

PASSED

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. PA 1175

-) **IN THE MATTER OF AMENDING THE WEST EUGENE**
-) **WETLANDS PLAN TO REDESIGNATE PROPERTY**
-) **WITHIN THE MODIFIED PROJECT ALIGNMENT OF THE**
-) **WEST EUGENE PARKWAY FROM PROTECT AND RE-**
-) **STORE TO PLANNED TRANSPORTATION CORRIDOR.**

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 on August 26, 1992 enacted Ordinance No. PA 1019A amending the 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, on June 24, 1998 the Board of County Commissioners enacted Ordinance No. PA 1117, amending the West Eugene Wetlands Plan to establish the new Planned Transportation Corridor and Utility Corridor wetland designations; on November 10, 1998, after deleting policies related to criteria for protection, development and restoration, enacted Ordinance No. PA 1106, adopting new or revised Plan policies and text; on April 21, 1999 enacted Ordinance No. PA 1129, adopting Planned Transportation Corridor wetland designations for City of Eugene properties located within the West 18th and West 11th Avenue Road Improvement Projects; on November 23, 1999 enacted Ordinance No. PA 1133, adopting new and revised Plan policies related to the criteria for wetland designations; on August 30, 2000 enacted Ordinance No. PA 1107, adopting new or revised wetland designations for various sites within the Plan boundary and related policy and text amendments; on September 13, 2000 enacted Ordinance No. PA 1109, adopting new wetlands designations for the Hyundai site and related text amendments; and on November 1, 2000 enacted Ordinance No. PA 1108, adopting new wetlands designations for the Speedway site and related text amendments; and

WHEREAS, on November 21, 2001, following passage of Ballot Measure 20-54, the Eugene City Council adopted Resolution No. 4694 initiating amendments to the West Eugene Wetlands Plan, Metro Plan and TransPlan to facilitate construction of the West Eugene Parkway; and

WHEREAS, following a joint public hearing with the Eugene and Springfield Planning Commissions and Lane County Roads Advisory Committee on February 20, 2002, the Lane County Planning Commission recommended (5:1) West Eugene Wetlands Plan amendments to the Board of County Commissioners by action taken at a public meeting held by the Planning Commission on March 19, 2002; and

WHEREAS, the Board of County Commissioners conducted a joint public hearing on these amendments on May 29, 2002 and is now ready to take action based upon the above recommendations and evidence and testimony already in the record as well as the evidence and testimony presented at the joint public hearing; and

WHEREAS, evidence exists within the record indicating that the proposal meets 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:

Section 1. The West Eugene Wetlands Plan, as adopted by Ordinance No. PA 1019 and amended by Ordinance No. PA 1019-A, Ordinance No. PA 1075, Ordinance No. PA 1117, Ordinance No. PA 1106, Ordinance No. PA 1129, Ordinance No. PA 1133, Ordinance No. PA 1107, Ordinance No. PA 1109, and Ordinance No. PA 1108, is hereby further amended as set forth in Exhibit "A" attached and incorporated herein by this reference.

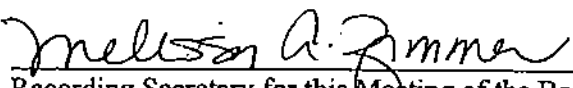
FURTHER, although not part of this Ordinance, the Board of County Commissioners adopts the findings set forth in the attached Exhibit "B" in support of this action.

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 provisions and such holding shall not affect the validity of the remaining portions thereof.

ENACTED this 21st day of July, 2002.




