NOTICE OF ADOPTED AMENDMENT

02/25/2013

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

FROM: Plan Amendment Program Specialist

SUBJECT: Clatsop County Plan Amendment
DLCD File Number 005-12

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: Friday, March 08, 2013

This amendment was submitted to DLCD for review 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 Acknowledgment or 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. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Jennifer Bunch, Clatsop County
Jon Jinings, DLCD Community Services Specialist
Patrick Wingard, DLCD Regional Representative

<pa> YA
Jurisdiction: Clatsop County
Date of Adoption: 2/13/2013

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes □ No □ Date: 10/5/2012

Comprehensive Plan Text Amendment □ Land Use Regulation Amendment □ New Land Use Regulation □ Other:

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

The Shoreline Sanitary District’s (SSD) aging wastewater treatment system has been exceeding allowable discharge standards into the Skipanon River. The solution the district has chosen is the installation of 3.3 mile sewer pipe along Highway 101 that would connect to the City of Warrenton’s sewer system. The SSD has entered into an IGA with the County that prohibits connections to the sewer line outside of the RSA or the UGB. The County must now adopt the appropriate comprehensive plan policies.

Does the Adoption differ from proposal? No, no explanation is necessary.

Plan Map Changed from: n/a to: n/a
Zone Map Changed from: n/a to: n/a

Location:
Specify Density: Previous: New:
Applicable statewide planning goals:

Was an Exception Adopted? □ YES □ NO

Did DLCD receive a Notice of Proposed Amendment...
35-days prior to first evidentiary hearing? □ Yes □ No
If no, do the statewide planning goals apply? □ Yes □ No
If no, did Emergency Circumstances require immediate adoption? □ Yes □ No
ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 20 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated twenty-one (21) days from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit one complete paper copy via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

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

9. Need More Copies? Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

February 15, 2013

NOTICE OF FINAL DECISION

File Numbers: Ordinance No. 12-11
Decision Date: February 13, 2013
Applicant: Shoreline Sanitary

Action: APPROVAL
Action Described: An application by Shoreline Sanitary District for Comprehensive Plan
Text Amendments to Goal 11 and the Clatsop Plains Community Plan

Clatsop County has completed its review of the application described above. The Board of County Commissioners approved the application on February 13, 2013. A complete copy of the decision document, including the ordinance, resolution and order, and adopted findings of fact, is available for review at the following location during normal business hours (8-5, M-F):

Clatsop County Land Use Planning Office
800 Exchange Street, Suite 100
Astoria, OR 97103

The decision document is also available for review on the Clatsop County website. To access the document online please visit the County’s website at the following address, www.co.clatsop.or.us. Once on the homepage, click on the Land Use Planning page.

The requirements for appeal of this decision are set forth in ORS 197.830 to 197.845. In general, the requirements for appeal require a “Notice of Intent to Appeal” the decision, to be filed with the Oregon Land Use Board of Appeals (LUBA) in Salem, Oregon. The Notice of Intent to Appeal the decision must be filed with LUBA not later than 21 days from the date of this notice. Please call LUBA at 503-373-1265 if you have questions regarding appeal procedures.

If you have questions about this notice, please contact the Clatsop County Land Use Planning Department at (503) 325-8611.

CERTIFICATE OF MAILING

I, Jennifer Bunch, hereby certify that I mailed this Notice of Final Decision via the United States Postal Service on February 15, 2013.

[Signature]

Jennifer Bunch, Senior Planner

Date 2-15-13
BEFORE THE BOARD OF COMMISSIONERS
FOR THE COUNTY OF CLATSOP

In the Matter of:

AN APPLICATION BY SHORELINE SANITARY DISTRICT FOR COMPREHENSIVE PLAN TEXT AMENDMENTS TO GOAL 11 AND THE CLATSOP PLAINS COMMUNITY PLAN

ORDINANCE # 12-11

Doc #: 2013020015
Recording Date: 2-14-13

RECITALS

WHEREAS, on, August 17, 2012, the Shoreline Sanitary District filed an application for amendments to the Clatsop County Comprehensive Plan Text of Goal 11 and the Clatsop Plains Community Plan.

WHEREAS, the application was considered by the Planning Commission at a public hearing on December 11, 2012, and the Commission unanimously recommended approval to the Board of Commissioners, which is attached as Exhibit “PC”; and

WHEREAS, consideration for adoption of this Resolution & Order complies with the Post Acknowledgement Plan Amendment rules of the Oregon Land Conservation and Development Commission, and the Clatsop County Planning Commission has sought review and comment and has conducted a public hearing process pursuant to the requirements of ORS 215.050 and 215.060 and the Clatsop County Land and Water Development and Use Ordinance, and the Clatsop County Board of Commissioners received and considered the Planning Commission’s recommendation and held a public hearing on January 23, 2013, that was continued to February 13, 2013; and

WHEREAS, public notice has been provided pursuant to law;

NOW THEREFORE,

THE BOARD OF COMMISSIONERS OF CLATSOP COUNTY ORDAINS AS FollowS:
SECTION 1. The text of Clatsop County Clatsop County Comprehensive Plan text of Goal 11 and the Clatsop Plains Community Plan is hereby amended as shown on the attached Exhibit A.

SECTION 2. In support of this ordinance, the Board adopts the findings dated December 7, 2012 and associated exhibits contained in Exhibit “PC”.

