



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

January 22, 2007

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Newport Plan Amendment
DLCD File Number 008-06



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. 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 7, 2007

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) 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 MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Laren Woolley, DLCD Regional Representative
James Bassingthwaite, City of Newport

<paa> ya

FORM 2

DLCD NOTICE OF ADOPTION

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

(See reverse side for submittal requirements)

DEPT OF

JAN 18 2007

LAND CONSERVATION
AND DEVELOPMENT

Jurisdiction: City of Newport Local File No.: 5-CP-06/8-Z-06
(If no number, use none)

Date of Adoption: January 16, 2007 Date Mailed: January 17, 2007
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: November 17, 2006

☒ 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."

Adopted amendments to Comprehensive Plan and Zoning Ordinance to allow cobble/pebble
dynamic revetments for shoreline stabilization for the protection of public facilities
in Estuary Management Unit 8 and 9A as a conditional use permit. MU 8 is a conservation
designation and MU 9A is a Natural designation.

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 : --- to ---

Zone Map Changed from: --- to ---

Location: Note: Comp Plan and Zoning Ord is legislative amendment, - no specific location
NE shoreline of Hatfield Marine Science Center (2030 SE Marine Science Drive)

Specify Density: Previous: was issue of GU New: ---
amendments

Applicable Statewide Planning Goals: 2, 16

Was an Exception Adopted? Yes: --- No: x

DLCD File No.: 008-06 (15695)

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: X* No:

*Mailed in time for DLCD to receive 45 days prior.

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: City of Newport,

Port of Newport, DSL, ACOE, OSU=Hatfield Marine Science Center

Local Contact: James Bassingthwaite Area Code + Phone Number: 541-574-0626

Address: 169 SW Coast Highway

City: Newport Zip Code+4: 97365-4713

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 of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will 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 Larry.French@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

CITY OF NEWPORT

ORDINANCE NO. 1905

**AN ORDINANCE AMENDING ORDINANCE NO. 1621 (AS AMENDED) AND
ORDINANCE NO. 1308 (AS AMENDED) OF THE CITY OF NEWPORT,
OREGON, TO AMEND ORDINANCE NO. 1621 (AS AMENDED) TO AMEND
THE YAQUINA BAY AND ESTUARY SECTION OF THE NEWPORT
COMPREHENSIVE PLAN AND TO AMEND THE NEWPORT ZONING
ORDINANCE SECTION 2-2-13 TO ALLOW FOR THE CONDITIONAL USE OF
COBBLE/PEBBLE DYNAMIC REVETMENTS FOR SHORELINE
STABILIZATION TO PROTECT PUBLIC FACILITIES IN MANAGEMENT
UNITS 8 AND 9-A**

WHEREAS, the City of Newport received an application (File No. 5-CP-06/8-Z-06) from the Oregon State University Hatfield Marine Science Center for amendments to the Newport Comprehensive Plan (Ordinance No. 1621, as amended) and the Newport Zoning Ordinance (NZO) (No. 1308, as amended) to amend the Yaquina Bay and Estuary Section of the Newport Comprehensive Plan and to amend portions of NZO Section 2-2-13 to allow for the conditional use of cobble/pebble dynamic revetments for shoreline stabilization to protect public facilities in Management Units 8 (Conservation) and 9-A (Natural),

WHEREAS, the Newport Comprehensive Plan as adopted by Ordinance No. 1621 (as amended) and the Newport Zoning Ordinance No. 1308 (as amended) do not currently allow for the use of cobble/pebble dynamic revetments as a potential use to protect public facilities within Management Units 8 and 9-A even though Statewide Planning Goal 16 (Estuarine Resources) would allow for such uses,

WHEREAS, the Planning Commission of the City of Newport, after providing the required public notification including the notification to the Department of Land Conservation & Development, held a public hearing on January 8, 2007, for the purpose of reviewing the proposed legislative ordinance amendments and providing a recommendation to the City Council,

