

# PASSED

## BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

**ORDINANCE NO. PA 1133** (IN THE MATTER OF AMENDING THE WEST EUGENE WETLANDS PLAN BY ADOPTING NEW AND REVISED PLAN POLICIES RELATED TO THE CRITERIA FOR WETLAND DESIGNATIONS, AND ADOPTING A SEVERABILITY CLAUSE.

**WHEREAS**, on June 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 and December 17, 1996, the Lane County Planning Commission conducted joint public hearings in conjunction with the Eugene Planning Commission on draft amendments to the West Eugene Wetlands Plan; and

**WHEREAS**, on June 4, 1996 and on September 16 and December 16, 1997, the Lane County Planning Commission voted to recommend approval of amendments to the West Eugene Wetlands Plan to the Lane County Board of Commissioners; and

**WHEREAS**, on February 18 and April 8, 1998, the Board of County Commissioners of Lane County conducted a joint public hearing and a joint work session with the Eugene City Council on amendments to the policy and text of the West Eugene Wetlands Plan; and

**WHEREAS**, on June 24, 1998, the Board of County Commissioners adopted Board Ordinance No. PA 1117 amending the West Eugene Wetlands Plan to establish new Planned Transportation Corridor and Utility Corridor wetland designations and, on April 21, 1999, adopted Board Ordinance No. PA 1129 adopting Planned Transportation Corridor wetland designations for City of Eugene properties located within the West 18<sup>th</sup> and West 11<sup>th</sup> Avenue road improvement projects; and

IN THE MATTER OF AMENDING THE WEST EUGENE WETLANDS PLAN BY ADOPTING NEW AND REVISED PLAN POLICIES RELATED TO THE CRITERIA FOR WETLAND DESIGNATIONS, AND ADOPTING A SEVERABILITY CLAUSE.

**WHEREAS**, on November 10, 1998, after deleting policies related to criteria for protection, development, and restoration, the Board of County Commissioners of Lane County adopted Board Ordinance No. PA 1106 adopting new or revised Plan policies and revising Plan text and also forwarded alternative amendments related to the criteria to the Eugene City Council for consideration; and

**WHEREAS**, the Board of County Commissioners of Lane County and the Eugene City Council established the Council/Board Committee on West Eugene Wetlands Policy Amendments to review alternatives and prepare a joint recommendation to the Board and the Council on amendments to the West Eugene Wetlands Plan criteria for protection, development and restoration; and

**WHEREAS**, the Council/Board Committee on West Eugene Wetlands Policy Amendments has completed its work and forwarded a recommendation to the Board of County Commissioners and the Eugene City Council; and

**WHEREAS**, the Lane County Board of Commissioners and Eugene City Council held a joint public hearing on the recommended amendments on August 4, 1999; and

**WHEREAS**, the Council/Board Committee on West Eugene Wetlands Policy Amendments has reviewed the public testimony and forwarded additional recommendations for amendments to the Board of County Commissioners and the Eugene City Council; and

**WHEREAS**, on October 11, 1999, the Eugene City Council adopted Ordinance No. 20171, as amended to incorporate the recommendations of the Council/Board Committee on West Eugene Wetlands Policy Amendments; 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; and

**WHEREAS**, the Board of County Commissioners of Lane County is now ready to take action on these amendments.

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

The West Eugene Wetlands 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, and Lane County Ordinance No. PA 1117, and Lane County Ordinance No. PA 1129, and Lane County Ordinance No. PA 1106 is further amended as set forth in attached Exhibit "A" incorporated by this reference as if fully set forth here.

The Eugene City Recorder, with the concurrence of the City Attorney and County Counsel, is authorized to administratively renumber any provisions of the West Eugene Wetlands Plan (Plan) at the time

**IN THE MATTER OF AMENDING THE WEST EUGENE WETLANDS PLAN BY ADOPTING NEW AND REVISED PLAN POLICIES RELATED TO THE CRITERIA FOR WETLAND DESIGNATIONS, AND ADOPTING A SEVERABILITY CLAUSE.**

the provisions adopted herein are incorporated into the Plan, and to correct any cross-references necessitated by the renumbering.

