



PLANNING COMMISSION REGULAR SESSION AGENDA
Monday, April 08, 2024 - 7:00 PM
Council Chambers, 169 SW Coast Hwy, Newport, Oregon 97365

All public meetings of the City of Newport will be held in the City Council Chambers of the Newport City Hall, 169 SW Coast Highway, Newport. The meeting location is accessible to persons with disabilities. A request for an interpreter, or for other accommodations, should be made at least 48 hours in advance of the meeting to Erik Glover, City Recorder at 541.574.0613, or e.glover@newportoregon.gov.

All meetings are live-streamed at <https://newportoregon.gov>, and broadcast on Charter Channel 190. Anyone wishing to provide written public comment should send the comment to publiccomment@newportoregon.gov. Public comment must be received four hours prior to a scheduled meeting. For example, if a meeting is to be held at 3:00 P.M., the deadline to submit written comment is 11:00 A.M. If a meeting is scheduled to occur before noon, the written comment must be submitted by 5:00 P.M. the previous day. To provide virtual public comment during a city meeting, a request must be made to the meeting staff at least 24 hours prior to the start of the meeting. This provision applies only to public comment and presenters outside the area and/or unable to physically attend an in person meeting.

The agenda may be amended during the meeting to add or delete items, change the order of agenda items, or discuss any other business deemed necessary at the time of the meeting.

1. CALL TO ORDER AND ROLL CALL

Commission Members: Bill Branigan, Bob Berman, Jim Hanselman, Gary East, Braulio Escobar, and John Updike.

2. APPROVAL OF MINUTES

2.A Approval of the Planning Commission Work Session Meeting Minutes of March 11, 2024.

[Draft PC Work Session Minutes 03-11-2024](#)

[03-11-24 PC Work Session Meeting Video Link](#)

2.B Approval of the Planning Commission Regular Session Meeting Minutes of March 11, 2024.

[Draft PC Reg Session Minutes 03-11-2024](#)

[03-11-24 PC Regular Session Meeting Video Link](#)

2.C Approval of the Planning Commission Work Session Meeting Minutes of March 25, 2024.

[Draft PC Work Session Minutes 03-25-2024](#)

[03-25-24 PC Work Session Meeting Video Link](#)

3. CITIZENS/PUBLIC COMMENT

A Public Comment form is available immediately inside the Council Chambers. Anyone who would like to address the Planning Commission on any matter not on the agenda will be given the opportunity after submitting a form. Each speaker should limit comments to three minutes. The normal disposition of these items will be at the next scheduled Planning Commission meeting.

4. ACTION ITEMS

5. PUBLIC HEARINGS

5.A File No. 1-VAR-24: Harbor Freight Sign Variance.

[Staff Report](#)

[Attachment A - Application Form](#)

[Attachment B - Applicant's Narrative](#)

[Attachment C - Wall Sign Permit and Schematic Drawings](#)

[Attachment D - Aerial Image of Property with Sign Locations](#)

[Attachment E - Property Sign Inventory](#)

[Attachment F - Public Hearing Notice](#)

[Attachment G - Municipal Code Chapter 10.10 \(Sign Regulations\)](#)

[Attachment H - Email from City Attorney and Linked Summary of 1973 Clackamas County v. Emmert Court of Appeals Case](#)

[Attachment I - Final Order and Findings for File No. 2-VAR-23](#)

[Attachment J - Final Order and Findings for File No. 3-VAR-18](#)

[Attachment K - Final Order and Findings for File No. 1-VAR-15](#)

6. NEW BUSINESS

6.A Planning Commission Work Program Update.
[PC Work Program - 4-4-24](#)

7. UNFINISHED BUSINESS

8. DIRECTOR COMMENTS

9. ADJOURNMENT

**City of Newport
Draft Planning Commission Work Session Minutes
March 11, 2024**

LOCATION: CITY COUNCIL CHAMBERS, NEWPORT CITY HALL, 169 SW COAST HIGHWAY, NEWPORT
Time Start: 6:00 P.M. Time End: 7:14 P.M.

ATTENDANCE LOG/ROLLCALL

COMMISSIONER/ ADVISORY MEMBER	STAFF
Chair Bill Branigan	Derrick Tokos, Community Development Director
Commissioner Bob Berman	Sherri Marineau, Community Development Dept.
Commissioner Jim Hanselman	
Commissioner Gary East	
Commissioner Braulio Escobar	
Commissioner John Updike	
Commissioner Marjorie Blom (absent, excused)	
Citizen Advisory Member Dustin Capri (absent, excused)	
Citizen Advisory Member Greg Sutton (absent)	

AGENDA ITEM	ACTIONS
<p>CALL TO ORDER AND ROLL CALL</p> <p>a. Roll Call</p>	<p>None.</p>
<p>DISCUSS IMPLEMENTATION STEPS FOR SB 1537 "GOVERNORS HOUSING BILL" (ENROLLED).</p> <p>a. Staff report</p> <p>b. Commission feedback</p>	<p>Mr. Tokos covered the comparison on SB 1537, the Governor’s Housing Bill, and Newport’s Ordinance No. 2222 implementing the City’s Housing Production Strategy. Both are intended to support new housing construction. Tokos asked the Commission if they had any concerns with the adjustments listed in the bill and if so, how the Commission would want to address them.</p> <p>Escobar asked what kind of flexibility Newport had when a law was signed by the Governor and the city wanted to vary from a legislature mandate. He also wanted to know how many 100 x 50 foot lots would fit in an acre of land when they were talking about limiting the density to six lots per acre. Tokos explained the way that the “home rule” worked was if the state had explicit language that the city had to do something a specific way, they would be bound to this. If there wasn’t explicit language, the city was free to interpret the rules. Tokos explained that typically there were six units that were 7,200 square feet would fit in an acre.</p> <p>Berman asked what “net” new housing meant. Tokos explained it meant they were new housing units. So two housing units were removed, and they were adding three units, it would mean there would be one new housing unit. East</p>

asked if the added housing units included accessory dwelling units. Tokos confirmed it did, and the ordinance the city was working on didn't specify the type of net new housing.

Tokos reported that the State limited adjustments to 10 but the city wasn't limited the number. Berman questioned how many adjustments were possible for a triplex. Tokos gave examples of how you could get over a half a dozen adjustment in the Nye Beach area which included adjustments for things like setbacks, building coverage, landscaping requirements, and height limitations. He reminded that Newport didn't see many requests for these adjustments.

Tokos covered the comparison of the eligibility requirements. Updike noted that California was dealing with the builder's remedy law for development that allowed builders to move forward with housing development while avoiding almost all local regulations. He noted there were a lot of incentives at the state level, and the issue in California was the same. The intent was to build more affordable housing, and what was happening was that builders were using the remedy law to reduce the proposed density of projects. They were coming in with replats with less units than what was in accordance and saying that if they didn't do less units, they wouldn't be able to build anything. Updike explained this gave builders loopholes and questioned if this would mean they would see more of this in Newport with these rules.

Berman asked if Newport hired a forensic accounting firm to certify that the criteria was met when they had an incentive. He questioned if Newport did anything to ask developers to prove what they were saying. Tokos didn't think they could do a third party peer review with developers. Berman thought this was an objective way to decide if there was a basis to claim something. Tokos noted that putting the burden on city staff to refute something a developer checked in a box would lead to questions on why the city needed to challenge. Tokos noted that the Multiple Unit Property Tax Exemption was an incentive the city had where a third party reviewed the financials. This added a certain degree of transparency to the government process, and showed that the financials for the project would not have penciled out if it wasn't for the subsidy, therefore justifying it.

Tokos reviewed the comparison on decision type, and fee requirements. Updike asked if there were funds to do a fee study. Tokos explained the last time they did one was in 2009 and it would have to be something that was programed and citywide, not just for land use. He noted the Budget Committee would be looking at the fee schedule. Berman asked if a Community Development review fee was a good idea. Tokos thought a modest fee would be fine and something they might add to the budget. There were other fees Tokos was working on with the Building Department, which was fee supported. Planning was not fee supported and their fees only provided a portion of the cost. The perspective with planning is that that there's a broader public benefit from the application of these rules. It wasn't just the developer that was benefiting. Therefore, they shouldn't bear 100% of the cost on the planning side, whereas they would bear 100% of the costs on the building side. This was one area Newport could look at to disincentivize certain aspects of the Governor's bill if the Commission felt it was appropriate.

Tokos reviewed the comparison on sunset requirements. Escobar asked if they would consider revising the ordinance to the same sunset as the State law. Tokos that what the city worked on was better and didn't warrant this. They could always repeal it if the city didn't think it was working well. Tokos explained

the problem with sunsets was that it forced us to review things, even if they were working well. Bringing something back that was working well only created extra work down the road.

Berman asked if Newport's incentives to add units was the same as the state by saying if they were showing they would add units they would get an adjustment. Tokos explained that Newport's Ordinance did this for new affordable housing, and the Governor's didn't. Hanselman asked if the Governor's bill covered all housing or just middle housing. Tokos confirmed it was all housing.

Tokos reviewed the type of adjustment requirements covering setbacks, landscaping, and parking minimums. He explained that if they were choosing to ask for relief from off street parking because the narrow street standards were designed to reduce to costs on street construction, and they didn't have provision on street parking, they would have to do full street sections on the front edge to create street parking. Berman thought this was something they should do. Tokos noted that the state made assumptions that Newport had the same kind of transit services that larger community had. Most developers would put in off street parking in their developments because they knew they needed to make developments marketable in our area. Unfortunately, these codes were designed to address the odd developer who came in and choose to make the bad choice to not do parking.

Tokos covered the comparisons on minimum lot size, building coverage, bike parking, and building height. Branigan asked if this meant that if a base zone that had a maximum building height limit of a 40 feet would be allowed to build to 48 feet with a 20% adjustment. Tokos explained they could go the full 20% up to 48 feet, but they wouldn't be able to exceed this. Berman asked why they couldn't lower the numbers so that when they added the 20% they would end up back where they would have been. Tokos pointed out this would force developers to do an adjustment. Berman thought that most of the developers would do this anyway. Tokos didn't think that developers that had an alternative path that was more attractive to them would choose to do this. Berman wanted to know what the risk would be to go through the state process, and in which cases it could fail. Tokos explained that Newport had the authority to deny an adjustment because they didn't believe something was an eligible project. Berman asked what would make a project ineligible. Tokos explained that this included things like no net housing units, not believing the adjustment would make a project less costly, that it didn't influence the timing of the house, or it wouldn't have any influence over the sales or rental price of the unit. There were also other provisions included that said that this didn't alleviate the requirement for meeting safety codes. Tokos reported another provision said that this didn't apply to shoreland areas. He explained the state wasn't explicit with this and just said it didn't apply to coastal shoreland areas. Newport might be able to be expansive on this and it could apply to the better part of Nye Beach and the Bayfront.

Berman wanted it noted that the city's shoreland maps needed to be redone. Tokos explained that they needed to adopt the new boundaries legislatively first.

Tokos reviewed the comparisons for the unit density maximums, mixed-use prohibition for ground floor residential, and design standards. He reminded the city adopted new design standards as part of House Bill 2001 for townhomes and cottage clusters. The Nye Beach Design Standards would be the ones of

most concern since they were the most mature. Much of the Nye Beach design review standards would be waivable through the state adjustment process.

Hanselman asked what historical designations did to the state law. Tokos said they would do nothing. He explained the advocates for historic preservation tried to get those changes but weren't successful. Tokos pointed out how historic preservation rules insured high end housing for people who could afford it. Hanselman agreed that the historical standards seemed to be unfair to some residents because of the heavy cost to do maintenance.

Hanselman asked what standards the city could use to prove when a developer was willfully providing and making false statements in materials, versus just when they were making a mistake. Escobar thought the standard they should hold to was that there needed to be clear and convincing evidence of a willful action, but thought this might make it more difficult to prove.

Berman asked for thoughts on how the city could protect the Nye Beach Design Standards. Tokos was concerned the design standards would be the ones that would get attacked because someone could make an argument against the cost factors of the standards. He thought the Governor's Shoreland designation exemption was something to look to protect them. Tokos reminded that there was a discussion to try to get a live work environment going in Nye Beach. He thought the city might need to have a discussion with the Nye Neighbors to see if there should be a requirement that at least 26% of the finished area in new dwellings be designated for non-residential use in C-2 zones. This would disqualify mixed-use projects from being eligible for adjustments, and would be consistent with the live-work objectives of the neighborhood.

Berman asked if Newport could say if someone asked for adjustments they wouldn't be eligible for the other incentives. Tokos explained Newport wasn't obligated to provide incentives. The state couldn't expect that the city subsidize this as well.

Escobar asked what type of outreach would be envisioned to the Nye Beach neighbors who were invested in the design standards to give input in the ultimate ordinance. Tokos thought they could reach out the Nye Neighbors to find out any changes they had on what they would entertain, such as requiring an amount of nonresidential space in a dwelling unit. We could also use it as an opportunity to inform the neighbors of the package and pallet of adjustments. Tokos pointed out the Nye Neighborhood Association was aware of this but the broader Nye Beach neighborhood weren't.

Tokos asked for the Commission's thoughts on the Governor's proposal. The Commission was in agreement that they were concerned about the parking and design standards, and wanted to make an ineligibility for financial incentives when someone didn't follow the local rules a disincentive.

Berman questioned if a developer could either say they wanted all the adjustments they were entitled to, or they wanted go through the process if Ord. 2222 was passed. Tokos said that was true and explained that if Ord. 2222 passed, the decision would be ministerial and an over the counter type of process. The Governor's rules would involve a limited land use decision, and the city would be able to set pricing based on either a per adjustment basis or for the entire review. Berman noted what he was hearing was it was up to the developer to determine what path to go down and it was up to the city to convince them what path to go down. Tokos agreed.

	<p>Updike asked if there could be a speed incentive to deliver decisions for financial incentives. This way if someone went down a ministerial route, the decision would be done faster. Tokos noted that what the city was dealing with on ministerial was a plan review timeline that took around 8-12 weeks to complete. He didn't know how they could commit to a faster speed. Tokos thought this could be done on a one-off instance, but didn't think it could be done programmatically.</p> <p>Hanselman was concerned about any decisions where the applicant was the only one who was notified and able to appeal, not the neighbors. He believed in sunlight laws and felt the Governor's bill left neighbors out of the decisions. Tokos reminded they would need some legal help on this.</p> <p>Tokos noted that what he was hearing was that design standards and parking were the Commission's principal concerns with the pallet, and they liked the concept of not subsidizing these. Berman thought they should find some way to incentivize developers to use the ministerial process. Tokos asked if they wanted to try to maximize whatever they could cover with the shoreland designation. The Commission was in general agreement with this as well.</p> <p>Escobar asked if they were to incentivize the ministerial process would they then be minimizing citizen input. Berman reminded there was no input on the other process. Updike thought this was the lessor of two evils. Tokos reminded they were working with fairly tight constraints and there wasn't a lot of leeway on this.</p> <p>Tokos reminded that this discussion would be provided to the City Council for their March 18th meeting to consider.</p>
<p>FINALIZED LIST OF FISCAL YEAR 2024/25 GOAL SETTING.</p> <p>a. Staff report</p> <p>b. Commission feedback</p>	<p>Mr. Tokos provided a finalized list of Planning Commission Goals for FY 2024-25.</p> <p>Berman questioned if the goal to secure funding from the State of Oregon should be in department goals, not the Commission goals. He thought it was unclear what the distinction was between Commission goals and department goals. Updike suggested the goal say "supports the securing of funding" instead of "securing" funding from the State. The Commission was in general agreement to change this.</p> <p>East thought they should incorporate some of the erosion control goals into the landscaping standards. A discussion ensued regarding the Wastewater Plan and the city's efforts to modernize the system.</p>
<p>PLANNING COMMISSION WORK PROGRAM UPDATE.</p>	<p>Tokos covered the updates to the Planning Commission's work program.</p>

Submitted by: _____

Sherri Marineau, Executive Assistant

03-11-2024 - Planning Commission Work Session Meeting Video Link:

https://thecityofnewport.granicus.com/player/clip/1217?view_id=2&redirect=true

**City of Newport
Draft Planning Commission Regular Session Minutes
March 11, 2024**

LOCATION: CITY COUNCIL CHAMBERS, NEWPORT CITY HALL 169 SW COAST HIGHWAY NEWPORT
Time Start: 7:15 P.M. Time End: 7:41 P.M.

ATTENDANCE LOG/ROLLCALL

COMMISSIONER/ ADVISORY MEMBER	STAFF
Chair Bill Branigan	Derrick Tokos, Community Development Director
Commissioner Bob Berman	Sherrri Marineau, Community Development Dept.
Commissioner Jim Hanselman	
Commissioner Gary East	
Commissioner Braulio Escobar	
Commissioner John Updike	
Commissioner Marjorie Blom (Absent, excused)	

AGENDA ITEM	ACTIONS
REGULAR MEETING	
CALL TO ORDER AND ROLL CALL	
a. Roll Call	None.
APPROVAL OF THE MINUTES	
a. Meeting minutes of Work Session Meeting on February 26, 2024	Motion by Commissioner Hanselman, seconded by Commissioner Berman, to approve the work session meeting minutes of February 26, 2024 as written. Motion carried unanimously in a voice vote.
b. Meeting minutes of Regular Session Meeting on February 26, 2024	Motion by Commissioner Hanselman, seconded by Commissioner Berman, to approve the regular session meeting minutes of February 26, 2024 as written. Motion carried unanimously in a voice vote.
c. Amended Meeting minutes of Regular Session Meeting on February 12, 2024	Motion by Commissioner Hanselman, seconded by Commissioner Berman, to approve the regular session meeting minutes of February 12, 2024 with amendment. Motion carried unanimously in a voice vote.
CITIZEN/PUBLIC COMMENT	Mark Arnold (Newport) addressed the Commission and read the public comment he submitted concerning the Yaquina Bay Estuary Management Plan and answered questions.
ACTION ITEM	
Approval of the Planning Commission's FY 24/25 Goals.	Motion was made by Commissioner Berman, seconded by Commissioner Hanselman, to approve the Planning Commission's FY 24/25 Goals as

amended at the work session meeting. Motion carried unanimously in a voice vote.

Submitted by: _____

Sherry Marineau, Executive Assistant

DRAFT

03-11-2024 - Planning Commission Regular Session Meeting Video Link:

https://thecityofnewport.granicus.com/player/clip/1218?view_id=2&redirect=true

**City of Newport
Draft Planning Commission Work Session Minutes
March 25, 2024**

LOCATION: CITY COUNCIL CHAMBERS, NEWPORT CITY HALL, 169 SW COAST HIGHWAY, NEWPORT	
Time Start: 6:00 P.M.	Time End: 7:29 P.M.

ATTENDANCE LOG/ROLLCALL

COMMISSIONER/ ADVISORY MEMBER	STAFF
Chair Bill Branigan (by video)	Derrick Tokos, Community Development Director
Commissioner Bob Berman	Sherri Marineau, Community Development Dept.
Commissioner Jim Hanselman	
Commissioner Gary East (absent, excused)	
Commissioner Braulio Escobar	
Commissioner John Updike	
Commissioner Marjorie Blom	
Citizen Advisory Member Dustin Capri (absent, excused)	
Citizen Advisory Member Greg Sutton (absent)	

AGENDA ITEM	ACTIONS
WORK SESSION MEETING	
CALL TO ORDER AND ROLL CALL	
a. Roll Call	None.
REVIEW OF DRAFT COMPREHENSIVE PLAN AMENDMENTS TO IMPLEMENT THE ESTUARY MANAGEMENT PLAN.	
a. Staff report	Mr. Tokos provided an overview of a draft set of amendments to the Yaquina Bay and Estuary section of the Newport Comprehensive Plan. Meg Reed, with the Department of Land Conservation and Development, was present to answer Commissioner's questions.
b. Discussion on amendments	The Commission held discussions on Yaquina Bay Estuary Regularity Boundary management units; resource inventories; climate change vulnerabilities; estuary management sub-areas; Yaquina Bay sub-areas; estuary unit maps; Newport subareas; policy visual for the LCEM Plan; conservation management plan; development management units; mitigation and restoration; procedural elements and exceptions; Yaquina Bay Shorelands; and goals and policies.
c. Commission feedback	Branigan suggested they reference the 1,000 to 10,000-year floods in the Comprehensive Plan. Berman thought the tsunami inundation zones be referenced as well. Tokos recommended the document speak to the relationship between the flood insurance program and its regulations in the climate

	<p>change vulnerabilities section. Updike pointed out the reference to the FEMA flood insurance rate map was to effect at April 15, 1980 and needed to be updated.</p> <p>Berman requested an index map for all sub areas. Updike wanted to see the subarea boundaries added to the map. Berman requested all 10 estuary management unit maps be added as reference.</p> <p>Berman thought the list of items permitted in Natural Management Units needed to be updated or changed to two separate lines.</p> <p>Mark Arnold (Newport) spoke concerning shellfish aquiculture and research on the estuary. He wanted to see Hatfield researchers that were strictly limited to observation be able to put equipment in the water or trying out new techniques. Arnold wanted the Plan to specify criteria for what was allowed and what wasn't.</p> <p>Escobar requested the Commission hear from Gilbert Silva and Paula Miranda from the Port of Newport before the next draft of the amendments were presented.</p>
<p>PLANNING COMMISSION WORK PROGRAM UPDATE.</p>	<p>None.</p>

Submitted by: _____

Sherry Marineau, Executive Assistant

03-25-2024 - Planning Commission Work Session Meeting Video Link:

https://thecityofnewport.granicus.com/player/clip/1228?view_id=2&redirect=true

Case File: 1-VAR-24
 Date filed: March 8, 2024
 Hearing Date: April 8, 2024

PLANNING STAFF REPORT

- A. **APPLICANTS & OWNERS:** KSD Properties, LLC, owner (Harbor Freight, applicant (Tracey Diehl, Expedite The Diehl, authorized representative).
- B. **REQUEST:** Approval of a Type III variance to Section 10.10.085(G) of the City of Newport Municipal Code to allow the placement of a 282.78 square foot wall sign and a 96 square foot freestanding sign that exceeds the maximum display area for the street frontage. Section 10.10.085(G) of the Newport Municipal Code limits the street frontage for all non-exempt signs other than mural signs to no more than 200 square feet of display area. The variance of 178.78 square feet is an 89.4% variance to the standard.
- C. **LOCATION:** 615 North Coast Highway (Lincoln County Assessor's Map 11-11-05-CD, Tax Lot 2400). Lot 1, Block 16, NYE AND THOMPSON'S ADDITION, in the City of Newport, County of Lincoln and State of Oregon. EXCEPTING THEREFROM the Easterly 10 feet and the Westerly 50 feet of the Southerly 200 feet thereof.
- D. **LOT SIZE:** Roughly 1.77 acres per Assessor's Map.
- E. **STAFF REPORT:**
1. **REPORT OF FACT:**
 - a. **Plan Designation:** Commercial.
 - b. **Zone Designation:** C-1/"Retail and Service Commercial."
 - c. **Surrounding Land Uses:** Surrounding uses include highway oriented commercial to the north, east, and south. A retail bicycle shop and residential uses border the property on the west.
 - d. **Topography:** The property is gradually sloped.
 - e. **Existing Structures:** A retail commercial building with wall signs on the south and east facing facades and a freestanding monument sign oriented toward US 101 traffic.
 - f. **Utilities:** All are available to the subject property.
 - g. **Past Land Use Actions:**

File No. 14-CUP-78. Conditional Use Permit authorized conversion of a former grocery store into a lumber yard with outdoor storage.

h. **Notification:** Affected property owners within 200 feet, applicable City departments, and other agencies were notified on March 13, 2024 (Attachment "F"). The public hearing notice was published in the Lincoln County Leader on March 27, 2024.

i. **Attachments:**

Attachment "A" – Application Form

Attachment "B" – Applicant's Narrative

Attachment "C" – Wall Sign Permit and Schematic Drawings

Attachment "D" – Aerial Image of Property with Sign Locations

Attachment "E" – Property Sign Inventory

Attachment "F" – Public Hearing Notice

Attachment "G" – Municipal Code Chapter 10.10 (Sign Regulations)

Attachment "H" – Email from City Attorney and Linked Summary of 1973 Clackamas County v. Emmert Court of Appeals Case

Attachment "I" – Final Order and Findings for File No. 2-VAR-23

Attachment "J" – Final Order and Findings for File No. 3-VAR-18

Attachment "K" – Final Order and Findings for File No. 1-VAR-15

Attachment "L" – 2020 Wall Sign Permit for Corvallis Harbor Freight Store

2. **Explanation of the Request:** The applicant notes that this variance is being sought after a permit was erroneously issued by the City for the wall sign facing US 101. A copy of the permit is enclosed as Attachment "C". The wall sign has a display area of 282.78 sq. ft, which sign exceeds the maximum allowed sign area. The maximum allowed sign area is 200 sq. ft (ref: NMC 10.10.085(G)).