WHEREAS, the above said public hearing was held in accordance with the appropriate provisions of the city ordinances, and, after due deliberation and consideration of the proposed amendments, the Planning Commission, by a unanimous vote, did recommend that the proposed comprehensive plan text amendments and the zoning ordinance text amendments be adopted by the City Council of the City of Newport; and

WHEREAS, the City Council of the City of Newport, after providing the required public notification, held a public hearing on January 16, 2007, regarding the question of the proposed amendments, and made a determination after considering the recommendation of the Planning Commission, the Planning Staff Report and attachments, and the evidence and argument presented at the public hearing, that the proposed amendments are consistent with the applicable criteria,

NOW, THEREFORE, THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. The Newport Comprehensive Plan as adopted by Ordinance No. 1621 (as amended) is hereby amended to add the following amendments to the Yaquina Bay and Estuary Section of the Newport Comprehensive Plan:

A. An additional Policy under the "Special Policies" section currently on page 241 for Management Unit 8 shall be added as follows at the end of the "Special Policies" section: ***"A cobble/pebble dynamic revetment for shoreline stabilization may be authorized in Management Unit 8 for protection of public facilities (such as the Hatfield Marine Science Center facilities)"***

B. An additional Policy under the "Special Policies" section currently on page 257 for Management Unit 9-A shall be added as follows: ***"A cobble/pebble dynamic revetment for shoreline stabilization may be authorized in Management Unit 9-A for protection of public facilities (such as the Hatfield Marine Science Center facilities)"***

C. Additional language shall be added to the end of Policy 9 of the Yaquina Bay Estuary and Estuary Section as identified below in ***bold italics*** so that Policy 9 reads as follows:

Nonstructural solutions to problems of erosion or flooding shall be preferred to structural solutions. Where flood and erosion control structures are shown to be necessary, they shall be designed to minimize adverse impacts on water currents, erosion, and accretion patterns. ***Additionally, for cobble/pebble dynamic revetments in MU 8 and 9-A to be allowed, the project must demonstrate a need to protect public facility uses, that land use management practices and nonstructural solutions are inadequate, and the proposal is consistent with the applicable management unit as required by Goal 16.***

Section 2. The Newport Zoning Ordinance (NZO) No. 1308 (as amended) is hereby amended to add the following amendments to NZO Section 2-2-13:

A. An amendment to NZO Section 2-2-13.030 (Shoreline Stabilization) shall be made to add Section F and G as follows:

F. In addition to requirements identified in C-E above, cobble/pebble dynamic revetments permitted in Management Units 8 and 9-A may be permitted if:

- (1) There is a demonstrated need to protect public facility uses; and***
- (2) Land use management practices and nonstructural solutions are inadequate; and***
- (3) The proposal is consistent with the applicable management unit as required by Goal 16.***

G. For the purposes of shoreline stabilization, a “cobble/pebble dynamic revetment” is defined as: “The use of naturally rounded pebbles or cobbles placed in front of property to be protected and designed to move under force of wave, currents, and tides. A cobble/pebble dynamic revetment represents a transitional strategy between conventional rip rap revetment of large stones and a beach nourishment project.”

B. An amendment to NZO Section 2-2-13.108 (Management Unit No. 8) shall be made to add a special policy as follows:

8.4 A cobble/pebble dynamic revetment for shoreline stabilization may be authorized in Management Unit 8 for protection of public facilities (such as the Hatfield Marine Science Center facilities).

C. An amendment to NZO Section 2-2-13.109 (Management Unit 9-A) shall be made to add a special policy as follows:

9-A.5 A cobble/pebble dynamic revetment for shoreline stabilization may be authorized in Management Unit 9-A for protection of public facilities (such as the Hatfield Marine Science Center facilities).

