

BEFORE THE BOARD OF COMMISSIONERS
FOR LINCOLN COUNTY, OREGON

ORDINANCE # 432

Amending the Joint Urban Growth Boundary (UGB) for the City of Newport/Lincoln County to include eight parcels totaling approximately 85 acres of land on property identified as Lincoln County Assessor's Map #10-11-20, Tax Lots 200, 300, 301, 400, 500, and 501, and Lincoln County Assessor's Map #10-11-17, Tax Lot 1300 and Tax Lot 1305 and finally including a portion of NE Avery Street. In addition, this ordinance enacts a Comprehensive Plan Amendment from Forest to Industrial and a Zoning Map Amendment from Timber Conservation (T-C) to Planned Industrial (I-P) on two of the eight parcels identified as Lincoln County Assessor's Map #10-11-20, Tax Lot 500 and Tax Lot 501, and declaring an emergency. (Case File #1-LUPC-PC-04).

WHEREAS after published and mailed notice in accordance with law, the Lincoln County Planning Commission held a public hearing on April 26, 2004, and voted 4-2 to recommend approval of a request by applicants M. R. Wood, Mary Wood, Betty Wood, and the City of Newport for amendment of the Joint Urban Growth Boundary (UGB) for the City of Newport/Lincoln County to include eight parcels of land totaling approximately 85 acres on property identified as Lincoln County Assessor's Map 10-11-20, Tax Lots 200, 300, 301, 400, 500, and 501; and Assessor's Map #10-11-17, Tax Lot 1300 and Tax Lot 1305 and including a portion of NE Avery Street (Note the boundary maps have been corrected to reflect that Tax Lots 1300 and 1305, Assessor's Map #10-11-17 lie on both sides of NE Avery Street and are included in the UGB and to fully describe the portion of NE Avery Street south of the amended UGB which will be included within the UGB); and

WHEREAS the Lincoln County Planning Commission also voted 4-2 to recommend a Comprehensive Plan Map Amendment from Forest to Industrial and Zone Change from Timber
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Conservation (T-C) to Planned Industrial (I-P) on two of the eight parcels identified as Assessor's Map #10-11-20, Tax Lot 500 and Tax Lot 501; and

WHEREAS after published notice in accordance with law, the Lincoln County Board of Commissioners held a public hearing on July 7, 2004, to consider the UGB Amendment, the Comprehensive Plan Map Amendment and Zoning Map Amendment requests; and

WHEREAS at the conclusion of that hearing, the Board voted 3-0 to approve the requests;

NOW, THEREFORE, IT IS HEREBY ORDAINED AS FOLLOWS:

SECTION 1.

1. The Joint Urban Growth Boundary for the City of Newport Newport/Lincoln County is hereby amended to include approximately 85 acres of land in the Newport Urban Growth Boundary identified as Lincoln County Assessor's Map 10-11-20, Tax Lots 200, 300, 301, 400, 500, and 501, and Assessor's Map #10-11-17, Tax Lot 1300 and Tax Lot 1305 (both sides of NE Avery Street) and finally including that portion of NE Avery Street lying south of the westerly extension of the northerly boundary of Tax Lot 1305, Assessor's Map #10-11-17.

2. The Lincoln County Comprehensive Plan Map is hereby amended from Forest to Industrial and the Lincoln County Zoning Map is hereby amended from Timber Conservation (T-C) to Planned Industrial (I-P) both on property identified as Tax Lot 500 and Tax Lot 501, Assessor's Map #10-11-20.

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

4. Copies of this ordinance shall be forwarded to County Surveyor; County Assessor; County Counsel; the Lincoln County Department of Planning and Development; and the interested parties listed on Exhibit "B" attached hereto.

5. The Lincoln County Department of Planning and Development shall amend the official county planning and zoning maps and shall forward a copy of this ordinance to the City of Newport and 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 21st day of July, 2004.

LINCOLN COUNTY BOARD OF COMMISSIONERS



DON LINDLY, Chair

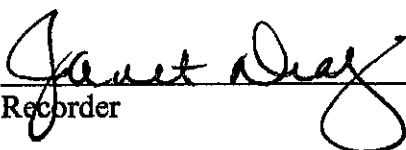


TERRY N. THOMPSON, Commissioner



JEAN COWAN, Commissioner

ATTESTED TO:



Janet Dray
Recorder

APPROVED AS TO FORM:



Wayne Belmont, County Counsel

BEFORE THE PLANNING COMMISSION
OF
LINCOLN COUNTY, OREGON

Urban Growth Boundary Map Amendment;) Case File #1-LUPC-PC-04
Comprehensive Plan and zone map amendment) Findings, Conclusions and Final Order
Applicants: City of Newport and Woods'
Agent: Dawn Pavitt; Pavitt Land Use
Consulting LLC

Nature of the Request

Applicants request a comprehensive plan map amendment to include eight parcels comprising approximately 85 acres into the City of Newport Urban Growth Boundary (UGB). The request also includes a plan and zoning map amendment for two parcels, from Timber Conservation (T-C) to Planned Industrial (I-P). The remaining six parcels will be annexed into the city and would then be subject to City of Newport zoning.

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 Forest Land.
2. The subject property is currently zoned T-C (Timber Conservation).
3. The subject properties are located on the east side of NE Avery Street at the 7600-8000 block and are identified as tax lots 200, 300, 301, 400, 500 and 501 on Lincoln County Assessor's map #10-11-20, and tax lots 1300 and 1305 on Assessor's Map #10-11-17.

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4. According to the applicant, the subject property is generally level with some minor slope variations. The property tends to rise to the east. Portions of the land on the western side is residentially landscaped or covered in coastal vegetation. To the east is forest. An unnamed drainageway flows through the property then to the west.
5. The subject property consists of the closed Agate Beach Landfill site owned by the City of Newport and used as a transfer station and recycling depot. On the remaining private property are several residences and vacant land.
6. Urban services will be extended to the subject properties.
7. The RNKR Geologic Hazards Inventory, shows portions of a broader reaching geologically recent slide located near the NW corner of the Agate Beach Transfer Station. Environmental Bulletin 81 indicates areas of high groundwater near Highway 101. No other development constraints were identified.
8. To the west is vacant property within city limits zoned I-1/Light Industrial (generally known as the Northgate Industrial Park property). East/southeast is the Oregon Department of Transportation (ODOT) Iron Mountain Quarry. To the east/northeast is property owned by Central Lincoln P.U.D. To the south is property within city limits zoned I-1/Light Industrial (also within the Iron Mountain Impact Area Overlay Zone) and includes such uses as the United Parcel Service main station for the Newport area and the Thompson Sanitary Service facility. To the north is property in a Lincoln County T-C /Timber Conservation zone designation. To the west/northwest along Highway 101 is property with a Lincoln County zone designation of RR-2/Rural Residential.
9. Details of the applicant's proposal can be found in staff's report and evidence submitted by the applicant, which is incorporated into the record herein.
10. Agency comments contained in staff's report is by reference incorporated into the record herein.
11. The City of Newport conducted public hearings regarding the proposed map amendments. According to the City, no opposition testimony was entered into the record. Testimony submitted by the Oregon Department of Transportation as it relates to protection of the Iron Mountain Quarry is by reference incorporated into the record herein.

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12. Ordinance No. 1870, adopted as the Findings of Fact by the City of Newport, amends the City of Newport Urban Growth Boundary to include the subject property, and at the same time assigns comprehensive plan and zoning designations as described in the application materials and staff report. In addition to other applicable criteria, the criteria to be addressed under Goal 14 (Urbanization) were presented throughout the narrative of the application. The findings conclude that inclusion of the subject property into the UGB will help meet the projected demand for industrial and commercial property. Through the analysis, the City also concluded there is a public need for the change being sought.
13. A public hearing was held before the Lincoln County Planning Commission on Monday, April 26, 2004. All interested parties were given an opportunity to testify.
14. Dawn Pavitt (Pavitt Land Use Consulting LLC), representative for the applicant, presented testimony on behalf of the request. Additional testimony in support of the application was presented by Rich Richmond (representing the Woods') and James Bassingthwaite, Community Development Director for the City of Newport.
15. One neighboring property presented oral testimony regarding future transportation planning in the area of SE 73rd St., Avery Street and Highway 101. Concerns were expressed related to increased traffic along SE 73rd St.
16. After hearing rebuttal testimony, the public hearing was closed. There was no request for the record to remain open or for a continuance of the proceedings.