The applicant points out that the wall sign has been installed and City staff discovered during final inspection that the sign is over the allowable square footage. The applicant notes that they are seeking a variance to NMC 10.10.085(G) limitation to allow a wall sign that is 282.78 sq. ft. in size, a 41.4% (82.78 sq. ft.) increase over the 200 square foot limitation.

The 200-foot sign area limitation in NMC 10.10.085(G) is the maximum cumulative display area permitted for non-exempt signs along a street frontage. There are two signs along the US 101 frontage, the wall sign cited by the applicant and a freestanding pole sign. A sign permit is required to replace signs on freestanding structures, such as a pole sign (NMC 10.10.035(A)). Harbor Freight does not have a permit for the sign that it has temporarily placed on the pole structure. Their sign contractor informed the City of Harbor Freight's intent to install a sign within the pole sign cabinet after City staff identified the problem with the wall size permit. The contractor plans to install an LED back lit sign cabinet on the pole with lettering that matches the wall sign. It is depicted as Sign "C" on the sign inventory that is included in the application (ref: Attachment "E"). This constitutes an additional 96 sq. ft. of display area, since only one side of a free-standing sign applies against the sign allowance (NMC 10.10.085(B)). When accounting for the freestanding sign, the

variance seeks an additional 178.78 sq. ft. of display area or an 89.4% deviation from the standard.

Exempt and partially exempt signs are listed under NMC 10.10.055 and 060. Neither are in play with this application. Harbor Freight obtained a sign permit for the wall sign facing NW 6th Street. That sign complies with the 200 sq. ft. per street frontage display area limitation, as it is 159.34 sq. ft. in size. It is not subject to the variance request.

Pursuant to Section 10.10.130 (Variance Requirements) of the Newport Municipal Code, the applicant may seek a variance to the numerical provisions of the code. The Planning Commission is the designated approval authority.

3. **Evaluation of the Request:**

a. **Written Comments:** As of April 3, 2024, the Community Development Department has received no comments related to the application.

b. **Applicable Criteria (Newport Municipal Code Section 10.10.130):**

Section 10.10.130(A) states that a variance to increase the size of a sign(s) must be the minimum necessary to alleviate special hardships or practical difficulties faced by the applicant and that are beyond the control of the applicant.

c. **Applicable Criteria (Newport Municipal Code Section 10.10.140(C):**

The approval authority must find that the application for a Variance complies with the following criteria:

1. The variance is consistent with the purposes of the sign code, as provided in Chapter 10.10.010 of the Newport Municipal Code, as applicable; and
2. The variance will allow for placement of a sign with exceptional design, style, or circumstance, or will allow a sign that is more consistent with the architecture and development of the site; and
3. The variance will not significantly increase or lead to street level sign clutter, or will it create a traffic or safety hazard.

d. **Staff Analysis:**

In order to grant the variance, the Planning Commission must review the application to determine whether it meets the criteria. With regard to those criteria, the following analysis could be made:

- i. *Approval of the request is the minimum necessary to alleviate special hardships or practical difficulties faced by the applicant and that are beyond the control of the applicant.*

In regard to this criterion, the Planning Commission should consider whether the applicant has sufficiently demonstrated that the request is the minimum necessary to alleviate special hardships or practical difficulties faced by the applicant and that are beyond the control of the applicant.

It is unfortunate that Harbor Freight is in the position that they are in with respect to the wall sign facing US 101. They hired a firm that specializes in designing commercial signs, and that firm did not pick up on the 200 sq. ft. limitation when putting together plans for the wall sign facing US 101. Further, City staff responsible for reviewing sign permit applications for compliance with the Newport Municipal Code failed to identify that the proposed sign exceeded the 200 sq. ft. display area limitation and issued the sign permit. As for the freestanding sign, it was Harbor Freight's responsibility to obtain a sign permit to replace the sign in the pole structure and the firm they hired to design the new sign has not obtained a permit, nor can the City authorize one with the 200 sq. ft. cumulative display area limitation.

Attached is a communication from the City Attorney regarding permits that are issued in violation of City codes (Attachment "H"). He calls attention to the last couple of paragraphs summarizing an Oregon Court of Appeals case in *Clackamas County v. Emmert* (1973) where the Court points out that zoning ordinances are enacted for the benefit and welfare of the citizens of a municipality. Issuance of a permit that violates such an ordinance not only is illegal, per se, but is injurious to the interests of the property owners and residents of the neighborhood adversely affected by the violation. The Court further notes that when a City acts to revoke an illegal permit it is exercising its police power to enforce a zoning ordinance for the protection of all citizens who have been injured by the violation, and not to protect some proprietary interest of the City.

The purpose section of Newport's sign code similarly notes that its provisions are intended to protect and promote the health, safety, property, and welfare of the public... (Ref: NMC 10.10.010(A), Attachment "G"). A sign permit issued by the City in violation of its own codes is not a valid permit, and should not be construed as justification to support a determination that the applicant, Harbor Freight, faces a practical difficulty or hardship that warrants a variance to the 200 sq. ft. cumulative display area limitation per street frontage.

Commission members should consider whether or not other factors exist to warrant a finding that Harbor Freight is facing a hardship or practical difficulty. Such determinations are precedent setting. The City has

issued three variances involving requests to exceed the sign ordinance's display area limitation in the last 15 years. Copies of those decisions are enclosed.

The 2015 decision involved Motel 6 facing US 101 at the south end of the Yaquina Bay Bridge (Attachment "K"). That application requested a variance to the sign height and size limitations given the grade difference and the property's proximity to the bridge. The Commission accepted the applicant's argument that the grade difference created a hardship in terms of US 101 visibility and approved the height variance, but required the signs adhere to the 200 sq. ft. display area limitation.

In 2018, the Commission approved a variance to the sign height and size standards for the new Samaritan Pacific Hospital (Attachment "J"). In that case, the Commission concluded that a hardship existed because of the unique "life safety" function of such a medical facility and the added emphasis it places on effective wayfinding. The large building mass and distance from US 101 were also factors.

Lastly, the 2023 decision involved a request by the Port of Newport, on behalf of the Sea Lion Foundation, to install a 114 sq. ft. laminated freestanding sign at Port Dock 1, a location that is limited to 21 sq. ft. of display area per the code due to its limited street frontage (Attachment "I"). The Commission approved that variance reasoning that the sign was akin to a mural with its graphics, aligned with the tourist oriented signage theme of the Bayfront, and is directed at pedestrians as opposed to vehicles so that it wouldn't be a traffic hazard.

None of these factors appear to be relevant to the subject request.

- ii. *The variance is consistent with the purposes of the sign code, as provided in Chapter 10.10.010 of the Newport Municipal Code, as applicable; and.*

The purposes of the Newport Sign Code are:

A. To protect and promote the health, safety, property, and welfare of the public, including but not limited to promotion and improvement of traffic and pedestrian safety.

B. To improve the neat, clean, and orderly appearance of the city for aesthetic purposes.

C. To allow the erection and maintenance of signs consistent with the restrictions of the Newport Sign Code.

D. To prevent distraction of motorists, bicyclists and pedestrians.

E. To allow clear visibility of traffic signs and signal devices, pedestrians, driveways, intersections, and other necessary clear vision areas.

F. To provide for safety to the general public and especially for firemen who must have clear and unobstructed access near and on roof areas of buildings.

G. To preserve and protect the unique scenic beauty and the recreational and tourist character of Newport.

H. To regulate the construction, erection, maintenance, electrification, illumination, type, size, number, and location of signs.

The applicant states in their narrative (Attachment "B") that the signage proposed is designed to help motorists navigate their way to this Harbor Freight location. Harbor Freight is not located in all cities, so persons traveling here may come from outside of Newport to locate this retail service. Signs are designed to be clearly visible in all weather and traffic conditions as posted speed limits. The United States Sign Council makes clear recommendations for parallel signs and their visibility.

Further, the applicant points out that Harbor Freight Signs are designed for the safety and welfare of those traveling here to provide information for the general public. The sign proposed is consistent with the purpose of the Newport Sign Code (the applicant's narrative then lists the purpose provisions of the code that are outlined above).

The principal mode of transportation to and from Harbor Freight Tools is vehicle traffic, and the property is well situated in that regard with prominent frontage along Highway 101. Vehicles travelling north on US 101 can readily identify Harbor Freight by virtue of the 159.34 sq. ft. compliant wall sign along the parcels NW 6th Street frontage and the un-permitted freestanding pole sign. Vehicles travelling south on US 101 can also readily identify Harbor Freight, as the un-permitted pole sign is visible from a significant distance. The oversized wall sign that is the subject of this variance request is parallel to US 101, facing the highway. As such, it is less visible to US 101 traffic than the other two signs, which are perpendicular to the highway, because US 101 drivers can only see it at an angle. This east facing wall sign is most prominently visible to vehicles traveling west on NE 6th Street, as they see it head on. That is a small amount of traffic and a smaller wall sign would have the same

utility since vehicles traveling west, toward the store, are heading directly at it. The property has the added benefit of being at the corner of a signalized intersection, improving site visibility from all directions. Given the above, it would be difficult to accept the applicant's argument that a variance to the 200 sq. ft. sign display area limitation is needed along the property's US 101 frontage in order to promote traffic safety, and ensure adequate wayfinding to and from the business.

The disproportionately large size of the east facing wall sign, as compared to nearby commercial signage that is compliant with the code, may make it more of a distraction to motorists, than if compliant signage were to be installed. The Commission should consider this, as preventing distractions to motorists is one of the purposes of the sign code. The Commission should also carefully review the applicant narrative and proposal to determine if a variance is required to further one or more of the purposes of the sign code. Commission members are not limited to points raised by the applicant or City staff; however, a finding must be made that the variance is consistent with the purposes of the sign code in order for the variance to be approved.

- iii. *The variance will allow for placement of a sign with exceptional design, style, or circumstance, or will allow a sign that is more consistent with the architecture and development of the site; and*

The applicant states that the proposed sign is consistent with the sign size and type allowed at other commercial properties. They point out that this is a commercial area, and that the variance will allow for placement of a sign with exceptional design, style, or circumstance, or will allow a sign that is more consistent with the architecture and development of the site.

The applicant further notes that the proposed sign is consistent with the sign size and type allowed at other commercial properties. This is a commercial area and the sign proposed is not going to detract from the architecture or surrounding area. This is an upgrade to the facade of the building and the signs proposed are consistent with the national brand image Harbor Freight customers are familiar with. The sign proposed is exceptional in design using channel letters and internal illumination that will comply with the illumination methods of the code. This is an allowed sign type.

The Harbor Freight wall sign facing US 101 is noticeably larger than signage on commercial properties in the vicinity of the site, so it would be difficult for the Commission to accept the applicant's argument that it is consistent with the sign size allowed at other commercial properties. The design is similar to other commercial signage in the area and it fills out

the façade facing US 101. In 2020 Harbor Freight Tools renovated tenant space in a Corvallis shopping center. That building has a similar façade as the recently opened store in Newport. It appears the same sign company designed a smaller wall sign at that location (Attachment "L") so it is possible for the wall sign facing US 101 to be replaced with a sign that is smaller, without detracting from the architectural character of the development.

- iv. *The variance will not significantly increase or lead to street level sign clutter, or will it create a traffic or safety hazard.*

The applicant notes that the sign is intended to be visible when the ground sign is out of the line of sight for traffic that is headed to this destination. GPS technology is not always accurate and motorists do not all navigate in the same manner. Some use building signage and some use ground signage, some look up and some look down, some will use the building as a landmark and some will use the street name. The presence of a sign contributes significantly to the safety of motorists. Not everyone uses GPS or cellular technology. The demographic of customer that shops here may in fact be technologically declined while being mechanically inclined.

Keeping in mind that the sign proposed was originally approved and it was discovered after installation that the permit was issued in error also creates a hardship. The sign has been manufactured, shipped, installed and now the client has learned that it's not allowed. The sign installed will enhance the overall aesthetic of this property and attract sources of economic development and growth by allowing this business to take its place in the community. The sign will not impact private and public properties nearby. The sign will enable the fair and consistent enforcement of sign restrictions when taking into consideration the overall visibility of a parallel sign is necessary for the safety of those traveling here.

As noted earlier, a sign permit issued by the City in violation of its own codes is not a valid permit, and should not be construed as justification to support a determination that the applicant, Harbor Freight, faces a practical difficulty or hardship that warrants a variance to the 200 sq. ft. cumulative display area limitation per street frontage. The applicant may pursue other potential remedies to address the situation, such as a Tort Claim, that are unrelated to this variance request. Further, there is the matter of the unpermitted pole sign that is arguable of more utility and benefit as a wayfinding tool than a wall sign facing US 101 at this location.

With respect to the criteria, the US 101 facing wall sign, in of itself, exceeds the 200 square foot limitation, meaning that, under the sign code, a pole sign with additional display area could not be approved. Therefore, it would be difficult for the Commission to conclude that authorizing a variance to allow both the wall and pole sign, without a reduction in sign display area, complies with this standard since the added display area would necessarily result in additional street level sign clutter (as opposed to a signage package that complies with the 200 sq. ft. display area limitation).

4. **Conclusion:** If the Planning Commission finds that the applicant has met the criteria established in the Newport Municipal Code for granting a variance, then the Commission should approve the request and ask staff to prepare findings and a final order for consideration at its next meeting (April 22, 2024). As always, the Commission may attach any reasonable conditions of approval necessary to carry out the purposes of the Ordinance as conditions of approval are permissible under NMC Section 10.10.130 (Variance Requirements – specifying that the Planning Commission utilizes the procedure and process of zoning variances, including conditions of approval). If, on the other hand, the Commission finds that the request does not comply with the criteria, then the Commission should make findings for denial. Staff would then prepare findings and a final order to that effect for the Commission’s consideration.
- F. **STAFF RECOMMENDATION:** From a staff perspective, the information in the record is insufficient to support a variance to the 200 sq. ft. display area limitation. A smaller, east facing wall sign paired with a properly permitted pole sign would provide sufficient travelers with sufficient visual cues to reach the property. The Commission should also be sensitive to precedence, as its findings in this case could be equally applicable to other requests in the future. If the Commission approves the variance, then staff recommends the following condition(s) of approval.
1. The applicant shall obtain a City of Newport sign permit for the pole sign described in this variance application.



Derrick I. Tokos, AICP
Community Development Director
City of Newport

April 4, 2024

City of Newport Land Use Application

PLEASE PRINT OR TYPE - COMPLETE ALL BOXES - USE ADDITIONAL PAPER IF NEEDED

Applicant Name(s): Harbor Freight	Property Owner Name(s): KSD Properties LLC
Applicant Mailing Address: 615 N Coast Highway	Property Owner Mailing Address: 500 W Sublimity Blvd, Sublimity OR 97385
Applicant Telephone No.: tracey@expeditethediehl.com	Property Owner Telephone No.: E-mail:
Authorized Representative(s): Expedite The Diehl LLC (Tracey Diehl)	
Authorized Representative Mailing Address: 6487 Hilliard Drive, Canal Winchester, OH 43110	
Authorized Representative Telephone No.: 614-828-8215	E-Mail: tracey@expeditethediehl.com

Project Information

Property Location:	615 N Coast Highway
Tax Assessor's Map No.: R160890	Tax Lot(s): 11-11-05-CD-02400-00
Zone Designation: C1	Legal Description: attached
Comp Plan Designation:	
Brief Description of Land Use Request(s):	Applicant seeks a variance to Section 10.10.085.G to allow a 282.78 sq. ft. wall sign on the east wall which exceeds the maximum 200 sq. ft. for a variance of 82.78 sq. ft.
Existing Structures:	Retail
Topography and Vegetation:	Retail Commercial Development

APPLICATION TYPE (please check all that apply)

- | | | |
|--|---|---|
| <input type="checkbox"/> Annexation
<input type="checkbox"/> Appeal
<input type="checkbox"/> Comp Plan/Map Amendment
<input type="checkbox"/> Conditional Use Permit
<input type="checkbox"/> PC
<input type="checkbox"/> Staff
<input type="checkbox"/> Design Review
<input type="checkbox"/> Geologic Permit | <input type="checkbox"/> Interpretation
<input type="checkbox"/> Minor Replat
<input type="checkbox"/> Partition
<input type="checkbox"/> Planned Development
<input type="checkbox"/> Property Line Adjustment
<input type="checkbox"/> Shoreland Impact
<input type="checkbox"/> Subdivision
<input type="checkbox"/> Temporary Use Permit | <input type="checkbox"/> UGB Amendment
<input type="checkbox"/> Vacation
<input checked="" type="checkbox"/> Variance/Adjustment
<input checked="" type="checkbox"/> PC
<input type="checkbox"/> Staff
<input type="checkbox"/> Zone Ord/Map Amendment
<input type="checkbox"/> Other _____ |
|--|---|---|

FOR OFFICE USE ONLY

Date Received: <u>3/8/24</u>	File No. Assigned: <u>1-VAR-24</u>	Date Accepted as Complete: _____
Received By: <u>DT</u>	Fee Amount: <u>749-</u>	Receipt No.: _____
		Accepted By: _____

(SEE REVERSE SIDE)

Community Development & Planning Department • 169 SW Coast Hwy, Newport, OR 97365 • Derrick I. Tokos, AICP, Director

I understand that I am responsible for addressing the legal criteria relevant to my application and that the burden of proof justifying an approval of my application is with me. I also understand that this responsibility is independent of any opinions expressed in the Community Development & Planning Department Staff Report concerning the applicable criteria.

I certify that, to the best of my knowledge, all information provided in this application is accurate.

<i>Nancy Dorel by affiant</i>	<i>3/7/24</i>
Applicant Signature(s)	Date Signed
<i>Nancy Dorel by affiant</i>	<i>3/7/24</i>
Property Owner Signature(s)	Date Signed
<i>Nancy Dorel</i>	<i>3/7/24</i>
Authorized Representative Signature(s)	Date Signed

Please note application will not be accepted without all applicable signatures.

Please ask staff for a list of application submittal requirements for your specific type of request.

AFFIDAVIT OF PERMIT AUTHORIZATION

This affidavit certifies that the party listed, who is not a lessee, licensed architect, engineer, or contractor, has been granted authorization to obtain a variance and permit(s) on behalf of a property owner. It must be filled out completely by the property owner if another party is applying on the owner's behalf.

I, Jeff Koehnke "owner of the property listed below certify that I have granted, Urban Sign Group and their permit expeditor Expedite the Diehl LLC, my duly authorized agent, permission to obtain the variance, sign permits and related documents necessary for the construction (or installation) of signs at the following address:

615 N. Coast Hwy, Newport, OR 97365
Address of permit location

I understand that I am authorizing them to apply for necessary permits, appeals and related permit documents. This is limited to what is necessary for sign permit projects to be completed.

[Signature] Signature of Property Owner Jeff Koehnke of KSD Properties, LLC
2-27-24 Date

Our Expeditor: Tracey Diehl / Pete Hatcher
Company Name Expedite the Diehl LLC
Company Address: 6487 Hilliard Drive
Company City, State: Zip Canal Winchester OH 43110
Contact Phone: Tracey Diehl

Notary

State of Oregon City/ County of Marion
I, Mary L. Kauffman Notary Public in and for the previously mentioned State hereby certify that Jeff Koehnke appeared before me in the State and City/County aforesaid and executed this affidavit on this 27th day of "2024, February."

My Commission Expires the 20th day of March 2027
Date Month year

Affix Seal



Description of circumstances specific to the variance:

Permits were issued for Sign A on the East Elevation facing 101. This sign is 282.78 sq. ft. It was discovered that the permits were issued in error and the sign exceeds the maximum allowed sign area. The maximum allowed is 200 sq. ft. The east elevation is 106 linear ft. The South Elevation also has a permit for a sign that is 159.34 sq. ft. The elevation is 144 linear feet and the maximum allowed sign for this elevation would be 200 sq. ft. There is an excess of 40.66 sq. ft. unused sign area.

The need for the variance has arisen because of permit that was issued in error for the east elevation. The sign has been installed and it was discovered during final inspection that the sign is over the allowable square footage.

The applicant seeks a variance from Section 10.10.085.G where the maximum allowed square footage is 200 sq. ft. to allow a wall sign that is 282.78 sq. ft. This is a variance of 41.4% totaling 82.78 sq. ft.

Written Findings of Fact:

That the variance is consistent with the purposes of the sign code, as provided in Newport Municipal Code §10.10.010 and §10.15.005; and

The signage proposed is designed to help motorists navigate their way to this Harbor Freight location. Harbor Freight is not located in all cities, so persons traveling here may come from outside of Newport to locate this retail service. Signs are designed to be clearly visible in all weather and traffic conditions as posted speed limits. The United States Sign Council makes clear recommendations for parallel signs and their visibility.

Harbor Freight Signs are designed for the safety and welfare of those traveling here to provide information for the general public. The sign proposed is consistent with the purpose of the Newport Sign Code:

- A. To protect and promote the health, safety, property, and welfare of the public, including but not limited to promotion and improvement of traffic and pedestrian safety.
- B. To improve the neat, clean, and orderly appearance of the city for aesthetic purposes.
- C. To allow the erection and maintenance of signs consistent with the restrictions of the Newport Sign Code.
- D. To prevent distraction of motorists, bicyclists and pedestrians.
- E. To allow clear visibility of traffic signs and signal devices, pedestrians, driveways, intersections, and other necessary clear vision areas.
- F. To provide for safety to the general public and especially for firemen who must have clear and unobstructed access near and on roof areas of buildings.
- G. To preserve and protect the unique scenic beauty and the recreational and tourist character of Newport.
- H. To regulate the construction, erection, maintenance, electrification, illumination, type, size, number, and location of signs.

That the variance will allow for placement of a sign with exceptional design, style, or circumstance, or will allow a sign that is more consistent with the architecture and development of the site; and

The proposed sign is consistent with the sign size and type allowed at other commercial properties. This is a commercial area and the sign

That the variance will allow for placement of a sign with exceptional design, style, or circumstance, or will allow a sign that is more consistent with the architecture and development of the site; and

The proposed sign is consistent with the sign size and type allowed at other commercial properties. This is a commercial area and the sign proposed is not going to detract from the architecture or surrounding area. This is an upgrade to the façade of the building and the signs proposed are consistent with the national brand image Harbor Freight customers are familiar with. The sign proposed is exceptional in design using channel letters and internal illumination that will comply with the illumination methods of the code. This is an allowed sign type.

That the variance will not significantly increase or lead to street level sign clutter, nor will it create a traffic or safety hazard.

The sign is intended to be visible when the ground sign is out of the line of sight for traffic that is headed to this destination. GPS technology is not always accurate and motorists do not all navigate in the same manner. Some use building signage and some use ground signage, some look up and some look down, some will use the building as a landmark and some will use the street name. The presence of a sign contributes significantly to the safety of motorists. Not everyone uses GPS or cellular technology. The demographic of customer that shops here may in fact be technologically declined while being mechanically inclined.

Keeping in mind that the sign proposed was originally approved and it was discovered after installation that the permit was issued in error also creates a hardship. The sign has been manufactured, shipped, installed and now the client has learned that it's not allowed. The sign installed will enhance the overall aesthetic of this property and attract sources of economic development and growth by allowing this business to take it's place in the community. The sign will not impact private and public properties nearby. The sign will enable the fair and consistent enforcement of sign restrictions when taking into consideration the overall visibility of a parallel sign is necessary for the safety of those traveling here.