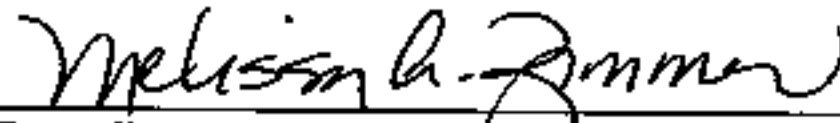
**FURTHER**, although not part of this Ordinance, findings in attached Exhibit "B" and "C" are adopted in support of this decision.

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

ENACTED this 23<sup>rd</sup> day of NOVEMBER, 1999.




Chair, Lane County Board of County Commissioners



Recording Secretary for this Meeting of the Board

APPROVED TO FORM

Date 10-27-99 Lane County

  
OFFICE OF LEGAL COUNSEL

PA 1133  
**Exhibit A**

**Amendments to the West Eugene Wetlands Plan**

Deletions are shown in ~~strikeout~~, additions are shaded.

**Policy Amendments**

Move the protection and development criteria from Appendix B to Chapter 3, upgrade criteria to policy status and amend as follows (formerly amendment #62 in Ordinance No. PA 1106):

~~3.17~~ The following standards and criteria shall be used to designate newly identified wetland sites or portions of sites as undesignated wetlands within the West Eugene Wetlands Plan. The purpose of this amendment is to update the Wetlands Plan by adding to it the new Eugene Wetlands Plan. These standards and criteria provide the framework for determining which sites the plan will protect and develop. The plan will also protect and develop areas that are essential to the plan.

~~The following standards and criteria shall be used to designate newly identified wetland sites or portions of sites as undesignated wetlands within the West Eugene Wetlands Plan. The purpose of this amendment is to update the Wetlands Plan by adding to it the new Eugene Wetlands Plan. These standards and criteria provide the framework for determining which sites the plan will protect and develop. The plan will also protect and develop areas that are essential to the plan.~~

~~CRITERIA FOR DETERMINING WETLAND SITES TO BE PROTECTED AND DEVELOPED~~

~~**Protection**~~

~~The following criteria were used to identify those sites suitable for and deserving of protection:~~

~~**Standard**~~

- ~~1. Presence of rare plants:~~
- ~~2.1. Sites has Metropolitan Plan designation of designated Natural Resource on the Metropolitan Area General Plan diagram shall be designated for protection.~~

### Criteria

1. Site contains population(s) of one or more rare plant or animal species and contains sufficient and suitable habitat to insure long term protection of the population(s). This criterion is not met if only small occurrences of a rare plant species are found on a site with limited suitable habitat that is isolated from other undeveloped parcels.
2. Site is primarily within the 100 year floodplain.
3. Site is near a perennial waterway within 100 feet of a waterway (stream) designated for protection on maps of the West Eugene Wetlands Plan.
4. Site is connected geographically or hydrologically to other wetlands or waterways has a direct perennial or intermittent surface water connection to a wetland designated for protection on maps of the West Eugene Wetlands Plan.
5. Site contains a high diversity of wildlife habitat or contributes to the diversity of wildlife habitat within the region.
6. Site has unique characteristics which make it of special importance to the functioning of the larger wetland system in West Eugene and protection of site would further the goals and objectives of this plan the West Eugene Wetlands Plan.
7. Presence of unique Willamette Prairie Grassland plant community. Site contains indigenous wetland habitat. This criterion is intended to apply to areas of wet prairie habitat that are areas of moderate to high quality.

### Development

The following is the list of criteria used in evaluating sites for possible development:

### Standard

1. The site shall be designated for development. Prior to adoption of this Plan at the time of designation of the site in the West Eugene Wetlands Plan, the site if it has an a valid approved wetland impact permit from the Oregon Division of State Lands and the U.S. Army Corps of Engineers, or an approved Final Environmental Impact Statement.

### Criteria

- 2.1. The site is relatively isolated or disconnected from the larger system of wetlands and waterways.
- 3.2. The site is served by existing streets, roads, sanitary sewers and municipal water.
- 4.3. The site is adjacent to or surrounded by existing development.
- 5.4. The site has frontage on a major highway or street.
- 6.5. Site has unique characteristics which make it of special importance to the economic development of West Eugene and any development on site

6. ~~Wetlands that do not meet the goals and objectives of the West Eugene Wetlands Plan. Site characteristics, including size, location and surrounding uses and activities are such that there exists a high probability that the site cannot be protected in perpetuity through the West Eugene Wetlands Program.~~

