



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

June 30, 2008

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Lake Oswego Plan Amendment
DLCD File Number 004-07



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: July 14, 2008

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Meg Fernekees, DLCD Regional Representative
Denny Egner, City of Lake Oswego

<paa> ya

DEPT OF

JUN 24 2008

LAND CONSERVATION AND DEVELOPMENT

NOTICE OF ADOPTION
Must be filed within 5 Working Days
See OAR 660-18-040

Jurisdiction City of Lake Oswego Local File No. LU 07-0088 (Ord. 2499)
Date Mailed 06/23/08 Date of Approval 06/17/08
Date Proposal was Provided to DLCD 10/23/07

Type of Adopted Action (Check all that apply)

Comprehensive Land Use New Land Use
Plan Amendment [checked] Regulation Amendment Regulation

Please complete (A) for text amendments and (B) for map amendments

A. Summary of Adopted Action (A brief description is adequate. Please avoid highly technical terms and zone code abbreviations. Please do not write "see attached"):

The City Council approved a proposal for a legislative amendment to Article 50.17 (Planned Development Overlay) and Article 50.46 (Park and Open Space) establishing standards for the use of the Planned Development Process on parcels of 75,000 square feet or less and amending Open Space Standards.

Describe how the Adopted Amendment Differs from the Proposal (If it is the same, write "Same". If it was not proposed, write "N/A".):

Same

B. If the Action Amends the Plan or Zone Map, Provide the Following Information for Each Area Which was Changed (Provide a separate sheet for each area. Multiple sheets can be submitted as a single adoption action. Please include street address whenever possible. Do not use tax lot number alone.):

Previous Plan Designation: N/A New Plan Designation: N/A
Previous Zone: N/A New Zone: N/A

Location: citywide

Acreage involved:

Does this change include a Goal exception? Yes [checked] No

For Residential Changes, Please Indicate the Change in Allowed Density in Units Per Net Acre

Previous Density N/A New Density N/A

DLCD #004-07(16492)

If Notice of Proposal was not sent to DLCD 45 Days Prior to the Final Hearing Please Indicate Why:

_____ **Statewide Planning Goals are Inapplicable**
_____ **Emergency Circumstances Required Expedited Review**

List Statewide Goals Which May Apply:

Goal 2: Land Use Planning

List any State or Federal Agencies, Local Government or Local Special Service Districts Which May be Interested in or Impacted by the Adoption:

N/A

Direct Questions and Comments to:

Denny Egner, Assistant Planning Director
City of Lake Oswego
P. O. Box 369
Lake Oswego, OR 97034
(Phone) 503-697-6576

Send To: Department of Land Conservation and Development
635 Capitol St. NE, Suite 150
Salem, OR 97301-2540

Attach one (1) copy of the Adopted Action to this form and/or three (3) copies of Bound Materials and Maps larger than 8-1/2 by 11 inches.

Note: If more copies of this form are needed, please contact the DLCD office at 503-373-0050, or this form may be duplicated on green paper. Failure to provide notice of an adopted plan or land use regulation amendment results in an extension of the appeal period. Appeals may be filed within 21 days of the date the proposal is mailed to DLCD. Statutes require mailing within 5 days of the action becoming final (See OAR 660-18-040).

*****FOR DLCD OFFICE USE*****

DLCD File Number _____

Effective July 17, 2008

ORDINANCE No. 2499

AN ORDINANCE OF THE LAKE OSWEGO CITY COUNCIL AMENDING LOC ARTICLE 50.17 (PLANNED DEVELOPMENT OVERLAY) AND ARTICLE 50.46 (PARK AND OPEN SPACE), TO ESTABLISH STANDARDS FOR THE USE OF THE PLANNED DEVELOPMENT PROCESS ON PARCELS OF 75,000 SQUARE FEET OR LESS, AND ADOPTING FINDINGS (LU-07-0088-1674)

WHEREAS, a notice of public hearing for the consideration of this Ordinance was duly given in the manner required by law; and,

WHEREAS, public hearings were held before the Planning Commission on December 10, 2007, January 28, 2008 and February 25, 2008, and before the Lake Oswego City Council on May 20, 2008 to consider a proposal to amend Articles 50.17 (Planned Development Overlay) and 50.46 (Park and Open Space) of the Community Development Code; and,

WHEREAS, the primary purpose of the following amendments to Articles 50.17 and 50.46 of the Code is to assure that planned development projects on small parcels in low density residential zones maximize lot size rather than create small scattered tracts of insignificant open space land.

