

BEFORE THE BOARD OF COMMISSIONERS
FOR LINCOLN COUNTY, OREGON

ORDINANCE # 384

Amending the Urban Growth Boundary for the City of Newport to include Tax Lots 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512 and 513, Lincoln County Assessor's Map 10-11-20-BB, and Tax Lots 202, 203, 204, and 205, Lincoln County Assessor's Map 10-11-20-BC; and declaring an emergency.

WHEREAS on November 9, 1998, the Lincoln County Planning Commission unanimously voted to recommend approval of a request for an Urban Growth Boundary amendment north of Newport to include approximately 15.38 acres for property owned by Gary Gallagher and Vicki Morin Gallagher; and

WHEREAS the subject property is identified as Tax Lots 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, and 513, Lincoln County Assessor's Map 10-11-20-BB, and Tax Lots 202, 203, 204, and 205 of Lincoln County Assessor's Map 10-11-20-BC); and

WHEREAS after legal notice was given in accordance with law, a public hearing was held by the Board of Commissioners on December 23, 1998, to consider whether or not to grant the request; and

WHEREAS the decision and recommendation of the Planning Commission was unanimously approved;

NOW, THEREFORE, IT IS HEREBY ORDAINED AS FOLLOWS:

SECTION 1.

1. The Urban Growth Boundary for the City of Newport is hereby amended to include approximately 15.38 acres identified as Tax Lots 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, and 513, Lincoln County Assessor's Map 10-11-20-BB, and Tax Lots 202, 203, 204, and 205 of Lincoln County Assessor's Map 10-11-20-BC, further identified on the map on page 3 of this ordinance.

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NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing ordinance to be omitted. New sections are in **boldfaced** type.

2. The findings and conclusions supporting these actions are adopted as set forth in Exhibit "A" attached hereto and incorporated herein.

3. Copies of this ordinance shall be forwarded to applicants Gary Gallagher and Vicki Morin Gallagher, PO Box 1359, Polson, MT 59860; Kurt Carstens, applicants' attorney, PO Box 1730, Newport, OR 97365; City of Newport Planning Department; County Surveyor; County Assessor; County Counsel; and Lincoln County Department of Planning and Development.

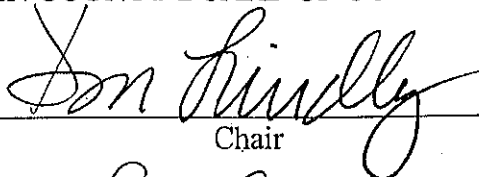
4. The Department of Planning and Development shall amend the official maps in the Lincoln County Clerk's Office and shall forward a copy of this ordinance to the Department of Land Conservation and Development.

SECTION 2.

This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist and this Ordinance shall take effect upon its passage.

DATED this 6 day of January, 1999.

LINCOLN COUNTY BOARD OF COMMISSIONERS


Chair


Commissioner


Commissioner

ATTESTED TO:


Susan Kays, Recorder

APPROVED AS TO FORM:


Wayne Belmont, County Counsel

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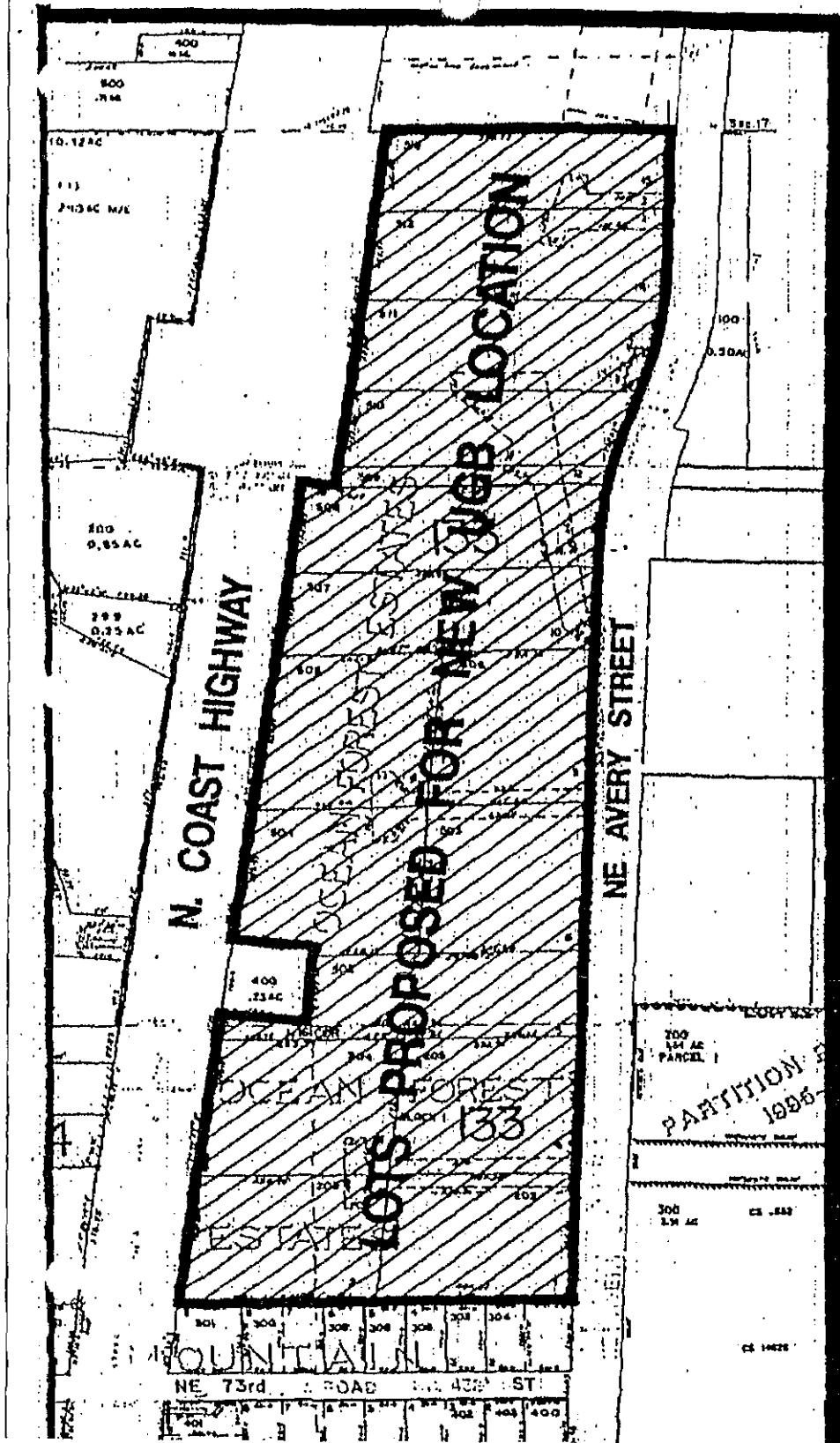
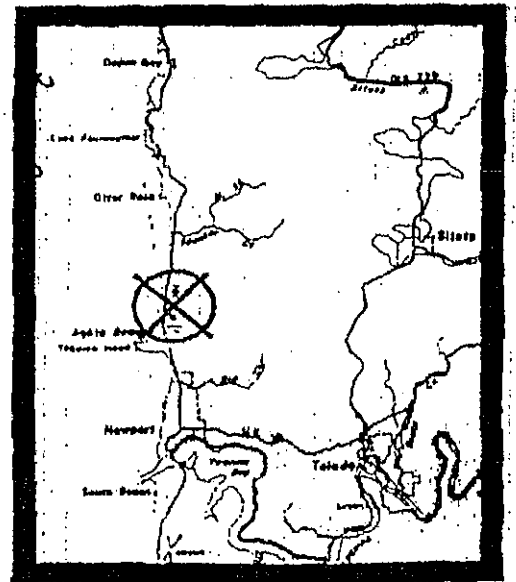
NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing ordinance to be omitted. New sections are in **boldfaced** type.

Office of Lincoln County Legal Counsel
225 West Olive Street, Room 110
Newport, Oregon 97365
(541) 265-4108

#2-LUPC-PC-97

GARY GALLAGHER

LOCATION MAP



BEFORE THE PLANNING COMMISSION
OF
LINCOLN COUNTY, OREGON

Amend Urban Growth Boundary) Case File #2-LUPC-PC-97
Applicants: Gary and Vicki Gallagher) Findings, Conclusions, and Final Order
Kurt Carstens (Agent)

Nature of the Request

The applicants are requesting authorization for an Urban Growth Boundary Amendment for the purpose of completing annexation of 15.38 acres to the City of Newport.

