



# Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

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www.lcd.state.or.us



## NOTICE OF ADOPTED AMENDMENT

11/13/2009

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

**FROM:** Plan Amendment Program Specialist

**SUBJECT:** City of Eugene/Springfield Plan Amendment  
DLCD File Number 002-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

**DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL:** Tuesday, November 24, 2009

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

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

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

**Cc:** Gregory Mott, City of Eugene/Springfield  
Gloria Gardiner, DLCD Urban Planning Specialist  
Ed Moore, DLCD Regional Representative

<paa> YA

**FORM 2**

**DLCD**

**DEPT OF**

# Notice of Adoption

NOV 05 2009

**LAND CONSERVATION  
AND DEVELOPMENT**  
For DLCD Use Only

**THIS FORM MUST BE MAILED TO DLCD  
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION  
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18**

Jurisdictions: **Cites of Eugene, Springfield and Lane County** Local file number: **LRP2009-00005**

Date of Adoption: **10/12/2009 (Eugene) 10/19/2009 (Springfield) 10/28/2009 (Lane County)**

Date Mailed: **11/4/2009 (e-mail) 11/4/2009 (hard copy).**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: **6/24/2009**

- Comprehensive Plan Text Amendment
- Comprehensive Plan Map Amendment
- Land Use Regulation Amendment
- Zoning Map Amendment
- New Land Use Regulation
- Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

This is a text amendment to the Eugene-Springfield Metropolitan Area General Plan, Chapter III-D Willamette Greenway Element, Policy D.11. The amendment approves an exception to Goal 15 for the purpose of allowing the construction of a bike/pedestrian viaduct underneath the Willamette I-5 Bridge. The proposed viaduct may require the placing of fill within the Willamette River Greenway setback, triggering the need for the exception. The adopted text is attached as part of each adopted ordinance.

Does the Adoption differ from proposal? **No.**

Plan Map Changed from: **N/A** to:

Zone Map Changed from: **N/A** to:

Location: **South bank of the Willamette River at the I-5 overcrossing in Glenwood.**

Acres Involved:

Specify Density: Previous: **N/A** New: **N/A**

Applicable statewide planning goals:

- |                          |                          |                          |                          |                                     |                          |                          |                          |                          |                          |                          |                                     |                          |                          |                                     |                          |                          |                          |                          |
|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| <b>1</b>                 | <b>2</b>                 | <b>3</b>                 | <b>4</b>                 | <b>5</b>                            | <b>6</b>                 | <b>7</b>                 | <b>8</b>                 | <b>9</b>                 | <b>10</b>                | <b>11</b>                | <b>12</b>                           | <b>13</b>                | <b>14</b>                | <b>15</b>                           | <b>16</b>                | <b>17</b>                | <b>18</b>                | <b>19</b>                |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

- 45-days prior to first evidentiary hearing?  Yes  No
- If no, do the statewide planning goals apply?  Yes  No
- If no, did Emergency Circumstances require immediate adoption?  Yes  No

**DLCD file No.** \_\_\_\_\_

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

**ODOT, City of Eugene, Lane County, Willamalane Park and Recreation District, City of Springfield**

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Local Contact: **Mark Metzger**

Phone: **(541) 726-3775** Extension:

Address: **225 Fifth Street**

Fax Number: **541-726-3689**

City: **Springfield**

Zip: **97477**

E-mail Address: **mrmetzger@ci.springfield.or.us**

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## **ADOPTION SUBMITTAL REQUIREMENTS**

This form **must be mailed** to DLCD **within 5 working days after the final decision**

per ORS 197.610, OAR Chapter 660 - Division 18.

1. **Send this Form and TWO Complete Copies** (documents and maps) of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, or by emailing **[larry.french@state.or.us](mailto:larry.french@state.or.us)**.
3. **Please Note:** Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **twenty-one (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **<http://www.lcd.state.or.us/>**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **[larry.french@state.or.us](mailto:larry.french@state.or.us)** - **Attention: Plan Amendment Specialist**.

ORDINANCE NO. 6246

AN ORDINANCE AMENDING THE EUGENE-SPRINGFIELD METROPOLITAN AREA GENERAL PLAN TEXT, CHAPTER III, SECTION D, POLICY # 11; ADOPTING AN EXCEPTION TO STATEWIDE PLANNING GOAL 15 WILLAMETTE RIVER GREENWAY; ADOPTING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Policy #11 of Chapter III, Section D of the Eugene-Springfield Metropolitan Area General Plan (Metro Plan) requires the taking of an exception to Statewide Goal 15 if a non-water-dependent transportation facility requires placing fill within the Willamette Greenway; and

WHEREAS, on July 7, 2009, the Springfield City Council adopted a resolution initiating a Metro Plan amendment to add language to Policy #11 of Chapter III, Section D of the Plan establishing an exception to Statewide Planning Goal 15 (Willamette Greenway) for the purpose of constructing a bicycle viaduct underneath the I-5 bridges on the South Bank of the Willamette River; and

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 provisions of Section 5.14-100 of the Springfield Development Code; and

WHEREAS, following an September 1, 2009 joint public hearing with the Eugene and Lane County Planning Commissions, the Springfield Planning Commission, on September 1, 2009 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 September 22, 2009, with the Eugene City Council and the Lane County Board of Commissioners, and is now ready to take action based on 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 the 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 #11, Chapter III, Section D. is hereby amended by the addition of the following paragraph:

*"An exception to Statewide Planning Goal 15 Willamette River Greenway was approved by the cities of Eugene and Springfield and by Lane County authorizing construction of a bike path viaduct beneath the I-5 bridges, along the south bank of the Willamette River. The exception authorizes construction of the bike path viaduct including the fill and removal of fill necessary to build the structure. This exception*

satisfies the criteria of Oregon Administrative Rules (OAR) 660-004-0022 (6) Willamette Greenway and the exception requirements of OAR 660-004-0020 Goal 2, Part II (c) for a 'reasons' exception. Pursuant to OAR 660-004-0015, this exception is hereby adapted as an amendment to the Metro Plan text, Policy D. 11, Chapter III, Section D."

Section 2: The Metro Plan is hereby amended to include the findings of fact and conclusions 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.

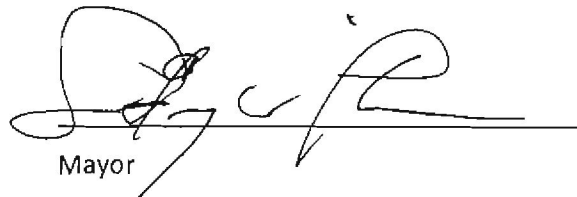
Section 3: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed separate, distinct and independent provision and such holding shall not affect the validity 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 acknowledgement as provided in 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 19<sup>th</sup> day of ~~September~~<sup>October</sup>, 2009 by a vote of 54 in favor and 04 against.

Approved by the Mayor of the City of Springfield this 19<sup>th</sup> day of ~~September~~<sup>October</sup>, 2009.

REVIEWED & APPROVED  
AS TO FORM  
James J. Leahy  
DATE: 8/27/09  
OFFICE OF CITY ATTORNEY

  
Mayor

ATTEST:

City of Springfield, Oregon

CERTIFIED TRUE COPY

Amy Sowa  
City Recorder

Amy Sowa  
City Recorder

**South Bank Viaduct Metro Plan Amendment and Goal 15 Exception  
Staff Report  
October 19, 2009**

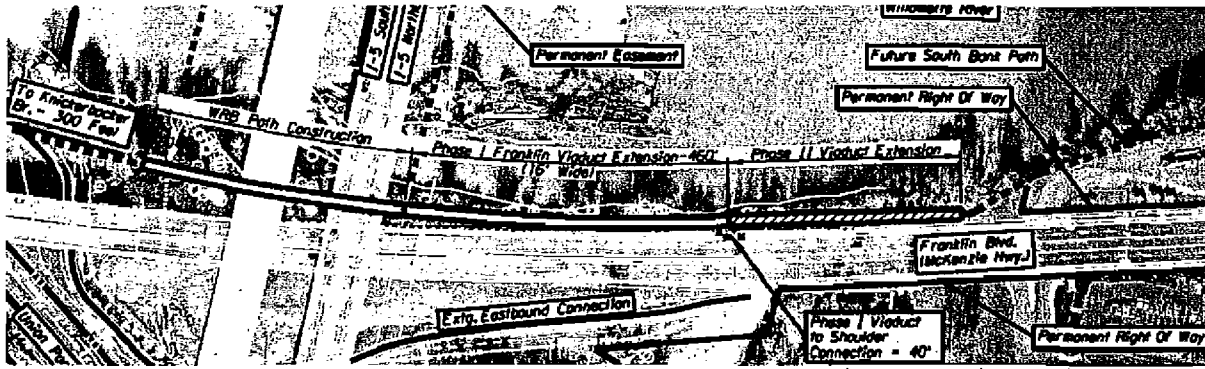
<b>Applicants:</b> City of Springfield (initiated the amendment) City of Eugene Lane County	<b>Springfield File No.</b> LRP2009-00005 <b>Eugene File No.</b> MA 09-4 <b>Lane County File No.</b> PA09-5472
<b>Request:</b> To amend the Eugene-Springfield Metropolitan Area General Plan (Metro Plan) text to include an exception to Statewide Planning Goal 15 to allow construction of a bicycle viaduct underneath the Willamette River I-5 Bridge.	<b>ProcedureType:</b> Type I Metro Plan Amendment
<b>Attachments:</b> Attachment 1: Metro Plan text amendment language. Attachment 2: Diagram showing the approximate location of the proposed South Bank Viaduct	

## I. Executive Summary

Eugene-Springfield has one of the largest networks of riverfront bicycle and pedestrian facilities in the state. The current connection between Eugene and Springfield is limited to the north side of the Willamette River. The extensive south bank Willamette River path system in Eugene ends at Interstate 5 because of the physical barriers created by both the existing I-5 bridges and the proximity of Franklin Boulevard (OR 126B) to the Willamette River. Users traveling between the two cities along the south side of the Willamette River must cross to the north side of the river near the I-5 bridge or divert to the shoulders of Franklin Boulevard (OR 126B), a high speed arterial street.

Many planning documents, including the Central Lane MPO Regional Transportation Plan, TransPlan, the Glenwood Refinement Plan and Willamalane Park and Recreation District Comprehensive Plan, call for the continuation of the Willamette River South Bank Path through Glenwood to Springfield. Construction of the South Bank Viaduct is essential to the continuation and development of the South Bank Path. The combined viaduct and path facilities (the combined facilities referred to hereafter as the viaduct) will provide a safer, more pleasant experience for recreational and commuter bicyclists and pedestrians traveling between Eugene and Springfield through Glenwood.

The proposed viaduct will be about 16 feet wide and 1,100 feet in length. It will connect to the South Bank Path at the point where it currently diverts away from the river in Eugene, just west of the I-5 bridges. The viaduct will elevate the bike/pedestrian path and move it out away from the steep bank near the I-5 bridges, and return to the riverbank at a point where the path can continue to Glenwood. The proposed structure will hug the shoreline, minimizing its impact on the river. Some supporting columns will be placed in the river to support the viaduct as it bypasses the slope barrier.



The South Bank Viaduct has wide support from local jurisdictions and agencies. The following jurisdictions, agencies and communities have expressed support the South Bank Viaduct:

- City of Eugene
- City of Springfield
- Metropolitan Policy Committee (MPO)
- Willamalane Parks and Recreation District
- Springfield Economic and Development Agency
- Eugene Bicycle and Pedestrian Advisory Committee
- Lane County Board of Commissioners

An ODOT Transportation Enhancement Grant of almost \$1 million, together with \$250,000 in OTIA funds and about \$140,000 in donated materials will be used to fund the South Bank Viaduct project. The timing of the project will allow reuse of multiple concrete box beams from the Willamette River detour bridge on the viaduct project. As the I-5 replacement bridges are completed, and the detour bridge is removed, the South Bank Viaduct will be constructed.

Approval of the proposed Metro Plan amendment allows for the consideration of fill within the Willamette River Greenway for the purpose of constructing the South Bank Viaduct. Approval of the amendment does not negate the authority of agencies to oversee the design and construction of the viaduct to avoid, minimize or mitigate impacts that the construction and use of the facility might have on the River. The South Bank Viaduct will undergo NEPA review to assess potential environmental impacts and to secure the needed approvals for construction of the structure.

#### Goal 15 Exception

Policy D.11 of the Eugene-Springfield Metropolitan Area General Plan (Metro Plan) states in part: *"The taking of an exception is required if a non-water-dependent transportation facility requires placing of fill within the Willamette River Greenway setback."* Eugene, Springfield and Lane County are jointly requesting this Metro Plan text amendment with the Goal 15 exception.

The proposed text amendment adds the following language to policy #D.11 of Chapter III-D Willamette River Greenway, River Corridors and Waterways Element:

*"An exception to Statewide Planning Goal 15 Willamette River Greenway was approved by the cities of Eugene and Springfield and by Lane County authorizing construction of a bike path viaduct beneath the I-5 bridges, along the south bank of the Willamette River in Eugene and Glenwood. The exception authorizes construction of the bike path viaduct including the fill and removal of fill necessary to build*

*the structure. This exception satisfies the criteria of Oregon Administrative Rules (OAR) 660-004-0022 (6) Willamette Greenway and the exception requirements of OAR 660-004-0020 Goal 2, Part II (c) for a 'reasons' exception. Pursuant to OAR 660-004-0015, this exception is hereby adopted as an amendment to the Metra Plan text, Policy D. 11, Chapter III, Section D."*

### **Conclusion and Recommendation of Staff**

The proposed Metro Plan amendments and exception to Statewide Planning Goal 15 is required by Policy D.11 of Chapter III-D (Willamette River Greenway, River Corridors and Water Ways Element). The Staff Report accompanying this memorandum includes findings demonstrating conformance with the criteria for Metro Plan amendments found in Chapter 5, Section 5.14-135(C) of the Springfield Development Code. The same criteria for approving a Metro Plan amendment are found in Eugene Code 9.7730(3) and Section 12.225(2) (a&b) of the Lane Code. The proposed amendments are also consistent with the approval criteria for a Goal 15 exception found in Oregon Administrative Rules (OAR) 660-004-0022 (6) Willamette Greenway and the exception requirements of OAR 660-004-0020 Goal 2, Part II (c) for a 'reasons' exception, and pursuant to OAR 660-004-0015.

Based on the findings of staff with respect to the criteria defined in Section 5.14-135(C) of the Springfield Development Code and Eugene Code 9.7730(3) and Section 12.225(2) (a&b) of the Lane Code for approving a Metro Plan amendment and applicable sections of OAR 660-004-0022 for approving an exception to Statewide Planning Goal 15; staff find the proposed text amendment to the Metro Plan and exception to Statewide Planning Goal 15 allowing the placement of fill for the purpose of constructing the South Bank Viaduct beneath the Willamette River I-5 Bridges, to be consistent with these criteria and recommend approval of the amendment.

## **II. Procedural Requirements**

Procedural requirements for Metro Plan amendments are described in Chapter IV. The amendment procedures are reflected in each jurisdiction's local land use codes. Sections 5.2-115, 5.4-135 and 5.4-140 of the Springfield Development Code, and sections 9.7700 through 9.7750 of the Eugene Code, contain the amendment procedures and policies found in Chapter IV of the Metro Plan. This proposal includes the taking of an exception to Statewide Planning Goal 15 (Willamette Greenway) since the proposed bicycle viaduct may require some fill to be placed or removed during its construction. OAR 660-004-0022 provides additional direction in the processing of a Willamette Greenway Goal exception. The following findings are made regarding procedural matters related to this proposal.

### **Findings:**

**Finding #1.** Section 5.14-115 of the Springfield Development Code (SDC) and Eugene Code (EC) 9.7700, includes definitions of two types of amendments to the Metro Plan. Section 5.14-115 (B.) and EC 9.7700(1) describes a Type I amendment as one which includes changes to the urban growth boundary or the jurisdictional boundary of the plan, requires a goal exception not related to a UGB expansion, or is a non-site specific amendment of the Plan text. This proposal is a text amendment to the Metro Plan which includes an exception to Statewide Planning Goal 15 (Willamette Greenway). By the definition found in Section 5.14-115 and EC 9.7700(1), this proposal is a Type I amendment.



- Finding #2.** This Metro Plan amendment was initiated jointly by the City of Eugene, the City of Springfield and Lane County. A Notice of Proposed Amendment was filed with the Oregon Department of Land Conservation and Development on June 30, 2009. A letter signed by the Planning Managers for each of the jurisdictions was included with the Notice.
- Finding #3.** The Springfield City Council approved a motion on July 6, 2009, affirming the action of the Springfield Planning Manager to initiating the amendment.
- Finding #4.** SDC 5.14-135 and EC 9.7730(1)(b) states that to become effective, "a site specific Metro Plan Type I amendment that involves a UGB or Plan Boundary change ... or that involves a Goal exception not related to a UGB expansion, shall be approved by all three governing bodies."
- Finding #5.** A public hearing was scheduled before the Joint Planning Commissions of Eugene, Springfield and Lane County on September 1, 2009.
- Finding #6.** A public hearing was scheduled before the Joint Elected Officials of Eugene, Springfield and Lane County on September 22, 2009.
- Finding #7.** Mailed notice of public hearings associated with a Metro Plan amendment must be sent to property owners and residents within 300 feet of the subject sites (SDC Section 5.2-115 (A), and 5.14-140, EC 9.7735(3)).
- Finding #8.** Mailed notice of public hearings was sent out on August 7, 2009 to property owners and residents within 300 feet of the proposed bicycle viaduct. The mailing allowed more than 20 days notice before the first public hearing as required by Section 5.2-115 A of the SDC and EC 9.7745 which directs compliance with the procedures at EC 9.7735(3).
- Finding #9.** Section 5.2-115 (B) of the SDC and EC 9.7735(3) requires that proposed land use actions be advertised in a newspaper of general circulation, providing information about the legislative action and the time, place and location of the hearing.
- Finding #10.** Notice of the public hearings concerning this matter was published on August 10, 2009 in the Register Guard, advertising both the hearing before the Joint Planning Commissions on September 1, 2009, and the Joint Elected Officials on September 22, 2009. The content of the notice followed the direction given in Section 5.2-115 B of the SDC and EC 9.7735(3).
- Finding #11.** While no formal notice process is required, the Notice of Proposed Amendment packet that was sent to DLCD was also sent electronically to Jan Houck, Water Recreation Coordinator with the Oregon Parks and Recreation Department on July 27, 2009.
- Finding #12.** Notice of this project was also sent to Savannah Crawford, Planner for Region 2 (Springfield) of the Oregon Department of Transportation on July 27, 2009. The notice was comprised of the materials filed with DLCD Notice of Proposed Amendment mentioned in Finding #2.

## **Conclusion:**

Procedural requirements described in Sections 5.2-115, 5.4-135 and 5.4-140 of the SDC and EC 9.7745 and EC 9.7735(3) have been followed. Notice requirements established by DLCD for amending the Development Code have also been followed.

## **III. Decision Criteria and Findings**

Section 5.14-135 C of the SDC and EC 9.7730(3) describes the criteria to be used in approving an amendment to the Metro Plan. It states that in reaching a decision, the Planning Commissions and the City Councils and County Commissioners must adopt findings which demonstrate that the proposal meets certain approval criteria. These criteria and findings are shown below.

***Criterion #1 "The amendment must be consistent with the relevant statewide planning goals adopted by the Land Conservation and Development Commission."***

### **Findings**

***Goal 1 – Citizen Involvement.*** Goal 1 calls for "the opportunity for citizens to be involved in all phases of the planning process."

**Finding #13.** A public hearing was held before the Joint Planning Commissions of Eugene, Springfield and Lane County on September 1, 2009.

**Finding #14.** A public hearing was held before the Joint Elected Officials of Eugene, Springfield and Lane County on September 22, 2009.

**Finding #15.** Mailed notice of public hearings was sent out on August 7, 2009 to property owners and residents within 300 feet of the proposed bicycle viaduct. The mailing allowed more than 20 days notice before the first public hearing as required by Section 5.2-115 A of the SDC and EC 9.7735(3).

**Finding #16.** Notice of the public hearings concerning this matter was published on August 10, 2009 in the Register Guard, advertising both the hearing before the Joint Planning Commissions on September 1, 2009, and the Joint Elected Officials on September 22, 2009. The content of the notice followed the direction given in Section 5.2-115 B of the SDC and EC 9.7735(3).

***Goal 2 – Land Use Planning.*** Goal 2 outlines the basic procedures of Oregon's statewide planning program. It says that land use decisions are to be made in accordance with a comprehensive plan, and that suitable "implementation ordinances" to put the plan's policies into effect must be adopted.

**Finding #17.** Part I of Goal 2 requires that actions related to land use be consistent with acknowledged comprehensive plans of cities and counties. The Eugene-Springfield Metropolitan Area General Plan (Metro Plan) is the acknowledged comprehensive plan that guides land use planning in Springfield, Eugene and Lane County.

**Finding #18.** Part II of Goal 2 provides the conditions and standards for which a local jurisdiction can adopt an exception to a statewide goal. Relevant to this request is Statewide Planning Goal 15, Willamette River Greenway which does not allow non water-dependent, non water-related uses, such as the proposed transportation facility, within the greenway setback without receiving an exception. The need for a goal exception is specifically triggered by Policy D.11 of the Metro Plan, Willamette River Greenway, River Corridors, and Waterways Element. The exception to Goal 15 is discussed under section IV which is incorporated herein by reference. Chapter III-D of the Metro Plan specifically addresses issues related to the Willamette Greenway. The following policies found in Chapter III-D are cited below (emphasis added).

Policy D.2 Land Use regulation and acquisition programs along river corridors and waterways shall take into account all the concerns and needs of the community, including recreation, resource, and wildlife protection; enhancement of river corridor and waterway environments; potential for supporting non-automobile transportation; opportunities for residential development; and other compatible uses.

Policy D.3 Eugene, Springfield and Lane County shall continue to cooperate in expanding water-related parks and other facilities, where appropriate, that allow access to and enjoyment of the river and waterway corridors.

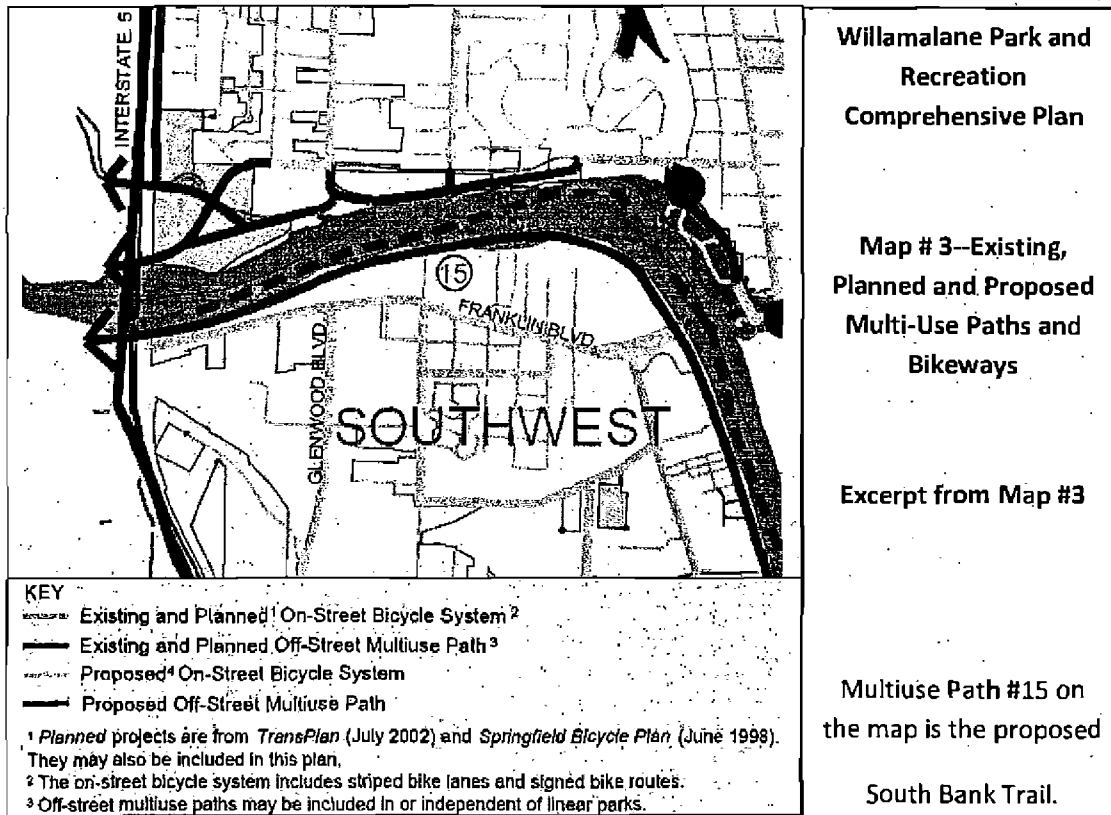
Policy D.11 states in part that: The taking of an exception shall be required if a non-water dependent transportation facility requires placing of fill within the Willamette River Greenway setback.

