

LAND USE  
BOARD OF APPEALS

BEFORE THE LAND USE BOARD OF APPEALS  
OF THE STATE OF OREGON

MAR 21 2 38 PM '86

1	ALVIN URQUHART,	)	
2		)	
3	Petitioner,	)	LUBA No. 85-083
4		)	
5	vs.	)	FINAL OPINION
6		)	AND ORDER
7	LANE COUNCIL OF GOVERNMENTS,	)	
8		)	
9	and	)	
10		)	
11	CITY OF EUGENE,	)	
12		)	
13	Respondents.	)	

11 Appeal from City of Eugene.

12 Alvin Urguhart, Eugene, filed the petition for review and  
13 argued on his own behalf.

14 Timothy Sercombe, Eugene, filed a response brief and argued  
15 on behalf of Lane Council of Governments and City of Eugene.  
With him on the brief were Harrang, Swanson, Long, and  
Watkinson, P.C.

16 Peter Swan, Eugene, filed a brief and argued on behalf of  
17 Intervenor University of Oregon.

18 DUBAY, Referee; KRESSEL, Chief Referee; BAGG, Referee;  
participated in the decision.

19 REMANDED 03/21/86

20 You are entitled to judicial review of this Order.  
21 Judicial review is governed by the provisions of ORS 197.850.  
22  
23  
24  
25  
26

1 Opinion by DuBay.

2 NATURE OF THE DECISION

3 Petitioner appeals an amendment to the Metro Area General  
4 Plan for Lane County and the Cities of Eugene and Springfield.  
5 The amendment adds a new category of land use,  
6 "University/Research," and applies the new designation to 71  
7 acres in the City of Eugene.

8 FACTS

9 The Metro Area General Plan (Metro Plan) is an overall  
10 planning document for the Cities of Eugene and Springfield as  
11 well as the urbanizable portion of Lane County adjacent to the  
12 two cities. The Metro Plan provides the framework for more  
13 detailed "refinement plans" applicable to particular areas. To  
14 implement a refinement plan for a 148 acre area in the City of  
15 Eugene, the city initiated the Riverfront Park Study (RPS).

16 The draft RPS was reviewed by the Eugene Planning  
17 Commission. The RPS includes a policy that urges the city to  
18 seek amendment of the Metro Plan to allow the mixed use type of  
19 development recommended in the RPS. Accordingly, the planning  
20 commission recommended adoption of the RPS as well as a Metro  
21 Plan amendment to create a new land use category,  
22 "University/Research," and to designate 71 acres in the study  
23 area owned by the University of Oregon as University/Research.

24 The Eugene City Council initiated the Metro Plan amendment  
25 on June 17, 1985. In accordance with the prescribed procedures  
26 to amend the Metro Plan, the amendment was submitted to the

1 City of Springfield and Lane County before final action by the  
2 City of Eugene. Both jurisdictions approved the amendment.  
3 The Eugene City Council adopted the amendment by Ordinance No.  
4 19348 on September 9, 1985. The final step in the amendment  
5 procedure was by Resolution 85-3 of the Lane Council of  
6 Governments, ratifying the plan amendment.

7 Petitioner appeals Eugene Ordinance No. 19348 and the  
8 ratifying resolution of the Lane Council of Governments.

9 The area subject to the plan amendment is between the  
10 Willamette River on the north and Franklin Boulevard on the  
11 south and is generally north of the University of Oregon  
12 campus. Part of the 71 acres are in the Willamette River  
13 Greenway. Before the plan amendment, the northern 26 acres  
14 were designated "Parks and Open Space," and the southern 45  
15 acres were designated "Government and Education" on the Metro  
16 Plan diagram.

17 The new land use category created by the amendment is as  
18 follows:

19 "This category represents property which is located in  
20 proximity to the University of Oregon campus. It is  
21 primarily intended to accomodate (sic) light  
22 industrial, research and development, and office uses  
23 related to activities, research, and programs of the  
24 University of Oregon. The designation also allows for  
25 mixed use development, including a limited range of  
26 retail and service uses and multiple family  
dwellings. Commercial activities in this category are  
intended to serve the day-to-day needs of employees  
working in and nearby University/Research areas.  
Activities such as general retail and office will  
continue to be located in other appropriately  
designated areas. Development of land in this  
category can play a critical role in the

1 diversification of the metropolitan area's economy by  
2 providing an opportunity to develop industrial  
3 activities which support and utilize research programs  
4 of the University of Oregon."