Relevant Criteria

- 1) Statewide Planning Goal 2: Land Use Planning
- 2) Statewide Planning Goal 14: Urbanization
- 3) Lincoln County Comprehensive Plan:
 - a. Section 1.0610 (Land Use Planning)
 - b. Section 1.0030 (Urbanization Policies)
 - c. Section 1.0130 (Economic Goals)
 - d. Section 1.0140 (Transportation Goals)
- 4) Lincoln County Land Use Code: Section 1.1235 (Quasi-Judicial Amendments)

Relevant Facts

The following is a summary of the facts found to be relevant to this decision:

1. The Lincoln County Comprehensive Plan designates the subject property as Dispersed Residential
2. The site is zoned RR1-2 (Rural Residential).
3. The property is located just north of the existing Newport city limits and UGB, between Highway 101 and the Old Highway 101 (now called N.E. Avery Street). The property is further described as tax lots 502 - 513 of tax map 10-11-20 BB and tax lots 202 - 205 of tax map 10-11-20 BC.
4. The property is relatively flat and has typical coastal vegetation.

5. There are no existing structures.
6. City of Newport utilities and Central Lincoln PUD will serve the subject property.
7. Environmental Bulletin 81 shows this area is subject to high ground water.
8. Surrounding Land Use - To the north are vacant lots and a retail kite shop. To the south is the Oregon State Police office and a State of Oregon stockpile and storage area. To the west is a mix of single-family residences and motels. To the east is a sanitary landfill, United Parcel Service and vacant industrial land.
9. The staff report is by reference incorporated into the record herein.
10. The application is by reference incorporated into the record herein.
11. City of Newport Ordinance No. 1765 "Providing for an amendment to the City of Newport's Urban Growth Boundary, amending the Comprehensive Plan Map of the City of Newport for said territory and an additional lot, annexing certain territory as herein described, establishing appropriate zoning for said territory and an additional lot, withdrawing said territory from the Newport Rural Fire Protection District and the Lincoln County Library District, dispensing with a city election on the question of annexation, and making findings of fact, all in the City of Newport, County of Lincoln, State of Oregon" was approved by the Mayor of the City of Newport on May 5, 1996 and submitted to this record.
12. As a result of the approval of City of Newport Ordinance No. 1765 the new City of Newport zoning designation on the subject property is I-1(MIA)/"Light Industrial (Iron Mountain Impact Area)".
13. A signed Declaration of Covenants for the subject property dated September 21, 1998 was recorded on September 25, 1998 in Lincoln County, Oregon and submitted to this record.
14. A public hearing was held before the Lincoln County Planning Commission on Monday, November 9, 1998. Ms. Jessica Bondy, Senior Planner, stated the applicable criteria for the request and gave an oral summary of the staff report.
15. Dawn Pavitt, representative for the applicant's agent, Kurt Carstens, presented testimony on behalf of the request.

Gary and Vicki Gallagher; Kurt Carstens (Agent); Case File 2 - LUPC - PC - 97

Findings and Conclusions

The Commission finds that the Findings and Conclusions supporting this action are adopted as set forth in Exhibit "A" attached hereto and incorporated herein.

Order

It is ORDERED by the Lincoln County Planning Commission that Case File #2-LUPC-PC-97 be APPROVED.

This ORDER was presented to and approved by the Lincoln County Planning Commission on November 9, 1998.

Judith K. Pelletier (acting)
Lincoln County Planning Commission
Steve Morrill, Chair

EXHIBIT "A"

CITY OF NEWPORT

ORDINANCE NO. 1765

AN ORDINANCE PROVIDING FOR AN AMENDMENT TO THE CITY OF NEWPORT'S URBAN GROWTH BOUNDARY, AMENDING THE COMPREHENSIVE PLAN MAP OF THE CITY OF NEWPORT FOR SAID TERRITORY AND AN ADDITIONAL LOT, ANNEXING CERTAIN TERRITORY AS HEREIN DESCRIBED, ESTABLISHING APPROPRIATE ZONING FOR SAID TERRITORY AND AN ADDITIONAL LOT, WITHDRAWING SAID TERRITORY FROM THE NEWPORT RURAL FIRE PROTECTION DISTRICT AND THE LINCOLN COUNTY LIBRARY DISTRICT, DISPENSING WITH A CITY ELECTION ON THE QUESTION OF ANNEXATION, AND MAKING FINDINGS OF FACT, ALL IN THE CITY OF NEWPORT, COUNTY OF LINCOLN, STATE OF OREGON.

WHEREAS, Gary J. & Vicki Morin Gallagher are found to be the owners of certain real property, herein described, and have made application for amendment of the City of Newport's Urban Growth Boundary (UGB) and expansion of the corporate city limits to include such property, amendment of the Comprehensive Plan Map and Zoning Map to provide appropriate designations for said territory and one additional lot, and withdrawal of said territory from the Newport Rural Fire Protection District and the Lincoln County Library District; and

WHEREAS, after due and legal notice was given as provided by ORS 197.610, ORS 222.120(3), and ORS 222.524(2), a public hearing was held by the Common Council on the 3rd day of February, 1997, at the hour of 7:30 p.m., upon the question of said land use actions specified herein; and

WHEREAS, the City of Newport finds that no electors reside on the subject parcels to be annexed, that the owners of more than half of the land have consented in writing to annexation, and therefore an election need not be held upon the question of annexation, pursuant to ORS 222.170; and

WHEREAS, the City of Newport finds these actions to be in conformance with the herein-mentioned laws, administrative rules, and goals and guidelines, and all planning considerations show that this area would and should lie within the area expected to be needed for urbanization by the year 2010, inasmuch as this territory is considered appropriate for industrial purposes and is in an extremely desirable area for industrial use, which is found by the City Council to be the best use for this property.

NOW, THEREFORE, THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. PURPOSE AND INTENT

A. The Common Council of the City of Newport hereby finds that it is necessary and in the interest of the public's health, safety, general welfare, and convenience to provide for an amendment of the City of Newport's Urban Growth Boundary and expansion of the corporate city limits to include such property, amendment of the Comprehensive Plan Map and the Zoning Map to provide appropriate planning designations for said territory and one additional lot, and withdrawal of said territory from the Newport Rural Fire Protection District and the Lincoln County Library District.

B. The Council finds that the city's Planning Commission has conducted a public meeting on the actions to be implemented by this Ordinance and has submitted its recommendation to this Council. Furthermore, the Council has duly conducted a public hearing for the purpose of receiving testimony on this Ordinance and finds that notice as required by the Comprehensive Plan and the Zoning Ordinance has been given to interested persons, affected governmental entities, and residents of the affected area, and that notice as required by ORS 197.610 has been given to the director of the Department of Land Conservation and Development at least 45 days prior to the public hearing on this Ordinance.

C. The Council finds that it is in receipt of all matters and information necessary to consider this Ordinance in an adequate manner and that this Ordinance complies with the Statewide Planning Goals, the Oregon Revised Statutes, the Administrative Rules of the Land Conservation and Development Commission, the existing Comprehensive Plan of the City of Newport, and the City of Newport Charter. The Council hereby adopts the legal findings and conclusions contained in Exhibit "A" (Applicant's Findings of Fact) and Exhibit "B" (Planning Staff Report), hereby attached and incorporated herein.

Section 2. URBAN GROWTH BOUNDARY AND COMPREHENSIVE PLAN MAP AMENDMENTS

A. The City of Newport's Urban Growth Boundary and Comprehensive Plan Map are hereby amended and adopted to include the extended boundaries as represented in the succeeding legal description:

Lots 1-15, Block 1, OCEAN FOREST ESTATES (Tax Lots 502-513 of Lincoln County Assessor's Tax Map 10-11-20BB and Tax Lots 202-205 of Tax Map 10-11-20BC).

B. The above-described property is hereby designated "Industrial" on the Comprehensive Plan Map of the City of Newport from the previous Lincoln County designation of "Forest" and "Dispersed Residential."

C. In addition, Lot 9, Block 1, IRON MOUNTAIN BEACH (Tax Lot 301 of Lincoln County Assessor's Tax Map 10-11-20BC); previously incorporated in the Newport city limits and designated "Low Density Residential" on the Comprehensive Plan Map of the City of Newport is hereby redesignated "Industrial" on Newport's Comprehensive Plan Map.

Section 3. ANNEXATION, ZONING, AND WITHDRAWAL

A. **Annexation.** The following described territory is hereby annexed to and incorporated within the City of Newport, Oregon, to-wit:

Lots 1-15, Block 1, OCEAN FOREST ESTATES (Tax Lots 502-513 on Lincoln County Assessor's Tax Map 10-11-20BB and Tax Lots 202-205 on Tax Map 10-11-20BC).

