



# Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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www.lcd.state.or.us

## NOTICE OF ADOPTED AMENDMENT

July 3, 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 002-07

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: July 16, 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  
Bob Cortright, DLCD Transportation & Growth Management Coordinator  
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

JUN 26 2007

(See reverse side for submittal requirements)

LAND CONSERVATION AND DEVELOPMENT

Jurisdiction: City of Newport Local File No.: 1-AX-07/2-Z-07 (If no number, use none)

Date of Adoption: June 18, 2007 \* (Must be filled in) Date Mailed: June 25, 2007 (Date mailed or sent to DLCD)

\*signed June 25, 2007 Date the Notice of Proposed Amendment was mailed to DLCD: March 28, 2007

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

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

Annexation of approximately 102.225 acres, establishment of City zone designations, and withdrawal from Lincoln County Library District and Newport Rural Fire Protection District. Zone designations established included I-3, P-1, R-1, R-2, and R-3.

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."

Annexation size increased from approximately 96.5 acres to 102.225 acres based on revised surveyed legal description.

Plan Map Changed from: --- to ---

Zone Map Changed from: 16.5 acres County I-P to City I-3 County T-C City R-1, R-2, R-3, C-1, P-1

Location: Assessor's Map 11-11-20 TL 100, Acres Involved: approx. 102.225

Specify Density: Previous: none New: 132-216 D.M. TO BE ADDED ON ROZDRANDAL ZONEN PROPERTY PER MASTER PLAN

Applicable Statewide Planning Goals: 2, 9, 10, 11, 13, 14

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

DLCD File No.: 002-07 (15994)

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,

LENGUON COUNTY, SEAL ROCK WATER DISTRICT, NEWPORT RURAL FIRE PROTECTION DISTRICT,  
LENGUON COUNTY LIBRARY DISTRICT, OSOT

Local Contact: JAMES BASSINGTHWAITE Area Code + Phone Number: 541-574-0626

Address: 169 SW COAST HWY

City: NEWPORT Zip Code+4: 97365-4713

## ADOPTION SUBMITTAL REQUIREMENTS

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

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.

3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.

4. Submittal of of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.

5. The deadline to appeal will be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the "Notice of Adoption" is sent to DLCD.

6. In addition to sending the "Notice of Adoption" to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.

7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only ; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to [Larry.French@state.or.us](mailto:Larry.French@state.or.us) - ATTENTION: PLAN AMENDMENT SPECIALIST.

**CITY OF NEWPORT**

**ORDINANCE NO. 1922**

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

**WHEREAS**, a request (Newport File No. 1-AX-07/2-Z-07) was filed by the owners of real property (Emery Investments, Inc, and GVR Investments) (Landwaves, applicant) to annex a portion of the property into the city limits and withdraw property from several districts, and to amend the Newport Zoning Map to adopt a City zone designation for the annexed property,

**WHEREAS**, the Planning Commission of the City of Newport, after providing the required public notification, including the notification to the Department of Land Conservation & Development, held a public hearing on May 14, 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 June 4, 2007, on the requested annexation and withdrawal, and the zoning of the property to be annexed,

**WHEREAS**, the City Council, after receiving testimony in regard to the proposed requests at the hearing on June 4, 2007, continued the public hearing to the June 18, 2007, City Council meeting,

**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 6-0 to approve the requested annexation, withdrawal, and zoning designations with condition(s) of approval,

**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:

*A parcel of land situated in the North half of the Northwest quarter, East half of Northeast quarter of Section 20 and a portion of the West half of the Northwest quarter of Section 21 all in Township 11 South, Range 11 West, Willamette Meridian, Lincoln County, Oregon and also being a portion of that property described in Statutory Special Warranty Deed to GVR Investments, an Oregon General Partnership in Document Number 200516482, as recorded on October 14, 2005 and along with a portion of property described in Special Warranty Deed to Emery Investments, Inc., an Oregon Corporation in Book 250, Page 2296 as recorded on September 24, 1992, Lincoln County Book of Records, Lincoln County, Oregon and being described as follows:*

*Beginning at the Northeast corner of Section 20, Township 11 South, Range 11 West, Willamette Meridian, Lincoln County, Oregon said point being a found 1 1/2" iron pipe with a 3" brass cap as recorded in Survey Number 2401, Lincoln County Survey Records; thence on the East line of said Section 20 South 03°56'17" West, a distance of 46.44 feet; thence leaving the said East line South 39°05'17" East, a distance of 215.49 feet; thence South 01°56'14" East, a distance of 458.64 feet; thence South 10°13'22" West, a distance of 474.86 feet; thence South 01°14'34" East, a distance of 314.61 feet; thence South 18°55'03" West, a distance of 659.32 feet to the East line of said Section 20; thence on the said East line South 03°56'17" West, a distance of 477.78 feet to 1 1/2" iron pipe with 2" brass cap at the East quarter corner of said Section 20, as recorded in Survey Number 5392, Lincoln County Survey Records, said point also being the on South line of said Book 250, Page 2296; thence on the said South line North 85°19'10" West, a distance of 1356.05 feet to the Southwest corner of said Book 250, page 2296, said point also being on the East line of that property described in Warranty Deed to Lincoln County (Mike Miller Park) in Book 183, Page 478, of said Lincoln County Book of Records; thence on the said East line North 04°03'36" East, a distance of 1823.70 to the Northeast corner of Partition Plat 2006-26, Lincoln County Plat Records, Lincoln County, Oregon; thence on the North line of said Partition Plat 2006-26 North 86°22'17" West, a distance 900.76 feet more or less to the Southwest corner of that property described in said Document Number 200516482; thence on the West line of said Document Number 200516482 North 01°30'30" East, a distance of 747.85 feet to a point 30.00 feet Southerly and parallel with the North line of said Section 20; thence parallel with and perpendicular to the North line of said Section 20 North 84°43'27" West, a distance of 204.08 feet to the Easterly right-of-way line of U.S. Highway 101 (Oregon Coast Highway); thence on the said easterly right-of-way line North 27°39'35" East, a distance of 32.44 feet to the North line of said Section 20; thence on the said North line of Section 20 South 84°43'27" East, a distance of 2476.15 feet to the point of beginning containing 4,452,926 square feet or 102.225 acres, more or less.*

*The basis of bearing for this legal description is Oregon State Plane (NAD 83/98) North Zone grid bearing (Survey Number 18043 Lincoln County Survey Records).*

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 designations as illustrated in Exhibit "C".

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

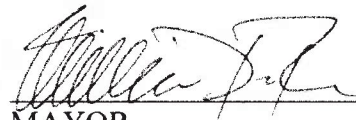
**Section 3.** As a condition of annexation, the following condition of approval is attached:

A. The portion of the GVR Investment property identified as High Density Residential by Ordinance No. 1899 (adopting the South Beach Neighborhood Plan) as illustrated in Exhibit "D" shall be designated with a City of Newport Zoning Map designation of I-3 but with the condition that the adoption of an ordinance amending the Comprehensive Plan map designation of High Density Residential to Industrial occurs within 18 months of the effective date of this ordinance. If after 18 months of the effective date of this ordinance, no such ordinance amendment has been adopted, the designation of the subject property in Exhibit "D" shall be R-4/"High Density Multi-Family Residential" consistent with the High Density Residential Comprehensive Plan map designation adopted by Ordinance No. 1899. If an appeal is filed in conjunction with ordinance amendment adoption, the 18 month period shall be extended until such time as the ordinance becomes final without further appeal.

