



Oregon

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NOTICE OF ADOPTED AMENDMENT

February 3, 2006



TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Warrenton Plan Amendment
DLCD File Number 003-05

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: February 14, 2006

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.625 (1), 197.830 (2), and 197.830 (9) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS ADOPTED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Laren Woolley, DLCD Regional Representative
Carol Parker, City of Warrenton

<paa> ya

FORM 2

DLCD NOTICE OF ADOPTION DEPT OF

This form must be mailed to DLCD within 5 working days after the final decision
per ORS 197.610, OAR Chapter 660 - Division 18

JAN 30 2006

(See reverse side for submittal requirements)

LAND CONSERVATION
AND DEVELOPMENT

Jurisdiction: City of Warrenton Local File No.: CPA-05-2, OTA-05-1
RZ-05-1
(If no number, use none)
Date of Adoption: January 24, 2006 Date Mailed: January 27, 2006
(Must be filled in) (Date mailed or sent to DLCD)
Date the Notice of Proposed Amendment was mailed to DLCD: August 25, 2005

- Comprehensive Plan Text Amendment Comprehensive Plan Map Amendment
 Land Use Regulation Amendment Zoning Map Amendment
 New Land Use Regulation Other: _____
(Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached."

Text revisions in Comprehensive Plan and Development Code for Liquid Natural Gas (LNG); Map revisions to Comprehensive Plan Map and Zoning Map.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice for the proposed amendment, write "N/A."

SAME

Plan Map Changed from: Other Shoreland to Aquatic Development
Zone Map Changed from: URR to ESWD-I-2
Location: East Skipanon Peninsula Acres Involved: 96
Specify Density: Previous: n/a New: n/a
Applicable Statewide Planning Goals: 1-19
Was an Exception Adopted? Yes: No:

DLCD File No.: 003-05 (14626)

Did the Department of Land Conservation and Development receive a notice of Proposed

Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes: No:

If no, do the Statewide Planning Goals apply. Yes: No:

If no, did The Emergency Circumstances Require immediate adoption. Yes: No:

Affected State or Federal Agencies, Local Governments or Special Districts: DSL, DLCD,

ODOT, Army Corps of Engineers

Local Contact: Carol Parker Area Code + Phone Number: 503-861-0920

Address: PO Box 250 City: Warrenton

Zip Code+4: 97146 Email Address: planningdirector@ci.warrenton.or.us

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the "Notice of Adoption" is sent to DLCD.
6. In addition to sending the "Notice of Adoption" to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to Mara.Ulloa@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

ORDINANCE No. 1085-A

Introduced by Commissioner:

Amending the City of Warrenton Comprehensive Plan Map with respect to certain land and water areas in the Mouth of the Skipanon and Youngs Bay subareas, including certain recently annexed aquatic areas, and adopting the necessary implementing Comprehensive Plan Text amendments. The Comprehensive Plan Map amendments will reclassify certain shoreland, tax lots on the East Skipanon Peninsula from Other Shorelands to Especially Suited for Water Dependent (ESDW) Shorelands, and will reclassify the aquatic areas of the East Skipanon Peninsula and certain adjacent aquatic areas as Aquatic Development. The amendments also include a number of other Comprehensive Plan text amendments that implement resource protection policies, resolve inaccuracies created by earlier amendments to the Comprehensive Plan, adopt policies clarifying relationships between the statewide planning goals; and clarify and resolve inconsistencies within the Comprehensive Plan; and Adopting Findings of Fact in the Matter of City File Number CPA-05-2.

The City of Warrenton ordains as follows:

WHEREAS, certain changes are necessary to revise, update and amend the Warrenton Comprehensive Plan Text and Maps; and certain subarea maps; and

WHEREAS, Skipanon Natural Gas, LLC has requested these amendments for certain land and water areas in the Mouth of the Skipanon and Youngs Bay Subareas; and

WHEREAS, the Warrenton City Commission received the Planning Commission's recommendation on this matter, and conducted a public hearing on November 17, 2005, closed the public hearing on that date but left the record open for additional argument and evidence until December 9, 2005; and

WHEREAS, the Warrenton City Commission has determined to approve this application and adopt the Findings of Fact, described in Exhibit 'A' (attached hereto and incorporated by reference) and amendments to the Comprehensive Plan Text and Map, described in Exhibit 'B' (attached hereto and incorporated by reference);

Section 1: The City of Warrenton Comprehensive Plan Text, and Comprehensive Plan Map are amended as described in Exhibit 'B'.

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

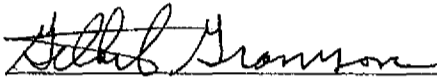
Section 3: This ordinance shall become effective thirty (30) days from the date of its adoption.

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: January 10, 2006

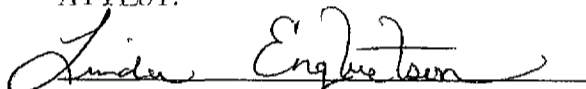
Second Reading: January 24, 2006

PASSED by the City Commission of the City of Warrenton, Oregon, this 24th day of January, 2006.
APPROVED by the Mayor of the City of Warrenton this 24th day of January, 2006.



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 and Conclusions of Law
Of the Warrenton City Commission
Approving the Applications for Comprehensive Plan
Text and Map Amendments in File No: CPA-05-2**

Date of Adoption:

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I. Summary

On August 23, 2005, Skipanon Natural Gas, LLC ("SNG") submitted concurrent applications for several amendments to the Warrenton Comprehensive Plan Map and Text (the "Comprehensive Plan Amendments") and several amendments to the Warrenton Development Code and Zoning Map (the "WDC Amendments"). Together these amendments (the "Amendments") designate and zone the shoreland portion of the northern 96 acres of the East Skipanon Peninsula (the "ESP") for water-dependent industrial development (ESWD Shorelands/I-2) and the aquatic areas of the ESP and certain adjacent aquatic areas for aquatic development (Aquatic Development/A-1). The combined shoreland and aquatic areas subject to the Amendments are depicted on Figure 1 (the "Site"). The Amendments also include a number of minor, related amendments that clarify and resolve inconsistencies within the Comprehensive Plan and WDC and bring those planning documents into compliance with state law. As set out in the findings below, SNG (sometimes referred to herein as "Applicant") has presented substantial evidence in support of all the Amendments, and the City Commission approves the Amendments, subject to the conditions of approval set out in Section VII.

II. Background

A. Brief Planning History of the East Skipanon Peninsula

The East Skipanon Peninsula ("ESP") is located within one of the State's three recognized deep draft estuaries, estuaries that have been substantially altered to support commerce and development. The ESP itself was formed through the deposit of dredge spoils starting in the early 1920s.¹ For decades the ESP, with its convenient access to the Columbia River navigation channel and relative isolation from incompatible land uses, has been viewed by the City as a site with unique potential for water-dependent industrial development.²

¹ Columbia River Estuary Study Taskforce (CREST). 1979. *Columbia River Estuary Regional Management Plan*. Page IV-34 (1979).

² Swan and Wooster Engineering. 1969. *Land Use Study of the Skipanon Area for the Port of Astoria, Oregon* (identifying the various virtues of using the north end of the East Skipanon Peninsula as the site for the location of an aluminum plant); *Columbia River Estuary Regional Management Plan*, at IV-35 (recognizing the development value of the ESP); Institute for Environmental Mediation. 1981. *Mediation Panel Agreement Regarding Certain Water-Dependent Development Sites Included with the CREST Plan of June 1979* (recognizing that the East Skipanon Peninsula has both high development and

Findings of Fact and Conclusions of Law

The earliest documentation of the ESP's suitability for water-dependent industrial development was in 1969 when the Port of Astoria commissioned a land use study to look at the Site's development potential. The site analysis concluded that berthing a ship on the north end of the ESP would be preferable to a terminal on the Skipanon River because, unlike a Skipanon River site, the ESP "provides easy and safe access for navigation of ship traffic at all times."³

The 1979 Columbia River Estuary Management Plan (the "CREST Plan") represented the first estuary-wide planning effort, and it specifically addressed the appropriate use for the ESP. The CREST Plan concluded that "both peninsulas of the Skipanon River are especially suitable for water-dependent industry."⁴ In furtherance of this use, the CREST Plan proposed to designate the aquatic area that lies within 1,500 feet of the Mean Higher High Water Mark ("MHHW") on the east shoreline of the ESP and out to the Columbia River navigation channel as Aquatic Development.

The 1980 City of Warrenton Comprehensive Plan designated the ESP shoreland as ESWD Shorelands. The ESP was included in the Mouth of the Skipanon Subarea, also called Subarea 5, which covered the same shoreland and aquatic areas as the CREST Plan's Subarea 42.06. The CREST Plan's Subarea 42.06 map was included in the 1980 Comprehensive Plan as the City's Subarea 5 map.⁵ All of the aquatic areas in Subarea 5 were designated Aquatic Development in the 1980 Comprehensive Plan.

In 1981 the City, Clatsop County, DLCD and other stakeholders entered into the 1981 Mediation Panel Agreement. This agreement included several provisions related to the ESP and Subarea 5. Among the findings for the area was that "[t]his site is suitable for water-dependent heavy industrial use which may or may not require alteration of the aquatic area on the east side of the peninsula."

The 1981 Mediation Panel Agreement contemplated two development options for Subarea 5 that were subsequently incorporated into the City's 1987 acknowledged Comprehensive Plan and the Warrenton Development Code ("WDC") through the

high natural resource value, and proposing two Goal 16 exceptions to permit development in aquatic areas adjacent to the ESP).

³ Swan Wooster Engineering.

⁴ CREST Plan at IV-34.

⁵ The CREST Plan described Subarea 5 as extending all the way to the Columbia River navigation channel and as being entirely within the Warrenton city limits.

creation of the hybrid East Bank ("EB") zone. The EB zone extended across all of the land and water areas in Subarea 5.⁶

In adopting the 1981 Mediation Panel Agreement development options for Subarea 5, the 1987 Comprehensive Plan declared that "both peninsulas of the Skipanon River are especially suitable for water-dependent development," and that the ESP is "considered suitable for a bulk shipping facility or heavy water-dependent industrial use."⁷ The EB zone remained in place across Subarea 5 until 2001.

The City removed the Mediation Panel Agreement's provisions, including the EB Zone, from the Mouth of the Skipanon Subarea in 2001 in response to an application from the Port of Astoria, which anticipated the development of a golf course on the ESP. The amendments also removed the ESP from the ESWD Shorelands designation in the Comprehensive Plan and applied the Comprehensive Plan's Other Shoreland designation. This change reflected a momentary loss of confidence by the City in the ability to attract water-dependent industrial development to the location.

Within only a short time after the change, however, a new market demand has developed for use of the northern 96 acres of the ESP and the adjacent aquatic areas to the north and east of the ESP (collectively, the "Site") as a water-dependent industrial area. Based on the expert written testimony provided by Applicant, a shift in the international and national energy markets has created an unprecedented demand for the development of a Liquefied Natural Gas ("LNG") import terminal in the region and the ESP is uniquely suited for such a facility.

The Comprehensive Plan and WDC amendments proposed by SNG and approved here by the City Commission include several map and text amendments that are necessary pre-requisites for the subsequent development of an LNG import terminal on

⁶ The first development option, Alternative I, anticipated aquatic development on "some or the entire approximately 25 acre Exception site" along the eastern shore of the ESP and mitigation site on the southern part of the ESP. The second development option, Alternative II, involved neither the 25 acre development nor the mitigation site. Both alternatives anticipated an exception being taken for a pile supported access way to the north of the ESP.

⁷ The 1987 Comprehensive Plan is internally inconsistent with respect to the aquatic areas in Subarea 5. The plan first declares that in the area "east of the east peninsula, the aquatic area which lies 1500 feet of MHHW on the east shoreline of the Skipanon River and out to the main navigation channel is designated Development." It then also reproduces the 1981 Mediation Panel Agreement development alternatives, which limit the aquatic development areas on and around the ESP to two goal 16 exceptions areas. The 1993 Comprehensive Plan fixed the problem by leaving in place only 1981 Mediation Panel Agreement development options.

the ESP and in the adjacent aquatic areas. The changes adopted here are similar to those implemented through the 1981 Mediation Panel Agreement in that they balance the unique suitability of the area to water-dependent industrial development with the known natural resource values of the adjacent aquatic areas. The Amendments do not approve the development of an LNG import terminal on the Site, they merely establish the requisite plan and zoning use designations to allow the Applicant to enter the site design review and permitting phase to obtain approval to develop such a facility.

B. Current Plan and Zone Designations

The current 2003 Comprehensive Plan Map designates the ESP shoreland area as Other Shorelands and the aquatic areas to the existing city limits as "Urban Development Areas – Aquatic Locations." Consistent with the Other Shorelands designation, the shoreland area is zoned URR. The Urban Development Areas – Aquatic Locations are required by the Comprehensive Plan text to be zoned A-1.⁸ There is an inconsistency, however, between the Plan Map and both the textual description of the aquatic areas within the Comprehensive Plan's Mouth of the Skipanon Subarea, Subarea 5, and the zoning district for the Site's aquatic area indicated on the Zoning Map.

In the Comprehensive Plan's textual description of Subarea 5's aquatic areas, only the Skipanon waterway and the "flowlane disposal area south of the main channel (600 feet wide or to the 20-foot bathymetric contour, whichever is narrower)," are designated Aquatic Development. The subtidal area between the 3-foot bathymetric contour and the flowlane disposal area east of the Skipanon Channel are designated Aquatic Conservation. Finally, outdated text states in a general way that certain aquatic areas adjacent to the ESP are designated "Natural Aquatic" based on references to the 1981 Mediation Panel Agreement that should have been amended out of the Comprehensive Plan in 2001. The current Zoning Map further adds to the confusion by extending the URR zone across all of Subarea 5, including both the shoreland and aquatic areas, notwithstanding the fact that URR is clearly not an aquatic zone.

That portion of the aquatic area that lies to the north of the City's pierhead line and which was recently annexed by the City of Warrenton (most of which is in the Youngs Bay Subarea), is currently designated pursuant to Clatsop County's Comprehensive Plan and Development Code as Aquatic Conservation (A-2) and Aquatic Development (A-1).

⁸ The Comprehensive Plan is inconsistent in its naming of the A-1 Zone; in Article 5 it refers to it as the "Development Aquatic Zone (A-1)" and in Article 3 it refers to it as the "Aquatic Development Zone (A-1)." The WDC calls it the "Aquatic Development Zone," so that will be the usage throughout this application.

In January 2004, the City amended its zoning code, conducted an inventory of 26 riparian corridors in the City, conducted an analysis of the Environmental, Social, Economic, and Energy ("ESEE") consequences of the City's decision to allow, limit, or prohibit certain conflicting uses in significant riparian corridors, and implemented a program for regulating uses in significant riparian corridors, including the Wetland and Riparian Corridor Development Standards Ordinance.⁹

Riparian quality in the Columbia River (Youngs Bay: Mouth of Skipanon River to Youngs Bay Bridge) riparian corridor was deemed to be mixed by the City: "low" at the eastern end, and "medium" along parts of the ESP. The document stated that little characteristic vegetation exists along this corridor. Riparian function in the lower Skipanon River Corridor was rated "low" by the City due to shoreline development, diking, and channel alterations.¹⁰ Some riparian vegetation is present along portions of this corridor.

Because of the lack of natural resource values provided by the riparian vegetation in the lower Skipanon River Corridor inventory unit, the City concluded that this inventory unit is considered "non-significant" for regulatory Goal 5 purposes.

While not specifically part of Amendments adopted herein, the City Commission previously adopted, as a final decision of the City, a related Planning Commission determination requested by the Applicant in a separate application that an LNG import terminal, with its accessory uses and activities, is a form of marine cargo transfer facility, a permitted use in the I-2 zone (the "Code Interpretation"). A copy of the Code Interpretation is in the record. The accessory uses and activities referenced in the Code Interpretation include the regasification of the LNG in between modes of conveyance from ship to the interstate pipeline. The City Commission herein adopts a text amendment that codifies this Code Interpretation.

C. Summary of the Adopted Amendments

The Amendments adopted here redesignate a portion of the ESP shorelands as Especially Suited for Water-dependent ("ESWD") Shorelands and rezone the same land area as Water-dependent Industrial Shorelands ("I-2"). The Amendments also confirm the designation of certain aquatic areas on and adjacent to the ESP as Aquatic

⁹ City of Warrenton. 2004. *Riparian Corridor Inventory and ESEE Analysis*. Astoria, Oregon.

¹⁰ The Lower Skipanon River riparian corridor includes about 27,500 linear feet of shoreline on both sides of the lower Skipanon River, between the river mouth and the Eighth Street dam. Both sides of the corridor are diked, except along the East and West Skipanon Peninsulas.

Development, as shown on the City's Comprehensive Plan Map (also called the General Land and Water Uses Areas Map), and amend certain additional aquatic areas from Aquatic Conservation to Aquatic Development. There are also a number of minor amendments to the Comprehensive Plan and the WDC that fully implement the 2001 removal of the 1981 Mediation Panel Agreement from applicability to the ESP, bring Warrenton's planning documents into conformity with state law and implement the Code Interpretation.

Specifically, the amendments:

- I. Amend the Comprehensive Plan map and text to re-designate the shoreland portion of the northern 96 acres of the ESP (approximately 40 acres) as ESWD Shorelands (map) and Water-Dependent Development Shoreland (text); and
- II. Amend the Comprehensive Plan map and text to designate the aquatic portions of the northern 96 acres of the ESP (approximately 56 acres), and additional portions of the aquatic areas in the Mouth of the Skipanon and Youngs Bay subareas, including certain portions of areas recently annexed to the City of Warrenton, as Aquatic Development (altogether approximately 370 acres); and
- III. Amend the Comprehensive Plan text to take care of certain related housekeeping changes, including updating the Goal 5 resource protection language to comply with state regulations and removing extraneous language that should have been removed as part of a 2001 amendment to the Comprehensive Plan; and
- IV. Amend the WDC zoning map to place the shoreland portion of the northern 96 acres of the ESP in the I-2 zone; and
- V. Amend the WDC text to codify the Code Interpretation determination that "Liquefied Natural Gas importation, regasification, and transfer" is a permitted use in the I-2 zone; and
- VI. Amend the WDC zoning map to designate the aquatic portion of the northern 96 acres of the ESP (approximately 56 acres), and additional portions of the aquatic areas in the Mouth of the Skipanon and Youngs Bay subareas, including certain portions of areas recently annexed to the City of Warrenton, as Aquatic Development (A-1); and
- VII. Amend the WDC text to make natural resource restoration and mitigation a permitted use in the Urban Recreation/Resort zone; and

- VIII. Amend the WDC text to make certain changes related to the protection of natural resources and the Transportation Planning Rule consistent with state law, to clarify the permitted uses in the I-2 zone, and to fully implement the 2001 amendments to the Comprehensive Plan and WDC.

The northern 96-acre parcel of the ESP is subleased by Skipanon Natural Gas, LLC from the Port of Astoria. The Port of Astoria leases the parcel from the Oregon Department of State Lands ("DSL"). Both DSL and the Port of Astoria have consented to this application in writing.

D. Procedural History

Applicant submitted its Application on August 23, 2005, and supplemented it on September 2, 2005. The Planning Commission held the first *de novo* hearing on the Amendments on October 12, 2005. At the conclusion of that hearing, the Planning Commission voted to recommend approval of the Amendments to the City Commission, subject only to the conditions that the Applicant address issues raised by the Oregon Department of Transportation ("ODOT") with respect to the Applicant's traffic impact analysis ("TIA"), and the Department of Land Conservation and Development ("DLCD") with respect to the evidence submitted by Applicant in support of designating the affected aquatic areas as Aquatic Development management units.

The City Commission held a *de novo* hearing on November 17, 2005, at which time the Applicant presented evidence that both the conditions placed on the Planning Commission's recommendation had been satisfied. The public hearing was closed the same evening, but the record was held open for additional written argument and evidentiary submissions by all parties until the 30th of November, 2005, then until the December 7th, 2005 for responsive argument and evidence by all parties, and then, with the consent of the Applicant, the Applicant had two days, until December 9, 2005, to submit final argument. The City Commission met again on December 15 and voted to tentatively approve the Amendments subject to certain conditions.

The City Commission acknowledges that the entire Planning Commission record in this case, including the Applications, the Applicant's Narrative, staff reports, public testimony, and Planning Department correspondence and other materials were placed before the City Commission and are therefore part of the record.

E. Notification

The City forwarded notification of the proposed Amendments to DLCD on August 25, 2005, 48 days before the first evidentiary hearing before the Planning Commission. In accordance with WDC 4.1.6 and WDC 4.7.3 and ORS 197-763, notification of the

Planning Commission and City Commission public hearings was mailed to property owners within 200 feet of the site, all interested parties, and all those who requested to be notified on September 21, 2005, and was published in the Daily Astorian on September 30, 2005. In accordance with WDC 4.1, 4.1.6 and 4.7.3, and ORS 197-763, notice of the November 17, 2005 public hearing before the City Commission was mailed to property owners within 200 feet of the site, all interested parties who appeared at the Planning Commission hearing, and all those who requested notification on October 21, 2005 and was published in the Columbia Press and Daily Astorian on November 4, 2005. The notices contained all of the information required by WDC 4.1.6 and 4.7.3, as well as ORS 197.763.

F. Local Procedure

The City employed a hybrid review process in approving the Amendments, employing the quasi-judicial procedure set forth in the Oregon Revised Statutes, ORS 197.763, and the Type IV process set forth in the WDC for map amendments, which provides at WDC Section 4.1.6.G.4 that "compliance with Chapter 4.7 shall be required for Comprehensive Plan Amendments and Land Use District Map and text amendments." The City's hybrid procedure provided the most opportunity for public input and due process.¹¹ The City employed the procedures required for Type IV applications, except where doing so was inconsistent with the requirements of WDC Section 4.7 or the quasi-judicial procedures set out in ORS 197.763. Specifically, the City Commission did not allow testimony from the Applicant or any other persons during its December 15, 2005 deliberations following close of the record, in order to ensure that no new evidence was introduced without the parties having the statutorily required opportunity to respond. City staff employed the process required for quasi-judicial decisions because of the inter-relatedness of the proposed amendments that were site-specific and the other text amendments, the importance of the decision, and the breadth of public input that is accommodated by use of the quasi-judicial decision making process. Decisions made

¹¹ The WDC is somewhat inaccurate as to its labeling of Type III (Quasi-Judicial) and Type IV (Legislative and Map Amendments) procedures. The primary process difference between the Type III and Type IV procedures is that the Type III procedure can result in a final decision being rendered by the Planning Commission (unless appealed to the City Commission), where the Type IV process requires a hearing before the City Commission following a hearing before and a recommendation from the Planning Commission. However, in spite of the Type IV label in the WDC, the Type IV process can be used for either legislative or quasi-judicial applications, depending on the nature of the subject matter. Thus, quasi-judicial map and text amendments are made under the City's Type IV procedure (requiring dual evidentiary hearings before both the Planning Commission and City Commission), modified as necessary by the state's minimum quasi-judicial hearing procedures under ORS 197.763.

under both the quasi-judicial decision making process set forth in ORS 197.763 and the WDC must include findings to support the decision that address the criteria for approval.

G. Incorporation

The City hereby incorporates by reference the following documents: 1) the Planning Commission Staff Report and findings; and 2) SNG's August 23, 2005 Application, as updated September 2, 2005 and as supplemented thereafter. To the extent that the findings or proposed findings set out in the above documents are inconsistent with the findings set out herein, the findings in this decision shall take precedence. Where a particular finding contained herein incorporates by reference another finding contained herein, that finding is incorporated only to the extent it is consistent with the finding into which it is being incorporated.

III. Comprehensive Plan Map and Text Amendments

A. Summary

In this Section III, the City Commission finds that the requested Comprehensive Plan Amendments for the Site's land and water areas are consistent with all applicable approval criteria and procedures for post acknowledgment plan amendments. The Comprehensive Plan Amendments amend the Comprehensive Plan text in conformance with the Plan Map to designate the adjacent aquatic areas in the Mouth of the Skipanon Subarea as Aquatic Development. In addition, the City Commission amends the Plan Map and text to redesignate a portion of the Youngs Bay Subarea north of the City's pierhead line and south of the Columbia River navigation channel as Aquatic Development. This remapping includes some of the recently annexed aquatic areas which carried the County's Aquatic Conservation and Aquatic Development plan map and zoning designations. The shoreland portion of the northern 96 acres of the ESP is remapped as ESWD Shorelands (returning the pre-2001 Port of Astoria application designation). Figure 2 represents the Comprehensive Plan Map as amended (except that text in the legend requires updating). Appropriate changes are made to the Mouth of the Skipanon and Youngs Bay Subarea Maps contained in the Comprehensive Plan (see Figures 3 and 4). The text of the Comprehensive Plan is amended as set out below to implement both the map changes and a number of clarifying and housekeeping amendments.

B. Proposed Changes to Comprehensive Plan Text

1. Article II, Section 2.300 Policies

Section 2.300 of Article II is amended as follows:

2.310 Land and Water Use Classification

(1) All land and water areas will be classified as appropriate for urban development, rural uses, recreation, aquatic development, conservation or preservation. These classifications are described in policies 2 through 5, below.

(2) Urban Development Areas: Areas with a combination of physical, biological and social/economic characteristics which make them necessary and suited for residential, commercial, industrial, public or semi-public uses are appropriately classified for urban development. Such areas are either adequately served by public facilities and services for urban development or have the potential for being adequately served during the next twenty years. There are two types of urban development areas, as follows:

(a) ESWD Shorelands are managed for water-dependent industrial, commercial and recreational uses. ESWD Shorelands include areas with special suitability for water-dependent development, including access to well scoured deepwater and maintained navigation channels, presence of land transportation and public facilities, existing developed land uses, potential for aquaculture, feasibility for marina development and potential for recreational utilization. Water-dependent use receives highest priority, followed by water-related uses. Uses which are not water-dependent or water-related which do not foreclose options for future higher priority uses and which do not limit the potential for more intensive uses of the area are provided for. The ESWD plan designation is implemented through the Marine Commercial Zone and the Water-dependent Industrial Shorelands Zone.

(b) Other Urban Shorelands: Other urban shorelands are more desirable for other uses or are suitable for a wider range of uses. They are located in one of the following zoning districts: High Density Residential, Medium Density Residential, Intermediate

Density Residential, General Commercial, Recreation Commercial, Urban Recreation/Resort, or General Industrial.

(3) Rural Development Areas: Lands which, due to their development limitations or other characteristics, are best suited for rural uses such as very low density residential uses, recreation, extraction of subsurface materials, agriculture, timber harvesting and aquaculture, are in the Rural Development plan designation. This is implemented through the City's Rural Development Zone.

(4) Aquatic Development Areas: Aquatic development areas include areas suitable for deep-draft or shallow-draft navigation, including shipping, channels, access channels and turning basins; dredged material disposal sites and mining/mineral extraction areas; and areas adjacent to developed or developable shorelines which may need to be altered to provide navigational access or to create new land areas for water-dependent uses. These areas are managed for navigation and other water-dependent uses in a manner consistent with the need to minimize damage to the estuarine ecosystem. Some water-related and non-water-related uses may be permitted. All aquatic development areas are in an Aquatic Development zoning district.

(5) Conservation Areas: Land and water areas providing resource or ecosystem support functions, or with value for low intensity recreation or sustained yield resources (such as agriculture), or poorly-suited for development, should be designated for non-consumptive uses. Non-consumptive uses are those which can utilize resources on a sustained-yield basis, while minimally reducing opportunities for other uses of the area's resources. These areas are in the City's Aquatic Conservation Zone, and in the Open Space, Parks & Institutional Zone.

(6) Natural Areas: Those areas which have not been significantly altered by people and which, in their natural state, perform resource support functions vital to estuarine or riparian ecosystems, are in a Natural Area plan designation. Such places can be significant for the study or appreciation of natural, historical, scientific or archeological features. Water areas in the Aquatic Natural Zone and Coastal Lakes & Freshwater Wetlands Zone are included.

Purpose/Intent: The purpose of this text amendment is to clarify that an Aquatic Development designation is not an urban designation within the meaning of Goal 14. Areas outside of urban growth boundaries are routinely designated Aquatic Development, including, for example, the Columbia River's main navigation channel. This clarifying amendment is now necessary because of the recently approved annexation extending the City's municipal boundary to the outside of the Columbia River navigation channel, which is designated Aquatic Development but lies outside the City's urban growth boundary.

2. Article IV, Section 4.100 Findings

Section 4.100 is amended to add the following finding:

OAR 660-023-0024 (2) establishes that the requirements of Statewide Planning Goal 16 and 17 supersede the requirements of Statewide Planning Goal 5 for natural resources also subject to and regulated by those goals. As a result, whether and under what circumstances development may impact wetlands and riparian corridors in estuarine and coastal shoreland areas is governed by the policies implementing Goals 16 and 17 rather than the City's adopted Goal 5 implementation program.

Wetlands and riparian corridors are important to the citizens of Warrenton as natural resources. To ensure that this goal is attainable, wetland and riparian corridor mitigation, restoration creation and enhancement shall be allowed in all zoning districts where practicable.

Purpose/Intent: There are separate purposes for adding each of these findings to Article IV of the Comprehensive Plan. The purpose of the first paragraph is to establish consistency with the applicable state regulations governing the hierarchy of regulatory priorities established by the state for resources that are subject to Goal 5 as well as Goals 16 or 17. The purpose of the second paragraph is to implement the City's determination, in line with the statewide planning goals, to maximize the available mitigation opportunities by allowing the creation, restoration, and enhancement of wetlands and riparian corridors in all zoning districts where it is practicable to do so.

3. Article V, Section 5.150(1) Mouth of the Skipanon Subarea

Section 5.150(1) of the Comprehensive Plan is amended as follows:

This subarea contains filled and diked shorelands north of Harbor Drive and east of Skipanon Drive; the Skipanon River from the Harbor Drive Bridge to its mouth; the East and West Skipanon Peninsulas; and adjacent Columbia River waters out to the northern edge of the navigation channel. Parts of downtown Warrenton are also included.

4. Article V, Section 5.150 Mouth of the Skipanon Subarea

Sections 5.150(2) (a) and (b) of the Comprehensive Plan is amended as follows:

(2) Aquatic and Shoreland Designations

a. Development Aquatic:

- The Skipanon waterway between the Harbor Drive Bridge and the main navigation channel.
- Approximately 7.8 acres of tidal marsh and flats on the west side of the West Peninsula.
- The flowlane disposal area south of the main channel (600 feet wide or to the 20-foot bathymetric contour, whichever is narrower).
- The area from the Skipanon Channel to the eastern boundary of the Subarea and from the line of aquatic vegetation on the East Peninsula north to the northern edge of the Columbia River navigation channel.

b. Conservation Aquatic:

- The aquatic area between the shoreline and the flow lane disposal area west of the Skipanon Channel.

Purpose and Intent: The purpose and intent of the text changes 3 and 4 is to implement the reclassification of the aquatic management units within the Mouth of the Skipanon Subarea east of the Skipanon Waterway and north to the northern edge of the Columbia River navigation channel.

5. Article V, Section 5.150 Mouth of the Skipanon Subarea

Sections 5.150(2) (c) – (e) of the Comprehensive Plan are amended as follows:

c. Development Shoreland:

- The area adjacent to the mooring basin east to N.E. Iredale Avenue.
- The area north of Harbor Drive on the east side of the Skipanon waterway.
- An area on the south side of the West Peninsula.
- The area east of Holbrook Slough.

e. Water-Dependent Development Shorelands:

- All other shorelands are designated Water-Dependent Development.

Purpose/Intent: The purpose and intent of these amendments is to implement the redesignation of the shoreland area on the East Skipanon Peninsula on the Plan Map as Especially Suited for Water-Dependent (ESWD) Shorelands. This restores a portion of the ESP shoreland to the Comprehensive Plan Map designation that it had prior to the 2001 amendments to the City's Comprehensive Plan. The amendments also remove inconsistent and outdated references to the 1981 Mediation Panel Agreement.

6. Article V, Section 5.130 Mouth of the Skipanon Subarea

Section 5.130(2)(f) of the Comprehensive Plan is amended as follows:

f. The regulatory shoreland boundary is 50 feet from the Columbia River Estuary shoreline, or the landward toe of dikes plus associated toe drains, whichever is greatest, except where it extends farther inland to include the following features:

The East Skipanon Peninsula including:

- All shoreland areas on the northern 96 acres of the East Skipanon Peninsula

The West Skipanon Peninsula, including:

- All upland adjacent to Alder Cove and east of N. E. Skipanon Drive, with the exception of the area designated commercial by the City of Warrenton Zoning Ordinance;
- Dredged material disposal site Wa-S-10.7 from the Columbia River Estuary Dredged Material Management Plan; and
- The Holbrook Slough wetland, classified as significant under Oregon Statewide Planning Goal 17.

Purpose and Intent: The purpose and intent of this amendment is to restore the regulatory shoreland boundary of the Columbia River Estuary Shoreland to its pre-2001 scope with respect to the shoreland acres of the East Skipanon Peninsula that are to be classified as Especially Suited for Water-dependent (ESWD) Shorelands on the City's Comprehensive Plan Map.

7. Article V, Section 5.300 Policies

Section 5.300(6) of the Comprehensive Plan is amended as follows:

(6) The following development sites described in the *Economic Evaluation of the Columbia River Estuary* are suitable for development of expansion of marine terminal facilities:

Tansy Point
West Skipanon Peninsula
East Skipanon Peninsula
East Hammond
Port of Astoria
East Astoria
Tongue Point
Bradwood
Driscoll Slough
Wauna.

These sites are in Water-Dependent Development Shorelands, Development Shorelands, and Development Aquatic designations in the Columbia River Estuary Regional Management Plan.
Development of new marine terminal facilities at any of these sites

(except at the Port of Astoria) will trigger a reassessment of whether the remaining undeveloped marine terminal sites are still needed.

Table 1 (below) includes acreage estimates for water-dependent shorelands in Warrenton as required under Statewide Planning Goal 17.

Table 1: Current and former water-dependent acreage.			
SITE	CURRENT (acres)	FORMER (acres)	TOTAL (acres)
East Skipanon Peninsula	40	9	49
West Skipanon Peninsula	65		65
Warrenton Mooring Basin	18		18
Tansy Point	50		50
Hammond Mooring Basin	20		20
Totals (acres)	193	9	202

The five sites listed in the table above are described in more detail in the following paragraphs. The column in Table 11 labeled "current" lists the acreage of the site that is currently used for water-dependent uses. This addresses the requirement in OAR 660-37-0050(2a). The column in Table 1 labeled "former" lists the acreage meeting the criteria in OAR 660-37-0050(2b). "Water-dependent" is defined in OAR 660-37-0040(6) and in the Statewide Planning Goals.

Based on these data, Warrenton needs to protect at least 202 acres as water-dependent development shorelands. Data about the five sites are provided in the following paragraphs.

East Bank of the Skipanon Peninsula: This 172-acre (approximately) site consists of both shoreland and aquatic areas. The northern 96 acres of the site includes approximately 40 acres of shorelands which were added to the inventory of ESWD Shorelands by an amendment adopted in 2005. The remainder of the northern 96 acres is aquatic area that is zoned A-1. The southern 76 acres are

designated Other Shorelands and are in the City's Urban Recreation/Resort zone.

Purpose and Intent: The purpose and intent of these amendments is to implement the City's decision to return a portion of the East Skipanon Peninsula to the list of sites suitable for the development and expansion of marine terminal facilities and to reflect that fact that the 40 northern acres of the ESP are now again designated ESWD Shorelands.

8. Article V, Section 5.300 Policies

Section 5.300(6) of the Comprehensive Plan is amended as follows:

Based on this analysis, the goal 17 administrative rule requires that Warrenton protect at least 202 acres of shorelands for water-dependent uses. Under current zoning, the City protects about - 403 acres for water-dependent uses. See Table 2 below.

Site	Current Water-Dependent Zoning (acres)
East Skipanon Peninsula	40
West Skipanon Peninsula	122
Warrenton Mooring Basin	30
Tansy Point	173
Hammond Mooring Basin	39
Total	403

Purpose and Intent: The purpose and intent of this amendment is to amend the Comprehensive Plan's Goal 17 findings regarding the amount of water-dependent development shoreland acreage protected within the City to reflect the additional 40 additional acres added by adoption of the Amendments.

9. Article V, Section 5.307 Estuarine Construction

Section 5.307 of the Comprehensive Plan is amended as follows:

(3) New non-water-dependent uses in aquatic areas or in shoreland areas zoned Water-Dependent Industrial Shorelands or, Marine Commercial Shorelands shall not preclude or pose any significant conflicts with existing, proposed or probable future water-dependent uses on the site or in the vicinity.

Purpose and Intent: The purpose and intent of this amendment is to remove an outdated reference to the Skipanon East Bank Mediated Development Shorelands zone, also known as the EB zone, which the City Commission sought to remove in its entirety in 2001 when it remapped the ESP as Other Shorelands and zoned the site Urban Recreation and Resort.

10. Article V, Section 5.309 Fill

Section 5.309 of the Comprehensive Plan is amended as follows:

(3) New non-water-dependent uses in aquatic areas or in shoreland areas zoned Water-Dependent Industrial Shorelands or, Marine Commercial Shorelands shall not preclude or pose any significant conflicts with existing, proposed or probable future water-dependent uses on the site or in the vicinity.

Purpose and Intent: The purpose and intent of this amendment is to remove an outdated reference to the Skipanon East Bank Mediated Development Shorelands zone, also known as the EB zone, which the City Commission sought to remove in its entirety in 2001 when it remapped the ESP as Other Shorelands and zoned the site Urban Recreation and Resort.

11. Article V, Section 5.347 Mouth of the Skipanon Subarea

Section 5.347(3) of the Comprehensive Plan is amended as follows:

(3) The approximately 40 acre Holbrook Slough DMD/Mitigation site is reserved for mitigation of development impacts on the East Skipanon peninsula. Offsite mitigation may be considered as part of the required mitigation or in addition to this onsite mitigation. Acreage not used for mitigation would then become available for DMD or development, but not until the site is fully developed

(7) The City will continue to upgrade the mooring basin/boat ramp area by improving parking and access facilities. The City will attempt to attract private/public partnerships to the mooring basin,

including a motel/restaurant/commercial development on public land, when feasible.

(8) The City will pursue the possibility of constructing bicycle/walking paths on top of the City dikes along the Columbia River, Youngs Bay and the Skipanon River. The priority order of construction should be:

Purpose and Intent: The purpose and intent of these amendments is to remove inappropriate lingering references to the 1981 Mediation Panel Agreement, the provisions of which had been incorporated expressly and by reference into the Comprehensive Plan and thereby governed the land use of the Mouth of the Skipanon Subarea until the 2001 amendments, but thereafter no longer had any applicability to the area. It was the City Commission's intent in 2001 to remove all references to the Mediation Panel Agreement as it applied to the Mouth of the Skipanon Subarea because the terms of that agreement could not be reconciled with the amendments to the Comprehensive Plan and Zoning Maps and related text amendments adopted in 2001 for the subarea. The text to be removed here was inadvertently left in place.

12. Article IX, Section 9.300 Policies

Section 9.310, City Economy, subsection 12 of the Comprehensive Plan is amended as follows:

(12) The City has placed a portion of the East Bank of the Skipanon River in the Urban Recreation/Resort Zone to facilitate the development of a golf course on the site, and has zoned the remainder I-2 to permit water-dependent industrial development.

Purpose and Intent: The purpose and intent of this amendment is to accurately reflect that newly adopted zoning of the Shoreland portion of the northern 96 acres of the ESP as I-2, and the fact the remainder of the ESP shoreland will continue to be zoned Urban Recreation/Resort.

13. Article V, Section 5.160 Youngs Bay Subarea Findings

Section 5.160(2), Aquatic Designations, is amended as follows:

The authorized navigation channels and an area approximately 110 acres in size bounded on the south by the 20 foot bathymetric contour line, the north by the northern edge of the Columbia River navigation channel and extending between 1800 and 2000 feet to the

east of the eastern boundary of the Mouth of the Skipanon Subarea are designated Development Aquatic.

Purpose and Intent: The purpose and intent of this text amendment is to describe the portion of the Youngs Bay Subarea that is to be remapped from Aquatic Conservation to Aquatic Development pursuant to the Goal 16 findings set out in Attachment 1.

C. Compliance with Statewide Planning Goals

The proposed amendments to the Comprehensive Plan are post acknowledgment plan amendments ("PAPA"s) and must be undertaken consistent with ORS 197.610 through 650. The Comprehensive Plan's acknowledged implementation of these ORS sections is contained in Article 20. That Article first requires that all Comprehensive Plan amendments comply with the Statewide Planning Goals. As set out below, the City Commission finds that there is substantial evidence in the record that all of the proposed Plan Map and text amendments are consistent with the Statewide Planning Goals.

Because approval of each of the Comprehensive Plan Map and text amendments requires demonstration of compliance with Statewide Planning Goals and many of the amendments are supported by the same evidence, the following findings address compliance of all the Comprehensive Plan Amendments with the Statewide Planning Goals. The findings each relate to all of the Comprehensive Plan Amendments, except to the extent that a finding, or part of a finding, specifically addresses one or more of the proposed amendments and does not specifically address the others; in those cases the finding, or portion of a finding, applies to the specifically addressed amendment(s) and the finding, or portion of a finding, should be read to say that the policy or criterion at issue is not applicable to the amendments that are not specifically addressed.

1. "All Comprehensive Plan amendments shall comply with the Statewide Planning Goals"

a. Goal 1 – Citizen Involvement

Generally, Goal 1 requires every City and County to develop and implement a citizen involvement program. As LUBA has recognized, Goal 1 does not provide due process protections, nor does it dictate the conduct of local government hearings. *Dobson v. Polk County*, 22 Or LUBA 701 (1992). Rather, the manner by which local government hearings are conducted and the procedural requirements for such hearings are governed by statute, not Goal 1. Where notice of hearings has been provided and considerable testimony heard, LUBA has found no Goal 1 violation. *Chambers v. Josephine County*, 13 Or LUBA 180 (1985). More importantly, LUBA has held on numerous occasions that Goal 1 can only be violated if the local jurisdiction fails to

follow the requirements of its citizen involvement program. *See, e.g., Homebuilders Association of Metropolitan Portland v. Metro*, 42 Or LUBA 176 (2002).

The City of Warrenton's Comprehensive Plan has been acknowledged by DLCD as being consistent with the Statewide Planning Goals. The WDC implements the Warrenton Comprehensive Plan, including through the establishment in Chapter 4 of a comprehensive citizen involvement program. As set out in Section II above, the Amendments have been processed consistent with the Type IV dual hearing process of the Planning Commission and the City Commission, with the requirements of WDC Section 4.1.6, including provision G.4, which requires that "compliance with Chapter 4.7 shall be required for Comprehensive Plan Amendments and Land Use District Map and Text Amendments," and ORS 197.610, *et seq.*, which governs quasi-judicial post acknowledgment plan amendments. Wherever the requirements of section 4.1.6 were inconsistent with those in 4.7 or the ORS, the latter procedures were applied; the City determined that because of the site-specific nature of most of the Amendments and because virtually all of the Amendments were proposed by SNG to set the foundation for a particular project, the Amendments as a whole would properly be evaluated according to quasi-judicial proceedings, the most stringent of the available review procedures.

Opponents have raised a number of objections to the procedures that the City has followed in considering the Amendments, but none of them have merit. Prior to the Planning Commission hearing, Mr. Shannon objected to DLCD that the City had not provided DLCD the full 45 day notice of the proposed amendments required by ORS 197.610. DLCD, however, received written notice more than 45 days prior to the first evidentiary hearing and did not object or present any evidence that its ability to meaningfully respond to the Amendments was compromised. To the contrary, DLCD submitted a multi-page letter commenting on the Application prior to the Planning Commission hearing and gave no indication of having any concern about the time it had to respond. Neither Mr. Shannon nor any other opponent has offered any evidence that his or her substantial rights were prejudiced by the City's written notice to DLCD, and thus the City Commission finds that it can approve the Amendments notwithstanding any alleged defects with respect to the City's notice to DLCD.

Mr. Shannon also objected in his November 16, 2005 letter to the City Commission that the published public notice of the Planning Commission hearing was defective and to the fact that, during the Planning Commission hearing counsel for the SNG was permitted to address the Planning Commission allegedly out of turn, while opponents of the Amendments were not given an equivalent opportunity.

It is not necessary to resolve the factual question of the adequacy of the Planning Commission notices and what actually occurred at the hearing because the opponents have not presented substantial evidence of any injury to their substantial rights resulting

from these alleged procedural errors; they cannot, in fact, do so given that the Planning Commission hearing was followed by a *de novo* hearing before the City Commission that cured any procedural defects that may have occurred at the Planning Commission hearing. Opponents have not raised any similar objections to the notices or the proceedings at the December 15th public hearing before the City Commission. The City Commission finds, therefore, that the Opponents procedural objections to the Planning Commission hearing do not preclude approval of the Amendments. In the alternative, the City Commission finds, based on the evidence in the record, that the Planning Commission hearing notices and procedures complied with all applicable ORS and WDC requirements.

The City Commission anticipates that there will be an attempt by opponents to object to the fact that the City Commission said at the November 17th hearing that, notwithstanding the fact that the record would be closed, the City Commission could elect to ask questions of the Applicant's counsel and counsel for the primary opponents to the Amendments during the December 15, 2005 deliberations, as allowed under the City's Type IV procedures for legislative matters, but then stated at the December 15, 2005 hearing that it would not ask such questions. Subsequent to the November 17, 2005 hearing, the City Commission determined that it could not, consistent with the state requirements for quasi-judicial proceedings, ask questions of the Applicant or of opponents during deliberations without reopening the record and creating a requirement for additional time to submit argument and evidence by the parties. The City Commission, therefore, announced at the December 15, 2005 hearing that the record was closed and that it would not be asking questions of any audience members.

With respect to this issue, the City Commission finds as follows. No opponent objected during the December 15, 2005 hearing to the City Commission's determination that it could not, consistent with applicable procedures, ask questions of the audience members related to the Application. Even if there had been an objection, the City Commission finds that this procedure was proper under the quasi-judicial procedures in ORS 197.763. Finally, even if this determination was in error, because the City Commission's asking of questions of audience members during deliberations was in all events discretionary, under both the Type IV procedures in the WDC and the announcement made at the November 17, 2005 hearing (which opponents did not object to), opponents cannot demonstrate that the City Commission's decision to not ask questions substantially prejudiced their rights.

The only other issue alleged by the opponents to arise under Goal 1 and involving the procedures used by the City to process the Amendments, namely how the City was compensated for processing the Application, is addressed below in Section VI and is

without merit. The City Commission finds, therefore, that the Amendments comply with Goal 1.

b. Goal 2 – Land Use Planning

Goal 2 requires that local comprehensive plans be consistent with statewide goals, that local comprehensive plans be internally consistent, and that implementing ordinances be consistent with acknowledged comprehensive plans. Goal 2 also requires that land use decisions be coordinated with affected jurisdictions and that they be supported by an adequate factual base.

The Comprehensive Plan and WDC, as well as the Statewide Planning Goals and applicable statutes, provide policies and criteria for the evaluation of plan amendments. The Comprehensive Plan Amendments are being adopted pursuant to the criteria set out in Article 20 of the Comprehensive Plan, which has been acknowledged to be consistent with the Statewide Planning Goals.

Several of the Comprehensive Plan text amendments are further consistent with Goal 2 because they constitute amendments that ensure that provisions of the Comprehensive Plan comply with the Statewide Planning Goals. Amendment III.B.1. clarifies that, contrary to the wording of the Comprehensive Plan's existing "Urban Aquatic Development Areas" usage, an Aquatic Development designation is not an "urban use" within the meaning of Goal 14. The aquatic area designations, Aquatic Development, Conservation Aquatic, and Natural Aquatic, are Goal 16 designations and those resources are properly regulated under that goal. The need to clarify this became apparent to the City upon its recent annexation of aquatic area that includes the Columbia River navigation channel, which is designated Aquatic Development but lies outside the City's UGB. No opponent has raised an objection to this amendment with sufficient specificity to permit the City Commission to respond. Therefore, the City Commission finds that the amendment complies with Goal 2.

Part one of amendment III.B.2. incorporates into the Comprehensive Plan the substance of OAR 660-023-0024 (2)'s clarification of how a resource that is potentially both a Goal 5 resource and a resource regulated under Goal 16 or Goal 17 is to be treated. The Amendment does not otherwise modify the Comprehensive Plan's treatment of Goal 5 or Goal 16 and 17 resources. That portion of the amendment, therefore, merely ensures consistency between the Statewide Planning Goals and the Comprehensive Plan. Part two of amendment III.B.2. makes a finding consistent with the policies embodied in the various natural resource goals, including especially Goals 5, 16, and 17, that there should be appropriate opportunities to mitigate any natural resource impacts from permitted development. Amendment III.B.2. and opponents' objections to it are addressed in

greater detail below in the discussion of Goal 5 compliance. The City Commission hereby incorporates that discussion and finds that amendment III.B.2. satisfies Goal 2.

Amendment III.B.3. amends the definition of the Mouth of the Skipanon Subarea to provide an accurate factual basis for planning. Following the recent annexation by the City of Warrenton of certain aquatic areas north of its pierhead line, all of the Mouth of the Skipanon Subarea is now within the City of Warrenton. Because it serves to correct a factual inaccuracy in the Comprehensive Plan, this amendment is consistent with Goal 2.

Amendments III.B.6. through III.B.12. are all intended to ensure consistency within the Comprehensive Plan and between the Comprehensive Plan and the WDC. Several of those amendments modify text to make it consistent with the amendments to the shoreland and aquatic area designations discussed below and are thus consistent with Goal 2 to the extent that those amendments are consistent with the Statewide Planning Goals. The remainder of this set of amendments establishes internal consistency related to the Site by carrying to completion the City Commission's effort in 2001 to remove the applicability of the 1981 Mediation Panel Agreement from the Comprehensive Plan's provisions for the Mouth of the Skipanon Subarea.

As discussed above, prior to 2001 the ESP and the Mouth of the Skipanon Subarea were planned and zoned in conformance with the requirements of the 1981 Mediation Panel Agreement. Pursuant to that agreement, the City had applied a hybrid shoreland & aquatic zone to Subarea 5, the EB Zone. That zone contemplated two alternative development options for the subarea, neither of which could accommodate the Port of Astoria's proposal in 2001 to develop a golf course on the ESP. Therefore, in 2001, the City adopted a comprehensive set of amendments to the Comprehensive Plan and WDC that removed the EB Zone and its two development options from the Subarea and replaced them with the current Other Shorelands/URR shoreland designation and the erroneous URR designation in the aquatic areas. Following these amendments, which were subsequently acknowledged, the stray references to the EB Zone and the 1981 Mediation Panel Agreement, as applied to Subarea 5, remaining in the Comprehensive Plan create inconsistencies both within the Comprehensive Plan and between the Comprehensive Plan and the WDC. Amendments III.B.9. through III.B.11. remedy these inconsistencies and are therefore consistent with Goal 2.

Opponents have objected to removing the references to the 1981 Mediation Panel Agreement and the EB zone on the grounds that to do so is inconsistent with the terms of the 1981 Mediation Panel Agreement. The City Commission incorporates by reference its discussion and findings related to the applicability of the 1981 Mediation Panel Agreement in Section VI and finds that, for the reasons stated in that Section and here, these objections are not well taken.

With respect to amendments III.B.4, III.B.5, and III.B.13, which modify the shoreland and aquatic area designation for the Site, these findings as a whole establish their consistency with the Statewide Planning Goals, in particular Goals 16 and 17, and therefore their consistency with Goal 2.

Opponents have raised one objection to Amendments III.B.4 and III.B.12 that is specific to Goal 2. They contend that the designation of the aquatic areas on the Site as Aquatic Development requires taking an exception to Goal 16 because these designations are not consistent with the requirements of Goal 16. As set out in Attachment I, which is incorporated by reference into this finding, the objection is not well taken. The City Commission finds that, because it is consistent with the requirements of Goal 16 to designate the aquatic areas of the Site as Aquatic Development management units, it is not necessary to take an exception to Goal 16 under Goal 2 in order to comply with the Statewide Planning Goals.

The City Commission finds that Goal 2's coordination requirement has also been satisfied. DLCDD, the Port of Astoria, Clatsop County, and the City of Astoria all received notice of the Application and notice of both the Planning Commission and City Commission hearings, and thus had ample opportunity to provide input on the Amendments. DLCDD submitted comments, ultimately indicating that the Applicant had presented enough evidence to support a decision by the City Commission approving the Aquatic Development and ESWD Shorelands designations. Opponents have not alleged a failure under Goal 2 to adequately coordinate with any governmental entities. The City Commission thus finds that its coordination obligation under Goal 2 has been satisfied. Opponents have objected that the 1981 Mediation Panel Agreement and certain Comprehensive Plan policies impose additional coordination obligations that have not been fulfilled, including with the Columbia River Estuary Task Force ("CREST"). These objections are addressed in Section VI below and are found to be without merit.

c. Goal 3 – Agricultural Lands

Goal 3 applies only to agricultural lands. The Comprehensive Plan Amendments do not affect agricultural lands and therefore Goal 3 is not applicable.

d. Goal 4 – Forest Lands

Goal 4 applies only to forest lands. The Comprehensive Plan Amendments do not implicate forest lands and therefore Goal 4 is not applicable.

e. Goal 5 – Open Spaces, Scenic and Historic Areas, and Natural Resources

Goal 5 is intended to protect a number of different natural resources, including wetlands and riparian areas. The Goal 5 process involves developing a draft resource inventory, evaluating those resources to identify which are significant, adoption of an inventory of significant resources, completion of the Goal 5 analysis to determine whether the significant resources should be protected, or conflicting uses allowed completely or partially. The final step is to develop a program to implement that decision. This process must be conducted for every resource type and before the resource can be protected.

The City has adopted inventories and programs to implement Goal 5 for significant riparian corridors and wetlands. The Site includes wetlands that are present on the City's inventory of significant wetland resources. The City has determined that no significant riparian corridors are present on the ESP.

In support of the Plan Map amendments and their implementing text amendments, Applicant provided testimony and evidence relative to Goal 5 as it relates to riparian corridors and wetlands, and that Goals 16 and 17 supersede the provisions of Goal 5 where these goals overlap. The administrative rule implementing Goal 5 is OAR 660-023. OAR 660-023-0240(2) states that "the requirements of Goals 15, 16, 17 and 19 shall supersede the requirements of this division for natural resources that are also subject to and regulated under one or more of those goals."

The City Commission interprets this language to mean that where Goals 5 and 16 or Goals 5 and 17 overlap, the regulatory decision under Goal 16 and 17 of whether development of the resources on the site is allowed or protected takes precedence over the regulatory decision made for the same resource under Goal 5. Consequently, where the analysis conducted for Goal 16 and 17 determines that development of resources on a site is appropriate, that decision takes precedence over a Goal 5 decision to differently protect the same resources. This is the situation present in this case.

Several opponents, including Mr. Shannon and Mr. VandenHeuvel, (on behalf of various opponents), have objected that the Applicant failed to address the Comprehensive Plan Amendments' consistency with Goal 5. Mr. Shannon, at least, however, expressly acknowledges that where Goals 16 and 17 regulate the resource, Goal 5's requirements are superseded. Because all of the inventoried natural resources on the Site, including the non-significant fresh

water wetlands on the ESP shoreland referenced by Mr. VandenHeuvel, are subject to regulation under Goals 16 and 17, the City Commission finds that no further demonstration of Goal 5 compliance is necessary and that the opponents' Goal 5 objections are not well taken.

Even if the City Commission's interpretation of OAR-023-0240(2) were determined to be in error, however, this would only affect amendment III.B.2. The other Comprehensive Plan Amendments do not modify the City's implementation of Goal 5. Goal 5, even assuming it regulates Goal 16 and 17 resources, does not prohibit the designation of the Site ESWD Shorelands/Aquatic Development. The only consequence would be that any development proposal for the Site would be required to comply with the City's Goal 5 policies as implemented through the Comprehensive Plan and WDC Chapter 3.10. Therefore, to the extent that Opponents argue that the Comprehensive Plan Amendments other than III.B.2 are inconsistent with Goal 5, the City Commission finds that these objections are not well taken for these additional reasons.

Several opponents, including Mr. Shannon, objected on Goal 5 grounds to the prospect that LNG buffer tanks would be permitted to interfere with the views of the ESP from various vantage points, including the Young's Bay Bridge. Even if the consideration of such development proposal-specific details were an appropriate approval criterion for the proposed Comprehensive Plan Amendments or the proposed WDC Amendments, which they are not, there is no evidence in the record or in the City's file that the view of the ESP has been determined to be a significant Goal 5 resource, or that it was placed on an inventory of such resources, or that a program to protect that view was developed by the City. As noted in the text of Goal 5, local governments and state agencies are merely encouraged, but not required, to maintain an inventory of scenic views and sites. Hence, there is no requirement for the City to develop an inventory that would include the view of the ESP from the Young's Bay Bridge or elsewhere as a protected resource and the City has not done so. Moreover, even if no such inventory were required, there is no evidence in the record to indicate that the City has in any way recognized the views specified by the opponents as significant for Goal 5 purposes. Finally, since the LNG import terminal has not yet been designed, there is no evidence that the proposed LNG import terminal would interfere with these views, even if protected.

It is well understood that, under Goal 5, resources that have been determined not to be significant, or resources for which a Goal 5 inventory has

not been completed and a related program to protect the resource established, are not protected under Goal 5. The City has no requirement to consider placing the view referenced by Mr. Shannon on an inventory and protect it or to consider such a view until it has been placed on an inventory and the City has established a program to protect it. For each of the above reasons, the City Commission finds that the opponents' objections with respect to significant views are not well taken.

f. Goal 6 – Air, Water, and Land Resources Quality

Goal 6 addresses the need to maintain and improve the quality of the air, water, and land resources of the state. Goal 6 addresses waste and process discharges from future development and requires local governments to determine that the future discharges, when combined with existing development, would not threaten to violate applicable state or federal environmental quality statutes, rules, or standards. Waste and process discharges refer to solid waste, thermal, noise, atmospheric or water pollutants, contaminants, or other products. Also included are indirect sources of air pollution, which result in emissions of air contaminants for which the state has established standards.

The proposed amendments to the shoreland and aquatic areas do not affect the Comprehensive Plan's acknowledged implementation of Goal 6 or the provisions of the WDC that require all proposed developments, including especially Large-Scale Developments of the sort contemplated by Applicant, to demonstrate compliance with applicable air, water, and land impact resource standards.

At this stage, Goal 6 requires only that the local government establish that there is a reasonable expectation that the proposed activity being contemplated will comply with the applicable state and federal environmental quality standards. Goal 6 does not require a local government to anticipate or precisely duplicate state and federal environmental permitting requirements. *See, Friends of the Applegate v. Josephine County*, 44 OR LUBA 786 (2003).

The City Commission has received testimony contending that the Applicant failed to provide substantive comment or testimony with respect to Goal 6 (David Shannon, letter dated November 16, 2005).

The City Commission disagrees with the opponents and finds that the Applicant provided testimony relating to the environmental studies conducted, including those for endangered species, wetlands, riparian areas and shallow and deep water habitat. Those materials, submitted by CH2M Hill and Ellis Ecological Services, Inc. for the Applicant,

were prepared by technical experts with experience in such matters and also with experience in the related state and federal regulatory programs. The City Commission finds this to be credible testimony presented by experts in the field.

The City commission also finds that the studies provided by the Applicant included a scientific evaluation of wildlife and fish habitat and the expected impacts to such habitat that might result from construction of structures on the ESP, a pile supported pier extending outward to a pile supported mooring structure, and dredging necessary to allow large commercial vessels to moor at that location. This testimony discussed the alternative sites evaluated by the Applicant, the potential alternative methods to reduce impacts by avoiding wetlands and other valuable intertidal habitat, the best management practices to be utilized to protect water quality, and the feasibility of developing appropriate and adequate mitigation within Youngs Bay.

In relation to compliance with Goal 6, the City Commission specifically finds Applicant's testimony adequately explains the various environmental regulatory programs that must authorize an industrial use at this Site, including an LNG import terminal. The Applicant's testimony also explains the criteria applicable in these particular regulatory programs. Among the regulatory programs discussed by the applicant are: The Department of State Lands Removal Fill Program, the Army Corps of Engineers Section 404 and Section 10 Regulatory Programs, the Department of Environmental Quality's 1200-C NPDES Erosion and Sedimentation Control Program, the Department of Environmental Quality's Section 401 Water Quality Certification Program, and the National Environmental Policy Act. As also described in the Applicant's presentation to the City Commission, these various regulatory programs will be coordinated by the FERC with respect to Applicant's intention to develop an LNG terminal on the Site.

The City Commission finds that Mr. Shannon's comments regarding Goal 6 lack sufficient specificity to allow a response by either the City or the Applicant. However, the testimony provided by the Applicant and summarized generally above includes scientific studies and analysis conducted by experts that satisfy the relevant standards. In addition, the Applicant has provided expert testimony relating to the plausibility of meeting other criteria such as mitigation requirements and impact avoidance requirements that are part of the above-referenced regulatory programs. As a result, the City Commission finds that it is feasible that all applicable environmental standards can be adequately addressed by the related development permits in the ESWD Shorelands/I-2 and Aquatic Development/A-I areas, and that Goal 6 is satisfied.

g. Goal 7 – Areas Subject to Natural Disasters and Hazards

Goal 7 addresses the need to protect people and property from natural hazards. Natural hazards include flooding, land slides, earthquakes, tsunamis and the like. Goal 7 is implemented through Article 4 of the City's acknowledged Comprehensive Plan and through the hazard overlay zones contained in Chapter 2 of the WDC and the site design review criteria contained in WDC Chapters 3.11, 3.12, and 3.19, all of which require consideration of natural hazard related concerns and that development proposals adequately address these. The proposed Comprehensive Plan Amendments, including those to the designations of the shoreland and aquatic areas, do not affect the Goal 7 provisions of the Comprehensive Plan or their implementation through the WDC. Any proposed LNG import terminal development on the Site will have to demonstrate compliance with all the applicable requirements of the hazard overlay zones and the applicable site design review criteria during the FERC process. The City Commission therefore finds that the Comprehensive Plan Amendments are consistent with Goal 7.

