



AGENDA & Notice of Planning Commission Work Session Meeting

The Planning Commission of the City of Newport will hold a work session meeting at **6:00 p.m., Monday, September 23, 2013**, at the Newport City Hall, Conference Room "A", 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 work session.

NEWPORT PLANNING COMMISSION Monday, September 23, 2013, 6:00 P.M.

AGENDA

A. Unfinished Business.

1. Further discussion regarding changes to NMC Section 12.15.065 (SDC Credits).

B. New Business.

1. Discussion about interpretation of code requirement for safety-glazed windows for VRD inspections.

C. Adjournment.

Memorandum

To: Newport Planning Commission/Advisory Committee

From: Derrick Tokos, Community Development Director 

Date: September 20, 2013

Re: Changes to System Development Charge Credits

Enclosed is a draft set of amendments that builds off of our August 12th discussion. Also attached are the minutes from that meeting, excerpts from the League of Oregon Cities Model System Development Charge Code, and the memo that I prepared for the Council on this issue dated May 16, 2013.

I look forward to your feedback on Monday. If the language is generally acceptable, then the Planning Commission could move to initiate the process for amending this chapter of the Municipal Code at its regular session. I would then bring it forward as a hearing item at a future date.

CHAPTER 12.15 SYSTEM DEVELOPMENT CHARGES

12.15.065 Credits

A. ~~When redevelopment occurs, the amount of SDCs payable shall be determined by the following rules:~~

~~1. If SDCs had been previously paid for the property, a credit in the amount of the SDCs that would be payable for the existing structure and use under the current fee schedule shall be provided. For purpose of this section, "existing structure and use" means the structure and use for which SDCs have been paid. At the time of redevelopment, if the SDCs payable for the new structure and/or use exceed the amount of the credit, the difference shall be paid to the city. This rule applies regardless of the length of time between the end of the prior use and the redevelopment. Redevelopment to a use that results in a lower SDC amount does not reduce the amount of credit to be provided at the time of any future redevelopments.~~

~~Examples:~~

~~SDCs had been paid for three dwelling units on a property and the property is redeveloped with five dwelling units. A credit for three dwelling units' worth of SDCs will be provided, so the amount payable would be the amount for two dwelling units.~~

~~SDCs had been paid for two dwelling units and the property is redeveloped with a large retail use, with both residential units eliminated. The SDCs would be the difference between the SDCs payable for the new commercial structure and use and the SDCs that would be charged for two dwelling units.~~

~~SDCs were paid based on restaurant use, but then the property was converted to another retail use with lower SDCs. The property is then reconverted back to restaurant use, using exactly the same configuration as the original restaurant. At the time of the conversion to retail use, no SDCs are payable, because the amount payable is less than the credit. The credit for restaurant use remains with the property, so at the time of reconversion to restaurant use, no additional SDCs are payable, because the credit remained in effect and the credit for the original use is exactly the same as the amount that is owed, so no payment is required, even if the SDC rates have increased in the interim.~~

~~2. If no SDCs have been previously paid for the property, a credit in the amount of the SDC charges under the current fee schedule for any structure and use of the property in the previous 30 years shall be provided. No credit shall be provided if there has been no use of the property for 30 years, regardless of any structures that may exist on the property. No refund or credit shall be given if the redevelopment results in a lower SDC.~~

A. When a development occurs that is subject to SDCs, the SDC for the existing use, if applicable, shall be calculated and if it is less than the SDC for the use that will result from the development, the difference between the SDC for the existing use and the SDC for the proposed use shall be the SDC that is assessed. If the change in the use results in the SDC for the proposed use being less than the SDC for the existing use, no SDC shall be required; however, no refund or credit shall be given.

1. For the purpose of this section, "existing use" is any use or structure on a property within the last 10 years. If more than one use or structure was on a property within this timeframe than the existing use shall be that which placed the greatest demand on the capital system during this period of time.

Staff: New language borrows from the League of Oregon Cities 2010 Model Code. The existing code separately addresses situations where SDCs have been paid and not paid. This is very difficult to administer. The new language simplifies the process by focusing on improvements that exist on the property. The rationale for the credit is that existing improvements already impact the capital system and that "impact" has been accounted for in some way; therefore, a developer should not have to pay for it again when redeveloping a site. As discussed with the Planning Commission at its 8-12-13 work session, this credit option should be available for any structure or use that existed on a property within the last 10 years. The existing 30 year look back is inappropriate given the degree to which demands on the City's capital system change over time. It is also extremely difficult to administer. Defining existing use as the most intensive use of a property within a 10 year timeframe reasonably addresses circumstances where there is frequent turnover (i.e. restaurant to general retail, then back to a restaurant).

~~B. On termination of a use for which SDCs have been paid, a credit certificate shall be issued on written request of the property owner.~~

~~1. The credit shall be for water, sewer and transportation SDC improvement fees only.~~

~~2. The credit shall be based on a "unit" basis, not on a "dollar" basis. The credit shall be for a specific number of EDUs, trips, or other units on which the SDC amount is calculated.~~

~~3. The amount of the credit issued in the certificate shall be deducted from the credit authorized by Subsection A.1 of this section for the property where the use was terminated.~~

~~4. If all structures are removed from the property, the amount of the credit may equal the full amount of the credit the property is entitled to under Subsection A.1 of this section. If structures remain on the property, the issuance of the certificate may not cause the amount of credit remaining on the property to be less than the amount of SDCs to allow use of the property without payment of additional SDCs, assuming the structure is used for the type of use with the lowest SDC rates consistent with the type of structure.~~

~~5. The credit certificate may be transferred and used anywhere in the city within five years of the date of issuance. If the credit is not used within five years, it shall be automatically applied to the property where the use was terminated.~~

Staff: Most jurisdictions do not allow SDC credits to be transferred, as the impact on the capital system at one location in the City is different than another. It is also a challenge to administer. The existing provision (proposed to be deleted) has been used less than a half a dozen times since 2008.

B. Notwithstanding subsection (A), there shall be no credit given against storm drainage SDC assessments for impervious surfaces that exist on a property. A credit may be provided for development that incorporates improvements designed to reduce the impact of runoff on the storm drainage system (e.g. cisterns, detention facilities, pervious surface technology, etc.). In each case, the City will review the proposed mitigation measures and determine an appropriate credit for impervious surface reduction.

Staff: This language may need to be improved, but gets at two issues. First, the existing SDC methodology and credit structure for storm drainage assessments is not effective given that permits are not required for many types of development that result in impervious surfaces being added to a property. Secondly, developments can be designed to incorporate measures that reduce the impact of the resulting drainage on the capital system. A credit can be provided as an incentive to developers to implement these measures. Proposed language borrows from the City's SDC Methodology, where the credit is discussed but was never implemented.

- C. A credit of the improvement fee portion of the SDC only shall be given to the permittee against the cost of the SDC charged, for the cost of a qualified public improvement incurred by the permittee, upon acceptance by the city of the public improvement. The credit shall not exceed the amount of the improvement fee even if the cost of the capital improvement exceeds the improvement fee.
1. If a qualified public improvement is located in whole or in part on or contiguous to the property that is the subject of the development approval and is required to be built larger or with greater capacity than is necessary for the particular development project, a credit shall be given for the cost of the portion of the improvement that exceeds the city's minimum standard facility size or capacity needed to serve the particular development project or property. The applicant shall have the burden of demonstrating that a particular improvement qualifies for credit under this subsection. The request shall be filed in writing no later than 60 days after acceptance of the improvement by the city. The city may deny the credit provided for in this section if the city demonstrates that the application does not meet the requirements of this section or if the improvement for which credit is sought is not included in the SDC Project List.

2. When construction of a qualified public improvement located in whole or in part or contiguous to the property that is the subject of development approval gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project, the credit in excess of the improvement fee for the original development project may be applied against improvement fees that accrue in subsequent phases of the original development project or otherwise imposed on the same property.
 3. Credits for qualified public improvements shall not be transferable from one property to another but may be used for future phases of development, redevelopment or change in use of the property.
 4. Credit for qualified public improvements shall not be transferable from one type of capital improvement to another.
 5. Credits for qualified public improvements shall be used within 10 years from the date the credit was given.
 6. If the public improvement for which a credit is sought is not on the SDC Project List, the applicant may submit an application for both the credit and for the placement of the improvement on the SDC project list. If the city manager determines that the project is of a type and location that is appropriate for inclusion, the project shall be added to the SDC Project List and a credit may be given, but the addition of the project shall not change the SDC amount payable by others.
- D. The extent of the property to be considered in computing and allocating credits shall be stated by the applicant, and the applicant must have written authorization from the property owner(s). If properties under different ownership are developed together, the city may require the applicants to specify where any credits for the provision of capital improvements may be used and under which circumstances. Two or more contiguous properties may pool existing SDC credit rights as part of a common scheme for redevelopment of the contiguous properties.
- E. For all credits under any portion of this section, the property owner is responsible for providing the facts justifying a credit.
- F. Credits shall not be transferable from one development to another.
- G. Credits shall not be transferable from one type of capital improvement to another.

Staff: This language has been added for clarity. It is taken from the League of Oregon Cities Model Code.

12.15.110 Maximum Assessment

Notwithstanding the other provisions of this chapter, under no circumstances shall the SDC exceed 10% of the construction value of a proposed development. The value of proposed construction shall include labor and materials costs and the city may require that it be established by a detailed estimate from a licensed contractor. In the event an SDC exceeds the 10% limit, it shall be reduced proportionally for each capital improvement category so that the total SDC is 10% of the construction value of the development.

Staff: This provision is proposed to ensure that the cumulative cost of SDC assessments is not such a burden that it renders development impractical. An example might be a modest addition to a restaurant or similar proposal.

Draft MINUTES
City of Newport Planning Commission
Work Session
Newport City Hall Conference Room 'A'
Monday, August 12, 2013

Planning Commissioners Present: Jim Patrick, Bill Branigan, Rod Croteau, Mark Fisher, Glen Small, and Gary East.

Planning Commissioners Absent: Jim McIntyre (*excused*).

Citizens Advisory Committee Members Present: Lee Hardy and Suzanne Dalton.

Citizens Advisory Committee Members Absent: Bob Berman.

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

Chair Patrick called the Planning Commission work session to order at 6:00 p.m. and turned the meeting over to CDD Tokos.

A. New Business.

1. Discuss changes to NMC Section 12.15 (System Development Charges (SDCs); more specifically Credits (12.15.065). Tokos noted that he had passed on examples of the credit portions of SDC ordinances of several different jurisdictions to see how they approach things. These same jurisdictions, with the exception of Bend, were in the presentation he gave the Commissioners at a prior work session. Tokos wanted to get the Planning Commission's sense of what direction we should go in making adjustments to the SDC credit options. He noted that as you go through these examples, you will see that it ranges; from jurisdictions such as Corvallis that only offer the statutory-required credit for public improvements to Newport which offers credits for qualified public improvements and also pre-existing uses that don't even exist anymore but did within 30 years. Tokos raised the question of whether we should be more conservative (more like Corvallis) and give credits only for those required under state law; or should we continue them for pre-existing improvements (things already on the property).

Fisher wondered if we wouldn't have a legal problem if somebody bought property believing that there had already been something there and they don't know that they can't continue the SDCs. Tokos said it would be no different than if they bought something under the current building code and then the building code changes; it's changing rules. Tokos said we probably would in those rare circumstances where we issued a credit letter already. Under current rules, they could transfer a credit to another site; and those we would have to respect if they have not already acted on that. Fisher gave an example of an abandoned house that somebody buys on a Sheriff's auction, and then because the house isn't usable they tear it down. He asked if the SDCs would have to be brand new then. Tokos said that under current rules, if there was a house there and they tear it down and replace it, the only SDC they are liable for is storm water because of the impervious surface; everything else is a credit.

Branigan asked that if we went the conservative route, how much money we would be gaining. Tokos said that is very difficult to figure out; if not impossible. The issue is to be fair and equitable. He said the question is are we requiring developers to pay SDCs when they are having an impact on the system; or is our method too generous. Patrick noted that there is also the question of fairness if they never paid an SDC fee in any period of time or the use goes away and then comes back (as in Teevin Brothers' case). Dalton wondered about management. She asked, not knowing how much time it takes now to manage, is that an increase in staff time and if so would the additional money be able to cover it. She wondered how much impact on City personnel that might make. Tokos said that there are a couple of things staff does that have a burden. He noted that he put Bend's code in there because former City Attorney Gary Firestone went to Bend when he left Newport. Their update looks identical to Newport's code, except that they went to 10 years not 30. Firestone probably had a role in drafting Bend's code. Another thing they don't do is transferability. Most jurisdictions don't do that because administratively it is too difficult. Tracking is involved, and it has to be tracked over time. The impact in one location might not be the same in another. Other jurisdictions don't typically give credit for things that are not on the property because that is burdensome. Everything has to be case by case because it is formula based. As long as we have detailed information from an applicant, we can give them a clear idea of what their cost is. Patrick agreed that a 30-year timeline is long, and he would be happier with 10 or 15. Tokos asked what if we don't give a timeline; what if it's just what's on there now? He said that's just an option.

He did include the memo he prepared to the City Council when they were working on the coffee house. It is language that he also has vetted with legal counsel and others. That language includes a provision that under no circumstances would SDCs be allowed to be over 20% of the construction cost. Croteau had a question about where it refers to credit for which an SDC has never been paid, and Tokos said he should probably be clearer there. He asked if we only want to offer credit for existing

structures where SDCs were paid or they would be eligible for some credit. He noted that there are lots of structures in the community that haven't paid into the system and will get credit on the next.

Patrick gave an example that if a restaurant is shut down, and a new one opens, it would be hit with \$30,000 in SDCs; so how many new restaurants are we going to get with a change in ownership. He said that the main reason the committee wrote the code the way they did was because they were looking at the numbers and what happens to a restaurant that is trying to open in this town. Fisher said that he doesn't like SDCs at all; but you are using the utility so you have to pay some money to hook up to it and use it. Patrick said SDCs are intended to collect for reimbursement for additional capacity in your system or to fund additional capacity in our system.

Tokos said that his last question to the Commission is that we may want to deal with storm water entirely differently. We didn't collect until 2008. We don't require a permit for somebody putting down impervious surface. We could offer those that never paid SDCs a reduction; say they pay only half the rate. He gave an example of a restaurant built in the 70s and had never paid SDCs. A new restaurant comes in there and they pay 50%; or we could just not require it at all; or we could require full payment. He said there are lots of options there. Tokos noted that if we grant too many broad exemptions, especially when they didn't pay in the first place, we can assume that no SDCs will ever be paid. Infrastructure doesn't last forever. If they don't pay, we assume that the system was capable of handling that development. Maybe that one was; but the next one, and the next one, etc? We can assume no payment at any time. Hardy wondered if we could prorate the impact on the system based on its life span. Tokos said that statute doesn't allow us to collect for maintenance of the system; only additional capacity. He added that every time we are replacing, we typically are upsizing. That is where those funds go. Hardy asked if we couldn't predict upsizing replacement. Tokos said that is what the CIP does. It includes a list of projects and their eligibility for SDC revenue. Fisher said that the City Council has said they want something simple enough and clear enough to use so they won't get appeals. If we put in a complex matrix, they will get a lot of appeals and they don't want that do they? The agreement was no. Patrick thought we could make a good case for 50% when SDCs were never paid to begin with and then roll over when they are actually paid. He thought the timeline should be cut down to something reasonable. Croteau asked why not remove it. Tokos said that a lot of jurisdictions don't go back; it is credit for what's there at the time they are ready to develop. Patrick mentioned if O'Reillys goes where the Big Guys Diner was; and Tokos added that O'Reillys won't be paying anything because of the Big Guys restaurant, which is a heavier hit.

Tokos said what he is hearing from the Commission is that the City shouldn't take the Corvallis approach, which is too conservative, and should continue doing something beyond that. We should offer credit for improvements that are on there at the time of redevelopment. If no SDCs were paid, they shouldn't get 100% credit, but it should be something else that is reasonable and makes sense. Tokos will come up with something reasonable to share with the Commission.

Giving Teevin Bros. as an example, Tokos said that we ended up getting to an equitable solution on SDCs in an awkward way. It was just under \$200,000. It shouldn't have been all storm water. It should have been some transportation with some storm water. NOAA paid some \$200,000 plus, which is just 4.5-5% of the cost of their development.

Tokos asked what about looking back? We could run into situations where somebody did tear down and now they lose everything. Fisher thought that even if a house is vacant for 10 years, they should get a credit if they tear down. Patrick agreed that just because somebody isn't living in the house, it is the existing use. If it's there, that is existing. It's only if the house is torn down and the ground sits there vacant. Tokos asked how about saying the last improvement on the property within the last 10 years; and everyone agreed that seemed fair. Tokos said that if we offer transferability, statute requires those to be acted upon within 10 years; so this falls in line with that. He said that if we lock somebody in and they sit on it for 10-15 years, the impact on the system is a little bit more expensive. Croteau stated 10 years, and then the clock starts again; but he asked if that was burdensome. Tokos said that 10 years is quite a bit better than 30.

Dalton asked about their payments. Tokos said that the City does offer a payment plan. It is not something that most developers will pursue because it is through Finance, and they are hit with something like a 10% interest rate. Part of that is to discourage the City's financing. The City would have to track that. He noted that the City hasn't been entirely consistent with that. For example, Pig 'n Pancake as part of a package to redevelop old city hall received 4.5-5% on theirs and is over 10 years he thinks. They received a little different deal. It was noted that one reason may have been because it was City property. Dalton said that as this is crafted, she would encourage consideration of more consistency and less packages.