The City of Lake Oswego ordains as follows:

Section 1. The City Council hereby adopts the Findings and Conclusions (LU 07-0088-1674) attached as Exhibit 1.

Section 2. Section 50.17.005 of the Lake Oswego Code is hereby amended by adding the text shown in double underline type and deleting the text shown in ~~strikethrough~~ type, as follows:

50.17.005 Purpose, Applicability.

1. Purpose. The purpose of the Planned Development Overlay is to provide, for parcels of sufficient size, greater flexibility in development of land as compared to a standard subdivision, encourage variety in the development pattern of the community, encourage developers to use a creative approach in land development, conserve natural land features, facilitate a desirable aesthetic and efficient use of open space, create public and private common open spaces, and provide for flexibility and variety in the location of improvements on lots. If these public purposes are accomplished, exceptions to certain zoning standards may be granted as provided by LOC 50.17.015.

2. Applicability. Use of the Planned Development Overlay (PD) is allowed in any zone for subdivision proposals ~~except, when the property is located in the R-7.5, R-10, or R-15 zone, at least one of the following circumstances must exist:~~

- a. The property is greater than 75,000 square feet in size;
- b. An RC District or RP District or its associated buffer is located on the property;
- c. A tree grove greater than 15,000 square feet in size exists on the property; or
- d. The property includes resources identified as Class I or II Riparian Corridors/Wildlife Habitat or Class A or B Upland Wildlife Habitat as mapped on Metro's Title 13 Regionally Significant Fish and Wildlife Habitat Inventory Map (adopted by Metro on September 29, 2005 and amended on December 8, 2005), see LOC Appendix 50.46.010.

[Cross reference: LOC 50.17.005 (2)(d) is automatically repealed upon enactment of an updated Sensitive Lands Atlas that includes the resources inventoried between 2003 and 2007 per Ordinance 2499, Section 6.]

Section 3. Section 50.17.015 of the Lake Oswego Code is hereby amended by adding the text shown in double underline type and deleting the text shown in strikethrough type, as follows:

50.17.015 Authorization.

1. In considering an application for a PD Overlay, the reviewing authority shall apply the height, Floor Area Ratio (FAR), lot coverage, garage appearance and location, use, open space and density requirements of the underlying zone and, if applicable, the setback requirements of LOC 50.06.050 (5). The FAR and lot coverage requirements may be applied with reference to the total area of the project as a whole and not on a lot by lot basis.

2. ~~a.~~ Except for the special setback requirements of LOC 50.06.050 (5), the reviewing authority may grant exceptions to the lot size, front setback plane, maximum side yard plane, lot dimension and front and rear setback requirements of the underlying zone if the applicant demonstrates that the proposed PD provides the same or a better sense of privacy, appropriate scale and open space as a PD designed in compliance with the standard or standards to which an exception is sought. ~~In making this determination, the reviewing authority may consider:~~ The considerations in granting the exceptions are set forth in subsection (b) below:

b. In making the determination under subsection (a), the reviewing authority may consider:

~~a.i.~~ Whether the applicant has reserved or dedicated more than the minimum amount of open space required by the Park and Open Space Development Standard.

~~b.ii.~~ Whether the requested exception allows the lots to be designed in a manner that provides better access to common open space areas from within and/or outside the PD, better protects views, allows better solar access, maintains or improves relationships between structures, maintains or improves privacy and/or improves pedestrian or bicycle access to surrounding neighborhoods.

~~e.iii.~~ Whether the requested exception will allow a more attractive streetscape through use of meandering streets, access through alleys or shared driveways, provision of median plantings, or other pedestrian amenities.

~~d.iv.~~ Whether the requested exception will enhance or better protect a significant natural feature on the site, such as a wetland, a tree or tree grove, or a stream corridor.

~~e.v.~~ Whether the requested exception will provide better linkage with adjacent neighborhoods, parks and open space areas, pathways, and natural features.

~~f.vi.~~ Whether the requested exception will allow the development to be designed more compatibly with the topography and/or physical limitations of the site.

c. In the R-7.5, R-10, and R-15 zones, where the parcel being developed is less than 75,000 square feet in size, the following additional provisions apply:

i. Rear Yard Setback Exceptions

1. For lots where the rear yard setback abuts open space land, the rear yard setback may be reduced by up to 50% of the base zone requirement.

