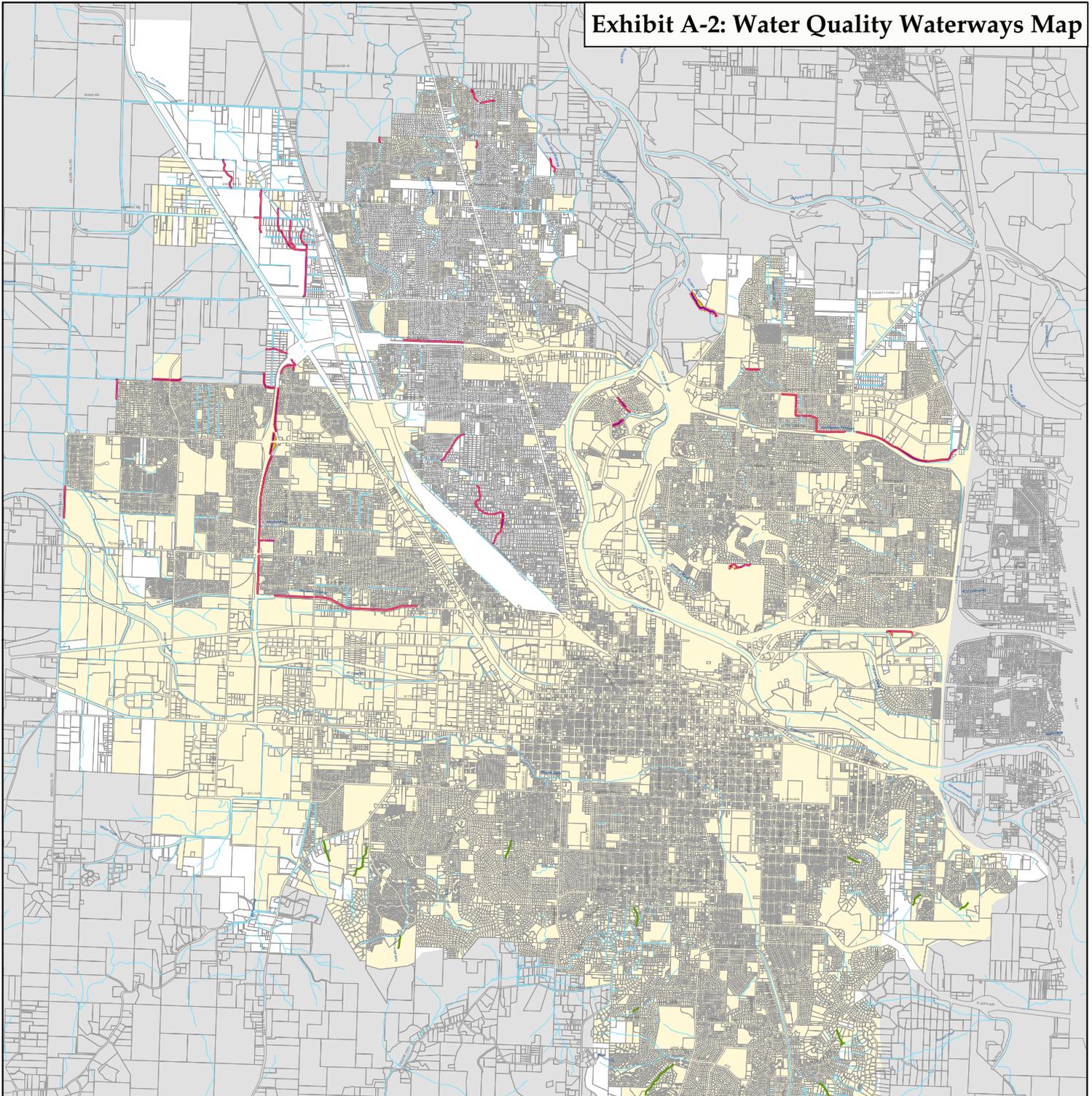


Exhibit A-2: Water Quality Waterways Map



Legend

Water Quality Waterways (shown at exaggerated size for visibility on this printed map)

Waterways identified pursuant to Eugene Code Section 9.4770 - 9.4790, and consisting of the following:

-  Tributary to a waterway listed under section 303(d) of the federal Clean Water Act
-  Headwater stream

Applicable Setbacks

-  Top of High Bank Applicable Setback = 25 feet from top of high bank for a waterway that is tributary to a waterway identified pursuant to section 303(d) of the federal Clean Water Act
-  Centerline of Stream Applicable Setback = 40 feet from the waterway's centerline for Headwater Streams

Water Quality Management Areas

-  The /WQ Management Area is comprised of the waterway channel and the applicable setback.

 Other Open Waterways

 Taxlots (2/20/09)

 Eugene City Limits

 Area outside the Eugene Urban Growth Boundary

0 0.5 1 Mile



Map Data Sources:
Open Waterways: City of Eugene Stormwater System
Taxlots: Lane County Parcel File, as of February 20, 2009



Attachment A - Exhibit B (page 1 of 2)
List of Affected Taxlots Inside City Limits
City of Eugene Water Quality Protected Waterways (March 2009)

