

W. S. B.

SUPPLEMENTAL MATERIAL

MEMORANDUM

July 11, 2003

To: Board of County Commissioners

From: Greg Mott, Springfield Planning Director

Subject: Supplemental Information for Item #8b, July 16, 2003 Agenda: THIRD READING AND DELIBERATION/Ordinance PA 1189/In the Matter of Amending the Eugene-Springfield Metropolitan Area General Plan Text, Chapter III, Section D, Policy #13 and Adopting an Exception to Statewide Planning Goal 15 Willamette River Greenway and Adopting Savings and Severability Clauses (NBA & PM 6/4/03 & 6/18/03) (Greg Mott, City of Springfield)

The Springfield City Council delayed action on this issue from July 7, 2003 to July 14, 2003. This means that the Eugene and Springfield councils will both be discussing the I-5 bridge ordinance on Monday, July 14, 2003. Results of both of those meetings will be reported to the Board on July 16, 2003. I will defer to County staff on the timing of Board consideration of the County ordinance and any necessary changes.

Attached are the Springfield agenda materials from July 7, 2003. The materials include the original ordinance, a proposed modified ordinance, and a revised report and findings document. Page 1 of Attachment 3 (Findings) will be modified to reflect final adopted wording. The changes in the ordinance relate to the issue of whether the exception should cover future ODOT bridge projects on I-5 at this location in the Greenway or whether the exception should be limited to the detour bridge construction and subsequent removal. Springfield staff is recommending the change to limit the exception to the detour bridge construction and removal.

Attachments

Springfield City Council AIS packet, July 7, 2003
Attachment 1 Original Springfield Ordinance
Attachment 2 Modified Springfield Ordinance
Attachment 3 Modified Staff Report and Findings

AGENDA ITEM SUMMARY

Meeting Date: July 7, 2003
Meeting Type: Regular Session
Department: Development Services
Staff Contact: Gregory Mott
Staff Phone No: 726-3774
Estimated Time: 10 Minutes

**SPRINGFIELD
CITY COUNCIL**

ITEM TITLE: SECOND READING AND ADOPTION OF THE FOLLOWING ORDINANCE:

AN ORDINANCE AMENDING THE EUGENE-SPRINGFIELD METROPOLITAN AREA GENERAL PLAN TEXT, CHAPTER III, SECTION D, POLICY #13; ADOPTING AN EXCEPTION TO STATEWIDE PLANNING GOAL 15 WILLAMETTE RIVER GREENWAY; AND ADOPTING A SEVERABILITY CLAUSE.

ACTION REQUESTED: Conduct a second reading and adopt the subject ordinance, including findings of fact in the attached Exhibit A, and the conditions of approval recommended by the Joint Planning Commissions of Springfield, Eugene and Lane County.

ISSUE STATEMENT: ODOT must construct a detour bridge over the Willamette River at I-5 because the existing bridge is progressively losing structural capacity and must be replaced. The Plan amendment and Goal exception are required because the detour bridge is unplanned, requires fill and it is located within the Willamette River Greenway Setback area.

ATTACHMENTS:

1. Ordinance (with original Metro Plan text)
2. Ordinance (with modified Metro Plan text)
3. Findings of Fact

**DISCUSSION/
FINANCIAL
IMPACT:** The detour bridge has been the subject of hearings by the Springfield Planning Commission, the joint planning commissions, and, on June 18, 2003, by the joint elected officials. After the close of the hearing, the Eugene Council moved approval, conditioned on additional findings in the form of a right-of-way map, a description of the full width of right-of-way on both sides of the river, and a statement that because the detour bridge is temporary it will be removed after the replacement bridge is completed, therefore the restoration plan preserves the Greenway values and is consistent with the OAR for this exception.

The Eugene Council moved to delete language in the proposed plan text that refers to "replacement of the existing bridge" and "future capacity or safety improvements." The Springfield City Council did not support this proposed change to the plan text; the Lane County Board of Commissioners deferred any further discussion until after both cities had formally acted on the Ordinance.

The Eugene Council's proposed changes result in a more accurate relationship between the findings in Exhibit A and the proposed text. The findings cannot examine the effects of the replacement bridge on the Greenway values because the form, size or construction type of the replacement bridge is unknown; the same is true for future capacity increases. The findings in Exhibit A are responsive to the effects of the detour bridge and what otherwise will occur from the centerline of I-5 east to the edge of the right of way. The NEPA process for the replacement bridge should resolve any issues that may or may not arise regarding the Greenway.

ATTACHMENT 1 (ORIGINAL ORDINANCE)

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE EUGENE-SPRINGFIELD METROPOLITAN AREA GENERAL PLAN TEXT, CHAPTER III, SECTION D., POLICY #13; ADOPTING AN EXCEPTION TO STATEWIDE PLANNING GOAL 15 WILLAMETTE RIVER GREENWAY; AND ADOPTING A SEVERABILITY CLAUSE.

WHEREAS, Chapter IV of the Eugene-Springfield Metropolitan Area General Plan (Metro Plan) sets forth procedures for amendment of the Metro Plan, which for Springfield are implemented by the provisions of Article 7 of the Springfield Development Code; and

WHEREAS, on May 5, 2003, the Springfield City Council initiated proceedings for a Metro Plan text amendment and Exception to Statewide Planning Goal 15 Willamette River Greenway; and

WHEREAS, following a June 3, 2003, joint public hearing with the Eugene and Lane County Planning Commissions, the Springfield Planning Commission, on June 3, 2003, recommended Metro Plan amendments taking an exception to Statewide Planning Goal 15 Willamette River Greenway, to the Springfield City Council; and

WHEREAS, the City Council conducted a joint public hearing on this amendment on June 18, 2003, with the Eugene City Council and Lane County Board of Commissioners, 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 elected officials public hearing; and

WHEREAS, substantial evidence exists within the record demonstrating that the proposal meets the requirements of the Metro Plan, Springfield Development Code, and applicable state and local law as described in findings attached as Exhibit A, and which are adopted in support of this Ordinance.