Approved this 13th day of February, 2013

THE BOARD OF COUNTY COMMISSIONERS
FOR CLATSOP COUNTY, OREGON

By
Peter Huhtala, Chair

By
Valerie Craford, Recording Secretary
EXHIBIT “A”

Proposed Clatsop County Comprehensive Plan Text Amendments for the Shoreline Sanitary District

Additions are underlined. Deletions are strike-through.

Clatsop Plains Community Plan

Public Facilities and Services

Sewer Policies

1. Sewage systems shall be allowed in those areas outside of the Urban Growth Boundary only to alleviate a health hazard or water pollution problem which has been identified by the Department of Environmental Quality and will be used only as a last resort.

2. Except as authorized by OAR 660-011-0060, the Shoreline Estates Sanitary sewer system located near Cullaby Lake shall not expand or extend sewer service outside of its current sewer service area, only to the current existing treatment plant's design capacity of approximately 500 people. Further development of this intensity on the Clatsop Plains shall occur within the Urban Growth Boundaries.

3. Due to a wastewater treatment plant that can no longer meet State and federal water quality standards the Shoreline Sanitary Sewer District at Cullaby Lake shall be allowed to construct a sewer pipeline outside of the Rural Service Area in order to connect to the City of Warrenton's sewer system. As provided for in an Intergovernmental Agreement between Clatsop County and the Shoreline Sanitary District no connections outside the Rural Service Area and the district's boundary shall be allowed unless such connections are authorized in accordance with the requirements of OAR 660-011-0060.

Community Development

General Development Policies

Rural Service Area

Policies

1. The minimum building site in Rural Service Area shall be 7,500 square feet in sewered areas and 15,000 square feet in unsewered areas.

2. The area known as Shoreline Estates shall be designated a RURAL SERVICE AREA, due to the existing facilities available. The land area for this designation shall not be larger than the existing treatment plant's capacity. The expansion of the RURAL SERVICE AREA designation should NOT be allowed. It is the intent of the Community Plan to encourage urban densities to occur within the cities and the Urban Growth Boundaries where more facilities and services are available.
Goal 11 - Public Facilities and Services

Waste Disposal Policies

1. Clatsop County considers sewer services only appropriate for urbanizable lands and RSA's. The intensity of land use facilitated by provisions of sewer is not appropriate for Rural areas. Clatsop County may permit the creation or extension of sewer services outside UGB's and RSA's in the event of a health hazard or water pollution problem identified by DEQ.

2. In order to alleviate a water quality issue identified by DEQ the Shoreline Sanitary District at Cullaby Lake shall be allowed to extend a sewer pipe connection to the City of Warrenton. No connections shall be allowed outside the Rural Service Area or City of Warrenton Urban Growth Boundary, unless such connections are authorized in accordance with the requirements of OAR 660-011-0080.

3. Clatsop County shall cooperate with cities in developing a phased growth plan to guide the provision of municipal services to urbanizable areas.

4. Clatsop County shall encourage alternative methods of sewage disposal when such methods are economically, legally, and environmentally feasible.

5. Clatsop County should consider the use of solid waste and forest lands waste to generate electricity.

6. Clatsop County shall continue to cooperate with the various cities in the establishment of a regional landfill site.
In the Matter of

ORDINANCE 12-11: AN APPLICATION BY SHORELINE SANITARY DISTRICT FOR AMENDMENTS TO THE CLATSOP COUNTY COMPREHENSIVE PLAN TEXT OF GOAL 11 AND THE CLATSOP PLAINS COMMUNITY PLAN

THE ABOVE ENTITLED MATTER came before the Planning Commission on December 11, 2012, for a public hearing and consideration of Comprehensive Plan text amendments to Goal 11 and the Clatsop Plains Community Plan that would allow the Shoreline Sanitary District to construct a sewer pipeline outside of the Rural Service Area to connect to the City of Warrenton’s sewer system.

THE PLANNING COMMISSION after reviewing the findings of fact in Exhibit “A” (Staff Report) has determined the proposed text amendments are consistent with Clatsop County’s Comprehensive Plan and the applicable Oregon Administrative Rules.

THE PLANNING COMMISSION considering all evidence provided by the Planning Department staff, the applicant, and public testimony provided at the public hearing, hereby recommends APPROVAL of the application based on the findings presented in “Exhibit A - Staff Report” attached hereto and by this reference made part hereof.

WHEREFORE, the Planning Commission finds and resolves:

To recommend Approval of the proposed comprehensive plan text amendments to the Board of Commissioners.

SO ORDERED this 11th day of December 2012.

THE PLANNING COMMISSION FOR CLATSOP COUNTY

Lianne Thompson, Vice-Chair

Resolution and Order
"Exhibit A"

Staff Report

Ordinance 12-11

REPORT DATE: December 4, 2012

HEARING DATE: December 11, 2012

APPLICANT: Shoreline Sanitary District

REQUEST: Amendments Goal 11 and the Clatsop Plains Community Plan that allow the construction of sewer pipeline outside of the Shoreline Sanitary District exception area to the City of Warrenton.

