

ORDINANCE NO. 1038-A

Introduced by Commissioner: ALL COMMISSIONERS

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 1500, 1600, 1601, 1700, 1800, and 2100 of Tax Map 8-10-27-BA from Industrial, General Industrial Zone (I-1), to Commercial, General Commercial Zone (C-1) and Adopting Findings of Fact

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

WHEREAS, the City of Warrenton Planning Commission held public hearings on this application on December 8, 1999, January 12, 2000, and February 16, 2000 and recommended approval of this application; and

WHEREAS, the Warrenton City Commission reviewed and held a public hearing to obtain public comment on this application on April 19, 2000, closed the public hearing on that date but left the written record open until May 26, 2000 for all parties to submit additional argument and evidence and thereafter found it necessary to revise, update and amend the City of Warrenton combined Comprehensive Plan and Zoning Map, and sets forth Findings which are attached hereto as "Exhibit A" and by this reference made a part hereof.

NOW, THEREFORE, the Warrenton City Commission does ordain as follows:

Section 1: Changing the City of Warrenton combined Comprehensive Plan Map and Zoning Map to rezone Tax Lots 1500, 1600, 1601, 1700, 1800 and 2100 of Tax Map 8-10-27-BA from Industrial, General Industrial Zone (I-1) to Commercial, General Commercial Zone (C-1), as shown on Exhibit "B." Said area is located northwest of the intersection of U.S. Highway 101 and No. 104 Spur in the City of Warrenton, Clatsop County. The Findings adopted by the City Commission supporting this action are in "Exhibit A" and the property location map is "Exhibit B" and both are attached hereto and incorporated by reference herein.

Section 2: This ordinance shall become effective thirty (30) days after its adoption.

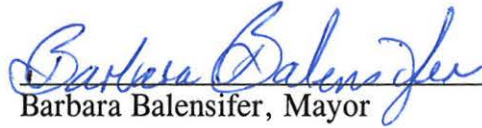
Section 3: If any article, section, subsection, subdivision, phrase, clause, sentence or word in this ordinance shall, for any reason, be held invalid or unconstitutional by a court of competent jurisdiction, it shall not nullify the remainder of the ordinance but shall be confined to the article, section,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

First Reading: July 26, 2000

Second Reading: August 2, 2000

PASSED by the City Commission of the City of Warrenton, Oregon, this 2nd day of August, 2000.

APPROVED by the Mayor of the City of Warrenton, this 2nd day of August, 2000.


Barbara Balensifer, Mayor


Scott Derickson, City Manager

Date the Notice of this Decision mailed by the City to parties with standing and to the Department of Land Conservation and Development on the required form: August 9, 2000.

EXHIBIT "A"

BEFORE THE CITY OF WARRENTON CITY COMMISSION

**FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR CITY OF WARRENTON,
COMPREHENSIVE PLAN AND ZONING MAP AMENDMENT ZC 3-99,
OCEAN CREST CHEVROLET**

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Exhibit 5	Description of Local Streets, TIA, pp. 8 and 9
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Exhibit 7	ODOT April 19, 2000 Letter
Exhibit 8	Comparison of C-1 and I-1 Uses

I. FACTS

1. Site Location, Existing Uses and Zoning.

This site is located at the northwest corner of State Highway 101 and Old Oregon Coast Highway (“No. 104 Spur”). (Exhibit 1.) The site contains two vacant residential structures (one of which is habitable), one occupied residential structure, and an existing auto body repair shop. (Exhibit 2.) The occupied residence, another of the residences and the auto body shop are connected to the city’s sanitary sewer system.

The property is designated on the city’s combined Comprehensive Plan (“Plan”) and zoning map (“Map”) as “Industrial” and is zoned I-1, “General Industrial” zone. (Exhibit 3.) The site contains 1.99 acres, consisting of tax lots 1500, 1600, 1601, 1700, 1800 and 2100 of Tax Map 8-10-27BA. (Exhibit 4.) Although the applicant originally applied to rezone a larger area, the applicant amended its application on October 21, 1999 to delete the additional land from the application.

2. Surrounding Uses and Zoning.

The property immediately to the north and west is vacant. The property is separated from this site by an unimproved sixty (60) foot wide local street right-of-way. The property to the east across U.S. Highway 101 contains a mini-warehouse project. The property to the south of the site across No. 104 Spur is vacant. To the west along No. 104 Spur (on the north side, moving from east to west) is an unimproved sixty (60) foot wide local street right-of-way, five (5) single family homes, a mini-warehouse project and a wholesale food supply store. On the south side of No. 104 Spur (moving from east to west) are single family dwellings.

The dwellings on the north side of No. 104 Spur are in the R-10 zone. The mini warehouse is in the I-1 zone. The food supply store is in the I-1 zone. The dwellings on the south side are in the I-1 and R-10 zones. The dwellings in the I-1 zone are non-conforming uses. The property to the north is zoned I-1. The property to the east across U.S. Highway 101 is zoned C-1. (Exhibit 3).

3. Site Access.

The site currently contains three driveways to No. 104 Spur, an ODOT facility. U.S. Highway 101 contains two (2) through lane with turn pockets. The highway is designated as "Statewide Level of Importance" ODOT facility.

City streets are classified as shown on the city's Street Classification Map. Warrenton Comprehensive Plan ("Plan") 8.310(4). The surrounding local streets and state highways are described at pages 8 and 9 of the TIA and shown on TIA Figure 1. (Exhibit 5 and 6.)

II. PROCEDURAL STATUS

1. Planning Commission Recommendation of Approval.

The applicant submitted the application on August 19, 1999. On October 21, 1999, the applicant amended its application as described in Part I(1), above. The Warrenton Planning Commission heard the application on December 8, 1999. The Planning Commission continued the application until the January 12 and February 16, 2000 meetings. On February 16, 2000, the Planning Commission recommended approval of the application with seven (7) conditions of approval.

2. City Commission Approval.

The Warrenton City Commission heard the application in an evidentiary hearing on April 19, 2000. ^{Deleted by motion 7/26/00} ~~[At the request of a neighboring property owner]~~ The City Commission closed the public hearing but held the record open until May 26, 2000 for parties to submit additional argument and evidence. The City Council deliberated to a tentative decision on June 1, 2000 and approved the application on that date. The City Commission directed the applicant to prepare findings and return on June 28, 2000 for adoption of the findings. At the request of the applicant, the City Commission continued adoption of the findings until its meeting on July 26, 2000.

The following additional evidence was before the City Commission prior to the final decision and not rejected by it:

1. April 19, 2000, May 12, 2000, May 19, 2000 and June 6, 2000 letters including exhibits from Michael C. Robinson.
2. April 19, 2000 letter from Oregon Department of Transportation (“ODOT”).

(Exhibit 7.)

3. May 15, 2000 letter from Oregon Department of Land Conservation and Development (“DLCD”).
4. The entire City Planning Department file. The entire City Planning Department file is contained in a green binder, was in the possession of the City Planner, Dick Pearson, on April 19, 2000, and was physically before the City Commission. The applicant’s land use consultant, Mark Barnes, requested that the City Commission make the entire Planning Department file part of the

record. No party objected to this request.

5. Planning Commission minutes distributed to the City Commission on April 19, 2000.
6. Two (2) over-sized exhibits: a location map and a preliminary site plan.
7. The Traffic Impact Analysis (“TIA”) prepared by Kittelson & Associates, Inc.

None of the City Commission members reported any ex-parte contacts. No party objected to the procedural status or conduct of the City Commission’s public hearing.

III. APPROVAL CRITERIA

The City Commission hereby adopts the following findings of fact and conclusions of law in support of its decision to approve this application. The City Commission also incorporates by reference the following documents:

- October 21, 1999 letter and application, including exhibits, from Mark Barnes.
- April 19, May 12, May 19 and May 26, 2000 letters, including exhibits, from Michael C. Robinson.
- February 8, 2000 staff report from City Planner Dick Pearson.

Where the incorporated documents and these findings conflict, these findings shall control.

1. Statewide Planning Goals.

A. Goal 6 Is Satisfied.

Goal 6 requires the City to “maintain and improve the quality of the air, water and land resources of the state.” DLCD’s December 17, 1999 letter argued that because the City had

received a letter from the Oregon Department of Environmental Quality (“DEQ”) asserting that the City’s sanitary sewer treatment facility is operating beyond its capacity, the City is not able to satisfy Goal 6.

The City Commission notes that DLCD’s December 19, 1999 letter raised two issues concerning Goal 6. DEQ argued that the city sewer treatment facility is beyond capacity and cannot treat current loadings in a reliable manner or in a manner consistent with the City’s NPDES permit and that DEQ would ask the City to enact an ordinance suspending issuance of new connections to the sewer system. The City Commission notes that no such ordinance has been adopted and that service to the proposed auto dealership would be treated as a new hookup (where hookups currently exist) to an existing sewer line. Further, the City Commission agrees with the evidence that DEQ has not imposed a moratorium on new connections of the City’s existing wastewater disposal system and that treatment of the proposed auto dealership’s wastewater would not place the city in violation of any existing agreements or orders from DEQ.

As the City Commission recognizes, the City has not adopted a moratorium pursuant to ORS 197.505, et seq., nor does DEQ have the statutory authority to impose a development moratorium. Moreover, Mr. Barnes stated in his December 23, 1999 letter that very little wastewater will be generated by this proposal. Mr. Barnes testified that “the only waste from the site entering the City’s sanitary sewer system will be from toilets and sinks used by employees and customers. The proposed automobile dealership will have no showers, dishwashers or laundry facilities. As a result, wastewater volumes will be relatively low compared to other businesses.” The only additional water will be from vehicle washing and

detailing which will be recycled on site. The City Commission treats this statement as a condition to which the applicant has agreed to be bound.

Furthermore, Mr. Barnes pointed out that the site is already served by Warrenton's sanitary sewer system, so new lines will not be required. In any event, since this site is already connected to the City's sanitary sewer system, approval of this application will not introduce new waste water to the City's treatment plant. Instead, because at least two residential structures and an existing auto body shop will no longer discharge waste water, the City's treatment facility will have some capacity that can accommodate the proposed use. The City Commission finds that the City's sewer treatment facility will have sufficient capacity to treat wastewater from this site.

Additionally, the City Commission relies on the April 19, 2000 letter from Mr. Barnes to Mr. Alan Johanson, City of Warrenton City Engineer, and testimony by Mr. Barnes and Mr. Johanson at the April 19, 2000 City Commission hearing on this application. Mr. Barnes told the City Commission that the proposed use does not generate much affluent. Further, Mr. Barnes said that he had talked with Mr. Haskell and Mr. Johanson of the City of Warrenton, and they stated that the sewer connection for the auto dealership will be handled as a new connection without the requirement for a line extension. It is their understanding that the dealership will not place the city in violation of any existing agreements or orders with or from the DEQ. Mr. Johanson told the City Commission that he concurred with Mr. Barnes' testimony. The City Commission also finds that proposed conditions of approval 7-9 assure limited effluent generation by limiting the use and the size of the use on this site.