Relevant Criteria

- 1) Statewide Planning Goal 2: Land Use Planning
- 2) Statewide Planning Goal 4: Forest Lands
- 3) Statewide Planning Goal 14: Urbanization
- 3) Lincoln County Comprehensive Plan Section 1.0190:
 - a. Forest Lands
 - b. Industrial
 - c. Section 1.0610 Land Use Planning
 - d. Section 1.0030 Urbanization Policies
 - e. Section 1.0130 Economic Goals
 - f. Section 1.0140 Transportation Goals

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- 4) Lincoln County Land Use Code:
- a. Section 1.1235 Quasi-Judicial Amendments
 - b. Section 1.1375 Timber Conservation Zone
 - c. Section 1.1364 Planned Industrial Zone


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 #1-LUPC-PC-04 be APPROVED. This ORDER serves as a recommendation to the Lincoln County Board of County Commissioners.

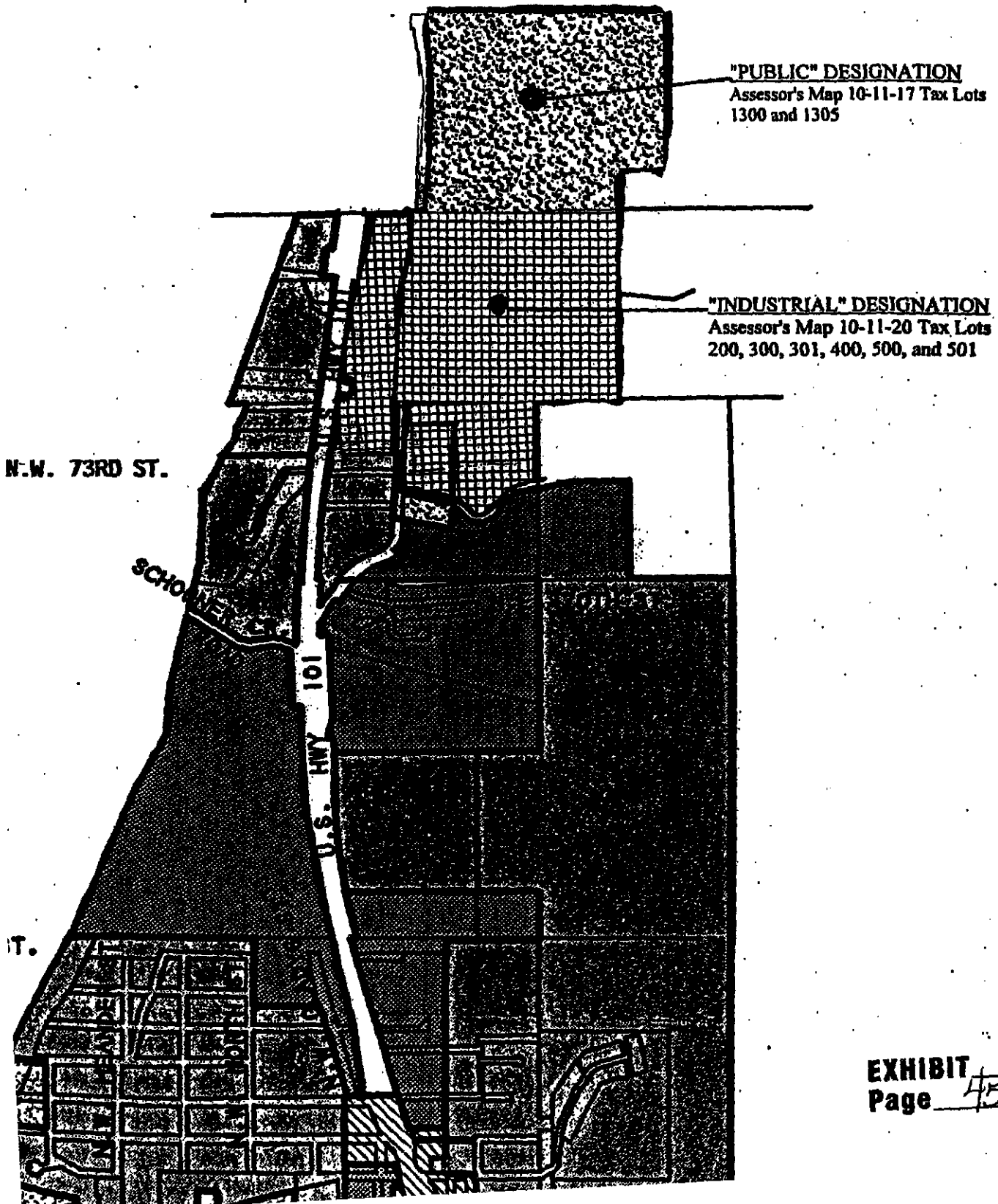
This ORDER was presented to and approved by the Lincoln County Planning Commission on May 10, 2004.



Lincoln County Planning Commission
Roger Grady, Chair

EXHIBIT "E"

Illustration of the designations on the Comprehensive Plan Map of the City of Newport of the property included within the expanded Urban Growth Boundary (UGB).



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CITY OF NEWPORT

ORDINANCE NO. 1870

AN ORDINANCE ADOPTING LAND USE FINDINGS AND AMENDING ORDINANCE NO. 1621 (AS AMENDED) OF THE CITY OF NEWPORT, OREGON, TO ADOPT A REVISED "ECONOMIC SECTION" TO THE NEWPORT COMPREHENSIVE PLAN, TO EXPAND THE URBAN GROWTH BOUNDARY, AND TO ADOPT COMPREHENSIVE PLAN MAP DESIGNATIONS FOR PROPERTY INCLUDED WITHIN THE EXPANDED URBAN GROWTH BOUNDARY.

WHEREAS, a request (Newport File # 1-UGB-03/3-CP-03/4-CP-03/1-AX-03/8-Z-03) was filed by the owners of property (M.R. Wood, Mary Wood, Betty Wood and the City of Newport) (Dawn Pavitt, Pavitt Land Use Consulting, LLC, as authorized agent) to consider adopting revisions to the "Economic Section" of the Newport Comprehensive Plan, to expand the Urban Growth Boundary, to amend the Newport Comprehensive Plan Map, to annex a portion of the property into the city limits and withdraw property from several districts, and to amend the Newport Zoning Map to adopt zone designations for the annexed property,

WHEREAS, the Planning Commission of the City of Newport, after providing the required public notification, including the notification to the Department of Land Conservation & Development, held a public hearing on December 8, 2003, for the purpose of reviewing the proposed ordinance and providing a recommendation to the City Council,

WHEREAS, the above said public hearing was held in accordance with the appropriate provisions of the city ordinances, and, after due deliberation and consideration of the proposed change, the Planning Commission, by a unanimous vote did recommend that the proposed requests be approved with a recommendation that a traffic impact study be completed and issues with the Iron Mountain Impact Area be considered;

WHEREAS, the City Council of the City of Newport, after providing the required public notification, was scheduled to hold a public hearing on January 20, 2004, and at the January 20, 2004, Council meeting, said public hearing was continued to the February 2, 2004, City Council meeting at the request of Dawn Pavitt (authorized agent),

WHEREAS, the Council held the public hearing on February 2, 2004, regarding the question of the proposed Comprehensive Plan text amendment, the Urban Growth Boundary expansion, the Comprehensive Plan Map amendment, the annexation and withdrawal, and the zoning of the property to be annexed,

