



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: 503-373-0050

Fax: 503-378-5518

www.oregon.gov/LCD



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: January 06, 2016

Jurisdiction: City of Newport

Local file no.: 2-AX-15/4-Z-15

DLCD file no.: 004-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 01/06/2016. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD less than 35 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A 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).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE
 File No.: 004-15 {24111}
 Received: 1/6/2016

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: City of Newport

Local file no.: **2-AX-15/4-Z-15**

Date of adoption: 1/4/16

Date sent: 1/6/2016

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 11/4/15

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

No difference

Local contact (name and title): Derrick I. Tokos, AICP

Phone: 541-574-0626

E-mail: d.tokos@newportoregon.gov

Street address: 169 SW Coast Hwy

City: Newport

Zip: 97365-

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

- | | | | |
|-------------|----|--------|------------------------------------------------|
| Change from | to | acres. | A goal exception was required for this |
| change. | | | |
| Change from | to | acres. | A goal exception was required for this |
| change. | | | |
| Change from | to | acres. | A goal exception was required for this |
| change. | | | |
| Change from | to | acres. | A goal exception was required for this change. |

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from RR-2	to I-1	Acres: .23
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address): TL 400, 10-11-20-BB

List affected state or federal agencies, local governments and special districts: ODOT

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

Ordinance No. 2092 and a map of the property.

CITY OF NEWPORT
ORDINANCE NO. 2092

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. 2-AX-15/4-Z-15) was filed by the owners of real property (Central Lincoln People's Utility District, Debra Smith, General Manager, authorized representative) 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 I-1/"Light Industrial."
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 November 23, 2015, 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 changes, the Planning Commission voted to recommend that the City Council approve the property owner's request.
3. The City Council of the City of Newport, after provision of the required public notification, held a public hearing on January 4, 2016, 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, 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 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 is hereby annexed to and incorporated within the City of Newport, Oregon:

That part of Lot 3 in Section 20, Township 10 South, Range 11 West, Willamette Meridian, in Lincoln County, Oregon, lying South of the South line of the Siletz Indian Reservation, described as follows:

Beginning at a point at the intersection of the South line of Government Lot 3 (being South of the South line of the Siletz Indian Reservation) in Section 20, Township 10 South, Range 11 West, Willamette Meridian, in Lincoln County, Oregon, and the East right-of-way line of the relocated Oregon Coast Highway No. 101; thence North 7°57' East 22.9 feet along said

highway East line to the true point of beginning; thence North 7°57' East 100 feet along said right-of-way; thence South 81°48' East 100 feet; thence South 7°57' West 100 feet; and thence North 81°48' West 100 feet to the true point of beginning.

B. **Withdrawal.** The territory 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 territory annexed to the City of Newport by designating the subject territory described in Section 1(A) above with the zone designation of I-1/"Light Industrial."

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

Section 3. This ordinance shall take effect 30 days after passage.

Date adopted and read by title only: January 4, 2016.

Signed by the Mayor on January 5, 2016.


Sandra N. Roumagoux, Mayor

ATTEST:


Margaret M. Hawker, City Recorder

Reviewed as to form:


Steven Rich, City Attorney

EXHIBIT "A"

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. 2-AX-15/4-Z-15) was filed by Central Lincoln People's Utility District (Debra Smith, General Manager, authorized representative) on October 23, 2015. The application included consideration of a request to: (1) annex approximately 0.23 acres of real property (consisting of property currently identified as Tax Lot 400 of Assessor's Tax Map 10-11-20-BB into the Newport city limits; (2) amend the City of Newport Zoning Map to establish an I-1/"Light Industrial" zoning designation for the subject property consistent with the existing Newport Comprehensive Plan designation of Industrial; and (3) withdraw said territory from the Newport Rural Fire Protection District and the Lincoln County Library District.
2. The applicant is pursuing the annexation so that the territory can be redeveloped in the future in conjunction with adjoining lots that they have purchased in the Northgate Industrial Park subdivision into a new maintenance facility. There is a 50-foot conservation easement and 20-foot sewer and storm drainage easement that follow the west line of the Northgate Industrial Park. The easements wrap around the subject territory. By acquiring the site and annexing it into the city, the applicant has an opportunity to straighten out the easements, freeing up land for future development. The applicant intends to demolish the existing residence, and the driveway onto US 101 will be abandoned.
3. The territory subject to the request is located at 7576 N Coast Highway (Lincoln County Assessor's Map 10-11 -20-BB, Tax Lot 400).
4. The legal description of the area to be annexed is as follows:

That part of Lot 3 in Section 20, Township 10 South, Range 11 West, Willamette Meridian, in Lincoln County, Oregon, lying South of the South line of the Siletz Indian Reservation, described as follows:

Beginning at a point at the intersection of the South line of Government Lot 3 (being South of the South line of the Siletz Indian Reservation) in Section 20, Township 10 South, Range 11 West, Willamette Meridian, in Lincoln County, Oregon, and the East right-of-way line of the relocated Oregon Coast Highway No. 101; thence North 7°57' East 22.9 feet along said highway East line to the true point of beginning; thence North 7°57' East 100 feet along said right-of-way; thence South 81°48' East 100 feet; thence South 7°57' West 100 feet; and thence North 81°48' West 100 feet to the true point of beginning.
5. Staff reported the following information regarding the requests:
 - A. Plan Designation: The subject territory is within the Newport Urban Growth Boundary, and is designated as "Industrial" on the Newport Comprehensive Plan Map.

