



City of Oregon City

625 Center Street
Oregon City, OR 97045
503-657-0891

Meeting Agenda Planning Commission

Monday, January 14, 2019

7:00 PM

Commission Chambers

1. **Call to Order**
2. **Vote for Planning Commission Chair and Vice Chair**
3. **Public Comments**
4. **General Business**
 - 4a. Prioritize Planning Commission Requests to the City Commission for the 2019-2021 Biennium
Attachments: [Commission Report](#)
[Comments on PC Requests](#)
[Exhibit A. Planning Commission Request \(General\)](#)
[Exhibit A. Planning Commission Request \(Housing\)](#)
[Exhibit B. Natural Resources Request](#)
 - 4b. Legal Training with Carrie Richter, Assistant City Attorney
5. **Communications**
6. **Adjournment**

Public Comments: The following guidelines are given for citizens presenting information or raising issues relevant to the City but not listed on the agenda.

- *Complete a Comment Card prior to the meeting and submit it to the staff member.*
- *When the Chair calls your name, proceed to the speaker table and state your name and city of residence into the microphone.*
- *Each speaker is given 3 minutes to speak. To assist in tracking your speaking time, refer to the timer at the dais.*
- *As a general practice, Oregon City Officers do not engage in discussion with those making comments.*

Agenda Posted at City Hall, Pioneer Community Center, Library, and City Web site(oregon-city.legistar.com).

Video Streaming & Broadcasts: The meeting is streamed live on Oregon City's Web site at www.orcity.org and is available on demand following the meeting.

ADA: City Hall is wheelchair accessible with entry ramps and handicapped parking located on the east side of the building. Hearing devices may be requested from the City staff member prior to the meeting.

Disabled individuals requiring other assistance must make their request known 48 hours preceding the meeting by contacting the City Recorder's Office at 503-657-0891.



City of Oregon City

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Staff Report

File Number: PC 19-005

Agenda Date: 1/14/2019

Status: Agenda Ready

To: Planning Commission

Agenda #: 4a.

From: Community Development Director Laura Terway

File Type: Planning Item

SUBJECT:

Prioritize Planning Commission Requests to the City Commission for the 2019-2021 Biennium

RECOMMENDED ACTION (Motion):

Prioritize Planning Commission Requests to the City Commission for the 2019-2021 Biennium

BACKGROUND:

The Planning Commission identified projects for the City Commission to consider in the 2019-2021 goal setting and associated budgeting process. As the City Commission, Natural Resources Committee, staff, and public have also identified requests, the City Commission must prioritize projects to best meet the needs of the community. This discussion is intended to provide background on each of the Planning Commission requests and seek some prioritization to assist the City Commission in allocating limited resources and funding.

BUDGET IMPACT:

Amount:

FY(s):

Funding Source:



Planning Commission Recommendations to the City Commission for the 2019-2021 Biennium

The Planning Commission identified projects for the City Commission to consider in the 2019-2021 goal setting and associated budgeting process. As the City Commission, Natural Resources Committee, staff, and public have also identified requests, the City Commission must prioritize projects to best meet the needs of the community. This memorandum is intended to provide background on each of the Planning Commission requests and seek some prioritization to assist the City Commission in allocating limited resources and funding.

Updating the Oregon City Comprehensive Plan

The existing Comprehensive Plan for Oregon City was adopted in 2004. In the past fourteen years the City has seen significant growth, a changing population, increased housing costs, adoption of multiple concept plans, economic growth, increased traffic, and new City facilities. The update of the Comprehensive Plan should include an analysis of the location of and uses within each zoning designation throughout the City, and should incorporate the findings of the Housing Needs Analysis being currently conducted. We encourage the City Commission to ensure that adequate funding for an updated Comprehensive Plan is allocated within the next budget biennium. The Natural Resource Committee also support this request in their separate letter to the City Commission.

Staff Notes on Proposed Project:

- Our Comprehensive Plan provides a framework for how the City will grow over time and addresses each of the statewide goals.
- The existing Comprehensive Plan was adopted in 2004 and contains many elements which are likely reliable today. An update to the Comprehensive Plan allows the community to reassess a variety of topics including how we implement meaningful public engagement, protection of environmental and historic resources, land use, equity, and future city facilities.
- Meaningful public involvement is the key to a successful Comprehensive Plan update.
- Though staff will work with the City Commission to identify project expectations, the following identifies a potential project scope:
 - Begin with a City-wide visioning to understand the aspirations and concerns of the public, followed by an analysis of how the existing Comprehensive Plan carries out that vision. The public engagement should be exhaustive and meaningfully include all members of the community through multiple venues. The project would then be broken down into a series of smaller projects addressing each chapter of the Comprehensive Plan and determining if the existing plan carries out that public vision and amending the chapter if needed. If it is determined that the Comprehensive Plan mapping designations do not carry out the vision of the public, a project would be created to amend the Comprehensive Plan and Zoning Maps and the associated chapters of the Oregon City Municipal Code.
- Project expected to span multiple biennium's and require significant staff time, despite the use of any consultants.
- Approximate Budget: \$300,000 within biennium. There are no single source grants which

may be obtained to cover the project cost. Staff will piece together multiple smaller grants aimed at reviewing specific parts of the Comprehensive Plan.