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7. Excerpt from the Oregon Business Plan
8. Update of YBEF Report Map Entitled "Location Map: Vacant Newport Commercial and Industrial Sites"
9. Consents to Annex by Property Owners
10. List of Addresses within Area to be Annexed
11. Lincoln County Assessor's Values of All Properties to be Annexed
12. Letter dated August 25, 2003 from Lee Ritzman, City of Newport Public Works Director
13. Flood and Hazard Maps provided from Lincoln County files
14. Existing Economic Section of the City of Newport's Comprehensive Plan
15. Proposed Amended Economic Section of the City of Newport's Comprehensive Plan
16. Existing Inventory of Vacant Industrial and Commercial Properties adopted as part of the Economic Section revisions adopted in 1996 (with Zoning added for purposes of this application)

2. The requests are summarized as follows:

A. Amend the Newport Comprehensive Plan "Economic Section" relating to the need for industrial and commercial land to include updated/revised data, analysis, text, tables, conclusions, and an amended Policy 2 of Goal 1 of the "Economic Section" in support of the Urban Growth Boundary amendment. (Newport File # 3-CP-03)

B. Amend the Newport Comprehensive Plan Map to expand the Urban Growth Boundary to include approximately 85.15 acres of property including 39.73 acres (approximate) of property owned by M.R. Wood, Mary Wood and Betty Wood and 45.42 acres (approximate) of property (landfill property) owned by the City of Newport. An exception to Statewide Planning Goal 4 (Forest Lands) is proposed to remove the subject property from the County Comprehensive Plan Map designation of "Forest" and the County Zoning Map designation of "Timber-Conservation". (Newport File # 1-UGB-03)

C. Amend the Newport Comprehensive Plan Map to establish plan map designations of "Industrial" for 39.73 acres (approximate) and "Public" for 45.42 acres (approximate) and to change the property from the Lincoln County Comprehensive Plan Map designation of "Forest". (Newport File # 4-CP-03)

D. Annex into the City property owned by M.R. Wood, Mary Wood, and the City of Newport. As part of the annexation, the property will be withdrawn from the following districts: Newport Rural Fire Protection District and the Lincoln County Library District. Annexation of property owned by applicant Betty Wood (Lincoln County Assessor's Map # 10-11-20 Tax Lot 500 and 501) is not proposed at this time. (Newport File # 1-AX-03)

E. Amend the Newport Zoning Map to establish City zone designations for the annexed properties including: 1) the establishment of a mix of I-2/"Medium Industrial" (the intent of the I-2 zone is to provide areas suitable for industrial activities, including manufacturing, fabricating, processing, packing, storage, repairing, and wholesaling and

7. The Planning Staff Report (dated January 9, 2004) and attachments prepared for the City Council was distributed to the City Council on January 9, 2004, along with a cover memo (dated January 9, 2004) from CDD James Bassingthwaite noting that a request to continue the public hearing may be made in order to allow additional time to address the Transportation Planning Rule and Iron Mountain Impact Area issues. The Planning Staff Report and the accompanying attachments are hereby incorporated by reference. The Planning Staff Report attachments included the following attachments:

Attachment "A"	Applicant Requests
Attachment "A-1"	Requested Amendments to the "Economic Section" of the Newport Comprehensive Plan
Attachment "A-2"	Requested UGB Amendment
Attachment "A-3"	Requested Comprehensive Plan Amendment
Attachment "A-4"	Requested Annexation
Attachment "A-5"	Requested Zoning Map Amendment
Attachment "A-6"	Proposed Change to the Comprehensive Plan Map and Zoning Map (<u>Applicant Exhibit 1a</u>) (Revised)
Attachment "A-7"	Proposed Change to the Comprehensive Plan Map and Zoning Map (<u>Applicant Exhibit 1b</u>)
Attachment "A-8"	Lisa Noah (Economic Dev. Dir., Newport Chamber) letter dated June 2, 2003 (<u>Applicant Exhibit 6</u>)
Attachment "A-9"	Excerpt from the Oregon Business Plan (<u>Applicant Exhibit 7</u>)
Attachment "A-10"	Update of YBEF Report Map (<u>Applicant Exhibit 8</u>)
Attachment "A-11"	Lee Ritzman (Public Works Dir., City of Newport) letter dated August 25, 2003 (<u>Applicant Exhibit 12</u>)
Attachment "A-12"	Flood and Hazard Maps (<u>Applicant Exhibit 13</u>)
Attachment "A-13"	Existing Economic Section of the City of Newport's Comprehensive Plan (<u>Applicant Exhibit 14</u>)
Attachment "A-14"	Proposed Amended Economic Section of the City of Newport's Comprehensive Plan (<u>Applicant Exhibit 15</u>)
Attachment "A-15"	Existing Inventory of Vacant Industrial and Commercial Properties (<u>Applicant Exhibit 16</u>)
Attachment "A-16"	Building Permit Information (<u>Applicant Exhibit 17</u>)
Attachment "A-17"	Ownership and Development in I-1 Zone (<u>Applicant Exhibit 18</u>)
Attachment "A-18"	Vicinity Map (<u>Applicant Exhibit 19</u>)
Attachment "B"	Notice of Public Hearing and Map
Attachment "C"	Statewide Land Use Planning Goal 9
Attachment "D"	Topography of Subject Property
Attachment "E"	Lincoln County Comprehensive Plan and Zoning Map
Attachment "F"	Aerial Photograph of Subject Property
Attachment "G"	Newport Zoning Map
Attachment "G-1"	Uses Allowed in the I-2 and I-3 Zones
Attachment "G-2"	Uses Allowed in the P-1 Zone
Attachment "G-3"	Intent of the I-2 and I-3 Zones
Attachment "G-4"	NZO Section 2-4-14 (Iron Mountain Impact Area)

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copy of the Lancaster Engineering TIA completed in 2002 and referenced in the Kittelson January 2004 TIA. The deTar 1/16/04 letter identified ODOT's position in favor of expanding the Iron Mountain Impact Area program to the property within the proposed UGB expansion that is also within the Iron Mountain Impact Area. At the noon work session on February 2, 2004, the Council also received a cover memo from CDD James Bassingthwaite dated February 2, 2004, and a set of proposed findings regarding the Iron Mountain Impact Area dated January 28, 2004.

11. The City Council held the public hearing on February 2, 2004, and the minutes of the hearing are hereby incorporated by reference. As part of CDD Bassingthwaite's staff report, a number of items were entered into the record including:

- A. The DLCD 45 Day Notification form and attached maps.
- B. Affidavits of Mailing Land Use Notices for the Planning Commission and City Council Hearings.
- C. Proof of Publication of notice in the Newport News-Times for the Planning Commission 12/8/03 hearing (published 12/3/03), the City Council 1/20/04 hearing (published 1/14/04), the City Council 2/2/04 hearing (published 1/23/04 and 1/30/04 for the annexation/withdrawal requests).
- D. Affidavit of posting of notice for the annexation/withdrawal requests.
- E. Additional items demonstrating coordination with Lincoln County including a copy of the cover page of the Planning Staff Report for the Planning Commission hearing with note dated 12/3/03 to Matt Spangler (Lincoln County), copy of the cover page of the Planning Staff Report for the City Council hearing with note dated 1/14/04 to Matt Spangler (Lincoln County), and copy of cover letter dated 1/22/04 to Matt Spangler (Lincoln County) included with a copy of the Kittelson January 2004 TIA for Lincoln County to review.
- F. The complete set of application materials including consents to annex.
- G. Registered voter information from the Lincoln County Clerk's office.
- H. The previously distributed John deTar (ODOT) letter dated 1/30/04.
- I. The complete copy of the Kittelson January 2004 TIA.
- J. The Iron Mountain Impact Area draft findings dated 1/28/04 previously distributed.

