



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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Salem, Oregon 97301-2524

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Web Address: <http://www.oregon.gov/LCD>

NOTICE OF ADOPTED AMENDMENT

June 26, 2006

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 001-06



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: July 12, 2006

This amendment was submitted to DLCD for review 45 days 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 THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

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

<paa> ya/

FORM 2

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

JUN 22 2006

LAND CONSERVATION AND DEVELOPMENT

Jurisdiction: City of Newport Local File No.: 1-AX-06/1-Z-06

(If no number, use none)

Date of Adoption: June 19, 2006 Date Mailed: June 21, 2006

(Must be filled in)

(Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: February 8, 2006

- Comprehensive Plan Text Amendment
Comprehensive Plan Map Amendment
Land Use Regulation Amendment
Zoning Map Amendment
New Land Use Regulation
Other: Annexation/Withdrawal

(Please Specify Type of Action)

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

Annexation of approximately 3.75 acres, withdrawal of property from Newport Rural Fire Protection District and Lincoln County Library District, and establishment of R-1 zone designation consistent with Comprehensive Plan designation of Low Density Residential.

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."

Either R-1 or R-2 zone designations allowed under Comprehensive Plan designation. R-1 zone designation established.

Plan Map Changed from: to

Zone Map Changed from: County R-1 to City R-1

Location: Assessor's Map 11-11-4-CD TL 300 Acres Involved: 3.75 acres

Specify Density: Previous: County R01 min. lot size SFR = 6,000, duplex = 10,000 New: City R01 min lot size SFR = 7,500

Applicable Statewide Planning Goals: 2, 10

Was an Exception Adopted? Yes: No: X

DLCD File No.: 001-06(15006)

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: * No:

* Mailed in time for DLCD to receive 45 days prior.

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, Lincoln County, LC Library District, Newport Rural Fire Protection Dist.

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. 1892

AN ORDINANCE PROVIDING FOR THE ANNEXATION, THE WITHDRAWAL FROM THE LINCOLN COUNTY LIBRARY DISTRICT AND NEWPORT RURAL FIRE PROTECTION DISTRICT, THE ESTABLISHMENT OF ZONING, AND MAKING FINDINGS OF FACT, FOR A CERTAIN TERRITORY AS HEREIN DESCRIBED, ALL IN THE CITY OF NEWPORT, COUNTY OF LINCOLN, STATE OF OREGON

WHEREAS, a request (Newport File No. 1-AX-06/1-Z-06) was filed by the owners of real property (Beaver State Land Development Co.) (Brad Bowder, applicant) to annex a portion of the property into the city limits and withdraw property from several districts, and to amend the Newport Zoning Map to adopt a City zone designation for the annexed property,

WHEREAS, 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 April 10, 2006, for the purpose of reviewing the proposed ordinance and providing a recommendation to the City Council,

WHEREAS, the above said public hearing was held in accordance with the appropriate provisions of the city ordinances, and, after due deliberation and consideration of the proposed change, the Planning Commission, by a unanimous vote did recommend that the proposed requests be approved with a recommendation that the zone designation be an R-1/"Low Density Single-Family Residential" zone designation;

WHEREAS, the City Council of the City of Newport, after provision of the required public notification, held a public hearing on May 15, 2006, on the requested annexation and withdrawal, and the zoning of the property to be annexed,

WHEREAS, the Council made a determination after considering the recommendation of the Planning Commission, the staff memorandum, and the evidence and argument presented at the public hearing and in the record, that each of the requests were in compliance with the applicable criteria and voted 7-0 to approve the requested annexation, withdrawal, and zoning designation of R-1/"Low Density Single-Family Residential",

NOW, THEREFORE, 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:

Beginning 80 rods north and 17 ¼ rods west of the southeast corner of the southwest quarter of Section 4 T. 11 S. R. 11 W. W. M., thence west 17 ¼ rods, thence south 553.38 feet, thence east 17 ¼ rods, thence north 553.38 feet, to the point of beginning, being in Section 4 T. 11 S. of R. 11 W. W. M., Lincoln County, State of Oregon

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 and the Newport Rural Fire Protection 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 and Rural Fire Protection District and further elects to assume such liability to the Lincoln County Library District in the manner provided by ORS 222.520(2)(b).

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, as owned by Beaver State Land Development, Inc., and described above in Section 1 (A), with an R-1/"Low Density Single-Family Residential" zone designation as illustrated in Exhibit "A".

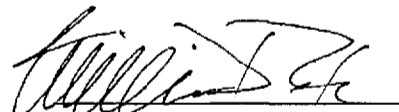
Section 2. The findings attached as Exhibit "B" are hereby adopted in support of the annexation, withdrawal, and zoning designations as adopted in Section 1.

