



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

March 31, 2008

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Newport Plan Amendment
DLCD File Number 012-07



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: April 14, 2008

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

D L C D NOTICE OF ADOPTION DEPT OF

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

MAR 25 2008

(See reverse side for submittal requirements)

LAND CONSERVATION AND DEVELOPMENT

Jurisdiction: City of Newport Local File No.: 6-AX-07/11-Z-07 (If no number, use none)

Date of Adoption: March 17, 2008 Date Mailed: March 24, 2008 (Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: December 12, 2007

- Comprehensive Plan Text Amendment Comprehensive Plan Map Amendment
Land Use Regulation Amendment X Zoning Map Amendment
New Land Use Regulation 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 1.35 acres of real property into the Newport city limits, establishment of an R-1/Low Density Single-Family Residential zone designation consistent with Low Density Residential Comp Plan Map designation, and withdrawal of subject property from the Newport Rural Fire Protection District and the Lincoln County Library 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-1

Location: Assessor's Map 11-11-4-CD TL 600 Acres Involved: 1.35

Specify Density: Previous: County R-1 min lot size New: R-1 = 1 unit/7,500 square feet SFR = 6,000 Duplex=10,000

Applicable Statewide Planning Goals: 2, 10

Was an Exception Adopted? Yes: No: X

DLCD File No.: 012-07 (16581)

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

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

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

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

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

Affected State or Federal Agencies, Local Governments or Special Districts: City of Newport, Lincoln County, LC Library District, Newport Rural Fire Protection District

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

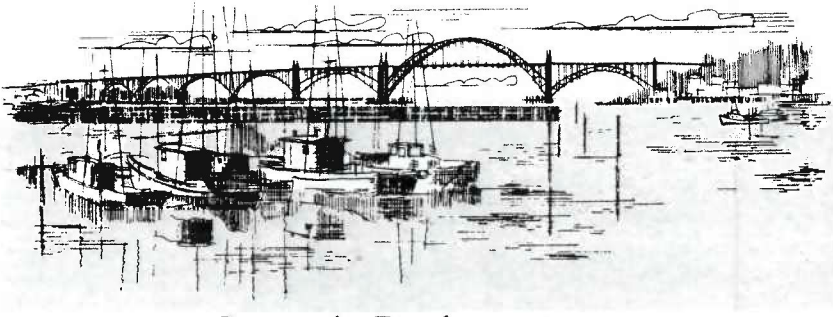
Address: 169 SW Coast Highway

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 - ATTENTION: PLAN AMENDMENT SPECIALIST.



CITY OF NEWPORT

169 SW COAST HWY

NEWPORT, OREGON 97365

TDD/VOICE 1-800-735-2900

OFFICE OF Community Development

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

Local File # GAK-07(11-207)

Date of Deposit in the U.S. Mail: MARCH 24, 2008

Name of Person Mailing JAMES BASSEN GITHWAUSA

Signature of Person Mailing _____

CITY OF NEWPORT

ORDINANCE NO. 1955

**AN ORDINANCE ANNEXING TERRITORY TO THE CITY OF NEWPORT,
WITHDRAWING THE ANNEXED TERRITORY FROM THE LINCOLN
COUNTY LIBRARY DISTRICT AND NEWPORT RURAL FIRE PROTECTION
DISTRICT AND ESTABLISHING ZONING FOR THE ANNEXED TERRITORY**

Summary of Findings:

1. A request (Newport File No. 6-AX-07/11-Z-07) was filed by the owners of real property (Courtney Utterback, personal representative of the Estate of Leland O. Lane, Sr.) 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-1/"Low Density Single-Family Residential".
2. The Planning Commission of the City of Newport, after providing the required public notification, including the notification to the Department of Land Conservation & Development, held a public hearing on January 28, 2008, for the purpose of reviewing the proposed requests and providing a recommendation to the City Council. The Planning Commission public hearing was held in accordance with the appropriate provisions of the Newport Zoning Ordinance, 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.
3. The City Council of the City of Newport, after provision of the required public notification, held a public hearing on February 19, 2008, on the requested annexation and withdrawal, and the zoning of the property to be annexed.
4. The City Council made a determination after considering the recommendation of the Planning Commission, the Planning Staff Report, 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 6-0 to approve the requested annexation, withdrawal, and zoning designations.