12. At the City Council hearing on February 2, 2004, the Council heard a brief summary of the presentation from Dawn Pavitt (Pavitt Land Use Consulting, LLC). No other person appeared in person before the Council. Councilors asked several questions on the applications including the reason for not annexing Tax Lot 500/501 at this time (Pavitt was uncertain as to why Betty Wood did not want to annex at this time), whether staff had had an opportunity to be involved in the drafting of the proposed comprehensive plan text amendment (CDD Bassingthwaite indicated that he had had the opportunity to be involved in the drafting of the amendment), and on pump station issues (Public Works Director Ritzman indicated that the upgrades needed in the future would be required regardless of the urban growth boundary expansion). After deliberation on the proposed requests, the Council voted unanimously to approve the requests with the application of the IMIA overlay to the property within the IMIA.

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5. Retention of agricultural land 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.

C. Criteria for the Proposed Comprehensive Plan Map Amendment (p. 286 of the Comprehensive Plan):

1. A change in one or more goal or policy; and
2. A demonstrated need to accommodate unpredicted population trends, housing needs, employment needs, or change in community attitudes; and
3. The orderly and economic provision of key public facilities; and
4. The ability to serve the subject property with City services without an undue burden on the general population; and
5. The compatibility of the proposed change with the surrounding neighborhood and community.

D. Criteria for the Proposed Annexation (NZO Section 2-5-6.020):

1. The required consents have been filed with the city; and
2. The territory to be annexed is within the acknowledged urban growth boundary (UGB); and
3. The territory to be annexed is contiguous to the existing city limits.

E. Criteria for the Proposed Zoning Map Amendments (NZO Section 2-5-5.005):

1. The change furthers a public necessity.
2. The change promotes the general welfare.

CONCLUSIONS

1. The Newport City Council concludes that because the criteria in NZO Section 2-5-6.020 for an annexation requires that the territory to be annexed must be within the acknowledged urban growth boundary, the annexation of the subject property (Lincoln County Assessor's Map # 10-11-20 Tax Lots 200, 300, 301, and 400 (owned by M.R. and Mary Wood) and Assessor's Map # 10-11-17 Tax Lots 1300 and 1305 (owned by the City of Newport)) needs to be completed after the City receives "acknowledgement" of the urban growth boundary. Lincoln County and the Department of Land Conservation & Development still need to review and approve the proposed urban growth boundary expansion. The City of Newport, however, allows applications to be consolidated for the purpose of the public hearing process. The City Council concludes that if the final decision (which would be the adoption by ordinance with all the necessary signatures) on the annexation (and the related withdrawal request and Zoning Map amendments) occurs after the City of Newport receives acknowledgement of the urban growth boundary, then this criterion will be satisfied. The Council will therefore adopt the Comprehensive Plan text amendment, the urban growth boundary amendment and the Comprehensive Plan Map amendment in one ordinance and will adopt the other parts of the requests in a separate ordinance after acknowledgement of the urban growth boundary is received.

4. The applicable criteria for the proposed Comprehensive Plan Text Amendment (p. 287-288 of the Comprehensive Plan)

Criteria for the Proposed Comprehensive Plan Text Amendment (p. 287-288 of the Comprehensive Plan) include findings that address the following:

For data, text, inventories or graphics amendments:

- 1. New or updated information**

For conclusion amendments:

- 1. Change or addition to the data, text, inventories, or graphics which significantly affects a conclusion that is drawn for that information.**

For goal and policy amendments:

- 1. A significant change in one or more conclusion; or**
- 2. A public need for the change; or**
- 3. A significant change in community attitudes or priorities; or**
- 4. A demonstrated conflict with another plan goal or policy that has a higher priority; or**
- 5. A change in a statute or statewide agency plan; and**
- 6. All the Statewide Planning Goals.**

5. The applicant has submitted detailed findings as set forth in Planning Staff Report Attachment "A-1" (Requested Amendment to the "Economic Section" of the Newport Comprehensive Plan) (pages 3 through 12 of the application materials dated October 21, 2003) that address the relevant criteria. Those findings (on pages 3 through 12) are hereby adopted by the Council in support of the application and incorporated by reference. A brief summary of those findings is provided as follows:

A. The applicant has submitted findings (pages 5 through 8 of the application request dated October 21, 2003) for an amendment to the data, text, inventory and graphics of the "Economic Section" that demonstrate new or updated information based on an analysis of the previous industrial and commercial lands inventory information conducted in 1995 and changes in the Comprehensive Plan designations of property since adoption of the previous 1995 inventory. The findings conclude that there is a net deficit of 39.85 acres of commercial and industrial land to meet the projected land needs.

B. The applicant has submitted findings (pages 9 through 10 of the application request dated October 21, 2003) for an amendment to the conclusions portion of the "Economic Section" that demonstrate a change or addition to the data, text, inventories or graphics by the net deficit of 39.85 acres which significantly affects the conclusion previously drawn by the "Economic Section." The findings also demonstrate a need to consider additional property to meet a requirement of Statewide Planning Goal 9, which is to: "3. Provide for at least an adequate supply of sites of suitable sizes, types, locations, and service levels for a variety of industrial and commercial uses consistent with plan policies."

8. The applicant submitted findings addressing all of the criteria in pages 13-24 of the application request dated October 21, 2003. The findings were included as Planning Staff Report Attachment "A-2" (Requested UGB Amendment). Those findings (on pages 3 through 12) are hereby adopted by the Council in support of the application and incorporated by reference with the exception of the finding regarding compatibility with Goal 5 and the Iron Mountain Impact Area which are modified as set forth in finding # 9.

9. The Council finds that the subject property, although not within the Newport Comprehensive Plan identified Iron Mountain Impact Area map and not identified on the Lincoln County Comprehensive Plan map as being within Lincoln County's Iron Mountain Impact Area, is within the Iron Mountain Impact Area as identified by the Oregon Department of Transportation. The Council finds the following:

A. As part of the Newport Comprehensive Plan section entitled "Aggregate and Mineral Resources" (page 80a to 80w), the City of Newport has adopted policies to protect the Iron Mountain Quarry operated by the Oregon Department of Transportation and to allow uses in the Iron Mountain Impact Area subject to restrictions designed to balance potential conflicts. The Goal adopted by the City of Newport is "To protect the Iron Mountain Quarry and allow conflicting uses, subject to the limitations and development criteria contained in the City of Newport Zoning Ordinance". See Planning Staff Report Attachment "H" (Newport Comprehensive Plan Iron Mountain Impact Area). Policy 2 of that Goal states: "Any City of Newport urban growth boundary amendment within Lincoln County's Iron Mountain Impact Area shall address this section and Goal 5 of the Statewide Planning Goals. Adequate findings of fact that speak to all the criteria shall be made before any urban growth boundary modification may be made."

B. As noted in the applicant's proposed findings, the subject property has not been designated by Lincoln County as being within Lincoln County's Iron Mountain Impact Area. See Planning Staff Report Attachment "E" (Lincoln County Comprehensive Plan and Zoning Map). As part of the program to achieve protection for the Iron Mountain Quarry, ODOT filed a request with the City of Newport to adopt Comprehensive Plan amendments for protection of the Iron Mountain Quarry (page 80d of the Newport Comprehensive Plan). The City of Newport adopted the amendments in Ordinance No. 1691 on November 15, 1993. As part of ODOT's request, ODOT appeared to have requested that both the City and County to adopt a program to achieve the Goal 5 protection. In the request, ODOT noted that "the county needs to adopt an extraction area and impact area as comprehensive plan and zoning designations. The city concurrently needs to adopt an impact area designation for affected property within its jurisdiction." (page 80p of the Newport Comprehensive Plan). The subject property is not within the adopted Newport Comprehensive Plan map entitled "Iron Mountain Impact Area." See Planning Staff Report Attachment "H" (Newport Comprehensive Plan Iron Mountain Impact Area). The subject property is not identified on the Lincoln County Comprehensive Plan and Zoning Map as being within Lincoln County's Iron Mountain Impact Area. See Planning Staff Report Attachment "E" (Lincoln County Comprehensive Plan and Zoning Map).