Section 3. As a condition of annexation, a Measure 37 Covenant of Waiver of Claims shall be signed by the property owner and shall be recorded with the Lincoln County Clerk.

Introduced and passed the first reading at a regular meeting of the City Council of the City of Newport, Oregon, held on the 5th day of June, 2006.

Passed to the second reading, placed on final passage, and adopted by the City Council of the City of Newport, Oregon, held on the 19th day of June, 2006.

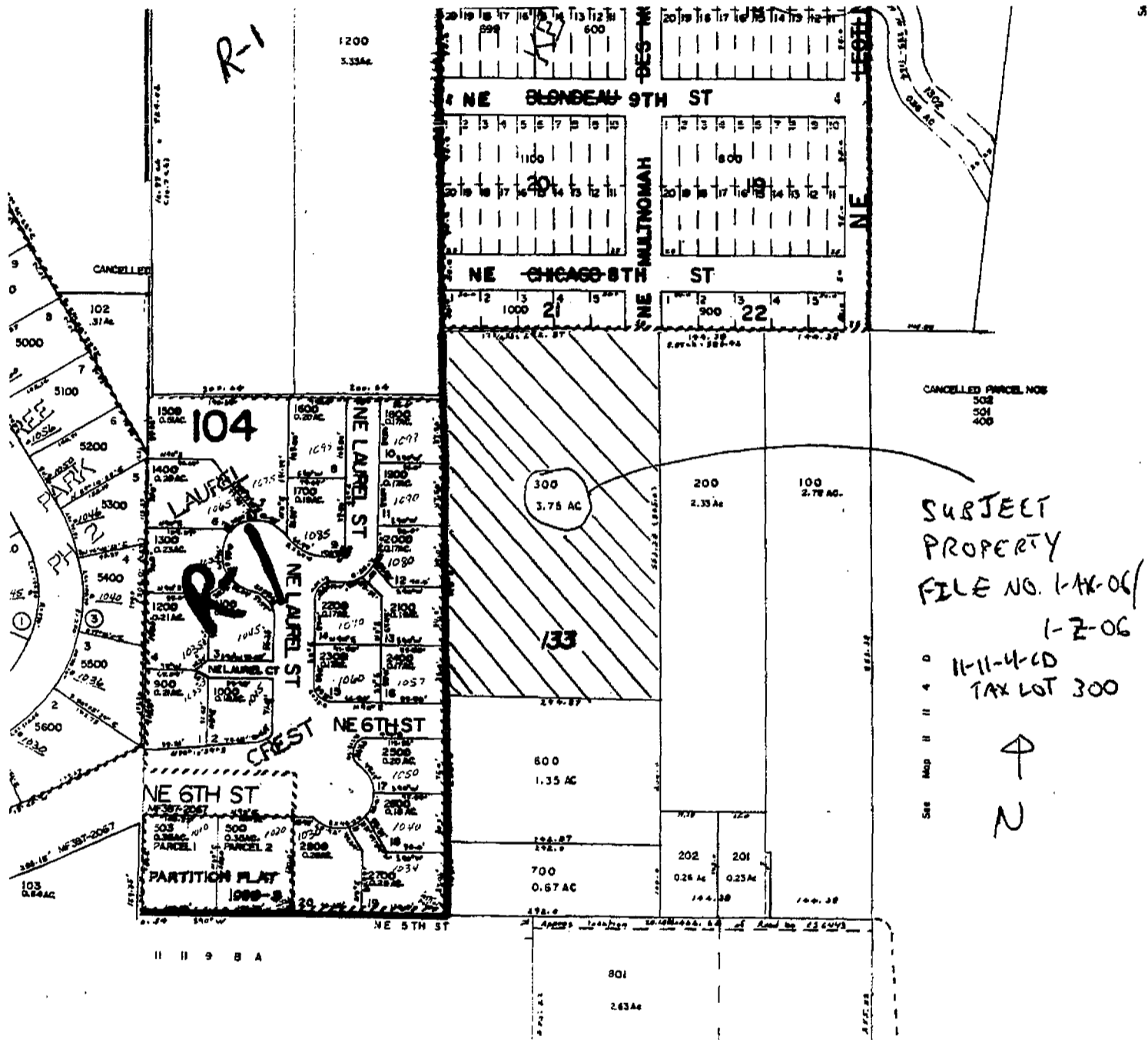
Approved by the Mayor of the City of Newport, Oregon, this 19th day of June, 2006.


