

**MINUTES**  
**City of Newport Planning Commission**  
**Regular Session**  
**Newport City Hall Council Chambers**  
**November 23, 2015**  
**7:05 P.M.**

Planning Commissioners Present: Jim Patrick, Lee Hardy, Rod Croteau, Bill Branigan, and Bob Berman. Absent were Gary East and Mike Franklin.

City Staff Present: Community Development Director (CDD) Derrick Tokos, and City Recorder Peggy Hawker.

A. **Roll Call**. Chair Patrick called the meeting to order at 7:00 P.M. On roll call, Hardy, Berman, Croteau, Patrick, Franklin, East, and Branigan were present. Absent were Gary East and Mike Franklin.

B. **Approval of Minutes**.

1. Approval of the Planning Commission regular session and work session minutes of November 9, 2015.

MOTION was made by Commissioner Croteau, seconded by Commissioner Berman, to approve the Planning Commission work session and regular meeting minutes, of November 9, 2015, as presented. The motion carried unanimously in a voice vote.

C. **Citizens/Public Comment**. There was no public comment.

D. **Consent Calendar**. There were no items on the consent calendar.

E. **Action Items**.

1. **Adoption of Final Order for File No. 3-PAR-15-A**. Denial of an appeal filed by the applicant and property owner, Jonathan Holbrook, and upholding the Community Development Director's decision to deny this partition. The Planning Commission held a public hearing on this matter on November 9, 2015.

MOTION was made by Commissioner Croteau, seconded by Commissioner Branigan, to adopt the Final Order for File No. 3-PAR-15-A, denying an appeal filed by the applicant and property owner, Jonathan Holbrook, and upholding the Community Development Director's decision to deny this partition. The motion carried unanimously in a voice vote.

F. **Public Hearings**. Patrick opened the public hearing portion of the meeting at 7:10 P.M. 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. Croteau

declared a site visit. Patrick called for objections to any member of the Planning Commission, or the Commission as a whole, hearing this matter. There were no objections.

1. **File No. 2-AX-15/4-Z-15**. Consideration of requests to: (1) annex approximately 0.23 acre of real property (consisting of property currently identified as Tax Lot 00400 of Assessor's Tax Map 10-11-20-BB and currently addressed as 7576 North Coast Highway) into the Newport city limits; (2) amend the City of Newport Zoning Map to establish an I-1/"Light Industrial" zoning designation for the subject property consistent with the existing Newport Comprehensive Plan designation of Industrial; and (3) withdraw said territory from the Newport Rural Fire Protection District and the Lincoln County Library District. The Planning Commission will make a recommendation to the City Council on this matter.

Patrick called for the staff report. Tokos reported that the application is the Central Lincoln People's Utility District. He stated that the request is for consideration to: (1) annex approximately 0.23 acre of real property (consisting of property currently identified as Tax Lot 00400 of Assessor's Tax Map 10-11-20-BB and currently addressed as 7576 North Coast Highway) into the Newport city limits; (2) amend the City of Newport Zoning Map to establish an I-1/"Light Industrial" zoning designation for the subject property consistent with the existing Newport Comprehensive Plan designation of Industrial; and (3) withdraw said territory from the Newport Rural Fire Protection District and the Lincoln County Library District.

Tokos reported that the property is located at 7576 North Coast Highway, and is designated on the Lincoln County Assessor's Map as 10-11-20-BB, Tax Lot 400, and is approximately 0.23 acres.

Tokos reported that the subject territory is within the Newport Urban Growth Boundary, and is designated as "Industrial" on the Newport Comprehensive Plan Map. He stated that zoning is established at the time of annexation, and could be either I-1/"Light-Industrial," "I-2/"Medium-Industrial, or I-3/"Heavy Industrial" as all are consistent with the Comprehensive Plan designation of Industrial. He stated that the Applicant has requested the I-1 zone designation for this property. He noted that there is vacant I-1/"Light Industrial" zoned property bordering the site to the north, south, and east. He added that single family residences exist across Highway 101 to the west in an R-1/"Low Density Residential" zoned area.

Tokos reported that the property is gradually sloped and is partially vegetated with native shrubs and trees. He stated that the property contains a 1,350 square foot, single family residence constructed in 1948. He added that the dwelling receives water service from the city, and sewer is likely handled via an on-site septic system. Tokos reported that he is unaware of any development constraints or past land use actions.