NOW, THEREFORE, the Common Council of the City of Springfield does ordain as follows:

Section 1: The Metro Plan Policy #13, Chapter III, Section D. is hereby amended by addition of the following paragraph:

“An exception to Statewide Planning Goal 15 Willamette River Greenway was taken for Oregon Department of Transportation (ODOT) I-5 right of way crossing the Willamette River and within the Willamette River Greenway Setback Line, for purpose of constructing a temporary detour bridge, replacement of the existing I-5 bridge, removal of the temporary detour bridge, and future capacity or safety

improvements for this portion of I-5 right of way over the Willamette River. This exception satisfies the criteria of Oregon Administrative Rule (OAR) 660-004-0022(5) Willamette Greenway; the exception requirements of OAR 660-004-0020 Goal 2, Part II(c) for a 'reasons' exception; and pursuant to OAR 660-004-0015, is hereby adopted as an amendment to the Metro Plan text, Policy #13, Chapter III, Section D."

Section 2: The Metro Plan is hereby amended to include the findings of fact and conclusions of law supporting a "reasons" exception to Statewide Planning Goal 15 and demonstrating compliance with OAR 660-004-0015, 660-004-0020 and 660-004-0022(5) attached hereto as Exhibit A, and incorporated herein by this reference.

Section 3: If any section, subsection, sentence, clause, phrase or portion of the Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 4: Notwithstanding the effective date of ordinances as provided by Section 2.110 of the Springfield Municipal Code 1997, this Ordinance shall become effective 30 days from the date of passage by the City Council and approval by the Mayor, or upon the date of its acknowledgement as provided by ORS 197.625, whichever date is later, provided that by that date the Eugene City Council and the Lane County Board of Commissioners have adopted ordinances containing identical provisions to those described in Sections 1 and 2 of this Ordinance.

Adopted by the Common Council of the City of Springfield this ____ day of July, 2003 by a vote of ____ in favor and ____ against.

Approved by the Mayor of the City of Springfield this ____ day of July, 2003.

Mayor

ATTEST:

City Recorder

ATTACHMENT 2 (MODIFIED ORDINANCE)

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE EUGENE-SPRINGFIELD METROPOLITAN AREA GENERAL PLAN TEXT, CHAPTER III, SECTION D., POLICY #13; ADOPTING AN EXCEPTION TO STATEWIDE PLANNING GOAL 15 WILLAMETTE RIVER GREENWAY; AND ADOPTING A SEVERABILITY CLAUSE.

WHEREAS, Chapter IV of the Eugene-Springfield Metropolitan Area General Plan (Metro Plan) sets forth procedures for amendment of the Metro Plan, which for Springfield are implemented by the provisions of Article 7 of the Springfield Development Code; and

WHEREAS, on May 5, 2003, the Springfield City Council initiated proceedings for a Metro Plan text amendment and Exception to Statewide Planning Goal 15 Willamette River Greenway; and

WHEREAS, following a June 3, 2003, joint public hearing with the Eugene and Lane County Planning Commissions, the Springfield Planning Commission, on June 3, 2003, recommended Metro Plan amendments taking an exception to Statewide Planning Goal 15 Willamette River Greenway, to the Springfield City Council; and

WHEREAS, the City Council conducted a joint public hearing on this amendment on June 18, 2003, with the Eugene City Council and Lane County Board of Commissioners, 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 elected officials public hearing; and

WHEREAS, substantial evidence exists within the record demonstrating that the proposal meets the requirements of the Metro Plan, Springfield Development Code, and applicable state and local law as described in findings attached as Exhibit A, and which are adopted in support of this Ordinance.

NOW, THEREFORE, the Common Council of the City of Springfield does ordain as follows:

Section 1: The Metro Plan Policy #13, Chapter III, Section D. is hereby amended by addition of the following paragraph:

“An exception to Statewide Planning Goal 15 Willamette River Greenway was approved for Oregon Department of Transportation (ODOT) I-5 right of way crossing the Willamette River and within the Willamette River Greenway Setback Line, for purpose of constructing a temporary detour bridge, implementing the conditions imposed on the Discretionary Use Approval (Springfield Journal SHR

2003-00115) and removing the temporary detour bridge after completion of the permanent replacement bridge. This exception satisfies the criteria of Oregon Administrative Rule (OAR) 660-004-0022(5) Willamette Greenway; the exception requirements of OAR 660-004-0020 Goal 2, Part II(c) for a 'reasons' exception; and pursuant to OAR 660-004-0015, is hereby adopted as an amendment to the Metro Plan text, Policy #13, Chapter III, Section D."

Section 2: The Metro Plan is hereby amended to include the findings of fact and conclusions of law supporting a "reasons" exception to Statewide Planning Goal 15 and demonstrating compliance with OAR 660-004-0015, 660-004-0020 and 660-004-0022(5) attached hereto as Exhibit A, and incorporated herein by this reference.