Introduced and passed the first reading at a regular meeting of the City Council of the City of Newport, Oregon, held on the 18<sup>th</sup> day of June, 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 18<sup>th</sup> day of June, 2007.

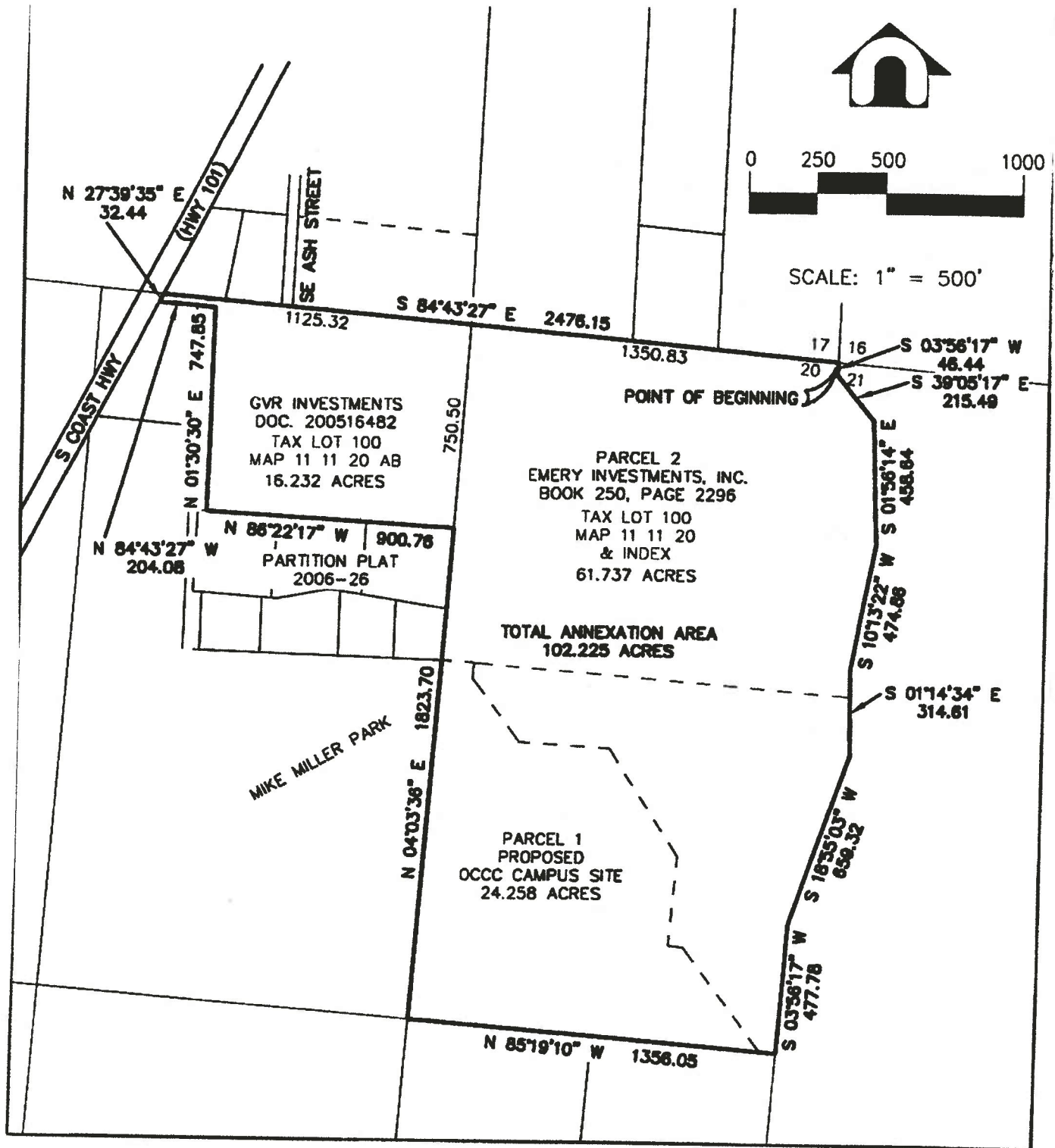
Approved by the Mayor of the City of Newport, Oregon, this 18<sup>th</sup> day of June, 2007.

  
\_\_\_\_\_  
MAYOR

ATTEST:

  
\_\_\_\_\_  
CITY RECORDER

**EXHIBIT "A"**



## EXHIBIT "B"

File No. 1-AX-07/2-Z-07

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

#### **FINDINGS OF FACT AND CONCLUSIONS**

1. An application for annexation, withdrawal, and zoning of property (Newport File No. 1-AX-07/2-Z-07) was submitted on March 2, 2007, by applicant Landwaves, Inc. (John Stutesman, authorized representative) for property owned by Emery Investments, Inc., and GVR Investments. The requests were to: (1) annex approximately 96.5 (subsequently determined to be 102.225 acres upon completion of a revised legal description of the property to be annexed) including approximately 80 acres (subsequently determined to be approximately 86 acres upon completion of revised legal description of the property to be annexed) of property owned by Emery Investments, Inc. (approximately 75 acres of Tax Lot 100 of Assessor's Tax Map 11-11-20 and approximately 5 acres of Tax Lot 700 of Assessor's Tax Map 11-11-21) and approximately 16.5 acres of property owned by GVR Investments (generally described as Tax Lot 100 of Assessor's Map 11-11-20-AB) into the Newport city limits; (2) amend the City of Newport Zoning Map to establish zoning designations (zoning designations are established as part of the annexation process) for the subject property consistent with existing Newport Comprehensive Plan Map designations and those designations adopted as part of the South Beach Neighborhood Plan (as adopted by Newport Ordinance No. 1899) including Low Density Residential (implemented by a zoning designation of R-1/"Low Density Single-Family Residential" and/or R-2/"Medium Density Single-Family Residential" – both R-1 and R-2 designations requested as part of the application with approximately 24.2 acres proposed for R-1 and 5.8 acres proposed for R-2), High Density Residential (implemented by a zoning designation of R-3/"Medium Density Multi-Family Residential" and/or R-4/"High Density Multi-family Residential" – R-3 zoning requested as part of the application for approximately 15.3 acres), Commercial (implemented by a zoning designation of C-1/"Commercial Retail and Services", C-2/"Tourist Commercial" and/or C-3/"Heavy Commercial" and approximately 2.1 acres to be designated with a commercial zoning designation), Public (proposed implementation of P-1/"Public Structures" for approximately 25 acres of property to be utilized for the Oregon Coast Community College central campus site), and Industrial (I-3/"Heavy Industrial" requested as part of the application for the GVR Investment property of approximately 16.5 acres). Note: Acreage figures for zoning designations do not appear to always include land to be utilized for public right-of-way purposes. Uses permitted outright and conditionally for the subject zones are identified in Newport Zoning Ordinance (NZO) (No. 1308, as amended) Section 2-2-1.025 (Residential Uses), NZO Section 2-2-1.035 (Commercial and Industrial Uses), and NZO Section 2-2-1.045 (Public Uses); and (3) withdraw property to be annexed from the Newport Rural Fire Protection District and the Lincoln County Library District.



