



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

February 21, 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 007-06



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: February 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

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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

FEB 15 2007

LAND CONSERVATION AND DEVELOPMENT 7-2-06

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

Date of Adoption: February 5, 2007 Date Mailed: February 7, 2007 (Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: October 25, 2006

- Comprehensive Plan Text Amendment
Comprehensive Plan Map Amendment
Land Use Regulation Amendment
Zoning Map Amendment (small tract)
New Land Use Regulation
Other: (Please Specify Type of Action)

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

Adopted two small tract zoning map amendments requested by the Port of Newport to change approximately 20,000 square feet from W-1 to W-2 along SE Bay Blvd to allow for the Port of Newport Fisheries Center building and proposed uses and to change approximately 1 acre of property adjacent to the Yaquina Bay from W-2 to W-1.

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: Request 1: W-1 Request 2: W-2 to Request 1: W-2 Request 2: W-1

Location: Request 1: -TL 9600/9700 of Map 11-11-08-AD & TL 100 of Map 11-11-08 (portion) Acres Involved: Request 1: 20,000 sq.ft.

Specify Density: Previous: Request 2: TL 111 of Map 11-11-17 (portion) New: Request 2: approx. 1 acre

Applicable Statewide Planning Goals: 2, 9, 17

Was an Exception Adopted? Yes: No: X

DLCD File No.: 007-06(15653)

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

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

*Mailed in time for DLCD to receive 45 days prior to first 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,
Port of Newport, South Beach Urban Renewal 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 - ATTENTION: PLAN AMENDMENT SPECIALIST.

CITY OF NEWPORT

ORDINANCE NO. 1906

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

WHEREAS, the Port of Newport submitted an application (Newport File No. 7-Z-06) for two small tract zoning map amendments to the Newport Zoning Map of the City of Newport Zoning Ordinance (Ordinance No. 1308, as amended) on October 20, 2006,

WHEREAS, the proposed small tract zoning map amendments involve changes in zoning designations for: 1) a small tract of property consisting of approximately 20,000 square feet (involving portions of Tax Lots 9600 and 9700 of Lincoln County Assessor's Map 11-11-08-AD and Tax Lot 100 of Lincoln County Assessor's Map 11-11-08) from W-1/"Water Dependent" to W-2/"Water Related" in order to allow for the construction of the Port of Newport Fisheries Center building and proposed uses; and, 2) a small tract of property consisting of approximately 1 acre of Tax Lot 100 of Lincoln County Assessor's Map 11-11-17 from W-2/"Water Related" to W-1/"Water Dependent" located along the Yaquina Bay to increase the inventory of W-1 zoned 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 December 11, 2006, on the proposed amendments (Newport File No. 7-Z-06) for the purpose of reviewing the proposed 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 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 January 2, 2007, regarding the question of the proposed small tract Zoning Map amendments (Newport File No. 7-Z-06), 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. Ordinance No. 1308 (as amended) is amended to change the zoning designations on the Newport Zoning Map as follows:

A. Approximately 20,000 square feet (involving portions of currently designated Tax Lots 9600 and 9700 of Lincoln County Assessor's Map 11-11-08-AD and Tax Lot 100 of Lincoln County Assessor's Map 11-11-08) shall be changed from W-1/"Water Dependent" to W-2/"Water Related" as illustrated in Exhibit "A".

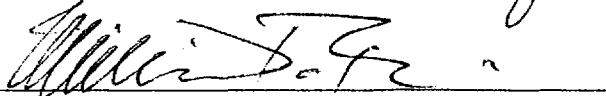
B. Approximately 1 acre of currently designated Tax Lot 100 of Lincoln County Assessor's Map 11-11-17 shall be changed from W-2/"Water Related" to W-1/"Water-Dependent" as illustrated in Exhibit "A".

Section 2. The City Council adopts the findings contained in Exhibit "B" in support of approval of the amendments to 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 January, 2007.

Passed on second reading, placed for final passage, and adopted by the City Council of the City of Newport, Oregon, on the 5th day of February, 2007.

Approved by the Mayor of the City of Newport, Oregon, on the 5th day of February, 2007.


