



## **AGENDA & Notice of Planning Commission Work Session Meeting**

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The Planning Commission of the City of Newport will hold a work session meeting at **6:30 p.m., Monday, June 9, 2014** (*note later start time*), at the Newport City Hall, Conference Room "A", 169 SW Coast Hwy., Newport, OR 97365. A copy of the meeting agenda follows.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, 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, 541-574-0613.

The City of Newport Planning Commission reserves the right to add or delete items as needed, change the order of the agenda, and discuss any other business deemed necessary at the time of the work session.

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### **NEWPORT PLANNING COMMISSION Monday, June 9, 2014, 6:30 P.M.**

#### **AGENDA**

**A. Unfinished Business.**

1. Review draft changes to Flood Insurance Rate Maps.

**B. New Business.**

**C. Adjournment.**

# Memorandum

To: Newport Planning Commission/Citizen Advisory Committee  
From: Derrick Tokos, Community Development Director   
Date: June 5, 2014  
Re: FEMA Flood Study Review – Draft Maps

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Enclosed is background information on a new flood study and Flood Insurance Rate (FIRM) Maps that the Federal Emergency Management Agency (FEMA) will be officially releasing as a preliminary review set in September/October of this year. They have provided local jurisdictions with an advance set of the FIRM maps for quality control purposes and have asked for comments by June 18<sup>th</sup>. The new Flood Study that outlines the methodology used to generate the maps is not yet available.

FIRM maps establish the boundary of the 100-year floodplain. They also show the location of floodways, which represent areas of active flow, as opposed to standing water, during a 100-year event. Persons with property that falls within a 100-year floodplain must obtain flood insurance for the buildings and structures they own. Also, new development within a floodplain is subject to special building codes that are designed to ensure that the lowest floor area of the finished space is elevated at least one-foot above the 100-year base flood elevation, and that portions of the structure below that point are flood proofed.

The version of the FIRM maps that the City is currently using were adopted in 2009. These maps are essentially a digitized version of the original paper maps prepared in 1982 with updates where parcel level map revisions were made over time, usually at the request of land owners. The 2009 flood study was unchanged, meaning it relied upon hydrologic analysis that was conducted as early as 1977.

The new draft maps are based upon an updated hydrologic analysis for coastal and estuary areas that has been performed by the State Department of Geology and Mineral Industries (DOGAMI). DOGAMI is FEMA's contractor for this project. Highly accurate "Lidar based" elevation data has also been used for the coastal work and mapping of inland tributaries. Hydrologic analysis for inland areas (i.e. rivers, streams, etc.) has not been updated, meaning those base flood elevations continue to draw from the 1970's work.

Enclosed is a project summary that FEMA prepared for a May 28, 2014 meeting held in Newport with Lincoln County local jurisdictions. It contains a little bit more detail on the work that has been done. Also, attached are sample images comparing the 2009 maps to the new maps, and images of three areas in Newport where we have

questions about the mapping. Of those three, Neohla Point is the only one that we have fully researched and provided comment on to FEMA.

In general, the map changes have little impact on Newport since most of our coastal development is on bluffs that are well above the 100-foot elevations. The new maps drop the base flood elevation of the bay from 13-feet to 11.5-feet. This change is at least partially based upon actual tide gauge data, and results in a number of developed properties being pulled out of the 100-year floodplain. On balance, more properties are being removed from the floodplain than are being added and the accuracy of the new maps is much better than the 2009 version.

The purpose of this work session is to provide the Planning Commission and its Advisory Committee an opportunity to become familiar with the work that FEMA and DOGAMI have performed, and to discuss the types of issues we are bringing up as part of the quality control process. The map review and adoption process will include a number of outreach points as the information is rolled out and plugging in at this initial stage should provide helpful context for future meetings on the topic.



FEMA

**RiskMAP**

Increasing Resilience Together



# Lincoln County FEMA Risk MAP Project Flood Study Review Meeting

May 28, 2014

Newport



# Project Team



## Oregon Department of Geology and Mineral Industries (DOGAMI)

- Providing the Science & Mapping
- FEMA Cooperating Technical Partner
- Lidar Acquisition
- Regulatory Flood Mapping
- Mitigation & Risk Analysis
- Hazard Viewer Website
- Community Awareness



# FEMA

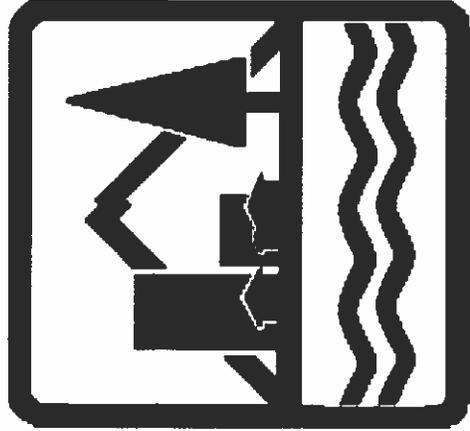


## FEMA Region X and the National Flood Insurance Program (FEMA NFIP)

Providing the Funding and Oversight

## Oregon Department of Land Conservation and Development (DLCDD)

- Providing the Local Guidance
- FEMA Cooperating Technical Partner
- State-level NFIP Administration
- Planning
- Adoption/Implementation
- Mitigation Strategies



(FEMA Region X subcontractors)  
- Quality Review



# Flood Mapping Revision



## Types of Revisions

- 1. Survey-based detailed study of the Pacific Ocean producing new BFEs**
  - Results in coastal Zone VE and Zone AE
- 2. GIS and lidar-based approximate river studies producing new BFEs**
  - Remains Zone A (BFE is not printed on FIRMs, but is available)
- 3. Lidar-based re-delineation of existing BFEs**
  - Remains Zone AE (BFE still printed on FIRMs)



# Flood Mapping Revision



## Overview of Hydrologic Methods

	Description	Zone
Approximate River	Regional regression model produced by U.S. Geological Survey and Oregon Water Resources Department in 2005	Zone A
Detailed Coastal	<ul style="list-style-type: none"><li>• ~140-150 wave events modeled using Simulating Waves Nearshore by OSU/DOGAMI (based on 30 years of measured waves from NDBC)</li><li>• 45 years of SWLs derived from synthesized time series of measured tides at Garibaldi and Newport</li><li>• Wave runup on dune-backed beaches modeled using Stockdon et al. (2006), and on coastal engineering structures and bluff-backed beaches using TAW approach (van der Meer, 2002; NHC, 2005)</li></ul>	Zone VE and AE
Re-delineation of Detailed River	N/A	Zone AE



# Flood Mapping Revision



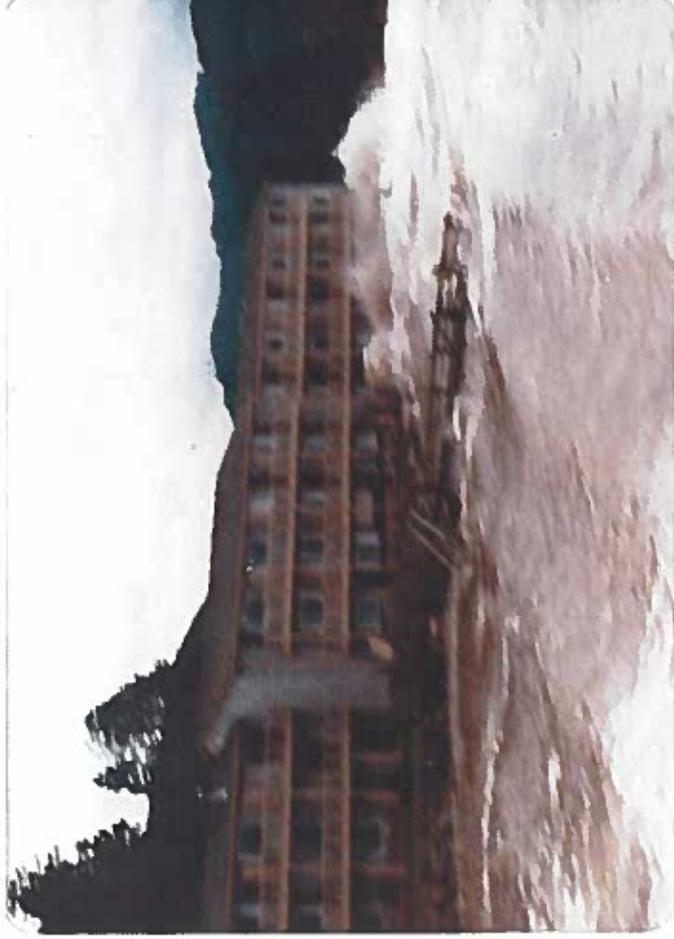
## Overview of Hydraulic Methods

	Description	Zone
Approximate River	<ul style="list-style-type: none"> <li>• Simple HEC-RAS models</li> <li>• Roughness is generalized</li> <li>• Based on lidar topography</li> <li>• No field survey</li> <li>• Structures are assumed or not modeled</li> </ul>	Zone A
Detailed Coastal	<ul style="list-style-type: none"> <li>• Geomorphic assessment of open coast performed</li> <li>• Morphological parameters defined at 85 transects, determined from RTK-DGPS and Lidar surveys above -1m (NAVD88), and bathymetric surveys of the nearshore (i.e. -1m to ~-25m)</li> <li>• Dune-backed beaches eroded using Kriebel and Dean (1993) approach, utilizing 1% storm conditions. Bluff-backed beaches not eroded.</li> <li>• Wave runup and overtopping determined at 86 coastal transects.</li> </ul>	Zone VE and AE
Re-delineation of Detailed River	N/A	Zone AE