2. The GVR Investment property (generally described as Tax Lot 100 of Lincoln County Assessor's Map 11-11-20-AB) is currently identified with an address of 4003 South Coast Hwy (Hwy 101) and is located directly south of the Central Lincoln PUD facility and substation at 3807 SE Ash Street. The Emery Investment property (generally described as approximately 75 acres of Tax Lot 100 of Assessor's Tax Map 11-11-20 and approximately 5 acres of Tax Lot 700 of Assessor's Tax Map 11-11-21) abuts the GVR Investment property and Mike Miller Park to the east.

3. Pursuant to Policy 1, Implementation Measure 3 of the South Beach Neighborhood Plan), the applicant was required to submit a Master Development Plan (such as that provided for through the Planned Development process) in conjunction with a request for annexation and development of the subject property owned by Emery Investments. Applications for preliminary approval of a planned development plan (Newport File No. 1-PD-07) and final planned development plan approval (Newport File No. 2-PD-07) for the portion of the subject property that would contain the Oregon Coast Community College central campus site were filed along with the annexation requests. The Planning Commission, after a duly noticed public hearing held on May 14, 2007, voted to approve the related preliminary approval of a planned development (File No. 1-PD-07) of Phase I of the Emery Investments, Inc., property and final planned development plan approval (File No. 2-PD-07) for a portion of Phase I of the Emery Investments, Inc., property for the proposed Oregon Coast Community College central campus site. Final Orders on File No. 1-PD-07 and File No. 2-PD-07 were adopted at the May 29, 2007, Planning Commission meeting. The Final Orders of the Planning Commission on File No. 1-PD-07 and File No. 2-PD-07 are hereby incorporated by reference into the record. Pursuant to NZO Section 2-5-4.075 (D) no buildings can be constructed within the planned development except for areas of the planned development that have received final planned development plan approval. Final planned development plan approval has only been authorized for File No. 2-PD-07, which consists of the proposed Oregon Coast Community College central campus site. Final planned development plan approval for the remaining portion of Phase I of the Emery Investment property to be annexed will need to demonstrate compliance with the applicable zoning ordinance criteria found in NZO Section 2-5-4.075, including demonstrating that the streets are adequate to serve the anticipated traffic.

4. The Planning Commission held a public hearing on the proposed annexation and rezone request on May 14, 2007. John Stutesman, Dennis Bartoldus, and Patrick O'Connor provided testimony on behalf of the applicants at the public hearing. In addition to written testimony submitted by Crandall (see Planning Staff Report Attachment "E") and Schell (see Planning Staff Report Attachment "E-1") in favor of the annexation/rezone request with a few identified considerations, additional testimony in support at the hearing came from Stephen Salisbury. The Planning Commission voted unanimously (6-0 with Commissioner Atwill absent) in support of forwarding the proposed annexation and rezone request to City Council subject to compliance with the TPR, that the GVR property be designated I-3, and effective only upon the acknowledgement of the SBNP. See attached portion of Planning Commission May 14<sup>th</sup> draft minutes (Planning Staff Report Attachment "H").

5. A Planning Staff Report (hereby incorporated by reference with attachments into the findings) was prepared for the June 4, 2007, City Council. The following facts and attachments were contained within the Planning Staff Report:

A. **Plan Designation:** For the GVR Investment property, the City Comprehensive Plan Designation is "Industrial". Ordinance No. 1899 adopting the South Beach Neighborhood Plan also identifies a portion of the property to be "High Density Residential". For the Emery Investment property, Ordinance No. 1899 adopting the South Beach Neighborhood identifies the property with a mix of Comprehensive Plan Designations including Public, Commercial, High Density Residential, and Low Density Residential.

B. **Zone Designation:** The current Lincoln County zone designation for the GVR Investments property is I-P/"Planned Industrial." The current Lincoln County zone designation for the Emery Investment property is T-C/"Timber Conservation." City of Newport zoning is established at time of annexation.

C. **Surrounding Land Uses:** The South Beach neighborhood contains a mix of public, commercial, water-dependent and water-related, industrial and residential uses. Land uses in the area near the subject property include a mix of developed and undeveloped industrial land, residential zoning that allows for single-family and multi-family uses, a trailer park, a mix of commercial uses, the Central Lincoln PUD warehousing and substation facility, and public uses such as Mike Miller Park and the Newport Waste Water Treatment facility.

D. **Topography and Vegetation:** The subject property contains a mix of level and steep sloped property. There is typical coastal brushy vegetation and wooded areas on the property. The GVR Investment site was previously developed and utilized as an industrial site. See also Planning Staff Report Attachment "D" (Topographical Map).

E. **Existing Residences/Buildings:** None.

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

G. **Development Constraints:** Portions of property with steep slopes.

H. **Past Land Use Actions:** File No. 1-CP-06/1-UGB-06/2-CP-06/2-Z-06 (South Beach Neighborhood Plan as adopted in December 2006 by Newport Ordinance No. 1899).

I. **Notification:** The required 45 Day Notice to the Department of Land Conservation and Development was mailed on March 28, 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 (including individuals who had submitted written comments on the South Beach Neighborhood Plan and individuals who had served on the Employment Lands and Conceptual Land Use Plan Ad Hoc Advisory Committee) on April 24, 2007. The notice of public hearing in the Newport News-Times was published on May 4, 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,

and other individuals (including individuals who had submitted written comments on the South Beach Neighborhood Plan and individuals who had served on the Employment Lands and Conceptual Land Use Plan Ad Hoc Advisory Committee) on May 15, 2007. The notice was published in the Newport News-Times on May 18, May 25, and May 30, 2007.

J. **Attachments:** The following attachments were included in the Planning Staff Report:

- Attachment "A" – Applicant Request
- Attachment "A-1" – Bartoldus 3/13/07 Letter
- Attachment "A-2" – South Beach Village Phase I Master Plan (Applicant Exhibit C)
- Attachment "A-3" – 40<sup>th</sup> Street Traffic Impact Analysis Report 5/2/07
- Attachment "A-4" – 40<sup>th</sup> Street TIA Update Memo 5/10/07
- Attachment "A-5" – Applicant Presentation from 5/14/07 PC Hearing
- Attachment "B" – Notice of Public Hearing and Map
- Attachment "C" – Newport Zoning Map
- Attachment "D" – Transportation Planning Rule Requirements
- Attachment "E" – Crandall 4/25/07 and 5/18/07 Letters
- Attachment "E-1" – Schell 5/11/07 Letter
- Attachment "E-2" – Forest Capital Partners 5/21/07 Letter
- Attachment "F" – Employment Lands and Conceptual Land Use Planning Project Timeline (Through March 14, 2007)
- Attachment "G" – Newport Ord. No. 1899 Exhibit "E" (Map 1)
- Attachment "G-1" – Newport Ord. No. 1899 Exhibit "F" (Map 3)
- Attachment "H" – Planning Commission 5/14/07 Draft Minutes

6. Pursuant to NZO Section 2-6-1.040/"Public Hearing Procedures", all actions that have the City Council as the approving authority (with the exception of withdrawals) shall first be referred to the Planning Commission for review and recommendation. The petitioners are requesting the City Council to include certain territory into the city limits of Newport and to change the zoning designation of the subject property. Consequently, a public hearing by the Planning Commission is required to make recommendations to the City Council regarding the request.

