



Meeting Notice

Please note that there will not be a 6:00 p.m. Newport Planning Commission work session meeting held prior to the regular 7:00 p.m. session on **Monday, March 23, 2015.**



AGENDA & NOTICE OF PLANNING COMMISSION MEETING

The Planning Commission of the City of Newport will hold a meeting at **7:00 p.m. Monday, March 23, 2015**, at the Newport City Hall, Council Chambers, 169 SW Coast Hwy., Newport, OR 97365. A copy of the meeting agenda follows.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Peggy Hawker, City Recorder, 541-574-0613.

The City of Newport Planning Commission reserves the right to add or delete items as needed, change the order of the agenda, and discuss any other business deemed necessary at the time of the meeting.

NEWPORT PLANNING COMMISSION Monday, March 23, 2015, 7:00 p.m. AGENDA

A. Roll Call.

B. Approval of Minutes.

1. Approval of the Planning Commission work session and regular meeting minutes of March 9, 2015.

C. Citizens/Public Comment.

1. A Public Comment Roster is available immediately inside the Council Chambers. Anyone who would like to address the Planning Commission on any matter not on the agenda will be given the opportunity after signing the Roster. Each speaker should limit comments to three minutes. The normal disposition of these items will be at the next scheduled Planning Commission meeting.

D. Consent Calendar.

E. Action Items.

1. Appoint a member to the Urban Renewal Advisory Committee.

F. Public Hearings.

1. File No. 1-AX-15/1-Z-15. Consideration of a request submitted by Newport Memory Care, LLC (John Pariani of Pariani Land Surveying, LLC, authorized representative) (Newport Assisted Living, LLC, property owner) for the annexation of approximately 0.61 acres of real property; establish zoning designation of R-4 "High Density Multi-Family Residential; apply Iron Mountain Impact Overlay; and withdraw the territory from the Newport Rural Fire Protection District and the Lincoln County Library District. The property is located on NE 71st St. (eastern portion of Tax Lot 1003 of Lincoln County Assessor's Map 10-11-20). The Commission will forward a recommendation on this matter to the City Council.

G. New Business.

H. Unfinished Business.

I. Director Comments.

1. Reminder of Volunteer Appreciation Dinner on April 21st at 6:00 p.m. at the Oregon Coast Aquarium.

J. Adjournment.

Draft MINUTES
City of Newport Planning Commission
Work Session
Newport City Hall Conference Room A
March 9, 2015
6:00 p.m.

Planning Commissioners Present: Jim Patrick, Rod Croteau, Lee Hardy, Gary East, Bill Branigan, and Bob Berman.

Planning Commissioners Absent: Mike Franklin (*excused*).

PC Citizens Advisory Committee Members Present: Dustin Capri (*Suzanne Dalton, resigned*).

City Staff Present: Community Development Director (CDD) Derrick Tokos and Executive Assistant Wanda Haney.

Tokos distributed an email from Advisory Committee member Suzanne Dalton giving her resignation from the committee. He also handed out a couple of documents for the discussion regarding Urban Renewal. Chair Patrick called the Planning Commission work session to order at 6:01 p.m. and turned the meeting over to CDD Tokos.

A. New Business.

1. Habitat for Humanity proposal to build low-income, affordable housing on City-owned land. Tokos noted that included in the packet was a letter from Sally Bovett, Executive Director for Habitat for Humanity of Lincoln County, in which she provided information about their organizational history. What they would like to do is enter into an arrangement with Newport where the City would provide the lots shown on the map that was attached and make them available to Habitat for construction of affordable housing. Habitat would also like to dip into the City's revolving loan fund to help finance the construction of those homes and would like a 5-year repayment period. Tokos had hoped that Bovett would be in attendance. He thought that she may have gotten mixed up on the time and will be at the regular meeting. He said this is an opportunity for the Planning Commission to provide questions that he can take back to Bovett.

Berman asked if this was unsolicited. Tokos noted that when Dick Beemer was on the City Council, he made a point that Habitat would be a partner outside the Land Trust to get units going. Beemer had talked to Bovett. Until recently, Bovett was also a member of the Land Trust Board. Habitat hasn't had an opportunity to build in Newport for years because the land prices are just too high; and this would be an excellent opportunity for them to actually do that.

Capri asked if there's an option to give them one instead of three. Tokos said it also could be set up so they don't get access to another one until one is done; they could be given sequentially. Capri was concerned that the City may have a need at some time for some of these lots with all the development happening around City Hall. Tokos said it's unlikely that the City will do anything with them. With 10th Street we would have to make sure that any development is set back a little bit because of the couplets. He doesn't see us doing anything with those lots. It's not supportable for parking for employees with 10th Street the way it is; it's too dangerous.

Berman asked if the City could give them the property but not the loan. He wondered if they would still consider proceeding. Tokos said Habitat may very well consider it without the loan. The loan doesn't do them any good without the property.

Croteau asked Tokos what the upside and the downside were. Tokos said the upside is that Habitat for Humanity is a known commodity. They have name recognition. They have a lot of support in the construction; they will get volunteers to do the build. For the City, the upside is we would have affordable housing. The downside is that there's no guarantee the property would stay affordable in perpetuity. At the time of build, it would go to a needy family. After fifteen years, they could turn around and sell it close to market. Patrick noted that according to the letter, the owner gets 10% equity after the sixth year; and then on the sixteenth year they receive 100% equity. Tokos said the downside right now is the way the City has its rules. It's set up right now that if the City donates the property for free, it has to be used for that purpose for twenty years; and their timeframe is too short. Hardy asked if they can modify their timeframe. Tokos said the City could probably modify it too. That's a policy question. When you give away land with the expectation that affordable housing will be provided, there's an expectation that it will last for a while; we'd certainly want more than two to five years.

Hardy wondered how they qualify an individual that might apply. She asked if Tokos had any sense of what their criteria are. It was noted that the letter states qualifying homeowners are within 30-60% of the average median income. Hardy wondered what the other qualifying factors are; credit worthiness, ongoing employment potential, and self-improvement isn't a bad thing. That's why she wonders why it's a bad thing for them to gain from the sale down the road; as long as it's within a reasonable

timeframe. Branigan said that Habitat does loan qualification. Hardy said but she would like to know how they make that decision.

Berman said there are several references in the letter to duplexes. He wondered if that implies that they intend to build duplexes. Tokos said they may. Berman asked how that would work in ownership. Patrick said they sell two units the same as you would townhouses or mini-condominiums. Tokos noted that Habitat is really not interested in the third piece further down Hatfield because there is so much slope with that one. They are more interested in the two lots up on 10th Street. The piece closer to the Rec. Center was picked up by Urban Renewal in the past for parking. The other along Hatfield was surplus when the property was acquired for the road. The market value for the four tax lots was \$181,000 in the County records two years ago. The County doesn't update their records very well because it's under City ownership, and we're not getting any tax revenue off them; so it's low priority for the Assessor's attention.

Berman asked if there is anyone capable of doing a projection of what the tax revenue might be over this 16-year period. Tokos said we could ask Habitat to do that as part of their proposal. He believes that as soon as we donate it to Habitat, they start paying taxes on it. He doesn't think they have an agreement right now with the Assessor for that holding period when they're holding it vacant while they get the unit ready. He said the Commission could ask Bovett about that. Patrick said that would be interesting. He thought that first lot is probably worth at least \$40 thousand. Capri said it's a strange concept to grasp to think that the City would essentially give \$180 thousand worth of land to an individual; that's what it becomes really. Patrick said we'd be giving it to four individuals if they built two sets of duplexes; but one of these properties might not even be buildable. Tokos thinks we have three lots. There are two on the north side; and there's a third full lot before you get into the sloped part. Croteau said it may be \$100 thousand worth of property, but that doesn't do anything unless someone's paying taxes on it.

Patrick said he also would say to give them one of those more buildable lots; and do it conditionally. Also, they have something in here about the right-of-way; and he's not sure that right-of-way is being used at all. Tokos said there is a public road there. There's an 80-foot right-of-way; but the roadway is much narrower than that. It serves homes back there.

Croteau asked what the Commission is expected to do here. Make a recommendation on this? Tokos said it would become a more formal proposal to the Commission to make a recommendation to the City Council. This is an opportunity to look for additional information in that proposal before you act on it. Croteau thought we need to get Bovett in here to answer some of these questions. He is kind of favorably disposed to the idea, but there have been some issues raised about qualification. Hardy said qualification in terms of how do you predict an individual's capacity to produce income. They do that in property management to a certain extent. She would be curious to see what Habitat's parameters are. Patrick said also what their track record is. He only knows of one owner. She was a renter, but now owns a house and runs a business. So, there's a path there.

Berman said if they do get into a foreclosure situation that sounds like an expensive operation. Tokos believes that they do carry it so it would end up going back to Habitat. Again that's something that Bovett could speak to. Even though she's not here, we're capturing everything that's being said and putting it down to make sure she gets that information and then she's in a position where she can come with an answer. Then we could start to work this closer to a point where a formal recommendation could be made.

Berman thought it was fair to say that there's enough agreement that this might be a good idea to go to the next step. Hardy said at least try it once. Patrick said he also would like to hear what they've done elsewhere. Have they gotten donated land before? Tokos said yes, Lincoln City donated to Habitat. He thinks it was four lots. Capri asked if they developed all of them. Tokos didn't know. He knew they had developed some. Capri asked if there can be something that says they have to develop. Patrick agreed that if we were going to do this, he thought there should be a rider saying that if we give it to them they have to develop them in a certain number of years. Tokos said that could be part of an agreement.

Berman asked how big the fund is that this \$100 thousand comes out of. Tokos said it probably has about \$160 thousand right now. Croteau said let's ask what their loan history is then. Tokos said that's fair. He thinks the Commission may want to probe a little more in the way of terms. What are the terms they're looking for? This is pretty light. They could probably map that out in greater detail for you.

East said this goes beyond affordable, workforce housing. This is really low-income and people who are in substandard housing. Tokos noted that he would say that we're on solid footing though that this would provide an opportunity for folks who work in this community to own a home. We have a lot of folks, especially those in the service industry, who would fall in this income range.

Patrick didn't really get how the \$100 thousand works. Hardy asked what they would use the money for; materials? She said because they say they have volunteers; what does that mean? East said he and Patrick did two in Toledo about ten years ago. Habitat has groups of people working. They organize people in the community to come in and do pretty much all of the labor.

They will have work parties come in at certain stages of construction. They will even bring in Habitat affiliates from other cities. Their client or whoever they're building for has to spend a certain amount of time as well; every build point they have to spend so much time. Hardy asked what about the \$100 thousand; what do they use that for? East said it's for materials, permits, things that are not donated. Not everything can be donated. Tokos said the City can't waive permit costs. You can pay them with other sources though. Building permitting is fee-supported by State Statute. Berman said, but as far as the SDCs there's an action item somewhere to take a look to see whether we can use that as a little grease on workforce housing. Tokos said, it's not eliminating them; you can defer them or pay them out of other resources. You may be able to trim them down a little bit. Patrick said that he just didn't like that whole \$100 thousand revolving fund being flushed out. He's more amenable to donating the land. He noted that we already have the Land Trust and asked how this differs from the Trust. And what do we get for \$100 thousand? Berman said we committed ourselves for \$90 thousand to the Land Trust; or is that out of a different pot? Tokos said that's general fund money, and there's no commitment to the Land Trust whatsoever for those lots at this point. Berman said this was also potential land for the Trust because these were mentioned during the discussion. Tokos said there's no proposal on the table from the Land Trust; and he doesn't know if one will be made by the Trust. Branigan asked if the City would be better served to try to sell the property. Tokos said that will certainly be raised at the Council level. But the flip side is we can sell a lot and there's no guarantee that whoever buys it is going to build on it anytime soon. We won't get a lot of tax revenue off of it vacant. Even if they build on it, you'll get tax revenue; but how much more will you get out of that. And now you're selling it at market rate. You've achieved no other policy objective whatsoever. Patrick said he also wouldn't mind if they went and got a couple of realtors to give us the market value on it so we actually know what the real market value is. Croteau agreed that's worth knowing.

Berman said it seemed to him to achieve the objective, that duplexes would be much better than single-family. He wondered if that's the kind of thing the City can throw into an agreement; maximize the number of units that are built. The biggest bang for our buck kind of thing. Hardy asked who gets to develop all of the joint maintenance agreements, and how do you operate the property. Croteau said that Habitat has to have a handle on that. Hardy said if you have party walls, you have joint maintenance issues.

Patrick said he likes the Land Trust, but this is a known thing. Tokos said Habitat has name recognition out there. He said it's a fair argument to say this is a lot of value for not a lot of people; but on the flip side, we have obligations on the books to do something to ensure that we have housing available to the full range of folks who live in our community. We're not doing anything materially for those who are working in this community and are living with limited means. We can start to get at it with varying strategies. Don't look at this as the end-all be-all; but one small step in conjunction with other steps that are being taken. Croteau said it's a good beginning. It's likely to be successful. Hardy said we can at least see how it works. Croteau thinks we're doing the right thing.

Capri wondered if Habitat does apartment buildings. Tokos said that's a good question but thinks it's unlikely that they do. Habitat is certainly not looking at doing something that the Housing Authority of Lincoln County would be doing. Tokos noted that the lots on 10th are zoned R-2; so you're not going to get apartments in there. You are looking at duplexes and single-family homes under the existing zoning. Patrick said he's not even sure there's enough square footage there for a duplex in the first place, unless we waive some of our requirements. Capri said you could definitely get one on the upper lot. Tokos thought so too because there are two full lots there. Also that local street there is an 80-foot wide dedicated right-of-way; and there's no way on earth that the City would ever need that kind of width on that street. Capri asked, so you would vacate a portion of that? Tokos said yes we could a little bit. It probably wouldn't be the worst thing. He thinks further down we have somebody's garage halfway into it. It's just one of those situations. A lot of those are older homes back in there.

Tokos said it's possible that Bovett will show up at the regular meeting; and if she does, hopefully the Commissioners will have an opportunity to ask her a few questions specifically. Otherwise, Tokos will plan on getting these notes distilled and to Bovett and ask that she refine her plan and come back before the Planning Commission for more questions and answers.

B. Unfinished Business.

1. Discussion regarding recommendations to the City Council on the North Side Urban Renewal District. Tokos noted that included in the packet was a schedule for moving this forward. The City Council will consider a couple of resolutions on March 16th to get this thing rolling. This is an opportunity for the Commission to help frame what those resolutions say in draft form before they go in front of the City Council. This packet of information he provided includes the City's fiscal impacts. Tokos provided this same package to each of the taxing entities with their own specific scenario. He met with David Bigelow from the hospital last week; and he will be meeting with Wayne Belmont and Doug Hunt from the County later this week. They already met with each of the taxing entities once, but this set of information just gives them a better picture of the likely fiscal impacts. Once the City Council adopts the resolutions, we will go ahead and get a consulting firm. It could be ECONorthwest, or it could be somebody else; he will have to put out a request for quotes. An advisory committee will be

formed to help put the plan together. The target is to have the plan in place by October of this year so that the first increment would come off FY 2016/17. That would all be a public process in putting the plan together.

Tokos wasn't going to go through the fiscal impacts. He assumed the Commissioners had all had a chance to look at them. He wanted to just go through the handout he just passed out that showed a bulleted list. He didn't have a chance to get the resolutions drafted; but he got the contents put together. That should be enough for this discussion, and he hopes that it will provide whether or not this looks like it's going in the right direction or whether the Commission thinks there are suggestions to be made. Essentially how he is framing the resolutions is first to provide context as in any resolution. First he notes that the Urban Renewal Agency was created in 1972. The first plan implemented was in 1973, and then the South Beach Plan in 1982. The first one, the Newport Urban Renewal Plan, shut down effectively in FY 2009/10 and technically closed in 2013. Next he noted that there was an Economic Opportunity Analysis conducted in 2012, which contained a recommendation that the City evaluate the feasibility of creating an urban renewal district focused on the US 101 and 20 corridors that could address underutilization of commercial/industrial properties and infrastructure deficiencies in those areas. He also could throw in the Housing Study also picked that up, but he doesn't know if it specifically referenced Agate Beach. With the exception of the City Center, the targeted areas have not benefitted from Urban Renewal in the past. Then he goes on to note that the feasibility study was performed in 2014, and the three options evaluated were all found to be potentially viable. Outreach has been conducted with the affected taxing entities and key stakeholders. The resolution would then go on to indicate that an advisory committee is being created to assist the City in developing the plan. The committee shall consist of, and at this point he has identified twelve individuals representing the following: Lincoln County, the Hospital District, LCSD, OCC, and the Port of Newport; which are all taxing entities, and he figured should all have a seat at the table. The County and the Hospital also have projects that could potentially be put in the plan as well. The only taxing entity that's not represented is Linn/Benton/Lincoln Educational District; but they don't really care. They're a small player. They indicated that they didn't want a presentation on this; it didn't impact them that much.

