

ORDINANCE No. 1113-A

Introduced by Commissioner: Frank Orrell

Amending the City of Warrenton Zoning Designation Map to reflect the rezoning of 75.26 acres from General Industrial to General Commercial, known as tax lot 201 in Section 27, Township 8, Range 10. The revisions shall be made to the City of Warrenton's Zoning Designation Map (Exhibit "B") for the subject property from General Industrial (I-1) to General Commercial (C-1); Adopting the Findings of Fact and Conclusions of Law attached as Exhibit "A"; and Conditions of Approval attached as Exhibit "C".

WHEREAS, certain changes are necessary to revise, update and amend the Warrenton Zoning Designation Map; and

WHEREAS, Atlin Investments is the applicant for the rezone and Clatsop County is the property owner of tax lot 201 in Section 27, Township 8, Range 10.

WHEREAS, the Warrenton City Commission received the Planning Commission's recommendation on this matter, and conducted public hearings on June 26, 2007, which was continued to July 31, 2007, and then continued to August 14, 2007. The City Commission closed the public hearing on August 14, 2007, and continued the deliberation and decision making portion of the public hearing to August 28, 2007; and

WHEREAS, the Warrenton City Commission has determined to approve this application with conditions described in Exhibit "C", adopt the Findings of Fact and Conclusions of Law described in Exhibit "A", and amend the Zoning Designation Map described in Exhibit "B" (all exhibits attached hereto and incorporated by reference).

NOW, THEREFORE, The City of Warrenton ordains as follows:

Section 1: The City of Warrenton's Zoning Designation Map is amended as described in Exhibit "B"; and the Rezone is approved with Conditions as described in Exhibit "C".

Section 2: This ordinance shall become a final land use decision upon its second reading, enactment, and its signing by the Mayor.

Section 3: This ordinance shall become effective thirty (30) days from the date of its adoption.

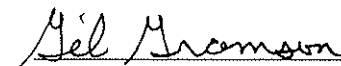
Section 4: If any article, section, subsection, phrase, clause, sentence or word in this ordinance shall, for any reason, be held invalid or unconstitutional by a court of competent jurisdiction, it shall not nullify the remainder of the ordinance but shall be confined to the article, section, subdivision, clause, sentence or word so held invalid or unconstitutional.

First Reading: August 28, 2007

Second Reading: September 11, 2007

ADOPTED by the City Commission of the City of Warrenton, Oregon, this 11th day of September, 2007.

APPROVED



Gil Gramson, Mayor

ATTEST:



Linda Engbretson, City Recorder

Date the City mailed the Notice of Decision to parties with standing and to the Department of Land Conservation and Development on the required form:

EXHIBIT 'A'

FINDINGS OF FACT

APPLICANT: Atlin Investments PROPERTY OWNER: Clatsop County

FILE #: RZ-07-2 LOCATION: Township 8, Range 10, Section 27, Tax Lot 201

CURRENT ZONE: I-1 (General Industrial) ACRES: 75 +/- acres

Request to rezone Tax Lot 201 from General Industrial (I-1) to General Commercial (C-1). The application was reviewed and a decision rendered pursuant to Warrenton's Development Code Sections 4.1.6 (Type IV Procedure - Legislative and Map Amendments), 4.7 (Land Use District Map and Text Amendments), and 4.13 (Traffic Impact Study), Comprehensive Plan, Statewide Planning Goals, Oregon Revised Statutes and the Oregon Administrative Rules.

I. APPLICABLE POLICIES FROM WARRENTON'S COMPREHENSIVE PLAN

Findings: The City of Warrenton's Comprehensive Plan (adopted in March 2003 by city ordinance 1058-A) shows the entire business park, including the subject property, to be designated "Urban Development Areas — Other Shorelands." (See map on page 4 of the plan.) All of the North Coast Business Park property currently is zoned General Industrial (I-1). (See "City of Warrenton Zoning Map with Floodplain Overlay, The Official Zoning Map for the City of Warrenton, Approved on March 19, 2003 by the Warrenton City Commission," map print date May 11, 2004.)

Warrenton's policies on planning procedures are set forth in Article 20 (pp. 91 – 92) of the comprehensive plan. Some of these policies deal with procedures other than PAPA's and thus do not apply to this proposal. Other policies deal with procedures to be followed by the city in reviewing proposals such as this one. These policies deal with matters such as public hearings, the role of the planning commission, and coordination with other governments and agencies. This application has been prepared in accordance with all such procedural policies and with related requirements from the city's Development Code.

A. Policy 20.310(3), on Rezoning: The only policy in Article 20 directly related to rezoning land from General Industrial to General Commercial is policy 20.310(3): "All Comprehensive Plan amendments shall comply with the Statewide Planning Goals and will be supported by adequate evidence indicating the desirability of the proposed revisions. The desirability of changes in the intent or boundaries of land and water use areas, as shown on the respective maps, will be determined in part by (a) the expected impact on the ability of the Plan to help satisfy land and water use needs; (b) the improvements to transportation facilities and community facilities and services, if any, necessary to accommodate the change; and (c) the physical development limitations and other natural feature characteristics of the areas involved."

Findings: This proposal's compliance with Oregon's statewide planning goals is described in Section 4 of this narrative. The desirability of zoning the subject property for commercial use is explained in detail at various points throughout the narrative, especially in the discussion of compliance with Goal 9, *Economic Development*. That desirability can be summarized thus:

- The city has an abundance of industrially zoned land but little demand for industrial development.
- The city has a shortage of large commercially zoned parcels and strong demand for commercial development.
- The subject property is ideally located for commercial use, having extensive frontage and high visibility on a long straight section of Highway 101.
- Because it is one of the few large level upland sites in Warrenton, the property's physical features make it well-suited for commercial use.
- Zoning the subject property for commercial use would complement commercial zoning and land use occurring on adjacent lands to the west and north.
- The risk of land-use conflicts from commercial development of the subject property is quite small, because there are no potentially conflicting uses, such as houses or schools, near the subject property.

The desirability of the rezoning with regard to public services is discussed in this narrative's analysis of compliance with Goal 11, *Public Facilities and Services*. As noted there, the North Coast Business Park already has a full range of urban services, and the proposed commercial use of the subject property is likely to have less demand on those services than would industrial development.

The desirability of the proposal with respect to physical features of the subject property is described in several parts of this narrative, especially those describing compliance with Goal 5 (on natural resources) and Goal 9 (on economic development). As noted there, the property is highly desirable for the proposed commercial use, because it is a level upland site largely free of physical constraints. Only a small fraction of the parcel is constrained by wetlands, and they are on the edge of the parcel, thus leaving a dry upland area of approximately 60 acres suitable for commercial development.

For the reasons described in the preceding paragraphs, the proposed rezoning is highly desirable and therefore fully consistent with Policy 20.310(3).

B. Plan Designation:

Findings: The plan specifies that the “Other Urban Shorelands” plan designation may be implemented with a variety of zones, including General Industrial (I-1) and General Commercial (C-1) (*Plan*, paragraph “b,” page 6). Re-zoning the subject property from General Industrial to General Commercial thus is consistent with the plan’s map designation and related policy for this property.

C. Policies on Industrial Lands (Section 3.330):

Findings: The city’s policies for industrial lands are set forth in Section 3.330 of the comprehensive plan (pp. 13 -14). The policies deal mainly with types of uses to be allowed in industrial zones and with the types of land where various industrial zones should be applied. None of the policies deals with rezoning industrial lands for commercial use. Section 3.330 therefore is not applicable to this application.

D. Policies on Commercial Lands (Section 3.320):

Findings: Section 3.320 of Warrenton’s comprehensive plan sets forth five policies regarding commercial lands. Policy 3.320(1) declares city intent 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” (*Plan*, p. 11). The same policy goes on to explain that, “The purpose of the General Commercial Zone is to allow a broad range of commercial uses providing products and services in the downtown area, the Hammond business district, and along the Highway 101 corridor” (emphasis added; *Plan*, p. 12). This proposal would re-zone 75 acres of industrial land along Highway 101 to General Commercial and therefore is fully consistent with Policy 3.320(1). Policy 3.320(2) says:

“Precautions will be taken to minimize traffic congestion associated with nearby commercial uses, particularly on U.S. Highway 101, Main Avenue, East Harbor Drive, Neptune 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.”

As noted in Section 1 of this narrative, land to the west and north of the subject property already is zoned General Commercial. The property directly across Highway 101 was recently rezoned to commercial use as the site for Home Depot, a large retail home improvements center, and for a new car dealership. These commercial uses will take access to Highway 101 via a re-aligned intersection at Dolphin Lane. The subject property proposes to take access to Highway 101 from that same intersection. (For details, see Section 4 of this narrative, on compliance with the Transportation Planning Rule, and the attached traffic impact study.) This proposal thus would group businesses and provide common access points exactly as called for in Policy 3.320(2). As for parking, any new commercial development

occurring as a result of this rezoning would be subject to the parking requirements of the Warrenton Development Code. The proposal therefore fully complies with Policy 3.320(2). Policy 3.320(3) says, "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." The intent of this policy is unclear, for three reasons.

First, the policy's use of the phrase "near U.S. Highway 101" does not enable one to determine what geographic area is subject to the policy. Arguably, every commercial district in Warrenton is "near Highway 101."

