



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, March 25, 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, March 25, 2013, 6:00 P.M.

AGENDA

A. Unfinished Business.

1. Discussion of code updates relating to accessory dwelling units.

B. Adjournment.

Memorandum

To: Newport Planning Commission/Advisory Committee
From: Derrick Tokos, Community Development Director 
Date: March 21, 2013
Re: Accessory Dwelling Units

The 2011 update to the housing element of the Newport Comprehensive Plan includes recommendations as to how the City might adjust its zoning code to facilitate the development of needed housing types. Specifically it states:

***Implementation Measure 4.2:** The City of Newport shall review the Newport Zoning Code to identify potential amendments related to facilitating the development of needed housing types. The review shall, at a minimum, include the following elements: (1) reduced minimum lot size in the R-1 and R-2 zones; (2) allowing small homes under certain circumstances; (3) adoption of an accessory dwelling unit ordinance; and (4) street width standards. Any proposals to reduce minimum lot sizes shall consider building mass and the potential need to reduce lot coverage allowances.*

Establishing an allowance for accessory dwelling units is a City Council and Planning Commission priority for the coming year. Provisions have been made for these types of units in the Wilder development. A copy of the 2010 final order and findings for that proposal is attached. This might be a good starting point, since the standards/criteria have already been vetted and approved for at least a Planned Development setting.

Also, attached are standards for accessory dwellings from the Department of Land Conservation and Development's Model Development Code for Small Cities, the City of Astoria, and the City of Portland.

When reviewing these materials, the Planning Commission and Advisory Committee might want to consider the following:

- What kinds of outreach are appropriate or needed for this type of amendment? Is there a need for a work group or is the Commission comfortable with fielding proposed amendments from staff?
- Should accessory dwelling units be allowed outright in all districts? If not, then which districts should require a higher level of review and what should be the additional or alternative standards?
- What types of limitations should be imposed on the units? Should it be mandatory that they be connected to the same utility service as the primary dwelling? The latter issue gets at the interplay between the use and System Development Charges.

I am looking for general direction as to how you would like to proceed, both in terms of the format of the legislative process and the substance of the amendments. I look forward to our meeting on Monday!

**BEFORE THE PLANNING COMMISSION
OF THE CITY OF NEWPORT,
COUNTY OF LINCOLN, STATE OF OREGON**

**IN THE MATTER OF PLANNING COMMISSION FILE)
NO. 3-PD-10, APPLICATION FOR MODIFICATION OF)
PRELIMINARY DEVELOPMENT PLAN APPROVAL,) FINAL
AS SUBMITTED BY BONNIE SERKIN (LANDWAVES,) ORDER
INC. (MIKE MILLER/MGH ASSOCIATES, INC.,)
AUTHORIZED REPRESENTATIVE) (LANDWAVES, INC.)
AND EMERY INVESTMENTS, INC., PROPERTY OWNERS))**

ORDER APPROVING A MODIFICATION to the Preliminary Development Plan for Phase 1 of the Wilder Community Master Plan site approved by the City of Newport Planning Commission on July 12, 2010 (File No. 1-PD-10). Accessory dwelling units (ADUs) are added to Phases 1B and 1C as a permitted accessory use subject to specific approval criteria. ADUs will be permitted to accompany or share lots and utilities with primary homes and can be a portion of the primary house; a separate free-standing unit; or a unit that is constructed over a free-standing or attached garage. The amendments will allow ADUs on all single-family detached residential lots including all Estate, Grand, Classic, and Village sized lots within Phases 1B and 1C of Wilder; but not on Cottage Home lots, attached row homes, or apartment lots.

WHEREAS:

- 1.) The Planning Commission has duly accepted the application filed consistent with the Newport Zoning Ordinance (NZO) (No. 1308, as amended); and
- 2.) The Planning Commission has duly held a public hearing on the request for the planned development, with a public hearing a matter of record of the Planning Commission on October 11, 2010; and
- 3.) At the public hearing on said application, the Planning Commission received evidence and recommendations from the applicants, interested persons, and Community Development (Planning) Department staff; and
- 4.) At the conclusion of said public hearing, after consideration and discussion, the Newport Planning Commission, upon a motion duly seconded, approved the request for the preliminary development plan modification, final development plan modification, and tentative subdivision plat modification as requested by the applicant with conditions of approval.

THEREFORE, LET IT BE RESOLVED by the City of Newport Planning Commission that: 1) the attached findings of fact and conclusions (Exhibit "A") are adopted in support of approval of the request for preliminary development plan approval modifications; 2) the following condition of approval is adopted in support of approval of this request; and 3) the following adopted conditions of approval remain in effect:

1. The applicant shall submit a revised narrative incorporating the following as approval criteria for Accessory Dwelling Units (ADUs) in Phase 1 of Wilder:
 - a. The criteria listed are mandatory (not simply guidelines) and must be satisfied in order for an ADU to be permitted; and
 - b. The ADUs are limited to Wilder Phases 1B and 1C, and no more than one ADU is allowed per lot; and
 - c. The three types of ADUs permitted will be as a portion of the primary house, as a separate free-standing unit, or as a unit over a free-standing or attached garage; and
 - d. ADUs will not exceed 600 square feet or 50% of the area of the primary house whichever is less; and
 - e. The height standards and limitations for ADUs will be that of the zoning district in which they are located; and
 - f. ADUs will be constructed with architecture that is compatible with that of the primary structure; and
 - g. ADUs do not count against the density limitations of the planned development; and
 - h. ADUs will share utility hook-ups with primary houses; and
 - i. An additional off-street parking space shall be provided for each ADU located on Edge lots. Not more than 10 ADUs are permitted for all other lots within Phase 1B based upon the number of on-street parking spaces currently available. Going forward, additional ADUs will be permitted at a rate of one unit for every two on-street parking spaces the applicant provides within or immediately adjacent to the phase of development in which the ADU is to be constructed.

In addition, the following conditions of approval imposed with prior approvals shall remain in effect:

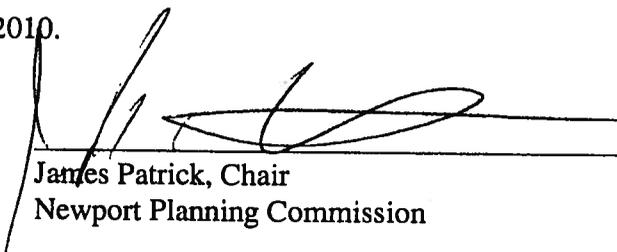
2. Pursuant to NZO Section 2-5-4.090 (Expiration), the planned development permits and tentative subdivision plat approval shall be void after three years unless substantial construction has taken place. Substantial construction includes construction of the OCCC central campus building.
3. The applicant shall dedicate to the City of Newport proposed parks and common open space with trails that are intended for public use as identified in the preliminary planned development application. The dedication shall occur in conjunction with or prior to final subdivision plat approval of the phase in which the park and open space is included. If an improvement agreement for a final subdivision plat is requested pursuant to NSO Section 3-6-1.006 and NSO Section 3-6-1.007 to allow the final subdivision plat to be approved prior

to completion of improvements, the dedication may occur prior to the date the deferred improvements are required to be completed.

4. Prior to City of Newport approval of a final subdivision plat(s), the applicant shall demonstrate compliance with OAR 660-012-0060 as outlined in the Settlement Agreement for the annexation and rezoning of the property (Ord. #1931), as amended.

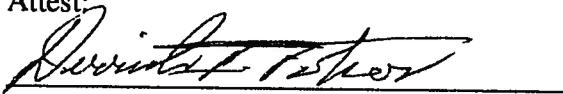
BASED UPON THE ABOVE, the Planning Commission determines that the request is in conformance with the provisions of the Comprehensive Plan and the Zoning Ordinance of the City of Newport.

Accepted and approved this 25th day of October, 2010.



James Patrick, Chair
Newport Planning Commission

Attest:



Derrick I. Tokos, AICP
Community Development Director
City of Newport

EXHIBIT "A"

File No. 3-PD-10

FINDINGS OF FACT

1. On September 21, 2010, Bonnie Serkin (Landwaves, Inc.) (Mike Miller/MGH Associates, Inc., authorized representative) (Landwaves and Emery Investments, property owners), submitted an application for approval of amendments to the Preliminary Development Plan for Phase 1 of the Wilder Community Master Plan site approved by the City of Newport Planning Commission on July 12, 2010 (File No. 1-PD-10). Accessory dwelling units (ADUs) are added as a permitted accessory use subject to specific approval criteria. These changes are offered to accommodate market demand and to provide for more versatile living choices. ADUs will be permitted to accompany or share lots and utilities with primary homes and can be a portion of the primary house; a separate free-standing unit; or a unit that is constructed over a free-standing or attached garage. In the initial application request, the proposed amendments would allow ADUs on all single-family detached residential lots including all Estate, Grand, Classic, and Village sized lots within Phase 1 of Wilder; but not on Cottage Home lots, attached row home, or apartment lots. The applicant subsequently amended the request to apply only to Phases 1B and 1C of Wilder.
2. The subject property is located in the South Beach neighborhood directly east and northeast of Mike Miller Park and is served by the newly constructed SE 40th Street.
3. Staff reports the following facts in connection with the application:
 - a. Plan Designation: Public, Commercial, High Density Residential, and Low Density Residential.
 - b. Zone Designation: R-2/"Medium Density Single-Family Residential", R-3/"Medium Density Multi-Family Residential", and C-1/"Retail and Service Commercial."
 - c. Surrounding Land Uses: The South Beach neighborhood contains a mix of public, commercial, water-dependent and water-related, industrial and residential uses. Land uses in the area near the subject property include a mix of developed and undeveloped industrial land, residential zoning that allows for single-family and multi-family uses, a trailer park, a mix of commercial uses, the Central Lincoln PUD warehousing and substation facility, and public uses such as the Oregon Coast Community College (OCCC) Campus, Mike Miller Park and the Newport Waste Water Treatment facility.
 - d. Topography and Vegetation: The subject property contains a mix of level and moderately steep sloped property. The site is forested except where land has been cleared for development.
 - e. Existing Structures: No structures have been constructed in the Wilder development at this point. Playground equipment has been set up in the playground area of the park.
 - f. Utilities: Infrastructure to serve the first sub-phase, a 40 unit residential development (Phase 1B), is complete and includes the construction of 40th Street and Harborton Street (the main access into Phase 1 of Wilder) and associated water and sewer

infrastructure from Highway 101 to the Village Center and the OCCC campus site. Street lights have also been approved and installed along SE 40th Street/Harberton Street.

g. Development Constraints: Portions of the property contain moderately steep slopes. There are also isolated pockets of wetlands, the locations of which have been delineated by the property owner.

h. Past Land Use Actions:

File No. 1-PD-10/2-PD-10/1-SUB-10. Modified the plans approved in File No. 5-PD-09/6-PD-09/3-SUB-09 by (1) modifying setbacks, (2) revising lot coverage standards, (3) adjusting lot size and densities for commercial and residential uses, (4) updating street, tract and housing category names, and (5) updating the subdivision lot configurations. The number of multi-family units was increased from a maximum of 120 to 150, bringing the total for all Phase 1 dwelling units to 383. The maximum commercial square footage was increased from 25,000 square feet to 36,000 square feet. Amendments were adopted by final order on June 28, 2010.

File No. 5-PD-09/6-PD-09/3-SUB-09. Modified the preliminary planned development plan to refine proposed residential areas, local street and pedestrian circulation patterns, open space and other tracts within sub phases 1A, 1B, and 1C; modified the final planned development plan illustrating the changes requested in File 5-PD-09; modified the tentative subdivision plat showing lots for mixed use and single and multi-family development, as well as various tracts for common open space and other common elements, and dedication of right-of-way and easements for public streets, pathways, and utilities. Amendments were adopted by final order on July 27, 2009.

File No. 1-PD-09/2-PD-09/3-PD-09/1-SUB-09. By final order adopted March 30, 2009, modified the preliminary planned development plan approved in File No. 1-PD-07 for Phase 1 of Wilder, modified the final planned development plan approved in File No. 2-PD-07, approved the final planned development plan for a portion of Phase 1 of Wilder, and approved the tentative subdivision plan for a portion of Phase 1 of Wilder.

File No. 4-CP-08/2-Z-08. Modified the zoning designations of the approximate 86 acres annexed in 2007 to allow more flexibility and to reflect the OCCC parcel by Ordinance No. 1968 adopted December 1, 2008.

File No. 5-PAR-07. Partitioned the annexed property so that a portion could be conveyed to OCCC for construction of their central campus by final order adopted September 11, 2007.

File No. 1-AX-07/2-Z-07. Annexed property, which included the subject property, into the City and established zoning to allow the implementation of the South Beach Plan by Ordinance No. 1922 adopted June 18, 2007, and amended by Ordinance No. 1931 adopted August 6, 2007.

File No. 2-PD-07. Approved final development plan for OCCC central campus by final order adopted May 29, 2007.

File No. 1-PD-07. Approved tentative Plan for "South Beach Village" Phase 1 mixed use development and OCCC central campus by final order adopted May 29, 2007.

File No. 1-CP-06/1-UGB-06/2-CP-06/2-Z-06 (South Beach Neighborhood Plan as adopted in December 2006 by Newport Ordinance No. 1899) (concurrence with Urban Growth Boundary adjustment by Lincoln County Ordinance No. 447 adopted April 18, 2007).

- i. Pre-application Meeting: A pre-application meeting between the applicant and City staff was held on January 12, 2009.

5. Upon submission and acceptance of application, the Community Development (Planning) Department mailed notice of the proposed actions on September 22, 2010, to property owners within 200 feet required to receive such notice by the Newport Zoning Ordinance, and to various City departments, public/private utilities and agencies within Lincoln County, and other individuals. The notice referenced the criteria by which the application was to be assessed. The notice required that written comments on the application be submitted by 5:00 p.m., October 11, 2010. Comments could also be submitted during the course of the public hearing. The notice was also published in the Newport News-Times on October 1, 2010. A letter was received from John DeTar with the Oregon Department of Transportation on October 7, 2010, noting a concern over authorizing additional development beyond that provided by the trip cap volume without reconsidering the effects of vehicle trips. DeTar further notes that after being notified that the current application would apply only to Phases 1B and 1C of Wilder, ODOT supports this action, but recommends that a quantitative analysis of the transportation impacts of the planned development be prepared in conjunction with any future modification or change in the master plan.

6. Major changes to approved preliminary development plans must satisfy the original approval criteria (NZO 2-5-4.060). Therefore, the request must be consistent with criteria set forth in Section 2-5-4.040 of the Newport Zoning Ordinance (NZO) (No. 1308, as amended). In addition, since the request is for accessory dwelling units, NZO 2-5-4.020 applies. This criterion specifies that accessory uses approved as part of a planned development may include accessory structures that the Planning Commission finds are designed to serve primarily the residents of the planned development and are compatible to the design of the planned development.

7. A public hearing was held on October 11, 2010. At the public hearing, the statement of rights and relevance and applicable criteria were read. The Planning Commission disclosed any ex parte contact, conflicts of interest, and/or bias. No objections were made to any of the Planning Commissioners hearing the matter. The Planning Commission received the staff report and heard testimony from Bonnie Serkin, Chief Operating Officer of Landwaves. The minutes of the October 11, 2010, meeting are hereby incorporated by reference into the findings. The Planning Staff Report with Attachments is hereby incorporated by reference into the findings. The Planning Staff Report Attachments included the following:

Attachment "A" – Applicant's Narrative of Proposed Modifications

Attachment "A-1" – Wilder Preliminary Subdivision Plat showing affected lots

Attachment "B" – Notice of Public Hearing and Map

Attachment "C" – Final Order File No. 1-PD-10/2-PD-10/1-SUB-10

Attachment "D" – Copies of Sample ADU Codes (Portland, Oregon City, Eugene, DLCD Model Code)

8. The subject site was annexed into the City and received preliminary development approval in 2007 (File No. 1-PD-07). At that time, the site was referred to as "South Beach Village" and also included the planned OCCC central campus. Since that time, the applicant partitioned the property and conveyed a portion of the site to OCCC to build its central campus, and the main building on the campus has been completed. A second building for aquarium sciences is currently under construction. The remaining privately-held portion of the site is referred to as "Phase 1 of Wilder" with a mix of residential and commercial zoned property. In 2008 and 2009, the applicant modified their plans to achieve a sustainable mixed use community considering site constraints and market conditions. They also parsed Phase 1 into sub-phases 1A, 1B, and 1C to create manageable units of land that they can bring online for development. This package of changes was approved by the Planning Commission on July 27, 2009 (File No. 5-PD-09/6-PD-09/3-SUB-09) and infrastructure has been built for the first 40 residential units (sub-phase 1B). Earlier this year, the applicant modified their plans by adjusting setbacks, revising lot coverage standards, adjusting lot size and densities for commercial and residential uses, updating street, tract, and housing category names, and updating the subdivision lot configurations. The maximum number of multi-family units was increased and the maximum commercial square footage was increased. These changes were approved by the Planning Commission on June 28, 2010. Construction has begun on two cottages, a 5-car garage structure, and two houses.

9. With this application, the applicant is requesting approval to modify the preliminary development plan by adding accessory dwelling units (ADUs) as a permitted accessory use subject to specific approval criteria. They indicate that this is being done to accommodate market demand and to provide for more versatile living choices. ADUs are dwellings that will be permitted to accompany or share lots and utilities with primary homes and can be a portion of the primary house; a separate free-standing unit; or a unit over a free-standing or attached garage. The proposed amendments allow ADUs on single-family detached residential lots including Estate, Grand, Classic, and Village sized lots within Phase 1 of Wilder; but not on Cottage Home lots, attached row home, or apartment lots. According to the applicant, ADUs will provide a broader mix of housing options to accommodate extended families, care givers, and smaller family sizes. They may also create intergenerational living opportunities by providing a means for seniors, as well as single parents to live with their families in separate living quarters on the same lot. As there are no changes proposed to lots, tracts, open spaces, or streets, no modifications to the final development plan or subdivision plat are proposed.

10. Proposed guidelines for ADUs require that the units meet setback and lot coverage requirements. Units may not exceed 600 square feet or 50% of the area of the primary dwelling, whichever is smaller. Building height requirements are the same as the primary dwelling and no additional parking is proposed. Exterior materials/trim, roofing, eaves, and window treatment must match the primary dwelling. ADUs must also share utility hook-ups with the primary dwelling.

11. Pursuant to NZO Section 2-5-4.065/"Procedure for Modification of a Preliminary Development Plan," any change that results in an increase in density of a land use is considered a major change requiring approval by the Planning Commission following a public hearing. While not specifically addressed by the applicant, a review of sample ADU codes from other jurisdictions shows that ADUs are not typically counted against the density limitations of a zone district. Because the Planning Commission must determine whether or not ADUs are subject to density limits, it is appropriate that the application be filed as a major change, requiring a public hearing. Pursuant to NZO Section 2-5-

4.060(D), the Planning Commission may approve, disapprove, modify or attach reasonable conditions it finds are necessary to satisfy the approval criteria for a Planned Development and Preliminary Development Plan.

12. Major changes to approved preliminary development plans must satisfy the original approval criteria (NZO 2-5-4.060). Therefore, the request must be consistent with criteria set forth in Section 2-5-4.040 of the Newport Zoning Ordinance (NZO) (No. 1308, as amended). In addition, since the request is for accessory dwelling units, NZO 2-5-4.020 applies. This criterion specifies that accessory uses approved as part of a planned development may include accessory structures that the Planning Commission finds are designed to serve primarily the residents of the planned development and are compatible to the design of the planned development.

13. Criteria For Accessory Uses in Planned Developments:

***NZO Section 2-5-4.020: (Accessory Uses in Planned Development):** In addition to the accessory uses typical for the primary or conditional uses authorized, accessory uses approved as part of a planned development may include the following uses: A. Golf courses. B. Private parks, lakes, or waterways. C. Recreation areas. D. Recreation buildings, clubhouses, or social halls. E. Other accessory structures that the Planning Commission finds are designed to serve primarily the residents of the planned development and are compatible to the design of the planned development.*

14. Criteria For Preliminary Development Plan Approval:

***NZO Section 2-5-4.040: (Findings for Project Approval):** A. Except as set forth in subsection (A)(2) of this section, a planned development shall be on a tract of land at least two acres in low-density residential areas. B. The minimum lot area, width, frontage, and yard requirements otherwise applying to individual buildings in the zone in which a planned development is proposed do not apply within a planned development. C. If the spacing between main buildings is not equivalent to the spacing that would be required between buildings similarly developed under this Code on separate parcels, other design features shall provide light, ventilation, and other characteristics equivalent to that obtained from the spacing standards. D. Buildings, off-street parking and loading facilities, open space, landscaping, and screening shall provide protection outside the boundary lines of the development comparable to that otherwise required of development in the zone. E. The maximum building height shall, in no event, exceed those building heights prescribed in the zone in which the planned development is proposed, except that a greater height may be approved if surrounding open space within the planned development, building setbacks, and other design features are used to avoid any adverse impact due to the greater height. F. The building coverage for any planned development shall not exceed that which is permitted for other construction in the zone exclusive of public and private streets. G. The planned development may result in a density in excess of the density otherwise permitted within the zone in which the planned development is to be constructed not to exceed 5%... H. No open areas may be accepted as common open space within a planned development unless it meets the following requirements: (1) The location, shape, size, and character of the common open space is suitable for the planned development; (2) The common open space is for amenity or recreational purposes, and the uses authorized are appropriate to the scale and character of the planned development, considering its size, density, expected population, topography, and the number and type of dwellings provided; (3) Common open space will be suitably improved for its intended use, except that common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures, and improvements to be permitted in the common open space are appropriate to the uses which are authorized for the common open space; (4) The development schedule that is part of the development plan coordinates the improvement of the common open space and the construction of buildings and other structures in the common open space with the construction of residential dwellings in the planned development; and (5) If buildings, structures, or other improvements are to be made in the common open space, the developer shall provide a bond or other adequate assurance that the buildings, structures, and improvements will be completed. The City Manager shall release the bond or other assurances when the buildings, structures, and other improvements have been*

completed according to the development plan. I. The planned development is an effective and unified treatment of the development possibilities on the project site while remaining consistent with the Comprehensive Plan and making appropriate provisions for the preservation of natural features such as streams and shorelines, wooded cover, and rough terrain. J. The planned development will be compatible with the area surrounding the project site and with no greater demand on public facilities and services than other authorized uses for the land. K. Financial assurance or bonding may be required to assure completion of the streets and utilities in the planned development prior to final approval.

15. The proposed request would allow for the subdivision of land through the planned development process. The Planning Commission is required to follow ORS 197.522 which states:

A local government shall approve an application for a permit, authorization or other approval necessary for the subdivision or partitioning of, or construction on, any land that is consistent with the comprehensive plan and applicable land use regulations or shall impose reasonable conditions on the application to make the proposed activity consistent with the plan and applicable regulations. A local government may deny an application that is inconsistent with the comprehensive plan and applicable land use regulations and that cannot be made consistent through the imposition of reasonable conditions of approval.

CONCLUSIONS

This request is for modification of the preliminary approval for the planned development for Phase 1 of Wilder. Modifications to planned development approvals must be consistent with the approval criteria contained in the Newport Zoning Ordinance (NZO). In addition, since the request is for accessory dwelling units, NZO 2-5-4.020 applies. In order to approve this request, the Planning Commission must find that the applicant has addressed and met all sets of standards.

After consideration of the application materials, the Planning Staff Report and Attachments, and the testimony in the record, the Planning Commission concludes as follows in regard to the criteria established in Newport's Zoning Ordinance (No. 1308, as amended) for approving the modification requested to the preliminary planned development plan for Phase 1 of Wilder:

COMPLIANCE WITH NZO SECTION 2-5-4.020 (Accessory Uses in Planned Developments):

1. NZO Section 2-5-4.020(E) allows for: "Other accessory structures that the Planning Commission finds are designed to serve primarily the residents of the planned development and are compatible to the design of the planned development".

2. Addressing NZO Section 2-5-4.020 (Accessory Uses), the applicant notes that as permitted by this section, the proposed planned development includes other accessory structures such as accessory dwelling units (ADUs). ADUs are dwellings that will be permitted to accompany or share lots and utilities with primary homes on detached single-family lots within Wilder, including Edge, Grand, Classic, and Village lots. At the public hearing on October 11, 2010, it was clarified that the applicant's intent is that no more than one ADU is to be permitted per lot. To ensure this, a condition of approval to that effect is included.

3. The applicant offered the following guidelines to maintain compatibility with the character and scale of the primary house:

- The three types of ADUs permitted will be as a portion of the primary house, as a

separate free-standing unit on the ground level, or as a unit over a free-standing or attached garage.

- ADUs will not to exceed 600 square feet and shall not constitute more than 50% of the area of the primary house.
- ADUs will have the same height standards and limitations as the primary structures.
- No additional parking will be required for ADUs; the primary home must demonstrate that it provides two off-street parking spaces.
- ADUs may be up to the same height as the primary structure.
- The ADUs exterior finish must be the same type, material, and general placement as the exterior of the primary house.
- ADU roofing must be the same material and visually match the primary house.
- ADU eaves and overhangs must match the character and project the same distance as the primary structure.
- The ADU windows must match the type of material and general proportions of the windows within the primary home.
- ADUs will share utility hook-ups with primary homes.

4. For clarification that these guidelines are not just suggestions, but rather they are approval criteria that must be satisfied, a condition of approval is added that the criteria are mandatory. Based on testimony presented by the applicant at the October 11, 2010, hearing, the following criteria were changed by added conditions of approval:

- ADUs are limited to Phases 1B and 1C.
- The criterion regarding height standards and limitations is changed to the height limitation of the zone, not that of the primary structure.
- The architectural standards shall be modified so that the ADU is compatible to the primary structure, not matching.
- Only the larger Edge lots need to provide an off-street parking space for the ADU. Phase 1B will be limited to 10 ADUs based on on-street parking spaces available. Moving forward, additional ADUs will be permitted at one unit for each two on-street parking spaces the development is able to provide within or immediately adjacent to a particular phase of development.

5. NZO Section 2-5-4.020 requires that the accessory use be designed to serve primarily the residents of the planned development and it must be compatible with the planned development. The standards outlined by the applicant ensure architectural compatibility. The Commission considered whether or not additional parking should be required to ensure compatibility with the overall development. For consideration, copies of ADU codes for Portland, Eugene, Oregon City and the State of Oregon's Model Code were included as attachments to the staff report. Most do not require additional parking; however, Oregon City does require an additional parking space per lot where the adjacent street is less than 28 feet wide. This Planned Development includes narrow, pedestrian oriented local streets. ADUs will likely generate a demand for parking that will exceed what is provided off-site for the primary dwelling. This will be met with on-street parking. The applicant provided testimony and evidence to demonstrate how the streets in Wilder can accommodate the additional vehicles. The applicant proposed to limit the number of ADUs in Phase 1B to 10 based on the existing 23 on-street parking spaces identified. Going forward, the applicant is proposing that

ADUs be allowed at the rate of one unit per each additional two on-street parking spaces identified in the development. To ensure that on-street parking is within a reasonable distance of the ADUs, on-street parking will be required within or immediately adjacent to the phase of development within which the ADU is to be constructed. In addition, the applicant is proposing that only the larger Edge lots be required to provide an off-street parking space for the ADU. A condition of approval addressing parking is included.

6. The Planning Commission also considered whether or not to require that either the primary residence or the ADU be owner occupied, which is commonly done (ref: the model codes) and addresses the approval standard that the accessory use serve primarily the residents of the planned development. Following deliberation and discussion, the Commission decided not to make that a requirement. This was namely due to concerns related to the enforceability of such a requirement.

COMPLIANCE WITH CRITERIA FOR MODIFICATION OF A PRELIMINARY PLANNED DEVELOPMENT PLAN APPROVAL (Phase 1 Wilder)

1. NZO Section 2-5-4.040(A) requires that: “Except as set forth in sub-section (A)(2) of this section, a planned development shall be on a tract of land at least two acres in low-density residential areas.” The proposed planned development is 62 acres in size, exceeding the 2 acre minimum site size for a planned development.

2. NZO Section 2-5-4.040(B)(1) requires that: “The minimum lot area, width, frontage, and yard requirements otherwise applying to individual buildings in the zone in which a planned development is proposed do not apply within a planned development.” With this modification, the applicant is not proposing any changes to minimum lot areas, widths, frontages, or yard requirements.

3. NZO Section 2-5-4.040(B)(2) states that: “*If the spacing between main buildings is not equivalent to the spacing that would be required between buildings similarly developed under this Code on separate parcels, other design features shall provide light, ventilation, and other characteristics equivalent to that obtained from the spacing standards.*” No changes are proposed to the approved spacing.

4. Pursuant to NZO Section 2-5-4.040(B)(3), buildings, off-street parking and loading facilities, open space, landscaping, and screening shall provide protection outside the boundary lines of the development comparable to that otherwise required of development in the zone.” The project as approved in File No. 1-PD-10 was found to comply with this requirement, and no changes are proposed to be made. The applicant notes that a requirement for ADUs will be that a primary home proposing an ADU must demonstrate that it provides two off-street parking spaces either in a garage, car port, driveway, or otherwise not within a public right-of-way or private street tract.

5. NZO Section 2-5-4.040(B)(4) states that: “The maximum building height shall, in no event, exceed those building heights prescribed in the zone in which the planned development is proposed, except that a greater height may be approved if surrounding open space within the planned development, building setbacks, and other design features are used to avoid any adverse impact due to the greater height.” The applicant previously received approval for 3-story buildings that are up to 45 feet in height in the R-3 district. All of the proposed 3-story buildings are located in the Village

Center area and will not have any adverse impact on properties outside of the planned development. With this application, the applicant notes that ADUs may be up to the same height as the primary structure (30' within the R-1 and R-2 zones).

6. NZO Section 2-5-4.040(B)(5) requires that: "The building coverage for any planned development shall not exceed that which is permitted for other construction in the zone exclusive of public and private streets." As noted in the previously approved development plan, the estimated percentage of building coverage proposed in each zone is significantly less than the maximum coverage allowed outright in each zone. The applicant is proposing to adhere to the existing building coverage limitations.

7. NZO Section 2-5-4.040(C)(1) states that "*The planned development may result in a density in excess of the density otherwise permitted within the zone in which the planned development is to be constructed not to exceed 5%...*" If the Planning Commission were to count ADUs against the density limitations, the development could exceed the 5% threshold. The Planning Commission concluded that, given the modest size of ADUs and the fact that they will share utilities with the primary residence, it would be reasonable for the Commission not to count the units as additional dwellings. Rather, they would be an extension of the primary dwelling. This approach is consistent with how many jurisdictions treat ADUs.

8. NZO Section 2-5-4.040(D)(1) provides that: "No open areas may be accepted as common open space within a planned development unless it meets the following requirements: (1) The location, shape, size, and character of the common open space is suitable for the planned development; (2) The common open space is for amenity or recreational purposes, and the uses authorized are appropriate to the scale and character of the planned development, considering its size, density, expected population, topography, and the number and type of dwellings provided; (3) Common open space will be suitably improved for its intended use, except that common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures, and improvements to be permitted in the common open space are appropriate to the uses which are authorized for the common open space; (4) The development schedule that is part of the development plan coordinates the improvement of the common open space and the construction of buildings and other structures in the common open space with the construction of residential dwellings in the planned development; and (5) If buildings, structures, or other improvements are to be made in the common open space, the developer shall provide a bond or other adequate assurance that the buildings, structures, and improvements will be completed. The City Manager shall release the bond or other assurances when the buildings, structures, and other improvements have been completed according to the development plan." No changes are being proposed to the open space. The applicant worked with the City's Parks Department to dedicate Tract 'A' and Tract 'B' parks to the public as part of their first sub-phase. The specific improvements appropriate for the park were approved by the Parks Department.

9. NZO Section 2-5-4.040(E) requires that: "The planned development is an effective and unified treatment of the development possibilities on the project site while remaining consistent with the Comprehensive Plan and making appropriate provisions for the preservation of natural features such as streams and shorelines, wooded cover, and rough terrain." In previous applications, the applicant submitted findings that address this criterion. Those findings indicate that the design intent of the

planned development is to create a livable, viable mixed-use community built on the principles of environmental sustainability and neo-traditional design. This modification achieves the desired design intent. The applicant states that the addition of ADUs will provide increased residential living choices and create a more compact community that will more effectively utilize the infrastructure, furthering Wilder's sustainability objectives.

