

1 **BEFORE THE BOARD OF COMMISSIONERS**

2 **FOR LINCOLN COUNTY, OREGON**

3 **ORDINANCE # 476**

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6 **Amending the Urban Growth Boundary (UGB) for the City of Newport, by adding**
7 **approximately 350 acres to the UGB to include lands surrounding the City's domestic**
8 **water storage reservoirs and treatment facilities in the area commonly referred to as the**
9 **Big Creek Reservoir(s); and declaring an emergency (County Case File #1-LUPC-PC-**
10 **13).**
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13 WHEREAS the City of Newport has requested an expansion of the Urban Growth
14 Boundary (UGB) for the City of Newport that adds approximately 350 acres to the UGB to
15 include Big Creek Reservoirs 1 and 2 which are the City's primary water storage facilities and
16 also includes the City's water treatment facilities; and

17 WHEREAS the subject properties of the request are generally located along Big Creek
18 County Road and are generally identified as Lincoln County Assessor's Map #10-11 (Index)
19 Tax Lot 1900; Assessor's Map #10-11-33 Tax Lots 200, 201, 300, 600 and 900; and
20 Assessor's Map #10-11-34 as Tax Lots 100, 200, 300, 400, 500, and 600; and;

21 WHEREAS the City of Newport, following extensive proceedings before the Newport
22 Planning Commission and City Council, enacted City of Newport Ordinance No. 2050
23 expanding the Newport Urban Growth Boundary to include the subject properties and
24 amended the Newport Comprehensive Plan Map (Newport File No. 2-UGB-13/3-CP-12).
25 Newport Ordinance No. 2050 and its accompanying Exhibits (A, B and C) are attached hereto
26 and incorporated herein as Exhibit 1 to this Ordinance. The Newport Ordinance includes a full
27 legal description of the subject properties (Ordinance 2050 Exhibit B) and a map of the area to

1 be added to the UGB (Ordinance 2050 Exhibit A, Map 1) which are incorporated herein by this
2 reference; and

3 WHEREAS on July 22, 2013 after legal notice was given in accordance with law, the
4 Lincoln County Planning Commission held a public hearing on the subject request. The
5 Planning Commission voted unanimously to recommend approval of the request. On February
6 10, 2014 the Planning Commission adopted Findings, Conclusions and Final Order
7 recommending that the request be approved. A copy of the Final Order is attached hereto and
8 incorporated herein as Exhibit 2. The planning record in this matter is found in Case File #1-
9 LUPC-PC-13 and by this reference is incorporated herein as if fully set forth; and

10 WHEREAS after legal notice was given in accordance with law, a public hearing was
11 held by the Board of Commissioners on April 9, 2013, to consider whether or not to grant the
12 request; and

13 WHEREAS at the close of the hearing and after deliberations, the Board unanimously
14 approved the recommendation of the Planning Commission to amend the Urban Growth
15 Boundary as requested by the City of Newport.

16 NOW, THEREFORE, IT IS HEREBY ORDAINED AS FOLLOWS:

17 **SECTION 1.**

18 1. The Urban Growth Boundary (UGB) for the City of Newport is hereby amended to
19 add approximately 350 acres to the Newport UGB. The property added is legally described in
20 the attached Exhibit 1 (Newport Ordinance 2050 Exhibit B) and includes a map of the area to
21 be added to the UGB (Newport Ordinance 2050 Exhibit A, Map 1).

22 2. The findings and conclusions supporting these actions are adopted as set forth in
23 Exhibits 1 and 2 (Newport Ordinance 2050 with attachments and Lincoln County Planning
24 Commission Final Order, respectively).

25 3. Copies of this ordinance shall be forwarded to the City of Newport Planning
26 Department; County Surveyor; County Assessor; County Counsel; and Lincoln County
27 Department of Planning and Development.

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

4 **SECTION 2.**

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

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DATED this 16th day of April, 2014.

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11 **LINCOLN COUNTY BOARD OF COMMISSIONERS**

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Terry Thompson, Chair

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Doug Hunt, Commissioner

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Bill Hall, Commissioner

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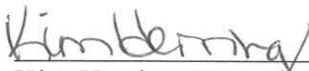
26 ATTESTED TO:

APPROVED AS TO FORM:

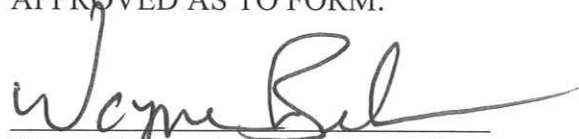
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Kim Herring, Recorder



Wayne Belmont, County Counsel

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CITY OF NEWPORT

ORDINANCE NO. 2050

**AN ORDINANCE EXPANDING THE URBAN GROWTH BOUNDARY
TO INCORPORATE LANDS SURROUNDING THE CITY'S
DOMESTIC WATER STORAGE RESERVOIRS AND TREATMENT
FACILITY; AND AMENDING THE NEWPORT COMPREHENSIVE PLAN
MAP ORIGINALLY ADOPTED BY ORDINANCE NO. 1621
(Newport File No. 2-UGB-13/3-CP-12)**

WHEREAS, Newport City Council desires to expand the Urban Growth Boundary (UGB) to include Big Creek Reservoir #1 and Big Creek Reservoir #2, which are the City's primary storage facilities for its domestic water supply; and

WHEREAS, said expansion will allow the land to be placed under a "Public" Comprehensive Plan Map designation so that, once annexed, it can be zoned for public use. This will make it easier for the City to modify its water system infrastructure in response to identified existing structural deficiencies at the reservoirs and to construct a regional park, as envisioned in the 1993 Park System Master Plan; and

WHEREAS, Newport Planning Commission held work sessions on October 8, 2012 and October 22, 2012, to consider issues related to the reservoirs' structural deficiencies, future park needs, and options for expanding the UGB. The Commission also held a joint work session with the Lincoln County Planning Commission on November 26, 2012, to gain that body's perspective on the issues and expansion options; and

WHEREAS, the Newport Planning Commission initiated this proposed UGB expansion on January 14, 2013, to include lands surrounding the reservoirs (Application); and

WHEREAS, the City's initiating Application contains findings of compliance with the policies and standards set forth in the "Urbanization" element of the Newport Comprehensive Plan, as amended by Ordinance No. 2049, effective March 21, 2013, and the "Administration of the Plan" element of the Newport Comprehensive Plan; and

WHEREAS, Newport Planning Commission held public hearings on February 25, 2013 and March 25, 2013 for the purpose of reviewing the Application for compliance with applicable state and local policies and standards and to provide a recommendation to the Newport City Council; and

WHEREAS, the Planning Commission's public hearings, above, were duly held in accordance with all applicable state and local law, and, after due deliberation and consideration of the proposed changes, the Planning Commission did recommend that the Application be approved; and

WHEREAS, the Newport City Council held a public hearing on April 15, 2013, to consider the amendments to the Newport UGB and Comprehensive Plan Map proposed by the Application, and voted in favor of the changes, after considering the recommendation of the Planning Commission and evidence and argument in the record; and

WHEREAS, information in the record, including affidavits of mailing and publication, demonstrate that appropriate public notification was provided for both the Planning Commission and City Council public hearings; and

WHEREAS, The Newport Comprehensive Plan requires that amendments to the Urban Growth Boundary and Newport Comprehensive Plan approved by the City must also be adopted by Lincoln County; and

WHEREAS, Lincoln County desires the City to take jurisdiction of Big Creek Road, which provides access to the reservoirs. City acknowledges it can accept jurisdiction only after the UGB and Comprehensive Plan Map amendments take effect, concurrent with County legalization of the Big Creek Road right-of-way and annexation of City owned properties within the expansion area; and

WHEREAS, City recognizes that in addition to the reservoirs, Big Creek Road provides access to a number of privately owned properties. In the event access to these properties is impaired as the result of actions taken by the City to repair or improve its water system, the City acknowledges that it may have a legal obligation to restore such access and is committed to carrying out any such obligations in a manner that minimizes adverse impacts to these land owners.

WHEREAS, City will coordinate with its legal counsel to identify the extent of its legal obligation to maintain and restore vehicle access to properties along Big Creek Road prior to taking jurisdiction of the roadway and will share such information with affected property owners.

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. The findings set forth above and in the attached Exhibit "A" are hereby adopted in support of the amendments to the Newport Urban Growth Boundary and Comprehensive Plan Map adopted by Sections 2 and 3 of this Ordinance.

Section 2. The Urban Growth Boundary as established on the Comprehensive Plan Map of the City of Newport, originally adopted by Ordinance No. 1621 (as amended), is hereby expanded as described in Exhibit "B."

Section 3. The Comprehensive Plan Map of the City of Newport, originally adopted by Ordinance No. 1621 (as amended), shall be amended as set forth within Exhibit "C," and all real property contained within the expansion area is hereby designated as "Public" on the Comprehensive Plan Map.

Section 4. This Ordinance shall take effect at such time as Lincoln County adopts corresponding amendments acknowledging this revision to the Urban Growth Boundary.

Date adopted and read by title only: May 6, 2013

Signed by the Mayor on May 7, 2013.

Sandra N. Roumagoux
Sandra Roumagoux, Mayor

ATTEST:

Margaret M. Hawker
Margaret M. Hawker, City Recorder

**CITY OF NEWPORT COMMUNITY DEVELOPMENT
DEPARTMENT**

**FINDINGS FOR URBAN GROWTH BOUNDARY
AMENDMENT**

May 6, 2013

Project Number:	2-UGB-12
Project Type:	Urban Growth Boundary Amendment
Procedure Type:	UGB Amendment: Type IV Comprehensive Plan Map (Major Amendment)
Applicant:	City of Newport

1 OVERVIEW:

The City of Newport is considering an Urban Growth Boundary (UGB) amendment and subsequent annexation to include all of the City's water treatment plant (which is only partially within the city limits) and the City water storage reservoirs for domestic water supply. In general terms, the rationale underlying the proposed UGB expansion is twofold:

1. To include the City's water storage and treatment facilities in the UGB. The City may be forced to reconstruct one or both of the water storage reservoirs in the coming years to address structural deficiencies. The reconstruction would include new water intake facilities, distribution lines, pumping stations, and a radio transmission tower for the municipal water metering system.
2. To include a regional city park in the UGB. The subject property is well-suited for use as a public park and is identified in the City's adopted *Parks Master Plan* and the Parks Element of the City *Comprehensive Plan* as a site for a regional park.

It is also a goal of the City to establish at least a 1000' foot buffer around the reservoirs for water quality purposes consistent with the Oregon Department of Environmental Quality/Oregon Health Department "Surface Water Evaluation" (see Attachment F). This goal will be accomplished through non-regulatory strategies including land acquisition and other voluntary measures.

Under the Oregon land use system, the justification for a UGB amendment is a two-step process: (1) demonstrate land need; and (2) analyze potential boundary locations. Local governments must address both parts in the UGB application and associated findings. Moreover, the City must address applicable City and County criteria.

The proposal includes an amendment to the *Newport Comprehensive Plan Map* and the Lincoln County *Comprehensive Plan Map*, which amends the Newport UGB, expanding it by approximately 350 acres. The proposed boundary expansion includes (1) all of the City's water treatment plant (which is currently only partially within the city limits), the City water storage reservoirs for domestic water supply, and the access road to the reservoirs in a manner that allows a concise legal description and minimizes impacts to privately held lands; and (2) approximately 75 acres for development of a regional City park.

In November 2012, the City initiated a separate process to make text amendments to the *Newport Comprehensive Plan*, which makes the Urbanization Element consistent with changes in Goal 14 adopted in 2006, and amendments to the public facilities element that recognizes the reservoir's structural deficiencies. Those amendments were adopted by the Newport City Council on February 19, 2013.

This findings document justifies the City's action in two ways: (1) the standard Goal 14 need/boundary location analysis; and (2) an exception to Goal 14 as allowed by OAR 660-024-0020(1)(a).

2 AUTHORITY AND CRITERIA:

The authority, review procedures, and locally adopted criteria for the amendments are provided in the *Comprehensive Plan* as specified below. Criteria for the amendments are also provided in applicable state law. Those criteria are addressed together with the local criteria, which are similar to applicable state law, in Section V of this application.

2.1 STATE CRITERIA

State law that governs the locational analysis and needs for the UGB amendment include the following:

- Statewide Planning Goal 14 (OAR 660-015-0000(14))
- ORS 197.298
- Goal 14 Administrative Rule (OAR 660 Division 24)

Statewide planning Goal 14 (Urbanization) requires that urban growth boundary amendments be a cooperative process:

"Establishment and change of urban growth boundaries shall be a cooperative process among cities, counties and, where applicable, regional governments. An urban growth boundary and amendments to the boundary shall be adopted by all cities within the boundary and by the county or counties within which the boundary is located, consistent with intergovernmental agreements..."

Goal 14 breaks the UGB amendment process into two parts: (1) Land Need; and (2) Boundary Location. Local governments must address both parts in the UGB application and associated findings.

2.1.1 Goal 14: Urbanization

Land Need

Establishment and change of urban growth boundaries shall be based on the following:

(1) Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and

(2) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks or open space, or any combination of the need categories in this subsection

In determining need, local government may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need. Prior to expanding an urban growth boundary, local governments shall demonstrate that needs cannot reasonably be accommodated on land already inside the urban growth boundary.

OAR 660-024-0040 provides additional guidance on determining land need.

Boundary Location

The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors:

(1) Efficient accommodation of identified land needs;

(2) Orderly and economic provision of public facilities and services;

(3) Comparative environmental, energy, economic and social consequences; and

(4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.

2.1.2 ORS 197.298: Priority of land to be included within urban growth boundary.

(1) In addition to any requirements established by rule addressing urbanization, land may not be included within an urban growth boundary except under the following priorities:

(a) First priority is land that is designated urban reserve land under ORS 195.145, rule or metropolitan service district action plan.

(b) If land under paragraph (a) of this subsection is inadequate to accommodate the amount of land needed, second priority is land adjacent to an urban growth boundary that is identified in an acknowledged comprehensive plan as an exception area or nonresource land. Second priority may include resource land that is completely surrounded by exception areas unless such resource land is high-value farmland as described in ORS 215.710.

(c) If land under paragraphs (a) and (b) of this subsection is inadequate to accommodate the amount of land needed, third priority is land designated as marginal land pursuant to ORS 197.247 (1991 Edition).

(d) If land under paragraphs (a) to (c) of this subsection is inadequate to accommodate the amount of land needed, fourth priority is land designated in an acknowledged comprehensive plan for agriculture or forestry, or both.

(2) Higher priority shall be given to land of lower capability as measured by the capability classification system or by cubic foot site class, whichever is appropriate for the current use.

(3) Land of lower priority under subsection (1) of this section may be included in an urban growth boundary if land of higher priority is found to be inadequate to accommodate the amount of land estimated in subsection (1) of this section for one or more of the following reasons:

(a) Specific types of identified land needs cannot be reasonably accommodated on higher priority lands;

(b) Future urban services could not reasonably be provided to the higher priority lands due to topographical or other physical constraints; or

(c) Maximum efficiency of land uses within a proposed urban growth boundary requires inclusion of lower priority lands in order to include or to provide services to higher priority lands.

Note that Newport does not have Urban Reserves as defined in OAR 660-021.

2.1.3 Goal Exceptions

Statewide Planning Goal 2 describes instances when Goal exceptions are allowable. In general, Goal 14 exempts UGB actions from the Goal 2 exception process. OAR 660-024-0020(1)(a) allows local governments to address exceptions as an alternative path:

(a) The exceptions process in Goal 2 and OAR chapter 660, division 4, is not applicable unless a local government chooses to take an exception to a particular goal requirement, for example, as provided in OAR 660-004-0010(1);

Because of the nature of this application, the City of Newport elected to address the Goal 2 exception criteria and take an exception to Goal 14 for the existing water storage and treatment facilities under Exception Avenue (a). Goal 2 identifies three potential avenues for a goal exception:

A local government may adopt an exception to a goal when:

(a) The land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal;

(b) The land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or

(c) The following standards are met:

(1) Reasons justify why the state policy embodied in the applicable goals should not apply;

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

(3) The long-term environmental, economic, social and energy consequences resulting from the use of the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

(4) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

2.2 LOCAL CRITERIA

UGB amendments must comply with applicable local criteria as outlined in the *City of Newport Comprehensive Plan and Development Code*, as well as the *Lincoln County Comprehensive Plan and Development Code*.

2.2.1 City of Newport Criteria

The City process for expanding the UGB is described under Policy 4 (Urbanization) of the *Newport Comprehensive Plan*. UGB amendments are broken into two categories: minor and major. The City and County Planning Director's must agree on the designation of the proposed application. Attachment G (letter to city and county planning directors) shows that the City and County concur this proposal constitutes a major UGB amendment.

In Newport, UGB amendments can be initiated by individuals or groups, the City or County Planning Commissions, or the Newport City Council or Lincoln County Board of Commissioners. This action was initiated by the City of Newport Planning Commission. Consistent with Statewide Planning Goal 14 and Policy 4.4 of the *Newport Comprehensive Plan*, both the city and county governing bodies are required to hold public hearings and both must agree for an amendment to become final.

Chapter 8 of the *Newport Comprehensive Plan* specifies three types of procedures for map amendments. The proposed amendment is considered a "major" amendment. Findings related to local policy are similar to those required for Goal 14 and are addressed in Section V.

A. Major Amendments:

- 1.) A significant change in one or more goal or policy; and*
- 2.) A demonstrated need for the change to accommodate unpredicted population trends, to satisfy urban housing needs, or to assure adequate employment opportunities; and*
- 3.) The orderly and economic provision of key public facilities; and*
- 4.) Environmental, energy, economic, and social consequences; and*
- 5.) The compatibility of the proposed change with the community; and*
- 6.) All applicable Statewide Planning Goals.*

The Urbanization Element requires that the process be initiated by the Newport Planning Commission, and that changes shall be considered by the Planning Commission and City Council at public hearings. Notices and other procedural requirements shall be made in accordance with Section 2-6-1 of the Zoning Ordinance. Moreover, the Urbanization Element requires findings of fact be developed in support of the decision and outlines the requirements for findings.