The City Commission finds that the substantial evidence before it shows that the wastewater discharge from the auto dealership will not threaten to violate or violate applicable

state or federal environmental quality statutes, rules and standards as relevant to this application. Therefore, Goal 6 is satisfied because proper wastewater treatment will maintain water and land resources.

B. Goal 9 Is Satisfied.

a. The Goal 9 administrative rule is not applicable.

DLCD argued that the applicant must satisfy Goal 9 and its implementing administrative rule, OAR Chapter 660, Division 9. The City Commission disagrees because the administrative rule implementing Goal 9 is applicable only to amendments adopted as part of periodic review. OAR 660-09-010(2); Melton v. City of Cottage Grove, 28 Or LUBA 1 (1994). DLCD/ODOT v. City of Warrenton, ___ Or LUBA ___ (LUBA Nos. 99-152/153, April 21, 2000) Slip op. 26. DLCD provides no support for its argument that the City must consider administrative rules which are clearly applicable only to periodic review. This application is not before the City Commission as part of periodic review. In any event, LUBA has held that the addition of commercial land will not violate Goal 9. DLCD/ODOT v. City of Warrenton, id. The City Commission finds for the reasons below that Goal 9 is satisfied.

b. There is sufficient Goal 9 inventory.

The City is required only to demonstrate that sufficient lands will be available for economic development if this post-acknowledgment amendment is adopted. The City Commission relies on its acknowledged Plan, including the Background Report, which the state relied upon in its order acknowledging the City's Plan and implementing land use regulations.

This application seeks to remove 1.99 acres from the "Industrial" (I-1) designation and

place it in the “Commercial” (C-1) designation. Both designations are included in the City’s Goal 9 lands. The Background Report, Table 24, shows that in 1980, the City had 72.9 acres of C-1 and C-2 zoning. The Background Report also concluded “as Table 24 indicates, an adequate amount of vacant buildable land has been zoned in Commercial districts to meet the projected Commercial land needs.”

DLCD’s report to LCDC dated December 7, 1982 addressed the City’s acknowledgment work on Goal 9. However, the only additional requirement for the City contained in that report concerning Goal 9 was the requirement that the City amend its zoning ordinance to include larger minimum lots size to protect the Alumax parcel. A June 29, 1983 DLCD letter to the City explained the status of the City’s acknowledgment process.

Reviewing the 1982 DLCD report, LCDC found on December 21, 1982 that the City was not in compliance with Goal 9 because its zoning ordinance had to be amended to retain “large needed industrial sites and assure efficient and orderly conversion of urbanizable land to urban uses.” Page 32 of that report concerning Goal 9 addressed only the Alumax parcel. In other words, as of the December 1982 DLCD staff report, both DLCD and LCDC were satisfied with the City’s Goal 9 compliance except for the Alumax site. However, because the Alumax site is an industrial site and because the acknowledgment issues were related only to the size of parcels on that site, the City Commission finds that both DLCD and LCDC were satisfied with the City’s commercial and industrial lands inventory. At the time LCDC acknowledged the City’s Plan and implementing ordinances, LCDC had determined that there was sufficient buildable land to meet the City’s commercial and industrial land needs.

(i) **There are adequate commercial lands.**

Page 27 of the December 7, 1982 DLCDC staff report found that 60 acres of C-1 and C-2 (resident trade and services) and C-3 and C-4 (tourist trade) land were needed and that 139.5 acres of vacant were provided, leaving a surplus of 79.5 acres. Thus, even in 1982, there was more than sufficient land to provide for commercial development. Since that time, two post-acknowledgment plan amendments have been approved. Neither of the amendments have deleted land from the C-1 designation. The October 15, 1998 amendment added land to the C-1 designation. The City retains adequate land for commercial uses, and this application adds 1.99 acres to that designation.

(ii) **There are adequate industrial lands.**

The City Commission finds that there is more than sufficient land for industrial needs. Table 24 of the Background Report matches the table on Page 28 of the December 7, 1982 DLCDC staff report. Both tables show a vacant buildable land supply of 893.6 acres with 842 acres needed. In other words, the City had a surplus of at 51.6 acres of industrial land in 1980. Since that time, 3.0 acres have been added to the I-1 designation and 1.4 acres subtracted from the I-1 designation. Therefore, the City still has a surplus of industrial land. This application will subtract 1.99 acres from the Industrial designation of 53.46 acres, leaving the City with a surplus of 51.47 acres.

The Oregon Land Use Board of Appeals has approved of this kind of analysis to demonstrate that a city satisfies a Goal's requirement for land. In Herman v. City of Lincoln City, ___ Or LUBA ___ (LUBA No. 98-146, August 18, 1999), LUBA upheld a challenge to the City's compliance with Goal 10. In its decision, LUBA described the steps the City

took to conclude that the City still satisfied Goal 10 after the challenged decision, including the City's analysis of reliance on an approved land use development adding about 1,000 residential units. LUBA found that the City's analysis was adequate because a "reasonable person could conclude that the addition of the [residential units] approved [by the City] was sufficient to insure that the City meets its obligation to provide for [Goal 10]." (Id.) In this case, the evidence before the City Commission is that at the beginning of this application, there was a surplus of both Commercial and Industrial-designated lands, and this application adds to the Goal 9 lands.

The City Commission need not go through the complicated steps it went through during acknowledgment to demonstrate that Goal 9 is satisfied. There is substantial evidence in the record which the City Commission relies upon to find that Goal 9 is satisfied.

C. Goal 12 Is Satisfied.

Goal 12 requires the city to demonstrate that the amendment will "provide and encourage a safe, convenient and economic transportation system." Goal 12 is satisfied in one of two ways. The city can find either that there is a safe and adequate transportation system to serve development under the proposed post-acknowledgment amendment or the development of the property under the proposed post-acknowledgment amendment will not create greater or different transportation demands that impact the area under the existing, acknowledged designations.

The City Commission finds that Goal 12 is satisfied for both reasons. First, the city finds that with the relevant conditions of approval, the existing state and local transportation system will remain safe and adequate, especially considering the limitation on use, the size of

the use, and the number of trips that may be generated on a daily basis. The City Commission also finds that development of the property under the proposed C-1 zoning district will not create greater or different transportation demands and impacts and development than under the existing I-1 designation. The City Commission finds that substantial evidence demonstrates that the C-1 zoning will result in fewer impacts to the surrounding transportation system than would worst case development under the existing I-1 zoning designation. For these reasons, the City Commission finds that Goal 12 is satisfied.

2. Transportation Planning Rule and Oregon Highway Plan.

A. The application satisfies the applicable requirements of the Oregon Transportation Planning Rule (OAR 660-12-060).

The record contains a Traffic Impact Analysis (“TIA”) performed by Kittelson and Associates. The March 2000 TIA assumes that the site will be limited to a retail auto dealership containing no more than 18,000 square feet. TIA at p. 18. (See applicant’s April 19, 2000 letter recommending a condition of approval as to square footage and Oregon Department of Transportation (“ODOT”) letter dated April 19, 2000 recommending condition limiting use to 18,000 square feet.) (Exhibit 7.) The TIA concludes at page 34 that:

“* * * with the site developed as a proposed car dealership, the proposed comprehensive plan amendment will not significantly affect the transportation system as the proposed commercial zone change will not result in an increase in the volume/capacity ratio at any of the intersections which do not meet the performance standards set forth in the 1999 Oregon Highway Plan.”

LUBA has held that a city can rely on a TIA to support a conclusion that an amendment will not significantly affect a facility. Marine Street LLC v. City of Astoria, ___ Or LUBA ___ (LUBA No. 99-068, January 28, 2000) Slip op 7.

The basis for the TIA's conclusion is that the application itself does not cause any of the affected intersections to fail nor does it degrade already failing intersections. Instead, the application results in less impact to the affected transportation facilities than worst case development under the existing I-1 zoning. Page 18 of the TIA shows that during the p.m. peak hour, this application would add only 60 new trips whereas Table 4 at p. 17 shows that a general office building in the existing I-1 zone would add 155 trips. In any event, even if there is a significant affect, the affect is mitigated by conditions of approval 7-10.

Further, the City Commission relies on the April 19, 2000 letter from Mohammed Dichari of ODOT stating that "In our opinion, the [TIA] substantially complies with the requirements of OAR 660-012-0060 and the OHP Policy IF.6, and ODOT will not object to the land use action [if certain conditions are adopted]..." The letter is substantial evidence that the application, with the requested conditions of approval, does not have a significant affect or, if it does, the significant affect is mitigated by limiting allowed land uses to be consistent with the performance standards of the affected transportation facilities. OAR 660-012-0060 (1)(a) and (c).

For these reasons, the City Commission finds that the application does not significantly affect a transportation facility (either a state facility or a city facility) nor does it further degrade an already failing intersection. The City Commission has adopted conditions of approval 7-10 as requested by ODOT.

B. Oregon Highway Plan Policy 1F.6.

OHP action 1F.6 provides that an application significantly affects a transportation facility if it further degrades an intersection that does not meet the standards of OHP Tables 6

or 7. TIA Table 6 shows that 4 of the 8 affected intersections under worst case development in the I-1 zone (unmitigated) exceed OHP standards in current years. TIA Table 7 shows that, with background traffic growth, 7 of the 8 intersections will exceed OHP standards in the year 2020. The car dealership, in each year, has less impact on the affected facilities than the existing worst case zoning for unmitigated conditions.

The City Commission finds that the substantial evidence shows that this application does not increase the volume to capacity ratio further, thereby satisfying OHP action 1F.6 and not creating a significant impact. Further, the City Commission relies on ODOT's April 19, 2000 letter as substantial evidence that the application does not significantly affect the relevant intersections.

3. Warrenton Zoning Ordinance.

A. Warrenton Zoning Ordinance ("WZO") 14.080(2)(a)-(d) are satisfied.

This section applies to amendments to the Map.

a. WZO 14.080(2)(a).

This criterion requires that the amendment be consistent with the Plan. The applicant's April 19 and May 12, 2000 letters demonstrate that the application is consistent with applicable Plan policies and the City Commission incorporates the relevant portions of those letters here. Further, Part III(4) of this decision is incorporated here to demonstrate consistency with the Plan through satisfaction of applicable Plan Goals and Policies as raised below, consistent with ORS 197.763(1).

b. WZO 14.080(2)(b).

WZO 14.080(2)(b) requires the applicant to show that the “use permitted by the amendment is compatible with the land use development pattern in the vicinity of the request.” For the reasons described in Part III(4)(D)(b), the City Commission finds that this criterion is satisfied.

