



**PLANNING COMMISSION REGULAR SESSION AGENDA**  
**Monday, April 23, 2018 - 7:00 PM**  
**City Hall, Council Chambers, 169 SW Coast Hwy, Newport, OR 97365**

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The meeting location is accessible to persons with disabilities. A request for an interpreter for the DEAF AND HARD OF HEARING, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Peggy Hawker, City Recorder at 541.574.0613.

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

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1. CALL TO ORDER AND ROLL CALL
  
2. APPROVAL OF MINUTES
  - 2.A Approval of the Revised Planning Commission Regular Session Meeting Minutes of February 26, 2018  
[Draft PC Minutes 2-26-18-REVISED.pdf](#)
  - 2.B Approval of the Planning Commission Work Session Meeting Minutes of April 9, 2018  
[Draft PC Work Session 4-9-18.pdf](#)
  - 2.C Approval of the Planning Commission Regular Session Meeting Minutes of April 9, 2018  
[Draft PC Minutes 4-9-18.pdf](#)
  
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 Final Order and Findings for File No. 1-CUP-18: Conditional Use Permit to Grant Relief of the Three Off-Street Parking Spaces Required to Operate a Three-Bedroom Vacation Rental at the Property.**  
[File 1-CUP-18.pdf](#)

**5. PUBLIC HEARINGS**

- 5.A File No. 1-AX-18/2-Z-18: Proposal to (1) annex approximately 3.73 acre of real property (consisting of property currently identified as Tax Lots 200 and 700 of Assessor's Tax Map 11-11-20-AB into the Newport city limits; (2) amend the City of Newport Zoning Map to establish an R-1/"Residential-Low Density Single-Family" zoning designation for the southernmost 214.3 feet of Tax Lot 200 and establish an I-1/"Light Industrial" zoning designation for Tax Lot 700 consistent with the existing Newport Comprehensive Plan designation; and (3) withdraw said territory in the Newport Rural Fire Protection District and the Lincoln County Library District.**  
[File 1-AX-18 -- 2-Z-18.pdf](#)

**6. NEW BUSINESS**

**7. UNFINISHED BUSINESS**

**8. DIRECTOR COMMENTS**

- 8.A Updated Tentative Planning Commission Work Program**  
[PC\\_Work\\_Program\\_4-18-18.pdf](#)

**9. ADJOURNMENT**

## **Planning Commission Regular Session Agenda Item Report**

Meeting Date: April 23, 2018

Submitted by: Sherri Marineau

Submitting Department: Community Development

Item Type: Minutes

Agenda Section: Approval of Minutes

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**Subject:**

Approval of the Revised Planning Commission Regular Session Meeting Minutes of February 26, 2018

**Suggested Action:**

**Attachments:**

[Draft PC Minutes 2-26-18-REVISED.pdf](#)

**Revised MINUTES**  
**City of Newport Planning Commission**  
**Regular Session**  
**Newport City Hall Council Chambers**  
**February 26, 2018**

**Planning Commissioners Present:** Lee Hardy, Bob Berman, Rod Croteau, Jim Patrick, Mike Franklin, and Jim Hanselman.

**Planning Commissioners Absent:** Bill Branigan (*excused*).

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

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 Hardy, Berman, Croteau, Patrick, Hanselman, Franklin, and Hanselman were present.

2. **Approval of Minutes.**

A. Approval of the Planning Commission work and regular session meeting minutes of January 22, 2018.

Croteau noted minor corrections to the minutes.

**MOTION** was made by Commissioner Croteau seconded by Commissioner Franklin to approve the Planning Commission meeting minutes with minor corrections. The motion carried unanimously in a voice vote.

3. **Citizen/Public Comment.** No public comments.

4. **Action Items.** No Action Items.

5. **Unfinished Business.** No Unfinished Business.

6. **Public Notices.** At 7:02 p.m. Chair Patrick opened the public hearing portion of the meeting by reading the statement of rights and relevance. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. Hardy and Franklin reported drive bys. Croteau and Hanselman reported site visits. 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 No. 1-MRP-17-A.** Patrick opened the Public Hearing Appeal for File No. 1-MRP-17-A. Tokos presented the staff report. He noted that the appellant was arguing that a non-remonstrance agreement was an exaction. The City did not believe it was an exaction because there wasn't a property interest in play. He noted that they had been working on the language of the non-remonstrance agreement and there was some flexibility in the document but no flexibility on requiring the document. Tokos said City Attorney, Steve Rich was present to ask questions.

**OPPONENTS:** Peter Ginter and Cam Passmore, attorneys for Central Lincoln PUD, addressed the PC. Ginter said they disagreed with the staff report and noted that Criteria 3 made it sound like there was no flexibility but thought there actually was. He said it wasn't uncommon to do a waiver of remonstrance and was usually a cooperative item with a developer and the quid pro quo was to approve. The waiver would be such that if a LID was formed it would happen. He said that CLPUD was just selling the property and they weren't the developer that would be impacting the surrounding area. Ginter and Passmore felt that the time that development happened would be when the waiver conditions should be applied. They felt it was impermissible and unconstitutional and disagreed that it was plainly required.

Patrick asked if they were aware that the City collected waivers of remonstrance all the time in just this way. Ginter said if they went to court and proved their position, it was possible the City might have to stop doing this. Passmore referenced what an exaction was and said that because there was a demand for money, it was an exaction. He noted

that the Supreme Court overturned the Kuntz case and found they were functionally equivalent and the deciding authority could find a different path. He said the City could not have a rough proportionality against a development for which you couldn't speak to yet. Passmore said the Supreme Court decision was only three years old and things that Cities had been doing for years were no longer going to be constitutional under the fifth amendment of the US Constitution.

Berman asked what would be the detriment of a waiver of remonstrance and why they didn't want to sign it. Ginter said it affected the value and meant a lot of money. He stated that others had not seen a waiver required at this stage. Croteau asked for clarification on what the buyer was concerned about. Ginter said the cost benefit.

Berman asked Tokos if the PC could not waive the agreement because of the way the City code was written and if they could modify the agreement. Tokos said there was some flexibility on how the agreement could be written but he didn't believe it could be waived. He said the City was not asking for a money at that time and said agreement wasn't unconstitutional. It was a tool at the time of redevelopment to pay for frontage improvements of a LID. He said the owner would be able to contest that it was fairly proportioned.

Rich said he agreed with the appellant about the Kuntz case. He said it wasn't applicable because the City hadn't asked for money or any interest in the real property. Rich said the waiver didn't preclude the applicant from participating in voicing their objection at any time. He pointed out that the Larsen case was a non-remonstrance agreement that didn't survive and agreed with the staff report.

Ginter said that Tokos' comments that the City could not elect to apply a criterion in a municipal code that was plainly required were editorial. He noted another case in Utah from December 16, 2014 where he assumed the Director applied the same standard saying the criteria did not apply. Ginter felt just like in this case, it didn't apply to their client because they weren't doing anything with water, sewer, or streets. Passmore said in response to the City's Council comments, the reason the Oregon Supreme Court case wasn't heard was because they heard Schultz with a condition with an eye to a future development. He said the appeals held in 1994 and made law which said it had to tie into the application for which the impact of conditions were from. Passmore said the time of development would be the time to address the concerns. He noted that paragraph 4 on the non-remonstrance agreement said the client waived their ability to remonstrate. He felt the waiver of remonstrance was a demand for money even though there may not be an uncertain demand for money. Rich said what he referenced was the US Supreme Court case and said that Schultz did not involve a waiver of remonstrance. He felt it was a little overblown and it constituted an exaction, financial or otherwise, at that point and time. Passmore said he might have been confused on the waiver of non-remonstrance but Holden and Schultz was the same. He said you could not have a condition against an application when there was going to be a future application that actually created the impact.

Croteau asked if there was any way to have the agreement structured that would be acceptable for the buyer. Ginter said there would be a way to preserve their right to remonstrate. He said if the main concern was to have some criteria applied, that wouldn't normally be applied as a development, and might be the answer. He said maybe the limitation should be that it wouldn't allow any greater exposure to them if there was a development request. Croteau asked if the City didn't get an agreement, could they force the issue at a later date. Tokos said once it was developed the City would give up the ability to create a Local Improvement District as a way to fund public improvements. Rich noted that the buyer wasn't a certain and the decision shouldn't be based on a sale of the property. Hardy asked if Rich wanted CLPUD to form a LID. Rich said it was premature to say a LID needed to be formed. He said the waiver said they wouldn't remonstrate against the formation at a later date but they could object. He said the question would be whether or not they met the threshold for formation because the parcel would be counted in the threshold. He said the City Council at that time could listen to the objections and determine they could form an LID but decide not to. Ginter said if the City was saying they didn't care that there was a buyer, it is an exaction and felt it was odd. Berman asked if there wouldn't be a waiver if CLPUD was selling the whole lot. Tokos said yes. Patrick said the City had been collecting waivers and had yet to perform a single LID. He said they were working on how to do it.

Hearing closed at 7:41 pm

Hardy was inclined to agree with the appellant to a certain extent and wanted to look at the case law to make her own determination on what was constitutional or not. She felt there should be more consideration in the future to cleaning up the ordinance so they didn't run into this situation again. Berman said he was ambivalent and said the fact that there almost certainly would need to be a LID in the future, and the property would represent a significant block in the formation of the LID, it made him tend to think it should be done. He was torn and suggested the hearing be held

open to do more research at the next meeting. Croteau said he was ambivalent and had a hard time understanding why someone wouldn't want to agree to development in the future. He said the PC should look into the situation more and get more arguments from the City Attorney and appellant attorneys. Franklin said it needed to be looked into more. Hanselman said he would like to have a better handle on the constitutional rights. He said he needed more time to understand the input from the attorneys. Patrick thought the appellants were right about the constitutional rights but noted it wasn't current case law.

Tokos said in terms of the next steps, the PC had an option for the appellant and staff to provide **Findings and a Final Order**. Croteau felt this would give the PC more time to consider things and allow some negotiation to find wording that was acceptable for all parties. Berman said there should be discussions with the buyers on what form of specific requirements in a non-remonstrance agreement they would agree to. He thought the PC couldn't make decisions on one potential buyer but thought it would be worth pursuing.

**MOTION** was made by Commissioner Croteau, seconded by Commissioner Hanselman to request the City and appellant prepare documents for consideration of File No. 1-MRP-17-A at the next Planning Commission meeting. The motion carried unanimously in a voice vote.

Berman asked that Tokos reference what the PC could and couldn't do in his **presentation**.

**B. File No. 1-ADJ-18.** Patrick opened the Public Hearing for File No. 1-ADJ-18. Tokos presented the staff report. Tokos wanted it clear that it was an adjustment not a variance. He explained why the PC was required to have a public hearing on the matter. Tokos noted that additional comments were received and printed copies were given to the PC at the meeting. Tokos noted that the applicant asked the PC to look at the typical setbacks and note that they were providing a 200 foot setback and why they felt the concern on the height adjustment wasn't a factor. He noted the applicant moved the fire hydrant due to the Fire Department's concerns. Tokos said because of the slope the only properties to the southeast affected were at a lower elevation. The properties at the northwest wouldn't have a direct impact on view. He noted that it was the pitch of the building not the full width mass of the building they were considering. He felt the setback of 200 feet provided mitigation for the height.

Tokos noted that the applicants would be creating a stub street that would eventually be connected to Lakewood Drive to provide secondary access and was something the City would like to see. He noted that the access wouldn't be completed with this project and traffic would be loaded onto Harney, 31<sup>st</sup> and 36<sup>th</sup> Streets. Tokos noted that traffic wasn't a part of the consideration. Berman asked if a Traffic Analysis was done. Tokos said it wasn't required under the ordinance. Franklin asked if it had triggered any other infrastructure. Tokos said the applicant would have to do public improvements including the stub to Lakeview Hills on the north end; a curb, gutter and sidewalk to the south end of the property; and extend the sewer line on the property up to Harney Street.

**PROPONENTS:** Todd Woodley and Mike Phillips, with Wyndhaven Ridge, LLC, addressed the PC. Woodley said that he felt the staff report summarized their position. He noted that Building 4 had taken measures to recess the building a full story below the current grades. He said the physical appearance would be four feet below what it could be.

Franklin asked if the tallest point on Building 4 was higher than the others. Woodley said Building 4 was lower than Buildings 1, 2 and 5. Franklin asked if Building 4 had six feet of underfloor because of the grade of the lot. Woodley said yes. He said some of the ways it was calculated didn't make sense and had a roof line that was sitting lower than the other buildings. Franklin asked how the building height was measured. Woodley said it was an average of the height on each corner of the elevations. Berman asked if they were aware of the height limitations before they designed the buildings. Woodley said the design was a dynamic process and they tried to fit things as best to the grades as possible. He said there had been different interpretations and the heights were different than what they were used to. Hanselman asked for the finished ceiling heights on each of the three floors. Woodley said the first and second floors on all three buildings were nine feet each. He said the top floors on all three buildings were eight feet to meet the variance. He talked about common standards for building apartments and how it applied to the project. Hanselman asked if they had built all floors to eight feet would they have designed within the height limit. Woodley said yes. Hanselman thought it was on the developer to design to the City's standards. Woodley said when they realized the restrictions they made grading adjustments.

**OPPONENTS:** Kelsey Ingalls addressed the PC. She said she recently bought a home to the southeast of the proposed buildings. Ingalls thought it was important to have new housing but she had an issue with the buildings being above

the height limit. She noted that all of the homes in the area met the height limits and asked that the project meet the standards. Ingalls felt it could set a precedence in the future and wanted the developer to build a two story apartment buildings instead of three stories.

Kristin Yuille addressed the PC. She said she was a resident of the Lakewood Hills subdivision. Yuille noted that the County building height was 42 feet and was a reference on how tall the buildings would be. She said the properties that would be affected weren't in the staff report and asked the PC to have the builder comply with the code.

Tania Goicuria addressed the PC. She said she lived at the bottom of Lakewood Drive and was in opposition because of privacy issues. Goicuria was concerned about the apartment buildings being in front of her home and that they allowed people to see into her residence. She said she had fire safety concerns as well and thought that if there was a flame from an apartment fire it would hit her home. Goicuria was also concerned about noise from the apartment buildings.

Walter Morrey addressed the PC. He said he lived at the bottom of Lakewood Drive and opposed the height adjustment. Morrey said that adding a height adjustment will increase vehicle traffic and impact the residential neighborhoods in the area. He noted that in the Municipal Code the Type III land use law stated that a traffic conditional use permit required 50 trips per day and Tokos mentioned in his staff report 100 trips per day. Morrey asked why there was no traffic impact analysis done. Tokos explained that if a conditional use permit was required, then there would be a threshold on whether or not he or the PC could handle the decision, which did have a 50 vehicle trip limit. He said that this was not a conditional use as apartments were permitted outright at this location, and why it didn't apply. Morrey thought it was odd that there was no traffic impact analysis done when the developer was doing three phases, and felt it should have been done. He was concerned about the speed limit in the area and noticed that people sped on the street a lot. Morrey said 31<sup>st</sup> Street was noted in the report as being engineered but he was told it was just an access road. He was concerned about the privacy for his family and said Building 4 would impede his privacy as it was adjacent to his property. Morrey was concerned about fire safety as well. He felt the height limit was there to protect compatibility and felt it set a precedent on the other two phases of development. Morrey thought that Building 4 wasn't going to be reached by the Fire Department if there was a fire. He presented a petition of disagreement to the PC that had 71 signatures from local residents.

Sharon Lihou addressed the PC. She felt the height limits were in place for a reason. She felt that allowing the height adjustment created strains on infrastructure and streets, limited views, changed typography and aesthetically compromised the small town feel of Newport. Lihou said that 31<sup>st</sup> Street was a substandard road without drainage culverts. She said that Tim Gross said there were no plans to improve 31<sup>st</sup> Street with signals to access Hwy 101. She asked the City to evaluate the traffic on 31<sup>st</sup> Street before any development was approved.

David Boys addressed the PC. He reviewed the plans and said it would obstruct their view. Boys said that everyone that built in the area had to meet the code. He felt the developer didn't do his homework on the codes and said everyone in their neighborhood had benefitted from the height restriction. Boys asked the PC to think about balance and the need for more housing. He was concerned that if an adjustment was allowed for this property, the developer would ask for adjustments to the other properties he owned. Boys stated he opposed the height adjustment.

Adam Stachan addressed the PC. He said he was in opposition to the height adjustment and didn't feel the applicant made a case for the adjustment. Stachan said if they were allowed to do the adjustment, what would prevent them from doing it with their other properties in the future. He had a hard time believing the developer didn't know about the restrictions and felt they intentionally ignored them. Stachan thought there was an opportunity to go back and rework the design to fit the height restrictions.

Ramune Arlauskas addressed the PC. She said she was upset that neighbors outside of the 200 feet notification area weren't notified. Arlauskas opposed the height adjustment and said there was no compelling reason for a height adjustment. She suggested different options for building materials to meet the code requirements.

Dave Larson addressed the PC. He pointed out that many of the houses in the community had to maintained the height code.

Holly Studley addressed the PC. She said when she was building her home they had to deal with the height code and designed to it. Studley noted that her neighbors had to make an adjustment to meet the height codes as well. She felt everyone in the neighborhood should meet the requirements and opposed the adjustment.

**Rebuttal:** Mike Phillips addressed the PC. He felt they made their best efforts to meet the requirements. He noted that two of the five building were below grade and said they could change some structural design to meet the code requirements.

Woodley said he couldn't address the traffic issue concerns. He restated that the purpose of the adjustment was for Building 4 as it exceeded the heights by an 18 percent variation. Woodley said the issue with fire had been addressed. He said the surface in front of the building was under 30 feet. Phillips reminded that all the buildings would be built with fire sprinklers. Woodley thought the concerns about traffic generation was about the buildings being three stories and reminded that the density requirements stayed the same. He said the overall density of the parcel was less than the site utilization for traffic.

Hearing closed at 8:56 pm

Hanselman asked Tokos if there were any current three story buildings in Newport that meet the height ordinance. Tokos said yes and they used a different form of construction. Hanselman asked if a three story building could be built within the height limit. Tokos said yes. Hanselman said there were compelling reasons to have more apartments. He said he had no concerns about apartments but had concerns on heights. Hanselman was surprised that the applicant's rebuttal was that it was only 17 percent higher. He felt they needed to rethink the plans and come closer to the height limit. He felt it was a solvable issue on the developer's end. Tokos asked the PC to state if they thought it met or didn't meet the criteria so he could put together a decision.

Franklin said he heard the concerns and felt the height of 41 feet was misleading on Building 4. He reminded the audience that views were not protected and change was hard to take sometimes. Franklin said he didn't like a design with a flat roof because it would end up looking like a Holiday Inn. Croteau said he understood the concerns. He said the property was zoned R-4 and the issue was the height adjustment. He said that even if the particular apartment was brought down to code the impact would be the same. Croteau felt it met the criteria requirement.

Berman was concerned that the developers weren't aware of the height limits and didn't design to it. He didn't see how the adjustment would meet the requirements. He felt the adjustment didn't have any impact on traffic or on utilities. Berman didn't like that the developer didn't meet the height requirements and couldn't see the justification for an adjustment. He felt a redesign was in order.

Hardy said it was a narrow issue and the height adjustment wouldn't be the cause of additional noise and lack of privacy. She said the amount of building above grade wouldn't be 35 feet because only 30 feet was at the grade. She thought there should be considerations on shielding lights and their impact. Hardy was inclined to favor the height adjustment.

Patrick thought that height adjustments were only done for commercial. Croteau reminded Patrick it had been approved for residential. Patrick didn't think the adjustment for height should be given because it could set a precedent. He thought the developers needed to design to the rules. Croteau said he didn't see an impact if the PC granted the adjustment. He had a hard time relating the denial of the adjustment based off of the issues brought forward. Hanselman said that it was an example of a camouflage and the fact that they were talking about one building that was exceeding more than the other made it more complicated. Croteau said if looking at all the roof heights, he would see the argument. Berman reminded that all five buildings are being adjusted. Tokos explained that the reason that the hearing was in front of the PC was because one of the five buildings exceeded the limits that allowed him to make an administrative decision, therefore all of the buildings had to come to the PC for consideration. Croteau said this changed his view.