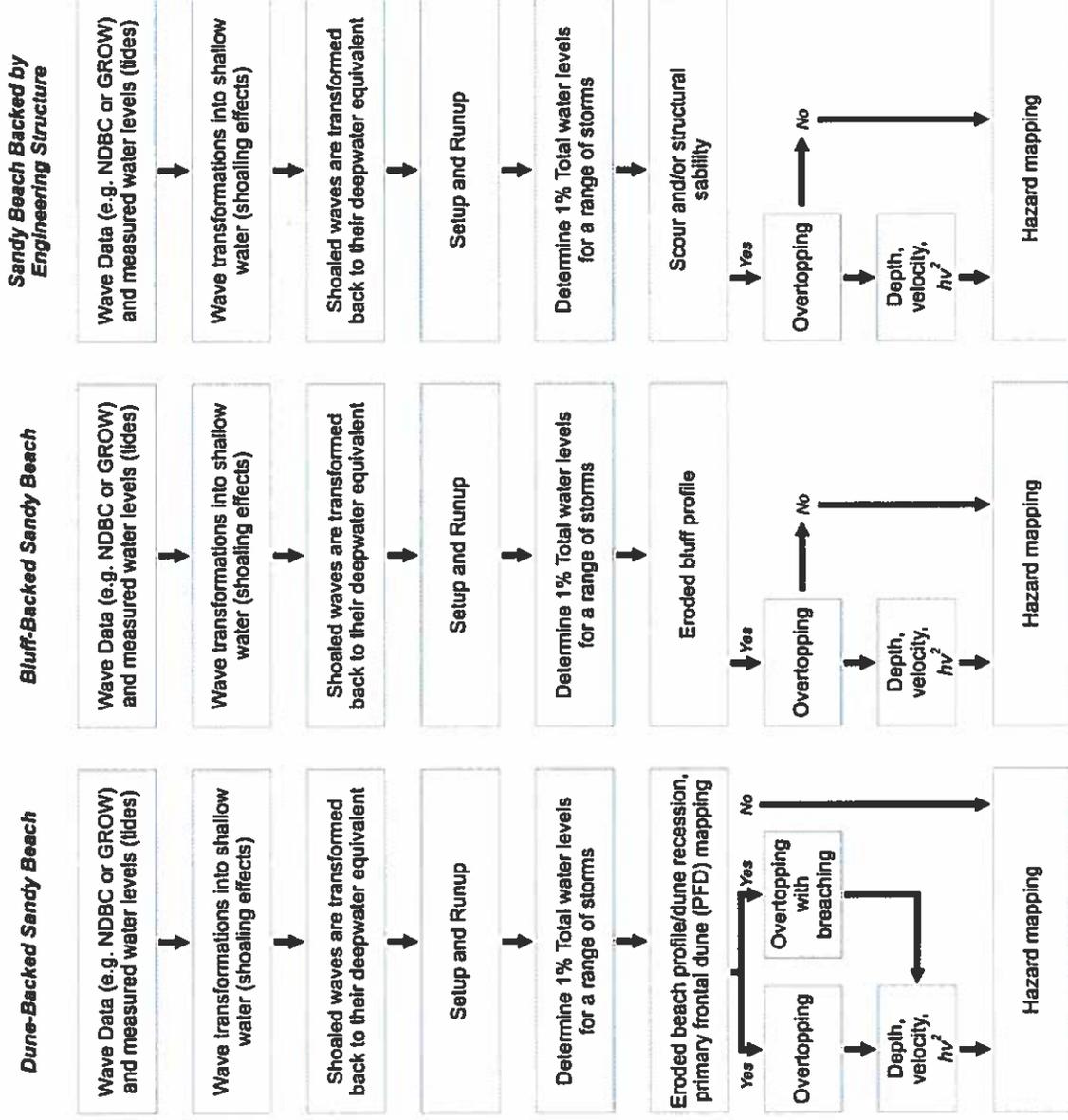
# FEMA Coastal Flood Mapping

## – Why?

- **New methodology, guideline, and/or policy (NHC, 2005)**
- **Changes in development and land use;**
- **Increase in tidal gage record length or historical storm set;**
- **Changes to stillwater elevations;**
- **Construction or removal of flood-control structures;**
- **Occurrence of one or more significant flood events;**
- **Availability of better topographic information;**
- **Construction of a shore protection structure;**
- **Changes to bathymetry and/or shoreline; and**
- **Identification of a Primary Frontal Dune.**



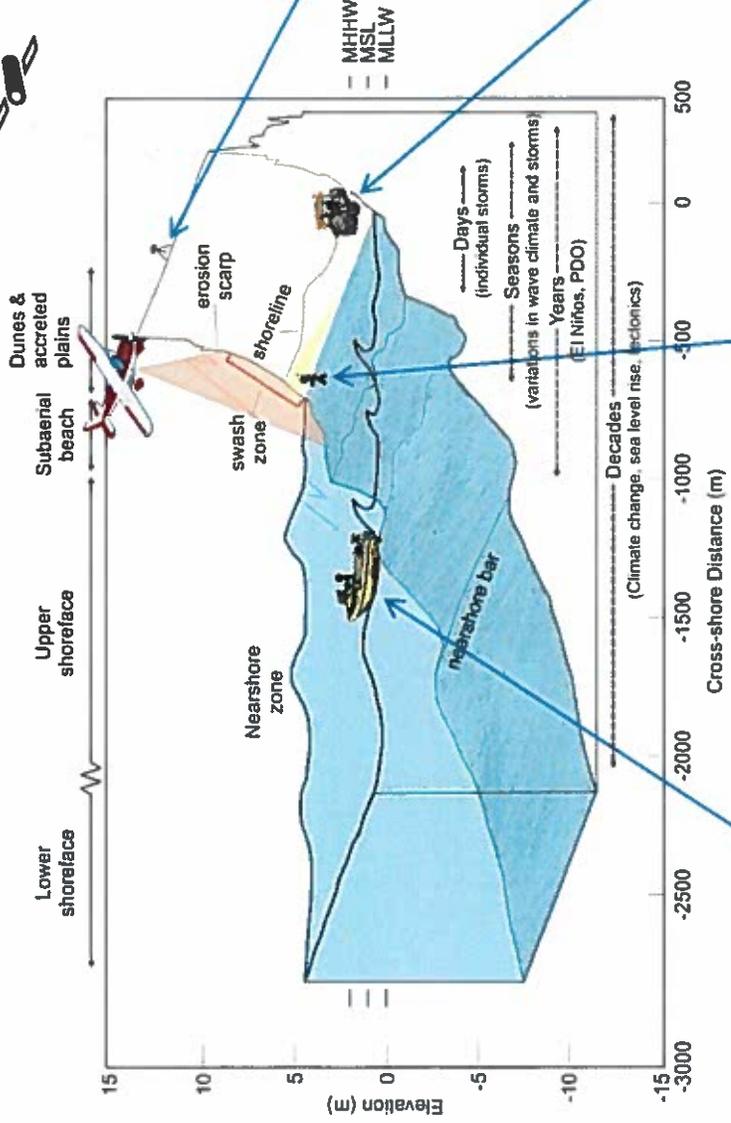
# Approach



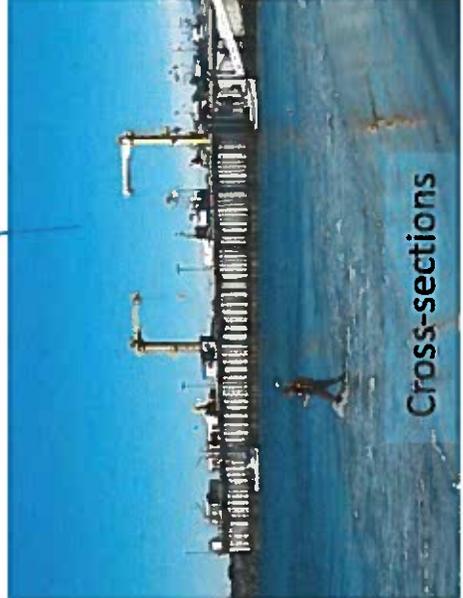
(after NHC, 2005)