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need to be considered for possible inclusion in the UGB in order to satisfy the second priority consideration. The nonresource land adjacent to the existing UGB was illustrated in Planning Staff Report Attachment "K" (Nonresource Land - Outside UGB Areas) and identified in the Planning Staff Report as Outside UGB Areas # 1 through # 8. Based on the analysis and documentation in the Planning Staff Report on pages 14 through 16, the Council concludes that nonresource land is not available to meet the demonstrated need for industrial land as follows:

1. Outside UGB Area # 1A is the area adjacent to the subject properties consisting of the Oregon Department of Transportation Iron Mountain quarry facility (Outside UGB Area # 1A). The Iron Mountain quarry facility is designated as County Public Facility and is an active quarry facility. The Iron Mountain quarry facility is a Goal 5 resource recognized by the Newport Comprehensive Plan (pages 80a through 80w).
2. Outside UGB Area # 1B is near the subject property is located along Highway 101 and is designated as County RR-1-2. Outside UGB Area # 1B consists of approximately 8.83 acres (based on the Assessor's Map information). On the map entitled "DOGAMI HAZARD MAP" (Planning Staff Report Attachment "A-12" (Flood and Hazard Maps (Applicant Exhibit 13))), Outside UGB Area #1B is located in an area identified by the Map Symbols as: "Contact between areas of mass movement and other areas - Approximately located. Outlines a general area of mass movement of one or several ages and types."
3. Outside UGB Area # 2 and # 3 are residential areas located on the north side of the Yaquina Bay east of the UGB near Highway 20. One of the outside areas (Outside UGB Area # 2) includes property designated County RR1-2 (also known as the Newport Heights area). The topography of this area is very steep as illustrated in Planning Staff Report Attachment "K-1" (Topography of Outside UGB Areas # 2 & #3). Additionally, Outside UGB Area # 2 is located adjacent to property within the UGB designated as Low-Density Residential. For the I-2 and I-3 zone designations proposed for the subject property, the intent of the NZO Section 2-2-1.020 (Intent of Zoning Districts) is for property designated I-2 and I-3 to be located away from residentially zoned property. The other outside area on the north side of the Yaquina Bay (Outside UGB Area # 3) is designated County RR1-2 (and is located to the east of SE Benson Road and between Highway 20 and the Yaquina Bay - Sallys Bend area). The topography of this area is very steep as illustrated in Planning Staff Report Attachment "K-1" (Topography of Outside UGB Areas # 2 and # 3). Additionally, the property is located adjacent to property within the UGB designated for Low-Density Residential development. Again, the NZO Section 2-2-1.020 intent for the I-2 and I-3 zone classifications is for I-2 and I-3 zoned property to be located away from residentially zoned properties.
4. The remaining outside areas are located south of the Yaquina Bay. Outside UGB Area # 4 includes several small properties designated County RR1-2. The

productivity when exposed to wind and salt air, and; 2) urban and community development along the coast has occurred mainly on soils in unit 3. See Planning Report Attachment "L-1" (1997 NRCS Soil Survey "Broad Land Use Considerations).

2. Soil map unit types on the subject property are illustrated in Planning Staff Report Attachment "L-2" (Soil Map Units on Subject Property). The soil map units are 3C Bandon fine sandy loam, 14B Depoe loam, 35E Lint silt loam, 42C Nelscott loam, and 45G Neskowin-Salander silt loams. The majority of the property to be included in the UGB consists of the 14B and 42C soil map units.

3. The 1997 NRCS Soil Survey included Table 7 (Woodland Productivity) which evaluated the soils suitable for commercial trees. See Planning Staff Report Attachment "L-3" (1997 NRCS Table 7 "Woodland Productivity"). Soils in the 14B Depoe loam map unit were not evaluated and therefore the 14B Depoe loam soils are not considered suitable for commercial tree production by the 1997 NRCS Soil Survey. Soils in the 3B Bandon fine sandy loam, the 35E Lint silt loam, the 42C Nelscott loam, and the 45G Neskowin-Salander silt loams map units were evaluated for productivity.

4. The ORS criteria requires that an evaluation of the soil types on properties outside the UGB be considered such that prioritization for inclusion into the UGB is given to those properties with soils that are not as productive as other properties with soils considered more productive. The soil map units for the surrounding area are included as Planning Staff Report Attachment "L-4" (Soil Map Units - Newport Area). The predominant soil types on the north side of the Yaquina Bay on properties outside but adjacent to the UGB include 56E and 56G soil map units. South of the Yaquina Bay, soil map units on property outside but adjacent to the UGB predominately include 42C and 42E soil map units. According to the 1997 NRCS Soil Survey, the "highest yields can be expected from map units with the highest site indices." The following chart summarizes the site indices for Western hemlock (which is the common species listed among the soil types):

Soil Map Unit	Site Index (50 year)	Site Index (100 yr)
3C	95	135
14B	not suitable for commercial production	
35E	107	158
42C/42E	89	129
45G		
Neskowin	93	133
Salander	99	151
56E and 56G		
Tolvana	121	172
Reedsport	115	165

5. Based on the site index, the higher priority soil map units for inclusion in the UGB would be the soil map units with the lower capability for commercial tree production as follows:

EXHIBIT **A**
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- (b) Changes standards implementing a functional classification system;
- (c) Allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or
- (d) Would reduce the performance standards of the facility below the minimum acceptable level identified in the TSP.

B. The functional classifications of existing transportation facilities are established by the Newport Transportation System Plan (TSP). Four different roadway classifications in the Newport TSP are established as: 1) Principal Arterials; 2) Minor Arterials, 3) Collector Streets; and 4) Local Streets. See Planning Staff Report Attachment "I" (Newport TSP Functional Classification System). Of the streets in the area of the proposed UGB expansion, the following classifications are applicable. NE 73rd Street and NE Avery Street would be considered in the Local Street classification as they are not specifically identified in any of the other roadway classifications. US Highway 101 is classified as a Principal Arterial. However, the TSP identifies additional improvements to NE Avery Street between NE 71st Street and NE 73rd Street that would change the functional classification of NE Avery Street to a Collector Street. See Planning Staff Report Attachment "I-1" (Newport TSP Table 1 and Table 2). The Newport TSP also identifies a traffic signal at the intersection of US Hwy 101 and NE 73rd Street as an improvement that will be warranted in the 16-20 year time frame of the TSP. See Planning Staff Report Attachment "I-2" (Newport TSP New Traffic Signals). Additionally, the TSP also has identified the expansion of Highway 101 to 5 lanes from NE Harney Drive to the North City Limits. See Planning Staff Report Attachment "I-1" (Newport TSP Table 1 and Table 2). In developing the Newport TSP, the subject property was included as part of Transportation Analysis Zone (TAZ) No. 11. See Planning Staff Report Attachment "I-3" (Newport TSP Development Figure 16).

C. In the proposed findings by the applicant under Goal 12, the applicant notes that the intersection of NE 73rd and U.S. Highway 101 contains a northbound right-turn lane and north and southbound left turn lanes on Highway 101 that were designed for industrial traffic uses. The applicant also notes that the "intersection of Highway 101 and NE 73rd Street is presently used by automobiles, state rock trucks, logging trucks, garbage and recycling vehicles. Industrial types of uses generally include delivery vans and various sized trucks. These should be compatible with the existing mix of traffic." See Planning Staff Report Attachment "A-2" (Requested UGB Amendment) (page 24).

D. If a proposed plan amendment significantly affects a transportation facility, under OAR 660-012-0060 (1), the amendment "shall assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. The OAR 660-012-0060 (1) establishes methods for which to address plan amendments that significantly affect a transportation facility.