## **Restoration**

### **Standard**

~~Any site or portion of a site that is protected through compensatory wetland mitigation as part of an approved state or federal wetland mitigation bank shall be designated for restoration.~~

### **Criteria**

1. ~~Site contains hydric soils.~~
2. ~~Site is either a disturbed agricultural wetland or an actively exhibited wetland phase. And/or~~
3. ~~Site is capable of providing riparian ecosystem functions.~~
4. ~~Site does not currently benefit from municipal infrastructure and urban services.~~
5. ~~Site is either larger than 15 acres or contiguous with a water way currently designated for protection on the Wetland Designation Map (Map 3) of the West Eugene Wetlands Plan.~~

Move Policy 4.20 to Chapter 3 and amend as follows (formerly amendment #66 in Ordinance No. PA 1106):

~~“Adopt the protection and development criteria, contained in Appendix B, as the basis for the classification of the wetland sites shown on WEWSAS Map 3 and, for any new sites, apply these criteria in Policy 4.19 to any new, disturbed wetlands to determine their protection/development/conservation status.”~~

Amend the new policy adopted as amendment #68 in Ordinance No. PA 1106 as follows:

Pursue interim protection of sites which contain rare species, but do not meet the criteria for protection in Appendix B ~~Policy 4.19~~ through conservation easements or other measures until either (1) the affected species are de-listed or (2) conservation agreements are reached between the property owner and affected natural resources agencies to address the rare species populations.

Amend Policy 4.19 (previously amended by Ordinance No. PA 1106, amendment #80):

- 4.19 Allow development of wetlands that ~~meet the criteria for wetland~~ ~~are designated~~ ~~for development contained in Appendix B of the Plan, as illustrated on~~ the

Wetland Designations Map (Map 3) of the West Eugene Wetlands Plan.

**Non-policy Amendments**

Delete Appendix B (formerly non-policy amendment #44).

Add the following terms and definitions to the Glossary:

**STANDARD:** A written objective condition, which if met by a site, automatically determines the wetland designation to be applied.

**CRITERIA/CRITERION:** A written measure of character or quality, which is considered together with all other criteria to make a wetland designation decision on sites which do not meet any of the standards.

**PLAN:** As used anywhere in this document, the terms "the Plan", "the Plan", "West Eugene Wetlands Plan" or "the WEWP" all refer to the current West Eugene Wetlands Plan as adopted or later amended.

**DIRECT SURFACE WATER CONNECTION:** The presence of a physical connection, including existing ditches and other similar facilities, such that surface runoff from one wetland can flow into or onto another wetland via channel flow or sheet flow.

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PA 1133  
**Exhibit B**

**Findings of Consistency with  
Oregon Statewide Planning Goals**

The Eugene-Springfield Metropolitan Area General Plan (Metro 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 (WEWP) will result in changes to existing locally adopted policy that address four land use categories: natural resources, industrial lands, 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. The amendments include 1) changes to the criteria used to designate wetlands for protection, restoration or development and 2) changes to related policies and plan text necessary to maintain consistency with the new criteria. These amendments will not change the plan designation of any land. These 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 do not significantly alter the function, design or structure of the WEWP.

**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 amendments which included some of the amendments in the present ordinance. The record was held open for 14 days (until March 4, 1998) for written comments. 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. On June 24, 1999, notice was sent to all interested parties notifying them that a new proposal had been developed for the wetland designation criteria, and explaining where to view the proposal on the world wide web and where to obtain a paper copy. The mailing also included the date, time and place for the August 4, 1999 public hearing.
6. On August 4, 1999, a public hearing was held before the Eugene City Council and the Lane County Board of Commissioners regarding these amendments.

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 and amended on September 11, 1997. 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 do not significantly alter the function, design and structure of the WEWP.

The fundamental program developed for Goal 5 compliance remains essentially 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.

The Plan as adopted in 1992 struck a unique balance between protection and development of wetlands within the Plan area. Over 280 acres of wetlands were designated for development, but a much larger area, over 1,000 acres, was designated for protection or restoration. The magnitude of wetlands designated for both development and protection was unprecedented in Oregon. The current amendments maintain the balance established by the original plan by keeping the policies in line with those in the original Plan.