3 SUMMARY OF EVIDENCE:

The City provides the following evidence in support of the application.

- Attachment A: Final HDR Seismic Report, February 2013
- Attachment B: HDR Dam Assessment Presentation, August 2, 2012
- Attachment C: Parks Capital Improvement Program
- Attachment D: Excerpts from the Newport Park System Master Plan identifying need for a 75-acre regional park and concept plan for a regional park at the Big Creek Reservoir site
- Attachment E: Upper Big Creek Reservoir 2070 Inundation map
- Attachment F: DEQ/OHS Surface Water Assessment
- Attachment G: Letter to County/City Planning Directors regarding population forecast

4 PROCEDURE:

- A. City Public Works staff commissioned an engineering evaluation of the city water storage facilities which concluded the facilities have structural deficiencies (see Attachment A and Attachment B).
- B. Staff conducted work sessions with the Newport Planning Commission on October 8, 2012, October 22, 2012, and November 26, 2012 to consider issues related to the reservoirs structural deficiencies, future park needs, and options for expanding the UGB. The November 26th meeting was a joint work session with the Lincoln County Planning Commission.
- C. Staff recommended a comprehensive plan text amendment to make Urbanization Policy 4.5 consistent with amendments to statewide planning Goal 14 that were adopted in 2006. The text amendment was adopted by the Newport City Council on February 19, 2013, (Ordinance No. 2049).
- D. The Newport Planning Commission directed staff to further evaluate an urban growth boundary amendment to include the water storage facilities and water treatment plant into the Newport UGB.
- E. Staff conducted a work session on January 14, 2013 to discuss options related to the form of the UGB expansion. Following that meeting, the Planning Commission directed staff to proceed with a boundary that includes an approximate 1,000 foot buffer around the water storage area consistent with

the Surface Water Assessment conducted by the Oregon Department of Environmental Quality (DEQ) and the Oregon Health Division (OHD). See Attachment F.

- F. The Newport Planning Commission held evidentiary hearing on February 25, 2013 and March 25, 2013.

5 GENERAL FINDINGS - BACKGROUND AND DISCUSSION:

5.1 NATURE OF THE PROPOSAL

As stated in Section I, recent engineering studies concluded that the City of Newport's water storage facilities have structural deficiencies and may fail in the event of an earthquake along the Yaquina Fault or the Cascadia Subduction Zone (see Attachments A [HDR Seismic Report] and B [HDR dam assessment presentation]). This information came to light after the City updated the *Water System Master Plan* in 2008.

The City owns about 510 acres of the watershed that encompass the water storage and treatment facilities (see Attachment E). The remainder of the watershed is in private ownership. All of the land affected by this proposal is zoned Timber-Commercial (T-C) and designated as forestland in the Lincoln County *Comprehensive Plan*.

Additional details regarding the application include:

- A. City-owned land that is included in a boundary amendment will be annexed following the UGB action. Lands in other ownerships would be annexed as they become available.
- B. All lands included in the proposal will be designated "public" and will only be available for public uses at the time of the expansion and in perpetuity. In short, the City does not desire to allow urban development (housing or employment) to occur in the expansion area now or at any time in the future.
- C. The City desires to meet all of the 75-acre deficit of regional parkland identified in the *Comprehensive Plan* and *Parks Master Plan* at the reservoir site (see Attachments C [Parks capital improvement program] and D [Excerpts from the Newport Park System Master Plan]).
- D. The City will develop the parkland with urban park amenities (such as flush toilets). Developing park facilities on resource land (e.g., land outside the UGB) will severely restrict the types of facilities the City can build and will potentially preclude connection to urban services such as drinking water and wastewater treatment through the City systems.

- E. It is a long-term goal of the City to acquire privately-held lands within any areas included in the boundary amendment.
- F. Information about the structural deficiencies of the dams came to light after the 2008 *Water System Master Plan* was completed. The water system projects will be identified in the *Water System Master Plan* as long-range projects within the next 20 years, as required in 660-011-0020 and 660-011-0025, during the next update of the Master Plan. The timing of the project is based on the condition of the facilities as well as long-term population growth, consistent with 660-011-0025(1).

5.2 RATIONALE FOR THE PROPOSAL

The City's rationale for this application is as follows:

1. The existing water storage and treatment facilities, as well as supporting infrastructure such as roads and the municipal watershed, constitute a public facility under Goal 11 and OAR 660-011-0005(7)(a). The City initiated development of the Newport water storage facilities on Big Creek in the 1950s. The lands used for the Newport water storage and treatment facilities, including the roads, have been committed to urban public facility uses since their development. As urban facilities, these lands should be included within the Newport UGB.
2. As described in the public facilities element of the *Newport Comprehensive Plan* and the *Newport Water System Master Plan*, the water storage and treatment facilities are critical facilities for both current and future residents and businesses of Newport.
3. An engineering assessment by HDR Engineering (see Attachments A and B) identified two potential seismic hazards that affect the water storage facilities: (1) the Yaquina Fault; and (2) the Cascadia Subduction Zone. The assessment identified structural deficiencies that may force the City to reconstruct one or both of the water storage reservoirs in the coming years to address the structural deficiencies. The reconstruction would include: new water intake facilities, distribution lines, pumping stations, and a radio transmission tower for the municipal water metering system. As stated in the conclusions section of the HDR final assessment (Attachment A):

As simplified analysis results indicated, however, the downstream slope of BC No. 2 is susceptible to significant damage and would likely experience a stability failure due to a seismic event originating on either the Yaquina fault or Cascadia Subduction Zone (CSZ). Either fault system can generate large earthquakes, but the CSZ is of greater concern because of the relatively long duration of strong shaking from subduction type earthquakes. The critical potential failure surface identified in these evaluations suggest that an overtopping breach of the dam would occur releasing the full contents of the reservoir.

4. Based on the HDR assessment, the water storage facilities, as currently developed, present a hazard to the community. A failure would not only eliminate the City's water supply, it would potentially harm life and property.
5. The City declares an emergency related to the water storage facilities and has initiated a process to systematically evaluate and address the structural deficiencies and other issues. The UGB proposal is part of that program.
6. The City adopted *Comprehensive Plan* policies that require the City to address the structural deficiencies by updating the *Water System Master Plan* and developing a financing strategy to pay for the improvements by 2030.
7. The City's *Water System Master Plan* identifies a long-term need for additional water storage due to population growth. The plan envisions an expanded Upper Reservoir that would top out at 115' above sea level at full pool. This would expand the capacity of Upper Big Creek Reservoir from approximately 970 acre-feet to 1,483 acre-feet, adding an additional 513 acre-feet of storage capacity. This will increase the City's water delivery capacity to over 1,102 million gallons per day – enough capacity to meet projected need until 2070.
8. While the City has not yet completed its analysis on the full scope of the steps necessary to address the structural deficiencies, at this juncture it is clear the City will need to take steps to address the structural deficiencies. The specific steps necessary will be determined upon completion of the seismic analysis and related studies. What is known at this juncture is that Big Creek Reservoir #1 (the lower reservoir) has sedimentation and water quality issues. Given the proposed expansion of Reservoir #2 (upper Big Creek Reservoir), the City anticipates that it will be necessary to remove the dam on Reservoir #1 and not rebuild the facility. Under this scenario, all of the future water storage needs would be met with the expansion of Reservoir #2. (see Attachment E)
9. The land for the water storage and treatment facilities, and the related infrastructure including roads, is already committed to uses inconsistent with the T-C zone. A goal exception under the "committed" provision of Goal 2 can be justified on this basis.
10. The proposal intends to increase certainty of development of the water storage facilities and the regional park for the City. Reconstruction of the water facilities represents a multi-million dollar investment for the City. Any delays in permitting or construction could significantly add to those costs. Including the land in the UGB and city limits assures the City control over the process and increases certainty.

Table 2: Summary of properties proposed for inclusion in the Newport UGB

Parcel ID	Owner	Property Classification	Property Class Description	Total Acres	Proposed UGB Acres
10-11-33-00-00300-00	ETHERINGTON ROBERT N &	401	Tract - Improved	4.2	0.7
10-11-00-00-01900-00	NESTUCCA FORESTS LLC	640	Forest - No Improvement	397.2	5.3
10-11-33-00-00200-00	BRAXLING ARTHUR	640	Forest - No Improvement	40.9	3.0
10-11-34-00-00200-00	NESTUCCA FORESTS LLC	640	Forest - No Improvement	75.3	2.0
10-11-34-00-00400-00	MERIWETHER NW OR LND & TBR LLC	640	Forest - No Improvement	98.9	13.9
10-11-34-00-00500-00	NESTUCCA FORESTS LLC	640	Forest - No Improvement	80.0	2.6
10-11-34-00-00600-00	FERBER FAMILY TRUST &	641	Forest - Improved	16.6	9.0
10-11-34-00-00300-00	JOHNSTON MATHEW C &	661	Forest - Small Tract Improved	29.1	4.4
10-11-33-00-00900-00	CITY OF NEWPORT	940	Public - No Improvement	157.3	104.5
10-11-34-00-00100-00	CITY OF NEWPORT	940	Public - No Improvement	311.8	162.4
10-11-33-00-00201-00	CITY OF NEWPORT	941	Public - Improved	1.2	1.2
10-11-33-00-00600-00	CITY OF NEWPORT	941	Public - Improved	62.9	40.9
TOTAL				1275.4	349.8

Note: Not all of the area of all tax lots in Table 1 will be included in the proposed expansion. The last two columns of the table provide the total acres of each tax lot and the acreage proposed to be included in the UGB. All lands not owned by the City of Newport are privately held.

11. The proposal will improve water treatment efficiency. The water intake and storage facilities are urban facilities; including the properties in the UGB will improve the efficiency of public works operations now and in the future.
12. The City desires to develop a 75-acre regional park and trail system adjacent to the reservoirs, as identified in both the Newport Comprehensive Land Use Plan as well as the adopted *Parks Master Plan*. Those improvements include restrooms that are connected to the City wastewater treatment system and potentially other uses that are not allowable in a forest zone. In short, the improvements envisioned by the *Parks Master Plan* are not possible if the lands are not within the UGB.

5.3 SUMMARY OF PROPOSED ACTION

This application includes an amendment to the City of Newport Urban Growth Boundary and city limits to include approximately 350 acres to include the City water treatment plant, the City water storage reservoirs, access road to the reservoir. The land needs are as follows:

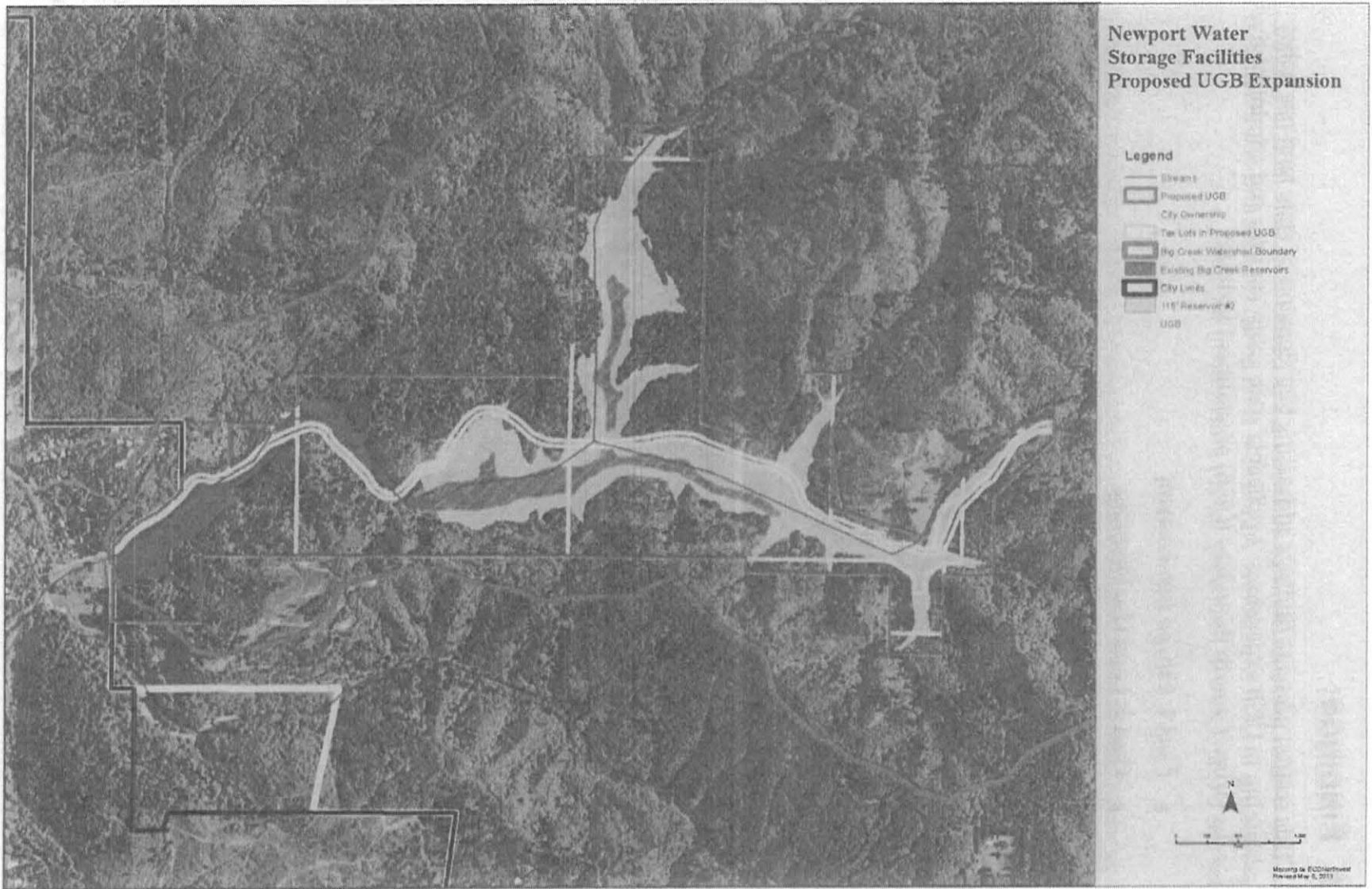
Table 1. Summary of Land Needs

Facility	Approximate Acreage
Water Storage and Treatment	275
Regional Park	75
Total	350

Note: the watershed buffer is approximately 1000' around Upper Big Creek Reservoir

The City took care to draw the boundary in a manner that minimizes impacts to private properties, but allows for an accurate legal description of the boundary. The proposal includes approximately 310 acres of lands owned by the City of Newport and approximately 40 acres in private ownership. The application involves approximately 350 acres of property as shown in Map 1 and summarized in Table 2.

Map 1: Properties included in the UGB expansion application



6 FINDINGS:

This section presents findings addressing key elements of state land use policy pertaining to UGB expansions. Applicable state goals, statutes and administrative rules for the Urban Growth Boundary (UGB) amendment include:

- Goal 1: Citizen Involvement
- Goal 2: Land Use Planning
- Goal 14: Urbanization
 - ORS 197.298: Priority of land to be included within urban growth boundary
 - OAR 660-024: Urban Growth Boundaries

The findings are organized broadly around the Goal 14 Need and Locational requirements. Other relevant state policy is referenced within this framework. The remainder of this section presents findings for each goal and related statute or administrative rule.

6.1 GOAL 1: CITIZEN INVOLVEMENT

The intent of Goal 1 is to ensure that citizens have meaningful opportunities to participate in land use planning decisions. As stated in the Goal, the purpose is:

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Goal 1 has five stated objectives that are relevant to the UGB boundary amendment:

Citizen Involvement -- To provide for widespread citizen involvement.

Communication -- To assure effective two-way communication with citizens.

Citizen Influence -- To provide the opportunity for citizens to be involved in all phases of the planning process.

Technical Information -- To assure that technical information is available in an understandable form.

Feedback Mechanisms -- To assure that citizens will receive a response from policy-makers.

Finding: Satisfied. The City conducted several Planning Commission worksessions to discuss the proposed action. The worksessions resulted in refinements to the proposal. The City provided property owner notification prior to the first evidentiary hearing consistent with requirements of the Newport Development Code (Section

14.43). The City conducted a public hearing of the Newport Planning Commission on February 28, 2012 where public testimony was allowed.

6.2 GOAL 2: LAND USE

Goal 2 requires all incorporated cities to establish and maintain comprehensive land use plans and implementing ordinances. It also requires cities to coordinate with other affected government entities in legislative land use processes. The purpose of Goal 2 is:

To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Finding: Satisfied. Newport has an established land use process and policy framework. That process, as outlined in the Newport Comprehensive Plan and Development Code was followed throughout this action.

With respect to coordination, Lincoln County is the only other affected government entity. Since UGB boundary amendments require both city and county approve, the City consulted with County staff throughout this process. Moreover, evidentiary hearings must be held by the Lincoln County Planning Commission and Board of Commissioners.

6.3 GOAL 14: URBANIZATION

The Goal 14 findings are broken out by specific criteria. Goal 14 provides two 'Need Factors' and four 'Location Factors.' Goal 14 and the related statutes and rules establish a specific method and hierarchy for boundary review. The findings that follow are organized according to that hierarchy.

6.3.1 Goal 14 Need Criteria

Goal 14 notes that establishment and change of urban growth boundaries shall be based on the following:

Goal 14 Need Factor 1: Demonstrated need to accommodate long range urban population growth, consistent with a 20-year population forecast coordinated with affected local governments.

Goal 14 Need Factor 2: Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks or open space.

Finding: Satisfied. Sections 6.3.1.1 and 6.3.1.2 outline how the proposal complies with Goal 14 need factors 1 and 2.

