



November 4, 2014

Dear Chair Baugh and Members of the Planning and Sustainability Commission,

Please accept the following comments from the Audubon Society of Portland regarding the Comprehensive Plan Update. These comments supplement our prior comments submitted on 9-23-14.

Process Issues:

- 1) **Please Consider Adding Additional Hearings:** We would urge the PSC to add additional hearings to allow for additional general comments on the Comprehensive Plan. The development of the Comprehensive Plan has been years in the making. The two volume document and supplemental materials are very dense and complex and the drafts have changed tremendously since the prior review drafts to the point where some sections are virtually unrecognizable. In addition it is important to also have time to cross reference the plan with the equally complicated Portland Plan We are hearing from numerous organizations that have only recently become aware of the draft plan and are still formulating positions. Under ordinary circumstances a three month review and hearing period would be reasonable, but for a document of this significance and complexity, three months seems truncated, especially when compared with more deliberate pace of prior portions of this process.
- 2) **The Economic Opportunities Analysis (EOA) should have been released for comment prior to the release of the draft Comprehensive Plan:** The EOA provides the basis for some of the most difficult and controversial decisions included in the comprehensive plan. It provides an analysis of economic trends, supply and demand of buildable lands and policy alternatives. By releasing the draft Comp Plan prior to the EOA, the City has functionally denied the public the opportunity to evaluate or understand the basis for many of the policies included in the Comp Plan or to explore other strategies for meeting Goal 9 not included in the draft Comp Plan. It is important to note that all other background reports were released for public review and adoption far in advance of the draft Comprehensive Plan. The EOA should serve as a starting point for policy discussion development, not a post hoc rationalization.

Substantive Issues:

1) The City Should Seek a Goal 9 Exception

The focus of the Goal 9 discussion to date has been West Hayden Island. However, West Hayden Island is only one example among many of how the City's efforts to remedy the 670 acre industrial land deficit are undermining its ability to protect natural areas, openspace and natural resources in the City. The July 2014 draft Comprehensive Plan includes not only the conversion of 300 acres of wildlife habitat on West Hayden Island, but also includes the conversion of significant portions of two golf courses along the Columbia Slough and strict limitations on regulations to protect natural resources on industrial sites along the Willamette and Columbia Rivers and Columbia Slough. In addition, the Industrial Development Chapter includes numerous policies which mandate that the City continue to find new industrial lands above and beyond the existing deficit if 5 and 20 year growth forecasts indicate an increased demand. In recent years the PSC has approved and forwarded several natural resource plans to council including North Reach River Plan, Portland Tree Code Update, and Airport Futures, only to have elements of the plans that applied to industrial lands abandoned due to Goal 9 conflicts. All of the above is indicative of the fact that Portland has run out of capacity to meet goal 9 mandates unless it is willing to compromise the health of our environment. Our rivers are already seriously degraded and the policies contained in this plan ensure that they will continue to degrade over the life of this plan.

The City of Portland has reached a major decision point that will define whether it retains its reputation as a "green" city in the coming decades.

First, it is critical to understand that the land use system does allow the city to inform the state that it has run out of land and is unable to meet industrial land targets. State land use planning goals do not require the city to sacrifice our environment or our neighborhoods in order to meet industrial land goals. In fact Goal 9 explicitly states that industrial land objectives "should consider as a major determinant, the carrying capacity of the air, land and water resources of the planning area." Instead, Portland should inform the state that it will meet job targets through strategies other than creation of new industrial lands.

Second, the City has over 900 acres of brownfields---contaminated industrial sites that have either limited or no productive use. In short there are more than enough brownfield sites to meet the industrial land deficit. The problem has been that owners of these sites have been reticent to invest the capital to clean them up and put them back into productive use. It is absolutely critical that the city to develop an aggressive strategy to hold polluters accountable for these sites through a combination of enforcement actions and incentives.

