

**BEFORE THE PLANNING COMMISSION
FOR MULTNOMAH COUNTY, OREGON**

ORDER NO. T3-2017-9165 / T4-2017-9166 / EP-2017-6780

Recommending to the Board of County Commissioners approval of a Type IV Quasi-Judicial Revision to the Multnomah County Comprehensive Plan to designate the subject properties as four units of a local park.

And recommending approval of a Type III Community Service Use and Conditional Use for park related development in a portion of the Burlington Creek Forest, one of the units of the local park, including the associated development permits to construct recreational trails, restrooms, trail bridges, parking, and related amenities. The development permits are as follows: Design Review, Significant Environmental Concern, Hillside Development, Protected Aggregate and Mineral Sites, Lot of Record, Exception to the Secondary Fire Safety Zone, Variance to the Forest Practices Setbacks, Forest Development Standards, and Road Rules Variance.

Commissioner Chris Foster moved to adopt the findings and recommendations in the Staff Report (Exhibit 1) to approve the Comprehensive Plan Amendment to designate the four units as a local park and not to adopt Metro's Parks Masterplan. Commissioner Stephanie Nystrom seconded. Motion passed (7-Y).

Commissioner Barbara Alexander: Yes

Commissioner Alicia Denney: Absent

Commissioner Kari Egger: Yes

Commissioner Chris Foster: Yes

Chair John Ingle: Yes

Commissioner Bill Kabeiseman: Yes

Commissioner Stephanie Nystrom: Yes

Vice Chair Victoria Purvine: Yes

Commissioner Tim Wood: Absent

Next Commissioner Barbara Alexander moved to approve the Community Service Use Permit and related permits for public park improvements in the Burlington Creek unit. Commissioner Bill Kabeiseman seconded. Motion passed (4-Y, 3-N).

Commissioner Barbara Alexander: No

Commissioner Alicia Denney: Absent

Commissioner Kari Egger: Yes

Commissioner Chris Foster: No

Chair John Ingle: Yes

Commissioner Bill Kabeiseman: Yes

Commissioner Stephanie Nystrom: No

Vice Chair Victoria Purvine: Yes

Commissioner Tim Wood: Absent

The Planning Commission adopts the findings and recommendations of the Staff Report attached as Exhibit 1 including approval of the Type IV Comprehensive Plan amendment,

the Type III Community Service permit and associated development permits subject to the recommended approval conditions in the Staff Report (Exhibit 1).

The Multnomah County Planning Commission Further Finds:

- a. The Planning Commission is authorized by Multnomah County Code (MCC) Chapter 37.0710 and 37.0530(D), 37.0510 [in effect at the time of the application], and by ORS 197.797, to conduct hearings on Type IV applications and associated Type III applications, including recommending to the Board of County Commissioners approval of applications that require amendments to the County Comprehensive Plan.
- b. The proposal conforms to the intent of relevant policies in the Comprehensive Plan and the designation in the Comprehensive Plan for a local park.
- c. The proposal conforms to the criteria for a Quasi-Judicial Comprehensive Plan Amendment for a local park designation. The local park designation will not destabilize the land use pattern in the vicinity and will not conflict with existing or planned uses on adjacent lands.
- d. The Comprehensive Plan amendment designating four units of a local park is a text amendment only and does not adopt Metro's North Tualatin Mountains Access Master Plan.
- e. The local park designation is permitted in the underlying base zones covering the four forest units. The subject properties are located in following zones: Commercial Forest Use – 1 (CFU-1), Commercial Forest Use – 2 (CFU-2), Exclusive Farm Use (EFU), Multiple Use Agriculture – 20 (MUA-20), and Rural Residential (RR).
- f. The proposal for park related development in the Burlington Creek Forest Unit meets the following approval criteria of the applicable MCC 2017 code sections:
 - 33.2030(A)(9)(b) [Conditional Uses in CFU-1]
 - 33.2230(A)(9)(b) [Conditional Uses in CFU-2]
 - 33.2630(C) [Conditional Uses in EFU]
 - 33.2830 [Conditional Uses in MUA-20]
 - 33.3130 [Conditional Uses in RR]
 - 33.6300 – 33.6350 [Conditional Uses criteria]
 - 33.6000 – 33.6020 [Standards for Community Services]
 - 33.7000 – 33.7060 [Design Review]
 - 33.2000 – 33.2110 [CFU-1 Base Zone]
 - 33.2200 – 33.2310 [CFU-2 Base Zone]
 - 33.2600 – 33.2690 [EFU Base Zone]
 - 33.2800 – 33.2885 [MUA-20 Base Zone]
 - 33.3100 – 33.3185 [RR Base Zone]
 - 33.4500 – 33.4575 [Significant Environmental Concern Overlay Zone]
 - 33.5500 – 33.5525 [Hillside Development/Slope Hazard Overlay Zone]
 - 33.5700 – 33.5745 [Protected Aggregate & Mineral Sites]
 - 33.2110 [Exceptions to Secondary Fire Safety Zones]

