



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

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www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

12/26/2008

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Newport Plan Amendment
DLCD File Number 004-08

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: Wednesday, January 07, 2009

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 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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: James Bassingthwaite, City of Newport
Gloria Gardiner, DLCD Urban Planning Specialist
Laren Woolley, DLCD Regional Representative
Bill Holmstrom, DLCD Transportation Planner

<paa> YA/

D L C D NOTICE OF ADOPTION

This form must be mailed to DLCD within 5 working days after the final decision
per ORS 197.610, OAR Chapter 660 - Division 18

(See reverse side for submittal requirements)

DEPT OF

DEC 18 2008

LAND CONSERVATION
AND DEVELOPMENT

Jurisdiction: City of Newport Local File No.: 5-CP-08
(If no number, use none)

Date of Adoption: December 15, 2008 Date Mailed: December 17, 2008
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: September 24, 2008

☐ Comprehensive Plan Text Amendment ☒ Comprehensive Plan Map Amendment
☐ Land Use Regulation Amendment ☐ Zoning Map Amendment
☐ New Land Use Regulation ☐ Other: _____
(Please Specify Type of Action)

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

Amend Comprehensive Plan map designation of approximately 1.5 acres of a 16.5 acre property from High Density Residential to Industrial. The 16.5 acre property is designated as I-3 (Heavy Industrial) on the Zoning map and all but the approx. 1.5 acres is designated as Industrial on the Comp Plan map.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice for the proposed amendment, write "N/A."

"Same."

Plan Map Changed from: High Density Residential to Industrial

Zone Map Changed from: No change to No change (already I-3(Heavy Industrial))

Location: Assessor's Map 11-11-20-AB Tax Lot 100 Acres Involved: approx. 1.5

Specify Density: Previous: --- New: ---

Applicable Statewide Planning Goals: 1, 2, 9, and 12

Was an Exception Adopted? Yes: --- No: X

DLCD File No.: 004-08 (17151)

Did the Department of Land Conservation and Development receive a notice of Proposed

Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes: X* No:

*mailed in time for DLCD to receive 45 days prior to first ev. hearing

If no, do the Statewide Planning Goals apply. Yes: No:

If no, did The Emergency Circumstances Require immediate adoption. Yes: No:

Affected State or Federal Agencies, Local Governments or Special Districts: City of Newport,

ODOT

Local Contact: James Bassingthwaite Area Code + Phone Number: 541-574-0626

Address: 169 SW Coast Hwy

City: Newport Zip Code+4: 97365-4713

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. **Send this Form and TWO (2) Copies of the Adopted Amendment to:**

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

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. **Please Note:** Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the "Notice of Adoption" is sent to DLCD.
6. In addition to sending the "Notice of Adoption" to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only ; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to Larry.French@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

CITY OF NEWPORT

ORDINANCE NO. 1969

**AN ORDINANCE AMENDING ORDINANCE NO. 1621 (AS AMENDED) OF
THE CITY OF NEWPORT, OREGON, TO AMEND THE COMPREHENSIVE
PLAN MAP OF THE CITY OF NEWPORT COMPREHENSIVE
PLAN: 1990-2010**

Summary of Findings:

1. Applicants Gary, Vernon, Robert & Loren Tryon (Dennis L. Bartoldus, authorized representative), submitted a land use request on September 19, 2008, for a minor Comprehensive Plan map amendment (Newport File No. 5-CP-08) to change the Comprehensive Plan classification of approximately 1.5 acres of a 16.5 acre property (currently identified as Tax Lot 100 of Lincoln County Assessor's Map 11-11-20-AB--4003 S. Coast Hwy) from "High Density Residential" to "Industrial". The applicant also contended that the amendment may be considered a Comprehensive Plan map error amendment. The entire 16.5 acre property was designated as I-3/"Heavy Industrial" on the Newport Zoning Map as part of an annexation and rezone ordinance amendment in File No. 1-AX-07/2-Z-07. All but approximately 1.5 acres in the southeast corner of the property is designated as Industrial on the Comprehensive Plan map. The 1.5 acres is currently designated as High Density Residential on the Comprehensive Plan map. Through the annexation and rezone ordinance amendment process in File No. 1-AX-07/2-Z-07, both the Planning Commission and City Council agreed as requested by the property owner that the 1.5 acre portion of the subject property should be in the I-3 zone so that the entire parcel was zoned I-3. The proposed Comprehensive Plan map amendment was identified as a condition of approval as part of the annexation involving the subject property in Newport File No. 1-AX-07/2-Z-07 as adopted in Ordinance No. 1922 (Section 3 (A)) and amended in Ordinance No. 1931 in order to bring the Comprehensive Plan map designation into conformance with the Zoning map designation.