6.3.1.1 Goal 14 Need Factor 1

In 2011, ECONorthwest assisted the City with a housing needs analysis. That study required a population forecast. Counties are required to coordinate population forecasts among the cities and unincorporated areas within the County (ORS 195.036). As of 2011, Lincoln County did not have a coordinated, adopted population forecast for the cities within the County. As a result, Newport developed a population forecast for the urban growth boundary (UGB).

OAR 660-024 provides "safe harbor" approaches for forecasting population in cities that do not have a coordinated, adopted population forecast. A city may adopt a 20-year population forecast based on the Oregon Office of Economic Analysis's (OEA) population forecast for the County, assuming that the urban area's share of the forecast population will remain constant over the planning period (OAR 660-024-0030(4)(b)).

Based on the revised PSU estimates, Newport's 2010 population accounted for 21.7% of Lincoln County's population. Table 3 shows a population forecast for Newport for the 2011 to 2031 period based on the assumption that Newport continues to account for 21.7% of Lincoln County's population over the 20-year period. Table 3 also extrapolates the 2011 to 2031 forecast to the 2013 to 2033 time period. This provides a 20-year forecast to support the UGB proposal consistent with the requirements of OAR 660-024-0040(2).¹ The 2013 to 2033 forecast is for an increase of 1,486 persons for a 2033 UGB population of 11,909 persons.

¹ OAR 660-024-0040(2) states: "If the UGB analysis or amendment is conducted as part of a periodic review work program, the 20-year planning period must commence on the date initially scheduled for completion of the appropriate work task." Because the proposed expansion is in excess of 50 acres, the City must follow the process "in the manner of periodic review" as required by OAR 660-024-0080.

Table 3. Population forecast, Newport, 2011 to 2031, extrapolated to 2013-2033

Year	Lincoln County (OEA)	Newport
2011	47,306	10,285
2013	47,941	10,423
2031	54,051	11,751
2033	54,776	11,909
Change 2013 to 2033		
Number	6,835	1,486
Percent	14%	14%
AAGR	0.7%	0.7%

Source: ECONorthwest, based on the Office of Economic Analysis forecast for Lincoln County

Note: Population for 2011 and 2031 was extrapolated based on the growth rates used between 2010-2015 (for 2011) and 2030-2035 (for 2031).

Note: AAGR is average annual growth rate

The City adopted the population forecasts along with the housing needs analysis and related policies in 2011. The City makes the following findings about the population forecast:

1. The population forecast is a coordinated forecast. The City provided notification to Lincoln County and its incorporated municipalities in January 2013 regarding coordination of the figures. This notification is consistent with the consultation requirements of ORS 195.034(3)(a).
2. The City intends to complete work on the UGB proposal in 2013. As such, the required planning period is 2013-2033. The City extrapolated the coordinated population forecast for the 2013-2033 period to be consistent with OAR 660-024-0040(2)(a).
3. The City constructed the water storage, treatment and distribution to serve current and future Newport residents and businesses. The development of the facilities is based on existing population and expected population growth consistent with Goal 11 requirements.

6.3.1.2 Goal 14 Need Factor 2

Goal 14 Need Factor 2 addresses specific types of land need. For this proposal, the City intends to meet the demonstrated need for **public facilities, parks and open space**. The proposal to meet specific types of land need is allowable under OAR 660-024-0040(3):

“A local government may review and amend the UGB in consideration of one category of land need (for example, housing need) without a simultaneous review and amendment in consideration of other categories of land need (for example, employment need).”

6.3.1.2.1 Need for Water Storage and Treatment Facilities

The public facility need derive from the following factors:

- A. The existing water storage and treatment facilities, as well as supporting infrastructure such as roads and the municipal watershed, constitute a public facility under Goal 11 and OAR 660-011-0005(7)(a). The City initiated development of the Newport water storage facilities on Big Creek in the 1950s. The lands used for the Newport water storage and treatment facilities, including the roads have been committed to urban public facility uses since their development. As urban facilities, these lands should be included within the Newport UGB.
- B. The water storage facilities present a threat to life and property in the event of a Yaquina Fault or Cascadia subduction zone earthquake. Earthquakes are one type of natural hazard that is required to be inventoried by Statewide Planning Goal 7. The City's proposal to include the lands in the UGB and rebuild the reservoirs derives from requirements by Statewide Planning Goals 7 and 11.
- C. Statewide Planning Goal 11 and OAR 660-006-0020 through 0030 require municipalities to: (1) address public facilities in local comprehensive land use plans, and (2) adopt functional plans for public facilities. Chapter 5 of the *Newport Comprehensive Plan* addresses public facilities. Moreover, the Public Facilities Element specifically recognizes the structural deficiencies of the water storage facilities and includes policies and implementation measures to address them:

Policy 4: The city will acquire lands within the Upper Big Creek municipal watershed when available or necessary to protect water quality or improve its water system.

Policy 5: The city will reconstruct its municipal raw water storage and distribution facilities to address identified structural deficiencies to Big Creek Dam #1 and Big Creek Dam #2.

Implementation Measure 1: The city shall conduct necessary and appropriate engineering studies to determine the safest and most cost-effective approach to ensure the integrity of the municipal water supply. The studies shall identify the cost and timing of needed capital projects to address identified structural deficiencies and comply with Policy 2 of this section.

Implementation Measure 2: The city shall explore financing mechanisms, and prepare a financing plan to fund construction needed to resolve the structural deficiencies by 2030.

Implementation Measure 3: The city shall use data and findings from Implementation Measures 1 and 2 of this section to update the Water Supply section of

the Public Facilities element of the Newport Comprehensive Plan to reflect new information as a result of the engineering and finance studies.

The policies and implementation measures clearly articulate the City's approach to addressing the facilities. While the current *Water System Master Plan* does not include specific analysis of how the City will address the problems, Implementation Measure 3 describes how the City will use information from the ongoing seismic assessment to update the *Water System Master Plan*. Because the deficiencies came to light in 2012, the City has not had the opportunity to conduct the studies necessary to update the *Water System Master Plan*.

- D. Planning to address the structural deficiencies is part of the City's effort to address Goal 7 (Natural Hazards) requirements. Section A.1 of Goal 7 states:

Local governments shall adopt comprehensive plans (inventories, policies and implementing measures) to reduce risk to people and property from natural hazards.

The City adopted specific policies and implementation measures into the *Newport Comprehensive Plan* that recognize the risks associated with the facilities and outline specific studies and steps the City will take to mitigate the risks. Those policies require the City to conduct appropriate studies related to reconstruction of the facilities, to update the *Water System Master Plan* based on the findings, and to identify funding sources to pay for the improvements (see policies under item C above).

- E. The land for the water storage and treatment facilities, as well as the supporting infrastructure such as roads, is already committed to uses inconsistent with the County T-C zone. A goal exception under the "committed" provision of Statewide Planning Goal 2 can be justified on this basis.
- F. Given the level of public investment involved (probably in the millions of dollars or \$10's of millions), the City desires control over the construction process. Any permitting delays could be extremely costly to the City.
- G. City finds that the current pathway to developing the facilities presents barriers that create unacceptable uncertainties that could quickly become insurmountable. It is worth reiterating that rebuilding the water storage facilities to current seismic standards will likely require hundreds of thousands of dollars of engineering and millions of dollars of construction expense. An alternative path suggested by the state Department of Land Conservation and Development (DLCD) would require the City to maintain its water facilities under Lincoln County's jurisdiction. This would require the City to apply for a conditional use permit through Lincoln County. Not only is this an inefficient

way to provide public facilities, but we include specific sections of the county code below and then provide comments on how those provisions create uncertainties that could become insurmountable.

The specific process for Conditional Uses is found in sections 1.1601 through 1.1630 of the Lincoln County Code. The excerpts below are from Sections 1.1605.

(2) In approving a conditional use request or the modification of a conditional use, the Planning Division or Planning Commission may impose, in addition to those standards and requirements expressly specified by this Section, additional conditions which are considered necessary to protect the best interests of the surrounding area or the County as a whole. These conditions may include, but are not limited to the following:

(a) Increasing the required lot size or yard dimensions.

(b) Limiting the height of buildings.

(c) Controlling the location and number of vehicle access points.

(d) Increasing the street width.

(e) Increasing the number of required off-street parking spaces.

(f) Limiting the number, size, location, and lighting of signs.

(g) Requiring fencing, screening, landscaping, diking, or other facilities to protect adjacent or nearby property.

(h) Designating sites for open space.

(i) Setting a time limit for which the conditional use is approved.

(j) Site reclamation upon discontinuance of use.

(3) In the case of a use existing prior to February 12, 1974, and classified in this chapter as a conditional use or a non-conforming use, change in use or in lot area or an alteration of structure shall conform with the requirements for conditional use.

(4) The Planning Commission may require or authorize the Planning Division to require that the applicant for a conditional use furnish the County with a performance bond of up to the value of the cost of the improvements to be guaranteed by such bond, in order to ensure that the conditional use is completed according to the plans as approved by the Planning Commission or the Planning Department.

(5) Any permit granted hereunder shall be subject to revocation by the Planning Commission if it is ascertained thereby that the application includes or included any false information, or if it is determined that the conditions of approval have not been complied with or are not being maintained, or the conditional use becomes detrimental to public health, safety, or welfare.

Of particular concern to the City are the conditions that the County could impose on the engineering and construction of the facilities, on the length of use, the potential to require a performance bond, and the ability to revoke the permit. Moreover, standards of approval are outlined in section 1.1630 and 1.1375 of the Lincoln County. These standards are highly discretionary and, aside from imposing county control over the City's facility work, the standards provide the opportunity for appeal to LUBA and beyond.

Sections 1.1375(3) of the Lincoln County Development Codes states:

(3) Limitations on Conditional Uses:

The Planning Director or Commission shall determine whether a use other than a dwelling authorized by subsection (2) of this section meets the following requirements. These requirements are designed to make the use compatible with forest operations and agriculture, and to conserve values found on forest lands:

(a) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands;

(b) The proposed use will not significantly increase fire hazard, significantly increase fire suppression costs, or significantly increase risks to fire suppression personnel; and

(c) A written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner which recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and paragraphs (e), (l), (r), (s) and (v) of subsection (2) of this section.

The first two standards are highly discretionary, which introduces uncertainty into the process in terms of potential impacts to the design, engineering and construction of the facilities. Further the risk of appeal makes it difficult to hold to a schedule, which for a project of this scale could result in substantial cost overruns that a jurisdiction of our size could not weather. Change and delay in the construction plans for needed public facilities can be catastrophic. Goal 14 does not support an arrangement that keeps needed urban facilities outside of City jurisdiction.

In summary, the City's finds that the potential for restrictive conditions and the uncertainties created through the public process of a conditional use permit are unacceptable and potentially insurmountable in terms of the efficient provision of public facilities to Newport's citizens, as mandated by Goals 11 and 14.

6.3.1.2.2 Need for Regional Park

The Parks and Recreation Element of the *Newport Comprehensive Plan* includes a capital improvement program (CIP) for recreational facilities. Table 1 on page 194 specifically identifies the need for a regional park and improvements at the Big Creek Reservoir site. Priority #4 is for the Big Creek Reservoir Trail development and priority #7 is for Big Creek Park upgrade and expansion.² The CIP includes cost estimates and identifies potential funding sources (see Attachment D).

The park need is also justified by the 1993 Newport Park System Master Plan. The Plan identifies the City-owned reservoir site (535 acres) as “other city lands” on page III-5. The Plan establishes a level-of-service standard for regional parks of 6.0 acres per 1,000 persons and identifies a need for 75 acres. The Plan also identifies the reservoir site as a potential site to meet the need (under the comments section on page V-8; see attachment D):

The recommended standard of 6.0 acres per 1,000 population means that by the near 2010, there will be a need for approximately 75 acres of land. This additional need could be satisfied by developing a portion of the land around the reservoir into a regional park.

Moreover, a conceptual plan for the regional park is included on page VII-12 of the Port System Master Plan (see attachment D). The City proposes to include restrooms that are connected to the municipal wastewater treatment system and potentially other uses that are not allowed in forest zones.

6.3.2 Goal 14 Boundary Location Analysis

Several statewide policies relate to the boundary location analysis. These include ORS 197.298 which establishes a priority scheme for lands included in UGBs, OAR 660-024-0060 which defines the requirement elements of a boundary “alternatives analysis,” and the four Goal 14 locational factors. Additionally, the Goal 2 requirements for justifying exceptions to forest uses come into play, as well as the provisions of OAR 660-006 that relate to forest zone exceptions.

This section addresses the requirements of ORS 197.298, OAR 660-024-0050 and OAR 660-024-0060. Specifically, the boundary alternatives analysis and supporting findings must:

1. Demonstrate that the land needs cannot be met within the existing Newport UGB;
2. Demonstrate that the needs cannot be met on exceptions lands; and

² The Newport Parks System Master Plan indicates the current Big Creek Park facility has an area of approximately 2.5 acres.

3. Demonstrate that the needs cannot be met on sites on forest land that has a lower productivity classification than the existing reservoir site.

Once the City makes those determinations, it will need to conduct a more detailed analysis of the four Goal 14 boundary location factors.

The remainder of this section is organized as follows:

B.1 – Site Suitability Requirements

B.2 – Boundary Location Analysis/ Alternatives Analysis

Finding: Satisfied. Sections 6.3.2.1 and 6.3.3 address site suitability requirements and the alternatives analysis as required by ORS 197.298 and OAR 660-024-0050 and OAR 660-024-0060.

6.3.2.1 Site Suitability Requirements

The identified land needs have specific siting characteristics. In other words, the proposed water storage and treatment facilities and regional park cannot be met on every land type—the facilities have specific land suitability characteristics. As explained in OAR 660-024-0060(5) related to need determination:

“If a local government has specified characteristics such as parcel size, topography, or proximity that are necessary for land to be suitable for an identified need, the local government may limit its consideration to land that has the specified characteristics when it conducts the boundary location alternatives analysis and applies ORS 197.298.”

Moreover, the ORS 197.298(3)(a) recognizes that certain land uses may have specific site needs:

(3) Land of lower priority under subsection (1) of this section may be included in an urban growth boundary if land of higher priority is found to be inadequate to accommodate the amount of land estimated in subsection (1) of this section for one or more of the following reasons:

(a) Specific types of identified land needs cannot be reasonably accommodated on higher priority lands;

The following sections describe the site requirements for the proposed water storage and treatment facilities and the regional park.

6.3.2.1.1 Site Requirements for Water Storage and Treatment Facilities

If the local government identifies specific characteristics that are necessary to meet the identified need, OAR 660-024-0060(1)(e) requires the government to consider these suitability characteristics when evaluating and determining the alternative boundary location.

(1) When considering a UGB amendment, a local government must determine which land to add by evaluating alternative boundary locations. This determination must be consistent with the priority of land specified in ORS 197.298 and the boundary location factors of Goal 14, as follows:

(e) For purposes of this rule, the determination of suitable land to accommodate land needs must include consideration of any suitability characteristics specified under section (5) of this rule, as well as other provisions of law applicable in determining whether land is buildable or suitable.

The current sources of Newport's municipal water system are Blattner Creek, Big Cree, and the Siletz River. During the winter, water from these sources flows into and is stored in the Big Creek Reservoir #1 and #2. Newport's peak water usage occurs in the summer months, when the City draws water from the Siletz River and from Big Creek.³

This proposal involves identifying areas appropriate for City water storage facilities, including a buffer to maintain water quality. The characteristics of suitable land for water storage facilities are:

1. **Water treatment capacity.** The site must be located within a watershed with enough capacity to supply Newport with drinking water. The 2008 *Water System Master Plan* summarized water demand as follows:

Total annual demand has ranged from 776 to 795 million gallons with an average (AAD) of 785 million gallons. Peaks occur in the summer (June, July, August) as is typical for most communities. Maximum month flows ranged from 100 to 117 million gallons per month, always in July, resulting in a MMD range of 3.2 to 3.9 mgd. The average daily demand (ADD) for the period is 2.15 mgd.

Based on the forecast for population growth in Newport, peak demand for water is expected to increase, as summarized below.⁴

With the projected increase in system EDUs from the current 11,270 to a total of 15,970 EDU in the year 2030 the maximum day water demand is projected to increase to 5.8 MGD from the current 4.1 MGD. This becomes the primary planning demand for this Master Plan (20 year MDD).

In summary, Newport requires a watershed with the ability to provide the quantity of water identified in the *Water System Master Plan*.

2. **Water quality.** The site should be located within a watershed with relatively high quality water, so that water requires less treatment. Newport's raw water requires treatment for pH, disinfection (adding chlorine), iron and manganese,

³ *City of Newport Water System Master Plan (2008)*

⁴ *City of Newport Water System Master Plan (2008)*

and taste and odor (especially in the summer). The site should be located in a watershed with similar or higher water quality than the City's current facilities have.

3. **Water storage capacity.** The site should have enough water storage capacity to at least meet Newport's peak summer water demand. Current demand in summer is approximately 6.0 cubic feet per second (cfs). Based on the forecast for population growth in Newport, peak demand for water is expected to increase from 4.1 mgd to 5.8 mgd by 2030.⁵
4. **Size and configuration.** The site should be large enough to accommodate one or more reservoirs capable of holding 1,000 + acre-feet of water. Depending on topography, a 1,000 acre-foot reservoir would have a surface area of 100 to 150 acres. The configuration and topology of the site should be appropriate for storing water to maintain high quality of water. Water stored in a shallow reservoir may have lower water quality because of increased turbidity, higher water temperatures, and growth of weeds and other plants.
5. **Buffer.** The site should include a buffer of approximately 1,000 feet around the City's storage reservoir to preserve water quality. The analysis in Section A.2.2 summarizes the justification for a watershed buffer.
6. **Proximity and access to facilities.** The site should be located in a place reasonably close to and existing City water system facilities, specifically existing storage for raw water and the water treatment plant. The site should have access to the City water system facilities, if possible through the existing pipe network.

