



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED AMENDMENT

November 16, 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 004-06

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: November 30, 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

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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

NOV 13 2006

LAND CONSERVATION AND DEVELOPMENT

Jurisdiction: City of Newport Local File No.: 3-CP-06/4-Z-06 (If no number, use none)

Date of Adoption: November 6, 2006 (Must be filled in) Date Mailed: November 9, 2006 (Date mailed or sent to DLCD)

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

- 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."

In conjunction with a street evacuation and property line adjustmnet (Filed Nov. 1-SV-06 and File No. 3-PLA-06), the applicant received approval to chang the comp plan and zoning map designation of the vacated portion of a street from Commercial/C-1 to High Density Residential/R-4 consistent with the comp plan and zoning designation of the property the vacated street will attach to and a change from HDR/R-4 to Commercial/C-1 ofr a portion of a piece of property to be adjusted by property line adjustment to place a portion of the HDR/R-4 property historically used as part of the Commercial/C-1 lot parking area with the existing Commercial/C-1 use.

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: Commercial R-4 to High Density Residential C-1 Zone Map Changed from: C-1 to R-4

Location: Assessor's Map 11-11-8-CA Tax Lots 1700/16300 Acres Involved: Less than 5,000 sq. ft.

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

Applicable Statewide Planning Goals: 2, 9, 10

Was an Exception Adopted? Yes: ___ No: X

DLCD File No.: 004-06 (15294)

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

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

Address: 169 SW Coast Highway

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. 1897

AN ORDINANCE VACATING A PORTION OF SW ALDER STREET AND AN UNNAMED ALLEY WAY, 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, AND AMENDING ORDINANCE NO. 1308 (AS AMENDED) TO AMEND THE NEWPORT ZONING MAP

WHEREAS, Ed and Elizabeth Doyle filed land use requests involving a street vacation (File No. 1-SV-06) of a portion of SW Alder Street adjacent to Lot 4 and Lot 5 of Block 12 of Plan of Newport and the unnamed 10 foot wide alley way between Lot 4 and Lot 5 of Block 12 of Plan of Newport and involving a Comprehensive Land Use Plan Map amendment (File No. 3-CP-06) and Zoning Map amendment (File No. 4-Z-06) for the portion of SW Alder Street proposed to be vacated to be changed from Commercial/C-1 "Retail and Service Commercial" to High Density Residential/R-4 "High Density Multi-Family Residential" and an adjacent portion of property involved in a related property line adjustment (File No. 3-PLA-06) from High Density Residential/R-4 to Commercial/C-1 on May 14, 2006,

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 August 14, 2006, on the proposed amendments (Newport File Nos. 3-CP-06/4-Z-06/1-SV-06) for the purpose of reviewing the proposed street and alley way vacation and Comprehensive Plan Map and Zoning Map amendments 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 vacation and amendments be adopted by the City Council of the City of Newport; and

WHEREAS, the City Council of the City of Newport, after providing the required public notification, held a duly noticed public hearing on September 18, 2006, regarding the question of the proposed street and alley way vacation and Comprehensive Plan Map and Zoning Map amendments, and voted 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,

NOW, THEREFORE, THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. The following described portion of SW Alder Street and the portion of the unnamed alley way lying between Lot 4 and Lot 5 of Block 12 of Plan of Newport are hereby vacated:

A. Description of portion of SW Alder Street to be vacated:

Beginning at the Northeasterly corner of Block 12, Plan of NEWPORT, located in the Northeast corner of Section 8, Township 11 South, Range 11 West, Willamette Meridian in Lincoln County, Oregon; thence South 36°40'12" East, along the Easterly line of said Block 12, a distance of 142.62 feet; thence North 02°48'50" East, a distance of 44.65 feet; thence North 09°23'35" West to the Centerline of SW Alder Street, a distance of 25.33 feet; thence North 36°40'12" West, along said Centerline to the Southerly Right of Way of SW 11th Street, a distance of 85.60 feet; thence South 53°23'48" West, along said Southerly Right of Way to the Northeasterly corner of Block 12, a distance of 40.00 feet to the point of beginning. Said tract contains 4684.1 Square Feet more or less (0.11 Acres).

