



**BEFORE THE PLANNING COMMISSION
of the
CITY OF TROUTDALE**

STAFF REPORT

**AMENDMENTS to the TROUTDALE DEVELOPMENT CODE
(TEXT AMENDMENT 42) and TROUTDALE MUNICIPAL CODE
for Compliance with Metro Title 13 "Nature In Neighborhoods"**

TYPE HEARING: IV Legislative Procedure

FILE NUMBER: 09-021

HEARING DATE: May 20, 2009

STAFF REPORT DATE: May 13, 2009

STAFF CONTACT: Elizabeth A. McCallum, Senior Planner

APPLICANT: City of Troutdale

PROJECT NAME: Troutdale Development Code Text Amendment #42--Metro Title 13 "Nature in Neighborhoods"

REQUEST: Text amendments to the Troutdale Development Code and Troutdale Municipal Code to comply with Title 13 of the Metro Urban Growth Management Plan--Nature in Neighborhoods, and housekeeping amendments related to Title 13 and Metro Title 3--Water Quality and Flood Management

ATTACHMENT: Draft Findings and Recommendation & Proposed Text Amendment No. 42

BACKGROUND

Title 13 Nature in Neighborhoods, is part of the Metro Urban Growth Management Functional Plan and it was adopted by Metro to comply with Statewide Planning Goal 5 for protection of natural resources--in particular, regionally significant fish and wildlife habitat areas. The City of

Troutdale must adopt standards to comply with Goal 5, which is also part of the City's Comprehensive Land Use Plan. Metro's Title 13 program became effective January 5, 2007 after approval by the State Department of Land Conservation and Development (DLCD). Each city and county within Metro was given until January 2009 to adopt revisions to its comprehensive plan and implementing ordinances to allow the use of "habitat-friendly" development practices, where practical, in regionally significant fish and wildlife habitat areas.

Staff conducted a Council work session a little over a year ago on March 4, 2008, to introduce Title 13 to the Council, the Planning Commission and the Citizens Advisory Committee (CAC). Subsequent to that work session, from April to November 2008, planning staff time was consumed with a proposed text amendment pertaining to density transfers and was unable to devote attention to Title 13 compliance amendments. As a result, as of January 2009, the City was not in compliance. Metro notified the City in a letter dated January 22, 2009, that it was not yet in compliance with Title 13. According to that letter, the City has 120 days from receipt of that letter (January 23) to comply with Metro Title 13: that date would be May 22, 2009, and cannot be met. Metro has been apprised of this and has accepted the City's projected timeline for adoption of these amendments in June.

Specific discussions on text amendments to the Troutdale Development Code and Troutdale Municipal Code to comply with Title 13 were held with the Citizens Advisory Committee on November 5, 2008, December 3, 2008 and April 1, 2009.

PROCEDURE

The amendments to the text of the Troutdale Development Code are a Type IV Legislative procedure.

NOTICES

In accordance with the notification procedures for legislative amendments,

TDC 15.020 Hearing Notice.

- A. Legislative Type IV Procedure. Notice of a hearing on a legislative decision need not include a mailing to property owners or posting of property. Where such mailing or posting is omitted, the Director shall prepare a notice program designed to reach persons believed to have a particular interest, and to provide the general public with a reasonable opportunity to be aware of the hearings on the proposal.*

- Oregon Department of Land Conservation and Development (DLCD) was notified of the proposed amendments on April 3, 2009
- Notices to property owners of land that is mapped on either the Metro Title 3 or Metro Title 13 maps were mailed on or before May 6, 2009, in accordance with TDC 16.050, for there will be two or more evidentiary hearings on these amendments.
- A notice of the May 20, 2009, Planning Commission hearing was published in the Gresham *Outlook* on May 9, 2009.