The City has made a considerable public investment in the existing water storage and treatment facilities. If the City moves raw water storage and treatment from the existing site, the City will need to entirely replace these facilities. The cost of replacing the City's two reservoirs, intake from the Siletz River, water treatment plant, and other water facilities would cost millions or tens of millions of dollars.

7. **City ownership.** The proposed uses are public in nature and cannot be accommodated on privately held lands. The City would be required to condemn lands that are directly affected by development of public facilities.

Preliminary Suitability Analysis: According to the Newport Water Supply Master Plan, the City of Newport holds seven water use permits allowing for a total of 19.24 cfs

⁵ *City of Newport Water System Master Plan (2008)*

from various streams (Table 2). Map 2 illustrates the location of the various water rights held by Newport and the approximate location of their points of diversion.

Map 2. City of Newport Water Rights

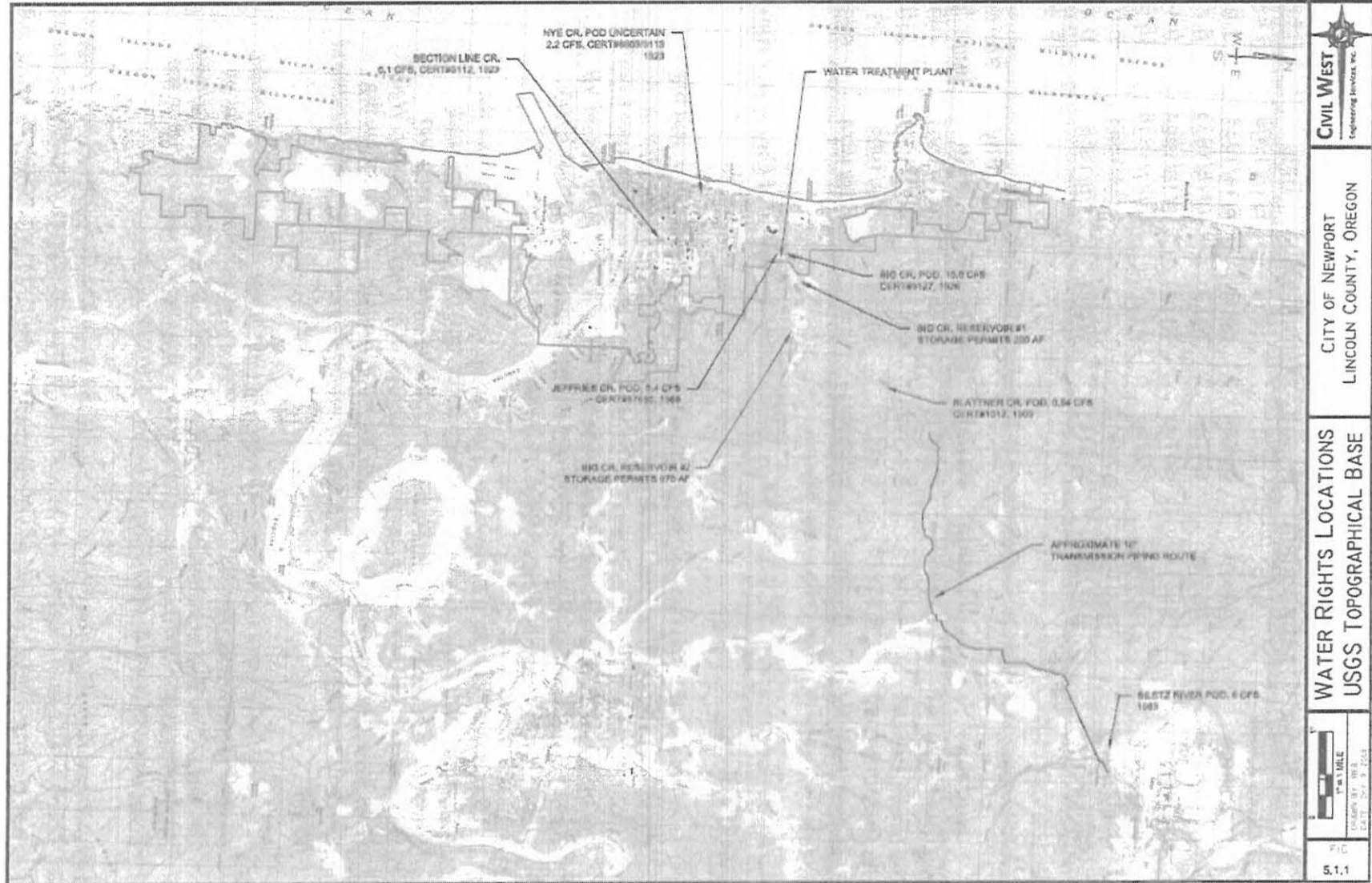


Table 2. Newport Water Rights Summary

Source Name	Application	Permit	Certificate	Priority Date	POD Rate (cfs)
Blattner Creek	S72	S20	1012	5/10/1909	0.54
Nye Creek	S8970	S5882	8603	5/14/1923	1.5
Nye Creek	S9224	S6197	9113	10/15/1923	0.7
Hurbert Creek	S9221	S6194	9112	10/15/1923	0.1
Big Creek	S11156	S7722	9127	10/27/1926	10.0
Siletz River	S39121	S29213	~	9/24/1963	6.0
Jeffries Creek	S44381	S33151	57650	1/9/1968	0.4
					19.24
Storage	Application	Permit	Certificate	Priority Date	Storage (acre-feet)
Big Creek Res. #1	S26388	S20703	21357	8/31/1951	200
Big Creek Res. #2	S43413	S33127	48628	3/24/1967	310
Big Creek Res. #2	S43413	S33127	48628	6/5/1968	35
Big Creek Res. #2	S52204	S38220	~	7/19/1974	625

Source: Table 5.1.1 Newport Water System Master Plan, Page 5-1.

The Newport Water System Master Plan summarizes the status of City water rights as follows (Page 5-1):

Currently, the City can only utilize the Blattner Creek, Siletz River, and Big Creek water rights. The Nye Creek and Hurbert Creek rights from 1923 are no longer in use and cannot be practically implemented due to their distance from the treatment plant and nature of development. In the past the City has set up pumping and diversion equipment to divert part or all of their Jeffries Creek water right but has not done so for several years.

Storage rights are held for two reservoirs on Big Creek upstream from the water treatment plant. The Blattner Creek water right flows into Big Creek Reservoir #2 (upper reservoir) by gravity. The Siletz right is diverted and pumped into the Big Creek Reservoir #2 through over 5 miles of piping. Water from the upper Reservoir #2 flows into the lower Reservoir #1 where the Big Creek Pump Station is located to pump all available water rights to the treatment plant.

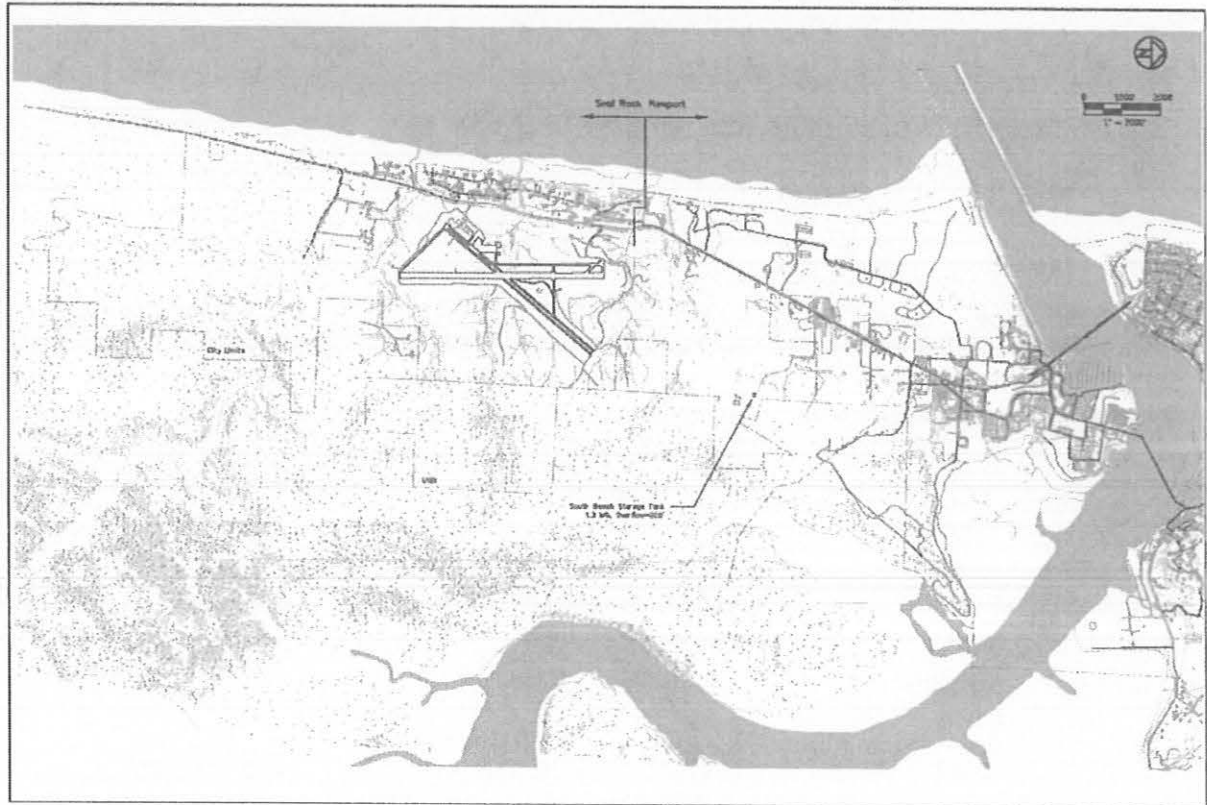
During the heart of the summer months, the only water right that is currently capable of providing the City with a supply of raw water is the 6.0 cfs right on the Siletz River due to inadequate flows in Big Creek and Blattner Creek. System demand in excess of 6.0 cfs is met at these times through the use of water in the Reservoir's which was stored during previous wetter months.

Map 2 shows that all of the City water rights are in drainages north of the Yaquina River. The City has made significant investment in the acquisition of water rights as well as the water storage, treatment and delivery systems. Map 3 shows existing water

distribution infrastructure south of Yaquina Bay. The City has limited infrastructure available, and has yet to provide service to areas south of the Newport Airport, including the Wolf Tree Destination Resort area.

As a result, the City finds all areas south of Yaquina Bay unsuitable for the purpose of constructing water storage facilities with the capacity of approximately 1,000 acre-feet.

Map 3. Water Distribution Infrastructure South of Yaquina Bay



Source: City of Newport Water System Master Plan

The remainder of this analysis will focus on areas north of Yaquina Bay. Map 4 shows the watersheds that will be further evaluated in the alternatives analysis (streams highlighted in light blue). These include (from north to south):

- Johnson Creek
- Spencer Creek
- Wade Creek
- Coal Creek
- Moolack Creek
- Schooner Creek
- Little Creek

- Big Creek (including tributaries – Blattner Creek, Anderson Creek, and Jefferies Creek)
- Nye Creek

6.3.2.1.2 Site characteristics of land for parks

Newport's adopted *Park System Master Plan* documents the need for regional parks to serve residents of the City and beyond. The *Park System Master Plan* concludes that the appropriate level of service standard for Newport for regional parks is 6.0 acres per 1,000 people and that Newport has a deficit of approximately 75 acres of land for a regional park.

The characteristics of suitable land for a regional park are:

1. **Size.** The park should be approximately 75 acres in size.
2. **Location.** The park should be located adjacent to or within the City's UGB and city limits. The City's adopted *Park System Master Plan* proposed locating the regional park at Big Creek Reservoir in several small activity nodes along the Reservoir. The City's adopted *Capital Improvement Plan for Park, Open Space, and Trail Development* identified two priority projects at Big Creek Reservoir: (1) trail development and (2) park upgrade and expansion.
3. **Water and wastewater access.** The City will only be able to provide water and wastewater services to portions of the park located within the UGB, without a Goal 11 exception. If the regional park is located at Big Creek Reservoir, the park will need access to Newport's water and wastewater services, to avoid disrupting or polluting the Big Creek Reservoirs.
4. **Transportation access.** The park should be accessible via an improved road, suitable for use by passenger cars and city parks maintenance vehicles.
5. **Recreational facilities.** The park should be able to accommodate a range of activities and have sufficient facilities to facilitate these activities. Possible facilities for a regional park could include: paved and unpaved trails, fishing dock and piers, group picnic areas and shelters, parking areas, restroom facilities, and open grass play areas.
6. **City ownership.** The proposed uses are public in nature and cannot be accommodated on privately held lands. The City would be required to condemn lands that are directly affected by development of public facilities.

Map 4. Watersheds North of Yaquina Bay Considered as part of the Alternatives Analysis



Preliminary Park Site Suitability Evaluation: The City finds areas south of Yaquina Bay unsuitable for a regional park based on criteria 2, 3, 5, and six as follows:

Siting Criteria	Evaluation
1. Size. The park should be approximately 75 acres in size.	Sites of 75 acres exist south of Yaquina Bay.
2. Location. The park should be located adjacent to or within the City's UGB and city limits. The City's adopted <i>Park System Master Plan</i> proposed locating the regional park at Big Creek Reservoir in several small activity nodes along the Reservoir.	Based on the adopted parks system master plan and the comprehensive plan, the City has determined that areas near Big Creek Reservoir are best suited for the facilities. Other locations are possible, but less desirable.
3. Water and wastewater access. The City will only be able to provide water and wastewater services to portions of the park located within the UGB, without a Goal 11 exception. If the regional park is located at Big Creek Reservoir, the park will need access to Newport's water and wastewater services, to avoid disrupting or polluting the Big Creek Reservoirs.	Larger areas south of Yaquina Bay are designated for industrial, airport or destination resort uses. The parks master plan does not identify a need for a regional park in these areas. Moreover, areas south of the Airport do not have water or wastewater service.
4. Transportation access. The park should be accessible via an improved road, suitable for use by passenger cars and city parks maintenance vehicles.	Transportation access could be provided to sites south of Yaquina Bay.
5. Recreational facilities. The park should be able to accommodate a range of activities and have sufficient facilities to facilitate these activities. Possible facilities for a regional park could include: paved and unpaved trails, fishing dock and piers, group picnic areas and shelters, parking areas, restroom facilities, and open grass play areas.	The master plan identifies facilities that are conducive to freshwater based recreation. No significant fresh water bodies (e.g. lakes or reservoirs) exist south of Yaquina Bay.
6. City ownership. The proposed uses are public in nature and cannot be accommodated on privately held lands. The City would be required to condemn lands that are directly affected by development of public facilities.	The only area of 75 acres or larger in City ownership is the Newport Airport. Recreational facilities are incompatible with this use.

6.3.3 Boundary Location Analysis/Alternatives Analysis

ORS 197.298 establishes the following priorities for inclusion of land within an expanded UGB:

(1) In addition to any requirements established by rule addressing urbanization, land may not be included within an urban growth boundary except under the following priorities:

(a) First priority is land that is designated urban reserve land under ORS 195.145, rule or metropolitan service district action plan.

(b) If land under paragraph (a) of this subsection is inadequate to accommodate the amount of land needed, second priority is land adjacent to an urban growth boundary that is identified in an acknowledged comprehensive plan as an exception area or nonresource land. Second priority may include resource land that is completely surrounded by exception areas unless such resource land is high-value farmland as described in ORS 215.710.

(c) If land under paragraphs (a) and (b) of this subsection is inadequate to accommodate the amount of land needed, third priority is land designated as marginal land pursuant to ORS 197.247 (1991 Edition).

(d) If land under paragraphs (a) to (c) of this subsection is inadequate to accommodate the amount of land needed, fourth priority is land designated in an acknowledged comprehensive plan for agriculture or forestry, or both.

(2) Higher priority shall be given to land of lower capability as measured by the capability classification system or by cubic foot site class, whichever is appropriate for the current use.

(3) Land of lower priority under subsection (1) of this section may be included in an urban growth boundary if land of higher priority is found to be inadequate to accommodate the amount of land estimated in subsection (1) of this section for one or more of the following reasons:

(a) Specific types of identified land needs cannot be reasonably accommodated on higher priority lands;

(b) Future urban services could not reasonably be provided to the higher priority lands due to topographical or other physical constraints; or

(c) Maximum efficiency of land uses within a proposed urban growth boundary requires inclusion of lower priority lands in order to include or to provide services to higher priority lands.

Note that Newport has not established urban reserve areas and therefore has no priority 1 land to review. Lincoln County is not a marginal land county, therefore no priority 3 lands exist.