B. Description of portion of unnamed alley way to be vacated:

Beginning at the Southeasterly corner of Lot 5, Block 12, Plan of Newport, located in the Northeast one-quarter of Section 8, Township 11 South, Range 11 West, Willamette Meridian in Lincoln County, Oregon; thence South 53°21'51" West, along the southerly line of said Lot 5 to the Southwesterly corner thereof, a distance of 50.03 feet; thence South 36°39'12" East to the Northwesterly corner of Lot 4, Block 12, a distance of 10.00 feet; thence North 53°21'51" East, along the northerly line of said Lot 4 to the Northeasterly corner thereof, a distance of 50.03 feet; thence North 36°40'12" West, a distance of 10.00 feet to the point of beginning.

Section 2. Ordinance No. 1621 (as amended) is amended to establish a "Residential" Comprehensive Plan land use designation on the Newport Comprehensive Plan Map for the portion of SW Alder Street vacated by this ordinance as described in Section 1 (A) of this ordinance.

Section 3. Ordinance No. 1621 (as amended) is amended to establish a "Commercial" Comprehensive Plan land use designation on the portion of property illustrated in Exhibit "A" and described as follows:

Beginning at the Southeasterly corner of Lot 4, Block 12, Plan of Newport, located in the Northeast one-quarter of Section 8, Township 11 South, Range 11 West, Willamette Meridian in Lincoln County, Oregon; thence North 36°40'12" West, along the easterly line of said Lot 4, a distance of 43.50 feet; thence South 02°48'50" West to the southeasterly extension of the line between Lots 3 and 4, Block 12, a distance of 78.73 feet; thence South 36°39'12" East, along the southeasterly extension of said line to the centerline of vacated SW 12th Street, which inured thereto by Ordinance No. 1738, recorded in Microfilm 344-0724, Lincoln County Film Records, a distance of 9.73 feet; thence North 53°20'49" East, along said centerline to the southeasterly extension of the east line of said Lot 4, a distance of 50.06 feet; thence North 36°40'12"

West, along said easterly extension of Lot 4, a distance of 27.00 feet to the point of beginning. Said tract contains 2008.18 Square Feet more or less.

Section 4. Ordinance No. 1308 (as amended) is amended to establish an R-4/"High Density Multi-Family Residential" designation on the Newport Zoning Map for the portion of SW Alder Street vacated by this ordinance as described in Section 1 (A) of this ordinance.

Section 5. Ordinance No. 1308 (as amended) is amended to establish a C-1/"Retail and Service Commercial" zone designation on the Newport Zoning Map on the portion of property illustrated in Exhibit "A" and described in Section 3 of this ordinance.

Section 6. The City Council adopts the findings contained in Exhibit "B" in support of the street and alley way vacation and approval of the amendments to the Newport Comprehensive Plan Map and the Newport Zoning Map.

Introduced and passed on first reading in a regular meeting of the City Council of the City of Newport, Oregon, held on the 16th day of October, 2006.

Passed on second reading, placed for final passage, and adopted by the City Council of the City of Newport, Oregon, on the 6th day of November, 2006.

Approved by the Mayor of the City of Newport, Oregon, on the 6th day of November, 2006.


MAYOR

ATTEST:

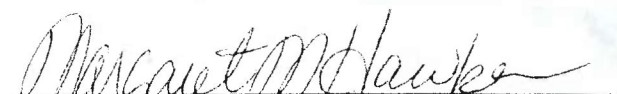

CITY RECORDER

EXHIBIT "A"

