



## **PLANNING COMMISSION WORK SESSION AGENDA**

**Monday, August 08, 2022 - 6:00 PM**

**City Hall, Council Chambers, 169 SW Coast Hwy, Newport, OR 97365**

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All public meetings of the City of Newport will be held in the City Council Chambers of the Newport City Hall, 169 SW Coast Highway, Newport. The meeting location is accessible to persons with disabilities. A request for an interpreter, or for other accommodations, should be made at least 48 hours in advance of the meeting to Peggy Hawker, City Recorder at 541.574.0613, or [p.hawker@newportoregon.gov](mailto:p.hawker@newportoregon.gov).

All meetings are live-streamed at <https://newportoregon.gov>, and broadcast on Charter Channel 190. Anyone wishing to provide written public comment should send the comment to [publiccomment@newportoregon.gov](mailto:publiccomment@newportoregon.gov). Public comment must be received four hours prior to a scheduled meeting. For example, if a meeting is to be held at 3:00 P.M., the deadline to submit written comment is 11:00 A.M. If a meeting is scheduled to occur before noon, the written comment must be submitted by 5:00 P.M. the previous day. To provide virtual public comment during a city meeting, a request must be made to the meeting staff at least 24 hours prior to the start of the meeting. This provision applies only to public comment and presenters outside the area and/or unable to physically attend an in person meeting.

The agenda may be amended during the meeting to add or delete items, change the order of agenda items, or discuss any other business deemed necessary at the time of the meeting.

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### **1. CALL TO ORDER**

*Jim Patrick, Bill Branigan, Bob Berman, Jim Hanselman, Gary East, Braulio Escobar, Dustin Capri, and Greg Sutton.*

### **2. UNFINISHED BUSINESS**

**2.A Potential Changes to South Beach / US 101 Commercial Industrial Corridor Amendments.**

Memorandum

Updated zone map change options (with property associated with 7/25/22 testimony highlighted)

Proposed Municipal Code amendments implementing Jet Planning's recommendations

Map options from the 7/25/22 public hearing

Public Comments

Draft minutes from 7/25/22 Commission hearing

Jet Planning Code Audit

NMC 14.03.040

NMC 14.03.060

NMC Chapter 14.32

Traci McDowall Email - August 8, 2022

**2.B Final Scope of Work for TGM Funded City Center Revitalization Project.**

Memorandum

David Helton, ODOT, email dated 8.3.22

Statement of Work for TGM City Center Revitalization Project

**2.C Review Updated Camping Ordinance.**

Memorandum

Revised Draft Camping Ordinance

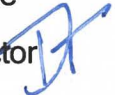
**2.D Updated Planning Commission Work Program.**

PC Work Program 8-5-22

**3. NEW BUSINESS**

**4. ADJOURNMENT**

# Memorandum

To: Planning Commission/Commission Advisory Committee  
From: Derrick I. Tokos, AICP, Community Development Director   
Date: August 5, 2022  
Re: Potential Changes to South Beach / US 101 Commercial Industrial Corridor Amendments

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This work session is an opportunity for Planning Commission and Advisory Committee members to review and discuss the proposed amendments in light of feedback received at the July 25, 2022 hearing. As requested by the Commission, I highlighted properties that were the subject of public testimony on Map Alternative No. 3. The properties are labeled with the last name of the person that provided comment. Hopefully, this will help you correlate letters and testimony from the minutes with the affected properties.

An updated version of the draft code amendments is included in the packet. There are some nuances with how vehicle repair uses are treated that I would like to discuss with you. Also attached, for reference, are relevant sections of the Newport Municipal Code. NMC 14.03.040 outlines the intent of each zone district. That language might be helpful as you weigh options. Also enclosed are the descriptions of the uses allowed in each zone (NMC 14.03.060) and the non-conforming use standards (NMC Chapter 14.32).

I'll be prepared to walk through the different map change scenarios and the code changes and will be looking for a sense from the group as to how you might want to adjust the proposal prior to the August 22, 2022 hearing.

#### Attachments

Updated zone map change options (with property associated with 7/25/22 testimony highlighted)  
Proposed Municipal Code amendments implementing Jet Planning's recommendations  
Map options from the 7/25/22 public hearing  
Public comments  
Draft minutes from 7/25/22 Commission hearing  
JET Planning Code Audit  
NMC 14.03.040  
NMC 14.03.060  
NMC Chapter 14.32







## August 8, 2022 Draft, Implementing Jet Planning's Recommended Land Use Regulatory Amendments

(Unless otherwise specified, new language is shown in double underline, and text to be removed is depicted with ~~strike through~~. Staff comments, in *italics*, are for context and are not a part of the revisions.)

### CHAPTER 14.03 ZONING DISTRICTS

#### 14.03.010 Purpose.

It is the intent and purpose of this section to establish zoning districts for the City of Newport and delineate uses for each district. Each zoning district is intended to service a general land use category that has common location, development, and use characteristics. The quantity and availability of lands within each zoning district shall be based on the community's need as determined by the Comprehensive Plan. Establishing the zoning districts also implements the General Land Use Plan Map as set forth in the Comprehensive Plan.

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#### 14.03.070 Commercial and Industrial Uses.

The following list sets forth the uses allowed within the commercial and industrial land use categories.

"P" = Permitted uses.

"C" = Conditional uses; allowed only after the issuance of a conditional use permit.

"X" = Not allowed.

		C-1	C-2 <sup>1</sup>	C-3	I-1	I-2	I-3
1.	Office	P	X	P	P	P	X
2.	Retails Sales and Service						
	a. Sales-oriented, general retail	P	P	P	P	P	C
	b. Sales-oriented, bulk retail	C	X	P	P	P	C
	c. Personal Services	P	C	P	P	C	X
	d. Entertainment	P	P <sup>2</sup>	P	P	C	X
	e. Repair-oriented	P	X	P	P	P	X
3.	Major Event Entertainment	C	C	P	P	C	X
4.	Vehicle Repair	<del>XC</del>	X	P	P	P	X
5.	Self-Service Storage <sup>6</sup>	X	X	P	P	P	X
6.	Parking Facility	P	P	P	P	P	P
7.	Contractors and Industrial Service <sup>6</sup>	X	X	P	P	P	P
8.	Manufacturing and Production						
	a. Light Manufacturing	X	X	C	P	P	P



August 8, 2022 Draft, Implementing Jet Planning's Recommended Land Use Regulatory Amendments

	b. Heavy Manufacturing	X	X	X	X	C	P
9.	Warehouse, Freight Movement, & Distribution	X	X	P	P	P	P
10.	Wholesale Sales	X	X	P	P	P	P
11.	Waste and Recycling Related	C	C	C	C	C	C
12.	Basic Utilities <sup>3</sup>	P	P	P	P	P	P
13.	Utility Corridors	C	C	C	C	C	C
14.	Community Service	P	C	P	P	C	X
15.	Family Child Care Home	P	P	P	X	X	X
16.	Child Care Center	P	P	P	P	P	X
17.	Educational Institutions						
	a. Elementary & Secondary Schools	C	C	C	X	X	X
	b. College & Universities	P	X	P	X	X	X
	c. Trade/Vocational Schools/Other	P	X	P	P	P	P
18.	Hospitals	C	C	C	X	X	X
19.	Courts, Jails, and Detention Facilities	X	X	P	C	X	X
20.	Mining						
	a. Sand & Gravel	X	X	X	X	C	P
	b. Crushed Rock	X	X	X	X	X	P
	c. Non-Metallic Minerals	X	X	X	X	C	P
	d. All Others	X	X	X	X	X	X
21.	Communication Facilities <sup>4</sup>	P	X	P	P	P	P
22.	Residences on Floors Other than Street Grade	P	P	P	X	X	X
23.	Affordable Housing <sup>5</sup>	P	P	P	P	X	X
24.	Transportation Facilities	P	P	P	P	P	P

1. Any new or expanded outright permitted commercial use in the C-2 zone district that exceeds 2,000 square feet of gross floor area. New or expanded uses in excess of 2,000 square feet of gross floor area may be permitted in accordance with the provisions of Chapter 14.34, Conditional Uses. Residential uses within the C-2 zone are subject to special zoning standards as set forth in Section 14.30.100.

2. Recreational Vehicle Parks are prohibited on C-2 zoned property within the Historic Nye Beach Design Review District.

3. Small wireless facilities shall be subject to design standards as adopted by City Council resolution.

4. Communication facilities located on historic buildings or sites, as defined in Section 14.23, shall be subject to conditional use review for compliance with criteria outlined in Sections 14.23 and 14.34.



5. Permitted as outlined in Chapter 14.15 or, in the case of hotels/motels, the units may be converted to affordable housing provided they are outside of the Tsunami Hazard Overlay Zone defined in NMC Chapter 14.50.

6. Self-service storage use; sales, repair, storage, salvage or wrecking of heavy machinery, metal and building materials; towing and vehicle storage; and auto and truck salvage and wrecking are prohibited within the South Beach Transportation Overlay Zone, as defined in Section 14.43.020.

*Staff: Implements the first two recommendations from Jet Planning (Page E35, Appendix E, South Beach US 101 Corridor Refinement Plan). The low-employment and tax generation potential of self-storage within the Overlay is not a good fit given the level of investment the Urban Renewal Agency and City have made in the infrastructure to support development. Salvage, towing and wrecking operations also have a low employment density and detract from the "Gateway to Newport" aesthetic the City is looking to establish over time, along the highway corridor.*

*With the August 8, 2022 draft, the language in Footnote 6 has been adjusted to align exactly with how the uses are described in the Industrial Use Category Section of the Municipal Code (NMC 14.14.03.060(D)). This should help avoid confusion, and aligns closer with Jet Planning's recommendation.*

*The Commission should also consider reclassifying Vehicle Repair in the C-1 zone from a prohibited use to a conditional use. This would align with auto sales and leasing which is a bulk retail conditional use in the C-1 zone. Auto sales and repair typically go hand in hand. Also, some repair activities that occur within a fully enclosed building could be compatible in a retail sales zone (e.g. transmission, muffler, upholstery, and tire shops). Alternatively, language can be added to the description of "sales-oriented, bulk retail" to clarify that auto repair in conjunction with sales is considered a bulk retail use. This would be a narrower allowance for vehicle repair in the C-1 zone via conditional use review.*



## CHAPTER 14.13 DENSITY LIMITATIONS

### 14.13.010 Density Limitations

A residential building structure or portion thereof hereafter erected shall not exceed the maximum living unit density listed in Table A, as hereinafter set forth, for the zone indicated, except in the case of a lot having less than is required and of record prior to December 5, 1966, which may be occupied by a single-family dwelling unit, providing other requirements of this ordinance are complied with, except to the extent that a higher density may specifically be allowed by any term or provision of this Ordinance.

(BY THIS REFERENCE, THERE IS INCLUDED HEREIN AND MADE A PART HEREOF, A TABLE OF DENSITY AND OTHER REQUIREMENTS, DESIGNATED "TABLE A".)

#### NMC 14.13.020

Table "A"

Zone District	Min. Lot Area (sf)	Min. Width	Required Setbacks <sup>3,7</sup>			Lot Coverage (%)	Max. Building Height	Density (Land Area Required Per Unit (sf))
			Front/2 <sup>nd</sup> Front <sup>1</sup>	Side	Rear			
R-1	7,500 sf	65-ft	15-ft / 15-ft or 20-ft / 10-ft	5-ft & 8-ft	15-ft	54 %	30-ft	SFD - 7,500 sf <sup>2</sup> Duplex - 3,750 sf <sup>2</sup>
R-2	5,000 sf <sup>3</sup>	50-ft	15-ft / 15-ft or 20-ft / 10-ft	5-ft	10-ft	57%	30-ft	SFD – 5,000 sf <sup>2</sup> Duplex - 2,500 sf <sup>2</sup> Townhouse - 2,500 sf <sup>3</sup>
R-3	5,000 sf <sup>3</sup>	50-ft	15-ft / 15-ft or 20-ft / 10-ft	5-ft	10-ft	60%	35-ft	1,250 sf <sup>3</sup>
R-4 <sup>4</sup>	5,000 sf <sup>3</sup>	50-ft	15-ft / 15-ft or 20-ft / 10-ft	5-ft	10-ft	64%	35-ft	1,250 sf <sup>3,5</sup>
C-1	5,000 sf	0	0 <u>or 15-ft from US 101</u> <sup>8</sup>	0	0	85-90% <sup>6</sup>	50-ft <sup>6</sup>	n/a
C-2 <sup>4</sup>	5,000 sf	0	0 <u>or 15-ft from US 101</u> <sup>8</sup>	0	0	85-90% <sup>6</sup>	50-ft <sup>6</sup>	n/a
C-3	5,000 sf	0	0 <u>or 15-ft from US 101</u> <sup>8</sup>	0	0	85-90% <sup>6</sup>	50-ft <sup>6</sup>	n/a
I-1	5,000 sf	0	<del>50</del> 15-ft from US 101	0	0	85-90% <sup>6</sup>	50-ft <sup>6</sup>	n/a
I-2	20,000 sf	0	<del>50</del> 15-ft from US 101	0	0	85-90% <sup>6</sup>	50-ft <sup>6</sup>	n/a
I-3	5 acres	0	<del>50</del> 15-ft from US 101	0	0	85-90% <sup>6</sup>	50-ft <sup>6</sup>	n/a
W-1	0	0	0	0	0	85-90% <sup>6</sup>	40-ft <sup>6</sup>	n/a



August 8, 2022 Draft, Implementing Jet Planning's Recommended Land Use Regulatory Amendments

W-2	0	0	0	0	0	85-90% <sup>6</sup>	35-ft <sup>6</sup>	n/a
MU-1 to MU-10 Mgmt. Units	0	0	0	0	0	100%	40-ft <sup>6</sup>	n/a
P-1	0	0	0	0	0	100%	50-ft	n/a
P-2	0	0	0	0	0	100%	35-ft	n/a
P-3	0	0	0	0	0	100%	30-ft	n/a

<sup>1</sup> Front and second front yards shall equal a combined total of 30-feet. Garages and carports shall be setback at least 20-feet from the access street for all residential structures.

<sup>2</sup> Density limitations apply where there is construction of more than one single-family dwelling (SFD) or duplex on a lot or parcel.

<sup>3</sup> Density limitations for townhouses and cottage clusters is the minimum area required per townhouse or cottage cluster unit; whereas, minimum lot area, minimum lot width, and setbacks, apply to the perimeter of the lot, parcel, or tract dedicated to the townhouse or cottage cluster project.

<sup>4</sup> Special Zoning Standards apply to R-4 and C-2 zoned property within the Historic Nye Beach design Review District as outlined in NMC 14.30.100.

<sup>5</sup> Density of hotels, motels, and non-residential units shall be one unit for every 750 sf of land area.

<sup>6</sup> Height limitations, setbacks, and lot coverage requirements for property adjacent to residential zones are subject to the height and yard buffer requirements of NMC Section 14.18.

<sup>7</sup> Front and 2<sup>nd</sup> front setbacks for a townhouse project or cottage cluster project shall be 10-feet except that garages and carports shall be setback a distance of 20-feet.

<sup>8</sup> The 15-foot setback from US 101 applies only to land situated south of the Yaquina Bay Bridge.

*Staff: Implements the third and fourth recommendations from Jet Planning (Pages E35 and E36, Appendix E, South Beach US 101 Corridor Refinement Plan). US 101 setbacks for industrial zoned property reduced to 15-feet. The current 50-foot setback is so large that it is an impediment to development. A 15-foot setback is added for commercial zoned properties south of the Yaquina Bay Bridge. Collectively, the setbacks will provide separation between buildings and the heavily travelled US 101 corridor in South Beach.*



## CHAPTER 14.19 LANDSCAPING REQUIREMENT

### 14.19.010 Purpose

The purpose of this section is to provide for the installation, long-term maintenance and protection of trees, vegetation and other landscape elements within the City of Newport recognizing however, that development often times requires the removal of trees and other plant material. When removal is done, the purpose of this section is to require replacement that is attractive, well placed and enhances the overall appearance of the property and the City as a whole. It is further the purpose of this section to:

- A. Aid in air purification and storm water runoff retardation;
- B. Aid in the reduction of noise and glare;
- C. Provide visual buffers;
- D. Enhance the beauty of the city;
- E. Improve property values;
- F. Reduce erosion; and
- G. To protect and enhance the natural beauty, environment and greenspace within the City of Newport to advance economic development, attract residents and promote tourism.

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### 14.19.050 Landscaping Required for New Development, Exceptions

All new development, except for one and two family residences, shall be required to install landscaping per this section. For purposes of this section, new development shall mean construction upon a vacant lot or a lot that becomes vacant by virtue of the demolition of an existing building. Landscaping shall be provided as follows:

- A. Area. Landscaping shall be ten percent of the total square footage of a lot or parcel.
- B. Location. Landscaping shall be located along a street frontage or frontages.



1. For commercial and industrial zoned lots south of the Yaquina Bay Bridge that abut US 101, landscaping shall include a minimum 15-foot wide landscape buffer.

- C. Exceptions. The right-of-way between a curb and a property line, not counting any sidewalk, driveway or other hard surfaces, may be used and counted toward the required landscaping as long as it has been determined by the Planning Director that the right-of-way is not needed for future street expansion. A developer may also plant a street tree within the sidewalk and it shall count toward meeting landscaping requirements subject to approval by the Planning Director and the City Engineer. A window or planter box may also be used to meet landscaping requirements at a ratio of 1 to 1. If the developer chooses to exercise this option, he or she shall enter into an agreement that the landscaping in the right-of-way is to be maintained as landscaping.
- D. Landscaping and Screening for Parking Lots. The purpose of this subsection is to break up large expanses of parking lots with landscaping. Therefore, all parking areas or each parking bay where a development contains multiple parking areas shall comply with the following provisions:
1. A minimum of 10 percent of the total surface area of all parking areas, as measured around the perimeter of all parking spaces and maneuvering areas, shall be landscaped. This 10 percent landscaping requirement includes landscaping around the perimeter of parking areas as well as landscaped islands within parking areas. Such landscaping shall consist of canopy trees distributed throughout the parking area. A combination of deciduous and evergreen trees, shrubs, and ground cover plants is required. At a minimum, one tree per 12 parking spaces on average shall be planted over and around the parking area.
  2. All parking areas with more than 20 spaces shall provide landscape islands with trees that break up the parking area into rows of not more than 12 contiguous parking spaces. Landscape islands and planters shall have dimensions of not less than 48 square feet of area and no dimension of less than 6 feet, to ensure adequate soil, water, and space for healthy plant growth;

3. All required parking lot landscape areas not otherwise planted with trees must contain a combination of shrubs and groundcover plants so that, within 2 years of planting, not less than 50 percent of that area is covered with living plants; and
4. Wheel stops, curbs, bollards or other physical barriers are required along the edges of all vehicle-maneuvering areas to protect landscaping from being damaged by vehicles. Trees shall be planted not less than 2 feet from any such barrier.
5. Trees planted in tree wells within sidewalks or other paved areas shall be installed with root barriers, consistent with applicable nursery standards.
6. The edges of parking lots shall be screened to minimize vehicle headlights shining into adjacent rights-of-way and residential yards. Parking lots abutting sidewalk or walkway shall be screened using a low-growing hedge or low garden wall to a height of between 3 feet and 4 feet.
7. The provisions of this subsection do not apply to areas for the storage and/or display of vehicles.

#### 14.19.060 Landscaping Requirements for Additions and Remodels

For purposes of this section, addition means any development that increases the floor area of a building. Remodel is any work requiring a building permit. For additions and remodels, landscaping shall be provided as follows:

- A. Area. If the subject development after completion complies with the requirements for new development, no additional landscaping is required. If the subject development does not comply with the requirement for new development, landscaping shall be installed so as follows:
  1. For projects with a value of \$~~5080~~,000 or less, no additional landscaping is required.
  2. For projects with a value of \$~~5080~~,001 to \$~~100160~~,000, the amount of landscaping shall be no less than 25% of that required for new development.



3. For projects with a value of \$~~100160~~175250,001 to \$~~175250~~300475,000, the amount of landscaping shall be no less than 50% of that required for new development.
4. For projects with a value of \$~~175250~~300475,001 to \$~~300475~~100160,000, the amount of landscaping shall be no less than 75% of that required for new development.
5. For projects with a value greater than \$~~300475~~100160,000, the amount of landscaping shall be 100% of that required for new development.

Values shall be based on year ~~2000-2022~~ dollars and adjusted on July 1 of each year for inflation. The adjustment shall be based on the latest available ~~Portland, Oregon Consumer Price Index~~U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index for All Urban Consumers (CPI-U).

For purposes of this section, the value shall be based on the amount placed on the application for a building permit. If the Building Official determines that the value is below the actual value as calculated by the formulas developed by the State of Oregon Building Codes Division, the value on the permit shall be as determined by the Building Official. If there is a dispute as to the value, the matter shall be referred to the Planning Commission for resolution. The procedure used shall be the same as for a Type I variance contained in [Section 14.33](#) of this Ordinance.

In the case where a second addition or remodel is commenced within one year of the first addition or remodel, the two projects shall be counted as one with regard to determining the above landscaping requirements.

B. Location. Landscaping shall be located along a street frontage or frontages.

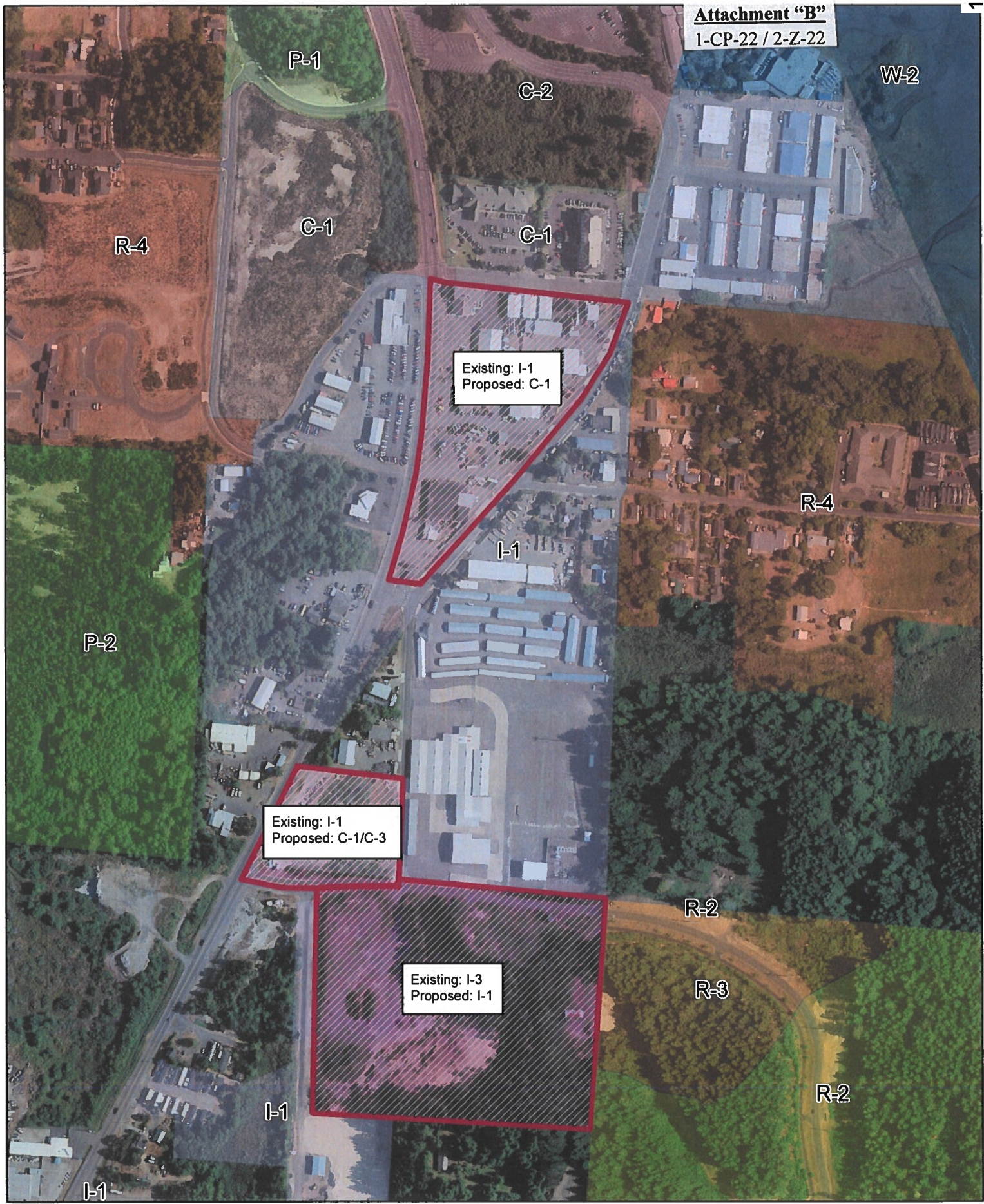
1. For commercial and industrial zoned lots south of the Yaquina Bay Bridge that abut US 101, landscaping shall include a minimum 15-foot wide landscape buffer.

C. Exceptions. The right-of-way between a sidewalk and a property line may be used and counted toward the required landscaping as long as it has been determined by the Planning Director that the right-of-way is not needed for future street expansion. If the developer chooses to

exercise this option, he or she shall enter into an agreement that the landscaping in the right-of-way is to be maintained as landscaping. In addition, window boxes may be substituted for surface landscaping. The calculation shall be one square foot of window box accounts for three square feet of surface landscaping as required in Subsection A of this Section. A developer may also plant a street tree within the sidewalk and it shall count toward meeting landscaping requirements subject to approval by the Planning Director and the City Engineer.

*Staff: Implements the last two recommendations from Jet Planning (Page E36, Appendix E, South Beach US 101 Corridor Refinement Plan). Requires a 15-foot landscape buffer along US 101 south of the bridge for new development (NMC 14.19.050(B)(1) and for additions/remodels (NMC 14.19.060(B)(1)). An inflationary adjustment has been applied to thresholds for when landscaping is required for additions/remodels given that the previous figures are more than 20 years old. The U.S. Bureau of Labor Statistics discontinued the CPI for the Portland Region, so it has been replaced with the CPI for all urban consumers.*



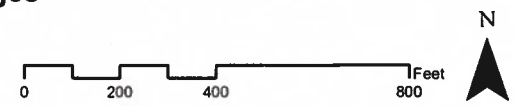


City of Newport  
Community Development Department  
169 SW Coast Highway  
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Phone: 1.541.574.0829  
Fax: 1.541.574.0644

### Jet Planning Recommended Changes (Map Alternative No. 1)

Image Taken July 2018  
4-inch, 4-band Digital Orthophotos  
Quantum Spatial, Inc. Corvallis, OR

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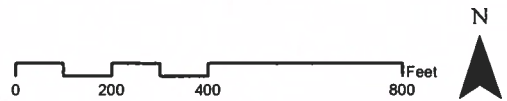


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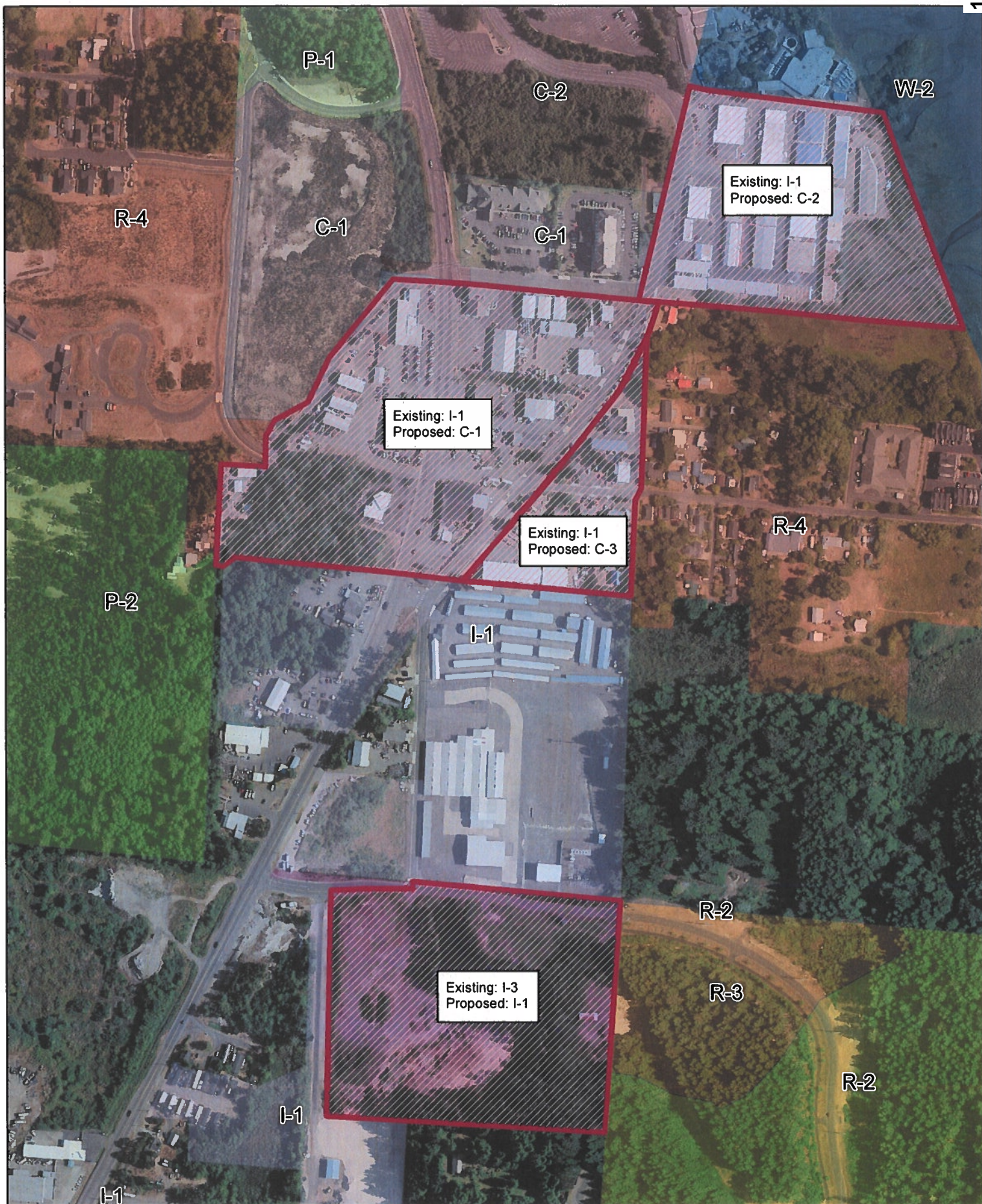
### Zone Change Options (Map Alternative No. 2)