STAFF: Jennifer Bunch, Senior Planner

EXHIBITS:
1. Proposed Text Amendments Strikethrough Version (Pg. 10)
2. Intergovernmental Agreement (Pg. 14)
3. Published & Mailed Notice of Hearing (Pg. 18)
4. Public Comment (Pg. 31)

I. EXECUTIVE SUMMARY

Since 1969, the Shoreline Sanitary District (SSD) has operated a wastewater treatment facility in the Clatsop Plains near Cullaby Lake. The district collects and treats wastewater from the Shoreline Estates subdivision and discharges it into the Skipanon River under a National Pollutant Discharge Elimination System (NPDES) permit. Oregon Revised Statues and the Federal Clean Water Act require an NPDES permit in order to discharge wastewater into waters of the state. Permit holders must periodically re-apply for their NPDES permit with the State of Oregon’s Department of Environmental Quality (DEQ).

In 2003, the State of Oregon’s Water Quality Standard for temperature was modified which resulted in the Total Maximum Daily Loads (TMDLs) for NPDES permits. Due to change in the salmonoid designation assigned by Oregon Department of Fish and Wildlife (ODFW) the new water quality standards were applied to the Skipanon River. When the When SSD resubmitted their NPDES permit in 2006 they were notified that the TMDL for water temperature and dissolved oxygen requirements had changed. The aging SSD treatment plant was unable to meet the new standards.

During 2006-07, the district received several warning letters and a pre-enforcement notice from DEQ for exceeding certain allowable discharge limits which resulted in civil penalties. In November of 2007, the district and DEQ entered into a Mutual Agreement and Order (MAO) that allowed renewal permit to be issued with modified standards.

It was during this time and into 2009 that the district worked to identify a solution. The district identified Ordinance 12-11 Staff Report
four options: 1) replacing the treatment plant; 2) discharging the wastewater into the Pacific Ocean; 3) construction of new treatment lagoons; and 4) connecting the City of Warrenton. After careful evaluation the district chose to pursue the construction of a 3.3 mile pipeline along Highway 101 to the City of Warrenton. A $2 million bond was passed in November 2008 and the district is pursuing federal loans to assist with financing. In recent months the district met with DEQ and is expecting a three (3) year extension to the current MAO that expires in December 2012. The MAO extension would allow SSD to secure additional funding.

Clatsop County's Comprehensive Plan and the Oregon Administrative Rules that implement Statewide Planning Goal 11 (Public Facilities and Services) prohibits the extension of sewer services outside Urban Growth Boundaries (UGB) and those areas that have taken an exception to Goal 11 and/or 14 (Urbanization). The Cullaby Lake area is an identified “Rural Service Area” (RSA) and the County has taken the appropriate goal exceptions to allow sewer service in this area. However, the lands along the sewer pipe route are not within this exception area. After consultation with the Department of Land Conservation and Development (DLCD) the County has determined that in order to ensure consistency with the County’s Comprehensive Plan and Statewide Planning Goals, the district should enter into an intergovernmental agreement with the County that prohibits connections to the sewer line outside of the Rural Service Area or the City of Warrenton’s Urban Growth Boundary. This agreement was entered into on September 26, 2012 (Exhibit 2). In addition, the district must apply for Comprehensive Plan Text Amendments to policies in Goal 11 and the Clatsop Plains Community Plan that would allow the SSD connection outside the Rural Service Area and UGB due to special circumstances. The district submitted application on August 17, 2012. In an effort to support the district in their effort the Board of Commissioners approved a waiver of the $3309 application fee and planning staff is preparing all documents related to the proposed comprehensive plan text amendments.

The proposed text amendments modify existing language in Goal 11 and the Community Plan as well as adding two new policies that restrict connections outside the RSA and UGB unless such connections are authorized in accordance with the appropriate Oregon Administrative Rules. The proposed amendments were authored by staff and reviewed by DLCD for compliance with state law.
II. APPLICABLE CRITERIA

A. LWDUO
   L2.035 Type IV Procedure
   L2.100 Public Deliberations and Hearings

B. Clatsop County Comprehensive Plan
   Goal 1 – Citizen Involvement
   Goal 2 – Land Use Planning
   Goal 6 – Air, Water, and Land Quality
   Goal 10 – Population & Housing
   Goal 11 – Public Facilities & Services
   Clatsop Plains Community Plan

C. Oregon Administrative Rule 660-011-0060

III. EVALUATION OF APPLICABLE CRITERIA

A. LWDUO 80-14

Section 2.035 Type IV Procedure.
Type IV actions are legislative processes. They involve the creation, broad scale implementation or revision of public policy. These include amendments to the text of the Comprehensive Plan, Community Plans, or Zoning Code. Large-scale changes in Community Development maps also may be characterized as legislative where a larger number of property owners are directly affected. The Type IV procedure is for use where indicated in this Ordinance.

(2) Under the Type IV procedure, the Director shall schedule a public hearing pursuant to Section 2.105 before the Planning Commission.

(3) The Director shall mail and publish a notice pursuant to Section 2.315.

Analysis & Finding:
Clatsop County is processing this text amendment as a Type IV procedure with a public hearing to be held before the Planning Commission on December 11, 2012 and an additional hearing to be held at a later date before the Board of Commissioners. Published notice was provided in accordance with Section 2.035 (Exhibit 3). Mailed notice was provided to the residents of the Shoreline Sanitary District and to those property owners along the proposed pipeline route. The criteria have been met.

B. COMPREHENSIVE PLAN GOALS AND PolICIES

Goal 1 Element – Citizen Involvement:

Policies

2. The Planning Commission and active Citizen Advisory Committees shall hold their meetings in such a way that the public is notified in advance and given the opportunity to attend and participate in a meaningful fashion.