City of Newport
169 SW Coast Hwy
Newport, OR 97365
541-574-0629
Fax: 541-574-0644

Building Permit

Commercial Sign

Permit Number: 625-23-000510-SIGN

IVR Number: 625019004192

Web Address: www.newportoregon.gov

Email Address: permits@newportoregon.gov

Permit Issued: August 09, 2023
Project: Harbor Freight-36354

Application Date: July 25, 2023

TYPE OF WORK

Category of Construction: Commercial **Type of Work:** None Specified
Submitted Job Value: \$2,107.63
Description of Work: Installation of one (1) new wall sign

JOB SITE INFORMATION

Worksite Address	Parcel	Owner:	KSD PROPERTIES LLC
615 N COAST HWY	11-11-05-CD-02400-00	Address:	500 W SUBLIMITY BLVD
NEWPORT OR			SUBLIMITY, OR 97385

LICENSED PROFESSIONAL INFORMATION

Business Name	License	License Number	Phone
E S & A SIGN CORP - Primary	CCB	163470	541-485-5546
STANLEY G ROSEBORO	(SIG) Electrician, Limited Journeyman, Sign	514SIG	541-485-5546

PENDING INSPECTIONS

Inspection	Inspection Group	Inspection Status
6999 Final Sign	Signs	Pending

SCHEDULING INSPECTIONS

Various inspections are minimally required on each project and often dependent on the scope of work. Contact the issuing jurisdiction indicated on the permit to determine required inspections for this project.

Schedule or track inspections at www.buildingpermits.oregon.gov

Call or text the word "schedule" to 1-888-299-2821 use IVR number: 625019004192

Schedule using the Oregon ePermitting Inspection App, search "epermitting" in the app store

PERMIT FEES

Fee Description	Quantity	Fee Amount
Sign - Other - new, replacement, or reconstruction	1	\$153.00
Total Fees:		\$153.00

Note: This may not include all the fees required for this project.

Permits expire if work is not started within 180 Days of issuance or if work is suspended for 180 Days or longer depending on the issuing agency's policy.

Per R105.7 and R 106.3.1, a copy of the building permit and one set of approved construction documents shall be available for review at the work site.

All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. Granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction.

ATTENTION: Oregon law requires you to follow rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR 952-001-0010 through OAR 952-001-0090. You may obtain copies of the rules by calling the Center at (503) 232-1987.

All persons or entities performing work under this permit are required to be licensed unless exempted by ORS 701.010 (Structural/Mechanical), ORS 479.540 (Electrical), and ORS 693.010-020 (Plumbing).

Advance your brand.

610-522-5555
UrbanSignGroup.com

500 Pine St., Suite 3A
Holmes, PA 19043

Customer Approval

Signature _____

Date _____

Landlord Approval

Signature _____

Date _____

Above signatures authorize Urban Sign Group to manufacture as specified including, all sizes, spelling, punctuation, and colors.

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All rights reserved.

Harbor Freight Tools

615 N. Coast Hwy.
Newport, OR 97365

SALES **JM** **PM** **PF**

PROJECT **001212 Rev 05**

DATE **12/12/2023**

DRAWN BY **KM**

SHEET SIZE **8.5" X 14"** PAGE **1**



HARBOR FREIGHT
Sign Vertical Newport Oregon
Page 26 of 32

FRONT ELEVATION - Sign Type (A) (QTY:1)
Channel Letters on Raceway
Scale: 3/32" = 1'-0" (282.78 sqft)

Max allowed 200 sq. ft.
Proposed 282.78 sq. ft.

variance 82.78 sq. ft.



EXISTING CONDITIONS
Scale: NTS



Advance your brand.

610-522-5555
UrbanSignGroup.com

500 Pine St., Suite 3A
Holmes, PA 19043

Customer Approval

Signature _____
Date _____

Landlord Approval

Signature _____
Date _____

Above signatures authorize Urban Sign Group to manufacture as specified including, all sizes, spelling, punctuation, and colors.

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All rights reserved.

Harbor Freight Tools

615 N. Coast Hwy.
Newport, OR 97365

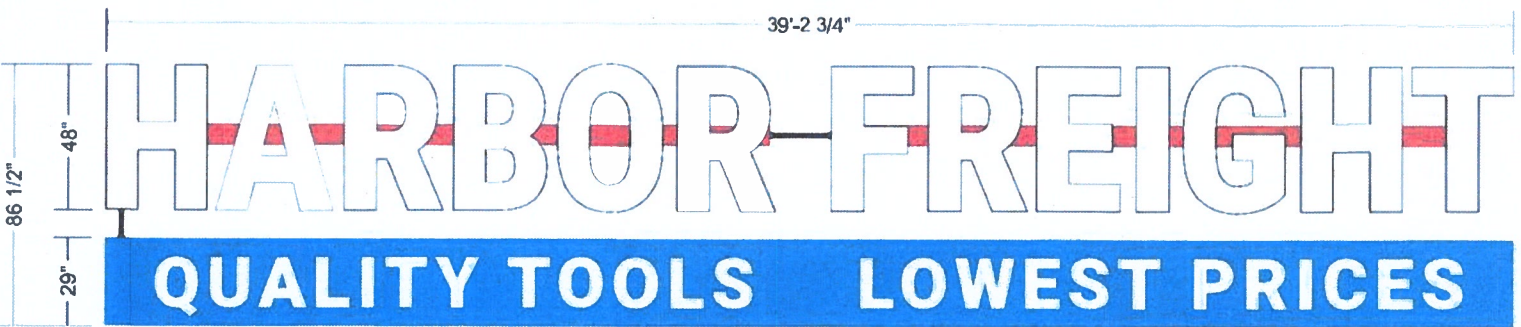
SALES	JM	MM	PFD
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PROJ-CT 001212 Rev 05

DATE 12/12/2023

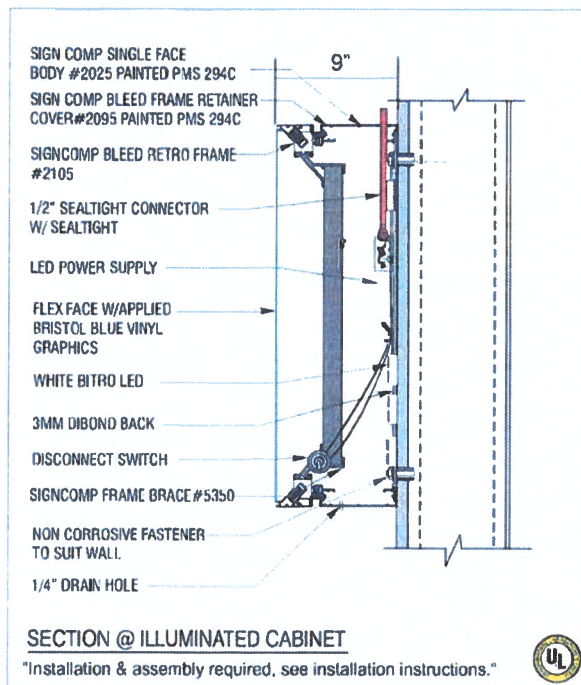
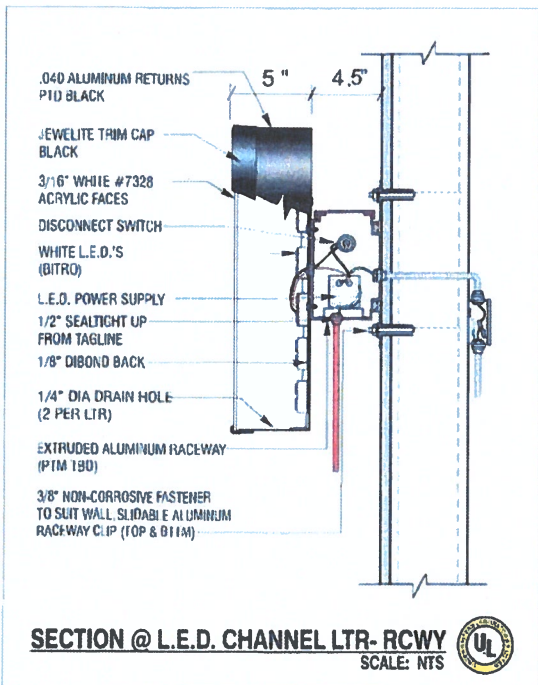
DRAWN BY KM

SHEET SIZE 8.5" X 14" PAGE 2



FRONT ELEVATION - Sign Type (A) (QTY:1)
Channel Letters on Raceway
Scale: 1/4" = 1' (282.78 SQ FT)

HARBOR FREIGHT
Sign Variance Newport Oregon
Page 27 of 32





ADVANCE
YOUR
brand.

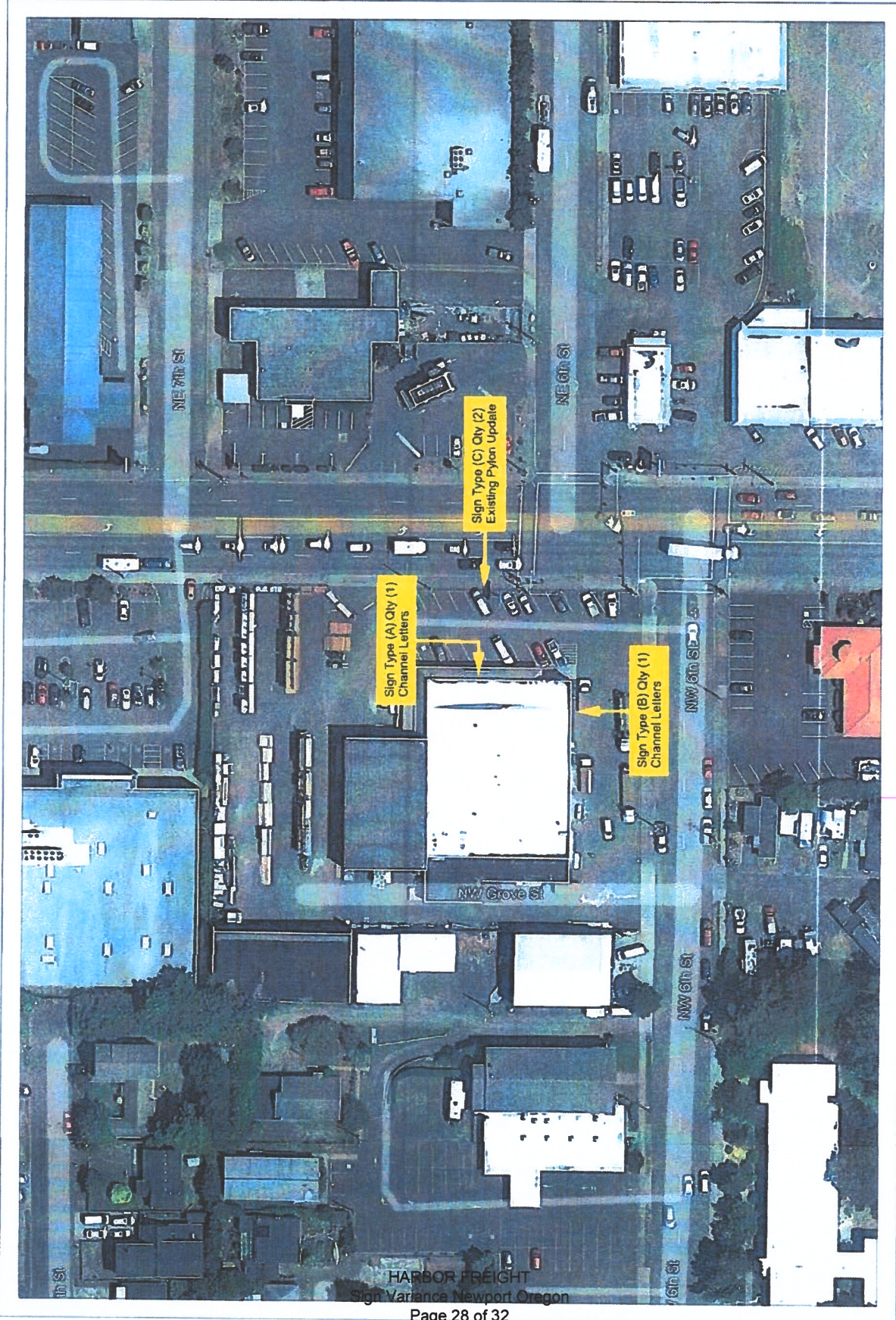
610-522-5555
UrbanSignGroup.com
500 Pine St, Suite 3A
Harris, PA 15003

Customer Approval	Signature	
	Date	
Landlord Approval	Signature	
	Date	
Above signature authorize Urban Sign Group to manufacture or install including all signs, signs, attachments and colors.		
2024 Urban Sign Group All Rights Reserved		

Harbor Freight Tools

615 N. Coast Hwy.
Newport, OR 97365

SALES	JM	PM	PFD
PRODUCT	001212 Rev 05		
DATE	12/12/2023		
DRAWN BY	KM		
SHEET SIZE	8.5" X 11"	PAGE	11



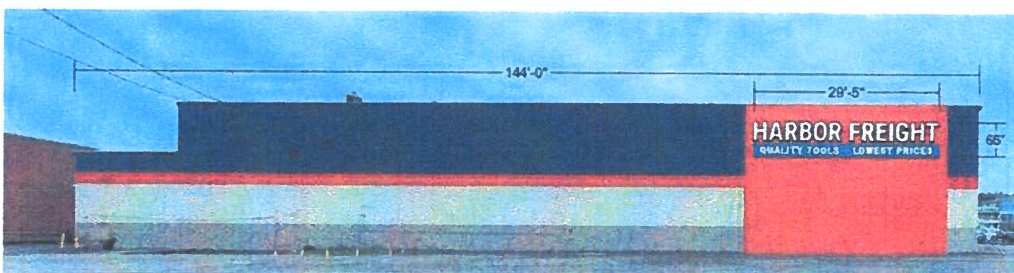
HARBOR FREIGHT
Sign Variance Newport Oregon
Page 28 of 32

Inventory:

Sign A East Elevation Wall Sign internally illuminated channel letters that read: HARBOR FREIGHT QUALITY TOOLS LOWEST PRICES 282.78 SQ. FT.



Sign B South Elevation Wall Sign internally illuminated channel letters that read: HARBOR FREIGHT QUALITY TOOLS LOWEST PRICES 159.34 sq. ft.



Sign C Pole sign 96 sq. ft. along Highway 101



**CITY OF NEWPORT
NOTICE OF A PUBLIC HEARING¹**

NOTICE IS HEREBY GIVEN that the Planning Commission of the City of Newport, Oregon, will hold a public hearing to consider the following variance request:

File No. 1-VAR-24.

Owner/Applicant: KSD Properties LLC, owner (Harbor Freight, applicant (Tracey Diehl, Expedite The Diehl, authorized representative)).

Request: Approval of a Type III variance pursuant to Section 10.10.085(G) of the City of Newport Municipal Code to allow the placement of a 282.78 square foot wall sign and a 96 square foot freestanding sign that exceeds the maximum display area for the street frontage. Section 10.10.085(G) of the Newport Municipal Code limits the street frontage for all non-exempt signs other than mural signs to no more than 200 square feet of display area. The variance of 178.78 square feet is for a 89.4% variance.

Location: Assessor's Map 11-11-05-CD; Tax Lot 2400 (615 N Coast Hwy).

Applicable Criteria: Newport Municipal Code Section 10.10.130(A): All sign variance applications that propose to increase the number or size of signs or propose a variance from any other numerical standard shall be determined by the Planning Commission using the zoning Type III Variance procedure, based on a determination that the proposed variance is the minimum necessary to alleviate special hardships or practical difficulties faced by the applicant and that are beyond the control of the applicant; and Newport Municipal Code Section 10.10.140(C): The approval authority must find that the application for a Variance complies with the following criteria: (1.) The Variance is consistent with the purposes of the sign code, as provided in Chapter 10.10.010 of the Newport Municipal Code, as applicable; and (2.) The Variance will allow for placement of a sign with exceptional design, style, or circumstance, or will allow a sign that is more consistent with the architecture and development of the site; and (3.) The Variance will not significantly increase or lead to street level sign clutter, or will it create a traffic or safety hazard.

Testimony: Testimony and evidence must be directed toward the criteria described above or other criteria in the Comprehensive Plan and its implementing ordinances which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal, including to the Land Use Board of Appeals, based on that issue. Testimony may be submitted in written or oral form. Oral and written testimony will be taken during the course of the public hearing. Letters to the Community Development/Planning Department (address under "Reports/Materials") must be received by 3:00 p.m. the day of the hearing or be personally entered into the record during the hearing. The hearing will include a report by staff, testimony (both oral and written) from those in favor or opposed to the application, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Pursuant to ORS 197.797 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application.

Reports/Materials: The staff report may be reviewed or a copy purchased at the Newport Community Development Department, City Hall, 169 S.W. Coast Hwy, Newport, Oregon, 97365 seven days prior to the hearing. The application materials and the applicable criteria are available for inspection at no cost or copies may be purchased at this address.

Contact: Derrick I. Tokos, AICP, Community Development Director, (541) 574-0626, d.tokos@newportoregon.gov (address above in "Reports/Materials").

Time/Place of Hearing: Monday, April 8, 2024; 7:00 p.m.; City Hall Council Chambers (address above in "Reports/Materials").

MAILED: March 13, 2024.

PUBLISHED: March 27, 2024/Lincoln County Leader.

¹This notice is being sent to affected property owners within 200 feet of the subject property (according to Lincoln County tax records), affected public utilities within Lincoln County, and affected city departments.

BOHMAN FAMILY LLC ETAL
855 W BROAD ST STE 300
BOISE, ID 83702

BREAKERS LLC
2036 SW WILLOW PKY
GRESHAM, OR 97080

CHASE JAMES A & CHASE BRENDA G
209 NW 7TH
NEWPORT, OR 97365

CROWDER CO LLC
312 SW 29TH ST
NEWPORT, OR 97365

EPPERSON LARRY TRUSTEE &
EPPERSON LETITIA TRUSTEE
654 NW NYE ST
NEWPORT, OR 97365

ESTRADA ISAIAS A & LOPEZ SANDRA
CORNEJO
237 NW 7TH ST
NEWPORT, OR 97365

FIRST BAPTIST CHURCH
OF NEWPORT, INC
208 NW 6TH ST
NEWPORT, OR 97365

GDNJ LLC
728 N COAST HWY
NEWPORT, OR 97365

KSD PROPERTIES LLC
500 W SUBLIMITY BLVD
SUBLIMITY, OR 97385

LAS CASITAS LLC
PO BOX 349
NEWPORT, OR 97365

MALVITCH JOHN SCOTT
236 NW NYE CT
NEWPORT, OR 97365

ND MANOR LLC
PO BOX 2968
PORTLAND, OR 97208

NEWPORT TRUST, THE & BERTULEIT
DONALD JEFFERY TTEE
354 SE 2ND ST
NEWPORT, OR 97365

NORTHWEST COASTAL HOUSING
PO BOX 1457
NEWPORT, OR 97365

PEARCE ROBERT WARD & PEARCE
LAUREEN CHRISTINE
PO BOX 814
SILETZ, OR 97380

RAWLINGS DREW L & RAWLINGS
EMILY A
628 NW NYE ST
NEWPORT, OR 97365

SPARKS KAREN JUNE
222 NW 7TH ST
NEWPORT, OR 97365

WASHINGTON FED SAVINGS & LOAN
425 PIKE ST
SEATTLE, WA 98101

WILSON MICHAEL L
PO BOX 113
NEWPORT, OR 97365

YECK ERNEST A
PO BOX 1256
NEWPORT, OR 97365

ZELLNER JERRY L III
225 NW 7TH ST
NEWPORT, OR 97365

EXPEDITE THE DIEHL LLC
ATTN: TRACEY DIEHL
6487 HILLARD DRIVE
CANAL WINCHESTER, OH 43110

HARBOR FRIEGHT
615 N COAST HWY
NEWPORT, OR 97365

File No. 1-VAR-24

Adjacent Property Owners Within 200 Ft

NW Natural
ATTN: Dave Sanders
2815 NE 36th Dr
Lincoln City, OR 97367

Charter Communications
ATTN: Keith Kaminski
355 NE 1st St
Newport OR 97365

CenturyLink
ATTN: Corky Fallin
740 State St
Salem OR 97301

Central Lincoln PUD
ATTN: Ty Hillebrand
PO Box 1126
Newport OR 97365

Email: Bret Estes
DLCD Coastal Services Center
brett.estes@dlcd.oregon.gov

****EMAIL****
odotr2planmgr@odot.state.or.us

Derrick Tokos
Community Development Dept

Rob Murphy
Fire Chief

Joseph Lease
Building Official

Laura Kimberly
Library

Jason Malloy
Police Chief

Steve Baugher
Finance

Beth Young
Associate Planner

Michael Cavanaugh
Parks & Rec

Spencer Nebel
City Manager

Lance Vanderbeck
Airport

Chris Beatty
Public Works

Justin Scharbrough
Public Works

EXHIBIT 'A'
(Affected Agencies)

(1-VAR-24)

Sherri Marineau

From: Sherri Marineau
Sent: Wednesday, March 13, 2024 10:49 AM
To: Derrick Tokos; Spencer Nebel; Robert Murphy; Joseph Lease; Jason Malloy; Laura Kimberly; Michael Cavanaugh; Beth Young; Lance Vanderbeck; Steve Baugher; Justin Scharbrough; Chris Beatty
Subject: Variance Permit - File No. 1-VAR-24
Attachments: File 1-VAR-24 - Notice.pdf

Attached is a notice concerning a land use request. The notice contains an explanation of the request, a property description and map, and a date for the public hearing. Please review this information to see if you would like to make any comments. We must have your comments at least 10 days prior to the hearing period in order for them to be considered. **Should no response be received, a "no comment" will be assumed.**

Thank you,

Sherri Marineau

Executive Assistant
 City of Newport
 Community Development Department
 169 SW Coast Highway
 Newport, OR 97365
 ph: 541.574.0629, option 2
 fax: 541.574.0644
s.marineau@newportoregon.gov

NEW CITY HALL HOURS BEGINNING: January 22, 2024
Monday – Thursday 8:00am-6:00pm, CLOSED on FRIDAYS



PUBLIC RECORDS LAW DISCLOSURE. This e-mail is a public record of the City of Newport, and is subject to public disclosure unless exempt from disclosure under Oregon Public Records Law. This e-mail is subject to the State Records Retention Schedule for Cities.

Sherri Marineau

From: Sherri Marineau
Sent: Wednesday, March 13, 2024 10:49 AM
To: 'odotr2planmgr@odot.state.or.us'; Brett Estes
Subject: Variance Permit - File No. 1-VAR-24
Attachments: File 1-VAR-24 - Notice.pdf

Attached is a notice concerning a land use request. The notice contains an explanation of the request, a property description and map, and a date for the public hearing. Please review this information to see if you would like to make any comments. We must receive comments prior to the last day of the comment period in order for them to be considered. **Should no response be received, a "no comment" will be assumed.**

Thank you,

Sherri Marineau

Executive Assistant
City of Newport
Community Development Department
169 SW Coast Highway
Newport, OR 97365
ph: 541.574.0629, option 2
fax: 541.574.0644
s.marineau@newportoregon.gov

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**CITY OF NEWPORT
NOTICE OF A PUBLIC HEARING**

The Planning Commission of the City of Newport, Oregon, will hold a public hearing in the City Hall Council Chambers at 7:00 p.m. on Monday, April 8, 2024, to consider File No. 1-VAR-24, which is a request submitted by: KSD Properties LLC, owner (Harbor Freight, applicant (Tracey Diehl, Expedite The Diehl, authorized representative)). The request is for an approval of a variance pursuant to Section 10.10.085(G) of the City of Newport Municipal Code to allow the placement of a 282.78 square foot wall sign and a 96 square foot freestanding sign that exceeds the maximum display area for the street frontage. Section 10.10.085(G) of the Newport Municipal Code limits the street frontage for all non-exempt signs other than mural signs to no more than 200 square feet of display area. The variance of 178.78 square feet is for a 89.4% variance. The property is located 615 N Coast Hwy; Assessor's Map 11-11-05-CD; Tax Lot 2400. Per Newport Municipal Code Section 10.10.130(A): All sign variance applications that propose to increase the number or size of signs or propose a variance from any other numerical standard shall be determined by the Planning Commission using the zoning Type III Variance procedure, based on a determination that the proposed variance is the minimum necessary to alleviate special hardships or practical difficulties faced by the applicant and that are beyond the control of the applicant; and per Newport Municipal Code Section 10.10.140(C): The approval authority must find that the application for a Variance complies with the following criteria: (1.) The Variance is consistent with the purposes of the sign code, as provided in Chapter 10.10.010 of the Newport Municipal Code, as applicable; and (2.) The Variance will allow for placement of a sign with exceptional design, style, or circumstance, or will allow a sign that is more consistent with the architecture and development of the site; and (3.) The Variance will not significantly increase or lead to street level sign clutter, or will it create a traffic or safety hazard. Testimony and evidence must be directed toward the criteria described above or other criteria in the Comprehensive Plan and its implementing ordinances which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal, including to the Land Use Board of Appeals, based on that issue. Testimony may be submitted in written or oral form. Oral and written testimony will be taken during the course of the public hearing. Letters to the Community Development/Planning Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 3:00 p.m. the day of the hearing or be personally entered into the record during the hearing. The hearing will include a report by staff, testimony (both oral and written) from those in favor or opposed to the application, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Pursuant to ORS 197.797 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. The staff report may be reviewed or a copy purchased at the Newport Community Development Department (address above) seven days prior to the hearing. The application materials and the applicable criteria are available for inspection at no cost or copies may be purchased at the above address. Contact Derrick Tokos, Community Development Director, (541) 574-0626, d.tokos@newportoregon.gov. (address above).