D. An amendment to NZO Section 2-2-13.0200 (Permitted Use Matrices) for the use matrices for Management Unit 8 and Management Unit 9-A shall be made to add a use of ***Public Facilities*** under the “Public” section with a conditional use designation and to add “8.4” and “9-A.5” to each respective Management Unit matrix under the Special Policy section with a circled C to denote a conditional use requiring resource capability determination for both Management Unit matrices.

Section 3. The findings and conclusions in Exhibit "A" are hereby adopted in support of the amendments to the Newport Comprehensive Plan and Newport Zoning Ordinance.

Section 4. Emergency Declared. Due to the need of the Hatfield Marine Science Center to pursue the implementation of the shoreline stabilization measures that served as the basis for the request for the Comprehensive Plan and Zoning Ordinance amendments, an emergency is hereby declared to exist and this ordinance shall be in full force and effect immediately upon its adoption by the City Council of the City of Newport and approval by its Mayor.

Introduced and passed on first reading in a regular meeting of the City Council of the City of Newport, Oregon, held on the 16th day of January, 2007.

Passed on second reading, placed for final passage, and adopted by the City Council of the City of Newport, Oregon, on the 16th day of January, 2007.

Approved by the Mayor of the City of Newport, Oregon, on the 16th day of January, 2007.


MAYOR

ATTEST:


CITY RECORDER

EXHIBIT "A"

FINDINGS OF FACT

1. Oregon State University Hatfield Marine Science Center, 2030 SE Marine Science Dr., Newport, OR 97365 (Port of Newport, 600 SE Bay Blvd., Newport, OR 97365, property owner) submitted a land use application on November 15, 2006, for approval of two legislative land use requests as follows:

File No. 5-CP-06: The applicant requests Comprehensive Plan text amendments involving amendments to the Newport Comprehensive Plan Yaquina Bay and Estuary Section to add additional policies under the "Special Policies" section of Management Unit 8 and 9A and to add language to Policy 9 (Solutions to Erosion and Flooding) to allow for the use of cobble/pebble dynamic revetments for shoreline stabilization for the protection of public facilities in Estuary Management Units 8 and 9A.

File No. 8-Z-06: The applicant requests a Zoning Ordinance text amendment to add sections to NZO Section 2-2-13.030 (Shoreline Stabilization), to add special policies to NZO Section 2-2-13.108 (Management Unit No. 8) and Section 2-2-13.109 (Management Unit 9A), and to amend NZO Section 2-2-13.0200 (Permitted Use Matrices) for Management Units 8 and 9A to allow for the conditional use of cobble/pebble dynamic revetments for shoreline stabilization for the protection of public facilities.

2. In addition, the applicant also submitted an application for approval of quasi-judicial conditional use permit as requested to be added under File No. 5-CP-06/8-Z-06 to Estuary Management Unit Nos. 8 and 9A to be reviewed by the Planning Commission as follows:

File No. 11-CUP-06: The applicant requests a conditional use permit for the proposed cobble/pebble dynamic revetment at the site of active erosion of Yaquina Bay shoreline on the northeasterly side of the Hatfield Marine Science Center near the saltwater storage tank and estuary trail, which area contains Estuary Management Units 8 and 9A.

3. The applicant's request consisted of two legislative amendments involving the Newport Comprehensive Plan text and the Newport Zoning Ordinance text to allow for the use of cobble/pebble dynamic revetments (which are considered a form of riprap by state definition) for shoreline stabilization for the protection of public facilities in Estuary Management Unit 8 (Conservation) and 9A (Natural) as a conditional use permit (File No. 4-CP-06/8-Z-06). Even though Statewide Planning Goal 16 allows in Oregon Administrative Rule (OAR) 660-017-0025 (see Planning Staff Report Attachment E) the use of riprap in certain circumstances in conservation and natural estuary designations (such as the protection of existing uses as of October 7, 1977, public facilities and other uses identified), the City of Newport Comprehensive Plan and Zoning Ordinance currently do not allow structural shoreline stabilization methods (including riprap) such as that proposed by the Hatfield Marine Science Center (HMSC) for Estuary Management Units 8 and 9A. Although the amendments are proposed as legislative amendments by the HMSC, as legislative amendments, the applicant's amendments would be applicable to other applicants in the future that meet the language of the proposed amendments. The proposed amendments are, however, relatively narrowly tailored to address the proposed

HMSC cobble/dynamic revetment project and circumstances. The legislative amendments are reviewed by the Planning Commission with the City Council making the final decision.