Small said the City is encouraging redevelopment, and the Commission has had this discussion before. He recalls that part of that was urban renewal funds. Tokos said that was the situation in Gresham. We can't waive SDCs. They have to be paid from some pot of money. Gresham chose to pay them out of urban renewal. They also paid out of enterprise finds. Tokos noted that right now in the City Center area, buildings predate any SDC program; yet under the current code they would receive full credit for whatever is there. Most would not pay anything. He said that Walgreens is a good example. If they had received no credits, they would have paid around \$68,000 in SDCs, but they paid zero. Tokos said that he could bring a couple of examples of percentages that pre-existing uses would have to pay if no SDCs were previously paid. He gave an example of a restaurant in

City Center, like LaRoca, and something new comes in. He can show what that would look like with a couple of different percentages, say 30% or 50%, so the Commissioners can see if that looks like it would be reasonable.

Tokos asked if the Commissioners were comfortable limiting credits in terms of transferability. He said that administratively it is a headache. It's not used a lot. Mostly homes have used this option. The consensus was to leave it alone.

It was noted that nobody wants to pay SDCs. Tokos noted that for a single-family residence, the total SDCs are now around \$10,400, which is low compared to other communities.

East asked about possibly using a sliding scale for somebody that is doing affordable housing if they are going to meet certain things for workforce housing. He thought that maybe it could be adjusted by square footage. Tokos said the trouble with square footage is it would change our SDC methodology. East said then maybe a certain percentage of credit if they meet workforce housing requirements. Tokos said that a perfect example we got from Landwaves is one Portland does for affordable housing. He said if it works with EDUs and doesn't get into our methodology, he would be happy to bring examples. Otherwise, we have to redo our methodology. Fisher thought that there has to be some place to plug in a percentage of the value. Patrick said that a single family residence is an EDU, so you pay the same for an 800 square foot house as a 4,000 square foot house; but EDUs are easier to deal with than any other methodology the committee had on the table. Tokos said one way to get at that is the fixture-based approach, which the City used to do and Corvallis still does. He talked to Corvallis about that, and they said the problem they run into is that people don't pull permits for bathroom additions.

Tokos said that 20% of construction value gets to issues like the coffee house, which had a modest project but restaurant uses have such hefty SDCs. Patrick thought that we need to have some sort of charge for alfresco dining, like the coffee shop and Nana's. Tokos said that we can charge for impacts to the system that do not require a development permit. He noted that Nana's was on their own property so they didn't have to come for a permit. He said the problem is if a permit is not required up front, they go ahead and do the project and now we are engaging that individual. It is a difficult situation. Patrick wondered if Café Stephanie and Local Ocean Seafood have permits to use the sidewalk. Tokos said that Local Ocean definitely does. He said that drives at the inequity issue. They had to get a permit and had to pay SDCs. Nana's has a similar situation, but paid no SDCs. It was noted that Savory Café also has a couple of tables outside. Croteau felt it would be a nightmare to regulate where they don't get a permit. He appreciates the fairness issue, but thought it would be a burden to look after all of these situations unless they are brought to your attention. Patrick said that commercial is roughly based on square footage and a use. The use is defined by how much square footage you have. He gave an example of a restaurant that was 100 square feet and after adding exterior seating is now 200 square feet. They are serving twice as many customers. Croteau said that we can appreciate that, but the difficulty is whether they pull a permit to trigger the SDCs; it's not equitably based on use. Tokos agreed that no system is perfect. Tokos said the issue with the coffee house is what constitutes additional seating space. The Council determined that a screened-in porch wasn't.

Tokos said that his last question is about treating credits for some capital projects differently; storm drainage for instance. Teevin gave us a good sense that there needs to be something that gives credit for onsite storm water management. He said we might think about language that storm water will be handled differently, and any time you pull a permit you are going to pay for impervious surface on that property since we had never collected for storm water until 2008. Patrick agreed that made sense, but said you are going to hear about it. He thought it is a good point though. East asked what about requiring the developer to do their own storm water management plan so they are bearing the cost. What that would say is they are required to put in an adequate system that would tie into the City's system rather than charging them a storm water fee. That way they absorb the cost on their own. Fisher noted that Teevin was going to put in their own system, and he was told it would come out cleaner than the Bay water and go into the Bay. They didn't want to have to argue over SDCs even though they didn't intend to use City facilities. Tokos noted that they did appeal but withdrew it because they knew that if they were not paying SDCs it would be a powerful issue with the community. Patrick said it is an inequitable situation where they should be paying those SDCs. He also thought we need to be careful where developers are doing onsite storm water management because there are a lot of slide blocks in this town, and that could make it worse. Tokos said this wouldn't authorize it, it's just if they were doing it and it was acceptable, then they get the credit. The geologic review will deal with it in hazardous areas. Tokos said that he senses there is some desire to see credit for onsite storm water management. The consensus was that seems fair.

Tokos wondered about dealing with impervious surfaces. We don't have a way of catching it. If someone is paving their driveway, we have no way to catch that. That is the burden aspect of it. Unlike water, sewer, and streets, storm water didn't start until 2008; and there wasn't funding for storm water until about a year ago. Fisher noted that when Wilder put in their development, the Commission went up there; and they had put in black top that water permeates through. He wondered if a developer puts that in, would they pay. Tokos said that wouldn't be an onsite management credit. Patrick said back when the committee first talked about charging so much per impervious surface, the large car dealers came; so the Committee didn't get very far with that one. He asked if Tokos was saying that if Gold Motors sold, the new owner would have to come in. Tokos said that if no SDCs were paid on the impervious surface, the new owner would have to pay. He said there is asphalt going down all the time without permits. At the Aquarium Science building at the college, they had to pay SDCs on parking. But the South

Beach Church didn't; they got credit. Patrick said that maybe whatever we end up with, we could offer a credit on the storm water fee for existing uses. Maybe 50%; or tie back to what we do on the other side. That would at least allow us to start collecting on some of this stuff that is around town.

Tokos said it sounds like the Commission is on board with the 20% cap, and the consensus was that sounds fine. Fisher thought that might be too much. Tokos said that 10% is probably okay; 20% would take care of the egregious cases; most run between 4% and 6%. Patrick said that we could go with 20%; nothing is written in stone. Croteau said he would be fine with 10% if that is on the high end. Tokos said he can run some calculations to see that it's not too generous. He will try 10%. He thinks that will be fine.

C. Adjournment. Having no further discussion, the work session meeting adjourned at 6:53 p.m.

Respectfully submitted,

Wanda Haney
Executive Assistant

- (6) Upon written request of the (appropriate city department), the (appropriate city official) is authorized to cancel assessments of SDCs, without further Council action, where the new development approved by the building permit is not constructed and the building permit is cancelled.
- (7) For property that has been subject to a cancellation of assessment of SDCs, a new installment payment contract shall be subject to the code provisions applicable to SDCs and installment payment contracts on file on the date the new contract is received by the city.

Section 11. Exemptions

- (1) Structures and uses established and legally existing on or before (effective date of ordinance) are exempt from a system development charge, except water and sewer charges, to the extent of the structure or use then existing and to the extent of the parcel of land as it is constituted on that date. Structures and uses affected by this subsection shall pay the water or sewer charges pursuant to the terms of this ordinance upon the receipt of a permit to connect to the water or sewer system.
- (2) Additions to single-family dwellings that do not constitute the addition of a dwelling unit, as defined by the State Uniform Building Code, are exempt from all portions of the system development charge.
- (3) An alteration, addition, replacement or change in use that does not increase the parcels or structures use of the public improvement facility are exempt from all portions of the system development charge.

Section 12. Credits

- (1) When a development occurs that is subject to a system development charge, the system development charge for the existing use, if applicable, shall be calculated and if it is less than the system development charge for the use that will result from the development, the difference between the system development charge for the existing use and the system development charge for the proposed use shall be the system development charge. If the change in the use results in the system development charge for the proposed use being less than the system development charge for the existing use, no system development charge shall be required. No refund or credit shall be given unless provided for by another subsection of this Section.
- (2) A credit shall be given to the permittee for the cost of a qualified public improvement upon acceptance by the city of the public improvement. The credit shall not exceed the improvement fee even if the cost of the capital improvement exceeds the applicable improvement fee and shall only be for the improvement fee charged for the type of improvement being constructed.
- (3) If a qualified public improvement is located in whole or in part on or contiguous to

the property that is the subject of the development approval and is required to be built larger or with greater capacity than is necessary for the particular development project, a credit shall be given for the cost of the portion of the improvement that exceeds the city's minimum standard facility size or capacity needed to serve the particular development project or property. The applicant shall have the burden of demonstrating that a particular improvement qualifies for credit under this subsection. The request for credit shall be filed in writing no later than 60 days after acceptance of the improvement by the city.

(a) The city may deny the credit provided for in this section if the city demonstrates that the application does not meet the requirements of this section or if the improvement for which credit is sought was not included in the improvement plan pursuant to Section 8 of this resolution.

- (4) When the construction of a qualified public improvement located in whole or in part or contiguous to the property that is the subject of development approval gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project, the credit in excess of the improvement fee for the original development project may be applied against improvement fees that accrue in subsequent phases of the original development project.
- (5) Notwithstanding subsections 1-4, when establishing a methodology for a system development charge, the city may provide for a credit against the improvement fee, the reimbursement fee, or both, for capital improvements constructed as part of the development which reduce the development's demand upon existing capital improvements and/or the need for future capital improvements, or a credit based upon any other rationale the council finds reasonable.
- (6) Credits shall not be transferable from one development to another.
- (7) Credits shall not be transferable from type of system development charge to another.
- (8) Credits shall be used within 10 years from the date the credit is given.

Section 13. Notice.

- (1) The city shall maintain a list of persons who have made a written request for notification prior to adoption or modification of a methodology for any system development charge. Written notice shall be mailed to persons on the list at least 90 days prior to the first hearing to establish or modify a system development charge. The methodology supporting the system development charge shall be available at least 60 days prior to the first hearing to adopt or amend a system development charge. The failure of a person on the list to receive a notice that was mailed does not invalidate the action of the city.
- (2) The city may periodically delete names from the list, but at least 30 days prior to

Memorandum

To: Newport City Council

From: Derrick Tokos, Community Development Director *DT*

Date: May 16, 2013

Re: Potential Revisions to the City of Newport's System Development Charge Ordinance

This memo outlines potential options for revising the System Development Charge (SDC) Ordinance to address issues of fairness that have come up in relation to how those charges are assessed to new development. Staff has vetted these options with legal counsel to confirm that they are conceptually within the bounds of what can be done considering statutes that govern the structure of SDC programs.

At the May 6th Council meeting, Dennis Bartoldus, attorney for the owner of the Coffee House, pointed out that the City does not collect SDCs for certain restaurant patio expansions. Nana's Irish Pub was cited as an example. He further noted the inequity in this considering that his client is being required to pay SDCs to enclose a restaurant deck area.

NMC 12.15.050(A) of the City's SDC Ordinance sets out when SDC charges are to be collected. It reads as follows:

12.15.050 Collection of Charge

A. The SDC is payable on:

- 1. Issuance of a building permit or any construction activity for which a building permit is required but not obtained.***
- 2. Issuance of a development permit or approval for development not requiring the issuance of a building permit. A permit or approval to connect to the water and/or sewer system;***
- 3. Issuance of a permit to connect to the water system or actual connection to the water system if a permit is not obtained.***
- 4. Issuance of a permit to connect to the sewer system or actual connection to the sewer system if a permit is not obtained.***

In the case of Nana's Irish Pub, no permit was required in order for the business to use the patio area. The business is not in an area where the City's Zoning Ordinance requires a condition use permit or other form of land use approval, no construction was done that would require a building permit, and there were no new connections to the water or sewer system. Therefore, while the use was clearly intensified, the Ordinance does not provide for the collection of SDC charges.

The City's SDC ordinance is very similar to the model ordinance put out by the League of Oregon Cities <http://www.oregocities.org/portals/17/A-Z/finadm273c.pdf>. In fact, it appears that most jurisdictions in Oregon use the League's model language in some fashion. The City of Newport's SDC Ordinance does not include language from the model ordinance that would allow SDCs to be collected for development that does not otherwise require a permit. That language reads as follows:

If no building, development, or connection permit is required, the system development charge is payable at the time the usage of the capital improvement is increased based on changes in the use of the property unrelated to seasonal or ordinary fluctuations in usage.

A number of jurisdictions have elected not to use this language. I suspect that is because of the difficulty in implementing such a provision. While this approach would allow SDCs to be collected for uses such as Nana's restaurant patio expansion or say the pavement of privately owned gravel parking areas or driveways (which in most cases also does not require City permits) the City would be forced to collect those SDC after the development is initiated. In some cases, such as paving, it would be difficult to even identify when or where work was done. Further, those who conducted the development would be assessed fees that they would not have anticipated after they have committed to or completed the development. For these reasons, I would not recommend adding this type of language to the SDC Ordinance at this point in time.

With regards to SDC credits, the Council may want to take a fresh look at language in its Ordinance that applies to circumstances where an existing use on a property never paid SDCs. This would apply to development that occurred prior to the 1980's. In such cases, where SDCs were never paid, a credit is nonetheless given for any use of the property within the last 30 years. A number of jurisdictions allow credits for uses or structures that are present on a property but being replaced; however, none that I have observed allow a credit for uses or structures that cease to exist on a property for such a long period of time. The City's capital improvement system changes too much over a 30 year period for this type of credit to be effective. Alternative language that aligns with the League of Oregon Cities model ordinance is listed below. This same language is used by a number of jurisdictions and can be supplemented to ensure that circumstances such as replacement due to fire or similar casualty loss also receive a credit (Umpqua Bank would be an example). Adjustments to the language would also be needed to fit it into the structure of the existing ordinance. Had the 30 year credit not existed, then a project like Teevin Bros. log yard would have been required to pay SDCs for the impact of its project on the City's transportation system.

Another option would be to eliminate the credit for existing development where SDCs have never been paid. A number of jurisdictions take this approach, reasoning that the impact of the original development on the capital system (i.e. the need for the City to expand the system moving forward) was never captured so therefore a credit is not warranted. It would; however, mean that redevelopment in areas such as the City Center District would be subject to SDCs. For example, the new Walgreens, which took advantage of this credit, would have been subject to the charges.

12.15.065 Credits

~~2. If no SDCs have been previously paid for the property, a credit in the amount of the SDC charges under the current fee schedule for any structure and use of the property in the previous 30 years shall be provided. No credit shall be provided if there has been no use of the property for 30 years, regardless of any structures that may exist on the property. No refund or credit shall be given if the redevelopment results in a lower SDC.~~

When development occurs that is subject to a SDC, the SDC for the existing use, if applicable, shall be calculated and if it is less than the SDC for the use that will result from the development, the difference between the SDC for the existing use and SDC for the proposed use shall be the SDC. Current rates for SDC fees shall be used when calculating the SDC charge for the existing use. If the change in use results in the SDC for the proposed use being less than the SDC for the existing use, no SDC shall be required. No refund or credit shall be given if the proposed use results in a lower SDC.

Another change to the SDC Ordinance that the Council may want to consider gets at the proportion of SDC fees in relation to the overall cost of a project, a concern raised in The Coffee House appeal. The City could, for example, cap its assessments at 20% of construction value. Such a cap could be included in the credit section of the ordinance or a separate section that speaks specifically to limitations on SDC assessments. This approach is similar to that taken by the Oregon legislature with respect to compliance with ADA requirements, where out of pocket expenses for a developer are capped at 25% of project cost. Sample language is listed below. I am not aware of any other jurisdictions that have taken this approach.

Notwithstanding the other provisions of this chapter, under no circumstance shall the SDC exceed 20% of the construction value of a proposed use. The value of proposed construction shall include labor and materials costs and the City may require that it be established by a detailed estimate from a licensed contractor. In the event an SDC exceeds the 20% limit, it shall be reduced proportionally for each capital improvement category so that the total SDC is 20% of the construction value of the proposed use.

When considering these or other changes to the City's SDC Ordinance, the Council should keep in mind the purpose of assessing the charges. That is, that new development contributes to the need to expand/enlarge the City's water, sewer, and storm drainage systems; its street network; and parks program. Adjusting SDC credits influences how much of that burden is placed on the developer as opposed to the rate payers. Several of the capital projects driving the rate increases that the Council is currently considering are not simply needed to meet the demand of the City's existing businesses and residents, but are required to provide capacity to accommodate future growth.

If, after reviewing these options, the Council wants to see revisions made to the SDC Ordinance than it should specify the nature of those changes so that staff can prepare the necessary amendments for consideration at a future Council meeting.

Memorandum

To: Newport Planning Commission/Advisory Committee

From: Derrick Tokos, Community Development Director 

Date: September 20, 2013

Re: Health and Safety Standards for Vacation Rentals

Attached is a copy of the health and safety standards adopted for Vacation Rentals (NMC 14.25.060), copies of the Residential and Structural Specialty codes related to safety glazing, and an email from Lee Hardy that includes her dialogue with the State Building Codes Division on this issue.

I would like to talk to you about the standard we adopted under 14.25.060(A)(3) which reads:

“Windows within a 24-inch arc of doors shall be safety glazed.”

The issue is whether or not this provision applies to sliding glass patio doors in addition to hinged doors. The language that we added to the Zoning Ordinance doesn't distinguish between the two, and when looking at the building codes, which are more explicit, they require safety glazing for both (although in the case of patio doors it only applies to the movable section). The purpose of the safety glazing requirement is to ensure that adjoining windows don't shatter if a door is slammed.

My purpose in bringing this forward as a work session item is to see if the Commission is comfortable with the language as drafted, or if you see a need to further clarify the language.

