

EXHIBIT F-1 – Public Testimony and Staff Response, 09/22/15

Date	Testified Site Address (as applicable)	Summary	Staff’s Proposed Changes to Draft Ordinance 2687 for Planning Commission Deliberation	Exhibit
08-28-15	Eero Tantt 1340 Oak Terrace	Requests correction of RP and HBA on proposed map.	Remove small corner of HBA from 1340 Oak Terrace. Edit map to show stream beginning at culvert north of Oak Terrace; revise RP district accordingly	G-1
09-08-15	Roger Locke 948 Cumberland Rd	Concerned about removal of RP district from 950 Cumberland Rd as relates to erosion, silt runoff into streams of Tryon Creek Natural Area, and potential for landslides with removal of vegetation. Requests further evaluation of resources with input from neighbors.	No change proposed. Current proposal is to add RP district to previously unmapped stream tributary in the vicinity of 950 Cumberland Rd. (The existing RP delineation for this property does not account for the newly mapped tributary. If proposal is adopted, re-delineation will be required prior to development; re-delineation requires public notice.)	G-2
09-10-15	Lake Oswego School District	Concerned about increased level of protection for tree groves as related to future modification or expansion of facilities, particularly LOJH/Uplands. Requests two potential remedies: 1) Transfer of restricted tree grove area to other property under common ownership; and/or 2) Planting of new trees on-site to mitigate for removal of protected area.	The Planning Commission should consider both options from LOSD. Staff supports either option, though the on-site planting option may be more effective in replacing habitat values. If the transfer option is provided it should be limited to common ownership properties that are within the same Resource Area. For a description of tree groves by Resource Area, See Exhibit E-3 ESEE Analysis.	G-3
09-14-15	Peter Finley Fry Oswego Grill, 7 Centerpointe Dr Centerpointe Shoppe, 8-10 Centerpointe Dr	Requests RP district boundary “exactly follows the demarcation between the developed and storm water/natural area at the top of the retaining wall.”	No change proposed. RP districts do not follow property lines, nor are they drawn to conform to existing development. The RP district designation and buffer are based on standard dimensions in the code. The proposed map shows the RP district being reduced to size based on LiDAR data. Its precise location would be verified (delineated) if/when an owner proposes redevelopment.	G-4
09-12-15	Matt McCullough 663 Carrera Lane	Requests a reduction in property taxes commensurate with the percentage of the property that is subject to the overlay.	Tax policy is not within the Planning Commission’s purview. However, the Commission may want to make an informal recommendation to City Council regarding this and other non-land use measures. Note: There is currently an RP district (stream corridor) over the steeply sloping portion of the subject property, but the map omits a portion of the stream corridor and the required 30-foot buffer. The proposed map shows the RP district covering a larger portion of the property based on more accurate LiDAR data; the map correction does not increase the level of regulation.	G-5
09-12-15	Scott Bullard (re: Stream corridor/wetlands northwest of Woodmont Park)	Requests clarification on why a portion of the stream corridor is not mapped RP. This was also noted in oral testimony on 9/14/15 by Phil Zald, Forest Highlands Neighborhood Association.	Revise the map to connect the two ends of the RP district. (Although a portion of the stream corridor has been modified agricultural use, the area historically had a stream and is now known to contain wetlands. The area is presently subject to Clackamas County riparian protection standards.)	G-6
9-14-15	John (Cap) Hedges 2820 Poplar Way	Supports proposal, under “Exceptions where the RP district prohibits all reasonable development opportunities” (Ordinance 2687, Attachment D, page 37 of 85, paragraph D)	No change proposed.	G-7
9-14-15	Jerry and Joan Wells 17336 Canyon Ct (re: W 92-B)	Supports Refined Option 2, where the RP district is maintained at its source.	No change proposed.	G-8
9-14-15	Charles B. Ormsby (Skip) Birdshill CPO/NA	Objects to City using Waters of the United States (WOTUS), from pending EPA rule. Requests the City suspend work on 2015 TMDL Implementation Plan. <i>Note: Mr. Ormsby also testified orally during the 9-14-15 Planning Commission hearing.</i>	No change proposed. The Sensitive Lands amendments are not based on WOTUS and do not reference WOTUS. The proposed changes must maintain compliance with the City’s TMDL Implementation Plan and MS4 Stormwater Permit, both of which directly reference Waters of the State (Oregon Administrative Rules 340, Divisions 41 and 45, among others), not WOTUS.	G-9

