



# Oregon

Theodore R. Kulongoski, Governor

**Department of Land Conservation and Development**

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

[www.lcd.state.or.us](http://www.lcd.state.or.us)

## AMENDED NOTICE OF ADOPTED AMENDMENT

September 18, 2007

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 004-07



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: September 28, 2007**

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

DLCD 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

SEP 11 2007

LAND CONSERVATION AND DEVELOPMENT

Jurisdiction: City of Newport Local File No.: 3-AX-07-4-Z-07 (If no number, use none)

Date of Adoption: September 4, 2007 Date Mailed: September 10, 2007 (Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: May 10, 2007

- Comprehensive Plan Text Amendment
Land Use Regulation Amendment
New Land Use Regulation
Comprehensive Plan Map Amendment
[X] Zoning Map Amendment
[X] 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 14.5 acres of property, designation of R-2/Medium Density Single Family Residential zone designation, and withdrawal of annexed territory from the Lincoln County Library District and Newport Rural Fire Protection District.

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: --- to ---

Zone Map Changed from: County R-1 to City R-2

Location: Assessor's Map 11-11-4-CD TL 100, 200, 201 and 11-11-4-D TL 1500 Acres Involved: approx. 14.5 acres

Specify Density: Previous: County R-1 min. lot size SFR = 6,000 dup.=10,000 sq.ft. New: City R-2 min. lot size SFR = 5,000sqf dup.=7,500 sq.ft.

Applicable Statewide Planning Goals: 2, 10

Was an Exception Adopted? Yes: \_\_\_ No: X

DLCD File No.: 004-07(16096)

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 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,

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

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](mailto:Larry.French@state.or.us) - ATTENTION: PLAN AMENDMENT SPECIALIST.

CITY OF NEWPORT

ORDINANCE NO. 1936

**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. 3-AX-07/4-Z-07) was filed by the owners of real property (Doris Beemer, Shannon Rackowski, Troy & Dolly Ness, and Tom & Denise Runions) (Doris Beemer, applicant) to annex 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 of R-2/"Medium Density Single-Family Residential",

**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 June 25, 2007, for the purpose of reviewing the proposed requests 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;

**WHEREAS**, the City Council of the City of Newport, after provision of the required public notification, held a public hearing on August 6, 2007, 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 unanimously to approve the requested annexation, withdrawal, and zoning designations,