**Finding #19.** TransPlan (2002) is Eugene-Springfield's local Transportation System Plan and is a functional plan of the Metro Plan. TransPlan provides policies addressing transportation facilities and policies for the Eugene-Springfield Metropolitan Area.

**Finding #20.** TransPlan contains project lists and maps showing needed transportation facilities in the Metropolitan area. The Future Bikeway Project Map shows an off-street bike facility running along the south bank of the Willamette River underneath the I-5 Bridge. This bikeway is identified as project #851 South Bank Trail (A) with an estimated cost of \$1,800,000 (Jurisdiction: Springfield). The viaduct would then connect with the existing bike path on the Eugene side of I-5, shown as an existing off-street bike facility on the TransPlan Financially-Constrained Bikeway System Projects map. The proposed viaduct and path facilities would implement a portion of project #851.

**Finding #21.** Central Lane MPO Regional Transportation Plan lists the Glenwood Riverfront Park Path (Project 851) as a financially constrained project. It is classified as a multiuse path without road project.

**Finding #22.** The Glenwood Refinement Plan (1999) is a refinement plan of the Metro Plan. It contains a map of proposed bicycle routes (pg. 53) that shows the South Bank Trail as an off-street path following the Willamette River, connecting the Eugene path system to the Springfield Bridges. Glenwood Refinement Plan Policy # 4.5 calls for the acquisition of easements for a pedestrian and bicycle access to and along the Willamette River through the Glenwood area.



**Finding #23.** The Willamalane Park and Recreation Comprehensive Plan is a refinement plan of the Metro Plan. Map #3 (page 28) of the Comprehensive Plan shows existing, planned and proposed multiuse paths and bike ways. Map #3 shows the South Bank Trail running along the Willamette River through Glenwood as an off-street multiuse path.

**Goal 3 – Agricultural Land.** Goal 3 defines "agricultural lands." It then requires counties to inventory such lands and to "preserve and maintain" them through farm zoning.

**Finding #24.** This goal does not apply within adopted, acknowledged urban growth boundaries. The City of Springfield does not have any agricultural zoning districts. These amendments do not apply outside the urban growth boundary and, because of limitations on commercial and industrial development without full urban services, generally do not apply outside the city limits.

All land in the City's urban transition area carries City zoning. An exception to this goal was taken in 1982 when the regional comprehensive plan was acknowledged. The City of Eugene does have agricultural zoning districts, however as stated, Goal 3 excludes lands inside an acknowledged urban growth boundary from the definition of agricultural lands and the project is within the urban growth boundary.

**Goal 4 – Forest Land.** This goal defines forest lands and requires counties to inventory them and adopt policies and ordinances that will "conserve forest lands for forest uses."

**Finding #25.** This goal does not apply within adopted, acknowledged urban growth boundaries. The City of Springfield does not have any forest zoning districts. These amendments do not apply outside the urban growth boundary and, because of limitations on commercial and industrial development without full urban services, generally do not apply outside the city limits. All land in the City's urban transition area carries City zoning. An exception to this goal was taken in 1982 when the comprehensive plan was acknowledged. The City of Eugene also does not have forest zoning. Goal 4 does not apply within urban growth boundaries and, therefore, does not apply to the subject property which is within the Eugene-Springfield urban growth boundary (OAR 660-006-0020).

**Goal 5 – Open Spaces, Scenic and Historic Areas, and Natural Resources.** Goal 5 covers more than a dozen natural and cultural resources such as wildlife habitats and wetlands. It establishes a process for each resource to be inventoried and evaluated.

**Finding #26.** The following administrative rule (OAR 660-023-0250) is applicable to this post-acknowledgement plan amendment (PAPA) request:

"(3) Local governments are not required to apply Goal 5 in consideration of a PAPA unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if:

- (a) The PAPA creates or amends a resource list or a portion of an acknowledged plan or land use regulation adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5;
- (b) The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list; or
- (c) The PAPA amends an acknowledged UGB and factual information is submitted demonstrating that a resource site, or the impact areas of such a site, is included in the amended UGB area."

Subsections (a) and (c) above are not applicable to this request as the proposed amendments do not create or amend a list of Goal 5 resources, do not amend a plan or code provision adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5, and do not amend the acknowledged Urban Growth Boundary.

**Finding #27.** Regarding subsection (b), the Springfield Inventory of Natural Resource Sites (Goal 5 Inventory) was adopted on May 3, 2004. In adopting the Goal 5 Inventory, the City Council chose to apply the "standard process" provisions of ORS 660-23-110 to the protection of riparian corridors.

**Finding #28.** The Willamette River is an inventoried riparian resource site on the Springfield Inventory of Natural Resource sites. This is Springfield's adopted Goal 5 Inventory. It is identified as site "WA/WB" on the Inventory.

**Finding #29.** Site WA/WB is assigned the following protection under Springfield's Goal 5 program for protecting riparian sites:

**“Goal 5 Recommendation:** Limit conflicting uses and employ low impact development practices when developing within 150 feet of the resource site. The Willamette River (WA/WB) is a water quality limited watercourse and is protected by a 75-foot development setback and site plan review standards described in 31.240 of the Springfield Development Code. No additional setbacks are necessary. The documented presence of a state and federally listed specie requires coordination with the Oregon Department of Fish and Wildlife and appropriate federal agencies to determine what (if any) additional measures may be needed.”

**Finding #30.** Section 4.3-117 (E) of the Springfield Development Code describes permitted uses within the setback area for locally significant riparian resource sites. Section 4.3-117 (E) (n.) lists “Public multi-use paths, access ways, trails, boardwalks, picnic areas, interpretive and educational displays and overlooks, including benches and outdoor furniture;” among the allowed uses. The proposed South Bank Viaduct is a permitted use within the protective setback along that portion of the Willamette River within Springfield’s planning jurisdiction.

**Finding #31.** In Eugene, the subject project area also includes Eugene-adopted Goal 5 riparian resource sites; the Willamette River, and a tributary to the Willamette River located next to the bicycle/pedestrian path and under Franklin Boulevard. The /WR Water Resources Conservation Overlay Zone are standards in Eugene that address Goal 5. The Willamette River has a 100-foot setback according to these provisions. Construction of public improvements, such as the viaduct, which include work within the setback and riparian resource site areas must with the /WR Water Resources Conservation Overlay Zone beginning at EC 9.4900. The tributary to the Willamette River does not have a setback and is identified as not protected.

**Finding #32.** Approval of the Metro Plan amendment allows for the consideration of fill within the Willamette River Greenway for the purpose of constructing the South Bank Viaduct. Approval of the amendment does not negate the authority of local, state and federal agencies to oversee the design and construction of the viaduct to avoid, minimize or mitigate the environmental impacts that construction and use of the facility might have on the River consistent with OAR 660-023-0250(3)(b).

**Finding #33.** Other state and federal permits or actions may be required to protect water quality, fish and wild life protection as part of the federal National Environmental Protection Act (NEPA) review. These permits and actions have yet to be determined at this writing. A consultant has been retained and is preparing the analysis required for NEPA review and processing.

**Goal 6 – Air, Water and Land Resources Quality.** This goal requires local comprehensive plans and implementing measures to be consistent with state and federal regulations on matters such as groundwater pollution.

**Finding #34.** The City of Springfield has revised its Development Code to respond to National Pollutant Discharge Elimination System (NPDES) Phase II, the Clean Water Act, and the Drinking Water Protection Act and is in the process of devising a response to the Endangered Species Act for listed species in our area. The South Bank Viaduct will be subject to staff review and to the development standards set forth in Sections 4.3-115 (Water Quality Protection and 4.3-117 (Natural Resource Protection Areas). These standards implement the protections required by the NPDES Phase II, the Clean Water Act and the Drinking Water Protection Act, and the City of

Springfield's Goal 5 program for natural resource protection. Similarly, the portion within Eugene will be subject to staff review and the development standards beginning at EC 9.4900 (/WR Water Resources Conservation Overlay Zone) including review for erosion, vegetation impacts, replanting, and stormwater. With regard to air quality and noise, the viaduct should have a positive effect on air quality and noise by increasing the options for alternative modes of transportation.

**Finding #35.** The proposed text amendment and Goal exception will not alter the environmental protection standards policies cited in Finding #34 or amend the metropolitan area's air, water quality or land resource policies. The design and construction of the proposed bicycle viaduct will be reviewed and monitored by local, state, and federal agencies with authority to evaluate and regulate the environmental impacts of the project on the Willamette River.

**Finding #36.** Approval of the Metro Plan amendment allows for the consideration of fill within the Willamette River Greenway for the purpose of constructing the South Bank Viaduct. Approval of the amendment does not negate the authority of agencies to oversee the design and construction of the viaduct to avoid, minimize or mitigate impacts that the construction and use of the facility might have on water quality in the River.

**Finding #37.** The viaduct project will require a Joint Application Form seeking permission from the U.S. Army Corps of Engineers and the Oregon Department of State Lands to conduct construction activities that may impact wetland and riparian resources in the project area. These agencies will add conditions for approval as required to address their concerns if any regarding wetland and riparian protection.

**Goal 7 – Areas Subject to Natural Disasters and Hazards.** Goal 7 deals with development in places subject to natural hazards such as floods or landslides. It requires that jurisdictions apply "appropriate safeguards" (floodplain zoning, for example) when planning for development there.

**Finding #38.** All sites within Springfield and Eugene that are subject to these hazards (floodplain, erosion, landslides, earthquakes, weak foundation soils) are inventoried through a variety of sources. The proposed Metro Plan text amendment and Goal exception does not remove or exempt compliance with Code standards that may apply to development within these hazard areas.

**Finding #39.** FIRM Panel Number 41039C166F shows the project area is affected by the 100-year floodplain (Willamette River, Glenwood Slough).

**Finding #40.** Within city of Springfield jurisdiction, floodplain development is regulated by the Floodplain (FP) Overlay District. The FP Overlay District applies to all areas of special flood hazard. Development proposals within the FP Overlay District are reviewed under Type I procedure and approval is required before construction or development begins within any area of special flood hazard.

Within the City of Eugene floodplain development is regulated by development standards beginning at EC 9.6705 through 9.6709. While development within ODOT right-of-way would need to meet these standards the City does not review nor issue permits in ODOT right-of-way.

A floodplain development permit is required for development within the Special Flood Hazards Area (SFHA) that is in Eugene but outside of the public right-of-way. Any development within the floodway will require a no-rise analysis and certification meeting FEMA Region X standards. This would be required as part of a floodplain development permit for any development within the floodway that is outside ODOT right-of-way but still in Eugene. The floodway is a high hazard area typically associated with high velocity flows that is necessary to convey floodwaters out of our community.

**Finding #41.** In February 2009, ODOT prepared and submitted a *Hydraulic and Scour Analysis Report*, including "No-Rise" analysis, to analyze the hydraulic conditions for the I-5 Replacement Bridge project to determine the effects of the required construction activities to the 100-year floodplain during and after construction. The report concluded that the Willamette River I-5 Replacement Bridge project would have a minimal impact on flood levels during a 100-year event.

**Finding #42.** The proposed South Bank Viaduct will be constructed at the same location on the south bank of the Willamette River as the I-5 Replacement Bridges. Although a new analysis may be required, it is likely that the viaduct will contribute little to flood elevations in the event of a 100-year flood event, given the small area affected by the project compared to the Replacement Bridge project.

**Goal 8 – Recreational Needs.** This goal calls for each community to evaluate its areas and facilities for recreation and develop plans to deal with the projected demand for them.

**Finding #43.** Willamalane Park and Recreation District is the entity responsible for park planning, development and maintenance in the subject park areas within Springfield. In 2004, Willamalane completed the Willamalane Parks and Recreation Comprehensive Plan that was adopted by both the City of Springfield and Lane County as a refinement plan to the Metro Plan.

**Finding #44.** Willamalane's Comprehensive Plan shows the proposed South Bank Viaduct (South Bank Trail) on Map 3—"Existing and Proposed Multiuse Paths and Bike Ways."

**Finding #45.** Several City documents anticipate a multi-use path connecting Eugene and Springfield on the south side of the Willamette River. Additionally, as previously mentioned under Goal 2, the TransPlan Future Bikeway Project Map shows an off-street bike facility running along the south bank of the Willamette River underneath the I-5 Bridge. This bikeway is identified as project #851 South Bank Trail (A) (jurisdiction: Springfield). The viaduct would then connect with the existing bike path on the Eugene side of I-5, shown as an existing off-street bike facility on the TransPlan Financially-Constrained Bikeway System Projects map.

**Goal 9 – Economic Development.** Goal 9 calls for diversification and improvement of the economy. It asks communities to inventory commercial and industrial lands, project future needs for such lands, and plan and zone enough land to meet those needs.

**Finding #46.** The proposed Metro Plan text amendment does not reduce the inventory of commercial and industrial lands.



**Finding #47.** The South Bank Viaduct will be both an important transportation facility for bike commuters and pedestrians connecting Eugene and Springfield. It is also an amenity with the potential to bring recreational users into the Glenwood and downtown Springfield business areas.

**Finding #48.** To the extent that recreational access to the Willamette River and to future Glenwood development in Glenwood and Downtown Springfield is part of a business location decision, the proposed South Bank Viaduct facility may increase the marketability of Springfield and Eugene for new business and industry.

**Goal 10 – Housing.** This goal specifies that each city must plan for and accommodate needed housing types, such as multifamily and manufactured housing.

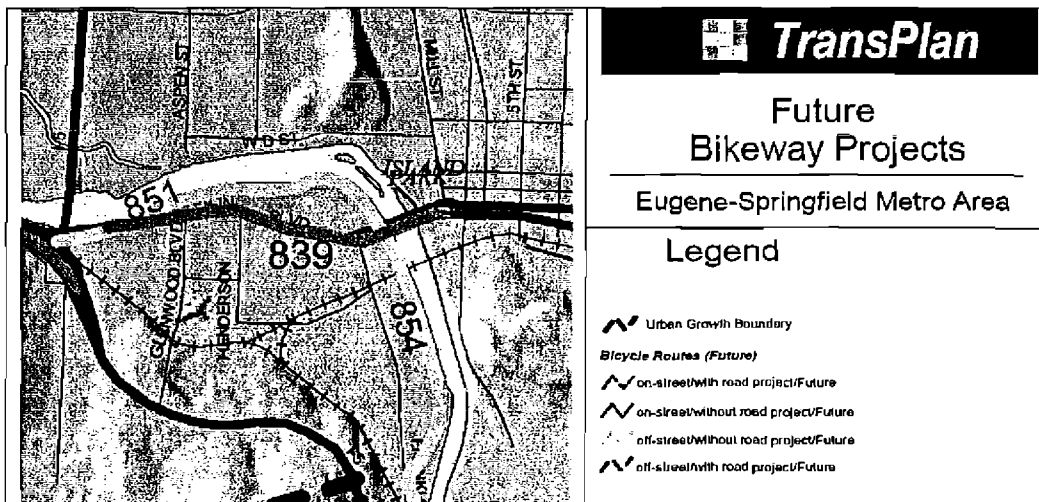
**Finding #49.** The proposed Metro Plan text amendment and Goal exception will not reduce available housing capacity and will not impact needed housing. As such this goal is not applicable to the evaluation of this proposal.

**Goal 11 – Public Facilities and Services.** Goal 11 calls for efficient planning of public services such as sewers, water, law enforcement, and fire protection.

**Finding #50.** The Eugene-Springfield Metropolitan Public Services and Facilities Plan (PFSP) is a refinement plan of the Metro Plan that guides the provision of public infrastructure, including water, sewer, storm water management, and electricity. The proposed Metro Plan text amendment and Goal exception does not modify any policies set forth in the PFSP, and no future facilities listed in the PFSP shall be affected by the amendment.

**Goal 12 – Transportation.** The goal aims to provide "a safe, convenient and economic transportation system."

**Finding #51.** TransPlan (2002) is Eugene-Springfield's local Transportation System Plan and is a functional plan of the Metro Plan. TransPlan provides policies addressing transportation facilities and policies for the Eugene-Springfield Metropolitan Area.



**Finding #52.** TransPlan contains project lists and maps showing needed transportation facilities in the Metropolitan area. The Future Bikeway Project Map shows an off-street bike facility running along the south bank of the Willamette River underneath the I-5 Bridge. This bikeway is identified as project #851 South Bank Trail (A) with an estimated cost of \$1,800,000 (Jurisdiction: Springfield). The viaduct would then connect with the existing bike path on the Eugene side of I-5, shown as an existing off-street bike facility on the TransPlan Financially-Constrained Bikeway System Projects map.

**Finding #53.** TransPlan's TSI Bicycle Policy # 3 (Chapter 2, pg. 33) requires "bikeways to connect new development with nearby neighborhood activity centers and major destinations." As previously mentioned, the South Bank Viaduct and South Bank Path will connect Eugene to Glenwood and to downtown Springfield through Glenwood.

**Finding #54.** TransPlan's TSI Bikeway Policy #4 assigns priority to the finding of "Priority Bikeway Miles." These are defined as stand-alone bike projects listed in TransPlan that are not associated with roadway projects. As mentioned above, the proposed South Bank Viaduct is part of project #851 South Bank Trail (A) which is a stand-alone project that is not associated with a roadway.

**Finding #55.** Central Lane MPO Regional Transportation Plan lists the Glenwood Riverfront Park Path (Project 851) as a financially constrained project. It is classified as a multiuse path without road project.

**Finding #56.** Additionally, Goal 12 is implemented through the Transportation Planning Rule (TPR), as defined in Oregon Administrative Rule OAR 660-012-0000, et seq. The Eugene-Springfield Metropolitan Area Transportation Plan (TransPlan) provides the regional policy framework through which the TPR is implemented at the local level. The TPR (OAR 660-012-0060) states that when land use changes, including amendments to acknowledged comprehensive plans, significantly affect an existing or planned transportation facility the local government shall put in place measures to assure that the allowed land uses are consistent with the identified function, capacity and performance standards (level of service, volume to capacity ratio, etc.) of the facility. TransPlan, which implements Goal 12, identifies an off-site bike path as a future facility and the south bank bike path on the Eugene side as an existing off-street bike path.

**Finding #57.** The TPR requires a determination of which existing and planned transportation facilities will experience a significant effect as a result of the proposed plan amendment, and defines what constitutes a significant effect (OAR 660-012-0060(1)). The analysis for significant effect is related to impacts to function, capacity and performance standards which are street standards not applicable to bicycle/pedestrian paths; therefore the proposal is consistent with TPR. Furthermore, the viaduct and path facilities provide alternative transportation modes which would benefit, not worsen, nearby streets.

**Goal 13 – Energy Conservation.** Goal 13 declares that "land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles."

**Finding #58.** Approval of the proposed Metro Plan text amendment and Goal exception will not have a direct impact on efforts to conserve energy; as such this goal is not applicable to the evaluation of this proposal.

**Goal 14 – Urbanization.** This goal requires cities to estimate future growth and needs for land and then plan and zone enough land to meet those needs.

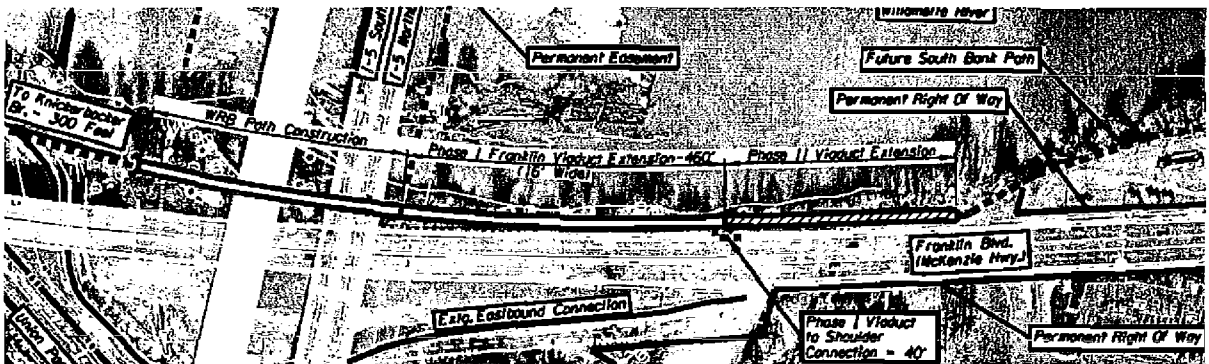
**Finding #59.** The proposed Metro Plan text amendment and Goal exception affect an area within the existing UGB; as such this goal is not applicable to the evaluation of this proposal.

**Goal 15 – Willamette River Greenway.** Goal 15 sets forth procedures for administering the 300 miles of greenway that protects the Willamette River.

**Finding #60.** Chapter III D of the Metro Plan—“Willamette River Greenway, River Corridors and Waterways Element” includes findings, objectives and policies for administering the Willamette River corridor as it passes through the Eugene-Springfield area.

**Finding #61.** Policy D.11 of Chapter III 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.”

**Finding #62.** The proposed South Bank Viaduct is located within the Willamette River Greenway setback. While the viaduct design is not complete, it may require the removal or placement of fill within the Greenway setback. For this reason, an exception to Statewide Planning Goal 15 is required as part of this proposal. Findings for the Goal 15 exception are provided at below under section IV and are incorporated herein by reference.



**Finding #63.** In 2003 and 2008, exceptions to Statewide Planning Goal 15 were taken and Policy D.11 of Chapter III of the Metro Plan was amended to allow construction and related activities for the Willamette River I-5 Detour and Replacement Bridges, respectively. Those exceptions to Goal 15 were approved in advance of any construction designs.

**Finding #64.** The exception taken in 2003 and in 2008 (articulated in Chapter III, Policy D.11) did not foresee or include the proposed South Bank Viaduct.

**Finding #65.** Chapter III-D of the Metro Plan specifically addresses issues related to the Willamette Greenway. The following policies found in Chapter III-D are applicable to this proposal and are cited below (emphasis added), and further addressed below under Criterion #2, consistency with the Metro Plan. Policy D.11, restated below, is the policy that directs an exception to be taken and a text amendment to the Metro Plan for the proposed viaduct and path, similar to the exceptions provided for the I-5 bridges.

**Policy D.2** Land Use regulation and acquisition programs along river corridors and waterways shall take into account all the concerns and needs of the community, including recreation, resource, and wildlife protection; enhancement of river corridor and waterway environments; potential for supporting non-automobile transportation; opportunities for residential development; and other compatible uses.

**Policy D.3** Eugene, Springfield and Lane County shall continue to cooperate in expanding water-related parks and other facilities, where appropriate, that allow access to and enjoyment of the river and waterway corridors.

**Policy D.11** 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.

An exception to Statewide Planning Goal 15 Willamette River Greenway was approved for Oregon Department of Transportation (ODOT) for purposes of removing and replacing the decommissioned I-5 bridge, the temporary detour bridge and the Canoe Canal bridge with two new parallel bridges (one southbound and one northbound) within the I-5 right-of-way crossing the Willamette River and Canoe Canal and within the Willamette River Greenway Setback Line. The exception authorizes construction and later removal of one or more temporary work bridges; demolition of the decommissioned I-5 Willamette River Bridge, Canoe Canal Bridge, and detour bridges; construction of the two replacement bridges; reconstruction of the roadway approaches to the bridges (I-5 and ramps); rehabilitation of the project area; and completion of any required mitigation of project impacts. In association with these tasks, the exception further authorizes within the Willamette River Greenway Setback Line the addition and removal of fill within ODOT right-of-way and the removal of fill within a temporary slope easement east of I-5. This exception satisfies the criteria of Oregon Administrative Rule (OAR) 660-004-0022(6), Willamette Greenway, and 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 D.11, Chapter III, Section D

***Goals 16 through 19 – Estuarine Resources, Coastal Shorelands, Beaches and Dunes, and Ocean Resources.***

**Finding #66.** There are no coastal, ocean, estuarine, or beach and dune resources within the Eugene-Springfield Urban Growth Boundary. These goals do not apply to this proposal.

**Conclusion**

The findings shown above demonstrate that the proposed Metro Plan text amendments and Goal 15 exception allowing the construction of the South Bank Viaduct facility as part of the South Bank Path is in substantial conformance to Oregon's Statewide Planning Goals.

