

**CITY OF NEWPORT**

**ORDINANCE NO. 2158**

**AN ORDINANCE ANNEXING TERRITORY TO THE CITY OF NEWPORT,  
WITHDRAWING THE ANNEXED TERRITORY FROM THE LINCOLN COUNTY  
LIBRARY DISTRICT, NEWPORT RURAL FIRE PROTECTION DISTRICT,  
SEAL ROCK WATER DISTRICT AND ESTABLISHING ZONING FOR THE  
ANNEXED TERRITORY**

**Summary of Findings:**

1. A request to annex real property into the City of Newport was filed by Dennis Anderson, owner of the parcel of land identified as Tax Lot 00500 of Lincoln County Assessor's Tax Map 11-11-20-AB and addressed as 4263 South Coast Highway. Concurrent with annexation, the real property will be withdrawn from the Lincoln County Library District, Newport Rural Fire Protection District, and Seal Rock Water District and the Newport Zoning Map will be amended to apply I-1/"Light Industrial" zoning to the entire parcel.
2. The Planning Commission of the City of Newport, after providing the required public notification, including the notification to the Department of Land Conservation & Development, held a public hearing on September 9, 2019, for the purpose of reviewing the proposed requests and providing a recommendation to the City Council. The Planning Commission public hearing was held in accordance with the appropriate provisions of the Newport Zoning Ordinance, and, after due deliberation and consideration of the proposed changes, the Planning Commission voted to recommend that the City Council approve the property owner's request.
3. The City Council of the City of Newport, after provision of the required public notification, held a public hearing on October 7, 2019, on the requested annexation and withdrawal, and the zoning of the property to be annexed.
4. The City Council made a determination after considering the recommendation of the Planning Commission, and the evidence and argument presented at the public hearing and in the record, that the application complies with the applicable criteria and voted to approve the requested annexation, withdrawal, and zoning designation.

**THE CITY OF NEWPORT ORDAINS AS FOLLOWS:**

**Section 1. ANNEXATION, WITHDRAWAL, AND ZONING**

A. Annexation. The following described territory (illustrated in Exhibit "A") is hereby annexed to and incorporated within the City of Newport, Oregon:

That portion of the North one-half of Section 20, Township 11 South, Range 11 West of the Willamette Meridian in Lincoln County, Oregon and being within the tract of land conveyed to

David W. Osborne and Shirley A. Osborne, husband and wife, recorded January 3, 1977, in Book 71, Page 801, and January 3, 1978 in Book 83, Page 207 Deed Records of Lincoln County, Oregon described as follows:

Beginning at the Brass cap set for the North ¼ corner of Section 20, Township 11 South, Range 11 West of the Willamette Meridian, Lincoln County, Oregon, said brass cap being in the location as shown on CS #10,451, Lincoln County Survey Records; thence South 10°43'50" West, (South 10°42'19" East) for a distance of 845.91 feet to a ½" iron rod, said point being the true point of beginning of the following described parcel; thence South 89°57'21" East (East) 141.09 (141.42) feet, more or less to the northeast corner of the Vernon H. Stocker tract described in deed Recorded November 8, 1948 in Book 129, Page 387 Deed records for Lincoln County, Oregon; thence South 0°01'51" West, 132.44 feet (South 132.44') along said Stocker tract to the North line of the Vernon H. Stocker tract (Parcel Two) as described in Deed Recorded November 7, 1966 in Book 272, Page 404, Deed Records, Lincoln County, Oregon; thence South 87°38'17" East, 366.13 feet (357.46' M/L) to the former U.S. Spruce Production Railroad right of way; thence North 0°01'45" East, 337.84 feet (North 0°58'05" East, 336.14') along the West right of way line; thence South 64°01'43" West, 159.13 feet (South 64°01'43" West, 156.06 feet); thence North 74°12'58" West, 64.31 feet; thence North 72°29'35" West, 49.52 feet; thence South 83°43'12" West, 8.35 feet; thence South 68°10'05" West, 10.00 feet; thence North 74°23'26" West, 54.12 feet; thence South 89°06'03" West, 47.77 feet; thence North 65°21'35" West, 55.55 feet to the East right of way line of said Highway 101; thence South 25°07'06" West (South 25°00'32" West), 204.66 feet along said right of way to the point of beginning.