**MOTION** was made by Commissioner Berman, seconded by Commissioner Croteau to decline the adjustment for File No. 1-ADJ-18. The motion carried in a voice vote. Commissioners Hardy and Franklin were a nay.

Tokos asked for guidance on how the PC felt the matter didn't meet the standards so he could create a decision. Berman said Criteria A didn't meet the requirements by not equally or better meeting the requirement to control building heights. He said there was plenty of opportunities to meet the ordinance from day one and it wasn't done. Patrick said there were not any existing conditions on the property to support a height adjustment. Hanselman thought that Wyndhaven didn't have a compelling reason why they didn't meet the height restrictions and said they were obligated to know the limitations.

Croteau asked if there were no consideration for elevations, would there be a hearing. Tokos explained that it would have been an administrative decision. The City would have sent notification to adjacent property owners and it would have been subject to an appeal.

Larson asked why the PC had to justify why they denied. Tokos explained that if the applicant meet the criteria they would get the adjustment; if not, they wouldn't get the adjustment. He explained the PC's decision would have to show that the applicant did not meet the standards and that was why they were denied. Tokos said they had to apply standards related to the approval criteria and one of the standards had to be a reason.

Patrick said he could think of many ways the impacts could be mitigated for Criteria 2. He said there were a lot of practical ways to get the same amount of units in the height limit. Franklin asked if there was a grade issue limiting this. Tokos asked Patrick if he was saying that under Criteria 2 he felt the distance wasn't enough to mitigate the impacts. Patrick agreed. Tokos said he would put together a decision based on the PC's input.

7. **New Business.** No New Business.
8. **Director Comments.** No Director comments.
9. **Adjournment.** Having no further business, the meeting adjourned at 9:29 p.m.

Respectfully submitted,

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Sherri Marineau  
Executive Assistant

## **Planning Commission Regular Session Agenda Item Report**

Meeting Date: April 23, 2018

Submitted by: Sherri Marineau

Submitting Department: Community Development

Item Type: Minutes

Agenda Section: Approval of Minutes

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### **Subject:**

Approval of the Planning Commission Work Session Meeting Minutes of April 9, 2018

### **Suggested Action:**

### **Attachments:**

[Draft PC Work Session 4-9-18.pdf](#)

**Draft MINUTES**  
**City of Newport Planning Commission**  
**Work Session**  
**Newport City Hall Conference Room A**  
**April 9, 2018**  
**6:00 p.m.**

**Planning Commissioners Present:** Jim Patrick, Lee Hardy, Bob Berman, Rod Croteau, Bill Branigan, and Jim Hanselman.

**Planning Commissioners Absent:** Mike Franklin (*excused*).

**PC Citizens Advisory Committee Members Absent:** Karmen Vanderbeck & Dustin Capri (*excused*).

**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 6:02 p.m.
2. **Unfinished Business.** No unfinished business.
3. **New Business.**
- A. **Discuss Updated Wastewater Plan and Potential Policies.** Tokos reviewed his PowerPoint presentation on the updates to the City of Newport Wastewater Master Plan. He covered the existing wastewater policies. Tokos handed out copies of OAR 660-015-0000(11) that covered Oregon's statewide planning goals for public facilities and service. Patrick asked what unincorporated communities were. Tokos said Seal Rock was an example of an unincorporated community. These were communities that weren't full cities but were at quasi urban density before they started planning. He said these were not an issue that Newport worried about but Lincoln County had these communities. He continued reviewing the handout. Patrick asked if section A5 was water, sewer, streets and storm water. Tokos said yes and the Port was also included. Tokos said as far as the sewer, there needed to be policies in place that would prevent the County from issuing septic systems in quasi rural properties in the urban growth boundary. This was because it was like pulling teeth to get someone to go from a fully functioning septic system to the public system. He said the current policy on when they needed to connect to sewer was that people had to connect to public systems if they were located under 250 feet to the system.

Hardy asked why the distance was an exception. Tokos said it was about what was reasonable and when they looked at exactions, they needed to say there was a rational nexus and it was roughly proportional. Hardy thought this was a contradiction because an LID wasn't cost prohibitive. Tokos said running a sewer line 250 feet for a residence to just connect to City services was cost prohibitive. He said in industrial areas they used holding tanks. Hardy noted a project on NW Brook Street that had a failed septic and was keeping the solids in a tank and pumping the effluent out to the 6<sup>th</sup> Street. She asked if it would be something the City would extend services to down that street for. Tokos said the City extended service only within the urban renewal areas. Outside of this, what was collected from utilities fess would maintain the existing services and we would look for development to bear the cost of the extension. Tokos noted the Wyndhaven Ridge development was doing a 700 foot sewer line extension. Hanselman asked about the Golf Course Drive property. Tokos said they had to annex into the City when their septic failed and they were within 250 feet. Berman asked if you could force anyone located within 250 feet to connect to the public system. Tokos said an onsite sewer system would not be allowed unless it failed and was within 250 feet. He said what triggered this was when owners came in to do new development or a septic system failed. Tokos reminded that the City coordinated with the County on this. There were instances where properties were required to connect to sewer when they were expanding. Croteau asked if there was a distance feature for water lines. Tokos said the City didn't have it in the Comprehensive Plan.)

Tokos covered the development assumptions and capital improvement plan next. He reviewed Part 1 of the capital improvement plan list and noted that the Surfland sewer extension was what would allow sewer to be brought to the Airport. Tokos said that Running Springs was done to accommodate the homes above the McLean Point area. Croteau asked if the City bore responsibility for commercial lines that weren't in the right-of-way. Tokos said stormwater and sewer lines were typically outside of the ROW and were usually within easements. He said it was rare that they were under buildings. Hardy asked if the City knew where all the sewer lines were. Tokos said not all of them. Hardy asked how far back competent records went. Tokos said it depended on the area. Hanselman noted the stormwater was what was lacking in most of the area.

Tokos covered Part 2 of the capital improvement plan list. He reviewed the policy recommendations and the general provision policies. He handed out the current goals and policies. Patrick asked if anything would be changed. Tokos said he didn't see much in the way of changes. He said it was largely an update on capital for sewer. Tokos said this could be an area to add policies for sewer overflows and he would have to coordinate it with Tim Gross. Patrick asked if Gross could provide a cost to run a sewer line 250 feet. Tokos said it would vary with the size of the line. He would ask for a typical cost and give some alternatives on how other jurisdictions were handling this as well.

Tokos asked for any other comments. Branigan asked what the policy was for implementation of funding on all of this. Tokos said they didn't have specific recommendations to raise anything with respect to the polices. He said the funding for most of it would be coming from utility fees and revenue bonds to do projects. The new sewer would be from urban renewal. Patrick asked about funding for Surfland. Tokos said it would be urban renewal. Berman asked how it would be funded for a new district. Tokos said this was already urban renewal. He said the South Beach extension was planned to start in 2025 and urban renewal would be the funding source for it.

Tokos said he would look at the policy to see if he could tighten it up more. Patrick asked if sewer would be extended outside of the City limits. Tokos said they had the ability to do health safety under statute but generally they required annexing. It was a provision in the goal and statues that if you had a legitimate sanitary emergency you could do it, but generally it wouldn't be done if they could annex. He said he would put some health emergency language in. Berman thought it was important to prioritize the overflows. Patrick asked if they had done Nye Beach. Tokos said they were working on it. Croteau asked if the sewage treatment plant was in good shape. Tokos said eventually it would need to be expanded and was something to do down the road, which included modernization. Patrick requested Tokos find out at what the size limit was for when the City would be expected to expand the plant.

4. **Director's Comments.** No Director comments.
5. **Adjournment.** Having no further discussion, the meeting adjourned at 6:35 p.m.

Respectfully submitted,

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Sherri Marineau,  
Executive Assistant

## **Planning Commission Regular Session Agenda Item Report**

Meeting Date: April 23, 2018

Submitted by: Sherri Marineau

Submitting Department: Community Development

Item Type: Minutes

Agenda Section: Approval of Minutes

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### **Subject:**

Approval of the Planning Commission Regular Session Meeting Minutes of April 9, 2018

### **Suggested Action:**

### **Attachments:**

[Draft PC Minutes 4-9-18.pdf](#)

**Draft MINUTES**  
**City of Newport Planning Commission**  
**Regular Session**  
**Newport City Hall Council Chambers**  
**April 9, 2018**

**Planning Commissioners Present:** Jim Patrick, Lee Hardy, Bob Berman, Rod Croteau, Bill Branigan, and Jim Hanselman.

**Planning Commissioners Absent:** Mike Franklin (*excused*).

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

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 Hardy, Berman, Croteau, Patrick, Hanselman, and Branigan were present.

2. **Approval of Minutes.**

A. Approval of the Planning Commission work and regular session meeting minutes of March 26, 2018.

Croteau and Hardy noted minor corrections to the minutes.

**MOTION** was made by Commissioner Croteau, seconded by Commissioner Branigan to approve the Planning Commission work and regular session meeting minutes of March 26, 2018 with minor corrections. The motion carried unanimously in a voice vote.

3. **Citizen/Public Comment.** No public comments.

4. **Action Items.**

A. **File No. 2-ADJ-17.**

**MOTION** was made by Commissioner Croteau, seconded by Commissioner Berman to approve the Final Order for File 2-ADJ-17 with conditions. The motion carried unanimously in a voice vote.

B. **Appoint a Planning Commissioner to Serve on the Park System Master Plan Update.** Commissioner Berman volunteered for the position.

**MOTION** was made by Commissioner Croteau, seconded by Commissioner Hanselman to appoint Commissioner Berman to serve as the Planning Commission representative on the Park System Master Plan Update Committee. The motion carried unanimously in a voice vote.

C. **Appoint a Planning Commissioner to Serve on the City of Newport Affordable Housing Construction Excise Tax Funds Ad-Hoc Work Group.** Tokos noted that this was a short duration committee that would set up policies to distribute funds and would last somewhere between three to four weeks. Commissioner Branigan volunteered for the position.

**MOTION** was made by Commissioner Croteau, seconded by Commissioner Hanselman to appoint Commissioner Branigan to serve as the Planning Commission representative on the City of Newport Affordable Housing Construction Excise Tax Funds Ad-Hoc Work Group. The motion carried unanimously in a voice vote.

6. **Public Notices.** At 7:04 p.m. Chair Patrick opened the public hearing portion of the meeting by reading the statement of rights and relevance. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. Patrick reported site visits. Hardy and Branigan reported drive bys. Berman reported a site visit and noted he had strong feelings about vacation rentals. Croteau reported a drive by and read a statement that said he was a PC member when they unanimously recommended the 2012 short term rental ordinance. He said since

then he had come to believe that the one provision allowing unrestricted development of vacation rentals (VRDs) in residential zones was a mistake and some restrictions on development of VRDs in residential zones were now necessary. He said he didn't have an issue as a PC member and citizen with the presence and development of VRDs in tourist commercial zones. He said he participated in similar deliberations in the past and believed he could consider the request impartially. Hanselman said he wasn't a part of the legislative process in 2012 but was currently the PC liaison for the VRD Ad-hoc Committee that was currently reviewing the B&B & VRD ordinance for Newport. He didn't see him having an issue with being fair in the particular request. 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 No. 1-CUP-18.** Patrick opened the Public Hearing for File No. 1-CUP-18. Tokos gave his staff report for File No. 1-CUP-18. He said that the case file, application materials, and letters received to date were present, and copies were given to the PC. He noted the three letters from Carla Perry, Linda Neigebauer, and Charlotte Boxer were a part of the copies provided to the PC. Tokos reviewed the conditions for the conditional use.

Tokos covered the history of the property. He noted the property was in a commercial district and gave an overview of how parking worked in the area for commercial. Tokos reviewed the parking permit program for Nye Beach and how it worked. He noted there had been four other CU permit applications with three being authorized and one being denied.

Tokos said Neigebauer asked how the property was established without parking requirements. He said he didn't have a lot of information on this but he shared that in the Nye Beach Design Review Overlay there were provisions that said residential uses had to provide a minimum of one off-street parking space. It went on to say, however, that the following adjustments to the off-street parking requirement apply: for commercial uses the first 1,000 square feet of gross floor was exempt from the off-street parking calculations. Tokos further explained the current codes for off-street parking in parking districts. He said when looking under the commercial parking districts having some flexibility to do modest expansions, or looking at alterations under the Nye Beach code where it envisioned off-street credits, it appeared that this particular application satisfied the criteria for either of these approaches. He thought it was reasonable that it could accommodate the change. Tokos noted the property was in a commercial tourist zone. He thought the PC had adequate grounds to approve and said the applicant should follow through with obtaining a VRD endorsement and satisfy all other standards that they were not seeking relief from.

Berman asked Tokos to elaborate on the order of precedent with one ordinance saying one off-street parking space was required and the overlay saying essentially they were not. He asked if one would override the other. Tokos said in the traditional context of any kind of use in an underlying zone, they would typically have to provide parking under Chapter 14.19 of the municipal code. He said the overlay changed that and would reset the standards. Tokos said when the VRD modifications were done in 2012, there was a discussing to provide a CU process. Nye Beach was specifically a part of the discussion because when the code was put together, we recognized there were alternative standards in Nye Beach for parking management and was different from other areas. Tokos said the PC could use these grounds to find that the application satisfied the standards.

**PROPONENTS:** Stephen Madkour and Mike McLain addressed the PC. Madkour said he and McLain's families had recently purchased the property. They were planning on using it specifically for family vacation use but wanted to have it available for short term rentals. He said the property was permitted as tourist use in the C-2 zone the property was located in. Madkour argued that the parking for the VRD would mostly be on 3rd Street. He reviewed the criterion for the CU and how their application met each. Madkour noted they had reached out to neighbors and were trying to be as transparent as possible. He said the two families owned this property under a LLC. They requested an approval by the PC.

Branigan asked if the CU was approved would they plan to manage the property on their own or use a management company. Madkour said they were going to try to manage the VRD themselves and see how it went. He said they weren't opposed to property management. Croteau said that the written letters submitted by proponents indicated that the property had been used as a VRD. Madkour said the prior owners were listing the property as a VRD. Madkour said they were going through this CU process because they found out that the previous owner didn't have an endorsement with the City to have a VRD. Croteau said the letters listed Madkour and McLain as the owners on the Airbnb. Madkour explained that there were Airbnb contracts negotiated for stays before they purchased the property that they could not cancel. Berman asked if there were any further rentals booked through the previous owner. Madkour said no. Berman said the existing use was a VRD and had a problem with Madkour's statement that the property was a private residence use and it would have less use because it would be VRD. Berman asked if Madkour's

statements were based on the fact that it had been a VRD or based on his own analysis of his own knowledge of vacation rentals. Madkour couldn't say that the prior use was a VRD and didn't know what the rental history was. He felt the use as a full time residence had more impact on parking than a short term rental and was what the prior PC used to authorize a CU for another property in the area. Berman said he didn't find that to be the case with parking. He said he very rarely found parking spaces in the area. Berman noted Linda Neigebauer's letter that stated the percentage of usage of parking was very high in the area and he felt it would be difficult to approve increasing the usage when it was already so congested. Madkour said there was nothing in the submitted letter by Neigebauer that would suggest that 3rd Street was at capacity for traffic. He said if they were talking about the limited sections of 3rd Street in front of his house, there were other uses in the area that were affecting their property's parking. Madkour disagreed with Neigebauer's letter and thought there was adequate parking on 3rd Street to support this use.

Hanselman said he took exception with Madkour's description of parking on 3rd Street. He said the City had done a parking study in the area and the professionals determined that the 3rd Street was at full capacity currently. He said the fact that other businesses were operating in the area and were impacting Madkour's property didn't negate the argument that it gave him the right to impact his neighbors. He said the fact that there was a three hour parking limit on the street meant his tenants would have to move their vehicles in the middle of the night if parking was enforced. He thought even though the VRD was in a commercial area, the PC had to do their best to not impact area.

Patrick asked Tokos if there was the possibility to be able to issue parking permits for the VRD. Tokos said under the commercial parking district permanent residents would get parking stickers and guests would get door hangers. He said he included copies of the parking stickers and a list of how many were issued in the meeting packet. Croteau asked if there would be three parking stickers for this property. Tokos said the owners could pull stickers for their personal vehicles. He said the list didn't show anyone pulling more than four stickers for a property. Berman asked how guests were defined and if the passes could be handed around to different renters. Tokos said the owner would pick up a stack of door hangers at the City and make them available for renters. Hardy said this address showed two parking permits for the property already. Tokos said that was for the previous owners who no longer owned the property. He said they might have permits for another location. Hardy asked if the permits were still active. Tokos said they might be active because they were in the same area. Croteau asked how long the previous owner operated the VRD. Tokos said he didn't know because the unit was unlicensed. Berman asked how many citations had been issued for parking in excess of three hours in the last year. Tokos said the parking study included information on observed overuse in the Nye Beach/Bayfront areas and the overstays were in the four to seven percent stay range.

**OPPONENTS:** Linda Neigebauer addressed the PC and said she owned property in the Nye Beach area that included four full time rentals and a retail space that had off-street parking. She said the letter she gave the PC was information she thought they would be interested in and didn't feel one way or the other about this VRD. She asked the PC to give careful consideration on parking requirements for VRDs. She said the PC's decision affected not only this property but others. She noted that owners could obtain as many parking permit hangers they wanted without a cost. She said the parking study that was being done might be adding fees to the permits.

**REBUTTAL:** Madkour addressed the PC and said any application should be judged on the regulations applicable at the time of submittal and felt their application met the current regulations. He said the overlay said this property was eligible for a parking credit and they didn't have to comply with parking requirements. He said it was a matter of fundamental fairness and asked that the current codes be applied. McLain stated that when they purchased the property and found out it wasn't a licensed VRD, they started the process to get it into compliance. He said the property was a benefit for Newport. McLain said their intent was to have a property for their families to enjoy and also have it as a VRD part time.

Patrick asked what the applicants' thoughts were on limiting the current number of door hangers being available to them to just three. Madkour asked if the three would only be applicable to the property owners and guests. Patrick said the owners could have their permanent stickers and the guests would be limited to three door hangers. Madkour said they would be fine with this.

Hearing closed at 7:52pm.

Hardy said given the poor planning for the Nye Beach neighborhood she didn't think it was an extraordinary request. She said she didn't have a problem with it. Berman said his issue was congestion and had a problem with parking in the area. He hoped that something would be done in the future ordinance about this. Berman said the PC's job was to approved things based on historical and current requirements. Croteau said there would be some impact on the

neighborhood and saw no basis to deny the request. He said the PC needed to be fair with the process. Croteau was uncomfortable with extending and solidifying precedent and thought it was hard to make these judgments. He didn't see how it could be denied. Hanselman wasn't happy with the ordinance as it was written and thought it needed to be revisited. He felt an approval was appropriate because the applicants followed the rules. Hanselman noted that the VRD's tenants would have as much parking problems as other people parking in the area, but would vote for approval. Branigan said all the criterion had been met and it was the PC's responsibility to administer the ordinance as written. He felt this had been done and said he had no issues. Patrick said the applicants met the conditions but said a VRD didn't have the same effect as a full time residence. He noted that parking was an ongoing problem in Newport. He asked the PC if they wanted to discuss limiting the number of parking permits for the applicant. No comments were heard. Hardy said she wanted it noted that she thought VRDs did not decrease the available long term rentals available for people who weren't in Newport.

**MOTION** was made by Commissioner Branigan, seconded by Commissioner Hardy to approve the conditional use permit for File No. 1-CUP-18 with conditions. The motion carried in a voice vote. Croteau abstained.

**7. New Business.**

**A. Volunteer Appreciation Dinner RSVP: April 17, 2018 at 6pm at the Best Western Agate Beach Inn.** Tokos wanted to make the PC aware of the volunteer appreciation dinner. Patrick said he and his wife would attend. Branigan said he and his wife would attend. Croteau had a prior commitment. Hardy couldn't make it. Hanselman had already spoken to City staff about attending.