**Criterion #2. "Adoption of the amendment must not make the Metro Plan internally inconsistent."**

**Findings**

**Finding #67.** Chapter III-D of the Metro Plan specifically addresses issues related to the Willamette Greenway. The following policies found in Chapter III-D are cited below (emphasis added).

Policy D.2 Land Use regulation and acquisition programs along river corridors and waterways shall take into account all the concerns and needs of the community, including recreation, resource, and wildlife protection; enhancement of river corridor and waterway environments; potential for supporting non-automobile transportation; opportunities for residential development; and other compatible uses.

Policy D.3 Eugene, Springfield and Lane County shall continue to cooperate in expanding water-related parks and other facilities, where appropriate, that allow access to and enjoyment of the river and waterway corridors.

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**Finding #68.** The proposed South Bank Viaduct is located within the Willamette River Greenway setback. While the viaduct design is not complete, it may require the removal or placement of fill within the Greenway setback. For this reason, an exception to Statewide Planning Goal 15 is required as part of this proposal.

**Finding #69.** In 2003 and 2008, exceptions to Statewide Planning Goal 15 were taken and Policy D.11 of Chapter III of the Metro Plan was amended to allow construction and related

activities for the Willamette River I-5 Detour and Replacement Bridges, respectively. Those exceptions to Goal 15 were approved in advance of any construction designs.

**Finding #70.** The exceptions taken in 2003 and 2008 (articulated in Chapter III, Policy D.11) did not foresee or include the proposed South Bank Viaduct.

**Finding #71.** TransPlan (2002) is Eugene-Springfield's local Transportation System Plan and is a functional plan of the Metro Plan. TransPlan provides policies addressing transportation facilities and policies for the Eugene-Springfield Metropolitan Area.

**Finding #72.** TransPlan contains project lists and maps showing needed transportation facilities in the Metropolitan area. The Future Bikeway Project Map shows an off-street bike facility running along the south bank of the Willamette River underneath the I-5 Bridge. This bikeway is identified as project #851 South Bank Trail (A) with an estimated cost of \$1,800,000 (Jurisdiction: Springfield). The viaduct would then connect with the existing bike path on the Eugene side of I-5, shown as an existing off-street bike facility on the TransPlan Financially-Constrained Bikeway System Projects map.

**Finding #73.** Central Lane MPO Regional Transportation Plan lists the Glenwood Riverfront Park Path (Project 851) as a financially constrained project. It is classified as a multiuse path without road project.

**Finding #74.** The Glenwood Refinement Plan (1999) is a refinement plan of the Metro Plan. It contains a map of proposed bicycle routes (pg. 53) that shows the South Bank Trail as an off-street path following the Willamette River, connecting the Eugene path system to the Springfield Bridges. Glenwood Refinement Plan Policy # 4.5 calls for the acquisition of easements for a pedestrian and bicycle access to and along the Willamette River through the Glenwood area.

**Finding #75.** The Willamalane Park and Recreation Comprehensive Plan is a refinement plan of the Metro Plan. Map #3 (page 28) of the Comprehensive Plan shows existing, planned and proposed multiuse paths and bike ways. Map #3 shows the South Bank Trail running along the Willamette River through Glenwood as an off-street multiuse path.

**Finding #76.** In Eugene, the Riverfront Park Study (RPS) is adopted as a refinement of the Metro Plan. The RPS study boundary includes the south bank of the Willamette River up to the I-5 Bridge. Although the exact location of the viaduct will be determined through subsequent permitting processes, the western portion of the viaduct is generally located in this area,

**Finding #77.** The RPS includes several applicable policies regarding supporting a south bank bicycle/pedestrian path, minimizing impacts to riparian vegetation and the Mill Race. Given that the proposal will allow consideration of extension of the south bank bicycle/pedestrian path, and with the findings for Statewide Planning Goal 5, 15 and 12 above which are incorporated herein by reference, the proposed amendment is consistent with the applicable policies of the RPS.

## Conclusion

The proposed Metro Plan text amendment and Goal 15 exception would not make the Metro Plan internally inconsistent. The Metro Plan and its related refinement plans are specific in their planning for the South Bank Path and the alignment of that path along the Willamette River, passing beneath the Willamette I-5 Bridge and connecting Eugene's bike system to Springfield through Glenwood. The South Bank Viaduct facility is a critical facility that allows passage around the existing barrier beneath the bridge that prevents such connectivity.

## IV. Compliance with Applicable Administrative Rules of Chapter 660, Division 004—Interpretation of Goal 2 Exception Process

"Statewide Planning Goal 2—Land Use Planning, Part II, Exceptions," allows for exceptions to be made to certain other statewide planning goals. OAR chapter 660 division 4 explains the three types of exceptions set forth in Goal 2. Division 4 interprets the exception process as it applies to statewide Goals 3 to 19.

OAR 660-004-0010(2) states: "the exceptions process is generally not applicable to those statewide goals which establish planning procedures and standards that do not prescribe or restrict certain uses of resource land or limit the provision of certain public facilities and services, because these goals contain general planning guidance or their own procedures for resolving conflicts between competing uses. However, exceptions to these goals, although not required, are possible and exceptions taken to these goals will be reviewed when submitted by a local jurisdiction. These statewide goals are (emphasis added):

- (a) Goal 5 "Natural Resources";
- (b) Goal 6 "Air, Water, and Land Resources Quality";
- (c) Goal 7 "Natural Disasters and Hazards";
- (d) Goal 8 "Recreational Needs";
- (e) Goal 9 "Economy of the State";
- (f) Goal 10 "Housing" except as provided for in OAR 660-008-0035, "Substantive Standards for Taking a Goal 2, Part II, Exception Pursuant to ORS 197.303(3)";
- (g) Goal 12 "Transportation" except as provided for by OAR 660-012-0070, "Exceptions for Transportation Improvements on Rural Land";
- (h) Goal 13 "Energy Conservation";
- (i) Goal 15 "Willamette Greenway" except as provided for in OAR 660-004-0022(6); and**
- (j) Goal 19 "Ocean Resources."

### **Compliance with 660-004-0015—Inclusion as Part of the Plan**

OAR 660-004-0015 (1) states that “a local government approving a proposed exception shall 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. The applicable standards are those in Goal 2, Part II(c), OAR 660-004-0020(2), and 660-004-0022. The reasons and facts shall be supported by substantial evidence that the standard has been met.”

**Finding #78.** This proposal amends the Metro Plan text and takes an exception to allow the construction of the South Bank Viaduct beneath the Willamette River I-5 Bridges. Approval of the proposal will place language (see Attachment 1) into the Metro Plan providing for an exception to Statewide Goal 15. The local ordinances adopting this proposal will require the approving bodies to adopt the findings of fact and reasons for the text amendment and goal exception.

**Finding #79.** Findings #81 through #93 address the “reasons” that are specific to a goal exception for Statewide Planning Goal 15. These shall be adopted by reference as part of the staff report and exhibit to the local ordinances adopted by the local approving bodies.

### **Compliance with OAR 660-004-0022—Reasons Necessary to Justify and Exception under Goal 2 Part II(c)**

OAR 660-004-0022 states that an exception can be taken for any use not allowed by the applicable goal(s). The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in this section. Subsection (6) of OAR 660-004-0022 lists the reasons that can be used to justify an exception to Statewide Planning Goal 15—Willamette River Greenway. Subsection (6) states:

“(6) Willamette Greenway: 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.”



**“Reasons” Analysis for Statewide Planning Goal 15 Exception**

The following section of this document analyzes the South Bank Viaduct proposal against the “reasons” that can be used to justify an exception for Statewide Planning Goal 15 as listed in OAR 660-004-0022(6)(a-d).

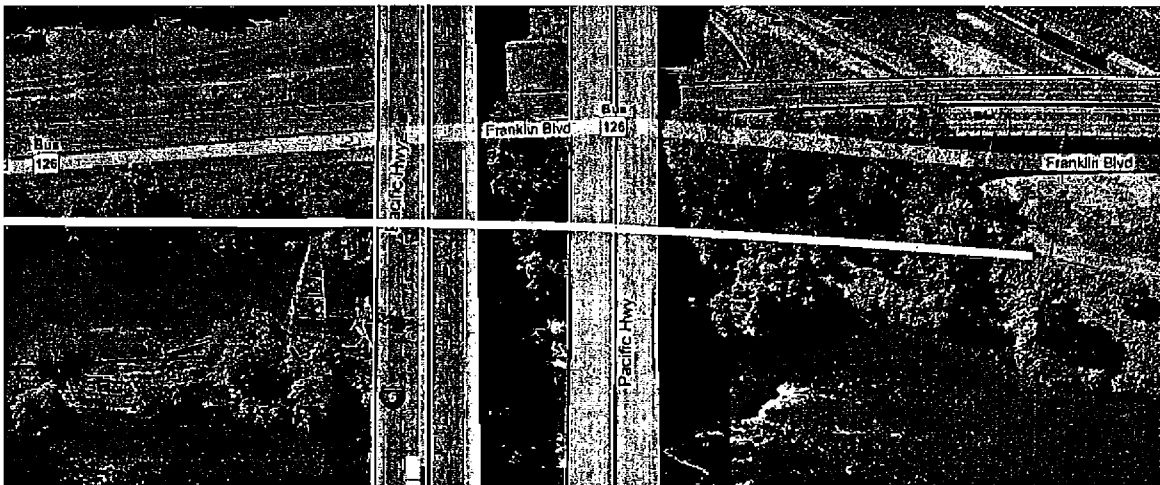
**“(a) The use will not have a significant adverse effect on the greenway values of the site under consideration or on adjacent land or water areas;”**

There appears to be no single statement of “greenway values” in the state statutes or administrative rules. The purposes stated for establishing the Willamette River Greenway are stated in OAR 660-015-0005: *“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.”* This purpose is reflected in Chapter III Section D of the Metro Plan, the local comprehensive plan element that describes how the Willamette Greenway will be administered within Eugene-Springfield’s planning jurisdiction (emphasis added).

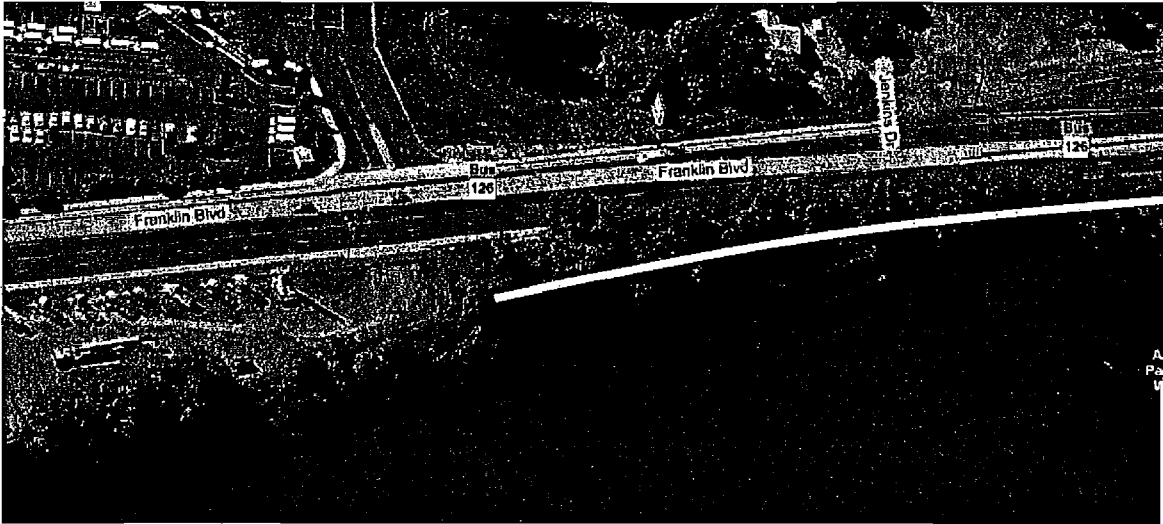
**Finding #80.** Policy D.2 Land Use regulation and acquisition programs along river corridors and waterways shall take into account all the concerns and needs of the community, including recreation, resource, and wildlife protection; enhancement of river corridor and waterway environments; potential for supporting non-automobile transportation; opportunities for residential development; and other compatible uses.

**Finding #81.** Policy D.3 Eugene, Springfield and Lane County shall continue to cooperate in expanding water-related parks and other facilities, where appropriate, that allow access to and enjoyment of the river and waterway corridors.

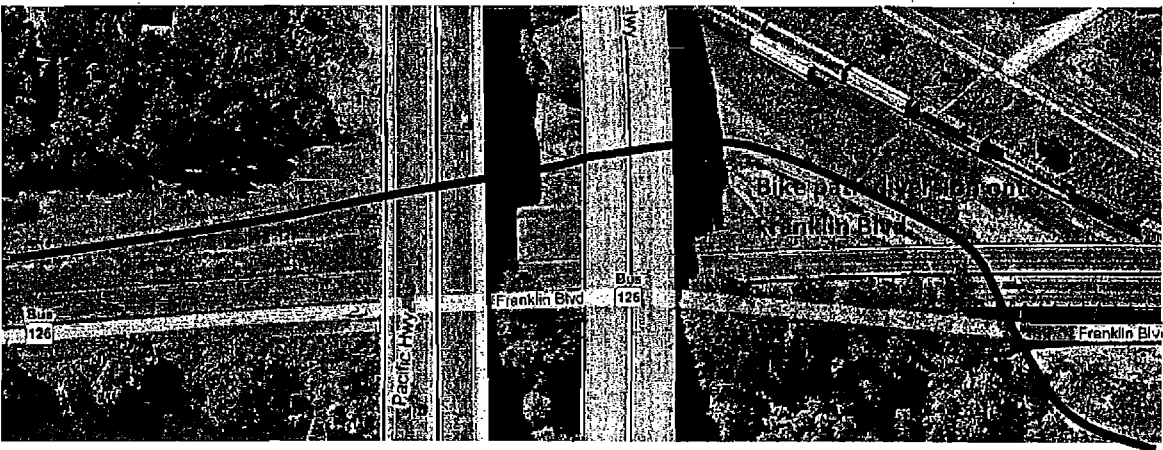
**Finding #82.** The proposed South Bank Viaduct is a non-automobile transportation facility that will serve both recreational and transportation functions. The facility will connect with the larger Eugene-Springfield riverfront bike path system which is arguably one of the best in Oregon.



West end of the South Bank Viaduct



East end of the South Bank Viaduct



The existing bike path is forced away from the river and on to Franklin Blvd. by the steep riverbank beneath the I-5 Bridge and eastward. The path continues on a busy Franklin Blvd. which has an on-street bike lane and minimal pedestrian facilities.

**Finding #83.** The alignment of the proposed viaduct would hug the riverfront, passing beneath the I-5 bridges. The viaduct is located in an industrial zone, including under the I-5 Bridge and adjacent to Franklin Blvd. As can be seen from the aerial photos above, the presence of industrial uses; the I-5 bridges; power transmission lines; and the austerity of Franklin Boulevard significantly impact the scenic of this segment of the river compared to other segments in Eugene-Springfield.

**Finding #84.** Existing development standards would require minimizing vegetation impacts, replacement trees, and restoration of the vegetation that is disturbed by construction of the proposed viaduct on the riverbank, minimizing the long-term visual impact of the facility when viewed from the river.

**Finding #85.** Required NEPA review of this project will result in mitigation measures designed to minimize the impact of the viaduct on riparian habitat and threatened and endangered fish species in the river.

**Finding #86.** The South Bank Viaduct and riverfront path that will be enabled by the viaduct will fulfill a longstanding community need. That need is reflected in long-range planning documents for transportation and recreation (Glenwood Refinement Plan, Glenwood Riverfront Plan, TransPlan, and the Willamalane Parks and Recreation Comprehensive Plan).

**“(b) The use will not significantly reduce the sites available for water-dependent or water-related uses within the jurisdiction;”**

**Finding #87.** The topography of the riverbank prohibits most water-dependent and water related uses. All of the land occupied by the viaduct is publically owned and is not proposed for water-related or water-dependent development in any adopted land use documents. This project will not significantly reduce the sites available for water-dependent, water related-uses. The proposed viaduct structure will enable users to have better access to the river in the future when the planned South Bank Path is built.

**“(c) The use will provide a significant public benefit; and”**

**Finding #88.** As demonstrated by its inclusion in a variety of comprehensive planning documents, the South Bank Path and this portion of the path in particular will have a significant public benefit.

**“(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.”**

ORS 390.341 and ORS 390.322 are shown below (emphasis added).

**“390.314 Legislative findings and policy. (1) The Legislative Assembly finds that, to protect and preserve the natural, scenic and recreational qualities of lands along the Willamette River, to preserve and restore historical sites, structures, facilities and objects on lands along the Willamette River for public education and enjoyment and to further the state policy established under ORS 390.010, it is in the public interest to develop and maintain a natural, scenic, historical and recreational greenway upon lands along the Willamette River to be known as the Willamette River Greenway.**

**(2) In providing for the development and maintenance of the Willamette River Greenway, the Legislative Assembly:**

**(a) Recognizing the need for coordinated planning for such greenway, finds it necessary to provide for development and implementation of a plan for such greenway through the cooperative efforts of the state and units of local government.**

**(b) Recognizing the need of the people of this state for existing residential, commercial and agricultural use of lands along the Willamette River, finds it necessary to permit the continuation of existing uses of lands that are included within such greenway; but, for the benefit of the people of this state, also to limit the intensification and change in the use of such lands so that such uses shall remain, to the greatest possible degree, compatible with the**

preservation of the natural, scenic, historical and recreational qualities of such lands.

(c) Recognizing that the use of lands for farm use is compatible with the purposes of the Willamette River Greenway, finds that the use of lands for farm use should be continued within the greenway without restriction.

(d) Recognizing the need for central coordination of such greenway for the best interests of all the people of this state, finds it necessary to place the responsibility for the coordination of the development and maintenance of such greenway in the State Parks and Recreation Department.

(e) Recognizing the lack of need for the acquisition of fee title to all lands along the Willamette River for exclusive public use for recreational purposes in such greenway, finds it necessary to limit the area within such greenway that may be acquired for state parks and recreation areas and for public recreational use within the boundaries of units of local government along the Willamette River. [1973 c.558 §1]"

“ **390.322 Submission of plan to Land Conservation and Development Commission; revision, approval and distribution of plan.** (1) Following the preparation of the plan or any segment thereof under ORS 390.318, the State Parks and Recreation Department shall submit such plan or segment to the Land Conservation and Development Commission. The commission shall investigate and review such plan or segment as it considers necessary. If the commission finds that the plan or segment complies with ORS 390.310 to 390.368, it shall approve the plan or segment. If the commission finds revision of any part of the submitted plan or segment to be necessary, it may revise the plan or segment itself or require such revision by the department and units of local government.

(2) Upon approval of the plan for the Willamette River Greenway or segment thereof, the commission shall cause copies of such plan or segment to be filed with the recording officer for each county having lands within the Willamette River Greenway situated within its boundaries. Such plan or segment filed as required by this subsection shall be retained in the office of the county recording officer open for public inspection during reasonable business hours.

(3) If the plan for the Willamette River Greenway is prepared and approved in segments, the total of all such approved segments shall constitute the plan for the Willamette River Greenway for the purposes of ORS 390.310 to 390.368. The department and units of local government, with the approval of the commission, may revise the plan for the Willamette River Greenway from time to time. [1973 c.558 §4]"

**Finding #89.** The Metro Plan Chapter III Section D—Willamette River Greenway, River Corridors, and Waterways Element, is the acknowledged plan and policy for implementing Statewide Planning Goal 15—Willamette River Greenway. The Metro Plan provides local coordination and review of development that may affect the Greenway.

**Finding #90.** Amendment of the Metro Plan requires notice to be filed with the Oregon Department of Land Conservation (DLCD) as well as affected local and state agencies. A Notice of Proposed Amendment concerning this proposal was filed with DLCD on June 30, 2009.

**Finding #91.** While no formal notice process is required, the Notice of Proposed Amendment packet that was sent to DLCD was sent electronically to Jan Houck, Water Recreation Coordinator with the Oregon Parks and Recreation Department on July 27, 2009.

**Finding #92.** Notice of this project was also sent to Savannah Crawford, Planner for Region 2 of the Oregon Department of Transportation on July 27, 2009. The notice was comprised of the materials filed with DLCD Notice of Proposed Amendment mentioned in Finding #91.

**V. Conclusion and Recommendation of Staff**

Based on the findings of staff with respect to the criteria defined in Section 5.14-135 C of the Springfield Development Code and EC 9.7730(3) for approving a Metro Plan amendment and applicable sections of OAR 660-004-0022 for approving an exception to Statewide Planning Goal 15; staff find the proposed text amendment to the Metro Plan and exception to Statewide Planning Goal 15 allowing the placement of fill for the purpose of constructing the South Bank Viaduct and path facilities beneath the Willamette River I-5 Bridges, to be consistent with these criteria and recommend approval of the amendment.

**VI. Attachments**

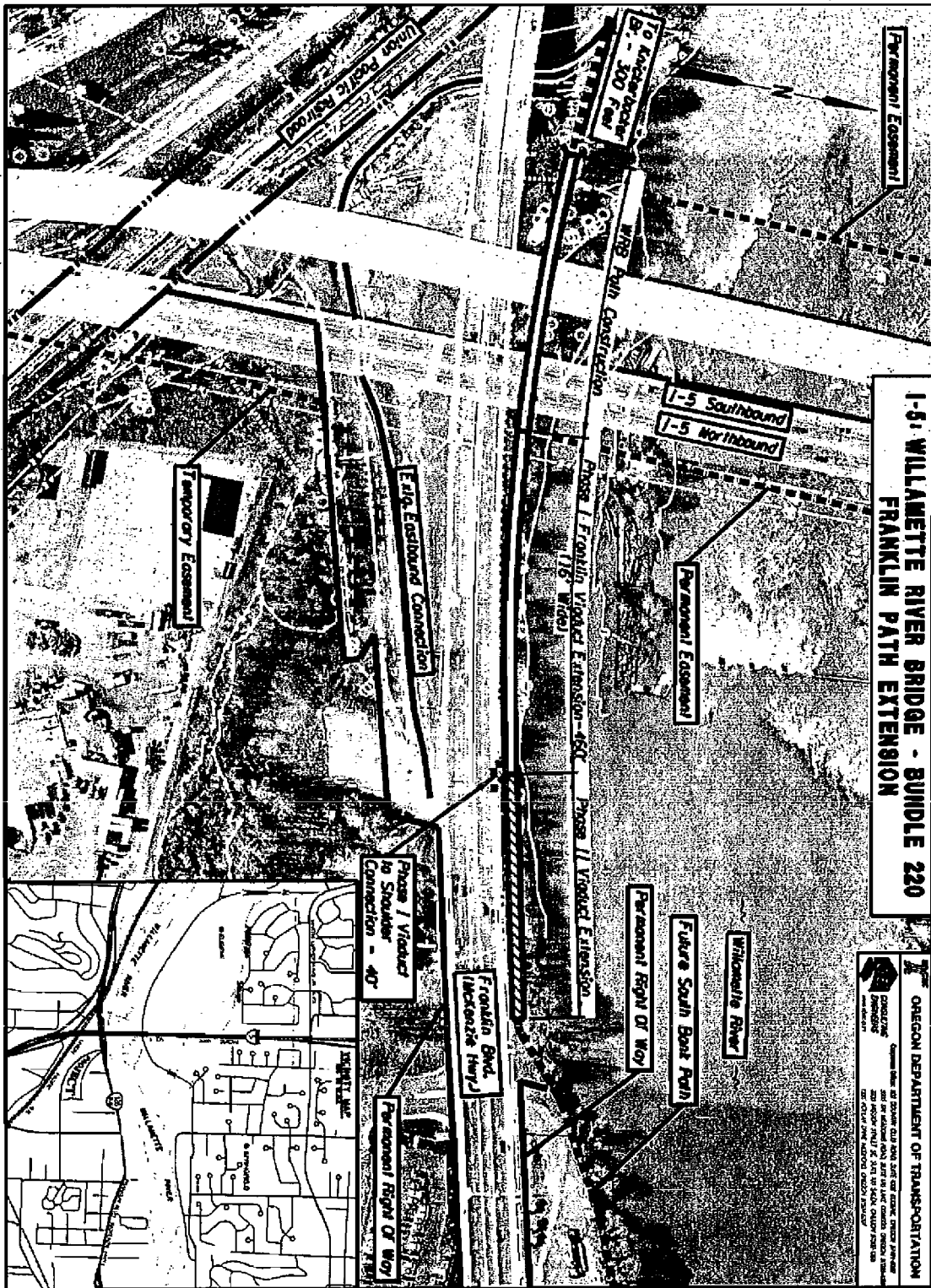
Attachment 1: Metro Plan text amendment language.