Chair, Lane County Board of Commissioners



Recording Secretary for this Meeting of the Board

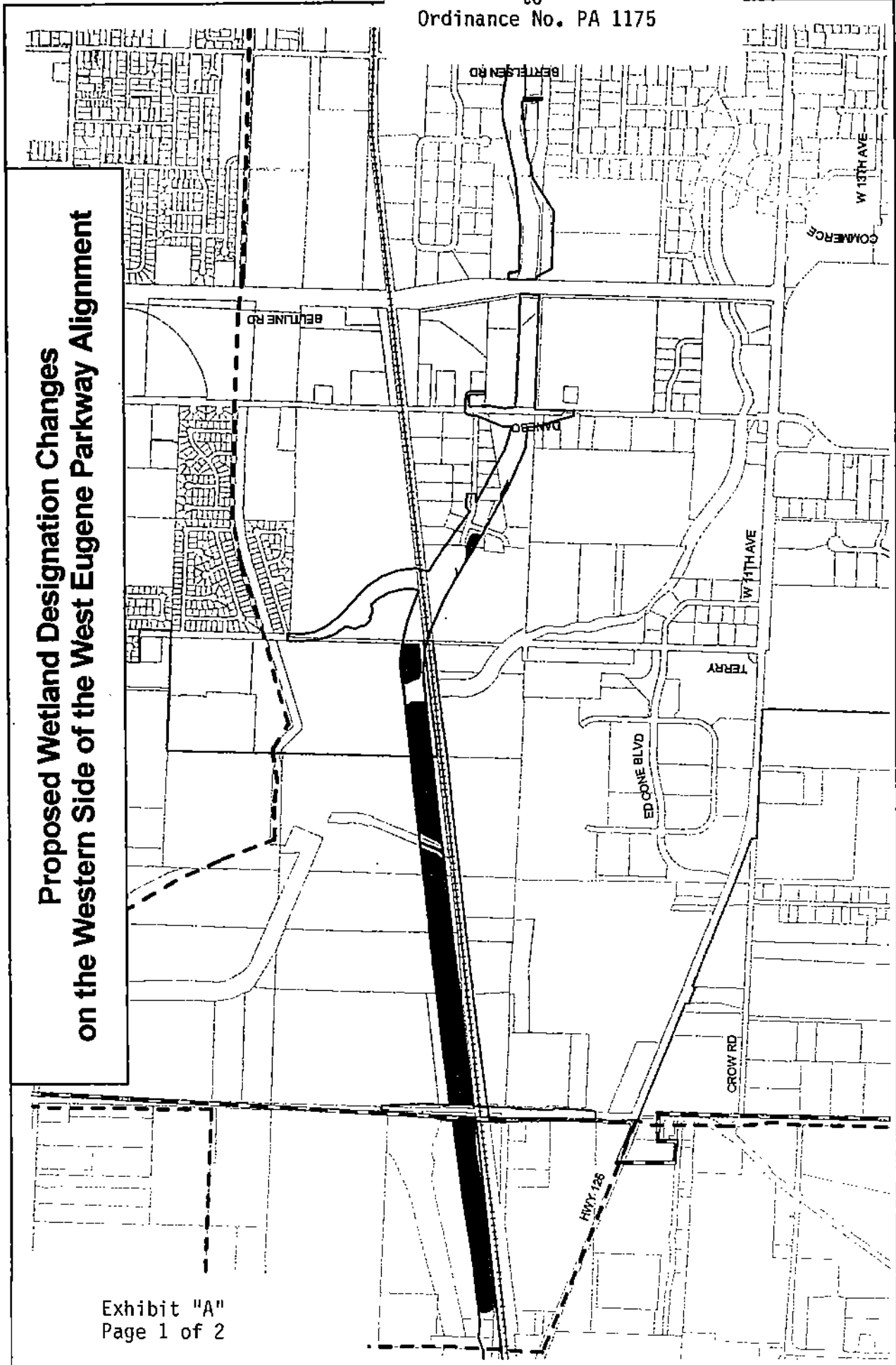
APPROVED AS TO FORM

Date 5-7-2002 Lane county


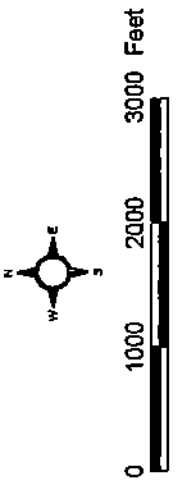
OFFICE OF LEGAL COUNSEL

Exhibit "A"
to
Ordinance No. PA 1175

Proposed Wetland Designation Changes
on the Western Side of the West Eugene Parkway Alignment



Produced by City of Eugene
Planning and Development Department
D:/user/eric/wetland/parkway/parkway.apr
Layout 4
January 2, 2002



Legend

- Proposed Wetland Designations
- Planned Transportation Corridor
- Parkway Alignment
- Tax Lots
- Wetland Plan Boundary
- City Limits
- Urban Growth Boundary
- Railroads

Exhibit "B"
to
Ordinance No. 1175

**Findings of Consistency of West Eugene Wetlands Plan Amendments
with Refinement Plan Amendment Criteria**

The West Eugene Wetlands Plan was adopted as a refinement plan to the Eugene-Springfield Metropolitan Area General Plan (Metro Plan) by the Eugene City Council and Lane County Board of Commissioners in 1992. The West Eugene Wetlands Plan was amended by these adopting officials in 1995, 1998, 1999 and 2000. The amendments are incorporated in the November 2000 West Eugene Wetlands Plan.

The West Eugene Wetlands Plan is an approved wetland conservation plan as defined in ORS 196.800(15). Approval for the plan as a Wetland Conservation Plan was originally granted by the Oregon Division of State Lands in September 1994. DSL's approval was amended by Final Order 97-003 in September 1997. In 1999, as required by ORS 196.684, DSL conducted a five-year review of plan implementation and issued Modified Final Order 99-003. On April 18, 2002, Division of State Lands Final Order 02-001 approved the amended West Eugene Wetlands Plan (November 2000), with conditions, as a Wetland Conservation Plan under ORS 196.678 to ORS 196.684. Generally, conditions relate to Plan reporting and implementation; additional conditions related to Plan amendment and five-year DSL review cite ORS 196.684 requirements.

Section 9.8424 of the Eugene Land Use Code and Section 9.145(2) of the Lane Code Urbanizable Area Land Use and Zoning list the criteria for refinement plan amendments. The Eugene Land Use Code applies within the Eugene City limits; the Lane Code Urbanizable Area Land Use and Zoning applies within the area between the Eugene city limits and the urban growth boundary. In the findings below, text from the Eugene Land Use Code is printed in bold; text from the Lane Code Urbanizable Area Land Use and Zoning (where there is comparable text) is printed directly under the Eugene Land Use Code text and is underlined.

The findings below demonstrate that the amendments to the West Eugene Wetlands Plan to apply the Planned Transportation Corridor wetland designation to specific properties along the West Eugene Parkway Modified Project alignment are consistent with the criteria for refinement plan amendments. The planned transportation corridor policy in the West Eugene Wetlands Plan (WEWP) was analyzed for consistency with the Statewide Planning Goals, all applicable policies from the Metropolitan Area General Plan (Metro Plan) and the remaining policies of the WEWP at the time of adoption of the policy in 1998. Therefore, site designations that are consistent with the planned transportation corridor policy are considered consistent with the Statewide Planning Goals, Metro Plan and remaining WEWP policies as well. Even though demonstration of consistency with this WEWP policy would be sufficient to establish consistency with the Statewide Planning Goals and Metro Plan, findings of consistency with the Statewide Planning Goals and the Metro Plan are provided below to further establish authority for the proposed amendments.

Section 9.8424 (1) The plan amendment is consistent with all of the following:
Section 9.145(2) ... the proposed change is consistent with the following approval criteria

(a) Statewide Planning Goals

[Comparable refinement plan amendment criterion not included in Lane Code Urbanizable Area Land Use and Zoning.]

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. The West Eugene Wetlands Plan is also an approved wetland conservation plan as defined in ORS 196.800(15).

These amendments to the West Eugene Wetlands Plan affect properties which have received the Protect or Restore wetland designations through previous planning actions. These amendments are changes to the Wetland Designations Map (Map 3) of the West Eugene Wetlands Plan. This map applies one or more of several defined wetland designations to each inventoried wetland in the study area. These amendments only involve the application of the "Planned Transportation Corridor" designation. This designation is applied to areas previously designated for restoration or protection to allow needed roadway improvements.

Findings supporting exceptions to Statewide Planning Goals 3, 4, 11 and 14 for the West Eugene Parkway Modified Project and demonstrating project consistency with other applicable Statewide Planning Goals, prepared for the Oregon Department of Transportation, are incorporated by reference in this document and attached as Exhibits "C-1," "C-2," and "C-3" to the findings for the amendments to TransPlan, the Metro Plan and the Lane County Rural Comprehensive Plan and are incorporated herein by this reference. The Exhibit "C-1," "C-2," and "C-3" findings address only that portion of the West Eugene Parkway that is west of Beltline, as portions east of Beltline have already been acknowledged as consistent with the Statewide Planning Goals.