**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 at a point that is North, a distance of 466.62 feet, from the South quarter corner of Section 4, Township 11 South, Range 11 West of the Willamette Meridian, in Lincoln County, Oregon, said point being the Southeast corner of that tract of land conveyed to David R. Palmer, by deed, dated May 18, 1992, in Book 244, Page 1204, Microfilm Records for Lincoln County, Oregon; thence West along the South line of said Palmer Tract, a distance of 136.76 feet, to the Southeast corner of Parcel 2 of that tract of land conveyed to Joseph P. Rackowsky and Shannon M. Rackowsky, by deed, recorded October 5, 2004, Document 200415169, Deed Records for Lincoln County, Oregon; thence West along the South line of said Rackowsky Tract, and its West extension, a distance of 72.62 feet, to the Southwest corner of Parcel 1 of said Rackowsky Tract, said Southwest corner of the Rackowsky Tract being the Southeast corner of Parcel 1 of that tract of land conveyed to Laura Hickman, Trustee of the Mary Lee Nasalroad Family Trust, by deed, recorded June 19, 2006, in Document 200609289, Deed Records for Lincoln County, Oregon; thence North along the West line of said Rackowsky Tract and the East line of said Parcel 1 of the Mary Lee Nasalroad Family Trust Tract, a distance of 143.00 feet, to the Northwest corner of said Parcel 1 of the Rackowsky Tract and the Northeast corner of said Parcel 1 of the Mary Lee Nasalroad Family Trust Tract, said Northwest corner of Parcel 1 of the Rackowsky Tract also being on the South line of that tract of land conveyed to Troy R. Ness and Dolores J. Ness, by deed, recorded January 11, 2005, in Document 200500492, Deed Records for Lincoln County, Oregon; thence West along the North line of said Parcel 1 of the Mary Lee Nasalroad Family Trust Tract and said South line of the Ness Tract, and their West extensions, a distance of 83.51 feet, to the Northwest corner of Parcel II of said Mary Lee Nasalroad Family Trust Tract and the Southwest corner of a second tract of land conveyed to Troy R. Ness and Dolores J. Ness, by deed, recorded April 21, 2005, in Document 200505907, Deed Records for Lincoln County, Oregon, said Southwest corner of the second Ness Tract also being on the East line of that tract of land conveyed to Leland O. Lane, by deed, recorded June 2, 2000, in Book 402, Page 2143, Microfilm Records for Lincoln County, Oregon; thence North along the West line of said second Ness Tract and the East line of said Lane Tract, and its North extension, a distance of 157.00 feet, to the Northeast corner of said Lane Tract, said Northeast corner of the Lane Tract being the Southeast corner of that tract of land conveyed to Homefront Enterprises, LLC, by deed, recorded September 19, 2006, in Document 200614328, Deed Records for Lincoln County, Oregon; thence continuing North along the West line said second Ness Tract and the East line of said Homefront Enterprises, LLC Tract, a distance of 553.38 feet, to the Northwest corner of said second Ness Tract and the Northeast corner of said Homefront Enterprises, LLC Tract; thence East along the North line of said second and first Ness Tracts, a distance of 148.51 feet, to the Northeast corner of said first Ness Tract, said Northeast corner of said first Ness Tract being the Northwest corner of said Palmer Tract; thence East along the North line of said Palmer Tract, a distance of 144.38 feet, to the Northeast corner of said Palmer Tract, said Northeast corner of Palmer Tract being the Northwest corner of Parcel II of that tract of land conveyed to Thomas R. Runions and Denise J. Runions, by deed, recorded April 21, 1989, in Book 203, Page 1636, Microfilm Records for Lincoln County, Oregon; thence East along the North line of said Parcel II of the Runions Tract, a distance of 161.30 feet, to the most East corner of said Parcel II of the Runions Tract; thence South 6°58' West along the easterly line of said Parcel II of the Runions Tract, a distance of 131.58 feet, to the most North corner of Parcel I of said Runions Tract; thence South 41°42'30" East along the northeasterly line of said Parcel I of the Runions Tract, a distance of 196.95 feet, to the North line of Parcel II of a second Tract of land conveyed to Thomas R. Runions and Denise J. Runions, by deed, recorded April 21, 1989, in Book 203, Page 1633, Microfilm Records for Lincoln County, Oregon; thence East along said North line of Parcel II of the second Runions Tract, a distance of 204.86 feet, to the northeasterly corner of said Parcel II of the second Runions Tract; thence along the easterly line of said Parcel II of the second Runions Tract the following courses and distances: South 47°03'30" East, a distance of 216.01 feet; South 26°41'55" West, a distance of 26.04 feet; South 1°34'30" West, a distance of 222.40 feet; and East, a distance of 111.07 feet; thence South 1°34' West, a distance of 8.96 feet, to a point on the northwesterly right-of-way line of NE Newport Heights Drive County Road 576, said point on the northwesterly right-of-way line of NE Newport Heights Drive County Road 576 being opposite Engineer's centerline station 12+54.20; thence southerly and westerly along said northwesterly right-of-way line of NE Newport Heights Drive County Road 576 the following courses and distances: along the arc of a 99.50 foot radius curve to the left (the long chord of which bears South 42°56'35" West, a distance of 68.58 feet), a distance of 70.01 feet, thence South 22°47'10" West, a distance of 158.38 feet; thence North 46°28' West, a distance of 74.98 feet; thence along the arc of a 73.40

foot radius curve to the left (the long chord of which bears North 83°13'05" West, a distance of 87.83 feet), a distance of 94.16 feet; thence South 60°01'50" West, a distance of 31.80 feet; thence along the arc of a 200.60 foot radius curve to the left (the long chord of which bears South 45°15'51" West, a distance of 102.26 feet), a distance of 103.28 feet, to the most South corner of said Parcel II of the second Runions Tract, said most South corner of Parcel II of the second Runions Tract being the most easterly corner of that tract of land conveyed to William R. Rogers and Pamela A. Rogers, by deed, recorded February 18, 1981, in Book 121, Page 2023, Film Records for Lincoln County, Oregon, said most South corner of Parcel II of the second Runions Tract also being opposite of Engineer's centerline station 7+91.60; thence North 75°41'15" West along the southwesterly line of said Parcel II of the second Runions Tract, and its northwesterly extension, and the northeasterly line of said Rogers Tract, a distance of 394.24 feet, to the southwesterly corner of Parcel I of said second Runions Tract and the most North corner of said Rogers Tract, said southwesterly corner of Parcel I of the second Runions Tract being on the East line of said Palmer Tract; thence South along said East line of the Palmer Tract, a distance of 50.00 feet, to the point of beginning, containing 15.43 acres of land.