- B. Zone Designation: City of Newport zoning is established at time of annexation. Either the I-1/"Light-Industrial," I-2/"Medium-Industrial" or I 3/"Heavy Industrial" designations are consistent with Comprehensive Plan designation of Industrial. The applicant is requesting the 1-1 zone designation.
- C. Surrounding Land Uses: Vacant I-1/"Light Industrial" zoned property borders the site to the north, south and east. Single family residences exist across US 101 to the west in an R-1/"Low Density Residential" zoned area.
- D. Topography and Vegetation: The property is gradually sloped and is partially vegetated with native shrubs and trees.
- E. Existing Residences/Buildings: A 1,350 square foot, single family residence constructed in 1948.
- F. Utilities: The existing dwelling receives water service from the City of Newport. Sewer is likely handled via an on-site septic system.
- G. Development Constraints: None known.
- H. Past Land Use Actions: None.
- I. Notification: Required notice to the Department of Land Conservation and Development was mailed on November 4, 2015.

For the Planning Commission public hearing, notification in accordance with the NMC Section 14.52.060(C) requirements included mailing notice to surrounding property owners, City departments and other public agencies and utilities, and other individuals on October 28, 2015. The notice of public hearing in the Newport News-Times was published on November 13, 2015.

In accordance with Oregon Revised Statute 222.120(3), notice of the January 4, 2016 City Council public hearing was published once each week for two successive weeks prior to the day of the hearing, such notice occurring in the Newport News-Times on December 23, 2015 and January 1, 2016. Notice of the hearing was also posted at the Newport City Hall, Lincoln County Courthouse, Newport Public Library and Newport Recreation Center. No comments have been received in response to this notice.

- 6. The Planning Commission held a public hearing on the proposed request on November 23, 2015. No testimony was offered at the hearing, and after reviewing the staff report the Commission voted unanimously to recommend approval of the annexation with the property being zoned I-1/"Light Industrial."
- 7. The City Council held a public hearing on the proposed requests on January 4, 2016. A Planning Staff Report, dated November 17, 2015, 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" – Aerial Photo of Area to be Annexed
Attachment "D" – Newport Zoning Map
Attachment "D-1" – Uses allowed in the I-1, I-2 and I-3 zones
Attachment "D-2" – Intent of Zoning Districts
Attachment "E" – Legal Description of the Area to be Annexed
Attachment "F" – Northgate Industrial Park Subdivision Plat (reduced)
Attachment "G" – Copy of ORS 222.170 through 222.183
Attachment "G-I" – Copy of ORS 222.460 through 222.465

8. At the January 4, 2016, public hearing, the City Council heard a staff report and allowed for testimony and evidence to be given on the proposed requests. Following the close of the public hearing, the Council deliberated and voted to approve the requests. The minutes of the January 4, 2016 public hearing are hereby incorporated by reference into the findings.
9. The applicable criteria for each of the requests are as follows:
 - A. For the annexation/withdrawal portion of the requests, Newport Municipal Code Section 14.37.040 provides *"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."*
 - B. For the zoning map amendment portion of the requests, the applicable criteria per Newport Municipal Code Section 14.36.010 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 Newport Municipal Code Section 14.37.040 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(2), the City need not hold an election on the annexation of contiguous territory if it receives the consent of more than 50 percent of the owners of land in the territory, and such owners own more than 50 percent of the land area within the territory. The subject territory was acquired by the Central Lincoln People's Utility District on September 25, 2015, as evidenced with a warranty deed recorded with the Lincoln County Clerk's Office under Instrument No. 2015-09854. Debra Smith, the District's General Manager, signed the application form requesting that the territory be annexed. By signing the application form, Ms. Smith has provided the requisite consent that the territory be annexed. See Planning Staff Report Attachment "A" (Applicant Request).
 - 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 city records are sufficient to establish that the property is within the Urban