As detailed in Exhibit D, 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 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:**

The analysis below considers effects of the proposed changes to the policies and text of the West Eugene Wetlands Plan on the supply of buildable industrial and commercial land. The key in this analysis is the examination of the potential impact to buildable lands of the proposed criteria for designating wetlands compared with that of the criteria currently in the plan. The narrative analysis below shows that the changes do not change the criteria towards protecting more wetlands than would be protected under the criteria currently in the Plan.

| Existing Protection Criteria                                   | Proposed Protection Criteria   | Impact of Change   |
|--|--|--|
| 1. Presence of rare plants                                     | 1. Site contains population(s) of one or more rare plant or animal species and contains sufficient and suitable habitat for the long-term protection of the population(s). The criterion is not met if only small occurrences of a rare plant species are found on a site with limited suitable habitat that is isolated from other undeveloped parcels. | Change from very broad definition of rare plants in existing plan glossary to list of species in policy, which narrows number of sites that will meet criterion. Specifies size, habitat and distribution characteristics, and excludes small occurrences of rare plants, which also means that potentially fewer sites would meet the criterion. This change favors development slightly more than existing criterion, but reflects original plan intent. |
| 2. Site has Metropolitan Plan designation of Natural Resource. | Changed to a standard, and reworded as follows:<br><br>Sites designated "Natural Resource" on the Metropolitan Area General Plan diagram shall be designated for protection.   | The change in wording is for readability only. The only sites with the Natural Resources designation in the Metro Plan were already designated in the original 1992 Plan. No impact.   |
| 3. Site is within the 100 year floodplain.                     | 2. Site is primarily within the 100 year floodplain.   | Distinguishes between sites where a tiny portion is within the floodplain from those where most of the site is within it. This will mean that fewer sites will meet the criterion. This change favors development somewhat more than existing criterion, but reflects original plan intent.  |

| <b>Existing Protection Criteria</b>   | <b>Proposed Protection Criteria</b>   | <b>Impact of Change</b>   |
|---|---|---|
| 4. Site is near a perennial waterway.   | 3. Site is within 100 feet of a waterway (stream) designated for protection on Map 3 of the West Eugene Wetlands Plan.  | Considered together with the change to the next criterion, this criterion would identify the same wetlands as the original criteria 4 ( which identifies wetlands next to perennial waterways and 5 (addresses those next to other waterways). No change.   |
| 5. Site is connected geographically or hydrologically to other wetlands or waterways.                                       | 4. Site has a direct perennial or intermittent surface water connection to a wetland designated for protection on Map 3 of the West Eugene Wetlands Plan.   | By narrowing the field of sites that can meet the criteria to only those with surface water connections to protected wetlands, this change slightly moves the criteria toward development.  |
| 6. Site contain a high diversity of wildlife habitat or contributes to the diversity of wildlife habitat within the region. | 5. Site contain a high diversity of wildlife habitat or contributes to the diversity of wildlife habitat within the region.   | No change in this criterion.  |
| 7. Protection of site would further the goals and objectives of this plan.  | 6. Site has unique characteristics which make it of special importance to the functioning of the larger wetland system in West Eugene and protection of site would further the goals and objectives of the West Eugene Wetlands Plan. | This change adds an additional factor of unique characteristics to the existing criterion. Since they are joined by "and", a site must have both unique characteristics AND further plan goals and objectives to meet this criterion. This added factor would, if anything, slightly reduce the number of sites that would meet this criterion. |

| <b>Existing Protection Criteria</b>                                 | <b>Proposed Protection Criteria</b>  | <b>Impact of Change</b>   |
|---|--|---|
| 8. Presence of unique Willamette Prairie Grassland plant community. | 7. Presence of unique Willamette Prairie Grassland plant community. Site contains indigenous wet prairie habitat. This criterion is intended to apply to areas of wet prairie habitat that are large or of moderate to high quality. | Updates terms, makes format consistent with other criteria and adds qualifiers of size and quality. The added qualifiers reduce the number of sites that will meet this criterion. This change favors development slightly more than the existing criterion, but reflects original plan intent. |

