BOOK 611 PAGE 710

IN THE BOARD OF COUNTY COMMISSIONERS

FOR CLATSOP COUNTY, OREGON

ORDINANCE 84- 1

JAN 18 1984

(AN ORDINANCE ADOPTING CERTAIN
(CORRECTIONS TO THE NECANICUM
(ESTUARY AND CREST SECTIONS OF THE
(ESTUARINE RESOURCES AND COASTAL
(SHORELANDS ELEMENT OF THE CLATSOP
(COUNTY PLAN AS ADOPTED BY THE BOARD
(OF COMMISSIONERS AND RESCINDING
(INCONSISTENT PROVISIONS AND
(DECLARING AN EMERGENCY.

The Board of County Commissioners of Clatsop County, Oregon ordain as follows:

SECTION 1. SHORT TITLE.

This ordinance shall be known as the Necanicum Estuary and CREST Correction amendments.

SECTION 2. FINDINGS

The Board of County Commissioners of Clatsop County, Oregon recognizes that the Clatsop County Comprehensive Plan, as amended, is in need of revision and amendment. In the interest of the health, safety and welfare of the citizens of Clatsop County and in consideration of the recommendations of the Clatsop County Planning Commission and pursuant to State law, the Board of Commissioners hereby determines the necessity of amending said Comprehensive Plan to comply with Oregon Statewide Planning Goals and Guidelines.

The Board of Commissioners finds that said Ordinance amendments comply with the goals of the Land Conservation and Development Commission.

The Board of County Commissioners further determines and takes notice that the adoption procedure for this ordinance amending the Clatsop County

Comprehensive Plan particularly complies with Goal 1 of the Land Conservation and Development Commission, the Citizen Involvement Goal. The County Planning Commission has sought review and comment and has conducted the public hearing process pursuant to the requirements of ORS 215.050. A Planning Commission hearing was held on January 10, 1984. The Planning Commission adopted recommendations to the Board of Commissioners on January 10, 1984. The Board received and considered the Planning Commission's recommendations on this proposed amendment. The Board of Commissioners held a hearing pursuant to law on this ordinance on January 18, 1984.

SECTION 3. CONFORMITY WITH THE LAW.

This ordinance shall not substitute for nor eliminate the necessity for conformity with any and all laws or rules of the State of Oregon or its agencies, or any ordinance, rule or regulation of Clatsop County.

SECTION 4. INCONSISTENT PROVISIONS.

This ordinance shall supercede, control and repeal any inconsistent provision of the Clatsop County Comprehensive Plan as amended, or any other ordinance regulation made by Clatsop County.

Page 2 of Ordinance

SECTION 5. SEPARABILITY.

If any section, section, clause, phrase or any portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 6. EFFECTIVE DATE.

This ordinance shall be in full force and effective immediately upon adoption as set forth in the emergency clause.

SECTION 7. EMERGENCY CLAUSE.

In order to implement the recommendations of the Planning Commission and findings of the Board with the greatest expedience and in order to realize the benefits to be derived from the adoption of this ordinance correcting Clatsop County Comprehensive Plan Estuarine Resources and Coastal Shorelands Element, an emergency is declared to exist and this ordinance shall become effective immediately upon its passage.

SECTION 8. ADOPTION CLAUSE.

This Ordinance amending the Clatsop County Comphrehensive Plan, Necanicum Estuary and CREST sections of the Estuarine Resources and Coastal Shorelands Element attached hereto and marked Exhibit A, is hereby adopted by reference and incorporated herein in its entirety.

ENACTED this 18th day of January, 1984.

THE BOARD OF COUNTY COMMISSIONERS
FOR CLATSOP COUNTY, OREGON

BY: _____
Don Church, Chairman

BY: _____
Roger Berg, Commissioner

BY: _____
Joan M. Dukes, Commissioner

VOTE: Aye: DON R. CHURCH, ROGER A. BERG, & JOAN M. DUKES

Nay: -0-

Abstention: -0-

ATTEST:

_____
Recording Secretary to the Board

January 18, 1984
Date

Date of First Reading: January 18, 1984

Date of Second Reading: January 18, 1984

EXHIBIT "A"

1. Delete the Necanicum Estuary Plan Title Page and replace with the attached page.

2. Delete Table of Contents and replace with new Table of Contents reflecting changes made in this Ordinance.

3. Delete pages 5 through 9 and replace with the attached pages labeled pages 5 through 16, and renumber accordingly.

4. Delete the entire section labeled Clatsop County Comprehensive Plan, Proposed Changes for the Necanicum Estuary (pages 1 through 16) immediately following the Necanicum Estuary Inventory.

5. Delete the existing Section P10 Indroduction and Background from the CREST section of the Goal 16 and 17 Element of the Comprehensive Plan and Replace with a new section labeled P10 Introduction and Background.

THE NECANICUM RIVER ESTUARY PLAN

PREPARED BY THE

NECANICUM ESTUARY COMMITTEE

AND THE STAFF

OF THE

CLATSOP-TILLAMOOK INTERGOVERNMENTAL COUNCIL
(CTIC)

ADOPTED: SEPT. 1983

TABLE OF CONTENTS

84-1

PURPOSE: The purpose of the following goals and policies is to establish a basis for the conservation and development of the Necanicum Estuary. As mandated by the State Estuarine Resources Goal, the Comprehensive Plan must recognize and protect the unique environmental, economic and social values of each estuary and associated wetlands. As a conservation estuary, the Necanicum is designated for long-term uses that do not require major alteration of the estuary, except for purposes of restoration. Specific policies and standards are meant to support and further the goals.

