

CITY OF NEWPORT
ORDINANCE NO. 2079

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. 1-AX-15/1-Z-15) was filed by the owners of real property (Newport Memory Care, LLC, John Pariani of Pariani Land Surveying, LLC, authorized 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 R-4/"High Density Multi-Family Residential" with the Iron Mountain Impact Area Zoning Overlay. The request includes a 50-foot strip of city-owned land adjacent to the south boundary of the subject property to allow for the future extension of NE 71st Street.
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 March 23, 2015, 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 April 20, 2015, 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.

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:

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

Beginning at the northeast corner of said Parcel 2, Partition Plat 1996-28, said point also being the northwest corner of the property described in Book 266, Page 266 of the Lincoln County Official Records, said point also being the True Point of Beginning; thence North 89°58'05" East, 143.51 feet; thence South 00°09'05" East, 187.85 feet; thence South 49°45'30" West, 191.52 feet, to a point on the west line of that property described in said Book 266, Page 266; thence North 00°24'09" East, along said westerly line, 311.50 feet to the point of beginning.

Parcel area contains 36,112 square feet, 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).

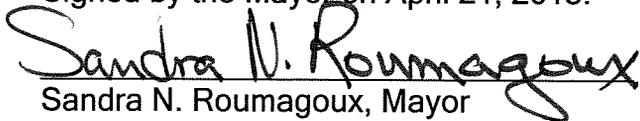
C. Zoning. Ordinance No. 1308 (as amended) adopting the City of Newport Zoning Map is hereby amended to provide for a zone designation on the Zoning Map for the property annexed to the City of Newport by designating the subject property described in Section 1(A) above with the zone designation of R-4/"High Density Multi-Family Residential" with the Iron Mountain Impact Area Zoning Overlay.

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.

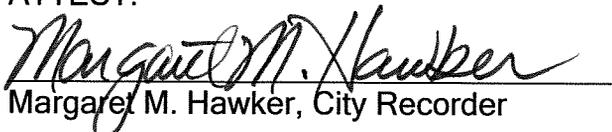
Section 3. This ordinance shall take effect 30 days after passage.

Date adopted and read by title only: April 20, 2015

Signed by the Mayor on April 21, 2015.


Sandra N. Roumagoux, Mayor

ATTEST:


Margaret M. Hawker, City Recorder

Reviewed as to form:

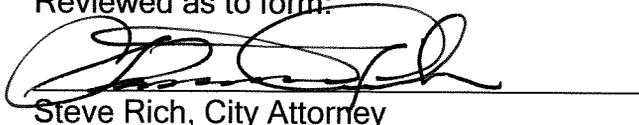
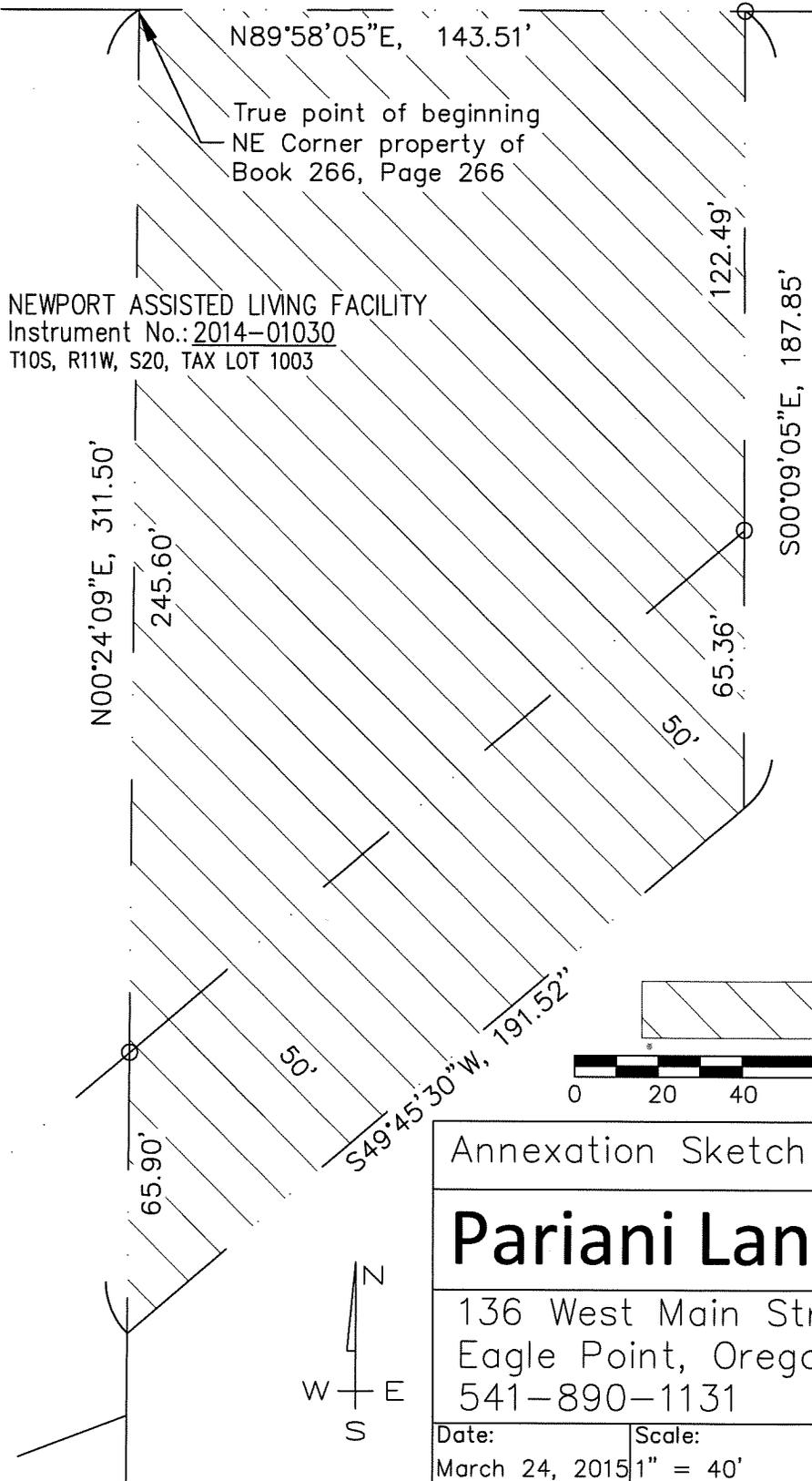