Section 3: If any section, subsection, sentence, clause, phrase or portion of the Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 4: Notwithstanding the effective date of ordinances as provided by Section 2.110 of the Springfield Municipal Code 1997, this Ordinance shall become effective 30 days from the date of passage by the City Council and approval by the Mayor, or upon the date of its acknowledgement as provided by ORS 197.625, whichever date is later, provided that by that date the Eugene City Council and the Lane County Board of Commissioners have adopted ordinances containing identical provisions to those described in Sections 1 and 2 of this Ordinance.

Adopted by the Common Council of the City of Springfield this ____ day of July, 2003 by a vote of ____ in favor and ____ against.

Approved by the Mayor of the City of Springfield this ____ day of July, 2003.

Mayor

ATTEST:

City Recorder

ATTACHMENT 3 (MODIFIED FINDINGS)

Staff Report and Findings of Compliance with the Metro Plan and Statewide Goals and Administrative Rules

File LRP 2003-0012 Metro Plan Amendment and Reasons Exception to Statewide Goal 15- Willamette River Greenway

Applicant:

Oregon Department of Transportation

Nature of the Application:

The applicant proposes to construct a temporary detour bridge to provide an alternative route for I-5 traffic while the existing I-5 Willamette River Bridge is replaced. The detour bridge will transition from the I-5 roadway approximately 1,800 feet south of Centennial Boulevard, parallel the existing bridge over the Willamette and Franklin Boulevard, and re-merge with the I-5 roadway just south of the northbound Franklin Boulevard off-ramp. About 1,600 feet of this bridge will be within the Willamette River Greenway. The detour bridge will be supported by poured-in-place concrete columns and compacted fill that will be located within the Willamette River Greenway Setback Area. Metro Plan policy and Oregon Administrative Rules require a goal exception for such a proposal to proceed. By Rule, a goal exception must be included within the comprehensive plan; hence a Metro Plan amendment is also required.

The staff recommends an amendment to the Metro Plan Text by adding the following paragraph to Policy #13, Chapter III, Section D.

“An Exception to Statewide Goal 15 Willamette River Greenway was taken for Oregon Department of Transportation (ODOT) I-5 right of way crossing the Willamette River and within the Willamette River Greenway Setback Line, for purposes of constructing a temporary detour bridge, replacement of the existing I-5 bridge, removal of the temporary detour bridge, and future capacity or safety improvements for this portion of I-5 right of way over the Willamette River. This Exception satisfies the criteria of Oregon Administrative Rule (OAR) 660-004-0022(5) Willamette Greenway; the exception requirements of OAR 660-004-0020 Goal 2, Part II(c) for a ‘reasons’ exception; and pursuant to OAR 660-004-0015, is hereby adopted as an amendment to the Metro Plan text, Policy #13, Chapter III, Section D.”

The applicant also seeks an exception to Statewide Goal 15 Willamette River Greenway, to allow the construction of a temporary detour bridge within the Willamette River Greenway Setback Area. By Oregon Administrative Rule, only water-dependent and water-related uses are permitted within the Setback Area. This bridge does not meet the definition of water-dependent or water-related uses found in the Statewide Goals therefore an exception is required before this bridge may be authorized.. Also by Rule,

the approval of an exception requires the local government to adopt as part of its comprehensive plan findings of fact and a statement of reasons which demonstrate that the standards for an exception have been met.

Metropolitan Area General Plan Amendment Criteria

Springfield, Eugene and Lane County each adopted identical Metro Plan amendment criteria into their respective implementing ordinances and codes. Springfield Code Section 7.070(3) (a & b), Eugene Code 9.128(3) (a & b), and Lane Code 12.225(2) (a & b) require application of the following criteria:

(a) The amendment must be consistent with the relevant statewide planning goals adopted by the Land Conservation and Development Commission; and

(b) Adoption of the amendment must not make the Metro Plan internally inconsistent.

The Applicant has responded to these criteria in the application, which is Attachment 2 of the elected officials' packet. The staff concurs with the statements of the Applicant regarding the need for an exception to Goal 15. We also agree with the Applicant's conclusions in response to the criteria of OAR 660-004-022(5). Our job would be much easier if the directions of Goal 2, Part II(c) of Section 0020 were preempted by the requirements for planning and zoning for exception areas in Section 0018, or by the reasons necessary to justify an exception in 0022. For either of these latter standards, the Applicant's response is sufficient. To the Applicant's comments we would add the following related to 0018: "a 'reasons' exception must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception" (660-004-0018(4) (a)). The application does not seek to expand the use beyond that which is already occurring, i.e., a bridge in the ODOT I-5 right-of-way. This standard is satisfied by design, but can become categorical by adopting a finding that specifies exactly what the exception will allow.

The larger effort is responding to the standards of 0020 Subsection (1)-(4). This is the part of the Rule that requires the reasons to be examined against the four factors of Goal 2. We shall address those factors after our response to the first criteria.

The amendment must be consistent with the relevant statewide planning goals adopted by the Land Conservation and Development Commission.

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.

The City has an acknowledged Development Code which is intended to serve as the principal implementing ordinance for the Metro Plan. Citizen involvement for a Type I Metro Plan amendment for a Goal Exception not related to an urban growth boundary

amendment requires: 1) mailed notice at least 10 days before the initial evidentiary hearing to all property owners and residents within 100 feet of the subject property, and the appropriate neighborhood association; 2) Notice shall be published in a newspaper of general circulation; 3) Notice shall be provided to the Department of Land Conservation and Development (DLCD) at least 45 days before the initial evidentiary hearing (planning commission). SDC Article 7 METRO PLAN AMENDMENTS, SDC Article 14 PUBLIC HEARINGS.