- Project informed by: Buildable Lands Inventory and Housing Needs Analysis completed in summer 2019
- *Staff recommends initiating this project as a 2019-2021 City Commission goal and seeking additional funding sources.*

Update the Urban Growth Management Agreement with Clackamas County

The Urban Growth Management Agreement (UGMA) with Clackamas County lays out the governance of property which is anticipated to be transferred from Clackamas County to Oregon City jurisdiction. As the UGMA was last updated in 1990, and we encourage the City to work with Clackamas County to update the agreement. The UGMA update should include mutual City / County consideration of annexation policies regarding tree removal as discussed below.

Staff Notes on Proposed Project:

- Urban Growth Management Agreements (UGMAs) facilitates an agreement of how to manage property currently within Clackamas County jurisdiction, but inside of the urban growth boundary (UGB) which may be annexed into Oregon City jurisdiction. They address items such as annexation and land use.
- The City/County UGMA is one of the oldest UGMA's in the county and is comparatively favorable towards the City. The UGMA map does not currently reflect the all of the UGB expansion areas, though regardless appears to have been implemented nonetheless across the existing UGB.
- Clackamas County and the City have been intermittently discussing updating the UGMA for some time. The project has been delayed due to other priorities or larger interrelated issues. The process to update the agreement would include multiple departments such as Planning, Public Works, etc.
- Amendments to the UGMA require approval of an Ordinance by the City Commission as well as approval by Clackamas County.
- Updating the UGMA includes a minor budgetary cost, though significant staff time is anticipated.
- *Staff recommends working with Clackamas County to discuss updating the UGMA, but feels this task does not rise to a 2019-2021 City Commission goal.*

Trees: Draft Regulations to Prohibit Significant Tree Removal Prior to Annexation

The proposed amended code includes standards regarding tree removal during the local annexation review process. However, property owners are still able to remove significant tree canopy while the property is within Clackamas County jurisdiction, prior to submittal of an annexation application. This is a significant concern, because the properties in the County are not subject to the generally stricter standards for tree removal and plantings of mitigation trees in the City. We encourage the City Commission to review policies adopted by neighboring jurisdictions to address this concern through discouragement of annexation for properties where significant tree removal has occurred soon before the submittal of an annexation application.

Staff Notes on Proposed Project:

- Tree removal in the City is not regulated in all cases. Generally, the City regulates tree removal for all properties during the development process or in the right-of-way, some cases when the tree removal is within an environmental or historic overlay, or on private property when the use is not single-family or duplex. Once properties are annexed into the City, in many cases

they may be allowed to remove trees without mitigation plantings because not all tree removal is regulated.

- The proposed code amendments before the City Commission include an additional annexation factor which allows significant tree removal during the annexation process to be considered when determining if property should be annexed into Oregon City.
- In order to change regulations regarding tree removal prior to annexation, the Clackamas County development code would need to be amended. Amending Clackamas County regulations to reduce tree removal in the UGB requires significant staff time to propose and additional Clackamas County staff time to implement. Modification would need to be completed with consultation from the County and mindfulness for timber harvesting regulations. Amending tree regulations in the County would require significant staff time and cost with a Legislative code amendment application.
- Amending Clackamas County regulations to decrease tree removal may also require modification of the Urban Growth Management Agreement (UGMA).
- The City Commission and Planning Commission have indicated in the past a desire to audit all tree regulations and create comprehensive tree protections.
- *Staff recommends revising the proposed code amendment currently before the City Commission adding tree removal during the annexation process as an annexation factor and reevaluating tree removal in a comprehensive manner which includes tree removal in the urban growth boundary as a part of that process in the future. Due to limited staff resources, this project should be revisited in the 2021-2013 biennium, after the Comprehensive Plan is updated.*

Trees: Increase Fees for Tree Mitigation

In many cases, when a tree is cut down in the City, additional trees are required to be planted to mitigate for the loss of the tree. If the replacement trees cannot be planted onsite, property owners are allowed to pay a fee-in-lieu of planting the tree. The City utilizes the funding from these fee-in-lieu payments for tree education and tree plantings. The current fee reflects the City's cost of obtaining and planting each tree. The Planning Commission would like to discourage tree removal by increasing the tree mitigation fee to 150% of the City's cost, which would be consistent with how the City collects fee-in-lieu for required public right-of-way improvements.

Staff Notes on Proposed Project:

- Regulated trees are required to be replaced when not determined to be dead, diseased, dying, or hazardous. If the replacement trees cannot be physically located onsite, applicants can opt to plant the trees elsewhere, or pay a fee in lieu of planting.
- Fee in lieu for tree mitigation on private property other than single-family and duplexes as well as properties in a permitting process requires the fee be calculated as 150% of the costs of materials, transporting, and planting the tree. The code does not identify the methodology for calculating fee-in-lieu for street tree mitigation.
- The current fee is \$333 per tree which has been used to plant trees, primarily in partnership with Friends of Trees.
- Amendments to the tree mitigation fees require Resolution approval by the City Commission.
- *Staff recommends reviewing the proposed code amendment currently before the City Commission and consider mitigation fees during a future comprehensive city-wide tree analysis.*

Short Term and Vacation Rental Use

Planning Commission heard testimony from several people regarding short term rentals such as HomeAway, Air B&B and Vacation Rental By Owner. Currently Bed and Breakfast use providing accommodation for less than thirty (30) days requires a Conditional Use permit, whether the house is entirely or partially rented out. The Conditional Use application review process is lengthy and a significant expense (the 2018 review fee is \$3,952.00 and also requires the submission of a Site Plan and Design Review application with a minimum review fee of \$862.00). We therefore encourage the City Commission to consider a more streamlined review process for certain types of Bed and Breakfast uses. Such a process could be tailored to Oregon City and adapted from what other Oregon Communities have adopted (e.g. Newport, McMinnville and others), including additional policies, criteria and procedures that could streamline the approval process for short-term vacation rentals and assure that homeowners have some flexibility to use their property in this manner, while providing assurances that any negative impacts on the character and livability of the adjacent residential neighborhood is taken into account and mitigated.