Second, the provisions of the General Commercial zone currently allow "retail business establishments" outright as a permitted use "along Highway 101, SE Marlin, and SW Dolphin Avenues (only)" (Development Code 2.5.110, page 2-18). Policy 3.320(3) thus may be intended to subject large retail developments in the prescribed area to a higher level of review than currently is required by the Development Code. Or it may simply describe something to be considered in the future: a possible amendment of the code to allow large retail developments in specified areas only through the conditional use process, not as permitted uses.

Third, the wording of the policy leaves its intent uncertain. It could mean that the city encourages large retail developments to locate only in the specified areas, or it could mean the city will consider (perhaps reluctantly) allowing such development there but would in fact prefer that it occur elsewhere.

The applicant concludes that this policy applies only to the commercially zoned lands adjoining the intersection of Highway 101 and East Harbor Drive, and that the policy is intended to provide a higher level of review for development proposals in that area. That intersection is more than a mile north of the subject property. The policy therefore is not applicable to this proposal for two reasons: the subject property is not within the geographic area described by the policy; and the policy deals with procedures to be used in reviewing development proposals on land already in the General Commercial zone, not with the issue of which areas should be so zoned.

Policy 3.320(4) says, "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" (*Plan*, p. 13). The area so described consists of four adjacent city blocks currently zoned R-10, Intermediate Density Residential. The area is roughly a half mile north of the subject property, so Policy 3.320(3) is not applicable to this proposal. Note that the policy does not preclude rezoning of other lands to General Commercial: it simply describes one area to be considered for such zoning. Policy 3.320(5) says: "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.”

Establishing 75 acres of C-1-zoned land with frontage on and access to Highway 101 clearly would increase the likelihood that new retail uses would develop there. Such development would enhance the local economy and increase diversity of commercial uses. The proposal thus satisfies Policy 3.320(5).

For reasons described above, this proposal to rezone 75 acres from General Industrial to General Commercial is fully consistent with all applicable policies from the City of Warrenton’s comprehensive plan.

E. Warrenton Development Code Section 4.1.2, Description of Permit/ Decision-Making Procedures

Findings: This section classifies all land use and development applications in four categories: Type I (Ministerial), Type II (Administrative), Type III (Quasi-Judicial), Type IV (Legislative and Map Amendments). Subsection 4.1.2 (D) says, “Type IV procedures apply to legislative matters and map amendments.” It also states, “The Type IV procedure is also used for land use district map amendments and comprehensive plan amendments.” This application proposes a map amendment. It therefore is subject to the Type IV procedure, in which applications are “considered initially by the Planning Commission with final decisions made by the City Commission.”

F. Section 4.1.6, Type IV Procedure (Legislative and Map Amendment) Application Requirements

Findings: Standards and requirements for a Type IV review are set forth in WDC Section 4.1.6. Subsection 4.1.6.A specifies that a pre-application conference is required. The applicant satisfied this requirement by meeting with Warrenton’s planning director on several occasions in 2006 to discuss this application. Subsection 4.1.6.B.1 says applications for Type IV decisions must be submitted on the form prescribed by the City of Warrenton. The application that accompanies this narrative is submitted on such a form, provided by the city’s planning director.

Subsection 4.1.6.B.2 requirements the following materials to be submitted:

- a. “The information requested on the application form;
- b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);
- c. The required fee;
- d. Three (3) copies of a letter or narrative statement that explains how the application satisfies each and all of the relevant approval criteria and standards.”

The applicant submitted all information required on the application form, a suitable map, a check in the amount of \$1,500, eleven copies of this narrative, and

additional supporting material. The application therefore complies with WDC Section 4.1.6.A and B.

G. Section 4.7.3, Quasi-Judicial Amendments

Findings: As noted above, Section 4.1.2 clearly specifies that a map amendment such as the one being proposed here is a Type IV decision. Such decisions may be either “legislative” or “quasi-judicial.” Legislative decisions typically are broad policy actions initiated by the city. In contrast, quasi-judicial decisions are “those that involve the application of adopted policy to a specific development application or Code revision” (Code, Section 4.7.3). This proposal asks the city to apply adopted policy to the map amendment sought by applicant Atlin Investment, Inc. It therefore is a quasi-judicial matter, subject to the requirements of Section 4.7.3. Section 4.7.3 lists three criteria for quasi-judicial map amendments: Compliance with “all applicable comprehensive plan policies . . .”

1. Compliance with “all applicable standards and criteria of the Code . . . ,” and
2. “Evidence of change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or land use district map . . .”

Regarding the first two criteria, Sections 2 and 3 of this narrative demonstrate how the proposed rezoning complies with all applicable provisions of Warrenton’s comprehensive plan and development code. Regarding the third criterion, the applicant submits substantial evidence of significant changes that have occurred in the neighborhood of the subject property and in the community during the many years that have passed since the property was zoned General Industrial.

As described in Section 1, the subject property has been zoned “Industrial” for at least a quarter century, sitting vacant, in anticipation of industrial uses that never came. During that time, local, regional, and national economies all have undergone significant change in the markets for industrial and for commercial lands. Generally, demand for large industrial sites has diminished, while demand for large retail commercial sites has grown. This change is described in detail in Section 4 of this narrative, in the analysis of compliance with Goal 9.

It is important to note that such change and its effects on the North Coast Business Park are fully documented and well-researched. Several local and state agencies have expended significant resources to answer the basic question, “In light of changing markets and recent development trends, what is the most appropriate use of land in the business park today?” The market analysis done for the North Coast Business Park and cited at length in Section 4 is the best example of that. Clatsop County applied for and received a \$20,000 grant from the Oregon Economic Development Department and a \$90,000 grant from the federal Economic Development Administration to do that analysis.

Because these changes in the markets for commercial and industrial lands are significant and fully documented, this proposal fully satisfies the “evidence of change” criterion specified in Warrenton Development Code Section 4.7.3.

H. Section 4.7.6, Transportation Planning Rule Compliance

Findings: This application does involve a land use district change, and the resulting commercial development, in conjunction with the proposed four-way Dolphin Lane/Highway 101 intersection, would affect nearby transportation facilities (mainly Highway 101). The city's policies and regulations regarding Goal 12 and the TPR were approved by the Department of Land Conservation and Development during periodic review (Approval Order #001633, May 25, 2005). This argument is countered, however, by ORS 197.646 (4), which says: "When a local government does not adopt amendments to a comprehensive plan, regional framework plan and land use regulations implementing either plan as required by subsection (1) of this section, the new statutory, land use planning goal or rule requirements apply directly to the local government's land use decisions."

We therefore conclude that the TPR applies directly to this application, and that to the extent there are any differences between the city's code and the TPR, the latter must prevail. This conclusion is reinforced by the Warrenton Development Code's statement that land use map amendments "shall be reviewed . . . in accordance with Oregon Administrative Rule (OAR) 660-012-0060." This narrative's analysis of compliance with the TPR is found in Section 4, "Compliance with Goal 12." As that section explains, the application complies with Goal 12 and the TPR. It therefore also complies with the code's Section 4.7.6. This application fully complies with all applicable provisions from the Warrenton Development Code.

I. SECTION 4: Compliance with Oregon's Statewide Planning Goals and Related Rules and Statutes

1. Goal 1, *Citizen Involvement* - Goal 1 outlines policies and procedures to be used by local governments to ensure that citizens will be involved "in all phases of the planning process."

Findings: The City of Warrenton's policies and procedures for citizen involvement were acknowledged by the Land Conservation and Development Commission (LCDC) on July 14, 1983. This application for a plan and zoning map amendment is being submitted and reviewed in accordance with the acknowledged provisions for citizen involvement. It does not propose any changes to those provisions. This application therefore complies with Goal 1.

2. Goal 2, *Land Use Planning* - Goal 2 requires local governments to "establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions."

Findings: LCDC acknowledged the City of Warrenton’s plan to comply with Goal 2 on July 14, 1983. This application for a plan and zoning map amendment is being submitted and reviewed in accordance with that acknowledged plan. It does not propose any changes to Warrenton’s acknowledged planning process or policy framework. It does augment the plan by providing additional data and information to “assure an adequate factual base” for the rezoning decision. This application therefore complies with Goal 2.

3. Goal 3, *Agricultural Lands* - Goal 3 deals with conservation of “agricultural lands” as defined in that goal. The goal’s provisions are directed toward counties, not cities (such as Warrenton). The goal states, “Agricultural land does not include land within acknowledged urban growth boundaries”

Findings: This application deals with land inside the City of Warrenton’s urban growth boundary and corporate limits. Goal 3 and related administrative rules in OAR Chapter 660, Division 033, therefore do not apply to this application.

4. Goal 4, *Forest Lands* - Goal 4 deals with conservation of “forest lands” as defined in that goal. Details about such conservation are set forth in related administrative rules: OAR Chapter 660, Division 006. OAR 660-006-0020 states: “Goal 4 does not apply within urban growth boundaries”

Findings: This application deals with land inside the City of Warrenton’s urban growth boundary and corporate limits. Goal 4 and related administrative rules therefore do not apply to this application.

5. Goal 5, *Natural Resources, Scenic and Historic Areas, and Open Spaces* - The basic aim of Goal 5 is “To protect natural resources and conserve scenic and historic areas and open spaces.”