Berman asked if the Fire Department isn't a taxing entity. Tokos said no. Outside the City of Newport you have the Rural Fire Protection District; but that doesn't apply here because everything being organized here would be inside the city limits. Other members would be from the Chamber of Commerce, the Yaquina Bay Economic Foundation to get some of that business interest engaged here, Central Lincoln PUD because line undergrounding is one of the focus areas and we'd want them at the table (if not them, he's still thinking a utility representative would make sense), City Center Business Association since that's the one area we have where a formal business association falls within the boundary, somebody from the Agate Beach area (a neighborhood representative or someone who resides in that area), a Planning Commission member, and a City Council member. Tokos said that's what he thought would be a meaningful makeup. That's twelve individuals; it's not too large so that it will be unwieldy but large enough that it seems representative. The staff representatives would be from Public Works and Community Development, and Finance for that matter. Berman said that strikes him as a few too many people; but he can't think of anybody to take out. Patrick said if you have twelve members, you'll be lucky to see eight. Tokos said our Economic Opportunity Analysis committee was in the range of twelve or fourteen members; and at any given meeting you had about seven or eight. Capri said it helps if you don't take anyone out too because he knows people can challenge it later and say they weren't involved. Tokos said these are all major players in our community; and so if at the end of the day they're comfortable with how the plan is structured, he thinks that's going to go a long way in making our City Council comfortable that this is the right thing to do.

Croteau asked when Tokos would plan to bring in the consulting firm. Tokos said he would be putting that request for quotes out before the end of the month to get them under contract by the end of April. He said given the dollar amount, he has to get three quotes. Capri said since ECONorthwest has already done all of the work, it would be crazy to go with someone else. Tokos said they're probably going to provide the most favorable quote. Capri said wouldn't it derail it if you suddenly switched because of all the work done. Tokos said it probably wouldn't derail it, but he agreed that there's value in continuity.

Going on through the bullet list for the resolution, Tokos said the next one is that the advisory committee is to develop the project plan consistent with Statute. He may put a little bit more about what those elements are, but that's what they would be charged with doing. The list of projects included in the feasibility study shall be used as a starting point. Emphasis should be given to projects that stimulate economic activity, have been vetted with the public, and that are likely to draw match funds. Those would be the priority areas.

Next, he noted that the Council would desire that the advisory committee use the larger option. That's the feedback that he got from the joint work session that they wanted the Agate Beach in there. The committee would be given the flexibility to make minor modifications to the boundary as long as the overall acreage isn't significantly increased. They could move it around, add a property here, take one out there; but not change it in a fundamental way. That's going to be important too so that we can move the process along and not get off onto another discussion of different alternatives.

The committee should examine the cost to administer the plan in a manner that will allow the Agency to keep the project plan on schedule and how those costs will be paid for. That will likely mean recommendations for putting some costs in there to

pay for staff, which is commonly done with urban renewal plans and is necessary if you're going to make sure your plan gets ramped up and shut down within the timeframe it's supposed to and not languish as the first one did from 1973 to 2013.

Going back a ways, Capri said when the committee is looking at the boundary lines, like at Hwy. 20 and Harney for example there is a canyon that's included but the Elks Lodge isn't; can they adjust it for that. Tokos said they could. He said he knows the school district wants to include the Prep Academy so that Eads could potentially be a project. There will be discussions like that. Little things like that are exactly what could be done.

The next point is that the Urban Renewal Agency has the authority to take less than the full increment that they otherwise would be entitled to collect in any given year. There may be a desire for policy reasons to do that. Particularly, when you look at some of these years like 2024 or 2025, you're looking at a pretty substantial hit to the City's general fund. They may not be able to absorb that. It may be do we take a partial increment in urban renewal or do we lay off a police officer, or a firefighter, or some other City staff. That's not a pleasant conversation for policymakers. Part of this is for the Agency to take a look at that; and then consider how the exercise of that authority might impact plan implementation and whether or not the plan should include some guidance for how that's to be done. How that authority is to be exercised and how it impacts the plan schedule. Patrick said if you take a partial increment, then you don't get it back, right? Tokos confirmed that; it's gone. Berman asked if you can pick and choose from which taxing authority you want a partial and from which you want a full. Tokos said no. Berman asked, you'd just say something like I only want 75% of what I would have otherwise. Tokos said that's correct; and then it's proportionately distributed to the various taxing entities. Patrick thought we need a plan for doing that. We may want to build in some room to do that; it'd be easier. Tokos said that was his thought. He said that none of the other taxing districts, outside of the Community College, have expressed a problem with this. The Community College is just razor thin on their budget so they have concerns with any impact. The biggest hit though is to the City Council. He doesn't know if they fully understand that or we've conveyed it in a manner where they can fully understand what that might be down the road. Recognizing that they have the capacity to do a partial increment, which wasn't something that was available in 1973 or 1982, might be the best way to address it. We're assuming growth is going to happen a certain way; but we don't have a perfect crystal ball for what 2024 is going to look like. It might be best just to build in that by the way the Agency has this authority, if you exercise it, these are considerations that need to be made so that everybody knows if this is done, this is what it's going to mean. Berman asked when Nebel puts together a budget for a given fiscal year, and it comes up short, he could suggest to the Council in their role as the Urban Renewal Agency that they may not want to take their full share so he can have some more money to run the city government. Capri said the budgets always tight. Tokos said even if the budget isn't tight, there's always going to be enough "asks" to make it tight.

Berman asked if there would be an opportunity for the County to make a request that the Urban Renewal Agency only take a portion because the County needs money also. Tokos said yes; that's why he put this bullet in here. He thinks there's a place for some guidance to be developed as to how that particular tool is handled so that there's some structure to it. Patrick thought if you're going to do it, you're going to have to build your list, you're going to have to prioritize it and say that the ones down at the bottom of the list are most likely to get axed off the list or we're going to drop something off the list in order to make this work. So anytime you want to take a partial increment, these are the things that get axed off the list, and they drop out. If you set it up that way, it will make it better because they will make a choice. Berman agreed they will see a correlation; the trade-off. Patrick said he was thinking that if we do build a list like that we should build in some room to do that so they do have that opportunity. You can put some stuff in there that might be a little marginal; especially on economic payback. Capri said also some projects cost more than what they anticipated; and that could kick some of the other things off. Patrick said that utilities have no economic payback at all; not in a dollar figure. You're not going to get tax money for them. Berman said on the other hand, the growth rate may come in higher in which case to still do all of the projects on the list, you maybe can get by a few years in a row taking only a partial and still have enough money to do all of your projects. Tokos said that's a fair point. That's where you start weighing do you take less in your increment or do you go ahead and take the full increment in the expectation that you can retire the district early. There's the flip side of it too; you may not have enough increment to do all of the projects anyway, which is not uncommon. You just don't get all the projects. Tokos said that he can add that the plan needs to speak to how projects are to be prioritized.

The next bullet was that in establishing a process for minor and major plan amendments, the advisory committee should identify how affected stakeholders can be effectively engaged as a part of the Agency's decision-making process. This gets the Planning Commission out of the box of how to make a recommendation on whether or not there should be a second advisory committee or the Planning Commission should be the second advisory committee. That seems like a reasonable thing to kick into this process. Let the advisory committee as part of the planning process sort that out. Patrick said that actually makes more sense than the Planning Commission because that would bring in more players. Tokos said the Statute requires that the plan has language that speaks to what is a minor amendment, what is a major amendment, and the process by which minor amendments would be accomplished. Major amendments too; but major has Statutory rules. Major amendments by Statute have to go to the Planning Commission. Patrick wondered if we had done any major amendments to the South Beach plan. Tokos said yes, number 5 that extended the district for ten years. That was the last major amendment that's been done. He thinks there's been two. At one point the maximum level of indebtedness was increased. If you extend a district, add more

than a certain amount of acreage, or increase your maximum indebtedness; it's an automatic major amendment under State law. Patrick said, and minor amendments, we get a lot of those don't we. Tokos said that's common; that's appropriate. You don't want to define your project list so tight now because you don't know what some of these opportunities are going to be. Patrick said there were lots of things in South Beach that were never on the list. All that stuff that went in for NOAA. Tokos said that's because they had some foresight at the time to just say "improvements to existing rights-of-way." That was a broad category that allows you to go back with a minor amendment and start to pin it down. The same with Coho/Brant; that also came out of the improvements to existing rights-of-way category where we then did a Coho/Brant Refinement Plan and came back in with minor amendments. Patrick said we'll have to be sure we put that same type of language in there.

The next thing to include is that the maximum indebtedness for projects is not to exceed \$42 million over the life of the plan. That would basically be covering the large option.

Finally, the objective is to complete the plan so the initial increment can be drawn in FY 2016/17. That way we're working off this fiscal year's tax roll and not have to deal with next year's. Patrick said that's the increment that gets drawn and the first projects kick in when. Tokos said probably two to three years later. Berman asked if most of those wouldn't be planning efforts; feasibility studies for various projects. Tokos said it's hard to say. He thinks it depends on how the phasing of the plan is put together. Certainly it's not going to be your biggest project. He knows that the Hospital is probably going to be going out with a bond measure in May. If that passes, maybe doing some water infrastructure work in that area becomes a priority. Patrick said also on the planning side talking about the Hospital, we probably need to nail down what we're thinking about doing with the couplet. Tokos said the Hospital is anticipating that street being that potential couplet. That's part of the conversation he had with Bigelow. While they have reservations with it, they have accounted for it more or less in their design and haven't loaded any facilities so close to 9th Street as part of their design that it would be an issue. Part of their primary concern is a very legitimate one; which is that they have facilities on both sides of that road, and how do people cross safely. Berman asked if a project could be an overhead crosswalk. Capri said there have been studies where they put those in and have actually tracked, and people still walk on the road because they don't like walking up the stairs. Tokos said it likely would be something similar to what we're doing on 101 now, which would be to do some bump-outs and narrow the distance that they have to cross, and they have pedestrian-activated signals or something of that nature so it's really clear someone is there. Patrick wondered if the study was the same for tunnels. Tokos said too, it's a matter of distance. The distance is not so great there that people will look at that and just want to cross it. Even if you add a small tunnel, people will still cross at grade. He said he could see a tunnel when you're talking about an interstate. Croteau said or you're moving patients back and forth. Patrick said, and they're not. Tokos said they're not designing their facility that way. Patrick said that's more support services on the other side; not patient care.

Tokos said that's his thought on the resolution. He asked if the Commissioners had any feedback. Does that seem reasonable in terms of how it's outlined? Everyone thought it definitely did. Tokos asked if everyone was generally in agreement with the content. The consensus was that it's fine.

2. Review amendments to the off-street parking code (NMC 14.14) to eliminate the return of the "payment-in-lieu-of" system. Berman asked if it's just one page that the Commission was reviewing. Tokos said he kept it simple. Berman had a question regarding the first paragraph under the staff comments on item C. It reads, "Uses within a special area are not required to provide the parking required in this section" and then the rest has been dropped. So he wondered if Tokos is saying any new uses don't have to provide any parking. Tokos said no, that sentence continues after the markup with "if a parking district. . ." That's meant to continue. It's not two paragraphs; it's one sentence. Capri had a question on the Bay Front special area. He wondered if this would help the property next to the coffee house that used to be a house, and it's on commercial land. He knows people have tried to go in there, but the biggest issue is they can't provide any parking; and to go buy a spot somewhere else makes it cost-prohibitive. Tokos said at the end of the day, that's what we're shooting for. Tokos explained that we have three parking districts, and those are actually economic improvement districts. The first of which is about to sunset; and that's Nye Beach, which sunsets on July 1, 2015. Right now the way the parking code's structured if that sunsets, payment-in-lieu-of providing off-street parking comes back into play; and nobody wants that. That is the primary purpose of this. The discussion that the Commission has had on this is that every business owner in these areas recognizes that there isn't enough land to provide for off-street parking on private property; and there hasn't been for a very long time. City assets are relied upon to provide that parking that otherwise would be provided by businesses like those along Hwy. 101 and 20, Fred Meyer, and Walmart; and businesses in these three areas can't provide. The problem is that there's no funding mechanism in place to pay for the maintenance of those public spaces. The cost estimate for the work to be done to resurface and redo the Nye Beach Turnaround was in sum about \$100 thousand; and there's no funding source for that. It's unreasonable to expect the business owners to pay 100% through business license surcharges. Tokos noted that economic improvement districts really weren't designed to be kept in place in perpetuity. This was actually a creative use of that. Ideally they're set up as we have "A," "B," and "C" capital projects we want to do in a business district, this is what they cost, this is the schedule for getting them done, so we're going to do a business license surcharge in "x" amount to pay for it, and then shut it down and it goes away.

Tokos said the discussion we had was what we really need to do is have a parking study. That study needs to assess the three areas that rely on City assets. It needs to look at how these parking areas are utilized in terms of turnover rates, frequency of use, and percentage of use both during peak and off-peak periods. We need to put together a capital projects list of what we expect needs to be done in these areas; either in terms of strictly maintenance or maintenance plus, say on the Bay Front, construction of a structure for parking. And then look at the various tools we can use. Do the turnover and utilization rates warrant metered parking? Tokos is quite confident that the Bay Front and Nye Beach do; the City Center probably not. Some portion of room tax could be used for these purposes. There's probably still a place for a business license surcharge so that businesses are contributing in some capacity. For example maybe the Port is making contributions so the fishermen get a lot down on the Bay Front that is an orange-tagged lot that they have the right to park in. Tokos said he will make every effort to get that study funded this fiscal year so that the parking assessment can happen for on-season and off-season.

Capri noted the boundary and asked if it was moved there to include residential. Tokos said he wasn't actually depicting what's on the books already. The black line is what he put together as the parking district. The orange line is the special area that's in the zoning code. He expanded it over on the east side a little bit to go out to Moore Drive instead of Fogarty to pick up the Port property. The end game is if we can get that kind of financing in place, and the Council creates a district with maybe just one advisory committee and not three that has the management of this revenue stream to maintain these public parking assets; then we do away with off-street parking entirely in these areas. If we didn't have off-street parking requirements, that Bay Front property that Capri had mentioned and many others could be developed more robustly. He said but we have to have parking down there too. Croteau thought there really are two issues involved; maintenance is of high demand, and you've outlined three mechanisms to help fund that. As far as meters, Croteau would like to get a better idea about enforcement costs. Tokos said that would be part of the study. Croteau said the longer-term thing is that if you're going to address parking, we're going to need structures here and there. So a fund really needs to build; even if it's small. He thinks you have to take the long view for parking; especially on the Bay Front. The amount of ground is limited; even if spots turn over fast, for many months of the year it's tough. Capri said, and there's really only the one street on the Bay Front too. Tokos said there are pretty severe slopes on side streets on the Bay Front, and there's a lot of folks that just can't maneuver those areas comfortably. Croteau said he would opt to take the longer view.

