

BOOK 160 of 1781

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. PA 1117

FILED

JUN 29 1998

COUNTY CLERK

M. Balding

) IN THE MATTER OF AMENDING THE
) WEST EUGENE WETLANDS PLAN BY
) ADOPTING NEW POLICIES AND PLAN
) TEXT ESTABLISHING PLANNED
) TRANSPORTATION CORRIDOR AND
) AND UTILITY CORRIDOR WETLAND
) DESIGNATIONS, AND ADOPTING A
) SEVERABILITY CLAUSE

WHEREAS, on July 22, 1992, the Board of County Commissioners of Lane County enacted Ordinance No. PA 1019 adopting the West Eugene Wetlands Special Area Study, a refinement plan to the Eugene-Springfield Metropolitan Area General Plan; and

WHEREAS, on August 26, 1992, the Board of County Commissioners of Lane County enacted Ordinance No. PA 1019-A amending the West Eugene Wetlands Special Area Study; and

WHEREAS, on May 30, 1995, the Board of County Commissioners of Lane County enacted Ordinance No. PA 1075 amending the West Eugene Wetlands Special Area Study and changing the name to the West Eugene Wetlands Plan; and

WHEREAS, the City of Eugene has initiated additional amendments to the West Eugene Wetlands Plan to amend Plan policies and text and to adopt wetland designations for certain properties located within the Plan boundary; and

WHEREAS, on March 19, 1996, the Lane County Planning Commission conducted a joint public hearing in conjunction with the Eugene Planning Commission on draft amendments to the West Eugene Wetlands Plan; and

WHEREAS, on June 4, 1996, the Lane County Planning Commission recommended approval of the proposed amendments to the West Eugene Wetlands Plan to the Lane County Board of Commissioners subject to review of testimony and evidence submitted after the close of the record and not available to the Planning Commission at the time of its deliberation; and

WHEREAS, on December 17, 1996, the Lane County Planning Commission conducted a second joint public hearing in conjunction with the Eugene Planning Commission on new evidence related to wetland designations submitted after the close of the Planning Commission record; and

WHEREAS, on September 16 and December 16, 1997, the Lane County Planning

Commission voted to make no changes to its June 4, 1996 recommendations for wetland designations for the Speedway and Hyundai sites and took no action on the revised Eugene Planning Commission recommendation for the EWEB substation site and the new Eugene Planning Commission recommendation related to underground utilities in protected wetlands; and

WHEREAS, on February 18 and April 8, 1998, the Board of County Commissioners met jointly with the Eugene City Council for a public hearing and work session on Lane County Ordinance No. PA 1106 which included new policies and text establishing Planned Transportation Corridor and Utility Corridor wetland designations now contained in this Ordinance and the Board is now ready to take action; and

WHEREAS, evidence exists within the record indicating that the proposal meets the requirements of Lane Code Chapter 12 and the requirements of applicable state and local law as described in the findings adopted in support of this Ordinance.

NOW, THEREFORE, the Board of County Commissioners of Lane County ordains as follows:

The West Eugene Wetlands Special Area Plan, as adopted by Lane County Ordinance No. PA 1019 and amended by Lane County Ordinance No. PA 1019-A and Lane County Ordinance No. PA 1075 is further amended as set forth in attached Exhibit "A" incorporated by this reference as if fully set forth here.

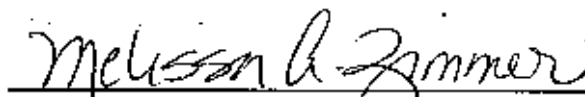
Although not part of this Ordinance, findings in attached Exhibits "B" and "C" are adopted in support of this decision.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not effect the validity of the remaining portions hereof.

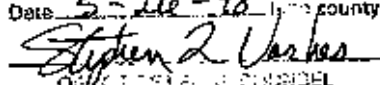
ENACTED this 24 day of June, 1998



Chair, Lane County Board of Commissioners



Recording Secretary for this Meeting of the Board

APPROVED: _____
Date 5-21-98 Lane County

OFFICE OF CLERK/COUNSEL

**Amendments to the West Eugene Wetlands Plan
Including New Policies and Plan Text Establishing
the Planned Transportation Corridor and Utility
Corridor Wetland Designations**

The following amendments correspond to amendments numbered 61, 84, 85 and 86 in the February 18, 1998 Lane County Board of Commissioners' packet.