Goal 1: Citizen Involvement

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Chapter 9 of the Eugene Code, 1971 establishes procedures for refinement plan amendments. Under the August 1, 2001 Land Use Code, notice requirements for refinement plan amendments exceed the notice requirements for Metro Plan amendments. On January 4, 2002, notice of the proposed amendments to TransPlan, the Metro Plan and the Lane County Rural Comprehensive Plan and the West Eugene Wetlands Plan was delivered to the Department of Land Conservation and Development. An amended notice, including revised date of final hearing, was delivered to the Department of Land Conservation and Development on February 1, 2002. On January 4, 2002, notice of the proposed amendments to TransPlan, the Metro Plan and the Lane County Rural Comprehensive Plan and the West Eugene Wetlands Plan was delivered to the Department of Land Conservation and Development. An amended notice, including revised date of final hearing, was delivered to the Department of Land Conservation and Development on February 1, 2002. Section 9.7520 of the Eugene Code requires that written notice of the refinement plan

amendment hearing and the nature of the request be mailed at least 30 days before the planning commission public hearing to the Lane County and Springfield planning directors, all neighborhood groups officially recognized by the city council and community organizations that have submitted written requests for notification. On January 18, 2002, written notice of the February 20, 2002 joint public hearing of the Eugene, Lane County and Springfield planning commissions and the Lane County Roads Advisory Committee (LCRAC) was mailed to a consolidated list of interested parties provided by the Oregon Department of Transportation (West Eugene Parkway list), Lane Council of Governments (TransPlan testimony list) and Eugene staff (West Eugene Wetlands Plan agency list and other interested parties). Approximately 1,500 notices were mailed. The Eugene code also requires that a legal ad be published at least 20 days in advance of the public hearing. The legal ad was published in the Eugene Register-Guard on January 30, 2002. In addition, the city has developed a West Eugene Parkway web site. The public hearing notice and maps and the staff report were published on the web site. This notification exceeds the requirements of the Eugene Code. The refinement plan amendment process includes two public hearings: the first before the planning commissions and roads advisory committee and the second before the adopting officials. Those who provided their mailing address with their written or oral testimony to the planning commissions and LCRAC received written notice of the joint adopting officials public hearing. These hearings provide ample opportunity for public involvement consistent with Goal 1. Therefore, these amendments to the West Eugene Wetlands Plan comply with Goal 1.

Goal 2: Land Use Planning

Goal 2, Land Use Planning includes two parts. Part I, Planning, addresses general planning and coordination requirements; Part II, Exceptions, addresses exceptions to statewide planning goals.

Goal 2 requires that plans be coordinated with the plans of affected governmental units and that opportunities be provided for review and comment by affected governmental units. The Goal defines "Affected Governmental Units" as "those local governments, state and federal agencies and special districts which have programs, land ownerships, or responsibilities within the area included in the plan." To comply with the Goal 2 coordination requirement, the City coordinated the adoption of these amendments with all affected governmental units. Specifically, notice was mailed to: Lane County, Springfield and Lane Transit District, which are parties to the decision; the Lane Council of Governments; the following Federal agencies: Federal Highway Administration, Bureau of Land Management, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, Environmental Protection Agency, National Marine Fisheries Service, National Park Service, Federal Aviation Administration, and Department of Housing and Urban Development; and the following state agencies: Department of Transportation, Department of Land Conservation and Development, Division of State Lands, Department of Environmental Quality, Department of Energy, Department of Agriculture and State Historic Preservation Office.

Findings demonstrating an adequate factual base supporting the shift in West Eugene Parkway alignment from the 1990 Approved Design to the Modified Project and justifying exceptions to Statewide Planning Goals 3, 4, 11 and 14 are set forth in the following documents provided by

the Oregon Department of Transportation, which are attached to the findings for the amendments to TransPlan, the Metro Plan and the Lane County Rural Comprehensive Plan and are incorporated herein by this reference:

Exhibit "C-1": West Eugene Parkway Modified Project — Consistency with the Statewide Planning Goals and Transportation Planning Rule, prepared for ODOT by Mark J. Greenfield.

Exhibit "C-2": Alternatives Considered — West Eugene Parkway, prepared for ODOT by Jay McRae, CH2M Hill

Exhibit "C-3": Incompatible Adjacent Land Uses in the WEP Project Area, prepared for ODOT by Sheryl Christensen

Therefore, the amendments comply with Goal 2.

Goal 3: Agricultural Lands

To preserve and maintain agricultural lands.

Findings justifying an exception to Goal 3 for the portion of the West Eugene Parkway Modified Project alignment located outside the urban growth boundary are set forth in the following documents provided by the Oregon Department of Transportation, which are attached to the findings for the amendments to TransPlan, the Metro Plan and the Lane County Rural Comprehensive Plan and are incorporated herein by this reference:

Exhibit "C-1": West Eugene Parkway Modified Project — Consistency with the Statewide Planning Goals and Transportation Planning Rule, prepared for ODOT by Mark J. Greenfield.

Exhibit "C-2": Alternatives Considered — West Eugene Parkway, prepared for ODOT by Jay McRae, CH2M Hill

Exhibit "C-3": Incompatible Adjacent Land Uses in the WEP Project Area, prepared for ODOT by Sheryl Christensen

Goal 4: Forest Lands

To conserve forest lands . . .

Findings justifying an exception to Goal 4 for the portion of the West Eugene Parkway Modified Project alignment located outside the urban growth boundary are set forth in the following documents provided by the Oregon Department of Transportation, which are attached to the findings for the amendments to TransPlan, the Metro Plan and the Lane County Rural Comprehensive Plan and are incorporated herein by this reference:

Exhibit "C-1": West Eugene Parkway Modified Project — Consistency with the Statewide Planning Goals and Transportation Planning Rule, prepared for ODOT by Mark J. Greenfield.

Exhibit "C-2": Alternatives Considered — West Eugene Parkway, prepared for ODOT by Jay McRae, CH2M Hill

Exhibit "C-3": Incompatible Adjacent Land Uses in the WEP Project Area, prepared for ODOT by Sheryl Christensen

Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Areas
To conserve open space and protect natural and scenic resources.