Also, enclosed is a summary sheet showing the distribution of vacation rental endorsements within the city, by zoning district, along with the status of how inspections of the units is coming along.

NMC CHAPTER 14.25

other emergency. Required information includes, but is not limited to:

1. A tsunami evacuation map produced by Lincoln County Emergency Services, Oregon Department of Geology and Mineral Industries or other agency with similar authority.
 2. Phone numbers and addresses for emergency responders and utility providers.
 3. Other information as established by resolution of the City Council;
- I. Noise. Noise levels shall conform to the requirements of Chapter 8.15 of the Newport Municipal Code;
- J. Posting. A copy of the business license endorsement shall be located within the vacation rental or bed and breakfast and its location shall be posted inside the dwelling unit's primary entrance. In addition to the endorsement, such information shall include occupancy limits; a phone number and address for the designated contact; a diagram of the premises with parking locations; the maximum number of vehicles that can be parked on-site; instructions for trash pick-up, storage and recycling; emergency information; and the noise limitations of Section 8.15.015 of the Newport Municipal Code. This information shall be maintained and current at all times;
- K. Shared Access. Written consent is required from affected owners for applications that rely upon shared driveway, parking or beach access;
- L. Signs. Signs shall conform with applicable provisions of Title X of the Newport Municipal Code;
- M. Business License Required. A business license for the rental use shall be obtained pursuant to Chapter 4.05 of the Newport Municipal Code; and
- N. Room Tax. Owner or designee shall adhere to the room tax requirements of Chapter 3.05 of the Newport Municipal Code.

14.25.060 Inspections.

- A. A dwelling unit proposed for a vacation rental or bed and breakfast use shall be inspected by the Building Official or designee to determine its conformance with the endorsement

standards of subsection 14.25.050 and the following basic health and safety elements:

1. Bedrooms shall have an egress window or exterior door that is operable, with a minimum opening size of 5.7 sq. ft., and that is located not more than 44 inches above the finished floor;
2. Interior and exterior hand railing shall be secure with a maximum width of four (4) inches between guard rails on open stairs. Hand and/or guard railing shall be installed for staircases with four (4) or more risers and on decks or porches that are more than 30 inches above grade;
3. Windows within a 24 inch arc of doors shall be safety glazed;
4. Wood frame decks shall be structurally sound. In cases where a deck supports a hot tub or other features of a similar size and weight, engineering analysis of the supports may be required;
5. Electrical plug-ins and light switches shall have face plates;
6. Electric breaker boxes shall have all circuits labeled, and empty breaker spaces must be plugged;
7. GFCI (Ground Fault Circuit Interrupter) protected plug receptacles shall be provided for exterior, kitchen, and bathroom plugs;
8. Functioning smoke detectors shall be installed in all bedrooms and in hallways between a potential fire source and sleeping areas.
9. Functioning carbon monoxide alarms shall be installed if the unit (a) contains a heater, fireplace, appliance or cooking source that uses coal, kerosene, petroleum products, wood or other fuels that emit carbon monoxide as a by-product of combustion; or (b) includes an attached garage with an opening that communicates directly with a living space. Such alarms shall be installed in compliance with State Fire Marshal Rules and any applicable requirements of the State Building Code, and there shall be available in the premises a written notice containing instructions for testing the alarm.

10. Water heaters shall be strapped and secured in accordance with seismic protections standards, with a TEP (Temperature and Pressure Relief) line that is run to an approved location.

B. If the Building Official or designee requires alterations, the identified deficiencies must be corrected as follows:

1. In circumstances where the unit is already subject to a rental agreement the Building Official or designee may allow continued use, provided corrective action is taken within 30 days, or an alternative timeline acceptable to the Building Official.

2. For units undergoing an initial inspection prior to vacation rental or bed and breakfast use, corrective action shall be undertaken before the dwelling unit can be rented.

C. Dwelling units with an endorsement for vacation rental or bed and breakfast use shall be subject to periodic re-inspection by the Building Official or designee at the city's discretion to ensure compliance with the provisions of this chapter. The timeframe for such inspections is subject to the city's discretion and available resources.

14.25.070 Notice Requirements. Upon issuance of an endorsement, the City shall provide notice to property owners within 200' of the subject property (or outline of property that is held in common) and a Homeowners Association, if one is established where the dwelling unit is located, advising that an endorsement for a vacation rental or bed and breakfast use has been issued. Such notice shall include the address of the dwelling unit that received the endorsement, a location where additional information can be obtained about the nature of the endorsement, and the name, phone number, mailing address, and email address (if available) of the owner or designated contact.

14.25.080 Complaints. The designated contact identified in subsection 14.25.050(G) above, is the initial point of contact for complaints regarding the use of the dwelling unit. That individual shall maintain a written log documenting the nature of all complaints related to endorsement standards, the dates they were received, and efforts taken to resolve issues that have been raised. The written log shall be provided to the City upon request.

TABLE R308.3.1(1)
MINIMUM CATEGORY CLASSIFICATION OF GLAZING USING CPSC 16 CFR 1201

EXPOSED SURFACE AREA OF ONE SIDE OF ONE LITE	GLAZING IN STORM OR COMBINATION DOORS (Category Class)	GLAZING IN DOORS (Category Class)	GLAZED PANELS REGULATED BY ITEM 7 OF SECTION R308.4 (Category Class)	GLAZED PANELS REGULATED BY ITEM 6 OF SECTION R308.4 (Category Class)	GLAZING IN DOORS AND ENCLOSURES REGULATED BY ITEM 5 OF SECTION R308.4 (Category Class)	SLIDING GLASS DOORS PATIO TYPE (Category Class)
9 square feet or less	I	I	NR	I	II	II
More than 9 square feet	II	II	II	II	II	II

For SI: 1 square foot = 0.0929 m².
NR means "No Requirement."

TABLE R308.3.1(2)
MINIMUM CATEGORY CLASSIFICATION OF GLAZING USING ANSI Z97.1

EXPOSED SURFACE AREA OF ONE SIDE OF ONE LITE	GLAZED PANELS REGULATED BY ITEM 7 OF SECTION R308.4 (Category Class)	GLAZED PANELS REGULATED BY ITEM 6 OF SECTION R308.4 (Category Class)	DOORS AND ENCLOSURES REGULATED BY ITEM 5 OF SECTION R308.4 (Category Class)
9 square feet or less	No requirement	B	A
More than 9 square feet	A	A	A

For SI: 1 square foot = 0.0929 m².

a. Use is permitted only by the exception to Section R308.3.1.

R308.4 Hazardous locations. The following shall be considered specific hazardous locations for the purposes of glazing:

1. Glazing in all fixed and operable panels of swinging, sliding and bifold doors.

Exceptions:

1. Glazed openings of a size through which a 3-inch diameter (76 mm) sphere is unable to pass.
2. Decorative glazing.
2. Glazing in an individual fixed or operable panel adjacent to a door where the nearest vertical edge is within a 24-inch (610 mm) arc of the door in a closed position and whose bottom edge is less than 60 inches (1524 mm) above the floor or walking surface.

Exceptions:

1. Decorative glazing.
2. When there is an intervening wall or other permanent barrier between the door and the glazing.
3. Glazing in walls on the latch side of and perpendicular to the plane of the door in a closed position.
4. Glazing adjacent to a door where access through the door is to a closet or storage area 3 feet (914 mm) or less in depth.
5. Glazing that is adjacent to the fixed panel of patio doors.
3. Glazing in an individual fixed or operable panel that meets all of the following conditions:
 - 3.1. The exposed area of an individual pane is larger than 9 square feet (0.836 m²); and

- 3.2. The bottom edge of the glazing is less than 18 inches (457 mm) above the floor; and

- 3.3. The top edge of the glazing is more than 36 inches (914 mm) above the floor; and

- 3.4. One or more walking surfaces are within 36 inches (914 mm), measured horizontally and in a straight line, of the glazing.

Exceptions:

1. Decorative glazing.
2. When a horizontal rail is installed on the accessible side(s) of the glazing 34 to 38 inches (864 to 965) above the walking surface. The rail shall be capable of withstanding a horizontal load of 50 pounds per linear foot (730 N/m) without contacting the glass and be a minimum of 1 1/2 inches (38 mm) in cross sectional height.
3. Outboard panes in insulating glass units and other multiple glazed panels when the bottom edge of the glass is 25 feet (7620 mm) or more above grade, a roof, walking surfaces or other horizontal [within 45 degrees (0.79 rad) of horizontal] surface adjacent to the glass exterior.
4. All glazing in railings regardless of area or height above a walking surface. Included are structural baluster panels and nonstructural infill panels.
5. Glazing in enclosures for or walls facing hot tubs, whirlpools, saunas, steam rooms, bathtubs and showers where the bottom exposed edge of the glazing is less than 60

TABLE 2406.2(2)
MINIMUM CATEGORY CLASSIFICATION OF GLAZING USING ANSI Z97.1

EXPOSED SURFACE AREA OF ONE SIDE OF ONE LITE	GLAZED PANELS REGULATED BY ITEM 7 OF SECTION 2406.4 (Category class)	GLAZED PANELS REGULATED BY ITEM 6 OF SECTION 2406.4 (Category class)	DOORS AND ENCLOSURES REGULATED BY ITEM 5 OF SECTION 2406.4 ^a (Category class)
9 square feet or less	No requirement	B	A
More than 9 square feet	A	A	A

For SI: 1 square foot = 0.0929 m².

a. Use is only permitted by the exception to Section 2406.2.

ardous locations shall be identified by a manufacturer's designation specifying who applied the designation, the manufacturer or installer and the safety glazing standard with which it complies, as well as the information specified in Section 2403.1. The designation shall be acid etched, sand blasted, ceramic fired, laser etched, embossed or of a type that once applied, cannot be removed without being destroyed. A label as defined in Section 202.1 and meeting the requirements of this section shall be permitted in lieu of the manufacturer's designation.

Exceptions:

- For other than tempered glass, manufacturer's designations are not required, provided the *building official* approves the use of a certificate, affidavit or other evidence confirming compliance with this code.
- Tempered spandrel glass is permitted to be identified by the manufacturer with a removable paper designation

2406.3.1 Multi-pane assemblies. Multi-pane glazed assemblies having individual panes not exceeding 1 square foot (0.09 m²) in exposed areas shall have at least one pane in the assembly marked as indicated in Section 2406.3. Other panes in the assembly shall be marked "CPSC 16 CFR 1201" or "ANSI Z97.1," as appropriate.

2406.4 Hazardous locations. The following shall be considered specific hazardous locations requiring safety glazing materials:

- Glazing in swinging doors except jalousies (see Section 2406.4.1).
- Glazing in fixed and sliding panels of sliding door assemblies and panels in sliding and bifold closet door assemblies.
- Glazing in storm doors.
- Glazing in unframed swinging doors.
- Glazing in doors and enclosures for hot tubs, whirlpools, saunas, steam rooms, bathtubs and showers. Glazing in any portion of a building wall enclosing these compartments where the bottom exposed edge of the glazing is less than 60 inches (1524 mm) above a standing surface.
- Glazing in an individual fixed or operable panel adjacent to a door where the nearest exposed edge of the glazing is within a 24-inch (610 mm) arc of either vertical edge of the door in a closed position and where the bottom exposed edge of the glazing is less than 60 inches (1524 mm) above the walking surface.

Exceptions:

- Panels where there is an intervening wall or other permanent barrier between the door and glazing.
- Where access through the door is to a closet or storage area 3 feet (914 mm) or less in depth. Glazing in this application shall comply with Section 2406.4, Item 7.
- Glazing in walls perpendicular to the plane of the door in a closed position, other than the wall towards which the door swings when opened, in one- and two-family *dwelling*s or within *dwelling units* in Group R-2.
- Glazing in an individual fixed or operable panel, other than in those locations described in preceding Items 5 and 6, which meets all of the following conditions:
 - Exposed area of an individual pane greater than 9 square feet (0.84 m²);
 - Exposed bottom edge less than 18 inches (457 mm) above the floor;
 - Exposed top edge greater than 36 inches (914 mm) above the floor; and
 - One or more walking surface(s) within 36 inches (914 mm) horizontally of the plane of the glazing.

Exception: Safety glazing for Item 7 is not required for the following installations:

- A protective bar 1 7/8 inches (38 mm) or more in height, capable of withstanding a horizontal load of 50 pounds plf (730 N/m) without contacting the glass, is installed on the accessible sides of the glazing 34 inches to 38 inches (864 mm to 965 mm) above the floor.
- The outboard pane in insulating glass units or multiple glazing where the bottom exposed edge of the glass is 25 feet (7620 mm) or more above any grade, roof, walking surface or other horizontal or sloped (within 45 degrees of horizontal) (0.78 rad) surface adjacent to the glass exterior.
- Glazing in *guards* and railings, including structural baluster panels and nonstructural in-fill panels, regardless of area or height above a walking surface.

Derrick Tokos

From: Lee Hardy <lee@yaquinabayproperties.com>
Sent: Thursday, September 19, 2013 11:39 AM
To: Derrick Tokos
Subject: FW: Glazing Provisions 2011 ORSC

Hi Derrick,

Below I share an interchange that I had with the building codes division. It seems that the code interpretation by your inspectors is correct, although this gentleman below says he "struggles" (scroll down to his comments) with the application of the code to sliding glass doors. I am puzzled by the fact that this code became effective prior to the time the Nye Sands complex was built, but no one questioned the lack of safety glazing in those windows at the time of construction. Also, in reading the exact wording of sections of the code, simple proper English grammar is not used. Not surprising, I guess.

But I still think that the discussion during the work session could be beneficial since others have pointed out to me that there are other sections of the building code that could be referenced during the inspections that might be more applicable in identifying hazards, such as arch flash interrupters or the lack thereof in the wiring system. And is the purpose of the ordinance and endorsement to guarantee a property is up to code totally or just comparable to other units (i.e. motels, etc) that were built at the same time?

Lee Hardy

From: Rocco Anthony J [mailto:anthony.j.rocco@state.or.us]
Sent: Thursday, September 19, 2013 10:43 AM
To: 'Lee Hardy'
Subject: RE: Glazing Provisions 2011 ORSC

Lee,
The 1982 UBC (with Oregon amendments) requires the following:

Sec. 5406:

(6) Hazardous Locations. The following shall be considered specific hazardous locations for the purpose of glazing:

...

6. Glazing, operable or inoperable adjacent to a door in all buildings and within the same wall plane as the door whose nearest vertical edge is within 12 inches of the door in a closed position and whose bottom edge is less than 60 inches above the floor or walking surface.

Under the current code, glazing adjacent to the fixed panel of patio (sliding glass) doors are exempt under exceptions 5 shown below.

2. Glazing in an individual fixed or operable panel adjacent to a door where the nearest vertical edge is within a 24-inch (610 mm) arc of the door in a closed position and whose bottom edge is less than 60 inches (1524 mm) above the floor or walking surface.

Exceptions:

1. Decorative glazing.
2. When there is an intervening wall or other permanent barrier between the door and the glazing.
3. Glazing in walls on the latch side of and perpendicular to the plane of the door in a closed position.
4. Glazing adjacent to a door where access through the door is to a closet or storage area 3 feet (914 mm) or less in depth.
5. Glazing that is adjacent to the fixed panel of patio doors.

Tony Rocco
Building Code Specialist
Oregon Building Codes Division
503.373.7529
anthony.j.rocco@state.or.us

From: Lee Hardy [<mailto:lee@yaquinabayproperties.com>]
Sent: Thursday, September 19, 2013 10:20 AM
To: 'Rocco Anthony J'
Subject: RE: Glazing Provisions 2011 ORSC

Thanks for the clarification. Do you happen to know when this particular restriction went into effect? The reason I ask is that this building was constructed in 1984, and safety glazing for those windows adjacent to the sliding glass door was apparently not present as originally constructed. Also, if the fixed side of the sliding glass door does not have the rubber bushings, would that then mean that safety glazing is required on the window adjacent to the fixed half of the door?
Lee

From: Rocco Anthony J [<mailto:anthony.j.rocco@state.or.us>]
Sent: Thursday, September 19, 2013 10:09 AM
To: 'Lee Hardy'
Subject: RE: Glazing Provisions 2011 ORSC

Hi again Lee,
Great picture, I must say! The picture alone gave me a quick mental vacation for a minute here in my office.

Unfortunately, the code would require this window to be protected/safety glazed.

The reasoning behind it (as we briefly discussed yesterday) is the impact zone and the door slamming shut. The fixed panel side is exempted because it is commonly protected by rubber bushings that provide a buffer to the impact.

For side hinged doors, this makes more sense because of the outward loading a slammed door could cause. I struggle with the code provision application to sliding glass doors, but unfortunately that is the interpretation of the code.

I'm sorry I could not provide more assistance.
Thank you for sharing the wonderful picture.

Please feel free to contact me if you wish to discuss this in more detail or if you have additional code related questions in the future.

Tony

Tony Rocco
Building Code Specialist
Oregon Building Codes Division
503.373.7529
anthony.j.rocco@state.or.us

From: Lee Hardy [<mailto:lee@yaquinabayproperties.com>]
Sent: Thursday, September 19, 2013 8:50 AM
To: 'Rocco Anthony J'
Subject: RE: Glazing Provisions 2011 ORSC

Thanks, Tony.

Attached is a picture of the window/sliding door configuration I was describing. There is a section of wall between the opening section of the sliding glass door but the window is within 24 inches of that door. How does the code apply in this type of instance?

Lee Hardy

Yaquina Bay Property Management, Inc.