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 described in Section 1(A) above with the zone designation of R-2/"Medium Density Single-Family Residential".

**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.

Introduced and passed the first reading at a regular meeting of the City Council of the City of Newport, Oregon, held on the 4<sup>th</sup> day of September, 2007.

Passed to the second reading, placed on final passage, and adopted by the City Council of the City of Newport, Oregon, held on the 4<sup>th</sup> day of September, 2007.

Approved by the Mayor of the City of Newport, Oregon, this 4<sup>th</sup> day of September, 2007.

  
MAYOR

ATTEST:  
  
CITY RECORDER

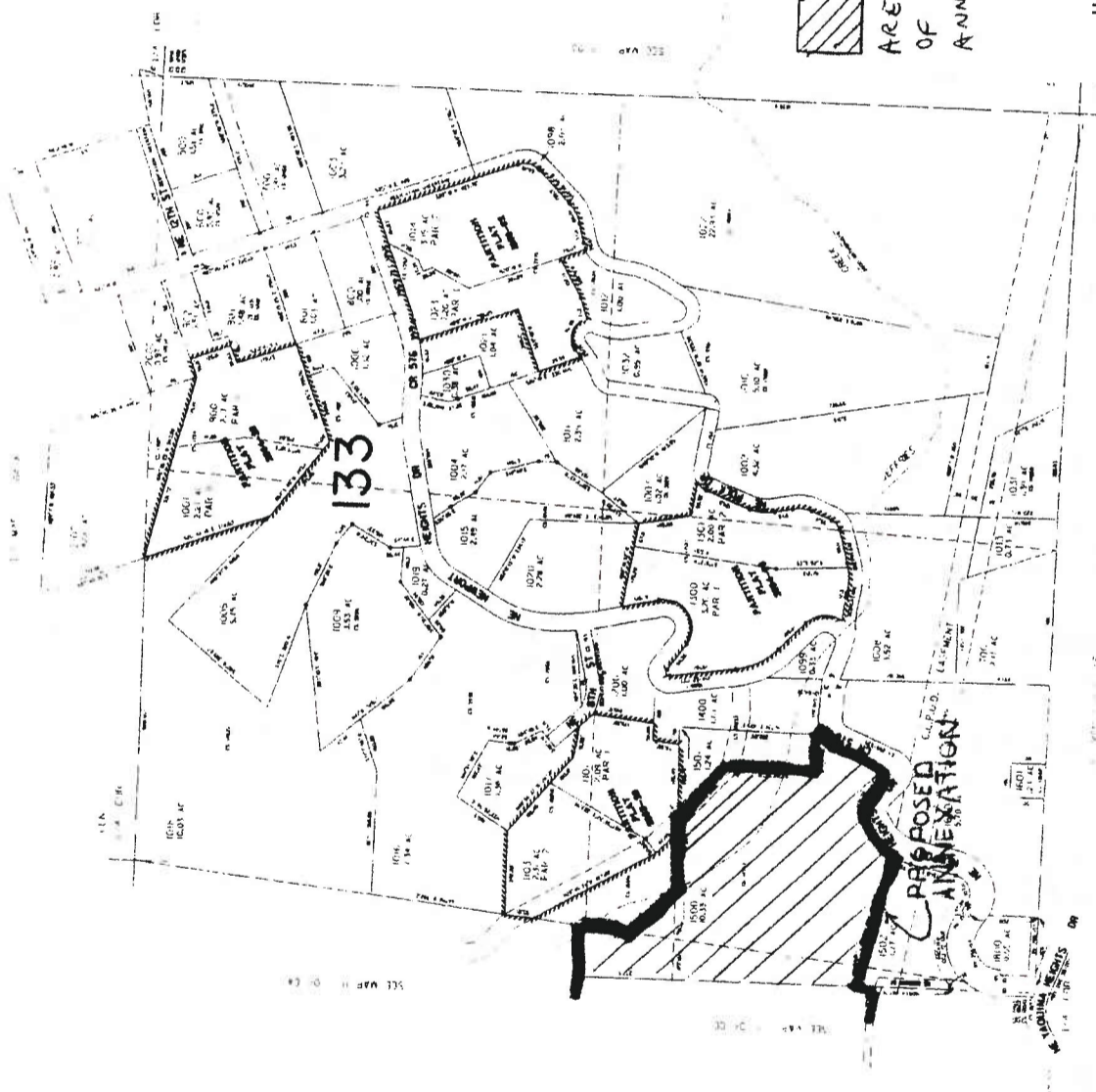
**EXHIBIT "A"**

SE 1/4 SECTION 4 T11S R11W WM  
LINCOLN COUNTY

THIS MAP WAS PREPARED FOR  
ASSESSMENT PURPOSE ONLY

11 11 04 D

CANCELLED NO.  
45  
50  
4000  
4074 279  
4075  
4076  
4077

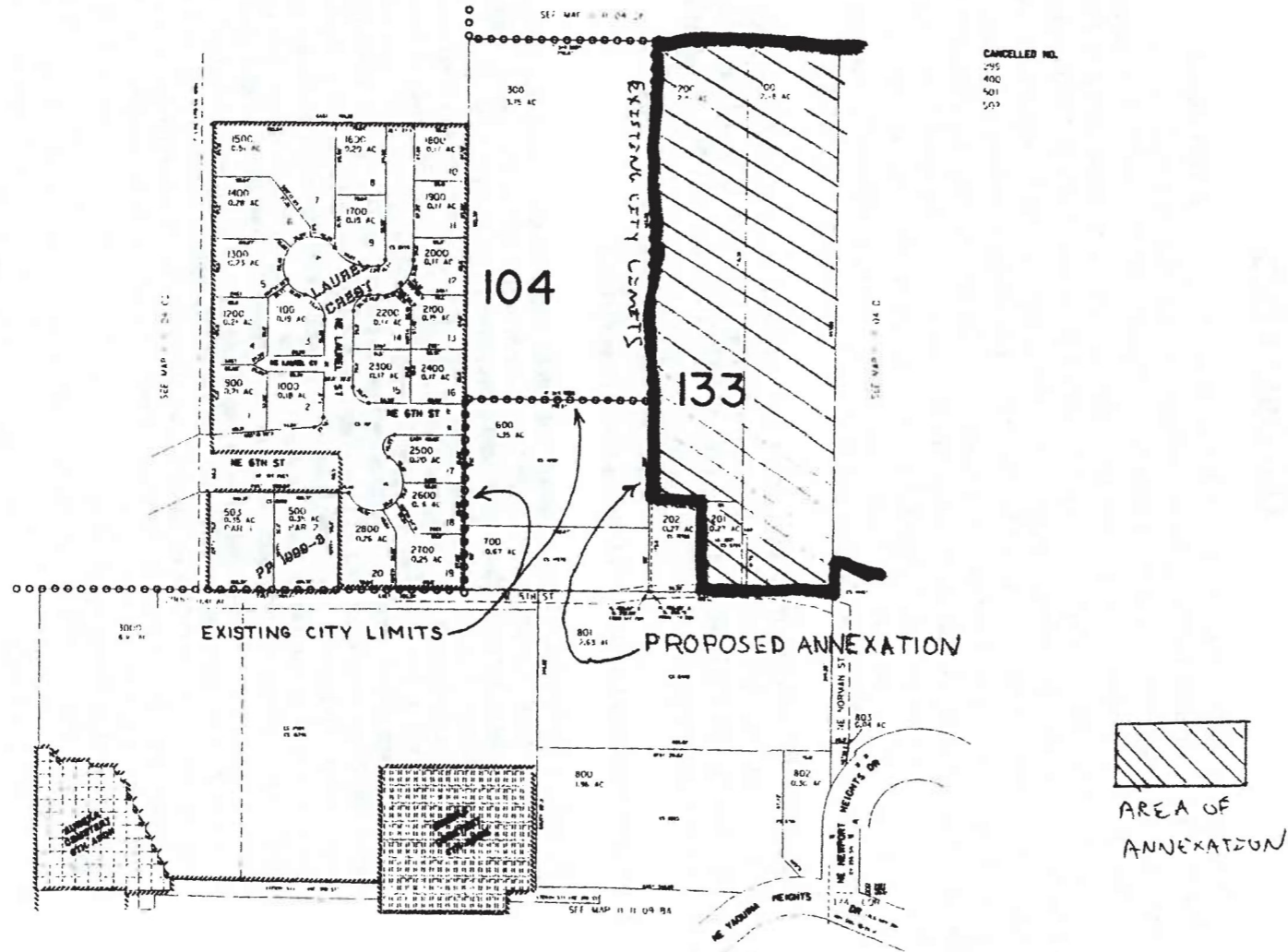


11 11 04 D

THIS MAP WAS PREPARED FOR  
ASSESSMENT PURPOSE ONLY

SE 1/4 SW 1/4 SECTION 4 T11S R11W WM  
LINCOLN COUNTY

11 11 04 CD  
NEWPORT



CANCELLED NO.  
295  
400  
501  
507

11 11 04 CD  
NEWPORT



**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**

**FINDINGS OF FACT**

1. The application for annexation, withdrawal, and zoning designation (Newport File No. 3-AX-07/4-Z-07) was filed by Doris K. Beemer (Doris Beemer, Shannon Rackowski, Troy & Dolly Ness, and Tom & Denise Runions, property owners) on April 23, 2007. The application included consideration of a request to: (1) annex approximately 14.5 acres (consisting of