The Goal 5 natural resource inventory for the Eugene-Springfield Metropolitan Area General Plan acknowledged in 1982 is shown on Map 3, Metropolitan Area General Plan Background Report, Natural Features & Airport Limitation Areas. Following acknowledgment of the Metro Plan, in 1992, Eugene and Lane County adopted the West Eugene Wetlands Plan (WEWP), which expanded the wetlands inventory for this area. The WEWP was subsequently amended in 1995, 1998, 1999 and 2000.

The West Eugene Wetlands Plan is an approved wetland conservation plan as defined in ORS 196.800(15). Approval for the plan as a Wetland Conservation Plan was originally granted by the Oregon Division of State Lands in September 1994 and was amended by Final Order 97-003 in September 1997. In 1999, as required by ORS 196.684, DSL conducted a five-year review of plan implementation and issued Modified Final Order 99-003. On April 18, 2002, Division of State Lands Final Order 02-001 approved the amended West Eugene Wetlands Plan (November 2000), with conditions, as a Wetland Conservation Plan under ORS 196.678 to ORS 196.684. Generally, conditions relate to Plan reporting and implementation; additional conditions related to Plan amendment and five-year DSL review cite ORS 196.684 requirements.

The amendment to the West Eugene Wetlands Plan to apply the Planned Transportation Corridor to property within the West Eugene Parkway Modified Project alignment does not amend the policies of the West Eugene Wetlands Plan. Rather, it implements Policy 3.22 which states the circumstances under which the Planned Transportation Corridor wetland designation can be applied.

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 findings of goal compliance made as part of initial adoption of the WEWP and of adoption of subsequent amendments remain essentially unaffected by these amendments. The 1992 West Eugene Wetlands Plan designated the wetlands along the West Eugene Parkway Approved Design for development. As a result, this project was anticipated and incorporated in the West Eugene Wetlands Plan. The Planned Transportation Corridor wetland designation, adopted and acknowledged in 2000, has also been approved with other amendments to the West Eugene

Wetlands Plan by DSL Final Order 02-001, April 18, 2002. The northern alignment studied in the draft SDEIS was selected as the Preferred Alternative because it reduced impacts to high-quality wetlands. As a result of these factors, previous findings of Goal 5 compliance remain essentially unaffected by shifting the alignment from immediately south of the railroad tracks to immediately north of the railroad tracks.

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 Plan boundary, keeping in mind that the larger system of which these wetlands are a part extends beyond this and other political boundaries.

The West Eugene Wetlands Plan was developed in coordination with several key state and federal agencies involved in wetlands regulation and planning: Division of State Lands (DSL), Army Corps of Engineers (ACOE), Environmental Protection Agency (EPA), and the United States Fish and Wildlife Service (USFWS). The Plan was also coordinated with local offices of other applicable local, state and federal agencies. ODOT has requested comments from these agencies on the August 1997 Draft Supplemental Environmental Impact Statement for the West Eugene Parkway.

In 2000, the Bureau of Land Management was offered cooperator status in preparation of the Supplemental Final Environmental Impact Statement for the West Eugene Parkway. In October 2000 BLM accepted formal cooperator status and has submitted comments on the August 1997 Draft Supplemental Environmental Statement.

Findings demonstrating compliance of the West Eugene Parkway Modified Project alignment with Goal 5 are set forth in Exhibit "C-1," which is attached to the findings for the amendments to TransPlan, the Metro Plan and the Lane County Rural Comprehensive Plan and is incorporated herein by this reference: West Eugene Parkway Modified Project — Consistency with the Statewide Planning Goals and Transportation Planning Rule, prepared for ODOT by Mark J. Greenfield.

The amendments are consistent with the applicable policies of the Metro Plan and the November 2000 West Eugene Wetlands Plan, which has been adopted as a Wetland Conservation Plan by the Oregon Division of State Lands. Therefore, these amendments to the West Eugene Wetlands Plan comply with Statewide Planning Goal 5.

Goal 6: Air, Water and Land Resources Quality

To maintain and improve the quality of the air, water and land resources of the state.

Findings demonstrating compliance of the West Eugene Parkway Modified Project alignment with Goal 6 are set forth in Exhibit "C-1," which is attached to the findings for the amendments

to TransPlan, the Metro Plan and the Lane County Rural Comprehensive Plan and is incorporated herein by this reference: West Eugene Parkway Modified Project — Consistency with the Statewide Planning Goals and Transportation Planning Rule, prepared for ODOT by Mark J. Greenfield.

Goal 7: Areas Subject to Natural Disasters and Hazards

To protect life and property from natural disasters and hazards.

Findings demonstrating compliance of the West Eugene Parkway Modified Project alignment with Goal 7 are set forth in Exhibit “C-1,” which is attached to the findings for the amendments to TransPlan, the Metro Plan and the Lane County Rural Comprehensive Plan and is incorporated herein by this reference: West Eugene Parkway Modified Project — Consistency with the Statewide Planning Goals and Transportation Planning Rule, prepared for ODOT by Mark J. Greenfield.

Goal 8: Recreational Needs

To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

In July 2001, the Bureau of Land Management approved the Recreation, Access, and Environmental Education Plan for the West Eugene Wetlands. This Plan was prepared jointly by the Bureau of Land Management, City of Eugene and Lane Council of Governments. Following page 5 of the Plan is a map entitled “All Proposed Facilities.” The West Eugene Parkway Modified Project alignment is shown as “Planned Parkway Alignment.” The West Eugene Parkway Modified Project alignment is also shown on the map entitled “Management Areas” following page 20 of the Plan as “Planned West Eugene Parkway.”

Page 20 of the report states: “In the event that the West Eugene Wetland Plan is amended in the future to allow for new or planned roadways or other project, the management areas Map would be refined accordingly.” Therefore, although the Planned Transportation Corridor wetland designation had not been applied to the Modified Project alignment at the time the Recreation, Access, and Environmental Education Plan for the West Eugene Wetlands was approved, this Plan acknowledged the West Eugene Parkway Modified Project alignment as a planned project and provided for further refinement of the plan following amendment to the West Eugene Wetlands Plan to apply the Planned Transportation Corridor wetland designation.