GOAL 1: To maintain all identified marsh areas in their natural, productive condition.

Policy 1-A: As a conservation estuary, the Necanicum shall be managed primarily to protect its natural resource values. Permitted uses or activities in the estuary that result in significant alteration, including filling, dredging, rip-rap, road building and similar activities shall not be carried out in salt marshes or associated fresh-water wetlands.

Policy 1-B: Uses or activities that do result in alteration of estuarine areas shall only be permitted in areas of existing alteration. The Necanicum River in the vicinity of downtown Seaside, other than marshes, is generally considered capable of sustaining development, whereas the upper Necanicum, the Neawanna and the Neacoxie estuary areas are not.

Policy 1-C: The general priority (from highest to lowest) for use of estuarine resources shall be:

a. Uses which maintain the integrity of the estuarine ecosystem;
b. Water-dependent uses requiring estuarine location, consistent with the Oregon Estuarine Classification;
c. Water-related uses which do not degrade the natural estuarine resources, values; and
d. Non-dependent, non-related uses which do not alter, reduce, or degrade the estuarine resources and values.

Policy 1-D: Fill activities are allowed in Conservation management units only as part of the following uses or activities:

a. Maintenance and protection of man-made structures existing as of October 7, 1977;

b. Active restoration if a public need is demonstrated;

c. Bridge crossing support structure if an estuarine location is required, no alternative locations exist, adverse impacts are minimized as much as feasible, and it is consistent with the resource capabilities of the area and purposes of the management unit;

84-.1

d. Aquaculture, high intensity water dependent recreationand minor navigational improvement if an estuarine location is required, a public need is demonstrated, no alternative upland locations exist for the portion of the use requiring fill, adverse impacts are minimized as much as feasible, and it is consistent with the resource capabilities of the area and the purposes of the management unit;

e. Flood and erosion control structure, if required to protect protect a permitted water-dependent use and land use management practices and non-structural solutions are inadequate to protect the use.

Policy 1-E: There are presently no uses in the Clatsop County portion of the Necanicum Estuary which require dredging. The uses permitted by the County's Zoning Ordinance may require some dredging are aquaculture and boat ramps. These uses are not anticipated to generate sufficient dredge material disposal sites at this time. However, uses which generate dredge material shall develop a dredge material disposal program for the estuary prior to the issuance of a permit. If such projects would also require mitigation, a mitigation plan for the estuary shall also be developed.

a. Dredging shall be allowed only in conjunction with a permitted use or activity. Dredging shall not be permitted unless it can be shown that there is a specific need and that adverse impacts are minimized as much a possible.
b. Before action on a proposed marina, aquaculture facility, boat ramp, or other use which may require dredging or itigation, an estuary-wide dredge material disposal and mitigation plan shall be required.
c. Dredge material shall not be deposited in the water, in other estuarine areas, or fresh water wetlands. Upland sites shall be utilized and engineering practices consistent with Army Corps of Engineers requirements shall be utilized. Where there is erosion occuring and biological productivity is low, beach nourishment may be considered as a means of disposal. Proposed dredge material disposal sites shall be carefully evaluated through the permit process and fully coordinated with appropriate State and Federal Agencies.

Policy 1-F: Permitted uses or activities, other than dredge or fill, shall be allowed only upon a showing that there is a public need, and estuarine location is required and no alternative upland sites exist, and adverse impacts are minimized as much as feasible.

84-1

Policy 1-G: The following uses and activities shall be permitted only after a demonstration that they are consistent with the resource capabilities of the area and the purposes of the management unit:

- Natural management units; restoration
- Conservation management units; high intensity water dependent recreation, maintenance dredgging of existing facilities, minor navigational improvements, sand and gravel removal, bridge crossings, and water dependent uses requiring occupation of water surface by means other than fill.

Policy 1-H: In permitting uses or activities consideration shall be given to the cumulative impact of additional requests for like actions in the area. The total effect of all conditional uses shall remain consistent with the intent of the management unit and the resource capabilities of the area.

Policy 1-I: Actions which would potentially alter the integrity of the estuarine ecosystem shall be preceded by a clear presentation of the impacts of the proposed alteration, and a demonstration of the public's need and gain which warrant such modification or loss.

Policy 1-J: Where a use requires an estuarine location, construction on piling is preferred to filling.

GOAL 2: To manage areas and uses adjacent to marshes to protect the integrity of the marshes themselves.

Policy 2-A: In most areas, freshwater marshes that are adjacent to the estuary have been included within the estuary boundary. These areas are considered unsuitable for intensive development (filling and construction primarily), because of their resource value, poor suitability for development, and the effect development would have on the estuary.

Policy 2-B: Development that takes place in areas upland from the estuary shall respect the natural functions of the adjacent water areas. Shoreland standards should include as a minimum, control of vegetation removal, storm water runoff and public access. A general rule should be: the more intensive the development, the more careful the control of adverse impacts.

84-1

Policy 2-C: The proliferation of individual single purpose docks and piers shall be controlled through the encouragement of community facilities common to several uses and interests. The size and shape of docks or piers 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.

GOAL 3: To encourage the restoration of the estuary and its physical and biological resources.