| <b>Existing Development Criteria</b>  | <b>Proposed Development Criteria</b>   | <b>Impact of Change</b>  |
|---|--|--|
| 1. Prior to adoption of this Plan, the site has an approved wetland impact permit from the Oregon Division of State Lands and U.S. Army Corps of Engineers, or an approved Final Environmental Impact Statement | <p>Changed to a standard, and reworded as follows:</p> <p>The site shall be designated for development if, at the time of designation of the site in the West Eugene Wetlands Plan, it has a valid, approved wetland impact permit from the Oregon Division of State Lands and the U.S. Army Corps of Engineers.</p> | <p>Addition of the phrase " at the time of designation of the site" potentially allows more sites to meet this criterion, since it includes sites that received permit approvals after plan adoption, but before designation of the site in the plan. This change favors development slightly, but reflects the intent of the existing plan. The phrase "or an approved Final Environmental Impact Statement" has been removed since it was originally added only to address the West Eugene Parkway. The Parkway alignment would be designated Planned Transportation Corridor, and thus does not need to be addressed in these criteria, so that change has no impact.</p> |

| <b>Existing Development Criteria</b>   | <b>Proposed Development Criteria</b>   | <b>Impact of Change</b>  |
|--|--|--|
| 2. The site is relatively isolated or disconnected from the larger system of wetlands and waterways. | 1. Site is relatively isolated or disconnected from the larger system of wetlands and waterways.   | No change.   |
| 3. The site is served by existing streets, roads, sanitary sewers and municipal water                | 2. Site is served by existing streets, roads, sanitary sewers and municipal water  | No change.   |
| 4. The site is adjacent to or surrounded by existing development                                     | 3. Site is adjacent to or surrounded by existing development   | No change.   |
| 5. The site has frontage on a major highway or street.   | 4. Site has frontage on a major highway or street.   | No change.   |
| N/A  | 5. Site has unique characteristics which make it of special importance to the economic development of West Eugene, and allowing development of site would further the goals and objectives of the West Eugene Wetlands Plan. | This new criterion was added to allow consideration of factors such as a scarce land use category or a unique location in relationship to the larger picture of economic development in the plan area. This change was intended to give more "weight" in the development criteria for these unique sites, and make it more likely that they would be designated for development. This change favors development somewhat, and is consistent with the goals and policies in the plan. |

| <b>Existing Development Criteria</b> | <b>Proposed Development Criteria</b>  | <b>Impact of Change</b>  |
|--------------------------------------|---|--|
| N/A                                  | 6. Site characteristics, including size, location and surrounding uses and activities are such that there exists a high probability that the site cannot be protected in perpetuity through the West Eugene Wetlands Program. | This criterion was added in order to place a higher development value on sites that cannot physically be protected and maintained as wetland. This criterion slightly favors development, since wetlands that are environmentally valuable would be rated higher for development value if they could not adequately be protected from adjacent uses. |

| <b>Existing Restoration Criteria</b> | <b>Proposed Restoration Criteria</b>  | <b>Impact of Change</b>   |
|--------------------------------------|---|---|
| N/A                                  | Standard:<br><br>Any site or portion of a site that is providing compensatory wetland mitigation as part of an approved state or federal wetland fill permit shall be designated for restoration. | No impact under any circumstances, since state and federal law require that mitigation sites cannot be developed. |

| Existing Restoration Criteria | Proposed Restoration Criteria  | Impact of Change  |
|-------------------------------|--|---|
| N/A                           | 1. Site contains hydric soils.   | In the original West Eugene Wetlands Plan, there were no criteria listed to identify sites suitable for the restoration designation. These criteria fit closely with the sites designated for restoration/mitigation in the original plan. So, with respect to the intent and effect of the original Plan, these criteria do not represent a change. They only clarify how such sites are to be identified. Since they make it neither more likely nor less likely that a given site will be allowed to develop, the addition of these criteria is treated as neutral with respect to impacts to buildable lands. |
| N/A                           | 2. Site is either a disturbed agricultural wetland or previously exhibited wetland characteristics.  |   |
| N/A                           | 3. Site is capable of providing adequate wetland hydrology.  |   |
| N/A                           | 4. Site does not currently benefit from municipal infrastructure and urban services.   |   |
| N/A                           | 5. Site is either larger than 15 acres or is contiguous with a waterway (stream) designated for protection on the Wetland Designations Map (Map 3) of the West Eugene Wetlands Plan. |   |

In summary, the above tables show that nearly all of the proposed changes slightly favor the development designation compared to the criteria in the existing plan. However, the changes are so minor that they can be considered essentially neutral when considering their impact on future site designations. In fact, the changes were both proposed and adopted with the intent that they would clarify existing policy, not substantially change it. There is no evidence that proposed criteria for designating wetlands will result in more protection of industrial or commercial lands than the current criteria.