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			<p>Not all Waters of the State are sensitive lands. OAR 340-041-0002 defines Waters of the State, as follows:</p> <p>(72) "Waters of the state" means lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon, and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters) that are located wholly or partially within or bordering the state or within its jurisdiction.</p>	
09-14-15	Jim Labbe Audubon Society of Portland	<p>Concerned about RC and HBA proposal being a “rollback” City’s Goal 5 program.</p> <p>Concerned about adequacy and certainty of the proposed voluntary, incentive based measures.</p>	<p>No change proposed. The September 4 Staff Report provides an analysis of the proposed plan and code changes based on Metro Code and Goal 5. The proposal does not rely on voluntary incentives to provide certainty of habitat protection. The proposed incentives provide an additional measure of protection and are part a multi-faceted approach that is specifically authorized by Title 13. (See Exhibit E-3, ESEE Analysis of Tree Groves.)</p>	G-10
09-14-15	Tryon Creek Watershed Council	<p>Concerned about adequacy and certainty of the proposed voluntary, incentive based measures; steepness and slope stability where RC/RP districts removed; removal of RC districts beyond 50-foot buffer from creeks; removal of RC along Nettle Creek (Cumberland, York, and Andrews Roads, due to landslide risk); adequacy of Hillside Protection standards in protecting native vegetation and tree canopy. Concerned about Policy 5b providing for transfer of density and floor area, due to increased stormwater runoff, erosion, etc.</p> <p>Supports use of LiDAR; supports Healthy Ecosystems Policy 4 calling for increased regulatory protection on public and private open spaces.</p> <p>Requests additional protection of Willamette River shoreline, and incentives to promote habitat restoration there.</p> <p>(Note: Corinna Chase provided oral testimony on 09-14-15.)</p>	<p>No change proposed. The September 4 Staff Report provides an analysis of the proposed plan and code changes relative to hillside protections, Willamette River Greenway, and other existing code standards that address slope stability, erosion control, drainage, and tree protection. The proposal does not rely on voluntary incentives to protect against natural hazards or to provide certainty of habitat protection.</p>	G-11
09-14-15	Lake Oswego Stewards PAC	<p>Supports increased level of protection on public lands excluding school property.</p> <p>Concerned that proposal does not sufficiently reduce regulation of private residential property and does not meet stated goals.</p> <p>Questions validity of hearing due to Measure 56 notice not being mailed to all Sensitive Lands property owners, existing and proposed.</p> <p>Concerned that proposal “increases buffers” and “adds more property” to the program.</p> <p>Concerned that HBA program “likely to become regulatory.”</p> <p>Concerned that Sensitive Lands is “an arbitrary and inequitable /’Trade’ Program” that is intended to deal with developing in the Foothills floodplain.”</p>	<p>No change proposed. The current proposal is consistent with City Council direction to remove regulations from private property while maintaining compliance with State and Metro requirements. More properties are having regulations removed than added.</p> <p>Excluding sensitive lands on school properties would be inconsistent with the City Council direction to hold public lands to the highest standard and to regulate open space lands equally, regardless of ownership.</p> <p>The proposed map and code amendments do not restrict property use beyond that which would be required under the present code if all designated RP districts were accurately mapped. The updated mapping more accurately reflects the geographic extent of existing RP districts (e.g., stream corridors and wetlands with required buffers), and the proposed code adds flexibility for properties that are fully or nearly fully encumbered by the RP overlay.</p> <p>The City mailed notice of the legislative hearing to all present owners of Sensitive Lands property. The City also mailed a Measure 56 notice to owners of land whose property would be</p>	G-12