Tokos reported that required notice was provided to the Department of Land Conservation and Development on November 4, 2015. He added that for this public hearing, notification in accordance with 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. He stated that this notice was provided on October 28, 2015. He noted that the notice of public hearing was published in the November 13, 2015 edition of the Newport News-Times. He stated that as of November 16, 2015, no comments had been received.

Tokos reported that the packet contains various attachments, including: A - Applicant request; B - notice of public hearing and map; C - aerial photo of area to be annexed; D - Newport Zoning Map; D-1 - uses allowed in the I-1, I-2, and I-3 zones; D-2 - Intent of zoning districts; E - legal description of the area to be annexed; F - Northgate Industrial Park Subdivision Plat (reduced); G - Copy of ORS 222.170 through 222.183; G-1 - Copy of ORS 222.460 through 222.465.

Tokos explained the request noting that pursuant to 14.52.030(A) of the Newport Municipal Code, 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.

Tokos reported that the applicant is asking that the property be brought into the city limits and rezoned for light industrial use so that it can be redeveloped in the future in conjunction with adjoining lots that they have purchased in the Northgate Industrial Park subdivision. He stated that there is a 50-foot conservation easement and a 20-foot sewer and storm drainage easement that follow the west line of the Northgate Industrial Park, and that the easements wrap around the subject parcel. He added that by acquiring the site and annexing it into the city, the applicant has an opportunity to straighten out the easements, freeing up land for future development. He noted that the applicant intends to demolish the existing residence, and the driveway onto Highway 101 will be abandoned. He stated that as part of the annexation, and as provided for in ORS 222.524, the property would be withdrawn from the Newport Rural Fire Protection District and the Lincoln County Library District because the city provides these services.

Tokos reported on applicable criteria: (1) - Annexation/Withdrawal: Newport Municipal Code Section 14.37.040 - The required consents have been filed with the city; the territory to be annexed is within the acknowledged URG; and the territory to be annexed is contiguous to the existing city limits. He stated that there are no specific criteria for withdrawals from a district, as they are done in conjunction with the annexation when the city becomes the service provider for the property. (2) Zone Map Amendment pursuant to NMC 14.36.010 - Findings that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare.

Tokos presented the staff analysis. He reported that (1) Annexation: NMC 14.37.040 - The required consents have been filed with the city; the territory to be annexed is within the acknowledged UGB; and the territory to be annexed is contiguous to the existing city limits. He noted that pursuant to 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. He stated that the subject property was acquired by the Central Lincoln People's Utility District on September 25, 2015, as evidenced with a warranty deed recorded with the Lincoln County Clerk's Office under Instrument No. 2015-09854. He added that Debra Smith, the District's General Manager, signed the application form requesting the property be annexed. He noted that by signing the application form, Smith has provided the requisite consent that the territory be annexed.

Tokos reported that city records show that the property to be annexed is within the UGB of the city.

Tokos reported that the north, east, and south sides of the property are contiguous to the existing city limits.

Tokos reported that (2) Zone Map Amendment: NMC 14.36.010 - Findings are required showing that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare.

Tokos reported that the Comprehensive Plan designation of Industrial is implemented by the I-1"Light Industrial," I-2"Medium Industrial," or I-3"Heavy Industrial" zoning designations. He stated that the applicant intends to develop the property and adjoining lots into a maintenance yard that will replace an existing maintenance yard in South Beach. He added that the applicant has requested that an I-1"Light Industrial" zone designation be placed on the property, as the lots to the north, east, and south, that are inside the city and owned by the applicant, are currently under an I-1 designation. He noted that a maintenance yard for an electrical utility is permitted in the I-1"Light Industrial" zone district as an Industrial Service Use (NMC 14..03.070(7)) or as a Community Service Use (NMC 14.03.070(14)).

Tokos reported that the Industrial Comprehensive Plan Map designation for this property provides additional land for a range of potential industrial uses consistent with the Comprehensive Plan and the city's 20-year buildable land inventory. He stated that it is logical to apply an I-1 zoning designation to the property give that it borders land under the same designation on three sides. He noted that the Planning Commission may conclude that the application of a zone designation in conformance with the Comprehensive Plan would further a public necessity and promote the general welfare.

Tokos reported, in conclusion, that if the Commission finds that the request meets the criteria, it should recommend approval of the request with any conditions for annexation as deemed necessary for compliance with the criteria. He added that the Commission should recommend to the City Council whether the zoning designation should be I-1, I-2, or I-3. He stated that if 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.

