



September 14, 2015

Chair Arthur and Lake Oswego Planning Commission
C/O Scot Siegel, Director, Planning and Building Services
City of Lake Oswego Planning & Building Services Department
380 A Avenue
P.O. Box 369
Lake Oswego, OR 97034

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Chair Arthur and Planning Commission,

Audubon Society of Portland has been an active participant in the development and implementation of Title 3 and 13 of the Regional Functional Plan. For over 30 years, we have also helped develop and implement local Goal 5 programs in the Portland-Metro region, including Lake Oswego's Sensitive Lands Program. Most recently we and our members participated in the deliberations of the Second Look Task Force, Planning Commission, and the City Council which led to revisions to the Sensitive Lands Program in 2012 and City of Lake Oswego's substantial compliance with Title 13 in 2013.

We are writing to raise a serious concern with the Natural Resources Program and Sensitive Lands revisions proposed in Ordinance 2687. The revisions, propose to remove regulatory protections provided by the Resource Conservation District on as much as 125 acres on some 365. Such a significant repeal of the Resource Conservation District and rollback of the City's acknowledged Goal 5 program is in violation of Metro Code Section 3.07.1330 (A) (2) of the Title 13 Regional Functional Plan which clearly states:

A city or county that, prior to December 28, 2005, adopted any comprehensive plan amendments or land use regulations that (a) apply to areas identified as upland wildlife habitat on the Inventory Map but not identified as riparian habitat on the Inventory Map, (b) limit development in order to protect fish or wildlife habitat, and (c) were adopted in compliance with division 23 of OAR chapter 660, shall not repeal such amendments or regulations, nor shall it amend such provisions in a manner that would allow any more than a *de minimis* increase in the amount of development that could occur in areas identified as upland wildlife habitat;

The repeal of the RC district on 125 acres of private land that could be developed presently or with future changes to the zoning code would allow substantially more than a *de minimis* increase in the amount of development in areas the City of Lake Oswego has identified as wildlife habitat under an acknowledged Goal 5 program already submitted and approved by Metro to be in substantial compliance with Title 13.

We are concerned about the adequacy and certainty of the proposed voluntary, incentive based "Habitat Benefit Areas" and other proposed non-regulatory measures as a substitute for regulatory safeguards. Audubon

Society of Portland has played a key role in developing voluntary and non-regulatory tools for habitat protection in this region. These tools include the Backyard Certification Program we developed with Columbia Land Trust. It also includes advocating for funding for environmental restoration and willing seller acquisitions programs. These are important tools for habitat conservation we support but they are not a substitute for environmental regulations and especially the minimum regulatory safeguards necessary to ensure the ecological integrity of local ecosystems across the landscape and over-time. The Backyard Habitat Certification Program was never intended to be a substitute for complying with the Title 13 regulations. While a beneficial and useful complement to regulatory tools, the very fact that it certifies the yards of only current and willing owners, it does not provide certainty of habitat protection and enhancement over time and across the landscape that is substantially comparable that provided by the Title 13 Model Ordinance or existing regulatory tools.

The intent of Title 13 is “to conserve, protect, and restore a continuous ecologically viable streamside corridor system from the streams’ headwaters to their confluence with other streams and rivers, and with their floodplains in a manner that is integrated with upland wildlife habitat and with the surrounding urban landscape” (Metro Code 3.07.1310). The approach Ordinance 2687 to specifically remove regulations from specific private land is counter to this intent. Metro did not inventory Goal 5 resource sites, assess their significance, and determine whether particular resource sites (and much less individual properties) would be regulated or not based on private ownership.

For these reasons at least, we find the Natural Resources Program and Sensitive Lands revisions proposed in Ordinance 2687 to be in violation of Metro Code and thus State Law.

Sincerely,



Jim Labbe
Urban Conservationist
Audubon Society of Portland
6550 SE 122nd Ave
Portland, OR 97236
jlabbe@urbanfauna.org