The land use development pattern in the vicinity of the request is described in the applicant’s April 19, 2000 letter and on page 1 of the application. The surrounding property is zoned either C-1 or I-1 but the criterion is directed at land use patterns, not zoning patterns. The property immediately to the north and west is vacant and further to the west, contains commercial residential and industrial uses. The property to the south contains both vacant land and scattered residential development. To the east, on the other side of U.S. Highway 101, is a mini-warehouse development. This area constitutes the vicinity of the request.

The City Commission interprets this criterion as requiring it to find that the use permitted by the amendment, a retail auto sales dealership with a limitation of 18,000 square feet of structure and a limitation on 700 vehicle trips per day, is compatible with the existing land use pattern in the vicinity. The City Commission interprets vicinity to mean the surrounding area as described in this section and Part I(2) of this decision. The City Commission further interprets the word “compatibility” to mean capable of co-existing with or without conditions of approval in this decision and considering the existing zoning of the site and the vicinity.

The City Commission finds that the proposed use, a retail auto sales dealership, is compatible with the land use development pattern in the vicinity of the request for the following reasons. First, because the property to the north and west is vacant, the proposed

use will not be incompatible with vacant land. The only potential incompatibility might come from erosion during construction or storm water runoff as part of the land use. The City Commission finds that condition of approval 3 will prevent erosion from affecting adjacent property. Further, condition of approval 6 controls storm water runoff. The City Commission further finds that this use is compatible with I-1 uses because they are similar in nature and, in many cases, are the same. (Exhibit 8.) Thus, these uses that might develop on this vacant land will be compatible with this use.

The City Commission finds that the separation of the two properties by U.S. Highway 101 will minimize any potential incompatibility with the mini-warehouses on the east side of US Highway 101. Moreover, the City Commission finds that this proposed commercial use will be compatible with the commercial use to the east of U.S. Highway 101 because both uses are commercial and this use creates no off-site impacts that will affect the mini-warehouses, such as noise, odor or storm water run-off.

Finally, the uses to the south and west of the site across No. 104 Spur are also or can be made compatible with this use. The uses are single-family dwellings and commercial and industrial uses. The proposed use is a low traffic generator as required by condition of approval 9. The City Commission finds that the proposed use will be compatible with these uses because it will generate less traffic than worst case development under the existing I-1 zoning.

Additionally, the City Commission finds that this use will be compatible with the residences. First, the residences are already subject to commercial and industrial uses nearby and their traffic. This use will have no different impacts than the existing commercial and

industrial uses. In fact, it will have less traffic impact. Second, this is a mixed-use area. The City Commission finds that this application does not change that pattern and because it is a mixed use area, the existing land use pattern demonstrates compatibility.

The proposed use will also be compatible with the commercial and industrial uses because they are similar in nature and these uses are already adjacent to busy highways and streets and would be adjacent to industrial development if this property were not rezoned.

The City Commission finds that the substantial evidence before it is that the Planning Commission has recommended that this application be approved with condition of approval 11 requiring site development review. The applicant has testified that it is not opposed to this condition of approval. The proposed site contains less than two (2) acres. It is feasible through the site development review process to impose conditions of approval, such as landscaping, control of direction of light, access points, storm water runoff, noise, odor and glare, that will mitigate any unforeseen incompatible aspects of the use with adjacent properties.

c. WZO 14.080(2)(c).

This criterion requires: “The land is physically suitable for the uses to be allowed in terms of slope, geologic stability, flood hazards and other relevant considerations.” The record contains substantial evidence showing that the land is gently sloping, not within an identified floodplain and not subject to any mapped areas identifying geologic instability. For these reasons, the City Commission finds that the land is physically suitable for the use to be allowed. Additionally, the City Commission discerns no difference in land suitability between industrial and commercial uses. Because the site is suitable for an industrial use, it is also

suitable for a commercial use.

d. WZO 14.080(2)(d).

This criterion requires that public facilities, services and streets are available to accommodate the use to be provided by the proposed zoning designation. The City Commission finds that the record contains substantial evidence demonstrating that public facilities and services are available to serve this site. These public facilities and services include sanitary sewer, storm sewer and roads.

The application contains substantial evidence that the site is served by City water and sanitary sewer service. With respect to sanitary sewer service, Mr. Barnes testified that the use will not generate much effluent and Alan Johanson testified that no sanitary sewer line extension is required since a sanitary sewer line already serves the property.

Mr. Johanson confirmed Mr. Barnes testimony at the April 19, 2000 City Commission hearing.

The City Commission finds that streets are available to accommodate the proposed use. Kittelson and Associates prepared a TIA analyzing affected intersections. The TIA did not identify any city streets or intersections that would operate at deficient levels of service if this application were approved.

The Oregon Department of Transportation submitted a letter dated April 19, 2000 stating that it found that the application satisfies the relevant requirements of OAR 660-012-0060 and Oregon Highway Plan Policy 1F.6 and "ODOT will not object to the land use action provided the following conditions, which are necessary to ensure compliance with the Transportation Planning Rule, are included:

- The structure size is limited to 18, 0000 square feet;
- The trip generation is limited to no more than 700 vehicles per day based on rates established in the 6th addition of the ITE Trip Generation Manual; and
- Prior to construction, the use shall be subject to site plan or conditional use permit review, whichever is applicable, by the City and ODOT shall be afforded an opportunity to review and comment.” (Exhibit 3).

Mr. Barnes also testified to the City Commission on April 19 that stormwater discharge will be handled on site through bio-swales and then discharged into the City’s drainage system. Condition of approval 6 requires stormwater to be treated on site.

4. **Warrenton Comprehensive Plan (“Plan”) Policies.**

A. **Plan Policy 2.320(1).**

DLCD argued that the applicant had not satisfied this policy. This policy provides:

“(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 buildings in order to: * * *.”

The City Commission finds that this policy is inapplicable to this application for two reasons. First, the context of the policy makes it applicable to urbanizable residential land, not to industrial land such as site. The City Commission may interpret its own enactments and the Oregon Land Use Board of Appeals will defer to the interpretation as long as the interpretation is consistent with, among other factors, the context of the enactment and is not clearly wrong.

is consistent with, among other factors, the context of the enactment and is not clearly wrong. ORS 197.829(1)(a)-(d). Secondly, this policy is inapplicable to a quasi-judicial application. The City Commission interprets this policy as not applying to quasi-judicial applications because it is a legislative direction that a strategy be adopted for use in subsequent quasi-judicial applications. Since no growth management strategy has been adopted, it is not applicable here.

DLCD also asserted that this application is a “major change in zoning.” Notwithstanding that the applicable Plan and WZO criteria do not use this term and DLCD does not cite to any applicable approval criterion using this term, DLCD is incorrect. This application is not a major change because it is less than two (2) acres in size. Moreover, as explained below, this application does not affect the City’s Goal 9 inventory nor does it affect the City’s public facilities. The City Commission finds that applications on small tracts with limited or few impacts on public facilities are not major zoning changes.

B. Plan Goal 3.200.

DLCD argued that this goal is applicable to this application. This goal requires applications to “achieve efficient and well-integrated development patterns 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.”

The City Commission finds that this goal is satisfied by this application. Approval of this application will meet the needs of Warrenton residents by providing an auto dealership that sells new and used cars, auto parts and provides auto repairs and other services to city residents. The application also satisfies the needs of a Warrenton property owner by providing

the owner of Ocean Crest Chevrolet with an opportunity to establish a business in the city providing additional jobs and tax base to the community. This application meets a general need of residents and property owners that is not presently met.

The City Commission also finds that this area is unsuitable for industrial use. The Planning Commission motion included a finding that because of the mixture of uses in the area, including industrial, commercial and residential uses, as well as vacant land, and because adequate areas exist in the two industrial areas east of Highway 101, the Airport Industrial Park and the Clatsop County Business Park, this site is not needed for future industrial growth. The City Commission adopts this finding. However, the City Commission interprets Plan Goal 3.200 as not requiring a finding that the site is unsuitable for industrial use.

There are no natural features on this site other than undelineated wetlands. The goal does not require the wetlands to be preserved. The goal requires the use to be compatible with natural features. The City Commission interprets this policy as being satisfied if the agencies regulating wetlands allow them to be filled. Conditions of approval 1 and 2 require wetland fill permits. As explained below, the City has the ability to provide adequate public services to this commercial use.

Finally, this application will result in an efficient and well-integrated development pattern. The City Commission finds efficiency because traffic impacts will be reduced. The development pattern is well-integrated because the use is compatible with uses in the vicinity.

C. Plan Policies 3.320(1)-(5).

a. Plan Policy 3.320(1)(c).

Plan Policy 3.320(1)(c) describes the implementation of the City's General Commercial zone. For the reasons described below, the City Commission finds that this application implements the C-1 zoning district. The purpose of the C-1 zoning district is described in this Plan policy as "allowing a broad range of commercial uses providing products and services in the downtown area, the Hammond business district, and along the Highway 101 corridor." The City Commission finds that the General Commercial (C-1) zoning district described at WZO 3.060 implements this statement. The purpose statement of the C-1 zoning district in WZO 3.060 is identical to the purpose statement found in this Plan policy.

b. Plan Policy 3.320(2).

Plan Policy 3.320(2) requires that "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."

The City Commission finds that this criterion is satisfied because the applicant's proposal contains conditions of approval limiting the use on the property to a low-traffic generating use of a certain size. In fact, this amendment will generate less traffic than the existing zone. Further, the City Commission has imposed condition of approval 11 requiring

that, at the site development review stage, the applicant must utilize common access points and other appropriate techniques for access to state highways or local roads that will minimize traffic congestion.

The City Commission finds that this policy requires it to take precautions to minimize but not eliminate traffic congestion associated with the development of this use on Highway 101 and the named local streets. The criterion contain two suggestions for accomplishing this policy. First, the criterion requires that certain techniques be encouraged, including common access points. The City Commission notes that conditions of approval 5 and 11 require joint access to adjoining properties. The City Commission also finds that these conditions will satisfy this criterion's requirement that appropriate techniques be encouraged. Second, the City Commission has imposed as a condition of approval the requirement that the site plan review be imposed on this use. Site plan review will require sufficient parking on this site for commercial development.

The City Commission interprets the first sentence in the criterion as requiring it to take precautions to minimize but not that it entirely eliminate traffic congestion. The City Commission interprets the phrase "precautions to be taken to minimize traffic congestion" as meaning that it must impose, to the extent practicable, conditions of approval to minimize traffic congestion. The substantial evidence before it show that it is more likely than not that the proposed use will minimize traffic congestion, when compared to worst case development in the existing zoning district, especially considering the conditions of approval requiring common access and limitation on use, size and traffic generation.

