



PLANNING COMMISSION REGULAR SESSION AGENDA
Monday, August 22, 2022 - 7:00 PM
City Hall, Council Chambers, 169 SW Coast Hwy, Newport, OR 97365

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.

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. 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.

1. CALL TO ORDER AND ROLL CALL

Commission Members: Jim Patrick, Bill Branigan, Bob Berman, Jim Hanselman, Gary East, Braulio Escobar, and John Updike.

2. APPROVAL OF MINUTES

2.A Approval of the Planning Commission Regular Session Meeting Minutes of July 25, 2022.

[Draft PC Reg Session Minutes 07-25-2022](#)

2.B Approval of the Planning Commission Work Session Meeting Minutes of August 8, 2022.

[Draft PC Work Session Minutes 08-08-2022](#)

3. CITIZENS/PUBLIC COMMENT

A Public Comment Roster is available immediately inside the Council Chambers. Anyone who would like to address the Planning Commission on any matter not on the agenda will be given the opportunity after signing the Roster. Each speaker should limit comments to three minutes. The normal disposition of these items will be at the next scheduled Planning Commission meeting.

4. ACTION ITEMS

4.A Initiate Legislative Amendments to Adopt Yaquina Head Traffic Study.

5. PUBLIC HEARINGS

5.A File 2-Z-22 - 1-CP-22 (Continuation): South Beach Commercial - Industrial Amendments.

[Memorandum](#)

[Attachment A](#)

[Attachment B](#)

[Attachment C](#)

[Attachment D](#)

[Attachment E](#)

[Attachment F](#)

[Attachment G](#)

[Attachment H](#)

[Public Testimony - Anheuser-Busch, LLC - 08-22-22](#)

6. NEW BUSINESS

7. UNFINISHED BUSINESS

8. DIRECTOR COMMENTS

9. ADJOURNMENT

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

Draft MINUTES
City of Newport Planning Commission
Work Session
Newport City Hall Council Chambers
August 8, 2022
6:00 p.m.

Planning Commissioners Present: Jim Patrick, Bob Berman, Braulio Escobar, Jim Hanselman, and Bill Branigan.

Planning Commissioners Absent: Gary East (*excused*).

PC Citizens Advisory Committee Members Present: Dustin Capri.

PC Citizens Advisory Committee Members Absent: Greg Sutton.

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

1. **Call to Order.** Chair Patrick called the Planning Commission work session to order at 6:00 p.m.

2. **Unfinished Business.**

A. **Potential Changes to South Beach / US 101 Commercial Industrial Corridor Amendments.**
Tokos reviewed the maps, area by area, and touched on the code changes themselves. He then covered the intent of the districts for the C-1, C-2 , C-3, I-1, and I-3 zones.

Tokos pointed out the locations of the properties for the persons who gave testimony the zoning map. Berman asked if the areas that were defined were part of the consultants work or from someone who said they should look at the particular pieces of land. He also asked why the lines for the zoning in the maps didn't change after the Commission had talked to the persons giving testimony. Tokos explained the Commission could modify the boundaries based on what they collectively believed they wanted to do. Typically, we don't do individual parcels zoning in the city because an individual kind of spot zoning was generally frowned upon. More often than not, what they would see was a zoning classification that's put in place to guide the development moving forward in a certain direction. Because of this they would see nonconforming uses, mainly in the industrial, for residential uses. Lot by lot zoning or spot zoning wouldn't provide a lot of direction as to where they were trying to go, and it was rare to see spot zoning in the city. Berman asked why they approved two different zones for the property with a house on it that the Commission received public testimony on. Tokos explained when this property came in the city they had to apply zoning for it. The property owner had applied to annex into the city and a portion of their property was under a residential Comprehensive Plan designation and a portion was under industrial. They asked for residential zoning where the dwelling was and industrial zoning on the other part.

Escobar asked if the Aquarium Village had an objection with a C-3 designation instead of a C-2. Tokos noted that this was a mixed use and why the Commission moved it forward to include it in the package to have it be C-2. The Commission was under no obligation to change this. Tokos was looking for a collective direction on what the Commission wanted to change, keep or remove in this package so that they could make the changes prior to the next hearing. Escobar pointed out that in the public's view

there hadn't been enough outreach to the individual landowners about the proposed zoning changes, and it seemed a lot of people didn't have a lot of notice. It struck him that there were families or businesses who invested money into the ongoing businesses who felt their investments were at risk. There was some discussion that with the zone changes the existing business would become nonconforming and have to get approval from the Commission if they wanted to expand or modify it. This seemed to be a burden that a lot of the citizens were uncomfortable with. Escobar thought they should focus first on the city owned property where the Flashbacks and South Beach Church was. He suggested they move with caution when moving south.

Patrick thought most of the uses in the Aquarium Village was already nonconforming in the industrial zone. It seemed the C-3 zone would allow more uses and he was okay with that. Patrick noted the proposed C-1 zone would kill some businesses that were already there, and pointed out the whole idea was to clean up Newport's approach on the south. Tokos reminded they were trying to anticipate how this portion of South Beach was growing and evolving, and where the demands and the needs were. There had been a fair amount of outreach to the general public as part of this process and the general comments were that they wanted to see more general retail services in this area. One of the issues that came up when looking at barriers to attracting additional retail service use in the area was that the light industrial zoning was viewed as it introduced too many wildcards. Somebody who's looking to make investments in retail service type uses would think it was too flexible. Tokos reminded the Commission that when they were looking at applying the zoning they should look at how the area was evolving and transitioning.

Berman voiced concerns about how it felt like existing uses that had been there a long time and relied on their ability to expand in the future where having the rug pulled out from them. Even though there was no probable immediate impact, in their opinion it was still limiting what they could do. Berman felt this was wrong somehow. It was the Commission's job to look at the big picture and how things would evolve. Berman didn't want to force evolution on somebody that was already doing business and complying with all the regulations, such as the candy shop and Auto Doctors owned by Robert Hoefs. Escobar agreed with Berman's feeling on disrupting the existing property owners. A discussion ensued regarding the location of Hoefs' properties and what the changes meant for them. The changes would make the residential on the second floor of the property be conforming and make the Auto Doctors be nonconforming.

Branigan asked if the existing I-1 could be a proposed C-3. Tokos noted they could do this but reminded that the intent of the zone districts allowed the C-3 to have a range of commercial uses that would be viewed as incompatible with a lot of retail service uses. If the objective there was to get more retail service uses, a C-3 was probably not going to be any more attractive than the I-1 to operate. A discussion ensued regarding the allowed uses in the C-3. Hanselman asked what the reason was to change from I-1 to C-1 was. Patrick explained it helped developers want to make investments to redevelop. He noted a lot of the existing properties were nonconforming and there weren't many opportunities to expand.

Escobar asked how changing the C-3 to C-4 would affect the candy shop and Auto Doctor. Tokos explained if you made the change for vehicle repair to a conditional use, it would be an outright permitted use in the C-3 as opposed to a conditional use in the C-1. Escobar thought the Aquarium Village could be a C-3. Tokos noted the challenge of the C-3 was that the intent of the zone district was intended to accommodate a broader range of commercial and quasi industrial uses that were incompatible with a number of the typical retail service uses. If they were trying to attach food service with a number of the typical retail service uses, a C-3 wouldn't be more attractive than a I-1.

Tokos asked for the Commission's general thoughts. Capri thought they should start with the change from I-1 to C-2 first. He thought it should stay as I-1 because it made no sense to move the Aquarium Village out by one. Tokos explained there was a tourist commercial to the west and the north. They saw this as an area that's transitioning. Urban Renewal made some heavy investments in infrastructure at 35th Street, and they will be making additional investments in this area. Tokos noted the Commission needed to ask if it made sense to orient it more to tourists commercial or industrial at this location. Patrick thought it made more sense to make it tourist commercial. Capri pointed out the whole northern area was industrial buildings for the Aquarium. Tokos explained if less than half of the area was associated with retail use it would be okay. He noted the industrial condos that were used for storage and industrial use could continue to be used as that use but they would be nonconforming. Tokos didn't expect to see much change there so the fact that they were rendered nonconforming wasn't a major issue. He pointed out that nonconforming uses could continue and could be maintained. Changes were reviewed and generally approved by the Commission. Tokos noted the nonconforming status ran with the land and a new owner would have the same set of rights as the previous. Branigan thought this should be C-2 because it went hand and hand with the Aquarium. Escobar thought it should be C-3. Berman thought they should change the definition of the polygon area on the map and leave the Smith property as it was. Patrick noted this would make it an isolated I-1 and they didn't want to do this. Tokos said what he heard was to leave it as it was and see how the vote went at the hearing.

Tokos asked for Commission's thoughts on the change from I-1 to C-3. The Commission was in general agreement for this. Tokos then asked for comments on the change from I-1 to C-1. Berman wanted the city property to be C-1. Tokos explained it would make it more challenging if they made the city property C-1 and the rest of the properties around it I-1, because it would make it more challenging to attract retail services. Patrick thought they should make the vehicle repair a conditional use and then the warehouse would be nonconforming. Tokos agreed. When they did the C-1, auto sales was a conditional use but vehicle repair was not. Tokos pointed out that vehicle repairs went hand in hand with auto sales to some degree.

Escobar asked how this would affect Auto Doctors if they changed it to C-1. Tokos explained they would be fine as is, but if they wanted to expand they would need a conditional use. Escobar asked what would happen if it was C-3. Tokos explained this would be an outright allowed use. Patrick thought it made sense for the big stretch of property to be C-1. Tokos reiterated the purpose of the C-1 they got from the process was that people wanted to see more retail service uses attracted to that area. The Commission was in general agreement to leave it as it was presented and discuss it in at hearing.

Escobar thought the public testimony made a compelling argument that the city needed industrial. Berman pointed out that this was a misstatement because they ignored the fact that there was significant industrial to the north. Tokos noted there was also significant industrial on 50th Street, which was inside the Urban Growth boundary but not in the city limits. The challenge for this location was the more residential they saw around the I-3 piece the tougher it was going to be long term for the city. This was especially so because industrial uses have emissions, and was typically a type of use that they would expect to see separated by distance from other uses. Escobar pointed out that the industrial use was there first. Tokos thought this was a fair point and noted it was included in the owner's letter to the Commission. When planning a community the Commission needed to look at vacant sites that may have been great for heavy industrial years ago and ask if they should continue moving forward. Tokos noted that they could leave it alone if they wanted to.

Berman asked if it was true that the consultants never reached out to the property owners. Tokos didn't know if they reached out to any property owners. The consultants were doing a high level set of code audits, which was called for in the plan, and provided recommendations in their analysis.

Hanselman asked if there was any mention of heavy industries wanting to move into the area. Tokos noted that three of the four owners have been clear in their testimony that they wanted to see it remain I-3. They had an investment backed expectation that they would be able to use the property for heavy industrial use someday. The owners didn't specify when that might happen. Berman thought they should leave it as is. Escobar agreed. Capri noted that the typography next to this area gave it a feeling of separation. He declared a potential conflict of interest when talking about his interest in the project to build condos and homes near the site. Patrick thought they should leave it as it was, but noted at some point they would need to change it. Escobar thought if they did nothing now, these owners by their participation in the process knew there was a trend to change the zoning. They now had notice and when this was looked at again it wouldn't be thrown at them as a sudden proposal. Capri thought it was better to have more industrial going south because of what was allowed in the tsunami zones. Tokos confirmed there was an industrial complex designation when moving to the south. As these properties were annexed in they would come in as I-1, I-2, and I-3. There was capacity to add additional heavy industrial use further south, and this fit the intent of the I-3 a little better. Patrick thought they should leave it alone with the idea that down the road it might be changed.

Escobar asked how much noise and vibration debris happened at the concrete plant. Patrick thought there wasn't much of this for a concrete plant. He noted at one point there was an asphalt plant there that didn't make much noise but had a smell to it. Tokos noted visually they had relief there, but it didn't have help with emotions. The discussion was to do a potential batch plan there in the future and the I-3 allowed all kinds of uses. Hanselman questioned if they were looking down the road to change it from I-3 to something else, how they would be able to do that should the owners decide to build a concrete plant there. He wanted to know how long down the road they could change this. Patrick noted that as things built out there the demand for that property would change. They might be approached by a buyer who wanted turn it into a C-2 or C-1, which would make them have to do a zone change. Patrick felt that if they left it alone the economics would drive the change.

Escobar asked for clarification on what Jeff Bertuleit testimony and what his concerns were. Berman noted Bertuleit was concerned about things that would happen in the future which weren't on the table currently. Tokos reported that Bertuleit's property was outside the city. He reiterated what he was hearing was there was general consensus to drop this piece. The Commission was in general agreement on this.

Berman asked about the South Beach State Park change. Tokos explained this was a Comprehensive Plan map change. This was probably a map error or a lack of precision on where the residential designation was placed. Tokos wasn't certain if this was due to the State Park picked up more property after the fact. This would change the designation to public instead of residential for the area that was the maintenance facility for the State Parks. Tokos pointed out that it would probably never be changed from this use and it didn't impact the residential to the south.

Berman reported that the latest zoning map and Comprehensive Plan map on the city website was from 2017. He asked for updated maps to be placed on the website. Tokos noted the city hired a GIS tech who was working on doing this.

Tokos reviewed the code amendments to Chapter 14.03 for zoning districts to change auto repair to a conditional use in the C-1 zone. He reminded that service for auto was allowed but the repair piece

wasn't. Patrick pointed out that a towing service also had a problem in the C-1 and asked how the Newport Marine sales was affected. Tokos confirmed the lease and sale of large vehicles there was like auto sales. They weren't proposing any changes there because it was outside the city. Berman asked if Newport Marine had vehicle storage on their lot. Tokos thought they did. Berman noted that they would be considered vehicle storage then. Tokos explained that they would look at the property to see what more than half of the property's use was to designate it. If they were annexed in and this provision was in place, the worst case scenario would be that they were nonconforming. Patrick asked if the self-storage would be nonconforming if it was brought in. Tokos confirmed it would be. Newport Urban Renewal had made significant investments in its water and wastewater systems down to 50th Street, and a lot of the properties in the unincorporated areas were self-storage and other uses that didn't require the connection the city's wastewater services because they had holding tanks. The thought was that they needed to get these in as active industrial use which would create some opportunities for flex industrial and could be accommodated with the wastewater and water systems that were in place. Berman noted that sales of building materials was prohibited. Tokos explained wrecking of heavy machinery, metal and building materials was what they were striving for but they could tweak the language.

Escobar noted that at the last public hearing there was a discussion about holding a work session on the zone changes and then having a hearing continuation. He felt it was premature to make a vote in August and felt they should defer it until September. Tokos explained this was a judgement the Commission would have to make at the hearing.

Berman asked if the letter submitted by Traci McDowall as part of the work session meeting would be part of the record. Tokos confirmed it would and explained it would be included as additional public testimony for the hearing.

Escobar asked if they could defer the Camping Ordinance discussion to the next work session meeting. Tokos confirmed they could.

Patrick asked if there were any changes to the setbacks. Tokos explained there were no changes to this.

- B. Final Scope of Work for TGM Funded City Center Revitalization Project.** Tokos asked the Commission to let him know if they had questions. Capri asked if this was based on an ODOT template. Tokos confirmed it was a template. They could adjust the language but not the template. The concept of the City Center Revitalization Project was to go through a mini RFP process with ODOT. Tokos asked if any Commissioner wanted to participate in reviewing the RFPs to let him know. This would be an opportunity to see submittals from different consultants. Since the grant had been flushed out, the State would be issuing a mini RFP process and the consultants that were listed were the ones that are already prescreened. Tokos explained the concept was to have a whole series of stakeholder meetings for the City Center area. Capri asked how much administrative lift would it take to reach out to all the property owners in that area as opposed to the relevant property owners. Tokos noted they would be reaching out to all owners in the area. They would be doing stakeholder meetings with those that wanted to talk about US 20 as opposed to US 101. They would also be doing some charette work to mock up what this would look like. They would then like to do an initial round of in person charette work. Then things that were built out of this work could be done by virtual preference surveys and other ways. There would also be individual engagement with the affected businesses in the area.