Add a new policy to Chapter Three of the Plan as follows and number appropriately:

Future fill within the Planned Transportation Corridors as shown on Wetland Designations Map (Map 3) shall be limited to those areas granted state and/or federal wetland fill permits for the construction of planned public roadway improvements. New roadway construction shall be limited to those projects listed in TransPlan as of August 10, 1992, excluding those projects listed in Appendix B; no other new roads or streets are permitted. Road widening and other improvements to existing roads or streets shall be limited to those listed in TransPlan (1992) or in an adopted capital improvement plan (CIP) as of June 30, 1998. Road widening and other improvements to existing roads or streets within wetlands designated for protection or restoration shall require an amendment of this plan to change the designation to "Planned Transportation Corridor" if the project is not listed in TransPlan (1992) or in an adopted CIP as of June 30, 1998. In no case shall more than 1 acre (cumulative) of protected wetland be re-designated to Planned Transportation Corridor for improvements to an existing road or street.

Add new appendix to include:

The following TransPlan projects are no longer planned to be constructed and are therefore not eligible for the Planned Transportation Corridor designation:

- #150 Extension of Beltline Road from W. 11th to W. 18th
- #162 Extension of Terry Street from W. 11th to West Eugene Parkway
- #228 Extension of Roosevelt Boulevard from Terry St. to Greenhill Road

Add the following definitions to the WEWP glossary:

utility line is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquefiable, or slurry substance, for any purpose, and any cable, line or wire for the transmission for any purpose of electrical energy, telephone and telegraph messages, and radio and television communication and any poles or others structures which support such

cables, lines or wires. The term "utility line" does not include activities which drain a water of the state, such as drainage tile; however, it does apply to pipes conveying drainage from another area.

best feasible technology (for utility line location) is defined as a method or technology that will provide all of the required information for a locating activity, while having the least environmental impact among the methods or technologies that the affected agency has available at the time.

Adopt a new policy as follows:

Future fill or removal within the "utility corridors" as designated on the Wetland Designation Map (Map 3) shall be conducted with an applicable U.S. Army Corps of Engineers (Army Corps) and/or Division of State Lands dredge and fill permit(s), and shall be limited to the minimum impacts necessary to:

- 1) conduct emergency repairs to existing utility lines,
- 2) conduct essential maintenance (e.g., work to maintain or optimize performance) on existing utility lines, including line locating,
- 3) construct connections to existing utility lines,
- 4) construct new utility lines,
- 5) move existing utility lines when necessary to maintain service or conduct emergency repairs, and when at least one of the following is true:
 - a) the utility line must be moved to protect it from erosion or some other natural threat;
 - b) construction of public facilities that are consistent with this plan and that conflict with an existing utility line, where such public facilities cannot reasonably be constructed without moving the utility line; or
 - c) the utility line must be moved in order to maintain or repair another utility line in the same vicinity.
- 6) place new utility poles or replace existing utility poles, only when necessary to maintain performance or safety of above-ground utility lines. Above-ground utility lines may not be replaced with underground utility lines within wetlands designated for restoration or protection.

No other impacts are authorized by this policy. The following shall also apply to these corridors:

- a. The corridors for underground utility lines shall be 20 feet wide for excavations or pipes up to 10 feet below ground surface (bgs), 30 feet wide for excavations or pipes from 10 to 15 feet bgs, and 40 feet wide for excavations or pipes deeper than 15 feet bgs. Where two utility lines are close to each other, the corridors for the lines may overlap, but impacts for work on one line are allowed only within the corridor width for that line, not the combined width of both lines.
- b. The corridors for above ground utility lines shall be 10 feet wide for single pole structures and 20 feet wide for double pole ("H-style") structures.
- c. The utility corridors shall be centered on an existing utility line, extending an equal distance (half the allowed width) on both sides, except for corridors for new utility lines, which shall be located as specified in subsection d below.
- d. Construction of new utility lines and new connections to existing utility lines within wetlands designated for protection shall require an amendment of this plan to change the designation from "protect" to "utility line corridor." Such amendments will only be allowed where it is demonstrated that:
 - 1) an alternatives analysis has concluded that locating the new utility line within a protected wetland is the best alternative. The alternatives analysis shall compare alternatives that are completely outside of protected wetlands and compare them to any alternatives that impact protected wetlands. The alternatives shall be evaluated by weighing engineering requirements and total environmental impacts including impacts to threatened and endangered species and their habitat, and to wetlands designated in the Plan for restoration or protection.
 - 2) the new construction cannot reasonably be constructed completely outside of wetlands designated for protection as demonstrated in the above-referenced alternatives analysis;
 - 3) the utility lines are located so as to reduce the impact to wetlands designated for protection as much as possible, and in no case shall a cumulative area greater than 1 acre be re-designated from "protection" to "utility corridor" for a new utility line;
 - 4) unavoidable impacts will be mitigated through restoration of the project's entire impact area;
 - 5) there are no impacts to wetlands from new utility lines installed within the Willow Creek Natural Area; and
 - 6) impacts to plant and animal species on lists 1 and 2 of the Oregon Natural Heritage Program will not occur.