6.3.3.1 Evaluation of Lands within the UGB

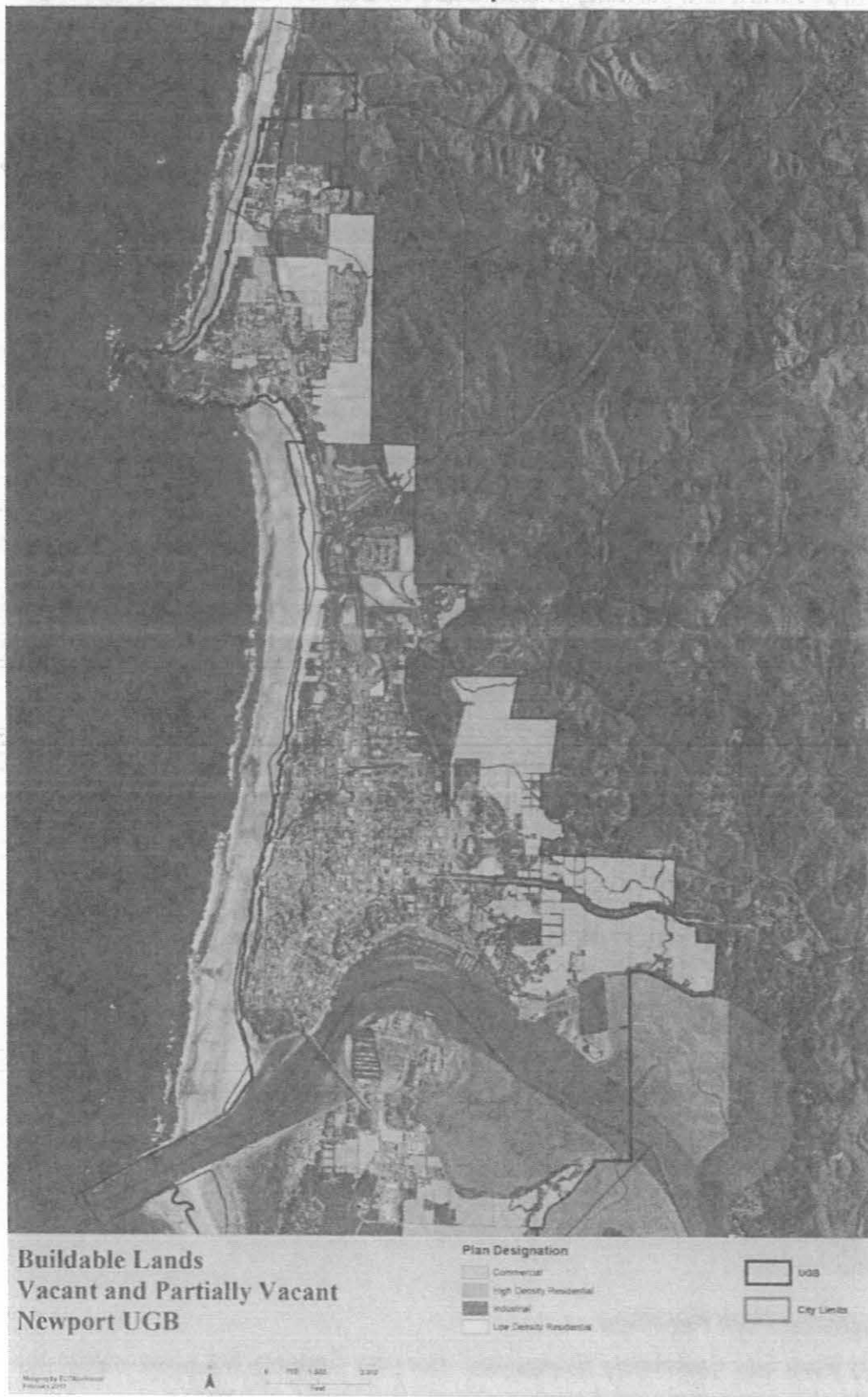
The City conducted buildable lands inventories of the entire UGB as part of the 2011 Housing Needs study and the 2012 Economic Opportunities Assessment. A cursory review of the inventory suggests that no areas are suitable for the proposed uses based on the site suitability criteria.

Map 2 shows buildable lands within the Newport UGB. The data are derived from the 2011 Newport Housing Study (residential land) and the 2012 Newport Economic Opportunities Analysis (employment land). As shown on map 2, the only area within the Newport UGB that includes a watershed of sufficient size to meet Newport's domestic water supply needs is the southernmost area of the UGB known as the Wolf Tree destination resort site.

6.3.3.1.1 Water Storage and Treatment Facilities

Section 6.2.3.1.1 describes the site suitability characteristics for the water storage facilities. Section 6.2.3.1.1 also presents findings that conclude areas south of Yaquina Bay are unsuitable for the water storage facilities. Thus, land within the northern portions of the UGB are further evaluated against the suitability criteria. Map 5 shows the location of buildable land within the Newport UGB. It also shows the location of streams that are adjacent to, or run through the city.

Map 5. Buildable Lands Within the Newport UGB



The City finds vacant and partially vacant lands within the Newport UGB are not suitable for the water storage facilities based on the site requirements outlined in section 6.3.2.1.1. The City makes the following findings with respect to suitability.

Criteria	Evaluation
1. Water treatment capacity	No watersheds or waterways within the UGB meet the capacity requirements. None are large enough to meet the city's water treatment capacity. Moreover, the City does not have water rights that provide the required capacity outside of Big Creek. The City requires 6 cfs to meet current demand.
2. Water quality	Other waterways within the UGB could meet the water quality standard. The City would need to conduct water quality evaluations to make this determination.
3. Water storage capacity	Map 2 shows that Jefferies Creek is the only other waterway that has vacant land (0.4 cfs).
4. Size and configuration	No other areas could accommodate a 100- to 150-acre surface area for a reservoir.
5. Buffer	No watersheds within the UGB could provide the 1,000 foot buffer recommended by DEQ and OHD.
6. Proximity and access to facilities	No other watersheds have access to the existing water storage and treatment infrastructure.
7. City ownership	No other watersheds have the level of City ownership necessary to construct the facilities. Acquiring lands would require complex real estate negotiations, or condemnation.

Moreover, the City finds that the following watersheds do not meet the siting criteria for water storage and treatment facilities:

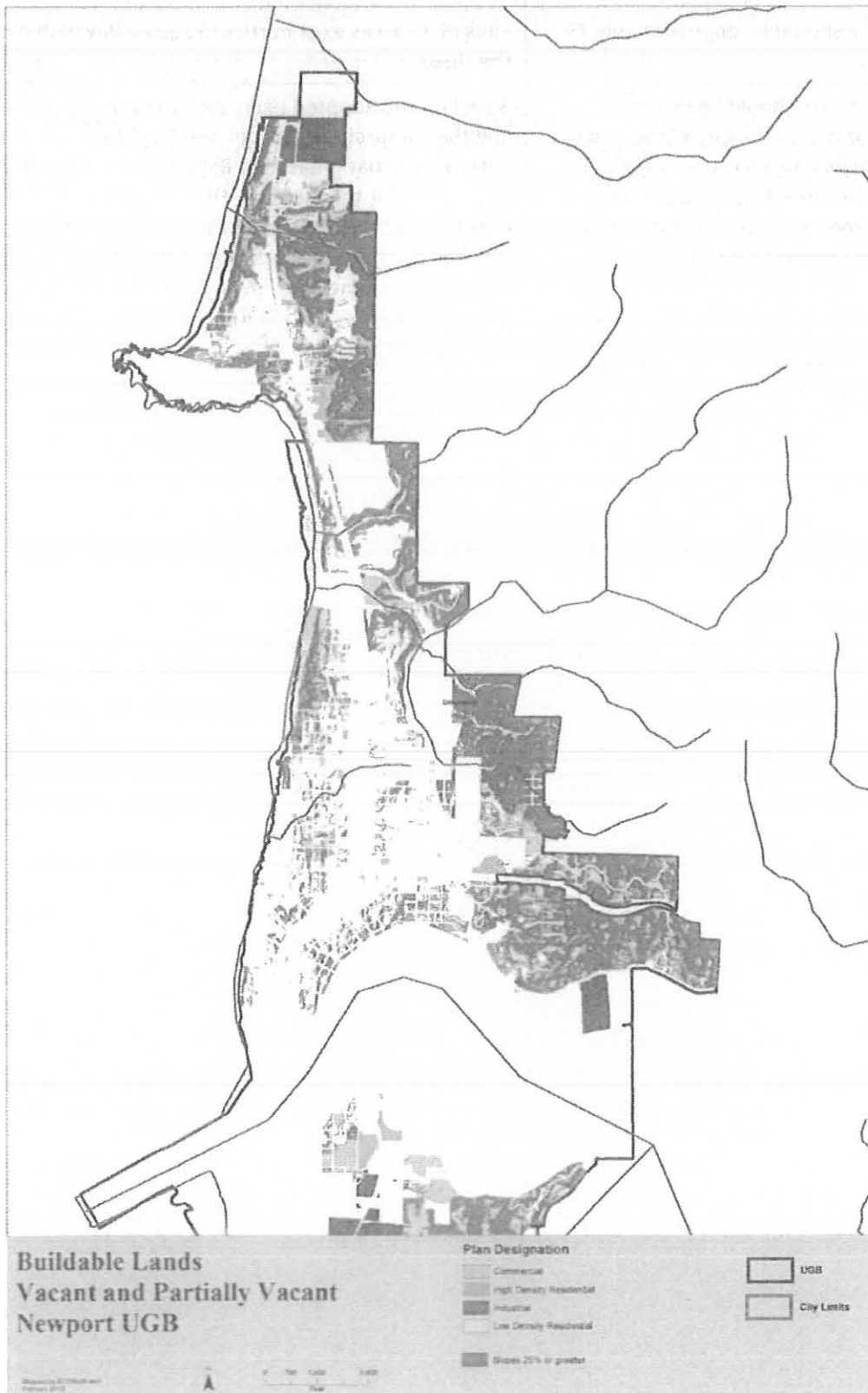
- Nye Creek – does not have the discharge capacity or enough buildable area for the facilities.
- Schooner Creek - does not have the discharge capacity or enough buildable area for the facilities.
- Jefferies Creek - does not have the discharge capacity or enough buildable area for the facilities.
- Little Creek - does not have the discharge capacity or enough buildable area for the facilities.

6.3.3.1.2 Regional Park Facilities

Preliminary Park Site Suitability Evaluation: The City finds vacant areas within the UGB unsuitable for a regional park based on criteria 2, 5, and 6 as follows:

Siting Criteria	Evaluation
1. Size. The park should be approximately 75 acres in size.	Sites of 75 acres exist north of Yaquina Bay within the UGB.
2. Location. The park should be located adjacent to or within the City's UGB and city limits. The City's adopted <i>Park System Master Plan</i> proposed locating the regional park at Big Creek Reservoir in several small activity nodes along the Reservoir.	Based on the adopted parks system master plan and the comprehensive plan, the City has determined that areas near Big Creek Reservoir are best suited for the facilities. Other locations are possible, but less desirable. Map 6 shows that virtually all of the undeveloped land within the UGB is slope constrained (significant areas with slopes of 25% or greater).
3. Water and wastewater access. The City will only be able to provide water and wastewater services to portions of the park located within the UGB, without a Goal 11 exception. If the regional park is located at Big Creek Reservoir, the park will need access to Newport's water and wastewater services, to avoid disrupting or polluting the Big Creek Reservoirs.	Vacant areas can be serviced with water and wastewater, however, slope constraints will add considerable cost.
4. Transportation access. The park should be accessible via an improved road, suitable for use by passenger cars and city parks maintenance vehicles.	Transportation access could be provided to sites north of Yaquina Bay.
5. Recreational facilities. The park should be able to accommodate a range of activities and have sufficient facilities to facilitate these activities. Possible facilities for a regional park could include: paved and unpaved trails, fishing dock and piers, group picnic areas and shelters, parking areas, restroom facilities, and open grass play areas.	The master plan identifies facilities that are conducive to freshwater based recreation. No significant fresh water bodies (e.g. lakes or reservoirs) exist on vacant sites in the UGB north of Yaquina Bay.
6. City ownership. The proposed uses are public in nature and cannot be accommodated on privately held lands. The City would be required to condemn lands that are directly affected by development of public facilities.	No city-owned sites of 75 acres or larger exist within the UGB north of Yaquina Bay.

Map 6. Buildable Lands North of Yaquina Bay with Slopes 25% or Greater



6.3.3.2 Evaluation of Exceptions Areas

The City has no priority 1 lands (Urban Reserves). Thus, the next priority is exceptions areas. Map 4 shows the location of exceptions areas near the Newport UGB north of Yaquina Bay. Map 3 shows that exceptions areas are generally clustered adjacent to the Newport UGB or along the coast north of the UGB.

6.3.3.2.1 Water Storage and Treatment Facilities

The City finds exceptions areas are unsuitable for the water storage facilities for the following reasons:

- A. No areas of exceptions lands are large enough to accommodate the proposed uses.
- B. Exceptions areas typically have pre-existing development (hence the rationale for them being granted an "exception" from resource land goals). The siting requirements and City objectives related to the public facilities make exceptions areas inappropriate. The City does not desire additional development in the watershed and lands with pre-existing development would require the City to condemn them for public uses.
- C. The City finds the following watersheds not suitable for the water storage and treatment facilities due to inadequate discharge (according to data provided the Oregon Department of Forestry, none of these watersheds has a discharge of greater than 10 cfs):
 - a. Johnson Creek
 - b. Wade Creek
 - c. Coal Creek
 - d. Moolack Creek

6.3.3.2.2 Regional Park Facilities

The City finds exceptions areas are unsuitable for the regional park facilities for the following reasons:

- A. No areas of exceptions lands are large enough to accommodate the proposed uses. The on exception parcel larger than 75 acres within the study area is nearly 2 miles from the northern extent of the UGB.
- B. No exceptions areas have access to flat water recreation opportunities.

- C. Exceptions areas typically have pre-existing development (hence the rationale for them being granted an "exception" from resource land goals).
- D. Exceptions areas are not appropriate for development of a regional park. Because of the proposed public uses, the City would be required to condemn the lands.

Thus, exceptions areas are not suitable because none meet siting criteria, 2, 3, 4, 5, or 6.

Map 4. Exceptions areas near the Newport UGB



6.3.3.3 Evaluation of Resource Areas

The analysis in Section 6.3.1 and 6.3.2 rules out meeting the identified land needs in existing exceptions areas. Therefore, the City has justification to evaluate resource lands. ORS 197.298(2) and (3) outlines the requirement for evaluation of resource lands:

(2) Higher priority shall be given to land of lower capability as measured by the capability classification system or by cubic foot site class, whichever is appropriate for the current use.

(3) Land of lower priority under subsection (1) of this section may be included in an urban growth boundary if land of higher priority is found to be inadequate to accommodate the amount of land estimated in subsection (1) of this section for one or more of the following reasons:

(a) Specific types of identified land needs cannot be reasonably accommodated on higher priority lands;

As described in the preceding findings, ORS 197.298(3) provides the rationale for why the City must look at resource lands to meet the identified water storage and treatment needs. The next step is to review resource lands (all in Forest zones) adjacent to the Newport UGB based on capability classification or cubic foot site class. The City was unable to find a standardized data source for cubic foot site class, so it uses soil classification as a proxy for cubic foot site class.

Map 5 shows soil classifications for areas adjacent to the Newport UGB north of Yaquina Bay. The soils map shows that most areas east of the Newport UGB have Class 6 or 7 soils. Areas north of the UGB have higher soil suitability classes – Class 2 and 3. Note that areas in yellow are exceptions areas where soil class is not relevant.

Map 5. Land by Soil Productivity Classification



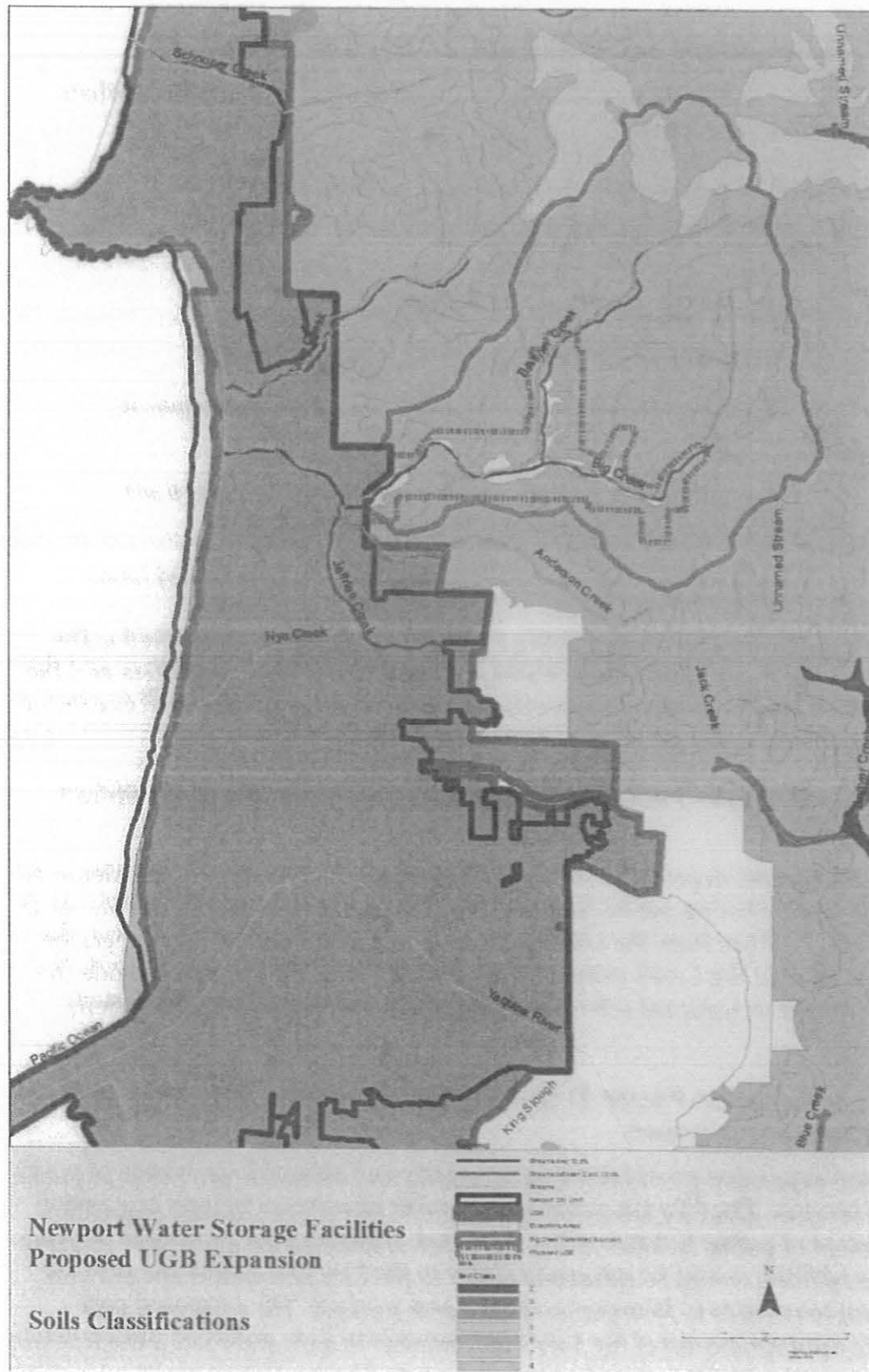
Based on soil classifications and the requirements of ORS 197.298(2), the City finds that areas north of the UGB are lower priority. The City eliminates these areas from further consideration (areas outlined in red on Map 5).