Steve Rich, City Attorney

Exhibit A

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



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

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

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Review Copy

OREGON
July 13, 1999
JOHN R. PARIANI
#51382

Renews: December 31, 2016

Property Corner Set per
Lincoln Co. Survey No. 19329

Area of Annexation



Annexation Sketch Map

Pariani Land Surveying

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

Date: March 24, 2015	Scale: 1" = 40'	Job No.: 2012-095	Sheet: 1 of 1
-------------------------	--------------------	----------------------	------------------

T10S, R11W, S20 TL1002 & TL1003

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. 1-AX-15/1-Z-15) was filed by Newport Memory Care. LLC (John Pariani of Pariani Land Surveying, authorized agent) on February 9, 2015. The application included consideration of a request to: (1) annex approximately 36,127 sq. ft. of real property (consisting of property currently identified as the eastern portion of Tax Lot 1003 of Assessor's Tax Map 10-11-20 and the northwest corner of Tax Lot 1002 of Assessor's Tax Map 10-11-20) into the Newport city limits; (2) amend the City of Newport Zoning Map to establish an R-4/"High Density Multi-Family Residential" zoning designation for the subject property consistent with the existing Newport Comprehensive Plan designation of High Density Residential; (3) apply the Iron Mountain Impact Area Zoning Overlay due to the territory's proximity to the quarry site; and (4) withdraw said territory from the Newport Rural Fire Protection District and the Lincoln County Library District.
2. The applicant is pursuing the annexation so that they can construct a 48-bed, long term memory care addition to the existing Oceanview Senior Living facility.
3. The property subject to the request is located at the northeast end of NE 71st Street (Lincoln County Assessor's Map 10-11-20, portion of Tax Lot 1003 (Instrument No. 2014-01030) and Lincoln County Assessor's Map 10-11-20, portion of Tax Lot 1002 (Instrument No. 2014-01029)).
4. The legal description of the area to be annexed is as follows:

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

Beginning at the northeast corner of said Parcel 2, Partition Plat 1996-28, said point also being the northwest corner of the property described in Book 266, Page 266 of the Lincoln County Official Records, said point also being the True Point of Beginning; thence North 89o58'05" East, 143.51 feet; thence South 00o09'05" East, 187.85 feet; thence South 49o45'30" West, 191.52 feet, to a point on the west line of that property described in said Book 266, Page 266; thence North 00o24'09" East, along said westerly line, 311.50 feet to the point of beginning.

Parcel area contains 36,112 square feet, more or less.
5. Staff reported the following information regarding the requests:
 - A. Plan Designation: The subject territory is within the Newport Urban Growth Boundary, is designated as "High Density Residential" on the Newport Comprehensive Plan Map, and is inside the Iron Mountain Impact Area.