# Morphology



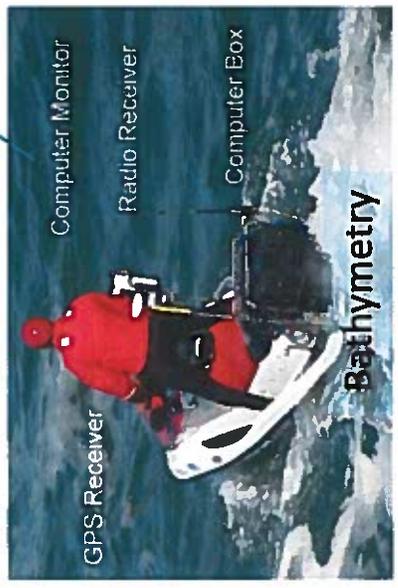
GPS Base Station



Cross-sections



Topo surveying



Bathymetry

Computer Monitor

Radio Receiver

Computer Box

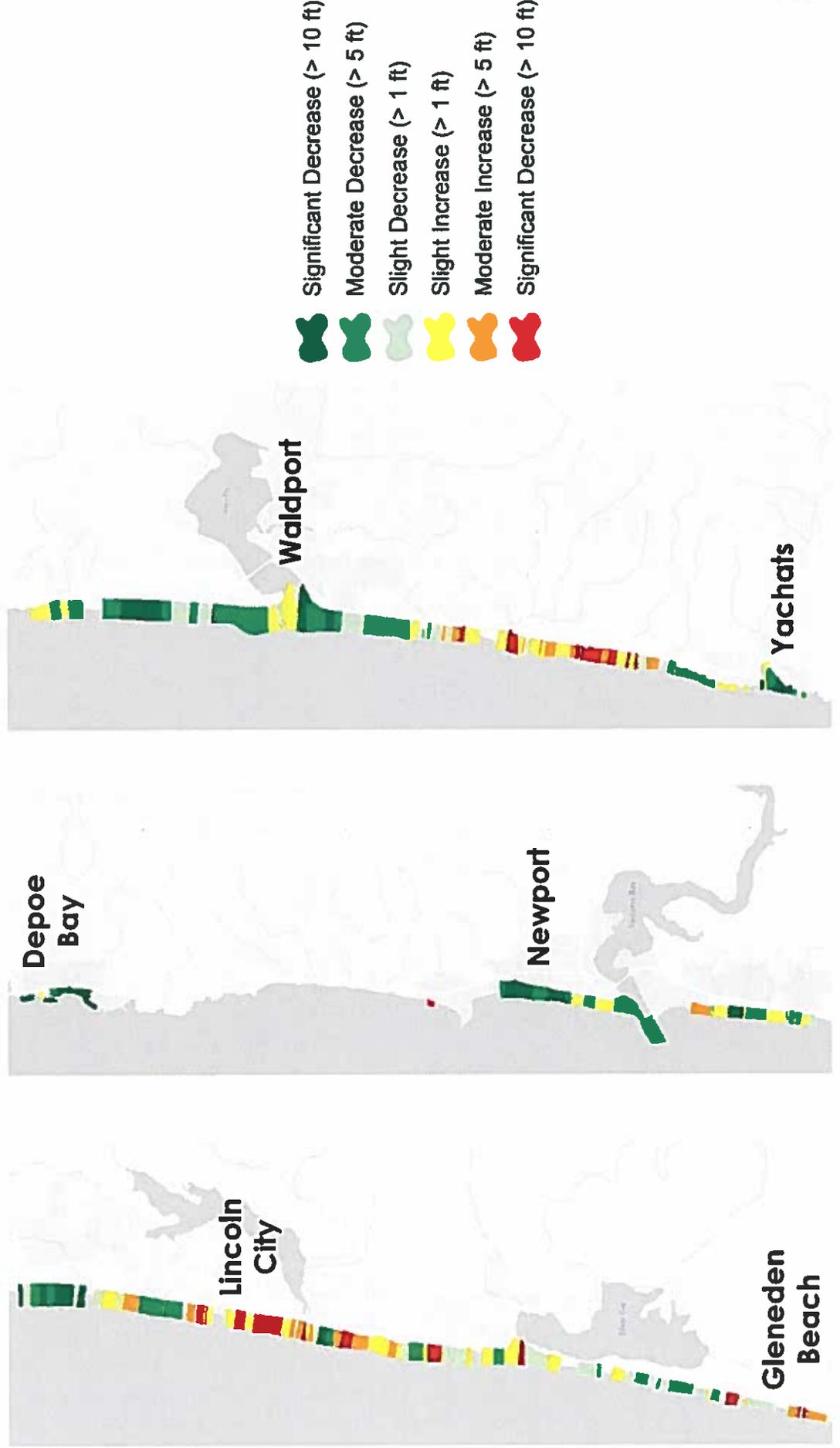
GPS Receiver



# Coastal Zone Revisions



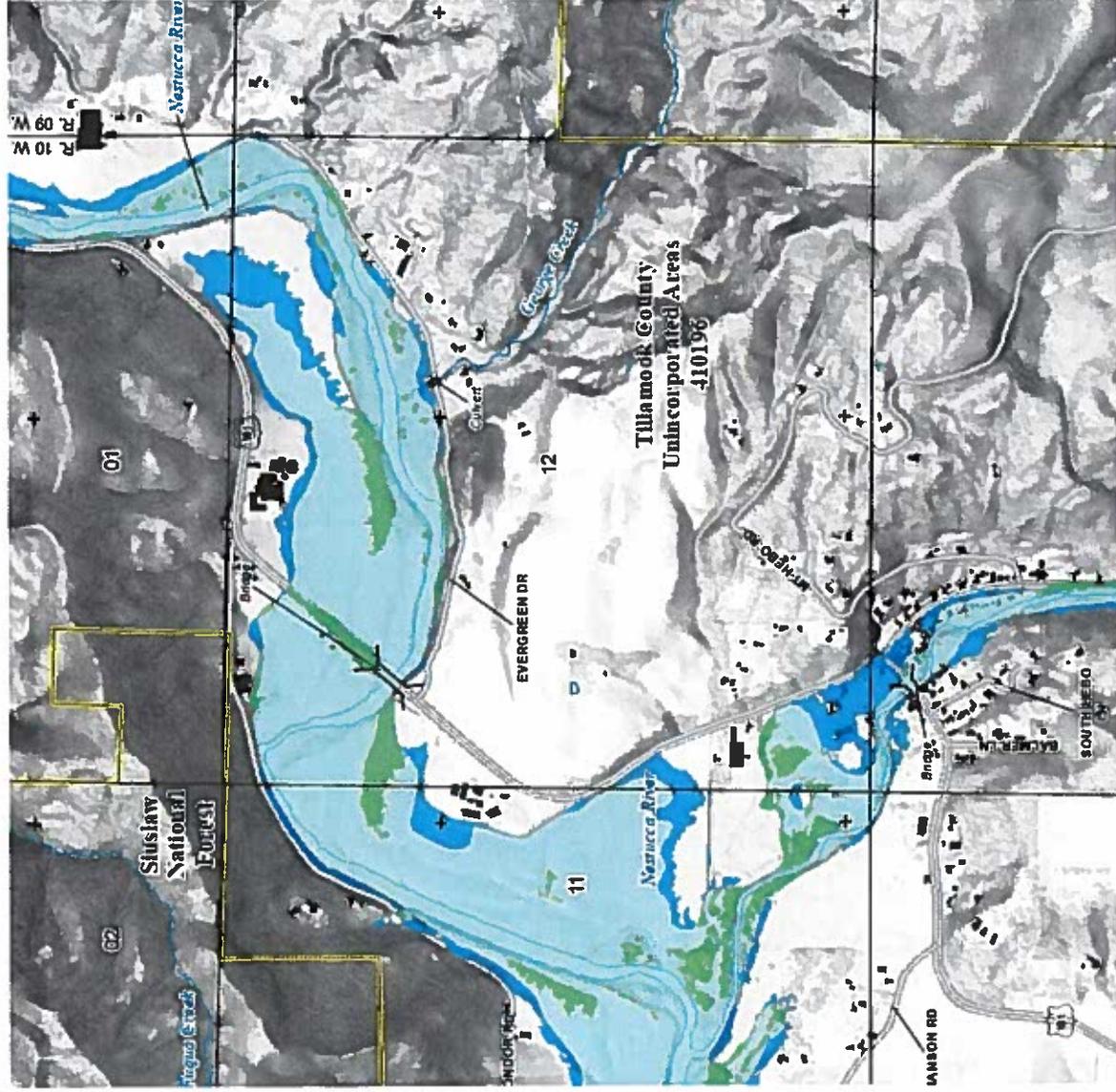
## Base Flood Elevation Changes for Open Coast (Zone VE)





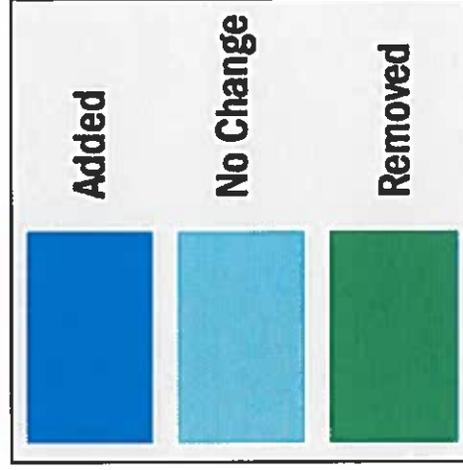


# Flood Mapping Revision



## Change Maps

Difference between preliminary and draft Special Flood Hazard Areas (SFHAs)





# Flood Study Review

## Change Statistics (Special Flood Hazard Area in Acres)

	Added	Removed	No Change	Effective	Revised	% Change
Lincoln City	25.6	66.7	391.7	458.4	417.3	-9.0%
Depoe	19.0	20.9	68.1	89.0	87.1	-2.1%
Siletz	6.9	9.3	54.2	63.5	61.1	-3.8%
Newport	82.0	161.6	1,352.2	1,513.8	1,434.2	-5.3%
Toledo	69.2	35.6	462.8	498.4	532.0	6.7%
Waldport	64.5	21.6	464.7	486.3	529.2	8.8%
Yachats	3.8	27.2	77.8	105.0	81.6	-22.3%
Lincoln County	4,405.5	4,601.7	30,201.7	34,803.4	34,607.2	-0.6%



# Flood Study Review



## Key Points of Review

1. Check to make sure mapping is consistent with your local knowledge of the flooding sources.
  - Is water going somewhere it physically can't go?
  - Has re-delineation created confusing floodways?
2. Are we missing important map features?
  - Roads, tide gates, levees, bridges, culverts
3. Is everything labeled correctly?
4. Most important – Do you understand the changes to the flood zones? Could you explain the basics to your constituents?

**Review comments due by June 18, 2014.**



# Flood Study Key Contacts



Jed Roberts, DOGAMI (Flood Mapping Coordinator)

[jed.roberts@dogami.state.or.us](mailto:jed.roberts@dogami.state.or.us)

Christine Shirley, DLCD (NFIP Coordinator)

[christine.shirley@state.or.us](mailto:christine.shirley@state.or.us)

Steve Lucker, DLCD (Risk MAP Coordinator)

[stephen.lucker@state.or.us](mailto:stephen.lucker@state.or.us)

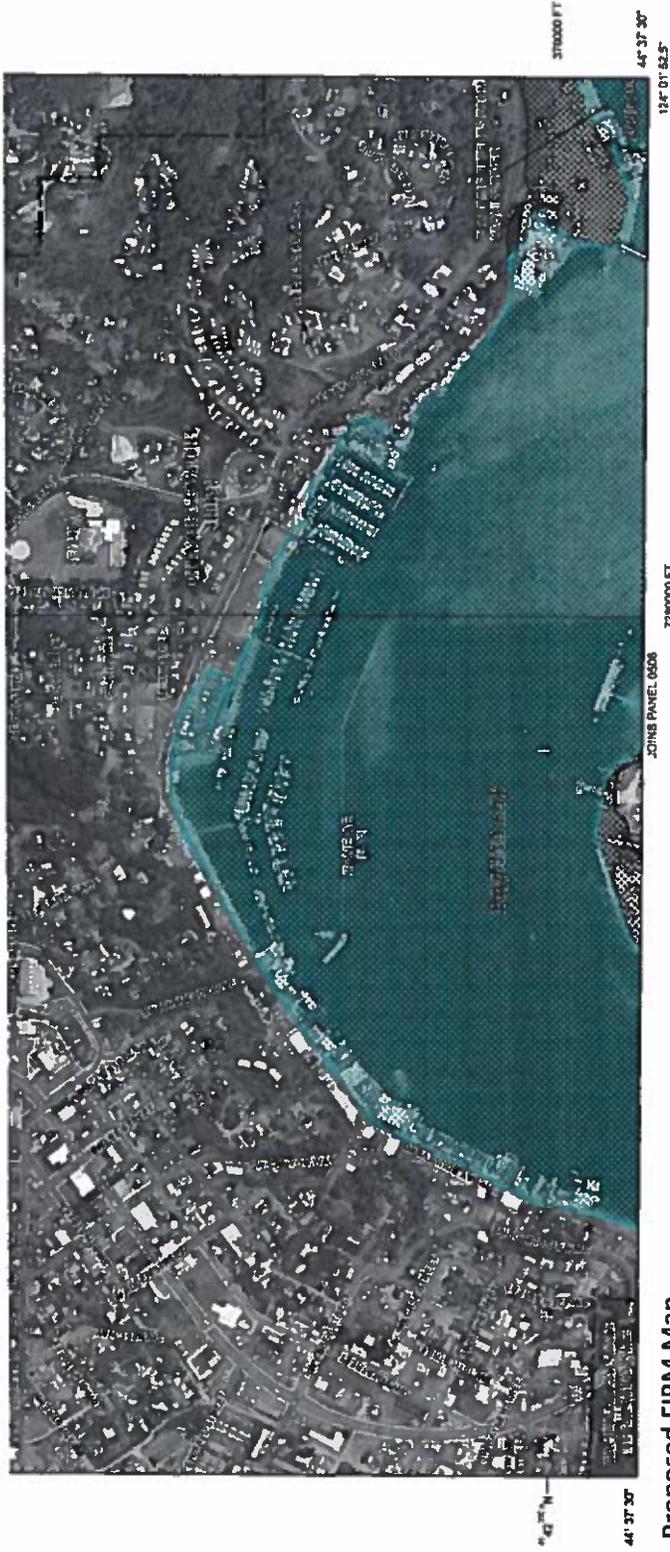
David Ratte, FEMA Region X (Regional Engineer)

[david.ratte@fema.dhs.gov](mailto:david.ratte@fema.dhs.gov)

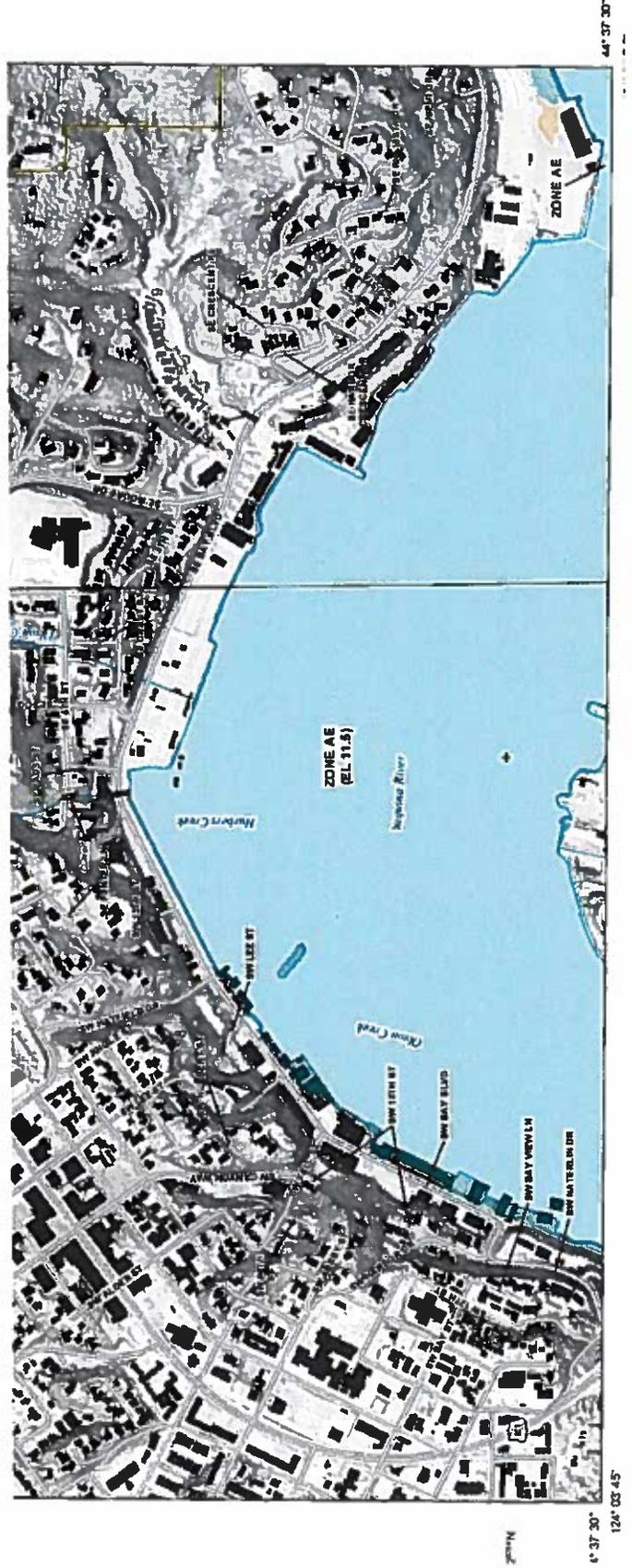
Amanda Siok, FEMA Region X (Risk Analyst)