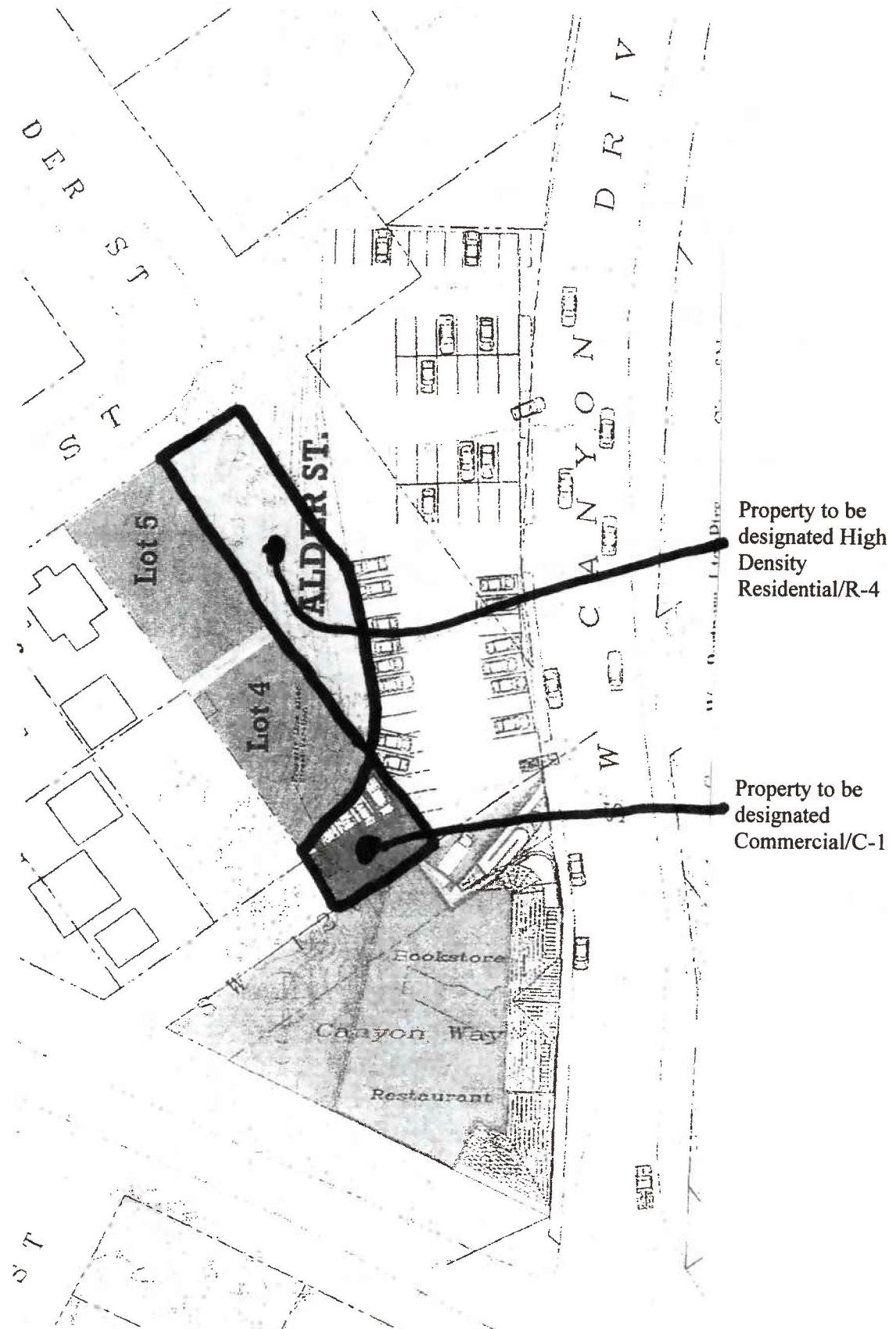


EXHIBIT "B"

**FINDINGS FOR A MINOR COMPREHENSIVE PLAN MAP AMENDMENT,
ZONING MAP AMENDMENT & VACATION OF A PORTION OF
SW ALDER STREET & UNNAMED ALLEY WAY
(File No. 3-CP-06/4-Z-06/1-SV-06)**

FINDINGS OF FACT

1. Several land use requests were submitted on May 17, 2006, from Ed and Elizabeth Doyle (J. F. Ouderkirk, authorized agent) including the following requests:

File No. 3-CP-06: The applicant requests a minor amendment to the Comprehensive Land Use Plan Map of the City of Newport to change the designation of that portion of Assessor's Map 11-11-8-CA Tax Lot 16300 becoming part of Assessor's Map 11-11-8-CA Tax Lot 800 as a result of the proposed lot line adjustment (File No. 3-PLA-06) from "Residential" to "Commercial". In addition, the applicant requests a change in the designation of the west half of SW Alder Street becoming part of Tax Lots 16300 and 17000 as a result of the proposed street vacation (File No. 1-SV-06) from "Commercial" to "Residential".

File No. 4-Z-06: The applicant requests an amendment to the Zoning Map of the City of Newport to change the designation of that portion of Tax Lot 16300 becoming part of Tax Lot 800 as a result of the proposed lot line adjustment (File No. 3-PLA-06) from R-4/"High Density Multi-Family Residential" to C-1/"Retail and Service Commercial"; and to change the designation of the west half of SW Alder Street becoming part of Tax Lots 16300 and 17000 as a result of the proposed street vacation (File No. 1-SV-06) from C-1/"Retail and Service Commercial" to R-4/"High Density Multi-Family Residential". The Planning Commission reviewed this request and made a favorable recommendation to the City Council.