Image Taken July 2018  
4-inch, 4-band Digital Orthophotos  
Quantum Spatial, Inc. Corvallis, OR

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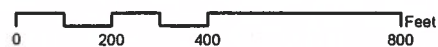


**City of Newport**  
**Community Development Department**  
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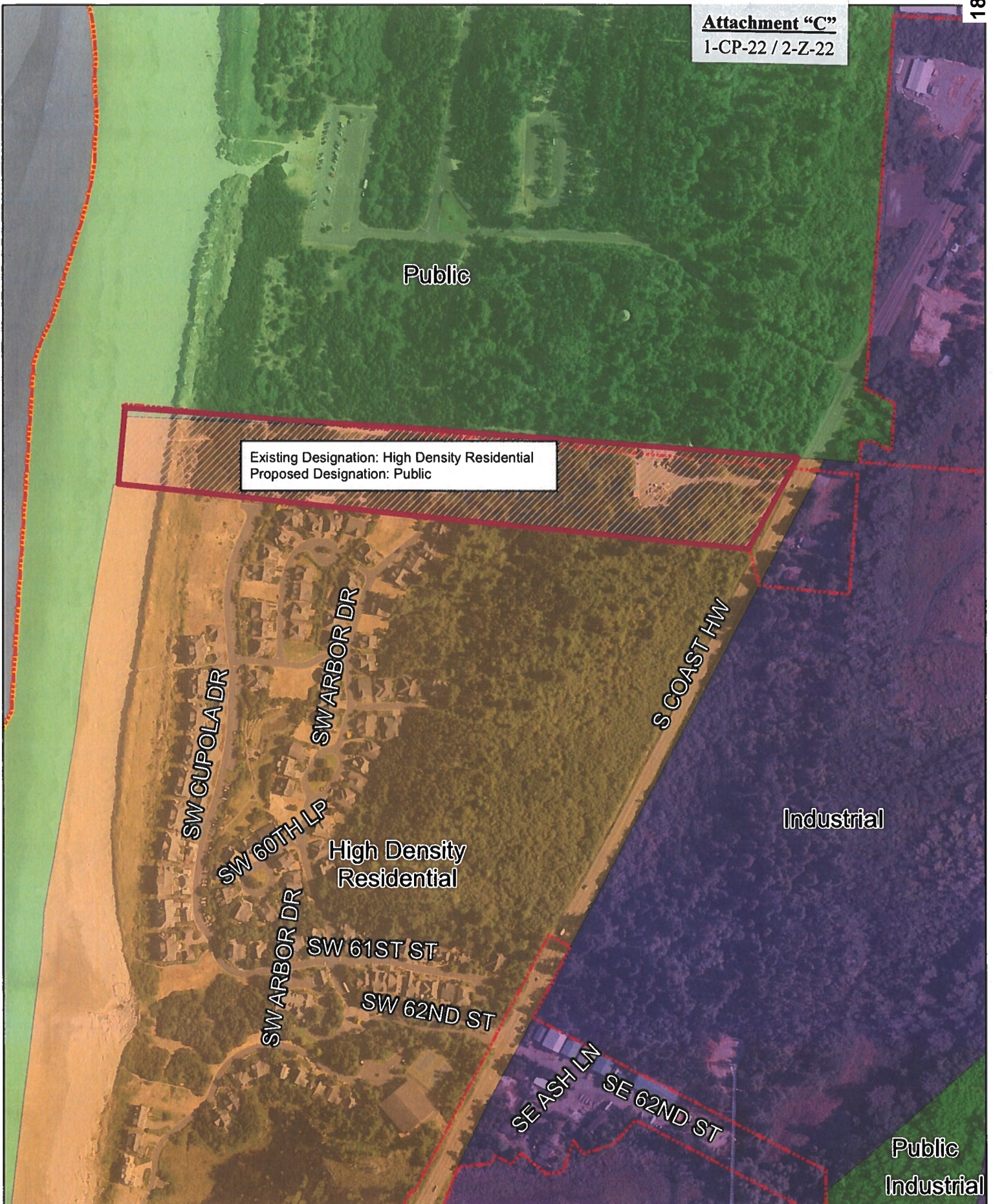
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### Zone Change Options (Map Alternative No. 3)

Image Taken July 2018  
 4-inch, 4-band Digital Orthophotos  
 Quantum Spatial, Inc. Corvallis, OR







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

### Jet Planning Code Audit Comp Plan Map Change Recommendation

Image Taken July 2018  
4-inch, 4-band Digital Orthophotos  
Quantum Spatial, Inc. Corvallis, OR



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**Derrick Tokos**

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**From:** PHIPPS Lisa \* DLCDCD <Lisa.PHIPPS@dlcd.oregon.gov>  
**Sent:** Thursday, June 30, 2022 1:58 PM  
**To:** Derrick Tokos  
**Cc:** YOUNG Kevin \* DLCDCD  
**Subject:** Newport PAPA

**[WARNING]** This message comes from an external organization. Be careful of embedded links.

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Hi, Derrick,

I received some comments regarding Newport File 1-CP-22 / 2-Z-22:

There need to be findings that the change will not leave the City with less high density residential land than is called for in the most recent HNA. It is recommended that the City include the math, as HLA/FHCO will likely review and comment and the math may address any comments they might have.

If you need this is a formal letter, let me know. I am sure you were planning on addressing all of this in your findings, but I wanted to let you know that the issue was raised. If you have any questions, you can call me or Kevin Young (copied).

Thanks, Lisa

July 16, 2022

**JUL 19 2022**

**RECEIVED**

TO: City of Newport Planning Commission  
Community Development Department  
City Hall  
169 SW Coast Highway  
Newport, Oregon 97365

RE: Written Comment Regarding Potential Land Use Change

Planning Commission Members:

The undersigned are the owners of the land lying north of 35th Street, East of SE Ferry Slip Road and west of SE Chestnut Street. These are 3 contiguous properties. The Public Notice advises that the city is considering changing the zoning on this property from Light Industrial to C-1.

The criteria according to the Notice is that such a change must be required by public necessity and the general welfare of the community or to correct map error.

The property in question has been zoned I-1 for many years and there are no map errors relating to this property.

Further, the changes are not required by public necessity and the general welfare of the community and would, in fact, cause the owners loss of value, loss of historical use, loss of future flexibility of use and would be to the public detriment for some of the following reasons:

1. There is adequate C-1 properties within the more traditional commercial areas of the city as is demonstrated by the empty buildings along Highway 101.
2. This property is not suitable for C-1 because of its distance from Highway 101. Additionally, the existing structures are not suitable for C-1 as they have been built for uses within the Light Industrial zone.
3. There continues to be a high demand for properties within the Light Industrial zone. Personal experience has been that upon a vacancy within this area multiple applications are received within days for occupancy.
4. Current use of the properties in question include light manufacturing, boat repair, warehousing, light construction assembly and cabinet construction, wood turning, art framing construction and wholesale/retail.
5. Past uses for which there continues to be demand for space and should be allowable include fishing gear storage and repairs, fish processing equipment storage and repair, other types of light manufacturing, vehicle repair, warehousing and distribution.

6. The property we own is contiguous and is within the confines of SE Ferry Slip Road, 35th Street and Chestnut Street and therefore separate consideration and zoning for our property is appropriate.

There is no justification for changing the zoning to C-1. Changing the zoning to C-3 would be a reasonable alternative as it allows the uses that have been traditional on these properties and for which there continues to be high demand and also adds residential use on floors other than street level. Considering the lack of sufficient housing in the city this would seem to support a change to C-3.

In conclusion we:

1. Oppose a change to C-1
2. Support a change to C-3.
3. If a change to C-3 is not acceptable to the Planning Commission and city then the zoning should remain Light Industrial.



Chuck Forinash  
3428 SE Chestnut Street  
Newport, OR 97365



Tom Hasting  
3333 SE Ferry Slip Road  
Newport, OR 97365



Fred Yeck  
3335 SE Ferry Slip Road  
Newport, OR 97365



**Attachment "G"**

1-CP-22 / 2-Z-22

**Derrick Tokos**

**From:** Sarah Bermudez from Fair Housing Council of Oregon  
<sarahbermudezconsulting@gmail.com>  
**Sent:** Tuesday, July 19, 2022 10:38 PM  
**To:** Derrick Tokos  
**Subject:** PAPA file 1-CP-22 / 2-Z-22

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**[WARNING]** This message comes from an external organization. Be careful of embedded links.

You don't often get email from sarahbermudezconsulting@gmail.com. [Learn why this is important](#)

Good morning ,

My name is Sarah Bermudez and I am conducting outreach for the Fair Housing Council of Oregon (FHCO). I was hoping to obtain the staff report and all corresponding attachments for 1-CP-22 / 2-Z-22 the "Revise South Beach State Park maintenance yard Comprehensive Plan Map designation from high-density residential to public, and Industrial Map designation to Commercial north of former SE Ferry Slip/US 101 intersection. I-1/'Light-Industrial' zone to change to C-1/'Retail Commercial' and C-2/'Tourist Commercial' in this area. Property south of SE 40th to be rezoned from I-3/'Heavy Industrial' to I-1/'Light Industrial..' when available. We will be reviewing the staff report predominantly for Statewide Planning Goal 10 compliance.

If we do have any commentary or concerns my colleague Sam Goldberg will be in touch to advise. We hope this can be a collaborative process. Please confirm receipt of this e-mail, and I look forward to hearing from you soon.

Very Respectfully,

**Sarah Bermudez**

Fair Housing Counsel of Oregon

Phone: [\(503\) 928-4943](tel:5039284943)

E-mail: [sarahbermudezconsulting@gmail.com](mailto:sarahbermudezconsulting@gmail.com)

For the latest on the PAPA Project and our feedback & technical advice methodology, please read the PAPAs section at our partner website, [here](#).



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CITY OF NEWPORT

JUL 21 2022

RECEIVED

July 20, 2022

TO: City of Newport Planning Commission  
Community Development Department  
City Hall  
169 SW Coast Highway  
Newport, Oregon 97365

RE: Written Comment Regarding Potential Land Use Change

Planning Commission Members:

We are the owners of the property and business known as Barrelhead Building Supply located at 3551 SE Ferry Slip Road in South Beach. We have been in business for 45 years in this location and currently provide family wage jobs for 9 people.

We have received notice that the city is considering changing the zoning on this property from Light Industrial to C-1. We strongly object to this proposed change.

If this zone change should occur it would devalue our property and reduce our ability to change uses as conditions and business might require in the future. The location of our property and its characteristics do not make it appropriate for C-1.

We concur with the written comment submitted by Chuck Forinash, Fred Yeck and Tom Hasting who own the block to our north.

All the properties affected by this proposal lying along the east side of SE 35th Street have now objected to this proposed zone change.

Our property should remain as Light Industrial, or as suggested by the owners of the block to the north, be changed to C-3.

Either Light Industrial or C-3 should allow us the flexibility to make the changes needed to stay in business going into the future.

Respectfully Submitted,

Barrelhead Building Supply

BY:

  
Terri-McCulley, President

CITY OF NEWPORT

JUL 25 2022

RECEIVED

July 24, 2022

TO: City of Newport Planning Commission  
Community Development Department  
City Hall  
169 SW Coast Highway  
Newport, Oregon 97365

RE: Written Comment Regarding Potential Land Use Change

Planning Commission Members:

I own property which includes a warehouse that fronts on both Chestnut and Ferry Slip Road. It is now zoned LI and the City has given notice of intent to rezone to C-1.

I have already joined in written comment with others in opposition to this zone change.

I have attached a photo of my buildings. It is divided into 2 units, one facing Ferry Slip Road and the other on Chestnut. There are no windows and no doors other than the large roll up and man door on each end.

Clearly this building is not suitable for C-1 uses. It is a warehouse intended for storage and repair work.

All the owners of property fronting on Ferry Slip Road that are subject to this proposal have submitted written comment opposing the zone change to C-1 and suggested a compromise to rezone to C-3. These properties do not have the same proximity to Highway 101 so as to make them suitable for retail uses as the other properties the city is proposing for C-1 zoning.

A zone change from Light Industrial to C-1 is a drastic change which prohibits most of the uses these properties have been developed for over the years. Such a change at this point in time is not justified and we are hopeful the Planning Commission will agree and select the option of C-3 which is a slower move in the direction of commercial and which will not have such a negative affect on our properties as would C-1. Further my property and the others east of Ferry Slip Road are separated from the other property the city desires to rezone C-1 so as to not to have an adverse impact on those uses.

Respectfully Submitted

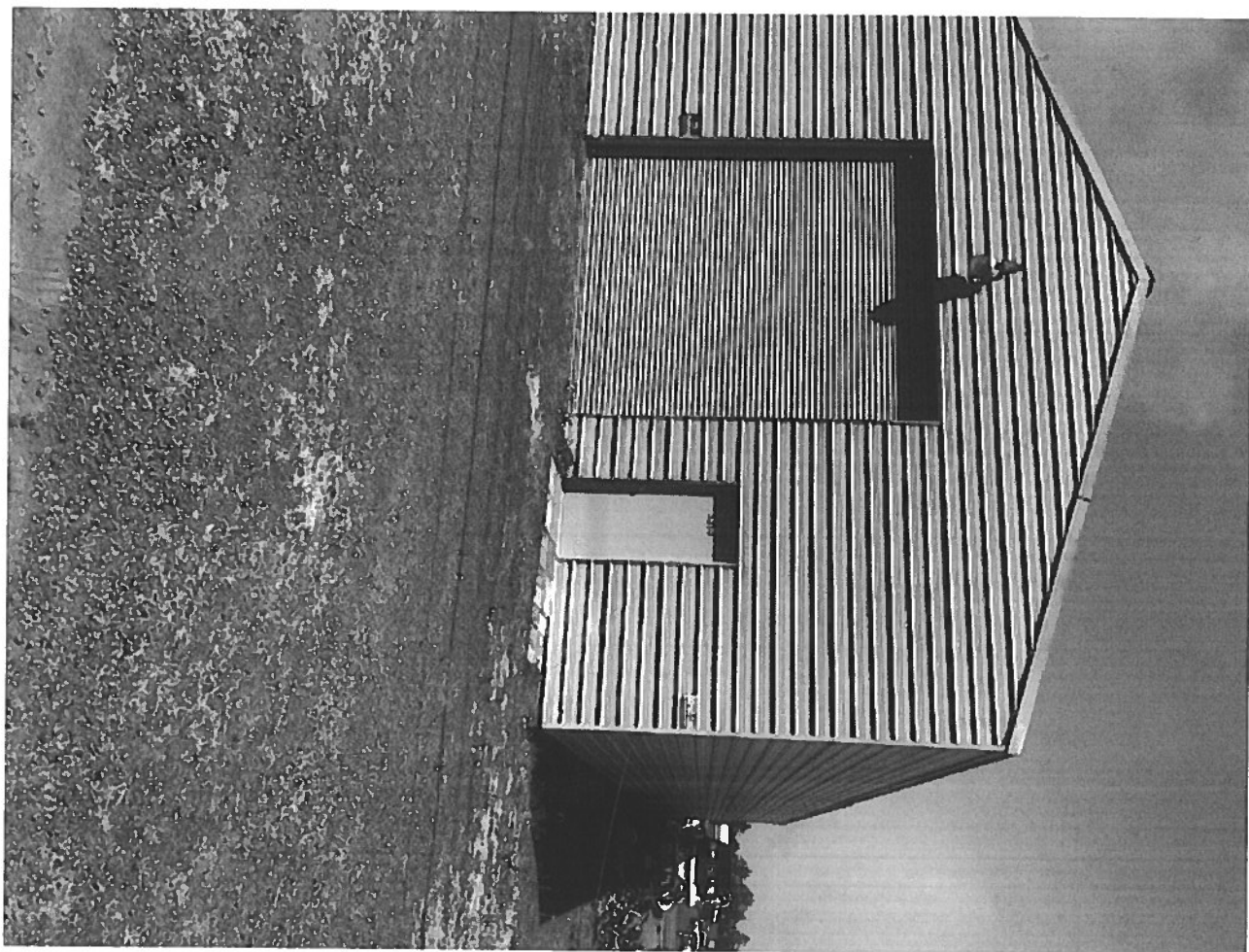


---

Fred Yeck

Newport, OR 97365





3330 SE Chestnut St.



**VIA EMAIL: [d.tokos@newportoregon.gov](mailto:d.tokos@newportoregon.gov)**

Newport Planning Commission  
c/o Derrick Tokos, Community Development Director  
Community Development Department  
City of Newport  
169 SW Coast Highway  
Newport, OR 97365

**RE: Comments on Ordinance 2196: Proposed Comprehensive Plan Map and Zoning Map Changes (File No. 1-CP-22-2A-22)**

Members of the Commission:

We understand that the City of Newport (“City”) is considering proposed amendments to its comprehensive plan map and zoning map that would change the allowable uses on our property located at 130 SE 32<sup>nd</sup> Street (Parcel 11-11-17-DB-00600-00) (“Property”). If adopted, the proposed amendments would replace the current “Light Industrial” or “I-1” zoning of the Property with a “Retail Commercial” or “C-1” zoning, and change the underlying comprehensive plan designation from industrial to commercial. For the reasons outlined below, we have concerns about the proposed changes given our current operations and request that the Commission review the below comments and consider a small modification to the current proposal to avoid the creation of a nonconforming use on our Property.

The facility located at 130 SE 32<sup>nd</sup> Street is owned by Anheuser-Busch and used as the primary wholesale operation location in the Newport and Lincoln City coastal territory. This includes the sale and distribution of beverages under the rights of Anheuser-Busch, including: beer, wine, water, sports and energy drinks. Two buildings exist on this property, an office building (2,208 SQ Ft) and a truck dock (586 SQ Ft). The main building consists of two office rooms, a storage room for various marketing items, a break room and restroom, and a walk in cooler for the temporary storage of product. The truck dock is very small, and houses two tractor trailers. Items stored in the dock are tools and supplies used for delivering product to our customers. Our staff consists of nine employees: three sales reps who work with bars, restaurants, and grocery stores, three merchandisers who help to service our customers, and three CDL drivers who delivery the products to the market.

This operation serves as a “satellite” facility, a small piece of Anheuser-Busch’s beverage distribution across the state of Oregon. Sales reps visit accounts in the market during the day and then write orders for delivery the next day. All product for sale in the Newport area is primarily stored in a large warehouse in Eugene. Prior to delivery, pallets of product are built and transported from Eugene to Newport overnight and moved from the transport truck to one of the local delivery trucks. All product not delivered that day returns to Eugene the following night. No sale of product takes place at the point of the facility, all sales take place at the





location of the customer. The building is not open to the public. A view of the Property from street is show in Figure 1 below.



**Figure 1.**

Our current use of the Property falls within the “Warehouse, Freight Movement, and Distribution” industrial use category. Newberg Municipal Code (“NMC”) 14.03.060.D.3. Per NMC 14.03.070, Warehouse, Freight Movement, & Distribution is a permitted use in the Property’s current I-1 zone but is not allowed in the proposed C-1 zone. Accordingly, if the City approves the proposed amendments, our current operation would become a nonconforming use.

Although we understand that the NMC provides for the continuation and maintenance of nonconforming uses and that our current operations would be allowed to continue even if the proposed amendments were adopted, the proposed C-1 zoning would significantly limit future plans for alteration or expansion, and place additional burdens on our use, including a continued operation requirement. Beyond the limitations placed on nonconforming uses, we do not believe it is good land use planning practice to move forward with zoning and comprehensive plan mapping changes that fail to account for existing uses. Indeed, the land use audit prepared for the City by Jet Planning recommends targeted mapping changes to expand the commercial district but notes that any rezoning should “be sensitive to the existing development to minimize creation of nonconforming development.”

Given current operations, our preference would be to retain the existing I-1 zoning on the Property. However, given the City’s desire to transition the area along Highway 101 from industrial to commercial, we would support an alternative proposal that would rezone the Property “Heavy Commercial” or “C-3” zone. Within the C-3 zone, Warehouse, Freight Movement, and Distribution is a permitted use.

Thank you in advance for your consideration of these comments.



Sincerely,

A handwritten signature in blue ink that reads "Rachel C. Taylor". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

Rachel C. Taylor  
Associate General Counsel  
Anheuser-Busch, LLC



**Draft MINUTES**  
**City of Newport Planning Commission**  
**Regular Session**  
**Newport City Hall Council Chambers**  
**July 25, 2022**

**Planning Commissioners Present:** Jim Patrick, Bob Berman, Braulio Escobar (by video), Gary East, Jim Hanselman, and Bill Branigan.

**City Staff Present:** Community Development Director (CDD), Derrick Tokos; and Executive Assistant, Sherri Marineau.

**Public Members Present:** Bill Rowley, Jeff Bertuleit, Tom Hasting, Robert Hoefs, Traci McDowall, Steve Perlenfein, Jeff Keane, Michael Smith, Janet Wood, Dale Webster, and Jason Asch.

1. **Call to Order & Roll Call.** Chair Patrick called the meeting to order in the City Hall Council Chambers at 7:00 p.m. On roll call, Commissioners Patrick, Branigan, Hanselman, Berman, Escobar, and East were present.

2. **Approval of Minutes.**

A. **Approval of the Planning Commission Work Session Meeting Minutes of June 13, 2022.**

**MOTION** was made by Commissioner Berman, seconded by Commissioner East to approve the Planning Commission Work Session meeting minutes of June 13, 2022 as written. The motion carried unanimously in a voice vote.

B. **Approval of the Planning Commission Regular Session Meeting Minutes of June 13, 2022.**

**MOTION** was made by Commissioner Berman, seconded by Commissioner East to approve the Planning Commission Regular Session meeting minutes of June 13, 2022 with minor corrections. The motion carried unanimously in a voice vote.

C. **Approval of the Planning Commission Work Session Meeting Minutes of July 11, 2022.**

**MOTION** was made by Commissioner Berman, seconded by Commissioner East to approve the Planning Commission Work Session meeting minutes of July 11, 2022 with minor correction. The motion carried unanimously in a voice vote.

3. **Public Comment.** None were heard.

4. **Action Items.** None were heard.

5. **Public Hearings.** At 7:01 p.m. Chair Patrick opened the public hearing portion of the meeting. Chair Patrick acknowledged the statement of rights and relevance. He asked the

Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. Branigan reported a site visit. Patrick called for objections to any member of the Planning Commission or the Commission as a whole hearing this matter; and none were heard.

**A. File 1-CP-22 / 2-Z-22.**

Tokos reviewed his staff report. He noted the proposed changes for the area east of Ferry Slip Road to change it from I-1 to C-3 would accommodate residential over commercial and require industrial uses to go through a conditional use process.

Tokos acknowledged the letters submitted as testimony from Chuck Forinash, Fred Yeck, Tom Hastings, Terri McCulley with Barrelhead Building Supply, and Rachel Taylor with Anheuser-Bush, LLC. Anheuser-Bush wanted to see the area changed to be C-3 zoning as opposed to a C-1. They recognized that if a C-1 was applied, the property would be a nonconforming use, because of its warehousing use. They also recognized that a nonconforming use could continue to exist and operate. Tokos noted these changes in no way shape or form would put an existing business that's operating out of business. He explained when a property went from conforming to nonconforming there were impacts associated with this. When they wanted to expand they would have to do a review by either staff or the Commission.

Tokos reviewed the code changes that were included. He then covered the changes to the South Beach State Park Comprehensive Plan Map. Tokos explained this was for the maintenance facility at the State Park which had a high density residential Comprehensive Plan Map designation and could be changed through a normal legislative process.

Tokos noted that the Fair Housing Council of Oregon wanted to position the 2.3 acre piece for redevelopment. The city wanted to facilitate other types of development in the corridor, but they needed to be cognizant that this was a public hearing and an opportunity for people to share their views on the changes. Tokos recommended the Commission take testimony without taking action, then continue the hearing to August 22nd so they could do a work session meeting on August 8th to see if they wanted to do any adjustments. The city could then provide notice on how things were modified and hold a second public hearing. Tokos reminded that the Commission would be making a recommendation that would go to the City Council.

Berman asked how the changes by the South Beach State Park would impact or relate to the future island annexation. Tokos explained there was an annexation they would be pursuing at the end of the year that would bring in the remaining unincorporated properties down to 50th Street. The city could annex these properties that were surrounded without consent. This process would annex most of the properties in as a light industrial zoning designation. This would allow for more intense industrial development than was currently allowed under the County's rules because they couldn't connect to sewer. These changes would not allow the uses they talked about in those zones such as a new self-storage, vehicle impound yard, recycling, or wrecking yard. Any existing use of this nature would come in as nonconforming. Nonconforming uses could change, alter or expand but they would be subject to a review. Berman asked if all the property coming in would be I-1 and if it would be reviewed during the annexation process. Tokos explained they could review it during the annexation process but reminded the annexation wasn't in front of the Commission currently.

**Opponents:** Bill Rowley with Rowley's Storage LLC at 4822 S Coast Hwy addressed the Commission. He reported that he owned a towing company and storage facility in South Beach.



He felt he was being singled out and didn't understand why they would allow a truck repair business but not a towing company. Rowley explained they wanted to expand their storage facility that had been there over 30 years and didn't know why they wanted to preclude one or two industries at the location. He noted the changes to 32nd Street from light industrial to commercial didn't have any use for this. This would mean they would have to put in retail and there wasn't any real parking there. It worked better as an industrial use. Commercial wouldn't be very conducive to that piece of property.

Jeff Bertuleit of 354 SE 2nd Street addressed the Commission. He noted that the 15 foot setback for parking wouldn't allow for vehicles that were 20 feet long and he wasn't sure where they would put cars with this requirement. He thought that changing the Aquarium property on Ferry Slip Road to C-3 was a good idea. Bertuleit noted that retail shops were going by the wayside because of online shopping. They needed to look at a planned industrial commercial development section here instead of it being a cookie cutter change because they were larger pieces of property. Bertuleit noted that the I-1 listed a lot of uses that wouldn't be allowed. He thought nobody wanted to put in a building that would be underutilized. Bertuleit highly recommended that they either modify the plan to reflect what the proposal was or keep it like it was, which is preferable to him. He pointed out that for his property the 15 foot landscaping requirement had some ramifications. Requiring 15 feet of landscaping on 600 feet of frontage meant he had to put in 57 by 600 feet of landscaping on top of the 15 feet that was already there to be able to comply. Bertuleit was concerned about what the landscaping requirement meant for larger properties. He thought that if they wanted to have a nice 15 feet of landscaping and widen streets the city should buy the right-of-way and not require taxpayers to fund it. Bertuleit pointed out that the property owners who were present at the hearing represented millions of dollars of property and should be considered. He thought they should have a middle lane down US 101 if they are going to put in sidewalks or bike lanes. Bertuleit didn't know how they be able to put in bike lanes. He was happy that the record would be held open. Bertuleit thought owners shouldn't of had this kind of situation happen to them. He felt Jet Planning didn't do their homework and the report wasn't defensible or realistic.

Tom Hastings with Hasting Coastal Woodworks at 3333 SE Ferry Slip Road addressed the Commission. He reported he was one of the persons who submitted the letter as testimony. Hastings had concerns on changing the C-1 on his property which currently had an art gallery with some light manufacturing and wholesale in the back. The changes meant both weren't allowed in the C-1. Hastings noted that nobody talked to him or other owners about the change. The change would make him have to apply for a conditional use or lose property value if he tried to sell. Hastings thought moving to a C-3 would allow them to continue to operate and would be acceptable to him. To go to C-1 would put him out of business.

Robert Hoefs at 3211 S Coast Hwy addressed the Commission. He reported he was the owner Off the Hook Restaurant and Newport Candy. He also owned the land that the Auto Doctors mechanic shop was on and the storage building next to it for his candy business. This building was a web steel building and was designed to be a storage building, not for retail shops. Hoefs reported his father had fought this zoning in 1982, and his family owned the property since the early 1970's. He questioned if his candy shop and restaurant fell under what they were trying to change the zoning to. Tokos confirmed they did, and the Auto Doctors would be nonconforming as a mechanics shop. Hoefs noted that the building was built for the Auto Doctors use and had to stay a mechanic shop throughout its life. He noted that he was the only one in the area that had built a property to meet these standards. If they changed the parcels to C-1 the properties weren't big enough to build a new building and have parking. Hoefs didn't understand where they were going

with the C-1 when light industrial worked. He felt those who didn't meet the light industrial zoning should have to go through a conditional use approval to function in that zoning instead of changing the zoning. Hoefs thought they couldn't build on these properties to meet the standards for a C-1.

Tracy McDowall with Yaquina Law addressed the Commission. She reported she was there on behalf of her clients Pat Tryon, Robert Tryon and Lauren Tryon who currently owned property that was zoned I-3 that was being changed. She was happy that the hearing would be continued because she would have requested it. Her clients opposed any rezoning of the property owned by her clients including the properties being changed from I-3 to I-1. McDowall believed that the proposed change if put into effect would constitute a taking under measure 49 and cause many other issues for her clients and the city. She noted that during the course of the work they stated that the stakeholders were included in the conversation on the changes, but her clients had never been contacted. There were only three properties zoned for heavy industrial use in the city. McDowall questioned how the city would continue to meet the needs of heavy industrial with these changes. This change does not support continued development in our area. It forced people to go out of the area to get things such as concrete and rock to get these things. McDowall noted that the compliance audit done by Jet Planning was the same company who worked as a planner privately for Landwaves on the Wilder development, and for OSU on their student housing project. She thought it was hard to say that Ms. Decker with Jet Planning didn't have a conflict when she performed this work and made these recommendations. Jet Planning was making a recommendation to the city and couldn't be unbiased in the development of the city in this area. McDowall noted her client's property was zoned for heavy industrial I-3 use long before any residential development took place in the area. Wilder did its trading of property to move the residential area development next to the industrial property. McDowall stated that Wilder and Jet Planning knew her client's property had an asphalt company that was operating there prior to this recommendation. Her clients purchased this property many years ago, knowing it was zoned for heavy industrial use because they owned a concrete plant. This proposed change would stunt their growth and prevent them from serving the community. McDowall stated that Wilder was also instrumental in redrawing the city limits to accommodate what they wanted. Her clients donated the road access for the area across from their property free of charge, and negotiated an easement with the city for drainage that ran through their property. By changing the property zoning from I-3 to I-1 they were preventing her clients from going through with their plans. McDowall thought that there was no valid reason for the city to rezone her clients property, there was no public necessity, and the general welfare of the community did not necessitate it. She thought there were no mapping errors related to this property. The changes would cause her clients a loss of property value, loss of planned and intended use, and loss of the flexibility they relied on when they purchased the property.

