

Introduced by Commissioner: Scott Holman

Amending Ordinance Nos. 911-A and 934-A to the City of Warrenton Comprehensive Plan, Zoning Ordinance and Map and Changing the Zoning of Tax Lots 2800, 2802, & 2900 of Tax Map 8-10-27; Tax Lot 800 of Tax Map 8-10-27BC; and a portion of Tax Lot 1900, Tax Map 8-10-28, from R-10 Intermediate Density Residential to C-1, General Commercial, and Adopting Findings of Fact

WHEREAS, certain changes are necessary to revise, update and amend the City of Warrenton Zoning Ordinance, Comprehensive Plan and map; and

WHEREAS, the City of Warrenton Planning Commission held a public hearing on this matter on April 14, 1999, and continued that hearing to May 12, 1999, reviewed the proposed changes and recommended said changes to the Warrenton City Commission; and

WHEREAS, the Warrenton City Commission reviewed and held a public hearing to obtain public comment on this matter on July 13, 1999, continued the hearing to August 18, 1999, and found it necessary to revise, update and amend the City of Warrenton Comprehensive Plan, map, and zoning ordinance, which sets forth Findings which are attached as "Exhibit A" and by this reference made a part hereof.

NOW, THEREFORE, the Warrenton City commission ordains as follows:

Section 1: Changing the Zoning Map to re-zone Tax Lots 2800, 2802, & 2900 of Tax Map 8-10-27; Tax Lot 800 of Tax Map 8-10-27BC; and a portion of Tax Lot 1900, Tax Map 8-10-28, from Intermediate Density Residential to C-1, General Commercial, shown on "Exhibit B." Said area is located on both sides of Rodney Acres Road on the west side of Highway 101 in the City of Warrenton, Clatsop County. Findings are Exhibit "A" and property location map is "Exhibit B" and are attached hereto and by reference incorporated herein.

Section 2: This ordinance shall become effective thirty days after its adoption.

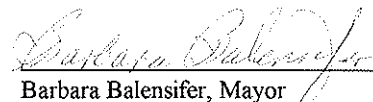
Section 3: If any article, section, subsection, subdivision, phrase, clause, sentence or word in this ordinance shall, for any reason, be held invalid or unconstitutional by a court of competent jurisdiction, it shall not nullify the remainder of the ordinance but shall be confined to the article, section, subdivision, clause, sentence or word so held invalid or unconstitutional.

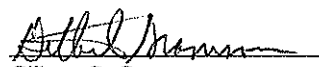
First Reading: August 18, 1999

Second Reading: September 1, 1999

PASSED by the City Commission of the City of Warrenton, Oregon, this 1st day of September, 1999.

APPROVED by the Mayor of the City of Warrenton, this 1st day of September, 1999.


Barbara Balensifer, Mayor


Gilbert G. Gramson
City Manager

Proposed Findings for Approval, ZC1-99

Introduction/Background

This zone map and comprehensive plan amendment was requested by Warrenton Land & Investment LLC in an application submitted to the City on 19 March 1999. The amendment affects all or part of the following tax lots:

8-10-27-2800 (8.73 acres)
8-10-27-2802 (0.67 acres)
8-10-27-2900 (3.77 acres)
8-10-27BC-800 (4.28 acres)
8-10-28-1900 (24.18 acres).

These tax lots cover about 41.6 acres located on both sides of Dolphin Road (also known as Rodney Acres Road) on the west side of Highway 101. This property's general location is shown on maps submitted as part of the application for this. The site is presently in a residential zone and in an aquatic zone. A copy of a portion of the City's zone map, showing the subject property, is included in the record.

This proposal would amend the city's zoning and comprehensive plan map by placing all of tax lots 800, 2800, 2802 and 2900 in the General Commercial zone. A portion of tax lot 1900 is changed to the General Commercial zone. The balance of tax lot 1900 remains in the Aquatic Conservation (A5) zone.

Findings

1. The City advertised and conducted public hearings on this amendment before the City Planning Commission on 14 April 1999 and 12 May 1999. There were no objections to the conduct of the hearing, or to the jurisdiction of the Planning Commission to consider the proposal. After closing the hearing on 12 May 1999, the Planning Commission voted to recommend approval of the amendment.
2. The City Commission received the Planning Commission's recommendation at a public hearing on 16 June 1999. The record of the Planning Commission's consideration of this proposal, including all written exhibits and minutes summarizing oral testimony and discussion, were before the City Commission. The City Commission hearing was opened, but no testimony was received on 16 June 1999. The hearing was continued to 13 July 1999. The City Commission received oral and written testimony at the 13 ~~June~~ July 1999 hearing. At the end of oral testimony, the City Commission held the written record open for seven days at the request of the Oregon Department of Land Conservation and Development (letter dated 6 May 1999). One letter was received by the City during this

period, a letter from the Oregon Department of Transportation (ODOT) dated 21 July 1999. The applicant responded to issues raised by the 21 July 1999 ODOT letter in a memo from Lancaster Engineering dated 28 July.

3. There were no objections to the conduct of the hearing, or to the jurisdiction of the City Commission.

4. At its regular meeting of 18 August 1999, the City Commission reviewed written testimony received during the seven days following the 13 July 1999 hearing, and rebuttal testimony provided by the applicant, and voted to adopt these findings and approve the amendments, subject to several conditions.

5. The City relies on several documents in the record of this decision, including the following:

Warrenton Zoning Ordinance;

Warrenton Comprehensive Plan;

Traffic Impact Study (Lancaster Engineering, July 1999), as amended by a memo from Lancaster Engineering dated 28 July 1999;

Land Use Inventory and Analysis for the City of Warrenton (Columbia River Estuary Study Taskforce, May 1998);

Warrenton Wetland Conservation Plan.

6. Criteria applicable to this amendment are in section 14.080(2) of the City's zoning ordinance:

a. The amendment shall be consistent with the Comprehensive Plan.

b. The use permitted by the amendment is compatible with the land use development pattern in the vicinity of the request.

c. The land is physically suitable for the uses to be allowed in terms of slope, geologic stability, flood hazards and other relevant considerations.

d. Public facilities, services and streets are available to accommodate the uses to be provided by the proposed zone designation.

7. City Comprehensive Plan Policy 3.320(1) reads as follows:

It is the City's policy to promote convenient and attractive commercial areas that, along with other commercial facilities in the County, provide an adequate level of trade and services for local citizens, other County residents and tourists. Commercial enterprises may be permitted in these three kinds of areas.

(a) Marine Commercial: The district is reserved for water-dependent developments and associated uses on shorelands adjoining the Skipanon waterway. A mixture of commercial service activities, recreation-oriented uses and industrial uses will be encouraged. Examples of suitable uses include marina facilities, charter fishing offices, waterfront loading and unloading operations, boat building and repair establishments and marine storage establishments. Due to the variety of uses allowed, precautions will have to be taken to assure that a compatible mixture of uses can be attained. Adequate attention should also be given to access, parking and utilities.

(b) Tourist Commercial: The intent of this district is primarily to provide suitable locations for tourist facilities and certain other water-oriented uses which would benefit from being close to the water-oriented uses which would benefit from being close to the waterfront but are not necessarily water-dependent. Among the uses which should be encouraged are restaurants, motels, gift shops, seafood markets, establishments selling marine equipment and marina facilities. Water-oriented uses, such as boat building enterprises and large marine storage buildings, which might hinder tourist operations, should be particularly well located and designed. Satisfactory utilities and transportation facilities are necessary.

(c) General Commercial: The primary purpose of this zone is to allow a broad range of commercial uses providing products and services in both the central (downtown) and Highway 101 areas of the City.

The amendment is a zone change from a residential zone to the General Commercial zone. About half of the site is adjacent to Highway 101, and all of the subject property has access to Highway 101 via Dolphin Avenue. The site is in the "Highway 101 area", as that phrase is used in this policy. The site is suitable for a broad range of commercial uses by virtue of its location, its size, the availability of public infrastructure, its accessibility, and its physical characteristics. The City finds this amendment consistent with policy 3.320(1).

8. Policy 3.320(2) reads as follows:

Precautions will be taken to minimize traffic congestion associated with nearby commercial uses, particularly on U.S. Highway 101, Main Avenue, East Harbor Drive and Marlin Avenue. Groupings of businesses, common access points and other appropriate techniques will be encouraged. Sufficient parking on either jointly-used lots or individual business sites will be required for new commercial developments.

Although the site has frontage on Highway 101, motor vehicle access will be via Dolphin Avenue. Entering traffic from Dolphin Avenue is controlled by a stop sign. Traffic entering Dolphin Avenue from Highway 101 uses a left turn refuge and a right turn deceleration lane.

The Oregon Department of Transportation (ODOT) has indicated that the Dolphin Avenue/Highway 101 intersection may be improved in the near future, though these plans are still preliminary. The applicant, Warrenton Land & Investment LLC, has stated that they will cooperate with and support efforts to provide needed improvements on Dolphin Road and at its intersection with Highway 101. The applicant has also indicated that they will not object to any legal mechanism for financing these improvements, including a Local Improvement District (LID) or System Development Charges (SDCs), that fairly allocate improvement costs among benefiting parties.

The site has approximately 1,200 linear feet of frontage on the east side of Dolphin Avenue, and about 1,000 linear feet on the west side. Access to the site can be from two or more shared driveways. This access arrangement can be implemented administratively by way of site plan review when a development permit is sought.

On-site parking will need to meet or exceed applicable standards in the City's zoning ordinance. Parking standards can be enforced administratively by way of site plan review when a development permit is sought.

A traffic impact study completed by Lancaster Engineering on behalf of the applicant suggests several ways that traffic congestion could be minimized. The City finds that these are appropriate in light of the policy's requirement that precautions be taken to minimize traffic congestion.

The City finds that this amendment is consistent with policy 3.320(2), or can be made consistent with the policy through the enforcement of development standards in the City's code, and through enforcement of certain conditions based on recommendations in the report by Lancaster Engineering.