- e. Other than the activities described in this policy, these corridors shall be treated as protected wetlands. Allowed activities shall be conducted in such a manner as to minimize adverse impacts to the maximum extent possible upon the wetlands within the corridor itself and within surrounding protected wetlands. Wetland impacts shall be limited to the minimum area necessary. Utility agencies shall use the best feasible technology to pinpoint the location of needed repairs prior to excavation in order to limit the area of impact.
- f. Except for emergency repairs, these activities shall be planned and timed to minimize adverse impacts to wetlands.
- g. All impacts shall be followed by restoration activities including:
- 1) backfilling with existing native soil within three feet of the surface whenever possible, and in no case less than two feet; and
 - 2) grading and re-seeding and/or replanting with appropriate native plant species.
- h. Any unavoidable impacts to rare plant species shall be mitigated through coordinated transplanting or other measures.

Adopt a new recommended action as follows:

The City shall, in cooperation with affected utility companies and agencies, develop guidelines or interagency agreements regarding conducting routine, essential maintenance and emergency repairs of utility lines that exist within protected wetlands. These guidelines or agreements shall address, at a minimum, the following:

- a. coordination with property owner
- b. coordination with City of Eugene
- c. pre-planning and seasonal timing of maintenance
- d. specifications for backfill, grading and replanting with native species
- e. emergency repairs
- f. new construction
- g. conducting rare species inventories
- h. vegetation removal
- i. identification of appropriate access points

Findings of Consistency with Oregon Statewide Planning Goals

The Eugene-Springfield Metropolitan Area General Plan is a local comprehensive plan acknowledged by the state's Land Conservation and Development Commission, and the West Eugene Wetlands Plan is an adopted refinement plan to the Metro Plan. This document contains findings that address the consistency of the attached amendments to the West Eugene Wetlands Plan with applicable Oregon Statewide Planning Goals.

These amendments to the West Eugene Wetlands Plan will result in changes to existing locally adopted policy that addresses three land use categories: natural resources, industrial and commercial lands, and residential lands. Accordingly, this analysis addresses Oregon Statewide Planning Goal 1 (Citizen Involvement), Goal 5 (Open Spaces, Scenic and Historic Areas, and Natural Resources), Goal 9 (Economic Development) and Goal 10 (Housing). This analysis concludes that these refinement plan amendments are consistent with applicable Oregon Statewide Planning Goals.

Background

The amendments analyzed herein are changes to policies and text of the West Eugene Wetlands Plan. They establish two new wetland designations for areas previously designated as protected wetlands. The two new designations, Planned Transportation Corridor and Utility Corridor, will allow certain kinds of work on public streets, road and utilities, while maintaining protection of the wetland against all other types of impacts. These amendments create these new designations, but do not apply them to any specific properties. The new designations will be applied to specific properties in subsequent amendments.

Planned Transportation Corridor: This designation will be primarily applied to areas previously designated for protection to allow previously planned roadway improvements. Since these areas are currently non-buildable (i.e., wetlands designated for protection) and it only allows road improvements, it will not affect the buildable land inventory when applied to these properties. The only possible impact to buildable lands would be if the designation was applied to a new wetland site not yet incorporated into the plan. In this case the area so designated would no longer be available for commercial, residential or industrial development; it could only be used for transportation facilities and enhancements.