Jeff Keane addressed the Commission. He reported he represented Jeff Perlenfein who owned property that was included in the proposed changes. Keane stated that they objected to the changes and felt the property was being used effectively as industrial. They bought the property knowing it was light industrial and were attempting to use it that way. Keane felt the city wanted to rezone a building for commercial when there wasn't a need for commercial use. He questioned the nonconforming process and what it meant for the city versus the property owner to do this. They were concerned because they didn't know what this was and what they would have to do as nonconforming. Keane felt that whenever someone went before the Commission to make these types of changes they were rarely approved. Right now the property was used to house trucks that were displaced from the revitalization land. Keane questioned where these trucks would go if this was changed. He felt this would also result in a potential loss of jobs. When they bought the



property it was industrial and they expected it to stay industrial. Keane noted the loss of the use of the land meant it would just sit there. He didn't believe they needed to compromise the land for commercial at all.

Michael Smith addressed the Commission. He reported that he represented the South Bay Industrial Condominiums at 3025 SE Elm Street where he owned two of the units. Smith noted when he purchased his property it had a preexisting approval by the city, county and Owners Association as a watchman's residence. The changes would make this a nonconforming use and would substantially impact the property value and use of the property. Smith opposed the zoning change and didn't see the building being suitable for another use. The zoning change seemed irrelevant other than the negative impact on the unit holders. Smith didn't see the buildings being changed to commercial retail use. They seemed to function well under the current zoning.

Janet Woods of 138 SE 35th Street addressed the Commission. She reported she lived behind Barrelhead Supply. When they bought the property they had to prove conforming or nonconforming use approval to get residential lending. Woods noted that when she refinanced three months ago the city hadn't talked to her about the upcoming changes. The change would affect her home value. Woods noted that some property owners didn't get the notice about the changes and she had to share it with them. The improvements would cause her to lose parking spaces and she didn't want to be commercial. The value of her home was residential based and when she spoke to a home appraiser they expressed concerns about how the property would be assessed with the zoning changes.

Commissioner Escobar left the meeting at 8:12 p.m.

Dale Webster with the Newport Marine and RV Service at 4354 S. Coast Hwy addressed the Commission. He noted that their property wasn't affected by this yet but thought it would be coming their way soon and he was against it. They had retail, storage and automotive uses at their properties. Once the changes were applied to his property they would be nonconforming and he was against it. They did a lot of work for the Hatfield Marine Science Center, and the State Police, and the changes would chase them out of the property and there would be nowhere else to go. Webster restated he was against the changes.

Robert Hoefs addressed the Commission again. He stated he owned the Newport Candy shop since 1989 and Off the Hook Restaurant since 2017. Hoefs noted that before Covid he had many employees and now they are shorthanded. He felt that more commercial shops were needed, and there were too many short-term rentals and not enough houses for staff members in Newport and throughout the state.

Janet Woods addressed the Commission again. She stated that housing was tough in Newport. She questioned why they were changing land to commercial when they needed affordable housing.

**MOTION** was made by Commissioner Berman, seconded by Commissioner East to continue the public hearing for File -CP-22 / 2-Z-22 to the August 22, 2022 hearing date. The motion carried unanimously in a voice vote.

Berman requested that the Commission be provided a map that indicated where the property of the public who testified was located. Tokos would do this.

6. **New Business.** None were heard.

7. **Unfinished Business.**

A. **Updated Planning Commission Work Program.**

Tokos noted the updates to the work program that included the changes to the projected public hearing dates. He noted that the updated camping ordinance would be coming back to the Commission for review so they had the same information as the City Council.

Berman asked for the status of the Lighthouse to Lighthouse project. Tokos explained this was an established trail connection down to Oceanview Drive on the west side of US 101. It was important to get the Yaquina Traffic Study into the Comprehensive Plan so Federal Highways knew that it was something that people were generally supportive of. The city had a joint application with the BLM that was pending for a \$4.7 million project. The city would know in the fall if it was something they would accept.

Tokos noted the land swap with Boston Timber was finally going to a hearing with the County in September or October. They were trying to get a firm date. The County modified the proposal a little bit so it had to come back to the Commission.

8. **Director Comments.** None were heard.

9. **Adjournment.** Having no further business, the meeting adjourned at 8:53 p.m.

Respectfully submitted,

---

Sherri Marineau  
Executive Assistant



## Appendix E. Land Use Code Audit

OCTOBER 18, 2021

# LAND USE POLICIES, ZONING & REGULATIONS AUDIT NEWPORT SOUTH BEACH

PREPARED FOR: NEWPORT URBAN RENEWAL AGENCY



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# I. Overview & Summary of Findings

This land use audit informs the City of Newport's Refinement Plan for the South Beach/US 101 Commercial-Industrial Corridor to enhance understanding of current land use regulations and how they influence development, as well as how well they align with development goals for the South Beach Urban Renewal area. The South Beach area south of the Yaquina Bay Bridge includes the 1,169-acre urban renewal district. As the district reaches the end of its term in 2025, the Newport Urban Renewal Agency seeks to prioritize the allocation of remaining funds for the highest impact projects. Understanding the future development potential and the impact of various investments within the area requires an understanding of the range of land use plans and policies that currently apply within the South Beach area.

The purpose of this commercial-industrial land use audit is to understand how existing land use plans, maps and regulations interact with development goals for the area, and to identify suggested revisions to plans, maps and regulations as warranted to better align with area goals and investments. This audit focuses on commercial and industrial uses within the urban renewal area, oriented along the Highway 101 corridor. Key questions analyzed in this audit include:

- Do land use designations and zones as mapped, and zoning regulations within those zones, support the desired development within the district, particularly for identified opportunity sites and planned infrastructure improvements? Do they support desired uses and development forms, including more retail and service uses such as grocery stores, food options including restaurants and delis, general merchandise, and gas stations?
- Are there conflicts between existing development and proposed development, either in terms of uses, nonconforming status, or development forms, that could be better addressed through map and/or regulatory changes to enhance compatibility?
- Within the patchwork of annexed and unincorporated properties within the Urban Renewal area, what are the differences between City and County regulations that currently apply to those respective properties? Are there strategies that could support future annexations and what would the benefits be for the property owners and the city once annexed?

This analysis is grounded in review of existing land use documents and maps that apply to current and future development in South Beach, including: the City's Vision 2040 Strategies, Comprehensive Plan, Zoning Code (Title XIV of the Municipal Code), and the South Beach

Urban Renewal Plan. Additionally, Lincoln County plans and zoning code were analyzed to inform comparisons between current County status and future City status for unincorporated properties within the City's Urban Growth Boundary (UGB).

**Key Findings & Recommendations:** This analysis of existing land use policies and regulations is both descriptive and evaluative, describing existing status and influence and evaluating how well current standards fit with desired district development. The audit incorporates findings with recommended revisions to applicable land use policies to better align with urban renewal and district development goals. Significant findings and recommendations include:

**Mapping:** Generally, the mix of commercial and light industrial zones along the Highway 101 corridor aligns with the Urban Renewal District development goals and planned infrastructure improvements. The existing supply of commercial and industrially designated lands modestly exceeds demand and provides flexibility for select re-designation from industrial to commercial for key areas within South Beach, as desired to better meet local retail and service demand and activate development of the City's site at SE 35<sup>th</sup> St.

Targeted map changes to better align with the evolving district potential include:

- Expanding the commercial district along Highway 101 immediately south of the bridge to encompass the City's property at SE 35<sup>th</sup> St, and surrounding properties. Any rezoning should be designed to comply with the City's overall employment land forecast and transportation capacity within the South Beach Transportation Overlay Zone (SBTOZ), and be sensitive to the existing development to minimize creation of nonconforming development.
- Rezone the NE corner of SE 40<sup>th</sup> St and Highway 101 for commercial to create an additional large site for commercial development, and take advantage of a likely new signal.
- Reduce potential conflicts from heavy industrial uses by rezoning parcel on south side of SE 40<sup>th</sup> St east of the highway to light industrial (I-1) rather than existing heavy industrial zoning (I-3), given the proximity to residential and commercial development. Identify additional sites for heavy industrial uses farther south within the district as additional properties are annexed into the City.

**Annexation:** Nearly 25% of the district is currently outside of the City limits, and cannot be developed to urban levels of intensity and served by urban infrastructure until annexation occurs. More than half of the unincorporated area is designated for industrial use, and

annexation will be vital to support a robust industrial base in South Beach. Near-term recommendations include:

- Actively pursue annexation of industrial properties within the corridor, primarily located south of SE 40<sup>th</sup> St. Utilize island annexation provisions to spearhead Pursue a City-led annexation effort of larger territories utilizing island annexation provisions coupled with financial incentives for property owners to defray the infrastructure and application costs of annexation. Engage with individual property owners before and during the efforts to better understand priorities and needs.
- The City should continue to engage with Lincoln County to coordinate review of any development within the UGB to ensure that it can be consistent with City goals and standards upon future annexation. The City should coordinate with Lincoln County to complete the Urban Growth Management Agreement to ensure an orderly transition from County to City zoning and infrastructure.

**Zoning Code:** The City's Zoning Code clearly delineates commercial, industrial and other zones, with detailed use standards and limited site development standards. The Light Industrial (I-1) zone, which is most prevalent along the Highway 101 corridor, benefits from allowing a flexible mix of industrial and commercial uses akin to a flex zone with limited site development standards. However, this flexibility can result in a lack of certainty about future development and compatibility concerns between adjacent uses. Recommended code updates include:

- Limit uses inconsistent with the district development goals, such as uses typically associated with low employment generation and tax revenue relative to land area, by prohibiting new self-service storage and vehicular towing, wrecking and salvage uses in the I-1 zone.
- Introduce a 15-foot setback for both industrial and commercial properties along Highway 101 south of the bridge in place of the existing 50-foot front setback for industrial properties for a consistent frontage treatment. Require a 15-foot-wide landscape planting strip within the setback.
- Develop landscape screening, buffering and/or fencing standards for industrial uses and outdoor storage uses, such as auto wrecking or building materials, along the highway corridor to enhance compatibility between development sites and the overall look and feel of development along the corridor.
- Maintain existing land use and building permit procedures, which minimize discretionary review for proposed development. As needed, incorporate review of any



additional development standards such as landscaping at the time of building permit application.

**Other Considerations:** Longer term, the City should continue to monitor issues such as parking demand and trip allocation within South Beach, and make further adjustments as appropriate. Recommendations include:

- Review the relative employment and tax generation potential of uses permitted within the district, as well as their role within the local and regional economy, to support any future recommendations to modify the range of permitted uses such as limiting new vehicle sales and service uses.
- Consider option to selectively use development agreements to gain greater certainty about proposed development for select sites in order to better manage district cohesion and compatibility, balanced against the effort required.
- Monitor parking demand and implications of current parking ratios for site development feasibility. Explore options for shared parking on individual sites in the short term and site-specific or district-wide parking reductions as warranted in the long term.
- Potential commercial rezones, development at the SE 35<sup>th</sup> Ave gateway site and installation of new signals at SE 35<sup>th</sup> St and potentially SE 40<sup>th</sup> St should be reviewed to determine their impact on trip budgets, including any required analysis as part of a comprehensive plan land use designation change required by NMC 14.43.120(B). If not sooner, the comprehensive reassessment of the trip budget mandated no later than December 2023 per NMC 14.43.120(A) will be a prime opportunity to review the allocation of trips and how they align with desired future development.

Map and zoning code updates are further detailed in Section VII.

## II. Urban Renewal Background

The Refinement Plan for the South Beach/US 101 Commercial-Industrial Corridor—including this land use audit and policy recommendations—is charged with implementing the City's urban renewal goals for the area, and thus those goals are significant review criteria for this audit to determine whether policy and regulatory changes support development in line with urban renewal goals. The 1983 South Beach Urban Renewal Plan included seven objectives:

1. Preserve forest, water, wildlife and other natural resources
2. Identify sites for public uses such as the OSU Marine Science Center
3. Complete a Port facilitated marine recreation area
4. Encouraging marine oriented activities on the northern Shorelands
5. Assure the development of complementary uses adjacent to the Airport
6. Plan new sewer, water, and transportation capacity
7. Allocate a major part of South Beach to heavy commercial and light industrial uses

Commercial-industrial land use policies and regulations can most directly address the final objective, relating to heavy commercial and light industrial uses in South Beach, and indirectly support objectives around natural resource protection and public facilities planning.

2021 Priorities for the Urban Renewal Area developed as part of this Refinement Plan project build on the original 1983 Plan objectives.

1. Promote a sense of place for residents and visitors that reflects the South Beach identity.
2. Improve connectivity for bicyclists and pedestrians to South Beach destinations.
3. Attract new development that can meet the service and retail needs of South Beach residents.
4. Invest in overcoming market and development barriers on underutilized or vacant sites.
5. Reduce sewer, water, and transportation infrastructure barriers to enable job creation on industrial lands near the airport.
6. Invest in improvements that promote long-term community resiliency to address tsunami, flooding, and earthquake hazards.

Similarly, land use plans and implementing regulations can best address objectives around new service and retail development, and eliminating development barriers on vacant sites. Such land use tools can also contribute to infrastructure and natural resource objectives, as well as placemaking through district development standards.

### III. Long-Range Planning Policies

**Vision:** The Vision 2040 adopted in 2017 create a broader vision for the Greater Newport Area, with identified strategies across six “focus areas.” The focus area vision and strategies around “Creating New Businesses and Jobs” directly relates to the goals for the urban renewal area and specifically for commercial/industrial development along the Highway 101 corridor. Notable strategies related to South Beach and urban renewal include revitalizing the Highway 101 corridor to serve as an attractive gateway to the community and creating economic opportunities and living wage jobs, including in the science and marine economy. (Strategies A3, C1, C2 and C3.) Additional economic development strategies include airport improvements, small and local business development, tourism diversification, green and sustainable businesses, and sustainable fisheries and agricultural economies, many of which can be supported by a robust land use regulations for commercial and industrial uses in South Beach. (Strategies C4-C12.)

**Finding:** Vision 2040 establishes a broad vision for commercial and industrial development in South Beach that generally aligns with the Urban Renewal Plan goals. Vision implementation could be further supported with targeted zoning code and policy changes detailed herein, such as landscaping and screening standards along Highway 101 and maintaining a mix of commercial and industrial zoning for employment-related development.

**Comprehensive Planning:** The majority of the South Beach urban renewal district is designated for commercial and industrial land uses, in fulfillment of the City’s identified economic development goals. Comprehensive planning around transportation, utilities, public services, and natural hazards including tsunami inundation also relate more generally to future South Beach development. While both housing and waterfront planning affects the South Beach area generally and has connections with commercial and industrial development along the Highway 101 corridor, the key issues analyzed here relate to the City’s Comprehensive Plan goals and policies around the Economy.

The City’s 2012 Economic Opportunity Analysis incorporated into the Comprehensive Plan included an inventory of buildable land and concluded that there is sufficient land for economic development forecast from 2012 to 2032. Newport has more industrial land than the City is projected to need over the 20-year period, with a surplus of 113 gross acres of industrial land. (Newport Comprehensive Plan, Table 12, page 195.) Newport has a surplus of



41 acres of land for commercial uses, though Newport has a deficiency of larger sites for commercial uses particularly over 20 acres or 10-20 acres. Some of the large site deficiency could be met by light industrial sites (zoned I-1) where commercial uses are allowed outright. (Newport Comprehensive Plan, Table 12, page 195.) Thus, there should be capacity to re-designate land between these two classifications to meet commercial development goals specific to South Beach.

In addition to analysis of the physical land supply, the Economic element of the Comprehensive Plan identified key growth sectors in marine and ocean observing research and education, international commerce, fishing and seafood processing, and tourism. (Newport Comprehensive Plan, page 187.) These industries align well with both the Urban Renewal Plan goals and the available industrial and commercial lands within South Beach, ensuring that future South Beach commercial-industrial growth will be consistent with the City's economic development goals.

**Finding:** Both commercial and industrial development—and suitable sites for its development—will be needed throughout the City and within the urban renewal area to support economic growth targets for the next 20 years. The existing supply of commercial and industrially designated lands exceeds demand and provides flexibility for modest re-designation from industrial to commercial for key areas within South Beach, as desired to better meet local retail and service demand and activate development of the opportunity site at SE 35<sup>th</sup> St.

The City's long-range employment goals are well aligned with the Urban Renewal Plan goals, including a focus on marine-related, industrial and commercial economic development. No policy changes are recommended for the Comprehensive Plan to better implement the Urban Renewal Plan goals, though future Comprehensive Plan updates should incorporate any proposed changes to the extent of commercial and industrial designations and demonstrate that employment land needs are still met.

**Comprehensive Plan Map:** The Comprehensive Plan Map implements the plan goals by designating land for commercial, industrial and other land uses across the UGB. Within the South Beach urban renewal area, the primary designations along the Highway 101 corridor, extending north to south, include Shoreland, Commercial south to SE 32<sup>nd</sup> St, Industrial south to SE 62<sup>nd</sup> St with some High and Low Density Residential along the western half of the corridor, and Public for the airport site anchoring the south end of the area. (See Figures 1 and 2.)

Figure 1: Comprehensive Plan Land Use Designations within South Beach (Peninsula)

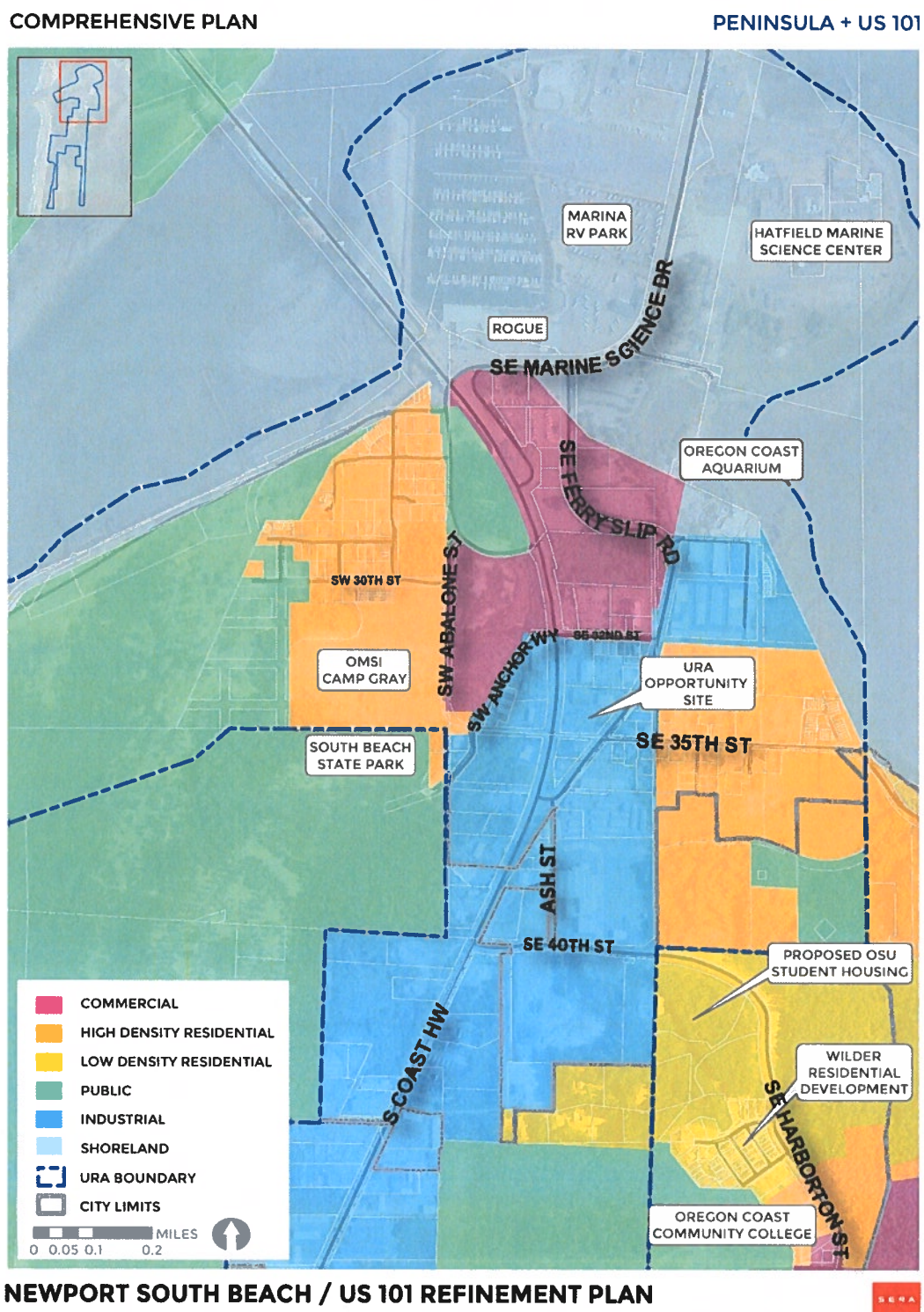
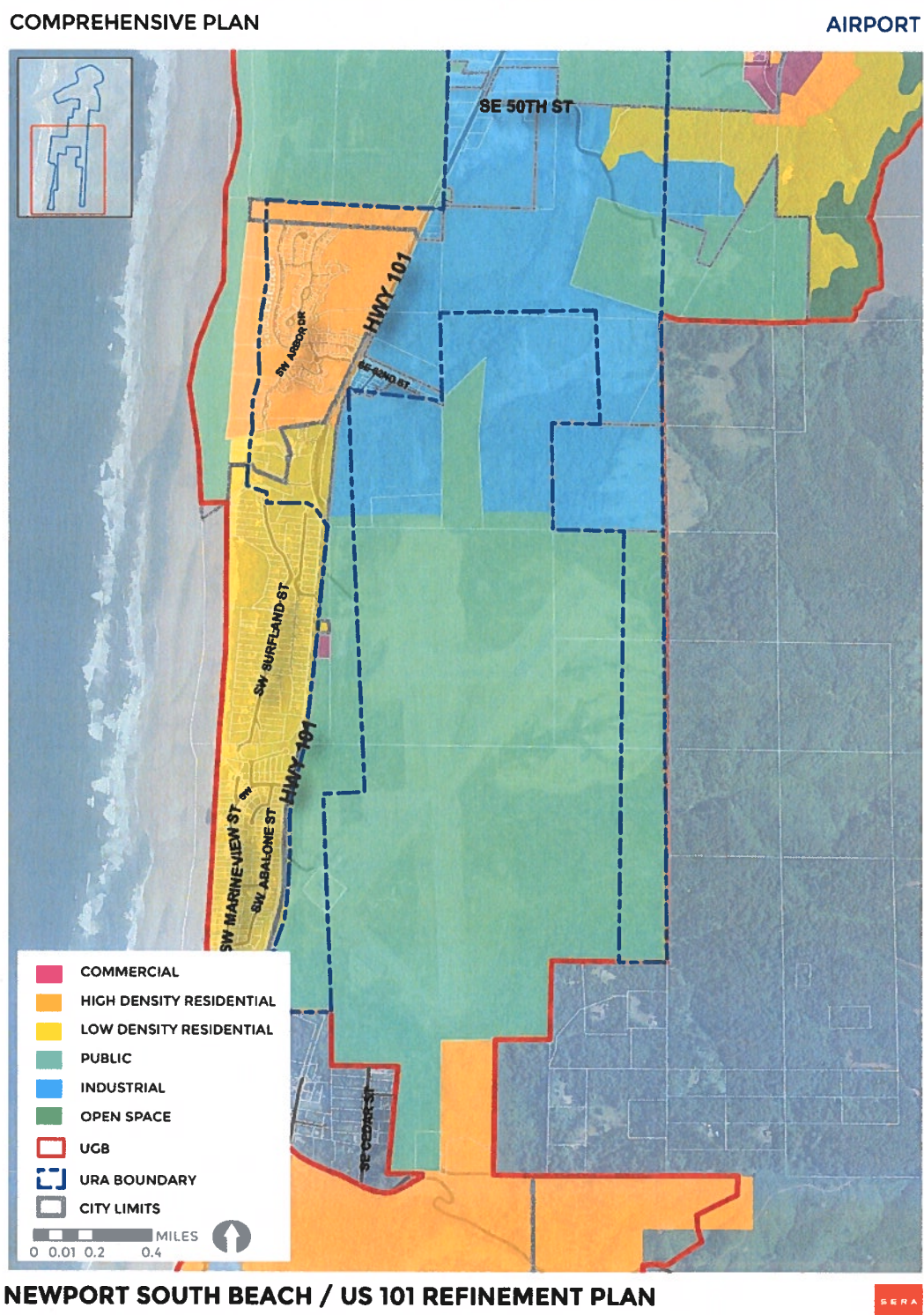




Figure 2: Comprehensive Plan Land Use Designations within South Beach (Airport)

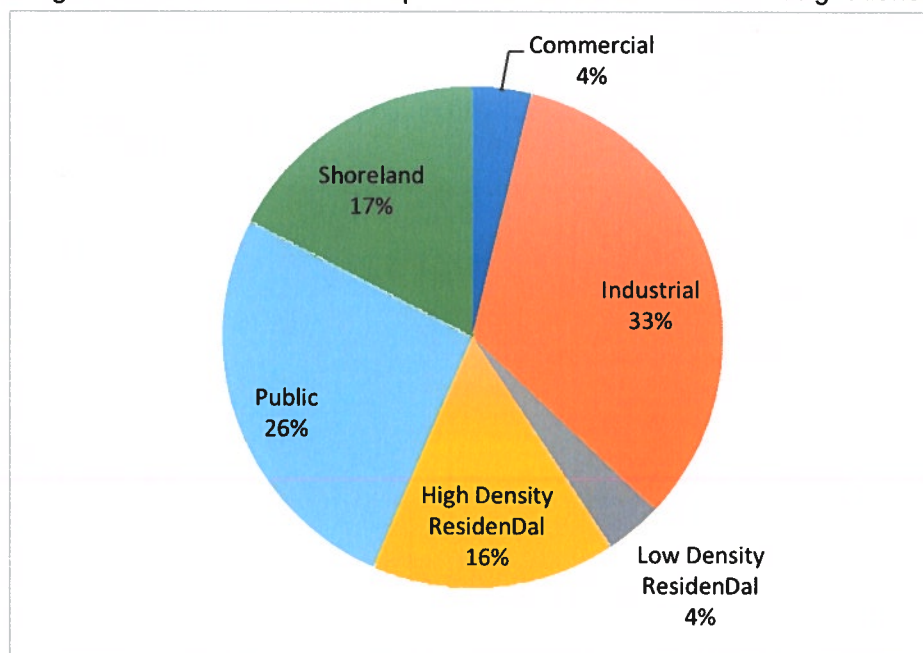




The overall distribution of designations within the urban renewal area shows that both total size and location are important. Approximately one-third of the area is designated for Industrial use, as shown in Figure 3. Within the broader City context, the industrially designated land within South Beach represents nearly all of the City's industrial land supply and thus is important for meeting citywide industrial development goals as well as urban renewal goals specific to this area.

Commercially designated land totals only 4% of the urban renewal area, though its clustering at the south end of the Yaquina Bay Bridge near key attractions like the Oregon Coast Aquarium enhances the significance of this relatively small area. Public and Shoreland uses along

Figure 3: Distribution of Comprehensive Plan Land Use Designations



the bayfront are other large uses within the district at 26% and 17% respectively; publically designated lands include a range of park and utility facility uses along the corridor in addition to the airport site at the south end of the urban renewal area. While Low and High Density Residential total a significant 20% of the district, the majority of these areas are located off of the highway corridor.

**Finding:** There is adequate land designated for industrial and commercial uses within the City, with the majority of the City's industrial land supply located in South Beach. Based on the City's needs and existing supply, some of the industrial land supply could be re-designated for commercial use to support a larger commercial development cluster encompassing the City's opportunity site at SE 35<sup>th</sup> St. The extent of any re-designation from industrial to commercial should be analyzed for compliance with the City's overall economic development goals, and limited in scope to ensure ongoing viability of the City's industrial base located in South Beach.

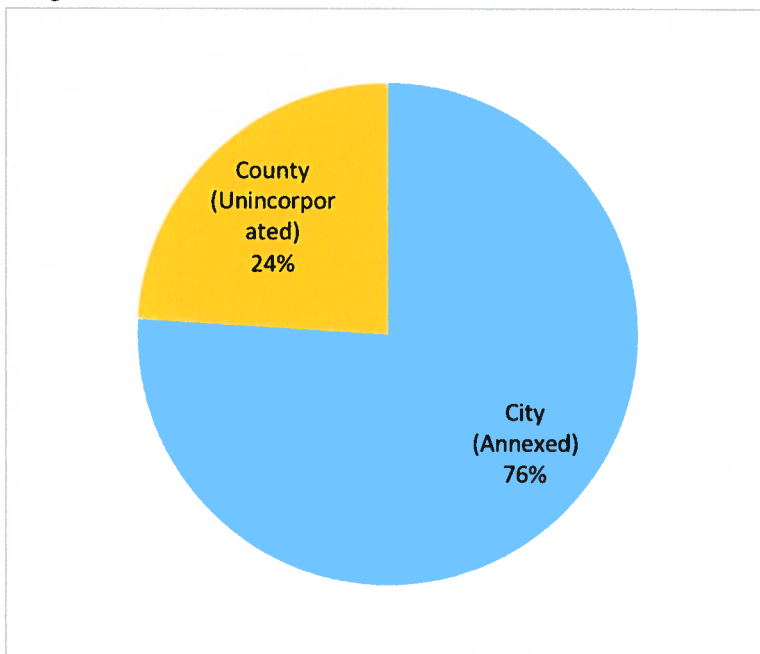
## IV. Annexation

The urban renewal district is entirely contained within the City's Urban Growth Boundary (UGB) and planned for future urban-level development, consistent with the urban renewal plan goals. However, nearly 25% of the district

is currently outside of the City limits, as shown in Figure 4, and cannot be developed to urban levels of intensity and served by urban infrastructure until annexation occurs. Though the inclusion of these properties within the UGB supports annexation and development within the plan's 20-year planning period by 2031, there is no timeline or mandate for annexation to occur and the Plan explicitly states that inclusion within the UGB does not imply that all land will be annexed to the City.

(Comprehensive Plan Urbanization Policy 1, page 428.)

Figure 4: Annexation Status of South Beach Area



As detailed in Table 1, much of the unincorporated property along the US 101 corridor has County Planned Industrial (I-P) zoning currently and is designated for Industrial use upon annexation, with some additional residentially designated parcels off of the corridor but still within the urban renewal district. There are no unincorporated commercial areas.