9. Policy 3.320(3) reads as follows:

A new regional shopping center or large regional department store may be allowed as a conditional use in the Highway Commercial district near U.S. Highway 101 or East Harbor Drive, if the development will enhance market choices available to consumers and improve the local economy through retail diversity and attraction of new businesses. Adequate attention must also be given to the size, shape and location of the site; the organization of the shopping center facilities; access points, on-site traffic circulation; parking and loading space; and landscaping and sign installation.

The City finds that this policy addresses another site, and is not applicable to the subject property.

10. Policy 3.320(4) reads as follows:

If the City determines that more land is needed in the General Commercial district, consideration will be given to including an area west of S.E. Marlin Avenue, north of U.S. Highway 101, east of the right-of-way for S.E. King Avenue and South of the right-of-way for S.E. Seventh Street.

The subject property is not within the area described in this policy. The City interprets this policy as identifying a potential location for expansion of the General Commercial. The policy does not require expansion of the General Commercial zone in the area described, nor does it preclude expansion of the General Commercial zone in other areas. This policy does not establish any mandatory approval criteria applicable to this amendment.

11. Policy 3.320(5) reads as follows:

The City supports the efforts to develop a regional shopping district adjacent to U.S. Highway 101. The City finds that such a development would strengthen the local economy, attract new businesses to Warrenton and increase the diversity of retail commercial uses available to Clatsop County residents.

This policy supports the amendment, although it does not establish any mandatory approval criteria applicable to the site or to the amendment.

12. City zoning ordinance section 14.080(2b) reads as follows:

Before an amendment to the Zoning Ordinance map is approved, findings will be made that the following standards have been satisfied:

b. The use permitted by the amendment is compatible with the land use development pattern in the vicinity of the request.

The City interprets this section of the City's zoning ordinance as allowing mitigation measures to achieve compatibility with the land use pattern in the vicinity.

The General Commercial zone allows, either conditionally or outright, the following uses:

Personal and business service establishments such as barber or beauty shop, clothes cleaning or funeral home.

Professional, financial, business and medical offices.

Retail business establishments

Amusement enterprises such as theater or bowling alley.

Technical, professional, vocational and business schools.

Membership organizations such as unions, lodge hall, club or fraternal buildings.

Eating and drinking establishment.

Hotel, motel or other tourist accommodation, including bed and breakfast.

Automobile sales, service or repair establishment.

Boat and marine equipment sales, service or repair facilities.

Building material sales yard.

Duplexes.

Multi-family dwellings.

Residential home, and residential facility.

Boarding, lodging or rooming houses.

Family day care center and day care center.

Government buildings and uses.

Public utility structures.

Hospital, sanitarium, rest home, nursing or convalescent home.

Congregate care or assisted living facility.

Cabinet, carpenter, woodworking or sheet metal shops.

Single family dwellings, modular housing.

Building contractor shops, including plumbing, electrical and HVAC.

Fuel oil distributor.

Processing uses such as bottling plants, bakeries and commercial laundries.

Research and development establishments.

Wholesale storage and distribution facilities, including cold storage.

Veterinary clinic, kennels.

Tool and equipment rental.

Mini-warehouses or similar storage uses.

The existing development pattern in this part of Warrenton is a mix of low-density single-family detached residences; commercial/industrial/institutional uses; and open space. Single-family residential development in this area consists principally of low-density detached dwellings located along Alternate Highway 101, to the north of the site. Open space exists to the east and west of the site. Some of this open space, especially to the west, consists of wetlands. To the east and south are a Pacific Power maintenance facility; an ODOT maintenance facility; and the County's North Coast Business Park. Warrenton High School is located west of the subject property.

The City finds that commercial development of the kind allowed in the City's General Commercial zone is or can be compatible with existing business and institutional uses because both types of uses can benefit from convenient motor vehicle and truck access; and none of these types of uses require high volumes of pedestrian traffic.

Although a portion of the site is relatively near Warrenton High School, the Skipanon River separates them. Wetland vegetation along the Skipanon River buffers the high school from potential commercial development on the subject property.

Commercial development allowed in the General Commercial zone is or can be made compatible with open space and wetland resources because the amenity value associated with open space and wetland resources; because of the value of wetlands for stormwater management; and because the mix of open space and developed areas is one of the factors making Warrenton a desirable place to live, work and conduct business. Potentially incompatible impacts of commercial development on open space and wetland resources are minimized or eliminated by way of existing local, state or federal regulations controlling wastewater discharges, noise, waste disposal, and related impacts.

Commercial development allowed in the General Commercial zone is compatible or can be made compatible with nearby residential uses through design features, and through existing local, state or federal regulations controlling wastewater discharges, noise, waste disposal, and related impacts.. The residential development pattern in this area is low density relative to other residential areas in Warrenton. Existing residences are subject to significant levels of noise associated with motor vehicle traffic on Highway 101. The additional noise likely to be generated by commercial development is not significant when compared to existing noise levels on Highway 101. The additional traffic load on Dolphin Road resulting from commercial development of this site may have impacts on existing residents who are accustomed to using this road. The road's capacity can be increased to meet the additional demand by specific improvements. As mentioned above, Warrenton Land & Investment LLC will cooperate with and support efforts to provide needed improvements on Dolphin Avenue and at its intersection with Highway 101. Representatives of the applicant, Warrenton Land & Investment LLC, indicated that they will not object to any legal financing mechanism for these improvements, including a Local Improvement District (LID) or System Development Charges (SDCs), that fairly

allocate improvement costs among benefiting parties.

Design features can be used to ensure compatibility with nearby residential development. Examples of these include the following:

Vegetated berms and buffer strips between the development and adjoining noise-sensitive uses;

Storm-drainage facilities that direct and manage site runoff to avoid impacts on adjoining property;

Erosion-control measures (temporary for the construction period and permanent) to assure that adjoining property is not affected by soil erosion);

Adequate on-site parking to assure that on-street parking is not necessary;

Appropriately-configured driveways to avoid traffic hazards and inconveniences on Dolphin Ave.;

Necessary improvements to the Highway 101/Dolphin Ave. intersection to avoid safety hazards at this intersection;

Maintenance of a riparian buffer along the Skipanon River to protect aquatic resources;

Assure that exterior lighting and lighted signs do not shine into adjacent residences.

These and other design features can be incorporated into the site plan at the time a development permit is sought.

The City finds that the proposal is compatible with the land use pattern in the vicinity, or can be made compatible through specific design features to be determined prior to the issuance of a building permit.

13. City zoning ordinance section 14.080(2c) reads as follows:

Before an amendment to the Zoning Ordinance map is approved, findings will be made that the following standards have been satisfied:

c. The land is physically suitable for the uses to be allowed in terms of slope, geologic stability, flood hazards and other relevant considerations.

The applicant provided land suitability testimony which was unrefuted, and which the City finds credible. Soils on the site are mapped by the US Natural Resources Conservation Service (formerly the Soil Conservation Service) as:

Walluski Silt Loam, 0 to 7 percent slopes
Coquille-Clatsop Complex, 0 to 1 percent slopes.

The Walluski silt loam soils are physically suitable for commercial development, or can be made suitable by way of appropriately-engineered structures. The Coquille-Clatsop soils are a wetland soil found on parts of the site. Wetland fill permits from the Oregon Division of State Lands (DSL) and the US Army Corps of Engineers would be needed to fill any portion of this wetland. The City restricts development on those wetlands to the west of Dolphin Road in the A5 zone. A copy of a wetland delineation, completed permit application, and the final permit, must be provided to the City before any jurisdictional wetlands can be filled. Engineered fill and drainage structures may be needed to make the Coquille-Clatsop part of the site suitable for the proposed uses. See approval condition 1.

The developable part of the site is above the 100-year flood plain. It is outside of FAA-mandated clear zones associated with the Astoria Regional Airport.

Existing topography on the site can be graded to provide a suitable development site. Any grading must comply with City standards for erosion control, and with the erosion control permit program administered by the Oregon Department of Environmental Quality.

There are no known geologic hazards associated with this site.

The City finds that the land is physically suitable for the uses allowed in the General Commercial zone in terms of slope, geologic stability, flood hazards and other relevant considerations.

14. City zoning ordinance section 14.080(2d) reads as follows:

Before an amendment to the Zoning Ordinance map is approved, findings will be made that the following standards have been satisfied:

d. Public facilities, services and streets are available to accommodate the uses to be provided by the proposed zone designation.

The site is served by two existing public streets: Highway 101 and Dolphin Avenue. Highway 101 at this site is access-controlled. The highway right-of-way is between 225 and 240 feet wide. The site has approximately 2,640 feet of highway frontage. The applicants do not anticipate direct access onto Highway at this time. Dolphin Avenue is a paved two-lane city street in a 60-foot right-of-way. The site has about 1,200 feet of frontage on the east side of Dolphin Avenue, and about 1,000 feet on the west side.

An city sanitary sewer line was recently installed in the Dolphin Avenue right-of-way past

the site. A portion of this new line is pressurized, but the subject property has access to the non-pressurized part of the line. The City received conflicting testimony concerning access to the sanitary sewer; however we find the testimony of the applicant, confirmed by City staff, to be more credible.

An existing City water line serves the site.

Private utility providers include US West, Pacific Power, and Northwest Natural. Telephone, electricity and natural gas are all available at this site.

The City finds that existing public infrastructure serving this site is sufficient to accommodate uses allowed in the General Commercial zone.

15. The City received a letter dated 6 May 1999 from the Oregon Department of Land Conservation and Development (DLCD) objecting to the amendment. The last paragraph on page 1 of this letter states that "*Existing housing predominates the entire area surrounding the proposed rezone site*". The City finds this assertion to be incorrect. Testimony in the record provides a more accurate picture of the area surrounding the site. The subject property is in a part of the City characterized by a mix of different uses, including:

industrial activities (ODOT maintenance facility; Pacific Power maintenance facility);

institutional uses (Warrenton High School);

residences (five dwelling units are on tax lots abutting the subject property, according to Clatsop County Assessment and Taxation records summarized by the applicant);

natural resource conservation (wetlands and aquatic areas);

surface transportation (roads, highways and right-of-way); and

commercial uses (United Grocers, two mini-storages, an autobody repair shop).