5 FIRST ASSIGNMENT OF ERROR

6 Petitioner first challenges the decision on procedural  
7 grounds. According to petitioner, the City of Eugene did not  
8 comply with the amendment procedures prescribed by the Metro  
9 Plan. The procedures call for hearings by both the Eugene  
10 Planning Commission and the City Council. Petitioner argues  
11 the Eugene Planning Commission held no hearings on the  
12 amendment. Petitioner claims the planning commission hearings  
13 concerned only adoption of the RPS and not the plan amendment,  
14 which was initiated later by the city council. To buttress  
15 this claim, petitioner cites statements by planning commission  
16 members indicating public comments on the plan amendment would  
17 be appropriate in the future.<sup>1</sup>

18 The published notice of the May 20, 1985 planning  
19 commission hearing on the RPS describes the RPS as the subject  
20 of the hearing. The notice also states:

21 "The draft study recommends instituting an amendment  
22 to the acknowledged Eugene-Springfield Metropolitan  
23 Area General Plan to change the land use designation  
24 in a portion of the study from 'open space' to  
25 'University-Related Research.'"<sup>2</sup>

26 The statements cited by petitioner do not show that public  
27 comments on the plan amendment were restricted at the planning  
28 commission hearing of May 20th.<sup>3</sup> However, even if the  
29 planning commission did not hold a hearing on the plan

1 amendment, petitioner does not allege how he was affected. In  
2 cases of procedural irregularity, reversal or remand of a  
3 decision is permitted only when the defect prejudices the  
4 substantial rights of petitioner. ORS 197.835(8)(a)(B). No  
5 prejudice to a substantial right has been alleged or proved.

6 This assignment of error is denied.

7 SECOND ASSIGNMENT OF ERROR

8 Petitioner alleges the city did not follow quasi-judicial  
9 procedures at the hearings on the plan amendment. He claims  
10 specific deficiencies resulted. They are:

- 11 (1) No opportunity was given to opponents to object  
12 to new testimony presented by the staff.
- 13 (2) Opponents were not allowed to cross-examine  
witnesses.
- 14 (3) No written rebuttal was allowed after the hearing  
15 was closed.

16 The basis of petitioner's first objection - lack of  
17 opportunity to rebut evidence by the planning staff - is  
18 ambiguous. Petitioner cites minutes of the city council  
19 hearing of September 9, 1985, but the minutes show only that  
20 the planning staff made comments to the city council and  
21 answered council members' questions after the public hearing  
22 was closed. Record 136-137. We cannot tell whether the staff  
23 comments constituted new evidence or were comments related to  
24 previously submitted evidence. Nor has petitioner shown that  
25 staff introduced new evidence that was false, incomplete or  
26 misleading.

1 We recognize that land use hearings bodies often rely on  
2 the information and expertise of the planning staff. Should  
3 staff present relevant new facts after the close of public  
4 testimony, the right of participants to rebut evidence may be  
5 prejudiced. However, when, as here, petitioner is unable to  
6 show that last minute staff comments are both evidentiary and  
7 prejudicial, relief may not be granted. ORS 197.835(a)(B).

8 Petitioner next asserts no cross examination of adverse  
9 witnesses was allowed. This challenge must also fail.

10 Petitioner does not allege cross examination was requested or  
11 available under city procedures. Sunnyside Neighborhood v.  
12 Clackamas Co. Comm., 280 Or 3, 9-10, 569 P2d 1063 (1977).

13 Further, the Oregon Courts have yet to include cross  
14 examination as a right in quasi-judicial land use cases.

15 Last, petitioner alleges that by making the decision  
16 immediately following the close of hearings, the city prevented  
17 petitioner from submitting additional written rebuttal  
18 testimony. Petitioner does not, however, set forth a legal  
19 theory to support his claim. He makes no allegation he was  
20 prevented from offering any testimony before the record was  
21 closed. The right to present and rebut evidence does not  
22 include the right to have the final word after the close of the  
23 hearing.