Table 1: Land Use Designations for Unincorporated Properties within South Beach

County Zoning	City Designation	Acreage	Percent of Unincorporated Area
Planned Industrial (I-P)	Industrial	160	57%
Residential (R-1)	High Density Residential Low Density Residential	73	26%
Public Facilities (P-F)	Public	48	17%
	<b>Total</b>	<b>281</b>	<b>100%</b>

County zoning aligns with future City land use designations, to be implemented with corresponding City zones, which should provide an orderly transition from County to City jurisdiction. There is one small exception on the west side of Highway 101 at the south end of South Beach State Park (Tax account #R184345), where the City land use designation of High Density Residential does not match either the County Public Facilities zoning or the current state park use. (See Figures 2 and 7 to compare.)

Annexation would expand the industrial land base and serve the goals for the urban renewal district, in order to better coordinate provision of infrastructure and increase efficient utilization of those services, in addition to increasing property values and subsequent City tax revenues. Annexation of commercial and industrial lands is identified as an economic development strategy in order to increase the City's development land supply, with particular importance in South Beach. (Comprehensive Plan Economic Policy 7.2, page 225.) Having a well-defined annexation strategy is important to the City because it can ensure efficient provision of municipal services and adequate sites for businesses. (Comprehensive Plan, page 205.)

Annexation is primarily initiated by property owners under Oregon law and Newport code, and generally requires consent of owners and residents within the territory to be annexed. (ORS Chapter 222.) Newport annexation provisions permit annexation of any properties for which owner and resident consent has been obtained, the territory is within the UGB, and the territory is contiguous to the City limits. (NMC 14.37.040.) Recent history of annexation in South Beach has been limited to owner-initiated annexations of single parcels in the past 10 years, and has included:

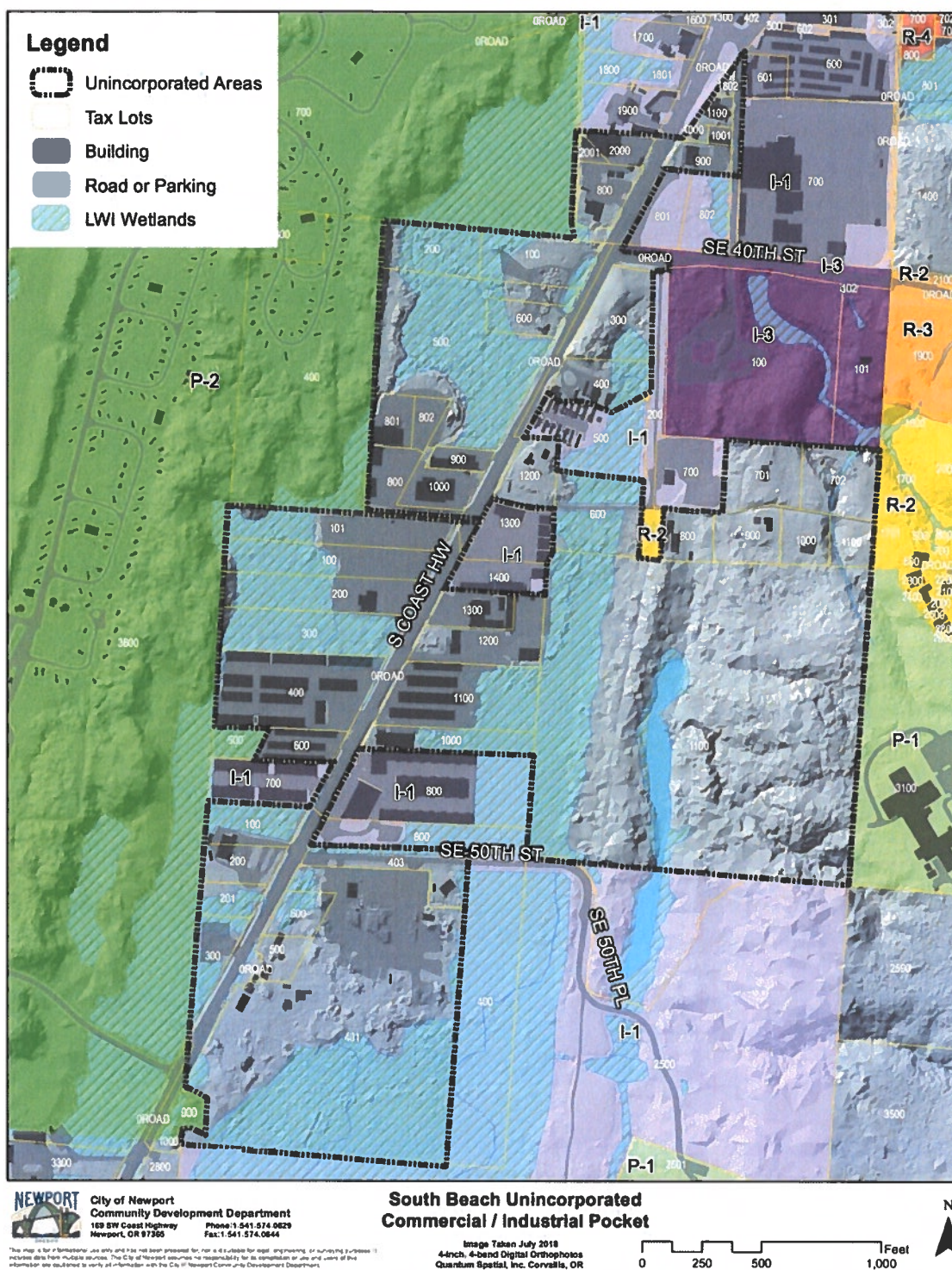
- Surf Sounds Court mobile home park in 2019 at 4263 S Coast Hwy, which annexed into the City because their septic system failed. (File #1-AX-19)
- Airrow Heating in 2018, at 3503 S Coast Hwy. (File #1-AX-18)
- Coastcom in 2013, at 4541 S Coast Hwy. (File #2-AX-13)

At this pace, full annexation of the unincorporated properties in South Beach would take many decades.

Oregon law does provide for City-initiated annexations in specific circumstances, including provisions for "island annexations" in which cities can annex properties without local consent if they are entirely surrounded by the city limits. (ORS 222.750.) Figure 5 illustrates that the majority of unincorporated properties in South Beach could be eligible for island annexation based on the surrounding City limits.



Figure 5: South Beach Unincorporated Areas



Source: City of Newport

The benefit to annexation is the ability to develop at urban levels of intensity under City zoning, served by urban-level public facilities, including water and sewer. The majority of County properties are zoned industrial (I-P), which permits a range of industrial uses from manufacturing to rock and gravel extraction to limited service uses like restaurants and banks, provided that on-site wastewater disposal can be accommodated.<sup>1</sup> (Lincoln County Code 1.1364(2).) All industrial uses in the County require a Type III conditional use permit, which can be a lengthy and costly review process. By contrast, most industrial uses permitted under City zoning, were the properties annexed, are permitted outright without need for a lengthy land use permitting review. However, a property owner would first have to complete the annexation process, which is similarly complex as a conditional use permit, making the overall City land use process more similar to the existing County process in terms of time and effort initially. After annexation, however, a greater range of development would be possible and could be served by planned infrastructure development funded by urban renewal district.

Annexation into the City does typically incur higher costs for property owners, including application and survey costs, system development charges (SDCs) and property taxes. Fewer, larger annexations for multiple properties rather than individual properties would decrease application costs, and could be facilitated by the City. The City is also working to develop a package of financial incentives for property owners to defray initial costs to transition to City infrastructure systems using urban renewal funding, given that annexation could yield significant benefits to the district by facilitating urban-level industrial development.

Until properties are annexed to the City, the City must monitor and review proposed development within the County to ensure that it can be compatible with future City policies. As stated in the Comprehensive Plan, "Unincorporated areas within the UGB will become part of Newport; therefore, development of those areas influences the future growth of the city. Hence, the city has an interest in the type and placement of that growth." (Urbanization Policy 3, page 429.) The City is committed to reviewing and commenting on any pending land use developments within the unincorporated portions of the UGB in order to implement this policy. Future development of an Urban Growth Management Agreement (UGMA) between the City of Newport and Lincoln County that includes the South Beach area has also been identified as an additional strategy to coordinate interim infrastructure and site development. (Comprehensive Plan, page 205.)

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<sup>1</sup> In practice, requiring on-site wastewater disposal significantly limits the scope of potential industrial development under County zoning, given the high wastewater generation of certain industrial processes. This helps explain the popularity of low-impact developments like self-storage facilities on existing County properties that generate little wastewater.

**Finding:** Annexation of the remaining 25% of the urban renewal district into City limits is important to support the City's economic development goals generally and in South Beach specifically. Not only will annexation enable development at urban intensities, it will limit development under County regulations that may be less compatible with urban renewal development goals in terms of uses and development standards, such as rock and gravel crushing and self-storage. The City should continue to engage with Lincoln County to coordinate review of any development within the UGB to ensure that it can be consistent with City goals and standards upon future annexation. The City should coordinate with Lincoln County to complete the Urban Growth Management Agreement to ensure an orderly transition from County to City zoning.

The City should update the Comprehensive Plan designation of the South Beach State Park parcel (tax account #R184345) to Public rather than High Density Residential for a smooth transition from County to City zoning upon annexation.

The City should pursue annexation options including island annexation under ORS 222.750 in order to remedy the patchwork of City and County zoning in South Beach and better facilitate cohesive development and infrastructure systems in the significant portion of the urban renewal district that is currently unincorporated. The City should engage with property owners as part of annexation efforts to better understand specific concerns or uncertainties about annexation. Informational resources for property owners would be useful to highlight development potential within the City compared to existing County regulations, in addition to tax and financial implications, as well as outlining any financial incentives for infrastructure development that could be available through the urban renewal district. Financial incentives to defray initial costs would also support any annexation efforts, such as waiving land use fees for annexation applications (currently \$782), conducting survey work, and/or offsetting infrastructure connection fees. The City's annexation provisions in NMC 14.37 are straightforward and no further revisions are recommended to better support the annexation process.



## V. Zoning Regulations

**Overall code structure:** Newport's zoning regulations are codified in Chapter 14 of the City's Municipal Code, along with land division regulations codified in Chapter 13. The zoning code is fairly traditional mix of residential, commercial and industrial zones, focused on defining allowed uses and development types within each zone. There are few geographically specific or mixed-use zones, though considerable flexibility is provided within various zones. The L-1 Light Industrial zone, for example, allows a broad range of commercial and industrial uses beyond typical light industrial manufacturing uses. The zoning code largely focuses on defining use categories, subject to straightforward dimensional standards, with limited focus on the site or architectural design of resulting development, as discussed below. The limited number of zones and limited scope of development and design standards within each provides for a relatively straightforward regulatory environment with few barriers, but provides limited scope to tailor development regulations specific to geographic areas such as South Beach.

Overlay zones are generally related to a specific, limited purpose with limited implications or restrictions on uses and development permitted by the underlying zoning district. Notable overlays within the urban renewal district include:

- Airport Development Zone Overlay, which details certain allowed airport-related commercial and recreational uses including standards for skydiving uses. (NMC Chapter 14.22)
- South Beach Transportation Overlay Zone, which establishes a framework for distribution of available transportation capacity and requires additional transportation planning for proposed South Beach development. (NMC Chapter 14.43)
- Tsunami Hazard Overlay Zone, which limits placement of critical emergency services and large gathering spaces such as schools within areas subject to tsunami inundation and requires provision of evacuation routes for development. (NMC Chapter 14.46)

**Finding:** The City's broad code structure with a limited number of zones requires careful consideration in order to make changes specific to South Beach: changes would need to be either crafted to apply within the zoning district across the entire city, restricted to the South Beach area within the existing zones through additional code provisions or footnotes, or implemented through a focused South Beach corridor overlay zone. The recommendations throughout this section should be analyzed to determine whether they could effectively be implemented within the existing code structure, with potential impacts beyond the South

Beach area, or warrant a more targeted approach potentially tied to the extent of existing overlay zones or the urban renewal area. Given the limited utilization of special purpose zones within the City, introduction of new zones or overlays is not the preferred option.

**Zoning Districts:** There are 10 City zoning districts within the South Beach district in addition to three County zoning districts, as shown in Figures 6 and 7. The zoning maps implement the Comprehensive Plan designations discussed in Section III, with a cluster of commercial zoning at the northern end of the corridor, industrial zoning along much of the corridor between SE 32<sup>nd</sup> St and SE 62<sup>nd</sup> St, and public zoning along the southern end of the corridor for the airport site, with residential and additional public zoning generally located off of the highway corridor. Commercial zones together make up 3% of the urban renewal district and industrial zones total 21% of the area—35% when including County industrial zoning—as detailed in Table 2; these zones are clustered along the highway corridor.

Table 2: South Beach Zoning Districts

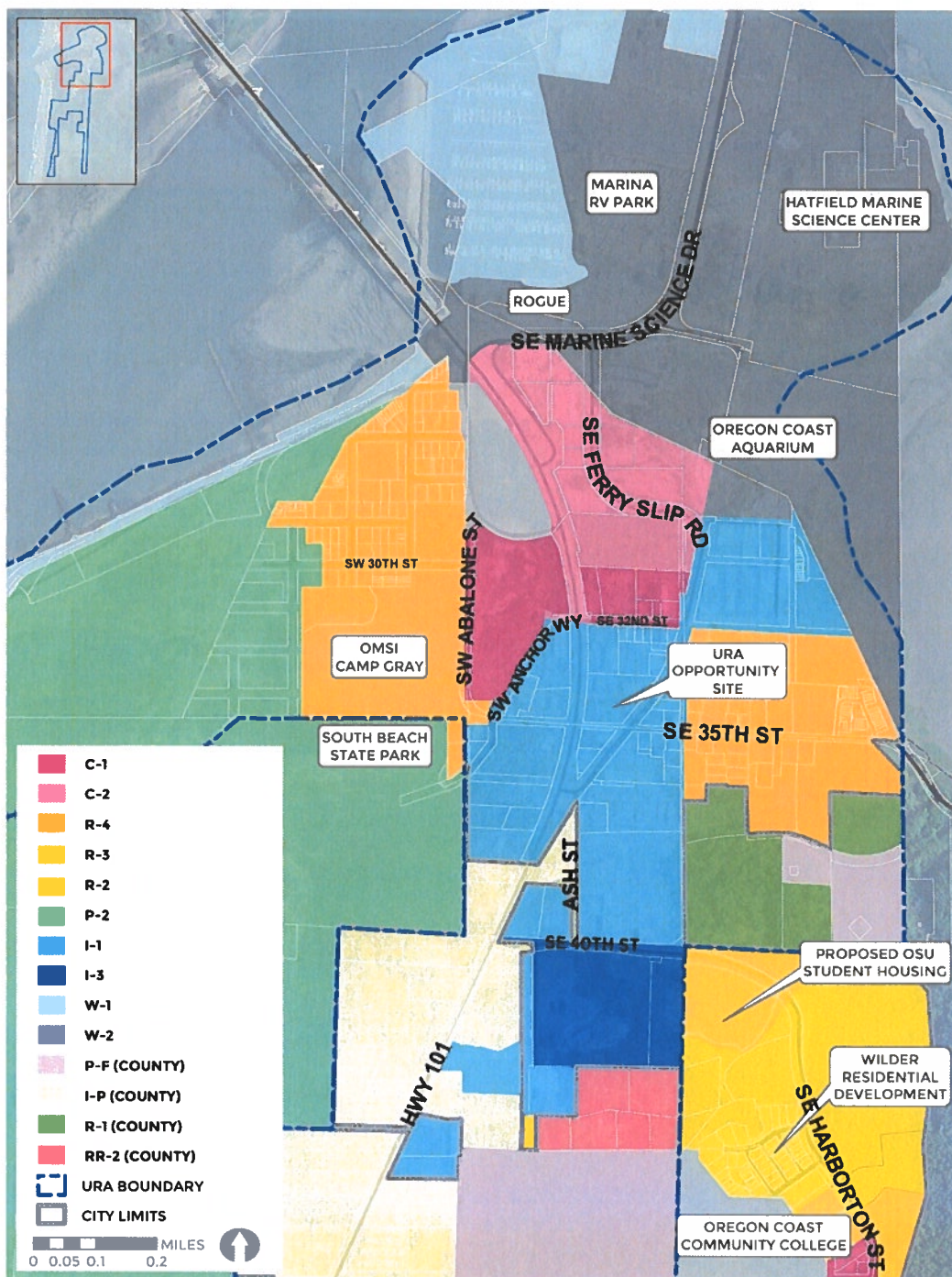
	<b>Zone</b>	<b>Acreage</b>	<b>Percent of Urban Renewal District</b>
City	Retail and Service Commercial (C-1)	17	1%
	Tourist Commercial (C-2)	27	2%
	Light Industrial (I-1)	235	20%
	Heavy Industrial (I-3)	16	1%
	Public (P-1)	174	15%
	Public (P-2)	83	7%
	Low Density Single-Family Residential (R-1)	6	0%
	High Density Multi-Family Residential (R-4)	148	13%
	Water-Dependent (W-1)	46	4%
	Water-Related (W-2)	135	12%
County	Public Facilities (P-F)	48	4%
	Planned Industrial (I-P)	160	14%
	Residential (R-1)	73	6%
	<b>Total</b>	<b>1,169</b>	<b>100%</b>

Within the commercial node, implementing zones include tourist-oriented commercial (C-2) near the bridge and retail and service commercial (C-1) on either side of the highway near SE 32<sup>nd</sup> St. There is no Heavy Commercial (C-3) zoning along the corridor, which permits larger scale, traditionally auto-served regional commercial development.

Figure 6: City and County Zoning within South Beach (Peninsula)

CITY + COUNTY ZONING

PENINSULA + US 101



NEWPORT SOUTH BEACH / US 101 REFINEMENT PLAN







Industrial zoning along the corridor is primarily Light Industrial (I-1), with a single site zoned for Heavy Industrial (I-3) on the east side of Highway 101 at SE 40<sup>th</sup> St. The I-3 site directly abuts residential zoning farther east, which could cause compatibility issues. The County's Planned Industrial (I-P) along the corridor generally south of SE 40<sup>th</sup> St is designated for future City industrial zoning, though there is little direction about which of the City's industrial zones would best apply to these parcels taking into account site character and existing development relative to desired City economic development goals and employment land needs.

The opportunity sites identified for future development are currently zoned for industrial uses under current City and County zoning, discussed further in Section VI. The property at SE 35<sup>th</sup> St owned by the Urban Renewal Agency is zoned Light Industrial. There is only one commercially zoned opportunity site, located on SW Abalone St.

**Finding:** There would be benefit to expanding the extent of commercial zones along the highway corridor in place of existing light industrial districts to better support a cluster of commercial goods and services serving South Beach residents and visitors. Extending the C-1 zone along the east side of the highway farther south to encompass the opportunity site as SE 35<sup>th</sup> St would increase the concentration of commercial services. Additional commercial sites should be considered around the potential new signal at SE 40<sup>th</sup> St. Because the light industrial zone permits such a wide range of industrial and commercial uses, the concern with retaining the current light industrial zoning is not that desired commercial uses would not be permitted, but that there would be increased competition and potential conflict with light industrial uses developed on abutting properties.

For the industrially zoned properties, existing City zoning appears adequate to meet the City's industrial development needs. Further discussion and analysis should consider which zones are desirable for County industrial properties when they are annexed, particularly to identify sites that would be appropriate for heavy industrial zoning (I-3).

**Allowed uses:** The commercial and industrial zones permit a wide range of retail, service, office and industrial employment uses, in line with commercial and industrial development goals adopted by the City and specific to South Beach. (NMC 14.03.070.) Residential uses are also permitted on upper floors only in commercial districts. Many of these core uses are permitted outright in the commercial and industrial zones, but larger format uses such as Major Event Entertainment, as well as uses that are less aligned with the zone's overall purpose, such as General Retail in the Heavy Industrial I-3 zone, require a conditional

use permit. Any new or expanded commercial use in the Tourist Commercial C-2 district requires a conditional use permit as well.

Notably, the I-1 light industrial zone includes a wide range of commercial retail and service uses in addition to traditional employment uses, and functions more as a flex zone than a strictly industrial zone. Rather than targeting a narrow range of uses for this zone, the Comprehensive Plan identified a strategy of negotiating development agreements with property owners of opportunity sites to prioritize target industry uses, such as marine research and fishing-related. (Economic Policy 7.1, page 223.)

Both the commercial and industrial zones permit a range of retail and service uses identified by project stakeholders as desired services in South Beach. (Opportunities and Constraints Memo, Exhibit 12.) The existing zones should thus provide ample development potential for desired uses, as shown in Table 3, however, the I-3 zone provides limited opportunities.

Table 3: Desired Retail and Service Uses Permitted by Zone

Desired Use	Grocery store	General retail	Gas station	Restaurant
Zoning Classification	<i>Retail Sales and Service: Sales-oriented, general retail</i>			<i>Retail Sales and Service: Entertainment oriented</i>
C-1	P	P	P	P
C-2	P	P	P	P
I-1	P	P	P	P
I-3	C	C	C	X

P=permitted, C=conditional, X=prohibited

Source: Zoning classifications shown in italics from NMC 14.03.060, 14.03.070.

However, the great flexibility provided within these zones comes with a lack of certainty about future development patterns and potential compatibility concerns between uses. Uses across these zones, particularly in the I-1 zone, are very wide-ranging and also include uses that may be less desirable within the urban renewal district because they do not align with urban renewal and public goals around generating significant living-wage employment, generating significant tax revenue providing goods and services for visitors and residents, and revitalizing the highway corridor. Further review of the following uses is warranted:

- Self-service storage: Permitted in C-3, I-1 and I-2, prohibited elsewhere. There are at least three self-storage facilities already located within the district, and while this indicates demand for such uses, these uses tend to generate relatively few jobs per acre with relatively limited demand for urban-level infrastructure.
- Vehicle Repair: Permitted in C-3, I-1 and I-2, prohibited elsewhere.



- Auto sales, included as part of Sales-oriented, bulk retail category: Permitted in C-3, I-1 and I-2, conditional in C-1 and I-3, and prohibited in C-2.
- Towing, wrecking and salvage of vehicles, trucks and heavy machinery, included as part of Contractors and Industrial Service category: Permitted in C-3, I-1, I-2 and I-3, prohibited elsewhere.
- Heavy Manufacturing that “should not be located near residential areas due to noise, dust, vibration or fumes.” Permitted only in I-3 and conditionally in I-2. (NMC 14.03.060(D)(2)(b)(ii).)
- Waste and Recycling Related: Conditional in all zones.
- Mining: Permitted only in I-3 and conditionally in I-2.

There is a considerable range of uses permitted in the I-1 that could conflict with some of the desired retail and service uses along the corridor, while many of these uses are not permitted in the commercial C-1 or C-2 zones. Potential conflicts with heavy manufacturing uses in the I-3 zone could be eliminated by rezoning the existing I-3 parcels on SE 40<sup>th</sup> St. Any consideration of these uses should also be balanced against regional industrial and employment needs, given that the industrial land base in South Beach is the primary industrial base for the entire city.

There are also several nonconforming uses located within the Light Industrial area, including a manufactured home park; these uses are permitted to continue with additional limitations for any future modifications or expansions, but a similar new use could not be established. (NMC 14.32) Nonconforming uses can present a challenge for long-range planning, given that they are not in line with the intended purpose of the zone but are “grandfathered in” and unlikely to be changed unless economically viable.

Several overlay zones within South Beach introduce additional use limitations. The Airport Development Zone Overlay applies to the Newport Municipal Airport property, totaling approximately 700 acres on the east side of Highway 101 at SE 84<sup>th</sup> St. (NMC 14.22.100.) The airport overlay zone overrides use standards for the underlying zoning districts in favor of permitting aviation-related uses ranging from airports to skydiving to emergency services; all non-aviation uses including commercial and industrial uses require a conditional use permit. (NMC 14.22.100(E)(5).) The Tsunami Hazards Overlay zone generally maintains the existing uses permitted in the underlying zones, but limits those uses with high potential consequences in the event of a tsunami, from schools to emergency services. (NMC 14.46.) Generally, these overlays introduce reasonable limitations on development in areas with potential safety conflicts, and in the case of the airport, to ensure priority is given to aviation-related uses.

## Food Carts

Recently adopted updates to the City's food cart regulations will greatly benefit potential food cart uses, and better align with potential development concepts at the City's SE 35<sup>th</sup> St site. Whereas previous standards prohibited food carts within one-half mile of any existing eating or drinking location and limited carts to a two-year permit, updated provisions permit food carts individually and in pods of four or more throughout the South Beach area. (NMC 14.09, updated September 2021.) Food cart pods on private property are required to provide permanent utility connections and pay system development charges (SDCs), provide covered seating and trash receptacles, and provide access to a restroom, all of which should improve the user experience while balancing improvement costs with the level of impact generated by such uses. No further modifications are recommended to the food cart regulations in the South Beach context; a potential pod at the SE 35<sup>th</sup> St site or elsewhere in the district should greatly benefit from these new regulations.



**Finding:** The existing commercial and industrial districts support the desired range of retail, service and employment uses identified in the Urban Renewal Plan as well as in recent stakeholder engagement completed as part of this refinement plan. The recent food cart regulatory changes in particular fully address previous concerns about the viability of food carts and food cart pods in the district. The use limitations of the airport and tsunami overlay zones are in line with the needs of those areas.

However, the very broad range of uses permitted in the industrial and commercial zones, the I-1 in particular, means that there is considerable flexibility with relative less certainty about the exact mix of uses or ways to prioritize the more desirable uses relative to area goals. Greater certainty about the future range of commercial and industrial uses could be addressed through a variety of strategies including changes to the allowed uses, negotiating development agreements, and/or applying site development standards that minimize potential off-site development impacts such as landscaping and screening standards discussed below, in addition to rezoning select parcels to C-1 commercial use as discussed above.

Changes to permitted uses could help to limit less desirable uses in South Beach area. Initial changes should prohibit new self-service storage and vehicular towing, wrecking and salvage uses in the I-1 zone along the highway corridor due to their low employment densities.

Additional consideration should be given to limiting vehicle sales and service uses within the district as part of further review of the relative employment and tax generation potential of uses, as well as their role within the local and regional economy, to support any future recommendations to modify the range of permitted uses.

Care should also be taken to minimize creation of nonconforming uses as a result of any zoning changes, as that can cause uneven transitions over time. The City could also initiate conversations with existing nonconforming users about their future development ideas, and any necessary infrastructure or other support needed.

An additional tool would be to utilize development agreements for specific sites, as identified in the Comprehensive Plan, however, this approach should be reserved for key sites given the time and effort required on behalf of the City and property owner to negotiate such agreements.

**Development standards:** The dimensional standards for the commercial and industrial zones in South Beach are relatively simple and permissive:

- 50-foot maximum height limit (NMC 14.13.020 Table "A.") No existing development along the corridor has approached the height limit, nor are proposed uses likely to need additional height.
- Zero foot front, side and rear setbacks, with the exception of a 50-foot required setback from Highway 101 for industrial properties. (NMC 14.13.020 Table "A," 14.19.050.B.) Staff reported that the setback was developed to reserve potential area for future highway widening, but there are no longer state or local plans to add lanes south of the Yaquina Bay Bridge.
- 85-90% lot coverage permitted, with 10% site landscaping. (NMC 14.13.020 Table "A," 14.19.050.A.)

Although most setbacks for industrial and commercial sites are zero feet, a setback and some softening of those frontages can be achieved through the required landscaping along property frontage(s) equal to 10% of the site area. (NMC 14.19.050(A).) There are no standards about the required width or mix of plant materials required along the frontage, other than a requirement that "Landscaping shall be located along a street frontage or frontages." (NMC 14.19.050(B).)



There are no requirements for screening or buffering between uses, with exception of nonresidential abutting residential zones requiring graduated height limits and a 10-foot landscaping buffer. (NMC 14.18.) There are no limitations on outdoor storage or location of parking or loading areas, nor specific screening and buffering that would apply beyond a requirement for 5% of the parking area to be landscaped. (NMC 14.19.050(D)(1).)

No other architectural or site design standards apply to commercial and industrial properties within South Beach. Design review standards and procedures in Newport are currently limited to the Historic Nye Beach Design Review District, though the Comprehensive Plan identifies six potential urban design districts and future neighborhood plans could adopt design goals for additional areas. (NMC 14.30.010.)

**Finding:** Limited site design standards provide considerable flexibility with minimal constraints for site development, however, they provide little assurance of adequate screening and buffering between sites. The outlier is the 50-foot required front setback for industrial development along Highway 101, which no longer appears necessary for future highway expansion and is out of line with setbacks elsewhere in the City for industrial and other development. The front setback for development along Highway 101 in both commercial and industrial zones should be set at 10-20 feet to provide room for a modest landscaping strip as well as retain flexibility for minor right-of-way modifications to Highway 101 in the future if needed.

Screening and buffering standards are recommended for uses such as industrial outdoor storage that could create visual detractions and functional conflicts particularly between commercial and light industrial uses allowed within the I-1 zone. Specific landscape buffer widths and required materials, such as numbers of shrubs or trees, would provide greater certainty about frontage treatments throughout the district. In particular, a landscaping frontage standard for properties fronting the highway could create an enhanced and consistent image for South Beach, and replace the previous 50-foot industrial setback.

Creation of a design district is not recommended at this time based on the development goals and limited design conflicts identified to date along the corridor, however, development of limited objective design standards for portions of the district could minimize potential for future conflicts. While design review often connotes a particular vision of walkable, pedestrian-scale, mixed retail, office and/or residential areas—unlike the active commercial and industrial highway corridor in South Beach—design standards can be tailored to suit the functional and aesthetic goals of a variety of situations. One potential example is the mixed industrial district in the City of Tillamook, the Hoquarton Waterfront Overlay zone that incorporates limited

objective design standards to enhance compatibility between commercial and industrial uses. (Tillamook Zoning Code 153.033.)

Recent brewpub  
development in Tillamook's  
Hoquarton overlay zone  
incorporating industrial  
aesthetic



**Parking Requirements:** A major driver of site design is off-street parking, which can occupy a significant portion of the site area. Vehicle parking is required at minimum ratios established in NMC 14.14.030, ranging from one space per 150 square feet for restaurants to one space per 3,333 square feet for industrial uses. While the ratios are fairly typical for comparable cities, the result can be a significant amount of parking that may limit development potential in certain cases. As detailed in Table 4, the potential development scenarios being considered for the site at SE 35<sup>th</sup> St require 87-114 parking spaces, which could constitute nearly 40% of the site at an estimated 350 square feet per space on the 2.3-acre site. However, it is likely that many uses in South Beach will primarily be served by auto access and parking availability will be important for visitors and residents.