From: Rocco Anthony J [<mailto:anthony.j.rocco@state.or.us>]
Sent: Thursday, September 19, 2013 7:01 AM
To: 'lee@yaquinabayproperties.com'
Subject: Glazing Provisions 2011 ORSC

Hi Lee,

Per our discussion yesterday, I have included some code provisions and commentary below.

R308.4 Hazardous locations. The following shall be considered specific hazardous locations for the purposes of glazing:

1. Glazing in all fixed and operable panels of swinging, sliding and bifold doors.

Exceptions:

1. Glazed openings of a size through which a 3-inch diameter (76 mm) sphere is unable to pass.
 2. Decorative glazing.
2. Glazing in an individual fixed or operable panel adjacent to a door where the nearest vertical edge is within a 24-inch (610 mm) arc of the door in a closed position and whose bottom edge is less than 60 inches (1524 mm) above the floor or walking surface.

Exceptions:

1. Decorative glazing.
2. When there is an intervening wall or other permanent barrier between the door and the glazing.
3. Glazing in walls on the latch side of and perpendicular to the plane of the door in a closed position.
4. Glazing adjacent to a door where access through the door is to a closet or storage area 3 feet (914 mm) or less in depth.
5. Glazing that is adjacent to the fixed panel of patio doors.

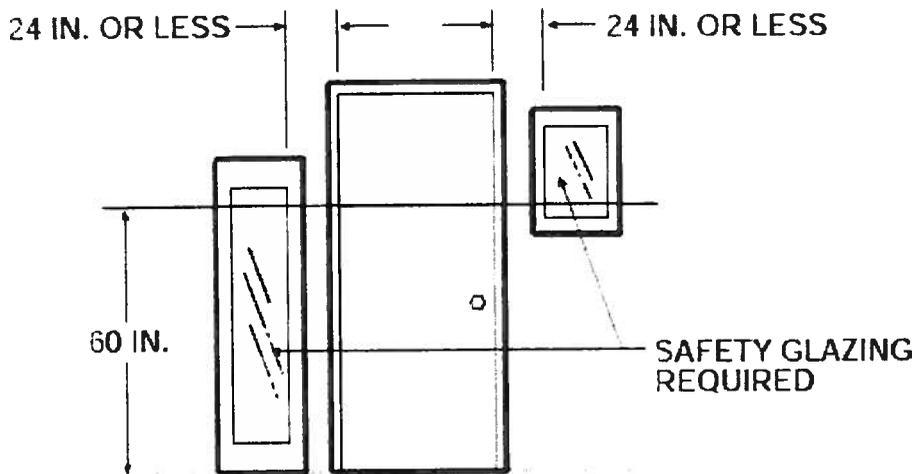


Figure R308.4(3)
GLASS IN SIDELIGHTS—ELEVATION

DECORATIVE GLASS. A carved, leaded or Dalle glass or glazing material whose purpose is decorative or artistic, not functional; whose coloring, texture or other design qualities or components cannot be removed without destroying the glazing material; and whose surface, or assembly into which it is incorporated, is divided into segments.

Depending on the exact location of the glazing to the latch side of the patio door, it could potentially require protection.

If you wish to send a picture of the exact arrangement, I could hopefully provide a more specific answer.

Please let me know if you have additional questions.

Thank you,

Tony Rocco
Building Code Specialist
Oregon Building Codes Division
503.373.7529
anthony.j.rocco@state.or.us

**Vacation Rental Endorsement
Summary - through September 19, 2013**

**Number of units
applied for
endorsement:** 135

**Number inspected to
date:** 119

**Number Passed
Inspection:** 79

**Number Failed
Inspection:** 40

Note that @ Embarcadero - 7 will pass following letter from Embarcadero / another
18 will pass once minor corrections made & letter is received.

The majority of failed first inspections seem to be for bedroom egress window size, lack of GFCI breakers, lack of guard rails or spacing of railings, water heaters needing strapping, a few need smoke detectors or carbon monoxide detectors, and a few need deck repairs.

Numbers by zone:

<u>R-1</u>	<u>9</u>
<u>R-2</u>	<u>10</u>
<u>R-3</u>	<u>7</u>
<u>R-4</u>	<u>25</u>
<u>C-2</u>	<u>43</u>
<u>W-2</u>	<u>41</u>



AGENDA & NOTICE OF PLANNING COMMISSION MEETING

The Planning Commission of the City of Newport will hold a meeting at **7:00 p.m. Monday, September 23, 2013**, 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, September 23, 2013, 7:00 p.m. AGENDA

A. Roll Call.

B. Approval of Minutes.

1. Approval of the Planning Commission work session and regular session meeting minutes of August 12, 2013.

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. Public Hearings.

Quasi-Judicial actions:

1. File No. 2-AX-13 / 3-Z-13. Consideration of a request submitted by Spy, LLC to annex approximately 3.03 acres consisting of property currently identified as Tax Lot 1400 of Assessor's Tax Map 11-11-20-BD (4535 S Coast Hwy) and Tax Lot 1300 of Map 11-11-20-BA (4541 S Coast Hwy) and a portion of US 101 right-of-way within the existing UGB into the Newport city limits; (2) amend the City of Newport Zoning Map to establish an I-1/"Light Industrial" zoning designation for the subject property consistent with the existing Newport Comprehensive Plan designation of Industrial (which allows for either I-1, I-2/"Medium Industrial", or I-3/"Heavy Industrial"); and (3) withdraw said territory from the Newport Rural Fire Protection District and the Lincoln County Library District. The Planning Commission will make a recommendation on this matter to the City Council.

F. New Business.

G. Unfinished Business.

H. Director Comments.

I. Adjournment.

Draft MINUTES
City of Newport Planning Commission
Work Session
Newport City Hall Conference Room 'A'
Monday, August 12, 2013

Planning Commissioners Present: Jim Patrick, Bill Branigan, Rod Croteau, Mark Fisher, Glen Small, and Gary East.

Planning Commissioners Absent: Jim McIntyre (*excused*).

Citizens Advisory Committee Members Present: Lee Hardy and Suzanne Dalton.

Citizens Advisory Committee Members Absent: Bob Berman.

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

Chair Patrick called the Planning Commission work session to order at 6:00 p.m. and turned the meeting over to CDD Tokos.

A. New Business.

1. Discuss changes to NMC Section 12.15 (System Development Charges (SDCs); more specifically Credits (12.15.065). Tokos noted that he had passed on examples of the credit portions of SDC ordinances of several different jurisdictions to see how they approach things. These same jurisdictions, with the exception of Bend, were in the presentation he gave the Commissioners at a prior work session. Tokos wanted to get the Planning Commission's sense of what direction we should go in making adjustments to the SDC credit options. He noted that as you go through these examples, you will see that it ranges; from jurisdictions such as Corvallis that only offer the statutory-required credit for public improvements to Newport which offers credits for qualified public improvements and also pre-existing uses that don't even exist anymore but did within 30 years. Tokos raised the question of whether we should be more conservative (more like Corvallis) and give credits only for those required under state law; or should we continue them for pre-existing improvements (things already on the property).

Fisher wondered if we wouldn't have a legal problem if somebody bought property believing that there had already been something there and they don't know that they can't continue the SDCs. Tokos said it would be no different than if they bought something under the current building code and then the building code changes; it's changing rules. Tokos said we probably would in those rare circumstances where we issued a credit letter already. Under current rules, they could transfer a credit to another site; and those we would have to respect if they have not already acted on that. Fisher gave an example of an abandoned house that somebody buys on a Sheriff's auction, and then because the house isn't usable they tear it down. He asked if the SDCs would have to be brand new then. Tokos said that under current rules, if there was a house there and they tear it down and replace it, the only SDC they are liable for is storm water because of the impervious surface; everything else is a credit.

Branigan asked that if we went the conservative route, how much money we would be gaining. Tokos said that is very difficult to figure out; if not impossible. The issue is to be fair and equitable. He said the question is are we requiring developers to pay SDCs when they are having an impact on the system; or is our method too generous. Patrick noted that there is also the question of fairness if they never paid an SDC fee in any period of time or the use goes away and then comes back (as in Teevin Brothers' case). Dalton wondered about management. She asked, not knowing how much time it takes now to manage, is that an increase in staff time and if so would the additional money be able to cover it. She wondered how much impact on City personnel that might make. Tokos said that there are a couple of things staff does that have a burden. He noted that he put Bend's code in there because former City Attorney Gary Firestone went to Bend when he left Newport. Their update looks identical to Newport's code, except that they went to 10 years not 30. Firestone probably had a role in drafting Bend's code. Another thing they don't do is transferability. Most jurisdictions don't do that because administratively it is too difficult. Tracking is involved, and it has to be tracked over time. The impact in one location might not be the same in another. Other jurisdictions don't typically give credit for things that are not on the property because that is burdensome. Everything has to be case by case because it is formula based. As long as we have detailed information from an applicant, we can give them a clear idea of what their cost is. Patrick agreed that a 30-year timeline is long, and he would be happier with 10 or 15. Tokos asked what if we don't give a timeline; what if it's just what's on there now? He said that's just an option.

He did include the memo he prepared to the City Council when they were working on the coffee house. It is language that he also has vetted with legal counsel and others. That language includes a provision that under no circumstances would SDCs be allowed to be over 20% of the construction cost. Croteau had a question about where it refers to credit for which an SDC has never been paid, and Tokos said he should probably be clearer there. He asked if we only want to offer credit for existing

structures where SDCs were paid or they would be eligible for some credit. He noted that there are lots of structures in the community that haven't paid into the system and will get credit on the next.

Patrick gave an example that if a restaurant is shut down, and a new one opens, it would be hit with \$30,000 in SDCs; so how many new restaurants are we going to get with a change in ownership. He said that the main reason the committee wrote the code the way they did was because they were looking at the numbers and what happens to a restaurant that is trying to open in this town. Fisher said that he doesn't like SDCs at all; but you are using the utility so you have to pay some money to hook up to it and use it. Patrick said SDCs are intended to collect for reimbursement for additional capacity in your system or to fund additional capacity in our system.

Tokos said that his last question to the Commission is that we may want to deal with storm water entirely differently. We didn't collect until 2008. We don't require a permit for somebody putting down impervious surface. We could offer those that never paid SDCs a reduction; say they pay only half the rate. He gave an example of a restaurant built in the 70s and had never paid SDCs. A new restaurant comes in there and they pay 50%; or we could just not require it at all; or we could require full payment. He said there are lots of options there. Tokos noted that if we grant too many broad exemptions, especially when they didn't pay in the first place, we can assume that no SDCs will ever be paid. Infrastructure doesn't last forever. If they don't pay, we assume that the system was capable of handling that development. Maybe that one was; but the next one, and the next one, etc? We can assume no payment at any time. Hardy wondered if we could prorate the impact on the system based on its life span. Tokos said that statute doesn't allow us to collect for maintenance of the system; only additional capacity. He added that every time we are replacing, we typically are upsizing. That is where those funds go. Hardy asked if we couldn't predict upsizing replacement. Tokos said that is what the CIP does. It includes a list of projects and their eligibility for SDC revenue. Fisher said that the City Council has said they want something simple enough and clear enough to use so they won't get appeals. If we put in a complex matrix, they will get a lot of appeals and they don't want that do they? The agreement was no. Patrick thought we could make a good case for 50% when SDCs were never paid to begin with and then roll over when they are actually paid. He thought the timeline should be cut down to something reasonable. Croteau asked why not remove it. Tokos said that a lot of jurisdictions don't go back; it is credit for what's there at the time they are ready to develop. Patrick mentioned if O'Reillys goes where the Big Guys Diner was; and Tokos added that O'Reillys won't be paying anything because of the Big Guys restaurant, which is a heavier hit.

Tokos said what he is hearing from the Commission is that the City shouldn't take the Corvallis approach, which is too conservative, and should continue doing something beyond that. We should offer credit for improvements that are on there at the time of redevelopment. If no SDCs were paid, they shouldn't get 100% credit, but it should be something else that is reasonable and makes sense. Tokos will come up with something reasonable to share with the Commission.

Giving Teevin Bros. as an example, Tokos said that we ended up getting to an equitable solution on SDCs in an awkward way. It was just under \$200,000. It shouldn't have been all storm water. It should have been some transportation with some storm water. NOAA paid some \$200,000 plus, which is just 4.5-5% of the cost of their development.

Tokos asked what about looking back? We could run into situations where somebody did tear down and now they lose everything. Fisher thought that even if a house is vacant for 10 years, they should get a credit if they tear down. Patrick agreed that just because somebody isn't living in the house, it is the existing use. If it's there, that is existing. It's only if the house is torn down and the ground sits there vacant. Tokos asked how about saying the last improvement on the property within the last 10 years; and everyone agreed that seemed fair. Tokos said that if we offer transferability, statute requires those to be acted upon within 10 years; so this falls in line with that. He said that if we lock somebody in and they sit on it for 10-15 years, the impact on the system is a little bit more expensive. Croteau stated 10 years, and then the clock starts again; but he asked if that was burdensome. Tokos said that 10 years is quite a bit better than 30.

Dalton asked about their payments. Tokos said that the City does offer a payment plan. It is not something that most developers will pursue because it is through Finance, and they are hit with something like a 10% interest rate. Part of that is to discourage the City's financing. The City would have to track that. He noted that the City hasn't been entirely consistent with that. For example, Pig 'n Pancake as part of a package to redevelop old city hall received 4.5-5% on theirs and is over 10 years he thinks. They received a little different deal. It was noted that one reason may have been because it was City property. Dalton said that as this is crafted, she would encourage consideration of more consistency and less packages.

Small said the City is encouraging redevelopment, and the Commission has had this discussion before. He recalls that part of that was urban renewal funds. Tokos said that was the situation in Gresham. We can't waive SDCs. They have to be paid from some pot of money. Gresham chose to pay them out of urban renewal. They also paid out of enterprise finds. Tokos noted that right now in the City Center area, buildings predate any SDC program; yet under the current code they would receive full credit for whatever is there. Most would not pay anything. He said that Walgreens is a good example. If they had received no credits, they would have paid around \$68,000 in SDCs, but they paid zero. Tokos said that he could bring a couple of examples of percentages that pre-existing uses would have to pay if no SDCs were previously paid. He gave an example of a restaurant in

City Center, like LaRoca, and something new comes in. He can show what that would look like with a couple of different percentages, say 30% or 50%, so the Commissioners can see if that looks like it would be reasonable.

Tokos asked if the Commissioners were comfortable limiting credits in terms of transferability. He said that administratively it is a headache. It's not used a lot. Mostly homes have used this option. The consensus was to leave it alone.

It was noted that nobody wants to pay SDCs. Tokos noted that for a single-family residence, the total SDCs are now around \$10,400, which is low compared to other communities.

East asked about possibly using a sliding scale for somebody that is doing affordable housing if they are going to meet certain things for workforce housing. He thought that maybe it could be adjusted by square footage. Tokos said the trouble with square footage is it would change our SDC methodology. East said then maybe a certain percentage of credit if they meet workforce housing requirements. Tokos said that a perfect example we got from Landwaves is one Portland does for affordable housing. He said if it works with EDUs and doesn't get into our methodology, he would be happy to bring examples. Otherwise, we have to redo our methodology. Fisher thought that there has to be some place to plug in a percentage of the value. Patrick said that a single family residence is an EDU, so you pay the same for an 800 square foot house as a 4,000 square foot house; but EDUs are easier to deal with than any other methodology the committee had on the table. Tokos said one way to get at that is the fixture-based approach, which the City used to do and Corvallis still does. He talked to Corvallis about that, and they said the problem they run into is that people don't pull permits for bathroom additions.

Tokos said that 20% of construction value gets to issues like the coffee house, which had a modest project but restaurant uses have such hefty SDCs. Patrick thought that we need to have some sort of charge for alfresco dining, like the coffee shop and Nana's. Tokos said that we can charge for impacts to the system that do not require a development permit. He noted that Nana's was on their own property so they didn't have to come for a permit. He said the problem is if a permit is not required up front, they go ahead and do the project and now we are engaging that individual. It is a difficult situation. Patrick wondered if Café Stephanie and Local Ocean Seafood have permits to use the sidewalk. Tokos said that Local Ocean definitely does. He said that drives at the inequity issue. They had to get a permit and had to pay SDCs. Nana's has a similar situation, but paid no SDCs. It was noted that Savory Café also has a couple of tables outside. Croteau felt it would be a nightmare to regulate where they don't get a permit. He appreciates the fairness issue, but thought it would be a burden to look after all of these situations unless they are brought to your attention. Patrick said that commercial is roughly based on square footage and a use. The use is defined by how much square footage you have. He gave an example of a restaurant that was 100 square feet and after adding exterior seating is now 200 square feet. They are serving twice as many customers. Croteau said that we can appreciate that, but the difficulty is whether they pull a permit to trigger the SDCs; it's not equitably based on use. Tokos agreed that no system is perfect. Tokos said the issue with the coffee house is what constitutes additional seating space. The Council determined that a screened-in porch wasn't.

Tokos said that his last question is about treating credits for some capital projects differently; storm drainage for instance. Teevin gave us a good sense that there needs to be something that gives credit for onsite storm water management. He said we might think about language that storm water will be handled differently, and any time you pull a permit you are going to pay for impervious surface on that property since we had never collected for storm water until 2008. Patrick agreed that made sense, but said you are going to hear about it. He thought it is a good point though. East asked what about requiring the developer to do their own storm water management plan so they are bearing the cost. What that would say is they are required to put in an adequate system that would tie into the City's system rather than charging them a storm water fee. That way they absorb the cost on their own. Fisher noted that Teevin was going to put in their own system, and he was told it would come out cleaner than the Bay water and go into the Bay. They didn't want to have to argue over SDCs even though they didn't intend to use City facilities. Tokos noted that they did appeal but withdrew it because they knew that if they were not paying SDCs it would be a powerful issue with the community. Patrick said it is an inequitable situation where they should be paying those SDCs. He also thought we need to be careful where developers are doing onsite storm water management because there are a lot of slide blocks in this town, and that could make it worse. Tokos said this wouldn't authorize it, it's just if they were doing it and it was acceptable, then they get the credit. The geologic review will deal with it in hazardous areas. Tokos said that he senses there is some desire to see credit for onsite storm water management. The consensus was that seems fair.