5. Citizens shall be provided the opportunity to be involved in the phases of the planning process as set forth and defined in the goals and guidelines for Land Use Planning, including Preparation of Plans and Implementation Measures, Plan Content, Plan Adoption, Minor Changes and Major Revisions in the Plan and Implementation Measures.

Ordinance 12-11 Staff Report
7. Clatsop County shall use the news media, mailings, meetings, and other locally available means to communicate planning information to citizens and governmental agencies. Prior to public hearings regarding major Plan revisions, notices shall be publicized.

9. Public notices will also be sent to affected residents concerning zone and Comprehensive Plan changes, conditional uses, subdivisions and planned developments.

**Analysis & Finding:**
Clatsop County is processing this text amendment as a Type IV Legislative procedure with a public hearing to be held before the Planning Commission on December 12, 2012 and an additional hearing to be held at a later date before the Board of Commissioners. Published notice was provided in accordance with Section 2.035 and 2.315. The proposed text amendments and legislative adoption process are consistent with the applicable policies of Goal 1.

**Goal 2 – Land Use Planning**

1. **Development**

Development areas are those with a combination of physical, biological, and social/economic characteristics which make them necessary and suitable for residential, commercial, or industrial development and includes those which can be adequately served by existing or planned urban services and facilities.

In Clatsop County, the County has three types of such areas: cities and their urban growth boundaries; rural communities; and rural service areas, which are areas similar to cities (sewer and water) but lack size and a government structure.

a. Rural Service Area (RSA). The County has designated four areas as RSA's. They are Cullaby Lake, Glenwood Mobile Home Park, Old Naval Hospital site, and Fishhawk Lake. Information on these is found in the community plan in which the RSA resides.

**Analysis & Finding:**
The Shoreline Sanitary District is within a Rural Service Area identified in Goal 2 element. The proposed text amendments are consistent with the applicable policies of Goal 2.

**Goal 6 – Air, Water, and Land Quality**

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

**Policies**

1. The County shall encourage the maintenance of a high quality of air, water and land through the following actions:
   (b) encouraging maintenance and improvement of pollution control facilities,

2. The County Planning Department shall work with the Department of Environmental Quality (DEQ) to monitor and keep its environmental data base current including information on air quality, surface and groundwater quality, and land quality including waste disposal and erosion problems.

14. Waste discharges from any development, when combined with existing discharges from existing developments, shall not result in a violation of state or federal environmental quality statutes, rules, or standards.
Analysis & Finding:
Clatsop County is assisting the Shoreline Sanitary District by adopting comprehensive plan text amendments that allow the connection of the district’s infrastructure to the City of Warrenton sewer system. This connection will end the district’s need to exceed DEQ and Clean Water Act discharge standards into the Skipanon River and decommission the ageing wastewater treatment plant. The proposed text amendments are consistent with the applicable policies of Goal 6.

Goal 10 – Population & Housing

Goal
To provide for the housing needs of citizens of the state.

Population Policies
7. Coordinate planning efforts of local governments and special districts to maximize efficiency of public facilities, and have land use actions reflect the goals and policies of the Plan.

Analysis & Finding:
Clatsop County and Shoreline Sanitary District have joined together to ensure the maximum efficiency of the sewer system in the Cullaby Lake area. The text amendments will allow the County to permit the installation of the pipeline connection from the Rural Service Area to the City of Warrenton. The proposed text amendments are consistent with the applicable policies of Goal 10.

Goal 11 – Public Facilities and Services

Public Facilities Goals
2. Outside of Urbanizable Areas -
   a. To support the provision of needed public facilities for rural areas at levels appropriate for rural densities;
   b. To discourage the development of inappropriate public facilities on resource lands which would result in pressure for conversion to more intense use.

Waste Disposal Policies
1. Clatsop County considers sewer services only appropriate for urbanizable lands and RSA’s. The intensity of land use facilitated by provisions of sewer is not appropriate for Rural areas. Clatsop County may permit the creation or extension of sewer services outside UGB’s and RSA’s in the event of a health hazard or water pollution problem identified by DEQ.

Analysis & Finding:
The proposed text amendments will allow the installation of a sewer pipeline outside of the Rural Service Area and UGB. An intergovernmental agreement with the district and the proposed text amendments will prohibit the sewer connections to properties outside the RSA and UGB unless authorized in accordance with OAR 660-011-9060. The proposed text amendments are consistent with the applicable policies of Goal 11.

Clatsop Plains Community Plan

Public Facilities and Services
Sewer Policies

Ordinance 12-11 Staff Report
1. Sewage systems shall be allowed in those areas outside of the Urban Growth Boundary only to alleviate a health hazard or water pollution problem which has been identified by the Department of Environmental Quality and will be used only as a last resort.

2. The Shoreline Estates sewer system located near Cullaby Lake shall expand its sewer service area only to the current existing treatment plant's design capacity of approximately 500 people. Further development of this intensity on the Clatsop Plains shall occur within the Urban Growth Boundaries.

Community Development
General Development Policies
Rural Service Area
Policies

2. The area known as Shoreline Estates shall be designated a RURAL SERVICE AREA, due to the existing facilities available. The land area for this designation shall not be larger than the existing treatment plant's capacity. The expansion of the RURAL SERVICE AREA designation should NOT be allowed. It is the intent of the Community Plan to encourage urban densities to occur within the cities and the Urban Growth Boundaries where more facilities and services are available.