Oregon Department of Transportation as each entity was provided notification of the proposed requests, a copy of the Kittelson January 2004 TIA, and an opportunity for comment was provided. Additionally, in response to the John deTar (ODOT) letter of December 8, 2003, the Newport Planning Commission recommended that a traffic impact study be completed prior to approval of the requests by the City Council. The Kittelson January 2004 TIA was completed as requested by John deTar (ODOT) and as recommended by the Newport Planning Commission.

Request #3. Amend the Newport Comprehensive Plan Map to establish Comprehensive Plan Map designations of "Industrial" (39.73 acres approximate) and of "Public" (45.42 acres approximate) for property included within the UGB expansion.

12. The proposed Comprehensive Plan Map designations were illustrated in Exhibit 1a and Exhibit 1b of the application materials (also included as Planning Staff Report Attachments "A-6" and "A-7"). A revised map of Exhibit 1a was submitted into the record at the Planning Commission hearing on December 8, 2003, and was included in the Planning Staff Report (January 9, 2004) for the City Council.

13. The criteria for the Proposed Comprehensive Plan Map Amendment (p. 286 of the Comprehensive Plan):

1. Change in one or more goal or policy; and
2. Demonstrated need to accommodate unpredicted population trends, housing needs, employment needs, or change in community attitudes; and
3. Orderly and economic provision of key public facilities; and
4. Ability to serve the subject property with City services without an undue burden on the general population; and
5. Compatibility of the proposed change with the surrounding neighborhood and community.

14. The applicant has submitted findings in the application materials dated October 21, 2003, on pages 26 and 27 (also included as Planning Staff Report Attachment "A-3" (Requested Comprehensive Plan Amendment)) demonstrating compliance with the above criteria and those findings are adopted and incorporated by reference. The Council also makes the following conclusions:

A. The Council finds that there has been a change in one or more goal or policy in that the Newport Comprehensive Plan "Economic Section" Policy 2 of Goal 1 will be amended in regard to the review of a proposed urban growth boundary expansion and the need for additional industrial and commercial land as part of this request.

B. The Council finds that there is a demonstrated need to accommodate employment needs by the provision of additional property within the UGB.

C. The Council finds that the inclusion of the property within the UGB will result in an orderly and economic provision of key public facilities.

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EXHIBIT "B"

ECONOMIC SECTION¹

Introduction:

Newport, due to its coastal location, originally developed as a tourist center for the Willamette Valley, with fishing and lumbering as secondary activities. Over the past century, it has become the economic core for Lincoln County. Newport is the major source of retail goods and services for county residents, the governmental center, and the area providing the most jobs. The city is also a major transportation hub with important state highway routes to the north, south, and east, an instrument landing system (ILS) equipped airport, and a deep-water port.

One hundred fourteen highway miles southwest of Portland and 55 miles west of Corvallis, Newport's present economic base consists of tourism and recreation, fishing and seafood processing, forest products, manufacturing, ocean research and education, governmental services, and retail trade.

Economic Characteristics:

Typical with almost anywhere, Newport's economy has diversified into a number of different sectors. Jobs and businesses can be found in the manufacturing, retail, service, and government areas, with many subsets and variations. The city's economic sectors, compared with Lincoln County and the State of Oregon, are summarized in Table 1.

Table 1
Percent Employment by Sector
1994

	Oregon	Lincoln County	Newport
Manufacturing	16.1%	10.4%	11.5%
Retail	18.9%	32.3%	21.7%
Service	47.8%	36.7%	21.1%
Government	17.2%	20.6%	21.0%
Fishing Boats	N/A	N/A	N/A

Source: State of Oregon Employment Department

EXHIBIT ^A
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¹ Amended in its entirety by Ordinance No. 1755 (11-18-96); pages 125-136 now blank; readopted with amendments by Ordinance No. _____ (_____-04).

Page 115. CITY OF NEWPORT COMPREHENSIVE PLAN: Economic Section.

Land Needs:

This section describes existing land use and summarizes commercial and industrial sites available for development. Employment density ratios are then combined with population projections in order to develop a demand scenario for commercial and industrial properties. Next, this is compared with the existing supply of sites available in order to project additional acreage needed for future growth.

In April 1995, the Yaquina Bay Economic Foundation prepared a report entitled An Inventory of Vacant Commercial and Industrial Land in Toledo and Newport. That report was presented, and permission to use the study for planning purposes was given to the city on August 21, 1995. The study is an up-to-date inventory of all vacant industrial and commercial lands within Newport's urban growth boundary (UGB), complete with maps of the specific properties inventoried. The report also draws some conclusions regarding the inventory. That report is therefore incorporated into this document and attached as Appendix C.

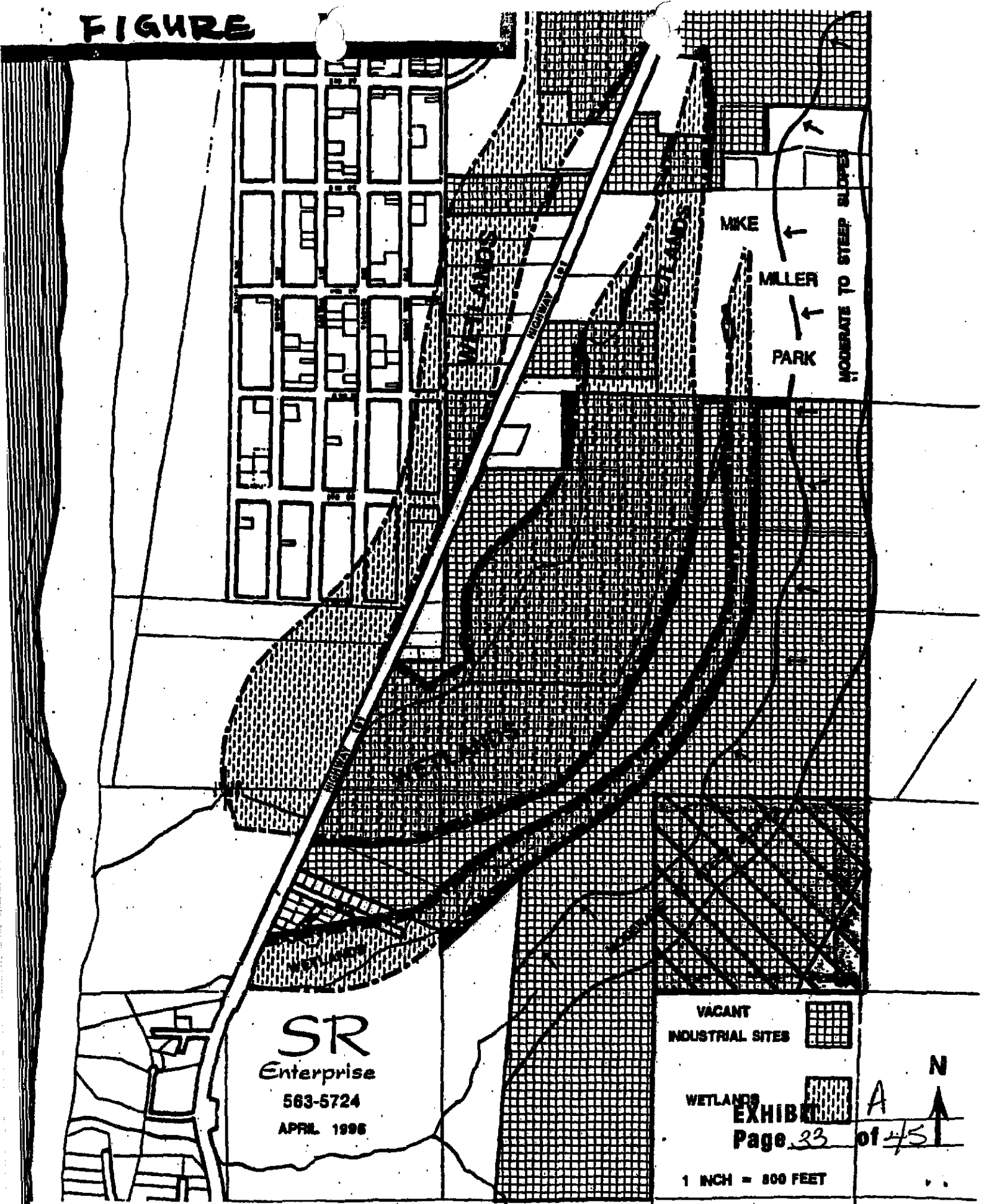
The inventory identifies about 27 acres of vacant commercial land and 137 acres of vacant industrial land. Of the 137 vacant industrial acres, 90 are constrained by limitations of services such as sewer and water. It also assumes that land that is classified as wetlands in the Wetlands Conservation Plan for South Beach, done in 1990 for the City of Newport by Scientific Resources, Inc., is not developable. For purposes of this element and determining the land needs, the wetlands will be considered undevelopable.