Findings demonstrating compliance of the West Eugene Parkway Modified Project alignment with Goal 8 are set forth in Exhibit “C-1,” which is attached to the findings for the amendments to TransPlan, the Metro Plan and the Lane County Rural Comprehensive Plan, and is incorporated herein by this reference: West Eugene Parkway Modified Project — Consistency with the Statewide Planning Goals and Transportation Planning Rule, prepared for ODOT by Mark J. Greenfield.

Goal 9: Economic Development

To provide adequate opportunities throughout the state for a variety of economic activities vital

to the health, welfare, and prosperity of Oregon's citizens.

Since these amendments only apply the Planned Transportation Corridor designation to non-buildable areas (i.e., wetlands designated for protection or restoration) and the designation only allows road improvements, they do not affect the buildable land inventory. This finding is also based upon these facts:

1. The areas designated by these amendments for Planned Transportation Corridor are vacant, undeveloped areas. Therefore, these amendments will not apply to existing development, and do not apply new land use restrictions to existing development.
2. There are no impacts to the buildable lands inventory resulting from these amendments since they involve a change in designation from a non-developable category ("Protect" or "Restore") to another category allowing only roadway improvements ("Planned Transportation Corridor").

Industrial Lands: These amendments to the West Eugene Wetlands Plan will not reduce the acreage of land currently available for industrial development, since they affect only land that was previously unavailable for development. Consequently, they leave adequate developable industrial land within the Eugene-Springfield metropolitan area within the 20-year planning period. Therefore, these amendments are consistent with Goal 9 with respect to industrial land.

Commercial Lands: These amendments do not include any land designated for commercial use in the Metropolitan Area General Plan.

Goal 10: Housing

To provide for the housing needs of citizens of the state.

The West Eugene Parkway does not directly impact any area identified for housing. Therefore, these amendments do not affect compliance with Goal 10.

Goal 11: Public Facilities and Services

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development

Findings demonstrating compliance of the West Eugene Parkway modified project located inside the urban growth boundary and justifying an exception to Goal 11 for the portion of the West Eugene Parkway Modified Project alignment located outside the urban growth boundary are set forth in the following documents provided by the Oregon Department of Transportation, which are attached to the findings for the amendments to TransPlan, the Metro Plan and the Lane County Rural Comprehensive Plan and are incorporated herein by this reference:

Exhibit "C-1": West Eugene Parkway Modified Project — Consistency with the Statewide Planning Goals and Transportation Planning Rule, prepared for ODOT by Mark J. Greenfield.

Exhibit "C-2": Alternatives Considered — West Eugene Parkway, prepared for ODOT by Jay

McRae, CH2M Hill

Exhibit "C-3": Incompatible Adjacent Land Uses in the WEP Project Area, prepared for ODOT by Sheryl Christensen

Goal 12: Transportation

To provide and encourage a safe, convenient and economic transportation system.

The West Eugene Parkway was first proposed as the "6th/7th Extension" in the T-2000 Plan adopted in 1978 by Eugene, Springfield, Lane County and the Lane Transit District. The public reviewed and commented on a draft Environmental Impact Statement (EIS) for the project in 1985-86. That process determined the general route of the proposed 4-lane roadway, which was re-named the West Eugene Parkway. Under the provision of the City Charter that requires a vote on a limited-access throughway, the City Council placed a measure on the ballot in November 1986 asking whether or not the West Eugene Parkway should be constructed along the east-west route preferred by the City Council. The voters approved the measure.

The project was included in the 1986 TransPlan, which superseded the T-2000 Plan. Although a final EIS was issued in 1990, subsequent funding constraints and environmental concerns resulted in phasing the project in four distinct phases, and additional environmental studies to augment the original EIS work. A draft supplemental EIS was issued for public comment in 1997, and the final supplemental EIS is pending.

On December 2000, Eugene received a letter from ODOT specifying land use actions necessary to move forward with the conclusion of the final supplemental Environmental Impact Statement for the West Eugene Parkway and construction of Unit 1-A of that project. Although state administrative rules do not require completion of land use actions for future phases of a project prior to issuance of an Environmental Impact Statement, both the federal Bureau of Land Management (BLM) and the Federal Highway Administration (FHWA) had submitted letters to ODOT stating that all land use actions must be completed prior to issuance of the final supplemental Environmental Impact Statement for the West Eugene Parkway.

In November 2001, Eugene voters approved a ballot measure directing the City "to pursue funding and transportation and land use approvals to facilitate construction of the West Eugene Parkway."

Applying the Planned Transportation Corridor wetland designation to the Modified Project alignment will complete the West Eugene Wetlands Plan wetland designation changes required to allow conclusion of the final supplemental Environmental Impact Statement and construction of the West Eugene Parkway. Therefore, these amendments comply with Goal 12.

Goal 13: Energy Conservation

To conserve energy.

Findings demonstrating compliance of the West Eugene Parkway Modified Project alignment with Goal 13 are set forth in Exhibit "C-1" provided by the Oregon Department of

Transportation, which is attached to the findings for the amendments to TransPlan, the Metro Plan and the Lane County Rural Comprehensive Plan are is incorporated herein by this reference:: West Eugene Parkway Modified Project — Consistency with the Statewide Planning Goals and Transportation Planning Rule, prepared for ODOT by Mark J. Greenfield.

Goal 14: Urbanization

To provide for an orderly and efficient transition from rural to urban land use.

Findings demonstrating compliance with Goal 14 for the portion of the West Eugene Parkway Modified Project alignment located within the urban growth boundary and justifying an exception to Goal 14 for the portion of the West Eugene Parkway Modified Project alignment located outside the urban growth boundary are set forth in the following documents provided by the Oregon Department of Transportation, which are attached to the findings for the amendments to TransPlan, the Metro Plan and the Lane County Rural Comprehensive Plan and are incorporated herein by this reference:

Exhibit “C-1”: West Eugene Parkway Modified Project — Consistency with the Statewide Planning Goals and Transportation Planning Rule, prepared for ODOT by Mark J. Greenfield.