File No. 1-SV-06: The applicant requests a proposed vacation of the undeveloped portion of SW Alder Street adjacent to Lot 4 (Lincoln County Assessor's Map 11-11-8-CA Tax Lot 16300) and Lot 5 (Lincoln County Assessor's Map 11-11-8-CA Tax Lot 17000) of Block 12 of Plan of Newport, and the unnamed 10 foot wide alley way lying between Lot 4 and Lot 5 of Block 12 of Plan of Newport as described as follows:

Portion of SW Alder Street: Beginning at the Northeasterly corner of Block 12, Plan of Newport, located in the Northeast corner of Section 8, Township 11 South, Range 11 West, Willamette Meridian in Lincoln County, Oregon, thence South 36°40'12" East, along the easterly line of said Block 12, a distance of 142.62 feet; thence North 02°48'50" East, a distance of 44.65 feet; thence North 09°23'35" West, a distance of 59.33 feet; thence North 06°50'11" West to the westerly line of Block 36, Case & Bayley's Second

Addition, a distance of 49.12 feet; thence North 36°44'55" West, along said westerly line to the Northwesterly corner thereof, a distance of 12.73 feet; thence South 53°23'48" West to the Northeasterly corner of said Block 12, a distance of 80.00 feet to the point of beginning.

Unnamed Alley Way: Beginning at the Southeasterly corner of Lot 5, Block 12, Plan of Newport, located in the Northeast one-quarter of Section 8, Township 11 South, Range 11 West, Willamette Meridian in Lincoln County, Oregon; thence South 53°21'51" West, along the southerly line of said Lot 5 to the Southwesterly corner thereof, a distance of 50.03 feet; thence South 36°39'12" East to the Northwesterly corner of Lot 4, Block 12, a distance of 10.00 feet; thence North 53°21'51" East, along the northerly line of said Lot 4 to the Northeasterly corner thereof, a distance of 50.03 feet; thence North 36°40'12" West, a distance of 10.00 feet to the point of beginning.

2. The property involved in the various requests includes Lincoln County Assessor's Map 11-11-08-CA (Tax Lots 800, 17000 & 16300), a portion of SW Alder Street, and a portion of an unnamed alley way. Tax Lots 17000 & 16300 are currently zoned R-4/"High Density Multi-family Residential"; and Tax Lot 800 and the affected portion of SW Alder Street (proposed to be vacated) is currently zoned C-1/"Retail and Service Commercial".

3. Staff reports the following facts:

- a. Plan Designation: A portion is Residential and a portion is Commercial.
- b. Zone Designation: A portion is zoned R-4/"High Density Multi-Family Residential" and a portion is zoned C-1/"Retail and Service Commercial".
- c. Surrounding Land Uses: A mixture of commercial, residential, public, and water related uses. See Planning Staff Report Attachment "C" (Zoning Map of Area).
- d. Topography and Vegetation: Ranges from flat to steep sloped with some landscaped vegetation on the developed portion and trees and brush on the undeveloped portion.
- e. Existing Buildings: No buildings are located on the subject property.
- f. Utilities: All are available to the site.
- g. Development Constraints: Steep slope on portion of property.
- h. Past Land Use Actions: None recently.

4. Notification of the comprehensive plan map and zoning map amendments (File No. 3-CP-06 and 4-Z-06) was mailed to the Department of Land Conservation and Development (DLCD) on June 8, 2006, in conformance with the DLCD post-acknowledgment plan amendment requirements. For the Planning Commission public hearing, notification to surrounding property owners, to city departments, and to public/private utilities/agencies for the four land use applications was mailed on July 25, 2006. For the City Council public hearing, notification was mailed on August 28, 2006. See Planning Staff Report Attachment "B" (Public Hearing Notices and Map). Notification distances established under the Newport Zoning Ordinance (No. 1308, as amended) (NZO) Section 2-6-1.030 (B) (2) are 300 feet for Comprehensive Plan map amendments, 200 feet for Zoning map amendments, and as specified in ORS 271.080 (2)

for street vacations. The notice of public hearing was also published in the Newport News-Times on August 4, 2006, for the Planning Commission public hearing and published in conformance with ORS 271.110(1) on August 30, September 6, and September 13, 2006, for the City Council public hearing. Notice of the Council public hearing was also posted in conformance with ORS 271.110(2) in two locations near the end of the proposed right-of-way to be vacated on August 31, 2006.