Utility Corridor: This designation will be primarily applied to areas previously designated for protection to allow required maintenance and emergency repairs, and in limited cases, construction of new utilities. Since these previously designated areas are currently non-buildable (i.e., wetlands designated for protection) and the policy only allows utility work, it will not affect

the buildable land inventory when applied to these properties. Like the Planned Transportation Corridor above, this designation will only affect buildable lands where it is applied to new wetland sites.

Goal 1-Citizen Involvement

Statewide Goal 1 calls for local governments "to develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process." The planning and adoption process for these amendments has incorporated many opportunities for citizen involvement at all phases of the process as detailed below.

1. Preliminary staff recommendations for policy and text amendments to the West Eugene Wetlands Plan were first presented to the public in a workshop held on June 28, 1994. Notices were sent to all affected owners, and everyone on the West Eugene Wetlands Plan interested parties list (more than 800 people).
2. Another public workshop was held on December 5, 1995 to present revised staff recommendations for amendments to the public. Again, notice was sent to all affected property owners and more than 900 interested parties. Citizen and agency comments from this workshop were incorporated into the staff recommendations forwarded to the Eugene and Lane County Planning Commissions.
3. On March 18, 1996, a public hearing was held before the Eugene and Lane County Planning Commissions regarding these amendments to the West Eugene Wetlands Plan. Notice was sent to all affected property owners, all owners and occupants within 400 feet of affected properties, affected neighborhood groups and more than 900 interested parties. Bright orange notices were posted next to each affected property regarding the hearing.
4. On December 17, 1997, a second public hearing was held before the Eugene Planning Commission and the Lane County Planning Commission regarding four specific plan amendments. Notice was sent to all affected property owners and all who requested to receive notice, and all who participated in the Planning Commission proceedings. Notice was sent out more than 20 days before the hearing. The amendments and supporting documents were posted on the City of Eugene's World Wide Web Homepage before the hearing.
5. On February 18, 1998, a public hearing was held before the Eugene City Council and the Lane County Board of Commissioners regarding these amendments. Notice was sent to all affected property owners and all who requested to receive notice, and all who participated in the Planning Commission proceedings. Notice was sent out more than 20 days before the hearing. The amendments and supporting documents were posted on the City of Eugene's World Wide Web

Homepage before the hearing.

6. During the February 18, 1998 hearing and subsequent comment period, comments were received from the Eugene Water and Electric Board regarding the Utility Corridor and from the Lane County Roads Advisory Committee on the Planned Transportation Corridor amendments. The amendments in Exhibit A of this Ordinance incorporate changes to the Planning Commission recommendations to address that testimony.

We find that the opportunities for citizen involvement detailed above are beyond what is necessary to achieve consistency with Goal 1.

Goal 5 , Open Spaces, Scenic and Historic Areas, and Natural Areas

The purpose of Goal 5 is to protect natural resources, and conserve scenic and historic areas and open spaces. In addition to the Goal, the Land Conservation and Development Commission has adopted an administrative rule to aid local government in achieving the requirements of the Goal. The original Goal 5 Rule, OAR 660, Division 16, was adopted in 1991; revisions to the Goal 5 Rule were adopted in 1996 as OAR 660, Division 23. The 1991 Goal 5 Rule continues to apply to post-acknowledgment plan amendments, such as the West Eugene Wetlands Plan amendments, initiated before September 1, 1996.

Goal 5 and the 1991 Goal 5 Rule focus on the process required to prepare a Goal 5 inventory and develop a program to achieve the goal on a site-specific basis, through preservation of a resource site; allowing conflicting uses and the loss of the resource; or mitigating negative impacts associated with the conflicting uses through partial protection.

Findings:

The West Eugene Wetlands Plan (WEWP) is an approved wetland conservation plan as defined in ORS 196.800(15). Approval for the existing plan as a Wetland Conservation Plan was granted by the Oregon Division of State Lands on September 13, 1994. ORS 196.684(8) specifies the relationship between Wetland Conservation Plan approval and compliance with Goal 5:

"Wetland conservation plans approved by the Director of the Division of State Lands pursuant to ORS 196.668 to 196.692 shall be deemed to comply with the requirements of any statewide planning goals related to wetlands, other than estuarine wetlands, for those areas, uses and activities which are regulated by the plan." [See also, ORS 197.279]

Approval of the West Eugene Wetlands Plan by the Oregon Division of State Lands (DSL) as provided by law, satisfies all the requirements of any applicable statewide planning goal related to wetlands (including Goal 5) for those areas, uses and activities which are regulated by the plan.