Findings: This application is for a PAPA initiated after September 1, 1996. Therefore, OAR 660, Division 023 (but not Division 016) is applicable to it. Regarding such plan amendments, Division 023 says this (at OAR 660-023-0250(3)):

“Local governments are not required to apply Goal 5 in consideration of a PAPA unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if: (a) The PAPA creates or amends a resource list or a portion of an acknowledged plan or land use regulation adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5; (b) The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list; or (c) The PAPA amends an acknowledged UGB and factual information is submitted demonstrating that a resource site, or the impact areas of such a site, is included in the amended UGB area.

The subject property is inside a city and adjoins a major highway. It has long been zoned for industrial uses, and, as noted above, extensive site preparation for such uses was done almost half a century ago. The parcel thus has few significant natural resources. The City of Warrenton's comprehensive plan does not identify or designate any of the following Goal 5 resources on the subject parcel:

- Riparian corridors, including water and riparian areas and fish habitat;
- 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.

As mentioned in Section 1, the parcel does contain some significant wetlands, identified on the City of Warrenton's Development Constraints Map, Adopted July 29, 2003 (Ordinance No. 1065-A) and on the city's Locally Significant Wetland Map, dated January 21, 2004. With respect to the subject property, both maps are identical: they show three small areas of wetlands on the parcel. The largest lies on the northeastern point of the triangle-shaped property. The second lies at the southeastern edge. The third and smallest of the three is at the western edge of the property, where a small drainage way passes under Highway 101, draining west to the Skipanon River. Together, these wetlands occupy approximately twelve acres, about one-sixth of the parcel's total area. Their location at the edges of the parcel leaves the central portion of the property in a large block with more than 60 acres of dry level land. This upland block has good access and thus could be developed without harming the identified wetlands.

Any commercial development on the subject parcel will be subject to the same regulations that would apply now to any industrial development under the current I-1 zoning. The wetland regulations are set forth in WDC Chapter 3.10, "Wetland and Riparian Corridor Development Standards Ordinance." The city adopted these wetlands provisions in March 2003 (by ordinances 1064-A and 1065-A). LCDC approved them on December 3, 2004 (Periodic Review Approval Order #001645). Their main protection is found in WDC 3.10.35, which prohibits development in significant wetlands. This protection (and all other wetland provisions) will apply to any commercial development that would be authorized by the proposed rezoning. This application therefore complies with Goal 5.

6. Goal 6, Air, Water and Land Resources - Statewide Planning Goal 6 is “to maintain and improve the quality of the air, water and land resources of the state.” It deals mainly with control of “waste and process discharges from future development.”

Findings: The Land Conservation and Development Commission acknowledged the City of Warrenton’s plan to comply with Goal 6 on July 14, 1983. This application for a plan and zoning map amendment is being submitted and reviewed in accordance with that acknowledged plan. The application does not propose any changes to Warrenton’s acknowledged plan that would involve Goal 6. Goal 6 therefore does not apply to this application.

7. Goal 7, Areas Subject to Natural Hazards - Statewide Planning Goal 7 is to “to protect people and property from natural hazards.”

Findings: The Land Conservation and Development Commission originally acknowledged the City of Warrenton’s plan to comply with Goal 7 on July 14, 1983. Later, the city updated the plan’s information on natural hazards during periodic review. This work, known as Task 3, was approved by LCDC on November 28, 1995 (Approval Order #00528). This application for a plan and zoning map amendment is being submitted and reviewed in accordance with the city’s acknowledged plan. The application does not propose any changes to Warrenton’s acknowledged plan that would involve Goal 7. This application therefore complies with Goal 7.

8. Goal 8, Recreational Needs - Goal 8 is “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.”

Findings: The City of Warrenton’s policies and provisions for meeting local recreational needs were acknowledged by the Land Conservation and Development Commission on July 14, 1983. This application does not propose any changes to those policies or provisions, and it does not involve any recreational facilities. Goal 8 therefore does not apply to this application.

9. Goal 9, Economic Development, and Related Rules and Statutes -

Findings: This analysis of compliance with Goal 9 is complex. Of necessity, it describes a multitude of documents and variables in some detail. But the result of the analysis can be stated simply. It comes down to this:

- Warrenton has an abundant supply of vacant industrial land. The demand for industrial land, however, has been weak and is projected to remain so.
- Warrenton has little vacant land for commercial use — barely enough to meet projected needs. The demand for commercial land, however, is strong and is projected to grow.

- Warrenton’s supply of commercial lands consists mainly of small lots. But the city’s greatest need is for large parcels suitable for retail commercial uses.
- Much of the vacant industrial land in Warrenton is constrained by wetlands. But even when these constrained lands are subtracted from the inventory, the city’s supply of net buildable lands for industrial use far exceeds projected demand.
- This proposal to rezone 75 acres to General Commercial helps resolve the city’s biggest Goal 9 problem by increasing the very limited supply of buildable lands suitable for large retail uses. At the same time, it leaves the city with an ample supply of buildable industrial land. The proposal thus is fully consistent with the basic principal of Goal 9: that local governments should maintain an adequate supply of vacant buildable land for industrial and commercial uses.

Supply of Land for Industrial and Commercial Development

During Warrenton’s periodic review, the city commissioned an inventory of areas suitable for economic growth and activity. The resulting document, *Land Use Inventory and Analysis for the City of Warrenton*, by Kenneth S. Kato, Columbia River Estuary Study Task Force, May 4, 1998, was thorough and comprehensive. It is the main source of data for this narrative’s analysis of how the proposed rezoning would affect the city’s supply of industrial and commercial lands.

Any analysis of land supply first must distinguish “buildable land” from “vacant land.” The term “buildable land” means land that not only is vacant but also is largely free of significant physical constraints to development. In Warrenton, the main such constraint is wetlands. To calculate how much buildable land the city has for future industrial and commercial uses, we therefore must determine how many acres of vacant land are constrained — caused by wetlands to be unsuitable for development — and subtract that number from the total.

Kato’s inventory provides the information necessary to perform such calculations. It rates all properties in five categories according to their wetland coverage. Properties rated “0” have no wetlands. Those rated “1” have up to 25 percent wetland coverage. Those rated “2” have up to 50 percent coverage, and so on. This is a broad-brush classification system: a property rated “1” might have one percent or 25 percent of its area constrained by wetlands.

For purposes of the analysis presented here, we assume that 50 percent of the lands identified in the Kato inventory as having some wetland constraints are unbuildable. The total acres of “buildable lands” in any given zone then may be calculated with these steps:

1. Total the number of acres of wetland-constrained lands in the zone (lands rated 1, 2, 3, or 4 in the Kato inventory).
2. Subtract 50 percent of that total (to eliminate lands rendered unbuildable by wetlands).
3. To the number of acres remaining after step 2, add the number of acres in properties rated “0” in the Kato inventory (land with no wetlands).

The resulting total is an estimate of vacant lands unconstrained by wetlands — the buildable land supply.

Industrial Lands: Warrenton has several zones that allow industrial uses. These zones include the General Industrial (I-1), Water-Dependent Industrial Shoreland (I-2), and Aquatic Development (A-1) districts. This narrative focuses on the General Industrial district for three reasons: it is the only zone to allow a broad range of industrial uses, it has been applied to the most land, and it is the zoning applied to the land that is the subject of this application.

The Kato inventory shows the city to have 142 vacant tax lots zoned for General Industrial, with a total area of 1,906 acres. See inventory, page 35.

Since that inventory was done, little new industrial development has occurred on I-1 lands: the 1998 data on I-1 land supply thus remain largely valid. The city, however, did recently approve the rezoning of 143 acres (the Nygaard/Olstedt property) from General Industrial to Medium Density Residential. This narrative’s analysis therefore subtracts that amount from the 1998 inventory of industrial lands to provide an up-to-date figure. It also subtracts 798 acres of land constrained by wetlands (the 50-percent factor described on the previous page). The results are shown here in Table 1.

Table 1: Buildable Land Zoned “General Industrial” (I-1)			
Data are from the table “I-1 General Industrial Zone,” p. 35 of 1998 inventory			
	Type of Land	Acres	Lots
1	Citywide total of vacant land zoned I-1, “General Industrial”	1,906	142
2	Vacant I-1 land rated 1-4 (some wetland constraints) in inventory	1,597	92
3	Wetland-constrained lands assumed unbuildable (50 % of row 2)	798	*
4	I-1 lands buildable but with some wetlands (row 2 minus row 3)	799	*
5	Vacant I-1 land rated “0” (no wetland constraints) in Kato inventory	309	50
6	Total buildable lands zoned I-1 in 1998 (row 4 plus row 5)	1,108	*
7	Vacant I-1 land rezoned RM in 2006 (Nygaard/Olstedt property)	143	4
8	TOTAL BUILDABLE LAND ZONED I-1 (ROW 6 MINUS ROW 7)	965	*
<i>* cannot be calculated</i>			

Commercial Lands: As with industrial lands, the city has several zones that allow at least some commercial uses. This narrative focuses on the General Commercial

(C-1) zone: it allows the broadest range of commercial uses, it has been applied to the most land, and it is the zoning applied for here.

Warrenton’s inventory shows the city to have 410 vacant tax lots with a combined area of 249 acres zoned General Commercial (C-1) (p. 26). From that, we estimate buildable commercial lands by applying the same 50-percent constraint factor used in the analysis of industrial lands above. The results are shown here in Table 2.