B. **Zoning.** The above-described property is hereby designated as I-1(IMIA)/"Light Industrial (Iron Mountain Impact Area)" on the City of Newport's Zoning Map from the previous Lincoln County designations of T-C/"Timber Conservation" and RR1-2/"Rural Residential."

C. **Withdrawal.** That the property annexed to the City of Newport, described herein in Section 3(A), above, be, and the same is hereby withdrawn from the Newport Rural Fire Protection District and the Lincoln County Library 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 against the property so withdrawn from the Newport Rural Fire Protection District and the Lincoln County Library District, and further elects to assume such liability to the Newport Rural Fire Protection District and the Lincoln County Library District in the manner provided by ORS 222.520 (2)(b).

D. In addition, Lot 9, Block 1, IRON MOUNTAIN BEACH (Tax Lot 301 of Lincoln County Assessor's Tax Map 10-11-20BC), previously incorporated in the Newport city limits and designated R-1/"Low Density Single-Family Residential" on the Zoning Map of the City of Newport, is hereby redesignated I-1/"Light Industrial" on Newport's Zoning Map.

Section 4. CODIFICATION

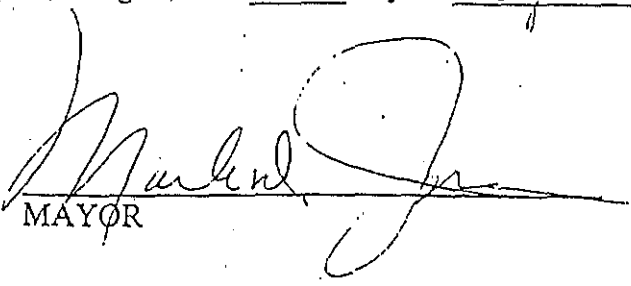
A. The Council hereby determines that the provisions of this Ordinance shall be appropriately incorporated into the Comprehensive Plan Map and the Zoning Map of the City of Newport to provide complete documents for the citizens of the City of Newport.

B. This Ordinance shall take effect on the thirtieth day after its enactment by the Common Council of the City of Newport.

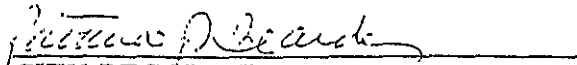
Introduced and passed the first reading at a regular meeting of the Common Council of the City of Newport, Oregon, held on the 3 day of March, 1996 RD.

Passed to the second reading, placed on final passage, and adopted by the Common Council of the City of Newport, Oregon, held on the 5 day of May, 1996 RD.

Approved by the Mayor of the City of Newport, Oregon, this 5 day of May, 1996.


MAYOR

ATTEST:


CITY RECORDER

APPLICATION FOR URBAN GROWTH BOUNDARY AMENDMENT, ANNEXATION,
COMPREHENSIVE PLAN MAP AMENDMENT AND ZONE MAP CHANGE
FOR MR. AND MRS. GALLAGHER

June 13, 1995

Applicant: Vicki Morin Gallagher and Gary Gallagher (Kurt Carstens, Authorized Agent).

Request: Consideration of a request to amend the Urban Growth Boundary; annex the subject property to the City of Newport; then amend the Comprehensive Plan Map from Lincoln County's designation of Dispersed Residential to the City of Newport's Industrial map designation; and to re-zone property from the Lincoln County's RR1-2 zone to the City of Newport's I-1 zone designation;

With the exception of one lot, the property currently has no City of Newport zone or Comprehensive Plan Map designation since it is not in the City.

Location: Tax Lot 301, Lot 9, Block 1 IRON MOUNTAIN BEACH is presently within the City limits; all the other lots are not.

Tax Assessor's Map Number: 10-11-20BB Tax Lots 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, and 513; 10-11-20BC Tax Lots 202, 203, 204, 205, and 301.

Current Zoning and Comprehensive Plan Designation: Tax Lot 301 (Lot 9, Block 1 IRON MOUNTAIN BEACH) is presently within the City limits; is zoned R-1 with a mobile home overlay, designated as "Low Density Residential" on the City Comprehensive Plan Map; all according to the existing City, Zoning and Comprehensive Land Use maps.

The remainder of the subject property, the OCEAN FOREST ESTATES subdivision, bears the County zone of RR1-2, as does the property immediately to the north.

RR1-2 is a rural residential zone as described in Section 1.1345 of the Lincoln County Zoning Ordinance. Its primary distinguishing characteristic is minimum one acre lot size if a dwelling unit is served by public or community water system, and a two acre minimum lot size if not. The subdivision contains one acre lots as the subdivision is served by a public water system. In general, the remaining controls on land use in this zone are similar to urban uses.

- 1 -

EXHIBIT "A"

EXHIBIT 1
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The County Comprehensive Plan designation of "Dispersed Residential" is consistent with the County zone designation.

The zone and plan designation of the City for the lots immediately south of OCEAN FOREST ESTATES is R-1 with a mobile home overlay - "Low Density Residential". Immediately across Highway 101 to the west of the subject property the zone and plan designation is R-1 "Low Density Residential", and on the property immediately to the east across old U.S. Highway 101 (Avery Street) is T-C "Timber Conservation", "Forest Land".

City Limits & Urban Growth Boundary: The City limits abut OCEAN FOREST ESTATES on the south as does the Urban Growth Boundary. As indicated above, Lot 9 Block 1 IRON MOUNTAIN BEACH is within the city limits of Newport.

The Urban Growth Boundary and City Limit boundary on the west is immediately across Highway 101 on the west right-of-way line thereof and extends to the north line of Section 10, Township 10 South, Range 11 West, Willamette Meridian, Lincoln County, Oregon, the same north line as the OCEAN FOREST ESTATES subdivision.

Existing Physical Characteristics: The subject property is fairly flat, vacant and covered with small trees and coastal brushy vegetation.

The subdivision site has been divided into 15 lots with the surveying accomplished to set the corners and preliminary roads installed. Each lot is about one acre.

There are three established driveways accessing off of N.E. Avery Street. In addition, all the lots have legal access to the county road if necessary.

The circumstances at each boundary of the tract are as follows:

The site is bounded on the west by heavily traveled U.S. Hwy. 101.

On the east side by the paved, two-lane old Highway 101, now known as NE Avery Street. NE Avery Street is used extensively for heavy commercial and industrial uses associated with the transfer station and recycling.

Immediately on the north the subdivision is bounded by the same type of vegetative cover as in the subdivision.

On the south the subdivision is bounded by a series of single lots, 50 feet wide and 100 feet deep, except for Lot 9 which is wider and is one of the subject lots in this land use application. These lots separate OCEAN FOREST ESTATES subdivision from paved, two-lane NE 73rd Street.

Existing uses made of the surrounding land are as follows:

Lots 1 through 9 in IRON MOUNTAIN BEACH subdivision are undeveloped, with the exception of a vacant manufactured home just recently placed on Tax Lot 302, (Lots 4, 5, and 6). One hundred feet from the OCEAN FOREST ESTATES subdivision to the south is 73rd Street. Across 73rd Street to the south is the Oregon State Police Office and two dwellings.

On the west across U.S. Highway 101, in addition to several residences, there exists the Driftwood Village Motel and the Anchorage Cottages.

To the northwest in Section 17 is the Surf 'N Sand Motel.

Immediately to the north in Section 17, on adjacent property, is Catch the Wind Kite Shop, a retail outlet.

Immediately to the east across old U.S. Highway 101 at the north end is the old City land fill, now a transfer station, and the existing recycling depot. To the south end there is a logging equipment yard and four residences in what is identified as a "Timber Conservation" zone. To the east of these home sites is the State quarry site.

To the southeast is the State stockpile and storage area known as Tax Lot 800.

Recent Use and Activity:

The individual lot, Lot 9, Block 1 IRON MOUNTAIN BEACH has long been a part of a single family residential subdivision of largely 50 by 100 foot lots in the immediate vicinity. Lots 1 through 3 and Lots 7 through 9 have never been developed. A manufactured home has been placed on Lots 4, 5, and 6 and is for sale.

OCEAN FOREST ESTATES, a subdivision, was platted in 1988.

The Oregon State Police office, south of Northeast 73rd Street, was completed in February, 1990.