Map 6 shows the remaining areas that must be evaluated for suitability (the areas are highlighted in light blue). This includes the following watersheds:

- Blattner Creek/Big Creek

Nye Creek and Jefferies Creek were eliminated from further consideration in the evaluation of areas within the UGB and exceptions areas. Yaquina Bay is unsuitable due to saltwater.

Map 5. Land by Soil Productivity Classification



6.3.4 Goal 14 Boundary Location Factors (factors 1-4)

Goal 14 establishes four boundary location factors that must be considered when reviewing alternative boundaries:

The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors:

- (1) Efficient accommodation of identified land needs;*
- (2) Orderly and economic provision of public facilities and services;*
- (3) Comparative environmental, energy, economic and social consequences;*
and
- (4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.*

The following sections provide a preliminary evaluation of the proposed lands.

Based on the preceding analysis, the Big Creek/Blattner Creek Watershed is the only watershed that is suitable for the water storage and treatment facilities and the proposed regional park. The following sections evaluate the proposed UGB expansion area (Map 1) against the four Goal 14 locational factors.

6.3.4.1 Goal 14 Location Factor 1: Efficient accommodation of identified land need

The proposed expansion provides the most efficient accommodation of the identified land need due to the existing public facilities. Moving the facilities would simply move the impact of the facilities from the existing location to a new location. Moreover, the existing and expanded Big Creek reservoirs are the only location that can provide the desired water-based recreational activities described in the Newport Parks System Master Plan.

6.3.4.2 Goal 14 Location Factor 2: Orderly and economic provision of public facilities and services

The proposed expansion provides the most orderly and economic provision of public facilities and services. The City has made considerable investment in land acquisition and development of public facilities in the Big Creek watershed for more than 50 years. Moving these facilities would be extremely costly to the City and would not provide any service improvements to Newport residents and workers. The proposed park facilities make appropriate use of the City's investments in dam and road infrastructure.

All other locations would require additional investments and would impact other resource lands unnecessarily.

6.3.4.3 Goal 14 Location Factor 3: Comparative environmental, energy, economic and social consequences

Locating the water storage and treatment facilities and the recreational facilities in another watershed would have larger negative impacts than the proposed expansion in the Big Creek watershed. Development of the facilities in a different watershed would have negative environmental consequences due to construction activity. Development of new facilities elsewhere would be more energy intensive than the current location, would be more costly, and would result in more substantial costs that Newport residents and businesses would have to bear.

6.3.4.4 Goal 14 Location Factor 4: Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.

The reservoir and parkland uses do not create any inherent compatibility issues with nearby forest activities.

6.4 EXCEPTION TO STATEWIDE PLANNING GOAL 14 (URBANIZATION)

This section evaluates the proposed UGB expansion areas as an exception to Goal 14 as allowed by Goal 2 and OAR 660-024-0020(1).

6.4.1 Goal 2: Land Use Exceptions Process

Goal 2 requires all incorporated cities to establish and maintain comprehensive land use plans and implementing ordinances. It also requires cities to coordinate with other affected government entities in legislative land use processes. The purpose of Goal 2 is:

To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Newport has an established land use process and policy framework. The applicable sections of that framework are addressed in this findings document. Goal 14 exempts UGB actions from the Goal 2 exception process. OAR 660-024-0020(1)(a) allows local governments to address exceptions as an alternative path:

(a) The exceptions process in Goal 2 and OAR chapter 660, division 4, is not applicable unless a local government chooses to take an exception to a particular goal requirement, for example, as provided in OAR 660-004-0010(1);

Because of the nature of this application, the City of Newport elected to address the Goal 2 exception criteria. Goal 2 identifies three potential avenues for a goal exception:

A local government may adopt an exception to a goal when:

(a) The land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal;

(b) The land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or

(c) The following standards are met:

(1) Reasons justify why the state policy embodied in the applicable goals should not apply;

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

(3) The long-term environmental, economic, social and energy consequences resulting from the use of the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

(4) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

The proposal involves expanding the UGB to add the City water storage and treatment facilities (including supporting infrastructure such as roads), and approximately 75 acres for a public park. The proposal would designate the lands in the "Public" plan designation, and zone the land P-1 (Public Structures) – a zone that allow water utility infrastructure and public parks as an outright use. Because the existing County zoning on the land (TC – Timber/Commercial) adopted in accordance with Statewide Planning Goal does not allow these uses, the City must take an exception to Goal 4 (Forest Lands).

Goal 2 and ORS 197.732 establish the process for Goal exceptions. Goal 2 identifies three types of exceptions – each with a different standard. A "developed" exception occurs when a property is physically developed to the extent that it is no longer available for uses allowed by the applicable goal (Goal 4). Portions of the property – including land where public facilities exist as well as areas inundated by the reservoirs and lands for access roads qualify under this provision. Thus, the City provides findings in the following section that justify those lands under the exceptions provision (Goal 4 section 'a' above).

The lands proposed for the regional park are justifiable under the “reasons” exception as described in section ‘c’ of the Goal 2 exceptions process. To justify a reasons exception the City must establish reasons that justify why the state policy embodied in the applicable goal should not apply. The specific requirements are found in Oregon Administrative Rule (OAR) 660-014-0040, which requires analysis of Environmental, Social, Energy and Economic (ESEE) impacts of the proposal.

Goal 2 and ORS 197.732 establish the process for Goal exceptions. Goal 2 identifies three types of exceptions – each with a different standard. A “developed” exception occurs when a property is physically developed to the extent that it is no longer available for uses allowed by the applicable goal; Goal 4. Portions of the property – including land where public facilities exist as well as areas inundated by the reservoirs qualify under this provision. Thus, the city provides findings in the following section that justify those lands under the *exceptions* provision (Section ‘a’ above).

The remainder of the proposed lands are proposed for a *reasons* exception as described in section ‘c’ of the Goal 2 exceptions process. To justify a reasons exception the City must establish that reasons justify why the state policy embodied in the applicable goal should not apply. The specific requirements are found in Oregon Administrative Rule (OAR) 660-014-0040, which requires analysis of Environmental, Social, Energy and Economic (ESEE) impacts of the proposal.

6.4.2 Committed Lands

Finding: Lands within the reservoir inundation zones and used for existing public facilities can be considered “committed” under the Goal 2 (a) process. Reservoir #1 was constructed in the 1950s and Reservoir #2 was constructed in 1976. In short, these lands meet the definition of “committed” lands in Goal 2:

(a) The land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal;

6.4.3 Justification for a “Reasons” Exception for a Regional Park

This section provides a preliminary analysis to justify a “reasons” exception for the proposed regional park.

Standard (1): Reasons justify why the state policy embodied in the applicable goals should not apply

The City cites the following reasons to justify an exception to Statewide Planning Goal 4:

- A. The City has identified a need for a 75-acre regional park in the Big Creek watershed in both the City’s Comprehensive Land Use Plan as well as the City’s Park System Master Plan.

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

See analysis in Section 6.3.3 above.

Standard (3): The long-term environmental, economic, social and energy consequences resulting from the use of the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site

Locating the facilities in another watershed would have larger negative impacts than the proposed expansion in the Big Creek watershed. Development of the facilities in a different watershed would have negative environmental consequences due to construction activity. Development of new facilities elsewhere would be: more energy intensive than the current location, would be more costly, and would result in more substantial costs that Newport residents and businesses would have to bear. In short, the proposed expansion is the best alternative for all criteria.

Standard (4): The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts

The Big Creek site proposed for the regional park intends to make use of opportunities for water-related recreation activities. The inclusion of the park in the UGB will allow the City to develop urban level facilities such as flush toilets connected to the municipal wastewater treatment facility that are necessary to mitigate potential water quality impacts. A municipal sewer connection is more desirable from a water quality protection perspective given that the facilities will be located near the City's domestic drinking water supply.

6.5 CITY OF NEWPORT CRITERIA

This section reviews the proposed UGB expansion against relevant City criteria. That includes criteria for major plan text or map amendments as described in Policy 4.5 of the Newport Comprehensive Plan:

5.) *Findings shall address the following:*

a.) Land Need: Establishment and change of urban growth boundaries shall be based on the following:

- 1.) Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and*
- 2.) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks and open space, or any combination of the need categories in this subsection;*

b.) *Boundary Location: The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors:*

- 1.) *Efficient accommodation of identified land needs;*
- 2.) *Orderly and economic provision of public facilities and services;*
- 3.) *Comparative environmental, energy, economic, and social consequences; and*
- 4.) *Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.*

c.) *Statewide Planning Goal 2 exception criteria.*

6.5.1 Criteria 4.5.a: Land Need: Establishment and change of urban growth boundaries shall be based on the following:

1. Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and

2.) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks and open space, or any combination of the need categories in this subsection;

Finding: Satisfied. The analysis of Goal 14 need factors 1 and 2 in Section 6.3.1 of these findings clearly demonstrate the need for the facilities based on population trends and public facility demands created by current and future population.

6.5.2 Criteria 4.5.b: Boundary Location: The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors:

- 1. Efficient accommodation of identified land needs;**
- 2. Orderly and economic provision of public facilities and services;**
- 3. Comparative environmental, energy, economic, and social consequences; and**
- 4. Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.**

Finding: Satisfied. The findings in section 6.4.3.1 through 6.5.3.4 of this document conclude the proposed expansion is the most appropriate when evaluated against the four Goal 14 location criteria.

7 GOAL COMPLIANCE:

This section addresses compliance with applicable Statewide Planning Goals.

7.1.1 Goal 1 Citizen Involvement

Goal 1 calls for the opportunity for citizens to be involved in all phases of the planning process. The City held worksessions with the Newport Planning Commission, provide notification to affected property owners, and held public hearings to take public testimony.

In conclusion, the City's public and agency review process complies with Goal 1.

7.1.2 Goal 2 Land Use Planning

Goal 2 (Land Use Planning) outlines the basic procedures of Oregon's statewide planning program, stating that land use decisions must be made in accordance with comprehensive plans and that effective implementation ordinances must be adopted. In the process of developing the UGB proposal and findings, the City complied with Goal 2.

All pertinent documentation has been made available to all interested parties. Goal 2 has been properly addressed.

7.1.3 Goals 3 Agricultural Lands and 4 Forest Lands

As stated in 660-024-0020(b), Goals 3 and 4 are not applicable when establishing or amending an urban growth boundary. No further analysis is required.

7.1.4 Goal 5 Open Spaces, Scenic and Historic Areas & Natural Resources

Goal 5 requires local governments to inventory and protect natural resources. There are no inventoried significant Goal 5 resources in any of the areas included within the proposed expansion areas with the exception of riparian areas. The City owns the property around the reservoirs and has adopted policies that encourage acquisitions of land within the municipal drinking water supply watershed for the purpose of establishing a water quality buffer. .

Thus, Goal 5 has been properly addressed.

7.1.5 Goal 6 Air, Water and Land Resources Quality

Goal 6 requires local comprehensive plans and implementing measures to be consistent with state and federal regulations. By complying with applicable air, water and land resource quality policies in the Newport Comprehensive Plan, Goal 6 will be properly addressed.

7.1.6 Goal 7 Areas Subject to Natural Disasters and Hazards

Goal 7 requires that jurisdictions apply appropriate safeguards when planning development in areas that are subject to natural hazards such as flood hazards. Meeting the intent of Goal 7 is a major component of this action. Moreover, the City has taken appropriate steps to address new information regarding seismic hazards and their potential impact on the water storage and treatment facilities.

Thus, Goal 7 has been properly addressed.

7.1.7 Goal 8 Recreation Needs

Goal 8 requires governmental organizations with responsibilities for providing recreational facilities plan for recreational facilities. Newport adopted a Parks System Master Plan in 1993. That plan inventoried existing facilities, established a level of service standard, and identified park needs.

The UGB expansion proposal includes a 75-acre site for a Regional Park which meets a need identified in the Newport Parks System Master Plan. Thus, Goal 8 has been properly addressed.

7.1.8 Goal 9 Economy of the State

The proposal does not involve employment lands, therefore Goal 9 is not applicable.

7.1.9 Goal 10 Housing

The proposal does not involve lands for residential uses, therefore Goal 10 is not applicable.

7.1.10 Goal 11 Public Facilities and Services

The City adopted a Water System Master Plan in 2008. That plan meets the requirements of Goal 11 and 660-011. Subsequent studies identified structural deficiencies with the City's water storage and treatment facilities. The City recognizes these deficiencies and amended the Water Element of the Newport Comprehensive Plan to include policies and implementation measures to address the deficiencies.

The provisions of public facilities and services consequences have been considered in the Goal 14 alternatives analysis process.

For the above reasons, the City finds that Goal 11 has been addressed for purposes of this customized periodic review and that, therefore, the proposed amendments are in compliance with Statewide Planning Goal 11.

7.1.11 Goal 12 Transportation

Goal 12 encourages the provision of a safe, convenient and economic transportation system. This goal also implements provisions of other statewide planning goals related to transportation planning in order to plan and develop transportation facilities and services in coordination with urban and rural development (OAR 660-012-0060(1)). For purposes of the proposed amendments, the Transportation Planning Rule (TPR) requires additional analysis if the proposed amendments would significantly affect an existing or planned transportation facility, as defined in OAR 660-001-0060(1).

The first step is to determine whether the proposed zone change would "significantly affect" an existing or planned transportation facility. If the answer is yes, then the TPR applies and further consideration or possible mitigation is required. If the answer is no, then no further consideration is required. This initial TPR evaluation can be accomplished through a comparison of the potential number of trips which could be generated from allowed uses under the current designations and zoning against trips which could be generated by allowed uses under the proposed designations and zoning. Even if increased trip generation could result, this may not result in significant affects to City transportation facilities. See, *Griffith v. City of Corvallis*, 50 Or LUBA 588, 596-97 (2005).

A TPR analysis of transportation facility impacts caused by urban growth boundary expansions may be deferred by administrative rule. OAR 660-024-0020(d), specifically states:

“the transportation planning rule requirements under OAR 660-012-0060 need not be applied to an urban growth boundary amendment if the land added to the urban growth area is zoned as urbanizable land, either by retaining the zoning that was assigned prior to inclusion in the area or by assigning interim zoning that does not allow development that would generate more vehicle trips than development allowed by the zoning assigned prior to inclusion in the boundary.”

The City chooses to apply this deferral option, and has informed ODOT of its choice.

Based on this analysis, Goal 12 has been met.

7.1.12 Goal 13 Energy

Goal 13 requires land and uses developed on the land to be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles. Energy consequences of the proposed urban growth area amendment have been considered in the Goal 14 alternatives analysis ESEE process. Therefore, Goal 13 has been adequately addressed.

7.1.13 Goal 14 Urbanization

Goal 14 has been complied with as demonstrated in Sections 2 through 6 of this report.

7.1.14 Goal 15 through 19

Goals 15 through 19 are related to the Willamette Greenway and coastal resources. As such, these goals do not apply to the subject sites and no further analysis is required.

APPENDIX A: LINCOLN COUNTY CRITERIA AND FINDINGS

The Lincoln County criteria for urban growth boundary amendments are outlined in Section 1.0030 (Urbanization Policies) of the Lincoln County Comprehensive Plan.

1.0030 Urbanization Policies

(l) Lincoln County shall work with citizens and cities of Lincoln County in the establishment, maintenance and amendment of urban growth boundaries. Establishment and change of the boundaries shall be based upon consideration of the following factors:

(a) Demonstrated need to accommodate long-range urban population growth requirements consistent with LCDC goals;

Finding: Satisfied. Section 6.3.1.1 of the City's findings address criteria a.

(b) Need for housing, employment opportunities, and livability;

Finding: Satisfied. Section 6.3.1.2 addresses criteria b.

(c) Orderly and economic provision for public facilities and services;

Finding: Satisfied. Section 2 of the City's findings outlines the City's rationale for the proposal, which includes orderly and economic provision for public facilities and services. Section 6.3.3 (Goal 14 Boundary Location Analysis) provides additional findings related to criteria c.

(d) Maximum efficiency of land uses within and on the fringe of the existing urban area;

Finding: Satisfied. Section 2 of the City's findings outlines the City's rationale for the proposal, which includes orderly and economic provision for public facilities and services. Section 6.3.2 (Goal 14 Boundary Location Analysis) provides additional findings related to criteria c.

(e) Environmental, energy, economic and social consequences;

Finding: Satisfied. Section 6.3.4.3 of the City's findings address criteria e.

(7) Within urban growth boundaries and outside of city limits, the Lincoln County land use designations shall apply prior to annexations. After annexations, the city land use designations shall apply.

Finding: Satisfied. The current County zoning on lands in the expansion area (T-C) will apply until the lands are annexed by the City.

(9) Lincoln County shall coordinate with cities and special districts on plans, public facility extensions and urban services delivery. Where necessary this will be done through intergovernmental agreement.

Finding: Satisfied. The City and County held several meetings on this matter prior to formal action. Moreover, the boundary amendment requires County action and public hearings with the County Planning Commission and County Board of Commissioners.

