

Staff Memo

Summary of the Metro North Tualatin Mountains Plan Application Process



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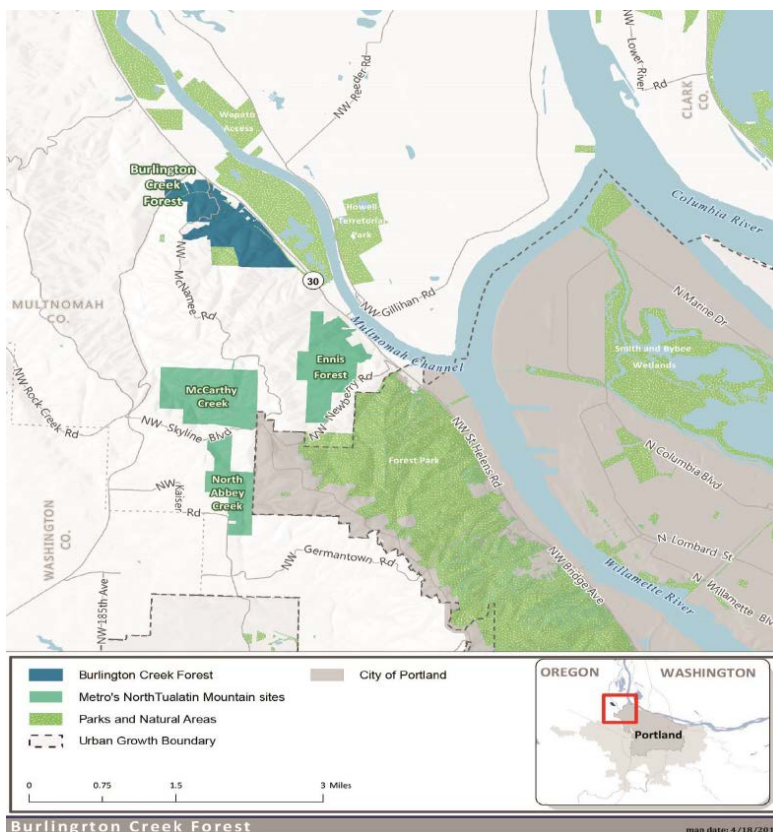
To: Board of County Commissioners
From: Kevin Cook, Senior Planner

INTRODUCTION

The purpose of this memo is to provide a general overview of Metro's North Tualatin Mountains Nature Park land use application to the County, including the history and process, key issues and next steps in preparation for a public hearing on this matter scheduled with the Board of County Commissioners Thursday, October 26, 2023. The complete overview and record in the matter is available at the project webpage <https://www.multco.us/landuse/north-tualatin-master-plan> and document library <https://www.multco.us/landuse/north-tualatin-master-plan>

APPLICATION BACKGROUND (history and process)

In 2016, Metro completed its North Tualatin Mountains Access Master Plan, which is Metro's plan for the lands owned and managed in the North Tualatin Mountains located within Multnomah County's West Hills Planning Area. The lands consist of four discrete forest units.



Metro's plan calls for a combination of conservation and public access across forest units. The specific proposed land uses for the four units includes:

Burlington Creek Forest: Combination of public trails and trailhead development (parking, restroom, and information kiosk) and conservation.

McCarthy Creek Forest: Combination of public trails and trailhead development (parking, restroom, and information kiosk) and conservation.

Ennis Creek Forest: Primarily conservation with a potential future linear trail connection.

Abby Creek Forest: Conservation only. No public access facilities.

In late 2017, Metro submitted applications to Multnomah County to do two main things:

1. Designate the four forest units as a park in the County's Comprehensive Plan. This aspect of the proposal is processed as a Type 4 permit, which is the vehicle for an application to amend the County Comprehensive Plan. Final decisions on Type 4 applications are made by the Board of County Commissioners.
2. Develop recreational trails and trail related infrastructure in one of the forest units (Burlington Creek Forest). Note: future development of recreational infrastructure on any of the other forest units would be subject to the codes and application procedures in effect at the time of application and no such proposals are currently before the County. This aspect of the application was processed as a combination of Type 3 and associated Type 2 permits. The Type 3 permit is the vehicle for considering the Conditional Use Permit for the park uses and the Type 2 permits are the relatively more technical permits for the specific types of development concerns (i.e. design review and significant environmental concern permits).

Note that in this case, each lower level permit is contingent upon the approval of the associated higher-level permit. In other words, the park designation (Type 4) must be approved in order to allow the proposed park uses (Type 3), which in turn must be approved in order to approve the more technical land use applications such as the Design Review permit (Type 2). Therefore, the entirety of the proposal will be consolidated for the Board's consideration during the October 26th public hearing.

Land use hearings in front of the Planning Commission were conducted in February and March of 2023 resulting a recommendation of approval for both the Comprehensive Plan amendment for a park designation and for the proposed recreational trail development at the Burlington Creek Forest as spelled out in the Planning Commission's Order dated April 4, 2023. The application is subject to the 2017 code criteria in effect at the time of the application.

KEY ISSUES

While the proposal is subject to a considerable list of criteria (as analyzed in the staff report), a significant focus of the testimony and Planning Commission deliberation revolved around the Community Service standard in MCC 33.6010 (B);

§ 33.6010 APPROVAL CRITERIA

In approving a Community Service use, the approval authority shall find that the proposal meets the following approval criteria...

(B) Will not adversely affect natural resources;

In addition to the findings on pages 194-195 of the Staff Report, the Planning Commission found 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 found that the proposal appropriately balances need for recreational access and conservation goals; and on balance, the proposal will not adversely affect natural resources.

The Planning Commission Order contains the Planning Commission’s findings and recommendation to the Board.

NEXT STEPS

The next step in the process is for the Board of County Commissioners to hold a hearing on the matter. The hearing is ‘de novo’ - new information and testimony in addition to the existing record may be considered by the Board in making their decision. County code requires new notice to be mailed to surrounding property owners, and those who participated in the Planning Commission hearings. Any written comments received since the close of the Planning Commission record and leading up to the Board of Commissioners hearing will be included in the Board of Commissioners record on the matter. To date, three letters have been received since the close of the Planning Commission record including a letter received from the Oregon Department of Fish and Wildlife (ODFW) raising concerns about potential impacts to lands classified as “essential, but not limited habitat for fish and wildlife”.

At the conclusion of the hearing, the Board may:

1. Approve the proposal as and adopt the Planning Commission’s findings;
2. Approve the proposal with additional findings and/or approval conditions;
3. Approve the part of the application and deny part of the application. For example the Board could approve the Comprehensive Plan Amendment to designate the public parks but also deny the Conditional Use Permit for development, or
4. Deny the application in its entirety.

The Board’s decision in the matter is the County’s final decision and is appealable to the Oregon Land Use Board of Appeals (LUBA).

Staff is available to Commissioners and their staff if there are any questions or concerns leading up to the hearing.

Thank you!