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 duly noticed public hearing on November 10, 2008, on the proposed amendment (Newport File No. 5-CP-08) for the purpose of reviewing the proposed amendments and providing a recommendation to the City Council. The Planning Commission voted unanimously to recommend approval of the amendment as a minor comprehensive plan map amendment to the City Council.

3. The City Council of the City of Newport, after providing the required public notification, held a duly noticed public hearing on December 1, 2008, and voted unanimously (with Councilor Bertuleit not participating in the hearing) in favor of adoption of the proposed amendments after

considering the recommendation of the Planning Commission, the Planning Staff Report and attachments, and the evidence and argument presented at the public hearing.

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. Ordinance No. 1621 (as amended) is amended to establish a Comprehensive Plan Map (General Land Use Plan Map) designation of "Industrial" for an approximately 1.5 acre portion of property that is currently designated as "High Density Residential" in the southeast corner of a 16.5 acre property currently identified as Tax Lot 100 of Lincoln County Assessor's Map 11-11-20-AB (4003 S. Coast) as illustrated in Exhibit "A" so that the entire property is designated as "Industrial".

Section 2. The City Council adopts the findings of fact and conclusions contained in Exhibit "B" in support of approval of the amendment to the Newport Comprehensive Plan Map.

Date adopted on initial vote and read by title only: 12/15/08

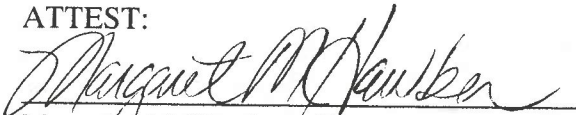
Date adopted on final roll call vote: 12/15/08

Signed by the Mayor on December 15, 2008.



William D. Bain, Mayor

ATTEST:



Margaret M. Hawker, City Recorder

EXHIBIT "A"