The City Commission relies, in part, on the April 19, 2000 letter from the Oregon Department of Transportation wherein ODOT stated that the application substantially complies with the Transportation Planning Rule and Oregon Highway Plan if four (4) conditions of approval are adopted. The City Commission notes that it has imposed each of the requested four (4) conditions of approval. The City Commission finds that this is substantial evidence that demonstrates that traffic congestion will be minimized along U.S. Highway 101 and the other named local streets consistent with the applicant's TIA.

Additionally, the City Commission finds that precautions taken to minimize traffic congestion include a rezoning such as this where the proposed use will generate less traffic than worst case development under the existing zoning. By rezoning this site for a use which has more favorable traffic characteristics, combined with conditions of approval requested by the Oregon Department of Transportation, the City Commission finds that it has taken the precaution required by this criterion to minimize traffic congestion associated with a commercial use on this site. For these reasons, the City Commission finds that this policy is satisfied.

c. Plan Policies 3.320(3) and (4).

With regard to Plan Policy 3.320(3), the City Commission finds that the plain language of the policy refers to a type of development that is not applicable to this property. The City Commission interprets this Plan policy as encouraging a particular kind of development (a regional shopping center) but not prohibiting another kind of use. LUBA has upheld the city's interpretation in DLCD/ODOT v. City of Warrenton.

The City Commission finds that Plan Policy 3.320(4) does not apply to this site because it describes another area along U.S. Highway 101. The City Commission finds that this policy merely identifies one possible area for commercial expansion and does not preclude the identification and approval of commercial development on other sites on U.S. Highway 101. LUBA has upheld the city's interpretation in DLCD/ODOT v. City of Warrenton.

d. Plan Policy 3.320(5).

Plan Policy 3.320(5) provides that “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 business to Warrenton and increase the diversity of retail commercial uses available to Clatsop County residents.”

The City Commission finds that this policy is satisfied for several reasons. First, the City Commission interprets the phrase “regional shopping district” to mean a variety of uses along U.S. Highway 101 and that a regional shopping district is different from the regional shopping center referred to in Plan Policy 3.320(3). Secondly, the City Commission finds that an automobile dealership on this site will strengthen the local economy by providing jobs and needed services, in addition to providing a new business in Warrenton, without significantly affecting U.S. Highway 101 or local streets. Mr. Joe Hayward told the Planning Commissioner that he purchased this dealership in 1997. The dealership in Astoria was built in 1922 and is currently operating in three separate locations. Mr. Hayward told the Planning Commission that he needs to relocate the dealership to an area that is more conducive to this market.

D. Plan Policies 7.320(7) and (8).

a. Plan Policy 7.320(7).

The City Commission interprets this Plan policy as not applicable to this application. Plan Policy 7.320(7) applies to new subdivisions or new large-scale developments. The City Commission finds that this application does not request approval of a subdivision nor is a land division required for this application.

The City Commission also finds that this application is not a “new large-scale development”. The City Commission finds that a 1.99-acre rezoning from Industrial to Commercial zoning is not a large-scale development because the City Commission interprets this phrase as applying to larger developments, consistent with the reasons in its finding that this application is not a “major change in zoning.”

Moreover, the City Commission finds that even if this Plan policy were applicable, it is feasible to satisfy the requirement through conditions of approval. Substantial evidence before the City Commission shows that the storm drainage facilities that direct and manage site runoff to avoid impacts on adjoining property and public facilities can be established on this site. Moreover, substantial evidence demonstrates that the City has adequate sewer and water capacity to serve this low-demand use.

b. Plan Policy 7.320(8).

The City Commission also finds that Plan Policy 7.320(8) is inapplicable for the reasons noted above in (a), above. This application is neither a new subdivision nor a new large-scale development. Moreover, the City Commission interprets the phrase “certain other uses” in the context of new subdivisions and new large-scale developments as uses which

would have an impact on city facilities. The City Commission finds that substantial evidence demonstrates that no such impact will occur by the approval of this application.

E. Plan Policy 9.310(4).

This policy provides that “the City will encourage the development of the area between East Harbor Drive, Marlin Avenue and U.S. Highway 101 as a regional shopping center complex.” DLCD argued that this policy prohibits the City from approving this application.

The City Commission found in the Warrenton Land and Investment application that this policy did not preclude commercial development elsewhere in the City. In fact, WCP policies 3.320(1)-(5) demonstrate and acknowledge a preference for commercial development along U.S. Highway 101. While DLCD may wish to change that preference, these WCP policies are acknowledged and the City is entitled to rely upon them in reviewing and approving this application. Further, this site is not in the described area, so the City Commission finds that it is inapplicable.

5. Other Issues.

A. The City relies on a single map combining Plan and zoning designations and that map shows this site designated as I-1.

DLCD raised the issue of whether the City utilizes a single or dual mapping system. The City Commission finds that DLCD has agreed in its May 15, 2000 letter that the City utilizes a single map system. The City Commission notes that the DLCD letter includes the following:

“*** We understand that Warrenton has only one map that is intended to include both comprehensive plan designations and zoning designations. The Warrenton map, however, does not specify comprehensive plan designations, it only identifies zoning

designations. One must refer to the text of the comprehensive plan and make a determination as to which plan designation is compatible with the particular zoning designation. Our position, which is based on ORS 197, is that the City must insure that zoning designations are consistent with comprehensive plan designations since the comprehensive plan is the foundation upon zoning is implemented.”

The City Commission also notes that page 31 of the December 7, 1982 DLCD acknowledgment report (Exhibit to April 19, 2000 letter) states: “The City has retained use of a combined plan/zone map....” This letter shows that DLCD has been aware since 1982 that the City has one map.

The City Commission further finds that the sole map before it shows a current single designation of I-1 on this property. The City Commission notes that no other maps showing a different designation either for the Plan or the zoning ordinance were physically before it in this proceeding. The City Commission finds that the City maintains a single map system, that DLCD has waived this issue by acknowledging use of the single map system, that the only map before it shows the site zoned I-1, and that the proposed Plan map/zoning map designation is a zoning designation which implements the Plan designation of Industrial. The City Commission finds that the C-1 zoning ordinance is consistent with the Plan because, as explained in Part III(4)(C)(a), the C-1 zone implements the Plan designation of Commercial.

The City Commission also finds that the Plan/zoning map before it is the City’s acknowledged zoning map. The applicant’s attorney visited the DLCD offices on May 18, 2000. Mr. Larry French brought the applicant’s attorney the entire Warrenton post-acknowledgment file consisting of four binders. The documents attached to the applicant’s May 19, 2000 letter were in that file. The documents consist of the following:

- (i) A notice of proposed action dated March 18, 1994 referring to City of Warrenton file No. A-2-294 and stating that the purpose of the proposed action was to merge the City of Warrenton/Town of Hammond zoning ordinances and that “these are preliminary maps and are subject to changes as they go through the public hearing process.”
- (ii) DLCD’s Plan Amendment Tracking Sheet refers to the same local file number as above and describes the proposal summary as “amending the Warrenton and Hammond zoning maps to establish the same criteria and zoning designations” and noting that the proposal was received on March 23, 1994.
- (iii) An August 17, 1994 Notice of Proposed Amendment by DLCD referring to DLCD file number 002-94, the DLCD file number given for this application in its Plan Amendment Tracking Sheet.
- (iv) A Notice of Adoption submitted by the City of Warrenton on August 10, 1994 to DLCD stating that the “zoning map now complies with recently merged zoning ordinance adopted on 6/16/93 final maps” and that the maps are “essentially the same as proposed”.
- (v) An April 18, 1994 letter from DLCD, reviewing the proposed mapping without questioning its accuracy.
- (vi) The zoning map contained in DLCD’s post acknowledgment files shows this entire property zoned as I-1.

The Commission finds that the DLCD letter does not contain any reference to a

problem with the zoning maps submitted to DLCD by the City, especially with reference to this property. Moreover, the City Commission notes that it adopted the proposed map and that no party appealed the proposed map. The City Commission finds that the adoption of the ordinance by the City Commission without an appeal means that the map is acknowledged.

B. The City is not required to wait for the completion of periodic review to act on this application.

DLCD argues that the City must wait until it completes its work tasks in periodic review and LCDC approves the work tasks. The City Commission has not been cited to any applicable administrative rule, local ordinance or statutory provision that requires it to wait to act on this application. The City Commission is free to rely upon its acknowledged Plan and zoning ordinance provisions to act upon this application.

C. Access to the Property to the North of This Site.

The owner of the property to the north of this site argued that this application would render his property inaccessible. Nothing about this application changes that property's current access. This application does not include any land owned by that property owner nor does it propose vacation of any existing street. Further, the property to the north is vacant; there is no application pending before the City that would establish a use on his property. Whatever access rights that property owner now has, he will continue to have after this application is approved. To the extent his property may be difficult to access, it will be difficult to access with or without approval of this application because this application does not change or affect his access.

The applicant also testified that it supported the condition of approval recommended by

the Planning Commission that a 40-foot-wide access corridor be provided on the west end of this property to allow access to this property in the event that SE 12th Street is vacated. The applicant requested that the City Commission amend this condition of approval to require a 50-foot access corridor without regard to whether SE 12th street is vacated. The City Commission has imposed condition of approval 5. This condition improves access to the property to the north. Finally, no criterion requires that access be provided to an adjacent property in connection with this application.

The property owner also argued that approval of this application would amount to an inverse condemnation by the City of his property rights. The City Commission finds that this argument is without merit. LUBA has held in another case where a neighboring property owner argued that a city was required to condition approval of an application upon access to his property that such an exaction of right-of-way without a showing of rough proportionality violates the United States Constitution. Gensman v. City of Tigard, 29 Or LUBA 505, 516 (1995). The property owner cannot require the City to impose a condition of approval on this application without its consent because such a condition is not roughly proportional to the impacts of this application.

IV. CONCLUSION AND CONDITIONS OF APPROVAL

For the reasons contained herein, the City Commission **APPROVES** this application and hereby amends the combined Comprehensive Plan and zoning map designation on this site from Industrial (I-1) to General Commercial (C-1) subject to the following conditions of approval:

(1) A wetland delineation must be completed to identify and delineate any jurisdictional wetlands on the site prior to or concurrent with site review as required by (10), below. The delineation will be accepted by the City as fulfilling this condition only if the Oregon Division of State Lands concurs with the delineation. No building permits or development permits may be issued for this site prior to fulfillment of this 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 documentation shall be provided to the City.

(3) Any grading or site preparation activities shall comply with City standards for erosion control and, if applicable, with the erosion control program administered by the Oregon Department of Environmental Quality ("DEQ"). A copy of the completed DEQ permit application and any supporting documents shall be provided to the City. To the extent that any standards for erosion control imposed by the City or DEQ do not so provide, erosion control measures shall be implemented as necessary to prevent soil, sediment, and construction debris from being discharged off-site during all clearing, grading, excavation, and other site preparation work. Such erosion control measures shall be maintained in place until all landscaping work on the site is completed.