Table 2: Buildable Land Zoned “General Commercial” (C-1)			
Data are from the table “C-1 General Commercial Zone,” p. 26 of land use inventory			
	Type of Land	Acres	Lots
1	Vacant land zoned C-1, “General Commercial”	249	410
2	Vacant C-1 land rated 1-4 (some wetland constraints) in inventory	151	172
3	Wetland-constrained lands assumed unbuildable (50 % of row 2)	75	*
4	C-1 lands buildable but with some wetlands (row 2 minus row 3)	76	*
5	Vacant C-1 land rated “0” (no wetland constraints) in Kato inventory	98	238
6	TOTAL BUILDABLE LAND ZONED C-1 (ROW 4 PLUS ROW 5)	174	*
* cannot be calculated			

The data in tables 1 and 2 above reveal an imbalance in Warrenton’s land supply: not only is the supply of vacant land for commercial development much smaller than the supply of vacant industrial land, but also the commercial sites are, on average, quite small: the typical buildable commercial lot has less than half an acre of land area. Such properties are far too small to meet current demand for the larger forms of retail commercial development.

Warrenton’s shortage of commercial lands was noted in the recent rezoning of the Home Depot property (across Highway 101 from the subject parcel). The city approved Home Depot’s request for commercial zoning in July 2006. The findings for the city’s approval cite describe the shortage of commercial lands as “severe” (on page 2 of the staff report for the January 18, 2006, public hearing):

Therefore, the Applicant contracted with E.D. Hovee & Company to conduct an additional analysis in 2005, which analyzes the City’s current supply of commercial lands with respect to future demand and need. The 2005 Land Use Inventory Analysis (included in Exhibit D) analyzes the existing supply of vacant commercial sites over 10 acres within City limits and shows that there is a severe shortage of commercial sites of that size to accommodate future commercial growth. The 2005 Land Use Inventory Analysis indicates that all existing commercial sites of at least 10 acres are currently developed or are constrained. (Emphasis added)

Warrenton's limited supply of buildable commercial land is a longstanding and well-documented problem. For example, an October 17, 1995, letter from Warrenton planner Janet Wright to DLCDC field representative Dale Jordan says:

. . . [T]he Buildable Lands Inventory shows that we have approximately 491 acres zoned C1-General Commercial at the present time. Of that total only 49 are buildable. The Buildable Lands Inventory shows that the General Commercial land needs have a deficit of 149 acres. In order to meet our commercial land needs we will need to re-zone areas from residential or industrial to general commercial zoning. (Emphasis added)

Demand for Commercial and Industrial Lands

The preceding analysis brings us to the key question under Goal 9: is the proposed rezoning consistent with the goal's requirement to "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"?

To answer that question, we must compare Warrenton's supply of commercial and industrial lands (discussed above) with the likely need for such lands in the future. An estimate of such needs is provided in *Warrenton Economic Growth Projections & Land Needs Analysis*, Summary Report, December 14, 1994, by E.D. Hovee and Company. Hovee's analysis was prepared for Warrenton during the city's periodic review. It is available in DLCDC's records of that review.

Hovee's analysis first reviews economic trends at the national, state, county, and city levels. For all four levels, it concludes that "manufacturing represents a declining source of employment while retail and service sector employment is increasing dramatically" (p. 1). It states (on page 2):

In the five years between 1987 and 1992, total employment in the Warrenton area increased by 22.5 %. Major employment gains (in percentage terms) were experienced in wholesale trade (+261 %), followed by retail trade, construction and services. Employment declined in manufacturing (by 9 %) and in agriculture/mining (by 6 %).

Next, Hovee projects the city's needs for commercial and industrial lands for the period from 1995 to 2015. For his analysis, he uses population projections for Clatsop County from two state sources. One, from Portland State University, projects a slight decline in the county's population. The other, from the Oregon Department of Transportation, projects substantial growth. From those projections, Hovee calculates Warrenton's share of employment growth. Using the lower PSU estimate, he foresees 800 additional jobs in Warrenton. Using ODOT's higher estimate, he foresees an increase of nearly 1,300 jobs.

Hovee then projects Warrenton's need for industrial and commercial lands by using various "employment density factors." This is essentially Method 1 of the four methods recommended in DLCD's *Industrial and Other Employment Lands Analysis Guidebook, 2005* (Table 5, "Basic Methods for Estimating Land Demand," p. 2-11).

Hovee's analysis yields two sets of projections — one low and one high — of Warrenton's need for "employment lands" (industrial and commercial lands) to the year 2015. Hovee says:

With the ODOT based forecast, 1,300+ jobs could be added in Warrenton over the 1995-2015 time period. Industrial/commercial land demand associated with this higher level of employment growth is approximately 83 acres. This figure excludes added land that might be reserved for a more aggressive industrial development strategy or a market factor (Page 5)

Hovee concludes that most of the need is for commercial land: "Based on the methodology and assumptions noted, demand for retail sites in Warrenton could range between 54 and 74 acres with a 20 % market factor added" (p. 4). His analysis sees little demand for industrial land during the twenty-year planning period.

DLCD's periodic review files for Warrenton also include a larger analysis by E.D. Hovee and Company titled *Warrenton Economic Growth Projections & Land Needs Analysis*, Revised Draft, October 13, 1994. It is quite similar to Hovee's December 1994 analysis described above, but it contains additional discussion on Warrenton's need for industrial lands. It finds that Warrenton could need as much as 50 acres of buildable industrial lands. This high projection is based on several assumptions: that the highest projected population growth will occur, that a 20 percent "market factor" of extra land is needed, that existing industries will "re-structure," and that the city will embark on an "aggressive manufacturing strategy" (p. 36).

The main conclusions in Hovee's studies — that Warrenton's greatest need will be for vacant commercial land for retail development and that its need for vacant industrial land will be small — are reinforced by other, more recent, sources. For example, the state's quarterly *Oregon Economic Review and Forecast* has for the past several quarters consistently predicted declines in manufacturing in 2007 and 2008. For the same years, however, it foresees growth in retail trade. (Pages 1 and 2 of *Executive Summary*)

The contrast between decline in manufacturing and growth in retail also is shown in the Oregon Employment Department's *Employment Projections by Industry for 2004 to 2014*. For the three-county (Clatsop, Columbia, and Tillamook) north coast region, this analysis shows that jobs will increase in retailing by 16 percent. Jobs in manufacturing are expected to increase, too, but at a much slower rate: 4.9 percent for the decade (page 11).

Finally, a market analysis done for the North Coast Business Park echoes these views. The analysis was done for Clatsop County by Williams-Kuebelbeck & Associates, Inc., "real estate economic, financial and management consultants."

Their 63-page analysis, *North Coast Business Park Market Analysis*, Final Report, May 5, 1999, concludes:

The findings of the demand analysis indicate a robust market on the site for commercial development. Accordingly, the site's Highway 101 frontage [*i.e., the property proposed here for commercial zoning*] would make an ideal location for a mix of retail, service outlets, office space and tourist oriented uses such as lodging, restaurants and associated customer services. (p. 2)

The analysis by Williams-Kuebelbeck examines market demand within a 25-mile radius of the subject property, for the period from 1998 to 2020. It then uses the market to calculate the need for various types of land in the "primary market area" (*i.e., within five miles of the business park*). It concludes that 84 acres of buildable commercial property will be needed, while the need for industrial land will be much smaller — only 25 acres. (p. 29)

Emphasizing that contrast, the analysis declares:

The table [on employment projections] illustrates that over the forecast period 92 percent of the total increase in the Region's employment should be in non-manufacturing. Services and trade constitute about 75 percent of that increase. From our analysis it begins to be evident that whereas the Astoria-Warrenton area has historically been a center for manufacturing in Clatsop County, targeting manufacturing industry for growth in the future may not be an appropriate economic development strategy. (p. 35, bold in the original)

A master plan for the North Coast Business Park, prepared in 2000 by David Evans and Associates, Inc., used the Williams- Kuebelbeck study to conclude:

The analysis found that commercially oriented uses currently represent the strongest market in the area and could provide an economic engine to complete infrastructure throughout the business park development. Based on current market demand, slow build-out of the light industrial areas of the park was projected (page 1).

The master plan goes on to suggest that the western part of the North Coast Business Park be rezoned from industrial to commercial, and that the resulting commercial development take its access from Highway 101 — exactly what is proposed in this application for rezoning.

All the information above suggests that demand for buildable commercial land in Warrenton will continue to be much greater than demand for buildable industrial land. Using the upper range of Hovee's projections, one may anticipate a need for at most 50 acres of industrial land during the planning period from 1995 to 2015, an average demand for 2.5 acres per year. Hovee's projections indicate a need for 54 to 74 acres of land for retail commercial uses during the same period and another 9 acres for other commercial development. Using the higher figure from his range (74

acres), one may calculate an average demand of 4.15 acres of buildable commercial land per year: $74 \text{ acres} + 9 \text{ acres} = 83 \text{ acres} / 20 \text{ years} = 4.15 \text{ acres/year}$.

Hovee's projections deal with the planning period from 1995 to 2015. We update his figures here by extrapolating the same demand over the period from 2007 to 2027. We thus conclude that the total demand for buildable industrial land in Warrenton during the next 20 years will be 50 acres ($2.5 \text{ acres/year} \times 20 \text{ years}$). The total demand for buildable commercial land will be 83 acres ($4.15 \text{ acres/year} \times 20 \text{ years}$).