Tax Lots 100, 200 & 201 of Assessor's Map 11-11-04-CD and the portion of Tax Lot 1500 of Assessor's Map 11-11-04-D within the existing Urban Growth Boundary) into the Newport city limits; (2) amend the City of Newport Zoning Map to establish a zoning designation (zoning designations are established as part of the annexation process) for the subject property of R-2/"Medium Density Single-Family Residential" consistent with the existing Newport Comprehensive Plan designation of Low Density Residential (which would allow either the R-1/"Low Density Single-Family Residential" zone or the R-2 zone; and (3) withdraw property to be annexed from the Newport Rural Fire Protection District and the Lincoln County Library District.
2. The property that was the subject of the request included Lincoln County Assessor's Map 11-11-04-CD Tax Lots 100, 200 & 201 and Assessor's Map 11-11-04-D Tax Lot 1500 and included property identified as 1387 NE 5<sup>th</sup> Street, 1361 NE 5<sup>th</sup> Street, and 521 NE Newport Heights Drive and other adjacent property.
3. The legal description of the area to be annexed is as follows:

Beginning at a point that is North, a distance of 466.62 feet, from the South quarter corner of Section 4, Township 11 South, Range 11 West of the Willamette Meridian, in Lincoln County, Oregon, said point being the Southeast corner of that tract of land conveyed to David R. Palmer, by deed, dated May 18, 1992, in Book 244, Page 1204, Microfilm Records for Lincoln County, Oregon; thence West along the South line of said Palmer Tract, a distance of 136.76 feet, to the Southeast corner of