Policy 3-A: All jurisdictions and organizations with an interest in the productivity of the estuary should work together to encourage the U.S. Army Corps of Engineers or other agency to investigate the restoration of the mouth of the estuary in order to improve tidal and salinity patterns.

Policy 3-B: Development that takes place in areas adjacent to natural estuarine designations shall be carefully reviewed to insure that it is designed in a manner that will protect the integrity and function of the natural area. Additional buffers, setbacks or other controls may be required in order to carry out this policy.

Policy 3-C: Adverse impacts to estuarine resources resulting from dredge or fill activities permitted in intertidal or tidal marsh areas shall be mitigated by creation, restoration or enhancement of an estuarine area. The objective shall be to improve or maintain the functional characteristics and processes of the estuary such as its natural biological productivity, habitat and species diveristy, unique features and water quality.

Actions exempted from the mitigation requirement above include:

a. Removal or filling of less than 50 cubic yards of material or when an Oregon State Removal and Fill Permit is not otherwise required.
b. Filling for repair and maintenance of existing functional dikes when there is negligible physical or biological damage to tidal marsh or intertidal areas;
c. Rip-rap to allow protection of an existing bank line with clean, durable erosion-resistent material provided that the need for rip-rap protection is demonstrated and that this need cannot be met with natural vegetation;
d. Filling for repair and maintenance of existing roads when there is negligible physical or biological damage to tidal marsh or intertidal areas.
e. Dredging or filling required as part of an estuarine resource creation, restoration, or enhancement project agreed to by local, state and federal agencies, and
f. Other proposed projects of activities where, upon determination of the Oregon Division of State Lands, the proposed alteration would have negligible physical, biological, and water quality impacts.

84-1

GOAL 4: To achieve an improved level of water quality in the estuary by the improvement of wastewater discharge, the careful control of storm water runoff, and the prevention of erosion of uplands areas.

Policy 4-A: The City of Seaside is attempting to rebvuild its sewage treatment plant at the present time. The present level of discharge is causing severe water quality problems during peak summer months when stream runoff is low, tides are low and wastewater flows are high. Because of funding problems, EPA construction funds for the treatment plant appear to be postponed for several years. The cities and county, in conjunction with DEQ and State Fish and Wildlife, should: (1) investigate an interim solution to the problem to reduce the impact on water quality, and (2) investigate placement of the wastewater outfall so as to improve flushing of treated wastewater.

Policy 4-B: Because of the potential damage storm water runnoff can cause in estuaries, standards for storm water drainage systems (stream, etc.) wherever possible, and for the dispersion of storm water from parking lots and streets prior to entering the estuary. Storm water outfalls shall always be directed away from significant marshes and tideflats.

Policy 4-C: The Oregon Forest Practices Act shall be strictly enforced to insure that logging and other forest management does not adversely impact the estuary. The State Department of Forestry should be made aware of the special characteristics of the estuary environment, and the need for special protection. Local governments should take an active role to insure the enforcement of the Forest Practices Act.

Policy 4-D: The County recognizes the authority of the following state agency statutes in managing activities that may affect the estuary's quality:

a. The Oregon Forest Practices Act and Administrative Rules, for forested lands as defined by ORS 527.160--527-730 and 527.990.
b. The programs of the Soil and Water Conservation Commission and local districts and the Soil Conservation Service.
c. The non-point source of discharge water quality program administered by the Department of Environmental Quality under Section 208 of the Federal Water Quality Act as amended in 1972 (PC 92-500) and
d. The Fill Removal Permit Program administered by the Division of State Lands under ORS 541.605-541.665.

GOAL 5: To protect riparian (streambank) vegetation within the Necanicum Estuary.

84-1

Policy 5-A: Streambank vegetation shall be protected in order to provide wildlife habitat, prevent shoreline erosion, filter storm runoff, protect structures from flood hazards, and for aesthetic purposes. Wherever vegetation must be removed, for rip-rap, public access, bridge placement, and so forth, efforts shall be made to replant after construction.

Policy 5-B: Through the building permit, zoning and subdivision approval processes, the County shall provide standards for setbacks of structures, fills or other alterations from the shoreline.

GOAL 6: To protect fish and wildlife habitat throughout the Necanicum estuary.

Policy 6-A: Fish and wildlife habitat of the Necanicum estuary system contributes a great deal to the environmental quality and economy of the area. Actions that would reduce the habitat value of the estuary shall be carefully evaluated in this light. The Oregon Department of Fish and Wildlife shall be consulted whenever such actions are proposed in order to determine the impacts.

GOAL 7: To increase the public understanding of the value and functioning of the estuary and the river.

Policy 7-A: The County strongly encourages school districts and the community college to continue programs in Marine Ecology and Oceanography in order to promote this goal.

Policy 7-B: The County should participate in a regional organization (such as CREST) that maintains a staff capable of evaluating development proposals and working with resource agencies.

Policy 7-C: Public access to the estuary shall be encouraged; development shall be reviewed as to how access will be provided.

GOAL 8: To foster cooperation among jurisdictions and agencies in the management of the estuary.

Policy 8-A: Since actions in the estuary extend beyond corporate boundaries, all jurisdictions on the estuary shall pareticipate in the evaluation of development proposals affecting the estuary. This may be carried out in the state and federal permit processes, or through the conditional use or subdivision permit processatr the local level. The Oregon Department ofFish and Wildlife shall be used as a resource to evaluate the proposals.