5. The Planning Commission reviewed the applicant's requests with a public hearing held on August 14, 2006. The applicant appeared before the Planning Commission, and no other parties appeared in person at the hearing. The Commission voted 4-0 (Romney, Henning, Patrick, and Brusselback) to make a favorable recommendation to the City Council on the requests. The Commission also voted to approve the variance request submitted in conjunction with the other requests. See Planning Staff Report Attachment "E" (Planning Commission 8/14/06 Minutes).

6. The City Council set the date for the public hearing on the proposed street vacation for September 18, 2006, at the August 21, 2006, City Council meeting. The City Council held a public hearing on September 18, 2006, for the purpose of considering the consolidated requests. The City Council received a copy of the Planning Staff Report (dated September 10, 2006) and accompanying attachments (which are hereby incorporated by reference into the findings). The 9/10/06 Planning Staff Report attachments included the following:

- Attachment "A" – Applicant Cover Letter and Illustration
- Attachment "A-1" – Applicant Findings and Map (3-CP-06)
- Attachment "A-2" – Applicant Findings and Map (4-Z-06)
- Attachment "A-3" – Applicant Findings (1-SV-06)
- Attachment "A-4" – Applicant Vacation Area Map (1-SV-06)
- Attachment "A-5" – Street Vacation Plant Service (1-SV-06)
- Attachment "B" – Public Hearing Notices and Map
- Attachment "C" – Zoning Map of Area
- Attachment "C-1" – Topography Map of Area
- Attachment "D" – Qwest 8/1/06 Letter
- Attachment "E" – Planning Commission 8/14/06 Minutes

7. At the public hearing on September 18, 2006, CDD James Bassingthwaite entered into the record the complete application file materials, including the consents for the vacation, affidavit of mailing to the DLCD on June 8, 2006, mailing of notice for the Planning Commission hearing to surrounding property owners, City departments, and to public and private utilities that was mailed on July 25, 2006, mailing of notice for the City Council public hearing that was mailed on August 28, 2006, proof of publication of the notice of the Planning Commission hearing that was published in the Newport News-Times on August 4, 2006, and for the City Council public hearing was published on August 30, September 6, and September 13, 2006. The City Council heard a report from staff and received testimony from the applicant and his authorized representative. Following the City Council public hearing and deliberation on September 18, 2006, the Council voted

to approve the three requests. The minutes of the September 18, 2006, City Council meeting are hereby incorporated by reference into the findings.

8. The subject requests, along with a property line adjustment (File No. 3-PLA-06) and a variance request (File No. 4-VAR-06), have been submitted essentially to change the boundaries of two existing lots (Lot 4 and Lot 5) through a property line adjustment and a proposed street and alley vacation. Because the proposed changes would involve adding and subtracting property with different comprehensive plan and zoning designations, the applicant is requesting the comprehensive plan and zoning map amendments such that the resulting properties would be uniformly designated.

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

- A. Criteria for the proposed Comprehensive Land Use Plan Map 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. 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. Criteria for the Proposed Street Vacation of the Oregon Revised Statutes (ORS) 271.120:
 - 1. Whether the consent of the owners of the requisite area *[as defined in ORS 271.080 (2)]* have been obtained;
 - 2. Whether notice has been duly given *[for the public hearing before the City Council]* and,
 - 3. Whether the public interest will be prejudiced by the vacation of such plat or street or parts thereof.

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 addressing whether or not there is: “A change in one or more goal or policy”.

1. The amendment is proposed to bring consistency with the existing designations of property to be adjusted by the property line adjustment and the street vacation. The applicant is not proposing a change in one or more goal or policy, nor is the applicant's proposed change in reliance on a change in one or more goal or policy. The City has previously determined in a similar circumstances (for example, Ordinance No. 1842 approved a change in designation of portions of two properties with split comprehensive plan designations such that each property contains a uniform comprehensive plan designation) that where the proposed Comprehensive Plan map amendment is a minor adjustment of boundaries between properties that a demonstration of a change in one or more goal or policy is not required to be made.

B. Findings as applicable addressing whether or not there are: "Demonstrated need to accommodate unpredicted population trends, housing needs, employment needs, or change in community attitudes".