7. As part of the annexation and as provided for in Oregon Revised Statutes (ORS) 222.524, the subject property would be withdrawn from the Newport Rural Fire Protection District and the Lincoln County Library District as the City of Newport provides these services. The property is currently within the Seal Rock Water District and withdrawal from the Seal Rock Water District is not proposed at this time. Representatives of the City of Newport and Seal Rock Water District have been in discussion regarding the City of Newport becoming the water service provider in this area and it is anticipated that the discussions on this issue will reach fruition in the near future.

8. ORS 197.625 (When amendment or new regulation considered acknowledged; application prior to acknowledgement) (3)(a)-(d) specifies that post-acknowledgment plan amendments

become effective on the date specified by local ordinance or charter and that approval of land use decisions subject to an unacknowledged amendment to a comprehensive plan shall include findings of compliance with those land use goals applicable to the amendment. Newport Ordinance No. 1899 (adopting the South Beach Neighborhood Plan) and Lincoln County Ordinance No. 447 (concurring in the adoption of the UGB adjustment as part of the South Beach Neighborhood Plan) provide the required findings of compliance for the statewide land use planning goals applicable to the proposed applications with the exception of the findings of compliance related to the Transportation Planning Rule (TPR) requirements under Statewide Planning Goal 12 (Transportation) as set forth in Oregon Administrative Rule (OAR) 660-012-0060 (Plan and Land Use Regulation Amendments). See Planning Staff Report Attachment "D" for the TPR requirements. The requirements for findings of compliance with the TPR were deferred under Newport Ordinance No. 1899 as the 268 acre area added to the Urban Growth Boundary was not rezoned as part of the South Beach Neighborhood Plan but remained in the Lincoln County Timber-Conservation designation until annexation of the property. No change in use of the 268 acre area added to the UGB occurred with the adoption of Newport Ordinance No. 1899 and therefore the amendment did not significantly affect a transportation facility under the OAR 660-012-0060 definition.

9. The following written comments were submitted prior to the June 4, 2007, public hearing:

A. Allan and Kathleen Crandall by letter dated April 25, 2007, noting that they hold a way of necessity over Tax Lots 100 of Assessor's Tax Map 11-11-20 and Tax Lot 700 of Assessor's Tax Map 11-11-21 and that they support the South Beach Village and College Plan. See Planning Staff Report Attachment "E" (Crandall 4-25-07 and 5-18-07 Letters).

B. Toby Cole, Newport Fire Department, by comment dated April 26, 2007, stating that: "It is the expectation of Newport Fire Department that the requirements of the 2007 Oregon Fire Code will be met with regard to fire apparatus access roads and infrastructure for fire hydrant location and distribution, for this subdivision."

C. Greg Schaecher, Newport Public Works, a "No Comment" comment dated May 1, 2007, and Lee Ritzman, Newport Public Works, a "No Comment" comment dated May 16, 2007.

D. Steven Schell, by letter dated May 11, 2007, representing Marion and Ocie-Ellen Gardner Trust, the Caroline and Robert Bently Trust, and David Brewer, property owners within the area added to the UGB by the South Beach Neighborhood Plan in support of the annexation and requesting urban services be provided to their property. See Planning Staff Report Attachment "E-1".

E. Janet Runkle, Land Use Specialist with Forest Capitol Partners, LLC, by letter dated May 21, 2007, on behalf of Meriwether Northwest Oregon Land & Timber LCC which she asserts owns land somewhere to the east of the annexed property and requests that no development occur on the property until such time as plan can be developed and implement that gives Meriwether additional rights over the subject property in regard to forestry practices and requests the granting of asserted prescriptive easement rights over

the property. See Planning Staff Report Attachment "E-2".

F. A preliminary review (DOR 21-P18-2007) dated June 1, 2007, of the proposed annexation legal description and map by the Oregon Department of Revenue Cadastral Information Systems Unit was received finding that the proposed legal description and map met the requirements for use with an ordinance.

G. John deTar, Oregon Department of Transportation, by letter dated June 4, 2007, raising several issues regarding several of the assumptions in the May 10, 2007, Traffic Impact Analysis (TIA) Update and a concern regarding potential uses allowed in the City I-3 zoning to be applied to the GVR Investment property and the lack of what ODOT calls a "reasonable worst case" traffic generation analysis for uses allowed in the I-3 zoning. Mr. deTar indicates that if the uses identified in the I-3 zone were restricted so that these uses were not possible, then ODOT would agree that no significant effect would result.

10. A public hearing before the City Council was held on June 4, 2007. At the public hearing, staff entered a number of items into the record, including affidavits of mailing, publishing and posting notice, the complete set of annexation application file materials, the complete set of file materials for the planned development requests (File No. 1-PD-07 and File No. 2-PD-07), and complete copies of Newport Ordinance No. 1899 and Lincoln County Ordinance No. 447. Testimony in favor of the requests was presented by John Stutesman, Patrick O'Connor, Dennis Bartoldus, Sandra Ramigoux, Chris Chandler-DiTorricce, and Joshua Dodson. At the conclusion of the public hearing, in order to allow time to respond to the ODOT June 4, 2007, letter, the hearing was continued to the June 18, 2007, City Council meeting. The minutes of the June 4, 2007, Council meeting are hereby incorporated by reference.

11. At the continued public hearing on June 18, 2007, the City Council allowed for additional testimony and evidence to be submitted. Following the submission of additional testimony and evidence, the City Council closed the public hearing, deliberated, and voted to approve the requests. The minutes of the June 18, 2007, public hearing and the written material submitted at the June 18, 2007, hearing are hereby incorporated by reference into the findings.

12. The City of Newport received approval from the Oregon Department of Land Conservation and Development of Newport Ordinance No. 1899 and Lincoln County Ordinance No. 447 by letter dated June 11, 2007 (DLCD Order 001728). The South Beach Neighborhood Plan amendments, which included the adjusted Urban Growth Boundary that included the subject Emery Investment property, have been officially acknowledged.

13. The applicable criteria are as follows:

A. Annexation/Withdrawal: Newport Zoning Ordinance (NZO) Section 2-5-6.020: 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. Note: 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. Zone Map Amendment: Zone Map Amendments (as per NZO Section 2-5-6.030 & 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.