Number	Taxlot Number								
1	1604354304400	48	1703174105400	95	1704031118700	142	1704164108200	189	1704214404600
2	1604354304500	49	1703174105500	96	1704031118800	143	1704164108300	190	1704214404700
3	1604354314534	50	1703174105600	97	1704131400700	144	1704164108400	191	1704214404800
4	1604354314535	51	1703174105700	98	1704131400900	145	1704164108500	192	1704214404900
5	1604354314536	52	1703174105800	99	1704134100100	146	1704164108900	193	1704214405000
6	1604354314537	53	1703174105900	100	1704134100301	147	1704164109000	194	1704214409000
7	1604354314538	54	1703174106000	101	1704134100311	148	1704164109100	195	1704231300120
8	1703160000302	55	1703174200135	102	1704134100313	149	1704164109200	196	1704231306502
9	1703160001201	56	1703174200136	103	1704134100314	150	1704164114000	197	1704232000111
10	1703163100400	57	1703174200142	104	1704134100327	151	1704164201800	198	1704232000112
11	1703163200400	58	1703174200143	105	1704134100330	152	1704164216200	199	1704232000113
12	1703163200500	59	1703174205001	106	1704134100334	153	1704164216300	200	1704234100204
13	1703163200600	60	1703174205100	107	1704134100335	154	1704164400300	201	1704234103500
14	1703163200601	61	1703174205300	108	1704134100336	155	1704164403801	202	1704262301601
15	1703163403703	62	1703174205400	109	1704134100500	156	1704164403802	203	1704262301621
16	1703163403704	63	1703174207400	110	1704134100600	157	1704164404100	204	1704262301622
17	1703163403800	64	1703174207500	111	1704134100800	158	1704171400100	205	1704262301623
18	1703164300100	65	1703174207600	112	1704134400101	159	1704171400200	206	1704262301624
19	1703164400700	66	1703174207700	113	1704134400103	160	1704171400300	207	1704262301625
20	1703172300301	67	1703174207800	114	1704134400105	161	1704173101000	208	1704262301626
21	1703172300302	68	1703174207900	115	1704152301000	162	1704173101100	209	1704262301801
22	1703172300303	69	1703174208000	116	1704161400201	163	1704173101200	210	1704262301805
23	1703172300304	70	1703174208100	117	1704161400202	164	1704173101201	211	1704262301817
24	1703172300305	71	1703174208200	118	1704161400300	165	1704173101300	212	1704262301818
25	1703172300306	72	1703174208201	119	1704161400400	166	1704173101401	213	1704262301819
26	1703172300307	73	1703174208300	120	1704161400500	167	1704173101500	214	1704271300102
27	1703172300308	74	1703174208400	121	1704161400600	168	1704173101600	215	1704271300126
28	1703172300309	75	1703174208500	122	1704161400700	169	1704173101601	216	1704271300300
29	1703172300310	76	1703174208600	123	1704161403700	170	1704173101702	217	1704271300400
30	1703173100900	77	1703174208700	124	1704161403800	171	1704173101801	218	1704271300500
31	1703173101000	78	1703174208800	125	1704161403900	172	1704174100100	219	1704271302300
32	1703173101100	79	1703174208900	126	1704161404000	173	1704174102700	220	1704271302401
33	1703173101101	80	1703174209000	127	1704164104400	174	1704174102800	221	1704271400111
34	1703173101102	81	1703174209100	128	1704164104500	175	1704174102900	222	1704271400112
35	1703173101300	82	1703174209200	129	1704164104600	176	1704174103000	223	1704271400113
36	1703173101400	83	1703174211200	130	1704164104700	177	1704174103100	224	1704271400114
37	1703173101801	84	1703174211300	131	1704164105400	178	1704200002000	225	1704271400115
38	1703173101802	85	1703174211400	132	1704164105500	179	1704202316100	226	1704271400116
39	1703173102000	86	1703183200422	133	1704164105600	180	1704211101600	227	1704271400132
40	1703173102101	87	1703194401100	134	1704164105700	181	1704211101700	228	1704271401600
41	1703173102201	88	1703203305800	135	1704164106400	182	1704211104200	229	1704271401700
42	1703173102300	89	1703203306300	136	1704164106500	183	1704211104300	230	1704271402100
43	1703173102400	90	1703283001600	137	1704164106600	184	1704211106700		
44	1703173413800	91	1703284000400	138	1704164106700	185	1704211107000		
45	1703174105100	92	1703284000600	139	1704164107900	186	1704214404300		
46	1703174105200	93	1703301001302	140	1704164108000	187	1704214404400		
47	1703174105300	94	1704021300500	141	1704164108100	188	1704214404500		

Attachment A - Exhibit B (page 2 of 2)
List of Affected Taxlots Inside City Limits
City of Eugene Water Quality Protected Waterways (March 2009)

Number	Taxlot Number								
231	1704271402200	260	1704281108500	289	1803072201108	318	1803174021401	347	1804012312806
232	1704271405700	261	1704281108600	290	1803072202101	319	1803174021402	348	1804012312807
233	1704271405701	262	1704281114900	291	1803072202102	320	1803174023500	349	1804012313000
234	1704271406500	263	1704281401000	292	1803072202103	321	1803181302500	350	1804012313306
235	1704271406600	264	1704281401100	293	1803073300807	322	1803181302800	351	1804012313307
236	1704272301002	265	1704281401200	294	1803073300808	323	1803181303400	352	1804012313309
237	1704272301005	266	1704281401901	295	1803073300809	324	1803181303600	353	1804012313310
238	1704272400300	267	1803033303100	296	1803073300810	325	1803182412100	354	1804013202903
239	1704272400301	268	1803033303200	297	1803073300811	326	1803182412200	355	1804013203000
240	1704272401400	269	1803042307300	298	1803162000306	327	1803182412300	356	1804013203100
241	1704272401413	270	1803042308100	299	1803162000500	328	1803182412400	357	1804013203200
242	1704272401414	271	1803042308200	300	1803162000501	329	1803183000200	358	1804013203300
243	1704272402202	272	1803042308300	301	1803162000502	330	1803183103000	359	1804030000700
244	1704272402203	273	1803042308400	302	1803162000503	331	1803183103100	360	1804030000800
245	1704272402204	274	1803042308500	303	1803162000601	332	1803183103200	361	1804030005102
246	1704272402205	275	1803042308600	304	1803162000700	333	1803183103900	362	1804030005700
247	1704272402206	276	1803042308800	305	1803171105700	334	1803183104000	363	1804030006400
248	1704272402222	277	1803042310100	306	1803171106000	335	1803183104100	364	1804030006701
249	1704272402302	278	1803042310200	307	1803171106600	336	1803183150000	365	1804030006703
250	1704272403700	279	1803044300801	308	1803171409800	337	1803183190000	366	1804030006706
251	1704281102900	280	1803044300901	309	1803171411000	338	1803184205400	367	1804110000302
252	1704281103000	281	1803044300902	310	1803174000900	339	1803200000101	368	1804112301200
253	1704281103100	282	1803044301300	311	1803174001002	340	1803202100102		
254	1704281107900	283	1803044301400	312	1803174001100	341	1803202201001		
255	1704281108000	284	1803044301500	313	1803174001400	342	1803202201002		
256	1704281108100	285	1803063310000	314	1803174001401	343	1803202300101		
257	1704281108200	286	1803063310301	315	1803174001500	344	1804012312802		
258	1704281108300	287	1803072201100	316	1803174001600	345	1804012312803		
259	1704281108400	288	1803072201107	317	1803174021300	346	1804012312804		

