

CITY OF NEWPORT

ORDINANCE NO. 2060

AN ORDINANCE ANNEXING TERRITORY TO THE CITY OF NEWPORT, WITHDRAWING THE ANNEXED TERRITORY FROM THE LINCOLN COUNTY LIBRARY DISTRICT AND NEWPORT RURAL FIRE PROTECTION DISTRICT AND ESTABLISHING ZONING FOR THE ANNEXED TERRITORY

Summary of Findings:

1. A request (Newport File No. 2-AX-13/3-Z-13) was filed by the owners of real property (Spy, LLC, Gregory Palser, registered agent) to annex property into the city limits and withdraw property from several districts, and to amend the Newport Zoning Map to adopt a City zone designation for the annexed property of I-1/"Light Industrial." The request includes a portion of US 101 right-of-way.
2. The Planning Commission of the City of Newport, after providing the required public notification, including the notification to the Department of Land Conservation & Development, held a public hearing on September 23, 2013, for the purpose of reviewing the proposed requests and providing a recommendation to the City Council. The Planning Commission public hearing was held in accordance with the appropriate provisions of the Newport Zoning Ordinance, and, after due deliberation and consideration of the proposed changes, the Planning Commission voted to recommend that the City Council approve the property owner's request.
3. The City Council of the City of Newport, after provision of the required public notification, held a public hearing on October 7, 2013, on the requested annexation and withdrawal, and the zoning of the property to be annexed.
4. The City Council made a determination after considering the recommendation of the Planning Commission, and the evidence and argument presented at the public hearing and in the record, that each of the requests were in compliance with the applicable criteria and voted to approve the requested annexation, withdrawal, and zoning designations.
5. The ordinance presented to Council on October 7, 2013 has not been signed, subsequent legal review has been performed, and changes have been made to the document necessitating that it be readopted by the Council.
6. Interested parties were afforded an opportunity to testify and no comments or concerns were expressed in regards to the annexation during the Council's consideration on October 7, 2013, or subsequently. Petitioner, Spy, LLC, desires to construct a warehouse building to meet its business needs. It cannot do so until the annexation is finalized. Facilitating economic development of this nature is essential to the well-being of the community and continued peace, health, and safety of the citizens of the City of Newport. Ample opportunities have been provided for the public to testify on this request, and to avoid undue harm to the applicant it is

necessary that an emergency be declared so that this ordinance can become effective immediately upon signature by the Mayor.

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. ANNEXATION, WITHDRAWAL, AND ZONING

A. Annexation. The following described territory (illustrated in Exhibit "A") is hereby annexed to and incorporated within the City of Newport, Oregon:

Beginning at the $\frac{1}{4}$ corner common to Sections 17 and 20, Township 11 South, Range 11 West, Willamette Meridian, Lincoln County, Oregon; thence South $00^{\circ}58'33''$ West, 1127.47 feet to the northeast corner of Parcel 2, Partition Plat 11-1990, Lincoln County Plat Records; thence South $87^{\circ}52'45''$ West, along the north line of said Parcel 2, 80.46 feet; thence North $78^{\circ}40'12''$ West, 185.54 feet to a point on the easterly line of the Oregon Coast Highway, said point also being the northwest corner of said Parcel 2; thence South $25^{\circ}09'00''$ West, along said easterly line, 93.85 feet; thence North $88^{\circ}16'59''$ West, leaving said easterly line, 87.19 feet to a point at the east corner of that property described in Book 186, Page 132, Lincoln County Book of Records, said point also being on the westerly line of the Oregon Coast Highway; thence South $25^{\circ}09'00''$ West, along said westerly line, 21.80 feet to a point on the east corner of that property described in said Book 186, Page 132; thence South $88^{\circ}16'59''$ East, leaving said westerly line of the Oregon Coast Highway, 87.19 feet to a point on the easterly line of said Oregon Coast Highway; thence South $25^{\circ}09'00''$ West, 317.35 feet to the southwesterly corner of that property described in Book 397, Page 2234, Lincoln County Book of Records; thence East along the south line of said Book 397, Page 2234, 440.24 feet, more or less, to the south east corner thereof; thence North $00^{\circ}58'33''$ East, 135.80 feet to the northeasterly corner thereof, said point also being the southeasterly corner of said Parcel 2; thence North $00^{\circ}58'33''$ East, along the easterly line of said Parcel 2, 222.70 feet, said point also being the southeasterly corner of said Parcel 1; thence North $00^{\circ}58'33''$ East, 305.15 along the easterly line of said Parcel 1, to the northeasterly corner of said Parcel 1 and the point of beginning.

This parcel contains 3.063 acres, more or less.

B. Withdrawal. The property annexed to the City of Newport, as described in Section 1 (A) above, is hereby withdrawn from the Lincoln County Library District and the Newport Rural Fire Protection District, such withdrawal being deemed to be in the best interest of the City of Newport. The City of Newport also hereby elects to assume the liabilities and indebtedness, if any, against the property so withdrawn from the Lincoln County Library District and Rural Fire Protection District and further elects to assume such liability to the Lincoln County Library District in the manner provided by ORS 222.520(2)(b).

C. Zoning. Ordinance No. 1308 (as amended) adopting the City of Newport Zoning Map is hereby amended to provide for a zone designation on the Zoning Map for the property annexed to the City of Newport by designating the subject property described in Section 1(A) above with the zone designation of I-1/"Light Industrial".

Section 2. The findings attached as Exhibit "B" are hereby adopted in support of the annexation, withdrawal, and zoning designations as adopted in Section 1.

Section 3. Repealer. In the event that any portion of the ordinance considered by the City Council on October 7, 2013 and described herein became effective, such ordinance is hereby repealed.

Section 4. Declaration of Emergency. It is hereby adjudged and declared that existing conditions are such that this Ordinance is necessary for the immediate preservation of the public peace, health, and safety of the City of Newport, and an emergency is hereby declared to exist and this Ordinance shall take effect in full force and effect when signed by the Mayor.