PURPOSE OF AMENDMENTS

Metro developed a model ordinance that may be adopted by a City in order to comply with Title 13 or alternatively, the City may revise its existing standards to meet the new standards. The Citizens Advisory Committee agreed that amendments to the existing standards would be the course of action to take. In accordance with Metro Function Plan Section 3.07.1330(B)(2), staff proposed amendments to existing standards of the Development Code and the Municipal Code to demonstrate that these standards, as amended, substantially comply with Metro Title 13 performance standards and best management practices. At its April 1, 2009, meeting the CAC unanimously agreed to forward the amendments proposed by staff, with very few changes, to the Planning Commission for its consideration. Metro Title 13 Nature in Neighborhoods includes both voluntary measures and regulatory development standards for improving wildlife and fish habitat in the Metro area. Text amendments to the City's Troutdale Development Code (TDC) and the Troutdale Municipal Code (TMC) specifically proposed to substantially comply with Metro Title 13 apply to the following sections:

TDC Chapter 1, Introductory Provisions, Vegetation Corridor and Slope District and Water Quality and Flood Management Definitions:

- 1.040.12 Definition of Development
- 1.040.62 Definition of Steep Slopes.
- 1.040.66 Definition of Structure
- 1.040.74 Definition of Water Dependent

TDC Chapter 4.300 Vegetation Corridor and Slope District

- 4.310 New Purpose statement in section E.
- 4.312 A(10) Measurable Tree Removal and Mitigation standards.
- 4.312 C Exempt Development.

4.315 A Development Standards / Avoid the Vegetation Corridor and Slope district (VECO).

4.315 B Development Standards / Limit Use of the VECO

TDC Chapter 5.800 Stormwater Management:

5.840(A)(2) Design Standards.

TDC Chapter 7.000 Land Division:

7.180 (K) Design Requirements. Preservation of Natural Features and Amenities/Tree Removal.

TDC Chapter 9.000 Off-Street Parking and Loading.

9.060 Landscaping and Screening. Landscaping and Screening are an important component of Metro Title 13. These existing standards are modified and moved to Chapter 11 Landscaping and Screening.

9.100 Shared Use of Parking Facilities. The amendment allows for shared parking with easements without being owned by the same party--this removes barriers from reducing paved areas -- a goal of Metro Title 13.

TDC Chapter 11.000 Landscaping and Screening

11.010 H(4) Use of native plants is encouraged *outside* of the VECO if the site *abuts* the VECO. Incentive is a 5% reduction in the minimum required landscape area.

11.010 H(7) Use of invasive plants is prohibited to comply with Metro Title 13.

11.010 K Voluntary and measurable incentives for meeting the minimum landscape area requirement by enhancing, maintaining and preserving the VECO.

TMC Chapter 13.10.270 Tree Removal

The standards of sections D and E are amended to include revised criteria for tree removal for compliance with Metro Title 13. The amendments replace sections D and E and include these new sections: D. "Permit Procedure," E. "Submission Requirements," F. "Tree Removal Criteria," G. "Tree Removal Standards" and H. "Emergency Tree Removal."

- stabilize slopes to prevent landslides contributing to sedimentation of water features.

The purposes of Title 13 Nature in Neighborhoods, like Title 3, pertain to improving water quality and maintaining clean water, but Title 13 goes beyond Title 3 in that it specifically includes standards to protect and enhance natural resources as required by Statewide Planning Goal 5 Natural Resources:

Existing provisions of the Troutdale Development Code, together with the amendments proposed to the TDC and Troutdale Municipal Code listed on pages 3 and 4 of this report, respond to the following purposes of Metro Title 13.

- **Title 13 standards are to protect wildlife habitat: fish, terrestrial animals, and birds.**

The text amendment to the purpose statement of TDC 4.300 Vegetation Corridor and Slope District, includes purpose statements for the protection of regionally significant wildlife habitat.

- **Title 13 standards are to integrate natural areas into the urban environment by providing for outdoor recreation through an abundance of green spaces where nature is always nearby.**

The existing VECO width remains the City's response to this Title 13 purpose statement. The width varies depending upon the type of abutting protected water feature or steep slopes. The table in TDC 4.316 on page 31 of the proposed amendments was adopted in 2000 for Title 3 and the amendments are proposed as housekeeping to simplify how to measure the width and still be in compliance with Metro Title 3.