Analysis & Finding:
The proposed text amendments (Exhibit 1) will allow the installation of a sewer pipeline outside of the Rural Service Area and UGB but will prohibit connections. Any expansion of the district and Rural Service Area must be in accordance with OAR 660-011-0060. The proposed text amendments are consistent with the applicable policies of the Clatsop Plains Community Plan.

The following elements of the Clatsop County Comprehensive Plan do not contain applicable policies:

Goal 3 - Agricultural Lands
Goal 4 - Forest Lands
Goal 5 - Open Space, Scenic, Historic Areas and Natural Resources
Goal 7 - Natural Hazards
Goal 8 - Recreation
Goal 9 - Economy
Goal 12 - Transportation
Goal 13 - Energy Conservation
Goal 14 - Urbanization
Goal 16/17 - Estuarine Resources and Coastal Shorelands
Goal 18 - Beaches and Dunes
Goal 19 - Ocean Resources

C. Oregon Administrative Rules

660-011-0060
Sewer Service to Rural Lands

(1) As used in this rule, unless the context requires otherwise:
   (b) "Extension of a Sewer System" means the extension of a pipe, conduit, pipeline, main, or other physical component from or to an existing sewer system in order to provide service to a use, regardless of whether the use is inside the service boundaries of the public or private service provider. The sewer service authorized in section (8) of this rule is not an extension of a sewer;
"Sewer system" means a system that serves more than one lot or parcel, or more than one condominium unit or more than one unit within a planned unit development, and includes pipelines or conduits, pump stations, force mains, and all other structures, devices, appurtenances and facilities used for treating or disposing of sewage or for collecting or conducting sewage to an ultimate point for treatment and disposal. The following are not considered a "sewer system" for purposes of this rule:

1. A system provided solely for the collection, transfer and/or disposal of storm water runoff;
2. A system provided solely for the collection, transfer and/or disposal of animal waste from a farm use as defined in ORS 215.303.

(2) Except as provided in sections (3), (4), (8), and (9) of this rule, and consistent with Goal 11, a local government shall not allow:

1. The establishment of new sewer systems outside urban growth boundaries or unincorporated community boundaries;
2. The extension of sewer lines from within urban growth boundaries or unincorporated community boundaries in order to serve uses on land outside those boundaries;
3. The extension of sewer systems that currently serve land outside urban growth boundaries and unincorporated community boundaries in order to serve uses that are outside such boundaries and are not served by the system on July 28, 1998.

(8) A local government may allow a residential use to connect to an existing sewer line provided the conditions in subsections (a) through (h) of this section are met:

- The sewer service is to a residential use located on a parcel as defined by ORS 215.010(1), or a lot created by subdivision of land as defined in ORS 92.010;
- The parcel or lot is within a special district or sanitary authority sewer service boundary that existed on January 1, 2005, or the parcel is partially within such boundary and the sewer service provider is willing or obligated to provide service to the portion of the parcel or lot located outside that service boundary;
- The sewer service is to connect to a residential use located within a rural residential area, as described in OAR 660-004-0040, which existed on January 1, 2005;
- The nearest connection point from the residential parcel or lot to be served is within 300 feet of a sewer line that existed at that location on January 1, 2005;
- It is determined by the local government to be practical to connect the sewer service to the residential use considering geographic features or other natural or man-made constraints;

Analysis:
The Shoreline Estates subdivision plat was recorded with the Clatsop County Clerk in 1968 (Subdivision Records - Bk 10, Pages 46-47). Subsequent re-platting and partitioning of certain lots were completed in accordance with the appropriate Oregon Revised Statutes and the Clatsop County Land and Water Development and Use Ordinance.

The Shoreline Sanitary District was established in 1969 to serve the residents of the Shoreline Estates Subdivision. All parcels to be served by a connection the City of Warrenton are within the district’s boundary.

The Shoreline Estates area within the Shoreline Sanitary District was the subject of exceptions to Goals 3 and 4 that was adopted in 1983 with Clatsop County Ordinance 83-17.

The proposed amendments would allow the connection of the existing Shoreline Sanitary infrastructure to the City of Warrenton’s sewer system. An intergovernmental agreement between the district and Clatsop County prohibits additional connections to any pipeline. In addition, Rural Service Area policies contained in the Clatsop Plains Community Plan prohibit the expansion of the Rural Service Area.

Ordinance 12-11 Staff Report
Analysis:
The situation is one of man-made constraints. The aging Shoreline Sanitary facilities, in operation since 1969, are unable to meet the required NPDES standards for discharge into the Skipanon River. After careful evaluation of several options the district determined the most practical solution the issue was to connect the rural service area's system to the City of Warrenton.

(f) The sewer service authorized by this section shall be available to only those parcels and lots specified in this section, unless service to other parcels or lots is authorized under sections (4) or (9) of this rule;

Analysis:
The proposed amendments would allow the connection of the existing Shoreline Sanitary infrastructure to the City of Warrenton's sewer system. An intergovernmental agreement between the district and Clatsop County prohibits additional connections to the proposed pipeline. In addition, Rural Service Area Policy #2 contained in the Clatsop Plains Community Plan prohibits the expansion of the Rural Service Area.

(g) The existing sewer line, from where the nearest connection point is determined under subsection (8)(d) of this rule, is not located within an urban growth boundary or unincorporated community boundary; and

Analysis:
The Shoreline Sanitary District is not within an urban growth boundary or unincorporated community boundary.