MAYOR

ATTEST:


CITY RECORDER

EXHIBIT "A"



ORDINANCE NO. 1892 (Exhibit "A")

EXHIBIT "B"

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

FACTS

1. Brad Bowder (Beaver State Land Development, Inc., property owner) filed an application on February 3, 2006, involving an annexation and withdrawal request and a Zoning Map amendment for the property to be annexed. The requests were given the Newport File No. 1-AX-06/1-Z-06. The subject property included Lincoln County Assessor's Map No. 11-11-4-CD Tax Lot 300. The application materials are hereby incorporated by reference and included a signed Consent to Annex by the representative of the property owner. The request was to (1) include a certain territory (consisting of approximately 3.75 acres of Assessor's Tax Map 11-11-4 CD Tax Lot 300 and legally described as: *Beginning 80 rods north and 17 ¾ rods west of the southeast corner of the southwest quarter of Section 4 T. 11 S. R. 11 W. W. M., thence west 17 ¾ rods, thence south 553.38 feet, thence east 17 ¾ rods, thence north 553.38 feet, to the point of beginning, being in Section 4 T. 11 S. of R. 11 W. W. M., Lincoln County, State of Oregon*) into the Newport city limits through annexation; (2) amend the City of Newport Zoning Map to establish a zoning designation for the subject property consistent with the existing Newport Comprehensive Plan designation of Low Density Residential; and (3) withdrawal of said territory from the Newport Rural Fire Protection District and the Lincoln County Library District.
2. Notification of the proposed amendments was submitted on February 8, 2006, to the Department of Land Conservation & Development (DLCD) on the green "DLCD Notice of Proposed Amendment" form which included copies of relevant application materials as required by DLCD and maps illustrating the proposed requests.
3. Notification of the Newport Planning Commission public hearing to be held on April 10, 2006, was mailed on March 20, 2006, to affected property owners and various public/private agencies and entities. Various Newport City Departments were also provided notice on March 20, 2006. Notice of the Newport Planning Commission hearing was published in the Newport News-Times on March 31, 2006.
4. The Planning Commission held a public hearing on April 10, 2006, on the requests in order to review the requests and provide a recommendation to the City Council. A Planning Staff Report was prepared for the public hearing. The minutes of the April 10, 2006, Commission meeting are hereby incorporated by reference. The Planning Commission heard a report from staff which included several items entered into the record and received testimony from the applicant and other interested parties who expressed concerns regarding the application of an R-2 zone designation. The Planning Commission voted unanimously to recommend approval of the proposed requests with the recommendation that a zoning designation of R-1 be established.

5. The City Council public hearing date of May 15, 2006, was set by the City Council on April 17, 2006. For the City Council public hearing, notification in accordance with the NZO Section 2-6-1.030 (B) requirements included mailing notice to surrounding property owners, city departments and other public agencies and utilities on April 19, 2006. In accordance with the ORS 222.120 (3) and ORS 222.524 (2) annexation and withdrawal notification requirements, publication of the notice of public hearing in the Newport News-Times was published on May 3, 5, and 10, 2006. Notice of the public hearing was also posted in four public places (Newport City Hall, Newport Recreation Center, Newport Library, Lincoln County Courthouse) in the City on April 19, 2006.

6. A Planning Staff Report (dated May 7, 2006) with attachments was prepared for the City Council public hearing. The Planning Staff Report and the accompanying attachments are hereby incorporated by reference. The Planning Staff Report attachments included the following attachments:

- Attachment "A" – Applicant Request
- Attachment "A-1" – Applicant Map
- Attachment "B" – Notice of Public Hearing and Map
- Attachment "C" – Uses allowed in the R-1 and R-2 zones
- Attachment "C-1" – Intent of Zoning Districts
- Attachment "D" – Newport Zoning Map
- Attachment "E" – Topographical Map
- Attachment "F" – Aerial Photograph of Area
- Attachment "G" – Planning Commission 4/10/06 Minutes
- Attachment "H" – Ness 4/5/06 Letter

7. The City Council held a public hearing on May 15, 2006, allowing for testimony by staff, the applicant, and other interested parties. The minutes of the May 15, 2006, meeting are hereby incorporated by reference into the findings. As part of CDD Bassingthwaite's staff report, a number of items were entered into the record including:

- A. The DLCD 45 Day Notification form and attached maps.
- B. Affidavits of Mailing Land Use Notices for the Planning Commission and City Council Hearings.
- C. Proof of Publication of notice in the Newport News-Times for the Planning Commission 4/10/06 hearing and the City Council 5/15/06 hearing.
- D. Affidavit of posting of notice for the annexation/withdrawal requests (posted 2/2/06 in four public places).
- E. The complete set of application materials including consents to annex.
- F. Oregon Department of Revenue Cadastral Information Systems Unit April 28, 2006, preliminary review (DOR 21-P13-2006) letter.