Staff Notes on Proposed Project:

- Currently, rentals less than 30 days in length in a residential zoning designation require a conditional use approval before the Planning Commission. This process requires time and application fees to review the proposal against criteria identified in the Municipal Code and against the Comprehensive Plan.
- There has not been significant discussion about changing the short-term regulations at the Planning or City Commission level. Staff suggests community involvement to determine proposed regulations supported by the community prior Legislative review by the Planning Commission and City Commission at a series of public hearings.
- The regulations should balance and consider the effects on the general housing supply, affordable housing, as well as the effects on the City as a whole.
- The process to amend short term rental regulations should involve a targeted public process and thus will require significant costs and staff time.
- *Staff does not recommend considering this item in the 2021-2023 biennium due to limited staff availability and in conjunction with analyzing other housing strategies such as construction excise tax and the Comprehensive Plan Update.*

Supporting Affordable Housing Units

Though the proposed code amendments provide opportunities to increase the number of housing units and housing options, they provide no guarantee that affordable housing will be built. Local jurisdictions often employ a variety of other tools to encourage affordable housing by preserving existing housing stock and supporting new construction. We suggest the Commission consider a menu of approaches to further support affordable housing, including:

- *Provide property tax exemptions for up to ten years for multi-unit projects that meet certain rent affordability targets;*
- *Charging full system development charges (SDCs) for a home that replaces a demolished home;*
- *Provide a reduction or waiver of SDCs for accessory dwelling units, and/or new multi-unit housing;*
- *Adopt disincentives for demolition of existing housing stock beyond protected historic resources;*
- *City housing bond measure similar to the one being considered by Metro;*
- *Require that new multi-unit developments include a given percentage of below-market rate units (known as inclusionary zoning);*

- *Create a locally-funded rent voucher system;*
- *Include workforce housing projects in Urban Renewal projects;*
- *Use of other capital improvement funds to help pay for the infrastructure needed to serve a workforce housing project.*

Staff Notes on Proposed Project:

- Evaluating the menu of options may take significant staff and time, though moderate budgetary cost anticipated.
- The City Commission preliminary investigated inclusionary zoning and implementation of a construction excise tax (CET) for affordable housing and decided to revisit CET at a City Commission work session in 2019.
- The menu of housing policies may be explored with the Comprehensive Plan update which includes an analysis of how the City will accommodate future housing needs including housing affordability.
- *Staff recommends considering construction excise tax in mid-2019 and evaluating the remaining strategies with the Comprehensive Plan update.*

Move Forward with Rezoning of Existing Manufactured Home Parks

The Planning Commission has recently heard concerns from residents of a manufactured home park about potential sale of that property. Though the City Commission has adopted measures in Oregon City Municipal Code Chapter 15.52 to assist residents in the case of a park closure, we urge the Commission to provide further protections by investigating rezoning of all manufactured home parks to a zoning designation which only allows alternative low cost housing options such as manufactured homes, tiny homes, and similar housing.

Staff Notes on Proposed Project:

- Existing manufactured home parks are currently within the R-3.5 Dwelling District, allowing properties to be redeveloped for single and two-family homes.
- Rezone existing manufactured home parks for exclusive use by manufactured homes requires additional research and public input as well as approval by the Planning Commission and City Commission.
- The Commission may consider this as a product of the Comprehensive Plan update. Housing types and availability will be analyzed in Chapter 10 of the Comprehensive Plan.
- The City is currently working on a housing needs analysis and a buildable lands inventory which will help inform this decision.
- Rezoning property should be carefully considered, as it may have effects on the value of private property.
- *Staff recommends considering this in the Comprehensive Plan Update.*



November 26, 2018

To: City Commission of Oregon City
From: Planning Commission of Oregon City
Re: Policy Advisement

During the past year, we identified a variety of topics which we believe the City Commission should further consider.

Updating the Oregon City Comprehensive Plan

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We appreciate your consideration and are available to answer any further questions.



January 7, 2019

To: City Commission of Oregon City
From: Planning Commission of Oregon City
Re: Policy Advisement

During the course of reviewing proposed amendments to the Oregon City Municipal Code, we identified a variety of topics outside of the scope of the project which we believe the City Commission should further consider.

Supporting Affordable Housing Units

Though the proposed code amendments provide opportunities to increase the number of housing units and housing options, they provide no guarantee that affordable housing will be built. Local jurisdictions often employ a variety of other tools to encourage affordable housing by preserving existing housing stock and supporting new construction. We suggest the Commission consider a menu of approaches to further support affordable housing, including:

- Provide property tax exemptions for up to ten years for multi-unit projects that meet certain rent affordability targets;
- Charging full system development charges (SDCs) for a home that replaces a demolished home;
- Provide a reduction or waiver of SDCs for accessory dwelling units, and/or new multi-unit housing;
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- Include workforce housing projects in Urban Renewal projects;
- Use of other capital improvement funds to help pay for the infrastructure needed to serve a workforce housing project.