10. NZO Section 2-5-4.040(F) requires that: "The planned development will be compatible with the area surrounding the project site and with no greater demand on public facilities and services than other authorized uses for the land." In the previously-approved planned development (File No. 1-PD-10), the applicant provided findings indicating that the proposed uses within the planned development for Phase 1 of Wilder comply with the City's Comprehensive Plan and zoning and are consistent with the adopted South Beach Neighborhood Plan as well as other approved development applications for the site. The Phase 1 site is compatible with the surrounding area in that it is consistent with these previously-approved plans, and it is reasonable to assume that the surrounding area will continue to develop according to these plans. The applicant noted that the location and level of public services necessary to serve the site, including utilities and streets, were also estimated and planned for in the South Beach Neighborhood Plan; and a detailed infrastructure analysis and traffic study was prepared prior to Phase 1 planned development approval. The applicant obtained service letters from the various utility providers that serve the site indicating that services are available and can be further extended to serve the site. The major infrastructure necessary to serve the overall Phase 1 site identified in the previously-approved plans has already been constructed. ADUs were included in the "Kit of Parts" that accompanied the original approved plan.

11. NZO Section 2-5-4.040(G) states that: "Financial assurance or bonding may be required to assure completion of the streets and utilities in the planned development prior to final approval." In the approved development plan, the applicant noted that they will provide the necessary financial assurances or bonding to assure completion of the streets and development within each sub-phase prior to final approval of a subdivision for that sub-phase.

OVERALL CONCLUSION

Based on the staff report, the application material, and other evidence and testimony in the record, the Planning Commission concludes that the request as presented in the application materials complies with the criteria established in the Zoning Ordinance for granting modifications to the preliminary development plan; and the request is hereby **APPROVED** with the conditions listed below.

1. The applicant shall submit a revised narrative incorporating the following as approval criteria for Accessory Dwelling Units (ADUs) in Phase 1 of Wilder:
 - a. The criteria listed are mandatory (not simply guidelines) and must be satisfied in order for an ADU to be permitted; and
 - b. The ADUs are limited to Wilder Phases 1B and 1C, and no more than one ADU is allowed per lot; and

- c. The three types of ADUs permitted will be as a portion of the primary house, as a separate free-standing unit, or as a unit over a free-standing or attached garage; and
- d. ADUs will not exceed 600 square feet or 50% of the area of the primary house whichever is less; and
- e. The height standards and limitations for ADUs will be that of the zoning district in which they are located; and
- f. ADUs will be constructed with architecture that is compatible with that of the primary structure; and
- g. ADUs do not count against the density limitations of the planned development; and
- h. ADUs will share utility hook-ups with primary houses; and
- i. An additional off-street parking space shall be provided for each ADU located on Edge lots. Not more than 10 ADUs are permitted for all other lots within Phase 1B based upon the number of on-street parking spaces currently available. Going forward, additional ADUs will be permitted at a rate of one unit for every two on-street parking spaces the applicant provides within or immediately adjacent to the phase of development in which the ADU is to be constructed.

In addition, the following conditions of approval imposed with prior approvals shall remain in effect:

- 2. Pursuant to NZO Section 2-5-4.090 (Expiration), the planned development permits and tentative subdivision plat approval shall be void after three years unless substantial construction has taken place. Substantial construction includes construction of the OCCC central campus building.
- 3. The applicant shall dedicate to the City of Newport proposed parks and common open space with trails that are intended for public use as identified in the preliminary planned development application. The dedication shall occur in conjunction with or prior to final subdivision plat approval of the phase in which the park and open space is included. If an improvement agreement for a final subdivision plat is requested pursuant to NSO Section 3-6-1.006 and NSO Section 3-6-1.007 to allow the final subdivision plat to be approved prior to completion of improvements, the dedication may occur prior to the date the deferred improvements are required to be completed.
- 4. Prior to City of Newport approval of a final subdivision plat(s), the applicant shall demonstrate compliance with OAR 660-012-0060 as outlined in the Settlement Agreement for the annexation and rezoning of the property (Ord. #1931), as amended.

Model Development Code & User's Guide for Small Cities, 2nd Edition

Oregon Transportation and Growth Management Program

To obtain copies, contact:

Transportation and Growth Management Program
555 13th Street NE
Salem, OR 97301
Telephone: 503-986-4221

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<http://www.oregon.gov/LCD/TGM/publications.shtml>

Prepared by



June 2005

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Public access easement. See Transportation-Related Definitions.

Public safety facility. A facility necessary to respond to an immediate hazard to the public health and safety, and that is owned, leased, or operated by the City [name]. Public safety facilities include fire and police stations, flood control facilities, water towers and pump stations needed for emergency service, and emergency communication broadcast facilities.

Property line: front, rear, interior side, street side. See Lot Line.

Public improvements. Development of public infrastructure, as required by the City, County, Special District, or Road Authority, as applicable. See Chapter 3.4.

Q

Quasi-judicial. An action or decision that requires substantial discretion or judgment in applying the standards or criteria of this Code to the facts of a development proposal, and usually involves a public hearing. See Chapter 4.1.400 (Type III Review).

R

Rail Right-of-way. See Transportation-Related Definitions.

Recreation camp. (1) An area devoted to facilities and equipment for recreation purposes, including swimming pools, tennis courts, playgrounds, and similar uses, either open to the public upon payment of a fee, or limited to private membership. (2) An area designated by the landowner for picnicking or overnight camping and offered to the general public, with or without a fee or charge. (See ORS Chapter 446)

Recreational vehicle. See Vehicle Types.

Recreational vehicle park. A commercial use providing space and facilities for motor homes or other recreational vehicles for recreational use or transient lodging. There is no minimum required stay in a recreational vehicle park. Uses where unoccupied recreational vehicles are offered for sale or lease, or are stored, are not included as Recreational Vehicle Parks. See also Mobile Home Park.

Residence. Same as Dwelling. See Residential Structure Types.

Residential Structure Types

- **Accessory Dwelling Unit.** A second dwelling unit created on lot with a house, attached house, or manufactured home. The second unit is created auxiliary to, and is always smaller than the house, attached house, or manufactured home.

2.2.200 – Residential Districts – Special Use Standards

Background: The following use standards supplement Table 2.2.110, which identifies land uses that are permitted with "Special Use ('S') Standards."

Statutes and Regulations: Sections 2.2.110 and 2.2.200 address relevant parts of the following urban planning statutes and regulations: ORS 197.295-197.314 (Needed Housing, including Clear and Objective Standards for Housing); OAR 660-007-0015 (Clear and Objective Approval Standards for cities in the Portland Metropolitan Area); ORS 197.475-197.490 (Manufactured Housing); ORS 197.660-197.670 (Residential Homes and Facilities; and Bed and Breakfast Inns); and OAR 660—12-045 (Transportation Planning Rule Implementation (*i.e.*, site design provisions).

Section 2.2.200 provides standards for specific land uses and building types, as identified in Table 2.2.110, that control the scale and compatibility of those uses within the Residential District. The standards in Section 2.2.230 supplement (are in addition to and do not replace) the standards in Sections 2.2.100 through 2.2.190. This Section applies to the following uses and building types, as specified in subsections A-J:

- Accessory Dwelling
- Attached Single Family (Townhouses or Rowhouses) and Attached Duplexes
- Bed and Breakfast Inns
- Group Living (Residential Care Homes and Facilities)
- Home Occupations
- Manufactured Homes
- Manufactured/Mobile Home Parks
- Multiple Family Housing
- Short-Term Vacation Rentals
- Zero-Lot Line Housing (not common wall)

A. Accessory dwelling (attached, separate cottage, or above detached garage). Accessory dwellings shall conform to all of the following standards:

1. **Floor Area.** Accessory dwellings shall not exceed [600-800] square feet of floor area, or 40% of the primary unit, whichever is smaller. The unit can be a detached cottage, a unit attached to a garage, or in a portion of an existing house;
2. **Exempt from Density.** Accessory dwellings are exempt from the housing density standards of the Residential District, due to their small size and low occupancy levels;
3. **Oregon Structural Specialty Code.** The structure complies with the Oregon Structural Specialty Code;
4. **Owner-Occupied.** The primary residence or accessory dwelling shall be owner-occupied. *[Alternatively, the owner may appoint a family member as a resident care-taker of the principal house and manager of the accessory dwelling];*
5. **One Unit.** A maximum of one accessory dwelling unit is allowed per lot;
6. **Building Height.** The building height of detached accessory dwellings (*i.e.*, separate

2.2 – Residential (R) Land Use Districts – Special Use Standards: Accessory Dwellings

cottages) shall not exceed [28] feet; and

7. Buffering. The approval body may require a landscape hedge or fence be installed on the property line separating a detached accessory dwelling from an abutting single family dwelling, unless the applicant and the owner of the abutting single family dwelling agree in writing not to install the hedge or fence.

B. Attached Single Family (Townhouses and Rowhouses) and Duplexes. Single-family attached housing with three or more dwellings (lots), and attached duplex housing (two or more consecutively attached duplexes), shall comply with the standards in sections 1-2, below, which are intended to control development scale; avoid or minimize impacts associated with traffic, parking, and design compatibility; and ensure management and maintenance of common areas.

1. Alley Access Required for Subdivisions Principally Containing Townhomes or Duplexes. Subdivisions, or phases of subdivisions, proposed to contain three (3) or more consecutively attached single family dwellings, and developments with two (2) or more attached duplexes (4+ dwelling units), shall provide vehicle access to all such lots and units from an alley or parking court, as described in Chapter 3.1.2. Alley(s) and parking court(s) shall be created at the time of subdivision approval, and may be contained in private tracts or, if approved by the City, in public right-of-way, in accordance with Chapter 3.4.1, Transportation Standards, and Chapter 4.3, Land Divisions.
2. Common Areas. Any common areas (*e.g.*, landscaping, private tracts, common driveways, private alleys, building exteriors, and/or similar common areas) shall be owned and maintained by a homeowners association or other legal entity. A copy of any applicable covenants, restrictions and conditions shall be recorded and provided to the city prior to building permit approval.

ARTICLE 2

USE ZONES

R-1: LOW DENSITY RESIDENTIAL ZONE

2.015. PURPOSE.

The purpose of the R-1 Zone is to provide an area of low density single-family dwellings, at an average density of eight (8) units per net acre, their accessory uses, and certain public uses. The policies of the Comprehensive Plan, applicable overlay zone standards, and the standards listed below, will be adhered to.

2.020. USES PERMITTED OUTRIGHT.

The following uses and their accessory uses permitted in an R-1 Zone if the Community Development Director determines that the uses will not violate standards referred to in Section 2.030 through 2.050, additional Development Code provisions, Comprehensive Plan, and other City laws:

1. Single-family dwelling.
2. *(Section 2.020.2 deleted by Ordinance 04-10, 11-1-04)*
3. Family day care center.
4. Home occupation, which satisfies requirements in Section 3.095.
5. *(Section 2.020.5 deleted by Ordinance 04-10, 11-1-04)*
6. Manufactured home. See Section 3.140.
7. Residential home.

2.025. CONDITIONAL USE PERMITTED.

The following uses and their accessory uses are permitted in an R-1 Zone if the Planning Commission, after a public hearing, determines that the location and development plans comply with applicable standards referred to in Sections 2.030 through 2.050, additional Development Code provisions, Comprehensive Plan, and other City laws:

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R-1 Zone

1. Bed and breakfast, or inn.
2. Congregate care facility.
3. Day care center.
4. Nursing home.
5. Public or semi-public use.
6. Temporary use meeting the requirements of Section 3.240.
7. Accessory Dwelling Unit.

(Section 2.025.7 added by Ordinance 04-10, 11-1-04)

8. Home Stay Lodging.

(Section 2.025.8 added by Ordinance 04-10, 11-1-04)

2.030. LOT SIZE.

Uses in an R-1 Zone which are part of a cluster development will comply with lot size requirements in Section 11.160. Other uses in an R-1 Zone will not violate the following requirements affecting lot size which are applicable to the particular use:

1. The minimum lot size for a single-family dwelling will be 5,000 square feet.
2. The minimum lot width for all uses will be 45 feet.
3. The minimum lot depth for all uses will be 90 feet.

2.035. YARDS.

The minimum yard requirements in an R-1 Zone will be as follows:

1. The minimum front yard will be 20 feet.
2. The minimum side yard will be five (5) feet, except on corner lots the side yard on the street side will be 15 feet.
3. The minimum rear yard will be 20 feet, except on corner lots the rear yard will be five (5) feet.

R-2: MEDIUM DENSITY RESIDENTIAL ZONE

2.060. **PURPOSE.**

The purpose of the R-2 Zone is to provide an area for medium density residential development, at a maximum density of 16 units per net acre including single-family dwellings and duplexes as outright uses and multi-family dwellings as a conditional use. The policies of the Comprehensive Plan, applicable overlay zone standards, and the standards listed below, will be adhered to.

2.065. **USES PERMITTED OUTRIGHT.**

The following uses and their accessory uses are permitted in the R-2 Zone if the Community Development Director determines that the uses will not violate standards referred to in Sections 2.075 through 2.095, additional Development Code provisions, Comprehensive Plan policies, and other City laws:

1. Single-family dwelling.
2. Two-family dwelling.
3. Accessory dwelling unit.
(Section 2.065.3 amended by Ordinance 04-10, 11-1-04)
4. Family day care center.
5. Home occupation, which satisfies requirements in Section 3.095.
6. Home stay lodging.
7. Manufactured dwelling in approved park.
8. Manufactured home. See Section 3.140.
9. Residential home.

R-3: HIGH DENSITY RESIDENTIAL ZONE

2.150. **PURPOSE.**

The purpose of the R-3 Zone is to provide an area for high density residential development not exceeding an average density of 26 units per net acre, accessory uses, and certain public uses. The policies of the Comprehensive Plan, applicable overlay zone standards, and the standards listed below, will be adhered to.

2.155. **USES PERMITTED OUTRIGHT.**

The following uses and their accessory uses permitted in the R-3 Zone if the Community Development Director determines that the uses will not violate standards referred to in Section 2.165 through 2.185, additional Development Code provisions, Comprehensive Plan policies, and other City laws:

1. Single-family dwelling.
2. Two-family dwelling.
3. Multi-family dwelling.
4. Accessory dwelling unit.
(Section 2.155.4 amended by Ordinance 04-10, 11-1-04)
5. Family day care center.
6. Home occupation, which satisfies requirements in Section 3.095.
7. Home stay lodging.
8. Manufactured dwelling in an approved park.
9. Manufactured home. See Section 3.140.
10. Residential facility.
11. Residential home.

ARTICLE 3

ADDITIONAL USE AND DEVELOPMENT STANDARDS

3.005. ACCESS TO STREETS.

Every lot shall abut a street, other than an alley, for at least 20 feet.

3.020. ACCESSORY DWELLING UNITS.

A. Purpose.

The purpose of this Section is to promote more efficient use of large, older homes; provide more affordable housing; allow individuals and smaller households to retain large, older houses as residences; and maintain the single-family character of the house.

B. Standards.

1. Size.

a. Primary Structure.

A house with an Accessory Dwelling Unit must have at least 1,400 square feet of floor area prior to creation of the Accessory Dwelling Unit. The floor area of the garage or other non-living space, such as an unfinished basement, may not be used in the calculation of the total square footage. Any finished area used to determine floor area of the primary unit must have been completed at least ten years prior to the application for an Accessory Dwelling Unit. This date shall be determined by proof to be submitted by the applicant, such as the final inspection report date of a building permit.

b. Accessory Dwelling Unit.

An Accessory Dwelling Unit shall not exceed 40% of the primary structure or 800 square feet in size, whichever is smaller.

2. Creation of the Unit.

a. The Accessory Dwelling Unit may be created only through an internal conversion of an existing living area, basement, attic, other existing

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attached accessory buildings, or areas over attached garages. Accessory Dwelling Units shall not be permitted in structures detached from the primary residence, including but not limited to guest cottages, detached garages, or workshops.

- b. To differentiate an Accessory Dwelling Unit from a two-family dwelling, all utilities such as water, electric, or gas, shall remain as single service utilities. The Accessory Dwelling Unit shall not have its own utility services, except if the separate services existed prior to January 1, 2004. This does not apply to utilities providing service to communication devices such as telephone, television, and other communication devices.
- c. An Accessory Dwelling Unit shall be subordinate to the existing single-family dwelling and may not be subdivided or otherwise segregated in ownership from the primary residence structure.

3. Location of Entrances.

In addition to the main entrance, one entrance to the house may be located on the side or rear of the house. An additional entrance shall not alter the appearance in such a way that the structure appears to be a two-family dwelling, unless the house contained additional front doors prior to the conversion.

4. Zones in Which Permitted.

Accessory Dwelling Units are allowed as an accessory use to any existing single-family dwelling in all zones.

5. Owner Occupancy.

- a. The property owner shall occupy either the principal unit or the Accessory Dwelling Unit as their permanent primary residence, and at no time receive rent for the owner-occupied unit.
- b. The property owner shall provide a covenant or deed restriction in a form acceptable to the City and suitable for recording with the County, providing notice to future owners of the subject lot that the existence of the Accessory Dwelling Unit is predicated upon the occupancy of either the Accessory Dwelling Unit or the principal dwelling unit by the property owner.

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6. Lot Size.

A home with an Accessory Dwelling Unit in the R-1 Zone (Low Density Residential) shall be located on a minimum lot size of 5,000 square feet. There is no minimum lot size for other zones.

7. Off-Street Parking Requirements.

In addition to the two spaces required for the primary unit, the Accessory Dwelling Unit shall have one additional off-street parking space.

8. Age of Home.

An Accessory Dwelling Unit may be allowed in homes originally constructed a minimum of 50 years prior to the application for the Accessory Dwelling Unit.

C. Permits.

1. Permit Required.

A permit is required for the establishment of an Accessory Dwelling Unit. The property owner shall submit an application to the Community Development Department on a form provided by the City.

2. Expiration of Permit.

An Accessory Dwelling Unit permit shall automatically expire if any of the following occurs:

- a. The Accessory Dwelling Unit is substantially altered and is no longer in conformance with the plans as approved by the Astoria Planning Commission, Community Development Director, and/or the Building Official; or
- b. The subject lot ceases to provided the approved number of parking spaces; or
- c. The property owner ceases to reside in either the principal or the Accessory Dwelling Unit.

D. Non-conforming Accessory Dwelling Units.

1. The portion of a single-family dwelling which meets the definition of Accessory Dwelling Unit which was in existence prior to January 1, 2004, may continue in existence provided the following requirements are met:

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- a. An application for an Accessory Dwelling Unit is submitted to the Community Development Department for review.
 - b. The Accessory Dwelling Unit complies with the minimum requirements of the Building Codes as adopted by the City of Astoria.
 - c. The Accessory Dwelling Unit complies with the requirements of this Section 3.020 concerning "Accessory Dwelling Units".
2. The Community Development Director may approve a permit submitted for a non-conforming unit that does not meet all of the above requirements, except those relative to building code requirements, as follows:
- a. The permit review shall be in accordance with Article 9 concerning administrative decisions. The Community Development Department shall notify property owners of record in accordance with 9.010 to 9.020 at least twenty (20) days prior to the issuance of a permit for a Non-conforming Accessory Dwelling Unit. The notice shall set forth the standards required and the nature of the non-conformity.
 - b. Permits for a Non-conforming Accessory Dwelling Unit may be issued after the notice period by the Community Development Director where the Director has made written findings as follows:
 - 1) That full compliance would be impractical; and
 - 2) That neither present nor anticipated future use of the unit reasonably require strict or literal interpretation and enforcement of the requirements of this code; and
 - 3) That the granting of the permit will not create a safety hazard.
3. A decision of the Community Development Director may be appealed to the Planning Commission in accordance with 9.040.

(Section 3.020 Added by Ordinance 04-10, 11/1/04)



**Bureau of
Development
Services**
FROM CONCEPT
TO CONSTRUCTION

PROGRAM GUIDE



ACCESSORY DWELLING UNITS

Category: Residential Construction

Revised: February 20, 2013 [Paul L. Scarlett], Director

Responsible Bureau Sections: Development Services Center
1900 SW Fourth Avenue
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I. BACKGROUND

The Portland Zoning Code allows Accessory Dwelling Units (ADUs) to be added to a house, attached house, or manufactured home in residential zones as described in Chapter 33.205 of the City Zoning Code. ADUs provide additional housing units that are compatible with the look and scale of single dwelling neighborhoods, make more efficient use of existing housing stock and infrastructure, and provide a mix of housing options. They can be created by converting part of an existing house, adding area to an existing house, converting an existing structure, or constructing a new building.

This Program Guide outlines the application and review procedures for obtaining a permit to create an ADU and provides a summary of key zoning and construction standards. This Guide does not address the use of second kitchen agreements within an existing house. For information regarding the use of second kitchen agreements, please see City Code Guide CC/33/#2.
(<http://www.portlandonline.com/bds/index.cfm?c=36815&a=174914>)

II. ADU DEFINITION

The Zoning Code defines an Accessory Dwelling Unit as a smaller, secondary dwelling unit on the same lot or within a house, attached house or manufactured home. The unit includes its own independent living facilities with provisions for sleeping, cooking, and sanitation, designed for residential occupancy independent of

the primary dwelling unit. The unit may have a separate exterior entrance or an entrance to an internal common area accessible to the outside.

III. APPLICATION AND REVIEW PROCESS

A. Application Requirements.

1. **Construction of a new unit.** When an ADU is proposed in a new building, the permitting and inspection process is the same as that of new single family house construction. Please visit our website (<http://www.portlandonline.com/bds/index.cfm?c=36676>) and the Development Services Center (DSC) for additional information on how to submit an application for new construction of an ADU.

2. **Conversion of an existing space.** When an ADU is proposed in existing space, either through conversion of a garage, accessory structure or within the house, it may be helpful to make an initial visit to the DSC.

a. **Initial DSC visit.** The initial DSC visit provides an opportunity to discuss the space, design and structural issues that may be associated with the development of an ADU. In order for the DSC staff to provide the best information possible, a simple single-line site and floor plan drawing is required. This drawing will be used to determine if it is possible to provide an ADU in the existing space, and should show:

1) The approximate building square footage; and

2) The existing ceiling heights of the attic, basement, structure or garage being converted.

Photos of the existing interior and exterior views of the building are not required, but may be useful in assisting with project assessment.

b. **Other preliminary meetings.** At the initial DSC visit, those interested in creating an ADU can meet with a Life Safety Plans Examiner and a Zoning Reviewer. The Plans Examiner and the Zoning Reviewer will review the simple drawing and discuss the project to determine any immediate concerns with the proposal. Please visit our website to determine the hours for general questions. (<http://www.portlandonline.com/bds/index.cfm?c=37988>)

To determine the costs associated with your permit, please use the online fee estimator at:
<http://www.portlandonline.com/bds/index.cfm?c=59194>

B. Review Process.

1. **Permit Applications.** Complete building permit applications with plans must be submitted for ADUs, whether they are created within an existing building or as a new building. Applications will be taken in for review prior to issuance; ADU permits are not typically issued "over the counter."
 - a. See Brochure #6, "What Plans Do I Need?" for more information on submittal requirements for converting a portion of an existing structure to an ADU or adding on to an existing structure.
<http://www.portlandonline.com/bds/index.cfm?c=45053&a=93021>
 - b. See "New Single Family Residence Application Packet" for submittal requirements for ADUs created as a new detached building.
<http://www.portlandonline.com/shared/cfm/image.cfm?id=184903>

2. **Fees and System Development Charges (SDCs).** The creation of an ADU requires building permit fees, water service fees and SDCs. In some instances, fees or SDCs can be substantial. Fees and SDC charges are based on the information below.
 - a. **Building Permit Fees.** Building permit fees are based on the value of the work to be done. Most permit fees are unique to a project and will be determined at the time of application.

 - b. **System Development Charges.**

Please note: The construction of accessory dwelling units (ADUs) or the conversion of existing structures to ADUs is typically subject to System Development Charges (SDCs) that are levied by the Portland Parks, Environmental Services, Transportation, and Water Bureaus.

If you have any SDC questions, please contact the appropriate system development bureau listed at the end of this Program Guide.

The following SDC fees will be waived for ADU projects where a complete building permit application has been submitted on or

before July 31, 2016, provided that the ADU receives a certificate of occupancy no later than June 30, 2017.

- 1) Transportation System Development Charges (SDC).** The creation of an ADU will be exempt from the Transportation SDC if all of the following criteria are met:
 - a) The ADU must be built within an existing detached single family residence (not an attached house or rowhouse);
 - b) The primary unit must have at least 1,400 square feet of living space (unfinished basements, garages or attics are not included in this calculation); and
 - c) The ADU must be created within the existing living area or by converting an unfinished basement or attic.

For all other ADUs (new buildings, additions, accessory structures), a Transportation SDC will be charged. The assessment for an ADU is $\frac{1}{2}$ of the SDC charged for a new single-family house. Please call the Bureau of Transportation for the current rate. (See "Contact Information" at the end of this Program Guide.)

- 2) Environmental Services SDC.** The creation of an ADU requires the payment of an Environmental Services SDC. The amount of the SDC will be based on fees that were paid previously and the addition of an ADU based on the current sewer connection charge. Rates are effective from July 1 to June 30. Please call the Bureau of Environmental Services (BES) for the current charge. (See "Contact Information" at the end of this Program Guide.)

In some cases, it may be necessary to increase the size of the sewer or wastewater line or to provide the ADU with a separate connection to the sanitary sewer system. In these cases, additional fees will be required.

- 3) Parks SDC.** Portland Parks and Recreation charges an SDC for the creation of any ADU. The fee changes annually on July 1. Please call Parks and Recreation for the current rate. (See "Contact Information" at the end of this Program Guide.)

- 4) **Water Bureau SDC.** The Water Bureau does not automatically charge an SDC when an ADU is constructed. If the ADU can be added without changing the size of the existing water service, there is no charge. (See "City Utility Connections," Section A below.) Upon request, the Water Bureau can verify the existing water service size. If an increase in water service is required, then there is a charge for increasing the service along with the differential cost increase for the larger service. Please call the Water Bureau for more information. (See "Contact Information" at the end of this Program Guide.)

IV. SUMMARY OF ZONING STANDARDS

Chapter 33.205 of the Portland Zoning Code provides the standards for Accessory Dwelling Units (ADUs). The BDS website provides a link to the Portland Zoning Code. Below is a summary of those standards. For more information, call the Zoning Information line (see "Contact Information" at the end of this Program Guide) or visit the Development Services Center.

A. General.

1. ADUs are allowed on sites that are zoned residential and can be created in a house (detached single family dwelling), an attached house (rowhouse) or a manufactured home.
2. The total number of residents that can live in both units (the ADU and the primary house) is limited to the total allowed for a household. Under the Zoning Code, a household is defined as follows:

***Household.** One or more persons related by blood, marriage, legal adoption or guardianship, plus not more than 5 additional persons, who live together in one dwelling unit; or one or more handicapped persons as defined in the Fair Housing Amendments Act of 1988, plus not more than 5 additional persons, who live together in one dwelling unit.*

3. Home occupations.

- a. ADUs are allowed on sites with an approved bed and breakfast facility, as described in Zoning Code Chapters 33.212 and 33.815.
- b. ADUs are not allowed on sites with a Type B home occupation. A Type B home occupation is one in which the residents use their home as a place

of work, and either one employee or customers come to the site. Examples are counseling, tutoring, and hair cutting and styling.

B. Methods to create an ADU.

An ADU may be created in any of the following ways:

1. Converting existing living area;
2. Finishing an existing basement or attic;
3. Building an addition to an existing structure;
4. Building a new structure; or
5. Converting an existing detached accessory structure such as a garage or shed, under certain circumstances. To determine if your site qualifies, call the Zoning Information line (see "Contact Information" at the end of this Program Guide) or visit the Development Services Center.

C. Size Allowances.

1. **General.** The maximum size of an ADU may be no more than 75% of the living area of the house or 800 square feet, whichever is less. Living area is calculated by *excluding* the following areas from the overall gross building area:
 - a. The thickness of the exterior walls;
 - b. Garage areas;
 - c. Basement areas where the ceiling height measured from the floor is less than 6 feet 8 inches; and
 - d. Any other building areas where the ceiling height is either less than 5 feet or the area is not accessible by a stairway.

For example, if an existing house has 1,000 square feet of living area after subtracting all spaces described above, the ADU size is limited to 750 square feet. For a house that has 2,500 square feet of living area, 75% of the floor area would be 1,875 square feet. In this case, however, the ADU size is limited to no more than 800 square feet.

- 2. Additional requirements for detached ADUs.** In addition to the size limitations listed above, detached ADUs are limited by the following conditions:
 - a. Height.** The maximum height for a detached ADU is 18 feet.
 - b. Building coverage.** The building coverage for a detached ADU may not be larger than the building coverage of the house. The combined building coverage for all detached accessory structures may not exceed 15% of the total site area.
 - c. Set back.** Detached ADUs must be set back 60 feet from a front lot line or 6 feet behind the house.

D. Design Standards.

- 1. Location of entrances.** Only one main entrance may be located on the street-facing facade of the house, unless the house contained additional entrances before the ADU was created. An exception to this regulation is an entrance that does not have access from the ground, such as an entrance from a balcony or deck.
- 2. Exterior design details.** Exterior finish materials, roof pitch, trim, eaves, window orientation and dimension must be the same or visually match those of the house.

E. Parking.

Additional parking is not required for an ADU. However, if parking is required for the existing dwelling unit, that parking must either be retained or replaced on-site.

F. Adjustments.

An adjustment (variance) to ADU development standards as outlined in Zoning Code Chapter 33.805 may be requested. Adjustment requests will be approved or denied based on the approval criteria in Chapter 33.805.

V. CONSTRUCTION STANDARDS

Accessory Dwelling Units are regulated by the Oregon Residential Specialty Code (Residential Code) and this Program Guide. Residential building permit applications are required for the creation of an ADU. The Residential Code and the alternative standards listed in paragraph (B) below will also apply when an ADU is created within an existing detached or attached structure.

A. New Construction and Additions.

When an ADU is created at the same time the rest of the home is constructed, or when the ADU is created by adding on to an existing building, the construction shall comply with all Residential Code requirements for two-family dwellings. When an ADU is created in a new building accessory to, and detached from the primary dwelling unit, it shall comply with all Residential Code requirements for single-family dwellings.

B. Conversions and Alterations.

Where an ADU is created by converting non-habitable space within an existing house or by dividing off part of existing living space, the conversion shall comply with the Residential Code, except as modified below:

1. Electrical System.

- a. ADUs shall have separate electrical systems. Occupants of both units shall have direct access to branch circuit disconnects in their unit. A separate service or panel will be required for the ADU; when this is not feasible, the electrical panel serving the main dwelling unit may be approved for this use by the Electrical Section of the Bureau. This panel must be located in a common area with direct access from both living units.
- b. All new electrical work is to be conducted by a licensed electrical contractor. Exemptions that allow homeowners to do electrical work on their own homes will not apply to work for the creation of an ADU. If a new service is installed for the ADU, or both the ADU and the main dwelling unit, an electrical contractor must perform such installation work.

2. Heating System.

- a. **Ducted systems.** If the house has a ducted heating system, the ADU shall have a separate heating system (and air conditioning system, if provided). Existing ductwork in the ADU may be left in place, provided it is terminated at the point where the ductwork enters the unit. Occupants shall have direct access to their heating system for service and repair.
- b. **Radiant systems.** When new radiant systems are installed, separate systems must be provided for both the ADU and the primary unit. Existing hot water radiant systems may be extended to the ADU provided both the ADU and the primary living space have separate climate controls. In such case, a single boiler may serve both the primary unit and the ADU.

3. Plumbing System.

- a. The primary unit and an ADU may use a common water supply, provided each fixture in the ADU and the primary unit has a shut-off valve. The Water Bureau must also approve the use of a single supply line. (See "City Utility Connections," Section A, below.)
- b. ADUs may use a common building sewer. No more than three water closets (toilets) may be on a single 3-inch line.

4. Fire and Life Safety.

a. Separation between units.

1) Existing conditions.

- a) **Walls.** A stud wall having either wood lath and plaster or a covering of 1/2 inch gypsum wallboard on both sides, in sound condition, is acceptable.
- b) **Floor/Ceilings.** A single wood floor with a ceiling of either wood lath and plaster or 1/2 inch gypsum wallboard, in sound condition, is acceptable.
- c) **Sound Insulation.** A sound separation is not required.

2) Construction of a new wall or floor ceiling assembly. Where a new wall or floor/ceiling is constructed to create the separation between the units, such new wall or floor/ceiling shall be constructed to the one-hour fire-resistive standards and sound insulation requirements for unit separations in new buildings.

3) Separation between shared space and dwelling units. When there is a shared interior space, such as a foyer or utility area, the walls and floor/ceiling must be constructed consistent with the provisions of paragraphs (1) and (2) of this section. Doors in the separation walls must be a minimum of 1 3/8 inch thick solid wood, honeycomb core steel, or 20-minute fire-rated construction.