More recently Tax Lots 900 and 902 received approval, pending a negotiated stay of a LUBA appeal with ODOT and DLCD, to change the zoning from "T-C" to "I-1" (with an Iron

Mountain Impact Area overlay) to develop a bowling alley complex and United Parcel Service package distribution facility. Site access will be through the NE 73rd Street/Highway 101 intersection, approximately 600 feet west of this proposed development. As a condition of this development approval, a northbound right-turn lane and north and southbound left-turn lanes on Highway 101 will be built. The Gallaghers will contribute to the funding for these improvements.

In 1989, the city limits of Newport and its Urban Growth Boundary west of Highway 101 were extended north to the same extent being sought by applicant so as to provide city services, namely sewer, to these properties.

Required Maps: All maps required in conjunction with the proposed changes are attached.

Names & Addresses for Required Notice: Attached hereto is a list of the names and addresses of all property owners of tax lots within 300 feet of and parallel to the exterior boundaries of the property.

FIRST LAND USE ACTION

URBAN GROWTH BOUNDARY AMENDMENT (Findings of Fact):

Findings shall address the following:

a. There exists a demonstrated need for the change to accommodate unpredicted population trends, to satisfy urban housing needs, or to assure adequate employment opportunities;

According to the Newport Comprehensive Plan at page 85, the population of Newport is projected to be 13,500 in the year 2010.

A comparison of wages for Lincoln County and Oregon reveals that of the eighteen categories, Lincoln County exceeds the state average in only three and totaling all industries is below average, with wages only 79.5% of Oregon's average (City of Newport Comprehensive Plan, page 120).

In direct contrast to Newport's Comprehensive Plan, the more recent YBEF report named An Inventory of Vacant Commercial and Industrial Land in Toledo and Newport and dated April 1995 (Exhibit A), found that there is a critical shortage of developable industrial and commercial lands in Newport. These lands are needed to assure adequate employment opportunities. The applicants' site can help fill those necessary employment opportunities for Newport.

In terms of commercial land, the City of Newport Comprehensive Plan indicates "additional needed" acreage of 106 acres. But, the Plan states that the commercial lands may be served by land that is presently zoned industrial (Page 130). With that industrial land being no longer available, this subject site may fill some commercial as well as industrial land needs with the resulting employment opportunities.

The YBEF report states "light manufacturing and assembly, combined with continued selective growth in the commercial and marine-related sectors of the local economy represent the desired future economic direction for Newport. The Chamber has worked hard to determine the land use needs of the types of businesses it wants to attract and has developed a marketing strategy to reach those businesses. Available land is now the critical factor." (Pages 15, 16)

The Greater Newport Chamber of Commerce has determined that over the last year two new companies expressed their need for commercial or industrial land, a bowling alley and Nautamatic. In addition, at least 5 other companies approached the Chamber in their search for expansion facilities; UPS, Englund Marine, Newport Sport, Seaberg Co., and Rogue Ale. With the exception of Englund Marine all these companies were looking for at least one-half acre or more of land. (Exhibit B)

b. An orderly and economic provision of key urban facilities and services.

The subject property presently has along its entire eastern boundary a six inch city waterline.

The city's sanitary sewer is located in Northeast 73rd Street immediately adjacent to Lot 9, Block 1 IRON MOUNTAIN BEACH a portion of the subject property.

Electricity is available to the site and provided by the Central Lincoln P.U.D.

Telephone service is provided to the site by Pacific Northwest Bell.

Both fire and police protection are available to the site. Inclusion of the property in question within the Urban Growth Boundary does not extend the fire or police service protection area.

c. Maximum efficiency of land uses within the current, urbanizable area.

According to the Newport Comprehensive Plan (Page 131), the City needs industrial land that is 5 acres in size or larger.

YBEF's April 1995 Vacant Lands Inventory documents that there are only four available industrially zoned sites in Newport. Of those four, two are seriously constrained due to size less than 5 acres and wetlands or marshiness; one is very large, lease only and in an international shipping area; the fourth is steep but the most likely to be developed soon.

Given the constraints on the above-mentioned existing industrial land, the applicants' site would have less relative impact on resources and would be available immediately for the city's economic growth.

d. Environmental, energy, economic and social consequences.

In 1988 Lincoln County determined that the subject property was urban land and not rural land as defined by the LCDC Goals and Guidelines. The County's planning process placed no constraint upon urban development in terms of an environmental consequence. The subject property is not wetland nor does it contain other environmentally sensitive features. There are no water bodies on or near the site.

As presently zoned and planned, all the vegetation may be removed from the property. However, the applicants are willing to create a deeded green belt to ensure a buffer strip along the western edge of the property to enhance the scenic entry to the city.

Including the land within the Urban Growth Boundary and planning and zoning it for light industrial uses will not adversely impact water, sewer, power, telephoné, police service, fire service or any other energy resource. The proximity of this land to Highway 101, a major transportation route will positively affect energy conservation for new businesses.

Inclusion of this land within the City will create added, light industrial lands to provide necessary and planned economic expansion as identified by the Chamber of Commerce in Exhibit B and in the YBEF, An Inventory of Commercial and Industrial Land in Toledo and Newport.

e. Retention of agricultural land, etc.

In 1988 Lincoln County zoned this land "residential", thereby defining it within the LCDC Goals and Guidelines as urban land. This land has never been defined as agricultural land.

f. Compatibility of the proposed urban uses with nearby agricultural activities.

There are no surrounding agricultural zones or Goal 3 Agricultural Uses.

g. Need for housing, employment opportunities, and livability.

The City of Newport, according to its Comprehensive Plan (Page 111), has sufficient vacant residential land within the City's Urban Growth Boundary to accommodate growth to the year 2010.

As discussed elsewhere in this application, the City of Newport's Comprehensive Plan documents that the Lincoln County area seriously lags behind the rest of the State in terms of average wages. Industrial land will help provide a location for higher paying employment opportunities than do typical service or tourist-related jobs in the Newport area.

The Oregon Department of Transportation as supported by the LUBA decision involving Tax Lots 900 and 902 as referenced above has been able to establish that residential use in this vicinity is in conflict with Oregon Department of Transportation activities. However, more recently ODOT chose to agree to light industrial zoning on those same lots.

The applicants property is immediately adjacent to the transfer station and recycling center for the garbage facility for Newport. There are a variety of commercial and industrial related uses in the immediate vicinity.

h. Statewide Planning Goal 2, Part II(c) Exception Criteria.

The four-part test of the exceptions requirement is found at OAR 660-04-020 (2) (a), (b), (c) and (d).

(2)(a). Reasons.

OAR 660-04-005(2) defines "resource" land as agricultural land, forest land, estuarine land, coastal shorelands land and beaches and dunes land. Applicant's proposal does not seek to utilize resource lands as defined by the Oregon Administrative Rules.

The State-wide Goals and Guidelines are addressed in the

third land use action applied for herein. The findings of fact determine that this land use action will be in agreement with state policies, goals and guidelines.

(2)(b). Areas which do not require a new exception cannot reasonably accommodate the use.

(A) The criteria requires that there be a map or other description of possible alternative areas considered for the use not requiring an exception. The YBEF report map entitled "Location Map: Vacant Newport Commercial and Industrial Sites" indicates those vacant sites with existing commercial or industrial zoning (Page 29).

(B) Discuss why other areas which do not require a new exception cannot reasonably accommodate the use.

As mentioned previously two of the four currently industrially-zoned sites have environmental concerns and are 1.5 acres or smaller (NVI-2 and 3). A third site is lease only, and has improvement needs for access and sewer exceeding \$500,000 (NVI-4). The fourth site is quite steep and only 5 acres in size. This steep 5 acre parcel will not meet the City's demand for industrial land. (YBEF Report Pages 63 - 66).

Both industrial and commercially zoned land are in a deficit when comparing available and utilities-served land with demand. In 1991 the City's Comprehensive Plan stated a need for 224 acres by the year 2010 with industrial land being used: for much of the future commercial uses (Page 130).

However, the YBEF report states that "in its 1991 Comprehensive Plan, the City stated that it had sufficient commercial and industrial land for the short term (five to six years). Its acreage calculations were based on projected population growth, combined with projected employees per acre. This is a typical approach and is a good strategy for determining overall, long-term land use needs. What it does not consider is the specific needs of the types of businesses the City wants to, and is likely to, attract. There is a big difference between a gross supply of appropriately zoned land and the availability of a site to meet specific needs. This is the City's present situation. It has sufficient gross acres, but, they are not all fully served, appropriately sized or located, or not available on the market" (Page 17). The report goes on to address wetlands issues on industrially and commercially zoned lands in South Beach.

The YBEF report concludes that "actually, only about four sites are realistically presently available for development" (Page 16). This determination was based on lot

size, locational needs, environmental constraints, topographical constraints, and public facilities improvements.