Berman asked if the Transportation System Plan would include all of the public comments. Tokos

confirmed they would all be included. Berman noted that the couplet discussion at the City Council work session meeting was to recommend one or the other of the options. He asked if this would be spelled out as one of the deliverables for that recommendation. Tokos explained the TSP had a couple of options for how to redevelop US 101 in a manner acceptable to the State and meet the objectives of the Urban Renewal Agency, the taxing agencies that contribute funds to the Renewal Agency, affected businesses, and the broader community. Berman noted he would like the reference to the Armory and the possible relocation of the National Guard included. Tokos explained this would be done more so through the process not particularly in the document.

Berman noted on memorandum one it said the TSP identified two alternatives for improving transportation facilities within the study area on US 101, and this project would identify which of those alternatives or various of the alternatives would best support the project. He asked if this set the stage for them to be making a decision in the first memo. Tokos confirmed it wasn't. It was to set up what would come out of the entire process.

Berman thought every time they did a project with the population projections they were different. They should be using the same population numbers across the board to be consistent. Berman thought saying the public presentations materials should be published not later than the day of the event wouldn't give people enough time to review them and decide early if they wanted to attend. Tokos explained there would be materials that could be provided in advance and others that they would be bringing to the meetings. This wasn't much different than what they already did but they could try to clarify it. Tokos noted the charrette work and maps would be brought in the day of the meetings, and mock ups would then be posted after the end of the meetings.

Tokos asked if anyone was interested in reviewing the RFP. Patrick volunteered to do it.

- C. Review Updated Camping Ordinance.** Tokos noted they would bump the Camping Ordinance discussion to the next meeting. Berman noted there needed to be a lot of refinement of the words. Tokos noted they would do this before the actual final ordinance was done. They would work to adopt the elements that weren't land use in the near term, then they would clean up the land use languages.
- D. Updated Planning Commission Work Program.** Tokos reviewed the changes to the work program. He expected the plan development to be submitted soon and why it was bumped to a later date.
- 3. New Business.** None were heard.
- 4. Adjourn.** The meeting adjourned at 7:29 p.m.

Respectfully submitted,

Sherri Marineau,
Executive Assistant

PLANNING STAFF MEMORANDUM NO. 2
FILE No. 1-CP-22 – 2-Z-22

I. Applicant: City of Newport (Initiated by motion of the Newport Planning Commission at its June 13, 2022 regular meeting).

II. Request: A package of comprehensive plan map, zoning map, and land use regulatory changes that build upon recommendations from the consulting firm JET Planning, who conducted a land use code audit as part of the Newport Urban Renewal Agency funded South Beach US 101 Corridor Refinement Plan. The proposal would transition light industrial zoning north of the former intersection of US 101 and SE Ferry Slip Road to one of the City's three commercial zoning designations. This requires a comprehensive plan map change from "industrial" to "commercial" and the application of the applicable commercial zoning. Zoning for property along SE 40th Street east of US 101, that is currently "heavy industrial," would change to "light industrial." A comprehensive plan map change is also proposed where the South Beach State Park maintenance facility is located. That property is presently outside the city limits but within the City's urban growth boundary. Its map designation will go from "high density residential" to "public."

Proposed changes to the City's land use regulations, contained in Title XIV of the Newport Municipal Code (NMC), apply to lands inside the city limits that are south of the Yaquina Bay Bridge. The revisions impact chapters 14.03, 14.13 and 14.19. New self-service storage; salvage or wrecking of heavy machinery, metal and building materials; towing and vehicle storage; auto/truck salvage or wrecking would be prohibited along the US 101 corridor. An existing 50-foot US 101 setback for industrial properties will be reduced to 15-feet, and a 15-foot setback will be applied to commercial zoned properties that abut the highway. New development and redevelopment will be required to install landscaping within the buffer area. The specific land use regulatory changes are contained in draft Ordinance No. 2196.

At an August 8, 2022 work session, the Planning Commission considered testimony it received at a July 25, 2022 public hearing regarding the changes outlined above. After discussion, the Commission elected to change proposed zoning from C-1/"Retail & Service Commercial" to C-3/"Heavy Commercial" for light-industrial properties situated east of SE Ferry Slip Road and north of the former SE Ferry Slip Road and US 101 intersection. It also elected to drop the zone change it was considering to the I-3/"Heavy Industrial" property along SE 40th Street. Lastly, the Commission elected to make "vehicle repair" a conditional use in the C-1/"Retail & Service Commercial" zone district. Other changes are being retained as they were presented at the July 25, 2022 hearing.

III. Planning Commission Review and Recommendation: The Planning Commission reviews proposed amendments to the comprehensive plan map, zoning map, and land use regulations and provides a recommendation to the City Council. It may conduct multiple public hearings before making a recommendation. After the Commission provides a recommendation, the City Council will hold one or more public hearings before making a final decision on the amendments.

IV. Findings Required: The Newport Comprehensive Plan Chapter entitled "Administration of the Plan" (pg. 287-289) allows comprehensive plan amendments of this nature if findings can be made that there is (a) a significant change in one or more conclusions; or (b) a public need for the change; or (c) a significant change in community attitudes or priorities; or (d) a demonstrated conflict with another plan goal or policy that has a higher priority; or (e) a change in a statute or statewide agency plan. Revisions must comply with applicable Statewide Planning Goals. Mapping errors may also be corrected. NMC 14.36.010 allows city land use regulations to be amended by the City Council, upon recommendation of the Planning Commission, when it is determined that such changes are required by public necessity and the general welfare of the community.

V. Planning Staff Memorandum Attachments:

Attachment "A"	Draft Ordinance No. 2196 Land Use Regulatory Amendments
Attachment "B"	Light-Industrial to Commercial Comprehensive Plan and Zoning Map Change
Attachment "C"	Comprehensive Plan Map Error Correction for South Beach State Park Facility
Attachment "D"	Notice of Public Hearing
Attachment "E"	Draft Minutes from the 7/25/22 Planning Commission Regular Session
Attachment "F"	Draft Minutes from the 8/8/22 Planning Commission Work Session
Attachment "G"	Public Comment
Attachment "H"	Copy of the Jet Planning Audit (Appendix E, South Beach US 101 Corridor Refinement Plan

VI. Notification: Notification to property owners impacted by the proposed zone change was provided on June 30, 2022, in accordance with the requirements of ORS 227.186(4). Notification for the proposed amendments was also provided to the Department of Land Conservation & Development (DLCD) in accordance with ORS 197.610 on June 16, 2022. Both notices were for the initial public hearing on July 25, 2022. For the August 22, 2022 public hearing, direct mail notice was provided to those that submitted comment or attended the initial hearing. Notice was also published in the Newport News-Times on August 12, 2022 (Attachment "D").

VII. Comments: Written comments were received from the following individuals: Lisa Phipps with DLCD noted that the City's findings will need to show that removal of lands designated for "high density residential" use will not reduce the amount of available land below what the City's Housing Needs Assessment indicates is needed. This relates to the Comprehensive Plan Map error involving the South Beach State Park maintenance facility. Sarah Bermudez with the Fair Housing Council of Oregon indicated that they will want to review the City's Goal 10 findings. Her comments also relate to the South Beach State Park Comprehensive Plan Map Amendment. A letter was received from Chuck Forinash, Tom Hastings, and Fred Yeck, requesting that properties east of SE Ferry Slip Rd, shown as being rezoned from I-1/"Light Industrial" to C-1/"Retail & Service Commercial" on Map Alternative No. 2, instead be rezoned to C-3/"Heavy Commercial" or be left in an I-1 district. Letters supporting the same change from I-1 to C-3 were received from Fred Yeck, on behalf of himself, and from Terri-McCulley, President of Barrelhead Building Supply. A letter from Rachel C. Taylor, Legal Counsel with Anheuser-Busch, was received outlining their opposition to a zone change from I-1 to C-1. Lastly, a letter was received from Traci McDowall, Attorney, on behalf of Pat Tryon, Loren Tryon, and Robert Tryon, opposing the zone change from I-3/"Heavy Industrial" to I-1/"Light Industrial." All written comments are included in Attachment "G." The following individuals testified in person at the July 25, 2022 public hearing, indicating that they were opposed to the changes: Bill Rowley, Jeff Bertuleit, Robert Hoefs, Tracy McDowall, Jeff Keane, Michael Smith, and Janet Woods. Tom Hastings testified in favor of C-3 zoning in his area but could not support a C-1 designation.

VIII. Discussion of Request: This package of amendments build upon recommendations from the consulting firm JET Planning, who conducted a land use code audit as part of the Newport Urban Renewal Agency funded South Beach US 101 Corridor Refinement Plan. A copy of that audit is enclosed (Attachment "H").

As part of the South Beach US 101 Corridor Refinement Plan, the City reached out to South Beach owners, employees, and guests to gauge the types of uses they would like to see attracted to the area. This was principally to inform how the Newport Urban Renewal Agency's 2.3 acre property at the northeast corner of US 101 and 35th Street should be redeveloped. The overwhelming response from participants was that they want to see additional retail and service uses in South Beach so that they do not have to travel over the bridge to obtain such services. The Jet Planning Audit noted that City zoning map designations and land use regulations should be revised to make the area more attractive to retail commercial and service uses. They recommend that C-1 zoning replace the existing I-1 zoning in the vicinity of the newly constructed SE 35th and

US 101 intersection. This would give developers interested in making substantial investments in the area a degree of confidence as to the range of other uses that could occur around them, and that such uses would be compatible. They also recommend that an antiquated 50-foot setback requirement from US 101 industrial properties be replaced with a 15-foot buffer for commercial and industrial property, and that buffer areas be landscaped with new development or redevelopment projects. Lastly, they recommend that new mini-storage, towing, salvage/wrecking yards, and related uses be prohibited along the US 101 corridor south of the bridge. The reasoning for this change is that the City has invested a substantial amount of resources to upgrade its water and wastewater services to support more intense uses, such as flex industrial space, which are in high demand and have higher employment and tax generation potential.

Additional map changes recommended by Jet Planning involve the northeast corner of the SE 40th and US 101 intersection which would change from I-1/ "Light Industrial" to a commercial zoning designation and the I-3/"heavy industrial" zoned property along SE 40th Street, which would transition to an I-1/"light industrial" designation. The reason for these changes is that the potential of a signal at 40th and US 101 makes that site more attractive for retail service uses, and that the heavy industrial zoning along SE 40th creates compatibility issues with residential housing developing to the east.

At its June 13, 2022 meeting, the Planning Commission considered Jet Planning's recommendations and an alternative presented by staff that would make additional commercial zone changes north of the former US 101 and SE Ferry Slip Road intersection. The recommendation to rezone the northeast corner of SE 40th and US 101 intersection was dropped as it would impact only a couple of properties. There was also general agreement that commercial development is likely to occur on properties closer to the bridge, at least for the foreseeable future. The Commission agreed that the footprint of commercial zoning around the SE 35th and US 101 intersection should be expanded to the east and west, with a new boundary between commercial and light-industrial being at the former SE Ferry Slip Road and US 101 intersection. Property next to the Oregon Coast Aquarium would be changed from I-1/"Light Industrial" to C-2/"Tourist Commercial" considering the existing development pattern and likely demand for those types of uses.

Prior to the July 25, 2022 public hearing, several individuals requested that properties east of SE Ferry Slip Road, proximate to the new 35th and US 101 intersection, be rezoned from I-1/"Light Industrial" to C-3/"Heavy Commercial." This change was not considered or discussed by the Commission at its 6/13/22 meeting. The principal difference between the two zones is that the I-1 zone does not allow residential use; whereas, the C-3 zone allows residential uses other than at street grade. Light industrial uses in the C-3 are conditional; whereas, they are an outright allowed use in the I-1 zone. Retail uses are allowed in both zones.

After taking public testimony at a July 25, 2022 hearing, the Commission continued the public hearing to August 22, 2022 so that it could hold a work session on August 8, 2022 to discuss whether or not to adjust the proposed changes. At the August 8, 2022 work session, the Commission reviewed the proposed industrial and commercial zone changes and elected to proceed as follows:

Proposed Comprehensive Plan Map Change from Industrial to Commercial and Zone Map Change from I-1/"Light Industrial" to C-2/"Tourist-Commercial." Relates to properties in the vicinity of Aquarium Village, identified on Lincoln County Assessors Map 11-11-17-DA as Tax Lots 00300, 00301, 00400, 00401, 00500 and 90000 through 90014.

A number of the Commission members felt that this should move forward as presented, as there is already a significant tourist-commercial footprint in the area and it orients to tourist commercial activities given its location next to the Oregon Coast Aquarium. Tourism and visitor interest in the area is likely to grow given recent and ongoing expansions at the Aquarium and nearby Hatfield Marine Science Center, illustrating that there is a public need to ensure there is sufficient land zoned to accommodate tourist commercial uses. Industrial activities accessory to tourist-commercial uses would be permitted. The Commission considered

testimony from Michael Smith, regarding the Industrial Condominiums at 3025 SE Elm Street, and his concern that the change might devalue the property because it would become non-conforming. While this rezone will make the property non-conforming in the C-2/"Tourist-Commercial" zone, the Commission didn't see that as a major issue since the industrial condominium use of the units can continue. Non-conforming uses rights in Newport run with the land (as opposed to being tied to the owner), so the industrial condominiums can be sold for like type use. The units can also be repaired and maintained, and replaced if lost due to a fire or similar event. Given that the property is fully built out, there isn't much of an opportunity for future expansion; however, that is an option as well subject to a City land use review process.

Proposed Comprehensive Plan Map Change from Industrial to Commercial and Zone Map Change from I-1/"Light Industrial" to C-1/"Retail & Service Commercial." Relates to property between NE 32nd Street and the former SE Ferry Slip Road/US 101 intersection, situated west of SE Ferry Slip Road identified on Lincoln County Assessors Map 11-11-17-DB as Tax Lots 00600, 00601, 00700, 00800, 00900, 01000, 01100, 01101, 01102, 01103, 01400, 02000, 02100, and 02200. Additionally, it includes properties identified on Lincoln County Assessors Map 11-11-17-DC as Tax Lots 00401, 00402, 00403, 01300, 01500 and 01501.

The Commission members generally concurred with Jet Planning's recommendation to change the zoning to C-1 in and around the newly constructed SE 35th Street/US 101 intersection. Employment and tourist-oriented activities have expanded significantly in South Beach over the last 10-15 years, with NOAA's Pacific Marine Operations Center, HMSC's MSI Building, Rogue Brewery's expansions, Oregon Coast Aquarium development, the Oregon Coast Community College and OMSI's Camp Gray being examples. South Beach has also experienced a substantial amount of new residential construction, namely in the Wilder Planned Development. This has led to increased demand for retail and service uses so that residents, workers, and visitors don't have to drive over the Yaquina Bay Bridge to meet those needs. That message was made clear from members of the public who participated in the recently completed South Beach US 101 Corridor Refinement Planning process.

Available commercial zoned property to meet that need is quite limited, and while the I-1/"light industrial" zone allows retail commercial uses, it also allows a range of heavy commercial and industrial uses that are incompatible with retail-service businesses. This creates a potential impediment to investment. Properties in this area are well positioned for retail commercial use as they possess good US 101 visibility and Jet Planning makes a strong case that there is a public need for the additional commercial zoned acreage as noted above. Commission members reviewed the testimony from Hoefs, Keane, Taylor and Rowley. Like the Aquarium Village area, remaining industrial properties in this area are largely built out with little opportunity for expansion. As non-conforming uses, they can continue and be maintained as they currently exist and there is a land use process should they seek to expand. As previously noted, non-conforming industrial properties can be sold for like type use and can be replaced if lost due to a fire or similar catastrophic event. With respect to vehicle repair, the Commission felt that it was appropriate to shift that to a conditional use in the C-1 as opposed to it being prohibited (its current status). Vehicle sales is conditional in the C-1 zone and vehicle repair is often paired with that use. The Commission also felt that vehicle repair enclosed within a building, like the Auto Doctor, can be compatible within the C-1 zone district. Commission members were not compelled by arguments that additional commercial isn't needed, considering community feedback received as part of the South Beach US 101 Corridor Refinement Planning process. That input made it clear that there is strong interest from area residents, employees and visitors in seeing more retail and service uses in South Beach.

