



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

09/19/2011

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Newport Plan Amendment
DLCD File Number 002-11

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Tuesday, October 04, 2011

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Derrick Tokos, City of Newport
Angela Lazarean, DLCD Urban Planning Specialist
Matt Spangler, DLCD Regional Representative
Angela Lazarean, DLCD Urban Planner

<paa> YA



FORM 2

DLCD

Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

☐ In person ☐ electronic ☐ mailed

DATE STAMP

DEPT OF

SEP 14 2011

LAND CONSERVATION AND DEVELOPMENT

For Office Use Only

Jurisdiction: **City of Newport**

Local file number: **2-Z-11**

Date of Adoption: **9/6/2011**

Date Mailed: **9/13/2011**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date: 6/30/2011

☐ Comprehensive Plan Text Amendment

☐ Comprehensive Plan Map Amendment

☐ Land Use Regulation Amendment

☒ Zoning Map Amendment

☐ New Land Use Regulation

☐ Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Request by Pacific Communities Health District to rezone roughly .41 acres (Lots 11 & 12, Block 16, Bayley & Case's Addition and adjoining Case Street right-of-way) from R-3/"Medium Density Multi-Family Residential" to R-4/"High Density Multi-Family Residential." The purpose of the change is to allow the District to convert a large single family residence, formerly a 9 plex apartment complex, into a medical office/storage facility. Hospital use is permitted in the R-4 zone (NZO 2-2-1.025)

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from:

to:

Zone Map Changed from: **R-3**

to: **R-4**

Location: **749 SW 11th St, plus adjacent SW Case St ROW**

Acres Involved: **.41**

Specify Density: Previous: **34.85 units/ac**

New: **34.85 units/ac**

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
☒	☐	☐	☐	☐	☐	☐	☐	☐	☒	☐	☐	☐	☐	☐	☐	☐	☐	☐

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

☒ Yes ☐ No

If no, do the statewide planning goals apply?

☐ Yes ☐ No

If no, did Emergency Circumstances require immediate adoption?

☐ Yes ☐ No

DLCD File No. 002-11 (18882) [16757]

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

None.

Local Contact: **Derrick I. Tokos, AICP**

Phone: **(541) 574-0626** Extension:

Address: **169 SW Coast Hwy**

Fax Number: **541-574-644**

City: **Newport**

Zip: **97365-**

E-mail Address: **d.tokos@newportoregon.gov**

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

CITY OF NEWPORT

ORDINANCE NO. 2021

**AN ORDINANCE AMENDING ORDINANCE NO. 1308 (AS AMENDED) OF
THE CITY OF NEWPORT, OREGON, TO AMEND THE ZONING MAP OF
THE CITY OF NEWPORT**

Summary of Findings:

1. A request by Pacific Communities Health District on behalf of the owner Donald K. Shaw, (J. Christopher Minor, attorney, authorized representative) was filed on June 28, 2011 for an amendment to the Zoning Map of the City of Newport Zoning Ordinance (Ordinance No. 1308, as amended).
2. The subject property is approximately .41 acres in size, consisting of Lots 11 and 12, Block 16, Bayley and Case's Addition to Newport, together with a portion of vacated SW Case Street attaching thereto by Ordinance No. 2003, recorded May 10, 2010 (Lincoln County Assessor's Map 11-11-08-CA, Tax Lot 9100), and the unvacated portion of SW Case Street right-of-way lying adjacent to and southerly of said lots.
3. Existing improvements include a large single family residence that was once a nine (9) unit apartment complex. The address for the dwelling is 749 SW 11th Street.
4. Pacific Communities Health District, which owns the nearby Samaritan Pacific Hospital Facility, has indicated that they desire to purchase the privately owned property from Mr. Shaw so that it can be used for hospital medical offices and record storage.
5. The Comprehensive Plan Map designation for the property is High Density Residential, and the Zoning Map designation is R-3 (Medium Density Multi-Family Residential). The R-3 zoning district does not allow hospital or professional office uses.
6. With this amendment, the Zoning Map designation for the property will be changed to R-4 (High Density Multi-Family Residential), which is consistent with the current Comprehensive Plan designation. The R-4 zoning district lists hospital uses as a permitted use and professional offices as a conditional use.
7. The Newport Planning Commission reviewed the proposed revisions to the Zoning Ordinance (Newport File No. 2-Z-11) at a public hearing on August 22, 2011, and voted unanimously to recommend adoption of the amendment, as furthering a public necessity and promoting the general welfare for the following reasons:
 - a. R-4 zoning exists to the south and west of the subject property, and at .41 acres this constitutes a minor adjustment to the boundary between the R-3 and R-4 districts. The zone change will not result in spot zoning.
 - b. The Samaritan Pacific Hospital Facility resides immediately to the west, so this proposal provides for the logical extension of that facility, which provides essential medical services to the community.