- b. **Ceiling heights.** In existing buildings, ceiling heights in habitable spaces of ADUs shall be as provided below. All ceiling heights shall be measured

from the top of the finished floor surface to the bottom of the ceiling finish or projection. All projections must be located at least 3 feet away from any door leading into the room.

1) General.

a) Areas with flat ceilings. In areas with flat ceilings, the ceiling must be at least 6 feet 8 inches high. Beams, heating ducts, pipes etc. may project below 6 feet 8 inches as follows:

(i) Ceiling projections may be as low as 6 feet when they are located within 2 feet from the wall; or

(ii) Ceiling projections may be as low as 6 feet 2 inches when they do not take up more than 10% of the floor area in the room where they are located.

b) Areas with sloped ceilings. In areas with sloped ceilings, ceiling heights in a specific room may be a minimum of 6 feet 8 inches where the following conditions are met:

(i) The 6 feet 8 inch ceiling height is over an area comprising at least 50% of the minimum required room area; and

(ii) Portions of the room with a ceiling height less than 5 feet shall not be counted toward the overall room area.

2) Hallways. In existing hallways, the ceiling height shall be at least 6 feet 8 inches, except that hallways with a sloping ceiling may have a ceiling height of 6 feet 2 inches at the lowest side when the ceiling height at the center of the hallway is at least 6 feet 8 inches.

3) Bathing or toilet rooms. In bathing or toilet rooms with a sloped ceiling, the ceiling height shall comply with Chapter 3 of the Residential Specialty Code.

c. Doors.

1) Unit entrance doors. All interior and exterior doors serving as the primary entrance to an ADU shall be at least 6 feet 8 inches high and at least 30 inches wide.

2) Other doors. Doors leading to other converted spaces shall be at least 6 feet 4 inches high and shall be at least 30 inches wide.

d. Emergency escape (egress) windows. Basements or sleeping rooms that do not have a door leading directly to the outside must have a window large enough to allow escape or rescue in case of emergency.

1) General. Except as noted below, emergency egress windows must comply with Chapter 3 of the Residential Specialty Code.

2) Sill height. The windowsill height must be 44 inches or less above the floor. A single permanently installed step located below the window may be used to reduce the sill height to 44 inches, provided that all of the following conditions are met:

a) The step shall be no higher than 12 inches;

b) The run (depth) shall be no less than 12 inches;

c) The step shall be as wide as the window; and

d) There must be a minimum height of 6 feet from the top of the step to the underside of the finished ceiling.

e. Smoke alarms. The primary dwelling unit and the ADU shall be equipped with smoke alarms per Chapter 3 of the Residential Specialty Code.

f. Stairways.

1) New. New stairs being added to an existing building are required to meet current provisions of the Residential Specialty Code.

2) Existing. An existing stairway leading to a new living space may be narrower and may have lower headroom than the current Residential Code allows provided:

a) The stairway is at least 30 inches wide and has at least 6 feet 4 inches of headroom measured vertically from the edge of each tread nosing to the underside of the nearest projection;

b) The stairway has runs no smaller than 9 inches and risers no higher than 8 inches; and

- c) The steps are relatively even. A difference of more than 3/8 of an inch between the biggest and smallest rise or run will not be approved.

3) Existing winder stairs. Existing "winder" stairs, which are triangular in shape, are allowed.

- g. **Hallways.** Hallways shall be at least 2 feet 6 inches wide. For ceiling height see Section (b) (2) above.

5. Energy.

- a. In all instances where access to existing ceiling, floor or exterior wall space is possible without demolition, insulation shall be installed.
- b. New windows or doors must meet current Residential Code requirements for energy conservation. Existing double-glazed windows or storm windows placed over existing single glazed windows are acceptable.
- c. Where existing wallboard, lath and plaster or other finishes are removed from exterior walls or ceilings, the exposed cavities must be insulated.
- d. Existing concrete exterior walls must be furred out with 2 x 4 framing. Any wood in contact with concrete must be pressure-treated or "all-weather" wood. Existing 2 x 4 walls or 2 x 4 furred walls must be insulated with materials to achieve at least an R-15 rating.
- e. Attic and garage ceilings must be insulated to the current Residential Code standards. When the existing ceiling height prohibits insulation meeting current Residential Code requirements, a minimum R-15 insulation will be approved in spaces between existing 2 x 4 rafters.

6. Livability.

- a. For ceiling heights, see Construction Standards, Section B (4) (b) above.
- b. Every habitable room shall have at least one window facing directly to the outside. Except where an approved ventilation device is provided, the total openable window area in every habitable room shall meet the requirements of Chapter 3 of the Residential Specialty Code.

VI. CITY UTILITY CONNECTIONS

A. Water.

Water Bureau regulations require that each separate structure have a separate water service. Water Bureau staff will review each application on a case-by-case basis to see if a single service can be used. They will also determine if an existing service will need to be up-sized. This determination will depend on the total number of plumbing fixtures being served.

B. Sanitary and Stormwater Sewers.

Applicants have the option of connecting the ADU to the existing sanitary sewer system connection or having a separate connection for the ADU. If a separate connection is made, there will be additional permit and connection fees.

In most cases, stormwater from either attached or detached ADUs will be required to be disposed of on site.

VII. OTHER

A. Addresses.

Addresses for sites with an ADU will be assigned as a single street address (number) with A and B used to designate each separate unit.

B. Existing "Accessory Rental Units."

Existing Accessory Rental Units (ARUs), which were created by permit under previous zoning regulations, will be considered ADUs under the new regulations.

Because of the change in some standards, these pre-existing ADUs may be nonconforming to one or more Zoning Code standards. For additional information, please contact Planning and Zoning. (See "Contact Information" at the end of this Program Guide.)

C. Discontinuance of Accessory Dwelling Units or Accessory Rental Units.

To discontinue using an existing ADU or ARU as an independent living unit, a building permit is required. The purpose of the permit is to document that the accessory unit no longer exists as a separate legal living unit. The kitchen sink in the former ADU will need to be capped off or, if the unit was within the house, the owner will need to execute a second kitchen agreement with the City.

D. "Illegal" Accessory Units.

Property owners may use the procedures and standards of this Program Guide to legalize existing ADUs that were constructed without a building permit.

CONTACT INFORMATION:

Bureau of Development Services
Program Guide - Accessory Dwelling Units
Page 14 of 14
February 20, 2013

Bureau of Development Services

Development Services Center:
503-823-7310

Residential Inspections:
503-823-7388

Planning and Zoning:
503-823-7526

Hours and General Questions:
503-823-7300
<http://www.portlandonline.com/bds/index.cfm?c=38138>

Bureau of Transportation

503-823-7002

Bureau of Environmental Services

503-823-7761

Portland Parks and Recreation

503-823-5105

Portland Water Bureau

503-823-7368

Updates April 15, 2010 edition
Updates September 1, 2007 edition
Updates February 1, 2006 edition
Updates March 1, 2004 edition
Updates July 1, 2000 edition, which superceded and replaced BDS (formerly Office of
Planning and Development Review and Bureau of Buildings) Policy and Procedure D-81.



AGENDA & NOTICE OF PLANNING COMMISSION MEETING

The Planning Commission of the City of Newport will hold a meeting at **7:00 p.m. Monday, March 25, 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, March 25, 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 March 11, 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. 1-ADJ-13. A request submitted by Michael & Michelle Mantei for approval of an adjustment to Section 14.11.30 (Garage Setback) of the Newport Municipal Code (NMC) to allow construction of a proposed garage with a setback of 12 feet rather than the required 20 feet. The request is a 40% adjustment and requires Planning Commission decision pursuant to NMC Section 14.33.030(B). The property is located at 5705 NW Biggs St (Assessor's Map 10-11-29-BB; Tax Lot 3600) in an R-2 zoning district.

Legislative actions:

1. Continued Hearing on File No. 2-UGB-12. Review and consideration of further testimony on an application to expand the Newport Urban Growth Boundary by approximately 353 acres to include the City's domestic water storage reservoirs, along with the associated access road and water infrastructure and for a regional park with a looped trail around the reservoirs. On February 25th, the Planning Commission held a public hearing, took testimony, and continued the hearing to tonight in order to make a recommendation to the City Council on this matter.

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, March 11, 2013

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

Planning Commissioners Absent: Glen Small (*excused*).

Citizens Advisory Committee Members Present: Lee Hardy, Suzanne Dalton, and 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. Review of agreements with Community Services Consortium (CSC) and Lincoln Community Land Trust (LCLT) or workforce housing for action at regular session. Tokos explained that there are two agreements; one with the LCLT and one with CSC; but primarily with the Trust. He noted that the Commission had talked briefly about this at work session at the end of January. The draft agreements provide a detailed outline. He noted that the recitals explain why we are doing this and establish the provisions of the contract. He noted that housing is a significant element of our Comprehensive Plan. The City has an obligation to facilitate and ensure that there are certain types of housing in the community; and workforce is one that came out of the study. The contract indicates that the revolving fund is a piece, and the land bank is another piece of it. It identifies that the Trust is a certified nonprofit. The agreement notes that it is the desire of the City to limit the contract to 5 years for the purpose of constructing at least 6 owner-occupied units. Then the agreement has a purpose statement and goes through the terms of the agreement. The normal term of the agreement is one year with annual reviews, except for section 9 and 10 that would extend beyond the normal timeframe and is outside the scope of this. Tokos said that he could change the wording on the “Whereas” to read “to a period up to 5 years”. Also McIntyre pointed out a misspelling to Tokos that he will correct.

Dalton had a question on page 3 under Item No. 7 (Compensation) (A). She wondered whether 5% increase for each year is standard for City of Newport employees. Tokos said that when you add a step increase and a cost of living increase, you will be getting close to that. She wondered if someone doing a contract service would get a step increase. Fisher wondered how they came up with that wage. Tokos said that he could push the Trust on that. He said they have other sources of funds. Berman asked if they still have to provide services even if they exceed the \$10,000. Tokos said they have a half-time executive director, and that is who would be providing these services. He noted that there is a full range of services listed in the contract. Everything listed under Number 5 is what we are paying for. Fisher said that maybe \$47.50 is little for the experience and skills required for the person doing the job, but he wondered if there isn't a better way of doing the compensation. Tokos said that maybe this needs to be tweaked. He noted that this isn't going to the City Council on the 18th. CSC still has issues they are working out. Tokos said that from his perspective, a “not to exceed amount” from the City and a list of deliverables we get for that would be adequate. He said that he prefers not having to do detailed accounting on this. He prefers saying “here is your \$10,000” and hold them to what they have agreed to deliver to us. Tokos said that he can go back to them and say we don't want to get into this type of detail in terms of hourly rate. Rather, “here is a lump sum to use as you see fit, however this is what you are giving us for that.” He said that is quite possibly how this would play out. The Trust may use the money for general administrative stuff and not specifically for a use. They may choose to roll their executive's time into the cost of the house. That is acceptable as long as they get it sold within the 60 to 120% of MFI. Tokos gave an example that they may bid construction out at \$135,000 and roll \$10,000 into that and sell it for \$145,000 within the range and get the director's time out of the sale. Then \$135,000 comes back into the revolving loan, which is what they borrowed from the City to cover construction costs. Dalton thought it would be wise to do the \$10,000 limit and avoid the kind of questions the committee had just asked. Fisher agreed with giving them a list of tasks we are requiring for “X” amount of money. Berman agreed that it would be easier for the City if we don't have to audit those bills. We don't care so much about that as long as they are producing what we want. Tokos will get back to the Trust on that. Branigan asked that if someone

qualifies and buys a house, if they can sublease it out. McIntyre noted that there is a reversion clause, and it states it is owner-occupied. East said that they can't turn it into an income source. Tokos said that we have a reversionary clause that gets to the Statute for when a city can sell its property. It has to be used for affordable housing for 20 years. It says if they don't do that, it comes back to the City. That's noted under numbers 6 and 9. Hardy asked what happens if that person gets a big raise and goes above that income level. She wondered if they then have to sell. The thought was that it is based on the initial qualification. Tokos noted that they can sell under a restriction of 2% per year. The individual or family purchasing from them would have to qualify by being in that income range.

Tokos noted that the land trust model isn't a new thing. There is a large one in the Portland area. He said that part of this is how much into the workings of this the City wants to get and how much to leave to the nonprofit organization that is in this business. The way this is set up, the City doesn't have a particularly active role once the land transfers; but up until it is sold, we have a pretty active role. Once the land is sold, it transfers into the Trust's inventory. We don't have a mechanism at that point unless the reversionary clause kicks in; then we can take the property back. He thought that is enough of a hammer to get their attention. The Trust could move these houses into another group. Say Habitat for Humanity takes over for the Trust; there is nothing preventing that. Once the house is built, it can be transferred to another housing entity without violating the agreement as long as it remains in the income range. After 20 years, they could turn around and do anything with it. Croteau agreed that it is a pretty big hammer for it not to revert back to the City because the property would be more valuable with a structure on it. Tokos noted that, regarding taxes, the properties in inventory right now are not generating any taxes because they are City property. So we will be getting property taxes back over 20 years; therefore, it is not fully a give-away. It will generate some tax revenue, so there is some value above and beyond workforce housing. He said that these lots could maybe be sold for something more valuable, but we have a workforce housing objective. McIntyre asked who receives the money from the lease. Tokos said that the Trust does, but the lease payment is pretty modest. He thinks they just do a token rate of something like \$50-\$100 a month or something of that nature because they don't want the lease to be a burden on the buyer. The Trust has a hammer with the lease. Tokos said the Trust needs to generate something from the lease to build it up. McIntyre noted that the Trust's income has to equal what their costs are. They have to show they are putting it into operational or maintenance costs. Tokos said that the Trust only has three homes right now, and right now the lease payment goes into their operational coffers so they can function. McIntyre asked if CSC is being paid by LCLT to act as managers for the Trust. Tokos said CSC staffs the Trust. He said he would look into if the lease payment can be adjusted upon sale. He said that they may have an adjustment when the unit is sold to bring the payment up current with how the median family income is growing. Tokos said three years into this, a decision may be made that this isn't working out. That is why there is the annual look at it.

Tokos noted that the rest of the content of the agreement gets into the standard contract stuff. Tokos said that the City has about \$180,000 sitting in that revolving loan fund that would be dedicated at this point. \$30,000 could be used for one-time site improvements. Some of these properties would require site improvements. There is enough money for one house at a time. One has to be done and sold before the next one can start. He thought that six within five years is achievable. He said it is possible that one of the builds could be a duplex or something. It could be a small townhouse development even.

McIntyre had a question on the NE 6th Street property and the original purpose was for SE 5th Street extension. Tokos said the thought was that 5th Street would come through about here, but ultimately the City decided that wasn't going to work. NE 6th Street will tie up with Yaquina Heights. The property is not needed for road purposes any more. He noted that the northeast portion of this property is buildable, but it has some slope constraints. He said the easiest to build on are right across the street from City Hall. Some of that was obtained for when the City put in Hatfield Drive and some was intended for overflow parking. The street is built and we wouldn't want people crossing the street because of the danger. Tokos noted that those properties on Klamath Place are severely sloped. Those were picked up because the City helped finance the original subdivision. They were foreclosed on, and we sold most of the lots. He noted that the Iler Street and 7th properties were largely intended to extend Harney Street. There is more property than needed for road extension. Now it is non-compacted fill that we would have to deal with. He said that the Grove Street property is the least developable of the bunch. It contains steep slopes. The road right-of-way is flat. At NE 10th Street there is room for one unit. The western-most side would be buildable; but there are access challenges. The High Street properties are quite developable. They are between the County building and the residential properties to the West. There is residential

zoning right next to it. Tokos said he put this list together to show that realistically the City has properties available for this purpose; but it is not intended to say that every one of these lots needs a house.

Tokos said the agreement with CSC, although stricter, is almost identical. He noted that there is the same issue in this agreement with the compensation. Berman noted that under Compensation Number 7(A), item 'iii' is redundant. Tokos said that he would get rid of all three of those under 'A'. He noted that these agreements are still under review by legal counsel. What he is looking for from the Commission tonight is if conceptually this looks okay. He said what lands in front of the City Council may look slightly different, but not substantially. If it ends up looking substantially different, Tokos would bring it back to the Planning Commission. The consensus was that it is a great idea, and it's being done right. It has the proper controls on it. Tokos said that the RFPs and contractor selection will all be handled by the Trust.

2. Discussion of FEMA Risk Map update. Tokos wanted to make sure that the Commissioners had the email regarding the FEMA maps. He noted that pretty significant changes are coming; particularly along the coastline and with settlement of the Endangered Species Act litigation where FEMA lost and are in the process of settling about how we implement flood plain regulations. That process has been pushed back a little bit. We can look at getting the preliminary maps in June 2014 and it becoming effective in May 2014. We would have to be updating flood plain information. We are passing this along to the public; we don't have the ability to do something about federal regulations. We don't have a lot of flexibility. We have to adopt the changes or the community becomes eligible for not getting flood insurance. Croteau asked if we need to do formal adoption of this, and Tokos confirmed that we do. Tokos said that we do get periodic updates from FEMA. All jurisdictions met with FEMA and DOGAMI once or twice. The maps aren't put out yet; at this point they are just sharing the methodology.

3. Discussion of Council Goals and Priorities. Tokos said that the City Council took a pretty hands-off approach on goals and left it to the departments to convey what the progress has been on current goals and how that relates to subsequent action. He noted that we had talked before the City Council meeting about what things the Commissioners desired to be working on; and those are on the list. Tokos wanted to run through the goals, particularly the 2013-14 goals, to see what might be high priority to the Commission. He noted that the ongoing goals are the same as last year. He read through the fiscal year 2013-14 list of goals. When he came to Safe Haven Hill, he noted that the City has done a fair amount of geotechnical work on that; but FEMA said that if we want money, we need to do additional geotechnical work. They want a more concrete analysis with respect to whether that hill is likely to withstand a worst-case tsunami or whether a portion might subside. The geo-tech will do more drilling for ground water testing at the hill. There will be detailed engineering drawings. FEMA wants the geotechnical eliminated up front. They will cover 75% of the cost. They also want a benefit cost analysis performed per their specs. There is a summary they require, and a separate consultant is working on that. FEMA is paying \$0.75 on the dollar. Assuming things come in as we think they will, then FEMA will release Phase 2 construction funds. Foundation Engineering is doing the geotechnical work. When asked where the other \$0.25 is coming from, Tokos said largely what we already spent for geotechnical work is it because we have already spent that and get credit for it. Staff time can also be counted as in-kind. There is no alternative to Safe Haven Hill. That is why the City did some interim improvements there for basic accessibility to the top. Tokos said with this we would get multi-purpose paths extended, conduit up to the top, maybe do LED lighting, and have a concrete pad and possibly a storage shed. Tokos noted that item 'F' is one that the Commissioners asked for specifically (code updates for accessory units and park models). He noted that the City has actually started on item 'M' (preplanning with ODOT for Yaquina Bay Bridge). At least conversation with ODOT has begun; and they are determining how much funding they can provide next year.

Branigan asked about Teevin Bros. Tokos noted that a decision on the TIA is out. An appeal would show up before the Planning Commission at the second meeting in April. He said that the use is not an issue. If an appeal is filed, they will throw darts at the TIA. If it ends up there, the City Council is likely to deal with it on the record. Because an evidentiary hearing hasn't been held yet, the first appeal to the Planning Commission has to be *de novo*. The second hearing has to be on the record unless the City Council determines that new evidence has been introduced that warrants a new hearing. We probably don't have enough time for all new hearings within the 120 days. Croteau wondered what the Commission will be looking at. Tokos said the Commission would get an alternative traffic analysis. He said it is likely that we get some competing technical information from a second engineer, and the Commission will hear from the City Engineer as well. Tokos said that he received 89 comment letters. A lot didn't have anything to do with the process. Some are in favor and some are opposed. A lot of

comments weren't relevant to the criteria. Tokos said that the Commission could set a hard three minutes per person for oral testimony, and you can express that if it is repeat testimony to just have the first person say it and indicate they agree. Croteau asked if there wasn't a meeting coming up on the 19th at OCCC that is just for information and not taking testimony. Tokos confirmed that and noted that the City Council doesn't want to be in a position where they are taking testimony when it may be before them in an appeal hearing. Tokos said that the Commissioners are welcome to attend at OCCC and listen but be cautious about saying anything on the record. Tokos said there are strong feelings; both in favor and in opposition of the project.

Tokos said that he told the City Council that involving citizens picks up a lot of things that aren't on the list. Tokos asked the Commissioners if they felt that any of the items 'A' through 'M' should have priority or if they were comfortable just letting them move along as they will. Croteau thought we should do something with the bridge as soon as we find out how willing ODOT is to participate. The other one he would like to see the Commission deal with soon is accessory units and park models. Patrick wondered what the timeline was on the Nye Beach Design Review Overlay. Tokos said that sometime in the next year it has to be looked at. He said that his advice is just have a conversation about how it is working and see if any changes need to be made. Berman thought that 'B' could be lower than second. He thought that if the UGB amendment goes through then PWD Gross should be able to proceed whether the reservoirs were annexed or not. Tokos noted that the property has to actually be annexed to get it under City jurisdiction. All the UGB expansion does is allows the City to annex it and put it under public zoning. Until it is pulled into the City, it is still under County T-C zoning. Patrick noted that what would be annexed would be the city-owned properties.

Answering a question about what 'A' under the 1-5 year goals meant, Tokos said that the department is operating very lean. He has held a Senior Planning position vacant for a period of time. There is an opportunity for us to do some more substantial restructuring. Also, the Building Official is working post-retirement on a part-time basis; and he is likely to fully retire. As he makes that decision, the City needs to be strategic on how to move forward with that position. Will we have a full-time building official or fully contract that out.

Patrick noted that we adopted a tree ordinance, and on 3rd Street trees were planted under the power lines. Tokos will talk to Public Works about it.

B. Adjournment. Having no further discussion, the work session meeting adjourned at 6:59 p.m.

Respectfully submitted,

Wanda Haney
Executive Assistant

Draft Minutes
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
Monday, March 11, 2013

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

Commissioners Absent: Glen Small (*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 7:03 p.m. On roll call, McIntyre, Croteau, Patrick, Fisher, East, and Branigan were present. Small was absent but excused.

B. Approval of Minutes.

1. Approval of the Planning Commission regular session meeting minutes of February 25, 2013.

MOTION was made by Commissioner Fisher, seconded by Commissioner McIntyre, 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.

Quasi-Judicial Actions:

Chair Patrick opened the public hearing portion of the meeting at 7:05 p.m. by reading the statement of rights and relevance. He asked the Commissioners for declaration of conflicts of interest, ex parte contact, or site visits. Fisher noted that he goes by the site once or twice a day, Croteau said that he has seen it, and Branigan said that he has driven by. Patrick asked for objections to any of the Commissioners or the Commission as a whole hearing this matter; and none were heard.

1. **File No. 2-CUP-13:** A request submitted by Abram Silvonon (William Zekan, authorized representative) per Chapter 14.25.020(E) "Bed and Breakfast and Vacation Rental Facilities – General Provisions" of the Newport Municipal Code (NMC), for a conditional use permit to operate a vacation rental in a residence where the requirements per NMC 14.25.050 for off-street parking spaces and landscaping cannot be met. The residence is located at 584 W Olive St. (Assessor's Map 11-11-08-BB; Tax Lot 3700) in an R-4 zoning district.

Patrick opened the public hearing for File No. 2-CUP-13 at 7:07 p.m. by reading the summary of the action from the agenda. He called for the staff report. Tokos noted that in the meeting packet was a staff report that outlines the nature of the application and includes approval criteria, findings, and a recommendation of approval. He noted that there is also a formal set of findings and a final order so that, should the Commissioners find this application warrants approval, they can move ahead on that as well. Tokos explained that the property is located in a high density residential zone. It is developed with a residence built in 1935, and there are photos of the residence with the packet material. He noted that the approval criteria are those of a conditional use. He explained that the reason a conditional use permit is needed is that the applicant can't meet two standards he would normally be required to meet for a vacation rental endorsement; off-street parking and landscaping. Tokos read the criteria, which are found in the NMC. He said that the staff analysis includes detailed discussion of each of those requirements and how this satisfies them. He said that the greatest one is that the use will not have adverse impact on nearby properties. In that finding, when looking at if this complies with that criterion, he looks at what was the intention of the standard in the first place. The intention was that a vacation rental wasn't being rented with more people than it can handle, that it is not forcing parking to overflow, and not adversely affecting other properties by blocking driveways or using up all on-street parking. Tokos noted that this residence faces Olive Street where not a lot of houses do. There is a fair amount of parking on Olive Street with on-street parking on both sides of the street. He said there appears to be a sufficient amount. The Eager Beaver store is next door, but there is still a fair amount of parking. Olive Street is not being used by other residences because they front other streets. The other standard is landscaping, which was put in place to prevent lawns from being pulled out and being turned into what looks like a commercial use. Lawn being turned into parking doesn't apply here. This is a very small parcel and is not conducive to off-street parking. It is built close to the street as is. What was done by the current owner or the prior owner was to put in decks to maximize the useable space on the small lot. Tokos said that he believes the Commission can reasonably find that landscaping is not being subverted. He said

that, given the findings in the staff report, the recommendation would be to go ahead and approve the conditional use permit subject to receiving an endorsement for approval for all other endorsement standards. That is one condition staff recommends the Commission include.

Proponents: Bill Zekan, the agent representing Mr. Silvonon, came forward. He noted that he basically was asked to help prepare this application. He said that really there wasn't anything substantive that he could add to Tokos' comments. He said that Tokos was very thorough and covered everything. He said that this allows them a means to seek relief from these two requirements that can't be met. They are not asking for relief to anything else. Zekan noted that Silvonon is trying to improve the property. He said there is nothing much that they can do about the parking, but they believe that the impact will be less. The only other thing he had to add was that he appreciated the accessibility of the process. He said it was easy to come into the office and talk to the staff and get help, explanations, and the requirements. He said that the help from Staff was very good, thorough, and helpful.

Opponents: There were no opponents present wishing to testify, so rebuttal was waived.

Patrick closed the public hearing at 7:15 for Commission deliberation. Branigan said that he didn't see any reason why not to grant the proposal. In that location, the parking is not an issue and there is no ability to do landscaping or put in a garage. It will not impact the neighborhood. The house is only a 2-bedroom. Branigan would recommend that the Commission grant the request. East agreed. He said that it will meet all the other requirements, and he has no issue granting relief on parking and landscaping. Fisher had nothing to add. Croteau asked what the square footage of the residence was and was told 1100 give or take. Silvonon said that he owns the Eager Beaver store as well. He said that he has the whole corner there and the recycle and trash containers are for the business. McIntyre said he thought that in the code there was a clause that provided that trash containers should be concealed from street view. He said it looked like they had a garage and wondered if that had been turned into rental area or storage. Silvonon explained it was storage. The height wasn't conducive to fitting a modern vehicle; it was only 5' 6" or so. There was a vintage garage door that was removed. Tokos said that the endorsement standard for waste management that they would have to adhere to states that "weekly solid waste disposal service shall be provided while the dwelling is occupied; the owner shall provide for regular garbage removal; and trash receptacles shall be stored or screened out of plain view of the street." He said that is a requirement; not for Eager Beaver, but for the vacation rental unit. Silvonon said that the trash receptacles are all used by the business at this time. They currently are not using the residence. Once they market it, they will clean that up anyway for marketability. There is room between the buildings and there is a gate. They can tuck those receptacles away there. Patrick said that he thinks this meets the standards. Parking is no worse than for a permanent residence. He said, given that it is Nye Beach and the size of the lot, there is no landscaping to be had.

MOTION was made by Commissioner East, seconded by Commissioner Branigan, to approve the conditional use permit in File No. 2-CUP-13 as proposed in the final order. The motion carried unanimously in a voice vote.

MOTION was made by Commissioner Fisher, seconded by Commissioner McIntyre, to adopt the final order for File No. 2-CUP-13 as presented. The motion carried unanimously in a voice vote.

F. New Business.

Action Item:

1. Agreements with Community Services Consortium (CSC) and Lincoln Community Land Trust (LCLT) for workforce housing. The Planning Commission had reviewed and discussed these two agreements at the work session.

MOTION was made by Commissioner Croteau, seconded by Commissioner Fisher, to forward to the City Council the agreements with the modification noted this evening and legal adjustments that may be necessary between now and the City Council action. The motion carried unanimously in a voice vote.

G. Unfinished Business. No unfinished business.

H. Director's Comments.

1. Tokos noted that on Tuesday evening there will be a meeting of the Port of Newport and City of Newport joint task force on an alternative route to the Port Terminal (log yard). They are looking at the viability of it. Tokos provided a memo to the task force today along with ODOT comments trying to give the group a reality check. He said it is really not that viable to pursue an alternative to Moore Drive. First, Moore Drive and Bay Blvd. happen to be a viable truck route today to the Port facility; which disadvantages us for obtaining any grant funds. The other reason is that there is nothing in this whole discussion that benefits the highway. So there is no way we can get funding. In fact ODOT has commented that an alternative to the east would have more detrimental impact to the highway. Tokos said that doesn't diminish the concern about truck traffic that hasn't been there for years. But that is not the type of thing Federal and State governments look for when providing grant funding. If the task force wants to pursue analysis to look hard at another route, then private funding is going to have to come to the table. Also, there needs to be some thought whether funding is available in the next twenty years to construct it. If not, then you are just doing a plan for

the shelf. Another factor has to do with the fact that we are already engaged with ODOT for an eventual replacement of the bridge. This work will look at replacement of the bridge and alternative locations. The Port will be considered and will come out in alternative routes. So the question to this group is if they want to invest money now only to find out that in the bridge conversation that plan has to be adjusted because of what the State wants to do with the bridge. Lastly, looking at limits to the Transportation Plan and goal exceptions if outside the UGB, those can be challenged in court and likely would be. This isn't a simple thing. There is a viable route in place and he doesn't see any funding for planning an alternative. That is what is in his memo; and ODOT's goes into greater detail. He said that there will be some folks that like that and some that really don't like it; and it is better that the policy-makers have an idea of what they are facing.

2. Tokos noted that on March 19th at OCCC is an open forum session with the Port and the City Council for discussion about the Teevin Bros. project.

3. The following week, Tokos will be in Tacoma for a Working Waterfront Symposium along with Don Mann. He said that hopefully they will gain some ideas to make our working waterfront better.

I. Adjournment. Having no further business to discuss, the meeting adjourned at 7:30 p.m.

Respectfully submitted,

Wanda Haney
Executive Assistant

PLANNING STAFF REPORT
File No. 1-ADJ-13

- A. **APPLICANT(S) & OWNER(S):** Michael & Michelle Mantei.
- B. **REQUEST:** An adjustment to Chapter 14.11.30 (Garage Setback) of the Newport Municipal Code (NMC) to allow construction of a proposed garage with a setback of 12 feet rather than the required 20 feet. The request is a 40% adjustment and requires a Planning Commission decision pursuant to NMC Section 14.33.030(B). The request also necessarily involves a 7 foot reduction to the 19 foot front yard setback from NW Biggs Street for the garage building (37% adjustment).
- C. **LOCATION:** 5705 NW Biggs St (Assessor's Map 10-11-29-BB, Tax Lot 3600).
- D. **LOT SIZE:** Roughly 5,000 square feet (0.11 acre) per Assessor's records.
- E. **STAFF REPORT:**
1. **REPORT OF FACT:**
 - a. **Plan Designation:** Low Density Residential.
 - b. **Zone Designation:** R-2/ "Medium Density Single-Family Residential."
 - c. **Surrounding Land Uses and Zoning:** Surrounding uses are other single-family residences. See Planning Staff Report Attachment "C" (Zoning Map of Area).
 - d. **Topography:** The property is level.
 - e. **Existing Structures:** A single-family home.
 - f. **Utilities:** All are available to the subject property.
 - g. **Past Land Use Actions:** None known.
 - h. **Notification:** All affected property owners within 200 feet, applicable city departments, and other agencies were notified on February 25, 2013. See Planning Staff Report Attachment "B" (Public Hearing Notice and Map). The public hearing notice was published in the Newport News-Times on March 15, 2013.

h. **Attachments:**

Attachment "A" – Applicant's Written Findings of Fact
Attachment "A-1" – Property Survey
Attachment "A-2" – Proposed Site Plan
Attachment "B" – Public Hearing Notice and Map
Attachment "C" – Zoning Map of Area
Attachment "D" – Aerial Photograph

2. **Explanation of the Request:** NMC Chapter 14.11 establishes required yards and setbacks. Section 14.11.010 sets out that required yards (setbacks) shall be as specified in Table A. For corner lots in the R-2 zoning district, Table A specifies that the front yard setback shall total 30 feet between the two street setbacks, but in no case shall it be less than 10 feet. Section 14.11.030 provides that the entrance to a garage or carport shall be setback at least 20 feet from the access street.