Parcel 2 of that tract of land conveyed to Joseph P. Rackowsky and Shannon M. Rackowsky, by deed, recorded October 5, 2004, Document 200415169, Deed Records for Lincoln County, Oregon; thence West along the South line of said Rackowsky Tract, and its West extension, a distance of 72.62 feet, to the Southwest corner of Parcel 1 of said Rackowsky Tract, said Southwest corner of the Rackowsky Tract being the Southeast corner of Parcel I of that tract of land conveyed to Laura Hickman, Trustee of the Mary Lee Nasalroad Family Trust, by deed, recorded June 19, 2006, in Document 200609289, Deed Records for Lincoln County, Oregon; thence North along the West line of said Rackowsky Tract and the East line of said Parcel I of the Mary Lee Nasalroad Family Trust Tract, a distance of 143.00 feet, to the Northwest corner of said Parcel I of the Rackowsky Tract and the Northeast corner of said Parcel I of the Mary Lee Nasalroad Family Trust Tract, said Northwest corner of Parcel I of the Rackowsky Tract also being on the South line of that tract of land conveyed to Troy R. Ness and Dolores J. Ness, by deed, recorded January 11, 2005, in Document 200500492, Deed Records for Lincoln County, Oregon; thence West along the North line of said Parcel I of the Mary Lee Nasalroad Family Trust Tract and said South line of the Ness Tract, and their West extensions, a distance of 83.51 feet, to the Northwest corner of Parcel II of said Mary Lee Nasalroad Family Trust Tract and the Southwest corner of a second tract of land conveyed to Troy R. Ness and Dolores J. Ness, by deed, recorded April 21, 2005, in Document

