



To: Planning Commission

Through: Katie Mangle, Planning Director

From: Ryan Marquardt, Associate Planner

Date: April 22, 2010 for April 27, 2010 Public Hearing

Subject: Addendum to Staff Report for ZA-10-01

This addendum to the staff report for Land Use File #ZA-10-01 addresses the comments submitted by the Hector Campbell Neighborhood District Association (HCNDA) for the revisions to the residential parking regulations. Staff appreciates HCNDA's time and thorough review of the proposal. The comments are part of Attachment 5 to the staff report.

- HCNDA recognizes that the proposed regulations apply to all areas within the city. Staff agrees that most areas of the city will not be built for households with 1 car, and that most areas will continue to have 2 or more parking spaces.
- HCNDA advocates limiting parking spaces to either 30% of the front yard area or 2 additional spaces in addition to a driveway. Staff believes that a 30% ratio is too restrictive for many lots. A 20 ft deep yard on a 50 ft wide lot would only be allowed 300 sq ft of parking area. This would not allow a 2 car wide driveway on the lot. Having a standard based on 2 spaces in addition to a driveway is also problematic because driveways serve as parking spaces for residential properties, making it difficult to distinguish what constitutes a driveway and what constitutes a parking area.

In response to the HCNDA proposal, staff suggests the Planning Commission consider a proposal to place a limit of 3 parking spaces in the front setback. This would be in addition to the proposed 50% limitation of the front yard area. The proposed regulation is illustrated in the graphic below.

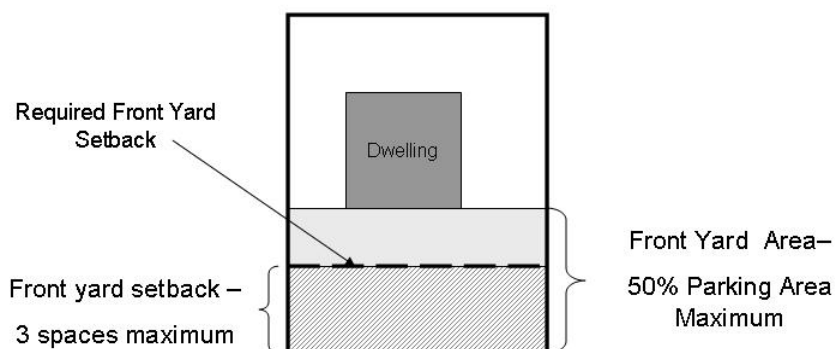


Figure 1: Proposed regulations to limit parking in the front yard setback and overall front yard

Staff believes this addresses the concern of having too many parking spaces too near to the front lot line. For smaller lots, the 50% limitation will be the more limiting regulation. For larger lots with deeper front yards, it limits the size of the parking area adjacent to the right of way. Staff will prepare revised code language for the residential parking standards to incorporate this change for the April 27, 2010 hearing.

- Staff appreciates and supports the suggestion by HCNDA that a certain percentage of a front yard be required for vegetation. Staff suggests that this issue be addressed in the upcoming residential design standards project later in 2010. The current amendments are focused on parking related regulations, and HCNDA's comment begins to affect broader residential development standards.
- The Code Compliance Officer has indicated that inoperable vehicles are covered by MMC 8.04.010. This section allows inoperable vehicles to be stored for up to 15 days on a property before it is a violation of the nuisance code.
- HCNDA's point about the number of vehicles in the front yard of a property is well taken. For many residential properties, 6 or more cars would be out of character with good neighborhood character. Larger lots with deep front yard setbacks may still accommodate 6 or more cars without being out of character with a neighborhood, and the regulations apply to these properties as well. Staff believes that the proposed regulations are appropriate because the amount of parking is proportional to the front yard area. The additional proposed regulation that would limit the number of spaces in the setback ensures that the bulk of a larger parking area would be set back further on the property.
- With regard to on-street parking, staff believes that the proposed regulations would have limited impacts. Staff does not expect to see a decrease in the amount of off-street parking for new or existing houses, regardless of whether the minimum require is 2 spaces or 1 space. Also, staff believes that the minimum amount of required parking is a minor factor in the use of on-street parking compared to other factors. The amount of vehicles owned by a household and the use of off-street spaces for play areas or storage of items other than passenger vehicles have larger impacts on whether residents use on-street parking.

It is important to recognize that the discussion of limiting parking areas, as supported by staff and the HCNDA, could have the effect of increasing the use of on-street parking.