(4) A Traffic Impact Study has been prepared for this project. All mitigation measures recommended by the Traffic Impact Study must be in place prior to development of the site, or constructed concurrent with development of the site. If mitigation measures recommended in the Traffic Impact Study are to be built by the developer concurrent with the development of the site, the City will require a bond, letter of credit or other surety

device deemed sufficient by the City to cover the complete cost of traffic impact mitigation measures.

(5) A 50-foot wide nonexclusive easement for access purposes shall be provided on the west end of this site to connect the property to the north of this site with the Fort Stevens Highway (No. 104 Spur).

(6) A storm water mitigation plan shall be required at the time of site plan review, as required by (11), below. At a minimum, the plan shall include stormwater mitigation measures that address oil and grease and flow volume.

(7) This comprehensive plan/zoning map designation shall be limited to use by a retail motor vehicle dealership and the activities customary and accessory to such a dealership, including the sale of new and used vehicles, vehicle repair, storage of new and used vehicles, vehicle leasing and rental, vehicle painting, and vehicle parts storage. Any other use of this site will require a modification of this condition, which will require public notice and public hearings before the Planning Commission and City Council, as an amendment to this resolution. OAR Chapter 734, Division 51 shall apply to any change of use of an approach road to a state highway.

(8) Structures on this site shall be limited to a total of no more than 18,000 square feet.

(9) Trip generation of the retail auto sales dealership shall be limited to no more than 700 vehicle trips per day based on rates established in the Sixth Edition of the International Transportation Engineers ("ITE") trip generation manual in effect as of July 12,

2000. Failure to comply with this condition on more than one day shall justify and may result in revocation of this comprehensive plan/zoning map amendment.

(10) Conditions Nos. 7, 8 and 9 shall not be modified, and no other use of this site shall be allowed, unless the applicant for such amendment establishes that the use or additional footage will not generate more than 700 vehicle trips per day based on rates established in the International Transportation Engineers (“ITE”) trip generation manual in effect as the date of the application for amendment.

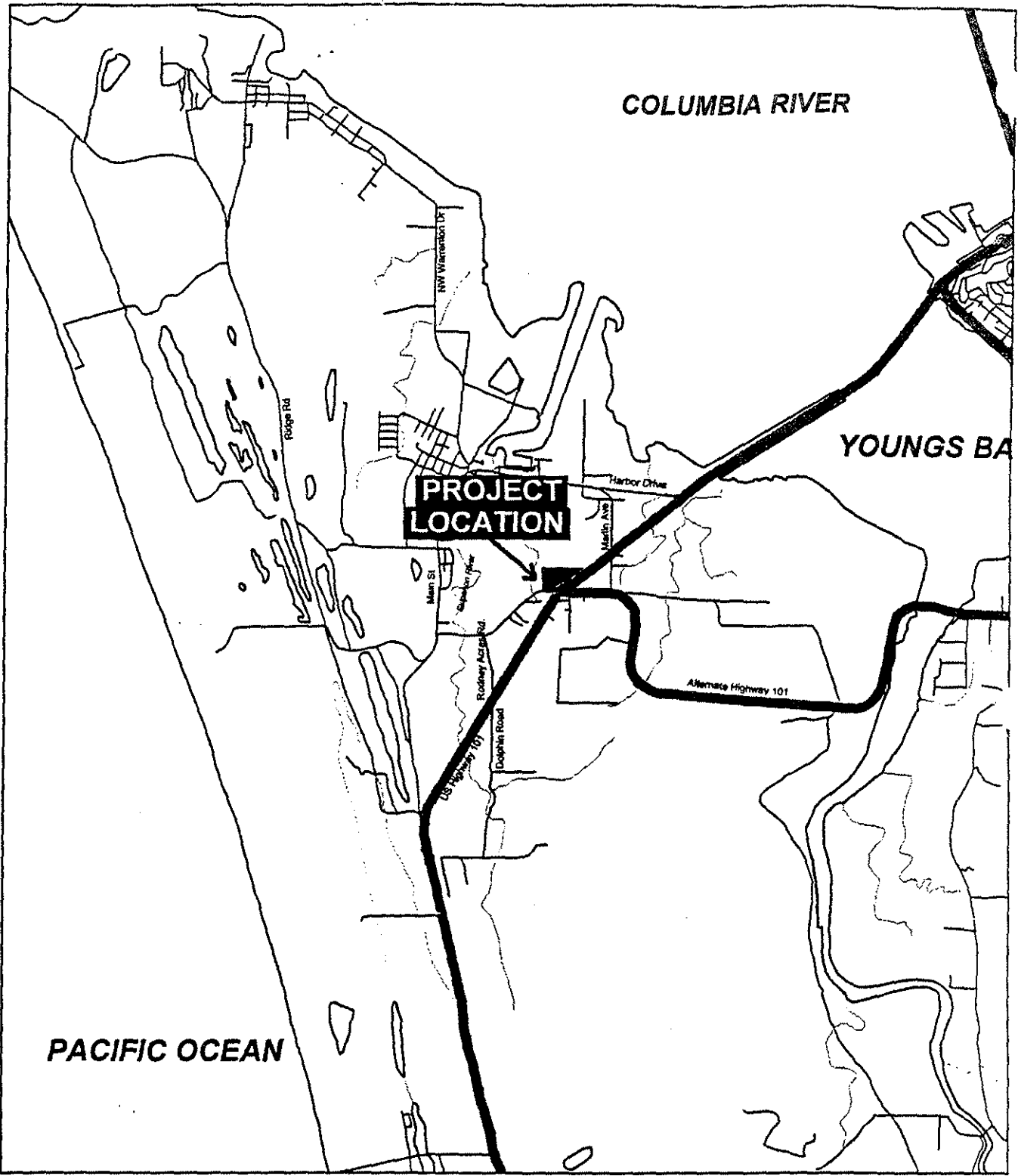
(11) Prior to issuance of building permits, the applicant shall submit a site plan application for review by the City of Warrenton with notice and an opportunity to review and comment on the application to property owners and affected governmental entities, including ODOT and DLCD. The City shall process the application by providing for a decision by staff with notice of the decision and an opportunity for appeal and public hearing as provided for in the Warrenton Zoning Ordinance.

(12) Access between the site and the state highway system, including access from the easement described in condition No. 5 above, shall be provided only from Fort Stevens Highway (No. 104 Spur), consistent with applicable rules and ODOT permit provisions. Access shall be limited for the benefit of public safety and to minimize traffic congestion.

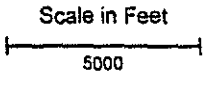
(13) All wastewater generated on-site, including but not limited to that generated by vehicle washing and detailing activities, must be recycled or discharged to the sanitary sewer. Source control measures must be implemented as necessary to ensure that soaps, detergents, and other contaminants associated with such activities are not discharged to

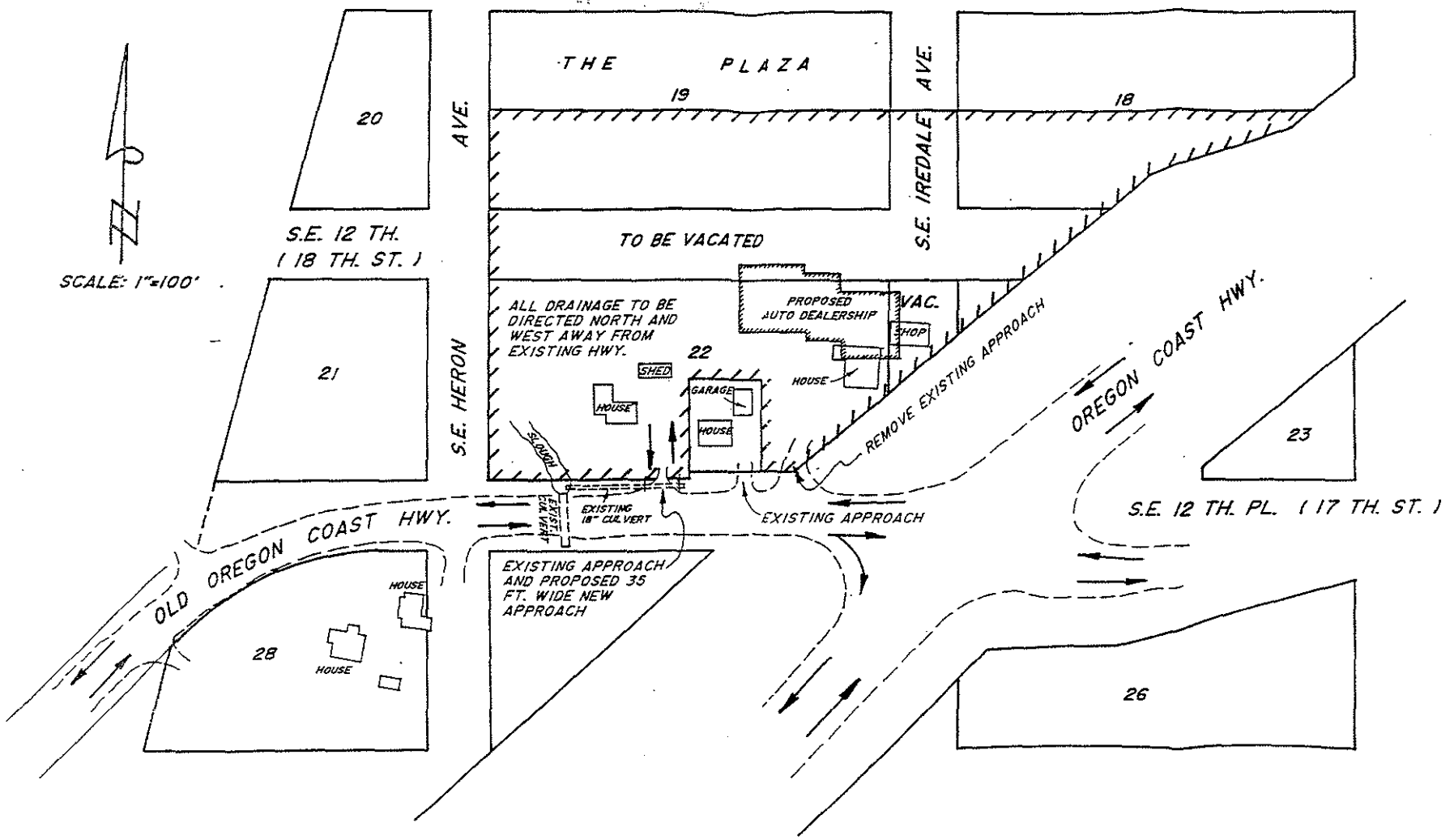
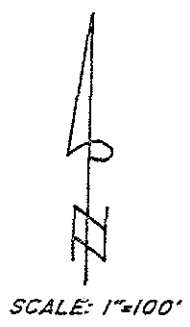
storm drains or ditches, or otherwise discharged off-site by means other than the sanitary sewer.