Exhibit “C-2”: Alternatives Considered — West Eugene Parkway, prepared for ODOT by Jay McRae, CH2M Hill

Exhibit “C-3”: Incompatible Adjacent Land Uses in the WEP Project Area, prepared for ODOT by Sheryl Christensen

Goal 15: Willamette River Greenway

Goal 16: Estuarine Resources

Goal 17: Coastal Shorelands

Goal 18: Beaches and Dunes

Goal 19: Ocean Resources

These goals do not apply.

(b) Applicable provisions of the Metro Plan

(a) The plan amendment is consistent with the Metropolitan Area General Plan:

The thrust of the West Eugene Wetlands Plan has been to attempt to balance development within wetland areas with protection of the most valuable wetlands, and replacement of lost wetlands through mitigation. These amendments are consistent with that approach, in that any wetlands filled within the Planned Transportation Corridor would be replaced through mitigation.

Furthermore, this approach is supported by Metro Plan policies listed below, which call for protection of wetlands as well as maintaining adequate land for development. The process of designating wetlands for protection and development is, in part, directed by state and federal laws, which set forth guidelines for determining whether a given wetland can be filled and developed. Within this regulatory context, the proposed amendments are appropriate and consistent with Metro Plan policy.

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

Economic Policy 18, page III-B-5: “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 primary purposes of the West Eugene Parkway, as stated in the Supplemental Environmental Impact Statement (August 1997), include:

- Provide a major access-controlled east-west connecting arterial for intra- and inter-regional and citywide travel through the western half of the City of Eugene, between Highway 126 to the west and the I-5/I-105 corridor to the east.
- Improve access to the West Eugene industrial area via direct connections with only strategic crossroads, thereby supporting orderly and planned growth.

These amendments will facilitate construction of the West Eugene Parkway and are therefore consistent with this policy.

Environmental Resources 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.

The West Eugene Wetlands Plan was developed to manage development in and around wetlands in West Eugene, which is sufficient to meet this policy. This policy does not give direction for protection of resources on individual sites.

Environmental Resources 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.”

Findings in quotations were provided by the Oregon Department of Transportation:

“The Approved Design for the West Eugene Parkway was selected in the 1990 Record of Decision (ROD) after completion of a Final Environmental Impact Statement. Subsequent to issuance of the FEIS in 1990, new inventory information was developed, and regulatory provisions codified, regarding wetlands and rare plant species in West Eugene. Specifically, it became apparent that the Approved Design could result in substantial impacts to rare wetlands and to “endangered” or “threatened” plant species that are concentrated in the west end of the project and south of the railroad tracks. These new circumstances prompted the need to reevaluate the WEP alignment west of Terry Street to the Highway 126 connection.”

To address this new information, and other issues related to traffic operations, a Modified

Project was developed. The Modified Project was evaluated through a Supplemental Environmental Impact Statement published in 1997.

“The Modified Project was selected as the Preferred Alternative over the Approved Design for the following reasons:

- The Modified Project has less impacts on state and federally listed species. The Approved Design would have required removing 22 plants of the Willamette Valley Daisy and 17 clumps with 2,200 stems of the White-topped aster. The Modified Project will require removal of no Willamette Valley daisies and 3 clumps with 517 stems of the White-topped aster. The Modified Project is “likely to adversely affect” Fender’s blue butterfly because of the possibility of incidental takes resulting from butterfly impacts with vehicles using the facility. The Approved Design would have had similar or greater impacts to the butterfly since the alignment of that alternative is closer to the nearest population of Kincaid’s lupine known to be serving as a host to the butterfly.”

“Three species found in the area of the West Eugene Parkway were federally listed as threatened or endangered under the Endangered Species Act on January 25, 2000, after release of the Supplemental Draft Environmental Impact Statement: Fender’s blue butterfly, its host plant Kincaid’s lupine, and the Willamette Valley Daisy.

“A Biological Assessment was prepared in 1996 to evaluate project impacts to the federally listed Bradshaw’s lomatium, the Willamette Valley daisy (which was proposed for listing at that time), and White-topped aster (a species of concern). ODOT initiated informal consultation with U.S. Fish and Wildlife Service (USFWS) and received concurrence from USFWS that the project would have no effect on those species in a letter dated March 26, 1997.

“ODOT prepared a Biological Assessment of project impacts to Fender’s blue butterfly and Kincaid’s lupine and initiated formal consultation with USFWS in December 1999, prior to the formal listing of those species. USFWS prepared a Biological Opinion (June 6, 2000) which concurred with ODOT’s determination that the project would have no effect on Kincaid’s lupine and was likely to adversely affect but not jeopardize Fender’s blue butterfly. The Biological Opinion reiterated USFWS’s early concurrence that the [Modified] project would have no effect on Bradshaw’s lomatium, the Willamette Valley daisy, or White-topped aster.”

Under these amendments the majority of known populations of listed rare plants in the Plan area would be protected and Fender’s blue butterfly, while likely to be adversely affected, will not be jeopardized. Therefore, these amendments are consistent with this policy.

Environmental Design 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 overall impact of the West Eugene Wetlands Plan, including these amendments, is to protect the majority (over 1100 acres out of approximately 1500 acres) of wetlands and waterways in the Plan area. This includes protecting natural vegetation on these sites and restoration of native habitat on several hundred acres. When the West Eugene Wetlands Plan was adopted in 1992, wetlands within the West Eugene Parkway Approved Design were designated for development. Since the Planned Transportation Corridor wetland designation was not added to the Plan until 1998, the only wetland designation option available at that time to allow construction of the West Eugene Parkway was “Develop.” The “Develop” designation, however, would also allow other private development as well as roadway construction. Concurrent with the preparation of amendments to the West Eugene Wetlands Plan, a West Eugene Parkway Modified Project was also being developed, and was proposed in the August 1997 Supplemental Environmental Impact Statement, which would reduce impacts to rare wetlands and to “endangered” or “threatened” plant species that are concentrated in the west end of the project and south of the railroad tracks.