16. The last paragraph on page 1 of the 6 May 1999 DLCD letter states that "*There needs to be adequate findings to show how a major change in zoning and land uses from relatively low intensity residential use to high intensity commercial use will be compatible with the current comprehensive plan and zone designations and existing land use and land use pattern*". This apparently refers to matters addressed in the first two criteria for approval of a zone change, from Warrenton Zoning Ordinance section 14.080(2):

a. *The amendment shall be consistent with the Comprehensive Plan.*

b. The use permitted by the amendment is compatible with the land use development pattern in the vicinity of the request.

These concerns are adequately addressed elsewhere in these findings.

17. At the top of page 2 of the 6 May 1999 DLCD letter reference is made to A5 zoning, which affects a portion of the site. The amendment affects only that portion of the site in the R-10 zone. Any land in the A5 zone would remain in the A5 zone under this amendment. A portion of tax lot 8-10-28-1900 is in the A-5 zone. The acreage figures cited in the application and in the introduction to these findings refer to the entire parcel, including land in the R10 and in the A5 zones. Approval condition 1 will provide the City with an accurate delineation of the boundary line between the A5 zone and the GC zone on tax lot 1900.

18. The second paragraph on page 2 of the 6 May 1999 DLCD letter indicates that a growth management strategy mentioned in Warrenton Comprehensive Plan Policy 2.320 has not been addressed. Policy 2.320 reads as follows:

2.320 Urban Development

(1) Growth Management. Due to the large amount of urbanizable residential land within the City limits, the City will adopt a growth management strategy to insure the orderly conversion of land to urban uses. The City will apply growth management standards to outlying areas of the City which are largely vacant and currently have few public facilities in order to :

(a) Make urbanizable land available for conversion to urban uses in stages as public facilities adequate to serve urban development become available.

(b) Insure the orderly and economic provision of services.

(c) Discourage undeveloped areas from prematurely developing at non-urban densities.

(d) Maintain undeveloped areas at parcel sizes which can eventually be converted to urban uses.

(e) Encourage the development within urban areas before the conversion of urbanizable areas.

This policy does not need to be addressed in these findings because it is not applicable to the subject property or to this amendment. There are at least two reason supporting a conclusion that the policy does not apply to this proposal or to the subject property. First, the City implemented this policy by way of a Growth Management overlay district, and applied this district to large tracts of unserviced vacant land in western Warrenton. This was done at the direction of DLCD staff in the early 1980s, before the City's planning

documents could be acknowledged by the Land Conservation and Development Commission (LCDC). The area affected by this policy is west of downtown Warrenton. The subject property is east and south of the downtown area, completely outside of the area covered by the growth management policy. Second, the language used in this policy indicates that it is not applicable to this site: "*The City will apply growth management standards to outlying areas of the City which are largely vacant and currently have few public facilities...*". Although the subject property is vacant, it is not in an "outlying area", nor does it have "few public facilities". The record contains credible, unrefuted testimony that the site is fully serviced. The phrase "outlying area" is not defined in the City's zoning ordinance, but this phrase's normal usage would not encompass the subject property. Warrenton's city limits are about 1/2 mile south of the subject property. The subject property is about 7,500 feet from downtown Warrenton (measured from the Harbor Drive/Main Street intersection). About this same distance from downtown Warrenton are the Shilo Inn, Warrenton High School, and the Kampers West RV Park. All of the Hammond area is further from downtown than is the subject property. If this site is in an "outlying area" and subject to policy 2.320, then vast tracts of Warrenton, both developed and undeveloped, are also "outlying areas" subject to the policy. The City has never applied the policy in this manner. DLCD has not previously questioned the City's application of this policy. The City finds that this policy is not applicable to this amendment.

19. DLCD questions whether the Comprehensive Plan goal at Section 3.200 has been addressed (paragraph near the bottom of page 2 of the 6 May 1999 DLCD letter). Plan goal 3.200 reads as follows:

Achieve efficient and well-integrated development patters that meet the needs of residents and property owners, are compatible with natural features, and are consistent with the City's ability to provide adequate services.

This goal is part of the Land and Water Use section of the city's comprehensive plan. There are two reasons why findings against this goal are not necessary for this amendment. First, the goal is followed by several policies in Comprehensive Plan Section 3.300. To the extent these policies are applicable, they are addressed elsewhere in these findings. The City's Comprehensive Plan is structured such that plan goals are implemented through plan policies. No findings against the plan goals are needed, because the findings against applicable policies fully address the goals. The second reason for concluding that findings against this goal are not needed is that the goal does not establish any mandatory approval criteria applicable to the proposal. Instead, the goal expresses the City's general aspirations with respect to land and water use.

20. At the bottom of page 2 and at the top of page 3 of the 6 May 1999 DLCD letter, policies 3 and 4 under comprehensive plan section 3.320 are raised. Policy 3 is:

A new regional shopping center or large regional department store may be allowed as a conditional use in the General Commercial district near U.S. Highway 101 or East

Harbor Drive, if development will enhance market choices available to consumers and improve the local economy through retail diversity and attraction of new businesses. Adequate attention must be given to the size, shape and location of the site; the organization of the shopping center facilities; access points, on-site traffic circulation; parking and loading space; and landscaping and sign installation.

This policy describes some of the conditions needed to support development of commercial uses in an area about one mile north of the subject property, where Fred Meyer, Youngs Bay Plaza, Costco, the Shilo Inn, and other businesses are now operating. DLCDC staff apparently believe this policy should be interpreted so as to prohibit similar commercial development elsewhere. Nothing in the policy's language suggests such a prohibition, and the City has not previously interpreted the policy in a manner that restricts commercial development elsewhere. This policy establishes development conditions applicable in the General Commercial district surrounding the East Harbor Drive/US Highway 101 intersection. It does not establish mandatory approval criteria applicable to the subject property or to this amendment

21. Policy 3.320(4), cited in the 6 May 1999 DLCDC letter, reads as follows:

If the City determines that more land is needed in the General Commercial district, consideration will be given to including an area west of S.E. Marlin Avenue, north of U.S. Highway 101, east of the right-of-way for S.E. King Avenue and South of the right-of-way for S.E. Seventh Street.

Contrary to DLCDC's interpretation, this policy does not prohibit this amendment for several reasons:

This policy does not establish any mandatory approval criteria applicable to this amendment or to the subject property.

The City has not made a finding within the context of a revised buildable lands inventory that additional commercial land is needed. Although data collected for the City by CREST, and cited in support of this proposal, suggest that such a need exists, the City has not adopted the report or acted on it.

The policy does not prohibit consideration of other potential commercial sites, in addition to the site described in the policy.

The policy describes a City-initiated process for reviewing sites to fill a commercial land need. The City's land use documents also allow landowner-initiated requests. This policy does not prohibit or restrict landowner-initiated zone changes.

For these reasons the City finds that policy 3.320(4) does not conflict with this amendment.

22. Goal 9 issues are raised beginning at the middle of page 3 of the 6 May 1999 DLCD letter. The letter cites a portion of the Goal 9 administrative rule, OAR 660-009-0015(4), implying that the Goal 9 economic opportunities analysis must be updated for this zone change. There is no language in the administrative requiring an update of the economic opportunities analysis for an individual zone change. OAR 660-009-0010 (2) states, in part:

Comprehensive plans and land use regulations shall be reviewed and amended as necessary to comply with this rule at the time of each periodic review of the plan.

Warrenton is currently in the process of completing its periodic review, and will have to complete an update of its Goal 9 element in accordance with this rule. However, the rule does not require an update of the Goal 9 economic opportunities analysis for each individual zone change.

23. At the top of page 4 of the 6 May 1999 DLCD letter, the following City comprehensive plan policy (Section 9.310(4)) is cited:

The City will encourage the development of the area between East Harbor Drive, Marlin Avenue and US Highway 101 as a regional shopping center complex.

The DLCD letter goes on to urge an interpretation of this policy that would result in denial of this amendment. Such an interpretation is incorrect for two reasons. First, the City has not ever interpreted this policy in the way suggested in the DLCD letter. Second, the policy does not actually say what DLCD staff wish it says. Encouraging development in one area does not mean that the City must discourage or prohibit development in another area. "Encourage development..." can mean many different things, from easing certain code restrictions in the favored area, to lowering building permit fees in the favored area. For these reasons the City is not bound to follow DLCD's interpretation of the policy. Instead, the City will continue to interpret the policy as it has in the past, by favoring regional shopping center development in the Harbor/Marlin/Highway 101 area.

24. Concerns related to housing are raised beginning near the middle of page 4 of the 6 May 1999 DLCD letter. This discussion continues through most of page 5 of the DLCD letter. The substantive part of the concern is that the removal of this land from a residential zone might have a detrimental impact on the City's ability to provide land for housing. At the Planning Commission's 14 April hearing on this matter the applicants submitted information from two documents in support of the proposal. The documents were an appendix to the City's draft wetland conservation plan, and a May 1998 buildable lands inventory completed for the City by the Columbia River Estuary Study Taskforce (CREST). These two documents have not yet been adopted by the City as part of the Comprehensive Plan. Still, they provide credible data supporting the zone change. Both of the documents conclude that the City has a surplus of vacant, buildable, residentially-zoned land relative to projected needs; and that the city faces a shortage of vacant,

buildable, commercially-zoned land relative to projected needs. Because these documents haven't been adopted by the City, they don't have the force of an adopted ordinance. Still, they contain publicly-available data from credible independent sources that support the proposed zone change. The City is free to take notice of this data and use it to help reach a decision on this proposal. The DLCD letter suggests that these documents must be adopted by the City and made a part of the City's Comprehensive Plan before they are available. The City disagrees with DLCD's view, and finds these documents credible and, as they apply to this amendment, unrefuted. The City needs to complete its periodic review and possibly adopt these documents as part of the Comprehensive Plan. However, this does not mean that an individual zone change must wait until periodic review is completed.