In concert with the amendments to the table in TDC 4.316, the diagrams in TDC 4.317 "Method for Determining Vegetation Corridors Next to Primary Protected Water Features" (which have been confusing) are removed and text is added to explain how to determine the width of the vegetation corridor. Since the CAC's review, staff discovered that the phrase "top of the bank" used in the amendments of TDC 4.317, is not defined in the TDC and is not consistent with terminology used in the table in TDC 4.316. Staff recommends replacing "top of the bank" with "bankfull stage," in the opening paragraph of TDC 4.317: parts A and B of TDC 4.317 remain the same. The revised amendment would read as follows:

4.317 Method for Determining Vegetation Corridors Next to Primary Protected Water Features. ***Beginning at the bankfull stage of the primary protected***

water feature, measure 50 feet horizontally away from the water (inland).

- **Title 13 pertains to maintaining and improving microclimate and shade. (same as Title 3--reduce stream temperatures). This is done by adding to tree canopies and retaining healthy, mature trees and shrubs especially close to the banks of protected water features.**

The text amendments include measureable criteria for approval of removing vegetation in the VECO and cutting of trees in the VECO and measurable mitigation for when trees are cut down within the VECO. Trees are crucial for providing shade. Amendments to Troutdale Municipal Code Chapter 13 Trees, are intended to give the City better guidelines for maintenance of existing tree canopy and replacement of tree canopy lost with approved development.

- **Title 13 standards are intended to moderate stream-flow and improve water storage.**

The Development Code standards of TDC 5.800 Stormwater Management and TDC 4.600 Flood Management Area adopted for Title 3 and flood insurance, correspond to this Title 13 purpose statement.

- **Title 13 standards are intended to help keep banks stabilized and limit sedimentation and pollution**

The Development Code standards of TDC 4.300 VECO, TDC 5.600 Erosion Control and Water Quality and TDC 5.800 Stormwater Management adopted for Title 3 correspond to this Title 13 purpose statement.

- **Title 13 standards are intended to retain and correct channel dynamics in streams--you'll hear the term "large woody debris" or "large wood recruitment and retention."**

Examples of this type of activity include work recently done in Beaver Creek by Multnomah County and SOLV. Large tree trunks and root wads were embedded into the bank of Beaver Creek for stream bank protection. Adding large wood to streams helps to slow the speed of water and create wildlife habitat for fish and other water-dependent species. There are no specific standards in the TDC 4.300 Vegetation Corridor and Slope District that address this Title 13 purpose statement. This type of work is "in water" work and would also require a state of Oregon permit. This use will be addressed in future text amendments to TDC 4.600 Flood

Management Area.

- **Title 13 standards are intended to improve organic material sources (leaf debris to build up soils and provide forage and groundcover).**

This will come with the standard that requires more trees and shrubs to be planted in the VECO if it is used or disturbed and the standard that limits when trees from the VECO can be cut down.

- **Title 13 standards are intended to apply to upland wildlife habitat issues: large habitat patches, interior habitat patches, connection and proximity to water and connection between patches.**

Metro's Regionally Significant Fish and Wildlife Habitat Inventory map includes upland areas in Troutdale associated with the Sandy River, the Columbia River Highway; Beaver Creek, Sunrise Park, Columbia Park; the County pig farm, land south of Halsey Street, and the Troutdale Airport. Most of the upland areas associated with the Sandy River or Beaver Creek are already subject to the VECO development standards, which includes protection of slopes of 25% or greater. Sunrise Park and Columbia Park are large areas that include the open grassy areas in Sunrise Park for birds as well as a closed canopy of trees (Columbia Park). The Pig Farm area includes existing tree canopy areas, wetlands, floodplain, and fragmented day-lighted segments of Arata Creek.

- **Title 13 requires that the city adopt performance standards based upon High, Moderate and Low Habitat Conservation Areas.**

Troutdale CAC instructed staff to revise existing Title 3 development standards, as necessary, to substantially comply with the performance standards but apply them only to the areas currently mapped as Title 3 areas -- which includes the floodplains. The text has not been amended to include reference to upland areas, High, Moderate or Low Habitat Conservation areas.

Maps are used in planning to identify which properties are subject to which regulatory standards. In October 2000, the City adopted Metro's Title 3 Water Quality and Floodplain Management map which shows protected water features, vegetation corridor buffers, some steep slopes, some wetlands, the 100-year floodplain and the 1996 flooded areas. The Metro Title 3 map is the reference map for applying the City's Vegetation Corridor and Slope District (VECO) and Flood Management Area (FLMA) standards.