[amanda.engstfeld@fema.dhs.gov](mailto:amanda.engstfeld@fema.dhs.gov)

Existing FIRM Map



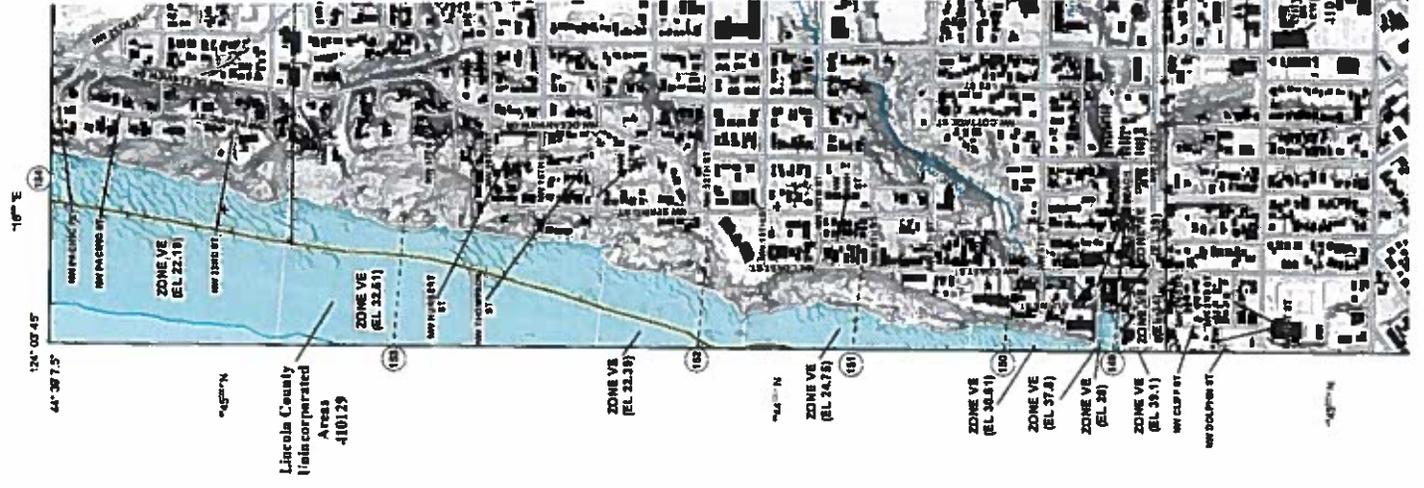
Proposed FIRM Map



Existing FIRM Map

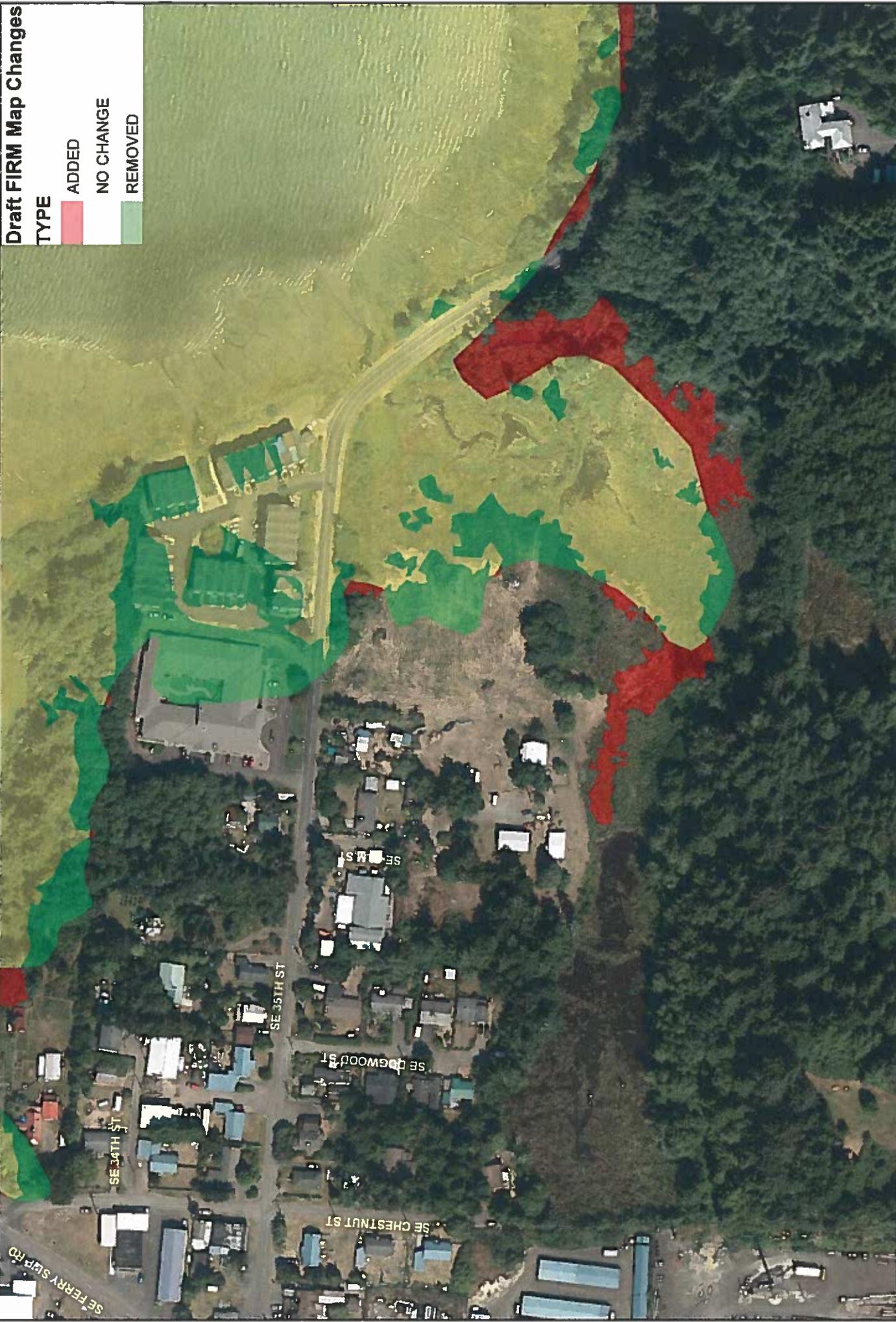


Proposed FIRM Map



**Draft FIRM Map Changes**

TYPE	ADDED	NO CHANGE	REMOVED
			



# Neohla Point Townhouse Development

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

**City of Newport**  
 Community Development Department  
 189 SW Coast Highway  
 Newport, OR 97365

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



## Derrick Tokos

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**From:** Jonathan Allan <Jonathan.Allan@dogami.state.or.us>  
**Sent:** Monday, June 02, 2014 12:34 PM  
**To:** Derrick Tokos  
**Cc:** Elwin Hargis; Jed Roberts  
**Subject:** RE: 35th Street Flooding

Derek, thanks for this information. We are looking into this, including recalculating our calculated 1%TWL in order to better constrain the extreme value fit.

I did check the tide gauge data for Yaquina Bay and can confirm that the measured water levels peaked at 3.623 m (~11.19 ft relative to NAVD88 at 11 am local time on Dec 30<sup>th</sup> 2005). Note, our 1% TWL is calculated to be 11.5 ft. The attached images show the original maps for the area, compared with our proposed new maps. Some of the difference could in fact be characteristics associated with the lidar since there is probably some interpolation going on where the buildings are located to generate those holes?????. Jed, it looks like the reach boundary at this site may have also changed between the original map and the new one in order to generate all those -9999 values among the buildings. Thoughts?

Anyway, we will get back to you ASAP with possible updates for this area.

Regards  
Jon

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Oregon Department of Geology and Mineral Industries,  
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email: [jonathan.allan@dogami.state.or.us](mailto:jonathan.allan@dogami.state.or.us)  
website: <http://www.oregongeology.org/FIELDOFFICES/jonathanallan.htm>  
<http://www.oregongeology.org/sub/nanoos1/index.htm>

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**From:** Derrick Tokos [mailto:D.Tokos@NewportOregon.gov]  
**Sent:** Thursday, May 29, 2014 11:54 AM  
**To:** Jonathan Allan  
**Cc:** Elwin Hargis; Jed Roberts  
**Subject:** FW: 35th Street Flooding

Hi Jonathan,

Here are photos from a 2005 storm event that flooded the Neohla Point townhouse development at the time it was being constructed. Please note that floodwaters had receded significantly by the time these images were taken. I understand from our staff that SE 35<sup>th</sup> Street was overtopped and impassible for a period of time.

In reviewing the photos, it appears to me that the flooding was largely attributed to the drainage south of the roadway (as opposed to the bay). It also suggests that the townhouse development and adjoining assisted living facility properties are probably not good candidates for having land removed from the floodplain as this type of event is likely to reoccur.

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

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**From:** Victor Mettle  
**Sent:** Thursday, May 29, 2014 10:16 AM  
**To:** Derrick Tokos  
**Subject:** 35th Street Flooding

Here are the pictures.





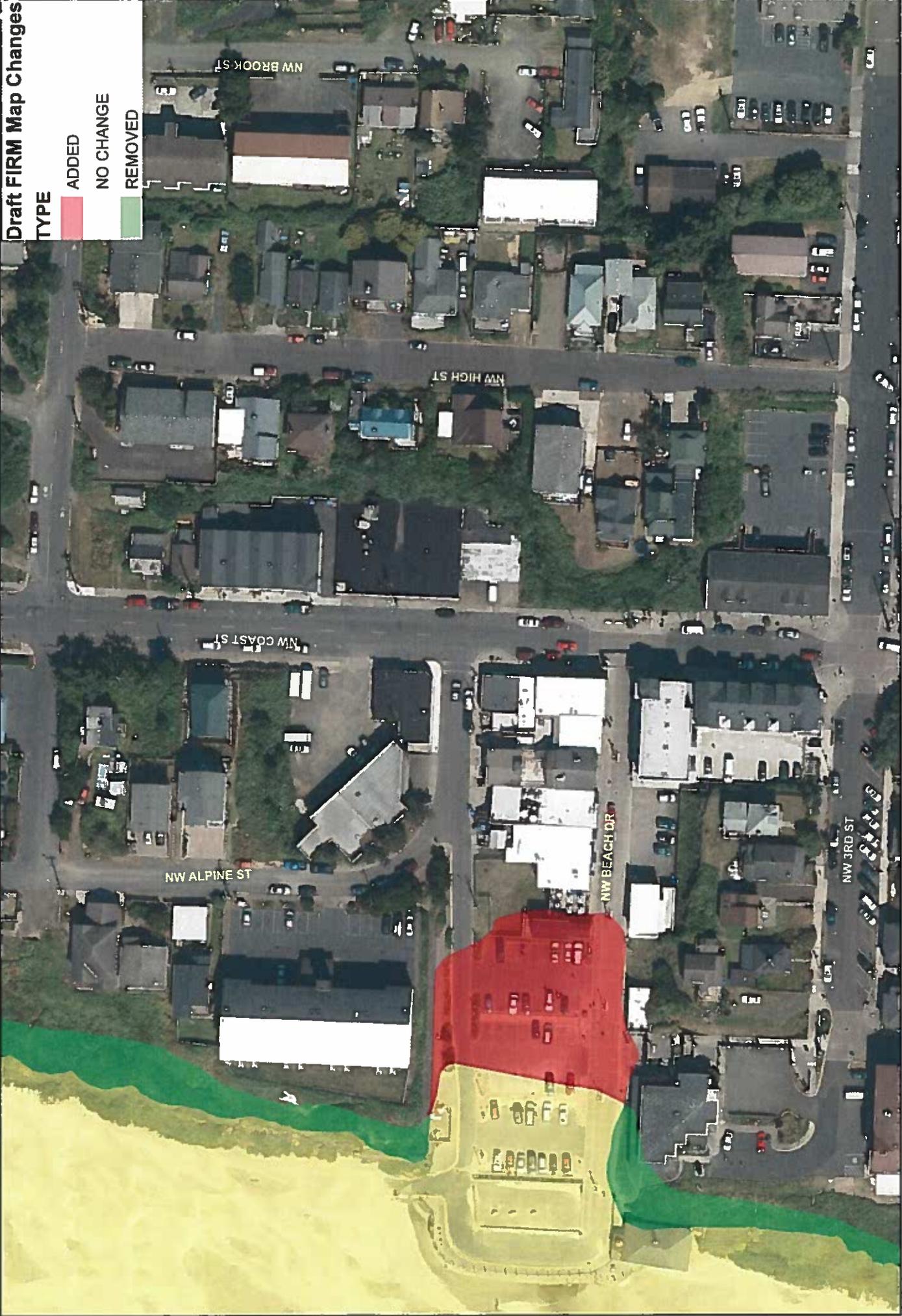
12 30 2005



12 30 2005

**Draft FIRM Map Changes**

TYPE	ADDED	NO CHANGE	REMOVED
	[Red Box]	[White Box]	[Green Box]