25. Near the bottom of page 5 of the 6 May 1999 DLCD letter, potential conflicts with periodic review are noted. This discussion continues onto page 6. Although there is some value in completing periodic review before considering zone changes such as this one, there is no requirement to do so. The City's zoning ordinance does not restrict individual zone change requests with respect to the periodic review calendar.

26. The 6 May 1999 DLCD letter takes note of the ODOT letter of 15 April 1999. A traffic impact study was completed by Lancaster Engineering in response to issues raised in the ODOT letter. DLCD staff suggest that this traffic study must be coordinated with the City's Transportation System Plan (TSP). Neither City ordinance nor State statute or administrative rule require completion of the City's TSP prior to or in conjunction with this amendment.

27. Testimony received at the Planning Commission hearing addressed an osprey nest near the site, suggesting that the presence of this nest was a reason for denying the proposal. An osprey nest exists near the proposed zone change site. The nest is located on the east side of Highway 101. Osprey, also known as fish hawks, are not listed as a threatened or endangered species under the federal Endangered Species Act. These birds are protected under the federal Migratory Bird Treaty Act. A letter in the record dated 1 May 1999 from Mark Barnes, a consulting land use planner working on behalf of the applicants, summarizes a telephone conversation he had with David Leal of the US Fish and Wildlife Service's Portland field office. The letter reports that Ospreys and their nests are protected primarily from direct threats, such as killing the birds, destroying nests, or removing nest trees. Mr. Leal indicated that off-site activities, such as might occur as a result of the proposed rezoning, are not regulated under the Migratory Bird Treaty Act. There is no credible testimony in the record implying that there are any threatened or endangered species on the subject property, or that measures to protect the osprey nest require residential rather than commercial zoning on the subject property.

28. Two potential procedural errors were noted at the 14 April 1999 Planning

Commission hearing. One concerned inadequate notice, and the other concerned availability of the staff report. Both errors were corrected by continuing the hearing to 12 May 1999. One witness suggested that the mailed notice should have gone to a larger number of people than actually received it, perhaps everyone living on Dolphin Avenue. The City is not obligated to spread the public notice any further than required by the applicable state statute and the City's land use code. Nobody has suggested that the notice for the 12 May 1999 hearing, or for the 13 July 1999 City Commission hearing, was flawed in any way.

29. Opposition testimony at the 12 May Planning Commission hearing suggested that the proposal would result in development and use of SE 14th Place for heavy commercial traffic. Although the subject property has frontage on this street, neither the applicant nor the City have any immediate plans for improvement or SE 14th Place for commercial motor vehicle access.

30. It was pointed out during the Planning Commission hearing that Warrenton Land & Investment LLC owns land to the north of the subject property (tax lots 100, 200 and 300, map 8-10-27BC). It was suggested that some hidden motive might have prompted Warrenton Land & Investment LLC to exclude this property from this request. The applicant indicated in a letter dated 1 May 1999 that these three tax lots were not included in this zone change request because they are not contiguous with the rest of the subject property. Commercial development on these lots would require amendment of the City's planning maps or documents and at least two public hearings. Warrenton Land & Investment LLC is not pursuing any amendments or permits for this land at this time.

31. Testimony was presented at the Planning Commission hearing to the effect that the City doesn't really know how much commercial or residential land is available for development. A report prepared in 1998 by CREST (Columbia River Estuary Study Taskforce) provides Warrenton with reliable and recent buildable lands data. The data from the CREST report confirm data and conclusions in the draft *Warrenton Wetland Conservation Plan* indicating that the City lacks sufficient buildable commercial land to meet projected demand. These documents are in the record, and the City finds them both credible and unrefuted.

32. One opposition witness told the Planning Commission that it was important to identify the site's potential end users. None of the City's criteria for a zone change require this kind of information. In fact, by focusing on a single use in the General Commercial zone, other potential uses and their impacts are ignored. The City can better evaluate the proposed zone change by considering the broad range of potential uses in the C-1 zone. The City can apply applicable development standards when a development permit for construction on the site is reviewed. Warrenton Land & Investment LLC has stated that they have not identified a potential end user for the site because negotiations are still at a preliminary stage; and because the potential end users have requested

confidentially. The City finds that it is not necessary to know the identity of potential end users prior to approval of this amendment.

33. Testimony was received at the 14 April Planning Commission hearing that the lack of good wetland mitigation sites was relevant to this zone change. The availability of mitigation sites was mentioned in conjunction with potential development of a site on the east side of Highway 101 near the Youngs Bay Bridge. The availability of wetland mitigation sites may be a factor in the design and configuration of any commercial development on this site, but it is not a factor that can be considered under the City's criteria for a zone change. The City finds that this concern is not applicable to the amendment.

34. Concerns relating to commercial levels of noise were raised at the Planning Commission's hearing. The subject property is adjacent to Highway 101. According to testimony from ODOT, an average of more than 12,000 motor vehicles each day pass over Highway 101 adjacent to the subject property (1997 data). Highway speeds are 45 mph or faster, generating a significant level of background noise. Based on this information, the City finds that properties in the vicinity of the site, especially those close to Highway 101, experience relatively high background noise levels. Several noise mitigation measures are available that will protect adjoining residences from noise originating from the commercial site. These include berms or fences; locating noise-generating activities away from sensitive adjoining uses; and controlling hours of operation. Some of these measures can be implemented through the City's site plan review process. For these reasons, the City finds that noise-related concerns are not sufficient to deny the amendment request.

35. The amendment must be consistent with the Statewide Planning Goals. The Citizen Involvement goal (Goal 1) reads as follows:

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process. The governing body charged with preparing and adopting a comprehensive plan shall adopt and publicize a program for citizen involvement that clearly defines the procedures by which the general public will be involved in the on-going land-use planning process. The citizen involvement program shall be appropriate to the scale of the planning effort. The program shall provide for continuity of citizen participation and of information that enables citizens to identify and comprehend the issues. Federal, state and regional agencies, and special-purpose districts shall coordinate their planning efforts with the affected governing bodies and make use of existing local citizen involvement programs established by counties and cities. The citizen involvement program shall incorporate the following components:

1. Citizen Involvement -- To provide for widespread citizen involvement. The citizen involvement program shall involve a cross-section of affected citizens in all phases of the planning process. As a component, the program for citizen involvement shall include an officially recognized committee for citizen involvement (CCI) broadly representative of

geographic areas and interests related to land use and land-use decisions. Committee members shall be selected by an open, well-publicized public process. The committee for citizen involvement shall be responsible for assisting the governing body with the development of a program that promotes and enhances citizen involvement in land-use planning, assisting in the implementation of the citizen involvement program, and evaluating the process being used for citizen involvement. If the governing body wishes to assume the responsibility for development as well as adoption and implementation of the citizen involvement program or to assign such responsibilities to a planning commission, a letter shall be submitted to the Land Conservation and Development Commission for the state Citizen Involvement Advisory Committee's review and recommendation stating the rationale for selecting this option, as well as indicating the mechanism to be used for an evaluation of the citizen involvement program. If the planning commission is to be used in lieu of an independent CCI, its members shall be selected by an open, well-publicized public process.

2. Communication --- To assure effective two-way communication with citizens. Mechanisms shall be established which provide for effective communication between citizens and elected and appointed officials.

3. Citizen Influence -- To provide the opportunity for citizens to be involved in all phases of the planning process. Citizens shall have the opportunity to be involved in the phases of the planning process as set forth and defined in the goals and guidelines for Land Use Planning, including Preparation of Plans and Implementation Measures, Plan Content, Plan Adoption, Minor Changes and Major Revisions in the Plan, and Implementation Measures.

4. Technical Information -- To assure that technical information is available in an understandable form. Information necessary to reach policy decisions shall be available in a simplified, understandable form. Assistance shall be provided to interpret and effectively use technical information. A copy of all technical information shall be available at a local public library or other location open to the public.

5. Feedback Mechanisms -- To assure that citizens will receive a response from policy-makers. Recommendations resulting from the citizen involvement program shall be retained and made available for public assessment. Citizens who have participated in this program shall receive a response from policy-makers. The rationale used to reach land-use policy decisions shall be available in the form of a written record.

6. Financial Support -- To insure funding for the citizen involvement program. Adequate human, financial, and informational resources shall be allocated for the citizen involvement program. These allocations shall be an integral component of the planning budget. The governing body shall be responsible for obtaining and providing these resources.

Warrenton's Comprehensive Plan contains citizen involvement policies that are in turn

implemented through the City's Zoning ordinance. Warrenton's approach to citizen involvement is similar to the approach used in other Oregon cities. With respect to this amendment, Warrenton requires at least one public hearing before the planning commission, and at least one public hearing before the City Commission. The hearings must be advertised according to statutory and ordinance requirements; written material used in the decision-making process must be available to decision makers and to the public; the hearings must be conducted according to statutory and ordinance requirements; and the final decision must be made in a public manner, with appropriate and timely post-decision notification.

The Planning Commission conducted public hearings at the Warrenton Community Center on 14 April 1999 and 12 May 1999. Public notices of both hearings were published in the *Columbia Press*, the newspaper of record in Warrenton, and were mailed to property owners within the notice area. Both oral and written testimony was taken at both hearings. The Planning Commission closed its hearing on 12 May 1999, deliberated, and voted to recommend that the City Commission approve the proposal. A written record of the Planning Commission's recommendation was made, and is available at Warrenton City Hall.

At the start of their public hearing on this matter, the Planning Commission chair asked planning commissioners to disclose any ex parte contacts and conflicts of interest. None of the members present had any ex parte contacts or conflicts of interest to disclose.