The applicant wishes to construct a two-story replacement dwelling and a detached 2-story garage with storage above. The proposed garage would have a setback of 12 feet, which is 8 feet less than the required 20-foot garage setback (40% adjustment) and 7 feet less than the 19 foot front yard setback from NW Biggs Street (37% adjustment). The front yard setback is 19 feet from NW Biggs Street because the applicant is constructing the house 11 feet from NW 57th Street. This ensures that the new house will meet the setback requirements for corner lots.

3. **Evaluation of the Request:**

- a. **Written Comments:** As of March 18, 2013, the Community Development Department has received no written comments.
- b. **Planning Commission Review Required (NMC Section 14.33.030(B); Approval Authority:** A deviation of greater than 10%, but less than or equal to 40%, of a numerical standard shall satisfy criteria for an Adjustment as determined by the Planning Commission using a Type III decision-making procedure.
- c. **Applicable Criteria (NMC Section 14.33.050); Criteria for Approval of an Adjustment:**
- i. That granting the adjustment will equally or better meet the purpose of the regulation to be modified; and
 - ii. That any impacts resulting from the adjustment are mitigated to the extent practical; and
 - iii. That the adjustment will not interfere with the provision of or access to appropriate utilities, nor will it hinder fire access; and
 - iv. That if more than one adjustment is being requested, the cumulative effect of

the adjustments results in a project that is still consistent with the overall purpose of the zoning district.

d. **Staff Analysis:**

The requested adjustments are 37% and 40% of the setback requirements, so Planning Commission approval is required. In order to grant the adjustments, the Planning Commission must review the application to determine whether it meets the criteria. With regard to those criteria, the following analysis could be made:

Criterion #1. That granting the adjustment will equally or better meet the purpose of the regulation to be modified:

In regard to this criterion, the Planning Commission should consider whether the applicant has sufficiently demonstrated that granting the adjustments will equally or better meet the purpose of the regulation to be modified.

The proposed garage is illustrated on Attachment "A-2" (Proposed Site Plan).

The applicant has submitted findings in regard to this criterion in Planning Staff Report Attachment "A" (Applicant's Written Findings of Fact). The applicant states that the purpose of the garage setback standard is to allow a vehicle to park in front of a garage door without overhanging the street or sidewalk and to enhance driver visibility when backing into the street. The applicant contends that the proposal meets both of these requirements.

The applicant notes that there is currently 13 feet from the edge of the asphalt pavement to the property line. With the 12 foot proposed setback, this will leave 25 feet from the garage door to the edge of the asphalt pavement; therefore, adequate space for a vehicle.

The applicant is proposing a 20 foot deep parking space on the property adjacent to the garage. This will ensure that there is sufficient space to park a vehicle in the event that the road right-of-way is fully built out, consistent with the purpose of the garage setback requirement. The applicant contends also that the proposed 12 foot setback will provide adequate driver visibility for backing onto the street.

Setback requirements provide for solar access, privacy, and facilitate fire protection both in terms of separation between buildings and providing room for fire personnel to access all sides of a building. For corner lots the front yard setbacks ensures that vehicle line of sight at road intersections will be preserved considering full build out of the roadway. With the exception of the east elevation of the proposed garage, the proposed buildings satisfy the setback standards. Further, the additional 20 foot deep parking space addresses the primary objective of the garage setback standard.

Considering the above, it is reasonable for the Planning Commission to find that granting the adjustment will equally meet the purpose of the setback requirement.

Criterion #2. That any impacts resulting from the adjustment are mitigated to the extent practical:

The applicant's findings indicate that this adjustment will not negatively impact livability to the adjoining properties. Adequate on-street parking exists to ensure that they, the neighbors, and visitors are not negatively impacted by this adjustment.

The applicant explains that this project includes construction of a replacement single-family residence with a detached garage. To provide sufficient air and light to the proposed residence, it is placed near the corner of the property at Biggs and 57th Streets. The garage will be located at the back of the property off of Biggs. In an effort to enhance the corner and to provide vehicle safety; the garage was placed as far as possible from the street intersection.

The applicant notes that, given this placement, it limits the depth of the garage. For the garage to be able to accommodate a boat or trailer, a greater depth is needed. The proposed placement of the house and garage, with this proposed garage setback adjustment, is a good balance in meeting all the zoning requirements for the property.

In the findings the applicant further explains that the proposed garage will allow them to store boats and trailers and other items within the structure. Without the proposed garage, these items would have to be stored in an open area on the property.

Given this information, it does not appear that the proposal will impact adjacent properties to the extent that the Commission should impose requirements for mitigation.

Criterion #3. That the adjustment will not interfere with the provision of or access to appropriate utilities, nor will it hinder fire access:

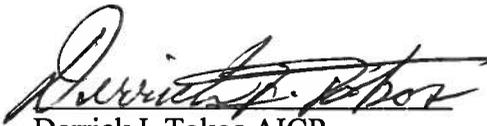
The applicant contends that this adjustment will not interfere with any of the above. They explain that the property has adequate street frontage and access to all utilities. Further, the applicant's site plan shows that all other setbacks are met, providing adequate egress for fire suppression purposes.

Accordingly, it seems reasonable for the Planning Commission to find that granting the adjustment will not interfere with utility or fire access.

Criterion #4. That if more than one adjustment is being requested, the cumulative effect of the adjustments results in a project that is still consistent with the overall purpose of the zoning district:

The cumulative impact of the two adjustment requests are factored into the above findings.

4. **Conclusion:** If the Planning Commission finds that the applicant has met the criteria established in the Zoning Ordinance for granting an adjustment, then the Commission should approve the request. As always, the Commission may attach reasonable conditions of approval necessary to carry out the purposes of the Ordinance if necessary to address the adjustment criteria. The conditions of approval would need to have a nexus with the request and must be roughly proportional to the impact of the request. If, on the other hand, the Commission finds that the request does not comply with the criteria, then the Commission should make findings for denial.
- F. **STAFF RECOMMENDATION:** If the Planning Commission decides to approve the request, Staff would recommend the following condition(s) of approval:
1. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to this report. No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the applicant to comply with these documents and the limitations of approval described herein.
 2. The applicant shall comply with all applicable building codes, fire codes, and other public health and safety regulations to ensure that the use will not be detrimental to the safety and health of persons in the neighborhood. The applicant is responsible for obtaining the necessary approvals and permits pertaining to the proposed use.
 3. The applicant shall flag or otherwise identify the front, side and rear property lines, as established in a survey prepared by Nyhus Surveying Inc., dated September 2012, and stake the location of the setbacks at the corners of the new buildings. The stake(s) shall be kept in place until a footing inspection has been completed.
 4. Pursuant to Section 14.52.140/"Expiration and Extension of Decision" of the Newport Zoning Ordinance, this approval shall be void after 18 months unless all necessary building permits have been issued. An extension may be granted by the Community Development Director as provided in this section provided it is sought prior to expiration of the approval period.



Derrick I. Tokos AICP
Community Development Director
City of Newport
March 20, 2013

**CITY OF NEWPORT, OREGON
APPLICATION FOR ADJUSTMENT TO GARAGE ENTRANCE SETBACK
STANDARD**

Applicant: Rich Eisenhauer
6925 SW Netarts Court
Beaverton, OR 97007
503-310-5583
rich@ikeinc.net

Owner: Michael & Michelle Mantei
PO Box 86342
Portland, OR 97286
503-849-4902
Horizonmech2012@gmail.com

Property Address: 5705 NW Biggs Street
Newport, OR 97365

Legal: Agate Beach No. 1, Block 126, Lot 16

Map Taxlot: 10-11-29-BB-03600-00

Map: 10S11W29BB

Account #: R432413

Adjustment Request:

Reduce garage setback from 20 feet to 12 feet (40% of the standard)

Code Section:

Chapter 14.11 – Required Yard and Setbacks

14.11.030 – Garage Setback. The entrance to a garage or carport shall be set back at least 20 feet from the access street for all residential structures.

Findings:

Written findings of fact addressing the following criteria:

(a) That granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

The purpose of the garage setback standard is to allow a vehicle to park in front of a garage door without overhanging the street or sidewalk, and to enhance driver visibility when backing into the street. The proposal meets both of these requirements.

There is currently 13 feet from the edge of the asphalt pavement to the property line. With the 12 foot proposed set back this will leave 25 feet

from the garage door to the edge of the asphalt pavement, therefore adequate space for a vehicle. In addition, we propose a full 20 deep parking space on the property adjacent to the garage to address future construction of a sidewalk. Also, the proposed 12 foot setback will provide adequate driver visibility for backing onto the street.

- (b) That any impacts resulting from the adjustment are mitigated to the extent practical. That mitigation may include, but is not limited to, such considerations as provision for adequate light and privacy to adjoining properties, adequate access, and a design that addresses the site topography, significant vegetation, and drainage; and*

This adjustment will not negatively impact livability to the adjoining properties. Adequate on-street parking exists to ensure the building owner, neighbors, and visitors are not negatively impacted by this adjustment.

This project includes the construction of a replacement single family residence with a detached garage. To provide sufficient air and light to the proposed residence it is placed near the corner of the property at Biggs and 57th. The garage will be located at the back of the property off of Biggs. In an effort to enhance the corner and to provide vehicle safety; the garage was placed as far as possible from the street intersection.

Given this placement it limits the depth of the garage. For the garage to be able to accommodate a boat or a trailer a greater depth is needed. The proposed placement of the house and garage, with this proposed garage setback adjustment, is a good balance in meeting all the zoning requirements for this property.

The proposed garage will allow the owner to store boats and trailers and other items within the structure. Without the proposed garage these items would be stored in an open area on the property.

- (c) That the adjustment will not interfere with the provision of or access to appropriate utilities, including sewer, water, storm drainage, streets, electricity, natural gas, telephone, or cable services, nor will it hinder fire access; and*

This adjustment will not interfere with any of the above. This property has adequate street frontage and access to all utilities.

- (d) If more than one adjustment is being requested, that the cumulative effect of the adjustments results in a project that is still consistent with the overall purpose of the zoning district.*

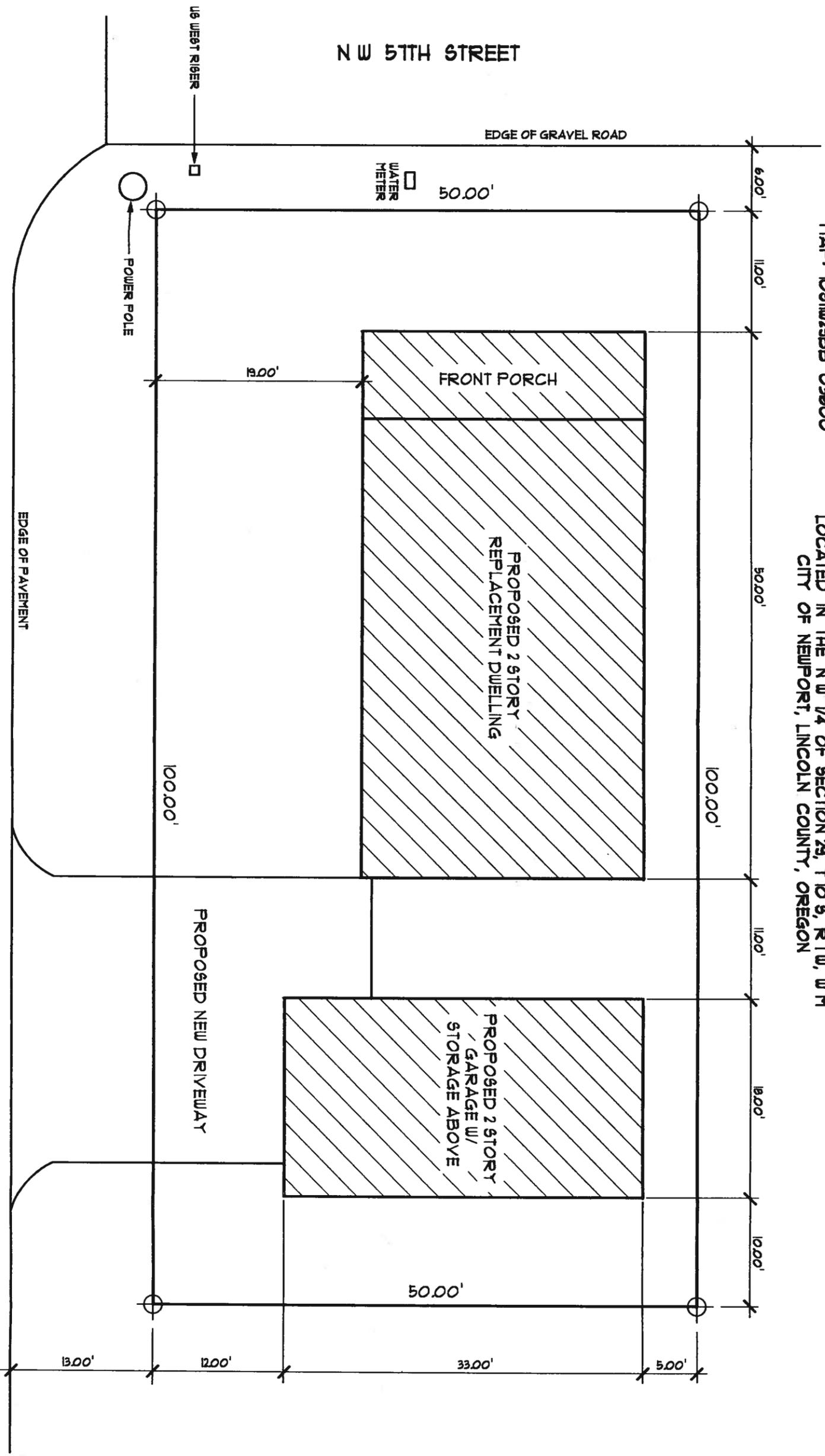
Only one adjustment is being requested.

— NORTH —

ACCOUNT #: R432413
 MAP: 10611W29BB 03600

5105 NW BIGGS STREET
 LOT 16, BLOCK 126, AGATE BEACH NO. 1
 LOCATED IN THE N W 1/4 OF SECTION 29, T 10 S, R 1 W, W M
 CITY OF NEWPORT, LINCOLN COUNTY, OREGON

SITE PLAN
 1" = 10'-0"



N W BIGGS STREET

N W 5TH STREET

US WEST RIVER

EDGE OF GRAVEL ROAD

WATER METER 50.00'

FRONT PORCH

PROPOSED 2 STORY
 REPLACEMENT DWELLING

PROPOSED 2 STORY
 GARAGE W/
 STORAGE ABOVE

PROPOSED NEW DRIVEWAY

EDGE OF PAVEMENT

13.00'

12.00'

50.00'

33.00'

5.00'

100.00'

100.00'

50.00'

11.00'

18.00'

10.00'

6.00'

11.00'

13.00'

POWER POLE

CITY OF NEWPORT
NOTICE OF A PUBLIC HEARING¹

NOTICE IS HEREBY GIVEN that the Planning Commission of the City of Newport, Oregon, will hold a public hearing on March 25, 2013, to consider approval of the following request:

File No. 1-ADJ-13:

Applicant: Michael & Michelle Mantei.

Request: Approval of an adjustment to Section 14.11.30 (Garage Setback) of the Newport Municipal Code (NMC) to allow construction of a proposed garage with a setback of 12 feet rather than the required 20 feet. The request is a 40% adjustment and requires a Planning Commission decision pursuant to NMC Section 14.33.030(B).

Location: 5705 NW Biggs St (Assessor's Map 10-11-29-BB, Tax Lot 3600).

Applicable Criteria: Newport Municipal Code (NMC) 14.33.050; Criteria for Approval of an Adjustment: (A) Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and (B) Any impacts resulting from the adjustment are mitigated to the extent practical; and (C) The adjustment will not interfere with the provision of or access to appropriate utilities, nor will it hinder fire access; and (D) If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project that is still consistent with the overall purpose of the zoning district.

Testimony: Testimony and evidence must be directed toward the criteria described above or other criteria in the Comprehensive Plan and its implementing ordinances which the person believes to apply 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 under "Reports/Materials") must be received by 5:00 p.m. the day of the hearing or be personally entered into the record during the hearing. The hearing will include a report by staff, testimony (both oral and written) from those in favor or opposed to the application, rebuttal by the applicant, 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 is left open for at least seven days to present additional evidence, arguments, or testimony regarding the application.

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

Contact: Derrick Tokos, Community Development Director, (541) 574-0626 (address above in "Reports/Materials").

Time/Place of Hearing: Monday, March 25, 2013; 7:00 p.m.; City Hall Council Chambers (address above in "Reports/Materials").

MAILED: February 25, 2013.

PUBLISHED: March 15, 2013/News-Times.

¹This notice is being sent to affected property owners within 200 feet of the subject property (according to Lincoln County tax records), affected public utilities within Lincoln County, and affected city departments.

10 11 29
NEWPO

- CANCELLED NO.
- 101
 - 1900
 - 2400
 - 3100
 - 3400
 - 4700
 - 5600
 - 6100
 - 6102
 - 7400
 - 7600
 - 7608
 - 8500
 - 8502

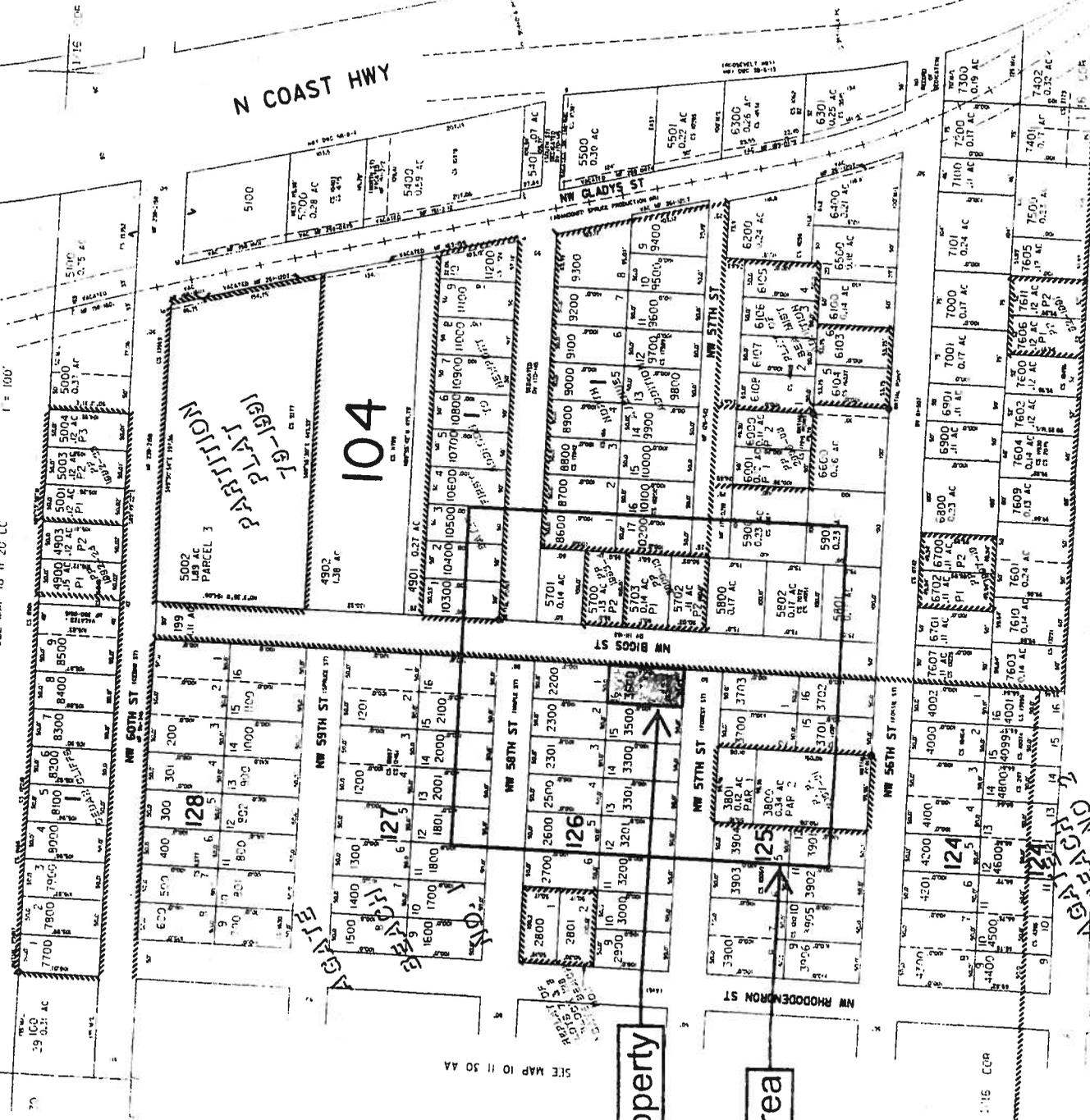
SEE MAP 10 11 29 11A

N COAST HWY

NW 1/4 NW 1/4 SECTION 29 T10S R11W WM
LINCOLN COUNTY

200 FEET
100
0

SEE MAP 10 11 20 CC



THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY

Subject Property

Notification Area

CREATED

SEE MAP 10 11 30 AA

1:15 CCR



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

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 Newport Community Development Department.

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

Pacific Ocean

Pacific Ocean

Area of Property

101

101

20

101

Yaquina Bay

YACQUINA BAY RD



Zoning Map
 Map 1 of 2
 North Section



**BEFORE THE PLANNING COMMISSION
OF THE CITY OF NEWPORT,
COUNTY OF LINCOLN, STATE OF OREGON**

**IN THE MATTER OF PLANNING COMMISSION)
FILE NO. 1-ADJ-13, APPLICATION FOR AN) FINAL
ADJUSTMENT, AS SUBMITTED BY MICHAEL) ORDER
& MICHELLE MANTEI)**

ORDER APPROVING AN ADJUSTMENT to Chapter 14.11.30 (Garage Setback) of the Newport Municipal Code (NMC) to allow construction of a proposed garage at 5705 NW Biggs St (Assessor's Map 10-11-29-BB, Tax Lot 3600) with a setback of 12 feet rather than the required 20 feet (40% adjustment). The request also necessarily involves a 7-foot reduction to the 19 foot front yard setback from NW Biggs Street for the garage building (37% adjustment).

WHEREAS:

- 1.) The Planning Commission has duly accepted the application filed consistent with the Newport Zoning Ordinance (No. 1308, as amended); and
- 2.) The Planning Commission has duly held a public hearing on the request for an adjustment, with a public hearing a matter of record of the Planning Commission on March 25, 2013; and
- 3.) At the public hearing on said application, the Planning Commission received testimony and evidence, including testimony and evidence on behalf of the applicant, and from Community Development Department staff; and
- 4.) At the conclusion of said public hearing, after consideration and discussion, the Newport Planning Commission, upon a motion duly seconded, **APPROVED** the request for the adjustment.

THEREFORE, LET IT BE RESOLVED by the City of Newport Planning Commission that the attached findings of fact and conclusions (Exhibit "A") support the approval of the adjustment as requested by the applicant with the following condition(s):

1. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to this report. No work shall occur under this permit other than that which is

specified within these documents. It shall be the responsibility of the applicant to comply with these documents and the limitations of approval described herein.

2. The applicant shall comply with all applicable building codes, fire codes, and other public health and safety regulations to ensure that the use will not be detrimental to the safety and health of persons in the neighborhood. The applicant is responsible for obtaining the necessary approvals and permits pertaining to the proposed use.
3. The applicant shall flag or otherwise identify the front, side, and rear property lines, as established in a survey prepared by Nyhus Surveying, Inc., dated September 2012, and stake the location of the setbacks at the corners of the new buildings. The stake(s) shall be kept in place until a footing inspection has been completed.
4. Pursuant to Section 14.52.140/"Expiration and Extension of Decision" of the Newport Municipal Code, this approval shall be void after 18 months unless all necessary building permits have been issued. An extension may be granted by the Community Development Director as provided in this section provided it is sought prior to expiration of the approval period.

BASED UPON THE ABOVE, the Planning Commission determines that the request for an adjustment is in conformance with the provisions of the Comprehensive Plan and the Zoning Ordinance of the City of Newport.

Accepted and approved this 25th day of March, 2013.

James Patrick, Chair
Newport Planning Commission

Attest:

Derrick I. Tokos, AICP
Community Development Director

EXHIBIT "A"

Case File No. 1-ADJ-13

FINDINGS OF FACT

1. Michael & Michelle Mantei submitted a request on January 31, 2013, for approval of an adjustment to Chapter 14.11.30 (Garage Setback) of the Newport Municipal Code (NMC) to allow construction of a proposed garage with a setback of 12 feet rather than the required 20 feet. The request is a 40% adjustment and requires a Planning Commission decision pursuant to NMC Section 14.33.030(B). The request also necessarily involves a 7 foot reduction to the 19 foot front yard setback from NW Biggs Street for the garage building (37% adjustment).
2. The subject property is located at 5705 NW Biggs St (Assessor's Map 10-11-29-BB, Tax Lot 3600).
3. Staff reports the following facts in connection with the application:
 - a. Plan Designation: Low Density Residential.
 - b. Zone Designation: R-2/"Medium Density Single-Family Residential".
 - c. Surrounding Land Uses and Zoning: Surrounding uses are other single-family residences. See Planning Staff Report Attachment "C" (Zoning Map of Area).
 - d. Topography: The property is level.
 - e. Existing Structures: A single-family home.
 - f. Utilities: All are available to the subject property.
 - g. Past Land Use Actions: None known.
 - h. Notification: All affected property owners within 200 feet, applicable city departments, and other agencies were notified on February 25, 2013. See Planning Staff Report Attachment "B" (Public Hearing Notice and Map). The public hearing notice was published in the Newport News-Times on March 15, 2013.
4. NMC Chapter 14.11 establishes required yards and setbacks. Section 14.11.010 sets out that required yards (setbacks) shall be as specified in Table A. For corner lots in the R-2 zoning district, Table A specifies that the front yard setback shall total 30 feet between the two street setbacks, but in no case shall it be less than 10 feet. Section 14.11.030 provides that the entrance to a garage or carport shall be setback at least 20 feet from the access street.
5. The applicant wishes to construct a two-story replacement dwelling and a detached 2-story garage with storage above. The proposed garage would have a setback of 12 feet, which is 8 feet less than the required 20-foot garage setback (40% adjustment) and 7 feet less than the 19 foot front yard setback from NW Biggs Street (37% adjustment). The front yard setback is 19 feet from NW Biggs Street because the applicant is constructing the house 11 feet from NW 57th Street. This ensures that the new house will meet the setback requirements for corner lots.

6. A deviation of greater than 10%, but less than or equal to 40%, of a numerical standard shall satisfy criteria for an Adjustment as determined by the Planning Commission using a Type III decision making procedure.

7. Upon acceptance of the application, the Community Development (Planning) Department mailed notice of the proposed action on February 25, 2013, to property owners within 200 feet required to receive such notice by the Newport Zoning Ordinance, and to various City departments and other agencies. The notice referenced the criteria by which the application was to be assessed. The notice required that written comments on the application be submitted by 5:00 p.m., March 25, 2013. Comments could also be submitted during the course of the public hearing. The notice was also published in the Newport News-Times on March 15, 2013. No written comments were received.

8. A public hearing was held on March 25, 2013. At the hearing, the Planning Commission received the staff report and oral testimony from the applicant. The minutes of the March 25, 2013, meeting are hereby incorporated by reference into the findings. The Planning Staff Report with Attachments is hereby incorporated by reference into the findings. The Planning Staff Report Attachments included the following:

- Attachment "A" – Applicant's Written Findings of Fact
- Attachment "A-1" – Property Survey
- Attachment "A-2" – Proposed Site Plan
- Attachment "B" – Public Hearing Notice and Map
- Attachment "C" – Zoning Map of Area
- Attachment "D" – Aerial Photograph

9. The applicable criteria for approval of an adjustment are found in NMC Section 14.33.050 as follows:

- i. That granting the adjustment will equally or better meet the purpose of the regulation to be modified; and
- ii. That any impacts resulting from the adjustment are mitigated to the extent practical; and
- iii. That the adjustment will not interfere with the provision of or access to appropriate utilities, nor will it hinder fire access; and
- iv. That if more than one adjustment is being requested, the cumulative effect of the adjustments results in a project that is still consistent with the overall purpose of the zoning district.

CONCLUSIONS

The requested adjustments are 37% and 40% of the setback requirements, so Planning Commission approval is required. In order to grant the adjustments, the Planning Commission must review the application to determine whether it meets the criteria. With regard to those criteria, the following analysis can be made:

Criterion #1. That granting the adjustment will equally or better meet the purpose of the regulation to be modified.

1. In regard to this criterion, the Planning Commission considered whether the applicant had sufficiently demonstrated that granting the adjustment will equally or better meet the purpose of the regulation to be modified.
2. The proposed garage is illustrated on Staff Report Attachment "A-2" (Proposed Site Plan).
3. The applicant submitted findings in regard to this criterion in Planning Staff Report Attachment "A" (Applicant's Written Findings of Fact). The applicant states that the purpose of the garage setback standard is to allow a vehicle to park in front of a garage door without overhanging the street or sidewalk and to enhance driver visibility when backing into the street. The applicant contends that the proposal meets both of these requirements.
4. The applicant noted that there is currently 13 feet from the edge of the asphalt pavement to the property line. With the 12 foot proposed setback, this will leave 25 feet from the garage door to the edge of the asphalt pavement; therefore, adequate space for a vehicle.
5. The applicant is proposing a 20-foot deep parking space on the property adjacent to the garage. This will ensure that there is sufficient space to park a vehicle in the event that the road right-of-way is fully built out; consistent with the purpose of the garage setback requirement. The applicant contends also that the proposed 12-foot setback will provide adequate driver visibility for backing onto the street.
6. Setback requirements provide for solar access, privacy, and facilitate fire protection both in terms of separation between buildings and providing room for fire personnel to access all sides of a building. For corner lots the front yard setbacks ensures that vehicle line of sight at road intersections will be preserved considering full build out of the roadway. With the exception of the east elevation of the proposed garage, the proposed buildings satisfy the setback standards. Further, the additional 20-foot deep parking space addresses the primary objective of the garage setback standard.
7. Considering the above, the Planning Commission concludes that granting the adjustment will equally meet the purpose of the setback requirements.

Criterion #2. That any impacts resulting from the adjustment are mitigated to the extent practical.

8. The applicant's findings indicate that this adjustment will not negatively impact livability to the adjoining properties. Adequate on-street parking exists to ensure that they, the neighbors, and visitors are not negatively impacted by this adjustment.
9. The applicant explains that this project includes construction of a replacement single-family residence with a detached garage. To provide sufficient air and light to the proposed residence, it is placed near the corner of the property at Biggs and 57th Streets. The garage

will be located at the back of the property off of Biggs. In an effort to enhance the corner and to provide vehicle safety; the garage was placed as far as possible from the street intersection.

10. The applicant noted that, given this placement, it limits the depth of the garage. For the garage to be able to accommodate a boat or trailer, a greater depth is needed. The proposed placement of the house and garage, with this proposed garage setback adjustment, is a good balance in meeting all the zoning requirements for the property.
11. In their findings, the applicant further explained that the proposed garage will allow them to store boats and trailers and other items within the structure. Without the proposed garage, these items would have to be stored in an open area on the property.
12. Given this information, it does not appear that the proposal will impact adjacent properties to the extent that the Commission should impose requirements for mitigation.

***Criterion #3.** That the adjustment will not interfere with the provision of or access to appropriate utilities, nor will it hinder fire access.*

13. The applicant contends that this adjustment will not interfere with any of the above. They explain that the property has adequate street frontage and access to all utilities. Further, the applicant's site plan shows that all other setbacks are met, providing adequate egress for fire suppression purposes.
14. Accordingly, the Planning Commission found that granting the adjustment will not interfere with utility or fire access.

***Criterion #4.** That if more than one adjustment is being requested, the cumulative effect of the adjustments results in a project that is still consistent with the overall purpose of the zoning district:*

15. The cumulative impact of the two adjustment requests are factored into the above findings.
16. Based on the above, the Planning Commission concludes that this criterion is satisfied.

OVERALL CONCLUSION

Based on the staff report, the application materials, and other evidence and testimony in the record, the Planning Commission concludes that the above findings of fact and conclusions show that the applicant has demonstrated compliance with the criteria for granting an adjustment; and, therefore, the request is **APPROVED** with the following conditions of approval:

1. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to this report. No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the

applicant to comply with these documents and the limitations of approval described herein.