# Nye Beach Turnaround

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: 1.541.574.0828  
 Fax: 1.541.574.0844



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**Draft FIRM Map Changes**

TYPE	ADDED	NO CHANGE	REMOVED
			



# Big Creek Road - Residential Area

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

**City of Newport**  
 Community Development Department  
 188 SW Coast Highway  
 Newport, OR 97365  
 Phone: 1.541.574.0829  
 Fax: 1.541.574.0644



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## AGENDA & NOTICE OF PLANNING COMMISSION MEETING

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The Planning Commission of the City of Newport will hold a meeting at **7:00 p.m. Monday, June 9, 2014**, at the Newport City Hall, Council Chambers, 169 SW Coast Hwy., Newport, OR 97365. A copy of the meeting agenda follows.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, 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, 541-574-0613.

The City of Newport Planning Commission reserves the right to add or delete items as needed, change the order of the agenda, and discuss any other business deemed necessary at the time of the meeting.

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### NEWPORT PLANNING COMMISSION Monday, June 9, 2014, 7:00 p.m. AGENDA

**A. Roll Call.**

**B. Approval of Minutes.**

1. Approval of the Planning Commission regular session meeting minutes of May 27, 2014.

**C. Citizens/Public Comment.**

1. 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.

**D. Consent Calendar.**

**E. Action Items.**

**F. Public Hearings.**

Quasi-Judicial Hearings:

1. File No. 3-CUP-14. Consideration of a request submitted by Eric & Cherie Gullerud per Chapter 14.25.020(E)/ “Bed and Breakfast and Vacation Rental Facilities – General Provisions” of the Newport Municipal Code (NMC) for a conditional use permit for approval of a vacation rental in a residence where the requirements per NMC 14.25.050 for off-street parking spaces cannot be met. The residence is located at 732 NW 2<sup>nd</sup> Ct (Assessor’s Map 11-11-08-BB; Tax Lot 11700).

**G. New Business.**

**H. Unfinished Business.**

**I. Director Comments.**

**J. Adjournment.**

**DRAFT**  
**City of Newport**  
**Planning Commission Regular Session**  
**Tuesday, May 27, 2014**

**A. Commissioners Present:** Jim Patrick, Bill Branigan, Gary East, Rod Croteau Bob Berman, and Mike Franklin.

**Commissioners Absent:** Jim McIntyre.

**City Staff Present:** Derrick Tokos, Community Development Director (CDD), Peggy Hawker, City Recorder/Special Projects Director, and Library Director, Ted Smith.

Chair Patrick called the meeting to order in the Newport City Council Chambers at 7:00 P.M.

**B. Approval of Minutes.**

1. Approval of the work session and regular meeting minutes of May 12, 2014.

MOTION was made by Croteau, seconded by East, to approve the minutes of the work session and regular meeting of May 12, 2014 with a change requested by Berman. The motion carried unanimously in a voice vote.

**C. Citizen/Public Comment.**

There was no public comment.

**D. Consent Calendar.**

There were no items on the consent calendar.

**E. Action Items.**

1. **Approval of a Letter to the City Council Regarding the Planning Commission's Recommendations Pertaining to Local Regulatory Options for Medical Marijuana Dispensaries.**

Tokos reported that the packet contains a draft letter to the City Council regarding the regulation of medical marijuana facilities. He noted that the gist of the letter is that the Planning Commission has concluded that there is no need for the city to change its land use regulations to limit the hours of operation or the locations where medical marijuana facilities may operate in the city. He added that the Police Department would like the city to establish standards for the purpose of enhancing public safety that relate to the condition under which a facility may

dispense medical marijuana. He stated that these standards include: extending background checks to employees, as opposed to only the principal operator; ensuring that the police have access to the facility at all times when people are present; and requiring that the facilities provide local law enforcement with the same access to records and video surveillance that they are required to provide to the Oregon Health Authority. Tokos noted that the Commission also discussed a suggestion to place restrictions on the sale of ancillary products containing marijuana; requiring alarm companies to contact the Police Department any time the alarm system is triggered; and imposing liability insurance and indemnification requirements on facility operators, but that there was not Commission consensus that these requirements, if adopted, would enhance public safety or otherwise benefit the community.

It was suggested that the following changes be made to the draft letter (the changes are highlighted in bold and underlined):

First paragraph, line seven should read, “individuals who were present at the April 7<sup>th</sup> City Council meeting when a temporary moratorium was. . .”

Fourth paragraph, last sentence should read, “There was consensus amongst the Commission that these requirements, if adopted, would not enhance public safety or otherwise benefit the community.”

Last paragraph, line seven should read, “persons in the community who would like convenient access to the medical marijuana products that. . .”

MOTION was made by Croteau, seconded by East, to approve the letter to the City Council regarding the Planning Commission’s recommendations pertaining to local regulatory options for medical marijuana dispensaries with the changes noted above. The motion carried unanimously in a voice vote.

## **F. Public Hearings.**

1. **Hearing on File No. 2-CP-14.** A request regarding revisions to the Library Services section of the Public, Cultural, and Educational Services element of the Newport Comprehensive Plan to identify the city’s role in implementing the goals, objectives, and strategies outlined in a March 2014 strategic plan prepared on behalf of the Library Board of Trustees and the Newport Library Foundation.

Patrick opened the public hearing at 7:05 P.M. by reading the statement of rights and relevance that applied to this hearing. He asked for declarations of ex parte contact, bias, conflicts of interest, or site visits from the Planning Commissioners. Patrick asked whether there were any objections to any of the Planning Commissioners or the Commission as a whole hearing these matters. There was none. Several Commissioners disclosed that they had visited the Library.

Tokos presented the staff report. He reviewed the criteria, notification, packet attachments, comments, the request, and conclusion and recommendation. He noted that this package of changes incorporates the recommendations in the strategic plan completed in March 2014. He added that it takes the recommendations and frames them in a manner that spells out the city's role in implementing the goals and objectives. Tokos reported that the Planning Commission had discussed this matter in a work session. Berman noted that there is a reference in the draft ordinance to an external document that is not attached as a part of the Comprehensive Plan.

Smith reported that he had nothing to add but was available to respond to questions.

Several changes were recommended to Attachment A to the ordinance, as follows (the changes are highlighted in bold and underlined):

Page two - second section should read, "Service Goal: To be a place that stimulates the imagination, invites and enables life-long learning and creates young readers."

Page two - Policy 2 - Strategy 3 should read, "Implement a plan to work with families to enable children age 0-5 to visit the Library."

Page three - Policy 4 - Strategy 6 - second line should read, "devices and user languages."

Page three - Policy 4 - Strategy 7 should read "Increase technology budgett that allows for flexibility to meet changing technology needs."

The hearing was closed at 7:12 P.M. for Commission deliberation.

MOTION was made by Croteau, seconded by Branigan, to recommend to the City Council to consider the draft ordinance described in File No. 2-CP-14 with the changes to Attachment A as noted. The motion carried unanimously in a voice vote.

Berman and East agreed to attend the June 2 City Council meeting to present the letter to Council.

#### **G. Unfinished Business.**

Tokos reported that the ad hoc Nye Beach Design Review Committee would be meeting tomorrow, and that there would be several additional meetings before the issue is brought to the Planning Commission.

Tokos reported that the business license work group will meet on June 17 at 3:00 P.M., and that Croteau will attend. He added that there may, or may not, be recommendations from this group to bring to the Commission.

Tokos reported that monies had been budgeted for consulting for the formation of a new northside urban renewal district. He noted that the city is in discussions with the taxing entities, and will strive to complete this and bring the matter to the Commission for a recommendation to the City Council. Tokos noted that a consultant had not been selected as the City Council has to determine whether to proceed with the establishment of a district.

Tokos reported that he would have draft language regarding beachfront protective structures at the next Commission work session.

#### **H. Unfinished Business.**

There was no unfinished business.

#### **I. Director Comments.**

Tokos reported that he would be meeting with FEMA tomorrow regarding the flood study review rate maps. He noted that the maps are highly accurate and based on detailed topographic data. He added that FEMA changed the methodology regarding what is in the flood plain, and fine-tuned what is anticipated in a “worst case” inundation. He noted that there are more properties being removed from the flood plain that being added to it. He reported that he will schedule this matter for a Commission work session, and that it will have to go through the legislative adoption process and include local agency feedback.

Tokos reported that he will be meeting with Lincoln County on June 6 regarding urban growth management criteria. He added that expects a draft to be discussed on an upcoming Commission agenda.

Tokos reported that street vacation and subdivision plats are being filed by the Urban Renewal Agency in the OMSI development area, and that these will come to the Planning Commission for hearing in late June or early July.

Tokos reported that the city has selected a consultant for the design of the municipal swimming pool. He added that the only planning issue is a parking demand analysis which requires a staff level review.

It was noted that there are medical marijuana dispensaries open in Lincoln City and Toledo.

#### **J. Adjournment.**

Having no further business, the meeting adjourned at 7:27 P.M.

Respectfully submitted,

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Margaret M. Hawker, City Recorder

DRAFT

## PLANNING STAFF REPORT

### Case File No. 3-CUP-14

- A. **APPLICANT:** Eric & Cherie Gullerud.
- B. **REQUEST:** Approval per Chapter 14.25.020(E) "Bed and Breakfast and Vacation Rental Facilities – General Provisions" of the Newport Municipal Code (NMC) for a conditional use permit 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.
- C. **LOCATION:** 732 NW 2<sup>nd</sup> Court
- D. **LEGAL DESCRIPTION:** Lincoln County Assessor's Tax Map 11-11-08-BB, Tax Lot 11700.
- E. **LOT SIZE:** Approximately 2,587.5 sq. ft. per Lincoln County Tax Assessor records.
- F. **STAFF REPORT**
1. **REPORT OF FACT**
- 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 and single-family and multi-family residential uses.
  - d. **Topography and Vegetation:** The site is flat and the front yard is landscaped with lawn. The rear yard is covered with a deck.
  - e. **Existing Structures:** A residence built in 1913.
  - f. **Utilities:** All are available to the site.
  - g. **Development Constraints:** None known.
  - h. **Past Land Use Actions:** None known.
  - i. **Notification:** Notification to surrounding property owners and to city departments/public agencies was mailed on May 8, 2014; and the notice of public hearing was published in the Newport News-Times on May 30, 2014.

j. **Attachments:**

Attachment "A" – Applicant’s Written Findings of Fact  
Attachment "A-1" – Site Plan  
Attachment "A-2" – Building Photographs  
Attachment "A-3" – Aerial Photo  
Attachment "B" – Public Hearing Notice  
Attachment "C" – Assessment Map of the Property  
Attachment "D" – Zoning Map of the Area

2. **Explanation of the Request:** 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 (built in 1913) does not meet the requirements for one off-street parking space per bedroom.