MAYOR

ATTEST:

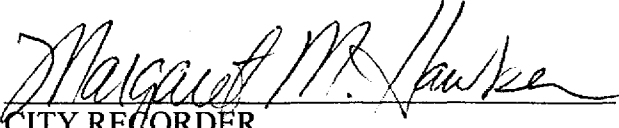

CITY RECORDER

EXHIBIT "A"

**Portion of Newport Zoning Map illustrating
Zoning Map change from W-1 to W-2 in amendment #1 (Ordinance No. 1906 Section 1.A)**

Scale: 1" = 200'

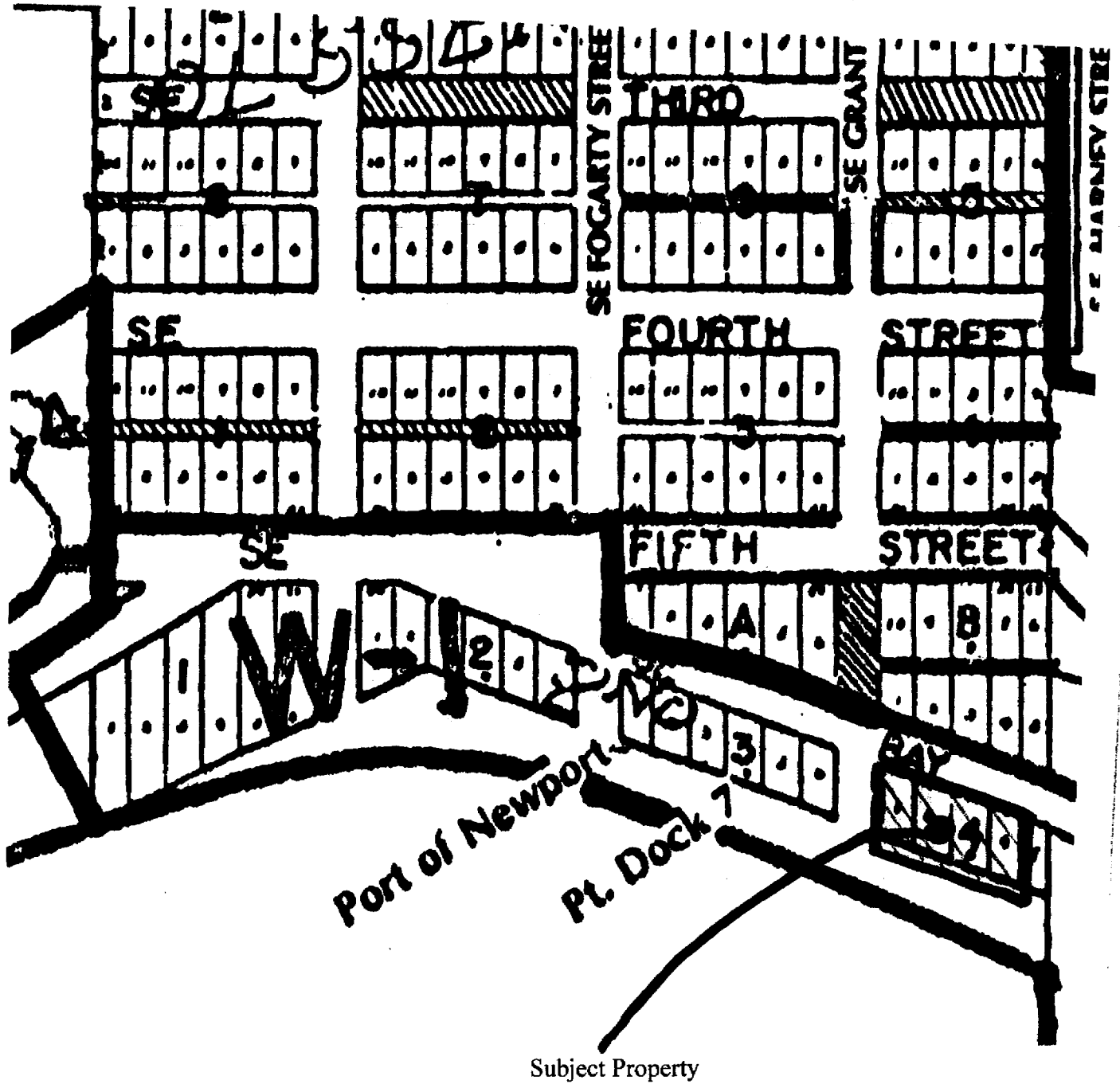


EXHIBIT "A"