2. For lots where the rear yard setback does not abut open space, the rear yard setback may be reduced by the percentage of the gross site area that is designated as open space, but in no case greater than 20% of the base zone requirement.

ii. Lot Size Exceptions. Lot sizes may be reduced by the percentage of the gross site area that is designated as open space, but in no case greater than 20% of the base zone requirement.

3. The following standards apply to PD and cluster developments:

a. Lots which are located on the perimeter of a development located in a R-0, R-2, ~~R-2.5~~, R-3, R-5, R-6, R-7.5, R-10 or R-15 zone, and which are adjacent to lots in an R-7.5, R-10 or R-15 zone upon which are constructed single-family dwellings, may be not less than:

i. Development in R-0, R-2, R-2.5, R-3, R-5, R-6 zones: 75% of the minimum lot area per unit of the adjacent zone.

ii. Development in R-7.5, R-10, and R-15 zones: 80% of the minimum lot area per unit of the adjacent zone.

b. Housing types located on the perimeter lots described in a. shall be single-family, zero lot line or duplex dwellings, except three attached dwelling units may be placed on three lots which abut at a common point with the middle lot being a corner lot.

c. In a PD or cluster development located in a R-0, R-2, ~~R-2.5~~, R-3, R-5, or R-6 zone which abuts a R-7.5, R-10 or R-15 zone and which does not contain separate lots for the dwelling units, the building setbacks shall meet the requirements of the zone in which the development is located.

4. If the proposed PD is part of an approved ODPS as described in LOC Article 50.71, requirements of the ODPS approval regarding arrangement of uses, open space and resource conservation and provision of public services, will be considered when reviewing the considerations in subsection (1) for the PD.

5. Except as required by LOC 50.06.050 (5), the reviewing authority may grant exceptions to the minimum side yard setbacks of the underlying zone, without the necessity of meeting the requirements of LOC Article 50.68 (Variances) if the requirements of 50.17.015 are met, and:

a. Proposed lot sizes are less than the minimum size required by the underlying zone, or

b. Lesser setbacks are necessary to provide additional tree preservation or protection of abutting natural areas.

[Cross-Reference: See LOC 50.68.017 (2) Variances Not Allowable - relating to Planned Development Overlay zone requirements.]

Section 4. Section 50.46.010 of the Lake Oswego Code is hereby amended by adding the text shown in double underline type and deleting the text shown in ~~strike through~~ type, as follows:

50.46.010 Standards for Approval.

1. ~~a. All developments involving major residential multiple dwellings, major public facilities, and office campus shall provide open space or park land approved by the City in an aggregate amount equal to at least 20% of the gross land area of the development.~~

b. Commercial, institutional, and industrial development shall provide open space or park land approved by the City in an aggregate amount equal to at least 15% of the gross land area of the development.

c. Subdivisions and major partitions on sites of greater than 75,000 square feet in size shall provide open space or park land approved by the City in an aggregate amount equal to at least 20% of the gross land area of the development.

d. Subdivisions and major partitions of 75,000 square feet or less shall provide open space for the following areas of the site:

i. Areas identified as RP (Resource Protection) or RC (Resource Conservation) on the Sensitive Lands Atlas.

ii. A 50 foot buffer along a mapped recreational trail that crosses or is abutting the site, to a maximum of 20% of the gross site area. If the buffer area would exceed 20% of the gross site area, the buffer area shall be uniformly reduced along the recreational trail so that the buffer area is 20% of the gross site area.

EXCEPTION: The buffer width may be reduced to a lesser amount, up to zero, as designated by an adopted trail plan for the mapped recreational trail.

iii. The area of the site contains resources identified as Class I or II Riparian Corridors/Wildlife Habitat or Class A or B Upland Wildlife Habitat as mapped on Metro's Title 13 Regionally Significant Fish and Wildlife Habitat Inventory Map (adopted by Metro on September 29, 2005 and amended on December 8, 2005), provided however, the maximum required area is 20% of the gross site area. See LOC Appendix 50.46.010.

2. Open space and park land in commercial, institutional, public use, industrial and office campus areas may be provided as a combination of reserved land and landscaping. Where no RP or RC District Resources or public park land is located on the site, the park and open space requirement can be met by protecting non-designated natural resource areas and/or providing landscaping which meets the requirements of the Landscaping Standard.