Proposed Comprehensive Plan Map Change from Industrial to Commercial and Zone Map Change from I-1/"Light Industrial" to C-3/"Heavy Commercial." Relates to properties east of SE Ferry Slip Road, north of the former SE Ferry Slip Road/US 101 intersection, identified on Lincoln County Assessors Map 11-11-17-DB as Tax Lots 0001500, 01501, 01600, and 01700. Additionally, it includes properties identified on Lincoln County Assessors Map 11-11-17-DC, as Tax Lots 00100, 00200, 00201, 00300, 00301, 00302 and 00303.

The Commission concurred with property owners in the area that requested the I-1/“Light Industrial” zoning be changed to C-3/“Heavy Commercial.” They felt that this change better aligns with the existing development pattern, which includes a mix of non-conforming residential uses, light industrial uses and a lumber yard. They accepted the argument that this area is likely to transition to retail and service commercial use slower than lands to the west since it doesn’t have the same exposure to US 101. With C-3 zoning, the City would have an opportunity to review new or expanded light industrial uses on the east side of SE Ferry Slip Rd for compatibility through a conditional use process. The C-3 designation opens the door to residential uses, on other than street grade, which might be a good fit for smaller properties as they redevelop over time.

Proposed Zone Map Change from I-3/“Heavy Industrial” to I-1/“Light Industrial.” Relates to property along the south side of SE 40th Street, east of US 101, identified on Lincoln County Assessors Map 11-11-20-AB as Tax Lots 00100, 00101, and 00102.

Unlike the other areas, these properties are presently undeveloped and not committed to a particular use. The Commission members were sensitive to the owner’s investment backed expectation that they would be able to develop the property for heavy industrial use, namely a concrete plant. They were also concerned that the site is becoming less suitable for heavy industrial use as neighboring properties develop around it. Unlike light-industrial, the City has a finite amount of heavy industrial zoned land. The subject property is one of three location, the others being McLean Point and a parcel near the landfill at the north end of the town. The Commission recognizes there is a need for heavy industrial uses and has elected to leave the I-3 zoning in place for the time being. As the City annexes lands further to the south, there will be an opportunity to supplement the City’s supply of heavy industrial lands where, due to wetlands, they would be physically segregated from other uses, making them less likely to be the target of nuisance complaints (i.e. due to dust, vibration, noise, fumes, etc.). The Commission felt that the I-3 zoning for this site can be revisited in the future, perhaps after additional heavy industrial lands are added elsewhere and the supply isn’t as constrained.

Proposed Comprehensive Plan Map from “High Density Residential” to “Public.” Relates to property between US 101 and the Pacific Ocean, immediately north of the Southshore Planned Development, identified on Lincoln County Assessors Map 11-11-20 as Tax Lots 03300.

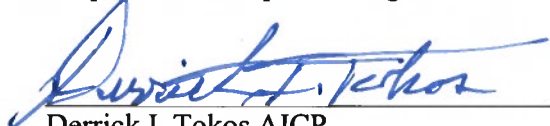
This property contains the maintenance facility and office for South Beach State Park and it is situated at the south end of the park. It is depicted as a component of the park in the Oregon Parks and Recreation Department 2018 South Beach and Beverly Beach Management Units Plan (“2018 Plan”), dated January 2018. With Ordinance No. 2147, the City of Newport amended its Comprehensive Plan to incorporate the 2018 Plan, meaning that both the City and State acknowledge the maintenance facility as a component of the park.

The City’s Comprehensive Plan Map identifies the property as “High Density Residential” whereas the balance of the South Beach State Park is shown on the map as “Public.” This appears to be the result of a mapping error attributed to the lack of precise boundary information when the Comprehensive Plan Map was originally drawn. The actual boundary of the High Density Residential area should be immediately to the south, which coincides with the park boundary and north line of the Southshore Residential Planned Development. Lisa Phipps with the Department of Land Conservation and Development testified that the City will need to show that removing the property from a “High Density Residential” classification will not leave the City with less high density residential land than is called for in the City’s most recent housing needs assessment. Sarah Bermudez with the Fair Housing Council of Oregon provided similar feedback, as they want to ensure that redesignation of the land to “Public” doesn’t run afoul of Statewide Planning Goal 10 (Housing).

Lincoln County tax assessment records indicate that the subject property is 6.45 acres in size. The City of Newport’s last comprehensive Housing Needs Assessment was adopted in 2011 (Ordinance No. 2015). It was supplemented in 2015 to account for student housing needs attributed to Hatfield Marine Science Center’s planned campus expansion (Ordinance No. 2076). In aggregate, these plans identify a need for 465 multi-

family housing units between 2011 and 2031. They identify the target density at 18.7 dwelling units per net acre or 16.1 dwelling units per gross acre. Using the lower gross acreage figure, the City will need 28.9 acres of land to accommodate its need for new multi-family units. The studies show that the City has 182 buildable acres under a “High Density Residential” designation, excluding the undeveloped Wolf Tree Destination Resort. Therefore, the loss of the 6.45 acres will still leave more than enough land under a “High Density Residential” designation to meet the City’s needs within the planning period.

IX. Conclusion and Recommendation: The Planning Commission should review the proposed amendments and make a recommendation to the City Council. As this is a legislative process, the Commission may recommend changes to the amendments if the Commission chooses to do so. If the Commission provides a favorable recommendation, then an ordinance will be prepared with the requisite findings for the City Council’s consideration. The Council may also make changes to the proposal prior to, or concurrent with, the adoption of an implementing ordinance.



Derrick I. Tokos AICP
Community Development Director
City of Newport

August 19, 2022

Draft Ord. No 2196 - August 22, 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 ~~strikethrough~~. 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.

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 ¹	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 ²	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	XC	X	P	P	P	X
5.	Self-Service Storage ⁶	X	X	P	P	P	X
6.	Parking Facility	P	P	P	P	P	P
7.	Contractors and Industrial Service ⁶	X	X	P	P	P	P
8.	Manufacturing and Production						
	a. Light Manufacturing	X	X	C	P	P	P

Draft Ord. No 2196 - August 22, 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 ³	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 ⁴	P	X	P	P	P	P
22.	Residences on Floors Other than Street Grade	P	P	P	X	X	X
23.	Affordable Housing ⁵	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.

Draft Ord. No 2196 - August 22, 2022 Draft, Implementing Jet Planning's Recommended Land Use Regulatory Amendments

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; 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 was 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)). The Commission expressed a preference that prohibitions related to heavy machinery, metal and building materials be limited to salvage and wrecking and the language has been amended accordingly.

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).

Draft Ord. No 2196 - August 22, 2022 Draft, Implementing Jet Planning's
Recommended Land Use Regulatory Amendments

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 ^{3,7}			Lot Coverage (%)	Max. Building Height	Density (Land Area Required Per Unit (sf))
			Front/2 nd Front ¹	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 ² Duplex - 3,750 sf ²
R-2	5,000 sf ³	50-ft	15-ft / 15-ft or 20-ft / 10-ft	5-ft	10-ft	57%	30-ft	SFD – 5,000 sf ² Duplex - 2,500 sf ² Townhouse - 2,500 sf ³
R-3	5,000 sf ³	50-ft	15-ft / 15-ft or 20-ft / 10-ft	5-ft	10-ft	60%	35-ft	1,250 sf ³
R-4 ⁴	5,000 sf ³	50-ft	15-ft / 15-ft or 20-ft / 10-ft	5-ft	10-ft	64%	35-ft	1,250 sf ^{3,5}
C-1	5,000 sf	0	0 or 15-ft from US 101 ⁸	0	0	85-90% ⁶	50-ft ⁶	n/a
C-2 ⁴	5,000 sf	0	0 or 15-ft from US 101 ⁸	0	0	85-90% ⁶	50-ft ⁶	n/a
C-3	5,000 sf	0	0 or 15-ft from US 101 ⁸	0	0	85-90% ⁶	50-ft ⁶	n/a
I-1	5,000 sf	0	5015-ft from US 101	0	0	85-90% ⁶	50-ft ⁶	n/a
I-2	20,000 sf	0	5015-ft from US 101	0	0	85-90% ⁶	50-ft ⁶	n/a
I-3	5 acres	0	5015-ft from US 101	0	0	85-90% ⁶	50-ft ⁶	n/a
W-1	0	0	0	0	0	85-90% ⁶	40-ft ⁶	n/a

Draft Ord. No 2196 - August 22, 2022 Draft, Implementing Jet Planning's Recommended Land Use Regulatory Amendments

W-2	0	0	0	0	0	85-90% ⁶	35-ft ⁶	n/a
MU-1 to MU-10 Mgmt. Units	0	0	0	0	0	100%	40-ft ⁶	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

¹ 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.

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

³ 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.

⁴ 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.

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

⁶ 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.

⁷ Front and 2nd 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.

⁸ 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.

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.

Draft Ord. No 2196 - August 22, 2022 Draft, Implementing Jet Planning's Recommended Land Use Regulatory Amendments

1. For commercial and industrial zoned lots south of the Yaguina 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;

Draft Ord. No 2196 - August 22, 2022 Draft, Implementing Jet Planning's Recommended Land Use Regulatory Amendments

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.

Draft Ord. No 2196 - August 22, 2022 Draft, Implementing Jet Planning's Recommended Land Use Regulatory Amendments

3. For projects with a value of ~~\$100160~~,001 to ~~\$175250~~,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~~,001 to ~~\$300475~~,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~~,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

Draft Ord. No 2196 - August 22, 2022 Draft, Implementing Jet Planning's Recommended Land Use Regulatory Amendments

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.

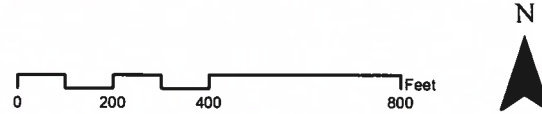


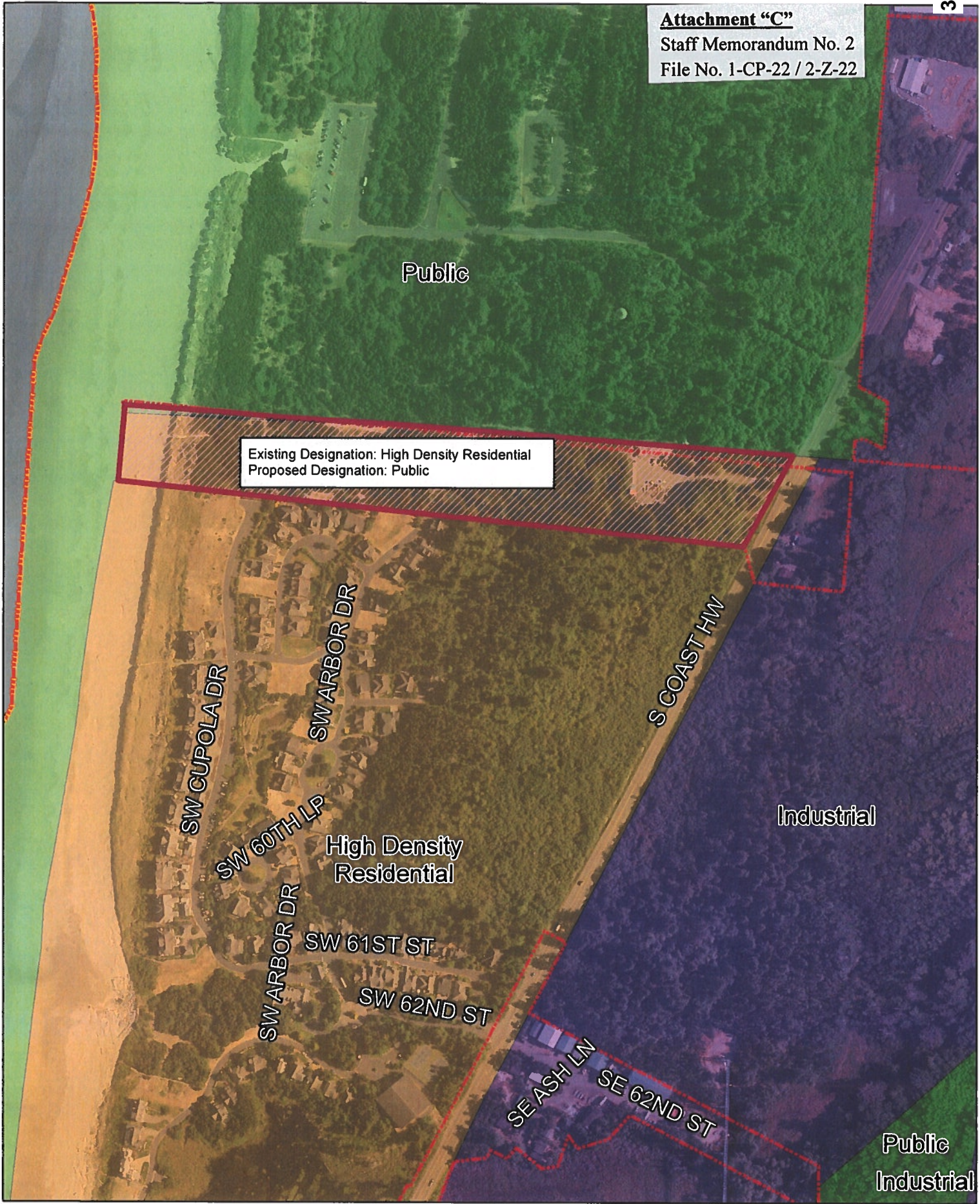
City of Newport
Community Development Department
169 SW Coast Highway
Newport, OR 97365
Phone: 1.541.574.0629
Fax: 1.541.574.0844

Zone Change Options (Preferred Alternative)

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

This map is for informational use only and has not been prepared for, nor is it suitable for legal, engineering, or surveying purposes. It includes data from multiple sources. The City of Newport assumes no responsibility for its compilation or use and users of this

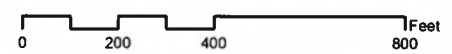




City of Newport
Community Development Department
169 SW Coast Highway
Newport, OR 97365
Phone: 1.541.574.0629
Fax: 1.541.574.0844

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

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



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

Attachment "D"

Staff Memorandum No. 2

File No. 1-CP-22 / 2-Z-22

phone: 541.574.0629

fax: 541.574.0644

<http://newportoregon.gov>

mombetsu, japan, sister city

CITY OF NEWPORT

169 SW COAST HWY

NEWPORT, OREGON 97365

COAST GUARD CITY, USA



PUBLIC NOTICE OF POTENTIAL LAND USE CHANGE

You are receiving this notice because you provided testimony, or otherwise requested notification of a proposal by the City of Newport to amend its land use regulations in a manner that may affect the permissible uses of your property. Specifically, the City is proposing to replace "Light Industrial" with "Commercial" zoning north of the former intersection of US 101 and SE Ferry Slip Road. It also considered whether or not to replace the "Heavy Industrial" zoning along SE 40th Street with "Light Industrial" zoning. The City is also proposing to change the Comprehensive Plan Map designation for the South Beach State Park Maintenance Facility from "High Density Residential" to "Public."

At its August 8, 2022 work session, the Planning Commission considered testimony it received at a July 25, 2022 public hearing where it considered the proposed changes. After discussion, the Commission elected to change proposed zoning from C-1/"Retail & Service Commercial" to C-3/"Heavy Commercial" for light-industrial properties situated east of SE Ferry Slip Road. It also elected to drop the change it was considering to the I-3/"Heavy Industrial" property along SE 40th Street. The Commission has decided to advance the remaining changes to a second public hearing. The zoning and Comprehensive Plan map changes still under consideration are illustrated on the attached maps.