NE Agate Beach Urban Growth Boundary Adjustment Description
(1st Revision)

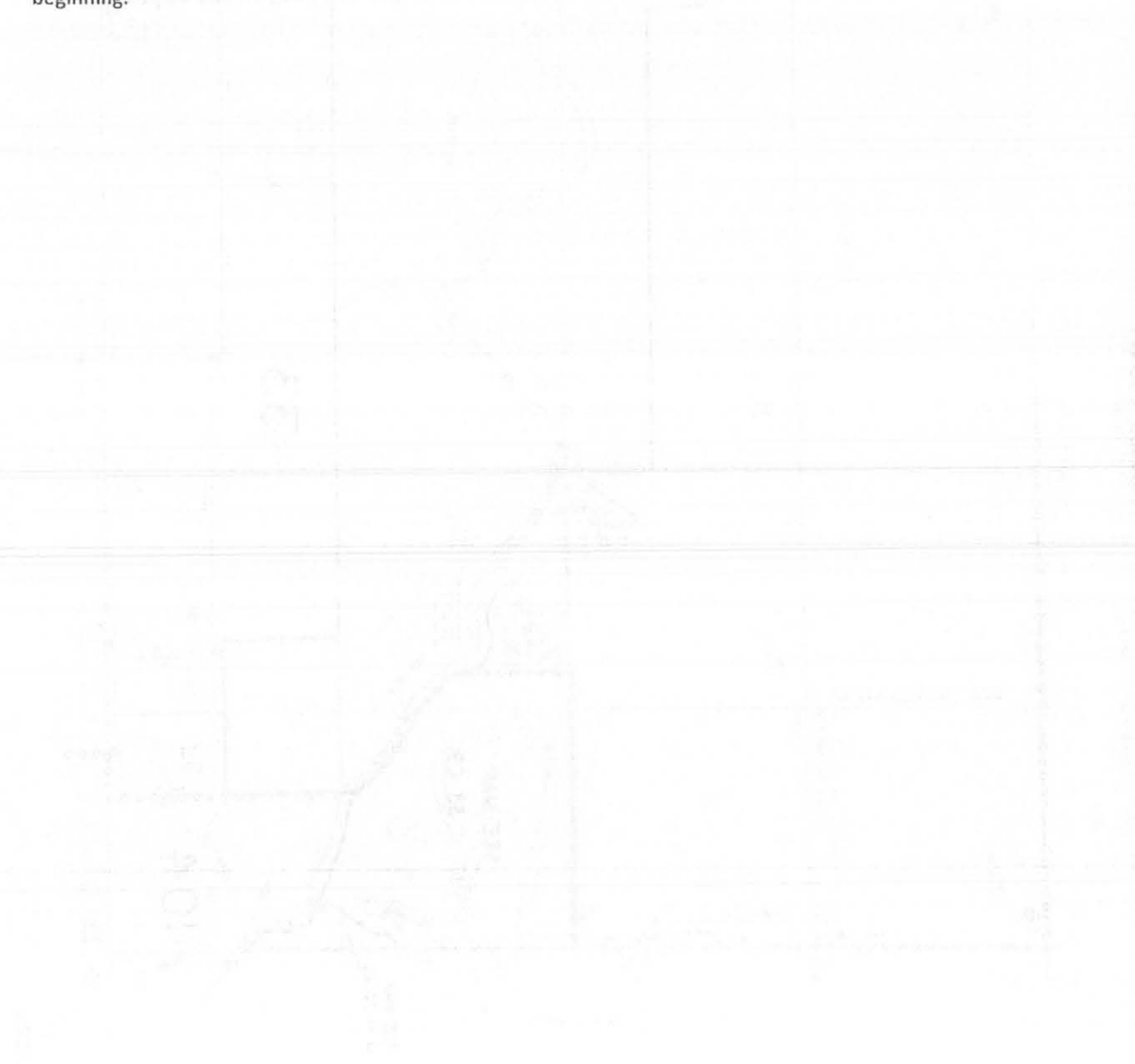
Beginning at the Southeast corner of the Southwest quarter of Section 33, Township 10 South, Range 11 West, of the Willamette Meridian, in Lincoln County, Oregon; thence west along the South line of said Section 33, a distance of 20 chains, to the Southeast corner of that tract of land conveyed to Tonia K. Warren, by deed, recorded July 18, 2000, in mf405-0166, Microfilm Records for Lincoln County Oregon, thence continuing west along said South line of Section 33, a distance of 7 chains, to the Southwest corner of said Warren Tract; thence north along the West line of said Warren Tract, a distance of 10 chains, to the Northwest corner of said Warren Tract, said Northwest corner of the Warren Tract lying on the South line of the North half of the Southwest quarter of said Southwest quarter of Section 33, and said Northwest corner of the Warren Tract also being the true point of beginning; thence continuing north along the north extension of said West line of the Warren Tract, a distance of 720 feet, more or less, to its intersection with the easterly annexation line established by City of Newport, Oregon Ordinance No. 966, approved by the City Council on May 6th, 1974 and adopted by the Mayor on May 6th, 1974; thence northeasterly along said easterly annexation line, a distance of 880 feet, more or less, to the most southerly corner of that tract of land conveyed to Robert N. Etherington and Winifred K. Etherington, husband and Wife, and Robert C. Etherington and Linda A. Etherington, husband and wife, by deed, recorded March 17, 2011, in DOC 2011-02743, Book of Records for Lincoln County, Oregon; thence north along the West line of said Etherington Tract, a distance of 80 feet, more or less, to its intersection with a line that is 60.00 feet northerly of and parallel to the southerly line of said Etherington Tract; thence easterly along said line that is 60.00 feet northerly of and parallel to the southerly line of the Etherington Tract, a distance of 530 feet, more or less, to its intersection with the East line of said Etherington Tract; thence north along said East of the Etherington Tract, a distance of 406 feet, more or less, to the North line of the Southwest quarter of Section 33; thence east along said North line of the Southwest quarter of Section 33, a distance of 460 feet, more or less, to the most westerly corner of that first tract of land conveyed to the City of Newport, by deed, recorded February 21, 1953, in Book 156, Page 408, Deed Volume Records for Lincoln County, Oregon; thence North 45° East along the northwesterly line of said first City of Newport Tract, a distance of 26 feet, more or less, to the most southerly corner of a second tract of land conveyed to the City of Newport, by deed, recorded October 2, 2008, in DOC 2008-11669, Book of Records for Lincoln County, Oregon; thence along the southwesterly, northwesterly, and northeasterly lines of said second City of Newport Tract,

along the following bearings and distances: North 34°48'50" West, a distance of 181.37 feet, South 86°02'00" West, a distance of 85.42 feet, North 25°57'30 " West, a distance of 106.87 feet, North 46°31'25" East, a distance of 192.76 feet, South 34°48'50" East, a distance of 330.48 feet, to said northwesterly line of the first City of Newport Tract; thence continuing North 45° East along said northwesterly line of the first City of Newport Tract, a distance of 125 feet, more or less, to the West line of the Northeast quarter of said Section 33; thence north along said West line of the Northeast quarter of Section 33, a distance of 280 feet, more or less, to its intersection with a line that is 480.00 feet north of and parallel to the South line of said Northeast quarter of Section 33; thence east along said line that is 480.00 feet north of and parallel to the South line of the Northeast quarter of Section 33, a distance of 2570 feet, more or less, to its intersection with a line that is 85.00 feet west of and parallel to the East line of said Section 33; thence north along said line that is 85.00 feet west of and parallel to the East line of Section 33, a distance of 340 feet, more or less, to its intersection with a line that is 820.00 feet north of and parallel to said South line of the Northeast quarter of Section 33; thence east along said line that is 820.00 feet north of and parallel to the South line of the Northeast quarter of Section 33, a distance of 85 feet, more or less, to said East line of Section 33; thence north along said East line of Section 33, a distance of 1800 feet, more or less, to the common corner of Sections 27, 28, 33, and 34, said Township 10 South, Range 11 West of the Willamette Meridian; thence east along the North line of said Section 34, a distance of 435 feet, more or less, to its intersection with a line that is 435.00 feet east of and parallel to the north extension of the West line of said Section 34; thence north along said line that is 435.00 feet east of and parallel to the north extension of the West line of Section 34, a distance of 350 feet, more or less, to its intersection with a line that is 350.00 feet north of and parallel to said North line of Section 34; thence east along said line that is 350.00 feet north of and parallel to the North line of Section 34, a distance of 665 feet, more or less, to its intersection with a line that is 1100.00 feet east of and parallel to said north extension of the West line of Section 34; thence south along said line that is 1100.00 feet east of and parallel to the north extension of the West line of Section 34, a distance of 350 feet, more or less, to said North line of Section 34; thence east along said North line of Section 34, a distance of 180 feet, more or less, to the north-south centerline of the Northwest quarter of said Section 34; thence south along said north-south centerline of the Northwest quarter of Section 34, a distance of 2565 feet, more or less, to a point that is 50.00 feet north of the Southwest corner of the Southeast quarter of said Northwest quarter of Section 34; thence southeasterly, a distance of 680 feet, more or less, to a point, said point being the intersection of two lines, the first being a line that is 170.00 feet south of and parallel to the North line of the Southwest

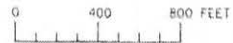
quarter of said Section 34, and the second being a line that is 645.00 feet east of and parallel to the north-south centerline of the Southwest quarter of Section 34; thence northeasterly, a distance of 800, more or less, to a point that is the intersection of two lines, the first being a line that is 550.00 feet north of and parallel to said South line of said Northwest quarter of Section 34, and the second being a line that is 280.00 feet west of and parallel to the East line of said Northwest quarter of Section 34; thence east along said line that is 550.00 feet north of and parallel to said South line of the Northwest quarter of Section 34, a distance of 440 feet, more or less, to its intersection with a line that is 160.00 feet east of and parallel to said East line of the Southwest quarter of Section 34; thence south along said line that is 160.00 feet east of and parallel to said East line of the Southwest quarter of Section 34, a distance of 190 feet, more or less, to its intersection with a line that is 360.00 feet north of and parallel to the North line of the Southeast quarter of said Section 34; thence southwesterly, a distance of 400 feet, more or less, to the Northwest corner of said Southeast quarter of Section 34; thence south along the West line of said Southeast quarter of Section 34, a distance of 785.00 feet; thence southeasterly, a distance of 945 feet, more or less, to a point, said point being the intersection of two lines, the first being a line that is 240.00 feet north of and parallel to the east-west centerline of said Southeast quarter of Section 34, and the second being a line that is 380.00 feet west of and parallel to the north-south centerline of said Southeast quarter of said Section 34; thence northeasterly, a distance of 510 feet, more or less, to a point, said point being the intersection of two lines, the first being a line that is 720.00 feet north of and parallel to said east-west centerline of the Southeast quarter of Section 34, and the second being a line that is 190.00 feet west of and parallel to said north-south centerline of the Southeast quarter of Section 34; thence northeasterly, a distance of 1080 feet, more or less, to a point, said point being the intersection of two lines, the first being a line that is 120.00 feet north of and parallel to the North line of said Southeast quarter of Section 34, and the second being a line that is 630.00 feet east of and parallel to said north-south centerline of the Northeast quarter of said Section 34; thence east along said line that is 120.00 feet north of and parallel to said North line of the Southeast quarter of Section 34, a distance of 240 feet, more or less, to its intersection with a line that is 870.00 feet east of and parallel to said north-south center line of the Northeast quarter of Section 34; thence south along said line that is 870.00 feet east of and parallel to said north-south centerline of the Northeast quarter of Section 34, a distance of 200 feet, more or less, to its intersection with a line that is 80.00 feet south of and parallel to said North line of the Southeast quarter of Section 34; thence southeasterly, a distance of 810 feet, more or less, to a point, said point being the intersection of two lines, the first being a line that is 625.00 feet north of and parallel to said east-west centerline of the Southeast quarter of Section 34, and the

second being a line that is 300.00 feet east of and parallel to said north-south centerline of the Southeast quarter of Section 34; thence south along said line that is 300.00 feet east of and parallel to the north-south centerline of the Southeast quarter of Section 34, a distance of 790 feet, more or less, to its intersection with a line that is 145.00 feet south of and parallel to the east-west centerline of said Southeast quarter of Section 34; thence west along said line that is 145.00 feet south of and parallel to the east-west centerline of the Southeast quarter of Section 34, a distance of 470 feet, more or less, to its intersection with the East line of that tract of land conveyed to Norman L. Ferber, Trustee, and Mary Megowan-Ferber, Trustee, of the Ferber Family Trust Agreement, by deed, recorded February 10, 2012, in DOC 2012-01357, Book of Records for Lincoln County, Oregon; thence South along said East line of the Ferber Tract, and its South extension, a distance of 790 feet, more or less, to its intersection with a line that is 210.00 feet south of and parallel to the South line of said Ferber Tract; thence West along said line that is 210.00 feet south of and parallel to the South line of the Ferber Tract, a distance of 530.00 feet; thence North and parallel to the East line of said Ferber Tract, a distance of 790 feet, more or less, to its intersection with said line that is 145.00 feet south of and parallel to the east-west centerline of the Southeast quarter of Section 34; thence west along said line that is 145.00 feet south of and parallel to the east-west centerline of the Southeast quarter of Section 34, a distance of 600 feet, more or less, to its intersection with said East line of the Southwest quarter of Section 34; thence west along the westerly extension of said line that is 145.00 feet south of and parallel to the east-west centerline of the Southeast quarter of Section 34, a distance of 830 feet, more or less to its intersection with a line that is 830.00 feet west of and parallel to said East line of the Southwest quarter of Section 34; thence north along said line that is 830.00 feet west of and parallel to said East line of the Southwest quarter of Section 34, a distance of 145 feet, more or less, to the east-west centerline of said Southwest quarter of Section 34; thence west along said east-west centerline of the Southwest quarter of Section 34, a distance of 1740 feet, more or less, to the East line of said Section 33; thence west along the east-west centerline of the Southeast quarter of said Section 33, a distance of 2630 feet, more or less, to the East line of said Southwest quarter of Section 33; thence west along the east-west centerline of said Southwest quarter of Section 33, a distance of 910 feet, more or less, to the Northeast corner of that third tract of land conveyed to the City of Newport, by deed, recorded February 21, 1953, in Book 156, Page 409, Deed Volume Records for Lincoln County, Oregon; thence south along the East line of said third City of Newport Tract, a distance of 660 feet, more or less, to the Southeast corner of the third City of Newport Tract, said Southeast corner of said third City of Newport Tract lying on said South line of the North half of the Southeast quarter of said Southwest quarter of Section 33; thence west along said

South line of the North half of the Southeast quarter of said Southwest quarter of the Southwest quarter of Section 33, a distance of 400 feet, more or less, to the East line of the Southwest quarter of the Southwest quarter of Section 33; thence west along the South line of the North half of said Southwest quarter of the Southwest Quarter of Section 33, a distance of 458 feet, more or less, to the true point of beginning.

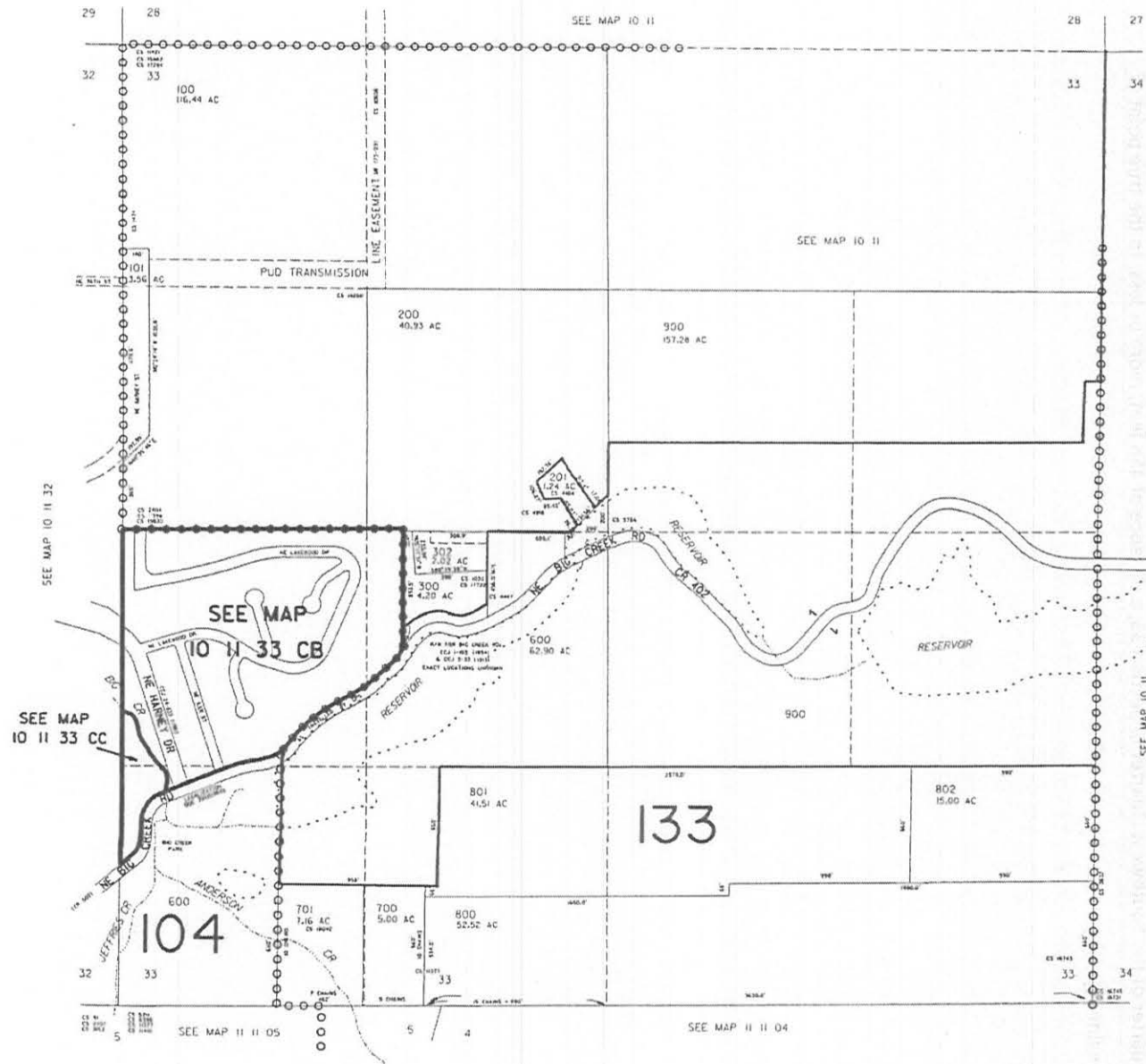


THIS MAP WAS FILED FOR
ASSESSMENT PURPOSE ONLY



SECTION 33 T 10S R11W WM
LINCOLN COUNTY
1" = 400'