**8. Unfinished Business.** No Unfinished Business.

**9. Director Comments.** Tokos noted that Central Lincoln PUD appealed the PC's decision. He said he would be scheduling it at a meeting with the City Council as a matter of procedure. He said the way the appeal process worked was the CC had to take it on the record unless there was grounds to do a de novo hearing with some specific standards being met. He said the CC could also just accept the PC's decision, stamp it immediately, and let them appeal. Tokos said CLPUD did ask for a de novo hearing and the CC would have to deal with that procedural piece first. Berman asked Tokos to let the PC know when it would be going in front of the CC. Croteau asked what the difference was between an on the record review and a de novo hearing. Tokos said an on the record review meant the CC could only look at what was presented to the PC, and a de novo hearing was a full evidentiary hearing where the appellant could bring in new evidence that the PC never had a chance to look at. He said the City drafted their procedures very tight because the expectation was that unless there was a compelling reason for it, they wouldn't get to do a de novo hearing. He noted that this was commonly done in other jurisdictions.

**10. Adjournment.** Having no further business, the meeting adjourned at 8:04 p.m.

Respectfully submitted,

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Sherri Marineau  
Executive Assistant

## **Planning Commission Regular Session Agenda Item Report**

Meeting Date: April 23, 2018

Submitted by: Sherri Marineau

Submitting Department: Community Development

Item Type: Action Items

Agenda Section: Action Items

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### **Subject:**

Final Order and Findings for File No. 1-CUP-18: Conditional Use Permit to Grant Relief of the Three Off-Street Parking Spaces Required to Operate a Three-Bedroom Vacation Rental at the Property.

### **Suggested Action:**

### **Attachments:**

[File 1-CUP-18.pdf](#)

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

**IN THE MATTER OF PLANNING COMMISSION )  
FILE #1-CUP-18, APPLICATION FOR A ) FINAL  
CONDITIONAL USE PERMIT AS SUBMITTED BY ) ORDER  
STEPHEN MADKOUR (NYE PLACE, LLC, OWNER) )**

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**ORDER APPROVING A CONDITIONAL USE PERMIT** per Chapter 14.25.020(E)/“Bed and Breakfast and Vacation Rental Facilities – General Provisions” of the Newport Municipal Code (NMC) for approval of a vacation rental in a three-bedroom residence at 715 NW 3<sup>rd</sup> Street where the requirements of NMC 14.25.050 for off-street parking spaces cannot be met.

**WHEREAS:**

- 1.) The Planning Commission has duly accepted the application filed consistent with the Newport Municipal Code; and
- 2.) The Planning Commission has duly held a public hearing on the request, with a public hearing a matter of record of the Planning Commission on April 9, 2018; and
- 3.) At the public hearing on said application, the Planning Commission received testimony and evidence; and
- 4.) At the conclusion of said public hearing, after consideration and discussion, upon a motion duly seconded, the Planning Commission **APPROVED** the request.

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

- 1. The applicant/owner shall make application for an endorsement for a vacation rental pursuant to NMC Chapter 14.25, and is subject to inspection by the Building Official or designee to determine conformance with basic health and safety elements and the endorsement standards of 14.25.050, except the requirements for parking outlined under NMC 14.25.050(C).

**BASED UPON THE ABOVE**, the Planning Commission determines that the request for a Conditional Use Permit to authorize a vacation rental at 715 NW 3<sup>rd</sup> Street is in conformance with the provisions of the Comprehensive Plan and the Zoning Ordinance of the City of Newport, and the request is therefore granted.

Accepted and approved this 23<sup>rd</sup> day of April, 2018.

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James Patrick, Chair  
Newport Planning Commission

Attest:

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Derrick I. Tokos, AICP  
Community Development Director

**EXHIBIT "A"**

Case File No. 1-CUP-18

**FINDINGS OF FACT**

1. Stephen Madkour, representing owner Nye Place, LLC, submitted an application on March 5, 2018, for approval of a Conditional Use Permit, per Chapter 14.25.020(E)/ "Bed and Breakfast and Vacation Rental Facilities – General Provisions" of the Newport Municipal Code, for approval of a vacation rental in a residence where the requirements of NMC 14.25.050 for off-street parking spaces cannot be met.
  
2. The subject property is located at 715 NW 3<sup>rd</sup> Street. (Lincoln County Assessor's Map 11-11-08-BB, Tax Lot 11200). The parcel is approximately 2,613.60 sq. ft. per Lincoln County Tax Assessor records.
  
3. Staff reports the following facts in connection with the application:
  - a. Plan Designation: Commercial.
  - b. Zone Designation: C-2/"Tourist Commercial" (Nye Beach Design Review Overlay District).
  - c. Surrounding Land Uses: Uses include tourist commercial, single-family, and multi-family residential uses.
  - d. Topography and Vegetation: The site is moderately sloped, and the front yard is landscaped.
  - e. Existing Structures: A three bedroom residence built in 1994 (Building Permit No. 9343). The walkout basement was converted to retail space in 1998 (Building Permit No. 10470).
  - f. Utilities: All are available to the site.
  - g. Development Constraints: None known.
  - h. Past Land Use Actions: None known.
  - i. Special Conditions: Property is located within the Nye Beach Commercial Parking District (Ordinance No. 1979, as amended).
  
4. Upon acceptance of the application, the Community Development (Planning) Department mailed notice of the proposed action on March 16, 2018, to affected property owners required to receive such notice by the Newport Zoning Ordinance, and to various city departments, agencies, and public utilities. The notice referenced the criteria by which the application was to be assessed. The notice required that written comments on the application be submitted by 5:00 p.m., April 9, 2018, or be submitted in person at the hearing. The notice was also published in the Newport News-Times on March 30, 2018. Written comment was received from Carla Perry and Charlotte Boxer expressing their opposition to the request that the off-street parking requirement be waived. Linda Neigebauer also expressed concern about the Planning Commission granting relief from the off-street parking requirement and asked that they carefully consider the long term ramifications of their decision.

5. A public hearing was held on April 9, 2018. At the hearing, the Planning Commission received the staff report and heard testimony from the applicant. The minutes of the April 9, 2018, hearing are hereby incorporated by reference. The Planning Staff Report with Attachments is hereby incorporated by reference into the findings. The Planning Staff Report Attachments included the following:

- Attachment "A" — Application Form
- Attachment "A-1" — Applicant's Written Findings of Fact
- Attachment "A-2" — Site Plan
- Attachment "A-3" — Google Maps Aerial Image and Photographs
- Attachment "B" — Final Order / Findings File No. 3-CUP-14
- Attachment "C" — Final Order / Findings File No. 2-CUP-13
- Attachment "D" — Final Order / Findings File No. 3-CUP-15
- Attachment "E" — Building Permit No. 9343
- Attachment "F" — Building Permit No. 10470
- Attachment "G" — Resident Parking Permit (Tag) Log
- Attachment "H" — Resident Permit / Lodging Permit Samples
- Attachment "I" — Ordinance No. 1993
- Attachment "J" — Public Hearing Notice

In addition, the Planning Commission received the following written testimony after the Planning Staff Report was issued:

- Email from Carla Perry, dated April 7, 2018
- Letter from Charlotte Boxer, dated April 9, 2018
- Letter from Linda Neigebauer, dated April 9, 2018

6. Pursuant to Chapter 14.25.020(E)/"Bed and Breakfast and Vacation Rental Facilities – General Provisions" of the Newport Municipal Code (NMC), if one or more of the standards required under Section 14.25.050 cannot be met, an owner may seek approval of a vacation rental or bed and breakfast use as a Conditional Use, pursuant to 14.34.010. A Conditional Use Permit may allow relief from one or more of the endorsement standards of 14.25.050, but does not excuse the general endorsement requirements of 14.25.010. With this application, the applicant is seeking approval of a conditional use permit because the existing residence does not meet the requirements for one off-street parking space per bedroom.

7. The applicant and property owner, Nye Place, LLC, requests a Conditional Use Permit to allow for use of the existing single-family residence located at 715 NW 3rd Street to be used as a short-term rental. They note that the property is located in the C-2/"Tourist-Commercial" zone. The street level of the house is occupied by Brides Irish gift shop. The applicant points out that use and associated signage will remain as currently permitted.

8. The applicable criteria for the conditional use request are found in NMC Section 14.34.050:

- a. The public facilities can adequately accommodate the proposed use.
- b. The request complies with the requirements of the underlying zone or overlay zone.

- c. The proposed use does not have an adverse impact greater than existing uses on nearby properties; or impacts can be ameliorated through imposition of conditions of approval.
- d. A proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.

## CONCLUSIONS

Regarding the applicable criteria for the conditional use request, the following conclusions can be made:

A. *Criterion #1. The public facilities can adequately accommodate the proposed use.*

1. Public facilities are defined in the Zoning Ordinance as sanitary sewer, water, streets (including parking) and electricity. The applicant's site plan (Attachment "A-2") and photographs (Attachment "A-3") show that the residence is located in a developed residential/commercial area where these public services are available.
2. The applicant's findings (Attachment "A-1") indicate that the property is presently used as a single-family residence. The property is listed as a 2,924 square foot, 3 bedroom house. In addition, the Irish gift shop, Bridies, occupies approximately 600 square feet of space in the basement of the home at street level. The applicant notes that, as a three bedroom home, maximum overnight occupancy for vacation rentals is limited under the Newport Code to eight people. The property is on NW 3rd Street and does not have any on-site parking. The applicant further notes that Municipal Code parking standards for vacation rental dwellings require one off-site parking space per bedroom, which translates to three parking spaces for the subject residence.
3. The applicant points out that there is on-street parking on both sides of NW 3rd Street, which is a one-way street on this block. There are four angled parking spaces on 3rd Street directly in front of and adjacent to the property. They note that on-street parking is available on surrounding streets and believe that the parking adequately accommodates the vehicular traffic generated by the C-2 uses. Moreover, the applicant indicates that there is a public parking lot one block away on NW Beach Drive.
4. The applicant concludes their analysis by indicating that they believe the proposed use of the property as a short term rental will not increase demand on parking facilities or any other public facilities.
5. It is not uncommon for residences in Nye Beach to lack off-street parking. In such cases, the Planning Commission has assessed whether or not (a) it is feasible for the owner to construct off-street parking and (b) are the on-street parking assets adequate to meet anticipated demand in cases where off-street parking cannot be provided (ref: Attachment "B" through "D"). With regards to the subject property, the residence was constructed in 1994 without off-street parking (Attachment "E"). In 1998 the basement area facing NW 3rd Street was converted to retail use and no off-street

parking was provided or required (Attachment “F”). Later, in the mid-2000’s, the property’s NW 3<sup>rd</sup> Street frontage was improved with angled, public parking spaces as part of an urban renewal funded project. Given the small size of the lot, which is typical in Nye Beach, and the size and orientation of the building, it is not feasible for the owner to construct off-street parking. Constructing off-street parking would also require the removal of angled parking spaces, resulting in no “net gain” in parking.

6. Along NW 3<sup>rd</sup> Street, and other high traffic areas in Nye Beach where public parking is relied upon to meet parking needs, the on-street parking is actively managed with time limits coupled with a permit program that exempts residents and guests from the timed parking limitations. Prior owners obtained a parking permit for two vehicles (Attachment “G”). Permits for long term rental or owner occupied residences are provided in the form of a sticker that is adhered to a windshield and short term guests receive door hangar placards that can be hung from a rear view mirror (Attachment “H”). The property is within a commercial parking district, which covers a portion of Nye Beach (Ord. No. 1993, as amended (Attachment “T”)) and Section 7 of that Ordinance provides for modest business expansion (i.e. demand for up to 5 new off-street spaces) without the requirement that off-street parking be provided. Any increase in the demand for parking that may be attributed to the applicant’s proposal is well within the scope of what is envisioned within the District. Further, the use of a District to manage parking for this area, in lieu of requiring off-street spaces, is supported under the City’s parking requirements (NMC 14.14.100).

7. The Nye Beach Design Review Overlay modifies the typical off-street parking requirements for residential and commercial uses and identifies the extent to which such uses can claim on-street parking spaces as satisfying off-street parking requirements. The overlay stipulates that the first 1,000 square feet of commercial gross floor area is to be exempted from the off-street parking calculation (NMC 14.30.100(A)(6)(a)). The area leased by Bridie’s Irish Gift Shop is less than 1,000 square feet in size and would; therefore, not need to provide off-street parking considering this provision. Additionally, the Design Review Overlay provides that all uses within the District shall be allowed an on-street parking credit that shall reduce the required number of off-street parking spaces by one off-street parking space for every one on-street parking space abutting the property (NMC 14.30.100(A)(6)(c)). Each on-street space to be credited must comply with City of Newport standards for on-street spaces and be completely abutting the subject property. The applicant provided a site plan showing that they have at least three angled parking spaces abutting the property (Attachment “A-2”). The spaces were installed by the City of Newport as part of an urban renewal project and; therefore, presumably meet City standards. Considering this information, the provisions of the Design Review Overlay provide that the applicant can claim the three on-street angled parking spaces as satisfying the off-street parking requirement for vacation rental dwellings.

8. Given the above, the Planning Commission concludes that the public facilities can adequately accommodate the use of the residence as a vacation rental.

B. *Criterion #2. The request complies with the requirements of the underlying zone or overlay zone.*

1. This criterion addresses special requirements of the underlying or overlay zone beyond the standard zoning ordinance requirements. The subject property is zoned C-2/”Tourist Commercial”

and it is within the Nye Beach Design Review Overlay District. The applicant notes that the request for use of the property as a short-term rental complies with the requirements of the underlying C-2/"Tourist-Commercial" zone district. They further point out that the purpose of the C-2/"Tourist-Commercial" zone designation is to "provide for tourist needs, as well as the entertainment needs of permanent residents" (NMC 14.03.040). Vacation rentals are now, and have historically, been permitted outright in the C-2 zone, and the conditional use permit process is available to those applicant's that are unable to meet all of the endorsement standards.

2. The purpose of the Nye Beach Design Review Overlay is to regulate the design and architectural appearance of buildings (NMC 14.30.010). It further sets out dimensional and parking standards for new development. The provisions of the overlay district trigger when buildings are modified (NMC 14.30.040). The applicant is not proposing changes to the existing structure and; therefore, is not required to demonstrate compliance with the standards of the Design Review Overlay District. As noted earlier though, the project does satisfy the Design Review Overlay District's provisions that allow on-street parking spaces to be credited against off-street parking requirements, which is the subject of this application.

3. Given the above, the Planning Commissions concludes that this criterion is satisfied.

*C. Criterion #3. The proposed use does not have an adverse impact greater than existing uses on nearby properties; or impacts can be ameliorated through imposition of conditions of approval.*

1. This criterion relates to the issue of whether or not the proposed use has potential "adverse impacts" greater than existing uses and whether conditions may be attached to ameliorate those "adverse impacts." Impacts are defined in the Zoning Ordinance as the effect of nuisances such as dust, smoke, noise, glare, vibration, safety, and odors on a neighborhood.

2. The applicant notes that the proposed use is residential and as such it will not differ from the existing use. They further point out that the existing residence requires a level of on-street parking equivalent to that required as a short-term rental. Consequently, they assert that no adverse impacts are proposed, contemplated, or expected from allowing the use as a short-term rental.

3. A key consideration is whether or not conversion of this unit from conventional ownership or a month-to-month tenancy into a vacation rental use will attract enough additional vehicles that it will adversely impact established uses in the area. With the final order and findings in Case File No. 3-CUP-14, the Commission concluded that vacation rental use of a dwelling of the same size, less than 50-feet away, would not adversely impact established uses in the area. The Commission concludes the same with this application considering that this request has even more on-street parking adjacent to the parcel (i.e. angled versus parallel spaces), that on-street spaces are actively managed through a parking district, and that the proposal satisfies the provisions of the Nye Beach Design Review Overlay that allows adjacent on-street parking spaces to be credited against off-street parking requirements.

4. Given the above, the Planning Commission concludes that this criterion has been satisfied.

D. *Criterion #4. A proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.*

1. The applicant notes that the proposed use as a short-term rental is consistent with the overall development character of the area. The existing structure will remain as is. No building modifications are proposed. Bridies is a currently existing and permitted commercial use on the street level of the property. The existing use and associated signage will remain.
2. Given the above, the Planning Commission concludes that the use of the dwelling as a vacation rental will be consistent with the overall development character of the neighborhood.

### **OVERALL CONCLUSION**

Based on the application material, the Planning Staff Report, and other evidence and testimony in the record, the Planning Commission concludes that the above findings of fact and conclusions demonstrate compliance with the criteria for a conditional use permit found in Section 14.34.050 of the Newport Municipal Code (NMC); and, therefore, the requested conditional use permit to convert an existing residence to a vacation rental dwelling can satisfy the approval criteria for a conditional use and is hereby approved with the imposition of the following conditions of approval:

1. The applicant/owner shall make application for an endorsement for a vacation rental pursuant to NMC Chapter 14.25, and is subject to inspection by the Building Official or designee to determine conformance with basic health and safety elements and the endorsement standards of 14.25.050, except the requirements for parking outlined under NMC 14.25.050(C).

## Planning Commission Regular Session Agenda Item Report

Meeting Date: April 23, 2018

Submitted by: Sherri Marineau

Submitting Department: Community Development

Item Type: Public Hearings

Agenda Section: Public Hearings

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### **Subject:**

File No. 1-AX-18/2-Z-18: Proposal to (1) annex approximately 3.73 acre of real property (consisting of property currently identified as Tax Lots 200 and 700 of Assessor's Tax Map 11-11-20-AB into the Newport city limits; (2) amend the City of Newport Zoning Map to establish an R-1/"Residential-Low Density Single-Family" zoning designation for the southernmost 214.3 feet of Tax Lot 200 and establish an I-1/"Light Industrial" zoning designation for Tax Lot 700 consistent with the existing Newport Comprehensive Plan designation; and (3) withdraw said territory in the Newport Rural Fire Protection District and the Lincoln County Library District.

### **Suggested Action:**

### **Attachments:**

[File 1-AX-18 -- 2-Z-18.pdf](#)

**PLANNING STAFF REPORT**  
**Case File No. 1-AX-18 / 2-Z-18**

- A. **APPLICANT:** GSBN, LLC (Garrett Bush, agent).
- B. **REQUEST:** Consideration of requests to: **(1) annex approximately 3.73 acres of real property** (consisting of property currently identified as Tax Lot 00200 and 00700 of Assessor’s Tax Map 11-11-20-AB) into the Newport city limits; **(2) amend the City of Newport Zoning Map to establish an R-2/“Medium Density Single-Family Residential” zoning designation for the southernmost 214.3 feet of Tax Lot 00200 and establish an I-1/“Light Industrial” zoning designation for the balance of Tax Lot 00200 and Tax Lot 00700** consistent with the existing Newport Comprehensive Plan designation of Low Density Residential and Industrial; and **(3) withdraw said territory from the Newport Rural Fire Protection District and the Lincoln County Library District.**
- C. **LOCATION:** 4401 South Coast Highway (Lincoln County Assessor’s Map 11-11-20-AB, Tax Lots 00200 and 00700 (Book 317, Page 1693 of the Lincoln County Records).
- D. **PROPERTY SIZE:** 3.73 acres, with 3.27 acres to be zoned I-1 and 0.46 to be zoned R-2.
- E. **STAFF REPORT:**
1. **REPORT OF FACTS:**
    - a. **Plan Designation:** The subject territory is within the Newport Urban Growth Boundary and is designated as “Low Density Residential” and “Industrial” on the Newport Comprehensive Plan Map.
    - b. **Zone Designation:** City of Newport zoning is established at time of annexation. Either the R-1/“Low Density Single-Family Residential,” or R-2/“Medium Density Single-Family Residential” designations are consistent with a Comprehensive Plan designation of Low Density Residential. With regards to “Industrial” lands, an I-1/ “Light Industrial,” I-2/“Medium Industrial,” or I-3/“Heavy Industrial” designation are appropriate. The applicant is requesting R-2 and I-1 zoning, which aligns with the designations applied to nearby properties.
    - c. **Surrounding Land Uses:** Surrounding land uses in the immediate vicinity include industrial to the north and west and residential uses to the west, east and south.
    - d. **Topography and Vegetation:** The property has been previously graded and is, for the most part, gradually sloped and substantially clear of vegetation.
    - e. **Existing Residences/Buildings:** There is an existing 2,400 sq. ft. storage building.