Date adopted and read by title only: November 18, 2013

Signed by the Mayor on November 19, 2013.

Sandra Roumagoux
Sandra Roumagoux, Mayor

ATTEST:

Margaret M. Hawker
Margaret M. Hawker, City Recorder

Robert Annell
City Attorney

Approval by City Attorney to Derrick Sobos
on 11/13/13 via e-mail.

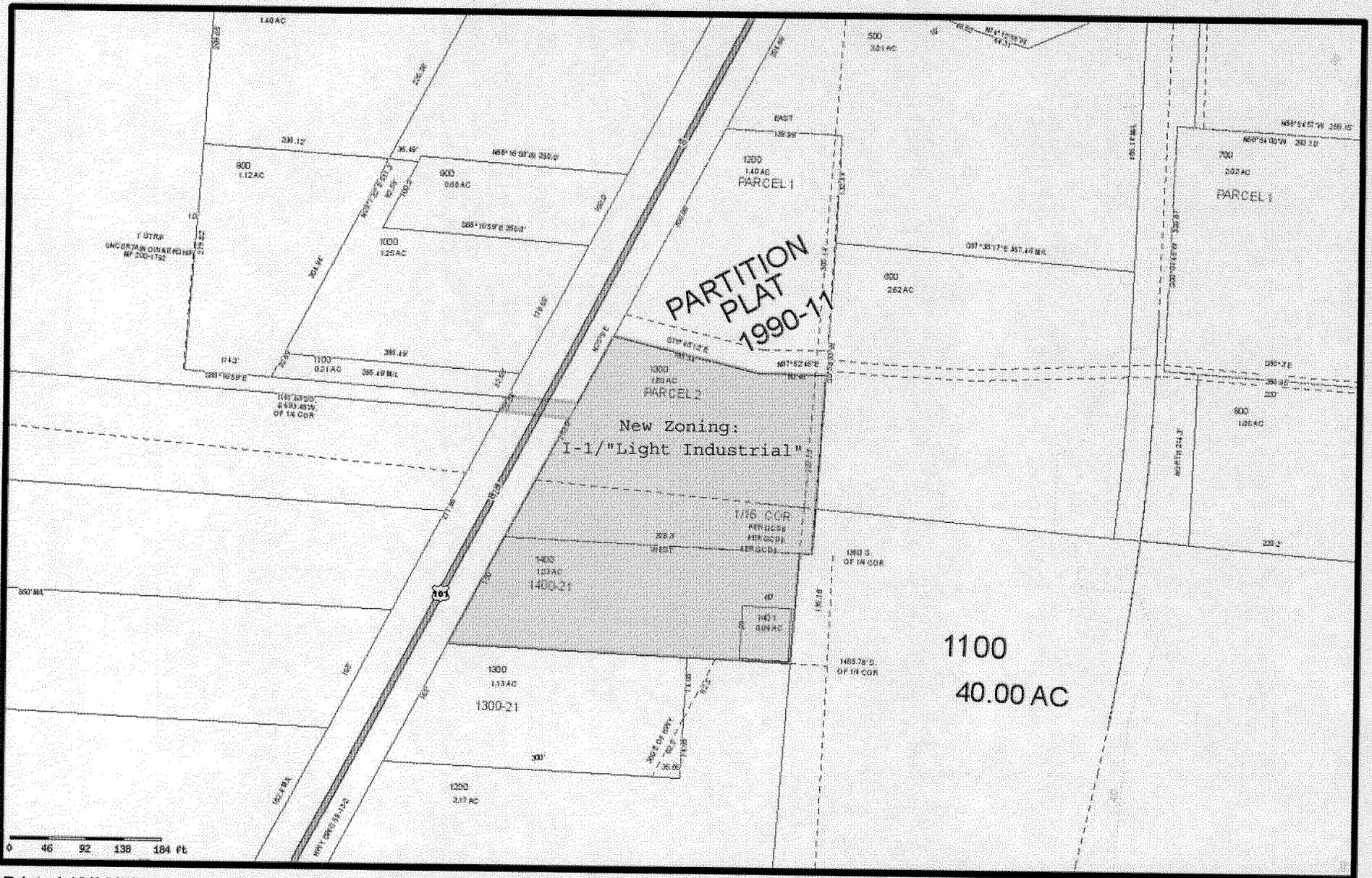


EXHIBIT "B"

Findings for Requested Annexation of Property, Withdrawal from the Newport Rural Fire Protection District and the Newport Library District, and Establishment of a Zoning Designation

FINDINGS OF FACT

1. The application for annexation, withdrawal, and zoning designation (Newport File No. 2-AX-13/3-Z-13) was filed by Spy, LLC (Gregory Palser, authorized agent) on August 27, 2013. The application included consideration of a request to: (1) annex approximately 3.063 acres of real property into the Newport city limits; (2) amend the City of Newport Zoning Map to establish an I-1/"Light Industrial" zoning designation for the subject property consistent with the existing Newport Comprehensive Plan designation of Industrial (which allows for either I-1, I-2/"Medium Industrial," or I-3/ "Heavy Industrial"); and (3) withdraw said territory from the Newport Rural Fire Protection District and the Lincoln County Library District.
2. The applicant indicates that they are seeking annexation so that their warehouse and office can be connected to City sewer service, which was recently extended and is now available to properties in the area.
3. The property subject to the request is identified as 4535 S Coast Hwy (Lincoln County Assessor's Map 11-11-20-BD Tax Lot 1400) and 4541 S Coast Hwy (Lincoln County Assessor's Map 11-11-20-BA Tax Lot 1300) and a portion of US 101 right-of-way.
4. The legal description of the area to be annexed is as follows:

Beginning at the ¼ corner common to Sections 17 and 20, Township 11 South, Range 11 West, Willamette Meridian, Lincoln County, Oregon; thence South 00°58'33" West, 1127.47 feet to the northeast corner of Parcel 2, Partition Plat 11-1990, Lincoln County Plat Records; thence South 87°52'45" West, along the north line of said Parcel 2, 80.46 feet; thence North 78°40'12" West, 185.54 feet to a point on the easterly line of the Oregon Coast Highway, said point also being the northwest corner of said Parcel 2; thence South 25°09'00" West, along said easterly line, 93.85 feet; thence North 88°16'59" West, leaving said easterly line, 87.19 feet to a point at the east corner of that property described in Book 186, Page 132, Lincoln County Book of Records, said point also being on the westerly line of the Oregon Coast Highway; thence South 25°09'00" West, along said westerly line, 21.80 feet to a point on the east corner of that property described in said Book 186, Page 132; thence South 88°16'59" East, leaving said westerly line of the Oregon Coast Highway, 87.19 feet to a point on the easterly line of said Oregon Coast Highway; thence South 25°09'00" West, 317.35 feet to the southwesterly corner of that property described in Book 397, Page 2234, Lincoln County Book of Records; thence East along the south line of said Book 397, Page 2234, 440.24 feet, more or less, to the south east corner thereof; thence North 00°58'33" East, 135.80 feet to the northeasterly corner thereof, said point also being the southeasterly corner of said Parcel 2; thence North 00°58'33" East, along the easterly line of said Parcel 2, 222.70 feet, said point also being the southeasterly corner of said Parcel 1; thence North 00°58'33" East, 305.15 along the easterly line of said Parcel 1, to the northeasterly corner of said Parcel 1 and the point of beginning.

This parcel contains 3.063 acres, more or less.

5. Staff reported the following information regarding the requests:

A. Plan Designation: The subject properties are within the Newport Urban Growth Boundary and are designated as "Industrial" on the Newport Comprehensive Plan Map.

B. Zone Designation: City of Newport zoning is established at time of annexation. Either the I-1/"Light Industrial", I-2/"Medium Industrial", or I-3/"Heavy Industrial" zone designations are consistent with Comprehensive Plan designation of Industrial. The applicant is requesting the I-1 zone designation. The County designation for the property is currently I-P/"Planned Industrial."

C. Surrounding Land Uses: Surrounding land uses in the immediate vicinity include light and heavy industrial and public land uses.

D. Topography and Vegetation: The property is moderately sloped and largely devoid of vegetation.

E. Existing Residences/Buildings: one 40' x 120' shop building, three 48' x 48' warehouses, one 40' x 48' warehouse, and one 40' x 40' dock building.

F. Utilities: Currently receiving city water service. Sewage is managed via an on-site septic system. The owner intends to connect to city sewer once the property is annexed.

G. Development Constraints: None known.

H. Past Land Use Actions: None known.

I. Notification: Required notice to the Department of Land Conservation and Development was mailed on September 6, 2013. For the Planning Commission public hearing, notification in accordance with the Newport Municipal Code Section 14.52.060(C) requirements included mailing notice to surrounding property owners, City departments and other public agencies and utilities, and other individuals on August 29, 2013. The notice of public hearing in the Newport News-Times was published on September 13, 2013.

In accordance with Oregon Revised Statute 222.120(3), notice of the October 7, 2013 City Council public hearing was published once each week for two successive weeks prior to the day of the hearing, such notice occurring in the Newport News-Times on September 25, 2013 and October 2, 2013. Notice of the hearing was also posted at the Newport City Hall, Lincoln County Courthouse, Newport Public Library and Newport Recreation Center for this same period of time.

6. Written comments in response to the public notice were received from the Newport Police Department and Oregon Department of Transportation. The Newport Police Department indicated that they do not object to the proposal, but would ultimately like to see all of that portion of US 101 in South Beach between the bridge and airport annexed into the City. This would help them resolve jurisdictional issues. The Oregon Department of Transportation advised that they have no objections to the proposal.

7. The Planning Commission held a public hearing on the proposed requests on September 23, 2013. Gregory Palser, representing Spy, LLC was the only party to testify at the hearing. The Commission voted unanimously to recommend approval with the I-1/"Light Industrial" zone designation.

8. The City Council held a public hearing on the proposed requests on October 7, 2013. A Planning Staff Report, dated September 19, 2013, was submitted to the City Council. The Planning Staff Report and attachments as follows are hereby incorporated into the findings:

Attachment "A" – Applicant Request

Attachment "B" – Notice of Public Hearing and Map

Attachment "C" – Aerial Photo of Area to be Annexed

Attachment "D" – Newport Zoning Map

Attachment "D-1" – Uses allowed in the I-1, I-2, and I-3 zones

Attachment "D-2" – Intent of Zoning Districts

Attachment "E" – Legal Description of the Area to be Annexed

Attachment "F" – Copy of ORS 222.170 and ORS 222.524

Attachment "G" – September 18, 2013 email from ODOT

Attachment "H" – Comments from Newport Police Department, dated September 9, 2013

Attachment "I" – Email from John Pariani, dated September 23, 2013

Attachment "J" – Draft September 23, 2013 Planning Commission Meeting Minutes

9. At the October 7, 2013, public hearing, the City Council heard a staff report and allowed for testimony and evidence to be given on the proposed requests. Following the close of the public hearing, the Council deliberated and voted to approve the requests. The minutes of the October 7, 2013 public hearing are hereby incorporated by reference into the findings.

10. The applicable criteria for each of the requests are as follows:

A. For the annexation/withdrawal portion of the requests, Newport Municipal Code Section 14.37.040 provides *"The required consents have been filed with the City; the territory to be annexed is within the acknowledged urban growth boundary (UGB); and the territory to be annexed is contiguous to the existing city limits."*

B. For the zoning map amendment portion of the requests, the applicable criteria per Newport Municipal Code Section 14.36.010 are *"Findings that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare."*

11. Scott Branchfield, Lead Digital Cartographer, Lincoln County Assessor's Office, reviewed the legal description for the area to be annexed and notes that the Department of Revenue may take issue with its quality. See Attachment "I" (Email from John Pariani, dated September 23, 2013). John Pariani, a licensed surveyor, prepared the legal description and concludes that it can still be valid. He also notes that there may be a property boundary overlap along the east side of the Spy, LLC properties.