The amendments clarify and further refine the WEWP. The findings of goal compliance made as part of initial adoption of the WEWP remain essentially unaffected by these amendments. The amendments which create the new Planned Transportation Corridor and Utility Corridor are not site specific and do not significantly alter the function, design and structure of the WEWP. Both policies provide partial protection, allowing certain conflicting uses, as allowed under the Goal 5 process.

The fundamental program developed for Goal 5 compliance essentially remains unchanged. The policies and criteria of the WEWP operate as a tool to further Goal 5 compliance by assisting in determining the significance of wetland resources, the conflicts and the economic, social, environmental and energy values involved in protecting the resource. That analysis approaches the wetlands of West Eugene as part of an interconnected natural system rather than as separate, discrete sites. The focus remains inside the West Eugene Wetlands Special Study Area, keeping in mind that the larger system of which these wetlands are a part extends beyond this and other political boundaries.

As detailed in Exhibit C, the amendments are consistent with the applicable policies of the Metro Plan and the West Eugene Wetlands Plan. Those are the same policies previously acknowledged as being in compliance with statewide planning goals; and, in the case of the West Eugene Wetlands Plan policies, deemed to be in compliance with applicable statewide goals by DSL approval of the WEWP as a wetlands conservation plan. The plan amendments comply with ORS 196.681 to 196.684 and OAR 141, Division 120. For those reasons, the Planned Transportation Corridor and Utility Corridor policy and text amendments to the West Eugene Wetlands Plan comply with Statewide Planning Goal 5.

Goal 9 - Economic Development

The purpose of Goal 9 is to provide adequate opportunities throughout the state for a variety of economic activities vital to the health, wealth, and prosperity of Oregon's citizens.

Findings:

Industrial and Commercial Lands:

The amendments which create the new Planned Transportation Corridor and Utility Corridor will not have any impact on the supply of buildable industrial and commercial land. The policies themselves do not directly affect any specific properties. It is only when they are applied to specific properties in subsequent Plan amendments that any impact to buildable lands might result. Both policies create a wetland designation that will only be applied to wetlands that are currently designated as protected or that would be designated for protection in the absence of these new designations. The majority of sites where the new designations will be applied will be in wetlands now designated for protection, and, therefore, not presently available for industrial or commercial development. In short, these new designations will not preclude any development

except when applied to previously undesignated sites, and in fact will facilitate certain kinds of development where it was previously prohibited. For these reasons, the Planned Transportation Corridor and Utility Corridor policy and text amendments to the West Eugene Wetlands Plan comply with Statewide Planning Goal 9.

Goal 10 - Housing

The purpose of Goal 10 is to provide for housing needs of the citizens of the state.

Findings:

The amendments which create the new Planned Transportation Corridor and Utility Corridor will not have any impact on the availability of land for construction of housing. The policies themselves do not directly affect any specific properties. It is only when they are applied to specific properties in subsequent Plan amendments that any impact to buildable lands might result. Both policies create a wetland designation that will only be applied to wetlands that are currently designated as protected or that would be designated for protection in the absence of these new designations. The majority of sites where the new designations will be applied will be in wetlands now designated for protection, and, therefore, not presently available for residential development. In short, these new designations will not preclude any development except when applied to previously undesignated sites, and in fact will facilitate certain kinds of development where it was previously prohibited. For these reasons, the Planned Transportation Corridor and Utility Corridor policy and text amendments to the West Eugene Wetlands Plan comply with Statewide Planning Goal 10.

Conclusions

The above findings show that these amendments to the West Eugene Wetlands Plan are consistent with Oregon Statewide Planning Goals 1, 5, 9 and 10. This conclusion is based on the following: 1) the policies have no impact on the supply of industrial, commercial and residential land, 2) the abundant opportunities provided for citizen involvement throughout the planning process and 3) these amendments do not significantly alter the basic structure and function of the West Eugene Wetlands Plan and its protection of wetland resources. No further analysis of Statewide Planning Goals is necessary for these amendments to the West Eugene Wetlands Plan.

Findings of Consistency with Refinement Plan Amendment Criteria

Section 9.145 of the Eugene Code (1971) ("EC") provides the criteria to determine whether a proposed plan amendment should be approved. The proposed amendments must be consistent with the criteria in EC 9.145 to be approved.