- f. **Utilities:** Water and sewer service is available. Public street access is available via SE 40<sup>th</sup> Street. The property may also possess private easement access onto US 101.
- g. **Development Constraints:** None known.
- h. **Past Land Use Actions:** None known.
- i. **Notification:** Required notice to the Department of Land Conservation and Development was provided on March 21, 2018.

For the Planning Commission public hearing, notification in accordance with the NMC Section 14.52.060(C) requirements included mailing notice to surrounding property owners, City departments and other public agencies and utilities, and other individuals on March 19, 2018. The notice of public hearing in the Newport News-Times was published on April 13, 2018.

j. **Attachments:**

- Attachment "A" – Applicant Request
- Attachment "B" – Map of Area to be Annexed
- Attachment "C" – Notice of Public Hearing and Map
- Attachment "D" – Newport Zoning Map
- Attachment "E" – Newport Comprehensive Plan Map
- Attachment "F" – Uses allowed in the R-1 and R-2 zones
- Attachment "G" – Uses allowed in the I-1, I-2, and I-3 zones
- Attachment "H" – Intent of Zoning Districts
- Attachment "I" – Legal Description of the Area to be Annexed
- Attachment "J" – Copy of ORS 222.170 through 222.183
- Attachment "K" – Copy of ORS 222.460 through 222.465
- Attachment "L" – Letter to Applicant's attorney, Dennis Bartoldus (7/27/17)

2. **Explanation of the Request:** Pursuant to NMC Section 14.52.030(A) (Approving Authorities), all actions that have the City Council as the approving authority (with the exception of withdrawals) shall first be referred to the Planning Commission for review and recommendation.

The petitioners are requesting that the City Council incorporate certain territory into the city limits of Newport and change the zoning designation of the subject property. The applicant is seeking annexation because they desire to construct a light industrial building to accommodate their business, Airrow Heating, and other light industrial users. Airrow Heating currently leases space in a building at the southeast corner of US 101 and the undeveloped SE 35<sup>th</sup> Street right-of-way. That intersection will go under construction as a result of a City of Newport and Oregon Department of Transportation highway improvement project, possibly as early as spring of 2019. The petitioner is interested in relocating the business before the highway project is initiated. They also indicated that they may pursue construction of a single family residence on the residentially designated portion of the property. Consequently, a public hearing by the Planning Commission is required to make recommendations to the City Council regarding the request.

As part of the annexation and as provided for in Oregon Revised Statutes (ORS) 222.524, the subject property would be withdrawn from the Newport Rural Fire Protection District and the Lincoln County Library District as the City of Newport provides these services.

3. **Evaluation of the Request:**

a.) **Comments:** Notices of the proposed annexation and Zoning Map amendments were mailed on March 19, 2018, to affected property owners and various City departments, public/private utilities and agencies within Lincoln County, and other individuals. As of April 17, 2018 no comments have been received.

b.) **Applicable Criteria:**

(1) **Annexation/Withdrawal:**

Newport Municipal Code (NMC) Section 14.37.040: The required consents have been filed with the City; the territory to be annexed is within the acknowledged urban growth boundary (UGB); and the territory to be annexed is contiguous to the existing city limits.

Note: There are not specific criteria for withdrawals from a district. Withdrawals are done in conjunction with the annexation when the City becomes the service provider for the property.

(2) **Zone Map Amendment:**

Zone Map Amendments (as per NMC Section 14.36.010): Findings that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare.

c.) **Staff Analysis:**

*(1) Annexation: Newport Municipal Code (NMC) Section 14.37.040: The required consents have been filed with the city; the territory to be annexed is within the acknowledged urban growth boundary (UGB); and the territory to be annexed is contiguous to the existing city limits.*

**A. The required consents have been filed:**

Pursuant to Oregon Revised Statutes (ORS) 222.170(2), the City need not hold an election on the annexation of contiguous territory if it receives the consent of more than 50 percent of the owners of land in the territory, and such owners own more than 50 percent of the land area within the territory.

The applicant, GSBN, LLC, Garrett Bush (Agent) owns the subject property. By filing this application, GSBN, LLC has provided the requisite consent that the territory be annexed. See Planning Staff Report Attachment "A" (Applicant Request).

B. territory to be annexed is within the acknowledged urban growth boundary (UGB);

City records show that the property is within the Urban Growth Boundary of the City of Newport.

C. territory to be annexed is contiguous to the existing city limits.

The north and east sides of the subject territory are contiguous to the existing city limits. See Planning Staff Report Attachment "D" (Newport Zoning Map).

*(2) Zone Map Amendment: Zone Map Amendments (as per NMC Section 14.36.010): Findings that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare.*

The applicant is requesting that the southern 214.3 feet of the property identified as Tax Lot 200 be given an R-2 zoning designation. This is the portion of the property south of the existing easement access road. It is approximately 0.46 acres in size (See Planning Staff Report Attachment "B"). The Comprehensive Plan designation for the property is Low Density Residential (See Planning Staff Report Attachment "E"). It is implemented by either the R-1/"Low Density Single-Family Residential," or R-2/"Medium Density Single-Family Residential" zoning designations. Property a short distance to the east, under the same Comprehensive Plan designation, is zoned R-2 as part of the Wilder Planned Development (See Planning Staff Report Attachment "D"). A list of uses permitted outright and conditionally in the R-1 and R-2 zones is included as Planning Staff Report Attachment "F." The intent of the R-1 and R-2 zoning districts is included as Planning Staff Report Attachment "H."

For the balance of the property identified as Tax Lot 200 and Tax Lot 700, which is roughly 3.27 acres, the applicant is requesting an I-1/"Light Industrial" zoning designation (See Planning Staff Report Attachment "B"). The Comprehensive Plan designation for the property is Industrial (See Planning Staff Report Attachment "E"). It is implemented by either the I-1/"Light Industrial," I-2/"Medium Industrial," or I-3/Heavy Industrial" zoning designations. Property a short distance to the west, under the same Comprehensive Plan

designation, is zoned I-1 (See Planning Staff Report Attachment "D"). A list of uses permitted outright and conditionally in the I-1, I-2, and I-3 zones is included as Planning Staff Report Attachment "G." The intent of the I-1, I-2, and I-3 zoning districts is included as Planning Staff Report Attachment "H."

The Newport Comprehensive Plan identifies a need for employment land and housing. The proposal addresses both objectives. The residential land, while modest in size, provides an opportunity for one or more dwelling units. As the applicant notes, the industrial designation will allow them to relocate and grow their business as well as provide lease spaces for comparable industrial uses. The range of uses permitted in a light industrial zone are also more compatible with nearby residential uses than what is provided for in the other industrial zones. Water and sewer services are in place to support development. Access to the property is available from SE 40<sup>th</sup> Street. The approach onto SE 40<sup>th</sup> Street is a short distance from the intersection of SE 40<sup>th</sup> and US 101 and could be adversely impacted in the future by vehicle queuing. City staff has communicated to the applicant that access at this location will be limited to properties identified as Tax Lot 200 and 700 and that the city will reserve the right to relocate the access to the east should nearby properties develop or traffic conditions warrant such a change (See Planning Staff Report Attachment "L"). The city has sufficient authority in the Municipal Code, independent of the annexation and zoning map amendment process, to address these access issues.

Because proposed zoning designations do not align with the boundaries of existing deeded properties, it is appropriate that the applicant retain a surveyor to prepare legal descriptions for the portions of the property that will be zoned I-1 and R-2, respectively. Additionally, the surveyor may need to adjust the legal description for the annexed area should the Oregon Department of Revenue have concerns with the metes and bounds description provided by the applicant, and attached as Planning Staff Report Attachment "I". Both of these concerns can be addressed with conditions of approval.

Considering the above, it is reasonable for the Planning Commission to conclude that the application furthers a public necessity and promotes the general welfare.

4. **Conclusion:** If the Commission finds that the request meets the criteria, then the Commission should recommend approval of the application with any reasonable conditions it deems necessary for compliance with the criteria. Additionally, the Commission should recommend to the City Council whether or not the zoning designation should be R-1 or R-2 for the residentially designated portion of the property and I-1, I-2, or I-3 for the

balance of the property. If, on the other hand, the Commission finds that the request does not comply with the criteria, then the Commission should identify the portion(s) of the criteria with which the annexation request is not in compliance.

**F. STAFF RECOMMENDATION:** Based on the information received as of April 17, 2018, the applicant appears to be able to meet the applicable criteria for the annexation request and zoning map amendment subject to the following conditions:

1. The applicant shall prepare legal descriptions for portions of the property that will be zoned I-1 and R-2, respectively.
2. The applicant shall prepare a survey drawing illustrating the perimeter of the area to be annexed, along with a corresponding text legal description, sufficient to address the requirements of the Oregon Department of Revenue for recently annexed property.



Derrick Tokos  
Community Development Director  
City of Newport

April 17, 2018



## City of Newport Land Use Application

Applicant Name(s):	Property Owner Name(s) <i>if other than applicant</i>
GSBN, LLC - Garrett Bush	Garrett Bush
Applicant Mailing Address:	Property Owner Mailing Address:
PO BOX 720 South Beach, OR 97366	PO BOX 720 South Beach, Or 97366
Applicant Phone No.	Property Owner Phone No.
541-270-8536	541-270-8536
Applicant Email	Property Owner Email
garrett@airrowheating.com	garrett@airrowheating.com
Authorized Representative(s): <i>Person authorized to submit and act on this application on applicant's behalf</i>	
Garrett Bush - owner	
Authorized Representative Mailing Address:	
Authorized Representative Telephone No.	
Authorized Representative Email.	

**Project Information**

Property Location: <i>Street name if address # not assigned</i>	
South Beach	
Tax Assessor's Map No.: 11s11w20AB	Tax Lot(s): 11-11-20-AB-00700-00 & 00200
Zone Designation: Light Industrial	Legal Description: <i>Add additional sheets if necessary</i>
Comp. Plan Designation:	
Brief description of Land Use Request(s):	
<i>Examples:</i> 1. Move north property line 5 feet south 2. Variance of 2 feet from the required 15-foot front yard setback	
Relocate local business: Airrow Heating. - <i>New/Additional Building Construction</i>	
Existing Structures: if any	
60ft x 40ft Pole Building	
Topography and Vegetation:	
Cleared ground	

**Application Type (please check all that apply)**

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

FOR OFFICE USE ONLY

File No. Assigned: <b>1-AX-18 / 2-Z-18</b>		
Date Received: <b>3/15/18</b>	Fee Amount: <b>780.00</b>	Date Accepted as Complete:
Received By: <b>sm</b>	Receipt No. <b>2022</b>	Accepted By:

City Hall  
169, SW Coast Hwy  
Newport, OR 97365  
541.574.0629

**625-18-000025-PLNG**



# City of Newport Land Use Application

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

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

Applicant Signature(s)

3/08/18

Date

Property Owner Signature(s) (if other than applicant)

3/08/18

Date

Authorized Representative Signature(s) (if other than applicant)

3/08/18

Date

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

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

# Lincoln County Property Report

Account # & Prop. Info		Account Details		Owner & Address	
Account #:	R396615	Neighborhood:		Owner and	GSBN LLC
Map Taxlot:	11-11-20-AB-00200-00		<b>S162</b>	Mailing Address:	PO BOX 720 SOUTH BEACH, OR 97366
Tax Map:	<a href="#">11s11w20AB</a>	Property Class:	<b>300</b>	Site Address(es):	4401 S COAST HWY
Web Map:	<a href="#">View Map</a>				
Info:	TWNESH 11, RNG 11, ACRES 1.71, DOC201708916				
Tax Code:	<b>192</b>				
Acres:	1.71				

Improvements	Value History		
No Inventory	Year	Imp.Land	Total Market Total Assessed
	20170	59,780	59,780 58,630
	20160	64,980	64,980 56,930
	20150	64,980	64,980 55,280
	20140	64,980	64,980 53,670
	20130	64,980	64,980 52,110
	20120	58,730	58,730 50,600
	20110	65,290	65,290 49,130
	Sales History		
No Sales Data			

Land				Related Accounts	Disclaimer
Description	Acres	Market Value	Special Use Value		For assessment purposes only. Lincoln County makes no warranty as to the accuracy of the information provided. Users should consult with the appropriate City, County or State Department or Agency concerning allowed land uses, required permits or licenses, and development rights on specific properties before making decisions based on this information. <b>Tax data exported 10/2017.</b>
INDUSTRIAL UNDEV SITE	1.71	59,780			

Today's Date: 03/14/2018

# Lincoln County Property Report

Account # & Prop. Info		Account Details		Owner & Address	
Account #:	R401317	Neighborhood:		Owner and	GSDN LLC
Map Taxlot:	11-11-20-AB-00700-00	S166		Mailing Address:	PO BOX 720 SOUTH BEACH, OR 97366
Tax Map:	<a href="#">11s11w20AB</a>	Property Class:	231	Site Address(es):	
Web Map:	<a href="#">View Map</a>				
Info:	P.P. 2006-26, PARCEL 1, ACRES 2.02, DOC201708916				
Tax Code:	192				
Acres:	2.02				

Improvements						Value History					
Description	Area	Yr Built	Found	Heat	Plumb	BDMS	Value	YearImp.	Land	Total Market	Total Assessed
MAIN AREA	2400 sq ft	1996					\$60,580				
<a href="#">Foundation Code List</a> <a href="#">Heating/AC Code List</a> <a href="#">Plumbing Code List</a>								201760,580	278,610	339,190	206,260
								201665,890	301,880	367,770	200,260
								201565,890	301,880	367,770	194,430
								201465,890	301,880	367,770	188,770
								201368,550	290,880	359,430	183,280
								201277,050	197,180	274,230	177,950
								201185,560	219,190	304,750	172,770

Land		Related Accounts		Disclaimer	
Description	Acres	Market Value	Special Use Value		
INDUSTRIAL DEV SITE	2.02	267,610		For assessment purposes only. Lincoln County makes no warranty as to the accuracy of the information provided. Users should consult with the appropriate City, County or State Department or Agency concerning allowed land uses, required permits or licenses, and development rights on specific properties before making decisions based on this information. <b>Tax data exported 10/2017.</b>	
IND SITE DEVELOPMENT		11,000			

Today's Date: 03/07/2018

GSDN, LLC  
PO Box 720  
South Beach, Or 97366

March 8, 2018

541-270-8536

**Application requirement #3 - Consent**

I Garrett Bush consent to the annexation of Map Taxlot 11-11-20-AB-00700-00 and Map Taxlot 11-11-20-AB-00200-00

4401 S Coast Hwy South Beach

**Annexation – Written Findings:**

- \*Owners consent is included herein.
- \*The territory to be annexed is within the UGB and also boards the city limits – per review with planning department.
- \*The current property zoning is consistent with the proposed property zoning usage.
- \*Transportation planning rule should not be applicable. The points of access are already established and not being changed.
- \*The intended usage for this property is consistent with the comprehensive plan. UGB Map 2-4. The addition of this building serves as a primary facility for a locally growing business. The new building represents 14% building coverage of the lot. The ability to further expand the proposed lot will further benefit the comprehensive plan if the zoning remains during annexation to the city. The forecast for growth shows the need to further develop new land for such needs.

**Letter of intent:**

The proposed plan for both lots is to annex said pieces into the city limits and obtain access to the water and sewer infrastructure.

Lot 700 is planned as light industrial zoning and the design and engineering of a headquarters for Airrow Heating & Sheet Metal, LLC is being submitted for building review. Ground work for similar buildings has been undergone and future growth is forecasted.

Lot 200 is currently residential and the design and engineering of a single family home is underway for the southern portion of the lot.

Both properties currently have water meters and power.

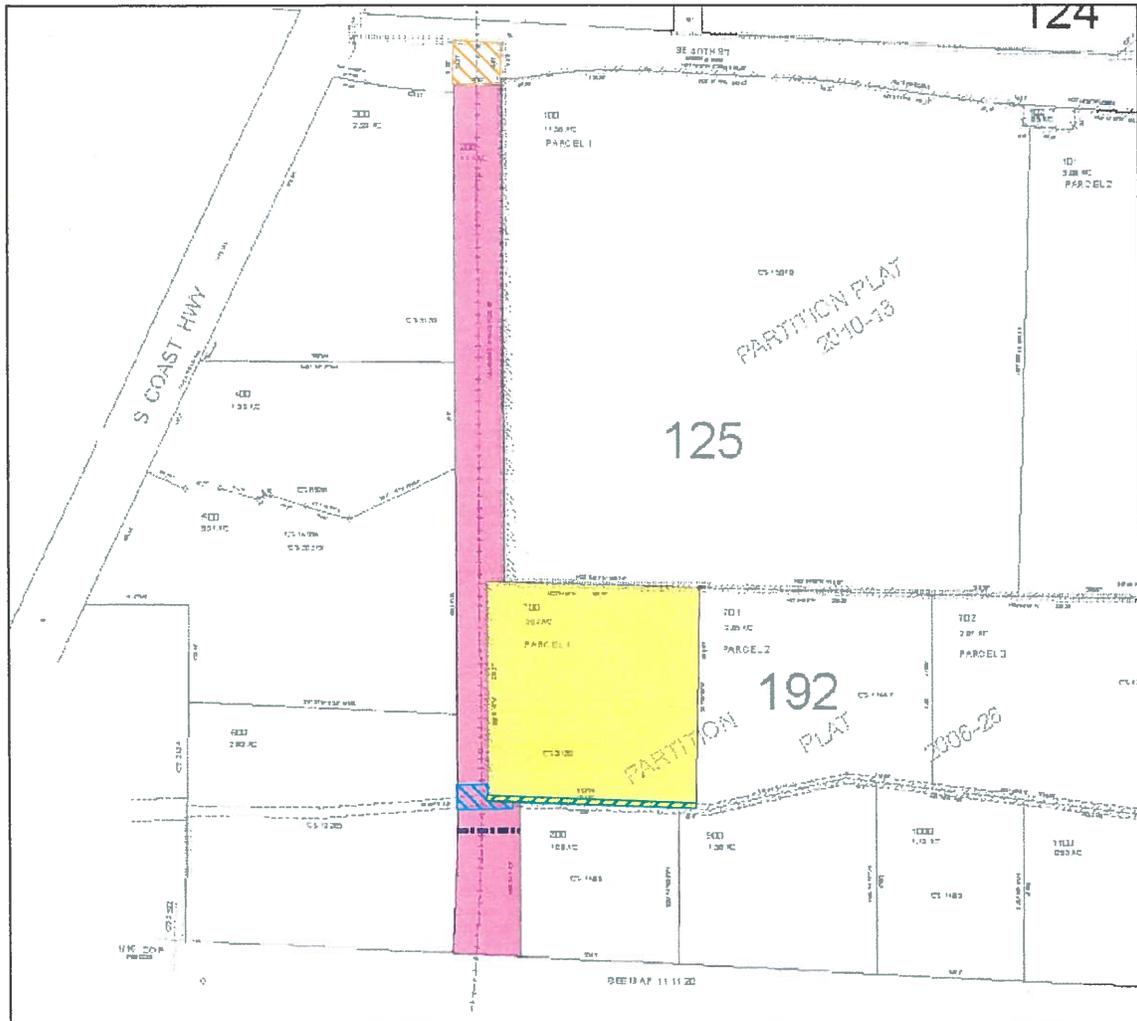
Lot 700 has existing 40 foot by 60 foot pole building.