- c. Consistent with OAR 660-012-0060(1) this zone change will not significantly affect existing or planned transportation facilities because the change to R-4 zoning will not have the effect of allowing more vehicle trips than the existing R-3 zoning. This is due to the small size of the zone change (.41 acres), and the fact that the R-3 and R-4 zoning districts allow the same residential densities. R-4 zoning provides for a broader range of non-residential uses; however, such flexibility will have a negligible impact to the transportation system because the more limited list of non-residential uses allowed in the R-3 zone provides for a comparable intensity of development.
8. The City Council held a public hearing on September 6, 2011 regarding the question of the proposed revisions, and voted to accept the Planning Commission's recommendation after considering evidence and argument in the record.
9. Information in the record, including affidavits of mailing and publication, demonstrate that appropriate public notification was provided for both the Planning Commission and City Council public hearings.

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. The above findings are hereby adopted as support for the Council's following amendments.

Section 2. The City Council further adopts the analysis and recommendation contained in the Planning Staff Report as supplemental findings in support of approval of the requested Zoning Map amendment, attached hereto as Exhibit "A" and incorporated herein by this reference.

Section 3. Ordinance No. 1308 (as amended) is hereby amended to rezone Lots 11 and 12, Block 16, Bayley and Case's Addition to Newport, together with a portion of vacated SW Case Street attaching thereto by Ordinance No. 2003, recorded May 10, 2010 (Lincoln County Assessor's Map 11-11-08-CA, Tax Lot 9100), and the unvacated portion of SW Case Street right-of-way lying adjacent to and southerly of said lots, from "R-3/Medium Density Multi-Family Residential" to "R-4/High Density Residential," as illustrated on Exhibit "B", attached hereto and incorporated herein by this reference.

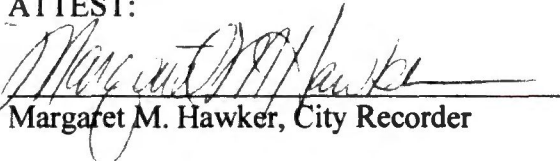
Section 4. This ordinance shall take effect 30 days after adoption.

Date adopted: September 6, 2011

Signed by the Mayor on September 8, 2011.


Mark McConnell, Mayor

ATTEST:


Margaret M. Hawker, City Recorder

Case File: 2-Z-11
Date filed: June 28, 2011
Hearing Date: August 22, 2011/Planning Commission

PLANNING STAFF REPORT

File No. 2-Z-11

- A. **APPLICANT & OWNER:** Pacific Communities Health District (Donald K. Shaw, property owner) (J. Christopher Minor, authorized representative).
- B. **REQUEST:** The request involves a zoning map amendment. The subject property has a zoning designation of R-3/"Medium Density Multi-Family Residential". The applicant is requesting that the zoning designation be changed to R-4/"High Density Residential". The applicant wishes to purchase the property and convert it to hospital office space and storage for records, which is a use allowed outright under an R-4 zoning designation, but not under the current R-3 zoning.
- C. **LOCATION:** The subject property is located on Tax Lot 9100 of Lincoln County Assessor's Map 11-11-08-CD (749 SW 11th St). See map in Planning Staff Report Attachment "B".
- D. **LOT SIZE:** The size of the subject property is approximately .41 acres per Assessment Maps.
- E. **PLANNING COMMISSION ACTION:** The Planning Commission reviews this request and makes a recommendation to the City Council.
- F. **STAFF REPORT:**
1. **Report of Fact**
 - a. **Existing Plan Designation:** "High Density Residential".
 - b. **Existing Zone Designation:** R-3/"Medium Density Multi-Family Residential".
 - c. **Surrounding Land Uses:** The property abuts R-4 zoned property to the west and south, and is surrounded by a mix of single-family residences, multi-family dwellings, and medical offices. Across SW 11th Street is the Samaritan Pacific Hospital property that is zoned P-1.
 - d. **Topography and Vegetation:** The site is flat with normal landscaping.
 - e. **Existing Structures:** Large single-family residence converted from a 9-plex.
 - f. **Utilities:** All city services are available to the site.
 - g. **Development Constraints:** None known.

h. **Past Land Use Actions:** None known.

i. **Attachments:**

Attachment "A"	Applicant Request
Attachment "A-1"	Preliminary Title Report
Attachment "A-2"	Assessor's Property Information
Attachment "A-3"	Zoning Map of Property
Attachment "A-4"	Aerial Photo of Property
Attachment "B"	Notice of Public Hearing and Map
Attachment "C"	Draft Ordinance
Attachment "D"	Uses Allowed in the R-3 and R-4 Zones
Attachment "D-1"	NZO Section 2-3-5 Table "A"
Attachment "E"	Topography Map of Area

j. **Notification.** The Department of Land Conservation & Development was mailed notification of the proposed amendments on June 30, 2011. Applicable city departments, public agencies, and affected property owners within 300 feet of the subject property were notified on July 28, 2011, for the Planning Commission hearing. Notification of the Planning Commission hearing was published in the Newport News-Times on August 12, 2011.