Policy 8-B: The County recognizes the authority of the following state agency statutes in managing activities that may affect the estuary's quality:

a. The Oregon Forest Practices Act and Administrative Rules, for forested lands as defined by ORS 527.160--527-730 and 527.990.

84-1

b. The programs of the Soil and Water Conservation Commission and local districts and the Soil Conservation Service.
c. The non-point source of discharge water quality program administered by the Department of Environmental Quality under Section 208 of the Federal Water Quality Act as amended in 1972 (PC 92-500) and
d. The Fill Removal Permit Program administered by the Division of State Lands under ORS 541.605-541.665.

GOAL 9: To develop an implementation procedure that insures that estuarine development actions are consistent with the Estuarine Resource Goal of the State-wide Planning Goals.

Policy 9-A: Where a use could potentially alter the integrity of the estuarine ecosystem, the City shall require a clear presentation of the impacts of the proposed alteration, and a demonstration of the public's need and gain which would warrant such modification or loss. An impact assessment procedure is set forth in the Land & Water Development & Use Ordinance zoning ordinance. The impact assessment will be used to identify potential alterations of estuarine resources and values, determine whether potential impacts can be avoided and minimized, and to provide factual base information to assure applicable Policy Standards will be met. If the City requires additional information of an applicant, the City shall specify the nature of the assessment to addressing those standards and policies that the City determines are relevant.

Policy 9-B: Goal 16 requires that dredge, fill or other significant degradation of estuarine natural values, by man, be allowed only:

a. if required for navigation or other water-dependent uses that require an estuarine location, and
b. if a public need is demonstrated, and
c. if no alternative upland locations exist, and
d. if adverse impacts are minimized as much as feasible.

The County will apply the above standard to all dredge or fill activities during review of these projects, through the conditional use procedure. The County will rely on the existing Corps of Engineers permit process to determine when a significant degradation other than dredge or fill, may occur. In this process, a preliminary assessment is completed for every permit application and a determination is made as to whether the project would cause significant impacts. A public notice is then issued containing either a finding of no significant impact (FONSI), or a determination that there will be a significant impact and an Envrionmental Impact Statement is required. Any agency, governmental jurisdiction or other interested party has the opportunity to challenge the Corps determination, or to ask for a public hearing. Therefore, an opportunity is provided for any party to supply information that insignificant degredation or reduction of natural values

84-1

would occur in a specific project. The County will apply the above 4-part standard to all projects which the Corps has determined will involve significant impacts and requires an Environmental Impact Statement.

In addition to the Necanicum Estuary Plan Policies, Clatsop County also establishes the following policies:

1. Expand definitions that accompany the permitted use tables.

   a. Use is the end to which a land or water area is ultimately employed. A use often involves the placement of structures or facilities.

   b. Activity is any action taken either in conjunction with a use or to make a use possible. Activities do not in and of themselves result in a specific use. Most activities may take place in conjunction with a variety of uses.

2. Permitted with Standards, (PS). Uses and activities may be permitted under a Type II procedure, subject to:

   a. Policies of the Comprehensive Plan.

   b. The general requirement that the use or activity be designed and conducted in a manner that will minimize, so far as practical, any resultrant damage to both the ecosystems of affected aquatic and shoreland areas and the public's use of the water, and

   c. The Standards of the Land & Water Development & Use Ordinance.

3. Conditional (C) Uses and activities may be permitted under a Type II procedure. The use or activity must be found to be consistent with:

   a. Policies of the Comprehensive Plan,

   b. The standards of the Land & Water Development & Use Ordinance,

   c. The general requirement that the use or activity be designed and conducted in a manner that will minimize, so far as practical, any resultant damage to both the ecosystems of aquatic and shoreline areas and the public's use of the water, and,

4. Uses and activities must also be consistent with applicable state and federal agency permits and regulations.

84-1

PERMITTED USE TABLE, NECANICUM ESTUARY

USE/ACTIVITY	NATURAL	CONSERVATION
1. Aquaculture, water dependent portions		C
2. Boat Ramp		C
3. Bridge Crossings		C
4. Commercial development		
5. Communication facility		C
6. Docks, piers, moorages		C
7. Industrial development		
8. Marina		C
9. Navigational Aids	P.S.	P.S.
10. Residential development		
11. Sanitary sewer outfall		C
12. Storm water outfall		C
13. Underwater cables and pipelines	C	C
ACTIVITIES		
1. Dikes, temporary		P.S.
2. Dredging, maintenance		C
3. Dredging, new		C
4. Dredge material disposal		
5. Filling		C
6. Mining and mineral extraction		C
7. Piling		C
8. Research & education, observation	P.S.	P.S.
9. Restoration, passive	P.S.	P.S.
10. Restoration, active	C	C
11. Shoreline stabilization, structural	C	C
12. Shoreline stabilization, vegetative	P.S.	P.S.

LEGEND: C= Permitted as conditional use through a Type II procedure

PS= Permitted with a review through a Type II procedure

Blank= Not Permitted

84-1

THE ESTUARY SHORELANDS BOUNDARY

The Necanicum Estuary boundary, as discussed, was drawn around all water bodies, salt marshes, tideflats, and freshwater marshes adjacent to the Necanicum and its tributaries below the head of tide. The line of mean higher high water (MHHW) was used in most cases, but in some situations the line of non-aquatic vegetation was more appropriate.

The Shorelands boundary as drawn follows the 100-year flood plain line in most situations, except where extensive development has taken place. In such cases, the boundary is either one hundred feet (100') upland from the estuary boundary or conforms to a major man-made feature, such as a road or building.