Regards,



Garrett Bush

Scale 1 inch = 172.65 feet



**Legend**

- PARCEL I - Property In Question, Fee
- PARCEL II - Property In Question, Fee
- Item No. 9 - Easement for Maintenance  
In 07/29/1920 Bk38 Pg602 of Official Records  
 The exact location of the easement cannot be determined and is not plottable
- Item No. 10 - Easement for Poles, Towers, Wires & Cables  
In 04/02/1949 Bk131 Pg636 of Official Records  
Affects said portion as described in the document
- Item No. 12 - Easement for Roadway  
In 05/09/1957 Bk184 Pg635 of Deeds  
 The exact location of the easement cannot be determined and is not plottable

- Item No. 14 - Easement for Right of Way  
In 09/06/1978 Bk92 Pg295 & 08/30/2007 Inst # 200712511 of Official Records  
The exact location of the easement cannot be determined and is not plottable
- Item No. 15 - Easement for Maintenance  
In 08/30/2007 Inst # 200712511 of Official Records  
Affects said portion as described in the document
- Item No. 16 - Easement for Driveway Access  
In 08/30/2007 Inst # 200712513 of Official Records  
Affects said portion as described in the document
- Item No. 19 - Easement for Right of Way for street, road and utility  
In 09/09/2009 Inst # 2009-10499 of Official Records  
Affects said portion as described in the document
- Item No. 20 - Easement for Public Utility  
In 10/04/2012 Inst # 2012-9659 of Official Records  
Affects said portion as described in the document

©2017  
**Western Title & Escrow**  
 256 SW Coast Highway, Suite 100  
 Newport, OR 97366

*This map/plat is being furnished as an aid in locating the herein described land in relation to adjoining streets, natural boundaries and other land, and is not a survey of the land depicted. Except to the extent a policy of title insurance is expressly modified by endorsement, if any, the Company does not insure dimensions, distances, location of easements, acreage or other matters shown thereon.*

Title Order No. : WT0140824, Preliminary Report Dated April 25, 2017

Reference :  
 Property : 4401 S. Coast Hwy, South Beach, OR 97366

Plat Showing : A Portion of Land is Situated in the County of Lincoln, State of Oregon

Drawing Date : 05/27/2017 - FNF1

Assessor's Parcel No. : 11-11-20-AB-00200-00 & 11-11-20-AB-00700-00

Data :

Sheet  
1 of 1  
Archive #

Attachment "B"  
1-AX-18 / 2-Z-18

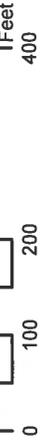
SE 40TH ST

S COAST HWY

Proposal:  
I-1 Zoning  
3.27 acres

Proposal:  
R-2 Zoning  
0.46 acres

40



**GSBN, LLC Annexation (Airrow Heating)**  
**4401 S Coast Hwy, TL 200 & 700 11-11-20-AB**

Image Taken July 2013  
4-inch, 4-band Digital Orthophotos  
David Smith & Associates, Inc. Portland, OR

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



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

CITY OF NEWPORT  
NOTICE OF A PUBLIC HEARING <sup>1</sup>

NOTICE IS HEREBY GIVEN that the Planning Commission of the City of Newport, Oregon, will hold a public hearing on Monday, April 23, 2018, to review the following request for annexation and zone designation, and to make a recommendation to the City Council on this request. A public hearing before the City Council will be held at a later date and notice will be provided for the Council hearing.

**File No. 1-AX-18 / 2-Z-18**

**Applicant:** GSBN, LLC (Garrett Bush, agent).

**Request:** Consideration of requests to: **(1) annex approximately 3.73 acre of real property** (consisting of property currently identified as Tax Lots 200 and 700 of Assessor's Tax Map 11-11-20-AB into the Newport city limits; **(2) amend the City of Newport Zoning Map to establish an R-1/"Residential-Low Density Single-Family" zoning designation for the southernmost 214.3 feet of Tax Lot 200 and establish an I-1/"Light Industrial" zoning designation for Tax Lot 700** consistent with the existing Newport Comprehensive Plan designation; and **(3) withdraw said territory in the Newport Rural Fire Protection District and the Lincoln County Library District.**

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

**Location:** Lincoln County Assessor's Map 11-11-20-AB, Tax Lot 200 (4401 S Coast Hwy) and Lincoln County Assessor's Map 11-11-20-AB, Tax Lot 700.

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

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

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

**Time/Place of Planning Commission Hearing:** Monday, April 23, 2018; 7:00 p.m.; City Hall Council Chambers (address above in "Reports/Application Materials").

**MAILED:** March 19, 2018

**PUBLISHED:** Friday, April 13, 2018/News-Times.

<sup>1</sup> This notice is being sent to the applicant, the applicant's authorized agent (if any), affected property owners within 200 feet of the subject property (according to Lincoln County tax records), affected public/private utilities/agencies within Lincoln County, and affected city departments.

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY

0 50 100 150 200 Feet

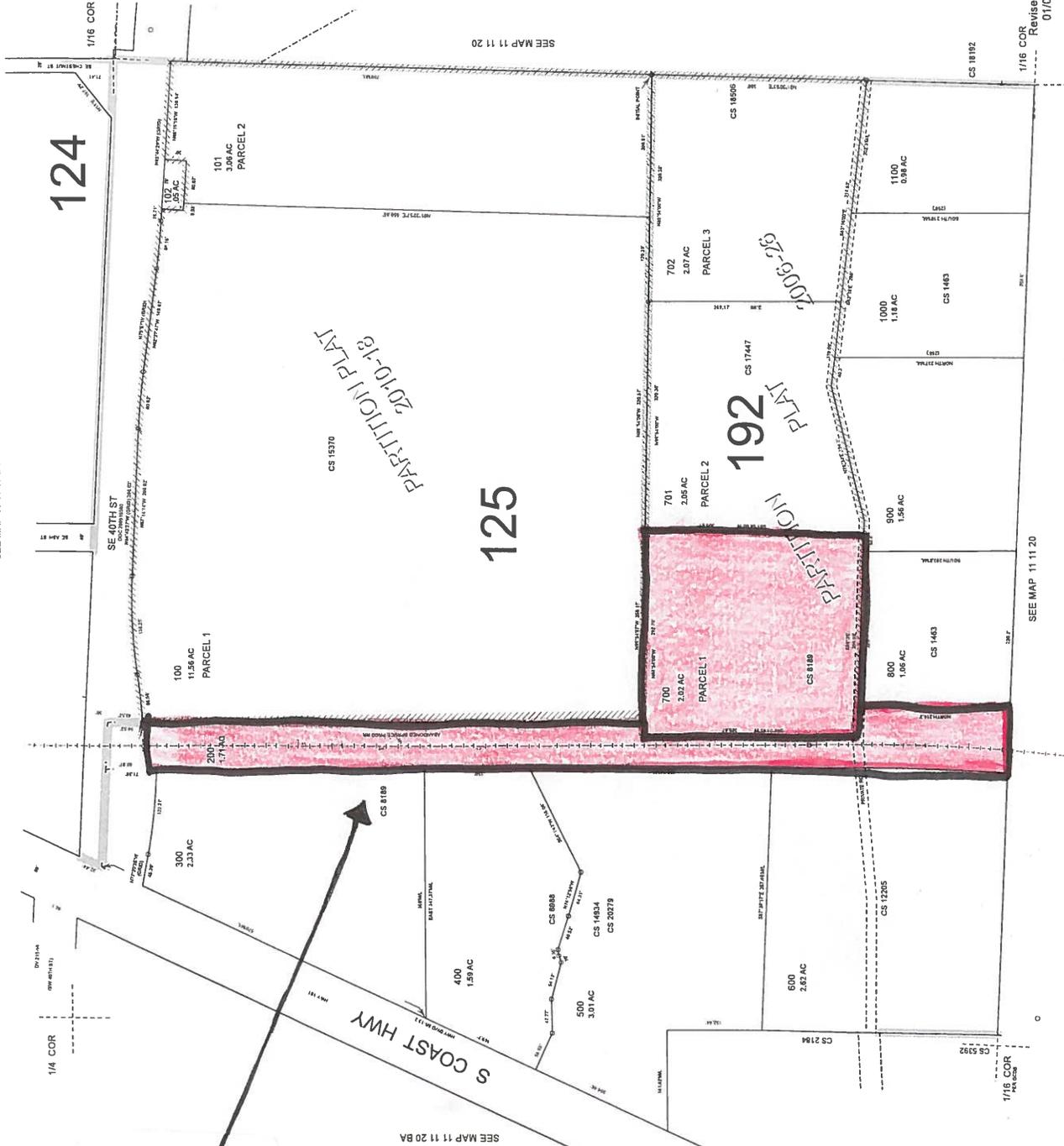
N.W. 1/4 N.E. 1/4 SEC. 20 T. 11S. R. 11W. W.M.  
LINCOLN COUNTY  
1" = 100'

11 11 20 AB  
NEWPORT

SEE MAP 11 11 17 DC

SEE MAP 11 11 20 BA

SEE MAP 11 11 20



Subject Properties  
File No. 1-AX-18/2-Z-18

Revised: C  
01/06/12 42

NEWPORT  
11 11 20 AB

NW Natural  
Account Services  
ATTN: Annexation Coordinator  
220 NW 2<sup>nd</sup> Ave  
Portland, OR 97209

**\*\*EMAIL\*\***  
PATRICK WINGARD  
DLCD NORTH COAST REGIONAL  
SOLUTIONS CTR

CenturyLink  
ATTN: Mr. Corky Fallin  
740 State St  
Salem OR 97301

Lincoln County Assessor  
Lincoln County Courthouse  
225 W Olive St  
Newport OR 97365

Lincoln County Surveyor  
880 NE 7<sup>th</sup> St  
Newport OR 97365

WVCC  
911 Emergency Dispatch  
555 Liberty St SE Rm P-107  
Salem OR 97301-3513

Lincoln County Clerk  
Lincoln County Courthouse  
225 W Olive St  
Newport OR 97365

Central Lincoln PUD  
ATTN: Randy Grove  
PO Box 1126  
Newport OR 97365

Charter Communications  
ATTN: Jim Leeth/Jackie Emmons  
521 NE 136<sup>th</sup> Ave  
Vancouver, WA 98684

Lincoln County School District  
ATTN: Superintendent  
PO Box 1110  
Newport OR 97365

Lincoln County Commissioners  
Lincoln County Courthouse  
225 W Olive St  
Newport OR 97365

US Post Office  
ATTN: Postmaster  
310 SW 2<sup>nd</sup> St  
Newport OR 97365

[ODOTR2PLANMGR@ODOT.STATE.US](mailto:ODOTR2PLANMGR@ODOT.STATE.US)

Joseph Lease  
Building Official

Lincoln County Planning Dept  
210 SW 2<sup>nd</sup> St  
Newport OR 97365

OREGON DIVISION OF STATE  
LANDS  
775 SUMMER ST NE  
SALEM OR 97310-1337

Victor Mettle  
Code Administrator/Planner

Lincoln County Library District  
PO Box 2027  
Newport OR 97365

ATTN: PLAN AMENDMENT SPECIALIST  
DEPT OF LAND CONSERVATION &  
DEVELOPMENT  
635 CAPITOL ST NE STE 150  
SALEM OR 97301-2540

Rob Murphy  
Fire Chief

Newport Rural Fire Protection  
District  
PO Box 923  
Newport OR 97365

Jason Malloy  
Police Chief

Ted Smith  
Library

Tim Gross  
Public Works

Spencer Nebel  
City Manager

**EXHIBIT 'A'**  
(Affected Agencies)  
Annexations

Mike Murzynsky  
Finance Director

ANDERSON DENNIS B  
ATTN SURF SOUNDS COURT  
4263 S COAST HWY SPACE #1  
SOUTH BEACH, OR 97366

BERTULEIT MARGARET TRUSTEE  
354 SE 2ND ST  
NEWPORT, OR 97365

CENTRAL LINCOLN PUD  
ATTN BRIAN BARTH  
MGR ACCT & FINANCE  
PO BOX 1126  
NEWPORT, OR 97365

FIELD ROBERT L &  
FIELD CORA L  
PO BOX 533  
SOUTH BEACH, OR 97366

GEIL DEBRA ANN  
PO BOX 342  
PACIFIC CITY, OR 97315

GSBN LLC  
PO BOX 720  
SOUTH BEACH, OR 97366

LINCOLN COUNTY  
225 W OLIVE ST  
NEWPORT, OR 97365

LOFTON HAROLD &  
LOFTON JOAN  
11550 LOGSDEN RD  
SILETZ, OR 97380

PEDERSEN JENS CHRISTIAN &  
JARVIS RACHEAL  
PO BOX 247  
SOUTH BEACH, OR 97366

PEDERSON JENS C &  
PEDERSON KATHERINE L  
PO BOX 247  
SOUTH BEACH, OR 97366

REDDICK CARL A TRUSTEE &  
REDDICK CAROLE J TRUSTEE  
2221 SW 1ST AVE  
UNIT 1224  
PORTLAND, OR 97201

RICHMOND REGINALD R TRUSTEE &  
RICHMOND SHERREL R TRUSTEE &  
BSG GROUP LLC  
890 SE BAY BLVD; UNIT 210  
NEWPORT, OR 97365

SPY LLC  
PO BOX 614  
NEWPORT, OR 97365

STOCKER JACK E TSTEE ESTATE  
PO BOX 688  
SOUTH BEACH, OR 97366

STOCKER MARION E ESTATE  
9566 LOGSDEN RD  
SILETZ, OR 97380

TRYON GARY E &  
TRYON VERNON &  
TRYON ROBERT & TRYON LOREN  
PO BOX 975  
WALDPORT, OR 97394

Exhibit "A"  
Property Owners within 200 Feet

1-AX-18 / 2-Z-18

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

The City of Newport Planning Commission will hold a public hearing on Monday, April 23, 2018, at 7:00 p.m. in the Council Chambers at City Hall to review File No. 1-AX-18/2-Z-18, a request for annexation, and zone designation submitted by GSBN, LLC (Garrett Bush, agent). The Commission will make a recommendation to the City Council on this request, which will then hold a public hearing at a later date. Notice of that hearing will also be provided. The request is to (1) annex approximately 3.73 acre of real property (consisting of property currently identified as Tax Lots 200 and 700 of Assessor's Tax Map 11-11-20-AB into the Newport city limits; (2) amend the City of Newport Zoning Map to establish an R-1/"Residential-Low Density Single-Family" zoning designation for the southernmost 214.3 feet of Tax Lot 200 and establish an I-1/"Light Industrial" zoning designation for Tax Lot 700 consistent with the existing Newport Comprehensive Plan designation; and (3) withdraw said territory in the Newport Rural Fire Protection District and the Lincoln County Library District. The applicable criteria for annexations (as per Newport Municipal Code (NMC) Section 14.37.040) are that the required consents have been filed with the city; the territory to be annexed is within the acknowledged urban growth boundary (UGB); and the territory to be annexed is contiguous to the existing city limits. The criteria for Zone Map Amendments (as per NMC Section 14.36.010) are that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare. Testimony and evidence must be directed toward the criteria described above or other criteria in the Newport Comprehensive Plan and its implementing ordinances that a person believes applies to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal (including to the Land Use Board of Appeals) based on that issue. Testimony may be submitted in written or oral form. Oral and written testimony will be taken during the course of the public hearing. Letters to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 5:00 p.m. the day of the hearing or must be submitted to the Planning Commission in person during the hearing. The hearing will include a report by staff, testimony (both oral and written) from the applicant, those in favor or opposed to the application, and questions and deliberation by the Planning Commission. Pursuant to ORS 197.763 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. The staff report may be reviewed or purchased for reasonable cost at the Newport Community Development (Planning) Department (address above) seven days prior to the hearing. The application materials, applicable criteria, and other file materials are available for inspection at no cost or copies may be purchased for reasonable cost at this address. Contact Derrick Tokos, Community Development Director, (541) 574-0626; [d.tokos@newportoregon.gov](mailto:d.tokos@newportoregon.gov) (address above).

*(For Publication once on Friday, April 13, 2018)*

5-04, Newport  
1. Dominic Musick, 11,  
5-04, Newport

### TRIPLE JUMP

1. Jayon Smith, 10, 36-  
09.50, Newport

### GIRLS

1. Logan McLendon, 11,  
17-00 (PR)

### GIRLS

1. Taft, 79  
2. Amity, 63  
3. Horizon Christian, 58  
4. Dayton, 38  
100 Meter

200 METER

Ramon Topete, 11, 28.25

### 400 METER

1. Dylan Yakes, 12, 57.45  
(SR)

### 300 METER HURDLES

1. Kyle Burk, 9, 60-  
01

### DISCUS

2. Vivian Irwin, 9, 60-  
01

### POLE VAULT

1. Cat Adamson, 12,  
5-00

The Tigers will face WVU foe Williamina on the Friday afternoon, then play a pair of non-league road games against Pleasant Hill and Clatskanie before finally returning home to face Dayton on Friday, April 20.

bery said. No. 1 first, b leads to ano Contact Rathbone a ext. 222 o newportne

## PUBLIC NOTICES

### LEGAL DEADLINES

WEDNESDAY EDITION:  
5:00pm Thursday

FRIDAY EDITION:  
5:00pm Tuesday

**PUBLIC NOTICE**  
NOTICE: In the Circuit Court for the State of Oregon for the County of Lincoln, in the Matter of the Estate of Edward L. Hildebrand III, Case No. 18PB02334, Joyce Hildebrand has been appointed personal representative. All persons having claims against the estate are required to present them, with vouchers attached, to the undersigned personal representative at 19615 Honey Grove Rd, Alesa Oregon 97324, within four months after the date of first publication of this notice, or the claims may be barred. All persons whose rights may be affected by the proceedings may obtain additional information from the records of the Court, the personal representative, or the lawyers for the personal representative, Margaret P. Daley, Attorney at Law, P.O. Box 552, Newport, Oregon 97365, (541) 265-8805. Dated and first published March 30, 2018. Joyce Hildebrand, Personal Representative. M-30, A-06, A-13 (13-13).

**IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF LINCOLN PROBATE DEPARTMENT IN THE MATTER OF THE ESTATE OF NORMAN DREHER, DECEASED NO. 18PB01954**

**NOTICE TO INTERESTED PERSONS**  
Notice is hereby given pursuant to ORS 113.155 that the undersigned has been appointed and has qualified as executor and representative of the estate. All persons having claims against the estate are hereby required to present the same, with proper vouchers attached, four months after the date of first publication of this notice, as stated below, to the personal representative at: JAMES DOWLING c/o Jeffrey C. Pridgeon - Attorney At Law 515 W. Olive Street, Newport, OR 97365, (541) 265-2217, or they may be barred. All persons whose rights may be affected by the proceedings in this estate may obtain additional information from the records of the court, the personal representative, or the attorney for the personal representative. Date first published: March 30, 2018. /s/ JEFFREY C. PRIDGEON, Attorney for Personal Representative. M-30, A-06, A-13 (13-13).

**NOTICE OF SHERIFF'S SALE #18-0420**  
On May 15, 2018, at the hour of 10:00 a.m., at the Lincoln County Sheriff's Office, 225 W. Olive St., Rm 203, in the City of Newport, Oregon, the defendant's interest will be sold, subject to redemption, in the real property commonly known as: 1113 N Hwy 101 Unit 15, Depoe Bay,

OR 97341. The court case number is 15CV19724. Wilmington Savings Fund Society, FSB, D/B/A Christiana Trust, as Trustee for Normandy Mortgage Loan Trust, Series 2015-1, plaintiff(s) vs. Linda K. Ham, Kenneth L. Ham; Whale Crossings, LLC; Mortgage Electronic Registration Systems, Inc.; The Village at North Pointe Condominiums; Aurora Loan Services LLC and All Other Persons or Parties Unknown Claiming any Right, Title, Lien, or Interest in the Real Property Commonly Known as 1113 N Hwy 101 Unit 15, Depoe Bay, OR 97341 defendant(s). This is a public auction to the highest bidder for cash or after April 9, 2018 in hand. For more details go to <http://www.oregon-sheriffssales.org/county/lincoln/>. A-06, A-13, A-20, A-27 (25-27).