2. The applicant shall comply with all applicable building codes, fire codes, and other public health and safety regulations to ensure that the use will not be detrimental to the safety and health of persons in the neighborhood. The applicant is responsible for obtaining the necessary approvals and permits pertaining to the proposed use.
3. The applicant shall flag or otherwise identify the front, side, and rear property lines, as established in a survey prepared by Nyhus Surveying, Inc., dated September 2012, and stake the location of the setbacks at the corners of the new buildings. The stake(s) shall be kept in place until a footing inspection has been completed.
4. Pursuant to Section 14.52.140/"Expiration and Extension of Decision" of the Newport Municipal Code, this approval shall be void after 18 months unless all necessary building permits have been issued. An extension may be granted by the Community Development Director as provided in this section provided it is sought prior to expiration of the approval period.

Memo

To: Newport Planning Commission/Commission Advisory Committee
From: Derrick Tokos, Community Development Director 
Date: March 21, 2013
Re: City Reservoir UGB Amendment Application

Enclosed is a copy of a draft ordinance for the Urban Growth Boundary expansion and amendment to the Newport Comprehensive Plan Map. The map has changed slightly as we refined the legal description to correspond with the boundaries of tax lots represented on Lincoln County Assessment and Taxation maps. Total acreage is now 354.5, an increase of an acre and a half from the map presented at the last meeting.

Findings have also been revised to reflect the map changes and to correct errors with respect to the timing of the Planning Commission work sessions. The City Attorney has a draft of the findings and has assisted in the preparation of the application. Considering that the Department of Land Conservation and Development testified at the February 25th hearing that their primary concerns had been addressed and that they will be taking a "neutral" position on the proposal, our Attorney expressed that she doesn't see a need to provide any additional substantive analysis at this point.

Staff recommends that the Planning Commission take testimony at the upcoming hearing and, if comfortable, provide the City Council with a recommendation that the expansion proposal be approved "as is" or with any needed amendments that are consistent with the approval criteria listed in the findings.

Since none of the attachments to the findings have changed since the February hearing, I have not including them again in the packets. All of the materials are available to review or download from the Community Development Department website at: <http://thecityofnewport.net/dept/pln>.

Attachments

Draft ordinance with exhibits

CITY OF NEWPORT

ORDINANCE NO. 2050

**AN ORDINANCE EXPANDING THE URBAN GROWTH BOUNDARY
TO INCORPORATE LANDS SURROUNDING THE CITY'S
DOMESTIC WATER STORAGE RESERVOIRS AND TREATMENT
FACILITY AND AMENDING THE COMPREHENSIVE PLAN
MAP ORIGINALLY ADOPTED BY ORDINANCE NO. 1621
(Newport File No. 2-UGB-13/3-CP-12)**

WHEREAS, Newport City Council desires to expand the Urban Growth Boundary (UGB) to include Big Creek Reservoir #1 and Big Creek Reservoir #2, which are the City's primary storage facilities for its domestic water supply; and

WHEREAS, said expansion will allow the land to be placed under a "Public" Comprehensive Plan Map designation so that once annexed it can be zoned for public use. This will make it easier for the City to modify its water infrastructure in response to known structural deficiencies at the reservoirs and to construct a future regional park as envisioned in the 1993 Park System Master Plan; and

WHEREAS, Newport Planning Commission held work sessions on October 8, 2012 and October 22, 2012 to consider issues related to the reservoirs structural deficiencies, future park needs, and options for expanding the UGB. The Commission also held a joint work session with the Lincoln County Planning Commission on November 26, 2012 to gain its perspective on the issues and expansion options; and

WHEREAS, Newport Planning Commission initiated an application to expand the UGB to include lands surrounding the reservoirs on January 14, 2013; and

WHEREAS, said application contains findings of compliance with the policies and standards set forth in the "Urbanization" element of the Newport Comprehensive Plan, as amended by Ordinance No. 2049, effective March 21, 2013, and the "Administration of the Plan" element of the Newport Comprehensive Plan; and

WHEREAS, Newport Planning Commission held public hearings on February 25, 2013 and March 25, 2013 for the purpose of reviewing the application for compliance with these policies and standards and providing a recommendation to the Newport City Council; and

WHEREAS, the above said public hearings were held in accordance with the appropriate provisions of the city ordinances and, after due deliberation and consideration of the proposed changes, the Planning Commission did recommend that the application be approved; and

WHEREAS, Newport City Council held a public hearing on April 15, 2013 to consider amendments to the Newport UGB and Comprehensive Plan Map proposed with the application, and voted in favor of the changes after considering the recommendation of the Planning Commission and evidence and argument in the record; and

WHEREAS, information in the record, including affidavits of mailing and publication, demonstrate that appropriate public notification was provided for both the Planning Commission and City Council public hearings; and

WHEREAS, The Newport Comprehensive Plan requires that amendments to the Urban Growth Boundary and Newport Comprehensive Plan approved by the City must also be adopted by Lincoln County; and

WHEREAS, Lincoln County's desire that the City take jurisdiction of Big Creek Road, which provides access to the reservoirs, can be addressed after the UGB and Comprehensive Plan Map amendments are effective, concurrent with annexation of city owned properties within affected area.

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. The attached findings in Exhibit "A" shall be adopted in support of the amendments to the Newport Urban Growth Boundary and Comprehensive Plan Map.

Section 2. The Urban Growth Boundary as established on the Comprehensive Plan Map of the City of Newport as adopted by Ordinance No. 1621 (as amended) shall be expanded as described in Exhibit "B."

Section 3. The Comprehensive Plan Map of the City of Newport, as adopted by Ordinance No. 1621 (as amended) shall be amended as illustrated in Exhibit "C" with all real property contained therein being given a "Public" designation on the Comprehensive Plan Map.

Section 4. This Ordinance shall take effect 30 days after passage.

Date adopted and read by title only: _____

Signed by the Mayor on _____, 2013.

Sandra Roumagoux, Mayor

ATTEST:

Margaret M. Hawker, City Recorder

**CITY OF NEWPORT COMMUNITY DEVELOPMENT
DEPARTMENT**

**FINDINGS FOR URBAN GROWTH BOUNDARY
AMENDMENT**

Draft, March 21, 2013

| | |
|------------------------|---|
| Project Number: | 2-UGB-12 |
| Project Type: | Urban Growth Boundary Amendment |
| Procedure Type: | UGB Amendment: Type IV Comprehensive Plan Map (Major Amendment) |
| Applicant: | City of Newport |

1 OVERVIEW:

The City of Newport is considering an Urban Growth Boundary (UGB) amendment and subsequent annexation to include all of the City's water treatment plant (which is only partially within the city limits) and the City water storage reservoirs for domestic water supply. In general terms, the rationale underlying the proposed UGB expansion is twofold:

1. To include the City's water storage and treatment facilities in the UGB. The City may be forced to reconstruct one or both of the water storage reservoirs in the coming years to address structural deficiencies. The reconstruction would include new water intake facilities, distribution lines, pumping stations, and a radio transmission tower for the municipal water metering system.
2. To include a regional city park in the UGB. The subject property is well-suited for use as a public park and is identified in the City's adopted *Parks Master Plan* and the Parks Element of the City *Comprehensive Plan* as a site for a regional park.

It is also a goal of the City to establish at least a 1000' foot buffer around the reservoirs for water quality purposes consistent with the Oregon Department of Environmental Quality/Oregon Health Department "Surface Water Evaluation" (see Attachment F). This goal will be accomplished through non-regulatory strategies including land acquisition and other voluntary measures.

Under the Oregon land use system, the justification for a UGB amendment is a two-step process: (1) demonstrate land need; and (2) analyze potential boundary locations. Local governments must address both parts in the UGB application and associated findings. Moreover, the City must address applicable City and County criteria.

The proposal includes an amendment to the *Newport Comprehensive Plan Map* and the Lincoln County *Comprehensive Plan Map*, which amends the Newport UGB, expanding it by approximately 355 acres. The proposed boundary expansion includes (1) all of the City's water treatment plant (which is currently only partially within the city limits), the City water storage reservoirs for domestic water supply, and the access road to the reservoirs in a manner that allows a concise legal description and minimizes impacts to privately held lands; and (2) approximately 75 acres for development of a regional City park.

In November 2012, the City initiated a separate process to make text amendments to the *Newport Comprehensive Plan*, which makes the Urbanization Element consistent with changes in Goal 14 adopted in 2006, and amendments to the public facilities element that recognizes the reservoir's structural deficiencies. Those amendments were adopted by the Newport City Council on February 19, 2013.

This findings document justifies the City's action in two ways: (1) the standard Goal 14 need/boundary location analysis; and (2) an exception to Goal 14 as allowed by OAR 660-024-0020(1)(a).

2 AUTHORITY AND CRITERIA:

The authority, review procedures, and locally adopted criteria for the amendments are provided in the *Comprehensive Plan* as specified below. Criteria for the amendments are also provided in applicable state law. Those criteria are addressed together with the local criteria, which are similar to applicable state law, in Section V of this application.

2.1 STATE CRITERIA

State law that governs the locational analysis and needs for the UGB amendment include the following:

- Statewide Planning Goal 14 (OAR 660-015-0000(14))
- ORS 197.298
- Goal 14 Administrative Rule (OAR 660 Division 24)

Statewide planning Goal 14 (Urbanization) requires that urban growth boundary amendments be a cooperative process:

“Establishment and change of urban growth boundaries shall be a cooperative process among cities, counties and, where applicable, regional governments. An urban growth boundary and amendments to the boundary shall be adopted by all cities within the boundary and by the county or counties within which the boundary is located, consistent with intergovernmental agreements...”

Goal 14 breaks the UGB amendment process into two parts: (1) Land Need; and (2) Boundary Location. Local governments must address both parts in the UGB application and associated findings.

2.1.1 Goal 14: Urbanization

Land Need

Establishment and change of urban growth boundaries shall be based on the following:

(1) Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and

(2) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks or open space, or any combination of the need categories in this subsection

In determining need, local government may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need. Prior to expanding an urban growth boundary, local governments shall demonstrate that needs cannot reasonably be accommodated on land already inside the urban growth boundary.

OAR 660-024-0040 provides additional guidance on determining land need.

Boundary Location

The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors:

(1) Efficient accommodation of identified land needs;

(2) Orderly and economic provision of public facilities and services;

(3) Comparative environmental, energy, economic and social consequences; and

(4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.

2.1.2 ORS 197.298: Priority of land to be included within urban growth boundary.

(1) In addition to any requirements established by rule addressing urbanization, land may not be included within an urban growth boundary except under the following priorities:

(a) First priority is land that is designated urban reserve land under ORS 195.145, rule or metropolitan service district action plan.

(b) If land under paragraph (a) of this subsection is inadequate to accommodate the amount of land needed, second priority is land adjacent to an urban growth boundary that is identified in an acknowledged comprehensive plan as an exception area or nonresource land. Second priority may include resource land that is completely surrounded by exception areas unless such resource land is high-value farmland as described in ORS 215.710.

(c) If land under paragraphs (a) and (b) of this subsection is inadequate to accommodate the amount of land needed, third priority is land designated as marginal land pursuant to ORS 197.247 (1991 Edition).

(d) If land under paragraphs (a) to (c) of this subsection is inadequate to accommodate the amount of land needed, fourth priority is land designated in an acknowledged comprehensive plan for agriculture or forestry, or both.

(2) Higher priority shall be given to land of lower capability as measured by the capability classification system or by cubic foot site class, whichever is appropriate for the current use.

(3) Land of lower priority under subsection (1) of this section may be included in an urban growth boundary if land of higher priority is found to be inadequate to accommodate the amount of land estimated in subsection (1) of this section for one or more of the following reasons:

(a) Specific types of identified land needs cannot be reasonably accommodated on higher priority lands;

(b) Future urban services could not reasonably be provided to the higher priority lands due to topographical or other physical constraints; or

(c) Maximum efficiency of land uses within a proposed urban growth boundary requires inclusion of lower priority lands in order to include or to provide services to higher priority lands.

Note that Newport does not have Urban Reserves as defined in OAR 660-021.

2.1.3 Goal Exceptions

Statewide Planning Goal 2 describes instances when Goal exceptions are allowable. In general, Goal 14 exempts UGB actions from the Goal 2 exception process. OAR 660-024-0020(1)(a) allows local governments to address exceptions as an alternative path:

(a) The exceptions process in Goal 2 and OAR chapter 660, division 4, is not applicable unless a local government chooses to take an exception to a particular goal requirement, for example, as provided in OAR 660-004-0010(1);

Because of the nature of this application, the City of Newport elected to address the Goal 2 exception criteria and take an exception to Goal 14 for the existing water storage and treatment facilities under Exception Avenue (a). Goal 2 identifies three potential avenues for a goal exception:

A local government may adopt an exception to a goal when:

(a) The land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal;

(b) The land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or

(c) The following standards are met:

(1) Reasons justify why the state policy embodied in the applicable goals should not apply;

(2) Areas which do not require a new exception cannot reasonably accommodate the use;

(3) The long-term environmental, economic, social and energy consequences resulting from the use of the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

(4) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

2.2 LOCAL CRITERIA

UGB amendments must comply with applicable local criteria as outlined in the City of *Newport Comprehensive Plan and Development Code*, as well as the Lincoln County *Comprehensive Plan and Development Code*.

2.2.1 City of Newport Criteria

The City process for expanding the UGB is described under Policy 4 (Urbanization) of the *Newport Comprehensive Plan*. UGB amendments are broken into two categories: minor and major. The City and County Planning Director's must agree on the designation of the proposed application. Attachment G (letter to city and county planning directors) shows that the City and County concur this proposal constitutes a major UGB amendment.

In Newport, UGB amendments can be initiated by individuals or groups, the City or County Planning Commissions, or the Newport City Council or Lincoln County Board of Commissioners. This action was initiated by the City of Newport Planning Commission. Consistent with Statewide Planning Goal 14 and Policy 4.4 of the *Newport Comprehensive Plan*, both the city and county governing bodies are required to hold public hearings and both must agree for an amendment to become final.

Chapter 8 of the *Newport Comprehensive Plan* specifies three types of procedures for map amendments. The proposed amendment is considered a "major" amendment. Findings related to local policy are similar to those required for Goal 14 and are addressed in Section V.

A. Major Amendments:

- 1.) *A significant change in one or more goal or policy; and*
- 2.) *A demonstrated need for the change to accommodate unpredicted population trends, to satisfy urban housing needs, or to assure adequate employment opportunities; and*
- 3.) *The orderly and economic provision of key public facilities; and*
- 4.) *Environmental, energy, economic, and social consequences; and*
- 5.) *The compatibility of the proposed change with the community; and*
- 6.) *All applicable Statewide Planning Goals.*

The Urbanization Element requires that the process be initiated by the Newport Planning Commission, and that changes shall be considered by the Planning Commission and City Council at public hearings. Notices and other procedural requirements shall be made in accordance with Section 2-6-1 of the Zoning Ordinance. Moreover, the Urbanization Element requires findings of fact be developed in support of the decision and outlines the requirements for findings.

3 SUMMARY OF EVIDENCE:

The City provides the following evidence in support of the application.

- Attachment A: Final HDR Seismic Report, February 2013
- Attachment B: HDR Dam Assessment Presentation, August 2, 2012
- Attachment C: Parks Capital Improvement Program
- Attachment D: Excerpts from the Newport Park System Master Plan identifying need for a 75-acre regional park and concept plan for a regional park at the Big Creek Reservoir site
- Attachment E: Upper Big Creek Reservoir 2070 Inundation map
- Attachment F: DEQ/OHS Surface Water Assessment
- Attachment G: Letter to County/City Planning Directors regarding population forecast

4 PROCEDURE:

- A. City Public Works staff commissioned an engineering evaluation of the city water storage facilities which concluded the facilities have structural deficiencies (see Attachment A and Attachment B).
- B. Staff conducted work sessions with the Newport Planning Commission on October 8, 2012, October 22, 2012, and November 26, 2012 to consider issues related to the reservoirs structural deficiencies, future park needs, and options for expanding the UGB. The November 26th meeting was a joint work session with the Lincoln County Planning Commission.
- C. Staff recommended a comprehensive plan text amendment to make Urbanization Policy 4.5 consistent with amendments to statewide planning Goal 14 that were adopted in 2006. The text amendment was adopted by the Newport City Council on February 19, 2013, (Ordinance No. 2049).
- D. The Newport Planning Commission directed staff to further evaluate an urban growth boundary amendment to include the water storage facilities and water treatment plant into the Newport UGB.
- E. Staff conducted a work session on January 14, 2013 to discuss options related to the form of the UGB expansion. Following that meeting, the Planning Commission directed staff to proceed with a boundary that includes an approximate 1,000 foot buffer around the water storage area consistent with

the Surface Water Assessment conducted by the Oregon Department of Environmental Quality (DEQ) and the Oregon Health Division (OHD). See Attachment F.

- F. The Newport Planning Commission held evidentiary hearing on February 25, 2013 and March 25, 2013.

5 GENERAL FINDINGS - BACKGROUND AND DISCUSSION:

5.1 NATURE OF THE PROPOSAL

As stated in Section I, recent engineering studies concluded that the City of Newport's water storage facilities have structural deficiencies and may fail in the event of an earthquake along the Yaquina Fault or the Cascadia Subduction Zone (see Attachments A [HDR Seismic Report] and B [HDR dam assessment presentation]). This information came to light after the City updated the *Water System Master Plan* in 2008.

The City owns about 510 acres of the watershed that encompass the water storage and treatment facilities (see Attachment E). The remainder of the watershed is in private ownership. All of the land affected by this proposal is zoned Timber-Commercial (T-C) and designated as forestland in the Lincoln County *Comprehensive Plan*.

Additional details regarding the application include:

- A. City-owned land that is included in a boundary amendment will be annexed following the UGB action. Lands in other ownerships would be annexed as they become available.
- B. All lands included in the proposal will be designated "public" and will only be available for public uses at the time of the expansion and in perpetuity. In short, the City does not desire to allow urban development (housing or employment) to occur in the expansion area now or at any time in the future.
- C. The City desires to meet all of the 75-acre deficit of regional parkland identified in the *Comprehensive Plan* and *Parks Master Plan* at the reservoir site (see Attachments C [Parks capital improvement program] and D [Excerpts from the Newport Park System Master Plan]).
- D. The City will develop the parkland with urban park amenities (such as flush toilets). Developing park facilities on resource land (e.g., land outside the UGB) will severely restrict the types of facilities the City can build and will potentially preclude connection to urban services such as drinking water and wastewater treatment through the City systems.

- E. It is a long-term goal of the City to acquire privately-held lands within any areas included in the boundary amendment.
- F. Information about the structural deficiencies of the dams came to light after the 2008 *Water System Master Plan* was completed. The water system projects will be identified in the *Water System Master Plan* as long-range projects within the next 20 years, as required in 660-011-0020 and 660-011-0025, during the next update of the Master Plan. The timing of the project is based on the condition of the facilities as well as long-term population growth, consistent with 660-011-0025(1).

5.2 RATIONALE FOR THE PROPOSAL

The City's rationale for this application is as follows:

1. The existing water storage and treatment facilities, as well as supporting infrastructure such as roads and the municipal watershed, constitute a public facility under Goal 11 and OAR 660-011-0005(7)(a). The City initiated development of the Newport water storage facilities on Big Creek in the 1950s. The lands used for the Newport water storage and treatment facilities, including the roads, have been committed to urban public facility uses since their development. As urban facilities, these lands should be included within the Newport UGB.
2. As described in the public facilities element of the *Newport Comprehensive Plan* and the *Newport Water System Master Plan*, the water storage and treatment facilities are critical facilities for both current and future residents and businesses of Newport.
3. An engineering assessment by HDR Engineering (see Attachments A and B) identified two potential seismic hazards that affect the water storage facilities: (1) the Yaquina Fault; and (2) the Cascadia Subduction Zone. The assessment identified structural deficiencies that may force the City to reconstruct one or both of the water storage reservoirs in the coming years to address the structural deficiencies. The reconstruction would include: new water intake facilities, distribution lines, pumping stations, and a radio transmission tower for the municipal water metering system. As stated in the conclusions section of the HDR final assessment (Attachment A):

As simplified analysis results indicated, however, the downstream slope of BC No. 2 is susceptible to significant damage and would likely experience a stability failure due to a seismic event originating on either the Yaquina fault or Cascadia Subduction Zone (CSZ). Either fault system can generate large earthquakes, but the CSZ is of greater concern because of the relatively long duration of strong shaking from subduction type earthquakes. The critical potential failure surface identified in these evaluations suggest that an overtopping breach of the dam would occur releasing the full contents of the reservoir.

4. Based on the HDR assessment, the water storage facilities, as currently developed, present a hazard to the community. A failure would not only eliminate the City's water supply, it would potentially harm life and property.
5. The City declares an emergency related to the water storage facilities and has initiated a process to systematically evaluate and address the structural deficiencies and other issues. The UGB proposal is part of that program.
6. The City adopted *Comprehensive Plan* policies that require the City to address the structural deficiencies by updating the *Water System Master Plan* and developing a financing strategy to pay for the improvements by 2030.
7. The City's *Water System Master Plan* identifies a long-term need for additional water storage due to population growth. The plan envisions an expanded Upper Reservoir that would top out at 115' above sea level at full pool. This would expand the capacity of Upper Big Creek Reservoir from approximately 970 acre-feet to 1,483 acre-feet, adding an additional 513 acre-feet of storage capacity. This will increase the City's water delivery capacity to over 1,102 million gallons per day – enough capacity to meet projected need until 2070.
8. While the City has not yet completed its analysis on the full scope of the steps necessary to address the structural deficiencies, at this juncture it is clear the City will need to take steps to address the structural deficiencies. The specific steps necessary will be determined upon completion of the seismic analysis and related studies. What is known at this juncture is that Big Creek Reservoir #1 (the lower reservoir) has sedimentation and water quality issues. Given the proposed expansion of Reservoir #2 (upper Big Creek Reservoir), the City anticipates that it will be necessary to remove the dam on Reservoir #1 and not rebuild the facility. Under this scenario, all of the future water storage needs would be met with the expansion of Reservoir #2. (see Attachment E)
9. The land for the water storage and treatment facilities, and the related infrastructure including roads, is already committed to uses inconsistent with the T-C zone. A goal exception under the "committed" provision of Goal 2 can be justified on this basis.
10. The proposal intends to increase certainty of development of the water storage facilities and the regional park for the City. Reconstruction of the water facilities represents a multi-million dollar investment for the City. Any delays in permitting or construction could significantly add to those costs. Including the land in the UGB and city limits assures the City control over the process and increases certainty.

11. The proposal will improve water treatment efficiency. The water intake and storage facilities are urban facilities; including the properties in the UGB will improve the efficiency of public works operations now and in the future.
12. The City desires to develop a 75-acre regional park and trail system adjacent to the reservoirs, as identified in both the Newport Comprehensive Land Use Plan as well as the adopted *Parks Master Plan*. Those improvements include restrooms that are connected to the City wastewater treatment system and potentially other uses that are not allowable in a forest zone. In short, the improvements envisioned by the *Parks Master Plan* are not possible if the lands are not within the UGB.

5.3 SUMMARY OF PROPOSED ACTION

This application includes an amendment to the City of Newport Urban Growth Boundary and city limits to include approximately 355 acres to include the City water treatment plant, the City water storage reservoirs, access road to the reservoir. The land needs are as follows:

Table 1. Summary of Land Needs

| Facility | Approximate Acreage |
|-----------------------------|---------------------|
| Water Storage and Treatment | 280 |
| Regional Park | 75 |
| Total | 355 |

Note: the watershed buffer is approximately 1000' around Upper Big Creek Reservoir

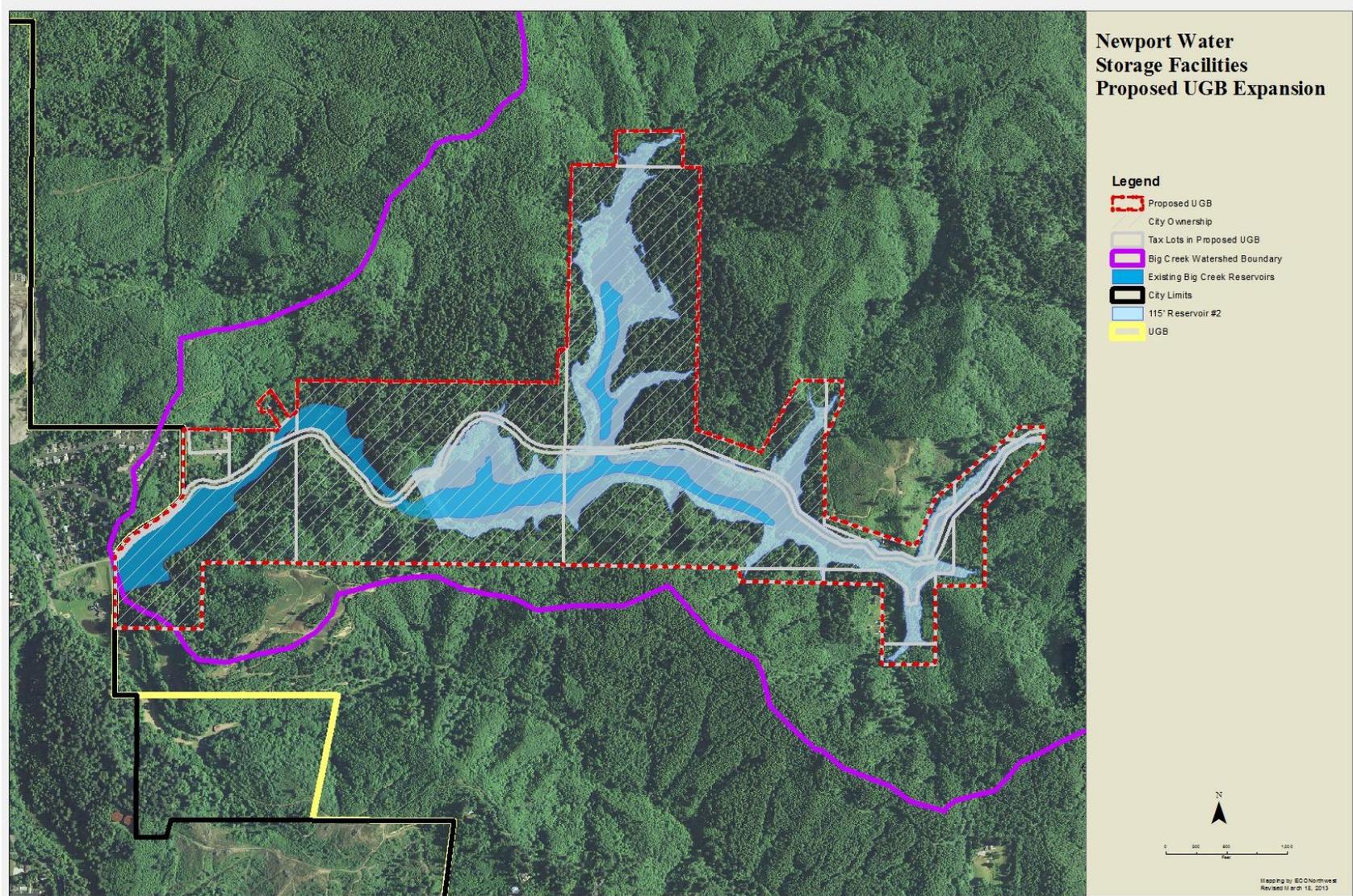
The City took care to draw the boundary in a manner that minimizes impacts to private properties, but allows for an accurate legal description of the boundary. The proposal includes approximately 310 acres of lands owned by the City of Newport and approximately 45 acres in private ownership. The application involves approximately 355 acres of property as shown in Map 1 and summarized in Table 2.

Table 2: Summary of properties proposed for inclusion in the Newport UGB

| Parcel ID | Owner | Property Classification | Property Class Description | Total Acres | Proposed UGB Acres |
|----------------------|--------------------------------|-------------------------|-------------------------------|---------------|--------------------|
| 10-11-33-00-00300-00 | ETHERINGTON ROBERT N & | 401 | Tract - Improved | 4.2 | 3.4 |
| 10-11-33-00-00302-00 | ETHERINGTON ROBERT CHRIS & | 401 | Tract - Improved | 2.0 | 2.0 |
| 10-11-00-00-01900-00 | NESTUCCA FORESTS LLC | 640 | Forest - No Improvement | 397.2 | 5.3 |
| 10-11-33-00-00200-00 | BRAXLING ARTHUR | 640 | Forest - No Improvement | 40.9 | 3.0 |
| 10-11-34-00-00200-00 | NESTUCCA FORESTS LLC | 640 | Forest - No Improvement | 75.3 | 2.0 |
| 10-11-34-00-00400-00 | MERIWETHER NW OR LND & TBR LLC | 640 | Forest - No Improvement | 98.9 | 13.9 |
| 10-11-34-00-00500-00 | NESTUCCA FORESTS LLC | 640 | Forest - No Improvement | 80.0 | 2.6 |
| 10-11-34-00-00600-00 | FERBER FAMILY TRUST & | 641 | Forest - Improved | 16.6 | 9.0 |
| 10-11-34-00-00300-00 | JOHNSTON MATHEW C & | 661 | Forest - Small Tract Improved | 29.1 | 4.4 |
| 10-11-33-00-00900-00 | CITY OF NEWPORT | 940 | Public - No Improvement | 157.3 | 104.5 |
| 10-11-34-00-00100-00 | CITY OF NEWPORT | 940 | Public - No Improvement | 311.8 | 162.4 |
| 10-11-33-00-00201-00 | CITY OF NEWPORT | 941 | Public - Improved | 1.2 | 1.2 |
| 10-11-33-00-00600-00 | CITY OF NEWPORT | 941 | Public - Improved | 62.9 | 40.9 |
| TOTAL | | | | 1277.4 | 354.5 |

Note: Not all of the area of all tax lots in Table 1 will be included in the proposed expansion. The last two columns of the table provide the total acres of each tax lot and the acreage proposed to be included in the UGB. All lands not owned by the City of Newport are privately held.

Map 1: Properties included in the UGB expansion application



6 FINDINGS:

This section presents findings addressing key elements of state land use policy pertaining to UGB expansions. Applicable state goals, statutes and administrative rules for the Urban Growth Boundary (UGB) amendment include:

- Goal 1: Citizen Involvement
- Goal 2: Land Use Planning
- Goal 14: Urbanization
 - ORS 197.298: Priority of land to be included within urban growth boundary
 - OAR 660-024: Urban Growth Boundaries

The findings are organized broadly around the Goal 14 Need and Locational requirements. Other relevant state policy is referenced within this framework. The remainder of this section presents findings for each goal and related statute or administrative rule.

6.1 GOAL 1: CITIZEN INVOLVEMENT

The intent of Goal 1 is to ensure that citizens have meaningful opportunities to participate in land use planning decisions. As stated in the Goal, the purpose is:

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Goal 1 has five stated objectives that are relevant to the UGB boundary amendment:

Citizen Involvement -- To provide for widespread citizen involvement.

Communication -- To assure effective two-way communication with citizens.

Citizen Influence -- To provide the opportunity for citizens to be involved in all phases of the planning process.

Technical Information -- To assure that technical information is available in an understandable form.

Feedback Mechanisms -- To assure that citizens will receive a response from policy-makers.

Finding: Satisfied. The City conducted several Planning Commission worksessions to discuss the proposed action. The worksessions resulted in refinements to the proposal. The City provided property owner notification prior to the first evidentiary hearing consistent with requirements of the Newport Development Code (Section

14.43). The City conducted a public hearing of the Newport Planning Commission on February 28, 2012 where public testimony was allowed.

6.2 GOAL 2: LAND USE

Goal 2 requires all incorporated cities to establish and maintain comprehensive land use plans and implementing ordinances. It also requires cities to coordinate with other affected government entities in legislative land use processes. The purpose of Goal 2 is:

To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Finding: Satisfied. Newport has an established land use process and policy framework. That process, as outlined in the Newport Comprehensive Plan and Development Code was followed throughout this action.

With respect to coordination, Lincoln County is the only other affected government entity. Since UGB boundary amendments require both city and county approve, the City consulted with County staff throughout this process. Moreover, evidentiary hearings must be held by the Lincoln County Planning Commission and Board of Commissioners.

6.3 GOAL 14: URBANIZATION

The Goal 14 findings are broken out by specific criteria. Goal 14 provides two 'Need Factors' and four 'Location Factors.' Goal 14 and the related statutes and rules establish a specific method and hierarchy for boundary review. The findings that follow are organized according to that hierarchy.

6.3.1 Goal 14 Need Criteria

Goal 14 notes that establishment and change of urban growth boundaries shall be based on the following:

Goal 14 Need Factor 1: Demonstrated need to accommodate long range urban population growth, consistent with a 20-year population forecast coordinated with affected local governments.

Goal 14 Need Factor 2: Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks or open space.