The applicant explains that their intent is to convert the existing residence into a short-term vacation rental with three bedrooms, which is consistent with other uses throughout the Nye Beach neighborhood. Due to the limited lot size and existing footprint of the residence, this property cannot satisfy business license endorsement standards as required by Newport Municipal Code with respect to off-street parking. Pursuant to 14.25.050(C), one off-street parking space per bedroom is required.

3. **Evaluation of the Request:**

- a. **Comments:** All surrounding property owners and affected city departments and public utilities were notified on May 8, 2014. The notice was published in the Newport News-Times on May 30, 2014. No comments have been received in response to these notices.

b. **Conditional Use Criteria (NMC Chapter 14.34.050):**

- (1) The public facilities can adequately accommodate the proposed use.
- (2) The request complies with the requirements of the underlying zone or overlay zone.
- (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.
- (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.

c. **Staff Analysis:**

In order to grant the permit, the Planning Commission must find that the applicant's proposal meets the following criteria.

(1) The public facilities can adequately accommodate the proposed use.

Public facilities are defined in the Zoning Ordinance as sanitary sewer, water, streets and electricity. All public facilities are available and serve the site and existing residence.

The applicant's findings indicate that the proposed three-bedroom vacation rental is expected to house vacationers in limited numbers for short-term stays so the expected impact of this use is significantly less than that of full-time occupancy. The house has been used as a family vacation home and a monthly rental in the past. It was acquired in November of 2013 by new owners who believe the highest and best use is as a vacation rental.

Photographs provided by the applicant and an aerial image of the site establish that the residence is located in a developed residential/commercial area where public services are available. This constitutes substantial evidence that the Commission can rely upon to find that public facilities are sufficient to support the use.

Given the above, it is reasonable for the Planning Commission to find that the public facilities can adequately accommodate the use of the residence as a vacation rental.

(2) The request complies with the requirements of the underlying zone or overlay zone.

This criterion addresses special requirements of the underlying or overlay zone beyond the standard zoning ordinance requirements. The subject property is located within the Nye Beach Design Review Overlay zone. The zoning is C-2 within the Nye Beach Design Review Overlay District. Vacation rentals are permitted in the C-2 zone; and the conditional use permit process is an avenue for those that are unable to meet all of the endorsement standards. The applicants note the request for conversion of the existing residence to a vacation rental is in compliance with the City's zoning code regulations as of July 1, 2012, and that the request is consistent with other uses in the Nye Beach neighborhood.

The applicant notes, and Lincoln County Assessment records confirm, that the residence was built in 1913. It was last updated in the 1980s. This predates establishment of the Nye Beach Design Review Overlay. Further, the Overlay standards are tailored to ensure that new structures are designed to complement streetscape and design elements already present in the area. The standards are not applicable to a change in use of this nature.

Given the above, it is reasonable for the Planning Commission to find that this criterion has been satisfied.

- (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.

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.

The applicant notes that because of the nature of the building and its extensive decking, business activities should be well-contained within the property. No adverse impact to the neighborhood regarding unreasonable noise, dust, air quality, etc., is anticipated. In its history, the dwelling has never been accessible to off-street parking.

A primary reason for the off-street parking requirement is to ensure that sufficient parking is available to persons renting a unit, and that available on-street spaces are not overtaxed such that adjoining homes and businesses are adversely impacted. The aerial photograph shows that parallel parking is available on both sides of NW 2<sup>nd</sup> Court. There are no restrictions on the use of these parallel spaces. Commercial uses bookend both sides of NW 2<sup>nd</sup> Court and the available parallel parking spaces are heavily utilized. This may mean that spaces will not be available to vacation rental users at all times or the users will occupy spaces that would otherwise have been available to owners/tenants of other residences within the block or for employees/customers of the commercial establishments. A key consideration though, 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. Given the modest size of the applicants' dwelling (at 3 bedrooms), and the fact that the unit will likely be occupied on a seasonal basis, it is reasonable for the Commission to find that available on-street spaces are adequate to accommodate the vacation rental without adversely impacting neighboring uses.

The applicant's site plan shows that the property is 2,587.5 square feet in size with the house being setback less than 12 feet from NW 2<sup>nd</sup> Court. Side yard setbacks are roughly 5-feet in width. Approximately 20-feet of driveway depth would be needed to provide an off-street parking space. This could only be accommodated through substantial renovation of the residence, which would be impractical.

This application seeks relief from landscaping requirements that apply to vacation rentals. The landscaping standards require that at least 50% of the front yard and 40% of the total lot area be landscaped (ref: NMC 14.25.050(E)). These standards are intended to prevent undeveloped portions of a property from being converted into extra parking spaces, creating a streetscape that is inconsistent with a typical residential environment and allowing for more people to reside in a unit than it can reasonably accommodate making it more likely that there will be nuisance impacts to neighbors. These standards only apply to properties that are situated in residential zones. The subject property is zoned C-2/"Tourist Commercial," which is not a residential zoning designation; therefore, there is no need for the Commission to consider a deviation from this standard as it does not apply to the subject property.

Given the above, it is reasonable for the Planning Commission to find that this criterion has been satisfied.

- (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.

The applicants note that the application is for relief to the parking requirement for an existing structure and not for a proposed building or building modification. The original structure was built in 1913. Additions to the home were made sometime after that; but no improvements have occurred since the 1980s. The new owners have upgraded the interior to increase the energy-efficiency and enhance patron comfort and safety.

Given the above, it is reasonable for the Planning Commission to find that the use of the dwelling as a vacation rental will be consistent with the overall development character of the neighborhood.

4. **Conclusion:** If the Planning Commission finds that the applicant has met the criteria established in the Zoning Ordinance for granting a conditional use permit, then the Commission should approve the request. The Commission can attach reasonable conditions that are necessary to carry out the purposes of the Zoning Ordinance and the Comprehensive Plan. If the Commission finds that the request does not comply with the criteria, then the Commission should deny the application.

G. **STAFF RECOMMENDATION:** As outlined in this report, this application to convert an existing residence to a vacation rental dwelling can satisfy the approval criteria for a conditional use provided conditions are imposed as outlined below. Accordingly, the Commission should approve this request, subject to the following:

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).



Derrick I. Tokos AICP  
Community Development Director  
City of Newport

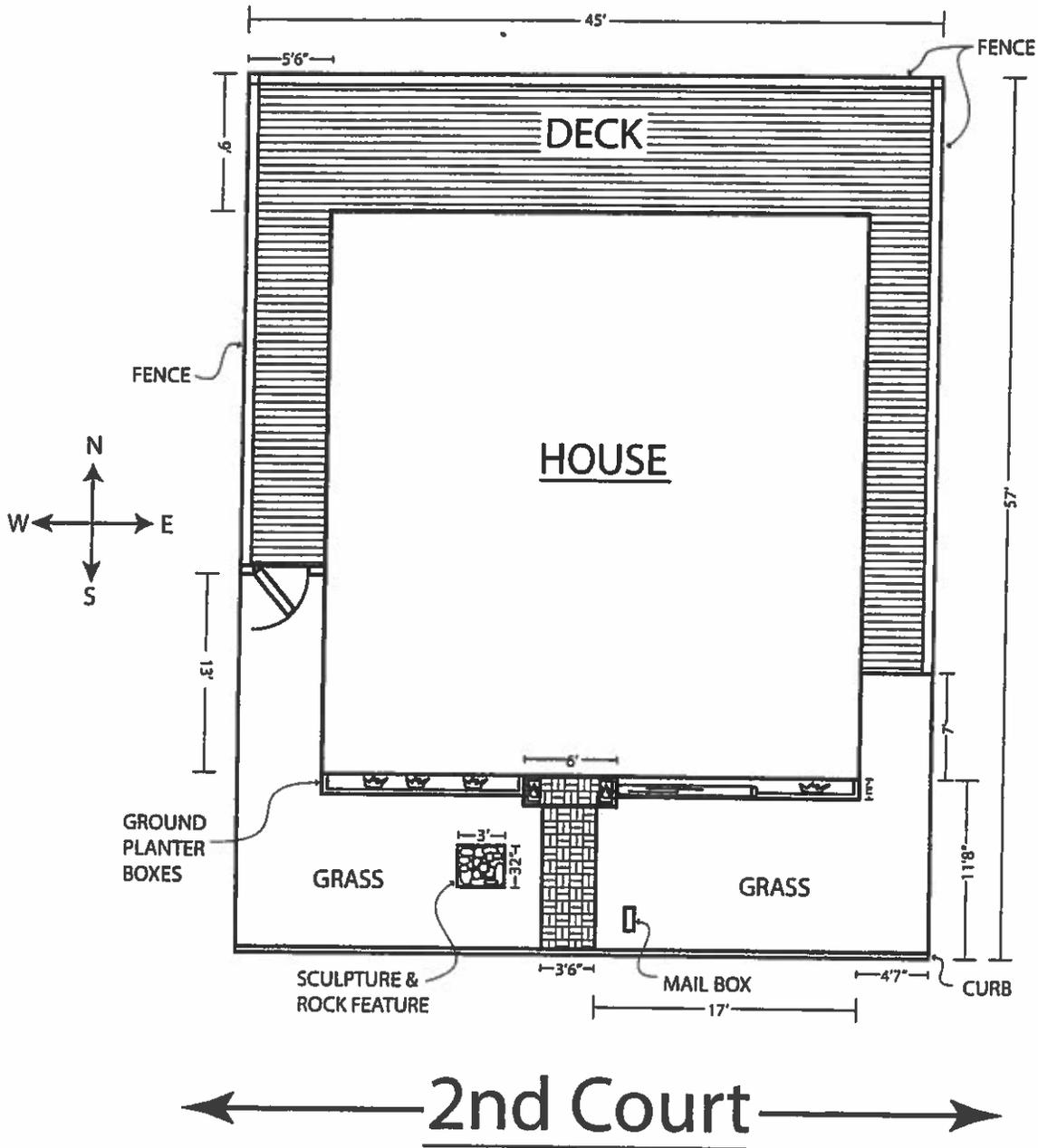
June 4, 2014

**APPLICATION FOR CONDITIONAL USE PERMIT  
REGARDING RELIEF FROM ALL BUSINESS ENDORSEMENT STANDARDS  
Conditional Use (Staff level Type II decision-making process)**