Opponents have raised a variety of concerns about the vulnerability of an LNG import terminal on the Site to natural hazards, including tsunamis, earthquakes, and high winds. Although these will be important considerations in the subsequent site design review and permitting processes for a proposed LNG import terminal, they are not relevant to the Comprehensive Plan Amendments. Even if they were relevant to the Comprehensive Plan Amendments, the Applicant has placed substantial and credible evidence into the record demonstrating the feasibility of compliance with the stringent, site-specific, design, engineering, and construction standards that are imposed on LNG facilities by federal regulations, including NFPA 59A (Standards for the Production, Storage, and Handling of Liquefied Natural Gas (LNG)), and the Data Requirements for the Seismic Review of LNG Facilities (U.S. Dept. of Commerce, NBSIR 84-2833). For each of these reasons, and for the reasons stated above, the City Commission finds that the opponents' objections are not well taken.

h. Goal 8 – Recreational Needs

Goal 8 addresses the need to satisfy the recreation requirements of citizens and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts. The proposed amendments do not affect the Comprehensive Plan's acknowledged implementation of Goal 8 within the Columbia River Estuary. Article 5, Section 5.327 does not list the ESP or the adjacent aquatic areas on the City's inventory of "potential development sites in the Columbia River Estuary...suitable for estuary-related recreational development." The proposed amendments are consistent with the Comprehensive Plan's recreation-related policies for the Mouth of the Skipanon and Youngs Bay Subareas, Article 5.347 and Article 5.349.

In addition, the southern portion of the ESP will remain zoned URR and will be available for recreational uses. Because the Comprehensive Plan Amendments will not have an impact on the City's inventory of recreational facilities and are otherwise consistent with the Comprehensive Plan's acknowledged Goal 8 policies, they comply with Goal 8.

Various opponents have expressed orally and in writing a desire to have the ESP set aside as park land or as a recreational facility and have expressed concerns about the impact of an industrial use of the ESP on recreational boating activities in the City of Warrenton. Opponents have not, however, sufficiently developed any argument specifically with reference to Goal 8 that reasonably would permit a responsive finding by the Applicant or the City Commission. Nonetheless, the City Commission notes that while the City could perhaps, consistent with Goal 8, include the ESP on its Goal 8 inventory, it has not done so, and thus failing to use the Site for recreational purposes is not inconsistent with Goal 8. *Salem Golf Club v. City of Salem*, 28 Or LUBA 561 (1995). As LUBA has explained, moreover, the mere fact that a permitted use may have some adverse effect on recreational activity occurring in the vicinity of a proposed amendment area does not constitute a violation of Goal 8. *Id.* Finally, opponents' concerns regarding impacts on recreational boating are related specifically to an LNG import terminal and its associated "safety" and "exclusion" zones. These development-specific impacts will be and are properly addressed in the site design review and LNG terminal development permitting processes. WDC Sections 3.11.12 and 3.11.13 create public access and recreation-related design review standards for any development proposed in the Columbia River Estuary. WDC Chapter 3.12 requires a demonstration that public benefits of a proposed development outweigh any adverse impacts and requires that development not unreasonably interfere with the public trust rights. All of these criteria, and others, would be applied during the site design review process and FERC approval process for an LNG import terminal. For these reasons, the City Commission finds that opponents' objections are not well taken and that the proposed Comprehensive Plan Amendments are consistent with Goal 8.

i. Goal 9 – Economic Development

The intent of Goal 9 is to ensure that the local comprehensive plan and policies contribute to the stable and healthy economy of all regions of the state. Part of Goal 9 requires an inventory of serviced, buildable commercial and industrial lands sufficient to meet the City's economic development needs. The City's acknowledged Comprehensive Plan implements Goal 9 through Article 9.

The Comprehensive Plan Amendments are consistent with Goal 9. The only amendment that modifies the City's Goal 9 policies is III.B.12. That Amendment recognizes the City Commission's determination, based on substantial evidence in the

record including, for example, the Socioeconomic Analysis by EcoNorthwest and the Economic Opportunities Analysis by Ferrarini & Associates, that the northern portion of the ESP will better serve the economy of the City of Warrenton and the region if it is returned to a designation that permits water-dependent industrial development. Applicant has placed substantial and credible evidence in the record in support of the conclusion that it is a sound policy decision under Goal 9 to return the northern portion of the ESP to the City's inventory of water-dependent industrial land given that doing so creates the potential for the City to take advantage of the significant economic development opportunity presented by the demand for an LNG import terminal on the lower Columbia River.

The Economic Opportunities Analysis by Ferrarini & Associates, Inc. (the "EOA") outlines the national and regional trends toward increased demand for natural gas. The EOA reviews the available inventory of industrial lands in the City of Warrenton in light of the specific siting requirements for an LNG import terminal. This review yields only one site that is not currently developed for another use, the ESP. The analysis concludes that by adding this site to the City's ESWD Shorelands/I-2 inventory the City would significantly increase the likelihood of attracting the substantial economic benefits -- including industrial jobs and increased tax revenues -- associated with the development of an LNG import terminal.

The Applicant also submitted the Socioeconomic Analysis prepared by EcoNorthwest (the "EcoNorthwest Analysis") that evaluates the potential impacts of an LNG import terminal on the City of Warrenton's economy, as well as the regional and state economies. The report finds that the economies of Warrenton and Clatsop County, including many existing businesses that rely on natural gas, would clearly benefit from an LNG import facility. Such a facility would bring jobs (both directly and induced), an increase in per capita income, and a significant increase in local and statewide tax revenues, as well as put downward pressure on the rapidly increasing cost of natural gas, a resource relied upon heavily by existing local industrial sectors.

Finally, the Applicant has submitted into the record oral testimony and a written site selection analysis (the "Site Selection/Alternatives Analysis") that demonstrate that, while there are multiple other sites in the Columbia River region that have been and are being considered for an LNG importation terminal, there is no site that offers the ESP's unique combination of suitability for the needs of LNG importation and the ability to minimize potential adverse impacts on existing economic activities, community functions, and natural resource values.

As set out below in Sections IV and VI, and incorporated by reference into this finding, the Comprehensive Plan Amendments are otherwise also entirely consistent with all of the applicable acknowledged Goal 9 Comprehensive Plan policies.

Given the Site's long history of being deemed appropriate for water-dependent industrial development in regional and local planning documents, its access to all necessary urban services existing along Harbor Drive, and the requirement under the WDC that any services not adequate to serve a particular development be provided and paid for by the developer (see Goal 11 findings below), the substantial and credible evidence of the substantial benefit to both the local and regional economy of attracting an LNG import terminal to the northern portion of the ESP, and the unique ability to minimize potential adverse impacts of an LNG import terminal by siting it on the ESP, the City Commission finds that the proposed Comprehensive Plan Amendments satisfy the requirements of Goal 9.

Opponents have raised numerous issues with respect to the potential economic impacts of an LNG import terminal, which are addressed below in Section VI, and are hereby incorporated by reference into this finding, and none of which persuade the City Commission that adoption of the proposed Comprehensive Plan Amendments is inconsistent with Goal 9. With respect to opponents' arguments, in addition to all of the responses set out in Section VI, the City Commission finds that they are addressed to a proposed LNG import terminal development that is not part of the Applications. What if any adverse economic impacts there will be from an LNG import terminal on the ESP cannot be determined with certainty until a specific development proposal is prepared which includes, for example, a determination of the applicable exclusion (land) and safety and security (water) zones associated with the facility. As the evidence in the record establishes, these details cannot be finalized before the Applicant has entered the FERC process. Once a development proposal is in place during the FERC process, the WDC requires that the applicant demonstrate both a public need for the project and that the project's public benefits outweigh its adverse consequences. The current record contains ample evidence of the potential positive economic impacts of the LNG import terminal for the City of Warrenton, and that such a development would further the City's Goal 9 policies. Adoption of the Comprehensive Plan Amendments, however, does not predetermine the outcome of the evaluation of the specific development proposal under the WDC during the FERC process.

j. Goal 10 – Housing

Goal 10 requires local governments to inventory buildable lands for residential use and to plan and encourage the availability of an adequate number of needed housing units at price ranges and rent levels that are commensurate with the financial capabilities of

Oregon households. The proposed amendments will not affect the City's implementation of Goal 10 through its Comprehensive Plan. Since the proposed amendments would have no effect on the City's housing stock and residential land inventory, they are consistent with Goal 10 as implemented through the City's acknowledged Comprehensive Plan.

Mr. Shannon has suggested that an LNG import terminal would have an adverse impact on residential property values and that the Applicant's failure to address this issue constitutes a violation of Goal 10. The City Commission finds that this objection is not well taken. Even if such an impact were a relevant criterion under Goal, which it is not, the City Commission finds that the Site has already been determined to be suitable for industrial uses (through the Other Shorelands designation) and Applicant submitted credible site-specific scientific evidence through the EcoNorthwest Analysis indicating that the development of an LNG import terminal on the ESP would create additional demand for housing as well as additional income in the community to spend on housing. The Opponents' housing impact evidence, by contrast, is not site-specific, is speculative, anecdotal, and/or is based on studies in communities very dissimilar to Warrenton and evaluating significantly different LNG siting proposals. Alternatively, opponents point to nothing in Goal 10 or any case law interpreting Goal 10 that would make adverse impacts on property values from nearby industrial zoning or development a Goal 10 issue. For each of these reasons the City Commission finds that the opponents' Goal 10 objections are without merit.

k. Goal 11 – Public Facilities and Services

Goal 11 addresses the need 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. Goal 11 provides that urban and rural development are to be guided and supported by types and levels of urban and rural public facilities and services appropriate for, but limited to, the needs and requirements of the urban, urbanizable, and rural areas to be served. Provisions for key facilities are to be included in city comprehensive plans. Goal 11 is implemented through the City's acknowledged Comprehensive Plan. For the reasons discussed below, the City Commission finds that the proposed amendments will not affect the Comprehensive Plan's policies regarding public facilities and are consistent with Goal 11.

With respect to the availability of public facilities to the Site, as found in approving the Port's 2001 application to remap the ESP, all necessary utilities are available along Harbor Drive. The Site was, until 2001, designated for water-dependent industrial development. A number of opponents have questioned the adequacy of services available to the Site if an LNG import terminal is developed there. Mr. Shannon has objected that SNG's failure to demonstrate the adequacy of services to the Site for

LNG constitutes a failure to demonstrate compliance with Goal 11. These objections are not well taken.

As SNG indicated in its application, the Warrenton Comprehensive Plan includes acknowledged policies that implement Goal 11 and those policies, are, in turn, implemented through the WDC. The Amendments do not in any way modify or implicate these policies and implementing ordinances. Neither the Comprehensive Plan nor the WDC requires a demonstration of the adequacy of services for a particular prospective use in conjunction with the Amendments. Instead, the Comprehensive Plan policies defer such development-specific considerations to the development stage. Policy 7.320(8), for example, which governs large-scale developments (which would include an LNG import terminal), provides that "new large-scale developments...in Warrenton will not be allowed unless satisfactory provisions are made for water supply, sewage disposal and storm water runoff facilities." Comprehensive Plan policy 7.320(8) is implemented by WDC Chapter 3.19 "Large-Scale Developments," which expressly prohibits the issuance of a permit unless the Planning Commission confirms the adequacy of a) the soil; b) storm water management plans; c) utilities in general; d) schools and other services to meet the needs of the development.

There are also similar design review standards applicable to all developments. WDC Chapter 3.5 provides that "no development may occur unless required public facilities are in place or guaranteed." Thus, as SNG stated in its Application, a demonstration of the ability to provide the requisite services for an LNG import terminal is reserved for the site design review during the FERC's LNG terminal permitting processes.

The Goal 11 Comprehensive Plan policies also establish 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." Policy 7.320(9). Therefore, any costs associated with extending necessary services to the Site to serve an LNG import terminal would be born by SNG. The City Commission finds that the Comprehensive Plan Amendments comply with Goal 11 and that opponents' arguments to the contrary are not well taken.

I. Goal 12 – Transportation

Goal 12 addresses the need to provide and encourage a safe, convenient, and economic transportation system. The Comprehensive Plan contains a transportation element (Article 8), and the City has recently adopted a Transportation System Plan ("TSP"), as required by the Transportation Planning Rule ("TPR"). A Traffic Impact Analysis ("TIA") was conducted in conjunction with the Applications and submitted in

an amended form after consultation with the Oregon Department of Transportation ("ODOT"). The TIA determined that, with appropriate mitigation, the slightly more intensive trip generation permitted under the proposed I-2 zoning on the ESP:

- A. Would not change the functional classification of an existing or planned transportation facility;
- B. Would not change standards implementing a functional classification system;
- C. As measured at the end of planning period identified in the TSP, would not:
 - 1. Allow land uses or levels of development that would result in types or levels of travel access that are inconsistent with the functional classification of an existing or planned transportation facility;
 - 2. Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or
 - 3. 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.

Accordingly, with the mitigation proposed in the amended TIA, and subject to Condition of Approval #1 (the "ODOT Condition") adopted below in Section VII, the City Commission finds that no significant affects on the transportation facilities of the City or state arise under the TPR from the proposed amendments to the Comprehensive Plan and concurrent WDC amendments. Additionally, use of the roads in support of water-dependent development is consistent with the City's current TSP.

Opponents raised a number of traffic-related objections to the Comprehensive Plan Amendments, but these were made in response to the Applicant's initial TIA and the comments first made by ODOT. The Applicant worked with ODOT to revise its TIA and obtained a subsequent comment letter from ODOT, which is in the record, affirming the adequacy of the TIA and proposing the ODOT Condition. The City Commission incorporates by reference the findings of the amended TIA and finds that the proposed Comprehensive Plan Amendments and WDC Amendments, as conditioned by the City Commission, satisfy the requirements of Goal 12.

In his December 7, 2005 letter, Mr. VandenHeuvel, on behalf of numerous opponents, contends that the Comprehensive Plan Amendments are not consistent with Goal 12 because the Applicant has failed to adequately address the following language from Goal 12: "A transportation plan shall (1) consider all modes of transportation including mass transit, air, water, pipeline, rail highway, bicycle, and pedestrian; ... (8) facilitate the flow of goods and services so as to strengthen the local and regional economy." Specifically, Mr. VandenHeuvel argues that this language imposes an obligation on the Applicant to "adequately address" the impact of the amendments on marine traffic." This language, however, refers to what the City is directed to address in its Transportation System Plan (TSP) under the TPR, it does not create an approval criterion for proposed Comprehensive Plan amendments. Moreover, the City Commission finds that although it was not an applicable approval criterion, the Applicant placed substantial evidence in the record regarding the operation of LNG import terminals, LNG cargo vessels, and exclusion and safety/security zones, and both the potential impacts of all of these on marine traffic and the possibility of avoiding these impacts. Finally, as with the opponents' other LNG-specific objections, the impacts of a proposed LNG import terminal on boating activity is properly addressed in the site design review process during FERC's LNG terminal permitting process. For each of these reasons, the City Commission finds that Mr. VandenHeuvel's objection is not well taken.

m. Goal 13 – Energy Conservation

Goal 13 does not establish special requirements applicable to the proposed Amendments. The amendments to the aquatic and shoreland area designations will not affect the provisions of the City's acknowledged Comprehensive Plan that implement Goal 13, or the provisions of the WDC that implement Goal 13 with respect to water-dependent industrial developments in the Columbia River Estuary. The City Commission finds that the proposed Comprehensive Plan Amendments are consistent with Goal 13.

The opponents did not identify any Goal 13 policies applicable to the Comprehensive Plan Amendments with which those amendments are inconsistent, nor did they otherwise formulate arguments under Goal 13 with sufficient specificity to reasonably allow either the Applicant or the City Commission to formulate a response. For these reasons, and for those stated above, the City Commission finds that the Comprehensive Plan Amendments are consistent with Goal 13 and finds that suggestions to the contrary by opponents are insufficiently developed and not well taken.

n. Goal 14 – Urbanization

Goal 14 addresses the need to provide for an orderly transition from rural to urban land uses for lands incorporated into or adjacent to cities. In particular, this goal is

concerned with the availability within urban areas of adequate buildable lands to meet housing, commercial, and industrial needs. The classification of estuarine areas into aquatic development, aquatic conservation, and aquatic natural areas is unrelated to Goal 14's allocation of urban and rural lands through the urban growth boundary establishment process. Goal 14 is thus not implicated in the classification of the aquatic areas as Aquatic Development. Amendment of the Comprehensive Plan text to remove the Aquatic Development designation from the Comprehensive Plan's "Urban Development Areas" designation is thus consistent with the requirements of Goal 14. As implemented by the Comprehensive Plan, ESWD Shorelands is an urban industrial land use designation and the affected shoreland is within the City's urban growth boundary. The designation of the shoreland as ESWD Shorelands is therefore consistent with Goal 14. Opponents have not raised any objections to the removal of the Aquatic Development designation from the list of "Urban Development Areas." The City Commission finds, therefore, that the proposed Comprehensive Plan Amendments are consistent with Goal 14.

o. Goal 15 – Willamette River Greenway

No part of the City is within the Willamette River Greenway; therefore, the City Commission finds that Goal 15 is not applicable to the Comprehensive Plan Amendments.

p. Goal 16 – Estuarine Resources

The City Commission's extensive findings with respect to Goal 16 and the opponents' related objections are contained in Attachment 1. Those findings are hereby incorporated by reference and the City Commission finds that the proposed Comprehensive Plan Amendments are consistent with the requirements of Goal 16.

q. Goal 17 – Coastal Shorelands

Among other things, Goal 17 is intended to conserve, protect and, where appropriate, develop coastal shorelands. Goal 17 charges local governments to recognize the value of coastal shorelands for protection and maintenance of water quality, fish and wildlife habitat and water-dependant uses. The issue before the City under Goal 17 is whether the 40 acres on the east bank of the Skipanon identified as coastal shoreland can be designated ESWD shoreland. Such a designation would allow water-dependant industrial development at the site. The relevant criteria are Goal 17 itself and the Goal 17 administrative rule which is at OAR 660-037.

Goal 17 Criteria and Guidance

As explained in the guidance of the administrative rule accompanying Goal 17, the Goal is not intended to protect all coastal shoreland from development. Goal 17 allows development where appropriate. Goal 17 establishes a priority for uses in coastal shoreland, the highest of which maintain the integrity of the estuaries and coastal waters. The second highest priority is to provide for water-dependant uses. The third priority is development for water related uses.

Goal 17 requires local governments to protect major marshes, significant wildlife habitat, coastal headlands, and exceptional aesthetic resources. The guidance states that shorelands in urban and urbanizable areas and in rural areas built upon or irrevocably committed to non-resource use that are especially suited for water-dependant uses shall be protected for water-dependant industrial, recreational and commercial uses. The Goal 17 guidance then goes on to list factors that contribute to the suitability for such uses including nearby deep water and supporting land transportation facilities suitable for ship and barge facilities.

The Applicant provided evidence supported by testimony from CH2M Hill that evaluated the wildlife and habitat functions on this portion of the ESP. That report concluded, among other things, that the signs of mammals, amphibians and reptiles are minimal at the Site. The report has not been offset by equally credible testimony. Based on the information provided by CH2M Hill relating to wildlife and habitat, the Site does not constitute significant wildlife habitat. The opponents offer no contrary scientific evidence that is specific to the Site.

According to the definition section of the Statewide Planning Goals, "headlands" consist of bluffs, promontories or points of high shoreland jutting out into the ocean and generally slopping abruptly into the water. Based on the information in the record, the ESP was constructed from deposition of dredge material and does not meet the definition of a coastal headland.

There is no indication that the Site constitutes an exceptional aesthetic resource. Goal 5 is intended to protect significant scenic views or sites, and neither the Site nor the general area is listed on an inventory of significant aesthetic resources under Goal 5. Although a project opponent contends the view from the Young's Bay Bridge should be protected, that testimony lacks support and is simply a subjective speculation. In any event the view has not been inventoried as significant and is not protected as a Goal 5 resource.

Marshes are a type of wetland. The City has developed a Goal 5 inventory that lists significant wetlands. The City has received testimony and it is clear from the City's inventory that no significant wetlands have been identified on the coastal shorelands of

the ESP. It is evident based on the inventory that wetlands in tidal and estuarine areas are present at the Site but they are governed by and are addressed under Goal 16 and not Goal 17.

Based on the above, and other information in the record, the City finds that the ESP areas identified as coastal shoreland do not contain major marsh, significant wildlife habitat, coastal headlands or an exceptional aesthetic resource. As a result, the City finds that it is not required to protect the coastal shoreland in this area under Goal 17. Additional information relied on by the City to make this determination can be found in the application material between pages 42 and 45 and Exhibit 5 to the application.

The next priority under Goal 17 is to protect sites especially suited for water-dependant uses for that purpose. With respect to whether the Site is suitable for water-dependant uses, this Site is located within the City of Warrenton, which is an urban or urbanizable area. Consequently, the Site meets the locational criteria set out in Goal 17 guidance for being suitable for water-dependant uses.

The record on this land use decision also includes testimony that explains that the shoreland areas are capable of supporting structures and other facilities such as piers, docks and other structures that provide access for water-dependant uses. The Site is also directly adjacent to the Skipanon River and to Youngs Bay. The proximity of the federally maintained Columbia River navigational channel demonstrates that deep water is immediately accessible to the Site. Based on this information, the City finds that the Site meets the suitability criteria for water-dependant use.

OAR 660-037

OAR 660-037-0070 establishes additional criteria by which water-dependant shoreland can be designated. The administrative rule establishes minimum locational and suitability criteria. The first criterion is whether the site is within an urban or urbanizable area. As discussed above, the shoreland portion of this Site is located within an urbanized portion of the City of Warrenton.

As stated at pages 7-8 of SNG's Application Narrative (Site Features Supporting Location of LNG Import Terminal), the Oregon Estuary Handbook list the mouth of the Columbia River as one of only three (out of 21) estuaries on the Oregon Coast that is classified by the Department of Land Conservation and Development ("DLCD") as a deep-draft estuary. The classification is official state recognition that the estuary has been altered and can support development. The Skipanon River and ESP also have a pronounced history of physical alteration in anticipation of future marine industrial development. The ESP has been described as "one of the best large acreage water-dependent development sited with deep draft access in the Columbia River Estuary."

Reasons for this include "proximity to the river mouth (River Mile 11.5) and access to the main 40 foot navigation channel 2,100 feet to the north." Additionally, the "dredging requirements are small relative to sites further upriver." The Mouth of the Skipanon River has been widened and deepened creating the East and West Skipanon Peninsulas from dredge spoils deposited beginning in the late 1920s and early 1930s. As recognized in the CREST Plan, and incorporated into the City Comprehensive Plan beginning in 1983, both "peninsulas of the Skipanon River are especially suited for water-dependent industry" and contain industrial sites of great value.

The rule requires that designated water-dependant uses be compatible with other adjacent uses or can be rendered compatible through measures designed to reduce adverse effects. The ESP is vacant and has been undeveloped for years. However, in the past, it has been designated for a number of uses including water-dependant development. The location of the site relative to the Columbia River navigation channel and the Skipanon River channel support the proposed water-dependant industrial use. The shoreland area has no nearby residences and a large portion of the area will remain zoned URR which will separate the industrial areas from any residential developments that may occur in the future.

Based on information present in the record, the portion of the Site proposed for designation as ESWD Shorelands can accommodate storage and parking and supply backup land for a water-dependant use. In addition, the shoreland is uniquely suited to provide access to the Columbia River which is at the adjacent coastal water body. The main navigational channel in the Columbia River is only about 2,000 feet to the north. The administrative rule requires that the site be capable of providing large quantities of water for uses needing water for processing and cooling. The record indicates that development on the Site will have water either from new water rights for withdrawal of surface or ground water or use of the City's water supply or reclaimed water from the City's waste treatment plant.

Based on the information in the entire record including testimony contained in the Application between pages 45 and 52, as well as other testimony both oral and in writing, the City finds that the locational and situational criteria for designating this area ESWD Shoreland have been met.

Goal 17 Policies

Goal 17 policies recognize that shoreland sites for water-dependant development are a finite economic resource that usually needs protection from prevailing real estate forces. The City finds that the proposed Comprehensive Plan Amendments are consistent with this policy because they will protect land on the ESP which has long been

recognized as especially valuable for water-dependant uses and is one of only a few sites in the lower Columbia River with a location and size sufficient to accommodate an industrial development.

Based on the information in the entire record, the City finds that the proposed designation of the ESP as ESWD Shorelands is consistent with the requirements of Goal 17 to protect valuable and significant natural resources while allowing and protecting sites that are appropriate for water-dependant uses.

Opposition Arguments

Opponents make a variety of arguments regarding the consistency of the Comprehensive Plan Amendments with Goal 17 and the Goal 17 Comprehensive Plan policies applicable to the WDC Amendments. None of these are well taken.

With respect to SNG's Goal 17 analysis, the opponents question the conclusions of SNG's natural resources studies of the habitat values on the shoreland, but they offer no site-specific scientific evidence to adequately rebut SNG's environmental analyses, including its habitat findings, which establish the appropriateness under Goal 17 of re-designating the Site for water-dependent development.

Opponents claim that the ESWD Shoreland designation would violate Goal 17 because it would not be "compatible with other adjacent uses" and would "not be so rendered through measures designed to reduce adverse impacts." They make no effort, however, to rebut the compatibility analysis in SNG's application (pgs. 29-30 and 48-49), which the City Commission finds to adequately demonstrate compatibility, choosing instead to argue that the mere placement of a development designation adjacent to a natural designation violates the Goal 17 policy. There is no support in the text of Goal 17 or the case law for such a position. Moreover, opponents make no effort to demonstrate that SNG will not be able to reduce any adverse impacts through mitigation measures. SNG, by contrast, has offered substantial evidence in the form oral and written testimony regarding both its mitigation obligations and its ability to satisfy those.

Finally, opponents contend that Goal 17 requires SNG to demonstrate that the utility services are available to support "the large industrial facility," meaning an LNG import terminal. As stated in SNG's application and in the Goal 11 analysis above, utilities necessary to support the plan and zoning designation run along Harbor Drive, and it is feasible to extend those services onto the Site. Warrenton's Comprehensive Plan and Development Code, as explained in Applicant's November 30, 2005 submission, implement the Statewide Planning Goal requirements regarding the provision of utilities and expressly reserve the determination of the adequacy of utilities for a specific development for the permit application process. Again, SNG will be required to

demonstrate the existence of or provide for public facilities sufficient to meet an LNG import terminal's needs as a condition of site design review during the FERC process, and will be required to carry any costs associated with the provision of such services.

With respect to the contention that the ESWD/I-2 designations violate applicable Comprehensive Plan policies, opponents also ignore entirely the fact that until 2001 the shoreland bore precisely the designations SNG now proposes. And they ignore the vast majority of SNG's extensive Goal 17 analysis and evidence demonstrating that re-designating the Site as ESWD Shorelands is appropriate. Instead, opponents charge that the proposal violates Section 5.301 (6) of the Comprehensive Plan because the ESP is not on the list of sites that "are suitable for development o[r] expansion of marine terminal facilities." Even if this list foreclosed re-designating shoreland as ESWD Shoreland in conformance with the requirements of Goal 17, which it does not, the ESP was on the list under Policy 5.301(6) until the 2001 amendments to the Site and, to this day, remains identified as appropriate for water-dependent industrial development in the Columbia River Estuary Regional Management Plan. SNG's Goal 17 analysis, and supporting evidence, establishes that it is appropriate to return the Site to the list and its Amendments would do so. The City Commission finds the opponents' objection under Goal 17 to be not well taken.

r. Goal 18 – Beaches and Dunes

No part of the Site is in a beach or dune area as defined by Goal 18, nor is the Site included in the City's inventory of its beach and dune areas; therefore, the City Commission finds that Goal 18 is not applicable.

s. Goal 19 – Ocean Resources

No part of the Site is an ocean resource as defined under Goal 19. Therefore, City Commission finds that Goal 19 is not applicable.

2. Article 20 Requires all Comprehensive Plan Amendments to be "Desirable"

Article 20 of the Comprehensive Plan requires that the proponent of any substantive amendment demonstrate that the amendment is desirable. Desirability is determined as follows:

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

With respect to the Plan Map amendments and text amendments III.B.4., 5., and 13., as discussed above in Section III.C.1.i and below in Section IV.D.2.h, the City's Goal 9 Comprehensive Plan policies call for diversifying the economic base of the community, including through attracting new water-dependent industrial development. As those policies further recognize, in order to succeed in this effort, the City must be able to zone the appropriate areas for water-dependent development. The City has zoned more than the minimum amount of acreage required by Goal 17 for water-dependent shorelands development. However, Applicant has presented substantial and credible evidence through the EOA, the EcoNorthwest Analysis and other evidence in the record that an LNG import terminal represents a substantial economic development opportunity for the City of Warrenton and that there is no other site with a combination of aquatic areas and adjacent remote large-tract shoreland within the city that is as suitable to take advantage of the demand for an LNG import terminal along the lower Columbia River. The City Commission finds that the proposed Amendments re-designating the shoreland and aquatic areas of the Site as appropriate for water-dependent industrial development will allow the City to satisfy the emerging need for land and water areas that are suitable for use by an LNG import terminal, implementing its Goal 9 policies and satisfying the above criterion.

The opponents have not specifically challenged this criterion as one that they believe is not supported by the evidence, and they have raised no related objection that is sufficiently developed to permit the City or the Applicant a reasonable opportunity to respond. The opponents' more general concerns regarding the potential economic impacts of an LNG import terminal for adjacent existing land uses are addressed in the above discussion of Goal 9 and below in Section IV, in Section VI and elsewhere. The analysis in those sections is incorporated herein and the City Commission finds, in summary, that the proposed Comprehensive Plan Amendments are not inconsistent with other land and water use needs identified in the Comprehensive Plan and that, to the extent that opponents arguments are addressed specifically to the potential impacts of an LNG import terminal, the WDC site design review criteria, including those in Chapters 3.11 and 3.12 requiring an assessment of all environmental impacts as well as a demonstration of public need and a public benefit that outweighs adverse impacts, will address these concerns at the time a specific development is proposed during the FERC process.

The two parts of amendment III.B.2 and amendments III.B.1. and 6. are all intended to ensure that the Comprehensive Plan and WDC are applied in a manner consistent with the statewide planning goals. The City Commission finds that ensuring such consistency will have a positive impact on the Comprehensive Plan's ability to meet

land and water use needs by avoiding unnecessary confusion and planning errors. The same finding applies to amendments III.B.3. and 7.-12., all of which either establish consistency with the Plan Map amendments and their implementing text changes or do away with existing internal inconsistencies by carrying to completion the City's 2001 decision to remove the applicability of the 1981 Mediation Panel Agreement's provisions, including the EB Zone, from the Mouth of the Skipanon Subarea.

The City Commission finds, therefore, that the proposed Comprehensive Plan Amendments are desirable within the meaning of this criterion.

b. The improvements to transportation facilities and community facilities and services, if any, necessary to accommodate the change; and

Only the Plan Map amendments and text amendments III. B.4., 5., and 13. could potentially have a discernable impact on transportation and community facilities and services. With respect to traffic, the Applicant has entered into the record a TIA and has consented to the ODOT Condition, Condition of Approval #1, that will require the proponent of a water-dependent industrial development on the ESP to pay for and complete the necessary mitigation required by the Condition in order to comply with Goal 12 and the TPR. With respect to other community facilities and services, the City Commission finds that no significant change will be necessitated by the redesignation of the ESP shoreland from Other Shoreland to ESWD Shorelands, given that both allow industrial uses. The permitted uses in the applicable zones, including General Industrial (I-1) in Other Shorelands, are at least as intensive with respect to community facilities and services as those permitted in the zones available for property designated ESWD Shorelands. In any event, no improvements to community services or facilities will be necessary to accommodate the amendments. The City Commission thus finds that the proposed Comprehensive Plan Amendments are desirable within the meaning of this criterion.

Opponents have argued that because of the particular dangers associated with an LNG import terminal, the City of Warrenton fire and police services as currently constituted would be inadequate to meet the needs of the facility. Under the City's acknowledged Goal 11 policies, as implemented through the WDC, these issues are required to be addressed at the time of site design review during the FERC's LNG permitting process, and to the extent services are required at a level not then available, the burden of providing those services will be on the developer. This criterion "b" for defining "desirability" does not require a demonstration of the sufficiency of community services like fire and police to meet the most intensive potential use of the property under any of the available zones. In addition, the fact that a particular use could require an

upgrade in police or fire services in the community does not necessarily make the amendment undesirable for purposes of Article 20. With respect to an LNG import terminal in particular, the Applicant submitted testimony that it would bear the additional costs of police and fire protection associated with the arrival of LNG vessels and the unloading of LNG cargo. For all of these reasons, each of which by itself is sufficient reason, the City Commission finds that these objections, to the extent that they arise under this desirability criterion, are not well taken.

c. The physical development limitations and other natural feature characteristics of the areas involved.

As discussed in Section II, the ESP shoreland and adjacent aquatic areas have long been considered to be particularly well suited for water-dependent industrial development. There is no evidence in the record suggesting that the Site has physical development limitations or other natural features that would make its use for water-dependent development inappropriate. The Applicant submitted evidence through its Application that a preliminary geotechnical study of the ESP found no physical limitations to developing the ESP for water-dependent industrial purposes and, more specifically, an LNG import terminal. Any proposed Large-Scale Development on the Site will be required to demonstrate compliance with the site design review standards during the FERC's LNG terminal permitting process that it is constructed in conformance with applicable engineering standards, satisfies the special design, engineering, and construction standards for any applicable natural hazard overlay zone(s), and satisfies the "need" and "public benefit criteria set out in WDC Chapters 3.11 and 3.12. Therefore, to the extent that there may be a development limitation or natural features of the Site that make a particular water-dependent industrial development on the Site impracticable, that will be determined through the application of the provisions of the WDC. The City Commission therefore finds that the proposed Amendments are desirable within the meaning of this criterion and, for these same reasons, finds the opponents' objection that the Comprehensive Plan Amendments are undesirable from the perspective of natural hazards to be not well taken.

Opponents have not formulated any other arguments under this criterion with sufficient specificity to allow the City or the Applicant a reasonable opportunity to respond. The opponents' more general objections the natural resource features of the Site are addressed above in the discussion of Goal 17 and below in Attachment 1, and, as explained in those sections, are without merit.

The areas proposed to be classified Aquatic Development and ESWD Shorelands do have certain natural features that will be protected to the extent practicable. Any development on the Site will be required to demonstrate compliance with the applicable environmental protection requirements imposed by WDC Chapters 3.11 and 3.12 during

the FERC process, including preparation of an impact analysis, and a demonstration that impacts have been avoided, minimized, and mitigated. As the evidence in the record further demonstrates, any development that is to occur will also require a variety of state and federal permits during the FERC process which impose similar stringent natural resources protection standards. In sum, all of the criteria for establishing desirability are satisfied and support adoption of Applicant's proposed Comprehensive Plan Amendments.

IV. Development Code Zone Map and Text Amendments (see Ordinance 1086-A)

V. The City Commission's LNG Issues

The City Commission requested of the City Staff that it set out the WDC sections that address the eight issues related to LNG that the City Commission identified during the City's Tansy Point lease amendment process and where in the record these issues are addressed by the Applicant. The City Commission has been advised by the City Attorney that these issues are not applicable approval criteria and so finds, except to the extent the issues are addressed elsewhere in these findings. The issues are addressed by the WDC and in the record as follows.

1. Safety Aspects Including Tsunami and Seismic Concerns.

The Warrenton Development Code Land Use District and Site Design chapters address these issues:

Chapter 2.17 – Flood Hazard Overlay District. This overlay imposes special construction requirements on developments in a flood hazard zone.

Chapter 2.19 – Soils Hazard Overlay District. This overlay imposes special soil study and construction engineering requirements on developments proposed in certain types of soil conditions.

Chapter 3.11.2 – This section requires applicants for port and industrial development involving dredge or fill to demonstrate that "potential adverse impacts are minimized." Adverse impacts are defined in the WDC as any measurable impacts from development, including pollution, noise, dust, etc.

Chapter 3.12.3 – This section requires applicants for any development that could potentially impact the estuary to prepare an "Impact Assessment" that includes a "...(8) Demonstration that proposed structures or devices are properly engineered."

The Applicant provided written testimony with regard to these risks as follows:

August 23 Application Narrative - Pgs. 18, 63

November 30, 2005 Letter from Perkins Coie – Pg. 2

The Applicant provided documentary evidence of the natural hazard design standards that are applicable to an LNG facility in support of its written testimony on November 30, 2005:

NFPA 59A – Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG). Seismic Design requirements for LNG containers are contained in Sections 7.2.2, 7.2.7.8, 7.3.2.8(2)(a), 12.3.3.7, 13.3.14, A.7.2.2.4.

NBSIR 84-2833 - Data Requirements for the Seismic Review of LNG Facilities

Regulations Implementing the National Environmental Policy Act (18 CFR Part 380).

2. Impact on Commercial and Recreational Boating

The Site Design Review criteria of the WDC require an applicant for development in the estuary to address these issues:

Chapter 3.11.2 – This section allows new port and industrial development requiring dredge fill, or that could affect the estuary "only if all the following criteria are met: ...b. A need (i.e. a substantial public benefit) is demonstrated; and c. The proposal does not unreasonably interfere with public trust rights," which would

include commercial and recreational boating per Frank Flynn's testimony.

Chapter 3.12.3 – This section requires an applicant for development that could affect the estuary to prepare an Impact Assessment that includes information on "(6) Public access to the estuary and shoreline, including information on ...effect on public boat launches, marinas and docks...[and a] (9) Demonstration that the project's potential public benefits will equal or exceed expected adverse impacts," which would include potential impacts on commercial fishing and boating.

The Applicant provided oral testimony on this issue at the December 17, 2005 City Commission hearing.

The Applicant provided written testimony on this issue as follows:

August 23 Application Narrative – Pg. 20

October 12, 2005 Letter from Frank Flynn – Pg. 2-4 re: Need/public benefit & public trust criteria in permitting

November 30, 2005 Letter from Perkins Coie – Pg. 5

December 7, 2005 Letter from Perkins Coie – Pgs. 5-7

The Applicant provided documentary evidence on this issue on November 30, 2005:

OAR 141-085-0029 (State Fill/Removal Permit) – Applicable permit criteria include non-interference with health and safety and that the public need outweighs harm.

33 CFR Section 320.2 (Federal Permit) –Applicable permit approval criteria include a public interest review, navigation & fishing impacts, and public need.

December 7, 2005 Memorandum from Ferrarini & Associates – Evaluates evidence of impact on boating near other LNG facilities.

3. Environmental Impacts

The WDC's Site Design Review criteria address in detail the potential environmental impacts of proposed developments in the Columbia River Estuary:

Chapter 3.10 – "Wetland and Riparian Corridor Development Standards Ordinance." Any development in an I-2 zone must meet all the applicable criteria in this Chapter.

Chapter 3.11 – "Columbia River Estuary Shoreland and Aquatic Area Development Standards." Any proposed development that could impact the estuary is required to demonstrate compliance with this Chapter, including 3.11.2: "...b. A need (i.e., a substantial public benefit) is demonstrated; ...d. Feasible alternative upland locations do not exist; and e. Potential adverse impacts are minimized."

Chapter 3.12.3– This section requires an "Impact Assessment at the time a permit is reviewed" for any development that could impact the estuary. The Impact Assessment must address: "(1) Aquatic life forms and habitat...impacts...(2) Shoreland life forms and habitat...impacts...(3) Water quality including information on : sedimentation and turbidity...contaminated sediments...(4) Hydraulic characteristics...(5) Air quality..." and others.

Environmental impacts are addressed throughout the Applicant's written and oral testimony, as well as in various supplemental environmental impact reports. The environmental reports include the Wildlife Inventory, attached as Exhibit 5 to the Application, the Preliminary Habitat Report, filed with the Planning Commission on October 12, 2005, the LNG Import Terminal Site Selection Analysis, submitted November 8, 2005, the Estuarine Impacts response to DLCD submitted November 8, 2005, the December 7, 2005 Memorandum from Ellis Ecological Services, and materials submitted by Frank Flynn on October 12, 2005.

4. Land Use Laws

The presence of zoning that permits an LNG import terminal is only the first necessary step for the development of an LNG import terminal on the East Skipanon Peninsula.

An LNG import terminal would be a development larger than two acres and thus would be "Large-Scale Development" pursuant to WDC Chapter 3.19 and all

development permits, therefore, would have to be approved through a Type III process, with mandatory public notice and a hearing before the Planning Commission. That same procedure would be required by Section 4.2.4.A.2 of the WDC.

In order to satisfy the requirements of Chapter 3.19, Large-Scale Development proposals must demonstrate the adequacy of "2) Soil Suitability...3) Storm Water Management...4) Utilities in general...5) Schools...[and] 6) Landscape suitability..." Pursuant to Section 3.19, the City may require the developer to "post a performance bond to assure that improvements required to comply with the provisions of ...section [3.19] are completed."

Development in an I-2 zone must comply with all of the site design review standards set out in Chapter 2.11.130, including those in Chapter 3.11 (see above), limits on lighting, heat and glare, vibration, and all those in Chapter 3.10 (wetland and riparian corridor ordinance) to the extent applicable.

Development in the A-1 zone involving dredge and fill must comply with all of the site design review standards set out in Chapter 2.13.130, including all the applicable standards in Chapter 3.11 and Chapter 3.12.

Any development that could potentially impact the estuary must comply with the standards in Chapter 3.11 and Chapter 3.12.

Finally, development of the Site would require Site Design Review under Section 4.2.4 *et al.* of the WDC. Section 4.2.6 establishes the relevant criteria, including 4.2.6(ii) regarding "other application section of the Development Code," which includes Chapters 3.11 and 3.12.

5. Financial Cost Benefit/Return to City and its Citizens

The Site Design Review criteria of the WDC address this issue:

Chapter 3.11.2 – This section provides that no port or industrial development involving dredge or fill may be allowed unless "...b. A need (i.e. substantial public benefit) is demonstrated;..."

Chapter 3.12.3 – This section requires an "Impact Assessment" prior to the issuance of a permit for development in the estuary and that Impact Assessment must include a "(9) Demonstration that the project's potential public benefits will equal or exceed expected adverse impacts."

The Applicant provided oral testimony on this issue at the November 17, 2005 City Commission hearing.

The Applicant provided written testimony on this issue as follows:

August 23, 2005 Application Narrative – Pgs. 18-20

November 30, 2005 Letter from Perkins Coie – Pg. 8

December 7, 2005 Letter from Perkins Coie – Pgs. 3-7.

The Applicant provided supporting documentation on this issue as follows:

Economic Opportunity Analysis (Exhibit 1 to August 23, 2005 Application)

Economic and Socioeconomic Impact Study (Exhibit 2 to August 23, 2005 Application)

December 7, 2005 Memorandum from Ferrarini and Associates.

6. Aesthetic Issues

The Site Design Review criteria of the WDC address this issue:

Chapter 3.11.2– This section requires that no development that could impact the estuary be allowed unless: "...b. A need (i.e., a substantial public benefit) is demonstrated; ...e. Potential adverse impacts are minimized." Adverse impacts are defined by WDC as any measurable impacts from development and could be interpreted to include aesthetic impacts.

Chapter 3.11.12 – "Public Access to the Estuary and its Shoreline." This section applies to "all uses and activities in shoreland and aquatic areas which directly or indirectly affect public access" and "public access" includes "aesthetic access (viewing opportunities, for example)."

Chapter 3.12.3 – This section requires an applicant for development that could affect the estuary to prepare an Impact Assessment that includes information on "(6) Public access to the estuary and shoreline, including information on ...effect on public boat launches, marinas and docks...[and a] (9) Demonstration that the project's

potential public benefits will equal or exceed expected adverse impacts."

The Applicant provided oral testimony on this issue at the November 17, 2005 City Commission hearing.

The Applicant provided written testimony on this issue as follows:

August 23, 2005 Application Narrative– Pg. 65

November 30, 2005 Letter from Perkins Coie– Pgs. 4-5

The Applicant has provided supporting documentation on this issue as follows:

33 CFR Parts 321-324 (Federal Permits) – re: "Public Interest Review" includes "aesthetics."

Regulations Implementing the National Environmental Policy Act (18 CFR Part 380). Section 380.15 specifically states that "[t]he siting, construction and maintenance of facilities shall be undertaken in a way that avoids or minimizes effects on scenic...values" and requires in paragraph (4) that "[t]he exterior of aboveground facilities should be harmonious with the surroundings and other building in the area."

7. Utilization of Latest LNG Technology

The Zoning District and Site Design Review criteria of the WDC address this issue:

Chapter 2.17 – "Flood Hazard Overlay District." This overlay imposes special construction requirements on developments in a flood hazard zone.

Chapter 2.19 – "Soils Hazard Overlay District." This overlay imposes special soil study and construction engineering requirements on developments proposed in certain types of soil conditions.

Chapter 3.11.2 – This section requires an applicant for port and industrial development in the estuary to demonstrate that "potential adverse impacts are minimized." 3.11.2(2)e and (3)d. Adverse

impacts are defined as any measurable impacts from development, including pollution, noise, dust, etc.

Chapter 3.12.3 – This section requires applicants for any development that could potentially impact the estuary to prepare an "Impact Assessment" that includes a "(8) Demonstration that proposed structures or devices are properly engineered."

Applicant addressed this issue through oral testimony from Peter Hansen at the November 17, 2005 City Commission hearing.

Applicant addressed this issue through written testimony as follows:

November 30, 2005 Letter from Perkins Coie – Pgs 5-6.

Applicant provided documentary evidence of the stringent design criteria that will be applied to the LNG facility on November 30, 2005:

NFPA 59A – Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG).

NBSIR 84-2833 - Data Requirements for the Seismic Review of LNG Facilities

8. Financial Qualifications of the Operator

The Site Design Review criteria of the WDC address this concern:

Chapter 4.2.7 – This section permits the City to require a bonding and assurances from an applicant for projects that include public improvements.

Applicant addressed this issue through written testimony:

November 30, 2005 Letter from Perkins Coie – Pgs. 7-8.

VI. Opposition Issues

Many of the issues raised in opposition to the Amendments have been addressed above in response to specific approval criteria. These will not be addressed again here, except as necessary to expand on previous discussions, but those issues and responses are incorporated by reference into this section. The following are additional issues that

opponents have raised, or more expansive responses to issues addressed elsewhere, and the City Commission's findings with respect to each.

1. Consistency with the Warrenton Vision Statement

Several opponents objected to the Amendments as inconsistent with the outcome of the City of Warrenton's Community Visioning Project conducted in 2001. The City Commission finds that this objection is not well taken. There is no evidence in the record that the Community Visioning Project's conclusions have in any form been adopted into the Comprehensive Plan or the WDC, or have otherwise been made approval criteria for Comprehensive Plan or WDC amendments.

2. Precluding uses other than LNG on the ESP

Several opponents objected to a condition proposed by SNG in its Application that would impose a condition on the I-2 and A-1 zoning for the ESP such that the only permitted use would be an LNG import terminal. The City Commission has determined not to impose the condition because it is not necessary to do so in order to approve the Applications.

3. Applicant's payment of charges for services rendered by the City of Warrenton

Mr. Shannon argued both in written and oral testimony before the Planning Commission that the practice of the City billing the Applicant for the time devoted by City Staff, including the City Attorney (who billed the city for their time, not the Applicant), to the processing and evaluating the Applications constituted a violation of Goals 1 and 2. He alleged that payment of these charges, together with contacts between the City Staff and the Applicant, biased the opinions of the City Staff, including the City Attorney. He further alleged that Planning Commission members, had they known that the City was billing for its services on an hourly basis, would have voted differently on the Code Interpretation. The City Commission finds that these objections are entirely without merit.

Mr. Shannon has provided no evidence of any bias on the part of City Staff. There is no evidence that City Staff failed to exercise independent judgment in processing the Application. There is no evidence that City Staff were less willing to assist opponents than the Applicant or the proponents. The hourly billing for City services rather than imposition of a flat fee, while unusual for simpler applications, was entirely appropriate given the anticipated unprecedented workload that would be created by these Amendments. Any other approach would have created an unreasonable risk that the Application would become a financial and staff resource drain on the City. Mr.

Shannon's allegations that the outcome of the Planning Commission hearing on the Code Interpretation would have been different had the billing practice been known is entirely without evidentiary support, in addition to being entirely inapplicable to the proposed Amendments. Mr. Shannon placed all evidence of the billing system in the record at the Planning Commission hearing on the Amendments and testified to it at that hearing as well. The Planning Commission expressed no concern about the system or about the independent judgment of City Staff. The City Commission similarly voted to approve the Amendments and expressed no concerns regarding the unbiased judgment of City Staff, including the City Attorney. The City Commission finds that the City's practice of charging for its Staff services by the hour is not inconsistent with Goal 1 or Goal 2 and rejects Mr. Shannon's arguments and assertions to the contrary.

4. The impact of the Amendments on the City's Public Facilities

Opponents have asserted that the Amendments are inconsistent with Statewide Planning Goal 11 because of the potential impact of an LNG import terminal on Warrenton's public facilities. Specifically, Mr. Shannon, in his September 22, 2005 letter to the Planning Commission argued that "Warrenton should analyze the impact of a LNG terminal on the infrastructure and public facilities in Warrenton." The City Commission finds that these objections are not well taken. The City Commission hereby incorporates its Goal 11 findings set out above by reference and finds additionally as follows.

Demonstrating that the Comprehensive Plan Amendments comply with Goal 11 does not require establishing that public facilities on the ESP are adequate to serve an LNG import terminal. The Comprehensive Plan includes acknowledged policies that implement Goal 11 and those policies, are, in turn, implemented through the WDC. The Amendments do not in any way modify these policies and implementing ordinances. Neither the Comprehensive Plan nor the WDC requires a demonstration of the adequacy of services for a prospective use in conjunction with the Amendments. Instead, the Comprehensive Plan policies defer such considerations to the development stage. Policy 7.320(8), for example, which governs large-scale developments (which would include an LNG import terminal), provides that "new large-scale developments...in Warrenton will not be allowed unless satisfactory provisions are made for water supply, sewage disposal and storm water runoff facilities."

Comprehensive Plan policy 7.320(8) is implemented by WDC Chapter 3.19 "Large-Scale Developments" which expressly prohibits the issuance of a *permit* unless the Planning Commission confirms the adequacy of a) the soil; b) storm water management plans; c) utilities in general; d) schools and other services to meet the needs of the development. And there are similar site design review standards applicable to all developments. WDC Chapter 3.5 provides that "no development may occur unless

required public facilities are in place or guaranteed." Thus, a demonstration of the ability to provide the requisite services for an LNG import terminal is reserved for future site design review and LNG permitting processes.

The Goal 11 Comprehensive Plan policies also establish 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." Policy 7.320(9). Therefore, any costs associated with extending necessary services to the Site to serve an LNG import terminal will be born by the developer.

The City's policy of deferring to the site design review and permitting stage the determination of whether the existing public facilities serving a site within the City's UGB are adequate to meet the needs of a particular potential development, rather than requiring this determination at the time that zoning is applied, is entirely consistent with Goal 11. *Just v. City of Lebanon*, 45 Or LUBA 179 (2003) (holding that Goal 11 provides municipalities substantial flexibility in how to ensure that necessary urban facilities are available to the a particular piece of property and rejecting the notion that Goal 11 requires a demonstration).

5. Amendments do not require further coordination with CREST

The City of Warrenton was among the local jurisdictions that participated in the formulation of the Columbia River Estuary Regional Management Plan (the "CREST Plan"), first adopted by the Columbia River Estuary Study Taskforce (CREST) in 1979. That document sought to provide a basis for a coordinated approach to managing the resources and development of the Columbia River Estuary at a time when the local jurisdictions were largely without their own planning departments. By its own terms, however, the CREST Plan "has no legal authority except as it is implemented by local governments in revised comprehensive plans."

Opponents contend that the Amendments to the City of Warrenton's Comprehensive Plan require "coordination with CREST." This may be the proposal set out in the CREST Plan, but it is not a policy that has been adopted by the City of Warrenton in its Comprehensive Plan. Opponents cite to two Comprehensive Plan policies in support of the alleged coordination requirement. The first requires coordination with CREST prior to permit applications. SNG has not applied for any permit. Opponents next cite the policy which states that "Amendments to the *Columbia River Estuary Regional Management Plan* must be coordinated with . . . CREST." SNG is not proposing to amend the CREST Plan, it is amending provisions of the City of Warrenton's Comprehensive Plan. See Comprehensive Plan 5.337(1) and (3).

Both the plain language of the coordination policy and the City of Warrenton's practice of amending its Comprehensive Plan without requiring applicants to coordinate those amendments with CREST, including the amendments to the Mouth of the Skipanon Subarea that removed the Mediation Panel Agreement designations in 2001, demonstrate that the City does not interpret the policy to require CREST coordination when it is amending its Comprehensive Plan provisions related to the estuary. Such a practice would ascribe to CREST a regional, quasi-governmental role which it does not have, especially now that local jurisdictions, including the City of Warrenton, have their own planning departments and the capacity to oversee land use decisions for their jurisdictions.

Even it were the case that SNG's proposed Comprehensive Plan amendments required coordination with CREST, substantial evidence in the record confirms that SNG has satisfied this obligation through repeated contacts with CREST seeking its input on the Amendments and reliance on CREST for relevant materials used in preparing its Application. The City Commission finds that the opponents' objection is not well taken.

6. SNG as the Applicant

Opponents have objected that SNG was not permitted to be the applicant for the Amendments under the terms of the Warrenton Development Code. The WDC expressly allows owners of property to allow their agents to make applications for Comprehensive Plan and Zone changes. The record contains consents from the Port of Astoria and the Department of State Lands to SNG applying for the Amendments. The City Commission finds that SNG applied as the agent of the property owners, within the meaning of the WDC, and that the opponents' objection is not well taken.

7. Calpine Corporation's Financial Situation

Opponents offered into the record evidence of the financial difficulties faced by SNG's parent company, Calpine. Most opponents made no attempt to tie this information to any of the applicable approval criteria for the Amendments. Mr. VandenHeuvel, in his December 7, 2005, argues that Calpine's financial difficulties are tied to applicable approval criteria but his arguments are without merit. Comprehensive Plan policy 2.310(2) requires that urban development areas be served or be capable of being served by adequate public facilities within 20 years. Calpine's financial difficulties are irrelevant to whether the Site is served or is capable of being served by adequate public facilities. Under the applicable site design review approval criteria in the WDC, as discussed in the Goal 11 findings above, SNG will be required to demonstrate that adequate services are either already available to the Site or that it will provide them at the time that a development is proposed. If it is unable to do so at that time, it will not satisfy the

requirements for development approval in the WDC. This response applies to as well to Mr. VandenHeuvel's suggestion that Calpine's financial difficulties make the approval of the Amendments inconsistent with Comprehensive Plan policies related to Large- Scale Developments. As discussed above, these policies are implemented through the WDC, in this case Chapter 3.19, and are applied at the time of site design review, which, in the case of an LNG import terminal proposal, will occur during FERC's LNG permitting process. With respect to these two policies, the City Commission finds these objections to be not well taken.

Mr. VandenHeuvel asserts that "Calpine's financial ability is applicable through Article 3 (Land and Water Use), Article 7, Article 8 (Transportation) and Article 9 (Economy)", but does not identify any specific applicable Comprehensive Plan policies. The City Commission finds that with respect to these Articles, Mr. VandenHeuvel has failed to sufficiently develop an argument to allow the Applicant or the City Commission a reasonable opportunity to respond and thus finds these objections to be not well taken.

Mr. VandenHeuvel also argues that the Calpine's financial situation "is applicable" to statewide planning goals 6, 9, 11, and 12. The City Commission finds that these arguments are without merit. The proposed Amendments do not approve an application by the Applicant to develop an LNG import terminal on the Site. The goal provisions cited by Mr. VandenHeuvel each are properly implemented through the Comprehensive Plan. None of the Amendments affects the implementation of those Goal provisions. Moreover, none of the Amendments affects the implementation of the applicable comprehensive plan policies through the WDC. Calpine's financial situation is simply not evidence relevant to any of the applicable approval criteria for the proposed Amendments.

In the alternative, the City Commission finds that if for some reason Calpine's financial situation were found to be relevant to an applicable approval criterion, there is not substantial evidence in the record that Calpine's financial situation would preclude its subsidiary, alone or in partnership with another party, to meet the design review, development and financial obligations that would be imposed by the City through the applicable provisions of the WDC as part of the approval of an LNG import terminal on the Site. SNG submitted evidence into the record of its parent company's experience in developing and financing large scale projects of this nature and its willingness to bring appropriate partners into the project. The City Commission is not persuaded by the excerpts from newspaper articles, websites, and other evidence submitted by Mr. VandenHeuvel and other opponents regarding Calpine's financial situation that SNG would not be able to meet development standards and the financial obligations that would be imposed under the WDC in order to develop an LNG import terminal.

8. Deferring Certain Determinations to the Development Stage

Opponents have objected to deferring certain determinations to the site design review and LNG permitting stages as being somehow inconsistent with the applicable approval criteria for the Amendments. Mr. VandenHeuvel, for example, argues that "[i]t is illogical for the Comprehensive Plan to require the Commission to defer decisions on amending the Comprehensive Plan to the development stage." The City Commission finds these arguments to be without merit. The Comprehensive Plan does not defer decisions on amending the Comprehensive Plan to the development stage, it defers approval of specific development proposals to a development stage. Contrary to the assumption made by opponents, including Mr. VandenHeuvel, none of the proposed Amendments approves the development of an LNG import terminal on the Site. The Amendments make modifications to the Comprehensive Plan and WDC that the Applicant has supported with substantial evidence. The only decisions that are deferred to the development stage are those that relate to a specific development proposal rather than appropriate comprehensive plan and zoning designations of the Site. The Comprehensive Plan does not contain approval criteria for a development proposal; it contains policies that are implemented through provisions in the WDC, which then establish the approval criteria for individual development applications. The City Commission therefore finds these objections by opponents to be without merit.

9. The Continuing Role of the 1981 Mediation Panel Agreement

Various opponents have argued that the provisions of the Mediation Panel Agreement remain applicable to the Mouth of the Skipanon Subarea. They argue on the one hand that the 2001 Comprehensive Plan and WDC Amendments were not intended to end the applicability of the Mediation Panel Agreement to Subarea 5, and they cite in support the remaining language in the Comprehensive Plan and the WDC that makes reference to the agreement. As the City Commission has explained at length above, and those explanations are hereby incorporated by reference, the ordinance adopting the 2001 Comprehensive Plan and WDC amendments, which is in the record, can only be reasonably read to have been intended to eliminate the provisions of the Mediation Panel Agreement from the Mouth of the Skipanon Subarea. This is so because of the plain language of the ordinance and because the development proposals for the Mouth of the Skipanon Subarea in the Mediation Panel Agreement cannot be reconciled with the effect of the 2001 amendments, which was to eliminate the hybrid land and water EB Zone and the two associated land and water development options. Therefore, the City Commission finds this objection to the Mediation Panel Agreement-related amendments to be without merit.

Alternatively, some opponents have argued that the City is not permitted to remove the provisions of the Mediation Panel Agreement from its Comprehensive Plan or the WDC without the permission of the other parties to that agreement. The City Commission finds that this argument is without merit. First, as explained above, the decision to remove those provisions from the Mouth of the Skipanon Subarea was made and was final in 2001. If there was a legitimate objection to that decision, the time to make it has long passed. Second, the terms of the Mediation Panel Agreement impose no such obligation on the City. In fact, it is quite the opposite. By its own terms the Mediation Panel Agreement provides that all parties thereto agree that the Mediation Panel Agreement does not foreclose future comprehensive plan amendments and, contrary to the opponents' suggestion, there is no requirement that the parties to the Mediation Panel Agreement later be consulted, much less consent to, changes to a local comprehensive plan that are inconsistent with the Mediation Panel Agreement. For these reasons the City Commission finds that the objections are not well taken.

Finally, Mr. VandenHeuvel argues that at a minimum the aquatic area designations "put in place" by the 1981 Mediation Panel Agreement remain in place. This is not the case, for the reasons set out above, but it is also not an objection which, if true, would alter the City Commission's findings with respect to any of the Amendments. The Applicant, as discussed at length in Attachment 1 and elsewhere, has provided substantial, site-specific expert testimony and evidence that it is appropriate under the applicable provisions of Goal 16 to designate all of the aquatic areas on the Site for Aquatic Development. In other words, whatever the current aquatic area designations are, the Applicant has provided the evidence necessary to have them designated Aquatic Development going forward.

10. The Economic Impacts of LNG

As discussed above in relation to Goal 9 and the Comprehensive Plan policies implementing Goal 9, the City Commission finds that the Applicant has provided substantial site-specific expert testimony indicating that an LNG import terminal represents a substantial economic development opportunity for the City of Warrenton, provided that any actual proposed development satisfies the applicable WDC criteria. Opponents have submitted a substantial amount of material into the record in an effort to rebut the Applicant's evidence. The City Commission finds that this evidence is not reliable and is based on feared impacts that, should they become a real possibility, would be addressed as part of the site design review during FERC's LNG permitting stage.

Opponents have offered a laundry list of potential economic impacts from an LNG import terminal but no systematic site-specific analysis to determine whether any of these impacts – positive or negative – would likely materialize in Warrenton, and what the

relative costs and benefits would actually be. In contrast, the Applicant has offered expert analysis of the predictable economic impacts of an LNG import terminal on the City of Warrenton's economy.

The letters, newspaper articles, and other documents offered by opponents in support of their contention that an LNG import terminal would undermine commercial fishing, the cruise industry, and other river commerce because of the presence of safety and security zones around the LNG import vessels are also not persuasive. They are based on speculation and assumptions about what the size and scope of these zones will be, as well as worst case scenarios and reports that rely on questionable methodologies. Substantial evidence in the record suggests that the actual size of these zones and the scope of limitations that they impose vary, are adapted to the specific needs and requirements of a particular locations, and are determined in part based on potential adverse impacts on competing uses. The precise size and scope of these zones will be determined by the Coast Guard. Not until that determination is made can the actual impacts be assessed during FERC's LNG permitting process through the application of the WDC's Chapter 3.11 and 3.12 criteria regarding, for example, interference with public trust rights, public need, and the requirements to demonstrate that the public benefits of a development outweigh its adverse impacts.

Opponents also offered various documents suggesting that the safety risk posed by the presence of an LNG import terminal will adversely affect tourism and retirement-oriented development in the City of Warrenton. Again, the proposed economic impacts are based on speculation and/or studies of sites not similar to Warrenton. With respect to the risk posed by LNG, substantial evidence in the record (including some submitted by the opponents themselves) supports the conclusion that LNG has a very good fifty year safety record, that there are ever improving technologies to protect LNG cargo, and that the developers of LNG import terminals are subject to numerous federal, state, and local requirements with respect to design, engineering and construction, that address the site-specific risks of natural hazards, accidents, and other events that might otherwise cause an LNG spill.