(FOR PUBLICATION ONCE ON WEDNESDAY, March 27, 2024)

3/27/2024

999 Public Notices

999 Public Notices

999 Public Notices

999 Public Notices

999 Public Notices

999 Public Notices

ing a reasonable charge by the trustee. Notice is further given that any person named in Section 86.778 of Oregon Revised Statutes has the right to have the foreclosure proceeding dismissed and the trust deed reinstated by payment to the beneficiary of the entire amount then due (other than such portion of said principal as would not then be due had no default occurred), together with the costs, trustee's and attorney's fees and curing any other default complained of in the Notice of Default by tendering the performance required under the obligation or trust deed, at any time prior to five days before the date last set for sale. Other than as shown of record, neither the beneficiary nor the trustee has any actual notice of any person having or claiming to have any lien upon or interest in the real property hereinabove described subsequent to the interest of the trustee in the trust deed, or of any successor in interest to grantor or of any lessee or other person in possession of or occupying the property, except: Name and Last Known Address and Nature of Right, Lien or Interest Seth Vineyard 916 SE LOREN LN TOLEDO, OR 97391 Original Borrower Breannah Vineyard 916 SE LOREN LN TOLEDO, OR 97391 Original Borrower For Sale Information Call: 855 238-5118 or Login to: https://www.xome.com in construing this notice, the singular includes the plural, the word "grantor" includes any successor in interest to this grantor as well as any other person owing an obligation, the performance of which is secured by the trust deed, and the words "trustee" and "beneficiary" include their respective successors in inter-

est, if any. Pursuant to Oregon Law, this sale will not be deemed final until the Trustee's deed has been issued by QUALITY LOAN SERVICE CORPORATION. If any irregularities are discovered within 10 days of the date of this sale, the trustee will rescind the sale, return the buyer's money and take further action as necessary. If the sale is set aside for any reason, including if the Trustee is unable to convey title, the Purchaser at the sale shall be entitled only to a return of the monies paid to the Trustee. This shall be the Purchaser's sole and exclusive remedy. The purchaser shall have no further recourse against the Trustor, the Trustee, the Beneficiary, the Beneficiary's Agent, or the Beneficiary's Attorney. If you have previously been discharged through bankruptcy, you may have been released of personal liability for this loan in which case this letter is intended to exercise the note holders right's against the real property only. As required by law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit report agency if you fail to fulfill the terms of your credit obligations. Without limiting the trustee's disclaimer of representations or warranties, Oregon law requires the trustee to state in this notice that some residential property sold at a trustee's sale may have been used in manufacturing methamphetamine, the chemical components of which are known to be toxic. Prospective purchasers of residential property should be aware of this potential danger before deciding to place a bid for this property at the trustee's sale. NOTICE TO TENANTS: TENANTS OF THE SUBJECT REAL

PROPERTY HAVE CERTAIN PROTECTIONS AFFORDED TO THEM UNDER ORS 86.782 AND POSSIBLY UNDER FEDERAL LAW. ATTACHED TO THIS NOTICE OF SALE, AND INCORPORATED HEREIN, IS A NOTICE TO TENANTS THAT SETS FORTH SOME OF THE PROTECTIONS THAT ARE AVAILABLE TO A TENANT OF THE SUBJECT REAL PROPERTY AND WHICH SETS FORTH CERTAIN REQUIREMENTS THAT MUST BE COMPLIED WITH BY ANY TENANT IN ORDER TO OBTAIN THE AFFORDED PROTECTION, AS REQUIRED UNDER ORS 86.771. TS No: OR-23-969490-SW Dated: 2/20/2024 Quality Loan Service Corporation, as Trustee Signature By: Jeff Stenman, President Trustee's Mailing Address: QUALITY LOAN SERVICE CORPORATION 108 1st Ave South, Suite 450, Seattle, WA 98104 Toll Free: (866) 925- 0241 Trustee's Physical Address: Quality Loan Service Corporation 2763 Camino Del Rio South San Diego, CA 92108 Toll Free: (866) 925- 0241 IDSPub #0201072 3/27/2024 4/3/2024 4/10/2024 4/17/2024

LCL 56-27 CITY OF NEWPORT NOTICE OF A PUBLIC HEARING The Planning Commission of the City of Newport, Oregon, will hold a public hearing in the City Hall Council Chambers at 7:00 p.m. on Monday, April 8, 2024, to consider File No. 1- VAR-24, which is a request submitted by: KSD Properties LLC, owner (Harbor Freight, applicant (Tracey Diehl, Expedite The Diehl, authorized representative)). The request is for an approval of a variance pursuant to Section 10.10.085(G) of the City of Newport Municipal

Code to allow the placement of a 282.78 square foot wall sign and a 96 square foot freestanding sign that exceeds the maximum display area for the street frontage. Section 10.10.085(G) of the Newport Municipal Code limits the street frontage for all non- exempt signs other than mural signs to no more than 200 square feet of display area. The variance of 178.78 square feet is for a 89.4% variance. The property is located 615 N Coast Hwy; Assessor's Map 11-11-05-CD; Tax Lot 2400. Per Newport Municipal Code Section 10.10.130(A): All sign variance applications that propose to increase the number or size of signs or propose a variance from any other numerical standard shall be determined by the Planning Commission using the zoning Type III Variance procedure, based on a determination that the proposed variance is the minimum necessary to alleviate special hardships or practical difficulties faced by the applicant and that are beyond the control of the applicant; and per Newport Municipal Code Section 10.10.140(C): The approval authority must find that the application for a Variance complies with the following criteria: (1.) The Variance is consistent with the purposes of the sign code, as provided in Chapter 10.10.010 of the Newport Municipal Code, as applicable; and (2.) The Variance will allow for placement of a sign with exceptional design, style, or circumstance, or will allow a sign that is more consistent with the architecture and development of the site; and (3.) The Variance will not significantly increase or lead to street level sign clutter, or will it create a traffic or safety hazard. Testi-

mony and evidence must be directed toward the criteria described above or other criteria in the Comprehensive Plan and its implementing ordinances which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal, including to the Land Use Board of Appeals, based on that issue. Testimony may be submitted in written or oral form. Oral and written testimony will be taken during the course of the public hearing. Letters to the Community Development/Planning Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 3:00 p.m. the day of the hearing or be personally entered into the record during the hearing. The hearing will include a report by staff, testimony (both oral and written) from those in favor or opposed to the application, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Pursuant to ORS 197.797 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. The staff report may be reviewed or a copy purchased at the Newport Community Development Department (address above) seven days prior to the hearing. The application materials and the applicable criteria are available for inspection at no cost or copies may be purchased at the above address. Contact Derrick Tokos, Community Development Director, (541) 574-0626, d.tokos@newportoregon.gov. (address above). M27

LCL24-2002 A public meeting of the Budget Committee of the North Lincoln Fire & Rescue District #1, Lincoln County and Tillamook County, State of Oregon, to discuss the budget for the fiscal year July 1, 2024 to June 30, 2025, will be held at the Bob Everest Station 14, 2525 NW Highway 101, Lincoln City, Oregon. The meeting will take place on Wednesday, April 17th at 4:00 pm. The purpose of the meeting is to receive the budget message and to receive comment from the public on the budget. A copy of the budget document may be inspected or obtained on or after April 12th at the Bob Everest Station 14, 2525 NW Hwy 101, Lincoln City,

hours of 9:00 am and 4:00 pm. It will also be available on our website at WWW.NLFR.ORG. This is a public meeting where deliberation of the Budget Committee will take place. HB2560 requires that all Oregon public entities, including special districts, make all meetings accessible remotely and provide opportunity for members of the public to remotely submit oral and written testimony, to the extent reasonably possible. Comments can be submitted to the Fire Chief at 541-996-2233 or by email at rdahman@nlfr.org no later than Tuesday, April 11, 2024. Members of the public may attend electronically; see the agenda on our website for further information.

LCL24-2001 IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF LINCOLN In the Matter of the Estate of ESTHER DORTHY SLOAT, Deceased. Case No. 23PB09045 NOTICE TO INTERESTED PERSONS NOTICE IS HEREBY GIVEN that the undersigned has been appointed personal representative. All persons having claims against the estate are required to present them, with vouchers attached, to the undersigned personal representative by and through their attorney at PO Box 1987, Newport, OR 97365, within four months after the date of first publication of this notice, or the claims may be barred. All persons whose rights may be affected by the proceedings may obtain additional information from the records of the Court, the personal representative, or the lawyers for the personal representative, Traci P. McDowall. Dated and first published on March 27, 2024. Traci P. McDowall, OSB #184063 Attorney for Personal Representative, PERSONAL REPRESENTATIVE: Cheryl Dutton, 1324 Crystal Creek Ln., Toledo, OR 97391, 541-875-2703 LAWYER FOR PERSONAL REPRESENTATIVE: Traci P. McDowall, OSB #184063, PO Box 1987, Newport, OR 97365, (541) 272-5500, traci@yaquilaw.com LCL24-2000 Lincoln County is soliciting bids for overlaying 0.85 miles of S.E. 35th Street (County Road Number 513). The road is located near Newport, Oregon. Estimated Project cost is \$238,000. Contract to be completed by June 21st, 2024. Anticipated Notice to Proceed date is June 3rd, 2024. Bid documents may be obtained from the County's web site at https://www.co.lincoln.or.us/966/Bids-RFPs. PLEASE NOTE:

Super Crossword

HAVING A ROLE TO FILL

- 101 Stephen of "Ondine"
- 104 Hypothetical cases
- 105 End of the riddle
- 110 Cloaked
- 113 Inferior mag
- 114 Tiki bar necklace
- 115 Ending for pay or plug
- 116 Response to
- 5 Regret
- 6 Jumbo tub
- 7 Early anesthetic
- 8 Pete of folk music
- 9 St. Pete loc.
- 10 Ranch rope
- 11 River romper
- 12 With — to (in hopes of)
- 13 It may contain
- 44 Blunder
- 46 Dirt-digging journalist
- 47 Hog haven
- 48 "— tu" (Verdi aria)
- 50 — May (one of TV's Clampetts)
- 52 Ship poles
- 53 "Dream on!"
- 54 Deform
- 55 Et — (and
- 91 Delhi dress
- 92 Beer on "The Simpsons"
- 94 Test, as tea
- 98 Triple-time dances, in Paris
- 99 Ending for Siam or Milan
- 100 Big Japanese dogs
- 102 Kuwaiti

CHAPTER 10.10 SIGNS

10.10.005 Short Title

This chapter may be referred to as the Newport Sign Code.

10.10.010 Purpose

The purposes of the Newport Sign Code are:

- A. To protect and promote the health, safety, property, and welfare of the public, including but not limited to promotion and improvement of traffic and pedestrian safety.
- B. To improve the neat, clean, and orderly appearance of the city for aesthetic purposes.
- C. To allow the erection and maintenance of signs consistent with the restrictions of the Newport Sign Code.
- D. To prevent distraction of motorists, bicyclists and pedestrians.
- E. To allow clear visibility of traffic signs and signal devices, pedestrians, driveways, intersections, and other necessary clear vision areas.
- F. To provide for safety to the general public and especially for firemen who must have clear and unobstructed access near and on roof areas of buildings.
- G. To preserve and protect the unique scenic beauty and the recreational and tourist character of Newport.
- H. To regulate the construction, erection, maintenance, electrification, illumination, type, size, number, and location of signs.

10.10.015 Scope

All signs shall comply with this chapter. Provided however, that any signs in the Agate Beach area annexed in 1998 shall comply with [Chapter 10.15](#), and in

the event of an inconsistency between the two chapters, [Chapter 10.15](#) shall prevail as to any property within the Agate Beach area.

10.10.020 **Prohibited Signs**

No sign may be erected, maintained, or displayed except as expressly authorized by this chapter.

10.10.025 **Conflicting Provisions**

If any provisions of this chapter conflict with any law or regulation requiring a sign or notice, the law or regulation requiring the sign or notice shall prevail.

10.10.030 **Definitions**

The definitions in this section apply in this chapter.

- A. **Adjacent** means immediately next to and on the same side of the street.
- B. **Awning** includes any structure made of cloth, metal, or similar material with a frame attached to a building that may project outwards but can be adjusted to be flat against the building when not in use.
- C. **Building** shall include all structures other than sign structures.
- D. **Bulletin Boards**. A bulletin board is a surface for posting posters, cards, or notices, usually of paper, and not illuminated or electrical.
- E. **Business** means the premises where a duly licensed business is conducted. Multiple businesses conducted within the same premises shall be subject to the same limits as would a single business on the same premises.
- F. **Canopy** includes any structure made of cloth, metal, or similar material projecting out from a building that is fixed and not retractable.
- G. **Clearance** is the distance between the highest point of the street, sidewalk, or other grade below the sign to the lowest point of the sign.

- H. **Display Area** means the area of a regular geometric figure that encloses all parts of the display surface of the sign. Structural supports that do not include a display or message are not part of the display area.
- I. **Erect** means to build, attach, hang, place, suspend, paint, affix, or otherwise bring into being.
- J. **Externally Illuminated Sign** is a sign illuminated by an exterior light source that is primarily designed to illuminate the sign.
- K. **Face** means any part of a sign arranged as a display surface substantially in a single plane.
- L. **Grade** means the surface of the ground at the point of measurement. Height shall be measured from the lowest point of the grade immediately below the sign or any sidewalk or street within 5 feet of the sign and the top of the sign.
- M. **Internally Illuminated Sign** shall mean a sign illuminated by an interior light source, which is primarily designed to illuminate only the sign.
- N. **Multiple Business Property** means a property used for business or commercial purposes under a single ownership or control and containing less than 40,000 square feet of land area and on which three or more separate businesses or commercial enterprises are located.
- O. **Painted** includes the application of colors directly on a wall surface by any means.
- P. **Person** means individuals, corporations, firms, partnerships, associations, and joint stock companies.
- Q. **Premise** means a lot, parcel, or tract of land.
- R. **Reader Board** is a sign designed so that the sign face may be physically or mechanically changed, but does not include electronic message signs.

- S. **Shopping Center** means any property used for business or commercial purposes under a single ownership or control having at least 40,000 square feet of land area and on which are located business or commercial improvements containing at least 20,000 square feet of floor space.
- T. **Sign** means any medium, including structure and component parts, which is used or intended to be used to display a message or to attract attention to a message or to the property upon which such sign is located.
1. **Electronic Message Sign** means a permanent sign consisting of text, symbolic imagery, or both, that uses an electronic display created through the use of a pattern of lights in a pixilated configuration allowing the sign face to intermittently change the image without having to physically or mechanically replace the sign face, including an LED (Light Emitting Diode) sign, as distinguished from a static image sign.
 2. **Freestanding Sign** means any sign permanently attached to the ground that is not affixed to any structure other than the sign structure.
 - a. **Pole Sign** means a freestanding sign that is mounted on a pole or other support that is not as wide as the sign.
 - b. **Monument Sign** means a freestanding sign in which the sign structure is at least as wide as the sign.
 3. **Mural Sign** means a sign that is painted directly on the wall of a building or retaining wall, without any sign structure or additional surface.
 4. **Portable Sign** means a sign that is not attached to the ground or any structure and is movable from place to place. "Portable sign" does not include any sign carried or held by an individual.
 5. **Projecting Sign** means a sign attached to the wall or roof of a building with a sign face that is not parallel to the wall or roof.

6. **Roof Sign** means a sign attached to a roof of a building, or a sign attached to a wall of a building but extending above the top edge of the wall where the sign is located.
 7. **Temporary Sign** means any sign, regardless of construction materials, that is not permanently mounted and is intended to be displayed on an irregular basis for a limited period of time
 8. **Wall Sign** means any sign attached to a wall of a building that does not extend above the wall of the building and is parallel to and within one foot of the wall.
 9. **Window Sign** shall mean any sign placed inside or upon a window facing the outside and which is visible from the exterior.
- U. **Sign Business** means the business of constructing, erecting, operating, maintaining, leasing, or selling signs.
- V. **Sign Structure** means the supports, upright braces, and framework of the sign.

10.10.035 **Application, Permits, and Compliance**

- A. Except as exempted by this chapter, no person shall erect, replace, reconstruct, move, or remove any permanent sign without a sign permit, or place a temporary or portable sign without a sign permit. All signs shall comply with this chapter and any other applicable law. Any sign permit may be withdrawn for violation of this chapter or any other applicable law.
- B. Written applications on city forms are required. The applicant shall provide the following information:
 1. Name, address, and telephone number of the applicant.
 2. Proposed sign location, identifying the property and any building to which the sign will be attached.

3. A sketch, plan, or design showing the method of attachment, structure, design, and such other information necessary to allow a determination of compliance. Nothing in this section requires the applicant to provide any information regarding the content of any message displayed on the sign.
 4. Grade, height, dimensions, construction materials, and specifications.
 5. Underwriter Laboratories certification in the case of an electrical sign.
 6. Name and address of the person, firm, corporation, or other business association erecting the structure.
- C. The city shall issue a sign permit based on a determination that the proposed sign complies with this chapter and other applicable law. Construction of the sign must be completed within 90 days after issuance of the sign permit. An extension of the 90-day period may be granted. If a sign was partially constructed and not completed within the 90-day period or any extension, the partially completed work shall be removed. Permits shall specify the location, size, and type of sign, and any conditions applicable to the sign. Permits for temporary signs and portable signs in rights of way shall specify the duration of the permit and/or the times when the signs may be in place.
- D. When electrical permits are required, they shall be obtained and the installation approved prior to making connection to the electrical power source.
- E. Permit fees shall be established by resolution of the City council, and paid with submission of the sign permit application, as follows:
1. For the erection, placement, replacement, reconstruction, or relocation of a sign. Such fee shall be supplemented by a surcharge for a mural sign that exceeds the maximum permissible size for a wall sign in the same location. Non-profit organizations are exempt from the requirement to pay the supplemental fee for a mural sign.

2. For the repair, demolition, or removal of an existing sign and/or its supporting structure.
3. For temporary signs placed in the right of way. Non-profit organizations are exempt from the requirement to pay this fee.
4. For portable signs placed in the right of way. Such fee shall include a monthly charge for use of the public right-of-way. Non-profit organizations are exempt from the requirement to pay either fee required by this section.

10.10.040 Signs in Public Rights-of-Way

- A. Except as provided in this section, permanent signs wholly located within rights-of-way are prohibited. A sign permit does not allow a sign to project into any part of any public right-of-way unless expressly stated in the permit. Each applicant shall determine the location of the public right-of-way and whether any proposed permanent sign will project into any public right-of-way. Any sign permit that allows a sign projecting into any public right-of-way shall be revocable at any time by the city with or without cause.
- B. Permits are required for temporary or portable signs within rights-of-way and may be issued only if authorized in this section.
 1. Permits for temporary and/or portable signs in rights-of-way may be granted if the sign is to be in place for no more than five consecutive days and no more than 10 total days in a calendar year.
 2. Permits for portable signs within rights-of-way for more than five consecutive days and more than 10 total calendar days in a year may be granted if the portable sign is placed adjacent to a business location operated by the permittee, the sign is removed at all times when the business is not open, and the sign is within the following areas:
 - a. On SW Coast Highway between SW Angle Street and SW Fall Street.

- b. On SW Bay Street between SW Naterlin Drive and SW Bay Boulevard. On Bay Boulevard between SW Bay Street and SE Moore Drive.
- c. On Hurbert Street between SW 7th Street and SW 9th Street.
- d. In the area bounded by Olive Street on the south, NW 6th Street on the north, SW High Street and NW Coast Street on the east and the Pacific Ocean on the west, including both sides of each named street. For purposes of this section, "Olive Street" means both Olive Street and the area that Olive Street would occupy if it continued straight to the Pacific Ocean west of SW Coast Street.
- e. On SE Marine Science Drive/SE OSU Drive between SE Pacific Way and Yaquina Bay.
- f. In that portion of the South Beach area of Newport, east of Highway 101, west of Kings Slough, south of the intersection of Highway 101 and 40th Street and north of the intersection of Highway 101 and 50th Street.

(Chapter 10.10.040(B.)(2.)(f.) was added by the adoption of Ordinance No. 2001, adopted on March 16, 2010; effective April 15, 2010.)

- 3. Permits may be granted under Subsections B.1 and B.2 of this section only if:
 - a. The sign is not within any vehicle travel lane;
 - b. The sign does not restrict clear vision areas at intersections and driveway access points; and
 - c. The sign does not prohibit pedestrian movement on a sidewalk.
- C. The following signs are exempt from the prohibitions and requirements of this section:
 - 1. Sign placed by the city or other governmental entity with responsibility for the right-of-way.

2. Permanent signs placed in a location where allowed by a license or easement from the city to an adjacent property owner to occupy the right-of-way. Signs allowed by this exemption must comply with all other requirements of this chapter, and the display area of the signs will be included in the calculation of the maximum display area of the adjacent property.
 3. Signs not exceeding one square foot on a pole in the right-of-way placed on the pole by its owner.
- D. Signs placed in ODOT right-of-way may also require approval from ODOT.
- E. No permit may be issued for a sign in the right-of-way unless the applicant provides proof of liability insurance in an amount determined to be sufficient by the city manager.

(Section 10.10.045 amended by Ordinance No. 1986, adopted on September 8, 2009; effective October 8, 2009.)

10.10.045 Prohibited Signs

No sign shall be constructed, erected, or maintained:

- A. That uses lights unless effectively screened, shielded, or utilized so as not to direct light directly into the eyes of motorists traveling on any street or highway.
- B. That includes any single light bulb that creates more light than a 60 watt incandescent bulb (800 lumens).
- C. That uses neon tubing on the exterior surface of a sign for sign illumination where the capacity of such tubing exceeds 300 milliamperes rating for white tubing or 100 milliamperes rating for any other color of tubing.
- D. That uses flashing or intermittent light.
- E. That uses any type of rotating beacon light, zip light, or strobe light, or any light not directed to or part of the illumination of the sign.

- F. That uses wind-activated devices or devices which flutter in the wind, such as propellers, but excluding flags, banners, and pennants.
- G. That is flashing, blinking, fluctuating, or animated, that has parts that are flashing, blinking, fluctuating, or animated; or that includes similar effects.
- H. That uses a guy wire for support of a sign, except where there exists no other means of support for a sign otherwise conforming to the requirements of this chapter.
- I. That has any visible moving parts, visible revolving parts, visible mechanical movement of any description, or any other apparent visible movement achieved by electrical, electronic, or kinetic means, including intermittent electrical pulsations or movement or action by wind currents.
- J. That is erected at the intersection of any street that substantially obstructs free and clear vision of motorists, pedestrians and cyclists, or at any location where it may interfere with, obstruct, or be confused with any authorized traffic sign.
- K. While subject to these prohibitions, this section shall not be construed to prohibit electronic message signs where expressly permitted elsewhere in this chapter.
- L. That are attached to standalone antennas, cell towers, electrical transmission towers, telephone or electric line poles and other public utility types of structures or structural parts, where allowed by this Ordinance, except for warning and safety signage as provided in Section 10.10.060.

(Section 10.10.045(L) was enacted by Ordinance No. 2180, adopted on April 5, 2021; effective May 5, 2021.)