**Portion of Newport Zoning Map illustrating Zoning Map change from W-2 to W-1
in amendment #2 (Ordinance. No. 1906 Section 1.B)**

Scale: 1" = 200'

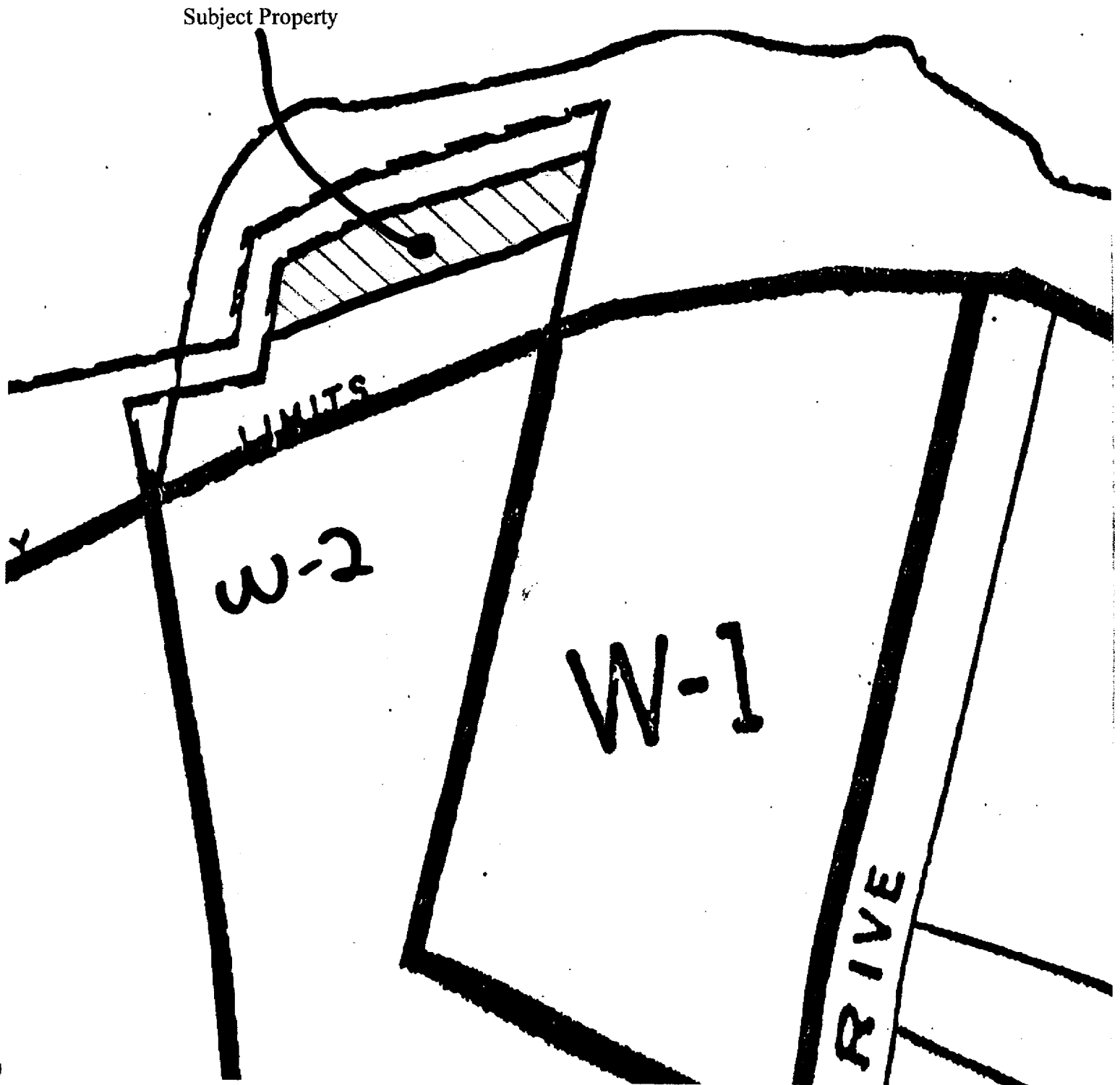


EXHIBIT "B"

FINDINGS FOR SMALL TRACT ZONING MAP AMENDMENTS

(File No. 7-Z-06)

FINDINGS OF FACT

1. A land use request was submitted on October 20, 2006, by the Port of Newport involving the following two small tract zoning map amendments to the Zoning Map of the City of Newport:

Request 1 -- To change the zoning designation of a small tract of property consisting of approximately 20,000 square feet (involving portions of Tax Lots 9600 and 9700 of Lincoln County Assessor's Map 11-11-08-AD and Tax Lot 100 of Lincoln County Assessor's Map 11-11-08) from W-1/"Water Dependent" to W-2/"Water Related" in order to allow for the construction of the Port of Newport Fisheries Center building and proposed uses; and

Request 2 -- To change the zoning designation of a small tract of property consisting of approximately 1 acre of Tax Lot 100 of Lincoln County Assessor's Map 11-11-17 from W-2/"Water Related" to W-1/"Water Dependent" located along the Yaquina Bay to increase the inventory of W-1 zoned property.

2. The first request involves portions of property including Tax Lot 100 of Lincoln County Assessor's Map 11-11-08 and a portion of Tax Lots 9600 and 9700 of Assessor's Map 11-11-08-AD (located along SE Bay Blvd. and located westerly of the existing Yaquina Bay Yacht Club facility). The second request involves a portion of Tax Lot 100 of Lincoln County Assessor's Map 11-11-17 (located northerly of the Port of Newport boat launch ramp and parking lot and immediately adjacent to Yaquina Bay). The size of the Tax Lots involved in the first request to change from W-1/"Water Dependent" to W-2/"Water Related" is over 6 acres and the size of the Tax Lot involved in the second request to change from W-2/"Water Related" to W-1/"Water Dependent" is approximately 25.76 acres.

3. Staff reports the following facts:

- a. **Plan Designations:** Shoreland for both requests.
- b. **Zone Designations:** W-1/"Water Dependent" for the first request and W-2/"Water Related" for the second request.
- c. **Surrounding Land Uses:** The property involved in the first request is located westerly of the existing Yaquina Bay Yacht Club facility in an area that includes a mix of waterfront and tourist-related activities, residential, and water-related and non-water-related uses. The property involved in the second request is located on the waterfront

northerly of the Port of Newport boat launch ramp and adjacent to the deep draft navigation channel.

- d. **Topography and Vegetation:** The property involved in the first request along Bay Boulevard is level, grassy, and vacant. The property involved in the second request located in South Beach is sandy and undeveloped.
- e. **Existing Structures:** None on the portions of the property subject to the zone changes for either request.
- f. **Utilities:** Service is existing or available to the sites.
- g. **Development Constraints:** None known.
- h. **Past Land Use Actions:** None recently on the areas proposed for zone changes.

4. Notification of the proposed zoning map amendments was mailed to the Department of Land Conservation and Development (DLCD) on October 26, 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 land use application was mailed on November 21, 2006. For the City Council public hearing, notification was mailed on December 12, 2006. See Planning Staff Report Attachment "B" (Notice of Public Hearing). Notification distance established under the Newport Zoning Ordinance (No. 1308, as amended) (NZO) Section 2-6-1.030 (B) (2) is 200 feet for Zoning map amendments. The notice of public hearing was also published in the Newport News-Times on December 1, 2006, for the Planning Commission public hearing and published in conformance with ORS 271.110(1) on December 22, 2006, for the City Council public hearing.

5. The Planning Commission reviewed the applicant's requests with a public hearing held on December 11, 2006. Don Mann, General Manager for the Port of Newport, and Mark Fisher, Vice Chair of the Port Board of Commissioners, appeared before the Planning Commission on behalf of the applicant, and no other parties appeared in person at the hearing. The Commission voted 6-0 (Romney, Henning, Patrick, Eisler, Newman-Reno, and Brusselback) to make a favorable recommendation to the City Council on the requests.

6. The City Council held a public hearing on January 2, 2007, for the purpose of considering the amendment requests. The City Council received a copy of the Planning Staff Report (dated December 21, 2006) and accompanying attachments (which are hereby incorporated by reference into the findings). The 12/21/06 Planning Staff Report attachments included the following:

- Attachment "A" – Applicant Request
- Attachment "A-1" – Maps Illustrating Location of Requests
- Attachment "A-2" – Fisheries Center Pre-development Feasibility Study
- Attachment "B" – Notice of Public Hearing
- Attachment "C" – Zoning Map of Areas