24 This assignment of error is denied.

25 THIRD ASSIGNMENT OF ERROR

26 Petitioner says the decision fails to evaluate alternative

1 courses of action and therefore violates Statewide Goal 2 and  
2 the Metro Plan. According to petitioner, the amendment is  
3 based on a study confined to one area only. In addition,  
4 petitioner claims the city erred by failing to consider his  
5 suggestion for an alternative site for the proposed  
6 University-Research designation.

7 The RPS reviews past planning activities regarding the 148  
8 acre area, and includes maps of existing land uses, zoning  
9 designations, ownerships, traffic access points and floodway  
10 patterns.<sup>4</sup> The study concludes that a Special Development  
11 District zone classification will provide for a variety of  
12 allowable uses combined with case-by-case analysis of  
13 development proposals to insure development will take advantage  
14 of the unique site. The report states:

15 "This policy is meant to establish the direction which  
16 will tie the type of development which could occur in  
17 this area to the primary distinguishing feature of the  
18 Riverfront Park -- its proximity to the University of  
19 Oregon. This policy recognizes that the area's  
20 proximity to the university is unique, and it is this  
21 proximity which should ultimately determine the range  
22 of uses uniquely appropriate for the site." RPS at 5.

19 The study recommends: (1) adding the new  
20 University/Research classification to the Metro Plan to permit  
21 land uses capable of taking advantage of the location and (2)  
22 applying the new designation to the 71 acres of university-owned  
23 land in the study area.

24 Petitioner's claim that the city should have considered  
25 alternative sites for the new designation is derived from Goal 2.  
26

1 The goal provides in part:

2 "All land use plans shall include identification of  
3 issues and problems, inventories and other factual  
4 information for each applicable statewide planning  
5 goal, evaluation of alternative courses of action and  
6 ultimate policy choices, taking into consideration  
7 social, economic, energy and environmental needs."  
8 (Emphasis supplied.)

9 The Goal 2 mandate that comprehensive plans must evaluate  
10 alternative courses of action has been interpreted by this  
11 Board to require a basis in the record for selection of one  
12 classification for a particular tract over the other possible  
13 classifications. In Gruber v. Lincoln County, 2 Or LUBA 180  
14 (1981), the Board said:

15 "We do believe, however, that Goal 2 requires some  
16 explanation in the record how the county resolved to  
17 choose one zone over another."

18 An analysis of alternative sites for a particular use has  
19 been found necessary in connection with satisfaction of Goal 2  
20 exception criteria.<sup>5</sup> See e.g., 1000 Friends of Oregon v.  
21 Douglas County Board of Commissioners, 4 Or LUBA 148 (1981).

22 However, unless a goal exception is involved, we do not  
23 construe Goal 2 to require analysis whether other lands may be  
24 better suited to a given land use designation than land chosen  
25 by the planning jurisdiction. The goal is satisfied when, as  
26 here, the record explains why the classification selected  
(University/Research) was chosen instead of other available  
classifications (Government and Open Space). The findings here  
meet this standard.

Petitioner repeats the alternative sites argument in

1 connection with a claim that the decision violates Goal 9.  
2 This goal requires that comprehensive plans designate  
3 alternative sites suitable for economic growth and expansion.  
4 Petitioner says the purpose of the University/Research  
5 classification is to encourage economic growth and expansion,  
6 but no alternative sites were considered or designated in the  
7 plan. However, Goal 9 requires designation of alternative  
8 locations suitable for economic growth and expansion. It does  
9 not require separate locations for every zone.

10 This assignment of error is denied.

11 FOURTH ASSIGNMENT OF ERROR

12 Petitioner says the amendment is unlawful because it allows  
13 intensification of uses and change of uses in violation of Goal  
14 15 (the Willamette Greenway Goal) and the Greenway legislation  
15 in ORS Chapter 390. This challenge is based in large measure  
16 on petitioner's interpretation of certain policy statements in  
17 ORS Chapter 390. The legislative findings and policy statement  
18 in ORS 390.314, in part, provides:

19 "(2) In providing for the development and maintenance  
20 of the Willamette River Greenway, the legislative  
assembly:

21 \* \* \*

22 "(b) Recognizing the need of the people of this state  
23 for existing residential, commercial and  
24 agricultural use of lands along the Willamette  
25 River, finds it necessary to permit the  
26 continuation of existing uses of lands that are  
included within such greenway; but, for the  
benefit of 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

1           greatest possible degree, compatible with the  
2           preservation of the natural, scenic, historical  
          and recreational qualities of such lands."