Attachment 2: Diagram showing the approximate location of the proposed South Bank Viaduct

## Attachment 1

The proposed text amendment adds the following language to policy #D.11 of Chapter III-D Willamette River Greenway, River Corridors and Waterways Element:

*"An exception to Statewide Planning Goal 15 Willamette River Greenway was approved by the cities of Eugene and Springfield and by Lane County authorizing construction of a bike path viaduct beneath the I-5 bridges, along the south bank of the Willamette River. The exception authorizes construction of the bike path viaduct including the fill and removal of fill necessary to build the structure. This exception satisfies the criteria of Oregon Administrative Rules (OAR) 660-004-0022 (6) Willamette Greenway and the exception requirements of OAR 660-004-0020 Goal 2, Part II (c) for a 'reasons' exception. Pursuant to OAR 660-004-0015, is hereby adopted as an amendment to the Metro Plan text, Policy D. 11, Chapter III, Section D."*



**COUNCIL ORDINANCE NUMBER 20438**

**COUNCIL BILL NUMBER 5007**

**AN ORDINANCE AMENDING THE EUGENE-  
SPRINGFIELD METROPOLITAN AREA GENERAL  
PLAN, TEXT, CHAPTER III, SECTION D, POLICY  
#11; ADOPTING AN EXCEPTION TO STATEWIDE  
PLANNING GOAL 15 WILLAMETTE RIVER  
GREENWAY; ADOPTING A SEVERABILITY  
CLAUSE; AND PROVIDING AN EFFECTIVE DATE  
(EUGENE CITY FILE MA 09-4)**

**ADOPTED: October 12, 2009**

**SIGNED: October 13, 2009**

**PASSED: 8/0**

**REJECTED:**

**OPPOSED:**

**ABSENT:**

**EFFECTIVE: November 13, 2009**



ORDINANCE NO. 20438

AN ORDINANCE AMENDING THE EUGENE-SPRINGFIELD METROPOLITAN AREA GENERAL PLAN TEXT, CHAPTER III, SECTION D, POLICY # 11; ADOPTING AN EXCEPTION TO STATEWIDE PLANNING GOAL 15 WILLAMETTE RIVER GREENWAY; ADOPTING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

A. Policy #11 of Chapter III, Section D of the Eugene-Springfield Metropolitan Area General Plan (Metro Plan) requires the taking of an exception to Statewide Goal 15 if a non-water-dependent transportation facility requires placing fill within the Willamette Greenway.

B. On June 26, 2009, Springfield initiated a Metro Plan amendment containing language establishing an exception to Statewide Planning Goal 15 (Willamette Greenway) for the purpose of constructing a bicycle viaduct underneath the I-5 bridges on the South Bank of the Willamette River.

C. Chapter IV of the Eugene -Springfield Metropolitan Area General Plan (Metro Plan) sets forth procedures for amendment of the Metro Plan, which for Eugene are implemented by EC 9.7700 through 9.7750.

D. Following a September 1, 2009 joint public hearing with the Springfield and Lane County Planning Commissions, the Eugene Planning Commission, on September 1, 2009 recommended Metro Plan amendments taking an exception to Statewide Planning Goal 15 Willamette River Greenway, to the Eugene City Council.

E. The City Council conducted a joint public hearing on this amendment on September 22, 2009, with the Springfield City Council and the Lane County Board of Commissioners, and is now ready to take action based on 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.

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

**NOW, THEREFORE,**

**THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:**

**Section 1.** The Metro Plan Policy #11, Chapter III, Section D, is hereby amended by the addition of the following paragraph:

*"An exception to Statewide Planning Goal 15 Willamette River Greenway was approved by the cities of Eugene and Springfield and by Lane County authorizing construction of a bike path viaduct beneath the I-5 bridges, along the south bank of the Willamette River. The exception authorizes construction of the bike path viaduct including the fill and removal of fill necessary to build the structure. This exception satisfies the criteria of Oregon Administrative Rules (OAR) 660-004-0022 (6) Willamette Greenway and the exception requirements of OAR 660-004-0020 Goal 2, Part II (c) for a 'reasons' exception. Pursuant to OAR 660-004-0015, this exception is hereby adopted as an amendment to the Metro Plan text, Policy D. 11, Chapter III, Section D."*

**Section 2.** The Metro Plan is hereby amended to include the findings of fact and conclusions 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 this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed 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 in the Eugene Charter of 2002, 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 acknowledgement as provided in ORS 197.625, whichever date is later, provided that by that date the Springfield 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.

Passed by the City Council this

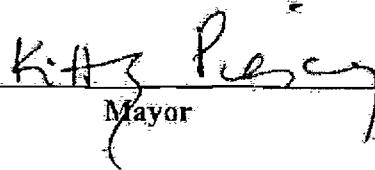
12<sup>th</sup> day of October, 2009



Acting City Recorder

Approved by the Mayor this

13<sup>th</sup> day of October, 2009



Mayor

**South Bank Viaduct Metro Plan Amendment and Goal 15 Exception  
Exhibit A to Adopting Ordinance  
and Staff Report  
September 22, 2009**

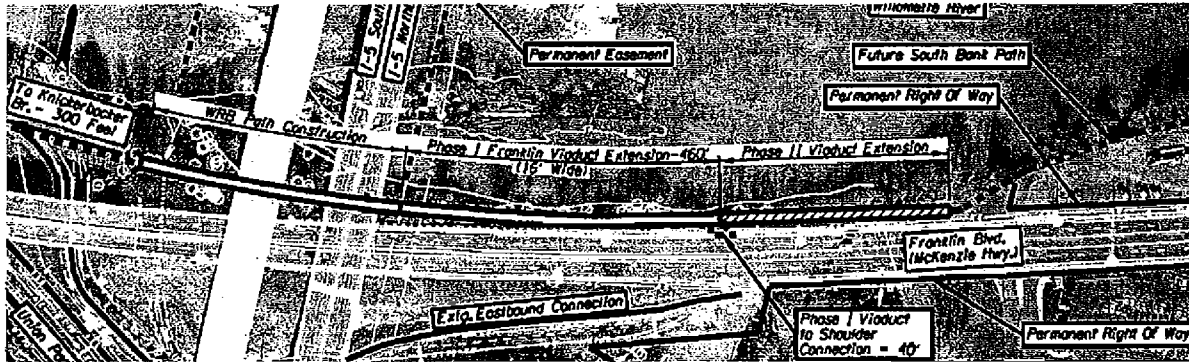
<b>Applicants:</b> City of Springfield (initiated the amendment) City of Eugene Lane County	<b>Local File No.s:</b> Springfield File No. LRP2009-00005 Eugene File No. MA 09-4 Lane County File No. PA09-5472
<b>Request:</b> To amend the Eugene-Springfield Metropolitan Area General Plan (Metro Plan) text to include an exception to Statewide Planning Goal 15 to allow construction of a bicycle viaduct underneath the Willamette River I-5 Bridge.	<b>ProcedureType:</b> Type I Metro Plan Amendment
<b>Attachments:</b>  Attachment 1: Metro Plan text amendment language. Attachment 2: Diagram showing the approximate location of the proposed South Bank Viaduct	

**I. Executive Summary**

Eugene-Springfield has one of the largest networks of riverfront bicycle and pedestrian facilities in the state. The current connection between Eugene and Springfield is limited to the north side of the Willamette River. The extensive south bank Willamette River path system in Eugene ends at Interstate 5 because of the physical barriers created by both the existing I-5 bridges and the proximity of Franklin Boulevard (OR 126B) to the Willamette River. Users traveling between the two cities along the south side of the Willamette River must cross to the north side of the river near the I-5 bridge or divert to the shoulders of Franklin Boulevard (OR 126B), a high speed arterial street.

Many planning documents, including the Central Lane MPD Regional Transportation Plan, TransPlan, the Glenwood Refinement Plan and Willamalane Park and Recreation District Comprehensive Plan, call for the continuation of the Willamette River South Bank Path through Glenwood to Springfield. Construction of the South Bank Viaduct is essential to the continuation and development of the South Bank Path. The combined viaduct and path facilities (the combined facilities referred to hereafter as the viaduct) will provide a safer, more pleasant experience for recreational and commuter bicyclists and pedestrians traveling between Eugene and Springfield through Glenwood.

The proposed viaduct will be about 16 feet wide and 1,100 feet in length. It will connect to the South Bank Path at the point where it currently diverts away from the river in Eugene, just west of the I-5 bridges. The viaduct will elevate the bike/pedestrian path and move it out away from the steep bank near the I-5 bridges, and return to the riverbank at a point where the path can continue to Glenwood. The proposed structure will hug the shoreline, minimizing its impact on the river. Some supporting columns will be placed in the river to support the viaduct as it bypasses the slope barrier.



The South Bank Viaduct has wide support from local jurisdictions and agencies. The following jurisdictions, agencies and communities have expressed support the South Bank Viaduct:

- City of Eugene
- City of Springfield
- Metropolitan Policy Committee (MPO)
- Willamalane Parks and Recreation District
- Springfield Economic and Development Agency
- Eugene Bicycle and Pedestrian Advisory Committee
- Lane County Board of Commissioners

An ODOT Transportation Enhancement Grant of almost \$1 million, together with \$250,000 in OTIA funds and about \$140,000 in donated materials will be used to fund the South Bank Viaduct project. The timing of the project will allow reuse of multiple concrete box beams from the Willamette River detour bridge on the viaduct project. As the I-5 replacement bridges are completed, and the detour bridge is removed, the South Bank Viaduct will be constructed.

Approval of the proposed Metro Plan amendment allows for the consideration of fill within the Willamette River Greenway for the purpose of constructing the South Bank Viaduct. Approval of the amendment does not negate the authority of agencies to oversee the design and construction of the viaduct to avoid, minimize or mitigate impacts that the construction and use of the facility might have on the River. The South Bank Viaduct will undergo NEPA review to assess potential environmental impacts and to secure the needed approvals for construction of the structure.

#### Goal 15 Exception

Policy D.11 of the Eugene-Springfield Metropolitan Area General Plan (Metro Plan) states in part: *"The taking of an exception is required if a non-water-dependent transportation facility requires placing of fill within the Willamette River Greenway setback."* Eugene, Springfield and Lane County are jointly requesting this Metro Plan text amendment with the Goal 15 exception.

The proposed text amendment adds the following language to policy #D.11 of Chapter III-D Willamette River Greenway, River Corridors and Waterways Element:

*"An exception to Statewide Planning Goal 15 Willamette River Greenway was approved by the cities of Eugene and Springfield and by Lane County authorizing construction of a bike path viaduct beneath the I-5 bridges, along the south bank of the Willamette River in Eugene and Glenwood. The exception authorizes construction of the bike path viaduct including the fill and removal of fill necessary to build*

*the structure. This exception satisfies the criteria of Oregon Administrative Rules (OAR) 660-004-0022 (6) Willamette Greenway and the exception requirements of OAR 660-004-0020 Goal 2, Part II (c) for a 'reasons' exception. Pursuant to OAR 660-004-0015, this exception is hereby adopted as an amendment to the Metro Plan text, Policy D. 11, Chapter III, Section D."*

## **Conclusion and Recommendation of Staff**

The proposed Metro Plan amendments and exception to Statewide Planning Goal 15 is required by Policy D.11 of Chapter III-D (Willamette River Greenway, River Corridors and Water Ways Element). The Staff Report accompanying this memorandum includes findings demonstrating conformance with the criteria for Metro Plan amendments found in Chapter 5, Section 5.14-135(C) of the Springfield Development Code. The same criteria for approving a Metro Plan amendment are found in Eugene Code 9.7730(3) and Section 12.225(2) (a&b) of the Lane Code. The proposed amendments are also consistent with the approval criteria for a Goal 15 exception found in Oregon Administrative Rules (OAR) 660-004-0022 (6) Willamette Greenway and the exception requirements of OAR 660-004-0020 Goal 2, Part II (c) for a 'reasons' exception, and pursuant to OAR 660-004-0015.

Based on the findings of staff with respect to the criteria defined in Section 5.14-135(C) of the Springfield Development Code and Eugene Code 9.7730(3) and Section 12.225(2) (a&b) of the Lane Code for approving a Metro Plan amendment and applicable sections of OAR 660-004-0022 for approving an exception to Statewide Planning Goal 15; staff find the proposed text amendment to the Metro Plan and exception to Statewide Planning Goal 15 allowing the placement of fill for the purpose of constructing the South Bank Viaduct beneath the Willamette River I-5 Bridges, to be consistent with these criteria and recommend approval of the amendment.

## **II. Procedural Requirements**

Procedural requirements for Metro Plan amendments are described in Chapter IV. The amendment procedures are reflected in each jurisdiction's local land use codes. Sections 5.2-115; 5.4-135 and 5.4-140 of the Springfield Development Code, and sections 9.7700 through 9.7750 of the Eugene Code, contain the amendment procedures and policies found in Chapter IV of the Metro Plan. This proposal includes the taking of an exception to Statewide Planning Goal 15 (Willamette Greenway) since the proposed bicycle viaduct may require some fill to be placed or removed during its construction. OAR 660-004-0022 provides additional direction in the processing of a Willamette Greenway Goal exception. The following findings are made regarding procedural matters related to this proposal.

### **Findings:**

**Finding #1.** Section 5.14-115 of the Springfield Development Code (SDC) and Eugene Code (EC) 9.7700, includes definitions of two types of amendments to the Metro Plan. Section 5.14-115 (B.) and EC 9.7700(1) describes a Type I amendment as one which includes changes to the urban growth boundary or the jurisdictional boundary of the plan, requires a goal exception not related to a UGB expansion, or is a non-site specific amendment of the Plan text. This proposal is a text amendment to the Metro Plan which includes an exception to Statewide Planning Goal 15 (Willamette Greenway). By the definition found in Section 5.14-115 and EC 9.7700(1), this proposal is a Type I amendment.

- Finding #2.** This Metro Plan amendment was initiated jointly by the City of Eugene, the City of Springfield and Lane County. A Notice of Proposed Amendment was filed with the Oregon Department of Land Conservation and Development on June 30, 2009. A letter signed by the Planning Managers for each of the jurisdictions was included with the Notice.
- Finding #3.** The Springfield City Council approved a motion on July 6, 2009, affirming the action of the Springfield Planning Manager to initiating the amendment.
- Finding #4.** SDC 5.14-135 and EC 9.7730(1)(b) states that to become effective, " a site specific Metro Plan Type I amendment that involves a UGB or Plan Boundary change ... or that involves a Goal exception not related to a UGB expansion, shall be approved by all three governing bodies."
- Finding #5.** A public hearing was scheduled before the Joint Planning Commissions of Eugene, Springfield and Lane County on September 1, 2009.
- Finding #6.** At the September 1, 2009 Joint Planning Commission hearing, each Commission voted to send their governing body a recommendation that the proposed text amendment be approved.
- Finding #7.** A public hearing was scheduled before the Joint Elected Officials of Eugene, Springfield and Lane County on September 22, 2009.
- Finding #8.** Mailed notice of public hearings associated with a Metro Plan amendment must be sent to property owners and residents within 300 feet of the subject sites (SDC Section 5.2-115 (A), and 5.14-140, EC 9.7735(3)).
- Finding #9.** Mailed notice of public hearings was sent out on August 7, 2009 to property owners and residents within 300 feet of the proposed bicycle viaduct. The mailing allowed more than 20 days notice before the first public hearing as required by Section 5.2-115 A of the SDC and EC 9.7745 which directs compliance with the procedures at EC 9.7735(3).
- Finding #10.** Section 5.2-115 (B) of the SDC and EC 9.7735(3) requires that proposed land use actions be advertised in a newspaper of general circulation, providing information about the legislative action and the time, place and location of the hearing.
- Finding #11.** Notice of the public hearings concerning this matter was published on August 10, 2009 in the Register Guard, advertising both the hearing before the Joint Planning Commissions on September 1, 2009, and the Joint Elected Officials on September 22, 2009. The content of the notice followed the direction given in Section 5.2-115 B of the SDC and EC 9.7735(3).
- Finding #12.** While no formal notice process is required, the Notice of Proposed Amendment packet that was sent to DLCD was also sent electronically to Jan Houck, Water Recreation Coordinator with the Oregon Parks and Recreation Department on July 27, 2009.

**Finding #13.** Notice of this project was also sent to Savannah Crawford, Planner for Region 2 (Springfield) of the Oregon Department of Transportation on July 27, 2009. The notice was comprised of the materials filed with DLCD Notice of Proposed Amendment mentioned in Finding #2.

**Conclusion:**

Procedural requirements described in Sections 5.2-115, 5.4-135 and 5.4-140 of the SDC and EC 9.7745 and EC 9.7735(3) have been followed. Notice requirements established by DLCD for amending the Development Code have also been followed.

**III. Decision Criteria and Findings**

Section 5.14-135 C of the SDC and EC 9.7730(3) describes the criteria to be used in approving an amendment to the Metro Plan. It states that in reaching a decision, the Planning Commissions and the City Councils and County Commissioners must adopt findings which demonstrate that the proposal meets certain approval criteria. These criteria and findings are shown below.

***Criterion #1 "The amendment must be consistent with the relevant statewide planning goals adopted by the Land Conservation and Development Commission."***

**Findings**

***Goal 1 – Citizen Involvement.*** Goal 1 calls for "the opportunity for citizens to be involved in all phases of the planning process."

**Finding #14.** A public hearing was scheduled before the Joint Planning Commissions of Eugene, Springfield and Lane County on September 1, 2009.

**Finding #15.** A public hearing was scheduled before the Joint Elected Officials of Eugene, Springfield and Lane County on September 22, 2009.

**Finding #16.** Mailed notice of public hearings was sent out on August 7, 2009 to property owners and residents within 300 feet of the proposed bicycle viaduct. The mailing allowed more than 20 days notice before the first public hearing as required by Section 5.2-115 A of the SDC and EC 9.7735(3).

**Finding #17.** Notice of the public hearings concerning this matter was published on August 10, 2009 in the Register Guard, advertising both the hearing before the Joint Planning Commissions on September 1, 2009, and the Joint Elected Officials on September 22, 2009. The content of the notice followed the direction given in Section 5.2-115 B of the SDC and EC 9.7735(3).

***Goal 2 – Land Use Planning.*** Goal 2 outlines the basic procedures of Oregon's statewide planning program. It says that land use decisions are to be made in accordance with a comprehensive plan, and that suitable "implementation ordinances" to put the plan's policies into effect must be adopted.

**Finding #18.** Part I of Goal 2 requires that actions related to land use be consistent with acknowledged comprehensive plans of cities and counties. The Eugene-Springfield Metropolitan

Area General Plan (Metro Plan) is the acknowledged comprehensive plan that guides land use planning in Springfield, Eugene and Lane County.

**Finding #19.** Part II of Goal 2 provides the conditions and standards for which a local jurisdiction can adopt an exception to a statewide goal. Relevant to this request is Statewide Planning Goal 15, Willamette River Greenway which does not allow non water-dependent, non water-related uses, such as the proposed transportation facility, within the greenway setback without receiving an exception. The need for a goal exception is specifically triggered by Policy D.11 of the Metro Plan, Willamette River Greenway, River Corridors, and Waterways Element. The exception to Goal 15 is discussed under section IV which is incorporated herein by reference. Chapter III-D of the Metro Plan specifically addresses issues related to the Willamette Greenway. The following policies found in Chapter III-D are cited below (emphasis added).

Policy D.2 Land Use regulation and acquisition programs along river corridors and waterways shall take into account all the concerns and needs of the community, including recreation, resource, and wildlife protection; enhancement of river corridor and waterway environments; potential for supporting non-automobile transportation; opportunities for residential development; and other compatible uses.

Policy D.3 Eugene, Springfield and Lane County shall continue to cooperate in expanding water-related parks and other facilities, where appropriate, that allow access to and enjoyment of the river and waterway corridors.

Policy D.11 states in part that: 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.

**Finding #20.** TransPlan (2002) is Eugene-Springfield's local Transportation System Plan and is a functional plan of the Metro Plan. TransPlan provides policies addressing transportation facilities and policies for the Eugene-Springfield Metropolitan Area.

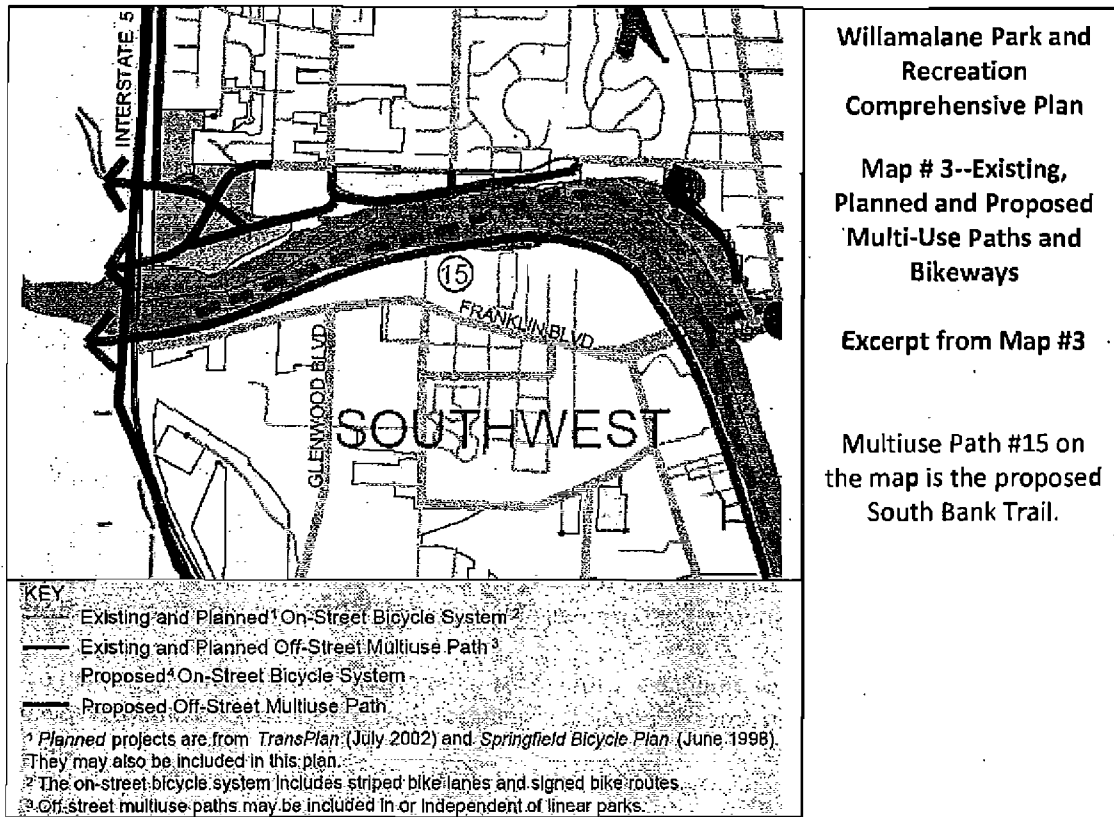
**Finding #21.** TransPlan contains project lists and maps showing needed transportation facilities in the Metropolitan area. The Future Bikeway Project Map shows an off-street bike facility running along the south bank of the Willamette River underneath the I-5 Bridge. This bikeway is identified as project #851 South Bank Trail (A) with an estimated cost of \$1,800,000 (Jurisdiction: Springfield). The viaduct would then connect with the existing bike path on the Eugene side of I-5, shown as an existing off-street bike facility on the TransPlan Financially-Constrained Bikeway System Projects map. The proposed viaduct and path facilities would implement a portion of project #851.

**Finding #22.** Central Lane MPO Regional Transportation Plan lists the Glenwood Riverfront Park Path (Project 851) as a financially constrained project. It is classified as a multiuse path without road project.

**Finding #23.** The Glenwood Refinement Plan (1999) is a refinement plan of the Metro Plan. It contains a map of proposed bicycle routes (pg. 53) that shows the South Bank Trail as an off-street path following the Willamette River, connecting the Eugene path system to the Springfield Bridges. Glenwood Refinement Plan Policy # 4.5 calls for the acquisition of



easements for a pedestrian and bicycle access to and along the Willamette River through the Glenwood area.



**Finding #24.** The Willamalane Park and Recreation Comprehensive Plan is a refinement plan of the Metro Plan. Map #3 (page 28) of the Comprehensive Plan shows existing, planned and proposed multiuse paths and bike ways. Map #3 shows the South Bank Trail running along the Willamette River through Glenwood as an off-street multiuse path.