2. **Explanation of the Request:**

The large house located on the subject property was converted from a 9-unit apartment building and has been used as a single-family residence. The applicant, Pacific Communities Health District, owns property across SW 11th Street from the subject property. The applicant is wishing to purchase the subject property and remodel it into hospital office space and for storage of records. The applicant states that no patient health care services will be provided at this location. Office space for the hospital would be allowed outright under an R-4 zoning designation, but is not allowed under the current R-3 zone. Therefore, the applicant is asking to change the zoning designation from R-3 to R-4. The property abuts R-4 zoned property to the south and west. The zone change would also include the portion of SW Case Street that has not been vacated and lies southerly of and adjacent to the vacated portion of SW Case Street. That would make it contiguous to R-4 zoning across SW Case Street.

3. **Evaluation of the Request:**

a. **Comments:** DLCD was provided notification on June 30, 2011. All applicable property owners, city departments, affected public/private utilities/agencies were notified on July 28, 2011, of the Planning Commission hearing. As of August 15, 2011, no written comments were received by the Community Development Department.

b. **Applicable Criteria:**

Criteria for the Proposed Zoning Map Amendments (Section 2-5-5.005) of the Newport Zoning Ordinance (No. 1308, as amended):

1. The change furthers a public necessity.
2. The change promotes the general welfare.

c. **Staff Analysis:**

The proposed findings submitted by the applicant address the criteria established in the Comprehensive Plan and Zoning Ordinance for approving the request. See Planning Staff Report Attachment "A". Additionally, a list of the uses in the applicable zones and a copy of Table "A" of NZO Section 2-3-5 (summarizing height restrictions, lot coverage restrictions, and other items in the different zones) are attached. See Planning Staff Report Attachments "D" and "D-1".

In regard to the applicable criteria for the proposed Zoning Map amendment:

The change furthers a public necessity and promotes the general welfare.

The requested zoning map change would allow the applicant to purchase property across the street from the existing hospital facility and convert the structure to office space and records storage for the hospital. In addition, this zone change request will not create spot zoning. The subject property abuts R-4 zoning along SW 11th Street to the west and across SW Case Street to the south. The applicant proposes changing the zoning for Tax Lot 9100 of Tax Map 11-11-08-CA and the portion of SW Case Street that has not been vacated and lies to the south and adjacent to the vacated portion of SW Case Street that has attached to Tax Lot 9100. At .41 acres, it is reasonable for the Planning Commission to view this request as a minor adjustment to the boundary of the R-3 and R-4 zoning districts.

The applicant notes that the existing structure will be extensively remodeled to accommodate the anticipated use. In addition, the applicant states that adequate parking space is available and will be provided on the existing hospital grounds.

Samaritan Pacific Hospital lies immediately to the west. It would be reasonable for the Commission to find that the proposal is a logical extension of that facility, which provides essential medical services to the community.

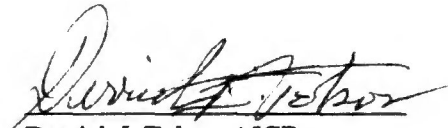
For these reasons, the Planning Commission can find the proposed zoning change to be a public necessity that promotes the general welfare.

4. **Conclusion:**

The applicant requests the zone change in order to purchase the neighboring property and be able to use it for hospital office space and records storage. The applicant believes that the zone change is in conformance with the applicable requirements of the City of Newport; and for this reason, the applicant requests approval of the application.

G. **STAFF RECOMMENDATION:**

The Planning Commission should review the proposed changes to the Zoning Map and the application materials as well as other documentation and testimony that may be submitted during the course of the hearing. The Planning Commission should recommend approval of the request as being in compliance with the applicable criteria if the Commission finds that the criteria have been met. The Commission should identify how the request does not comply with the criteria, or should identify conditions necessary in order to make the request comply with the criteria, if the Commission finds that the criteria have not been met.



Derrick I. Tokos, AICP
Community Development Director
City of Newport

August 16, 2011

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MAP
NO.

**P-1/ "Public Structures"
Zoning Map Designation**

**R-4/"High Density
Multi-Family Residential"
Zoning Map Designation**

**R-3/"Medium Density
Multi-Family Residential"
Zoning Map Designation**

Subject Property
Change from R-3
to R-4 Zoning

Exhibit B
Ordinance No. 2021
Zoning Map Amendment

SEE MAP



DEPT OF

SEP 14 2011

LAND CONSERVATION
AND DEVELOPMENT



City of Newport
169 SW Coast Hwy
Newport, OR 97365

TO

ATTN: PLAN AMENAMENT SPECIALIST
DEPT. OF LAND CONSERVATION & DEVELOPMENT
635 CAPITOL ST NE, SUITE 150
SALEM, OR 97301-2540