Notice of the joint planning commission hearing was mailed to 413 separate property addresses on May 1, 2003. Notice of the joint planning commission hearing was published in the Springfield NEWS on May 7, 2003 and again on May 29, 2003 in the Register-Guard. Notice of the joint elected officials' hearing was mailed to 413 separate property addresses on May 29, 2003, and was published in the Register-Guard on May 29, 2003 and in the Springfield NEWS on May 28, 2003. Notice of the first evidentiary hearing was provided to DLCD on May 1, 2003. Notice of the final hearing was provided to DLCD on May 19, 2003. The notice to DLCD identified ODOT, ODF&W, State Parks, DSL, NOAA, ACE, the City of Eugene and Lane County as affected agencies. Notice was provided to the Citizens Planning Committee for East Alton Baker Park, Whilamut natural area, on May 1, 2003.

Requirements under Goal 1 are met by adherence to the citizen involvement processes required by the Metro plan and implemented by the Springfield Development Code, Articles 7 and 14.

Goal 2 – Land Use Planning

To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

All land-use plans and implementation ordinances shall be adopted by the governing body after public hearing and shall be reviewed and, as needed, revised on a periodic cycle to take into account changing public policies and circumstances, in accord with a schedule set forth in the plan. Opportunities shall be provided for review and comment by citizens and affected governmental units during preparation, review and revision of plans and implementation ordinances.

Implementation Measures – are the means used to carry out the plan. These are of two general types: (1) management implementation measures such as ordinances, regulations or project plans, and (2) site or area specific implementation measures such as permits and grants for construction, construction of public facilities or provision of services.

In addition to the foregoing, Goal 2, Part II(c) provides for an exception to an applicable statewide goal if reasons justify taking such an action. This application applies the

reasons criteria under the section "*Compliance with Oregon Administrative Rules*" below.

The most recent version of the Metro Plan was adopted by Springfield on May 11, 1986 (Ordinance No. 5329), by Eugene on April 23, 1986 (Ordinance No. 19382) and by Lane County on June 11, 1986 (Ordinance No. 709) after numerous public meetings, public workshops and joint hearings of the Springfield, Eugene and Lane County Planning Commissions and Elected Officials. This version of the Metro Plan contained Policy #13, Chapter III, Section D, which states: "*The taking of an exception shall be required if a non-water-dependent transportation facility requires placing of fill within the Willamette River Greenway Setback.*"

On September 4, 1984, the Springfield City Council adopted Ordinance No. 5261, enacting the requirements of SDC 25.060 Greenway Setback in compliance with the standards of Section C.3 of Goal 15. The Springfield Planning Commission and Springfield City Council conducted public hearings on these standards. All legislative public hearings are published in the Springfield NEWS at least 20 days prior to the hearing date.

The Metro Plan is the "land use plan" required by this goal; the Springfield Development Code is the "implementation measure" required by this goal. The Plan, at Chapter III, Section D., Policy #13, and the SDC at Article 25 require this goal exception, consistent with OAR 660-004-0022(5). Requirements under Goal 2 are met by the consistency of Plan policy with SDC standards, and the exception process of Part II(c).

Goal 3 – Agricultural Lands

This goal does not apply within adopted, acknowledged urban growth boundaries. The City of Springfield does not have any agricultural zoning districts. The proposed exception and plan text amendment are not related to agricultural lands; the land area subject to the proposed exception is zoned Park and Open Space and/or is un-zoned state highway right of way.

Goal 4 – Forest Lands

This goal does not apply within adopted, acknowledged urban growth boundaries. The City of Springfield does not have any forest zoning districts. The proposed exception and plan text amendment are not related to forest lands; the land area subject to the proposed exception is zoned Park and Open Space and/or is un-zoned state highway right of way.

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

To conserve open space and protect natural and scenic resources.

The proposed exception would allow ODOT to place a temporary bridge within the Greenway Setback Line, including fill, which also includes a small portion of the

Whilamut natural area and remove the detour bridge after completion of the permanent replacement bridge. The right of way has some well established trees and understory similar to and a part of the adjoining Whilamut natural area. This right-of-way was not intended to promote Willamette Greenway objectives in as much as it preceded the Willamette Greenway Goal by 20 or more years. The Whilamut natural area, and particularly the East Gate Woodlands, is point on consistent with the Greenway values intended to be protected by the Greenway Goal (pages 19 – 28 Design Principles and Implementation Strategies, East Alton Baker Park Plan). The relationship of the right-of-way, the proposed bridge, the Whilamut natural area/East Gate Woodlands and the Greenway values is now, and will remain, a matter of constantly balancing two exclusive-purpose uses of significant contrast. It is no wonder an exception is necessary. What will make these circumstances tolerable is the successful effort (by ODOT, Willamalane, the City of Springfield and the Whilamut Citizens Planning Committee) to execute conditions of approval imposed by the Springfield Planning Commission in its decision to approve a Discretionary Use to allow an intensification of use within the Willamette River Greenway (detour bridge). Those conditions include the following:

- 1) The staff's of ODOT, City of Springfield and Willamalane will jointly prepare a construction management plan that will address, at a minimum, ingress and egress to the site; hours of operation; noise, dust vibration and lighting; run-off and hydrology; and bicycle and pedestrian safety in the construction area.
- 2) ODOT, City of Springfield, Willamalane and other appropriate state and federal agencies will jointly prepare a habitat protection plan that will mitigate any identified adverse impacts to the Whilamut natural area caused during and after bridge construction.
- 3) ODOT, City of Springfield and Willamalane staff will jointly prepare a restoration plan for the area impacted by the temporary bridge, including a "return to equal or better than" current condition as a baseline; elimination of invasives; plant salvage; and a monitoring schedule to assess on-going success. A member of the Whilamut Citizens Planning Committee will be asked to participate in these efforts in an advisory capacity.