Attachment "D" – Use Matrix for W-1 and W-2 Zones

7. At the public hearing on January 2, 2007, CDD James Bassingthwaite entered into the record the complete application file materials, including the affidavit of mailing to the DLCD on October 26, 2006, mailing of notice for the Planning Commission hearing to surrounding property owners, City departments, and to public and private utilities/agencies that was mailed on November 21, 2006, mailing of notice for the City Council public hearing that was mailed on December 12, 2006, proof of publication of the notice of the Planning Commission hearing that was published in the Newport News-Times on December 1, 2006, and for the City Council public hearing was published on December 22, 2006. The City Council heard a report from staff and received testimony from the applicant's authorized representative. Following the City Council public hearing and deliberation on January 2, 2007, the Council voted to approve the small tract zoning map amendment requests. The minutes of the January 2, 2007, City Council meeting are hereby incorporated by reference into the findings.

8. The applicant is seeking the first small tract change in the zoning map in order to allow for the construction of the Port of Newport Fisheries Center building and proposed uses; and the second small tract change in the zoning map to increase the inventory of W-1 zoned property. The first request would involve the change in zoning of a piece of property located adjacent to SE Bay Blvd from W-1 to W-2. While the Port of Newport office facilities would be permitted outright in either the W-1 or W-2 zone, the Port is seeking to attract other "professional offices, public meeting spaces, as well as a demonstration kitchen and an outdoor covered pavilion for events directly related to fisheries and seafood." See Planning Staff Report Attachment "A" and "A-2". One of the uses that would be possible for the Fisheries Center is the establishment of a Fisherman's Market to sell seafood. Currently, seafood markets are expressly prohibited in the W-1 zone but are allowed in the W-2 zone. The second request would involve the change in zoning of a piece of property located adjacent to the Yaquina Bay next to Estuarine Management Unit 7 (which is a development classification that allows for water-dependent uses) to maintain the existing supply of W-1 property consistent with the need to provide land suitable for water dependent uses in conformance with Statewide Planning Goal 17 (Coastal Shorelands) and the Newport Comprehensive Plan Yaquina Bay and Estuary Section (including Policy 1 (which requires that the City "shall continue to ensure the overall management of the Yaquina Bay estuary shall provide for the balanced development, conservation, and natural preservation of the Yaquina Bay as appropriate in various areas", Policy 3 (which establishes four general use priorities from highest to lowest for estuary resources), and Policy 8 (which requires the City to protect areas especially suited for water-dependent development with the application of the W-1 zone designation).

9. The City Council finds that the applicable criteria for the proposed Zoning Map amendments are found in Section 2-5-5.005 of the Newport Zoning Ordinance (No. 1308, as amended) and are as follows: 1.) The change furthers a public necessity; and 2.) The change promotes the general welfare.

CONCLUSIONS

1. The City Council concludes as follows regarding the applicable criteria for the proposed Zoning Map Amendments in that it furthers a public necessity and the change promotes the general welfare as demonstrated by the consistency of the proposed zoning map amendments with other adopted comprehensive planning documents of the City of Newport:

A. The applicant's proposed findings (Planning Staff Report Attachment "A") address the criteria established in the Zoning Ordinance for approving each of the requests. The applicant states that this change furthers a public necessity and promotes the general welfare in that the Port's existing office at its current location obstructs the efficient transfer of commercial fishing gear at its Hoist Dock. The plan creates a comprehensive Fisheries Center which will serve to preserve the working waterfront and fishing heritage of Newport (See Planning Staff Report Attachment "A-2"). The Newport Fisheries Center is a collaborative community-based development effort according to the applicant in which occupants will share the building to better serve the commercial fishing and maritime industry. The applicant further states that the proposal will enhance the City's water-dependent inventory by returning a waterfront area (the existing Port offices) to more efficient waterfront uses by eliminating the present Port Administration building and providing additional waterfront access and service area for the commercial fleet. According to the applicant, uses locating in the new area planned for W-2 zoning are either consistent with W-1 zoning or enhance the fishing industry and are water-related. In addition, the acre of W-2 land proposed to be rezoned to W-1 is in an area well suited for W-1 uses. See Planning Staff Report Attachment "A". The applicant in the findings (on page 2 and 3 of Planning Staff Report Attachment "A") identifies a number of adopted City of Newport plans that support the proposed request, including the adopted Bay Front Plan portion of the Newport Comprehensive Plan (in the text discussion on page 20 of the plan and in Goal 1 on page 22 of the plan), Goal 1 and Policy 1 of the Economic Section of the Newport Comprehensive Plan, the Yaquina Bay and Estuary Section of the Newport Comprehensive Plan involving Estuarine Management Unit 5 (which is the estuary classification of development adjacent to the Bay Front area of Request 1), and several objectives and strategies from the adopted Strategic Action Plan of the Employment Lands & Conceptual Land Use Planning Project.