Proposed amendments to Newport Municipal Code (NMC) Chapters 14.03, 14.13 and 14.19 apply to property south of the Yaquina Bay Bridge. New mini-storage, wrecking or salvage operations, towing/vehicle storage, and similar uses along the US 101 corridor will be prohibited. The existing 50-foot US 101 setback for industrial property will be reduced to 15-feet and a 15-foot US 101 setback will be applied to commercial zoned properties. New development or redevelopment will be required to install landscaping within the buffer area. The specific land use regulatory changes are contained in draft Ordinance Number 2196.

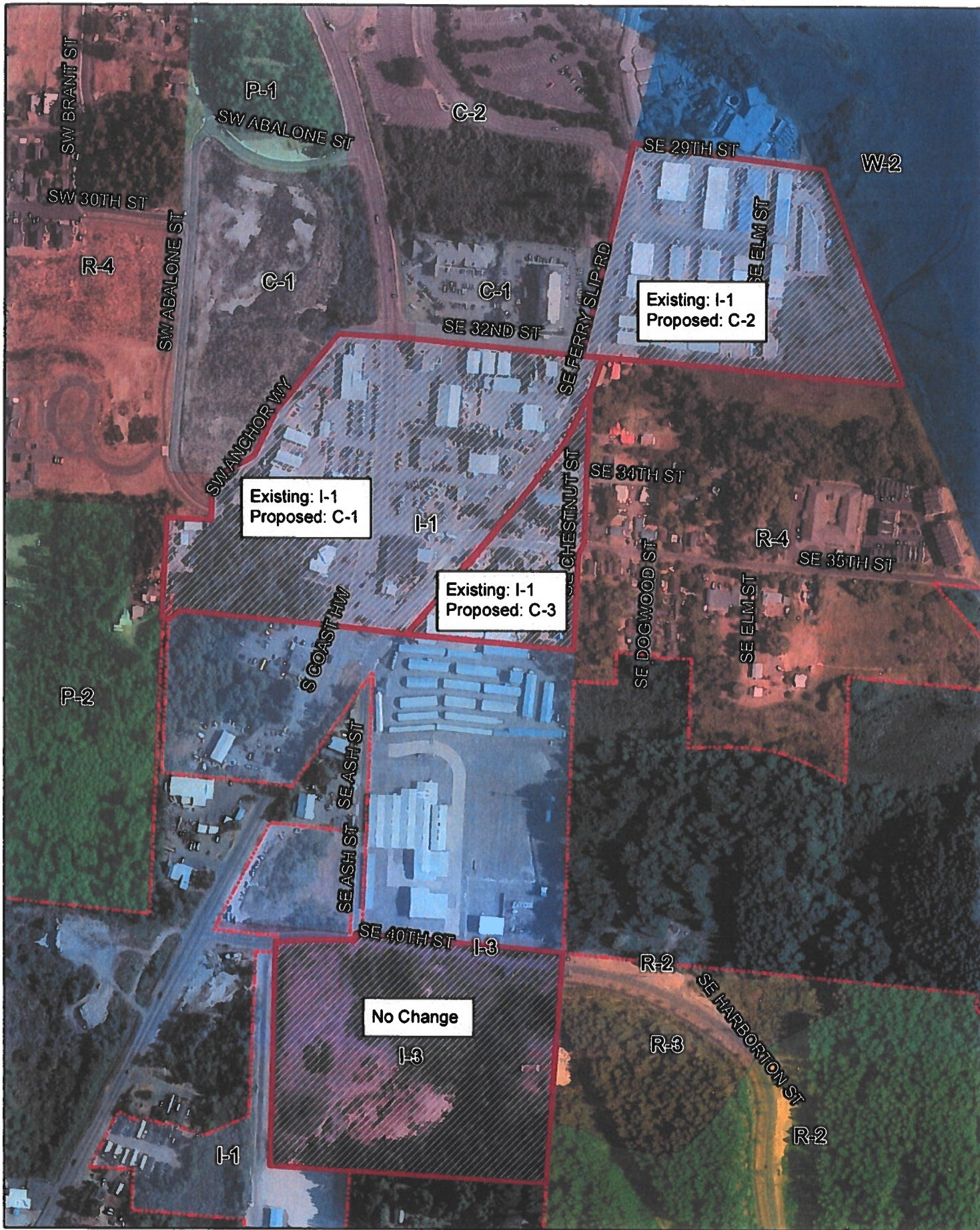
On Monday, August 22, 2022, the City of Newport Planning Commission will conduct a public hearing regarding the adoption of these changes (identified as Ordinance Number 2196). The hearing will be held at 7:00 p.m. in the Newport City Hall Council Chambers, located at 169 SW Coast Highway.

The proposed legislative changes qualify as a major amendment to the Comprehensive Plan, which require findings that address new or updated information, and/or a change or addition to the data, text, inventories, or graphics which significantly affects a conclusion that is drawn for that information (ref: "Administration of the Plan" Section to the Comprehensive Plan). A major amendment may be pursued if one or more of the following conditions exist: (1) A significant change in one or more conclusions; or (2) A public need for the change; or (3) A significant change in community attitudes or priorities; or (4) A demonstrated conflict with another plan goal or policy that has a higher priority; or (5) A change in a statute or statewide agency plan. All applicable Statewide Planning Goals must be addressed. Implementation Strategies may be amended or replaced if there is: (1) A change in one or more goal or policy; or (2) A new or better strategy that will result in better accomplishment of the goal or policy; or (3) A demonstrated ineffectiveness of the existing implementation strategy; or (4) A change in the statute or

state agency plan; or 5) A fiscal reason that prohibits implementation of the strategy. Newport Municipal Code (NMC) Section 14.36.010 requires findings that the amendments to the Zoning Ordinance are required by public necessity and the general welfare of the community. Testimony and evidence must be directed toward the request above or other criteria, including criteria within the Comprehensive Plan and its implementing ordinances, which the person believes to apply to the decision.

Testimony may be submitted in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. The hearing may include a report by staff, and testimony from proponents and opponents to draft Ordinance Number 2196. Written testimony sent to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 12:00 p.m. noon the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing.

Draft Ordinance Number 2196, and related materials, are available for inspection and may be purchased for reasonable cost at the Community Development Department, Newport City Hall, located at 169 SW Coast Hwy, Newport Oregon 97365. For additional information concerning draft Ordinance Number 2196, you may contact Derrick Tokos, City of Newport Community Development Director, at 541-574-0626 or d.tokos@newportoregon.gov. Testimony may also be submitted via this email address.



City of Newport
 Community Development Department
 189 SW Coast Highway
 Newport, OR 97365
 Phone 1 541 574 0629
 Fax 1 541 574 0644

Zone Change Options (Preferred Alternative)

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

This map is for informational use only and has not been prepared for, nor is it suitable for legal, engineering, or surveying purposes. It includes data from multiple sources. The City of Newport assumes no responsibility for its completion as used and users of this map.





City of Newport
Community Development Department
189 SW Coast Highway
Newport, OR 97365
Phone: 1.541.574.0529
Fax: 1.541.574.0544

Jet Planning Code Audit Comp Plan Map Change Recommendation

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

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

0 200 400 800 Feet



JASON ASCH
377 SE PENTER LN
NEWPORT, OR 97365

BILL ROWLEY
4822 S COAST HWY
SOUTH BEACH, OR 97366

JEFF BERTULEIT
354 SE 2ND ST
NEWPORT, OR 97365

TOM HASTING
3333 SE FERRY SLIP RD
SOUTH BEACH, OR 97366

ROBERT HOEFS
3211 S COAST HWY
SOUTH BEACH, OR 97366

TRACI MCDOWALL
YAQUINA LAW, LLC
380 SW 2ND ST
NEWPORT, OR 97365

**STEVE PERLENFEIN &
JEFF KEANE**
435 SE BAY BLVD
NEWPORT, OR 97365

MICHAEL V SMITH
SOUTH BAY INDUSTRIAL
CONDOMINIUMS
393 N STOACKTON AVE
OTIS, OR 97368

JANET WOOD
138 SE 35TH ST
SOUTH BEACH, OR 97366

DALE WEBSTER
NEWPORT MARINE & RV SERVICE
4354 SOUTH COAST HWY
SOUTH BEACH, OR 97366

CHUCK FORINASH
3428 SE CHESTNUT STREET
NEWPORT, OR 97365

FRED YECK
P. O. BOX 352
NEWPORT, OR 97365

PEGGY NEWBY
STOEL RIVES LLP
760 SW NINTH AVE, SUITE 3000
PORTLAND, OR 97205

TERRI-MCCULLEY
BARRELHEAD BUILDING SUPPLY
3551 SE FERRY SLIP RD
SOUTH BEACH, OR 97366

RACHEL C TAYLOR
ASSOCIATE GENERAL COUNSEL
ANHEUSER-BUSH, LLC
ONE BUSCH PL
ST LOUIS, MO 63118

Email Notifications:

Lisa Phipps: lisa.phipps@state.or.us;
Jason Asch: jasonasch@mac.com;
Bill Rowley: browley452@charter.net;
Jeff Bertuleit: jburtuleit@yahoo.com;
Tom Hastings: thasting@yahoo.com;

Robert Hoefs: offthehookrob57@gmail.com;
Traci McDowall: traci@yaquinalaw.com;
Michael Smith: mvmith@uci.edu;
Janet Wood: janetwood62@gmail.com;
Dale Webster: newport@casco.net;

Sarah Bermudez:
sarahbermudezconsulting@gmail.com;
Rachel Taylor: rachel.taylor@anheuser-busch.com;
Sarah Curtis: sarah.curtiss@stoel.com;
Peggy Newby: peggy.newby@stoel.com

FILE 1-CP-22 / 2-Z-22

**PARTIES IN STANDING MAILING &
EMAIL LIST**

8/16/2022

NOTICE OF A PUBLIC HEARING

The City of Newport Planning Commission will hold a public hearing on Monday, August 22, 2022, at 7:00 p.m. in the City Hall Council Chambers to review and make a recommendation to the Newport City Council regarding amendments to the "Administration of the Plan" Element to the City of Newport Comprehensive Plan. Changes include amendments to correct the Comprehensive Plan Map designation for the South Beach State Park Maintenance Facility from "High Density Residential" to "Public." (File No. 1-CP-22). Proposed amendments to Newport Municipal Code (NMC) Chapters 14.03, 14.13 and 14.19 apply to property south of the Yaquina Bay Bridge. (File No. 2-Z-22). Specifically, the land use regulations related to replacing "Light Industrial" with "Commercial" zoning north of the former intersection of US 101 and SE Ferry Slip Road and replacing the "Heavy Industrial" zoning along NE 40th Street with "Light Industrial" zoning. The proposed legislative changes qualify as a major amendment to the Comprehensive Plan, which require findings that address new or updated information, and/or a change or addition to the data, text, inventories, or graphics which significantly affects a conclusion that is drawn for that information (ref: "Administration of the Plan" Section to the Comprehensive Plan). A major amendment may be pursued if one or more of the following conditions exist: (1) A significant change in one or more conclusions; or (2) A public need for the change; or (3) A significant change in community attitudes or priorities; or (4) A demonstrated conflict with another plan goal or policy that has a higher priority; or (5) A change in a statute or statewide agency plan. All applicable Statewide Planning Goals must be addressed. Implementation Strategies may be amended or replaced if there is: (1) A change in one or more goal or policy; or 2) A new or better strategy that will result in better accomplishment of the goal or policy; or 3) A demonstrated ineffectiveness of the existing implementation strategy; or 4) A change in the statute or state agency plan; or 5) A fiscal reason that prohibits implementation of the strategy. Newport Municipal Code (NMC) Section 14.36.010 requires findings that the amendments to the Zoning Ordinance are required by public necessity and the general welfare of the community. Testimony and evidence must be directed toward the request above or other criteria, including criteria within the Comprehensive Plan and its implementing ordinances, which the person believes to apply to the decision. Testimony may be submitted in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. The hearing may include a report by staff, testimony from proponents, testimony from opponents, and questions and deliberation by the Planning Commission. Written testimony sent to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 12:00 p.m. (noon) the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. Material related to the proposed amendment may be reviewed or a copy purchased at the Newport Community Development (Planning) Department (address above). Please note that this is a legislative public hearing process and changes to the proposed amendment may be recommended and made through the public hearing process and those changes may also be viewed or a copy purchased. Contact Derrick Tokos, AICP, Newport Community Development Director, (541) 574-0626, email address d.tokos@newportoregon.gov (mailing address above).

(For Publication Once on Friday, August 12, 2022)

Sunday Worship 10 am

Atonement is an inclusive, Reconciling in Christ Congregation.

Jane Baker, Pastor www.atonementlutheran.com
2315 N. Coast Hwy, Newport • 541-265-2884



In-house worship services at 10am.
And Sundays at 10am on Facebook and YouTube.

Search for "NewportNaz"

541-265-6684

227 NW 12th St. • WWW.NEWPORTNAZ.ORG

Come Join Us In Worship

• Sunday Services, 10 am
• Testimony Meeting - 1st & 3rd Wed., 12:30 pm

14 SW Nye St, Newport

541-265-2869

www.cssnewport.org



Your information source for the Central Oregon Coast

Advertise here.

Call: 541-265-8571

www.newportnewstimes.com

Harmony Yoga

Hilltop Café - Bistro

Jambo World Crafts

JC Market

Joseph Vandehey Construction

Kim Scott / Payne West Ins

Lee Page

Linda & Brad Capshaw

Local Ocean

Mai's Asian Market

Marion Moir

Martek - Doretta Smith

Mary Kay / Julie Ott

Michael's Media - Waldport

Mike Nelson

Shi...

SJ Cus

South

State F

Steve I

Summ

The Cl

The N

The Ti

TU Tu

Ultrali

Umpq

Well R

Wester

Windr

PUBLIC NOTICES

8/12/2022

LEGAL DEADLINES:

WEDNESDAY EDITION:
2:00pm Friday

FRIDAY EDITION:
2:00pm Tuesday

PUBLIC LIEN SALE

U-Store Self Storage 105 NE 73rd St. Newport, OR 97365. Unclaimed storage units to be sold by competitive bidding. Auction will be held for 10 days online at storageauctions.com Auction Starts: 8/9/2022 10:00 AM, Auction Ends: 8/19/2022 10:00 AM. Tyler Arnold #478, Carlos Garcia #349, Matthew Nakken #330/#541. Goods of every description sold by storage lot. CASH or CREDIT CARD ONLY. A03, A12 (40-12)

NOTICE OF RECEIPT OF BALLOT TITLE

Notice is hereby given that a ballot title for a measure referred by the Lake Point Special Road District has been filed with the Lincoln County Clerk on August 4, 2022. The ballot title caption is "Lake Point Special Road District Local Option Tax Measure". An elector may file petition for review of this ballot title in the Lincoln County Circuit Court no later than 5:00 p.m. August 15, 2022. /s/ Dana W. Jenkins, Dana W. Jenkins, Lincoln County Clerk.

NOTICE OF MEASURE ELECTION

Notice is hereby given that on Tuesday, November 8, 2022, a measure election will be held in the Lake Point Special Road District on the question of a five year local option tax for the district. The county clerk has advised that the

election will be conducted by mail. The following shall be the ballot title of the measure to be submitted to the voters of this district in Lincoln County on this date: CAPTION Lake Point Special Road District Local Option Tax Measure QUESTION Shall LPSRD establish an additional tax for operations of .7489 per \$1000 assessed value for five years beginning 2023-2024? This measure may cause property taxes to increase more than three percent. SUMMARY If this local option tax is approved by voters, Lake Point Special Road District will use tax revenue to: • Update and maintain roads, signs and street lights • Provide right of way clearance • Fund general operations. It is estimated the new Local Option Tax will provide additional revenue to Lake Point Special Road District of approximately \$40,000 in 2023-2024, \$41,200 in 2024-2025, \$42,436 in 2025-2026, \$43,709 in 2026-2027, \$45,020 in 2027-2028. The estimated tax costs for this measure are ESTIMATES ONLY based on the best information available from the County Assessor at the time of estimation.