200505907, Deed Records for Lincoln County, Oregon, said Southwest corner of the second Ness Tract also being on the East line of that tract of land conveyed to Leland O. Lane, by deed, recorded June 2, 2000, in Book 402, Page 2143, Microfilm Records for Lincoln County, Oregon; thence North along the West line of said second Ness Tract and the East line of said Lane Tract, and its North extension, a distance of 157.00 feet, to the Northeast corner of said Lane Tract, said Northeast corner of the Lane Tract being the Southeast corner of that tract of land conveyed to Homefront Enterprises, LLC, by deed, recorded September 19, 2006, in Document 200614328, Deed Records for Lincoln County, Oregon; thence continuing North along the West line said second Ness Tract and the East line of said Homefront Enterprises, LLC Tract, a distance of 553.38 feet, to the Northwest corner of said second Ness Tract and the Northeast corner of said Homefront Enterprises, LLC Tract; thence East along the North line of said second and first Ness Tracts, a distance of 148.51 feet, to the Northeast corner of said first Ness Tract, said Northeast corner of said first Ness Tract being the Northwest corner of said Palmer Tract; thence East along the North line of said Palmer Tract, a distance of 144.38 feet, to the Northeast corner of said Palmer Tract, said Northeast corner of Palmer Tract being the Northwest corner of Parcel II of that tract of land conveyed to Thomas R. Runions and Denise J. Runions, by deed, recorded April 21, 1989, in Book 203, Page 1636, Microfilm Records for Lincoln County, Oregon; thence East along the North line of said Parcel II of the Runions Tract, a distance of 161.30 feet, to the most East corner of said Parcel II of the Runions Tract; thence South 6°58' West along the easterly line of said Parcel II of the Runions Tract, a distance of 131.58 feet, to the most North corner of Parcel I of said Runions Tract; thence South 41°42'30" East along the northeasterly line of said Parcel I of the Runions Tract, a distance of 196.95 feet, to the North line of Parcel II of a second Tract of land conveyed to Thomas R. Runions and Denise J. Runions, by deed, recorded April 21, 1989, in Book 203, Page 1633, Microfilm Records for Lincoln County, Oregon; thence East along said North line of Parcel II of the second Runions Tract, a distance of 204.86 feet, to the northeasterly corner of said Parcel II of the second Runions Tract; thence along the easterly line of said Parcel II of the second Runions Tract the following courses and distances: South 47°03'30" East, a distance of 216.01 feet; South 26°41'55" West, a distance of 26.04 feet; South 1°34'30" West, a distance of 222.40 feet; and East, a distance of 111.07 feet; thence South 1°34' West, a distance of 8.96 feet, to a point on the northwesterly right-of-way line of NE Newport Heights Drive County Road 576, said point on the northwesterly right-of-way line of NE Newport Heights Drive County Road 576 being opposite Engineer's centerline station 12+54.20; thence southerly and westerly along said northwesterly right-of-way line of NE Newport Heights Drive County Road 576 the following courses and distances: along the arc of a 99.50 foot radius curve to the left (the long chord of which bears South 42°56'35" West, a distance of 68.58 feet), a distance of 70.01 feet; thence South 22°47'10" West, a distance of 158.38 feet; thence North 46°28' West, a distance of 74.98 feet; thence along the arc of a 73.40 foot radius curve to the left (the long chord of which bears North 83°13'05" West, a distance of 87.83 feet), a distance of 94.16 feet; thence South 60°01'50" West, a distance of 31.80 feet; thence along the arc of a 200.60 foot radius curve to the left (the long chord of which bears South 45°15'51" West, a distance of 102.26 feet), a distance of 103.28 feet, to the most South corner of said Parcel II of the second Runions Tract, said most South corner of Parcel II of the second Runions Tract being the most easterly corner of that tract of land conveyed to William R. Rogers and Pamela A. Rogers, by deed, recorded February 18, 1981, in Book 121, Page 2023, Film Records for Lincoln County, Oregon, said most South corner of Parcel II of the second Runions Tract also being opposite of Engineer's centerline station 7+91.60; thence North 75°41'15" West along the southwesterly line of said Parcel II of the second Runions Tract, and its northwesterly extension, and the northeasterly line of said Rogers Tract, a distance of 394.24 feet, to the southwesterly corner of Parcel I of said second Runions Tract and the most North corner of said Rogers Tract, said southwesterly corner of Parcel I of the second Runions Tract being on the East line of said Palmer Tract; thence South along said East line of the Palmer Tract, a distance of 50.00 feet, to the point of beginning, containing 15.43 acres of land.