3           Petitioner argues this provision allows intensification of  
4           land uses within the Greenway only if the land is committed to  
5           residential, commercial and agricultural uses. Petitioner  
6           reasons that by limiting the intensification of these uses, the  
7           statute implies other uses may not be intensified. We do not  
8           accept petitioner's interpretation. We do not construe ORS  
9           390.314(2)(b) to prohibit intensification and change of use on  
10          land merely because it is within the Greenway. Rather, as we  
11          read the statute, it declares the necessity of restrictions on  
12          all development within the Greenway to preserve its natural,  
13          scenic, historical and recreational qualities, even while  
14          existing uses are allowed to continue. Neither Statewide Goal  
15          15, the agency interpretive rules concerning this goal, nor the  
16          acknowledged Metro Plan express the idea that development  
17          consistent with the purposes set forth in ORS Chapter 390 is  
18          prohibited. To the contrary, the acknowledged Metro Plan  
19          includes policies that sanction new development along the  
20          Willamette River, including industrial development. Of course,  
21          new development must be compatible with, or enhance, the  
22          natural, scenic and environmental qualities of the river.  
23          Policy 5, 6 at III-D-4, Metro Plan.

24          Petitioner also alleges the city failed to make provisions  
25          in the plan amendment to protect and enhance the Greenway  
26          Corridor. Petitioner says the amendment cannot stand because

1 it does not protect, conserve, enhance and maintain the river's  
2 qualities.

3 The overall goal statement in Goal 15 states:

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

8 The river's qualities are protected and enhanced through the  
9 Greenway Program described in Goal 9.<sup>6</sup> The program includes  
10 these elements:

11 "(a) Boundaries within which special Greenway  
12 considerations shall be taken into account;

13 "(b) Management of uses on lands within and near the  
14 Greenway to maintain the qualities of the  
15 Greenway;

16 "(c) Acquisition of lands or interest in lands from a  
17 donor or willing seller or as otherwise provided  
18 by law in areas where the public's need can be  
19 met by public ownership." Goal 15, Section A.3.

20 This Greenway program is the mechanism by which planning  
21 jurisdictions carry out the goal. Whether the Metro Plan  
22 amendment violates the goal, as petitioner contends, hinges on  
23 whether the amendment interferes with the Greenway Program. We  
24 find it does not for the following reasons.

25 To comply with the goal, a Greenway Program must provide  
26 for management of uses to maintain the qualities of the  
27 Greenway. The Metro Plan does this by incorporating the use  
28 management provisions of Goal 15. See Policy 9, Willamette  
29 River Greenway, River Corridors and Waterway Element, Metro  
30 Plan at III-D-4. These use management criteria in Goal 15

1 apply to the 71 acres in question, whether the property is  
2 designated University/Research or Government and Open Space.  
3 Thus, any development within the Greenway will be subject to  
4 review for conformity with the use management criteria.

5 Petitioner does not allege that the new designation  
6 violates any of the use management criteria in the goal.  
7 Instead, he claims that the amendment does not show how the  
8 Greenway qualities will be protected and enhanced. We  
9 disagree. The Greenway Use Management Criteria are in the  
10 plan, and this amendment does not alter their applicability to  
11 the uses that will eventually be established.