B. The text of the existing Yaquina Bay and Estuary Section also contains a discussion on page 262 of the Port property involving Request 1 and notes that "Uses outside or on the fringes of the port area that do not conflict or interfere with commercial fishing needs could be acceptable and appropriate." The "Update of the Port Development Element of Comprehensive Plan" dated July 1989 (which is an identified support document to the Newport Comprehensive Plan) provides examples of those types of acceptable uses and also supports the Fisheries Center concept in the Port Dock 7 area as the following portions of two sections on page 6-5 of the 1989 Port Development Plan discuss the redevelopment potential of the Port property as follows:

Marine-Related Commercial Leases

Once remote long-term gear storage is provided, the east end of the Port Dock 7 fill can be converted to marine-related commercial development. Marine-related commercial buildings would be built near the head of the Port Dock 7 access ramp. If two-story buildings were constructed, then the second story could be dedicated to commercial retail businesses that would meet the needs generated by the increased pedestrian traffic along the waterfront. The second story could also provide office space for service industries supporting the commercial fishing industry, i.e., fish brokers, maritime lawyers, marine insurance companies, ships' surveyors, etc. These types of uses should receive first priority for this space.

Relocated Port Buildings

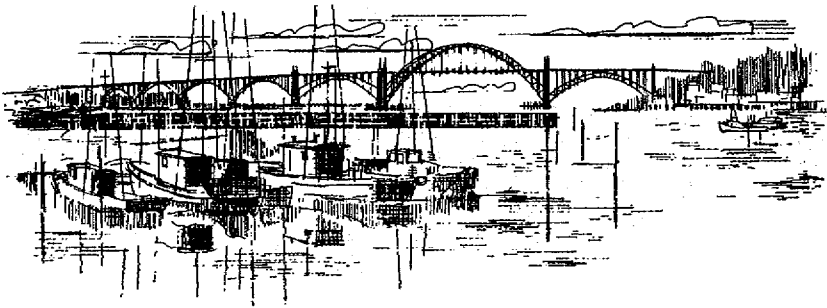
The office for the Port of Newport would be relocated from the present location along the waterfront to the north side of the Port property adjacent to the access to Port Dock 7. This would provide better access to the staging area in the vicinity of the Hoist Dock and better access by the public to the Port offices.

C. Implementation Measure 3 of the Yaquina Bay and Estuary Section of the Newport Comprehensive Plan states that "The Port of Newport and the city shall cooperate in the implementation of the Port Development Plan (dated July of 1989) or any other plan adopted by the port and consistent with the city's Comprehensive Plan." As approval of the small tract zone change requests would allow for the types of redevelopment identified in the 1989 Port Development Plan and proposed by the Port in this application, approval of the request would be consistent with this Implementation Measure.

D. The applicant findings indicate that the proposed small tract zoning ordinance amendments are consistent with the City of Newport Bay Front Plan, Yaquina Estuary Plan, and Employment Lands and Conceptual Land Use Planning Project Strategic Action Plan. The Port is requesting the first zoning map amendment to allow the construction of the Fisheries Center. The Fisheries Center concept is supported by the Port Development Plan and the Comprehensive Plan directs the City to work with the Port on projects identified in the Port Development Plan. The second request increases the inventory of W-1 zoned property in conformance with the direction of Statewide Planning Goal 17 to provide land for water-dependent uses.

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 small tract Zoning Map changes requested in File No. 7-Z-06 are hereby approved.



CITY OF NEWPORT

169 SW COAST HWY

NEWPORT, OREGON 97365

TDD/VOICE 1-800-735-2900

OFFICE OF Community Development

DEPT OF

FEB 08 2007

LAND CONSERVATION
AND DEVELOPMENT

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

Local File # 7-2-06

Date of Deposit in the U.S. Mail: Feb. 7, 2007

Name of Person Mailing JAMES BASSON CILTWADIC

Signature of Person Mailing