C. Ordinance No. 1899 (adopting the South Beach Neighborhood Plan): Section 7 (B): Findings of compliance with the Transportation Planning Rule requirements found in Oregon Administrative Rule (OAR) 660-012-0060.

### CONCLUSIONS

1. In regard to the annexation criteria (Newport Zoning Ordinance (NZO) Section 2-5-6.020: 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.), the City Council concludes as follows:

A. The City Council concludes that the required consents have been filed. 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 Emery Investments, Inc. (approximately 75 acres of Tax Lot 100 of Assessor's Tax Map 11-11-20 and approximately 5 acres of Tax Lot 700 of Assessor's Tax Map 11-11-21) and GVR Investments (approximately 16.5 acres of property owned by GVR Investments generally described as Tax Lot 100 of Assessor's Map 11-11-20-AB). 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 Request).

B. The City Council concludes that the territory to be annexed is within the acknowledged urban growth boundary (UGB). The GVR Investment property is currently within the Urban Growth Boundary pursuant to the Comprehensive Plan Map of the City of Newport. The Emery Investment property has been added to the Urban Growth Boundary as part of the South Beach Neighborhood Plan process with approval from the City of Newport (Ordinance No. 1899 – adopted December 4, 2006) and with approval from Lincoln County (Ordinance No. 447 – adopted April 18, 2007). The Department of Land Conservation and Development completed a review of the South Beach Neighborhood Plan approvals from the City of Newport and Lincoln County and by letter dated June 12, 2007, from DLCD (Order 001728) "acknowledged" the adjusted Urban Growth Boundary.

C. The City Council concludes that the territory to be annexed 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 GVR Investment property on the north side. See Planning Staff Report Attachment "A" (Applicant Request), Planning Staff Report Attachment "B" (Public Notice and Map) and Planning Staff Report

Attachment "C" (Zoning Map).

D. The revised legal description and map prepared for the annexation ordinance by David Evans & Associates and submitted on May 29, 2007, on behalf of the applicant contains additional land outside of the area of annexation for which notice was provided but the City Council concludes that the adjustment is relatively minor and the annexation is still consistent with the notice submitted as the notification area was not impacted. A revised legal description was submitted June 1, 2007, by David Evans & Associates to bring the description into compliance with the state requirements for use in the ordinance was made pursuant to a preliminary review by the Cartography Department of the Oregon State Department of Revenue.

2. In regard to the Zoning map amendment criteria (Zone Map Amendments (as per NZO Section 2-5-6.030 & 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.*), the City Council concludes as follows:

A. The zone designations requested for the Emery Investment property (see Planning Staff Report Attachment "A-2" which illustrates the proposed zoning designations on the Emery Investment property) are consistent with the Newport Comprehensive Plan designations that would apply to the property as identified in Ordinance No. 1899 adopting the South Beach Neighborhood Plan (see Planning Staff Report Attachment "G" (Newport Ord. No. 1899 Exhibit "E" (Map 1))). The Commercial portion of the property is not identified with a specific Commercial designation, but the applicant has indicated that a C-1/"Retail and Service Commercial" designation is to be applied. The City Council will therefore apply the zoning designations for the annexed area of the Emery Investment property consistent with the Comprehensive Plan map designations as adopted by Ordinance No. 1899 consistent with the criterion that the proposed zoning is consistent with the Comprehensive Plan Map. The applicant has indicated through the Power Point presentation material that some changes to the Comprehensive Plan map and Zoning map designations may be needed and those changes can be processed as amendments at a later date.

B. The Zoning Map designation of I-3/"Heavy Industrial" is requested for the GVR Investment property consistent with the Newport Comprehensive Plan designation of Industrial for the subject property. An explanation of the zone designation request for GVR Investments was submitted by Dennis Bartolodus on behalf of GVR Investments. See Planning Staff Report Attachment "A-1". The South Beach Neighborhood Plan did amend the Comprehensive Plan Map designation of a portion of the GVR Investment property on the southeast corner of the property (approximately 1.5 acres) to include a portion of the property as High Density Residential. See Planning Staff Report Attachment "G-1" (Newport Ord. No. 1899 Exhibit "F" (Map 3)). As part of the South Beach Neighborhood Plan process, GVR Investments had requested that that portion of the property be High Density Residential. If the property is to be designated as I-3, an amendment to the Comprehensive Plan designation adopted by the South Beach Neighborhood Plan

would need to be completed. The identification of the I-3 zone designation was included in the original application materials and was a part of the public notification process. It is likely that there will be several other minor amendments to the Comprehensive Plan designations as part of the overall development of the property added to the UGB, and this could be completed as part of those amendments as well. The ordinance approving the annexation and zone designations will contain a condition of approval addressing this issue.

C. Because the Comprehensive Plan Map has designated the property with land use designations 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 as amended by the South Beach Neighborhood Plan), the City Council concludes that the application of a zone designation in conformance with the Comprehensive Plan as amended by the South Beach Neighborhood Plan would further a public necessity and promote the general welfare. The South Beach Neighborhood Plan and the OCCC central campus site have both had extensive public involvement in the development process and the annexation and zoning implementation would both further a public necessity and promote the general welfare. See Planning Staff Report Attachment "F" regarding the time line and public involvement in the Employment Lands and Conceptual Land Use Planning project (resulting in the South Beach Neighborhood Plan) and the Oregon Coast Community College central campus project.

D. In regard to the Schell letter (Planning Staff Report Attachment "E-1"), the property owners whom he represents are free to pay for the extension of urban services to their property at such time as they would like the services. The Council may consider as a separate matter as part of the overall development of the area added to the UGB a provision for a local improvement district or a reimbursement district that could provide a reimbursement mechanism to Emery Investments, the City, or other property owner/entity that pays to oversize an urban level facility in order to accommodate anticipated development from other property owners who would then utilize the facility but have not yet contributed to the facility. As the Schell property owners have not yet submitted an annexation request with the required master planning, their property remains in a Timber-Conservation designation and at the present time it would be hard to know what levels of services are specifically needed for their proposed development, if any.

E. In regard to the Forest Capital Partners letter (see Planning Staff Report Attachment "E-2"), Ms. Runkle does not identify where to the "east" the property of Meriwether Northwest Oregon Land & Timber LLC is located. The current UGB leaves a substantial area of land designated with the existing Timber-Conservation (T-C) designation along the west side of King Slough. There are only two properties owners with property in a T-C designation between the UGB and King Slough (Emery Investments and King Slough Enterprises). The Meriwether property would then presumably be located somewhere to the east of King Slough, so it is unclear as to how the development of the property within the area added to the UGB would interfere or add operating costs to timber harvest on the Meriwether property (which is apparently designated T-C and for which normal forestry and logging activities are



uses permitted outright under the Lincoln County Code (**1.1375 Timber Conservation Zone T-C** In a T-C zone the following regulations shall apply: (1) **Uses Permitted Outright:** The following uses and their accessory uses are permitted outright, subject to applicable siting criteria, other applicable provisions of this section, and applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, and 1901-1.1999: (a) Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash.). There is already residentially designated and developed property along the King Slough portion of Idaho Point. Ms. Runkle does not provide sufficient information as to how interference or increased costs would occur, or how that is an issue that needs to be addressed relevant to the applicable criterion. In regard to the prescriptive easement assertion, Ms. Runkle provides no basis for her assertion of prescriptive easements nor is the City Council the appropriate forum for resolving prescriptive easement issues.