**Goal 3 – Agricultural Land.** Goal 3 defines "agricultural lands." It then requires counties to inventory such lands and to "preserve and maintain" them through farm zoning.

**Finding #25.** This goal does not apply within adopted, acknowledged urban growth boundaries. The City of Springfield does not have any agricultural zoning districts. These amendments do not apply outside the urban growth boundary and, because of limitations on commercial and industrial development without full urban services, generally do not apply outside the city limits.

All land in the City's urban transition area carries City zoning. An exception to this goal was taken in 1982 when the regional comprehensive plan was acknowledged. The City of Eugene does have agricultural zoning districts, however as stated, Goal 3 excludes lands inside an acknowledged urban growth boundary from the definition of agricultural lands and the project is within the urban growth boundary.

**Goal 4 – Forest Land.** This goal defines forest lands and requires counties to inventory them and adopt policies and ordinances that will "conserve forest lands for forest uses."

**Finding #26.** This goal does not apply within adopted, acknowledged urban growth boundaries. The City of Springfield does not have any forest zoning districts. These amendments do not apply outside the urban growth boundary and, because of limitations on commercial and industrial development without full urban services, generally do not apply outside the city limits. All land in the City's urban transition area carries City zoning. An exception to this goal was taken in 1982 when the comprehensive plan was acknowledged. The City of Eugene also does not have forest zoning. Goal 4 does not apply within urban growth boundaries and, therefore, does not apply to the subject property which is within the Eugene-Springfield urban growth boundary (OAR 660-006-0020).

**Goal 5 – Open Spaces, Scenic and Historic Areas, and Natural Resources.** Goal 5 covers more than a dozen natural and cultural resources such as wildlife habitats and wetlands. It establishes a process for each resource to be inventoried and evaluated.

**Finding #27.** The following administrative rule (OAR 660-023-0250) is applicable to this post-acknowledgement plan amendment (PAPA) request:

(3) Local governments are not required to apply Goal 5 in consideration of a PAPA unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if:

(a) The PAPA creates or amends a resource list or a portion of an acknowledged plan or land use regulation adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5;

(b) The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list; or

(c) The PAPA amends an acknowledged UGB and factual information is submitted demonstrating that a resource site, or the impact areas of such a site, is included in the amended UGB area.

Subsections (a) and (c) above are not applicable to this request as the proposed amendments do not create or amend a list of Goal 5 resources, do not amend a plan or code provision adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5, and do not amend the acknowledged Urban Growth Boundary.

**Finding #28.** Regarding subsection (b), the Springfield Inventory of Natural Resource Sites (Goal 5 Inventory) was adopted on May 3, 2004. In adopting the Goal 5 Inventory, the City Council chose to apply the "standard process" provisions of ORS 660-23-110 to the protection of riparian corridors.

**Finding #29.** The Willamette River is an inventoried riparian resource site on the Springfield Inventory of Natural Resource sites. This is Springfield's adopted Goal 5 Inventory. It is identified as site "WA/WB" on the Inventory.

**Finding #30.** Site WA/WB is assigned the following protection under Springfield's Goal 5 program for protecting riparian sites:

**“Goal 5 Recommendation:** Limit conflicting uses and employ low impact development practices when developing within 150 feet of the resource site. The Willamette River (WA/WB) is a water quality limited watercourse and is protected by a 75-foot development setback and site plan review standards described in 31.240 of the Springfield Development Code. No additional setbacks are necessary. The documented presence of a state and federally listed specie requires coordination with the Oregon Department of Fish and Wildlife and appropriate federal agencies to determine what (if any) additional measures may be needed.”

**Finding #31.** Section 4.3-117 (E) of the Springfield Development Code describes permitted uses within the setback area for locally significant riparian resource sites. Section 4.3-117 (E) (n.) lists “Public multi-use paths, access ways, trails, boardwalks, picnic areas, interpretive and educational displays and overlooks, including benches and outdoor furniture;” among the allowed uses. The proposed South Bank Viaduct is a permitted use within the protective setback along that portion of the Willamette River within Springfield’s planning jurisdiction.

**Finding #32.** In Eugene, the subject project area also includes Eugene-adopted Goal 5 riparian resource sites; the Willamette River, and a tributary to the Willamette River located next to the bicycle/pedestrian path and under Franklin Boulevard. The /WR Water Resources Conservation Overlay Zone are standards in Eugene that address Goal 5. The Willamette River has a 100-foot setback according to these provisions. Construction of public improvements, such as the viaduct, which include work within the setback and riparian resource site areas must comply with the /WR Water Resources Conservation Overlay Zone beginning at EC 9.4900. The tributary to the Willamette River does not have a setback and is identified as not protected.

**Finding #33.** Approval of the Metro Plan amendment allows for the consideration of fill within the Willamette River Greenway for the purpose of constructing the South Bank Viaduct. Approval of the amendment does not negate the authority of local, state and federal agencies to oversee the design and construction of the viaduct to avoid, minimize or mitigate the environmental impacts that construction and use of the facility might have on the River consistent with OAR 660-023-0250(3)(b).

**Finding #34.** Other state and federal permits or actions may be required to protect water quality, fish and wild life protection as part of the federal National Environmental Protection Act (NEPA) review. These permits and actions have yet to be determined at this writing. A consultant has been retained and is preparing the analysis required for NEPA review and processing.

**Goal 6 – Air, Water and Land Resources Quality.** This goal requires local comprehensive plans and implementing measures to be consistent with state and federal regulations on matters such as groundwater pollution.

**Finding #35.** The City of Springfield has revised its Development Code to respond to National Pollutant Discharge Elimination System (NPDES) Phase II, the Clean Water Act, and the Drinking Water Protection Act and is in the process of devising a response to the Endangered Species Act for listed species in our area. The South Bank Viaduct will be subject to staff review and to the development standards set forth in Sections 4.3-115 (Water Quality Protection and 4.3-117 (Natural Resource Protection Areas). These standards implement the protections required by the NPDES Phase II, the Clean Water Act and the Drinking Water Protection Act, and the City of Springfield’s Goal 5 program for natural resource protection. Similarly, the portion within

Eugene will be subject to staff review and the development standards beginning at EC 9.4900 (/WR Water Resources Conservation Overlay Zone) including review for erosion, vegetation impacts, replanting, and stormwater. With regard to air quality and noise, the viaduct should have a positive effect on air quality and noise by increasing the options for alternative modes of transportation.

**Finding #36.** The proposed text amendment and Goal exception will not alter the environmental protection standards policies cited in Finding #34 or amend the metropolitan area's air, water quality or land resource policies. The design and construction of the proposed bicycle viaduct will be reviewed and monitored by local, state, and federal agencies with authority to evaluate and regulate the environmental impacts of the project on the Willamette River.

**Finding #37.** Approval of the Metro Plan amendment allows for the consideration of fill within the Willamette River Greenway for the purpose of constructing the South Bank Viaduct. Approval of the amendment does not negate the authority of agencies to oversee the design and construction of the viaduct to avoid, minimize or mitigate impacts that the construction and use of the facility might have on water quality in the River.

**Finding #38.** The viaduct project will require a Joint Application Form seeking permission from the U.S. Army Corps of Engineers and the Oregon Department of State Lands to conduct construction activities that may impact wetland and riparian resources in the project area. These agencies will add conditions for approval as required to address their concerns if any regarding wetland and riparian protection.

**Goal 7 – Areas Subject to Natural Disasters and Hazards.** Goal 7 deals with development in places subject to natural hazards such as floods or landslides. It requires that jurisdictions apply "appropriate safeguards" (floodplain zoning, for example) when planning for development there.

**Finding #39.** All sites within Springfield and Eugene that are subject to these hazards (floodplain, erosion, landslides, earthquakes, weak foundation soils) are inventoried through a variety of sources. The proposed Metro Plan text amendment and Goal exception does not remove or exempt compliance with Code standards that may apply to development within these hazard areas.

**Finding #40.** FIRM Panel Number 41039C166F shows the project area is affected by the 100-year floodplain (Willamette River, Glenwood Slough).

**Finding #41.** Within the City of Springfield's jurisdiction, floodplain development is regulated by the Floodplain (FP) Overlay District. The FP Overlay District applies to all areas of special flood hazard. Development proposals within the FP Overlay District are reviewed under Type I procedure and approval is required before construction or development begins within any area of special flood hazard.

Within the City of Eugene floodplain development is regulated by development standards beginning at EC 9.6705 through 9.6709. While development within ODOT right-of-way would need to meet these standards the City does not review nor issue permits in ODOT right-of-way. A floodplain development permit is required for development within the Special Flood Hazards Area (SFHA) that is in Eugene but outside of the public right-of-way. Any development within

the floodway will require a no-rise analysis and certification meeting FEMA Region X standards. This would be required as part of a floodplain development permit for any development within the floodway that is outside ODOT right-of-way but still in Eugene. The floodway is a high hazard area typically associated with high velocity flows that is necessary to convey floodwaters out of our community.

**Finding #42.** In February 2009, ODOT prepared and submitted a *Hydraulic and Scour Analysis Report*, including “No-Rise” analysis, to analyze the hydraulic conditions for the I-5 Replacement Bridge project to determine the effects of the required construction activities to the 100-year floodplain during and after construction. The report concluded that the Willamette River I-5 Replacement Bridge project would have a minimal impact on flood levels during a 100-year event.

**Finding #43.** The proposed South Bank Viaduct will be constructed at the same location on the south bank of the Willamette River as the I-5 Replacement Bridges. Although a new analysis may be required, it is likely that the viaduct will contribute little to flood elevations in the event of a 100-year flood event, given the small area affected by the project compared to the Replacement Bridge project.

**Goal 8 – Recreational Needs.** This goal calls for each community to evaluate its areas and facilities for recreation and develop plans to deal with the projected demand for them.

**Finding #44.** Willamalane Park and Recreation District is the entity responsible for park planning, development and maintenance in the subject park areas within Springfield. In 2004, Willamalane completed the Willamalane Parks and Recreation Comprehensive Plan that was adopted by both the City of Springfield and Lane County as a refinement plan to the Metro Plan.

**Finding #45.** Willamalane’s Comprehensive Plan shows the proposed South Bank Viaduct (South Bank Trail) on Map 3—“Existing and Proposed Multiuse Paths and Bike Ways.”

**Finding #46.** Several City documents anticipate a multi-use path connecting Eugene and Springfield on the south side of the Willamette River. Additionally, as previously mentioned under Goal 2, the TransPlan Future Bikeway Project Map shows an off-street bike facility running along the south bank of the Willamette River underneath the I-5 Bridge. This bikeway is identified as project #851 South Bank Trail (A) (jurisdiction: Springfield). The viaduct would then connect with the existing bike path on the Eugene side of I-5, shown as an existing off-street bike facility on the TransPlan-Financially-Constrained Bikeway System Projects map.

**Goal 9 – Economic Development.** Goal 9 calls for diversification and improvement of the economy. It asks communities to inventory commercial and industrial lands, project future needs for such lands, and plan and zone enough land to meet those needs.

**Finding #47.** The proposed Metro Plan text amendment does not reduce the inventory of commercial and industrial lands.

**Finding #48.** The South Bank Viaduct will be both an important transportation facility for bike commuters and pedestrians connecting Eugene and Springfield. It is also an amenity with the

potential to bring recreational users into the Glenwood and downtown Springfield business areas.

**Finding #49.** To the extent that recreational access to the Willamette River and to future Glenwood development in Glenwood and Downtown Springfield is part of a business location decision, the proposed South Bank Viaduct facility may increase the marketability of Springfield and Eugene for new business and industry.

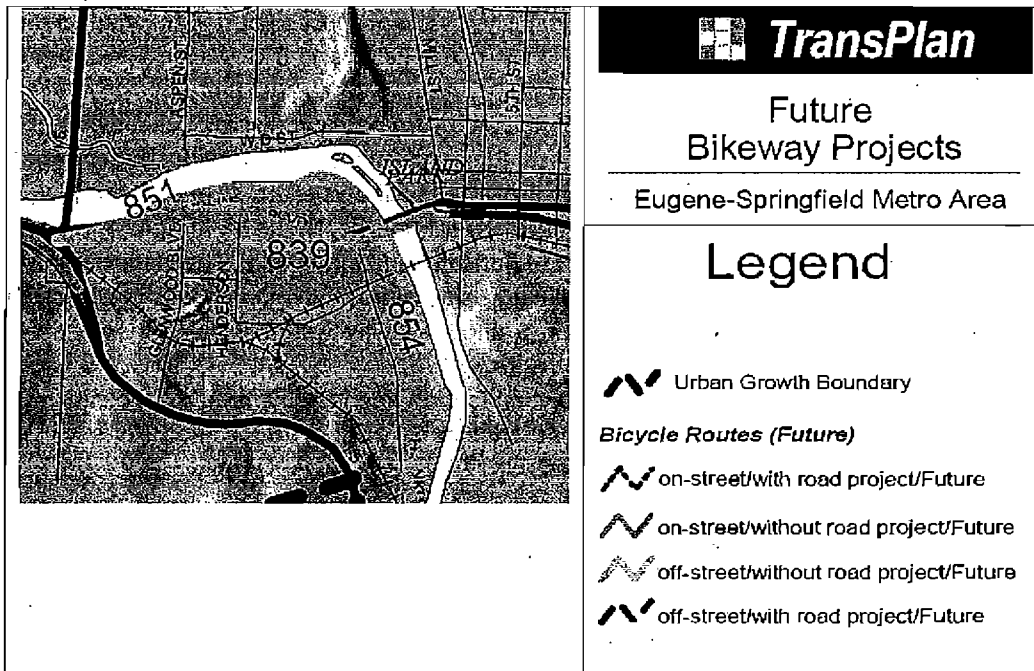
**Goal 10 – Housing.** This goal specifies that each city must plan for and accommodate needed housing types, such as multifamily and manufactured housing.

**Finding #50.** The proposed Metro Plan text amendment and Goal exception will not reduce available housing capacity and will not impact needed housing. As such this goal is not applicable to the evaluation of this proposal.

**Goal 11 – Public Facilities and Services.** Goal 11 calls for efficient planning of public services such as sewers, water, law enforcement, and fire protection.

**Finding #51.** The Eugene-Springfield Metropolitan Public Services and Facilities Plan (PFSP) is a refinement plan of the Metro Plan that guides the provision of public infrastructure, including water, sewer, storm water management, and electricity. The proposed Metro Plan text amendment and Goal exception does not modify any policies set forth in the PFSP, and no future facilities listed in the PFSP shall be affected by the amendment.

**Goal 12 – Transportation.** The goal aims to provide "a safe, convenient and economic transportation system."



**Finding #52.** TransPlan (2002) is Eugene-Springfield's local Transportation System Plan and is a functional plan of the Metro Plan. TransPlan provides policies addressing transportation facilities and policies for the Eugene-Springfield Metropolitan Area.

**Finding #53.** TransPlan contains project lists and maps showing needed transportation facilities in the Metropolitan area. The Future Bikeway Project Map shows an off-street bike facility running along the south bank of the Willamette River underneath the I-5 Bridge. This bikeway is identified as project #851 South Bank Trail (A) with an estimated cost of \$1,800,000 (Jurisdiction: Springfield). The viaduct would then connect with the existing bike path on the Eugene side of I-5, shown as an existing off-street bike facility on the TransPlan Financially-Constrained Bikeway System Projects map.

**Finding #54.** TransPlan's TSI Bicycle Policy # 3 (Chapter 2, pg. 33) requires "bikeways to connect new development with nearby neighborhood activity centers and major destinations." As previously mentioned, the South Bank Viaduct and South Bank Path will connect Eugene to Glenwood and to downtown Springfield through Glenwood.

**Finding #55.** TransPlan's TSI Bikeway Policy #4 assigns priority to the finding of "Priority Bikeway Miles." These are defined as stand-alone bike projects listed in TransPlan that are not associated with roadway projects. As mentioned above, the proposed South Bank Viaduct is part of project #851 South Bank Trail (A) which is a stand-alone project that is not associated with a roadway.

**Finding #56.** Central Lane MPO Regional Transportation Plan lists the Glenwood Riverfront Park Path (Project 851) as a financially constrained project. It is classified as a multiuse path without road project.

**Finding #57.** Additionally, Goal 12 is implemented through the Transportation Planning Rule (TPR), as defined in Oregon Administrative Rule OAR 660-012-0000, et seq. The Eugene-Springfield Metropolitan Area Transportation Plan (TransPlan) provides the regional policy framework through which the TPR is implemented at the local level. The TPR (OAR 660-012-0060) states that when land use changes, including amendments to acknowledged comprehensive plans, significantly affect an existing or planned transportation facility the local government shall put in place measures to assure that the allowed land uses are consistent with the identified function, capacity and performance standards (level of service, volume to capacity ratio, etc.) of the facility. TransPlan, which implements Goal 12, identifies an off-site bike path as a future facility and the south bank bike path on the Eugene side as an existing off-street bike path.

**Finding #58.** The TPR requires a determination of which existing and planned transportation facilities will experience a significant affect as a result of the proposed plan amendment, and defines what constitutes a significant effect (OAR 660-012-0060(1)). The analysis for significant effect is related to impacts to function, capacity and performance standards which are street standards not applicable to bicycle/pedestrian paths; therefore the proposal is consistent with TPR. Furthermore, the viaduct and path facilities provide alternative transportation modes which would benefit, not worsen, nearby streets.

**Goal 13 – Energy Conservation.** Goal 13 declares that "land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles."

**Finding #59.** Approval of the proposed Metro Plan text amendment and Goal exception will not have a direct impact on efforts to conserve energy; as such this goal is not applicable to the evaluation of this proposal.

**Goal 14 – Urbanization.** This goal requires cities to estimate future growth and needs for land and then plan and zone enough land to meet those needs.

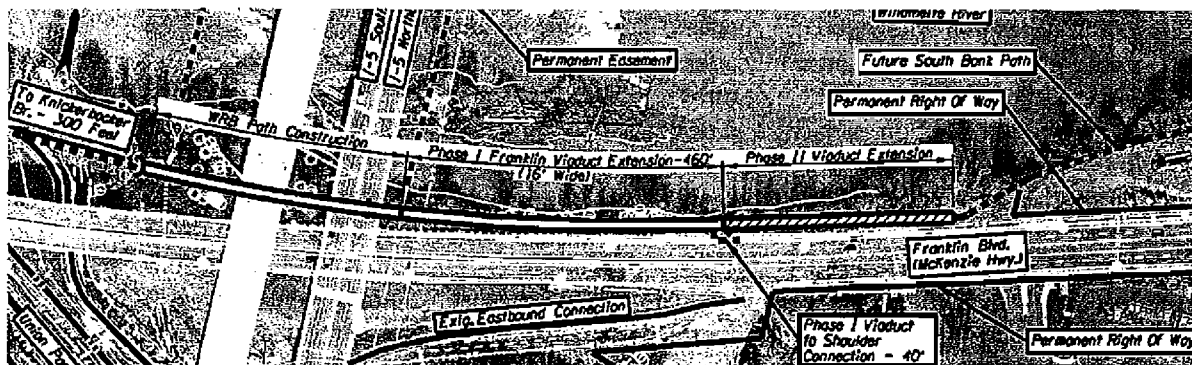
**Finding #60.** The proposed Metro Plan text amendment and Goal exception affect an area within the existing UGB; as such this goal is not applicable to the evaluation of this proposal.

**Goal 15 – Willamette River Greenway.** Goal 15 sets forth procedures for administering the 300 miles of greenway that protects the Willamette River.

**Finding #61.** Chapter III D of the Metro Plan—"Willamette River Greenway, River Corridors and Waterways Element" includes findings, objectives and policies for administering the Willamette River corridor as it passes through the Eugene-Springfield area.

**Finding #62.** Policy D.11 of Chapter III 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."

**Finding #63.** The proposed South Bank Viaduct is located within the Willamette River Greenway setback. While the viaduct design is not complete, it may require the removal or placement of fill within the Greenway setback. For this reason, an exception to Statewide Planning Goal 15 is required as part of this proposal. Findings for the Goal 15 exception are provided at below under section IV and are incorporated herein by reference.



**Finding #64.** In 2003 and 2008, exceptions to Statewide Planning Goal 15 were taken and Policy D.11 of Chapter III of the Metro Plan was amended to allow construction and related activities for the Willamette River I-5 Detour and Replacement Bridges, respectively. Those exceptions to Goal 15 were approved in advance of any construction designs.



**Finding #65.** The exception taken in 2003 and in 2008 (articulated in Chapter III, Policy D.11) did not foresee or include the proposed South Bank Viaduct.

**Finding #66.** Chapter III-D of the Metro Plan specifically addresses issues related to the Willamette Greenway. The following policies found in Chapter III-D are applicable to this proposal and are cited below (emphasis added), and further addressed below under Criterion #2, consistency with the Metro Plan. Policy D.11, restated below, is the policy that directs an exception to be taken and a text amendment to the Metro Plan for the proposed viaduct and path, similar to the exceptions provided for the I-5 bridges.

Policy D.2 Land Use regulation and acquisition programs along river corridors and waterways shall take into account all the concerns and needs of the community, including recreation, resource, and wildlife protection; enhancement of river corridor and waterway environments; potential for supporting non-automobile transportation; opportunities for residential development; and other compatible uses.

Policy D.3 Eugene, Springfield and Lane County shall continue to cooperate in expanding water-related parks and other facilities, where appropriate, that allow access to and enjoyment of the river and waterway corridors.

Policy D.11 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.

An exception to Statewide Planning Goal 15 Willamette River Greenway was approved for Oregon Department of Transportation (ODOT) for purposes of removing and replacing the decommissioned I-5 bridge, the temporary detour bridge and the Canoe Canal bridge with two new parallel bridges (one southbound and one northbound) within the I-5 right-of-way crossing the Willamette River and Canoe Canal and within the Willamette River Greenway Setback Line.

The exception authorizes construction and later removal of one or more temporary work bridges; demolition of the decommissioned I-5 Willamette River Bridge, Canoe Canal Bridge, and detour bridges; construction of the two replacement bridges; reconstruction of the roadway approaches to the bridges (I-5 and ramps); rehabilitation of the project area; and completion of any required mitigation of project impacts. In association with these tasks, the exception further authorizes within the Willamette River Greenway Setback Line the addition and removal of fill within ODOT right-of-way and the removal of fill within a temporary slope easement east of I-5. This exception satisfies the criteria of Oregon Administrative Rule (OAR) 660-004-0022(6), Willamette Greenway, and 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 D.11, Chapter III, Section D

***Goals 16 through 19 – Estuarine Resources, Coastal Shorelands, Beaches and Dunes, and Ocean Resources.***

**Finding #67.** There are no coastal, ocean, estuarine, or beach and dune resources within the Eugene-Springfield Urban Growth Boundary. These goals do not apply to this proposal.

## Conclusion

The findings shown above demonstrate that the proposed Metro Plan text amendments and Goal 15 exception allowing the construction of the South Bank Viaduct facility as part of the South Bank Path is in substantial conformance to Oregon's Statewide Planning Goals.

**Criterion #2. "Adoption of the amendment must not make the Metro Plan internally inconsistent."**

## Findings

**Finding #68.** Chapter III-D of the Metro Plan specifically addresses issues related to the Willamette Greenway. The following policies found in Chapter III-D are cited below (emphasis added).

Policy D.2 Land Use regulation and acquisition programs along river corridors and waterways shall take into account all the concerns and needs of the community, including recreation, resource, and wildlife protection; enhancement of river corridor and waterway environments; **potential for supporting non-automobile transportation**; opportunities for residential development; and other compatible uses.

Policy D.3 Eugene, Springfield and Lane County shall **continue to cooperate in expanding water-related parks and other facilities, where appropriate, that allow access to and enjoyment of the river and waterway corridors**.

Policy D.11 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.

An exception to Statewide Planning Goal 15 Willamette River Greenway was approved for Oregon Department of Transportation (ODOT) for purposes of removing and replacing the decommissioned I-5 bridge, the temporary detour bridge and the Canoe Canal bridge with two new parallel bridges (one southbound and one northbound) within the I-5 right-of-way crossing the Willamette River and Canoe Canal and within the Willamette River Greenway Setback Line. The exception authorizes construction and later removal of one or more temporary work bridges; demolition of the decommissioned I-5 Willamette River Bridge, Canoe Canal Bridge, and detour bridges; construction of the two replacement bridges; reconstruction of the roadway approaches to the bridges (I-5 and ramps); rehabilitation of the project area; and completion of any required mitigation of project impacts. In association with these tasks, the exception further authorizes within the Willamette River Greenway Setback Line the addition and removal of fill within ODOT right-of-way and the removal of fill within a temporary slope easement east of I-5. This exception satisfies the criteria of Oregon Administrative Rule (OAR) 660-004-0022(6), Willamette Greenway, and 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 D.11, Chapter III, Section D.