The City scheduled and advertised a public hearing before the City Commission on 16 June 1999. Because of a possible flaw in the public notice, the Commission continued the hearing until 13 July 1999. No testimony was taken at the Commission's 16 June meeting. A revised public notice for the 13 July public hearing was mailed to property owners, and published in the *Columbia Press* on 18 June 1999. The City conducted a public hearing at its meeting of 13 July 1999. At the end of testimony, the oral portion of the hearing was closed. The City Commission kept the written record open for seven days at the request of DLCD.

Copies of all documents pertaining to this proposal, as well as copies of the City's Comprehensive Plan and Zoning Ordinance, have been available for examination and photocopying at Warrenton City Hall. Additionally, copies of most of the application material was provided by mail or facsimile to the Oregon Department of Land Conservation and Development. Copies of a traffic impact study prepared for the project was provided to the Oregon Department of Transportation and to the Oregon Department of Land Conservation and Development.

Attendance at the public hearings on this matter, as well as letters published in local newspapers, demonstrate a high degree of public awareness about this project.

None of the parties testifying on this matter raised any specific objections based on Goal 1 issues.

For these reasons the City finds that the amendment as well as the process used to review it are consistent with Statewide Planning Goal 1; that approval of the amendment will not compromise the City's ongoing ability to meet the requirements of Statewide Planning Goal 1 or the public involvement provisions of the City's Comprehensive Plan or zoning ordinance; and that no amendments to the public involvement provisions of City's planning documents are needed to accommodate the amendment.

36. Statewide Planning Goal 2, addressing land use planning, consists of three parts: Planning, Exceptions, and Use of Guidelines. The first part, Planning, reads as follows:

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

City, county, state and federal agency and special district plans and actions related to land use shall be consistent with the comprehensive plans of cities and counties and regional plans adopted under ORS Chapter 268.

All land use plans shall include identification of issues and problems, inventories and other factual information for each applicable statewide planning goal, evaluation of alternative courses of action and ultimate policy choices, taking into consideration social, economic, energy and environmental needs. The required information shall be contained in the plan document or in supporting documents. The plans, supporting documents and implementation ordinances shall be filed in a public office or other place easily accessible to the public. The plans shall be the basis for specific implementation measures. These measures shall be consistent with and adequate to carry out the plans. Each plan and related implementation measure shall be coordinated with the plans of affected governmental units.

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

Warrenton's Comprehensive Plan was acknowledged by the Land Conservation and Development Commission as complying with Statewide Planning Goal 2. This amendment is an amendment of the City's Zoning Map, which is a part of the Comprehensive Plan.

Warrenton's planning documents establish a framework for making and implementing decisions concerning the use of Warrenton's land and water area. This amendment does not seek to alter this basic framework; rather, it amends the zoning map with respect to

the subject property in a manner consistent with this basic framework.

Warrenton's planning documents, including its Comprehensive Plan, Zoning Ordinance, Zoning map, and supporting documents, are available for examination or purchase at Warrenton City Hall. Preparation of Warrenton's planning documents was coordinated with a wide range of local, state, and federal agencies, including the following:

(local agencies)

Clatsop Soil and Water Conservation District
Clatsop County
Port of Astoria

(state agencies)

Oregon Department of Transportation
Oregon Department of Fish and Wildlife
Oregon Department of Land Conservation and Development
Oregon Department of Environmental Quality
Oregon Water Resources Department
Oregon Health Division
Oregon Parks and Recreation Department
Oregon Division of State Lands
Oregon National Guard (Camp Rilea)

(federal agencies)

US Fish and Wildlife Service
US Environmental Protection Agency
US Coast Guard
US National Marine Fisheries Service
US Army Corps of Engineers.

Preparation of this amendment was coordinated with several local, state and federal agencies. The following is a partial record of these coordination efforts:

Wetland issues and concerns have been addressed by the applicant in discussions with staff from the Oregon Division of State Lands. Discussions between the applicant and DSL staff concerning the wetland delineation, fill permits, and mitigation requirements are on-going.

Clearing of the property was coordinated by the applicant with forest practice staff from the Oregon Department of Forestry's Astoria District office, and with field staff from the Oregon Department of Fish and Wildlife.

US Fish and Wildlife Service staff were consulted regarding the Migratory Bird Treaty Act and its applicability to actions on the subject property. The concern here is the presence of an osprey nest near the site.

The applicant coordinated with the City of Warrenton Public Works Department on the installation of water and sewer lines to the property. These facilities are now in place, and the applicant participates in a Local Improvement District (LID) to pay for the recent sewer line installation.

Oregon Department of Transportation staff have participated in discussions with the applicant. Staff from the Astoria District office, as well as from ODOT's Region 2 office in Salem, have been consulted concerning highway access and the project's potential impact on highway capacity and service levels.

The applicant's consultant has discussed highway access issues with Britt Ferguson, Clatsop County manager, and with Margaret Forbes, director of the Clatsop County Economic Development Council. The County's principal interest in the project concerns its potential impact on highway access from County-owned land (North Coast Business Park) on the east side of Highway 101.

Oregon's Community Solutions Team for the north coast region has discussed the project on more than one occasion. The Community Solutions Team is made up of staff from several state agencies.

Oregon Department of Land Conservation and Development staff have been provided copies of application material and the traffic impact study, and have communicated with the applicant about the project on several occasions. The applicant met with DLCD staff in Salem on 23 June 1999 to discuss the agency's concerns over the proposal.

These coordination efforts on the applicant's part supplement the City's coordination activities. The City finds that the proposal has been fully coordinated with the appropriate local, state and federal agencies.

37. Statewide Planning Goal 2, addressing land use planning, consists of three parts: Planning, Exceptions, and Use of Guidelines. The second part, Exceptions, reads as follows:

A local government may adopt an exception to a goal when:

a. The land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal;

b. The land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or

c. The following standards are met:

1. Reasons justify why the state policy embodied in the applicable goals should not apply;

2. Areas which do not require a new exception cannot reasonably accommodate the use;

3. The long-term environmental, economic, social and energy consequences resulting from the use of the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

4. The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts. Compatible, as used in subparagraph (4) is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses. A local government approving or denying a proposed exception shall set forth findings of fact and a statement of reasons which demonstrate that the standards for an exception have or have not been met. Each notice of a public hearing on a proposed exception shall specifically note that a goal exception is proposed and shall summarize the issues in an understandable manner. Upon review of a decision approving or denying an exception:

a. The commission shall be bound by any finding of fact for which there is substantial evidence in the record of the local government proceedings resulting in approval or denial of the exception;

b. The commission shall determine whether the local government's findings and reasons demonstrate that the standards for an exception have or have not been met; and

c. The commission shall adopt a clear statement of reasons which sets forth the basis for the determination that the standards for an exception have or have not been met.

Exception means a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that;

a. Is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability;

b. Does not comply with some or all goal requirements applicable to the subject properties or situations; and

c. *Complies with standards for an exception.*

The proposal does not include an exception, nor is one required. No testimony has been received suggesting that an exception is necessary for this proposal.

38. Statewide Planning Goal 2, addressing land use planning, consists of three parts: Planning, Exceptions, and Use of Guidelines. The final part, Use of Guidelines, reads as follows:

Governmental units shall review the guidelines set forth for the goals and either utilize the guidelines or develop alternative means that will achieve the goals. All land-use plans shall state how the guidelines or alternative means utilized achieve the goals.

Guidelines --are suggested directions that would aid local governments in activating the mandated goals. They are intended to be instructive, directional and positive, not limiting local government to a single course of action when some other course would achieve the same result. Above all, guidelines are not intended to be a grant of power to the state to carry out zoning from the state level under the guise of guidelines. (Guidelines or the alternative means selected by governmental bodies will be part of the Land Conservation and Development Commission's process of evaluating plans for compliance with goals.)

Warrenton's Comprehensive Plan and implementing ordinances use the guidelines in the statewide planning goals, as well as alternative means for achieving the goals. This proposal neither amends or deletes any of the methods used in Warrenton for achieving any of the applicable Statewide Planning Goals.

39. Statewide Planning Goal 3 concerns agricultural lands. The proposal is applicable to land within the Warrenton City limits. This land has not been designated as agricultural land under Statewide Planning Goal 3. For these reasons, Statewide Planning Goal 3 is not applicable to the proposal.

40. Statewide Planning Goal 4 concerns forest lands. The proposal is applicable to land within the Warrenton City limits. This land has not been designated as forest land under Statewide Planning Goal 4. For these reasons, Statewide Planning Goal 4 is not applicable to the proposal.

41. Statewide Planning Goal 5 establishes planning processes and protection strategies for 15 resources, including the following:

Riparian corridors, including water and riparian areas and fish habitat;
Wetlands;
Wildlife Habitat;
Federal Wild and Scenic Rivers;
State Scenic Waterways;
Groundwater Resources;
Approved Oregon Recreation Trails;
Natural Areas;
Wilderness Areas;
Mineral and Aggregate Resources;
Energy sources;
Cultural areas;
Historic Resources;
Open Space;
Scenic Views and Sites.

The proposal does not remove or alter the City's Goal 5 protections from any of these protected resources, nor does it alter the analysis used by the City to reach its decision concerning individual resource sites. The site includes inventoried wetlands, riparian resources and aquatic habitat protected by several provisions in the City's zoning ordinance. The proposal leaves these protection mechanisms in place. Residential zoning was not one of the protection mechanisms for these resources. Wetlands not protected by City Ordinance are also present on the site. These wetlands are protected under Federal and State regulatory programs. The State of Oregon's wetland regulatory program is administered by the Oregon Division of State lands. Activities in these wetlands must follow existing state and federal rules regulating activities.

The City's Goal 5 element does not indicate that any of the following Goal 5 resources are present on the subject property; nor is there any testimony suggesting that one or more of these resources are present on the subject property: wildlife habitat, Federal wild and scenic rivers, State scenic waterways, groundwater resources, approved Oregon recreation trails, natural areas, wilderness areas, mineral or aggregate resources, energy sources, cultural areas, historic resources, open space, or scenic views or sites. The Goal 5 administrative rule does not require the City to revise its Goal 5 element for this proposed map amendment.