**PUBLIC SALE**  
Safe-Lock Storage located at 3639 SE Ash St, South Beach, OR 97366 will hold a public foreclosure sale on Saturday, April 28 at 10:00 AM. Personal property of the following people will be sold:  
C08 - Michelle Runyan  
D08 - Teresa Perryman  
F10 - Mariha Bryant  
F49 - Nick Kamerer  
K01 - Karin Peterson  
L40 - Phil Ringaldia  
Q05 - Susan Cameron  
T12 - Darlene Webster  
Q18 - Jesse Hanlin  
The persons mentioned above may contact us prior to the sale at (541) 857-4607.  
A-06, A-11, A-13, A-18 (26-18).

**SECTION 00 1113 ADVERTISEMENT FOR BIDS**  
NOTICE TO BID A. 1.01a INVITATION TO BID A.1 Notice is hereby given that sealed bids for Yachats Rural Fire Protection-District New Main Station, Phase 2 - New Building and Site Improvements, will be received by Yachats Rural Fire Protection District, at 215/217 W. 2nd St, Yachats, OR 97498, until the Bid Closing Time of 3:00 p.m. on Tuesday, May 8, 2018. The Bid Opening time will be immediately after the deadline for submission of bids. Bids will be opened at the above location.  
B. The Project consists of the general construction services for the construction of a new fire station building and free-standing storage building and associated earthwork, and associated site improvements including earthwork grading, pavements, site utility and landscaping to connect the new building to Highway 101. The work also includes the relocation of a non-fish bearing creek. The creek relocation work is restricted to the In Water Work season as defined by the State of Oregon. The project site is located at the Project Site at 2056 Highway 101 North (located on the east side of Highway 101 at

the north end of Yachats) for the Yachats Rural Fire Protection District, including all work shown on the drawings and specifications.  
This project is Phase 2. The description of Phase 1 is the construction of a site detention pond at the west end of the site and associated earthwork, storm water piping and structures, and plantings. Phase 1 is scheduled to be complete by 05.31.2018.  
C. Bids are required for the entire work described in the Bidding Documents. Each bid must be submitted on the required form and be accompanied by a bid security in the form of a bid bond, irrevocable letter of credit issued by an insured institution as defined in ORS 706.006, cashier's check, or certified check, payable to Yachats Rural Fire Protection District in an amount of not less than ten percent (10%) of the amount of the bid including additive alternates, if any.  
D. Copies of the files containing the Bid Documents may be downloaded by any interested Bidder, subcontractor, or supplier on or after April 9, 2018 10:00 a.m., by going to the Architect's File Transfer web site at <https://fx.pivotarchitecture.com/>. A screen will open with PIVOT Architecture in upper left and a dialog box titled "Newforma Information Exchange". In the dialogue box enter your email address under "Name". Enter "Anonymous" for the password. From there follow the links to YRFPD New Main Station, Phase 2 section. This will lead you to a list of bid documents.  
E. It is the responsibility of the bidder to check the web site regularly for addenda that may be issued during the bid period. Bidding Documents will also be published to the web site. Prime Bidders are those who have notified PIVOT Architecture of their intention to bid as prime bidders.  
F. Plans and specifications may be viewed at local area plan centers. See the PIVOT website noted above for an updated list of plan centers. The list will include:  
1. Bay Area Plan Center, Coos Bay  
2. Central Coast Plan Exchange, Florence  
3. Daily Journal of Commerce, Portland  
4. Eugene Builders Exchange, Eugene  
5. McCraw Hill Construction Dodge, Portland  
6. Salem Contractors Exchange, Salem  
G. Electronic copies of the Bidding Documents will be provided to many of the region's construction plan rooms. The Bidding Documents may also be examined at the Architects Office (PIVOT Architecture), 44 West Broadway, Eugene, OR 97401, and the YRFPD Main Station (215/217 W. 2nd St, Yachats, OR 97498). Interested bidders, subcontractors, and suppliers may obtain personal printed sets by paying the cost of reproduction, which is not refundable through Central Print and Reproduction Services, 47 West 5th Avenue, Eugene, OR, 97401, telephone, 541-342-3624 - [www.centralreprographics.com](http://www.centralreprographics.com).  
H. A few sets of documents will be available at the Owner's and Architect's location.  
I. Prevailing wage rates for public works contracts

in Oregon are required for this project. No bid will be received or considered by the Owner unless the bid contains a statement that the Bidder will comply with the provisions of ORS 279C.800 to 279C.840 regarding the payment of prevailing rates of wages.  
J. All bidders must be "Equal Opportunity Employers" and comply with the appropriate provisions of state and federal law. In regards to Worker's Compensation, all bidders shall be required to comply with ORS 656.017 or are exempt under ORS 656.126.  
K. A Non-Mandatory Pre-Bid Conference will be held April 19, 2018, at 2:00 p.m., at the Project Site (see above for address) to see the site and answer questions regarding the project. An additional Non-Mandatory Pre-Bid Site tour will be held April 24, 2018 at 2:00 at the Project Site (see above for address) to tour the site. This tour is an opportunity for potential bidders that were not able to participate in the Pre-Bid Meeting to see the site and meet key participants of the project team.  
M. Each bid must include a statement by the bidder as to whether the bidder is a resident bidder under ORS 279A.120.  
N. The Owner may reject any bid that does not comply with all prescribed public bidding procedures and requirements, including the requirements to demonstrate the bidder's responsibility under ORS 279C.375(j)(b).  
O. The Owner reserves the right to waive irregularities, and for good cause to reject any and all bids after finding that doing so is in the public interest.  
P. No bid will be received or considered unless the bidder is licensed by the Construction Contractors Board or the State Board of Contractors. Board for the work of the project.  
Q. Each bidder must submit a disclosure of first-tier subcontractors supporting their bid and materials within two hours after the date and time of the deadline when bids are due, in accordance with ORS 279C.370.  
R. Questions regarding technical matters shall be directed to the project architect, Curt Wilson at PIVOT Architecture at (541) 342-7291.  
S. By: Frankie Patrick, District Administrator and Fire Chief, Yachats Rural Fire Protection District  
T. Date: April 4, 2018  
U. Published in Eugene Register Guard, Portland Daily Journal of Commerce, and Newport News Times.  
1.02 PLAN HOLDER LIST  
A. A listing of known prime bidders and plan centers who have received a complete set of construction documents from the architect's office may be viewed at the PIVOT Architecture Web site - <http://www.pivotarchitecture.com/planners/>.  
A-06, A-11, A-13 (30-13).

**CITY OF NEWPORT NOTICE OF A PUBLIC HEARING**  
The City of Newport Planning Commission will hold a public hearing on Monday, April 23, 2018, at 7:00 p.m. in the Council Chambers at City Hall

to review File No. 1-AX-18-Z-18, a request for annexation, and zone designation submitted by GSBN, LLC (Garrett Bush, agent). The Commission will make a recommendation to the City Council on this request, which will then hold a public hearing at a later date. Notice of that hearing will also be provided. The recommendation is to (1) annex approximately 3.73 acre of real property (consisting of property currently identified as Tax Lots 20 and 700 of Assessor's Tax Map 11-11-20-AB into the Newport city limits; (2) amend the City of Newport Zoning Map to establish an R-17/Residential-Low Density "Single-Family" zoning designation for the southernmost 214.3 feet of Tax Lot 20 and establish an I-17/Light Industrial zoning designation for Tax Lot 700 consistent with the existing Newport Comprehensive Plan designation; and (3) withdraw said territory in the Newport Rural Fire Protection District and the Lincoln County Library District. The applicable criteria for annexations (as per Newport Municipal Code (NMC) Section 14.07.040) are that the required criteria have been filed with the city; the territory to be annexed is within the acknowledged urban growth boundary; and the territory to be annexed is contiguous to the existing city limits. The criteria for Zone Map Amendments (as per NMC Section 14.06.010) are that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare. Testimony and evidence must be directed toward the criteria described above or other criteria in the Comprehensive Plan and zoning ordinances that a person believes applies to the decision. Failure to raise an issue with sufficient specificity in the city and the parties an opportunity to respond to that issue precludes an appeal (including to the Land Use Board of Appeals) on that issue. Testimony may be submitted in written or oral form. Oral and written testimony will be taken during the course of the public hearing. Letters to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 5:00 p.m. the day of the hearing or must be submitted to the Planning Commission in person during the hearing. The hearing will include a report by staff testimony (both oral and written) from the applicant, those in favor or opposed to the application, and questions and deliberation by the Planning Commission. Pursuant to ORS 197.763 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. The staff report may be reviewed or purchased for reasonable cost at the Newport Community Development Department (address above) seven days prior to the hearing. The application materials, applicable criteria, and

other file materials are available for inspection at no cost or copies may be purchased for reasonable cost at this address: Contact Derrick Tokos, Community Development Director, (541) 574-0626; d.tokos@newportoregon.gov (address above). A-13 (37-13).

**OFFICIAL NOTICE OREGON DUNGENESS CRAB COMMISSION 2018-2019 PUBLIC BUDGET HEARING**  
The OR, DUNGENESS CRAB COMMISSION will hold a half-day and a full-day Public Meeting/Budget Hearing from 1:00pm - 5:00pm on May 2, 2018 and 9:00am - 5:00pm on May 3, 2018 at the Port of Charleston/R.V. Park Recreation Area located at 63402 Kingfisher Lane in Charleston, OR. At the meeting, any Oregon Dungeness crab fisherman in Oregon selling crab through a first purchaser has a right to be heard with respect to the proposed budget. A copy is available at the Crab Commission office, Coos Bay, The 2018/2019 budget is based on an assessment of 1% of the cash value of the raw product of Dungeness crab that is sold in Oregon. For further information, contact the ODCC office, P.O. Box 1160, Coos Bay, OR 97420. The meeting location is accessible to persons with disabilities. Please make any request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities at first 48 hours before the meeting by contacting the ODCC office at (541) 267-5810. A-13 (38-13).

**IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR JACKSON COUNTY JUVENILE DEPARTMENT IN THE MATTER OF KYLIE ELIZABETH PETERSEN, BRIANNAH LYNN PETERSEN, SADIE ANN PETERSEN, CHILDREN. CASE NO. 16JU10620, 16JU10621, 16JU10622 PUBLISHED SUMMONS TO: ELIZABETH SUZANNE DONOHON IN THE NAME OF THE STATE OF OREGON:**  
A petition has been filed asking the court to terminate your parental rights to the above-named children for the purpose of placing the children for adoption. YOU ARE REQUIRED TO PERSONALLY APPEAR before the Jackson County Circuit Court at 100 S. Oakdale Ave., Medford, Oregon 97501, on the 15th and 16th days of May, 2018 at 9:00 a.m. for a trial on the allegations of the petition and to personally appear at any subsequent court-ordered hearing. YOU MUST APPEAR PERSONALLY IN THE COURTROOM ON THE DATE AND AT THE TIME LISTED ABOVE. AN ATTORNEY MAY NOT ATTEND THE HEARING IN YOUR PLACE. THEREFORE, YOU MUST APPEAR EVEN IF YOUR ATTORNEY ALSO APPEARS. This summons is published pursuant to the order of the circuit court judge in the above-entitled court, dated April 4, 2018. The order directs that this summons be published once each

week for three consecutive weeks, making three publications in all, in a published newspaper of general circulation in Lincoln County, Oregon. Date of first publication: April 13, 2018. Date of last publication: April 27, 2018. NOTICE: READ THESE PUBLICATIONS CAREFULLY. IF YOU DO NOT APPEAR PERSONALLY BEFORE THE COURT OR DO NOT APPEAR AT ANY SUBSEQUENT COURT-ORDERED HEARING, the court may proceed in your absence without further notice and TERMINATE YOUR PARENTAL RIGHTS to the above-named children either ON THE DATE SPECIFIED IN THIS SUMMONS OR ON A FUTURE DATE, and may make such orders and take such action as authorized by law. YOUR RIGHTS AND OBLIGATIONS: YOU HAVE A RIGHT TO BE REPRESENTED BY AN ATTORNEY IN THIS MATTER. If you are not represented by an attorney, CONTACT YOUR ATTORNEY IMMEDIATELY UPON RECEIVING THIS NOTICE. Your previous attorney is not representing you in this matter. IF YOU CANNOT AFFORD TO HIRE AN ATTORNEY and you meet the state's financial guidelines, you are entitled to have an attorney appointed for you at state expense. TO REQUEST APPOINTMENT OF AN ATTORNEY TO REPRESENT YOU AT STATE EXPENSE, YOU MUST IMMEDIATELY CONTACT the Jackson County Juvenile Department at 609 W. 10th Street, Medford, OR 97501, phone number 541-776-7171, between the hours of 8:00 a.m. and 5:00 p.m. for further information. IF YOU WISH TO HIRE AN ATTORNEY, please retain one as soon as possible and have the attorney present at the above hearing. If you need help finding an attorney, you may call the Oregon State Bar's Lawyer Referral Service at (503) 684-3783 or toll free in Oregon at (800) 451-1636. IF YOU ARE REPRESENTED BY AN ATTORNEY, IT IS YOUR RESPONSIBILITY TO MAINTAIN CONTACT WITH YOUR ATTORNEY AND TO KEEP YOUR ATTORNEY ADVISED OF YOUR WHEREABOUTS. PETITIONER'S ATTORNEY: Caitlynn Knopp, Assistant Attorney General, Department of Justice 1555 E. McAndrews Rd, Suite 200 Medford, OR 97504. Phone: (541) 414-0330 ISSUED this 13th day of April, 2018. Issued by: Caitlynn Knopp #171102. Assistant Attorney General. A-13, A-20, A-27 (39-27).

**PUBLIC NOTICE**  
The Lincoln County Sheriff's Office has in its possession the unclaimed personal property described below. If you have ownership interest in any of this unclaimed property you must file a claim with the Lincoln County Sheriff's Office within 30 days from the date of the publication of this notice or you will lose interest in this property: oxygen concentrator, Savage 25.06 rifle, misc. clothing, cash money, backpacks, iPhone, 1979 Reineil boat, 1978 Yamaha motorcycle, personal property to Ti Reimann, Janet Dahi, William Ralley, Angie Saxton, Sophia Suong, Wade Phillips, estate of David Johnson, Stephen Barrera, Zachary Pekar, Bridget Lovik, estate of Ivonne Barr, Kelly Fields, Paul Wynn, Arthur Scott Ingersoll, Glenn Brynson, Donald Cooper, Dylan Campana, and Jonathon Vineyard. A-13 (41-13).

**PUBLIC NOTICE PUBLIC SALE AQUARIUM VILLAGE 2925 SE FERRY SLIP RD, NEWPORT, OR 97365 TUESDAY, APRIL 24TH, 2018 AT 11:00AM**  
Personal property of the following people will be for sale: Unit 44G-Christine Briggs. The person mentioned above may contact us prior to the sale at (541)-867-6531. A-13, A-18 (42-18).

**TRUSTEE'S NOTICE OF SALE**  
Reference is made to that certain trust deed made by Justin Sparks and Jennifer Sparks, husband and wife, as grantor, to Premiere Title, as trustee, in favor of Chester Williams and Sally Williams, husband and wife, as grantees, dated September 21, 2009, recorded on September 22, 2009+ in the Records of Lincoln County, Oregon, in Instrument No. 2009-11934 (indicate which), covering the following described real property situated in that county and state, to-wit: See Exhibit A attached hereto; See Fair Debt Collection Practices Act Notice attached hereto. Successor Trustee is Brian D. Green appointed by instrument number 2017-11383. Both the beneficiary and the trustee have elected to sell the real property to satisfy the obligations secured by the trust deed and a notice of default has been recorded pursuant to Oregon Revised Statutes 86.752 (1). The default for which the foreclosure is made in grantor's failure to pay when due the following sums: The principal sum of \$113,489.71, plus interest unpaid as of October 23, 2017. By reason of the default just described, the beneficiary has declared all sums owing on the obligation secured by the trust deed immediately due and payable, those sums being the following, to-wit: The principal sum of \$113,489.71, plus interest unpaid as of October 23, 2017 in the sum of \$1017.22, plus interest at the rate of 5.5% from October 23, 2017 until paid on the principal balance; unpaid property taxes for the fiscal years 2014-15, 2015-16, 2016-17, 2017-18, in the amount of foreclosure report and sale guarantee; rea-

sonal trust with or under the Court of O lic au bidde est desc the t powe time grant toget est v grant and the e deed good secu and e in chart Notice that i ORS at i days set f this f ing i trust paym cary crier their port would have i under trust t or te manc the c costs of the r deed ee at exce prov With ee's sentz Oreg trust nent dent i a tru been ing the nent to bi purc prop of tr before a bic the ti in cc the s plura inclu the s well own perc secu and their sors DATE Briar case High City, 7350 the a attor nate the f plete origi sale. M-04



Attachment "D"  
1-AX-18 / 2-Z-18

I-1  
SE 40TH ST I-3

I-3

SITE

S COAST HWY

R-2

R-3

R-2

P-1

P-2

P-2

I-1

47



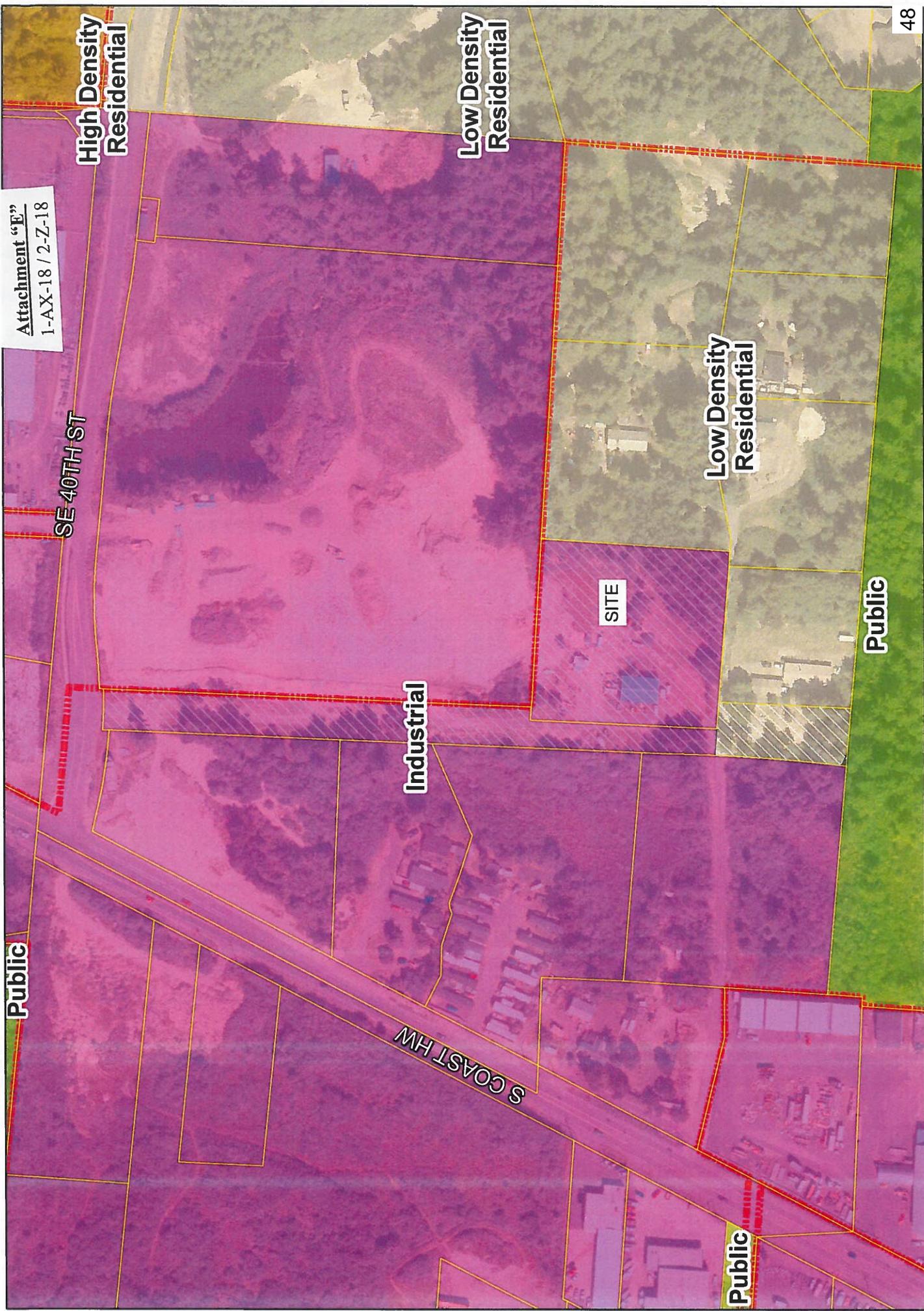
**Newport Zoning Map**  
**GSDN, LLC Annexation (Airrow Heating)**

City of Newport  
Community Development Department  
180 SW Coast Highway  
Newport, OR 97365  
Phone: 541.574.0629  
Fax: 541.574.0644



Image Taken July 2013  
4-inch, 4-band Digital Orthophotos  
David Smith & Associates, Inc. Portland, 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 the compilation or use and users of this map.