Table 4: Potential Parking Requirements for SE 35<sup>th</sup> St Opportunity Site

Scenario	Development Proposed	Parking Required	Total
1: General Merchandiser and Retail	30,000 SF general retail 5,000 SF retail cluster 6,000 SF restaurant	100 spaces 17 spaces 40 spaces	100 spaces on site at NE corner (City owned), up to 57 additional on SE corner if acquired
2: Grocery plus Microrestaurants	6,000 SF grocery/retail 7,000 SF restaurant (inc 2,000 SF coffee) 5,000 SF food cart pod (8-10 carts + 1,500 SF seating)	20 spaces 47 spaces 20 spaces	87 spaces
3: Retail and Microrestaurants	12,000 SF general retail 8,000 SF restaurant (inc 2,000 SF coffee) 5,000 SF food cart pod (8-10 carts + 1,500 SF seating)	40 spaces 54 spaces 20 spaces	114 spaces

Source: Required parking per NMC 14.14.030, 14.09.060(D).

There may be opportunity to reduce parking requirements at the SE 35<sup>th</sup> St opportunity site and elsewhere in South Beach through provisions for shared parking on sites developed with a mix of uses, through a parking demand analysis. (NMC 14.14.040.) A Type III variance process can also be used to reduce parking requirements for a specific site. (NMC 14.14.130.) In specific areas of the City with high demand and limited land area—Nye Beach, Bayfront and City Center—parking districts allow alternate parking ratios, and make use of shared public parking areas to meet demand. (NMC 14.14.100.) A district-wide strategy has not been proposed for South Beach, but could be considered in the future depending on growth.

**Finding:** While parking can be a significant portion of development sites, much development in South Beach is anticipated to serve users arriving by car and seeking parking. No changes to the parking ratios or creation of a parking district for South Beach is recommended at this time, but monitoring of both parking requirements as applied to specific sites and parking demand is recommended to identify any particular conflicts or opportunities to modify parking standards.

**Permitting and Review Procedures:** Land use permitting requirements for potential development in South Beach are relatively limited. Because most commercial and industrial uses are permitted outright, no separate land use review is required outside of the building permit process. Newport does not use a separate site plan review process common in many other jurisdictions to review development against land use provisions, which expedites the overall permitting process. Site plan review is less applicable in Newport, however, given the relatively limited site development standards such as setbacks. The City could consider introducing site plan review only if warranted by introduction of more detailed development standards; for example, there is a design review process used for development in areas with specific design standards.

More complex land use permitting is also required for some uses, including conditional uses and most modifications of existing nonconforming uses. Development that generates more than 100 PM peak hour trips also requires a pre-application conference and review of a traffic impact analysis. (NMC 14.45.020.) Development throughout South Beach within the SBTOZ that is below the 100 PM peak hour trip threshold must alternatively submit a trip assessment letter, which can be completed concurrent with any land use permits or at the time of building permit application. (NMC 14.43.080.)

**Finding:** Permitting requirements for most commercial and industrial development in South Beach is straightforward and proportional to the limited land use standards applied to site development while addressing key issues such as traffic generation. Additional land use review may be warranted in the future if additional development standards are introduced for South Beach.

**Transportation Planning:** Future development and mix of uses along the Highway 101 corridor will need to comply with special transportation planning rules developed to allocate and manage existing highway capacity, given capacity constraints along this stretch of Highway 101. The majority of the urban renewal district is located within the South Beach Transportation Overlay Zone (SBTOZ), established in the 2012 Transportation System Plan and implemented through NMC 14.43. The SBTOZ was created in order to permit greater levels of development than would otherwise be permitted along the highway, accepting an increased level of congestion at peak times as a trade-off for greater economic development.

The SBTOZ establishes a total number of trips available within each of the transportation analysis zones (TAZs) and the area as a whole. The existing distribution of trips between TAZs was based on development potential of buildable land and existing zoning, and is meant to support economic development. New development must be able to be accommodated within the available trips, or apply to use trips reserved for the area as a whole, which has implications on the scope and types of development that can be planned and accommodated within this area. Notably, as shown in Table 5, commercial uses tend to have significantly greater trip generation rates up to 10 times greater than industrial uses.

Table 5: Sample Trip Generation Rates

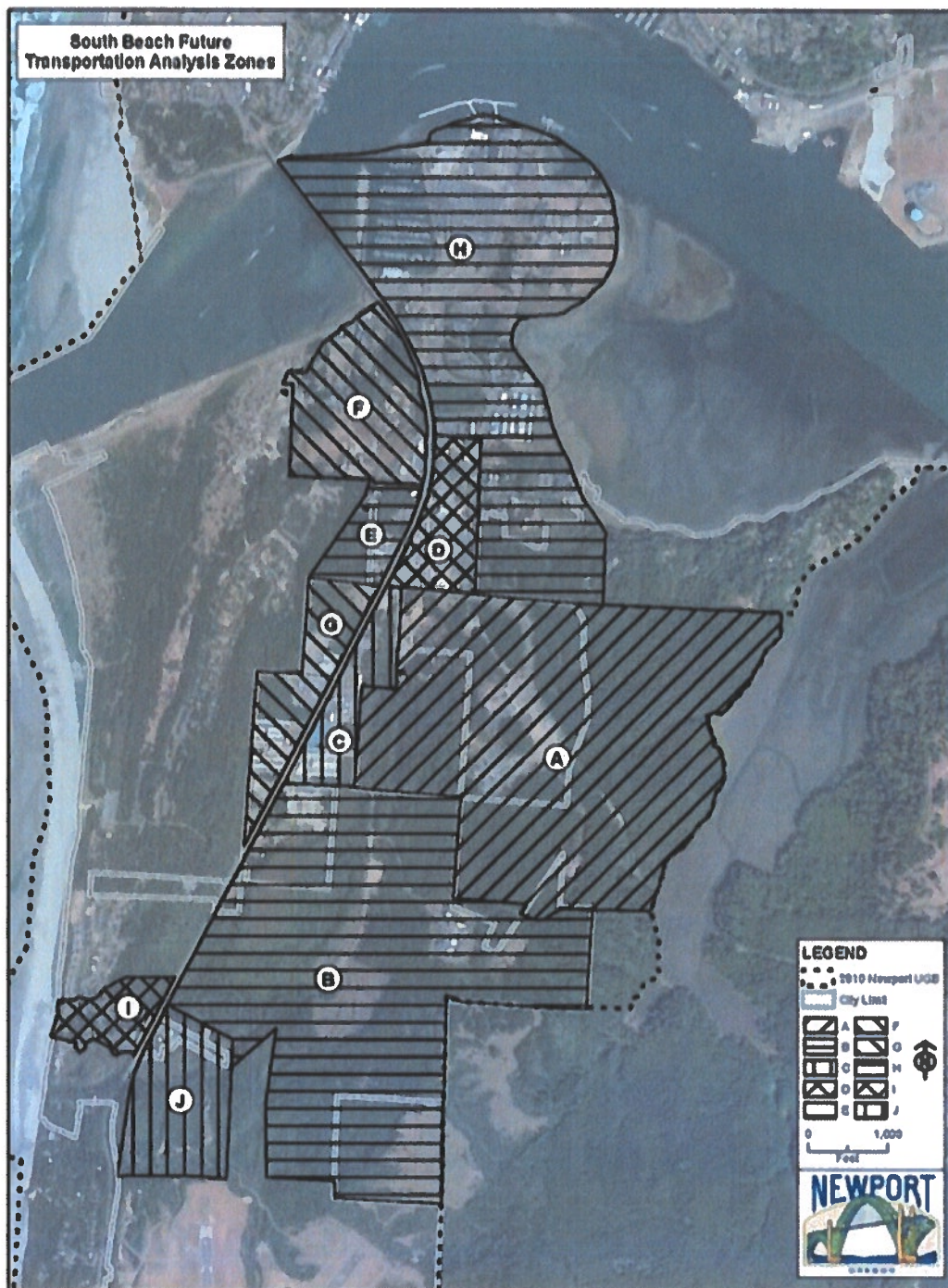
ITE Code	Description	Unit of Measure	Trips per Unit <sup>1</sup>
110	General Light Industrial	1,000 SF GFA	0.63
180	Specialty Trade Contractor	1,000 SF GFA	1.97
710	General Office Building	1,000 SF GFA	1.15
850	Supermarket	1,000 SF GFA	9.24 <sup>1</sup>
930	Fast Casual Restaurant	1,000 SF GFA	14.13 <sup>1</sup>
926	Food Cart Pod	Food Cart	3.08 <sup>1</sup>
944	Gasoline/Service Station	1,000 SF GFA	109.27 <sup>1</sup>

<sup>1</sup> Commercial and service uses eligible for 40-60% reduction to account for "pass-by" trips per ITE methodology as well as NMC 14.43.060(B).

Source: Institute of Transportation Engineers Common Trip Generation Rates (PM Peak Hour), Trip Generation Manual, 10<sup>th</sup> Edition



Figure 8: South Beach Transportation Overlay Zone



Source: Newport Transportation System Plan

The trip generation differentials between various uses, and the overall trip budget, means that any future developments should be considered within a transportation planning context to ensure that development complies with the adopted trip budget and moreover, uses trips wisely. Any changes to comprehensive plan land use designations within the SBTOZ, such as would be needed to rezone property around SE 35<sup>th</sup> St from Light Industrial to Commercial, requires review of the trip budget. (NMC 14.43.120(B).) The relatively high trip generation associated with many commercial uses compared to industrial uses supports selective commercial rezoning to stay within the trip budget. However, the Light Industrial zone already permits a wide range of industrial and commercial uses so the relative impact of rezoning may not be a significant change in terms of trips relative to the initial planning assumptions.

While the number of trips available for a given development proposal can only be assessed at the time individual projects come forward, it behooves the City to continue monitoring the trip budgets and reallocate trips as needed to facilitate locally desired development. In particular, the City should consider reallocating trips between districts based on proposed rezones and location of future traffic signals at SE 35<sup>th</sup> St and potentially at SE 40<sup>th</sup> St that may attract higher-trip generating uses. The SBTOZ also includes specific provisions for a trip reserve fund of approximately 10% of the total trips available that can be allocated to desired development over and above the specific trips available at the site, and this could be used strategically to support development in the urban renewal area.

**Finding:** Continue to implement transportation planning requirements and monitor trip budgets for areas within the SBTOZ consistent with NMC 14.43, which were developed to support planned industrial and commercial development throughout the South Beach area. Potential commercial rezones, development at the SE 35<sup>th</sup> Ave gateway site and installation of new signals at SE 35<sup>th</sup> St and potentially SE 40<sup>th</sup> St should be reviewed to determine their impact on trip budgets, including any required analysis as part of a comprehensive plan land use designation change required by NMC 14.43.120(B). If not sooner, the comprehensive reassessment of the trip budget mandated no later than December 2023 per NMC 14.43.120(A) will be a prime opportunity to review the allocation of trips and how they align with desired future development.

## VI. Land Use Implications for Opportunity Sites

Identified opportunity sites along the corridor are primarily zoned Light Industrial, with one commercial property closest to the Yaquina Bay Bridge in the north, as shown in Figure 9. Table 6 summarizes relevant zoning considerations and potential for rezoning or other modifications to development regulations to better serve South Beach urban renewal and broader City economic development goals.

Table 6: Opportunity Site Zoning and Development Considerations

Site	Current Zoning	Development Considerations
A	C-1 Retail and Service Commercial	<ul style="list-style-type: none"> <li>• Prime commercial development opportunity, consistent with existing zoning</li> <li>• Consider compatibility of use, development with OMSI Camp Gray located immediately west</li> </ul>
B	I-1 Light Industrial	<ul style="list-style-type: none"> <li>• Intended to serve as gateway to South Beach, located with new signal</li> <li>• I-1 zoning permits the uses under consideration (retail, restaurants)</li> <li>• Urban Renewal Agency ownership provides some degree of control over future development</li> <li>• Surrounded by light industrial sites which the Agency does not control, could create detractors from site's appeal</li> <li>• Recommended rezoning to C-1 along with properties north to SE 32<sup>nd</sup> St, consider inclusion of additional properties south to Ferry Slip Rd after review of potential to create nonconforming uses</li> </ul>
C	I-1 Light Industrial	<ul style="list-style-type: none"> <li>• Prominent site along highway located at likely new signal</li> <li>• Current zoning would permit range of commercial or industrial uses, flexible</li> <li>• Surrounded by light industrial sites that could develop with mix of uses, little certainty about compatibility of future development</li> <li>• Potential for large scale commercial use on property, may warrant rezoning to C-1 or C-3</li> </ul>
D	I-1 Light Industrial	<ul style="list-style-type: none"> <li>• No highway frontage or visibility, but developed frontage and utilities along SE 40<sup>th</sup> St and Ash St</li> <li>• Current zoning would permit range of commercial or industrial uses, flexible</li> <li>• Surrounded by existing light industrial uses</li> <li>• Undeveloped residential property to the east may raise compatibility concerns</li> </ul>

Site	Current Zoning	Development Considerations
E	I-P Planning Industrial (County)	<ul style="list-style-type: none"> <li>• Has not been annexed, uncertain which industrial zone would be applied</li> <li>• Significant highway frontage and visibility at likely new signal location</li> <li>• Current zoning would permit range of commercial or industrial uses, flexible</li> <li>• Potential for large-scale industrial or commercial use</li> <li>• Consider I-1 implementing zone for broader flexibility</li> </ul>
F	I-3 Heavy Industrial	<ul style="list-style-type: none"> <li>• Has been used for sand or gravel mining</li> <li>• Significant wetland on site serves as regional storm drainage facility, which may limit development potential</li> <li>• No highway frontage or visibility, but developed frontage and utilities along SE 40<sup>th</sup> St</li> <li>• Only existing I-3 area in the City, no other heavy industrial opportunities at present</li> <li>• Proposed OSU student housing to the east raises compatibility concerns if developed for heavy industrial use</li> <li>• Consider rezoning to I-1, finding ways to limit heavy industrial uses, and/or enhancing buffering requirements for site. Consider offsetting any loss of I-3 zoning by applying to industrial parcels farther south in South Beach</li> </ul>





## VII. Regulatory Recommendations

**Map Recommendations:** The first part of recommended updates in response to the land use audit for the South Beach Urban Renewal District includes revisions to the Comprehensive Plan Map and Zoning Map to better align districts with proposed development needs for individual sites and the district more generally.

Table 7: Recommended Comprehensive Plan and Zoning Map Updates

<b>Properties &amp; Rationale</b>	<b>Plan Designation (existing)</b>	<b>Zoning (existing)</b>
<b>Extended Commercial Node around SE 35<sup>th</sup> St Opportunity Site:</b> Block bounded by Highway 101, SE 32 <sup>nd</sup> St and Ferry Slip Rd, centered around Opportunity Site B owned by Urban Renewal Agency and new signal at SE 35 <sup>th</sup> St. Rezoning these areas creates a consistent commercial frontage along the highway, and creates expanded retail and service opportunities for district residents and visitors with greater compatibility between uses and fewer potential conflicts with light industrial uses allowed in current zone. (Parcels #R11616, R482059, R479745, R477320, R474928, R472651, R16486, R505007, R14107, R507596, R25812, R54175, R49476, R51896)	Commercial (Industrial)	C-1 Retail and Service Commercial (I-1 Light Industrial)
<b>New Commercial Site at SE 40<sup>th</sup> St:</b> Rezoning properties under common ownership at SE 40 <sup>th</sup> St (Opportunity Site C) near potential new traffic signal prioritizes the site for a significant retail or service use to serve the district, rather than potential light industrial use allowed in current zone. (Parcels #R370660, R515982)	Commercial (Industrial)	C-1 Retail and Service Commercial *C-3 Heavy Commercial alternative possible (I-1 Light Industrial)
<b>Eliminate Heavy Industrial Conflict at SE 40<sup>th</sup> St:</b> Site abuts other light industrial properties as well as residential uses to the east; light industrial will provide flexibility for range of commercial or industrial uses with less impact. (Parcels #R509944, R526777, R526776)	No change (Industrial)	I-1 Light Industrial (I-3 Heavy Industrial)
<b>Consistent Public Designation for State Park:</b> Correct current inconsistency between County zoning and current use of southern-most South Beach State Park parcel and City zoning to support future annexation. (Parcel #R184345)	Public (High Density Residential)	P-2 Public, upon annexation (County Public Facilities)

**Zoning Code Recommendations:** The second category of recommended updates to address audit findings is revisions to the City's Zoning Code to fine-tune the use and development standards that apply to development on individual sites within the district. Notably, proposed code updates are minor revisions to the existing zones and standards, rather than creation of a new zoning district or overlay for the South Beach area. The proposed code updates have potential to further refine the uses and development within the existing and proposed zones to better match the goals for the district.

Table 8: Recommended Zoning Code Updates

Code Section	Proposed Update & Rationale
14.03.070 Commercial and Industrial Uses	<p>Add footnote to 'Self-Service Storage' use in the I-1 zone stating: "New self-service storage uses established after (effective date of ordinance) are prohibited within the South Beach Transportation Overlay Zone, as defined in Section 14.43.020."</p> <p>The proposed change would limit new self-storage facilities within the district given their low employment density and tax generation potential. Alternatively, the limitation could be targeted at only those properties within the SBTOZ abutting Highway 101 if there is desire for some flexibility to site new uses within the district, while limiting their impact on the highway corridor itself.</p>
14.03.070 Commercial and Industrial Uses	<p>Add footnote to 'Contractors and Industrial Service' use in the I-1 zone stating: "New sales, repair, storage, salvage or wrecking of heavy machinery, metal, and building materials; towing and vehicle storage; auto and truck salvage and wrecking uses established after (effective date of ordinance) are prohibited within the South Beach Transportation Overlay Zone, as defined in Section 14.43.020."</p> <p>The proposed change would limit incompatible vehicle wrecking and salvage operations within the district given the visual clutter and low employment density associated with these uses. Alternatively, the limitation could be targeted at only those properties within the SBTOZ abutting Highway 101 if there is desire for some flexibility to site new uses within the district, while limiting their impact on the highway corridor itself. Another approach could be to split this use category into two subcategories, such as the distinction between light and heavy manufacturing, and then limit these more impactful contractor and service uses by prohibiting in C-3 and I-1 zones.</p>
14.13.020 Table "A" Density and Other Dimensional Standards	<p>For C-1 zone, amend front setback from "0" to read "0 or 15-ft from US 101 south of Yaquina Bay Bridge."</p> <p>Recommendation is focused on C-1 zone proposed for expansion within South Beach to provide a more consistent frontage and buffering between development and the highway. Setback could also apply to existing C-2 properties, but little benefit is expected because those sites are already developed within South Beach.</p>

<p>14.13.020 Table "A" Density and Other Dimensional Standards</p>	<p>For I-1 zone, amend front setback from "50-ft from US 101" to read "15-ft from US 101 south of Yaquina Bay Bridge."</p> <p>Proposed change would expand site development potential along the highway corridor where significant highway widening is no longer planned, while maintaining a consistent frontage with buffering between development and the highway. Setback could also be revised for I-2 and I-3 properties, however, there are currently none along the highway corridor. Consider desired setbacks for small industrial node in the north abutting US 101, and whether a similar reduction to a 15-ft setback or retention of 50-ft setback is desired.</p>
<p>14.19.050(B) Location of Landscaping Required for New Development</p>	<p>Add subsection (1) stating that: "For sites zoned C-1 or I-1 abutting US 101 located south of Yaquina Bay Bridge, landscaping shall include a minimum 15-foot-wide landscaping buffer."</p> <p>This specificity would add direction to concentrate landscaping within the recommended 15-ft front setback along the corridor. Additional details could be added about the number of trees, shrubs and other plant materials required, and/or a limitation on the amount of bark dust, gravel or rocks that can be used for landscaping, but this level of detail is out of keeping with the rest of the landscaping chapter. Any planting requirements should not cause view obstruction of intersections or driveways, as specified in NMC 14.19.040(C). A longer-term consideration could be to develop a more detailed matrix of required buffer widths and plant materials between properties based on zone and street frontage.</p>
<p>14.19.060(B) Location of Landscaping Required for New Development</p>	<p>Add subsection (1) stating that: "For sites zoned C-1 or I-1 abutting US 101 located south of Yaquina Bay Bridge, landscaping shall include a minimum 15-foot-wide landscaping buffer."</p> <p>See above.</p>



#### 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 provide areas within and adjacent to the Yaquina Bay Shorelands for water-dependent, water-related, and other uses that are compatible or in conjunction with water-dependent and water-related uses. In determining whether or not a use is water-related, the following shall be uses:

- A. The proposed use is directly associated with a water-dependent use by supplying materials or services, or by using projects of water-dependent uses; and
- B. Location away from the water would result in a public loss in the quality of goods or services after considering economic, social, environmental, and energy effects.

All conditional uses in a W-2 district shall also comply with the following standard:

In areas considered to be historic, unique, or scenic, the proposed use shall be designed to maintain or enhance the historic, unique, or scenic quality.



#### 14.03.060 Commercial and Industrial Districts.

The uses allowed within each commercial and industrial zoning district are classified into use categories on the basis of common functional, product, or physical characteristics.

*\* Added by Ordinance No. 1622 (10-7-91).*

*\*\* Added by Ordinance No. 1680 (8-2-93).*

*\*\*\* Added by Ordinance No. 1759 (1-21-97).*

*\*\*\*\* Added by Ordinance No. 1861 (10-6-03).*

*\*\*\*\*\* Amended by Ordinance No. 1989 (1-1-10).*

- A. Application of Use Categories. Uses are to be assigned to the category whose “Characteristics” most closely describe the nature of the primary use. Developments may have more than one primary use. “Use Examples” are provided for each use category. The names of uses on the list are generic. They are based on the common meaning of the terms and not on what a specific use may call itself. For example, a use whose business name is “Wholesale Liquidation” but that sells mostly to consumers would be included in the Retail Sales and Service category rather than the Wholesale Sales category. This is because the actual activity on the site matches the description on the Retail Sales and Service category.
- B. Interpretation. When a use’s category is not clearly identifiable, the Community Development Director shall determine the applicable use category under a Type I decision-making process as provided by [Section 14.52](#). The following factors are to be considered to determine what use category the use is in, and whether or not the activities constitute a primary use.
1. The description of the activity(ies) in relationship the characteristics of each use category;
  2. The relative amount of site or floor space and equipment devoted to the activity;
  3. Relative amount of sales from each activity;
  4. The customer type for each activity;

5. The relative number of employees for each activity;
6. Hours of operation;
7. Building and site arrangement;
8. Vehicles used with the activity;
9. The relative number of vehicle trips generated by the activity;
10. Signs;
11. How the use advertises itself; and
12. Whether the activity would function independently of other activities on the site;

#### C. Commercial Use Categories

##### 1. Office

- a. Characteristics. Office uses are characterized by activities conducted in an office setting and generally focusing on business, government, professional, medical, or financial services. Traffic is primarily from employees with limited customer interactions.
- b. Examples. Examples include financial businesses such as lenders, brokerage houses, bank headquarters; data processing; headquarters for professional service firms (lawyers, accountants, engineers, architects, etc.), sales offices; government offices; public utility offices; TV and radio studios; medical and dental clinics, and medical and dental labs.
- c. Exceptions.
  - i. Offices that are part of and are located with a firm in another category are considered accessory to the firm's primary activity. Headquarters offices, when in conjunction with or adjacent to a primary use in another

category, are considered part of the other category.

- ii. Contractors and others who perform construction or similar services off-site are included in the Office category if equipment and materials are not stored on the site and fabrication, services, or similar work is not carried on at the site.

## 2. Retail Sales and Service

- a. Characteristics. Retail Sales and Service firms are involved in the sale, lease or rent of new or used products to the general public. They may also provide personal services or entertainment, or provide product repair or services for consumer and business goods.
- b. Examples. Examples include uses from the four subgroups listed below:
  - i. Sales-oriented, general retail: Stores selling, leasing, or renting consumer, home, and business goods including art, art supplies, bicycles, books, clothing, dry goods, electronic equipment, fabric, fuel, gifts, groceries, household products, jewelry, pets, pet food, pharmaceuticals, plants, printed material, stationery, and videos; food sales. Sales oriented general retail includes the service but not repair of vehicles.
  - ii. Sales-oriented, bulk retail: Stores selling large consumer home and business goods, including appliances, furniture, hardware, home improvements, and sales or leasing of consumer vehicles including passenger vehicles, motorcycles, light and medium trucks, and other recreational vehicles.
  - iii. Personal service-oriented: Branch banks; urgency medical care; Laundromats; photographic studios; photocopy and blueprint services; printing, publishing and lithography; hair, tanning, and personal

care services; tax preparers, accountants, engineers, architects, real estate agents, legal, financial services; art studios; art, dance, music, martial arts, and other recreational or cultural classes/schools; hotels (non-transient); motels (non-transient); taxidermists; mortuaries; veterinarians; kennels limited to boarding and training with no breeding; and animal grooming.

*(Amended by Ordinance No. 2142 (11-14-18).)*

- iv. Entertainment-oriented: Restaurants (sit-down and drive through); cafes; delicatessens; taverns and bars; hotels (transient), motels (transient), recreational vehicles, and other temporary lodging with an average length of stay less than 30 days; athletic, exercise and health clubs or gyms; bowling alleys, skating rinks, game arcades; pool halls; dance halls, studios, and schools; theaters; indoor firing ranges, miniature golf facilities, golf courses, and driving ranges.

*(Amended by Ordinance No. 2142 (11-14-18).)*

- v. Repair-oriented: Repair of TVs, bicycles, clocks, watches, shoes, guns, appliances and office equipment; photo or laundry drop off; quick printing; recycling drop-off; tailor; locksmith; and upholsterer.

c. Exceptions.

- i. Lumber yards and other building material sales that sell primarily to contractors and do not have a retail orientation are classified as Wholesale Sales.
- ii. The sale of landscape materials, including bark chips and compost not in conjunction with a primary retail use, is classified as Industrial Service.
- iii. Repair and service of consumer motor vehicles, motorcycles, and light and medium trucks is classified as Vehicle



Repair. Repair and service of industrial vehicles and equipment, and heavy trucks is classified as Industrial Service.

- iv. Sales, rental, or leasing of heavy trucks and equipment is classified as Wholesale Sales.
- v. When kennels are limited to boarding, with no breeding, the applicant may choose to classify the use as Retail Sales and Service.
- vi. Camping for a charge or fee or to secure the trade or patronage of a person is limited to Recreation Vehicle Parks or public zoned property where identified in a city or state parks master plan.
- vii. Recreational Vehicle Parks are subject to the standards set forth in Section 14.06.060.
- viii. Uses where unoccupied recreational vehicles are offered for sale or lease, or are stored, are not included as a Recreational Vehicle Park.

### 3. Major Event Entertainment

- a. Characteristics. Major Event Entertainment uses are characterized by spectator or participatory entertainment and recreational activities, either indoors or outdoors, that draw large numbers of people to specific events or shows.
- b. Examples. Examples include fairgrounds, sports complexes, ball fields, exhibition and meeting areas, coliseums or stadiums, equestrian centers and animal arenas, outdoor amphitheaters and theme or water parks.
- c. Exceptions.

- i. Exhibition and meeting areas with less than 20,000 square feet of total event area are classified as Sales Oriented Retail Sales or Service.
- ii. Banquet halls that are part of hotels or restaurants are accessory to those uses.

#### 4. Self-Service Storage

- a. Characteristics. Self-Service Storage uses provide separate storage areas for individual or business uses. The storage areas are designed to allow private access by the tenant for storing personal property.
- b. Examples. Examples include single story and multistory facilities that provide individual storage areas for rent. These uses are also called mini warehouses.
- c. Exceptions. A transfer and storage business where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred is in the Warehouse and Freight Movement category.

#### 5. Vehicle Repair

- a. Characteristics. Firms servicing passenger vehicles, light and medium trucks and other consumer motor vehicles such as motorcycles, boats and recreational vehicles. Generally, the customer does not wait at the site while the service or repair is being performed.
- b. Examples. Examples include vehicle repair, transmission or muffler shop, auto body shop, alignment shop, auto upholstery shop, auto detailing, and tire sales and mounting.
- c. Exceptions.
  - i. Repair and service of industrial vehicles and equipment, and of heavy trucks; towing and vehicle storage; and vehicle

wrecking and salvage are classified as Industrial Service.

#### 6. Parking Facility

- a. Characteristics. Parking facilities provide parking for vehicles as the primary use. The Parking Facility use category does not include parking that is required for a primary use. A fee may or may not be charged to park at a facility.
- b. Examples. Short and long term fee parking facilities, commercial district shared parking lots, commercial shuttle parking, and park-and-ride lots.
- c. Exceptions.
  - i. Required parking that is accessory to a use is not considered a Parking Facility.

#### D. Industrial Use Categories

##### 1. Contractors and Industrial Service

- a. Characteristics. Industrial Service firms are engaged in the repair or servicing of industrial, business or consumer machinery, equipment, products or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site.
- b. Examples. Examples include welding shops; machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; sales, repair, storage, salvage or wrecking of heavy machinery, metal, and building materials; towing and vehicle storage; auto and truck salvage and wrecking; heavy truck servicing and repair; tire re-treading or recapping; truck stops; building, heating, plumbing or electrical contractors; printing, publishing and lithography; exterminators;

recycling operations; janitorial and building maintenance services; fuel oil distributors; solid fuel yards; research and development laboratories; dry-docks and the repair or dismantling of ships and barges; laundry, dry-cleaning, and carpet cleaning plants; and photofinishing laboratories.

c. Exceptions.

- i. Contractors and others who perform Industrial Services off-site are included in the Office category, if equipment and materials are not stored at the site, and fabrication or similar work is not carried on at the site.
- ii. Hotels, restaurants, and other services that are part of a truck stop are considered accessory to the truck stop.

2. Manufacturing and Production

- a. Characteristics. Manufacturing and Production firms are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site. Manufacturing and production activities within heavy commercial or light industrial areas are those that do not produce excessive noise, dust, vibration, or fumes.
- b. Examples. Examples include uses from the two subgroups listed below:
  - i. Light Manufacturing: Industrial uses that do not generate excessive noise, dust, vibration or fumes, such that they can be



located near residential and commercial zones without creating nuisance impacts. Uses include processing of food and related products where the materials and processing activities are wholly contained within a structure, such as bakery products, canned and preserved fruits and vegetables, sugar and confectionary products, and beverages; catering establishments; breweries, distilleries, and wineries; manufacture of apparel or other fabricated products made from textiles, leather or similar materials; woodworking, including furniture and cabinet making; fabrication of metal products and fixtures; manufacture or assembly of machinery, equipment, or instruments, including industrial, commercial, and transportation equipment, household items, precision items, photographic, medical and optical goods, artwork, jewelry, and toys; manufacture of glass, glassware, and pressed or blown glass; pottery and related products; printing, publishing and lithography production; sign making; and movie production facilities.