Attachment A - Exhibit C
List of Affected Taxlots Outside City Limits and Within UGB
City of Eugene Water Quality Protected Waterways (March 2009)

Number	Taxlot Number						
1	1604354305600	47	1704091102500	93	1704142202266	139	1704234100202
2	1604354305700	48	1704091102900	94	1704142202267	140	1704234100300
3	1604354307600	49	1704091103000	95	1704142202268	141	1704234100400
4	1604354307700	50	1704091103001	96	1704142202300	142	1704234100500
5	1604354308600	51	1704091103100	97	1704143402200	143	1704234100501
6	1604354308700	52	1704091103200	98	1704143404400	144	1704234100502
7	1604354308900	53	1704091103201	99	1704143404600	145	1704234101200
8	1604354309300	54	1704091103202	100	1704143410500	146	1704234101300
9	1604354309400	55	1704092000100	101	1704144303401	147	1704234101400
10	1604354309500	56	1704100001700	102	1704144303500	148	1704234101500
11	1604354313100	57	1704102202400	103	1704151002500	149	1704234101600
12	1604354313200	58	1704102202501	104	1704161100100	150	1704234101700
13	1604354313300	59	1704102202600	105	1704161101300	151	1704234101800
14	1604354313400	60	1704102202800	106	1704161101400	152	1704234103000
15	1604354313500	61	1704102202999	107	1704161101500	153	1704234103100
16	1604354313600	62	1704102203000	108	1704161101900	154	1704234103200
17	1703070001000	63	1704102204198	109	1704161102000	155	1704234103300
18	1703070001002	64	1704102204200	110	1704161103300	156	1704234103400
19	1704010008500	65	1704102204300	111	1704161103400	157	1704234103600
20	1704012300800	66	1704102204401	112	1704161103700	158	1704234103700
21	1704013100327	67	1704102204500	113	1704161400100	159	1704234105200
22	1704013100328	68	1704142100101	114	1704161405900	160	1704234105300
23	1704013100329	69	1704142100129	115	1704161406000	161	1704234105400
24	1704021300415	70	1704142100131	116	1704161406100	162	1704234105700
25	1704021300416	71	1704142100132	117	1704161406200	163	1704234105701
26	1704021300417	72	1704142100133	118	1704161406300	164	1704234200300
27	1704021300418	73	1704142100134	119	1704161406400	165	1704234200400
28	1704040001000	74	1704142100135	120	1704161407800	166	1704234200500
29	1704040001002	75	1704142100136	121	1704231300118	167	1704234202401
30	1704040002101	76	1704142100137	122	1704231301900	168	1704234202500
31	1704040002200	77	1704142100138	123	1704231302000	169	1704234202600
32	1704044400400	78	1704142100139	124	1704231302900	170	1704234202700
33	1704044400500	79	1704142100142	125	1704231302905	171	1704234202800
34	1704090000103	80	1704142100143	126	1704231303000	172	1704234402800
35	1704091100200	81	1704142100144	127	1704231303100	173	1704234402900
36	1704091100500	82	1704142100145	128	1704231306600	174	1704234403000
37	1704091100600	83	1704142100146	129	1704231306701	175	1704234403100
38	1704091101000	84	1704142100147	130	1704231306702	176	1704234403200
39	1704091101400	85	1704142202258	131	1704231306800	177	1704234403300
40	1704091101500	86	1704142202259	132	1704231306801	178	1704234403400
41	1704091101600	87	1704142202260	133	1704232000114	179	1804030005103
42	1704091101800	88	1704142202261	134	1704232000115	180	1804030006704
43	1704091101801	89	1704142202262	135	1704232000199	181	1804030006900
44	1704091101802	90	1704142202263	136	1704232002401		
45	1704091101900	91	1704142202264	137	1704234100200		
46	1704091102000	92	1704142202265	138	1704234100201		

Attachment A - Exhibit D
Legislative Findings
to Ordinance No. _____
(Legislatively Updated)

Code Amendments. Eugene Code Section 9.8065 requires that the following criteria (in bold and italic) be applied to a code amendment.

(1) Is consistent with applicable statewide planning goals as adopted by the Land Conservation and Development Commission.

Goal 1 Citizen Involvement: To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

The City of Eugene land use code implements Statewide Planning Goal 1 by requiring that notice of the proposed amendments be given and public hearings be held prior to adoption.

The process leading up to the development of the Water Quality Waterways Ordinance has provided numerous opportunities for citizen involvement. In June 2006, the city hosted an Open House to provide information and receive input on a preliminary proposal for water quality waterway protection. Notice of the open house was sent to all potentially affected property owners, and a list of over 300 interested persons. A news release about the open house was issued and a display ad was placed in the local newspaper. A web site was established to convey information about the proposal, the citizen involvement and adoption process, and staff contact information. Three newspaper articles were published in the local paper between June 2006 and August 2006 regarding the proposal. Subsequent to the open house, between August 2006 and March 2007, four separate postcards were sent to all potentially affected property owners and interested persons to convey the most up-to-date process and timeline, a project web address for additional information, and staff contact information. Site visits were conducted upon request to confirm the accuracy of the City's digital information regarding the existence and location of waterways, and the applicability of the proposed protections to individual sites. Presentations about the proposal were made to interested groups upon request. The citizen input received on the preliminary proposal resulted in significant changes and in November 2007, a notice describing the revised proposal was sent to all potentially affected property owners and interested persons with an updated public hearing and adoption schedule.

The City of Eugene's land use code implements Statewide Planning Goal 1 by requiring that notice of the proposed land use code amendments be given and public hearings be held prior to adoption. Consideration of this ordinance began with a Eugene Planning Commission work session on January 14, 2008. On January 15, 2008, a public hearing was held before the Eugene Planning Commission on the proposed amendments. Department of Land Conservation and Development notice, notice to affected property owners, Planning Commissioners, neighborhood

group leaders and interested persons, as well as a legal notice in the local newspaper were provided for that hearing.