Density of use does not affect the problem of scarcity of commercial land; rather, the use being proposed requires larger, undeveloped tracts to accommodate the industrial uses.

The report eliminates areas within the Urban Growth Boundary that might be considered for an alternative to the subject site.

c. The long term environmental, economic, social and energy consequences.

See findings of fact under (d) above.

The broad-based study by YBEF described characteristics of alternative vacant commercial and industrial lands. The applicant is offering to mitigate industrial development in the area by:

- maintaining a 50 foot vegetative buffer strip on the west boundary of the entire tract which borders Highway 101.
- provide signage on Lot 9, Block 1 as depicted in the exhibit.
- A 42 foot height limitation for any improvements on the subject tract.
- Full participation for its share of all intersection improvements at U.S. Highway 101 and Northeast 73rd in the future as required.
- No access directly on to Highway 101 from the subject tract.

d. Proposed use compatibility.

The proposed use has no demonstrated incompatibility with the only adjacent natural resource area; that is the timber conservation land to the east.

The timber conservation land to the east is already significantly impacted by five residences, the transfer station, recycling, the quarry, and a log truck and equipment storage yard.

The remaining non-resource use, that is single family residential, is already impacted by a variety of commercial and industrial uses.

The thrust of recent planning decisions in the area is away from residential uses to commercial/non-residential uses as evidenced by the Oregon Department of Transportation LUBA decision on an attempt to re-zone to residential portions of the immediate area; and the approval to re-zone Tax Lots 900

and 902 to Industrial.

Visual impact on any uses, adverse or otherwise, is minimized by the buffer requirements.

SECOND LAND USE ACTION

ANNEXATION

1. Is the subject property within the City's Urban Growth Boundary?

Prior to this land use action, Lot 9, Block 1 IRON MOUNTAIN BEACH was within the Urban Growth Boundary and within the city limits; thus, annexation is not required for this tract.

If the companion land use actions associated with this annexation request are approved, the City will find that the remainder of the property, namely OCEAN FOREST ESTATES is within the Urban Growth Boundary.

2. Is the subject property contiguous to the existing city limits?

Lot 9, Block 1 IRON MOUNTAIN BEACH is within the city limits already and not a part of the annexation request. The southern boundary of the subject property abutting Lots 1 through 8 IRON MOUNTAIN BEACH is contiguous to the city limits.

The remainder of the subject property is contiguous to the city limits along its western boundary as the intervening road does not interrupt the definition of contiguous.

3. Have a majority of the property owners and electorate within the subject area consented?

The applicants are the only owners of the subject property and no one resides within the area proposed to be annexed.

THIRD LAND USE ACTION

FINDINGS OF FACT FOR AN AMENDMENT:

COMPREHENSIVE PLAN MAP CHANGE

1.) A significant change in one or more goals or policy:

Based upon approval of the foregoing land use actions, the Urban Growth Boundary and Newport city limits will be extended to include this property and a Comprehensive Plan Map designation will be necessary.

2.) A demonstrated need for the change to accommodate unpredicted population trends to satisfy urban housing needs or to assure adequate employment opportunities;

The City has documented the need for additional commercial and industrial land by participating in the Yaquina Bay Economic Foundation's study, An Inventory of Vacant Commercial and Industrial Land in Toledo and Newport. The group found that there is a critical shortage of serviceable industrial land in Newport, primarily due to the environmental factors and forthcoming tourist impacts on the South Beach area.

South Beach, which has been the primary area designated for commercial and industrial vacant lands in Newport, has extensive wetlands. This re-zone will help alleviate the demand for both industrial and commercially zoned property in South Beach, a sensitive resource area.

Given the critical shortage of commercial and industrial properties described in YBEF's report, dated April 1995; this subject property appears ideally suited to help fill the need for industrial land in Newport. This land will help provide important employment opportunities for Newport residents.

3.) The orderly and economic provision of key public facilities;

This zone change will not impact the orderly and economic provision of key public facilities, since water is currently available in the Avery Street right of way. Public utilities have already been provided and planned for in the neighboring IRON MOUNTAIN BEACH area. Sewer will need to be extended to the property via NE 73rd and Tax Lot 301, owned by the applicants. The Gallaghers site does not hinder the provision of the public facilities in any way.

One of the strongest assets of this property is its proximity to city services. Telephone, water and power already serve the site. Sewer serves the adjoining lots in the IRON MOUNTAIN BEACH subdivision facing NE 73rd Street. Thus, there will be no burden on the general population to extend sewer to the subject site. Tax lot 301 will primarily be used by the industrial park to access public utilities.

The ability to offer flat, fully served industrially-zoned property will be of great benefit to the City. The recent YBEF report identifies the critical need for fully served industrial property in Newport.

4.) Environmental, energy, economic and social consequences.
See findings of fact above in the application for the Urban Growth Boundary Amendment (Section d, Page 6, and Goal Exception Criteria 2 (c), Page 8) incorporated herein.

5.) The compatibility of the proposed change with the community.

See findings of fact above in Criteria (3) which include a description of the utility and access development in the area, the uses being made of surrounding lands, trends in land use actions, and the suggested mitigating factors.

6.) All applicable State-wide planning goals.

Goal 1 (CITIZEN INVOLVEMENT) and Goal 2 (LAND USE PLANNING) --

These goals will be met through the land use proceedings this application will pass through.

Goal 3 (AGRICULTURAL LANDS) --

This is not applicable since no agricultural lands are involved.

Goal 4 (FOREST LANDS) --

The subject property is not zoned for forest lands. However, across Avery Street the property is zoned and planned for forest uses. It would appear that an industrial zoning on the subject property would be more compatible with a nearby forest use than is the existing residential zoning. Generally, residential uses make forest practices more costly and economically inefficient. In addition, large vehicle traffic and noise from the forest uses, the recycling depot and the quarry site would be more compatible with industrial zoning than residential zoning on the subject site.

Goal 5 (OPEN SPACES, SCENIC AND HISTORIC AREAS, AND NATURAL RESOURCES) --

If these land use actions are approved, the applicants will provide a 50 foot green belt along the property's western edge abutting Highway 101 in order to protect the scenic value of this property along the roadway.

This green belt will help provide a more natural looking entryway to Newport than would a platted residential subdivision or mobile homes sited directly adjacent to the highway without any buffer - which the existing zoning allows as outright uses.

This area is not characterized by evidence of an ethnic, religious or social group with distinctive traits, belief, or social forms.

There are no sites, structures or objects that have local, regional, state-wide or national historic significance.

The site is not land or water that has substantially retained its natural character, nor is it an important habitat for plant, animal or marine life, nor is it important for natural, historical, scientific or paleontological features.

The subject property does not protect air, streams or water supplies.

The subject property is not needed to conserve soils, wetlands, beaches or tidal marshes.

The property is not abutting or neighboring a park, wildlife preserve, natural reservation or sanctuary, or other open space.

Goal 6 (AIR, WATER AND LAND RESOURCES QUALITY) --

The subject site is not a watershed for any viable water source.

Given that the land is flat, is not in a geologic hazard zone, is not near any water body and is close to other commercial and industrial uses this site appears to be a better location for industrially zoned property than does South Beach.

South Beach now holds 3 of the 4 inventoried vacant industrial sites in Newport, (Yaquina Bay Economic Foundation's An Inventory of Vacant Commercial and Industrial Land in Toledo and Newport, April 1995). Of those three South Beach sites one has a jurisdictional wetland over half of the site (NVI-2), one is characterized as marshy (NVI-3), and one is on the waterfront and will most likely be reserved for a water-related activity (NVI-4). The fourth site is located on Iron Mountain Haul Road but is very steep and only 5 acres in size (NVI-1).

Clearly, Newport needs additional industrial land, and this site will have less impact on natural resources than an industrial use in the existing industrially-zoned South Beach sites located in a riparian, wetland or marshy area.

Goal 7 (AREAS SUBJECT TO NATURAL DISASTERS AND HAZARDS) -

This is not applicable since the site is not in an area of known natural disasters.

Goal 8 (RECREATIONAL NEEDS) --

This is not applicable since the site does not impact or contain recreational lands.

The site contains no scenic landscapes, no historical, archaeological, or natural science resources; no scenic roads or travel-ways; no sport or cultural event possibilities; no camping, picnicking, and recreational lodging facilities or amenities; has no attractions for tourists, or accommodations therefor; has no scenic trails, water-way use facilities; does not have hunting, angling, winter sport, mineral resources, or active and passive games and activities potential.