Finding: Satisfied. Sections 6.3.1.1 and 6.3.1.2 outline how the proposal complies with Goal 14 need factors 1 and 2.

6.3.1.1 Goal 14 Need Factor 1

In 2011, ECONorthwest assisted the City with a housing needs analysis. That study required a population forecast. Counties are required to coordinate population forecasts among the cities and unincorporated areas within the County (ORS 195.036). As of 2011, Lincoln County did not have a coordinated, adopted population forecast for the cities within the County. As a result, Newport developed a population forecast for the urban growth boundary (UGB).

OAR 660-024 provides “safe harbor” approaches for forecasting population in cities that do not have a coordinated, adopted population forecast. A city may adopt a 20-year population forecast based on the Oregon Office of Economic Analysis’s (OEA) population forecast for the County, assuming that the urban area’s share of the forecast population will remain constant over the planning period (OAR 660-024-0030(4)(b)).

Based on the revised PSU estimates, Newport’s 2010 population accounted for 21.7% of Lincoln County’s population. Table 3 shows a population forecast for Newport for the 2011 to 2031 period based on the assumption that Newport continues to account for 21.7% of Lincoln County’s population over the 20-year period. Table 3 also extrapolates the 2011 to 2031 forecast to the 2013 to 2033 time period. This provides a 20-year forecast to support the UGB proposal consistent with the requirements of OAR 660-024-0040(2).¹ The 2013 to 2033 forecast is for an increase of 1,486 persons for a 2033 UGB population of 11,909 persons.

¹ OAR 660-024-0040(2) states: “If the UGB analysis or amendment is conducted as part of a periodic review work program, the 20-year planning period must commence on the date initially scheduled for completion of the appropriate work task.” Because the proposed expansion is in excess of 50 acres, the City must follow the process “in the manner of periodic review” as required by OAR 660-024-0080.

Table 3. Population forecast, Newport, 2011 to 2031, extrapolated to 2013-2033

| Year | Lincoln County (OEA) | Newport |
|---------------------|----------------------|---------|
| 2011 | 47,306 | 10,285 |
| 2013 | 47,941 | 10,423 |
| 2031 | 54,051 | 11,751 |
| 2033 | 54,776 | 11,909 |
| Change 2013 to 2033 | | |
| Number | 6,835 | 1,486 |
| Percent | 14% | 14% |
| AAGR | 0.7% | 0.7% |

Source: ECONorthwest, based on the Office of Economic Analysis forecast for Lincoln County

Note: Population for 2011 and 2031 was extrapolated based on the growth rates used between 2010-2015 (for 2011) and 2030-2035 (for 2031).

Note: AAGR is average annual growth rate

The City adopted the population forecasts along with the housing needs analysis and related policies in 2011. The City makes the following findings about the population forecast:

1. The population forecast is a coordinated forecast. The City provided notification to Lincoln County and its incorporated municipalities in January 2013 regarding coordination of the figures. This notification is consistent with the consultation requirements of ORS 195.034(3)(a).
2. The City intends to complete work on the UGB proposal in 2013. As such, the required planning period is 2013-2033. The City extrapolated the coordinated population forecast for the 2013-2033 period to be consistent with OAR 660-024-0040(2)(a).
3. The City constructed the water storage, treatment and distribution to serve current and future Newport residents and businesses. The development of the facilities is based on existing population and expected population growth consistent with Goal 11 requirements.

6.3.1.2 Goal 14 Need Factor 2

Goal 14 Need Factor 2 addresses specific types of land need. For this proposal, the City intends to meet the demonstrated need for **public facilities, parks and open space**. The proposal to meet specific types of land need is allowable under OAR 660-024-0040(3):

"A local government may review and amend the UGB in consideration of one category of land need (for example, housing need) without a simultaneous review and amendment in consideration of other categories of land need (for example, employment need)."

6.3.1.2.1 Need for Water Storage and Treatment Facilities

The public facility need derive from the following factors:

- A. The existing water storage and treatment facilities, as well as supporting infrastructure such as roads and the municipal watershed, constitute a public facility under Goal 11 and OAR 660-011-0005(7)(a). The City initiated development of the Newport water storage facilities on Big Creek in the 1950s. The lands used for the Newport water storage and treatment facilities, including the roads have been committed to urban public facility uses since their development. As urban facilities, these lands should be included within the Newport UGB.
- B. The water storage facilities present a threat to life and property in the event of a Yaquina Fault or Cascadia subduction zone earthquake. Earthquakes are one type of natural hazard that is required to be inventoried by Statewide Planning Goal 7. The City's proposal to include the lands in the UGB and rebuild the reservoirs derives from requirements by Statewide Planning Goals 7 and 11.
- C. Statewide Planning Goal 11 and OAR 660-006-0020 through 0030 require municipalities to: (1) address public facilities in local comprehensive land use plans, and (2) adopt functional plans for public facilities. Chapter 5 of the *Newport Comprehensive Plan* addresses public facilities. Moreover, the Public Facilities Element specifically recognizes the structural deficiencies of the water storage facilities and includes policies and implementation measures to address them:

Policy 4: *The city will acquire lands within the Upper Big Creek municipal watershed when available or necessary to protect water quality or improve its water system.*

Policy 5: *The city will reconstruct its municipal raw water storage and distribution facilities to address identified structural deficiencies to Big Creek Dam #1 and Big Creek Dam #2.*

Implementation Measure 1: *The city shall conduct necessary and appropriate engineering studies to determine the safest and most cost-effective approach to ensure the integrity of the municipal water supply. The studies shall identify the cost and timing of needed capital projects to address identified structural deficiencies and comply with Policy 2 of this section.*

Implementation Measure 2: *The city shall explore financing mechanisms, and prepare a financing plan to fund construction needed to resolve the structural deficiencies by 2030.*

Implementation Measure 3: *The city shall use data and findings from Implementation Measures 1 and 2 of this section to update the Water Supply section of*

the Public Facilities element of the Newport Comprehensive Plan to reflect new information as a result of the engineering and finance studies.

The policies and implementation measures clearly articulate the City's approach to addressing the facilities. While the current *Water System Master Plan* does not include specific analysis of how the City will address the problems, Implementation Measure 3 describes how the City will use information from the ongoing seismic assessment to update the *Water System Master Plan*. Because the deficiencies came to light in 2012, the City has not had the opportunity to conduct the studies necessary to update the *Water System Master Plan*.

- D. Planning to address the structural deficiencies is part of the City's effort to address Goal 7 (Natural Hazards) requirements. Section A.1 of Goal 7 states:

Local governments shall adopt comprehensive plans (inventories, policies and implementing measures) to reduce risk to people and property from natural hazards.

The City adopted specific policies and implementation measures into the *Newport Comprehensive Plan* that recognize the risks associated with the facilities and outline specific studies and steps the City will take to mitigate the risks. Those policies require the City to conduct appropriate studies related to reconstruction of the facilities, to update the *Water System Master Plan* based on the findings, and to identify funding sources to pay for the improvements (see policies under item C above).

- E. The land for the water storage and treatment facilities, as well as the supporting infrastructure such as roads, is already committed to uses inconsistent with the County T-C zone. A goal exception under the "committed" provision of Statewide Planning Goal 2 can be justified on this basis.
- F. Given the level of public investment involved (probably in the millions of dollars or \$10's of millions), the City desires control over the construction process. Any permitting delays could be extremely costly to the City.
- G. City finds that the current pathway to developing the facilities presents barriers that create unacceptable uncertainties that could quickly become insurmountable. It is worth reiterating that rebuilding the water storage facilities to current seismic standards will likely require hundreds of thousands of dollars of engineering and millions of dollars of construction expense. An alternative path suggested by the state Department of Land Conservation and Development (DLCD) would require the City to maintain its water facilities under Lincoln County's jurisdiction. This would require the City to apply for a conditional use permit through Lincoln County. Not only is this an inefficient

way to provide public facilities, but we include specific sections of the county code below and then provide comments on how those provisions create uncertainties that could become insurmountable.

The specific process for Conditional Uses is found in sections 1.1601 through 1.1630 of the Lincoln County Code. The excerpts below are from Sections 1.1605.

(2) In approving a conditional use request or the modification of a conditional use, the Planning Division or Planning Commission may impose, in addition to those standards and requirements expressly specified by this Section, additional conditions which are considered necessary to protect the best interests of the surrounding area or the County as a whole. These conditions may include, but are not limited to the following:

(a) Increasing the required lot size or yard dimensions.

(b) Limiting the height of buildings.

(c) Controlling the location and number of vehicle access points.

(d) Increasing the street width.

(e) Increasing the number of required off-street parking spaces.

(f) Limiting the number, size, location, and lighting of signs.

(g) Requiring fencing, screening, landscaping, diking, or other facilities to protect adjacent or nearby property.

(h) Designating sites for open space.

(i) Setting a time limit for which the conditional use is approved.

(j) Site reclamation upon discontinuance of use.

(3) In the case of a use existing prior to February 12, 1974, and classified in this chapter as a conditional use or a non-conforming use, change in use or in lot area or an alteration of structure shall conform with the requirements for conditional use.

(4) The Planning Commission may require or authorize the Planning Division to require that the applicant for a conditional use furnish the County with a performance bond of up to the value of the cost of the improvements to be guaranteed by such bond, in order to ensure that the conditional use is completed according to the plans as approved by the Planning Commission or the Planning Department.

(5) Any permit granted hereunder shall be subject to revocation by the Planning Commission if it is ascertained thereby that the application includes or included any false information, or if it is determined that the conditions of approval have not been complied with or are not being maintained, or the conditional use becomes detrimental to public health, safety, or welfare.

Of particular concern to the City are the conditions that the County could impose on the engineering and construction of the facilities, on the length of use, the potential to require a performance bond, and the ability to revoke the permit. Moreover, standards of approval are outlined in section 1.1630 and 1.1375 of the Lincoln County. These standards are highly discretionary and, aside from imposing county control over the City's facility work, the standards provide the opportunity for appeal to LUBA and beyond.

Sections 1.1375(3) of the Lincoln County Development Codes states:

(3) *Limitations on Conditional Uses:*

The Planning Director or Commission shall determine whether a use other than a dwelling authorized by subsection (2) of this section meets the following requirements. These requirements are designed to make the use compatible with forest operations and agriculture, and to conserve values found on forest lands:

(a) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands;

(b) The proposed use will not significantly increase fire hazard, significantly increase fire suppression costs, or significantly increase risks to fire suppression personnel; and

(c) A written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner which recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and paragraphs (e), (l), (r), (s) and (v) of subsection (2) of this section.

The first two standards are highly discretionary, which introduces uncertainty into the process in terms of potential impacts to the design, engineering and construction of the facilities. Further the risk of appeal makes it difficult to hold to a schedule, which for a project of this scale could result in substantial cost overruns that a jurisdiction of our size could not weather. Change and delay in the construction plans for needed public facilities can be catastrophic. Goal 14 does not support an arrangement that keeps needed urban facilities outside of City jurisdiction.

In summary, the City's finds that the potential for restrictive conditions and the uncertainties created through the public process of a conditional use permit are unacceptable and potentially insurmountable in terms of the efficient provision of public facilities to Newport's citizens, as mandated by Goals 11 and 14.

6.3.1.2.2 Need for Regional Park

The Parks and Recreation Element of the *Newport Comprehensive Plan* includes a capital improvement program (CIP) for recreational facilities. Table 1 on page 194 specifically identifies the need for a regional park and improvements at the Big Creek Reservoir site. Priority #4 is for the Big Creek Reservoir Trail development and priority #7 is for Big Creek Park upgrade and expansion.² The CIP includes cost estimates and identifies potential funding sources (see Attachment D).

The park need is also justified by the 1993 Newport Park System Master Plan. The Plan identifies the City-owned reservoir site (535 acres) as “other city lands” on page III-5. The Plan establishes a level-of-service standard for regional parks of 6.0 acres per 1,000 persons and identifies a need for 75 acres. The Plan also identifies the reservoir site as a potential site to meet the need (under the comments section on page V-8; see attachment D):

The recommended standard of 6.0 acres per 1,000 population means that by the near 2010, there will be a need for approximately 75 acres of land. This additional need could be satisfied by developing a portion of the land around the reservoir into a regional park.

Moreover, a conceptual plan for the regional park is included on page VII-12 of the Port System Master Plan (see attachment D). The City proposes to include restrooms that are connected to the municipal wastewater treatment system and potentially other uses that are not allowed in forest zones.

6.3.2 Goal 14 Boundary Location Analysis

Several statewide policies relate to the boundary location analysis. These include ORS 197.298 which establishes a priority scheme for lands included in UGBs, OAR 660-024-0060 which defines the requirement elements of a boundary “alternatives analysis,” and the four Goal 14 locational factors. Additionally, the Goal 2 requirements for justifying exceptions to forest uses come into play, as well as the provisions of OAR 660-006 that relate to forest zone exceptions.

This section addresses the requirements of ORS 197.298, OAR 660-024-0050 and OAR 660-024-0060. Specifically, the boundary alternatives analysis and supporting findings must:

1. Demonstrate that the land needs cannot be met within the existing Newport UGB;
2. Demonstrate that the needs cannot be met on exceptions lands; and

² The Newport Parks System Master Plan indicates the current Big Creek Park facility has an area of approximately 2.5 acres.

3. Demonstrate that the needs cannot be met on sites on forest land that has a lower productivity classification than the existing reservoir site.

Once the City makes those determinations, it will need to conduct a more detailed analysis of the four Goal 14 boundary location factors.

The remainder of this section is organized as follows:

B.1 – Site Suitability Requirements

B.2 – Boundary Location Analysis/ Alternatives Analysis

Finding: Satisfied. Sections 6.3.2.1 and 6.3.3 address site suitability requirements and the alternatives analysis as required by ORS 197.298 and OAR 660-024-0050 and OAR 660-024-0060.

6.3.2.1 Site Suitability Requirements

The identified land needs have specific siting characteristics. In other words, the proposed water storage and treatment facilities and regional park cannot be met on every land type – the facilities have specific land suitability characteristics. As explained in OAR 660-024-0060(5) related to need determination:

“If a local government has specified characteristics such as parcel size, topography, or proximity that are necessary for land to be suitable for an identified need, the local government may limit its consideration to land that has the specified characteristics when it conducts the boundary location alternatives analysis and applies ORS 197.298.”

Moreover, the ORS 197.298(3)(a) recognizes that certain land uses may have specific site needs:

(3) Land of lower priority under subsection (1) of this section may be included in an urban growth boundary if land of higher priority is found to be inadequate to accommodate the amount of land estimated in subsection (1) of this section for one or more of the following reasons:

(a) Specific types of identified land needs cannot be reasonably accommodated on higher priority lands;

The following sections describe the site requirements for the proposed water storage and treatment facilities and the regional park.

6.3.2.1.1 Site Requirements for Water Storage and Treatment Facilities

If the local government identifies specific characteristics that are necessary to meet the identified need, OAR 660-024-0060(1)(e) requires the government to consider these suitability characteristics when evaluating and determining the alternative boundary location.

(1) When considering a UGB amendment, a local government must determine which land to add by evaluating alternative boundary locations. This determination must be consistent with the priority of land specified in ORS 197.298 and the boundary location factors of Goal 14, as follows:

(e) For purposes of this rule, the determination of suitable land to accommodate land needs must include consideration of any suitability characteristics specified under section (5) of this rule, as well as other provisions of law applicable in determining whether land is buildable or suitable.

The current sources of Newport's municipal water system are Blattner Creek, Big Cree, and the Siletz River. During the winter, water from these sources flows into and is stored in the Big Creek Reservoir #1 and #2. Newport's peak water usage occurs in the summer months, when the City draws water from the Siletz River and from Big Creek.³

This proposal involves identifying areas appropriate for City water storage facilities, including a buffer to maintain water quality. The characteristics of suitable land for water storage facilities are:

1. **Water treatment capacity.** The site must be located within a watershed with enough capacity to supply Newport with drinking water. The 2008 *Water System Master Plan* summarized water demand as follows:

Total annual demand has ranged from 776 to 795 million gallons with an average (AAD) of 785 million gallons. Peaks occur in the summer (June, July, August) as is typical for most communities. Maximum month flows ranged from 100 to 117 million gallons per month, always in July, resulting in a MMD range of 3.2 to 3.9 mgd. The average daily demand (ADD) for the period is 2.15 mgd.

Based on the forecast for population growth in Newport, peak demand for water is expected to increase, as summarized below.⁴

With the projected increase in system EDUs from the current 11,270 to a total of 15,970 EDU in the year 2030 the maximum day water demand is projected to increase to 5.8 MGD from the current 4.1 MGD. This becomes the primary planning demand for this Master Plan (20 year MDD).

In summary, Newport requires a watershed with the ability to provide the quantity of water identified in the *Water System Master Plan*.

2. **Water quality.** The site should be located within a watershed with relatively high quality water, so that water requires less treatment. Newport's raw water requires treatment for pH, disinfection (adding chlorine), iron and manganese,

³ City of Newport Water System Master Plan (2008)

⁴ City of Newport Water System Master Plan (2008)

and taste and odor (especially in the summer). The site should be located in a watershed with similar or higher water quality than the City's current facilities have.

3. **Water storage capacity.** The site should have enough water storage capacity to at least meet Newport's peak summer water demand. Current demand in summer is approximately 6.0 cubic feet per second (cfs). Based on the forecast for population growth in Newport, peak demand for water is expected to increase from 4.1 mgd to 5.8 mgd by 2030.⁵
4. **Size and configuration.** The site should be large enough to accommodate one or more reservoirs capable of holding 1,000 + acre-feet of water. Depending on topography, a 1,000 acre-foot reservoir would have a surface area of 100 to 150 acres. The configuration and topology of the site should be appropriate for storing water to maintain high quality of water. Water stored in a shallow reservoir may have lower water quality because of increased turbidity, higher water temperatures, and growth of weeds and other plants.
5. **Buffer.** The site should include a buffer of approximately 1,000 feet around the City's storage reservoir to preserve water quality. The analysis in Section A.2.2 summarizes the justification for a watershed buffer.
6. **Proximity and access to facilities.** The site should be located in a place reasonably close to and existing City water system facilities, specifically existing storage for raw water and the water treatment plant. The site should have access to the City water system facilities, if possible through the existing pipe network.

The City has made a considerable public investment in the existing water storage and treatment facilities. If the City moves raw water storage and treatment from the existing site, the City will need to entirely replace these facilities. The cost of replacing the City's two reservoirs, intake from the Siletz River, water treatment plant, and other water facilities would cost millions or tens of millions of dollars.

7. **City ownership.** The proposed uses are public in nature and cannot be accommodated on privately held lands. The City would be required to condemn lands that are directly affected by development of public facilities.

Preliminary Suitability Analysis: According to the Newport Water Supply Master Plan, the City of Newport holds seven water use permits allowing for a total of 19.24 cfs

⁵ *City of Newport Water System Master Plan (2008)*

from various streams (Table 2). Map 2 illustrates the location of the various water rights held by Newport and the approximate location of their points of diversion.

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Table 2. Newport Water Rights Summary

| | | | | Priority | POD Rate |
|--------------------|--------------------|---------------|--------------------|-----------------|--------------------|
| Source Name | Application | Permit | Certificate | Date | (cfs) |
| Blattner Creek | S72 | S20 | 1012 | 5/10/1909 | 0.54 |
| Nye Creek | S8970 | S5882 | 8603 | 5/14/1923 | 1.5 |
| Nye Creek | S9224 | S6197 | 9113 | 10/15/1923 | 0.7 |
| Hurbert Creek | S9221 | S6194 | 9112 | 10/15/1923 | 0.1 |
| Big Creek | S11156 | S7722 | 9127 | 10/27/1926 | 10.0 |
| Siletz River | S39121 | S29213 | ~ | 9/24/1963 | 6.0 |
| Jeffries Creek | S44381 | S33151 | 57650 | 1/9/1968 | 0.4 |
| | | | | | 19.24 |
| | | | | Priority | Storage |
| Storage | Application | Permit | Certificate | Date | (acre-feet) |
| Big Creek Res. #1 | S26388 | S20703 | 21357 | 8/31/1951 | 200 |
| Big Creek Res. #2 | S43413 | S33127 | 48628 | 3/24/1967 | 310 |
| Big Creek Res. #2 | S43413 | S33127 | 48628 | 6/5/1968 | 35 |
| Big Creek Res. #2 | S52204 | S38220 | ~ | 7/19/1974 | 625 |

Source: Table 5.1.1 Newport Water System Master Plan, Page 5-1.

The Newport Water System Master Plan summarizes the status of City water rights as follows (Page 5-1):

Currently, the City can only utilize the Blattner Creek, Siletz River, and Big Creek water rights. The Nye Creek and Hurbert Creek rights from 1923 are no longer in use and cannot be practically implemented due to their distance from the treatment plant and nature of development. In the past the City has set up pumping and diversion equipment to divert part or all of their Jeffries Creek water right but has not done so for several years.

Storage rights are held for two reservoirs on Big Creek upstream from the water treatment plant. The Blattner Creek water right flows into Big Creek Reservoir #2 (upper reservoir) by gravity. The Siletz right is diverted and pumped into the Big Creek Reservoir #2 through over 5 miles of piping. Water from the upper Reservoir #2 flows into the lower Reservoir #1 where the Big Creek Pump Station is located to pump all available water rights to the treatment plant.

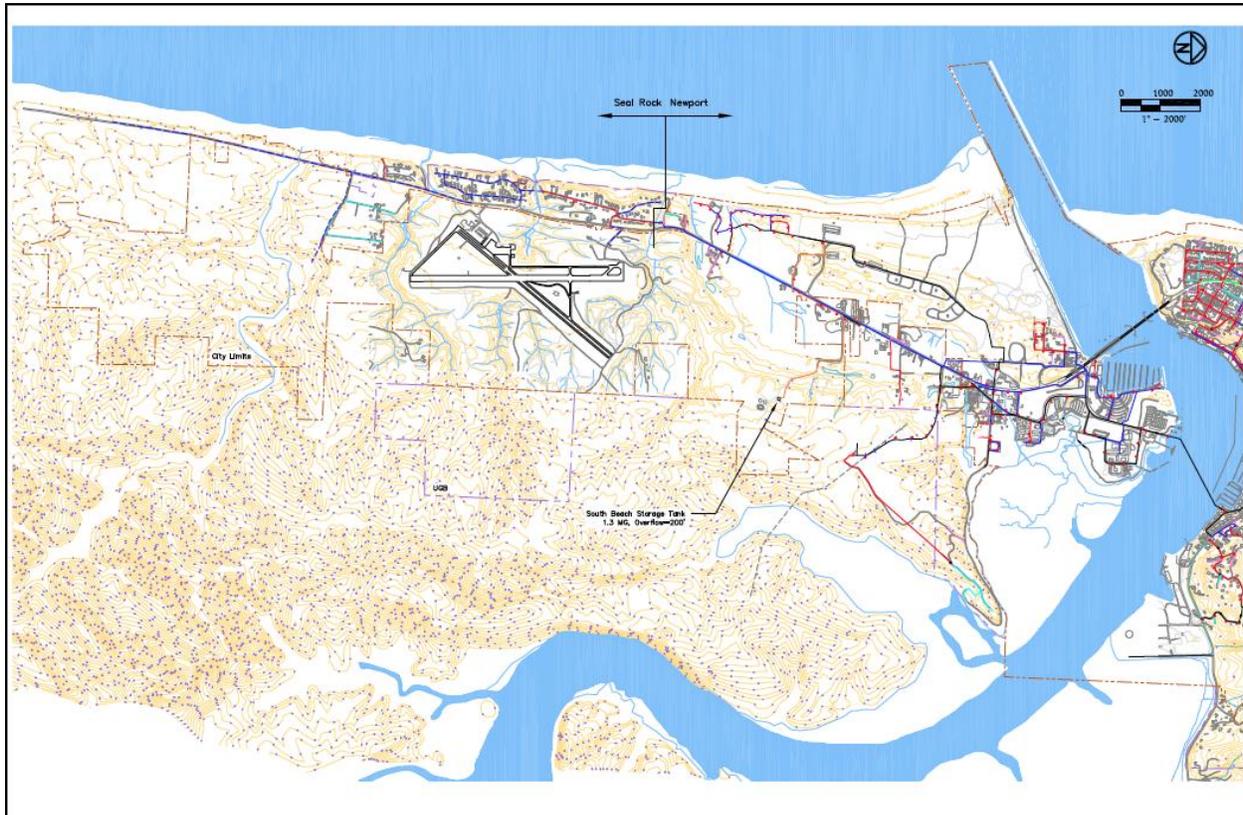
During the heart of the summer months, the only water right that is currently capable of providing the City with a supply of raw water is the 6.0 cfs right on the Siletz River due to inadequate flows in Big Creek and Blattner Creek. System demand in excess of 6.0 cfs is met at these times through the use of water in the Reservoir's which was stored during previous wetter months.

Map 2 shows that all of the City water rights are in drainages north of the Yaquina River. The City has made significant investment in the acquisition of water rights as well as the water storage, treatment and delivery systems. Map 3 shows existing water

distribution infrastructure south of Yaquina Bay. The City has limited infrastructure available, and has yet to provide service to areas south of the Newport Airport, including the Wolf Tree Destination Resort area.

As a result, the City finds all areas south of Yaquina Bay unsuitable for the purpose of constructing water storage facilities with the capacity of approximately 1,000 acre-feet.

Map 3. Water Distribution Infrastructure South of Yaquina Bay



Source: City of Newport Water System Master Plan

The remainder of this analysis will focus on areas north of Yaquina Bay. Map 4 shows the watersheds that will be further evaluated in the alternatives analysis (streams highlighted in light blue). These include (from north to south):

- Johnson Creek
- Spencer Creek
- Wade Creek
- Coal Creek
- Moolack Creek
- Schooner Creek
- Little Creek

- Big Creek (including tributaries – Blattner Creek, Anderson Creek, and Jefferies Creek)
- Nye Creek

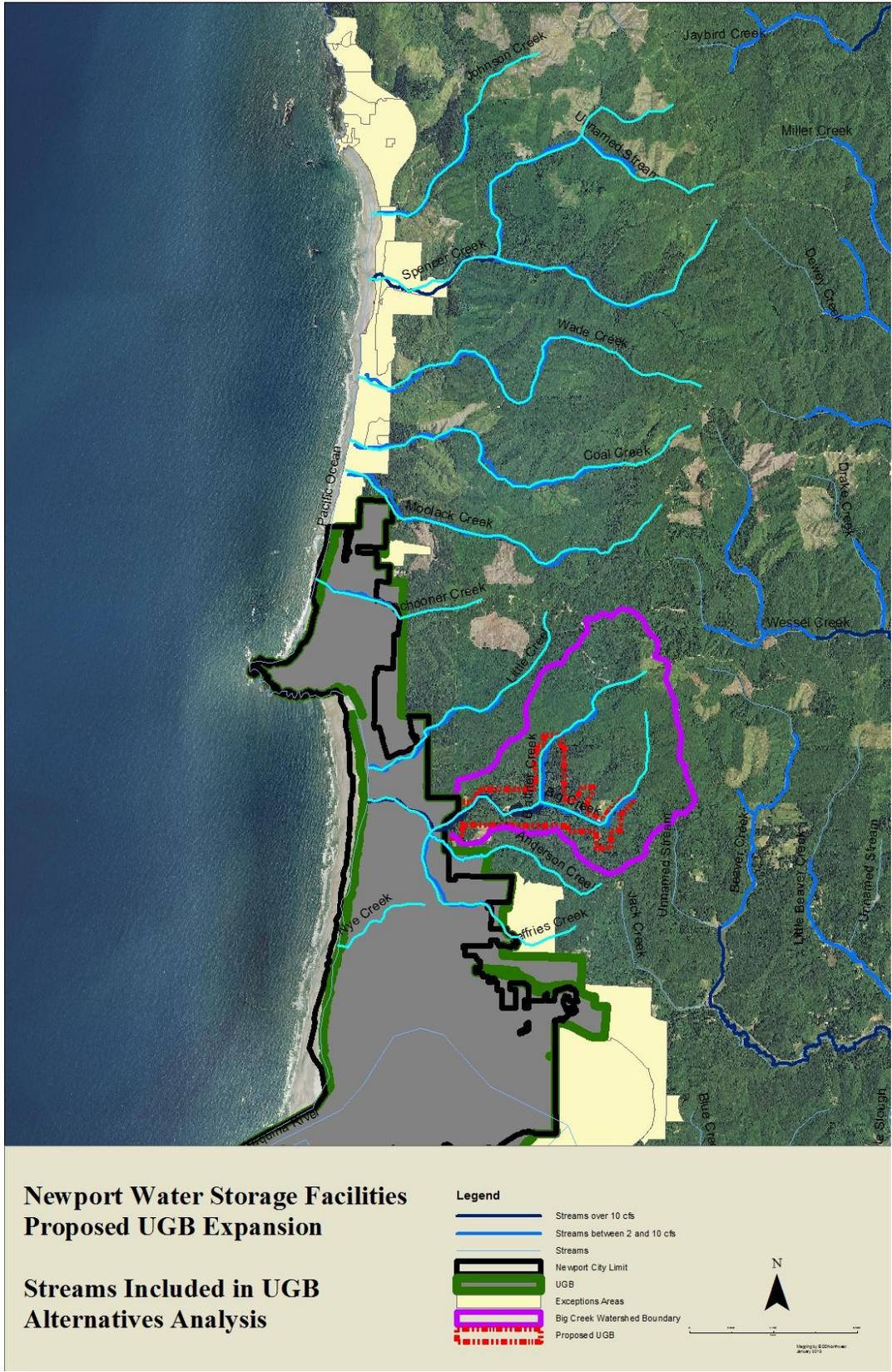
6.3.2.1.2 Site characteristics of land for parks

Newport's adopted *Park System Master Plan* documents the need for regional parks to serve residents of the City and beyond. The *Park System Master Plan* concludes that the appropriate level of service standard for Newport for regional parks is 6.0 acres per 1,000 people and that Newport has a deficit of approximately 75 acres of land for a regional park.

The characteristics of suitable land for a regional park are:

1. **Size.** The park should be approximately 75 acres in size.
2. **Location.** The park should be located adjacent to or within the City's UGB and city limits. The City's adopted *Park System Master Plan* proposed locating the regional park at Big Creek Reservoir in several small activity nodes along the Reservoir. The City's adopted *Capital Improvement Plan for Park, Open Space, and Trail Development* identified two priority projects at Big Creek Reservoir: (1) trail development and (2) park upgrade and expansion.
3. **Water and wastewater access.** The City will only be able to provide water and wastewater services to portions of the park located within the UGB, without a Goal 11 exception. If the regional park is located at Big Creek Reservoir, the park will need access to Newport's water and wastewater services, to avoid disrupting or polluting the Big Creek Reservoirs.
4. **Transportation access.** The park should be accessible via an improved road, suitable for use by passenger cars and city parks maintenance vehicles.
5. **Recreational facilities.** The park should be able to accommodate a range of activities and have sufficient facilities to facilitate these activities. Possible facilities for a regional park could include: paved and unpaved trails, fishing dock and piers, group picnic areas and shelters, parking areas, restroom facilities, and open grass play areas.
6. **City ownership.** The proposed uses are public in nature and cannot be accommodated on privately held lands. The City would be required to condemn lands that are directly affected by development of public facilities.

Map 4. Watersheds North of Yaquina Bay Considered as part of the Alternatives Analysis



Preliminary Park Site Suitability Evaluation: The City finds areas south of Yaquina Bay unsuitable for a regional park based on criteria 2, 3, 5, and six as follows:

| Siting Criteria | Evaluation |
|--|---|
| 1. Size. The park should be approximately 75 acres in size. | Sites of 75 acres exist south of Yaquina Bay. |
| 2. Location. The park should be located adjacent to or within the City's UGB and city limits. The City's adopted <i>Park System Master Plan</i> proposed locating the regional park at Big Creek Reservoir in several small activity nodes along the Reservoir. | Based on the adopted parks system master plan and the comprehensive plan, the City has determined that areas near Big Creek Reservoir are best suited for the facilities. Other locations are possible, but less desirable. |
| 3. Water and wastewater access. The City will only be able to provide water and wastewater services to portions of the park located within the UGB, without a Goal 11 exception. If the regional park is located at Big Creek Reservoir, the park will need access to Newport's water and wastewater services, to avoid disrupting or polluting the Big Creek Reservoirs. | Larger areas south of Yaquina Bay are designated for industrial, airport or destination resort uses. The parks master plan does not identify a need for a regional park in these areas. Moreover, areas south of the Airport do not have water or wastewater service. |
| 4. Transportation access. The park should be accessible via an improved road, suitable for use by passenger cars and city parks maintenance vehicles. | Transportation access could be provided to sites south of Yaquina Bay. |
| 5. Recreational facilities. The park should be able to accommodate a range of activities and have sufficient facilities to facilitate these activities. Possible facilities for a regional park could include: paved and unpaved trails, fishing dock and piers, group picnic areas and shelters, parking areas, restroom facilities, and open grass play areas. | The master plan identifies facilities that are conducive to freshwater based recreation. No significant fresh water bodies (e.g. lakes or reservoirs) exist south of Yaquina Bay. |
| 6. City ownership. The proposed uses are public in nature and cannot be accommodated on privately held lands. The City would be required to condemn lands that are directly affected by development of public facilities. | The only area of 75 acres or larger in City ownership is the Newport Airport. Recreational facilities are incompatible with this use. |

6.3.3 Boundary Location Analysis/Alternatives Analysis

ORS 197.298 establishes the following priorities for inclusion of land within an expanded UGB:

(1) In addition to any requirements established by rule addressing urbanization, land may not be included within an urban growth boundary except under the following priorities:

(a) First priority is land that is designated urban reserve land under ORS 195.145, rule or metropolitan service district action plan.