A worksession with the Eugene City Council was held on May 12, 2008, and a City Council public hearing was conducted on May 19, 2008, for which notice to affected property owners, Planning Commissioners, neighborhood group leaders and interested persons, as well as a legal notice in the local newspaper were provided. Three people testified at the public hearing, and 23 pieces of public testimony were received through the public hearing proceedings. A follow up worksession was held on June 18, 2008 and again on January 28, 2009 for purposes of considering purchasing conservation easements as an alternative approach to regulatory protections. The Eugene City Council is scheduled to take action on the proposed ordinance on March 9, 2009.

The project web site is regularly updated to inform interested persons of the status of the proposal, and provides links to City Council materials, a detailed map showing the proposed protected areas, other related information.

The process for adopting these amendments complies with Goal 1 since it complies with, and surpasses the requirements of the State's citizen involvement provisions.

Goal 2 - Land Use Planning: To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

The Eugene-Springfield Metropolitan Area General Plan (Metro Plan) is a policy tool that provides a basis for decision-making in this area. The Metro Plan was acknowledged by the State in 1982 to be in compliance with statewide planning goals. The Eugene Comprehensive Stormwater Management Plan (CSWMP), a refinement to the Metro Plan specifically related to reducing stormwater pollution, adopted by the City of Eugene only, provides additional policy basis for decision-making in this area. CSWMP was acknowledged by the State to be in compliance with statewide planning goals.

These findings and record show that there is an adequate factual base for decisions to be made concerning the proposed amendments. Goal 2 requires that plans be coordinated with the plans of affected governmental units and that opportunities be provided for review and comment by affected governmental units. The Goal 2 coordination requirement is met when the City engages in an exchange, or invites such an exchange, between the city and any affected governmental unit and when the City uses the information obtained in the exchange to balance the needs of the citizens. To comply with the Goal 2 coordination requirement, the City provided information and sought input on these proposed land use code amendments from all affected governmental units. Specifically, Lane County, Oregon Department of Transportation, Eugene Water & Electric Board and other affected governmental agencies were notified as affected property owners of the June 2006 Open House and subsequent schedule updates and changes to the proposal. City staff communicated with Lane County staff, Oregon Department of Transportation staff, and Eugene Water & Electric Board staff during the development of this

proposal to obtain their input which was subsequently factored into the updated proposal. There are no Goal 2 exceptions required for this ordinance.

Goal 3 - Agricultural Land: To preserve and maintain agricultural lands.

Goal 3 is not applicable to this ordinance as the subject sites and actions do not affect any agricultural plan designation or use. Goal 3 excludes lands inside an acknowledged urban growth boundary from the definition of agricultural lands. Since the ordinance only applies to land entirely within the acknowledged urban growth boundary, Goal 3 is not relevant and the ordinance does not affect the area's compliance with Statewide Planning Goal 3.

Goal 4 - Forest Land: To conserve forest lands.

Goal 4 is not applicable to this ordinance as the subject sites and actions do not affect any forest plan designation or use. Goal 4 does not apply within urban growth boundaries and, therefore, does not apply to the adoption of this ordinance. Goal 4 is not relevant and the ordinance does not affect the area's compliance with Statewide Planning Goal 4.

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

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.*

The areas regulated by this ordinance do not include Goal 5 resource sites. 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, do not allow new uses that could be conflicting uses with a particular Goal 5 resource site, and do not amend the acknowledged Urban Growth Boundary.

Therefore, Statewide Planning Goal 5 does not apply to these code amendments.

Goal 6 - Air, Water and Land Resources Quality: To maintain and improve the quality of the air, water, and land resources of the state.

Goal 6 addresses waste and process discharges from development, and is aimed at protecting air, water and land from impacts from those discharges. The proposed regulations are a key aspect of the City's response to federal Clean Water Act regulations, specifically the Upper Willamette Basin Total Maximum Daily Load (TMDL). Several waterways in Eugene do not state water quality standards for certain pollutants. For these waterways, the state of Oregon Department of Environmental Quality, the state agency charge with implementing TMDL regulations, has developed the Upper Willamette TMDL to bring these waterways back into compliance with state standards. The Upper Willamette TMDL allocates pollutant loads to designated management agencies, including the City of Eugene that have the authority to implement water quality improvements within their jurisdictional boundaries. One management strategy identified in the Upper Willamette TMDL for addressing multiple pollutants is the application of streamside buffers.

Therefore, the ordinance is consistent with Statewide Planning Goal 6.

Goal 7 - Areas Subject to Natural Disasters and Hazards: To protect life and property from natural disasters and hazards.

Goal 7 requires that local government planning programs include provisions to protect people and property from natural hazards such as land slides. This ordinance does not directly address potential natural disasters and hazards. These hazards are addressed by separate studies and protection measures. However, the /WQ overlay zone prohibits construction within specified setbacks of the identified waterways. As such, the overlay zone provides benefits with relation to flood impacts to real property and thus could provide further protections consistent with Statewide Planning Goal 7.

Goal 8 - Recreational Needs: To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Goal 8 ensures provision of recreation facilities to Oregon citizens and is primarily concerned with the provision of those facilities in non-urban areas of the state. The proposed ordinance will not impact provision of recreational facilities, nor will it affect access to existing or future recreational facilities. Therefore, the ordinance is consistent with Goal 8.

Goal 9 - Economic Development: To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

The ordinance will not impact the supply of industrial or commercial lands. Therefore, the amendments are consistent with Goal 9. The /WQ overlay zone does not render a property unusable for commercial or industrial uses. In fact, specific provisions in the /WQ overlay zone ensure that the overlay zone does not have such an effect on a property. Some of those provisions are:

1. The use restrictions of the /WQ overlay zone only apply to that portion of a lot, or right-of-way area, that is within the channel of an identified /WQ waterway and the specified setback distance from the waterway based on the associated setback measurement point. The use-restricted area is referred to as the “/WQ setback management area.” Within the portions of the lot that are outside of the /WQ management area, land uses are not restricted by the /WQ overlay zone. EC 9.4780(1). Properties that have a base zoning and designation allowing commercial or industrial uses can still be developed with such uses on those portions of the lot that are not within the /WQ management area.
2. If the regulated area occupies more than 33% of a development site area, upon application of the property owner, and consistent with the other criteria of EC 9.8030(25)(a), the City will reduce the size of the /WQ conservation area to ensure that the area constitutes no more than 33% of the development site area.
3. Upon application of the owner of a lot with the /WQ overlay that shows consistency with the criteria of EC 9.8030(25)(b), the city will reduce the size of the setback distance.
4. Upon application of the owner of a lot with the /WQ overlay that shows consistency with the criteria of EC 9.8030(25)(c), the city will allow uses not otherwise identified in the ordinance, or approve a different means of protecting water quality to allow a proposed development that would not be permissible under the strict application of the ordinance.