4. The subject property on which the existing shoreline erosion is occurring for which the applicant has filed the amendments is located on the shoreline of Yaquina Bay bordering the Oregon State University Hatfield Marine Science Center (HMSC) on the northeasterly portion of the HMSC campus (2030 SE Marine Science Dr.).

5. Staff reports the following facts regarding the HMSC and the shoreline erosion:

- a. Plan Designation: Yaquina Bay Shoreland (for the HMSC property).
- b. Zone Designation: Estuary Management Unit (EMU) 8 (Conservation) and EMU 9A (Natural) for the estuary portion involved in the conditional use permit request.
- c. Surrounding Land Uses: Surrounding uses include various recreational and educational facilities, public facilities, tourist facilities, research and support facilities, state and federal agencies, port parking and dock facilities, nature trails, and seawater reservoir tank. See Planning Staff Report Attachment "C" (Zoning Map of Area).
- d. Topography and Vegetation: Sandy shoreline.
- e. Existing Buildings: Hatfield Marine Science Center campus and seawater reservoir tank building and effluent discharge channel.
- f. Utilities: All are available to the site.
- g. Development Constraints: Eroding shoreline.
- h. Past Land Use Actions: None recently.

6. Upon acceptance of the application, notification of the comprehensive plan text and zoning ordinance text amendments (File No. 5-CP-06 and 8-Z-06) was mailed to the Department of Land Conservation and Development (DLCD) on November 17, 2006, in conformance with the DLCD post-acknowledgment plan amendment requirements. Notification to surrounding property owners, to city departments, and to public/private utilities/agencies for the three land use applications was mailed on December 13, 2006. See Planning Staff Report Attachment "B" (Public Hearing Notices and Map). Notification distances established under the Newport Zoning Ordinance (No. 1308, as amended) (NZO) Section 2-6-1.030 (B) (2) are 200 feet for conditional use permit applications. The notice of public hearings was also published in the Newport News-Times on December 29, 2006, and on January 5, 2007. The notification identified the date of both the Planning Commission and City Council public hearings. For legislative amendments, there is no requirement for a 20 day notification period between the Planning Commission and the City Council hearings as there would be with a quasi-judicial amendment and therefore the public hearings have been scheduled relatively close together in order to allow the applicant to move forward on the project if the applications are approved. A letter was received from the Department of State Lands (DSL), dated December 18, 2006. Their letter indicated that during their review period for the applicant's DSL permit, their department had received one comment from the Oregon Department of Fish and Wildlife stating that there were no adverse effects expected. Their letter further stated that the project must be approved by the City of Newport

before the Department of State Lands can issue a removal/fill permit. The letter also noted that DEQ has until January 22, 2007, to submit comments on the application.

7. A public hearing was held on January 8, 2007. The statement of rights and relevance and applicable criteria were read. The Planning Commissioners disclosed any ex parte contact, conflicts of interest, and/or bias and allowed for objections to any of the Planning Commissioners hearing the matter. The Planning Commission heard a report by staff and allowed for testimony by the applicant and others in favor or opposed to the request. The record and minutes of the January 8, 2007, meeting are hereby incorporated by reference. The Planning Staff Report with Attachments is hereby incorporated by reference into the findings. The Planning Staff Report Attachments included the following:

- Attachment "A" – Applicant Cover Letter
- Attachment "A-1" – Applicant Findings (5-CP-06)
- Attachment "A-2" – Applicant Findings (8-Z-06)
- Attachment "A-3" – Applicant Findings (11-CUP-06)
- Attachment "A-4" – Site Plan Illustrations (Figures 1 through 4)
- Attachment "A-5" – DOGAMI 8/28/06 letter
- Attachment "A-6" – ACOE/DSL Joint Permit Application Form
- Attachment "B" – Public Hearing Notices and Map
- Attachment "C" – Zoning Map of Area
- Attachment "C-1" – Yaquina Bay Estuary Designation Map
- Attachment "D" – DSL 12/18/06 letter
- Attachment "E" – OAR 660-017-0025
- Attachment "F" – Statewide Planning Goal 2 Exception Criteria

8. A public hearing was held on January 16, 2007, before the Newport City Council. The statement of rights and relevance and applicable criteria were read. The City Councilors disclosed any ex parte contact, conflicts of interest, and/or bias and allowed for objections to any of the City Councilors hearing the matter. The City Council heard a report by staff and allowed for testimony by the applicant and others in favor or opposed to the request. The record and minutes of the January 16, 2007, meeting are hereby incorporated by reference. The Planning Staff Report with Attachments is hereby incorporated by reference into the findings.

9. The applicable criteria identified in the Newport Comprehensive Plan for the Comprehensive Plan text amendment (File No. 5-CP-06) are as follows:

A. The Newport Comprehensive Plan Section entitled "Administration of the Plan" (p. 287-288) requires findings regarding the following for the proposed text amendment:

A. Data, Text, Inventories or Graphics Amendment:
1) New or updated information.

B. Conclusions Amendment:
1) A change or addition to the data, text, inventories, or graphics which significantly affects a conclusion that is drawn for that information.

C. Goals and Policies:

- 1) A significant change in one or more conclusion; or
- 2) A public need to the change; or
- 3) A significant change in community attitudes or priorities; or
- 4) A demonstrated conflict with another plan goal or policy that has a higher priority; or
- 5) A change in a statute or statewide agency plan; and
- 6) All the Statewide Planning Goals.

B. Additionally, Implementation Measure 2 of the Newport Comprehensive Plan Yaquina Bay and Estuary Section requires that the exception criteria under Statewide Planning Goal 2 be addressed for proposed changes in the permitted use matrices of the Zoning Ordinance for Estuarine Management Units. However, an actual exception is not being proposed as the proposed amendment is permissible under Statewide Planning Goal 16 (Estuarine Resources)

10. The applicable criteria for the Zoning Ordinance text amendment (File 8-Z-06) per Newport Zoning Ordinance (NZO) (No. 1308, as amended) Section 2-5-5.005 are as follows:

1. The change furthers a public necessity.
2. The change promotes the general welfare.

CONCLUSIONS

1. In regard to the Comprehensive Plan text amendments, the City Council concludes as follows:

A. In regard to the proposed Comprehensive Plan Text amendments involving text and conclusions of the Yaquina Bay Estuary and Estuary Section, amendments are proposed involving Management Unit 8 and Management Unit 9-A to add an additional Policy under the "Special Policies" Section currently on page 241 for Management Unit 8 as follows: ***"A cobble/pebble dynamic revetment for shoreline stabilization may be authorized in Management Unit 8 for protection of public facilities (such as the Hatfield Marine Science Center facilities)"*** and an amendment is proposed to add an additional Policy under the "Special Policies" Section currently on page 257 for Management Unit 9-A as follows: ***"A cobble/pebble dynamic revetment for shoreline stabilization may be authorized in Management Unit 9-A for protection of public facilities (such as the Hatfield Marine Science Center facilities)"***.

1. For the proposed text amendments to Special Policies currently on page 241 (for Management Unit 8) and on page 257 (for Management Unit 9), the Comprehensive Plan requires findings regarding new or updated information and that a change or addition to the data, text, inventories, or graphics which significantly affects a conclusion that is drawn for that information.