As part of the Metro Title 13 Nature in Neighborhoods program, Metro adopted another map, the Habitat Conservation Area Map (HCA). Metro cannot provide precise boundaries of the HCA and does not have a list of potentially affected property owners. According to Metro staff, the Title 13 Habitat Conservation Area (HCA) map was not based upon ground surveys of every lot

and, based upon staff evaluation of the procedure Metro has established for identifying Title 13 areas, the procedure is not as easy as the Metro planner noted² in a June 2008 e-mail to the City. In many instances, even for Title 3 areas (vegetation corridor buffer, steep slopes and floodplain) owners do need to hire professionals to establish the extent of an area that is to be protected by these standards.

As stated previously, the Citizens Advisory Committee's position is that adoption of the HCA map is unnecessary as the Metro Title 3 map adopted in 2000 substantially covers the land identified by Metro on the HCA maps.

Staff evaluated the Metro Title 3 and Metro Title 13 HCA maps to determine the areas of overlap, areas that are already set aside as open space, and any goals that conflict with Title 13. A letter was sent to Metro's Assistant Regional Planner on February 25, 2009 stating that the City's position would be that adoption of the Metro Title 13 HCA map is unnecessary as the Metro Title 3 and Metro Title 13 mapped areas substantially overlap in the City. Only about 18 acres of land as mapped on the Metro Title 13 map, are not already covered by the City's Metro Title 3 standards. Metro's planner informed staff that, "The inherent argument made by Troutdale regarding additional mapping needs makes sense, however, there are several areas of concern that need to be addressed." Metro planner's (MP) comments are summarized in the following section and a summary of staff's response follows:

(MP) Does the City conclude that these 18 acres do not need protected?

Staff's response is that inclusion of these 18 acres in protected areas is unnecessary or not possible for the following reasons:

- ✓ A portion of the 18 acres are found on land that is part of the Troutdale Airport and management of these areas as wildlife habitat is contrary to the management plan necessary for safe operation of the airport. The management activities necessary for the safe operation of the Troutdale Airport are proposed to be exempted from the standards of TDC 4.300.
- ✓ A portion of the 18 acres is a buffer area adjacent to drainageways managed by the Sandy Drainage Improvement Company for flood control and management of these areas as wildlife habitat is contrary to the management plan necessary for flood control. The activities of the SDIC are proposed to be exempted (see TDC 4.312C Exempt Development, on page 18 of the proposed amendments).

² "Metro does not have funding to offer for ground-truthing. We did field validate a randomly selected statistical sample, but of course we couldn't cover a large area. The HCA delineation process is designed to be pretty straightforward. The intent is that a property owner could delineate the HCA boundary without hiring a consultant." Gail Shaloum, Metro Nature in Neighborhoods, e-mail to Senior Planner McCallum dated June 9, 2009.

- ✓ A portion of the 18 acres are owned by Metro and the City and are managed as open space, greenbelts, or public parks.
- ✓ A portion of the 18 acres includes the back yards of fully developed single family lots abutting Beaver Creek Canyon and Sweetbriar Creek.

(MP) How does the City intend to interpret “water dependent development”?

Staff’s response is that the City does not have shipping terminals, as Portland does, but there are marine dependent uses in Troutdale, including the following: a marina on the Columbia River; aggregate extraction activities on the Columbia River; and some private docks in the Sandy River used by both private property owners and commercial fishing guides.

(MP) Metro Title 13 “caps” removal of protected areas to 10% or up to 20,000 square feet. The proposed standards allow for a removal of protected areas totaling a maximum of 30%. What is the reason?

Staff’s response is that it is the opinion of some of the Troutdale Citizens Advisory Committee that adoption of any additional restrictive standards other than what are already in the Troutdale Development Code takes away more property rights that are not being paid for by Metro, the state or the City. This is specifically why staff has not proposed to limit development within the VECO to 10% of a lot area or a maximum of 20,000 square feet, but has left the “limit” development area to 30% of the VECO. Staff was directed by the CAC to work toward substantial compliance, not 100% compliance with Title 13.

(MP) What type of mitigation standards has the City proposed for expansion or construction of public and private utilities and streets in the protected areas?