CONCLUSIONS

1. In regard to the criteria for approval of the annexation request under Newport Municipal Code Section 14.37.040 the City Council concludes as follows:

A. In regard to the first criterion (*The required consents have been filed*), the City Council concludes that pursuant to Oregon Revised Statutes (ORS) 222.170(2), the City need not hold an election on the annexation of contiguous territory if it receives the consent of more than 50 percent of the owners of land in the territory, and such owners own more than 50 percent of the land area within the territory. ORS 222.170(4) further notes that publicly owned real property, such as US 101, that is exempt from ad valorem taxes, shall not be factored into the calculus outlined above. The applicant owns both tax lots, which account for the bulk of the property subject to this request (i.e. all but the small portion of the US 101 highway right-of-way). The applicant has provided signed consent forms requesting that the properties be annexed. See Attachment "A" (Applicant Request).

B. In regard to the second criterion (*the territory to be annexed is within the acknowledged urban growth boundary (UGB)*), The City Council concludes that the property is currently within the Urban Growth Boundary pursuant to the Comprehensive Plan Map of the City of Newport and is designated "Industrial."

C. In regard to the third criterion (*the territory to be annexed is contiguous to the existing city limits*), the City Council concludes that the subject territory is contiguous to the existing city limits along the west side of US 101 as graphically depicted on Exhibit "A."

2. In regard to the withdrawal request, the City Council finds that there are no applicable criteria and the withdrawal of the property from the Newport Rural Fire Protection District and the Lincoln County Library District occur during annexation when the City of Newport becomes the service provider within the city limits.

3. In regard to the establishment of a City of Newport zone designation upon annexation, the City Council concludes as follows for establishment of an I-1/"Light Industrial" zone designation in regard to the applicable criteria from Newport Municipal Code Section 14.36.010 (*Findings that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare.*):

A. The Comprehensive Plan designation of Industrial is implemented by either the I-1/"Light Industrial" zone, I-2/"Medium Industrial" zone, or I-3/ "Heavy Industrial" zone. The applicant intends to connect an existing office and warehouse to city sewer. They also have plans to construct one or more storage/warehouse buildings for a fiber optic construction company, which conforms to the I-1 designation. Therefore, the applicant is requesting an I-1 zoning designation. The uses permitted outright and conditionally in the I-1, I-2, and I-3 zones are included as Attachment "D-1" (Uses allowed in the I-1, I-2, and I-3 zones). The intent of the I-1, I-2, and I-3 zoning districts is included as Attachment "D-2" (Intent of Zoning Districts).

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

C. This property has been designated in the Newport Comprehensive Plan as Industrial, and the I-1 zone is consistent with that designation. The Comprehensive Plan Map reflects the policy direction contained in the Newport Comprehensive Plan, including an Urban Growth Boundary that sets out the City's buildable land needs for a 20-year planning period, so it is appropriate to conclude that the application of a zone designation in conformance with the Comprehensive Plan would further a public necessity and promote the general welfare.

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

E. Lincoln County Assessor's Office concerns with regards to the adequacy of the legal description are attributed to the vague language contained in the deed for Tax Lot 1400 (Page 2234 at Book 397 of the Lincoln County Microfilm Records). It is the City's understanding that the legal description, prepared by a licensed surveyor, accurately reflects the area to be annexed and the ownership of the property described herein. In the event the Oregon Department of Revenue rejects the description, or Spy, LLC seeks to clarify the boundary of its ownership in a manner that is inconsistent with this legal description, then further action may be required by the City.

OVERALL CONCLUSION

Based on the staff report and attachments, the application material, and other evidence and testimony in the record, the City Council concludes that the requested annexation, withdrawal, and zone designations comply with the criteria established for approval of each of the requests under the applicable criteria as explained in the findings. The requested annexation, withdrawal, and establishment of a zone designation are hereby **APPROVED**.

City of Newport
Land Use Application

ATTACHMENT "A"
 Applicant Request

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

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

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

Project Information

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

APPLICATION TYPE (please check all that apply)

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

FOR OFFICE USE ONLY

Date Received: 3/27/13	File No. Assigned: 2-AX-13 / 3-Z-13	Fee Amount: 788 =	Date Accepted as Complete: _____
Received By: _____	Receipt No.: 787	Accepted By: _____	

(SEE REVERSE SIDE)

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

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

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



Applicant Signature(s)

8-26-13

Date Signed

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

Date Signed

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

Date Signed

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

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

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

Urban Growth Area Development Agreement

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

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

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

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

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

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

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

PURPOSE OF ANNEXATION

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

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

ADDRESSES OF PROPERTIES TO BE ANNEXED

11-11-20-BA-01300

SITUS ADDRESS(ES)

4541 S COAST HWY UNIT A, SOUTH BEACH 97366

4541 S COAST HWY UNIT B, SOUTH BEACH 97366

4545 S COAST HWY UNIT A, SOUTH BEACH 97366

4545 S COAST HWY UNIT B, SOUTH BEACH 97366

4549 S COAST HWY UNIT A, SOUTH BEACH 97366

4549 S COAST HWY UNIT B, SOUTH BEACH 97366

4553 S COAST HWY UNIT A, SOUTH BEACH 97366

4553 S COAST HWY UNIT B, SOUTH BEACH 97366

11-11-20-BD-01400

SITUS ADDRESS

4535 S COAST HWY, SOUTH BEACH 97366

S

Lincoln County Property Report

Account # & LEGAL DESCRIPTION	ACCOUNT DETAILS	OWNER AND ADDRESS
Account #: R467262 Map Taxlot: 11-11-20-BD-01400-00 Map: 11s11w20BD Legal: TOWNSHIP 11, RANG 11, ACRES 1.23, MF397-2234 LESS MF398-0145 TaxCode: 192 Acres: 1.23	Neighborhood: S166 PropertyClass: 231	Owner: SPY LLC Address: 1917 N BEAVER CREEK RD SEAL ROCK, OR 97376 Situs: 4535 S COAST HWY