Newport File No. 5-CP-08

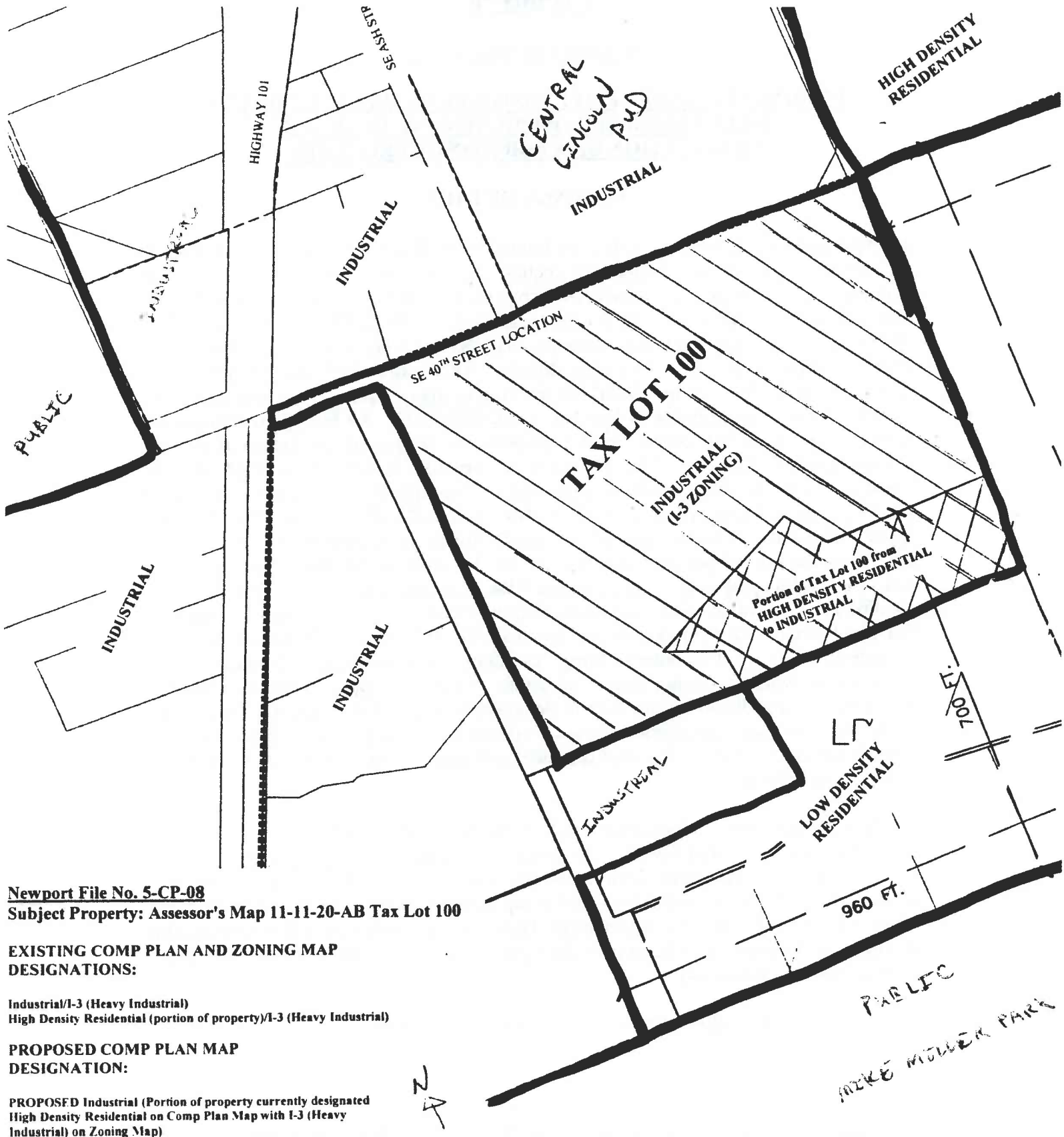


EXHIBIT "B"

Newport File No. 5-CP-08

FINDINGS FOR A COMPREHENSIVE PLAN MAP AMENDMENT TO CHANGE THE COMPREHENSIVE PLAN MAP DESIGNATION OF A PORTION OF PROPERTY

FINDINGS OF FACT

1. Applicants Gary, Vernon, Robert & Loren Tryon (Dennis L. Bartoldus, authorized representative), submitted a land use request on September 19, 2008, for a minor Comprehensive Plan map amendment to change the Comprehensive Plan classification of approximately 1.5 acres of a 16.5 acre property from "High Density Residential" to "Industrial". The applicant also contends that the amendment may be considered a Comprehensive Plan map error amendment. The entire 16.5 acre property was designated as I-3/"Heavy Industrial" on the zoning map as part of an annexation and rezone ordinance amendment in File No. 1-AX-07/2-Z-07. All but approximately 1.5 acres in the southeast corner of the property is designated as Industrial on the Comprehensive Plan map. The 1.5 acres is currently designated as High Density Residential on the Comprehensive Plan map. Through the annexation and rezone ordinance amendment process in File No. 1-AX-07/2-Z-07, both the Planning Commission and City Council agreed as requested by the property owner that the 1.5 acre portion of the subject property should be in the I-3 zone so that the entire parcel was zoned I-3. The proposed Comprehensive Plan map amendment was identified as a condition of approval as part of the annexation involving the subject property in Newport File No. 1-AX-07/2-Z-07 as adopted in Ordinance No. 1922 (Section 3 (A)) and amended in Ordinance No. 1931 in order to bring the Comprehensive Plan map designation into conformance with the Zoning map designation. To receive approval for the requested amendment, the applicant would have to demonstrate that either the criteria for a minor Comprehensive Plan map amendment or the criteria for a Comprehensive Plan map error amendment has been met. The applicant does not have to demonstrate that both sets of criteria have been met.