The Estuary and Shorelands boundaries were drawn by the Estuary Committee using a composite aerial photo (Scale: 1"=100'). The photogrammetry at two-foot contour intervals was done by CH2M Hill in 1973 as part of the HUD Flood Study.

SHORELANDS POLICIES

1. Protection of Marsh Areas

Development of land adjacent to marshes can have a serious effect on the biological integrity of the marsh itself. It order to insure compatibiity, standards shall control the development through shoreline setbacks, protection of riparian vegetation, control and setbacks of fills, maintenance of natural drainage patterns, careful placement of storm water and other utility systems, and aesthetic standards. Particular attention shall be given to the control of erosion adjacent to water areas. Temporary measures to control runoff during construction shall be employed and revegetation plans shall be filed with building permits. Uses that could contaminate adjacent marsh areas, such as gasoline stations or oil depots, shall be prohibited.

2. Public Access to the Waterfront

Consistent with the policy to protect marshes and tideflats, public access to the waterfront shall be maintained and improved. This access may take the form of trails, viewpoints, or other low intensity uses: waterfront parks, small scale piers, boat docks or boat launching areas; bridges that provide for fishing, sitting or viewing; and in developed areas, commercial uses that take advantage of their proximity to the water, such as restaurants. Primary attention shall be given to the use of publicly owned lands for public access, such as street ends or other public lands. Private use of private shorelands is legitimate and shall be protected. Special consideration shall be given to make areas of the estuary shoreline available to the handicapped or other persons with limited mobility.

84-1

3. Protection of Riparian Vegetation

Because of the value that streambank vegetation has for wildlife habitat, water quality protection, prevention of erosion and other purposes, it shall be maintained and protected. In certain areas, removal of large trees may be necessary to prevent blowdowns, but such removal shall be carefully evaluated with the assistance of the Oregon Department of Fish and Wildlife, and the U.S. Soil Conservation Service. In any case, structures, parking lots, roads, fills, utilities or other uses or activities shall be kept away from the shoreline a distance of at least thirty feet (30'). Location on the shoreline shall be considered justification for a setback variance on the non-shoreline side of a lot in cases where the size of the lot would not permit such a setback. Each case must be carefully reviewed by the Planning Commission. Setbacks from natural areas shall be a minimum of fifty feet (50').

4. Uses Adjacent to the Estuary

The Necanicum Estuary is valuable for its natural values and is not considered a water body useful for waterborne commerce. It is not anticipated that shipping or water-dependent industry will ever be accommodated here. The types of water-dependent and water-related uses given highest priority on the shorelands adjacent to the Estuary are recreational and are mentioned in the policy on public access. Priorities for shoreland uses (from highest to lowest) shall be to:

a) Promote uses which maintain the integrity of the estuaries of coastal waters.
b) Provide for water-dependent uses;
c) Provide for water-related uses
d) Provide for non-dependent, non-related uses which retain flexibility of future use and do not prematurely and inalterably commit shorelands to more intensive uses;
e) Provide for development including non-dependent, non-related uses, in urban areas compatible with existing or committed uses;
f) Permit non-dependent, non-related uses which cause a permanent or long term change in the features of the coastal shorelands only upon a demonstrtion of public need.

The priority of uses shall be reflected in the Land and Water Development and Use Ordinance.

5. Dredge Material Disposal and Restoration

Inasmuch as the Necanicum Estuary is designated conservation and minimal dredging is permitted for uses such as small moorages, aquaculture or restoration, it is not anticipated that large volumes of material will be in need of disposal. However, dredge material shall be disposed of in a manner that is least disruptive of the environment. No water or wetlands areas shall be used for disposal. Upland sites other than freshwater marshes shall be utilized and good engineering practices shall be employed to protect water quality. Where active erosion is occurring and biological productivity is low, beach nourishment may be sufficiently coarse for this purpose. Dredge material disposal shall be carefully evaluated through the permit process.

6. Shoreland Stabilization

General priorities for shoreline stabilization for erosion control are (from highest to lowest):

a) Proper maintenance of existing riparian vegetation;
b) Planting of riparian vegetation;
c) Vegetated rip-rap;
d) Non-vegetated rip-rap;
e) Grains, bulkheads, or other structural methods.

Structural shoreline stabilization methods shall be permitted only if:

a) Flooding or erosion is threatening a structure of an established use; or
b) There is a demonstrated public need in conjunction with a water-dependent use; and
c) Land use management practices or non-structural solutions are inappropriate because of high erosion rates, or the use of the site; and
d) Adverse impacts on water currents, erosion, and accretion patterns of aquatic life and habitat are avoided or minimized.

84-1

THE ESTUARY PLANNING AREA

The Columbia River estuary planning area includes aquatic areas and shorelands from the 3-mile limit offshore, upstream to the end of Clatsop County in Oregon (RM 45) and Wahkiakum County in Washington (RM 53). All tributary streams to the head of tide and adjacent shoreland are part of the estuary planning area.

The estuary is divided into five planning areas and 54 subareas. Biological, physical, and jurisdictional information was used in establishing planning boundaries. A precise geographical definition is give in the introductory section of each planning area or subarea. Technical definitions of aquatic areas and shoreland are presented below and in Section 1.030 of the zoning ordinance.

