



COMMUNITY DEVELOPMENT

333 Broadalbin Street SW, PO Box 490, Albany, Oregon 97321-0144 | Community Development 541-917-7550

Notice of Filing

Natural Resource Impact Review and Minor Variance

File: NR-03-24 & VR-10-24

October 11, 2024

The Planning Division has received the following APPLICATION. Please provide any comments you may have on this project to **David Martineau** at 541-917-7555 or david.martineau@albanyoregon.gov. The deadline for submission of written comments is 5:00 p.m. on **October 25, 2024**.

Application Information

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| Proposal: | The application is for a Natural Resource Impact Review and Minor Variance to locate a transformer vault together with restoration of the riparian setback along Periwinkle Creek. |
| Review Body: | Staff (Type I-L review) |
| Applicant/Property Owner: | Chris Looney, Paradigm Properties, 1361 Pearl Street, Eugene, OR 97401 |
| Representative: | Shane McCloskey, Dustrud Architecture PC, 1622 Pearl Street, Eugene, OR 97401; shane@dustrudarchitecture.com |
| Address/Location: | 1755 Geary Street SE, Albany, OR 97322 |
| Map/Tax Lot: | Linn County Assessor: 11S-03W-08CD; Tax Lot 0210 |
| Zoning: | Residential Medium Density Attached (RMA) |
| Comprehensive Plan: | Residential – Medium Density |
| Overlay Districts: | Riparian Corridor |
| Total Land Area: | 3.54 Acres |

The City of Albany has received the application for a Natural Resource Impact Review and Minor Variance as referenced above. We are mailing notice of the application to property owners within 100 feet of the proposed development. We invite your written comments on this application to be considered when staff decides on this application. Your comments must relate to the approval standards listed below. Issues that may provide the basis for an appeal to the Planning Commission must be raised in writing and with sufficient detail to allow the City to respond to the issue. The deadline for submission of written comments is 5:00 p.m. on **October 25, 2024**, 14 days from the date the City mails the notice of filing.

We have attached a location map, site plan, and mitigation plan. All application materials are available for review in person at the Planning Division, and copies can be obtained for a minimal charge. Should you wish to discuss this case with a planner, please call **Jennifer Cepello**, project planner, at 541-917-7555. Submit any written comments to the Planning Division; PO Box 490, Albany, OR 97321 or by email to jennifer.cepello@albanyoregon.gov. Any person submitting written comments will receive a copy of the notice of decision on the application.

Approval Standards for This Request

Natural Resource Impact Review Criteria

Section 6.310 of the Albany Development Code (ADC or Code) includes the following review criteria that must be met for this site plan application to be approved.

- A. General Requirements for Significant Natural Resource overlay districts. A proposed activity will not be approved unless all of the following are true:
- (1) The proposed activity is allowed under the requirements of the base zone.
 - (2) There are no other reasonably feasible options or locations outside the Significant Natural Resource overlay districts for the proposed activity on the subject parcel.
 - (3) The proposed activity is designed, located and constructed to minimize excavation, grading, structures, impervious surfaces, loss of native vegetation, erosion, and adverse hydrological impacts on water resources. All activities are located as far from the water resources and use as little of the surface area of the Significant Natural Resource overlay districts, to the extent reasonably feasible.
 - (4) Any proposed impacts to significant natural resources will be mitigated per the standards in Sections 6.400 and 6.410.
 - (5) Any applicable local, state, and federal permits are secured.
 - (6) The additional requirements of ADC 6.310 (B) will be met.
- B. Additional Requirements, Limitations, and Exceptions for Specific Activities in Riparian Corridor and Significant Wetland overlay districts. In addition to the general requirements listed above, the following requirements, limitations, and exceptions apply to development activities within the Riparian Corridor and Significant Wetland overlay districts. [Ord. 5947, 1/01/21]
- (1) Land Divisions. In addition to the regulations in Article 11, land partially situated in one of the City's natural resource districts can be divided only if there is sufficient land outside of any Significant Natural Resource overlay district to establish a development site area and/or separate a developed area from the natural resource areas. For the purposes of this section, for residential land divisions, "sufficient land" means a minimum of 2,000 square feet per proposed lot or parcel. Applicants may also elect to follow the Cluster Development standards for land divisions in Article 11. [Ord. 5947, 1/01/21]
 - (2) Structures and Land Altering Activities. The placement of structures and other impervious surfaces, as well as grading, excavation, placement of fill, and vegetation removal, are prohibited. Exceptions may be made for the purposes identified in items a-f of this Section, provided they are necessary to accommodate an approved activity and comply with any stated requirements for the activity or use.
 - (a) Water-Related and Water-Dependent Uses. Development of water-related and water-dependent uses.
 - (b) Permanent Alteration Within the Riparian Corridor. Disturbance or development within the Riparian Corridor overlay district shall be allowed under the following circumstances:
 - (i) The resource is characterized as 'marginal' or 'degraded' using the standards found in 6.410(5).
 - (ii) Demonstration that equal or better protection will be ensured through riparian corridor restoration and enhancement within the remaining overlay district area per the mitigation requirements in Sections 6.400 and 6.410. If the site is encumbered by easements or rights-of-way that would preclude onsite restoration or enhancement, an "in-lieu of payment" may be made to the City in the amount equal to the cost of onsite mitigation.