2. The applicant addresses the criteria in their proposed findings (see Planning Staff Report Attachment "A-1"), and the City Council concludes that the following demonstrates consistency with the criteria:

A. The applicant provided the following new and updated information and conclusions regarding the information as follows:

Analysis of the hydromorphology of Yaquina Bay in Estuary Management Units 8 and 9A bordering the Hatfield Marine Science Center conducted by consultants points to various processes contributing to erosion of the sand banks along the northeastern edge of the HMSC campus. These include high-frequency wind waves that develop across the bay, boat wakes, high tides, and currents generated both by the flood and ebb tide. Accelerated by storms, erosion of sand from the shoreline at HMSC has resulted in the destruction of public facilities, including portions of the estuary nature trail, which was formerly wheelchair accessible. It should be noted that previous attempts to maintain the shoreline by merely depositing more sand along the banks have proven ineffective. Continuing erosion, if left unchecked, threatens to undermine additional critical infrastructure at the HMSC.

Among the options considered to address the erosion problem, a pebble/cobble dynamic revetment has been proposed as a preferred alternative to expansion of engineered hard structures such as traditional rip rap at the HMSC site. Gravel beaches have long been recognized as an effective form of natural coastal protection, minimizing the potential for inundation from wave overtopping as well as exhibiting a remarkable degree of stability in the face of sustained wave attack. The reason for this is due to their high threshold of motion and because of the shape of shoaling waves and swash velocities on the beach face, which results in greater propensity for onshore particle movement compared with sand size particles. Once formed, the porous gravel beach is considered to be dynamic in that the gravels may be moved about by waves and currents, adopting a morphology that will reflect those assailing forces. This is in contrast to traditionally engineered rip rap, where large boulders refract rather than absorb much of the wave energy, potentially increasing the impacts on adjacent unarmored portions of the shoreline.

B. Additional supporting information as noted by the applicant is found in the permit application submitted by the applicant to the U.S. Army Corps of Engineers and the Oregon Department of State Lands for the proposed project. See Planning Staff Report Attachment "A-6" (ACOE/DSL Joint Permit Application Form).

B. In regard to the proposed Comprehensive Plan Text amendment involving Policy 9 of the Yaquina Bay Estuary and Estuary Section, the applicant proposes to add language (proposed language in ***bold italics*** as follows at end of policy):

Nonstructural solutions to problems of erosion or flooding shall be preferred to structural solutions. Where flood and erosion control structures are shown to be necessary, they shall be designed to minimize adverse impacts on water currents, erosion, and accretion patterns. *Additionally, for cobble/pebble dynamic revetments in MU 8 and 9-A to be allowed, the project must demonstrate a need to protect public facility uses, that land use management practices and nonstructural solutions are inadequate, and the proposal is consistent with the applicable management unit as required by Goal 16.*

1. In regard to the findings required for an amendment to a Policy of the Newport Comprehensive Plan, the applicant need only address one of the first five criteria. The applicant addresses the second criterion (a public need for the change). The applicant contends in their proposed findings that there is a public need for the proposed change and the City Council concludes that there is a public need for the change based on the applicant findings that state:

The Hatfield Marine Science Center is a public facility operated by Oregon State University, in cooperation with several state and federal agencies, employing over 300 full-time employees and figuring prominently in the City of Newport's 2005 Employment Lands and Conceptual Land Use Project as a driver of Newport's "Higher Education and Research" industry cluster. Stabilization of the Yaquina Bay shoreline along the northeastern edge of the HMSC campus is necessary to halt erosion that is undermining facilities there. An estimated 500 cubic meters of sand have eroded from the shoreline in recent years, including a stretch of land on which the paved nature trail and interpretive signage previously stood. Further erosion, if left unchecked, threatens critical infrastructure at the HMSC, including the 800,000 gallon seawater reservoir building and effluent discharge channel. A significant portion of the HMSC's \$36 million annual budget is dependent on the seawater reservoir and delivery system that supports research and educational activities at the center. Another public need addressed by the proposed change is restoration of access to the estuary and uplands for public educational and recreational uses, which have been curtailed since erosion damaged and forced closure of parts of the estuary trail.