We compare this projected demand with the current supply of buildable lands in Table 3. Because these tables deal in buildable lands, we subtract 12 acres of wetlands and 3 acres of public street right-of-way from the 75-acre total of the subject parcel, to get a net buildable area of 60 acres.

	TYPE OF LAND	SUPPLY: Buildable Acres	DEMAND: Acres Needed over Next 20 years
1	Citywide supply of buildable land zoned C-1 before this rezoning	174	83
2	Citywide supply of buildable land zoned C-1 after this rezoning (add 60 acres)	234	83
3	Buildable land zoned I-1 before this rezoning	965	50
4	Buildable land zoned I-1 after this rezoning (subtract 60 acres)	905	50

This comparison of current supply with projected demand of land reveals two important points.

First, Warrenton's supply of buildable General Industrial lands (965 acres) exceeds projected demand many times over. If one uses even the most aggressive of the demand predictions discussed above, the city still will have a 362-year supply of buildable I-1 lands after this rezoning! Rezoning 75 acres of General Industrial land to General Commercial therefore will not take the city out of compliance with Goal 9's requirement to maintain an adequate supply of buildable industrial lands.

Second, Warrenton's much smaller supply of buildable General Commercial lands (174 acres) is not adequate to meet projected demand for large retail commercial uses commercial uses. The current supply consists mostly of small lots not suitable for such uses. The proposed rezoning thus would leave the city with a supply of industrial and commercial land that is much more consistent with Goal 9's

requirement to maintain “an adequate supply of sites of suitable sizes, types, locations, and service levels for a variety of industrial and commercial uses.”

Three Issues Related to Land Supply and Demand

Three issues related to analysis of land supply and demand deserve mention here: the “planning area”; the “planning period”; and new rule provisions regarding rezonings of more than two acres of industrial land.

The Planning Area: This narrative considers the appropriate “planning area” to be that encompassed by Warrenton’s urban growth boundary. One may argue that supply and demand for commercial and industrial lands should be addressed in some broader regional context. This argument was considered by the Land Use Board of Appeals, in *Friends of Marion County v. City of Keizer*, LUBA 2003-036 (August 29, 2003). LUBA rejected that argument with these words:

We disagree. The Goal 9 rule cited to us requires the city to evaluate commercial and industrial land need and supply over “the planning area.” See, e.g., OAR 660-009-0015(4) (“The economic opportunities analysis shall estimate the types and amounts of industrial and commercial development likely to occur in the planning area”). OAR 660-009-0005 defines “planning area” to include the entire area within a UGB . . . Petitioners do not cite to any requirement in an urban growth management agreement calling for Keizer to consider areas outside its planning jurisdiction under the present circumstances. The fact that the city must consider national, state and local economic trends in conducting an economic opportunities analysis does not mean that the city must provide commercial and industrial lands to satisfy the economic needs of neighboring jurisdictions, or consider whether other jurisdictions can satisfy the city’s economic needs.

The Planning Period: This narrative’s analysis of land supply and demand is based on the twenty-year planning period from 1995 to 2015. The twenty-year length of the planning period is specified by OAR 660-009-0025(2), “Long-Term Supply of Land”:

Plans shall designate land suitable to meet the site needs identified in section (1) of this rule. The total acreage of land designated in each site category shall at least equal the projected land needs for each category during the 20-year planning period.

That rule, however, does not address the question of when the planning period should begin. We have used the period from 1995 to 2015 because that is the period used in the City of Warrenton’s acknowledged comprehensive plan. We then updated the figures on industrial land to supply to reflect a recent rezoning (of the Nygaard/Olstedt property). We also used the 1995-2015 estimates of demand for industrial and commercial lands to project demand through 2027. All of this is consistent with OAR 660-009-0010(5), which says, “A jurisdiction’s planning effort is adequate if it uses the best available or readily collectable information to respond to the requirements of this rule.”

It may be argued, however, that the twenty-year planning period should begin at some other point, such as the present year. But such a change would not alter the key result of the analysis — that Warrenton has a small supply of and strong demand for commercial lands, and a large supply of and little demand for industrial lands. Changing the planning period to, say, 2007 - 2027 would only amplify that result: the limitations of the city's commercial land supply would become more pronounced, while the supply of industrial lands would continue to be adequate for many decades to come.

New Rule Provisions: A recent amendment to the Goal 9 rule took effect on January 1, 2007 (as this application was being prepared). The new provision (OAR 660-009-0010(4)) says:

- (4) For a post-acknowledgement plan amendment under OAR chapter 660, division 18, that changes the plan designation of land in excess of two acres within an existing urban growth boundary from an industrial use designation to a non-industrial use designation, or an other employment use designation to any other use designation, a city or county must address all applicable planning requirements, and:
 - (a) Demonstrate that the proposed amendment is consistent with its most recent economic opportunities analysis and the parts of its acknowledged comprehensive plan which address the requirements of this division; or
 - (b) Amend its comprehensive plan to incorporate the proposed amendment, consistent with the requirements of this division; or
 - (c) Adopt a combination of the above, consistent with the requirements of this division.

This application does involve a post-acknowledgment plan amendment of the type described in the above rule and thus is subject to it. This narrative's extended analysis of industrial and commercial land supply and need shows that the proposed rezoning is indeed "consistent with its [Warrenton's] most recent economic opportunities analysis and the parts of its acknowledged comprehensive plan which address the requirements of this division," per (4)(a) above. The rezoning thus complies with OAR 660-009-0010(4).

Compliance with ORS 197.707 – 197.719

These statutes deal with the relationship between land-use planning and economic development. The purpose of the legislation is twofold: (a) to ensure that planning does not "prohibit, deter, delay or increase the cost of appropriate development," and (b) to ensure that planning serves to "enhance economic development and opportunity." (ORS 197.707)

Most of these statutory provisions are not applicable to cities or to individual land use decisions: their focus is on actions of the Land Conservation and Development Commission (LCDC), state agencies, or counties. These provisions therefore are not applicable to this proposal to rezone land in the City of Warrenton:

- ORS 197.712(1) and (2)(a)-(2)(f) apply to LCDC and state agencies, not cities.
- ORS 197.712(2)(g)(A) applies only to land outside urban growth boundaries.
- ORS 197.712(2)(g)(B) deals with amendments to urban growth boundaries.
- ORS 197.713 and .714 apply only to land outside urban growth boundaries.
- ORS 197.717 is directed toward state agencies.
- ORS 197.719 applies only to “abandoned or diminished mill sites” outside urban growth boundaries.

The only provision from ORS Chapter 197’s economic development statutes that is, arguably, applicable to this proposal is ORS 197.707’s purpose statement, quoted above. The proposed rezoning accomplishes both purposes cited there. The rezoning would not “prohibit, deter, delay or increase the cost of appropriate development.” Quite the opposite: it would in fact facilitate commercial development that is, as shown above, needed in Warrenton and the north coast region. And it would “enhance economic development and opportunity” by facilitating the development of new retail businesses. Such development would create new jobs, serve the travelers and tourists that are increasingly important to the region’s economy, and increase tax revenues for the City of Warrenton.

This application therefore fully complies with all applicable provisions from ORS 197.707 – 197.719.

Compliance with House Bill 2011

In 2003, Oregon lawmakers passed House Bill 2011. The bill aimed to ensure that Oregon has an adequate supply of “strategic sites” for large new businesses. The bill directed key state agencies to identify and “prioritize” 25 “sites of statewide significance for job creation.” That task was completed within the year. The North Coast Business Park is not one of the designated sites. None of the designated sites lies in Clatsop County. (*Industrial Lands Advisory Committee Report*, December 15, 2003, <http://www.econ.state.or.us/ILACRpt2003.pdf>) House Bill 2011 thus does not apply to this proposed rezoning. It is, however, worth noting that even after rezoning 75 acres of the North Coast Business Park to General Commercial, the park still will have a large industrial holding comparable to the 25 “strategic sites” identified under House Bill 2011. Subtracting 75 acres from the park’s total of 268 acres leaves a balance of 193 acres zoned for general industry. Only seven of the HB 2011 sites have more land than that. (*Industrial Lands Advisory Committee Report*, December 15, 2003).

Compliance with Goal 9: Conclusion

In closing, it is important to note that Goal 9 does not set a higher priority for industrial land than for commercial land: the goal simply requires cities to “provide for at least an adequate supply of sites . . . for a variety of industrial and commercial uses . . .” (emphasis added). The proposed rezoning of 75 acres from General Industrial to General Commercial thus is not a step away from Goal 9. Quite the contrary: by zoning more land to meet the current strong demand for commercial

retail development, the rezoning would be a big step toward the “increased economic growth and activity” encouraged by Goal 9.

For reasons described above, this proposed rezoning therefore is fully consistent with Goal 9 and all related rules and statutes.

The city is currently undergoing a “Buildable Lands Inventory”, which is not complete as of this date (June 6, 2007). The applicant has had to rely on other data to show the need for rezoning industrial to commercial.