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 the South quarter corner of Section 4, Township 11 South, Range 11 West of the Willamette Meridian, in Lincoln County, Oregon; thence North, a distance of 466.62 feet, to the Southeast corner of that

tract of land conveyed to David R. Palmer, by deed, recorded May 18, 1982, in Book 244, Page 1204, Microfilm records for Lincoln County, Oregon; thence West along the South line of said Palmer Tract and its West extension, a distance of 292.97 feet, to the Southeast corner of that tract of land conveyed to Bonnie L. Parashak and Paul M. Parashak, by deed, recorded December 15, 2004, in Document No. 200418959, Deed Records for Lincoln County, Oregon; thence North along the East line of said Parashak Tract, a distance of 100 feet, to the Northeast corner of said Parashak Tract, said Northeast corner also being the Southeast corner 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, said Southeast corner also being the true point of beginning; thence West along the South line of said Lane Tract, a distance of 292.87 feet, to the Southwest corner of said Lane Tract; thence North along the West line of said Lane Tract, a distance of 200 feet, to the Northwest corner of said Lane Tract; thence East along the North line of said Lane Tract, a distance of 292.87 feet, to the Northeast corner of said Lane Tract; thence South along the East Line of said Lane Tract, a distance of 200 feet to the true point of beginning, containing 1.34 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-1/"Low 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.

Date adopted on initial vote and read by title only:

3/17/08

Date adopted on final roll call vote:

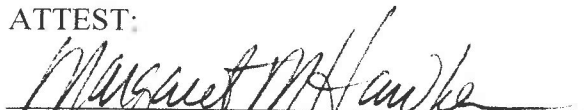
3/17/08

Signed by the Mayor on March 17, 2008.



William D. Bain, Mayor

ATTEST:



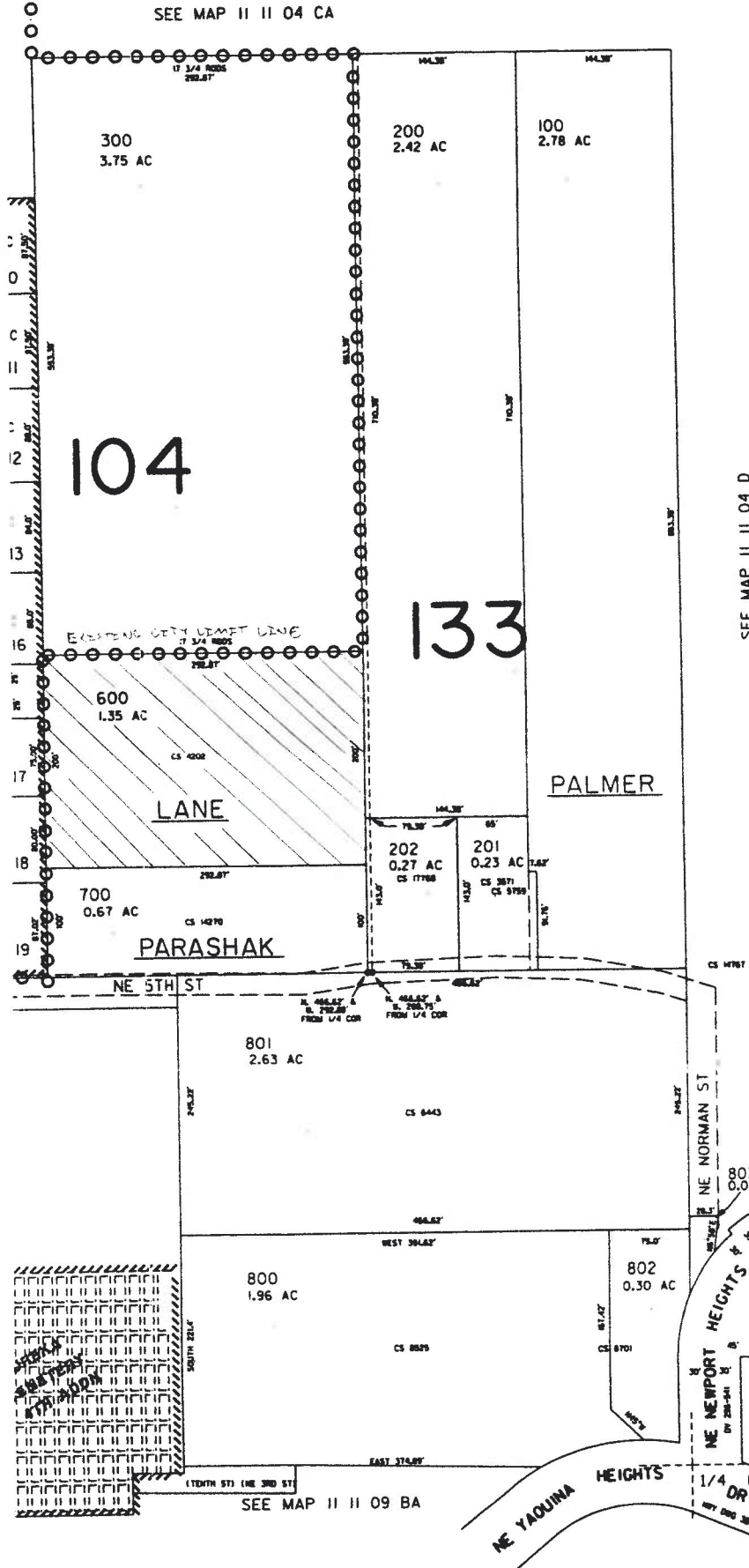
Margaret Hawker, City Recorder

SW 1/4 SECTION 4 T11S R11W W1M
LINCOLN COUNTY

NEWPORT

1" = 100'