12 We deny this assignment of error.

13 FIFTH ASSIGNMENT OF ERROR

14 Petitioner alleges the decision violates Goal 5 (Open  
15 Spaces, Scenic and Historic Areas, and Natural Resources) and  
16 Goal 8 (Recreational Needs). Petitioner explains the area  
17 subject to the plan amendment is in part designated for Parks  
18 and Open Space in the Metro Plan. Further, petitioner points  
19 to prior plans for the Metropolitan Area and to various reports  
20 and plans of the area prepared by the University of Oregon.  
21 These documents designate the property either as Open  
22 Space/Recreation or Vacant Lands. The University North Campus  
23 Plan now in effect is recognized in the RPS as a guide for  
24 development of the property. Petitioner asserts much of the  
25 area was considered Open Space or Natural Areas by these  
26 planning documents and was managed as such. Petitioner argues

1 the University/Research designation conflicts with the use of  
2 the property as Open Space, a use protected by Goal 5.

3 Findings in the city's ordinance and Lane Council of  
4 Governments Resolution addressing Goal 5 can be summarized as  
5 follows:

- 6 1. No part of the area was included in the Metro  
7 Plan inventory of significant Goal 5 resources.
- 8 2. A riparian strip along the Willamette River and  
9 isolated stands of trees are significant  
10 habitat.
- 11 3. The Mill Race is an important historical and  
12 environmental feature. Any development should  
13 maintain or improve access to it.
- 14 4. The RPS calls for a management plan to protect  
15 the riparian strip and retention of the existing  
16 stands of trees. See Record 14.

17 Respondents' answer to the charges relies to a great extent  
18 on the finding first summarized above. Since the acknowledged  
19 Metro Plan inventory did not identify any Goal 5 protected  
20 resource in the study area, respondents argue that no need  
21 exists to protect open spaces in the area subject to the  
22 amendment.

23 Respondents are correct in pointing out that planning  
24 jurisdictions have discretion whether or not to inventory a  
25 particular site as a Goal 5 resource. A jurisdiction may  
26 choose not to inventory a site if it is not important enough to  
warrant inclusion or is not required to be included based on  
specific goal standards. OAR 660-16-000(5)(a). However, we do  
not agree with respondents that absence from an inventory of

1 Goal 5 protected resources precludes a later determination that  
2 a site should be inventoried. Nothing in Goal 2 ordains  
3 inventories of resource sites as static lists immune from  
4 review and update. The goal, in fact, requires periodic  
5 revision to take account of changing public policies and  
6 circumstances. The plan amendment in issue followed this  
7 precept by declaring that the riparian strip, the tree stands,  
8 and the Mill Race are subject to Goal 5 consideration even  
9 though these sites were not identified in the Metro Plan  
10 inventory of Goal 5 resource sites. Record 14.

11 Findings in the RPS provide an outline of extensive  
12 planning activity by the university directed towards  
13 development of outdoor playing fields and retention of a  
14 portion of the university-owned property in its natural state.  
15 These findings note the University North Campus Plan was  
16 developed in part by City of Eugene staff personnel  
17 "representing the planning department and historic review  
18 board." Appendix A-2, RPS. While the University North Campus  
19 Plan is not a general purpose government planning document, it  
20 was nevertheless prepared by a governmental agency with the  
21 cooperation and assistance of representatives of the Eugene  
22 Planning Department. Although the plan may not bind the city  
23 or the Lane Council of Governments, its serves as a reliable  
24 source of information for identification of facts and issues  
25 relevant to the Metro Plan. These circumstances were  
26 emphasized in testimony at the public hearings on the plan

1 amendment. Record 34-36, 143.

2 Notwithstanding the existing designation as Open Space on  
3 the Metro Plan and on university plans, as well as testimony at  
4 the hearings, the findings provide no explanation why the areas  
5 designated as Open Space on the Metro Plan diagram were not  
6 placed on the inventory of sites subject to Goal 5 other than  
7 the one reference to the original plan inventory. If the Open  
8 Space areas are "needed," Goal 5 requires they be placed on the  
9 inventory. Here, the findings do not show whether the Open  
10 Space areas are needed or whether they are not important enough  
11 to warrant inclusion on the plan inventory. OAR

12 660-16-000(5)(a) calls for findings in these circumstances:

13 "The local government is not required to justify in  
14 its comprehensive plan a decision not to include a  
15 particular site in the plan inventory unless  
challenged by...objectors...based upon contradictory  
information." (Emphasis supplied.)