B. **Withdrawal.** The property annexed to the City of Newport, as described in Section 1 (A) above, is hereby withdrawn from the Lincoln County Library District, Newport Rural Fire Protection District, and Seal Rock Water District, such withdrawal being deemed to be in the best interest of the City of Newport. The City of Newport also hereby elects to assume the liabilities and indebtedness, if any, against the property so withdrawn from the Lincoln County Library District, Rural Fire Protection District, and Seal Rock Water District and further elects to assume such liability to the Seal Rock Water District in the manner provided by ORS 222.520(2)(a).

C. **Zoning.** Ordinance No. 1308 (as amended) adopting the City of Newport Zoning Map is hereby amended to provide for a zone designation on the Zoning Map for the property annexed to the City of Newport by designating the subject property described in Section 1(A) with an I-1/"Light Industrial" zone designation.

**Section 2.** The findings attached as Exhibit "B" are hereby adopted in support of the annexation, withdrawal, and zoning designations as adopted in Section 1.

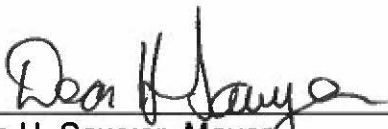
**Section 3.** In accordance with ORS 222.005, a copy of this ordinance shall be provided, by certified mail, to public utilities and telecommunication carriers operating within the city no later than 10 working days after passage of the ordinance.

**Section 4.** Once this ordinance is effective, copies of the document shall be forwarded to the Lincoln County Assessor and Oregon Department of Revenue in accordance with ORS 222.010 and ORS 308.225.

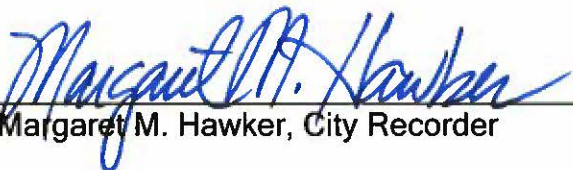
**Section 5.** This ordinance shall take effect 30 days after passage.

Date adopted and read by title only: October 7, 2019.

Signed by the Mayor on October 8, 2019.

  
\_\_\_\_\_  
Dean H. Sawyer, Mayor

ATTEST:

  
\_\_\_\_\_  
Margaret M. Hawker, City Recorder

**BOUNDARY SURVEY FOR  
DENNIS ANDERSON**  
IN THE NW 1/4 OF THE NE 1/4 AND  
THE NE 1/4 OF THE NW 1/4 OF SECTION 20,  
TOWNSHIP 11 SOUTH, RANGE 11 WEST, WM  
IN LINCOLN COUNTY, OREGON

North 1/4 Corner of Section 20, Township  
11 South, Range 11 West of the Willamette  
Meridian, Lincoln County, Oregon, said  
brass cap being in the location as shown  
on CS 810,451, Lincoln County Survey Records