2. The subject property is located on Tax Lot 100 of Lincoln County Assessor's Map 11-11-20-AB (4003 S. Coast Hwy). The property includes a substantial portion of the proposed SE 40th Street currently under construction. The size of the subject property is approximately 16.5 acres, but only a portion (approximately 1.5 acres) is involved in the requested Comprehensive Plan amendment. The subject property size will see a reduction in size with the planned dedication of the right-of-way for the proposed SE 40th Street currently under construction.

3. Staff reported the following facts associated with the request:

- A. Existing Comprehensive Plan Designation: Industrial for all but approximately 1.5 acres, which is designated High Density Residential.
- B. Existing Zone Designation: I-3/"Heavy Industrial".
- C. Surrounding Land Uses: The South Beach neighborhood contains a mix of public, commercial, water-dependent and water-related, industrial and residential uses. Land uses in the area near the subject property include a mix of developed and undeveloped industrial land, residential zoning that allows for single-family and multi-family uses, a trailer park, a mix of commercial uses, the Central Lincoln PUD warehousing and substation facility, and public uses such as Mike Miller Park, the Oregon Coast Community College central campus site (under construction) and the Newport Waste Water Treatment facility. See Planning Staff Report Attachment "C" and "C-1".
- D. Topography and Vegetation: Level on westerly area with slope on southeast corner to the east with second plateau on east. The property is cleared to a significant degree, but there is still natural vegetation on the southeast area.
- E. Existing Structures: Pole building on eastern portion of property.
- F. Utilities: City services to the site are under construction.
- H. Development Constraints: Potential jurisdictional wetland area and steeper sloped areas.
- I. Current and Past Land Use Actions:
- File No. 3-PAR-08: Proposed minor partition filed on November 4, 2008, of subject property to create two parcels of approximately 12.8 acres in size and 3.5 acres in size. This is a Community Development Director decision following notice to surrounding property owners and an opportunity to submit written comment.
- File No. 4-VAR-08: Proposed Type I variance filed on November 4, 2008, of subject property to allow creation of an I-3 parcel of approximately 3.5 acres, which is below the required 5 acre minimum I-3 parcel size. This is a Planning Commission decision following a public hearing scheduled for December 8, 2008.
- File No. 1-CP-06/1-UGB-06/2-CP-06/2-Z-06: South Beach Neighborhood Plan (SBNP) as adopted in December 2006 by Newport Ordinance No. 1899 (concurrence with Urban Growth Boundary (UGB) adjustment by Lincoln County Ordinance No. 447 adopted April 18, 2007). Portion of subject property in SE corner designated as High Density Residential as part of the South Beach Neighborhood Plan Comprehensive Plan map amendments.
- File No. 1-AX-07/2-Z-07: By Ordinance No. 1922 adopted 6/18/07 (appealed to the Land Use Board of Appeals by ODOT) and amended by Ordinance No. 1931 adopted 8/6/07 (incorporating a settlement agreement with ODOT and the parties involved to allow the annexation/zone designations in Ordinance No. 1922 to become judicially final), annexed approximately 96.5 acres (subsequently determined to be 102.225 acres upon completion of a revised legal description of the property to be annexed)

(including approximately 16.5 acres of Tax Lot 100 of Assessor's Tax Map 11-11-20-AB) and established a mix of zoning designations consistent with those designations adopted as part of the South Beach Neighborhood Plan. The proposed Comprehensive Plan map amendment in File No. 5-CP-08 was identified as a condition of approval as part of the annexation.

4. The Department of Land Conservation & Development was mailed notification of the proposed amendments on September 24, 2008, using the DLCD Notice of Proposed Amendment green form. All applicable city departments and other public agencies and affected property owners within 300 feet of the subject property were notified on October 21, 2008, for the Planning Commission hearing and on November 10, 2008, for the City Council hearing. Notification was published in the Newport News-Times on October 29, 2008, for the Planning Commission hearing and on November 21, 2008, for the City Council hearing.

5. The Planning Commission reviews this request and makes a recommendation to the City Council. The Planning Commission held a public hearing on the proposed amendment on November 10, 2008. The Planning Commission voted unanimously (7-0) (Patrick, Brusselback, Fisher, McIntyre, Reh fuss, Newman, and Atwill) in favor of the requested minor Comprehensive Plan map amendment. The Planning Commission did not vote on whether or not the amendment would also qualify as a Comprehensive Plan map error amendment. Testifying in support of the application at the Planning Commission hearing was Dennis Bartoldus, representing the applicants. No testimony in opposition was received by the Planning Commission. See Planning Staff Report Attachment "F" (PC Draft 11/10/08 Minutes).