NOTICE OF A PUBLIC HEARING

The City of Newport Planning Commission will hold a public hearing on Monday, August 22, 2022, at 7:00 p.m.

In the City Hall Council Chambers to review and make a recommendation to the Newport City Council regarding amendments to the "Administration of the Plan" Element to the City of Newport Comprehensive Plan. Changes include amendments to correct the Comprehensive Plan Map designation for the South Beach State Park Maintenance Facility from "High Density Residential" to "Public." (File No. 1-CP-22). Proposed amendments to Newport Municipal Code (NMC) Chapters 14.03, 14.13 and 14.19 apply to property south of the Yaquina Bay Bridge. (File No. 2-Z-22). Specifically, the land use regulations related to replacing "Light Industrial" with "Commercial" zoning north of the former intersection of US 101 and SE Ferry Slip Road and replacing the "Heavy Industrial" zoning along NE 40th Street with "Light Industrial" zoning. The proposed legislative changes qualify as a major amendment to the Comprehensive Plan, which require findings that address new or updated information, and/or a change or addition to the data, text, inventories, or graphics which significantly affects a conclusion that is drawn from that information (ref: "Administration of the Plan" Section to the Comprehensive Plan). A major amendment may be pursued if one or more of the following conditions exist: (1) A significant change in one or more conclusions; or (2) A public need for the change; or (3) A significant change in community attitudes or priorities; or (4) A demonstrated conflict with another plan goal or policy that has a higher priority; or (5) A change in a statute or statewide agency plan. All applicable Statewide Planning Goals must be addressed. Implementation Strategies may be amended or replaced if there is: (1) A change in one or more goal or policy; or (2) A

new or better strategy that will result in better accomplishment of the goal or policy; or (3) A demonstrated ineffectiveness of the existing implementation strategy; or (4) A change in the statute or state agency plan; or (5) A fiscal reason that prohibits its implementation of the strategy. Newport Municipal Code (NMC) Section 14.36.010 requires findings that the amendments to the Zoning Ordinance are required by public necessity and the general welfare of the community. Testimony and evidence must be directed toward the request above or other criteria, including criteria within the Comprehensive Plan and its implementing ordinances, which the person believes to apply to the decision. Testimony may be submitted in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. The hearing may include a report by staff, testimony from proponents, testimony from opponents, and questions and deliberation by the Planning Commission. Written testimony sent to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 12:00 p.m. (noon) the day of the hearing or must be personally presented during testimony at the public hearing. Material related to the proposed amendment may be reviewed or a copy purchased at the Newport Community Development (Planning) Department (address above). Please note that this is a legislative public hearing process and changes to the proposed amendment may be recommended and made through the public hearing process and those changes may also be viewed or a copy purchased. Contact Derrick Tokos, AICP, Newport Community Development

Director, (541) 574-0626, email address d.tokos@newportoregon.gov (mailing address above). A12 (52-12)

NOTICE OF PUBLIC MEETING

Oregon Cascades West Council of Governments A public meeting of the Executive Committee of the Oregon Cascades West Council of Governments (OCWCOG) will be held on Thursday, August 25, 2022, at 9:00 am via audio and videoconference. The purpose of this meeting is to convene a regular meeting of the Executive Committee of the OCWCOG. For further information on how to attend this meeting, and about OCWCOG, please visit our website at www.OCWCOG.org. A12 (51-12)

NOTICE IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF LINCOLN

In the Matter of: Pascal Sebastian Bernabe and Guadalupe Alonzo Pascal, Petitioners, and, Francisco Julian Francisco, Respondent. Case No.: 22PRO1040 AVISO DE TIEMPO PARA PRESENTAR OBJECIONES PARA EL NOMBRAMIENTO DE TUTELA POR LA PRESENTE SE NOTIFICA que Pascal Sebastian Bernabe y Guadalupe Alonzo Pascal (Peticionarios) presentaron una petición solicitando al tribunal que los nombren como tutores de Francisco Julian Francisco (Respondiente). Para obtener una copia de la petición para el nombramiento de un tutor para un joven vulnerable se puede comunicar con la corte: Lincoln County Circuit Court, 225 West Olive Street, PO Box 100, Newport, OR 97365, 541-265-4236; o con el abogado de los Peticionarios: David Henretty, Oregon Law Center, 522 SW Fifth Ave., Suite 812, Portland, OR 97204, 503-473-8884. La dirección y el número de teléfono de los Peticio-

arios son: 928 SW 11th St., Apt. A, NEWPORT, OR 97365, 541-270-4165. Los Peticionarios son la tía y el tío del Respondiente. Cualquier objeción debe hacerse o presentarse en el proceso de tutela en el tribunal mencionado anteriormente dentro de los 15 días posteriores a la publicación de este aviso. Las objeciones pueden hacerse por escrito o en persona en: Lincoln County Circuit Court, 225 West Olive Street, PO Box 100 Newport, OR 97365. Si el tribunal recibe objeciones, el juez llevará a cabo una audiencia. A la fecha de este notificación, no se ha fijado audiencia. AVISO: Si desea recibir copias de presentaciones futuras en este caso, debe informar al juez y a la persona nombrada como peticionario en este aviso. Debe informar al juez presentando una solicitud de notificación y pagando cualquier tarifa aplicable. La solicitud de notificación debe ser por escrito, debe indicar claramente que desea recibir presentaciones futuras en los procedimientos y debe contener su nombre, dirección y número de teléfono. Debe notificar a la persona nombrada como peticionario enviando por correo una copia de la solicitud al peticionario. A menos que siga estos pasos, no recibirá más copias de los documentos presentados en el caso. FECHADO este 8 día de agosto de 2022. OREGON LAW CENTER, David Henretty, OSB # 031870, dhenretty@oregonlawcenter.org. Abogado para Peticionarios. A12, A19, A26 (50-26)

SELF STORAGE PUBLIC SALE

Safe-Lock Storage 3639 SE Ash St South Beach, Oregon 97366. Saturday 8/20/2022 @ 10:00am F13 Archie Whitman; F24 Michelle Rose; L31 Sampson Allen. Sale Subject to Cancellation. Safe-Lock Storage reserves the Right to refuse any and all bids. A05, A12 (46-12)

INTERE IN THE OF 1 ORE COUN Probate Case NOTIC ESTED Matter GLENN SON D IS HEF Deboral been a person of the persons against requir to the i ney for resenta Lake F Portlan in four date of this not may be sons w affected ings m tional the reci the per tive, or 1 persons Dated e on Augi rah H. . Represe Hollis, (Fitzwat neys fo santativ Road, S OR 972 8191, i terlaw,c (44-19)

COMMI Ct Budget Meeting Annual Start in H.E.L.P. Food S Tech Hi munity turn's E will m August pm via commel propose ating b the anr

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 short-handed. 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

Draft MINUTES
City of Newport Planning Commission
Work Session
Newport City Hall Council Chambers
August 8, 2022
6:00 p.m.

Planning Commissioners Present: Jim Patrick, Bob Berman, Braulio Escobar, Jim Hanselman, and Bill Branigan.

Planning Commissioners Absent: Gary East (*excused*).

PC Citizens Advisory Committee Members Present: Dustin Capri.

PC Citizens Advisory Committee Members Absent: Greg Sutton.

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

1. **Call to Order.** Chair Patrick called the Planning Commission work session to order at 6:00 p.m.

2. **Unfinished Business.**

A. **Potential Changes to South Beach / US 101 Commercial Industrial Corridor Amendments.**
 Tokos reviewed the maps, area by area, and touched on the code changes themselves. He then covered the intent of the districts for the C-1, C-2, C-3, I-1, and I-3 zones.

Tokos pointed out the locations of the properties for the persons who gave testimony the zoning map. Berman asked if the areas that were defined were part of the consultants work or from someone who said they should look at the particular pieces of land. He also asked why the lines for the zoning in the maps didn't change after the Commission had talked to the persons giving testimony. Tokos explained the Commission could modify the boundaries based on what they collectively believed they wanted to do. Typically, we don't do individual parcels zoning in the city because an individual kind of spot zoning was generally frowned upon. More often than not, what they would see was a zoning classification that's put in place to guide the development moving forward in a certain direction. Because of this they would see nonconforming uses, mainly in the industrial, for residential uses. Lot by lot zoning or spot zoning wouldn't provide a lot of direction as to where they were trying to go, and it was rare to see spot zoning in the city. Berman asked why they approved two different zones for the property with a house on it that the Commission received public testimony on. Tokos explained when this property came in the city they had to apply zoning for it. The property owner had applied to annex into the city and a portion of their property was under a residential Comprehensive Plan designation and a portion was under industrial. They asked for residential zoning where the dwelling was and industrial zoning on the other part.

Escobar asked if the Aquarium Village had an objection with a C-3 designation instead of a C-2. Tokos noted that this was a mixed use and why the Commission moved it forward to include it in the package to have it be C-2. The Commission was under no obligation to change this. Tokos was looking for a collective direction on what the Commission wanted to change, keep or remove in this package so that they could make the changes prior to the next hearing. Escobar pointed out that in the public's view

there hadn't been enough outreach to the individual landowners about the proposed zoning changes, and it seemed a lot of people didn't have a lot of notice. It struck him that there were families or businesses who invested money into the ongoing businesses who felt their investments were at risk. There was some discussion that with the zone changes the existing business would become nonconforming and have to get approval from the Commission if they wanted to expand or modify it. This seemed to be a burden that a lot of the citizens were uncomfortable with. Escobar thought they should focus first on the city owned property where the Flashbacks and South Beach Church was. He suggested they move with caution when moving south.

Patrick thought most of the uses in the Aquarium Village was already nonconforming in the industrial zone. It seemed the C-3 zone would allow more uses and he was okay with that. Patrick noted the proposed C-1 zone would kill some businesses that were already there, and pointed out the whole idea was to clean up Newport's approach on the south. Tokos reminded they were trying to anticipate how this portion of South Beach was growing and evolving, and where the demands and the needs were. There had been a fair amount of outreach to the general public as part of this process and the general comments were that they wanted to see more general retail services in this area. One of the issues that came up when looking at barriers to attracting additional retail service use in the area was that the light industrial zoning was viewed as it introduced too many wildcards. Somebody who's looking to make investments in retail service type uses would think it was too flexible. Tokos reminded the Commission that when they were looking at applying the zoning they should look at how the area was evolving and transitioning.

Berman voiced concerns about how it felt like existing uses that had been there a long time and relied on their ability to expand in the future where having the rug pulled out from them. Even though there was no probable immediate impact, in their opinion it was still limiting what they could do. Berman felt this was wrong somehow. It was the Commission's job to look at the big picture and how things would evolve. Berman didn't want to force evolution on somebody that was already doing business and complying with all the regulations, such as the candy shop and Auto Doctors owned by Robert Hoefs. Escobar agreed with Berman's feeling on disrupting the existing property owners. A discussion ensued regarding the location of Hoefs' properties and what the changes meant for them. The changes would make the residential on the second floor of the property be conforming and make the Auto Doctors be nonconforming.

Branigan asked if the existing I-1 could be a proposed C-3. Tokos noted they could do this but reminded that the intent of the zone districts allowed the C-3 to have a range of commercial uses that would be viewed as incompatible with a lot of retail service uses. If the objective there was to get more retail service uses, a C-3 was probably not going to be any more attractive than the I-1 to operate. A discussion ensued regarding the allowed uses in the C-3. Hanselman asked what the reason was to change from I-1 to C-1 was. Patrick explained it helped developers want to make investments to redevelop. He noted a lot of the existing properties were nonconforming and there weren't many opportunities to expand.

Escobar asked how changing the C-3 to C-4 would affect the candy shop and Auto Doctor. Tokos explained if you made the change for vehicle repair to a conditional use, it would be an outright permitted use in the C-3 as opposed to a conditional use in the C-1. Escobar thought the Aquarium Village could be a C-3. Tokos noted the challenge of the C-3 was that the intent of the zone district was intended to accommodate a broader range of commercial and quasi industrial uses that were incompatible with a number of the typical retail service uses. If they were trying to attach food service with a number of the typical retail service uses, a C-3 wouldn't be more attractive than a I-1.

Tokos asked for the Commission's general thoughts. Capri thought they should start with the change from I-1 to C-2 first. He thought it should stay as I-1 because it made no sense to move the Aquarium Village out by one. Tokos explained there was a tourist commercial to the west and the north. They saw this as an area that's transitioning. Urban Renewal made some heavy investments in infrastructure at 35th Street, and they will be making additional investments in this area. Tokos noted the Commission needed to ask if it made sense to orient it more to tourists commercial or industrial at this location. Patrick thought it made more sense to make it tourist commercial. Capri pointed out the whole northern area was industrial buildings for the Aquarium. Tokos explained if less than half of the area was associated with retail use it would be okay. He noted the industrial condos that were used for storage and industrial use could continue to be used as that use but they would be nonconforming. Tokos didn't expect to see much change there so the fact that they were rendered nonconforming wasn't a major issue. He pointed out that nonconforming uses could continue and could be maintained. Changes were reviewed and generally approved by the Commission. Tokos noted the nonconforming status ran with the land and a new owner would have the same set of rights as the previous. Branigan thought this should be C-2 because it went hand and hand with the Aquarium. Escobar thought it should be C-3. Berman thought they should change the definition of the polygon area on the map and leave the Smith property as it was. Patrick noted this would make it an isolated I-1 and they didn't want to do this. Tokos said what he heard was to leave it as it was and see how the vote went at the hearing.

Tokos asked for Commission's thoughts on the change from I-1 to C-3. The Commission was in general agreement for this. Tokos then asked for comments on the change from I-1 to C-1. Berman wanted the city property to be C-1. Tokos explained it would make it more challenging if they made the city property C-1 and the rest of the properties around it I-1, because it would make it more challenging to attract retail services. Patrick thought they should make the vehicle repair a conditional use and then the warehouse would be nonconforming. Tokos agreed. When they did the C-1, auto sales was a conditional use but vehicle repair was not. Tokos pointed out that vehicle repairs went hand in hand with auto sales to some degree.

Escobar asked how this would affect Auto Doctors if they changed it to C-1. Tokos explained they would be fine as is, but if they wanted to expand they would need a conditional use. Escobar asked what would happen if it was C-3. Tokos explained this would be an outright allowed use. Patrick thought it made sense for the big stretch of property to be C-1. Tokos reiterated the purpose of the C-1 they got from the process was that people wanted to see more retail service uses attracted to that area. The Commission was in general agreement to leave it as it was presented and discuss it in at hearing.

Escobar thought the public testimony made a compelling argument that the city needed industrial. Berman pointed out that this was a misstatement because they ignored the fact that there was significant industrial to the north. Tokos noted there was also significant industrial on 50th Street, which was inside the Urban Growth boundary but not in the city limits. The challenge for this location was the more residential they saw around the I-3 piece the tougher it was going to be long term for the city. This was especially so because industrial uses have emissions, and was typically a type of use that they would expect to see separated by distance from other uses. Escobar pointed out that the industrial use was there first. Tokos thought this was a fair point and noted it was included in the owner's letter to the Commission. When planning a community the Commission needed to look at vacant sites that may have been great for heavy industrial years ago and ask if they should continue moving forward. Tokos noted that they could leave it alone if they wanted to.

Berman asked if it was true that the consultants never reached out to the property owners. Tokos didn't know if they reached out to any property owners. The consultants were doing a high level set of code audits, which was called for in the plan, and provided recommendations in their analysis.