**Finding #69.** The proposed South Bank Viaduct is located within the Willamette River Greenway setback. While the viaduct design is not complete, it may require the removal or placement of

fill within the Greenway setback. For this reason, an exception to Statewide Planning Goal 15 is required as part of this proposal.

**Finding #70.** In 2003 and 2008, exceptions to Statewide Planning Goal 15 were taken and Policy D.11 of Chapter III of the Metro Plan was amended to allow construction and related activities for the Willamette River I-5 Detour and Replacement Bridges, respectively. Those exceptions to Goal 15 were approved in advance of any construction designs.

**Finding #71.** The exceptions taken in 2003 and 2008 (articulated in Chapter III, Policy D.11) did not foresee or include the proposed South Bank Viaduct.

**Finding #72.** TransPlan (2002) is Eugene-Springfield's local Transportation System Plan and is a functional plan of the Metro Plan. TransPlan provides policies addressing transportation facilities and policies for the Eugene-Springfield Metropolitan Area.

**Finding #73.** TransPlan contains project lists and maps showing needed transportation facilities in the Metropolitan area. The Future Bikeway Project Map shows an off-street bike facility running along the south bank of the Willamette River underneath the I-5 Bridge. This bikeway is identified as project #851 South Bank Trail (A) with an estimated cost of \$1,800,000 (Jurisdiction: Springfield). The viaduct would then connect with the existing bike path on the Eugene side of I-5, shown as an existing off-street bike facility on the TransPlan Financially-Constrained Bikeway System Projects map.

**Finding #74.** Central Lane MPO Regional Transportation Plan lists the Glenwood Riverfront Park Path (Project 851) as a financially constrained project. It is classified as a multiuse path without road project.

**Finding #75.** The Glenwood Refinement Plan (1999) is a refinement plan of the Metro Plan. It contains a map of proposed bicycle routes (pg. 53) that shows the South Bank Trail as an off-street path following the Willamette River, connecting the Eugene path system to the Springfield Bridges. Glenwood Refinement Plan Policy # 4.5 calls for the acquisition of easements for a pedestrian and bicycle access to and along the Willamette River through the Glenwood area.

**Finding #76.** The Willamalane Park and Recreation Comprehensive Plan is a refinement plan of the Metro Plan. Map #3 (page 28) of the Comprehensive Plan shows existing, planned and proposed multiuse paths and bike ways. Map #3 shows the South Bank Trail running along the Willamette River through Glenwood as an off-street multiuse path.

**Finding #77.** In Eugene, the Riverfront Park Study (RPS) is adopted as a refinement of the Metro Plan. The RPS study boundary includes the south bank of the Willamette River up to the I-5 Bridge. Although the exact location of the viaduct will be determined through subsequent permitting processes, the western portion of the viaduct is generally located in this area,

**Finding #78.** The RPS includes several applicable policies regarding supporting a south bank bicycle/pedestrian path, minimizing impacts to riparian vegetation and the Mill Race. Given that the proposal will allow consideration of extension of the south bank bicycle/pedestrian path, and with the findings for Statewide Planning Goal 5, 15 and 12 above which are incorporated

herein by reference, the proposed amendment is consistent with the applicable policies of the RPS.

## **Conclusion**

The proposed Metro Plan text amendment and Goal 15 exception would not make the Metro Plan internally inconsistent. The Metro Plan and its related refinement plans are specific in their planning for the South Bank Path and the alignment of that path along the Willamette River, passing beneath the Willamette I-5 Bridge and connecting Eugene's bike system to Springfield through Glenwood. The South Bank Viaduct facility is a critical facility that allows passage around the existing barrier beneath the bridge that prevents such connectivity.

## **IV. Compliance with Applicable Administrative Rules of Chapter 660, Division 004—Interpretation of Goal 2 Exception Process**

"Statewide Planning Goal 2—Land Use Planning, Part II, Exceptions," allows for exceptions to be made to certain other statewide planning goals. OAR chapter 660 division 4 explains the three types of exceptions set forth in Goal 2. Division 4 interprets the exception process as it applies to statewide Goals 3 to 19.

OAR 660-004-0010(2) states: "the exceptions process is generally not applicable to those statewide goals which establish planning procedures and standards that do not prescribe or restrict certain uses of resource land or limit the provision of certain public facilities and services, because these goals contain general planning guidance or their own procedures for resolving conflicts between competing uses. However, exceptions to these goals, although not required, are possible and exceptions taken to these goals will be reviewed when submitted by a local jurisdiction. These statewide goals are (emphasis added):

- (a) Goal 5 "Natural Resources";
- (b) Goal 6 "Air, Water, and Land Resources Quality";
- (c) Goal 7 "Natural Disasters and Hazards";
- (d) Goal 8 "Recreational Needs";
- (e) Goal 9 "Economy of the State";
- (f) Goal 10 "Housing" except as provided for in OAR 660-008-0035, "Substantive Standards for Taking a Goal 2, Part II, Exception Pursuant to ORS 197.303(3)";
- (g) Goal 12 "Transportation" except as provided for by OAR 660-012-0070, "Exceptions for Transportation Improvements on Rural Land";
- (h) Goal 13 "Energy Conservation";
- (i) Goal 15 "Willamette Greenway" except as provided for in OAR 660-004-0022(6); and**

(j) Goal 19 "Ocean Resources."

**Compliance with 660-004-0015—Inclusion as Part of the Plan**

OAR 660-004-0015 (1) states that "a local government approving a proposed exception shall 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. The applicable standards are those in Goal 2, Part II(c), OAR 660-004-0020(2), and 660-004-0022. The reasons and facts shall be supported by substantial evidence that the standard has been met."

**Finding #79.** This proposal amends the Metro Plan text and takes an exception to allow the construction of the South Bank Viaduct beneath the Willamette River I-5 Bridges. Approval of the proposal will place language (see Attachment 1) into the Metro Plan providing for an exception to Statewide Goal 15. The local ordinances adopting this proposal will require the approving bodies to adopt the findings of fact and reasons for the text amendment and goal exception.

**Finding #80.** Findings #81 through #93 address the "reasons" that are specific to a goal exception for Statewide Planning Goal 15. These shall be adopted by reference as part of the staff report and exhibit to the local ordinances adopted by the local approving bodies.

**Compliance with OAR 660-004-0022—Reasons Necessary to Justify and Exception under Goal 2 Part II(c)**

OAR 660-004-0022 states that an exception can be taken for any use not allowed by the applicable goal(s). The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in this section. Subsection (6) of OAR 660-004-0022 lists the reasons that can be used to justify an exception to Statewide Planning Goal 15—Willamette River Greenway. Subsection (6) states:

"(6) Willamette Greenway: 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."

**“Reasons” Analysis for Statewide Planning Goal 15 Exception**

The following section of this document analyzes the South Bank Viaduct proposal against the “reasons” that can be used to justify an exception for Statewide Planning Goal 15 as listed in OAR 660-004-0022(6)(a-d).

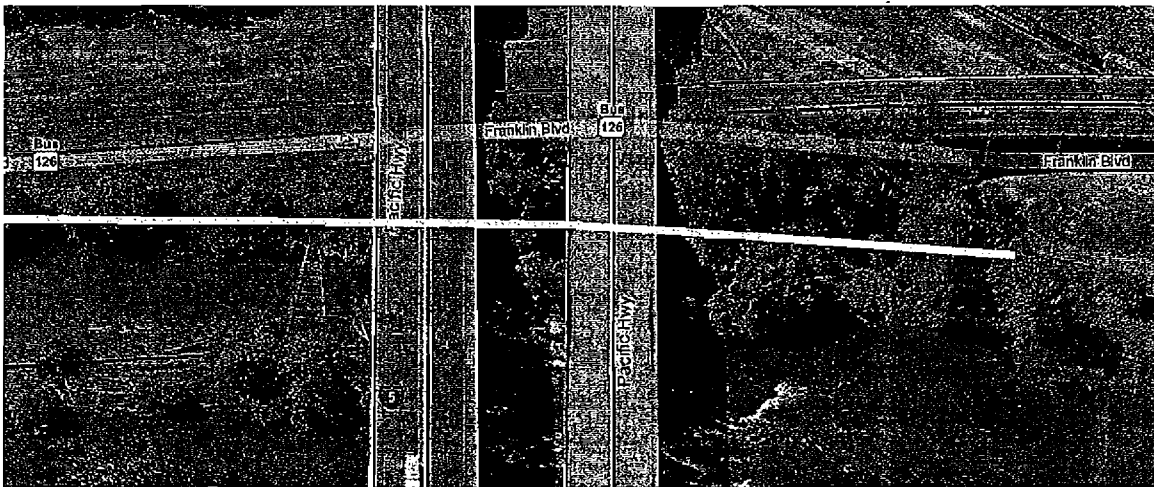
**“(a) The use will not have a significant adverse effect on the greenway values of the site under consideration or on adjacent land or water areas;”**

There appears to be no single statement of “greenway values” in the state statutes or administrative rules. The purposes stated for establishing the Willamette River Greenway are stated in OAR 660-015-0005: *“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.”* This purpose is reflected in Chapter III Section D of the Metro Plan, the local comprehensive plan element that describes how the Willamette Greenway will be administered within Eugene-Springfield’s planning jurisdiction (emphasis added).

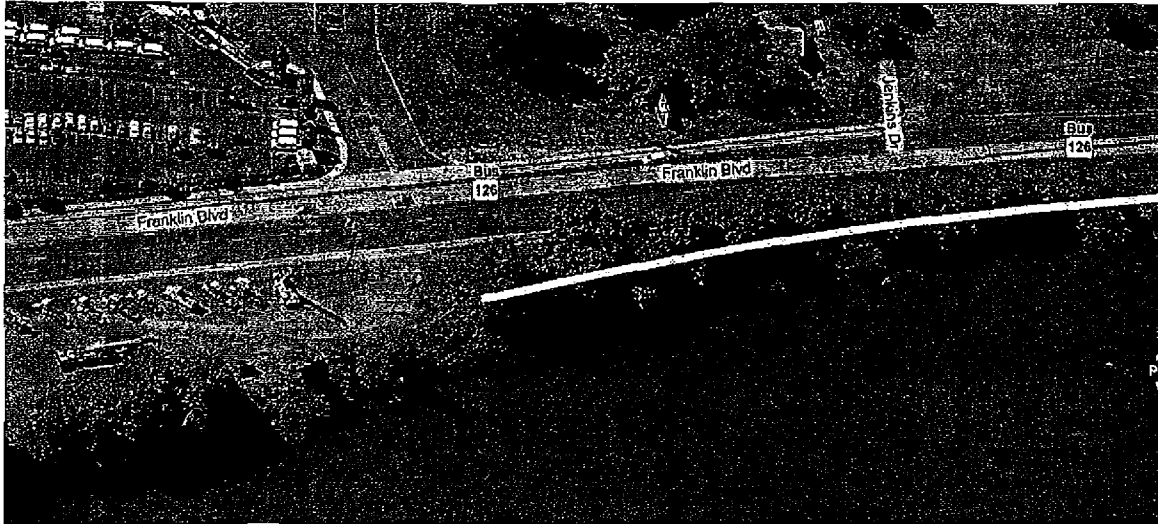
**Finding #81.** Policy D.2 Land Use regulation and acquisition programs along river corridors and waterways shall take into account all the concerns and needs of the community, including recreation, resource, and wildlife protection; enhancement of river corridor and waterway environments; **potential for supporting non-automobile transportation**; opportunities for residential development; and other compatible uses.

**Finding #82.** Policy D.3 Eugene, Springfield and Lane County shall **continue to cooperate in expanding water-related parks and other facilities, where appropriate, that allow access to and enjoyment of the river and waterway corridors.**

**Finding #83.** The proposed South Bank Viaduct is a non-automobile transportation facility that will serve both recreational and transportation functions. The facility will connect with the larger Eugene-Springfield riverfront bike path system which is arguably one of the best in Oregon.



West end of the South Bank Viaduct



East end of the South Bank Viaduct



The existing bike path is forced away from the river and on to Franklin Blvd. by the steep riverbank beneath the I-5 Bridge and eastward. The path continues on a busy Franklin Blvd. which has an on-street bike lane and minimal pedestrian facilities.

**Finding #84.** The alignment of the proposed viaduct would hug the riverfront, passing beneath the I-5 bridges. The viaduct is located in an industrial zone, including under the I-5 Bridge and adjacent to Franklin Blvd. As can be seen from the aerial photos above, the presence of industrial uses; the I-5 bridges; power transmission lines; and the austerity of Franklin Boulevard significantly impact the scenic of this segment of the river compared to other segments in Eugene-Springfield.

**Finding #85.** Existing development standards would require minimizing vegetation impacts, replacement trees, and restoration of the vegetation that is disturbed by construction of the proposed viaduct on the riverbank, minimizing the long-term visual impact of the facility when viewed from the river.

**Finding #86.** Required NEPA review of this project will result in mitigation measures designed to minimize the impact of the viaduct on riparian habitat and threatened and endangered fish species in the river.

**Finding #87.** The South Bank Viaduct and riverfront path that will be enabled by the viaduct will fulfill a longstanding community need. That need is reflected in long-range planning documents for transportation and recreation (Glenwood Refinement Plan, Glenwood Riverfront Plan, TransPlan, and the Willamalane Parks and Recreation Comprehensive Plan).

**“(b) The use will not significantly reduce the sites available for water-dependent or water-related uses within the jurisdiction;”**

**Finding #88.** The topography of the riverbank prohibits most water-dependent and water related uses. All of the land occupied by the viaduct is publically owned and is not proposed for water-related or water-dependent development in any adopted land use documents. This project will not significantly reduce the sites available for water-dependent, water related-uses. The proposed viaduct structure will enable users to have better access to the river in the future when the planned South Bank Path is built.

**“(c) The use will provide a significant public benefit; and”**

**Finding #89.** As demonstrated by its inclusion in a variety of comprehensive planning documents, the South Bank Path and this portion of the path in particular will have a significant public benefit.

**“(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.”**

ORS 390.341 and ORS 390.322 are shown below (emphasis added).

**“390.314 Legislative findings and policy.** (1) The Legislative Assembly finds that, to protect and preserve the natural, scenic and recreational qualities of lands along the Willamette River, to preserve and restore historical sites, structures, facilities and objects on lands along the Willamette River for public education and enjoyment and to further the state policy established under ORS 390.010, it is in the public interest to develop and maintain a natural, scenic, historical and recreational greenway upon lands along the Willamette River to be known as the Willamette River Greenway.

(2) In providing for the development and maintenance of the Willamette River Greenway, the Legislative Assembly:

(a) Recognizing the need for coordinated planning for such greenway, finds it necessary to provide for development and implementation of a plan for such greenway through the cooperative efforts of the state and units of local government.

(b) Recognizing the need of the people of this state for existing residential, commercial and agricultural use of lands along the Willamette River, finds it necessary to permit the continuation of existing uses of lands that are included within such greenway; but, for the benefit of the people of this state, also to limit the intensification and change in the use of such lands so that such uses shall remain, to the greatest possible degree, compatible with the



preservation of the natural, scenic, historical and recreational qualities of such lands.

(c) Recognizing that the use of lands for farm use is compatible with the purposes of the Willamette River Greenway, finds that the use of lands for farm use should be continued within the greenway without restriction.

(d) Recognizing the need for central coordination of such greenway for the best interests of all the people of this state, finds it necessary to place the responsibility for the coordination of the development and maintenance of such greenway in the State Parks and Recreation Department.

(e) Recognizing the lack of need for the acquisition of fee title to all lands along the Willamette River for exclusive public use for recreational purposes in such greenway, finds it necessary to limit the area within such greenway that may be acquired for state parks and recreation areas and for public recreational use within the boundaries of units of local government along the Willamette River. [1973 c.558 §1]"

**“390.322 Submission of plan to Land Conservation and Development Commission; revision, approval and distribution of plan.** (1) Following the preparation of the plan or any segment thereof under ORS 390.318, the State Parks and Recreation Department shall submit such plan or segment to the Land Conservation and Development Commission. The commission shall investigate and review such plan or segment as it considers necessary. If the commission finds that the plan or segment complies with ORS 390.310 to 390.368, it shall approve the plan or segment. If the commission finds revision of any part of the submitted plan or segment to be necessary, it may revise the plan or segment itself or require such revision by the department and units of local government.

(2) Upon approval of the plan for the Willamette River Greenway or segment thereof, the commission shall cause copies of such plan or segment to be filed with the recording officer for each county having lands within the Willamette River Greenway situated within its boundaries. Such plan or segment filed as required by this subsection shall be retained in the office of the county recording officer open for public inspection during reasonable business hours.

(3) If the plan for the Willamette River Greenway is prepared and approved in segments, the total of all such approved segments shall constitute the plan for the Willamette River Greenway for the purposes of ORS 390.310 to 390.368. The department and units of local government, with the approval of the commission, may revise the plan for the Willamette River Greenway from time to time. [1973 c.558 §4]"

**Finding #90.** The Metro Plan Chapter III Section D—Willamette River Greenway, River Corridors, and Waterways Element, is the acknowledged plan and policy for implementing Statewide Planning Goal 15—Willamette River Greenway. The Metro Plan provides local coordination and review of development that may affect the Greenway.

**Finding #91.** Amendment of the Metro Plan requires notice to be filed with the Oregon Department of Land Conservation (DLCD) as well as affected local and state agencies. A Notice of Proposed Amendment concerning this proposal was filed with DLCD on June 30, 2009.

**Finding #92.** While no formal notice process is required, the Notice of Proposed Amendment packet that was sent to DLCD was sent electronically to Jan Houck, Water Recreation Coordinator with the Oregon Parks and Recreation Department on July 27, 2009.

**Finding #93.** Notice of this project was also sent to Savannah Crawford, Planner for Region 2 of the Oregon Department of Transportation on July 27, 2009. The notice was comprised of the materials filed with DLCD Notice of Proposed Amendment mentioned in Finding #91.

#### **V. Conclusion and Recommendation of Staff**

Based on the findings of staff with respect to the criteria defined in Section 5.14-135 C of the Springfield Development Code and EC 9.7730(3) for approving a Metro Plan amendment and applicable sections of OAR 660-004-0022 for approving an exception to Statewide Planning Goal 15; staff find the proposed text amendment to the Metro Plan and exception to Statewide Planning Goal 15 allowing the placement of fill for the purpose of constructing the South Bank Viaduct and path facilities beneath the Willamette River I-5 Bridges, to be consistent with these criteria and recommend approval of the amendment.

#### **VI. Attachments**

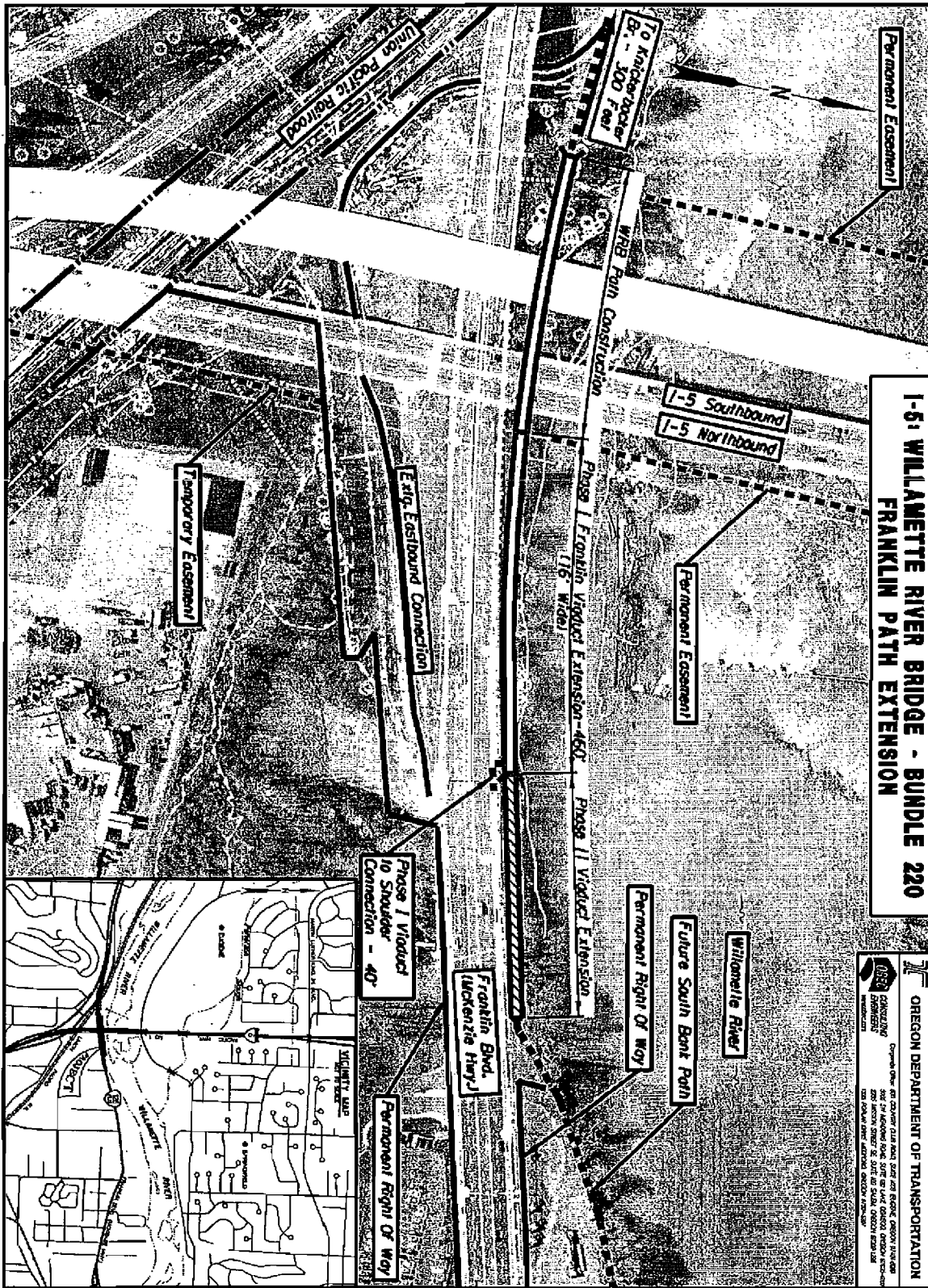
Attachment 1: Metro Plan text amendment language.

Attachment 2: Diagram showing the approximate location of the proposed South Bank Viaduct

## Attachment 1

The proposed text amendment adds the following language to policy #D.11 of Chapter III-D Willamette River Greenway, River Corridors and Waterways Element:

*"An exception to Statewide Planning Goal 15 Willamette River Greenway was approved by the cities of Eugene and Springfield and by Lane County authorizing construction of a bike path viaduct beneath the I-5 bridges, along the south bank of the Willamette River. The exception authorizes construction of the bike path viaduct including the fill and removal of fill necessary to build the structure. This exception satisfies the criteria of Oregon Administrative Rules (OAR) 660-004-0022 (6) Willamette Greenway and the exception requirements of OAR 660-004-0020 Goal 2, Part II (c) for a 'reasons' exception. Pursuant to OAR 660-004-0015, is hereby adopted as an amendment to the Metro Plan text, Policy D. 11, Chapter III, Section D."*



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

**ORDINANCE NO. PA 1262**      In The Matter Of Amending The Eugene-Springfield Metropolitan Area General Plan Text, Chapter III, Section D, Policy # 11; Adopting An Exception To Statewide Planning Goal 15 (Willamette River Greenway), And Adopting A Severability Clause. (File No. PA 09-5472) (Springfield, Eugene, Lane County)

**WHEREAS**, Policy #11 of Chapter III, Section D of the Eugene-Springfield Metropolitan Area General Plan (Metro Plan) requires the taking of an exception to Statewide Goal 15 if a non-water-dependent transportation facility requires placing fill within the Willamette Greenway; and

**WHEREAS**, on June 26, 2009, Springfield, Eugene, and Lane County jointly initiated a Metro Plan amendment containing language establishing an exception to Statewide Planning Goal 15 (Willamette Greenway) for the purpose of allowing for the placement of fill within the Greenway for the construction of a bicycle/pedestrian viaduct underneath the I-5 bridges on the South Bank of the Willamette River; and

**WHEREAS**, Chapter IV of the Eugene -Springfield Metropolitan Area General Plan (Metro Plan) sets forth procedures for amendment of the Metro Plan, which for Lane County, are implemented by provisions of Lane Code Chapter 12; and

**WHEREAS**, following an September 1, 2009 joint public hearing with the Eugene and Springfield Planning Commissions, the Lane County Planning Commission, on September 1, 2009 recommended Metro Plan amendments and the taking of an exception to Statewide Planning Goal 15 Willamette River Greenway, to allow for placement of fill in the Greenway for Construction of a Bicycle/Pedestrian Viaduct; and

**WHEREAS**, the Lane County Board of Commissioners conducted a joint public hearing on this amendment on September 22, 2009, with the Eugene City Council and the Springfield City Council, and is now ready to take action based on 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, Lane Code and applicable state and local law as described in the findings attached as Exhibit A, and which are adopted in support of this Ordinance.