C.S. # 20279  
FILED 24 June 2015  
LINCOLN COUNTY SURVEYOR

**SURVEYOR'S NARRATIVE**

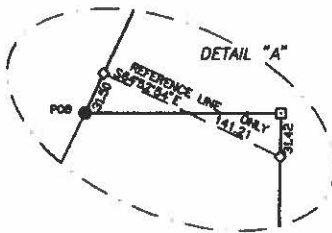
THIS SURVEY WAS DONE TO ESTABLISH THE BOUNDARY OF THAT TRACT OF LAND DESCRIBED IN MICROFILM VOLUME 272-2488 LESS MF 311-0542. THE EXISTING MONUMENTS FOUND ALONG THE EAST SIDE OF HIGHWAY 101 WERE USED FOR THE WESTERN BOUNDARY OF THIS TRACT. THE POINT OF BEGINNING THEN HELD THE DISTANCE FROM THE NORTH QUARTER CORNER OF SECTION 20 FOR THE POINT OF BEGINNING OF THIS TRACT. THE NORTHEAST CORNER OF TAX LOT 1200 WAS THEN FOUND AS SET IN COUNTY SURVEY 6988 AS SHOWN. THE EAST LINE OF THIS TRACT WAS NOT DETERMINED IN THIS SURVEY, THE DISTANCE APPEARS NOT TO GO ALL THE WAY TO THE RAILROAD RIGHT OF WAY AS CALLED FOR IN THE DEED. THE RAILROAD RIGHT OF WAY HAS BEEN MARKED IN 2 DIFFERENT LOCATIONS AS SHOWN ON THE PLAT. THE NORTH LINE OF THIS TRACT WAS NOT SURVEYED, THE POINTS ARE SHOWN AS THEY ARE ON CS 14,934. A TOPCON 5 SECOND TOTAL STATION AND TDS RECON DATA COLLECTOR WERE USED TO GATHER THE DATA IN THIS SURVEY.

**LEGEND**

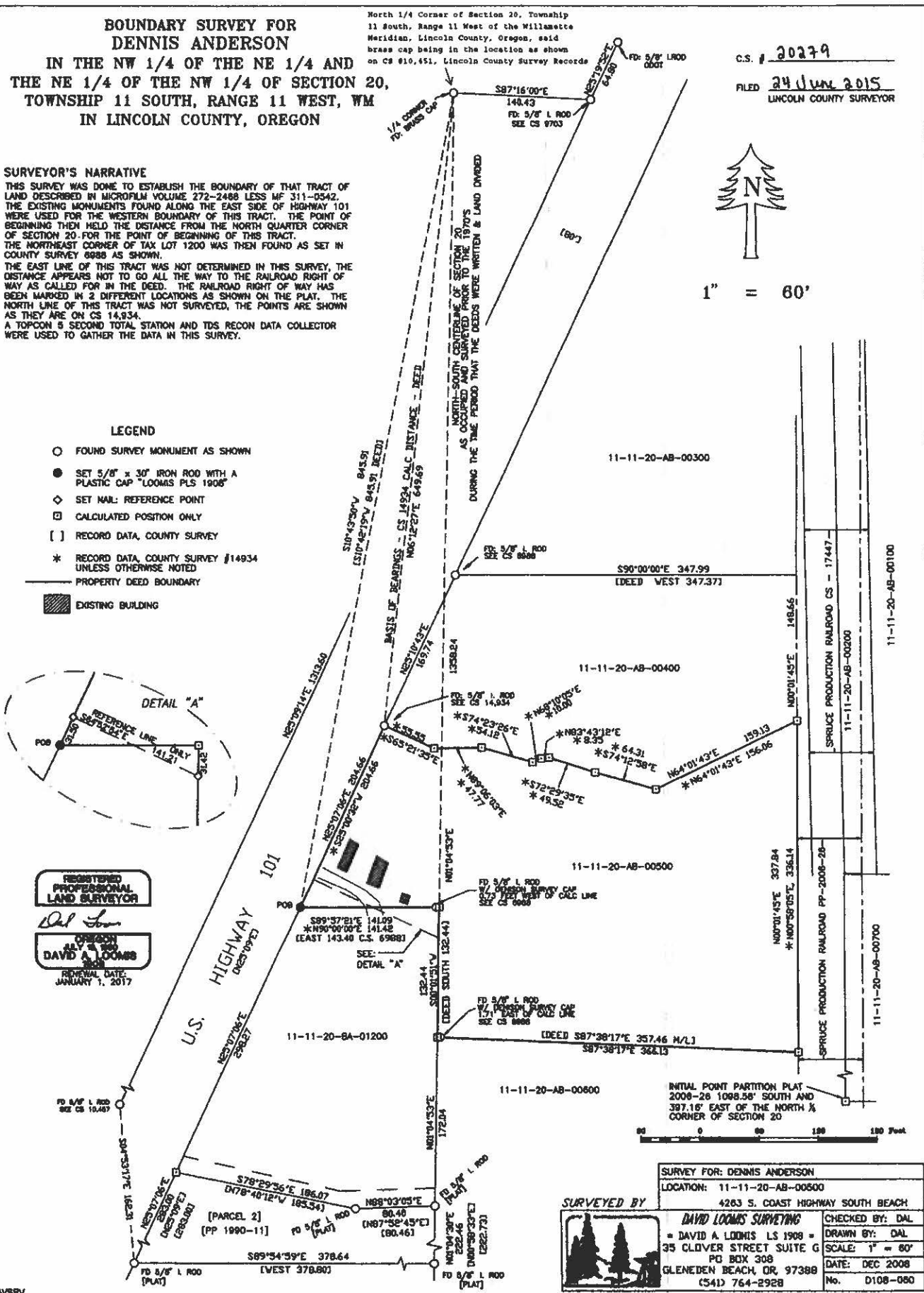
- FOUND SURVEY MONUMENT AS SHOWN
- SET 5/8" x 30" IRON ROD WITH A PLASTIC CAP "LOOMIS PLS 1908"
- ◇ SET NAIL: REFERENCE POINT
- CALCULATED POSITION ONLY
- [ ] RECORD DATA, COUNTY SURVEY
- \* RECORD DATA, COUNTY SURVEY #14934 UNLESS OTHERWISE NOTED
- PROPERTY DEED BOUNDARY
- EXISTING BUILDING