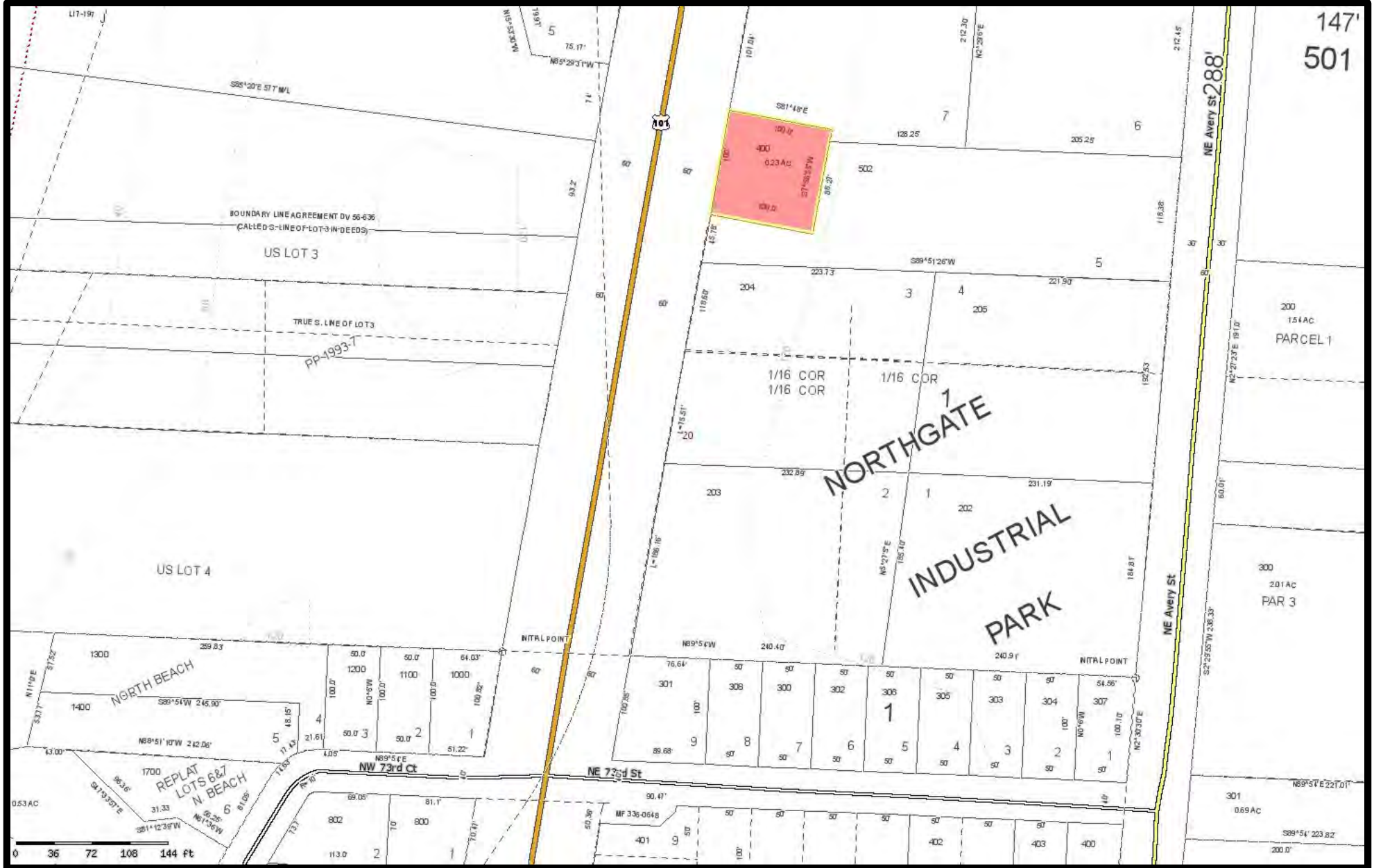
Growth Boundary of the City of Newport.

- 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 north, east and south sides of the property are contiguous to the city limits. See Planning Staff Report Attachment "C" (Aerial Photo of Area to be Annexed).
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 I-1/"Light Industrial" zoning designation with regard to the applicable criteria from Newport Municipal Code Section 14.36.010 (*Findings that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare.*):
 - A. The Comprehensive Plan designation of Industrial is implemented by the I-1/"Light Industrial," I-2/"Medium Industrial," or I-3/"Heavy Industrial" zoning designations. The applicant intends to develop the subject property and adjoining lots into a maintenance yard that will replace an existing maintenance yard in South Beach. They have requested that an I-1/"Light Industrial" zone designation be placed on the property. Lots to the north, east, and south that are inside the city and owned by the applicant are currently under an I-1 designation. A maintenance yard for an electrical utility is permitted in the I-1/"Light Industrial" zone district as an Industrial Service Use (NMC 14.03.070(7)) or as a Community Service Use (NMC 14.03.070(14)) (See Planning Staff Report Attachment "D-1"). The intent of the I-1, 1-2, and 1-3 zoning districts is included as Planning Staff Report Attachment "D-2."
 - B. The Industrial Comprehensive Plan Map designation for this property provides additional land for a range of potential industrial uses consistent with the Comprehensive Plan and the City's 20-year buildable land inventory. It is logical to apply an I-1 zoning designation to the property given that it borders land under the same designation on three sides. Considering the above, the application of a zone designation in conformance with the Comprehensive Plan will further a public necessity and promotes the general welfare.

OVERALL CONCLUSION

Based on the staff report and attachments, the application materials, 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.

7576 N Coast Hwy



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