#### Industrial Lands

The Metropolitan Industrial Lands Special Study, including both the Inventory Report and the Policy Report, describes the long-term supply and demand for industrial lands metro-wide. In 1992, these documents were approved by the Eugene City Council, the Springfield City Council

and the Lane County Board of Commissioners. According to the data and findings contained in these reports (as of January 1, 1989), approximately 3,600 acres of buildable industrial land were available in the Metro area.<sup>1</sup> The twenty-year demand projection for buildable industrial land was between 650 and 1,172 acres.<sup>2</sup>

Wetland designation changes to protection or restoration as a part of these amendments would decrease the available inventory of industrial land. Wetland designation changes from protection or restoration to development would increase the supply of available industrial land.

The proposed policy changes would result in some sites being protected and some being allowed to develop. For the sake of analysis, let us assume that all the undesignated wetland sites would be designated for protection. If this were true it would reduce the buildable industrial land supply by 179.5 acres. This represents a 5% reduction in the overall supply of industrial land, leaving 3,420.5 acres of inventoried industrial land unaffected by these refinement plan amendments. This represents a supply that is 2,248.5 acres more than the maximum projected twenty-year demand for 1,172 acres.

#### Commercial Lands

The Eugene Commercial Lands Study (1992), provides an analysis of the supply and demand of vacant commercial land within Eugene. The study was prepared by the Eugene Planning Commission, and it serves as a refinement to the Metropolitan Area General Plan. According to the findings contained in this study, 702 acres (adjusted total supply) of vacant commercial land were available.<sup>3</sup> The projected twenty-year demand for vacant commercial land (within the Eugene portion of the Urban Growth Boundary only) was 532 acres, including 109 acres of developable office land and 423 acres of non-office commercial.<sup>4</sup> For the purposes of this analysis, developable office is land designated in the Metropolitan Area General Plan for commercial use, which is zoned GO General Office. There is no land zoned General Office that contains undesignated wetland. Therefore, there will be no impact to the supply of office commercial land as a result of these amendments.

Wetland designation changes to protection or restoration as a part of these amendments would, in effect, decrease the available inventory of commercial land. Designation changes from protection or restoration to development would increase the supply of available commercial land.

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<sup>1</sup> Metropolitan Industrial Lands Inventory Report, Lane Council of Governments, 125 East 8th Avenue, Eugene, Oregon, 97401, July 1993, p.73.

<sup>2</sup> Ibid., p.73.

<sup>3</sup> Eugene Commercial Lands Study, Eugene Planning and Development Department, 777 Pearl Street, Room 106, Eugene, Oregon, 1992, p. II-15.

<sup>4</sup> Ibid., p.II-15.

Under the proposed amendments, some wetlands would be designated for protection or restoration, and some for development.

There are currently 18.8 acres of commercial land that contains undesignated wetlands within the WEWP area. If all of these acres were removed, it would represent a 2.7% reduction in the overall supply of inventoried commercial lands, leaving about 683.2 acres of inventoried commercial land still available. This is 150 acres more than the projected twenty-year demand.

Since no office commercial lands were impacted, it must be assumed that all reduction would be to the non-office commercial category. The projected demand for this category is 423 acres. According to the Commercial Lands Study, the inventory of buildable commercial land includes 465 acres of land designated in the Metro Plan for commercial use, but not zoned for office use. An additional 197 acres is included in the inventory that is not categorized between office and non-office use, though a percentage of it can be assumed available for non-office commercial. Using only the 465 acres explicitly denoted in the Commercial Lands Study, after subtracting the 18.8 acres that could be removed by protection of wetlands in these amendments, 451 acres are left, which is 23 acres more than the projected demand for this category.

The foregoing analysis concludes that even if all of the commercial and industrial undesignated wetlands were removed from the buildable lands inventory by designating them for protection, there would be adequate land in the inventory to meet the project 20-year demand for industrial and commercial land.

Since the policy changes clearly do not move the Plan toward more protection, and since even removing the maximum possible acres from the land supply would leave adequate buildable land in both categories, these amendments are consistent with Goal 9.

### **Goal 10 - Housing**

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

#### **Findings:**

As discussed and analyzed above, the proposed policy amendments do not move the plan toward protecting more wetlands. There is no evidence that the proposed criteria for designating wetlands will result in more protection of residential lands than the current criteria.