3. In regard to the Transportation Planning Rule requirements (Ordinance No. 1899 (adopting the South Beach Neighborhood Plan): Section 7 (B): Findings of compliance with the Transportation Planning Rule (TPR) requirements found in Oregon Administrative Rule (OAR) 660-012-0060), the City Council concludes as follows:

A. The required findings for the TPR need to be completed as part of the annexation/rezone request as required by Newport Ordinance No. 1899. In regard to the Transportation Planning Rule requirements, the City as part of the approval of the South Beach Neighborhood Plan in Ordinance No. 1899 has adopted a condition of approval regarding the subject Emery Investment property that was added to the Urban Growth Boundary as part of the South Beach Neighborhood Plan in Section 7 (B) of Ordinance No. 1899 that states:

As part of any future annexation and rezone proceeding for the property added to the Urban Growth Boundary as identified in Section 3 (B) above, an additional criterion for the annexation and rezone shall be a requirement to make findings as applicable in regard to compliance with the Transportation Planning Rule requirements found in Oregon Administrative Rule (OAR) 660-012-0060.

B. The subject Emery Investment property is currently designated with a Timber Conservation designation in the County and was added to the Urban Growth Boundary as part of the South Beach Neighborhood Plan. The subject GVR Investment property was already within the Newport UGB prior to the South Beach Neighborhood Plan and is currently identified with a Planned Industrial (I-P) designation on the Lincoln County Comprehensive Plan and Zoning Map.

C. The applicant submitted as part of the application a Traffic Impact Analysis dated October 31, 2006. Both the Oregon Department of Transportation and the Department of Land Conservation and Development had previously reviewed the October 31, 2006, report as part of the South Beach Neighborhood Plan amendment process and a number of deficiencies with the 10/31/06 TIA Report were identified. A meeting was held on March 21, 2007, that included John Stutesman (Landwaves), members of David Evans and Associates, ODOT (including John deTar and Gerry Juster), and the City of Newport to review the corrections necessary to the October 31, 2006, TIA. Laren Woolley and Bob Cortright of DLCD were invited to attend the March 21, 2007, meeting but were

unable to do so. The applicant has subsequently submitted a new Traffic Impact Analysis Report dated May 2, 2007, (see Planning Staff Report Attachment "A-3") and memo dated May 10, 2007, from David Evans and Associates (DEA) (see Planning Staff Report Attachment "A-4") that is intended to address the deficiencies previously identified with the report. The 5/2/07 TIA Report was submitted to both ODOT and DLCD on May 2, 2007, and the 5/10/07 TIA Update memo was distributed on May 11, 2007. A meeting with ODOT staff, City staff, and representatives of Landwaves was held on May 31, 2007, to discuss the 40<sup>th</sup> Street transportation analysis and the need for an approach road permit.

D. The 5/2/07 TIA describes the Phase 1 analysis on page 10 to include 46 single family units, 48 high density residential dwelling units and the OCCC central campus. However, the Preliminary Phase 1 Planned Development application (File No. 1-PD-07) identifies a higher number of dwelling units proposed (between 132-216 dwelling units) for Phase 1, includes approximately 10,000-20,000 square feet of floor area for Commercial uses, and also includes the OCCC central campus. The differences between the proposed uses in the 5/2/07 TIA Phase I analysis and the proposed uses in the File No. 1-PD-07 South Beach Village Phase I in the planned development application needed to be reconciled. The 5/10/07 TIA Update DEA memo identifies on page 2 (Table 2) an alternative Phase 1 development scenario (included would be 86 single-family residences, 31 condo/townhomes, community college, and 7,000 square feet of commercial) that would allow for a portion of the annexation Phase 1 to develop under the existing 5/2/07 TIA analysis with additional development beyond the uses identified requiring further transportation analysis.

1. The applicant proposes to construct access to the subject Emery Investment property by the construction of a new street (referred to as SE 40<sup>th</sup> Street) that would connect with Highway 101 and would cross along the northerly edge of the subject GVR Investment property. No existing public right-of-way currently exists for the proposed SE 40<sup>th</sup> Street. The proposed SE 40<sup>th</sup> Street is identified in the adopted and acknowledged South Beach Neighborhood Plan but is not identified in the City of Newport Transportation System Plan (TSP). As part of the South Beach Neighborhood Plan, SE 40<sup>th</sup> Street would serve as a part of a loop road system through the area added to the UGB in the South Beach Neighborhood Plan and would connect into SE 50<sup>th</sup> Street as illustrated in the South Beach Neighborhood Plan on page 105. The proposed looped road system including SE 40<sup>th</sup> Street would be designated as either a collector or minor arterial under the current standards of the Transportation System Plan. The public right-of-way needed under either classification would be 60 feet based on the TSP street design standards in Figure 5 (page 13) of the TSP. The South Beach Neighborhood Plan identifies the proposed looped road system including SE 40<sup>th</sup> Street is identified as a recommended amendment to the Transportation System Plan for which an amendment to the TSP is required to implement the looped road system. The City is currently in the process of updating the Transportation System Plan (TSP) and implementing ordinances with a grant from the Transportation & Growth

Management Program. The update of the Transportation System Plan can include the proposed SE 40<sup>th</sup> Street and transportation improvements identified in the South Beach Neighborhood Plan and would involve additional public notice and land use hearings. Additional comments regarding the adequacy of the proposed SE 40<sup>th</sup> Street and transportation planning issues would be permitted through the Transportation System Plan update. The completion of the TSP update is expected to occur prior to the acceptance of the City of Newport of public right-of-way for the SE 40<sup>th</sup> Street. The development of SE 40<sup>th</sup> Street may begin as a private approach road as identified by the applicant.

2. A related application for a final development plan (File No. 2-PD-07) for a portion of File No. 1-PD-07 (South Beach Village Phase I) for the OCCC central campus site has been approved. The remaining development proposed for Phase I of the subject Emery Investment property will require another public hearing and notice before the Planning Commission prior to final development plan approval. Until such time, no buildings may be erected pursuant to NZO Section 2-5-4.075 (D) for an area within a planned development except for an area of the planned development for which final development plan approval has been issued.

3. Currently, only a building permit for the OCCC central campus facility for the subject Emery Investment property may be issued until such time as the rest of the subject Emery Investment property receives final development plan approval and meets the applicable criteria, which requires in part that "Access shall be designed to cause minimum interference with traffic movement on abutting streets" (NZO Section 2-5-4.075 (B)(4)) and that "The streets are adequate to serve the anticipated traffic." (NZO Section 2-5-4.075 (C)(3)). The provision of master planning such as that through the City's planned development process was included as an implementation measure (Implementation Measure 3 of Policy 1) in the South Beach Neighborhood Plan for the property added to the Urban Growth Boundary as part of Ordinance No. 1899.