Staff’s response is that expansion of existing development, including streets and utilities, is covered in 4.315 E & F. Part G is trails and bike paths. The introductory paragraphs to 4.315 E & F can be modified to clarify that the standards for mitigation that apply to these uses are in TDC 4.315 B(3) through (6); 4.315 C, and 4.315D. The proposed text amendment before you does not include the modification referenced in staff’s response to Metro.

A modification to the introductory paragraph of TDC 4.315 E, is not required because the standard of TDC 4.315E only applies if additional use of the vegetation corridor and slope district does not occur (pages 28 and 29 of the proposed text amendments).

Mitigation for activity allowed in TDC 4.315F is appropriate, because it anticipates encroachment into the vegetation corridor and slope district. As with all amendments, there is a “danger” in overlooking unintended consequences. Such is the case with the amendments proposed in TDC 4.315F. This standard *should* apply to expansion of, or construction of new

streets and utilities whether they are in a subdivision or not. As proposed, the standard does not apply to streets or utilities included in plats: that is an unintended consequence of this amendment. The modification to the introductory paragraph of TDC 4.315 F should include the underlined portions as shown below:

CF. Expansion or C ~~construction of public utilities and public streets not included in the review of the a tentative plat shall be processed as a Type II site and design review land use application and shall be subject to the following approval criteria, provided that it meets the~~ **in addition to the other standards of this subsections (A)(1) — (3) of this section, as applicable, and the following chapter, including mitigation as required in TDC 4.315B(3) through (6), and compliance with TDC 4.315C, and TDC 4.315D:**

(MP) The changes to the table in TDC 4.316 and removal of the visual diagrams in TDC 4.317 are acceptable but it appears that the changes remove a “class of corridor” from the Troutdale standards that applies to slopes adjacent to water features of greater than or equal to 25% for 150 feet or more. Why is this?

Staff’s response is that protection of slopes of 25% or greater that are wider than 150 feet that are adjacent to a protected water feature continue to be protected even though the visual diagrams are removed and the text in the table amended. The table in TDC 4.316 provides for additional vegetation corridor width between a protected water feature when there is a slope of 25% or more--the break-in slope must be identified and then 50 feet must be added at the break in the steep slope. Footnote 4 in the table (found on page 32 of the amendments) requires that slopes of 25% or greater, even if wider than 200 feet as measured from the protected water feature, are part of the VECO until the break in slope.

- **Title 13 includes both clear and object and discretionary standards.**

Standards are clear and objective when they are measurable. For Title 3 and 13 these include specific quantifiable /measurable standards.

- If you avoid the VECO, then lot areas may be reduced by up to 30% of the underlying zoning district’s minimum lot area.
- If you can’t avoid the VECO, then:
 - Up to 30% of the VECO may be used.
 - Setbacks may be reduced by up to 50% of the underlying standard without a variance to reduce encroachment into the VECO
 - Building heights can be increased to give space under the building for parking to avoid the VECO.

- Clear and objective standards can be thought of as “black and white” standards; or, if using a check list the standard is either met or not met.
- Variances are not required to meet clear and objective standards.

Discretionary review is a process, defined by the City of Portland as:

Discretionary reviews provide needed flexibility by allowing more subjective standards and objectives, and providing for the modification of regulations in response to specific site conditions.... A discretionary review is one that involves judgement or discretion in determining compliance with the approval requirements. The review is discretionary because not all of the approval requirements are objective. That is, they are not easily definable or measurable. The amount of discretion and the potential impact of the request varies among different reviews. Some have less discretion or impact, such as the reduction of a garage setback for a house on a hillside. Others may involve more discretion or potential impacts, such as the design review of a new downtown building or the siting of a new school in a residential zone. Discretionary reviews must provide opportunities for public involvement.

Discretionary reviews, in Troutdale, include the Type II and Type III procedures and include land use applications for variances, Site and Design Review, subdivisions, partition plats, property line adjustments, conditional uses, planned developments. The clear and objective and discretionary review processes are called out in TDC 4.313 Approval Procedures, beginning on page 19 of the proposed amendments.