(h) The connection of the sewer service shall not be relied upon to authorize a higher density of residential development than would be authorized without the presence of the sewer service, and shall not be used as a basis for an exception to Goal 14 as required by OAR 660-004-0040(6).

Analysis:
An intergovernmental agreement between the district and Clatsop County prohibits additional connections to the proposed pipeline unless the requirements of OAR 660-011-0060 are met. The proposed sewer line will not be used as the basis for a Goal 14 exception. Rural Service Area Policy #2 contained in the Clatsop Plains Community Plan prohibits the expansion of the Cullaby Lake/Shoreline rural service area.

Findings:
Based on the analysis above staff has determined that the proposed Comprehensive Plan Text Amendments are consistent with OAR 660-011-0060.
IV. PUBLIC & AGENCY COMMENT (Attached as Exhibit 4)

Alice M. Ellis – 33814 Cullaby Lake Lane, Warrenton, OR 97146
Ms. Ellis submitted an email stating she is in agreement with the request before the board.

V. CONCLUSION and RECOMMENDATION

Based on the analysis and findings contained in this report staff has determined that the proposed Comprehensive Plan Text Amendments to Goal 11 and the Clatsop Plains Community Plan are consistent with the applicable plan policies. Staff recommends that the Planning Commission adopt the findings of fact of the staff report and recommend approval of the proposed comprehensive plan text amendments to the Board of Commissioners.

Respectfully Submitted,

Jennifer Bunch
Senior Planner
Proposed Text Amendments

Exhibit 1
Proposed Clatsop County
Comprehensive Plan Text Amendments for the Shoreline Sanitary
District

Additions are **underlined**.
Deletions are *strikethrough*.

**Clatsop Plains Community Plan**

**Public Facilities and Services**

**Sewer Policies**

1. Sewage systems shall be allowed in those areas outside of the Urban Growth Boundary only to alleviate a health hazard or water pollution problem which has been identified by the Department of Environmental Quality and will be used only as a last resort.

2. **Except as authorized by OAR 660-011-0060**, the Shoreline Estates Sanitary Sewer District located near Cullaby Lake shall **not expand extend sewer service outside of its current sewer service area, only to the current existing treatment plant's design capacity of approximately 500 people**. Further development of this intensity on the Clatsop Plains shall occur within the Urban Growth Boundaries.

3. **Due to an antiquated wastewater treatment plant that can no longer meet State and federal water quality standards** the Shoreline Sanitary Sewer District at Cullaby Lake shall be allowed to construct a sewer pipeline outside of the Rural Service Area in order to connect to the City of Warrenton’s sewer system. **As provided for in an Intergovernmental Agreement between Clatsop County and the Shoreline Sanitary District no connections outside the Rural Service Area and the district’s boundary shall be allowed unless such connections are authorized in accordance with the requirements of OAR 660-011-0060.**

**Community Development**

**General Development Policies**

**Rural Service Area**

**Policies**

1. The minimum building site in Rural Service Area shall be 7,500 square feet in sewered areas and 15,000 square feet in unsewered areas.

2. The area known as Shoreline Estates shall be designated a RURAL SERVICE AREA, due to the existing facilities available. **The land area for this designation shall not be larger than the existing treatment plant’s capacity.** The expansion of the RURAL SERVICE AREA designation should NOT be allowed. It is the intent of the Community Plan to encourage urban densities to occur within the cities and the Urban Growth Boundaries where more facilities and services are available.
**Goal 11 - Public Facilities and Services**

**Waste Disposal Policies**

1. Clatsop County considers sewer services only appropriate for urbanizable lands and RSA’s. The intensity of land use facilitated by provisions of sewer is not appropriate for Rural areas. Clatsop County may permit the creation or extension of sewer services outside UGB’s and RSA’s in the event of a health hazard or water pollution problem identified by DEQ.

2. In order to alleviate a water quality issue identified by DEQ the Shoreline Sanitary District at Cullaby Lake shall be allowed to extend a sewer pipe connection to the City of Warrenon. No connections shall be allowed outside the Rural Service Area or City of Warrenon Urban Growth Boundary, unless such connections are authorized in accordance with the requirements of OAR 660-011-0060.

3. Clatsop County shall cooperate with cities in developing a phased growth plan to guide the provision of municipal services to urbanizable areas.

4. Clatsop County shall encourage alternative methods of sewage disposal when such methods are economically, legally, and environmentally feasible.

5. Clatsop County should consider the use of solid waste and forest lands waste to generate electricity.

6. Clatsop County shall continue to cooperate with the various cities in the establishment of a regional landfill site.
InterGovernmental Agreement

Exhibit 2
This Intergovernmental Agreement (the "IGA") is made and entered into this 26th day of September, 2012, by and between Clatsop County, Oregon, a legal subdivision of the State of Oregon (the "County") and the Shoreline Sanitary District, a municipal corporation formed under ORS 450 (the "District"). The County and the District are each referred to in this IGA as a "Party" and collectively as the "Parties."