Patrick said he would like to combine all three districts. He thinks that makes more sense. Nye Beach has the maintenance issue, but probably you're not going to build any structures there. For a structure to get built over here, you may end up using Nye Beach to help fund what goes on there. Another mechanism he thought of is, when we finally nail down our LIDs, we also have an option to triple fund this thing. You can't build it out of any one of them. Berman said if you have one definition of this is the parking district, and all three areas are in that, the businesses in Nye Beach that just need to pay for paving a lot will be unhappy about kicking in high dollars to pay for major construction on the Bay Front. Tokos said we can get there by ensuring that there is appropriate representation on an advisory committee. Also, we have a few issues. For one thing, he thinks that you get greater flexibility if you don't break it down by district to do what strategically makes sense in the community. Also as far as staff resources; three committees are harder to staff than one. Also, we have a hard time getting these committees to meet in the first place. Croteau said you don't have to have a universal surcharge either. You could adjust that by area. Tokos agreed that the price could be different by area. He said the beauty of the City Center, assuming an Urban Renewal Plan goes into effect, we're looking at a corridor study coming down the pipe. That sure would be handy data to have in terms of the parking need when you're looking at monkeying around with the streets. Berman said part of that whole Urban Renewal Plan with the couplet would have to involve the design of the road beds, and he assumes that includes the parking. Tokos said the study would give you some data to help inform how much parking we need to replace and how heavily this area is being utilized. Capri said there will be public input challenge too with meters on the Bay Front. He knows that there used to be meters on the Bay Front a long time ago. There's the story that a fisherman went down and ripped off every single one of them. He thinks metered parking is necessary; but central Oregon coast people just aren't used to it. Patrick noted as he has said before, you don't park at the beach on the east coast or in California without paying. It was noted that tourists will be fine with it; it's the locals that will have a problem. Croteau said take a city like Boston or New York and find somebody who rips out a meter, that's a good enforcement measure right there; it's some income for the City.

Tokos said if the language looks okay, he will get this going with DLCD so we can get this in place before July 1st and the Nye Beach district expires. Everyone was fine with that.

C. **Adjournment.** Having no further discussion, the work session meeting adjourned at 7:01 p.m.

Respectfully submitted,

Wanda Haney
Executive Assistant

Draft MINUTES
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
Monday, March 9, 2015

Commissioners Present: Jim Patrick, Rod Croteau, Bob Berman, Lee Hardy, Bill Branigan, and Gary East.

Commissioners Absent: Mike Franklin (*excused*).

City Staff Present: Community Development Director (CDD) Derrick Tokos and Executive Assistant Wanda Haney.

A. Roll Call: Patrick called the meeting to order in the City Hall Council Chambers at 7:04 p.m. On roll call, Hardy, Berman, Croteau, Patrick, East, and Branigan were present. Franklin was absent, but excused.

B. Approval of Minutes.

1. Approval of the Planning Commission regular session meeting minutes of February 23, 2015.

MOTION was made by Commissioner Croteau, seconded by Commissioner Hardy, to approve the Planning Commission meeting minutes of February 23, 2015, as presented. The motion carried unanimously in a voice vote.

C. Citizen/Public Comment. No public comment.

D. Consent Calendar. Nothing on the Consent Calendar.

E. Action Items. No items requiring action.

F. Public Hearings.

1. **Continued deliberation and decision on File No. 1-NB-15/1-CUP-15.** A request submitted by John Lee (Nye Hotel, LLC, property owner) for design review and a Conditional Use Permit for an addition to the Inn at Nye Beach located at 729 NW Coast Street. The Planning Commission held a public hearing on this matter on February 23, 2015, closed the hearing, and began deliberation. The Commission directed Staff to provide findings and final order for approval for their review along with additional information they requested from the applicant.

Opening the public hearing portion of the meeting at 7:05 p.m. to continue Commission deliberation on File No. 1-NB-15/1-CUP-15, Patrick read the summary of the file from the agenda. He called for the staff report. Tokos noted that before the Commissioners was a set of findings and final order for approval. He noted that the applicant provided a solar analysis the Commission requested and also talked to landscaping companies in our area and made changes to landscaping as discussed in the material he prepared for the Commission.

Patrick wondered if there were any comments on the solar shade study. Croteau noted that at equinox it only increases the shading less than 20 feet. It's really less than he thought it would do. So it's less of a big deal than he thinks the residents were thinking. In the winter months, shading's not really a big deal because we're shaded many days a month. He thought the impact was minor. Patrick assumed that their lighting plan complies. He said it looks like they changed a set of fixtures. Croteau said that he looked at the lighting plan in some detail, and he doesn't see a problem with it at all. He said that they're being careful with what they do. He said it's the same with the landscaping. They did make some adjustments. It's going to be a work in progress. What works and what's easy to maintain, he thinks they'll gain by experience growing on that bluff. Croteau said he was good with it. Hardy said it looked good to her as well.

MOTION was made by Commissioner Berman, seconded by Commissioner Croteau, to approve the requests in File 1-NB-15/1-CUP-15. The motion carried unanimously in a voice vote.

MOTION was made by Commissioner Hardy, seconded by Commissioner Croteau, to approve the Final Order for File No. 1-NB-15/1-CUP-15 as presented. The motion carried unanimously in a voice vote.

G. New Business.

1. Tokos noted that at the work session, the Commissioners had an opportunity to talk a little bit about the Habitat for Humanity proposal. He noted that Sally Bovett was now present. He said that we will be passing along comments provided at work session so she can look at those and revise the proposal accordingly, and we can bring it back at work session at a future date.

Sally Bovett, Executive Director for Habitat for Humanity Lincoln County, came forward saying she would be happy to answer any questions the Commissioners had. She apologized for not attending the 6:00 p.m. work session, but she had shown up and the Council Chambers were empty. She didn't know the Commission was meeting for work session in the conference room. So, she had left and returned for the 7:00 p.m. meeting.

Branigan asked how Habitat goes about qualifying an individual. Bovett said they have an entire family selection committee group that does the qualifying. There are qualifications a family has to meet. The first one is family income; and for Habitat that's between 30% and 60% of Average Median Family income, which is about \$24-\$36 thousand for Lincoln County. Because they have to pay the loan back, that's one criterion. The second is that they have to have a need for affordable housing. They can't be living in a great place. They have to either be paying too much for rent or living in an unsafe place. So, justifiable need for housing is one of their criteria. The third one is that they have to have been a Lincoln County resident for a minimum of one year. They also have to be willing and able to put in their required 500 hours of sweat equity in their home. There's lots of different ways they can do that. If they're handicapped or disabled, they can work in Habitat's office or for other nonprofits to get their hours in if they can't actually do the construction piece. But Habitat always requires families to put in 500 hours. The reasoning for that is probably because they are dealing with a lot of volunteers on the jobs, and it's hard to ask volunteers to give up their time to come and work on a home when you're not asking the family to do the same. Habitat also does a credit history check and a criminal history check.

Branigan asked if the source of income is everything; or is that source a job. Do you count Social Security and disability payments? Bovett said they do count Social Security and disability as a final determination. They don't count certain things such as child support depending on the age of the child because if the child is 16 years old, in two years child support will no longer be income. So they don't count child support, but do count Social Security, disability, and any kind of working income; and it's the family income to qualify. It could be two different people working at two different jobs that add up to that amount. Branigan asked if length of employment is something they require; do they have to be on the job a minimum of twelve months or something like that? Bovett said that's not a requirement that they have. What Habitat does more is look at their credit history and check to see how they're doing. She said it used to be that they took nobody that had bad credit. Now what they look for are people that either are doing better with their credit or have good credit. They don't want to put somebody in a home that literally won't be able to pay them back. Habitat homes on a national scale have less than 2% default rate; and they don't want to mess with that because that's way better than any conventional finance loan record. Branigan asked what the debt to income ratio is. Bovett said 30% or less. They can adjust that by finding out the cost of the build and then either make the loan longer or shorter depending on their income. But on average it's 30%; and it's a 30-year 0% loan.

Berman asked how Habitat values the land when they're coming up with a sales price. Bovett said they value the land on an average basis because sometimes they get a piece of land donated and other times they won't; so to keep it fair for all homeowners, they usually give land a \$25 thousand value. That's about what Habitat is able to pay if they were to purchase land. For every home that they build, regardless of whether it was donated or not, they still include that in the amount that they charge the family. The reason they do that is it wouldn't be fair to have one homeowner not pay for the land just because it was donated and the next does because it was purchased. Berman asked, that's always just a straight \$25 thousand. Bovett said that's all Habitat is willing to pay for land; if they pay any more than that, it's not affordable. Berman said if the City were to donate a lot that's worth \$40 thousand, how would Habitat value that? Bovett said they would value it at \$25 thousand for purposes of the homeowner's loan. Branigan said should Habitat build a duplex on that property, would you divide everything in half? Bovett said it

would be \$25 thousand per person. Berman said so the land is worth twice as much if Habitat builds a duplex. Bovett confirmed that. Patrick asked if Habitat does duplexes. Bovett said they did one in South Beach; which is their only build in Newport. They did build two homes side by side in Waldport that are considered townhomes because they're not connected. She noted that a lot of Habitat for Humanity affiliates build duplexes all over the nation. When they find land, they try to build as many units as they can.

Croteau asked how Habitat handles joint tenancy agreements in that case. Bovett said that Habitat's been around for about 35-40 years, so if they haven't done something before, she can get information from all of the other affiliates and see how they've done it and then she can apply it to our area. She's also a Habitat for Oregon board member so she can get information from them as well. It's really nice, because if you come up with something you haven't done before, probably 400 other affiliates across the country are doing it, and you don't have to recreate the wheel. You get information and look at what's been working well and what hasn't. Then you just adopt that.

Branigan said since Habitat has the loan, is the lienholder, you manage the property for the life of the loan. So if we have a duplex, and somebody wants to paint their duplex purple, and somebody else wants to leave it painted beige; Habitat oversees that? Bovett said generally they don't. Through the process of building the home, it's Habitat's home. Once they go through closing, they're like a regular bank. Habitat is the lienholder; the one the payment is paid to. But technically the homeowner can do what they want with paint on their home. They do put something in their contract that the homeowner is required to keep their yard and house up. The one thing Habitat doesn't want is a trashy-looking house because nobody's going to want that in their neighborhood. That's one of the reasons Habitat can actually take the home back; if they don't keep their house up and keep it nice. Hardy asked if foreclosure is how Habitat would enforce that. Bovett said it's actually listed in the homeowner's closing papers. It's a required thing. If they don't keep those requirements, and that could be paying on time, keeping their taxes up, paying their homeowners insurance, there are certain things they have to do to be in compliance with the agreement; and that would be one of them. So, yes, they would end up telling them that they've not held up their end of the agreement, and they would start foreclosure procedure and evict them. Hardy said if Habitat has a duplex situation and has a problem with joint maintenance cooperation, does Habitat act as mediator or just leave it up to the two owners to fight it out. Bovett said they give them the opportunity to work it out; but if that doesn't work, Habitat would go in as mediator. She said they haven't had that as an issue here. Other affiliates have in the past; so it can be an issue. Since Habitat is the bank and have their closing papers, they can put things in there. They're a homeownership program, so there are certain things homeowners have to do to be part of the program. Habitat has the ability to have a little bit more meat in their contract than others do.

Berman said there's sort of the consensus that if the City participates in a program like this, we would like to get the most "bang for our buck" in terms of the number of units; that's why all the questions about duplexes. That certainly seems a logical way to approach this; to get two for one. Bovett said one of the reasons she's so thrilled about these parcels is that they are zoned for that. Habitat would like to build as many units as they can. So, if there's the ability to put six units on those three parcels because each could have a duplex, that's certainly what they would do. Habitat is the funder for these as well, and right now they're in a position where they would be able to build the first set of duplexes this next fiscal year; and the other two sets of duplexes would be contingent on them getting additional funding. So it's a process; it would take several years to build all of the houses.

Berman asked how critical the \$100 thousand loan is for signing an agreement with the City. Bovett said it's fairly critical. She said that Habitat has the money in place to build one duplex (two units) right now. Each one of their homes is funded independent of each other. She has to go out and write grants for every one of the homes they fund. They don't start building until they have over 50% of the money needed to build. For Habitat to be able to access a fund through the City like other cities have had where they have the revolving loan fund would be wonderful. It would give them the capital up front that they can use to build the next set of duplexes and would keep them that much further ahead than having to wait and write grants. They would still do that for the next year. Having that opportunity to borrow that \$100 thousand at 0% interest would be amazing for them. She said she knows other cities do that. The City of Lincoln City has a revolving low-income housing fund; and other Habitat affiliates across the country do this with their cities also. For the cities, she thinks it's an investment in affordable housing with Habitat being the builder; and for Habitat it's an investment of capital that allows them to build quicker.

Croteau said that he understood that the Habitat homeowners achieve 100% equity in sixteen years. He asked if that's a flexible timeframe. The City may want to do something different than that. Bovett said that she realizes

that. She said they're an affiliate of Habitat for Humanity International; but all of the affiliates are independent. They do have the ability to change some of the things. They can change the length of their loans. There are a lot of things they have control over. If that was something the City was interested in, that's something they could talk about and see what they could do. Berman said this provision of 100% equity and the ability to market that on the open market was in contrast to the Land Trust that Bovett's familiar with. He asked if she has seen in the Habitat world any mechanism to ensure that it remains affordable. Bovett said that part of the Habitat program is to provide a vehicle for people who otherwise would not be able to attain homeownership. Part of that is to acquire personal wealth through their becoming a homeowner. So, they want them to do well. They want them to move forward economically. She said the sixteen years were put in there so that there's no house that can be flipped. They don't want to spend all the time and money building low-income housing and have all the volunteers come out and then have somebody turn around and flip the house. Regularly their homes are built for around \$50 thousand including the land and most generally will appraise for \$50 thousand more depending on the area. The market value would be \$150 thousand. So there's a big difference there. Habitat wants them to eventually get that difference. Homeownership is the best way to improve families economically. They want the family to have enough time in the home where they're not able to flip the house; it takes them a while to gain that much of an increase. Berman said so there really is no mechanism to say once they decide to sell it that it's going to remain affordable. Bovett said that Habitat has the right of first refusal on all of their homes. They can ask them to sell it back to Habitat. Berman said he assumed at market value at that point; and Bovett confirmed it was. She said that the Habitat program has been around for a long time. Whoever set up the model did a good job thinking things through as to how it works. They put some good guidelines in there. This is Habitat's 20th anniversary this year. They've never had any of their houses being sold yet. People are still in them. She thinks people selling and moving on is probably the minority because the reason is they have a 0% loan and a very reasonable payment. Unless something really great happens to them, it wouldn't be smart for them to move out of the home. That's part of the reason they stay there. They pay their mortgages on time, and they gain a little wealth along the way.

Hardy asked if there is any restriction on future income potential; if you sell them a home, and their situation changes dramatically in a year or two. Bovett said no, there is not. They take a snapshot at the time the person applies and then check their credit again right before the house closes. So if they lose their job, they can't get into the house. They have to have income at the time of closing. If they win the lottery the day after they close; they're just very lucky. Bovett said they have had some homeowners who have been blessed financially after buying the home and have actually donated their homes back to Habitat; which she thinks is amazing. Habitat is kind of a pay-it-forward plan. She said it's nice to see that some people think they need to continue to do that.

Bovett said that Habitat wants so badly to build in Newport. There's such a huge need for affordable housing. Habitat does a great job building on time and on budget. Habitat would love to partner with Newport.

Tokos said he will get the minutes put together and back to Bovett to give her a chance to make amendments to the proposal. Then they'll talk about getting it back to the Planning Commission at a future work session.

H. Unfinished Business.

1. Tokos noted that on the LIDs, the scope of work is wrapped up. He presented it to the City Council at their last meeting. The IGA with the State will be presented at the first meeting in April. It will be a pretty robust process. Most of the cost, which is now just under \$100 thousand, is coming from the State. The match is less than \$15 thousand. It will be a fairly in-depth look to give us good clear policies upon which to make decisions on when LIDs are appropriate. A good cookbook-type analysis of the different financing strategies and how those work for a smaller jurisdiction so that we can right-size it for Newport and make sure that we don't overextend ourselves or put us in a position where the City is holding the bag on a bunch of projects because people don't pay us back; and that it doesn't get so complex that our finance staff is overwhelmed. It will include some case studies of a couple of different areas that are priorities in our community and some informational materials we can use as part of outreach anytime we have an LID project. That is in addition to some model code changes we would adopt into our ordinances to make it all happen. Tokos can share the scope of work with the Planning Commission maybe at the next meeting. But that project is moving along.

2. Tokos said the other thing he wanted to share with the Commission had to do with the Seal Rock withdrawal stuff. The Department of Revenue has advised the City that they want to see some changes that will

require the ordinance to be readopted. Tokos will be taking it to City Council on March 16th so that they can do that. It will be an emergency adoption. It didn't change any of the properties or anything; it just has to do with how the legal description was prepared. It's a technical change, but one that requires the ordinance to be revised. There will be an amendment to the IGA with Seal Rock as well as part of that technical fix. But that's moving forward. The County Assessor's office has been working on what they need to do to address that double taxation issue.