Hanselman asked if there was any mention of heavy industries wanting to move into the area. Tokos noted that three of the four owners have been clear in their testimony that they wanted to see it remain I-3. They had an investment backed expectation that they would be able to use the property for heavy industrial use someday. The owners didn't specify when that might happen. Berman thought they should leave it as is. Escobar agreed. Capri noted that the typography next to this area gave it a feeling of separation. He declared a potential conflict of interest when talking about his interest in the project to build condos and homes near the site. Patrick thought they should leave it as it was, but noted at some point they would need to change it. Escobar thought if they did nothing now, these owners by their participation in the process knew there was a trend to change the zoning. They now had notice and when this was looked at again it wouldn't be thrown at them as a sudden proposal. Capri thought it was better to have more industrial going south because of what was allowed in the tsunami zones. Tokos confirmed there was an industrial complex designation when moving to the south. As these properties were annexed in they would come in as I-1, I-2, and I-3. There was capacity to add additional heavy industrial use further south, and this fit the intent of the I-3 a little better. Patrick thought they should leave it alone with the idea that down the road it might be changed.

Escobar asked how much noise and vibration debris happened at the concrete plant. Patrick thought there wasn't much of this for a concrete plant. He noted at one point there was an asphalt plant there that didn't make much noise but had a smell to it. Tokos noted visually they had relief there, but it didn't have help with emotions. The discussion was to do a potential batch plan there in the future and the I-3 allowed all kinds of uses. Hanselman questioned if they were looking down the road to change it from I-3 to something else, how they would be able to do that should the owners decide to build a concrete plant there. He wanted to know how long down the road they could change this. Patrick noted that as things built out there the demand for that property would change. They might be approached by a buyer who wanted turn it into a C-2 or C-1, which would make them have to do a zone change. Patrick felt that if they left it alone the economics would drive the change.

Escobar asked for clarification on what Jeff Bertuleit testimony and what his concerns were. Berman noted Bertuleit was concerned about things that would happen in the future which weren't on the table currently. Tokos reported that Bertuleit's property was outside the city. He reiterated what he was hearing was there was general consensus to drop this piece. The Commission was in general agreement on this.

Berman asked about the South Beach State Park change. Tokos explained this was a Comprehensive Plan map change. This was probably a map error or a lack of precision on where the residential designation was placed. Tokos wasn't certain if this was due to the State Park picked up more property after the fact. This would change the designation to public instead of residential for the area that was the maintenance facility for the State Parks. Tokos pointed out that it would probably never be changed from this use and it didn't impact the residential to the south.

Berman reported that the latest zoning map and Comprehensive Plan map on the city website was from 2017. He asked for updated maps to be placed on the website. Tokos noted the city hired a GIS tech who was working on doing this.

Tokos reviewed the code amendments to Chapter 14.03 for zoning districts to change auto repair to a conditional use in the C-1 zone. He reminded that service for auto was allowed but the repair piece

wasn't. Patrick pointed out that a towing service also had a problem in the C-1 and asked how the Newport Marine sales was affected. Tokos confirmed the lease and sale of large vehicles there was like auto sales. They weren't proposing any changes there because it was outside the city. Berman asked if Newport Marine had vehicle storage on their lot. Tokos thought they did. Berman noted that they would be considered vehicle storage then. Tokos explained that they would look at the property to see what more than half of the property's use was to designate it. If they were annexed in and this provision was in place, the worst case scenario would be that they were nonconforming. Patrick asked if the self-storage would be nonconforming if it was brought in. Tokos confirmed it would be. Newport Urban Renewal had made significant investments in its water and wastewater systems down to 50th Street, and a lot of the properties in the unincorporated areas were self-storage and other uses that didn't require the connection the city's wastewater services because they had holding tanks. The thought was that they needed to get these in as active industrial use which would create some opportunities for flex industrial and could be accommodated with the wastewater and water systems that were in place. Berman noted that sales of building materials was prohibited. Tokos explained wrecking of heavy machinery, metal and building materials was what they were striving for but they could tweak the language.

Escobar noted that at the last public hearing there was a discussion about holding a work session on the zone changes and then having a hearing continuation. He felt it was premature to make a vote in August and felt they should defer it until September. Tokos explained this was a judgement the Commission would have to make at the hearing.

Berman asked if the letter submitted by Traci McDowall as part of the work session meeting would be part of the record. Tokos confirmed it would and explained it would be included as additional public testimony for the hearing.

Escobar asked if they could defer the Camping Ordinance discussion to the next work session meeting. Tokos confirmed they could.

Patrick asked if there were any changes to the setbacks. Tokos explained there were no changes to this.

- B. Final Scope of Work for TGM Funded City Center Revitalization Project.** Tokos asked the Commission to let him know if they had questions. Capri asked if this was based on an ODOT template. Tokos confirmed it was a template. They could adjust the language but not the template. The concept of the City Center Revitalization Project was to go through a mini RFP process with ODOT. Tokos asked if any Commissioner wanted to participate in reviewing the RFPs to let him know. This would be an opportunity to see submittals from different consultants. Since the grant had been flushed out, the State would be issuing a mini RFP process and the consultants that were listed were the ones that are already prescreened. Tokos explained the concept was to have a whole series of stakeholder meetings for the City Center area. Capri asked how much administrative lift would it take to reach out to all the property owners in that area as opposed to the relevant property owners. Tokos noted they would be reaching out to all owners in the area. They would be doing stakeholder meetings with those that wanted to talk about US 20 as opposed to US 101. They would also be doing some charette work to mock up what this would look like. They would then like to do an initial round of in person charette work. Then things that were built out of this work could be done by virtual preference surveys and other ways. There would also be individual engagement with the affected businesses in the area.

Berman asked if the Transportation System Plan would include all of the public comments. Tokos

confirmed they would all be included. Berman noted that the couplet discussion at the City Council work session meeting was to recommend one or the other of the options. He asked if this would be spelled out as one of the deliverables for that recommendation. Tokos explained the TSP had a couple of options for how to redevelop US 101 in a manner acceptable to the State and meet the objectives of the Urban Renewal Agency, the taxing agencies that contribute funds to the Renewal Agency, affected businesses, and the broader community. Berman noted he would like the reference to the Armory and the possible relocation of the National Guard included. Tokos explained this would be done more so through the process not particularly in the document.

Berman noted on memorandum one it said the TSP identified two alternatives for improving transportation facilities within the study area on US 101, and this project would identify which of those alternatives or various of the alternatives would best support the project. He asked if this set the stage for them to be making a decision in the first memo. Tokos confirmed it wasn't. It was to set up what would come out of the entire process.

Berman thought every time they did a project with the population projections they were different. They should be using the same population numbers across the board to be consistent. Berman thought saying the public presentations materials should be published not later than the day of the event wouldn't give people enough time to review them and decide early if they wanted to attend. Tokos explained there would be materials that could be provided in advance and others that they would be bringing to the meetings. This wasn't much different than what they already did but they could try to clarify it. Tokos noted the charrette work and maps would be brought in the day of the meetings, and mock ups would then be posted after the end of the meetings.

Tokos asked if anyone was interested in reviewing the RFP. Patrick volunteered to do it.

- C. Review Updated Camping Ordinance.** Tokos noted they would bump the Camping Ordinance discussion to the next meeting. Berman noted there needed to be a lot of refinement of the words. Tokos noted they would do this before the actual final ordinance was done. They would work to adopt the elements that weren't land use in the near term, then they would clean up the land use languages.
- D. Updated Planning Commission Work Program.** Tokos reviewed the changes to the work program. He expected the plan development to be submitted soon and why it was bumped to a later date.
- 3. New Business.** None were heard.
- 4. Adjourn.** The meeting adjourned at 7:29 p.m.

Respectfully submitted,

Sherri Marineau,
Executive Assistant

Attachment "G"

Staff Memorandum No. 2

File No. 1-CP-22 / 2-Z-22

Derrick Tokos

From: PHIPPS Lisa * DLCD [REDACTED]
Sent: Thursday, June 30, 2022 1:58 PM
To: Derrick Tokos
Cc: YOUNG Kevin * DLCD
Subject: Newport PAPA

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

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

Attachment "F"
JUL 22 / 2022
CITY OF NEWPORT

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.

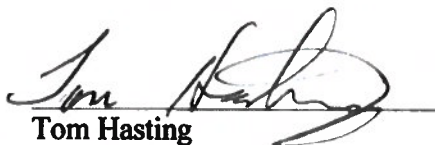
In conclusion we:

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

██████████
Newport, OR 97365



Tom Hasting

██████████
Newport, OR 97365



Fred Yeck

██████████
Newport, OR 97365

Attachment: "CP"
1-CP-22 / 2-Z-22

Derrick Tokos

From: Sarah Bermudez from Fair Housing Council of Oregon
[REDACTED]
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 [REDACTED] [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
[REDACTED]
[REDACTED]

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

 Powered by [HubSpot](#)

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

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 32nd 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 32nd 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,

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

Sherri Marineau

From: Traci McDowall [REDACTED]
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

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

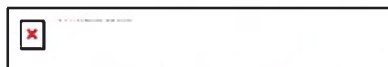
Please find attached a document to be included in the packet for tonight's planning commission work session.

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

Thank you,
Traci



Traci P. McDowall
Attorney at Law



***Confidentiality Notice:** This email message is privileged, confidential, and is intended only for use by the intended recipient. Unauthorized review, use, disclosure or distribution is strictly prohibited. If you are not the intended recipient, please contact sender immediately and destroy all copies of the original message.

****Tax Advice Notice:** IRS Circular 230 requires us to advise you that, if this communication or any attachment contains tax advice of any kind, the advice is not intended to be used, and cannot be used, for the purpose of avoiding federal tax penalties or for promotion, marketing or determining tax obligations.



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

TABLE OF CONTENTS

INTRODUCTION.....	2
ANALYSIS.....	2
HISTORY OF THE SUBJECT PROPERTY.....	2
CITY OF NEWPORT COMPREHENSIVE PLAN.....	3
PHASE 2 AND 3 PROJECT OBJECTIVES OF THE SOUTH BEACH URBAN RENEWAL PLAN	5
CONCLUSION	7



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 40th 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 40th 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. 32nd 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 13th 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 35th 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 40th 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 40th 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 40th 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

ANALYSIS OF PROPOSED CHANGES TO SE 40TH ST. PROPERTY

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 recommendations 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

Appendix E. Land Use Code Audit

OCTOBER 18, 2021

LAND USE POLICIES, ZONING & REGULATIONS AUDIT NEWPORT SOUTH BEACH

PREPARED FOR: NEWPORT URBAN RENEWAL AGENCY



Table of Contents

I. Overview & Summary of Findings	Page 1
II. Urban Renewal Background	Page 5
III. Long-Range Planning Policies	Page 6
IV. Annexation	Page 11
V. Zoning Regulations	Page 16
VI. Land Use Implications for Opportunity Sites	Page 31
VII. Regulatory Recommendations	Page 34

Figures

Figure 1: Comprehensive Plan Land Use Designations within South Beach (Peninsula)	Page 8
Figure 2: Comprehensive Plan Land Use Designations within South Beach (Airport)	Page 9
Figure 3: Distribution of Comprehensive Plan Land Use Designations	Page 10
Figure 4: Annexation Status of South Beach Area	Page 11
Figure 5: South Beach Unincorporated Areas	Page 13
Figure 6: City and County Zoning within South Beach (Peninsula)	Page 18
Figure 7: City and County Zoning within South Beach (Airport)	Page 19
Figure 8: South Beach Transportation Overlay Zone	Page 29
Figure 9: Identified Opportunity Sites	Page 33

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 35th 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 35th 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 40th 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 40th 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 40th 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 35th Ave gateway site and installation of new signals at SE 35th St and potentially SE 40th 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 tsunamis, 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 35th St.

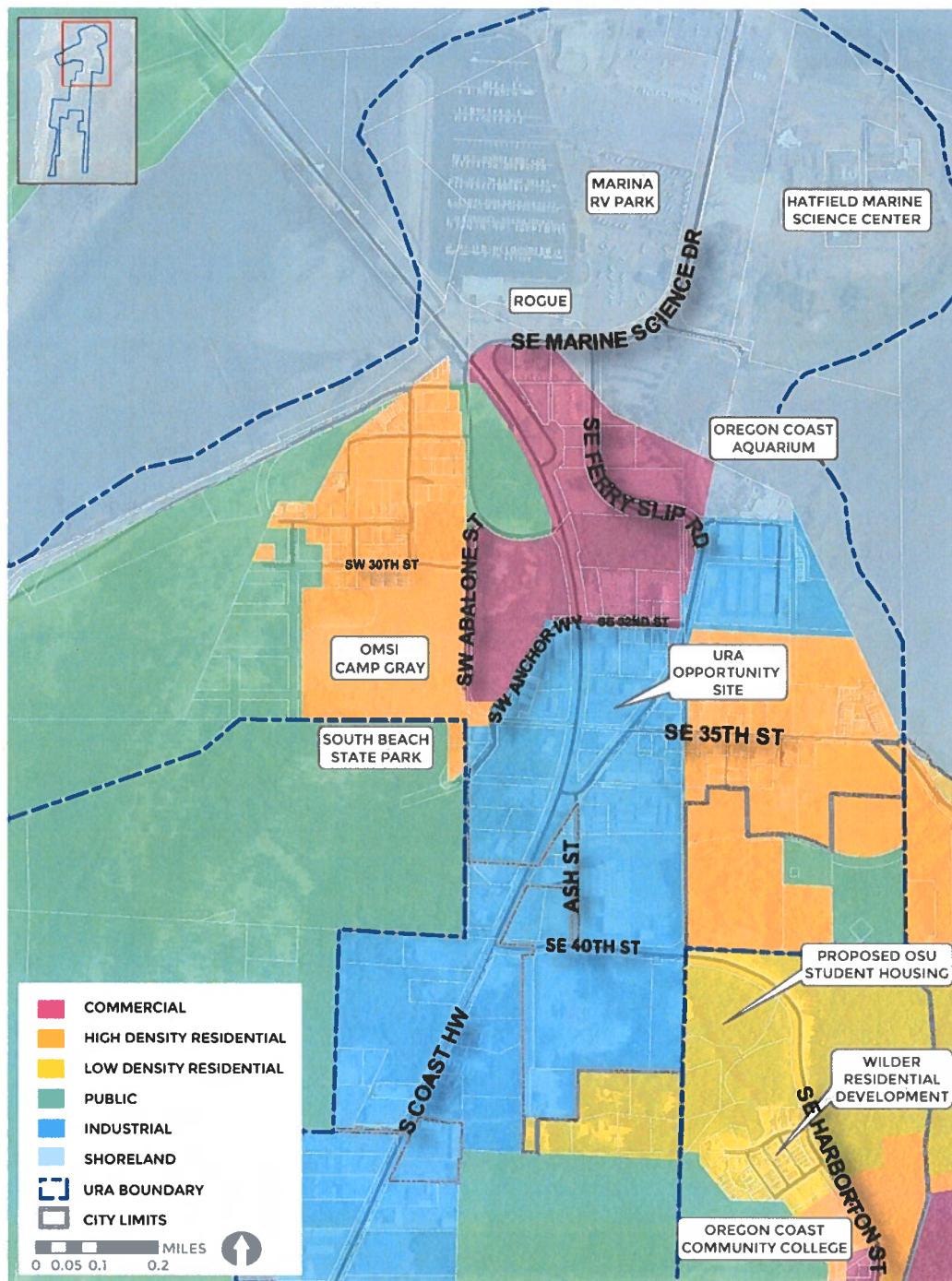
The City's long-range employment goals are well aligned with the Urban Renewal Plan goals, including a focus on marine-related, industrial and commercial economic development. No policy changes are recommended for the Comprehensive Plan to better implement the Urban Renewal Plan goals, though future 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 32nd St, Industrial south to SE 62nd 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)

COMPREHENSIVE PLAN

PENINSULA + US 101



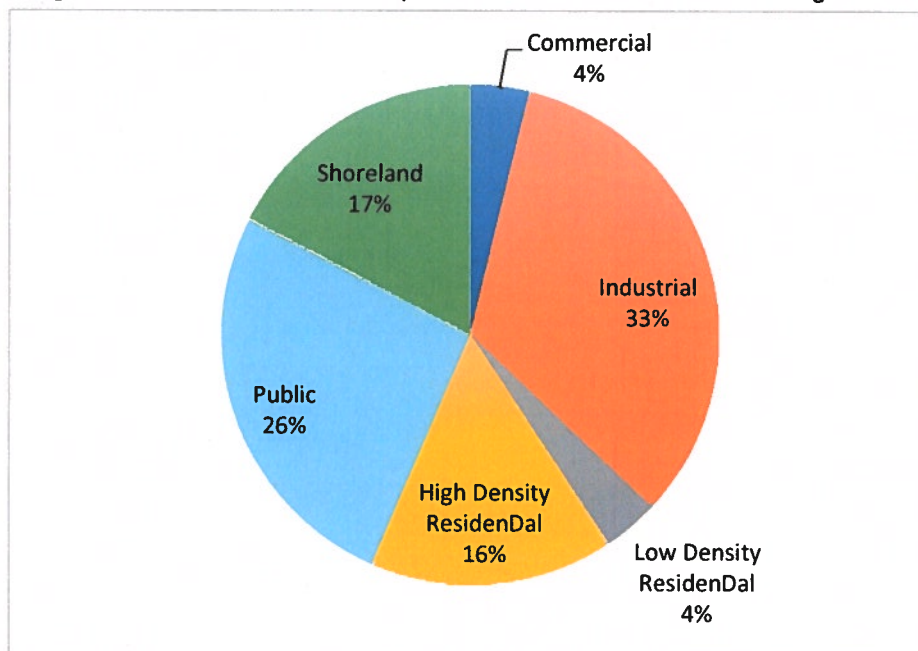
NEWPORT SOUTH BEACH / US 101 REFINEMENT PLAN



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 35th 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.