THE PLANNING PROCESS

The shorelands and estuary elements of the County's Comprehensive Plan were prepared by the Columbia River Estuary Study Taskforce (CREST) and are the basis for managing these resources within a regional content. CREST, a bi-state organization of cities, counties, and port districts, was organized in 1974 to develop a coordinated, regional estuary management program. Clatsop County has been a participant in CREST since its inception.

CREST member jurisductions and staff formulated a land and water use planning process in 1976, establishing a regional framework for local citizens, interest groups, governments, and state and federal agencies to integrate their efforts in creating an estuary-wide management plan. In 1977, CREST published an inventory synthesizing existing scientific and management information on the physical, biological, and cultural characteristics of the Columbia River estuary. Using this technical background information, specially created citizen planning committees and the CREST staff produced the initial draft of a regional management plan. A conflict resolution period extending from December, 1978 to June, 1979 provided the opportunity to resolve disagreement over plan policies and area use designations. Conflicts were defined as a substantive disagreement with a draft plan policy or area use designation (type of designation or specific boundaries) which was identified by a private individual, group of citizens, local government, state or gederal agency, or business or industrial concern. Comments on the draft plans were used to identify these conflicts. Many conflicts were resolved by CREST working with local jurisdictions and the dissenting party.

Major conflicts over areas that might be subject to development pressures in the future required special meetings. One day sessions were held for Eastern Clatsop County and Baker Bay. A final conflict resolution meeting to discuss the regional balance of development and conservation was also held. Where a consensus on a given issue could not be achieved, the CREST Council made a decision. The final draft of the Columbia River Estuary Regional Management Plan was published in June of 1979. A mediation effort sponsored by CREST in the spring of 1981 resolved remaining major development use conflicts (refer to P 60, Appendices). Further estuarine and shoreland resource use conflicts should be resolved within the context of the County's Comprehensive Plan.

84-1

The Goal 16 and 17 element of the County's Comprehensive Plan is intended to satisfy the requirements of the Estuarine Resources and Coastal Shorelands goals established by the Oregon Land Conservation and Development Commission and to function as part of the Oregon Coastal Management Program as certified by the Department of Commerce under the Federal Coastal Zone Management Act. Under these programs, the Columbia River estuary has been designated "development".

This Comprehensive Plan section consists of the following parts:

A. Definitions.
B. Use and area designations.
C. Permitted use tables.
D. Estuary and Shoreland Regional Policies.
E. Shoreland and Estuary Resource Base Maps.

Development standards are in the County's Zoning Ordinance.

A. Definitions

1. AQUATIC AREAS

Aquatic areas include the tidal waters and wetland of the estuary and non-tidal sloughs, streams, lakes, and wetlands within the shoreland planning boundary. The lands underlying the waters are also included.

The upper limit of aquatic areas is the line of non-aquatic vegetation or, where such a line cannot be accurately determined, Mean Higher High Water (MHHW) in tidal areas or Ordinary High Water (OHW) in non-tidal areas.

Aquatic areas can be divided into wetlands, the upper portion of the aquatic zone, and waters, the lower portion. Wetlands and waters adjoining at Extreme Low Water (ELW) in tidal areas (about three feet below Mean Lower Low Water (MLLW), or Columbia River Datum above Altoona on the Washington shore), or at a water depth of six feet relative to Ordinary Low Water (OLW) in non-tidal areas.

2. COASTAL SHORELANDS

Under the Coastal Shorelands Goal, the shoreland planning boundary encompassed an area 1,000 feet from the shoreline of the estuary. Within this inventory boundary, the County has determined a final shoreland boundary as indicated on the shoreland and estuary resource base maps included in the Comprehensive Plan. The coastal shoreland boundary detailed on the resource base maps includes the following resources, as required by the Coastal Shorelands Goal:

(1) Lands which limit control, or are directly affected by the hydraulic action of the coastal water body, including floodways;

84-1

(2) Adjacent areas of geologic instability;
(3) Natural or man-made riparian resources, especially vegetarian necessary to stabilize the shoreline and to maintain water quality and temperature necessary for the maintenance of fish habitat and spawning areas;
(4) Areas of significant shoreland and wetland biological habitats;
(5) Areas necessary for water-dependent and water-related uses, including areas of recreational importance which utilize coastal water or riparian resources, areas appropriate for navigation and port facilities, and areas having characteristics suitable for aquaculture;
(6) Areas of exceptional aesthetic or scenic quality, where the quality is primarily derived from or related to the association with coastal water areas; and

3. COLUMBIA RIVER ESTUARY

For planning purposes, the estuary is defined as all aquatic areas subject to tidal influence downstream of the Wahkiakum County line (RM 53) in Washington and the downstream end of Puget Island (RM 38) in Oregon. In Oregon, the Coastal Zone, as defined by the Land Conservation and Development Commission, extends only to the downstream end of Puget Island (RM 38).

Tidal influence extends to Bonneville Dam (RM 145). Daily tidal range is 8.3 feet near the river mouth and decreases to ab out 5.5 feet near the upstream limit of the CREST planning area (Eagle Cliff - RM 53.3). See Section 203 of the "Columbia River Estuary Inventory of Physical, Biological and Cultural Characteristics" for a complete discussion of tides and tidal effect in the river.

4. WATER-DEPENDENT

Refers to uses and activities which can only be carried out on, in or adjacent to water; the water location or access must be needed for either:

a. Water-borne transportation (navigation; moorage, fueling, and servicing of ships or boats; terminal and transfer facilities; resource and material receiving and shipping;

b. Recreation (active recreation such as swimming, boating, fishing, hunting or passive recreation such as viewing, walking); or

c. A source of water (energy production, cooling of industrial equipment or wastewater, other industrial processes, aquaculture operations).