I. Director Comments.

1. Tokos noted that on Wednesday at 6:00 p.m. we have the final open house on the Agate Beach Wayside project. We'll have more or less final design drawings for people to take a look at. We'll have how their comments were addressed as well. That project is on target for being bid in July; and the work could potentially happen in the fall.

J. Additional Comments.

1. Croteau noted that at the work session one of Tokos' bullet points had been how to actively engage citizenry; the stakeholders. He said that he had the opportunity last week to drive with some Newport citizens to Waldport and back. On the way back, they raised the issue of what's happening in South Beach, and who is paying for it. He explained about ODOT and grants and matching. By the time they got to the bridge, they began complaining about the bridge, and what's the City doing about the bridge. Croteau explained that it's the State, and it's going to take federal money. By the time they got over the bridge, the conversation became why are they doing the pedestrian crosswalks, and who's paying for it. In the distance of a couple of miles, he didn't have enough time to do all of the explaining.

Croteau said that he knows we do outreach, and we do hearings. Occasionally there are articles in the newspaper, which are mostly accurate. He asked if there's a mechanism, or if it would be of any value, to creating press releases or bullet points dealing with these projects either on the website or occasionally a reminder to the newspaper to inform the citizenry what's going on. He thinks there are lots of citizens out there who are uninformed. Even if it's because they're just not paying attention, that's still not an excuse for us not to put something in their face at least to make things more appealing. Tokos said we try to be strategic with our public outreach and get it to those people who will be the most interested in the topic at that point in time. Our Public Works Department is trying an application called Mind Mixer, and there's a link through the City's main website. It's an attempt to do what Croteau is talking about; put projects that are at least actively being worked on up there for the public to take a look at. Tokos said he runs into people too that don't even think to look at the City's website for that information. We do press releases, and people don't look at that stuff. The most effective outreach is to actually pull people in through direct mailings or phone or door-to-door. That's extremely labor-intensive, and we don't have the staff for it generally. He told Croteau that it's a fair point. He thinks we're always open to ideas for how to do public outreach in a cost-effective manner and that gets to people in a meaningful way. We'll probably have to put some more thought to it. He said that technology is the way to go. If it's not through the City's website, maybe it's through partnership with the Chamber. Getting it in more places where people can see it. He thinks we have a learning curve there that we need to do a little more work on.

Croteau said that he doesn't have a good idea for how to do it. But, certainly for projects that affect people directly, he thinks there's participation; people will know. But those that don't know take the general attitude that whatever the City's doing there's no reason for and it's costly. When they don't know, it casts a negative across all of the useful things that the City is trying to do. They have no clue about funding mechanisms. Hardy said except that they're concerned about escalating utility bills, and why they're being picked on, and then want to play ostrich. Croteau said if we had some effective mechanism for letting them know there's a safety issue here, or that the bridge actually belongs to ODOT, or that 101 is a State highway; it's that level of things. These are the same people who vote and can create negative concerns on very worthwhile projects for lack of information.

Berman said the City Council on a fairly regular basis has town hall meetings. He asked if the Planning Commission has ever done that specifically oriented toward projects that the Planning Commission has a significant role in. Tokos said not to his knowledge. He said that on stuff that we are doing we almost invariably have outreach meetings of some sort. Berman said he didn't mean go around town like the Council does. He meant just a notice like residents received for the Agate Beach stuff saying that the Planning Commission is available to give an

overview of what's going on this year and answer questions. He said that seems that's another mechanism for people who might be interested. Tokos said that any meeting we do needs to be structured so people have a clear understanding of what's going to be presented, what they're opportunity for input is going to be, how that information's going to be used, and whether they'll get feedback. One of the biggest issues he's ran into sometimes with meetings is not getting them framed appropriately, and people get disappointed they didn't get the information they thought they would.

Croteau said he was thinking more in terms of a fact sheet with bullet points explaining the project; the whys and wherefores. Tokos said we've looked at utility billing and trying to get flyers out in that. But on the flip side, how many people look at flyers in their utility bills.

Tokos said he knows that the City Council has identified as one of their goals to see if they can't get a visioning process going with the community. He doesn't know where that's going to go or how it's going to be resourced at this point; but it was put on the table as part of their goal setting. That might get at some of the general education stuff you're talking about.

K. Adjournment. Having no further business to discuss, the meeting adjourned at 7:36 p.m.

Respectfully submitted,

Wanda Haney
Executive Assistant

PLANNING STAFF REPORT
Case File No. 1-AX-15 / 1-Z-15

- A. **APPLICANT:** Newport Memory Care, LLC (John Pariani of Pariani Land Surveying, LLC, authorized representative) (Newport Assisted Living, LLC and City of Newport, property owners).
- B. **REQUEST:** Consideration of requests to: **(1) annex approximately 36,127 sq. ft. of real property** (consisting of property currently identified as the eastern portion of Tax Lot 1003 of Assessor’s Tax Map 10-11-20 and the northwest corner of Tax Lot 1002 of Assessor’s Tax Map 10-11-20) into the Newport city limits; **(2) amend the City of Newport Zoning Map to establish an R-4/“High Density Multi-Family Residential” zoning designation for the subject property** consistent with the existing Newport Comprehensive Plan designation of High Density Residential (which allows for either R-3/“Medium Density Multi-Family Residential,” or R-4/ “High Density Multi-Family Residential”); **(3) apply the Iron Mountain Impact Area Zoning Overlay** due to the territory’s proximity to the quarry site; and **(4) withdraw said territory from the Newport Rural Fire Protection District and the Lincoln County Library District.**
- C. **LOCATION:** NE 71st Street (Lincoln County Assessor’s Map 10-11-20, portion of Tax Lot 1003 (Instrument No. 2014-01030) and Lincoln County Assessor’s Map 10-11-20, portion of Tax Lot 1002 (Instrument No. 2014-01029)).
- D. **PROPERTY SIZE:** Approximately 36,127 sq. ft.
- E. **STAFF REPORT:**
1. **REPORT OF FACTS:**
- a. **Plan Designation:** The subject territory is within the Newport Urban Growth Boundary, is designated as “High Density Residential” on the Newport Comprehensive Plan Map, and is inside the Iron Mountain Impact Area.
- b. **Zone Designation:** City of Newport zoning is established at time of annexation. Either the R-3/“Medium Density Multi-Family Residential,” or R-4/ “High Density Multi-Family Residential” designations are consistent with Comprehensive Plan designation of High Density Residential. The applicant is requesting the R-4 zone designation. The Iron Mountain Impact Area zoning overlay must be applied to the property as well.
- c. **Surrounding Land Uses:** Surrounding land uses in the immediate vicinity include the Oceanview Senior Living facility to the west, Salmon Run Apartments to the southwest, the Iron Mountain Quarry and forest uses to the north and east, and a City of Newport parcel to the southeast. The city

property is an old quarry site that has been remediated and is being developed with a domestic water supply tank.

- d. **Topography and Vegetation:** The property is moderately sloped and vegetated.
- e. **Existing Residences/Buildings:** None.
- f. **Utilities:** Water and sewer service is available. NE 71st Street will need to be extended concurrent with development of the property.
- g. **Development Constraints:** None known.
- h. **Past Land Use Actions:**

File No. 5-PLA-13 - Property subject to this annexation was conveyed to Newport Assisted Living, LLC as part of a land exchange that allowed the City to obtain right-of-way for NE 71st Street.

File No. 1-UGB-14 - Expanded the Urban Growth Boundary to include the property Newport Assisted Living obtained and 50-feet along the property frontage to allow NE 71st Street to be extended.

- i. **Notification:** Required notice to the Department of Land Conservation and Development was mailed on February 17, 2015.

For the Planning Commission public hearing, notification in accordance with the NMC Section 14.52.060(C) requirements included mailing notice to surrounding property owners, City departments and other public agencies and utilities, and other individuals on February 23, 2015. A corrected notice was mailed on March 4, 2015. The notice of public hearing in the Newport News-Times was published on March 13, 2015.

- j. **Attachments:**

Attachment "A" – Applicant Request
Attachment "B" – Notice of Public Hearing and Map
Attachment "C" – Aerial Photo of Area to be Annexed
Attachment "D" – Newport Zoning Map
Attachment "D-1" – Uses allowed in the R-3 and R-4 zones
Attachment "D-2" – Intent of Zoning Districts
Attachment "E" – Legal Description of the Area to be Annexed
Attachment "F" – Copy of ORS 222.170 through 222.183
Attachment "F-1" – Copy of ORS 222.460 through 222.465

- 2. **Explanation of the Request:** Pursuant to NMC Section 14.52.030(A) (Approving Authorities), all actions that have the City Council as the approving authority (with the exception of withdrawals) shall first be referred to the Planning Commission for review and recommendation.

The petitioners are requesting the City Council to include certain territory into the city limits of Newport and to change the zoning designation of the subject property. The applicant is seeking annexation in order to develop an assisted living facility. Consequently, a public hearing by the Planning Commission is required to make recommendations to the City Council regarding the request.

As part of the annexation and as provided for in Oregon Revised Statutes (ORS) 222.524, the subject property would be withdrawn from the Newport Rural Fire Protection District and the Lincoln County Library District as the City of Newport provides these services.

3. Evaluation of the Request:

a.) **Comments:** Notices of the proposed annexation and Zoning Map amendments were mailed on March 4, 2015, to affected property owners and various City departments, public/private utilities and agencies within Lincoln County, and other individuals. As of March 18, 2015 no comments have been received.

b.) **Applicable Criteria:**

(1) **Annexation/Withdrawal:**

Newport Municipal Code (NMC) Section 14.37.040: The required consents have been filed with the City; the territory to be annexed is within the acknowledged urban growth boundary (UGB); and the territory to be annexed is contiguous to the existing city limits.

Note: There are not specific criteria for withdrawals from a district. Withdrawals are done in conjunction with the annexation when the City becomes the service provider for the property.

(2) **Zone Map Amendment:**

Zone Map Amendments (as per NMC Section 14.36.010): Findings that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare.

c.) **Staff Analysis:**

(1) Annexation: Newport Municipal Code (NMC) Section 14.37.040: The required consents have been filed with the city; the territory to be annexed is within the acknowledged urban growth boundary (UGB); and the territory to be annexed is contiguous to the existing city limits.

A. The required consents have been filed:

Pursuant to Oregon Revised Statutes (ORS) 222.170(2), the City need not hold an election on the annexation of contiguous territory if it receives the consent of more than 50 percent of the owners of land in the territory, and such owners own more than 50 percent of the land area within the territory. ORS 222.170(4) further notes that publicly owned real property, such as the 50-foot strip of land that will allow for the extension of NE 71st Street, that is exempt from ad valorem taxes, shall not be factored into the calculus outlined above.

The applicant Newport Memory Care, LLC and property owner Newport Assisted Living, LLC are managed by Andrew Plant. By signing the application form on behalf of both entities, Mr. Plant has provided the requisite consent that the territory be annexed. See Planning Staff Report Attachment "A" (Applicant Request).

B. territory to be annexed is within the acknowledged urban growth boundary (UGB);

The property was added to the Urban Growth Boundary with City of Newport Ordinance No. 2065 and Lincoln County Ordinance No. 478.

C. territory to be annexed is contiguous to the existing city limits.

The west side of the subject territory, adjacent to the Oceanview Assisted Living facility, is contiguous to the existing city limits. See Planning Staff Report Attachment "C" (Aerial Photo of Area to be Annexed).

(2) Zone Map Amendment: Zone Map Amendments (as per NMC Section 14.36.010): Findings that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare.

The Comprehensive Plan designation of High Density Residential is implemented by either the R-3/"Medium Density Multi-Family Residential," or R-4/"High Density Multi-Family Residential" zoning designations. The applicant intends to construct an assisted living facility, which is a permitted use in both districts. Property immediately to the west is zoned R-4. There is no R-3 zoned property in the surrounding area (See Planning Staff Report Attachment "D"). The uses permitted outright and conditionally in the R-3 and R-4 zones are included as Planning Staff Report Attachment "D-1". The intent of the R-3 and R-4 zoning districts is included as Planning Staff Report Attachment "D-2".

The High Density Residential Comprehensive Plan Map designation for this property provides additional land for multi-family

development, which is an area of need identified in the housing element of the Comprehensive Plan and the City's 20-year buildable land inventory. The Planning Commission may conclude that the application of a zone designation in conformance with the Comprehensive Plan would further a public necessity and promote the general welfare.

Additionally, the property is within the Iron Mountain Impact Area. Applying the Iron Mountain Impact Zoning Overlay will require the applicant/owner to put in place restrictive covenants at the time of development acknowledging the rights of the quarry operator to operate and that such operation necessarily includes dust, noise and vibrations attributed to heavy industrial use. This promotes the general welfare by ensuring that those who purchase or rent units at this location are informed of nearby industrial activity and that the quarry operator is protected from nuisance claims attributed to normal operational practices so that they can continue to provide aggregate to those agencies or businesses that have need of the resource.

4. **Conclusion:** If the Commission finds that the request meets the criteria, then the Commission should recommend approval of the request with any conditions for annexation as the Commission deems necessary for compliance with the criteria. Additionally, the Commission should recommend to the City Council whether or not the zoning designation should be R-3 or R-4. If, on the other hand, the Commission finds that the request does not comply with the criteria, then the Commission should identify the portion(s) of the criteria with which the annexation request is not in compliance.

F. STAFF RECOMMENDATION: Based on the information received as of March 18, 2015, the applicant appears to be able to meet the applicable criteria for the annexation request and zoning map amendment.



Derrick Tokos
Community Development Director/City of Newport

March 18, 2015

City of Newport Land Use Application

PLEASE PRINT OR TYPE - COMPLETE ALL BOXES - USE ADDITIONAL PAPER IF NEEDED

Applicant Name(s): NEWPORT MEMORY CARE, LLC	Property Owner Name(s): NEWPORT ASSISTED LIVING, LLC
Applicant Mailing Address: 7660 FAY AVE, SUITE N LA JOLLA, CA 92037	Property Owner Mailing Address: 7660 FAY AVE, SUITE N LA JOLLA, CA 92037
Applicant Telephone No.: 858-729-6720	Property Owner Telephone No.: 858-729-6720
E-mail: APLANTEWESTMONTLIVING.COM	E-mail: APLANTEWESTMONTLIVING.COM
Authorized Representative(s): JOHN PARIANI, PARIANI LAND SURVEYING, LLC	
Authorized Representative Mailing Address: PO BOX 551 SHADY COVE, OR 97539	
Authorized Representative Telephone No.: 541-890-1131	E-Mail: ParianiLS@YAHOO.COM

Project Information

Property Location: NE 71ST STREET	
Tax Assessor's Map No.: 105 11W 20	Tax Lot(s): 1003
Zone Designation:	Legal Description: 2014-01030
Comp Plan Designation:	
Brief Description of Land Use Request(s): ANNEX IN EAST PORTION TL1003, ASSISTED LIVING FACILITY PLANNED ON EAST PORTION OF TL1003. PARTITION THAT EAST PORTION OFF SEPARATE TAX LOT.	
Existing Structures: 1 - ASSISTED LIVING	
Topography and Vegetation: SLOPING W/BRUSH	
APPLICATION TYPE (please check all that apply)	
<input checked="" type="checkbox"/> Annexation	<input type="checkbox"/> Interpretation
<input type="checkbox"/> Appeal	<input type="checkbox"/> Minor Replat
<input type="checkbox"/> Comp Plan/Map Amendment	<input checked="" type="checkbox"/> Partition
<input type="checkbox"/> Conditional Use Permit	<input type="checkbox"/> Planned Development
<input type="checkbox"/> PC	<input type="checkbox"/> Property Line Adjustment
<input type="checkbox"/> Staff	<input type="checkbox"/> Shoreland Impact
<input type="checkbox"/> Design Review	<input type="checkbox"/> Subdivision
<input type="checkbox"/> Geologic Permit	<input type="checkbox"/> Temporary Use Permit
<input type="checkbox"/> UGB Amendment	<input type="checkbox"/> Vacation
<input type="checkbox"/> Variance/Adjustment	<input type="checkbox"/> PC
<input type="checkbox"/> Staff	<input checked="" type="checkbox"/> Zone Ord/Map Amendment
<input type="checkbox"/> Other _____	
FOR OFFICE USE ONLY	
File No. Assigned: 1-AX-15 / 1-Z-15	
Date Received: 2/9/15	Fee Amount: 718⁰⁰ / 708⁰⁰ <small>by hand 2/11/15</small>
Received By: wh	Date Accepted as Complete: _____
	Receipt No.: 1.022417
	Accepted By: _____

(SEE REVERSE SIDE)

CITY OF NEWPORT
Community Development & Planning Department • 169 SW Coast Hwy, Newport, OR 97365 • Derrick I. Tokos, AICP, Director

FEB 09 2015

RECEIVED

I understand that I am responsible for addressing the legal criteria relevant to my application and that the burden of proof justifying an approval of my application is with me. I also understand that this responsibility is independent of any opinions expressed in the Community Development & Planning Department Staff Report concerning the applicable criteria.