Finally, to the degree an industrial land crisis exists at all, it is a self-inflicted crisis. Although city forecasts predict a surplus of commercial and residential property, the city and industrial stakeholders have spent the last 15 years rapidly converting industrial lands to residential and commercial uses. Today the city brags about the transformation of the Pearl District and South Waterfront from "industrial wasteland" to high end development. The Port of Portland, one of the loudest advocates for more industrial land, sold its property at Terminal One to make way for low rise condos and it converted industrial land next to Portland International Airport for a big box shopping center. Whether intentional or not, the strategy pursued by both industrial interests and the city over the past 15 years has been one of allowing industrial land owners to cash out by

upzoning their industrial land to more profitable use and then backfilling the industrial land deficit through conversion of greenspace.

It is time for a new strategy, one that does not necessitate destruction of our natural resources, open spaces and undermine the health and livability of neighborhoods. We urge the City to take the following approach to addressing the industrial lands deficit:

- The City should inform the state that it has run out of adequate undeveloped land to meet industrial land forecasts and therefore will develop other strategies to meet jobs supply objectives. This does not mean that the city will never add new industrial land to the inventory, but it does mean that the city will not be held hostage to an artificial target that would necessitate destruction of natural areas, openspace and neighborhoods.
- The City should develop an aggressive strategy to force industrial polluters to clean-up brownfields. This should include a combination of enforcement actions as well as non-subsidy based incentives. The City should set a target of 80% clean-up of Portland's brownfields over the next 20 years. **(The current draft lowers the goal from 80% to 60%)**
- The City should put in place regulatory and non-regulatory programs to increase use intensification on the existing industrial land base, something that is already occurring in cities in Europe and Asia with limited land supply. Far too much of Portland's existing industrial land base is used inefficiently. We need a real consolidation and intensification strategy for industrial lands in Portland. **(The draft does this but is not clear about what portion of the deficit it hopes to meet with this strategy)**
- The City should put in place strong protections to prevent the upzoning of existing industrial lands except in extraordinary cases. **(The Draft does effectively incorporate this policy)**
- The City should ensure that whenever land is rezoned for industrial development that strong mechanisms are in place to ensure the significant numbers of jobs are actually delivered. Public investments in public infrastructure should be tied to job creation targets. **(The Draft does not address this issue)**
- The City should avoid policies in the Comprehensive Plan which limit the City's ability to protect natural resources on industrial lands through both regulatory and non-regulatory mechanisms. It is critical that the city retain the ability to protect natural resource values which often overlap with prime industrial land, especially along our urban waterways. **(The Draft does the opposite)**
- The City should reject proposals to rezone 300-acres on West Hayden Island for industrial development. This irreplaceable resource should be permanently protected as openspace. **(The Draft does the opposite)**
- The City should reject proposals to rezone Columbia Corridor golf courses for industrial use. If it does move forward, it should simultaneously put in place zoning and other mechanisms to implement a landscape scale Columbia Slough Restoration Strategy including expanded P-Zones along the entire Slough within Portland, implementation of the new tree code on industrial lands, and permanent protection and restoration strategies on golf course areas that will be retained as openspace. **(The draft proposes to rezone the golf courses without committing to any of the other objectives)**
- The City and State should take a hard look at strategies to promote real collaboration and cooperation and potentially unification of the Columbia River Ports in order to maximize efficient use

of land, promote a sustainable regional Port economy and stabilize our Port system which is on the brink of system failure. This is something which has been in the Port of Portland's Marine Terminal Masterplan since 1991 but which has never been seriously pursued. (The draft does not address this issue)

2) Environment and Watershed Health (chapter 7)

In general the language in the Environment and Watershed Health Chapter has become significantly less detailed, weaker, and more difficult to track and understand than the January 2013 draft. Many reasonable and important policies have simply been eliminated without explanation. This stands in stark contrast to the Industrial Development Chapter (discussed below) which has been expanded, strengthened and been infused with far more detail since the January 2013 draft. We will provide additional specific details to staff and the PSC in the coming weeks, but for now we would like to highlight the following issues as a sample of our concerns:

- a) **Goals:** The goals of this chapter have been entirely rewritten since the 2013 draft. While we agree with the new goals we would note that two very significant goals have been removed from this chapter since the 2013 draft: 1) Sustain the quality of Portland's environment by preserving natural resources and focusing development in already built areas" and 2) "consider cumulative effects of decisions on the environment." Both of these goals should be restored. In addition Goal 7.B should be strengthened from "watershed conditions have improved over time" to "Healthy watershed conditions are achieved." In addition the goals should explicitly reference protecting and restoring biodiversity.
- b) **The action verbs throughout the section have been substantially weakened from the 2013 draft and in many instances now indicate the goal is simply to maintain the status quo rather than enhance and restore ecosystem health:** The 2013 draft clearly and explicitly stated that the goal was to "protect, enhance and restore" Watershed quality and function (4.1) groundwater systems (4.2), vegetation (4.3), Fish and Wildlife Habitat (4.4), At-risk habitats (4.5), biodiversity (4.6) and prevent and minimize the effects of invasive species. These policies have been replaced with a new section "Improving environmental quality and preventing degradation" which is far weaker placing an emphasis on preventing degradation, "considering impacts" "improving" "addressing" "encourage" and inserting qualifiers such as "where practicable." We would urge the city to restore the "protect, enhance and restore" verbiage and make it explicitly clear that the goal is not just improvement but achieving ecological health in each of the target areas.
- c) **The draft inserts the following new language at the start of many policies: "ensure that plans and investments are consistent with and advance programs...."** This is nothing more than bureaucratic gobbledygook that confuses the reader. No other section has this type of obscuring language and it should be removed.
- d) **Cumulative Effects:** Goals and policies requiring the city to consider cumulative effects of decisions on the environment found in the 1-2013 draft have been removed entirely from the current draft. These should be restored.
- e) **Mitigation:** The requirement to "fully mitigate" impacts on natural resources (policy 4.12) in the 1-2013 draft has been weakened to simply require "mitigation: (policy 7.11) The city should restore the requirement to "fully" mitigate for unavoidable impacts to natural resources and that it should also

add language requiring that mitigation result in "net increase in ecological function." The goal should be improvement in ecological health over time.

- f) **Carrying Capacity:** Policy 4.11 b from the 2013 draft, "Strive to maintain and sustain the carrying capacity of air land and water resources by enhancing natural resource quality and function" has been removed in the current draft. It should be restored. Notably Goal 9 has very similar language about economic development being done such that it does not exceed the carrying capacity of the land, air and water.
- g) **Goals and Policies encouraging the efficient use of already developed land before encroaching on natural resources found in the 2013 draft have been completely removed.** The current draft appears to have completely abandoned the commitments of the 2013 draft to focus on already developed land before destroying natural resource land. In fact the 2014 draft appears go entirely the opposite direction by including several policies on the Economic Development Chapter which promote encroachment onto non industrial lands. The priority on already developed lands should be restored.
- h) **Johnson Creek:** Policy 42.2 in the 1-2-13 draft "to protect and enhance connectivity of natural resources in the East Buttes that provide habitat and natural stormwater management..." has been removed. It should be restored. This is a critical part of the JC Watershed Strategy.
- i) **Policy 7.3** should mention recovering threatened, endangered sensitive species; it only a reference to "including at-risk" species. More could be in here to continue support for the species recovery planning the City committed to over a decade ago.
- j) **Policy 7.9 Impact Evaluation** could be stronger: Analyze the potential direct and cumulative impacts of proposed development on significant natural resources, their functions, and the ecosystem services they provide.
- k) **Policy 7.10 Add:** "Adopt regulations, plans and programs that address cumulative environmental impacts of development on environmental quality."
- l) **Policy 7.11** - "Require" instead of encourage "mitigation approaches..."
- m) **Policy 7.12** – This policy should be changed. Local policies do not have to be consistent with State and Federal Policies. While we agree that the City should coordinate with state and federal regulators, the city should also be free to develop its own policies and priorities.
- n) **Policy 7.14 and 7.16:** We would suggest "with an emphasis on underserved and underrepresented communities most vulnerable to health impacts." The reason to prioritize these communities is because they lag behind in many human health indicators so this policy should be more specific in this respect.
- o) **Policy 7.24.** "Limit and remove impervious surfaces to reduce impacts on hydrological function air and water quality, habitat connectivity, and tree canopy.
- p) **Policy 7.22** - "Require and encourage low impact development, habitat-friendly development, bird-friendly design, and green infrastructure into all new and existing development including but not limited to City-owned, managed, and funded facilities.
- q) **Policy 7.23** - Access to Nature. This policy is focused on access to nature in the macro-landscape and in balancing access and conservation in protected natural areas. In reference to the environmental equity goal, it should also address equitable neighborhood access to nature where people access "nature in their daily lives" there by promoting the interstitial green; we need anyway for biodiversity and air and water quality. I would add the following bullets:

- i) Prioritize park investments to toward the goal of ensuring 100% Portlanders are within 1/4 mile of a public park or natural area.
- ii) Prioritize green infrastructure investments in neighborhoods with poor access to parks, nature and with limited tree canopy.
- iii) Consider increasing housing densities near to active recreation parks to increase the percentage of Portlanders living within ¼ of a mile of a park.
- r) **Policy 7.32** - Re-write this policy to be both more explicit and broader: "Integrate stormwater management and planning: Develop programs, regulations, and design standards to more fully integrate stormwater management and transportation planning and infrastructure in order to improve water quality, safety, access to nature and overall neighborhood livability. Prioritize improvements for unimproved or substandard rights-of-way, accident-prone locations, and neighborhoods with less access to nature or active transportation."

3) Economic Development (Chapter 6)

In contrast to the weakening of the Watershed Chapter, the Economic Development Chapter appears to have been put on steroids relative to the 2013 draft, especially with regards to industrial lands. For example the Industrial Districts Section has ballooned from half a page to three pages. More importantly, the draft includes numerous new and modified policies that undermine the ability of the city to protect natural resources on industrial sites, which require that the city find new industrial lands regardless of impact on other city goals, and which weaken the city's commitment to focusing development in already built areas before impacting natural resource areas. Again, in contrast with the severe streamlining of the policies in the Watershed Chapter, the policies in the industrial lands section are often repeated several times over. We believe that the Land Development and Industrial Employment District Sections will significantly reduce the city's ability protect and restore natural resources along the Willamette and Columbia River and Columbia Slough below what is possible under the existing Comprehensive Plan. It appears that the City has simply acquiesced to industrial interests who have long advocated for minimal environmental protection on industrial lands. If the city adopts these sections as written, it will ensure that our already degraded waterways will continue to degrade in the coming decades.

There is absolutely no evidence that environmental regulations cost industrial jobs, especially given the non-existent link between industrial land supply and recent industrial job growth in Portland. The City's most recent "Economic Opportunities Analysis" documents the widely recognized trend that "Industrial employment has been dropping at the same time the city is experiencing increases in industrial land development." The study provided no analysis to indicate environment regulations hurt job growth, only a comment in focus group. The argument that environmental regulations hurt job growth or even significantly impact land supply comes directly from industry lobbyists not from any credible evidence or analysis." Meanwhile there continues to be evidence and analysis that environmental quality- especially in our region- attracts a skilled and educated workforce and increases work productivity.

The following are a sample of out specific concerns:

- a. **Brownfield Redevelopment:** The City has reduced the brownfield redevelopment target from the 80% goal which was discussed throughout the PEG process and which was include in the 2013

draft to 60%. This will increase pressure to develop greenfield sites and decrease pressure to clean-up contaminated sites. The City should restore the more ambitious 80% target.