Considering these provisions of the /WQ overlay zone, the application of the overlay zone to a property zoned and designated for commercial or industrial use does not result in an unlawful diminution in the area’s supply of commercial or industrial land.

Even supposing the provisions above were not a part of the overlay’s regulations, the overlay is being applied to such a small number of acres included in the area’s inventories of commercial and industrial lands that this ordinance overlay could not diminish the area’s supply of those lands below the projected need.

An analysis of potential impacts to the supply of buildable commercial lands within the Eugene city limits and UGB was conducted using the regional Geographic Information System (GIS) and calculations of supply and demand from the Eugene Commercial Lands Study, 1992. The State-acknowledged Eugene Commercial Lands Study included a surplus of Commercial acreage of 170 acres. This acreage represents those lands that were designated as commercial lands, beyond the acreage needed to accommodate the projected 20-year demand. Since the adoption of that Study, the City has taken various actions through December 2008 that have had a net decrease in the amount of surplus commercial acreage, resulting in a current surplus of 94.29 acres. Even if the provisions described in 1.-4., above, were not included in the ordinance, the /WQ regulations contained in this ordinance could affect, at most, 1.30 acres of commercially designated land all located within the current city limits, leaving a surplus of 92.99 acres.

An analysis of potential impacts to the supply of buildable industrial lands within the Eugene UGB was conducted using the regional Geographic Information System (GIS), data provided by

City of Springfield staff and calculations of supply and demand from the Metropolitan Industrial Lands Inventory Report, 1993. The State-acknowledged Metropolitan Industrial Lands Inventory Report included a surplus of industrial acreage of 2,954.28 acres (considering a low demand assumption) or of 2,432.28 acres (considering a high demand assumption). This acreage represents those lands that were designated as industrial lands, beyond the acreage needed to accommodate the projected 20-year demand. Since the adoption of that Report, Eugene and Springfield have taken various actions that have had a net decrease in the amount of surplus industrial acreage, resulting in a current surplus of either 2,048.37 acres (considering a low demand assumption) or of 1,526.37 acres (considering a high demand assumption). The /WQ regulations will impact 14.28 acres of industrial buildable land within the city limits, leaving a surplus of 2,034.09 acres (considering a low demand) and 1,512.09 acres (considering a high demand). Outside the city limits and within the UGB, /WQ regulations will affect 12.89 industrial acres for a total impact of 27.17 acres when added to impact acres within the city limits. Total /WQ impact acres, within and outside the city limits and within the UGB, will leave a net surplus supply of 2,021.20 acres (considering a low demand) and 1,499.20 acres (considering a high demand). Therefore, even if the provisions described in 1. – 4., above, were not included in the ordinance, the /WQ regulations contained in this ordinance, or an ordinance applying /WQ to acres outside the city limits and within the UGB, do not unlawfully diminish the supply of industrial land.

Based on the forgoing discussion and analysis, it is clear that even if the maximum possible area within the proposed /WQ management area was treated as a subtraction from the buildable lands inventory, and taking into account plan amendments that took land out of commercial and industrial categories, and taking into account legislative zone changes, there would still be a net surplus of buildable lands in the applicable categories for both industrial and commercial land.¹

Therefore, the ordinance is consistent with Goal 9.

Goal 10 - Housing: To provide for the housing needs of the citizens of the state.

The /WQ overlay zone does not render a property unusable for residential uses. In fact, specific provisions in the /WQ overlay zone ensure that the overlay zone does not have such an effect on a property. Some of those provisions are:

1. The use restrictions of the /WQ overlay zone only apply to that portion of a lot, or right-of-way area, that is within the channel of an identified /WQ waterway and the specified setback distance from the waterway based on the associated setback measurement point. The use-restricted area is referred to as the “/WQ setback management area.” Within the portions of the lot that are outside of the /WQ management area, land uses are not restricted by the /WQ overlay zone. EC 9.4780(1). Properties that have a base zoning and designation allowing commercial or

¹ The City’s adoption of the /WQ regulations do not impact land outside of the City limits. If Lane County chooses to adopt similar provisions, it will assess its impact at that time. The land identified to receive the /WQ overlay zone upon annexation includes no commercial buildable land and 12.89 acres of industrial buildable land. However, it is not clear when, if ever these parcels will be annexed or, whether, when they do annex, they will qualify for an exemption under the ordinance. Even if these parcels are considered as debits to the existing surplus, the ordinance is consistent with Goal 9.

industrial uses can still be developed with such uses on those portions of the lot that are not within the /WQ management area.

2. If the regulated area occupies more than 33% of a development site area, upon application of the property owner, and consistent with the other criteria of EC 9.8030(25)(a), the City will reduce the size of the /WQ conservation area to ensure that the area constitutes no more than 33% of the development site area.
3. Upon application of the owner of a lot with the /WQ overlay that shows consistency with the criteria of EC 9.8030(25)(b), the city will reduce the size of the setback distance.
4. Upon application of the owner of a lot with the /WQ overlay that shows consistency with the criteria of EC 9.8030(25)(c), the city will allow uses not otherwise identified in the ordinance, or approve a different means of protecting water quality to allow a proposed development that would not be permissible under the strict application of the ordinance.

Considering these provisions of the /WQ overlay zone, the application of the overlay zone to a property zoned and designated for residential use does not result in an unlawful diminution in the area's supply of residential land.

Even supposing the provisions above were not a part of the overlay's regulations, the overlay is being applied to such a small number of acres included in the area's inventory of residential lands that this ordinance overlay could not deplete the area's supply of those lands below the projected need.