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

LAND				RELATED ACCOUNTS	DISCLAIMER
Description	Acres	Market Value	Special Use Value		
INDUSTRIAL DEV SITE	1.23	197,640		RS22146	This report was prepared using the Lincoln County assessment information. This information is maintained by the county to support its governmental activities. The County is not responsible for errors, omissions, mistakes or misinterpretation. Report created: 11/22/11 using tax data effective 10/2012
IND SITE DEVELOPMENT		10,460			

Lincoln County Property Report

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

IMPROVEMENTS	VALUE AND SALES HISTORY																																																																													
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LAND				RELATED ACCOUNTS	DISCLAIMER
Description	Acres	Market Value	Special Use Value	No Related Accounts	This report was prepared using the Lincoln County assessment information. This information is maintained by the county to support its governmental activities. The County is not responsible for errors, omissions, misuse or misinterpretation. Report created 11/21/2012 using tax data exported 11/21/12
COMMERCIAL DEV SITE	1.80	289,220			
SITE DEVELOPMENT		3,090			

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

Urban Growth Area Development Agreement

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

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

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

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

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

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

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

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

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

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

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

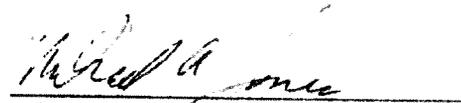
DATED this 12th day of MAY, 2005.

CITY OF NEWPORT

PROPERTY OWNER

By

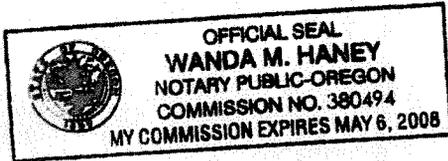

Margaret Hawker
City Recorder


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

(continued on next page)

STATE OF OREGON)
)
COUNTY OF LINCOLN) ss.

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

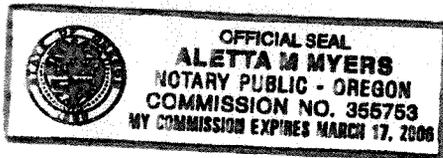


Wanda M Haney
Notary Public for Oregon

My Commission Expires: 5/6/08

STATE OF OREGON)
)
COUNTY OF LINCOLN) ss.

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



Aletta M Myers
Notary Public for Oregon

My Commission Expires: 3/17/06

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

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DATED this 12th day of MAY, 2005.

CITY OF NEWPORT

PROPERTY OWNER

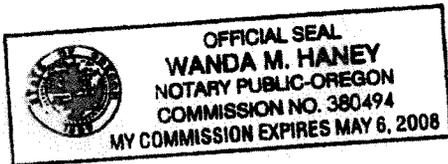
By Margaret M. Hawker
Margaret Hawker
City Recorder

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

(continued on next page)

STATE OF OREGON)
)
COUNTY OF LINCOLN) ss.

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Wanda M Haney
Notary Public for Oregon

My Commission Expires: 5/6/08

STATE OF OREGON)
)
COUNTY OF LINCOLN) ss.

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



Aletta M Myers
Notary Public for Oregon

My Commission Expires: 3/17/06

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

NOTICE IS HEREBY GIVEN that the Planning Commission of the City of Newport, Oregon, will hold a public hearing on September 23, 2013, to review the following request for annexation, zone designation, and withdrawal and to make a recommendation to the City Council on this request. A public hearing before the City Council will be held at a later date and notice will be provided for the Council hearing.

File No. 2-AX-13

Applicants: Spy, LLC.

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

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

Location: 4535 S Coast Hwy (Lincoln County Assessor's Map 11-11-20-BD Tax Lot 1400) and 4541 S Coast Hwy (Lincoln County Assessor's Map 11-11-20-BA Tax Lot 1300).

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

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

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

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

MAILED: August 29, 2013.

PUBLISHED: September 13, 2013/News-Times.

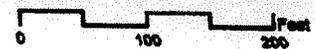


City of Newport
Community Development Department
188 SW Coast Highway Phone: 1.541.574.0829
Newport, OR 97365 Fax: 1.541.574.0844

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



This map is for informational use only and has not been prepared for, nor is it suitable for legal, engineering, or surveying purposes. It includes data from multiple sources. The City of Newport assumes no responsibility for its compilation or use and users of this information are cautioned to verify all information with the City of Newport Community Development Department.



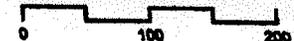


ATTACHMENT "C"
Aerial Photo of Area to be Annexed
File No. 2-AX-13 / 3 -Z-13



City of Newport
Community Development Department
189 SW Coast Highway
Newport, OR 97365
Phone: 1.541.574.0639
Fax: 1.541.574.0644

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



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

PERMITTED USES

Office

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

Retail Sales & Service

Sales-oriented, general retail

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

Sales-oriented, bulk retail

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

Personal Services

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

Entertainment

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

Repair-oriented

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

(PERMITTED USES CONTINUED)

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

Major Event Entertainment

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

Vehicle Repair

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

Self-Service Storage

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

Parking Facility

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

Contractors & Industrial Service

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

Manufacturing & Production

Light Manufacturing

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

(PERMITTED USES CONTINUED)

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

Warehouse, Freight Movement & Distribution

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

Wholesale Sales

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

Basic Utilities & Roads

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

Community Service

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

Daycare Facility

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

(I-1 Uses)

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

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

Communication Facilities

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

CONDITIONAL USES**Waste & Recycling Related**

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

Utility, Road & Transit Corridors

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

Courts, Jails & Detention Facilities

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

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

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

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

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

Hospitals

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

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

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

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

PERMITTED USES

Office

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

Retail Sales & Service

Sales-oriented, general retail

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

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Repair-oriented

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

Vehicle Repair

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

Self-Service Storage

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

Parking Facility

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

Contractors & Industrial Service

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

(PERMITTED USES CONTINUED)

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

Manufacturing & Production

Light Manufacturing

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

Warehouse, Freight Movement & Distribution

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

Wholesale Sales

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

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

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

Daycare Facility

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

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

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

Communication Facilities

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

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

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

Entertainment

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

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

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

Manufacturing & Production**Heavy Manufacturing**

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

Waste & Recycling Related

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

Utility, Road & Transit Corridors

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

Community Service

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

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

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

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

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

Hospitals

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

Courts, Jails & Detention Facilities

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

Mining**Crushed Rock****All Others**

(examples: excavation of rock.)