Tokos wondered about dealing with impervious surfaces. We don't have a way of catching it. If someone is paving their driveway, we have no way to catch that. That is the burden aspect of it. Unlike water, sewer, and streets, storm water didn't start until 2008; and there wasn't funding for storm water until about a year ago. Fisher noted that when Wilder put in their development, the Commission went up there; and they had put in black top that water permeates through. He wondered if a developer puts that in, would they pay. Tokos said that wouldn't be an onsite management credit. Patrick said back when the committee first talked about charging so much per impervious surface, the large car dealers came; so the Committee didn't get very far with that one. He asked if Tokos was saying that if Gold Motors sold, the new owner would have to come in. Tokos said that if no SDCs were paid on the impervious surface, the new owner would have to pay. He said there is asphalt going down all the time without permits. At the Aquarium Science building at the college, they had to pay SDCs on parking. But the South

Beach Church didn't; they got credit. Patrick said that maybe whatever we end up with, we could offer a credit on the storm water fee for existing uses. Maybe 50%; or tie back to what we do on the other side. That would at least allow us to start collecting on some of this stuff that is around town.

Tokos said it sounds like the Commission is on board with the 20% cap, and the consensus was that sounds fine. Fisher thought that might be too much. Tokos said that 10% is probably okay; 20% would take care of the egregious cases; most run between 4% and 6%. Patrick said that we could go with 20%; nothing is written in stone. Croteau said he would be fine with 10% if that is on the high end. Tokos said he can run some calculations to see that it's not too generous. He will try 10%. He thinks that will be fine.

C. Adjournment. Having no further discussion, the work session meeting adjourned at 6:53 p.m.

Respectfully submitted,

Wanda Haney
Executive Assistant

Draft Minutes
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
Monday, August 12, 2013

Commissioners Present: Jim Patrick, Glen Small, Rod Croteau, Mark Fisher, Gary East, and Bill Branigan.

Commissioners Absent: Jim McIntyre (*excused*).

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

A. Roll Call. Chair Patrick called the meeting to order in the Council Chambers of Newport City Hall at 7:00 p.m. On roll call, Small, Croteau, Patrick, Fisher, East, and Branigan were present; with McIntyre absent but excused.

B. Approval of Minutes.

1. Approval of the Planning Commission regular session meeting minutes of July 8, 2013.

MOTION was made by Commissioner Fisher, seconded by Commissioner East, to approve the Planning Commission minutes as presented. The motion carried unanimously in a voice vote.

C. Citizen/Public Comment. No comments on non-agenda items.

D. Consent Calendar. Nothing on the consent calendar.

E. Public Hearings.

Legislative Actions:

1. **File No. 2-Z-13:** Consideration of proposed legislative text amendments to Chapter 14.6 of the Newport Municipal Code to replace fixed minimum lot size and minimum acreage requirements for manufactured dwelling parks with maximum density and minimum common open space benchmarks. The changes should make it easier for manufactured dwelling parks to provide space for smaller units such as park models or recreational vehicles. The revisions also clarify that recreational vehicles may be used as a place of habitation within manufactured dwelling or RV parks. The Planning Commission will make a recommendation on this matter to the City Council.

Patrick opened the public hearing for File No. 2-Z-13 at 7:01 p.m. by reading the summary of the file from the agenda; and he called for the staff report. Tokos noted that the Planning Commission had met in work session on May 28th and June 24th to discuss these proposed changes. The reason to initiate the changes flows from the update to the Housing element of the Comprehensive Plan drafted in 2011, which committed the City to see if park model RVs could be allowed as a viable housing type. He said that, following discussion that ensued about allowing park models outside of manufactured dwelling and recreational vehicle parks, it was determined to limit them to the Manufactured Dwellings and Recreational Vehicles section of the code. Tokos noted that the provision that the number of spaces for manufactured dwellings shall not exceed 6 per acre has been deleted. The requirement that each space shall contain at least 5,000 square feet has been deleted and changed to language that the maximum density is one unit for every 2,500 square feet of lot area in R-2 and one for every 1,250 square feet in R-3 and R-4. A provision was added that RVs may be used for habitation provided they are connected to the park's water, sewage, and electrical supply systems. In these cases, the RVs count against the density limitations of the zoning district. The language that manufactured dwelling parks have to be at least an acre was deleted and was replaced with language that there shall be common area of at least 2,500 square feet or 100 square feet per unit, whichever is greater. Tokos said that on the balance, these changes go away from setting such vast standards that were barriers for park models being feasible and should make it easier for park owners to place park model units in their parks. Tokos said the other change to Section 14.06.050 (Recreational Vehicles) adds language under item "A" to make it clear that the provision that prohibits RVs being used for habitation applies only to those outside manufactured dwelling parks; RVs within a park or those authorized for temporary living quarters can be used for habitation. Tokos noted that state law requires that cities allow RVs to be used for habitation within RV parks.

Small noted that in the findings park models are referenced, but in the ordinance it simply says recreational vehicles. He wondered if it is the understanding that park models are RVs, or if that should be described in the ordinance. Tokos said it is understood. He noted that nowhere in the ordinance is reference made to park models because it is structured to avoid the thought that park models are different than RVs, because a park model is an RV. Small wondered if this gives a manufactured dwelling park owner leeway to exclude fifth-wheel and Class C RVs and go to park models. Tokos said if they want to. He said that it is the owner's choice as

a private developer to not allow more-conventional motor homes or RVs and only allow park model RVs in their own parks. A manufactured dwelling park can make the distinction of what they allow; state statute only prohibits jurisdictions from doing that.

Proponents, Opponents, or Interested Parties: No one was present wishing to provide testimony.

Patrick closed the hearing at 7:10 p.m. for Commission deliberation. Branigan noted that the Commission has gone through this a couple of times. He thought that changing this will help achieve our goal for more affordable housing by encouraging RV parks to open up. He is in support of the changes. East and Fisher agreed. Croteau agreed and said that hopefully it will encourage affordable housing. Small said that was his take on it also. He said it gets us another step toward the affordable housing piece that is important to us. He felt it was a reasonable change. Patrick said this also allows for redevelopment of those mobile homes, which are well past their expiration date. These parks only have a certain amount of space for those homes and can't get double-wide or single-wide homes in there. Park models will allow them to develop with something that is useful and affordable.

With everyone in agreement, a vote was taken to recommend that the City Council consider adopting the proposed text amendments to Chapter 14.6 of the Newport Municipal Code as presented in File No. 2-Z-13. The decision carried unanimously in a voice vote.

F. New Business.

1. Upcoming Planning Commissioner Training in Portland on 9/16/13, sponsored by the Oregon City Planning Directors Assn. Tokos noted that included in the packet was an announcement of an upcoming Planning Commissioner training that he wanted to provide to the Commissioners. He said that he knows a number of those speakers. He noted that we do have budget to send one or two individuals if anyone is interested. Branigan and Fisher expressed a desire to attend, and the Commissioners felt that would be good representation. CDD staff will make the arrangements.

G. Unfinished Business.

1. Update on status of City's applications for the Urban Growth Boundary amendment and the Transportation System Plan amendment considered at public hearings before the Lincoln County Planning Commission. Tokos said that the reason the Planning Commission did not hold a meeting on July 22nd was because the Lincoln County Planning Commission held a meeting, and Tokos had to attend because both City issues were on their agenda. Tokos noted that both actions were recommended favorably to the County Board of Commissioners for adoption. He said that the County didn't make changes to the UGB expansion. They did tweak the language on the TSP, but specific to the County and how they implement. It had to do with the role of their conditional use permit that applies to land within the UGB. He said it was pretty minor. He has inquired, but has not received word of when the Board of Commissioners will be considering action. He assumes there will be approval there as well. For the UGB expansion, following Board of Commissioner approval, it will go to DLCD for acknowledgement, which he assumes there will be. At the County Planning Commission level, the 1000 Friends of Oregon weighed in with support. ORCA, which was one of the appellants to the Teevin Bros. log yard, weighed in with support also. DLCD changed from a neutral stance to support. Tokos said it is just a matter of time to get this acknowledged. As soon as the County adopts the TSP, it will go to the Oregon Transportation System; and he said that he knows that ODOT is anxious to get there

H. Director's Comments.

1. Update on Teevin Bros. appeal. Tokos said that we are still waiting for word from LUBA that the record has been finally settled and what the briefing schedule is for the appellant and the respondent. Fisher asked if LUBA will be actually looking at the documents and rule on the record or if they could actually have hearings. Tokos said that LUBA is limited to the record. The nature of their hearings is that is where the attorneys get to argue what is in the record and why it should be compelling one way or the other. He said that once we get the brief from the appellant, we will know what they are arguing. But, until we get the briefing schedule from LUBA, we don't know what the schedule will be. Notice will be given that everybody accepts what is in the record, and after that nobody can say there are other documents that should be in there. The appellant provides their documents, and we will have an opportunity to respond. That is where the City Council will have to decide how active it wants to be in this. Does it want Teevin's attorneys to handle the substantive stuff and the City will deal with the procedural stuff; that conversation still has to be had. Tokos said that this appeal is not the only thing Teevin is working on. He hasn't heard anything new in terms of the lease agreement.

2. Infrastructure Task Force. Tokos noted that an Infrastructure Task Force has been formed largely with City Council and Budget Committee members and representatives of Finance, Tokos, and Tim Gross. The task force will be meeting half a dozen times between now and November to come up with a recommendation on how the City might adjust how it does business to come up with better funding for infrastructure. Tokos said this came about following discussion regarding rate increases. The idea of this committee was to expand this to a broader conversation to infrastructure generally to include not only water, sewer, and storm water, but also parks, and buildings; the full scope of things that the City has an obligation to maintain and what funding sources it is using. Tokos said the group has put together a good schedule for working through those issues and having a recommendation coming out at the end of the year. He noted that some actions may come down to the Planning Commission to work through.

Croteau noted that last week there was an article about the dams in the newspaper that he thought made it sound like it was based on new information. Tokos thought this was old news being rehashed somewhat. The state engineer responsible for dam inspections shared with the City Council what he had shared with Tim Gross that we have to take a harder look at this. Tokos said that he believes this was information already shared with the Public Works Director and that he tried to share with the Planning Commission on why this project is important. He doesn't know that it was presented directly to the Council by Gross as it was by the state engineer. That is why the article ran. Tokos noted that the City just accepted the proposal from HDR to do the more-detailed analysis that will get at further design problems and potentially solutions.

I. Adjournment. Having no further business to discuss, the meeting adjourned at 7:22 p.m.

Respectfully submitted,

Wanda Haney
Executive Assistant

PLANNING STAFF REPORT
Case File No. 2-AX-13 / 3-Z-13

- A. **APPLICANT:** Spy, LLC (applicant and owner) and State of Oregon (owner).
- B. **REQUEST:** Consideration of requests to: **(1) annex approximately 3.063 acres of real property** (consisting of property currently identified as Tax Lot 1400 of Assessor’s Tax Map 11-11-20-BD and Tax Lot 1300 of Map 11-11-20-BA and a portion of US 101 right-of-way within the existing Urban Growth Boundary) into the Newport city limits; **(2) amend the City of Newport Zoning Map to establish an I-1/“Light Industrial” zoning designation for the subject property** consistent with the existing Newport Comprehensive Plan designation of Industrial (which allows for either I-1, I-2/“Medium Industrial,” or I-3/“Heavy Industrial”); and **(3) withdraw said territory from the Newport Rural Fire Protection District and the Lincoln County Library District.**
- C. **LOCATION:** 4535 S Coast Hwy (Lincoln County Assessor’s Map 11-11-20-BD Tax Lot 1400) and 4541 S Coast Hwy (Lincoln County Assessor’s Map 11-11-20-BA Tax Lot 1300) and a portion of US 101 right-of-way.
- D. **PROPERTY SIZE:** Approximately 3.063 acres.
- E. **STAFF REPORT:**
1. **REPORT OF FACTS:**
- a. **Plan Designation:** The subject properties are within the Newport Urban Growth Boundary and are designated as “Industrial” on the Newport Comprehensive Plan Map.
 - b. **Zone Designation:** City of Newport zoning is established at time of annexation. Either the I-1/“Light Industrial”, I-2/“Medium Industrial”, or I-3/“Heavy Industrial” zone designations are consistent with Comprehensive Plan designation of Industrial. The applicant is requesting the I-1 zone designation. The County designation for the property is currently I-P/“Planned Industrial.”
 - c. **Surrounding Land Uses:** Surrounding land uses in the immediate vicinity include light and heavy industrial and public land uses.
 - d. **Topography and Vegetation:** The property is moderately sloped and largely devoid of vegetation.
 - e. **Existing Residences/Buildings:** one 40’ x 120’ shop building, three 48’ x 48’ warehouses, one 40’ x 48’ warehouse, and one 40’ x 40’ dock building.
 - f. **Utilities:** Currently receiving city water service. Sewage is managed via an

on-site septic system. The owner intends to connect to city sewer once the property is annexed.

- g. **Development Constraints:** None known.
- h. **Past Land Use Actions:** None known.
- i. **Notification:** Required notice to the Department of Land Conservation and Development was mailed on September 6, 2013.

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 August 29, 2013. The notice of public hearing in the Newport News-Times was published on September 13, 2013.

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 I-1, I-2, and I-3 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 and ORS 222.524
Attachment "G" – September 18, 2013 email from ODOT
Attachment "H" – Comments from Mark Miranda, Chief of Police, Newport Police Department, dated September 9, 2013.

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 connect to City sewer service. 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 August 29, 2013, to affected property owners and various City departments, public/private utilities and agencies within Lincoln County, and other individuals. As of September 19, 2013, comments were received from the Newport Police Department and Oregon Department of Transportation. The Newport Police Department indicated that they do not object to the proposal, but would ultimately like to see all of that portion of US 101 in South Beach between the bridge and airport annexed into the City. This would help them resolve jurisdictional issues. The Oregon Department of Transportation advised that they have no objections to the proposal.

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 US 101, that is exempt from ad valorem taxes, shall not

be factored into the calculus outlined above.

The applicant owns both tax lots, which accounts for the bulk of the property subject to this request (i.e. all but the small portion of the US 101 highway right-of-way). The applicant has provided signed consent forms requesting that the properties be annexed. See Planning Staff Report Attachment "A" (Applicant Request).

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

The property is currently within the Urban Growth Boundary pursuant to the Comprehensive Plan Map of the City of Newport and is designated "Industrial."

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

The subject territory is contiguous to the existing city limits along the west side of US 101 as graphically depicted on the aerial photograph illustrating the land area. 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 Industrial is implemented by either the I-1/"Light Industrial" zone, I-2/"Medium Industrial" zone, or I-3/ "Heavy Industrial" zone. The intent of the applicant is to construct a storage/warehouse building for a fiber optic construction company, which conforms to the I-1 designation. Therefore, the applicant is requesting an I-1 zoning designation. The uses permitted outright and conditionally in the I-1, I-2, and I-3 zones are included as Planning Staff Report Attachment "D-1". The intent of the I-1, I-2, and I-3 zoning districts is included as Planning Staff Report Attachment "D-2".

Currently, the abutting property within the City limits immediately to the west of the subject property is designated with a P-2 zone designation. The property to the northeast within City limits is designated I-3; and the properties to the southwest and to the south are designated I-1. See Planning Staff Report Attachment "D".

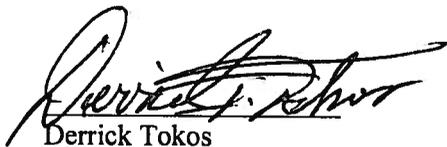
This property has been designated in the Newport Comprehensive Plan as Industrial, and the I-1 zone is consistent with that designation. The Comprehensive Plan Map reflects the policy direction contained

in the Newport Comprehensive Plan, including an Urban Growth Boundary that sets out the City's buildable land needs for a 20-year planning period, 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.

Further, the South Beach Urban Renewal District recently funded the extension of sewer service from SE 40th Street to SE 50th Street. This was done to facilitate further development of industrial properties situated along the US 101 corridor, including the subject site. Annexing the property so that it can be connected to this newly extended service is consistent with the objectives of the District and promotes the general welfare by facilitating connection to a waste disposal system that can more readily meet the needs of a growing industrial development.