5. WATER-RELATED

Refers to uses and activities that do not require direct water access (are not water-dependent), but may be appropriate as consistent with other development criteria because:

84-1

a. They provide goods and/or services that are directly associated with other water-dependent uses (supplying materials to, or using products of, or offering commercial or personal services to water-dependent uses); and

b. Location other than adjacent to the water would result in a public loss of quality in the goods and services offered (evaluation of "public loss of quality" will be based on a subjective consideration of economic, social and environmentl consequences of the use).

6. USE

Use is the end to which a land or water area is ultimately employed. A use often involves the placement of structures or facilities for industry, commerce, habitation, or recreation. An accessory use is the use incidental and subordinate to the main use of the property and located on the same lot or parcel as the main use.

7. ACTIVITY

Activity is any action taken either in conjunction with a use or to make a use possible. Activities do not in and of themselves result in a specific use. Several activities -- dredging, piling, fill -- may be undertaken for a single use - a port facility. Most activities may take place in conjunction with a variety of uses.

B. Use and Area Designations

The land and water use classification system was developed from two basic premises.

First, aquatic and shoreland areas require different management approaches. Even where the management objectives are similar, aquatic areas serve different purposes and sustain different development impacts than shorelands. This is fundamental to state and federal management and regulatory programs and has, for aquatic areas, a historical basis in the public trust doctrine.

Second, aquatic and shoreland areas in the Columbia River estuary exhibit a wide range of natural and human factors which require different types of management. Areas with significant natural resource values need protection from human disturbance, while other areas with present or potential use for agriculture, timber production, recreation, water-related industry, or port development should be reserved for such uses.

The land and water use classification system separates aquatic from shoreland areas and defines management designations for each area. These designations provide for uses and activities ranging from preservation to intensive development.

Ref. 1

1. Natural Aquatic areas are managed for resource protection, preservation and restoration, with severe restrictions on the intensity and types of uses. Natural Aquatic areas may include tidal marshes and intertidal flats, that, because of a combination of factors such as size, biological productivity and habitat value, play a vital role in the functioning of the estuarine ecosystem. Natural Aquatic areas may also include ecologically important subtidal areas.

2. Natural Shoreland areas are managed for resource protection, lpreservation, restoration and recreation, with severe restrictions on the intensity and types of uses. Natural Shoreland areas may include unique or highly valuable vegetative or wildlife habitat and critical habitat for endangered or threatened species where a less restrictive designation would not provide adequate protection.

3. Conservation Aquatic areas are managed for low to moderate intensities of use, with emphasis on maintaining the flow of aquatic resource and recreational benefits. Minor alterations may be permitted in conjunction with approved uses. Conservation Aquatic areas may include open water portions of the estuary and valuable tidal marshes and mud-sand flats of lesser biological significance than those in the Natural category.

4. Conservation Shorelands are managed for timber protection, control of non-point source pollution, wildlife, recreation, and other human uses of low to moderate intensity. Conservation Shoreland may include commercial forest lands, areas subject to severe flooding or other hazards, scenic recreation areas, and certain public shoreline areas.

5. Development Aquatic areas are managed for navigation and other water-dependent uses consistent with the need to minimize damage to the estuarine ecosystem. Some water-related and other uses may be permitted. Development Aquatic areas may include: areas suitable for deep or shallor draft navigation, including shipping and access channels or turning basins; dredged material disposal sites and mining or mineral extraction areas; and areas adjacent to developed or developable shorelines which may need to be altered to provide navigational access or create new land areas for water-dependent uses.

6. Development Shorelands are managed for a wide range of water-dependent, water-related, or other uses. Development Shorelands may include existing developed areas or areas suitable for future residential, commercial, industrial, or recreational development. Most such areas are within urban growth boundaries of existing towns or cities, but may include other development centers.

84- 1

7. ESWD Development Shorelands are managed for water-dependent uses, with water-related uses allowed based on demonstrtion of need and analysis of alternative sites. ESWD Development Shorelands include areas of high potential for water-dependent recreational, commercial, or industrial development, by virtue of their proximity to deep or shallow-draft nevigation channels, existence of sufficient backup land and potential for aquaculture.

In formulating the Comprehensive Plan, the following general policies guided application of the land and water use classiciation system.

1. All major tracts of tidal marshes, tide flats, seagrass and algae beds were designated 'Natural Aquatic' because of their proximity and value as fish and wildlife habitat;

2. Tracts of significant habitat smaller or of less biological importance than those assigned as Natural Aquatic were designated Conservation Aquatic. These include most of the smaller fringing marshes along bays and streams.

3. Deep-water areas adjacent or in proximity to the shoreline, navigation channels, subtidal areas for in-water disposal of dredge material and areas of minimal biological significance needed for uses requiring alteration of the estuary were designated Aquatic Development.

4. Dikes were designtaed the same classification as the adjacent shorelands;

5. Commercial forest lands are designated Conservation Shorelands.

6. Areas designated as especially suited for water-dependent uses were based on a consideration of the following factors:

   - deep-water close to shoe, with supporting land transport facilities suitable for ship and barge facilities;

   - potential for aquaculture;

   - protected areas subject to scour which would require little dredging for use as marinas;

   - potential for recreational utilization;

   - amount of vacant land available to support the anticipated water-dependent development;

   - availability of public services, such as sewer and water;

   - possibility for land use conflicts with existing or anticipated land uses in the area;

   - projected demand for various water-dependent developments.