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

PERMITTED USES

Parking Facility

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

Contractors & Industrial Service

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

Manufacturing & Production

Light Manufacturing

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

Heavy Manufacturing

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

(PERMITTED USES CONTINUED)

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

Warehouse, Freight Movement & Distribution

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

Wholesale Sales.

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

Basic Utilities & Roads

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

Educational Institutions

Trade/Vocational Schools/Other

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

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

(PROHIBITED USES CONTINUED)

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

Daycare Facility

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

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

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

Hospitals

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

Courts, Jails & Detention Facilities

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

Mining**All Others**

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

**Section 2-2-6.010 amended by Ordinance No. 1338 (7-5-83); Section 2-2-4 amended by Ordinance No. 1344 (11-7-83); Sections 2-2-1 and 2-2-6 amended by Ordinance No. 1356 (1-3-84); Sections 2-2-3, 2-2-4, 2-2-5, 2-2-6, and 2-2-7 amended by Ordinance No. 1447 (12-16-85); Section 2-2-6.015 amended by Ordinance No. 1468 (8-19-86); Section 2-2-4 amended by Ordinance No. 1526 (11-7-88); Section 2-2-2.010 amended by Ordinance No. 1565 (14.36.0010); Section 2-2-4 amended by Ordinance No. 1567 (14.36.0010); the above became obsolete when Sections 2-2-1 through 2-2-12 were totally amended by Ordinance No. 1575 (7-2-90); and then the entire Section was repealed and replaced by Ordinance No. 2022 (10-20-11).*

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

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

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

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

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

residential district and higher density residential districts.

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

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

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

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

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

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

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

transportation facilities and not near residential zones.

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

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

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

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

ANNEXATION PARCEL –

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

This parcel contains 3.063 acres, more or less.

222.170 Effect of consent to annexation by territory; proclamation with and without city election.

(1) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if more than half of the owners of land in the territory, who also own more than half of the land in the contiguous territory and of real property therein representing more than half of the assessed value of all real property in the contiguous territory consent in writing to the annexation of their land in the territory and file a statement of their consent with the legislative body on or before the day:

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

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

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

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

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

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

(4) Real property that is publicly owned, is the right of way for a public utility, telecommunications carrier as defined in ORS 133.721 or railroad or is exempt from ad valorem taxation shall not be considered when determining the number of owners, the area of land or the assessed valuation required to grant consent to annexation under this section unless the owner of such property files a statement consenting to or opposing annexation with the legislative body of the city on or before a day described in subsection (1) of this section. [Amended by 1955 c.51 §2; 1961 c.511 §2; 1971 c.673 §1; 1973 c.434 §1; 1983 c.350 §36; 1985 c.702 §11; 1987 c.447 §117; 1987 c.737 §4; 1999 c.1093 §12]

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

(2) The governing body shall fix a date, time and place for the hearing and cause notice of the date, time, place and purpose of the hearing to be published once each week for two successive weeks prior to the date of the hearing in a newspaper of general circulation in the city, and shall cause notices of the hearing to be posted in four public places in the city for a like period.

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

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

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

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

Derrick Tokos

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

Hello Derrick -

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

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

Best Regards,

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

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

Joe,

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

Derrick

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

Hi Valerie,

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

Thanks,

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

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

Valerie,

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

Thanks for any assistance you can provide.

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



Noble
Professional
Dedicated

Newport Police Department
Memorandum

One Team - One Future

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

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



City of Newport
Community Development Department
188 SW Coast Highway Phone: 1.541.574.0629
Newport, OR 97385 Fax: 1.541.574.0644

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



This map is for informational use only and has not been prepared for, nor is it suitable for legal, engineering, or surveying purposes. It includes data from multiple sources. The City of Newport assumes no responsibility for its compilation or use and users of this information are cautioned to verify all information with the City of Newport Community Development Department.

Derrick Tokos

From: John Pariani <parianils@yahoo.com>
Sent: Monday, September 23, 2013 10:05 PM
To: Derrick Tokos
Subject: Re: FW: Annexation

Derrick,

I will look into this further. There is some evidence that indicates a possible property boundary overlap along the east side of these properties, but the legal can still be valid. I will let you know what I find out.

Sent from Pariani's Smartphone

Derrick Tokos <D.Tokos@NewportOregon.gov> wrote:

>John,

>

>This is in regards to the legal description that you prepared for me. Could you take a look at Scott's comments and let me know if the description needs to be changed?

>

>Thanks,

>

>Derrick I. Tokos, AICP

>Community Development Director

>City of Newport

>169 SW Coast Highway

>Newport, OR 97365

>ph: 541.574.0626

>fax: 541.574.0644

>d.tokos@newportoregon.gov

>

>

>

>From: Scott Branchfield [mailto:sbranchfield@co.lincoln.or.us]

>Sent: Friday, September 20, 2013 4:46 PM

>To: Derrick Tokos

>Subject: Annexation

>

>Hi Derrick,

>Charlotte asked me to take a look at the legal description of the proposed annexation for Spy LLC. I think you might have a problem getting the legal description past the Department of Revenue. The last call which presumably starts at the SE corner of MF 397-2234 then goes N 0 deg 58'33"E 358.53 feet to the NE corner of "said parcel 2 . . ." But we don't have a bearing for the east line of tax lot 1400, it simply follows the 1/16 line. The east line of tax lot 1400 then intersects the south line of parcel 2 (tax lot 1300) you then have to jog easterly along the south line of parcel 2 to the southeast corner thereof. Then you can proceed N 0 deg 58'33"E to the NE corner of parcel 2.