1" = 60'



REGISTERED  
PROFESSIONAL  
LAND SURVEYOR  
*David Loomis*  
DAVID A. LOOMIS  
RENEWAL DATE:  
JANUARY 1, 2017



SURVEY FOR: DENNIS ANDERSON		CHECKED BY: DAL
LOCATION: 11-11-20-AB-00800		DRAWN BY: DAL
4263 S. COAST HIGHWAY SOUTH BEACH		SCALE: 1" = 60'
SURVEYED BY: DAVID LOOMIS SURVEYING		DATE: DEC 2008
= DAVID A. LOOMIS LS 1908 =		No. D108-080
35 CLOVER STREET SUITE G		
PO BOX 308		
GLENEDEN BEACH, OR, 97388		
(541) 764-2928		

## EXHIBIT "B"

### **Findings for Requested Annexation of Property, Withdrawal from the Newport Rural Fire Protection District, Newport Library District and Seal Rock Water District, and Establishment of a Zoning Designation**

#### FINDINGS OF FACT

1. The application for annexation, withdrawal, and zoning designation (Newport File No. 1-AX-19/3-Z-19) was filed by Dennis Anderson on July 3, 2019. The application included consideration of a request to: (1) annex approximately 3.01 acres of real property (consisting of land identified as Tax Lot 00500 on Assessor's Tax Map 11-11-20-AB) into the Newport city limits; (2) amend the City of Newport Zoning Map to establish an I-1/"Light Industrial" zoning designation for the property, consistent with the existing Newport Comprehensive Plan designation of "Industrial"; and (3) withdraw said property from the Newport Rural Fire Protection District, Lincoln County Library District, and Seal Rock Water District.
2. The applicant is seeking annexation because they desire to connect the 14-unit mobile home park to city sewer service, and annexation is a prerequisite for obtaining such service.
3. The property subject to the request is located at 4263 S Coast Highway. It is described in Lincoln County Clerk's Office Microfilm Volume 272-2468, less the real property described in Microfilm Volume 311-0542.
4. The legal description of the area to be annexed is as follows:

That portion of the North one-half of Section 20, Township 11 South, Range 11 West of the Willamette Meridian in Lincoln County, Oregon and being within the tract of land conveyed to David W. Osborne and Shirley A. Osborne, husband and wife, recorded January 3, 1977, in Book 71, Page 801, and January 3, 1978 in Book 83, Page 207 Deed Records of Lincoln County, Oregon described as follows:

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in Book 272, Page 404, Deed Records, Lincoln County, Oregon; thence South 87°38'17" East, 366.13 feet (357.46' M/L) to the former U.S. Spruce Production Railroad right of way; thence North 0°01'45" East, 337.84 feet (North 0°58'05" East, 336.14') along the West right of way line; thence South 64°01'43" West, 159.13 feet (South 64°01'43" West, 156.06 feet); thence North 74°12'58" West, 64.31 feet; thence North 72°29'35" West, 49.52 feet; thence South 83°43'12" West, 8.35 feet; thence South 68°10'05" West, 10.00 feet; thence North 74°23'26" West, 54.12 feet; thence South 89°06'03" West, 47.77 feet; thence North 65°21'35" West, 55.55 feet to the East right of way line of said Highway 101; thence South 25°07'06" West (South 25°00'32" West), 204.66 feet along said right of way to the point of beginning.

5. Staff reported the following information regarding the requests:

- A. Plan Designation: The subject territory is within the Newport Urban Growth Boundary and is designated as "Industrial" on the Newport Comprehensive Plan Map.
- B. Zone Designation: City of Newport zoning is established at time of annexation. The I-1/"Light Industrial," I-2/"Medium Industrial," or I-3/"Heavy Industrial" designations are consistent with a Comprehensive Plan designation of "Industrial."
- C. Surrounding Land Uses: Surrounding land uses in the immediate vicinity include a mix of light-industrial and residential uses.
- D. Topography and Vegetation: The developed portion of the property is level and cleared with scattered landscaping. The balance of the site is a wetland with vegetation consistent with that type of setting.
- E. Existing Residences/Buildings: 14 mobile homes.
- F. Utilities: Water and sewer service are available via main lines adjacent to US 101. Vehicle access is from US 101.
- G. Development Constraints: Wetlands.
- H. Past Land Use Actions: None known.
- I. Notification: Required notice to the Department of Land Conservation and Development was provided on August 2, 2019. For the Planning Commission and City Council public hearings, 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 August 5, 2019 and September 16, 2019, respectively. The notice of public hearing was published in the

Newport News-Times on August 30, 2019, September 25, 2019 and October 2, 2019 and posted in four public places, pursuant to ORS 222.120(3).

6. The Planning Commission held a public hearing on the proposed request on September 9, 2019. Testimony was provided by the applicant's attorney, Adam Springer, in support of the request. No other testimony was offered at the hearing and, after considering the testimony and reviewing the staff report, the Commission voted unanimously to recommend approval of the annexation with the property being zoned I-1/"Light Industrial" as outlined in the application.
7. The City Council held a public hearing on the annexation request on October 7, 2019. A Planning Staff Report, dated August 30, 2019, was submitted to the City Council. The Planning Staff Report and attachments as follows are hereby incorporated into the findings:

Attachment "A" - Application Form

Attachment "B" - Application Narrative

Attachment "C" - Aerial Map of Area to be Annexed

Attachment "D" - Notice of Public Hearing and Map

Attachment "E" - Newport Zoning Map

Attachment "F" - Newport Comprehensive Plan Map

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 and ORS 222.524

8. At the October 7, 2019 public hearing, the City Council heard a staff report and allowed for testimony and evidence to be given on the annexation request. Following the close of the public hearing, the Council deliberated and voted to approve the request. The minutes of the October 7, 2019 public hearing are hereby incorporated by reference into the findings.
9. The approval criteria for this annexation request are as follows:
  - A. For the annexation/withdrawal portion of the annexation request, Newport Municipal Code Section 14.37.040 provides *"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."*
  - B. For the zoning map amendment portion of the annexation request, the applicable criteria per Newport Municipal Code Section 14.36.010 are *"Findings that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare."*