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 I-1, I-2, or I-3. 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 September 16, 2013, 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

September 19, 2013

City of Newport Land Use Application

ATTACHMENT "A"
Applicant Request

PLEASE PRINT OR TYPE • COMPLETE ALL BOXES • USE ADDITIONAL PAPER

File No. 2-AX-13 / 3-Z-13

Applicant Name(s): SPY, LLC	Property Owner Name(s): <i>If other</i>
Applicant Mailing Address: 2560 NW Pacific St Newport, OR 97365	Property Owner Mailing Address: <i>If other than applicant</i>
Applicant Telephone No.: 541-270-1500	Property Owner Telephone No.: <i>If other than applicant</i>
E-mail: gwg@CoastCom.net	E-mail:
Authorized Representative(s): <i>Person authorized to submit and act on this application on applicants behalf</i>	
Authorized Representative Mailing Address:	
Authorized Representative Telephone No.:	E-Mail:

Project Information

Property Location: <i>Street name if address # not assigned</i> 4535 S Coast Hwy, Newport, OR 97365	
Tax Assessor's Map No.: 11-11-20-BA and BD	Tax Lot(s): 1300(BA) and 1400(BD)
Zone Designation: LP	Legal Description: <i>Add additional sheets if necessary</i>
Comp Plan Designation:	See attached
Brief Description of Land Use Request(s):	
<p><i>Examples:</i></p> <p>1. Move north Property line 5 feet south, or</p> <p>2. Variance of 2 feet from the required 15-foot front yard setback</p>	
Existing Structures: <i>If any</i> 5 shop blds (40x120) 3 warehouses (48'x48') 1 warehouse (40'x48') 1 dock bld (40'x40')	
Topography and Vegetation: mostly bare land	

APPLICATION TYPE (please check all that apply)

<input checked="" type="checkbox"/> Annexation	<input type="checkbox"/> Interpretation	<input type="checkbox"/> UGB Amendment
<input type="checkbox"/> Appeal	<input type="checkbox"/> Minor Replat	<input type="checkbox"/> Vacation
<input type="checkbox"/> Comp Plan/Map Amendment	<input type="checkbox"/> Partition	<input type="checkbox"/> Variance/Adjustment
<input type="checkbox"/> Conditional Use Permit	<input type="checkbox"/> Planned Development	<input type="checkbox"/> PC
<input type="checkbox"/> PC	<input type="checkbox"/> Property Line Adjustment	<input type="checkbox"/> Staff
<input type="checkbox"/> Staff	<input type="checkbox"/> Shoreland Impact	<input type="checkbox"/> Zone Ord/Map Amendment
<input type="checkbox"/> Design Review	<input type="checkbox"/> Subdivision	<input type="checkbox"/> Other _____
<input type="checkbox"/> Geologic Permit	<input type="checkbox"/> Temporary Use Permit	

FOR OFFICE USE ONLY

Date Received: 8/27/13	File No. Assigned: 2-AX-13 / 3-Z-13	Date Accepted as Complete: _____
Received By: _____	Fee Amount: 788	Accepted By: _____
	Receipt No.: 7876	

(SEE REVERSE SIDE)

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

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.



Applicant Signature(s)

8-26-13

Date Signed

Property Owner Signature(s) (If other than applicant)

Date Signed

Authorized Representative Signature(s) (If other than applicant)

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.

After recording, please mail to:
Community Development Department
City of Newport
169 SW Coast Hwy
Newport, OR 97365

Urban Growth Area Development Agreement

1.) THE UNDERSIGNED, SPY, LLC, owner of the following described real property within Lincoln County, Oregon, to-wit (*insert legal description: if a platted area, Lot, Block, and name of the subdivision; description of metes and bounds if not a platted area; please include tax lot number, as well, if known; if you have any co-owners, please indicate the name and mailing address of the co-owner and have the co-owner sign*):

A. The following property as described by Warranty Deed as recorded in Book 397 Page 2234 in the Lincoln County, Oregon, Book of Records and currently identified on Lincoln County Assessor's Map 11-11-20-BD as Tax Lot 1400:

Beginning at a point that is 1350.0 feet South of the North quarter corner of Section 20, Township 11 South, Range 11 West, Willamette Meridian, in Lincoln County, Oregon; running thence west to the East line of Highway 101; thence Southwesterly along the east line of Highway 101 a distance of 150 feet; thence East to a place South of the point of beginning; thence North 135.78 feet to the point of beginning.

B. The following property as described by Warranty Deed as recorded in Book 397 Page 2236 in the Lincoln County, Oregon, Book of Records and currently identified on Lincoln County Assessor's Map 11-11-20-BA as Tax Lot 1300:

Parcel 2 of Partition Plat 11-1990, filed for record May 9, 1990, in Lincoln County Plat Records, in the County of Lincoln and State of Oregon.

wishes to develop said property prior to the availability of City of Newport services. Such development may include, but not be limited to, the division of land, the building of a dwelling or other buildings, the installation of a water system including the drilling of a well, the installation of a septic tank, and the construction or dedication of a roadway.

2.) Whereas the Comprehensive Plan of the City of Newport (Ordinance No. 1621) requires that the following policies be followed:

PURPOSE OF ANNEXATION

The intent of the property owner is to build a new structure on tax lot 1400. This structure would be used as storage/warehouse space for a fiber optic construction company. The intended use would conform to I-1 "Light Industrial" zoning under Newport Municipal Code 14.28.030 (D).

There is an existing structure on the property with a few plumbing fixtures. Any waste water lines would be moved from the existing septic system to the City services at the street.

ADDRESSES OF PROPERTIES TO BE ANNEXED

11-11-20-BA-01300

SITUS ADDRESS(ES)

4541 S COAST HWY UNIT A, SOUTH BEACH 97366

4541 S COAST HWY UNIT B, SOUTH BEACH 97366

4545 S COAST HWY UNIT A, SOUTH BEACH 97366

4545 S COAST HWY UNIT B, SOUTH BEACH 97366

4549 S COAST HWY UNIT A, SOUTH BEACH 97366

4549 S COAST HWY UNIT B, SOUTH BEACH 97366

4553 S COAST HWY UNIT A, SOUTH BEACH 97366

4553 S COAST HWY UNIT B, SOUTH BEACH 97366

11-11-20-BD-01400

SITUS ADDRESS

4535 S COAST HWY, SOUTH BEACH 97366

S

Lincoln County Property Report

Account # & LEGAL DESCRIPTION	ACCOUNT DETAILS	OWNER AND ADDRESS
Account #: R467262 Map Taxlot: 11-11-20-BD-01400-00 Map: 11s11w208D Legal: TWNShP 11, RNg 11, ACRES 1.23, MF397-2234 LESS MF398-0145 TaxCode: 192 Acres: 1.23	Neighborhood: S166 PropertyClass: 231	Owner: SPY LLC Address: 1917 N BEAVER CREEK RD SEAL ROCK, OR 97376 Situs: 4535 S COAST HWY

IMPROVEMENTS	VALUE AND SALES HISTORY
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Description	Area	Yr Built	Foundation	Heat	Plumbing	BDMS	Value	Value Year	Imp.	Land	Total Market	Total Assessed
MAIN AREA	6600	1964					201680	2012	248,990	208,100	457,090	329,710
MAIN AREA	2304						47310	2011	276,460	231,330	507,790	320,110
								2010	276,460	231,330	507,790	310,790
								2009	276,460	231,330	507,790	301,740
								2008	276,460	231,330	507,790	292,960
								2007	276,460	173,760	450,220	284,430
								SaleDate	Price	Document	Type	Code
								2/24/2000	290000	MF397-2234	13	WD

LAND				RELATED ACCOUNTS	DISCLAIMER
Description	Acres	Market Value	Special Use Value		
INDUSTRIAL DEV SITE	1.23	197,640		R522146	This report was produced using the Lincoln County assessment information. This information is maintained by the county to support its governmental activities. The County is not responsible for errors, omissions, misuse or misinterpretation. Report created 6/21/2013 using tax data exported 11/21/12
IND SITE DEVELOPMENT		10,460			

Lincoln County Property Report

Account # & LEGAL DESCRIPTION	ACCOUNT DETAILS	OWNER AND ADDRESS
Account #: R501504 Map Taxlot: 11-11-20-BA-01300-00 Map: 11s11w20BA Legal: PART. PLAT 1990-11, PARCEL 2, ACRES 1.80, DV129-387 TaxCode: 192 Acres: 1.80	Neighborhood: S166 PropertyClass: 231	Owner: SPY LLC Address: 1917 N BEAVER CREEK RD SEAL ROCK, OR 97376 4541 S COAST HWY, UNIT A ;4541 S COAST HWY, UNIT B ;4545 S COAST HWY, UNIT A ;4545 S MultiSitus: COAST HWY, UNIT B ;4549 S COAST HWY, UNIT A ;4549 S COAST HWY, UNIT B ;4553 S COAST HWY, UNIT A ;4553 S COAST HWY, UNIT B

IMPROVEMENTS	VALUE AND SALES HISTORY
--------------	-------------------------

Description	Area	Yr Built	Foundation	Heat	Plumbing	BDMS	Value	Value Year	Imp.	Land	Total Market	Total Assessed
MAIN AREA	2304	2006	CONC				47310	2012	132,200	292,310	424,510	233,090
MAIN AREA	2304	2006	CONC				47310	2011	146,790	324,960	471,750	226,310
MAIN AREA	1728	2006	CONC				37580	2010	146,790	324,960	471,750	219,720
								2009	146,790	324,960	471,750	213,330
								2008	146,790	324,960	471,750	207,120
								2007	146,790	244,070	390,860	201,090
								SaleDate	Price	Document	Type	Code
								2/24/2000	160000	MF397-2236	13	WD

LAND				RELATED ACCOUNTS	DISCLAIMER
Description	Acres	Market Value	Special Use Value	No Related Accounts	This report was produced using the Lincoln County assessment information. This information is maintained by the county to support its governmental activities. The County is not responsible for errors, omissions, misuse or misinterpretation. Report created: 4/23/2013 using tax data exported 11/2/12
COMMERCIAL DEV SITE	1.80	289,220			
SITE DEVELOPMENT		3,090			

After recording, please mail to:
Community Development Department
City of Newport
169 SW Coast Hwy
Newport, OR 97365

Urban Growth Area Development Agreement

1.) THE UNDERSIGNED, SPY, LLC, owner of the following described real property within Lincoln County, Oregon, to-wit (*insert legal description: if a platted area, Lot, Block, and name of the subdivision; description of metes and bounds if not a platted area; please include tax lot number, as well, if known; if you have any co-owners, please indicate the name and mailing address of the co-owner and have the co-owner sign*):

A. The following property as described by Warranty Deed as recorded in Book 397 Page 2234 in the Lincoln County, Oregon, Book of Records and currently identified on Lincoln County Assessor's Map 11-11-20-BD as Tax Lot 1400:

Beginning at a point that is 1350.0 feet South of the North quarter corner of Section 20, Township 11 South, Range 11 West, Willamette Meridian, in Lincoln County, Oregon; running thence west to the East line of Highway 101; thence Southwesterly along the east line of Highway 101 a distance of 150 feet; thence East to a place South of the point of beginning; thence North 135.78 feet to the point of beginning.

B. The following property as described by Warranty Deed as recorded in Book 397 Page 2236 in the Lincoln County, Oregon, Book of Records and currently identified on Lincoln County Assessor's Map 11-11-20-BA as Tax Lot 1300:

Parcel 2 of Partition Plat 11-1990, filed for record May 9, 1990, in Lincoln County Plat Records, in the County of Lincoln and State of Oregon.

wishes to develop said property prior to the availability of City of Newport services. Such development may include, but not be limited to, the division of land, the building of a dwelling or other buildings, the installation of a water system including the drilling of a well, the installation of a septic tank, and the construction or dedication of a roadway.

2.) Whereas the Comprehensive Plan of the City of Newport (Ordinance No. 1621) requires that the following policies be followed:

Policy 4, Goal 1, General Goals and Policies of the Public Facilities Element which states that development may be permitted for parcels without the essential services (defined as sanitary sewers, water, storm drainage, and streets) if:

- The proposed development is consistent with the Comprehensive Plan; and
- The property owner enters into an agreement, that runs with the land and is therefore binding upon future owners, that the property will connect to the essential service when it is reasonably available; and
- The property owner signs an irrevocable consent to annex if outside the city limits and/or agrees to participate in a local improvement district for the essential service.

3.) The undersigned agrees and covenants that he/she, or any subsequent owners of the property, will sign any petition leading to the future annexation of said property to the City of Newport and that he/she will not object to or remonstrate against the future formation of any local improvement district for domestic water and/or sewer and/or street improvements and connection to city utilities when available which may be of benefit to the above-described property and in which district the above-described property may be included.

4.) The undersigned agrees that, in the event of a sale or transfer of the above-described property, he/she will, as a condition of such sale or transfer, require the purchaser, or other new owner, to sign a duplicate copy of this Urban Growth Area Agreement. Moreover, the undersigned further agrees that this agreement and the promises made herein shall constitute a burden upon the above-described property and a covenant running with the land and shall be binding upon the undersigned, his/her heirs, successors and assigns, and that this agreement shall be filed in the Deed Records of Lincoln County, Oregon, or such other records as may be appropriate.

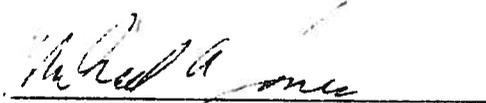
DATED this 12th day of MAY, 2005.

CITY OF NEWPORT

By


Margaret Hawker
City Recorder

PROPERTY OWNER


Michael A. Jones
Managing Partner, SPY, LLC.
1917 N. Beaver Creek RD
Seal Rock, OR 97376

(continued on next page)

After recording, please mail to:
Community Development Department
City of Newport
169 SW Coast Hwy
Newport, OR 97365

Urban Growth Area Development Agreement

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Parcel 2 of Partition Plat 11-1990, filed for record May 9, 1990, in Lincoln County Plat Records, in the County of Lincoln and State of Oregon.

wishes to develop said property prior to the availability of City of Newport services. Such development may include, but not be limited to, the division of land, the building of a dwelling or other buildings, the installation of a water system including the drilling of a well, the installation of a septic tank, and the construction or dedication of a roadway.

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- The proposed development is consistent with the Comprehensive Plan; and
- The property owner enters into an agreement, that runs with the land and is therefore binding upon future owners, that the property will connect to the essential service when it is reasonably available; and
- The property owner signs an irrevocable consent to annex if outside the city limits and/or agrees to participate in a local improvement district for the essential service.

3.) The undersigned agrees and covenants that he/she, or any subsequent owners of the property, will sign any petition leading to the future annexation of said property to the City of Newport and that he/she will not object to or remonstrate against the future formation of any local improvement district for domestic water and/or sewer and/or street improvements and connection to city utilities when available which may be of benefit to the above-described property and in which district the above-described property may be included.

4.) The undersigned agrees that, in the event of a sale or transfer of the above-described property, he/she will, as a condition of such sale or transfer, require the purchaser, or other new owner, to sign a duplicate copy of this Urban Growth Area Agreement. Moreover, the undersigned further agrees that this agreement and the promises made herein shall constitute a burden upon the above-described property and a covenant running with the land and shall be binding upon the undersigned, his/her heirs, successors and assigns, and that this agreement shall be filed in the Deed Records of Lincoln County, Oregon, or such other records as may be appropriate.

DATED this 12th day of MAY, 2005.

CITY OF NEWPORT

By Margaret M. Hawker
Margaret Hawker
City Recorder

PROPERTY OWNER

Michael A. Jones
Michael A. Jones
Managing Partner, SPY, LLC.
1917 N. Beaver Creek RD
Seal Rock, OR 97376

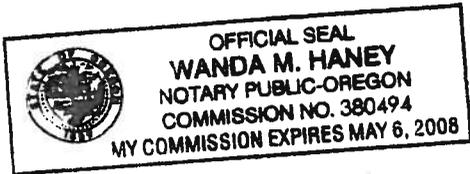
(continued on next page)

STATE OF OREGON)
)
COUNTY OF LINCOLN) ss.

I, the undersigned notary public in and for said state and county, do hereby certify that on this 12th day of May, 2005, personally appeared before me, Margaret Hawker, to me known to be the individual (s) described in and who executed the within instrument and acknowledged that he/she signed and sealed the same as his/her free and voluntary act and deed for the uses and purposes therein mentioned.

Wanda M Haney
Notary Public for Oregon

My Commission Expires: 5/6/08



STATE OF OREGON)
)
COUNTY OF LINCOLN) ss.

I, the undersigned notary public in and for said state and county, do hereby certify that on this 18th day of May, 2005, personally appeared before me Spike Jones, to me known to be the individual (s) described in and who executed the within instrument and acknowledged that he/she signed and sealed the same as hi/her free and voluntary act and deed for the uses and purposes therein mentioned.

Aletta M Myers
Notary Public for Oregon

My Commission Expires: 3/17/06



**CITY OF NEWPORT
NOTICE OF A PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that the Planning Commission of the City of Newport, Oregon, will hold a public hearing on September 23, 2013, 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. 2-AX-13

Applicants: Spy, LLC.

Request: Consideration of requests to: **(1) annex approximately 3.03 acres of real property** (consisting of property currently identified as Tax Lot 1400 of Assessor's Tax Map 11-11-20-BD and Tax Lot 1300 of Map 11-11-20-BA and a portion of US 101 right-of-way (map attached) within the existing Urban Growth Boundary) into the Newport city limits; **(2) amend the City of Newport Zoning Map to establish an I-1 "Light Industrial" zoning designation for the subject property** consistent with the existing Newport Comprehensive Plan designation of Industrial (which allows for either I-1, I-2 "Medium Industrial", or I-3 "Heavy Industrial"); and **(3) 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: 4535 S Coast Hwy (Lincoln County Assessor's Map 11-11-20-BD Tax Lot 1400) and 4541 S Coast Hwy (Lincoln County Assessor's Map 11-11-20-BA Tax Lot 1300).

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.