I certify that, to the best of my knowledge, all information provided in this application is accurate.

<u>Newport Memory Care, LLC</u> <u>Andrew Plant, Managing member</u> Applicant Signature(s)	<u>January 22, 2015</u> Date Signed
<u>Andrew Plant, Managing member</u> Property Owner Signature(s)	<u>January 22, 2015</u> Date Signed
<u>[Signature]</u> Authorized Representative Signature(s)	<u>JAN 22, 2015</u> Date Signed

Please note application will not be accepted without all applicable signatures.

Please ask staff for a list of application submittal requirements for your specific type of request.

CITY OF NEWPORT

FEB 09 2015

RECEIVED



Andy Plant <aplant@westmontliving.com>

Our Entity that Will Own Land

2 messages

Andy Plant <aplant@westmontliving.com>

Thu, Jan 22, 2015 at 11:01 AM

To: John Pariani <Parianils@yahoo.com>

Newport Memory Care, LLC (an Oregon LLC)

-

Andrew S. Plant

President

7660 Fay Ave, Suite N La Jolla CA 92037

D 858 729 6720 F 858 456 1179 C 619 846 2900

E aplant@westmontliving.com WestmontLiving.com

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WESTMONT LIVING | inspired retirement living

Statement of Confidentiality: The information contained in this electronic message and any attachments to this message are intended for the exclusive use of the addressee(s) and may contain confidential or privileged information. If you are not the intended recipient, please notify Andrew Plant immediately at aplant@westmontliving.com and destroy all copies of this message and any attachments. Thank you for your cooperation.

John Pariani <parianils@yahoo.com>

Fri, Jan 23, 2015 at 11:03 AM

Reply-To: John Pariani <parianils@yahoo.com>

To: Andy Plant <aplant@westmontliving.com>

Andy,

Attached is the application, for your approval and signature. Please sign and return.

With regards to the submittal requirements for this annexation, all items are prepared for the application, except for one. Item 7, requires a findings of fact address several criteria.

Will you please provide that missing document?

Once I receive that document and the check for \$708.00 I will deliver to the City of Newport.

Best regards,
John R. Pariani, PLS
PO Box 551
Shady Cove, OR 97539
(541) 890-1131
ParianiLS@Yahoo.com

From: Andy Plant <aplant@westmontliving.com>

To: John Pariani <Parianils@yahoo.com>

Sent: Thursday, January 22, 2015 11:01 AM

Subject: Our Entity that Will Own Land

[Quoted text hidden]

CITY OF NEWPORT
FEB 09 2015
RECEIVED

The intent of this letter is to address the annexation requirements under Item 7. Of the Annexation/Rezone application for the property identified as Tax Lot 1003, Township 10 South, Range 11 West, Section 20, Willamette Meridian, Lincoln County Oregon.

- It is my understanding that the required consents have been filed with the City of Newport, acknowledging that more than one-half of the owners of the land, who also have more than half of the land and more than half of the assessed value; or the consents of more than one-half of the owners and more than half of the electorate in the territory to be annexed.
- The territory to be annexed has been included into the current urban growth boundary
- The area to be annexed is contiguous with the existing city limits.
- The *Transportation Planning Rule (TPR)* has been determined to be not applicable as the annexed territory is not affected by traffic and roads. And no change in traffic patterns are anticipated.
- The adjacent properties to the territory to be annexed is currently zoned High Density Residential/High Density Multi-Family, which is consistent with the proposed development and useage of this territory to be annexed.

CITY OF NEWPORT

FEB 08

RECEIVED

PARCEL –

A parcel of land lying in Section 20, Township 10 South, Range 11 West, Willamette Meridian, Lincoln County, Oregon; and being a portion of that property described in that Warranty Deed to Newport Assisted Living, LLC, an Oregon limited liability company, recorded August 27, 1996 as Book 324, Page 105 of Lincoln County Official Records and depicted on Partition Plat 1996-28, Parcel 2 as filed in the Lincoln County Surveyor's Office;

Also including the following:

Beginning at the Center ¼ corner of Section 20, Township 10 South, Range 11 West, Willamette Meridian, thence South 89°50'16" East, 700.00 feet; thence North 00°24'09" East 428.92 feet to the southeast corner of Parcel 2 of Partition Plat 1996-28; thence continuing North 00°24'09" East, along the easterly line of said Parcel 2, 330.62 feet to the northeast corner of said Parcel 2, said point also being the northwest corner of the property described in Book 266, Page 266 of the Lincoln County Official Records and the true point of beginning; thence North 89°58'05" East, along the north line of that property described in said Book 266, Page 266, 143.51 feet; thence leaving said northerly line, South 00°09'05" East, 122.49 feet; thence South 49°45'30" West, 190.69 feet to a point on the easterly line of said Parcel 2, said point also being on the west line of that property described in said Book 266, Page 266; thence North 00°24'09" East, along the easterly line of said Parcel 2, 245.60 feet to the point of beginning.

Excepting the following:

Beginning at the Center ¼ corner of Section 20, Township 10 South, Range 11 West, Willamette Meridian, thence North 42°11'22" East, 467.37 feet to the true point of beginning; thence along the curve of a 524.27 foot arc, concave to the north, (the long chord of which bears North 79°07'27" East, 177.54 feet) 178.40 feet, thence North 69°22'34" East, to a point on the easterly line of said Parcel 2, 134.85 feet; thence North 00°24'09" East, along said easterly line of Parcel 2, 85.02 feet; thence leaving said easterly line South 49°48'58" West, 162.75 feet; thence South 68°29'52" West, 43.93 feet; thence along the arc of a 328.94 foot radius curve to the right, (the long chord of which bears South 81°44'31" West, 137.19 feet) 138.20 feet to a point on the westerly line of said Parcel 2; thence South 00°24'09" West, along said westerly line 25.19 feet to the point of beginning.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

John F. Pariani
JOHN F. PARIANI
Professional Surveyor - ST. 3511

Professional Surveyor - ST. 3511

CITY OF NEWPORT
CORRECTED* NOTICE OF A PUBLIC HEARING¹
(*original notice had incorrect year for hearing date)

NOTICE IS HEREBY GIVEN that the Planning Commission of the City of Newport, Oregon, will hold a public hearing on Monday, March 23, **2015**, to review the following request for annexation, zone designation, and withdrawal and to make a recommendation to the City Council on this request. A public hearing before the City Council will be held at a later date and notice will be provided for the Council hearing.

File No. 1-AX-15 / 1-Z-15

Applicants: Newport Memory Care, LLC (John Pariani of Pariani Land Surveying, LLC, authorized representative) (Newport Assisted Living, LLC, property owner).

Request: Consideration of requests to: **(1) annex approximately 0.61 acre of real property** (consisting of property currently identified as the eastern portion of Tax Lot 1003 of Assessor's Tax Map 10-11-20 into the Newport city limits; **(2) amend the City of Newport Zoning Map to establish an R-4/"High Density Multi-Family Residential" zoning designation for the subject property** consistent with the existing Newport Comprehensive Plan designation of High Density Residential (which allows for either R-4/"High Density Multi-Family Residential", or R-3/"Medium Density Multi-Family Residential"); and **(3) apply Iron Mountain Impact Overlay; and (4) withdraw said territory from the Newport Rural Fire Protection District and the Lincoln County Library District.**

Applicable Criteria: (1) Annexations (as per Newport Municipal Code (NMC) Section 14.37.040): The required consents have been filed with the city; the territory to be annexed is within the acknowledged urban growth boundary (UGB); and the territory to be annexed is contiguous to the existing city limits. (2) Zone Map Amendments (as per NMC Section 14.36.010): Findings that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare.

Location: NE 71st St. (Lincoln County Assessor's Map 10-11-20 portion of Tax Lot 1003).

Testimony: Testimony and evidence must be directed toward the criteria described above or other criteria in the Newport Comprehensive Plan and its implementing ordinances that a person believes applies to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal (including to the Land Use Board of Appeals) based on that issue. Testimony may be submitted in written or oral form. Oral and written testimony will be taken during the course of the public hearing. Letters to the Community Development (Planning) Department (address below in "Reports/Application Material") must be received by 5:00 p.m. the day of the hearing or must be submitted to the Planning Commission in person during the hearing. The hearing will include a report by staff, testimony (both oral and written) from the applicant, those in favor or opposed to the application, and questions and deliberation by the Planning Commission. Pursuant to ORS 197.763 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application.

Reports/Application Materials: The staff report may be reviewed or purchased for reasonable cost at the Newport Community Development (Planning) Department, City Hall, 169 SW Coast Hwy., Newport, Oregon 97365, seven days prior to the hearing. The application materials, applicable criteria, and other file material are available for inspection at no cost or copies may be purchased for reasonable cost at this address.

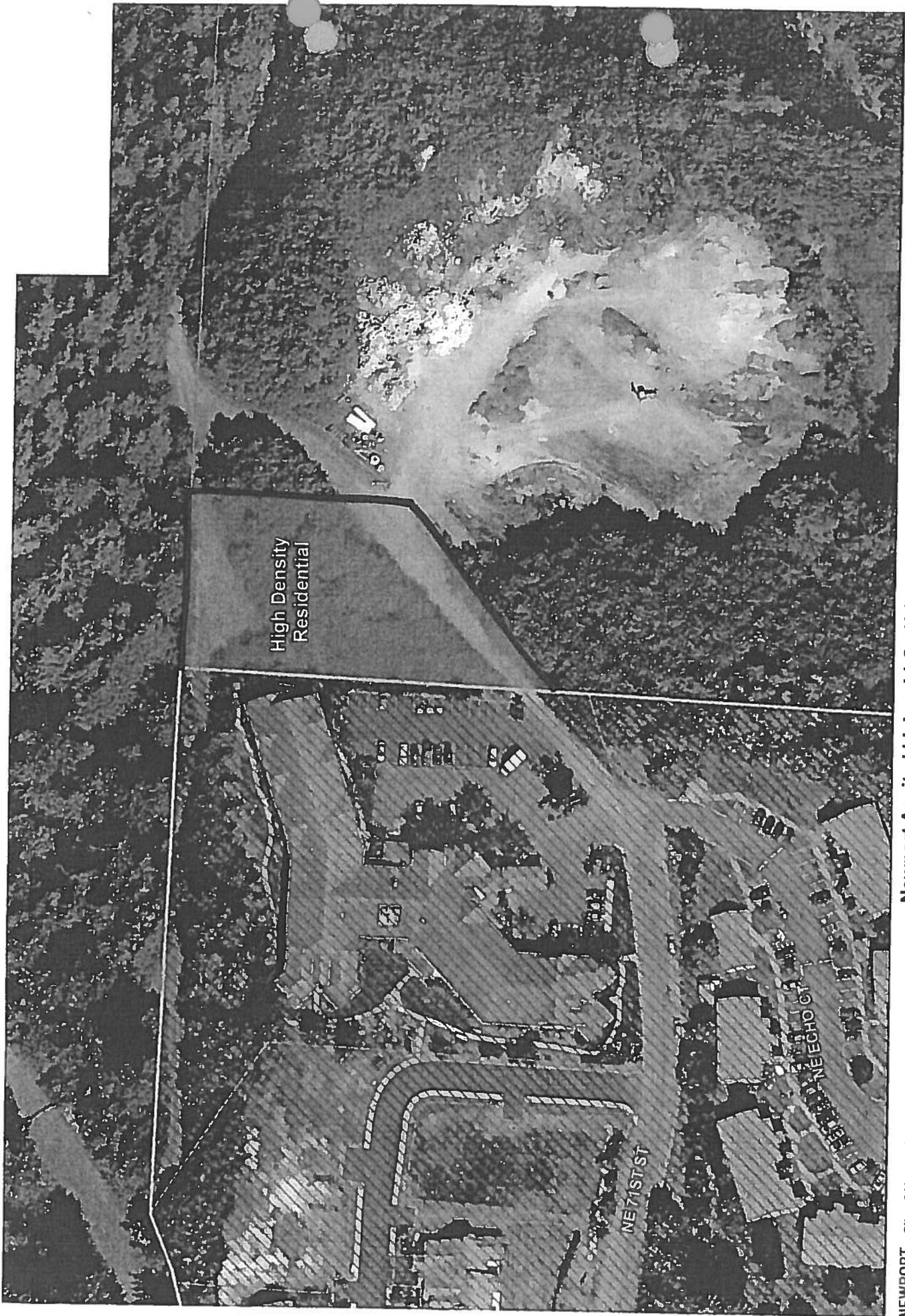
Contact: Derrick Tokos, Community Development Director, (541) 574-0626; d.tokos@newportoregon.gov (mailing address above in "Reports/Application Materials").

Time/Place of Planning Commission Hearing: Monday, March 23, 2015; 7:00 p.m.; City Hall Council Chambers (address above in "Reports/Application Materials").

MAILED: February 23, 2015/correction mailed March 4, 2015

PUBLISHED: March 13, 2015/News-Times.

¹ This notice is being sent to the applicant, the applicant's authorized agent (if any), affected property owners within 200 feet of the subject property (according to Lincoln County tax records), affected public/private utilities/agencies within Lincoln County, and affected city departments.



High Density Residential

NE 71ST ST

NE ECHO CT



City of Newport
Community Development Department
149 SW Coast Highway
Newport, OR 97385

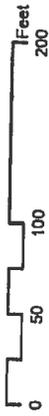
We map is for informational use only and has not been prepared for, nor is it suitable for, legal, engineering, or planning purposes. It does not derive from multiple sources. The City of Newport assumes no responsibility for its application or use and users of the information are advised to verify all information with the City of Newport Community Development Department.