The City Commission finds the opponents' economic objections to remapping and rezoning the Site to permit the Applicant to submit a development proposal for an LNG import terminal on the Site are not well taken for all the reasons stated here.

11. Information Received After Close of the Record

Members of the City Commission received communications both directly and indirectly regarding these Amendments after the close of the record and after the tentative decision to approve the Amendments. The City Commission members hereby find that

they have not considered the information contained in those communications for purposes of deciding whether to adopt these findings and the final decision on these Amendments.

12. Other Objections

Opponents have asserted a variety of other objections to one or more the Amendments, but these have not identified a specific applicable approval criterion and/or have not been sufficiently developed to permit the Applicant or the City Commission a reasonable opportunity to respond. Therefore, the City Commission finds that these objections are not well taken.

VII. Conditions of Approval

The City Commission finds based upon all of the foregoing findings and the evidence in the record, that SNG's proposed Amendments are approved, subject to the following conditions:

- 1) The applicant shall comply with the conditions of approval recommended in ODOT's November 17, 2005 letter to the Warrenton City Commission, as follows:
 - a. The applicant shall provide the traffic mitigation measures described in the traffic impact study by CH2M Hill and consistent with the City of Warrenton Transportation System Plan, including: (1) the provision of a new or realigned local street north of Harbor Street, designed to align with the intersection of Marlin Avenue and Harbor Street, and (2) the signalization of the intersection of Harbor Street and Marlin Avenue if and when ODOT determines that the intersection meets standard signal warrants and a signal is approved for this location (see Page 14, Traffic Impact Study, as revised and updated on October 24, 2005).
 - b. The Applicant will seek approval of an ODOT access permit for either a new city street or private drive access to the north side of the reconfigured intersection of Marlin Avenue and Harbor Street.
- 2) Prior to issuance of permits to develop the Site for an LNG importation, regasification and transfer facility, the Applicant shall, in a Type III Quasi-Judicial procedure, demonstrate compliance with all applicable land use laws, provisions and procedures, which shall include the City of Warrenton Development Code; specifically, but

not limited to: Site Design Review criteria of Chapter 4.2, the estuarine development provisions of Chapter 3.11 (Columbia River Estuary Shoreland and Aquatic Area Development Standards), Chapter 3.12 (Impact Assessments and Resource Capability), with Section 3.11.2(2)(c) requiring demonstration that an LNG import terminal will not unreasonably interfere with the public trust rights, such as commercial and recreational boating in the Skipanon Waterway.

ATTACHMENT I – Goal 16 Findings

GOAL 16 FINDINGS

Goal 16: Classification of the Aquatic Areas as Aquatic Development

The City Commission makes the following findings in support of its determination that the aquatic areas that are part of the Site are properly classified as Aquatic Development under Goal 16.

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.

1. INTRODUCTION TO THE RULE

Under Goal 16, each estuary is categorized into one of three types: Natural, Conservation, or Development. Each estuary is then inventoried on the basis of its physical, biological, social, and economic resources. Based on this inventory, and other factors set out in the rule, each estuary is then classified into management units, typically natural, conservation, and development. Although the biology of the particular area is a significant consideration in the classification process, it is just one factor among several (including economic and social factors) that go into the determination of the appropriate classifications in particular areas of the estuary.

2. APPLICATION OF OAR 660-015-0010(1)

To assure diversity among the estuaries of the State, by June 15, 1977, LCDC with the cooperation and participation of local governments, special districts, and state and federal agencies shall classify the Oregon estuaries to specify the most intensive level of development or alteration which may be allowed to occur within each estuary.

The Columbia River is one of three estuaries in Oregon that are classified as a "deep-draft development" estuary. (OAR 660-017-0015(4)). Deep-draft development estuaries are anticipated to have aquatic development designations. The City Commission finds that Applicant's proposal to classify the aquatic areas as Aquatic Development is consistent with the highest level development permitted in this type of estuary.

The general priorities (from highest to lowest) for management and use of estuarine resources as implemented through the management unit designation and permissible use requirements listed below shall be:

- 1. Uses which maintain the integrity of the estuarine ecosystem;***
- 2. Water-dependent uses requiring estuarine location, as consistent with the overall Oregon Estuary Classification;***
- 3. Water-related uses which do not degrade or reduce the natural estuarine resources and values;***
- 4. Nondependent, nonrelated uses which do not alter, reduce or degrade estuarine resources and values.***

The City Commission finds that Applicant's proposal to reclassify the aquatic areas as Aquatic Development is consistent with these priorities. As discussed below, the areas to be classified as Aquatic Development have been substantially altered by development activities in the past in anticipation of their use for bulk marine cargo importation. Specifically, because of the significant alteration by, in particular, fill, they are of comparatively limited biological significance within the overall estuarine ecosystem. In addition, once the Aquatic Development management unit designation is in place, any actual development proposal for the aquatic area will have to comply with numerous environmental impact avoidance, minimization and mitigation requirements imposed by the federal, state, and local governmental permitting processes for in-water development in the Columbia River Estuary. Therefore, the reclassification will also be consistent with the priority of maintaining the integrity of the estuarine ecosystem.

Inventories shall be conducted to provide information necessary for designating estuary uses and policies. These inventories shall provide information on the nature, location, and extent of physical, biological, social, and economic resources in sufficient detail to establish a sound basis for estuarine management and to enable the identification of areas for preservation and areas of exceptional potential for development.

The Columbia River Estuary was inventoried by CREST in the 1979 Columbia River Estuary Regional Management Plan and later largely incorporated into the City's comprehensive plan. The CREST Plan inventoried the ESP and concluded that it is "especially suitable for water-dependent industry." It was the CREST Plan that first pointed out that the close proximity of the deep water areas of the Columbia River bar to the ESP and shoreline allows deep draft vessels to arrive within the city limits of Warrenton on one tide after crossing the bar. This unique feature enables water-

dependent development sites within the City to be situated to provide facilities for the handling of bulk commodities for the entire Columbia River basin and the western United States. The CREST Plan's inventory also recognized the need to have the aquatic areas adjacent to the ESP designated as Aquatic Development in order to fulfill the water-dependent development potential of the ESP.

In 2001 the City Commission approved the removal of the ESP shorelands from the inventory of water-dependent development shorelands and in doing so removed the need to have the aquatic areas mapped and zoned for aquatic development. This did not change the fact, however, that the Site is well suited for deep-draft shipping and bulk cargo importation. At the time, there was simply no market for such uses. As Applicant's evidence demonstrates, there is now a market for such a use, namely LNG importation. The City Commission finds based on substantial evidence in the record that the ESP is uniquely suited to the development of an LNG import terminal, that LNG importation promises significant economic and social benefits for the City and the wider region, and that the biology of the relatively small aquatic areas to be designated for development within the Site is not so significant that it must be protected entirely from development; Applicant has provided substantial evidence that the likely impacts from an LNG import terminal would be born by parts of the estuary that are of less than significant biological value and that the impacts can be effectively mitigated. The City Commission concludes therefore that it is appropriate, in conjunction with the return of the ESP shorelands to its water-dependent development designation to include the Site's aquatic areas in the City's inventory of Aquatic Development areas. The area so classified is larger than just the original Mouth of the Skipanon Subarea and extends into the northwest corner of Youngs Bay, but the Applicant has provided substantial evidence that this additional area is the minimum area necessary to accommodate potential design requirements to be imposed through the balancing of development and resource considerations, including the safety and security issues of the FERC and U.S. Coast Guard, which will be done during the federal LNG permitting process, and that the actual development will impact only a lesser fraction of the total area available to aquatic development.

Based upon inventories, the limits imposed by the overall Oregon Estuary Classification, and needs identified in the planning process, comprehensive plans for coastal areas shall:

1. Identify each estuarine area;

Applicant's proposal does not affect the Comprehensive Plan's identification of the estuarine areas within Warrenton. The City Commission finds that this criterion is satisfied.

2. Describe and maintain the diversity of important and unique environmental, economic and social features within the estuary;

Applicant's proposal does not alter the Comprehensive Plan's description and maintenance of the diversity of important and unique environmental, economic, and social features within the estuary. The City Commission finds that the Comprehensive Plan Amendments are consistent with this policy.

3. Classify the estuary into management units; and

The Comprehensive Plan Amendments classify the Site's aquatic areas as Aquatic Development management units and thus this policy is satisfied.

4. Establish policies and use priorities for each management unit using the standards and procedures set forth below.

The Amendments will not impact the policies and use priorities established in the Comprehensive Plan for each management unit. The City Commission finds the Amendments to be consistent with this policy.

5. Consider and describe in the plan the potential cumulative impacts of the alterations and development activities envisioned. Such a description may be general but shall be based on the best available information and projections.

The Comprehensive Plan addresses the cumulative impact of potential alterations and development activities within the Columbia River Estuary in part through its incorporation of the CREST Plan and its resource management strategy for the estuary and adjacent shorelands. See Article 5, Section 5.100. The proposed Comprehensive Plan does not alter the applicable provisions of the Comprehensive Plan and thus the criterion is not applicable. Alternatively, to the extent that the criterion is applicable, the City Commission finds that the proposed aquatic area amendments are consistent with the criterion. Consistent with the CREST Plan, the Plan Map designates the Subarea 5 aquatic areas as Aquatic Development and the proposed amendments bring the text into conformity with the Plan Map. As discussed elsewhere, the text of the Comprehensive Plan is currently ambiguous with respect to current aquatic designations in the Mouth of the Skipanon Subarea, but the Comprehensive Plan continues to identify the ESP as an area especially suited for water-dependent development and recognizes the potential need to alter the surrounding aquatic areas to support such a use. For these reasons the City Commission finds that the Amendments are consistent with Comprehensive Plan's cumulative impact analysis. The opponents have not raised any objections to the Amendments specifically under this criterion that would allow the Applicant or the City

Commission a reasonable opportunity to respond. The opponents' more general objections to the Goal 16 analysis are set out below.

Diverse resources, values, and benefits shall be maintained by classifying the estuary into distinct water use management units. When classifying estuarine areas into management units, the following shall be considered in addition to the inventories:

The proposed amendments would classify the aquatic areas of the Site as Aquatic Development.

1. Adjacent upland characteristics and existing land uses;

The record contains substantial evidence that the shoreland areas adjacent to the aquatic areas have long been recognized as uniquely appropriate for water-dependent industrial uses, and they are especially well suited for the location of an LNG import terminal. The upland areas are of sufficient size to support an LNG import terminal and will also require relatively few modifications in order to meet traffic, service, and cargo distribution needs.

At the same time, Applicant has provided substantial evidence, in the form of expert reports and testimony, that demonstrates that the adjacent upland areas have comparatively little biological significance in the estuary, and that such resources as do exist can be protected through impact minimization, mitigation, and restoration. The East and West Skipanon Peninsulas were created by dredge spoils starting in the late 1920s. Through the early 1990s the Corps of Engineers used the ESP as a disposal site for dredging in the Skipanon Channel. The Corps currently uses two in-water disposal sites on the south side of the Columbia River navigational channel, between River Miles 10 (Tansy Point) and 11 (confluence of the Skipanon Channel with the Columbia River navigational channel).

The upland portion of the ESP is largely composed of sandy dredge spoils and the use of the area by off-road vehicles and dirt bikes has left large areas without vegetation. Where riparian vegetation is present, it is dominated by non-native plants, such as Himalayan blackberry (*Rubus discolor*) and Scotch broom (*Cytisus scoparius*). The record contains a Wildlife Report that concludes that the uplands provide habitat for very few songbirds. Similarly, very few observations of reptiles, amphibians, and mammals were made during the spring and early summer surveys. Because the mean high tide does not reach the adjacent riparian area, very little nutrient exchange occurs between the riparian area and the Columbia River, Skipanon River, or Youngs Bay. Such riparian vegetation as exists provides little detritus to the adjacent wetland and rivers. This is only a part of the relevant biological information that Applicant placed in the record in support of the aquatic development classification. The City Commission finds that the nature of

the adjacent shoreland supports classification of the aquatic portions of the Site as Aquatic Development.

2. *Compatibility with adjacent uses;*

The City Commission finds that classifying the aquatic areas of the Site as Aquatic Development is compatible with adjacent uses. The City Commission hereby incorporates into this finding the analysis contained above in 1. In addition, the aquatic area to the west is the Skipanon River channel, which is already designated Aquatic Development. To the north is the Columbia River navigation channel, a deep-draft shipping channel also currently designated as Aquatic Development. To the east of the area to be classified is the northern portion of Youngs Bay, which carries an Aquatic Conservation designation. Given the obligation of any proposed developer of the Site to demonstrate compliance with the impact avoidance, minimization, and mitigation requirements of the WDC Chapter 3.11 and 3.12, during FERC's LNG permitting process, as well as a host of state and federal permitting requirements that are spelled out in the record, the City Commission concludes that there is no necessary incompatibility between the Aquatic Development management units and Aquatic Conservation management units -- and their respective uses. The same is true of those areas where Aquatic Development and Aquatic Natural management uses are adjacent to one another along the southeastern portion of the Site. In fact, DLCD has specifically rejected the practice of putting an Aquatic Conservation buffer between any Aquatic Development area and an adjacent Aquatic Natural area. With respect to actual existing uses of aquatic and shoreland areas adjacent to the aquatic areas of the Site, there are none that necessarily conflict with making the aquatic areas available for aquatic development. Again, any development will be required under the terms of the WDC to identify and address how impacts on adjacent aquatic and shoreland uses are avoided, appropriately minimized, and then mitigated.

3. *Energy costs and benefits; and*

The City Commission finds based on the evidence in the record that the energy consequences of classifying the aquatic areas as Aquatic Development would be neutral in general, but positive to the extent that the classification and companion zoning lead to the development of an LNG import terminal on the Site.

Applicant has provided substantial evidence that an LNG import terminal would result in an increased supply of a clean and affordable fuel source to the Pacific Northwest and could potentially increase energy production from the accessory combined

cycle cogeneration system (CCCS) that is a proposed accessory heat source for the regasification component of the import terminal.

Although the heat generation source that would be used in a given LNG import terminal is not an applicable approval criterion, the City Commission notes that the Applicant has proposed to supply heat from a CCCS because this is one of the most energy efficient and environmentally friendly of the available options. If the CCCS system is approved during the permitting process, the LNG import terminal will be qualified as a High Efficient Cogeneration Facility under the rules of the Oregon Department of Energy due to the integration of the CCCS and the Gas Evaporation, Preparation, and Conditioning (GEPC) system. The qualification requires a very efficient use of primary energy, which will be accomplished by utilizing large quantities of waste heat for each unit of electricity generated. For reliability and safety reasons, the CCCS must be capable of operating independently from the rest of the facility in order to provide back-up power; however, its primary function will be to provide waste heat for the operation of the GEPC in a very energy efficient manner.

While most of the electric power produced by the CCCS will be consumed by the LNG import terminal, some of the power may also be available to the local public utility for distribution to the consumers in the region. The limited capacity of the electrical grid in Clatsop County severely restricts the amount of power that can be injected into the grid at the LNG import terminal; thus, a design has been chosen for the CCCS that minimizes the size of the cogeneration system while optimizing the amount of waste heat utilized. The City Commission finds on the basis of this and other evidence in the record that the proposed aquatic management unit designation is consistent with this policy.

4. *The extent to which the limited water surface area of the estuary shall be committed to different surface uses.*

The surface water area of the Columbia River estuary is the point of reference. Based on substantial and credible evidence in the record, the proposed amendment could result in about 3 percent of the estuarine area of Youngs Bay and about 0.2 percent of the Columbia River estuary being committed to a water-dependent use. These estimates are based on acreage of habitat types reported in a 1983 CREST study of the estuary by D.W. Thomas.¹³ The area proposed for Aquatic Development represents approximately 12 percent of the deep and medium depth acreages reported by Thomas for Youngs Bay or

¹³ Thomas, D. W. 1983. *Changes in Columbia River Estuary Habitat Types Over the Past Century*. Prepared for CREST, Astoria, Oregon.

about 0.3 percent of deep and medium depth habitat of the entire estuary.¹⁴ The area of the estuary that will actually be put to other than its current use is significantly less than the above amounts, based on the substantial evidence in the record of the requirements imposed by local, state, and federal permitting processes to avoid, minimize, and mitigate the impacts of any in-water development, including an LNG import terminal. Because the WDC and various state and federal permitting programs require a demonstration that a proposed development will avoid, minimize, and mitigate adverse impacts to the estuary, no more of the estuary's water surface will be devoted to actual development activity than is necessary to accommodate a particular development; and any development will first have to be shown to have a public benefit that outweighs its potential adverse impacts.

As a minimum, the following kinds of management units shall be established:

- 1. **Natural** -- in all estuaries, areas shall be designated to assure the protection of significant fish and wildlife habitats, of continued biological productivity within the estuary, and of scientific, research, and educational needs. These shall be managed to preserve the natural resources in recognition of dynamic, natural, geological, and evolutionary processes. Such areas shall include, at a minimum, all major tracts of salt marsh, tideflats, and seagrass and algae beds.*

Notwithstanding the "Development" designation of the Columbia River Estuary, significant portions of the estuary have been designated Aquatic Natural in order to assure the protection of significant fish and wildlife habitats. Included within these natural areas are all major tracts of salt marsh, tideflats, and seagrass and algae beds.

The record contains substantial and credible evidence that the areas to be classified as Aquatic Development under the Amendments, to the extent that they are not already so classified, do not include major tracts of salt marsh, tideflats, or seagrass and algae beds. Salt marsh, seagrass, and algae beds are not present. The tidal marshes and mudflats that are present in the affected aquatic areas constitute about 2.0 percent of the remaining tidal marsh land in Youngs Bay and approximately 0.2 percent of the total area of tidal marsh land in the Lower Columbia River Estuary. In fact, mudflats have increased by 10 percent in the Lower Columbia Estuary since 1870. Approximately 84 acres of mudflats are located around the northern tip of the ESP, only about 5 acres of which are proposed for impact. No net loss of mudflats below the 1870 benchmark reviewed by Thomas in

¹⁴ *Id.*

1983 would occur as a result of the proposed amendments. The Aquatic Development designations of the aquatic areas will not remove a major tract of tidal marsh from an Aquatic Natural designation.

With respect to those areas of the estuary that could potentially be impacted by development under the Aquatic Development classification, the record contains substantial evidence that the limited development that would occur (given the conditions to be imposed on the companion zoning and the required siting and permitting processes) in these areas will not interfere with the continued biological productivity within the estuary, scientific or educational opportunities, or the dynamic natural, geological, and evolutionary processes within the estuary.

The wetlands below the highest tide and mudflats at the northern tip of the ESP are features that were created within the past 100 years, the result of the deposition of dredge spoils at various times over a number of years. The northern tip of the ESP was not created by natural geologic or evolutionary processes and does not have features that are characteristic of historic estuarine marshes. Tidal channels, which are characteristic of historic mudflats and marshes, are absent in the northern tip. Additionally, the plant communities on the ESP are not unique nor do they have significant characteristics.

Applicant has provided expert reports that recognize that mudflat and deepwater habitats provide rearing and migration habitat for salmonids, some of which are listed as threatened. The reports find, and there is no contrary site-specific evidence in the record, that the area around the ESP is used by salmonids primarily for rearing and migration, not for spawning. Salmonid reproduction is not dependent on the area around the ESP. There will be no impediments to fish passage in and out of the estuary and no indirect impacts to the remainder of the estuary. Salmon are ubiquitous in the Columbia River. The presence of salmon, a significant resource, does not require that all areas of the estuary be designated as Natural. Such a case would preclude any shoreline development designation and contradict policy goals to support water-dependent economic development.

Biological productivity will continue in the estuary. The area proposed for Aquatic Development is too small in relationship to the total estuary to eliminate or pose a threat to biological productivity. Because of the overall size of the watershed—Thomas reported that there are 119,220 acres in the Columbia River estuary¹⁵—it would be nearly impossible to attribute a decline in biological productivity, especially salmon, simply to the relatively small percentage of the Aquatic Development areas that would potentially

¹⁵ *Id.*

be dedicated to dredge, fill, and piling activities associated with the development of an LNG import terminal. In addition, substantial evidence in the record supports the conclusion that on this particular site, lack of characteristic landforms, lack of natural processes, lack of salmonid habitat within the marshes, lack of unique and abundant wildlife, and relatively small area add up to concluding the area under consideration is not consistent with characteristics to support the Natural designation.

As further evidence of the appropriateness of classifying the aquatic areas as Aquatic Development, Applicant provided evidence that the Army Corps of Engineers conducted a biological and environmental assessment for proposed dredging in the Skipanon Channel in the late 1990s. The assessment area overlaps the area proposed for designation as Aquatic Development. The study resulted in a finding of no significant impact (FONSI). Proposed dredging was found to be consistent with Coastal Zone Management Act and local planning.

For all of these reasons, the City Commission finds that it is appropriate not to classify the aquatic areas as Aquatic Natural.

2. ***Conservation*** -- ***In all estuaries, except those in the overall Oregon Estuary Classification which are classed for preservation, areas shall be designated for long-term uses of renewable resources that do not require major alteration of the estuary, except for the purpose of restoration. These areas shall be managed to conserve the natural resources and benefits. These shall include areas needed for maintenance and enhancement of biological productivity, recreational and aesthetic uses, and aquaculture. They shall include tracts of significant habitat smaller or of less biological importance than those in (1) above, and recreational or commercial oyster and clam beds not included in (1) above. Areas that are partially altered and adjacent to existing development of moderate intensity which do not possess the resource characteristics of natural or development units shall also be included in this classification.***

Significant portions of the Columbia River Estuary, including a portion of the aquatic areas to be classified Aquatic Development under the Comprehensive Plan Amendments, are classified as Aquatic Conservation. Applicant has submitted substantial and credible evidence that the section of Youngs Bay that Applicant proposes to reclassify as Aquatic Development and any portion of the Mouth of the Skipanon Subarea that is classified as Aquatic Conservation, by contrast, are not necessary for the maintenance and enhancement of biological productivity, recreation and aesthetic uses, or

aquaculture. The area does not constitute a significant habitat, nor is it used for oyster or clam beds. The City Commission finds that the area does possess characteristics that make it suitable for classification as Aquatic Development.

The aquatic areas proposed to be classified aquatic development lie directly south of the Columbia River shipping channel. Their direct values for recreational fishing are limited. Some recreational fishing occurs in deepwater habitat that might be impacted if an LNG import terminal is built in the Aquatic Development area, but such impacts would have to be avoided and minimized to the extent practicable under the provisions of WDC Chapter 3.11, 3.12, as well as under state and federal permitting requirements. No commercial fishing or clamming occurs within the relevant aquatic area. While the areas do support salmon, as discussed above, there is nothing unique about this particular area that will cause any particular adverse impact on salmon, and the design review and permitting restrictions on development of the area, which, based on the evidence in the record shall be exclusively dredge activity and dock/pier pilings, will prevent adverse consequences to fish as a result of such habitat impacts as may occur. For these reasons and based upon the other relevant evidence in the record, the City Commission finds that it is appropriate not to designate the Site's aquatic areas as Conservation.

3. ***Development -- In estuaries classified in the overall Oregon Estuary Classification for more intense development or alteration, areas shall be designated to provide for navigation and other identified needs for public, commercial, and industrial water-dependent uses, consistent with the level of development or alteration allowed by the overall Oregon Estuary Classification. Such areas shall include deep-water areas adjacent or in proximity to the shoreline, navigation channels, subtidal areas for in-water disposal of dredged material and areas of minimal biological significance needed for uses requiring alterations of the estuary not included in (1) and (2) above.***

The Columbia River Estuary is a Development estuary. Within the estuary, the ESP has been described as one of the best large acreage water-dependent development. The Skipanon River's eastern peninsula is one of only six sites in the lower 50 miles of the Columbia River that is generally recognized as having significant potential for water-dependent development requiring deep-draft navigational access. The City's 1980 comprehensive plan concluded that the ESP, in addition to five other unique sites, should "probably be considered scarce resources and reserved primarily for water-dependent uses." Reasons for this uniqueness include the "proximity to the river mouth, (River Mile 11.5) and access to the main 40 foot navigation channel 2,100 feet to the north."

In addition to this historic recognition of the suitability of the Site for water-dependent industrial use and deep draft shipping, the record contains substantial evidence that the ESP and surrounding aquatic areas are uniquely well situated to take advantage of the opportunity to site an LNG import terminal on the lower Columbia River.

The City Commission finds, based on the written and oral testimony in the record, that the aquatic areas of the Site are also appropriately classified Aquatic Development because of their "minimal biological significance"; the significance of the aquatic areas is limited to salmonid habitat in mudflats and deepwater habitats. The City conducted a Goal 5 inventory of significant riparian areas and wetlands, and the wetlands inventoried as "significant" for purposes of Goal 5 are located within the Goal 16 area. However, the site-specific information in the record supports the conclusion that these wetlands are providing minimal environmental function to adjacent fish habitat, wildlife, and recreationists.

The City Commission finds that the wetland habitat on the ESP has been severely impacted by the effects of dams upstream, dredging of the Skipanon and Columbia Rivers, diking, and fill and is not pristine habitat. The largest wetland within the aquatic areas is a tidal marsh wetland; however, habitat and functions are not homogenous over the entire wetland. The mudflats provide the highest functional value to salmonids and other fish by providing feeding and resting areas; however, no channels into the tidal marsh are present to allow fish access to these areas. Furthermore, Applicant has provided substantial evidence that functional losses in tidal marsh and mudflat habitats are replaceable through mitigation.

The interspersion of wildlife habitat is low. Land connectivity to other habitat is in only one of four compass directions (i.e., this area has limited connectivity to other habitat). The wetland habitat does have connectivity to riverine habitat; however the site is in a degraded state and provides moderate to low quality habitat to fish and birds. The wetlands are not supporting upland wildlife because the adjoining upland habitat is severely degraded and has little use by wildlife. Additionally, the Site is degraded by frequent and consistent intrusion by unauthorized off-road vehicles.

On the basis of this evidence and the other evidence in the record, the City Commission finds that given the need to have the aquatic areas available for limited development in order to take advantage of the new and substantial economic opportunity in LNG importation and transfer, and the comparatively minimal biological significance of the area to be impacted, it is appropriate for the City of Warrenton to classify, to the extent it has not previously done so, the aquatic areas of the Site as Aquatic Development.

IMPLEMENTATION REQUIREMENTS

- 1. Unless fully addressed during the development and adoption of comprehensive plans, actions which would potentially alter the estuarine ecosystem shall be preceded by a clear presentation of the impacts of the proposed alteration. Such activities include dredging, fill, in-water structures, riprap, log storage, application of pesticides and herbicides, water intake or withdrawal and effluent discharge, flow-lane disposal of dredged material, and other activities which could affect the estuary's physical processes or biological resources.**

The City Commission finds that the Comprehensive Plan amendments classifying the Site's aquatic areas as Aquatic Development are consistent with this requirement. The policy is not applicable to the other amendments. The amendments are consistent with the requirement because the requirement is expressly implemented through WDC Chapter 3.12, which requires an Impact Assessment for any proposed development that could have an adverse impact on the estuary. The amendments in no way affect the WDC's implementation of this requirement.

- 2. Dredging and/or filling shall be allowed only:**
 - a. If required for navigation or other water-dependent uses that require an estuarine location or if specifically allowed by the applicable management unit requirements of this goal; and**
 - b. If a need (i.e., a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights; and**
 - c. If no feasible alternative upland locations exist; and,**
 - d. If adverse impacts are minimized.**

The City Commission finds that the Comprehensive Plan Amendments are consistent with this requirement. The requirement is only applicable to the aquatic areas amendments. Those amendments will not affect either the Comprehensive Plan policies that implement this requirement, nor will they affect the implementation of this requirement through the WDC, specifically WDC Chapter 3.11. Notwithstanding the Aquatic Development designation, no dredge or fill activity will be allowed on the Site

unless these criteria, which are also present in state and federal permitting processes, have been satisfied

Other uses and activities which could alter the estuary shall only be allowed if the requirements in (b), (c), and (d) are met. All or portions of these requirements may be applied at the time of plan development for actions identified in the plan. Otherwise, they shall be applied at the time of permit review.

The City Commission finds that the proposed Comprehensive Plan Amendments are consistent with this requirement. The requirement is applicable only to the aquatic areas amendments. WDC 3.11 and WDC 3.12 implement this requirement at the development permitting stage. There is thus no inconsistency between the policy and the amendments.

3. *State and federal agencies shall review, revise, and implement their plans, actions, and management authorities to maintain water quality and minimize man-induced sedimentation in estuaries. Local government shall recognize these authorities in managing lands rather than developing new or duplicatory management techniques or controls.*

Existing programs which shall be utilized include:

- a. *The Oregon Forest Practices Act and Administrative Rules, for forest lands as defined in ORS 527.610-527.730 and 527.990 and the Forest Lands Goal;*
- b. *The programs of the Soil and Water Conservation Commission and local districts and the Soil Conservation Service, for Agricultural Lands Goal;*
- c. *The nonpoint source discharge water quality program administered by the Department of Environmental Quality under Section 208 of the Federal Water Quality Act as amended in 1972 (PL92-500); and*
- d. *The Fill and Removal Permit Program administered by the Division of State Lands under ORS 541.605 - 541.665.*

The City Commission finds that these provisions are not applicable to the Comprehensive Plan Amendments; none of those amendments alters or impacts those elements of City's Comprehensive Plan that implement this goal requirement.

4. ***The State Water Policy Review Board, assisted by the staff of the Oregon Department of Water Resources, and the Oregon Department of Fish and Wildlife, the Oregon Department of Environmental Quality, the Division of State Lands, and the U.S. Geological Survey, shall consider establishing minimum fresh-water flow rates and standards so that resources and uses of the estuary, including navigation, fish and wildlife characteristics, and recreation, will be maintained.***

The City Commission finds that this requirement is not applicable.

5. ***When dredge or fill activities are permitted in intertidal or tidal marsh areas, their effects shall be mitigated by creation, restoration or enhancement of another area to ensure that the integrity of the estuarine ecosystem is maintained. Comprehensive plans shall designate and protect specific sites for mitigation which generally correspond to the types and quantity of intertidal area proposed for dredging or filling, or make findings demonstrating that it is not possible to do so.***

The City Commission finds that the Comprehensive Plan Amendments are consistent with this requirement. The amendments to the aquatic areas designations create the possibility of dredge and fill activity on the Site, but they in no way alter or affect the implementation of this policy through the Comprehensive Plan and WDC. Any proposed dredge or fill activity on the Site associated with a proposed LNG import terminal, for example, will only be permitted to the extent that it satisfies the mitigation criteria imposed on such activities in WDC Chapter 3.11. during FERC's LNG permitting process, and equivalent criteria that are present in the state and federal permitting processes.

6. ***Local government and state and federal agencies shall develop comprehensive programs, including specific sites and procedures for disposal and stock-piling of dredged materials. These programs shall encourage the disposal of dredged material in uplands or ocean waters, and shall permit disposal in estuary waters only where such disposal will clearly be consistent with the***

objectives of this goal and state and federal law. Dredged material shall not be disposed in intertidal or tidal marsh estuarine areas unless part of an approved fill project.

The City Commission finds that the Comprehensive Plan Amendments do not impact any existing plans for the disposal and stock-piling of dredged materials. This requirement is not applicable.

7. ***Local government and state and federal agencies shall act to restrict the proliferation of individual single-purpose docks and piers by encouraging community facilities common to several uses and interests. The size and shape of a dock or pier shall be limited to that required for the intended use. Alternatives to docks and piers, such as mooring buoys, dryland storage, and launching ramps shall be investigated and considered.***

The City Commission finds that the Comprehensive Plan Amendments do not alter or otherwise impact the implementation of this requirement in the Comprehensive Plan or the WDC. To the extent that an LNG import terminal on the Site will require a dock and pier, the applicant for such a project will be required to demonstrate compliance with the WDC's implementation of this requirement during FERC's LNG permitting process. There is thus no inconsistency between designating the aquatic areas for Aquatic Development and the implementation of this requirement.

8. ***State and federal agencies shall assist local government in identifying areas for restoration. Restoration is appropriate in areas where activities have adversely affected some aspect of the estuarine system, and where it would contribute to a greater achievement of the objective of this goal. Appropriate sites include areas of heavy erosion or sedimentation, degraded fish and wildlife habitat, anadromous fish spawning areas, abandoned diked estuarine marsh areas, and areas where water quality restricts the use of estuarine waters for fish and shellfish harvest and production, or for human recreation.***

The City Commission finds that this requirement is not applicable to the proposed Comprehensive Plan Amendments.

GUIDELINES

A. INVENTORIES

In detail appropriate to the level of development or alteration proposed, the inventories for estuarine features should include:

1. **Physical characteristics**
 - a. **Size, shape, surface area, and contour, including water depths;**
 - b. **Water characteristics including, but not limited to, salinity, temperature, and dissolved oxygen. Data should reflect average and extreme values for the months of March, June, September, and December as a minimum; and**
 - c. **Substrate mapping showing location and extent of rock, gravel, sand, and mud.**
2. **Biological characteristic--Location, Description, and Extent of:**
 - a. **The common species of benthic (living in or on bottom) flora and fauna;**
 - b. **The fish and wildlife species, including part-time residents;**
 - c. **The important resting, feeding, and nesting areas for migrating and resident shorebirds, wading birds and wildlife;**
 - d. **The areas important for recreational fishing and hunting, including areas used for clam digging and crabbing;**
 - e. **Estuarine wetlands;**
 - f. **Fish and shellfish spawning areas;**
 - g. **Significant natural areas; and**
 - h. **Areas presently in commercial aquaculture.**
3. **Social and economic characteristics--Location, Description, and Extent of:**
 - a. **The importance of the estuary to the economy of the area;**
 - b. **Existing land uses surrounding the estuary;**
 - c. **Man-made alterations of the natural estuarine system;**
 - d. **Water-dependent industrial and/or commercial enterprises;**

- e. Public access;*
- f. Historical or archaeological sites associated with the estuary; and*
- g. Existing transportation systems.*

The City Commission finds that although these guidelines are not binding approval criteria, the terms of the guidelines are satisfied by and not inconsistent with the proposed Comprehensive Plan Amendments, in particular the amendments that would classify the aquatic areas of the Site as Aquatic Development. The City has adopted the CREST Plan as its inventory of the Columbia River Estuary for purposes of this goal requirement and has incorporated aspects of the information sought here into the Comprehensive Plan through the subarea findings. As discussed previously, the CREST Plan concludes that the ESP is "especially suitable for water-dependent industry." The CREST Plan discusses that the wildlife values are low to moderate on the ESP and that natural habitat value and productivity in the transition marsh area is low. The CREST Plan discusses the fact that "[u]se of the eastern peninsula for water-dependent development is consistent with the deep draft development estuary designation given to the Columbia River estuary by the state." The CREST Plan also discusses the importance of the ESP to the local economy and to the economy of the State of Oregon. CREST concluded that development of the ESP with a water-dependent development would lead to "greater diversity in the area's economy, high seasonal unemployment rates will decrease, and per capita earnings will increase." These conclusions remain accurate today, especially in light of the tremendous economic development opportunity offered by LNG importation, regasification and transfer facilities.

Applicant has provided additional substantial and credible evidence regarding the physical characteristics of the site, the biology of the site, and the socioeconomic aspects of the estuary and the Site in particular. This evidence is found in the Preliminary Habitat Report, the Wildlife Report, the Letter to DLCD from CH2M Hill and Ellis Ecological Services and the supplemental report from Ellis Ecological Services responding to the environmental reports submitted by project opponents. This additional evidence reinforces much of the information in the CREST Plan and also establishes that the Aquatic Development classification is appropriate for the aquatic areas of the Site.

B. HISTORIC, UNIQUE, AND SCENIC WATERFRONT COMMUNITIES

Local government comprehensive plans should encourage the maintenance and enhancement of historic, unique, and scenic waterfront communities, allowing for non water-dependent uses as appropriate in keeping with such communities.

The City Commission finds that this guideline is not applicable because the ESP is not historic, unique, or scenic waterfront community.

C. TRANSPORTATION

Local governments and state and federal agencies should closely coordinate and integrate navigation and port needs with shoreland and upland transportation facilities and the requirements of the Transportation Goal. The cumulative effects of such plans and facilities on the estuarine resources and values should be considered.

The City Commission finds that this guideline is not a binding approval criterion and is, in any event, consistent with the proposed Comprehensive Plan amendments. None of the amendments effect the Comprehensive Plan's implementation of this guideline, or its implementation through the WDC. Designating the aquatic areas of the Site Aquatic Development does create the possibility of shipping activity on the Site that could impact shoreland and upland transportation facilities. The record contains a TIA prepared on behalf of the Applicant that demonstrates that, with appropriate mitigation, prospective impacts from such development would not have a significant affect on transportation facilities. Applicant prepared and amended the TIA in consultation with the Oregon Department of Transportation, and the City Commission is adopting a condition of approval with this decision that requires the Applicant to continue to coordinate its mitigation efforts with ODOT. The City Commission finds that while not required to do so, the Comprehensive Plan Amendments comply with this guideline.

TEMPORARY ALTERATIONS

The provision for temporary alterations in the Goal is intended to allow alterations to areas and resources that the Goal otherwise requires to be preserved or conserved. This exemption is limited to alterations in support of uses permitted by the Goal; it is not intended to allow uses which are not otherwise permitted by the Goal. Application of the resource capabilities test to temporary alterations should ensure:

- 1. That the short-term damage to resources is consistent with resource capabilities of the area; and*
- 2. That the area and affected resources can be restored to their original condition.*

The City Commission finds that this guideline is not applicable, as Applicant is not proposing a temporary alteration.

3. Opposition Arguments

Opponents offered extensive testimony and a significant volume of documents in opposition to the Applicant's proposal to classify the aquatic management units on the Site as Aquatic Development. The City Commission has considered the arguments and evidence and finds that the Applicant's analysis and site-specific expert testimony regarding the natural features of the Site are more credible and directly responsive to the applicable approval criteria, and therefore the City Commission finds that the opponents' objections with respect to the Aquatic Development management unit designation of the aquatic areas of the Site are not well taken.

Opponents offered argument and evidence regarding the biological significance of Youngs Bay and argue on that basis that designating the aquatic areas on and adjacent to the ESP as Aquatic Development is not consistent with Goal 16 or the applicable Comprehensive Plan policies. The opponents are incorrect. SNG's Application acknowledges the biological importance of Youngs Bay as a whole. That, however, is not the salient issue. As the environmental reports submitted on behalf of the Applicant demonstrate, the issue is the biological significance of the specific portion of Youngs Bay that SNG proposes to reclassify. Opponents offer no credible evidence on this issue, and as the Applicant's environmental reports conclude, the available evidence suggests that the proposed Aquatic Development area does not contain any unique habitat, as that term is defined by the Oregon Department of Fish and Wildlife.

Even if the proposed development area were of particular biological significance, moreover, by itself this would not foreclose its designation as aquatic development under Goal 16. Opponents read Goal 16 to impose a categorical prohibition on applying a development classification to biologically sensitive areas. The Goal 16 management unit classification, however imposes no such categorical prohibition; it is a policy choice that places substantial importance on the biological significance of the impacted area, but allows this to be balanced against other community needs. In this case, SNG has established both the low to moderate biological significance of the impacted aquatic area and the greater importance of competing community needs that warrant an Aquatic Development designation on the Site.

The City Commission also finds that opponents are mistaken when they argue that SNG's application fails to demonstrate compliance with the Goal 16 provision that states "actions which would potentially alter the estuarine ecosystem shall be preceded by a clear presentation of the impacts of the proposed alteration." The Warrenton Development Code expressly implements the above Goal 16 requirement by requiring anyone seeking a "permit" to do development that would impact the estuary -- including dredging, aquatic fill, and in-water structures -- to provide an Impact Assessment that

includes information on the impacts on aquatic life forms and habitat, shoreland life forms and habitat, water quality, hydrology, air quality, public access, and more. See WDC 3.12.

Goal 16 does not require, and the City of Warrenton has not adopted, a policy of providing an Impact Assessment in conjunction with a plan amendment or zone change in the estuary. Even if impacts of potential future developments needed to be addressed, however, SNG placed substantial evidence into the record regarding such potential impacts related to a conceptual facilities plan as part of its effort to be responsive to DLCD's and the community's concerns. As a result of those evidentiary submissions, DLCD concluded that the Applicant had provided sufficient evidence to allow approval of its proposed management unit designation amendments, and the City Commission agrees; the area proposed for reclassification is needed in conjunction with the designation of the adjacent shoreland as ESWD Shorelands to allow the large-scale importation of bulk marine cargo to service the Columbia River basin and the western United States.

EXHIBIT 'B'

ARTICLE 2 COMMUNITY DEVELOPMENT

SECTION 2.100 FINDINGS

Warrenton differs from many communities in that the City includes an extensive amount of undeveloped land and water area. These undeveloped areas, together with the City's location, the availability of public facilities and services, and the population and economic gains experienced during the late 1980s, are indicative of potential for a considerable amount of development. For example, there is the possibility that one or more large-scale industrial facilities or a variety of tourist-oriented commercial establishments may locate in the City.

Because of this potential, the City needs to have a substantial amount of land available to accommodate growth. However, to make all of the existing undeveloped land available at one time for intensive use would not encourage efficient land use patterns. With the 1991 merger of Hammond and Warrenton, the City limits encompass an area of about 10,500 acres, or approximately 16.4 square miles. The unincorporated Urban Growth Boundary area adds approximately another 120 acres to the urban land base. The possibility of extensive future development also means that the City must consider appropriate methods of expanding public facilities and services, meeting transportation needs, dealing with obstacles and opportunities presented by the area's natural features, and satisfying various community objectives.

SECTION 2.200 GOAL

Establish sound basic concepts for community development which will encourage appropriate and balanced urban growth.

SECTION 2.300 POLICIES

2.310 Land and Water Use Classification

(1) All land and water areas will be classified as appropriate for urban development, rural uses, recreation, aquatic development, conservation or preservation. These classifications are described in policies 2 through 5, below.

(2) Urban Development Areas: Areas with a combination of physical, biological and social/economic characteristics which make them necessary and suited for residential, commercial, industrial, public or semi-public uses are appropriately classified for urban development. Such areas are either adequately served by public facilities and services for urban development or have the potential for being adequately served during the next twenty years. There are two types of urban development areas, as follows:

(a) ESWD Shorelands are managed for water-dependent industrial, commercial and recreational uses. ESWD Shorelands include areas with special suitability for water-dependent development, including access to well scoured deepwater and maintained navigation channels, presence of land transportation and public facilities, existing developed land uses, potential for aquaculture, feasibility for marina development and potential for recreational utilization. Water-dependent use receives highest priority, followed by water-related uses. Uses which are not water-dependent or water-related which do not foreclose options for future higher priority uses and which do not limit the potential for more intensive uses of the area are provided for. The ESWD plan designation is implemented through the Marine Commercial Zone and the Water-dependent Industrial Shorelands Zone.

(b) Other Urban Shorelands: Other urban shorelands are more desirable for other uses or are suitable for a wider range of uses. They are located in one of the following zoning districts: High Density Residential, Medium Density Residential, Intermediate Density Residential, General Commercial, Recreation Commercial, Urban Recreation/Resort, or General Industrial.

(3) Rural Development Areas: Lands which, due to their development limitations or other characteristics, are best suited for rural uses such as very low density residential uses, recreation, extraction of subsurface materials, agriculture, timber harvesting and aquaculture, are in the Rural Development plan designation. This is implemented through the City's Rural Development Zone.

(4) Aquatic Development Areas: Aquatic development areas include areas suitable for deep-draft or shallow-draft navigation, including shipping, channels, access channels and turning basins; dredged material disposal sites and mining/mineral extraction areas; and areas adjacent to developed or developable shorelines which may need to be altered to provide navigational access or to create new land areas for water-dependent uses. These areas are managed for navigation and other water-dependent uses in a manner consistent with the need to minimize damage to the estuarine ecosystem. Some water-related and non-water-related uses may be permitted. All aquatic development areas are in an Aquatic Development zoning district.

(5) Conservation Areas: Land and water areas providing resource or ecosystem support functions, or with value for low intensity recreation or sustained yield resources (such as agriculture), or poorly suited for development, should be designated for non-consumptive uses. Non-consumptive uses are those which can utilize resources on a sustained-yield basis, while minimally reducing opportunities for other uses of the area's resources. These areas are in the City's Aquatic Conservation Zone, and in the Open Space, Parks & Institutional Zone.

(6) Natural Areas: Those areas which have not been significantly altered by people and which, in their natural state, perform resource support functions vital to estuarine or riparian ecosystems, are in a Natural Area plan designation. Such places can be significant for the study or appreciation of natural, historical, scientific or archeological features. Water areas in the Aquatic Natural Zone and Coastal Lakes & Freshwater Wetlands Zone are included.

ARTICLE 4 NATURAL FEATURES

SECTION 4.100 FINDINGS

Concern for natural features is important for the future of Warrenton. The purpose of this part of the Comprehensive Plan is to indicate what actions should be taken to reflect this concern. The *Major Natural Features Areas* map shows the location of the City's estuary waters and wetlands, estuary shorelands, and beach and dune shorelands.

Natural features in Warrenton and nearby areas provide the City with a variety of opportunities for development. Opportunities for port and industrial growth are created by the availability of large amounts of relatively flat land and accessibility to deep water portions of the Columbia River Estuary, productive fish habitat and valuable timber resources.

Because of its close proximity to the Columbia River bar and the fact that deep draft vessels can arrive within the City limits on one tide after crossing the bar, water-dependent development sites within the City are uniquely situated to provide facilities for the handling of bulk commodities for the entire Columbia River basin and the western United States. The potential for commercial, recreational and residential expansion exists due to the City's industrial growth prospects and to the scenic and recreational attractions in the area, such as the Columbia River waterfront, the Pacific Ocean and adjoining dune areas, and the Skipanon River marina facilities. These factors, plus other geographical advantages and the availability of public facilities and services, make Warrenton a prime area for development within the region.

There are a number of obstacles which could endanger people and their property and could diminish the broad range of natural resources that benefit the City. Potential hazards to people and property in the area can result from occasional flooding, compressible soils, a high water table, wind and water erosion, steep slopes and other local features. Damage to or destruction of important natural resources can occur because of various actions including discharging large amounts of wastes in surface and subsurface waters, unnecessary or improper dredging and filling, inadequate grading and drainage techniques, removal of needed vegetation, construction in valuable fish and wildlife habitats, and air pollution.

This section establishes goals and policies protecting many of the City's natural features, including those protected by Statewide Planning Goal 5: open spaces, scenic and historic areas, and natural resources. Additional background information on Warrenton's Goal 5 resources is in the Goal 5 section of the *Warrenton Comprehensive Plan Background Report*. This section addresses some natural hazards in Warrenton, such as flood hazards and compressible soils, covered by Statewide Planning Goal 7. Goal 6 resources (air, water and land resources) are also addressed.

OAR 660-023-0024 (2) establishes that the requirements of Statewide Planning Goal 16 and 17 supersede the requirements of Statewide Planning Goal 5 for natural resources also subject to and regulated by those goals. As a result, whether and under what

circumstances development may impact wetlands and riparian corridors in estuarine and coastal shoreland areas is governed by the policies implementing Goals 16 and 17 rather than the City's adopted Goal 5 implementation program.

Wetlands and riparian corridors are important to the citizens of Warrenton as natural resources. To ensure that this goal is attainable, wetland and riparian corridor mitigation, restoration creation and enhancement shall be allowed in all zoning district where practicable.

Reserved for *Major Natural Features Areas* Map

SECTION 4.200 GOALS

- (1) Protect, conserve, develop where suitable and appropriate, and restore Warrenton's land, water, and air resources.
- (2) Recognize the value of these resources for specific types of urban uses and activities, the economy, fish and wildlife habitat, recreation and aesthetics.
- (3) Reduce the hazard to human life and property and the adverse affects on natural resources resulting from the use of land, water and air in the Warrenton area.

SECTION 4.300 POLICIES

4.310 Soils

- (1) Hazards resulting from poor soils shall be minimized by using sound soils data and engineering principles to determine public and private development techniques and by requiring those developing property, when appropriate, to assume responsibility for certain hazard-related costs.
- (2) Prior to approval of a subdivision or issuance of a building permit, the City may require an on-site soil survey when it is believed construction on the site may be hazardous to facilities on the parcel or to nearby property due to the load-bearing capacity of the soil, the potential for wind or water erosion, or the wetness or slope characteristics of the soil. In locations shown to have soils which tend to cause problems for development, the City may require the following from the developer before approving a development: (a) a report prepared by an expert showing how difficulties will be minimized, (b) a performance bond assuring that any adverse effects which do occur will be corrected, and (c) reasonable fees for review costs.
- (3) On-site soil surveys will be required before approving new structures proposed for areas which have Braillier or Bergsvik soils (these are highly-compressible soils), according to the *Soil Survey of Clatsop County* prepared by the Soil Conservation Service, February 1988. If an on-site soil survey indicates that significant amounts of these soils are in locations which are desired for development, a report indicating techniques to be used to minimize problems will be mandatory. A similar approach may be used by the City Engineer before issuing permits for construction of large scale commercial, industrial, governmental or multifamily residential developments on areas of Coquille variant silt loam and Coquille-Clatsop complex soils.
- (4) Soils information indicates that certain types of soil within the City of Warrenton may cause corrosive action to foundations and pipes. The *Soil Survey of Clatsop County* or an adequate on-site soil survey will be needed to determine where such soils exist. Corrosion-resistant materials may be required for foundations or underground pipes in large-scale developments in these areas.

4.320 Flood Hazards

- (1) Public and private losses due to flood conditions shall be reduced by requiring buildings in flood

hazard areas to be properly elevated or flood-proofed and by undertaking other measures necessary to avoid hazardous situations.

(2) A flood hazard permit will be required for all types of development, including dredging and filling, in areas of special flood hazards identified by the Federal Insurance Administration in a scientific and engineering reports entitled *Flood Insurance Study for the City of Warrenton*, and *Flood Insurance Study for the Town of Hammond*, dated May 15, 1978 (as amended), and in accompanying maps.

(3) Regulations will be used in special flood hazard areas which assure that: (a) all building construction is elevated or flood-proofed to the base flood level, (b) new structures are properly anchored, (c) construction materials and methods that minimize flood damage are used, (d) new or replacement utility systems are designed to preclude flood loss, and (e) other measures necessary to avoid flood hazards are undertaken.

(4) The City will work to maintain and improve the system of dikes which help prevent flooding in Warrenton, including possible construction of new pump stations and more efficient tide gates.

4.330 Drainage and Erosion

(1) Runoff and water erosion shall be controlled by requiring sound management practices in new subdivisions and large-scale developments and by preparing and implementing a comprehensive storm drainage study.

(2) The City will continue to improve its storm drainage system.

(3) All new subdivisions and large-scale developments must implement a storm-water management plan prepared by a qualified person and acceptable to the City. The plan will attempt to follow the principle that the water falling on a given site should be absorbed or retained on-site to the extent that the quantity and rate of water leaving the site after development would not be significantly different than if the site had remained undeveloped. Techniques that capitalize on, and are consistent with, natural resources and processes will be used whenever possible. Holding ponds, vegetated swales, permeable parking lot surfaces and other special methods may be necessary for City approval. In part, it is the intent of these drainage plans to minimize the adverse cumulative affects of development in an area on drainage and water quality.

(4) Drainage plans shall include provisions needed to control water erosion associated with construction. Control with vegetation, particularly with plants already on the site, should be stressed. Grade stabilization structures, debris basins, energy dissipators or other facilities may also be required.

4.340 Topography

(1) The City supports use of development techniques which maintain the natural topography,

- Dredged material disposal site Wa-S-10.5 from the *Columbia River Estuary Dredged Material Management Plan* (1986).
- The following wetlands classified as significant under Oregon Statewide Planning Goal 17: Skipanon River above the 8th Street dam and associated wetlands; Skipanon Slough; and Holbrook Slough.
- Significant riparian vegetation around the Skipanon River upstream of the 8th Street dam and around Skipanon Slough.

5.150 Mouth of the Skipanon River Subarea Findings

(1) General Description

This subarea contains filled and diked shorelands north of Harbor Drive and east of Skipanon Drive; the Skipanon River from the Harbor Drive Bridge to its mouth; the East and West Skipanon Peninsulas; and adjacent Columbia River waters out to the navigation channel. Parts of downtown Warrenton are also included.

(2) Aquatic and Shoreland Designations

a. Development Aquatic:

- The Skipanon waterway between the Harbor Drive Bridge and the main navigation channel.
- Approximately 7.8 acres of tidal marsh and flats on the west side of the West Peninsula.
- The flowlane disposal area south of the main channel (600 feet wide or to the 20-foot bathymetric contour, whichever is narrower).
- The area from the Skipanon Channel to the eastern boundary of the Subarea and from the line of aquatic vegetation on the East Peninsula north to the Columbia River navigation channel.

b. Conservation Aquatic:

- The aquatic area between the shoreline and the flowlane disposal area west of the Skipanon Channel.

c. Development Shoreland:

- The area adjacent to the mooring basin east to N.E. Iredale Avenue.
- The area north of Harbor Drive on the east side of the Skipanon waterway.
- An area on the south side of the West Peninsula.
- The area east of Holbrook Slough.

d. Water-Dependent Development Shorelands:

- All other shorelands are designated Water-Dependent Development.

e. The regulatory shoreland boundary is 50 feet from the Columbia River Estuary shoreline, or the landward toe of dikes plus associated toe drains, whichever is greatest, except where it extends farther inland to include the following features:

- The East Skipanon Peninsula including:

All shoreland areas on the northern 96 acres of the East Skipanon Peninsula

- The West Skipanon Peninsula, including:

All upland adjacent to Alder Cove and east of N. E. Skipanon Drive, with the exception of the area designated commercial by the City of Warrenton Zoning Ordinance;

Dredged material disposal site Wa-S-10.7 from the *Columbia River Estuary Dredged Material Management Plan*; and

The Holbrook Slough wetland, classified as significant under Oregon Statewide Planning Goal 17.

5.160 Youngs Bay Subarea Findings

(1) General Description

Youngs Bay is one of the more biologically productive parts of the estuary. This subarea extends from the old Highway 101 bridges over the Youngs River and the Lewis and Clark River to the 20-foot bathymetric contour adjacent to the navigation channel of the Columbia River. It includes large fringing marshes, tideflats, open water, and restored wetlands at the Airport Mitigation Bank. The subarea boundary follows the shoreline, except adjacent to the Port of Astoria and the East Peninsula of the Skipanon River. No shorelands are included. Youngs Bay is in Warrenton,

Astoria and Clatsop County. About half of the 2,800 acre subarea is in Warrenton.

(2) Aquatic Designations

The authorized navigation channels and an area approximately 110 acres in size bounded on the south by the 20 foot bathymetric contour line, the north by the Columbia River navigation channel and extending between 1800 and 2000 feet to the east of the eastern boundary of the Mouth of the Skipanon Subarea are designated Development Aquatic. The mud flats, tidal flats, and fringing marshes are designated Natural Aquatic, except for areas adjacent to the old PP&L facility, the site of a former net storage building south of the new Youngs Bay Bridge, and the existing structure at the former Columbia Boatworks, which are designated Conservation Aquatic. All other water areas are designated Conservation Aquatic.

5.170 Airport and Vicinity Subarea Findings

(1) General Description

This subarea consists of diked shorelands that are part of or adjacent to the Port of Astoria Airport. The subarea is bounded by the shoreline on the north and east, Highway 101 to the northwest, and alternate Highway 101 on the south. The subarea lies within the Warrenton city limits and Urban Growth Boundary, except for an area between S.E. 11th and alternate Highway 101, which is outside the Urban Growth Boundary. There are no estuarine aquatic areas in this 1,000 acre subarea.

(2) Shoreland Designations

Shorelands north of the former railroad right-of-way are designated Rural Shorelands. East of Vera Creek, the shoreland within the Warrenton city limits is designated Development Shorelands. Agricultural areas outside the Warrenton city limits are designated Rural Shorelands and a small forested area is Conservation Shorelands. West of Vera Creek to S.E. Pacific Avenue and Holbrook Slough is designated Rural Shorelands. All clear zones at the ends of the airport runways are designated Rural Shorelands. Vera Creek Slough extending 1,000 feet inland from the tidegate is designated Natural Shorelands. The rest of Vera Creek Slough, and other creeks and sloughs in this subarea, are designated Conservation Shorelands. The remainder of the subarea west to Highway 101 is designated Development Shorelands.

The regulatory shoreland boundary in this subarea is 50 feet from the estuary shoreline, or from the landward toe of dikes and associated toe drains, whichever is greatest, except where it extends farther inland to include the following features:

- Vera Creek Slough extending 1,000 feet inland from the tidegate.
- The following dredged material disposal sites from the *Columbia River Estuary Dredged Material Management Plan*: Wa-S-12.6, Wa-S-12.5, Wa-S-12.1, Wa-S-11.9, Wa-S-11.8,

and Wa-S-11.7.

5.180 Hammond Subarea

(1) General Description

This subarea includes aquatic and shoreland areas within the former Town of Hammond. The subarea boundaries are the waterward extension of Railroad Drive on the east, Pacific Drive on the east, Pacific Drive on the south, the Urban Growth Boundary on the west, and the 20-foot bathymetric contour on the north. The mooring basin is included in this subarea.

(2) Aquatic Designations:

The aquatic area is designated Conservation except for an area between Point Adams Packing and the east subarea boundary, which is designated Development; and the Mooring Basin, which is also designated Development.

The Shoreland area is designated General development Shorelands except for:

- A Water-Dependent Development area between the east subarea boundary and fleet street extending between the shoreline and the regulatory shoreland boundary.
- A Water-Dependent Development area south and west of the Mooring Basin designated Recreational Commercial.
- A Conservation area at the northern undeveloped part of the national Marine Fisheries Service research station.

SECTION 5.200 GOALS

- (1) Recognize and protect the unique environmental, economic, and social values of the Columbia River Estuary, and its associated wetlands and shorelands.
- (2) Protect, maintain, restore where appropriate, and develop where appropriate the long-term environmental, economic and social values, diversity and benefits of the Columbia River Estuary, and its associated wetlands and shorelands.

SECTION 5.300 POLICIES

5.301 Deep-Water Navigation, Port and Industrial Development. These policies apply to port and industrial development occurring in and over Columbia River Estuary waters, and on adjacent shorelands. This section also applies to navigation projects related to deep-draft maritime activities,

such as channel, anchorage and turning basin development or expansion.

- (1) Shorelands with adjacent deep-water access, adequate rail or road access, and sufficient backup land shall be reserved for water-dependent recreational, commercial, industrial, or port development.
- (2) Federally-designated channels, anchorages and turning basins, including necessary side slopes, shall be in Development Aquatic zones.
- (3) Development, improvement and expansion of existing port sites is preferred prior to designation of new port sites.
- (4) Aides to navigation, including range markers, buoys, channel markers and beacons, shall be protected from development impacts that would render them ineffective. This policy does not preclude development subject to U.S. Coast Guard approved reorientation or relocation of navigation aides.
- (5) Evaluation of proposals involving treated or untreated wastewater discharge into the estuary will rely on the point source water pollution control programs administered by the Oregon Department of Environmental Quality and the Washington Department of Ecology.
- (6) The following development sites described in the *Economic Evaluation of the Columbia River Estuary* are suitable for development of expansion of marine terminal facilities:

- Tansy Point
- West Skipanon Peninsula
- East Skipanon Peninsula
- East Hammond
- Port of Astoria
- East Astoria
- Tongue Point
- Bradwood
- Driscoll Slough
- Wauna.

These sites are in Water-Dependent Development Shorelands, Development Shorelands, and Development Aquatic designations in the *Columbia River Estuary Regional Management Plan*. Development of new marine terminal facilities at any of these sites (except at the Port of Astoria) will trigger a reassessment of whether the remaining undeveloped marine terminal sites are still needed.

Table 1 (below) includes acreage estimates for water-dependent shorelands in Warrenton as required under Statewide Planning Goal 17.

Table 1: Current and Former Water-Dependent Acreage

SITE	CURRENT (acres)	FORMER (acres)	TOTAL (acres)
East Skipanon Peninsula	-	49	49
West Skipanon Peninsula	65	-	65
Warrenton Mooring Basin	18	-	18
Tansy Point	50	-	50
Hammond Mooring Basin	20	-	20
TOTALS	153	49	202

The five sites listed in the table above are described in more detail in the following paragraphs. The column in Table 1 labeled “current” lists the acreage of the site that is currently used for water-dependent uses. This addresses the requirement in OAR 660-37-0050(2a). The column in Table 1 labeled “former” lists the acreage meeting the criteria in OAR 660-37-0050(2b). “Water dependent” is defined in OAR 660-37-0040(6) and in the Statewide Planning Goals.

Based on this data, Warrenton needs to protect at least 202 acres as water-dependent development shorelands. Data about these five sites are in the following paragraphs.

East Bank of the Skipanon Peninsula: This 172-acre (approximately) site consists of both shoreland and aquatic areas. The northern 96 acres of the site includes approximately 40 acres of shorelands which were added to the inventory of ESWD Shorelands by an amendment adopted in 2005. The remainder of the northern 96 acres is aquatic area that is zoned A-1. The southern 76 acres are designated Other Shorelands and are in the City’s Urban Recreation/Resort zone.

Warrenton Mooring Basin: This site is immediately southwest of the East Bank site, and consists of water-dependent development shorelands around City of Warrenton Mooring Basin. Also included is Warrenton Boat Works and other lands around the mooring basin in the C-2 and RC zones. This site covers about 30.1 acres of shorelands. About 18 acres are currently in water-dependent use.

West Bank of the Skipanon Peninsula: The west bank of the Skipanon River is occupied by a saw mill owned by Weyerhaeuser. About 65 acres are committed to water-dependent use according to the 1999 CREST study. The entire site contains about 122 acres of shorelands in a water-dependent shorelands zone (I-2).

Tansy Point: Warrenton Wood Fiber, Point Adams Packing, BioProducts, and Carruthers

Warrenton, Oregon, 97146-4400, 503.863.1000, www.warrentonoregon.gov

Equipment occupy a portion of the water-dependent site centered around Tansy Point. The entire site consists of about 173 acres of shorelands in a water-dependent development shorelands zone (I-2). According to a 1999 CREST study, Warrenton Wood Fiber occupies about 40 acres. Point Adams Packing covers about four acres. The water-dependent portion of BioProducts covers about six acres. The balance of the site, 123 acres, is either vacant or occupied with non-water-dependent uses.