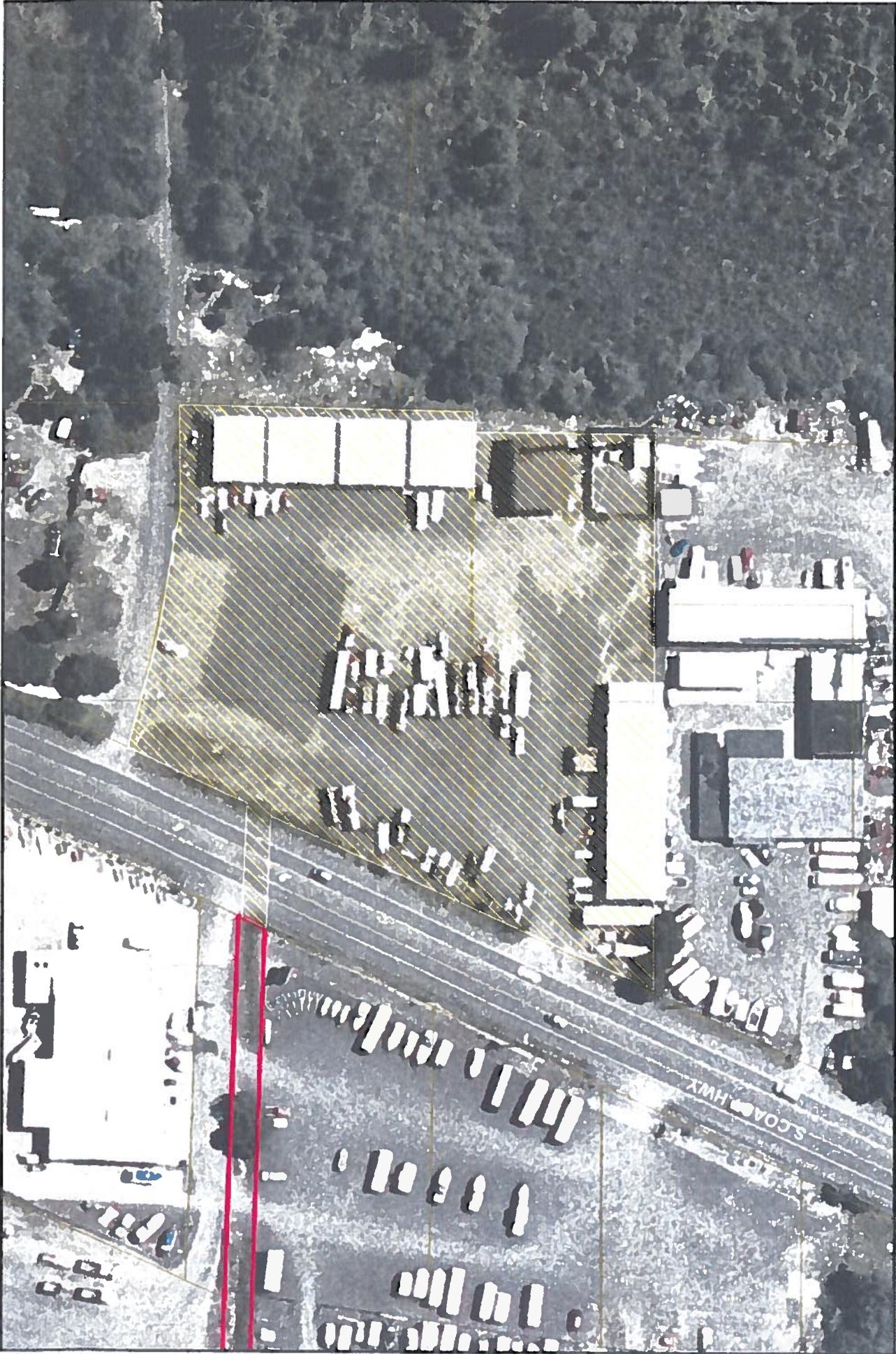
Contact: Derrick Tokos, Community Development Director, (541) 574-0626; d.tokos@newportoregon.gov (mailing address above in "Reports/Application Materials").

Time/Place of Planning Commission Hearing: Monday, September 23, 2013; 7:00 p.m.; City Hall Council Chambers (address above in "Reports/Application Materials").

MAILED: August 29, 2013.

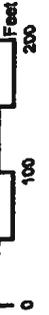
PUBLISHED: September 13, 2013/News-Times.

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.

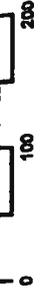


City of Newport
Community Development Department
 189 SW Coast Highway
 Newport, OR 97365
 Phone: 1.541.574.0629
 Fax: 1.541.574.0644

Potential Annexation
4541 South Coast Highway
(subject area shown with yellow hatch)



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**Potential Annexation
4541 South Coast Highway
(subject area shown with yellow hatch)**

**City of Newport
Community Development Department
168 SW Coast Highway
Newport, OR 97365**
Phone: 1.541.574.0629
Fax: 1.541.574.0644



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ATTACHMENT "D"
Newport Zoning Map

File No. 2-AX-13 / 3-Z-13



City of Newport
Community Development Department

Legend

City of Newport Zoning Zone

-  C-1 Retail and Service
-  C-2 Tourist
-  C-3 Heavy
-  I-1 Light
-  I-2 Medium
-  I-3 Heavy
-  P-1 Public Structures
-  P-2 Public Parks
-  P-3 Public Open Space
-  R-1 Low Density Single-Family
-  R-2 Medium Density Single-Family
-  R-3 Medium Density Multi-Family
-  R-4 High Density Multi-Family
-  W-1 Water Dependent
-  W-2 Water Related
-  City Limits

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169 SW Coast Highway Phone: 1.541.574.0626
Newport, Oregon 97365 Fax: 1.541.574.0644



Zoning Map
Map 2 of 2
South Section

CITY OF NEWPORT
I-1/"LIGHT INDUSTRIAL" ZONING DISTRICT USES

PERMITTED USES

Office

(examples: financial (lenders, brokers, bank hdqtrs.); data processing; professional svcs. (lawyers, accountants, engineers, architects, sales); government; public utilities; TV & radio studios; medical & dental clinics and labs; contractors (if equipment not kept on site).)

Retail Sales & Service

Sales-oriented, general retail

(examples: consumer, home, & business goods including art, art supplies, bicycles, books, clothing, dry goods, electronic equipment, fabric, pharmaceuticals, plants, printed material, stationery & video; food; vehicle service (but not repair of vehicles).)

Sales-oriented, bulk retail

(examples: stores selling large consumer home & business goods including appliances, furniture, hardware, home improvements; sales or leasing of consumer vehicles including passenger vehicles, motorcycles, light & medium trucks & other recreational vehicles.)

Personal Services

(examples: bank branches; urgent medical care; laundromats; photographic studios; photocopy & blueprint svcs.; printing, publishing & lithography; hair, tanning & personal care svcs.; tax preparers, accountants, engineers, architects, real estate agents, legal, financial svcs.; art studios; art, dance, music, martial arts & other recreational or cultural classes/schools; taxidermists; mortuaries; veterinarians; kennels (limited to boarding & training w/no breeding); animal grooming.)

Entertainment

(examples: restaurants (sit-down & drive-thru); cafes; delicatessens; taverns & bars; hotels, motels, recreational vehicles & other temporary lodging (w/ avg. length of stay < 30 days); athletic, exercise & health clubs or gyms; bowling alleys, skating rinks, game arcades; pool halls; dance halls, studios & schools; theaters; indoor firing ranges; miniature golf facilities, golf courses & driving ranges.)

Repair-oriented

(examples: repair of TVs, bicycles, clocks, watches, shoes, guns, appliances & office equipment; photo

(PERMITTED USES CONTINUED)

or laundry drop-off; quick printing; recycling drop-off; tailor; locksmith; upholsterer.)

Major Event Entertainment

(examples: fairgrounds; sports complexes; ball fields; exhibition & meeting areas; coliseums or stadiums; equestrian centers & animal arenas; outdoor amphitheater; theme or water parks.)

Vehicle Repair

(examples: vehicle repair; transmission or muffler shop; auto body shop; alignment shop; auto upholstery shop; auto detailing; tire sales & mounting.)

Self-Service Storage

(examples: single-story & multi-story facilities that provide individual storage areas for rent (aka mini warehouses).)

Parking Facility

(examples: short & long-term fee pkg. facilities; commercial district shared pkg. lots; commercial shuttle pkg.; park-&-ride lots.)

Contractors & Industrial Service

(examples: welding shops; machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; sales, repair, storage, salvage, or wrecking heavy machinery, metal, & building materials; towing & vehicle storage; auto & truck salvage & wrecking; heavy truck servicing & repair; tire re-treading or recapping; truck stops; building, heating, plumbing, or electrical contractors; printing, publishing & lithography; exterminators; recycling operations; janitorial & building maintenance svcs.; fuel oil distributors; solid fuel yards; research & development labs; dry-docks & repair or dismantling of ships & barges; laundry, dry-cleaning & carpet cleaning plants; photofinishing labs.)

Manufacturing & Production

Light Manufacturing

(examples: light industrial uses that do not generate excessive noise, dust, vibration, or fumes including processing food & related products (where activities are wholly contained w/in a structure) such as bakery products, canned & preserved fruits & vegetables, sugar & confectionary products &

(PERMITTED USES CONTINUED)

beverages; catering establishments; breweries, distilleries & wineries; manufacture of apparel or other fabricated products made from textiles, leather, or similar materials; woodworking including furniture & cabinet making; fabrication of metal products & fixtures; manufacture or assembly of machinery equipment or instruments including industrial, commercial & transportation equipment, household items, precision items, photographic, medical & optical goods, artwork, jewelry & toys; manufacture of glass, glassware & pressed or blown glass; pottery & related products; printing publishing & lithography production; sign-making; movie production facilities.)

Warehouse, Freight Movement & Distribution

(examples: separate warehouses used by retail stores such as furniture & appliance stores; household moving & general freight storage; cold storage plants including frozen food lockers; storage of weapons & ammunition; major wholesale distribution centers; truck, marine, or air freight terminals; bus barns; parcel services; major post offices; grain terminals; stockpiling sand, gravel, or other aggregate materials.)

Wholesale Sales

(examples: sale or rental of machinery, equipment, heavy trucks, bldg. materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment & store fixtures; mail-order houses; wholesalers of food, clothing, auto parts, bldg. hardware & office supplies.

Basic Utilities & Roads

(examples: water & sewer pump stations; sewage disposal & conveyance systems; electrical substations; water towers & reservoirs; water quality & flow control devices; water conveyance systems; stormwater facilities & conveyance systems; telephone exchanges; suspended cable transportation systems; bus stops or turnarounds; local, collector & arterial roadways; highway maintenance.)

Community Service

(examples: churches; libraries; museums; senior centers; community centers; publicly-owned swimming pools; youth club facilities; hospices; police stations, fire & ambulance stations; drug & alcohol centers; social service facilities; mass shelters or short-term housing (when operated by a public or non-profit agency); soup kitchens; surplus food distribution centers.)

Daycare Facility

(examples: preschools, nursery schools, latch key programs (more than 12 children under age 13 outside their homes); adult daycare programs.)

(I-1 Uses)

(PERMITTED USES CONTINUED)**Educational Institutions****Trade/Vocational Schools/Other**

(examples: nursing & medical schools (not accessory to a hospital), seminaries, public & private daytime schools, boarding schools, military academies, trade/vocational schools.)

Communication Facilities

(examples: broadcast towers, communication/cell towers, point-to-point microwave towers.)

CONDITIONAL USES**Waste & Recycling Related**

(examples: sanitary landfills; limited-use landfills; waste composting; energy recovery plants; sewer treatment plants; portable sanitary collection equipment storage & pumping; hazardous waste collection sites.)

Utility, Road & Transit Corridors

(examples: highways; rail trunk & feeder lines; regional electrical transmission lines; regional gas & oil pipelines.)

Courts, Jails & Detention Facilities

(examples: courts, prisons, jails, probation centers, juvenile detention homes.)

PROHIBITED USES**Manufacturing & Production****Heavy Manufacturing**

(examples: industrial uses that should not be located near residential areas due to noise, dust, vibration, or fumes including processing food & related products (where some portion of the materials are stored or processed outdoors) such as dairies, slaughter houses, or feed lots; leather tanning & finishing; weaving or production of textiles; lumber mills, pulp & paper mills & other wood products mfg.; production of chemicals, rubber, structural clay, concrete, gypsum, plaster, bone, plastic, or stone products; primary metal industries including blast furnaces, foundries, smelting & rolling & finishing metal products; production & refinement of fossil fuels; concrete batching; asphalt mixing; mfg. of prefabricated structures including mobile homes.)

(PROHIBITED USES CONTINUED)**Educational Institutions****Elementary & Secondary Schools****College & Universities**

*(examples: elementary, middle & high schools;
universities, liberal arts colleges, community
colleges.)*

Hospitals

*(examples: hospitals & medical complexes that include
hospitals or emergency care facilities.)*

Mining**Sand & Gravel****Crushed Rock****Non-Metallic Minerals****All Others**

*(examples: sand & gravel extraction; excavation
of rock; mining of non-metallic minerals.)*

**CITY OF NEWPORT
I-2/"MEDIUM INDUSTRIAL" ZONING DISTRICT USES**

PERMITTED USES

Office

(examples: financial (lenders, brokers, bank hdqtrs.); data processing; professional svcs. (lawyers, accountants, engineers, architects, sales); government; public utilities; TV & radio studios; medical & dental clinics and labs; contractors (if equipment not kept on site).)

Retail Sales & Service

Sales-oriented, general retail

(examples: consumer, home, & business goods including art, art supplies, bicycles, books, clothing, dry goods, electronic equipment, fabric, pharmaceuticals, plants, printed material, stationery & video; food; vehicle service (but not repair of vehicles).)

Sales-oriented, bulk retail

(examples: stores selling large consumer home & business goods including appliances, furniture, hardware, home improvements; sales or leasing of consumer vehicles including passenger vehicles, motorcycles, light & medium trucks & other recreational vehicles.)

Repair-oriented

(examples: repair of TVs, bicycles, clocks, watches, shoes, guns, appliances & office equipment; photo or laundry drop-off; quick printing; recycling drop-off; tailor; locksmith; upholsterer.)

Vehicle Repair

(examples: vehicle repair; transmission or muffler shop; auto body shop; alignment shop; auto upholstery shop; auto detailing; tire sales & mounting.)

Self-Service Storage

(examples: single-story & multi-story facilities that provide individual storage areas for rent (aka mini warehouses).)

Parking Facility

(examples: short & long-term fee pkg. facilities; commercial district shared pkg. lots; commercial shuttle pkg.; park-&-ride lots.)

Contractors & Industrial Service

(examples: welding shops; machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; sales, repair, storage, salvage, or wrecking heavy machinery, metal, & building materials; towing &

(PERMITTED USES CONTINUED)

vehicle storage; auto & truck salvage & wrecking; heavy truck servicing & repair; tire re-treading or recapping; truck stops; building, heating, plumbing, or electrical contractors; printing, publishing & lithography; exterminators; recycling operations; janitorial & building maintenance svcs.; fuel oil distributors; solid fuel yards; research & development labs; dry-docks & repair or dismantling of ships & barges; laundry, dry-cleaning & carpet cleaning plants; photofinishing labs.)

Manufacturing & Production

Light Manufacturing

(examples: light industrial uses that do not generate excessive noise, dust, vibration, or fumes including processing food & related products (where activities are wholly contained w/in a structure) such as bakery products, canned & preserved fruits & vegetables, sugar & confectionary products & beverages; catering establishments; breweries, distilleries & wineries; manufacture of apparel or other fabricated products made from textiles, leather, or similar materials; woodworking including furniture & cabinet making; fabrication of metal products & fixtures; manufacture or assembly of machinery equipment or instruments including industrial, commercial & transportation equipment, household items, precision items, photographic, medical & optical goods, artwork, jewelry & toys; manufacture of glass, glassware & pressed or blown glass; pottery & related products; printing publishing & lithography production; sign-making; movie production facilities.)

Warehouse, Freight Movement & Distribution

(examples: separate warehouses used by retail stores such as furniture & appliance stores; household moving & general freight storage; cold storage plants including frozen food lockers; storage of weapons & ammunition; major wholesale distribution centers; truck, marine, or air freight terminals; bus barns; parcel services; major post offices; grain terminals; stockpiling sand, gravel, or other aggregate materials.)

Wholesale Sales

(examples: sale or rental of machinery, equipment, heavy trucks, bldg. materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment & store fixtures; mail-order houses; wholesalers of food, clothing, auto parts, bldg. hardware & office supplies.)

(PERMITTED USES CONTINUED)**Basic Utilities & Roads**

(examples: water & sewer pump stations; sewage disposal & conveyance systems; electrical substations; water towers & reservoirs; water quality & flow control devices; water conveyance systems; stormwater facilities & conveyance systems; telephone exchanges; suspended cable transportation systems; bus stops or turnarounds; local, collector & arterial roadways; highway maintenance.)

Daycare Facility

(examples: preschools, nursery schools, latch key programs (more than 12 children under age 13 outside their homes); adult daycare programs.)

Educational Institutions**Trade/Vocational Schools/Other**

(examples: nursing & medical schools (not accessory to a hospital), seminaries, public & private daytime schools, boarding schools, military academies, trade/vocational schools.)

Communication Facilities

(examples: broadcast towers, communication/cell towers, point-to-point microwave towers.)

CONDITIONAL USES**Retail Sales & Service****Personal Services**

(examples: bank branches; urgent medical care; laundromats; photographic studios; photocopy & blueprint svcs.; printing, publishing & lithography; hair, tanning & personal care svcs.; tax preparers, accountants, engineers, architects, real estate agents, legal, financial svcs.; art studios; art, dance, music, martial arts & other recreational or cultural classes schools; taxidermists; mortuaries; veterinarians; kennels (limited to boarding & training w/no breeding); animal grooming.)