Newport Assisted Living, LLC - Urban Growth Boundary Expansion and Comprehensive Plan Map Amendment

Image Taken July 2013

4-inch, 4-band Digital Orthophotos

David Smith & Associates, Inc. Portland, OR

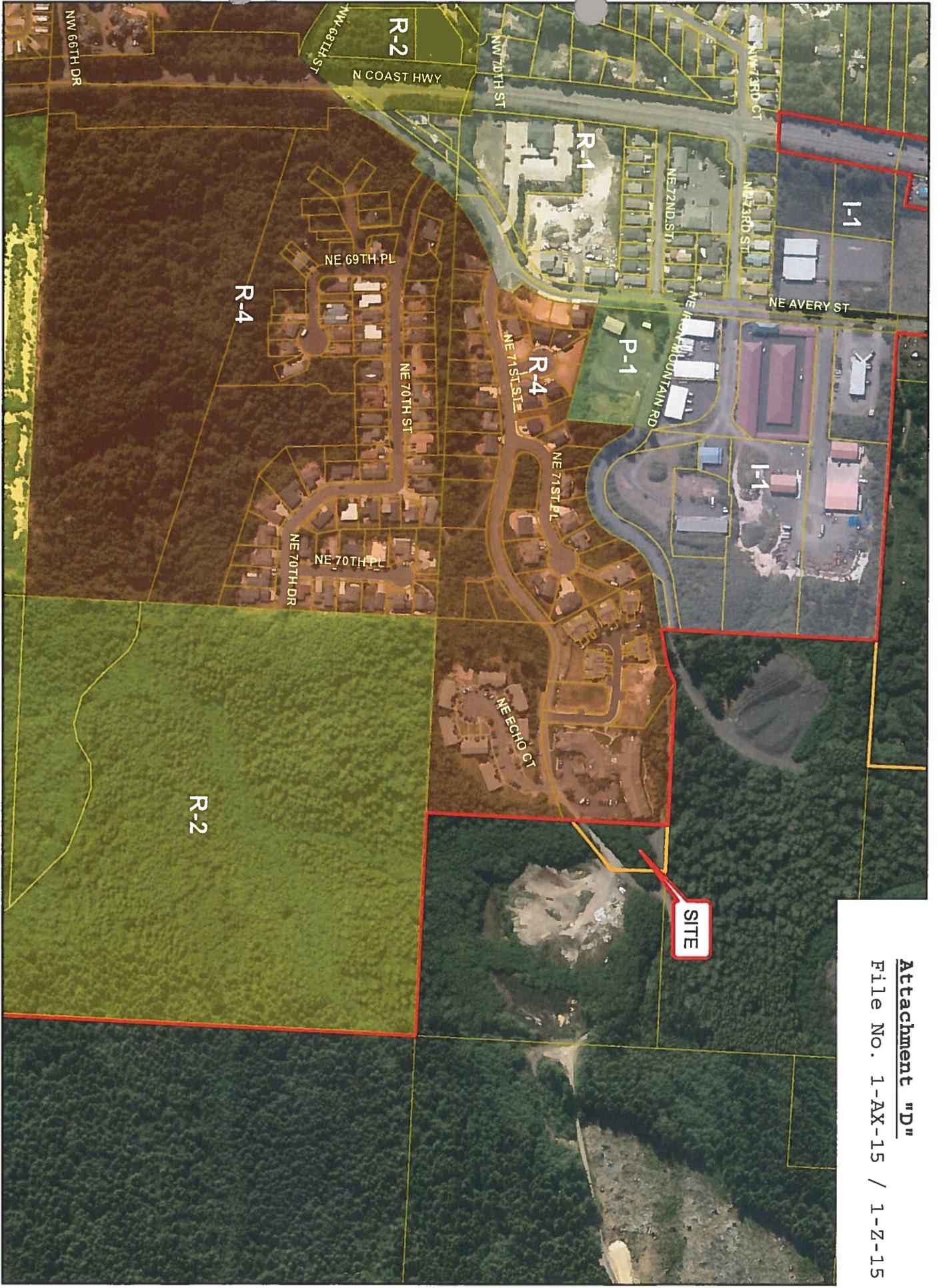




Printed 03/18/2015
Lincoln County government use only. Use for any other purpose is entirely at the risk of the user.
This product is for informational purposes and may not have been prepared for, or be suitable for legal,
engineering, or surveying purposes. Users should review the primary information sources to ascertain their usability.



Attachment "D"
File No. 1-AX-15 / 1-Z-15



SITE



City of Newport
Community Development Department
189 SW Coast Highway
Newport, OR 97385
Phone: 1,541,574,0829
Fax: 1,541,574,0844

The map & lot information is only for reference and is not intended to be used for legal, engineering or surveying purposes. It includes data from multiple sources. The City of Newport assumes no responsibility for its compilation or use and users of this information are cautioned to verify all information with the City of Newport Community Development Department.

Newport Memory Care, LLC Annexation
Zoning Map

Images Taken July 2013
4-inch, 4-band Digital Orthophotos
David Smith & Associates, Inc. Portland, OR



**CITY OF NEWPORT
USES IN THE RESIDENTIAL DISTRICTS**

**R-1/"LOW DENSITY SINGLE-FAMILY
RESIDENTIAL":**

Permitted Uses:

Single-Family Dwellings
Vacation Rental Dwellings
Bed and Breakfast Facilities
Accessory Uses
Home Occupations
Parks
Child Care Facilities
Residential Care Homes

Conditional Uses:

Publicly-Owned Recreational Facilities
Libraries
Utility Substations
Public and Private Schools
Day Care Facilities
Churches
Colleges and Universities
Golf Courses
Necessary Public Utilities and Public
Services Uses or Structures

**R-2/"MEDIUM DENSITY SINGLE-FAMILY
RESIDENTIAL":**

Permitted Uses:

Single-Family Dwellings
Two-Family Dwellings
Vacation Rental Dwellings
Bed and Breakfast Facilities
Mobile Home Parks
Accessory Uses
Home Occupations
Parks
Child Care Facilities
Residential Care Homes
Condominiums

Conditional Uses:

Publicly-Owned Recreational Facilities
Libraries
Utility Substations
Public or Private Schools
Day Care Facilities
Churches
Colleges and Universities
Golf Courses
Necessary Public Utilities and Public
Services Uses or Structures
Assisted Living Facilities

R-3/"MEDIUM DENSITY MULTI-FAMILY RESIDENTIAL":

Permitted Uses:

Single-Family Dwellings
 Two-Family Dwellings
 Multi-Family Dwellings
 Vacation Rental Dwellings
 Bed and Breakfast Facilities
 Mobile Home Parks
 Accessory Uses
 Home Occupations
 Parks
 Child Care Facilities
 Residential Care Homes
 Condominiums
 Residential Facilities
 Assisted Living Facilities

Conditional Uses:

Publicly-Owned Recreational Facilities
 Libraries
 Utility Substations
 Public or Private Schools
 Day Care Facilities
 Churches
 Nursing Homes
 Rooming and Boarding Houses
 Colleges and Universities
 Golf Courses
 Necessary Public Utilities and Public Services Uses or Structures

R-4/"HIGH DENSITY MULTI-FAMILY RESIDENTIAL":

Permitted Uses:

Single-Family Dwellings
 Two-Family Dwellings
 Multi-Family Dwellings
 Vacation Rental Dwellings
 Bed and Breakfast Facilities
 Mobile Home Parks
 Accessory Uses
 Home Occupations
 Parks
 Public or Private Schools
 Child Care Facilities
 Residential Care Homes
 Nursing Homes
 Rooming and Boarding Houses
 Hospitals
 Membership Organizations
 Museums
 Condominiums
 Residential Facilities
 Assisted Living Facilities

Conditional Uses:

Publicly-Owned Recreation Facilities
 Libraries
 Utility Substations
 Day Care Facilities
 Churches
 Motels and Hotels
 Professional Offices
 Beauty and Barber Shops
 Colleges and Universities
 Hostels
 Recreational Vehicle Parks
 Necessary Public Utilities and Public Services Uses or Structures
 Movie Theaters
 Bicycle Shops

Section 2-2-6.010 amended by Ordinance No. 1336 (7-5-83); Section 2-2-4 amended by Ordinance No. 1344 (11-7-83); Sections 2-2-1 and 2-2-6 amended by Ordinance No. 1356 (1-3-84); Sections 2-2-3, 2-2-4, 2-2-5, 2-2-6, and 2-2-7 amended by Ordinance No. 1447 (12-16-85); Section 2-2-6.015 amended by Ordinance No. 1468 (8-19-86); Section 2-2-4 amended by Ordinance No. 1526 (11-7-88); Section 2-2-2.010 amended by Ordinance No. 1565 (14.36.0010); Section 2-2-4 amended by Ordinance No. 1567 (14.36.0010); the above became obsolete when Sections 2-2-1 through 2-2-12 were totally amended by Ordinance No. 1575 (7-2-90); and then the entire Section was repealed and replaced by Ordinance No. 2022 (10-20-11).

14.03.030. City of Newport Zoning Map. The zoning districts established by this section are officially identified on the map entitled "City of Newport Zoning Map," by reference incorporated herein. Zoning district boundaries, as shown on the official map, shall be construed as follows:

- A. City limit lines;
- B. Platted lot lines or other property lines as shown on the Lincoln County Assessor's plat maps;
- C. The centerline of streets, railroad tracks, or other public transportation routes;
- D. The centerline of streams or other watercourses as measured at Mean Low Water. In the event of a natural change in location of the centerline of such watercourse, then the zoning district boundary shall be construed to moving with the channel centerline; and
- E. The Mean Higher High Tide Line.

14.03.040 Intent of Zoning Districts. Each zoning district is intended to serve a general land use category that has common locations, development, and service characteristics. The following sections specify the intent of each zoning district:

R-1/"Low Density Single-Family Residential." The intent of the R-1 district is to provide for large lot residential development. This district should also be applied where environmental constraints such as topography, soils, geology, or flooding restrict the development potential of the land.

R-2/"Medium Density Single-Family Residential." The intent of this district is to provide for low density, smaller lot size residential development. It is also the ambition of this district to serve as a transitional area between the low density

residential district and higher density residential districts.

R-3/"Medium Density Multi-Family Residential." This district is intended for medium density multi-family residential development. It is planned for areas that are able to accommodate the development of apartments. New R-3 zones should be near major streets, on relatively flat land, and near community or neighborhood activity centers.

R-4/"High Density Multi-Family Residential." This district is intended to provide for high density multi-family residential and some limited commercial development. New R-4 zones should be on major streets, on relatively flat land, and near commercial centers.

C-1/"Retail and Service Commercial." The intent of the C-1 district is to provide for retail and service commercial uses. It is also intended that these uses will supply personal services or goods to the average person and that a majority of the floor space will be devoted to that purpose. Manufacturing, processing, repair, storage, or warehousing is prohibited unless such activity is clearly incidental to the business and occupies less than 50% of the floor area.

C-2/"Tourist Commercial." The intent of this zone is to provide for tourist needs, as well as for the entertainment needs of permanent residents.

C-3/"Heavy Commercial." The intent of this zone is to provide for commercial uses that are frequently incompatible with retail and service commercial uses. This zone is also intended to provide uses that utilize more than 50% of the floor area for storage, repair, or compounding of products but do not constitute a nuisance because of noise, dust, vibration or fumes.

I-1/"Light Industrial." The intent of this zone is to provide for commercial and industrial uses that can be located near residential or commercial zones. Uses that are associated with excessive noise, dust, vibration, or fumes shall be prohibited.

I-2/"Medium Industrial." The intent of this zone is to provide areas suitable for industrial activities, including manufacturing, fabricating, processing, packing, storage, repairing, and wholesaling. This classification should be applied to industrial areas having good access to

PARCEL –

A parcel of land lying in Section 20, Township 10 South, Range 11 West, Willamette Meridian, Lincoln County, Oregon; and being a portion of that property described in that Warranty Deed to Newport Assisted Living, LLC, an Oregon limited liability company, recorded August 27, 1996 as Book 324, Page 105 of Lincoln County Official Records and depicted on Partition Plat 1996-28, Parcel 2 as filed in the Lincoln County Surveyor's Office;

Also including the following:

Beginning at the Center $\frac{1}{4}$ corner of Section 20, Township 10 South, Range 11 West, Willamette Meridian, thence South $89^{\circ}50'16''$ East, 611.44 feet; thence North $00^{\circ}24'09''$ East 428.92 feet to the southeast corner of Parcel 2 of Partition Plat 1996-28; thence continuing North $00^{\circ}24'09''$ East, along the easterly line of said Parcel 2, 330.62 feet to the northeast corner of said Parcel 2, said point also being the northwest corner of the property described in Book 266, Page 266 of the Lincoln County Official Records and the true point of beginning; thence North $89^{\circ}58'05''$ East, along the north line of that property described in said Book 266, Page 266, 143.51 feet; thence leaving said northerly line, South $00^{\circ}09'05''$ East, 122.49 feet; thence South $49^{\circ}45'30''$ West, 190.69 feet to a point on the easterly line of said Parcel 2, said point also being on the west line of that property described in said Book 266, Page 266; thence North $00^{\circ}24'09''$ East, along the easterly line of said Parcel 2, 245.60 feet to the point of beginning.

Excepting the following:

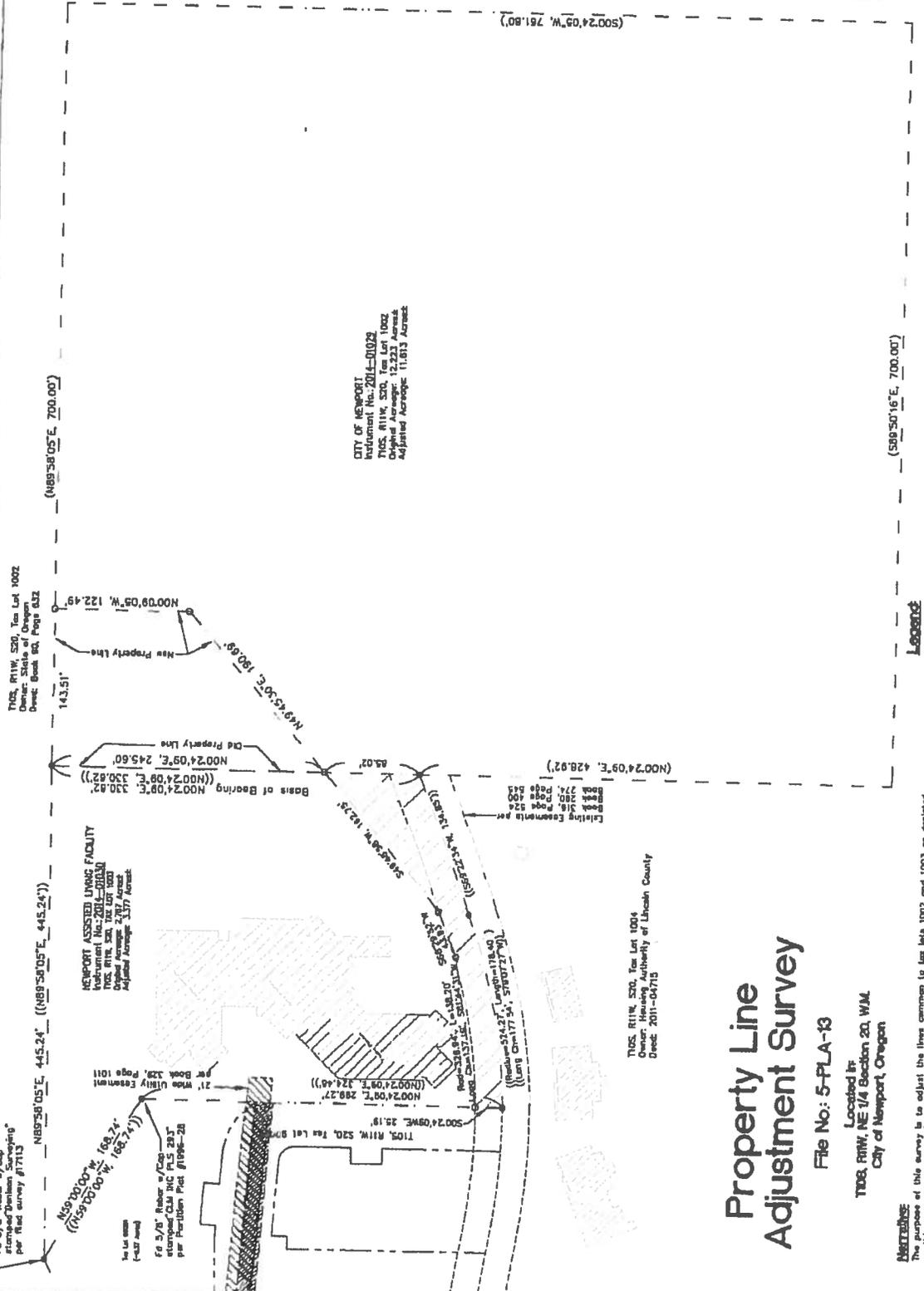
Beginning at the Center $\frac{1}{4}$ corner of Section 20, Township 10 South, Range 11 West, Willamette Meridian, thence North $42^{\circ}11'22''$ East, 467.37 feet to the true point of beginning; thence along the curve of a 524.27 foot arc, concave to the north, (the long chord of which bears North $79^{\circ}07'27''$ East, 177.54 feet) 178.40 feet, thence North $69^{\circ}22'34''$ East, to a point on the easterly line of said Parcel 2, 134.85 feet; thence North $00^{\circ}24'09''$ East, along said easterly line of Parcel 2, 85.02 feet; thence leaving said easterly line South $49^{\circ}48'58''$ West, 162.75 feet; thence South $68^{\circ}29'52''$ West, 43.93 feet; thence along the arc of a 328.94 foot radius curve to the right, (the long chord of which bears South $81^{\circ}44'31''$ West, 137.19 feet) 138.20 feet to a point on the westerly line of said Parcel 2; thence South $00^{\circ}24'09''$ West, along said westerly line 25.19 feet to the point of beginning.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

John R. Pariani
OREGON
July 13, 1992
JOHN R. PARIANI
#51382

Renews: December 31, 2014

C-52 19329
 FILED 8/10/2011
 LINCOLN COUNTY SURVEYOR



Survey By:
 Pariani Land Surveying
 136 West Main Street
 Eagle Point, OR 97524

Survey For:
 Newport Assisted Living, LLC
 Andrew Phelan, CEO
 7800 Jay Avenue, Suite N
 Newport, CA 95057

Book of Records:
 Partition Plat 1998-28

References:
 Book 250, Page 400
 Book 250, Page 405
 Book 316, Page 524
 Book 100, Page 888
 Filed Survey 6678
 Filed Survey 15469
 Partition Plat 1998-28

Property Line Adjustment Survey
Pariani Land Surveying
 136 West Main Street
 Eagle Point, Oregon
 541-890-1131
 Office: (530) 243-1131
 March 17, 2011 11:00 AM
 Job No: 2011-045
 Sheet: 1 of 1

RECORDED
 PROFESSIONAL
 LAND SURVEYOR
 JOHN R. PARIANI
 OREGON
 JOHN R. PARIANI
 541-890-1131
 Renewed December 31, 2011

Legend
 --- Adjusted Property Line
 --- Existing Property Line
 () Record Data per Plat Survey 14321
 () Record Data per Partition Plat 1998-28
 * Front Metal Chimney
 * Set 3/07/00, Rebar 3/13/00 Orange Plastic Cap Marked "PLS 3132" Orange Plastic Area Dedicated to the City of Newport per Instrument No. 2011-04532

Property Line Adjustment Survey

File No: 5-PLA-13

Located in:
 T10S, R11W, NE 1/4 Section 20, W1M
 City of Newport, Oregon

NOTICES:
 The purpose of this survey is to adjust the lines common to lots 1002 and 1003 as depicted on this map, per the plat of record. Additionally, right of way was delineated along the southerly portion of lot 1003.
 Utilizing Lincoln County Surveyor's field survey 14321, and deed records, the lines were calculated. Boundary monuments were placed at the corners of the lots shown on this map. Monument locations were in good condition and the monuments set on the adjusted property corners as depicted on this map.
 Equipment used: Trimble 5603, 082004, 4-ly robotic total station, with 360' prism. Monuments were set in February, 2011.