2. In regard to the findings on the sixth criterion (which requires findings regarding all of the Statewide Planning Goals), the City Council concludes based on the applicant's findings the following:

A. In regard to Statewide Planning Goal 1 (Citizen Involvement), the applicant states that this will be satisfied through the public hearing process.

B. In regard to Statewide Planning Goal 2 (Land Use Planning), the applicant notes that the City of Newport's Comprehensive Plan has been acknowledged as being in compliance with the Statewide Planning Goals, including Goal 2. The Newport Comprehensive Plan section entitled "Administration of the Plan" specifies how amendments to the plan are made. The proposed amendment process follows the requirements for an amendment found in the Newport Comprehensive Plan and can therefore be found to be in compliance with Statewide Planning Goal 2.

C. In regard to Statewide Planning Goal 3 (Agricultural Lands), Goal 4

(Forest Lands), Goal 5 (Open Spaces, Scenic and Historic Areas and Natural Resources), Goal 6 (Air, Water and Land Resources Policy), Goal 7 (Areas Subject to Natural Disasters and Hazards), Goal 8 (Recreation Needs), Goal 9 (Economic Development), Goal 10 (Housing), Goal 11 (Public Facilities and Services), Goal 12 (Transportation), Goal 13 (Energy Conservation), Goal 14 (Urbanization), Goal 15 (Willamette River Greenway), Goal 17 (Coastal Shorelands), Goal 18 (Beaches and Dunes), and Goal 19 (Ocean Resources), the applicant notes that these goals are not applicable to the proposed amendment as Goal 16 is the applicable Statewide Planning Goal regarding estuarine management.

D. In regard to Statewide Planning Goal 16 (Estuarine Resources), the applicant notes that the proposed amendment language is consistent with the Statewide Planning Goal 16 as riprap (which is defined by definition under the statewide planning goals as: "A layer, facing, or protective mound of stones randomly placed to prevent erosion, scour or sloughing of a structure or embankment; also, the stone so used. In local usage, the similar use of other hard material, such as concrete rubble, is also frequently included as riprap.") is a use expressly permissible in natural and conservation classifications under Goal 16 for the protection of uses existing as of October 7, 1977, unique natural resources, historical and archeological values and public facilities. See Planning Staff Report Attachment "E" (OAR 660-017-0025).

2. Implementation Measure 2 of the Newport Comprehensive Plan Yaquina Bay and Estuary Section requires that the exception criteria under Statewide Planning Goal 2 be addressed for proposed changes in the permitted use matrices of the Zoning Ordinance for Estuarine Management Units. The City Council concludes that an actual exception is not being proposed as the proposed amendment is permissible under Statewide Planning Goal 16 (Estuarine Resources) as specified in Oregon Administrative Rule (OAR) 660-017-0025 which implements Statewide Planning Goal 16. See Planning Staff Report Attachment "E". Even so, the applicant has provided findings for Statewide Planning Goal 2 regarding the exception criteria (a) and (b) (see Planning Staff Report Attachment "F" for the Statewide Planning Goal 2 exception criteria) as follows:

The land affected by the proposed change in the permitted use matrix was created from the accumulated deposits of dredge spoils to provide the site for Oregon State University's marine science center in 1965, and has been subsequently physically developed over the years to accommodate the construction of federal buildings and expansion of research support facilities. Thus, the shoreline at the site under consideration is irrevocably committed to being maintained for the protection of public facilities and the protection of uses existing as of October 7, 1977.