Move Forward with Rezoning of Existing Manufactured Home Parks

The Planning Commission has recently heard concerns from residents of a manufactured home park about potential sale of that property. Though the City Commission has adopted measures in Oregon City Municipal Code Chapter 15.52 to assist residents in the case of a park closure, we urge the Commission to provide further protections by investigating rezoning of all manufactured home parks to a zoning designation which only allows alternative low cost housing options such as manufactured homes, tiny homes, and similar housing.

We appreciate your consideration and are available to answer any further questions.



Natural Resources Committee Recommendations to the City Commission for the 2019-2021 Biennium

In the 2019-2021 goal setting and associated budgeting process, the City Commission must prioritize a wide variety of needs for the community due to financial and staffing limitations. In addition to the needs identified by staff and the Commission themselves, separate requests have been submitted by both the Planning Commission and Natural Resources Committee. This memorandum is intended to provide additional background on each of the Natural Resource Committee (NRC) requests for implementation and/or associated funding.

Staff intends to discuss each of the items at the January 9th NRC meeting and seek some prioritization to assist the City Commission with their consideration.

Wetland Overlays

NRC Request:

In our 2017 report to the City Commission, the Natural Resource Committee (NRC) pointed out that our wetland natural resource overlays haven't been updated since 1999, when the Local Wetland Inventory was made part of the City's Comprehensive Plan. The NRC noted that the Oregon Department of State Lands had made a new wetland delineation in Canemah. City Code Chapter 17.49 provides that such newly discovered wetlands are not regulated by the City if they are wholly outside of the established Natural Resources Overlay District (NROD). The Planning Department has sought grant opportunities to review and to update our NROD overlays but has not yet been successful. The NRC still desires code changes that would permit the establishment of a temporary wetland-area overlay when a new delineation is made or a previous overlay was found to be in error. A permanent overlay could be established later when resources are available to determine its appropriate boundaries.

Staff Notes on Proposed Project:

- The Natural Resources Overlay District (NROD) protects streams and wetlands by implementing a vegetated corridor buffer between the feature and development. While the City regulates this vegetative corridor and impacts to it, it does not regulate wetlands or streams themselves, but coordinates with other agencies which do.
- The City adopted a map with an associated buffer around the streams and wetlands which varies in width depending on the type of feature, size of drainage basin, and topography. This map allows the NROD regulations to be applied when development occurs within the boundary. When properties within the overlay boundary develop, a review process is typically initiated to delineate on-site the exact location of the required vegetated corridor, minimize the impact of development on the corridor, and mitigate for any impacts to it.
- Due to legal requirements the overlay district map may only be amended through a Type IV

land use process including Planning Commission and City Commission review. If a feature is found outside of the overlay district, the City does not always have the authority to regulate the vegetated corridor surrounding the feature until a process to adopt the feature within the NROD is completed.

- Though the City's adopted wetland and stream inventory is from 1999, the NROD overlay has been updated with additional resources and mapping specified in the code, such as LIDAR data from Oregon Department of Geology and Mineral Industries (DOGAMI).
- Staff reviewed all wetlands reported to the Department of State Lands and identified a single wetland which was outside of the scope of the NROD overlay in Canemah. The Natural Resources Committee previously asked the City Commission to direct staff to add the vegetated corridor around the feature. With the direction from the City Commission, staff is currently working to add the wetland and associated buffer to the NROD boundary.
- The City Commission may initiate an update to the Comprehensive Plan with the 2019-2021 goals and budget process. As a part of this process, the City Commission could consider updating the NROD inventory when considering updates to Statewide Planning Goal 5 of the Comprehensive Plan. Identifying the need to update the NROD inventory could be a product of the Comprehensive Plan which could be prioritized among other follow-up projects.
- Staff researched the Natural Resources Committee request to update the stream and wetland inventory and identified an approximate project cost of \$300,000. In addition to utilizing digital data, this project requires investigation of resources on private properties throughout the City (with owner consent) by biologists or scientists. This significantly adds to the cost and length of time needed to complete the project. Staff investigated potential grant opportunities with Metro, Department of State Lands, Department of Land Conservations and Development, and other sources, but was unable to identify a source or multiple sources which can be combined to finance this project.
- The project is anticipated to be time-intensive for Planning Division staff, even with the aid of a paid consultant. Given the constraints of a four-person Planning Division, the obligation to process development applications in a timely manner, and the implementation of other long-range projects, there is no anticipated capacity to implement this project in the biennium.
- *Staff Recommendation is to continue to move forward adding the specific Canemah wetland identified outside of the NROD to the overlay district, monitor grants for future funding sources, and revisit this request with the 2021-2023 goals and budget cycle.*

Heritage Tree Designation

NRC Request:

The NRC still wishes to determine if funds can be identified to off-set the expensive arborist costs a land owner must incur for an arborist to determine whether a tree qualifies for the designation, not only in terms of the age of the tree, but also whether the tree is disease free and is not a potential safety threat to property, infrastructure, or people. The NRC still requests in the upcoming budget cycle that the City Commission consider funding a part-time arborist position to assist in this effort as well as to deal with other tree issues on City property and public rights-of-way.