T10S, R11W, S20, Twp Lot 1004
 Owner: Housing Authority of Lincoln County
 Deed: 2011-04715

CITY OF NEWPORT
 Instrument No. 2011-01029
 T10S, R11W, S20, Twp Lot 1002
 Original Acreage: 12.223 Acres
 Adjusted Acreage: 11.613 Acres

T10S, R11W, S20, Twp Lot 1002
 Owner: State of Oregon
 Deed: Book 60, Page 632

REPORT ASSISTED LIVING FACILITY
 Instrument No. 2011-01029
 T10S, R11W, S20, Twp Lot 1002
 Original Acreage: 2.187 Acres
 Adjusted Acreage: 3.377 Acres

Fe 3/8" Rebar w/ Cap stamped "Pariani Surveying" per Plat survey #1713
 (N89°58'05" W, 168.24')
 (N89°58'05" W, 168.24')
 Fe 3/8" Rebar w/ Cap stamped "CJM INC PLS 293" per Partition Plat #1998-28
 21' Iron Utility Easement 1011 per Book 226 Page 1011

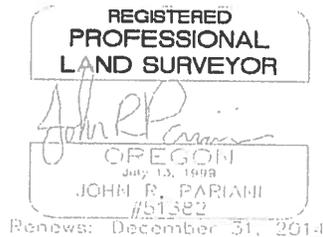
T10S, R11W, S20 TLR0000

PARCEL 50' Wide Road Allowance--

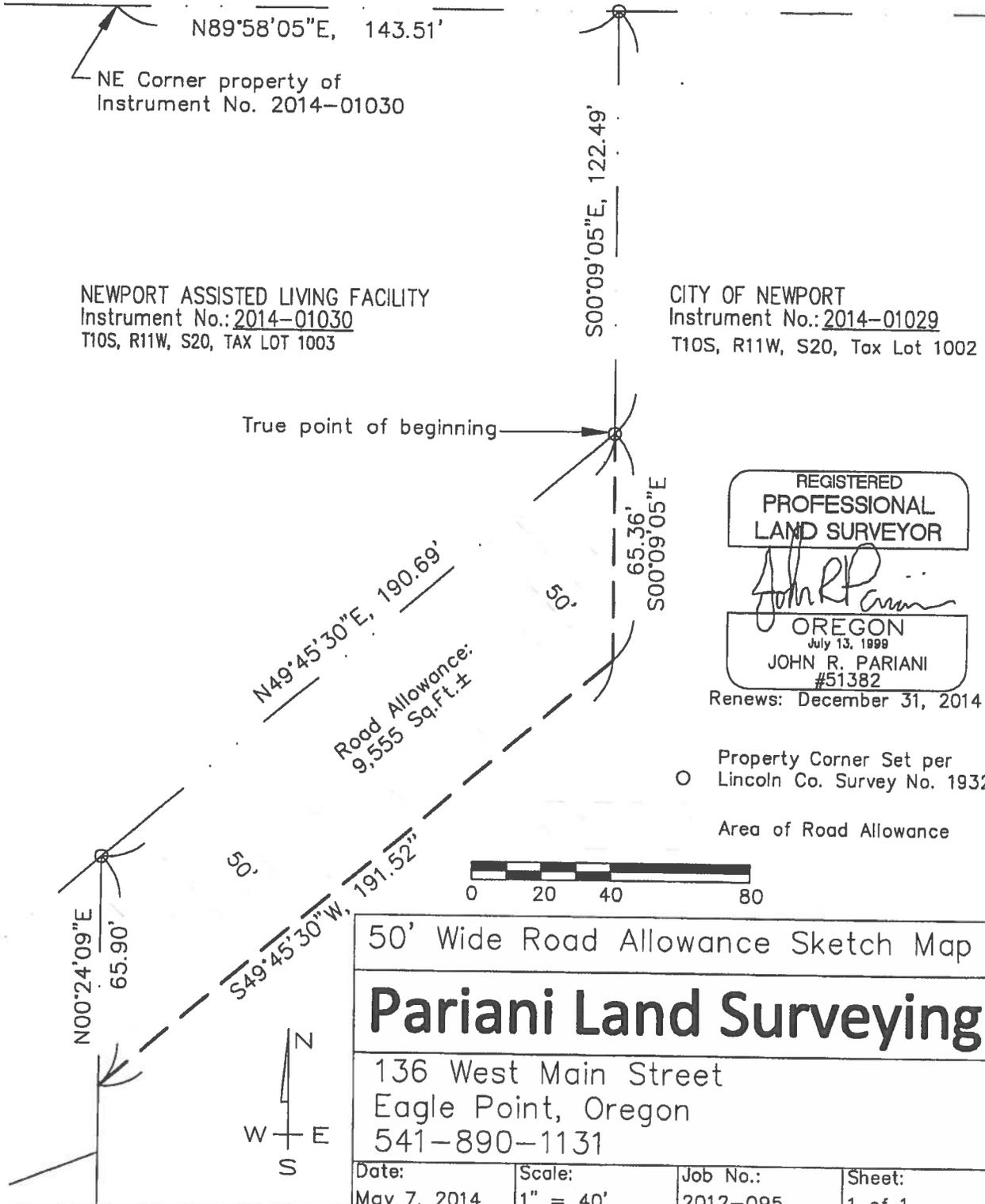
A parcel of land lying in Section 20, Township 10 South, Range 11 West, Willamette Meridian, Lincoln County, Oregon and more particularly described as:

Beginning at the northeast corner of said Parcel 2, Partition Plat 1996-28, said point also being the northwest corner of the property described in Book 266, Page 266 of the Lincoln County Official Records; thence North 89°58'05" East, along the north line of that property described in said Book 266, Page 266, 143.51 feet; thence leaving said northerly line, South 00°09'05" East, 122.49 feet to the true point of beginning; thence South 00°09'05" East, 65.36 feet; thence South 49°45'30" West, 191.52 feet, to a point on the west line of that property described in Instrument 2014-01029, Lincoln County Official Records; thence North 00°24'09" East, along said westerly line, 65.90 feet, said point also being a southerly corner to the property described in Instrument No. 2014-01030, Lincoln County Official Records; thence North 49°45'30" East, along southerly line of last said Instrument, 190.69 feet to the point of beginning.

Parcel area contains 9,555 square feet, more or less.



Located:
 T10S, R11W, NE 1/4 Section 20, W.M.
 City of Newport, Oregon



NEWPORT ASSISTED LIVING FACILITY
 Instrument No.: 2014-01030
 T10S, R11W, S20, TAX LOT 1003

CITY OF NEWPORT
 Instrument No.: 2014-01029
 T10S, R11W, S20, Tax Lot 1002

True point of beginning

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

John R. Pariani

OREGON
 July 13, 1999
 JOHN R. PARIANI
 #51382

Renews: December 31, 2014

Property Corner Set per
 Lincoln Co. Survey No. 19329

Area of Road Allowance



50' Wide Road Allowance Sketch Map

Pariani Land Surveying

136 West Main Street
 Eagle Point, Oregon
 541-890-1131

Date: May 7, 2014	Scale: 1" = 40'	Job No.: 2012-095	Sheet: 1 of 1
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T10S, R11W, S20 TL1002-1003

ANNEXATION OF CONTIGUOUS TERRITORY

(Temporary provisions relating to annexation of certain industrial lands)

Note: Sections 3 and 10, chapter 737, Oregon Laws 1987, provide:

Sec. 3. (1) Notwithstanding any other provision of law, when property:

- (a) Is property on which no electors reside;
- (b) Is zoned for industrial uses;
- (c) Has sewer and water lines paid for and installed by the property owner; and
- (d) Has an assessed valuation, including improvements, of more than \$7 million

that property can only be annexed by or to a city after the city receives a petition requesting annexation from the owner of the property.

(2) Property described in subsection (1) of this section shall not be included with other territory as part of an annexation, or annexed under ORS 222.750, unless the owner of the property consents to the annexation in the form of a petition for annexation.

(3) This section applies to property that, on September 27, 1987, was within the jurisdiction of a local government boundary commission. [1987 c.737 §3; 1997 c.516 §14]

Sec. 10. Section 3, chapter 737, Oregon Laws 1987, is repealed on June 30, 2035. [1987 c.737 §10; 1989 c.226 §1; 1997 c.226 §1; 2005 c.844 §8]

Note: Sections 7, 8 and 11, chapter 539, Oregon Laws 2005, provide:

Sec. 7. Section 8 of this 2005 Act is added to and made a part of ORS 222.111 to 222.180. [2005 c.539 §7]

Sec. 8. (1) A lot, parcel or tract may not be included in territory proposed to be annexed unless the owner of the lot, parcel or tract gives written consent to the annexation, if the lot, parcel or tract:

- (a) Is zoned for industrial use or designated for industrial use zoning in an acknowledged comprehensive plan;
- (b) Is land on which no electors reside, unless one or more electors living on-site are employed or engaged to provide security services for the industrial user of the land;
- (c) Has an assessed value of more than \$2 million, including improvements; and
- (d) Is in unincorporated Jackson County, either:

(A) Within the urban unincorporated community of White City, west of Oregon Route 62; or

(B) Within the urban growth boundary of the City of Medford, west of Oregon Route 99.

(2) After annexation of a lot, parcel or tract described in subsection (1) of this section, the development rights that apply to the lot, parcel or tract under the industrial zoning classification applicable to the lot, parcel or tract when it is annexed are retained and run with the lot, parcel or tract.

(3) As used in this section, "urban unincorporated community" means an unincorporated community that:

- (a) Includes at least 150 permanent residential dwelling units;
- (b) Contains a mixture of land uses, including three or more public, commercial or industrial land uses;
- (c) Includes areas served by a community sewer system; and
- (d) Includes areas served by a community water system. [2005 c.539 §8]

Sec. 11. Sections 2, 4, 6, 8 and 10 of this 2005 Act are repealed June 30, 2016. [2005 c.539 §11]

Note: Sections 5, 6, 7, 9 (2) and 11, chapter 844, Oregon Laws 2005, provide:

Sec. 5. (1) Notwithstanding any provision of ORS 195.205 to 195.225, 199.410 to 199.534, 222.111 to 222.180, 222.750 and 222.840 to 222.915, property described in subsection (2) or (3) of this section may not be annexed by or to a city unless the city receives consent to the annexation from the owner of the property in the form of a petition for annexation.

(2) Property for which annexation is limited by subsection (1) of this section is property:

(a) That is composed of one or more lots, parcels or tracts that:

(A) Are owned by the same individual or entity, including an affiliate or subsidiary of the entity;

(B) Are contiguous or are separated from each other only by a public right of way, a stream, a bay, a lake or another body of water; and

(C) Together comprise at least 150 acres;

(b) On which no electors reside;

(c) That was zoned for industrial, employment or transit-oriented employment uses on December 31, 2004;

(d) That has private, on-premises security services; and

(e) That has an assessed valuation, including improvements, of more than \$12 million.

(3) Subsection (1) of this section applies to a lot, parcel or tract that is owned by the same individual or entity, including an affiliate or a subsidiary of the entity, that owns the property described in subsection (2)(a) of this section if the lot, parcel or tract:

(a) Is within two miles of the property described in subsection (2)(a) of this section; and

(b) Contains 10 or more acres that are contiguous or separated from each other only by a public right of way, a stream, a bay, a lake or another body of water.

(4) A city may not obtain approval of an owner for annexation under this section by requiring or requesting that the owner waive remonstrance or agree to annexation in order to receive utility service or other city services located in the city right of way at the same price the city charges an owner of similar property that is within the city. [2005 c.844 §5]

Sec. 6. An area of land within the urban growth boundary of the metropolitan service district established in the Portland metropolitan area may not be annexed under ORS 222.750 if:

(1) The area of land is larger than seven acres and is zoned for industrial use;

(2) The land is owned by an Oregon-based business entity that has been in continuous operation, either directly or through a predecessor, for at least 60 years; and

(3) The business entity employs more than 500 individuals on the land. [2005 c.844 §6]

Sec. 7. An area of land within the urban growth boundary of the metropolitan service district established in the Portland metropolitan area may not be annexed under ORS 222.750 if:

(1) The area of land is larger than 14 acres and is zoned for industrial use;

(2) The land is owned by an Oregon-based business entity that has been in continuous operation on a portion of the land for at least 40 years; and

(3) The business entity employs more than 300 individuals on the land. [2005 c.844 §7]

Sec. 9. (2) Sections 5, 6 and 7 of this 2005 Act apply to an annexation of territory approved on or after March 1, 2005, and to an annexation of territory proposed on or after the effective date of this 2005 Act. [2005 c.844 §9(2)]

Sec. 11. (1) Sections 5, 6 and 7 of this 2005 Act are repealed on June 30, 2035.

(2) Notwithstanding subsection (1) of this section, unless this section is amended, sections 5 and 6 of this 2005 Act are repealed five years after June 30, 2035. [2005 c.844 §11]

222.110 [Repealed by 1957 c.613 §1 (222.111 enacted in lieu of 222.110)]

222.111 Authority and procedure for annexation. (1) When a proposal containing the terms of annexation is approved in the manner provided by the charter of the annexing city or by ORS 222.111 to 222.180 or 222.840 to 222.915, the boundaries of any city may be extended by the annexation of

territory that is not within a city and that is contiguous to the city or separated from it only by a public right of way or a stream, bay, lake or other body of water. Such territory may lie either wholly or partially within or without the same county in which the city lies.

(2) A proposal for annexation of territory to a city may be initiated by the legislative body of the city, on its own motion, or by a petition to the legislative body of the city by owners of real property in the territory to be annexed.

(3) The proposal for annexation may provide that, during each of not more than 10 full fiscal years beginning with the first fiscal year after the annexation takes effect, the rate of taxation for city purposes on property in the annexed territory shall be at a specified ratio of the highest rate of taxation applicable that year for city purposes to other property in the city. The proposal may provide for the ratio to increase from fiscal year to fiscal year according to a schedule of increase specified in the proposal; but in no case shall the proposal provide for a rate of taxation for city purposes in the annexed territory which will exceed the highest rate of taxation applicable that year for city purposes to other property in the city. If the annexation takes place on the basis of a proposal providing for taxation at a ratio, the city may not tax property in the annexed territory at a rate other than the ratio which the proposal authorizes for that fiscal year.