(14) These conditions shall be recorded in the records of deeds of real property for Clatsop County and shall run with the land.



Ocean Crest Chevrolet
Location Map



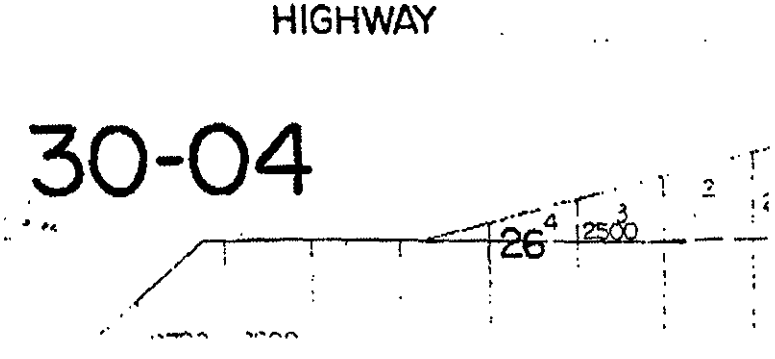
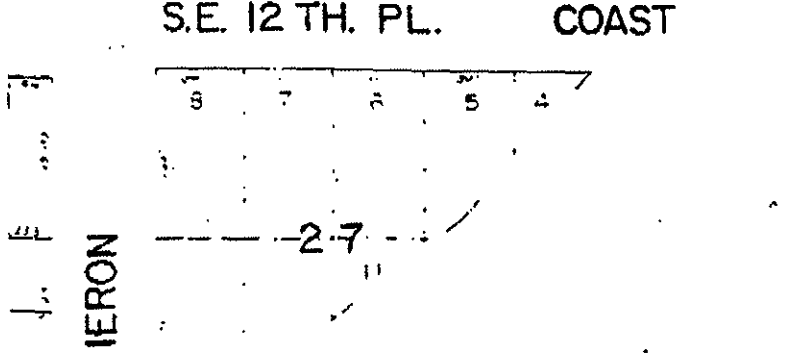
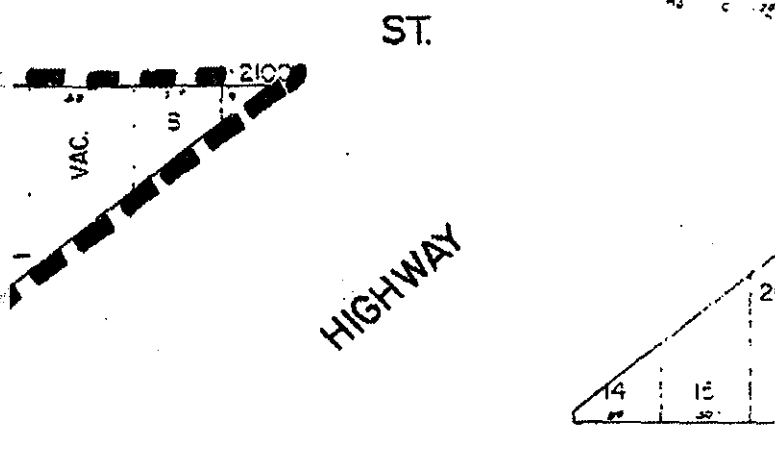
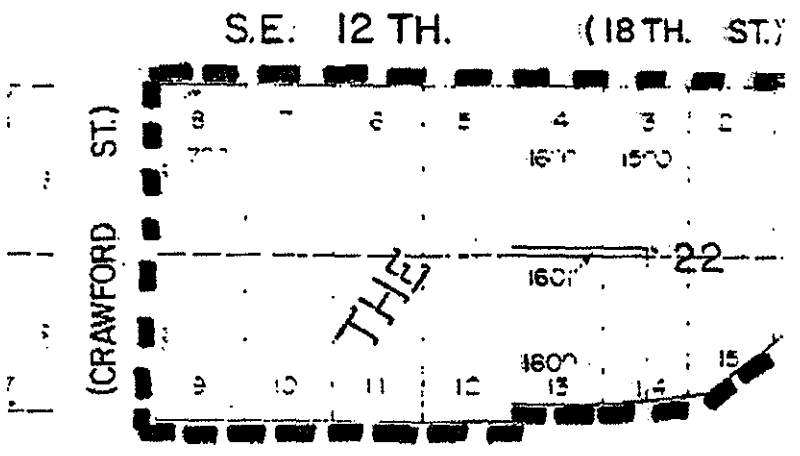
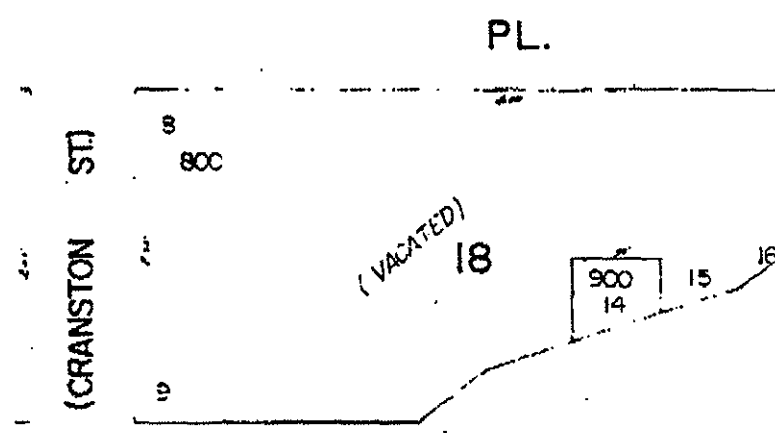
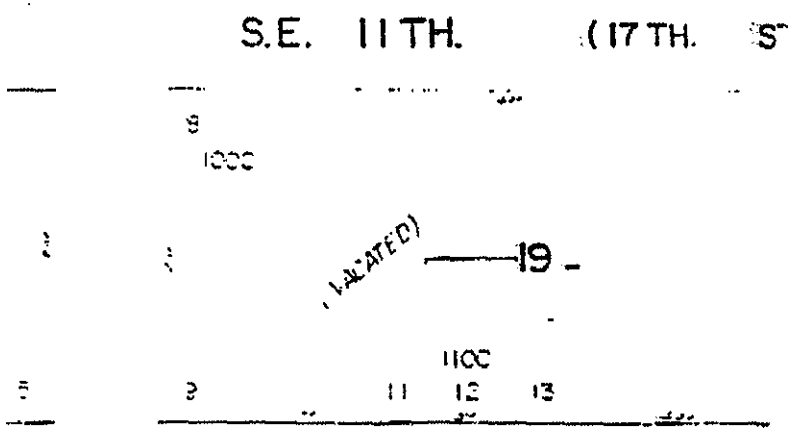
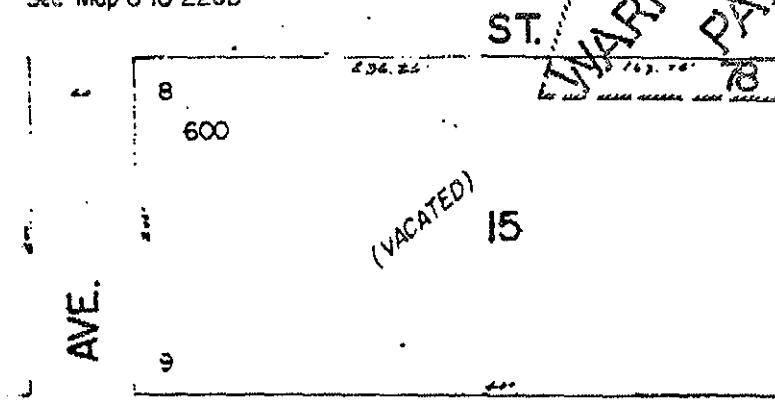
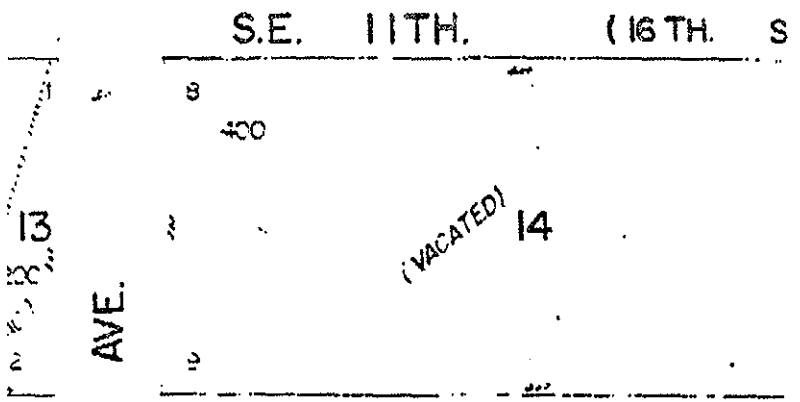


NE 1/4 NW 1/4 Sec. 27 18 N R
CLATSOP COUNTY

1/WM

1"=100'
See Map 8 10 22CD

WARRENT
PAR.



30-04

Existing Conditions Analysis

This section discusses the existing site conditions, traffic volumes and peak hour operations. The purpose of this discussion is to provide a basis for comparison with future conditions.

SITE CONDITIONS

The site represents a complete block that is bounded to the east by Highway 101, to the south by Fort Stevens Highway. The site currently is occupied by a auto body repair shop, two homes, and one unhabitable house. The site has frontage to two major roads. The frontage to Highway 101 is approximately 280 feet and to Fort Stevens Road is approximately 300 feet. The nearest major intersection to the site is at the southeast corner of the site, where Fort Stevens Highway - Alternate Highway 101 intersects Highway 101.

TRANSPORTATION FACILITIES

The major roads and streets serving the study area and the existing lane configurations at the key intersections to be analyzed are illustrated in Figure 2. **U.S. Highway 101** is the primary transportation corridor within the study area and is under the jurisdiction of the Oregon Department of Transportation (ODOT). Within the study area, Highway 101 is a two-lane facility with left-turn lanes at selected intersections and a posted speed limit that varies from 45 to 55 mph along this length.

The 1999 Oregon Highway Plan (Reference 1) identifies US 101 as a Statewide Highway in the National Highway System (NHS). Policy 1A: State Highway Classification System in the Highway Plan prescribes:

Statewide Highways (NHS) typically provide inter-urban and inter-regional mobility and provide connections to larger urban areas, ports and major recreation areas that are not served by Interstate Highways. A secondary function is to provide connections for inter-urban and inter-regional trips. The management objective is to provide safe and efficient, high-speed, continuous flow operation. In constrained and urban areas, interruptions to flow should be minimal. Inside Special Transportation Areas (STA's), local access may also be a priority.