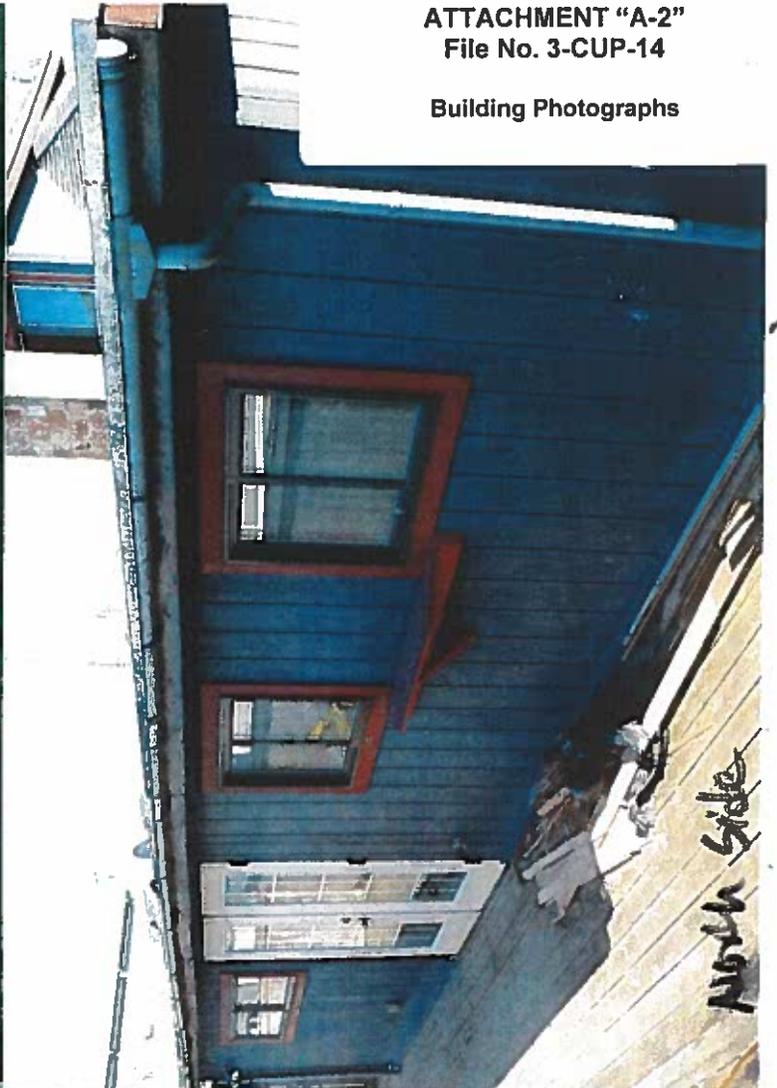
1. Site Plan – See **Exhibit A**
2. Photos of the existing structure in lieu of elevation – See **Exhibit B**
3. Sign Plan – No signs are proposed
4. Current Lincoln County Assessor's Tax Map showing subject property and notification area – See **Exhibit C**
5. List of names and addresses of property owners within the notification area described in #4 – See **Exhibit D**
6. Proposed plan of business operation – Since vacation rentals are now permitted in all of Newport City's residential zoning districts, this application for a conditional use permit is seeking relief from only one or more of the endorsement standards.
7. Written findings of fact:
  - a) The proposed three-bedroom vacation rental is expected to house vacationers in limited numbers for short-term stays. The expected impact of this use is significantly less than full-time occupancy. The house has been used as a family vacation home and a monthly rental in the past. It was acquired in November of 2013 by new owners who believe the highest and best use of the property is as a vacation rental.
  - b) The underlying request for conversion of the existing residence to a vacation rental is in compliance with the City's zoning regulations as of July 1, 2012.
  - c) Because of the nature of the building and its extensive decking, business activities should be well contained within the property. No adverse impact due to the neighborhood regarding unreasonable noise, dust, air quality, etc., is anticipated. In its history the dwelling has never been accessible to off-street parking.
  - d) This application is for parking permission, not for a proposed building or building modification. The original structure was built in 1913. Additions to the home were made sometime after that, but no improvements have occurred since the 1980s. The new owners have upgraded the interior to increase the energy efficiency and enhance patron comfort and safety.
8. Description of this request:
  - a) The applicant's intent is to convert the existing residence into a short-term vacation rental, with three bedrooms. This is consistent with other uses throughout the Nye Beach neighborhood.
  - b) Due to the limited lot size and unavailability of off-street parking, this property cannot satisfy all of the business license endorsement standards as required by the City of Newport. The applicant seeks relief from general terms 'E', requiring one off-street parking space per bedroom, and 'G', standards regarding landscaping.

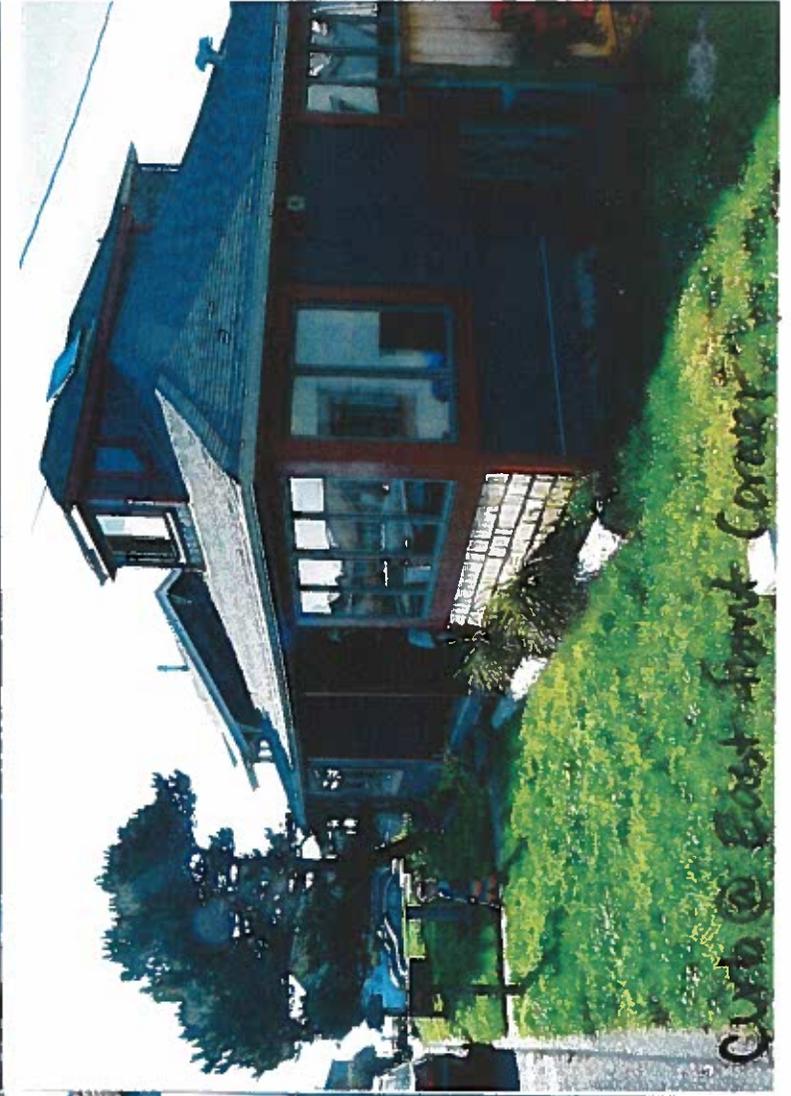
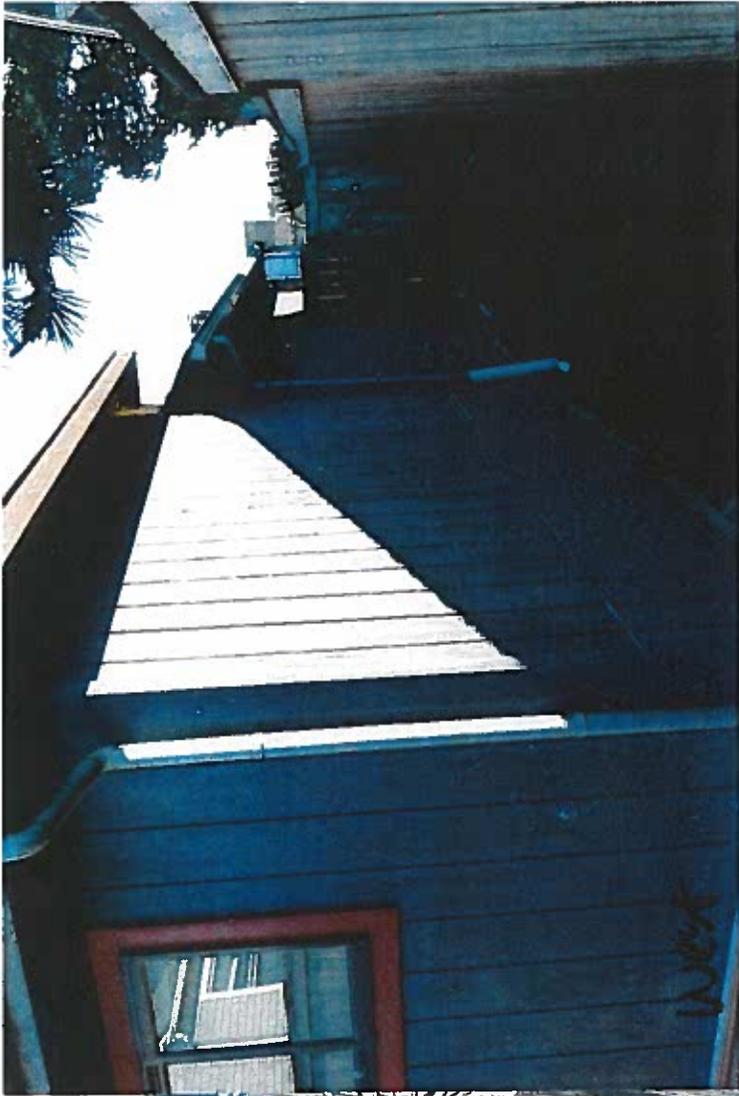
# SITE MAP

732 2nd Court  
Newport OR



Building Photographs



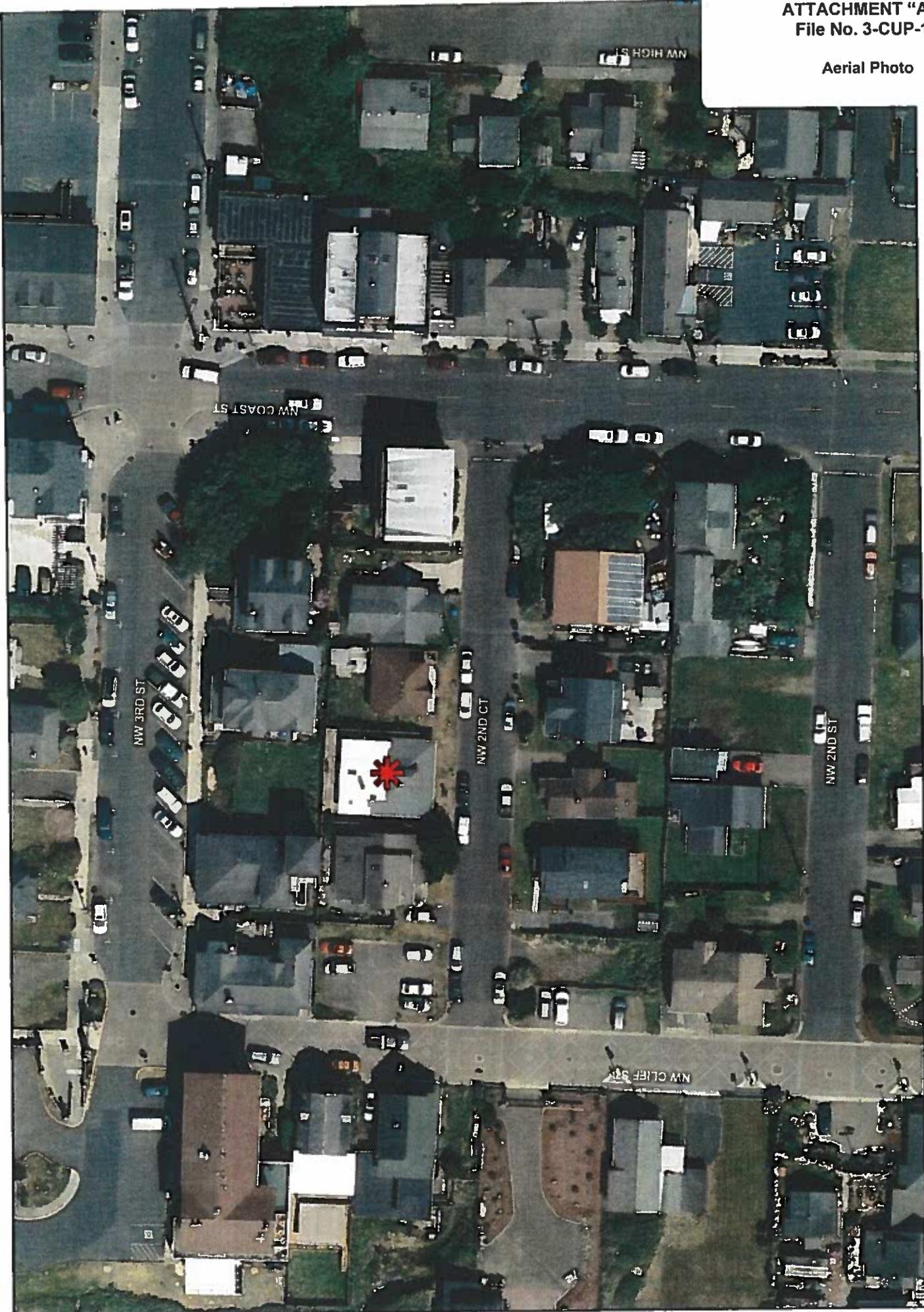


Curb @ East front corner

North

Front corner

Aerial Photo



**732 NW 2nd Court**  
**C-2" Tourist Commercial" Zoning**  
Image Taken July 2013

City of Newport  
Community Development Department  
189 SW Coast Highway  
Newport, OR 97365  
Phone: 541.574.0828  
Fax: 1.541.574.0844



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

NOTICE IS HEREBY GIVEN that the Planning Commission of the City of Newport, Oregon, will hold a public hearing to consider the following Conditional Use Permit request:

**File No. 3-CUP-14:**

**Applicants & Owners:** Eric & Cherie Gullerud, PO Box 2475, Corvallis, OR 97339.

**Request:** Approval of a request per Chapter 14.25.020(E) "Bed and Breakfast and Vacation Rental Facilities – General Provisions" of the Newport Municipal Code (NMC), for a conditional use permit for approval of a vacation rental in a residence where the requirements per NMC 14.25.050 for off-street parking spaces cannot be met.

