



CITY OF SALEM

Written Testimony # 1

City Council

555 Liberty St SE
Salem, OR 97301

Monday, October 14, 2019

6:00 PM

Council Chambers

4.b. [19-471](#) Amending Salem Revised Code Chapter 601, Floodplain Overlay Zone

Ward(s): All Wards

Councilor(s): All Councilors

Neighborhood(s): All Neighborhoods

Result Area(s): Natural Environment Stewardship; Safe Community

Recommendation:

Engross Ordinance Bill No. 17-19 and conduct a public hearing for Engrossed Ordinance Bill No. 17-19, amending Chapter 601 (Floodplain Overlay Zone) of the Salem Revised Code, and, after the public hearing, conduct second reading to adopt the ordinance.

Attachments:

[Engrossed Ordinance Bill No. 17-19](#)

[Exhibit A to Ord. Bill No. 17-19](#)

[State of Oregon Model Flood Hazard Management Ordinance](#)

[Public Comment received by 5:00 p.m. 10-9-19](#)

Add - Written Testimony.

Amy Johnson

From: Kenneth Bierly <bierlykenneth@gmail.com>
Sent: Tuesday, October 08, 2019 7:49 PM
To: citycouncil
Cc: Glenn Davis; David Simmons; Deborah Topp; Dorald Stoltz; E. Easterly; Jim Scott; Keith Bondaug-Winn; Kenneth Bierly; Linda Bierly; Stacey Kline
Subject: Comments on Proposed Ordinance 17-19
Attachments: Signed Comment letter.pdf

Please consider the attached comments.

Thank you.



Glenn - Gibson Watershed Council

October 8, 2019

Glenn Davis
Chief Development Engineer
Public Works Department
555 Liberty ST SE RM 325
Salem, OR 97301

RE: Proposed Floodplain Overlay Zone Chapter 601 revisions (Ordinance 17-19)

Dear Mr. Davis:

Thank you for the opportunity to respond to the proposed revisions to Salem's floodplain overlay zone. We understand that the changes are relatively minor and were developed to align with the Oregon statewide model ordinance. The Glenn Gibson Creek Watershed Council has developed the following suggestions and issues for your consideration. Our focus is on the ecological significance of floodplain lands and the relationship between river levels and riverine function. Floodplains, especially the Willamette River floodplain is critical habitat for native fish species with special concern for federally Endangered Species Act listed salmon and steelhead. Smaller tributaries such as Glenn Creek, and the east side tributaries also support native fish species and provide refuge during high flows for listed species. We recognize that the ordinance is based on engineering standards as cited in section 601.020.

A small consideration is the inclusion of "tidal waters" in the definition of *Flood or flooding* at 601.005 on page 2 of the draft. Since the Willamette is the only tidally influenced river in Salem and the tide is impeded by Willamette Falls we would recommend the removal of the words "or tidal".

Similarly, the reference to ship building facilities in *Functionally dependent use* is a bit of a stretch for Salem.

Our primary concern is the difference in the broad goals identified in the Floodplain Management Plan (FMP) adopted in 2018 and the narrow focus of the implementing ordinance proposed. We do not take issue with the content of the proposed ordinance but have suggestions as to how it could assist in accomplishing some of the broader goals of the FMP, particularly "Goal 5 Preserve and rehabilitate natural systems to serve natural hazard mitigation functions and protect natural resources". The proposed ordinance focuses on the engineering requirements for compliance. It has no mechanism to identify or address the potential for conflict between engineering and natural resource objectives. At the very least there should be a mechanism to provide the public with information on the natural resources involved in floodplain development proposals.

A specific suggestion to help address this concern is to make the requirement in Section 601.040 (a)(2) be reflected in 601.040(b) by adding "(12) Copies of all issued state and federal permits showing conditions of approval." This addition would help the Public Works Director to be fully aware of the requirements for review and provide a record that can be reviewed by the public.

A suggestion for Section 601.040 (d) would be to specifically require the notification of the Department of State Lands (DSL) which is the state agency that has ownership responsibility for navigable rivers and regulatory responsibility for the filling or removal of material from waters of the state. Watercourse alteration without notification of DSL could lead to conflicting outcomes and frustration for applicants.

Section 601.045(c) Application for development permit This section defines the information required for a floodplain development permit. The information required in the draft ordinance is all for physical information necessary for an engineering evaluation. It could also be an opportunity to obtain information that could help to address Goal 5 (*Preserve and rehabilitate natural systems to serve natural hazard mitigation functions and protect natural resources*) of the adopted Floodplain Management Plan. The suggestion is to require information on the natural resources of the proposed development site. Language such as: “(8) A map of existing vegetation with a description of areas of proposed disturbance and plans to revegetate disturbed areas.” could help to provide a better understanding of the effect of the proposed floodplain development on all community resources. This proposal does not suggest an Environmental Impact analysis, it simply attempts to allow the Public Works Director and the public to better understand the potential ecological effects of the development and suggests applicants consider remediation measures as Goal 5 of the Floodplain Management Plan desires. This suggestion would provide information that would help with the requirements of Section 601.090.