- **Title 13 standards allow and encourage habitat friendly development while minimizing impacts on fish and wildlife habitat functions.**

Metro suggested that modifications be made to the City of Troutdale *Construction Standards for Public Works Facilities* to allow skinny streets and a variety of green designs. No amendments to the *Construction Standards for Public Works Facilities* are proposed. Staff consulted with the City’s Chief Engineer and Environmental Specialist and concluded that amendments are unnecessary because these the standards already provide for a wide-range of options that meet “green building” ideas.

What appears to be the most extensive amendments pertain to TDC Chapter 9 Off-Street Parking and Loading and Chapter 11 Landscaping and Screening. Amendments to TDC Chapters 9 and 11 are responsive to Title 13 goals to both allow and encourage habitat friendly development. In addition, under the “housekeeping” aspect of these amendments, Staff has worked with Chapters 9 and 11 for over 10 years and it seems logical to have landscaping requirements, whether they are for yards or parking lots, all in Chapter 11 Landscaping and Screening. The standards include amendments that are responsive to both Metro Title 3 and Title 13 as follows:

- Use of native plants on lots that are adjacent to the VECO, even if the VECO is not used, to qualify for reduction in the minimum landscaping area required.
 - Adding measurable standards for landscaping in the VECO that will qualify for part of or all of required landscaping.
 - Adding best management practices.
 - Reference the tree removal standards, as amended, in Troutdale Municipal Code 13.10.270 Tree Removal.
- **Title 13 standards include mitigation methods to replace lost wildlife habitat / ecological functions and values.**

The proposed text amendments include clear and objective standards for measuring mitigation if any part of the VECO will be used for development: this meets the Title 13 purpose statement. See page 26 of the proposed text amendments.

Removal of noxious, invasive and non-native plants from within the riparian areas, is an activity that improves ecological functions and values. The amendments exempt these activities from the permitting process when done in concert with state agencies, Metro, SOLV, or other similar agencies, to encourage more volunteer efforts to remove these types of plants. Currently the standards require a permit from the City. Staff recommends adding the East Multnomah Soil & Water Conservation District to the list of agencies in TDC 4.313 A2, to recognize its efforts and alert people to the District as a contact.

Housekeeping Text Amendments Proposed

Why are housekeeping amendments necessary? Clarification of existing text that was determined needful based upon the almost daily use of the existing standard for almost 10 years, in some instances. Text surrounding the specific standards being amended for Title 13 needed changed to identify and reference new sections, for example, or to be parallel to the proposed new standard. Some of the housekeeping changes include changing the sequence in which an existing standard appears in the text, or combining two standards that were almost identical.

Staff has proposed quite a few new definitions, in particular, to enhance the understanding of terms used in the Flood Management Area standards that pertain to carrying out the National Flood Insurance Program.

The amendments in TDC 4.315 VECO pertaining to avoidance of the VECO and limiting development in the VECO, which include the density transfer provisions, are called housekeeping amendments by staff for the following reasons:

- The 30% lot area reduction instead of 3,000 square feet lot area reduction was proposed because this was seen as a logical amendment when proposed last fall under Text Amendment 40.
- The amendment makes it very clear what is allowed when the VECO is avoided versus what is allowed through limits to development, if part of the VECO is used.
 - Density transfer allowed only if the VECO is avoided.
 - Establishes a clear and objective way to measure if there is no reasonable or practical residential design without using some of the VECO. Then, if that is established, there are clear and objective standards to meet to limit or minimize the use of the VECO.
 - Up to 30% of the VECO may be used.
 - Building height of apartments may be increased to 45 feet.
 - Setback reductions without variances up to 50% of the underlying setback standard if it results in less encroachment into the VECO or steep slopes.
 - Mitigation is clear and objective --two options with measurable mitigation are proposed (page 26). This comes directly from Title 13.

It may be the Planning Commission's conclusion that some of the amendments in TDC 4.315 are substantive, even if not proposed to comply with Title 13.