Residentially zoned lots that were created prior to December 1, 2011, that are less than 20,000 square feet and can't be further subdivided are allowed to encroach up to 25 feet into the Riparian Corridor overlay district without the requirement for restoration or enhancement of the remaining 25 feet. The mitigation requirements in Section 6.400 still apply.

- (iii) In no case shall the site improvements be any closer than 25 feet from the Ordinary High-Water mark or upland edge of the wetland, unless the improvements are otherwise allowed or exempted per this Section of the Code.
- (c) Vegetation Removal. Removal of live vegetation that is not exempt under 6.290(9) is only allowed to accommodate an approved use or development activity under this section of the Code.
- (d) Private Construction of Public Non-Master Planned Transportation Facilities and Privately Owned Transportation Facilities. In addition to other City standards, the following standards shall apply to the location and construction of public non-master planned and/or private transportation facilities and structures, such as driveways, local streets, bridges, bridge crossing support structures, culverts, and pedestrian and bike paths. In addition to other City standards, the following standards shall apply to privately constructed transportation facilities and structures:
 - (i) The facility is designed to be the minimum width necessary to allow for safe passage of vehicles, bicycles and/or pedestrians, and to meet minimum width requirements.
 - (ii) Where reasonably feasible, crossings of significant natural resources shall be aligned to minimize impact area.
 - (iii) The number of crossings is the minimum amount necessary to afford safe and efficient access.
 - (iv) The number of crossings is minimized where reasonably feasible through use and creation of shared access for abutting lots and access through easements for adjacent lots.
 - (v) Crossing structures have a natural bottom or other design that meets ODFW fish passage requirements.
- (e) Private Construction of Public Non-Master Planned Utilities and Privately Owned Utilities. In addition to other City standards, the following standards shall apply to permitted crossing, trenching, or boring for the purpose of developing a corridor for public non-master planned utilities and private utilities, within or crossing parcels in Significant Natural Resource overlay districts, as well as any above-ground utility structures.

In addition to other City standards, the following standards shall apply to privately constructed utility projects:

- (i) Boring under the waterway, directional drilling, or aerial crossing is preferable to trenching. If trenching is the only feasible alternative, it shall be conducted in a dry or dewatered area with stream flow diverted around the construction area to prevent turbidity.
- (ii) Common trenches for private utilities, to the extent allowed by the building code, shall be required where reasonably feasible in order to minimize disturbance of the protected resource.
- (iii) Topsoil and sod shall be conserved during trench construction or maintenance and replaced on top of the trench. Side-casting and storage of excavated material prior to replacement on top of trench is permitted. Any side-cast material not placed back on top of the trench shall be removed and may not be stored in the Significant Natural Resource overlay district after the construction or maintenance work is completed.
- (iv) Hydraulic impacts on protected resources are minimized.
- (v) Where reasonably feasible, crossings of significant natural resources shall be aligned to minimize impact area.
- (vi) Above-ground utilities that cause ground disturbance in the Significant Natural Resource overlay district and are not within an existing right-of-way or easement, and are not shown in an approved master plan, will only be allowed in limited circumstances, and if they meet the general requirements in 6.310(A).