WHEREAS, by the authority granted in ORS 190.010, units of local government may enter into agreements with other units of local government for the performance of any or all functions and activities that a party to the agreement, its officers, or agents have the authority to perform; and

WHEREAS, the District is a single-purpose sanitary district organized under ORS 450 which owns and operates a sanitary sewage system including collection sewers, pumping stations, wastewater treatment facilities, and an outfall to the Skipanon River, all in accord with state statutes and a NPDES permit issued and administered by DEQ; and

WHEREAS, the District has been experiencing difficulty complying with certain terms contained in its NPDES permit and was issued a Mutual Agreement and Order ("MAO") by DEQ to fully control or prevent the discharge of treated wastewater to the Skipanon River by April 30, 2009, which deadline has been extended by DEQ to December 31, 2012; and

WHEREAS, in order to comply with the MAO, the District desires to connect its sewage collection system with the City of Warrenton, and to have the City of Warrenton receive and treat the District's sanitary sewage in perpetuity; and

WHEREAS, the County and the District desire to meet all current and future Federal and State statutes, codes, and regulations; and

WHEREAS, the District and the City of Warrenton are not contiguous service districts.

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter set forth, it is mutually agreed as follows:
ARTICLE 1
AGREEMENT

1.1 The District will not allow or authorize any connections to the District pipeline between the District and the City of Warrenton without written authorization of Clatsop County and approval of state agencies with lawful jurisdiction for as long as the District owns the pipeline.

ARTICLE 2
MISCELLANEOUS

2.1 This IGA shall remain in full force and effect for as long as the District owns their pipeline or is otherwise modified or terminated by mutual written agreement following public hearings on this matter in each jurisdiction.

2.2 This Agreement and the covenants and obligations therein shall be binding on the heirs, successors and assigns of the parties.

2.3 This IGA shall be construed, interpreted and enforced in accordance with the laws of the State of Oregon and without regard to conflict of law principles.

IN WITNESS WHEREOF, the Parties have caused this IGA to be executed on the date(s) shown below and mutually agree that this instrument will be in full force and effect upon the date that it has been executed by both the County and the District as provided for herein (the "Effective Date").

CLATSOP COUNTY

Chairman

County Manager

Date

SHORELINE SANITARY DISTRICT

Date

Chairman

Date

Secretary

Date
NOTICE OF PUBLIC HEARING
BEFORE THE CLATSOP COUNTY PLANNING COMMISSION
ORDINANCE 12-11

An application requesting text amendments to the Clatsop Plains Community Plan and the Goal 11 Element of the Clatsop County Comprehensive Plan.

DATE OF HEARING: December 11, 2012
TIME: 11:00 AM
LOCATION: Judge Guy Boyington Building, 857 Commercial Street, Astoria, Oregon 97103
CONTACT PERSON: Jennifer Bunch, Senior Planner

You are receiving this notice because you are considered to be an affected state or federal agency, local government, special district, or interested party.

The applicant, Shoreline Sanitary District, is requesting text amendments to Goal 11 element and the Clatsop Plains Community Plan that would support the extension of a sewer line from the district boundary to the City of Warrenton.

NOTICE IS HEREBY GIVEN that Clatsop County’s Community Development department has scheduled a public hearing on this matter before the Planning Commission at 11:00 AM on Tuesday, December 11, 2012, at the Judge Guy Boyington Building, 857 Commercial St, Astoria, OR 97103.

Interested persons are invited to submit testimony in writing or in person by attending the hearing. Alternately, interested persons may submit testimony in writing by addressing a letter to the Clatsop County Planning Commission, 800 Exchange Street, Suite 100, Astoria, OR 97103. Written comments may also be sent via FAX to 503-338-3666 or via email to comdev@co.clatsop.or.us. Written comments must be received in this office no later than 5PM on Monday, December 10, 2012, in order to be presented by staff at the December 11, 2012, public hearing.

NOTE: Failure of an issue to be raised in a hearing, in person, or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes an appeal based on that issue.

Copies of all documents are available for inspection at the Planning Office during normal business hours (M-F, 8-5) at no cost and will be provided at reasonable cost. A copy of the staff report will be available for inspection at the Clatsop County Planning office at no cost at least seven days prior to the hearing and will be provided at a reasonable cost. If you have questions about this land use matter or need more information, please contact Jennifer Bunch, Senior Planner, at (503) 325-8611 or via email at jbunch@co.clatsop.or.us.
In general, the procedure for conduct of the quasi-judicial public hearing is as follows:

- Introductory statements by the Planning Commission Chair
- Planning Commission disclosures
- Staff report
- Applicant testimony
- Testimony in favor and in opposition
- Applicant rebuttal
- Closure of hearing
- Planning Commission deliberation
- Planning Commission recommendation to the Board of Commissioners

The Clatsop County Board of Commissioners will consider Ordinance 12-11 at a later date and additional notice will be issued.
CERTIFICATE OF MAILING

I hereby certify that I served a copy of the attached Notice of Public Hearing for an application requesting text amendments to the Clatsop Plains Community Plan and the Goal 11 Element of the Clatsop County Comprehensive Plan submitted by Shoreline Sanitary on behalf of Shoreline Sanitary, to those listed on the attached pages with postage paid and deposited in the post office of Astoria, Oregon (as well as those sent via e-mail as indicated) on said day.

Date: November 26, 2012

Clancie Adams, Staff Assistant
Clatsop County, Oregon
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Public & Agency Comments

Exhibit 4
Dear Clatsop County Planning Commission,

I will be in Hawaii and will be unable to attend the hearing. I am in agreement with the request before the board. Thank you.