6. A Planning Staff Report was prepared for the City Council public hearing held on December 1, 2008. The following attachments were included with the City Council Planning Staff Report:

Attachment "A"	Applicant Request
Attachment "A-1"	Topography Map of Property
Attachment "A-2"	Applicant Photographs
Attachment "B"	Notice of Public Hearing and Map
Attachment "C"	Comp Plan Map and Zoning Map Designations
Attachment "C-1"	Comp Plan Map of Area prior to adoption of SBNP
Attachment "D"	Ordinance No. 1922
Attachment "D-1"	Ordinance No. 1931
Attachment "D-2"	Kit of Parts from File No. 1-PD-07
Attachment "E"	Portion of PC 6/26/06 Minutes
Attachment "E-1"	Portion of PC 7/10/06 Minutes
Attachment "E-2"	Portion of PC 5/14/07 Minutes
Attachment "F"	PC Draft 11/10/08 Minutes

7. The City Council held a public hearing on December 1, 2008. Councilor Bertuleit disclosed that he was the owner of property within the notification area and stepped down from the hearing pursuant to the Newport Zoning Ordinance requirement prohibiting participation by members of the approving authority who own property within the notification area. The City Council received a Planning Staff Report with attachments and the material in the file was entered into the record and is hereby incorporated by reference into the findings. The minutes of the December 1, 2008, hearing are hereby incorporated by reference into the findings. The City Council allowed for both written and oral testimony (as identified in the Council minutes and the material in the file) at the public hearing on the proposed amendments.

8. Following the City Council public hearing and deliberation on December 1, 2008, the Council voted unanimously to approve the requested amendments.

9. The City Council finds that the applicable criteria are as follows:

A. Criteria for the Proposed Comprehensive Plan Map Minor Amendment (p. 286 of the Comprehensive Plan):

1. Change in one or more goal or policy; and
2. Demonstrated need to accommodate unpredicted population trends, housing needs, employment needs, or change in community attitudes; and
3. Orderly and economic provision of key public facilities; and
4. Ability to serve the subject property with City services without an undue burden on the general population; and
5. Compatibility of the proposed change with the surrounding neighborhood and community.

B. The applicant also contends that the request may meet the criteria identified in the Newport Comprehensive Plan for an error amendment. Findings regarding the following are required for an error amendment (p. 287 of the Comprehensive Plan):

1. An error was made in the establishment of a map designation or boundary; and,
2. The correction of the error by the amendment of a map designation or boundary is necessary to resolve an issue created by the error.

C. With post-acknowledgement plan amendments, the applicant would need to submit findings regarding compliance with any applicable statewide planning goal requirements. The applicant has submitted findings in regard to the statewide planning goals.

CONCLUSIONS

1. The City Council concludes that the following findings demonstrate compliance with the applicable criteria for a Minor Comprehensive Plan Amendment as follows:

A. Findings as applicable have been submitted demonstrating: "A change in one or more goal or policy".

1. The City of Newport adopted the South Beach Neighborhood Plan (SBNP) in 2006 by Ordinance No. 1899. New goals and policies were adopted for the South Beach neighborhood which changed the Comprehensive Plan as it existed prior to the adoption of the SBNP. The SBNP includes the subject property. No amendments to the text of the Comprehensive Plan, as amended by the SBNP, are being requested as part of this application. The applicant notes that they are not seeking a change in a goal or policy of the recently adopted SBNP, they are simply seeking to make the designation on the Comprehensive Plan map consistent with the designation under the Zoning Ordinance. The requested change can be considered a minor map amendment under the Comprehensive Plan provisions and only a portion of the parcel is affected.