- ii. Heavy Manufacturing: Industrial uses that should not be located near residential areas due to noise, dust, vibration or fumes that may be generated by the activities. Uses include processing of food and related products where some portion of the materials are stored or processed outdoors, such as dairies, slaughter houses, or feed lots; leather tanning and finishing; weaving or production of textiles; lumber mills, pulp and paper mills, and other wood products manufacturing; production of chemicals, rubber, structural clay, concrete, gypsum, plaster, bone, plastic, or stone products; primary metal industries including blast furnaces, foundries, smelting, and rolling and finishing of metal products; production and refinement of fossil fuels; concrete batching; and asphalt mixing; and

manufacturing of prefabricated structures, including mobile homes.

c. Exceptions.

- i. Manufacturing of goods to be sold primarily on-site and to the general public is classified as Retail Sales and Service.
- ii. Manufacture and production of goods from composting organic material is classified as Waste-Related uses.

3. Warehouse, Freight Movement, and Distribution

a. Characteristics. Warehouse, Freight Movement, and Distribution involves the storage, or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. There is little on-site sales activity with the customer present.

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

c. Exceptions.

- i. Uses that involve the transfer or storage of solid or liquid wastes are classified as Waste and Recycling Related uses.
- ii. Mini-warehouses are classified as Self-Service Storage uses.

5. Waste and Recycling Related

- a. Characteristics. Uses that receive solid or liquid wastes from others for disposal on the site or transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the decomposition of organic material. Waste related uses also include uses that receive hazardous wastes from others.
- b. Examples. Examples include sanitary landfills, limited use landfills, waste composting, energy recovery plants, sewer treatment plants, portable sanitary collection equipment storage and pumping, and hazardous waste collection sites.
- c. Exceptions.
  - i. Disposal of clean fill, as defined in OAR 340-093-0030, is considered fill, not a Waste and Recycling Related use.
  - ii. Sewer pipes that serve a development are considered a Basic Utility.

## 6. Wholesale Sales

- a. Characteristics. Wholesale Sales firms are involved in the sale, lease, or rent of products primarily intended for industrial, institutional, or commercial businesses. The uses emphasize on-site sales or order taking and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited as a result of the way in which the firm operates. Products may be picked up on site or delivered to the customer.
- b. Examples. Examples include sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, and store fixtures; mail order houses; and wholesalers of food, clothing, auto parts, building hardware, and office supplies.

c. Exceptions.

- i. Firms that engage primarily in sales to the general public are classified as Retail Sales and Service.
- ii. Firms that engage in sales on a membership basis are classified as consideration of characteristics of the use.
- iii. Firms that are primarily storing goods with little on-site business activity are classified as Warehouse, Freight Movement, and Distribution.

9. Mining

- a. Characteristics. Include mining or extraction of mineral or aggregate resources from the ground for off-site use.
- b. Examples. Examples include sand and gravel extraction, excavation of rock, and mining of non-metallic minerals.
- c. Exceptions.
  - i. All other forms of mining or extraction of earth materials are prohibited.

**E. Institutional and Civic Use Categories**

1. Basic Utilities and Roads

- a. Characteristics. Basic utilities and Roads are infrastructure services which need to be located in or near the area where the service is provided. Basic Utility and Road uses generally do not have regular employees at the site. Services may be public or privately provided.
- b. Examples. Examples include water and sewer pump stations; sewage disposal and conveyance systems; electrical substations; water towers and reservoirs; water quality and



flow control devices. Water conveyance systems; stormwater facilities and conveyance systems; telephone exchanges; suspended cable transportation systems; bus stops or turnarounds; local, collector and arterial roadways; and highway maintenance.

c. Exceptions.

- i. Services where people are generally present, other than bus stops or turnarounds, are classified as Community Services or Offices.
- ii. Utility offices where employees or customers are generally present are classified as Offices.
- iii. Bus barns are classified as Warehouse and freight movement.
- iv. Public or private passageways, including easements for the express purpose of transmitting or transporting electricity, gas, oil, water, sewage, communication signals, or other similar services on a regional level are classified as Utility Corridors.

2. Utility, Road and Transit Corridors

- a. Characteristics. Utility, Road and Transit Corridors include public or private passageways, including easements for the express purpose of transmitting or transporting electricity, gas, oil, water, sewage, communication signals, or similar services on a regional level. This category includes new or expanded regional roadways, and tracks and lines for the movement of trains.
- b. Examples. Examples include highways, rail trunk and feeder lines; regional electrical transmission lines; and regional gas and oil pipelines.
- c. Exceptions.

- i. Highways, rail lines and utility corridors that are located within motor vehicle rights-of-way are not included.

### 3. Community Services

- a. Characteristics. Public, non-profit or charitable organizations that provide local service to people of the community. Generally, they provide the service on-site or have employees at the site on a regular basis. Services are ongoing, not just for special events. Community centers or facilities that have membership provisions are open to the general public to join. Uses may include shelter or housing for periods of less than one month when operated by a public or non-profit agency. Uses may also provide special counseling, education, or training of a public, nonprofit or charitable nature.
- b. Examples. Examples include libraries, museums, senior centers, community centers, publicly owned swimming pools, youth club facilities, hospices, police stations, religious institutions/places of worship, fire and ambulance stations, drug and alcohol centers, social service facilities, mass shelters or short term housing when operated by a public or non-profit agency, soup kitchens, and surplus food distribution centers.
- c. Exceptions.
  - i. Private lodges, clubs, and private commercial athletic or health clubs are classified as Entertainment and Recreation. Commercial museums (such as a wax museum) are in Retail Sales and Service.

### 4. Daycare

- a. Characteristics. Daycare use includes day or evening care of more than 12 children under the age of 13 outside of the children's homes,

with or without compensation. Daycare uses also include the daytime care of teenagers or adults who need assistance or supervision.

- b. Examples. Pre-schools, nursery schools, latch key programs, and adult daycare programs.
- c. Exceptions.
  - i. Daycare use does not include care given by a “Child Care Facility” as defined by ORS 657A.250 if the care is given to 12 or fewer children at any one time including the children of the provider. Child care facilities are located in the provider’s home and are permitted as a home occupation in non-residential districts.

## 5. Educational Institutions

- a. Characteristics. Educational Institutions provide educational instruction to students. This category includes schools, colleges and other institutions of higher learning that offer courses of general or specialized study leading to a degree, and public and private schools at the primary, elementary, middle, junior, high, or high school level that provide state-mandated basic education. This category also includes trade schools and vocational schools that provide on-site training of trade skills.
- b. Examples. Types of uses include universities, liberal arts colleges, community colleges, nursing and medical schools not accessory to a hospital, seminaries, public and private daytime schools, boarding schools, military academies, and trade/vocational schools.
- c. Exceptions.
  - i. Preschools are classified as Daycare facilities.

## 6. Hospitals

- a. Characteristics. Hospitals provide medical and surgical diagnosis and care to patients and offer overnight care. Hospitals tend to be on multiple blocks or in campus settings.
- b. Examples. Examples include hospitals and medical complexes that include hospitals or emergency care facilities.
- c. Exceptions.
  - i. Uses that provide exclusive care and planned treatment or training for psychiatric, alcohol, or drug problems, where patients are residents of the program, are “Residential Facilities” and permitted in R-3 and R-4 zoning districts.
  - ii. Medical clinics that provide care where patients are generally not kept overnight are classified as Office.

## 7. Courts, Jails, and Detention Facilities

- a. Characteristics. Includes facilities designed to try, detain or incarcerate persons while being processed for arrest or detention by law enforcement. Inmates or detainees are under 24-hour supervision by sworn officers.
- b. Examples. Examples include courts, prisons, jails, probation centers, juvenile detention homes.
- c. Exceptions.
  - i. Uses that provide exclusive care and planned treatment or training for psychiatric, alcohol, or drug problems, where patients are residents of the program, are “Residential Facilities” and permitted in R-3 and R-4 zoning districts.
  - ii. Programs that provide transitional living experience for former offenders, such as halfway houses, where sworn officers do not supervise residents, are also



“Residential Facilities” and permitted in R-3 and R-4 zoning districts.

8. Communication Facilities

- a. Characteristics. Includes facilities designed to provide signals or messages through the use of electronic and telephone devices. Includes all equipment, machinery, structures (e.g. towers) or supporting elements necessary to produce signals.
- b. Examples. Examples include broadcast towers, communication/cell towers, and point to point microwave towers.
- c. Exceptions.
  - i. Receive only antennae are not included in this category.
  - ii. Radio and television studios are classified in the Office category.
  - iii. Radio Frequency Transmission Facilities that are public safety facilities and small wireless facilities are classified as Basic Utilities. Small wireless facilities shall be subject to design standards as adopted by resolution of the City Council.

*(Section 14.03.060(E)(8)(c)(iii) was amended by Ordinance No. 2180, adopted on April 5, 2021: effective May 5, 2021.)*

## CHAPTER 14.32 NONCONFORMING USES, LOTS, AND STRUCTURES

### 14.32.010 Purpose

The purpose of this section is to establish policy and guidelines for the regulation of nonconforming uses, lots, and structures. It is further the purpose of this section to work towards bringing nonconforming uses, lots, and structures into compliance with this Ordinance, the Comprehensive Plan, and other applicable ordinances and regulations.

### 14.32.020 General Provisions

- A. For purposes of this section, the effective date of this ordinance is September 7, 1982, or the adoption date of any amendment if the amendment, rather than the ordinance originally adopted, creates a nonconforming situation.
- B. A nonconforming use, as defined in this ordinance, may be continued and maintained at its lawful nature and extent.
- C. Normal maintenance and repair of nonconforming structures is permitted.
- D. Nonconforming uses or structures may be altered, expanded, or replaced as provided in [subsections 14.32.070](#) and [14.32.040](#) after verification under [14.32.030](#).
- E. An application to alter, expand, or replace a nonconforming use or structure may be processed and authorized under a Type II or Type III decision-making procedure as provided by [Section 14.52](#), Procedural Requirements, in addition to the provisions of this section.
- F. A nonconforming use may expand onto neighboring properties.
- G. If a nonconforming use or structure is discontinued for a period of one year (12 continuous months) or more, further use of the property shall conform to the requirements of this ordinance.

*(\* Portions of this section were amended by Ordinance No. 1426 (4-1-85); Amended in its entirety by Ordinance No. 1679 (7-19-93); Amended in its entirety by Ordinance No. 1996 (1-7-10).)*

#### 14.32.030 Approval Authority

Upon receipt of an application, the Community Development Director or designate shall determine if an alteration, expansion, or replacement of a nonconforming use or structure qualifies for Type II or Type III review based on the standards established in this subsection. There shall be no appeal of the Director's determination as to the decision-making process, but the issue may be raised in any appeal from the final decision on the application.

- A. An application shall be processed and authorized using a Type II decision-making procedure when characterized by the following.
  - 1. The request is to alter, expand, or replace a nonconforming single-family dwelling or structure accessory thereto; or
  - 2. Alteration or expansion of a nonconforming use or structure is necessary in order to satisfy health and safety or Americans with Disabilities Act (ADA) requirements.
- B. All other applications for the alteration, expansion, or replacement of nonconforming uses or structures shall be processed and authorized using a Type III decision-making procedure.

#### 14.32.040 Application Submittal Requirements

In addition to a land use application form with the information required in [Section 14.52.020](#), the application shall include the following:

- A. For requests involving structures that do not satisfy required setbacks, the site plan shall also show survey monuments along the property line(s) adjacent to the encroachment.
- B. For requests involving structural work within required setbacks or construction that exceeds building height limitations, the application shall include exterior

architectural elevations, drawn to scale, illustrating the proposed structure and adjoining finished ground elevations.

#### 14.32.050 Nonconforming Lots

- A. When a nonconforming lot can be used in conformity with all of the regulations applicable to the intended use, except that the lot is smaller than the required minimum set forth in this Ordinance, then the lot may be used as proposed just as if it were conforming.
- B. This section applies only to undeveloped nonconforming lots. A lot is undeveloped if it has had no structures upon it from the effective date to the date of intended use.

#### 14.32.060 Verification of Status of Nonconforming Use or Structure

- A. Upon receiving an application to alter, expand, or replace a nonconforming use or structure, the approval authority shall determine that the use or structure is nonconforming. Such determination shall be based on findings that:
  - 1. The use or structure was legally established at the time the Zoning Ordinance was enacted or amended; and
  - 2. The use has not been discontinued for a continuous 12-month period.

The approval authority may require the applicant provide evidence that a use has been maintained over time. Evidence that a use has been maintained may include, but is not limited to, copies of utility bills, tax records, business licenses, advertisements, and telephone or trade listings.

- B. The approval authority shall verify the status of a nonconforming use as being the nature and extent of the use at the time of adoption or amendment of the Zoning Code provision disallowing the use. When determining the nature and extent of a nonconforming use, the approval authority shall consider:

1. Description of the use;
2. The types and quantities of goods or services provided and activities conducted;
3. The scope of the use (volume, intensity, frequency, etc.), including fluctuations in the level of activity;
4. The number, location, and size of physical improvements associated with the use;
5. The amount of land devoted to the use; and
6. Other factors the approval authority may determine appropriate to identify the nature and extent of the particular use.
7. A reduction of scope or intensity of any part of the use as determined under this subsection for a period of 12 months or more creates a presumption that there is no right to resume the use above the reduced level. Nonconforming use status is limited to the greatest level of use that has been consistently maintained since the use became nonconforming. The presumption may be rebutted by substantial evidentiary proof that the long-term fluctuations are inherent in the type of use being considered.

14.32.070    [Alteration, Expansion, or Replacement of Nonconforming Uses or Structures](#)

- A. After verification of the status of a nonconforming use pursuant to [Section 14.32.030](#), the approval authority may authorize alteration, expansion, or replacement of any nonconforming use or structure when it is found that such alteration, expansion, or replacement will not result in a greater adverse impact on the neighborhood. In making this finding, the approval authority shall consider the factors listed below. Adverse impacts to one of the factors may, but shall not automatically, constitute greater adverse impact on the neighborhood.
  1. The character and history of the use and of development in the surrounding area;



2. The comparable degree of noise, vibration, dust, odor, fumes, glare, or smoke detectable within the neighborhood;
  3. Adequacy of infrastructure to accommodate the use. For the purpose of this subsection, infrastructure includes sewer, water, and streets;
  4. The comparative numbers and kinds of vehicular trips to the site;
  5. The comparative amount and nature of outside storage, loading, and parking;
  6. The comparative visual appearance;
  7. The comparative hours of operation;
  8. The comparative effect on solar access and privacy;
  9. Other factors which impact the character or needs of the neighborhood.
- B. The approval authority must consider the purpose of the current zoning provisions that cannot be satisfied when determining whether or not the alteration, expansion, or replacement of a nonconforming use or structure will have a greater adverse impact on the neighborhood.
- C. To the extent there is a rational nexus, and the City can establish that needed improvements are roughly proportional to proposed development, an alteration, expansion, or replacement of a nonconforming use or structure shall be brought into compliance with provisions of the Zoning Ordinance that relate to:
1. Surfacing of parking areas and landscaping;
  2. Exterior design of structures;
  3. Outdoor displays, storage, and signage.
- D. Nonconforming residences in nonresidential zones may be altered, expanded, or replaced without the

procedure outlined in subsections (A) through (C), above, provided such alteration, expansion, or replacement complies with the siting criteria contained in the R-4 zoning district.

14.32.080    **Alteration, Expansion, or Replacement Due to Casualty Loss or Health, Safety and Related Standards**

Notwithstanding the provisions of [subsection 14.32.070](#), after verification of the status of a nonconforming use, the approval authority may authorize the alteration, expansion, or replacement of a nonconforming use or structure based on findings that:

- A. The alteration or replacement is made necessary by fire, other casualty or natural disaster, provided the restoration or replacement is “in-kind” and an application is submitted within one year from the date of occurrence, or;
- B. The alteration, expansion, or replacement is necessary in order to satisfy health and safety or Americans with Disabilities Act (ADA) requirements.



## Sherri Marineau

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**From:** Traci McDowall <traci@yaquinalaw.com>  
**Sent:** Monday, August 08, 2022 11:39 AM  
**To:** Public comment  
**Cc:** Heather Holshue  
**Subject:** Public Comment for 8/8 Planning Commission Work Session  
**Attachments:** 220808 Analysis for Planning Commission 8\_8 Work Session.pdf

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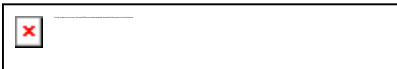
Please find attached a document to be included in the packet for tonight's planning commission work session.

If you can please verify that you have received this it would be greatly appreciated.

Thank you,  
Traci



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August 8, 2022

Newport Planning Commission  
169 SW Coast Hwy  
Newport, OR 97365

Re: Potential Changes to South Beach / US 101 Commercial – Industrial Corridor  
Amendments

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<b>CONCLUSION .....</b>	<b>7</b>



## **Introduction**

The City of Newport, on its own application, is proposing a zone change to tax lots 11-11-20-AB-00100-00 and 11-11-20-AB-00101-00 (hereinafter referred to as the “subject property”), as part of a package of comprehensive plan map, zoning map, and land use regulatory changes based upon the recommendations from the consulting firm, JET Planning. This analysis covers only those changes proposed for the subject property; and explains why the planning commission should not recommend the proposed changes for the subject property.

The subject property consists of 14.62 acres located in South Beach along SE 40<sup>th</sup> St., approximately 2.3 miles south of Newport City Hall. This property is within the jurisdiction of the City of Newport. The South Beach neighborhood contains a mix of public, commercial, water dependent and water related, industrial, and residential uses. Land uses in the area near the subject property include a mix of developed and undeveloped industrial land, residential zoning that allows for single family and multifamily uses, a trailer park, and mix of commercial uses, warehousing facilities, and public uses such as Mike Miller Park, the Oregon Coast Community College central campus, Wilder Development, and the Newport Wastewater Treatment Facility.

## **Analysis**

### **History of the Subject Property**

During the annexing of the area and placing of a comprehensive plan and zoning designation on the property, all the property was zoned I-3, which is a heavy industrial designation. Most of the property received a plan designation of Industrial, with the exception of approximately 1.5 acres in the SE corner of the property. In 2008, a Comprehensive Plan map amendment was approved by the City of Newport City Council to change the 1.5 acres to Industrial, with the same zoning designation of I-3/Heavy Industrial.

At the time of annexation, the ordinance annexing the property not only contemplated the designation of the property as Industrial, but did in fact designated the property for I-3/Heavy Industrial use. Specifically, Section 3 of Ordinance No. 1922 reads as follows:

“The portion of the GVR Investment property [the subject property] identified as High Density Residential by Ordinance No. 1899 (adopting the South Beach Neighborhood Plan) as illustrated in Exhibit “D” shall be designated with a City of Newport Zoning Map designation of I-3 but with the condition that the adoption of an ordinance amending the Comprehensive Plan map designation of High Density Residential to Industrial occurs within 18 months of the effective date of this ordinance.”

The City of Newport adopted an ordinance within 18 months of Ordinance No. 1922 as required. This allowed the property owners to rely on and plan for a heavy industrial use of the property – which they have planned and intend to rely on.

The owners of the subject property, Gary Tryon (now deceased), Vernon Tryon, Robert Tryon, and Loren Tryon (“Tryon”), have spent many hours working with the City of Newport and surrounding property owners to develop the area around the subject property and along SE 40<sup>th</sup> Street. This included working to help provide access to the Oregon Coast Community College – Main Campus, and the residential development now known as Wilder, developed by Landwaves. Tryon donated 2.5 acres for a road and easements to serve the area when the college and Wilder were first being developed.

During this time, all area property owners were well aware of the zoning and comprehensive plan map designations of the subject property and the fact that Tryon’s intended use of the property as a cement plant for their long standing, locally owned business. The City and area property owners were more than happy to accept the Tryon’s donation of land to allow development to proceed in the area, never bringing up any intention of attempting to take away the Tryon’s intended use of their own property in the future.

In November 2021, the City of Newport adopted the South Beach / US 101 Refinement Plan created by JET Planning. While creating this plan for City of Newport JET Planning claims to have interviewed the stakeholders who would be impacted by the recommendations made in the plan. However, not one time did any person reach out to any member of the Tryon family to discuss these recommendations, even though the Tryon family owns two lots that are significantly impacted by the recommendations. Not one time was this mentioned to the Tryon family in all of their dealings with the City and area property owners over the years, not one time was this mentioned to the Tryon family during JET Planning’s creation of their plan, not one time has any person making these recommendations or decisions had a conversation with the Tryon family about their goals, intended use, or ownership of the subject property and how that use would be taken away by the recommendations in the plan submitted by JET Planning.

### City of Newport Comprehensive Plan

Section 8 of the City of Newport Comprehensive Plan addresses plan management for urbanization within the urban growth boundary for the City of Newport as agreed by the City of Newport and Lincoln County. The subject property is a part of the area that was contemplated by this agreement and subsequently annexed into the city limits. This section includes an inventory describing the areas evaluated as to their suitability to accommodate expected growth, and states:

#### H. South Beach (South of Newport/560 Acres):

**Inventory.** The area extends from S.E. 32<sup>nd</sup> Street to the southern boundary of the Newport Municipal Airport and from the southerly extension of Bay Street to U.S. Highway 101 (see map on page 283 [of the Comprehensive Plan]).

**Analysis.** The area has long been planned for urban development and is currently coming along in that manner.

*Newport has planned for many years to encourage industrial development in South Beach. Emphasis added.*

Finding. *It is the only area for which the city has planned industrial development that would allow non-water related or non-water dependent industrial development. Emphasis added.*  
The area will need city sewer and other city services.

In summary, the only area the City of Newport has planned for industrial development is South Beach, and the current proposal before you will significantly reduce the industrial uses in the area, and completely remove any heavy industrial use. There is no other area within the City that is able to accommodate the industrial use that would be removed if the proposal is adopted.

The only other property within the urban growth boundary for the City of Newport that is currently zoned I-3/Heavy Industrial is located along the Bay Rd. in a cluster of five (5) developed tax lots comprising approximately 30 acres, of which about one-half is owned by the Port of Newport, leaving only 15 acres available for private heavy industrial use in the City of Newport. This is not a sufficient inventory of land for heavy industrial use in the City of Newport. There are no other heavy industrial opportunities in the City of Newport for I-3/Heavy Industrial use; the subject property is the only opportunity the City currently has and it is needed for local needs, such as concrete plants, as development progresses and needs for such services rise. There is no plan, timeline, or mandate for any other annexation of any heavy industrial property into the City of Newport; and, the inclusion in the urban growth boundary does not imply all the land will be annexed to the City. Report, page E-11.

The effect of reducing the zoning will be to drive businesses out of the area and increase costs to local consumers. Today, there exists a total of approximately 44.62 acres of land zoned for I-3/Heavy Industrial use, if you remove the land owned by the city, there is approximately 29.62 acres of privately owned I-3/Heavy Industrial zoned land, by removing the subject property from this inventory, you reduce the privately owned inventory by 50% and remove the one opportunity for heavy industrial use within the City of Newport. If you include the land owned by the City, this is still a 33% reduction in heavy industrial land within the City, and a removal of the one area where opportunity still exists.

As to compatibility concerns, most of the property in the Urban Renewal Area is zoned some type of commercial, industrial, water related/dependent use or public. Only a small percentage is zoned for residential use. At least 81% of the land area is in non-residential uses. Therefore, there is no real incompatibility within the Urban Renewal Area which was the focus of the study. While the report discusses I-3/Heavy Industrial property abutting a high density residential zoned area and says it could pose a potential conflict with OSU housing there are a couple points to be made: 1) the report says only that it "could" cause compatibility issue, not that it will, this is speculative at best; 2) the report itself says that any change must balance all the competing interests including uses, employment, etc.; and, 3) the I-3 zoning was in place when Landwaves and OSU determined this was the location at which it wanted to develop housing and student housing, respectively.

The City must consider not only the regional industrial and employment needs of the community and how reducing the I-3/Heavy Industrial inventory by 33% (50% of privately owned) will negatively impact the community, especially since South Beach is, and has been for years, the primary industrial area for the entire City of Newport; but also the fact that there are no other heavy industrial opportunities in the City of Newport.

### **Phase 2 and 3 Project Objectives of the South Beach Urban Renewal Plan**

Under Phase 2 of the South Beach Urban Renewal Plan, a line item exists for a Refinement Plan for the South Beach US 101 Commercial – Industrial Corridor in the amount of \$75,000.00. According to the stated goals of the 13<sup>th</sup> Substantial Amendment to the South Beach Urban Renewal Plan, the funds provided for the refinement plan were to be used to “map out future use of the Agency owned property at the NE corner of the further SE 35<sup>th</sup> and US 101 intersection.” The area is also referred to as the “US 101 Commercial – Industrial Corridor,” within the South Beach Urban Renewal Plan, that corridor does not include the subject property for purposes of the refinement plan. The allocated funds were not meant for and never should have been used toward a plan that impacted the current zoning and comprehensive plan map designations of privately owned properties in the area. The refinement plan created by JET Planning does not meet the stated goals of the South Beach Urban Renewal Plan and the recommendations that impact privately owned properties in the area should not be followed, including those recommendations that have any impact on the subject property. The refinement plan does not meet the stated goals of the South Beach Urban Renewal Plan and contradicts the City of Newport Comprehensive Plan. It is not a proper plan for the City of Newport to adopt and you should recommend that the City Council vote against it.

Under Phase 3 of the South Beach Urban Renewal Plan, a line item exists for a signal at the SE 40<sup>th</sup> and US 101 intersection, the estimated cost of which is \$3,500,000.00, for which the UR Portion is \$1,750,000.00. The problem with this goal, which has been recognized by the Community Development Department, is that to meet this goal the Oregon Department of Transportation must approve the placement of a signal. Currently, there does not exist enough cross-traffic from SE 40<sup>th</sup> to US 101 to justify the placement of a signal. There is an assumption being made that by changing the zoning and comprehensive plan designations to light industrial use, that the property would be more attractive to a large retailer, such as Lowe’s, the problem – the property is privately owned. This plan would be wonderful if the subject property was owned by the City and the City felt it appropriate to use the subject property in this way, but that is not the case here. It is recognized in the South Beach Urban Renewal Plan that the signal at SE 40<sup>th</sup> and US 101 was not timely at the time the plan was adopted, an assumption was made that the signal would be timely by 2025; however, that just isn’t the case. The City of Newport set a goal in the South Beach Urban Renewal Plan and allocated funds to that project which cannot be accomplished, instead of recognizing that fact and reallocating the funds to a more desirable project with a minor amendment to the South Beach Urban Renewal Plan, the City of Newport is doubling down and asking you to force private property owners to give up what they have without any reasonable or appropriate justification.

To make the proposed changes the City must make certain findings:

- **That there has been a significant change in one or more conclusion:** This simply does not exist and is not applicable in this context.

- **That there is a public need for change:** The current zoning and comprehensive plan map designations are in line with the goals in the City of Newport Comprehensive Plan, there are no other heavy industrial opportunities in the City of Newport, and the public must have access to heavy industrial services to continue growing and developing as a community. The majority of the land area in South Beach remains zoned for some use other than residential, and while the subject property abuts a residential area, there has not been any actual public need demonstrated to support the change. To the extent public need is addressed in the Refinement Plan, it is speculative at best, and outlines a potential conflict that may or may not occur. This is not sufficient for the City to make the proposed change to the subject property.
- **That there has been a significant change in community attitudes or priorities:** You have heard significant testimony and will certainly hear more at future hearings regarding the community's opposition to these changes. Additionally, the area of South Beach is still a significant industrial and commercial area for the City of Newport – and was zoned by the City for those purposes and developed by private individuals to meet those goals. There has been a shift in recent years to address such needs as housing shortages, however, those needs cannot overshadow the lack of heavy industrial opportunities, or the regional industrial and employment needs of the community.
- **That there has been a demonstrated conflict with another plan goal or policy that has a higher priority:** Here, there has been no demonstrated conflict with any other plan goal or policy with a higher priority. The Refinement Plan submits that there could be conflict with the operations of a heavy industrial use near a residential area, however, what the plan fails to address is that this potential conflict should not be overshadowed by a more important fact that there does not exist any other heavy industrial opportunities in the City of Newport. That by removing this zone and comprehensive plan map designation you would be reducing heavy industrial use opportunities to zero in this community. That by removing this zone and comprehensive plan map designation you would be reducing the heavy industrial use inventory by 33% (50% of privately owned). That by removing this zone you would be significantly reducing the regional industrial and employment needs of the community. Finally, that this zoning designation existed long before any residential development occurred in the area, and that developers of the residential use in the area were well aware of the existence of this zone, that the Tryons' worked with area property owners and the City to support the residential development, not knowing that the same development would become a reason in the future to take away their ability to use the property as a heavy industrial site.
- **That there has been a change in statute or statewide agency plan:** This has not happened and therefore this does not apply.
- **That there have been previous mapping errors needing correcting:** The mapping errors that did exist were remedied by designating the entire subject property as I-3/Heavy Industrial. There are no other mapping errors.
- **That the change is necessary for the general welfare of the community:** This simply not true. The community needs the ability to access heavy industrial uses, and the



location of the subject property is in the area that the City of Newport has always planned to have industrial type uses exist. The community needs access to things like concrete, rock, etc. to grow and develop. There is no evidence that the location of the subject property and the proximity to a residential area will negatively impact the general welfare of the community. In fact, the heavy industrial zone provides for employment opportunities, resources for the community, local businesses, and growth.

The City does not have the necessary information to make any required finding to support the proposed changes to the subject property.

## **Conclusion**

The Tryons' should have been involved in this process much earlier, and the failure of JET Planning to interview the Tryons' is a major flaw in their plan. It is clear the planning commission discussed this matter in June, yet the Tryons' still received no communication or notice. They are a major landowner with two lots to use, yet this process has proceeded without their interests considered. If the planning commission chooses to recommend any part of JET Planning's Refinement Plan, it should first amend the plan so that the changes to the subject property are not included.