C. The 5/2/07 TIA Report on page 27 concludes that: "Analysis of year 2011 conditions under build-out of Phase 1 shows that the transportation system can be made adequate to efficiently and safely accommodate the proposed development and will satisfy all City and State performance standards for traffic operations. Phase 1 development [as defined in the 5/2/07 TIA] will not have a 'significant effect' on the transportation system as defined by the state's Transportation Planning Rule."

D. John deTar, ODOT, by letter dated June 4, 2007, identified a number of issues related to the Transportation Planning Rule (OAR 660-012). A response prepared by Christian Snuffin, PE, Transportation Engineer with David Evans & Associates to Mr. deTar's concern was received on June 15, 2007, and submitted to the City Council which included discussion about ODOT's authority under OAR 734-051 (Division 51) regarding the permitting of the proposed SE 40<sup>th</sup> Street. Because the proposed SE 40<sup>th</sup> Street has not been dedicated to the public for a right-of-way, the

proposed street would be considered a private approach road and ODOT has the ability to regulate the uses that would utilize the private approach road. Given that an approach road permit for the proposed SE 40<sup>th</sup> Street improvements has not been granted by ODOT, further review of the approach road will be conducted by ODOT prior to the permitting of a connection with Highway 101 with the proposed SE 40<sup>th</sup> Street.

1. In regard to the Phase 1 improvements evaluated as part of the TIA Update of part of the Emery Investment property, Mr. Snuffin identifies the improvements necessary in his needed improvement section of his letter received on June 15, 2007. For the proposed development in Phase 1 of the TIA Update, Mr. Snuffin states that the minimum improvements required consist of:

- 1) A southbound left-turn lane from Highway 101 to 40<sup>th</sup> Street
- 2) A northbound right-turn lane from US 101 to 40<sup>th</sup> Street; and
- 3) A two-lane approach on 40<sup>th</sup> Street to Highway 101

As noted in Mr. Snuffin's letter, the developer is committed to providing the identified improvements (with possible financial assistance from the City's Urban Renewal Agency).

2. Mr. deTar notes in his June 4, 2007, letter regarding the GVR Investment property that most of the many of the uses in the I-3 zone within the City appear to be the same as those uses allowed within the County zoning designation. However, Mr. deTar contends that the restrictions in regard to the City provision of sewer outside the City limits creates a different type of use potential once the property is within the City limits than is possible outside the City limits when consideration of limits on development outside of the general land uses allowed by the zoning. Mr. deTar notes in his letter that: "If the uses are not possible, no significant affect would result." Mr. Snuffin in his letter received June 15, 2007, identifies the provision of OAR 734-051-0045 in his response which allows ODOT to regulate private approaches and changes of uses of an approach. Mr. Snuffin notes that "The rules and procedures outlined in OAR 734-051 (Division 51) provide a mechanism for ODOT to ensure that developers construct suitable transportation improvements even if the zoning permits the land use outright." The GVR Investment property currently has direct access to Highway 101 from a private approach. As the GVR Investment property is currently vacant, the uses for which Mr. deTar has expressed a concern in his June 4, 2007, letter would trigger the requirements for an ODOT approach road permit. As Mr. deTar has indicated that regulatory limitations on a general land use permitted in a zone is relevant to the TPR analysis in the determination of whether or not there is a significant affect under OAR 660-012-0060 and as no approach road permit has been issued for any of the proposed uses for the GVR Investment property, the City determines that there is not a significant affect from the

annexation of the GVR Investment property for the uses identified by Mr. deTar as there has not been an ODOT issued approach road permit to allow for those uses on the GVR Investment property.

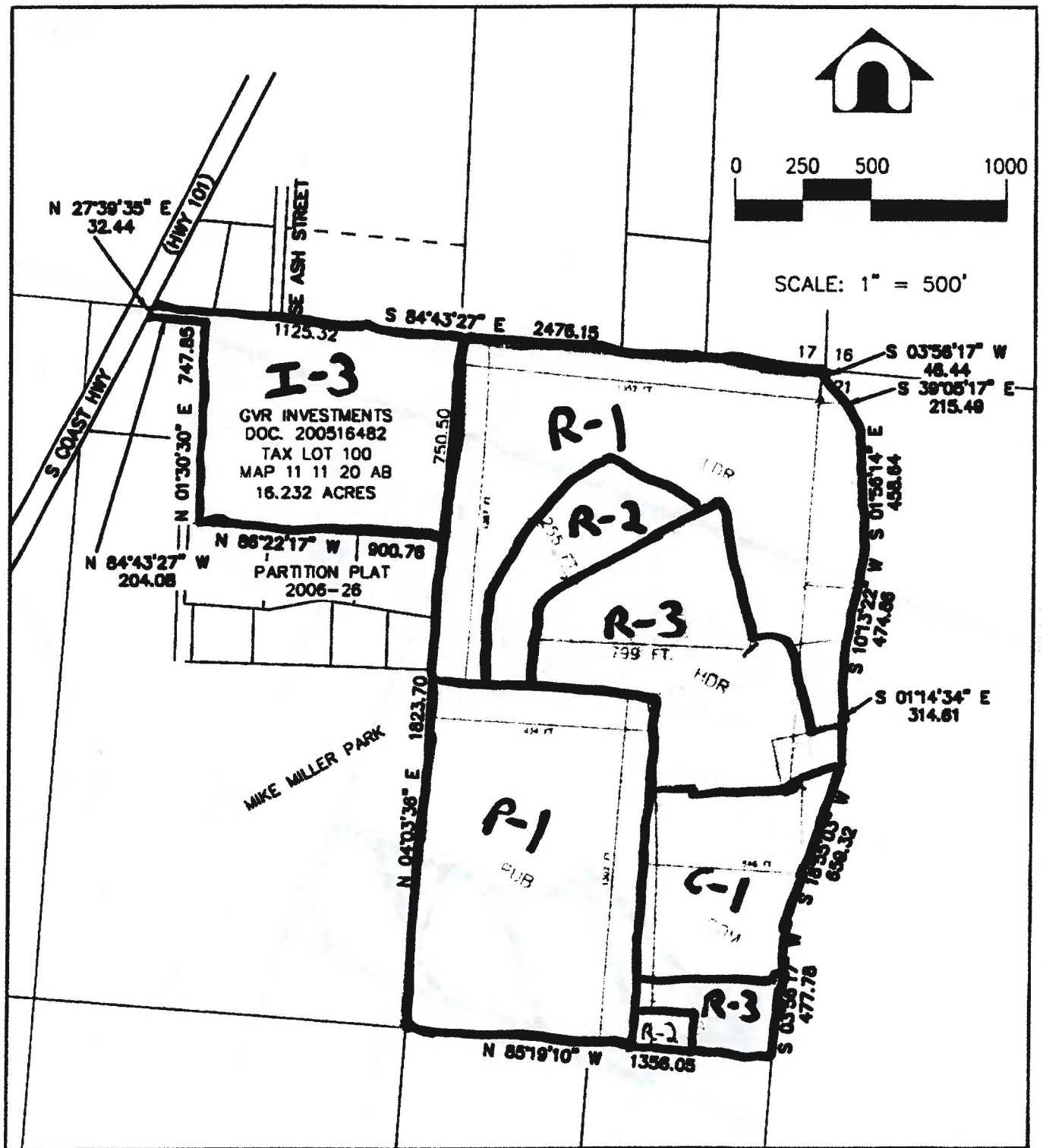
### OVERALL CONCLUSION

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 zone designations are hereby **APPROVED** with the following condition(s):