84-1

7. General priorities, from highest to lowest, for uses within all estuary zones shall be:

   a. Uses which maintain the integrity of the estuarine ecosystem;
   b. Water-dependent uses requiring an estuarine location, as consistent with the Overall Oregon Estuarine Classification;
   c. Water-related uses which do not degrade or reduce the natural estuarine resources and values; and
   d. Non-water dependent, non-water related uses, which do not alter, reduce or degrade the estuarine resources and values.

C. Permitted Use Tables

Definitions

1. Development Uses and Activities Permitted. Uses and activities allowed in this category of review may be undertaken subject to:

   -- The general requirement that the use or activity be designed and conducted in a manner that will minimize, so far as practical, any resultant damage to the natural resource values of affected aquatic and shoreland areas and the public's use of the water;

   -- The standards set forth in the zoning ordinance; and

   -- Applicable state and federal regulations.

2. Development Uses and Activities Permitted with Review. Uses and activities allowed under this category of review may be undertaken subject to:

   -- written findings by the Zoning Administrator that the proposed use or activity is consistent with the policies of the Comprehensive Plan, appropriate zoning standards and, where required, that the use or activity is consistent with the resource cability of the area and the purposes of the management unit or zone in which it is located.

3. Conditional Development Uses and Activities. Uses and activities allowed under this category of review may be undertaken subject to:

   -- written findings, adopted after a public hearing (if required), that the proposeduse or activity is consistent with the policies of the Comprehensive Plan, appropriate zoning standards and where required, that the use or activity is consistent with the resources capability of the area and the purpose of the management unit or zone in which it is located.

84-1

Aquatic Area Permitted Development Uses and Activities

	AN	AC1	AC2	AD
Development Uses				
Aquaculture (water-dependent portions of aquaculture facilities)	R	R	R	R
Commercial and industrial uses				
Water-dependent commercial or industrial uses				R
Water-related commercial or industrial uses				C
Non-water dependent commercial or industrial uses				C
Low intensity water-dependent commercial or industrial uses			C	
Docks and individual moorages		R	R	C
Land transportation facilities (bridge crossings)		C	C	C
Log dump/sort/storage (in-water)			C	R
Low water bridge	R	P	P	P
Marinas				C
Mining/mineral extraction			C	C
Navigational aid	P	P	P	P
Navigational structures				
Breakwaters, grains, pile dikes				C
Minor navigational improvements			C	
Recreation, high intensity water-dependent			C	C
Recreation, low intensity water-dependent	P	P	P	P
Research and educational observation	P			
Resource enhancement				
Passive restoration	P	P	P	P
Active restoration	C	C	C	C
Utilities				
Communication facilities	C	R	R	R
Storm water and treated wastewater outfalls			R	R
Submerged cable, sewerline, water line or other pipeline	C	R	R	R
Development Activities				
Dikes				
Maintenance and repair of existing dikes	R	R	R	R
Emergency repair of existing dikes	P	P	P	P

84-1

	AN	AC1	AC2	AD
Dredging				
New projects				C
Maintenance of existing projects		C	C	
Minor navigational improvements		C		
As a source of fill for dike maintenance	R	R	R	R
Of existing tidegate channels and drainage ways	R	R	R	R
Dredged material disposal (in-water)				C
Fill				C
Piling/dolphin installation		R	R	R
Shoreline stabilization				
Vegetative	P	P	P	P
Riprap	R	R	R	R
Bulkhead			C	C

AN Aquatic Natural zone
AC1 Aquatic Conservation One zone
AC2 Aquatic Conservation Two zone
AD Aquatic Development zone

P Development uses and activities permitted
R Development uses and activities permitted with review
C Conditional development uses and activities

84-1

Shoreland Area Permitted Development Uses and Activities

	NS	CS	MI
Development Uses			
Agriculture, grazing and other farm uses involving no structures		P	P
Aquaculture facilities		C	C
Commercial and industrial uses			
Water-dependent commercial or industrial uses			C
Water-related commercial or industrial uses			C
Non-water dependent commercial or industrial uses			C
Docks and individual moorages		C	R
Forest product manufacturers			C
Land transportation facilities		C	
Log sorting/storage areas		C	
Marinas			C
Marine research and education facilities	C	C	
Mining and mineral extranction processing and differentiation			C
Navigational aids	P	P	P
Recreation, low intensity water-dependent	P	P	P
Recreation, high intensity water-dependent			
Resource enhancement			
Passive restoration			P
Active restoration	C	R	
Timber propagation and harvest		P	P
Utilities			
Communication facilities		R	R
Storm water and treated wastewater outfalls		C	R
Submerged cable, sewer line, water line or other pipeline access corridor and landfall	C	C	R
Development Activities			
Dikes			
New construction		R	R
Maintenance and repair of existing dikes	R	R	R
Emergency repair of existing dikes	P	P	P
Dredged material disposal		R	R
Excavation to create new water surface area		R	R
Shoreline stabilization			
Vegetative	P	P	P
Riprap	R	R	R
Bulkhead			

84-1

NS Natural Shorelands zone
CS Conservation Shorelands zone
MI Marine Industrial Shorelands zone

P Development uses and activities permitted
R Development uses and activities permitted with review
C Conditional development uses and activities

84-1