These conditions are intended to mitigate adverse effects; protect as much of this resource as possible during construction; and restore as much of this resource as possible after the detour bridge is removed. The Whilamut natural area has been included in park plans since the adoption of the 1973 Alton Baker Park Land Use Plan, its successor, the 1986 Alton Baker Park Master Plan, and the current operational plan, the 1995 East Alton Baker Park Plan. Each version of these planning efforts designated the East Gate Woodlands area of the Whilamut as a natural habitat site of combined riparian and upland wildlife values.

During the preparation of the Natural Resources Special Study in the late 1980's, a draft inventory was prepared of metropolitan area resource sites based on wildlife habitat values. The East Gate Woodlands area of the Whilamut received the highest score in the metro area. The City's current Goal 5 preliminary inventory categorizes the Whilamut's East Gate Woodlands with the same high value as preceding studies and evaluations.

While the City's inventory has not yet been officially adopted as required by Goal 5, there is little doubt that the East Gate Woodlands will be considered anything less than the highly valuable resource it represents today.

Clearly, the connection between the purpose of Goal 5 and the purpose of the Greenway values are mutually supportive and in many instances overlap. This commonality is expressed further in OAR 660-023-0240(2): "*The requirements of Goals 15, 16, 17 and 19 shall supersede requirements of this division for natural resources that are also subject to and regulated under one or more of those goals.*" This relationship is not optional as the imperative verb makes perfectly clear. The exception process required for the proposed use in the Greenway is similar to the process used for evaluating Goal 5 resources: both require an economic, social, environmental, and energy consequences evaluation to determine if the competing value, in this case highway use, should be allowed. That evaluation is examined later in these findings under OAR 660-004-0020 Exception Requirements. The requirements of Goal 5 are met by the standards of the Willamette River Greenway; by the four factors of Goal 2, Part II(c) Exception Requirements; by the conclusions evaluating "significant adverse effect on the greenway values of the site" under OAR 660-004-0022(5); and by the conditions of approval imposed by the Springfield Planning Commission in approving a Discretionary Use request for the detour bridge.

Goal 6 – Air, Water and Land Resources Quality

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

This goal is primarily concerned with compliance with federal and state environmental quality statutes, and how this compliance is achieved as development proceeds in relationship to air sheds, river basins and land resources. This proposed exception will allow an existing, necessary transportation facility to be replaced without disruption to I-5 travel. As the evaluation under OAR 660-004-0020 demonstrates, the alternative to the detour bridge is routing a volume and type of traffic onto county roads and city streets not designed for such trips. The ensuing degradation to the air quality along these alternate routes caused by unmanageable congestion would be a direct contradiction of the purpose of this goal. This goal is met by the proposed exception.

Goal 7 – Areas Subject to Natural Disasters and Hazards

To protect life and property from natural disasters and hazards.

All sites within Springfield subject to these hazards (floodplain, erosion, landslides, earthquakes, weak foundation soils) are inventoried through a variety of sources and regulated by the Springfield Development Code, Article 26 HILLSIDE DEVELOPMENT OVERLAY DISTRICT; Article 27 FLOODPLAIN OVERLAY DISTRICT; Article 31 SITE PLAN REVIEW; and Article 32 PUBLIC AND PRIVATE IMPROVEMENTS. Bridge support structures and fill within the floodplain of the

Willamette will require a Floodplain fill permit consistent with FEMA regulations. No other hazards are present. This goal is met by the application of Article 27.

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.

The proposed detour bridge is located in ODOT right of way which crosses through East Alton Baker Park, separating the Eugene and Springfield portions of the park. This right of way, and I-5, preceded the designation of this site as a park. The proposed detour bridge will not add to recreational opportunities; it is for through movement of I-5 traffic and not for access to the park. This right of way was never used as access to the park and is not necessary now for park access. There is a good deal of park access east to west that must cross this right of way under the roadway and bridge, and does along the old Walnut Street right of way and the riverside bike/pedestrian path. The Springfield Planning Commission imposed a condition on ODOT to prepare a construction management plan that preserves and protects bicycle and pedestrian safety during construction of the detour bridge. The Springfield, Eugene and Lane County Planning Commissions further requested that the condition include “boater safety on the Willamette River and the canoe canal” while bridge work is underway.

The East Alton Baker Park Plan, although not adopted as a refinement plan to the Metro Plan, is an operation plan for the park and contains the following Specific Goals:

Natural Resources

East Alton Baker Park will provide valuable habitats in which a diversity of native plant and wildlife species can prosper.

Recreation, Cultural and Environmental Education

East Alton Baker Park will be a place for passive recreation and nature study and a place within the urban area where people can find quiet and solitude in nature.

Access and Circulation

East Alton Baker Park will link the Eugene and Springfield communities and the areas north and south of the Willamette River by providing safe, efficient and accessible corridors for non-motorized transportation.

Park Stewardship and Public Safety

The management of East Alton Baker Park will engage interested citizens and groups in successful park stewardship including planning, restoration and maintenance.