Goal 9 (ECONOMIC DEVELOPMENT) --

As indicated in the aforementioned YBEF report, there is a critical need for industrial and commercial land in Newport, "which now faces a virtual absence of land available for development" (page 23). The YBEF report also determines that land with developable portions of at least .45 acres or larger need to be available for expansion of existing businesses, the relocation of new businesses from other areas, and the start of new businesses. The report states that at least 1-4 acres per year are needed just for new businesses relocating to the area.

Industrial zoning on this property will contribute much needed family-wage jobs for the community and local residents.

Goal 10 (HOUSING) --

It would appear that this land is not needed for residential development within the City of Newport. Page 112 of the Newport Comprehensive Plan provides: "It appears that there is sufficient (residential) vacant land within the City's Urban Growth Boundary to accommodate the anticipated growth."

In 1991 the Land Use Board of Appeals rejected a zoning effort to designate property immediately across old Highway 101 from the subject property as residential property.

Goal 11 (PUBLIC FACILITIES AND SERVICES) --

City water is readily available to the site. A six inch line with fire hydrants borders the entire east side of the subdivision.

City sewer is readily available to the site in Northeast 73rd Street. Applicants have purchased Lot 9, Block 1 to facilitate connection to City sewer.

The remaining essential services of power and telephone are also readily available to the site.

Goal 12 (TRANSPORTATION) --

Applicants acknowledge that there should be no access onto U.S. Highway 101 from the subject property directly. Access is designed to occur from the subject property east onto Avery Street where traffic would then travel in a southerly direction to 73rd Street, thence west to U.S. Highway 101.

It is not necessary for I-1 uses to be visible from U.S. Highway 101. The applicants are planning a greenway strip along the west boundary of the property to screen the subject property from traffic traveling U.S. Highway 101. This greenway strip will be recorded as a deed covenant and used as a factor when determining necessary landscaping for each lot.

The City of Newport has designated the intersection of Northeast 73rd and U.S. Highway 101 as a future, heavy use collector intersection. A northbound right-turn lane, and north and southbound left turn lanes on Highway 101 are being designed as a part of the recently approved bowling alley project. The applicants for this land use request are participating in the financing of these transportation improvements.

In the longer term, a traffic signal may be warranted at the intersection of N.E. 73rd Ave. The applicants will provide their share of the financing of this project when and if necessary.

The intersection of Highway 101 and NE 73rd Street is presently used by automobiles, State rock trucks, logging trucks, garbage and recycling vehicles. I-1 types of uses generally include delivery vans and smaller trucks. These should be compatible vehicles with the current mix of traffic.

Goal 13 (ENERGY CONSERVATION) --

The subject property is located along the primary transportation corridor for this area. Ready access to this corridor will enhance energy conservation of vehicles using this proposed industrial land. Increasing the density gradient along this high capacity transportation corridor will help the area achieve greater transportation efficiency.

Goal 14 (URBANIZATION) --

This goal has been addressed during the exceptions process of Goal 2 described hereinabove.

The subject site is not rural land which is defined by the LCDC Goals and Guidelines as : "Rural lands are those which are outside the Urban Growth Boundary and are:

- i. Non-urban agricultural, forest or open space lands, or
- ii. Other lands suitable for sparse settlements, small farms or acreage home sites with no or hardly any public services and which are not suitable, necessary or intended for urban use."

Lincoln County has previously determined in approving the OCEAN FOREST ESTATE subdivision that the subject property is suitable for urban uses, not rural use.

The wetlands conservation plan for South Beach, Oregon done in 1990 by Scientific Resources, Inc. identifies substantial wetlands and methods of dealing with them. Under any suggested scenario, lands previously designated within the area for industrial purposes are lost. This plan is incorporated by reference herein.

Goal 15 (WILLAMETTE GREENWAY) --

This is not applicable since the property is not located in the Willamette Greenway.

Goals 16 - 19 -- The Gallagher site is not located near any estuarine resources, coastal shorelands, beaches or dunes. It is not close enough to have any direct impact on the ocean for the purposes of Goal 19.

FOURTH LAND USE ACTION

ZONE CHANGE AND MAP AMENDMENT (Findings of Fact):

There are two criteria:

- 1.) The change must further a public necessity.

This land, if industrially zoned will provide employment for local residents; a public necessity. Approving the zone change will allow Newport to offer industrial property and attract new businesses seeking to relocate here, retain growing businesses which must expand and wish to do so locally, and will allow space for new businesses to start in the local environment.

From Page 120 of the Comprehensive Plan it should be noted that the economy of Lincoln County lags significantly behind the economy of the rest of the State. The Comprehensive Plan at Page 134 provides that: "The City will

work with local business effort seeking expansion, or businesses from outside the community wishing to relocate here." This section goes on to provide: "The City shall at a minimum maintain a five year supply of developable land within the City limits." The recent YBEF inventory documents that there are only four available parcels of industrial land and only one of those is really developable due to environmental concerns and lack of services.

2) The change must promote the general welfare.

As indicated in both the YBEF study and the Glick South Beach Study, the wetlands problem in South Beach leaves that area unsuitable for medium to large scale commercial or industrial development. If the zone change and map amendment are approved, the Gallagher property will be able to help meet the City's demand for industrial property, thereby reducing the demand for commercial/industrial lands in an environmentally-sensitive area.



GREATER NEWPORT CHAMBER OF COMMERCE

555 S.W. Coast Highway • Newport, Oregon 97365-4934
(503) 265-8801
FAX: (503) 265-5589
Toll-Free: 1-800-COAST44

June 13, 1995

Ms. Dawn Pavitt
Litchfield and Carstens
P.O. Box 1730
Newport, OR 97365

Dear Dawn:

This letter is to confirm our recent discussion regarding the demand/need for light industrial land in Newport. Our research shows that within an 18-month period we have had the following inquiries from new and expanding companies for land zoned and served for light industrial uses:

<u>BUILDING NEED</u>	<u>COMPANY OR USE</u>	<u>REASON</u>
3,000 s.f.	Nautamatic	New
10,000 s.f.	Nautamatic	Expansion
20,000 s.f.	Rogue Ale	Expansion
10,000 s.f.	Newport Sportfishing	Expansion
5,000 s.f.	Englund Marine	Expansion
11,000 s.f.	General Inquiry	Relocation
2,000 s.f.	General Inquiry	Relocation

Some of these businesses are more serious about expanding than others in the short term, so based on the short-term, "strong" demand for light industrial facilities, I can conclude there is usually a need for about 3 buildings per year of 10,000 square feet in size on light-industrial land. About 2 acres per year of new demand is generated for industrial land in Newport.

We have found that there is a severe shortage of both commercial and industrial land in Newport. The Chamber supported the Yaquina Bay Economic Foundation's recent work to inventory available industrial and commercial lands because of our concern about the lack of local opportunities for business growth.

Sincerely,

Craig E. Thomas
Economic Development Director

EXHIBIT
Page 25 of 39

EXHIBIT B

PAGE _____

PLANNING STAFF REPORT

- A. APPLICANT: Vicki Morin Gallagher and Gary Gallagher (Kurt Carstens, Authorized Agent).

- B. REQUEST: Consideration of a request to amend the city's urban growth boundary (UGB) to include 15.38 acres [described as Lots 1-15, Block 1, OCEAN FOREST ESTATES (Tax Lots 502-513 of Tax Map 10-11-20BB and Tax Lots 202-205 of Tax Map 10-11-20BC)]; to annex the property into the city; to change the Comprehensive Plan designation from Lincoln County's "Rural Residential" to the city's "Industrial"; to amend the Zoning Map from the county's designation of "RR-1-2" to a city designation of I-1/"Light Industrial"; and to withdraw said territory from the Newport Rural Fire Protection District and the Lincoln County Library District.

In addition, the applicants are requesting that previously annexed property [described as Lot 9, Block 1, IRON MOUNTAIN BEACH (Tax Lot 301 of Tax Map 10-11-20BC)] be redesignated on the city's Comprehensive Plan Map from "Low Density Residential" to "Industrial" and be redesignated on the city's Zoning Map from R-1/"Low Density Single-Family Residential" to I-1/"Light Industrial."

- C. LOCATION: North of the existing city limits and UGB, between North Coast Highway 101 and the Old Highway 101 (currently called N.E. Avery Street).

- D. LEGAL DESCRIPTION: See above.

- E. LOT SIZE: 15.38 ± acres.

- F. STAFF REPORT:

1. REPORT OF FACTS:

- a.) Plan Designation: Currently Lincoln County's designation of "Rural Residential"; proposed City of Newport designation of "Industrial" for the territory proposed to be annexed. For the parcel already in the city limits, it is currently designated "Low Density Residential," and the applicants propose to change the designation to "Industrial."