**Attachment "E"**  
1-AX-18 / 2-Z-18

**High Density Residential**

**Low Density Residential**

**Low Density Residential**

**Industrial**

**SITE**

**Public**

**Public**

**Public**

**SE 40TH ST**

**S COAST HWY**



**Newport Comprehensive Plan Map**  
**GSNB, LLC Annexation (Airrow Heating)**

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



Image Taken July 2013  
4-inch, 4-band Digital Orthophotos  
David Smith & Associates, Inc. Portland, OR

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**CITY OF NEWPORT  
USES IN THE RESIDENTIAL DISTRICTS**

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**R-1/"LOW DENSITY SINGLE-FAMILY  
RESIDENTIAL":**

*Permitted Uses:*

Single-Family Dwellings  
Vacation Rental Dwellings  
Bed and Breakfast Facilities  
Accessory Uses  
Home Occupations  
Parks  
Child Care Facilities  
Residential Care Homes

*Conditional Uses:*

Publicly-Owned Recreational Facilities  
Libraries  
Utility Substations  
Public and Private Schools  
Day Care Facilities  
Churches  
Colleges and Universities  
Golf Courses  
Necessary Public Utilities and Public  
Services Uses or Structures

**R-2/"MEDIUM DENSITY SINGLE-FAMILY  
RESIDENTIAL":**

*Permitted Uses:*

Single-Family Dwellings  
Two-Family Dwellings  
Vacation Rental Dwellings  
Bed and Breakfast Facilities  
Mobile Home Parks  
Accessory Uses  
Home Occupations  
Parks  
Child Care Facilities  
Residential Care Homes  
Condominiums

*Conditional Uses:*

Publicly-Owned Recreational Facilities  
Libraries  
Utility Substations  
Public or Private Schools  
Day Care Facilities  
Churches  
Colleges and Universities  
Golf Courses  
Necessary Public Utilities and Public  
Services Uses or Structures  
Assisted Living Facilities

**R-3/“MEDIUM DENSITY MULTI-FAMILY RESIDENTIAL”:**

*Permitted Uses:*

Single-Family Dwellings  
 Two-Family Dwellings  
 Multi-Family Dwellings  
 Vacation Rental Dwellings  
 Bed and Breakfast Facilities  
 Mobile Home Parks  
 Accessory Uses  
 Home Occupations  
 Parks  
 Child Care Facilities  
 Residential Care Homes  
 Condominiums  
 Residential Facilities  
 Assisted Living Facilities

*Conditional Uses:*

Publicly-Owned Recreational Facilities  
 Libraries  
 Utility Substations  
 Public or Private Schools  
 Day Care Facilities  
 Churches  
 Nursing Homes  
 Rooming and Boarding Houses  
 Colleges and Universities  
 Golf Courses  
 Necessary Public Utilities and Public Services Uses or Structures

**R-4/“HIGH DENSITY MULTI-FAMILY RESIDENTIAL”:**

*Permitted Uses:*

Single-Family Dwellings  
 Two-Family Dwellings  
 Multi-Family Dwellings  
 Vacation Rental Dwellings  
 Bed and Breakfast Facilities  
 Mobile Home Parks\*  
 Accessory Uses  
 Home Occupations  
 Parks  
 Public or Private Schools  
 Child Care Facilities  
 Residential Care Homes  
 Nursing Homes  
 Hospitals  
 Membership Organizations  
 Museums  
 Condominiums  
 Residential Facilities  
 Assisted Living Facilities

*Conditional Uses:*

Publicly-Owned Recreation Facilities  
 Libraries  
 Utility Substations  
 Day Care Facilities  
 Churches  
 Motels and Hotels  
 Professional Offices  
 Beauty and Barber Shops  
 Colleges and Universities  
 Rooming and Boarding Houses  
 Hostels  
 Recreational Vehicle Parks\*  
 Necessary Public Utilities and Public Services Uses or Structures  
 Movie Theaters  
 Bicycle Shops

\*not allowed uses in Nye Beach Design Overlay

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

**PERMITTED USES****Office**

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

**Retail Sales & Service****Sales-oriented, general retail**

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

**Sales-oriented, bulk retail**

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

**Personal Services**

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

**Entertainment**

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

**Repair-oriented**

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

**(PERMITTED USES CONTINUED)**

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

**Major Event Entertainment**

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

**Vehicle Repair**

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

**Self-Service Storage**

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

**Parking Facility**

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

**Contractors & Industrial Service**

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

**Manufacturing & Production****Light Manufacturing**

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

**(PERMITTED USES CONTINUED)**

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

**Warehouse, Freight Movement & Distribution**

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

**Wholesale Sales**

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

**Basic Utilities & Roads**

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

**Community Service**

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

**Daycare Facility**

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

(I-1 Uses)

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

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

**Communication Facilities**

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

**CONDITIONAL USES****Waste & Recycling Related**

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

**Utility, Road & Transit Corridors**

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

**Courts, Jails & Detention Facilities**

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

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

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

**(PROHIBITED USES CONTINUED)**

**Educational Institutions**

**Elementary & Secondary Schools**

**College & Universities**

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

**Hospitals**

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

**Mining**

**Sand & Gravel**

**Crushed Rock**

**Non-Metallic Minerals**

**All Others**

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

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

**PERMITTED USES**

**Office**

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

**Retail Sales & Service**

**Sales-oriented, general retail**

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

**Sales-oriented, bulk retail**

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

**Repair-oriented**

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

**Vehicle Repair**

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

**Self-Service Storage**

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

**Parking Facility**

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

**Contractors & Industrial Service**

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

**(PERMITTED USES CONTINUED)**

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

**Manufacturing & Production**

**Light Manufacturing**

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

**Warehouse, Freight Movement & Distribution**

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

**Wholesale Sales**

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

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

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

**Daycare Facility**

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

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

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

**Communication Facilities**

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

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

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

**Entertainment**

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

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

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

**Manufacturing & Production****Heavy Manufacturing**

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

**Waste & Recycling Related**

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

**Utility, Road & Transit Corridors**

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

**Community Service**

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

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

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

## **PROHIBITED USES**

### **Educational Institutions**

#### **Elementary & Secondary Schools**

#### **College & Universities**

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

### **Hospitals**

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

### **Courts, Jails & Detention Facilities**

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

### **Mining**

#### **Crushed Rock**

#### **All Others**

*(examples: excavation of rock.)*

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

**PERMITTED USES**

**Parking Facility**

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

**Contractors & Industrial Service**

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

**Manufacturing & Production**

**Light Manufacturing**

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

**Heavy Manufacturing**

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

**(PERMITTED USES CONTINUED)**

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

**Warehouse, Freight Movement & Distribution**

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

**Wholesale Sales.**

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

**Basic Utilities & Roads**

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

**Educational Institutions**

**Trade/Vocational Schools/Other**

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

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

**(PROHIBITED USES CONTINUED)**

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

**Daycare Facility**

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

**Educational Institutions**

**Elementary & Secondary Schools**

**College & Universities**

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

**Hospitals**

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

**Courts, Jails & Detention Facilities**

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

**Mining**

**All Others**

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

*Section 2-2-6.010 amended by Ordinance No. 1336 (7-5-83); Section 2-2-4 amended by Ordinance No. 1344 (11-7-83); Sections 2-2-1 and 2-2-6 amended by Ordinance No. 1356 (1-3-84); Sections 2-2-3, 2-2-4, 2-2-5, 2-2-6, and 2-2-7 amended by Ordinance No. 1447 (12-16-85); Section 2-2-6.015 amended by Ordinance No. 1468 (8-19-86); Section 2-2-4 amended by Ordinance No. 1526 (11-7-88); Section 2-2-2.010 amended by Ordinance No. 1565 (14.36.0010); Section 2-2-4 amended by Ordinance No. 1567 (14.36.0010); the above became obsolete when Sections 2-2-1 through 2-2-12 were totally amended by Ordinance No. 1575 (7-2-90); and then the entire Section was repealed and replaced by Ordinance No. 2022 (10-20-11).*

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

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

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

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

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

residential district and higher density residential districts.

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

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

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

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

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

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

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

transportation facilities and not near residential zones.

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

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

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

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

**EXHIBIT "A"**  
Legal Description

**PARCEL I:**

Parcels 1, Partition Plat 2006-26, filed for record August 2, 2006, Lincoln County, Oregon.

**PARCEL II:**

The former U.S. Spruce Production Railroad right-of-way through the Northwest quarter of the Northeast quarter of Section 20, Township 11 South, Range 11 West, Willamette Meridian, in Lincoln County, Oregon, as described in deed to Henry J. Stocker et ux, recorded November 18, 1947 in Book 122, page 89, Deed Records;

EXCEPTING THEREFROM any portion falling in that tract conveyed to Jack Stocker et ux, by deed recorded February 10, 1961, in Book 214, page 134, Deed Records.

ALSO EXCEPTING THEREFROM any portion lying within that tract conveyed to Vernon H. Stocker, et ux, by deed recorded November 7, 1966, Book 272, page 404, Deed Records for Lincoln County, Oregon.

FURTHER EXCEPTING THEREFROM that tract described in instrument recorded September 9, 2009, Document No. 2009-10499, Lincoln County Records.

## ANNEXATION OF CONTIGUOUS TERRITORY

(Temporary provisions relating to annexation of certain industrial lands)

**Note:** Sections 3 and 10, chapter 737, Oregon Laws 1987, provide:

**Sec. 3.** (1) Notwithstanding any other provision of law, when property:

- (a) Is property on which no electors reside;
- (b) Is zoned for industrial uses;
- (c) Has sewer and water lines paid for and installed by the property owner; and
- (d) Has an assessed valuation, including improvements, of more than \$7 million

that property can only be annexed by or to a city after the city receives a petition requesting annexation from the owner of the property.

(2) Property described in subsection (1) of this section shall not be included with other territory as part of an annexation, or annexed under ORS 222.750, unless the owner of the property consents to the annexation in the form of a petition for annexation.

(3) This section applies to property that, on September 27, 1987, was within the jurisdiction of a local government boundary commission. [1987 c.737 §3; 1997 c.516 §14]

**Sec. 10.** Section 3, chapter 737, Oregon Laws 1987, is repealed on June 30, 2035. [1987 c.737 §10; 1989 c.226 §1; 1997 c.226 §1; 2005 c.844 §8]

**Note:** Sections 7, 8 and 11, chapter 539, Oregon Laws 2005, provide:

**Sec. 7.** Section 8 of this 2005 Act is added to and made a part of ORS 222.111 to 222.180. [2005 c.539 §7]

**Sec. 8.** (1) A lot, parcel or tract may not be included in territory proposed to be annexed unless the owner of the lot, parcel or tract gives written consent to the annexation, if the lot, parcel or tract:

- (a) Is zoned for industrial use or designated for industrial use zoning in an acknowledged comprehensive plan;
- (b) Is land on which no electors reside, unless one or more electors living on-site are employed or engaged to provide security services for the industrial user of the land;
- (c) Has an assessed value of more than \$2 million, including improvements; and
- (d) Is in unincorporated Jackson County, either:
  - (A) Within the urban unincorporated community of White City, west of Oregon Route 62; or
  - (B) Within the urban growth boundary of the City of Medford, west of Oregon Route 99.

(2) After annexation of a lot, parcel or tract described in subsection (1) of this section, the development rights that apply to the lot, parcel or tract under the industrial zoning classification applicable to the lot, parcel or tract when it is annexed are retained and run with the lot, parcel or tract.

(3) As used in this section, "urban unincorporated community" means an unincorporated community that:

- (a) Includes at least 150 permanent residential dwelling units;
- (b) Contains a mixture of land uses, including three or more public, commercial or industrial land uses;
- (c) Includes areas served by a community sewer system; and
- (d) Includes areas served by a community water system. [2005 c.539 §8]

**Sec. 11.** Sections 2, 4, 6, 8 and 10 of this 2005 Act are repealed June 30, 2016. [2005 c.539 §11]

**Note:** Sections 5, 6, 7, 9 (2) and 11, chapter 844, Oregon Laws 2005, provide:

**Sec. 5.** (1) Notwithstanding any provision of ORS 195.205 to 195.225, 199.410 to 199.534, 222.111 to 222.180, 222.750 and 222.840 to 222.915, property described in subsection (2) or (3) of this section may not be annexed by or to a city unless the city receives consent to the annexation from the owner of the property in the form of a petition for annexation.

(2) Property for which annexation is limited by subsection (1) of this section is property:

(a) That is composed of one or more lots, parcels or tracts that:

(A) Are owned by the same individual or entity, including an affiliate or subsidiary of the entity;

(B) Are contiguous or are separated from each other only by a public right of way, a stream, a bay, a lake or another body of water; and

(C) Together comprise at least 150 acres;

(b) On which no electors reside;

(c) That was zoned for industrial, employment or transit-oriented employment uses on December 31, 2004;

(d) That has private, on-premises security services; and

(e) That has an assessed valuation, including improvements, of more than \$12 million.

(3) Subsection (1) of this section applies to a lot, parcel or tract that is owned by the same individual or entity, including an affiliate or a subsidiary of the entity, that owns the property described in subsection (2)(a) of this section if the lot, parcel or tract:

(a) Is within two miles of the property described in subsection (2)(a) of this section; and

(b) Contains 10 or more acres that are contiguous or separated from each other only by a public right of way, a stream, a bay, a lake or another body of water.

(4) A city may not obtain approval of an owner for annexation under this section by requiring or requesting that the owner waive remonstrance or agree to annexation in order to receive utility service or other city services located in the city right of way at the same price the city charges an owner of similar property that is within the city. [2005 c.844 §5]

**Sec. 6.** An area of land within the urban growth boundary of the metropolitan service district established in the Portland metropolitan area may not be annexed under ORS 222.750 if:

(1) The area of land is larger than seven acres and is zoned for industrial use;

(2) The land is owned by an Oregon-based business entity that has been in continuous operation, either directly or through a predecessor, for at least 60 years; and

(3) The business entity employs more than 500 individuals on the land. [2005 c.844 §6]

**Sec. 7.** An area of land within the urban growth boundary of the metropolitan service district established in the Portland metropolitan area may not be annexed under ORS 222.750 if:

(1) The area of land is larger than 14 acres and is zoned for industrial use;

(2) The land is owned by an Oregon-based business entity that has been in continuous operation on a portion of the land for at least 40 years; and

(3) The business entity employs more than 300 individuals on the land. [2005 c.844 §7]

**Sec. 9.** (2) Sections 5, 6 and 7 of this 2005 Act apply to an annexation of territory approved on or after March 1, 2005, and to an annexation of territory proposed on or after the effective date of this 2005 Act. [2005 c.844 §9(2)]

**Sec. 11.** (1) Sections 5, 6 and 7 of this 2005 Act are repealed on June 30, 2035.

(2) Notwithstanding subsection (1) of this section, unless this section is amended, sections 5 and 6 of this 2005 Act are repealed five years after June 30, 2035. [2005 c.844 §11]

**222.110** [Repealed by 1957 c.613 §1 (222.111 enacted in lieu of 222.110)]

**222.111 Authority and procedure for annexation.** (1) When a proposal containing the terms of annexation is approved in the manner provided by the charter of the annexing city or by ORS 222.111 to 222.180 or 222.840 to 222.915, the boundaries of any city may be extended by the annexation of

territory that is not within a city and that is contiguous to the city or separated from it only by a public right of way or a stream, bay, lake or other body of water. Such territory may lie either wholly or partially within or without the same county in which the city lies.

(2) A proposal for annexation of territory to a city may be initiated by the legislative body of the city, on its own motion, or by a petition to the legislative body of the city by owners of real property in the territory to be annexed.

(3) The proposal for annexation may provide that, during each of not more than 10 full fiscal years beginning with the first fiscal year after the annexation takes effect, the rate of taxation for city purposes on property in the annexed territory shall be at a specified ratio of the highest rate of taxation applicable that year for city purposes to other property in the city. The proposal may provide for the ratio to increase from fiscal year to fiscal year according to a schedule of increase specified in the proposal; but in no case shall the proposal provide for a rate of taxation for city purposes in the annexed territory which will exceed the highest rate of taxation applicable that year for city purposes to other property in the city. If the annexation takes place on the basis of a proposal providing for taxation at a ratio, the city may not tax property in the annexed territory at a rate other than the ratio which the proposal authorizes for that fiscal year.

(4) When the territory to be annexed includes a part less than the entire area of a district named in ORS 222.510, the proposal for annexation may provide that if annexation of the territory occurs the part of the district annexed into the city is withdrawn from the district as of the effective date of the annexation. However, if the affected district is a district named in ORS 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465.

(5) The legislative body of the city shall submit, except when not required under ORS 222.120, 222.170 and 222.840 to 222.915 to do so, the proposal for annexation to the electors of the territory proposed for annexation and, except when permitted under ORS 222.120 or 222.840 to 222.915 to dispense with submitting the proposal for annexation to the electors of the city, the legislative body of the city shall submit such proposal to the electors of the city. The proposal for annexation may be voted upon at a general election or at a special election to be held for that purpose.

(6) The proposal for annexation may be voted upon by the electors of the city and of the territory simultaneously or at different times not more than 12 months apart.

(7) Two or more proposals for annexation of territory may be voted upon simultaneously; however, in the city each proposal shall be stated separately on the ballot and voted on separately, and in the territory proposed for annexation no proposal for annexing other territory shall appear on the ballot. [1957 c.613 §2 (enacted in lieu of 222.110); 1959 c.415 §1; 1967 c.624 §13; 1985 c.702 §7]

**222.115 Annexation contracts; recording; effect.** A contract between a city and a landowner containing the landowner's consent to eventual annexation of the landowner's property in return for extraterritorial services:

- (1) Must be recorded; and
- (2) When recorded, is binding on successors in interest in that property. [1991 c.637 §4; 2012 c.46 §§1,2]

**222.120 Procedure without election by city electors; hearing; ordinance subject to referendum.** (1) Except when expressly required to do so by the city charter, the legislative body of a city is not required to submit a proposal for annexation of territory to the electors of the city for their approval or rejection.

(2) When the legislative body of the city elects to dispense with submitting the question of the proposed annexation to the electors of the city, the legislative body of the city shall fix a day for a public hearing before the legislative body at which time the electors of the city may appear and be heard on the question of annexation.

(3) The city legislative body shall cause notice of the hearing to be published once each week for two successive weeks prior to the day of hearing, in a newspaper of general circulation in the city, and shall cause notices of the hearing to be posted in four public places in the city for a like period.

(4) After the hearing, the city legislative body may, by an ordinance containing a legal description of the territory in question:

(a) Declare that the territory is annexed to the city upon the condition that the majority of the votes cast in the territory is in favor of annexation;

(b) Declare that the territory is annexed to the city where electors or landowners in the contiguous territory consented in writing to such annexation, as provided in ORS 222.125 or 222.170, prior to the public hearing held under subsection (2) of this section; or

(c) Declare that the territory is annexed to the city where the Oregon Health Authority, prior to the public hearing held under subsection (1) of this section, has issued a finding that a danger to public health exists because of conditions within the territory as provided by ORS 222.840 to 222.915.

(5) If the territory described in the ordinance issued under subsection (4) of this section is a part less than the entire area of a district named in ORS 222.510, the ordinance may also declare that the territory is withdrawn from the district on the effective date of the annexation or on any subsequent date specified in the ordinance. However, if the affected district is a district named in ORS 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465.