Hammond Mooring Basin: This site consists of land zoned for water-dependent development around the Hammond Marina, in the northwest part of the City. The site consists of about 39.4 acres of shorelands in the RC zone, a water-dependent development shorelands zone. Approximately 20 acres are used for water-dependent purposes, primarily marina parking and dredged material disposal.

Based on this analysis, the Goal 17 administrative rule requires that Warrenton protect at least 202 acres of shorelands for water-dependent use. Under the current zoning, the City protects about 403 acres for water-dependent uses. See Table 2 below.

Table 2: Current Water-Dependent Zoning

SITE	CURRENT (acres)
East Skipanon Peninsula	40
West Skipanon Peninsula	122
Warrenton Mooring Basin	30
Tansy Point	173
Hammond Mooring Basin	39
TOTAL	403

5.303 Diking: These policies apply to the construction, maintenance and repair of flood control dikes in Columbia River Estuary shoreland and aquatic areas. These policies do not apply to dredged material containment dikes.

- (1) Dike breaching or removal may be permitted as part of a restoration or mitigation project subject to the applicable Mitigation and Restoration Policies.
- (2) New dike alignment or configuration shall not cause an increase in erosion or shoaling in adjacent areas, or an appreciable increase in seasonal water levels behind dikes. Waterway channelization shall be avoided.
- (3) New dikes shall be placed on shorelands rather than in aquatic areas unless part of an approved fill project, as a temporary flood protection measure, or subject to an exception to the Statewide Planning Goal 16.
- (4) The effects of limited intertidal dredging along fringing marshes for the purposes of dike maintenance are not well-known. A small pilot project to determine these impacts should be

undertaken.

5.305 Dredging and Dredged Material Disposal. These policies are applicable to all estuarine dredging operations and to both estuarine shoreland and aquatic dredged material disposal in the Columbia River Estuary.

(1) New and maintenance dredging shall be allowed only:

- (a) If required for navigation or other water-dependent uses that require an estuarine location or if specifically allowed by the applicable zone; and
- (b) If a need (i.e., a substantial public benefit) is demonstrated; and
- (c) If the use or alteration does not unreasonably interfere with public trust rights; and
- (d) If no feasible alternative upland locations exist; and
- (e) If adverse impacts are minimized.

(2) Dredging and dredged material disposal shall not disturb more than the minimum area necessary for the project and shall be conducted and timed so as to minimize impacts on wetlands and other estuarine resources. Loss or disruption of fish and wildlife habitat and damage to essential properties of the estuarine resource shall be minimized by careful location, design, and construction of:

- (a) Facilities requiring dredging; and
- (b) Sites designated to receive dredged material; and
- (c) Dredging operation staging areas and equipment marshalling yards.

Dredged materials shall not be placed in intertidal or tidal marsh habitats or in other areas that local, state, or federal regulatory agencies determine to be unsuitable for dredged material disposal. Exceptions to the requirement concerning disposal in an intertidal or tidal marsh area include use of dredged material as a fill associated with an approved fill project or placement of dredged materials in the sandy intertidal area of a designated beach nourishment site. Land disposal shall enhance or be compatible with the final use of the site area.

(3) The effects of both initial and subsequent maintenance dredging, as well as dredging equipment marshalling and staging, shall be considered prior to approval of new projects or expansion of existing projects. Projects shall not be approved unless disposal sites with adequate capacity to meet initial excavation dredging and at least five years of expected maintenance dredging requirements are available.

(4) Dredging subtidal areas to obtain fill material for dike maintenance may be allowed under some circumstances (see the Zoning Ordinance). Some dikes in the estuary are not accessible by barge-mounted dredges or land-based equipment. Dredging intertidal areas to obtain fill material may be the only option for maintaining these dikes. Approval of intertidal dredging will require an exception to Statewide Planning Goal 16.

(5) Where a dredged material disposal site is vegetated, disposal should occur on the smallest land area consistent with sound disposal methods (e.g., providing for adequate de-watering of dredged sediments, and avoiding degradation of receiving waters). Clearing of land should occur in stages and only as needed. It may, however, be desirable to clear and fill an entire site at one time, if the site will be used for development immediately after dredged material disposal. Reuse of existing disposal sites is preferred to the creation of new sites provided that the dikes surrounding the site are adequate or can be made adequate to contain the dredged materials.

Dredged Material Disposal Site Selection And Site Reservation Policies

(6) When identifying land dredged material disposal sites, emphasis shall be placed on sites where (not in priority order):

- (a) The local designation is Development provided that the disposal does not preclude future development at the site;
- (b) The potential for the site's final use will benefit from deposition of dredged materials;
- (c) Material may be stockpiled for future use;
- (d) Dredged spoils containing organic, chemical, and/or other potentially toxic or polluted materials will be properly contained, presenting minimal health and environmental hazards due to leaching or other redistribution of contaminated materials;
- (e) Placement of dredged material will help restore degraded habitat; or where
- (f) Wetlands would not be impacted.

Important fish and wildlife habitat, or areas with scenic, recreational, archaeological, or historical values that would not benefit from dredged material disposal and sites where the present intensity or type of use is inconsistent with dredged material disposal shall be avoided. The use of agricultural or forest lands for dredged material disposal shall occur only when the project sponsor can demonstrate that the soils can be restored to agricultural or forest productivity after disposal use is completed. In cases where this demonstration cannot be made, an exception to the Oregon Statewide Planning Goal 3 or 4 must be approved prior to the use of the site for dredged material disposal. The use of shoreland water-dependent development sites for dredged material disposal shall occur only when the project sponsor can demonstrate that the dredged material placed on the site will be compatible with current and future water-dependent development. Dredged material disposal shall not occur in major marshes, significant wildlife habitat and exceptional aesthetic

resources designated under Oregon Statewide Planning Goal 17.

Engineering factors to be considered in site selection shall include: size and capacity of the site; dredging method; composition of the dredged materials; distance from dredging operation; control of drainage from the site; elevation; and the costs of site acquisition, preparation and revegetation.

(7) Estuarine in-water disposal sites shall be in Development Aquatic areas identified as low in benthic productivity, unless the disposal is to provide fill material for an approved fill project, and where disposal at the site will not have significant adverse hydraulic effects. Estuarine in-water disposal sites shall only be designated and used when it is demonstrated that no feasible land or ocean disposal sites with less damaging environmental impacts can be identified and biological and physical impacts are minimal. An in-water disposal site shall not be used if sufficient sediment type and benthic data are not available to characterize the site.

(8) Flowlane disposal sites shall only be allowed in Development Aquatic areas within or adjacent to a channel. The Development Aquatic area adjacent to the channel shall be defined by a line 600 feet from either side of the channel or the 20-foot bathymetric contour, whichever is closer to the channel. Flowlane disposal within this area shall only be allowed where:

- (a) Sediments can reasonably be expected to be transported downstream without excessive shoaling,
- (b) Interference with recreational and commercial fishing operations, including snag removal from gillnet drifts, will be minimal or can be minimized by applying specific restrictions on timing or disposal techniques,
- (c) Adverse hydraulic effects will be minimal,
- (d) Adverse effects on estuarine resources will be minimal, and
- (e) The disposal site depth is between 20 and 65 feet below MLLW.

(9) Beach nourishment sites shall only be designated on sandy beaches currently experiencing active erosion. Dredged material disposal at beach nourishment sites shall only be used to offset the erosion and not to create new beach or land areas. Beach nourishment sites shall not be designated in areas where placement or subsequent erosion of the dredged materials would adversely impact tidal marshes or productive intertidal or shallow subtidal areas. Designation of new beach nourishment sites shall require an exception to Statewide Planning Goal 16.

(10) Dredged material disposal sites with adequate capacity to accommodate anticipated dredging needs for at least a five year period shall be identified and designated. Additional sites may also be designated. All dredged material disposal sites shall receive a Priority I or II designation with respect to its suitability and importance for meeting five-year dredging needs.

(a) Priority 1 Dredged Material Disposal Sites

Sites which are essential for meeting anticipated five-year disposal needs shall receive a Priority 1 designation. Priority 1 shoreland sites shall be protected from incompatible and preemptive uses to ensure adequate sites will remain available to accommodate five-year disposal needs. Incompatible and preemptive uses include:

- Uses requiring substantial structural or capital improvements (e.g., construction of permanent buildings, water and sewer service connections);
- Uses that require alteration of the topography of the site, thereby affecting the drainage of the area or reducing the potential useable volume of the dredged material disposal site (e.g., extensive site grading or excavation, elevation by placement of fill materials other than dredged spoils);
- Uses that include changes made to the site that would prevent expeditious use of the site for dredged material disposal. Such uses would delay deposition of dredged material on the site beyond the period of time commonly required to obtain the necessary federal, state and local dredging and dredged material disposal permits (approximately 90 days);

(Note: Examples of non-preemptive or compatible uses of shoreland dredged material disposal sites are: unimproved parking lots, equipment storage yards, materials marshalling yards, log storage and sorting yards, and undeveloped recreation areas, campgrounds or recreational vehicle parking areas.)

Incompatible or preemptive uses shall not be allowed at shoreland Priority 1 dredged material disposal sites unless the site is removed by plan amendment upon demonstration that either:

- (1) The site has been filled to capacity and is available for other uses, or
- (2) The site is, in fact, not required to accommodate anticipated five-year disposal needs, or
- (3) A new Priority 1 site has been designated to replace the site being removed.

(b) Priority II Dredged Material Disposal Sites

Dredged material disposal sites which are not required for anticipated five-year disposal needs but which may be required to meet longer-range needs shall be given a Priority II designation. The importance of these sites, as compared with Priority I sites, does not justify efforts to reserve all or portions of each site from possible preemptive uses.

A 30-day freeze shall be placed on preemptive development requests (as defined in (a), above), for the purpose of allowing affected government agencies or private interests to negotiate

for the use of the property as a disposal site. Individual jurisdictions may choose to run this freeze concurrently or in addition to the normal permit process. If there is no expressed interest in use of the site for dredged material disposal during the freeze period, the development request shall be reviewed under normal procedures. If the request is approved, the entire site or affected portions of the site shall be removed from the dredged material disposal plan by plan amendment.

(11) In order to ensure the adequacy of identified dredged material disposal site capacities for anticipated five-year disposal requirements, an analysis of the dredge material disposal site inventory shall be completed every five years. The analysis shall include:

- (a) A determination of the Priority 1 sites utilized for dredged material disposal and the volume received by each site during the preceding period, noting also the project source of the dredged material and the interval separating the most recent from the next anticipated dredging event.
- (b) A determination of the number and usable volume of Priority 1 sites remaining in the inventory, and the relationship between these sites and present or expected navigation-related dredging or water-dependent development projects in the following five year period, and the number and useable volume of Priority II sites identified in the inventory.
- (c) An identification of the Priority II or other additional sites to be added to the Priority 1 inventory.
- (d) An analysis of the adequacy of the dredged material site inventory shall include notification of an communication of up-dated inventory information to affected property owners and local, state and federal governmental agencies. Of particular importance is the addition, deletion, or change in priority of dredged material disposal sites.
- (e) Each jurisdiction shall cooperate with other jurisdictions on the Columbia River Estuary in monitoring of dredged material site availability and in dredged material disposal plan update.

5.307 Estuarine Construction. These policies apply to over-water and in-water structures such as docks, bulkheads, moorages, boat ramps, boat houses, jetties, pile dikes, breakwaters and other structures involving installation of piling or placement of riprap in Columbia River Estuary aquatic areas, and to excavation of shorelands for creation of new water surface area. This section does not apply to structures located entirely on shorelands or uplands, but does apply to structures, such as boat ramps, that are in both aquatic and shoreland designations.

- (1) Proper stream-side vegetation management is the preferred method of shoreline stabilization, followed by planting of new vegetation, installation of riprap and installation of a bulkhead.
- (2) Navigational structures, such as breakwaters, jetties, groins, and pile dikes are major estuary alterations with long term biological and physical effects. Proposals for new or enlarged

navigational structures, or for removal of existing structures, must demonstrate that expected benefits outweigh potential adverse impacts on estuarine productivity.

(3) New non-water-dependent uses in aquatic areas or in shoreland areas zoned Water-Dependent Industrial Shorelands, Marine Commercial Shorelands or, shall not preclude or pose any significant conflicts with existing, proposed or probable future water-dependent uses on the site or in the vicinity.

(4) Piling or dolphin installation, structural shoreline stabilization, and other structures not involving dredge or fill, but which could alter the estuary may be allowed only if all of the following criteria are met:

- (a) A substantial public benefit is demonstrated; and
- (b) The proposed use does not unreasonably interfere with public trust rights; and
- (c) Feasible alternative upland locations do not exist; and
- (d) Potential adverse impacts, as identified in the impact assessment, are minimized.

(5) Individual single-purpose docks and piers are discouraged in favor of community moorage facilities common to several uses and interests. The size and shape of a dock or pier shall be limited to that required for the intended use. Alternatives to docks and piers, such as mooring buoys, dryland storage, and launching facilities shall be investigated and considered.

5.309 Fill. These policies apply to the placement of fill material in the tidal wetlands and waters of the Columbia River Estuary. These policies also apply to fill in non-tidal wetlands in shoreland designations that are identified as "significant" non-tidal wetlands.

(1) New non-water-dependent uses in aquatic areas and in areas zoned Marine Commercial Shoreland or, Water-Dependent Industrial Shorelands shall not preclude or pose any significant conflicts with existing, proposed or probable future water-dependent uses on the site or in the vicinity.

(2) Reduction of surface area or volume of aquatic areas and significant non-tidal wetlands in shoreland areas shall be minimized in the location and design of facilities requiring fill.

(3) Construction on piling is preferred over construction on fill.

(4) Mitigation may be required for fills (see Mitigation and Restoration Policies).

(5) Fill in estuarine aquatic areas may be permitted only if all of the following criteria are met:

- (a) If required for navigation or for other water-dependent uses requiring an estuarine

location, or if specifically allowed under the applicable aquatic zone; and

- (b) A substantial public benefit is demonstrated; and
- (c) The proposed fill does not unreasonably interfere with public trust rights; and
- (d) Feasible upland alternative locations do not exist; and
- (e) Adverse impacts, as identified in the impact assessment, are minimized.

5.311 Fish and Wildlife Habitat. These policies apply to uses and activities with potential adverse impacts on fish or wildlife habitat, both in Columbia River estuarine aquatic areas and in estuarine shorelands.

- (1) Endangered or threatened species habitat shall be protected from incompatible development.
- (2) Measures shall be taken protecting nesting, roosting, feeding and resting areas used by either resident or migratory bird populations.
- (3) Major non-tidal marshes, significant wildlife habitat, coastal headlands, and exceptional aesthetic resources within the Estuary Shorelands Boundary shall be protected. New uses in these areas shall be consistent with the protection of natural values, and may include propagation and selective harvest of forest products, grazing, harvesting, wild crops, and low intensity water-dependent recreation.

5.313 Fisheries and Aquaculture. These policies apply to all projects that could conceivably affect fisheries (either commercial or recreational) or aquaculture in the Columbia River Estuary. This subsection is also applicable to the development of aquaculture facilities and to fisheries enhancement projects.

- (1) Traditional fishing areas shall be protected when dredging, filling, pile driving or when other potentially disruptive in-water activities occur.
- (2) Sufficient space for present and anticipated needs shall be reserved for the following uses:
 - Fishing vessel moorage;
 - Seafood receiving and processing;
 - Boat repair;
 - Gear storage;
 - Ice making;
 - Cold storage;
 - Other seafood industry support facilities.

- (3) Increased hatchery production and other fish enhancement efforts shall be supported where feasible, and when consistent with other applicable plan provisions.
- (4) Aquaculture facility location, design and operation shall minimize adverse impacts on estuarine and shoreland habitat, navigation channels, water quality, and public access points.
- (5) Existing aquaculture and hatchery facilities and areas identified as having significant aquaculture potential shall be protected from conflicting uses.
- (6) Aquaculture and hatchery structures shall not interfere with commercial or recreational navigation.
- (7) The following development sites (described in the *Economic Evaluation of the Columbia River Estuary*, as well as other potential development sites in the Columbia River Estuary, are suitable for development or expansion of facilities related to commercial fishing and seafood processing. Facilities that could be developed at these sites include, but are not limited to commercial fishing vessel moorage; fuel; ice; fish receiving facilities; gear storage; marine hardware sales and repair; seafood processing and storage facilities; boat building and repair; upland boat storage; and related facilities.

Tansy Point
Warrenton Boat Basin
East Hammond
Ilwaco Boat Basin
Chinook Boat Basin
Cathlamet Boat Basin
AMCCO
South Astoria
Port of Astoria
East Astoria

These sites are in Water-Dependent Development Shorelands, Development Shorelands, Development Aquatic and Conservation Aquatic designations in the *Columbia River Estuary Regional Management Plan*. Other sites may also be suitable for commercial fishing and seafood processing facilities.

5.315 Land Transportation System. These policies apply to the maintenance and construction of railroads, roads and bridges in Columbia River estuary shoreland and aquatic areas. Public, as well as private facilities are covered under this subsection. Forest roads, however, are excluded.

- (1) New non-water-dependent uses in aquatic areas or in Marine Commercial Shorelands or Water-Dependent Industrial Shorelands shall not preclude or pose any significant conflicts with existing, proposed or probable future water-dependent uses on the site or in the vicinity.

- (2) Land transportation systems shall be maintained and improved to support existing urban areas, allow industrial site development and support rural and recreational uses.
- (3) New land transportation routes shall not be located in aquatic areas or in significant non-tidal wetlands in shoreland areas except where bridges are needed, and where no feasible alternative route exists.
- (4) New land transportation routes shall be located so as not to reduce or downgrade the potential for development of Marine Commercial Shorelands, Water-Dependent Industrial Shorelands, or Development Aquatic areas.
- (5) When feasible, new public roads in scenic areas shall provide rest areas, view-points and facilities for safe bicycle and pedestrian travel.
- (6) Construction of new land transportation facilities and maintenance of existing land transportation facilities shall be undertaken in a manner that minimizes expected impacts on aquatic and shoreland estuarine resources.

5.317 Log Storage. These policies apply to the establishment of new, and the expansion of existing, log storage and sorting areas in Columbia River Estuary aquatic and shoreland areas.

- (1) New or expanded aquatic area log storage facilities shall be designed and located so as to minimize potential adverse impacts on aquatic habitat.

5.319 Mining and Mineral Extraction. These policies are applicable to the extraction of sand, gravel, petroleum products and other minerals from both submerged lands under aquatic areas and from shoreland areas in the Columbia River Estuary. These policies and standards are also applicable to outer continental shelf mineral development support facilities built in the estuary.

- (1) Proposals for aquatic and shoreland area mining may be approved subject to protection of adjacent property and fishery resources from potential adverse impacts, including sedimentation and siltation.
- (2) Mining operations in aquatic and shoreland areas shall use technology and practices which minimize potential damage to estuarine resources.
- (3) Mineral extraction or gravel or sand dredging from the estuary may be permitted only when these resources are not otherwise available at an economically feasible upland location.
- (4) Aquatic area mining or mineral extraction projects may be approved only for the least biologically sensitive areas.
- (5) Mining and mineral extraction activities shall not be approved in areas of major marshes,

significant fish and wildlife habitat, or exceptional aesthetic resources.

(6) Wastewater associated with mining shall be handled in a manner that preserves water quality.

(7) The surface mining regulations administered by the Oregon Department of Geology and Mineral Industries shall be relied upon with respect to surface mining practices.

(8) The following development sites (described in the *Economic Evaluation of the Columbia River Estuary*), as well as other potential development in the Columbia River Estuary, are suitable for development of offshore mineral development support facilities:

Tansy Point
West Skipanon Peninsula
Ilwaco Boat Basin
Port of Astoria
East Astoria
Tongue Point

Several different types of facilities could be associated with offshore mineral development at these sites, and at other sites. The need for sites designated for activities associated with offshore mineral development will be reevaluated after Outer Continental Shelf areas adjacent to the Oregon and Washington coast are leased. These sites are designated Water-Dependent Development Shorelands in the *Columbia River Estuary Regional Management Plan*.

5.321 Mitigation and Restoration. These policies apply to estuarine restoration and mitigation projects on Columbia River Estuary aquatic areas and shorelands.

Mitigation Policies for Aquatic Areas and Non-tidal Wetlands

(1) Any fill activities that are permitted in Columbia River Estuary aquatic areas or dredging activities in intertidal and shallow to medium depth subtidal areas shall be mitigated through project design and/or compensatory mitigation (creation, restoration or enhancement) to ensure that the integrity of the estuary ecosystem is maintained. The Comprehensive Plan shall designate and protect specific sites for mitigation which generally correspond to the types and quantity of aquatic area proposed for dredging or filling.

(2) Mitigation for fill in estuarine aquatic areas or dredging in intertidal and shallow to medium depth subtidal areas of the Columbia River Estuary planning area shall be implemented through the following mitigation actions:

Project Design Mitigation Actions

(a) Avoiding the impact altogether by not taking a certain action or parts of an action;

- (b) Minimizing impacts by limiting the degree or magnitude of action and its implementation;
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment (e.g., removing wetland fills, rehabilitation of a resource use and/or extraction site when its economic life is terminated);
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations;

Compensatory Mitigation Actions

- (e) Creation, restoration, or enhancement of an estuarine area to maintain the functional characteristics and processes of the estuary, such as its natural biological productivity, habitats, and species diversity, unique features and water quality.

Any combination of the above actions may be required to implement mitigation requirements. The compensatory mitigation actions listed in section (e) shall only be implemented after impact avoidance, reduction and rectification techniques have been considered, and unavoidable adverse impacts remain.

(3) The full array of wetland and aquatic area values shall be addressed when making mitigation site decisions and when designing mitigation action requirements. The list includes but is not limited to: fish and wildlife habitat, flood storage and de-synchronization, food chain support, passive recreation, shoreline anchoring and water purification functions.

(4) All mitigation actions shall be required to begin prior to or concurrent with the associated development action.

(5) Developments in low-value diked freshwater non-tidal wetlands can be mitigated by treating estuarine restorations or creations as in-kind mitigation actions. The final decision on the relative value of diked freshwater non-tidal wetland shall be made through a cooperative effort between Warrenton and state and federal regulatory agencies. Values considered shall include but are not restricted to fish and wildlife habitat, flood storage and de-synchronization, food chain support, passive recreation, shoreline anchoring and water purification functions.

(6) If any of the compensatory mitigation actions are required, Warrenton shall request that the U.S. Fish and Wildlife Service make a Resource Category determination for the site proposed for development. The classification shall be listed on the permit application and review notice. If the area subject to impact is in a Resource Category 2 or lower (4 = lowest), the following sequence of mitigation options shall be considered:

- In-Kind/On-Site

- In-Kind/Off-Site
- Out-of-Kind/On-Site
- Out-of-Kind/Off-Site

(7) If out-of-kind mitigation is found to be the only option, the applicant shall first seek restoration of historically and/or present-day scarce habitat types.

(8) All completed mitigation sites shall be adequately buffered from development and other activities to minimize the potential adverse impacts on the mitigation site. Buffer requirements shall be determined through a cooperative effort between Warrenton and state and federal regulatory agencies.

(9) No mitigation action shall endanger or obstruct adjacent properties. The potential for present or future endangerment or obstruction shall be determined in advance of the mitigation action. Responsibility for rectifying potential damage to adjacent property shall be determined prior to permit approval.

(10) Warrenton will cooperate with CREST and state and federal resource agencies in the periodic review of the region's mitigation plan. Reviews shall occur every four to seven years. The review shall include reexamination of site availability, degree of plan implementation, changed policies and legal requirements and possible new projects that may require mitigation.

(11) Additional mitigation sites shall be designated by local jurisdictions as the need arises. New designations shall be coordinated with CREST, Warrenton, state and federal resource agencies. New sites shall be subject to the same policies and standards as sites presently designated.

(12) All designated mitigation sites shall be protected and shall facilitate mitigation actions through appropriate zoning ordinance measures. For any new site not designated in the plan, but included or partially included in the shoreland base or overlay zone, mitigation shall be implemented through the shoreland base or overlay zone. If the new site is only partially included in the shoreland base or overlay zone, the portion of the site outside the shoreland base or overlay zone shall be treated as though it is inside the zone.

(13) Estuarine alterations in Washington can be mitigated by actions in Oregon and vice versa if local and state authorities from both states and federal authorities with statutory responsibility for administering mitigation requirements approve the mitigation site selected and the mitigation action proposed.

(14) Shorelands that are in a Marine Commercial Shorelands Zone or Water-Dependent Industrial Shorelands Zone, can only be used for mitigation subject to a finding that the use of the site for mitigation will not preclude or conflict with water-dependent uses.

(15) Full consideration shall be given to existing significant Goal 17 resources when designing a

mitigation project that may potentially alter, impair or destroy all or any portion of these resources. The minimum consideration will be to discount value from the credit potential of the mitigation action proportional to the existing value of the Goal 17 resource. Significant Goal 17 resource areas (major marshes, significant wildlife habitat and exceptional aesthetic resources) can only be used for mitigation subject to a finding that the use of the site for mitigation will be consistent with the protection of natural values.

(16) Any acquisition strategy for bringing designated mitigation sites (pre- or post-mitigation action) into public ownership or into ownership of a private nonprofit land trust organization is encouraged.

(17) All mitigation sites designated on public lands shall remain in public ownership.

(18) An area in forest production, and considered for mitigation purposes, shall be evaluated for its present use value and compared with its potential value as a wetland before conversion of the site is acceptable.

(19) A developer may create, restore or enhance more wetland area than required for immediate development impacts. Subject to federal, state and local approval, this "surplus mitigation" may be credited against future development. The reserve wetland area shall not be considered a mitigation bank unless it is acquired and managed by the Division of State Lands.

(20) After a mitigation action takes place Warrenton shall amend its plan and implement a zone change for the site to reflect the aquatic character of the site.

Mitigation Bank Policies

(21) Any area where a mitigation action has taken place, and mitigation credits are available for future development, and the site is owned and managed by a federal or state land management agency, shall be designated as a mitigation bank. Oregon Division of State Lands shall be responsible for administration of a mitigation bank area throughout the period it serves as a bank.

(22) An agreement between Warrenton and state and federal authorities shall serve as the implementing instrument establishing a mitigation bank and for continuing management of a bank. Such an agreement is necessary to document the initial conditions of a bank's formation, including the means by which a mitigation bank shall be administered. The agreement shall also detail ownership of the site and include an itemized presentation of project costs, a technical plan outlining the habitat mitigation action, and include the number of mitigation credits available in the bank. A plan for monitoring the mitigation site shall be provided, including the goals, costs, and responsibility of the monitoring program. The agreement shall specify the mechanisms by which mitigation "credits" will be transferred from the bank and applied to the activity qualifying for use of the bank. The agreement shall also specify the means by which proportional mitigation bank creation costs will be assessed.

(23) Mitigation credits in mitigation banks shall be reserved for use by small scale development

projects (5 acres or less of impacted wetland and/or aquatic area). This does not apply to the Airport Mitigation Bank.

(24) A variety of habitats shall be created in a mitigation bank whenever possible, such that the opportunity of replacement for wetland resources lost to a variety of development activities is possible. The mitigation bank shall be of sufficient capacity to meet the requirements of a number of expected development projects.

(25) Mitigation banks shall be created by written agreement with the Director of Oregon Division of State Lands (DSL) and shall be administered by DSL. Such agreements shall provide the basis for creation and operation of the bank and shall specifically provide for the following:

- (a) The exact location of the real property.
- (b) Proof of ownership or control, i.e., deed or title report.
- (c) The nature and extent of the mitigation action. This analysis shall require information about the site salinity, elevation, wave and current actions, substrate, and other physical and biological characteristics.
- (d) How and when the mitigation action shall be performed.
- (e) A statement of informed opinion as to what habitat shall result from the action and a statement as to the relative value of each anticipated habitat type.
- (f) How the resulting changes shall be monitored and evaluated [OAR 141-85-254 (12, 14)] and what contingencies are planned if goals are not satisfied within a reasonable time period.
- (g) How the mitigation bank shall be protected (e.g., dedication, conservation easement, deed transfer).
- (h) How funding for necessary construction or alteration work and potential remedial action shall be guaranteed (e.g., bonding).
- (i) The price that may be charged for credits from the bank.

(26) Applicants for removal and fill permits requiring mitigation are not obligated, or automatically entitled, to use an existing mitigation bank to meet the mitigation needs of any project. Permit applicants shall negotiate directly with the administrator of the bank, resource agencies, and regulatory agencies to secure the right to use the bank. Agreements between the administrator of the bank and the permit applicant are subject to the City's approval of the number of mitigation credits charged against the bank.

Restoration Policies for Aquatic Areas and Non-tidal Wetlands

- (27) Restoration of tidal and non-tidal wetlands in the Columbia River Estuary area may be done either as a mitigation action or as an action outside of the context of mitigation.
- (28) Restoration outside of the context of mitigation shall be allowed at designated mitigation sites if the site is a middle or low priority site and findings are made that it is no longer needed for mitigation.
- (29) All restoration projects shall serve to revitalize, return, replace or otherwise improve the wetland and aquatic ecosystems in the Columbia River Estuary area. Examples include restoration of natural biological productivity, fish and wildlife habitat, aesthetic or historic resources that have been diminished or lost due to past alterations, activities, or catastrophic events. In selecting projects, priority shall be given to those projects which provide substantial public benefits and which restore those wetland and aquatic habitat types, resources, or amenities which are in shortest supply compared to past abundance.
- (30) After a restoration takes place Warrenton shall amend its plan and implement a zone change for the restored area to reflect the aquatic character of the site.
- (31) Restoration of economically marginal and unused low-lying diked areas to estuarine wetland shall be encouraged; active restorations to provide potential for diverse habitat (e.g., mudflat and marsh) as well as passive restorations are encouraged. Except through public condemnation procedures, removal of dikes or excavation on private lands shall not occur without consent of the landowner.
- (32) Shorelands in a Marine Commercial Shorelands Zone or Water-Dependent Industrial Shorelands Zone can only be used for restoration subject to a finding that the use of the site for restoration will not preclude or conflict with water-dependent uses.
- (33) Significant Goal 17 resource areas (major marshes, significant wildlife habitat, and exceptional aesthetic resources) can only be used for restoration subject to a finding that the use of the site for restoration will be consistent with protection of its natural values.
- (34) Consideration shall be given to restoring water circulation in historically shoaled areas. Circulation enhancements must outweigh any potential damages to wetlands before they are implemented.
- (35) Old piling, navigational structures, and buildings that are a hazard to navigation and contribute to excessive shoaling, or pose a threat to life or property shall be removed. Prior to removal, the costs and benefits associated with removal shall be evaluated. Factors requiring consideration include:

Potential erosion or sedimentation problems that may result from removal;

The structure's habitat value and probable longevity; and

The structure's historic and scenic values.

(36) Restoration of riparian vegetation around wetlands and waterways in the Columbia River Estuary planning area is a high priority. Protection of these areas shall be implemented using various strategies (e.g., zoning, acquisitions, easements, and transfer of development rights).

Long Term Mitigation and Restoration Policies

(37) Federal and state resource agencies should be requested to intensify existing programs to identify Resource Categories of wetlands and Section 404 wetlands in the Columbia River Estuary area to give developers greater certainty regarding available development sites and potential mitigation requirements. The net result shall be greater certainty and a more streamlined permit process.

(38) CREST shall make an effort to develop a program to identify and assess the relative values of non-tidal wetlands. This inventory effort shall provide baseline data that can be used to give greater certainty regarding site potential for development and mitigation requirements.

(40) A method of quantifying enhancement credits for estuarine and non-estuarine wetland mitigation should be developed. A method for quantifying non-estuarine wetland values should also be developed and incorporated into local statutes. Ideally, this system should be compatible with the system used in Oregon's Estuarine Mitigation Law. The system would have to be reviewed and accepted by state and federal resource and regulatory agencies.

(41) A system should be devised whereby wetland impacts that are allowed under a regional or nationwide permit, and that do not require any permit procedure, may be reported to the local government so that an accurate record of cumulative wetland impacts can be maintained.

(42) The following framework for restoration implementation is recommended for the Columbia River Estuary:

(a) Develop and provide educational materials for landowners explaining the benefits of natural area protection and various options for restoring land to natural conditions and protecting the restored land.

(b) Establish an incentive system in the Columbia River Estuary area whereby landowners can effectively utilize a variety of options for restoration and protection of their land.

(c) Identify landowners with economically marginal production land (e.g., forest or agricultural production), that was historically wetland, and to inform them of any incentive-oriented restoration systems for restoration and encourage their participation.

(43) The following techniques are suggested as potential methods to establish a wetland restoration

and protection incentive system:

- (a) Development of effective acquisition power through private non-profit organizations and federal and state grants (acquisition may be through sale, trade or land donations). Public ownership is encouraged.
- (b) Protection through restrictions while landowners retain title to the land, (e.g., conservation easements, mutual covenants, deed restrictions and leases).
- (c) Provide tax incentives for landowners that allow restoration to take place on their land.
- (d) Deed restrictions, wildlife easements or fee acquisition on Farmers Home Administration farm foreclosure inventory lands.

5.323 Public Access. These policies are applicable to uses and activities in Columbia River Estuary shoreland and aquatic areas which directly or indirectly affect public access. "Public access" is used broadly here to include direct physical access to estuary aquatic areas (boat ramps, for example), aesthetic access (viewing opportunities, for example), and other facilities that provide some degree of public access to Columbia River Estuary shorelands and aquatic areas.

- (1) Existing public ownerships, right-of-ways, and similar public easements in estuary shorelands which provide access to or along the estuary shall be retained or replaced if sold, exchanged or transferred. Right-of-ways may be vacated to permit redevelopment of shoreland areas provided public access across the affected site is retained.
- (2) Public access in urban areas shall be preserved and enhanced through water-front restoration and public facilities construction, and other actions consistent with Warrenton's public access plan.
- (3) Proposed major shoreline developments shall not, individually or cumulatively, exclude the public from shoreline access to areas traditionally used for fishing, hunting or other shoreline activities.
- (4) Special consideration shall be given toward making the estuary accessible for the physically handicapped or disabled.
- (5) Warrenton will develop and implement programs for increasing public access.
- (6) The City will cooperate with the State Parks Division on issues concerning Fort Stevens State Park.
- (7) The City will consider the recreational and public access value of any public lands proposed to be leased or sold to private interests, or used for public purposes which would reduce needed public access. The City will hold a public hearing to dispose of or lease public property, and will consider public input.

5.325 Recreation and Tourism. These policies are applicable to recreational and tourist-oriented facilities in Columbia River Estuary shoreland and aquatic areas.

(1) New non-water-dependent uses in aquatic areas or in areas zoned Marine Commercial Shorelands or Water-Dependent Industrial Shorelands shall not preclude or pose any significant conflicts with existing, proposed or probable future water-dependent uses on the site or in the vicinity.

(2) Recreation uses in waterfront areas shall take maximum advantage of their proximity to the water by providing water access points, waterfront viewing areas, and structures visually compatible with the waterfront.

(3) The following sites (described in the *Economic Evaluation of the Columbia River Estuary*), as well as other potential development sites in the Columbia River Estuary, are suitable for estuary-related recreational development, including moorage, boat building and repair, charter offices, fuel, boat ramps, and associated facilities;

Warrenton Boat Basin
Hammond Boat Basin
Ilwaco Boat Basin
Chinook Boat Basin
Skamokawa
Cathlamet Boat Basin
South Astoria
Port of Astoria
East Astoria
Bradwood

Development of a new recreational marina at any of these sites, or at another site in the Columbia River Estuary, will trigger reevaluation of the need for remaining vacant sites designated for recreational development.

5.327 Residential, Commercial and Industrial Development. These policies apply to construction or expansion of residential, commercial or industrial facilities in Columbia River Estuary shoreland and aquatic areas. Within the context of this subsection, residential uses include single and multi-family structures, mobile homes, and floating residences (subject to an exception to Oregon Statewide Planning Goal 16). Duck shacks, recreational vehicles, hotels, motels and bed-and-breakfast facilities are not considered residential structures for purposes of this subsection. Commercial structures and uses include all retail or wholesale storage, service or sales facilities and uses, whether water-dependent, water-related, or non-dependent, non-related. Industrial uses and activities include facilities for fabrication, assembly, storage, and processing, whether water-dependent, water-related or non-dependent non-related.

- (1) New non-water-dependent uses in aquatic areas and in Marine Commercial Shorelands or Water-Dependent Industrial Shorelands shall not preclude or pose any significant conflicts with existing, proposed or probable future water-dependent uses on the site or in the vicinity.
- (2) Residential, commercial or industrial development requiring new dredging or filling of aquatic areas may be permitted only if all of the following criteria are met:
 - (a) The proposed use is required for navigation or other water-dependent use requiring an estuarine location, or if specifically allowed in the applicable aquatic zone; and
 - (b) A substantial public benefit is demonstrated; and
 - (c) The proposed use does not unreasonably interfere with public trust rights; and
 - (d) Feasible alternative upland locations do not exist; and
 - (e) Potential adverse impacts are minimized.
- (3) Piling or dolphin installation, structural shoreline stabilization, and other structures not involving dredge or fill, but which could alter the estuary may be allowed only if all of the following criteria are met:
 - (a) A substantial public benefit is demonstrated; and
 - (b) The proposed use does not unreasonably interfere with public trust rights; and
 - (c) Feasible alternative upland locations do not exist; and
 - (d) Potential adverse impacts are minimized.

5.329 Shallow-Draft Port and Marina Development. These policies apply to development of new marinas and improvement of existing marinas in aquatic areas of the Columbia River Estuary. Also covered are adjacent shoreland support facilities that are in conjunction with or incidental to the marina. Included under this subsection's coverage are both public and private marinas for either recreational, charter or commercial shallow draft vessels.

- (1) Proliferation of individual single-purpose docks and moorages is discouraged. Public or commercial multi-vessel moorage is preferred. The size and shape of a dock or pier shall be limited to that required for the intended use. Alternative to docks and piers, such as mooring buoys, dryland storage, and launching facilities, shall be investigated and considered.
- (2) Navigational access to the estuary and its tributaries shall be maintained. Peripheral channels, streams and sloughs shall not be closed to navigation. Necessary maintenance dredging for

traditional moorage areas shall be allowed, subject to the requirements of the designation, state and federal permits, and local plan and ordinance provisions.

5.331 Significant Areas: These policies are intended to protect certain shoreland and aquatic resources with estuary-wide significance. Significant shoreland resources are identified as such in the area and subarea description. Significant aquatic resources are found in Natural Aquatic areas. This subsection applies only to activities and uses that potentially affect significant shoreland or aquatic resources. Other resources without estuary-wide significance are not covered by this subsection. Only those resources identified as significant under Statewide Planning Goal 17 are covered by these policies and standards.

- (1) Significant estuarine aquatic and shoreland resources shall be protected from degradation or destruction by conflicting uses and activities.
- (2) Major marshes, significant wildlife habitat, and exceptional aesthetic resources shall be protected. Uses in these areas shall be consistent with the protection of natural values and may include selective harvesting of forest products consistent with the Oregon Forest Practices Act, grazing, harvesting, wild crops, and low-intensity water-dependent recreation.
- (3) Significant riparian vegetation shall be protected to the extent identified in local comprehensive plans, except as provided for in Zoning Ordinance Significant Area Standards 1, 2, and 5.

5.333 Water Quality Maintenance. These policies are intended to help protect and enhance the quality of water in the Columbia River Estuary. Impacts on water quality in aquatic areas and in tidelagated sloughs in shoreland areas are covered.

- (1) Non-point source water pollutants from forest lands, roads, agricultural lands, streambank erosion and urban runoff shall be controlled by state Section 208 water quality programs, the Oregon Forest Practices Act and its Administrative Rules and Soil Conservation Service programs.
- (2) New untreated waste discharges into tributary streams, enclosed bays and sloughs shall not be permitted.
- (3) Petroleum spill containment and clean-up equipment should be located in the estuary area. This equipment should be capable of controlling a large spill in all areas of the estuary.
- (4) Permits for activities in Warrenton with potential water quality impacts in Washington's waters will be coordinated with both Oregon Department of Environmental Quality and Washington Department of Ecology.

5.335 Water-Dependent Development Areas. These policies are applicable only to those Columbia River Estuary Shorelands that are in the Marine Commercial Shorelands Zone or the

Water-Dependent Industrial Shorelands Zone. The purpose of these policies and standards is to assure that adequate sites are available for water-dependent uses.

(1) Shorelands zoned Marine Commercial Shorelands or Water-Dependent Industrial Shorelands shall be protected for water-dependent uses. Temporary uses which involve minimal capital investment and no permanent structures, and uses in conjunction with and incidental to a water-dependent use, may also be permitted in these areas.

(2) Shorelands especially suited for water-dependent recreational, commercial and industrial uses shall be placed in either a Water-Dependent Industrial Shorelands or Marine Commercial Shorelands Zone. Some factors which contribute to this special suitability are:

- (a) Deep water close to shore;
- (b) Supporting land transport facilities compatible with ship and barge facilities;
- (c) Potential for aquaculture;
- (d) Protected areas subject to scour which would require little dredging for use as marinas;
- (e) Potential for recreational utilization of the estuary or riparian areas.

5.337 Implementation. These policies are intended to assure consistent region-wide implementation of the *Columbia River Estuary Regional Management Plan*.

- (1) Pre-permit application meetings and site visits shall be encouraged.
- (2) Initial site visit shall be structured such that key issues will be addressed and consensus, to the degree possible, is established on each issue. This will require a structured format listing goals, objectives, and specific activities.
- (3) Amendments to the *Columbia River Estuary Regional Management Plan* must be coordinated with the Columbia River Estuary Study Taskforce (CREST).
- (4) CREST will provide planning assistance to member agencies, review local comprehensive plans and shoreline management master programs, and make recommendations which will result in coordination and conformance with the *Columbia River Estuary Regional Management Plan*.
- (5) CREST will provide technical information and assistance to members and other agencies for *Columbia River Estuary Regional Management Plan* implementation.
- (6) CREST members will maintain the coordinated *Columbia River Estuary Regional Management Plan* by mutually adopting Plan amendments during scheduled Plan updates.

(7) Policies and standards that regulate the repair and maintenance of existing structures are not intended to replace or supersede Warrenton's nonconforming use ordinance requirements. Where they contradict, the City's nonconforming use requirements shall be followed.

5.339 Federal Consistency. These policies establish procedures for ensuring that federal actions are consistent with this Comprehensive Plan.

(1) Federally licensed or permitted activities affecting the estuary and shoreland area shall be consistent with the Warrenton Comprehensive Plan. If the activity requires a local permit, the permit review will be used to establish project consistency with the plan. If the activity does not require a local permit, Warrenton may review the activity against the mandatory enforceable policies of the plan for consistency. Warrenton may then forward its findings of the review to the Oregon Department of Land Conservation and Development.

(2) Federal development projects and other activities that directly affect the estuary and shoreland area in the coastal zone shall be consistent to the maximum extent practicable with the mandatory enforceable policies of Warrenton Comprehensive Plan. Federal agencies address the consistency requirements by submitting a written consistency determination to the Oregon Department of Land Conservation and Development. The local government may review the consistency determination against its plan and communicate comments to Department of Land Conservation and Development. Department of Land Conservation and Development has the authority to make a final decision on the consistency determination. The federal agency has the option of applying for a local permit to demonstrate consistency with the Warrenton Comprehensive Plan.

(3) Federal activities in the Columbia River Estuary that are most likely to directly affect the coastal zone and require a determination of consistency with the plan include, but are not limited to, the following:

- (a) dredging or dredged material disposal associated with maintenance or construction of federal navigation projects;
- (b) maintenance or construction of other federal navigation improvements including jetties, groins, breakwaters and pile dikes;
- (c) maintenance or construction of federal flood control projects such as dikes and associated drainageways and structures, and shoreline stabilization projects;
- (d) docks and other in-water structures, dredging, and dredged material disposal associated with federal facilities such as Coast Guard bases and naval installations;
- (e) federal refuge improvements;
- (f) mitigation and restoration actions;

- (g) road construction in the coastal watershed;
- (h) waste discharge in the coastal watershed; and
- (i) land acquisition, disposal, or exchange.

The consistency requirements apply to both planning and implementing these federal activities.

- (4) An activity shall generally be considered a federal activity when at least 50% of the project design work and 50% of the construction is funded by federal agencies.
- (5) Federal activities on federal lands within the geographic limits of the coastal zone are excluded from the consistency requirements if the federal agency demonstrates that the activity will not directly affect adjacent, non-federal portions of the coastal zone.
- (6) The phrase "consistent to the maximum extent practicable" (see Policy 2) shall be interpreted to mean that a federal agency may deviate from full consistency only if:
 - (a) compliance is prohibited based upon the requirements of existing law applicable to the federal agency's operations, or
 - (b) when such deviation is justified because of some unforeseen circumstances arising after the approval of the management program which present the federal agency with a substantial obstacle that prevents complete adherence to the approved program.
- (7) Warrenton may review Outer Continental Shelf activities for consistency with their Comprehensive Plans and forward their findings to the Oregon Department of Land Conservation and Development.
- (8) Warrenton may review federal grant or financial assistance proposals for activities affecting the coastal zone for consistency with their Comprehensive Plan. The review includes grants to state agencies, cities, counties, special purpose districts, and regional bodies. Review findings may be forwarded to the Oregon Department of Land Conservation and Development.
- (9) Warrenton may perform consistency reviews administratively or through public hearings.

5.341 Middle Skipanon River Subarea

- (1) Development along the east shoreline of the Skipanon River between Harbor Drive and 8th Street shall include a tourist/commercial mixture of water-dependent, water-related and other uses.
- (2) The Development Aquatic designation of the Middle Skipanon is provided to accommodate marina development and other water-dependent and water-related uses as the highest priority of use. Non-water-dependent uses are not appropriate in the aquatic portions of this sub-area.

(3) The water quality impacts of development in the Middle Skipanon will be evaluated prior to approval of projects, particularly in the area between the 8th Street dam and the Harbor Drive Bridge. Alterations which have a negative water quality impact or result in a decrease in the flushing rate will not normally be permitted.

(4) The City will consider taking an exception to Oregon Statewide Planning Goal 16 if a marina or other major development proposed for the Middle Skipanon would require major alteration of the islands or fringing marshes.

(5) The City will pursue the possibility of constructing bicycle/walking paths on top of the City dikes along the Columbia River, Youngs Bay and the Skipanon River. The priority order of construction should be:

(a) The west bank of the Skipanon River from Harbor Drive south to SW Third Street.

(b) A trail between downtown and the Youngs Bay Plaza area. This trail could follow the old railroad right-of-way west of the downtown intersection a distance of one mile, and follow the dike for approximately 3,000 feet to its intersection with US 101, near the shopping center.

(c) The Airport loop from US 101 at the Youngs Bay Bridge to the old Youngs River Bridge. The trail could then follow Airport Road back to US 101.

(d) The east bank of the Skipanon River dike from Harbor Drive to SE Eighth Street.

5.343 Tansy Point/Alder Cove Subarea

(1) Portions of this subarea are subject to provisions of the 1981 Mediation Panel Agreement. Development in these areas must be consistent with the relevant portions of the Agreement.

(2) Notwithstanding the fact that residences within the Water-Dependent Development Shorelands of this subarea are a nonconforming use, reconstruction may be allowed in the event of destruction by fire or other disaster in accordance with the nonconforming use regulations of the Warrenton Zoning Ordinance.

(3) The Natural Aquatic tideflats and marshes of Alder Cove shall be protected from alterations. Such protection, however, should not preclude intensive development of the adjacent Water-Dependent Development Shorelands or Development Shorelands nor necessary dike maintenance.

(4) Large-scale fills are not appropriate in the Development Aquatic portions of this subarea. Filling shall be allowed only for bulkheading or quay construction along the present shoreline. No

substantial parcels of new land shall be created.

(5) The potential for impacts on tidal and non-tidal wetlands shall be evaluated during development review. Prior to development approval, the Corps of Engineers and Oregon Division of State Lands must be consulted to determine if the site contains wetlands within their respective regulatory jurisdictions.

(6) The Tansy Point development site is suitable for the following types of uses:

- Marine terminal development;
- Commercial fishing and seafood processing facilities;
- Forest products processing facilities;
- Offshore mineral development support facilities;
- Facilities related to estuary recreation; and
- Other water-dependent uses.

(7) The City is committed to the construction and maintenance of the Eben Carruthers Memorial Park. Park development will follow the park Master Plan. The park will be a passive recreation area with the primary purpose of providing pedestrian access to the Columbia River. Parking and rest room facilities shall be located close to Fort Stevens Highway.

(8) The City will pursue the possibility of constructing bicycle/walking paths on top of the City dikes along the Columbia River, Youngs Bay and the Skipanon River. The priority order of construction should be:

- (a) The west bank of the Skipanon River from Harbor Drive south to SW Third Street.
- (b) A trail between downtown and the Youngs Bay Plaza area. This trail could follow the old railroad right-of-way west of the downtown intersection a distance of one mile, and follow the dike for approximately 3,000 feet to its intersection with US 101, near the shipping center.
- (c) The Airport loop from US 101 at the Youngs Bay Bridge to the old Youngs River Bridge. The trail could then follow Airport Road back to US 101.
- (d) The east bank of the Skipanon River dike from Harbor Drive to SE Eighth Street.

5.345 North Warrenton Subarea

(1) Widening and strengthening of the dike to enable its use by heavy vehicles shall be allowed on the shoreland side of the dike, except along the sewage lagoons. If fill is required on the Alder Cove side of the dike, other than fill or riprap associated with normal dike maintenance, an exception will be required to Oregon Statewide Planning Goal 16's prohibition on fill in aquatic areas for non-water-dependent uses.

5.347 Mouth of the Skipanon River Subarea

- (1) The maximum amount of fill that may be allowed within that portion of the described Aquatic Development area in Alder Cove is 7.8 acres. Specific proposals for fill must be justified at the time of permit application.
- (2) Any development or use of the Holbrook Slough DMD/Mitigation site shall be consistent with protection of aquatic and riparian habitat at Holbrook Slough.
- (3) The approximately 40 acre Holbrook Slough DMD/Mitigation site is reserved for mitigation of development impacts on the East Skipanon peninsula. Offsite mitigation may be considered as part of the required mitigation or in addition to this onsite mitigation. Acreage not used for mitigation would then become available for DMD or development, but not until the site is fully developed.
- (4) Development of shorelands and adjacent aquatic areas on the East and West Peninsulas of the Skipanon River shall include provision for vegetative buffers and other means for shielding the developed areas from adjacent marshes and flats.
- (5) Existing and new uses which are associated with wood processing and handling shall be allowed in the Water-Dependent Development Shorelands area on the West Peninsula of the Skipanon River.
- (6) The Development Aquatic designations along both sides of the Skipanon are provided to accommodate future water-dependent uses. However, the designations do not create the presumption that dredging, filling or other alterations will be permitted automatically.
- (7) The City will continue to upgrade the mooring basin/boat ramp area by improving parking and access facilities. The City will attempt to attract private/public partnerships to the mooring basin, including a motel/restaurant/commercial development on public land, when feasible.
- (8) The City will pursue the possibility of constructing bicycle/walking paths on top of the City dikes along the Columbia River, Youngs Bay and the Skipanon River. The priority order of construction should be:
 - (a) The west bank of the Skipanon River from Harbor Drive south to SW Third Street.
 - (b) A trail between downtown and the Youngs Bay Plaza area. This trail could follow the old railroad right-of-way west of the downtown intersection a distance of one mile, and follow the dike for approximately 3,000 feet to its intersection with US 101, near the shopping center.
 - (c) The Airport loop from US 101 at the Youngs Bay Bridge to the old Youngs River Bridge. The trail could then follow Airport Road back to US 101.

(d) The east bank of the Skipanon River dike from Harbor Drive to SE Eight Street.

5.349 Youngs Bay Subarea

(1) Proposed developments shall be evaluated for their impact on existing aquaculture operations. Aquatic sites that are especially suitable for aquaculture development shall be reserved for that use whenever possible.

5.351 Airport and Vicinity Subarea

(1) The City will pursue the possibility of constructing bicycle/walking paths on top of the City dikes along the Columbia River, Youngs Bay and the Skipanon River. The priority order of construction should be:

(a) The west bank of the Skipanon River from Harbor Drive south to SW Third Street.

(b) A trail between downtown and the Youngs Bay Plaza area. This trail could follow the old railroad right-of-way west of the downtown intersection a distance of one mile, and follow the dike for approximately 3,000 feet to its intersection with US 101, near the shopping center.

(c) The Airport loop from US 101 at the Youngs Bay Bridge to the old Youngs River Bridge. The trail could then follow Airport Road back to US 101.

(d) The east bank of the Skipanon River dike from Harbor Drive to SE Eighth Street.

(2) A new access road to serve airport uses should be developed. Filling of Holbrook and Vera Creek sloughs and damage to riparian habitat shall be minimized. An exception to Oregon Statewide Planning Goal 17 may be necessary.

(3) New airport uses shall be designed and sited to minimize conflict with residences along the present access road. Potential circulation conflicts shall be evaluated.

ARTICLE 6 BEACH AND DUNE SHORELANDS

SECTION 6.100 FINDINGS

Beach and dune shorelands include a large part of Warrenton and are characterized by a series of sand ridges roughly parallel to the ocean shoreline which are separated by low-lying (interdune) areas. These shorelands have been formed during the past 4,000 years as a result of Columbia River sediments, off-shore currents, local winds and other factors. Until the 1930s, a significant portion of the shorelands consisted of wind-drifted sand. The dunes were then stabilized with fences and vegetation.

Portions of the beach and dune shorelands West of Ridge Road in (zones 1 and 2 of the Clatsop County Soil and Water Conservation District) are the most sensitive to development and are consequently considered to be critical beach and dune shoreland areas. Construction on dunes in these areas is often hindered by a high wind erosion potential and moderate or steep slopes. Difficulties range from slight to sever. Another development concern is the beach and foredune erosion caused by ocean waves. While the stable dune areas east and west of Ridge Road can tolerate higher density of development than other dune forms, removal of stabilizing vegetation can cause erosion due to the high sand content in the soil. In the interdune locations, development is likely to be hampered by water problems and in some locations, by the tendency of the soil to compress when subject to structural loads.

The City of Warrenton treats significant wetlands and riparian corridors that are located in the City's Goal 17, Shoreland, zone as Goal 5 resources.

This section addresses parts of Statewide Planning Goals 17 and 18.

SECTION 6.200 GOAL

To reduce the hazard to human life and property from natural or human-induced actions associated with beach and dune areas.

SECTION 6.300 POLICIES

(1) Residential development and commercial and industrial building on beaches, on active foredunes, on conditionally stable foredunes subject to ocean undercutting or wave overtopping, and on interdune areas subject to ocean flooding shall be prohibited. Development other than residential, commercial, or industrial buildings in these areas shall be permitted only if it is demonstrated that the proposed development:

(a) Is adequately protected from any geologic hazards, wind erosion, undercutting, ocean flooding and storm waves; or is of minimal value; and

- (b) Is designed to minimize adverse environmental effects; and
 - (c) The findings required by Beaches and Dunes Policy 2 are made.
- (2) The Statewide Beaches and Dunes Planning Goal, Implementation Requirement 1, requires that the following findings be made for all development in beach and dune areas, other than older stabilized dunes:
- (a) The type and use proposed and the adverse effects it might have on the site and adjacent area;
 - (b) Temporary and permanent stabilization programs and planned maintenance of new and existing vegetation;
 - (c) Methods for protecting the surrounding area from any adverse effects of the development; and
 - (d) Hazards to life, public and private property, and the natural environment which may be caused by the proposed use.

These findings will be made either by site-specific investigations for areas listed in Beaches and Dunes Policy 3, or by findings adopted as part of the Comprehensive Plan.

- (3) Site-specific investigations undertaken by a registered geologist shall be required for future construction in all areas lying within the "A zone" as delineated on the *Flood Insurance Rate Map, City of Warrenton, Oregon, Clatsop County*.
- (4) Vegetation removal shall be kept to the minimum required for the placement of structures. Structures shall be designed as much as possible to minimize the removal of existing vegetation.
- (5) A detailed description of a dune stabilization program shall be a part of the application for a building permit for any proposed development which potentially will reduce the stability of a dune area and threaten adjacent property. The revegetation program shall be designed to return areas at least to their pre-development levels of stability within a specified period of time. The programs shall be initiated as soon as possible during or following construction. The City may submit site investigations or revegetation programs to the Soil Conservation Service or other agency for review prior to issuance of a building permit.
- (6) During construction, adequate measures shall be required (included as permit conditions) to minimize wind erosion, such as the provision of temporary ground cover.
- (7) All construction shall be in conformance with the recommendations of the site investigation report and applicable FEMA flood management requirements. A time period for revegetation of open dune sand shall be established.

(8) Beachfront protective structures (rip-rap, seawalls) shall be permitted only if:

- (a) Visual impacts are minimized;
- (b) Necessary access to the beach is maintained;
- (c) Negative impacts on adjacent property are minimized; and
- (d) Long-term or recurring costs to the public are avoided.

(9) Breaching of foredunes shall be permitted only for extreme measures, such as fighting fires, or cleaning up oil spills. The dunes shall be restored to their original contours and revegetated after breaching occurs.

(10) Grading or sand removal necessary to maintain views or to prevent sand inundation may be allowed for structures in foredune areas, only if the area is committed to development or is within an acknowledged urban growth boundary; and only as part of an overall plan for managing foredune grading. A foredune grading plan shall include the following elements based on consideration of factors affecting shoreline stability, including sources of sand, ocean flooding, and patterns of accretion and erosion (including wind erosion), and effects of beachfront protective structures and jetties. The plan shall:

- (a) Cover an entire beach and foredune area subject to an accretion problem, including adjacent areas potentially affected by changes in flooding, erosion, or accretion as a result of dune grading;
- (b) Specify minimum dune height and width requirements to be maintained for protection from flooding and erosion. The minimum height for flood protection is four feet above the 100 year flood elevation;
- (c) Identify and set priorities for low and narrow dune areas which need to be built up;
- (d) Prescribe standards for redistribution of sand and temporary and permanent stabilization measures including the timing of these activities; and
- (e) Prohibit removal of sand from beach-foredune system. Before construction can begin, the foredune grading plan must be adopted as an amendment to the Comprehensive Plan.

(11) Warrenton shall protect the groundwater in dune areas from drawdown which could lead to loss of stabilizing vegetation or water supplies, by reviewing all proposed wells to ensure that findings are made to address the above factors. Building permits for single-family dwellings are exempt from this requirement if appropriate findings are provided at the time of subdivision approval.

(12) The City has determined that its entire ocean front was undeveloped, as defined by Beaches and

Dunes Implementation Requirement 5 of Statewide Planning Goal 18, on January 1, 1977.

Reserved for Critical Beach and Shoreland Areas Map

ARTICLE 7 COMMUNITY FACILITIES AND SERVICES

SECTION 7.100 FINDINGS

Warrenton is an appropriate area for future development in Clatsop County in part because of the availability of community facilities and services. The capacity of many of these, including the water and sewer systems, however, will need to be increased if substantial amounts of growth are to be accommodated. Service capacity is affected by, and helps determine, the types and location of new development. The ability to provide greater capacity will vary according to the kind of facility or service, level of public support, financing techniques and other factors.

The *Warrenton Comprehensive Plan Background Report* provides additional information pertaining to public facilities in Warrenton. This section, together with the relevant background report sections, address requirements of Statewide Planning Goals 8 and 11.

7.110 Water Service A water system is operated by the City and supplies water to Warrenton, Fort Stevens State Park, Sunset Beach Water District, Cullaby Lake, Smith Lake, Gearhart and scattered properties in the Clatsop Plains rural area. Except for the Gearhart portion of the system, the City of Warrenton is responsible for servicing all water lines within the system. Water is obtained from the Lewis and Clark River and three of its tributaries. Water collected at these impoundments is piped either directly to the treatment plant or through a 16 million gallon raw water reservoir, located near the treatment plant. This 16 million gallon reservoir was constructed in 1986 for the purpose of storing untreated water that could be utilized during periods in which the turbidity of the impoundments rose above acceptable levels. The treatment plant is located about eleven miles southeast of Warrenton where water is treated by sedimentation and chlorination and carried by a major pipeline to Warrenton and other locations.

7.120 Sewer Service The City operates and maintains a sanitary sewer collection system which serves much of Warrenton. Effluent is moved through the system to stabilization ponds located northwest of the intersection of NE Fifth Street and Skipanon Drive, disinfected by chlorination and discharged into Alder Cove. It is anticipated that the capacity of the system to treat sewage will be reached during the 1990s, and the treatment system may require expansion. Service will also have to be extended to presently unserved areas within the City.

7.130 Municipal Support Structures The structures which house the City fire department, police, public works and administrative offices are all located within a 2-block area in the commercial core of the City. City Hall houses the police department and administrative offices. It and the public works buildings are located on the west side of Main Avenue between SW First and SW Second Streets. The City's volunteer fire department is located in a building on the southeast corner of the intersection of SW Second Street and Main Court. This department provides fire protection to the

City and to areas located within the Warrenton Rural Fire Protection District. A second fire station is located near the Hammond Mooring Basin. The central location and grouping of these support structures is advantageous in providing easily-accessible municipal services to the community. Clustering of these structures allows for efficient communication and coordination between the City's administrative staff and the service departments, as well as providing for improved building maintenance and security.

7.140 Other Services: Solid waste is collected in Warrenton, trucked to a transfer station in Astoria and then hauled to a landfill outside of the County. The City, in cooperation with a private contractor and other Clatsop County local governments, is exploring development of a new landfill site in eastern Clatsop County.

Other City facilities and services are provided mainly within Warrenton and include a storm drainage/flood control system; a 24-acre community park northeast of the intersection of SW Cedar Avenue and SW Seventh Street; and two municipally-owned and operated marinas.

7.150 Public Recreation: The City recognizes that Fort Stevens State Park provides a valuable recreation resource for all of the people of the State of Oregon, including Warrenton residents. Over a million people per year visit the Park. Most of the Park is located within the City limits. Warrenton provides water, sewer, garbage, police and fire services directly to the park. Direct City revenues are in the form of park user charges for water, sewer and garbage. There is no revenue paid directly for police and fire service or the impacts that the location of the Park has on other City services. The Park no longer contracts with Clatsop County or the Oregon State Police for law enforcement services.

Camp Kiwanilong is a publicly-owned educational and recreational facility in Warrenton located south of Fort Stevens State Park. The Camp is owned by Clatsop County, and operated by a non-profit organization as a summer camp. The Camp is a valuable asset to Warrenton and to the region.