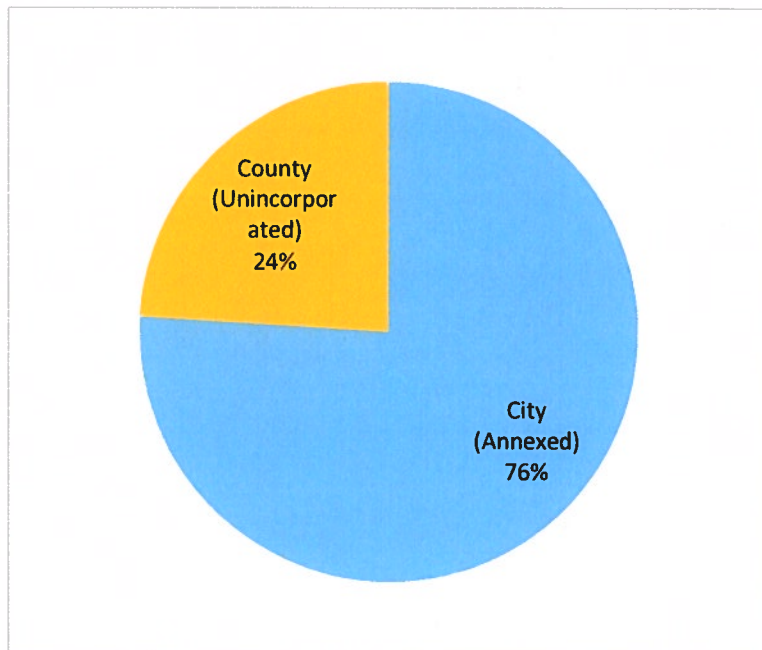
IV. Annexation

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%
	Total	281	100%

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.)

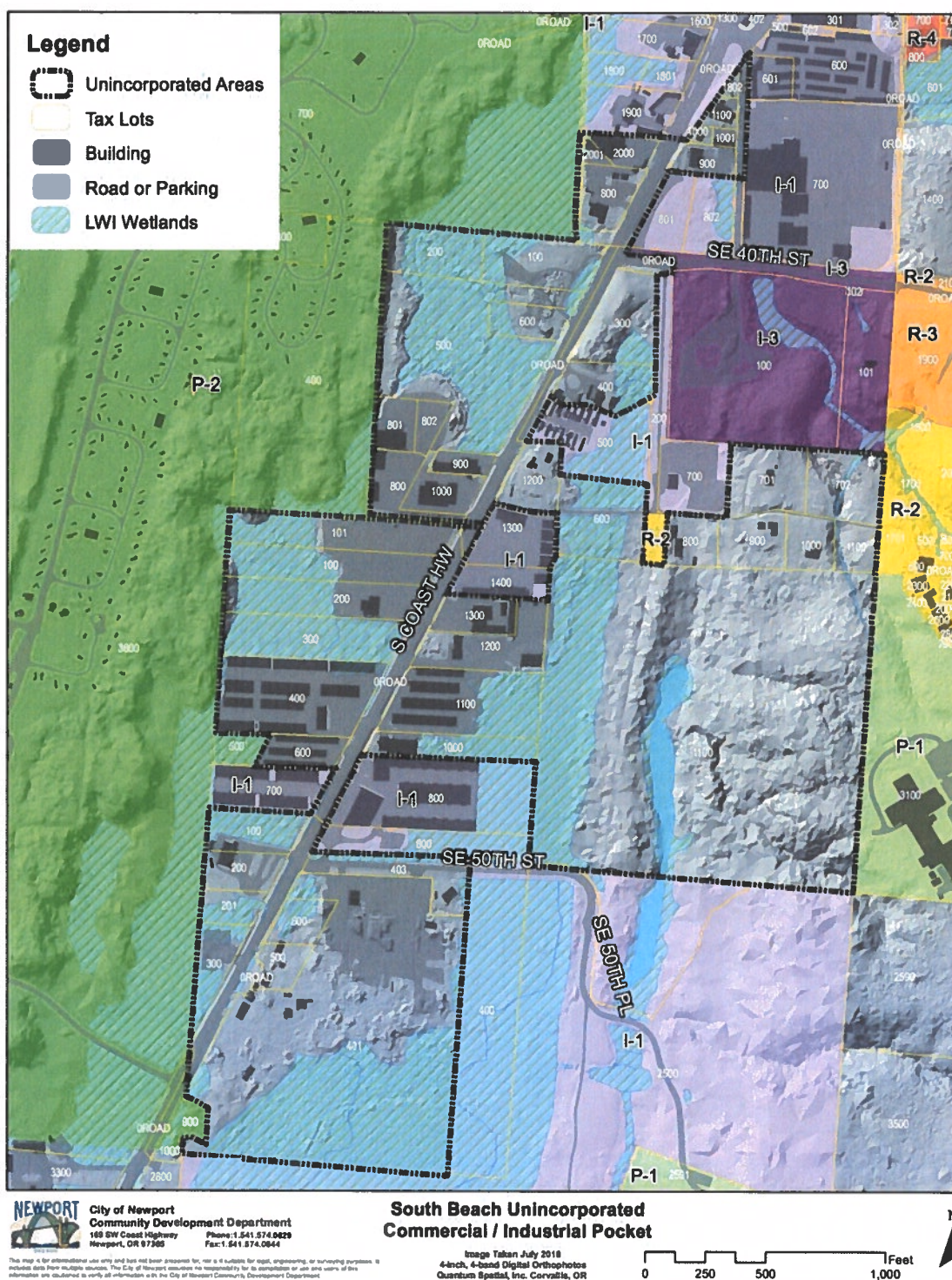
Annexation is primarily initiated by property owners under Oregon law and Newport code, and generally requires consent of owners and residents within the territory to be annexed. (ORS Chapter 222.) Newport annexation provisions permit annexation of any properties for which owner and resident consent 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.¹ (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.)

¹ 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 32nd St and SE 62nd 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

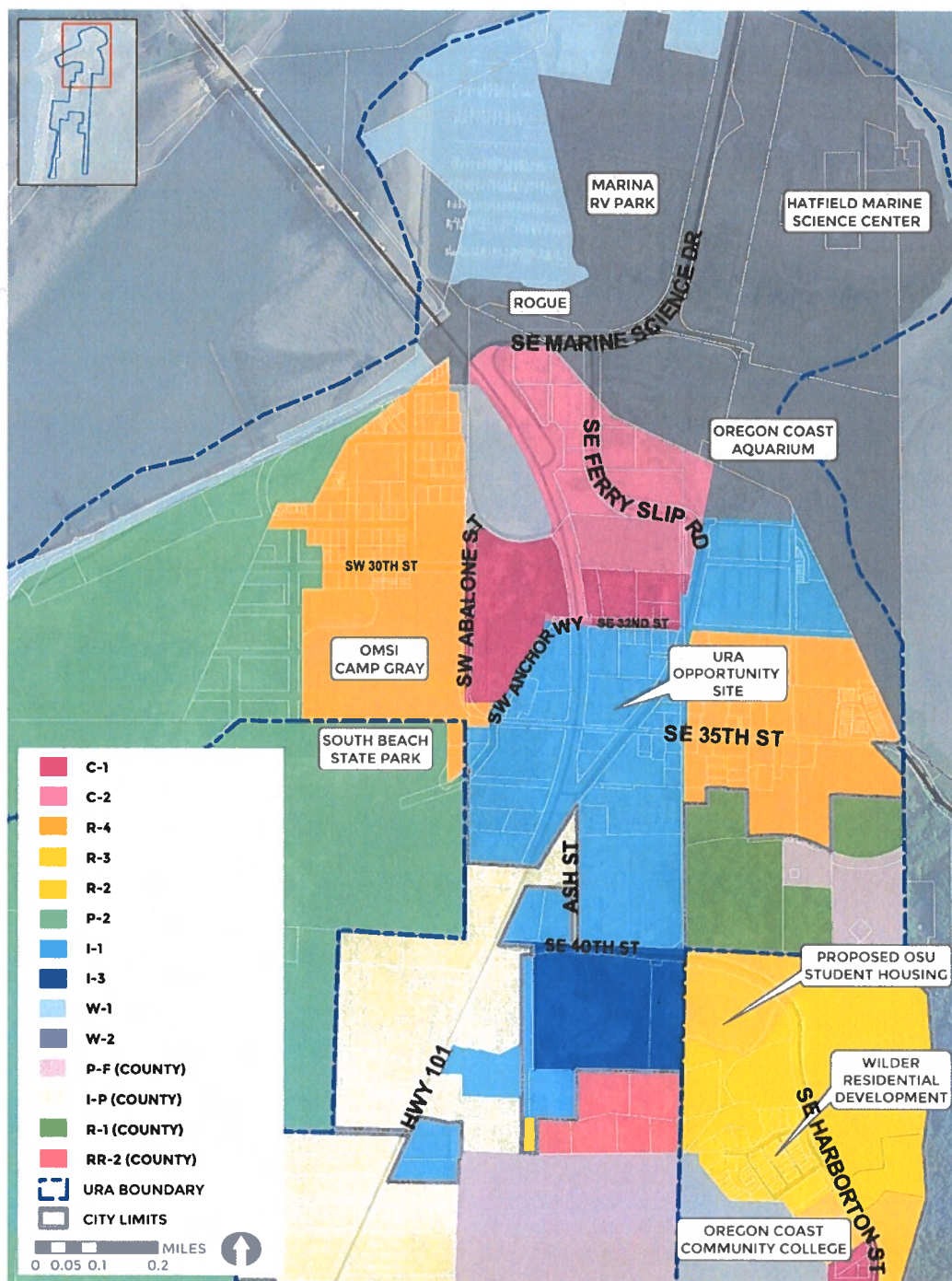
	Zone	Acreage	Percent of Urban Renewal District
City	Retail and Service Commercial (C-1)	17	1%
	Tourist Commercial (C-2)	27	2%
	Light Industrial (I-1)	235	20%
	Heavy Industrial (I-3)	16	1%
	Public (P-1)	174	15%
	Public (P-2)	83	7%
	Low Density Single-Family Residential (R-1)	6	0%
	High Density Multi-Family 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%
	Total	1,169	100%

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 32nd 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

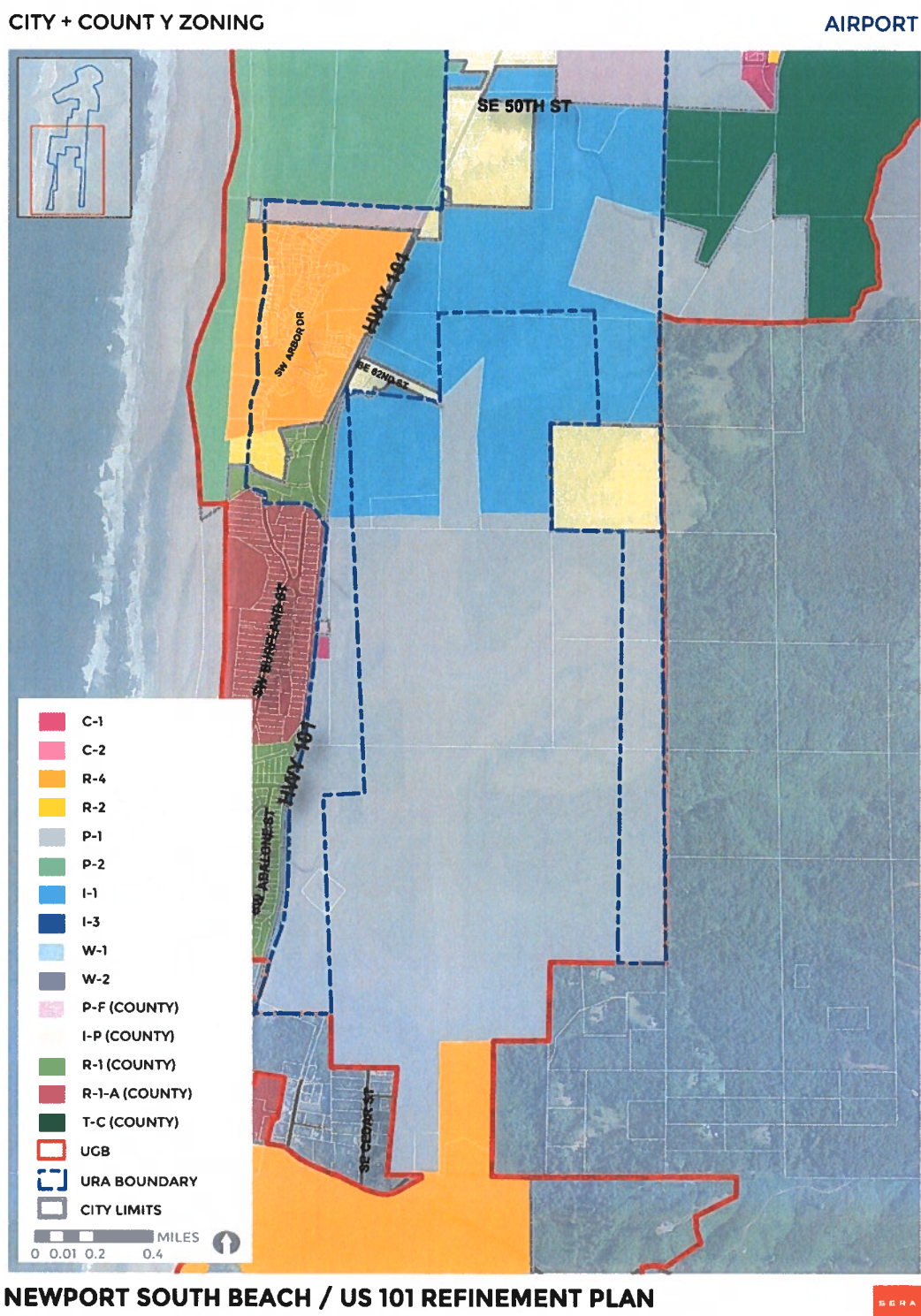
PENINSULA + US 101



NEWPORT SOUTH BEACH / US 101 REFINEMENT PLAN



Figure 7: City and County Zoning within South Beach (Airport)



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 40th 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 40th 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 35th 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 35th St would increase the concentration of commercial services. Additional commercial sites should be considered around the potential new signal at SE 40th 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 40th 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 84th 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 35th 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 35th 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 detractors 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 35th 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 35th 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 35th 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.