Entertainment

(examples: restaurants (sit-down & drive-thru); cafés; delicatessens; taverns & bars; hotels, motels, recreational vehicles & other temporary lodging (w/ avg. length of stay < 30 days); athletic, exercise & health clubs or gyms; bowling alleys, skating rinks, game arcades; pool halls; dance halls, studios & schools; theaters; indoor firing ranges; miniature golf facilities, golf courses & driving ranges.)

(CONDITIONAL USES CONTINUED)**Major Event Entertainment**

(examples: fairgrounds; sports complexes; ball fields; exhibition & meeting areas; coliseums or stadiums; equestrian centers & animal arenas; outdoor amphitheater; theme or water parks.)

Manufacturing & Production**Heavy Manufacturing**

(examples: industrial uses that should not be located near residential areas due to noise, dust, vibration, or fumes including processing food & related products (where some portion of the materials are stored or processed outdoors) such as dairies, slaughter houses, or feed lots; leather tanning & finishing; weaving or production of textiles; lumber mills, pulp & paper mills & other wood products mfg.; production of chemicals, rubber, structural clay, concrete, gypsum, plaster, bone, plastic, or stone products; primary metal industries including blast furnaces, foundries, smelting & rolling & finishing metal products; production & refinement of fossil fuels; concrete batching; asphalt mixing; mfg. of prefabricated structures including mobile homes.)

Waste & Recycling Related

(examples: sanitary landfills; limited-use landfills; waste composting; energy recovery plants; sewer treatment plants; portable sanitary collection equipment storage & pumping; hazardous waste collection sites.)

Utility, Road & Transit Corridors

(examples: highways; rail trunk & feeder lines; regional electrical transmission lines; regional gas & oil pipelines.)

Community Service

(examples: churches; libraries; museums; senior centers; community centers; publicly-owned swimming pools; youth club facilities; hospices; police stations, fire & ambulance stations; drug & alcohol centers; social service facilities; mass shelters or short-term housing (when operated by a public or non-profit agency); soup kitchens; surplus food distribution centers.)

Mining**Sand & Gravel****Non-Metallic Minerals**

(examples: sand & gravel extraction; mining of non-metallic minerals.)

PROHIBITED USES

Educational Institutions

Elementary & Secondary Schools

College & Universities

(examples: elementary, middle & high schools; universities, liberal arts colleges, community colleges.)

Hospitals

(examples: hospitals & medical complexes that include hospitals or emergency care facilities.)

Courts, Jails & Detention Facilities

(examples: courts, prisons, jails, probation centers, juvenile detention homes.)

Mining

Crushed Rock

All Others

(examples: excavation of rock.)

**CITY OF NEWPORT
I-3/"HEAVY INDUSTRIAL" ZONING DISTRICT USES**

PERMITTED USES

Parking Facility

(examples: short & long-term fee pkg. facilities; commercial district shared pkg. lots; commercial shuttle pkg.; park-&-ride lots.)

Contractors & Industrial Service

(examples: welding shops; machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; sales, repair, storage, salvage, or wrecking heavy machinery, metal, & building materials; towing & vehicle storage; auto & truck salvage & wrecking; heavy truck servicing & repair; tire re-treading or recapping; truck stops; building, heating, plumbing, or electrical contractors; printing, publishing & lithography; exterminators; recycling operations; janitorial & building maintenance svcs.; fuel oil distributors; solid fuel yards; research & development labs; dry-docks & repair or dismantling of ships & barges; laundry, dry-cleaning & carpet cleaning plants; photofinishing labs.)

Manufacturing & Production

Light Manufacturing

(examples: light industrial uses that do not generate excessive noise, dust, vibration, or fumes including processing food & related products (where activities are wholly contained w/in a structure) such as bakery products, canned & preserved fruits & vegetables, sugar & confectionary products & beverages; catering establishments; breweries, distilleries & wineries; manufacture of apparel or other fabricated products made from textiles, leather, or similar materials; woodworking including furniture & cabinet making; fabrication of metal products & fixtures; manufacture or assembly of machinery equipment or instruments including industrial, commercial & transportation equipment, household items, precision items, photographic, medical & optical goods, artwork, jewelry & toys; manufacture of glass, glassware & pressed or blown glass; pottery & related products; printing publishing & lithography production; sign-making; movie production facilities.)

Heavy Manufacturing

(examples: industrial uses that should not be located near residential areas due to noise, dust, vibration, or fumes including processing food & related products (where some portion of the materials are stored or processed outdoors) such as dairies, slaughter houses, or feed lots; leather

(PERMITTED USES CONTINUED)

tanning & finishing; weaving or production of textiles; lumber mills, pulp & paper mills & other wood products mfg.; production of chemicals, rubber, structural clay, concrete, gypsum, plaster, bone, plastic, or stone products; primary metal industries including blast furnaces, foundries, smelting & rolling & finishing metal products; production & refinement of fossil fuels; concrete batching; asphalt mixing; mfg. of prefabricated structures including mobile homes.

Warehouse, Freight Movement & Distribution

(examples: separate warehouses used by retail stores such as furniture & appliance stores; household moving & general freight storage; cold storage plants including frozen food lockers; storage of weapons & ammunition; major wholesale distribution centers; truck, marine, or air freight terminals; bus barns; parcel services; major post offices; grain terminals; stockpiling sand, gravel, or other aggregate materials.)

Wholesale Sales.

(examples: sale or rental of machinery, equipment, heavy trucks, bldg. materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment & store fixtures; mail-order houses; wholesalers of food, clothing, auto parts, bldg. hardware & office supplies.

Basic Utilities & Roads

(examples: water & sewer pump stations; sewage disposal & conveyance systems; electrical substations; water towers & reservoirs; water quality & flow control devices; water conveyance systems; stormwater facilities & conveyance systems; telephone exchanges; suspended cable transportation systems; bus stops or turnarounds; local, collector & arterial roadways; highway maintenance.)

Educational Institutions

Trade/Vocational Schools/Other

(examples: nursing & medical schools (not accessory to a hospital), seminaries, public & private daytime schools, boarding schools, military academies, trade/vocational schools.)

(PERMITTED USES CONTINUED)**Mining****Sand & Gravel****Crushed Rock****Non-Metallic Minerals***(examples: sand & gravel extraction; excavation of rock; mining of non-metallic minerals.)***Communication Facilities***(examples: broadcast towers, communication/cell towers, point-to-point microwave towers.)***CONDITIONAL USES****Retail Sales & Service****Sales-oriented, general retail***(examples: consumer, home, & business goods including art, art supplies, bicycles, books, clothing, dry goods, electronic equipment, fabric, pharmaceuticals, plants, printed material, stationery & video; food; vehicle service (but not repair of vehicles).)***Sales-oriented, bulk retail***(examples: stores selling large consumer home & business goods including appliances, furniture, hardware, home improvements; sales or leasing of consumer vehicles including passenger vehicles, motorcycles, light & medium trucks & other recreational vehicles.)***Waste & Recycling Related***(examples: sanitary landfills; limited-use landfills; waste composting; energy recovery plants; sewer treatment plants; portable sanitary collection equipment storage & pumping; hazardous waste collection sites.)***Utility, Road & Transit Corridors***(examples: highways; rail trunk & feeder lines; regional electrical transmission lines; regional gas & oil pipelines.)***PROHIBITED USES****Office***(examples: financial (lenders, brokers, bank hdqtrs.); data processing; professional svcs. (lawyers, accountants, engineers, architects, sales); government; public utilities;***(I-3 Uses)****(PROHIBITED USES CONTINUED)***TV & radio studios; medical & dental clinics and labs; contractors (if equipment not kept on site).)***Retail Sales & Service****Personal Services***(examples: bank branches; urgent medical care; laundromats; photographic studios; photocopy & blueprint svcs.; printing, publishing & lithography; hair, tanning & personal care svcs.; tax preparers, accountants, engineers, architects, real estate agents, legal, financial svcs.; art studios; art, dance, music, martial arts & other recreational or cultural classes/schools; taxidermists; mortuaries; veterinarians; kennels (limited to boarding & training w/no breeding); animal grooming.)***Entertainment***(examples: restaurants (sit-down & drive-thru); cafes; delicatessens; taverns & bars; hotels, motels, recreational vehicles & other temporary lodging (w/ avg. length of stay < 30 days); athletic, exercise & health clubs or gyms; bowling alleys, skating rinks, game arcades; pool halls; dance halls, studios & schools; theaters; indoor firing ranges; miniature golf facilities, golf courses & driving ranges.)***Repair-oriented***(examples: repair of TVs, bicycles, clocks, watches, shoes, guns, appliances & office equipment; photo or laundry drop-off; quick printing; recycling drop-off; tailor; locksmith; upholsterer.)***Major Event Entertainment***(examples: fairgrounds; sports complexes; ball fields; exhibition & meeting areas; coliseums or stadiums; equestrian centers & animal arenas; outdoor amphitheater; theme or water parks.)***Vehicle Repair***(examples: vehicle repair; transmission or muffler shop; auto body shop; alignment shop; auto upholstery shop; auto detailing; tire sales & mounting.)***Self-Service Storage***(examples: single-story & multi-story facilities that provide individual storage areas for rent (aka mini warehouses).)***Community Service***(examples: churches; libraries; museums; senior centers; community centers; publicly-owned swimming pools; youth club facilities; hospices; police stations, fire & ambulance stations; drug & alcohol centers; social service facilities; mass shelters or short-term housing (when operated by a*

(PROHIBITED USES CONTINUED)

public or non-profit agency); soup kitchens; surplus food distribution centers.)

Daycare Facility

(examples: preschools, nursery schools, latch key programs (more than 12 children under age 13 outside their homes); adult daycare programs.)

Educational Institutions**Elementary & Secondary Schools****College & Universities**

(examples: elementary, middle & high schools; universities, liberal arts colleges, community colleges.)

Hospitals

(examples: hospitals & medical complexes that include hospitals or emergency care facilities.)

Courts, Jails & Detention Facilities

(examples: courts, prisons, jails, probation centers, juvenile detention homes.)

Mining**All Others**

(other than sand & gravel extraction, excavation of rock, mining of non-metallic minerals.)

**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

transportation facilities and not near residential zones.

I-3/"Heavy Industrial." The intent of this zone is to provide for industrial uses that involve production and processing activities generating noise, vibration, dust, and fumes. Typically, this zone requires good access to transportation, large lots, and segregation from other uses due to nuisances.

W-1/"Water-Dependent." The intent of the W-1 district is to protect areas of the Yaquina Bay Shorelands, as identified in the Newport Comprehensive Plan, for water-dependent uses. For purposes of this section, a water-dependent use is one which needs contact with or use of the water for water-borne transportation, recreation, energy production, or water supply. All uses in a W-1 district shall comply with the following standards:

- A. Existing water-dependent uses or future water-dependent uses anticipated by the Comprehensive Plan shall not be preempted or restricted by non-water-dependent uses. In determining whether or not a use preempts or restricts a water-dependent use, the following shall be considered:
 - 1. Water-related uses accessory to and in conjunction with water-dependent uses.
 - 2. Temporary or mobile uses such as parking lots or temporary storage areas.
 - 3. Incidental and accessory non-water-dependent uses sharing an existing structure with a water-dependent use.
- B. Applicable policies in the Yaquina Bay Estuary and Yaquina Bay Shoreland sections of the Comprehensive Plan shall be followed.
- C. In determining whether a conditional use should be allowed, consideration shall be given to whether the site or portion thereof is within an area designated as especially suited for water-dependent or water-related uses in the Comprehensive Plan. If the property is within that area, then the site shall be protected for water-dependent and water-related recreational, commercial, and industrial uses.

W-2/"Water-Related." The intent of the W-2 district is to pro-

ANNEXATION PARCEL –

Beginning at the ¼ corner common to sections 17 and 20, Township 11 South, Range 11 West, Willamette Meridian, Lincoln County, Oregon; thence South 00°58'33" West, 1127.47 feet to the northeast corner of Parcel 2, Partition Plat 11-1990, Lincoln County Plat Records; thence South 87°52'45" West, along the north line of said Parcel 2, 80.46 feet; thence North 78°40'12" West, 185.54 feet to a point on the easterly line of the Oregon Coast Highway, said point also being the northwest corner of said Parcel 2; thence South 25°09'00" West, along said easterly line, 93.85 feet; thence North 88°16'59" West, leaving said easterly line, 87.19 feet to a point at the east corner of that property described in Book 186, Page 132, Lincoln County Book of Records, said point also being on the westerly line of the Oregon Coast Highway; thence South 25°09'00" West, along said westerly line, 21.80 feet to a point on the east corner of that property described in said Book 186, Page 132; thence South 88°16'59" East, leaving said westerly line of the Oregon Coast Highway, 87.19 feet to a point on the easterly line of said Oregon Coast Highway; thence South 25°09'00" West, 317.35 feet to the southwesterly corner of that property described in Book 397, Page 2234, Lincoln County Book of Records; thence East along the south line of said Book 397, Page 2234, 440.24 feet, to the south east corner thereof; thence North 00°58'33" East, 358.53 feet, to the northeast corner of said Parcel 2 and to the point of beginning.

This parcel contains 3.063 acres, more or less.

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]

222.524 Procedure for withdrawal of part of district from district. (1) If as authorized by ORS 222.520 the governing body of the city elects to cause the withdrawal from a district named in ORS 222.510 of that part of such district theretofore incorporated in or annexed to the city, it shall hold a public hearing on the question of such withdrawal. At the hearing, the governing body of the city shall hear objections to the withdrawal and shall determine whether such withdrawal is for the best interest of the city.

(2) The governing body shall fix a date, time and place for the hearing and cause notice of the date, time, place and purpose of the hearing to be published once each week for two successive weeks prior to the date of the 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.

(3) After the hearing, the governing body of the city may by ordinance declare that the part of the district which was theretofore incorporated as or annexed to the city is withdrawn from the district.

(4) The ordinance referred to in subsection (3) of this section is subject to referendum.

(5) The city may withdraw from all of such districts at the same time in one proceeding under this section or may withdraw from each district in separate proceedings at different times.

(6) The public hearing and ordinance referred to in this section may be the same as the public hearing and ordinance in ORS 222.120. [1957 c.401 §3; 1963 c.347 §3; 1965 c.509 §3; 1985 c.702 §14]

Derrick Tokos

From: GRIGG DEVIS Valerie <Valerie.GRIGGDEVIS@odot.state.or.us>
Sent: Wednesday, September 18, 2013 4:45 PM
To: Derrick Tokos; SQUIRE Joe
Cc: SQUIRE Joe
Subject: RE: Annexation Involving Highway Right-of-Way

Hello Derrick -

As I understand it, you spoke to Joe Square today. He has advised me that ODOT has no objections to the proposed annexation.

If you have any other questions, please do not hesitate to contact us.

Best Regards,

Valerie Grigg Devis
Senior Region Planner
Oregon Department of Transportation
541-757-4197

From: Derrick Tokos [mailto:D.Tokos@NewportOregon.gov]
Sent: Tuesday, September 17, 2013 9:44 AM
To: SQUIRE Joe
Cc: GRIGG DEVIS Valerie
Subject: FW: Annexation Involving Highway Right-of-Way

Joe,

Did Valerie talk to you about this? This annexation impacts a small stretch of US 101 (a little over 20-feet), so I am looking for an email from you, as a potentially affected party, indicating that you don't have any objections. Is that doable?

Derrick

From: Derrick Tokos
Sent: Tuesday, September 17, 2013 9:30 AM
To: GRIGG DEVIS Valerie
Subject: FW: Annexation Involving Highway Right-of-Way

Hi Valerie,

Would it be possible to get something in writing indicating that the State does not have an issue with this annexation? Our first hearing on this proposal will occur on Monday. Last we talked, I believe you were going to see if Joe Squire could put together an email.

Thanks,

Derrick I. Tokos, AICP
Community Development Director
City of Newport
169 SW Coast Highway
Newport, OR 97365
ph: 541.574.0626
fax: 541.574.0644
d.tokos@newportoregon.gov

From: Derrick Tokos
Sent: Friday, August 23, 2013 4:25 PM
To: GRIGG DEVIS Valerie
Subject: Annexation Involving Highway Right-of-Way

Valerie,

I am working with a property owner on an annexation petition in South Beach and we will need to take in a small piece of highway right-of-way in order for the property to be contiguous to the City. Attached is a map. Are there any steps that we need to take with ODOT in order to move this forward?

Thanks for any assistance you can provide.

Derrick I. Tokos, AICP
Community Development Director
City of Newport
169 SW Coast Highway
Newport, OR 97365
ph: 541.574.0626
fax: 541.574.0644
d.tokos@newportoregon.gov



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Newport Police Department Memorandum

One Team - One Future

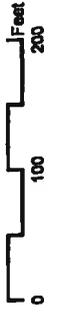
Date: September 9, 2013
To: Derrick Tokos, Community Development Director
From: Mark J. Miranda, Chief of Police *MM*
Subject: South Beach Annexation

I have no objection to the annexation proposed in South Beach under File No. 2-AX-13. I would request that the portion of US Highway 101 adjacent to the property also be annexed into the City. See the attached map. Right now, only portions of US Hwy 101 are within the City limits in South Beach. This makes identifying jurisdiction difficult at times. An ultimate goal should be to annex all of US Hwy 101 down to the Airport. It would help us out a lot.



City of Newport
Community Development Department
188 SW Coast Highway
Newport, OR 97365
Phone: 1.541.574.0629
Fax: 1.541.574.0644

Potential Annexation
4541 South Coast Highway
(subject area shown with yellow hatch)



This map is for informational use only and has not been prepared for, nor is it suitable 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.