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

(7) For the purpose of this section, ORS 222.125 and 222.170, “owner” or “landowner” means the legal owner of record or, where there is a recorded land contract which is in force, the purchaser thereunder. If there is a multiple ownership in a parcel of land each consenting owner shall be counted as a fraction to the same extent as the interest of the owner in the land bears in relation to the interest of the other owners and the same fraction shall be applied to the parcel’s land mass and assessed value for purposes of the consent petition. If a corporation owns land in territory proposed to be annexed, the corporation shall be considered the individual owner of that land. [Amended by 1953 c.220 §2; 1955 c.51 §1; 1961 c.511 §1; 1967 c.624 §14; 1971 c.673 §2; 1985 c.702 §8; 1987 c.818 §11; 1993 c.18 §39; 2009 c.595 §180]

**222.125 Annexation by consent of all owners of land and majority of electors; proclamation of annexation.** The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation. [1985 c.702 §3; 1987 c.738 §1]

**Note:** 222.125 was added to and made a part of ORS chapter 222 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**222.130 Annexation election; notice; ballot title.** (1) The statement summarizing the measure and its major effect in the ballot title for a proposal for annexation shall contain a general description of the boundaries of each territory proposed to be annexed. The description shall use streets and other generally recognized features. Notwithstanding ORS 250.035, the statement summarizing the measure and its major effect may not exceed 150 words.

(2) The notice of an annexation election shall be given as provided in ORS 254.095, except that in addition the notice shall contain a map indicating the boundaries of each territory proposed to be annexed.

(3) Whenever simultaneous elections are held in a city and the territory to be annexed, the same notice and publication shall fulfill the requirements of publication for the city election and the election held in the territory. [Amended by 1967 c.283 §1; 1979 c.317 §4; 1983 c.350 §33; 1995 c.79 §80; 1995 c.534 §10; 2007 c.154 §60]

**222.140** [Repealed by 1979 c.317 §26]

**222.150 Election results; proclamation of annexation.** The city legislative body shall determine the results of the election from the official figures returned by the county clerk. If the city legislative body finds that the majority of all votes cast in the territory favors annexation and the city legislative body has dispensed with submitting the question to the electors of the city, the city legislative body, by resolution or ordinance, shall set the final boundaries of the area to be annexed by a legal description and proclaim the annexation. [Amended by 1983 c.83 §23; 1983 c.350 §34; 1985 c.702 §9]

**222.160 Procedure when annexation is submitted to city vote; proclamation.** This section applies when the city legislative body has not dispensed with submitting the question of annexation to the electors of the city. If the city legislative body finds that a majority of the votes cast in the territory and a majority of the votes cast in the city favor annexation, then the legislative body, by resolution or ordinance, shall proclaim those annexations which have received a majority of the votes cast in both the city and the territory. The proclamation shall contain a legal description of each territory annexed. [Amended by 1983 c.350 §35; 1985 c.702 §10]

**222.170 Effect of consent to annexation by territory; proclamation with and without city election.** (1) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if more than half of the owners of land in the territory, who also own more than half of the land in the contiguous territory and of real property therein representing more than half of the assessed value of all real property in the contiguous territory consent in writing to the annexation of their land in the territory and file a statement of their consent with the legislative body on or before the day:

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

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

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

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

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

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

(4) Real property that is publicly owned, is the right of way for a public utility, telecommunications carrier as defined in ORS 133.721 or railroad or is exempt from ad valorem

taxation shall not be considered when determining the number of owners, the area of land or the assessed valuation required to grant consent to annexation under this section unless the owner of such property files a statement consenting to or opposing annexation with the legislative body of the city on or before a day described in subsection (1) of this section. [Amended by 1955 c.51 §2; 1961 c.511 §2; 1971 c.673 §1; 1973 c.434 §1; 1983 c.350 §36; 1985 c.702 §11; 1987 c.447 §117; 1987 c.737 §4; 1999 c.1093 §12]

**222.173 Time limit for filing statements of consent; public records.** (1) For the purpose of authorizing an annexation under ORS 222.170 or under a proceeding initiated as provided by ORS 199.490 (2), only statements of consent to annexation which are filed within any one-year period shall be effective, unless a separate written agreement waiving the one-year period or prescribing some other period of time has been entered into between an owner of land or an elector and the city.

(2) Statements of consent to annexation filed with the legislative body of the city by electors and owners of land under ORS 222.170 are public records under ORS 192.410 to 192.505. [1985 c.702 §20; 1987 c.737 §5; 1987 c.818 §8]

**Note:** 222.173 to 222.177 were added to and made a part of ORS chapter 222 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**222.175 City to provide information when soliciting statements of consent.** If a city solicits statements of consent under ORS 222.170 from electors and owners of land in order to facilitate annexation of unincorporated territory to the city, the city shall, upon request, provide to those electors and owners information on that city's ad valorem tax levied for its current fiscal year expressed as the rate per thousand dollars of assessed valuation, a description of services the city generally provides its residents and owners of property within the city and such other information as the city considers relevant to the impact of annexation on land within the unincorporated territory within which statements of consent are being solicited. [1985 c.702 §21; 1987 c.737 §6; 1987 c.818 §9]

**Note:** See note under 222.173.

**222.177 Filing of annexation records with Secretary of State.** When a city legislative body proclaims an annexation under ORS 222.125, 222.150, 222.160 or 222.170, the recorder of the city or any other city officer or agency designated by the city legislative body to perform the duties of the recorder under this section shall transmit to the Secretary of State:

(1) A copy of the resolution or ordinance proclaiming the annexation.

(2) An abstract of the vote within the city, if votes were cast in the city, and an abstract of the vote within the annexed territory, if votes were cast in the territory. The abstract of the vote for each election shall show the whole number of electors voting on the annexation, the number of votes cast for annexation and the number of votes cast against annexation.

(3) If electors or landowners in the territory annexed consented to the annexation under ORS 222.125 or 222.170, a copy of the statement of consent.

(4) A copy of the ordinance issued under ORS 222.120 (4).

(5) An abstract of the vote upon the referendum if a referendum petition was filed with respect to the ordinance adopted under ORS 222.120 (4). [1985 c.702 §4; 1987 c.737 §7; 1987 c.818 §10]

**Note:** See note under 222.173.

**222.179 Exempt territory.** The amendments to ORS 222.210, 222.230, 222.240 and 222.270 made by chapter 702, Oregon Laws 1985, do not apply in territory subject to the jurisdiction of a local government boundary commission. [1985 c.702 §27]

**Note:** 222.179 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 222 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**222.180 Effective date of annexation.** (1) The annexation shall be complete from the date of filing with the Secretary of State of the annexation records as provided in ORS 222.177 and 222.900. Thereafter the annexed territory shall be and remain a part of the city to which it is annexed. The date of such filing shall be the effective date of annexation.

(2) For annexation proceedings initiated by a city, the city may specify an effective date that is later than the date specified in subsection (1) of this section. If a later date is specified under this subsection, that effective date shall not be later than 10 years after the date of a proclamation of annexation described in ORS 222.177. [Amended by 1961 c.322 §1; 1967 c.624 §15; 1973 c.501 §2; 1981 c.391 §5; 1985 c.702 §12; 1991 c.637 §9]

**222.183 Notice of annexation when effective date delayed for more than one year.** (1) If the effective date of an annexation is more than one year after the date of a proclamation of annexation, the city, through its recorder or other city officer or agency performing the duties of recorder under this section, shall send notice to the county clerk of each county within which the city is located. The notice shall be sent not sooner than 120 days and not later than 90 days prior to the effective date of the annexation.

(2) The notice described in subsection (1) of this section shall be in addition to any other notice or filing required under ORS 222.010 to 222.750. [1995 c.607 §67]

## WITHDRAWAL OF TERRITORY

**222.460 Procedures for withdrawal of territory; content of resolution; hearing; election; taxes and assessments.** (1) Except as expressly prohibited by the city charter, when the legislative body of a city determines that the public interest will be furthered by a withdrawal or detachment of territory from the city, the legislative body of the city, on its own motion, may order the withdrawal of territory as provided in this section.

(2) A withdrawal of territory from the city shall be initiated by a resolution of the legislative body of the city.

(3) The resolution shall:

(a) Name the city and declare that it is the intent of the legislative body of the city to change the boundaries of the city by means of a withdrawal of territory;

(b) Describe the boundaries of the affected territory; and

(c) Have attached a county assessor's cadastral map showing the location of the affected territory.

(4) Not later than 30 days after adoption of the resolution, the legislative body of the city shall hold a public hearing at which the residents of the city may appear and be heard on the question of the withdrawal of territory. The legislative body of the city shall cause notice of the hearing to be given in the manner required under ORS 222.120 (3).

(5) After receiving testimony at the public hearing, the legislative body of the city may alter the boundaries described in the resolution to either include or exclude territory. If the legislative body of the city still favors the withdrawal of territory pursuant to the resolution, as approved or modified, it shall enter an order so declaring. The order shall set forth the boundaries of the area to be withdrawn. The order shall also fix a place, and a time not less than 20 nor more than 50 days after the date of the order, for a final hearing on the resolution. The order shall declare that if written requests for an election are not filed as provided by subsection (6) of this section, the legislative body of the city, at the time of the final hearing, will adopt a resolution or ordinance detaching the territory from the city.

(6) An election shall not be held on the question of withdrawal of the affected territory from the city unless written requests for an election are filed at or before the hearing by not less than 15 percent of the electors or 100 electors, whichever is the lesser number, registered in the territory proposed to be withdrawn from the city.

(7) At the time and place set for the final hearing upon the resolution for withdrawal, if the required number of written requests for an election on the proposed withdrawal have not been filed, the legislative body of the city shall, by resolution or ordinance, declare that the territory is detached from the city.

(8) If the required number of requests for an election are filed on or before the final hearing, the legislative body of the city shall call an election in the city upon the question of the withdrawal of the affected territory.

(9) If an election is called and a majority of the votes cast at the election is in favor of the withdrawal of the designated area from the city, the legislative body of the city shall, by resolution or ordinance, declare that the territory is detached from the city. If the majority of the votes cast is against the withdrawal, the legislative body of the city shall enter an order declaring the results of the election and that no withdrawal shall occur.

(10) The described area withdrawn shall, from the date of entry of the order, be free from assessments and taxes levied thereafter by the city. However, the withdrawn area shall remain subject to any bonded or other indebtedness existing at the time of the order. The proportionate share shall be based on the assessed valuation, according to the assessment roll in the year of the levy, of all the property contained in the city immediately prior to the withdrawal. [1985 c.702 §2; 1989 c.1063 §13]

**Note:** 222.460 and 222.465 were added to and made a part of ORS chapter 222 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**222.465 Effective date of withdrawal from domestic water supply district, water control district or sanitary district.** Notwithstanding any provision of this chapter or ORS chapter 199 which provides a different effective date, when territory is withdrawn by a city from a domestic water supply district organized under ORS chapter 264, a water control district organized under ORS chapter 553 or a sanitary district organized under ORS chapter 450, if the ordinance, annexation or incorporation that results in the withdrawal is enacted or approved after March 31 in any year, the effective date of the withdrawal of territory shall be July 1 in the following year. However, if the ordinance, annexation or incorporation that results in the withdrawal is enacted or approved before April 1 in any year, the effective date of the withdrawal of territory shall be July 1 in the same year. When less than the entire area of a domestic water supply district organized under ORS chapter 264, a water control district organized under ORS chapter 553 or a sanitary district organized under ORS chapter 450 is annexed by or incorporated into a city, the district shall, for purposes of administration, operation and the collection of service charges, continue to operate that portion of the district separately until the effective date of the withdrawal of territory as determined under this section. This section does not limit any agreement between a city and a district under ORS 222.530 (5), 222.540 (4) or 222.560 (4). [1985 c.702 §4a]

CITY OF NEWPORT  
169 SW COAST HWY  
NEWPORT, OREGON 97365  
  
COAST GUARD CITY, USA



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mombetsu, japan, sister city

July 27, 2017

Dennis Bartoldus, Attorney  
380 SW 2<sup>nd</sup> Street  
Post Office Box 1510  
Newport, Oregon 97365

**RE: Access onto SE 40<sup>th</sup> Street for property identified as Tax Lots 200 and 700 on Lincoln County Assessor's Map 11-11-20-AB**

Dear Mr. Bartoldus,

Thank you for your July 7, 2017 letter in which you point out that your client, Garrett Bush, is potentially interested in acquiring the above referenced property if he has some assurance that vehicle access will be available via SE 40<sup>th</sup> Street. You also provided the following language that your client has indicated that he would be willing to accept as an access limitation.

*"No lot or parcel other than property described as Tax Lots 200 and 700 on Lincoln County Assessor's Map 11-11-20-AB shall utilize the access granted herein for ingress and egress without first receiving permission from the City of Newport."*

I shared your letter with City Engineer, Tim Gross, and the language you propose is in line with what we were thinking in terms of an access limitation. However, there would also be language that reserves to the City the right to relocate that access to the east at such time as neighboring properties develop or conditions at the intersection of 40<sup>th</sup> and US 101 necessitate that it be moved to improve traffic flow and safety. It is possible that your client would be asked to contribute funds in the future to partially off-set the cost of constructing a new access. This would likely be in the context of a local improvement district or similar arrangement where the financial contribution from each affected property owner is proportional to the impact their properties have on the transportation system.

I hope that this response has clarified our stance on the matter. Please don't hesitate to contact me if you have questions, or wish to discuss these issues further.

Sincerely,

A handwritten signature in black ink, appearing to read "Derrick I. Tokos".

Derrick I. Tokos, AICP  
Community Development Director  
City of Newport  
ph: 541-574-0626  
[d.tokos@newportoregon.gov](mailto:d.tokos@newportoregon.gov)

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Dennis L. Bartoldus  
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Clifford G. Collard  
 of Counsel  
 cliff@bartolduslaw.com

July 7, 2017

Derrick Tokos  
 City of Newport  
 Planning & Community Development Dept.  
 169 SW Coast Highway  
 Newport, OR 97365

RE: Access Permit for Garrett Bush on Tax Lots 200 and 700 on Lincoln County Assessor's Map 11-11-20-AB

Dear Derrick:

I know that Garrett Bush has been working with you and the Public Works Department regarding access from property he is interested he is purchasing onto SE 40<sup>th</sup>. The property he is interested in purchasing is described as Tax Lots 200 and 700 on map 11-11-20-AB.

When we talked, you indicated the City would allow access from SE 40<sup>th</sup> to and from the property Garrett is interested in purchasing, but access would need to be limited to just his property. It is my understanding that the City would be willing to grant the access permit with some limiting language. I spoke with Garrett about his matter and we would propose the following language, if limitation language is required.

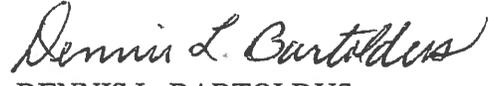
"No lot or parcel other than property described as Tax Lots 200 and 700 on Lincoln County Assessor's Map 11-11-20-AB shall utilize the access granted herein for ingress and egress without first receiving permission from the City of Newport."

If this language would be acceptable to the City and it would be the language attached to any access permit, please let me know. Garrett is interested in making a final determination on whether to purchase the property and would like assurance that first, he does have access, and that the access would be suitable for his needs.

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City of Newport

Thank you for your attention to this request.

Very truly yours,

  
DENNIS L. BARTOLDUS

DLB/ms  
cc: Garrett Bush

## **Planning Commission Regular Session Agenda Item Report**

Meeting Date: April 23, 2018

Submitted by: Sherri Marineau

Submitting Department: Community Development

Item Type: Discussion

Agenda Section: Director Comments

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### **Subject:**

Updated Tentative Planning Commission Work Program

### **Suggested Action:**

### **Attachments:**

[PC\\_Work\\_Program\\_4-18-18.pdf](#)

# Tentative Planning Commission Work Program

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



## January 8, 2018 Work Session

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- Finalize Vacation Rental Ad-Hoc Committee Interviews
- Review Draft Amendments to NMC 14.22 Airport Protection Overlay
- Discuss Desired Outcomes for DLCD Tsunami Resiliency/Time and Distance Modeling Project

## January 8, 2018 Regular Session

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- Elect Chair and Vice Chair
- Confirm Appointments to the Vacation Rental Ad-Hoc Committee

## January 22, 2018 Work Session

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- Scope of Work for South Beach US 101 Refinement Plan
- Review Updated Recommendations and Outreach Plan for Parking Study

## January 22, 2018 Regular Session

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- Public Hearing on Airport Comprehensive Plan Amendments
- Supplemental Appointments to Vacation Rental Ad-Hoc Committee

## February 12, 2018 Cancelled

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## February 26, 2018 Work Session

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- Discuss Updated Stormwater Master Plan and Potential Policies

## February 26, 2018 Regular Session

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- File 1-MRP-17-A Public Hearing on Appeal by Central Lincoln PUD of Minor Replat Approval
- File 1-ADJ-18 Public Hearing on Height Adjustment for Wyndhaven Ridge Apartments

## March 12, 2018 Work Session

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- Review Draft Stormwater Related Amendments to the Comprehensive Plan
- Discuss Scope of Revisions for Major Amendment 13 to the South Beach URA Plan

## March 26, 2018 Work Session

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- Presentation by DOGAMI Regarding “Beat the Wave” Modelling Assumptions

## March 26, 2018 Regular Session

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- File 1-MRP-17-A Final Order on Appeal by Central Lincoln PUD of Minor Replat Approval
- File 1-ADJ-18 Final Order on Height Adjustment for Wyndhaven Ridge Apartments
- File 2-ADJ-17 Public Hearing on Garage Setback Adjustment Request @ 1201 SW Case Street

# Tentative Planning Commission Work Program

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



**April 9, 2018**

**Work Session**

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- Discuss Updated Wastewater Plan and Potential Policies

**April 9, 2018**

**Regular Session**

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- File 2-ADJ-17 Final Order on Garage Setback Adjustment Request @ 1201 SW Case Street
- File 1-CUP-18 Public Hearing on Conditional Use Permit for a Vacation Rental Dwelling Seeking Relief From Off-Street Parking Requirements

**April 23, 2018**

**Regular Session**

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- File 1-CUP-18 Final Order on Conditional Use Permit for a Vacation Rental Dwelling Seeking Relief From Off-Street Parking Requirements
- File 1-AX-18 / 2-Z-18 Public Hearing on Annexation and Zoning Amendment at 4401 S Coast Hwy

**May 14, 2018**

**Work Session**

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- Placeholder for Review of Ad-Hoc Committee - Proposed Amendments to VRD/B&B Ordinance and Outreach Plan
- Amendment to NMC Chapter 12.15 to Allow Certain SDC Credits to be Transferred
- Update on Parks System Master Plan Scope and Schedule

**May 14, 2018**

**Regular Session**

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- File 1-Z-18 Public Hearing on Amendments to NMC Chapter 14.22 Airport Restricted Overlay
- File 1-MISC-18 Public Hearing on Renaming of Don Davis Park to Honor Ann Davis
- Placeholder for Public Hearing on Modified Height Variance for Samaritan Pacific Hospital
- Placeholder for Public Hearing on Renovation of Mariner Square Tourist Venue

**May 29, 2018**

**Work Session**

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- Placeholder for Draft Ordinance Amendments to Implement Parking Study Recommendations
- Review Draft Amendments to Wastewater Master Plan and Policies

**May 29, 2018**

**Regular Session**

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- Public Hearing on Amendments to Comp Plan Public Facilities Element (Stormwater)

**June 11, 2018**

**Work Session**

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- Placeholder to Review Draft FIRM Map Amendments (Including Resolved Southshore Appeal)
- Update on TSP Scope and Schedule

**June 25, 2018**

**Work Session**

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- Placeholder for Review of DLCD time and Distance Modeling and Overlay Zone Provisions
- Placeholder to Discuss Further Amendments to Nye Beach Design Review Overlay

**June 25, 2018**

**Regular Session**

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- Public Hearing on Amendments to Comp Plan Public Facilities Element (Wastewater)