Section 9.145(2) "The planning commission shall review the proposed amendment and receive evidence, and decide whether the proposed change is consistent with the following approval criteria: (a) The plan amendment is consistent with the Metropolitan Area General Plan;"

Findings:

The attached ordinance does not contain any plan diagram changes. Therefore, these amendments are consistent with the Metro Plan diagram.

The Metro Plan contains the following policies which address the proposed amendments (related findings follow each policy):

Policy 1, page III-B-4: "Demonstrate a positive interest in existing and new industries, especially those providing above average wage and salary levels, an increased variety of job opportunities, a rise in the standard of living, and utilization of our existing comparative advantage in the level of education and skill of the resident labor force."

While none of the proposed amendments addresses this policy directly, the amendments provide indirect support for new and existing industry through facilitating maintenance, repair and improvement to infrastructure on which industry depends.

Policy 5, page III-B-5: "Provide existing industrial activities sufficient adjacent land for future expansion."

None of the proposed policy amendments specifically addresses preservation of land for expansion of existing industrial development.

Policy 18, page III-B-6: "Encourage the development of transportation facilities which would improve access to industrial and commercial areas and improve freight movement capabilities by implementing the policies and projects in the Eugene-Springfield Metropolitan Area Transportation Plan (TransPlan)..."

The Planned Transportation Corridor policy, would specifically encourage

development of transportation facilities that will provide access to industrial and commercial land in West Eugene. This policy acknowledges the importance of transportation facilities that are included in adopted transportation plans, and allows construction of those projects within wetland areas that would otherwise be protected. Many of these planned facilities in west Eugene are adjacent to and would provide access to industrial land and existing industrial development. Therefore these amendments are consistent with this policy.

Policy 18, page III-C-9: "Local governments shall develop plans and programs which carefully manage development on hillsides and in water bodies and restrict development in wetlands in order to protect the scenic quality, surface water and groundwater quality, forest values, vegetation, and wildlife values of those areas."

This policy sets direction for future legislative implementation of the goals and policies of the Metro Plan and is not intended to be applied to a specific action or proposal. In addition, the West Eugene Wetlands Plan as a whole is a plan which outlines a program for management of development in and around wetlands to protect values as described in Policy 18.

Policy 19, page III-C-9: "Local governments shall develop policies and local controls for protection and management of wetland areas by completion of the next Metro Plan Update."

This policy sets direction for future legislative implementation of the goals and policies of the Metro. The West Eugene Wetlands Plan, which contains policies and local land use controls for wetlands in west Eugene, was adopted in 1992. The current proposed amendments will update the 1992 Plan. The proposed text amendments do not affect policies which prescribe the primary wetland protection measures to be implemented: wetland acquisition, wetland buffers and waterside setbacks. The proposed amendments will include provisions which address protection and management of wetland areas, and therefore they are consistent with this policy.

Policy 27, page III-C-10: "Local governments shall encourage further study by specialists of endangered and threatened plant and wildlife species in the metropolitan area."

Although it does not specifically address study of rare plants, the proposed language for the Utility Corridor policy specifically calls for avoiding rare plants when siting new utility lines, which will help retain current plant populations for possible future study. Similarly, the Planned Transportation Corridor policy requires that "roadway alignments shall be designed and constructed so as to avoid or minimize cumulative impacts to wetland functions and values, rare species and rare species habitat." These amendments include provisions which will protect rare plants, ensuring they are

available for future study, which is consistent with the above policy.

Policy 28, page III-C-10: "Local governments shall protect endangered and threatened plant and wildlife species, as recognized on a legally adopted statewide list, after notice and opportunity for public input."

The proposed language for the Utility Corridor policy specifically calls for avoiding rare plants when siting new utility lines, helping to protect current plant populations, which is consistent with this policy. The Planned Transportation Corridor policy requires that "roadway alignments shall be designed and constructed so as to avoid or minimize cumulative impacts to wetland functions and values, rare species and rare species habitat." The policy requires minimizing or avoiding impacts to rare species and their habitat, which is consistent with the above policy.

Policy 29, page III-C-11: "Local governments shall work with owners of designated environmentally-sensitive areas to require that reasonable actions are taken to protect these lands, e.g., the heronry at the confluence of the Willamette and McKenzie Rivers and the site of the Aster curtus in the Willow Creek Basin."