- b. **Policies that require the City to maintain a supply of industrial land without any consideration of how this might impact other city goals:** The Land Development and Industrial and Employment Sections are now replete with redundant policies that require the city to find an ongoing supply or new industrial land regardless of conflicts with other city goals. This includes policies 6.12, 6.15, 6.18, 6.36.d, 6.47. It is important to note that the action verb used in these sections (“provide”) is not discretionary. Given the fact that the city is already converting openspace and natural areas to find new industrial land, these policies can only result in additional losses for the environment.
- c. **Policies which appear to restrict the City’s ability to require natural resource protection or restoration on industrial lands:** Several policies appear to limit or prohibit the city from instituting new protections for natural resources on industrial lands. These include 6.35, 6.36.b, and 6.37. The draft ignores the fact that our industrial lands often overlap with some of our most high value natural resource areas. These policies should be rewritten to ensure that it is clear that the city can implement and update environmental policies on industrial lands.
- d. **Emphasis on incentives to achieve industrial land objectives:** Throughout the industrial land sections, many of the policies now explicitly rely upon an incentive based strategy. While incentives are fine, they are not the only way to achieve city objectives. Policies should clearly allow for a range of mechanisms including regulation to achieve its objectives.
- e. **Policy 6.17 Regulatory Climate:** This policy appears to severely limit the city’s ability to put new regulations on industrial lands by requiring that the city prioritize economic development over all other goals (6.17), requiring that the city’s regulations be competitive with other cities (a “middle of the pack” mentality rather than maintaining Portland as an environmental leader) (6.17a), and potentially eliminating city jurisdiction over areas where the state or federal government have regulatory programs (6.17e) even though the City has long recognized the importance of local regulatory authority over our urban natural resources.
- f. **Policy 6.36 Prime Industrial Land Retention:** This policy appears to prevent the city from updating environmental or community protections on industrial lands if those protections in anyway diminish the capacity of those industrial lands. Policy 6.36b explicitly limits conversion of industrial lands through land use plans, regulations, or non-industrial uses. This policy appears to completely ignore the need to also protect health of the community and the environment. Policy 6.36c requires the city to minimize the impacts of regulations on industrial lands without consideration of any other goals. Policy 6.36d requires the city to strive to offset any loss of industrial land with replacement lands---given the existing deficit, this policy could effectively prevent any new regulations on along the river that protect natural resources. Taken together, these policies appear to us to make it practically impossible to establish new natural programs on these lands and negate the responsibility of industrial landowners to protect and restore the natural environment.

Taken together, these policies appear to move us into an era in which other public values such as protection of natural resources, protection of human health, Goal 15 objectives, etc. appear to have been abandoned on industrial lands. This is inconsistent with our land use planning system, community values, the city’s past

planning practices, and Policy 10.2b in the draft comp plan. It places the interests of industrial developers above all other city goals.

4) Green Infrastructure needs to be more robust in the urban design, housing and transportation chapters:

In order to achieve the city's watershed health objectives, it is critical that all elements of the plan explicitly adopt green infrastructure policies. We would urge the city to make the design with nature/ green infrastructure policies in the housing, transportation and urban design sections much more robust and explicit. For example in the transportation chapter, the design with nature policy (9.16) simply states that the city should "promote street alignments and designs that respond to topography and natural features and, when feasible" protect, streams, habitat and native trees." This says virtually nothing other than avoid harming natural resources when possible. Each of these sections should contain strong proactive policies requiring the city to actively incorporate green infrastructure into their projects. The City's Watershed Management Plan calls for the city to consider green infrastructure opportunities on all public projects and this should be written large throughout the Comp Plan.

5) We support the proposal to reduce residential density in specific areas with natural hazards and drainage constraints, and where the current Comp Plan and zoning designations would allow significant additional residential development.

The intent of the proposed "down-designations" is to reduce future risks to public health and safety by reducing future development potential and associated cumulative impacts in these areas. This part of the Comp Plan proposal is notable, and represents the integral "flip-side" of the proposal focus most of the new development in urban centers and along corridors. These proposed down-designation areas are generally characterized by steep slopes with poorly draining soils, and limited stormwater pipes so runoff from new development, roads, etc. must be routed to local streams. These areas have a mix of landslide, wildfire, and earthquake hazards, and can be difficult to access or evacuate during emergencies. We view this as a common sense proposal to protect natural resources and public safety.

Thank you for your consideration of these comments.



Bob Sallinger
Conservation Director
Audubon Society of Portland