The inventory also counted all the property that was not limited by wetlands as being developable. This is not the case. The state and federal regulations governing development of property near wetlands require a buffer between the development and the actual land classified as wetlands. For example, the Southshore development avoided wetlands in their development. They were still required to maintain a 50-foot setback from the edge of the wetland. This, of course, effectively reduced the developable portion of the property.

If one looks at the map (Figure 1) for the vacant industrial lands in South Beach, some of the lands confined by wetlands have no street access and are of limited width. The vacant lands must therefore be reduced even further. Also, the land south of Mike Miller Park and east of U.S. Highway 101 has very limited land left due to the long linear nature of the property.

Finally, the vacant land in South Beach is some of the only relatively flat land left in the city's urban growth boundary. There is, consequently, a competition for the land for non-industrial uses. For example, of the vacant lands in South Beach, the city has purchased 40 acres for the future location of the sewage treatment plant. Other uses that have considered moving to South Beach are the Lincoln County Fairgrounds and new schools.

FIGURE



SR
Enterprise
563-5724
APRIL 1996

VACANT INDUSTRIAL SITES

WETLANDS EXHIBIT

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1 INCH = 800 FEET

Future STP

WAY AIRPORT

the land need? Some of the need can be accommodated through the rezoning of industrial land (especially in the South Beach area) to commercial. Some of the need can be accommodated by providing additional industrial and commercial land in at least an adequate supply of sites of suitable sizes, types, locations, and service levels for a variety of industrial and commercial uses. The question then becomes where and how.

Table 6
Land Needs by Sector
City of Newport
1995 (updated 2003)

Section	Available	Needed	Net
Commercial	28.00	112.00	-84.00
Industrial	72.15	37.00	35.15
Redevelopable	9.00	00.0	9.00
Net	109.15	149.00	-39.85

The Planning Department and the Economic Development Director from the Chamber of Commerce did an extensive survey of the greater Newport area to locate additional lands to meet the needs. Land to the west is obviously limited due to the ocean. Land to the east is limited because of the steep terrain. Land to the south is already in the city and designated for development. That leaves the land to the north.

There is an ideal place for additional land on the north end of town just north of the existing urban growth boundary. The land is relatively flat and has easy access to services such as sewer, water, and streets. The problem is that the existing uses are not conducive for commercial development. In the area is a major Goal 5 aggregate rock source, a state police office, a storage yard for the Oregon Department of Transportation, a parcel distribution center, other industrial uses and the transfer station for the Solid Waste District.

Another concern expressed by the community during hearings was the northern entrance to the city. An issue that was expressed was the loss of the scenic northern entrance to the city if the property developed commercially. Industrial uses, on the other hand, generally do not require the visibility that commercial uses do, so an industrially developed area could maintain that scenic entrance. All in all, the area is probably more appropriate for industrial uses than commercial.

If, therefore, at least an additional 39.85 acres of land were provided for in the northern area of town through the expansion of the Urban Growth Boundary, all of the needs of the city for gross acreage of industrial and commercial land would be met. The addition of at least the 39.85 acres into the Urban Growth Boundary will also meet the

It is also important to preserve industrial and water dependent areas for the types of uses that are contingent upon those lands for development. It does little good to plan for industrial growth and then have no place for that development to occur because the land has been used for other purposes.

GOALS AND POLICIES
ECONOMIC SECTION

Goal 1: To maintain an adequate supply of land within the Newport city limits and urban growth boundary to accommodate the anticipated need.

Policy 1: There is a shortage of commercial property in the city's urban growth boundary. The city shall rezone and redesignate the South Beach area to commercial to accommodate the need.

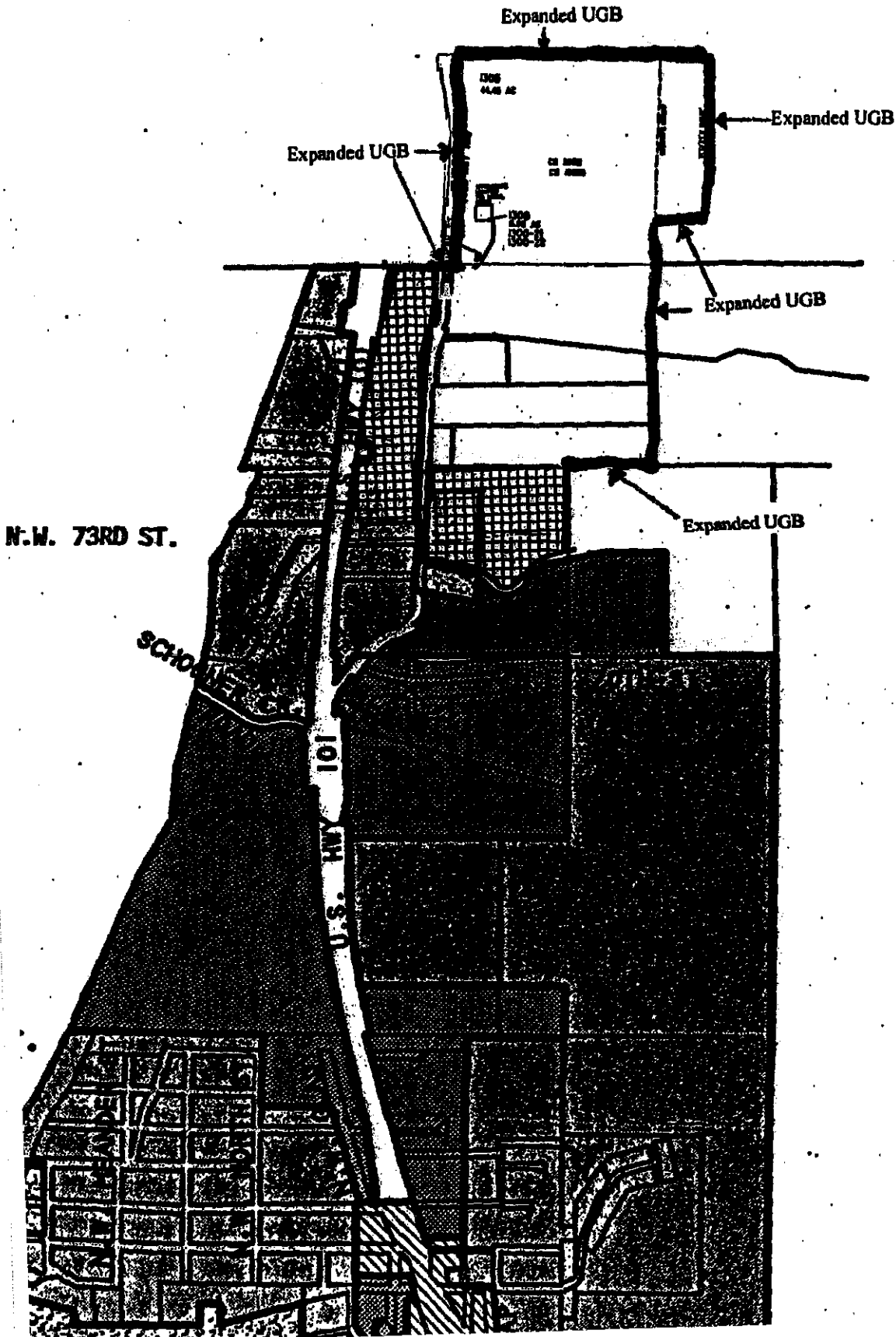
Policy 2: The City will review proposed expansions of the urban growth boundary to accommodate the anticipated need for commercial and industrial land, for the purposes of implementing the Goal 1 policy of maintaining an adequate supply of land, based on: 1) a demonstrated deficit of net available gross acreage in industrial and commercial land as identified in Table 6; or 2) a determination of an inadequate supply of vacant industrial and commercial land available to supply sites of suitable sizes, types, locations, and service levels necessary to meet a variety of industrial and commercial uses. Upon a finding that either a general deficit exists in the available gross acreage of industrial and/or commercial land as identified in Table 6 or upon a finding that there is not an adequate supply of sites of suitable sizes, types, locations, and service levels of existing industrial and/or commercial land, the City will approve a proposed expansion to the urban growth boundary for the purposes of the Economic Section provided other applicable requirements and criteria are met with the proposed expansion.