To offset the cost of a part-time arborist, consideration should also be given to revise our code so as to not require such a detailed arborist study because the owner of the property owner having a diseased or unsafe heritage tree is permitted to remove the heritage tree under the current code.

Staff Notes on Proposed Project:

- Chapter 12.32 of the Oregon City Municipal Code allows trees to be designated as Heritage Trees to recognize, foster appreciation and provide for voluntary protection of certain trees, because of their age, species, natural resource value, ecological or historical association, are of special importance to the city.
- A certified arborist, forester, or ecologist is required to produce a report that the tree or stand trees is not irreparably damaged, diseased, hazardous or unsafe. In addition, an arborist is required to determine if a tree may be removed due to poor health or a hazard.
- Though a request was made by the NRC, the Planning Commission decided not to amend the Heritage Tree requirements in the draft code amendments currently before the City Commission. One alternative could be to strike the arborist requirement under the current process, and instead place any determination of hazard on the owner, and keep the remaining criteria.
- The City does not currently employ a certified arborist. Currently, the Public Works and Community Services departments contract with arborists on an as-needed basis. The average cost of an arborist is approximately \$100 for a basic report.
- Staff could dedicate a limited amount of existing funds, for example up to \$200 per year for the NRC to dedicate towards a contract arborist. With this funding, additional staff resources would be required to secure arborists, meet them onsite, and manage the products.
- *Staff Recommendation is to consider a broad update to the tree regulations city wide (including heritage trees) after the Comprehensive Plan is updated. In the meantime, \$200 per year may be allocated to NRC to hire an arborist to assist with Heritage tree nominations and removal requests.*

Stream Naming

NRC Request:

In last year's report it was mentioned that the City was installing stream-crossing signs provided by the Greater Oregon City Watershed Council. Most streams in Oregon City are not named and NRC wishes to work with the Watershed Council to set up a procedure by which these streams can be named. We suggest that this procedure include public participation, perhaps through neighborhood associations, with the selection of names going through a process similar to the naming of parks.

Staff Notes on Proposed Project:

- The NRC and Public Works Department worked with the Greater Watershed Council to place signs identifying the location of a major stream crossing and the stream name around the community.
- Though many major streams throughout Oregon City are named, many other smaller streams and tributaries are not. Oregon City does not have a stream naming convention like the U.S. Geological Survey (USGS).
- The City could not identify an adopted stream naming convention. Staff would like to research this project to have a greater understanding of the entities which regulate stream names and the process by which stream naming occurs.
- The project is anticipated to be time intensive for the Planning Division staff. Given the constraints of a four person Planning Division, obligation to process development applications in a timely manner, and implementation of other long-range projects, there is

no anticipated capacity to implement this project in the biennium.

- The NRC has many projects on their work plan and it is unclear the cost and time associated with this project. Given the constraints of a four-person Planning Division, the obligation to process development applications in a timely manner, and the implementation of other long-range projects, there is no anticipated capacity to implement this project in the biennium.
- *Recommendation to study the process and gain a better understanding of the requirements, constraints, and process associated with creating and implementing a stream naming system. The scope of this project may not rise to the City Commission Goals, but may be appropriate for the Planning and Public Works Divisions.*

Geological Designation of Water Board Park as a Geologically Significant Area

NRC Request:

Professor Burns, Portland State University Professor Emeritus and former Director of the PSU's Department of Geology, has recommended contacting the state geologist responsible for the states geological survey (DOGAMI) and to the Ice Age Flood Institute's Portland section to seek such a designation, and we are requesting from the City Commission the right to do so with the goal of having such a designation considered by the Parks and Recreation Advisory Committee and considered and proposed by the City Commission.

Staff Notes on Proposed Project:

- Staff researched the "Geologically Significant" question and any whether there is a designation process with Dr. Scott Burns of Portland State University and also with Bill Burns of the Oregon Department of Geology and Mineral Industries (DOGAMI), as well as online and was unable to identify an official designation process for "Geologically Significant Areas". Such areas are typically associated with points of geologic interest along State highways and roads under the jurisdiction of the Oregon Department of Transportation (ODOT).
- The City may create our own local designation for geologically significant areas as an honorary designation or for tourism purposes. The designation would need to be defined and include criteria for designation as well as identify any benefits or constraints that come with the designation. This is anticipated to be a time-intensive process which would also require moderate financial support for notifications, advertising, printing, consulting geologists, etc.
- Once the designation is created, the process of applying the designation should be conducted with public input.
- There are many interesting geologic areas within Oregon City and therefore likely potential to designate additional properties.
- The City Commission may want to identify what to do with the property referenced as Water Board Park prior to placing any designations upon it.
- *Staff Recommendation is to reassess this project after the City Commission has identified a use for the property referenced as Water Board Park.*

Clearing of Trees prior to Annexation

NRC Request:

We understand that the Planning Commission will be recommending developing code amendments dealing with tree removal prior to annexation and development proposals. The NRC supports such a recommendation.

Staff Notes on Proposed Project:

- The proposed amendments before the City Commission include an additional annexation factor which allows the Planning and City Commission to consider if significant tree removal has occurred on properties that have submitted an annexation request during the annexation process.
- *Staff Recommendation to include the NRC request in the record for the code amendments and allow the City Commission to review the proposal in the associated process. In addition, staff recommends considering a broad update to the tree regulations city wide (including tree removal during annexation) after the Comprehensive Plan is updated.*

Exhibits:

- A. Natural Resources Committee Request
- B. Planning Commission Request

CITY OF OREGON CITY PLANNING COMMISSIONER TRAINING

January 14, 2019

By Carrie A. Richter

OREGON'S LAND USE PLANNING FRAMEWORK

STATE OF OREGON

Requires all jurisdictions to have a Comprehensive Plan, urban growth boundaries and implementing ordinances.