10. Goal 10, *Housing* - Statewide Planning Goal 10 is “to provide for the housing needs of citizens of the state.”

Findings: The goal requires cities to assess future need for various housing types and to plan and zone sufficient buildable land to meet those projected needs. LCDC originally acknowledged Warrenton’s plan to comply with Goal 10 in 1983. Later, the city did work related to Goal 10 in periodic review when it updated its buildable lands inventory (Task 1). As noted earlier in this narrative, DLCD approved that work in 2003, with Approval Order #001496. This application would not alter or affect any of the city’s acknowledged policies and ordinances for housing and buildable lands. It does not involve any residential lands and would not affect the city’s inventory of such land. This application therefore is fully consistent with Goal 10.

11. Goal 11, *Public Facilities and Services* - Goal 11 is “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.”

Findings: LCDC acknowledged the city’s plan to comply with Goal 11 on July 14, 1983. The subject property is a “full-service” urban parcel served by these municipal services and public utilities:

Street: SE 19th (a.k.a. North Coast Business Park Road), a county road

Sewers: City of Warrenton

Storm Drains: City of Warrenton

Water: City of Warrenton

Police: City of Warrenton

Fire Protection: City of Warrenton

Public Schools: Warrenton-Hammond School District 30 (Warrenton Grade School, grades K-8; Warrenton High School, grades 9-12)

Electricity: Pacific Power

Telephone: Qwest

Natural Gas: NW Natural

A city sewer force main extends across the North Coast Business Park on its south side, along the right-of-way for SE 19th Street. The line runs to the North Coast Youth Correctional Facility, where there is a 950-g.p.m. pump station. City water to the subject property is available from an 18-inch line north of the business park. This large line was installed recently to serve the airport and associated industrial lands a mile northeast of the subject property.

The City of Warrenton and Clatsop County both have worked to ensure that the North Coast Business Park has the services and facilities needed to serve business development. As a result of these efforts, the subject property has sufficient infrastructure capacity in place to serve a variety of development in the immediate future. If new development that would exceed current capacities were proposed, the city, county, and developer would take appropriate measures to ensure that additional capacity is provided or planned before the development is approved. Such measures would be guided by Article 7 of the city's comprehensive plan, "Community Facilities and Services." Among other provisions in that article, Policy 7.320(9) specifies that, "Persons developing property will generally be responsible for the cost of any water, sewer or storm drainage facilities which are required to meet the needs of the site being developed" (*Plan*, page 78).

Generally, industrial uses such as those allowed under the current I-1 zoning have a greater impact on public services and utilities than do the commercial uses that would be allowed under the proposed rezoning. If, as LCDC already has determined, the present industrial zoning complies with Goal 11, then commercial zoning surely must comply with that goal, too. This application therefore complies with Goal 11.

12. Goal 12, Transportation - Goal 12 is "to provide and encourage a safe, convenient and economic transportation system."

Findings: LCDC acknowledged the City of Warrenton's comprehensive plan to comply with that goal on July 14, 1983. Later, the city did extensive work in periodic review to update transportation planning provisions and bring them into conformance with the LCDC's transportation planning rule (TPR). The city's work (done in accordance with periodic review Task 2) resulted in adoption of a transportation system plan (TSP). LCDC approved the TSP and the city's work in Task 2 on May 25, 2005 (order #001633).

To evaluate the transportation effects of this proposal, Clatsop County contracted with JRH Transportation Engineering to prepare a traffic impact study. That study, the *North Coast Business Park Traffic Impact Analysis*, March 6, 2007, accompanies this application. (A similar study of traffic impacts at the proposed Dolphin Lane/Highway 101 intersection also was done by JRH for Home Depot's development on the site just across Highway 101 from the subject property.)

The North Coast Business Park study evaluated traffic impacts for the years 2007, 2010, and 2022. It considered two phases of development: construction of a large

retail center on the subject property in 2007, and additional commercial uses to be built on the property by 2010. The traffic analysis concludes:

With identified improvements all intersections studied are projected to meet the adopted mobility standard for the years 2007, 2010, and 2022. These improvements include the addition of a second through lane on Highway 101 and the connection of Dolphin Lane to Highway 101 Business and will be required with Phase 2 of the development. For Phase 1 no other mitigation is required beyond that which coincides with the Home Depot development of the opposite side of Highway 101 from the subject parcel. (p. 1)

The main transportation improvements to be undertaken are these:

- Replace the existing skewed intersection at Dolphin Avenue and Highway 101 with a four-way intersection where Dolphin Lane will meet Highway 101 (at milepost 8.08);
- Extend the eastern leg of that intersection to connect with 19th Street (and thus to Highway 101 Business);
- Install a traffic signal at the Dolphin Lane/101 intersection;
- Reduce the current speed limit on Highway 101 from 55 to 50 mph.

Details about the improvements are found on pages 12-13 of the attached traffic impact analysis. A diagram showing these improvements and the proposed intersection design is shown in Figure 3 (page 14).

Compliance with the TPR

Oregon's "transportation planning rule" or TPR is a set of administrative rules codified at OAR Chapter 660, Division 012. Most of the TPR prescribes how local governments are to prepare their transportation system plans and thus is not applicable to quasi-judicial land-use decisions such as this. But one part of the TPR, OAR 660-012-0060, does apply here. The Land Use Board of Appeals summarizes OAR 660-012-0060 in these words:

Our cases involving OAR 660-012-0060(1) and (2) have typically concerned amendments to comprehensive plans or land use regulations to allow development that will generate additional traffic. [*Citations omitted*] The relevant question in such cases is whether the existing and planned for transportation facilities will be able to accommodate that traffic without resulting in traffic congestion that leads to unacceptable levels of service.

Friends of Eugene et al. v. City of Eugene, LUBA 2002-105, March 24, 2003,
p. 34

For the plan amendment proposed here, the "relevant question" is whether Highway 101 will be able to accommodate the additional traffic generated by commercial use of the subject property without experiencing unacceptable levels of service. The step-by-step analysis below explains why the answer to that question is "Yes." We have emphasized some of this long rule's key passages by placing them in bold print.

OAR 660-012-0060(1) is the first of eight sections in this rule. Section 1 sets forth criteria by which to determine whether a proposed plan amendment might “significantly affect” a transportation facility:

(1) Where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures as provided in section (2) of this rule to 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. A plan or land use regulation amendment significantly affects a transportation facility if it would:

- (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);
- (b) Change standards implementing a functional classification system; or
- (c) As measured at the end of the planning period identified in the adopted transportation system plan:
 - (A) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;
 - (B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or
 - (C) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

This proposal would not change the functional classification of any transportation facility. Subsection (1)(a) therefore does not apply here. Likewise, this proposal would not change any standards used to implement the functional classification system, so Subsection (1)(b) does not apply. The proposal also would not generate traffic “inconsistent with the functional classification of an existing or planned transportation facility,” so paragraph (1)(c)(A) does not apply. And the proposal does not involve any failing transportation facilities of the type described in paragraph (1)(c)(C), so that paragraph does not apply.

Our traffic impact analysis, however, does show that the proposed commercial use of the subject property — if done without improvements to the transportation facility — would reduce performance of Highway 101 below ODOT mobility standards. (The relevant standards are summarized on page 2-17 of Warrenton’s TSP.) OAR 660-012-0060(1)(c)(B) therefore is applicable, and we conclude that the proposed plan amendment would “significantly affect” a transportation facility (Highway 101).

Note that Subsection (1)(c) calls for performance to be measured over “the planning period identified in the adopted transportation system plan.” In this case, the appropriate “planning period” is from 2002 to 2022. (See page 1-1 of Warrenton’s TSP, which specifies a “planning horizon year of 2022.”) For this reason, the traffic impact analyses done for the Home Depot property and for this proposal both use that same planning period.

Section 2 of OAR 660-012-0060 describes measures to be taken when a proposed plan amendment would significantly affect a transportation facility.

(2) Where a local government determines that there would be a significant effect, compliance with section (1) shall be accomplished through one or a combination of the following:

(a) Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.

(b) Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of this division; such amendments shall include a funding plan or mechanism consistent with section (4) or include an amendment to the transportation finance plan so that the facility, improvement, or service will be provided by the end of the planning period.

(c) Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.

(d) Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.

(e) Providing other measures as a condition of development or through a development agreement or similar funding method, including transportation system management measures, demand management or minor transportation improvements. Local governments shall as part of the amendment specify when measures or improvements provided pursuant to this subsection will be provided.

This application does not propose or involve measures of the type described in paragraphs (2)(a) through (2)(d) above. It does propose measures of the type described in (2)(e), namely conditions of development and a development agreement to establish a four-way signalized intersection at Dolphin Lane/Highway 101. This is a re-alignment, not a new intersection: there would be no increase in the number of access points to Highway 101. Rather, the current access point at Dolphin Avenue would be shifted northeast, allowing for a right-angled configuration that is safer and more efficient than the current skewed alignment at Dolphin Avenue. With these measures, Highway 101 will be able to accommodate the additional traffic from the proposed land uses while meeting all applicable ODOT mobility standards throughout the planning period.

Section 3 of OAR 660-012-0060 focuses on transportation facilities that are “performing below the minimum acceptable performance standard identified in the TSP or comprehensive plan on the date the amendment application is submitted.” This proposal does not involve any transportation facilities of that type. Section 3 therefore does not apply here.

Section 4 of OAR 660-012-0060 calls for coordination among local governments and service providers. It also specifies types of transportation facilities and improvements that “count” toward satisfying OAR 660-012-0060:

(4) Determinations under sections (1)-(3) of this rule shall be coordinated with affected transportation facility and service providers and other affected local governments.