10 11 33
& INDEX
NEWPORT



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MADE BY: [unclear] INC.
LAST REVISED: [unclear]

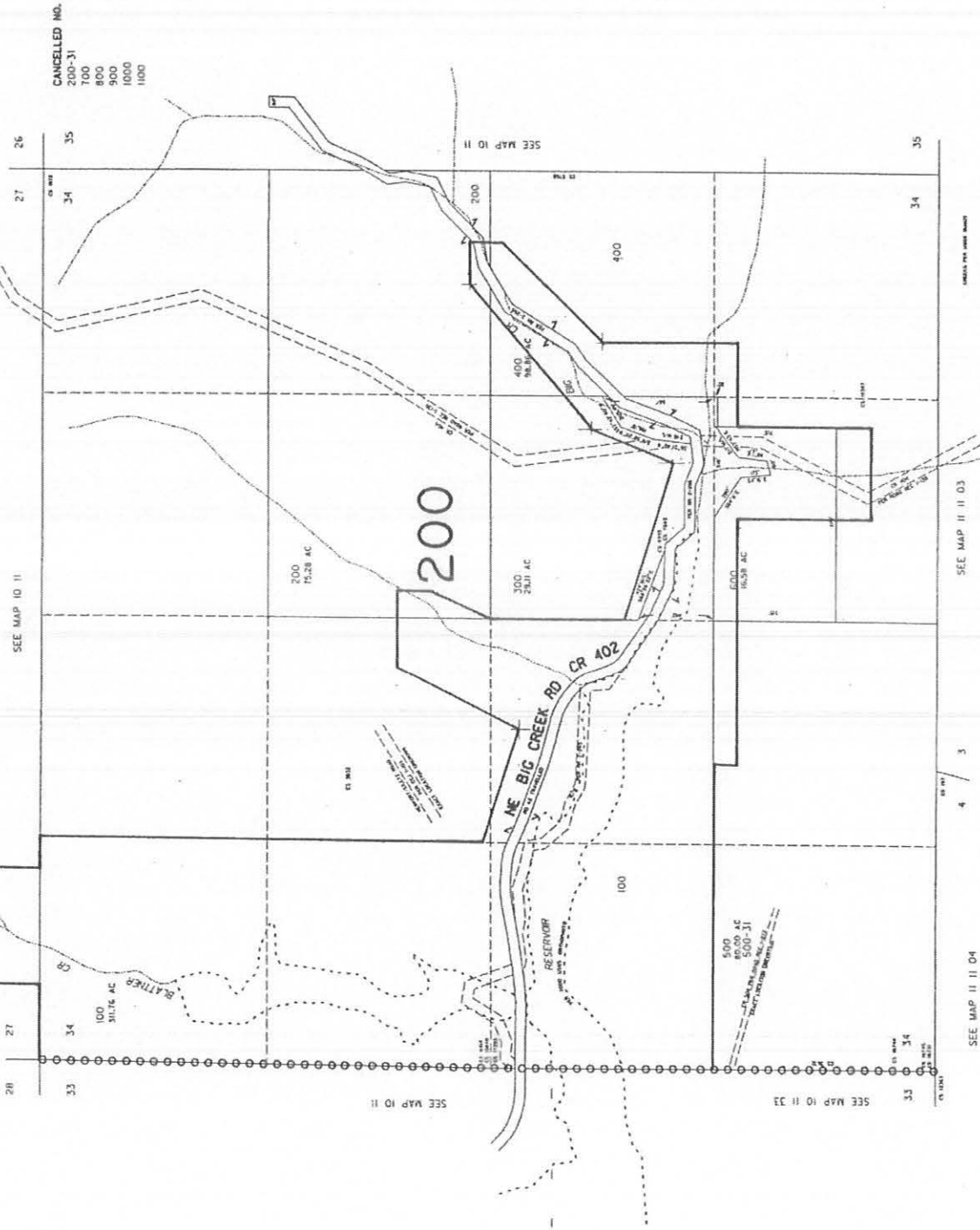
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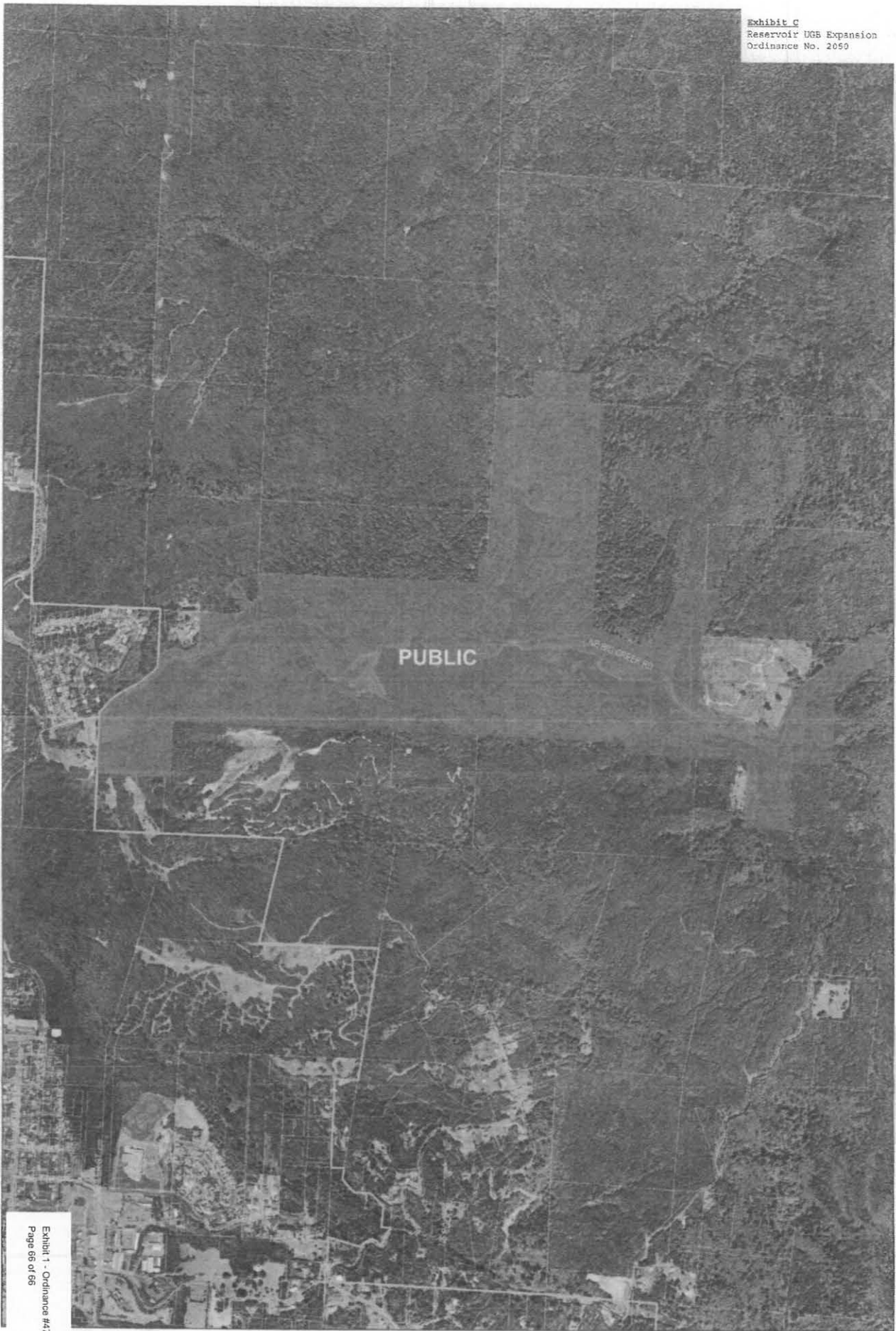
SECTION 34 TIOS RIIW WM
LINCOLN COUNTY
1" = 400'

800 FEET
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THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY



10 11 34



PUBLIC

Exhibit 1 - Ordinance #476
Page 66 of 66

 **City of Newport**
Community Development Department
169 SW Coast Highway Phone: 1.541.574.0629
Newport, OR 97365 Fax: 1.541.574.0644

**Newport Water Storage Facility Urban Growth Boundary
Expansion and Comprehensive Plan Map Amendment**
All Lands Designated "Public" and Depicted in Green



1,000 500 0 1,000 Feet

This map is for informational use only and has not been prepared for, nor is it suitable for legal, engineering, or surveying purposes. It includes data from multiple sources. The City of Newport assumes no responsibility for its compilation or use and users of this information are cautioned to verify all information with the City of Newport Community Development Department.

BEFORE THE PLANNING COMMISSION
OF
LINCOLN COUNTY, OREGON

Urban Growth Boundary Map Amendment
Applicant: City of Newport

) Case File: #1-LUPC-PC-13
) Findings, Conclusions and
) Final Order

Nature of the Application

The City of Newport (City) is requesting an amendment to the urban growth boundary map (UGB) to include lands surrounding the City's domestic water storage reservoirs and treatment facility. The amendment involves a quasi-judicial amendment to the Lincoln County Comprehensive Plan and Zoning Map. The expansion will add approximately 350 acres to the UGB in the reservoir area commonly referred to as Big Creek Reservoir(s). This proposal is for an amendment to the boundary only. Zoning of the subject property will not change unless or until the property is annexed into the City.

Relevant Facts

The following is a summary of the facts and testimony found to be relevant to this decision.

1. **1. Lot Size:** The subject property is comprised of numerous parcels totaling approximately 350 acres.
2. **Property Location:** The subject properties are generally located in the area surrounding the City of Newport's domestic water storage reservoirs and treatment facility (commonly referred to as Big Creek reservoir(s), easterly of Newport city limits. The subject properties are identified on Lincoln County Assessor's Map #10-11 (Index) as tax lot 1900; Map #10-11-33 as tax lots 200, 201, 300, 600 and 900; and Map #10-11-34 as tax lots 100, 200, 300, 400, 500, and 600.
3. **Zoning Designation:** Current zoning is T-C/Timber Conservation.
4. **Plan Designation:** Current plan designation is Forest Land.
5. **Surrounding Land Use:** Residential neighborhoods are located within city limits west of the area proposed for UGB expansion; otherwise in general the surrounding land use is characterized by forest lands and rural homesites.
6. **Development Constraints:** Environmental Bulletin 81 of the Yaquina River section indicates portions of the general area contain landslide topography. No other constraints are identified.
9. A public hearing was held before the Lincoln County Planning Commission on Monday, July 22, 2013. All interested parties were given an opportunity to testify.

10. Mr. Onno Husing, Director of Planning and Development with Lincoln County, presented the staff report. Husing stated that the City of Newport faces major challenges because the two reservoirs at Big Creek are aging and those facilities will need to be reconstructed in the future. Expanding the UGB to encompass the reservoirs allows the City to then annex and re-zone those properties and exercise greater control over their future reconstruction.
9. City of Newport Community Development Director Tokos provided applicant testimony on behalf of the City of Newport. He stated that the UGB expansion will allow the City to avoid lengthy conditional use processes that would be required to rebuild the proposed domestic water storage facilities if they were to remain under are an essential public facility and necessary to meet the needs of the existing population and accommodate future growth of the City.
10. Mr. Patrick Wingard, North Coast Regional Representative with the Department of Land Conservation and Development provided testimony in support of the application. The City of Newport had adequately addressed initial concerns expressed by the DLCD and that the agency came to support the expansion on the grounds that the UGB expansion is necessary enable the City of Newport's ability to address the rebuilding of the reservoir due to concerns over the impacts of natural disasters and minimizing impacts to private forest land.
11. Mr. Dack Wild testified in support of the expansion provided that whoever is looking after the water supply is a good steward. He remarked that he is concerned about the quality of the water, for the city and for his kids.
12. Mr. Norm Ferber testified in opposition to the proposed UGB expansion. He was not satisfied that the City of Newport would honor their agreement to provide access to his property at the end of Big Creek Road.
13. Letters of support for the application from 1000 Friends of Oregon and Orcas were also filed into the record.
14. No party requested a continuance of the public hearing or for the record to remain open.

Relevant Criteria

Lincoln County Land Use Code

- a) LCC Section 1.1235, Quasi-Judicial Amendments.
- b) Oregon Statewide Planning Goal 2, Land Use Planning
- c) Oregon Statewide Planning Goal 11, Public Facilities and Services
- d) Oregon Statewide Planning Goal 14, Urbanization

Findings

The Commission finds:

1. The City of Newport desires to expand the Urban Growth Boundary (UGB) to include Big Creek Reservoir #1 and Big Creek Reservoir #2, which are the City's primary storage facilities for its domestic water supply.
2. The said expansion will allow the land to be placed under a "Public" Comprehensive Plan designation so that, once annexed, it can be zoned for public use. This will make it easier to modify its water system infrastructure in response to identified existing structural deficiencies at the reservoirs and to construct a regional park, as envisioned in the 1993 Park System Master Plan for Newport.
3. The Newport Planning Commission held work sessions on October 8, 2012 and October 22, 2012 to consider issues related to the reservoirs' structural deficiencies, further park needs, and options for expanding the UGB. The Commission also held a joint work session with the Lincoln County Planning Commission on November 26, 2012, to gain that body's perspective on the issues and expansion options.
4. The Newport Planning Commission initiated this proposed UGB expansion on January 14, 2013, to include lands surrounding the reservoirs (Applications).
5. The City's initiating Application contains findings of compliance with the policies and standards set forth in the "Urbanization" element of the Newport Comprehensive Plan, as amended by Ordinance No. 2049, effective March 21, 2013, and the "Administration of the Plan" element of the Newport Comprehensive Plan.
6. City of Newport Planning Commission held public hearings on February 25, 2013 and March 25, 2013 for the purpose of reviewing the Application for compliance with applicable state and local policies and standards and to provide a recommendation to the Newport City Council.
7. The City of Newport's Planning Commission's public hearings, above, were duly held in accordance with all applicable state and local law, and, after due deliberation and consideration of the proposed changes, the Planning Commission did recommend that the Application be approved.
8. The Newport City Council held a public hearing on April 15, 2013, to consider the amendments to the Newport UGB and Comprehensive Plan Map proposed by the Application, and voted in favor of the changes, after considering the recommendation of the Planning Commission and evidence and arguments in the record.
9. Information on the record, including affidavits of mailing and publication, demonstrate that appropriate public notification was provided for both the Planning Commission and City Council public hearings.

10. The Newport Comprehensive Plan requires that amendments to the Urban Growth Boundary and Newport Comprehensive Plan approved by the City must also be adopted by Lincoln County.
11. Lincoln County desires to City of Newport take jurisdiction of Big Creek Road, which provides access to the reservoirs. The City of Newport acknowledges it can accept jurisdiction of the road only after the UGB and Comprehensive Plan Map amendments take effect, concurrent with County legalization of the Big Creek right-of-way and annexation of City owned properties and expansion area.
12. The City of Newport recognizes that in addition to the reservoirs, Big Creek Road provides access to number of private owned properties. In the event access to these properties is impaired as the result of actions taken by the City of Newport to repair or improve its water system, the City of Newport acknowledges that it may have a legal obligation to restore such access and is committed to carrying out any such obligations in a manner that minimizes adverse impacts to these land owners.
13. The City of Newport will coordinate with its legal counsel to identify the extent of its legal obligation to maintain and restore vehicle access to properties along Big Creek Road prior to taking jurisdiction of the roadway and will share such information with affected property owners.
14. Lincoln County's Urbanization Policies, LCC 1.0030, have been superseded by changes to the Oregon Administrative Rules (OARs) Chapter 660 Division 24, Urban Growth Boundaries. Prior to undertaking this UGB amendment, the City of Newport updated the City Code to implement the amended OARs and applied those requirements in its decision. By this reference, the County co-adopts the City findings and conclusions addressing the amended Goal 14 requirements

Conclusions

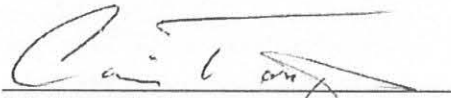
The record and findings support the conclusion that:

1. Substantial evidence in the record demonstrates that the change is in accord with the Lincoln County Comprehensive Plan goals and policies.
2. Substantial evidence in the record demonstrates that the change is in accord with the Statewide Planning Goals.
3. Substantial evidence in the record demonstrates that there is a public need an amendment to the Lincoln County Comprehensive Plan and Zoning Map for the purpose of expanding the City of Newport Urban Growth Boundary.

Order

It is ORDERED by the Lincoln County Planning Commission that Case File# 1-LUPC-PC-13 be APPROVED. This approval will serve as a recommendation to the Lincoln County Board of Commissioners to amend the Lincoln County Comprehensive Plan and Zoning Map for the purpose of expanding the City of Newport Urban Growth Boundary.

This ORDER was presented to and approved by the Lincoln County Planning Commission on February 10, 2014.

A handwritten signature in black ink, appearing to read "Cris Torp", written over a horizontal line.

Cris Torp, Chair
Lincoln County Planning Commission