The Metropolitan Area Residential Land Study: Supply and Demand Analysis (1991), describes the supply and demand for residential lands within the Eugene-Springfield Urban Growth Boundary. This report is the 1989 update to the residential supply and demand analysis prepared for the Metropolitan Area General Plan. According to the findings contained in this report,

11,414 acres of vacant, buildable residential land were available in the Metro area in 1989.<sup>5</sup> The twenty-year demand projection for vacant, buildable residential land was between 7,410 and 8,230 acres.<sup>6</sup>

Wetland designation changes to protection or restoration as a part of these amendments would, in effect, decrease the available inventory of residential land. The total area of residential land that contains undesignated wetlands is 72 acres. If all of these acres were protected and removed from the buildable lands inventory it would represent a 0.6% reduction in the overall supply of inventoried residential lands, leaving about 11,342 acres of inventoried residential land still available. This represents a supply of several thousand acres beyond the projected twenty-year demand for between 7,410 and 8,230 acres.

The foregoing analysis concludes that even if all of the residential undesignated wetlands were removed from the buildable lands inventory by designating them for protection, there would still be adequate land in the inventory to meet the projected 20-year demand.

Since the policy changes clearly do not move the Plan toward more protection, and since even removing the maximum possible acres from the residential land supply would leave adequate buildable land to meet the projected 20-year demand, these amendments are consistent with 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 abundant opportunities provided for citizen involvement throughout the planning process 2) the proposed policy amendments do not move the plan toward protecting more wetlands, 3) the maximum acreage that could be removed by designating currently undesignated wetlands would still leave adequate industrial commercial and residential lands to meet the projected demands for the 20-year planning period and 4) 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.

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<sup>5</sup> Metropolitan Area Residential Lands Study, Eugene Planning and Development Department, City of Springfield Development Services Department, Lane Council of Governments, June, 1991, p.44.

<sup>6</sup> *Ibid.*, p.103.

PA 1133  
**Exhibit C**

**Findings of Consistency with Refinement Plan  
Amendment Criteria**

Eugene Code section 9.145 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) “(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.”

Proposed Policy 3.17 acknowledges the value of existing and new industrial development. This policy continues to provide a framework for allowing wetlands of lesser value to be developed with planned industrial uses, and for those wetlands to be replaced through the mitigation bank with greater ease.

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

Proposed Policy 3.17 does not specifically address preservation of land for expansion of existing industrial development. However, the criteria for identifying sites suitable for development acknowledge the economic value of certain sites in criteria 3-6. In addition, proposed Policy 3.17 includes a new criterion for designating sites for development that acknowledges the unique characteristics of a site which make it of greater importance to the economic value of the area. Under some circumstances, this criterion could address expansion of existing businesses.

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.”

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.

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.”

Protection criterion #1 under proposed Policy 3.17 addresses protection of rare plants. This criterion places higher value on wetlands with rare plants on sites with potential for long-term protection and management. It helps to ensure that wetlands with rare plant species are given strong consideration for long-term protection, in conjunction with consideration of other criteria. Proposed policy 3.17 is consistent with Policy 28.

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 criteria in proposed Policy 3.17 for designating wetlands sites (or portions of sites) includes criteria for protection and/or restoration of wetlands, which will prevent disturbance of wetlands, water features and natural vegetation on those sites. By protecting wildlife habitat, water quality and vegetation on sites that meet these criteria, these proposed amendments are consistent with the above policy.

The reference to “economic, social, environmental and energy impacts” comes from statewide planning Goal 5. See Exhibit B, (incorporated herein by reference) for a

discussion of consistency of these amendments with Goal 5.

The overall impact of applying the policies in the proposed amendments to the West Eugene Wetlands Plan, if they are approved, is to continue to protect the majority of wetlands and waterways in the Plan area in the manner established by the original Plan. This includes protecting natural vegetation on the most valuable wetland sites and restoration of native habitat on suitable restoration sites. Based upon the level of protection of these provisions, the amendments are consistent with this policy.

### **Summary Conclusions: Metro Plan Consistency**

The findings above indicate consistency with all applicable Metro Plan policies. 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."**

The criteria in proposed Policy 3.17 for designating wetlands sites (or portions of sites) includes criteria for protection and/or restoration of wetlands, which will prevent disturbance of wetlands, water features and natural vegetation on those sites. By protecting wildlife habitat, water quality and vegetation on sites that meet these criteria, these proposed amendments are consistent with the above goal.