An analysis of potential impacts to the supply of buildable residential lands within the Eugene UGB was conducted using the regional Geographic Information System (GIS), data provided by City of Springfield staff and calculations of supply and demand from the Supply and Demand Technical Analysis of the Eugene- Springfield Metropolitan Area Residential Lands and Housing Study (RLHS), 1999. The State-acknowledged Eugene-Springfield Metropolitan Area Residential Lands and Housing Study included a surplus of residential acreage of 1,862 acres (considering a low demand assumption) or of 790 acres (considering a high demand assumption). This acreage represents those lands that were designated as residential lands, beyond the acreage needed to accommodate the projected 20-year demand. Since the adoption of that Study, Eugene and Springfield have taken various actions that have had a net decrease in the amount of surplus residential acreage, resulting in a current surplus of either 1,250.33 acres (considering a low demand assumption) or of 178.33 acres (considering a high demand assumption). Even if the provisions described above were not included in the ordinance, the /WQ regulations contained in this ordinance could affect, at most, 45.75 acres of residentially designated land within the city limits, leaving a surplus of 1,204.58 acres (considering a low demand assumption) or of 132.58 acres (considering a high demand assumption).

Outside the city limits and within the UGB, /WQ regulations will affect 25.99 residentially designated land acres for a total impact of 71.74 acres when added to impact acres within the city limits. Total /WQ impact acres, within and outside the city limits, will leave a net surplus supply of 1,178.59 acres (considering a low demand) and 106.59 acres (considering a high demand).

Based on the forgoing discussion and analysis, it is clear that even if the maximum possible area within the proposed /WQ management area was treated as a subtraction from the residential buildable lands inventory, and taking into account plan amendments that took land out of residential categories, and taking into account previous legislative zone changes, there would still be a net surplus of buildable lands in the applicable categories for residential land.²

Therefore, the ordinance is consistent with Goal 10.

Goal 11 - Public Facilities and Services: To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

The area affected by this ordinance is located inside the city limits and is served by the public facilities in which the existing level of service is adequate to serve the needs of existing and future development. The provisions of this ordinance do not affect the planning or development of future public facilities or services. Therefore, the ordinance is consistent with Goal 11.

Goal 12 - Transportation: To provide and encourage a safe, convenient and economic transportation system.

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.

Adoption of the ordinance will not significantly affect an existing or planned transportation facility. Therefore, Goal 12 is not implicated by this ordinance.

Goal 13 - Energy Conservation: To conserve energy.

This ordinance does not concern energy conservation. Therefore, Goal 13 does not apply.

Goal 14 - Urbanization: To provide for an orderly and efficient transition from rural to urban land use.

This ordinance does not effect the transition from rural to urban land use. It applies only to property already within the City limits. Therefore, Goal 14 does not apply to this ordinance.

² The City's adoption of the /WQ regulations do not impact land outside of the City limits. If Lane County chooses to adopt similar provisions, it will assess its impact at that time. The land identified to receive the /WQ overlay zone upon annexation includes 25.99 acres of buildable residential land. However, it is not clear when, if ever these acres will be annexed or, whether, when they do annex, they will qualify for an exemption under the ordinance. Even if these parcels are considered as debits to the existing surplus, the ordinance is consistent with Goal 10.

Goal 15 - Willamette River Greenway: To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

The Willamette Greenway area within the Eugene Urban Growth Boundary and city limits is governed by existing local provisions which have been acknowledged as complying with Goal 15. Those provisions are unchanged by this ordinance. The proposal does not affect any area within the Willamette Greenway Boundary and, even if it did, the proposed provisions would serve to further implement this goal by providing water quality setback protections along affected waterways.

Goal 16 through 19 (Estuarine Resources, Coastal Shorelands, Beaches and Dunes, and Ocean Resources):

There are no coastal, ocean, estuarine, or beach and dune resources related to the property affected by this ordinance. Therefore, these goals are not relevant and the ordinance will not affect compliance with Goals 16 through 19.

(2) *Is consistent with applicable provisions of the Metro Plan and applicable adopted refinement plans.*

The proposed code adds regulations to the Land Use Code with the intent of protecting those waterways that have a significant relationship to waterways identified by the state Department of Environmental Quality as not meeting water quality standards but that are not otherwise regulated in a way that protects water quality. The proposed /WQ Water Quality Overlay Zone designates a regulated “water quality management area” which is comprised of the waterway channel and its applicable setback. The proposed setback distance, applied to both sides of the regulated waterway, is either 25 feet measured from the top of high bank for a tributary to a water quality limited stream –or– 40 feet measured from centerline for a headwater stream.

METRO PLAN POLICIES.

The above described /WQ overlay regulations are consistent with the following Metro Plan Policies:

C. Environmental Resources Element

Air, Water and Land Resources Quality (Goal 6)

C.25 Springfield, Lane County, and Eugene shall consider downstream impacts when planning for urbanization, flood control, urban storm runoff, recreation, and water quality along the Willamette and McKenzie Rivers.

The overlay zone restricts development activities and other uses within and adjacent to certain waterways to protect the quality of stormwater runoff and water quality in receiving waterways including the Willamette River.

C.26 Local governments shall continue to monitor, to plan for, and to enforce applicable air and water quality standards and shall cooperate in meeting applicable federal, state, and local air and water standards.

The overlay zone is one element of a broader pollution reduction strategy in response to federal water quality standards including the Clean Water Act and related Upper Willamette Total Maximum Daily Load (TMDL).

C.33 Eugene shall maintain and improve hillside development regulations.

The overlay zone prevents development immediately adjacent to headwater streams that are otherwise unprotected and which are particularly sensitive to development impacts that are detrimental to receiving water quality. Headwater streams are streams located in hillside areas on slopes greater than 10%, in areas with highly erodible soils, and that drain at least 10 acres.

D. Willamette River Greenway, River Corridors, and Waterways Element

D.2 Land use regulations 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.

The allowed uses in the /WQ overlay zone are consistent with this policy.

D.5 New development that locates along river corridors and waterways shall be limited to uses that are compatible with the natural, scenic, and environmental qualities of those water features.

The allowed uses in the /WQ overlay zone are consistent with this policy.

E. Environmental Design Element

E.2 Natural vegetation, natural water features, and drainage-ways shall be protected and retained to the maximum extent practical. Landscaping shall be utilized to enhance those natural features. This policy does not preclude increasing their conveyance capacity in an environmentally responsible manner.

Provisions of the /WQ overlay zone explicitly address the protection of natural vegetation, water features, and drainageways and are therefore consistent with this policy.