1. In response to this criterion, the applicant in their proposed findings notes that the proposed street vacation and comprehensive plan map amendment would result in a parcel size of High Density Residential property that could be more economically developed in a way that would satisfy urban housing needs.

C. Findings as applicable addressing whether or not there are: "Orderly and economic provision of key public facilities".

1. According to the applicant, the orderly and economic provision of key public facilities will be maintained, including the public parking lot.

D. Findings as applicable addressing whether or not there is an: "Ability to serve the subject property with City services without an undue burden on the general population".

1. The applicant states in the proposed findings that the ability to serve the subject property will not be impacted by the comprehensive plan map change.

E. Findings as applicable addressing the: "Compatibility of the proposed change with the surrounding neighborhood and community".

1. Surrounding properties are designated and zoned as commercial and high density residential. See Planning Staff Report Attachment "C" (Zoning Map of Area). The applicant notes in the proposed findings that the changes are compatible with the surrounding neighborhood and community.

2. The City Council concludes as follows regarding the applicable criteria for the proposed Zoning Map Amendment in that it furthers a public necessity and the change promotes the general welfare.

A. As the applicant noted, the request furthers the public necessity and promotes the general welfare through consistency in zoning uniformly property and that the additional property to be added to the parcels through the street vacation will allow for property more suitable for building consistent with the R-4 zoning by creating a combined parcel of sufficient size to be economically developed in a way consistent with the R-4 designation.

3. The City Council concludes as follows regarding the applicable criteria for the proposed Street Vacation:

A. The City Council concludes that the consents of the owners of the requisite area [as defined in ORS 271.080 (2)] have been obtained.

1. The applicant has provided a map of the requisite area as defined in ORS 271.080 (2) in Planning Staff Report Attachment "A-4" (Applicant Vacation Area Map (1-SV-06)). The applicant submitted on July 17, 2006, the names and addresses of abutting and affected property owners (and the required original signatures indicating consent for the street vacation) of what they calculated to be approximately 71% of the affected area defined by ORS 271.080 (2)) including abutting property owners. Also included with the application were the results of a title search report providing information about current ownership of the street right-of-way and the manner of creation of the street. See Planning Staff Report Attachment "A-5" (Street Vacation Plant Service (1-SV-06)).

2. For approval of the vacation, ORS 271.080 (2) requires "the consent of the owners of the abutting property and not less than two-thirds in area of the real property affected thereby". Written consents for the proposed vacation were submitted from property owners as follows:

Newport Urban Renewal Agency	11-11-8-BD TL 19001
Edward and Elizabeth Doyle	11-11-8-CA TL 16300
	11-11-8-CA TL 17000
City of Newport	11-11-8-BD TL 11600, 11900
	11-11-8-CA TL 900, 5400, 5500
Yaquina Bay Mem Assn	11-11-8-CA TL 5600, 5700, 5800
Scott and Pamela Wyss	11-11-8-BD TL 17100, 17200
Mathew C. Johnston Suc. Trust	11-11-8-BD TL 19100
Paul and Judith Ward	11-11-8-CA TL 16500, 16600,
	16800
Helen Waddell, Trustee	11-11-8-BD TL 12500
Ferber Family Trust & Ferber, Norman L. & Mary Megowan, Trustees	11-11-8-CA TL 16700

Richard and Jill Halvorson	11-11-8-BD TL 91001
Richard Lyon	11-11-8-BD TL 91002
Gordan and Sharon Jamtgaard	11-11-8-BD TL 16400, 16401
Newport Masonic Bldg Assoc.	11-11-8-BD TL 12700
Paul Schibig	11-11-8-BD TL 16500, 19000
Marcia Mohr	11-11-8-BD TL 12400
Housing Authority of Lincoln County	11-11-8-BD TL 17500, 17600
Victor Dollar	11-11-8-CA TL 16400, 16900
David and Linda Miller	11-11-8-BD TL 12000, 12100
Florence I. Grishaber, Trustee	11-11-8-CA TL 600, 700
Canyon Way Partners, LP	11-11-8-CA TL 800
Calvary Baptist Church	11-11-8-BD TL 12600

3. The City Council of Newport authorized the consent for the City of Newport property based on the Council's capacity as a property owner. The Council also noted that they will be reviewing the proposed vacation through the public hearing process in their role as the approval authority for street vacations and reserved the right to consider the requested street vacation in regard to the applicable criteria.