(4) When the territory to be annexed includes a part less than the entire area of a district named in ORS 222.510, the proposal for annexation may provide that if annexation of the territory occurs the part of the district annexed into the city is withdrawn from the district as of the effective date of the annexation. However, if the affected district is a district named in ORS 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465.

(5) The legislative body of the city shall submit, except when not required under ORS 222.120, 222.170 and 222.840 to 222.915 to do so, the proposal for annexation to the electors of the territory proposed for annexation and, except when permitted under ORS 222.120 or 222.840 to 222.915 to dispense with submitting the proposal for annexation to the electors of the city, the legislative body of the city shall submit such proposal to the electors of the city. The proposal for annexation may be voted upon at a general election or at a special election to be held for that purpose.

(6) The proposal for annexation may be voted upon by the electors of the city and of the territory simultaneously or at different times not more than 12 months apart.

(7) Two or more proposals for annexation of territory may be voted upon simultaneously; however, in the city each proposal shall be stated separately on the ballot and voted on separately, and in the territory proposed for annexation no proposal for annexing other territory shall appear on the ballot. [1957 c.613 §2 (enacted in lieu of 222.110); 1959 c.415 §1; 1967 c.624 §13; 1985 c.702 §7]

222.115 Annexation contracts; recording; effect. A contract between a city and a landowner containing the landowner's consent to eventual annexation of the landowner's property in return for extraterritorial services:

- (1) Must be recorded; and
- (2) When recorded, is binding on successors in interest in that property. [1991 c.637 §4; 2012 c.46 §§1,2]

222.120 Procedure without election by city electors; hearing; ordinance subject to referendum. (1) Except when expressly required to do so by the city charter, the legislative body of a city is not required to submit a proposal for annexation of territory to the electors of the city for their approval or rejection.

(2) When the legislative body of the city elects to dispense with submitting the question of the proposed annexation to the electors of the city, the legislative body of the city shall fix a day for a public hearing before the legislative body at which time the electors of the city may appear and be heard on the question of annexation.

(3) The city legislative body shall cause notice of the hearing to be published once each week for two successive weeks prior to the day of hearing, in a newspaper of general circulation in the city, and shall cause notices of the hearing to be posted in four public places in the city for a like period.

(4) After the hearing, the city legislative body may, by an ordinance containing a legal description of the territory in question:

(a) Declare that the territory is annexed to the city upon the condition that the majority of the votes cast in the territory is in favor of annexation;

(b) Declare that the territory is annexed to the city where electors or landowners in the contiguous territory consented in writing to such annexation, as provided in ORS 222.125 or 222.170, prior to the public hearing held under subsection (2) of this section; or

(c) Declare that the territory is annexed to the city where the Oregon Health Authority, prior to the public hearing held under subsection (1) of this section, has issued a finding that a danger to public health exists because of conditions within the territory as provided by ORS 222.840 to 222.915.

(5) If the territory described in the ordinance issued under subsection (4) of this section is a part less than the entire area of a district named in ORS 222.510, the ordinance may also declare that the territory is withdrawn from the district on the effective date of the annexation or on any subsequent date specified in the ordinance. However, if the affected district is a district named in ORS 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465.

(6) The ordinance referred to in subsection (4) of this section is subject to referendum.

(7) For the purpose of this section, ORS 222.125 and 222.170, "owner" or "landowner" means the legal owner of record or, where there is a recorded land contract which is in force, the purchaser thereunder. If there is a multiple ownership in a parcel of land each consenting owner shall be counted as a fraction to the same extent as the interest of the owner in the land bears in relation to the interest of the other owners and the same fraction shall be applied to the parcel's land mass and assessed value for purposes of the consent petition. If a corporation owns land in territory proposed to be annexed, the corporation shall be considered the individual owner of that land. [Amended by 1953 c.220 §2; 1955 c.51 §1; 1961 c.511 §1; 1967 c.624 §14; 1971 c.673 §2; 1985 c.702 §8; 1987 c.818 §11; 1993 c.18 §39; 2009 c.595 §180]

222.125 Annexation by consent of all owners of land and majority of electors; proclamation of annexation. The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation. [1985 c.702 §3; 1987 c.738 §1]

Note: 222.125 was added to and made a part of ORS chapter 222 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

222.130 Annexation election; notice; ballot title. (1) The statement summarizing the measure and its major effect in the ballot title for a proposal for annexation shall contain a general description of the boundaries of each territory proposed to be annexed. The description shall use streets and other generally recognized features. Notwithstanding ORS 250.035, the statement summarizing the measure and its major effect may not exceed 150 words.

(2) The notice of an annexation election shall be given as provided in ORS 254.095, except that in addition the notice shall contain a map indicating the boundaries of each territory proposed to be annexed.

(3) Whenever simultaneous elections are held in a city and the territory to be annexed, the same notice and publication shall fulfill the requirements of publication for the city election and the election held in the territory. [Amended by 1967 c.283 §1; 1979 c.317 §4; 1983 c.350 §33; 1995 c.79 §80; 1995 c.534 §10; 2007 c.154 §60]

222.140 [Repealed by 1979 c.317 §26]

222.150 Election results; proclamation of annexation. The city legislative body shall determine the results of the election from the official figures returned by the county clerk. If the city legislative body finds that the majority of all votes cast in the territory favors annexation and the city legislative body has dispensed with submitting the question to the electors of the city, the city legislative body, by resolution or ordinance, shall set the final boundaries of the area to be annexed by a legal description and proclaim the annexation. [Amended by 1983 c.83 §23; 1983 c.350 §34; 1985 c.702 §9]

222.160 Procedure when annexation is submitted to city vote; proclamation. This section applies when the city legislative body has not dispensed with submitting the question of annexation to the electors of the city. If the city legislative body finds that a majority of the votes cast in the territory and a majority of the votes cast in the city favor annexation, then the legislative body, by resolution or ordinance, shall proclaim those annexations which have received a majority of the votes cast in both the city and the territory. The proclamation shall contain a legal description of each territory annexed. [Amended by 1983 c.350 §35; 1985 c.702 §10]

222.170 Effect of consent to annexation by territory; proclamation with and without city election. (1) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if more than half of the owners of land in the territory, who also own more than half of the land in the contiguous territory and of real property therein representing more than half of the assessed value of all real property in the contiguous territory consent in writing to the annexation of their land in the territory and file a statement of their consent with the legislative body on or before the day:

(a) The public hearing is held under ORS 222.120, if the city legislative body dispenses with submitting the question to the electors of the city; or

(b) The city legislative body orders the annexation election in the city under ORS 222.111, if the city legislative body submits the question to the electors of the city.

(2) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if a majority of the electors registered in the territory proposed to be annexed consent in writing to annexation and the owners of more than half of the land in that territory consent in writing to the annexation of their land and those owners and electors file a statement of their consent with the legislative body on or before the day:

(a) The public hearing is held under ORS 222.120, if the city legislative body dispenses with submitting the question to the electors of the city; or

(b) The city legislative body orders the annexation election in the city under ORS 222.111, if the city legislative body submits the question to the electors of the city.

(3) If the city legislative body has not dispensed with submitting the question to the electors of the city and a majority of the votes cast on the proposition within the city favor annexation, or if the city legislative body has previously dispensed with submitting the question to the electors of the city as provided in ORS 222.120, the legislative body, by resolution or ordinance, shall set the final boundaries of the area to be annexed by a legal description and proclaim the annexation.

(4) Real property that is publicly owned, is the right of way for a public utility, telecommunications carrier as defined in ORS 133.721 or railroad or is exempt from ad valorem

taxation shall not be considered when determining the number of owners, the area of land or the assessed valuation required to grant consent to annexation under this section unless the owner of such property files a statement consenting to or opposing annexation with the legislative body of the city on or before a day described in subsection (1) of this section. [Amended by 1955 c.51 §2; 1961 c.511 §2; 1971 c.673 §1; 1973 c.434 §1; 1983 c.350 §36; 1985 c.702 §11; 1987 c.447 §117; 1987 c.737 §4; 1999 c.1093 §12]

222.173 Time limit for filing statements of consent; public records. (1) For the purpose of authorizing an annexation under ORS 222.170 or under a proceeding initiated as provided by ORS 199.490 (2), only statements of consent to annexation which are filed within any one-year period shall be effective, unless a separate written agreement waiving the one-year period or prescribing some other period of time has been entered into between an owner of land or an elector and the city.

(2) Statements of consent to annexation filed with the legislative body of the city by electors and owners of land under ORS 222.170 are public records under ORS 192.410 to 192.505. [1985 c.702 §20; 1987 c.737 §5; 1987 c.818 §8]

Note: 222.173 to 222.177 were added to and made a part of ORS chapter 222 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

222.175 City to provide information when soliciting statements of consent. If a city solicits statements of consent under ORS 222.170 from electors and owners of land in order to facilitate annexation of unincorporated territory to the city, the city shall, upon request, provide to those electors and owners information on that city's ad valorem tax levied for its current fiscal year expressed as the rate per thousand dollars of assessed valuation, a description of services the city generally provides its residents and owners of property within the city and such other information as the city considers relevant to the impact of annexation on land within the unincorporated territory within which statements of consent are being solicited. [1985 c.702 §21; 1987 c.737 §6; 1987 c.818 §9]

Note: See note under 222.173.

222.177 Filing of annexation records with Secretary of State. When a city legislative body proclaims an annexation under ORS 222.125, 222.150, 222.160 or 222.170, the recorder of the city or any other city officer or agency designated by the city legislative body to perform the duties of the recorder under this section shall transmit to the Secretary of State:

(1) A copy of the resolution or ordinance proclaiming the annexation.

(2) An abstract of the vote within the city, if votes were cast in the city, and an abstract of the vote within the annexed territory, if votes were cast in the territory. The abstract of the vote for each election shall show the whole number of electors voting on the annexation, the number of votes cast for annexation and the number of votes cast against annexation.

(3) If electors or landowners in the territory annexed consented to the annexation under ORS 222.125 or 222.170, a copy of the statement of consent.

(4) A copy of the ordinance issued under ORS 222.120 (4).

(5) An abstract of the vote upon the referendum if a referendum petition was filed with respect to the ordinance adopted under ORS 222.120 (4). [1985 c.702 §4; 1987 c.737 §7; 1987 c.818 §10]

Note: See note under 222.173.

222.179 Exempt territory. The amendments to ORS 222.210, 222.230, 222.240 and 222.270 made by chapter 702, Oregon Laws 1985, do not apply in territory subject to the jurisdiction of a local government boundary commission. [1985 c.702 §27]

Note: 222.179 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 222 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

222.180 Effective date of annexation. (1) The annexation shall be complete from the date of filing with the Secretary of State of the annexation records as provided in ORS 222.177 and 222.900. Thereafter the annexed territory shall be and remain a part of the city to which it is annexed. The date of such filing shall be the effective date of annexation.

(2) For annexation proceedings initiated by a city, the city may specify an effective date that is later than the date specified in subsection (1) of this section. If a later date is specified under this subsection, that effective date shall not be later than 10 years after the date of a proclamation of annexation described in ORS 222.177. [Amended by 1961 c.322 §1; 1967 c.624 §15; 1973 c.501 §2; 1981 c.391 §5; 1985 c.702 §12; 1991 c.637 §9]

222.183 Notice of annexation when effective date delayed for more than one year. (1) If the effective date of an annexation is more than one year after the date of a proclamation of annexation, the city, through its recorder or other city officer or agency performing the duties of recorder under this section, shall send notice to the county clerk of each county within which the city is located. The notice shall be sent not sooner than 120 days and not later than 90 days prior to the effective date of the annexation.

(2) The notice described in subsection (1) of this section shall be in addition to any other notice or filing required under ORS 222.010 to 222.750. [1995 c.607 §67]

WITHDRAWAL OF TERRITORY

222.460 Procedures for withdrawal of territory; content of resolution; hearing; election; taxes and assessments. (1) Except as expressly prohibited by the city charter, when the legislative body of a city determines that the public interest will be furthered by a withdrawal or detachment of territory from the city, the legislative body of the city, on its own motion, may order the withdrawal of territory as provided in this section.

(2) A withdrawal of territory from the city shall be initiated by a resolution of the legislative body of the city.

(3) The resolution shall:

(a) Name the city and declare that it is the intent of the legislative body of the city to change the boundaries of the city by means of a withdrawal of territory;

(b) Describe the boundaries of the affected territory; and

(c) Have attached a county assessor's cadastral map showing the location of the affected territory.

(4) Not later than 30 days after adoption of the resolution, the legislative body of the city shall hold a public hearing at which the residents of the city may appear and be heard on the question of the withdrawal of territory. The legislative body of the city shall cause notice of the hearing to be given in the manner required under ORS 222.120 (3).

(5) After receiving testimony at the public hearing, the legislative body of the city may alter the boundaries described in the resolution to either include or exclude territory. If the legislative body of the city still favors the withdrawal of territory pursuant to the resolution, as approved or modified, it shall enter an order so declaring. The order shall set forth the boundaries of the area to be withdrawn. The order shall also fix a place, and a time not less than 20 nor more than 50 days after the date of the order, for a final hearing on the resolution. The order shall declare that if written requests for an election are not filed as provided by subsection (6) of this section, the legislative body of the city, at the time of the final hearing, will adopt a resolution or ordinance detaching the territory from the city.

(6) An election shall not be held on the question of withdrawal of the affected territory from the city unless written requests for an election are filed at or before the hearing by not less than 15 percent of the electors or 100 electors, whichever is the lesser number, registered in the territory proposed to be withdrawn from the city.

(7) At the time and place set for the final hearing upon the resolution for withdrawal, if the required number of written requests for an election on the proposed withdrawal have not been filed, the legislative body of the city shall, by resolution or ordinance, declare that the territory is detached from the city.

(8) If the required number of requests for an election are filed on or before the final hearing, the legislative body of the city shall call an election in the city upon the question of the withdrawal of the affected territory.

(9) If an election is called and a majority of the votes cast at the election is in favor of the withdrawal of the designated area from the city, the legislative body of the city shall, by resolution or ordinance, declare that the territory is detached from the city. If the majority of the votes cast is against the withdrawal, the legislative body of the city shall enter an order declaring the results of the election and that no withdrawal shall occur.

(10) The described area withdrawn shall, from the date of entry of the order, be free from assessments and taxes levied thereafter by the city. However, the withdrawn area shall remain subject to any bonded or other indebtedness existing at the time of the order. The proportionate share shall be based on the assessed valuation, according to the assessment roll in the year of the levy, of all the property contained in the city immediately prior to the withdrawal. [1985 c.702 §2; 1989 c.1063 §13]

Note: 222.460 and 222.465 were added to and made a part of ORS chapter 222 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

222.465 Effective date of withdrawal from domestic water supply district, water control district or sanitary district. Notwithstanding any provision of this chapter or ORS chapter 199 which provides a different effective date, when territory is withdrawn by a city from a domestic water supply district organized under ORS chapter 264, a water control district organized under ORS chapter 553 or a sanitary district organized under ORS chapter 450, if the ordinance, annexation or incorporation that results in the withdrawal is enacted or approved after March 31 in any year, the effective date of the withdrawal of territory shall be July 1 in the following year. However, if the ordinance, annexation or incorporation that results in the withdrawal is enacted or approved before April 1 in any year, the effective date of the withdrawal of territory shall be July 1 in the same year. When less than the entire area of a domestic water supply district organized under ORS chapter 264, a water control district organized under ORS chapter 553 or a sanitary district organized under ORS chapter 450 is annexed by or incorporated into a city, the district shall, for purposes of administration, operation and the collection of service charges, continue to operate that portion of the district separately until the effective date of the withdrawal of territory as determined under this section. This section does not limit any agreement between a city and a district under ORS 222.530 (5), 222.540 (4) or 222.560 (4). [1985 c.702 §4a]



The City of Newport
cordially invites you and a guest to attend
The Volunteer Appreciation Dinner

Tuesday, April 21, 2015 at 6:00 PM
at the
The Oregon Coast Aquarium

Please RSVP to Cindy Breves
at 541-574-0603 or
e-mail c.breves@newportoregon.gov
by April 15, 2015