The Springfield Planning Commission, in its decision on the ODOT application for Discretionary Approval in the Greenway, required conditions of approval designed to address and mitigate adverse effects caused by the bridge construction; protect bicyclists and pedestrians using the existing paths; protect wildlife habitat adjoining the bridge and right of way; and restore the area occupied by the detour bridge and its construction once the detour bridge is removed. The consistency of these conditions with the Specific Goals of the East Alton Baker Park Plan, and that plan's consistency with Goal 8 and Goal 15, meets the requirements of this Goal.

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.

This goal is intended to address the land use needs (inventory) for employment opportunities in commercial and industrial sites:

"Provide for at least an adequate supply of sites of suitable sizes, types, locations, and service levels for a variety of industrial and commercial uses consistent with plan policies."

"Limit uses on or near sites zoned for specific industrial and commercial uses to those which are compatible with proposed uses."

This exception does not affect commercial or industrial lands inventories, nor does it limit access or other services to such sites. The efficient movement of vehicles and goods through and throughout the metropolitan area is a key component to a sound economy: *"In conjunction with the overall transportation system, recognizing the needs of other transportation modes, promote or develop a regional roadway system that meets combined needs for travel through, within, and outside the region."* (TSI Roadway Policy #3: Coordinated Roadway Network, December, 2001 TransPlan) *"Preserve corridors, such as rail rights-of-way, private roads, and easements of regional significance that are identified for future transportation-related uses."* (TSI System-Wide Policy #3: Corridor Preservation, December, 2001 TransPlan) One purpose this goal exception will serve is to enable continued use of this corridor for the efficient movement of goods and people through and within the region. This proposed goal exception is consistent with Goal 9.

Goal 10 – Housing

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

Similar to Goal 9, this goal is intended to protect residential lands inventories and require implementation measures that promote housing opportunities in a variety of economic ranges and densities. The ODOT right of way is not zoned for residential use, nor is any of the land within East Alton Baker Park. This proposed exception does not affect residential land inventories or housing policies therefore Goal 10 does not apply to this proposal.

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.

The emphasis of this goal is on key urban services *other* than transportation, and the focus is on the need for a 20 year public facilities and services plan (PFSP). Transportation is emphasized in Goal 12 and in the metro areas' Transportation System Plan: TransPlan.

There are no urban services needs created by this proposed exception. The construction of the detour bridge and the bridge's duration do not require any level of urban infrastructure not included in the PFSP. Mitigation measures will include on-site storm water pre-treatment (on-site being within the right of way, not in Whilamut). However, it could be argued that the alternative of routing I-5 traffic to county and city streets would severely compromise a set of infrastructure not designed to accommodate this increased demand. The exception sought is not inconsistent with the purpose of this Goal.

Goal 12 - Transportation

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

The proposed exception will allow a detour bridge to be constructed within the Greenway Setback Area. A detour bridge located within either side of the ODOT right of way (Eugene or Springfield) will be in the Greenway Setback Area. A detour bridge over the Willamette River *anywhere* inside the metro area urban growth boundary will be located in the Greenway Setback Area; therefore the need for an exception exists no matter where the bridge goes.

The I-5 bridge over the Willamette is critical to a large number of local trips in this area and for through travelers on I-5. This bridge must be replaced due to a state of deterioration and design that will not allow repair. Replacement means closure, not reduced capacity while replacement occurs. The detour bridge will provide the same ADT capacity as the current bridge and will not appreciable impede traffic because of its close proximity to the existing bridge. The alternative to a bridge is re-routing I-5 trips onto to a number of state highways, county roads and city streets. Heavier vehicles would be detoured over much longer routes because of the inability of these lesser streets

to accommodate gvw's in excess of 80,000 lbs. In some instances, this could mean trucks detouring off of I-5 north bound before they enter the state and traveling on Highway 97 east of the Cascades before returning to I-5 north of Eugene-Springfield, or continuing on Highway 97 all the way to I-84 on the Columbia. Smaller delivery trucks and passenger vehicles would be detoured onto other state highways, where possible, but inevitably, many of these trips would end up on metro area collectors and arterials that were not planned for this type of use.

Policies contained in TransPlan have been cited under the response to Goal 9 and are applicable to Goal 12 as well. In addition to these previously mentioned policies, the Transportation Planning Rule (TPR) contains objectives requiring a reduction in vehicle miles traveled and transportation systems designs that reduce out of direction travel. The detour bridge is consistent with these objectives; the alternative of re-routing onto other roadways is not.

The proposed exception is to the Greenway Goal to allow a non-water-dependent, non-water-related use within the Greenway Setback Line. This exception will not change development patterns, or make existing inventories more dependent on automobiles, or undermine the objective of an integrated land use and transportation plan. This exception will not increase trips or trip lengths. The I-5 corridor is part of the regional road system, though only Beltline and I-5 are programmed for capacity or modernization in the *TransPlan*. The proposed detour bridge is not specifically modernization or capacity: it is necessary for replacement of the existing bridge. The proposed exception is consistent with *TransPlan* and with this goal.

Goal 13 – Energy Conservation

To conserve energy.

This goal, though terse, is intended to require local jurisdictions to include energy consequences during decision making. Previous responses to a number of goals in this report identified the negative consequences that would result from alternatives to the detour bridge. Congestion, out of direction travel, and increased vehicle miles traveled are all wasteful of energy. Although there may be some minor concessions to energy expended on-site to mitigate adverse impacts to the Greenway values, these are insignificant in comparison to the alternative. The proposed exception is consistent with this goal.

Goal 14 – Urbanization

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

The proposed detour bridge, and the ultimate replacement of the existing bridge, is located in the central area of urban Eugene-Springfield. This proposal will not hasten, slow down or otherwise influence the transition of rural land to urban land use. This proposed exception does not apply to this goal.