- (f) Minor or Major Variance. Development associated with an approved Minor or Major Variance.
[Ord. 5947, 1/01/21]

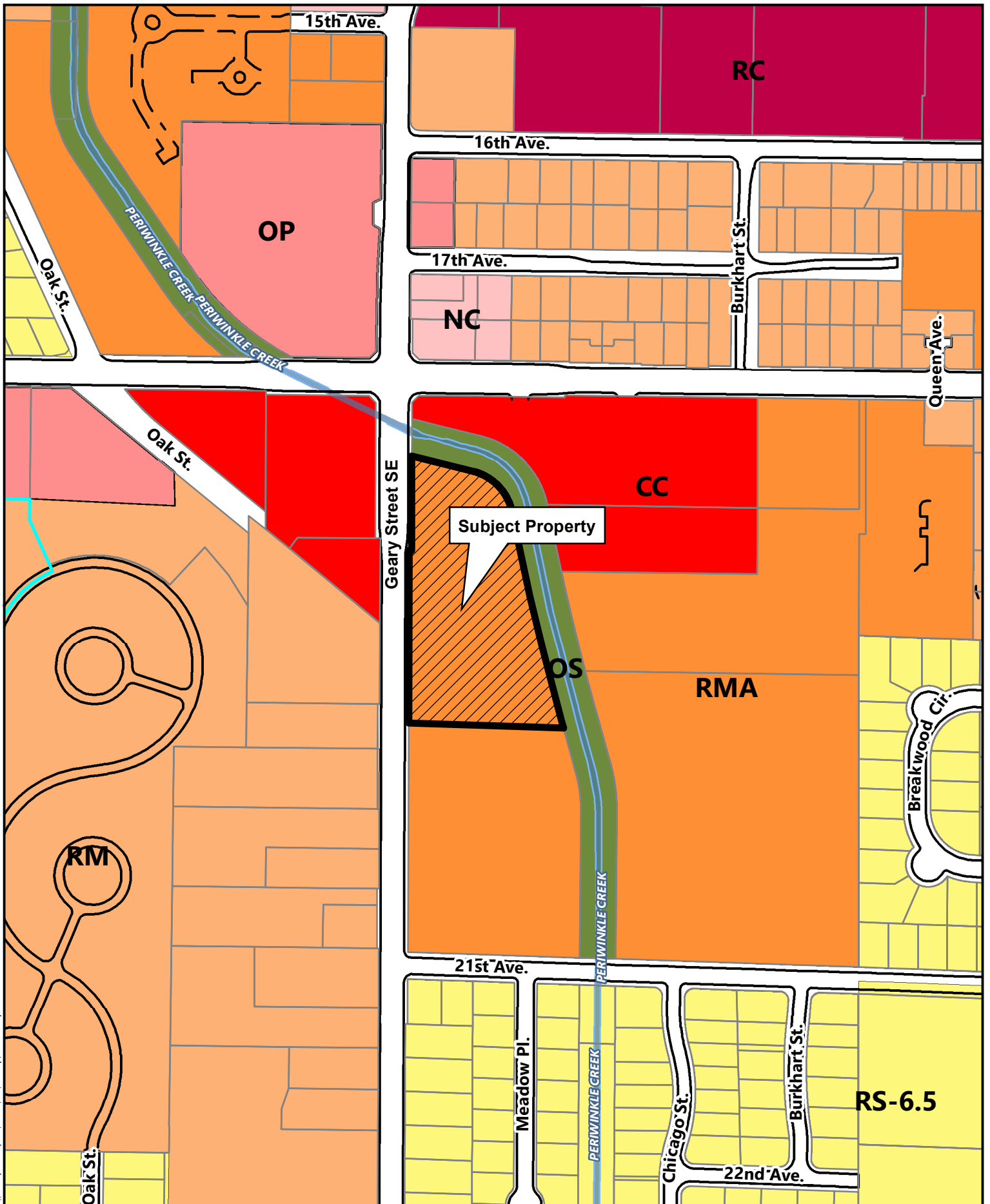
Minor Variance Review Criteria

Section 2.696 of the ADC includes the following review criteria that must be met for this application to be approved.

- (1) The Minor Variance is not requested to avoid a land use review process or increase density; AND
- (2) The need for the Minor Variance is created by the unusual configuration of the property, to protect natural features, due to the location of an existing structure on the site, or the site is an infill or redevelopment site less than one acre with development on both sides; AND
- (3) The Minor Variance is the minimum necessary to address the unusual circumstance, generally no more than 10 percent from a numeric standard, and the request is still consistent with the purpose of the zoning district and any applicable overlay districts.

Additional review standards for this Site Plan Review application are found in ADC Articles 1, 2, 3, and 6.

Attachments: Location Map, Site Plan, Mitigation Plan



\\cc.cityofalbany.net\homes\jira\Desktop\Location Map.mxd



0 50 100 200 300 Feet

Date: 1/12/2024 Map Source: City of Albany

1755 Geary Street SE

Location / Zoning Map