A similar provision could be applied to Section **601.050 Variance procedure**.

The general standard for Provisions for flood hazard reduction (Section 601.070 (a) includes a requirement at 601.070(a)(7) of a fixed setback of 15 feet from the centerline of a stream or 10 feet from the top of a recognizable bank. This provision ignores some of the complex conditions of the streams within the City. In our neighborhood Glenn Creek has areas where wetlands abut the stream and are intertwined by braided channels (see Google image below). A 15-foot setback would allow development in a hazard area. It seems that if the purpose of this provision is to provide flood hazard reduction the setback should be from floodplain elevations not from creek centerlines. We recognize that this is a significant change from current practice, however consideration of the complexity of floodplains is not served by a set distance from a stream centerline. It might be time to consider how this provision relates to Goal 2 of the Floodplain Management Plan (*Protect existing buildings and infrastructure as well as future development from the impacts of natural hazards*).





Glenn - Gibson Watershed Council

Our final comment is on **Section 601.080 Bridges within Special Flood Hazard Areas**. The requirements should include the requirement that bridges meet Oregon Department of Fish and Wildlife and National Marine Fisheries Service requirements for fish passage. Oregon Fish Passage Rules are at OAR 635-412-0035(3). We suggest you include 601.080 "(d) Construction or repair or replacement of bridges shall meet fish passage requirements of the state of Oregon."

Thank you for the opportunity to comment. Please follow up and let the council know how the comments were addressed. If you have any questions concerning these comments, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ken Bierly". The signature is stylized with a large, looped "B" and a trailing flourish.

Ken Bierly, Chair
Glenn Gibson Creek Watershed Council

26 September 2019

Salem City Council

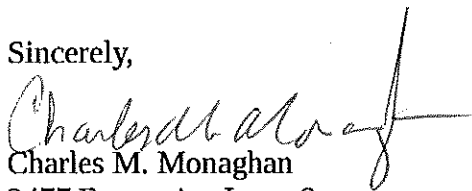
Ref: proposed revisions Ordinance 17-19

Good afternoon Council members:

Some (if not most) of the owners impacted by the proposed revisions in my neighborhood (Cottonwood Estates on River Road S) have discussed the notice of the hearing on Oct. 14th. The statement referring to negative impacts especially caught our attention. To save time during the hearing, please note the following questions/concerns that will very likely come up then or in other letters to the Council.

1. All houses in this development were purchased very recently with no indication they were in a flood zone. Apparently the developer went to extensive length & cost to ensure the ground was not in a flood zone. This was a factor in price and purchasing decisions. A review of the results of this re-zoning action in various places shows significant negative impact on properties moved into flood zones.
2. The decrease in property value has been around 20% nationwide. This is a hard hit for people who will lose equity and have other future burdens. Most of the people in this community are young families or retired.
3. As the Council is well aware, being in a flood zone requires owners to obtain flood insurance that runs +/- 1,000 per year or more. This is money most people will not have available and insurance prices can and do increase over time.
4. Another point is the increased difficulty selling "flood zone" property in the future. The number of potential buyers immediately decreases and the finance costs/hassles increase for buyers. The research indicated that selling a house in a flood zone takes much longer and is similar to selling a house by a busy highway or intersection.
5. Considering the negative consequences noted, why would those impacted support the proposed change? Who benefits from the change? Is the change beneficial to City funding?
6. If the city succeeds in making this change, what remediation steps will the city take for those impacted? Lower property taxes? Direct compensation payments? Even if compensated for losses as of 2019 values, the long term impact for owners will keep on growing over time. Will the city subsidize insurance costs? Offer low cost insurance?
7. In closing, my neighbors and myself would be very interested in finding out if our concerns are valid, or if the city has some mechanism to mitigate what looks like a very bad outcome for us. One mentioned legal action is "a taking" which may apply when a city's decisions causes financial harm to residents. This, of course, is handled by an attorney and not simple. For now we will wait and see what comes from the public hearing.

Sincerely,


Charles M. Monaghan
2477 Equestrian Loop S

RECEIVED

OCT 02 2019

SALEM LEGAL DEPT.

Amy Johnson

From: Stacey <catsread@yahoo.com>
Sent: Wednesday, October 09, 2019 6:14 AM
To: Kenneth Bierly
Cc: citycouncil; Glenn Davis; David Simmons; Deborah Topp; Donald Stoltz; E. Easterly; Jim Scott; Keith Bondaug-Winn; Linda Bierly
Subject: Re: Comments on Proposed Ordinance 17-19

Ken -
You are amazing! Looks great to me.
Stacey

> On Oct 8, 2019, at 7:48 PM, Kenneth Bierly <bierlykenneth@gmail.com> wrote:
>
> Please consider the attached comments.
>
> Thank you.
> <Signed Comment letter.pdf>