2. As previously noted, the property had a Plan designation of Industrial under the County Zoning Ordinance and a City Comp Plan map designation of Industrial. Through the SBNP process, the property received a designation of High Density Residential on the southeast corner of the property. In the annexation process, the property owner requested that the I-3 zone designation be applied to the whole parcel (including the southeast corner portion). The Planning Commission and City Council agreed to the property owner's request for the I-3 zone designation and a mechanism was placed in the ordinance annexing the property to allow the change of the Comp Plan map designation to Industrial for the southeast portion of the parcel to occur after the annexation. See Planning Staff Reports Attachments "E", "E-1", "E-3", and "D".

B. Findings as applicable have been submitted demonstrating that there is a: "Demonstrated need to accommodate unpredicted population trends, housing needs, employment needs, or change in community attitudes."

1. The applicant notes in the findings that the change in the plan will help address the City's need to provide adequate land for industrial purposes. The economic provisions of the Comprehensive Plan highly recommend that additional land, particularly industrial, be considered for employment lands expansion by the City for the 20-year planning horizon. The

Comprehensive Plan also recommends a reserve of industrial land for unanticipated developments.

C. Findings as applicable have been submitted demonstrating an: "Orderly and economic provision of key public facilities."

1. The applicants' findings indicate that utilities are being installed along SE 40th Street during the construction of the street and are adequate to serve the property. SE 40th Street is being constructed and provides access to the applicant's property. The applicant notes that the traffic studies provided to ODOT for the annexation of the property were performed with the property designated as Industrial. An agreement was entered into and signed between the applicant, Landwaves, the City of Newport, and ODOT that acknowledged compliance with the TSP if the property was used for industrial purposes. City services to the property will be provided as part of the overall services to the property. It is the applicant's intent to have two parcels of property with each parcel having frontage on an access off of SE 40th Street.

D. Findings as applicable have been submitted demonstrating an: "Ability to serve the subject property with City services without an undue burden on the general population."

1. The applicants note that as stated above, City services are being provided to the subject property with the construction of SE 40th Street, and the cost allocations have already been established by the parties benefiting from the road and utilities

E. Findings as applicable have been submitted demonstrating the: "Compatibility of the proposed change with the surrounding neighborhood and community."

1. The applicants conclude that the plan designation of Industrial will "square off" the Industrial designation in the area. The property to the north, the west, and a portion of the south line of the property is zoned Industrial. Presently, there are many Industrial uses on the adjoining property that is planned and zoned Industrial. See Planning Staff Report Attachments "C" and "C-1".

2. The historic zoning on the property is Industrial as the property had been zoned Plan Industrial (IP) in the County and Industrial on the City Comprehensive Plan map. Under the county's ordinance, previously there was an auto wrecking yard on the property, which was consistent with an Industrial use.

2. The City Council concludes as follows regarding the applicable criteria for a Comprehensive Plan Map Error Amendment:

A. Findings are required demonstrating: "An error was made in the establishment of a map designation or boundary; and the correction of the error by the amendment of a map designation or boundary is necessary to resolve an issue created by the error ".

1. The applicant contends that the request may also be an error amendment. The Comprehensive Plan on page 286 explains the categories of errors as follows:

Errors may include, but are not limited to cartographic mistakes, scrivener's errors in a description of a designation or boundary, incorrect map designations of property based on an erroneous assumption of property ownership, the need to reconcile conflicts between a comprehensive plan map designation and a zoning map designation of a property, or the need to adjust comprehensive plan designations or boundaries based on the correction of errors in the Urban Growth Boundary under the Newport Comprehensive Plan process for resolution of errors in the Urban Growth Boundary. [Emphasis added]

2. Both the Planning Commission and the City Council reviewed the annexation and zoning map ordinance amendments in File No. 1-AX-07/2-Z-07 and supported the designation of the subject property entirely with the I-3 zone designation. As this created a conflict with the Comprehensive Plan map designation change of a portion of the southeast corner to High Density Residential approved in the SBNP and subsequently acknowledged by DLCD between the Planning Commission and City Council hearings, the Council included a condition of approval in Ordinance No. 1922 for the property owner to seek a comprehensive plan map amendment to reconcile the conflict between the High Density Residential Comprehensive Plan map designation on the southeast portion of the property established as part of the SBNP process and the I-3 zoning map designation established as part of the annexation/rezone ordinance amendment process. As explained in the Comprehensive Plan on page 286, the types of defined errors may include "the need to reconcile conflicts between a comprehensive plan map designation and a zoning map designation of a property".