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

The criteria proposed in these amendments for designating wetland sites (or portions of sites) include criteria for identifying sites for future development. They include one criterion (development criterion 6) that recognizes sites that are of particular importance to the economic development of West Eugene. This criterion can be used to recognize outstanding economic features of a site that contribute significantly to the economic development of the area. These criteria are designed to preserve development values on sites where environmental values are low and development values are high. The amendments leave intact various provisions and policies addressing economic development values that are contained in the West Eugene Wetlands Plan. These provisions support Goal 3.2. No new policies are introduced that contradict 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."

Protection criterion #1 under proposed Policy 3.17 addresses protection of rare plants. This criterion places higher value on wetlands with rare plants on sites with potential for long-term protection and management. It helps to ensure that wetlands with rare plant species are given strong consideration for long-term protection, in conjunction with consideration of other criteria. Previously adopted policies identify which species are considered rare within the plan area. The proposed amendments are consistent with this goal.

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 and coordinated restoration of degraded 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.

Proposed Policy 3.17, adds a new wetland protection criterion to the Plan addressing probability of achieving long-term protection. Together with proposed Protection criteria #3 and #4, which address interconnectedness with the stream system, this criterion directly expresses the value stated in Goal 3.7. The new criterion would add consideration of the feasibility of long-term protection to other considerations when determining whether to protect a site. This is consistent with the Plan Goal of protecting a wetland system with a "high likelihood of long-term survival".

Goal 4.5 Minimize reductions to the existing industrial and commercial buildable lands inventory as a result of wetland protection.

The criteria in proposed Policy 3.17 would help minimize reductions in buildable lands inventories by balancing environmental values of wetland sites with economic development values. This balancing will reduce the percentage of wetland sites that are designated for protection, which is consistent with Goal 4.5.

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

Policy 3.8 "Establish, maintain and protect physical and hydrologic linkages between protected wetlands and adjacent transitional and upland wildlife habitat and natural areas."

Proposed Policy 3.17 includes changes to two of the criteria from the original plan which

address connectivity through the existing waterways. Proposed protection criteria 3 and 4 place a higher value on wetlands that are within 100 feet of protected waterways and on wetlands with direct surface water connections to protected wetlands. These criteria will lead to protection of many of the wetlands with these connections, helping to provide the linkages called for in Policy 3.8. Therefore the amendments are consistent with Policy 3.8.

### **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: Not applicable.

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

Findings: Proposed policy 3.17 is introduced as a clarification of existing policy in the Plan. Property owners, developers, and various agency staff have on numerous occasions commented on the lack of clarity in the existing plan regarding how the protection and development criteria are interpreted and applied and whether all wetlands on public land were intended to be protected. The lack of clarity in these policy areas was not anticipated at the time of Plan adoption. Proposed Policy 3.17 addresses lack of clarity expressed by the public following adoption of the Plan. Therefore it responds to a situation not anticipated during Plan adoption and is consistent with this criterion.

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

Findings: Proposed Policy 3.17 includes changes to the criterion which addresses rare plants to respond to new information about rare plant distribution that was not available at the time of Plan adoption. Information gathered since adoption of the Plan shows that there are a number of small wetland sites, surrounded by development, with small rare plant populations which would be very difficult to protect due to their isolation from other habitat areas, small size, and surrounding uses. Due to their isolated nature these sites cannot be integrated or connected to the larger wetland system. When the Plan was adopted in 1992, it was thought that the rare plants existed only on the large, pristine wet prairie wetland sites such as the Willow Creek Preserve. Proposed Policy 3.17 would require consideration of plant species listed

in the Plan (taken from the Oregon Natural Heritage Program Lists 1 and 2) when evaluating new wetland sites for designation. This change is based upon the results of recent plant surveys, which have revealed the distribution of rare plant species on the adopted list. These rare plant surveys address Statewide Planning Goal 5, which includes ecologically and scientifically significant sites (such as rare plant habitat). Therefore, these amendments address new inventory information which addresses Statewide Goal 5, and are consistent with this criterion.

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

Findings: Not applicable.

**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 proposed amendments are found to be consistent with the applicable criteria contained in Eugene Code Section 9.145.**

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