Goal 15 – Willamette River Greenway

To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

The proposed detour bridge is located within the Willamette River Greenway Setback, and is neither water-dependent nor water-related. Pursuant to OAR 660-004-0022(5): *“Within an urban area designated on the approved Willamette Greenway Boundary maps, the siting of uses which are neither water-dependent nor water-related within the setback line required by Section C.3.k of the Goal may be approved where reasons demonstrate the following:*

- (a) The use will not have a significant adverse effect on the greenway values of the site under consideration or on adjacent land or water areas;*
- (b) The use will not significantly reduce the sites available for water-dependent or water-related uses within the jurisdiction;*
- (c) The use will provide a significant public benefit; and*
- (d) The use is consistent with the Legislative findings and policy in ORS 390.314 and the Willamette Greenway Plan approved by LCDC under ORS 390.322”*

The Applicant has responded to these factors in pages 2-9 of Exhibit A-1. Staff supports these findings. Additional response to the consistency of this proposal with the Greenway is found under the discussion of Goal 5 and Goal 8 as well as discussions that follow under response to OAR 660-004-0020. The proposed exception complies with the provisions, standards and requirements of this goal regarding an exception.

Goal 16 Estuarine Resources, Goal 17 Coastal Shorelands, Goal 18 Beaches and Dunes, and Goal 19 Ocean Resources

These goals do not apply to the Eugene-Springfield Metropolitan Area.

Compliance with Applicable Administrative Rules of Chapter 660, Division 004

660-004-0020 Goal 2, Par II(c), Exception Requirements

(1) If a jurisdiction determines that there are reasons consistent with OAR 660-004-0022 to use resource lands for uses not allowed by the applicable Goal, the justification shall be set forth in the comprehensive plan as an exception.

(2) The four factors in Goal 2 Par II(c) required to be addressed when taking an exception to a Goal are:

(a) "Reasons justify why the state policy embodied in the applicable goals should not apply": The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations including the amount of land for the use being planned and why the use requires a location on resource land;

1. The Goal limits uses in the Setback Area to water-dependent or water-related and excludes roads and highways from this category. There are two roadway bridges crossing the Willamette in Springfield; there are three roadway bridges crossing the Willamette in Eugene; and there are many other roadway bridges crossing the Willamette throughout the Willamette Valley and Portland. It is not likely that the state's policy regarding the Greenway was intended to allow the deterioration and ultimate closure of the state's bridges. There certainly is reason to draw a distinction regarding *new* bridges over the Willamette, but existing bridges, including necessary maintenance and repair solutions, should be considered in light of the consequence that would occur if they were required to be abandoned.

We agree with the Applicant's proposition that repair and maintenance is not an intensification of use; however the exception standard applies to non-water-dependent, non-water-related use occurring in the Setback, not what is or is not intensification.

2. The amount of land proposed for this use is largely within existing ODOT right-of-way. Where that is not the case, an easement approximately 100 feet wide for a distance of approximately 800 feet is needed for a sloped fill of support structures. The site of this easement is based solely on the need to place these support structures in a manner that provides necessary grade for the bridge. The easement property is owned by Willamalane Park and Recreation District and is part of the East Gate Woodlands of the Whilamut Natural Area. This park land is considered to have the highest rated wildlife habitat in the metropolitan area. There is no doubt that this proposal will intrude on this habitat and will require the removal of several acres of woodlands in and adjacent to the right-of-way. The Springfield Planning Commission considered these impacts during its Discretionary Use hearing and Greenway Setback Line hearing (See Cover Memo for additional discussion on this matter). Conditions of approval were applied by the Planning Commission regarding minimizing construction impacts on habitat and restoration of this site to a condition equal to or better than the current condition when the detour bridge is removed (See page 5 of this report for specific language of approval conditions).

3. The Willamette Greenway is not considered by OAR to be "resource land," (nor are Goal 5 sites), but it is subject to a reasons exception justifying why the state policy embodied in the applicable goal should not apply. There are no other sites in either city that could accommodate a detour bridge over the Willamette that would cause less impact than the proposed location. The geometry of I-5, the spacing between existing interchanges, posted speed limit and the type of traffic make it impossible to place this bridge anywhere else in the Metro area. Additionally, wider departure from the existing

right-of-way would go through a variety of different existing development, including homes, businesses and other park lands. This factor is met by this proposal

(b) “Areas which do not require a new exception cannot reasonably accommodate the use”:

(A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use, which do not require a new exception. The area for which the exception is taken shall be identified;

(B) To show why the particular site is justified, it is necessary to discuss why other areas which do not require a new exception cannot reasonably accommodate the proposed use. Economic factors can be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under the alternative factor the following questions shall be addressed:

(i) Can the proposed use be reasonably accommodated on non-resource land that would not require an exception, including increasing the density of uses on non-resource land? If not, why not?

(ii) Can the proposed use be reasonably accommodated on resource land this is already irrevocably committed to non-resource uses, not allowed by the applicable Goal, including resource land in existing rural center, or by increasing the density of uses on committed lands? If not, why not?

(iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?

1. The Rule applies to every city and county along the length of the Willamette River; literally any site the human mind can imagine for a bridge over the Willamette requires an exception. This truism renders the need to respond to (A), (B) and (i-iii) moot.

(C) This alternative areas standard can be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception, unless another party to the local proceeding can describe why there are specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described with facts to support the assertion that the sites are more reasonable by another party during the local exceptions proceeding.