Staff appreciates the time and thought given to the proposed regulations by the HCNDA. We appreciate input from the NDAs as we try to implement regional requirements and fix existing problems with the residential off-street parking standards. This area of regulation is challenging in that there must be a good balance in making the code restrictive enough to prohibit bad development and permissive enough to not be overly regulatory and difficult to comply with.



To: Planning Commission
Through: Katie Mangle, Planning Director
From: Brett Kelper, Associate Planner
Date: April 22, 2010 for April 27, 2010 Worksession
Subject: Supplement for Natural Resources Overlay Project Update

This memo is to introduce the additional materials that were referenced in the April 20 staff memo to the Planning Commission regarding the Natural Resources Overlay project.

Attachment 1 (Ongoing Issues) is a list of questions and topics that have arisen through meetings with the Advisory Group. Staff is ready to report back to the Advisory Group on some of the issues, while others need further research. The second half of this list is a group of specific questions that staff would like to discuss with the Planning Commission. If time allows at the upcoming meeting on April 27, we would like to address the issue of variances (Questions A and B).

Attachment 2 (List of Changes to Draft 2) is staff's working list of edits and adjustments for modifying Draft 2 of the proposed code. This is provided for your information, to show where some of the larger issues that have been discussed with the Advisory Group fit into the draft code as well as where some of the ongoing issues fit into the code.

Attachments

1. Ongoing Issues
2. List of Changes to Draft 2

**Water Quality and Natural Resource Regulations
(Revisions to MMC Section 19.322)**

Ongoing Issues

1. Is it worthwhile to distinguish between existing HCAs and potential HCAs established by restoration efforts after the rules go into effect (“manmade HCAs”)? Is there any effective way to distinguish between the two?
2. How to encourage and facilitate restoration and enhancement projects? (We do not want to inhibit restoration work or make it more difficult.)
3. Are the tree-mitigation requirements in Table 19.322.12-1 appropriate for Milwaukie?
4. How to allow or regulate tree removal in WQR areas and HCAs?
5. What falls into the category of “normal landscape planting and maintenance”? Where does tree pruning or removal fit in to “normal maintenance”? How to consider “normal maintenance” in the context of highly altered situations (such as clearing silt from the channelized portion of Spring Creek)? What kinds of activities should prompt staff to notify other agencies (DSL, ODFW, DEQ)?
6. Fees/process for reviewing construction management plans and boundary verification.
7. Map accuracy and corrections to the draft map, including the costs and benefits of merging the “High-value” and “Moderate-value” HCAs.
8. Coordination with floodplain and Willamette Greenway review.

Specific Key Issues for the Planning Commission

- A. Variances: Get PC concurrence with how the variance process will work (322.16), given that the overall setup of the revised 19.322 would allow for some variation through increasing levels of review.
- B. Variances: Is the PC comfortable with the proposed language about economic hardship specifically noted in 19.322.16.B?
- C. For requiring construction management plans and boundary verification, are the trigger distances (100 ft and 50 ft) acceptable and reasonable?
- D. Should the maximum HCA disturbance area calculation consider 50% of lot area or 50% of the area of the HCA (322.12.A)? Is the higher priority on property rights or resource protection?
- E. Under 322.4.A.7.b, the word “size” suggests that the addition of stories or bay windows or cantilevered decks would not be exempt from further review, even if the building footprint itself does not change. Is the PC comfortable with that policy?
- F. Is the PC comfortable allowing variations from the base-zone standards (e.g., setbacks being reduced to zero) to provide some flexibility in order avoid impacts to the resource?
- G. Is the PC comfortable allowing a maximum of only 10% of an HCA to be disturbed for all uses besides single-family detached and attached?

**Water Quality and Natural Resource Regulations
(Revisions to MMC Section 19.322)
List of Changes to Draft 2**

Section

322.1 Intent

- Staff to consider deleting D-3. The language seems more relevant in the current WQR code, which establishes general applicability for whole properties with any degree of WQR designation and then provides more specific restrictions depending on impact to the WQR area. The proposed code establishes applicability based on proximity to the designated resource, so the language seems unnecessary and misleading, since the new rules will in fact limit some activities not considered “development.”
- In G, add language to clarify that 19.800 does not apply if the nonconformity is solely a result of the standards of 19.322.
- (Minor edits to clarify existing language.)

322.2 Coordination with Other Regulations

- Resolve any conflicts of coordination with Willamette Greenway overlay (MMC 19.320), in the context of vegetation and preserving view corridors.