PORTLAND METRO REGION

A regional council of governments charged with coordinating land use planning for the Metropolitan area.

CITY OF OREGON CITY

The City must comply with state planning rules, the Metro Urban Growth Management Functional Plan (the Title requirements) and does so by adopting land use regulations implementing these requirement.

LAND USE REVIEW CATEGORIES:

Administrative Decisions

- **Type I** – No discretionary decision-making and no notice, hearing or appeal.

Quasi-Judicial Decisions

- **Type II** – Limited discretion in decision-making. Notice to neighbors, written comment, Director decision, and appeal rights to the City Commission.
- **Type III** – Discretionary review to determine compliance with criteria. Notice, public hearing by Planning Commission or Historic Review Board, and appeal rights to the City Commission.
- **Type IV** – Typically, plan amendments and zoning map amendments applied to particular property. Notice, public hearing by Planning Commission with recommendation and final decision by the City Commission.

Legislative Decisions – Long-range policy-making decisions including amendments to plan and zoning code text or map. Planning Commission recommendation and final decision by City Commission. City Commission review is *de novo*.

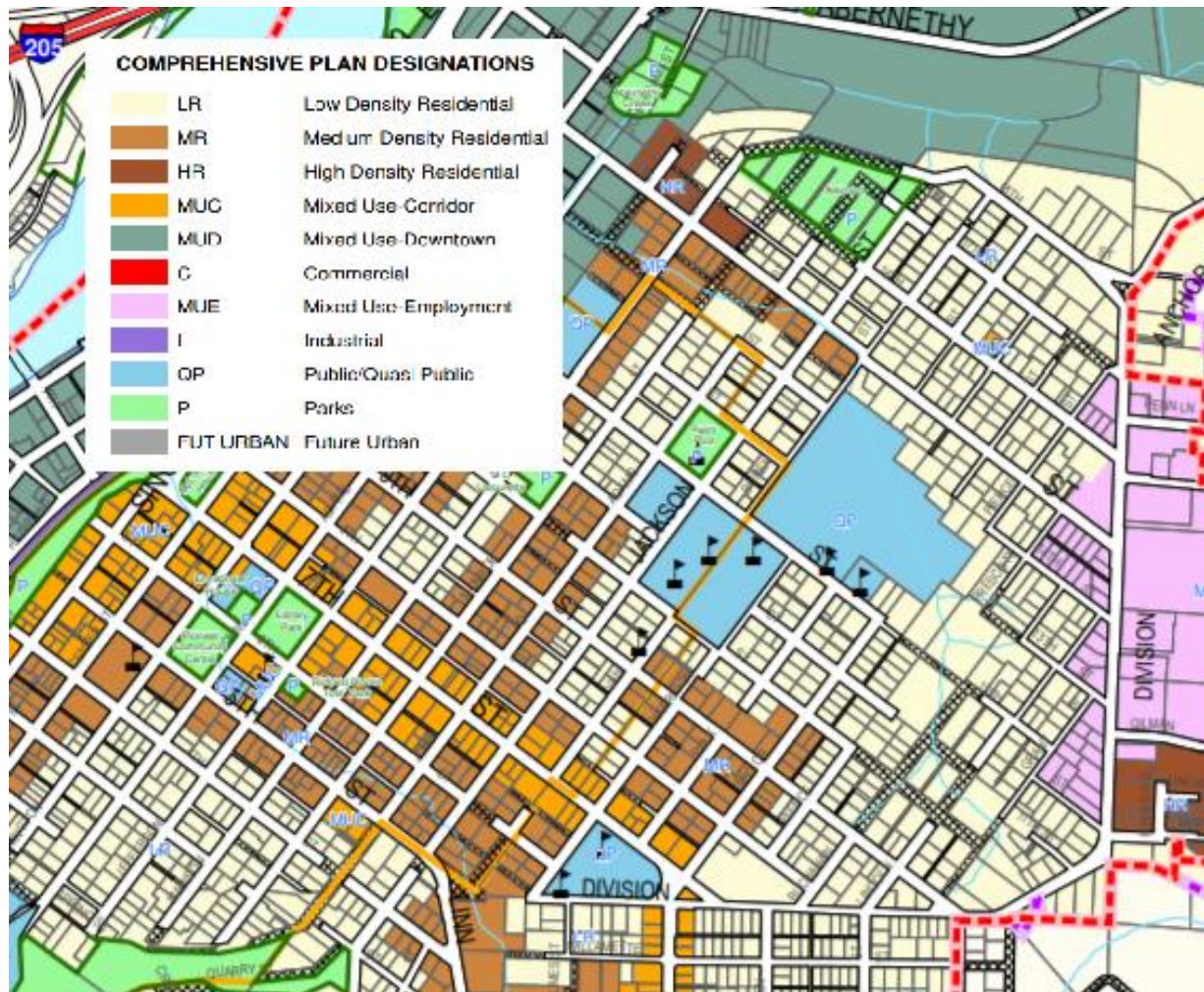
ALL DECISION-MAKING BASED ON THE APPLICABLE STANDARDS AND CRITERIA WHICH MAY INCLUDE:

OREGON CITY MUNICIPAL CODE – contains land use regulations for public and private property in Oregon City. The OCMC implements, among other things:

OREGON CITY ZONING MAP – Establishes base zone and overlay districts to property throughout the City and implements:

OREGON CITY COMPREHENSIVE PLAN AND MAP - sets forth long-term planning goals and policies for the City - how the City achieves compliance with the Statewide Planning Goals. Includes the Transportation System Plan and various utility master plans. The comprehensive plan implements the statewide planning goals and administrative rules.