The planning commission has heard from several long-time community members, property owners, and business owners who oppose the Refinement Plan. These are community stakeholders who were not included in discussions leading up to this point, and who have actually operated businesses on their property and contributed to the economic vitality of the City of Newport. Their voices should be heard loud and strong and carry the day.

To be clear – the Planning Commission should choose to not recommend the changes to the subject property, and I urge you to reconsider each recommendation in the plan given the information provided to you in this analysis.

Submitted by:

*Traci P. McDowall*

Traci P. McDowall, OSB #184063

Attorney for:

Pat Tryon, Personal Representative for the Estate of Gary Tryon, Owner

Loren Tryon, Owner


Robert Tryon, Owner

# City of Newport

## Community Development Department

# Memorandum

To: Planning Commission/Commission Advisory Committee  
From: Derrick I. Tokos, AICP, Community Development Director  
Date: August 5, 2022  
Re: Scope of Work for TGM City Center Revitalization Project



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Attached is a copy of the scope of work for the Transportation Growth Management (TGM) funded City Center Revitalization Project. I believe that it was previously presented to the group in outline form. Please take a moment to review the document and let me know if there are any issues that you would like us to convey to the Oregon Department of Transportation (ODOT) as we enter into the consultant selection process. David Helton, our ODOT liaison, notes in his email, that the TGM program reaches out to a pre-screened set of consultants qualified to perform the work. The firms are listed in the email. I have had a couple of the firms contact me and expect that we will be working with a team of consultants, at least one of which would be on the ODOT list as the lead.

I look forward to hearing your feedback.

#### Attachments

David Helton, ODOT, email dated 8.3.22  
Statement of Work for TGM City Center Revitalization Project

## Derrick Tokos

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**From:** HELTON David I <David.I.Helton@odot.oregon.gov>  
**Sent:** Wednesday, August 3, 2022 4:09 PM  
**To:** Derrick Tokos  
**Subject:** RE: City Center Revitalization SOW  
**Attachments:** 2D-21 Newport CC Revitalization SOW Draft 080322.doc

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Derrick:

I have accepted your edits to the SOW and made some additional edits in response to your comments. With these changes I think the SOW is ready to use for Consultant Selection. I will be submitting the SOW and associated paperwork to TGM this week to get that process started. In a week or two I will need to let TGM know which process we intend to use to select a consultant: Mini-RFP or Small Purchase.

The Mini-RFP is our usual process that you are familiar with. We issue an RFP to all of the consultants on our Price Agreement for Land Use Planning. Interested consultants can submit a proposal which we will review and score to select a consultant. This process requires us to establish a Selection Committee that meets twice and reviewers must provide written support for their scores, and it will require at least a month to six weeks to complete.

In Small Purchase, we review the proposals that the consultants submitted last year to qualify for the Price Agreement. Based on this review we can select one consultant for negotiation or ask a set of consultants for a short interview or letter that we will use to select the consultant. This process is much less formal than the Mini-RFP and does not require a Selection Committee or a formal scoring of proposals. The Small Purchase process can be completed in 2-3 weeks.

Both processes will draw from the same set of consultants who qualified for the Land Use discipline in our Transportation Land Use Planning 2021 (TLUP '21) Price Agreements. Those firms are:

1. 3J Consulting
2. Cascadia Partners
3. David Evans and Associates, Inc. (DEA)
4. First Forty Feet
5. Jacobs Engineering Group, Inc.
6. MIG, Inc.
7. Otak, Incorporated
8. WSP USA, Inc.

I recommend we use Small Purchase to select a consultant for this project because of its significant savings in time and work effort. I have had reservations about using Small Purchase but I now think that we can run that process in a way that is fair for the City and consultants. Please let me know your thoughts on the selection process and if you would like to schedule a time for us to discuss our options for consultant selection. Thanks!

**STATEMENT of WORK and DELIVERY SCHEDULE  
for TGM 2D-21  
City of Newport  
Newport City Center Revitalization Plan  
Price Agreement/Contract No.: TBD; WOC No.: TDB**

**Project Management Team ("PMT"):**

<b>Name:</b> <b>Address:</b>  <b>Phone:</b> <b>Email:</b>	<b>Agency Project Manager ("WOCPM")</b> David Helton ODOT Area 5 2080 Laura Street Springfield, OR 97477 (541) 726-2545 David.I.Helton@odot.state.or.us	<b>Name:</b> <b>Address:</b>  <b>Phone:</b> <b>Email:</b>	<b>Consultant Representative</b>     
<b>Name:</b> <b>Address:</b>  <b>Phone:</b> <b>Email:</b>	<b>Local Agency Representative</b> Derrick Tokos City of Newport 169 SW Coast Highway Newport, OR 97365 (541) 574-0626 d.tokos@newportoregon.gov	<b>Name:</b> <b>Address:</b>  <b>Phone:</b> <b>Email:</b>	     

**A. PROJECT DESCRIPTION and OVERVIEW of SERVICES**

**Acronyms and Definitions**

Agency	Oregon Department of Transportation
NCCRP	Newport City Center Revitalization Plan
ODOT	Oregon Department of Transportation
Project	Newport City Center Revitalization Plan
TPR	Transportation Planning Rule
UGB	Urban Growth Boundary

**Project Purpose/Transportation Relationship and Benefits**

Newport's City Center is concentrated along the US 20/101 commercial corridors between the east entrance to the City and the Yaquina Bay Bridge. It is an area where many of the properties are underutilized or in economic distress with vacant storefronts and aging, poorly maintained buildings. The City established an urban renewal district in 2015 to generate funding to revitalize the area, and has partnered with ODOT on a TSP update to identify how the transportation system can be redefined to catalyze economic development and provide infrastructure needed to support additional density.

The Newport City Center Revitalization Plan Project ("Project") will develop a set of land use policies and regulations, with financial incentives, to support reinvestment in the area in a manner that compliments identified transportation solutions, and promotes mixed use development to create a

**Newport City Center Revitalization Plan**

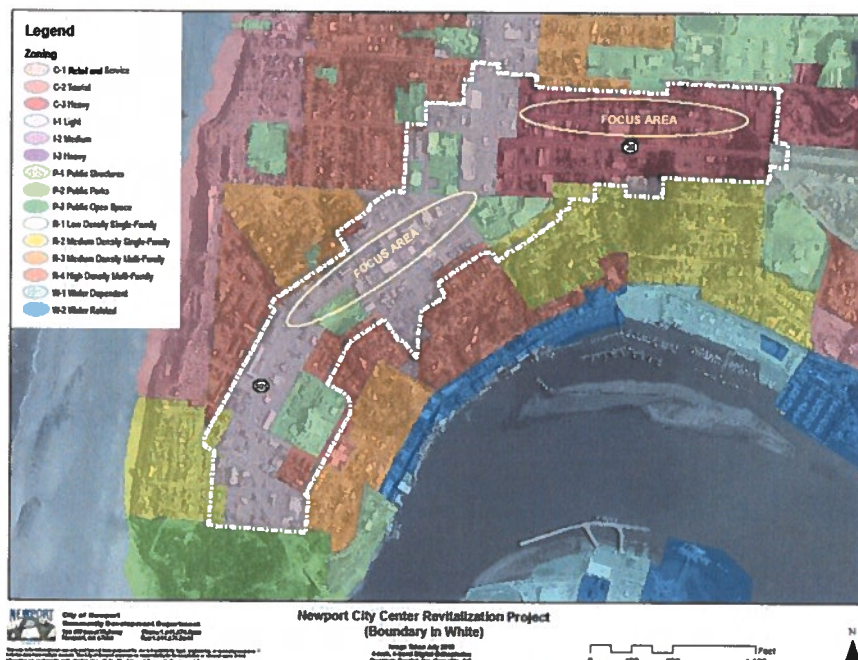
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live-work environment where residents have convenient access to employment and essential services.

### Project Area

The Project is focused on US Highway 101 between the north end of the Yaquina Bay Bridge and US Highway 20, and US Highway 20 between US Highway 101 and the eastern City Limits. The Project Area is shown in Figure 1.

Figure 1: Project Area



### Project Objectives

- Support reinvestment in the Project Area that meets City goals and compliments identified transportation solutions.
- Promote mixed-use development to reduce the need for vehicle travel.

### B. STANDARDS and GENERAL REQUIREMENTS

Unless otherwise specified in tasks:

### Newport City Center Revitalization Plan

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#### **General Requirements for Project Management**

The ODOT Agency Project Manager ("APM") is the primary contact on behalf of Agency for this Project.

City shall provide a Project Manager throughout the Project and other adequate staff to complete the Project in accordance with the anticipated timeline. City shall maintain effective communication and coordination between Agency and Consultant throughout the Project.

Consultant and City shall use Basecamp, a project management application administered by ODOT, to store project-related files, facilitate project-related communications, and coordinate review of project deliverables.

#### **General Requirements for Written and Graphic Deliverables**

All written (text) and graphic deliverables (draft and final) must be submitted electronically. Project memoranda and meeting materials must be developed in a manner suitable for their eventual incorporation into the Newport City Center Revitalization Plan ("NCCRP").

Consultant shall write materials intended for the public, such as meeting presentations, at no higher than a high school grade level using the Flesch–Kincaid Grade Level Formula.

Electronic versions of written deliverables must be in Microsoft Word (.doc) and final deliverables in Microsoft Word (.doc) and Portable Document Format (.pdf). Written deliverables must include the project name, a title that refers to the contract deliverable and date of preparation. Any deliverables specified for posting on the Project Web Site must be submitted in .pdf.

Graphic deliverables may be developed in ArcMap, Adobe Illustrator, AutoCAD, or other applications appropriate to the deliverable. Graphic deliverables submitted for review must be converted to .pdf for readability. Electronic files of final graphics submitted to City and ODOT may be in the native format but must also be converted to .pdf. All graphic deliverables must be well documented, with project name, a title that corresponds to the contract deliverable, draft number, a legend, and the date of preparation.

Electronic versions of maps and Project documents may be in color but must be readable when reproduced in black and white. Display-sized maps for Project meetings must be printed in color when important to public comprehension and must be mountable on foam core to allow display on an easel or wall.

Consultant shall provide Geographic Information Systems ("GIS") deliverables with data sets or updated data sets to City and APM.

#### **General Requirements for Final Deliverables**

Final deliverables must not include names and logos of Consultant, Transportation and Growth Management Program, ODOT, or Oregon Department of Land Conservation and Development or project codes. These items are only allowed on the acknowledgement page.

The following text must appear in the final version of all final deliverables:

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#### **Newport City Center Revitalization Plan**

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"This project is partially funded by a grant from the Transportation and Growth Management (TGM) Program, a joint program of the Oregon Department of Transportation and the Oregon Department of Land Conservation and Development. This TGM grant is financed, in part, by federal Fixing America's Surface Transportation Act (FAST Act), local government, and the State of Oregon funds.

The contents of this document do not necessarily reflect views or policies of the State of Oregon."

#### **General Requirements for Meetings and Public Involvement**

City shall make meeting arrangements, including but not limited to: scheduling meeting dates and times with meeting participants, distribution of agendas and meeting materials in advance of the meeting, reserving a suitable meeting location, placing advertisements in local media, and posting notices in public locations (such as City buildings and libraries).

Consultant shall conduct meetings, including but not limited to: preparing agendas and meeting materials, making presentations, and facilitating discussion of relevant issues.

City shall, in accordance with City standards regarding meetings, prepare and distribute all staff reports, agendas, relevant materials, necessary public notices, and notifications, and provide public outreach for community involvement.

All Project meetings are to be held in-person unless otherwise specified in the subtask. Locations for in-person meetings must be accessible by people with disabilities. Meeting notices must include an offer to make accommodations for people with disabilities with sufficient advance notice, with contact information for such notification.

#### **General Requirements for Traffic Analysis**

All Traffic analysis must comply with the following requirements:

- Consultant, by and through an Oregon-registered professional engineer (civil or traffic), shall perform or oversee all traffic analysis services. Final memoranda containing traffic analysis must be stamped by a Professional Engineer.
- Traffic analysis software must follow Highway Capacity Manual 6<sup>th</sup> procedures. Signalized intersection volume to capacity ("v/c") ratios must be manually calculated. Traffic analysis must comply with ODOT's Analysis Procedures Manual available at: <http://www.oregon.gov/ODOT/TD/TP/Pages/apm.aspx>.
- Traffic analysis at non-state intersections must be compatible with ODOT procedures and must follow standard engineering procedures and practices.
- Project must use a planning horizon of 2040 for analysis of future conditions.
- Consultant shall coordinate all analysis with ODOT's Transportation Planning Analysis Unit ("TPAU") and Region 2 Traffic.

#### **C. TASKS, DELIVERABLES and SCHEDULE**

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#### **Newport City Center Revitalization Plan**

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Consultant shall provide a draft of all Project memoranda to the City and APM in electronic format at least 21 days prior to ~~broader public~~ distribution. Consultant draft ~~deliverables memoranda~~ must be substantially complete and any changes or revisions needed to address comments are expected to be minor. City shall provide a consolidated set of comments from its reviewers to Consultants within 7 days from the date a deliverable is received. Consultant shall return the revised deliverables to City staff, with City comments incorporated, within 7 days of Consultant's receipt of City's comments. City approval is required before distribution of Project memoranda for public review and comment.

**Commented [DT1]:** I read this to be internal review of deliverables before they are released to the public. We wouldn't provide the public only 7 days to provide comment.

**Commented [HDI2R1]:** Yes. I've added some text to clarify that point.

Consultant shall provide a draft of Presentation Materials to the City and APM in electronic format at least 7 days prior to the associated meeting. City shall provide a consolidated set of comments from its reviewers, and APM will, review the materials and submit comments to Consultant within 3 days from the date a deliverable is received. Consultant shall revise materials as directed for meeting use.

#### D. TASKS, DELIVERABLES and SCHEDULE

##### TASK 1 PROJECT INITIATION

###### 1.1 Project Management Team Meetings

The Project Management Team (PMT) consists of the APM, the City's Project Manager and Consultant Project Manager. Consultant shall attend up to 36 PMT meetings (approximately bi-weekly), each up to 30 minutes in duration. At least the APM, City Project Manager, Consultant Project Manager, or one of their designees shall attend each PMT Meeting via phone or video conference. Meeting topics may include scope/schedule/budget, deliverables review, preparation for Citizen Advisory Committee meetings and/or Public Events, confirmation of decisions and direction, and other project topics as they arise. Consultant shall prepare and distribute a bullet point summary of action items after each meeting.

###### 1.2 Background Documents and Data

City shall provide Consultant with background documents and data for use in preparing Project deliverables. Background data and materials must include, but is not limited to, the following items:

- Comprehensive Plan
- Transportation System Plan
- Development Code
- GIS data for the Project Study Area
- Any traffic, pedestrian and bicycle counts for streets and paths in the Project Study Area
- Demographic data related to Title VI populations

City shall coordinate with Consultant to confirm receipt of all documents and data relevant to the Project. Background Documents and Data are limited to material that is readily available to City and shall be provided in any format City deems suitable (such as paper copies, electronic files, or links to documents available on the internet). Subsequent analyses conducted by Consultant shall consider information provided by City and any other information Consultant believes relevant to this task. Consultant shall produce no new GIS data or conduct any additional facility inventories.

**Commented [DT3]:** Consultants may be aware of relevant information that we (i.e. the City) do not have, and should have the flexibility to leverage that information. This language syncs better with Task 1.3.

**Commented [HDI4R3]:** Nice.

Agency will provide Consultant with guidance on applicable plans and policies as needed during Project, including the following:

#### Newport City Center Revitalization Plan

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- Statewide Planning Goals
- Transportation Planning Rule ("TPR")
- Blueprint for Urban Design
- Oregon Highway Plan
- Oregon Bicycle and Pedestrian Plan

~~Agency will also provide guidance on the applicability of regulations included in the Climate-Friendly and Equitable Communities rules currently under development by DLCD.~~

Consultant shall also download the most recent five complete calendar years of crash data within the Project Study Area from the ODOT website.

**Commented [DT5]:** It is my understanding that the rulemaking does not apply to medium size communities like Newport. If that is the case, then please remove this reference.

**Commented [HDI6R5]:** I think you are right and the reference to the TPR above covers this anyway.

### 1.3 Project Initiation Meeting and Site Visit

City shall arrange and Consultant shall conduct a Project Initiation Meeting with City, APM, and others invited by City. City Project Manager shall present an overview of City's goals for the Project and provide a tour of key sites in the Project Study Area. City shall also coordinate tour logistics, including route and transportation options, and provide safety equipment (e.g., safety vests), where appropriate, for attendees use. Consultant shall review the Project schedule and identify additional background data and materials needed for Project at the Project Initiation Meeting.

The meeting and tour shall, in total, be up to 4 hours in duration. Up to 4 Consultant staff shall attend the meeting in-person. Consultant shall produce the meeting agenda and bulleted summary.

### 1.4 Citizens Advisory Committee and Interested Parties List

City shall compile a list of potential stakeholders and invite them to participate on a Citizens Advisory Committee (CAC) for the Project. Stakeholders invited to participate in the CAC should include topic area experts in the type of development City is seeking to attract, and representatives of public agencies, community organizations, and directly affected parties such as:

- City Council and Planning Commission
- Lincoln County
- Lincoln County School District
- Fire and Emergency Service Providers
- Local Business Representatives
- Faith Based Organizations
- Mixed-Use or Multi-Family Housing Developers
- Lending Institutions
- Architect or Engineering Design Professionals
- Centro De Ayuda
- Oregon Department of Land Conservation and Development

The City may invite any other citizens interested in Project-related issues, and/or local organization(s) representing equity interests. CAC will meet to review Project deliverables and provide guidance on the development of Project deliverables.



City shall maintain an Interested Parties List that includes CAC members and other parties expressing interest in the Project for notification of Project progress, meetings, presentations and outreach opportunities. Project Website (Task 1.5) must provide interested persons the option of being added to an email distribution list and Consultant shall make contact information collected via the website available to City.

### 1.5 Project Website

Consultant shall develop and maintain a Project Website for the entire duration of the Project. City shall maintain a link from City's website to the Project Website. Consultant shall also develop a Spanish-language landing page as part of the Project Website that includes key project information such as project description, purpose, major milestones and a project schedule, of outreach opportunities, a comment form, and a way to be added to an email distribution list.

Consultant shall prepare initial material for the Project Website that includes an overview of Project Objectives, a Project Schedule showing major Project tasks and tentative dates for public outreach opportunities, and links to Project deliverables. Consultant shall provide draft initial materials for the Project Website to City and APM and incorporate revisions resulting from one consolidated round of City and APM review before the Project Website is made available to the public. The City's and APM's review shall consist of a single list of non-contradictory comments (and specific direction for each comment).

Consultant shall post Public Draft Project Memoranda and Public Outreach materials on the Project Website concurrent with their availability to the public. City may provide Consultant with Project-related material and links to related websites to post on the Project Website.

Project Website must include an online comment form in English and Spanish to allow public input. Project Website must provide interested persons the option of being added to an email distribution list. Consultant shall compile email addresses provided by visitors to the Project Website and provide these email addresses and submitted comments to City before Project meetings and events.

## TASK 2 DEVELOP POLICY BASIS FOR PLAN

### 2.1 Draft Memorandum #1: Plan Goals and Objectives

Consultant shall prepare Draft Memorandum #1 that identifies potential goals and objectives for the City Center Revitalization Plan (CCRP). Goals and objectives in Draft Memorandum #1 must focus on suggested edits and additions to the currently-adopted City goals and policies related to conditions in the Project Study Area, as well as City priorities identified at the Project Initiation Meeting. City's recently completed Transportation System Plan identified two alternatives for improving transportation facilities within the study area along US 101 and this effort-Project will identify which of those alternatives, or variations of the alternatives, will best support project-Project objectives.

Draft Memorandum #1 must also include Evaluation Criteria (e.g., equity, gap closure, safety) for evaluating deliverables, policy and/or code options, and prioritizing recommended projects, based on goals and objectives. Consultant shall coordinate with City in the development of the Evaluation Criteria for the prioritization of projects.

**Commented [DT7]:** May want to add language requiring the Consultant to actively maintain the website, with deliverables being posted concurrent with distribution. Also, we have had issues with consultants failing to reserve third-party web domains through the entire project, meaning we as the City had to take it over.

**Commented [HD18R7]:** Done. I will add language about web site handoff to the final deliverable.

**Commented [DT9]:** The TSP includes a short couplet as one option and the other is two-way traffic on US 101 with dedicated bicycle facilities on a parallel street.



## 2.2 CAC Meeting #1

City shall arrange and Consultant shall conduct an online CAC Meeting #1 to provide an overview of the Project and review Draft Memoranda #1. Consultant shall facilitate a process at CAC Meeting #1 to refine goals, objectives and project evaluation criteria in Draft Memorandum #1 and to rank the relative importance of those goals and objectives. The meeting shall be up to 2 hours in duration. At least one and up to 2 Consultant staff shall attend the online meeting.

Consultant shall provide City and APM with a brief memo that summarizes key issues discussed at CAC Meeting #1 and implications, for Project Schedule or deliverables.

## 2.3 Draft Memorandum #2: Existing Conditions

Consultant shall prepare Draft Memorandum #2 that describes existing physical and socio-economic conditions. Draft Memorandum #2 must identify a proposed boundary for the analysis of Existing Conditions in the Project Study Area. The boundary must generally coincide with Figure 1, and may include sub-area boundaries for neighborhoods and commercial districts. Conditions described in Draft Memorandum #2 must include the following:

- Comprehensive Plan designations and zoning
- Pattern and amount of existing land uses by type and location
- Ownership of parcels
- Estimates of population, demographic conditions, and employment by type and, as available, by location
- Location of major employers and trip generators
- Operational and physical characteristics of existing transportation facilities based on the City's Transportation System Plan (2022)
- Qualitative assessment of conditions for people walking, cycling, and using transit
- Location and type of public facilities, including schools, parks, and police/fire stations
- Planned public improvements, including any modifications to existing streets, sidewalks, and transit facilities
- Potential private developments that are known to the public

Draft Memorandum #2 must include a general assessment of the capacity of utilities to serve growth in the Project Study Area, particularly transportation, water, stormwater, and wastewater, based on a review of existing assessments of these services and interviews with staff at utility agencies.

## 2.4 Draft Memorandum #3: Market Analysis

Consultant shall prepare Draft Memorandum #3 that describes existing and future market conditions for development of a range of single-family and multi-family residential, commercial, industrial, and mixed-use building types in the Project Study Area. Consultant shall work with City to establish the types of building types for assessment in Draft Memorandum #3. The assessment of market conditions must include consideration of economics, demographics, and the regulatory environment. Draft Memorandum #3 must identify opportunities and barriers to development and potential changes to local regulations that could improve the environment for development in the Project Study Area.

The assessment of future market conditions must use a planning period of 20 years and consider the coordinated population forecasts, which were developed for City by the Population Research Center at Portland State University. In preparing assessment of market conditions, Consultant shall conduct a field visit of the Project Study Area and conduct a series of interviews with at least five area contacts identified by the City.

## **2.5 CAC Meeting #2**

City shall arrange and Consultant shall conduct CAC Meeting #2. Consultant shall review Draft Memoranda #2 and #3 with CAC. Consultant shall facilitate a discussion of the conditions identified in Draft Memoranda #2 and #3. At least two Consultant team members shall attend CAC Meeting #2. CAC Meeting #2 must occur at least three days before Public Event #1 unless a later date is approved by the APM.

Consultant shall provide City and APM with a brief memo that summarizes key issues discussed at CAC Meeting #2 and implications, for Project Schedule or deliverables.

## **TASK 3 PUBLIC INVOLVEMENT ROUND 1**

### **3.1 Stakeholder Outreach Meetings #1**

City shall arrange a series of up to six individual or a small group meetings, the number of which is determined by City, with Project stakeholders and members of the community invited by City. Stakeholder Outreach Meetings must be scheduled to occur over three weekdays. Consultant shall conduct meetings to solicit participant's input on goals for future development, existing conditions, and market conditions for development in the Project Study Area. Consultant shall ask meeting participants to suggest potential policy and code methods for implementing goals for future development and on the need for public investments to support desired development. Stakeholder Outreach Meetings #1 must be conducted concurrent to the development of Draft Memoranda #1, #2, and #3 so that input can shape the documents.

### **3.2 Presentation Materials #1**

Consultant shall prepare Presentation Materials #1, which must include graphical displays, informational handouts, and copies of Project deliverables for Public Event #1. Consultant shall prepare a postcard advertising Public Event #1 to be mailed and electronically distributed by City. All presentation materials shall utilize text and graphics from relevant Project memoranda.

Consultant shall provide Presentation Materials #1 to City and APM at least two weeks before Public Event #1. City and APM shall provide comments on Presentation Materials #1 within 5 business days of receipt of the material. Consultant shall revise Presentation Materials in time for use at Public Event #1. Consultant shall provide all materials in electronic format. City shall print materials for use at Public Event #1.

### **3.3 Public Event #1**

City shall arrange Public Event #1 including scheduling a date, time, and location, and distributing advertisements and a press release to announce the event.

Consultant shall coordinate with City and APM to review and approve format for Public Event #1. Public Event #1 shall be up to 2 hours in duration. Consultant shall conduct Public Event #1 to present findings from Draft Memoranda #1, #2, and #3. Consultant shall present:

- proposed goals and objectives for the CCRP,
- an overview of existing and future conditions in the Project Study Area,
- issues that may affect development in the Project Study Area, and
- potential strategies or packages of strategies City could use to address issues that may affect development.

Consultant shall publish presentation materials for Public Event #1 to the Project Website no later than the day of Public Event #1 and provide a means for visitors to the Project Website to provide comment. Materials and commenting ability must remain live on the Project Website for a minimum of two weeks following Public Event #1.

Consultant shall note comments from participants at Public Event #1. City shall provide to Consultant any public comments received separately by City before and one week after the comment period for Public Event #1 closes. Consultant shall maintain a compilation of public comments received through the Project Website, from City, and at Public Events. Within one week of Public Event #1, Consultant shall provide City and APM with a brief memo that summarizes key issues (in bullet point format) raised in comments at Public Meeting #1 and subsequent communications, and implications for Project schedule or deliverables. Consultant shall post the summary of Public Event #1 to the Project Website.

At least two Consultant team members must attend Public Event #1.

#### **3.4 Revised Memorandum #1**

Consultant shall revise Draft Memorandum #1 to incorporate comments by reviewers and from the public. CPM shall provide Consultant with compiled comments on Draft Memorandum #1 and provide guidance to Consultant to resolve any potentially conflicting viewpoints. Revised Memorandum #1 must identify a set of goals, vision statements, and policies specifically for the Project Study Area and the areas recommended for inclusion in the CCRP.

#### **3.5 Revised Memorandum #2**

Consultant shall revise Draft Memorandum #2 to incorporate comments by reviewers and from the public. City Project Manager shall provide Consultant with compiled comments on Draft Memorandum #2 and provide guidance to Consultant to resolve any potentially conflicting viewpoints.

#### **3.6 Revised Memorandum #3**

Consultant shall revise Draft Memorandum #3 to incorporate comments by reviewers and from the public. City Project Manager shall provide Consultant with compiled comments on Draft Memorandum #3 and provide guidance to Consultant to resolve any potentially conflicting viewpoints.

#### **TASK 4: GAP ANALYSIS**

**Commented [DT10]:** Should we include language that a summary of all feedback is to be included in an appendices?

**Commented [HDI11R10]:** If you want that, then yes. We can add a compilation of public comments to this memoranda or to all of them as you wish.

#### 4.1 Draft Memorandum #4: Gap Analysis

Consultant shall conduct an analysis of the gap between the vision for future land use and transportation characteristics in Revised Memorandum #1 and the characteristics that are likely to result from development and redevelopment that is consistent with current adopted policies, standards, regulations, and existing and planned public facilities. Draft Memorandum #4 must:

1. Develop a Baseline Future by estimating the likely type and intensity of future land uses and transportation conditions in the Study Area, consistent with current adopted policies, standards, regulations, and existing and planned public facilities. The transportation baseline will be based on adopted growth forecasts, market conditions, and the allowances of the City's zoning code.
2. Assess consistency of Baseline Future conditions with the goals and objectives in Revised Memorandum #1.
3. Identify impediments to achieving the goals and objectives in Revised Memorandum #1. Impediments may include market conditions, public facility and service capacities, and policies and regulations found in City's adopted Comprehensive Plan, existing Refinement Plans, Transportation System Plan, and Development Code.
4. Describe potential measures City could use to implement goals and objectives in Revised Memorandum #1. Potential measures may include plan policies, zoning districts, and Development Code regulations. Potential measures must include measures commonly used by municipalities in Oregon as well as less common and innovative measures such as form-based codes and design guidelines. Consultant shall consider development code concepts contained in the Transportation and Growth Management Program publications available at the Code Assistance site at <http://www.oregon.gov/LCD/TGM/Pages/codeassistance.aspx>.
5. Assess the suitability of potential implementation measures, including an assessment of the strategy's legality in Oregon, relative administrative cost, potential market reaction, degree of goal and vision implementation, likelihood of citizen acceptance, and implications for other City policies and practices.
6. Identify investments in public facilities and services, in addition to or revising those that are already planned, that are likely needed to support a land use pattern consistent with goals and objectives in Revised Memorandum #1. Additional public investments may include improvements to the transportation system, parks and recreation facilities and services, public safety, and utilities.
7. Identify steps needed to implement potential measures and additional public investments to support goals and objectives in Revised Memorandum #1.
8. Recommend specific boundaries for application of proposed policies and investments, if applicable and consistent with boundaries established in Revised Memorandum #2.

#### 4.3 CAC Meeting #3

City shall arrange and Consultant shall conduct CAC Meeting #3. Consultant shall provide a presentation summarizing the gap analysis in Draft Memorandum #4 and solicit participants' views on the gap between likely future development and the goals and vision and on strategies or packages of strategies the City could use to address that gap.

Consultant shall provide City and APM with a brief memo that summarizes key issues discussed at CAC Meeting #3 and implications, for Project Schedule or deliverables.

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#### Newport City Center Revitalization Plan

Contract #: TBD PA #: TBD WOC #: TBD Key #: ???

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## TASK 5: PUBLIC INVOLVEMENT ROUND 2

### 5.1 Stakeholder Outreach Meetings #2

City shall arrange and Consultant shall conduct up to six individual or small group meetings with Project stakeholders or members of the community invited by City. At each meeting, Consultant shall review and solicit input on strategies or packages of strategies the City could use to support development in the Project Study Area consistent with the goals and objectives in Revised Memorandum #1. Consultant shall provide a summary of Stakeholder Outreach Meetings #2 to City and APM.