Policy 3: The industrial zone needs to be amended to allow only industrial type uses. A model to use is the Iron Mountain Overlay Zone.

Policy 4: The water-dependent zone needs to be preserved for water-dependent uses. However, other uses may be allowed if they are well-integrated and do not interfere with the water-dependent uses.

EXHIBIT "C"

Illustration of the expanded Urban Growth Boundary (UGB)
on the Comprehensive Plan Map of the City of Newport.



boundary of the State of Oregon tract described in Book 91, Page 200, Deed Records to the south line of the Siletz Indian Reservation as shown on the plat of the official government survey, approved March 20, 1890; thence northerly and westerly along the said south line of the Siletz Indian Reservation to the easterly line of the Old Oregon Coast Highway; thence southerly along the said easterly right of way to the true point of beginning;

EXCEPTING therefrom any part lying in the Old Oregon Coast Highway; and

FURTHER EXCEPTING that part lying westerly of a line, which line begins on the south line of said tract, 500 feet east of the southwest corner thereof, and runs north parallel to the east line of said tract, to the north line thereof.

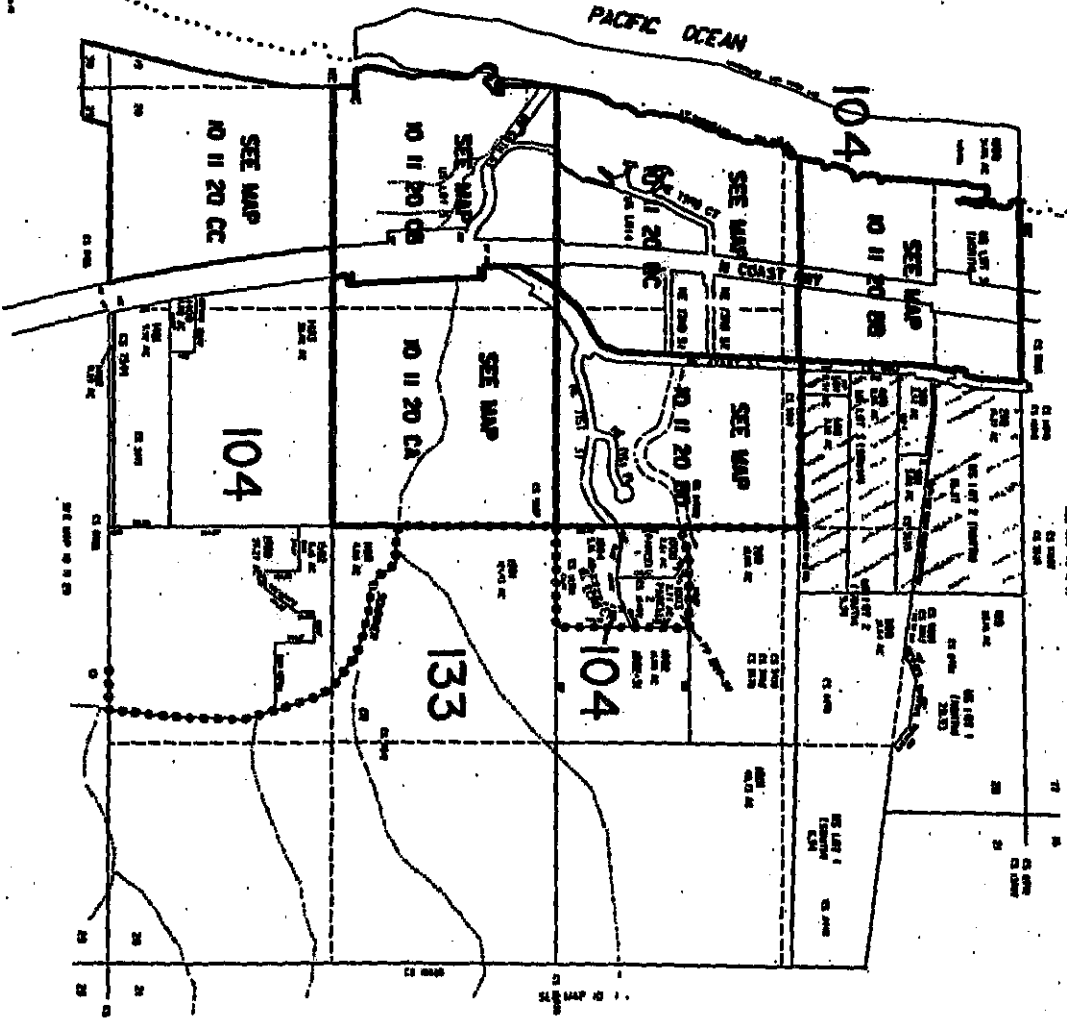
PARCEL 2: A strip of land 20 feet in width extending from the easterly line of the Old Oregon Coast Highway to the westerly line of the land included in Parcel 1 above, and being the northerly 20 feet of the above excepted parcel.

4. Property owned by M.R. and Mary Wood (Assessor's Map # 10-11-20 Tax Lot 400) as recorded in the Lincoln County Book of Record Book 182 Page 313 and described therein as follows:

The portion of the tract of land described in Book 175, Page 605 Deed Records of Lincoln County, Oregon, and located in U.S. Lots 2 and 3, Section 20, T.10 S, R. 11 W. W.M., which is bounded as follows: Beginning at the intersection of the easterly right of way line of the Old Roosevelt Coast Highway with the line established in an agreement between Echols and Holburt as recorded in Book 56 Page 636 Deed Records of Lincoln County, Oregon; thence northerly 288 feet along said easterly right of way line to the true point of beginning; thence northerly 288 feet along said easterly right of way line; thence easterly parallel - to the line established in an agreement between Echols and Holburt as recorded in Book 56, Page 636, Deed Records of Lincoln County, Oregon, to the west boundary line of that certain tract sold to the State of Oregon as described in Book 91, Page 200, Deed Records of Lincoln County, Oregon; thence southerly along said west boundary of the tract described in Book 91, Page 200, Deed Records of Lincoln County, Oregon; to a point which when joined by a line to the true point of beginning as hereinbefore described would make said line parallel to the line established in an agreement between Echols and Holburt as described in Book 56, Page 636, Deed Records of Lincoln County, Oregon; thence westerly to the true point of beginning.

5. Property owned by Betty Wood (Assessor's Map # 11-11-20 Tax Lots 500 and 501) as recorded in the Lincoln County Book of Records in Book 182 Page 312 and described therein as follows:

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THIS MAP WAS PREPARED FOR
 ABBOTTSON MAPS, INC.

SECTION 20 T10S R11W N1/2
 LINCOLN COUNTY
 NEVADA

RD 11 20
 & INDEX
 NEWPORT

RD 11 20
 & INDEX
 NEWPORT

LEGEND
 AGRICULTURE
 RESIDENTIAL