## CONCLUSIONS

1. In regard to the criteria for approval of the annexation request under Newport Municipal

Code Section 14.37.040 the City Council concludes as follows:

- A. In regard to the first criterion (*The required consents have been filed*), the City Council concludes that pursuant to Oregon Revised Statutes (ORS) 222.170(1), the City need not hold an election on the annexation of contiguous territory 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. The applicant, Dennis Anderson, owns the subject property. By filing this application, Mr. Anderson has provided the requisite consent that the territory be annexed (See Planning Staff Report Attachment "A").
  - B. In regard to the second criterion (*the territory to be annexed is within the acknowledged urban growth boundary (UGB)*), The City Council concludes that City records show that the property is within the Urban Growth Boundary of the City of Newport.
  - C. In regard to the third criterion (*the territory to be annexed is contiguous to the existing city limits*), the east boundary of the subject territory (i.e. real property) is contiguous to the existing city limits (See Planning Staff Report Attachment "E").
2. In regard to withdrawal of the Newport Rural Fire Protection District and Lincoln County Library District, the City Council finds that there are no applicable criteria and that withdrawal of the property from these districts should occur at annexation, since that is the time when the City of Newport becomes the service provider.
  3. In regard to withdrawal of the property from the Seal Rock Water District, the City Council concludes that, in accordance with the City of Newport/Seal Rock Water District Urban Service Area Agreement and ORS 222.520(2)(a), the City is responsible for District indebtedness incurred against the property prior to the date it took over responsibility for water service (i.e. January 1, 2008). Such payment will be made to the District in lump sum prior to the effective date of the annexation ordinance.
  4. In regard to the establishment of a I-1/"Light-Industrial" zoning designation over the subject property, the City Council concludes that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare for the following reasons:
    - A. The Comprehensive Plan Map designation for the property is "Industrial" (See Planning Staff Report Attachment "F"). It is implemented with I-1/"Light Industrial," I-2/"Medium Industrial," or I-3/"Heavy Industrial" zoning designations. Property adjacent to the east, under the same Comprehensive Plan designation, is zoned I-1 (See Planning Staff Report Attachment "E"). A list of uses permitted outright and conditionally in the I-1, I-2, and I-3 zones were presented and considered (See Planning Staff Report Attachment "G"), as was the intent language for the I-1, I-2, and I-3 zoning districts (See Planning Staff Report Attachment "H"). Of the industrial zones, the I-1 zoning designation is best positioned to take full advantage of direct access onto US 101 while also



being reasonably compatible with nearby residential zoned areas to the east.

- B. The Comprehensive Plan Map reflects the policy direction contained in the Newport Comprehensive Plan, including an Urban Growth Boundary that sets out the City's buildable land needs for a 20-year planning period, so it is appropriate to conclude that the application of a zone designation in conformance with the Comprehensive Plan, as is the case here, furthers a public necessity and promotes the general welfare.
- C. The Newport Comprehensive Plan identifies a need for employment land and housing. The proposal addresses both objectives. With this annexation, the applicant will be able to connect to City sewer service. This will allow the mobile home park to continue in a non-conforming manner as it is presently developed, preserving much needed housing within the community. The application of an I-1/"Light Industrial" zoning designation will allow the property to redevelop, in time, with commercial or industrial uses, which is the predominant form of development along this stretch of US 101.
- D. Water and sewer services are in place to support the existing development and future redevelopment of the property. US 101 provides adequate access to the property.

#### OVERALL CONCLUSION

Based on the staff report and attachments, the application material, and other evidence and testimony in the record, the City Council concludes that the requested annexation, withdrawal, and zone designations comply with the criteria established for approval of each of the requests under the applicable criteria as explained in the findings. The requested annexation, withdrawal, and establishment of a zone designation are hereby **APPROVED**.