Tokos stated that, based on the information received as of November 16, 2015, the applicant appears to be able to meet the applicable criteria for the annexation request and zoning map amendment.

Berman asked whether any thought had been given to annexing everything up to where the city limit goes east and west at this location. Tokos noted that this would involve picking up highway right-of-way, and this would need to be considered comprehensively since the same situation exists on Highway 20. Berman noted that it might be opportune to look at in this case. Tokos stated that this would bring ODOT into this case. Patrick suggested addressing this issue at a later date. Berman noted that one of the goals was to effect inclusions when necessary.

Branigan stated that 73<sup>rd</sup> Street is terribly narrow, and asked whether the city has considered improvements to that road which is used by trash trucks, and will be used by utility trucks. Tokos reported that this is the first of several steps that the PUD will take in order to position the property for redevelopment. He added that there will be

future discussions at which these conversations will occur. He noted that other processes will come into play, down the road, beyond the immediate question.

**Proponents Testimony.** Gail Malcom, representing Lincoln County PUD, stated that the intention is to build a warehouse/operations center.

Opponents Testimony. None.

Patrick closed the public hearing at 7:17 P.M., for Commission deliberation.

Branigan stated that the request is straightforward, and that Tokos did a good job, and that the applicant met all criteria. He recommended going forward with the proposal of annexing that small site and utilizing I-1 zoning.

Croteau agreed with Branigan.

Berman asked whether the county has taken a position on this request. Tokos stated that the county has no role in an annexation. Berman agreed with Branigan.

Hardy agreed with Branigan.

Patrick stated that the request meets all the criteria, and agreed with Branigan.

MOTION was made by Croteau, seconded by Berman, to forward a favorable recommendation on File No. 2-AX-15/4-Z-15, with approval of the annexation request with the I-1 zoning as requested, to the City Council for final determination. The motion carried unanimously in a voice vote.

G. **New Business.** There was no new business.

H. **Unfinished Business.**

1. **Update on City Council's steps to update the Newport Business license code for recreational marijuana facilities.**

Tokos reported that the City Council did not act on the business license code update at its last meeting. He noted that Council asked that staff look at including daycares and pre-schools in the 1,000 school setback factor. He added that some Councilors looked at recreational marijuana stores differently than medical marijuana outlets. He stated that he would be bringing a map and optional language to the December 7 City Council meeting. Tokos reported that Council is aware of the Planning Commission recommendation. Berman asked whether this means that after a structure is in place, no one can open a daycare within 1,000 feet of it. Tokos reported that one of the four medical marijuana dispensaries is within 1,000 feet of a daycare, and all the medical dispensaries are also selling recreational marijuana. He added that existing medical dispensaries were given the first chance to sell recreational marijuana under the OLCC rules. It was noted that if a retail establishment was there first, permitted by the city, it is fine, even if daycare or preschool locates there later, but if a preschool opened up, and someone wanted to get a retail license, the city would not issue a business license. Berman asked what happens if the ownership of a marijuana business transfers, and Tokos noted that the business is protected. Tokos reported that a discussion will be held regarding the difficulty of knowing when daycares and preschools open. It was asked how much property, with the expanded maps, would be wiped out on day one. Croteau asked whether there are spacing prohibitions regarding liquor stores, pawn shops, bordellos, etc. It was asked whether preschools have

been singled out for this, or has it been established that preschools are impacted by these other establishments. Tokos noted that the regulations probably stop at elementary and secondary schools, but that OLCC is trying to set a regulatory framework addressing the issue of exposure to children. Patrick stated that staff probably does not know where all the preschools are, and Tokos stated that the City knows the locations of all the elementary and secondary schools, but would have a hard time determining others. He added that anything regulated by the state is subject to a City business license. He noted that he would keep the Planning Commission posted on this issue.

I. **Director Comments.**

1. **November 30 City Council Town Hall Meeting.**

Tokos reported that the packet contains a copy of the draft agenda for the upcoming Town Hall meeting, and reminded the Commission that they are invited to attend.

2. **Update on ePermitting Implementation.**

Tokos reported that staff is making good progress on the e-permitting implementation. He noted that the target is mid-January or early February. He added that a public hearing will be held, before the Planning Commission, regarding the transfer of the mechanical program. He stated that the comment period has closed and no comments were received, and the County did not contest the issue so far. He added that this matter will be on the December agenda.

J. **Adjournment.**

Having no further business, the meeting adjourned at 7:28 P.M.

Respectfully submitted,

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Margaret M. Hawker, City Recorder