1. There are no alternative sites across the Willamette River that doesn't also require an exception to Goal 15.

2. There are no other crossing points over the Willamette in the Metro area that would cause less disturbance; a detour of traffic off of I-5 onto lesser state highways, county roads and city streets can not be accommodated by the existing infrastructure, would cause substantial delay in the shipping of freight, and would compromise the integrity of countless residential and commercial neighborhoods through increased congestion and deterioration of air quality. This factor is met by this proposal.

(c) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a goal exception. The exception shall describe the characteristics of each alternative area considered by the jurisdiction for which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to, the facts used to determine which resource land is least productive; the ability to sustain resource uses near the proposed use; and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts.

1. The site is unique because it links all four travel lanes of I-5 over the Willamette River between the Cities of Springfield and Eugene. Relocating the bridge more than a few hundred feet east or west would require the closure of one or more existing interchanges or ramps, would require the demolition of numerous residences, would require the demolition of numerous businesses, and would result in a hazardous geometry due to the presence of immovable geologic features. Relocation beyond this narrow parameter would result in the closure of I-5 and the re-routing of all trips onto lesser state highways, county roads and city streets.

There are no social, economic, energy or environmental advantages to this alternative scenario. Re-routing 55,000 daily highway trips through the cities of Eugene and Springfield will create severe congestion which in turn degrades air quality. Local residents would invariably use local streets as alternative routes thereby imposing a higher level of through trips in residential neighborhoods ill-equipped to accommodate more traffic.

Re-routing would also increase out of direction distance for those traveling I-5 and for local residents avoiding the congestion of detour routes. This increase in vehicle miles traveled wastes resources and contributes to poorer air quality.

Detouring I-5 trips to alternate routes will also increase travel time for both through and local trips because of reduced roadway speeds and increased congestion. This will cause delays in freight delivery as well as individual trip time thereby causing a negative effect on the economic sectors that prioritize timeliness.

2. The Greenway land is not “resource” land therefore this factor does not apply.

3. The Goal 5 resource present in the East Gate Woodlands is a highly valuable natural “resource” for the entire metropolitan area. There will be some adverse impacts to that resource from the construction and presence of this bridge. The elected officials chose to mitigate these effects through conditions designed to minimize intrusion into the habitat during construction, and to restore the site to its current condition, or better, when the temporary bridge is removed (see page 5 of this report for conditions of approval imposed by the Springfield Planning Commission to address the question of mitigation). This factor is met by this proposal.

(d) “The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts”. The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. “Compatible” is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

1. Resource lands are included or embodied within Goal 3 Agricultural Lands; Goal 4 Forest Lands; Goal 16 Estuarine Resources; Goal 17 Coastal Shorelands; and Goal 18 Beaches and Dune. Goal 15 The Willamette Greenway and Goal 5 Natural Resources are not included in this grouping (OAR 66-004-0010 (1) (a) through (f)). In addition, OAR 660-023-0240 *Relationship of Goal 5 to Other Goals* states the following: “(2) *The requirements of Goals 15, 16, 17 and 19 shall supercede requirements of this division for natural resources that are also subject to and regulated under one or more of these goals.*”

We have stated elsewhere in this report the importance and value of the East Gate Woodlands to the metropolitan area. Notwithstanding any arguments that may be made regarding the legitimacy of applying Goal 5 to the “reasons” exception, staff believes that the planning commissions and elected officials may consider the impacts of bridge construction on this habitat and require mitigation measures during construction and restoration once the bridge is removed. This factor is met by this proposal.

(3) If the exception involves more than one area for which the reasons and circumstances are the same, the areas may be considered as a group. Each of the

areas shall be identified on a map, or their location described, and keyed to the appropriate findings.

1. The exception includes both banks of the Willamette River. The Setback on the south bank is 5 feet south of the top of bank of the river; the north bank Setback includes the riparian vegetation along the north side of the canoe canal, but in no case less than 50 feet from the top of the north bank of the canoe canal.

(4) For the expansion of an unincorporated community defined under OAR 660-022-0010. The exception requirements of subsections (2) (b), (c) and (d) of this rule are modified to also include the following:

1. This proposal does not include expansion of an unincorporated community. This standard does not apply.

Adoption of this exception is consistent with Policy #13, Chapter III, Section D. of the Metro Plan. Including the proposed text addition to this policy maintains internal consistency.

Conclusion

A goal exception is an understandably rigorous test. The implementation of an applicable statewide goal through an acknowledged comprehensive plan and regulatory document is a quintessential element of land use planning in Oregon. However true that is, it is also quintessentially human to overlook something in the pursuit of our ideals, hence the exception process. The Willamette Greenway, and what its original purpose represents, is a source of pride for residents of this state and a model of excellence for other states to emulate. The fact that the provisions of this Goal supercede Goal 5 makes the Greenway a very powerful element of our comprehensive plan. This proposal does not diminish the purpose of the Greenway or the results sought in the Metro Plan. The Applicant's submittals, along with the conclusions in this report, comply with the law regarding Metro Plan amendments and Oregon Administrative Rules. Staff recommends approval of the Metro Plan Text addition to Policy #13, Chapter III, Section D. as it appears in page 1 of this report. Staff also recommends approval of the exception to Goal 15 Willamette River Greenway based upon the reasons justifying such an exception contained in this report and the submittal of the Applicant. Staff recommends that mitigation and restoration conditions of the Springfield Planning Commission decision on the Discretionary Use application, and the addition of "boater safety in the Willamette River and canoe canal" recommended by the joint planning commissions, be applied to further satisfy the exception standards of 660-004-0022 (5)(a).