3. The applicant also contends the property received the Comprehensive Plan designation of High Density Residential in error. As previously noted, the property had a Plan Designation of Industrial under the County Zoning Ordinance and an Industrial designation under the City Comprehensive Plan map. During the SBNP process, there was a discussion about changing the designation of the entire parcel to a residential classification but ultimately only a portion of the property in the southeast corner of the property was designated with a High Density

Residential designation. The property owner had requested during the SBNP process that most of the property remain designated as Industrial in order to allow for the potential relocation of their concrete batch plant. During the annexation process, the property owner requested that the entire parcel be designated with the I-3 zone designation. The Planning Commission and City Council considered the request through the annexation/rezone public hearing process and agreed to designate the entire parcel with an I-3 zone designation. A mechanism was placed in the ordinance annexing the property to change the Comprehensive Plan map designation of the southeast portion from "High Density Residential" to "Industrial". The Findings of Fact adopting Ordinance No. 1922 recognized the desire to have the property designated as I-3.

4. In essence, to support a finding that the applicant has met the criteria for an error amendment, the City Council must find first that an error was made in the establishment of a map designation or boundary and second that the correction of the error is necessary to resolve an issue on the property. The Comprehensive Plan section involving map amendments identifies errors as including "the need to reconcile conflicts between a comprehensive plan map designation and a zoning map designation of a property". In essence, the City Council would have to find that the adoption of the annexation/zoning ordinance amendments in File No. 1-AX-07/2-Z-07 with the I-3 zone designation applied to the whole parcel created a situation in which there was a need to reconcile conflicts between a comprehensive plan map designation and a zoning map designation on the subject property. As noted previously, Ordinance No. 1922 adopting the annexation and zone designation ordinance amendments contained a provision in Section 3 (A) to provide for an opportunity for the property owner to apply for a Comprehensive Plan amendment to reconcile the issue created by the inconsistent zoning and comprehensive plan designations on the southeast corner of the property.

5. The Planning Commission did not vote on whether or not the amendment would also qualify as a Comprehensive Plan map error amendment.

3. The City Council concludes as follows regarding State Land Use Goals/
Administrative Rule Requirements:

A. In regard to Statewide Planning Goal 1 (Citizen Involvement), the acknowledged Newport Comprehensive Plan establishes the City of Newport's Goal 1 program on pages 291 and 292. In regard to the specific Policies and Implementation Measures, the following information is provided demonstrating conformance with the goal of encouraging citizen involvement:

1. Policy 1 contains at least three possible implementation measures (IM) to implement Policy 1 requirements of encouraging public involvement that may be or not be applicable depending on the nature of the proposed amendment. The City may use any one of the three implementation methods (or combinations thereof) to meet the Policy 1 requirements of encouraging public involvement. The current request is for a quasi-judicial land use amendment application (not a legislative amendment) and therefore this policy is inapplicable.

2. Policy 2 relates to encouraging the participation of citizens in the legislative stage of plan and ordinance development rather than in the quasi-judicial stage. The proposed comprehensive plan amendment is a quasi-judicial amendment (not a legislative amendment) and therefore this policy is not applicable.

B. In regard to Statewide Planning Goal 2 (Land Use Planning), the City of Newport's Comprehensive Plan has been acknowledged as being in compliance with the Statewide Planning Goals, including Goal 2. The Newport Comprehensive Plan section entitled "Administration of the Plan" specifies how amendments to the plan are made. The proposed amendment will follow the requirements for an amendment found in the Newport Comprehensive Plan and will therefore be in compliance with Statewide Planning Goal 2.

C. In regard to Statewide Planning Goal 3 (Agricultural Lands), Goal 4 (Forest Lands), Goal 5 (Open Spaces, Scenic and Historic Areas and Natural Resources), Goal 6 (Air, Water and Land Resources Policy), Goal 7 (Areas Subject to Natural Disasters and Hazards), and Goal 8 (Recreation Needs), there are no applicable requirements in these goals in regard to the proposed Comprehensive Plan amendment.