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		<p>Concerned that TMDL Implementation Plan establishes a ... foundation /promise to DEQ for the [Sensitive Lands] program, other city codes/programs (such as tree code) and future city regulation.”</p> <p>Concerned that the City is basing its environmental regulations/programs on the WOTUS rule.</p> <p>Concerned that 50-foot buffers on primary and secondary water features are not supported by science, and that Metro Title 3 allows smaller buffers.</p>	<p>newly designated under the ordinance due to the updated and more accurate LiDAR mapping. The City did so even where LODS 3 and 4 (transition rule) standards currently apply.</p> <p>Measure 56 (ORS 227.186) requires specific notice be given where a proposed change in zoning may limit the use of a property. The notice must contain the following text: <i>The City of Lake Oswego has determined that adoption of these ordinances may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.</i></p> <p>The intent of the statute is to put property owners on alert where a proposed zone change may adversely affect property values. The City does not determine that a particular ordinance will reduce the value of a property. Any change to permitted land uses <u>may</u> reduce or increase property value, depending upon various factors.</p> <p>Some properties are shown as having more or less RP district coverage depending on whether the current map accurately reflects the location of the stream/wetland and its buffer. Some current RP designations omit the mandatory buffers, and in some areas where buffers are shown they are based on a stream’s centerline, not the top of bank as prescribed by code. The proposed map rectifies this based on current LiDAR data.</p> <p>Where the RC district is proposed to be replaced with the HBA (incentives) designation, the property remains “in the program” but is no longer subject to mandatory regulations. This is consistent with the City Council’s intent to reduce regulation on private property to the extent possible. There is no plan to make the HBA incentives mandatory. There is no agenda to adopt more stringent codes in the future. This could not occur in any event without City Council approval. More properties are having regulations removed than added.</p> <p>The proposed ordinance is not based on WOTUS, and it is not a trading program. Any future development of the Foothills District will have to comply with the City’s Flood Management Area requirements (LOC 50.05.011), as well as the requirements of the Willamette River Greenway Management Overlay District and other code standards.</p> <p>The proposal to maintain 50-foot riparian buffers where RC is removed is based on input from Metro. It is intended to maintain substantial compliance with Metro Title 3 and State Goals 5 and 6, and to avoid falling out of compliance with the City’s existing TMDL Implementation Plan and storm water permit requirements. It is not a trading program.</p> <p>Both the existing RP district standards and the proposed amendments allow for reductions to RP district buffers (down to 15 feet) where buffer width averaging is used to provide comparable resource protection. This is too consistent with Metro Title 3.</p>	
09-14-15	Chris Robinson	Question about notice to owners of property impacted by new designations.	The City mailed notice of the legislative hearing to all present owners of sensitive lands property. The City also mailed a Measure 56 notice to owners of land whose property would be newly designated under the ordinance due to the updated and more accurate LiDAR mapping. The City did so even where the map correction would not limit the use of property beyond current LODS 3 and 4 (transition rule) standards.	G-13

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09-14-15	Phil Zald Forest Highlands NA	Requests clarification on why a portion of the stream corridor is not mapped RP. This was also noted in written testimony from Scott Bullard 09-12-15.	Revise the map to connect the two ends of the RP district. (Although a portion of the stream corridor has been tiled for agricultural use the area is known to contain wetlands.) The area is presently subject to Clackamas County riparian protection standards. Prior to annexation into the City, the RP district will need to be delineated.	Oral Testimony See also, G-6
09-14-15	Louis Lauman 15537 Village Park Ct	Requests that Sensitive Lands overlays not be shown for planned developments approved prior to 1997 that meet exemption criteria. Requests exemption appear in title reports.	Develop administrative procedure for identifying in the City's GIS system those planned developments that presently meet the exemption criteria in LOC 50.05.010.2.b. Include this information in the GIS property report.	Oral Testimony
09-14-15	William Holmner 1000 Forest Meadows	Question about delineation process. Does City provide assistance to properties in unincorporated areas?	No change proposed. City does not charge application fee presently for sensitive lands related reviews. Property owners are responsible for having the resource area delineated prior to development.	Oral Testimony
09-14-15	Jim Wich 1817 Cedar Ct	Concerned about storm water runoff (volume/discharge), and that streams are regulated improperly where they are functioning as more like storm drains than streams.	No change proposed. Current City standards require storm water detention/retention and water quality treatment. Definition of stream is from State, and requirements to protect streams are from Metro and the State. The area that Mr. Wich discussed, the "pipe-shed", is nearly 50 acres in size and is steep. The entire pipe-shed was developed in the late 1960s/early 1970s before there was any real consideration of managing stormwater other than to get it off the developed area, hence the issues that Mr. Wich reported. There are no road re-builds or other surface water projects in the CIP to address this issue. The options are limited: parcel-by-parcel stormwater rain garden retrofit project, project to reduce paving/impervious surfaces (which would need to reach most of the >100 parcels in the pipe-shed), regional detention facility (vault) under the pavement on Lakeridge Drive, instream stabilization project, etc.	Oral Testimony
09-14-15	David Becket	Commented on HBA program, noting likelihood of participation. Commented on strong participation in Backyard Habitat Program.	No change proposed. See Ordinance 2687, Attachment B, page 5 of 35, for discussion of Backyard Habitat Program in Lake Oswego.	Oral Testimony
09-15-15	Tim Dugan 872 Country Commons	Requests map revision to remove HBA from area where no significant tree exists.	No change proposed. HBA is to replace RC district within Metro Title 13 riparian area. In this area, the HBA designation provides an incentive for planting trees adjacent to the RP district.	G-14
09-15-15	Joe Barra 634 Carrera Ln	Requests information on proposed limitations.	Change proposed to RP boundary for subject property and adjacent lots, based on closer review of topography. (Note: This is a designation only, not a delineation. RP district has not been delineated.)	G-15