A. The portion of the GVR Investment property identified as High Density Residential by Ordinance No. 1899 (adopting the South Beach Neighborhood Plan) as illustrated in Exhibit "D" shall be designated with a City of Newport Zoning Map designation of I-3 but with the condition that the adoption of an ordinance amending the Comprehensive Plan map designation of High Density Residential to Industrial occurs within 18 months of the effective date of this ordinance. If after 18 months of the effective date of this ordinance, no such ordinance amendment has been adopted, the designation of the subject property in Exhibit "D" shall be R-4/"High Density Multi-Family Residential" consistent with the High Density Residential Comprehensive Plan map designation adopted by Ordinance No. 1899. If an appeal is filed in conjunction with ordinance amendment adoption, the 18 month period shall be extended until such time as the ordinance becomes final without further appeal.

# EXHIBIT "C"

## Zoning Map Designations applied to portion of annexed Emery Investment and GVR Investment Property

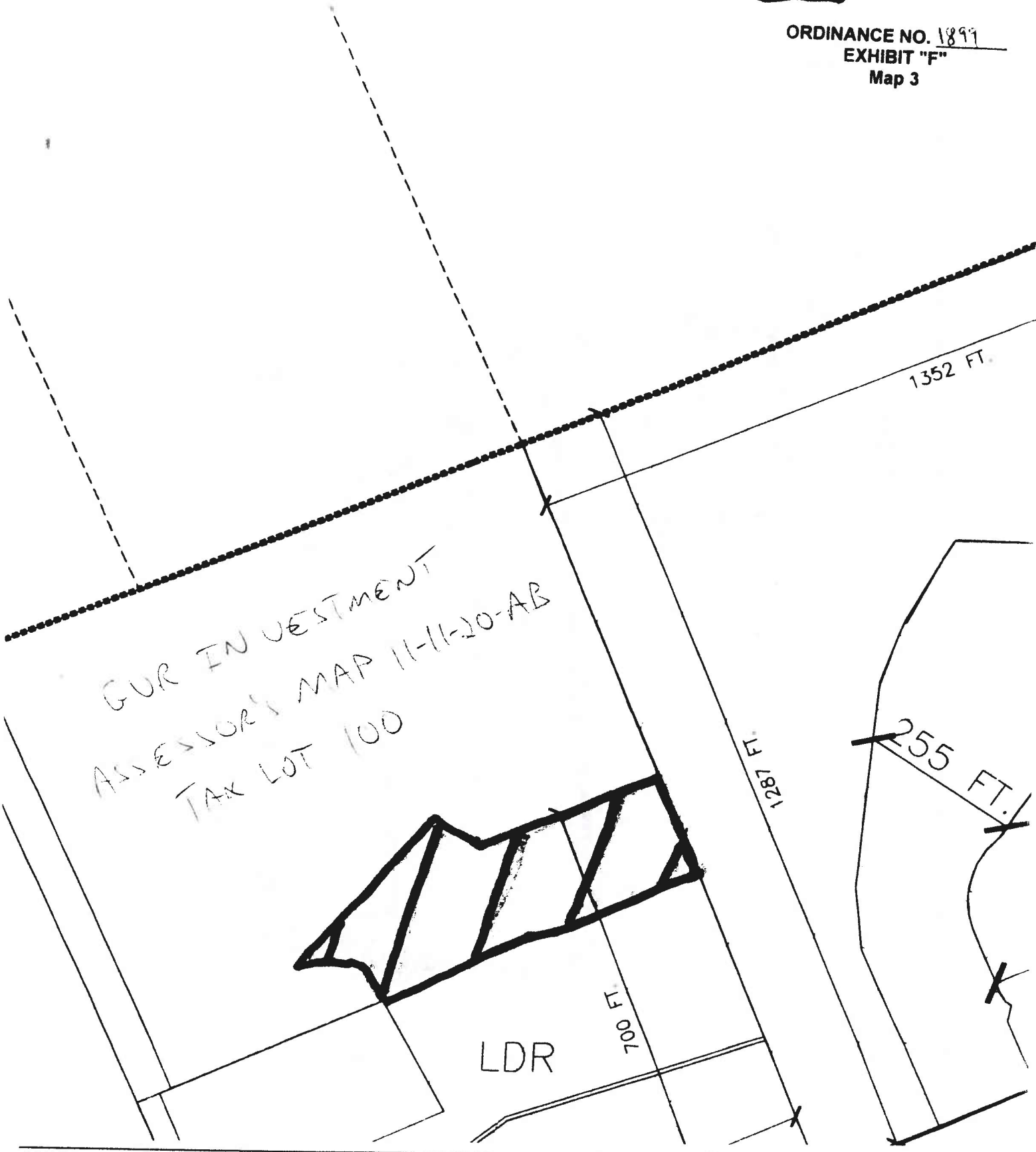


**EXHIBIT "D"**

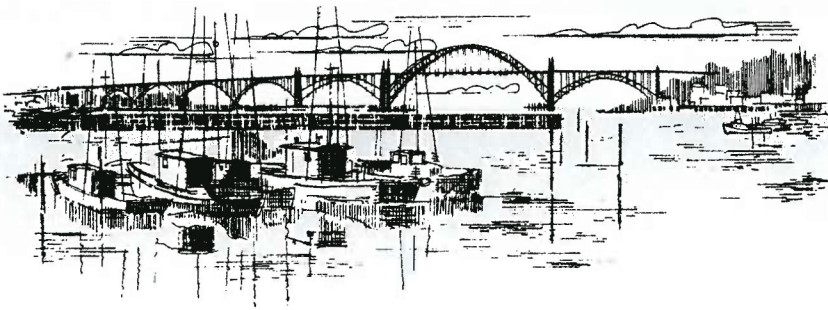
PORTION OF GVR INVESTMENT PROPERTY SUBJECT TO CONDITION OF APPROVAL



**ORDINANCE NO. 1899**  
**EXHIBIT "F"**  
**Map 3**



ORDINANCE NO. 1122 (Exhibit "D")



# CITY OF NEWPORT

169 SW COAST HWY

NEWPORT, OREGON 97365

TDD/VOICE 1-800-735-2900

OFFICE OF Community Development

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

Local File # 1-Ax-07/0-2-07

Date of Deposit in the U.S. Mail: JUNE 25, 2007

Name of Person Mailing JAMES BASSINGTHWAITE

Signature of Person Mailing