### 5.2 Presentation Materials #2

Consultant shall prepare preliminary and revised Presentation Materials #2, which must include graphical displays, informational handouts, and copies of Project deliverables for Public Event #2, Planning Commission Work Session #1, and City Council Work Session #1. Consultant shall prepare a postcard for City to distribute that advertises Public Event #2, Planning Commission Work Session #1, and City Council Work Session #1. All presentation materials shall utilize text and graphics from relevant Project memoranda.

### 5.3 Public Event #2

City shall arrange Public Event #2 including scheduling a date, time, and location, and distributing advertisements and a press release to announce the event.

Consultant shall coordinate with City and APM to review and approve format for Public Event #2. Public Event #2 shall be up to 2 hours in duration. Consultant shall conduct Public Event #2 to present a summary of goals and objectives for the NCCRP from Revised Memorandum #1 and of findings from Draft Memoranda #4 including:

- impediments to achieving the goals and objectives in Revised Memorandum #1,
- potential implementation measures, and
- public investments needed to support desired development.

Consultant shall publish presentation materials for Public Event #2 to the Project Website no later than the day of Public Event #2 and provide a means for visitors to the Project Website to provide comment if they cannot attend Public Event #2. Materials and commenting ability must remain live on the Project Website for a minimum of two weeks following Public Event #2.

Consultant shall note comments from participants at Public Event #2. City shall provide to Consultant any public comments received separately by City before and one week after the comment period for Public Event #2 closes. Consultant shall maintain a compilation of public comments received through the Project Website, from City, and at Public Events. Within one week of Public Event #2, Consultant shall provide City and APM with a brief memo that summarizes key issues (in bullet point format) raised in comments at Public Meeting #2 and subsequent communications, and implications for Project schedule or deliverables. Consultant shall post the summary of Public Event #2 to the Project Website.

At least two Consultant team members must attend Public Event #2.

**Commented [DT12]:** Should add a CAC meeting to Task 5. Could be towards the end, where they receive a briefing on the results of the public outreach and work sessions. Would allow them to provide feedback on refinements moving forward.

**Commented [HDI13R12]:** More is better if we can afford it. Would be proper to have one more CAC Meeting to close the loop with them. I've added it below.

**Commented [DT14]:** Would it be helpful to encourage use of illustrative plan view and 3D renderings to help attendees visualize how potential implementation measures could influence redevelopment.



#### 5.4 Planning Commission Work Session #1

City shall arrange a work session for the Planning Commission. Consultant shall attend the Planning Commission Work Session in person to present a summary of goals and objectives for the CCRP from Revised Memorandum #1 and of findings from Draft Memoranda #4 including:

- impediments to achieving the goals and objectives in Revised Memorandum #1,
- potential implementation measures, and
- public investments needed to support desired development.

Consultant shall reserve time to respond to questions from Commissioners. At least one Consultant staff member shall attend the Planning Commission Work Session. City shall prepare meeting minutes.

#### 5.5 City Council Work Session #1

City shall arrange a work session for the City Council. Consultant shall attend the City Council Work Session in person to present a summary of goals and objectives for the CCRP from Revised Memorandum #1 and of findings from Draft Memoranda #4 including:

- impediments to achieving the goals and objectives in Revised Memorandum #1,
- potential implementation measures, and
- public investments needed to support desired development.

Consultant shall reserve time to respond to questions from Councilors. At least one Consultant staff member shall attend the City Council Work Session. City shall prepare meeting minutes.

#### 5.6 CAC Meeting #4

City shall arrange and Consultant shall conduct CAC Meeting #4. Consultant shall provide a presentation summarizing the results of the Task 5 public outreach and work sessions. Consultant shall seek CAC feedback on Draft Memorandum #4 and implications for plan and code amendments and public investments needed to implement the NCCRP.

Consultant shall provide City and APM with a brief memo that summarizes key issues discussed at CAC Meeting #4 and implications, for Project Schedule or deliverables.

#### 5.7 Revised Memorandum #4

Consultant shall revise Draft Memorandum #4 to incorporate comments by reviewers, Planning Commissioners, City Councilors, and the public. City Project Manager shall provide Consultant with compiled comments on Draft Memorandum #4 and provide guidance to Consultant to resolve any potentially conflicting viewpoints. Revised Memorandum #4 must identify recommended implementation measures and public investments to support desired development.

### TASK 6: PLAN IMPLEMENTATION

#### 6.1 Draft Memorandum #5: Comprehensive Plan and Development Code Amendments

Consultant shall prepare Draft Memorandum #5, to include proposed amendments to City's Comprehensive Plan and Development Code necessary to implement the vision described in Revised

**Commented [DT15]:** As an FYI, we might elect to hold joint Commission/Council work sessions.

**Commented [HDI16R15]:** OK. We will need to pin that down in negotiation to cost out the deliverable. Let's leave them separate for now.

Memorandum #1, consistent with the preferred implementation strategy identified in Revised Memorandum #4.

Draft Memorandum #5 must include:

1. A series of Area Plan Maps showing where the proposed Comprehensive Plan designations and zoning districts would be applied in the Project Study Area. Boundaries for application of plan designations and zoning in Draft Memorandum #5 must be composed of whole parcels with identifiable boundaries for individual parcels.
2. A description of the proposed Comprehensive Plan designations and zoning districts, with a description of the types of allowed land uses and development requirements that will affect the type, density, and appearance of development in each designation and district. The Comprehensive Plan designations and zoning districts in Draft Memorandum #5 must be consistent with the recommended implementation strategies identified in Revised Memorandum #4.

Draft Memorandum #5 must include Development Code amendments to implement the plan designations and zoning districts. Consultant shall use applicable development code text contained in publications on the Transportation and Growth Management Program's Code Assistance web page at <http://www.oregon.gov/LCD/TGM/Pages/codeassistance.aspx> for the development of code amendments. Development Code amendments must address most aspects of site and building design, including:

- Parking requirements
- Building ~~Materials~~Mass / Floor-to-Area Ratio
- Building Orientation
- Lot Size
- Setbacks
- Landscaping
- Heights Limits

**Commented [DT17]:** Materials or Mass?

Proposed Development Code amendments in Draft Memorandum #5 must be indicated by underlined text for additions and strikeout text for deletions to City's existing Development Code and related documents.

## 6.2 Draft Memorandum #6: Public Investments

Consultant shall prepare Draft Memorandum #6, which must include recommendations for public investments that are necessary and desired to support implementation of the vision statement and goals in Revised Memorandum #1 and the plan and development code amendments in Draft Memorandum #5. Public investments must include improvements to the transportation system that will likely include the following elements:

- Sidewalk infill and improvement
- Creation and extension of multi-use paths
- Locations and facilities for transit stops
- Provision of bike lanes on arterial and collector streets
- Pedestrian crossing locations and improvements

**Commented [DT18]:** Scope of work does not address our need to develop a framework for a business façade improvement or similar program to incentivize redevelopment. While it could be worked in here, I think it would be cleaner for it to be a separate memorandum.

- Intersection improvements including traffic control measures
- Reconfiguration of travel lanes in existing right-of-way

Given the developed nature of the Project Study Area, expansion of existing right-of-way is not anticipated.

In addition to improvements to the transportation system, Draft Memorandum #6 must identify other public investments that are supportive or complementary to the vision in Revised Memorandum #1. Other public investments may include:

- Landscaping
- Wayfinding signage
- Sidewalk furnishings and fixtures
- Public art and gateway features
- Public parks and recreation facilities
- Plazas or similar public spaces

Draft Memorandum #6 must include a summary assessment of the need for investments in public utilities serving the Project Study Area. The assessment of public utility needs must be based on proposed increases in population and employment density in the Project Study Area, existing assessments and plans for those utilities, and the information gathered through contacts with utility staff. Draft Memorandum #6 will not include a detailed assessment of the condition or capacity of public utilities beyond that identified in existing documents, by utility staff, or known by City.

### 6.3 Draft Memorandum #7: Multimodal Mobility Impact Assessment

Consultant shall prepare a Methodology Memorandum documenting the methodology and assumptions to be used for Draft Memorandum #7. Consultant shall submit and obtain approval of the Methodology Memorandum from TPAU and Region 2 Traffic Section prior to beginning analysis for development of Draft Memoranda #7.

Consultant shall prepare Draft Memorandum #7, which must assess the implication of proposed plan and development code amendments in Draft Memorandum #5 and public investments in Draft Memorandum #6 on mobility for all modes using the transportation system in the year 2040. Draft Memorandum #7 shall use the future conditions forecast in the Newport TSP (2022) as a baseline for assessment of future conditions with proposed plan amendments, development code amendments, and public investments.

Draft Memorandum #7 must include an assessment of conditions at the following intersections in the Project Study Area:

- US 20 at NE Harney Street / SE Moore Drive
- US 20 at US 101
- US 101 at Second Street / Angle Street
- US 101 at Hubert Street / Canyon Way
- US 101 at Abbey Street
- US 101 at Bayley Street

**Commented [DT19]:** Short couplet on US 101 will require new street segments.

Consultant shall identify potential measures to address deficient or undesirable mobility conditions indicated by the analysis. Measures to address mobility conditions may include additional improvements to the transportation system, changes to mobility-related standards, or changes in plan and code amendments proposed in Draft Memorandum #5.

#### **6.4 CAC Meeting #4**

City shall arrange and Consultant shall conduct CAC Meeting #4 to review proposed plan designations, zoning, and development code amendments in Draft Memorandum #5, proposed public investments in Draft Memorandum #6, and future transportation conditions described in Draft Memoranda #7. Consultant shall provide a presentation focusing on key elements of the proposed plan designations and zoning districts, public investments, and transportation conditions. Consultant shall use the meeting to solicit direction from CAC on specific changes needed to the Draft Memoranda, and issues related to development of plan elements for approval by the Planning Commission and City Council.

### **TASK 7: PUBLIC INVOLVEMENT ROUND 3**

#### **7.1 Stakeholder Outreach Meetings #3**

City shall arrange and Consultant shall conduct up to six individual or small group meetings with Project stakeholders or members of the community invited by City. At each meeting, Consultant shall review and solicit input on proposed plan designations, zoning, and development code amendments in Draft Memorandum #5, proposed public investments in Draft Memorandum #6, and future transportation conditions described in Draft Memoranda #7.

Consultant shall provide a summary of Stakeholder Outreach Meetings #3 to City and APM within two weeks after the last Stakeholder Outreach meeting.

#### **7.2 Presentation Materials #3**

Consultant shall prepare preliminary and revised Presentation Materials #3, which must include graphical displays, informational handouts, and copies of Project deliverables for Public Event #3, Planning Commission Work Session #2, and City Council Work Session #2. Consultant shall prepare a postcard for City to distribute that advertises Public Event #3, Planning Commission Work Session #2, and City Council Work Session #2. All presentation materials shall utilize text and graphics from relevant Project memoranda.

#### **7.3 Public Event #3**

City shall arrange Public Event #3 including scheduling a date, time, and location, and distributing advertisements and a press release to announce the event.

Consultant shall coordinate with City and APM to review and approve format for Public Event #3. Public Event #3 shall be up to 2 hours in duration. Consultant shall conduct Public Event #3 to present proposed plan designations, zoning, and development code amendments in Draft Memorandum #5, proposed public investments in Draft Memorandum #6, and future transportation conditions described in Draft Memoranda #7.

**Commented [DT20]:** I suggest we couple an in-person workshop with an online open house and survey. This would be hard to cover in two hours and I suspect that there will be options people want to reflect upon before responding.

**Commented [HD121R20]:** I added text below to reflect this approach.



Consultant shall publish presentation materials for Public Event #3 to the Project Website no later than the day of Public Event #3. Consultant shall create an online "Open House" with project material and presentations from Public Event #3, and provide a means for visitors to the Project Website to provide comment. Materials and commenting ability must remain live on the Project Website for a minimum of two weeks following Public Event #3.

Consultant shall note comments from participants at Public Event #3. City shall provide to Consultant any public comments received separately by City before and one week after the comment period for Public Event #3 closes. Consultant shall maintain a compilation of public comments received through the Project Website, from City, and at Public Events. Within one week of Public Event #3, Consultant shall provide City and APM with a brief memo that summarizes key issues (in bullet point format) raised in comments at Public Meeting #3 and subsequent communications, and implications for Project schedule or deliverables. Consultant shall post the summary of Public Event #3 to the Project Website.

At least two Consultant team members must attend Public Event #3.

#### **7.4 Planning Commission Work Session #2**

City shall arrange a work session for the Planning Commission. Consultant shall attend the Planning Commission Work Session in person to present a summary proposed plan designations, zoning, and development code amendments in Draft Memorandum #5, proposed public investments in Draft Memorandum #6, and future transportation conditions described in Draft Memoranda #7. Consultant shall reserve time to respond to questions from Commissioners. At least one Consultant staff member shall attend the Planning Commission Work Session. City shall prepare meeting minutes.

**Commented [DT22]:** Per previous note, we might elect to hold these as joint work sessions.

#### **7.5 City Council Work Session #2**

City shall arrange a work session for the City Council. Consultant shall attend the City Council Work Session in person to present a summary of proposed plan designations, zoning, and development code amendments in Draft Memorandum #5, proposed public investments in Draft Memorandum #6, and future transportation conditions described in Draft Memoranda #7.

Consultant shall reserve time to respond to questions from Councilors. At least one Consultant staff member shall attend the City Council Work Session. City shall prepare meeting minutes.

#### **7.6 Revised Memorandum #5**

Consultant shall revise Draft Memorandum #5 to incorporate comments by reviewers, Planning Commissioners, City Councilors, and the public. City Project Manager shall provide Consultant with compiled comments on Draft Memorandum #5 and provide guidance to Consultant to resolve any potentially conflicting viewpoints.

#### **7.7 Revised Memorandum #6**

Consultant shall revise Draft Memorandum #6 to incorporate comments by reviewers, Planning Commissioners, City Councilors, and the public. City Project Manager shall provide Consultant with compiled comments on Draft Memorandum #7 and provide guidance to Consultant to resolve any potentially conflicting viewpoints.



#### **7.8 Revised Memorandum #7**

Consultant shall revise Draft Memorandum #7 to incorporate comments by reviewers, Planning Commissioners, City Councilors, and the public. City Project Manager shall provide Consultant with compiled comments on Draft Memorandum #7 and provide guidance to Consultant to resolve any potentially conflicting viewpoints.

### **TASK 8: PLAN ADOPTION**

#### **8.1 Draft Newport City Center Revitalization Plan**

Consultant shall prepare Draft Newport City Center Revitalization Plan (NCCRP) to incorporate findings and recommendations from Revised Memoranda prepared for the Project. Consultant shall coordinate with City to determine content that will be included in the main body of the Draft NCCRP and content that will be provided in an appendix to the Draft NCCRP to preserve this information for future readers without requiring formal adoption of that material. To support this task, Consultant shall produce one annotated NCCRP Outline, listing items and graphics to be included in the NCCRP Plan document. City and APM shall provide a single list of non-contradictory comments (and specific direction for each comment) to Consultant. Consultant shall subsequently initiate work on the Draft NCCRP document.

#### **8.2 CAC Meeting #5**

City shall arrange and Consultant shall conduct CAC Meeting #5 to review the contents of the Draft NCCRP that will be considered for adoption. Consultant shall use the meeting to solicit input on the Draft NCCRP.

#### **8.3 Stakeholder Outreach Meetings #4**

City shall arrange and Consultant shall conduct up to six, individual or small group meetings with Project stakeholders or members of the community invited by City. At each meeting, Consultant shall review and solicit input on the contents of the Draft NCCRP that will be considered for adoption. Consultant shall provide a summary of Stakeholder Outreach Meetings #4 to City and APM.

#### **8.4 Notice of Proposed Change to a Comprehensive Plan or Land Use Regulation**

City shall prepare and submit the required Notice to the Department of Land Conservation and Development at least 35 days prior to the first scheduled Planning Commission Public Hearing for the Draft NCCRP.

#### **8.5 Planning Commission Draft Plan**

Consultant shall prepare a Planning Commission Draft NCCRP in response to edits and comments provided by the City.

#### **8.6 Presentation Material for Planning Commission and City Council Public Hearings**

Consultant shall develop a PowerPoint presentation to present the Draft NCCRP to the City Planning Commission and City Council.

#### **8.7 Planning Commission Public Hearing**

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#### **Newport City Center Revitalization Plan**

Contract #: TBD PA #: TBD WOC #: TBD Key #: ???

City shall arrange, provide notice, and conduct Planning Commission Public Hearing to seek endorsement of the Planning Commission Draft NCCRP. Consultant shall attend Planning Commission Hearing to present the Planning Commission Draft NCCRP and answer questions from the Planning Commission. At least one Consultant staff member must attend the Planning Commission Public Hearing.

#### **8.8 Adoption Draft Plan**

Consultant shall prepare an Adoption Draft NCCRP with revisions to the Planning Commission Draft NCCRP that reflect comments and concerns of City Planning Commission as directed by the CPM.

#### **8.9 City Council Public Hearing**

City shall arrange, provide notice, and conduct City Council Public Hearing to consider adoption of the Adoption Draft NCCRP. Consultant shall attend to present a summary of the Adoption Draft NCCRP and answer questions from Councilors. At least one Consultant staff member must attend the City Council Public Hearing.

#### **8.10 Final Plan**

Consultant shall develop a Final NCCRP by revising the Adoption Draft NCCRP to make changes resulting from City Council actions during adoption of NCCRP.

#### **8.11 Notice of Adopted Change to a Comprehensive Plan or Land Use Regulation**

City shall prepare and submit the required Notice to the Department of Land Conservation and Development regarding adoption of the NCCRP.

**Commented [DT23]:** To be clear... while we expect the City to adopt all or a portion of the plan, it is not required to adopt, correct?


**Commented [HDI24R23]:** That's correct.

#### **TABLE 1: TASK SCHEDULE**

# City of Newport

## Community Development Department

# Memorandum

To: Planning Commission/Commission Advisory Committee   
From: Derrick I. Tokos, AICP, Community Development Director  
Date: August 5, 2022  
Re: Revised Camping Ordinance

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Attached is a revised draft of the new camping ordinance, which should be easier for you to work through than the draft that was presented at your July 11, 2022 work session. There are still a few edits that need to be made, including cross-references to the City's zoning ordinance (NMC Chapter 14). We might also want to address the zoning pieces separately so that the core elements of the camping ordinance can be adopted soon.

Please take a moment to look over the document and let me know if you have any comments. This agenda item can be shifted to your August 22<sup>nd</sup> work session if we run out of time.

#### Attachments

Revised Draft Camping Ordinance

## REVISED DRAFT OF CAMPING ORDINANCE

### **9.50.000 Title and Purpose**

The title of this section shall be known as the "Newport Camping Regulations." The purpose of this section is to protect the safety of citizens and regulate the use of publicly-owned property by establishing time, manner, and place guidelines.

### **9.50.010 Definitions**

The following definitions apply in this chapter.

- A. "Camp" or "camping" means to pitch, erect, create, use, or occupy camp facilities for the purposes of habitation, as evidenced by the use of camp paraphernalia.
- B. "Camp facilities" include, but are not limited to, tents, huts, temporary shelters, or vehicles.
- C. "Camp paraphernalia" includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, blankets, mattresses, hammocks, or outdoor cooking devices or utensils and similar equipment.
- D. "Campsite" means any place where one or more persons have established temporary sleeping accommodations by use of camp facilities and/or camp paraphernalia. A campsite set up for a minimum of 48 hours shall be considered an established campsite.
- E. "City manager" means the Newport city manager, or the city manager's designee.
- F. "Dwelling" A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
- G. "Motor vehicle" has the meaning given that term in ORS 801.360.
- H. "Park areas" has the meaning set forth NMC 9.75.
- I. "Parking lot" means a developed location that is designated for parking motor vehicles, whether developed with asphalt, concrete, gravel, or other material.
- J. "Prohibited campsite" means any campsite Not authorized under the Newport Municipal Code (NMC).
- K. "Public owned property" means any real property or structures owned, leased, or managed by the city or other government agency including public rights-of-way.
- L. "Public rights of way" means all property dedicated to the public for transportation purposes and administered by the city, including streets, roads, bridges, alleys, sidewalks, trails, paths, and all other public ways and areas managed by the city. "Right-of-way" also includes public utility easements to the extent that the easement

allows use by the permittee planning to use or using the public utility easement. "Right-of-way" includes the subsurface under and airspace over these areas. "Right-of-way" does not include the airwaves for purposes of CMRS, broadcast television, DBS and other wireless providers, or easements or other property interests owned by a single utility or entity.

- M. "Recreational fire" means a fire for the cooking of food, warmth, fellowship or ceremonial purposes.
- N. "Recreational vehicle" has the meaning given that term in ORS 174.101.
- O. "Solid waste" means any garbage, trash, debris, yard waste, food waste, or other discarded materials.
- P. "Solid waste disposal services" means contracted solid waste collection service for a campsite with the city's exclusive franchisee for the collection of solid waste.
- Q. "Store" or "storage" means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.
- R. "Street" means any highway, lane, road, street, right-of-way, alley, and every way or place in the city of Newport that is publicly-owned or maintained for public vehicular travel.

#### **9.50.015 Permitted Camping**

- A. The prohibitions in Section 9.50.020 shall not apply to the following circumstances:
  - 1. The property involved is appropriately zoned and has all necessary approvals for the proposed camping use, in a vehicle or otherwise, as provided in Title XIV of the Newport Municipal Code; or
  - 2. Camping is occurring in accordance with a duly executed emergency declaration made pursuant to Section 1.70.030; or
  - 3. A special events permit has been issued in accordance with Chapter 9.80 authorizing camping; or
  - 4. The owner of a commercial or industrial property, a public entity, or a religious institution/place of worship may offer overnight vehicle camping space to homeless persons living in vehicles, provided:
    - a. such accommodations are made free of charge; and
    - b. occupancy is limited to three or fewer vehicles at the same time; and
    - c. vehicles are located within an on-premise parking lot, and are spaced at least 10 feet apart; and
    - d. all items and materials are stored in vehicles or in a separate storage area



that is screened from view from adjacent properties and public rights-of-way;  
and

- e. campers are provided access to sanitary facilities, including a toilet, hand washing and trash disposal facilities, with such facilities being at least 20-feet from the property line of a residential use if not fully contained within a building; and an inspection is performed by the City to confirm that sanitary facilities are in place, required setbacks are met, and any storage areas are screened, before overnight vehicle camping is commenced.

B. With written authorization of the private property owner of the property:

- 1. Up to three total motor vehicles or tents, in any combination, may be used for camping in any parking lot on the following types of property:
  - a. Real property developed and owned by a religious institution, place of worship, regardless of the zoning designation of the property;
  - b. Real property developed with one or more buildings occupied and used by any organization or business primarily for nonprofit, commercial or industrial purposes;
  - c. Vacant or unoccupied commercial or industrial real property, after the property owner has registered the temporary camping location with the city. The city may require the site to be part of a supervised program operated by the city or its agent.

C. A property owner who authorizes any person to camp on a property pursuant to subsection "A" of this section must:

- 1. Provide or make available sanitary facilities;
- 2. Provide garbage disposal services so that there is no accumulation of solid waste on the site;
- 3. Provide a storage area for campers to store any personal items so the items are not visible from any public street;
- 4. Not require or accept the payment of any monetary charge nor performance of any valuable service in exchange for providing the authorization to camp on the property; provided, however, that nothing in this section will prohibit the property owner from requiring campers to perform services necessary to maintain safe, sanitary, and habitable conditions at the campsite.

D. A property owner who permits camping pursuant to subsection "A" of this section may revoke that permission at any time and for any reason.

E. Notwithstanding any other provision of this chapter, the city manager or their designee may:

1. Revoke the right of any person(s) to authorize camping on property described in subsection "A" of this section upon finding that the person(s) has violated any applicable law, ordinance, rule, guideline or agreement, or that any activity occurring on that property by a camper(s) is incompatible with the use of the property or adjacent properties.
  2. Revoke permission for a person(s) to camping overnight on city-owned property upon finding that the person(s) has violated any applicable law, ordinance, rule, guideline or agreement, or that any activity occurring on that property by a camper(s) is incompatible with the use of the property or adjacent properties.
- F. Any person whose authorization to camp on property has been revoked pursuant to subsections "C" and "D" of this section must vacate and remove all belongings from the property within four hours of receiving such notice.
- G. All persons participating in the temporary camping program described in this section do so at their own risk, and nothing in this code creates or establishes any duty or liability for the city or its officers, employees or agents, with respect to any loss related to bodily injury (including death) or property damage.

#### **9.50.020 Camping Prohibited in Certain Places**

Except as expressly authorized by the Newport Municipal Code, at all times it is unlawful for any persons to establish or occupy a campsite as designated by City Council Resolution.

- A. All City of Newport park areas,
1. All publicly owned or maintained parking lots unless identified as "car camping lots"; and
  2. Rights of way in front of dwellings as defined 9.50.010(F)
  3. Streets that are more heavily trafficked, or that are in areas with industrial activities, camping shall be prohibited as specifically designated by City Council Resolution
    - a. SW Bay Blvd. from SW Bay St. to S. Pine St.
    - b. Bay Blvd. from S. Pine St. to SE Niemi Ct.
    - c. SW Elizabeth St. from SW Government St. to W. Olive St.
    - d. SW Coast St. from SW 2<sup>nd</sup> St. to W. Olive St.
    - e. NW Coast St. from W. Olive St. to NW 11<sup>th</sup> St.
    - f. NW Spring St. from NW 8<sup>th</sup> St. to NW 12<sup>th</sup> St.
    - g. NW Oceanview Dr. from NW 12<sup>th</sup> St. to N. Coast Hwy
    - h. NW Rocky Way
    - i. NW Gilbert Way
    - j. 50 ft. adjacent to Hwy 101
    - k. 50 ft. adjacent to Hwy 20
- B. Except as expressly authorized by the Newport Municipal Code, it shall be unlawful

for any person to store personal property on a public right of way.

- C. Except as expressly authorized by the Newport Municipal Code or Special Event Permit, it shall be unlawful have a recreational fire on public property.
- D. A person or persons camping in a vehicle or recreational vehicle must adhere to parking regulations, NMC 6.05 - 6.35.
- E. Notwithstanding the provisions of this section, the City Manager or designee may temporarily authorize camping or storage of personal property on public property by written order that specifies the period of time and location:
  - 1. In the event of emergency circumstances;
  - 2. In conjunction with a special event permit; or
  - 3. Upon finding it to be in the public interest and consistent with Council goals and policies.
- F. The City Manager may adopt administrative rules to implement any of the provisions of this section.

#### **9.50.030 Scheduling and Notice of Campsite Cleanup**

- A. Cleanup of illegal campsites will be scheduled on an as-needed basis by the Chief of Police or designee.
- B. Permanent signs may be posted advising that camping is prohibited. Whether or not a permanent sign is posted, a specific dated and timed notice will be posted and distributed in the area of a scheduled cleanup at least 72 hours before the cleanup.
- C. Notwithstanding subsections A. and B., cleanup of campsites may occur immediately and without notice if the chief of police or designee determine that either of the following conditions exist:
  - 1. An exceptional emergency such as possible site contamination by hazardous materials or where there is an immediate danger to human life or safety;
  - 2. Illegal activity other than camping.
- D. At the time of the cleanup, written notice will be posted and distributed announcing the telephone number where information on picking up the stored property can be obtained during normal business hours.
- E. Written notices, including permanent signs, will be in both English and Spanish.
- F. Copies of all notices shall be provided to the State of Oregon Department of Human Services and/or to the Lincoln County Human Services Department.

#### **9.50.040 Removal, Storage and Retrieval of Personal Property**

- A. Personal property will be separated during cleanups from junk. Junk will be immediately discarded. Items of personal property will be turned over to the police department and stored. The personal property shall be stored for no less than 30 days, during which time it will be reasonably available to persons claiming ownership of the personal property.
- B. The police department shall arrange in advance for a location to store personal property. The storage facility should be reasonably secure. The location should be reasonably accessible to the cleanup area and preferably served by public transportation.
- C. Any personal property that remains unclaimed for 30 days after the cleanup may be disposed of, sold, donated, used, or transferred as abandoned personal property, but no waiting period beyond the 30 days is required prior to the disposal, sale, donation, use or transfer.
- D. Weapons, drug paraphernalia, and items which reasonably appear to be either stolen or evidence of a crime may be retained by the police department.

#### **9.50.060 Violation**

Violation of this chapter is civil infraction as defined in NMC 1.5.10.

#### **9.50.070 Nonexclusive Remedy**

The remedies described in this chapter shall not be the exclusive remedies of the city for violations of this section.

#### **9.50.080 Interpretation**

This section is to be interpreted to be consistent with applicable state statutes and providing the protections required by state statutes.



# Tentative Planning Commission Work Program

*(Scheduling and timing of agenda items is subject to change)*



July 11, 2022

Work Session

- Potential Code Revisions for Short-Term Rental Work Group Consideration
- Working Draft of Camping Ordinance Being Developed for the City Council

July 25, 2022

Regular Session

- Public Hearing File No. 2-Z-22 - 1-CP-22 South Beach Commercial - Industrial Amendments

August 8, 2022

Work Session

- Final Scope of Work for TGM Funded City Center Revitalization Project
- Review Updates from Hearing #1 to South Beach Commercial - Industrial Amendments
- Review Updated Camping Ordinance

August 22, 2022

Work Session

- Housing Study Constructability Assessment / Residential Land Needs Recommendation
- Review Final Draft of Yaquina Head Traffic Study

August 22, 2022

Regular Session

- Public Hearing #2 File No. 2-Z-22 - 1-CP-22 South Beach Commercial - Industrial Amendments
- Initiate Legislative Amendments to Adopt Yaquina Head Traffic Study

September 12, 2022

Work Session

- Preliminary Recommendations for Parking District Code Changes (Placeholder)
- Potential Revisions to Yaquina Bay Estuary Policies and Codes (Placeholder)

September 12, 2022

Regular Session

- Starfish Cove 20-lot Planned Development North Side of Yaquina Head (Projected)
- Public Hearing to Consider STR Implementation Work Group Recommendations (Placeholder)

September 26, 2022

Work Session

- Review Options for Updating the City's Erosion Control and Stormwater Mgmt Standards
- Preliminary Maps / Outreach Materials – South Beach Island Annexation
- Identify Candidates for City Center Revitalization Project Advisory Committee

September 26, 2022

Regular Session

- File No. 1-UGB-20 Revised UGB Land Swap for Boston Timber Opportunities (Projected)
- Public Hearing to Adopt Yaquina Head Traffic Study