The section of Highway 101 passing through the study area does not form part of a designated Freight Route.

Within the study area, there are six key intersections on Highway 101 at the following locations:

- Fort Stevens Highway(south) - Perkins Road;
- Dolphin Avenue;
- Fort Stevens Highway - Alternate Highway 101;
- Marlin Avenue;
- Neptune Avenue;
- Harbor Street.

The two intersections at Harbor Street and Neptune Avenue are signalized; the other four are unsignalized, with stop signs controlling traffic on the minor street approaches to Highway 101.

Fort Stevens Highway is a two-lane facility in the vicinity of Highway 101 and is also known as Alternate Highway 101. Fort Stevens Highway connects to Highway 101 at two locations, one

adjacent to the subject site and the other several miles to the south at Perkins Road. Both intersections are four-legged with stop signs controlling traffic on Fort Stevens Highway and Perkins Road.

The Oregon Highway Plan 1999 identifies Fort Stevens Highway as a District Highway in the Highway Classification table. **Policy 1A: State Highway Classification System** in the Highway Plan prescribes:

District Highways are facilities of county-wide significance and function largely as county and city arterials or collectors. They provide connections and links between small urbanized areas, rural centers and urban hubs, and also serve local access and traffic. The management objective is to provide for safe and efficient, moderate- to high-speed continuous-flow operation in rural areas reflecting the surrounding environment and moderate- to low-speed operation in urban and urbanizing areas for traffic flow and for bicycle movements. Inside STA's, local access is a priority. Inside Urban Business Areas, mobility is balanced with local access.

Harbor Street and Neptune Avenue are both two-lane roadways that connect to Highway 101 north of the subject site at T-intersections under three-phase signal control.

Marlin Avenue is a two-lane roadway that connects to Highway 101 north of the subject site at a four-legged intersection with stop signs controlling traffic on Marlin Avenue.

Dolphin Avenue is a two-lane roadway that connects to Highway 101 at a four-legged intersection and to Fort Stevens Highway at a T-intersection, with stop signs controlling Dolphin Avenue at both intersections.

Main Avenue is a two-lane roadway that connects to Fort Stevens Highway at a T-intersection with stop signs controlling traffic on Fort Stevens.

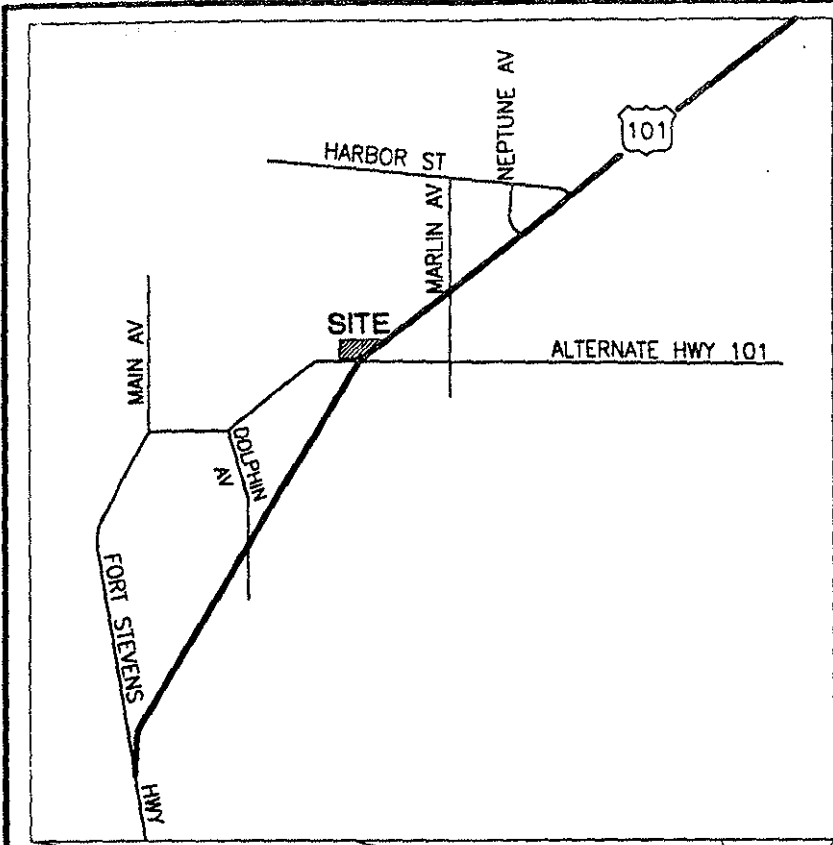
TRAFFIC VOLUMES AND PEAK HOUR OPERATIONS

As part of the previous study conducted by Lancaster Engineering (Reference 2) p.m. peak turning movement counts were collected during May 1999 (from 4:00 p.m. to 6:00 PM) for the same intersections as for the current assessment. These counts have been adopted as the 1999 base traffic volumes for the current assessment.

Based on information from the previous *US 101 - Warrenton Vicinity Transportation Planning Study*, prepared by Kittelson and Associates, August 1992, the Lancaster report identified a projected compound growth rate from 1999 to 2020 of just over 3% annual. This growth rate has been applied to estimate existing (i.e. year 2000) base traffic volumes, as summarized on Figure 4. It is noted that the 2000 base traffic volumes do not include any traffic generation associated with the proposed zone change assessed in the Lancaster report.

The analysis is based on the weekday p.m. peak hour. Traffic conditions during all other weekday time periods and throughout the weekend will likely operate under better conditions than described in this report, with the exception of a few peak holiday weekends throughout the year where U.S. 101 experiences significant increases in recreational traffic.

Intersection performance standards for intersections along Oregon state highways are set forth in the recently adopted *1999 Oregon Highway Plan* (Reference 1). ODOT requires the volume-to-capacity ratio for peak hour operations to be used as the operational analysis performance measure at intersections. For a statewide highway (non-freight route) classification with a speed limit of greater than or equal to 45 mph, the performance standard is a maximum volume-to-capacity (V/C) ratio of 0.75. For the purposes of this analysis, all of the study intersections will be evaluated based on this maximum V/C threshold of 0.75.




 NORTH
 (NOT TO SCALE)

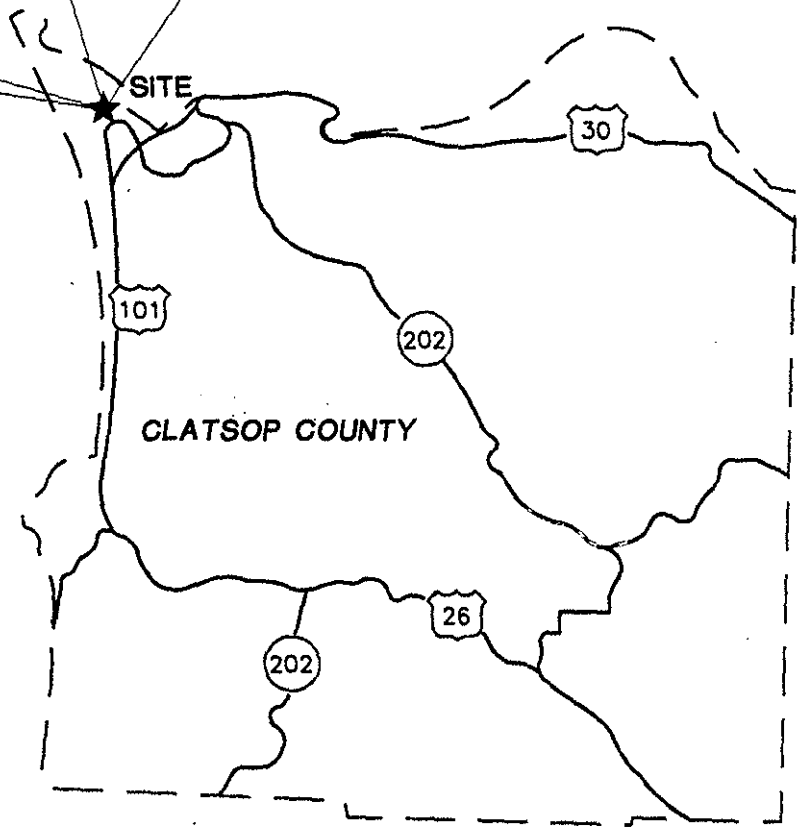


EXHIBIT 6 'AP'

WARRENTON ZONE CHANGE WARRENTON, OREGON MARCH 2000	FIGURE 1	
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Oregon

John A. Kitzhaber, M.D., Governor

Department of Transportation

District 1

350 W. Marine Drive

Astoria, OR 97103

(503) 325-7222

FAX (503) 325-1314

April 19, 2000

FILE CODE:

Honorable Mayor Barbara Balensifer and City Council
City of Warrenton
107 S.W. 3rd Street
Warrenton, Oregon 97146

SUBJECT: Proposed Comprehensive Plan and Zoning Amendment (ZC 3-99)
Hayward Chevrolet, U.S. 101

Dear Mayor and Council:

Oregon Department of Transportation (ODOT) staff has reviewed the Traffic Impact Analysis that addresses the transportation impacts related to the proposed comprehensive plan amendment and zone change. As required by the Transportation Planning Rule (OAR 660-012) the Oregon Highway Plan Policy 1F.6, the applicant must show that the land use action will not reduce the performance standard below the minimum or will avoid further degradation.

As you know, ODOT is very concerned about the safety and operations of Highway 101 through Warrenton. Every analysis that has been done regarding this corridor of highway recognizes the need for two travel lanes of traffic, north and south, through Warrenton. Many of these analyses fail to point out that in order to accommodate the traffic anticipated, the Young's Bay Bridge must be widened or replaced. If the additional travel lanes are not continued over the bay, an extreme "bottleneck" in traffic will occur and could cause some extreme safety and operational problems.

The analysis submitted shows that the facility is already below ODOT's minimum performance standard for this highway designation. Given the types of potential uses that could occur on the existing zoning compared to the potential uses under the proposed zoning, there *would* be a significant impact to the transportation system.

ODOT is particularly concerned about the commercial zoning along the highway because of the high trip generation, degradation of operation and performance, and the potential of a "strip-mall," so any potential zone change to commercial requires additional examination.

In this particular case the commercial zone designation coupled with the restriction limiting the use to a Car Dealership will actually have a net reduction in trips compared to the allowed uses under current zoning as shown in the Traffic Impact Analysis. Although ODOT generally concurs with the findings in the study there are a couple of statements that need clarification.

- Page 2, Executive Summary, Existing Conditions, Bullet 1
"Under Existing Conditions, all study intersections currently meet or exceed ODOT's performance standard for intersections on a state highway such as U.S. 101."
Currently only three of the six intersections analyzed meet ODOT's performance standard as described on Page 10.