3. The applicant is proposing several amendments to the Newport Zoning Ordinance (NZO) (No. 1308, as amended) as follows:

A. An amendment to NZO Section 2-2-13.030 (Shoreline Stabilization) to add Section F

and G as follows:

F. In addition to requirements identified in C-E above, cobble/pebble dynamic revetments permitted in Management Units 8 and 9-A may be permitted if:

- (1) There is a demonstrated need to protect public facility uses; and*
- (2) Land use management practices and nonstructural solutions are inadequate; and*
- (3) The proposal is consistent with the applicable management unit as required by Goal 16.*

G. For the purposes of shoreline stabilization, a "cobble/pebble dynamic revetment" is defined as: "The use of naturally rounded pebbles or cobbles placed in front of property to be protected and designed to move under force of wave, currents, and tides. A cobble/pebble dynamic revetment represents a transitional strategy between conventional rip rap revetment of large stones and a beach nourishment project."

B. The applicant further proposes an amendment to NZO Section 2-2-13.108 (Management Unit No. 8) to add a special policy as follows:

8.4 A cobble/pebble dynamic revetment for shoreline stabilization may be authorized in Management Unit 8 for protection of public facilities (such as the Hatfield Marine Science Center facilities).

C. The applicant also proposes an amendment to NZO Section 2-2-13.109 (Management Unit 9-A) to add a special policy as follows:

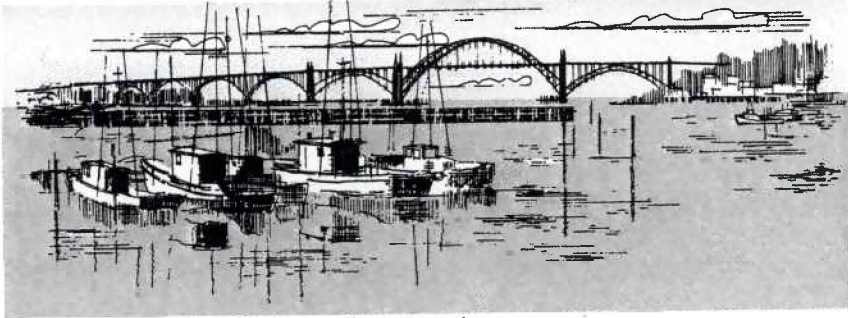
9-A.5 A cobble/pebble dynamic revetment for shoreline stabilization may be authorized in Management Unit 9-A for protection of public facilities (such as the Hatfield Marine Science Center facilities).

D. An amendment is also proposed to NZO Section 2-2-13.0200 (Permitted Use Matrices) for Management Unit 8 and Management Unit 9-A to add a use of **Public Facilities** under the "Public" section with a conditional use designation and to add "8.4" and "9-A.5" under the Special Policy section with circled C to denote a conditional use requiring resource capability determination.

4. In regard to the criteria in NZO Section 2-5-5.005 for zoning ordinance text amendments, the City Council concludes that the findings submitted above for the Comprehensive Plan amendments in conjunction with the additional documentation on the need for this project (see Planning Staff Report Attachments "A" – "A-6"), the severity of the erosion, the failure of previous efforts to stop the erosion, and the impact on the Hatfield Marine Science Center (as a major public facility and employer) provide the findings necessary to support a conclusion that the proposed Zoning Ordinance amendments further the public necessity and promote the general welfare.

OVERALL CONCLUSION

After consideration of the application material, the Planning Staff Report, and other evidence and testimony in the record, the City Council concludes that the above findings of fact and conclusions support a determination that the applicant has demonstrated compliance with all the applicable criteria as described in the applicant findings and supporting documentation submitted in support of the requested Comprehensive Plan text amendments and Zoning Ordinance text amendments and the requests are hereby approved.



OFFICE OF Community Development

CITY OF NEWPORT

169 SW COAST HWY

NEWPORT, OREGON 97365

TDD/VOICE 1-800-735-2900

**CERTIFICATE OF MAILING OF NOTICE OF ADOPTION AND THE
ADOPTED TEXT AND FINDINGS AS APPLICABLE**

Local File # 5-CP-06/8-7-06

Date of Deposit in the U.S. Mail: 1/17/07

Name of Person Mailing

Signature of Person Mailing

JAMES BASSON HAWTHORNE