For these reasons, the City finds that the proposal is consistent with statewide planning Goal 5.

42. Statewide Planning Goal 6 concerns air and water pollution:

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

All waste and process discharges from future development, when combined with such discharges from existing developments shall not threaten to violate, or violate applicable state or federal environmental quality statutes, rules and standards. With respect to the air, water and land resources of the applicable air sheds and river basins described or included in state environmental quality statutes, rules, standards and implementation plans, such discharges shall not

- 1. exceed the carrying capacity of such resources, considering long range needs;*
- 2. degrade such resources; or*
- 3. threaten the availability of such resources.*

No amendments to the City's Goal 6 element are proposed or necessary for this project.

Wastewater from the site is handled by way of the City's sanitary sewage disposal system. The sewage collection system was recently extended to serve this site. Stormwater runoff from development at this site will be handled in a manner that complies with applicable City, State of Oregon, and Federal regulations pertaining to these discharges.

Development on this site must meet air quality regulations. The site is not located in an air quality non-attainment area.

Information is not yet available about potential air or water discharges associated with commercial development of this site. Warrenton's Goal 6 program relies on State and Federal regulatory programs to control air and water discharges. These regulatory programs can be applied at the time a development permit is sought for this site.

The City has not received any testimony suggesting that the amendment violates Statewide Planning Goal 6, or that the City's Goal 6 element would require amendment to accommodate the proposed zone change.

For the reasons outlined above, the City finds that amendment consistent with Statewide Planning Goal 6 and with the City's Goal 6 element.

43. Statewide Planning Goal 7 addresses areas subject to natural disasters and hazards. The Goal reads as follows:

To protect life and property from natural disasters and hazards.

Developments subject to damage or that could result in loss of life shall not be planned nor located in known areas of natural disasters and hazards without appropriate

safeguards. Plans shall be based on an inventory of known areas of natural disaster and hazards.

Areas of Natural Disasters and Hazards -- are areas that are subject to natural events that are known to result in death or endanger the works of man, such as stream flooding, ocean flooding, ground water, erosion and deposition, landslides, earthquakes, weak foundation soils and other hazards unique to local or regional areas.

The subject property is not known to be unusually subject to natural disasters or hazards. Most of the site is outside of the regulatory floodplain. Activities on those flood-prone parts of the site are regulated under the City's floodplain regulatory program. There are no known geologic hazards on the site. Development on the site will need to conform to seismic safety provisions in the building code.

The City has not received any testimony suggesting that the site is subject to natural hazards, or that the amendment violates Statewide Planning Goal 7, or that the City's Goal 7 element would require amendment to accommodate the zone change or commercial development.

For these reasons, the City finds that the amendment consistent with Statewide Planning Goal 7 and with the City's Goal 7 element.

44. Statewide Planning Goal 8 addresses recreational needs. The Goal reads as follows:

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

The requirements for meeting such needs, now and in the future, shall be planned for by governmental agencies having responsibility for recreation areas, facilities and opportunities: (1) in coordination with private enterprise; (2) in appropriate proportions; and (3) in such quantity, quality and locations as is consistent with the availability of the resources to meet such requirements. State and federal agency recreation plans shall be coordinated with local and regional recreational needs and plans.

The subject property is not identified in the City's Goal 8 element as a recreational site, nor has it been identified as a potential future recreational site. The City has not received any testimony suggesting that the site is appropriate or needed for recreational purposes. The City has not received any testimony suggesting that this amendment violates Statewide Planning Goal 8, or that the City's Goal 8 element would require amendment to accommodate the proposed zone change.

Goal 8 also addresses destination resort siting in rural areas. The subject property is in an urban area, so the destination resort provisions of Goal 8 are not applicable.

For these reasons, the City finds this amendment consistent with Statewide Planning Goal 8 and with the City's Goal 8 element.

45. Statewide Planning Goal 9 concerns economic development. The goal reads as follows:

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

Comprehensive plans and policies shall contribute to a stable and healthy economy in all regions of the state. Such plans shall be based on inventories of areas suitable for increased economic growth and activity after taking into consideration the health of the current economic base; materials and energy availability and cost; labor market factors; educational and technical training programs; availability of key public facilities; necessary support facilities; current market forces; location relative to markets; availability of renewable and non-renewable resources; availability of land; and pollution control requirements.

Comprehensive plans for urban areas shall:

- 1. Include an analysis of the community's economic patterns, potentialities, strengths, and deficiencies as they relate to state and national trends;*
- 2. Contain policies concerning the economic development opportunities in the community;*
- 3. Provide for at least an adequate supply of sites of suitable sizes, types, locations, and service levels for a variety of industrial and commercial uses consistent with plan policies;*
- 4. Limit uses on or near sites zoned for specific industrial and commercial uses to those which are compatible with proposed uses.*

In accordance with ORS 197.180 and Goal 2, state agencies that issue permits affecting land use shall identify in their coordination programs how they will coordinate permit issuance with other state agencies, cities and counties.

Goal 9 is applicable to this amendment because it adds commercially-zoned lands to the City's inventory. The amendment is consistent with Statewide Planning Goal 9 because:

An inventory of buildable lands completed in May 1998 by the Columbia River Estuary Study Taskforce indicates that the City has insufficient commercial and industrial lands to meet its projected needs, and that the City has a surplus of residentially-zoned lands relative to its projected needs.

Commercial development targeting a regional market has helped Warrenton's economy grow, has provided job opportunities for Warrenton's citizens, and has helped stabilize City tax revenue. The subject property is an appropriate location for additional commercial development focusing on a regional market.

Policies in the City's comprehensive plan express the City's desire to expand its role as a center of regional commercial activity. The City has recognized, through its comprehensive plan, the unique site needs of regional commercial developments.

The subject property is fully-serviced. It was not fully serviced until 1998, when sewerline improvements were completed in this part of town. These sewerline improvements were needed to accommodate the State of Oregon's decision to site a regional juvenile detention facility on previously un-serviced land to the east of the subject property.

The high traffic volumes and relatively high speeds allowed on Highway 101 past the subject property make this site a poor location for residential development because of noise levels.

Much of the remaining vacant commercially-zoned land in Warrenton is wetlands. The subject property also has wetlands, but to a much lesser extent than other vacant buildable land in Warrenton. Onsite wetlands are mostly in the western half of the site, leaving nearly all of the eastern portion as uplands.

Some of the remaining vacant commercial land in Warrenton is on the east side of Highway 101 adjacent to the Astoria Regional Airport. Safety restrictions associated with the airport make some of this land unbuildable. The subject property is not subject to airport safety restrictions.

Vacant commercial land in downtown Warrenton is in relatively small scattered parcels, and is served by relatively low-capacity street system. Developments requiring large blocks of land (i.e., greater than five acres), or that generate large volumes of automobile traffic, are inappropriate in downtown Warrenton for these reasons. The subject property is a large block of vacant land in a single ownership, and is served by a high-capacity highway.

The City has not received any credible testimony suggesting that this amendment violates Statewide Planning Goal 9, or that the City's Goal 9 element would require amendment to accommodate the zone change.

For the reasons outlined above, the City finds the amendment consistent with Statewide Planning Goal 9 and with the City's Goal 9 element.

46. Statewide Planning Goal 10 addresses housing. The Goal reads as follows:

To provide for the housing needs of citizens of the state. Buildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density.

The subject property was in a residential zone prior to this amendment, and thus available to meet the City's housing needs. A report prepared by CREST (*Land Use Inventory and Analysis for the City of Warrenton*, 4 May 1998) indicates that the City has a surplus of buildable residentially-zoned land relative to its projected housing needs. The subject property covers about 40 acres, of which 20 to 25 acres are potentially buildable for residential use. The inventory information and analysis in the CREST report indicate that the subject property could be removed from the City's inventory of buildable residential lands without harming the City's ability to meet its housing needs under Statewide Planning Goal 10. The City finds the information in the CREST report credible and unrefuted.

The City has not received any credible testimony suggesting that the amendment violates Statewide Planning Goal 10, or that the City's Goal 10 element would require amendment to accommodate the zone change.

For these reasons, the City finds the amendment consistent with Statewide Planning Goal 10 and with the City's Goal 10 element.

47. Statewide Planning Goal 11 concerns public facilities and services. The Goal reads as follows:

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.

Urban and rural development shall be guided and supported by types and levels of urban

and rural public facilities and services appropriate for, but limited to, the needs and requirements of the urban, urbanizable, and rural areas to be served. A provision for key facilities shall be included in each plan. Cities or counties shall develop and adopt a public facility plan for areas within an urban growth boundary containing a population greater than 2,500 persons. To meet current and long-range needs, a provision for solid waste disposal sites, including sites for inert waste, shall be included in each plan.

Counties shall develop and adopt community public facility plans regulating facilities and services for certain unincorporated communities outside urban growth boundaries as specified by Commission rules.

Counties shall not allow the establishment of new sewer systems outside urban growth boundaries or unincorporated community boundaries, or allow new extensions of sewer lines from within urban growth boundaries or unincorporated community boundaries to land outside those boundaries.

For land that is outside urban growth boundaries and unincorporated community boundaries, county land use regulations shall not rely upon the establishment or extension of a water system to authorize a higher residential density than would be authorized without a water system.

In accordance with ORS 197.180 and Goal 2, state agencies that provide funding for transportation, water supply, sewage and solid waste facilities shall identify in their coordination programs how they will coordinate that funding with other state agencies and with the public facility plans of cities and counties.

The subject property is fully serviced at a level that accommodates commercial development on the scale allowed by this amendment. A sewer line was recently installed on Dolphin Avenue to serve the North Coast Business Park, on the east side of Highway 101. This sewerline also serves the subject property. Water service is in place. The subject property is served by City police, fire, and ambulance service. It is in the Warrenton School District.

The City has not received any testimony suggesting that the amendment violates Statewide Planning Goal 11, or that the City's Goal 11 element would require amendment to accommodate the zone change.