- Page 30, Intersection Capacity Analysis, Paragraph 3
"Under year 2001 conditions, traffic signals are required on Highway 101 at Marlin, Dolphin and Alternate 101. The need for signals and a signal warrant analysis was discussed in the July 1999 Lancaster report . . . "
Meeting a warrant for a signal is not a mandate to install a signal at a particular location. ODOT does not currently intend to install signals at either Dolphin or Alternate 101 intersections. The City and ODOT must develop a plan for this entire corridor and look at alternatives to determine the best solution for the area.

In our opinion, the analysis substantially complies with the requirements of OAR 660-012-0060 and the OHP Policy 1F.6, and ODOT will not object to the land use action provided the following conditions, which are necessary to ensure compliance with the Transportation Planning Rule, are included:

- The use of the site shall be limited to a car dealership;
- The structure size is limited to 18,000 square feet;
- The trip generation is limited to no more than 700 vehicles per day based on rates established in the 6th edition of the ITE Trip Generation Manual; and
- Prior to construction, the use shall be subject to site plan or conditional use permit review, whichever is applicable, by the City and ODOT shall be afforded an opportunity to review and comment.

These measures may be implemented either by conditions of approval on the zone change or through the adoption of an overlay zone.

ODOT currently working with the City of Warrenton and the Department of Land Conservation and Development (DLCD) preparing the work scope for the Warrenton Transportation System Plan which will address many of the issues associated with Highway 101 and the adjacent connecting streets. The TSP will give us all (City, County, ODOT and DLCD) the guidance needed to properly develop this area of Warrenton to adequately serve both the motoring and the community. We look forward to working with the City with this process.

This letter should be included in the hearing record as ODOT testimony. ODOT should be considered a party to the hearing and be entitled to notices of future hearings, or hearing continuances or extensions. Please provide me with a copy of the City's decision, including findings and conclusions.

Sincerely,

Mohamad Dichari, P.E.
District 1 Manager

cc: Larry Ksionzyk – DLCD
Dale Jordan – DLCD
Tony Martin - ODOT

General Commercial Zone	Light Industrial Zone
Automobile sales, service or repair establishment	Automobile and vehicle repair, welding and service part facilities.
Professional, financial, business and medical offices	Professional, financial or business 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	
Personal and business service establishments such as barber or beauty shop, clothes cleaning or funeral home	
Boat and marine equipment sales, service or repair facilities	
Building material sales yard	
Government buildings and uses	Government buildings and uses
Public utility structures	Public utility facilities such as power stations, sewage and water treatment plants.
Cabinet, carpenter, woodworking or sheet metal shops (C)	Production, processing, assembling, packaging or treatment of articles and products from previously-prepared or semi-finished materials, such as paper, wood, rubber, plastics, fibers and sheet metal. Cabinet, carpenter, woodworking, sheetmetal shops or similar establishments.
Building contractor shops, including plumbing, electrical and HVAC (C)	Contractor shop or equipment storage yard for storage and rental of equipment commonly used by a contractor.
Fuel oil distributor (C)	
Processing uses such as bottling plants, bakeries and commercial laundries (C)	Production, processing, assembling, packaging or treatment of such products as food products, pharmaceutical, hardware and machine products
Research and development establishments (C)	Research and development laboratories.
Wholesale storage and distribution facilities, including cold storage (C)	Storage and distribution services and facilities including truck terminals, warehouses and storage buildings and yards, contractor's establishments, lumber yards and sales or similar uses.
Veterinary clinic, kennels (C)	
Tool and equipment rental (C)	
Mini-warehouses or similar storage uses (C)	Mini-warehouses or similar storage uses.

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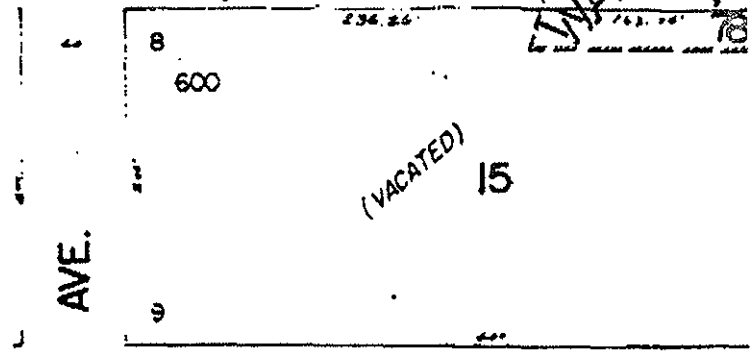
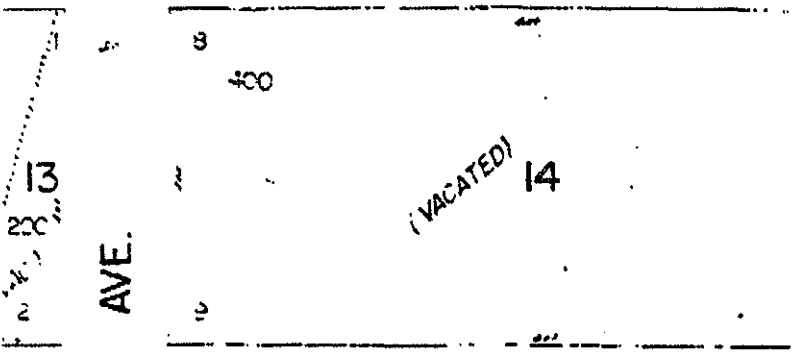
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See Map 8 10 22CD

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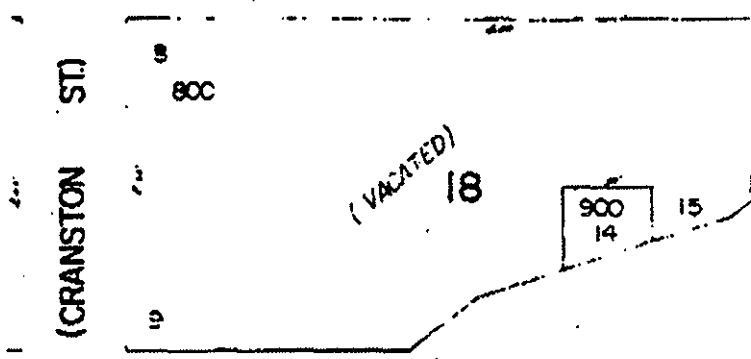
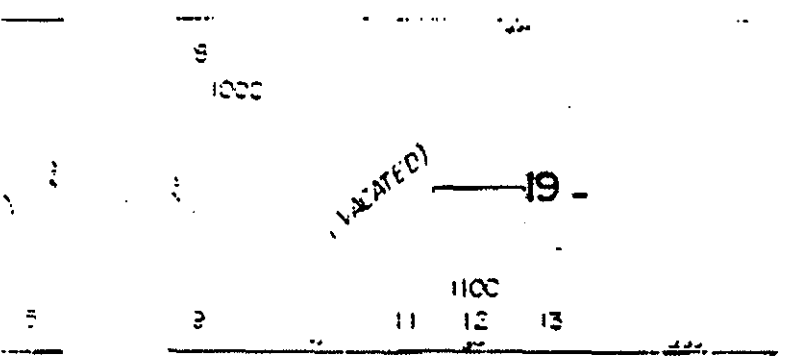
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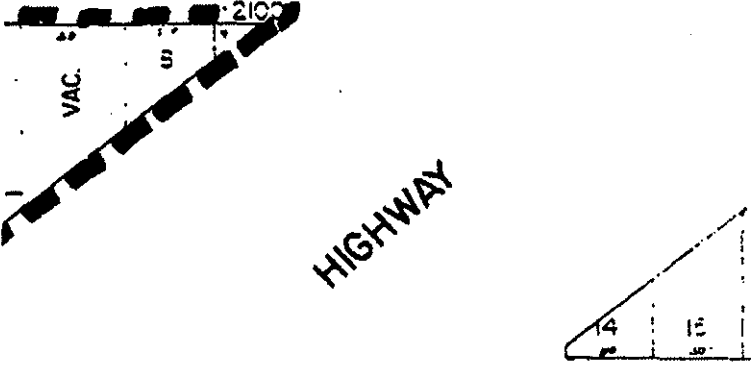
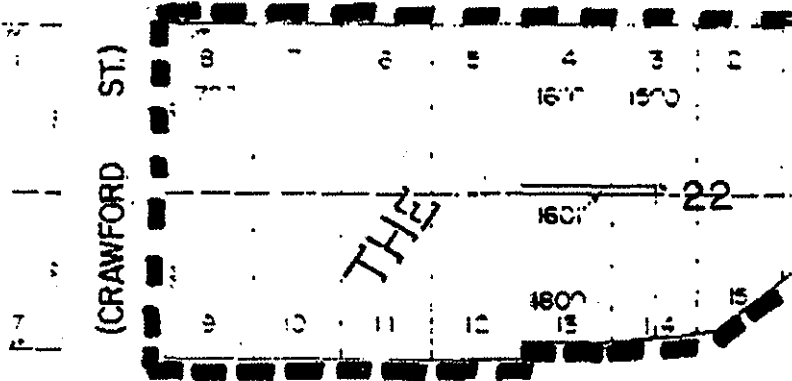
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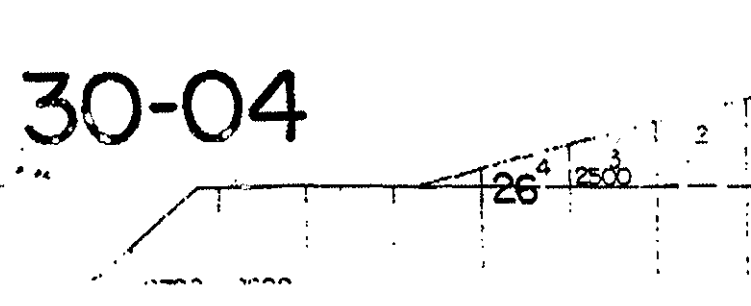
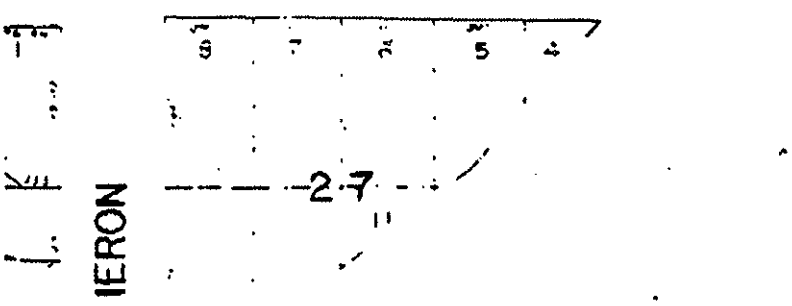
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S.E. 12 TH. PL. COAST

HIGHWAY



30-04