33.7600 – 33.7616 [Adjustments and Variances]
33.0005, 33.2075, 33.2870 [Lot of Record]
Chapter 37 [Administration & Procedures]
Chapter 29.003 [Adoption of State Building Code by Reference]

- g. The proposal for park related development in the Burlington Creek Forest Unit meets the following approval criteria of the 2004 Multnomah County Road Rules:
 - 4.000 Access to County Roads
 - 5.000 Transportation Impact
 - 6.000 Improvement Requirements
 - 7.000 Transportation Impact Studies
 - 8.000 Off-site Improvement Requirements
 - 9.000 Compliance Method
 - 11.000 Local Access Roads
 - 14.000 Vacation of Right of Way
 - 16.000 Road Rules Variance
 - 17.000 Appeals
 - 18.000 Right-of-Way Use Permits
- h. The proposal for park related development in the Burlington Creek Forest Unit meets the following approval criteria of the Design and Construction Manual:
 - Section 2.1.3 Design Standard Variance
- i. Notice of the Planning Commission hearing was mailed to all parties consistent with county noticing requirements. Notice was also published in the Oregonian newspaper and on the website of the Multnomah County Land Use Planning Program. Further, staff maintained an email list of interested parties and maintained a website with all application materials, staff documents, and written testimony posted to the site.
- j. The Planning Commission held a public hearing on the proposal on February 6, 2023 during which all interested persons were given the opportunity to appear and be heard. The meeting was continued to March 6, 2023 where new testimony was heard.
- k. After public testimony closed, the Planning Commission heard final testimony and rebuttal from the Applicant.
- l. The Planning Commission received and considered a significant volume of oral and written testimony for the Comprehensive Plan Amendment and park related development for the Burlington Creek Forest Unit. While the Planning Commission decision to recommend approval of the request is based on the findings in the Staff Report (Exhibit 1), several key issues were discussed and considered during deliberation including but not limited to:
 - 1. A significant amount of testimony and subsequent Planning Commission deliberation centered on the Community Service standard in MCC 33.6010 (B), that the proposal 'will not adversely affect natural resources'. In addition to the findings on pages 194-195 of the Staff Report (Exhibit 1) supporting the Commission's recommendation, the Planning Commission finds that the

standard does not require a finding of 'no affect', but rather whether the proposal will have an 'adverse affect' on natural resources. After weighing the evidence in the record, the Planning Commission finds that the proposal appropriately balances recreational access and conservation goals; and on balance, the proposal will not adversely affect natural resources.

2. Metro testified and the Commission finds that guidance Metro received from the Oregon Department of Fish and Wildlife (ODFW) regarding trail design has been addressed by the application, though the Commission did not receive testimony directly from ODFW on the application. The Planning Commission notes that Burlington Creek Forest drains into John R. Palensky Wildlife Area (Burlington Bottoms) owned by the Bonneville Power Administration (BPA) and managed by ODFW, which is an important adjacent resource area.
3. Balancing resource protection, neighborhood concerns, wildlife protection, and recreational use is a difficult proposition. Metro has indicated a willingness to continue monitoring of wildlife and trail conditions as the proposed trails are developed and used and that adaptive management will be employed in response to the monitoring. While not made a recommended condition of approval, the Planning Commission encourages Metro to employ a succinct monitoring plan considering the specifics of what will be monitored, the frequency of monitoring, how the results will be evaluated and communicated, and what type of mitigation strategies might be contemplated in response to the collected data.
4. The Planning Commission discussed potential conflicts between intended park uses in the Burlington Creek Forest Unit. The Planning Commission heard testimony on whether mountain biking and other forest trail uses such as hiking are compatible. The testimony raised additional questions about whether the current trail system favors one group over another. Monitoring and Adaptive Management proposed by Metro is highly encouraged to ensure the improvements function as planned or are modified as needed.
5. The proposed multi-use trails in the Burlington Creek Forest have the potential to degrade water quality in seasonal streams and the downstream wetlands from both trail construction and use. While conditions of approval address erosion control, the Planning Commission also recognizes that seasonal or permanent closures of park areas and trails may be necessary to reduce soil erosion when trail damage, erosive conditions or other environmental concerns are identified.
6. The Planning Commission received testimony about neighborhood concerns with unpermitted park uses, such as after-hours trespass and parking in restricted areas. Vehicle access to the Burlington Creek Forest will be controlled by automatic gates to prevent after hour use and regulatory signs installed to avoid illegal parking. The Multnomah County Sheriff's office indicates that it can enforce illegal parking in the right of way with the addition of the required 'no parking' signs.

- m. The Planning Commission finds all applicable criteria to approve the application in T3-2017-9165 / T4-2017-9166 / EP-2017-6780 are met based on the findings of fact, statement of reasons, and conditions of approval set forth in the Staff Report attached hereto as Exhibit 1.