8. The applicable Newport Comprehensive Plan and Newport Zoning Ordinance (NZO) criteria for the requests are:

Criteria for the Proposed Annexation (NZO Section 2-5-6.020):

- A. The required consents have been filed with the city; and
- B. The territory to be annexed is within the acknowledged urban growth boundary (UGB); and
- C. The territory to be annexed is contiguous to the existing city limits.

Criteria for the Proposed Withdrawal:

There are no specific criteria for the withdrawal from a district.

Criteria for the Proposed Zoning Map Amendments (NZO Section 2-5-6.030 and Section 2-5-5.005): Findings that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare.

CONCLUSIONS

Annexation and Withdrawal Requests

1. NZO Section 2-5-6.020 provides the sole criterion for consideration of a request to annex under the Newport Zoning Ordinance. No development plan is required with annexation and future development of the property would need to comply with the applicable rules and regulations in place at such time as future development is proposed.
2. The Newport City Council concludes that NZO Section 2-5-6.020 (A) has been satisfied as the required consent of the property owner to be annexed is on file with the City of Newport in accordance with ORS 222.170. Currently, no one resides on the property and therefore no electorate consents are required.
3. The Newport City Council concludes that the criteria in NZO Section 2-5-6.020 (B) has been satisfied as the subject property is within the Newport Urban Growth Boundary as illustrated by the applicant map.
4. The Newport City Council concludes that NZO Section 2-5-6.020 (C) has been satisfied as the territory is contiguous to the existing city limits on both the west and north property lines of the property as illustrated on the Newport Zoning Map for the area.
5. Under the Newport Zoning Ordinance, there are not specific criteria for the withdrawal of property from the Lincoln County Library District or the Newport Rural Fire Protection District. The City Council concludes that as the City of Newport provides both library services and fire protection services, as a part of the annexation process, the subject property is also withdrawn from those districts as provided for in the Oregon Revised Statutes (ORS) 222.524.

Zoning Designation Request:

6. The Council concludes that a zoning designation of R-1/"Low Density Single-Family Residential" is in conformance with the NZO Section 2-5-6.030 requirement that the zoning designation conform to the Comprehensive Plan. The Comprehensive Plan designation of

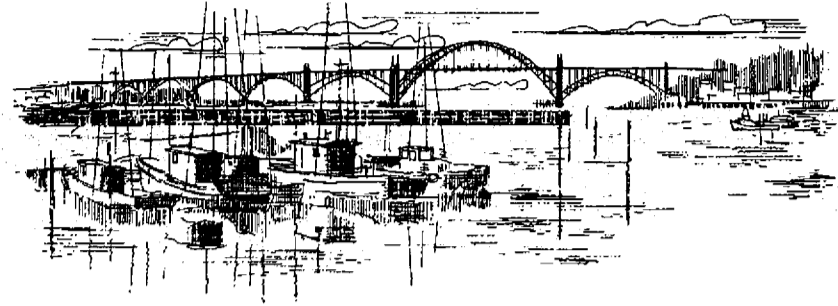
Low Density Residential is implemented by either the R-1/"Low Density Single-Family Residential" zone or the R-2/"Medium Density Single-Family Residential" zone. The zoning designation of R-1 zone was recommended by the Newport Planning Commission and the property immediately to the west is also an R-1 zone. Neighboring property owners testifying at the Planning Commission public hearing had concerns about designating the property with an R-2 zone due to the potential for increased density and traffic but were generally not opposed to the R-1 zone designation.

7. The Council concludes that zoning designation of R-1 is in conformance with the NZO Section 2-5-5.005 general direction to adopt amendments to the Zoning Map that further a public necessity and promote the general welfare. Because the Comprehensive Plan Map has designated the property to be Low Density Residential to implement the Comprehensive Plan (which establishes the limits of growth within the Urban Growth Boundary for the City of Newport to the year 2010), the City Council concludes that the application of an R-1 zone designation in conformance with the Comprehensive Plan would further a public necessity and promote the general welfare.

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** with the following condition:

- 1) The property owner shall sign a Measure 37 Covenant of Waiver of Claims and that the Covenant shall be record.



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 # 1-A7-06/17-06

Date of Deposit in the U.S. Mail: 6/21/06

Name of Person Mailing JAMES BASSINGTHWAITE

Signature of Person Mailing 