**Location/Subject Property:** 732 NW 2<sup>nd</sup> Ct (Assessor's Map 11-11-08-BB; Tax Lot 11700).

**Applicable Criteria:** NMC Chapter 14.34.050: (1) The public facilities can adequately accommodate the proposed use; 2) the request complies with the requirements of the underlying zone or overlay zone; 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; and 4) a proposed building or building modification is consistent with the overall development character of the area with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.

**Testimony:** Testimony and evidence must be directed toward the criteria described above or other criteria in the Comprehensive Plan and its implementing ordinances which the person believes to apply 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. Submit testimony in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. Letters sent to the Community Development (Planning) Department (address below under "Reports/Application Material") must be received by 5:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. The hearing will include a report by staff, testimony (both oral and written) from the applicant and those in favor or opposed to the application, rebuttal by the applicant, 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 Material:** The staff report may be reviewed or a copy 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 (including the application and all documents and evidence submitted in support of the application), the 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 (address above in "Reports/Application Material").

**Time/Place of Hearing:** Monday, June 9, 2014; 7:00 p.m.; City Hall Council Chambers (address above in "Reports/Application Material").

**MAILED:** May 8, 2014.

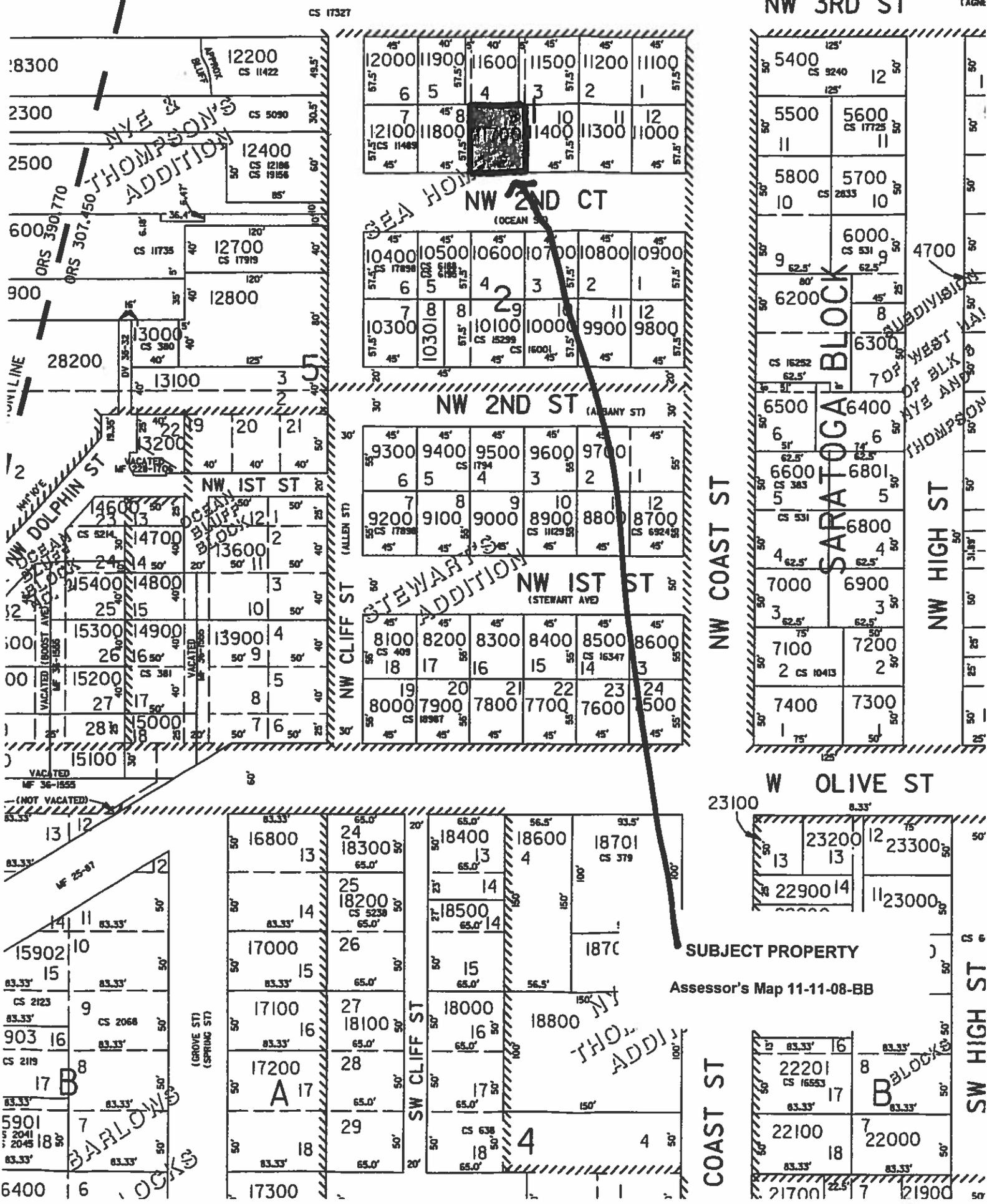
**PUBLISHED:** May 30, 2014/News-Times.

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<sup>1</sup> Notice of this action is being sent to the following: (1) Affected property owners within 200 feet of the subject property according to Lincoln County tax records; (2) affected public utilities within Lincoln County; and (3) affected city departments.



Assessment Map of the Property



NW COAST ST

COAST ST

W OLIVE ST

NW 3RD ST

SUBJECT PROPERTY

Assessor's Map 11-11-08-BB

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CS 16553

CS 17728

CS 2833

CS 531

CS 16282

CS 9246

CS 11422

CS 5090

CS 12186

CS 13156

CS 11735

CS 17919

CS 380

CS 380

CS 17938

CS 11422

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CS 12186

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CS 380

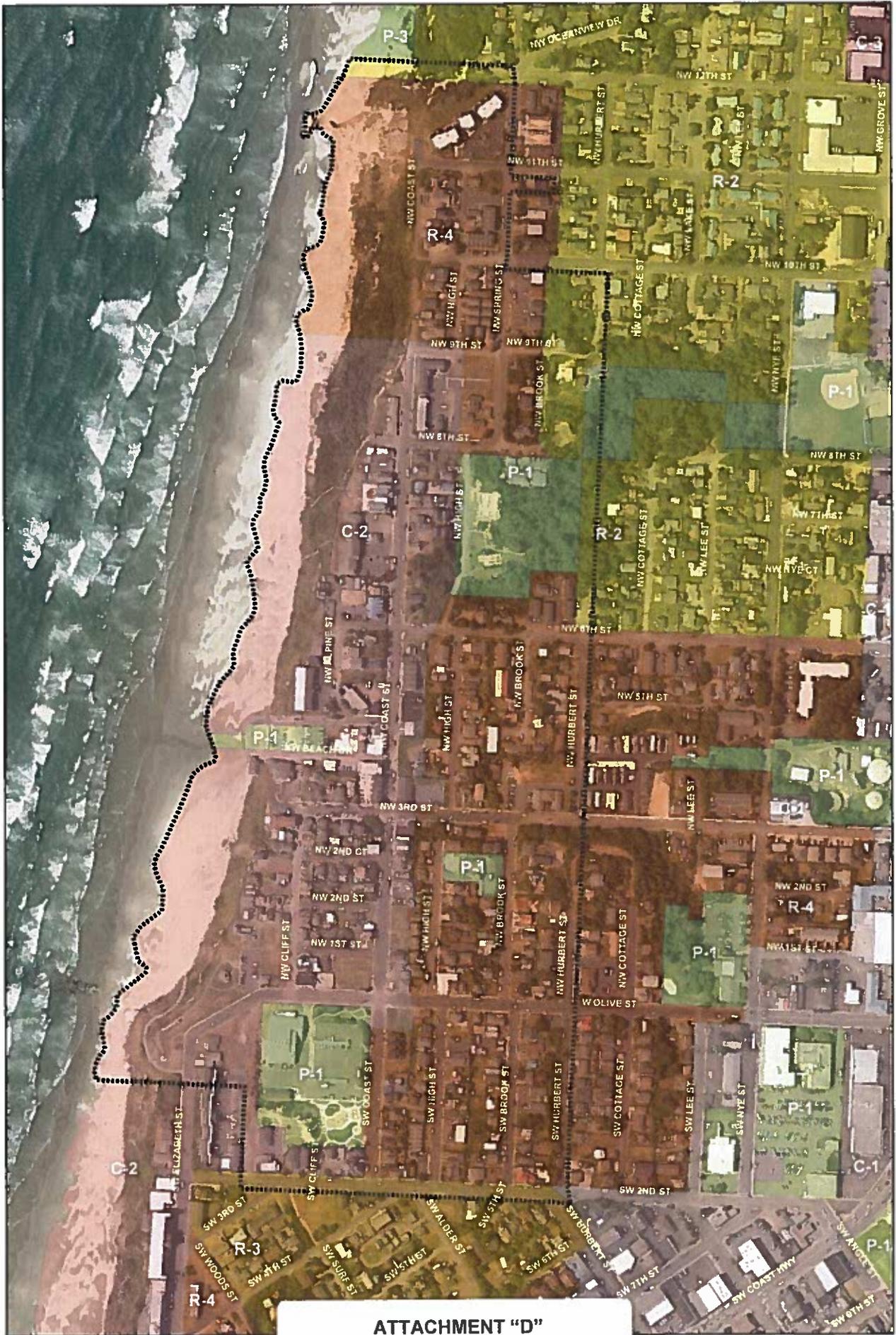
CS 17938

CS 9246

CS 11422

CS 5090

CS 121




**City of Newport**  
 Community Development Department  
 100 SW Coast Highway  
 Newport, OR 97156  
 Phone: 1 503 274 2020  
 Fax: 1 503 234 0264

This map is the responsibility of the City of Newport and does not constitute an offer of insurance. It is not intended to be used as a basis for any insurance policy. The City of Newport does not warrant the accuracy of the information shown on this map. The City of Newport is not responsible for any errors or omissions on this map.

**ATTACHMENT "D"**  
**File No. 3-CUP-14**



**Zoning Map of the Area**