>Part of this is complicated by the fact that the deed for 1400 overlaps into land that the grantor did not own (east of the 1/16th line) So the distance call you give along the south line of 1400 (440.24 feet) is not really correct, but since you call to the SE corner of the deed, we would accept that part. I don't know if the DOR will or not.

>I hope this makes some kind of sense.

>

>Scott

>Scott Branchfield

>Lead Digital Cartographer

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Draft Minutes
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
Monday, September 23, 2013

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

Commissioners Absent: Gary East (*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 7:10 p.m. because the work session ran a little long. On roll call, McIntyre, Small, Croteau, Patrick, Fisher, and Branigan were present; with East absent but excused.

B. **Approval of Minutes.**

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

MOTION was made by Commissioner Fisher, seconded by Commissioner Croteau, 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.**

Patrick opened the public hearing portion of the meeting at 7:12 p.m. by reading the statement of rights and relevance. He asked the Commissioners for declarations of conflicts of interest, bias, ex parte contacts, or site visits. Fisher, McIntyre, and Patrick all noted that they often drive by the site, but haven't stopped at the site. Patrick asked for objections to any of the Commissioners or the Commission as a whole hearing this matter; and none were heard.

Legislative Actions:

1. **File No. 2-AX-13/3-Z-13:** Consideration of a request submitted by Spy, LLC to annex approximately 3.063 acres consisting of property currently identified as Tax Lot 1400 of Assessor's Tax Map 11-11-20-BD (4535 S Coast Hwy) and Tax Lot 1300 of Map 11-11-20-BA (4541 S Coast Hwy) and a portion of US 101 right-of-way within the existing UGB into the Newport city limits; (2) amend the City of Newport Zoning Map to establish an I-1/"Light Industrial" zoning designation for the subject property consistent with the existing Newport Comprehensive Plan designation of Industrial (which allows for either I-1, I-2/"Medium Industrial", or I-3/"Heavy Industrial"); and (3) withdraw said territory from the Newport Rural Fire Protection District and the Lincoln County Library District. The Planning Commission will make a recommendation on this matter to the City Council.

Patrick opened the public hearing for File No. 2-AX-13/3-Z-13 at 7:14 p.m. by reading the summary of the file from the agenda; and he called for the staff report. Tokos noted that the staff report in the packet outlines the relevant criteria. He clarified that the property is approximately 3.063 acres instead of 3.03 as shown on the agenda. He noted that the legal description is included. An aerial photo showing the boundary of the annexation area is included. The standards for annexation coming from ORS 222 are essentially that the City receives the required consents. The consents have been filed by the property owner. Tokos noted that a little bit of highway right-of-way is included to get over to the right side of the highway where the state property is so that the annexation is contiguous to the city limits. As noted in the staff report, state law doesn't require the City to acquire consents from ODOT or any entity with road right-of-way because they are not paying taxes on it. Tokos has contacted ODOT, and they indicated that they have no issues. Tokos said that, as Chair Patrick pointed out, the property is within the UGB and has an industrial Comprehensive Plan designation that provides for a range of zoning designations. In this case, I-1 would be applied, which allows a range of uses consistent with what the owner intends to do with this property. Tokos said that the catalyst for the request is the extension of city sewer; and once the annexation is done, the owner intends to connect to city services.

Patrick asked if this included annexing both sides of the highway. Tokos referred to the aerial image in Attachment C and said to imagine a flag pole to get across to connect with the red line that is the city limits. It is shown by the yellow going across the highway. Tokos said this whole pocket is surrounded by the city; but to be contiguous, which is a requirement for annexation, it had to reach across the highway at this location. Patrick mentioned the comment from Police Chief Miranda with the area of the highway

he was suggesting be annexed shown in green. Tokos said that where the Chief is coming from is that he would like all of Highway 101 to be in city limits. The solution to that would be down the road that we pick up the rest of that pocket. We would have to engage those owners as well. If we did that now, it would impact their accesses. Taking in all of those pockets in South Beach would be the solution to Chief Miranda's wish. That is a goal of the City Council. It is their policy call whether to annex them or surround them by the city.

Patrick asked if I-1 is the right designation for this property. Tokos said yes, it fits well with our goals. It is consistent with what this corridor already within the City is designated.

Fisher said that part of the request is to withdraw from some districts and asked why we would do that. Tokos said they would be replaced by city taxes that meet the same purpose. It pulls them out of the rural districts and goes into the city. Tokos said he did contact the County to confirm those were the right districts to pull out of.

Proponents: Greg Paulser, 2560 NW Pacific St, Newport. Paulser said that he is looking forward to getting the property into the City so he can hook up to the sewer.

Opponents or Interested Parties: There were no opponents or interested parties present to testify, so there was no rebuttal.

Patrick closed the hearing at 7:21 p.m. for Commission deliberation. Branigan said he would recommend the annexation go forward. He doesn't see a downside to going forward with what has been proposed. Fisher agreed. Croteau saw no issues. Small agreed and said that his questions about the rural districts had been answered. He said it is pretty straight forward and thought that it is a good thing. McIntyre had no questions and agreed with the rest of the Commissioners. Patrick agreed also and said it is good to see something like this for a change.

MOTION was made by Commissioner Fisher, seconded by Commissioner Small, to forward a recommendation to the City Council to grant the annexation as requested in File No. 2-AX-13/3-Z-13. The motion carried unanimously in a voice vote. Tokos informed Paulser that the City Council hearing will be October 7th.

F. New Business.

1. **Initiate Text Amendments to NMC Section 12.15 (System Development Charges) Subsection 12.15.065 (Credits).** Tokos noted that as discussed at work session, the Planning Commission could elect to move forward with the SDC code amendments they have been discussing.

MOTION was made by Commissioner Croteau, seconded by Fisher, to initiate and move forward the amendments to the NMC SDC Credits section (12.15.065) with the changes discussed at work session. The motion carried unanimously in a voice vote.