Recognizing that retaining the “Develop” designation for property along the Approved Design route would allow for a full-range of private development, not just roadway construction, this property was redesignated to “Protect” in 2000 by Eugene Ordinance No. 20200 and Lane County Ordinance No. PA 1107, adopting new or revised wetland designations for various sites within the Plan Boundary. The elected officials were advised at that time that amendments to apply the Planned Transportation Corridor designation for the Modified Project alignment would be processed following selection of the Modified Project as the preferred alternative. Exhibit A to these ordinances provides an asterisk footnote in the table listing the existing and proposed designations for sites which reads: “The Eugene and Lane County Planning Commissions recommended that these sites be designated wholly or in part for Planned Transportation Corridor to accommodate the proposed northern alignment of the West Eugene Parkway (WEP). However, the amendments for the WEP will be processed at a later date, and are therefore not included in this ordinance.” The Modified Project has now been selected as the Preferred Alternative, allowing these amendments to move forward. The shift in the West Eugene Parkway alignment has reduced the impacts of this transportation project on high-quality wetlands. These amendments apply the Planned Transportation Corridor designation to wetlands currently designated for protection or restoration along the Modified Project route. The Planned Transportation Corridor policy requires that if the West Eugene Parkway is not constructed, the area cannot be filled for any other purpose. Therefore, these amendments are consistent with this policy.

(c) Remaining portions of the refinement plan.

(b) The plan amendment is consistent with the remaining portions of the refinement plan;

As stated in the Introduction to the West Eugene Wetlands Plan (November 2000), the Plan “provides a framework for balancing natural resource protection and urban development.”

Almost 1,500 acres of jurisdictional wetlands are included in the study area. These amendments will result in the redesignation of 41 acres to Planned Transportation Corridor. These acres are currently designated in the Plan as Protect or Restore.

This change in designation from Protect and Restore to Planned Transportation Corridor for the West Eugene Parkway Modified Project is offset, in part, by the previous Plan amendments redesignating 16.4 acres from Develop to Protect for wetlands along the West Eugene Parkway Approved Design. These acres are included under the "Protect" row in the "Current Acres" column in the table below.

The change in acres for each wetland designation category in the Plan due to the proposed amendments for the West Eugene Parkway is shown in the table below.

Wetland Designation	Current Acres	Proposed Acres	Change in Acreage
Planned Transportation Corridor	8.4	49.4	41
Protect	720.3	705.2	- 15.0
Restore	444.7	418.7	- 26.0
Develop	304.3	304.3	0.0
Utility Corridor	13.2	13.2	0.0
Total	1,491	1,491	

* Current acres includes property which received the Planned Transportation Corridor wetland designation through the 1999 and 2000 amendments to the West Eugene Wetlands Plan. This wetland designation is not currently applied to any property within either the West Eugene Parkway "Approved Design" or "Modified Project" alignments. Property within the West Eugene Parkway "Approved Design" alignment south of the railroad tracks designated Develop in the 1992 Plan were redesignated Protect through the 2000 amendments to the Plan.

The West Eugene Wetlands Plan contains several goals for resource protection. As defined on page iv of the West Eugene Wetlands Plan (November 2000), the goals are not mandatory and findings of consistency with the goals are therefore not required.

The West Eugene Wetlands Plan (November 2000) contains the following applicable policies (related findings follow the policies):

Policy 3.22: "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 Trans Plan (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 improvement to an existing road or street."

The West Eugene Parkway was listed in TransPlan in 1986, was listed in TransPlan as of August 10, 1992, and constitutes "new roadway construction." When the West Eugene Wetlands Plan was adopted in 1992, wetlands within the West Eugene Parkway Approved Design were designated for development. Since the Planned Transportation Corridor wetland designation was not added to the Plan until 1998, the only wetland designation option available at that time to allow construction of the West Eugene Parkway was "Develop." The "Develop" designation, however, would also allow other private development as well as roadway construction. Concurrent with the preparation of amendments to the West Eugene Wetlands Plan, a West Eugene Parkway Modified Project was also being developed, and was proposed in the August 1997 Supplemental Environmental Impact Statement, which would reduce impacts to rare wetlands and to "endangered" or "threatened" plant species that are concentrated in the west end of the project and south of the railroad tracks.

Recognizing that retaining the "Develop" designation for property along the Approved Design route would allow for a full-range of private development, not just roadway construction, this property was redesignated to "Protect" in 2000 by Eugene Ordinance No. 20200 and Lane County Ordinance No. PA 1107, adopting new or revised wetland designations for various sites within the Plan Boundary. The elected officials were advised at that time that amendments to apply the Planned Transportation Corridor designation for the Modified Project alignment would be processed following selection of the Modified Project as the preferred alternative. Exhibit A to these ordinances provides an asterisk footnote in the table listing the existing and proposed designations for sites which reads: "The Eugene and Lane County Planning Commissions recommended that these sites be designated wholly or in part for Planned Transportation Corridor to accommodate the proposed northern alignment of the West Eugene Parkway (WEP). However, the amendments for the WEP will be processed at a later date, and are therefore not included in this ordinance." The Modified Project has now been selected as the Preferred Alternative, allowing these amendments to move forward. The shift in the West Eugene Parkway alignment has reduced the impacts of this transportation project on high-quality wetlands. These amendments apply the Planned Transportation Corridor designation to wetlands currently designated for protection or restoration along the Modified Project route. The Planned Transportation Corridor policy requires that if the West Eugene Parkway is not constructed, the area cannot be filled for any other purpose. Therefore, these amendments are consistent with this policy.

Policy 3.14: Implement wetland protection policies that prohibit development on wetlands designated for protection after those wetlands are acquired by a public agency or nonprofit organization (e.g., The Nature Conservancy).

Since some of the land within the West Eugene Parkway Modified Project alignment has been acquired by BLM through Land and Water Conservation Fund (LWCF) appropriations, the Eugene Planning Commission asked whether this policy is applicable to the application of the Planned Transportation Corridor wetlands designation to the West Eugene Parkway modified project alignment.

Policy 3.14 was intended to address the issue of timing for implementing development-prohibitive wetland protection policies. Such policies are not to be applied until after the subject wetlands have been acquired by a public or non-profit agency. The policy was not intended require the use of such protections.