(a) In determining whether an amendment has a significant effect on an existing or planned transportation facility under subsection (1)(c) of this rule, local governments shall rely on existing transportation facilities and services and on the planned transportation facilities, improvements and services set forth in subsections (b) and (c) below.

(b) Outside of interstate interchange areas, the following are considered planned facilities, improvements and services:

(A) Transportation facilities, improvements or services that are funded for construction or implementation in the Statewide Transportation Improvement Program or a locally or regionally adopted transportation improvement program or capital improvement plan or program of a transportation service provider.

(B) Transportation facilities, improvements or services that are authorized in a local transportation system plan and for which a funding plan or mechanism is in place or approved. These include, but are not limited to, transportation facilities, improvements or services for which: transportation systems development charge revenues are being collected; a local improvement district or reimbursement district has been established or will be established prior to development; a development agreement has been adopted; or conditions of approval to fund the improvement have been adopted.

(C) Transportation facilities, improvements or services in a metropolitan planning organization (MPO) area that are part of the area's federally-approved, financially constrained regional transportation system plan.

(D) Improvements to state highways that are included as planned improvements in a regional or local transportation system plan or comprehensive plan when ODOT provides a written statement that the improvements are reasonably likely to be provided by the end of the planning period.

(E) Improvements to regional and local roads, streets or other transportation facilities or services that are included as planned improvements in a regional or local transportation system plan or

comprehensive plan when the local government(s) or transportation service provider(s) responsible for the facility, improvement or service provides a written statement that the facility, improvement or service is reasonably likely to be provided by the end of the planning period.

(c) Within interstate interchange areas, the improvements included in (b)(A)-(C) are considered planned facilities, improvements and services, except where:

(A) ODOT provides a written statement that the proposed funding and timing of mitigation measures are sufficient to avoid a significant adverse impact on the Interstate Highway system, then local governments may also rely on the improvements identified in paragraphs (b)(D) and (E) of this section; or

(B) There is an adopted interchange area management plan, then local governments may also rely on the improvements identified in that plan and which are also identified in paragraphs (b)(D) and (E) of this section.

(d) As used in this section and section (3):

(A) Planned interchange means new interchanges and relocation of existing interchanges that are authorized in an adopted transportation system plan or comprehensive plan;

(B) Interstate highway means Interstates 5, 82, 84, 105, 205 and 405; and

(C) Interstate interchange area means:

(i) Property within one-half mile of an existing or planned interchange on an Interstate Highway as measured from the center point of the interchange; or

(ii) The interchange area as defined in the Interchange Area Management Plan adopted as an amendment to the Oregon Highway Plan.

(e) For purposes of this section, a written statement provided pursuant to paragraphs (b)(D), (b)(E) or (c)(A) provided by ODOT, a local government or transportation facility provider, as appropriate, shall be conclusive in determining whether a transportation facility, improvement or service is a planned transportation facility, improvement or service. In the absence of a written statement, a local government can only rely upon planned transportation facilities, improvements and services identified in paragraphs (b)(A)-(C) to determine whether there is a significant effect that requires application of the remedies in section (2).

With this proposal, the key local governments and service providers are the City of Warrenton, Clatsop County, and ODOT. As described elsewhere in this document, and as shown in the attachments to this application, there has been extensive coordination among all of these parties over a period spanning several years. See, for example, the February 20, 2007, ODOT memo referred to on the next page. The coordination requirement of OAR 660-012-0060 therefore is met.

The next step under Section 4 is to determine what “existing transportation facilities and services” and “planned transportation facilities, improvements and services” we may “rely on” in considering the transportation impacts of this proposal and the appropriate measures for mitigating those impacts. We need not consider paragraphs (c) or (d) above, because they deal with “interstate interchange areas,” and this application involves no interstate highways or interchanges. We therefore turn to paragraph (b), which describes various types of transportation facilities and improvements that may be considered “planned” in areas not involving interstate highways and interchanges.

In this case, the applicable provision is OAR 660-012-0060(4)(b)(B), “transportation facilities, improvements or services that are authorized in a local transportation system plan and for which a funding plan or mechanism is in place or approved.” The improvements to Highway 101 proposed here consist of a re-aligned at-grade signalized four-way intersection between Dolphin Lane and Highway 101 at milepost 8.08. Greater detail is provided in the attached Traffic Impact Analysis on pages 12 and 13 and in Figure 3.

These improvements are authorized by the City of Warrenton’s acknowledged transportation system plan. It says, “Through an IGA signed in December of 2000 between ODOT and the City of Warrenton, the north SE Dolphin Avenue approach to US 101 will be realigned as part of future development on adjacent properties” (p. 4-43). The TSP also discusses the possibility of a signal at the Dolphin/101 intersection, noting that such a measure would “need to be coordinated with ODOT and meet traffic signal warrants.” The proposed signal has been coordinated with ODOT and found to meet traffic signal warrants. See the attached memo of February 20, 2007, from Edward L. Fischer, State Traffic Engineer, to Bruce Erickson, ODOT Region 2 Traffic Engineer, which states, “The request to signalize the intersection of Dolphin Lane and US 101 in the City of Warrenton is approved with the following conditions.” The specified conditions deal with engineering and configuration of the intersection and signal.

These improvements will be funded under development agreements and conditions of approval for this proposal and also for the plan amendment recently adopted by the City of Warrenton for the Home Depot property. That property is directly across Highway 101 from the property proposed here for commercial use. The Dolphin Lane/101 intersection thus will serve and be paid for largely by retail businesses on both sides of the highway and by the City of Warrenton and Clatsop County.

The proposed improvements thus are “planned transportation facility improvements” of the type described in OAR 660-012-0060(4)(b)(B). The “funding mechanism” for those improvements is the combination of conditions of approval and development agreements covering this application and the commercial property directly across Highway 101. The city therefore may rely on these improvements as appropriate measures for dealing with the likely effects of this proposal on transportation facilities.

Section 5 of OAR 660-012-0060 deals with rural lands and exceptions related to transportation facilities. This proposal involves neither rural lands nor any exceptions to statewide planning goals. Section 5 therefore is not applicable.

Section 6 of OAR 660-012-0060 deals with vehicle trip reductions that may result from development of “mixed use, pedestrian-friendly centers and neighborhoods.” This proposal does not involve such centers or neighborhoods. Section 6 therefore does not apply here.

Section 7 of OAR 660-012-0060 focuses on commercial developments of two or more acres that would significantly affect transportation facilities in areas where “the local government has not adopted a TSP or local street plan which complies with Section 0020(2)(b).” This proposal does involve commercial property larger than two acres, and it will significantly affect a transportation facility. It does not, however, involve an area not subject to a transportation system plan. The City of Warrenton has a TSP acknowledged by LCDC on May 25, 2005 (periodic review order #001633). Section 7 therefore does not apply to this proposal.

Section 8 of OAR 660-012-0060 defines the term “mixed-use, pedestrian-friendly center or neighborhood.” This proposal does not involve such centers or neighborhoods, and the definition is not a criterion for approval of this proposal. Section 8 therefore does not apply here.

In LUBA’s words, “An amendment complies with OAR 660-012-0060 where it does not ‘significantly affect’ a transportation facility in any of the ways described in OAR 660-012-0060(2) or, if it does significantly affect a facility, where the local government takes one or more of the steps prescribed in OAR 660-012-0060(1).” *Craig Realty v. City of Woodburn*, LUBA 99-031, February 2, 2001, p. 6

The steps described in this proposal are measures of the type prescribed in OAR 660-012-0060(1). By approving this proposal, the City of Warrenton would approve the measures needed to satisfy this rule. This proposal therefore fully complies with OAR 660-012-0060, and with all applicable provisions of Goal 12 and the transportation planning rule.

13. Goal 13, Energy - Goal 13 is simply “to conserve energy.”

Findings: The City of Warrenton’s plan and land use regulations were acknowledged to comply with Goal 13 on July 14, 1983. This application for a plan and zoning map amendment would not affect those acknowledged provisions. Any development of the subject property after the proposed rezoning for commercial use would be subject to those provisions and to all applicable state and federal requirements for energy conservation. This application therefore complies with Goal 13.

14. Goal 14, Urbanization - Goal 14 is “to provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.”

Findings: LCDC acknowledged the city’s plan and urban growth boundary to comply with Goal 14 on July 14, 1983. Later, the city undertook additional work on urbanization during periodic review, under Task 4. The proposed rezoning does not involve any changes to the city’s urbanization policies, and the subject property lies fully within the city’s acknowledged urban growth boundary and the city’s corporate limits. The proposal thus is fully consistent with Goal 14.

15. Goal 15, Willamette River Greenway - Goal 15 deals with lands adjoining the Willamette River.

Findings: No part of the Willamette River or its greenway lies within the urban growth boundary for the City of Warrenton or, for that matter, in any part of Clatsop County. Goal 15 therefore does not apply to this application.

16. Goal 16, Estuarine Resources - Goal 16 is “to recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and to protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon's estuaries.”

Findings: LCDC acknowledged the city’s plan to comply with this goal on July 14, 1983. The city did further work in this area during periodic review, under Task 7. DLCD approved the city’s work for Task 7 on April 8, 2003, with Order # 001489.