G. Unfinished Business.

1. Tokos said that he is still waiting for a hearing date with the County Board of Commissioners for the UGB expansion. He said it's moving very slowly. He noted that the same goes for the TSP changes adopted quite some time ago. We are still waiting for a Board of Commissioners hearing date.

2. Regarding the Teevin Bros. appeal, the appellants had to file their brief September 10th or 11th. We took a look at it, and they are arguing three things: 1) the City should have required a geologic permit; 2) the analysis that was prepared for Teevin had insufficient analysis of intersections; and 3) the analysis was insufficient to establishing that the roads were sufficient for that traffic. Tokos said it is addressed in the record why a geologic permit wasn't required for this project. He said the other two really fall to Teevin. They were advised what the requirements were, and they modified their analysis to address those things. Tokos thinks they did it adequately. There is information on the intersecting road. The analysis on the big stuff showed that they were capable of handling the traffic. By doing that the traffic engineer determined that translated to the small roads, and they will be just fine. For the structural integrity, Stuntzner Engineering did a whole new supplemental analysis between the original staff-level decision and the Planning Commission hearing that was ordered on appeal where they did a full analysis against current standards. The analysis stated that the road was not new but suitable to handle the traffic at this point. The City Council has elected not to file a brief but will sign on to the brief filed by Teevin's attorney showing we are in support of their defense of the decision. That probably saves the City \$20 thousand on filing briefs. The response briefs will be followed by oral testimony at LUBA. Then LUBA has a period of time to make a decision. LUBA doesn't commonly have a hearing. Presentations by attorneys with questions and answers is usually what happens. If an appeal is filed against LUBA's decision, that goes to the Oregon Court of Appeals. Tokos thinks there are really only two things that could come out of LUBA. He believes most likely they will affirm the City's decision. It's less likely they will remand on one of those items, and Teevin has to supplement their reports. Then the City would have to make a decision on that. Tokos said that what is important to point out here is that the firm the appellants hired didn't provide an alternative. They only pointed out that certain things were not in Teevin's report; which Teevin then turned around and attempted to address. LUBA only has one set of technical analysis. Greenlight Engineering didn't do anything but throw darts at Teevin's analysis. LUBA will affirm the City's decision or remand it for lack of information in Teevin's analysis. It's Tokos' understanding that Teevin isn't

going to move forward until the appeals are done, but they are still committed to the project. He said it's not uncommon for the City not to file a brief. Cities don't typically defend permits; the third party is the one that asked for it.

3. Regarding the OMSI development, Tokos noted that OMSI has hired an architect and engineering team to begin design of their facility. They are still working on the schedule. Through urban renewal, the City invested in the preliminary subdivision plat that will end up before the Planning Commission for approval. The City will be reworking the right-of-way and will partner with OMSI to construct the road. Also on a related note, Tokos said that we found out that money we are looking for from ODOT for 35th and 101 and Ferry Slip projects will be approved. The final list has been selected, and we are on it. That is a \$3.5 million project with \$1.5 million from Urban Renewal and \$2 million from the State. This is a big project finishing off Ferry Slip with bicycle, pedestrian, and full street improvements from 40th to Marine Science Drive. On Ferry Slip, it will be a multi-use path on the west side all the way up. It also includes the new street at 35th connecting across and a signal. The signal at 32nd will be eliminated, and it will be right-in/right-out. There will be sidewalk from the bridge to 35th. This is on the 2015-2018 STIP. OMSI, unless their schedule slips because of fundraising, wants to open early 2016. It could run right into this project; and we could be looking to realize savings by bidding both Abalone and 35th/101 at the same time. On the STIP side, the State says they will put it in whatever year we need it to line up with OMSI. Tokos noted that this was about a 46% match. In the past typically the minimum for grant applications to STIP was 10-27%. Across our entire region, this average was like 35%. What this is telling us is that jurisdictions are clocking in with more cash trying to get high on the list because there is less money available. Tokos said that a conversation staff is having with the Infrastructure Task Force is that we need to make sure we are bringing a reasonable amount of money to the table. It is more competitive now. We can't just come in with in-kind or minimum match.

4. Tokos said that right now the City has a lot of projects with Federal funding: Highway 101 crosswalks that we are hoping to get done this winter; Agate Beach wayside under a grant agreement with ODOT, which is in consultant selection; Safe Haven Hill, which just finished Phase 1 analysis, and construction should be in the next year to year and a half. He said that there are a number of things with grant funds moving through the pipeline. We haven't submitted a new one for a major project; but they want options for the next legislative session. The next for us is consideration of a 9th Street couplet redirecting northbound traffic on 101. It would take it on 9th by the hospital and by City Hall and connect at Highway 20 at Benton by the Rec. Center. More likely as it comes around that curve, through where some houses are there, to tie into Coos. There would be a signal, and that would be further away from the signal at the Highway 101 and 20 intersection. For traffic that is continuing north, they would then turn left and then go right to go on up 101. Tokos said that is in the TSP. The State wants projects, so they will get a big project on that list from us. That is the one thing we will put on the table. The timing ties into the formation of a new North Side Urban Renewal District for matches. This would add a couple of blocks of viable commercial. That would allow a narrow-down on 101 and to widen the sidewalks; so city-center becomes more useable. Tokos said the thought is that 101 at 20 has the capacity for handling traffic; it is the run south of it. A connection at Highway 20 and Coos with a signal will manage it.

5. Tokos noted that one small thing we are looking to add in with the crosswalks is placement of a raised median at 101 and 20. Adding to the north would extend the left turn pocket for those trying to turn on Highway 20. Patrick noted that would take away an entry to JC Market. Tokos said that as long as they still have access, they are not entitled to anything beyond that. He noted that one crosswalk by City Hall at Angle will have pedestrian-activated lights. Each one of those is \$30 thousand. They can be retrofitted in the future.

H. Director's Comments. Tokos said that, as mentioned in work session, the City Council will have further discussion on October 7th about the consideration of selling the Visual Arts Center.

I. Adjournment. Having no further business to discuss, the meeting adjourned at 7:45 p.m.

Respectfully submitted,

Wanda Haney
Executive Assistant