Policy 3.14 is not applicable to the application of the Planned Corridor wetland designation for the following reasons:

1. Policy 3.22 establishing the Planned Transportation Corridor wetland designation and Policy 3.21 establishing the Utility Corridor wetlands designation allow these wetland designations to be applied to publicly-owned property. The findings for Eugene City Council Ordinance No. 20119 and Lane County Ordinance No. PA 1117 amending the West Eugene Wetlands Plan to establish these new wetland designations did not include Policy 3.14 as an applicable policy.
2. The findings for Eugene City Council Ordinance No. 20147 and Lane County Ordinance No. PA 1129 which applied the Planned Transportation Corridor wetland designation to City-owned property along West 11th and West 18th Avenues did not include Policy 3.14 to be an applicable policy.
3. Policy 3.14 directs implementation of policies which prohibit development on certain protected wetlands. Since the Planned Transportation corridor policy specifically allows fill of publicly-owned land for roadway construction in specific, limited circumstances this policy does not prohibit development.

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

ODOT has completed an hydrologic analysis for the project. The analysis noted that surface hydrology has already been substantially changed by development in the area, including the dike upon which the railroad is built and existing city, county, and state roads. The ditches that parallel these features and divert surface flows to waterways further modified surface hydrology. The analysis concluded that the WEP would not have a noticeable impact on hydrology because the railroad already acts as a barrier to overland flow of water and channels overland flow to ditches. Consideration of impacts to subsurface hydrology determined that the soils in the area were not prone to compaction and placement of fill for construction of the WEP would not affect subsurface hydrology.

The West Eugene Parkway roadway would be elevated to approximately the same level as the railroad from Amazon Creek to west of Green Hill Road, a distance of about 1.3 miles. A railroad grade parallels that 1.3-mile section of the WEP. The railroad creates a hydrologic

barrier. Ditches run along both sides of the railroad that collect water and funnel them to two culverts under the railroad. Those waters then flow to Amazon Creek in Dead Cow Creek and to an unnamed channel near Green Hill Road. The WEP provides large culverts for the continued flow of Dead Cow Creek and the unnamed channel.

ODOT worked with ODFW to design elements to minimize fragmentation effects on wildlife and reached an agreement on those elements in November 1999. All of the elements ODFW requested are included in the current design. These include:

- 3-foot high fencing imbedded in a concrete base along both sides of the roadway in the 1.3-mile section and along the south side of the highway at Bertelsen slough. The fence would keep small animal off the road and direct them toward the undercrossing that would be provided
- Raised walkways along the sides of waterway culverts to provide drive passage for small animals
- 2 dry undercrossings that provide additional small animal crossings under the highway. USFWS reviewed and approved these elements as appropriate to minimize fragmentation

Section 9.8424(2) **The plan amendment is found to address one or more of the following:**
Section 9.145(c) **The plan amendment is found to address one or more of the following:**

- (a)** **An error in the publication of the plan.**
(c)(1) **An error in the publication of the plan;**

This criterion is not applicable.

- (b) New inventory material which relates to a statewide planning goal.**
(c)(3) **Incorporation into the plan of new inventory material which relates to a statewide goal; or**

This criterion is not applicable.

- (c) New or amended community policies**
(c)(4) **A change in public policy**

The 1986 TransPlan provided for development of the West Eugene Parkway along the route of the Approved Design selected in the 1990 Record of Decision of the Final Environmental Impact Statement. The subsequent re-evaluation of the Approved Design route resulted in a Supplemental Environmental Impact Statement and selection of the Modified Project route as the preferred alternative.

In December 2000, Eugene received a letter from the Oregon Department of Transportation (ODOT) specifying land use actions necessary to move forward with the conclusion of the final

supplemental Environmental Impact Statement for the West Eugene Parkway and construction of Unit 1-A of that project. Although state administrative rules do not require completion of land use actions for future phases of a project prior to issuance of an Environmental Impact Statement, both the federal Bureau of Land Management (BLM) and the Federal Highway Administration (FHWA) had submitted letters to ODOT stating that all land use actions must be completed prior to issuance of the final supplemental Environmental Impact Statement for the West Eugene Parkway.

On December 11 and 13, 2000, the Eugene City Council considered a request by ODOT to initiate land use actions and amend TransPlan (still in draft form at that time) to comply with the BLM and FHWA requirements. On December 13, 2000, the Council directed the City Manager not to initiate the Plan amendments.

In August 2001, City Council passed Resolution No. 4678, calling a special election for November 6, 2001. That resolution placed two measures concerning transportation alternatives for west Eugene on the November ballot. Measure 20-53 "Transportation Improvements in West Eugene, Not Including the West Eugene Parkway" asked: "Shall City work with government partners to pursue comprehensive transportation and land use strategies and projects for west Eugene?" Measure 20-54 "West Eugene Parkway" asked voters: "Shall City pursue funding and transportation and land use approvals to facilitate construction of the West Eugene Parkway?"

In adopting TransPlan following the August 2001 decision to call a special election but prior to the November 6, 2001 election, the TransPlan adopting officials recognized that amendments to TransPlan would need to be considered if either of the ballot measures passed.

On November 6, 2001, Eugene voters approved Ballot Measure 20-54; Ballot Measure 20-53 failed. Although the voters had already approved the route of the West Eugene Parkway in November 1986, the November 2001 ballot measure asked whether the City should pursue funding and transportation and land use approvals to facilitate construction of the West Eugene Parkway. As such, the November 2001 ballot measure was a refinement of the November 1986 ballot measure and represents an "amended community policy" or "change in public policy."

On November 28, 2001, the Eugene City Council passed Resolution No. 4694, initiating amendments to the West Eugene Wetlands Plan, Eugene-Springfield Metropolitan Area General Plan (Metro Plan) and Eugene-Springfield Metropolitan Area Transportation Plan (TransPlan) to facilitate construction of the West Eugene Parkway. This action by the City Council was in direct response to the November 6, 2001 vote approving Ballot Measure 20-54.

Amending the West Eugene Wetlands Plan to apply the Planned Transportation Corridor wetland designation to specific property along the West Eugene Parkway modified project alignment addresses this refinement plan amendment criterion.

- (d) New or amended provisions in a federal law or regulation, state statute, state regulation, statewide planning goal, or state agency land use plan.**

[Comparable refinement plan amendment criterion not included in Lane Code Urbanizable Area Land Use and Zoning.]

This criterion does not apply.

- (e) A change of circumstances in a substantial manner not anticipated in the plan;**

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

This criterion does not apply.

ccordWEWPexhB7102fnl.wpd