D. In regard to Statewide Planning Goal 9 (Economic Development), the applicant notes that the property has been designated on the zoning map as land needed to address the industrial needs of the community as is suitable to meet the needs set forth in the industrial zoning of the City of Newport's Zoning Ordinance. The surrounding property to the north and to the west is zoned industrial. The requested change to the Comprehensive Plan map is approximately 1.5 acres of a 16-acre parcel that has already been zoned industrial. The portion on which the Comp Plan map amendment is requested is under the same ownership as the balance of the property that is zoned industrial. Additionally, the Newport Comprehensive Plan recommends that the City have a reserve of industrial land for unanticipated developments and that industrial land be considered for employment lands expansion for the 20-year planning horizon.

E. In regard to Statewide Planning Goal 10 (Housing), the applicant notes that this goal is not applicable because this property has not been considered part of

the City's housing inventory. It was only recently annexed into the City, and while in the County had a plan and zone designation of industrial under the County's acknowledged plan and zoning ordinance.

F. In regard to Statewide Planning Goal 11 (Public Facilities and Services), the applicant notes that public facilities and services are available to the property. The property owner is dedicating a portion of the larger parcel for a public street (SE 40th Street) and utilities to serve the property are being installed as part of the construction of that street, which is already under construction and nearing completion.

G. In regard to Statewide Planning Goal 12 (Transportation) and the implementing Transportation Planning Rule (TPR) requirements, the applicant notes that this goal was already addressed in the recent annexation of the property into the City of Newport and by settlement agreement with ODOT, it was agreed this goal was met by the terms of the settlement agreement.

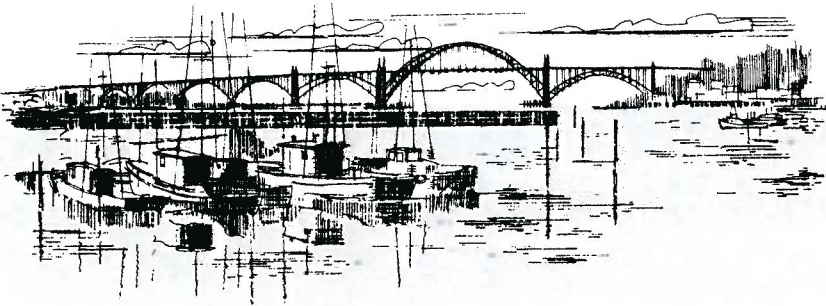
H. In regard to Statewide Planning Goal 13 (Energy Conservation), this goal is not applicable.

I. In regard to Statewide Planning Goal 14 (Urbanization), the applicant notes that this goal was addressed with the recent annexation of the property and does not need to be readdressed as part of this submittal.

J. In regard to Statewide Planning Goal 15 (Willamette River Greenway), Goal 16 (Estuarine Resources), Goal 17 (Coastal Shorelands), and Goal 18 (Beaches and Dunes), and Goal 19 (Ocean Resources), the proposed Comprehensive Plan map amendment will not have an impact on any of these Goals.

OVERALL CONCLUSION

Based on the Planning Staff Report and attachments, and other evidence and testimony in the record, the City Council concludes that the above findings of fact and conclusions demonstrate compliance with the applicable criteria and the requested amendment is hereby **APPROVED**.



CITY OF NEWPORT

169 SW COAST HWY

NEWPORT, OREGON 97365

TDD/VOICE 1-800-735-2900

OFFICE OF Community Development

**CERTIFICATE OF MAILING OF NOTICE OF ADOPTION AND THE
ADOPTED TEXT AND FINDINGS AS APPLICABLE**

Local File # S-CP-08

Date of Deposit in the U.S. Mail: 12/17/08

Name of Person Mailing JAMES BRASSINGTON-WHITE

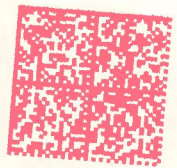
Signature of Person Mailing [Handwritten Signature]



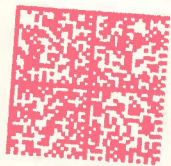
City of Newport
169 SW Coast Hwy
Newport, OR 97365

Attention: Plan Amendment Specialist
DLCD

635 Capitol Street NE, Suite 150
Salem, OR 97301-2540



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