322.3 Applicability

- Determine whether the 100-foot and 50-foot triggers for construction management plans and boundary verification are the right triggers for Milwaukie. Consider establishing trigger exemptions for resources that are separated from the subject property by a road or other paved area.
- (In Table 19.322.3-1, minor edits to clarify existing language.)

322.4 Exempt Activities

- In A-4, change second sentence to read, “After removal of ~~invasive nuisance or noxious prohibited~~ plants, all open soil areas ~~greater than 25 square feet~~ must be replanted and/or protected from erosion.”
- Add a new exemption in A (call it A-5 and renumber the others): “Removal of manmade debris during the allowable window(s) for in-stream water work as designated by the Oregon Department of Fish and Wildlife.”
- Does B-2 include small, fill-related projects? (Clarify.)

322.5 Prohibited Activities

- *No proposed changes at this time.*

322.6 Activities Permitted Under Type I Application Review

- Staff to plug in criteria for tree removal under B-2 once it is developed. Include a note about required replacement, with a case-by-case assessment to determine whether tree replacement is appropriate.
- Add a description of natural resource management plans that qualify for Type I review.
- (Minor edits to clarify existing language.)

322.7 Activities Permitted Under Type II Review

- Add description of natural resource management plans that require Type II review and make reference to the difference from plans needing Type I review.
- (Minor edits to clarify existing language.)

322.8 Activities Permitted Under Minor Quasi-Judicial Review

- *No proposed changes for Draft 2.*

322.9 Construction Management Plans

- Staff to consider whether this subsection should move back into closer proximity with the Boundary Verification section. Or consider moving it to an earlier point in the section, so that it's clearer that these plans will often be required, even if the activity itself is exempt).
- In B-1, add language establishing a root protection zone.

322.10 Submittal Requirements

- In A-1, add language to make a direct reference to the information an applicant should provide if they believe the WQNR map is accurate.

322.11 Approval Criteria

- (In Table 19.322.11-1, minor edits to clarify existing language.)

322.12 Standards for Non-Discretionary Review Development Standards for Habitat Conservation Areas (HCAs)

- Staff is reviewing Table 19.322.12-1 to see if there are more current and appropriate replanting numbers that could be used.
- Clarify that Table 19.322.12-1 relates specifically to mitigation for tree removal in the context of larger development, as opposed to 19.322.6.B.
- (Minor edits to clarify existing language.)

322.13 Standards for Special Uses Standards

- Add language in A-2 to establish a root protection zone (similar to the suggestion for 322.9).
- In E, staff to consider elaborating on natural resource management plans and/or pulling this out of the Special Use category, since there will be two levels of review for natural resource management plans. Include a note on expiration dates for approved plans.

- Add “Clackamas County Soil and Water Conservation District” to list in E-1.

322.14 Standards for Partitions and Subdivisions

- Staff to consider adding a graphic to demonstrate the newly clarified E-1-a.
- In F-2-b and G-2-c, this may be too much analysis to require for land divisions of properties that include designated resources. Staff to consider establishing new criteria for the analysis, different from that needed for actual development happening within the resource area.
- (Minor edits to clarify intent of existing language.)

322.15 Standards for Discretionary Review ~~Development Standards~~

- (Minor edits to clarify existing language.)

322.16 Adjustments and Variances

- Staff to clarify language as needed, pending discussion with the Planning Commission about how variances would work with 19.322.

322.17 Boundary Verification and Map Administration

- Minor edits to clarify the remaining types of verification, given the proposal to move the standards for agreeing with the map into the Submittal Requirements subsection (322.10).
- Staff to consider adding a reference to 322.3 (Applicability) regarding any new exemption for properties within the trigger area but where the property is separated from the resource by a road or other significant barrier.
- Staff to consider reducing the level of detailed information needed from property owners for map verification when the resource itself is not on their property, especially if they think a mapping inaccuracy is pulling them into the verification process.
- Include a note about expiration dates for map verifications. (Or if not in this subsection, add a note in the appropriate place.)
- In B-2-b, remove the bulk of the language to a worksheet as guidance for applicants.
- In B-5, make it clearer that the steps in this subsection are directly related to B-4 and not the other types of verification.
- In C, make it clearer that most map corrections (WQR and HCA) can be made without having to use the amendment process of 19.900. Remove any sense of contradiction with the language in B.
- (Other minor edits throughout to clarify existing language.)