4. The size of the subject property is approximately as follows: Tax Lot 100 is 2.78 acres, Tax Lot 200 is 2.42 acres, Tax Lot 201 is 0.23 acres; and Tax Lot 1500 is 10.33 acres.

5. Staff reported the following information regarding the requests:

A. Plan Designation: Lincoln County designation of "Suburban Residential", which according to LCC 1.0190 Plan Designations (6) Suburban Residential "*primary uses are single-family residential, multi-family residential where urban facilities and services are available, and existing public recreation facilities*". City of Newport Comprehensive Plan Land Use Plan designation of Low Density Residential.

B. Zone Designation: City of Newport zoning is established at time of annexation. Either the R-1/"Low Density Single-Family Residential" or R-2/ "Medium Density Single-Family Residential" zone designations are consistent with Comprehensive Plan designation of Low Density Residential. The applicant is requesting the R-2 zone designation. The County designation for the property is currently R-1/Rural Residential.

C. Surrounding Land Uses: Surrounding land uses in the immediate vicinity primarily include a mix of residential land uses.

D. Topography and Vegetation: Some flatter areas and steep sloped property down to Jeffries Creek. Typical coastal vegetation for areas of residentially developed and undeveloped property. See Planning Staff Report Attachment "D" (Topographical Map of Area).

E. Existing Residences/Buildings: Residences at 1361 and 1387 NE 5<sup>th</sup> Street and 521 NE Newport Heights.

F. Utilities: City water main is currently located in the NE 5<sup>th</sup> Street easement. Sewer service not currently provided to the area.

G. Development Constraints: Topography.

H. Past Land Use Actions: File No. 2-UGB-92/6-CP-92 (addition of property including Assessor's Map 11-11-4D Tax Lot 1500 into the UGB with a Low Density Residential Comprehensive Plan designation – adopted by Ordinance No. 1649 on April 6, 1993).

I. Notification: The required 45 Day Notice to the Department of Land Conservation and Development was mailed on May 10, 2007. For the Planning Commission 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, and other individuals on June 5, 2007. The notice of public hearing was published in the Newport News-Times on June 15, 2007. 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 July 16, 2007. The notice was also posted in four public places (Newport Library, Recreation Center, City Hall, and the Lincoln County Courthouse). The notice was published in the Newport News-Times on July 20, 2007, July 27, 2007, and August 1, 2007.

6. The only written comments that were submitted included a comment from Greg Schaecher of the Newport Public Works Department, dated June 7, 2007, noting that Public Works has no comment and discussing the location of sewer and water lines (see Planning Staff Report Attachment "E" (Newport Public Works 6-7-07 Comment)) and a "no comment" from Lee Ritzman of the Newport Public Works Department, dated July 19, 2007.

7. The Planning Commission held a public hearing on the proposed annexation and rezone request on June 25, 2007. The Planning Commission voted unanimously (4-0 with Commissioners Eisler, Atwill, and Newman absent) in support of forwarding the proposed annexation and rezone request to City Council with a recommended R-2 zone. See the portion of Planning Commission June 25<sup>th</sup> minutes included as Planning Staff Report Attachment "F".

