



# Ordinance No. 869

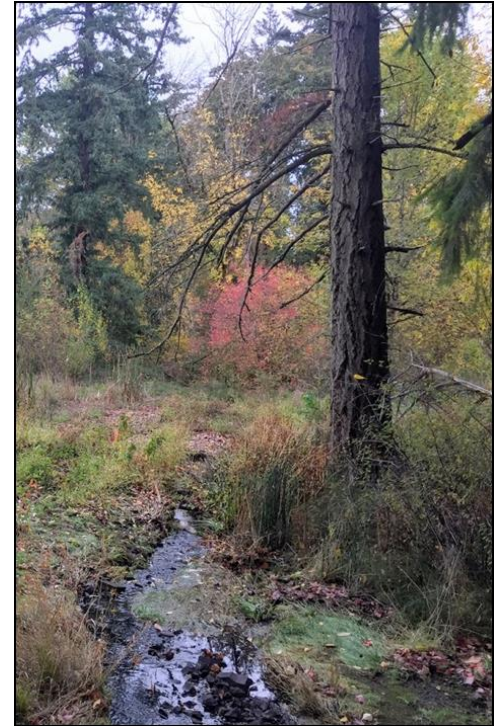
## Significant Natural Resource Regulations

Planning Commission Hearing

Sept. 2, 2020

# Presentation overview

- Ordinance objectives and overview
- Recap of Aug. 19 meeting
- Overview of comments and responses
- Possible engrossment
- Staff recommendation





# Ordinance objectives

- Primary objectives are to:
  - Maintain current County Goal 5 policy direction from Comprehensive Plan and Tualatin Basin program
  - Address aspects of regulations that are not clear and objective
  - Provide clarity and transparency in regulatory requirements
  - Address Enforcement Order and injunction




# SNR process/ordinance overview

- SNRs identified in community plans and Rural/Natural Resource Plan
- Codified submittal requirements, including:
  - Field verification to identify on-site resource limits using specified methods
  - Tree inventory per existing requirements
  - Habitat Assessment for *Water Related Fish and Wildlife Habitat* and *Upland/Wildlife Habitat*
- Within water related resource areas, only listed uses and activities are allowed



# SNR process/ordinance overview

- Within *Upland/Wildlife Habitat* areas or riparian area outside CWS, requires area to be preserved:
  - 25% of field verified area anywhere on site; OR
  - 15% of the area, if adjacent to Riparian or CWS Vegetated Corridor (incentive)
- Area must be:
  - Enhanced to good condition
  - Permanently preserved in a tract or easement
- Incentive to preserve *Upland/Wildlife Habitat* through Planned Development changes



# Recap of Aug. 19 PC Hearing

- Background on County's Goal 5 program and status of Enforcement Order
- Overview of Ordinance No. 869
- Public hearing and testimony received
- PC questions and comments
- Hearing continued to Sept. 2



# Public input received

- 11 written comments prior to Aug. 19 PC hearing
- Six people provided oral testimony (all included additional written testimony)
- 35 written comments received between the two hearings:
  - Four attached to staff report for Sept. 2 hearing
  - 31 additional comments received after staff report published



# Policy comments outside scope

- Consider in next year's Long Range Planning Work Program:
  - Tree Code for areas outside SNRs
  - Updating inventory, including additional resources in inventory
  - Consideration of policy change to protect **all** of the remaining *Upland/Wildlife Habitat* areas
  - County Climate Action Plan
  - Consider Wildlife Corridors





# Submittal requirements (§422-3.1)

Proposed: Standardize required information, require field verification of resource and habitat assessment. Comments included:

- Field Verification
  - Natural resource professional credentials
  - Methodology
  - Threshold distance for evaluating site SNRs
- Riparian Corridor and CWS Vegetated Corridor overlap
- Habitat Assessments



# Water-Related SNRs (§ 422-4)

Proposed: *Water Areas and Wetlands* and *Water-Related Fish and Wildlife Habitat* proposed language retains limited uses but clarifies when subject to other agency requirements. Comments included:

- Support for approach
- Clear and objective standards
- Clean Water Services and Department of State Lands review is “misplaced”
- Exceptions for agricultural and forest practices in rural area



# Habitat standard (§ 422-5)

Proposed: Specified amount of habitat preserved, limited encroachment, alternative discretionary path. Comments included:

- Amount of Habitat protected is not enough
- Alternative discretionary path for *Upland/ Wildlife Habitat* protection too permissive
- Tualatin Hills Park & Recreation District request to add encroachment
- Other concerns about exceptions and suggested rewording



# Rural area comments

Proposed: Retain current standards.

Comments included:

- Mitigation standard is subjective
- *Response:*
  - *Enforcement Order directed SNR code changes for residential development in urban areas*
  - *State administrative rules require clear and objective standards when adopting new uses for rural area*



# Planned Development comments

Proposed: Expansion of current incentive to allow 100% of preserved *Upland/Wildlife Habitat* to meet open space requirement for Planned Development.

Comments included:

- Increase percentage of current Water-related SNRs that can count toward required open space
- Allow certain uses and activities to meet requirements for required open space
  - Bike and pedestrian facilities
  - Public subsidized recreation facilities
  - Power line corridors



# Mineral and aggregate comment

Mineral and aggregate site review requirements superseded by state law.  
Comments included:

- Request to exempt mineral and aggregate sites from § 422 and clarify that requirements are not applicable
  - *Staff Response: No change needed. Clarification could be provided that § 422 is not applicable to this resource and reference to RNRP policy 7 and OAR could be added*



# Possible engrossment

- Some changes to ordinance as proposed are recommended. These include:
  - Modify terms and code language to be clear and objective
  - Modify reference to natural resource professional
  - Clarify Habitat Assessment requirements will be included in Guidelines, currently under development
  - Consider allowing some uses to count toward PD open space
  - Consider adding mineral and aggregate clarification
  - Variety of technical corrections



# Policy comments outside scope

- Consider in next year's Long Range Planning Work Program:
  - Tree Code for areas outside SNRs
  - Updating inventory, including additional resources in inventory
  - Consideration of policy change to protect **all** of the remaining *Upland/Wildlife Habitat* areas
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# Staff recommendation

- Conduct the public hearing; continue the hearing to Sept. 16
- Recommend the Board address larger policy issues on last slide through FY 2020-21 work program
- Provide staff direction on additional information or research desired
- Staff will return Sept. 16 with proposed amendments and additional information as required



# Submittal requirements

- Board Direction- standardize and codify submittal requirements
- Proposed ordinance:
  - Site-specific boundaries
  - Habitat assessment
  - Tree inventory
- Thoughts on this approach and specifics?



# Water-related SNRs

- Board direction - continue to require review by CWS, state and federal agencies to address water-related SNRs
- Proposed ordinance:
  - Clarify limited allowed uses and activities for water-related fish and wildlife habitat and add references to agency permit requirements
- Thoughts on this approach?



# Tree removal in SNRs

- Board direction - regulate tree removal in SNRs
- Proposed ordinance:
  - Maintain limited activity and uses in *Water Areas and Wetlands* and *Water Related Fish and Wildlife Habitat*
  - Preserve minimum amount of area including trees in *Upland/ Wildlife Habitat* areas
- Thoughts on this approach?



# Upland/Wildlife Habitat

- Board direction - add incentive to preserve habitat through voluntary standards
- Proposed ordinance:
  - Voluntary discretionary path to preserve unique features and species
  - 100% of preserved habitat can count for up to 100% of required PD Open Space
- Thoughts on this approach?

# Questions or comments?

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