G. Public Facilities and Services Element

Services to Development Within the Urban Growth Boundary: Stormwater

G.13 Improve surface and ground water quality and quantity in the metropolitan area by developing regulations or instituting programs for stormwater to:

- a. Increase public awareness of techniques and practices private individuals can employ to help correct water quality and quantity problems;*
- b. Improve management of industrial and commercial operations to reduce negative water quality and quantity impacts;*
- c. Regulate site planning for new development and construction to better manage pre- and post-construction storm runoff, including erosion, velocity, pollutant loading, and drainage;*
- d. Increase storage and retention and natural infiltration of storm runoff to lower and delay peak storm flows and to settle out pollutants prior to discharge into regulated waterways;*
- e. Require on-site contracts and development standards, as practical, to reduce off-site impacts from stormwater runoff;*
- f. Use natural and simple mechanical treatment systems to provide treatment for potentially contaminated runoff waters;*
- g. Reduce street-related water quality and quantity problems;*
- h. Regulate use and require containment and/or pretreatment of toxic substances;*
- i. Include containment measures in site review standards to minimize the effects of chemical and petroleum spills; and*
- j. Consider impacts to ground water quality in the design and location of dry well.*

The /WQ overlay zone regulates development uses and activities within a designated water quality management area, retains the natural filtration capabilities of certain waterways, and includes mitigation provisions for when, in certain circumstances, water quality impacts are unavoidable.

G.16 *Manage or enhance waterways and open stormwater systems to reduce water quality impacts from runoff to improve stormwater conveyance.*

The /WQ overlay zone includes allowances for management practices that are beneficial to water quality or that are not harmful to water quality.

G.17 *Include measures in local land development regulations that minimize the amount of impervious surface in new development in a manner that reduces stormwater pollution, reduces the negative effects from increases in runoff, and is compatible with Metro Plan policies.*

The /WQ overlay zone includes measures that prohibit additional impervious surface area adjacent to and within certain streams to reduce additional negative water quality effects of development related activities and uses.

REFINEMENT PLAN POLICIES

The above described /WQ overlay regulations are consistent with the following Refinement Plan Policies:

Comprehensive Stormwater Management Plan Policies

1.1 Incorporate the beneficial functions (flood control, stormwater conveyance, water quality treatment) of natural resources into the City's storm drainage system.

Establishment of a /WQ overlay zone protects certain waterways that have important water quality functional benefits and are vulnerable to impact from development uses and activities. The overlay zone protections signify the importance of these waterways to the City's storm drainage system.

1.2 Maintain flood control, drainage, and water quality treatment capacities along the City's stormwater conveyance corridors while protecting and enhancing the health, diversity and continuity for wildlife habitat, native vegetation, and endangered species.

The overlay zone includes provisions to protect the water quality treatment capacities of certain waterways, while at the same time maintaining the flood control and conveyance functions, and protecting and enhancing native vegetation.

1.4 Amend existing regulations and administrative policies and practices to be consistent with the goals and policies of the Stormwater Plan.

The proposal amends the Eugene Code to add a /WQ Water Quality Overlay Zone, in fulfillment of Stormwater Plan policies.

1.5 Develop new design standards and maintenance practices that meet the multiple objectives of the Stormwater Plan.

The overlay zone includes specific criteria and development standards for certain allowed uses within the /WQ management area which meet the multiple objectives of the Stormwater Plan.

2.1 Meet or exceed federal flood hazard requirements.

The overlay zone includes provisions that enable maintenance of storm drainage channels in accordance with applicable federal guidelines, regulations, and maintenance agreements.

3.1 Meet or exceed federal and state stormwater quality requirements especially where they conform with existing local policy.

The /WQ overlay zone protects waterways which are identified by the state of Oregon Department of Environmental Quality as water quality impaired (on the state's "303(d) List"), waterways that drain directly into a water quality impaired waterway, and

headwater tributaries that are particularly sensitive to erosive effects of increased stormwater runoff from new development and that drain into a water quality impaired waterway –AND- which are not otherwise protected by existing regulations. The Upper Willamette Total Maximum Daily Load lists the City of Eugene as a Designated Management Agency, responsible for developing and implementing a plan to achieve water quality improvement goals for water quality impaired waterways including Amazon Creek, A3 Channel, Amazon Diversion Channel, Willow Creek and the Willamette River. The overlay zone meets federal and state stormwater quality requirements and conforms with existing Stormwater Plan policies.

3.3 Reduce stormwater pollution associated with new construction and development, soil erosion, improper use of stormwater facilities, and city operations and maintenance practices.

The /WQ overlay zone protects certain waterways from adverse water quality impacts from development uses and activities that could be harmful to water quality including new construction, vegetation removal, soil disturbance, and operations and maintenance practices. The overlay zone includes provisions to mitigate for the water quality impact of certain uses and activities for which there is no other alternative.

4.1 Maintain the stormwater system through techniques and practices that balance flood control, drainage services, water quality, and natural resource protection needs.

The /WQ overlay zone insures that channel maintenance practices are protective of the water quality function of specifically identified waterways.

6.1 Encourage and support communication, coordination and cooperative efforts that maximize available resources, reduce duplication of services, and prevent management conflict.

The City collaborated with Oregon Department of Transportation, Lane County and Eugene Water & Electric Board staff during the development of this proposal to obtain their input. The /WQ overlay zone provisions include allowances for routine channel maintenance that do not adversely impact water quality. The overlay zone includes provisions to mitigate for the water quality impact of certain uses and activities for which there is no other alternative.

Bethel Danebo Refinement Plan (as amended, January 13, 2003) Policies

II-D I. The Royal Avenue Specific Plan shall serve as the basis for development regulations and infrastructure improvements within the Royal Avenue Specific Plan area. Amendments to land use regulations for the Royal Avenue Node shall be consistent with the Land Use Element of the Royal Avenue Specific Plan.

The /WQ overlay zone will not be applied to any properties within the Royal Special Area Zone. The Royal Avenue Specific Plan includes provisions for the protection and utilization of drainage channels for multiple functions including water quality protection.

Bethel Danebo Neighborhood Refinement Plan Phase 2 – West Eugene Industrial Study and Roosevelt Extension and Drainage Facility Policies

West Eugene Industrial Study IV.A.4 Further information on industrial wastewater run-off and water quality should be used as input in revising development regulations affecting drainage and the multiple-use potential of drainage channels in the West Eugene Industrial Area.