COMPREHENSIVE PLAN MAP



THE ZONING CODE OF OREGON CITY- CHAPTER 17

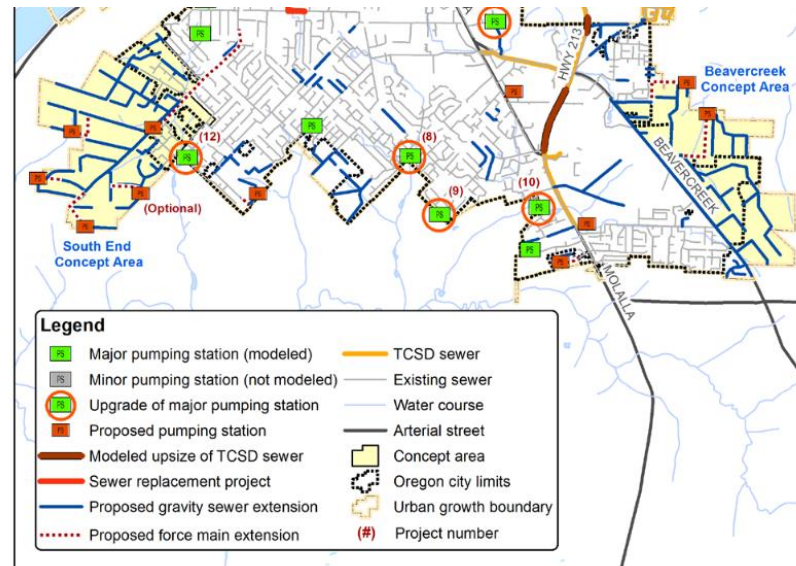
The purpose of this title is to promote public health, safety and general welfare through standards and regulations designed to provide adequate light and air; to secure safety from fire and other dangers; to lessen congestion in the streets; to prevent the overcrowding of land; to assure opportunities for effective utilization of land; to provide for desired population densities; and to facilitate adequate provision for transportation, public utilities, parks and other provisions set forth in the Oregon City Comprehensive Plan and the Oregon Land Conservation and Development Commission Statewide Planning Goals.

- Establishes development standards based on Base Zones – use restrictions, setbacks, height limitations
- Overlay zones – natural resources, steep slopes, historic protections
- Design standards – building orientation and design detail requirements
- Sets forth criteria for reviewing certain types of approvals – conditional use permit, zone change, variances

ADEQUATE PUBLIC UTILITIES AND SERVICES TO SERVE DEVELOPMENT:

- CHAPTER 12.4 – Transportation adequacy standards including off-street parking requirements
- CHAPTER 13 – Public service standards including water, sewer, stormwater design and adequacy standards
- CHAPTER 15 – Sign regulations and grading standards

All based on capacity projections as set forth in various master plans:



TYPES OF DECISIONS: LAND DIVISIONS, ANNEXATION, AND DISCRETIONARY REVIEWS

CHAPTER 16 – Land division requirements for subdivisions or partitions

CHAPTER 14 – Annexations

Other discretionary reviews:

- Variance – Applicant cannot satisfy one or more of the development standards.
- Conditional use – Uses that are more intensive than those allowed in the base zone but can be allowed if certain criteria are satisfied.
- Non-conforming use or structure
- Zoning map change – Changes the base zone designation but does not alter the comprehensive plan map designation.
- Zoning map and plan amendment – Changes both the base zone and the plan map designation.

INTERPRETING DISCRETIONARY CRITERIA

17.60.030 - Variance—Grounds.

A variance may be granted only in the event that all of the following conditions exist:

- A. That the variance from the requirements is not likely to cause substantial damage to adjacent properties by reducing light, air, safe access or other desirable or necessary qualities otherwise protected by this title;
- B. That the request is the *minimum variance that would alleviate the hardship*;
- C. Granting the variance will *equal or exceed the purpose* of the regulation to be modified.
- D. Any impacts resulting from the adjustment are mitigated;
- E. No practical alternatives have been identified which would accomplish the same purpose and not require a variance; and
- F. The variance conforms to the comprehensive plan and the intent of the ordinance being varied.

COMPREHENSIVE PLAN GOALS AND POLICIES, FOR EXAMPLE:

- Goal 2.4 Neighborhood Livability. Provide a sense of place and identity for residents and visitors by protecting and maintaining neighborhoods as the basic unit of community life in Oregon City while implementing the goals and policies of the other sections of the Comprehensive Plan.
- Policy 2.4.1 Develop local neighborhood plans to strengthen and protect residential neighborhoods and historic areas from infill development; such as development along linear commercial corridors.
- Policy 2.4.3 Promote connectivity between neighborhoods and neighborhood commercial centers through a variety of transportation modes.
- Goal 10.2 Supply of Affordable Housing: Provide and maintain an adequate supply of affordable housing.
- Policy 10.2.1 Retain affordable housing potential by evaluating and restricting the loss of land reserved or committed to residential use. When considering amendments to the Comprehensive Plan Land-Use Map, ensure that potential loss of afford-able housing is replaced.
- Policy 10.2.2 Allow increases in residential density (density bonuses) for housing develop-ment that would be affordable to Oregon City residents earning less than 50 percent of the median income for Oregon City.
- Policy 10.2.4 Provide incentives that encourage the location of affordable housing develop-ments near public transportation routes. Incentives could include reduction of development-related fees and/or increases in residential density (density bonuses).