SECTION 7.200 GOAL

Develop a timely, orderly and efficient arrangement of public facilities and services which will serve as a framework for development and, to the extent practical, meet the needs of local citizens and others dependent on these facilities and services.

SECTION 7.300 POLICIES

7.310 Community Facilities and Services

(1) It is the City's policy to help meet community needs by establishing a capital improvements

program, using appropriate site acquisition methods, carefully selecting service activities and undertaking other desirable actions.

(2) The City will continue to make necessary improvements to its community facilities and services as the need for such improvements dictate, and to the extent funding sources or mechanism are available.

(3) Before any new sites for City-operated community facilities are selected, the suitability of publicly-owned property for the improvements will be determined. An attempt will be made to acquire property for these improvements at the earliest practical time to (a) ensure that the site will be available for the purpose and (b) reduce costs. A site selection committee appointed by the City Commission will assist the City in choosing suitable locations for new community facilities.

(4) Prior to offering new types of public services, the City should consider (a) the coverage and adequacy of any existing services of this kind which are being provided, (b) relative need for this type of service compared to other kinds which could be offered, and (c) financial capability of the City to pay or help pay the necessary costs.

(5) Efforts shall be undertaken to (a) promote construction of needed educational facilities, (b) support greater use of the community schools concept, (c) help establish a county-wide library system which would offer some services in Warrenton, (d) install appropriate improvements for handicapped people in new and existing City community facilities, (e) support effective operation of hospitals, clinics and other medical facilities in Clatsop County, (f) encourage more doctors to maintain offices in Warrenton, (g) aid sound programs for senior citizens, and (h) allow churches and other semi-public uses in desirable locations when suitable standards and conditions are satisfied.

(6) The City will cooperate with the school district in providing needed educational facilities by providing the district with updated population projections and coordinating with school district officials. City approval of major developments which would cause a substantial increase in population. While the school district has presently reserved two sites for expanding facilities, the City will consider making suitable City-owned land available for a school site if a future need arises.

(7) The actual cost of providing municipal services to Fort Stevens State Park users should not be borne solely by the City of Warrenton with its limited resources but should be shared. The City shall determine actual costs and dollar impact of Fort Stevens State Park on the operations of the City of Warrenton. The City's goal is to not be burdened with a greater share of the costs of the location of the Park than is equitable in the circumstances.

7.320 Water, Sewer and Storm Drainage/Flood Control

(1) Support desired growth by using sound evaluation, construction financing, scheduling and other techniques to upgrade the water, sewer and storm drainage/flood control systems.

(2) Efforts will be made to evaluate means of expanding the capacity of the water and sewer systems to accommodate future growth in the City and other areas.

(3) The City will continue to upgrade its sanitary sewer system in order to provide the necessary level of service to residential, commercial and industrial uses. The following projects have the highest priority:

- (a) Upgrading the sewage treatment plant through expansion of the lagoon treatment system;
- (b) Upgrading sewer pump stations;
- (c) Correcting infiltration/inflow problems, particularly in the East Warrenton and Port of Astoria Airport area;
- (d) Providing service to presently unserved commercially zoned property along Highway 101, Marlin Avenue and East Harbor Drive; and
- (e) Providing service to presently unserved industrially zoned property at the east bank of the Skipanon River and at Tansy Point.

(4) The City will continue to upgrade its water system to provide the necessary level of service to residential, commercial and industrial uses. The following projects have the highest priority:

- (a) Construction of a water filtration plant.
- (b) Water system improvements to serve commercially zoned property in the commercially zoned property along Highway 101, Marlin Avenue and East Harbor Drive.
- (c) Water system improvements to provide greater fire flow capability in the area west of the Skipanon River.
- (d) Water system improvements to serve industrially zoned property such as the east bank of the Skipanon River and the General Industrial area at SE Dolphin Road.

(5) The City will continue its efforts to upgrade and maintain a system of dikes and tidegates which help prevent flooding in Warrenton.

(6) The City will continue working with the U.S. Army Corps of Engineers to implement the reconstruction of Dike # 1. The City will also cooperate with the U.S. Army Corps of Engineers in future studies to evaluate the requirements for improvements to Dike # 2 and # 3.

(7) Before new subdivisions are approved or building permits are issued for new large-scale developments in Warrenton, the City will assess their impact on the capacity of the community's water, sewer and storm water runoff facilities. Such developments will only be allowed if sufficient capacity exists or suitable evidence indicates it will exist prior to completion of development

construction. In deciding the sufficiency of capacity, consideration will be given to possible increases in flows resulting from activities of existing system users and facilities which are likely to be built due to the proposed use but which are not a part of the development.

(8) New subdivisions, new large-scale developments and certain other uses in Warrenton will not be allowed unless satisfactory provisions are made for water supply, sewage disposal and storm water runoff facilities. Satisfactory provisions, in part, mean that the size of any water lines, sewer lines and drainage ways will be sufficient to meet the needs of the development and, where desirable, be able to accommodate growth in other areas. Suitable arrangements, including dedication of land or use of easements, shall be made so that the City will be able to maintain appropriate water, sewer and drainage facilities. The construction of lengthy pressure-forced sewer lines to the site, which by-pass undeveloped properties, will be discouraged.

(9) 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. Extra costs resulting from the need to construct facilities which will also accommodate future growth in other locations will often initially be the responsibility of the City and eventually be paid for by the people who develop these locations. In some instances, use of assessment districts may be appropriate for paying a portion of the costs for system extensions. Assessments of property for extensions should be levied only where there is a significant benefit to the property being assessed. Efforts usually will be made to obtain federal and state grants to help pay for major system improvements which are eligible for funding.

(10) Water and sewer rates will be increased as needed in order to provide the necessary funds for maintaining and upgrading the systems. Consideration shall be given to changing the present water rate structure so there is more encouragement for water conservation; and requiring a meter for each existing connection without a meter and for each new connection. The costs of connecting to the water and sewer systems (hook-up charges) shall be revised periodically to reflect the cost of making the connection. Hook-up charges will not be used to recover general capital costs of the system since other methods exist which are more equitable and less expensive to the user.

(11) Sewer service will be made available only in Warrenton and incorporated portions of Fort Stevens State Park. Water service will continue to be provided to a much larger area. No major water system expansions outside the City limits will be permitted unless sufficient system capacity has been reserved for existing and future Warrenton uses and the projected revenues resulting from the project will be enough to pay for anticipated operation costs. Preference will be given to major water system expansions within urban growth boundaries and county-designated rural service area. Sizes of new water lines shall be in conformance with the appropriate jurisdiction's comprehensive plan.

(12) Planned capital improvements to the City's water system, sewage treatment system, storm drainage system and dikes are described in the *City of Warrenton Public Facilities Plan*.

7.330 Fire, Police, Recreation and Solid Waste Management

- (1) It is the City's policy to upgrade fire protection, provide sound police protection, increase recreational opportunities and improve solid waste disposal activities through effective public and private actions.
- (2) The City will work to upgrade fire protection in Warrenton. This shall include: (a) trying to achieve a fire insurance rating of 5 or lower; (b) evaluating the City's waterfront fire protection capability; (c) adequately scheduling and financing needed improvements; and (d) requiring new subdivisions and large-scale developments to have satisfactory hydrant and other water facilities.
- (3) Consideration will be given to: (a) enlarging the existing fire station; (b) eventually building a station in east Warrenton and providing sufficient equipment for the facility; and (c) supporting the installation of needed facilities at Fort Stevens State Park.
- (4) Sound police protection will be provided by: (a) adding more personnel when necessary to accommodate local growth or other increases in staff responsibilities; (b) expanding the amount of police department office space when funding becomes available; (c) periodically reviewing equipment needs and purchasing appropriate items; (d) working closely with other law enforcement agencies; and (e) encouraging public cooperation in crime prevention.
- (5) Increased recreational opportunities will be made available to local residents, in part by: (a) helping to expand the recreational programs currently being provided in the area; (b) adding more facilities to the City's approximately 24-acre community park, when financially feasible; (c) expanding and improving the City's two boat basins as funding is available; and (d) working closely with the Warrenton-Hammond school district to allow additional use of school recreational areas by the general public.
- (6) Thought will be given to requiring new residential subdivisions to dedicate land for parks, pay fees in lieu of giving land or establishing privately-owned and maintained recreational facilities.
- (7) Existing public ownerships, right-of-ways, and similar public easements which provide access to estuarine or coastal beach areas shall be retained or replaced if sold, exchanged or transferred. Right-of-ways may be vacated to permit redevelopment of shoreland areas provided public access across the affected site is retained.
- (8) Efforts will be made to work with other governmental bodies to find a satisfactory site for recycling and disposing of solid wastes from Warrenton and other parts of the county. Until a large-scale recycling operation begins, encouragement will be given to activities, perhaps sponsored by businesses or local non-profit groups, which focus on recycling only a few types of materials. Garbage collection rates, personnel needs and equipment requirements shall be periodically reviewed and appropriate actions will be undertaken.

ARTICLE 8 TRANSPORTATION

SECTION 8.050 INTRODUCTION

The City of Warrenton, in conjunction with the Oregon Department of Transportation (ODOT), initiated a study of the City's transportation system in 2002. The study resulted in the creation of the 2003 Warrenton Transportation System Plan (TSP). The TSP has been adopted as an addendum to this Plan and is referenced throughout this Article. This work was completed as part of periodic review as required by state law. If any goals or policies of this Plan are found to be contradictory or otherwise inconsistent with the TSP, standards of the TSP shall prevail.

The 2003 Warrenton TSP addresses ways to improve the transportation system to support anticipated growth in the City and associated traffic volumes in a way that will emphasize the local street network and protect the function of US 101 as a statewide highway. The TSP establishes a system of transportation facilities and services adequate to meet the City's transportation needs to the planning horizon year of 2022. The TSP plans for a transportation system that includes all modes of travel (that is, rail, pedestrian, bicycle, auto, marine, and public transportation), serves the entire urban area, and is well coordinated with the State, regional, and County transportation network.

The Warrenton TSP identifies planned transportation facilities and services needed to support planned land uses as identified in the Warrenton Comprehensive Plan in a manner consistent with the TPR (OAR 660-012) and the Oregon Transportation Plan (OTP). Preparation and adoption of a TSP for the City provides the following benefits:

- Assure adequate planned transportation facilities to support planned land uses during the next 20 years
- Provide certainty and predictability for the siting of new streets, roads, highway improvements and other planned transportation improvements
- Provide predictability for land development
- Help reduce the cost and maximize the efficiency of public spending on transportation facilities and services by coordinating land use and transportation decisions

The TSP will guide the management and development of appropriate transportation facilities in Warrenton, incorporating the community's vision, while remaining consistent with State, regional, and other local plans.

The Warrenton TSP addresses ways to improve the transportation system to support anticipated growth throughout the City. The TSP considered future traffic volumes and circulation patterns in a way that emphasizes the City and County street network and protects the function of the primary state highway corridor serving Warrenton; US 101. The TSP pays particular attention to the tourist and recreational aspects of the area and the transportation conditions created by the unique traffic characteristics. The TSP establishes a system of transportation facilities and services adequate to

meet Warrenton's transportation needs to the planning horizon year of 2022. The TSP includes plans for a transportation system that incorporates all modes of travel (that is, rail, pedestrian, bicycle, auto, marine, and public transportation), serves the urban area, and is coordinated with the State, regional, and County transportation network.

Specific elements of the Warrenton TSP include:

- A street network with connections and extensions to provide for local circulation and access off of US 101
- Street standards that comply with the TPR
- Appropriate improvements along the primary City, County and State highway corridors that serve Warrenton to support planned land uses and measures to protect the long-term functionality of US 101
- Pedestrian and vehicle circulation improvements to reduce the need for short car trips on State highways and improve pedestrian safety throughout the planning area
- Amendments to the City's Development Code and other land use-related ordinances; the comprehensive plan; and any relevant financing plans, such as a capital improvement plan or other similar documents

The contents of the Warrenton TSP are guided by Oregon Revised Statute (ORS) 197.712 and the Department of Land Conservation and Development (DLCD) administrative rule known as the Transportation Planning Rule (TPR). These laws and rules require that jurisdictions develop the following:

- A road plan for a network of arterial and collector streets
- A public transit plan
- A bicycle and pedestrian plan
- An air, rail, water, and pipeline plan
- A transportation financing plan
- Policies and ordinances for implementing the transportation system plan

The TPR requires that alternative travel modes be given equal consideration with the automobile, and that reasonable effort be applied to the development and enhancement of the alternative modes in providing the future transportation system. In addition, the TPR requires that local jurisdictions adopt land use and subdivision ordinance amendments to implement the provisions of the TSP. Finally, local communities must coordinate their respective plans with the applicable County, regional, and State transportation plans. This coordination occurred throughout the preparation of the Warrenton TSP.

Preparation of the Warrenton TSP also was guided by an Intergovernmental Agreement (IGA) entered into by Warrenton and ODOT to address capacity and access issues on US 101. The IGA was signed in January 2001 and provides direction regarding access and traffic signalization on US 101. The principles of the IGA have been incorporated into the Warrenton TSP.

SECTION 8.100 FINDINGS

Warrenton is served by a transportation system that utilizes a wide range of travel modes and allows movement by land, water and air. Street right-of-ways are the focus of this system. They provide the major routes for the movement of people and goods between communities and are the principle means of access to activity centers and other property. The most important streets are US Highway 101, East Harbor Drive, Main Avenue and NW Warrenton Drive. Although most public streets are maintained by the City, upkeep of some of the major ones is the responsibility of the State or County. Streets and other local land transportation facilities provide mobility by making use of automobiles, trucks, buses, bicycles and other travel modes. Considerable additions and improvements to these facilities will be needed during the next twenty years.

Transportation by water occurs on the Skipanon River, Columbia River, Lewis and Clark River, and Young's Bay. Much of this transportation activity is generated by marinas that provide berths for commercial fishing boats, charter fishing boats and pleasure boats. Some activity is also directly associated with waterfront industrial uses in the City. A potential exists for marina expansion and more of port-related industrial activities.

Transportation by air is available from the Astoria Regional Airport, which is owned and operated by the Port of Astoria. The airport is used by the US Coast Guard, general aviation aircraft and, at times, commercial air carriers.

This section addresses the requirements of Statewide Planning Goal 12.

SECTION 8.200 GOAL

Encourage and help provide a safe, convenient, well-maintained and economic transportation system that recognizes the relationship of the system to other land uses and takes into account the value of various modes of transportation.

SECTION 8.300 POLICIES

8.310 Street Classification

- (1) The City will work to improve the local circulation system by appropriately classifying each public street according to its transportation function as an arterial, collector, or local street and by using this classification to determine transportation characteristics of the right-of-way.
- (2) Each public street in Warrenton has been classified according to its transportation function. Figure 5-2 of the Warrenton Transportation System Plan (TSP) provides the functional classification for each roadway in the City. This classification is related to the circulation requirements of the City and surrounding areas, and to the present and future land use of adjacent property. The street

classification helps determine future right-of-way widths, pavement widths, access points, permissibility of on-street parking and other street design standards.

(3) One of the following classifications has been selected for roadway in the City (see also Figure 5-2 of the TSP):

(a) **ARTERIAL:** The primary function of an arterial roadway is to provide mobility. Therefore, arterials typically carry higher traffic volumes and allow higher travel speeds while providing limited access to adjacent properties. Within Warrenton, US Hwy 101 is the only designated arterial roadway.

(b) **COLLECTOR:** The function of a collector roadway is to collect traffic from local streets and provide connections to arterial roadways. Generally, collectors operate within moderate speeds and provide more access in comparison to arterials. Within Warrenton, ODOT has designated Ridge Road and DeLaura Beach Lane as rural major collectors and Fort Stevens Hwy 104, Fort Stevens Hwy 104 Spur, East Harbor Drive, and Warrenton-Astoria Hwy 105 are designated as urban collectors. The City has designated NE Skipanon Drive, NE 5th Street, SE 12th Place, SW 9th Street, SW 2nd Street, NW 1st Street, SW Juniper Ave., SE Neptune Drive, SE Dolphin Ave. (north of US 101), Seventh Ave. (in Hammond), Lake Drive (in Hammond), Pacific Drive (in Hammond), and SE 19th Street (North Coast Business Park Road) as collectors.

(c) **LOCAL:** The primary function of a local street is to provide access to local traffic and route users to collector roadways. Generally, local roadways operate with low speeds, provide limited mobility, and carry low traffic volumes in comparison to other roadway classifications. Within Warrenton, all roadways not mentioned above are designated as local streets.

(4) Public streets have been classified as indicated on the Functional Classification Map (Figure 5-2) of the Warrenton TSP. If the exact location of a proposed public street shown on the map has not been determined, the precise location of the street or relevant portion of the street will be established when property in the area is developed and/or during the process of approving construction of the street. New public streets not shown on the map will be classified by the City during the process of approving the street for development or the process of accepting a street into the City's street system.

8.320 Street Design

(1) New or relocated streets will be designed in a manner which meets circulation needs, promotes safety, minimizes damage to the environment, eliminates unnecessary development and maintenance costs, and achieves other objectives of the Warrenton Comprehensive Plan and Transportation System Plan.

(2) Layouts for new or relocated streets will be required to conform to the standards of the TSP in a

manner which: (a) relate to the natural contours of the site insofar as is practical; (b) minimize grading quantities; (c) when reasonable, avoid excess runoff concentrations and the need for storm sewers; and (d) achieve other design standards which reduce damage to the environment and development or maintenance costs. In residential areas, encouragement will be given to street layouts that discourage high travel speeds by using curving streets, where possible.

(3) A review of the appropriate use of undeveloped public right-of-ways in Warrenton will be undertaken by the City to determine whether these should be vacated or the area in which they are located should be re-platted in order to improve the street layout or achieve other objectives of the Comprehensive Plan. Consideration will be given to the desirability of using undeveloped right-of-ways for bikeways, trails, and access to private lots, public property and waterfront areas.

(4) New intersections shall be designed so that, whenever feasible: (a) the intersecting streets meet at right angles; (b) turning lanes are provided at heavily-traveled intersections; (c) they are not located on curves, just below or at the crest of a hill; and (d) other intersections are not too close.

(5) New or relocated streets will be developed in a manner consistent with the TSP which avoids overly steep grades, reverse curves too close together and sharp curves. Standards related to these characteristics shall vary with the type of street. Pavement designs will be appropriate for the traffic load, sub-grade soil, surface drainage, ground water and climate conditions existing at the pavement's location. Pavement edge treatments other than curb and gutter may be used only where there will still be adequate drainage and the roadway and sidewalk base will not be adversely affected.

8.330 Street Width, Access And Parking Design

(1) The City will establish street width, right-of-way width and access standards consistent with street classifications and other relevant factors and utilize parking standards suitable for the use being served, the location and the size of the facility.

(2) Right-of-way widths allowed for new or relocated streets shall conform to the Cross Section drawings for local streets, collector roadways, and arterial roadways illustrated in Figures 5-3, 5-4, and 5-5, respectively, of the TSP.

(3) Greater widths may be required where higher than normal traffic volumes for the type of street are expected; or where additional area is needed for turning lanes or a turn-around. Narrower widths may be permitted when desirable due to topography, poor soils or other natural characteristics. Right-of-ways for most streets may also be smaller when satisfactory provisions are made for pedestrian ways, bike paths or utilities outside the street right-of-way. In addition, minor street pavement and right-of-way widths may be less when access will be provided to only several lots or suitable arrangements are made for more than the normal amount of off-street parking.

(4) The right to purchase access control along state highways rests with the Oregon Department of Transportation. The Department issues road approach permits subject to the approval of City,

County or other governmental agencies having either joint supervision over the section of highway or authority to regulate land use by means of zoning and/or building regulations. It shall be the permit applicants' responsibility to determine the necessity of and obtain any such approval required.

(5) Where access to an arterial or collector is permitted, appropriate techniques will be used to preserve roadway capacity and safety. Techniques may include: use of joint access points, marginal access roads, minimum distances between driveways and intersections, acceleration or deceleration lanes, other special turning lanes, minimum driveway widths, adequate sight distances, one-way driveways, and other access control methods.

(6) Controls on access to local streets will generally be minimal. However, access to local streets from moderate- or high-intensity land uses will not be allowed unless the street is a marginal access street or other street primarily providing access to moderate- or high-intensity land uses, no desirable option exists, or the use currently has access to the street.

(7) Every new land use shall have an adequate amount of off-street parking to serve the use. Most types of uses, however, will not be required to have this parking on the same property if the parking is provided within a reasonable distance from the structure requiring the spaces. Considerable parking areas will be encouraged in the central commercial district, waterfront areas and in other appropriate locations. Surfacing, landscaping, access points, on-site circulation patterns and other parking-related characteristics will be suitable for the use being served, the location and size of the facility. Parking areas with a large number of spaces may have a limited number of smaller-than-normal spaces for compact cars.

8.340 Street and Parking Financing and Improvement (See also TSP Section 6, Transportation Funding Plan)

(1) The City will help achieve the street system needed by equitably distributing improvement costs, establishing improvement priorities, and partially satisfy the demand for parking by constructing and suitably financing City parking lots in appropriate locations.

(2) Street construction and maintenance projects in which the City is financially involved will be included in the capital improvements program for community facilities. All costs associated with construction of collector and local streets shall be the responsibility of the developers. Dedicated streets, not maintained by the State or County, will be maintained by the City upon their formal acceptance. Street widening project costs will be paid by abutting property owners, large-scale development interests benefiting from the improvements and/or by the City when improvements will benefit the general public.

(3) The City, with the assistance of others involved in financing the work, will establish priorities for street improvements. Emphasis should be placed on upgrading arterials and collectors which do not meet City standards. Types of projects that ought to be given special consideration include continuing regular street maintenance, street widening and intersection improvements. As funding becomes available, the City will pay the cost of work for which it is responsible. Encouragement

will be given to the State and County to correct deficiencies in streets which they maintain, as soon as feasible.

(4) Consideration will be given to constructing City-financed or partially City-financed parking lots in the downtown area and other appropriate locations. Some of the spaces could be rented to establishments which need the spaces to satisfy off-street parking requirements. Several of the potential funding sources include business tax fees, revenue bonds and special assessments.

8.350 Multi-Mode Transportation

(1) Transportation options for individuals and organizations will be promoted in a variety of ways in order to stimulate the economy, conserve energy, increase personal convenience and attain other objectives.

(2) Increased use of the Astoria Regional Airport shall be encouraged and efforts by the Port of Astoria to make needed improvements in the airport will be supported. Emphasis on the airport area as a multi-purpose facility for commercial passenger service, air cargo, US Coast Guard operations, general aviation aircraft, industrial activities and other suitable purposes will be promoted. In addition, the City will appropriately regulate nearby development, primarily through the use of height limitations. See also the Air System Inventory located in Section 2 of the TSP.

(3) Efforts will be made to protect the airport from incompatible land uses. This will involve trying to avoid hazards resulting from the height of structures, smoke, glare from buildings, lights which shine upward, radio interference from transmission lines and similar uses in the approach zones. Residential uses will be excluded from locations where aviation noise and the potential for aviation accidents is a serious threat to safety or livability. The Oregon Department of Transportation and the Port of Astoria will be allowed to review building permits for construction within the Airport Hazard Overlay Zone.

(4) Expansion of local boating and shipping activities is advocated by the City. This should be supported by proper management and maintenance of local waterways — such as increasing channel depths where desirable, undertaking periodic dredging to maintain appropriate channel depths, prohibiting reduction of channel areas and setting and enforcing speed limits for the Skipanon Channel. Locations suitable for waterfront development activities include the Skipanon River from the mouth to the Eighth Street dam, a portion of the aquatic areas along the shoreline between Tansy Point and the historic Hammond town limits, along the shoreline of the Hammond Marina, and some relatively small areas in Young's Bay and Alder Cove that are near the peninsulas adjacent to the Skipanon River. Potential water quality and other environmental hazards must be minimized to the extent feasible. See also the Water System Inventory of Section 2 of the TSP.

(5) Deep-draft facilities which can make use of the draft depth of the Skipanon should be encouraged to develop along both east and west banks, near the River's mouth.

(6) It is the City's position that the Skipanon channel and turning basin should be maintained from

the bridge to the Columbia River Channel at a depth of 20 feet until greater depths are needed to accommodate local shipping activities. The Warrenton and Hammond Mooring Basins should be maintained at a depth of 16 feet. The City shall continue to serve as a sponsor for maintenance dredging authorized by the Corps of Engineers in the Skipanon Channel and in the Hammond Basin and will procure and maintain adequate dredged material disposal sites for this maintenance project.

(7) The City will work to expand, as needed, the commercial boat moorage available at the Warrenton Boat Basin and to further develop the Hammond Marina to eventually support inclusion of commercial boat moorage at this facility. Improvements will include additional moorage, parking lot and access improvements, service docks, and other support facilities. In addition, consideration will be given to making the necessary upgrades to city infrastructure at these sites to provide increased opportunities for the development of desired water-dependant and water-related commercial, recreational, and industrial activities.

(8) North Coast regional transit provided by the Sunset Empire Transit District and inter-city bus service provided by Greyhound Bus Lines will be supported.

(9) Pedestrian walkways, often in the form of sidewalks located in street right-of-ways, will be required in all high-, medium- and intermediate-density residential developments, unless the criteria for the Alternative Local Road Standard (TSP Figure 5-3) can be met. Pedestrian walkways will be required in the Warrenton and Hammond city center commercial districts, many waterfront areas, and in various other locations as depicted in the Pedestrian System Plan of the TSP (see Figure 5-7). Adequate safeguards for protecting pedestrians from vehicles will be encouraged. Ramps that comply with the American with Disabilities Act standards will be required at new crosswalks. Priority consideration will be given to repairing and/or replacing sidewalks in the downtown area.

(10) A local bikeway system will continue to be developed in accordance with the Bicycle System Plan of the TSP (see Figure 5-8) as funding becomes available. Bike/emergency parking lanes may be required along new arterials and collectors. State highway funds allocated to Warrenton for bikeways and monies obtained from other sources will be used to help finance the system. Efforts will be coordinated with activities of the Clatsop County Bike Route committee and Oregon Department of Transportation, including those involving the Oregon Coast Trail. Consideration will be given to the construction of bicycle paths

(11) Desirable trucking and pipeline operations will be promoted by the City in accordance with the policies of the TSP (see Figures 5-6 and 2-12, respectively). Efforts will be made to encourage truck access to Warrenton's industrial and waterfront areas while minimizing disruptions to downtown areas. A high priority is improvement of the intersection of Main Avenue, East Harbor Drive and NE Skipanon Drive.

(12) The City supports the continued development of new and expanded transportation facility improvements, including the Warrenton Waterfront Trail, as identified in the 1994 Warrenton Waterfront Revitalization Plan,

ARTICLE 9 ECONOMY

SECTION 9.100 FINDINGS

Warrenton has a natural resource-based economy which is closely intertwined with the economy of the County as a whole. Wood processing, food processing and commercial fishing are three of the natural resource-oriented activities which have been particularly important to the City's economy. These economic activities have significantly benefited trade and service establishments in the downtown area, Highway 101 corridor, and other locations. Trade and service firms have also benefited from tourists visiting Fort Stevens State Park, using local marinas, and traveling through the City on US Highway 101.

Future economic prosperity depends in part on wise management of fishing, forestry and scenic resources in the City, County and other coastal locations. If these resources are well managed and various local economic adjustments are made (such as those necessary to remain technologically competitive with other areas), major resource-based activities in the City and County should be able to at least continue at their current level. If economic expansion occurs in the County, Warrenton should be able to attract a substantial portion of the growth because of its location, available land and public facilities and services. These factors indicate Warrenton has potential for additional water-dependent manufacturing, other manufacturing and trade and service establishments for tourists and area residents. Opportunities also exist for development of port facilities.

The *Warrenton Comprehensive Plan Background Report* contains additional information relevant to the City's Economy. The separate background report *Economic Evaluation of the Columbia River Estuary* also provides information about the City's economy. This section, together with these two background reports, address the requirements of Statewide Planning Goal 9.

SECTION 9.200 GOAL

Promote an improved and more diversified economy which makes possible the establishment and continuation of businesses which are particularly appropriate for the area and reflects the need for expansion of job opportunities.

SECTION 9.300 POLICIES

9.310 City Economy

(1) It is the City's policy to increase desired industrial and commercial activities in the City by zoning sufficient land for these purposes, expanding public facilities and services, carrying out various economic growth projects, obtaining adequate funding for activities to achieve economic gains, and undertaking other appropriate actions.

(2) Efforts will be made to work closely with individuals and organizations to increase desired industrial, general commercial and tourist commercial activities in Warrenton. Sufficient space shall be zoned for these activities and, to the extent practical, the capacity of streets and public facilities and services will be expanded to meet their needs. Expansion of water and sewer system capacity and the efficient use of the present capacity will be particularly critical for some establishments, such as fish processing firms.

(3) The City shall encourage and support local industrial development in order to diversify beyond the City's three predominant industrial sectors (wood processing, seafood processing and commercial fishing), while maintaining strong support for these sectors.

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

(5) Tourist-oriented establishments shall be encouraged to locate in Warrenton. Efforts to increase tourism shall include activities undertaken to provide, protect and enhance scenic and recreational attractions in the area. The City Commission will choose a committee or organization to help evaluate, initiate and carry out appropriate tourist-oriented projects.

(6) A group will be appointed by the City Commission to assist in selecting economic development projects for the Economic Development Administration (EDA) funding list. It should also investigate other potential sources of non-local funds for these projects.

(7) Consideration will be given to requiring a business license of individuals and companies conducting business in Warrenton. Fees should be used primarily to benefit the local economy, including helping to pay for tourist-oriented projects. For example, funds could be used for downtown parking lots, landscaping along major roads, special tourist events and waterfront access facilities. Requiring business licenses would also make it easier to insure compliance with zoning regulations.

(8) The City will determine the desirability of imposing a tax or fee on motel rooms, recreational vehicle spaces, moorages and similar facilities. These taxes or fees would be paid by the user. Most of the funds could help finance public works projects which are needed, in part, because of tourism and other local economic activities. Street maintenance and expansion of sewer system capacity are two of the potential projects. Some of the funds could be used in other ways to promote additional economic activity.

(9) While the City recognizes the desirability of encouraging tourism, its economic well-being depends primarily on the continued economic well-being and expansion plans of present employers within the City. Recognizing the public interest, the City will encourage present employers to expand their operations and aid them in doing what is necessary to maintain an economic base for employment within the City.

(10) The City supports the efforts of the Port of Astoria in developing an industrial park at the Port of Astoria Airport. The City will cooperate with the Port district to improve road access, utility

service levels and other infrastructure to help develop the industrial park.

(11) The City supports efforts by Clatsop County to develop a new county fairgrounds site and light industrial park at the Alumax property in the UGB.

(12) The City has placed a portion of the East Bank of the Skipanon River in the Urban Recreation/Resort Zone to facilitate the development of a golf course on the site, and has zoned the remainder I-2 to permit water-dependent industrial development.

9.320 County Economy

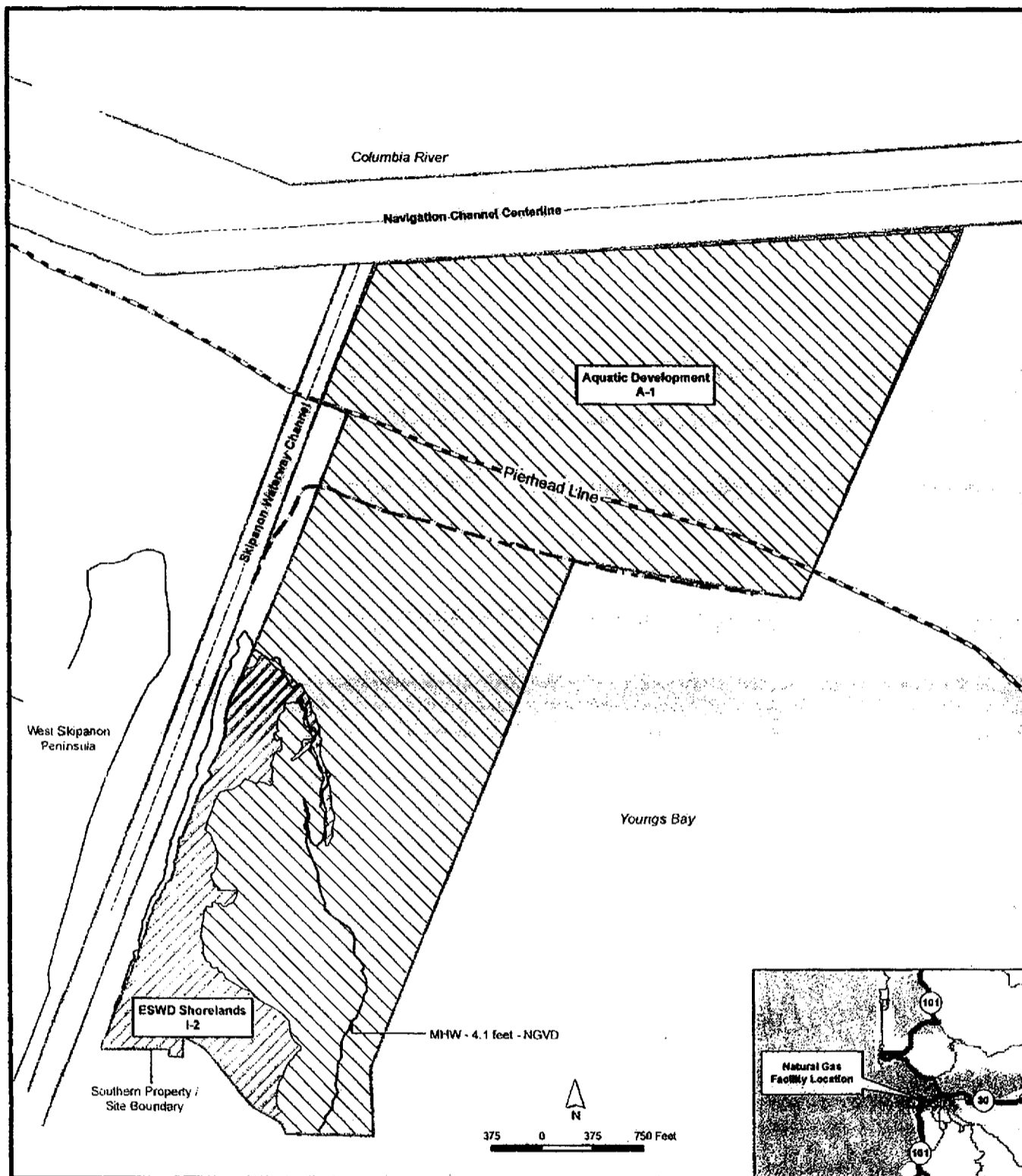
(1) Warrenton will work to achieve a comprehensive approach to economic development planning in the County by participating in the Clatsop Economic Development Council (CEDC), and by encouraging localities to make available sufficient funding for committee functions.

(2) Warrenton will support a comprehensive and coordinated approach to economic development planning in the County, primarily through activities of the Clatsop County Economic Development Council (CEDC).

(3) The City will work through CEDC to achieve many economic objectives beneficial to the City and County as a whole, such as:

- (a) Increasing the emphasis on production of lumber and wood products in the County instead of log exports;
- (b) Expanding CEDC and other fish hatchery programs in the Columbia River Estuary area;
- (c) Relieving the shortage of moorage spaces, particularly moorages for commercial fishing boats;
- (d) Improving the understanding of, and commitment to, the sustained yield concept, a concept which, when applied, means that resources (forestry, fishing or others) will not be overused for short-term gains;
- (e) Increasing the number of tourists that visit Clatsop County during the off-season, including development of motels and tourist-oriented shopping facilities;
- (f) Providing more training opportunities for people who want to learn skills needed for local economic activities; and
- (g) Expanding existing business operations and encouraging other firms to locate in the area.

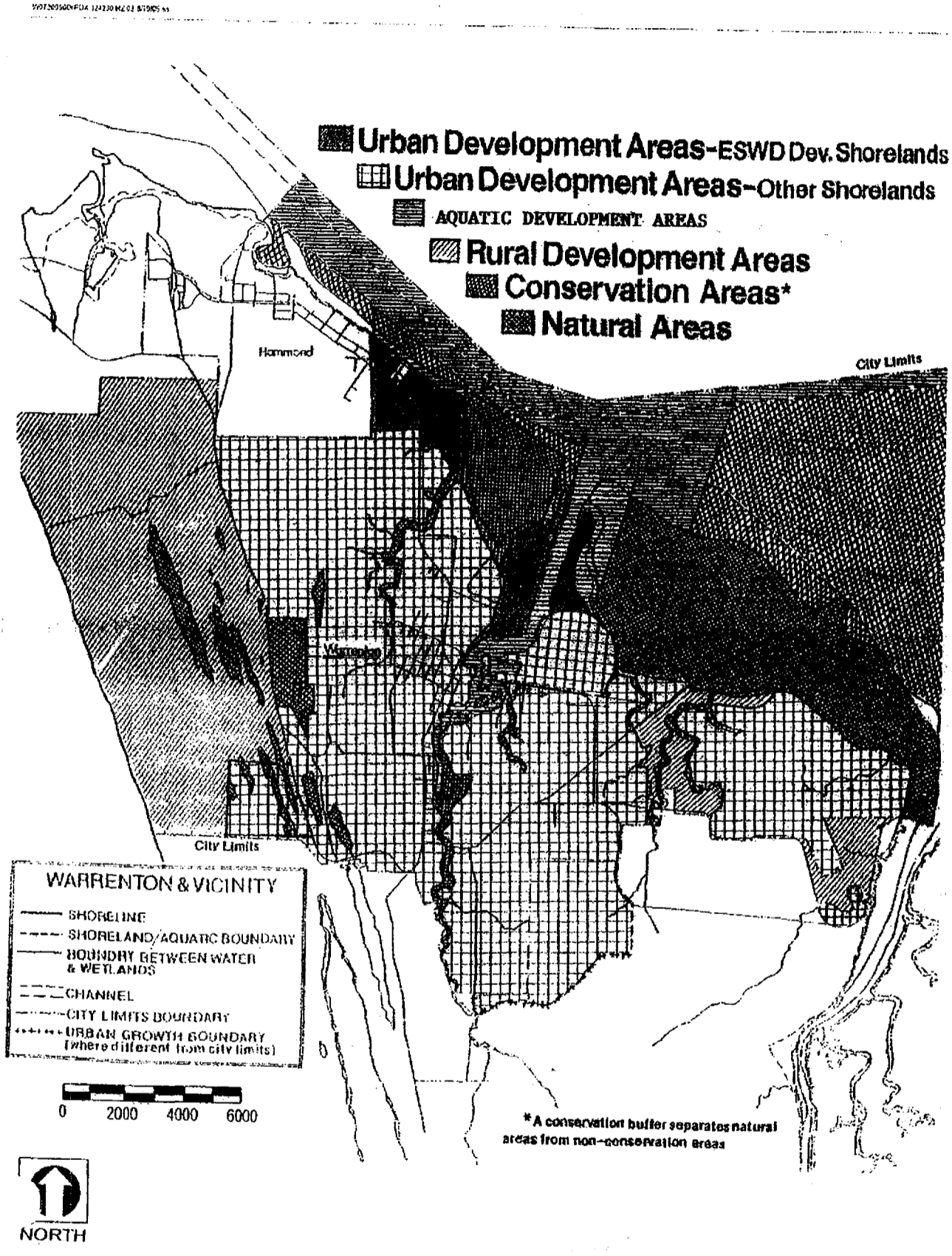
FIGURE 1



Legend		DISCLAIMER: Map data was compiled from various sources listed in the legend. CH2M HILL cannot verify the accuracy of map data from others. This map is for planning purposes only and is not suitable for construction or for local, state, or federal permitting.	SNG LLC Rezone Application Warrenton, Oregon
<ul style="list-style-type: none"> Aquatic Development A-1 ESWD Shorelands / Zone I-2 Symmetric Contour Navigation Channel Centerline Navigation Channel Limits 	<ul style="list-style-type: none"> Mean High Water (MHW) Site Boundary West Skipanon Peninsula 		

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FIGURE 2









CH2MHILL

General Land and Water Use Areas

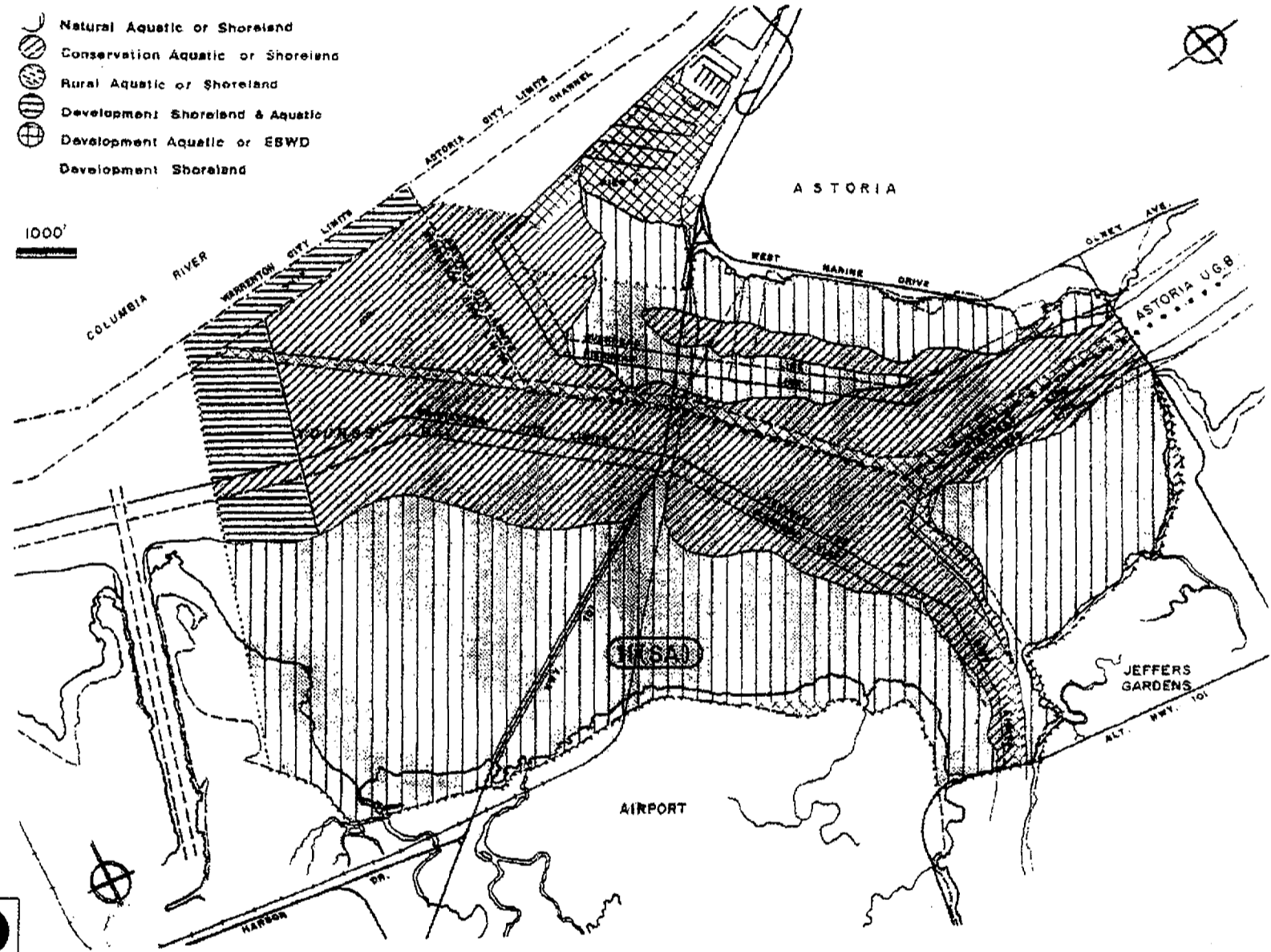
Source: City of Warrenton Comprehensive Plan, 2003.

W07203

122.8/11.05/0

-  Natural Aquatic or Shoreland
-  Conservation Aquatic or Shoreland
-  Rural Aquatic or Shoreland
-  Development: Shoreland & Aquatic
-  Development Aquatic or EBWD
-  Development Shoreland

1000'



CH2MHILL

Youngs Bay (Subarea 42.07)

Source: City of Warrenton Comprehensive Plan, 2003.

FIGURE 4

ORDINANCE No. 1086-A

Introduced by Commissioner:

Amending the text of the City of Warrenton Development Code (City File #OTA-05-1) in Chapters 2.11 (Water Dependent Industrial Shorelands/Industrial-2), 2.12 (Urban Recreation/Resort), 2.13 (Aquatic Development/A-1), and other sections of the Warrenton Development Code to adopt provisions related to the protection of natural resources, establish consistency with the Transportation Planning Rule, clarify the permitted uses in the I-2 zone, remove inconsistencies related to the 2001 amendments to the Comprehensive Plan, amend the City of Warrenton's Zoning Map to rezone the land and water areas as described in City File RZ-05-1; and Adopting Findings of Fact.

The City of Warrenton ordains as follows:

WHEREAS, certain changes are necessary to revise, update and amend the Warrenton Development Code and Zoning Map to reflect the rezoning of certain land and water areas, as described in City File RZ-05-1; and

WHEREAS, Skipanon Natural Gas, LLC has requested these amendments for certain land and water areas known as the East Skipanon Peninsula and adjacent aquatic areas; and

WHEREAS, the Warrenton City Commission received the Planning Commission's recommendation on this matter, and conducted a public hearing on November 17, 2005, closed the public hearing on that date but left the record open for additional argument and evidence until December 9, 2005; and

WHEREAS, the Warrenton City Commission has determined to approve this application and adopt the Findings of Fact, described in Exhibit 'A' (attached hereto and incorporated by reference) and amendments to the Development Code Text, described in Exhibit 'B' (attached hereto and incorporated by reference), and the amendments to rezone certain land and water areas on the City's Zoning Map, described in Exhibit 'C' (attached hereto and incorporated by reference).

Section 1: The City of Warrenton Development Code Text (Exhibit 'B') and Zoning Map (Exhibit 'C') are amended as shown on the attached exhibits.

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: January 10, 2006

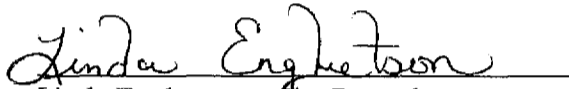
Second Reading: January 24, 2006

PASSED by the City Commission of the City of Warrenton, Oregon, this 24th day of January, 2006.
APPROVED by the Mayor of the City of Warrenton this 24th day of January, 2006.



Gil Gramson, Mayor

ATTEST:



Linda Engbretson, City Recorder

EXHIBIT 'A'

**Findings of Fact and Conclusions of Law
Of the Warrenton City Commission
Approving the Applications for Zoning Code Text and
Map Amendments in File No's: OTA-05-1, AND
RZ-05-1**

Date of Adoption:

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ATTACHMENT I – Goal 16 Findings74

I. Summary

On August 23, 2005, Skipanon Natural Gas, LLC ("SNG") submitted concurrent applications for several amendments to the Warrenton Comprehensive Plan Map and Text (the "Comprehensive Plan Amendments") and several amendments to the Warrenton Development Code and Zoning Map (the "WDC Amendments"). Together these amendments (the "Amendments") designate and zone the shoreland portion of the northern 96 acres of the East Skipanon Peninsula (the "ESP") for water-dependent industrial development (ESWD Shorelands/I-2) and the aquatic areas of the ESP and certain adjacent aquatic areas for aquatic development (Aquatic Development/A-1). The combined shoreland and aquatic areas subject to the Amendments are depicted on Figure 1 (the "Site"). The Amendments also include a number of minor, related amendments that clarify and resolve inconsistencies within the Comprehensive Plan and WDC and bring those planning documents into compliance with state law. As set out in the findings below, SNG (sometimes referred to herein as "Applicant") has presented substantial evidence in support of all the Amendments, and the City Commission approves the Amendments, subject to the conditions of approval set out in Section VII.

II. Background

A. Brief Planning History of the East Skipanon Peninsula

The East Skipanon Peninsula ("ESP") is located within one of the State's three recognized deep draft estuaries, estuaries that have been substantially altered to support commerce and development. The ESP itself was formed through the deposit of dredge spoils starting in the early 1920s.¹ For decades the ESP, with its convenient access to the Columbia River navigation channel and relative isolation from incompatible land uses, has been viewed by the City as a site with unique potential for water-dependent industrial development.²

¹ Columbia River Estuary Study Taskforce (CREST). 1979. *Columbia River Estuary Regional Management Plan*. Page IV-34 (1979).

² Swan and Wooster Engineering. 1969. *Land Use Study of the Skipanon Area for the Port of Astoria, Oregon* (identifying the various virtues of using the north end of the East Skipanon Peninsula as the site for the location of an aluminum plant); *Columbia River Estuary Regional Management Plan*, at IV-35 (recognizing the development value of the ESP); Institute for Environmental Mediation. 1981. *Mediation Panel Agreement Regarding Certain Water-Dependent Development Sites Included with the CREST Plan of June 1979* (recognizing that the East Skipanon Peninsula has both high development and high natural resource value, and proposing two Goal 16 exceptions to permit development in aquatic areas adjacent to the ESP).

The earliest documentation of the ESP's suitability for water-dependent industrial development was in 1969 when the Port of Astoria commissioned a land use study to look at the Site's development potential. The site analysis concluded that berthing a ship on the north end of the ESP would be preferable to a terminal on the Skipanon River because, unlike a Skipanon River site, the ESP "provides easy and safe access for navigation of ship traffic at all times."³

The 1979 Columbia River Estuary Management Plan (the "CREST Plan") represented the first estuary-wide planning effort, and it specifically addressed the appropriate use for the ESP. The CREST Plan concluded that "both peninsulas of the Skipanon River are especially suitable for water-dependent industry."⁴ In furtherance of this use, the CREST Plan proposed to designate the aquatic area that lies within 1,500 feet of the Mean Higher High Water Mark ("MHHW") on the east shoreline of the ESP and out to the Columbia River navigation channel as Aquatic Development.

The 1980 City of Warrenton Comprehensive Plan designated the ESP shoreland as ESWD Shorelands. The ESP was included in the Mouth of the Skipanon Subarea, also called Subarea 5, which covered the same shoreland and aquatic areas as the CREST Plan's Subarea 42.06. The CREST Plan's Subarea 42.06 map was included in the 1980 Comprehensive Plan as the City's Subarea 5 map.⁵ All of the aquatic areas in Subarea 5 were designated Aquatic Development in the 1980 Comprehensive Plan.

In 1981 the City, Clatsop County, DLCD and other stakeholders entered into the 1981 Mediation Panel Agreement. This agreement included several provisions related to the ESP and Subarea 5. Among the findings for the area was that "[t]his site is suitable for water-dependent heavy industrial use which may or may not require alteration of the aquatic area on the east side of the peninsula."

The 1981 Mediation Panel Agreement contemplated two development options for Subarea 5 that were subsequently incorporated into the City's 1987 acknowledged Comprehensive Plan and the Warrenton Development Code ("WDC") through the creation of the hybrid East Bank ("EB") zone. The EB zone extended across all of the land and water areas in Subarea 5.⁶

³ Swan Wooster Engineering.

⁴ CREST Plan at IV-34.

⁵ The CREST Plan described Subarea 5 as extending all the way to the Columbia River navigation channel and as being entirely within the Warrenton city limits.

⁶ The first development option, Alternative I, anticipated aquatic development on "some or the entire approximately 25 acre Exception site" along the eastern shore of the ESP and mitigation site on the southern part of the ESP. The second development option, Alternative II, involved neither the 25 acre

In adopting the 1981 Mediation Panel Agreement development options for Subarea 5, the 1987 Comprehensive Plan declared that "both peninsulas of the Skipanon River are especially suitable for water-dependent development," and that the ESP is "considered suitable for a bulk shipping facility or heavy water-dependent industrial use."⁷ The EB zone remained in place across Subarea 5 until 2001.

The City removed the Mediation Panel Agreement's provisions, including the EB Zone, from the Mouth of the Skipanon Subarea in 2001 in response to an application from the Port of Astoria, which anticipated the development of a golf course on the ESP. The amendments also removed the ESP from the ESWD Shorelands designation in the Comprehensive Plan and applied the Comprehensive Plan's Other Shoreland designation. This change reflected a momentary loss of confidence by the City in the ability to attract water-dependent industrial development to the location.

Within only a short time after the change, however, a new market demand has developed for use of the northern 96 acres of the ESP and the adjacent aquatic areas to the north and east of the ESP (collectively, the "Site") as a water-dependent industrial area. Based on the expert written testimony provided by Applicant, a shift in the international and national energy markets has created an unprecedented demand for the development of a Liquefied Natural Gas ("LNG") import terminal in the region and the ESP is uniquely suited for such a facility.

The Comprehensive Plan and WDC amendments proposed by SNG and approved here by the City Commission include several map and text amendments that are necessary pre-requisites for the subsequent development of an LNG import terminal on the ESP and in the adjacent aquatic areas. The changes adopted here are similar to those implemented through the 1981 Mediation Panel Agreement in that they balance the unique suitability of the area to water-dependent industrial development with the known natural resource values of the adjacent aquatic areas. The Amendments do not approve the development of an LNG import terminal on the Site, they merely establish the requisite plan and zoning use designations to allow the Applicant to enter the site design review and permitting phase to obtain approval to develop such a facility.

development nor the mitigation site. Both alternatives anticipated an exception being taken for a pile supported access way to the north of the ESP.

⁷ The 1987 Comprehensive Plan is internally inconsistent with respect to the aquatic areas in Subarea 5. The plan first declares that in the area "east of the east peninsula, the aquatic area which lies 1500 feet of MHHW on the east shoreline of the Skipanon River and out to the main navigation channel is designated Development." It then also reproduces the 1981 Mediation Panel Agreement development alternatives, which limit the aquatic development areas on and around the ESP to two goal 16 exceptions areas. The 1993 Comprehensive Plan fixed the problem by leaving in place only 1981 Mediation Panel Agreement development options.

B. Current Plan and Zone Designations

The current 2003 Comprehensive Plan Map designates the ESP shoreland area as Other Shorelands and the aquatic areas to the existing city limits as "Urban Development Areas – Aquatic Locations." Consistent with the Other Shorelands designation, the shoreland area is zoned URR. The Urban Development Areas – Aquatic Locations are required by the Comprehensive Plan text to be zoned A-1.⁸ There is an inconsistency, however, between the Plan Map and both the textual description of the aquatic areas within the Comprehensive Plan's Mouth of the Skipanon Subarea, Subarea 5, and the zoning district for the Site's aquatic area indicated on the Zoning Map.

In the Comprehensive Plan's textual description of Subarea 5's aquatic areas, only the Skipanon waterway and the "flowlane disposal area south of the main channel (600 feet wide or to the 20-foot bathymetric contour, whichever is narrower)," are designated Aquatic Development. The subtidal area between the 3-foot bathymetric contour and the flowlane disposal area east of the Skipanon Channel are designated Aquatic Conservation. Finally, outdated text states in a general way that certain aquatic areas adjacent to the ESP are designated "Natural Aquatic" based on references to the 1981 Mediation Panel Agreement that should have been amended out of the Comprehensive Plan in 2001. The current Zoning Map further adds to the confusion by extending the URR zone across all of Subarea 5, including both the shoreland and aquatic areas, notwithstanding the fact that URR is clearly not an aquatic zone.

That portion of the aquatic area that lies to the north of the City's pierhead line and which was recently annexed by the City of Warrenton (most of which is in the Youngs Bay Subarea), is currently designated pursuant to Clatsop County's Comprehensive Plan and Development Code as Aquatic Conservation (A-2) and Aquatic Development (A-1).

In January 2004, the City amended its zoning code, conducted an inventory of 26 riparian corridors in the City, conducted an analysis of the Environmental, Social, Economic, and Energy ("ESEE") consequences of the City's decision to allow, limit, or prohibit certain conflicting uses in significant riparian corridors, and implemented a program for regulating uses in significant riparian corridors, including the Wetland and Riparian Corridor Development Standards Ordinance.⁹

⁸ The Comprehensive Plan is inconsistent in its naming of the A-1 Zone; in Article 5 it refers to it as the "Development Aquatic Zone (A-1)" and in Article 3 it refers to it as the "Aquatic Development Zone (A-1)." The WDC calls it the "Aquatic Development Zone," so that will be the usage throughout this application.

⁹ City of Warrenton. 2004. *Riparian Corridor Inventory and ESEE Analysis*. Astoria, Oregon.

Riparian quality in the Columbia River (Youngs Bay: Mouth of Skipanon River to Youngs Bay Bridge) riparian corridor was deemed to be mixed by the City: "low" at the eastern end, and "medium" along parts of the ESP. The document stated that little characteristic vegetation exists along this corridor. Riparian function in the lower Skipanon River Corridor was rated "low" by the City due to shoreline development, diking, and channel alterations.¹⁰ Some riparian vegetation is present along portions of this corridor.

Because of the lack of natural resource values provided by the riparian vegetation in the lower Skipanon River Corridor inventory unit, the City concluded that this inventory unit is considered "non-significant" for regulatory Goal 5 purposes.

While not specifically part of Amendments adopted herein, the City Commission previously adopted, as a final decision of the City, a related Planning Commission determination requested by the Applicant in a separate application that an LNG import terminal, with its accessory uses and activities, is a form of marine cargo transfer facility, a permitted use in the I-2 zone (the "Code Interpretation"). A copy of the Code Interpretation is in the record. The accessory uses and activities referenced in the Code Interpretation include the regasification of the LNG in between modes of conveyance from ship to the interstate pipeline. The City Commission herein adopts a text amendment that codifies this Code Interpretation.

C. Summary of the Adopted Amendments

The Amendments adopted here redesignate a portion of the ESP shorelands as Especially Suited for Water-dependent ("ESWD") Shorelands and rezone the same land area as Water-dependent Industrial Shorelands ("I-2"). The Amendments also confirm the designation of certain aquatic areas on and adjacent to the ESP as Aquatic Development, as shown on the City's Comprehensive Plan Map (also called the General Land and Water Uses Areas Map), and amend certain additional aquatic areas from Aquatic Conservation to Aquatic Development. There are also a number of minor amendments to the Comprehensive Plan and the WDC that fully implement the 2001 removal of the 1981 Mediation Panel Agreement from applicability to the ESP, bring Warrenton's planning documents into conformity with state law and implement the Code Interpretation.

Specifically, the amendments:

¹⁰ The Lower Skipanon River riparian corridor includes about 27,500 linear feet of shoreline on both sides of the lower Skipanon River, between the river mouth and the Eighth Street dam. Both sides of the corridor are diked, except along the East and West Skipanon Peninsulas.

- I. Amend the Comprehensive Plan map and text to re-designate the shoreland portion of the northern 96 acres of the ESP (approximately 40 acres) as ESWD Shorelands (map) and Water-Dependent Development Shoreland (text); and
- II. Amend the Comprehensive Plan map and text to designate the aquatic portions of the northern 96 acres of the ESP (approximately 56 acres), and additional portions of the aquatic areas in the Mouth of the Skipanon and Youngs Bay subareas, including certain portions of areas recently annexed to the City of Warrenton, as Aquatic Development (altogether approximately 370 acres); and
 - . Amend the Comprehensive Plan text to take care of certain related housekeeping changes, including updating the Goal 5 resource protection language to comply with state regulations and removing extraneous language that should have been removed as part of a 2001 amendment to the Comprehensive Plan; and
 - . Amend the WDC zoning map to place the shoreland portion of the northern 96 acres of the ESP in the I-2 zone; and
 - . Amend the WDC text to codify the Code Interpretation determination that "Liquefied Natural Gas importation, regasification, and transfer" is a permitted use in the I-2 zone; and
 - . Amend the WDC zoning map to designate the aquatic portion of the northern 96 acres of the ESP (approximately 56 acres), and additional portions of the aquatic areas in the Mouth of the Skipanon and Youngs Bay subareas, including certain portions of areas recently annexed to the City of Warrenton, as Aquatic Development (A-1); and
 - . Amend the WDC text to make natural resource restoration and mitigation a permitted use in the Urban Recreation/Resort zone; and
 - . Amend the WDC text to make certain changes related to the protection of natural resources and the Transportation Planning Rule consistent with state law, to clarify the permitted uses in the I-2 zone, and to fully implement the 2001 amendments to the Comprehensive Plan and WDC.

The northern 96-acre parcel of the ESP is subleased by Skipanon Natural Gas, LLC from the Port of Astoria. The Port of Astoria leases the parcel from the Oregon Department of State Lands ("DSL"). Both DSL and the Port of Astoria have consented to this application in writing.

D. Procedural History

Applicant submitted its Application on August 23, 2005, and supplemented it on September 2, 2005. The Planning Commission held the first *de novo* hearing on the

Amendments on October 12, 2005. At the conclusion of that hearing, the Planning Commission voted to recommend approval of the Amendments to the City Commission, subject only to the conditions that the Applicant address issues raised by the Oregon Department of Transportation ("ODOT") with respect to the Applicant's traffic impact analysis ("TIA"), and the Department of Land Conservation and Development ("DLCD") with respect to the evidence submitted by Applicant in support of designating the affected aquatic areas as Aquatic Development management units.

The City Commission held a *de novo* hearing on November 17, 2005, at which time the Applicant presented evidence that both the conditions placed on the Planning Commission's recommendation had been satisfied. The public hearing was closed the same evening, but the record was held open for additional written argument and evidentiary submissions by all parties until the 30th of November, 2005, then until the December 7th, 2005 for responsive argument and evidence by all parties, and then, with the consent of the Applicant, the Applicant had two days, until December 9, 2005, to submit final argument. The City Commission met again on December 15 and voted to tentatively approve the Amendments subject to certain conditions.

The City Commission acknowledges that the entire Planning Commission record in this case, including the Applications, the Applicant's Narrative, staff reports, public testimony, and Planning Department correspondence and other materials were placed before the City Commission and are therefore part of the record.

E. Notification

The City forwarded notification of the proposed Amendments to DLCD on August 25, 2005, 48 days before the first evidentiary hearing before the Planning Commission. In accordance with WDC 4.1.6 and WDC 4.7.3 and ORS 197-763, notification of the Planning Commission and City Commission public hearings was mailed to property owners within 200 feet of the site, all interested parties, and all those who requested to be notified on September 21, 2005, and was published in the Daily Astorian on September 30, 2005. In accordance with WDC 4.1, 4.1.6 and 4.7.3, and ORS 197-763, notice of the November 17, 2005 public hearing before the City Commission was mailed to property owners within 200 feet of the site, all interested parties who appeared at the Planning Commission hearing, and all those who requested notification on October 21, 2005 and was published in the Columbia Press and Daily Astorian on November 4, 2005. The notices contained all of the information required by WDC 4.1.6 and 4.7.3, as well as ORS 197.763.