Amendments To TDC 4.600 Flood Management Area

The standards in the Troutdale Development Code that pertain to development allowed in the floodplain were adopted primarily for compliance with the National Flood Insurance Program (NFIP), Statewide Planning Goal 7 and City of Troutdale Comprehensive Land Use Plan Goal 7. These standards were amended in 2000 to comply with the goals of Metro Title 3 and do not impede Metro Title 13 habitat friendly development. These amendments do not include amendments to the FLMA standards because amendments will be considered later this year after the Department of Homeland Security, Federal Emergency Management Agency (FEMA) has established the effective date of new digitized Flood Insurance Rate Maps (dFIRMs) and associated Flood Insurance Study. However, Text amendment 42 includes new and amended definitions in Chapter 1 of the TDC that apply to the Flood Management Area (FLMA) standards of TDC 4.600. The new dFIRMs show base flood elevations, floodways, and the 100-year floodplain in much more detail than the Metro Title 3 map. Amendments to TDC 4.600 at that time will include revisions required for compliance with the NFIP, housekeeping, and amendments for consistency with those proposed at this time for TDC 4.300 VECO.

ANALYSIS of APPLICABLE CRITERIA for TEXT AMENDMENTS

Amendments to the Troutdale Municipal Code

The criteria for amending the text of the Development Code do not apply to amendments to the Troutdale Municipal Code. These amendments, however, include proposed amendments to the Troutdale Municipal Code 13.10.270 Tree Removal standards that were determined to be applicable to Metro Title 13.

Amendments to the text of the Troutdale Development Code

The following criteria must be met for amendments to the Troutdale Development Code:

TDC 15.050 Planning Commission Recommendation. In preparing its recommendation, the Planning Commission shall evaluate the proposal based on the following criteria:

- A. Approval Criteria - Text Amendment. The following criteria shall be used to review and decide amendments to the text of the Comprehensive Land Use Plan or Development Code:*
 - 1. For Comprehensive Land Use Plan text amendments, compliance with the Statewide Land Use Goals and related administrative rules.*

The proposed amendments do not amend the Comprehensive Land Use Plan text.

TDC 15.050 A2. Public need is best satisfied by this particular change.

These text amendments pertain to Metro Title 13 Nature in Neighborhoods and “housekeeping” amendments. The public need is identified in Metro Title 13 as:

A need to (1) conserve, protect, and restore a continuous ecologically viable streamside corridor system, from the streams’ headwaters to their confluence with other streams and rivers, and with their floodplains in a manner that is integrated with upland wildlife habitat and with the surrounding urban landscape; and (2) to control and prevent water pollution for the protection of the public health and safety, and to maintain and improve water quality throughout the region.

These text amendments include housekeeping amendments that were determined necessary to coordinate with amendments specific to Metro Title 13 and to clarify wording and the process for obtaining permits.

TDC 15.050 A3. The change will not adversely affect the health, safety, and welfare of the community.

These text amendments do not adversely affect the health, safety, and welfare of the community.

4. *In the case of Development Code amendments, the particular change does not conflict with applicable Comprehensive Land Use Plan goals or policies.*

The proposed amendments to the Troutdale Development Code do not conflict with the applicable Comprehensive Land Use Plan goals and policies. The proposed text amendments carry out the policies of Goal 5 pertaining to Natural Resources which, when satisfied, substantially comply with the purpose statements of Metro Title 13 Nature in Neighborhoods.

Goal 5 Policies

These policies of the City of Troutdale Comprehensive Land Use Plan Goal 5 are specific to the proposed text amendments:

Goal 5 Policy 1. Conserve open space by limiting development that will have adverse impacts.

The vegetation corridor buffer is the tool used to conserve open space between protected water features and development. These text amendments pertain to areas generally mapped on Metro's Title 3 "Water Quality and Floodplain Management" map, wetlands mapped on the US Fish and Wildlife Service wetland inventory map as well as unmapped areas that meet the definition of vegetation corridor and slope district, wetlands, the 100-year floodplain as mapped by FEMA and 1996 floodplain as mapped by Metro.

Goal 5 Policy 2. Conserve domestic groundwater and surface water resources from potential pollution through a variety of regulatory measures relating to land use, transportation, and hazardous substance management.

Vegetation corridor buffers, erosion control and stormwater management development standards reduce potential pollution of domestic groundwater and surface water resources.

Goal 5 Policy 3. Control the storage, manufacture, use, transportation, and disposal of hazardous substances, especially in groundwater sensitive areas used for water supplies.

Existing Development Code standards pertaining to the Vegetation Corridor and Slope District and the Flood Management Area, Erosion Control and Water Quality Standards and Stormwater Management standards, address the storage and disposal of hazardous substances. New standards were not required.