10.10.050 Projection and Clearance

- A. Signs shall not project more than 3 feet over any public right-of-way, and in no case shall be within 2 feet of a traveled roadway.
- B. The minimum clearance of any sign over driveways, parking lots, or public right-of-ways is 16 feet,

excepting that the minimum clearance of any sign over a sidewalk is 8 feet, unless the sidewalk is used as a driveway.

10.10.055 Exempt Signs

The following signs are exempt from regulation under this chapter:

- A. Signs erected or maintained by or on behalf of a federal, state, or local governmental body. This exemption shall not apply to signs that are otherwise prohibited under [Section 10.10.045](#) except when the sign is placed in a public right-of-way by the entity responsible for managing the public right right-of-way as allowed under [Section 10.10.040](#) (C)(1).
- B. Signs not visible from a public right-of-way or from property other than the property where the sign is located. For purposes of this section, “property where the sign is located” includes all property under common ownership,” and “visible” means that the sign face is visible.

10.10.060 Partially Exempt Signs

- A. The following signs are exempt from the permit requirement and, except as expressly provided to the contrary, do not count towards maximum display area:
 - 1. One sign not exceeding two square feet on each property with a separate street address, placed flat against the building.
 - 2. In a residential zone on a property where a home occupation is legally conducted, a non-illuminated sign not exceeding two square feet in area, placed flat against the building.
 - 3. Signs placed on post boxes.
 - 4. Non-illuminated signs on private property oriented towards internal driveways and parking areas, not to exceed 3 square feet in area.
 - 5. Signs that are an integral part a building, including

those cut into any masonry surface, as well as signs integrated into the structure of a building constructed of bronze or other non-combustible materials.

6. Signs placed within a public right of way place by the public entity with responsibility for administering the right of way.
7. Flags.
8. Warning and safety signage attached to standalone antennas, cell towers, electrical transmission towers, telephone or electric line poles and other public utility types of structures or structural parts with a surface area of no more than three square feet.

(Section 10.10.060(A)(8) was enacted by Ordinance No. 2180, adopted on April 5, 2021; effective May 5, 2021.)

- B. Each religious institution is allowed to have, in addition to signage otherwise allowed, additional signage not to exceed 48 square feet in area, including each face of any multiple faced sign. No single sign face may exceed 24 square feet, except reader boards, which may not exceed 32 square feet and bulletin boards, which may not exceed 16 square feet. The sign(s) allowed by this subsection are exempt from the maximum total display area standard.
- C. Each community center and educational institution is allowed one reader board not exceeding 32 square feet in area in addition to other allowed signs. The sign allowed by this subsection is exempt from the maximum total display area standard.
- D. Temporary signs complying with all of the following are permitted in all zones without a permit, in addition to any other permitted signs:
 1. The signs must be entirely on private property and outside of any vision clearance areas.
 2. The signs do not exceed 20 square feet of display area or any horizontal or vertical dimension of 8 feet.

3. The signs are not erected more than 90 days prior to the date of an election and they are removed within 30 days after the election.
 4. They are erected or maintained with the consent of the person or entity lawfully in possession of the premises and any structure to which they are attached.
- E. One temporary portable sign per business placed on private property is permitted. Temporary portable signs shall be made of permanent, durable materials and shall be maintained in a good condition. Temporary signs (portable and attached) in the aggregate may not exceed 24 square feet for all display area surfaces on a single property. Temporary signs shall not be included in the calculation of total maximum display area. All portable signs shall be weighted, anchored, or constructed so that they will not move or collapse in the event of wind, or otherwise create a hazard.

(Chapter 10.10.070(E) was added by the adoption of Ordinance No. 2001 on March 16, 2010; effective April 15, 2010.)

10.10.065 Signs at Subdivision Entrances

One permanent sign per subdivision entrance not to exceed 16 square feet in area is permitted. Signs at subdivision entrances may be illuminated but which shall not obstruct any required vision clearance area.

10.10.070 Vehicle Signs

Any sign attached to or imprinted upon a validly licensed motor vehicle operating legally upon the streets and highways of the State of Oregon is exempt from this chapter while the vehicle is traveling upon any street or highway, or while such vehicle is parked to carry out an activity incidental to interstate commerce, but is otherwise not exempt unless:

- A. The sign is painted or otherwise imprinted upon, or solidly affixed to, the surface of the vehicle, with no projection at any point in excess of 6 inches from the surface of the vehicle.

- B. The vehicle, with the sign attached, complies with all applicable requirements of the Motor Vehicle Code required for the lawful operation thereof.

10.10.075 R-1, R-2, and R-3 Residential Districts

In all R-1, R-2, and R-3 residential districts, the following signs are allowed:

- A. One non-illuminated sign not exceeding 2 square feet.
- B. One non-illuminated temporary sign not exceeding 8 square feet in area.
- C. One non-internally illuminated sign not exceeding 20 square feet in area placed flat against the building for each apartment complex.

10.10.080 R-4 Residential District

In an R-4 residential district, the following signs are allowed:

- A. For residential uses, signs allowed in the R-1, R-2 and R-3 districts.
- B. For hotels, motels, recreational vehicle parks, and movie theaters, no more than two illuminated signs that do not exceed 100 square feet in total area. The signs may be internally or externally illuminated, but may not include electronic message signs.
- C. For all other uses, a maximum of 20 square feet of sign area per street frontage. The maximum area shall be a combination of wall and freestanding signs. Freestanding signs shall be set back a minimum of 10 feet from all property lines and shall not exceed 8 feet in height. No sign may be internally illuminated.

10.10.085 Commercial, Industrial, and Marine Districts

In commercial, industrial, and marine zoning districts, signs are allowed subject to the following parameters:

- A. The maximum total area for roof and wall signs is two square feet of display area for each lineal foot of street frontage.
- B. The maximum total area for projecting and freestanding signs is one square foot of display area for each lineal foot of street frontage. Projecting and freestanding signs having two sides facing in opposite directions shall be counted as having only one face, which shall be the larger of the two faces if not of equal size. Only the larger face of back-to-back signs within two feet of each other and signs on opposite parallel ends of awnings shall be counted towards total maximum size.
- C. Each street frontage of a business shall be limited to not more than 2 signs, only one of which may be other than a wall sign unless there is more than 200 lineal feet of street frontage, in which case one additional sign is permitted. Where a property contains an electronic message sign, only one freestanding sign is permitted.
- D. Window signs shall not exceed 16 square feet in area. Window signs are not included in the calculation of total display area.
- E. Except within marine zoning districts or the Historic Nye Beach Design Review District, electronic message signs on properties with no more than one freestanding sign of up to 20 feet in height, provided the electronic message sign:
 - 1. Is less than or equal to thirty-five percent (35%) of the total allowable sign area per sign face.
 - 2. Displays text, symbolic imagery, or a combination thereof for a period of time in excess of (5) minutes before a change occurs. This provision does not apply to the display of time, date and temperature information.
 - 3. Changes the entire display text, symbolic imagery, or combination thereof within two (2) seconds.
 - 4. Is turned off between the hours of 11 p.m. and

6:00 a.m. unless the sign is associated with a business that is open to the public, in which case the sign may stay illuminated until the business is closed.

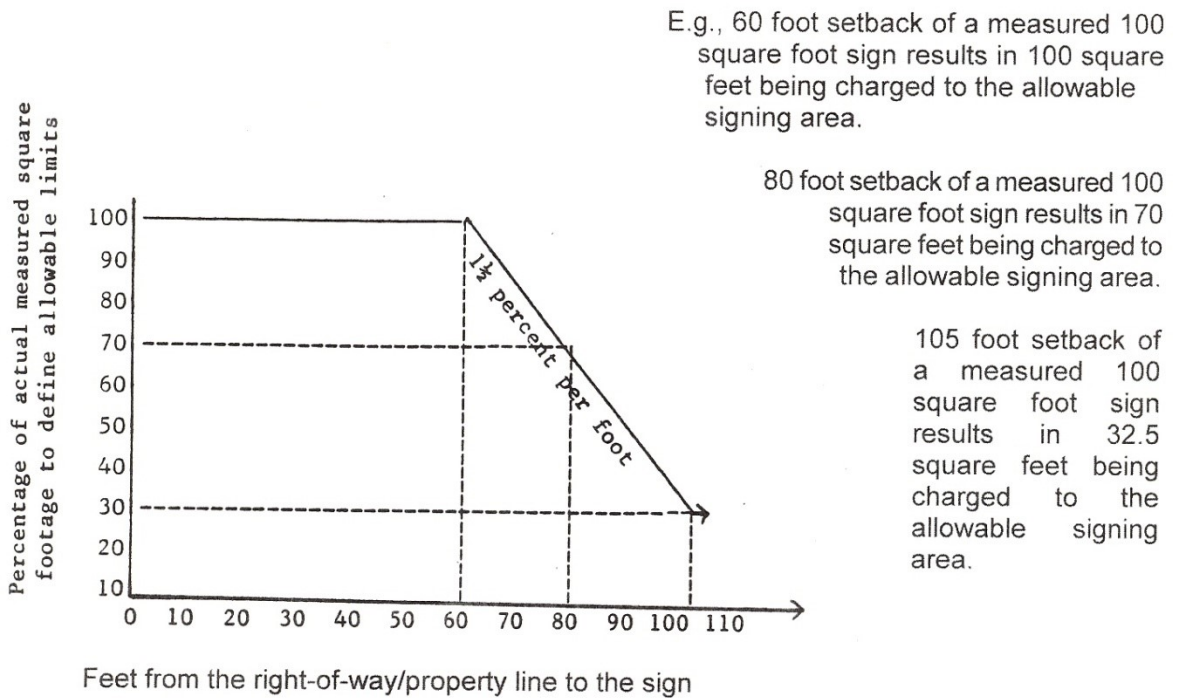
5. Does not contain or display animated, moving video, flashing, or scrolling messages.
6. Contains a default mechanism that freezes the sign in one position if a malfunction occurs.
7. Automatically adjusts the intensity of its display according to natural ambient light conditions.
8. Adheres to a maximum night-time illumination standard of 0.3 foot-candles as measured from a distance, in lineal feet, from the sign that is equivalent to the square root of the display area, in square feet, multiplied by 100.

F. Mural signs.

G. Each street frontage of a business shall be limited to no more than 200 square feet of display area for all non-exempt signs other than mural signs.

H. Notwithstanding any limitation on total sign area, each separate business is allowed at least 50 square feet of display area.

I. The maximum display area allowed shall be adjusted based on distance from the nearest property line, using the graph below:



e.g., 60-foot setback of a measured 100 square foot sign results in 100 square feet being charged to the allowable sign area.

80 foot setback of a measured 100 square foot sign results in 70 square feet being charged to the allowable sign area.

105 foot setback of a measured 100 square foot sign results in 32.5 square feet being charged to the allowable sign area.

J. The maximum height of all signs other than mural signs shall be no greater than 30 feet above grade.

K. The maximum horizontal or vertical dimension of the display surface of any sign other than mural signs shall not exceed:

1. Thirty feet for freestanding and roof signs on properties adjacent to Highways 101 or 20 that are located at least 125 feet from the center line of the highway and at least 76 feet from the center line of any other street.

2. Fifty feet or the width of the wall for wall sign horizontal dimension.
3. Except as otherwise provided by this chapter, the maximum horizontal or vertical dimension of any display surface shall not exceed 20 feet.

10.10.090 Signs in Shopping Centers

For shopping centers and multiple business properties, the number and size of signs are governed by this section.

- A. The maximum number of freestanding signs on shopping center properties is two and the maximum number of freestanding signs on multiple business properties is one.
- B. The maximum number of wall signs for shopping centers and multiple business properties is one per street frontage.
- C. For both shopping centers and multiple business properties, the maximum total area display area of all freestanding and wall signs and is one square foot for each lineal foot of street frontage, with a maximum of 200 square feet per sign. Only one side of a double-faced freestanding sign shall be including in the calculation of display area, provided that the sign faces are 180 degrees opposed and separated by two feet or less.
- D. In addition to the signs allowed by subsections A through C, each individual business may erect wall signs on the premises controlled by the individual business of up to two square feet of display area for each lineal foot of frontage. For the purposes of this subsection, the term frontage means the distance, measured in a straight line, along any one wall of the business premises facing and providing public access to the separate premises of the business. Where a business has entrances allowing public access on more than one frontage, wall signs may be erected for each frontage, but the display area maximum shall be calculated separately for each frontage.

- E. The provisions of NMC [10.10.085](#) for signs in commercial, industrial, or marine districts apply to shopping centers and multiple business properties except as modified by this subsection.

10.10.095 P1, P2, and P3 Public Districts

In public zoning districts, signs are allowed subject to the following parameters:

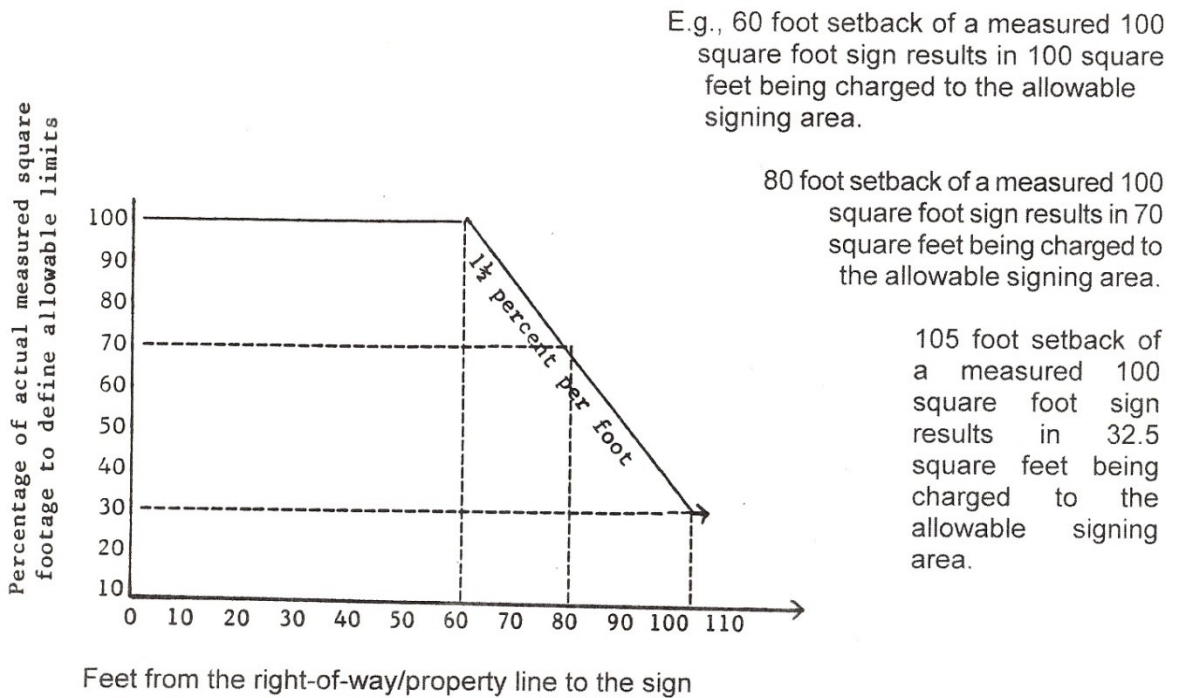
- A. The maximum total area for roof and wall signs is two square feet of display area for each lineal foot of street frontage.
- B. The maximum total area for projecting and freestanding signs is one square foot of display area for each lineal foot of street frontage. Projecting and freestanding signs having two sides facing in opposite directions shall be counted as having only one face, which shall be the larger of the two faces if not of equal size. Only the larger face of back-to-back signs within two feet of each other and signs on opposite parallel ends of awnings shall be counted towards total maximum size.
- C. Each street frontage of a property shall be limited to not more than 2 signs, only one of which may be other than a wall sign unless there is more than 200 lineal feet of street frontage, in which case one additional sign is permitted. Where a property contains an electronic message sign, only one freestanding sign is permitted.
- D. Window signs shall not exceed 16 square feet in area. Window signs are not included in the calculation of total display area.
- E. Electronic message signs on properties with no more than one freestanding sign of up to 20 feet in height, provided the electronic message sign:
 - 1. Is less than or equal to thirty-five percent (35%) of the total allowable sign area per sign face.
 - 2. Displays text, symbolic imagery, or a combination thereof for a period of time in excess of (5) minutes before a change occurs. This provision

does not apply to the display of time, date and temperature information.

3. Changes the entire display text, symbolic imagery, or combination thereof within two (2) seconds.
4. Is turned off between the hours of 11 p.m. and 6:00 a.m. unless the sign is associated with a facility that is open to the public, in which case the sign may stay illuminated until the facility is closed.
5. Does not contain or display animated, moving video, flashing, or scrolling messages.
6. Contains a default mechanism that freezes the sign in one position if a malfunction occurs.
7. Automatically adjusts the intensity of its display according to natural ambient light conditions.
8. Adheres to a maximum night-time illumination standard of 0.3 foot-candles as measured from a distance, in lineal feet, from the sign that is equivalent to the square root of the display area, in square feet, multiplied by 100.

F. Mural signs.

- G. Each street frontage of a property shall be limited to no more than 200 square feet of display area for all non-exempt signs other than mural signs.
- H. Notwithstanding any limitation on total sign area, each separate building is allowed at least 50 square feet of display area.
- I. The maximum display area allowed shall be adjusted based on distance from the nearest property line, using the graph below:



e.g., 60-foot setback of a measured 100 square foot sign results in 100 square feet being charged to the allowable sign area.

80 foot setback of a measured 100 square foot sign results in 70 square feet being charged to the allowable sign area.

105 foot setback of a measured 100 square foot sign results in 32.5 square feet being charged to the allowable sign area.

J. The maximum height of all signs other than mural signs shall be no greater than 30 feet above grade.

K. The maximum horizontal or vertical dimension of the display surface of any sign other than mural signs shall not exceed:

1. Thirty feet for freestanding and roof signs on properties adjacent to Highways 101 or 20 that are located at least 125 feet from the center line of the highway and at least 76 feet from the center line of any other street.

2. Fifty feet or the width of the wall for wall sign horizontal dimension.
3. Except as otherwise provided by this chapter, the maximum horizontal or vertical dimension of any display surface shall not exceed 20 feet.

10.10.100 Construction and Safety Requirements

All signs shall be well constructed in accordance with all applicable codes and requirements of law and shall be maintained in a safe, neat, and clean condition. Signs that are not in good repair or condition through deterioration or other reasons are prohibited and shall be either repaired or removed. If not repaired or removed by the owner, signs that are not in good repair or condition may be abated as authorized by this code.

10.10.105 Dangerous and Abandoned Signs

- A. Any sign or structure that is a nuisance or a dangerous structure may be abated as provided by city ordinances governing nuisances and dangerous structures. If the city manager or building official determines that any sign or sign structure constitutes an immediate threat, danger, or hazard to life, health, or property, the city manager or building official take any action necessary to immediately abate the risk, pursuant to the police power of the City of Newport and without prior notice.
- B. Any sign that has been abandoned or reasonably appears to be abandoned constitutes a hazard and may be abated as provided in Subsection A.

10.10.110 Removal of Signs in Rights-of-Way

Any unauthorized sign in a public right-of-way may be removed immediately without notice by the city and removed to a place of storage. A notice of removal shall be sent to any owner of the sign known to the city, notifying the owner that the sign will be destroyed unless the owner claims the sign within 20 days of the notice. If the owner is unknown to the city, no notice is required and the sign may be destroyed if unclaimed after 20 days from the date of removal. No sign removed from the right-of-way shall be returned to the owner unless the owner

pays a removal fee to the city in an amount set by Council resolution. If the city reasonably estimates the value of the sign materials to be less than \$10.00, the city may immediately dispose of any sign left in the right-of-way without notice.

10.10.115 Remedies

A sign erected or maintained in violation of this chapter is a nuisance and a civil infraction. The city may pursue any one or more of the legal, equitable administrative and self-help remedies legally available to it. All remedies of the city, both as a governmental body and otherwise are cumulative.

10.10.120 Nonconforming Signs

- A. The purpose of this section is to discourage nonconforming signs and to work toward eliminating or removing nonconforming signs or bringing them into conformity with this chapter. Nonconforming signs shall not be enlarged, expanded or extended, nor used as grounds for adding other structures or signs otherwise prohibited.
- B. A nonconforming sign may not be altered as to size, message, or construction, except that common and ordinary maintenance to maintain the sign in a good and safe condition is allowed, including incidental structural repair or replacement.
- C. If a nonconforming sign is damaged or destroyed by any cause including normal deterioration to the extent that the cost of repair shall exceed 50% of the replacement value of the sign, the sign may not be repaired or restored, and may be replaced only by a sign conforming to the provisions of this chapter.

10.10.125 Content and Interpretation

This chapter and [Chapter 10.15](#) do not regulate the content of signs and shall be interpreted as not regulating content. These chapters shall be interpreted if at all possible to be consistent with constitutional protection of expression, and any provision that unconstitutionally restricts expression shall not be enforced, and the

remainder of the provisions shall continue to be applicable and shall be applied constitutionally.

10.10.130 Variance Requirements

Any person may seek a variance to the numerical provisions of this chapter or of [Chapter 10.15](#) by filing a written application. The procedure and process applicable to zoning adjustments and variances (including but not limited to the notification process, public hearing process, conditions of approval, time limitations, and revocation of permits as applicable for the type of adjustment or variance requested) shall be followed. The fee shall be the same as for a zoning adjustment or variance. The criteria for the sign variance shall be as specified below. In addition to the requirements for submitting a zoning adjustment or variance, a sign inventory including the location, type, and size of each sign on the property shall be submitted with the application.

- A. All sign variance applications that propose to increase the number or size of signs or propose a variance from any other numerical standard shall be determined by the Planning Commission using the zoning Type III Variance procedure, based on a determination that the proposed variance is the minimum necessary to alleviate special hardships or practical difficulties faced by the applicant and that are beyond the control of the applicant.
- B. All sign variance applications based on a change in a sign or signs that decreases but does not eliminate an existing nonconformity shall be determined by the community development (planning) director using a Type I Adjustment procedure, based on a determination that the proposal will result in a reduction of the nonconformity without increasing any aspect of nonconformity.

10.10.135 Violations

A violation of this chapter or of [Chapter 10.15](#) is a civil infraction, with a civil penalty not to exceed \$500. The penalty for a second or subsequent violation within two years may be up to \$1,000. A violation occurs on the date of the occurrence of the act constituting the violation.

Each violation is a separate infraction, and each day in which a violation occurs or continues is a separate infraction.

(Chapter 10.10 was enacted by Ordinance No. 2037 on May 21, 2012; effective June 20, 2012.)

(Chapter 10.10 was repealed and re-enacted by Ordinance No. 2075; adopted on January 5, 2015; effective February 5, 2015.)

10.10.140 Sign Adjustment and Variance Requirements

A. Purpose. Adjustments and Variances to the numerical standards of the sign code are intended to allow flexibility while still fulfilling the purpose of the Code.

B. Procedure.

1. Any person may seek an Adjustment or Variance to the numerical provisions of this Chapter or of [Chapter 10.15](#) by filing an application with the Community Development Director or designate on a form prescribed for that purpose. Upon receipt of an application, the Director or designee shall determine if the request shall be processed as an Adjustment or as a Variance according to the procedure provided in Section 14.33.030 of the Zoning Ordinance.
2. The fee shall be the same as for a zoning Adjustment or Variance. No Adjustment or Variance shall be permitted that would negate the provisions of NMC [Section 10.10.045](#), Prohibited Signs.
3. In addition to the application submittal requirements of [Section 14.33.040](#) of the Zoning Ordinance, the applicant must provide an inventory of all signs including the location, type, and size of each sign on the property.
4. Approval criteria in (C) below are to be used when evaluating applications for Adjustments or Variances to the sign code, rather than those provided in [Section 14.33.050](#) of the Zoning Ordinance.

- C. Criteria. The approval authority must find that the application for an Adjustment or Variance complies with the following criteria:
1. The Adjustment or Variance is consistent with the purposes of the sign code, as provided in [Chapter 10.10.010](#) or [10.15.005](#) of the Newport Municipal Code, as applicable; and
 2. The Adjustment or Variance will allow for placement of a sign with exceptional design, style, or circumstance, or will allow a sign that is more consistent with the architecture and development of the site; and
 3. The Adjustment or Variance will not significantly increase or lead to street level sign clutter, or will it create a traffic or safety hazard.