F. Local Procedure

The City employed a hybrid review process in approving the Amendments, employing the quasi-judicial procedure set forth in the Oregon Revised Statutes, ORS 197.763, and the Type IV process set forth in the WDC for map amendments, which

provides at WDC Section 4.1.6.G.4 that "compliance with Chapter 4.7 shall be required for Comprehensive Plan Amendments and Land Use District Map and text amendments." The City's hybrid procedure provided the most opportunity for public input and due process.¹¹ The City employed the procedures required for Type IV applications, except where doing so was inconsistent with the requirements of WDC Section 4.7 or the quasi-judicial procedures set out in ORS 197.763. Specifically, the City Commission did not allow testimony from the Applicant or any other persons during its December 15, 2005 deliberations following close of the record, in order to ensure that no new evidence was introduced without the parties having the statutorily required opportunity to respond. City staff employed the process required for quasi-judicial decisions because of the inter-relatedness of the proposed amendments that were site-specific and the other text amendments, the importance of the decision, and the breadth of public input that is accommodated by use of the quasi-judicial decision making process. Decisions made under both the quasi-judicial decision making process set forth in ORS 197.763 and the WDC must include findings to support the decision that address the criteria for approval.

G. Incorporation

The City hereby incorporates by reference the following documents: 1) the Planning Commission Staff Report and findings; and 2) SNG's August 23, 2005 Application, as updated September 2, 2005 and as supplemented thereafter. To the extent that the findings or proposed findings set out in the above documents are inconsistent with the findings set out herein, the findings in this decision shall take precedence. Where a particular finding contained herein incorporates by reference another finding contained herein, that finding is incorporated only to the extent it is consistent with the finding into which it is being incorporated.

III. Comprehensive Plan Map and Text Amendments (see Ordinance 1085-A)

¹¹ The WDC is somewhat inaccurate as to its labeling of Type III (Quasi-Judicial) and Type IV (Legislative and Map Amendments) procedures. The primary process difference between the Type III and Type IV procedures is that the Type III procedure can result in a final decision being rendered by the Planning Commission (unless appealed to the City Commission), where the Type IV process requires a hearing before the City Commission following a hearing before and a recommendation from the Planning Commission. However, in spite of the Type IV label in the WDC, the Type IV process can be used for either legislative or quasi-judicial applications, depending on the nature of the subject matter. Thus, quasi-judicial map and text amendments are made under the City's Type IV procedure (requiring dual evidentiary hearings before both the Planning Commission and City Commission), modified as necessary by the state's minimum quasi-judicial hearing procedures under ORS 197.763.

IV. Development Code Zone Map and Text Amendments

A. Summary

Applicant has proposed to amend the Warrenton Development Code's Land Use District Map (the "Zoning Map") to change the zoning of the aquatic areas in the Mouth of the Skipanon Subarea, as expanded by the recent annexation, from URR to Aquatic Development ("A-1"). In addition, a portion of the Young's Bay Subarea to the east of the Mouth of the Skipanon Subarea between the 20 foot bathymetric line and the northern edge of the Columbia River navigation channel will be zoned Aquatic Development. And the shoreland portion of the northern 96 acres of the ESP (approximately 40 acres) will be rezoned from URR to I-2 (collectively, the "Zoning Map amendments"). See Figure 5 for the Zoning Map, as amended. Applicant has also proposed a number of additional text amendments implementing past decisions of the City Commission, bringing the text of the WDC into conformance with the Comprehensive Plan, bringing the transportation impact analysis requirement into conformance with state law, and adding mitigation as a permitted use in the URR zone (collectively with the Zoning Map amendments, the "WDC Amendments"). Specifically, the WDC Amendments include:

- Amend WDC Chapter 2.11.110 to clarify that an "Liquefied Natural Gas importation, regassification, and transfer facility" is a permitted use in the I-2 zone;
- Amend WDC Chapter 2.11.130(17) to clarify that the 1981 Mediation Panel Agreement no longer controls the land use in Subarea 5 of the Comprehensive Plan;
- Amend WDC Chapter 2.13.130(3) to clarify that the 1981 Mediation Panel Agreement no longer controls the land use in Subarea 5 of the Comprehensive Plan;
- Amend WDC Chapter 3.11.11(19) and (21) to remove references to the "East Bank Mediated Development Shoreland Zone" which is no longer in existence.
- Amend WDC Chapter 3.10 to incorporate the provisions of OAR 660-023-0240, which establish that where a natural resource is potentially subject to the protections of Goals 15, 16, 17, or 19 and Goal 5, the protections of Goals 15, 16, 17, and 19 take precedence;
- Amend WDC 4.7.6 to remove out-dated language from the TPR and clarify that the WDC standards for demonstrating "significant affect" are to be the then current standards set out in the TPR.

- Amend WDC 2.12 to add wetland and other natural resource mitigation, restoration, creation and enhancement as a permitted use in the URR zone.

Section 4.7.3 of the WDC requires that any amendment to the WDC text and Zoning Map must be consistent with the Comprehensive Plan Map and all applicable Comprehensive Plan polices and all applicable standards and criteria in the WDC, and that it be based on a change in the community or neighborhood, or on a mistake or inconsistency in the comprehensive plan or zoning map. The findings in this Section IV should be read to address the proposed WDC Amendments collectively, except where the findings, or portions of findings, identify specific amendments to which they are or are not applicable.

B. Warrenton Development Code Text Amendments

1. WDC Chapter 2.11.110 – Water-dependent Shorelands (I-2) District

Section 2.11.110, Permitted Land Uses, of the WDC is amended as follows:

The following uses and activities and their accessory uses and activities are permitted in the I-2 zone if the zoning administrator determines that the uses conform to the standards in Section 2.11.130, applicable Zoning Ordinance standards, and other City laws:

(1) The following water-dependent industrial or port uses:

- a. Industrial docks, piers, moorage facilities.
- b. Marine cargo transfer facilities. c. Seafood receiving and processing.
- d. Liquefied Natural Gas (LNG) importation, regasification, and transfer terminal.

...

Purpose and Intent: The purpose and intent of this amendment is to codify the Code Interpretation previously approved by the Planning Commission and adopted by the

City Commission as a final decision of the City finding that the existing I-2 permitted use "marine cargo transfer facilities" includes a liquefied natural gas importation, regasification, and transfer terminal.

2. WDC Section 2.11.130 – Development Standards

Section 2.11.130 of the WDC, Development Standards, is amended as follows:

The following standards are applicable in the I-2 zone:

...

(16) Other Standards: All other standards, including those pertaining to signs, off-street parking and loading requirements, shall apply as set forth in Chapter 3.3 and Chapter 3.7.

(17) Proposals for development in the area covered by the 1981 Mediation Panel Agreement, other than the Mouth of the Skipanon Subarea, must meet the requirements of the Agreement.

...

Purpose and Intent: The purpose and intent of this amendment is to clarify that while the 1981 Mediation Panel Agreement provisions may otherwise remain applicable, following the 2001 amendments to the Comprehensive Plan and WDC, the provisions of that agreement no longer govern development in the Mouth of the Skipanon Subarea.

3. WDC Section 2.12 – Urban Recreational/Resort (URR) District

Section 2.12.110 of the WDC, titled Permitted Land Uses, is amended as follows:

The following uses and their accessory uses are permitted outright in this zone subject to the development standards of this zone, other applicable development standards in the City's ordinances, and state and federal regulations:

1. Golf courses.
2. Driving range.
3. Tennis courts.

4. Eating and drinking establishments as part of a golf course.
5. Overnight lodging, but not including recreation vehicle (RV) parks.
6. Pedestrian, bicycle or equestrian trails.
7. Transportation facilities and improvements subject to the standards of Section 2.0.4.
8. Wetland and other natural resource mitigation, restoration, creation, and enhancement.

...

Purpose and Intent: The purpose and intent of this amendment is to implement the City's determination that permitting wetland and other natural resource mitigation, restoration, creation, and enhancement in the URR zone is appropriate given its applicability to large tracts of estuary shoreland and because the list of other permitted uses is consistent with natural resource preservation and enhancement efforts.

4. WDC Chapter 2.13 – Aquatic Development (A-1) District

Section 2.13.130 of the WDC, titled Development Standards, is amended as follows:

The following standards are applicable in the A-1 zone:

- (1) All uses and activities must satisfy applicable Columbia River Estuary Aquatic and Shoreland Area Development Standards in Chapter 3.11.
- (2) A proposal involving several uses and activities shall be reviewed in aggregate under the more stringent procedure.
- (3) All applicable policies in the City's Comprehensive Plan, Mediation Agreement and Goal Exceptions shall be met, except that no Mediation Agreement policies shall be applied in the Mouth of the Skipanon Subarea.
- (4) All other applicable Code requirements shall be satisfied.

...

Purpose and Intent: The purpose and intent of the amendment is the same as for amendment 2 above.

5. WDC Chapter 3.10.1 – Wetland and Riparian Corridor Development Standards Ordinance: Purpose

Section 3.10.1 of the WDC, titled Purpose, is amended as follows:

This ordinance provides development standards for wetland and riparian corridors in the City of Warrenton and the Warrenton Urban Growth Area to comply with Statewide Planning Goal 5 (OAR Division 660 Chapter 23) including the provisions of OAR 660-023-240. The City of Warrenton has inventoried its wetland and riparian corridor resources, made a determination of significance for each resource unit, and produced applicable development standards that are contained in this ordinance.

Purpose and Intent: The purpose of this amendment is to clarify within the WDC the priority that state law assigns among multiple goals, including goals 16, 17, and 5, that may each purport to regulate the protection and development of the same natural resources.

6. WDC Chapter 3.10.2 – Wetland and Riparian Corridor Development Standards Ordinance: Applicability

Section 3.10.1 of the WDC, titled Applicability, is amended as follows:

- (1) This ordinance applies to all lands lying within the City of Warrenton and the Warrenton Urban Growth Area.
- (2) OAR 660-023-0024 (2) establishes that the requirements of Statewide Planning Goals 16 and 17, as well as 15 and 19, supersede the requirements of Statewide Planning Goal 5 for natural resources that are also subject to and regulated by those goals.
- (3) Notwithstanding the development standards established below in 3.10.3, 3.10.35 and 3.10.5, pursuant to OAR 660-023-0024 development of wetlands and riparian corridors in estuarine and coastal shoreland areas shall be regulated by the requirements of Statewide Planning Goals 16 and 17, as implemented by this Code.

Purpose and Intent: The purpose and intent of this amendment is the same as for amendment 5 above.

7. WDC Chapter 3.11 – Columbia River Estuary Shoreland and Aquatic Area Development Standards

Section 3.11.11 of the WDC, titled Mitigation and Restoration, is amended as follows:

Standards in this subsection are applicable to estuarine restoration and mitigation projects in aquatic areas and adjacent shorelands.

...

(18) The developer implementing a mitigation action shall be responsible for all costs associated with the mitigation project unless an alternative agreement for cost responsibility is negotiated between the landowner and the developer.

(19) Shorelands in the Marine Commercial Shorelands Zone and Water-Dependent Industrial Shorelands Zone can only be used for mitigation subject to a finding that the use of the site for mitigation will not preclude or conflict with water-dependent uses.

(20) Significant Goal 17 resource areas (major marshes, significant wildlife habitat, and exceptional aesthetic resources) can only be used for mitigation subject to a finding that the use of the site for mitigation will be consistent with protection of natural values.

(21) Shorelands in the Marine Commercial Shorelands Zone and Water-Dependent Industrial Shorelands Zone can only be used for restoration subject to a finding that the use of the site for restoration will not preclude or conflict with water-dependent uses.

(22) Priority 2, Level 3 and 4 mitigation sites shall be designated as mitigation sites until they are proposed for restoration outside of the context of mitigation. At this time restoration shall be considered an allowed use subject to the 30 day freeze restrictions presented in mitigation standard 17. Restoration shall only be allowed at Priority 2 sites subject to a finding that the site is no longer required for mitigation.

...

Purpose and Intent: The purpose and intent of these amendments is to remove outdated lingering references to the EB Zone from the WDC, which should have been

removed pursuant to the 2001 Comprehensive Plan and WDC amendments that created and applied the URR zone to the Mouth of the Skipanon Subarea.

8. WDC Chapter 4.7 – Land Use District Map and Text Amendments

Section 4.7.6 of the WDC, titled Transportation Planning Rule Compliance is amended as follows:

A. When a development application includes a proposed comprehensive plan amendment or land use district change, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060, as it may be amended (the "Transportation Planning Rule"). See also Chapter 4.13, Traffic Impact Study.

B. Amendments to the comprehensive plan and land use standards which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one or more of the methods allowed under the Transportation Planning Rule.

Purpose and Intent: The purpose and intent of these amendments is to implement the City's intention that applicants for certain types of development applications be required to determine whether the proposed development will have a significant affect on traffic facilities and, if so, to demonstrate consistency, as those concepts are defined in the state's transportation planning rule. The existing WDC language codified language from an earlier version of the TPR which has since been amended. The current language therefore has the unintended consequence of imposing a different standard on applicants than the current TPR. This amendment is intended to remedy this situation and prevent it from occurring again the next time that the TPR is amended.

C. Compliance with All Applicable Comprehensive Plan Policies and Map

WDC 4.7.3.B.1: Demonstration of compliance with all applicable comprehensive plan policies and map designations.

1. Consistency with Comprehensive Plan Map Designations

The Applicant has proposed to apply the A-1 zone to aquatic areas in the Mouth of the Skipanon Subarea. The current URR zoning in the aquatic areas of Subarea 5 is a mapping error; it is not consistent with the current Comprehensive Plan designation for

the subarea, which can only be implemented by the City's aquatic zones (which do not include the URR zone). As discussed above, pursuant to the proposed amendment adopted here, the Aquatic Development Plan Map designation will also be amended to no longer be an "Urban Development Areas" designation, and the northern boundary of the Mouth of the Skipanon Subarea, as depicted on the Plan Map, will be extended to the northern edge of the Columbia River navigation channel in conformance with the recently approved annexation and given a new City Aquatic Development Plan Map designation (amending the existing County designation). Applying the A-1 zoning designation to the entire area of the Mouth of the Skipanon Subarea will, therefore, be consistent with the Plan Map, as it is amended.

The Applicant has also proposed to designate as A-1 an appropriate 110 acre aquatic area in the Youngs Bay Subarea, north of the 20 foot bathymetric line, that is currently depicted on the City Comprehensive Plan Map and the County's Comprehensive Plan Map as Aquatic Conservation. Pursuant to the Plan Map amendments, however, the area will be designated Aquatic Development on the City's Plan Map. Applying the A-1 zone designation to this area of the Youngs Bay Subarea will thus be consistent with the Plan Map designation, as amended.

Finally, the Applicant has proposed to apply the I-2 zone to the shoreland portion of the northern 96 acres of the ESP. Those acres are currently designated as "Other Shorelands" but will be redesignated pursuant to the Comprehensive Plan Amendments as "ESWD Shorelands." The I-2 zone designation will bring the zoning into compliance with the Plan Map and the Comprehensive Plan.

The City Commission finds that the proposed Zoning Map amendments satisfy the consistency requirement imposed by this criterion. The criterion is not applicable to the other WDC Amendments.

2. Consistency with Comprehensive Plan Policies

a. Article 1

WDC Chapter 1.2.4.

Each development and land use application and other procedure initiated under this Code shall be consistent with the adopted comprehensive plan of Warrenton as implemented by this Code, and with applicable state and federal laws and regulations. All provisions of this Code shall be construed in conformity with the adopted comprehensive plan.

The City Commission finds that the proposed WDC Amendments are consistent with this policy. The Amendments have been processed in conformance with the procedures set out in the WDC, the Comprehensive Plan, and applicable state statutes, as described in Section II. For the reasons outlined in these findings, the Amendments are

consistent with applicable state law, regulations, the Comprehensive Plan and with the applicable provisions of the WDC.

The proposed amendment to WDC 3.10 ensures that proposals to develop natural resources that are potentially protected by Goals 16 or 17 and Goal 5 are evaluated in conformance with the adopted Comprehensive Plan and with the hierarchy of protections established by state law.

Amending WDC 4.7.6. ensures that traffic impacts and consistency determinations are made by applicants for comprehensive plan or zone changes using the appropriate standards set out in state law and that there is no inconsistency between the Comprehensive Plan, the WDC, and state regulatory requirements.

The WDC amendments that remove lingering references to the 1981 Mediation Panel Agreement and EB Zone, as applied to the Mouth of the Skipanon Subarea, serve to ensure that there is consistency between the Comprehensive Plan and the WDC, and that it is possible to make proposals for development in the area that are consistent with the Comprehensive Plan and the WDC.

Finally, the inclusion of LNG import terminal as a listed permitted use in the I-2 zone simply codifies the City's prior Code Interpretation decision which determined that the already listed permitted use, marine cargo transfer facilities, includes LNG import terminals. This codification is consistent with the policy because it helps to ensure that applicants are able to make applications that are consistent with the WDC and Comprehensive Plan. The remaining WDC Amendments further satisfy this criterion in that they implement the Comprehensive Plan Amendments.

b. Article 2 - Community Development

2.310 Land and Water Use Classification

(1) All land and water areas will be classified as appropriate for urban development, rural uses, recreation, conservation or preservation.

This policy has been amended as provided in III.B.1 to bring it into compliance with the statewide planning goals, which do not treat or characterize the Goal 16 aquatic development management unit designation as an "urban development" for purposes of Goal 14. The revised policy states that: "All land and water areas will be classified as appropriate for urban development, rural uses, recreation, aquatic development, conservation, and or preservation." The proposed Zone Map amendments are consistent with this policy because they apply the Aquatic Development (A-1) Zone designation to an area that is designated as Aquatic Development on the Plan Map and the I-2 Zone to an area that is designated ESWD Shorelands. The policy is not applicable to the remaining WDC amendments. The City Commission finds that this policy is satisfied.

(2)(b) Other Urban Shorelands: Other urban shorelands are more desirable for other uses or are suitable for a wider range of uses than ESWD Shorelands. They are located in one of the following zoning districts: High Density Residential, Medium Density Residential, Intermediate Density Residential, General Commercial, Recreation Commercial, Urban Recreation/Resort, or General Industrial.

This policy is applicable only to the WDC Amendment IV.B.3., which adds wetland and other natural resource mitigation, restoration, creation and enhancement ("Natural Resource Improvements") as a permitted use in the URR Zone. The City Commission finds that the amendment is consistent with this policy because it is consistent with the recognition that Other Shorelands are appropriate for a wider range of uses than ESWD Shorelands. Natural Resource Improvements are allowed conditionally in both ESWD Shorelands zones, I-2 and C-2.

(4) Aquatic Development Areas: Aquatic development areas include areas suitable for deep-draft or shallow-draft navigation, including shipping, channels, access channels and turning basins; dredged material disposal sites and mining/mineral extraction areas; and areas adjacent to developed or developable shorelines which may need to be altered to provide navigational access or to create new land areas for water-dependent uses. These areas are managed for navigation and other water-dependent uses in a manner consistent with the need to minimize damage to the estuarine ecosystem. Some water-related and non-water-related uses may be permitted. All aquatic development areas are in an Aquatic Development zoning district.

NOTE: This is the policy as relocated and renamed pursuant to the Comprehensive Plan Amendment, III.B.1. The content of the policy has not changed.

This policy implements the Aquatic Development management unit classification under Goal 16. The analysis in Attachment 1, which is incorporated by reference into this finding, demonstrates that classifying the Site's aquatic areas as Aquatic Development in the Comprehensive Plan, to the extent that they are not already so classified, is consistent with Goal 16 and, by necessary implication, that it is consistent with this policy to zone those areas A-1. The City Commission finds that the aquatic areas on the Site are properly considered to be "areas adjacent to developed or developable shorelines which may need to be altered to provide navigational access or to create new land areas for water-dependent uses." SNG submitted substantial evidence in the form of extensive evidence of the planning history of the ESP for water-dependent industrial uses, the EOA, which identifies the ESP as the best available site for marine cargo importation and transfer, such as the development of an LNG import terminal, and the Alternative Sites/Need Analysis that reached the same result, in support of the conclusion that the ESP is the location most suitable for this particular form of water-

dependent industrial development. It is therefore appropriate for the City Commission to find that the Site is especially suited to water-dependent industrial development. For these same reasons, the City Commission finds that the opponents' objection that the Site does not satisfy the definitional requirements for aquatic development areas is not well taken.

With respect to the requirement that Aquatic Development areas be "managed ...in a manner consistent with the need to minimize damage to the estuarine ecosystem," SNG presented substantial and credible evidence that this would be feasible. SNG submitted a Wildlife Study, a Preliminary Habitat Report, and a report by CH2M Hill and Ellis Ecological Services in response to DLCD regarding the "Estuarine Impacts of the Proposed Skipanon Natural Gas Facility," as well as written and oral testimony from Frank Flynn, demonstrating that the natural resource features of the aquatic areas of the Site are such that any impacts from development can be avoided, minimized, and mitigated so as to prevent damage to the estuarine ecosystem. In addition, WDC Chapters 3.11 and 3.12 require that prior to any development being approved on the Site there must be an Impact Assessment of the project on the estuary and demonstration of how ecosystem impacts are avoided, minimized, and mitigated. The Applicant has presented substantial evidence through the testimony of Frank Flynn and other evidence in the record that it will be required to make a similar showing in order to obtain the various state and federal permits that will be required in order to engage in in-water development on the Site. For all these reasons, the City Commission finds that the Zoning Map amendments designating the aquatic areas of the Site as A-1 are consistent with this Comprehensive Plan policy. The policy is not applicable to the other WDC Amendments.

Other than as discussed above, the opponents have not specifically raised objections under this policy. Their various objections to the validity of designating and zoning the aquatic areas of the Site for Aquatic Development are addressed in Attachment 1 and in Section VI, and those findings are incorporated herein to the extent applicable.

(5) Conservation Areas: Land and water areas providing resource or ecosystem support functions, or with value for low intensity recreation or sustained yield resources (such as agriculture), or poorly-suited for development, should be designated for non-consumptive uses. Non-consumptive uses are those which can utilize resources on a sustained-yield basis, while minimally reducing opportunities for other uses of the area's resources. These areas are in the City's Aquatic Conservation Zone, and in the Open Space, Parks & Institutional Zone.

NOTE: This policy was renumbered but did not suffer any language changes as a result of Comprehensive Plan Text Amendment III. B. 1.

This policy implements the Aquatic Conservation management unit definition in Goal 16 and the Conservation areas provisions of Goal 17. Applicant's proposal to rezone aquatic areas that are currently designated Aquatic Conservation as A-1 and the shoreland areas I-2 is not inconsistent with this policy, as set out in the Goal 16 aquatic management unit analysis in Attachment 1 and the analysis of Goal 17 above, which are incorporated by reference into this finding. Opponents have not raised objections specifically under this policy. The shoreland area currently has a development designation and as the findings under Goal 17 demonstrate, it is appropriate to re-designate the shorelands for water-dependent development. Their more general objections alleging that the Site must retain its current designations are addressed in Attachment 1, the Goal 17 findings, and Section VI and are found to be without merit.

c. Article 3 - Land and Water Use

3.330 Industrial Lands:

(1) It is the City's policy to support the establishment of a variety of well-designed industrial facilities in appropriate locations in order to expand employment opportunities, make use of land best suited for industry, increase the local tax base and insure a stable economy. Industrial development shall take place in the following areas:

...

(b) Water-Dependent Industrial Shoreland areas have unique characteristics that make them especially suited for water-dependent development. Characteristics that contribute to suitability for water-dependent development include:

- (1) deep water close to shore with supporting land transportation facilities suitable for ship and barge facilities;***
- (2) potential for aquaculture;***
- (3) protected areas subject to scour which would require little dredging for use as marinas;***
- (4) potential for recreational utilization of coastal waters or riparian resources.***

The City Commission finds that the Zoning Map amendments are consistent with this policy and that the policy is not applicable to the remaining WDC Amendments. The record contains substantial evidence that the Site has the unique characteristics that make it appropriate for water-dependent industrial development. The Columbia River Estuary was inventoried by CREST in the 1979 CREST Plan, which was later adopted by the City

of Warrenton as its Goal 16 inventory. The CREST Plan concluded that the ESP is "especially suitable for water-dependent industry." As later outlined in the City's Comprehensive Plan, "the close proximity of the deep water areas of the Columbia River bar to the ESP and shoreline allows deep draft vessels to arrive within the city limits of Warrenton on one tide after crossing the bar. This unique feature enables water-dependent development sites within the City to be situated to provide facilities for the handling of bulk commodities for the entire Columbia River basin and the western United States." This recognition of the ESP shorelands as appropriate for water-dependent industrial development has persisted throughout the planning history for the Site. The decision to remove the ESP from the inventory of ESWD Shorelands in 2001 did not represent a determination that the property was not suitable for water-dependent development, only that the City had not succeeded in attracting an appropriate water-dependent use.

The CREST Plan's inventory also recognized the need to have the aquatic areas adjacent to the ESP designated as Aquatic Development in order to fulfill the water-dependent development potential of the ESP. The CREST Plan established the Mouth of the Skipanon Subarea, which then extended over the ESP north to the Columbia River navigation channel and in which the entire aquatic area was to be designated Aquatic Development. The Plan Map to this day maps the Subarea 5 aquatic areas as Aquatic Development.

Applicant has provided substantial and credible expert testimony establishing the unique suitability of the Site for an LNG import terminal and the positive impacts that such a facility could have on the City of Warrenton's economy. Based on the oral testimony of the Applicant's representatives, the EOA, the EcoNorthwest Analysis, the Alternative Sites/Need Analysis, and the various natural resource reports submitted into the record on behalf of the Applicant, as well as other evidence in the record, the City Commission concludes that the Site is uniquely appropriate for a properly designed and engineered LNG import terminal, that such a facility would diversify the City's economic base, bring family-wage jobs to the community, and increase the local tax base. The proposed Zoning Map amendments are thus consistent with the above policy. The policy is not applicable to the other WDC Amendments.

Opponents have not raised objections specifically under this Comprehensive Plan policy, but have raised concerns regarding the economic impacts of an LNG import terminal on the City of Warrenton. Those concerns are addressed above in response to Goal 9, below in response to the Goal 9 Comprehensive Plan policies, and in Section VI; the findings in these sections are hereby incorporated into this finding.

3.320.1.(e) The purpose of the Urban Recreation/Resort Zone is to control development on certain shoreland areas designated Other Urban Shorelands in the Comprehensive Plan. This zone is appropriate for large tracts of land suitable for development of golf course and other uses listed in the zone.

The proposed text amendment to add Natural Resource Improvements as a permitted use within the URR zone is consistent with the purpose of the zone. The zone is applied to large tracts of land in shoreland areas and involves the development of uses, like golf courses, with substantial open space features. Natural Resource Improvements, like golf course and the other uses currently permitted in the zone, is a use well suited to large tracts of shoreland area. This policy is not applicable to the other WDC Amendments.

3.340 Agriculture, Forestry, Wetlands and Open Space:

(1) Open Space: It is the City's policy to encourage efficient urban development, protect environmentally sensitive areas, and otherwise benefit the public by setting aside appropriate locations for open space, agriculture and forestry. Rural development and conservation areas or zones, described elsewhere in this plan, include important open-space tracts, such as portions of Fort Stevens State Park. Cluster development, appropriate landscaping and other efforts to preserve open space are encouraged in urban development areas. The extensive estuarine areas within the City limits and UGB are a significant open space resource.

The City Commission finds that the proposed WDC Amendments are consistent with this policy. The portions of the aquatic areas currently zoned Aquatic Conservation ("A-2") are properly removed from their current designations and rezoned as A-1 for all the reasons specified in Attachment 1, which are incorporated by reference into this finding. The shoreland area is currently designated for development and as set out in the Goal 17 findings incorporated herein, is properly redesignated for water-dependent industrial development. Opponents' arguments that these re-designations are improper are not specifically addressed to this policy and are responded to in the above referenced and incorporated sections.

The only other WDC Amendment to which this policy is applicable is amendment IV.B.3., which adds Natural Resource Improvements as a permitted use in the URR zone. The City Commission finds that the amendment is consistent with this policy because the ability to make natural resource improvements in a zone helps protect environmentally sensitive areas within that zone. Allowing natural resource improvements in the URR zone will also increase the available options for preserving open space in urban development areas, in particular estuary shoreland areas, which are recognized by this policy as being a significant open space resource.

Article 4 – Natural Features

4.310 Soils

(1) Hazards resulting from poor soils shall be minimized by using sound soils data and engineering principles to determine public and private development techniques and by requiring those developing property, when appropriate, to assume responsibility for certain hazard-related costs.

Applicant has offered testimony indicating that the Site contains soils that have been identified as potentially hazardous to development. The Site is therefore included in the WDC's Soil Hazard Overlay (SHO) District. The SHO is not applicable to the proposed WDC Amendments, and to the extent that it is applicable, there is no prohibition on zoning areas within the SHO as I-2 or A-1. Any proposed development on the Site will be required to demonstrate compliance with the special documentation, design, engineering and construction requirements imposed by the SHO. In addition, any proposed Large-Scale Development, including the approval of any LNG import terminal during the FERC process, will be required to demonstrate compliance with the provisions of WDC 3.19.2. The City Commission finds that to the extent the policy is applicable, the proposed WDC Amendments are consistent with this policy.

At least one opponent objected that the Applicant should have been required as part of this Application to demonstrate compliance with various aspects of the SHO. The City Commission finds that this objection is not well taken. The requirements of that zoning district, and WDC Chapter 3.19, are properly imposed at the time that a specific development is proposed for the Site. As is made clear in policies (2) and (3) of this Section 4.310, on-site soil surveys and reports showing how a proposed development will be engineered to address soil hazards are to be required "prior to the issuance of a building permit" and prior to "approving a structure." The Application requests neither of these two things. For each of these reasons and those reasons provided above, the City Commission finds that the opponents' objections are not well taken.

4.320 Flood Hazards

(1) Public and private losses due to flood conditions shall be reduced by requiring buildings in flood hazard areas to be properly elevated or flood-proofed and by undertaking other measures necessary to avoid hazardous situations.

This policy is implemented through the WDC's Flood Hazard Overlay District ("FHO"). Applicant has offered testimony that the Site is located within a designated flood hazard area. Thus, any proposed development of the Site will be required to demonstrate compliance with the requirements of the FHO. As stated above regarding the SHO district, the FHO is not applicable to the proposed WDC Amendments, and to the extent that they are, the City Commission finds that the proposed WDC Amendments are consistent with this policy because there is no prohibition on zoning areas in the FHO I-2 or A-1 and any development on the Site will be required to be properly elevated and protected to avoid hazardous situations as required by the FHO.

Opponents have argued that the Applicant should be required to demonstrate compliance with the requirements of the FHO as part of these Applications. For the reasons stated here, the City Commission finds that this objection is not well taken. The Applicant is not seeking approval to build a particular project. The WDC Amendments do not permit the construction of any structure without the specific proposed design of that structure first being reviewed for compliance with the requirements of the applicable zone districts, including the FHO, and all of the other applicable site design review standards set out in the WDC. Demonstrating compliance with the requirements of the FHO is not an approval criterion for the proposed WDC Amendments and opponents' suggestions otherwise are found to be without merit.

4.330 Drainage and Erosion

(1) Runoff and water erosion shall be controlled by requiring sound management practices in new subdivisions and large-scale developments and by preparing and implementing comprehensive storm drainage study.

This policy is implemented through WDC Chapters 3.6, Surface Water Management, and WDC Chapter 3.19, which requires a detailed analysis of surface water runoff and erosion issues prior to the approval of any Large-Scale Development. The City Commission finds that the policy is not applicable to the proposed WDC Amendments, and to the extent that it is applicable, the WDC Amendments are consistent with this policy because the policy does not prohibit zoning the Site I-2/A-1, it merely establishes potential approval criteria through the WDC for any proposed development, including Large-Scale Developments, on the Site. The policy is not otherwise applicable to the WDC Amendments.

4.350 Water Quality

(1) The City supports protection of water quality by responsibly managing and constructing various public facilities, adequately controlling private development practices and taking other actions to avoid water pollution.

The City Commission finds that the proposed Zoning Map amendments are consistent with this policy. The City does not interpret this policy to prohibit zoning shoreland and aquatic areas for water-dependent development, as this would be inconsistent with other policies of the Comprehensive Plan. Instead, the City has implemented the policy's mandate to "control[] private development practices" through various provisions of the WDC that are applied to development proposals. Because of its estuarine location, any development proposed for the ESP will be required, for example, to comply with the requirements of WDC Chapter 3.11.17, Water Quality, which requires an evaluation of "potential adverse impacts on water quality," including turbidity, salinity, water temperature, etc., from any proposed dredging, filling, water intake or withdrawal, and more. Similarly, WDC Chapter 3.12.3 requires the applicant for any

development that could impact the Columbia River Estuary to prepare an Impact Assessment that includes impacts on all aspects of water quality. Finally, WDC Chapter 3.11 requires that any development activity in the estuary minimize potential adverse impacts on natural resources. The policy is not applicable to the other WDC Amendments.

Several opponents have raised concerns about the potential water quality impacts of an LNG import terminal on the Columbia River estuary. They have raised issues regarding ballast water, the potential for heated water to be pumped into the estuary, the impact of dredging on water turbidity and others concerns. As demonstrated above, the City has assigned consideration of these issues to the site design review process, which, for an LNG import terminal, will occur during the FERC's LNG permitting process. The City Commission therefore finds opponents' objections to be without merit. In addition, in response to similar concerns raised by DLCD, the Applicant submitted into the record a "Letter Regarding Estuarine Impacts" authored by CH2M Hill and Ellis Ecological Services, which provides, together with other evidence in the record, substantial evidence that it will be feasible to avoid, minimize, and mitigate the potential adverse water quality and other environmental impacts associated with a potential LNG import terminal. Substantial evidence in the record also demonstrates that the Applicant will be required to avoid, minimize and mitigate adverse water quality impacts in order to obtain the various state and federal permits required by the FERC process in order to obtain approval to develop an LNG import terminal.

The WDC IV.B.3., which adds Natural Resource Improvements as a permitted use in the URR zone, is also consistent with this policy. The City Commission finds the amendment to be consistent with the policy because wetland and riparian areas provide vital water quality functions. Because of the location of the URR zone in shoreland areas, having the ability to mitigate, enhance, and restore these vital natural resources is particularly critical to the preservation of water-quality. The proposed amendment is thus consistent with this policy.

4.360 Air Quality and Noise

(1) to preserve air quality and minimize noise through compliance with applicable state and federal regulations, use of additional local requirements and other means.

The City Commission finds that this policy is not applicable to the proposed WDC Amendments, and that, to the extent that it is considered applicable, the WDC Amendments are consistent with the policy. The policy does not prohibit zoning the Site I-2/A-1, and it is not applicable to any of the other WDC Amendments. This policy is implemented through the WDC and applied at the time that a development proposal is made.

4.370 Fish and Wildlife

(1) supports maintenance of important fish and wildlife habitat by protecting vegetation along many water bodies, classifying suitable land and water locations as conservation areas and otherwise encouraging protection of valuable fish and wildlife habitat.

The City Commission finds that the WDC Amendments are consistent with this policy. The policy is only applicable to the proposed Zoning Map amendments. Zoning the Site I-2 and A-1 will create the possibility of development on the Site that could impact certain fish and wildlife habitat. With respect to "classifying suitable land and water locations as conservation areas," the City Commission hereby adopts the analysis in Attachment 1 that demonstrates that it is appropriate to reclassify the portions of the Site currently classified as Aquatic Conservation as Aquatic Development and the Goal 17 analysis that demonstrates that it is appropriate to continue the shoreland as a development site and to move it to ESWD Shorelands. With respect to the remainder of the policy, which requires the City to "encourag[e] protection of valuable fish and wildlife habitat," it is applied at the site design review and permitting stage when a specific development proposal is presented for approval, which, for an LNG import terminal proposal, will occur during the FERC's LNG permitting process. WDC Chapters 3.11 and 3.12 both require an analysis of potential fish and wildlife habitat impacts. WDC Chapter 3.11.7, Fish and Wildlife Habitat, imposes express impact avoidance, minimization, and mitigation requirements on any project with the potential to adversely affect important fish and wildlife habitat. As the evidence submitted by the Applicant indicates, the same is true of the various state and federal permits that anyone seeking to do in-water development, such as dredging or filling, is required to obtain.

Various opponents have raised concerns about the potential impacts of an LNG import terminal on fish and wildlife habitat on the Site. They have raised concerns about the fact that the Applicant's conceptual facilities plan indicates that dredging, piling, and fill would all be required on portions of the Site. The City Commission finds that these objections to the WDC Amendments are not well taken. As discussed above, the City has assigned consideration of these issues to the need to demonstrate compliance with the site design review standards during the FERC's LNG permitting process. In addition, Applicant has submitted a Preliminary Habitat Report, a Wildlife Study, and a "Letter Regarding Estuarine Impacts," all prepared by qualified experts and all site-specific, which taken together provide substantial evidence that if an LNG import terminal proposal were to be made it would be feasible to meet the applicable avoidance, minimization, and mitigation requirements with respect to the existing fish and wildlife habitat on the Site. For each of these reasons, the opponents' objections are found to be without merit.

(2) Identified riparian vegetation along rivers, sloughs, coastal lakes and significant wetlands shall be maintained except where direct water access is required for water-dependent or water-related uses.

The City Commission finds that with the exception of Amendment IV.B.3., this policy is not applicable to the WDC Amendments, and that, to the extent the policy is considered applicable, the WDC Amendments are consistent with this policy. The WDC Amendment IV.B.3 specifically advances this policy by permitting the creation and enhancement of natural resources in the URR zone. The policy is otherwise implemented through the WDC 3.10 and 3.11 governing the protection of Goal 5 resources and Goal 16 and 17 resources respectively. This policy in no way prohibits zoning the Site I-2 and A-1. Any proposed development on the Site consistent with the permitted uses in those zones will be required to demonstrate compliance with the applicable design review standards in the WDC, including those implementing this policy. For these same reasons the City Commission finds that the opponents' arguments objecting to the potential impacts of an LNG import terminal on the riparian vegetation and wetlands on the Site are not well taken.

(3) Fish and wildlife resources will be protected in part by including an extensive amount of local water area, including Alder Cove and Youngs Bay in "conservation aquatic" or "natural aquatic" zones. In addition, identified significant shoreland and wetland habitats will be included in a conservation category to protect these areas from uses inconsistent with the preservation of natural values.

The City Commission finds that the WDC Amendments are consistent with this policy. The policy is only applicable to the proposed Zoning Map amendments, which would designate a portion of Youngs Bay as Aquatic Development. The City Commission does not interpret this policy to mean that in order to protect fish and wildlife resources, all of Youngs Bay will be designated conservation aquatic or natural aquatic, because that is not what the plain language of the policy requires. Such an interpretation would also create an internal inconsistency within the existing Comprehensive Plan because the Youngs Bay Subarea already designates certain portions of Youngs Bay, including the navigation channels, as Aquatic Development. The City Commission instead reads and interprets this policy to require that an "extensive amount" of Youngs Bay be designated "conservation aquatic" or "natural aquatic." Approval of the rezoning of the Youngs Bay portion of the Site to A-1 does not alter the fact that extensive amounts of Youngs Bay remain designated as "conservation aquatic" and "natural aquatic." With respect to the requirement that identified significant shoreland and wetland habitats be included in a conservation category, the Applicant has addressed habitat issues fully in Attachment I and in the Goal 17 analysis above, which are incorporated herein by reference, as are the City Commission's responses to opponents' related objection.

4.380 Scenic and Historic Resources

to enhance the scenic quality of the area by requiring that adequate visual buffers, suitable landscape plans and other techniques be used in appropriate new developments; and to work with individuals to identify and protect important historical and archaeological sites.

The City Commission finds that this policy is not applicable to the proposed WDC Amendments, and that, to the extent that the policy is considered applicable, the WDC Amendments are consistent with this policy. This policy in no way prohibits zoning the Site I-2 and A-1. Instead, the policy is implemented through the site design review standards in the WDC, including, for example WDC 3.2, Landscaping, Street Trees, Fences, and Walls, which will be applied to any proposed development of the Site. The I-2 zone also includes special development standards that serve to implement this policy, including required buffers, screening, and height limitation near adjacent uses. For these same reasons, opponents' objections related to the potential visual impacts of the LNG import terminal on the Site, to the extent they arise in relationship to this policy, are found by the City Commission to be not well taken.

4.390 Energy Conservation

to guide land development, land management, community facility improvements and transportation systems in a manner that maximizes the conservation of energy, based on sound economic principles.

The City Commission finds that this policy is not applicable to the proposed WDC Amendments, and that, to the extent that it is considered applicable, the proposed WDC Amendments are consistent with the policy. This policy does not prevent zoning the Site I-2 and A-1. The policy is implemented through the WDC's development and site design review criteria, and any development proposed for the Site will be required to demonstrate compliance with these standards. In addition, the Applicant has presented substantial evidence, through oral and written testimony in the record, that should an LNG import terminal locate on the Site, it would increase the supply and reduce the cost of natural gas in the area, which is a comparatively clean burning and efficient fuel source.

Article 5 – Columbia River Estuary and Estuary Shorelands

SECTION 5.100 FINDINGS

Development Aquatic areas are designated to provide for navigation and other identified needs for public, commercial, and industrial water-dependent uses. The objective of the Development Aquatic design is to ensure optimum utilization of appropriate aquatic areas by providing for intensive development.

Development Shoreland areas are designated to provide for water-related and water-dependent development along the estuary's shoreline.

Water-Dependent Development Shoreland areas have unique characteristics that make them especially suited for water-dependent development. Characteristics that contribute to suitability for water-dependent development include:

-) Deep water close to shore with supporting land transportation facilities suitable for ship and barge facilities;***

The City Commission finds that the WDC Amendments are consistent with this policy. The policy is only directly applicable to the Zoning Map amendments. The City Commission hereby incorporates by reference into this finding the applicable analysis in Section IV.C.2.b., Attachment 1, Section VI, and the Goal 17 analysis above, all of which establish that the record contains substantial evidence in support of the conclusion that the aquatic and shoreland portions of the Site meet the requirements for designation as Aquatic Development and Water-Dependent Industrial Development respectively. The Site features both deep water close to shore and land transportation facilities suitable for ship and barge facilities, in particular for the specific needs of LNG importation. The City Commission further incorporates by reference its responses to opponents' arguments against the appropriateness of these designations contained in those same sections and reaffirms that they are not well taken. The policy does not have implications for the other WDC Amendments.

5.301 Deep-Water Navigation, Port and Industrial Development.

- (1) Shorelands with adjacent deep-water access, adequate rail or road access, and sufficient backup land shall be reserved for water-dependent recreational, commercial, industrial, or port development.***

The City Commission concludes that the proposed WDC Amendments are consistent with this policy. The policy applies directly to the Zoning Map amendments that would designate the shoreland portion of the ESP as I-2. The shoreland portion of the ESP is properly zoned I-2 under the requirements of this policy because of its proximity to the Columbia River navigation channel, the ability to locate water-dependent development on the ESP without having a significant adverse impact on traffic, see the discussion of Goal 12, and the availability of sufficient land to support the accessory uses and activities associated with water-dependent industrial development. The City Commission hereby incorporates into this finding the analysis and conclusion contained in the discussion of Goal 17 regarding the designation of the shoreland portion of the Site as ESWD Shorelands as well as its discussions under Goal 9 of the unique

suitability of the Site for LNG importation. The policy does not implicate the other WDC Amendments.

(5) Evaluation of proposals involving treated or untreated wastewater discharge into the estuary will rely on the point source water pollution control programs administered by the Oregon Department of Environmental Quality and the Washington Department of Ecology.

The City Commission finds that this policy is not applicable to the proposed WDC Amendments, and that, to the extent that it is considered applicable, the WDC Amendments are consistent with the policy. The Zoning Map amendments will permit, under certain circumstances, industrial development on the Site that could involve proposals to discharge wastewater into the estuary. This policy, however, is implemented through the development standards and the site design review criteria in the WDC. Any development proposal for the Site will be required to demonstrate compliance with the applicable WDC criteria that implement this policy. The policy relates to development proposals not the proposed WDC Amendments. For these reasons, the City Commission finds as well that opponents' arguments regarding the possibility of waste water discharges associated with an LNG import terminal are not well taken and are not applicable to the proposed WDC Amendments.

5.305 Dredging and Dredged Material Disposal.

(1) New and maintenance dredging shall be allowed only:

a) If required for navigation or other water-dependent uses that require an estuarine location or if specifically allowed by the applicable zone; and

The City Commission finds that this policy is not applicable to the proposed WDC Amendments and that, to the extent that it is considered applicable, the WDC Amendments are consistent with the policy. The Zoning Map amendments would designate the aquatic areas of the Site as A-1. The A-1 zone allows dredging under certain circumstances, including where dredging is required to support navigation and water-dependent uses. Any dredge proposal related to an LNG import terminal, however, is subject to demonstration of compliance with the impact and mitigation requirements set out in WDC Chapters 3.11 and 3.12 during the FERC's LNG permitting process. Again, this policy is applied to specific dredging proposals through the WDC, not to proposed WDC amendments.

Opponents have raised various concerns related to the possibility of an LNG import terminal locating on the Site and the new and maintenance dredging that such a facility would require. The Application, however, does not include a specific development proposal or a request for authorization to dredge, therefore compliance with the WDC development standards and site design review criteria that implement this

policy are not applicable approval criteria for the Application. The City Commission finds that these objections are not well taken.

b) Dredging and dredged material disposal shall not disturb more than the minimum areas necessary for the project and shall be conducted and timed so as to minimize impacts on wetlands and other estuarine resources.

The City Commission finds that this policy is not applicable to the proposed WDC Amendments, and that, to the extent that it is considered applicable, the WDC Amendments are consistent with the policy. The Zoning Map amendments that designate the aquatic areas as A-1 create the possibility of new and maintenance dredging under certain circumstances. There is no inconsistency between designation of the aquatic areas of A-1 and this policy however. The policy is implemented through the development standards and site design review criteria of the WDC and these will be applied at the time dredging is proposed during FERC's LNG permitting process. For these reasons the City Commission also finds that opponents' arguments regarding the scope and timing of potential dredge activity associated with an LNG import terminal to be not well taken and not applicable to the proposed WDC Amendments. The policy is not implicated by any of the other WDC Amendments.

5.307 Estuarine Construction.

(2) Proposals for new or enlarged navigational structures, or for removal of existing structures, must demonstrate that expected benefits outweigh potential adverse impacts on estuarine productivity

The City Commission finds that this policy is not applicable to the WDC Amendments, and that, to the extent that it is considered applicable, the WDC Amendments are consistent with the policy. The Zoning Map amendments applying the I-2 and A-1 zoning designation to the Site will permit, under certain circumstances, the development of new or enlarged navigation structures. There is no inconsistency between applying the I-2 and A-1 zones to the Site and this policy however. The policy is implemented through WDC Chapter 3.11.5 and Chapter 3.12, which specifically requires a demonstration that "the project's potential public benefits will equal or exceed expected adverse impacts." These provisions of the WDC are applied to specific development proposals and no proposal to develop a navigational structure on the Site is being made at this time. For these same reasons the City Commission rejects opponents' objections related to the potential impacts of new navigational structures associated with an LNG import terminal as not well taken and not applicable to the proposed WDC Amendments. The policy is not applicable to any of the other WDC Amendments.

(4) Piling or dolphin installation, structural shoreline stabilization, and other structures not involving dredge or fill, but which could alter the estuary may be allowed only if all of the following criteria are met:

- (a) A substantial public benefit is demonstrated; and***
- (b) The proposed use does not unreasonably interfere with public trust rights; and***
- (c) Feasible alternative upland locations do not exist; and***
- (d) Potential adverse impacts, as identified in the impact assessment, are minimized.***

The City Commission finds that this policy is not applicable to the proposed WDC Amendments, and that, to the extent that it is considered applicable, the WDC Amendments are consistent with the policy. The Zoning Map amendments designating the Site A-1 and I-2 allow the uses specified in this policy under certain circumstances. There is no inconsistency between applying these zones to the Site and this policy however. The policy is implemented through the WDC Chapter 3.11 and Chapter 3.12, which are applied at the time that a specific development with the potential to impact the estuary is made, which, in the event of a proposed LNG terminal, will occur during FERC's LNG permitting process. The Application does not contain a proposal to install piling or engage in the other activities addressed in this policy. The policy is not applicable to any of the other proposed WDC Amendments. For these reasons the City Commission also finds that the opponents' objections to the possibility of piling and other activities covered by this policy are not well taken and are not applicable to the proposed WDC Amendments.

5.309 Fill.

- (2) Reduction of surface area or volume of aquatic areas and significant non-tidal wetlands in shoreland areas shall be minimized in the location and design of facilities requiring fill.***
- (3) Construction on piling is preferred over construction on fill.***
- (4) Mitigation may be required for fills.***
- (5) Fill in estuarine aquatic areas may be permitted only if all of the following criteria are met:***
 - (a) If required for navigation or for other water-dependent uses requiring an estuarine location, or if specifically allowed under the applicable aquatic zone; and***
 - (b) A substantial public benefit is demonstrated; and***

- (c) The proposed fill does not unreasonably interfere with public trust rights; and;**
- (d) Feasible upland alternative locations do not exist; and**
- (e) Adverse impacts, as identified in the impact assessment, are minimized.**

The City Commission finds that this policy is not applicable to the proposed WDC Amendments, and that, to the extent it is considered applicable, the WDC Amendments are consistent with the policy. The Zoning Map Amendments designating the aquatic areas as A-1 will allow fill activity under certain circumstances. There is no inconsistency between applying the A-1 zone to the Site and this policy. The policy is implemented through WDC Chapter 3.11 and Chapter 3.12, which apply the policy's criteria for fill at the time a fill proposal is made, which, in the event of a proposed LNG terminal, will occur during FERC's LNG permitting process. The Application does not contain a proposal to fill. For the same reasons, City Council finds that opponents' objections related to the potential for fill activity associated with an LNG import terminal are not well taken and not applicable to the proposed WDC Amendments. The policy has no applicability to the other WDC Amendments

5.311 Fish and Wildlife Habitat.

- (1) Endangered or threatened species habitat shall be protected from incompatible development.***

The City Commission finds that the proposed WDC Amendments are consistent with this policy to the extent applicable, but that the policy is generally inapplicable until the time of development. The policy is only potentially considered applicable to the Zoning Map Amendments, which could permit development that could be incompatible with endangered or threatened species habitat, if it were not properly regulated and if impacts were not properly mitigated. There is nothing inherently inconsistent between this policy and zoning the Site I-2 and A-1. First, there is substantial site-specific expert testimony in the record that establishes that the ESP does not include critical habitat for threatened or endangered wildlife species and that impacts on such habitat as does exist can be effectively avoided, minimized, and mitigated. The City Commission hereby incorporates the analysis and findings in Attachment 1 and its earlier discussion of Goal 17. Second, this policy is implemented through the WDC's development standards and site design review criteria, including WDC Chapters 3.11 and 3.12. These require, among other things, any applicant seeking a permit to develop in the estuary to conduct an Impact Analysis that includes potential impacts on critical wildlife habitat and give the City the ability to deny a permit if those impacts cannot be adequately avoided, minimized, and mitigated, which, in the event of a proposed LNG terminal, will occur during FERC's LNG permitting process. For these same reasons, the City Commission

finds that opponents' arguments regarding the potential impact of an LNG import terminal development on endangered and threatened species are not well taken.

(2) Measures shall be taken protecting nesting, roosting, feeding and resting areas used by either resident or migratory bird populations.

The City Commission finds that the proposed WDC Amendments are consistent with this policy. There is nothing inconsistent between zoning the Site I-2 and A-1 and the policy of taking measures to protect the nesting, roosting, feeding and resting areas used by either resident or migratory bird populations. First, there is substantial site-specific scientific evidence in the record that the Site does not include critical nesting, roosting, feeding, or resting areas for resident or migratory bird populations. Second, to the extent that such areas exist and the zoning permits uses that might impact such areas, any proposal to develop an LNG import terminal use on the Site will be required to demonstrate compliance with all applicable development standards and site design review criteria in the WDC, including Chapters 3.11 and 3.12 during FERC's LNG permitting process, which require both an assessment of impacts on estuarine resources and a demonstration of measures taken to avoid, minimize, and effectively mitigate any such impacts. The policy is not applicable to the other WDC Amendments. For these same reasons the City Commission finds that opponents' arguments regarding the potential impacts of an LNG import terminal development on resident and migratory birds are not well taken and not applicable to the proposed WDC Amendments

(3) Major non-tidal marshes, significant wildlife habitat, coastal headlands, and exceptional aesthetic resources within the Estuary Shorelands Boundary shall be protected. New uses in these areas shall be consistent with the protection of natural values, and may include propagation and selective harvest of forest products, grazing, harvesting, wild crops, and low intensity water-dependent recreation.

The City Commission finds that that the proposed WDC Amendments are consistent with this policy. In support of this finding, the City Commission incorporates into this finding the analysis and evidence relied upon in the above analysis of Goal 17, which establishes that it is appropriate to designate the Site's shorelands as ESWD Shorelands. As indicated in that discussion, substantial evidence in the record supports the conclusion that the Site does not encompass major non-tidal marshes, significant wildlife habitat, a coastal headland, or an exceptional aesthetic resource. Moreover, such natural resources as do exist on the Site are protected through the criteria applied to any proposed development in the estuary through WDC Chapters 3.11 and 3.12, the demonstration of compliance with which for a proposed LNG terminal will occur during the FERC's LNG permitting process. Opponents' arguments challenging these determinations are addressed by and in the Goal 17 analysis above and are found to be without merit. The policy is not otherwise applicable to the proposed WDC Amendments.

5.315 Land Transportation System.

(4) New land transportation routes shall be located so as not to reduce or downgrade the potential for development of Marine Commercial Shorelands, Water-Dependent Industrial Shorelands, or Development Aquatic areas.

The City Commission finds that the proposed WDC Amendments are consistent with this policy. The policy is only applicable to the Zoning Map amendments. The City has no plans to install land transportation routes on or near the Site that would reduce or downgrade the potential for development of the Site for a water-dependent industrial use.

(5) Construction of new land transportation facilities and maintenance of existing land transportation facilities shall be undertaken in a manner that minimizes expected impacts on aquatic and shoreland estuarine resources.

The City Commission finds that this policy is not applicable to the proposed WDC Amendments, and that, to the extent that it is considered applicable, the WDC Amendments are consistent with the policy. Zoning the Site I-2 and A-1 may lead to the development of new land transportation facilities on the ESP, but this is not inconsistent with the policy. The policy is implemented through the WDC design review criteria and any applicant for a permit to develop a transportation facility on the Site will be required to satisfy the applicable WDC criteria, including those in Chapters 3.11 and 3.12 that require all natural resource impacts from any proposed development to be assessed, avoided, minimized, and mitigated. The policy is not applicable to the other proposed WDC Amendments.

5.321 Mitigation and Restoration.

(1) Any fill activities that are permitted in Columbia River Estuary aquatic areas or dredging activities in intertidal and shallow to medium depth subtidal areas shall be mitigated through project design and/or compensatory mitigation (creation, restoration or enhancement) to ensure that the integrity of the estuary ecosystem is maintained. The Comprehensive Plan shall designate and protect specific sites for mitigation which generally correspond to the types and quantity of aquatic area proposed for dredging or filling.

The City Commission finds that, with the exception of amendment IV.B.3, this policy is not applicable to the proposed WDC Amendments, and that, to the extent that it is considered applicable, the WDC Amendments are consistent with the policy. The Zoning Map amendments that designate the aquatic areas on the Site A-1 create the possibility of dredge and fill activities on the Site. The requirements of this policy with respect to any such activities, however, are implemented through WDC Chapters 3.11 and 3.12, which require, among many other criteria, that the amount of dredge and fill activity be minimized and that any impacts be mitigated through avoidance,

minimization, and only then through compensatory mitigation. The City Commission finds, therefore that these amendments are consistent with this policy, to the extent that it is applicable.

The only WDC amendment to which this policy is clearly applicable is IV.B.3, which makes wetland mitigation, restoration, and enhancement a permitted use in the URR zone. Implementation of this policy requires that there be suitable sites available for compensatory mitigation that will "ensure that the integrity of the estuary ecosystem is maintained." Because the URR zone applies to large tracts of estuary shoreland, it is critical that, when appropriate, areas within that zone can be used for natural resource improvements. The proposed amendment is therefore consistent with this policy.

(9) No mitigation action shall endanger or obstruct adjacent properties. The potential for present or future endangerment or obstruction shall be determined in advance of the mitigation action. Responsibility for rectifying potential damage to adjacent property shall be determined prior to permit approval.

This policy is applicable only to proposed WDC amendment IV.B.3. The City Commission finds that the amendment is consistent with the policy because the policy effectively limits the number of available mitigation sites and places a premium on ensuring that natural resource improvements are allowed in areas where there is less likelihood of those improvements endangering or obstructing adjacent properties. The URR zone allows for the development of recreational uses, including uses involving large areas of open space. These uses are among those least likely to be endangered or obstructed by mitigation efforts. Moreover, because the URR zone is found only in shoreland areas, any proposed mitigation activity on a URR site will be subject to the applicable approval criteria in Chapters 3.11 and 3.12, which serve to implement this policy. The proposed amendment is therefore consistent with this policy. For these reasons, the City Commission also finds the opponents' objection to including natural resource improvements as a permitted use in the URR zone on the grounds that it could interfere with adjacent and other potential uses to be not well taken.

(29) All restoration projects shall serve to revitalize, return, replace or otherwise improve the wetland and aquatic ecosystems in the Columbia River Estuary area. Examples include restoration of natural biological productivity, fish and wildlife habitat, aesthetic or historic resources that have been diminished or lost due to past alterations, activities, or catastrophic events. In selecting projects, priority shall be given to those projects which provide substantial public benefits and which restore those wetland and aquatic habitat types, resources, or amenities which are in shortest supply compared to past abundance.

This policy is applicable only the proposed WDC amendment IV.B.3. The City Commission finds that the amendment is consistent with this policy because the policy requires that restoration projects serve to benefit the wetland and aquatic ecosystems in

the Columbia River Estuary area. Projects will typically have to be located in or adjacent to the wetland and aquatic areas of the estuary in order to satisfy this requirement. Because the URR zone is applied to large areas of estuarine shoreland, it is vital to the implementation of this policy that natural resource improvements are permitted in the zone.

31) Restoration of economically marginal and unused low-lying diked areas to estuarine wetland shall be encouraged; active restorations to provide potential for diverse habitat (e.g., mudflat and marsh) as well as passive restorations are encouraged. Except through public condemnation procedures, removal of dikes or excavation on private lands shall not occur without consent of the landowner.

This policy is only applicable to the proposed WDC amendment IV.B.3. The City Commission finds that the amendment is consistent with this policy because the URR zone is a shoreland zone and thus may encompass low-lying diked areas that are unused or economically marginal. The amendment will allow shoreland property that falls in this category and is zoned URR to be used for restoration activities.

(36) Restoration of riparian vegetation around wetlands and waterways in the Columbia River Estuary planning area is a high priority. Protection of these areas shall be implemented using various strategies (e.g., zoning, acquisitions, easements, and transfer of development rights).

This policy is only applicable to the proposed WDC amendment IV.B.3. The City Commission finds that the amendment is consistent with this policy because the URR zone is a shoreland zone that encompasses vegetation around wetlands and waterways in the Columbia River Estuary. By adding the natural resource improvements to the allowed uses within the zone, the URR zoning designation will become a means of appropriately protecting these resources. The amendment is therefore consistent with this policy.

5.323 Public Access.

(1) Existing public ownerships, right-of-ways, and similar public easements in estuary shorelands which provide access to or along the estuary shall be retained or replaced if sold, exchanged or transferred.

The City Commission finds that this policy is not applicable to the proposed WDC Amendments, and that, to the extent that the policy is considered applicable, the proposed WDC Amendments are consistent with the policy. There is no inconsistency between zoning the Site for water-dependent industrial development and the policy that public right-of-ways that provide access to or along the estuary be maintained or replaced. This policy is implemented through the WDC and any future development proposed for the Site that would require the sale, exchange, or transfer of an applicable public easement

would be required to replace such easement. The other proposed WDC Amendments are not implicated by this policy.

(2) Public access in urban areas shall be preserved and enhanced through water-front restoration and public facilities construction, and other actions consistent with Warrenton's public access plan.

The City Commission finds that this policy is not applicable to the proposed WDC Amendments, and that, to the extent it is considered applicable, proposed WDC Amendments are consistent with the policy. The Zoning Map amendments designating the shoreland portion of the ESP as I-2 would permit outright or conditionally certain water-dependent or water-related public access developments to occur, but it will not be a violation of this policy if the zoning leads to the development of a water-dependent industrial facility that is not compatible with improved public access. With respect to preserving existing public access, this policy is implemented through the public access design review criteria in the WDC, which will be applied at the time that a development is proposed for the Site. The other proposed WDC Amendments are not implicated by this policy.

(3) Proposed major shoreline developments shall not, individually or cumulatively, exclude the public from shoreland access to areas traditionally used for fishing, hunting, or other shoreline activities.

The City Commission finds that this policy is not applicable to the proposed WDC Amendments, and that, to the extent that it is considered applicable, the proposed WDC Amendments are consistent with the policy. On its face, the policy applies to "proposed major shoreline developments," not to proposed zone changes. In any event, zoning the shoreland I-2 is not inconsistent with this policy. Zoning the Site I-2 will not have any direct impact on fishing, hunting or other shoreline activities. And any future industrial development approved for the Site will not exclude the public from shoreland access to areas traditionally used for fishing, hunting, or other shoreline activities because the ESP has not traditionally provided shoreland access to such activities. Moreover, because this policy is implemented through the WDC site design review criteria, any disputes with respect to existing uses of the Site will be addressed at the time a specific development is proposed.

(4) Special consideration shall be given toward making the estuary accessible for the physically handicapped or disabled.

The City Commission finds that this policy is not applicable to the proposed WDC Amendments and that, to the extent that it is considered applicable, the WDC Amendments are consistent with the policy. This policy does not create a mandatory approval criterion for the proposed WDC Amendments. In addition, the WDC Amendments do not have any implications for the implementation of this policy.