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

Section 1: The Metro Plan Policy #11, Chapter III, Section D. is hereby amended by the addition of the following paragraph:

*"An exception to Statewide Planning Goal 15 Willamette River Greenway was approved by the cities of Eugene and Springfield and by Lane County authorizing construction of a bike path viaduct beneath the I-5 bridges, along the south bank of the Willamette River. The exception authorizes construction of the bike path viaduct including the fill and removal of fill necessary to build the structure. This exception satisfies the criteria of Oregon Administrative Rules (OAR) 660-004-0022 (6) Willamette Greenway and the exception requirements of OAR 660-004-0020 Goal 2, Part II (c) for a 'reasons' exception. Pursuant to OAR 660-004-0015, this exception is hereby adopted as an amendment to the Metro Plan text, Policy D. 11, Chapter III, Section D."*

Section 2: The Metro Plan is hereby amended to include the findings of fact and conclusions 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 this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion constitutes a separate, distinct and independent provision and such holding does not affect the validity of the remaining portions thereof.

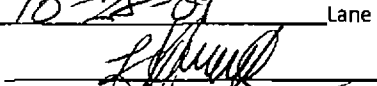
ENACTED this 28<sup>th</sup> day of OCTOBER, 2009.



Chair, Lane County Board of County Commissioners

APPROVED AS TO FORM

Date: 10-28-09 Lane County



OFFICE OF LEGAL COUNSEL

**FINDINGS IN SUPPORT OF AN ORDINANCE AMENDING THE EUGENE-SPRINGFIELD METROPOLITAN AREA GENERAL PLAN AND TAKING AN EXCEPTION TO STATEWIDE PLANNING GOAL 15 (WILLAMETTE RIVER GREENWAY) TO ALLOW FOR PLACING FILL FOR CONSTRUCTING A BICYCLE/PEDESTRIAN VIADUCT ON THE SOUTH BANK OF THE WILLAMETTE RIVER.**

Criteria for adoption of a *Metro Plan* Amendment is found in Section 12.225 (2) (a) & (b). It states that in reaching a decision, the County Commissioners must adopt findings which demonstrate that the proposal meets applicable approval criteria and state and local laws. These criteria and findings are discussed below and show compliance to support the amendment and taking an exception to Goal 15.

***LC12.225 (2) (a) Criterion #1 "The amendment must be consistent with the relevant statewide planning goals adopted by the Land Conservation and Development Commission."***

***Goal 1 – Citizen Involvement.*** Goal 1 calls for "the opportunity for citizens to be involved in all phases of the planning process."

**Finding #1.** A public hearing was held before the Joint Planning Commissions of Eugene, Springfield and Lane County on September 1, 2009.

**Finding #2.** A public hearing was held before the Joint Elected Officials of Eugene, Springfield and Lane County on September 22, 2009.

**Finding #3.** Mailed notice of these public hearings was sent out to property owners and residents within 300 feet of the proposed bicycle viaduct on August 12, 2009. The mailing allowed more than 20 days notice before the first public hearing as required.

**Finding #4.** Notice of the public hearings concerning this matter was published on August 12, 2009 in the Register Guard, advertising both the hearing before the Joint Planning Commissions on September 1, 2009, and the Joint Elected Officials on September 22, 2009. The content of the notice followed the direction given in Lane Code Chapter 14.

***Goal 2 – Land Use Planning.*** Goal 2 outlines the basic procedures of Oregon's statewide planning program. It says that land use decisions are to be made in accordance with a comprehensive plan, and that suitable "implementation ordinances" to put the plan's policies into effect must be adopted.

**Finding #5.** The Eugene-Springfield Metropolitan Area General Plan (*Metro Plan*) is the acknowledged comprehensive plan that guides land use planning for the city's of Eugene and Springfield and the Glenwood area.

**Finding #6.** Chapter III-D of the *Metro Plan* specifically addresses issues related to the Willamette Greenway. The following policies found in Chapter III-D are cited below (emphasis added).

Policy D.2 Land Use regulation and acquisition programs along river corridors and waterways shall take into account all the concerns and needs of the community, including recreation, resource, and wildlife protection; enhancement of river corridor and waterway environments;

potential for supporting non-automobile transportation; opportunities for residential development; and other compatible uses.

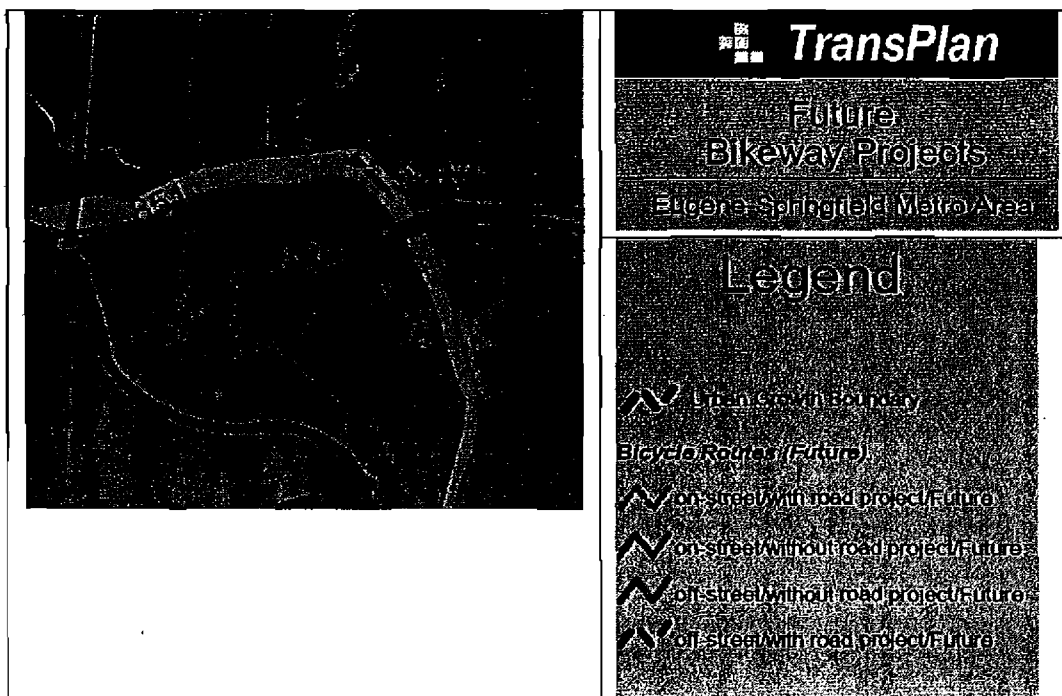
Policy D.3 Eugene, Springfield and Lane County shall continue to cooperate in expanding water-related parks and other facilities, where appropriate, that allow access to and enjoyment of the river and waterway corridors.

**Finding #7.** TransPlan (2002) is Eugene-Springfield's local Transportation System Plan and is a functional plan of the *Metro Plan*. TransPlan provides policies addressing transportation facilities and policies for the Eugene-Springfield Metropolitan Area.

**Finding #8.** TransPlan contains project lists and maps showing needed transportation facilities in the Metropolitan area. The Future Bikeway Project Map shows an off-street bike facility running along the south bank of the Willamette River underneath the I-5 Bridge. This bikeway is identified as project #851 South Bank Trail (A) with an estimated cost of \$1,800,000 (Jurisdiction: Springfield).

**Finding #9.** Central Lane MPO Regional Transportation Plan lists the Glenwood Riverfront Park Path (Project 851) as a finically constrained project. It is classified as a multiuse path without road project.

**Finding #10.** The *Glenwood Refinement Plan* (1999) is a refinement plan of the *Metro Plan*. It contains a map of proposed bicycle routes (pg. 53) that shows the South Bank Trail as an off-street path following the Willamette River, connecting the Eugene path system to the Springfield Bridges. *Glenwood Refinement Plan* Policy # 4.5 calls for the acquisition of easements for a pedestrian and bicycle access to and along the Willamette River through the Glenwood area.





**Finding #11.** The *Willamalane Park and Recreation Comprehensive Plan* is an adopted refinement plan of the *Metro Plan*. Map #3 (page 28) of the Comprehensive Plan shows existing, planned and proposed multiuse paths and bike ways. Map #3 shows the South Bank Trail running along the Willamette River through Glenwood as an off-street multiuse path.

**Goal 3 – Agricultural Land.** Goal 3 defines "agricultural lands." It then requires counties to inventory such lands and to "preserve and maintain" them through farm zoning.

**Finding #12.** This goal does not apply within adopted, acknowledged urban growth boundaries. The City's of Eugene and Springfield do not have any agricultural zoning districts. These amendments do not apply outside the urban growth boundary and, because of limitations on commercial and industrial development without full urban services, generally do not apply outside the city limits. All land in the metro urban transition area carries City zoning. An exception to this goal was taken in 1982 when the comprehensive plan was acknowledged.

**Goal 4 – Forest Land.** This goal defines forest lands and requires counties to inventory them and adopt policies and ordinances that will "conserve forest lands for forest uses."

**Finding #13.** This goal does not apply within adopted, acknowledged urban growth boundaries. The City's of Eugene and Springfield do not have any forest zoning districts. These amendments do not apply outside the urban growth boundary and, because of limitations on commercial and industrial development without full urban services, generally do not apply outside the city limits. All land in the metro urban transition area carries City zoning. An exception to this goal was taken in 1982 when the comprehensive plan was acknowledged.

**Goal 5 – Open Spaces, Scenic and Historic Areas, and Natural Resources.** Goal 5 covers more than a dozen natural and cultural resources such as wildlife habitats and wetlands. It establishes a process for each resource to be inventoried and evaluated.

**Finding #14.** The Springfield Inventory of Natural Resource Sites (Goal 5 Inventory) was adopted on May 3, 2004. In adopting the Goal 5 Inventory, the City Council chose to apply the "standard process" provisions of ORS 660-23-110 to the protection of riparian corridors.

**Finding #15.** The Willamette River is an inventoried riparian resource site on the Springfield Inventory of Natural Resource sites. This is Springfield's adopted Goal 5 Inventory. It is identified as site "WA/WB" on the Inventory.

**Finding #16.** Site WA/WB is assigned the following protection under Springfield's Goal 5 program for protecting riparian sites:

**"Goal 5 Recommendation:** Limit conflicting uses and employ low impact development practices when developing within 150 feet of the resource site. The Willamette River (WA/WB) is a water quality limited watercourse and is protected by a 75-foot development setback and site plan review standards described in 31.240 of the Springfield Development Code. No additional setbacks are necessary. The documented presence of a state and federally listed species requires coordination with the Oregon Department of Fish and Wildlife and appropriate federal agencies to determine what (if any) additional measures may be needed."

**Finding #17.** Section 4.3-117 (E) of the Springfield Development Code describes permitted uses within the setback area for locally significant riparian resource sites. Section 4.3-117 (E) (n.) lists "Public multi-use paths, access ways, trails, boardwalks, picnic areas, interpretive and

educational displays and overlooks, including benches and outdoor furniture;" among the allowed uses. The proposed South Bank Viaduct is a permitted use within the protective setback along that portion of the Willamette River within Springfield's planning jurisdiction.

**Finding #18.** Approval of the *Metro Plan* amendment allows for the consideration of fill within the Willamette River Greenway for the purpose of constructing the South Bank Viaduct. Approval of the amendment does not negate the authority of local, state and federal agencies to oversee the design and construction of the viaduct to avoid, minimize or mitigate the environmental impacts that construction and use of the facility might have on the River.

**Finding #19.** Other state and federal permits or actions may be required to protect water quality, fish and wild life protection as part of the federal National Environmental Protection Act (NEPA) review. These permits and actions have yet to be determined at this writing. A consultant has been retained and is preparing the analysis required for NEPA review and processing.

**Goal 6 – Air, Water and Land Resources Quality.** This goal requires local comprehensive plans and implementing measures to be consistent with state and federal regulations on matters such as groundwater pollution.

**Finding #20.** The City of Springfield has revised its Development Code to respond to National Pollutant Discharge Elimination System (NPDES) Phase II, the Clean Water Act, and the Drinking Water Protection Act and is in the process of devising a response to the Endangered Species Act for listed species in our area. The South Bank Viaduct will be subject to staff review and to the development standards set forth in Sections 4.3-115 (Water Quality Protection) and 4.3-117 (Natural Resource Protection Areas). These standards implement the protections required by the NPDES Phase II, the Clean Water Act and the Drinking Water Protection Act, and the City of Springfield's Goal 5 program for natural resource protection.

**Finding #21.** The proposed text amendment and Goal exception will not alter the environmental protection standards policies cited in Finding # 29. The design and construction of the proposed bicycle viaduct will be reviewed and monitored by local, state, and federal agencies with authority to evaluate and regulate the environmental impacts of the project on the Willamette River.

**Finding #22.** Approval of the *Metro Plan* amendment allows for the consideration of fill within the Willamette River Greenway for the purpose of constructing the South Bank Viaduct. Approval of the amendment does not negate the authority of agencies to oversee the design and construction of the viaduct to avoid, minimize or mitigate impacts that the construction and use of the facility might have on water quality in the River.

**Finding #23.** The viaduct project will require a Joint Application Form seeking permission from the U.S. Army Corps of Engineers and the Oregon Department of State Lands to conduct construction activities that may impact wetland and riparian resources in the project area. These agencies will add conditions for approval as required to address their concerns if any regarding wetland and riparian protection.

**Finding #24.**

**Goal 7 – Areas Subject to Natural Disasters and Hazards.** Goal 7 deals with development in places subject to natural hazards such as floods or landslides. It requires that jurisdictions apply "appropriate safeguards" (floodplain zoning, for example) when planning for development there.

**Finding #25.** All sites within Springfield that are subject to these hazards (floodplain, erosion, landslides, earthquakes, weak foundation soils) are inventoried through a variety of sources. The proposed Metro Plan text amendment and Goal exception does not remove or exempt compliance with Code standards that may apply to development within these hazard areas.

**Finding #26.** FIRM Panel Number 41039C166F shows the project area is affected by the 100-year floodplain (Willamette River, Glenwood Slough).

**Finding #27.** Within city of Springfield jurisdiction, floodplain development is regulated by the Floodplain (FP) Overlay District. The FP Overlay District applies to all areas of special flood hazard. Development proposals within the FP Overlay District are reviewed under Type I procedure and approval is required before construction or development begins within any area of special flood hazard.

**Finding #28.** In February 2009, ODOT prepared and submitted a *Hydraulic and Scour Analysis Report*, including "No-Rise" analysis, to analyze the hydraulic conditions for the I-5 Replacement Bridge project to determine the effects of the required construction activities to the 100-year floodplain during and after construction. The report concluded that the Willamette River I-5 Replacement Bridge project would have a minimal impact on flood levels during a 100-year event.

**Finding #29.** The proposed South Bank Viaduct will be constructed at the same location on the south bank of the Willamette River as the I-5 Replacement Bridges. Although a new analysis may be required, it is likely that the viaduct will contribute little to flood elevations in the event of a 100-year flood event, given the small area affected by the project compared to the Replacement Bridge project.

**Goal 8 – Recreational Needs.** This goal calls for each community to evaluate its areas and facilities for recreation and develop plans to deal with the projected demand for them.

**Finding #30.** Willamalane Park and Recreation District is the entity responsible for park planning, development and maintenance in the subject park areas. In 2004, Willamalane completed the *Willamalane Parks and Recreation Comprehensive Plan* that was adopted by both the City of Springfield and Lane County as a refinement plan to the *Metro Plan*.

**Finding #31.** Willamalane's Comprehensive Plan shows the proposed South Bank Viaduct (South Bank Trail) on Map 3—"Existing and Proposed Multiuse Paths and Bike Ways."

**Goal 9 – Economic Development.** Goal 9 calls for diversification and improvement of the economy. It asks communities to inventory commercial and industrial lands, project future needs for such lands, and plan and zone enough land to meet those needs.

**Finding #32.** The proposed *Metro Plan* text amendment does not reduce the inventory of commercial and industrial lands.

**Finding #33.** The South Bank Viaduct will be both an important transportation facility for bike commuters and pedestrians connecting Eugene and Springfield. It is also an amenity with the

potential to bring recreational users into the Glenwood and downtown Springfield business areas.

**Finding #34.** To the extent that recreational access to the Willamette River and to future Glenwood development in Glenwood and Downtown Springfield is part of a business location decision, the proposed South Bank Viaduct facility may increase the marketability of Springfield for new business and industry.

**Goal 10 – Housing.** This goal specifies that each city must plan for and accommodate needed housing types, such as multifamily and manufactured housing.

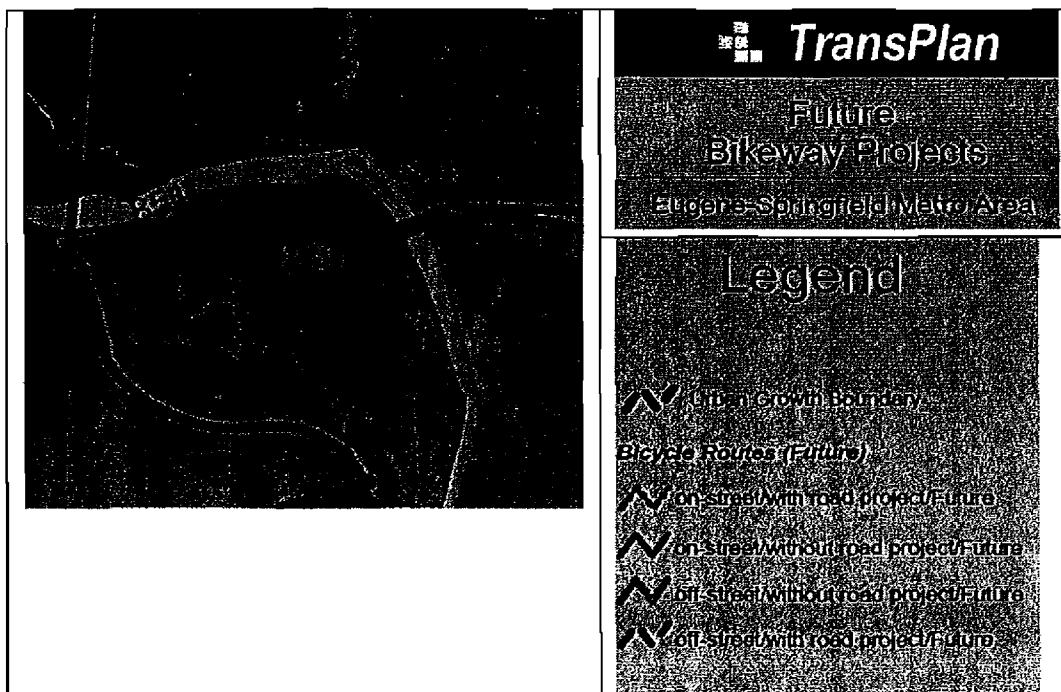
**Finding #35.** The proposed *Metro Plan* text amendment and Goal exception will not reduce available housing capacity and will not impact needed housing. As such this goal is not applicable to the evaluation of this proposal.

**Goal 11 – Public Facilities and Services.** Goal 11 calls for efficient planning of public services such as sewers, water, law enforcement, and fire protection.

**Finding #36.** The *Eugene-Springfield Metropolitan Public Services and Facilities Plan* (PFSP) is a refinement plan of the *Metro Plan* that guides the provision of public infrastructure, including water, sewer, storm water management, and electricity. The proposed *Metro Plan* text amendment and Goal exception does not modify any policies set forth in the PFSP, and no future facilities listed in the PFSP shall be affected by the amendment.

**Goal 12 – Transportation.** This goal aims to provide "a safe, convenient and economic transportation system."

**Finding #37.** *TransPlan* (2002) is Eugene-Springfield's local Transportation System Plan and is a functional plan of the *Metro Plan*. *TransPlan* provides policies addressing transportation facilities and policies for the Eugene-Springfield Metropolitan Area.



**Finding #38.** *TransPlan* contains project lists and maps showing needed transportation facilities in the Metropolitan area. The Future Bikeway Project Map, above, shows an off-street bike facility running along the south bank of the Willamette River underneath the I-5 Bridge. This bikeway is identified as project #851 South Bank Trail (A) with an estimated cost of \$1,800,000 (Jurisdiction: Springfield).

**Finding #39.** *TransPlan's* TSI Bicycle Policy # 3 (Chapter 2, pg. 33) requires "bikeways to connect new development with nearby neighborhood activity centers and major destinations." As previously mentioned, the South Bank Viaduct and South Bank Path will connect Eugene to Glenwood and to downtown Springfield through Glenwood.

**Finding #40.** *TransPlan's* TSI Bikeway Policy #4 assigns priority to the finding of "Priority Bikeway Miles." These are defined as stand-alone bike projects listed in *TransPlan* that are not associated with roadway projects. As mentioned above, the proposed South Bank Viaduct is part of project #851 South Bank Trail (A) which is a stand-alone project that is not associated with a roadway.

**Finding #41.** Central Lane MPO Regional Transportation Plan lists the Glenwood Riverfront Park Path (Project 851) as a financially constrained project. It is classified as a multiuse path without road project.

**Goal 13 – Energy Conservation.** Goal 13 declares that "land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles."

**Finding #42.** Approval of the proposed *Metro Plan* text amendment and Goal exception will not have a direct impact on efforts to conserve energy; as such this goal is not applicable to the evaluation of this proposal.

**Goal 14 – Urbanization.** This goal requires cities to estimate future growth and needs for land and then plan and zone enough land to meet those needs.

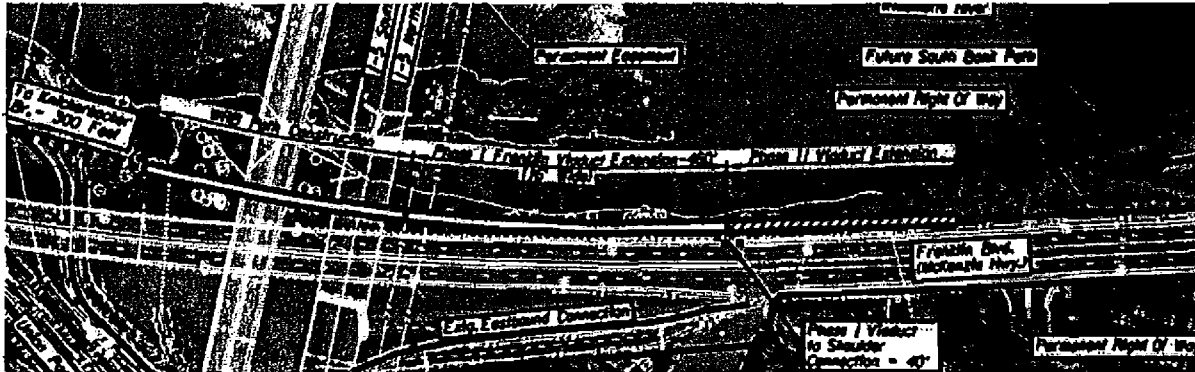
**Finding #43.** The proposed *Metro Plan* text amendment and Goal exception affect an area within the existing UGB; as such this goal is not applicable to the evaluation of this proposal.

**Goal 15 – Willamette River Greenway.** Goal 15 sets forth procedures for administering the 300 miles of greenway that protects the Willamette River.

**Finding #44.** Chapter III D of the *Metro Plan*—"Willamette River Greenway, River Corridors and Waterways Element" includes findings, objectives and policies for administering the Willamette River corridor as it passes through the Eugene-Springfield area.

**Finding #45.** Policy D.11 of Chapter III 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."

**Finding #46.** The proposed South Bank Viaduct is located within the Willamette River Greenway setback. While the viaduct design is not complete, it may require the removal or placement of fill within the Greenway setback. For this reason, an exception to Statewide Planning Goal 15 is required as part of this proposal.



**Finding #47.** In 2003, an exception to Statewide Planning Goal 15 was taken and Policy D.11 of Chapter III of the *Metro Plan* was amended to allow construction and related activities for the Willamette River I-5 Detour and Replacement Bridges. That exception to Goal 15 was approved in advance of any construction designs.