QUASI-JUDICIAL HEARING DISCLOSURES

- A list of the applicable criteria is provided.
- Staff report prepared 7 days in advance and is available.
- Testimony must be directed to the criteria.
- Failure to raise an issue precludes raising it before LUBA.
- Failure to raise constitutional issues precludes an action for damages in circuit court.
- Right to an impartial tribunal.

IMPARTIAL TRIBUNAL

Decisions must be based on the testimony and evidence that is part of the record:

- Disclose ex parte contacts on the record giving the public an opportunity to question decision-maker further.
- Ex parte contacts are facts gleaned outside the record from newspaper articles, site visits, or attending neighborhood meetings, for example.
- An objection must be made in order to preserve a challenge at LUBA on that basis.

Decisions must be free of actual bias:

- “Actual Bias” - A predisposition rendering it impossible to make a decision based on the evidence and argument presented.
- No actual conflict of interest - If the decision is likely to have a direct pecuniary benefit or detriment to the decision-maker or a family member of the decision-maker, the decision-maker may not participate.
- Potential conflict of interest – Announce and determine whether to participate.

PUBLIC MEETINGS AND RECORDS REQUIREMENTS

“Public Meeting” – Majority or a quorum “deliberating to a decision” – may include meeting substitutes such as conference calls or emails.

- General rule is that they are open to the public
- Notice and minutes
- Enforcement

“Public Records” – Almost any writing, data storage or other record.

- General rule is that they are available to the public
- Enforcement

PUBLIC HEARING PROCEDURES

- Staff Report – Available 7 days before initial hearing
- Applicant's Presentation
- Testimony by Interested Parties – Proponents and opponents
- Applicant Rebuttal
- Deliberation

NEXUS...

- Legal term used to describe a direct connection between a condition of approval and the impact created by the proposal.
- The nexus must be related to the Approval Criteria and must be explained in the findings.
- The nexus must also show that the requirement of the condition is of the same weight as the expected impact.

DELIBERATION AND THE DECISION

DETERMINATION OF WHETHER THE STANDARDS ARE MET INCLUDES:

Interpreting the Applicable Criteria – Apply meaning to ambiguous standards in the purpose or policy of the provision. Focus on the plain meaning of terms taken in context.

Adequate findings – An explanation of how the facts satisfy the criteria.

- Findings must explain why and should not amount to mere conclusions.
- Findings should resolve conflicts in facts and explain why one fact was deemed more reliable than another.
- Findings must address all of the applicable criteria. If the criteria is not applicable, the findings should explain why this is the case.

Based on Substantial Evidence – Is there evidence in the record to support the conclusions identified in the findings.

- The decision-maker can weigh the evidence and make a choice when the evidence is in conflict.

Conditions of Approval – may be attached to ensure that all applicable approval standards are or can be met.

QUESTIONS?

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Planning Commission
Requests for Projects
in the 2019-2021 Biennium



2017 - 2019 GOALS AND PRIORITIES

City Commission

OREGON CITY



Purpose

Discuss and identify a pathway forward for each of the PC requests to the City Commission.

Prioritization of the requests for goal setting in the 2019-2021 biennium.

Updating the Comprehensive Plan

Staff Recommendation:

Proceed with a Comprehensive Plan Update.

Include in the 2019-2021 Goals.

Reduce the Short Term and Vacation Rental Process and Identify More Criteria

Staff Recommendation:

Consider within the Comprehensive Plan Update.

Include in the 2019-2021 Goals.

Rezoning Existing Manufactured Home Parks

Staff Recommendation:

Consider within the Comprehensive Plan Update.

Include in the 2019-2021 Goals.

Explore Non-Code Methods to Support Affordable Housing Units

Staff Recommendation:

Review potential implementation of a construction excite tax (CET) in the goals and evaluate remaining strategies with the Comprehensive Plan update.

Include in the 2019-2021 Goals.

Prohibit Significant Tree Removal Prior to Annexation

Staff Recommendation:

Comprehensive review of tree regulations after the Comprehensive Plan update in a future biennium.

Exclude from 2019-2021 Goals.

Increase Fees for Tree Mitigation

Staff Recommendation:

Consider with the comprehensive tree analysis.

Exclude from 2019-2021 Goals.

Update the Urban Growth Management Agreement

Staff Recommendation:

Staff work with Clackamas County as an opportunity is available.

Exclude from 2019-2021 Goals.

Others?

Recommended Prioritization of PC Requests

Proceed with Request in or Before the 2019-2021 Biennium

- Update the Comprehensive Plan (including short term rentals, rezoning manufactured home parks, & affordable housing strategies)
- Review potential implementation of a construction excite tax (CET)

Outside of the City Commission Goals

- Update the Urban Growth Management Agreement

Consideration in a Future Biennium

- Review tree regulations (including prior to annexation & fees)