For the reasons outlined above, the City finds this amendment consistent with Statewide Planning Goal 11 and with the City's Goal 11 element.

48. Statewide Planning Goal 12 covers transportation. The goal reads as follows:

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

A transportation plan shall

- 1. consider all modes of transportation including mass transit, air, water, pipeline, rail, highway, bicycle and pedestrian;*
- 2. be based upon an inventory of local, regional and state transportation needs;*
- 3. consider the differences in social consequences that would result from utilizing differing combinations of transportation modes;*
- 4. avoid principal reliance upon any one mode of transportation;*

- 5. minimize adverse social, economic and environmental impacts and costs;*
- 6. conserve energy;*
- 7. meet the needs of the transportation disadvantaged by improving transportation services;*
- 8. facilitate the flow of goods and services so as to strengthen the local and regional economy; and*
- 9. conform with local and regional comprehensive land use plans. Each plan shall include a provision for transportation as a key facility.*

A traffic impact study prepared for this project by Lancaster Engineering is a part of the record of this proceeding. The Lancaster report provides findings in support of a conclusion that the proposal is consistent with Goal 12. The analysis in the Lancaster report assumed a worst-case scenario in terms of potential traffic impacts. The report identifies measures to mitigate the potential impacts of commercial development on transportation facilities. These measures are incorporated into this approval as conditions of approval 4 and 5, on pages 41 and 42 of these findings. These conditions are appropriate means for assuring that the City is able to continue to provide a safe, convenient and economic transportation system. The City finds that the amendment is consistent with Statewide Planning Goal 12.

49. The Goal 12 administrative rule, OAR 660-12-0060, describes standards for reviewing local comprehensive plan amendments with respect to transportation. The pertinent part of the rule reads as follows:

(1) Amendments to functional plans, acknowledged comprehensive plans, and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. This shall be accomplished by either:

(a) Limiting allowed land uses to be consistent with the planned function, capacity, and performance standards of the transportation facility;

(b) Amending the TSP to modify the planned function, capacity and performance standards, as needed, to accept greater motor vehicle congestion to promote mixed use, pedestrian friendly development where multimodal travel choices are provided.

(2) A plan or land use regulation amendment significantly affects a transportation facility if it:

(a) Changes the functional classification of an existing or planned transportation facility;

(b) Changes standards implementing a functional classification system;

(c) Allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or

(d) Would reduce the performance standards of the facility below the minimum acceptable level identified in the TSP.

(3) Determinations under subsections (1) and (2) of this section shall be coordinated with affected transportation facility and service providers and other affected local governments.

The subject property has frontage on two transportation facilities: Dolphin Avenue and US Highway 101. A traffic impact study for this amendment was prepared by Lancaster Engineering. This report examined the potential impact of the proposed amendment on Dolphin Avenue and on Highway 101. In making a decision on this amendment, the City had to decide (1) whether the proposal significantly affects a transportation facility and, if it does, (2) how to limit allowed land uses on the subject property in a manner consistent with the planned function, capacity, and performance standards of the affected transportation facilities.

Does the proposal significantly affect a transportation facility? According to the transportation planning rule, the proposed zone map amendment significantly affects a transportation facility if it:

(a) Changes the transportation facility's functional classification

- (b) Changes a functional classification system;
- (c) Allows land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or
- (d) Would reduce the facility's performance standard below the minimum acceptable level.

A traffic impact study prepared by Lancaster Engineering examined the amendment's potential impact on the following intersections:

Highway 101 at Harbor Street

Highway 101 at Neptune Avenue

Highway 101 at Marlin Avenue

Highway 101 at Fort Stevens Highway

Highway 101 at Dolphin Avenue

Highway 101 at Perkins Road

Fort Stevens Highway at Dolphin Avenue

Fort Stevens Highway at Main Avenue.

These intersections are shown ^{not} on a map of the study area on page 10 of the Lancaster report. The amendment does not change the functional classification of any of these intersections, or of Highway 101 itself, or of Dolphin Avenue. Highway 101's functional classification is described on pages 7 and 8 of the Lancaster report:

Highway 101 is designated in the 1998 Oregon Highway Plan as a highway of statewide importance, and describes its utility as follows: Statewide Highways provide the primary connections to larger urban areas, ports, and major recreation areas that are not directly served by interstate highways. A secondary function is to provide connections for intra-urban and intra-regional trips. Some state highways are major freight routes. Outside Special Transportation areas (STAs) their objective is to provide mobility. Inside STAs, local access may also be a priority.

The applicants have not asked the City or ODOT to change functional classifications on any of the potentially affected transportation facilities, nor has the City received any testimony from ODOT or from other parties suggesting that this amendment requires

changes in functional classification.

The amendment does not require changes to a system of classifying transportation facilities. The applicants have not asked the City or ODOT to change an existing system of functional classification, or to adopt a new system. The City has not received any testimony from ODOT or from other parties suggesting that the amendments require changes to a functional classification system.

None of the land uses potentially allowed on the subject property under this amendment are inconsistent with the functional classification of any of the potentially affected transportation facilities. Highway 101's secondary function (cited above) is to provide connections for intra-urban and for intra-regional trips. Un-refuted and credible testimony from the applicants indicates that the likely use of the subject property is for commercial development serving a regional market. Close proximity to Highway 101 will facilitate the high volume of intra-regional trips likely to be generated by commercial development on this site.

The Lancaster Engineering study examined the amendment's potential impact on the level of service at eight intersections. The Lancaster report indicates that the lowest acceptable level of service for Highway 101 in Warrenton is in the D-E range (see page 26 of the traffic impact study). A failing level of service is F. The traffic impact study describes Level of Service as a measure of a transportation facility's performance. None of the parties to this hearing questioned the use of Level of Service as an appropriate performance standard for the transportation facilities affected by the proposal. A table on pages 30 and 31 of the traffic impact study summarizes Level of Service data for the afternoon peak hour at each of eight intersections examined in the study. According to the table, the level of service at the following intersections is unaffected by the proposal either immediately or with projected increases in background traffic through the year 2020 if appropriate improvements are made:

Highway 101 at Harbor Street

Highway 101 at Neptune Avenue

Highway 101 at Marlin Avenue

Fort Stevens Highway at Dolphin Avenue.

The City finds that, with appropriate mitigation measures recommended in the Lancaster study, the proposed amendments will have no impact on level of service at the four intersections listed above.

The Lancaster traffic impact study identified four intersections that would suffer a level of service reduction as a result of the proposal. These intersections are:

Highway 101 at Fort Stevens Highway

Highway 101 at Dolphin Avenue

Highway 101 at Perkins Road

Fort Stevens Highway at Main Avenue.

The intersection of Highway 101 and Fort Stevens Highway, to the north of the subject property, would suffer a level of service reduction as a result of the proposal from E to F. An F level of service is below ODOT's desired minimum level of service for Highway 101. However, the report goes on to recommend improvements, including a traffic signal, that would raise the current level of service to the B level, falling to the still-acceptable C level with the additional trips associated with the proposed amendment. Based on this, the City finds that the amendment, with appropriate mitigation measures, will not degrade the level of service at the Highway 101/Fort Stevens Highway intersection to an unacceptable level. These mitigation measures are implemented by way of approval condition 5.

The intersection of Highway 101 and Dolphin Avenue is immediately south of the subject property. The Lancaster report estimates that this intersection's PM peak hour level of service would be reduced from its current B level of service to an unacceptable F level of service by the addition of trips associated with the subject property. By signaling this intersection, Lancaster estimates that the level of service with these additional trips can be preserved at the acceptable D level. With the addition of projected background traffic through the year 2020, this intersection can still function at the acceptable E level with certain improvements. Based on this, the City finds that the amendment, with appropriate mitigation measures, will not degrade the level of service at the Highway 101/Dolphin Avenue intersection to an unacceptable level. These mitigation measures are implemented by way of approval condition 4.

The Highway 101/Perkins Road intersection is about one mile south of the subject property, outside of the City of Warrenton. The Lancaster traffic impact study estimates that the proposal will result in a drop in the current level of service at this intersection from D to E. The estimated change for the year 2020 is from the D-E range to E. Since E is an acceptable level of service at this intersection, the City finds that the amendment will not significantly affect this transportation facility.

The intersection of Fort Stevens Highway and Main Avenue is northwest of the subject property. The traffic impact study estimates that the level of service at this intersection in the year 2020 will drop from B to C, still an acceptable level of service. The City finds that the amendment will not significantly affect this transportation facility.

Based on this information, the City finds that the amendment does not significantly affect a transportation facility because the amendment:

will not change the functional classification of an existing or planned transportation facility;

will not change standards implementing a functional classification system;

will not allow types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; and

will not reduce the performance standards of the facility below the minimum acceptable level identified in the TSP.

The City further finds that the process for preparing and reviewing the potential transportation impacts of this amendment were well-coordinated with affected agencies, including the Oregon Department of Transportation (ODOT), and the Oregon Department of Land Conservation and Development (ODLCD).

50. At the City Commission's hearing on 13 July 1999, a representative of ODOT requested an additional 30 days to comment on the Lancaster traffic impact study. The City could not grant this request due to concerns about the 120-day rule (ORS 227.178); however, the City did grant an additional seven days for written testimony on the traffic impact study. ODOT responded with a letter dated 21 July 1999. The ODOT letter contends that the project will have a significant impact on the transportation system because it will degrade the peak hour volume-to-capacity ratio (V/C) at the intersection of Highway 101 and Harbor Street from 0.77 to 0.83. The ODOT letter goes on to state that any projected increase in the V/C ratio is significant if the facility is already failing. The letter cites "OHP action 1F.6" in support of this. The ODOT letter does not explain what OHP action 1F.6 is, or what it is derived from. A paragraph labeled as Action 1F.6 is attached to ODOT's 21 July 1999 letter. This paragraph does not appear to be from the applicable administrative rule (OAR 660-012). Action 1F.6 notwithstanding, the City finds that OAR 660-012-0060(2) contains the only criteria that can be used for determining whether this amendment significantly affects a transportation facility. OAR 660-012-006(2)(a) indicates that an amendment significantly affects a transportation facility if it "would reduce the performance standards of the facility below the minimum acceptable level identified in the TSP". The city understands this to mean that a transportation facility that is already operating below the minimum acceptable level of service identified, in this case, in the Oregon Highway Plan, cannot be significantly affected by an amendment. The City understands the Harbor/Highway 101 intersection to be operating at a failing level of service with or without the amendment. The additional degree of failure, if any, caused by this amendment, is not significant within the context of OAR 660-012-006(2)(a). The City also notes that Harbor/Highway 101 intersection is nearly two miles away from the Dolphin/Highway 101 intersection, and that the impact, if any, of this amendment on an intersection so distant is likely to be very small.