8. The City Council held a public hearing on the proposed requests on August 6, 2007. A Planning Staff Report with attachments was submitted to the City Council. The Planning Staff Report and attachments as follows are hereby incorporated into the findings:

- Attachment "A" – Applicant Request
- Attachment "A-1" – Applicant Maps
- Attachment "B" – Notice of Public Hearing and Map
- Attachment "C" – Newport Zoning Map
- Attachment "C-1" – Uses allowed in the R-1 and R-2 zones
- Attachment "C-2" – Intent of Zoning Districts
- Attachment "D" – Topographical Map of Area
- Attachment "E" – Newport Public Works 6-7-07 Comment
- Attachment "F" – Planning Commission 6-15-07 Minutes

9. At the August 6, 2007, public hearing, the City Council heard a staff report and allowed for testimony and evidence to be given on the proposed requests. Following the close of the public hearing, the Council deliberated and voted to approve the requests. The minutes of the August 6, 2007, public hearing are hereby incorporated by reference into the findings.

10. The applicable criteria for each of the requests are as follows:

- A. For the annexation/withdrawal portion of the requests, Newport Zoning Ordinance (NZO) Section 2-5-6.020 provides the applicable criteria: The required consents have been filed with the City; the territory to be annexed is within the acknowledged urban growth boundary (UGB); and the territory to be annexed is contiguous to the existing city limits. There are not specific criteria for withdrawals from a district. Withdrawals are done in conjunction with the annexation when the City becomes the service provider for the property.
- B. For the zoning map amendment portion of the requests, the applicable criteria per NZO Section 2-5-6.030 & NZO Section 2-5-5.005 are: Findings that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare.

## CONCLUSIONS

1. In regard to the criteria for approval of the annexation request under NZO Section 2-5-6.020, the City Council concludes as follows:

A. In regard to the first criterion (*The required consents have been filed*), the City Council concludes that pursuant to Oregon Revised Statutes (ORS) 222.170, petitions for annexation of a territory into the city limits must have the consent of more than 50 percent of owners of land in the territory, and such owners must also own more than 50 percent of the assessed value of all real property in the subject territory. Pursuant to Oregon Revised Statutes (ORS) 222.170, petitions for annexation of a territory into the city limits must have the consent of more than 50 percent of owners of land in the territory, and such owners must also own more than 50 percent of the assessed value of all real property in the subject territory. The owners of the subject property are Doris K. Beemer, Shannon Rackowski, Troy and Dolores Ness, and Tom and Denise Runions. The applicant has provided all signed consents and the Lincoln County Assessor's values of all properties to be annexed. See Planning Staff Report Attachment "A" (Applicant Requests). The applicants provided the required signed consents to annex by property owners. All property owners have consented. There are no other residents.

B. In regard to the second criterion (*the territory to be annexed is within the acknowledged urban growth boundary (UGB)*), the City Council concludes that the subject property is within the Urban Growth Boundary pursuant to the Comprehensive Plan Map of the City of Newport and is designated "Low Density Residential." The applicant submitted a map with the application materials identifying the subject property and the UGB. See Planning Staff Report Attachment "A-1" (Applicant Maps).

C. In regard to the third criterion (*the territory to be annexed is contiguous to the existing city limits*), the City Council concludes that the subject property is contiguous to the existing city limits. The subject property is contiguous to the existing city limits with property within the city limits abutting the property on the west side (Assessor's Map 11-11-4-CD Tax Lot 300) which was annexed in Newport File No. 1-AX-06/1-Z-06 (adopted by Ordinance No. 1892 on June 16, 2006). See Planning Staff Report Attachment "B" (Public Notice and Map) and Planning Staff Report Attachment "C" (Zoning Map).

2. In regard to the withdrawal request, the City Council finds that there are no applicable criteria and the withdrawal of the property from the Newport Rural Fire Protection District and the Lincoln County Library District occur during annexation when the City of Newport becomes the service provider within the city limits.

3. In regard to the establishment of a City of Newport zone designation upon annexation, the City Council concludes as follows in regard to the applicable criteria from NZO Section 2-5-6.030 and NZO 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.):*

A. The City Council concludes that 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 applicant is requesting an R-2 zoning designation. The uses permitted outright and conditionally in the R-1 and R-2 zones are included as Planning Staff Report Attachment "C-1". The intent of the R-1 and R-2 zoning districts is included as Planning Staff Report Attachment "C-2". The topography of the area is illustrated in Planning Staff Report Attachment "D". The applicant has submitted findings regarding the criteria for the zoning map amendment. Please see Planning Staff Report Attachment "A" (Applicant Requests).

B. The City Council concludes that 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 may conclude that the application of a 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**.