16 This deficiency in the findings warrants a remand.

17 Once a Goal 5 Resource is identified, the planning  
18 jurisdiction must then identify conflicting uses and determine  
19 how conflicts are to be resolved to achieve the goals. Panner  
20 v. Deschutes Co., \_\_\_ Or LUBA \_\_\_ (LUBA No. 85-004, July 14,  
21 1985), aff'd \_\_\_ Or App \_\_\_, \_\_\_ P2d \_\_\_ (1985). Petitioner's  
22 claim that the city and Lane Council of Governments fail to use  
23 the Goal 5 standards to resolve conflicts is premature. The  
24 conflict resolution process is necessary only in connection  
25 with resource sites listed on the Goal 5 inventory by the  
26 planning jurisdiction. OAR 660-16-005.

1           Petitioner also alleges the city and Lane Council of  
2 Governments violated Goal 8 by failing to coordinate the Metro  
3 Plan with the North Campus Plan adopted by the university. We  
4 reject this attack. Goal 8 in part states:

5           "State and federal agency recreation plans shall be  
6 coordinated with local and recreational needs and  
7 plans."

8           This provision speaks to the obligation of state agency  
9 plans to coordinate with local plans. The goal imposes no duty  
10 on local governments to coordinate its plan with state agency  
11 recreational plans.

12           A remand of the decision is necessary for findings  
13 explaining why the area used for Open Space and designated as  
14 Open Space on affected plans is not included on the inventory  
15 of Goal 5 Resource Sites.

16           This assignment of error is sustained in part.

17           SIXTH ASSIGNMENT OF ERROR

18           Petitioner alleges the amendment violates several Metro  
19 Plan policies that encourage medium and high density  
20 residential development. That the amendment allows multiple  
21 family housing is not enough to satisfy the plan requirements,  
22 according to petitioner's argument. Petitioner claims the  
23 amendment must require medium and high density residential  
24 development to meet the cited plan provisions. We do not  
25 accept petitioner's claim.

26           A comprehensive plan provision that certain activities or  
uses are to be encouraged does not bind the jurisdiction to

1 conduct the activities or demand that others do so. Plan  
2 policies stated in this fashion state general objectives, not  
3 performance standards.

4 We find no error as alleged.

5 SEVENTH ASSIGNMENT OF ERROR

6 Petitioner claims the City of Eugene neither discussed nor  
7 implemented Policy 4 of the Transportation Element of the Metro  
8 Plan. The policy states:

9 "4. Encourage the development of auto-free urban  
10 areas and transportation corridors."

11 Petitioner argues the amendment area is particularly suited  
12 to isolation from traffic, yet the city failed to exercise this  
13 opportunity. Petitioner requests a remand for the city to  
14 consider this transportation policy.

15 Our statement under the sixth assignment of error applies  
16 here. The cited policy is not a standard that requires  
17 implementation.

18 The seventh assignment of error is denied.

19 EIGHTH ASSIGNMENT OF ERROR

20 Petitioner last claims the decision failed to satisfy the  
21 Economic Element of the Metro Plan. The goal of the Economic  
22 Element of the Metro Plan is to:

23 "Broaden, improve and diversify the Metropolitan  
24 economy while maintaining or enhancing the  
environment." Metro Plan at III-B-1.

25 Petitioner says the city failed to show how the amendment  
26 would enhance or maintain the environment. Petitioner also

1 contends the city ignored the basic assumption of the Economic  
2 Element. Petitioner points to an introductory statement to the  
3 Economic Element proclaiming the real objective of economic  
4 development "is the improved welfare of the residents of the  
5 Metropolitan Area, measured by change in unemployment, real  
6 incomes and environmental quality." Metro Plan at III-B-1.  
7 Petitioner says the amendment makes no attempt to show how the  
8 new designation for the 71 acres will measurably change  
9 unemployment, real income, and environmental quality.

10 These claims are denied. They are not based on failure of  
11 the city to satisfy any standard in the plan. The Metro Plan  
12 defines goals as broad statements of philosophy. Metro Plan at  
13 I-3. These generally-worded goal statements and their  
14 introductory comments give direction to land use actions  
15 through specific policies and standards in the implementing  
16 regulations. Unless these broad statements are given the  
17 status of standards or criteria by other provisions of the plan  
18 or implementing regulations, we will not give them that effect.