- b.) Zone Designation: Currently Lincoln County's designation of RR-1-2; proposed city designation of I-1/"Light Industrial" for the territory proposed to

be annexed. For the parcel already in the city limits, it is currently designated "Low Density Residential," and the applicants propose to change the designation to I-1/"Light Industrial."

- c.) Surrounding Land Uses: To the north are vacant lots and a retail kite shop. To the south is the Oregon State Police office and a State of Oregon stockpile and storage area. To the west (across Highway 101) is a mix of single-family residences and motels. To the east is a sanitary landfill and a scattering of single-family houses.
 - d.) Topography and Vegetation: The property is relatively flat and contains typical coastal vegetation of various species.
 - e.) Existing Structures: Currently there are no structures on the property.
 - f.) Utilities: All utilities are available to the property. However, they would have to be extended through the site upon development.
 - g.) Development Constraints: None known.
 - h.) Past Land Use Actions: On November 23, 1992, the Planning Commission forwarded a negative recommendation to the City Council to deny a request to include the subject property in the UGB, annex the property, and designate the property as commercial and C-3/"Heavy Commercial" on the Comprehensive Plan Map and the Zoning Map, respectively. On April 5, 1993, the City Council eventually denied the request.
2. Explanation of the Request: Pursuant to Section 2-6-1.040/"Public Hearing Procedures" of the Zoning Ordinance, 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 amend the city's UGB, include certain territory into the city limits of Newport, amend the Comprehensive Plan Map, and amending the Zoning Map. Consequently, a public hearing by the Planning Commission is required to make recommendations to the City Council regarding the request.

3. Evaluation of the Request:

- a.) Agency Comments: Notice of the proposed annexation was sent to various city departments and public utilities on June 23, 1995, and, at the time of this report, we have received the following comments:

Engineering/Public Works: No comment.

b.) Applicable Criteria:

Urban Growth Boundary: There exists (1) a demonstrated need for the change to accommodate unpredicted population trends, to satisfy urban housing needs, or to assure adequate employment opportunities; (2) an orderly and economic provision of key urban facilities or services; (3) maximum efficiency of land uses within the current urbanizable area; (4) environmental, energy, economic, and social consequences; (5) retention of agricultural lands as defined, with Class I being the highest priority for retention and Class VI being the lowest priority; (6) compatibility of the proposed urban uses with nearby agricultural activities; (7) need for housing, employment, opportunities and livability; and (8) Statewide Planning Goal 2 exception criteria.

Annexation: The subject property is within the urban growth boundary and is contiguous to the existing city limits; the consents of more than 50% of the owners and more than 50% of the electorate in the area proposed for annexation are on file; the need for the property to be in the city; urban facilities must be adequate in condition and capacity to accommodate the additional level of growth allowed in the city's plans; and those facilities must be available or can be provided to the site before or concurrent with any annexations or plan changes.

Comprehensive Plan Map Amendment: (1) A significant change in one or more goal or policy; (2) a demonstrated need for the change to accommodate unpredicted population trends, to satisfy urban housing needs, or to assure adequate employment opportunities; (3) the orderly and economic provision of key public facilities; (4) environmental, energy, economic, and social consequences; (5) the compatibility of the proposed change with the community; and (6) all applicable Statewide Planning Goals.

Zone Map Amendment: The change must further a public necessity and promote the general welfare.

c.) Staff Analysis: The request is to extend the city's urban growth boundary (UGB) to include the applicants' property where it can be annexed to the City of Newport and given a city Comprehensive Plan designation of "Industrial" and a zoning designation of I-1/"Light Industrial."

The request also involves a portion (TL 301) of the subject property which has already been annexed into the city and has Comprehensive Plan and zoning designations of "Low Density Residential" and R-1/"Low Density Single-Family Residential," respectively. The applicants wish to change the Compre-

hensive Plan and zoning designations of the tax lot to "Industrial" and I-1/"Light Industrial," respectively.

The applicants have furnished a detailed findings of fact addressing the applicable criteria, and the Commission and the Council must find whether or not the request is consistent with the criteria.

The most important issues relating to this request are three-fold: (a) Is there a need to extend the urban growth boundary to accommodate industrial or commercial growth?; (b) if the property is annexed into the city, are the proposed Comprehensive Plan and zoning designations compatible with the surrounding uses; and (c) what will be the environmental, energy, economic, and social consequences.

Urban Growth Boundary:

The subject property is adjacent to the city limits and is contiguous to the city along its western and southern boundaries.

The applicants' findings include a recent report by the Yaquina Bay Economic Foundation (YBEF), entitled An Inventory of Vacant Commercial and Industrial Land in Toledo and Newport, which states that there is a critical shortage of developable commercial and industrial land in Newport.

On pages 4 through 10 of the applicants' findings (Exhibit "A"), the applicants address all the applicable criteria established in the Comprehensive Plan for approving an urban growth boundary change.

It appears to me that the request meets the criteria for an amendment to the UGB.

Annexation:

(1) The applicants stated in their findings that they are the only owners of the subject property, and no one resides with the area proposed for annexation.

(2) If the subject property is included in the UGB, it must be found that there is a need for the property to be in the city. It must also be found that urban facilities are adequate and are available, or can be provided, to accommodate the additional level of growth allowed in the city's plans.

During the Southshore public hearings, this criterion was determined by the City Council to apply when the Comprehensive Plan is developed or updated and not at the time of individual annexation. In any case, public facilities are

available to the property subject to extension of those facilities to individual sites within the property upon development.

(3) In their findings, the applicants referred to the YBEF Report, indicating that there is a need to attract light industrial businesses to Newport. Yet, there are only four available industrially zoned sites in the city. Furthermore, the applicants explained that two of these four sites are seriously constrained.

The applicants also indicated that the Greater Newport Chamber of Commerce has determined that several new companies have expressed their needs for industrially zoned sites of at least one-half acres, including such companies as United Parcel Service, Newport Sport, Seaberg Company, and Rogue Ale.

If it is found that the subject property meets the criteria for inclusion in the UGB, then it appears that the request also meets the criteria established for annexation.

Comprehensive Plan Map Amendment:

Pages 10 through 17 of the applicants' findings (Exhibit "A") address how the request meets all the applicable criteria that have been established for approving a Comprehensive Plan Map amendment and a Zoning Map amendment.

A similar request for this property was denied a couple of years ago. However, the request was for a Comprehensive Plan Map designation of "Commercial" and a Zoning Map designation of C-3/"Heavy Commercial."

One of the most frequent concerns expressed in 1993 when the previous request was considered was that the property is located on the northern gateway to Newport, and, as such, the area should be left undeveloped and in its natural state, or, if development should occur, it must be done in such a way that the natural aesthetic setting of the north entrance is not destroyed.

It appears to me that this can be accomplished only if an adequate buffer is provided along Highway 101 so that the natural vegetation can be maintained.