B. The City Council concludes that notice has been duly given [for the public hearing before the City Council] pursuant to the ORS requirements for notice based on the documentation of notification provided in the Planning Staff Report and entered into the record.

C. The City Council concludes that the public interest will not be prejudiced by the vacation of such plat or street or parts thereof.

1. The existing street has not been constructed. The applicant in the proposed findings contends that "the portion of Alder Street to be vacated is not developable because it is too steep and portions of the Alder Street right of way to the south make up portions of the existing public parking lot adjacent to Canyon Way. In fact if Alder Street were to be developed in this area, necessary public parking would be lost to the detriment of the public interest." See Planning Staff Report Attachment "A-3".

2. Only a "no comment" comment from the Newport Public Works Department dated July 27, 2006, has been received and a letter from Qwest Corporation dated August 1, 2006. Qwest indicated that they had facilities in the area affected by the proposed actions but did not object to the proposed action as long as appropriate provisions were made for retention of their rights by either public utility easement or private easement. A condition of approval of the vacation is attached to require an appropriate public utility easement (PUE) be retained over the area to be vacated as necessary to accommodate the Qwest facilities. This could be done through either a blanket PUE on the area to be vacated or could be done with a more specific easement description in regard to the Qwest facilities.

3. A concern was raised during the public hearing about the applicability in the future of NZO Section 2-4-4 (Screening and Buffering Between Residential and Non-Residential Zones) for the remaining portion of the SW Alder Street not vacated and remaining within a Commercial designation and whether or not a public parking garage in that portion of the right-of-way would be subject to the requirements of NZO Section 2-4-4. The City Council was provided a copy of the NSO Section 2-4-4 requirements and discussed the matter. The City Council, upon review of the requirements and language used within NZO Section 2-4-4, determined that the NZO Section 2-4-4 requirements applied to real property and not to public right-of-way such that a future parking garage in the public right-of-way would not be subject to the NZO Section 2-4-4 requirements.

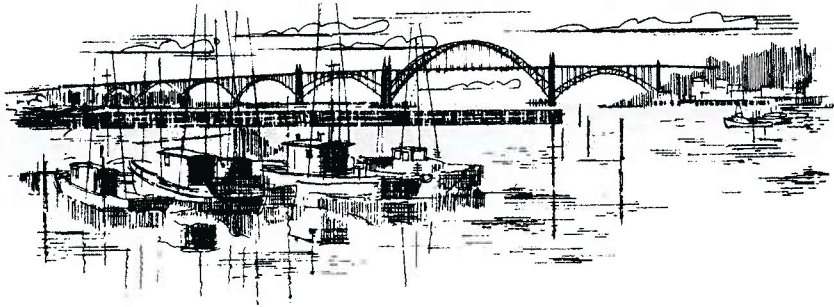
D. In regard to Newport Comprehensive Plan's Bay Front Plan Goal 5, Policy 1, which encourages retention of street right-of-ways on the hillside above the Bay Front, and if applicable, also requires that the City shall also find that the vacation does not interfere with convenient pedestrian, bicycle or other transportation connections, the City Council concludes that the Bay Front Plan Goal 5, Policy 1 is not applicable to this vacation based on the following:

1. The Bay Front Plan did not define what was meant by "the hillside above the Bay Front". The applicant in the findings contends that the SW Alder Street is not within the Goal 5, Policy 1 "hillside" as "the portion of SW Alder Street proposed to be vacated does not lie on a hillside above the bay and is in fact separated from the bay front by a bluff bordered on the north by SW Canyon Way and on the south by Bay Boulevard." See Planning Staff Report Attachment "A-3" (Applicant Findings (1-SV-06)).

OVERALL CONCLUSION

Based on the Planning Staff Reports 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 three requests of File No. 3-CP-06/4-Z-06/1-SV-06 are hereby approved with the following condition:

1. An appropriate public utility easement (PUE) shall be retained over the area to be vacated as necessary to accommodate the Qwest facilities either by a blanket PUE on the area to be vacated or with a more specific easement description in regard to the Qwest facilities.



CITY OF NEWPORT

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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 # 3-CP-06/4-2-06

Date of Deposit in the U.S. Mail: 11/9/06

Name of Person Mailing JAMES RASSINGTON

Signature of Person Mailing [Handwritten Signature]