There are two sites within the West Eugene Wetlands Plan area that are designated in the Metro Plan as environmentally sensitive. They are the Willow Creek Natural Area and Bertelsen Slough. These amendments do not change the status of these sites, and are therefore consistent with this policy.

Policy 2, page III-E-3: "Natural vegetation, natural water features, and drainageways shall be protected and retained to the maximum extent practicable, considering the economic, social, environmental and energy consequences in the design and construction of urban development and landscaping shall be utilized to enhance those natural features."

The proposed Planned Transportation Corridor and Utility Corridor policies include provisions that require protection of rare species and minimization of impacts to wetlands. Although these policies will allow certain impacts within wetlands that were formerly designated for complete protection, the work authorized under these policies will only affect a small percentage of the wetlands now designated for protection. In addition, for underground utility work, restoration of the impact area is required. These provisions make the two policies consistent with the "shall be protected and retained" portion of the above policy. The reference to "economic, social, environmental and energy impacts" comes from statewide planning Goal 5. See Exhibit B, discussion of Goal 5 (incorporated herein by reference) for determination of consistency of these amendments with Goal 5.

Summary Conclusions: Metro Plan Consistency

The findings above indicate consistency with all applicable Metro Plan policies. Therefore, the proposed amendments meet the criterion of Metro Plan consistency.

Section 9.145(2)(b): “The plan amendment is consistent with remaining portions of the refinement plan;”

Findings:

The West Eugene Wetlands Plan contains the following applicable Goals (related findings follow each Goal):

Goal 3.1 “Protect and enhance water quality, wildlife habitat, flood storage sediment and toxicant removal and other wetland functions and values.”

Although the Planned Transportation Corridor and Utility Corridor policies would allow certain impacts within wetlands now designated for protection, both policies also include provisions to minimize impacts. The Planned Transportation Corridor policy requires that “roadway alignments shall be designed and constructed so as to avoid or minimize cumulative impacts to wetland functions and values, rare species and rare species habitat.” This requirement will help prevent disturbance of wetlands, water features and natural vegetation within the project area. The Utility Corridor policy contains provisions that require avoiding impacts to rare species, restoration of impact areas, use of technologies that minimize impacts to wetlands and timing utility work so as to minimize impacts. By minimizing impacts to wetlands and the wildlife habitat, water quality benefits and vegetation they provide, these proposed amendments are consistent with the above policy.

Goal 3.2 “Minimize economic hardship on private property owners due to protection of wetlands and other valuable environmental resources.”

The Planned Transportation Corridor policy and the Utility Corridor policy both will enable utility and municipal agencies to make needed repairs to infrastructure that private development depends on. These provisions will help to avoid exorbitant costs of avoiding all wetland impacts in wetland maintenance and repair, and will help prevent damage to private property by facilitating needed repairs and maintenance to public utility facilities. These measures will help protect private property owners from certain costs associated with protection of wetlands, and are therefore consistent with Goal 3.2.

Goal 3.5 “Protect and expand current populations and habitats of rare, endangered and threatened plants and animals that currently exist in west Eugene.”

The proposed language for the Utility Corridor policy specifically calls for avoiding rare plants when siting new utility lines, which will help to protect current plant populations. The Planned Transportation Corridor policy requires that “roadway alignments shall be

designed and constructed so as to avoid or minimize cumulative impacts to wetland functions and values, rare species and rare species habitat." These policies require minimizing or avoiding impacts to rare species and their habitat, which is consistent with the above policy.

Goal 3.6 "Achieve state and federal requirement of "no net loss" of wetlands in both quantity (area) and quality (functions and values)."

The West Eugene Wetlands Plan addresses the "no net loss" policy through protection of valuable wetlands combined with coordinated restoration of degraded or former wetlands to replace those that are filled. This approach is not changed by the proposed amendments.

Goal 3.7 Protect an interconnected system of wetlands within a sustainable, ecologically sound system, with a high likelihood of long-term survival.

The proposed language for the Utility Corridor policy calls for minimizing wetland impacts and maintaining protection of areas not disturbed by required utility repairs or maintenance. The proposed Planned Transportation Corridor policy requires that "roadway alignments shall be designed and constructed so as to avoid or minimize cumulative impacts to wetland functions and values, rare species and rare species habitat," and requires that areas not specifically required for a road improvement project be protected. These provisions will help reduce fragmentation of the wetland system, and help to maintain the inter-connected system called for in the plan, which is consistent with the above policy.