19 Petitioner also charges the amendment fails to show a need  
20 to designate 71 acres as University/Research. Petitioner  
21 explains that Goal 9 requires designation of an appropriate  
22 amount of land for economic development based on inventories of  
23 areas suitable for increased economic growth. Petitioner  
24 argues that Goal 9 requires a determination of the amount of  
25 land needed for the uses allowed in the University/Research  
26 designation. Without this determination, petitioner says the

1 affected planning jurisdictions are unable to say whether the  
2 71 acres is sufficient to satisfy the targeted land use needs.

3 Goal 9 states in part:

4 "Plans shall be based on inventories of areas suitable  
5 for increased economic growth and activity after  
6 taking into consideration the health of the current  
7 economic base; materials and energy availability;  
8 labor market factors; transportation; current market  
9 forces; availability of renewable and nonrenewable  
10 resources; availability of land; and pollution control  
11 requirements."

12 Unlike the requirements in Goal 14 for designating urban  
13 and urbanizable lands, Goal 9 does not require that designation  
14 of lands for economic growth must be based on demonstrated need  
15 based on population projections. Instead, the goal requires  
16 consideration of various factors listed in the goal as a basis  
17 for an inventory of "areas suitable for increased economic  
18 growth and activity." The goal sets neither minimum nor  
19 maximum standards for the amount of land suitable for economic  
20 growth. The city found the 71 acres are suitable for a type of  
21 economic growth and activity tied to development at the  
22 university. The city did not violate Goal 9 by adding this  
23 site to its inventory of lands suitable for economic growth.

24 This assignment of error is denied.

25 Remanded.

FOOTNOTES

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4 Petitioner quotes the following from minutes of the  
5 planning commission reading of May 30, 1985:

6 "She (the chairwoman) noted the public will have the  
7 chance to comment when the Metro Plan is  
8 considered...." Record 394.

9 "Responding to her concerns, Mr. Farah (planning staff  
10 member) said the Riverfront Study, like other  
11 refinement studies, will govern decision relating to a  
12 specific area. The Metro Plan amendments will modify  
13 the plan diagram to eliminate open space in a specific  
14 area which the commission will have to identify and  
15 designate for university-related research and  
16 activities." Record 394.

17  
18  
19  

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2

20 The draft RPS includes the following policy:

21 "Working with the City of Springfield and Lane County,  
22 the City of Eugene shall seek an amendment to the  
23 Metropolitan Plan which would designate a portion of  
24 the property within the Riverfront Park Study Area  
25 owned by the University of Oregon for  
26 "University/Research" activities.

Other policies in the RPS propose a Special  
Development District zone classification for the property  
in the study area under university ownership. The purpose  
of the Special Development District and proposed permitted  
uses are also set forth in the RPS policies.

3

Referring to comments of the planning commission  
chairwoman, the minutes state:

"She noted the public will have a chance to comment  
when the amendment to the Metro Plan is considered,  
but the amendment will be based on the policies in the  
Riverfront Study so it would be better if the public  
comment is received before the policies are adopted."  
(Emphasis supplied), Record 394.

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4

2 The RPS was adopted as findings in both Ordinance No. 19348  
3 and Lane Council of Government Resolution No. 85-3.

4  
5

5 Prior to December 30, 1983, a Goal 2 exception to any goal  
6 required findings of "what alternative locations within the  
7 area could be used for the proposed uses."

6 The goal was amended on December 30, 1983, consistent with  
7 1983 Or Laws, Chapter 827, Section 19(a). The above criterion  
8 was changed to:

8 "areas which do not require a new exception cannot  
9 reasonably accommodate the use."

10  
6

11 Goal 15 defines the Willamette Greenway Program as follows:

12 "The Willamette Greenway Program shall be composed of  
13 cooperative local and state government plans for the  
14 protection, conservation, enhancement and maintenance  
15 of the Greenway, and of implementation measures  
16 including management through ordinances, rules,  
17 regulations, permits, grants as well as acquisition  
18 and development of property, etc. It shall also become  
19 a part of all other local and state plans and programs  
20 within and near the Greenway."  
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