(Chapter 10.10.140 was enacted by Ordinance No. 2090, adopted on January 19, 2016; effective February 18, 2016.)

Derrick Tokos

From: David Allen
Sent: Tuesday, January 30, 2024 4:42 PM
To: Derrick Tokos
Subject: Re: St. Helens

See last few paragraphs of court opinion below in another context ...

<https://law.justia.com/cases/oregon/court-of-appeals/1973/513-p-2d-532-0.html>

From: David Allen
Sent: Tuesday, January 30, 2024 4:13 PM
To: Derrick Tokos
Subject: St. Helens

Language in sec. 17.88.130(6) of St. Helens municipal code (link below): "Sign permits mistakenly issued in violation of this chapter or other provisions of this code are void."

<https://www.codepublishing.com/OR/StHelens/html/StHelens17/StHelens1788.html#17.88.130>

Clackamas County v. Emmert

Annotate this Case

513 P.2d 532 (1973)

CLACKAMAS COUNTY, a Political Subdivision of the State of Oregon, Respondent, v. Terry W. EMMERT and Kathleen M. Emmert, Husband and Wife, Appellants.

Court of Appeals of Oregon.

Argued and Submitted June 19, 1973.

Decided August 27, 1973.

Rehearing Denied September 26, 1973.

Review Denied November 13, 1973.

*533 Paul Gerhardt, and Gary M. Bullock, Portland, argued the cause and filed the briefs for appellants.

Richard F. Crist, Deputy Dist. Atty., Oregon City, argued the cause for respondent. On the brief were Roger Rook, Dist Atty., and Robert D. Burns, Deputy Dist Atty., Oregon City.

Before SCHWAB, C.J., and LANGTRY and FORT, JJ.

LANGTRY, Judge.

This appeal is from a circuit court decree in a zoning case in which the court found that the use by defendants of certain real property for duplex residence buildings was a nuisance in violation of the Clackamas county zoning ordinance and ORS ch. 215. The decree ordered defendants to abate the nuisance and enjoined them from maintaining duplex residence buildings upon the subject property.

Questions presented on appeal are: (1) whether two amendments to the county zoning ordinance were erroneously received in evidence; (2) whether either of the amendments are invalid because of vagueness or insufficient notice of public hearing prior to enactment; and (3) whether it was error to find that the county is not estopped from claiming the land is zoned to exclude the duplexes.

The complaint, besides necessary formalities, alleged passage of the original zoning ordinance in 1960, an October 31, 1969 amendment thereof, and "* * * At all times material herein said [defendants'] real property was and is zoned RA-1 (Rural Agriculture Single Family Residential)." It alleged that defendants had placed upon the property two duplexes as residences for four families and asked for the relief which was subsequently granted.

In the answer defendants generally denied the complaint. In one affirmative defense they alleged that they had obtained permission from " * * * the staff of the Clackamas County Planning Commission * * *" to move the duplexes upon the property because it was "out of permit area"; that permission for location of the duplexes also was granted by the Clackamas county health department; that in moving the structures upon the property they incurred substantial expense and would be required to incur substantial additional expense if they were required to move the duplexes or to separate them into single family residences; and that the permit issued by the planning staff was a result of negligence or of the fact that the property was not lawfully zoned RA-1 and therefore plaintiff should be estopped from seeking to enforce the ordinance. A second affirmative defense alleged the ordinance amendments were invalid because they were not enacted pursuant to law. These matters were placed at issue. The October 1969 amendment to the zoning ordinance and another amendment to the ordinance dated July 13, 1970 were received in evidence.

(1). Defendants contend that, inasmuch as the 1969 amendment was not pleaded by title and date of passage and the complaint made no reference to the 1970 amendment, evidence of either of them should not have been admitted. ORS 16.510(2) provides that in pleading an ordinance *534 it is sufficient to refer to the ordinance by its title and date of passage and that the court shall thereupon take judicial notice thereof. Defendants' contention stems from this statute. The contention is untenable because the complaint alleges that at all material times the property was zoned RA-1. The defendants' general denial included this allegation. Both of the ordinance amendments were relevant to prove the facts thus at issue. It is not a question here whether the court will take judicial notice of the ordinance amendments but rather a question of proof of a fact.

(2). The validity of the 1969 and 1970 amendments to the zoning ordinance is challenged for (a) vagueness and (b) insufficient notice of a public hearing prior to their enactment as required by the provisions of ORS 215.223(1). That statute requires notice of public zoning hearings 10 days in advance of each hearing " * * * published in a newspaper of general circulation in the county * * *." Formal requisites of the published notice are not otherwise provided for.

(a). The October 1969 ordinance amendment fails to inform the reader which areas are zoned RA-1 and which are C-2 and for this reason it appears to be invalid, at least insofar as the subject property is concerned. Lane County v. Heintz Const. Co. et al, 228 Or. 152, 161, [364 P.2d 627](#) (1961). However, this does not invalidate the zoning because the July 1970 amendment corrected the defects of the October 1969 amendment, for that amendment which is in the record shows without question that defendants' property is zoned RA-1. The validity of the 1969 ordinance amendment thus becomes irrelevant.

(b). The record contains a copy of the Oregon City Enterprise Courier dated June 26, 1970. In that paper a "public notice" was published which was a recitation of a complete order of the county commissioners directing the clerk to publish notice. It was much longer than a simple notice of the hearing needed to be and undoubtedly cost more to publish than such a public notice should have. Nevertheless, it was entitled "In the Matter of Calling a Hearing on the Adoption of New Zoning Area Maps." The body of the notice published on June 26, 1970 contained extraneous matter, but it included:

" * * * [T]he County Planning Commission made a recommendation to the Board to adopt new zoning maps for the following described areas * * * All Sections lying within * * * Township 3S, Range * * * 3 * * * E [defendants' property is in Section 6, Township 3S, Range 3E] * * *. "It * * * appearing * * * that pursuant to * * * Ordinance, the Board * * * shall hold a hearing * * *. "IT IS HEREBY ORDERED that the hearing * * * be held on the 8th day of July, 1970, at the hour of 10:00 A.M., in Room 201, County Courthouse * * * to afford the general public an opportunity to be heard * * *."

An exhaustive annotation in 96 A.L.R.2d 449 (1964) discusses cases which have adjudicated requirements of statutory notice prerequisite to adoption or amendment of zoning ordinances. Another Annotation, 38 A.L.R.3d 167 (1971) similarly treats notice requirements for exceptions and variances

to zoning ordinances. Where, as at bar, the statutory requirement is general in nature, the annotators state that the rule is that the notice contents need only " * * * reasonably apprise those interested that the contemplated action is pending" (96 A.L.R.2d, supra, at 497) so long as property owners " * * * can reasonably ascertain from it that property in which they are interested may be affected" (96 A.L.R.2d, supra, at 504). The notice at bar stated the time and place of the hearing and it was published more than 10 days in advance thereof. We hold that it reasonably apprised defendants, who could see that their previously unzoned property *535 was included, that zoning was contemplated therefor and that it told them when and where they could be heard thereon. Thus, although the notice left much to be desired, it was adequate to meet the requirements of ORS 215.223(1) and due process.

(3). Defendants claim the county should have been held estopped from enforcing the RA-1 zone. The chronology of events upon which the claim of estoppel rests follows: October 7, 1969 defendants purchased the property. Defendant Terry W. Emmert testified that upon checking with the planning department before buying he was told the property was unzoned. He testified that in February 1970 he again checked with the planning department for procedures necessary to obtain permission to move multi-unit buildings onto the property and was again told the property was unzoned. March 6, 1970 defendants obtained from the county board of health approval for use of septic tanks for multi-unit buildings upon the property. July 13, 1970, after the published notice already mentioned, the property was zoned RA-1. October 1970 defendants obtained a permit from the county public works department to move two duplexes over the highway to the property. To obtain this permit defendants were required to obtain approval from the Clackamas county building section which was a section of the planning department. When defendants checked with the building section they received approval of the permit to move the duplexes onto the property because the property was "out of permit area" where building permits were required. From the latter defendant testified he inferred the property was not subject to zoning restriction. October 13, 1970 the duplexes were moved onto the property and shortly neighbors complained to the planning department, after which notification was given on November 17, 1970 to the defendants that the duplexes were in violation of the zoning ordinance. Defendants applied for a zoning change and then, after some time and changes in the application, it was finally turned down. During the time elapse between notification and final turn down of the application for zone change, the defendants made substantial expenditures to complete the installation of the duplexes.

Defendants have not pleaded the elements of an estoppel, which often have been recited as follows:

"To constitute an equitable estoppel, or estoppel by conduct, (1) there must be a false representation; (2) it must be made with knowledge of the facts; (3) the other party must have been ignorant of the truth; (4) it must have been made with the intention that it should be acted upon by the other party; and (5) the other party must have been induced to act upon it. State v. Claypool, 145 Or. 615, 28 P.2d 882; Bramwell v. Rowland, 123 Or. 33, 261 P. 57; Oregon v. Portland Gen. Elec. Co., 52 Or. 502, 528, 95 P. 722, 98 P. 160; 31 C.J.S. Estoppel § 67 page 254." Earls et ux v. Clarke et al, 223 Or. 527, 530-531, [355 P.2d 213](#), 214 (1960).

If these elements had been specifically pleaded there clearly was a lack of proof with reference to (2) and (4) and much question as to the proof of (1).

The lack of coordination between the county departments and employes handling zoning, health and building matters provided cause for defendants to complain in this case, even though the elements of estoppel were not pleaded or proven enough to make us examine the application of the law of estoppel to this kind of situation. Such examination discloses a general rule which excludes use of the estoppel doctrine, with a line of cases which appears to be to the contrary. Perhaps the conflict can be, at least in part, explained by noting that some courts seem to have confused the defense of laches with that of estoppel.

In Bankus v. City of Brookings, 252 Or. 257, [449 P.2d 646](#) (1969), where estoppel was sought to be raised against a city to prevent it from revoking a construction permit that had been issued by city

employees without compliance with the ordinance *536 requirements therefor, the court said:

"* * * Nor may a city be estopped by the acts of a city official who purports to waive the provisions of a mandatory ordinance or otherwise exceeds his authority. Cabell et al v. Cottage Grove et al, 1943, 170 Or. 256, 130 P.2d 1013; Anno. 1 A.L.R.2d 338 at 349 et seq. and particularly, City of Milwaukee v. Leavitt, 1966, 31 Wis.2d 72, 142 N.W.2d 169." (Emphasis supplied.) 252 Or. at 260, 449 P.2d at 648.

The citation to Annotation, 1 A.L.R.2d 338, 349 (1948) reveals that the general rule regarding estoppel is as our Supreme Court has stated. However, the annotator notes that as with all rules there are exceptions. 1 A.L.R.2d at 353. See also 1 Yokley, Zoning Law and Practice 446, 447 et seq., § 10-8 (3d ed 1965).

In this regard defendants rely heavily on Cities Ser. Oil Co. v. City of Des Plaines, 21 Ill. 2d 157, 171 N.E.2d 605 (1961), where plaintiff in reliance upon a building permit had expended over \$5,000. Seven months after the permit was issued the city sought to revoke the permit, citing ordinance violations. Plaintiff brought suit to enjoin enforcement of the ordinance and the court stated:

"* * * There is no doubt that if one is aware of the applicable ordinance, or makes no attempt to know of it, the issuance of a permit contrary thereto does not create an estoppel against the city to forbid any further work on the building. Sinclair Refining Co. v. City of Chicago, 246 Ill. App. 152. It is also true that even in the absence of such knowledge, the mere issuance of an unauthorized permit and reliance thereon to one's injury does not provide grounds for relief. Burton Co. v. City of Chicago, 236 Ill. 383, 86 N.E. 93. In the case at bar, however, the lapse of seven months without any attempt to revoke the permit constitutes conduct on the part of city authorities from which it could reasonably be inferred that its issuance was, in effect, ratified. See City of El Paso v. Hoagland, 224 Ill. 263, 79 N.E. 658. We conclude that the facts and circumstances of this case are sufficient to raise an equitable estoppel against the city." 21 Ill. 2d at 163, 171 N.E.2d at 609.

We note that the material fact upon which the case turned that is, the lapse of seven months without action sounds more of laches than estoppel. Regardless of terms, the case is distinguished from the case at bar because here the county planning department took steps to inform defendants by letter that the duplexes were in violation of the zoning ordinance as soon as the matter was brought to its attention. Defendants ignored this letter and went on to complete their project. There was no implied ratification of the prior representations that the area was unzoned (if indeed the evidence can be construed as proving that the approval of the septic tanks or moving permits was such a representation).

In addition, Milwaukee v. Leavitt, 31 Wis.2d 72, 142 N.W.2d 169 (1966), specially relied upon by our Supreme Court in Bankus v. City of Brookings, supra, supports a finding that even viewing the facts in the light most favorable to defendants and ignoring the notice they received that they were violating the zoning ordinance, the estoppel doctrine should not be applied. There defendant had been issued an occupancy permit in 1961. He spent \$2,500 to alter the building for the use stated in the permit. In 1964 the city revoked his permit as contra to the zoning ordinance and ordered the use terminated. The court held that estoppel would not apply, stating:

"Zoning ordinances are enacted for the benefit and welfare of the citizens of a municipality. Issuance of an occupancy or building permit which violates such an ordinance not only is illegal per se, but is injurious to the interests of property owners and residents of the neighborhood adversely affected by the violation. Thus when the city acts to revoke *537 such an illegal permit it is exercising its police power to enforce the zoning ordinance for the protection of all citizens who are being injured by the violation, and not to protect some proprietary interest of the city. These citizens have a right to rely upon city officials not having acted in violation of the ordinance, and, when such officials do so act, their acts should not afford a basis for estopping the city from later enforcing the ordinance. This is true regardless of whether or not the holder of the illegal permit has incurred expenditures in reliance thereon." 31 Wis.2d at 78-79, 142 N.W.2d at 172.

We conclude that even if the estoppel were pleaded and proven in all the necessary elements, or if all elements were unnecessary of proof under exceptions to general rules, it nevertheless would not lie against the county's enforcement of the zoning ordinance in this case.

Affirmed.

**BEFORE THE PLANNING COMMISSION
OF THE CITY OF NEWPORT,
COUNTY OF LINCOLN, STATE OF OREGON**

**IN THE MATTER OF PLANNING COMMISSION)
FILE NO. 2-VAR-23, APPLICATION FOR A)
SIGN VARIANCE, AS SUBMITTED BY THE PORT) FINAL
OF NEWPORT (AARON BRETZ, AUTHORIZED) ORDER
REPRESENTATIVE))**

ORDER APPROVING A VARIANCE pursuant to Section 10.10.130 of the Newport Municipal Code (NMC) to allow a laminated freestanding sign with 114 sq. ft. of display area (i.e. 12-ft. wide x 9-ft. 6-in. tall). The sign will be placed at Port Dock 1, which possesses roughly 21-ft of frontage along SW Bay Boulevard. Freestanding signs in marine districts are limited to one sq. ft. of display area for each lineal foot of street frontage (Section 10.10.085(B)), meaning a sign at this location is limited to 21 sq. ft. of display area (effectively a 5-ft x 4-ft display area). Properties are also limited to a single freestanding sign and this location already has one, that being the Port of Newport Port Dock 1 identification sign. The property subject to the variance application is located at Port Dock 1 (adjacent to Clearwater Restaurant at 325 SW Bay Blvd). It is identified as Tax Lot 02400, on Lincoln County Assessor’s Map 11-11-08-DB. The upland area is roughly 435.6 sq. ft. per County assessment records.

WHEREAS:

- 1.) The Planning Commission has duly accepted the application filed consistent with the Newport Zoning Ordinance (No. 1308, as amended); and
- 2.) The Planning Commission has duly held a public hearing on the application for a variance, with the public hearing a matter of record of the Planning Commission on June 12, 2023; and
- 3.) At the public hearing on said application, the Planning Commission received testimony and evidence, including testimony and evidence from the applicant, and from Community Development Department staff; and
- 4.) At the conclusion of said public hearing, after consideration and discussion, the Newport Planning Commission, upon a motion duly seconded, **APPROVED** the request for the sign variance.

THEREFORE, LET IT BE RESOLVED by the City of Newport Planning Commission that the attached findings of fact and conclusions (Exhibit "A") support the approval of the variance as requested by the applicant with the following condition(s):

- 1. The applicant shall obtain a City of Newport sign permit for the signage conceptually described in this variance application.

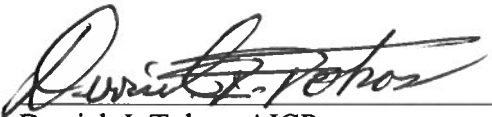
BASED UPON THE ABOVE, the Planning Commission determines that the application for a sign variance is in conformance with the provisions of the Comprehensive Plan and the Zoning Ordinance of the City of Newport.

Accepted and approved this 10th day of July, 2023.



 Bill Branigan, Chair
 Newport Planning Commission

Attest:



 Derrick I. Tokos, AICP
 Community Development Director

EXHIBIT "A"

Case File No. 2-VAR-23

FINDINGS OF FACT

1. Port of Newport (Aaron Bretz, authorized representative) submitted a request on April 19, 2023, for approval of a Type III variance pursuant to Newport Municipal Code Section 10.10.130 of the City of Newport Municipal Code to allow a laminated freestanding sign with 114 sq. ft. of display area (i.e. 12-ft. wide x 9-ft. 6-in. tall). The sign will be placed at Port Dock 1, which possesses roughly 21-ft of frontage along SW Bay Boulevard. Freestanding signs in marine districts are limited to one sq. ft. of display area for each lineal foot of street frontage (Section 10.10.085(B)), meaning a sign at this location is limited to 21 sq. ft. of display area (effectively a 5-ft x 4-ft display area). Properties are also limited to a single freestanding sign and this location already has one, that being the Port of Newport Port Dock 1 identification sign.

2. The property subject to the variance application is located at Port Dock 1 (adjacent to Clearwater Restaurant at 325 SW Bay Blvd). It is identified as Tax Lot 02400, on Lincoln County Assessor's Map 11-11-08-DB. The upland area is roughly 435.6 sq. ft. per County assessment records.

3. Staff reports the following facts in connection with the application:
 - A. Plan Designation: Shoreland.
 - B. Zone Designation: W-2/"Water-Related."
 - C. Surrounding Land Uses: Tourist oriented retail and commercial fishing facilities.
 - D. Topography: Moderately sloping into Yaquina Bay. Port Dock One is constructed on piling, extending out over the bay. The decking is relatively level and it is at street grade. The dock is subject to a lease with the Department of State Lands in the tidal influenced areas.
 - E. Existing Structures: Publicly accessed dock and freestanding sign identifying the dock as Port Dock 1.
 - F. Utilities: All are available to the subject property.
 - G. Past Land Use Actions: *File #1-EUP-14*, an estuarine use permit authorizing the installation of pile and a new floating dock for use by the sea lions. A second phase of the project involves the installation of a 80 foot long by 6 foot wide public viewing platform abutting the pier of Port Dock One.

4. Explanation of the Request: The Port of Newport is requesting approval of the installation of a 144 in x 114 in laminated sign depicting the Newport Bridge and Yaquina Bay. It will include text for "Newport Oregon," "Discover Newport," and the web address for the Newport Sea Lion Foundation "newportsealions.com." The applicant notes that the sign was approved by the Discover Newport Committee in 2021 and funded using transient tax dollars via the Newport Chamber and Discover Newport. It is to be built locally by Newport Signs Company.

The sign will be 11-ft, 6-in. tall and is to be secured to deck railing on the south side of the walkway entering Port Dock 1, with the northeasterly elevation of the Clearwater Restaurant building serving as a backdrop. The applicant indicates that this portion of the dock is on the upland area of the property that would not be subject to the terms of a Department of State Lands lease. A graphic

illustration of the sign, including how and where it will be placed on the dock, is included as Attachment "E."

5. Applicable Criteria. Per Newport Municipal Code (NMC) Section 10.10.140(C), the Planning Commission must find that the application for a sign variance complies with the following criteria:

- A. The variance is consistent with the purposes of the sign code, as provided in Chapter 10.10.010 of the Newport Municipal Code, as applicable; and
- B. The variance will allow for placement of a sign with exceptional design, style, or circumstance, or will allow a sign that is more consistent with the architecture and development of the site; and
- C. The variance will not significantly increase or lead to street level sign clutter, or will it create a traffic or safety hazard.

6. Upon acceptance of the application, the Community Development (Planning) Department mailed notice of the proposed action on May 23, 2023, to property owners within 200 feet required to receive such notice by the Newport Zoning Ordinance, and to various City departments and other agencies. The notice referenced the criteria by which the application was to be assessed. The notice required that written comments on the application be submitted by 3:00 p.m., June 12, 2023. Comments could also be submitted during the course of the public hearing. The notice was also published in the Newport News-Times on June 2, 2023. The Community Development Department received no comments from any of the affected parties.

7. A public hearing was held on June 12, 2023. At the hearing, the Planning Commission received the staff report and received oral testimony from Aaron Bretz with the Port of Newport, Janell Goplen, with Clearwater Restaurant, and Camille Fournier with the Sea Lion Foundation. The applicant waived their right to provide rebuttal testimony and the Commission closed the hearing, deliberated, and elected to approve the variance based upon the findings outlined herein.

8. The minutes of the June 12, 2023, meeting are hereby incorporated by reference into the findings. The Planning Staff Report with attachments is hereby incorporated by reference into the findings. The Planning Staff Report attachments included the following:

- Attachment "A" – Application form
- Attachment "B" – Applicant's narrative
- Attachment "C" – Lincoln County Property Record Card
- Attachment "D" – Record of Survey No. 11713
- Attachment "E" – Illustration of the size and location of the freestanding sign
- Attachment "F" – Public hearing notice

CONCLUSIONS

Regarding the applicable criteria for the variance application, the following conclusions can be made:

A. *The variance is consistent with the purposes of the sign code, as provided in Chapter 10.10.010 of the Newport Municipal Code, as applicable; and.*

The purposes of the Newport Sign Code are:

- *To protect and promote the health, safety, property, and welfare of the public, including but not limited to promotion and improvement of traffic and pedestrian safety.*
- *To improve the neat, clean, and orderly appearance of the city for aesthetic purposes.*
- *To allow the erection and maintenance of signs consistent with the restrictions of the Newport Sign Code.*
- *To prevent distraction of motorists, bicyclists and pedestrians.*
- *To allow clear visibility of traffic signs and signal devices, pedestrians, driveways, intersections, and other necessary clear vision areas.*
- *To provide for safety to the general public and especially for firemen who must have clear and unobstructed access near and on roof areas of buildings.*
- *To preserve and protect the unique scenic beauty and the recreational and tourist character of Newport.*
- *To regulate the construction, erection, maintenance, electrification, illumination, type, size, number, and location of signs.*

1. The applicant's narrative, submitted by the Newport Sea Lion Foundation, lists the "purpose" provisions of the sign code and explains why they believe the proposed sign is consistent with the stated objectives (Attachment "B"). They view the large face of the sign as an attractive tourist promotion feature where visitors can take pictures of themselves while visiting the sea lions. The applicant also explains that the style and design of the sign is aesthetically pleasing and that its location, secured to railing adjacent to the Clearwater Restaurant building, will not interfere with pedestrian traffic. The applicant also points out that the sign should not be a distraction to motorists, cyclists, or pedestrians given that it is located away from highly travelled areas.
2. The Commission reviewed the applicant's narrative, as it relates to each of the listed purpose provisions, and concludes that the proposed sign is consistent with those provisions.

B. *The variance will allow for placement of a sign with exceptional design, style, or circumstance, or will allow a sign that is more consistent with the architecture and development of the site; and.*

1. The Commission finds that the applicant's proposal, illustrated in Attachment "E," exhibits exceptional design and style that emphasize artistic elements as opposed to text messaging. In this way, the proposal is akin to a mural sign, a type of signage that is common along the Bayfront and which is not subject to display area dimensional limitations.
2. The proposed sign will conceal from view a portion of the Port Dock 1 railing, along with fencing and a staircase on the Clearwater Restaurant property. These are ancillary architectural elements, and there is no signage on the portion of the Clearwater building that this sign would compete with or highlight. Further, the Commission considers the presence of the sea lions at Port Dock 1 as an exceptional circumstance justifying the sign variance.