The West Eugene Wetlands Plan contains the following applicable Policies (related findings follow each policy):

Policy 3.1 "Seek acquisition of protected wetland sites by federal, state and local public agencies and private, non-profit conservation organizations."

This policy is not applicable.

Policy 3.5 "Along with Lane County and the State of Oregon, protect wetlands on public lands in the Eugene wetlands study area and restore wetlands on public lands."

Many of the wetlands currently designated for protection are now publicly owned. Some of these wetlands contain existing underground or above-ground utilities, which would be affected by these policies. In both the Planned Transportation Corridor policy and the Utility Corridor policy, there are provisions that limit impacts to the minimum necessary to accomplish the road improvement or utility repair. In addition, the Utility Corridor policy requires that wetlands disturbed by maintenance or repair activities must be restored with native backfill, grading and re-planting with native species. These

requirements will help to protect wetlands on public lands, and therefore these policies are consistent with Policy 3.5.

Summary Conclusions: West Eugene Wetlands Plan Consistency

The above findings indicate that the proposed amendments are consistent with the applicable policies in the remainder of the WEWP. The proposed amendments meet the criterion of consistency with the remainder of the refinement plan.

Section 9.145 (2)(c) "The plan amendment is found to address one or more of the following: 1. An error in the publication of the plan;"

Findings: The proposed amendments do not contain any corrections of errors in the original Plan. However, the amendments do address omissions from the original Plan. Planned transportation projects and underground utilities within protected wetlands were not addressed in the original Plan. These policies will address those omissions.

Section 9.145 (2)(c) 2. "A change of circumstances in a substantial manner not anticipated in the plan;"

Findings: After the West Eugene Wetlands Plan was adopted, the state adopted new regulations that define what kinds of impacts can occur within a wetland designated for protection in a Wetland Conservation Plan. These new regulations were not foreseen at the time of adoption, and created a situation where certain repair or maintenance activities on public utilities may be prohibited. These proposed amendments address this conflict, and are therefore consistent with the code provisions above.

Section 9.145 (2)(c)3. "Incorporation into the plan of new inventory material which relates to a statewide goal; or"

Findings: Not applicable.

Section 9.145 (2)(c) 4. "A change in public policy."

Findings: The new Planned Transportation Corridor designation applies within wetlands previously designated for protection or restoration, and where a previously adopted plan calls for a new road or widening of an existing road. The Planned Transportation Corridor allows only the planned transportation facility to be constructed there, prohibiting any other development of the area, and provides for protection of the corridor if the transportation project is not constructed.

This change is introduced at this time in response to recent changes in the Oregon Administrative Rules which govern the Oregon Division of State Lands administration of the state's wetland regulatory system. These changes, approved after adoption of the

Plan in 1992, included provisions for allowing "utilities and transportation facilities not built, but specifically identified in the acknowledged local comprehensive plan" within otherwise protected areas (OAR 141 Division 120, subsection 030(15)). The amendments listed above, in response to the changes to OAR, ensure consistency between the Plan designation and policy contained in TransPlan, also a refinement plan to the Metro Plan.

The Utility Corridor policy addresses underground utilities within otherwise protected wetlands. The Oregon Division of State Lands adopted administrative rules which establish allowed uses within protected wetlands were adopted after the original West Eugene Wetlands Plan was adopted. These amendments (and accompanying site designation amendments) allow for emergency repairs and maintenance to these facilities. Without these amendments, such repairs would have been illegal.

The proposed amendments listed above which address planned transportation projects respond to changes in state regulations and thus are also consistent with this criterion. The proposed amendments which address underground utilities within protected wetlands address new state administrative rules and thus are consistent with this criterion.

Summary Conclusions:

Each of the proposed amendments meet the criteria under Eugene Code sections 9.145(2)(a) and (2)(b) and one or more of the criteria for approval of a refinement plan amendment as set forth in Eugene Code section 9.145(2)(c).

Based upon the discussion, findings and conclusions herein (above) the Lane County Board of Commissioners finds the proposed amendments to be consistent with the applicable criteria contained in Eugene Code Section 9.145.

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