EXHIBIT "A"



CANCELLED NO.
299
400
501
502

NEWPORT
FILE NO. 11-2-02
AREA OF
ANNEXATION

104

133

PARASHAK

PALMER

SEE MAP 11 11 04 CA

SEE MAP 11 11 04 D

SEE MAP 11 11 09 BA

24

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. 6-AX-07/11-Z-07) was filed by Courtney Utterback, personal representative of the Estate of Leland O. Lane, Sr. (Dennis Bartoldus, authorized representative) on November 29, 2007. The application included consideration of a request to: (1) annex approximately 1.35 acres 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-1/"Low 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 1327 NE 5th Street; Lincoln County Assessor's Map 11-11-04-CD Tax Lot 600 (property located at the east end of NE 6th Street on the east side of Laurel Crest subdivision).
3. The legal description of the area to be annexed is as follows:

Beginning at the South quarter corner of Section 4, Township 11 South, Range 11 West of the Willamette Meridian, in Lincoln County, Oregon; thence North, a distance of 466.62 feet, to the Southeast corner of that tract of land conveyed to David R. Palmer, by deed, recorded May 18, 1982, in Book 244, Page 1204, Microfilm records for Lincoln County, Oregon; thence West along the South line of said Palmer Tract and its West extension, a distance of 292.97 feet, to the Southeast corner of that tract of land conveyed to Bonnie L. Parashak and Paul M. Parashak, by deed, recorded December 15, 2004, in Document No. 200418959, Deed Records for Lincoln County, Oregon; thence North along the East line of said Parashak Tract, a distance of 100 feet, to the Northeast corner of said Parashak Tract, said Northeast corner also being the Southeast corner 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, said Southeast corner also being the true point of beginning; thence West along the South line of said Lane Tract, a distance of 292.87 feet, to the Southwest corner of said Lane Tract; thence North along the West line of said Lane Tract, a distance of 200 feet, to the Northwest corner of said Lane Tract; thence East along the North line of said Lane Tract, a distance of 292.87 feet, to the Northeast corner of said Lane Tract; thence South along the East Line of said Lane Tract, a distance of 200 feet to the true point of beginning, containing 1.34 acres of land.
4. 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-1 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: According to applicant, reasonably level with primarily native vegetation. See Planning Staff Report Attachment "D" (Topographical Map of Area).

E. Existing Residences/Buildings: A single-family dwelling.

F. Utilities: Currently not being served with city services.

G. Development Constraints: None known.

H. Past Land Use Actions: None known.

I. Notification: The required 45 Day Notice to the Department of Land Conservation and Development was mailed on December 12, 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 January 7, 2008. The notice of public hearing in the Newport News-Times was published on January 18, 2008. 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 January 29, 2008. The notice was published in the Newport News-Times on February 1, February 8, and February 13, 2008. Notices were also posted on February 1, 2008, at Newport City Hall, Newport Recreation Center, Newport Library, and the Lincoln County Courthouse.

6. The only written comments that were submitted were a "no comment" comment from the Newport Public Works Department, dated January 8, 2008.

7. The Planning Commission held a public hearing on the proposed requests on January 28, 2008. Dennis Bartoldus on behalf of the applicant was the only party to testify at the hearing. The Commission voted 6-0 (Patrick, Brusselback, Newman, Atwill, Rehfluss, Eisler) to recommend approval with the R-1 zone designation. See Planning Staff Report Attachment "E" for the portion of the draft minutes of the Planning Commission hearing involving this request.

8. The City Council held a public hearing on the proposed requests on February 19, 2008, the public hearing date established by the Council on January 22, 2008. 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 "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" – PC 1/28/08 Draft Minutes

9. At the February 19, 2008, 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 unanimously to approve the requests. The minutes of the February 19, 2008, 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 owner of the property is the Estate of Leland

O. Lane, Sr. The applicant has provided all signed consents and the Lincoln County Assessor's value of all property 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 and this criterion has been satisfied.

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." See Planning Staff Report Attachment "B" (Public Notice and Map).

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 north, east, and west sides. 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 for establishment of an R-1 zone designation 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-1 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 Request).

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**.



City of Newport
169 S.W. Coast Highway
Newport, Oregon 97365-3806

Return Service Requested



Attention: Plan Amendment Specialist
Department of Land Conservation & Development
635 Capitol Street NE, Suite 150
Salem, Oregon 97301-2540