**Finding #48.** The exception taken in 2003 (articulated in Chapter III, Policy D.11) did not foresee or include the proposed South Bank Viaduct.

**Finding #49.** Chapter III-D of the *Metro Plan* specifically addresses issues related to the Willamette Greenway. The following policies found in Chapter III-D are applicable to this proposal and are cited below (emphasis added).

Policy D.2 Land Use regulation and acquisition programs along river corridors and waterways shall take into account all the concerns and needs of the community, including recreation, resource, and wildlife protection; enhancement of river corridor and waterway environments; **potential for supporting non-automobile transportation**; opportunities for residential development; and other compatible uses.

Policy D.3 Eugene, Springfield and Lane County shall **continue to cooperate in expanding water-related parks and other facilities, where appropriate, that allow access to and enjoyment of the river and waterway corridors.**

**Goals 16 through 19 – Estuarine Resources, Coastal Shorelands, Beaches and Dunes, and Ocean Resources.**

**Finding #50.** There are no coastal, ocean, estuarine, or beach and dune resources within the Eugene-Springfield Urban Growth Boundary. These goals do not apply to this proposal.

**Conclusion**

The findings shown above demonstrate that the proposed *Metro Plan* text amendment and Goal 15 exception allowing the construction of the South Bank Viaduct facility as part of the South Bank Path is in substantial conformance with Oregon’s Statewide Planning Goals.

**Lane Code 12.225 (2) (b) Criterion #2. "Adoption of the amendment must not make the Metro Plan internally inconsistent."**

**Findings**

**Finding #51.** Chapter III-D of the *Metro Plan* specifically addresses issues related to the Willamette Greenway. The following policies found in Chapter III-D are cited below (emphasis added).

Policy D.2 Land Use regulation and acquisition programs along river corridors and waterways shall take into account all the concerns and needs of the community, including recreation, resource, and wildlife protection; enhancement of river corridor and waterway environments; potential for supporting non-automobile transportation; opportunities for residential development; and other compatible uses.

Policy D.3 Eugene, Springfield and Lane County shall continue to cooperate in expanding water-related parks and other facilities, where appropriate, that allow access to and enjoyment of the river and waterway corridors.

**Finding #52.** Policy D.11 of Chapter III 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."

**Finding #53.** The proposed South Bank Viaduct is located within the Willamette River Greenway setback. While the viaduct design is not complete, it may require the removal or placement of fill within the Greenway setback. For this reason, an exception to Statewide Planning Goal 15 is required as part of this proposal.

**Finding #54.** In 2003, an exception to Statewide Planning Goal 15 was taken and Policy D.11 of Chapter III of the *Metro Plan* was amended to allow construction and related activities for the Willamette River I-5 Detour and Replacement Bridges. That exception to Goal 15 was approved in advance of any construction designs.

**Finding #55.** The exception taken in 2003 (articulated in Chapter III, Policy D.11) did not foresee or include the proposed South Bank Viaduct.

**Finding #56.** *TransPlan (2002)* is Eugene-Springfield's local Transportation System Plan and is a functional plan of the *Metro Plan*. *TransPlan* provides policies addressing transportation facilities and policies for the Eugene-Springfield Metropolitan Area.

**Finding #57.** *TransPlan* contains project lists and maps showing needed transportation facilities in the Metropolitan area. The Future Bikeway Project Map shows an off-street bike facility running along the south bank of the Willamette River underneath the I-5 Bridge. This bikeway is identified as project #851 South Bank Trail (A) with an estimated cost of \$1,800,000 (Jurisdiction: Springfield).

**Finding #58.** Central Lane MPO Regional Transportation Plan lists the Glenwood Riverfront Park Path (Project 851) as a financially constrained project. It is classified as a multiuse path without road project.

**Finding #59.** The *Glenwood Refinement Plan* (1999) is a refinement plan of the *Metro Plan*. It contains a map of proposed bicycle routes (pg. 53) that shows the South Bank Trail as an off-street path following the Willamette River, connecting the Eugene path system to the Springfield Bridges. *Glenwood Refinement Plan* Policy # 4.5 calls for the acquisition of easements for a pedestrian and bicycle access to and along the Willamette River through the Glenwood area.

**Finding #60.** The *Willamalane Park and Recreation Comprehensive Plan* is a refinement plan of the *Metro Plan*. Map #3 (page 28) of the Comprehensive Plan shows existing, planned and proposed multiuse paths and bike ways. Map #3 shows the South Bank Trail running along the Willamette River through Glenwood as an off-street multiuse path.

## Conclusion

The proposed *Metro Plan* text amendment and Goal 15 exception would not make the *Metro Plan* internally inconsistent. The *Metro Plan* and its related refinement plans are specific in their planning for the South Bank Path and the alignment of that path along the Willamette River, passing beneath the Willamette I-S Bridge and connecting Eugene's bike system to Springfield through Glenwood. The South Bank Viaduct facility is a critical facility that allows passage around the existing barrier beneath the bridge that prevents such connectivity.

## IV. Compliance with Applicable Administrative Rules of Chapter 660, Division 004—Interpretation of Goal 2 Exception Process

"Statewide Planning Goal 2—Land Use Planning, Part II, Exceptions," allows for exceptions to be made to certain other statewide planning goals. OAR chapter 660 division 4 explains the three types of exceptions set forth in Goal 2. Division 4 interprets the exception process as it applies to statewide Goals 3 to 19.

OAR 660-004-0010(2) states: "the exceptions process is generally not applicable to those statewide goals which establish planning procedures and standards that do not prescribe or restrict certain uses of resource land or limit the provision of certain public facilities and services, because these goals contain general planning guidance or their own procedures for resolving conflicts between competing uses. However, exceptions to these goals, although not required, are possible and exceptions taken to these goals will be reviewed when submitted by a local jurisdiction. These statewide goals are (emphasis added):

- (a) Goal 5 "Natural Resources";
- (b) Goal 6 "Air, Water, and Land Resources Quality";
- (c) Goal 7 "Natural Disasters and Hazards";
- (d) Goal 8 "Recreational Needs";



(e) Goal 9 "Economy of the State";

(f) Goal 10 "Housing" except as provided for in OAR 660-008-0035, "Substantive Standards for Taking a Goal 2, Part II, Exception Pursuant to ORS 197.303(3)";

(g) Goal 12 "Transportation" except as provided for by OAR 660-012-0070, "Exceptions for Transportation Improvements on Rural Land";

(h) Goal 13 "Energy Conservation";

**(i) Goal 15 "Willamette Greenway" except as provided for in OAR 660-004-0022(6); and**

(j) Goal 19 "Ocean Resources."

#### **Compliance with 660-004-0015—Inclusion as Part of the Plan**

OAR 660-004-0015 (1) states that "a local government approving a proposed exception shall 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. The applicable standards are those in Goal 2, Part II(c), OAR 660-004-0020(2), and 660-004-0022. The reasons and facts shall be supported by substantial evidence that the standard has been met."

**Finding #61.** This proposal amends the *Metro Plan* text and takes an exception to allow the construction of the South Bank Viaduct beneath the Willamette River I-5 Bridges. Approval of the proposal will place language into the *Metro Plan* providing for an exception to Statewide Goal 15. The local ordinances adopting this proposal will require the approving bodies to adopt the findings of fact and reasons for the text amendment and goal exception.

**Finding #62.** Findings #74 through 86 address the "reasons" that are specific to a goal exception for Statewide Planning Goal 15. These shall be adopted by reference as part of the findings and exhibit to the local ordinances adopted by the local approving bodies.

#### **Compliance with OAR 660-004-0022—Reasons Necessary to Justify an Exception under Goal 2 Part II(c)**

OAR 660-004-0022 states that an exception can be taken for any use not allowed by the applicable goal(s). The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in this section. Subsection (6) of OAR 660-004-0022 lists the reasons that can be used to justify an exception to Statewide Planning Goal 15—Willamette River Greenway. Subsection (6) states:

"(6) Willamette Greenway: 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."

**"Reasons" Analysis for Statewide Planning Goal 15 Exception**

The following section of this document analyzes the South Bank Viaduct proposal against the "reasons" that can be used to justify an exception for Statewide Planning Goal 15 as listed in OAR 660-004-0022(6)(a-d).

**"(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;"**

There appears to be no single statement of "greenway values" in the state statutes or administrative rules. The purposes stated for establishing the Willamette River Greenway are stated in OAR 660-015-0005: *"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."* This purpose is reflected in Chapter III Section D of the *Metro Plan*, the local comprehensive plan element that describes how the Willamette Greenway will be administered within the Eugene-Springfield metropolitan planning area (emphasis added).

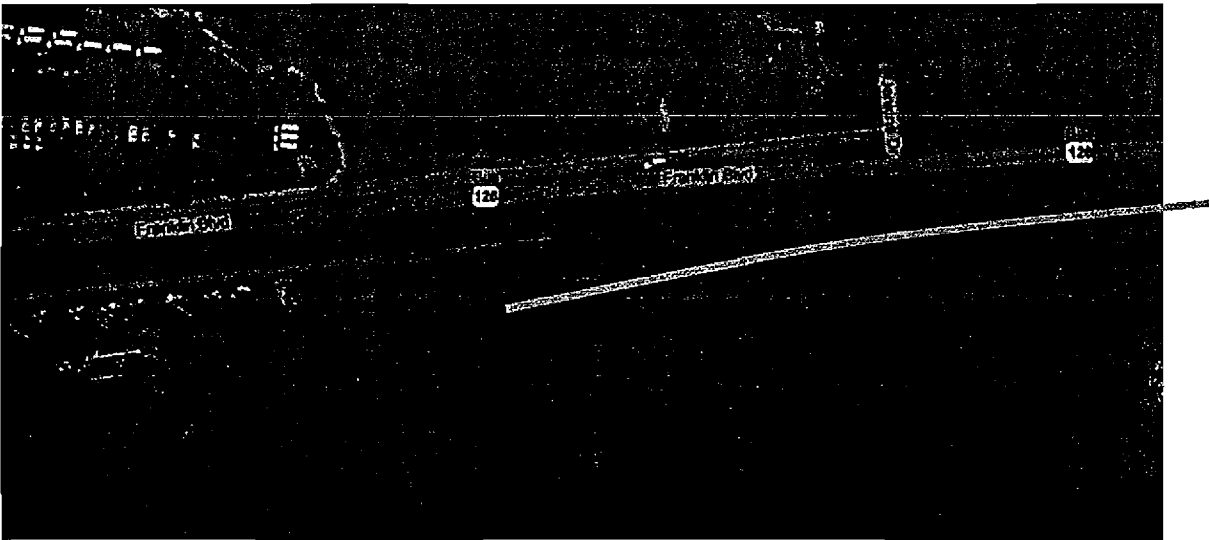
**Finding #63.** Policy D.2 Land Use regulation and acquisition programs along river corridors and waterways shall take into account all the concerns and needs of the community, including recreation, resource, and wildlife protection; enhancement of river corridor and waterway environments; potential for supporting non-automobile transportation; opportunities for residential development; and other compatible uses.

**Finding #64.** Policy D.3 Eugene, Springfield and Lane County shall continue to cooperate in expanding water-related parks and other facilities, where appropriate, that allow access to and enjoyment of the river and waterway corridors.

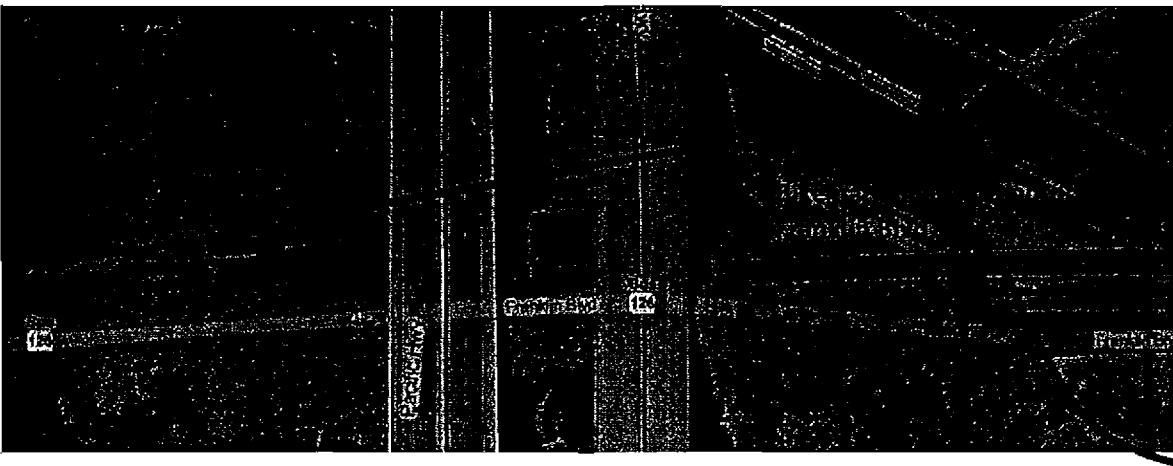
**Finding #65.** The proposed South Bank Viaduct is a non-automobile transportation facility that will serve both recreational and transportation functions. The facility will connect with the larger Eugene-Springfield riverfront bike path system which is arguably one of the best in Oregon.



West end of the South Bank Viaduct



East end of the South Bank Viaduct



As shown in the above diagram, the existing bike path is forced away from the river and on to Franklin Blvd. by the steep riverbank beneath the I-5 Bridge and eastward. The path continues on a busy Franklin Blvd. which has an on-street bike lane and minimal pedestrian facilities.

**Finding #66.** The alignment of the proposed viaduct would hug the riverfront, passing beneath the I-5 bridges. The viaduct is located in an industrial zone, adjacent to Franklin Blvd. As can be seen from the aerial photos above, the presence of industrial uses; the I-5 bridges; power transmission lines; and the austerity of Franklin Boulevard significantly impact the scenic value of this segment of the river compared to other segments in Eugene-Springfield.

**Finding #67.** Existing development standards would require replacement of trees and restoration of the vegetation that is disturbed by construction of the proposed viaduct on the riverbank, minimizing the long-term visual impact of the facility when viewed from the river.

**Finding #68.** Required NEPA review of this project will result in mitigation measures designed to minimize the impact of the viaduct on riparian habitat and threatened and endangered fish species in the river.

**Finding #69.** The South Bank Viaduct and riverfront path that will be enabled by the viaduct will fulfill a longstanding community need. That need is reflected in long-range planning documents for transportation and recreation (*Glenwood Refinement Plan, Glenwood Riverfront Plan, TransPlan, and the Willamalane Parks and Recreation Comprehensive Plan*).

**“(b) The use will not significantly reduce the sites available for water-dependent or water-related uses within the jurisdiction;”**

**Finding #70.** The topography of the riverbank prohibits most water-dependent and water related uses. All of the land occupied by the viaduct is publically owned and is not proposed for water-related or water-dependent development in any adopted land use documents. This project will not significantly reduce the sites available for water-dependent, water related-uses. The proposed viaduct structure will enable users to have better access to the river in the future when the planned South Bank Path is built.

**“(c) The use will provide a significant public benefit; and”**

**Finding #71.** As demonstrated by its inclusion in a variety of comprehensive planning documents, the South Bank Path and this portion of the path in particular will have a significant public benefit.

**“(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.”**

ORS 390.341 and ORS 390.322 are shown below (emphasis added).

**“390.314 Legislative findings and policy. (1) The Legislative Assembly finds that, to protect and preserve the natural, scenic and recreational qualities of lands along the Willamette River, to preserve and restore historical sites, structures, facilities and objects on lands along the**

Willamette River for public education and enjoyment and to further the state policy established under ORS 390.010, it is in the public interest to develop and maintain a natural, scenic, historical and recreational greenway upon lands along the Willamette River to be known as the Willamette River Greenway.

(2) In providing for the development and maintenance of the Willamette River Greenway, the Legislative Assembly:

(a) Recognizing the need for coordinated planning for such greenway, finds it necessary to provide for development and implementation of a plan for such greenway through the cooperative efforts of the state and units of local government.

(b) Recognizing the need of the people of this state for existing residential, commercial and agricultural use of lands along the Willamette River, finds it necessary to permit the continuation of existing uses of lands that are included within such greenway; but, for the benefit of the people of this state, also to limit the intensification and change in the use of such lands so that such uses shall remain, to the greatest possible degree, compatible with the preservation of the natural, scenic, historical and recreational qualities of such lands.

(c) Recognizing that the use of lands for farm use is compatible with the purposes of the Willamette River Greenway, finds that the use of lands for farm use should be continued within the greenway without restriction.

(d) Recognizing the need for central coordination of such greenway for the best interests of all the people of this state, finds it necessary to place the responsibility for the coordination of the development and maintenance of such greenway in the State Parks and Recreation Department.

(e) Recognizing the lack of need for the acquisition of fee title to all lands along the Willamette River for exclusive public use for recreational purposes in such greenway, finds it necessary to limit the area within such greenway that may be acquired for state parks and recreation areas and for public recreational use within the boundaries of units of local government along the Willamette River. [1973 c.558 §1]"

**“390.322 Submission of plan to Land Conservation and Development Commission; revision, approval and distribution of plan. (1) Following the preparation of the plan or any segment thereof under ORS 390.318, the State Parks and Recreation Department shall submit such plan or segment to the Land Conservation and Development Commission. The commission shall investigate and review such plan or segment as it considers necessary. If the commission finds that the plan or segment complies with ORS 390.310 to 390.368, it shall approve the plan or segment. If the commission finds revision of any part of the submitted plan or segment to be necessary, it may revise the plan or segment itself or require such revision by the department and units of local government.**

(2) Upon approval of the plan for the Willamette River Greenway or segment thereof, the commission shall cause copies of such plan or segment to be filed with the recording officer for each county having lands within the Willamette River Greenway situated within its boundaries. Such plan or segment filed as required by this subsection shall be retained in the office of the county recording officer open for public inspection during reasonable business hours.

(3) If the plan for the Willamette River Greenway is prepared and approved in segments, the total of all such approved segments shall constitute the plan for the Willamette River Greenway for the purposes of ORS 390.310 to 390.368. The department and units of local government, with the approval of the commission, may revise the plan for the Willamette River Greenway from time to time. [1973 c.558 §4]"

**Finding #72.** The *Metro Plan* Chapter III Section D—Willamette River Greenway, River Corridors, and Waterways Element, is the acknowledged plan and policy for implementing Statewide Planning Goal 15—Willamette River Greenway. The *Metro Plan* provides local coordination and review of development that may affect the Greenway.

**Finding #73.** Amendment of the *Metro Plan* requires notice to be filed with the Oregon Department of Land Conservation (DLCD) as well as affected local and state agencies. A Notice of Proposed Amendment concerning this proposal was filed with DLCD on June 30, 2009.

**Finding #74.** While no formal notice process is required, the Notice of Proposed Amendment packet that was sent to DLCD was sent electronically to Jan Houck, Water Recreation Coordinator with the Oregon Parks and Recreation Department on July 27, 2009.

**Finding #75.** Notice of this project was also sent to Savannah Crawford, Planner for Region 2 of the Oregon Department of Transportation on July 27, 2009. The notice was comprised of the materials filed with DLCD Notice of Proposed Amendment mentioned in Finding #80.

## V. Conclusion

Based on the findings above with respect to the applicable criteria defined in Lane Code for approving a *Metro Plan* text amendment and applicable sections of OAR 660-004-0022 for approving an exception to Statewide Planning Goal 15 (Willamette Greenway); the proposed text amendment to the *Metro Plan* and exception to Statewide Planning Goal 15 is found to be consistent with the applicable criteria, Statewide Planning Goals, Lane Code, and Oregon Administrative Rule and Statute for taking an exception and amending the Metro Plan.

The proposed text amendment adds the following language to policy #D.11 of Chapter III-D Willamette River Greenway, River Corridors and Waterways Element:

*“An exception to Statewide Planning Goal 15 Willamette River Greenway was approved by the cities of Eugene and Springfield and by Lane County authorizing construction of a bike path viaduct beneath the I-5 bridges, along the south bank of the Willamette River in Glenwood. The exception authorizes construction of the bike path viaduct including the fill and removal of fill necessary to build the structure. This exception satisfies the criteria of Oregon Administrative Rules (OAR) 660-004-0022 (6) Willamette Greenway and the exception requirements of OAR 660-004-0020 Goal 2, Part II (c) for a ‘reasons’ exception. Pursuant to OAR 660-004-0015, is hereby adopted as an amendment to the Metro Plan text, Policy D. 11, Chapter III, Section D.”*







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## NOTICE OF FINAL DECISION

October 30, 2009

As of October 28, 2009, the Eugene City Council, Springfield City Council, and Lane County Commission have approved the Metro Plan Amendment for the South Bank Bike/Pedestrian Viaduct (City of Eugene File: MA 09-4) which amends the Eugene-Springfield Metropolitan Area General Plan (Metro Plan) text, Chapter III, Section D, Policy #11; adopting an exception to Statewide Planning Goal 15 Willamette River Greenway; adopting a severability clause; and providing an effective date.

This ordinance specifically amends Metro Plan-Policy #11, Chapter III, Section D by the addition of the following paragraph:

*"An exception to Stateside Planning Goal 15 Willamette River Greenway was approved by the cities of Eugene and Springfield and by Lane County authorizing construction of a bike path viaduct beneath the I-5 bridges, along the south bank of the Willamette River. The exception authorizes construction of the bike path viaduct including the fill and removal of fill necessary to build the structure. This exception satisfies the criteria of Oregon Administrative Rules (OAR) 660-004-0022 (6) Willamette Greenway and the exception requirements of OAR 660-004-0020 Goal 2, Part II(c) for a 'reasons' exception. Pursuant to OAR 660-004-0015, this exception is hereby adopted as an amendment to the Metro Plan text, Policy D. 11, Chapter III, Section D."*

The amendment, findings and related materials can be reviewed at 1<sup>st</sup> Floor Reception, Atrium Building, 99 West 10<sup>th</sup> Avenue, between 9:00 a.m. and 5:00 p.m., Monday through Friday.

**As per Eugene Code Section 9.7745(4), all three governing bodies have adopted identical decisions; therefore, this decision is final.**

Persons who participated either orally or in writing in the local government proceedings leading to adoption of the amendments may appeal the decision to the Land Use Board of Appeals within 21 days of the decision. Appeals to the Oregon Land Use Board of Appeals are governed by ORS 197.825 to 197.845.

**For additional information, please contact:**

Heather O'Donnell, Associate Planner  
City of Eugene Planning Division  
99 West 10<sup>th</sup> Avenue  
Eugene, OR 97401  
E-mail: [heather.m.odonnell@ci.eugene.or.us](mailto:heather.m.odonnell@ci.eugene.or.us)  
Phone: (541) 682-5488

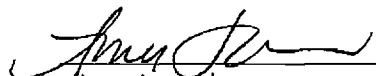
**CERTIFICATE OF MAILING**

I hereby certify that I served the decision and/or notice of decision of the Eugene City Council, Springfield City Council, and Lane County Commission of the **approval of South Bank Bike/Pedestrian Viaduct** by mailing a true copy to:

Jan Wostmann  
Laurel Hill Valley Citizens  
2645 Riverview Street  
Eugene, Oregon 97403

10-30-09

Dated:

  
\_\_\_\_\_  
Amy Janisch

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Company Department of Land Conservation and Development

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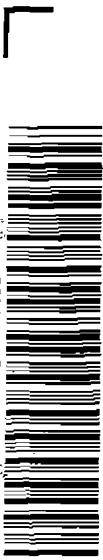
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Signature Delivery NOT available

FedEx 2Day  
Second business day\* Thursday signature will be required on Monday unless SAT/PM Delivery is selected

FedEx Express Saver  
Saturday Delivery NOT available

FedEx 2Day Freight\*  
Third business day\* Thursday signature will be required on Monday unless SAT/PM Delivery is selected

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Third business day\* Thursday signature will be required on Monday unless SAT/PM Delivery is selected

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Next business day\* Friday signature will be required on Monday unless SAT/PM Delivery is selected

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 Other

5 Special Handling  
 No available for FedEx 1Day Overnight, FedEx 2Day, FedEx 2Day Freight, FedEx 1Day Freight, FedEx Surety Pak, FedEx Large Pak and FedEx Small Pak

HOLD Overnight  
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No  Yes per recipient  Yes Shipper's instruction  Dry Ice  Cargo Aircraft Only

7 Payment Bill to:  Sender  Recipient  Third Party  Credit Card  Cash/Check

8 Residential Delivery Signature Options

No Signature Required  Direct Signature  Indirect Signature

Signature Required without obtaining a signature for delivery

Signature Required without obtaining a signature for delivery

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