Warrenton has about 13 miles of shoreline in the Columbia River estuary, and much of the city was once a large forested tidal swamp (*Plan*, p. 24). The city thus has many aquatic areas and shorelands that are subject to Goal 16. Warrenton’s plan classifies the city’s significant aquatic and shoreland areas in seven subareas (*Plan*, p. 27). Within each subarea, property is classified in a management unit such as “Natural” and assigned a plan designation intended to implement Goal 16: “Natural Aquatic,” for example. This management system for the city’s estuarine resources and estuary shorelands is based on the *Columbia River Estuary Regional Management Plan*. Warrenton has incorporated the applicable parts of that regional plan into the city’s comprehensive plan.

The subject property lies outside the areas covered by the management system described above. It is not in any of the city’s seven estuarine management subareas. With its higher elevation and significant distance from the Columbia River (about two miles), the property is an upland area where urban development will not, in the words of Goal 16, “alter, reduce or degrade estuarine resources and values.” The

city's acknowledged comprehensive plan therefore designates the property "Other Urban Shorelands." This designation allows for a wide variety of intensive development, including residential, commercial, and industrial uses (*Plan*, p. 6). The plan specifies that the "Other Urban Shorelands" designation may be implemented with a variety of zones, including "General Commercial," as proposed in this application. The proposal thus is fully consistent with Goal 16.

17. Goal 17, Coastal Shorelands - Goal 17 aims "to conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics."

Findings: LCDC originally acknowledged the city's plan to comply with Goal 17 on July 14, 1983.

The city later did additional Goal 17 work in periodic review, under Tasks 7 and 9. DLCD approved the work for Task 7 on April 8, 2003, with Order # 001489. The city's plan and land-use regulations for implementing Goal 17 on this particular property thus have been acknowledged to comply with that goal. The city completed and received approval from DLCD on its Periodic Review in February 2007. The applicant has addressed and satisfied this Goal.

As noted above in the discussion of compliance with Goal 16, the subject property is designated "Other Urban Shorelands." This plan designation allows for a wide variety of intensive development, including residential, commercial, and industrial uses (*Plan*, p. 6). The plan specifies that the "Other Urban Shorelands" designation may be implemented with a variety of zones, including "General Commercial," as proposed in this application. This proposal to rezone tax lot 201 to General Commercial thus is fully consistent with Goal 17.

18. Goal 18, Beaches and Dunes - Goal 18 says that "coastal areas subject to this goal shall include beaches, active dune forms, recently stabilized dune forms, older stabilized dune forms and interdune forms."

Findings: The subject property is not a beach dune, or interdune form. Areas in Warrenton subject to Goal 18 are identified on the city's map of "Critical Beach & Dune Shoreland Areas," *Comprehensive Plan*, page 73. All these areas lie a mile or more west of the subject property. For these reasons, it is not subject to Goal 18.

19. Goal 19, Ocean Resources - Goal 19 deals with management of resources in Oregon's territorial sea (the waters bordering the state's coastline).

Findings: No part of the subject property lies within or next to the territorial sea. Goal 19 thus does not apply to this application. For reasons described above, this

application fully complies with all applicable statewide planning goals and related administrative rules and statutes.

The data, maps, studies, and analysis presented in this narrative constitute substantial evidence in support of this proposal. This application to rezone tax lot 201 in the North Coast Business Park from General Industrial (I-1) to General Commercial (C-1) fully complies with all applicable requirements and criteria from the City of Warrenton's *Comprehensive Plan* and *Development Code* and with all applicable statewide planning goals and related rules and statutes.

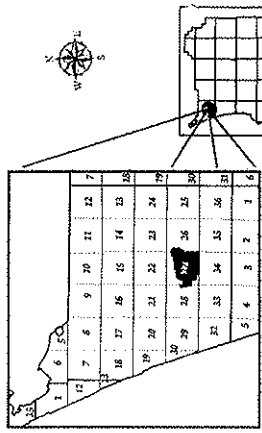
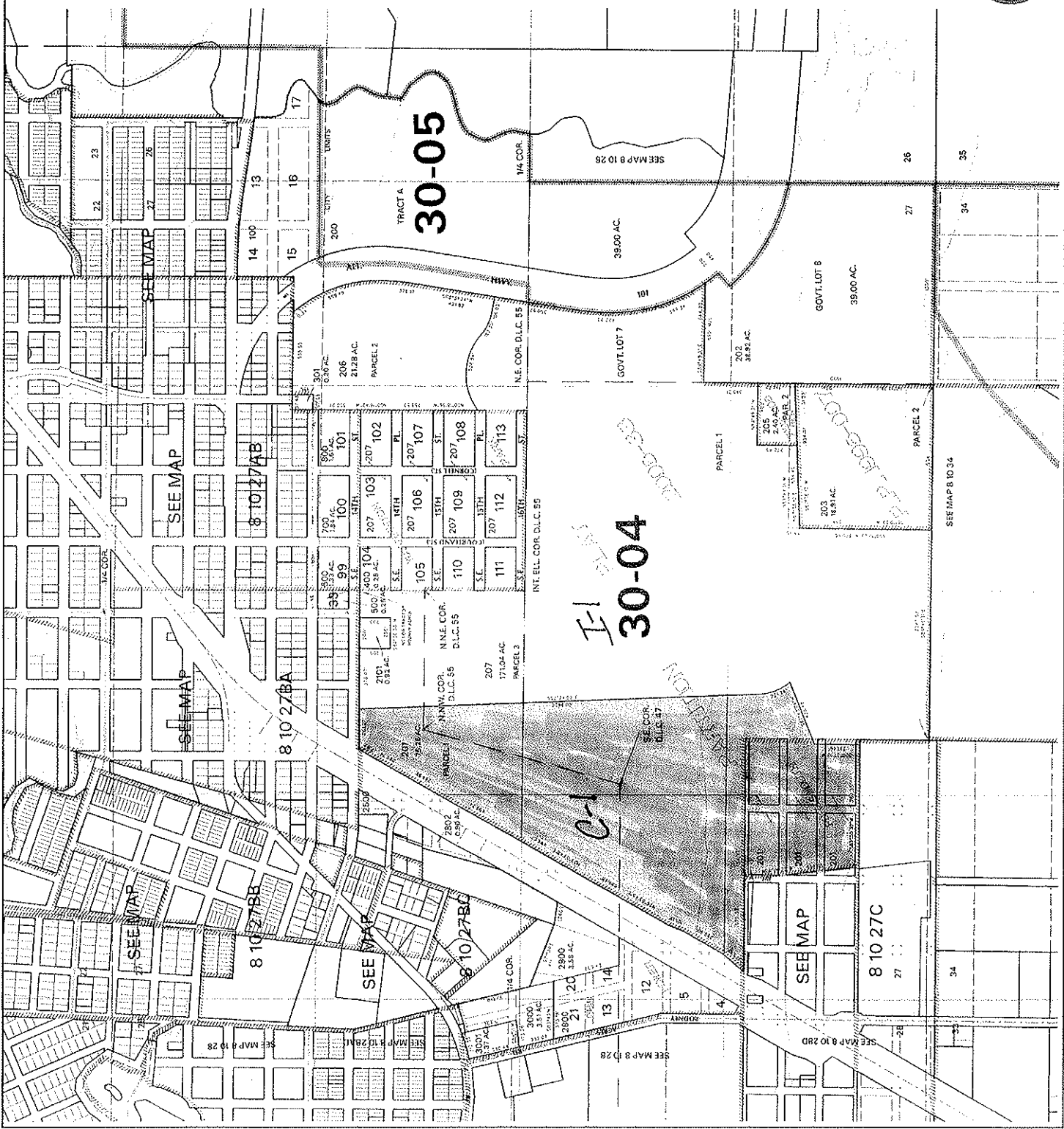
EXHIBIT 'B'

T8N R10W SEC 27 WM
CLATSOP COUNTY
Scale 1:4800



Cancelled
Accepted

- 1818N
- 1819N
- 1820N
- 1821N
- 1822N
- 1823N
- 1824N
- 1825N
- 1826N
- 1827N
- 1828N
- 1829N
- 1830N
- 1831N
- 1832N
- 1833N
- 1834N
- 1835N
- 1836N
- 1837N
- 1838N
- 1839N
- 1840N
- 1841N



May 23, 2007
8.10.27

This map was prepared for the
Program with the Clatsop County Assessor
to provide information to the public.
Clatsop County and the Assessor
do not warrant the accuracy of
this information.

EXHIBIT 'C'

CONDITIONS TO REZONE APPROVAL

The following are conditions to the approval to rezone tax lot 201 in Township 8, Range 10, Section 27.

1. Plan for commercial area will consist of no more than two stores with an area greater than 100,000 square feet each; and will also contain a variety of mixed commercial uses, which will include, by way of example, specialty shops, restaurants, business and medical offices, hotels/motels.
2. Site Design applications shall be approved by the City of Warrenton (Administrative or Planning Commission) prior to any development on the property.
3. City of Warrenton Fire Chief and Police Chief shall be part of the site design review for configuration and location of all streets and parking lots, fire hydrants for purpose of insuring adequate fire, emergency medical and police response.
4. Clatsop County will hold the City of Warrenton harmless regarding use of funds from sale of property as commercial contingent upon it being commercial.
5. Clatsop County will provide any public improvements deemed necessary by the City of Warrenton to include: (a) water and sewer utility improvements; (b) storm water drainage plans and construction; (c) city or private streets, which shall include sidewalks, and trails; (d) fire station and apparatus.