Regards,

Alice M. Ellis
33814 Cullaby Lake Lane
Warrenton, Oregon 97146.
December 3, 2012

Clatsop County Planning Commission
800 Exchange Street, Suite 100
Astoria, OR 97103

Re: Shoreline Sanitary District proposal to amendments to Goal 11 to allow extension of a sewer line to district boundry of Warrenton.

I am opposed to the above matter for the following reasons:

1. Shoreline needs to take care of their own sewage problem instead of dumping it on to Warrenton whose sewage system is already having volume problems with storm water backing up some of the pump stations. At the NW9 street pump station during times of heavy rain fall more than 3 times I have seen the city pumping content of the pump station into a small slough that is supposed to drain into Alder Creek but if the tidegate is closed it back-flows onto my property running upstream half a mile in my farm ditches where my livestock drink and then it travels downstream in Alder Creek a mile to the point of beginning. Shoreline added to the Warrenton system would increase the times the 9th street pumpstation needs to be pumped onto my property. It stinks.

2. The Clatsop Plains residents have already taken care of theirs with septic tank and drain fields. Clatsop Plains is perfect sand base for Shoreline to do the same thing the rest of us have done.

3. If Shoreline gets this proposed sewer line extended to hook into Warrentons system, as owner of house on Windswept road I am concerned that we will be forced to connect into that line because Shoreline or the city needs the money. We do not need another bill that could be $60-$80 a month.

4. Having the sewer line would probably lead to more development of the wetland in the area of Cullaby Lake, and eventually other subdivisions would find way to hook in too.

5. This matter should be put a vote of the homeowners and not decided by commissioners who are apt to favor more development.

6. I own upland for over 100 lots in NW Warrenton, I can remember not too many years ago that the city told me I can not build because DEQ shut down any new conection within the city. We do not need to import a potential overflow.

I am trustee for the Donald L. Tagg Trust that owns the house located at 91146 Windswept road on Clatsop Plains.

Sincerely,

Elizabeth Tagg
Trustee for
Donald L. Tagg Trust
MEMORANDUM

DATE: December 10, 2012

TO: Clatsop County Planning Commission

FROM: Jennifer Bunch, Senior Planner

RE: Public Comment from Elizabeth Tagg

Attached is a letter submitted by Elizabeth Tagg. In her letter Ms. Tagg raises opposition and several concerns regarding the connection of Shoreline Sanitary District to the City of Warrenton's sewer system. I've provided staff comments below:

1. Pump station problems – Ms. Tagg identifies concerns about introducing additional sewage to the system operated by the City of Warrenton. The issues raised by Ms. Tagg would be better addressed by the City of Warrenton Public Works department that manages the operations of the city's sewer system.

2. Septic tanks and drain fields for Shoreline – At the time of the proposal of the Shoreline Estates subdivisions the applicants submitted documentation from the Department of Environmental Quality that stated onsite sewage disposal was not feasible in the area near Cullaby Lake. The applicants returned with a modified proposal which included a sewage treatment facility. The density allowed in the RSA-SFR zone (7500 sq. ft.) does not provide enough lot area for an onsite system.

3. Forced connection to the proposed sewer line – Oregon Revised Statute would prohibit any connection to the proposed pipeline outside of the existing sewer district boundary. In addition, the Shoreline Sanitary District has entered into an intergovernmental agreement with Clatsop County that states no additional connections will be allowed.

4. Sewer line will promote wetland development – The wetlands around Cullaby Lake and the Shoreline Estates area are zoned Lake and Wetland (LW). The LW zone is applied to significant Goal 5 wetland resources and it is highly unlikely that the zoning could or would be amended. The proposed amendments to the Clatsop Plains Community Plan would prohibit the expansion of the Shoreline Sanitary District unless the expansion complies with the appropriate administrative rule.

5. Warrenton sewer connection moratorium – Staff is unaware of any recent moratorium to connection to the city's system.

***
December 7, 2012

Wayne Tagg
75334 Depot Ln.
Irrigon, OR. 97844

Clatsop County Planning Commission
800 Exchange Street, Suite 100
Astoria, OR 97103

Re: Shoreline Sanitary District proposed change to Goal 11 and the Clatsop Plains Community plan.

I as an heir to the Donald L. Tagg Trust that owns the house at 91146 Windswept Lane, Warrenton, Or., am opposed to the proposed changes above, that would enable Shoreline Sanitary District to connect into the Warrenton sewage system, which may not be able to handle the increased volume, resulting in increased costs and taxes for all land owners. There has been a lot of recent development in Warrenton, and additional utility capacity should be saved for land within the city.

Sincerely,

Wayne Tagg
Good morning, I had planned to attend the meeting today but will not be there. I have lived at Cullaby Lake since 1981 so I have a deep concern and total support for the sewer line extension. It is very hard for many of us older folks who are living on limited incomes to be forced to pay more and more to flush our toilets. It costs the same for one person living in a house than for a family of six or more. It saddens me to see families moving out without being able to sell their homes because of the expense. My late husband, Howard Gammon built more than 15 homes here at the lake during the 1980's, especially designed to be affordable for families. Two of my grandsons live in homes on Lake Front Drive and struggle to make the sewer payment. I am now in my 80's and financially dependent on Social Security. Please find a way to allow me to remain in my home. I'll be happy to help in any way I can.

Thank you,
June Gammon Walter
33766 Lake Front Drive
Phone 503.861.3831