5.327 Residential, Commercial and Industrial Development.

(2) Residential, commercial or industrial development requiring new dredging or filling of aquatic areas may be permitted only if all of the following criteria are met:

(a) The proposed use is required for navigation or other water-dependent use requiring an estuarine location, or if specifically allowed in the applicable aquatic zone; and

(b) A substantial public benefit is demonstrated; and

(c) The proposed use does not unreasonably interfere with public trust rights; and

(d) Feasible alternative upland locations do not exist; and

(d) Potential adverse impacts are minimal.

The City Commission finds that this policy is not applicable to the proposed WDC Amendments, and that, to the extent that it is applicable, the WDC Amendments are consistent with this policy. The Zoning Map amendments that would designate the aquatic areas of the Site as A-1 would allow dredging and filling under certain circumstances, including where such activity is required to support water-dependent industrial uses. The amendments are consistent with the policy, however, because the policy is implemented through the site design review standards of WDC Chapters 3.11 and 3.12, which will require any LNG terminal development proposal involving dredge or fill activity on the Site to demonstrate compliance with the above criteria during the FERC's LNG permitting process. For the same reasons, the City Commission finds that the opponents' objections to the potential dredge and fill requirements of an LNG import terminal are not well taken and are not applicable to the proposed WDC Amendments.

(3) Piling or dolphin installation, structural shoreline stabilization, and other structures not involving dredge or fill, but which could alter the estuary may be allowed only if all of the following criteria are met:

(a) A substantial public benefit is demonstrated; and

(b) The proposed use does not unreasonably interfere with public trust rights; and

(c) Feasible alternative upland locations do not exist; and

(c) Potential adverse impacts are minimized.

The City Commission finds that this policy is not applicable to the proposed WDC Amendments and that, to the extent considered applicable, the WDC Amendments are

consistent with the policy. The Zoning Map amendments that would designate the aquatic areas of the Site as A-1 and shoreland area I-2 create the possibility of the activities covered by this policy occurring on the Site under certain circumstances. The amendments are consistent with the policy, however, because the policy is implemented through the site design review standards in WDC Chapters 3.11 and 3.12, which are applied to specific development proposals with the potential to alter the estuary; if an LNG import terminal is proposed for the Site, the demonstration of compliance with the criteria in these chapters will occur during FERC's LNG permitting process. For these same reasons, the City Commission finds that the opponents' objections regarding the possible estuarine impacts of an LNG import facility on the Site are not well taken and not applicable to the proposed WDC Amendments.

5.331 Significant Areas.

(1) Significant estuarine aquatic and shoreland resources shall be protected from degradation or destruction by conflicting uses and activities.

The City Commission finds that the WDC Amendments are consistent with this policy. The City Commission hereby incorporates by reference into this finding the conclusions of the Goal 17 and Goal 16 (Attachment 1) analyses, which demonstrate that it is appropriate to designate the shoreland and aquatic areas of the Site for water-dependent development rather than as conservation or natural areas. Notwithstanding the Site's zoning for water-dependent development, this policy is also implemented through development standards and site design review criteria applicable to the zoning districts and any developments within the Columbia River Estuary with the potential to impact the estuary, in particular WDC Chapters 3.11 and 3.12. These provisions ensure, among other things, that any applicant for a permit to develop an LNG terminal on the Site will be required to demonstrate, during FERC's LNG permitting process, how adverse impacts on the estuary's natural resources are avoided, minimized, and mitigated and that the public benefits of the proposed development equal or exceed the adverse impacts.

(2) Major marshes, significant wildlife habitat, and exceptional aesthetic resources shall be protected.

The City Commission finds that the WDC Amendments are consistent with this policy. This policy is applicable to the Zoning Map amendments that designate the shoreland portion of the Site as I-2. That zoning is consistent with this policy for the reasons set out above in the above Goal 17 analysis, which establishes that the shoreland is properly designated ESWD Shorelands because substantial, site specific expert testimony and other evidence in the record demonstrates that there are no major marshes, significant wildlife habitats, or exceptional aesthetic resources on the shoreland portion of the Site. The Goal 17 analysis is hereby incorporated by reference into this finding. Moreover, notwithstanding the ESWD/I-2 shoreland designation, the natural resources on the shoreland portion of the Site are protected by the requirement that any proposed LNG

terminal development on the Site will be required to demonstrate compliance, curing FERC's LNG permitting process, with the applicable approval criteria in WDC Chapters 3.11 and 3.12, which require, among other things, a natural resources Impact Assessment, and a demonstration that the impacts have been avoided, minimized, and mitigated. The policy is not applicable to the other WDC Amendments. For these same reasons, the City Commission finds that the opponents' objections to the potential natural resource impacts of an LNG import terminal on the Site are not well taken.

(3) Significant riparian vegetation shall be protected to the extent identified in local comprehensive plans, except as provided for in Zoning Ordinance Significant Area Standards 1, 2, and 5.

The City Commission finds that this policy is not applicable to the proposed WDC Amendments, and that, to the extent that it is considered applicable, the WDC Amendments are consistent with the policy. None of the WDC Amendments will alter the obligation of an applicant proposing development on the Site to demonstrate compliance with the applicable WDC development standards and site design review standards in the WDC, including those in Chapters 3.11 and 3.12 that protect significant natural resources, including riparian vegetation, in the Columbia River Estuary.

5.335 Water-Dependent Development Areas.

(1) Shorelands zoned Marine Commercial Shorelands or Water-Dependent Industrial Shorelands shall be protected for water-dependent use.

The City Commission finds that the WDC Amendments are consistent with this policy. The Shoreland portion of the ESP will be zoned I-2, and none of the amendments alters the preference for water-dependent uses in the I-2 zone. This policy is satisfied.

(2) Shorelands especially suited for water-dependent recreational, commercial and industrial uses shall be placed in either a Water-Dependent Industrial Shorelands, Marine Commercial Shorelands Zone.

The City Commission finds that the WDC Amendments are consistent with this policy. The policy applies only to the amendment that places the I-2 zone on the ESWD Shoreland portion of the ESP. The amendment directly implements this policy.

5.347 Mouth of the Skipanon River Subarea

(1) Development of shorelands and adjacent aquatic areas in the East and West Peninsulas of the Skipanon River shall include provision for vegetative buffers and other means for shielding the developed areas from adjacent marshes and flats.

The City Commission finds that this policy is not applicable to the proposed WDC Amendments and that, to the extent that it is applicable, the WDC Amendments are consistent with the policy. None of the amendments impacts this policy or the ability of the City of Warrenton to apply it through the WDC to proposed developments for the Site.

(2) The Development Aquatic designations along both sides of the Skipanon are provided to accommodate future water-dependent uses.

The City Commission finds that the proposed WDC Amendments are consistent with this policy. The Zoning Map amendments bring the zoning into compliance with the terms of this policy. Unlike URR, the I-2 zone is a water-dependent development zone, and establishing that the adjacent aquatic areas are A-1 is necessary to make the water-dependent shoreland designation meaningful.

(8) Portions of this subarea are subject to provisions of the 1981 Mediation Panel Agreement. Developments in this area must be consistent with the relevant portions of the Agreement.

As discussed in Section II and III above and in Section VI below, this policy has not been effective since the 2001 Comprehensive Plan and WDC amendments that sought to remove the provisions of the 1981 Mediation Panel Agreement from the Mouth of the Skipanon Subarea. The EB Zone was a hybrid aquatic area and shoreland designation that limited development to two very specific industrial development options. The 2001 amendments necessarily voided this policy because it would not be possible to pursue the permitted uses under the Other Shorelands/URR zone designation that applied to the Site after the 2001 amendments and also comply with the requirements of this policy. The record contains substantial evidence that the City intended to remove the Mediation Panel Agreement's applicability from the Mouth of the Skipanon Subarea and the City Commission finds that this policy was simply overlooked in the amendment process and is properly stricken from the Comprehensive Plan and thus not relevant to the WDC Amendments.

Opponents' various arguments regarding the continued applicability of the Mediation Panel Agreement to the Mouth of the Skipanon Subarea are found to be without merit for the reasons stated in this finding, as well as those stated in Section III and below in Section VI.

(9) The City will pursue the possibility of constructing bicycle/walking paths on top of the City dikes along the Columbia River, Youngs Bay and the Skipanon River. The priority order of construction should be:

(a) The west bank of the Skipanon River from Harbor Drive south to SW Third Street.

(b) A trail between downtown and the Youngs Bay Plaza area. This trail could follow the old right-of-way west of the downtown intersection a distance of one mile, and follow the dike for approximately 3,000 feet to its intersection with US 101, near the shopping center.

(c) The Airport loop from US 101 at the Youngs Bay Bridge to the old Youngs Bay River Bridge. The trail then follows Airport Road back to US 101.

(d) The east bank of the Skipanon River dike from Harbor Drive to SE Eighth Street.

The City Commission finds that the proposed WDC Amendments are consistent with this policy. The policy does not create an obligation to construct any of the trails listed, only to pursue the possibility of creating such trails. None of the trail segments would be precluded from being developed by virtue the WDC Amendments. The policy is therefore satisfied, even though it does not constitute a mandatory approval criterion.

5.349 Youngs Bay Subarea

(1) Proposed developments shall be evaluated for their impact on existing aquaculture operations.

The City Commission finds that this policy is not applicable to the proposed WDC Amendments, and that, to the extent it is considered applicable, the WDC Amendments are consistent with this policy. The WDC Amendments do not propose a development, therefore the policy is facially inapplicable. None of the WDC Amendments alters this policy or prevents its full implementation through the WDC. The rezoning of a portion of Youngs Bay from the Clatsop County equivalent of A-2 to A-1 creates the possibility of development that could impact existing aquaculture operations, but, as discussed repeatedly in the sections above, any such development proposal would be required under WDC Chapters 3.11 and 3.12 not just to provide an analysis of impacts on aquaculture but to demonstrate how such impacts will be avoided, minimized and mitigated. In addition, there is no evidence in the record that the particular area of Youngs Bay is utilized for any aquaculture operations as that term is defined in the WDC.

f. Article 7 – Community Facilities and Services

7.310 Community Facilities and Services

(1) It is the City's policy to meet community needs by establishing a capital improvements program, using appropriate site acquisition methods, carefully selecting service activities, and undertaking other desirable actions.

The City Commission finds that this policy is not applicable to the proposed WDC Amendments, and that, to the extent that it is applicable, the proposed WDC

Amendments are consistent with the policy. Substantial evidence in the record demonstrates that the proposed WDC Amendments are a prerequisite to taking advantage of the opportunity to site an LNG import terminal in the City of Warrenton and that, should such development occur, it would bring substantial new tax revenues into the City. Such tax revenues could, if appropriate, be used to better meet community needs for facilities and services.

Opponents' arguments regarding potential increases in demands for public facilities and services are addressed above in the findings regarding Goal 11, as well as below in Section VI. The discussion and conclusions in those sections are incorporated into this finding. As stated above, under the applicable WDC site design review criteria for development in the Columbia River Estuary, the proposal for an LNG terminal will need to demonstrate, during the FERC permitting process, that its potential benefits to the public do, in fact, outweigh its adverse impacts, including any potential increases in public facilities and services costs. Under the applicable provisions of the WDC, however, as well as pursuant to the commitments made by the Applicant, the monetary cost for such increases would be born by the developer of the Site. The City Commission finds the opponents' objections regarding this issue to be not well taken.

7.320 Water, Sewer and Storm Drainage/Flood Control

(7) Before new subdivisions are approved or building permits are issued for new large-scale developments in Warrenton, the City will assess their impact on the capacity of the community's water, sewer and storm water runoff facilities. Such developments will only be allowed if sufficient capacity exists or suitable evidence indicates it will exist prior to completion of development construction. In deciding the sufficiency of capacity, consideration will be given to possible increases in flows resulting from activities of existing system users and facilities which are likely to be built due to the proposed use but which are not a part of the development.

The City Commission finds that this policy is not applicable to the proposed WDC Amendments and that, to the extent it is considered applicable, the WDC Amendments are consistent with this policy. None of the WDC Amendments modify this policy or limits the City's ability to fully implement the policy through the application of the implementing WDC design review criteria to any proposal to develop the Site. I-2 zoning on the Site will allow for proposals for Large-Scale Developments, but under the express terms of the WDC, no permit will be issued for such a development unless it complies with the WDC provisions, including WDC 3.19, Large-Scale Developments, which implements the specific requirements of this policy.

(8) New subdivisions, new large-scale developments and certain other uses in Warrenton will not be allowed unless satisfactory provisions are made for water supply, sewage disposal and storm water runoff facilities. Satisfactory

provision, in part, means that the size of any water lines, sewer lines and drainage ways will be sufficient to meet the needs of development and, where desirable, be able to accommodate growth in other areas. Suitable arrangements, including dedication of land and use of easements, shall be made so that the City will be able to maintain appropriate water, sewer, and drainage facilities. The construction of lengthy pressure-forced sewer lines to the site, which by-pass undeveloped properties, will be discouraged.

The City Commission finds that this policy is not applicable to the proposed WDC Amendments, and that, to the extent it is considered applicable, the WDC Amendments are consistent with this policy. None of the WDC Amendments modify this policy or limit the City's ability to fully implement the policy with respect to the Site. I-2 zoning on the Site will allow for proposals for Large-Scale Developments, but under the express terms of the WDC, no permit will be issued for such a development unless it complies with the WDC provisions, including WDC 3.19, Large-Scale Developments, which implement the specific requirements of this policy.

g. Article 8 – Transportation

8.350 Multi-Mode Transportation

(4) Expansion of local boating and shipping activities is advocated by the City. This should be supported by proper management and maintenance of local waterways – such as increasing channel depths where desirable, undertaking periodic dredging to maintain appropriate channel depths, prohibiting reduction of channel areas and setting and enforcing speed limits for the Skipanon Channel. Locations suitable for waterfront development activities include the Skipanon River from the mouth to the Eighth Street dam,... and some relatively small areas in Youngs Bay and Alder Cove that are near the peninsulas adjacent to the Skipanon River. Potential water quality and other environmental hazards must be minimized to the extent feasible. See also Water System Inventory of Section 2 of the TSP.

The City Commission finds that the WDC Amendments are consistent with this policy. By rezoning the Site to permit water-dependent industrial development, the City will create the possibility of increased shipping activity in the Mouth of the Skipanon Subarea. The policy also recognizes that in order to increase shipping activities, it is necessary to make a relatively small portion of Youngs Bay adjacent to the ESP available as Aquatic Development. The City Commission finds that the aquatic areas proposed to be zoned A-1 come within the meaning of "relatively small areas" in Youngs Bay.

(5) Deep-draft facilities which can make use of the draft depth of the Skipanon should be encouraged to develop along both east and west banks, near the River's mouth.

The City Commission finds that the WDC Amendments are consistent with this policy. The Zoning Map amendments are necessary to implement this policy because the current Other Shorelands/URR designation of the ESP would not permit a deep-draft facility to locate on the ESP near the River's mouth. The proposed ESWD Shorelands/I-2 designation of the northern portion of the ESP, in contrast, will permit such a use. None of the other WDC Amendments alter this policy or are otherwise inconsistent with its implementation.

h. Article 9 – Economy

9.310 City Economy

(1) It is the City's policy to increase desired industrial and commercial activities in the City by zoning sufficient land for these purposes, expanding public facilities and services, carrying out various economic growth projects, obtaining adequate funding for activities to achieve economic gains, and undertaking other appropriate actions

The City Commission finds that the WDC Amendments are consistent with this policy. The Zoning Map amendments will increase the City's opportunity for water-dependent industrial development in the form of an LNG import terminal. Based on substantial evidence in the record, the City Commission finds that the existing ESWD Shorelands either lack the unique combination of land and water features required for an LNG import terminal or are committed to other uses. The Site has unique features which make it the best suited location for an LNG import terminal in the region, but no proposal to develop such a facility on the Site can be considered until the appropriate zoning is in place. The City Commission also concludes based on substantial evidence in the record that attracting an LNG import terminal to the Site would generate new revenues for the City that could be used to expand public facilities and services and pursue other economic growth opportunities. None of the remaining WDC Amendments amend this policy or otherwise adversely affect the City's ability to fully implement this policy.

Opponents' arguments that an LNG import terminal would adversely impact the City of Warrenton's economy are addressed in Section VI, and those responses are incorporated by reference into this finding. In short, the City Commission is not persuaded by those arguments because they are based on evidence that the City Commission finds to be less reliable and entitled to less weight than the evidence presented by the Applicant. The City Commission therefore finds that these objections are not well taken.

(3) The City shall encourage and support local industrial development in order to diversify beyond the City's three predominant industrial sectors (wood processing, seafood processing, and commercial fishing), while maintaining strong support for these sectors.

The City Commission finds that the WDC Amendments are consistent with this policy. Designating the aquatic areas as Aquatic Development/A-1 and the shoreland as ESWD Shorelands/I-2 in order to take advantage of the emerging opportunities in LNG furthers this policy. Marine cargo transfer facilities and, more specifically, the bulk importation of LNG, are not among the City's existing industrial sectors. The designation of the ESP as suitable for water-dependent industrial development creates an opportunity for industrial development and does not preclude the City from continuing its strong support for existing predominant industrial sectors, all of which rely on industrial zoning designations. None of the other WDC Amendments adversely affect the City's ability to fully implement this policy.

Opponents have argued that putting an LNG import terminal on the ESP would harm the predominant existing industrial sectors, in particular commercial fishing. The City Commission finds that this objection is not well taken. The WDC Amendments do not approve the development of an LNG import terminal on the Site and water-dependent industrial zoning by itself is not only consistent with but necessary to the City's traditional industries. An LNG import terminal would be a permitted use on the Site once the zoning is in place, but any proposal to develop such a facility would be required to demonstrate consistency with the applicable WDC development standards and site design review criteria during the FERC's LNG permitting process and several of the WDC criteria would prohibit approval of the development if it unduly interfered with commercial fishing and other uses of the estuary. Moreover, Applicant has provided substantial and credible evidence that it is feasible to develop an LNG import terminal on the Site without significantly impacting boating activity, including commercial fishing activities. The City Commission finds that the WDC amendments are consistent with the policy of diversifying the City's industrial base while maintaining strong support for traditional industrial sectors.

(5) Tourist-oriented establishments shall be encouraged to locate in Warrenton. Efforts to increase tourism shall include activities undertaken to provide, protect, and enhance scenic and recreational attractions in the area.

The City Commission finds that the WDC Amendments are consistent with this policy. The City Commission does not interpret this policy to foreclose additional water-dependent industrial development in the City, as evidenced by the other policies in the Comprehensive Plan that favor such development. The ESP has not traditionally been, nor is it today, a designated scenic or recreational attraction. Notwithstanding its rezoning to URR in 2001, the Site has not attracted any recreational or tourist oriented

development proposals, including the original golf course that was the motivation for the rezone. The City Commission finds that rezoning the Site for water-dependent industrial development is also consistent with this policy because doing so in no way prevents the City from continuing its existing efforts to encourage tourist-oriented establishments to locate in Warrenton.

Opponents have argued that locating an LNG import terminal on the ESP would create a disincentive to tourism activity, including cruise ships and recreational boating, and have offered ideas for recreational and tourist uses of the ESP. The City Commission finds that these objections are not well taken. Again, this policy does not require every land-use decision to advance tourism as opposed to the industrial or other sectors of Warrenton's economy. The City Commission finds based on the evidence in the record, that jobs in the industrial sector are less seasonal, higher paying, and provide better benefits than the jobs in the tourism sector. Adopting the WDC Amendments does not prevent the City Commission from pursuing its other initiatives aimed at increasing tourism activity in Warrenton. Opponents' arguments regarding the specific potential adverse effects of an LNG import terminal on the ESP are also premature. The WDC Amendments do not approve the development of an LNG import terminal on the Site, and the proponent of such a development would be required to demonstrate compliance with the WDC site design review criteria, during FERC's LNG permitting process, including establishing public need and that public benefits meet or exceed any adverse impacts. Moreover, Applicant has presented substantial and credible evidence that it is feasible to develop an LNG import terminal on the Site and to avoid, minimize, and mitigate the kinds of impacts on the Skipanon River and the Estuary that could substantially interfere with Warrenton's water-oriented tourism industry. For each of these reasons, the City Commission finds that the opponents' objections related to impacts on tourism are not well taken.

(9) While the City recognizes the desirability of encouraging tourism, its economic well-being depends primarily on the continued economic well-being and expansion plans of present employers within the City. Recognizing the public interest, the City will encourage present employers to expand their operations and aid them in doing what is necessary to maintain an economic base for employment within the City.

The City Commission finds that the proposed WDC Amendments are consistent with this policy. Given the nature of Warrenton's predominant industries, zoning the ESP for water-dependent industrial development is consistent with the objective of assisting current employers in expanding their operations and maintaining the economic base for employment. The City Commission finds, based on substantial evidence in the record, that Warrenton's predominant industrial sectors are also reliant on the availability of affordable natural gas and that creating the possibility for the importation of LNG furthers their interest in limiting energy costs. Substantial evidence in the record also

persuades the City Commission that it is reasonable to conclude that a new large-scale industrial development on the ESP, including in particular an LNG import terminal, would generate new buying power in the community that would, in turn, support existing businesses and create the demand for new employees in certain sectors. The new revenues that would be generated from a large-scale water-dependent industrial development on the Site would also allow the City to provide additional assistance to existing employers to maintain and expand their operations, including through improved infrastructure. For all these reasons, the City Commission concludes that the opponents' objections to an LNG import terminal on the Site based on alleged impacts on existing employers are not well taken.

(12) The City has placed the East Bank of the Skipanon River in the Urban Recreation/Resort Zone to facilitate the development of a golf course on this site.

As demonstrated above in Section III, amendment of this policy to indicate that the northern portion of the ESP has been placed in the ESWD Shorelands/I-2 zone, is consistent with the Statewide Planning Goals. As amended, the policy is consistent with the proposed WDC Amendments.

D. Compliance with All Applicable WDC Standards and Criteria

WDC Chapter 4.7.3(B)(2) requires as criteria for quasi-judicial amendments to the WDC a "demonstration of compliance with all applicable standards and criteria of this Code, and other applicable implementing ordinances." The City Commission finds that this section does not require a demonstration of compliance with all standards and criteria of the Code, only those which are applicable to the proposed amendments. The City Commission finds that the standards and criteria related to development proposals are not applicable to the proposed WDC Amendments.

1. Chapter 4.7.3(B)(1) and (3)

Criteria for Quasi-Judicial Amendments. A recommendation or decision to approve, approve with conditions or to deny an application for a quasi-judicial amendment shall be based on all of the following criteria:

- a. A demonstration of compliance with all applicable comprehensive plan policies and map designations.**

This requirement is satisfied with respect to all the WDC Amendments as demonstrated in this Section IV.

- b. Evidence of change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or land use district map regarding the property which is the subject of the application; and the provisions of Section 4.7.6, as applicable**

This requirement is satisfied as demonstrated through the findings in Sections IV. D. and E.

2. WDC 2.17: Flood Hazard Overlay District

The City Commission finds that the WDC Amendments are consistent with the requirements of the Flood Hazard Overlay District. The proposed amendments involve rezoning land that is located within the Flood Hazard Overlay District. As stated above in the findings regarding Goal 7 and the Comprehensive Plan's natural hazards policies, which are hereby incorporated by reference into this finding, the FHO district's requirements are not approval criteria for the proposed Amendments. Any development proposal for the Site, however, including an LNG import terminal, will have to demonstrate compliance with all applicable provisions of the FHO district prior to receiving the necessary development permits. As indicated earlier, opponents have raised objections to the WDC Amendments based on concerns related to the ability of an LNG import terminal to be adequately secured against natural hazards. For the reasons stated here and above in the findings on Goal 7 and the natural hazards Comprehensive Plan policies, the City commission finds that these objections are not well take and are not applicable to the proposed WDC Amendments.

3. WDC 2.19: Soils Hazard Overlay District

The proposed WDC Amendments involve rezoning property that is located within the Soils Hazard Overlay District. WDC Chapter 2.10.100 provides that the stated purpose of this zone is "to avoid development hazards in areas of the City which, according to available soils information, may have moderate to highly compressible soils. These regulations apply to areas in the City which have Braillier, Bergsvik, Coquille-Clatsop Complex and Coquille Variant soils."

The National Resources Conservation Service soil survey for the proposed amendment area show two soil types on the ESP: Troposamments (67) and Coquille-Clatsop Complex (11A).¹² Because the proposed amendment area contains soils that are

¹² National Resources Conservation Service (NRCS). 1988. *Soil Survey Report for Clatsop County*.

classified in the Coquille-Clatsop Complex (11A), the SHO District applies and regulations provided in WDC Chapter 2.19 must be met by all development proposed in this area.

The City Commission finds that the WDC Amendments are consistent with the requirements of the SHO. As stated above in the findings regarding Goal 7 and the Comprehensive Plan's natural hazards policies, which are hereby incorporated by reference into this finding, the SHO district's requirements are not approval criteria for the proposed Amendments. Any development proposal for the Site, however, including an LNG import terminal, will have to demonstrate compliance with all applicable provisions of the SHO district prior to receiving the necessary development permits. As indicated earlier, opponents have raised objections to the WDC Amendments based concerns related to the ability of an LNG import terminal to be adequately secured against natural hazards, including soil adequacy issues. For the reasons stated here and above in the findings on Goal 7 and the natural hazards Comprehensive Plan policies, the City Commission finds that these objections are not well take and are not applicable to the proposed WDC Amendments.

4. Chapter 2.12 – URR Zone

The standards and criteria of this Chapter are directly applicable only to WDC Amendment IV.B.3, which establishes Natural Resource Improvements as a permitted use in the URR zone.

2.12.100 Purpose

The purpose of the Urban Recreation/Resort Zone is to control development on certain shoreland areas designated Other Urban Shorelands in the Comprehensive Plan. This zone is appropriate for large tracts of land suitable for development of the uses listed in this zone.

The proposed amendment is consistent with the purpose of the URR zone. See discussion above in Section IV.C.2, which is hereby incorporated by reference into this finding.

2.12.110 Permitted Land Uses

The following uses and their accessory uses are permitted outright in this zone subject to the development standards of this zone, other applicable development standards in the City's ordinances, and state and federal regulations:

1. Golf courses.

- 2. Driving range.**
- 3. Tennis courts.**
- 4. Eating and drinking establishments as part of a golf course.**
- 5. Overnight lodging, but not including recreation vehicle (RV) parks.**
- 6. Pedestrian, bicycle or equestrian trails.**
- 7. Transportation facilities and improvements subject to the standards of Section 2.0.4.**

The City Commission finds that Natural Resource Improvements is an appropriate use to include on this list for the reasons discussed above, and hereby incorporated by reference, in Section IV.B.2. In particular, because the zone is applied in estuarine shoreland areas and anticipates recreational uses that typically involve significant amounts of open space, the City Commission finds that it is consistent with the resource conservation and estuary protection policies of the Comprehensive Plan to include the use as a permitted use within this zone. For these same reasons the City Commission finds that opponents' objections to including the use as a permitted use in the zone are not well taken.

2.12.120 Conditional Uses

The following uses and their accessory uses may be permitted as conditional uses subject to the Conditional Use Criteria and Standards in Section 4.4, the development standards of this zone, other applicable development standards in the City's ordinances, and state and federal regulations:

- 1. Single-family and multi-family residences as part of a master planned development that also includes a golf course.**
- 2. Retail uses related to the primary recreational activity in this zone.**
- 3. Eating and drinking establishments other than those permitted under Section 2.12.110(4) of this zone.**
- 4. Conference center.**

The proposed amendment is not inconsistent with, nor does it require any amendment to, the text of the conditional use provisions of this Chapter. The amendment is consistent with these provisions.

2.13.130 Development Standards

- 1. Off-street parking shall be provided in accordance with Section 3.3.**
- 2. Landscaping shall be provided in accordance with Section 3.2.**
- 3. Storm-water drainage plans shall be reviewed by the City prior to issuance of any development permits in this zone that result in new or enlarged impervious surfaces, or alter existing drainage patterns.**
- 4. Site plans shall be reviewed for consistency with wetland conservation measures in the City's comprehensive plan and Development Code, including Chapter 3.10, prior to issuance of a development permit.**
- 5. Projects in this zone requiring wetland fill permits from the Oregon Division of State Lands or the US Army Corps of Engineers must be reviewed by the City for consistency with this zone and other applicable City development standards and requirements.**
- 6. Development in this zone must demonstrate that the proposed site plans provide for the development of an ADA-compliant waterfront trail consistent with the 1994 Warrenton Waterfront Revitalization Plan.**
- 7. A traffic impact study is required for any conditional use or outright use approved in this zone. Traffic mitigation measures identified in the traffic impact study must be included as approval conditions of the project.**

The proposed amendment is not inconsistent with, nor does it require any amendment to, the design review provisions of this Chapter. The amendment is consistent with these provisions.

5. WDC 4.7.6: Transportation Planning Rule Compliance

A. When a development application includes a comprehensive plan amendment or land use district change, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060. See also Chapter 4.13, Traffic Impact Study. Significance means the proposal would:

- 1. Change the functional classification of an existing or planned transportation facility. This would occur, for example, when a proposal causes future traffic to exceed the capacity for "collector" street classification, requiring a change in the**

classification to an "arterial" street, as identified by the Transportation System Plan, or

*2. Change the standards implementing a functional classification system;
or*

3. Allow types or levels of land use that would result in levels of travel or access what [sic] are inconsistent with the functional classification of a transportation facility; or

4 Reduce the level of service of the facility below the minimum acceptable level identified in the Transportation System Plan.

B. Amendments to the comprehensive plan and land use standards which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:

1. Limiting allowed land uses to be consistent with the planned function of the transportation facility; or

2. Amending the Transportation System Plan to ensure that existing improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirements of the Transportation Planning Rule; or,

3. Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes of transportation.

WDC Amendment IV.B.8. amends this policy to eliminate the existing and potential for future internal inconsistencies within this policy created by the fact that the policy is intended to require applicants to demonstrate compliance with the TPR but then codifies provisions of the TPR which have subsequently been amended. The Applicant has prepared a TIA which, subject to the ODOT Condition, satisfies the requirements of this policy as amended, and as currently written. Subject to satisfaction of the ODOT Condition, the City Commission finds that the record contains substantial evidence that the Amendments will not have a significant affect on existing or planned transportation facilities. The City Commission hereby incorporates by reference its discussion of Goal 12.

E. Evidence of Change in Neighborhood/Community or Mistake/Inconsistency in Comprehensive Plan/Land Use District Map

Chapter 4.2(B) requires that every amendment to the WDC zoning map or text be supported by evidence of neighborhood or community change, or a demonstration of a mistake or inconsistency with the Comprehensive Plan or land use district (zoning) map. The City Commission finds, as set out below, that each of the proposed WDC Amendments satisfies one or more of these conditions.

The City Commission finds that the Zoning Map amendments are justified by a change in the community, namely the emerging demand for an LNG importation terminal in the lower Columbia River. Applicant has provided substantial and credible evidence of this growing demand and of the unique suitability of the Site for the development of such a facility. The Zoning Map amendments, while not constituting an approval of an LNG import terminal on the Site, are a prerequisite to the ability to apply for siting and permitting approval for any such development. The Site has long been considered appropriate for water-dependent industrial development but was redesignated and rezoned in 2001 after the City's efforts to attract such a use over many years had not succeeded. At that time it appeared that there might be a market for a recreational facility on the site, in particular a golf course. The market has not yet produced a golf course development. Instead this new water-dependent industrial development prospect has emerged and, based upon the evidence in the record, presents a real and potentially very positive economic development opportunity for the City of Warrenton.

The City Commission finds that the Zoning Map Amendments are also necessary to correct existing mapping errors and establish consistency with the Comprehensive Plan Map, as amended. The current Zoning Map designates the aquatic areas in Subarea 5 as URR, which is a mistake. As set out in the Comprehensive Plan, URR is not an aquatic zone. Regardless of whether the Comprehensive Plan classifies an aquatic area as Development, Conservation, or Natural, there is no provision for zoning an aquatic area URR. In order to be consistent with the Comprehensive Plan Map, as amended, the Zoning Map needs to be amended to show the aquatic areas in the enlarged Subarea 5, and that portion of Young's Bay reclassified as Aquatic Development, as being in the A-1 zone, and the shoreland portion of the northern 96 acres of the ESP as I-2.

The City Commission finds that the WDC Amendments that remove references to the 1981 Mediation Panel Agreement from the Mouth of the Skipanon Subarea are needed to correct various mapping and textual inconsistencies and inaccuracies created by the City's failure to fully execute its determination in 2001 that the demands for use of the ESP and adjacent aquatic areas had changed and that it was necessary and appropriate to remove from the Comprehensive Plan and the WDC the provisions implementing the 1981 Mediation Panel Agreement with respect to the Mouth of the Skipanon Subarea. The amendments were necessitated in 2001 by the fact that the URR zone and its

permitted uses were not contemplated by the 1981 Mediation Panel Agreement and were not consistent with the EB zone and its two development options that implemented that agreement in the Comprehensive Plan and WDC. The 2001 amendments removed most references to the EB zone and 1981 Mediation Panel Agreement as applied to the Mouth of the Skipanon Subarea, but neglected to remove them all. The result has been incompatible requirements for development on the ESP; it would not be possible, for example, to both satisfy the requirements for development in the URR zone and comply with the requirements of the 1981 Mediation Panel Agreement, as the current WDC would require. The City Commission finds, therefore, that the proposed Amendments related to the 1981 Mediated Panel Agreement are needed to establish consistency with the Comprehensive Plan, both as currently acknowledged and as amended by the proposed Comprehensive Plan amendments, as well as to complete implementation of an earlier recognized change in the community.

The amendments to WDC Chapter 3.10 related to the protection of Goal 5 resources address the circumstance in which a natural resource is potentially both a Goal 5 and a Goal 16 or 17 resource. The amendment gives priority to regulation under Goals 16 and 17, as required by OAR 660-023-0240. Although this regulation is not new, the City of Warrenton only completed its Goal 5 periodic review in 2002 and has recently begun confronting the tension between the natural resource protection requirements of the various goals. The City Commission finds that incorporating the provisions of OAR 660-023-0240 is the appropriate and necessary response to this emerging tension because it ensures that the issue will be resolved consistent with the requirements of state law. The amendment is thus warranted by the need to establish consistency with state law, the Comprehensive Plan, as amended by the proposed Comprehensive Plan amendments, and by virtue of changes in the community with respect to how natural resource protection and development issues are regulated.

Similarly, the amendment to WDC Section 4.7.6, which removes language from the WDC taken from the outdated version of the state Transportation Planning Rule and replaces it with text that will ensure ongoing consistency between the WDC's TPR requirements and the actual language of the TPR, is necessary to maintain desired consistency with state law, the Comprehensive Plan's implementation of Goal 12, and to address a recent change in the community, namely the state's decision to amend the TPR. Opponents have suggested that this amendment removes standards that, while inconsistent with the current TPR, are nonetheless desirable to the City of Warrenton. Opponents have not offered any suggestions of which inconsistencies are desirable and why, and have offered no evidence in support of the contention. The argument is thus also insufficiently developed to permit either the Applicant or the City Commission a reasonable opportunity to respond. It is the City's desire that its TPR requirements be those of the then current TPR and the proposed amendment implements this policy choice.

The City Commission finds that the inclusion of Natural Resource Improvement as a permitted use in the URR zone is appropriate to establish consistency with the Comprehensive Plan and to fully implement the City's determination in 2001 to adopt the new shoreland zone. The URR zone was first introduced into the City's Comprehensive Plan and the WDC in 2001 and was applied exclusively to the ESP, a large tract of Columbia River Estuary shoreland. As indicated by the review of the Comprehensive Plan policies governing mitigation and restoration in this Section IV, it was inappropriate, and likely just an oversight, not to include natural resource improvements as a permitted use in the URR zone. The fact that any development in the URR zone will impact the natural resource systems of the Columbia River Estuary, that the shorelands included in the zone are Other Shorelands and are deemed appropriate for a wider variety of uses than ESWD Shorelands, and that the type of development anticipated within the URR zone is likely to be very compatible with natural resource improvement efforts, establishes that the amendment is necessary to ensure consistency between the Comprehensive Plan policies and the WDC and to fulfill the purpose of the recently created URR zone.

Finally, the City Commission finds that it is appropriate to list LNG import terminal as a permitted use in the I-2 zone. The record contains evidence of the City Commission's recent code interpretation that an "LNG importation, regasification, and transfer facility" is a marine cargo transfer facility, an existing permitted use in the I-2 zone. This interpretation was made necessary by the change in the community represented by the emerging demand for an LNG import terminal in the Lower Columbia River. Prior to this, there had been no need to specifically address the question. The Amendment is merely a codification of the prior code interpretation decision, which is a final decision which was not appealed, and does not involve a substantive amendment to the WDC. Opponents' efforts to, in effect, collaterally challenge the City Commission's prior code interpretation through these WDC Amendments are not appropriate. The code interpretation was conducted in accordance with the applicable provisions of the WDC. The opponents who have objected to this amendment were part of the code interpretation process and had the opportunity to appeal the decision to the Land Use Board of Appeals but chose not to. Objections to the code interpretation were raised and addressed by the Planning Commission and the City Commission in findings that were not appealed. The City Commission therefore finds that the opponents' current objections to the codification of the code interpretation are not well taken.

V. The City Commission's LNG Issues

The City Commission requested of the City Staff that it set out the WDC sections that address the eight issues related to LNG that the City Commission identified during the City's Tansy Point lease amendment process and where in the record these issues are addressed by the Applicant. The City Commission has been advised by the City Attorney that these issues are not applicable approval criteria and so finds, except to the extent the

issues are addressed elsewhere in these findings. The issues are addressed by the WDC and in the record as follows.

1. Safety Aspects Including Tsunami and Seismic Concerns.

The Warrenton Development Code Land Use District and Site Design chapters address these issues:

Chapter 2.17 – Flood Hazard Overlay District. This overlay imposes special construction requirements on developments in a flood hazard zone.

Chapter 2.19 – Soils Hazard Overlay District. This overlay imposes special soil study and construction engineering requirements on developments proposed in certain types of soil conditions.

Chapter 3.11.2 – This section requires applicants for port and industrial development involving dredge or fill to demonstrate that "potential adverse impacts are minimized." Adverse impacts are defined in the WDC as any measurable impacts from development, including pollution, noise, dust, etc.

Chapter 3.12.3 – This section requires applicants for any development that could potentially impact the estuary to prepare an "Impact Assessment" that includes a "... (8) Demonstration that proposed structures or devices are properly engineered."

The Applicant provided written testimony with regard to these risks as follows:

August 23 Application Narrative - Pgs. 18, 63

November 30, 2005 Letter from Perkins Coie – Pg. 2

The Applicant provided documentary evidence of the natural hazard design standards that are applicable to an LNG facility in support of its written testimony on November 30, 2005:

NFPA 59A – Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG). Seismic Design requirements for LNG containers are contained in Sections 7.2.2, 7.2.7.8, 7.3.2.8(2)(a), 12.3.3.7, 13.3.14, A.7.2.2.4.

NBSIR 84-2833 - Data Requirements for the Seismic Review of LNG Facilities

Regulations Implementing the National Environmental Policy Act
(18 CFR Part 380).

2. Impact on Commercial and Recreational Boating

The Site Design Review criteria of the WDC require an applicant for development in the estuary to address these issues:

Chapter 3.11.2 – This section allows new port and industrial development requiring dredge fill, or that could affect the estuary "only if all the following criteria are met: ...b. A need (i.e. a substantial public benefit) is demonstrated; and c. The proposal does not unreasonably interfere with public trust rights," which would include commercial and recreational boating per Frank Flynn's testimony.

Chapter 3.12.3 – This section requires an applicant for development that could affect the estuary to prepare an Impact Assessment that includes information on "(6) Public access to the estuary and shoreline, including information on ...effect on public boat launches, marinas and docks...[and a] (9) Demonstration that the project's potential public benefits will equal or exceed expected adverse impacts," which would include potential impacts on commercial fishing and boating.

The Applicant provided oral testimony on this issue at the December 17, 2005 City Commission hearing.

The Applicant provided written testimony on this issue as follows:

August 23 Application Narrative – Pg. 20

October 12, 2005 Letter from Frank Flynn – Pg. 2-4 re: Need/public benefit & public trust criteria in permitting

November 30, 2005 Letter from Perkins Coie – Pg. 5

December 7, 2005 Letter from Perkins Coie – Pgs. 5-7

The Applicant provided documentary evidence on this issue on November 30, 2005:

OAR 141-085-0029 (State Fill/Removal Permit) – Applicable permit criteria include non-interference with health and safety and that the public need outweighs harm.

33 CFR Section 320.2 (Federal Permit) –Applicable permit approval criteria include a public interest review, navigation & fishing impacts, and public need.

December 7, 2005 Memorandum from Ferrarini & Associates – Evaluates evidence of impact on boating near other LNG facilities.

3. Environmental Impacts

The WDC's Site Design Review criteria address in detail the potential environmental impacts of proposed developments in the Columbia River Estuary:

Chapter 3.10 – "Wetland and Riparian Corridor Development Standards Ordinance." Any development in an I-2 zone must meet all the applicable criteria in this Chapter.

Chapter 3.11 – "Columbia River Estuary Shoreland and Aquatic Area Development Standards." Any proposed development that could impact the estuary is required to demonstrate compliance with this Chapter, including 3.11.2: "...b. A need (i.e., a substantial public benefit) is demonstrated; ...d. Feasible alternative upland locations do not exist; and e. Potential adverse impacts are minimized."

Chapter 3.12.3– This section requires an "Impact Assessment at the time a permit is reviewed" for any development that could impact the estuary. The Impact Assessment must address: "(1) Aquatic life forms and habitat...impacts...(2) Shoreland life forms and habitat...impacts...(3) Water quality including information on : sedimentation and turbidity...contaminated sediments...(4) Hydraulic characteristics...(5) Air quality..." and others.

Environmental impacts are addressed throughout the Applicant's written and oral testimony, as well as in various supplemental environmental impact reports. The environmental reports include the Wildlife Inventory, attached as Exhibit 5 to the Application, the Preliminary Habitat Report, filed with the Planning Commission on October 12, 2005, the LNG Import Terminal Site Selection Analysis, submitted November 8, 2005, the Estuarine Impacts response to DLCD submitted November 8, 2005, the December 7, 2005 Memorandum from Ellis Ecological Services, and materials submitted by Frank Flynn on October 12, 2005.

4. Land Use Laws

The presence of zoning that permits an LNG import terminal is only the first necessary step for the development of an LNG import terminal on the East Skipanon Peninsula.

An LNG import terminal would be a development larger than two acres and thus would be "Large-Scale Development" pursuant to WDC Chapter 3.19 and all development permits, therefore, would have to be approved through a Type III process, with mandatory public notice and a hearing before the Planning Commission. That same procedure would be required by Section 4.2.4.A.2 of the WDC.

In order to satisfy the requirements of Chapter 3.19, Large-Scale Development proposals must demonstrate the adequacy of "2) Soil Suitability...3) Storm Water Management...4) Utilities in general...5) Schools...[and] 6) Landscape suitability..." Pursuant to Section 3.19, the City may require the developer to "post a performance bond to assure that improvements required to comply with the provisions of ...section [3.19] are completed."

Development in an I-2 zone must comply with all of the site design review standards set out in Chapter 2.11.130, including those in Chapter 3.11 (see above), limits on lighting, heat and glare, vibration, and all those in Chapter 3.10 (wetland and riparian corridor ordinance) to the extent applicable.

Development in the A-1 zone involving dredge and fill must comply with all of the site design review standards set out in Chapter 2.13.130, including all the applicable standards in Chapter 3.11 and Chapter 3.12.

Any development that could potentially impact the estuary must comply with the standards in Chapter 3.11 and Chapter 3.12.

Finally, development of the Site would require Site Design Review under Section 4.2.4 *et al.* of the WDC. Section 4.2.6 establishes the relevant criteria, including 4.2.6(ii) regarding "other application section of the Development Code," which includes Chapters 3.11 and 3.12.

5. Financial Cost Benefit/Return to City and its Citizens

The Site Design Review criteria of the WDC address this issue:

Chapter 3.11.2 – This section provides that no port or industrial development involving dredge or fill may be allowed unless "...b. A need (i.e. substantial public benefit) is demonstrated;..."

Chapter 3.12.3 – This section requires an "Impact Assessment" prior to the issuance of a permit for development in the estuary and that Impact Assessment must include a "(9) Demonstration that the project's potential public benefits will equal or exceed expected adverse impacts."

The Applicant provided oral testimony on this issue at the November 17, 2005 City Commission hearing.

The Applicant provided written testimony on this issue as follows:

August 23, 2005 Application Narrative – Pgs. 18-20

November 30, 2005 Letter from Perkins Coie – Pg. 8

December 7, 2005 Letter from Perkins Coie – Pgs. 3-7.

The Applicant provided supporting documentation on this issue as follows:

Economic Opportunity Analysis (Exhibit 1 to August 23, 2005 Application)

Economic and Socioeconomic Impact Study (Exhibit 2 to August 23, 2005 Application)

December 7, 2005 Memorandum from Ferrarini and Associates.

6. Aesthetic Issues

The Site Design Review criteria of the WDC address this issue:

Chapter 3.11.2– This section requires that no development that could impact the estuary be allowed unless: "...b. A need (i.e., a substantial public benefit) is demonstrated; ...e. Potential adverse impacts are minimized." Adverse impacts are defined by WDC as any measurable impacts from development and could be interpreted to include aesthetic impacts.

Chapter 3.11.12 – "Public Access to the Estuary and its Shoreline." This section applies to "all uses and activities in shoreland and aquatic areas which directly or indirectly affect public access" and "public access" includes "aesthetic access (viewing opportunities, for example)."

Chapter 3.12.3 – This section requires an applicant for development that could affect the estuary to prepare an Impact Assessment that

includes information on "(6) Public access to the estuary and shoreline, including information on ...effect on public boat launches, marinas and docks...[and a] (9) Demonstration that the project's potential public benefits will equal or exceed expected adverse impacts."

The Applicant provided oral testimony on this issue at the November 17, 2005 City Commission hearing.

The Applicant provided written testimony on this issue as follows:

August 23, 2005 Application Narrative– Pg. 65

November 30, 2005 Letter from Perkins Coie– Pgs. 4-5

The Applicant has provided supporting documentation on this issue as follows:

33 CFR Parts 321-324 (Federal Permits) – re: "Public Interest Review" includes "aesthetics."

Regulations Implementing the National Environmental Policy Act (18 CFR Part 380). Section 380.15 specifically states that "[t]he siting, construction and maintenance of facilities shall be undertaken in a way that avoids or minimizes effects on scenic...values" and requires in paragraph (4) that "[t]he exterior of aboveground facilities should be harmonious with the surroundings and other building in the area."

7. Utilization of Latest LNG Technology

The Zoning District and Site Design Review criteria of the WDC address this issue:

Chapter 2.17 – "Flood Hazard Overlay District." This overlay imposes special construction requirements on developments in a flood hazard zone.

Chapter 2.19 – "Soils Hazard Overlay District." This overlay imposes special soil study and construction engineering requirements on developments proposed in certain types of soil conditions.

Chapter 3.11.2 – This section requires an applicant for port and industrial development in the estuary to demonstrate that "potential adverse impacts are minimized." 3.11.2(2)e and (3)d. Adverse

impacts are defined as any measurable impacts from development, including pollution, noise, dust, etc.

Chapter 3.12.3 – This section requires applicants for any development that could potentially impact the estuary to prepare an "Impact Assessment" that includes a "(8) Demonstration that proposed structures or devices are properly engineered."

Applicant addressed this issue through oral testimony from Peter Hansen at the November 17, 2005 City Commission hearing.

Applicant addressed this issue through written testimony as follows:

November 30, 2005 Letter from Perkins Coie – Pgs 5-6.

Applicant provided documentary evidence of the stringent design criteria that will be applied to the LNG facility on November 30, 2005:

NFPA 59A – Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG).

NBSIR 84-2833 - Data Requirements for the Seismic Review of LNG Facilities

8. Financial Qualifications of the Operator

The Site Design Review criteria of the WDC address this concern:

Chapter 4.2.7 – This section permits the City to require a bonding and assurances from an applicant for projects that include public improvements.

Applicant addressed this issue through written testimony:

November 30, 2005 Letter from Perkins Coie – Pgs. 7-8.

VI. Opposition Issues

Many of the issues raised in opposition to the Amendments have been addressed above in response to specific approval criteria. These will not be addressed again here, except as necessary to expand on previous discussions, but those issues and responses are incorporated by reference into this section. The following are additional issues that opponents have raised, or more expansive responses to issues addressed elsewhere, and the City Commission's findings with respect to each.

1. Consistency with the Warrenton Vision Statement

Several opponents objected to the Amendments as inconsistent with the outcome of the City of Warrenton's Community Visioning Project conducted in 2001. The City Commission finds that this objection is not well taken. There is no evidence in the record that the Community Visioning Project's conclusions have in any form been adopted into the Comprehensive Plan or the WDC, or have otherwise been made approval criteria for Comprehensive Plan or WDC amendments.

2. Precluding uses other than LNG on the ESP

Several opponents objected to a condition proposed by SNG in its Application that would impose a condition on the I-2 and A-1 zoning for the ESP such that the only permitted use would be an LNG import terminal. The City Commission has determined not to impose the condition because it is not necessary to do so in order to approve the Applications.

3. Applicant's payment of charges for services rendered by the City of Warrenton

Mr. Shannon argued both in written and oral testimony before the Planning Commission that the practice of the City billing the Applicant for the time devoted by City Staff, including the City Attorney (who billed the city for their time, not the Applicant), to the processing and evaluating the Applications constituted a violation of Goals 1 and 2. He alleged that payment of these charges, together with contacts between the City Staff and the Applicant, biased the opinions of the City Staff, including the City Attorney. He further alleged that Planning Commission members, had they known that the City was billing for its services on an hourly basis, would have voted differently on the Code Interpretation. The City Commission finds that these objections are entirely without merit.

Mr. Shannon has provided no evidence of any bias on the part of City Staff. There is no evidence that City Staff failed to exercise independent judgment in processing the Application. There is no evidence that City Staff were less willing to assist opponents than the Applicant or the proponents. The hourly billing for City services rather than imposition of a flat fee, while unusual for simpler applications, was entirely appropriate given the anticipated unprecedented workload that would be created by these Amendments. Any other approach would have created an unreasonable risk that the Application would become a financial and staff resource drain on the City. Mr. Shannon's allegations that the outcome of the Planning Commission hearing on the Code Interpretation would have been different had the billing practice been known is entirely without evidentiary support, in addition to being entirely inapplicable to the proposed Amendments. Mr. Shannon placed all evidence of the billing system in the record at the Planning Commission hearing on the Amendments and testified to it at that hearing as

well. The Planning Commission expressed no concern about the system or about the independent judgment of City Staff. The City Commission similarly voted to approve the Amendments and expressed no concerns regarding the unbiased judgment of City Staff, including the City Attorney. The City Commission finds that the City's practice of charging for its Staff services by the hour is not inconsistent with Goal 1 or Goal 2 and rejects Mr. Shannon's arguments and assertions to the contrary.

4. The impact of the Amendments on the City's Public Facilities

Opponents have asserted that the Amendments are inconsistent with Statewide Planning Goal 11 because of the potential impact of an LNG import terminal on Warrenton's public facilities. Specifically, Mr. Shannon, in his September 22, 2005 letter to the Planning Commission argued that "Warrenton should analyze the impact of a LNG terminal on the infrastructure and public facilities in Warrenton." The City Commission finds that these objections are not well taken. The City Commission hereby incorporates its Goal 11 findings set out above by reference and finds additionally as follows.

Demonstrating that the Comprehensive Plan Amendments comply with Goal 11 does not require establishing that public facilities on the ESP are adequate to serve an LNG import terminal. The Comprehensive Plan includes acknowledged policies that implement Goal 11 and those policies, are, in turn, implemented through the WDC. The Amendments do not in any way modify these policies and implementing ordinances. Neither the Comprehensive Plan nor the WDC requires a demonstration of the adequacy of services for a prospective use in conjunction with the Amendments. Instead, the Comprehensive Plan policies defer such considerations to the development stage. Policy 7.320(8), for example, which governs large-scale developments (which would include an LNG import terminal), provides that "new large-scale developments...in Warrenton will not be allowed unless satisfactory provisions are made for water supply, sewage disposal and storm water runoff facilities."

Comprehensive Plan policy 7.320(8) is implemented by WDC Chapter 3.19 "Large-Scale Developments" which expressly prohibits the issuance of a *permit* unless the Planning Commission confirms the adequacy of a) the soil; b) storm water management plans; c) utilities in general; d) schools and other services to meet the needs of the development. And there are similar site design review standards applicable to all developments. WDC Chapter 3.5 provides that "no development may occur unless required public facilities are in place or guaranteed." Thus, a demonstration of the ability to provide the requisite services for an LNG import terminal is reserved for future site design review and LNG permitting processes.

The Goal 11 Comprehensive Plan policies also establish 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." Policy

7.320(9). Therefore, any costs associated with extending necessary services to the Site to serve an LNG import terminal will be born by the developer.

The City's policy of deferring to the site design review and permitting stage the determination of whether the existing public facilities serving a site within the City's UGB are adequate to meet the needs of a particular potential development, rather than requiring this determination at the time that zoning is applied, is entirely consistent with Goal 11. *Just v. City of Lebanon*, 45 Or LUBA 179 (2003) (holding that Goal 11 provides municipalities substantial flexibility in how to ensure that necessary urban facilities are available to the a particular piece of property and rejecting the notion that Goal 11 requires a demonstration).

5. Amendments do not require further coordination with CREST

The City of Warrenton was among the local jurisdictions that participated in the formulation of the Columbia River Estuary Regional Management Plan (the "CREST Plan"), first adopted by the Columbia River Estuary Study Taskforce (CREST) in 1979. That document sought to provide a basis for a coordinated approach to managing the resources and development of the Columbia River Estuary at a time when the local jurisdictions were largely without their own planning departments. By its own terms, however, the CREST Plan "has no legal authority except as it is implemented by local governments in revised comprehensive plans."

Opponents contend that the Amendments to the City of Warrenton's Comprehensive Plan require "coordination with CREST." This may be the proposal set out in the CREST Plan, but it is not a policy that has been adopted by the City of Warrenton in its Comprehensive Plan. Opponents cite to two Comprehensive Plan policies in support of the alleged coordination requirement. The first requires coordination with CREST prior to permit applications. SNG has not applied for any permit. Opponents next cite the policy which states that "Amendments to the *Columbia River Estuary Regional Management Plan* must be coordinated with . . . CREST." SNG is not proposing to amend the CREST Plan, it is amending provisions of the City of Warrenton's Comprehensive Plan. See Comprehensive Plan 5.337(1) and (3).

Both the plain language of the coordination policy and the City of Warrenton's practice of amending its Comprehensive Plan without requiring applicants to coordinate those amendments with CREST, including the amendments to the Mouth of the Skipanon Subarea that removed the Mediation Panel Agreement designations in 2001, demonstrate that the City does not interpret the policy to require CREST coordination when it is amending its Comprehensive Plan provisions related to the estuary. Such a practice would ascribe to CREST a regional, quasi-governmental role which it does not have, especially now that local jurisdictions, including the City of Warrenton, have their own

planning departments and the capacity to oversee land use decisions for their jurisdictions.

Even it were the case that SNG's proposed Comprehensive Plan amendments required coordination with CREST, substantial evidence in the record confirms that SNG has satisfied this obligation through repeated contacts with CREST seeking its input on the Amendments and reliance on CREST for relevant materials used in preparing its Application. The City Commission finds that the opponents' objection is not well taken.

6. SNG as the Applicant

Opponents have objected that SNG was not permitted to be the applicant for the Amendments under the terms of the Warrenton Development Code. The WDC expressly allows owners of property to allow their agents to make applications for Comprehensive Plan and Zone changes. The record contains consents from the Port of Astoria and the Department of State Lands to SNG applying for the Amendments. The City Commission finds that SNG applied as the agent of the property owners, within the meaning of the WDC, and that the opponents' objection is not well taken.

7. Calpine Corporation's Financial Situation

Opponents offered into the record evidence of the financial difficulties faced by SNG's parent company, Calpine. Most opponents made no attempt to tie this information to any of the applicable approval criteria for the Amendments. Mr. VandenHeuvel, in his December 7, 2005, argues that Calpine's financial difficulties are tied to applicable approval criteria but his arguments are without merit. Comprehensive Plan policy 2.310(2) requires that urban development areas be served or be capable of being served by adequate public facilities within 20 years. Calpine's financial difficulties are irrelevant to whether the Site is served or is capable of being served by adequate public facilities. Under the applicable site design review approval criteria in the WDC, as discussed in the Goal 11 findings above, SNG will be required to demonstrate that adequate services are either already available to the Site or that it will provide them at the time that a development is proposed. If it is unable to do so at that time, it will not satisfy the requirements for development approval in the WDC. This response applies to as well to Mr. VandenHeuvel's suggestion that Calpine's financial difficulties make the approval of the Amendments inconsistent with Comprehensive Plan policies related to Large- Scale Developments. As discussed above, these policies are implemented through the WDC, in this case Chapter 3.19, and are applied at the time of site design review, which, in the case of an LNG import terminal proposal, will occur during FERC's LNG permitting process. With respect to these two policies, the City Commission finds these objections to be not well taken.

Mr. VandenHeuvel asserts that "Calpine's financial ability is applicable through Article 3 (Land and Water Use), Article 7, Article 8 (Transportation) and Article 9

(Economy)", but does not identify any specific applicable Comprehensive Plan policies. The City Commission finds that with respect to these Articles, Mr. VandenHeuvel has failed to sufficiently develop an argument to allow the Applicant or the City Commission a reasonable opportunity to respond and thus finds these objections to be not well taken.

Mr. VandenHeuvel also argues that the Calpine's financial situation "is applicable" to statewide planning goals 6, 9, 11, and 12. The City Commission finds that these arguments are without merit. The proposed Amendments do not approve an application by the Applicant to develop an LNG import terminal on the Site. The goal provisions cited by Mr. VandenHeuvel each are properly implemented through the Comprehensive Plan. None of the Amendments affects the implementation of those Goal provisions. Moreover, none of the Amendments affects the implementation of the applicable comprehensive plan policies through the WDC. Calpine's financial situation is simply not evidence relevant to any of the applicable approval criteria for the proposed Amendments.

In the alternative, the City Commission finds that if for some reason Calpine's financial situation were found to be relevant to an applicable approval criterion, there is not substantial evidence in the record that Calpine's financial situation would preclude its subsidiary, alone or in partnership with another party, to meet the design review, development and financial obligations that would be imposed by the City through the applicable provisions of the WDC as part of the approval of an LNG import terminal on the Site. SNG submitted evidence into the record of its parent company's experience in developing and financing large scale projects of this nature and its willingness to bring appropriate partners into the project. The City Commission is not persuaded by the excerpts from newspaper articles, websites, and other evidence submitted by Mr. VandenHeuvel and other opponents regarding Calpine's financial situation that SNG would not be able to meet development standards and the financial obligations that would be imposed under the WDC in order to develop an LNG import terminal.

8. Deferring Certain Determinations to the Development Stage

Opponents have objected to deferring certain determinations to the site design review and LNG permitting stages as being somehow inconsistent with the applicable approval criteria for the Amendments. Mr. VandenHeuvel, for example, argues that "[i]t is illogical for the Comprehensive Plan to require the Commission to defer decisions on amending the Comprehensive Plan to the development stage." The City Commission finds these arguments to be without merit. The Comprehensive Plan does not defer decisions on amending the Comprehensive Plan to the development stage, it defers approval of specific development proposals to a development stage. Contrary to the assumption made by opponents, including Mr. VandenHeuvel, none of the proposed Amendments approves the development of an LNG import terminal on the Site. The Amendments make modifications to the Comprehensive Plan and WDC that the Applicant has supported with substantial evidence. The only decisions that are deferred

to the development stage are those that relate to a specific development proposal rather than appropriate comprehensive plan and zoning designations of the Site. The Comprehensive Plan does not contain approval criteria for a development proposal; it contains policies that are implemented through provisions in the WDC, which then establish the approval criteria for individual development applications. The City Commission therefore finds these objections by opponents to be without merit.

9. The Continuing Role of the 1981 Mediation Panel Agreement

Various opponents have argued that the provisions of the Mediation Panel Agreement remain applicable to the Mouth of the Skipanon Subarea. They argue on the one hand that the 2001 Comprehensive Plan and WDC Amendments were not intended to end the applicability of the Mediation Panel Agreement to Subarea 5, and they cite in support the remaining language in the Comprehensive Plan and the WDC that makes reference to the agreement. As the City Commission has explained at length above, and those explanations are hereby incorporated by reference, the ordinance adopting the 2001 Comprehensive Plan and WDC amendments, which is in the record, can only be reasonably read to have been intended to eliminate the provisions of the Mediation Panel Agreement from the Mouth of the Skipanon Subarea. This is so because of the plain language of the ordinance and because the development proposals for the Mouth of the Skipanon Subarea in the Mediation Panel Agreement cannot be reconciled with the effect of the 2001 amendments, which was to eliminate the hybrid land and water EB Zone and the two associated land and water development options. Therefore, the City Commission finds this objection to the Mediation Panel Agreement-related amendments to be without merit.

Alternatively, some opponents have argued that the City is not permitted to remove the provisions of the Mediation Panel Agreement from its Comprehensive Plan or the WDC without the permission of the other parties to that agreement. The City Commission finds that this argument is without merit. First, as explained above, the decision to remove those provisions from the Mouth of the Skipanon Subarea was made and was final in 2001. If there was a legitimate objection to that decision, the time to make it has long passed. Second, the terms of the Mediation Panel Agreement impose no such obligation on the City. In fact, it is quite the opposite. By its own terms the Mediation Panel Agreement provides that all parties thereto agree that the Mediation Panel Agreement does not foreclose future comprehensive plan amendments and, contrary to the opponents' suggestion, there is no requirement that the parties to the Mediation Panel Agreement later be consulted, much less consent to, changes to a local comprehensive plan that are inconsistent with the Mediation Panel Agreement. For these reasons the City Commission finds that the objections are not well taken.

Finally, Mr. VandenHeuvel argues that at a minimum the aquatic area designations "put in place" by the 1981 Mediation Panel Agreement remain in place. This is not the case, for the reasons set out above, but it is also not an objection which, if

true, would alter the City Commission's findings with respect to any of the Amendments. The Applicant, as discussed at length in Attachment 1 and elsewhere, has provided substantial, site-specific expert testimony and evidence that it is appropriate under the applicable provisions of Goal 16 to designate all of the aquatic areas on the Site for Aquatic Development. In other words, whatever the current aquatic area designations are, the Applicant has provided the evidence necessary to have them designated Aquatic Development going forward.