51. The ODOT letter dated 21 July 1999 contends that the project will have a significant

impact on the transportation system because it will degrade the peak hour volume-to-capacity ratio (V/C) at the intersection of Highway 101 and Harbor Street from 0.77 to 0.83. A memo from Lancaster Engineering dated 28 July 1999 responds to ODOT's 21 July 1999 letter. In the first page of the memo, Lancaster Engineering notes a typographical error in its July 1999 Traffic Impact Study (TIS) for this amendment. The next two pages of the memo are replacement pages for the July 1999 TIS, correcting this error. Lancaster Engineering's memo states "This correction does not change the results of the capacity analysis". In the corrected TIS summary, page 3, item 2 addresses the intersection of Harbor and Highway 101. It reads (in part) as follows:

Year 2020 background volumes will necessitate extensive improvements at this intersection, particularly the widening of Highway 101 to a five-lane section. These improvements will be needed without the proposed zone change, and the level of service is not expected to be adversely impacted by the zone change if the improvements are made.

The City understands the failure threshold for the Harbor Drive/Highway 101 intersection to be when the V/C ration exceeds 0.75 (see the 21 July 1999 ODOT letter). The V/C ratio is currently 0.77 (see the 28 July 1999 Lancaster Engineering memo). The combination of background traffic and traffic from the subject property are projected to increase the V/C ratio to 0.83. ODOT has not offered any remedy or mitigation measure to improve the performance of the Harbor Drive/Highway 101 intersection. Based on these facts, the City finds that this amendment will not have a significant affect on the Harbor Drive/Highway 101 intersection.

52. Statewide Planning Goal 13 addresses energy conservation:

To conserve energy.

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.

The amendment does not change the City's approach to energy conservation. Commercial development on the site will need to meet energy conservation provisions in the building code. The City has not received any testimony suggesting that the amendment violates Statewide Planning Goal 13, or that the City's Goal 13 element would require amendment to accommodate the zone change. For these reasons, the City finds the amendment t be consistent with Statewide Planning Goal 13 and with the City's Goal 13 element.

53. Statewide Planning Goal 14 deals with urbanization. The Goal reads as follows:

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

Urban growth boundaries shall be established to identify and separate urbanizable land from rural land. Establishment and change of the boundaries shall be based upon considerations of the following factors:

- 1. Demonstrated need to accommodate long-range urban population growth requirements consistent with LCDC goals;*
- 2. Need for housing, employment opportunities, and livability;*
- 3. Orderly and economic provision for public facilities and services;*
- 4. Maximum efficiency of land uses within and on the fringe of the existing urban area;*
- 5. Environmental, energy, economic and social consequences;*
- 6. Retention of agricultural land as defined, with Class I being the highest priority for retention and Class VI the lowest priority; and,*
- 7. Compatibility of the proposed urban uses with nearby agricultural activities.*

The results of the above considerations shall be included in the comprehensive plan. In the case of a change of a boundary, a governing body proposing such change in the boundary separating urbanizable lands from rural land, shall follow the procedures and requirements as set forth in the Land Use Planning goal (Goal 2) for goal exceptions.

Any urban growth boundary established prior to January 1, 1975, which includes rural lands that have not been built upon shall be reviewed by the governing body, utilizing the same factors applicable to the establishment or change of urban growth boundaries.

Establishment and change of the boundaries shall be a cooperative process between a city and the county or counties that surround it.

Land within the boundaries separating urbanizable land from rural land shall be considered available over time for urban uses. Conversion of urbanizable land to urban uses shall be based on consideration of:

- 1. Orderly, economic provision for public facilities and services;*
- 2. Availability of sufficient land for the various uses to insure choices in the market place;*

3. LCDC goals or the acknowledged comprehensive plan; and,

4. Encouragement of development within urban areas before conversion of urbanizable areas.

In unincorporated communities outside urban growth boundaries counties may approve uses, public facilities and services more intensive than allowed on rural lands by Goal 11 and 14, either by exception to those goals, or as provided by Commission rules which ensure such uses do not:

1. *adversely affect agricultural and forest operations, and*

2. *interfere with the efficient functioning of urban growth boundaries.*

The subject property is within Warrenton's City Limits and acknowledged Urban Growth Boundary. It is not within a Growth Management Area. The site has been planned and serviced for urban levels of development. Both residential and commercial zoning would allow urban levels and densities of development. The City has not received any testimony suggesting that this amendment violates Statewide Planning Goal 14, or that the City's Goal 14 element would require amendment to accommodate this zone change. For the reasons outlined above, the City finds that the amendment is consistent with Statewide Planning Goal 14 and with the City's Goal 14 element.

54. Statewide Planning Goal 15 is not applicable to this amendment, as it covers the Willamette River Greenway.

55. Statewide Planning Goal 16 addresses estuarine resources. The subject property does border on or include estuarine waters. Tributaries to the Skipanon River cross a portion of the subject property, and the Skipanon River borders the property to the west. The Skipanon River is part of the estuary only downstream of the Eighth Street dam. The subject property borders the Skipanon River upstream of the Eighth Street dam. The City has not received any testimony suggesting that the amendment violates Statewide Planning Goal 16, or that the City's Goal 16 element would require amendment to accommodate the zone change. Based on this, the City finds the proposal consistent with Statewide Planning Goal 16 and with the City's Goal 16 element.

56. Statewide Planning Goal 17 addresses coastal shorelands. The subject property is not within the City's Coastal Shorelands Boundary. The City has not received any testimony suggesting that the amendment violates Statewide Planning Goal 17, or that the City's Goal 17 element would require amendment to accommodate the zone change. For the

reasons outlined above, the City finds that the amendment is consistent with Statewide Planning Goal 17 and with the City's Goal 17 element.

57. Statewide Planning Goal 18 addresses beaches and dunes. The subject property is not within the City's inventoried beach and dune area. The City has not received any testimony suggesting that the zone change violates Statewide Planning Goal 18, or that the City's Goal 18 element would require amendment to accommodate this zone change. Based on this, the City finds the amendment consistent with Statewide Planning Goal 18 and with the City's Goal 18 element.

58. Statewide Planning Goal 19 concerns ocean resources, and is not applicable to the subject property.

Conditions of Approval:

The City approves this amendment subject to the following conditions:

Condition 1: A wetland delineation must be completed to confirm the location of the boundary line between A5 zone and the General Commercial zone on tax lot 8-10-28-1900. This delineation will be accepted by the City as describing the A5/General Commercial boundary line only if the Oregon Division of State Lands and the US Army Corps of Engineers concur with the delineation. No building permits or development permits may be issued for tax lot 8-10-28-1900 prior to acceptance by the City of the delineation.

Condition 2: If wetlands on the site are to be filled, copies of the completed DSL/COE Joint Permit Application, mitigation plan, wetland delineation and any supporting documents shall be provided to the City.

Condition 3: Any grading or site preparation activities on the site must comply with City standards for erosion control, and, if applicable, with the erosion control permit program administered by the Oregon Department of Environmental Quality. A copy of the complete DEQ permit application and any supporting documents shall be provided to the City.

Condition 4: The following improvements may be needed at the intersection of Dolphin Avenue and Highway 101:

A five-phase traffic signal;

A right-turn lane on Highway 101 serving south-bound traffic turning onto Dolphin

Avenue; and

A protected left-turn lane on Dolphin Avenue adjacent to the site.

These improvements shall be made either prior to commercial development on the subject property; or at the same time as the subject property is developed; or after commercial development of the subject property subject to traffic monitoring and a development agreement between the City, ODOT and the developer. Alternatively, a revised traffic impact study may be prepared and submitted to the City demonstrating that some or all of the improvements listed above are not warranted. The City may coordinate its evaluation of a revised traffic impact study with ODOT. The City may waive or modify this condition if a revised traffic impact study demonstrates that some or all of the improvements mentioned above are not warranted.

Condition 5: A traffic signal must be installed at the intersection of Fort Stevens Highway and Highway 101. This improvement shall be made either prior to commercial development on the subject property; or at the same time as the subject property is developed; or after commercial development of the subject property subject to traffic monitoring and a development agreement between the City, ODOT and the developer. Alternatively, a revised traffic impact study may be prepared and submitted to the City demonstrating that a traffic signal at this intersection is not warranted. The City may coordinate its evaluation of a revised traffic impact study with ODOT. The City may waive or modify this condition if a revised traffic impact study demonstrates that this improvement is not warranted

Condition 6: If the improvements listed in Conditions 4 and 5 are not to be made until after development and subject to a traffic monitoring agreement between the City, ODOT and the Developer, the City shall require a bond, letter of credit or other security device or instrument deemed adequate by the City, prior to commercial development, to assure that such improvements will be made unless subsequently waived or modified.

Condition 7: The City shall not waive or modify the improvements listed in Conditions 4 and 5 without first holding a public hearing and following procedures of public notice and opportunity to be heard of the same dignity as this quasi-judicial proceeding for a zone change. Such proceeding shall be pursuant to an application to modify or eliminate a condition of this Order and shall be subject to the usual appeal rights to LUBA and to the Oregon Court of Appeals and Oregon Supreme Court.

*Ceil -
Here are
a couple of
ideas -
JRS*

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