

PLANNING DIRECTOR'S LAND USE DECISION

FILE NO: MISC-10-26
SUBJECT: Re-classification of properties listed below along Willamette River to adjust Habitat Conservation Area (HCA) boundary
LEGAL DESCRIPTION: Assessor's Map 2-2E-30DB Tax Lot 200
LOCATION: 5567 River Street
OWNER: Adrian & Karen Scott
APPLICANT: City of West Linn
ZONE: R-10
PLAN DESIGNATION: Low Density Residential
STAFF CHECKLIST:

R.O.W.: N/A STREET & S/W IMPROVEMENTS: N/A
UTILITY EASEMENTS: N/A SQ. FT.: N/A

Decision:

After public notice pursuant to Community Development Code (CDC) Chapter 28 and a site visit by staff, the Planning Director finds that the HCA boundary established by Metro for the area of the property shown on the attached map (Exhibit A) relates to tree overstory and not to river-related aspects of the environment. The Director finds that Metro's HCA classification should therefore not be used as a basis for forbidding development within this area of the property, per the provisions of CDC sections 28.040(AA) and 28.070.

Related Findings:

CDC Section 28.040, Exemptions/Uses Permitted Outright, includes exception (AA) which states "Lands that are designated as an HCA only due to a forested canopy shall be exempted since trees are already protected in the municipal code and Chapters 55 and 85 CDC. Development of lands that are designated as HCA due to other variables such as wetlands, flood areas and steep slopes shall still be regulated by the provisions of this chapter and not exempted."

Staff found that the rear yard area discussed above contains no flood areas, steep slopes, or wetlands. (Due to a County survey marker on the property showing the rear yard area to be above base flood elevation, the Flood Management Area overlay has been determined to not be applicable to this part of the property either, per CDC Section 27.065.) The rear yard area in question is a typical backyard with grass, located atop the bank above the riparian areas closer to the Willamette River.

Condition of Approval:

The HCA boundaries as they relate to the development restrictions of Chapter 28 shall be as shown in the attached map (Exhibit A).

<input checked="" type="checkbox"/> APPROVED	<input type="checkbox"/> APPROVED WITH CONDITIONS	<input type="checkbox"/> DENIED
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I hereby declare to have no interest in the outcome of this decision due to some past or present involvement with the applicant, the subject property, or surrounding properties, and therefore, can render an impartial decision. The provisions of Community Development Code Chapter 99 have been met.

John Sonnen *December 21, 2010*
JOHN SONNEN, PLANNING DIRECTOR DATE

Appeals of this decision must be filed with the West Linn Planning Department within 14 days of the date of mailing. Appeal cost is \$400, must include specific grounds or basis for appeal.

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MISC-10-26 Exhibit A: 5567 River Street Proposed HCA Reclassification