Cross reference: LOC 50.46.010 (1)(d)(iii) is repealed upon enactment of an updated Sensitive Lands Atlas that includes the resources inventoried between 2003 and 2007 per Ordinance 2499, Section 6.]

Section 5. The Lake Oswego Community Development Code Appendix is hereby amended by adding LOC Appendix 50.46.010, the Fish and Wildlife Habitat Inventory Map, adopted by Metro as a part of Metro's Urban Growth Management Functional Plan (Title 13, Nature in Neighborhoods) on September 29, 2005, as shown in Exhibit 2.

Section 6. Automatic Repeal of LOC 50.17.005 (2)(d) and LOC 50.46.010 (1)(d) (iii). Upon enactment of an updated Sensitive Lands Atlas under LOC Article 50.16 that includes the resources inventoried between 2003 and 2007, LOC Section 50.17.005 (2)(d) and LOC 50.46.010 (1)(d)(iii) shall be automatically repealed.

Section 7. Cross-References.

a. The Community Development Code language adopted by this Ordinance contains "cross-references" within certain sections. These cross-references refer to sections within the Code and are intended to be of assistance to the reader of the Code. The cross-references in this Ordinance are not adopted as part of this Ordinance or of the Code.

b. The City Recorder and the City Attorney are hereby authorized to insert cross-references or delete cross-references from the codified version of the Community Development Code from time to time. The cross-references appearing in the codified version of the Code shall not be construed to be a part of the Code.

Section 8. The provisions of this ordinance are severable. If any portion of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.


Enacted at the meeting of the Lake Oswego City Council of the City of Lake Oswego held on the 17 day of June, 2008.

AYES: Mayor Hammerstad, Turchi, McPeak, Groznik, Hennagin, Jordan

NOES: none

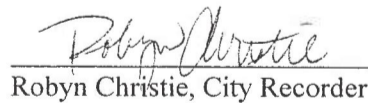
ABSENT: Johnson

ABSTAIN: none

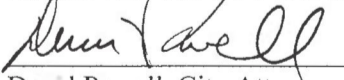

Judie Hammerstad, Mayor

Dated: June 18, 2008

ATTEST:


Robyn Christie, City Recorder

APPROVED AS TO FORM:


David Powell, City Attorney

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**BEFORE THE CITY COUNCIL
OF THE CITY OF LAKE OSWEGO**

A REQUEST TO AMEND) LU 07-0088-1674
LAKE OSWEGO DEVELOPMENT) (City of Lake Oswego)
CODE ARTICLES 50.17 (PLANNED)
DEVELOPMENT OVERLAY AND 50.46) FINDINGS AND CONCLUSIONS
(PARK AND OPEN SPACE);)
ORDINANCE No. 2499)

NATURE OF PROCEEDING

This matter came before the City Council pursuant to a recommendation by the Lake Oswego Planning Commission to amend the text of the Lake Oswego Development Code, Article 50.17 (Planned Development Overlay) and Article 50.46 (Park and Open Space) to establish standards for the use of the Planned Development Process on parcels of 75,000 square feet or less.

HEARINGS

The Planning Commission held public hearings and considered this application at its meetings of December 10, 2007, January 28, 2008 and February 25, 2008. The City Council held a public hearing and considered the Planning Commission's recommendation at its meeting of May 20, 2008.

CRITERIA AND STANDARDS

- A. City of Lake Oswego Comprehensive Plan
 - Goal 1 Citizen Involvement, Policies 1, 2, 5
 - Goal 2 Land Use Planning (Section 1-Land Use Policies and Regulations), Policies 4, 6, 7, 20 & 21