10. The Economic Impacts of LNG

As discussed above in relation to Goal 9 and the Comprehensive Plan policies implementing Goal 9, the City Commission finds that the Applicant has provided substantial site-specific expert testimony indicating that an LNG import terminal represents a substantial economic development opportunity for the City of Warrenton, provided that any actual proposed development satisfies the applicable WDC criteria. Opponents have submitted a substantial amount of material into the record in an effort to rebut the Applicant's evidence. The City Commission finds that this evidence is not reliable and is based on feared impacts that, should they become a real possibility, would be addressed as part of the site design review during FERC's LNG permitting stage.

Opponents have offered a laundry list of potential economic impacts from an LNG import terminal but no systematic site-specific analysis to determine whether any of these impacts – positive or negative – would likely materialize in Warrenton, and what the relative costs and benefits would actually be. In contrast, the Applicant has offered expert analysis of the predictable economic impacts of an LNG import terminal on the City of Warrenton's economy.

The letters, newspaper articles, and other documents offered by opponents in support of their contention that an LNG import terminal would undermine commercial fishing, the cruise industry, and other river commerce because of the presence of safety and security zones around the LNG import vessels are also not persuasive. They are based on speculation and assumptions about what the size and scope of these zones will be, as well as worst case scenarios and reports that rely on questionable methodologies. Substantial evidence in the record suggests that the actual size of these zones and the scope of limitations that they impose vary, are adapted to the specific needs and requirements of a particular locations, and are determined in part based on potential adverse impacts on competing uses. The precise size and scope of these zones will be determined by the Coast Guard. Not until that determination is made can the actual impacts be assessed during FERC's LNG permitting process through the application of the WDC's Chapter 3.11 and 3.12 criteria regarding, for example, interference with public trust rights, public need, and the requirements to demonstrate that the public benefits of a development outweigh its adverse impacts.

Opponents also offered various documents suggesting that the safety risk posed by the presence of an LNG import terminal will adversely affect tourism and retirement-oriented development in the City of Warrenton. Again, the proposed economic impacts are based on speculation and/or studies of sites not similar to Warrenton. With respect to the risk posed by LNG, substantial evidence in the record (including some submitted by the opponents themselves) supports the conclusion that LNG has a very good fifty year safety record, that there are ever improving technologies to protect LNG cargo, and that the developers of LNG import terminals are subject to numerous federal, state, and local requirements with respect to design, engineering and construction, that address the site-specific risks of natural hazards, accidents, and other events that might otherwise cause an LNG spill.

The City Commission finds the opponents' economic objections to remapping and rezoning the Site to permit the Applicant to submit a development proposal for an LNG import terminal on the Site are not well taken for all the reasons stated here.

11. Information Received After Close of the Record

Members of the City Commission received communications both directly and indirectly regarding these Amendments after the close of the record and after the tentative decision to approve the Amendments. The City Commission members hereby find that they have not considered the information contained in those communications for purposes of deciding whether to adopt these findings and the final decision on these Amendments.

12. Other Objections

Opponents have asserted a variety of other objections to one or more the Amendments, but these have not identified a specific applicable approval criterion and/or have not been sufficiently developed to permit the Applicant or the City Commission a reasonable opportunity to respond. Therefore, the City Commission finds that these objections are not well taken.

VII. Conditions of Approval

The City Commission finds based upon all of the foregoing findings and the evidence in the record, that SNG's proposed Amendments are approved, subject to the following conditions:

- 1) The applicant shall comply with the conditions of approval recommended in ODOT's November 17, 2005 letter to the Warrenton City Commission, as follows:
 - a. The applicant shall provide the traffic mitigation measures described in the traffic impact study by CH2M Hill and consistent

with the City of Warrenton Transportation System Plan, including: (1) the provision of a new or realigned local street north of Harbor Street, designed to align with the intersection of Marlin Avenue and Harbor Street, and (2) the signalization of the intersection of Harbor Street and Marlin Avenue if and when ODOT determines that the intersection meets standard signal warrants and a signal is approved for this location (see Page 14, Traffic Impact Study, as revised and updated on October 24, 2005).

b. The Applicant will seek approval of an ODOT access permit for either a new city street or private drive access to the north side of the reconfigured intersection of Marlin Avenue and Harbor Street.

2) Prior to issuance of permits to develop the Site for an LNG importation, regasification and transfer facility, the Applicant shall, in a Type III Quasi-Judicial procedure, demonstrate compliance with all applicable land use laws, provisions and procedures, which shall include the City of Warrenton Development Code; specifically, but not limited to: Site Design Review criteria of Chapter 4.2, the estuarine development provisions of Chapter 3.11 (Columbia River Estuary Shoreland and Aquatic Area Development Standards), Chapter 3.12 (Impact Assessments and Resource Capability), with Section 3.11.2(2)(c) requiring demonstration that an LNG import terminal will not unreasonably interfere with the public trust rights, such as commercial and recreational boating in the Skipanon Waterway.

ATTACHMENT I – Goal 16 Findings

GOAL 16 FINDINGS

Goal 16: Classification of the Aquatic Areas as Aquatic Development

The City Commission makes the following findings in support of its determination that the aquatic areas that are part of the Site are properly classified as Aquatic Development under Goal 16.

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.

1. INTRODUCTION TO THE RULE

Under Goal 16, each estuary is categorized into one of three types: Natural, Conservation, or Development. Each estuary is then inventoried on the basis of its physical, biological, social, and economic resources. Based on this inventory, and other factors set out in the rule, each estuary is then classified into management units, typically natural, conservation, and development. Although the biology of the particular area is a significant consideration in the classification process, it is just one factor among several (including economic and social factors) that go into the determination of the appropriate classifications in particular areas of the estuary.

2. APPLICATION OF OAR 660-015-0010(1)

To assure diversity among the estuaries of the State, by June 15, 1977, LCDC with the cooperation and participation of local governments, special districts, and state and federal agencies shall classify the Oregon estuaries to specify the most intensive level of development or alteration which may be allowed to occur within each estuary.

The Columbia River is one of three estuaries in Oregon that are classified as a "deep-draft development" estuary. (OAR 660-017-0015(4)). Deep-draft development estuaries are anticipated to have aquatic development designations. The City Commission finds that Applicant's proposal to classify the aquatic areas as Aquatic Development is consistent with the highest level development permitted in this type of estuary.

The general priorities (from highest to lowest) for management and use of estuarine resources as implemented through the management unit designation and permissible use requirements listed below shall be:

1. *Uses which maintain the integrity of the estuarine ecosystem;*
2. *Water-dependent uses requiring estuarine location, as consistent with the overall Oregon Estuary Classification;*
3. *Water-related uses which do not degrade or reduce the natural estuarine resources and values;*
4. *Nondependent, nonrelated uses which do not alter, reduce or degrade estuarine resources and values.*

The City Commission finds that Applicant's proposal to reclassify the aquatic areas as Aquatic Development is consistent with these priorities. As discussed below, the areas to be classified as Aquatic Development have been substantially altered by development activities in the past in anticipation of their use for bulk marine cargo importation. Specifically, because of the significant alteration by, in particular, fill, they are of comparatively limited biological significance within the overall estuarine ecosystem. In addition, once the Aquatic Development management unit designation is in place, any actual development proposal for the aquatic area will have to comply with numerous environmental impact avoidance, minimization and mitigation requirements imposed by the federal, state, and local governmental permitting processes for in-water development in the Columbia River Estuary. Therefore, the reclassification will also be consistent with the priority of maintaining the integrity of the estuarine ecosystem.

Inventories shall be conducted to provide information necessary for designating estuary uses and policies. These inventories shall provide information on the nature, location, and extent of physical, biological, social, and economic resources in sufficient detail to establish a sound basis for estuarine management and to enable the identification of areas for preservation and areas of exceptional potential for development.

The Columbia River Estuary was inventoried by CREST in the 1979 Columbia River Estuary Regional Management Plan and later largely incorporated into the City's comprehensive plan. The CREST Plan inventoried the ESP and concluded that it is "especially suitable for water-dependent industry." It was the CREST Plan that first pointed out that the close proximity of the deep water areas of the Columbia River bar to the ESP and shoreline allows deep draft vessels to arrive within the city limits of Warrenton on one tide after crossing the bar. This unique feature enables water-dependent development sites within the City to be situated to provide facilities for the handling of bulk commodities for the entire Columbia River basin and the western United States. The CREST Plan's inventory also recognized the need to have the aquatic areas adjacent to the ESP designated as Aquatic Development in order to fulfill the water-dependent development potential of the ESP.

In 2001 the City Commission approved the removal of the ESP shorelands from the inventory of water-dependent development shorelands and in doing so removed the need to have the aquatic areas mapped and zoned for aquatic development. This did not change the fact, however, that the Site is well suited for deep-draft shipping and bulk cargo importation. At the time, there was simply no market for such uses. As Applicant's evidence demonstrates, there is now a market for such a use, namely LNG importation. The City Commission finds based on substantial evidence in the record that the ESP is uniquely suited to the development of an LNG import terminal, that LNG importation promises significant economic and social benefits for the City and the wider region, and that the biology of the relatively small aquatic areas to be designated for development within the Site is not so significant that it must be protected entirely from development; Applicant has provided substantial evidence that the likely impacts from an LNG import terminal would be born by parts of the estuary that are of less than significant biological value and that the impacts can be effectively mitigated. The City Commission concludes therefore that it is appropriate, in conjunction with the return of the ESP shorelands to its water-dependent development designation to include the Site's aquatic areas in the City's inventory of Aquatic Development areas. The area so classified is larger than just the original Mouth of the Skipanon Subarea and extends into the northwest corner of Youngs Bay, but the Applicant has provided substantial evidence that this additional area is the minimum area necessary to accommodate potential design requirements to be imposed through the balancing of development and resource considerations, including the safety and security issues of the FERC and U.S. Coast Guard, which will be done during the federal LNG permitting process, and that the actual development will impact only a lesser fraction of the total area available to aquatic development.

Based upon inventories, the limits imposed by the overall Oregon Estuary Classification, and needs identified in the planning process, comprehensive plans for coastal areas shall:

1. Identify each estuarine area;

Applicant's proposal does not affect the Comprehensive Plan's identification of the estuarine areas within Warrenton. The City Commission finds that this criterion is satisfied.

2. Describe and maintain the diversity of important and unique environmental, economic and social features within the estuary;

Applicant's proposal does not alter the Comprehensive Plan's description and maintenance of the diversity of important and unique environmental, economic, and social features within the estuary. The City Commission finds that the Comprehensive Plan Amendments are consistent with this policy.

3. *Classify the estuary into management units; and*

The Comprehensive Plan Amendments classify the Site's aquatic areas as Aquatic Development management units and thus this policy is satisfied.

4. *Establish policies and use priorities for each management unit using the standards and procedures set forth below.*

The Amendments will not impact the policies and use priorities established in the Comprehensive Plan for each management unit. The City Commission finds the Amendments to be consistent with this policy.

5. *Consider and describe in the plan the potential cumulative impacts of the alterations and development activities envisioned. Such a description may be general but shall be based on the best available information and projections.*

The Comprehensive Plan addresses the cumulative impact of potential alterations and development activities within the Columbia River Estuary in part through its incorporation of the CREST Plan and its resource management strategy for the estuary and adjacent shorelands. See Article 5, Section 5.100. The proposed Comprehensive Plan does not alter the applicable provisions of the Comprehensive Plan and thus the criterion is not applicable. Alternatively, to the extent that the criterion is applicable, the City Commission finds that the proposed aquatic area amendments are consistent with the criterion. Consistent with the CREST Plan, the Plan Map designates the Subarea 5 aquatic areas as Aquatic Development and the proposed amendments bring the text into conformity with the Plan Map. As discussed elsewhere, the text of the Comprehensive Plan is currently ambiguous with respect to current aquatic designations in the Mouth of the Skipanon Subarea, but the Comprehensive Plan continues to identify the ESP as an area especially suited for water-dependent development and recognizes the potential need to alter the surrounding aquatic areas to support such a use. For these reasons the City Commission finds that the Amendments are consistent with Comprehensive Plan's cumulative impact analysis. The opponents have not raised any objections to the Amendments specifically under this criterion that would allow the Applicant or the City Commission a reasonable opportunity to respond. The opponents' more general objections to the Goal 16 analysis are set out below.

Diverse resources, values, and benefits shall be maintained by classifying the estuary into distinct water use management units. When classifying estuarine areas into management units, the following shall be considered in addition to the inventories:

The proposed amendments would classify the aquatic areas of the Site as Aquatic Development.

1. *Adjacent upland characteristics and existing land uses;*

The record contains substantial evidence that the shoreland areas adjacent to the aquatic areas have long been recognized as uniquely appropriate for water-dependent industrial uses, and they are especially well suited for the location of an LNG import terminal. The upland areas are of sufficient size to support an LNG import terminal and will also require relatively few modifications in order to meet traffic, service, and cargo distribution needs.

At the same time, Applicant has provided substantial evidence, in the form of expert reports and testimony, that demonstrates that the adjacent upland areas have comparatively little biological significance in the estuary, and that such resources as do exist can be protected through impact minimization, mitigation, and restoration. The East and West Skipanon Peninsulas were created by dredge spoils starting in the late 1920s. Through the early 1990s the Corps of Engineers used the ESP as a disposal site for dredging in the Skipanon Channel. The Corps currently uses two in-water disposal sites on the south side of the Columbia River navigational channel, between River Miles 10 (Tansy Point) and 11 (confluence of the Skipanon Channel with the Columbia River navigational channel).

The upland portion of the ESP is largely composed of sandy dredge spoils and the use of the area by off-road vehicles and dirt bikes has left large areas without vegetation. Where riparian vegetation is present, it is dominated by non-native plants, such as Himalayan blackberry (*Rubus discolor*) and Scotch broom (*Cytisus scoparius*). The record contains a Wildlife Report that concludes that the uplands provide habitat for very few songbirds. Similarly, very few observations of reptiles, amphibians, and mammals were made during the spring and early summer surveys. Because the mean high tide does not reach the adjacent riparian area, very little nutrient exchange occurs between the riparian area and the Columbia River, Skipanon River, or Youngs Bay. Such riparian vegetation as exists provides little detritus to the adjacent wetland and rivers. This is only a part of the relevant biological information that Applicant placed in the record in support of the aquatic development classification. The City Commission finds that the nature of the adjacent shoreland supports classification of the aquatic portions of the Site as Aquatic Development.

2. Compatibility with adjacent uses;

The City Commission finds that classifying the aquatic areas of the Site as Aquatic Development is compatible with adjacent uses. The City Commission hereby incorporates into this finding the analysis contained above in 1. In addition, the aquatic area to the west is the Skipanon River channel, which is already designated Aquatic Development. To the north is the Columbia River navigation channel, a deep-draft shipping channel also currently designated as Aquatic Development. To the east of the area to be classified is the northern portion of Youngs Bay, which carries an Aquatic Conservation designation. Given the obligation of any proposed developer of the Site to

demonstrate compliance with the impact avoidance, minimization, and mitigation requirements of the WDC Chapter 3.11 and 3.12, during FERC's LNG permitting process, as well as a host of state and federal permitting requirements that are spelled out in the record, the City Commission concludes that there is no necessary incompatibility between the Aquatic Development management units and Aquatic Conservation management units -- and their respective uses. The same is true of those areas where Aquatic Development and Aquatic Natural management uses are adjacent to one another along the southeastern portion of the Site. In fact, DLCD has specifically rejected the practice of putting an Aquatic Conservation buffer between any Aquatic Development area and an adjacent Aquatic Natural area. With respect to actual existing uses of aquatic and shoreland areas adjacent to the aquatic areas of the Site, there are none that necessarily conflict with making the aquatic areas available for aquatic development. Again, any development will be required under the terms of the WDC to identify and address how impacts on adjacent aquatic and shoreland uses are avoided, appropriately minimized, and then mitigated.

3. *Energy costs and benefits; and*

The City Commission finds based on the evidence in the record that the energy consequences of classifying the aquatic areas as Aquatic Development would be neutral in general, but positive to the extent that the classification and companion zoning lead to the development of an LNG import terminal on the Site.

Applicant has provided substantial evidence that an LNG import terminal would result in an increased supply of a clean and affordable fuel source to the Pacific Northwest and could potentially increase energy production from the accessory combined cycle cogeneration system (CCCS) that is a proposed accessory heat source for the regasification component of the import terminal.

Although the heat generation source that would be used in a given LNG import terminal is not an applicable approval criterion, the City Commission notes that the Applicant has proposed to supply heat from a CCCS because this is one of the most energy efficient and environmentally friendly of the available options. If the CCCS system is approved during the permitting process, the LNG import terminal will be qualified as a High Efficient Cogeneration Facility under the rules of the Oregon Department of Energy due to the integration of the CCCS and the Gas Evaporation, Preparation, and Conditioning (GEPC) system. The qualification requires a very efficient use of primary energy, which will be accomplished by utilizing large quantities of waste heat for each unit of electricity generated. For reliability and safety reasons, the CCCS must be capable of operating independently from the rest of the facility in order to provide back-up power; however, its primary function will be to provide waste heat for the operation of the GEPC in a very energy efficient manner.

While most of the electric power produced by the CCCS will be consumed by the LNG import terminal, some of the power may also be available to the local public utility for distribution to the consumers in the region. The limited capacity of the electrical grid in Clatsop County severely restricts the amount of power that can be injected into the grid at the LNG import terminal; thus, a design has been chosen for the CCCS that minimizes the size of the cogeneration system while optimizing the amount of waste heat utilized. The City Commission finds on the basis of this and other evidence in the record that the proposed aquatic management unit designation is consistent with this policy.

4. *The extent to which the limited water surface area of the estuary shall be committed to different surface uses.*

The surface water area of the Columbia River estuary is the point of reference. Based on substantial and credible evidence in the record, the proposed amendment could result in about 3 percent of the estuarine area of Youngs Bay and about 0.2 percent of the Columbia River estuary being committed to a water-dependent use. These estimates are based on acreage of habitat types reported in a 1983 CREST study of the estuary by D.W. Thomas.¹³ The area proposed for Aquatic Development represents approximately 12 percent of the deep and medium depth acreages reported by Thomas for Youngs Bay or about 0.3 percent of deep and medium depth habitat of the entire estuary.¹⁴ The area of the estuary that will actually be put to other than its current use is significantly less than the above amounts, based on the substantial evidence in the record of the requirements imposed by local, state, and federal permitting processes to avoid, minimize, and mitigate the impacts of any in-water development, including an LNG import terminal. Because the WDC and various state and federal permitting programs require a demonstration that a proposed development will avoid, minimize, and mitigate adverse impacts to the estuary, no more of the estuary's water surface will be devoted to actual development activity than is necessary to accommodate a particular development; and any development will first have to be shown to have a public benefit that outweighs its potential adverse impacts.

As a minimum, the following kinds of management units shall be established:

- 1. Natural -- in all estuaries, areas shall be designated to assure the protection of significant fish and wildlife habitats, of continued biological productivity within the estuary, and of scientific, research, and educational needs. These shall be managed to preserve the natural resources in recognition of dynamic, natural,***

¹³ Thomas, D. W. 1983. *Changes in Columbia River Estuary Habitat Types Over the Past Century*. Prepared for CREST, Astoria, Oregon.

¹⁴ *Id.*

geological, and evolutionary processes. Such areas shall include, at a minimum, all major tracts of salt marsh, tideflats, and seagrass and algae beds.

Notwithstanding the "Development" designation of the Columbia River Estuary, significant portions of the estuary have been designated Aquatic Natural in order to assure the protection of significant fish and wildlife habitats. Included within these natural areas are all major tracts of salt marsh, tideflats, and seagrass and algae beds.

The record contains substantial and credible evidence that the areas to be classified as Aquatic Development under the Amendments, to the extent that they are not already so classified, do not include major tracts of salt marsh, tideflats, or seagrass and algae beds. Salt marsh, seagrass, and algae beds are not present. The tidal marshes and mudflats that are present in the affected aquatic areas constitute about 2.0 percent of the remaining tidal marsh land in Youngs Bay and approximately 0.2 percent of the total area of tidal marsh land in the Lower Columbia River Estuary. In fact, mudflats have increased by 10 percent in the Lower Columbia Estuary since 1870. Approximately 84 acres of mudflats are located around the northern tip of the ESP, only about 5 acres of which are proposed for impact. No net loss of mudflats below the 1870 benchmark reviewed by Thomas in 1983 would occur as a result of the proposed amendments. The Aquatic Development designations of the aquatic areas will not remove a major tract of tidal marsh from an Aquatic Natural designation.

With respect to those areas of the estuary that could potentially be impacted by development under the Aquatic Development classification, the record contains substantial evidence that the limited development that would occur (given the conditions to be imposed on the companion zoning and the required siting and permitting processes) in these areas will not interfere with the continued biological productivity within the estuary, scientific or educational opportunities, or the dynamic natural, geological, and evolutionary processes within the estuary.

The wetlands below the highest tide and mudflats at the northern tip of the ESP are features that were created within the past 100 years, the result of the deposition of dredge spoils at various times over a number of years. The northern tip of the ESP was not created by natural geologic or evolutionary processes and does not have features that are characteristic of historic estuarine marshes. Tidal channels, which are characteristic of historic mudflats and marshes, are absent in the northern tip. Additionally, the plant communities on the ESP are not unique nor do they have significant characteristics.

Applicant has provided expert reports that recognize that mudflat and deepwater habitats provide rearing and migration habitat for salmonids, some of which are listed as threatened. The reports find, and there is no contrary site-specific evidence in the record, that the area around the ESP is used by salmonids primarily for rearing and migration, not for spawning. Salmonid reproduction is not dependent on the area around the ESP.

There will be no impediments to fish passage in and out of the estuary and no indirect impacts to the remainder of the estuary. Salmon are ubiquitous in the Columbia River. The presence of salmon, a significant resource, does not require that all areas of the estuary be designated as Natural. Such a case would preclude any shoreline development designation and contradict policy goals to support water-dependent economic development.

Biological productivity will continue in the estuary. The area proposed for Aquatic Development is too small in relationship to the total estuary to eliminate or pose a threat to biological productivity. Because of the overall size of the watershed—Thomas reported that there are 119,220 acres in the Columbia River estuary¹⁵—it would be nearly impossible to attribute a decline in biological productivity, especially salmon, simply to the relatively small percentage of the Aquatic Development areas that would potentially be dedicated to dredge, fill, and piling activities associated with the development of an LNG import terminal. In addition, substantial evidence in the record supports the conclusion that on this particular site, lack of characteristic landforms, lack of natural processes, lack of salmonid habitat within the marshes, lack of unique and abundant wildlife, and relatively small area add up to concluding the area under consideration is not consistent with characteristics to support the Natural designation.

As further evidence of the appropriateness of classifying the aquatic areas as Aquatic Development, Applicant provided evidence that the Army Corps of Engineers conducted a biological and environmental assessment for proposed dredging in the Skipanon Channel in the late 1990s. The assessment area overlaps the area proposed for designation as Aquatic Development. The study resulted in a finding of no significant impact (FONSI). Proposed dredging was found to be consistent with Coastal Zone Management Act and local planning.

For all of these reasons, the City Commission finds that it is appropriate not to classify the aquatic areas as Aquatic Natural.

2. ***Conservation -- In all estuaries, except those in the overall Oregon Estuary Classification which are classed for preservation, areas shall be designated for long-term uses of renewable resources that do not require major alteration of the estuary, except for the purpose of restoration. These areas shall be managed to conserve the natural resources and benefits. These shall include areas needed for maintenance and enhancement of biological productivity, recreational and aesthetic uses, and aquaculture. They shall include tracts of significant habitat smaller or of less***

¹⁵ *Id.*

biological importance than those in (1) above, and recreational or commercial oyster and clam beds not included in (1) above. Areas that are partially altered and adjacent to existing development of moderate intensity which do not possess the resource characteristics of natural or development units shall also be included in this classification.

Significant portions of the Columbia River Estuary, including a portion of the aquatic areas to be classified Aquatic Development under the Comprehensive Plan Amendments, are classified as Aquatic Conservation. Applicant has submitted substantial and credible evidence that the section of Youngs Bay that Applicant proposes to reclassify as Aquatic Development and any portion of the Mouth of the Skipanon Subarea that is classified as Aquatic Conservation, by contrast, are not necessary for the maintenance and enhancement of biological productivity, recreation and aesthetic uses, or aquaculture. The area does not constitute a significant habitat, nor is it used for oyster or clam beds. The City Commission finds that the area does possess characteristics that make it suitable for classification as Aquatic Development.

The aquatic areas proposed to be classified aquatic development lie directly south of the Columbia River shipping channel. Their direct values for recreational fishing are limited. Some recreational fishing occurs in deepwater habitat that might be impacted if an LNG import terminal is built in the Aquatic Development area, but such impacts would have to be avoided and minimized to the extent practicable under the provisions of WDC Chapter 3.11, 3.12, as well as under state and federal permitting requirements. No commercial fishing or clamming occurs within the relevant aquatic area. While the areas do support salmon, as discussed above, there is nothing unique about this particular area that will cause any particular adverse impact on salmon, and the design review and permitting restrictions on development of the area, which, based on the evidence in the record shall be exclusively dredge activity and dock/pier pilings, will prevent adverse consequences to fish as a result of such habitat impacts as may occur. For these reasons and based upon the other relevant evidence in the record, the City Commission finds that it is appropriate not to designate the Site's aquatic areas as Conservation.

3. ***Development -- In estuaries classified in the overall Oregon Estuary Classification for more intense development or alteration, areas shall be designated to provide for navigation and other identified needs for public, commercial, and industrial water-dependent uses, consistent with the level of development or alteration allowed by the overall Oregon Estuary Classification. Such areas shall include deep-water areas adjacent or in proximity to the shoreline, navigation channels, subtidal areas for in-water disposal of dredged material and areas of minimal biological significance needed for uses requiring alterations of the estuary not included in (1) and (2) above.***

The Columbia River Estuary is a Development estuary. Within the estuary, the ESP has been described as one of the best large acreage water-dependent development. The Skipanon River's eastern peninsula is one of only six sites in the lower 50 miles of the Columbia River that is generally recognized as having significant potential for water-dependent development requiring deep-draft navigational access. The City's 1980 comprehensive plan concluded that the ESP, in addition to five other unique sites, should "probably be considered scarce resources and reserved primarily for water-dependent uses." Reasons for this uniqueness include the "proximity to the river mouth, (River Mile 11.5) and access to the main 40 foot navigation channel 2,100 feet to the north."

In addition to this historic recognition of the suitability of the Site for water-dependent industrial use and deep draft shipping, the record contains substantial evidence that the ESP and surrounding aquatic areas are uniquely well situated to take advantage of the opportunity to site an LNG import terminal on the lower Columbia River.

The City Commission finds, based on the written and oral testimony in the record, that the aquatic areas of the Site are also appropriately classified Aquatic Development because of their "minimal biological significance"; the significance of the aquatic areas is limited to salmonid habitat in mudflats and deepwater habitats. The City conducted a Goal 5 inventory of significant riparian areas and wetlands, and the wetlands inventoried as "significant" for purposes of Goal 5 are located within the Goal 16 area. However, the site-specific information in the record supports the conclusion that these wetlands are providing minimal environmental function to adjacent fish habitat, wildlife, and recreationists.

The City Commission finds that the wetland habitat on the ESP has been severely impacted by the effects of dams upstream, dredging of the Skipanon and Columbia Rivers, diking, and fill and is not pristine habitat. The largest wetland within the aquatic areas is a tidal marsh wetland; however, habitat and functions are not homogenous over the entire wetland. The mudflats provide the highest functional value to salmonids and other fish by providing feeding and resting areas; however, no channels into the tidal marsh are present to allow fish access to these areas. Furthermore, Applicant has provided substantial evidence that functional losses in tidal marsh and mudflat habitats are replaceable through mitigation.

The interspersion of wildlife habitat is low. Land connectivity to other habitat is in only one of four compass directions (i.e., this area has limited connectivity to other habitat). The wetland habitat does have connectivity to riverine habitat; however the site is in a degraded state and provides moderate to low quality habitat to fish and birds. The wetlands are not supporting upland wildlife because the adjoining upland habitat is severely degraded and has little use by wildlife. Additionally, the Site is degraded by frequent and consistent intrusion by unauthorized off-road vehicles.

On the basis of this evidence and the other evidence in the record, the City Commission finds that given the need to have the aquatic areas available for limited

development in order to take advantage of the new and substantial economic opportunity in LNG importation and transfer, and the comparatively minimal biological significance of the area to be impacted, it is appropriate for the City of Warrenton to classify, to the extent it has not previously done so, the aquatic areas of the Site as Aquatic Development.

IMPLEMENTATION REQUIREMENTS

1. ***Unless fully addressed during the development and adoption of comprehensive plans, actions which would potentially alter the estuarine ecosystem shall be preceded by a clear presentation of the impacts of the proposed alteration. Such activities include dredging, fill, in-water structures, riprap, log storage, application of pesticides and herbicides, water intake or withdrawal and effluent discharge, flow-lane disposal of dredged material, and other activities which could affect the estuary's physical processes or biological resources.***

The City Commission finds that the Comprehensive Plan amendments classifying the Site's aquatic areas as Aquatic Development are consistent with this requirement. The policy is not applicable to the other amendments. The amendments are consistent with the requirement because the requirement is expressly implemented through WDC Chapter 3.12, which requires an Impact Assessment for any proposed development that could have an adverse impact on the estuary. The amendments in no way affect the WDC's implementation of this requirement.

2. ***Dredging and/or filling shall be allowed only:***
 - a. ***If required for navigation or other water-dependent uses that require an estuarine location or if specifically allowed by the applicable management unit requirements of this goal; and***
 - b. ***If a need (i.e., a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights; and***
 - c. ***If no feasible alternative upland locations exist; and,***
 - d. ***If adverse impacts are minimized.***

The City Commission finds that the Comprehensive Plan Amendments are consistent with this requirement. The requirement is only applicable to the aquatic areas amendments. Those amendments will not affect either the Comprehensive Plan policies

that implement this requirement, nor will they affect the implementation of this requirement through the WDC, specifically WDC Chapter 3.11. Notwithstanding the Aquatic Development designation, no dredge or fill activity will be allowed on the Site unless these criteria, which are also present in state and federal permitting processes, have been satisfied

Other uses and activities which could alter the estuary shall only be allowed if the requirements in (b), (c), and (d) are met. All or portions of these requirements may be applied at the time of plan development for actions identified in the plan. Otherwise, they shall be applied at the time of permit review.

The City Commission finds that the proposed Comprehensive Plan Amendments are consistent with this requirement. The requirement is applicable only to the aquatic areas amendments. WDC 3.11 and WDC 3.12 implement this requirement at the development permitting stage. There is thus no inconsistency between the policy and the amendments.

3. *State and federal agencies shall review, revise, and implement their plans, actions, and management authorities to maintain water quality and minimize man-induced sedimentation in estuaries. Local government shall recognize these authorities in managing lands rather than developing new or duplicatory management techniques or controls.*

Existing programs which shall be utilized include:

- a. *The Oregon Forest Practices Act and Administrative Rules, for forest lands as defined in ORS 527.610-527.730 and 527.990 and the Forest Lands Goal;*
- b. *The programs of the Soil and Water Conservation Commission and local districts and the Soil Conservation Service, for Agricultural Lands Goal;*
- c. *The nonpoint source discharge water quality program administered by the Department of Environmental Quality under Section 208 of the Federal Water Quality Act as amended in 1972 (PL92-500); and*
- d. *The Fill and Removal Permit Program administered by the Division of State Lands under ORS 541.605 - 541.665.*

The City Commission finds that these provisions are not applicable to the Comprehensive Plan Amendments; none of those amendments alters or impacts those elements of City's Comprehensive Plan that implement this goal requirement.

4. *The State Water Policy Review Board, assisted by the staff of the Oregon Department of Water Resources, and the Oregon Department of Fish and Wildlife, the Oregon Department of Environmental Quality, the Division of State Lands, and the U.S. Geological Survey, shall consider establishing minimum fresh-water flow rates and standards so that resources and uses of the estuary, including navigation, fish and wildlife characteristics, and recreation, will be maintained.*

The City Commission finds that this requirement is not applicable.

5. *When dredge or fill activities are permitted in intertidal or tidal marsh areas, their effects shall be mitigated by creation, restoration or enhancement of another area to ensure that the integrity of the estuarine ecosystem is maintained. Comprehensive plans shall designate and protect specific sites for mitigation which generally correspond to the types and quantity of intertidal area proposed for dredging or filling, or make findings demonstrating that it is not possible to do so.*

The City Commission finds that the Comprehensive Plan Amendments are consistent with this requirement. The amendments to the aquatic areas designations create the possibility of dredge and fill activity on the Site, but they in no way alter or affect the implementation of this policy through the Comprehensive Plan and WDC. Any proposed dredge or fill activity on the Site associated with a proposed LNG import terminal, for example, will only be permitted to the extent that it satisfies the mitigation criteria imposed on such activities in WDC Chapter 3.11. during FERC's LNG permitting process, and equivalent criteria that are present in the state and federal permitting processes.

6. *Local government and state and federal agencies shall develop comprehensive programs, including specific sites and procedures for disposal and stock-piling of dredged materials. These programs shall encourage the disposal of dredged material in uplands or ocean waters, and shall permit disposal in estuary waters only where such disposal will clearly be consistent with the objectives of this goal and state and federal law. Dredged material shall not be disposed in intertidal or tidal marsh estuarine areas unless part of an approved fill project.*

The City Commission finds that the Comprehensive Plan Amendments do not impact any existing plans for the disposal and stock-piling of dredged materials. This requirement is not applicable.

7. *Local government and state and federal agencies shall act to restrict the proliferation of individual single-purpose docks and piers by encouraging community facilities common to several uses and interests. The size and shape of a dock or pier shall be limited to that required for the intended use. Alternatives to docks and piers, such as mooring buoys, dryland storage, and launching ramps shall be investigated and considered.*

The City Commission finds that the Comprehensive Plan Amendments do not alter or otherwise impact the implementation of this requirement in the Comprehensive Plan or the WDC. To the extent that an LNG import terminal on the Site will require a dock and pier, the applicant for such a project will be required to demonstrate compliance with the WDC's implementation of this requirement during FERC's LNG permitting process. There is thus no inconsistency between designating the aquatic areas for Aquatic Development and the implementation of this requirement.

8. *State and federal agencies shall assist local government in identifying areas for restoration. Restoration is appropriate in areas where activities have adversely affected some aspect of the estuarine system, and where it would contribute to a greater achievement of the objective of this goal. Appropriate sites include areas of heavy erosion or sedimentation, degraded fish and wildlife habitat, anadromous fish spawning areas, abandoned diked estuarine marsh areas, and areas where water quality restricts the use of estuarine waters for fish and shellfish harvest and production, or for human recreation.*

The City Commission finds that this requirement is not applicable to the proposed Comprehensive Plan Amendments.

GUIDELINES

A. INVENTORIES

In detail appropriate to the level of development or alteration proposed, the inventories for estuarine features should include:

1. *Physical characteristics*
 - a. *Size, shape, surface area, and contour, including water depths;*

The City Commission finds that although these guidelines are not binding approval criteria, the terms of the guidelines are satisfied by and not inconsistent with the proposed Comprehensive Plan Amendments, in particular the amendments that would classify the aquatic areas of the Site as Aquatic Development. The City has adopted the CREST Plan as its inventory of the Columbia River Estuary for purposes of this goal requirement and has incorporated aspects of the information sought here into the Comprehensive Plan through the subarea findings. As discussed previously, the CREST Plan concludes that the ESP is "especially suitable for water-dependent industry." The CREST Plan discusses that the wildlife values are low to moderate on the ESP and that natural habitat value and productivity in the transition marsh area is low. The CREST Plan discusses the fact that "[u]se of the eastern peninsula for water-dependent development is consistent with the deep draft development estuary designation given to the Columbia River estuary by the state." The CREST Plan also discusses the importance of the ESP to the local economy and to the economy of the State of Oregon. CREST concluded that development of the ESP with a water-dependent development would lead to "greater diversity in the area's economy, high seasonal unemployment rates will decrease, and per capita earnings will increase." These conclusions remain accurate today, especially in light of the tremendous economic development opportunity offered by LNG importation, regasification and transfer facilities.

Applicant has provided additional substantial and credible evidence regarding the physical characteristics of the site, the biology of the site, and the socioeconomic aspects of the estuary and the Site in particular. This evidence is found in the Preliminary Habitat Report, the Wildlife Report, the Letter to DLCD from CH2M Hill and Ellis Ecological Services and the supplemental report from Ellis Ecological Services responding to the environmental reports submitted by project opponents. This additional evidence reinforces much of the information in the CREST Plan and also establishes that the Aquatic Development classification is appropriate for the aquatic areas of the Site.

B. HISTORIC, UNIQUE, AND SCENIC WATERFRONT COMMUNITIES

Local government comprehensive plans should encourage the maintenance and enhancement of historic, unique, and scenic waterfront communities, allowing for non water-dependent uses as appropriate in keeping with such communities.

The City Commission finds that this guideline is not applicable because the ESP is not historic, unique, or scenic waterfront community.

C. TRANSPORTATION

Local governments and state and federal agencies should closely coordinate and integrate navigation and port needs with shoreland and upland transportation facilities and the requirements of the Transportation Goal. The cumulative

effects of such plans and facilities on the estuarine resources and values should be considered.

The City Commission finds that this guideline is not a binding approval criterion and is, in any event, consistent with the proposed Comprehensive Plan amendments. None of the amendments effect the Comprehensive Plan's implementation of this guideline, or its implementation through the WDC. Designating the aquatic areas of the Site Aquatic Development does create the possibility of shipping activity on the Site that could impact shoreland and upland transportation facilities. The record contains a TIA prepared on behalf of the Applicant that demonstrates that, with appropriate mitigation, prospective impacts from such development would not have a significant affect on transportation facilities. Applicant prepared and amended the TIA in consultation with the Oregon Department of Transportation, and the City Commission is adopting a condition of approval with this decision that requires the Applicant to continue to coordinate its mitigation efforts with ODOT. The City Commission finds that while not required to do so, the Comprehensive Plan Amendments comply with this guideline.

TEMPORARY ALTERATIONS

The provision for temporary alterations in the Goal is intended to allow alterations to areas and resources that the Goal otherwise requires to be preserved or conserved. This exemption is limited to alterations in support of uses permitted by the Goal; it is not intended to allow uses which are not otherwise permitted by the Goal. Application of the resource capabilities test to temporary alterations should ensure:

- 1. That the short-term damage to resources is consistent with resource capabilities of the area; and*
- 2. That the area and affected resources can be restored to their original condition.*

The City Commission finds that this guideline is not applicable, as Applicant is not proposing a temporary alteration.

3. Opposition Arguments

Opponents offered extensive testimony and a significant volume of documents in opposition to the Applicant's proposal to classify the aquatic management units on the Site as Aquatic Development. The City Commission has considered the arguments and evidence and finds that the Applicant's analysis and site-specific expert testimony regarding the natural features of the Site are more credible and directly responsive to the applicable approval criteria, and therefore the City Commission finds that the opponents' objections with respect to the Aquatic Development management unit designation of the aquatic areas of the Site are not well taken.

Opponents offered argument and evidence regarding the biological significance of Youngs Bay and argue on that basis that designating the aquatic areas on and adjacent to the ESP as Aquatic Development is not consistent with Goal 16 or the applicable Comprehensive Plan policies. The opponents are incorrect. SNG's Application acknowledges the biological importance of Youngs Bay as a whole. That, however, is not the salient issue. As the environmental reports submitted on behalf of the Applicant demonstrate, the issue is the biological significance of the specific portion of Youngs Bay that SNG proposes to reclassify. Opponents offer no credible evidence on this issue, and as the Applicant's environmental reports conclude, the available evidence suggests that the proposed Aquatic Development area does not contain any unique habitat, as that term is defined by the Oregon Department of Fish and Wildlife.

Even if the proposed development area were of particular biological significance, moreover, by itself this would not foreclose its designation as aquatic development under Goal 16. Opponents read Goal 16 to impose a categorical prohibition on applying a development classification to biologically sensitive areas. The Goal 16 management unit classification, however imposes no such categorical prohibition; it is a policy choice that places substantial importance on the biological significance of the impacted area, but allows this to be balanced against other community needs. In this case, SNG has established both the low to moderate biological significance of the impacted aquatic area and the greater importance of competing community needs that warrant an Aquatic Development designation on the Site.

The City Commission also finds that opponents are mistaken when they argue that SNG's application fails to demonstrate compliance with the Goal 16 provision that states "actions which would potentially alter the estuarine ecosystem shall be preceded by a clear presentation of the impacts of the proposed alteration." The Warrenton Development Code expressly implements the above Goal 16 requirement by requiring anyone seeking a "permit" to do development that would impact the estuary – including dredging, aquatic fill, and in-water structures -- to provide an Impact Assessment that includes information on the impacts on aquatic life forms and habitat, shoreland life forms and habitat, water quality, hydrology, air quality, public access, and more. See WDC 3.12.

Goal 16 does not require, and the City of Warrenton has not adopted, a policy of providing an Impact Assessment in conjunction with a plan amendment or zone change in the estuary. Even if impacts of potential future developments needed to be addressed, however, SNG placed substantial evidence into the record regarding such potential impacts related to a conceptual facilities plan as part of its effort to be responsive to DLCD's and the community's concerns. As a result of those evidentiary submissions, DLCD concluded that the Applicant had provided sufficient evidence to allow approval of its proposed management unit designation amendments, and the City Commission agrees; the area proposed for reclassification is needed in conjunction with the designation of the adjacent shoreland as ESWD Shorelands to allow the large-scale

importation of bulk marine cargo to service the Columbia River basin and the western United States.

EXHIBIT 'B'

Chapter 2.11 — Water Dependent Industrial Shorelands (I-2) District

Sections:

2.11.100	Purpose
2.11.110	Permitted Land Uses
2.11.120	Conditional Uses
2.11.130	Development Standards

2.11.100 Purpose

Water-Dependent Industrial Shoreland areas have unique characteristics that make them especially suited for water-dependent development. Characteristics that contribute to suitability for water-dependent development include:

- (1) deep water close to shore with supporting land transportation facilities suitable for ship and barge facilities;
- (2) potential for aquaculture;
- (3) protected areas subject to scour which would require little dredging for use as marinas;
- (4) potential for recreational utilization of coastal waters or riparian resources.

Uses of Water-Dependent Industrial Shorelands areas shall maintain the integrity of the estuary and coastal waters. Water-dependent uses receive highest priority, followed by water-related uses. Uses which are not water-dependent or water-related are provided for, but only when they do not foreclose options for future higher priority uses and do not limit the potential for more intensive uses of the area.

2.11.110 Permitted Land Uses

The following uses and activities and their accessory uses and activities are permitted in the I-2 zone if the zoning administrator determines that the uses conform to the standards in Section 2.11.130, applicable Zoning Ordinance standards, and other City laws:

- (1) The following water-dependent industrial or port uses:
 - a. Industrial docks, piers, moorage facilities.
 - b. Marine cargo transfer facilities.
 - c. Seafood receiving and processing.
 - d. Liquefied Natural Gas (LNG) importation, regasification, and transfer terminal.
- (2) Navigation aids.
- (3) Repair and maintenance of existing structures or facilities.

- b. 30 feet for buildings and structures more than six feet high but not more than ten feet high; and
 - c. Ten feet for structures no more than six feet high.
- (12) Height: There is no height limitation except:
- a. Within 100 feet of a zone other than I-1 or I-2, in which case the maximum height shall be the same height as the abutting district; or
 - b. Within the Airport Hazard Overlay Zone, in which case the maximum height shall be governed by the Airport Hazard Overlay Zone height restrictions.
- (13) Vibration: No vibration other than that caused by highway vehicles, trains, and aircraft shall be permitted which is discernible without instruments at the property line of the use concerned.
- (14) Heat and glare: Except for exterior lighting, operations producing heat or glare shall be conducted entirely within an enclosed building.
- (15) Industrial activities may be carried on either outside or inside enclosed structures, but the impact of such activities on surrounding properties shall be minimized by taking into consideration screening and other possibilities for buffering.
- (16) Other Standards: All other standards, including those pertaining to signs, off-street parking and loading requirements, shall apply as set forth in Chapter 3.3 and Chapter 3.7.
- (17) Proposals for development in the area covered by the 1981 Mediation Panel Agreement, other than the Mouth of the Skipanon Subarea, must meet the requirements of the Agreement.
- (18) Uses that are water-dependent must meet the criteria in Section 3.11.18(1). Uses that are water-related must meet the criteria in Section 3.11.18(2).
- (19) Uses and activities permitted under Section 2.11.110 of this zone are subject to the public notice provisions of Section 4.1.4C if an impact assessment is required pursuant to Section 3.11, or if the zoning administrator determines that the permit decision will require interpretation or the exercise of factual, policy or legal judgment.
- (20) All developments shall comply with the wetland and riparian area protection standards of Chapter 3.10.

Chapter 2.12 — Urban Recreational/Resort (URR) District

Sections:

2.12.100	Purpose
2.12.110	Permitted Land Uses
2.12.120	Conditional Uses
	Development Standards

2.12.100 Purpose

The purpose of the Urban Recreation/Resort Zone is to control development on certain shoreland areas designated Other Urban Shorelands in the Comprehensive Plan. This zone is appropriate for large tracts of land suitable for development of the uses listed in this zone.

2.12.110 Permitted Land Uses

The following uses and their accessory uses are permitted outright in this zone subject to the development standards of this zone, other applicable development standards in the City's ordinances, and state and federal regulations:

1. Golf courses.
2. Driving range.
3. Tennis courts.
4. Eating and drinking establishments as part of a golf course.
5. Overnight lodging, but not including recreation vehicle (RV) parks.
6. Pedestrian, bicycle or equestrian trails.
7. Transportation facilities and improvements subject to the standards of Section 2.0.4.
8. Wetland and other natural resource mitigation, restoration, creation, and enhancement.

2.12.120 Conditional Uses

The following uses and their accessory uses may be permitted as conditional uses subject to the Conditional Use Criteria and Standards in Section 4.4, the development standards of this zone, other applicable development standards in the City's ordinances, and state and federal regulations:

1. Single-family and multi-family residences as part of a master planned development that also includes a golf course.
2. Retail uses related to the primary recreational activity in this zone.
3. Eating and drinking establishments other than those permitted under Section 2.12.110(4) of this zone.

- (7) Dredged material disposal at sites designated for dredged material disposal in the Comprehensive Plan.
- (8) Covered moorage in an approved marina.
- (9) Dredging and filling, pursuant to the applicable standards in Section 3.11, for any of the conditional uses 1 through 8 listed above.
- (10) Water-related recreational uses.
- (11) Water-related commercial or industrial uses other than those listed under Section 2.13.110(13) of this zone.
- (12) Communication facilities subject to the standards of Chapter 3.8.
- (13) Piling as necessary for any of the conditional uses 1 through 12 listed above.
- (14) Temporary uses.

2.13.130 Development Standards

The following standards are applicable in the A-1 zone:

- (1) All uses and activities must satisfy applicable Columbia River Estuary Aquatic and Shoreland Area Development Standards in Chapter 3.11.
- (2) A proposal involving several uses and activities shall be reviewed in aggregate under the more stringent procedure.
- (3) All applicable policies in the City's Comprehensive Plan, Mediation Agreement and Goal Exceptions shall be met, except that no Mediation Agreement policies shall be applied in the Mouth of the Skipanon Subarea.
- (4) All other applicable Code requirements shall be satisfied.
- (5) Uses that are not water-dependent shall be located either on a floating structure or on pilings, and shall not increase the need for fill if in association with a water-dependent use located on fill.
- (6) Uses that are not water-dependent shall not preclude or conflict with existing or probable future water-dependent uses on the site or in the vicinity.
- (7) Maximum height of structures shall be 60 feet above MLLW.
- (8) A proposal which requires new dredging, fill, in-water structures, rip-rap, new log storage areas, water intake, in-water disposal of dredged material, beach nourishment, or other activities which could affect the estuary's physical processes or biological resources is subject to an Impact Assessment, Chapter 3.12.

Chapter 3.10 – Wetland and Riparian Area Protection Ordinance¹

Sections:

- 3.10.1 Wetland and Riparian Corridor Development Standards
- 3.10.2 Wetland Area Protection Standards
- 3.10.3 Hardship Variance Procedure
- 3.10.4 Riparian Area Protection Standards
- 3.10.5 Class 1 Riparian Area Protection Standards
- 3.10.6 Class 2 Riparian Area Protection Standards

3.10.1 Wetland and Riparian Corridor Development Standards

Purpose: This ordinance provides development standards for wetland and riparian corridors in the City of Warrenton and the Warrenton Urban Growth Area to comply with Statewide Planning Goal 5 (OAR Division 660 Chapter 23) including the provisions of OAR 660-023-240. The City of Warrenton has inventoried its wetland and riparian corridor resources, made a determination of significance for each resource unit, and produced applicable development standards that are contained in this ordinance.

(1) This ordinance applies to all lands lying within the City of Warrenton and the Warrenton Urban Growth Area.

(2) OAR 660-023-0024(2) establishes that the requirements of Statewide Planning Goals 16 and 17, as well as 15 and 19, supersede the requirements of Statewide Planning Goal 5 for natural resources that are also subject to and regulated by those goals.

(3) Notwithstanding the development standards established below in 3.10.3, 3.10.4 and 3.10.5, pursuant to OAR 660-023-0024 development of wetlands and riparian corridors in estuarine and coastal shoreland areas shall be regulated by the requirements of Statewide Planning Goals 16 and 17, as implemented by this Code.

3.10.2 Wetland Area Protection Standards

(1) Wetland areas in the City of Warrenton are identified on the 1"=400' maps entitled *City of Warrenton Wetland Conservation Plan Inventory* dated October 17, 1997. These maps show approximate wetland boundaries for wetland areas within the Warrenton Urban Growth Boundary.

- a. Applications to the City of Warrenton for development permits, grading permits, or building permits that would alter land within 25 feet of a mapped wetland area, or portion thereof, shall contain the following:

¹ This ordinance serves as an interim protection ordinance for Goal 5 resources in the City of Warrenton. The Oregon Land Conservation and Development Commission (LCDC) has ordered the City to immediately apply this interim ordinance until the City adopts a final ordinance that complies with Goal 5. (Periodic Review Order No. 001284 -- Amendment #2)

the landowner chooses to develop part of all of the site to a degree that would preclude its availability for mitigation use.

- (16) Warrenton shall make the determination of whether a development will preclude all or some of the potential use of the site for mitigation purposes.
- (17) After a mitigation action takes place, Warrenton shall amend its plan and change the designation to reflect its aquatic character.
- (18) The developer implementing a mitigation action shall be responsible for all costs associated with the mitigation project unless an alternative agreement for cost responsibility is negotiated between the landowner and the developer.
- (19) Shorelands in the Marine Commercial Shorelands Zone and Water-Dependent Industrial Shorelands Zone can only be used for mitigation subject to a finding that the use of the site for mitigation will not preclude or conflict with water-dependent uses.
- (20) Significant Goal 17 resource areas (major marshes, significant wildlife habitat, and exceptional aesthetic resources) can only be used for mitigation subject to a finding that the use of the site for mitigation will be consistent with protection of natural values.
- (21) Shorelands in the Marine Commercial Shorelands Zone and Water-Dependent Industrial Shorelands Zone can only be used for restoration subject to a finding that the use of the site for restoration will not preclude or conflict with water-dependent uses.
- (22) Priority 2, Level 3 and 4 mitigation sites shall be designated as mitigation sites until they are proposed for restoration outside of the context of mitigation. At this time restoration shall be considered an allowed use subject to the 30 day freeze restrictions presented in mitigation standard 17. Restoration shall only be allowed at Priority 2 sites subject to a finding that the site is no longer required for mitigation.
- (23) Priority 3, Level 4 mitigation sites shall be designated as mitigation sites until they are specified for restoration outside of the context of mitigation. At this time, restoration shall be considered an allowed use. Restoration shall only be allowed at Priority 3 sites subject to a finding that the site is no longer required for mitigation.
- (24) Significant Goal 17 resource areas (major marshes, significant wildlife habitat, and exceptional aesthetic resources) can only be used for restoration subject to a finding that the use of the site for restoration will be consistent with protection of its natural values.

3.11.12 Public Access to the Estuary and its Shoreline

Standards in this subsection apply to all uses and activities in shoreland and aquatic areas which directly or indirectly affect public access. "Public access" is used broadly here to include direct physical access to estuary aquatic areas (boat ramps, for example), aesthetic access (viewing opportunities, for example), and other facilities that provide some degree of public access to shorelands and aquatic areas.

1. Demonstration of compliance with all applicable comprehensive plan policies and map designations. Where this criterion cannot be met, a comprehensive plan amendment shall be a prerequisite to approval;
2. Demonstration of compliance with all applicable standards and criteria of this Code, and other applicable implementing ordinances;
3. Evidence of change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or land use district map regarding the property which is the subject of the application; and the provisions of Section 4.7.6, as applicable.

4.7.4 Conditions of Approval.

A quasi-judicial decision may be for denial, approval, or approval with conditions. A legislative decision may be approved or denied.

4.7.5 Record of Amendments.

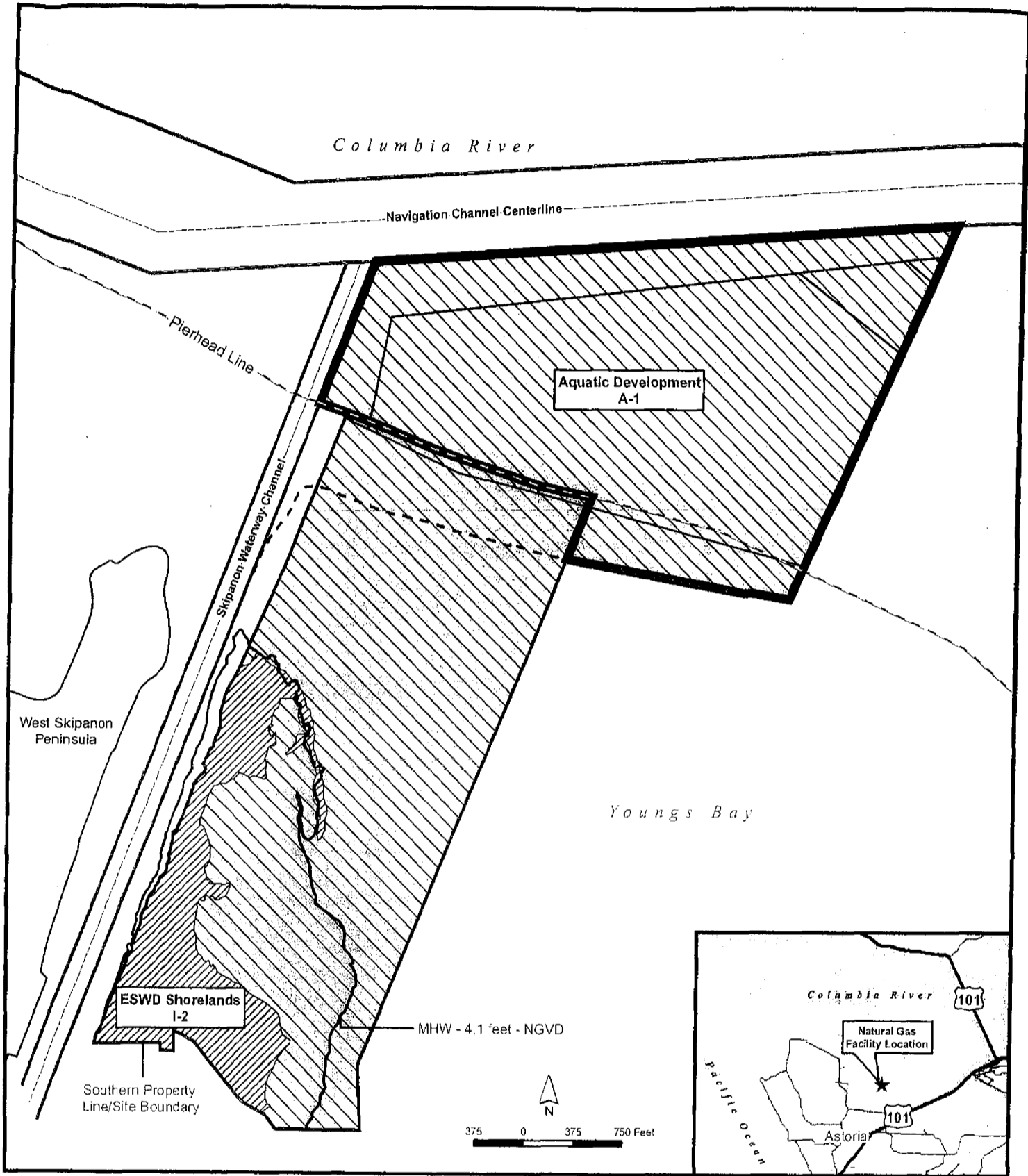
The zoning administrator shall maintain a record of amendments to the text of this Code and the land use districts map in a format convenient for public use.

[Note: The following section is interim and subject to revision as part of the Warrenton Transportation System Plan.]

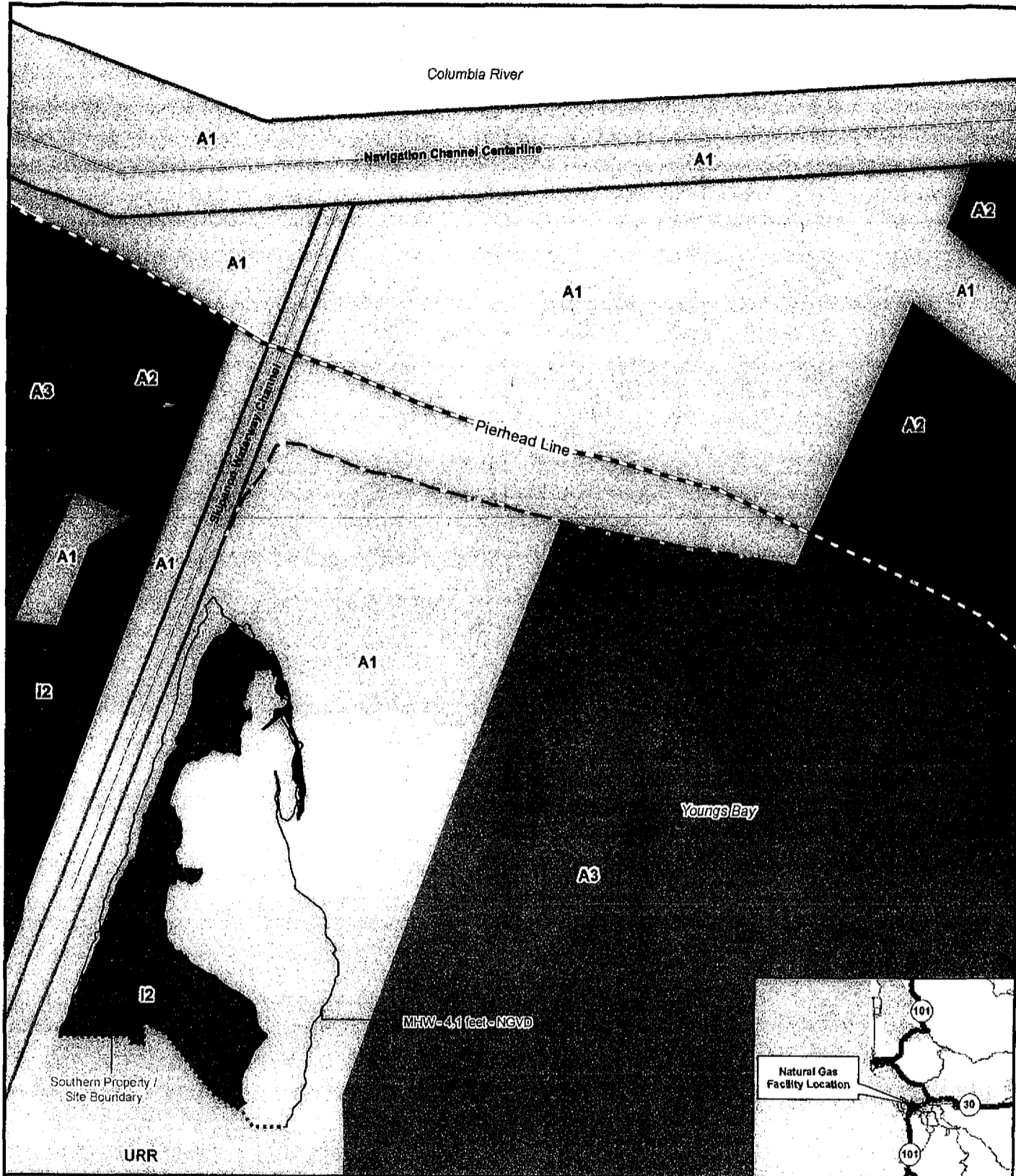
4.7.6 Transportation Planning Rule Compliance.

- A. When a development application includes a proposed comprehensive plan amendment or land use district change, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060, as it may be amended (the "Transportation Planning Rule"). See Also Chapter 4.13, Traffic Impact Study.
- B. Amendments to the comprehensive plan and land use standards which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one or more of the methods allowed under the Transportation Planning Rule.

EXHIBIT 'C'



Legend		DISCLAIMER: Map data was compiled from various sources listed in the legend. CH2M HILL cannot verify the accuracy of map data from others. This map is for planning purposes only and is not suitable for construction or for local, state, or federal permitting. Aquatic Development A-1 overlays originally referred to in Subareas 42.06 and 42.07 in the City of Warrenton Comprehensive Plan.	Figure 1 Site Plan and Vicinity Map Hearing Exhibit SNG LLC Rezone Application Warrenton, Oregon
<ul style="list-style-type: none"> Site Boundary Area of Proposed Change Aquatic Development A-1 ESWD Shorelands I-2 Mean High Water (MHW) 	<ul style="list-style-type: none"> 20 Ft. Bathymetric Contour Navigation Channel Centerline Navigation Channel Limits West Skipanon Peninsula 		



Legend		 1 inch equals 900 feet 	Figure 2 Proposed Zoning SNG LLC Rezone Application Warrenton, Oregon
MHW Property Navigation Channel Centerline Navigation Channel Limits 20 Ft. Bathymetric Contour	I2 - Water Dependent Industrial URR - Urban Recreation and Resort A1 - Aquatic Development A2 - Aquatic Conservation A3 - Aquatic Natural		