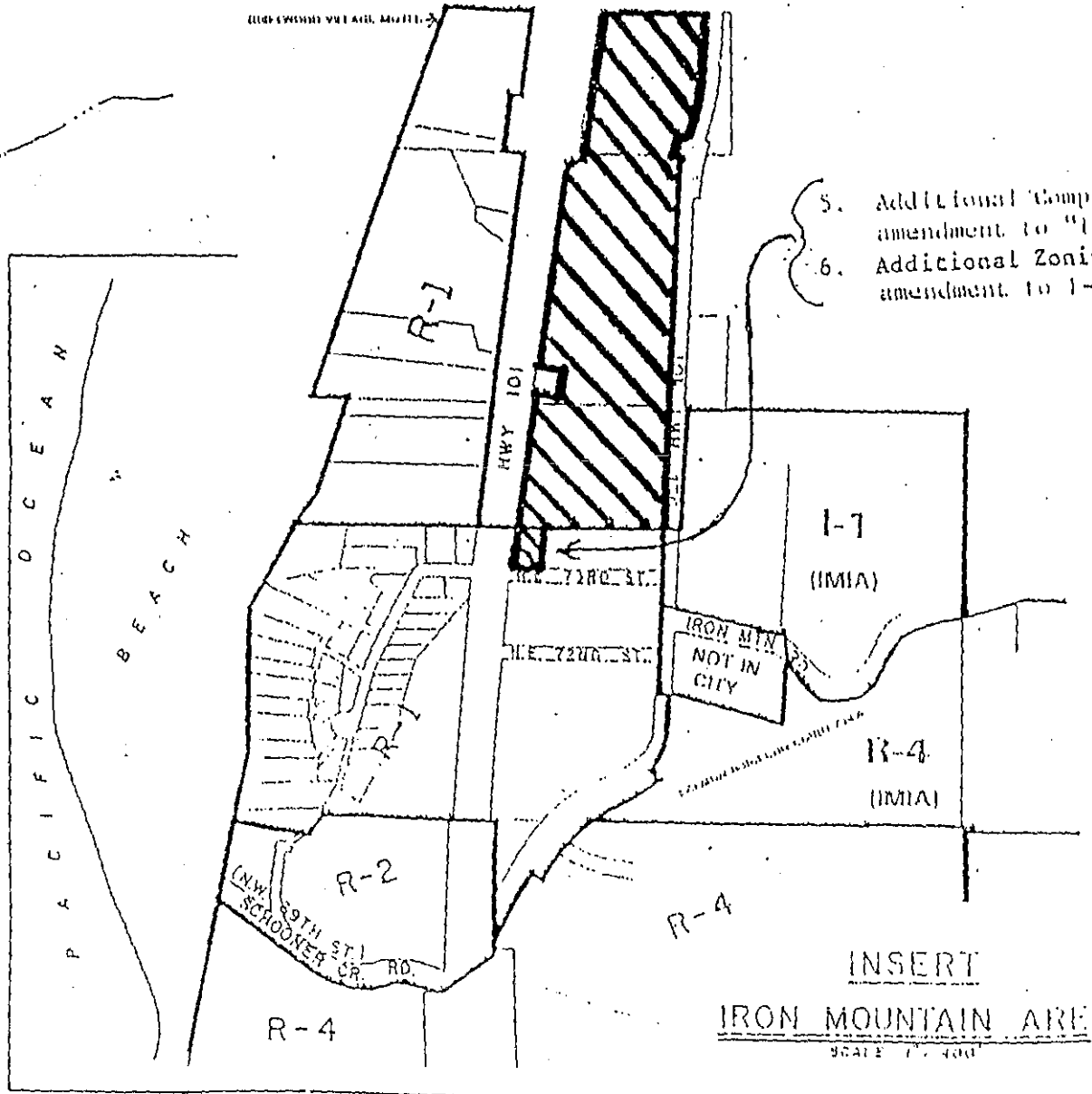
The applicants are offering to maintain a 50-foot vegetative buffer strip along the entire western boundary of the property. Also, the applicants are offering a building height limitation of 42 feet for all improvements on the subject property.

Another concern expressed the last time this area was considered for inclusion in the UGB was direct access onto Highway 101. The Oregon Department of Transportation (ODOT) has been advocating for minimum number of accesses

Norin-Gallagher Annexation:

1. UCB amendment.
2. Comp Plan amendment to "Industrial."
3. Annexation/Withdrawal.
4. Zone Map amendment to I-1/"Light Industrial."

AK



5. Additional Comp Plan amendment to "Industrial"
6. Additional Zoning Map amendment to I-1.

MEMORANDUM

To: City Council

From: Michael Shoberg, Planning Director

Subject: Gallagher Annexation

Date: January 20, 1997

When our Comprehensive Plan was acknowledged, it showed that we had an adequate supply of commercial and industrial land within the City's Urban Growth Boundary. Most of the land planned to accommodate that growth was in South Beach. In 1995, the Yaquina Bay Economic Foundation (YBEF) prepared a study that indicated that the Comprehensive Plan was in error especially in light of the extensive wetlands in South Beach, our planned industrial area. That study indicated that instead of an abundance of land there was in fact a shortage. It went on to say that the City should look into the matter.

In response to the YBEF findings, Gary and Vicki Gallagher, who own property just north of the existing City limits and just east of Hwy. 101 filed, on June 13, 1995, an application to amend the Urban Growth Boundary to include their property, to change the Comprehensive Plan to redesignate their property Industrial, to annex their property into the City and to change the zoning to I-1/Light Industrial. That application went through the hearing process at the Planning Commission level. The Commission then forwarded to the City Council a recommendation of approval for the request. It then went to the City Council for their review. At the public hearing for the Council, the Department of Land Conservation and Development testified that our Comprehensive Plan stated that we had an abundance of land so the request was not consistent with the Plan. To justify the request, the City would need to amend the Plan.

On August 21, 1995, the City Council tabled the Gallagher request and instructed Staff to update the City's Economic Element of the Comprehensive Plan because of the YBEF study. The Economic Element has been completed and it did indeed indicate that there is a shortage of commercial property in the City and it should be made up for in South Beach. The reason South Beach should be where the commercial property should be located is two fold. One is that the area is drifting that way anyway. The placement of the Oregon Coast Aquarium and the construction of Southshore changes the character of South Beach. The area seems to be going more to the commercial, especially the tourist commercial, sector of the economy.

The other reason is the extensive wetlands. Wetlands are a obstacle for industrial users especially the type of light industrial users we have. Most are warehouses or light

manufacturers that need space on one level. This means that large flat areas are most desirable. Unfortunately, the South Beach area is large and flat but the wetlands break up the property to such an extent that large buildings with the required parking are difficult to place. The wetlands therefore become a detriment.

On the other hand, commercial development or office park types of construction can use the wetlands as an amenity. A case in point is Southshore. It has built around the wetlands and uses them as a marketing tool. In fact, recent publications and studies indicate that residential and commercial users (i.e. tourist commercial) like the views afforded by wetlands. Also commercial users are not so restricted by single story buildings.

The other concern was the displacement of existing industrial users especially those next to the Oregon Coast Aquarium. It was felt that the property in South Beach will be too valuable for industrial users and commercial users will out bid and therefore displace or replace the industrial users. Where then, will the industrial users go? The answer was not an easy one but the north end of town seemed to most logical because it is relatively flat, easily serviced and it was heading that direction already because of the transfer station, the UPS building and the Iron Mountain rock quarry.

During the hearings on the original application and during the discussion of the update of the Economic Element there were a few other issues that came up. The first is the aesthetics of the development on the north entrance to the City. There were many who were concerned about the destruction of the vegetation along the highway if the Gallagher property were rezoned to industrial. In response to those concerns, Mr. Gallagher proposed that the westerly 50 feet of his property be preserved as a vegetative buffer. He offered to place a deed restriction on his property that would place a condition on all properties that buffer be maintained. He also presented some prospective site and building layouts that showed the buffer.

The other issue that has been raised during the amendment to the Comprehensive Plan is that we currently allow commercial uses in our industrial zones. The theory is that the less restrictive the zone the more uses one can have. Our zoning classification follows that theory so that uses allowed in more restrictive zones are allowed in less restrictive zones. For example, the I-1 zone, being one of our least restrictive zoning designations, allows commercial as well as light industrial uses. The concern was that the commercial uses could displace or out bid industrial users. This would do a couple of things. One it would make industrial land even scarcer and defeat the whole idea of finding a suitable place for industrial uses. Second, if commercial uses are allowed on the north end of town, they would locate there and put considerable pressure on the City to get better visibility from Hwy. 101 and an elimination of the buffer.

In summary, the matter boils down to the following:

1. The original request was tabled because of the information supplied by YBEF showing a shortage of commercial land within the City's UGB. The City has amended its Economic Element and done the analysis showing that the YBEF study was indeed correct and there is a shortage of commercial land. The Economic Element states that South Beach is the logical place to make up the difference because of physical constraints and projects such as the Oregon Coast Aquarium and Southshore. The commercial land can be accommodated in South Beach by rezoning industrial land to commercial. To make up the lost land, additional industrial land needs to be found. The most logical place is north of the existing City limits because the land is flat and is partially committed to industrial types of uses. The Economic Element, which follows this line of reasoning, has been adopted by the City and acknowledged by the State and is therefore law. The Gallagher request appears to further the Comprehensive Plan in that regard.

2. The issue of the vegetative buffer was a major concern in the original hearings. The applicant has offered to preserve that buffer by placing a deed restriction on the western 50 feet of his property. It is difficult to say whether or not this will work. Another option may be to deed the westerly 50 feet to the City and place a caveat on it that the land should remain a natural open space. The land would revert to the original owner if the caveat is broken. This matter needs to be answered prior to any final action by the City.

3. The I-1 zone does allow a number of commercial uses. The concern is that the property will be developed commercially and the City will be looking elsewhere for industrial land. Also, commercial users will put pressure on future Councils to remove the buffer for better visibility on Hwy. 101. The Council needs to consider limiting the property to industrial uses. We do have a model for this in the Iron Mountain Impact Area overlay. In that area that is zoned I-1, the uses are limited to light industrial uses.

EXHIBIT "B" (con't)