C. The variance will not significantly increase or lead to street level sign clutter, or will it create a traffic or safety hazard.

1. The Port of Newport has a large freestanding sign further down the dock, and there are a number of murals and signs of various sizes along the Bayfront at street level. For these reasons, the Commission finds that a sign of this size will not cause or significantly increase street level sign clutter. The sign will also be placed far enough down the Port Dock 1 walkway that it shouldn't be a traffic hazard. The City requires a sign permit to ensure that the sign structure is secured such that it will not pose a safety hazard. Provided that permit is obtained, the Commission concludes that this criterion has been satisfied.

OVERALL CONCLUSION

Based on the staff report, the application material, and other evidence and testimony in the record, the Planning Commission concludes that the above findings of fact and conclusions demonstrate that the application complies with the criteria for granting a sign variance, and, therefore, the application is **APPROVED** with the following conditions of approval:

1. The applicant shall obtain a City of Newport sign permit for the signage conceptually described in this variance application.

**BEFORE THE PLANNING COMMISSION
OF THE CITY OF NEWPORT,
COUNTY OF LINCOLN, STATE OF OREGON**

**IN THE MATTER OF PLANNING COMMISSION)
FILE NO. 3-VAR-18, APPLICATION FOR A)
VARIANCE, AS SUBMITTED BY SAMARITAN) FINAL
PACIFIC COMMUNITIES HOSPITAL (MATTHEW) ORDER
BROWN, INNERFACE ARCHITECTURAL SIGNAGE,)
AUTHORIZED REPRESENTATIVE))**

ORDER APPROVING A VARIANCE pursuant to Section 10.10.130 of the Newport Municipal Code (NMC) to allow a wall sign to be placed at a height that exceeds the 30-foot height limitation requirement. Section 10.10.095(J) of the Newport Municipal Code limits sign height to 30 feet from grade to the top of the sign. The applicant is further requesting a variance to allow a total of five signs, two of which would be wall signs and three of which will be freestanding signs along SW 9th Street. Section 10.10.095(C) of the Newport Municipal Code limits the total number of signs at this location to three, one of which may be other than a wall sign. Lastly, the applicant seeks a variance to the 200 sq. ft. sign area limitation per street frontage listed in Section 10.10.095(G) for that portion of the campus facing SW 9th Street. The wall signs by themselves will be 312.5 sq. ft. in size. The property is located at 930 SW Abbey Street (Blocks 18, 19, 21 and 22 Bayley and Case’s Addition to Newport, together with that portion of vacated SW Case Street and that portion of SW 10th Street inuring thereto.)

WHEREAS:

- 1.) The Planning Commission has duly accepted the application filed consistent with the Newport Zoning Ordinance (No. 1308, as amended); and
- 2.) The Planning Commission has duly held public hearings on the request for a variance, with the public hearings a matter of record of the Planning Commission on September 10, 2018 and September 24, 2018; and
- 3.) At the public hearings on said application, the Planning Commission received testimony and evidence, including testimony and evidence from the applicant, and from Community Development Department staff; and
- 4.) At the conclusion of said public hearings, after consideration and discussion, the Newport Planning Commission, upon a motion duly seconded, **APPROVED** the request for the variance.

THEREFORE, LET IT BE RESOLVED by the City of Newport Planning Commission that the attached findings of fact and conclusions (Exhibit "A") support the approval of the variance as requested by the applicant with the following condition(s):

1. Wall mounted and freestanding signs for the Samaritan Pacific Communities Hospital campus shall conform to the schematic drawings prepared by Innerface Architectural Signage Inc., dated August 21, 2018 (Exhibit B).
2. Placement of freestanding signs may be adjusted to address final site design and vehicle line of site considerations.


BASED UPON THE ABOVE, the Planning Commission determines that the request for a variance is in conformance with the provisions of the Comprehensive Plan and the Zoning Ordinance of the City of Newport.

Accepted and approved this 22nd day of October, 2018.



James Patrick, Chair
Newport Planning Commission

Attest:



Derrick I. Tokos, AICP
Community Development Director

EXHIBIT "A"

Case File No. 3-VAR-18

FINDINGS OF FACT

1. Samaritan Pacific Communities Hospital (Matthew Brown, Innerface Architectural Signage, authorized representative) submitted a request on August 21, 2018, for approval of a Type III variance pursuant to Section 10.10.130 of the Newport Municipal Code (NMC) to allow a wall sign to be placed at a height that exceeds the 30-foot height limitation requirement. Section 10.10.095(J) of the Newport Municipal Code limits sign height to 30 feet from grade to the top of the sign. The applicant is further requesting a variance to allow a total of five signs, two of which would be wall signs and three of which will be freestanding signs along SW 9th Street. Section 10.10.095(C) of the Newport Municipal Code limits the total number of signs at this location to three, one of which may be other than a wall sign. Lastly, the applicant seeks a variance to the 200 sq. ft. sign area limitation per street frontage listed in Section 10.10.095(G) for that portion of the campus facing SW 9th Street. The wall signs by themselves will be 312.5 sq. ft. in size.

2. The property subject to the variance application is located at 930 SW Abbey Street (Blocks 18, 19, 21 and 22 Bayley and Case's Addition to Newport, together with that portion of vacated SW Case Street and that portion of SW 10th Street inuring thereto.). It is roughly 7.5 acres in size per County assessment records.

3. Staff reports the following facts in connection with the application:

- a. Plan Designation: Public.
- b. Zone Designation: P-1/"Public Structures."
- c. Surrounding Land Uses: Surrounding uses include a mixture of medical and commercial uses to the west and south, medical and residential to the east and residential to the north.
- d. Topography: The property is s is gradually sloped and the developed areas are landscaped.
- e. Existing Structures: Hospital, medical office buildings, helipad and parking.
- f. Utilities: All are available to the subject property.
- g. Past Land Use Actions:

File No. 1-VAR-18. Authorized the mechanical penthouse on their three-story hospital addition to be expanded from 3,530 square feet to 3,770 square feet. The change allowed a 240 square foot awning to be placed on the air handling unit.

File No. 1-VAR-17. Authorized a 10-foot height variance for the mechanical penthouse on a three-story addition to an existing hospital. The size of the mechanical penthouse was approved at 3,530 square feet.

File No. 1-SV-15. A street vacation initiated by the City Council, at the request of Samaritan Pacific Health Services, Inc. on behalf of Pacific Communities Health District, for portions of SW 10th Street from SW Bay Street north to SW Case Street; SW Case Street from SW 10th Street east to SW 11th Street; and an alley between and parallel to SW 10th and 11th Streets from SW Bay Street north to SW Case Street. The street vacation was approved by the City Council on November 2, 2015 (Ord. No. 2087). File No. 3-CP-16/5-Z-16. Amendments to the Newport Comprehensive Plan Map from High Density Residential to Public and the Newport Zoning Map from R-4/"High Density Multi-Family Residential" to P-1/"Public Structures" in order to facilitate a hospital expansion. The application was filed by the Pacific Communities Health District (Minor, Bandonis & Haggerty PC, agent) and was approved by the City Council on February 7, 2017 (Ord. No. 2109).

4. Upon acceptance of the application, the Community Development (Planning) Department mailed notice of the proposed action on August 21, 2018, to property owners within 200 feet required to receive such notice by the Newport Zoning Ordinance, and to various City departments and other agencies. The notice referenced the criteria by which the application was to be assessed. The notice required that written comments on the application be submitted by 5:00 p.m., September 10, 2018. Comments could also be submitted during the course of the public hearing. The notice was also published in the Newport News-Times on August 31, 2018. The Community Development Department received no comments from any of the affected parties.

5. A public public hearing was held on September 10, 2018. At the hearing, the Planning Commission received the staff report and received oral testimony from the applicant's representative. The minutes of the September 10, 2018, meeting are hereby incorporated by reference into the findings. The Planning Staff Report with attachments is hereby incorporated by reference into the findings. The Planning Staff Report attachments included the following:

- Attachment "A" – Application form
- Attachment "B" – Applicant's narrative
- Attachment "C" – Schematic drawing of the existing monument sign
- Attachment "D" – Public hearing notice
- Attachment "E" – Municipal Code Chapter 10.10 (Sign Regulations)

6. At the close of the September 10, 2018 hearing, the Planning Commission advised the applicant that it was concerned that their application did not included sufficient justification for the wall mounted hospital identification sign, as that sign by itself was 297.5 sq. ft. in size. The applicant asked that the hearing be continued so that they could submit additional materials, and the Commission granted the request. The hearing was continued to September 24, 2018.

7. For the September 24, 2018 hearing, the applicant submitted a slideshow that included renderings of what the wall mounted sign would look like from vantage points along US 101, examples of

similar signage at other medical facilities, dimensions of the hospital's existing freestanding signage, and a chart listing industry standards for letter height relative to readable distance. This information, along with an accompanying staff cover memo and the minutes from the September 24, 2018 Commission meeting, are incorporated by reference into the findings.

8. In their application, the applicant notes that the variance requests support a sign plan that uses a hierarchy of sign types to promote clearer and more efficient wayfinding within the Samaritan Pacific Communities Hospital campus. They assert that these signs cannot be looked at independently, but must be viewed as a holistic wayfinding system that takes into consideration the distressed nature of the visitor, site constraints and challenges, and applicable sign guidelines. The applicant notes that all signs have been placed at critical decision making points for both drivers and pedestrians, with the primary focus on ensuring visitors are effectively directed to the Emergency Department and to the appropriate medical entries. Samaritan Pacific Communities Hospital has changed organically over many years. For many visitors it is confusing. The applicant indicates that the layout of the campus combined with topography of the campus has driven both the quantity and placement of signs. None of the signs shown in our plans have been placed arbitrarily or unnecessarily. They further emphasize that the ability to find a location on a hospital campus can be a life or death situation.

9. Pursuant to Section 10.10.130 (Variance Requirements) of the Newport Municipal Code, the applicant may seek a variance to the numerical provisions of the code. The Planning Commission is the designated approval authority.

10. The applicable criteria for a variance are found in Newport Municipal Code (NMC) Section 10.10.130, which states that: *"approval of the request is the minimum necessary to alleviate special hardships or practical difficulties faced by the applicant and that are beyond the control of the applicant."*

CONCLUSIONS

1. In order to grant the variance, the Planning Commission must review the application to determine whether it meets the criteria. With regard to those criteria, the following analysis could be made:

Approval of the request is the minimum necessary to alleviate special hardships or practical difficulties faced by the applicant and that are beyond the control of the applicant.

2. The applicant argues a variance to City standards related to the maximum height and size of wall mounted signs is necessary in order for the public to find the hospital, which may be a life or death situation. Similarly, with respect to standards that limit the total number of signs, the applicant points to the array of specialized medical services performed at modern medical facilities and the hardship they would face if, in complying with the code, they cannot provide adequate wayfinding to persons in need of such services. The chart the applicant submitted listing industry standards for sizing signs identifies a letter height of 30" inches as the ideal

height for maximum readable impact at 300-feet. A schematic drawing provided by the applicant shows that the wall mounted hospital identification sign will be visible from US 101 at this distance. The applicant's proposal lists the letter height for this sign at 42-inches. The applicant did not provide a clear explanation as to why the 30-inch letter height, recommended by standards they submitted, would not be sufficient at this location. This was a cause of concern for some Commission members. A majority of the Commission; however, found that the hospital is in the business of saving lives and that they are in the best position to know what is needed in terms of wayfinding signage to ensure that patrons, many of whom may not be familiar with Newport, can get to critical medical services in a timely manner. The life safety nature of this land use coupled with the array of specialized medical services performed at the facility constitutes a special hardship beyond the control of the applicant, and the Commission concluded that the signage proposal provided by the applicant is the minimum needed to alleviate the hardship.

OVERALL CONCLUSION

Based on the staff report, the application material, and other evidence and testimony in the record, the Planning Commission concludes that the above findings of fact and conclusions demonstrate that the applicant has demonstrated compliance with the criteria for granting a variance, and, therefore, the request is **APPROVED** with the following conditions of approval:

1. Wall mounted and freestanding signs for the Samaritan Pacific Communities Hospital campus shall conform to the schematic drawings prepared by Innerface Architectural Signage Inc., dated August 21, 2018 (Exhibit B).
2. Placement of freestanding signs may be adjusted to address final site design and vehicle line of site considerations.

Exterior Design Development & Wayfinding

Regional Map: Lincoln County

Draft (1) 08.21.18



Samaritan
Pacific Communities
Hospital

INNERFACE

ARCHITECTURAL
SIGNAGE, INC.

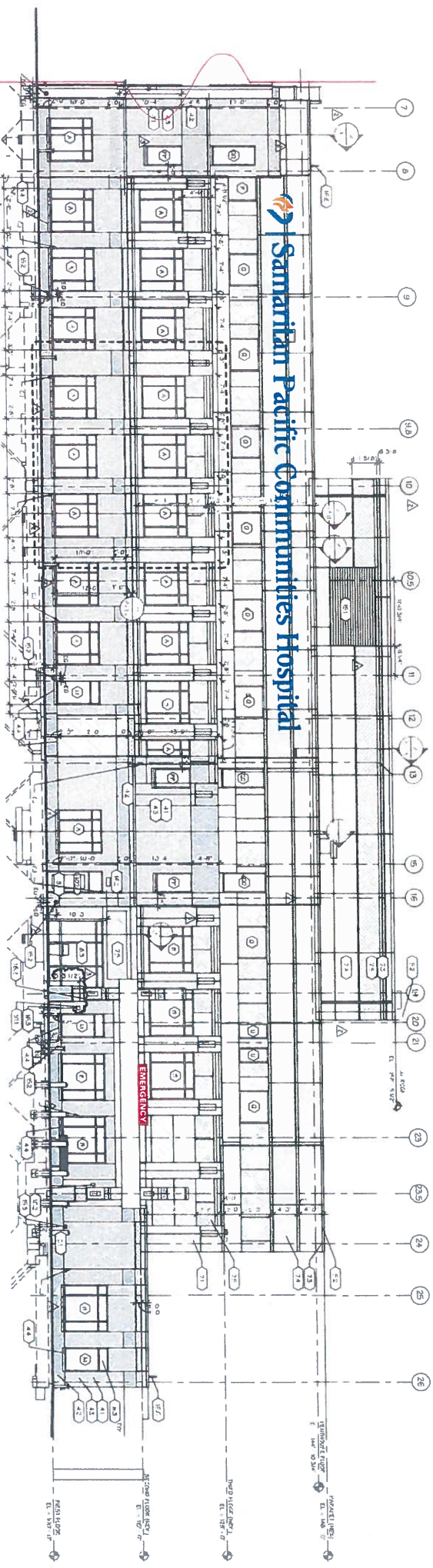
5949 PEACHTREE ROAD
ATLANTA, GEORGIA 30341
T 770 921 5586
TF 800 445 4796
F 770 279 1327
INNERFACESIGN.COM

63" | 63" | 42" | Samaritan Pacific Communities Hospital | 85'-0"

Detail View
Scale: 1/8" = 1'-0"

Campus Identification:

- Internally illuminated individual pan channel letters/logo w/ translucent acrylic faces and LED illumination.
- Self-contained units with internal power packs
- 42" cap Letters
- 63" x 8" Accent Bar
- 66" x 63" Logomark



Partial West Elevation

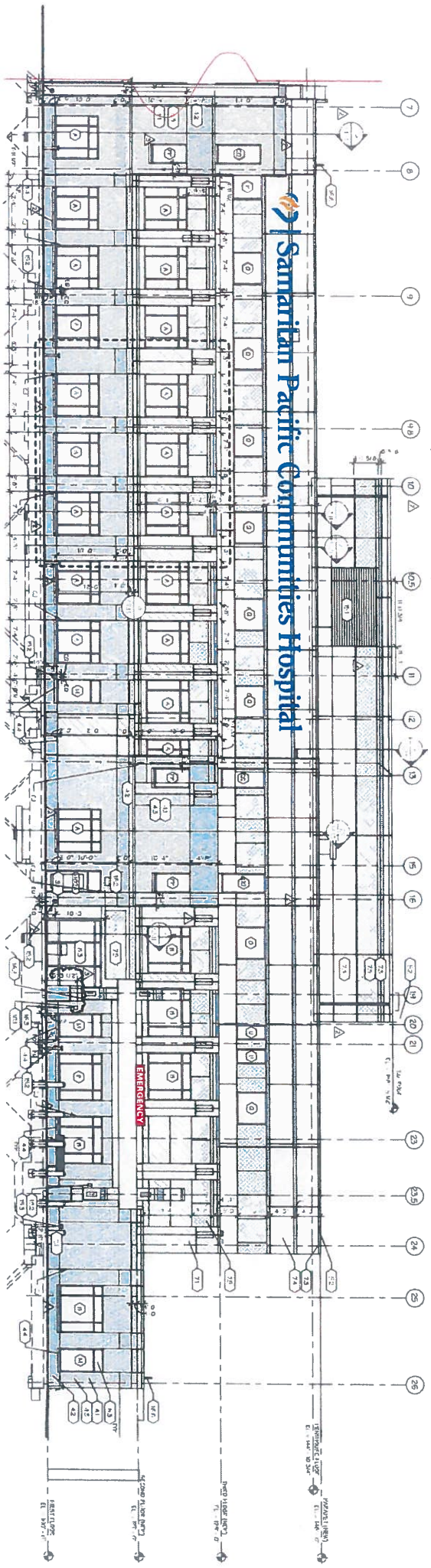
Scale: 1/16" = 1'-0"

* All drawings and their contents are the property of the client. No part of this document may be reproduced or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage and retrieval system, without the prior written permission of the architect.



Detail View
Scale: 1/2" = 1'-0"

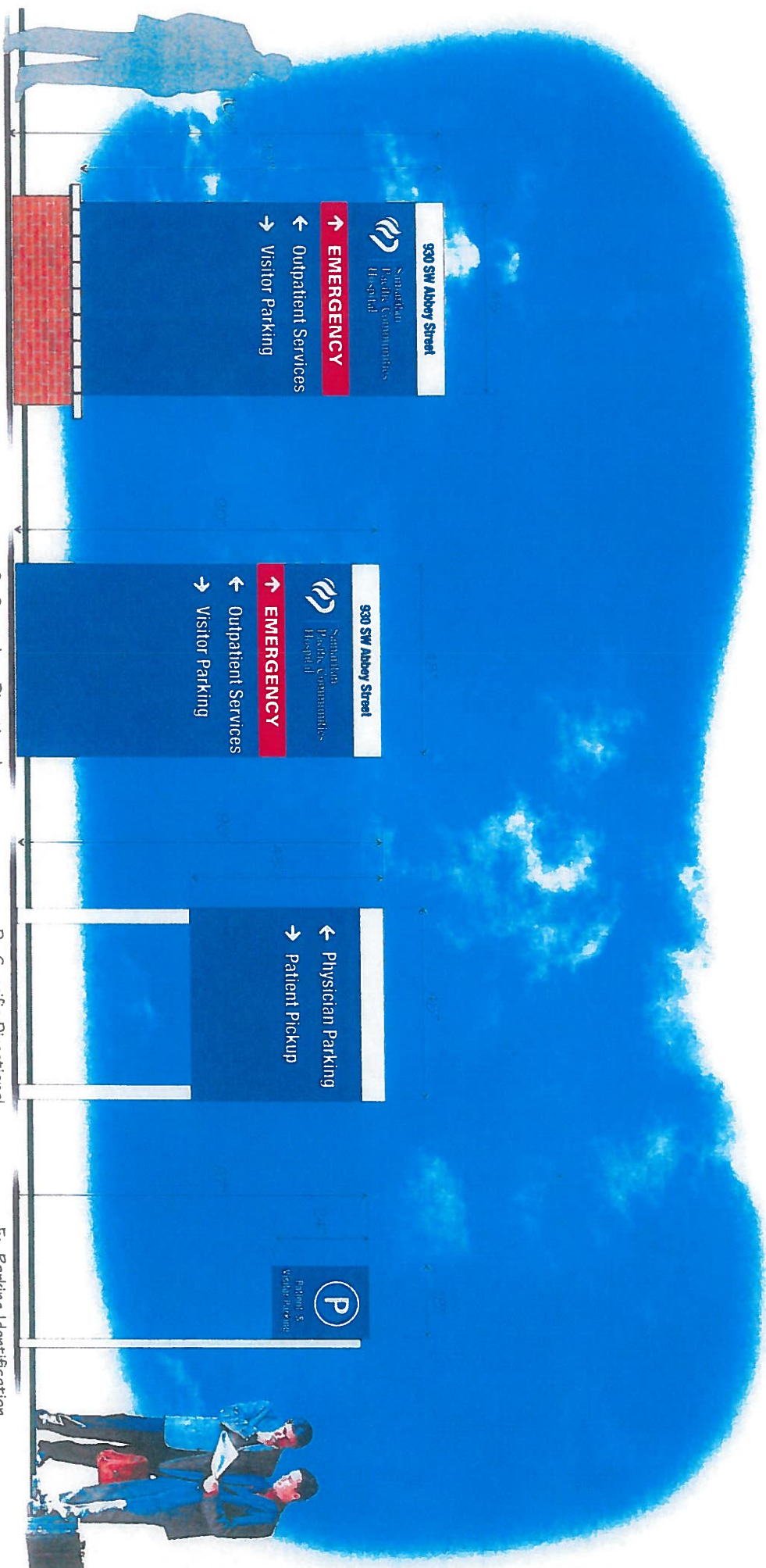
- Entry Identification:**
- Internally illuminated cabinet
 - w/ translucent acrylic face and LED illumination.
 - Translucent red vinyl background w/ reversed white copy
 - Base mount to top of building canopy.
 - 12" cap Letters
 - 18" x 10'-0" Cabinet



Partial West Elevation
Scale: 1/6" = 1'-0"

*This drawing, and the work represented here, is the confidential property of INTERFAC. The drawing and its ideas are not to be reproduced without the written consent of INTERFAC.

Appearance Concept 1

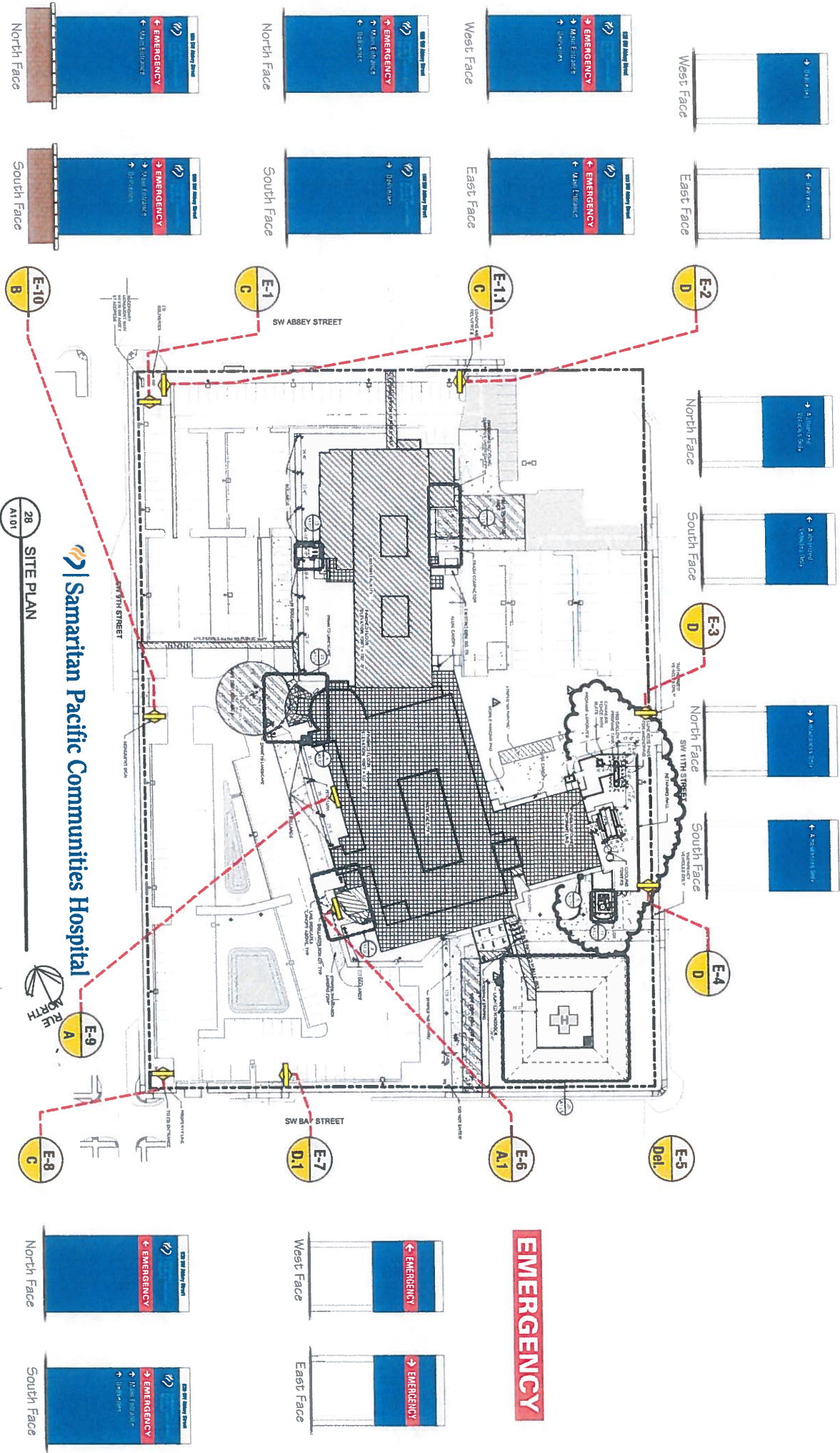


B: Primary Directional
Internally illuminated

C: Secondary Directional
Internally illuminated

D: Specific Directional
Non-illuminated (D.1 illum.)