(b) If land under paragraph (a) of this subsection is inadequate to accommodate the amount of land needed, second priority is land adjacent to an urban growth boundary that is identified in an acknowledged comprehensive plan as an exception area or nonresource land. Second priority may include resource land that is completely surrounded by exception areas unless such resource land is high-value farmland as described in ORS 215.710.

(c) If land under paragraphs (a) and (b) of this subsection is inadequate to accommodate the amount of land needed, third priority is land designated as marginal land pursuant to ORS 197.247 (1991 Edition).

(d) If land under paragraphs (a) to (c) of this subsection is inadequate to accommodate the amount of land needed, fourth priority is land designated in an acknowledged comprehensive plan for agriculture or forestry, or both.

(2) Higher priority shall be given to land of lower capability as measured by the capability classification system or by cubic foot site class, whichever is appropriate for the current use.

(3) Land of lower priority under subsection (1) of this section may be included in an urban growth boundary if land of higher priority is found to be inadequate to accommodate the amount of land estimated in subsection (1) of this section for one or more of the following reasons:

(a) Specific types of identified land needs cannot be reasonably accommodated on higher priority lands;

(b) Future urban services could not reasonably be provided to the higher priority lands due to topographical or other physical constraints; or

(c) Maximum efficiency of land uses within a proposed urban growth boundary requires inclusion of lower priority lands in order to include or to provide services to higher priority lands.

Note that Newport has not established urban reserve areas and therefore has no priority 1 land to review. Lincoln County is not a marginal land county, therefore no priority 3 lands exist.

6.3.3.1 Evaluation of Lands within the UGB

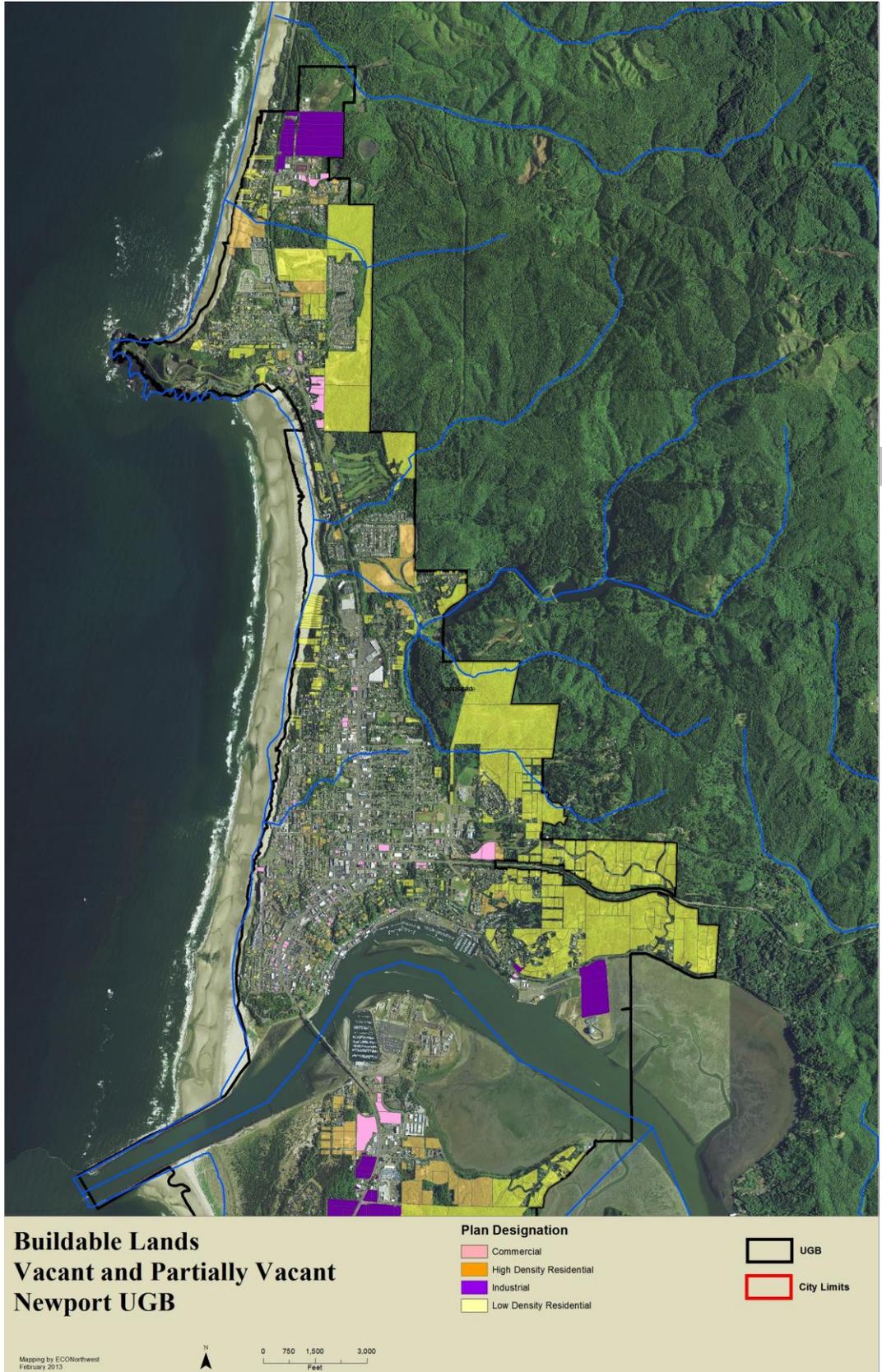
The City conducted buildable lands inventories of the entire UGB as part of the 2011 Housing Needs study and the 2012 Economic Opportunities Assessment. A cursory review of the inventory suggests that no areas are suitable for the proposed uses based on the site suitability criteria.

Map 2 shows buildable lands within the Newport UGB. The data are derived from the 2011 Newport Housing Study (residential land) and the 2012 Newport Economic Opportunities Analysis (employment land). As shown on map 2, the only area within the Newport UGB that includes a watershed of sufficient size to meet Newport's domestic water supply needs is the southernmost area of the UGB known as the Wolf Tree destination resort site.

6.3.3.1.1 Water Storage and Treatment Facilities

Section 6.2.3.1.1 describes the site suitability characteristics for the water storage facilities. Section 6.2.3.1.1 also presents findings that conclude areas south of Yaquina Bay are unsuitable for the water storage facilities. Thus, land within the northern portions of the UGB are further evaluated against the suitability criteria. Map 5 shows the location of buildable land within the Newport UGB. It also shows the location of streams that are adjacent to, or run through the city.

Map 5. Buildable Lands Within the Newport UGB



The City finds vacant and partially vacant lands within the Newport UGB are not suitable for the water storage facilities based on the site requirements outlined in section 6.3.2.1.1. The City makes the following findings with respect to suitability.

| Criteria | Evaluation |
|---------------------------------------|---|
| 1. Water treatment capacity | No watersheds or waterways within the UGB meet the capacity requirements. None are large enough to meet the city's water treatment capacity. Moreover, the City does not have water rights that provide the required capacity outside of Big Creek. The City requires 6 cfs to meet current demand. |
| 2. Water quality | Other waterways within the UGB could meet the water quality standard. The City would need to conduct water quality evaluations to make this determination. |
| 3. Water storage capacity | Map 2 shows that Jefferies Creek is the only other waterway that has vacant land (0.4 cfs). |
| 4. Size and configuration | No other areas could accommodate a 100- to 150-acre surface area for a reservoir. |
| 5. Buffer | No watersheds within the UGB could provide the 1,000 foot buffer recommended by DEQ and OHD. |
| 6. Proximity and access to facilities | No other watersheds have access to the existing water storage and treatment infrastructure. |
| 7. City ownership | No other watersheds have the level of City ownership necessary to construct the facilities. Acquiring lands would require complex real estate negotiations, or condemnation. |

Moreover, the City finds that the following watersheds do not meet the siting criteria for water storage and treatment facilities:

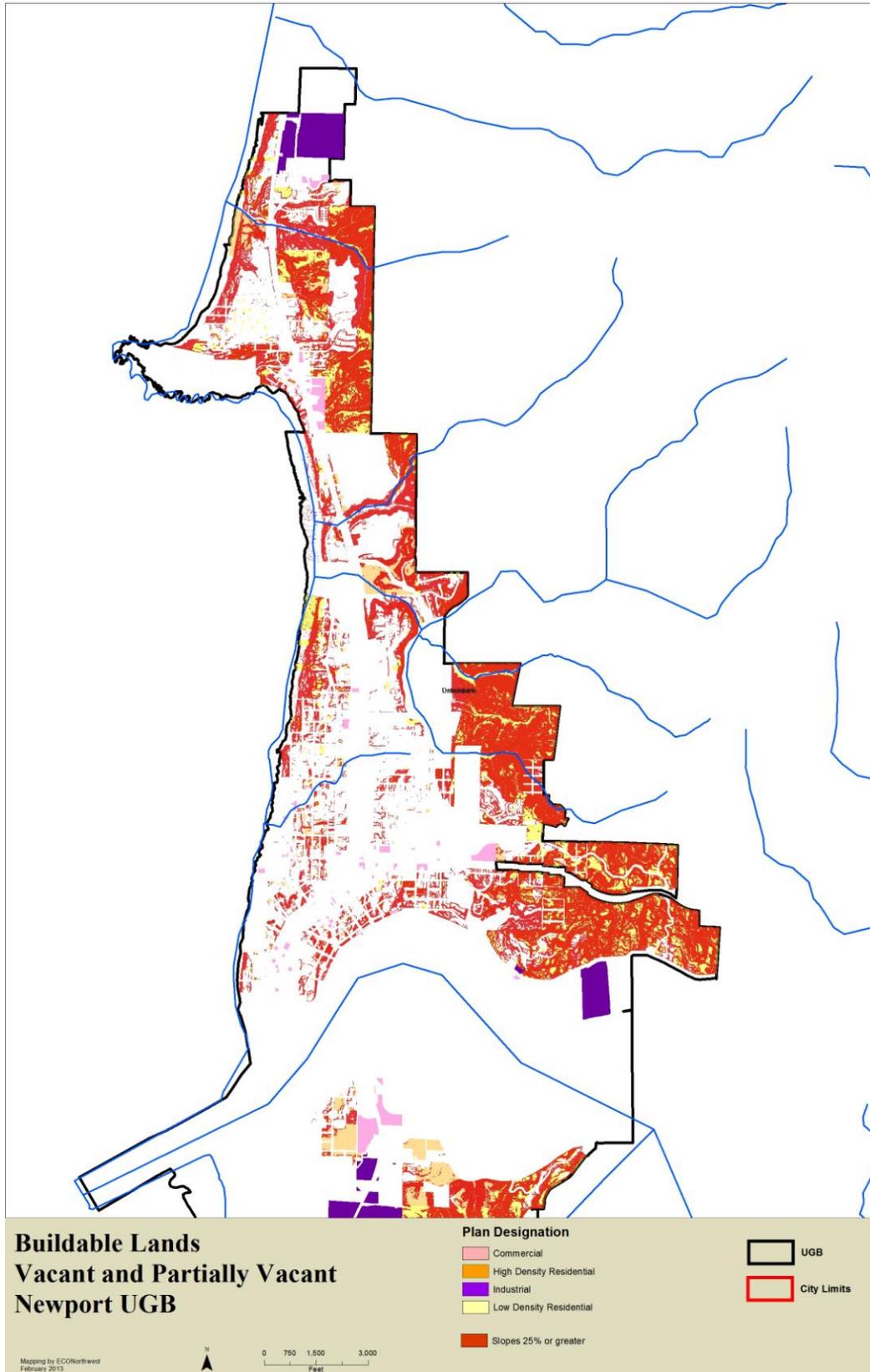
- Nye Creek – does not have the discharge capacity or enough buildable area for the facilities.
- Schooner Creek - does not have the discharge capacity or enough buildable area for the facilities.
- Jefferies Creek - does not have the discharge capacity or enough buildable area for the facilities.
- Little Creek - does not have the discharge capacity or enough buildable area for the facilities.

6.3.3.1.2 Regional Park Facilities

Preliminary Park Site Suitability Evaluation: The City finds vacant areas within the UGB unsuitable for a regional park based on criteria 2, 5, and 6 as follows:

| Siting Criteria | Evaluation |
|--|---|
| 1. Size. The park should be approximately 75 acres in size. | Sites of 75 acres exist north of Yaquina Bay within the UGB. |
| 2. Location. The park should be located adjacent to or within the City's UGB and city limits. The City's adopted <i>Park System Master Plan</i> proposed locating the regional park at Big Creek Reservoir in several small activity nodes along the Reservoir. | Based on the adopted parks system master plan and the comprehensive plan, the City has determined that areas near Big Creek Reservoir are best suited for the facilities. Other locations are possible, but less desirable. Map 6 shows that virtually all of the undeveloped land within the UGB is slope constrained (significant areas with slopes of 25% or greater). |
| 3. Water and wastewater access. The City will only be able to provide water and wastewater services to portions of the park located within the UGB, without a Goal 11 exception. If the regional park is located at Big Creek Reservoir, the park will need access to Newport's water and wastewater services, to avoid disrupting or polluting the Big Creek Reservoirs. | Vacant areas can be serviced with water and wastewater, however, slope constraints will add considerable cost. |
| 4. Transportation access. The park should be accessible via an improved road, suitable for use by passenger cars and city parks maintenance vehicles. | Transportation access could be provided to sites north of Yaquina Bay. |
| 5. Recreational facilities. The park should be able to accommodate a range of activities and have sufficient facilities to facilitate these activities. Possible facilities for a regional park could include: paved and unpaved trails, fishing dock and piers, group picnic areas and shelters, parking areas, restroom facilities, and open grass play areas. | The master plan identifies facilities that are conducive to freshwater based recreation. No significant fresh water bodies (e.g. lakes or reservoirs) exist on vacant sites in the UGB north of Yaquina Bay. |
| 6. City ownership. The proposed uses are public in nature and cannot be accommodated on privately held lands. The City would be required to condemn lands that are directly affected by development of public facilities. | No city-owned sites of 75 acres or larger exist within the UGB north of Yaquina Bay. |

Map 6. Buildable Lands North of Yaquina Bay with Slopes 25% or Greater



6.3.3.2 Evaluation of Exceptions Areas

The City has no priority 1 lands (Urban Reserves). Thus, the next priority is exceptions areas. Map 4 shows the location of exceptions areas near the Newport UGB north of Yaquina Bay. Map 3 shows that exceptions areas are generally clustered adjacent to the Newport UGB or along the coast north of the UGB.

6.3.3.2.1 Water Storage and Treatment Facilities

The City finds exceptions areas are unsuitable for the water storage facilities for the following reasons:

- A. No areas of exceptions lands are large enough to accommodate the proposed uses.
- B. Exceptions areas typically have pre-existing development (hence the rationale for them being granted an “exception” from resource land goals). The siting requirements and City objectives related to the public facilities make exceptions areas inappropriate. The City does not desire additional development in the watershed and lands with pre-existing development would require the City to condemn them for public uses.
- C. The City finds the following watersheds not suitable for the water storage and treatment facilities due to inadequate discharge (according to data provided the Oregon Department of Forestry, none of these watersheds has a discharge of greater than 10 cfs):
 - a. Johnson Creek
 - b. Wade Creek
 - c. Coal Creek
 - d. Moolack Creek

6.3.3.2.2 Regional Park Facilities

The City finds exceptions areas are unsuitable for the regional park facilities for the following reasons:

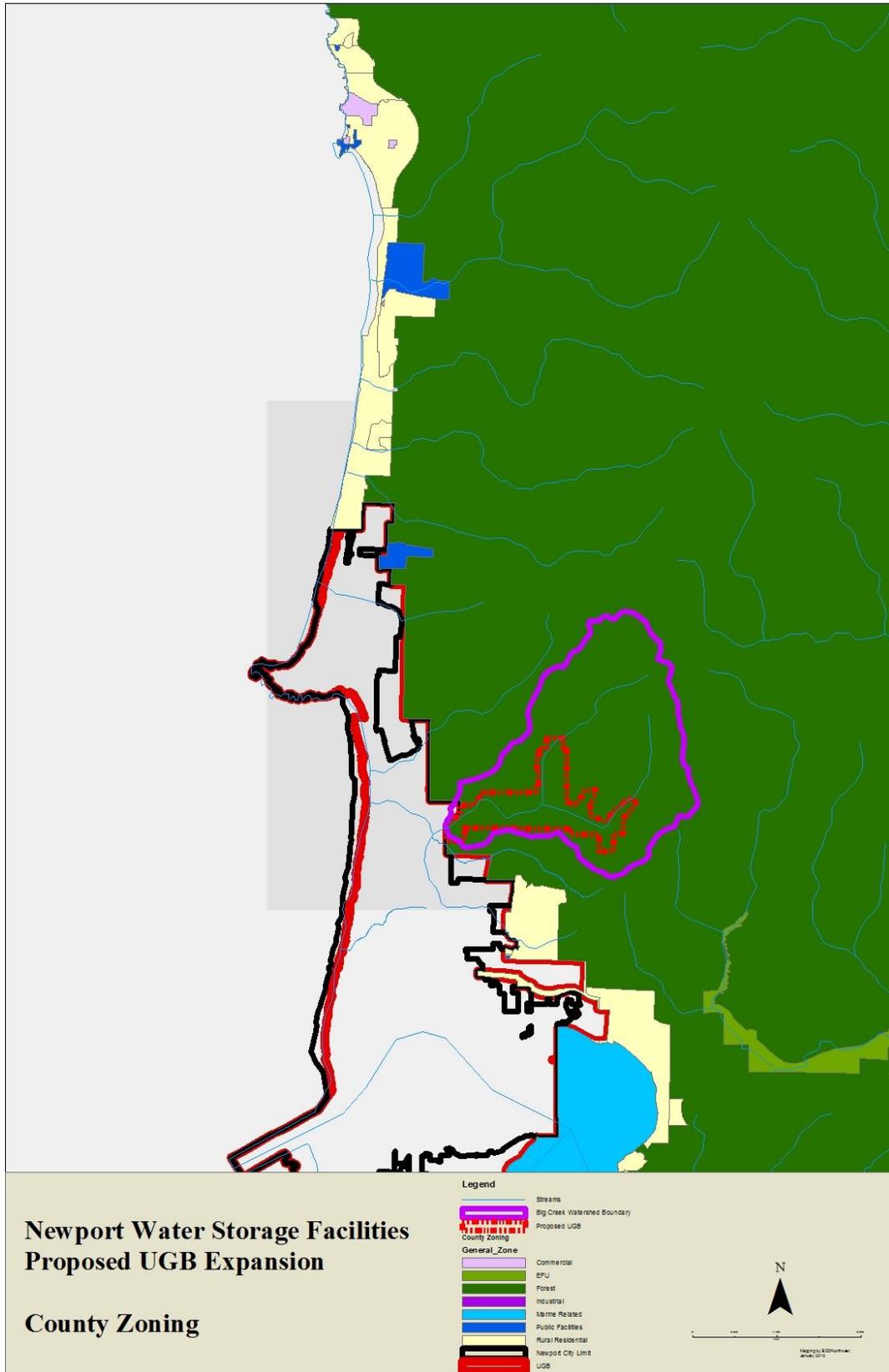
- A. No areas of exceptions lands are large enough to accommodate the proposed uses. The on exception parcel larger than 75 acres within the study area is nearly 2 miles from the northern extent of the UGB.
- B. No exceptions areas have access to flat water recreation opportunities.

- C. Exceptions areas typically have pre-existing development (hence the rationale for them being granted an “exception” from resource land goals).
- D. Exceptions areas are not appropriate for development of a regional park. Because of the proposed public uses, the City would be required to condemn the lands.

Thus, exceptions areas are not suitable because none meet siting criteria, 2, 3, 4, 5, or 6.

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Map 4. Exceptions areas near the Newport UGB



6.3.3.3 Evaluation of Resource Areas

The analysis in Section 6.3.1 and 6.3.2 rules out meeting the identified land needs in existing exceptions areas. Therefore, the City has justification to evaluate resource lands. ORS 197.298(2) and (3) outlines the requirement for evaluation of resource lands:

(2) Higher priority shall be given to land of lower capability as measured by the capability classification system or by cubic foot site class, whichever is appropriate for the current use.

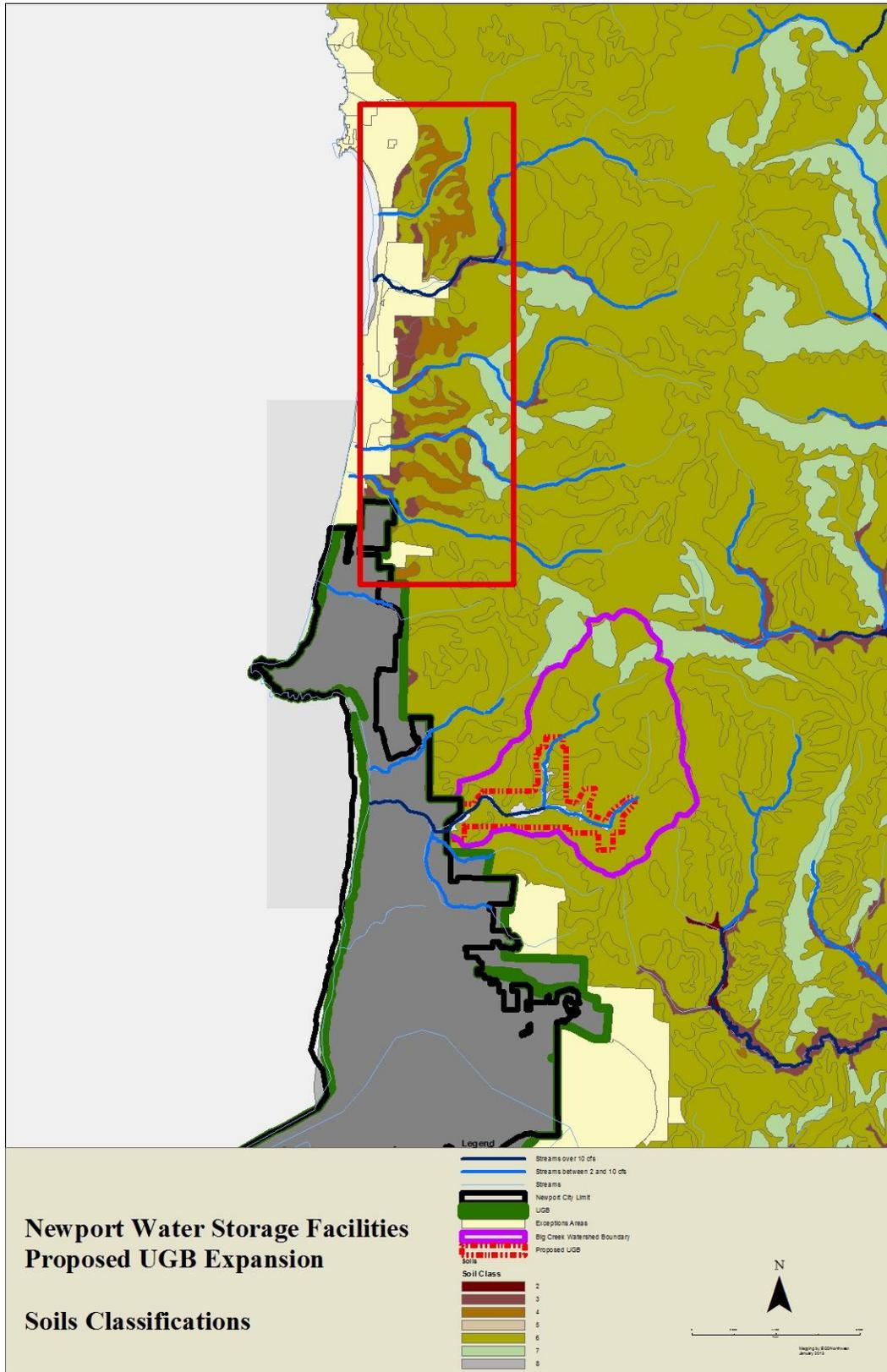
(3) Land of lower priority under subsection (1) of this section may be included in an urban growth boundary if land of higher priority is found to be inadequate to accommodate the amount of land estimated in subsection (1) of this section for one or more of the following reasons:

(a) Specific types of identified land needs cannot be reasonably accommodated on higher priority lands;

As described in the preceding findings, ORS 197.298(3) provides the rationale for why the City must look at resource lands to meet the identified water storage and treatment needs. The next step is to review resource lands (all in Forest zones) adjacent to the Newport UGB based on capability classification or cubic foot site class. The City was unable to find a standardized data source for cubic foot site class, so it uses soil classification as a proxy for cubic foot site class.

Map 5 shows soil classifications for areas adjacent to the Newport UGB north of Yaquina Bay. The soils map shows that most areas east of the Newport UGB have Class 6 or 7 soils. Areas north of the UGB have higher soil suitability classes – Class 2 and 3. Note that areas in yellow are exceptions areas where soil class is not relevant.

Map 5. Land by Soil Productivity Classification



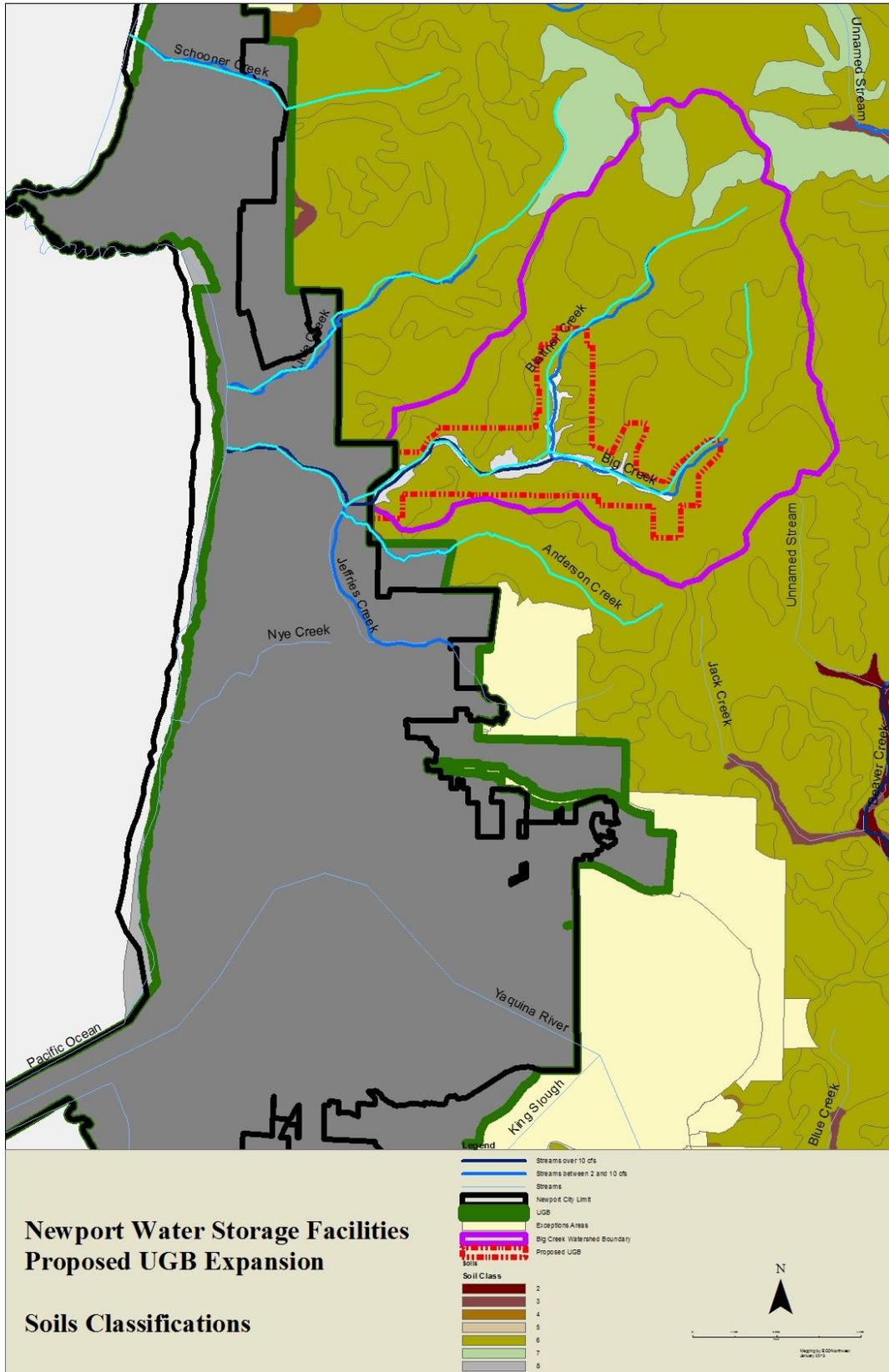
Based on soil classifications and the requirements of ORS 197.298(2), the City finds that areas north of the UGB are lower priority. The City eliminates these areas from further consideration (areas outlined in red on Map 5).

Map 6 shows the remaining areas that must be evaluated for suitability (the areas are highlighted in light blue). This includes the following watersheds:

- Blattner Creek/Big Creek

Nye Creek and Jefferies Creek were eliminated from further consideration in the evaluation of areas within the UGB and exceptions areas. Yaquina Bay is unsuitable due to saltwater.

Map 5. Land by Soil Productivity Classification



6.3.4 Goal 14 Boundary Location Factors (factors 1-4)

Goal 14 establishes four boundary location factors that must be considered when reviewing alternative boundaries:

The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors:

- (1) Efficient accommodation of identified land needs;*
- (2) Orderly and economic provision of public facilities and services;*
- (3) Comparative environmental, energy, economic and social consequences;*
and
- (4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.*

The following sections provide a preliminary evaluation of the proposed lands.

Based on the preceding analysis, the Big Creek/Blattner Creek Watershed is the only watershed that is suitable for the water storage and treatment facilities and the proposed regional park. The following sections evaluate the proposed UGB expansion area (Map 1) against the four Goal 14 locational factors.

6.3.4.1 Goal 14 Location Factor 1: Efficient accommodation of identified land need

The proposed expansion provides the most efficient accommodation of the identified land need due to the existing public facilities. Moving the facilities would simply move the impact of the facilities from the existing location to a new location. Moreover, the existing and expanded Big Creek reservoirs are the only location that can provide the desired water-based recreational activities described in the Newport Parks System Master Plan.

6.3.4.2 Goal 14 Location Factor 2: Orderly and economic provision of public facilities and services

The proposed expansion provides the most orderly and economic provision of public facilities and services. The City has made considerable investment in land acquisition and development of public facilities in the Big Creek watershed for more than 50 years. Moving these facilities would be extremely costly to the City and would not provide any service improvements to Newport residents and workers. The proposed park facilities make appropriate use of the City's investments in dam and road infrastructure.

All other locations would require additional investments and would impact other resource lands unnecessarily.

6.3.4.3 Goal 14 Location Factor 3: Comparative environmental, energy, economic and social consequences

Locating the water storage and treatment facilities and the recreational facilities in another watershed would have larger negative impacts than the proposed expansion in the Big Creek watershed. Development of the facilities in a different watershed would have negative environmental consequences due to construction activity. Development of new facilities elsewhere would be more energy intensive than the current location, would be more costly, and would result in more substantial costs that Newport residents and businesses would have to bear.

6.3.4.4 Goal 14 Location Factor 4: Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.

The reservoir and parkland uses do not create any inherent compatibility issues with nearby forest activities.

6.4 EXCEPTION TO STATEWIDE PLANNING GOAL 14 (URBANIZATION)

This section evaluates the proposed UGB expansion areas as an exception to Goal 14 as allowed by Goal 2 and OAR 660-024-0020(1).