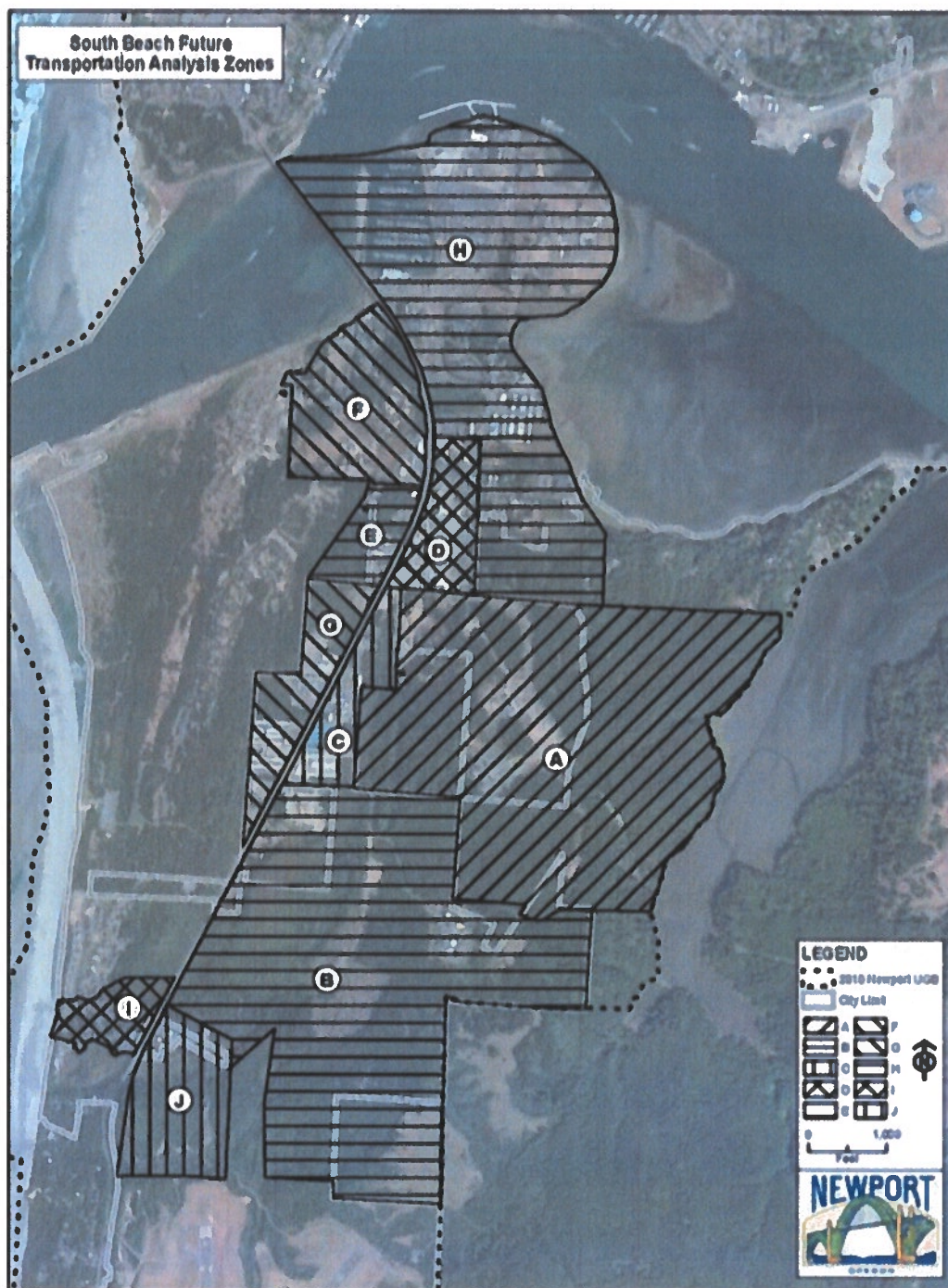
Table 5: Sample Trip Generation Rates

ITE Code	Description	Unit of Measure	Trips per Unit ¹
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 ¹
930	Fast Casual Restaurant	1,000 SF GFA	14.13 ¹
926	Food Cart Pod	Food Cart	3.08 ¹
944	Gasoline/Service Station	1,000 SF GFA	109.27 ¹

¹ 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, 10th 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 35th 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 35th St and potentially at SE 40th 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 35th Ave gateway site and installation of new signals at SE 35th St and potentially SE 40th 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.

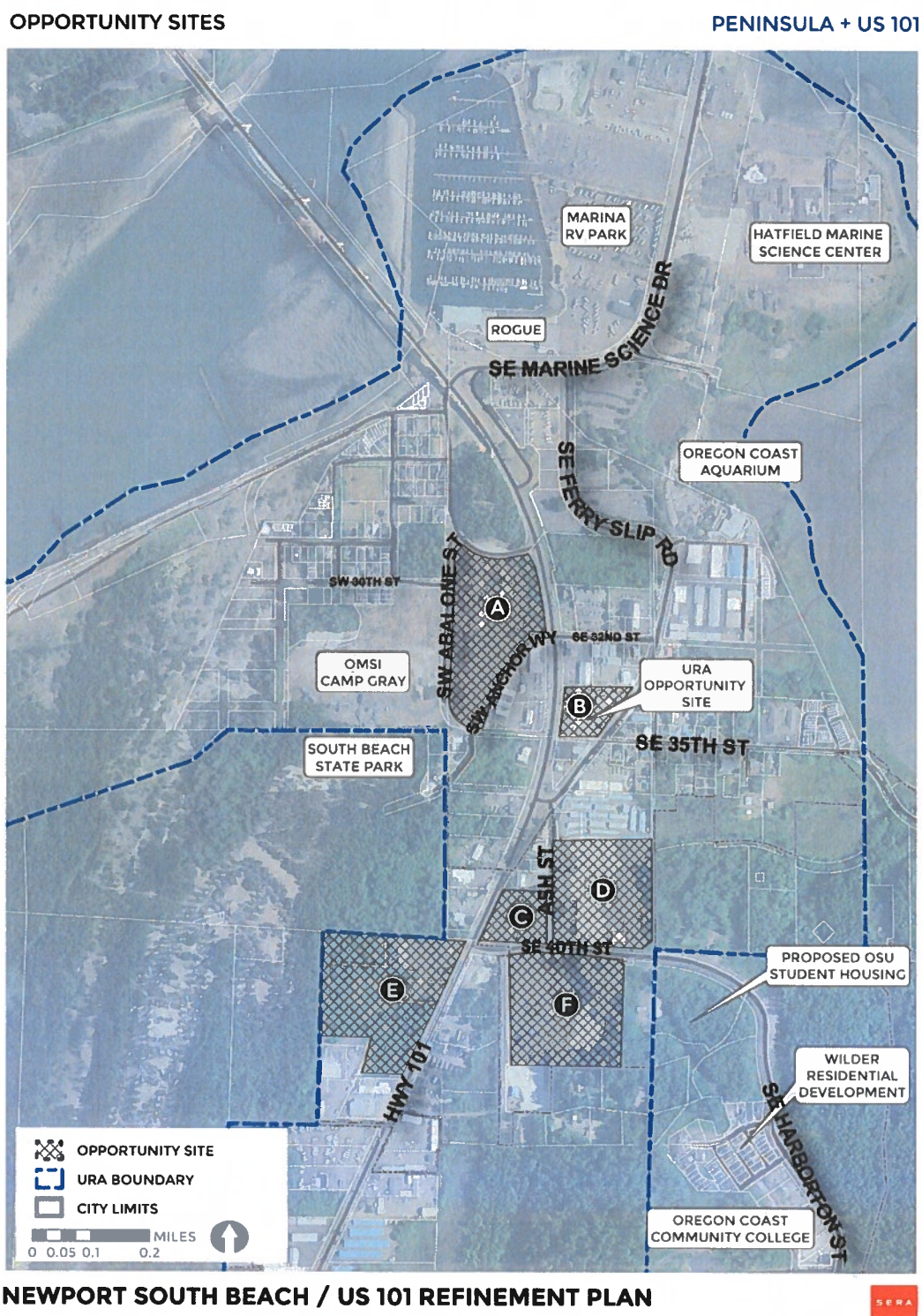
Table 6 summarizes relevant zoning considerations and potential for rezoning or other modifications to development regulations to better serve South Beach urban renewal and broader City economic development goals.

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

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

Figure 9: Identified Opportunity Sites



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

Properties & Rationale	Plan Designation (existing)	Zoning (existing)
Extended Commercial Node around SE 35th St Opportunity Site: Block bounded by Highway 101, SE 32 nd St and Ferry Slip Rd, centered around Opportunity Site B owned by Urban Renewal Agency and new signal at SE 35 th 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)
New Commercial Site at SE 40th St: Rezoning properties under common ownership at SE 40 th 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)
Eliminate Heavy Industrial Conflict at SE 40th St: 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)
Consistent Public Designation for State Park: 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 Yaguina 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>

Sherri Marineau

From: Derrick Tokos
Sent: Monday, August 22, 2022 10:39 AM
To: Sherri Marineau
Subject: FW: Comment Submittal for August 22, 2022 Planning Commission Meeting (File 2-Z-22 / 1-CP-22) [SR-ACTIVE.FID5470359]
Attachments: 2022_08_22 - COR - 2nd Letter to Newport Planning Commission for Re-Zoning of WOD (SIGNED).pdf

Sherri... please upload to the packet and distribute to Commission members.

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

From: Newby, Peggy [REDACTED]
Sent: Monday, August 22, 2022 10:29 AM
To: Derrick Tokos <D.Tokos@NewportOregon.gov>
Cc: Curtiss, Sarah Stauffer [REDACTED]
Subject: Comment Submittal for August 22, 2022 Planning Commission Meeting (File 2-Z-22 / 1-CP-22) [SR-ACTIVE.FID5470359]

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

You don't often get email from [REDACTED]. [Learn why this is important](#)

Hi Derrick:

Attached please find a comment letter from Anheuser-Busch to be included in the record for tonight's Planning Commission Meeting regarding Ordinance 2196.
Please confirm by email your receipt of the attached letter.

Thank you.

Peggy

Peggy Newby | Practice Assistant
STOEL RIVES LLP | 760 SW Ninth Ave, Suite 3000 | Portland, OR 97205



This email may contain material that is confidential, privileged, and/or attorney work product for the sole use of the intended recipient. Any unauthorized review, use, or distribution is prohibited and may be unlawful.



VIA EMAIL: d.tokos@newportoregon.gov

August 22, 2022

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)

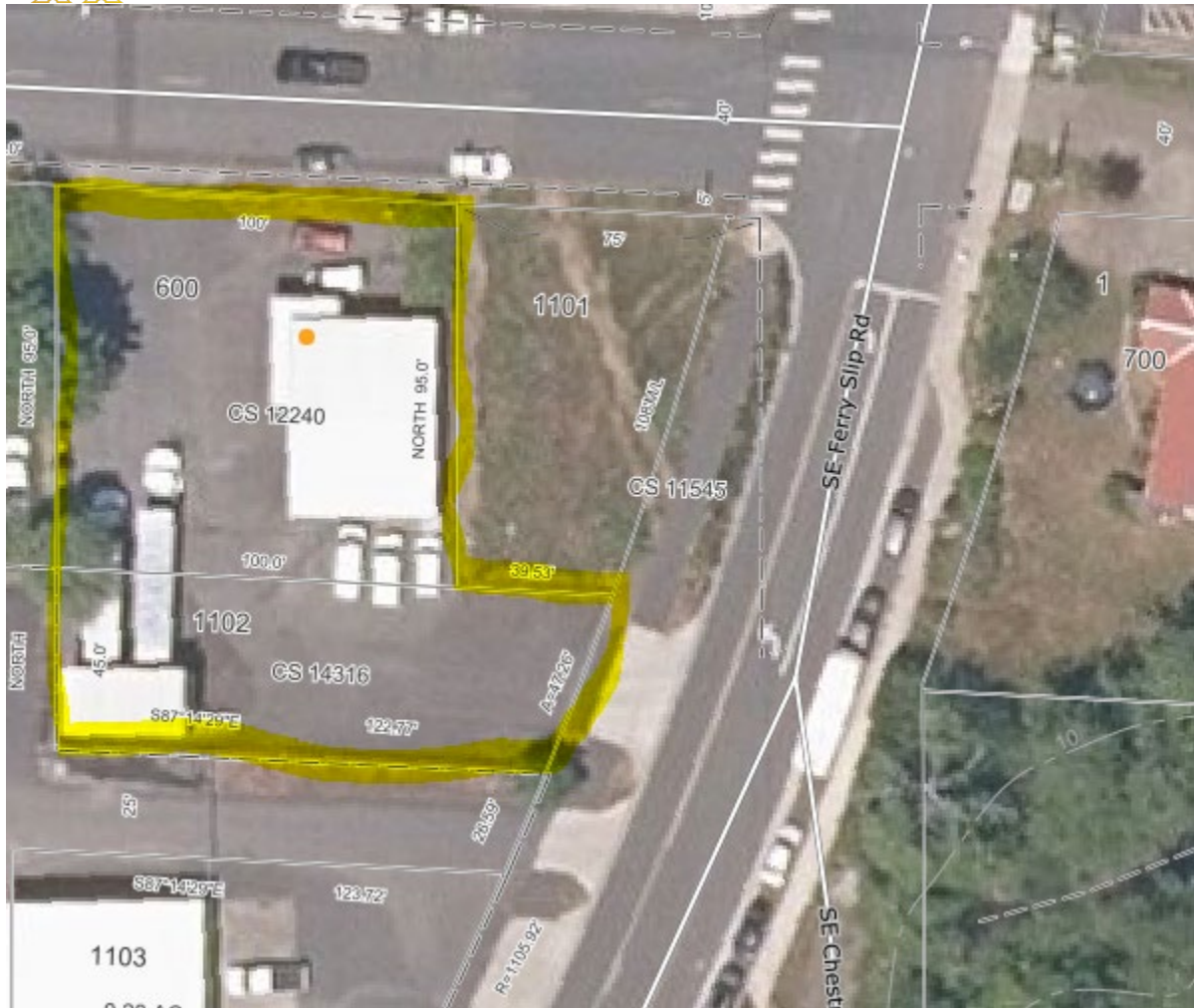
Members of the Commission:

This letter is a follow-up to the letter we submitted on July 25, 2022. In that letter, we explained that the proposed amendments to the City of Newport's ("City") comprehensive plan map and zoning map would change the allowable uses on our property located at 130 SE 32nd Street ("A-B Property") such that our current warehousing and freight operations would become a nonconforming use. As we explained in that letter, we are very concerned about the proposed change. Accordingly, we have urged the City to consider modifying its proposal to either retain the existing I-1 zoning on the A-B Property or modify the proposal to rezone the Property C-3.

From the City's recently-issued notice, we understand that the Commission considered the comments submitted for the July 25, 2022 hearing (including our letter) but only elected to change the proposed zoning from C-1 to C-3 for light-industrial properties east of SE Ferry Slip Road and drop the proposed change to the heavy industrial property along SE 40th Street. We have reviewed these proposed changes and would like to understand why the Commission did not consider a similar change to the A-B Property.

As we noted in our initial letter, the A-B Property is Anheuser-Busch's primary wholesale operation location in the Newport and Lincoln City coastal territory. Anheuser-Busch needs to maintain these types of satellite facilities to facilitate local delivery of its products. Rezoning the A-B Property will place additional burdens on Anheuser-Busch's use of the property, making it more difficult for Anheuser-Busch to serve its customers and provide its products to the City's residents. Accordingly, we urge you to reconsider the current proposal and either retain the existing I-1 zoning or modify the proposal to rezone the A-B Property C-3.

We also want to clarify that the A-B Property includes two tax parcels: 11-11-17-DB-00600-00 and 11-11-17-DB-01102-00 as shown in yellow in **Figure 1** below (our initial letter only referenced tax parcel 600).



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