- B. Zone Designation: City of Newport zoning is established at time of annexation. Either the R-3/“Medium Density Multi-Family Residential,” or R-4/ “High Density Multi-Family Residential” designations are consistent with Comprehensive Plan designation of High Density Residential. The applicant is requesting the R-4 zone designation. The Iron Mountain Impact Area zoning overlay must be applied to the property as well.
- C. Surrounding Land Uses: Surrounding land uses in the immediate vicinity include the Oceanview Senior Living facility to the west, Salmon Run Apartments to the southwest, the Iron Mountain Quarry and forest uses to the north and east, and a City of Newport parcel to the southeast. The city property is an old quarry site that has been remediated and is being developed with a domestic water supply tank.
- D. Topography and Vegetation: The property is moderately sloped and vegetated.
- E. Existing Residences/Buildings: None.
- F. Utilities: Water and sewer service is available. NE 71st Street will need to be extended concurrent with development of the property.
- G. Development Constraints: None known.
- H. Past Land Use Actions:
- File No. 5-PLA-13* - Property subject to this annexation was conveyed to Newport Assisted Living, LLC as part of a land exchange that allowed the City to obtain right-of-way for NE 71st Street.
- File No. 1-UGB-14* - Expanded the Urban Growth Boundary to include the property Newport Assisted Living obtained and 50-feet along the property frontage to allow NE 71st Street to be extended.
- I. Notification: Required notice to the Department of Land Conservation and Development was mailed on February 17, 2015.

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

In accordance with Oregon Revised Statute 222.120(3), notice of the April 20, 2015 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 April 8, 2015 and April 15, 2015. 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. No comments have been received in response to this notice.

6. The Planning Commission held a public hearing on the proposed request on March 23, 2015. No testimony was offered at the hearing, and after reviewing the staff report the Commission voted unanimously to recommend approval of the annexation with the property being zoned R-4/“High Density Multi-Family Residential” with the Iron Mountain Impact Area Zoning Overlay.
7. The City Council held a public hearing on the proposed requests on April 20, 2015. A Planning Staff Report, dated March 18, 2015, 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 R-3 and R-4 zones
 - Attachment "D-2" – Intent of Zoning Districts
 - Attachment "E"– Legal Description of the Area to be Annexed
 - Attachment "F"– Copy of ORS 222.170 through 222.183
 - Attachment "F-1"– Copy of ORS 222.460 through 222.465
8. At the April 20, 2015, 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 April 20, 2015 public hearing are hereby incorporated by reference into the findings.
9. 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.”*

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 the 50-foot strip of land that will allow for the extension of NE 71st Street, that is exempt from ad valorem taxes, shall not be factored into the calculus outlined above. The applicant Newport Memory Care, LLC and property owner Newport Assisted Living, LLC are managed by Andrew Plant. By signing the application form on behalf of both entities, Mr. Plant has provided the requisite consent that the territory be annexed. See 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 by virtue of City of Newport Ordinance No. 2065 and Lincoln County Ordinance No. 478.
 - 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 west side of the subject territory, adjacent to the Oceanview Assisted Living facility, is contiguous to the city limits. See Attachment "C" (Aerial Photo of Area to be Annexed).
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 R-4/"High Density Multi-Family Residential" zoning designation with the Iron Mountain Impact Area Zoning Overlay with 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 High Density Residential is implemented by either the R-3/"Medium Density Multi-Family Residential," or R-4/"High Density Multi-Family Residential" zoning designations. The applicant intends to construct an assisted living facility, which is a permitted use in both districts. Property immediately to the west is zoned R-4. There is no R-3 zoned property in the surrounding area (See Planning Staff Report Attachment "D"). The uses permitted outright and conditionally in the R-3 and R-4 zones are included as Planning Staff Report Attachment "D-1". The intent of the R-3 and R-4 zoning districts is included as Planning Staff Report Attachment "D-2".
 - B. The High Density Residential Comprehensive Plan Map designation for this property provides additional land for multi-family development, which is an area of need identified in the housing element of the Comprehensive Plan and the City's 20-year buildable land inventory. The Planning Commission may conclude that the application of a zone designation in conformance with the Comprehensive Plan would further a public necessity and promote the general welfare.
 - C. The property is within the Iron Mountain Impact Area. Applying the Iron Mountain Impact Zoning Overlay will require the applicant/owner to put in place restrictive

covenants at the time of development acknowledging the rights of the quarry operator to operate and that such operation necessarily includes dust, noise and vibrations attributed to heavy industrial use. This promotes the general welfare by ensuring that those who purchase or rent units at this location are informed of nearby industrial activity and that the quarry operator is protected from nuisance claims attributed to normal operational practices so that they can continue to provide aggregate to those agencies or businesses that have need of the resource.

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**.