Goal 5 Policy 4. Conserve groundwater sensitive areas, such as aquifer recharge areas and areas of influence through such mechanisms as storm drainage, dry wells, recharge sites, an detaining/retaining ponds, etc.

Existing stormwater management standards in TDC 4.300 Vegetation Corridor and Slope District and TDC 5.800 Stormwater management, satisfy this policy. The proposed text amendments allow the use of vegetated swales for stormwater quality within the vegetation corridor.

Goal 5 Policy 5. Conserve and enhance drainageways for the purpose of containing and regulating stormwater runoff and, where appropriate, as natural corridors which allow the passage of wildlife between natural areas throughout the City, as well as providing wildlife habitat characteristics including food, water, cover, breeding, nesting, resting, and wintering areas.

Where the management of drainageways does not conflict with flood control, vegetation corridor buffers adjacent to drainageways will be maintained as specified in the existing text of TDC 4.300 and as amended. These buffers provide wildlife habitat characteristics including food, water, cover, breeding, nesting, resting and wintering areas.

Goal 5 Policy 7. Require mitigation, resolution, or other means of maintaining a balance of important natural resource values in areas where adverse impacts cannot be practicably avoided.

The existing standards and proposed amendments include measurable methods that are to be used to mitigate for loss of the vegetation corridor buffer when development cannot avoid use of the vegetation corridor buffer. The standards include limitations on how much of the buffer can be used and provide for a variance procedure.

Goal 5 Policy 8. Conserve significant areas and encourage the creation of new developments which maintain the variety and quantity of fish and wildlife throughout the City in a manner compatible with existing and future urban development.

The amendments include amendments to existing “density transfer” standards that are intended to “encourage the creation of new developments ... in a manner compatible with existing and future urban development” while protecting fish and wildlife habitat.

Goal 5 Policy 9. Notify and coordinate development proposals within natural resource areas with other local, state, and federal agencies.

The City has worked closely with Metro in drafting the proposed amendments. The State Department of Land Conservation and Development was notified of the proposed amendments on April 3, 2009, in accordance with state procedures and the City identified the following state and federal agencies, local governments or special districts to be affected by the proposed amendments:

- Multnomah County
- Metro
- Port of Portland
- Department of State Lands
- The Sandy Drainage Improvement Company
- Oregon Department of Fish and Wildlife
- National Marines Fisheries Services
- U.S. Army Corps of Engineers
- U.S. Fish and Wildlife Service

Goal 5 policies are carried out by the proposed text amendments.

Goal 6 Air, Water, And Land Resources Quality

These policies of the City of Troutdale Comprehensive Land Use Plan Goal 6 are specific to the proposed text amendments:

Goal 6 Policy 5. Maintain environmental quality by guiding future development and land use activities. Prohibit activities that will significantly deteriorate the existing high quality of the air, water, and land resources.

Goal 6 Policy 6. Adhere to federal and state standards relating to air and water quality.

Goal 6 policies are carried out by the proposed text amendments.

Goal 7 Areas Subject To Natural Disasters And Hazards

These policies of the City of Troutdale Comprehensive Land Use Plan Goal 7 are specific to the proposed text amendments:

Goal 7 Policy 2. Require that development occur in a manner that respects and retains natural vegetation in areas with sensitive features such as streams, creeks, and other bodies of water and steep slopes.

Goal 7 Policy 4. Require mitigating measures where one or more of the following conditions exist:

- a. Slopes in excess of 30%.*
- b. Known unstable soils.*
- c. Evidence of old or recent slides.*
- d. Identified slide hazard areas.*
- e. Evidence of soil creep.*
- f. Land lying below any of these listed conditions.*

Goal 7 policies are carried out by the proposed text amendments.

ACTION

Based upon the foregoing, the text amendments to the Troutdale Development Code proposed for compliance with Metro Title 13 Nature in Neighborhoods comply with the criteria of Troutdale Development Code 15.050A Approval Criteria. The Citizens Advisory Committee supports these amendments and has recommended them to the Planning Commission. Staff recommends that the Planning Commission forward the proposed amendments to the City Council with a recommendation for adoption. Draft findings to support that recommendation has been prepared by staff for the Planning Commission's consideration.