6.4.1 Goal 2: Land Use Exceptions Process

Goal 2 requires all incorporated cities to establish and maintain comprehensive land use plans and implementing ordinances. It also requires cities to coordinate with other affected government entities in legislative land use processes. The purpose of Goal 2 is:

To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Newport has an established land use process and policy framework. The applicable sections of that framework are addressed in this findings document. Goal 14 exempts UGB actions from the Goal 2 exception process. OAR 660-024-0020(1)(a) allows local governments to address exceptions as an alternative path:

(a) The exceptions process in Goal 2 and OAR chapter 660, division 4, is not applicable unless a local government chooses to take an exception to a particular goal requirement, for example, as provided in OAR 660-004-0010(1);

Because of the nature of this application, the City of Newport elected to address the Goal 2 exception criteria. Goal 2 identifies three potential avenues for a goal exception:

A local government may adopt an exception to a goal when:

(a) The land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal;

(b) The land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or

(c) The following standards are met:

(1) Reasons justify why the state policy embodied in the applicable goals should not apply;

(2) Areas which do not require a new exception cannot reasonably accommodate the use;

(3) The long-term environmental, economic, social and energy consequences resulting from the use of the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

(4) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

The proposal involves expanding the UGB to add the City water storage and treatment facilities (including supporting infrastructure such as roads), and approximately 75 acres for a public park. The proposal would designate the lands in the “Public” plan designation, and zone the land P-1 (Public Structures) – a zone that allow water utility infrastructure and public parks as an outright use. Because the existing County zoning on the land (TC – Timber/Commercial) adopted in accordance with Statewide Planning Goal does not allow these uses, the City must take an exception to Goal 4 (Forest Lands).

Goal 2 and ORS 197.732 establish the process for Goal exceptions. Goal 2 identifies three types of exceptions – each with a different standard. A “developed” exception occurs when a property is physically developed to the extent that it is no longer available for uses allowed by the applicable goal (Goal 4). Portions of the property – including land where public facilities exist as well as areas inundated by the reservoirs and lands for access roads qualify under this provision. Thus, the City provides findings in the following section that justify those lands under the exceptions provision (Goal 4 section ‘a’ above).

The lands proposed for the regional park are justifiable under the “reasons” exception as described in section ‘c’ of the Goal 2 exceptions process. To justify a reasons exception the City must establish reasons that justify why the state policy embodied in the applicable goal should not apply. The specific requirements are found in Oregon Administrative Rule (OAR) 660-014-0040, which requires analysis of Environmental, Social, Energy and Economic (ESEE) impacts of the proposal.

Goal 2 and ORS 197.732 establish the process for Goal exceptions. Goal 2 identifies three types of exceptions – each with a different standard. A “developed” exception occurs when a property is physically developed to the extent that it is no longer available for uses allowed by the applicable goal; Goal 4. Portions of the property – including land where public facilities exist as well as areas inundated by the reservoirs qualify under this provision. Thus, the city provides findings in the following section that justify those lands under the *exceptions* provision (Section ‘a’ above).

The remainder of the proposed lands are proposed for a *reasons* exception as described in section ‘c’ of the Goal 2 exceptions process. To justify a reasons exception the City must establish that reasons justify why the state policy embodied in the applicable goal should not apply. The specific requirements are found in Oregon Administrative Rule (OAR) 660-014-0040, which requires analysis of Environmental, Social, Energy and Economic (ESEE) impacts of the proposal.

6.4.2 Committed Lands

Finding: Lands within the reservoir inundation zones and used for existing public facilities can be considered “committed” under the Goal 2 (a) process. Reservoir #1 was constructed in the 1950s and Reservoir #2 was constructed in 1976. In short, these lands meet the definition of “committed” lands in Goal 2:

(a) The land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal;

6.4.3 Justification for a “Reasons” Exception for a Regional Park

This section provides a preliminary analysis to justify a “reasons” exception for the proposed regional park.

Standard (1): Reasons justify why the state policy embodied in the applicable goals should not apply

The City cites the following reasons to justify an exception to Statewide Planning Goal 4:

- A. The City has identified a need for a 75-acre regional park in the Big Creek watershed in both the City’s Comprehensive Land Use Plan as well as the City’s Park System Master Plan.

Standard (2): Areas which do not require a new exception cannot reasonably accommodate the use

See analysis in Section 6.3.3 above.

Standard (3): The long-term environmental, economic, social and energy consequences resulting from the use of the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site

Locating the facilities in another watershed would have larger negative impacts than the proposed expansion in the Big Creek watershed. Development of the facilities in a different watershed would have negative environmental consequences due to construction activity. Development of new facilities elsewhere would be: more energy intensive than the current location, would be more costly, and would result in more substantial costs that Newport residents and businesses would have to bear. In short, the proposed expansion is the best alternative for all criteria.

Standard (4): The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts

The Big Creek site proposed for the regional park intends to make use of opportunities for water-related recreation activities. The inclusion of the park in the UGB will allow the City to develop urban level facilities such as flush toilets connected to the municipal wastewater treatment facility that are necessary to mitigate potential water quality impacts. A municipal sewer connection is more desirable from a water quality protection perspective given that the facilities will be located near the City's domestic drinking water supply.

6.5 CITY OF NEWPORT CRITERIA

This section reviews the proposed UGB expansion against relevant City criteria. That includes criteria for major plan text or map amendments as described in Policy 4.5 of the Newport Comprehensive Plan:

5.) *Findings shall address the following:*

a.) Land Need: Establishment and change of urban growth boundaries shall be based on the following:

- 1.) Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and*
- 2.) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks and open space, or any combination of the need categories in this subsection;*

b.) Boundary Location: The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors:

- 1.) Efficient accommodation of identified land needs;*
- 2.) Orderly and economic provision of public facilities and services;*
- 3.) Comparative environmental, energy, economic, and social consequences; and*
- 4.) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.*

c.) Statewide Planning Goal 2 exception criteria.

6.5.1 Criteria 4.5.a: Land Need: Establishment and change of urban growth boundaries shall be based on the following:

1. Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and

2.) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks and open space, or any combination of the need categories in this subsection;

Finding: Satisfied. The analysis of Goal 14 need factors 1 and 2 in Section 6.3.1 of these findings clearly demonstrate the need for the facilities based on population trends and public facility demands created by current and future population.

6.5.2 Criteria 4.5.b: Boundary Location: The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors:

- 1. Efficient accommodation of identified land needs;**
- 2. Orderly and economic provision of public facilities and services;**
- 3. Comparative environmental, energy, economic, and social consequences; and**
- 4. Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.**

Finding: Satisfied. The findings in section 6.4.3.1 through 6.5.3.4 of this document conclude the proposed expansion is the most appropriate when evaluated against the four Goal 14 location criteria.

7 GOAL COMPLIANCE:

This section addresses compliance with applicable Statewide Planning Goals.

7.1.1 Goal 1 Citizen Involvement

Goal 1 calls for the opportunity for citizens to be involved in all phases of the planning process. The City held worksessions with the Newport Planning Commission, provide notification to affected property owners, and held public hearings to take public testimony.

In conclusion, the City's public and agency review process complies with Goal 1.

7.1.2 Goal 2 Land Use Planning

Goal 2 (Land Use Planning) outlines the basic procedures of Oregon's statewide planning program, stating that land use decisions must be made in accordance with comprehensive plans and that effective implementation ordinances must be adopted. In the process of developing the UGB proposal and findings, the City complied with Goal 2.

All pertinent documentation has been made available to all interested parties. Goal 2 has been properly addressed.

7.1.3 Goals 3 Agricultural Lands and 4 Forest Lands

As stated in 660-024-0020(b), Goals 3 and 4 are not applicable when establishing or amending an urban growth boundary. No further analysis is required.

7.1.4 Goal 5 Open Spaces, Scenic and Historic Areas & Natural Resources

Goal 5 requires local governments to inventory and protect natural resources. There are no inventoried significant Goal 5 resources in any of the areas included within the proposed expansion areas with the exception of riparian areas. The City owns the property around the reservoirs and has adopted policies that encourage acquisitions of land within the municipal drinking water supply watershed for the purpose of establishing a water quality buffer. .

Thus, Goal 5 has been properly addressed.

7.1.5 Goal 6 Air, Water and Land Resources Quality

Goal 6 requires local comprehensive plans and implementing measures to be consistent with state and federal regulations. By complying with applicable air, water and land resource quality policies in the Newport Comprehensive Plan, Goal 6 will be properly addressed.

7.1.6 Goal 7 Areas Subject to Natural Disasters and Hazards

Goal 7 requires that jurisdictions apply appropriate safeguards when planning development in areas that are subject to natural hazards such as flood hazards. Meeting the intent of Goal 7 is a major component of this action. Moreover, the City has taken appropriate steps to address new information regarding seismic hazards and their potential impact on the water storage and treatment facilities.

Thus, Goal 7 has been properly addressed.

7.1.7 Goal 8 Recreation Needs

Goal 8 requires governmental organizations with responsibilities for providing recreational facilities plan for recreational facilities. Newport adopted a Parks System Master Plan in 1993. That plan inventoried existing facilities, established a level of service standard, and identified park needs.

The UGB expansion proposal includes a 75-acre site for a Regional Park which meets a need identified in the Newport Parks System Master Plan. Thus, Goal 8 has been properly addressed.

7.1.8 Goal 9 Economy of the State

The proposal does not involve employment lands, therefore Goal 9 is not applicable.

7.1.9 Goal 10 Housing

The proposal does not involve lands for residential uses, therefore Goal 10 is not applicable.

7.1.10 Goal 11 Public Facilities and Services

The City adopted a Water System Master Plan in 2008. That plan meets the requirements of Goal 11 and 660-011. Subsequent studies identified structural deficiencies with the City's water storage and treatment facilities. The City recognizes these deficiencies and amended the Water Element of the Newport Comprehensive Plan to include policies and implementation measures to address the deficiencies.

The provisions of public facilities and services consequences have been considered in the Goal 14 alternatives analysis process.

For the above reasons, the City finds that Goal 11 has been addressed for purposes of this customized periodic review and that, therefore, the proposed amendments are in compliance with Statewide Planning Goal 11.

7.1.11 Goal 12 Transportation

Goal 12 encourages the provision of a safe, convenient and economic transportation system. This goal also implements provisions of other statewide planning goals related to transportation planning in order to plan and develop transportation facilities and services in coordination with urban and rural development (OAR 660-012-0060(1)). For purposes of the proposed amendments, the Transportation Planning Rule (TPR) requires additional analysis if the proposed amendments would significantly affect an existing or planned transportation facility, as defined in OAR 660-001-0060(1).

The first step is to determine whether the proposed zone change would "significantly affect" an existing or planned transportation facility. If the answer is yes, then the TPR applies and further consideration or possible mitigation is required. If the answer is no, then no further consideration is required. This initial TPR evaluation can be accomplished through a comparison of the potential number of trips which could be generated from allowed uses under the current designations and zoning against trips which could be generated by allowed uses under the proposed designations and zoning. Even if increased trip generation could result, this may not result in significant affects to City transportation facilities. See, *Griffith v. City of Corvallis*, 50 Or LUBA 588, 596-97 (2005).

A TPR analysis of transportation facility impacts caused by urban growth boundary expansions may be deferred by administrative rule. OAR 660-024-0020(d), specifically states:

“the transportation planning rule requirements under OAR 660-012-0060 need not be applied to an urban growth boundary amendment if the land added to the urban growth area is zoned as urbanizable land, either by retaining the zoning that was assigned prior to inclusion in the area or by assigning interim zoning that does not allow development that would generate more vehicle trips than development allowed by the zoning assigned prior to inclusion in the boundary.”

The City chooses to apply this deferral option, and has informed ODOT of its choice.

Based on this analysis, Goal 12 has been met.

7.1.12 Goal 13 Energy

Goal 13 requires land and uses developed on the land to be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles. Energy consequences of the proposed urban growth area amendment have been considered in the Goal 14 alternatives analysis ESEE process. Therefore, Goal 13 has been adequately addressed.

7.1.13 Goal 14 Urbanization

Goal 14 has been complied with as demonstrated in Sections 2 through 6 of this report.

7.1.14 Goal 15 through 19

Goals 15 through 19 are related to the Willamette Greenway and coastal resources. As such, these goals do not apply to the subject sites and no further analysis is required.

APPENDIX A: LINCOLN COUNTY CRITERIA AND FINDINGS

The Lincoln County criteria for urban growth boundary amendments are outlined in Section 1.0030 (Urbanization Policies) of the Lincoln County Comprehensive Plan.

1.0030 Urbanization Policies

(l) Lincoln County shall work with citizens and cities of Lincoln County in the establishment, maintenance and amendment of urban growth boundaries. Establishment and change of the boundaries shall be based upon consideration of the following factors:

(a) Demonstrated need to accommodate long-range urban population growth requirements consistent with LCDC goals;

Finding: Satisfied. Section 6.3.1.1 of the City's findings address criteria a.

(b) Need for housing, employment opportunities, and livability;

Finding: Satisfied. Section 6.3.1.2 addresses criteria b.

(c) Orderly and economic provision for public facilities and services;

Finding: Satisfied. Section 2 of the City's findings outlines the City's rationale for the proposal, which includes orderly and economic provision for public facilities and services. Section 6.3.3 (Goal 14 Boundary Location Analysis) provides additional findings related to criteria c.

(d) Maximum efficiency of land uses within and on the fringe of the existing urban area;

Finding: Satisfied. Section 2 of the City's findings outlines the City's rationale for the proposal, which includes orderly and economic provision for public facilities and services. Section 6.3.2 (Goal 14 Boundary Location Analysis) provides additional findings related to criteria c.

(e) Environmental, energy, economic and social consequences;

Finding: Satisfied. Section 6.3.4.3 of the City's findings address criteria e.

(7) Within urban growth boundaries and outside of city limits, the Lincoln County land use designations shall apply prior to annexations. After annexations, the city land use designations shall apply.

Finding: Satisfied. The current County zoning on lands in the expansion area (T-C) will apply until the lands are annexed by the City.

(9) Lincoln County shall coordinate with cities and special districts on plans, public facility extensions and urban services delivery. Where necessary this will be done through intergovernmental agreement.

Finding: Satisfied. The City and County held several meetings on this matter prior to formal action. Moreover, the boundary amendment requires County action and public hearings with the County Planning Commission and County Board of Commissioners.

NE Agate Beach Urban Growth Boundary Adjustment Description

Beginning at the Southeast corner of the Southwest quarter of Section 33, Township 10 South, Range 11 West, of the Willamette Meridian, in Lincoln County, Oregon; thence west along the South line of said Section 33, a distance of 20 chains, to the Southeast corner of that tract of land conveyed to Tonia K. Warren, by deed, recorded July 18, 2000, in mf405-0166, Microfilm Records for Lincoln County Oregon, thence continuing west along said South line of Section 33, a distance of 7 chains, to the Southwest corner of said Warren Tract; thence north along the West line of said Warren Tract, a distance of 10 chains, to the Northwest corner of said Warren Tract, said Northwest corner of the Warren Tract lying on the South line of the North half of the Southwest quarter of said Southwest quarter of Section 33, and said Northwest corner of the Warren Tract also being the true point of beginning; thence continuing north along the north extension of said West line of the Warren Tract, a distance of 720 feet, more or less, to its intersection with the northwesterly right-of-way line of NE Big Creek Road; thence northeasterly along said northwesterly right-of-way line of NE Big Creek Road, a distance of 880 feet, more or less, to the most southerly corner of that tract of land conveyed to Robert N. Etherington and Winifred K. Etherington, husband and Wife, and Robert C. Etherington and Linda A. Etherington, husband and wife, by deed, recorded March 17, 2011, in DOC 2011-02743, Book of Records for Lincoln County, Oregon; thence north along the West line of said Etherington Tract, a distance of 650 feet, more or less, to the North line of the Southwest quarter of Section 33; thence east along said North line of the Southwest quarter of Section 33, a distance of 962 feet, more or less, to the most westerly corner of that first tract of land conveyed to the City of Newport, by deed, recorded February 21, 1953, in Book 156, Page 408, Deed Volume Records for Lincoln County, Oregon; thence North 45° East along the northwesterly line of said first City of Newport Tract, a distance of 26 feet, more or less, to the most southerly corner of a second tract of land conveyed to the City of Newport, by deed, recorded October

2, 2008, in DOC 2008-11669, Book of Records for Lincoln County, Oregon; thence along the southwesterly, northwesterly, and northeasterly lines of said second City of Newport Tract, along the following bearings and distances: North $34^{\circ}48'50''$ West, a distance of 181.37 feet, South $86^{\circ}02'00''$ West, a distance of 85.42 feet, North $25^{\circ}57'30''$ West, a distance of 106.87 feet, North $46^{\circ}31'25''$ East, a distance of 192.76 feet, South $34^{\circ}48'50''$ East, a distance of 330.48 feet, to said northwesterly line of the first City of Newport Tract; thence continuing North 45° East along said northwesterly line of the first City of Newport Tract, a distance of 125 feet, more or less, to the West line of the Northeast quarter of said Section 33; thence north along said West line of the Northeast quarter of Section 33, a distance of 280 feet, more or less, to its intersection with a line that is 480.00 feet north of and parallel to the South line of said Northeast quarter of Section 33; thence east along said line that is 480.00 feet north of and parallel to the South line of the Northeast quarter of Section 33, a distance of 2570 feet, more or less, to its intersection with a line that is 85.00 feet west of and parallel to the East line of said Section 33; thence north along said line that is 85.00 feet west of and parallel to the East line of Section 33, a distance of 340 feet, more or less, to its intersection with a line that is 820.00 feet north of and parallel to said South line of the Northeast quarter of Section 33; thence east along said line that is 820.00 feet north of and parallel to the South line of the Northeast quarter of Section 33, a distance of 85 feet, more or less, to said East line of Section 33; thence north along said East line of Section 33, a distance of 1800 feet, more or less, to the common corner of Sections 27, 28, 33, and 34, said Township 10 South, Range 11 West of the Willamette Meridian; thence east along the North line of said Section 34, a distance of 435 feet, more or less, to its intersection with a line that is 435.00 feet east of and parallel to the north extension of the West line of said Section 34; thence north along said line that is 435.00 feet east of and parallel to the north extension of the West line of Section 34, a distance of 350 feet, more or less, to its intersection with a line that is 350.00 feet north of and parallel to said North line of Section 34; thence east along said line that is 350.00 feet north of and parallel to the North line of Section 34, a distance of

665 feet, more or less, to its intersection with a line that is 1100.00 feet east of and parallel to said north extension of the West line of Section 34; thence south along said line that is 1100.00 feet east of and parallel to the north extension of the West line of Section 34, a distance of 350 feet, more or less, to said North line of Section 34; thence east along said North line of Section 34, a distance of 180 feet, more or less, to the north-south centerline of the Northwest quarter of said Section 34; thence south along said north-south centerline of the Northwest quarter of Section 34, a distance of 2565 feet, more or less, to a point that is 50.00 feet north of the Southwest corner of the Southeast quarter of said Northwest quarter of Section 34; thence southeasterly, a distance of 680 feet, more or less, to a point, said point being the intersection of two lines, the first being a line that is 170.00 feet south of and parallel to the North line of the Southwest quarter of said Section 34, and the second being a line that is 645.00 feet east of and parallel to the north-south centerline of the Southwest quarter of Section 34; thence northeasterly, a distance of 800, more or less, to a point that is the intersection of two lines, the first being a line that is 550.00 feet north of and parallel to said South line of said Northwest quarter of Section 34, and the second being a line that is 280.00 feet west of and parallel to the East line of said Northwest quarter of Section 34; thence east along said line that is 550.00 feet north of and parallel to said South line of the Northwest quarter of Section 34, a distance of 440 feet, more or less, to its intersection with a line that is 160.00 feet east of and parallel to said East line of the Southwest quarter of Section 34; thence south along said line that is 160.00 feet east of and parallel to said East line of the Southwest quarter of Section 34, a distance of 190 feet, more or less, to its intersection with a line that is 360.00 feet north of and parallel to the North line of the Southeast quarter of said Section 34; thence southwesterly, a distance of 400 feet, more or less, to the Northwest corner of said Southeast quarter of Section 34; thence south along the West line of said Southeast quarter of Section 34, a distance of 785.00 feet; thence southeasterly, a distance of 945 feet, more or less, to a point, said point being the intersection of two lines, the first being a line that is 240.00 feet north of and parallel to the east-west

centerline of said Southeast quarter of Section 34, and the second being a line that is 380.00 feet west of and parallel to the north-south centerline of said Southeast quarter of said Section 34; thence northeasterly, a distance of 510 feet, more or less, to a point, said point being the intersection of two lines, the first being a line that is 720.00 feet north of and parallel to said east-west centerline of the Southeast quarter of Section 34, and the second being a line that is 190.00 feet west of and parallel to said north-south centerline of the Southeast quarter of Section 34; thence northeasterly, a distance of 1080 feet, more or less, to a point, said point being the intersection of two lines, the first being a line that is 120.00 feet north of and parallel to the North line of said Southeast quarter of Section 34, and the second being a line that is 630.00 feet east of and parallel to said north-south centerline of the Northeast quarter of said Section 34; thence east along said line that is 120.00 feet north of and parallel to said North line of the Southeast quarter of Section 34, a distance of 240 feet, more or less, to its intersection with a line that is 870.00 feet east of and parallel to said north-south center line of the Northeast quarter of Section 34; thence south along said line that is 870.00 feet east of and parallel to said north-south centerline of the Northeast quarter of Section 34, a distance of 200 feet, more or less, to its intersection with a line that is 80.00 feet south of and parallel to said North line of the Southeast quarter of Section 34; thence southeasterly, a distance of 810 feet, more or less, to a point, said point being the intersection of two lines, the first being a line that is 625.00 feet north of and parallel to said east-west centerline of the Southeast quarter of Section 34, and the second being a line that is 300.00 feet east of and parallel to said north-south centerline of the Southeast quarter of Section 34; thence south along said line that is 300.00 feet east of and parallel to the north-south centerline of the Southeast quarter of Section 34, a distance of 790 feet, more or less, to its intersection with a line that is 145.00 feet south of and parallel to the east-west centerline of said Southeast quarter of Section 34; thence west along said line that is 145.00 feet south of and parallel to the east-west centerline of the Southeast quarter of Section 34, a distance of 470 feet, more or less, to its intersection with the East line

of that tract of land conveyed to Norman L. Ferber, Trustee, and Mary Megowan-Ferber, Trustee, of the Ferber Family Trust Agreement, by deed, recorded February 10, 2012, in DOC 2012-01357, Book of Records for Lincoln County, Oregon; thence South along said East line of the Ferber Tract, and its South extension, a distance of 790 feet, more or less, to its intersection with a line that is 210.00 feet south of and parallel to the South line of said Ferber Tract; thence West along said line that is 210.00 feet south of and parallel to the South line of the Ferber Tract, a distance of 530.00 feet; thence North and parallel to the East line of said Ferber Tract, a distance of 790 feet, more or less, to its intersection with said line that is 145.00 feet south of and parallel to the east-west centerline of the Southeast quarter of Section 34; thence west along said line that is 145.00 feet south of and parallel to the east-west centerline of the Southeast quarter of Section 34, a distance of 600 feet, more or less, to its intersection with said East line of the Southwest quarter of Section 34; thence west along the westerly extension of said line that is 145.00 feet south of and parallel to the east-west centerline of the Southeast quarter of Section 34, a distance of 830 feet, more or less to its intersection with a line that is 830.00 feet west of and parallel to said East line of the Southwest quarter of Section 34; thence north along said line that is 830.00 feet west of and parallel to said East line of the Southwest quarter of Section 34, a distance of 145 feet, more or less, to the east-west centerline of said Southwest quarter of Section 34; thence west along said east-west centerline of the Southwest quarter of Section 34, a distance of 1740 feet, more or less, to the East line of said Section 33; thence west along the east-west centerline of the Southeast quarter of said Section 33, a distance of 2630 feet, more or less, to the East line of said Southwest quarter of Section 33; thence west along the east-west centerline of said Southwest quarter of Section 33, a distance of 910 feet, more or less, to the Northeast corner of that third tract of land conveyed to the City of Newport, by deed, recorded February 21, 1953, in Book 156, Page 409, Deed Volume Records for Lincoln County, Oregon; thence south along the East line of said third City of Newport Tract, a distance of 660 feet, more or less, to the Southeast corner of the third City of Newport Tract, said Southeast corner of

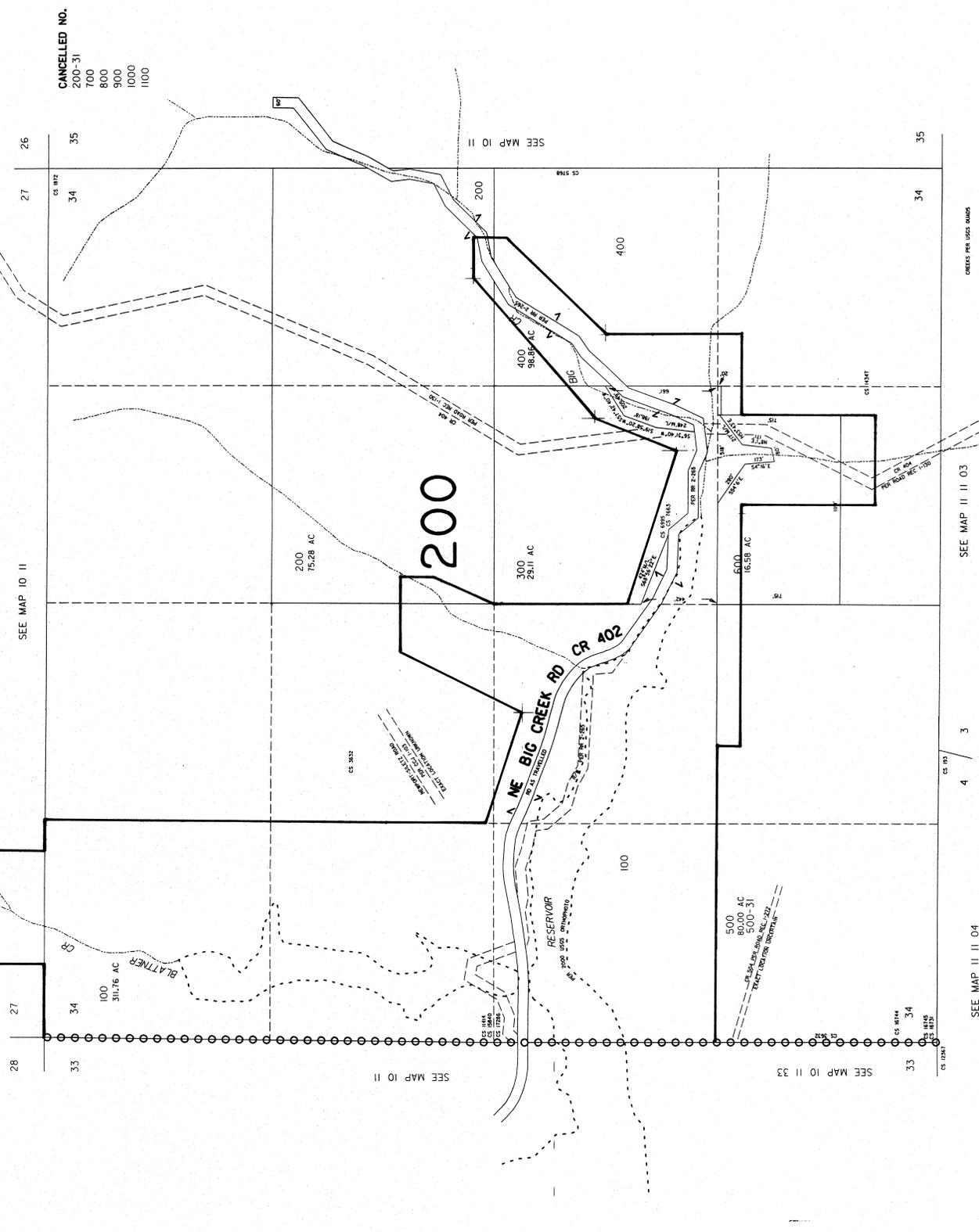
said third City of Newport Tract lying on said South line of the North half of the Southeast quarter of said Southwest quarter of Section 33; thence west along said South line of the North half of the Southeast quarter of said Southwest quarter of the Southwest quarter of Section 33, a distance of 400 feet, more or less, to the East line of the Southwest quarter of the Southwest quarter of Section 33; thence west along the South line of the North half of said Southwest quarter of the Southwest Quarter of Section 33, a distance of 458 feet, more or less, to the true point of beginning.

SECTION 34 T10S R11W WM
LINCOLN COUNTY

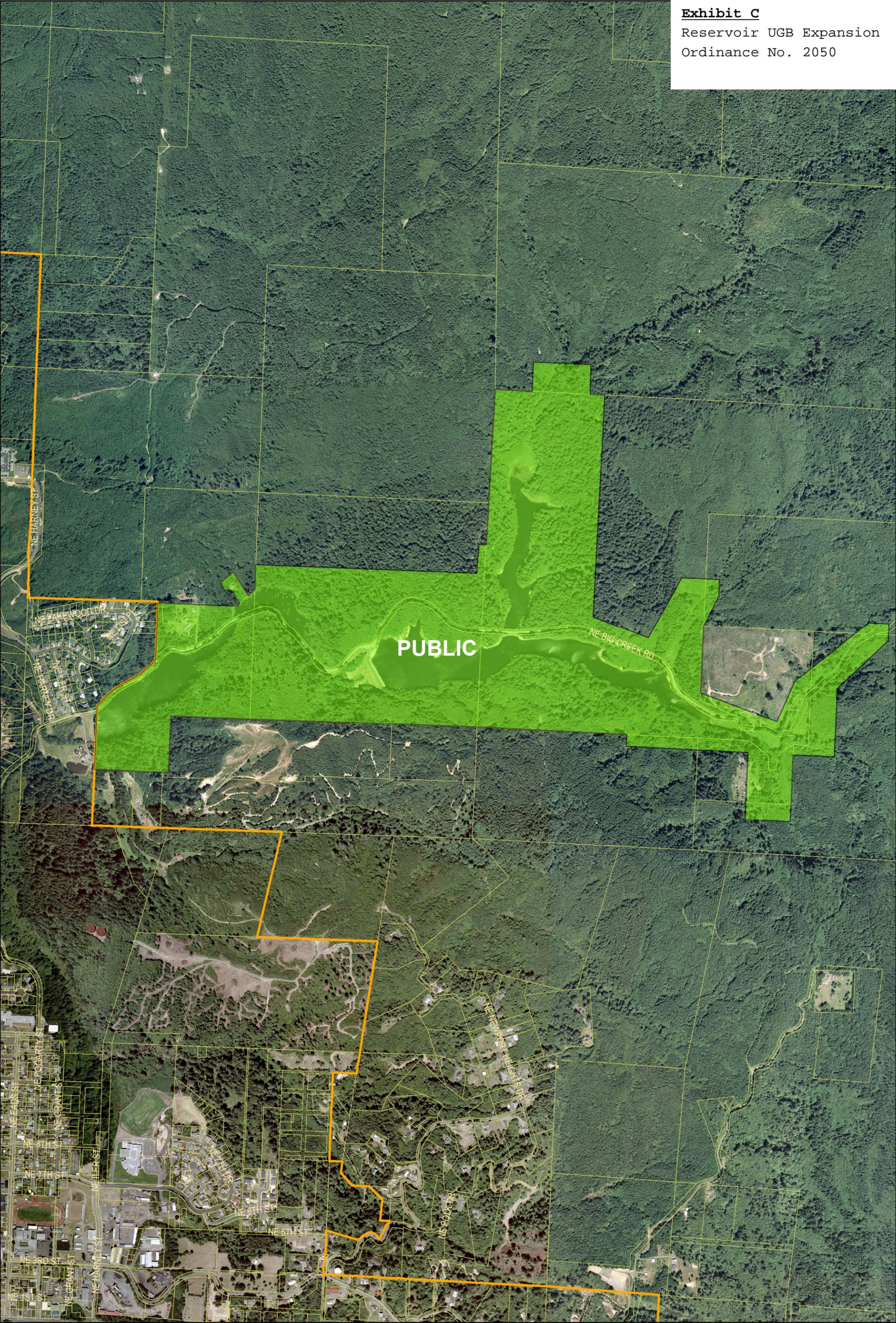
1" = 400'

0 400 800 FEET

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY



- CANCELLED NO.
 200-31
 700
 800
 900
 1000
 1100



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

**Newport Water Storage Facility Urban Growth Boundary
Expansion and Comprehensive Plan Map Amendment**
All Lands Designated "Public" and Depicted in Green



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1,000 500 0 1,000 Feet