The /WQ overlay zone includes provisions to protect specific waterway from the impacts of uses and activities that could impact water quality. The waterways identified for protection include those listed by the state Department of Environmental Quality as water quality impaired (on the state’s “303(d) List”), waterways that drain directly into a water quality impaired waterway, and headwater tributaries that are particularly sensitive to erosive effects of increased stormwater runoff from new development and that drain into a water quality impaired waterway –AND- which are not otherwise protected by existing regulations. The Roosevelt Channel and the West Beltline Floodway are identified for protection by the /WQ Overlay.

Laurel Hill Plan Policies

Laurel Hill Valley Neighborhood

I.C.6. The Laurel Hill Plan supports the South Hills Study standards. In general, alteration of land contours shall be minimized to retain view of natural features and retain as much of the forested atmosphere as possible. Aside from purely aesthetic considerations, these hillsides demand care in development because the topsoil is thin and the water runoff is rapid. Proposed developments shall respect the above considerations. ”

III.C.3. Right-of-way maintenance should be provided for footpaths and natural drainage channels, and channel banks should be closed to construction. ...”

East Laurel Hill Area

I. Many of the plan provisions that apply to the Laurel Hill Valley also apply to East Laurel Hill. Plans for development should take into account the existing natural conditions, including the topographical features, vegetation, and natural drainage.....”

The /WQ overlay zone would ensure that sensitive headwater streams are protected from the impact of certain uses and activities that would adversely affect the structural integrity of the streams and impair receiving water quality. The headwater streams protected by /WQ, including some in Laurel Hill, are those that are in steeply sloped areas, with shallow, erodible soils, and are not otherwise protected.

River Road – Santa Clara Urban Facilities Plan Policies

3.1 (Storm Sewers/Drainage)

Policy 2. If a large annexation in the River Road – Santa Clara area occurs, enclosed storm drains shall be eventually installed to replace roadside ditches.

The /WQ overlay zone does not apply protections to roadside ditches unless those waterways have a significant relationship to waterways identified by the state Department of Environmental Quality as not meeting water quality standards, are not otherwise protected, and provide a drainage function for a larger area beyond the roadway. Based upon the weight of the other Metro Plan and refinement plan policies in support of the /WQ overlay zone, and given the early date of this policy (1987), the /WQ overlay zone is not inconsistent with Policy 2.

Policy 3. *As annexation or incorporation occurs, a comprehensive drainage plan for the area shall be developed in cooperation with Lane County and other appropriate agencies.*

3.b. *Identify those portions of the open storm drainageways which can be retained and those which should be eliminated and provide sufficient right-of-way or easements for their continued maintenance.*

The /WQ overlay zone applies protections to specific waterways identified due to their significant relationship to waterways on the state DEQ's list as not meeting water quality standards, that currently provide water quality functions, and that are otherwise unprotected from the impact of certain uses and activities detrimental to water quality. The proposal identifies the waterways that should be retained as open storm drainageways.

Policy 6. *In the event of incorporation or annexation, the responsible general purpose government shall:*

a. *Adopt ordinance prohibiting dumping in open drainage channels.*

The ordinance identified (Exhibit C) specific taxlots outside the city limits and inside the urban growth boundary to which the /WQ overlay zone would be applied upon annexation, if and when the properties annex to the city of Eugene.

South Hills Study Recommendations

D (Development Standards) II (Specific Recommendations) 9. *That all developments (planned unit developments or subdivisions) in the south hills area be reviewed to insure maximum preservation of existing vegetation.*

The /WQ overlay zone includes provisions that limit the removal of existing vegetation and require planting of any bare soil resulting from allowed vegetation removal.

West Eugene Wetland Plan Policies

The /WQ overlay zone does not apply to any properties within the West Eugene Wetland Plan Boundary. The West Eugene Wetlands Plan outlines mechanisms for balancing wetland protection with urban development. The Plan calls for the protection of over 1,000 acres of wetlands through a multiple objectives strategy addressing flood control, drainage services, water quality treatment, and natural resources. It addresses the issue of

stormwater and supports the use of management approaches that incorporate natural systems for water quality and other beneficial uses.

Willakenzie Area Policies

Public Facilities and Services Element, Storm Drainage Facilities

1. Encourage development practices that reduce the need for construction of an extensive subsurface storm sewer system.

The ordinance regulates specific waterways determined to be important to water quality and not otherwise protected, thus ensuring their continued function in an open condition as an important part of the city's stormwater system.

2. Encourage growth and development patterns that are compatible with natural features and discourage the alteration of natural features. Relocation of natural drainage features may be considered as an alternative to replacement with a closed pipe system.

The /WQ overlay zone regulates certain waterways including limiting alterations to the waterways. The ordinance includes provisions that allow channel relocation and reconfiguration under certain circumstances, and with water quality mitigation requirements.

3. Encourage measures that will improve the quality of stormwater runoff discharged into local waterways.

The /WQ overlay zone protects existing water quality functions of certain waterways. The ordinance is a compliment to existing adopted stormwater development standards which require on-site pollution reduction and flow control measures.

(3) In the case of establishment of a special area zone, is consistent with EC 9.3020 Criteria for Establishment of an S Special Area Zone.

The amendments do not establish a special area zone.

Application of the Overlay Zone Eugene Code Section EC 9.8856 requires that the following criteria (in bold and italic) be applied to a proposal to rezone properties:

(1) The proposed change is consistent with applicable provisions of the Metro Plan. The written text of the Metro Plan shall take precedence over the Metro Plan diagram where apparent conflicts or inconsistencies exist.

See above.

(2) The proposed zone change is consistent with applicable adopted refinement plans. In the event of inconsistencies between these plans and the Metro Plan, the Metro Plan controls.

The overlay zone does not change the base zoning of a parcel, which has already been found to be consistent with any applicable refinement plan.

(3) The uses and density that will be allowed by the proposed zoning in the location of the proposed change can be served through the orderly extension of key urban facilities and services.

The uses and densities of development allowed in the zone are less of a tax on the key urban facilities and services already serving or planned for the effected areas.

(4) The proposed zone change is consistent with the applicable siting requirements set out for the specific zone in: [(a) through (l)]

Although not listed in EC 9.8856(4), the siting requirements for the /WQ Water Quality Overlay Zone applicable to the proposed were addressed above.