1 The City Council finds that the proposed amendments, as recommended by the Planning
2 Commission, would appropriately assure that development of smaller parcels would not be
3 subject to Code requirements that result in the creation of scattered tracts of insignificant open
4 space land. The amendments would also serve to promote compatibility between smaller parcel
5 development and the surrounding neighborhood by maximizing lot sizes and limiting setback
6 adjustments.
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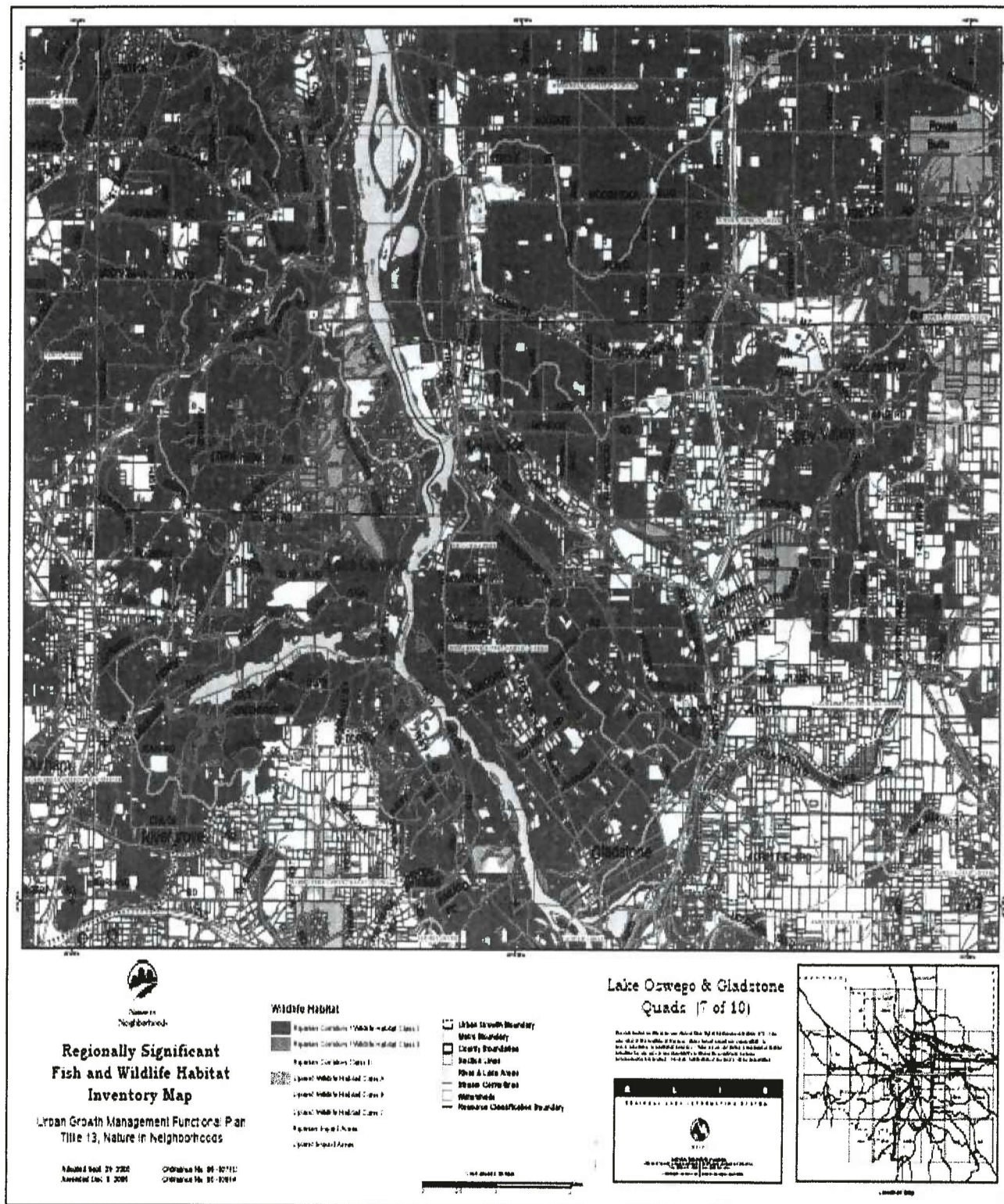
8 **CONCLUSION**

9 The City Council concludes that LU 07-0088-1674 complies with all applicable criteria
10 and is consistent with applicable Statewide Goals and Lake Oswego Comprehensive Plan
11 Policies.
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**EXHIBIT 2
ORDINANCE NO. 2499**

LOC Appendix 50.46.010

Fish and Wildlife Habitat Inventory Map, Urban Growth Management Functional Plan
(Title 13, Nature in Neighborhoods adopted by Metro September 29, 2005, amended December 8, 2005)



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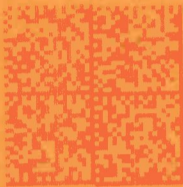
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City of Lake Oswego
PO Box 369
Lake Oswego, OR 97034

DLCD
635 Capitol St NE Suite 150
Salem OR 97301-2540