
- Attachment D: Draft Goal 5 Report: Metro Urban Growth Management Functional Plan Title 13 Compliance and Economic, Social, Environmental and Energy (ESEE) Analysis
- Attachment E: Public Input and Engagement Report
- Attachment F: Draft Washington County Native Tree List
- Attachment G: Planning Commission Deliberations
- Attachment H: Public Testimony/Comment