The Planning Commission Orders:

1. The findings of fact and statement of reasons contained in the T3-2017-9165 / T4-2017-9166 / EP-2017-6780 Staff Report, attached hereto as Exhibit 1, demonstrate that the standards for a quasi-judicial plan amendment (text amendment) for a local park designation have been met and, therefore, the Comprehensive Plan amendment is recommended for adoption by the Board of County Commissioners.
2. The findings of fact and statement of reasons contained in the T3-2017-9165 / T4-2017-9166 / EP-2017-6780 Staff Report, attached hereto as Exhibit 1, demonstrate that the standards for park related development in the Burlington Creek Forest Unit have been met and, therefore, are recommended for adoption by the Board of County Commissioners, subject to the conditions stated in the T3-2017-9165 / T4-2017-9166 / EP-2017-6780 Staff Report (Exhibit 1).
3. The Planning Commission recommends that the Board amend the Multnomah County Comprehensive Plan to document and incorporate the proposed local park designation as follows:

[Formatting Note: The table below amends the 'Administration' section of the Multnomah County Comprehensive Plan, (page xi). Double underlined text is new.]

Administration

Adopted Amendments

EFFECTIVE DATE	ORD #	AMENDMENT TOPIC
April 4, 2019	Order 2019-025	Approving exception to Statewide Planning Goal 11 to extend public sewer service outside the Urban Growth Boundary to the property located at 5105 SE 302 nd Ave., Gresham, Oregon
October 1, 2020	Order 2020-086	Approving an exception to Statewide Planning Goal 3 (Agricultural Lands), and an amendment to the Multnomah County Comprehensive Plan and the Multnomah County Comprehensive Plan and Zoning Map, to rezone the Property located in East Rural Multnomah County at 2326 SE Troutdale Road and that portion of SE Troutdale Road adjacent to the subject property extending to the road center line from Exclusive Farm Use (EFU) to Rural Residential (RR).

December 16, 2021	Ordinance 1302	Amending Multnomah County Chapter 38 Zoning Code and the Multnomah County Comprehensive Plan in response to federally mandated revisions to the Management Plan for the Columbia River Gorge National Scenic Area approved by the Columbia River Gorge Commission and other amendments to Chapter 38 Code and the Comprehensive Plan not related to the Management Plan revisions.
<u>(placeholder for effective Board adoption date)</u>	<u>(placeholder for effective Board order number)</u>	<p><u>Amending the Comprehensive Plan to include the North Tualatin Mountains Parks and Natural Areas as a designated local park in this Compressive Plan. The park is comprised of four geographically separate properties, further described as follows:</u></p> <p><u>Burlington Creek Forest: 2N1W20BC-01400, 2N1W20BC-01200, 2N1W19-00500, 2N1W19AA-00500, 2N1W20B-00700, 2N1W1900200, 2N1W20B-00500, 2N1W20BD-02400, 2N1W20C-00500, 2N1W20BD-03700, 2N1W20BC-01000, 2N1W20C-00400, 2N1W20C-00100, 2N1W20C-00200, 2N1W20B-00600, 2N1W19AA-00800, 2N1W20B00200, 2N1W20C-00600, 2N1W19-00300, 2N1W20BC-01600, 2N1W19AA-00400, 2N1W20-00400, 2N1W20C00700, 2N1W19AA-00600, 2N1W20B-00100, 2N1W19AA-00300, 2N1W20B-00400, 2N1W19AA-00700, 2N1W20BC-00800, 2N1W20C-00300, 2N1W20B-00300, 2N1W20BC-00900, 2N1W19D-00800, 2N1W20BC01700, 2N1W20BC-01800, 2N1W20-00300, 2N1W20BC-01300.</u></p> <p><u>Ennis Creek Forest: 2N1W28C-00500, 2N1W28CA-01701, 2N1W32A-00600, 2N1W32A-00500, 2N1W33B-00700, 2N1W28CA01500, 2N1W28C-01000, 2N1W28CD-01000, 2N1W28C-00600, 2N1W28DC-01900, 2N1W32A-00400, 2N1W33B-00600, 2N1W33B-00500, 2N1W28C-00500, 2N1W33B-00100, 2N1W28DC-01800, 2N1W33A00500, 2N1W28CD-00400, 2N1W28DC-02000, 2N1W33B-00200, 2N1W32A-00100, 2N1W33C-00300.</u></p> <p><u>McCarthy Creek Forest: 2N1W32B-00600, 2N1W32B-00900, 2N1W32C-00100, 2N1W32C-00200, 2N1W310-01200, 2N1W31D-00100, 2N1W31D-00200, 2N1W31D-00300.</u></p> <p><u>North Abbey Creek Forest: 1N1W05C 00100, 1N1W05C-00400, 1N1W05C-00500, 1N1W08B -00100, 1N1W05C -00300, 1N1W05C -00500, 1N1W05B-00900, 1NIW05C-00200, 1NIW06D-00400.</u></p>

Commissioner Chris Foster moved to adopt the findings and recommendations in the Staff Report (Exhibit 1) to approve the Comprehensive Plan Amendment to designate the four units as a local park and not to adopt Metro's Parks Masterplan. Commissioner Stephanie Nystrom seconded. Motion passed (7-Y).

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ADOPTED this 4th day of April, 2023.

PLANNING COMMISSION
FOR MULTNOMAH COUNTY, OREGON



John Ingle, Chair