E: Parking Identification
Non-illuminated



North Face
South Face

E-10
B

28
A101
SITE PLAN

E-9
A
NORTH

E-8
C

North Face
South Face

**BEFORE THE PLANNING COMMISSION
OF THE CITY OF NEWPORT,
COUNTY OF LINCOLN, STATE OF OREGON**

**IN THE MATTER OF PLANNING COMMISSION)
FILE NO. 1-VAR-15, APPLICATION FOR A)
VARIANCE, AS SUBMITTED BY JAYANTI &) **FINAL**
SAROJ PATEL (DENNIS BARTOLDUS,) **ORDER**
AUTHORIZED REPRESENTATIVE))**

ORDER APPROVING A VARIANCE pursuant to Section 10-10.130 (A) of the Newport Municipal Code (NMC) to allow (1) wall signs to be installed on the north and south elevations of the motel that exceed the City's 30-foot maximum sign height limitation; (2) a total of five signs, four wall signs and a freestanding sign, which exceeds the City's limit of three signs, one of which may be other than a wall sign. The combined maximum display area for all of the signs shall not be over the 200 sq. ft. limit for a business. The property is located at 2633 SE Pacific Way (Assessor's Map 11-11-17-AC; Tax Lots 301 & 1100).

WHEREAS:

- 1.) The Planning Commission has duly accepted the application filed consistent with the Newport Zoning Ordinance (No. 1308, as amended); and
- 2.) The Planning Commission has duly held a public hearing on the request for a variance, with a public hearing a matter of record of the Planning Commission on December 14, 2015, continued to January 11, 2016; and
- 3.) At the public hearing on said application, the Planning Commission received testimony and evidence, including testimony and evidence from the applicant, and from Community Development Department staff; and
- 4.) At the conclusion of said public hearing, after consideration and discussion, the Newport Planning Commission, upon a motion duly seconded, **APPROVED** the request for the variance.

THEREFORE, LET IT BE RESOLVED by the City of Newport Planning Commission that the attached findings of fact and conclusions (Exhibit "A") support the approval of the variance as requested by the applicant with the following condition(s):

1. The applicant may have a wall sign on all four building elevations in addition to the freestanding sign as long as the total combined square footage for all signs on the property satisfy the City's 200 square-foot limit of display area for a business.
2. The wall sign on the north elevation of the building shall not exceed 43 feet in height and the wall sign on the south elevation of the building shall not to exceed 38 feet in height.
3. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to this report. No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner to comply with these documents and the limitations of approval described herein.

BASED UPON THE ABOVE, the Planning Commission determines that the request for a variance is in conformance with the provisions of the Comprehensive Plan and the Zoning Ordinance of the City of Newport.

Accepted and approved this 25th day of January, 2016.



James Patrick, Chair
Newport Planning Commission

Attest:



Derrick I. Tokos, AICP
Community Development Director

EXHIBIT "A"

Case File No. 1-VAR-15

FINDINGS OF FACT

1. Jayanti and Saroj Patel (Dennis Bartoldus, authorized representative) submitted a request on November 20, 2015, for approval of a Type III variance pursuant to Section 10.10.130 (A) of the Newport Municipal Code (NMC) to allow (1) wall signs to be installed on the north and the south elevations of the motel that exceed the City's 30-foot maximum sign height limitation; (2) a total of five signs, four of which would be wall signs and the fifth a freestanding sign, which exceeds the City's limit of three signs, one of which may be other than a wall sign; and (3) a maximum display area for all signs of 324.75 sq. ft., which exceeds the City's 200 sq. ft. limit of display area for a business. The City sign height limitation is listed in Newport Municipal Code (NMC) Section 10.10.085 (J), the restriction on the maximum number of signs is listed under NMC 10.10.085(C), and the maximum aggregate display area limitation is listed at 10.10.085(G).
2. The property subject to the variance application is located at 2633 SE Pacific Way (Lincoln County Assessor's Map 11-11-17-AC, Tax Lots 301 and 1100). It is approximately 30,492 square feet in size per County assessment records.
3. Staff reports the following facts in connection with the application:
 - a. Plan Designation: Commercial.
 - b. Zone Designation: C-2/"Tourist Commercial."
 - c. Surrounding Land Uses: Surrounding uses include an RV park to the north and east, Rogue Brewery to the north, the Oregon Coast Aquarium to the south and east, and residential development to the west opposite US 101.
 - d. Topography: The property is sloped and situated below the elevation of the adjoining highway.
 - e. Existing Structures: A motel.
 - f. Utilities: All are available to the subject property.
 - g. Past Land Use Actions: None known.
4. Upon acceptance of the application, the Community Development (Planning) Department mailed notice of the proposed action on November 14, 2015, to property owners within 200 feet required to receive such notice by the Newport Zoning Ordinance, and to various City departments and other agencies. The notice referenced the criteria by which the application was to be assessed. The notice required that written comments on the application be submitted by 5:00 p.m., December 14, 2016. Comments could also be submitted during the course of the public hearing. The notice was also published in the Newport News-Times on December 4, 2015. The Community Development Department received no comments from any of the affected parties.

5. The original hearing date was December 14, 2015. The applicant requested the hearing be continued to January 11, 2016, so that they could provide survey information for signs that will exceed the maximum height and building setbacks from property lines. They also wanted the opportunity to submit supplemental narrative in support of the application. The Planning Commission granted the continuance request at its December 14, 2015 meeting.

6. The continued public hearing was held on January 11, 2016. At the hearing, the Planning Commission received the staff report and received oral testimony from the applicant's representative. The minutes of the December 14, 2015, and the January 11, 2016, meetings are hereby incorporated by reference into the findings. The Planning Staff Report with Attachments is hereby incorporated by reference into the findings. The Planning Staff Report Attachments included the following:

- Attachment "A" – Application w/ attachments, received 11/20/15
- Attachment "A-1" – Request for continuance, dated 12/10/15
- Attachment "A-2" – Survey information from Gary Nyhus, received 1/6/16
- Attachment "A-3" – Supplemental narrative and photos, received 1/7/16
- Attachment "B" – Public hearing notice
- Attachment "C" – Zoning map of the area
- Attachment "D" – Schematic drawing of the existing monument sign
- Attachment "E" – Lincoln County Assessor's reports for the property
- Attachment "F" – Municipal Code Chapter 10.10 (Sign Regulations)

7. The application notes that the property owner desires to install wall signs on the north and south elevations of the motel in excess of the City's 30-foot height limitation (NMC 10.10.085(J)), and that they want to add wall signs on the west and east elevations of the structure, which would increase the total number of signs to five, as they also have an existing monument sign. The City's sign code limits the property to a maximum of three signs, one of which may be other than a wall sign (NMC 10.10.085(C)). The display area of the signs is as follows:

Wall Signs

West – 85.375 sq. ft.
East – 97.375 sq. ft.
North – 25 sq. ft.
South – 25 sq. ft.

Monument Sign

Display (per face) – 60 sq. ft.
Reader Board (per face) – 32 sq. ft.

Photo renderings of the wall signs were included with the application (Staff Report Attachment "A"). A schematic drawing of the existing monument sign was included as Staff Report Attachment "D." The City has a 200 sq. ft. maximum aggregate display area limitation for signs (NMC 10.10.085(G)). The total proposed display area is 324.75 sq. ft.

8. Pursuant to Section 10.10.130 (Variance Requirements) of the Newport Municipal Code, the applicant may seek a variance to the numerical provisions of the code. The Planning Commission is the designated approval authority.

9. The applicable criteria for a variance are found in Newport Municipal Code (NMC) Section 10.10.130, which states that: "approval of the request is the minimum necessary to alleviate

special hardships or practical difficulties faced by the applicant and that are beyond the control of the applicant."

CONCLUSIONS

1. In order to grant the variance, the Planning Commission must review the application to determine whether it meets the criteria. With regard to those criteria, the following analysis could be made:

Approval of the request is the minimum necessary to alleviate special hardships or practical difficulties faced by the applicant and that are beyond the control of the applicant.

2. The applicant's representative, Dennis Bartoldus, submitted findings addressing the criteria. See Planning Staff Report Attachment "A" and "A-3". With respect to the height variance, Mr. Bartoldus points out that the original motel, the "Ashley Inn" (later the Inn at Yaquina Bay) was designed with signage at the same height that is now proposed for Motel 6. Exterior elevation drawings are included in the application showing this to be the case. Mr. Bartoldus also notes that the motel was constructed at an elevation that is well below US 101 and that without signage at this height the business would be significantly disadvantaged in terms of visibility from US 101 and that there is precedent for height variances of this nature, such as the nearby Holiday Inn Express.

3. At the hearing on January 11, 2016, Mr. Bartoldus advised the Planning Commission that the applicant was modifying the request relative to the proposed wall signs on the east and west elevations. The new proposal is for the signs to be no more than 5' x 5' in size, so that the total for all of the signage stays at or below the 200 square-foot limit.

4. Mr. Bartoldus offered that the request for wall signs on the east and west building elevations is the minimum necessary because of the unique location of the property, with the bridge/US 101 being at a higher elevation and the irregular configuration of the property relative to nearby streets.

5. Based on the application material and the other evidence and testimony in the record, the Commission concluded that a variance to the height limitation should be granted to allow the applicant to install the signage requested on the north and south elevations of the structure. It is clear from the information provided by Mr. Bartoldus that the original motel had signage at the height requested so that the business would be visible to north- and south-bound travelers on US 101. This was accepted by the City when the original motel was constructed, and the Commission finds that denying the current owner that same opportunity would create a practical difficulty or special hardship because they would not be able to advertise their business in as effective a manner as the original motel. US 101 visibility tends to be a major factor for lodging establishments since they are oriented to out-of-town travelers that have either made advance reservations or are passing through the community. Additionally, the Commission finds that such hardship or practical difficulty was

beyond the applicant's control since they did not construct the existing motel and therefore had no influence over site grading or the orientation and design of the building.

6. With respect to the additional 5' x 5' wall signs on the east and the west elevations of the building, the Commission accepts the applicant's argument that the location and configuration of the property creates a special hardship or practical difficulty with respect to advertising that other, similar zoned and developed properties do not face, that such conditions are beyond the control of the applicant, and that the proposed signage is the minimum necessary to alleviate special hardships or practical difficulties.

OVERALL CONCLUSION

Based on the staff report, the application material, and other evidence and testimony in the record, the Planning Commission concludes that the above findings of fact and conclusions demonstrate that the applicant has demonstrated compliance with the criteria for granting a variance, and, therefore, the request is **APPROVED** with the following conditions of approval:

1. The applicant may have a wall sign on all four building elevations in addition to the freestanding sign as long as the total combined square footage for all signs on the property satisfy the City's 200 square-foot limit of display area for a business.
2. The wall sign on the north elevation of the building shall not exceed 43 feet in height and the wall sign on the south elevation of the building shall not to exceed 38 feet in height.
3. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to this report. No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner to comply with these documents and the limitations of approval described herein.



City of Corvallis - Development Services

501 SW Madison Ave, PO Box 1083, Corvallis, OR 97339
541-766-6929 | development.services@corvallisoregon.gov
Schedule an Inspection: www.corvallispermits.com

Sign Permit Number: SGN20-00076

Site Address: 2005 NW CIRCLE BLVD

Applicant:

FORESS SIGN & MFG
ROSS MCCLOW
30255 HWY 34
ALBANY, OR 97321

Contractor:

FORESS SIGN & MANUFACTURING
30255 HWY 34
Albany OR, 97321

Project Description:

ePlans Installation of 1 internally illuminated wall sign.

Sign Information:

New Business.:	Yes	Height-Bottom of Sign:	17.33
Replace Existing Sign:	No	Height-Top of Sign:	23.46
Type of Sign:	Attached (Wall Sign)	Zone:	NC-Major
Historic Building:	No	Property Frontage:	1200
Horizontal Dimension of Sign:	24.25	Proposed Sign Area:	148.5
Vertical Dimension of Sign:	6.125	Illuminated:	Yes

Setback Information:

Vision Clearance Considerations:	No
Distance from Curb:	
Nearest Pole Sign or Monument Sign:	

This permit shall expire if a sign is not installed as approved within 180 days from the date of sign permit approval. I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction.

Expiration date: 4/11/2021

Permittee's Signature

October 14, 2020

Date Issued



City of Corvallis - Development Services

501 SW Madison Ave, PO Box 1083, Corvallis, OR 97339
 541-766-6929 | development.services@corvallisoregon.gov
 Schedule an Inspection: www.corvallispermits.com

Permit Number: SGN20-00076

Site Address: 2005 NW CIRCLE BLVD

Condition Type	<h2 style="text-align: center;">Conditions of Approval</h2> <p style="text-align: center; color: red; font-weight: bold;">To Remain Attached To Reviewed Plans</p>	
LDC SGN	1	<p>0010 LDC SGN Total Sign Allocation</p>
		<p>Based on a Primary Frontage of 1200 feet, the maximum amount of signage allowed on the subject site is 1800 sq. ft.</p> <p>Sign allocation used by existing signage is 654.71 sq ft.</p> <p>Total remaining allocation available for site: 1145.29 sq ft</p> <p>The proposed sign is comprised of 148.5 sq. ft., bringing the total amount of signage provided on the site to 803.21 sq. ft.</p>
	2	<p>0020 LDC SGN Electrical Permit Required</p>
		<p>Illuminated signs require a separate electrical permit.</p>
	3	<p>0070 LDC SGN Prohibited Signs</p>
		<p>Corvallis Land Development Code (LDC) chapter 4.7</p> <p>Section 4.7.50 – Prohibited signs:</p> <ul style="list-style-type: none"> a. Signs that obstruct the Vision Clearance Area, as defined by the City Engineer; b. Signs that obstruct ingress or egress through any door, window, fire escape, standpipe, or like facility required or designated for safety or emergency use; c. Signs that may be confused with public traffic signs or highway identification signs, or appear graphically similar to these types of signs; d. Signs that use words such as STOP, SLOW, CAUTION, LOOK, DANGER, or any other word, phrase, symbol, or character that may mislead or confuse motorists; e. Signs or sign structures determined by the Building Official to constitute a hazard to the public safety or health by reason of poor structural design or construction, inadequate maintenance, lack of repair, or dilapidation; f. Signs located on or above public rights-of-way without written consent of the applicable jurisdiction. This includes, but is not limited to: sandwich boards, posters on utility poles, political signs in parking strips, and signs on sidewalks; g. Signs that flash, blink, fluctuate, or have chaser, scintillating, or speller effects, including search lights.; h. Signs that move or have any moving part. This includes movement by mechanical, electrical, or kinetic means, wind currents, or any other means; i. Signs that inflate, including balloons and blimps; j. Pennants, flags, and banners; k. Roof signs including those projecting more than four ft. above an eave on sloped roofs, or four ft. above the parapets on flat roofs;

	I. Signs with visible A-frames, trusses, or guy wires as part of the sign or sign structure.

500 Pine St. - Suite 3A
Holmes, Pa. 19043

610-522-5555
(fax) 610-461-5566
www.urbanneon.com

HARBOR FREIGHT

NW Circle Blvd.
Corvallis, OR 97330

DATE:	09/17/20
DRAWN BY:	PFD
SALES:	JM
P.M.:	PFD

REVISIONS

--

RED LINE NOTES

--

Customer Approval

SIGNATURE _____
DATE _____

Landlord Approval

SIGNATURE _____
DATE _____

Customers Signature Authorizes
Urban Neon To Produce Design
As Specified.

All Spelling, Punctuation And Colors
Have Been Reviewed And Approved.

All Designs Property Of
Urban Neon.
Unauthorized Use
Not Permitted.

LDTT
000.0

Sheet Size (8.5" X 14")

DRAWING #
12285PFDREV7

PAGE# **2**



Front Elevation - Sign Type (A) (QTY: 1)
Channel Letters - Pan Mounted
Scale: 3/8" = 1' (148.5 SQ FT)

HARBOR FREIGHT

NW Circle Blvd.
Corvallis, OR 97330

DATE:	09/17/20
DRAWN BY:	PFD
SALES:	JM
P.M.:	PFD

REVISIONS

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RED LINE NOTES

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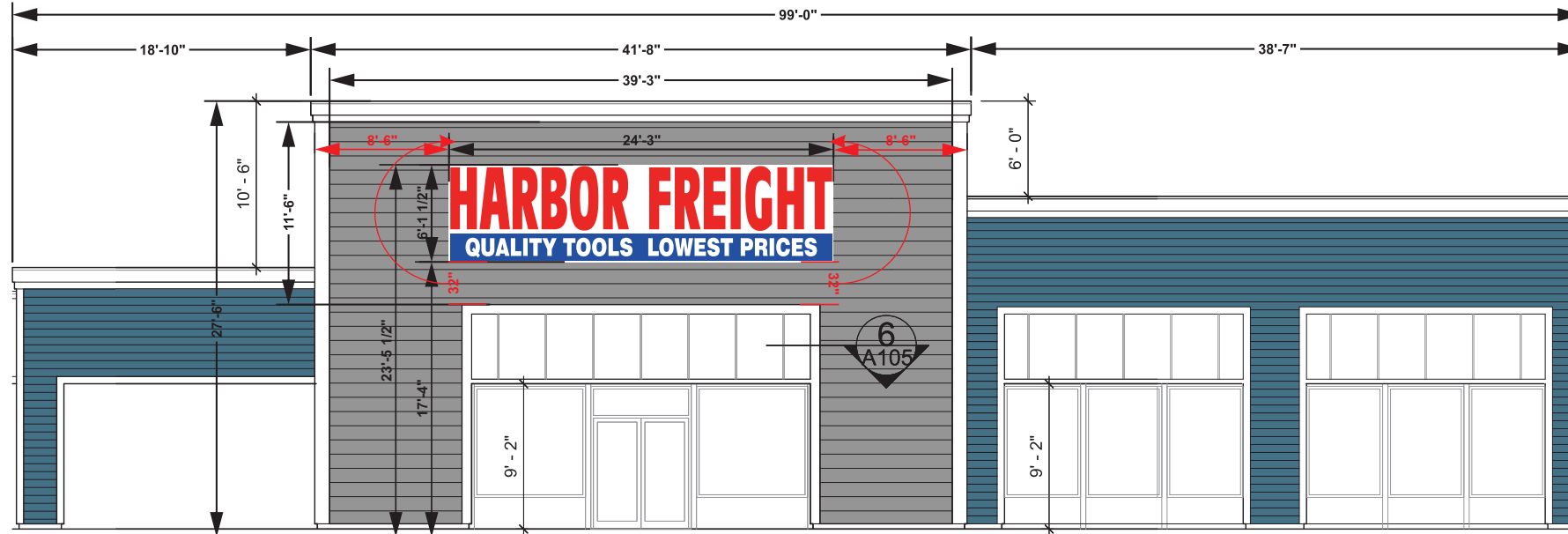
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Sheet Size (8.5" X 14")

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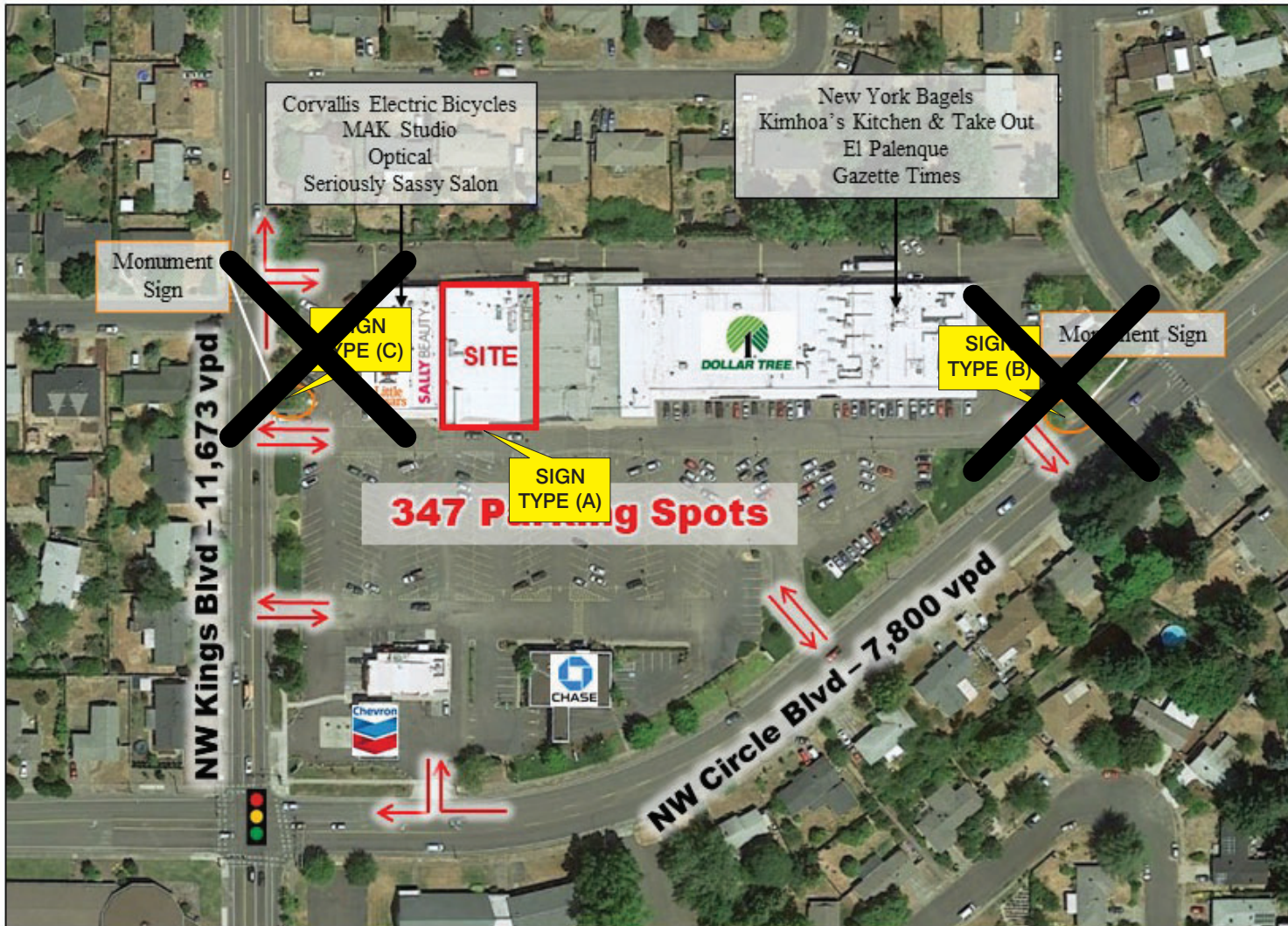
PAGE# **1**



Front Elevation - Sign Type (A) (QTY: 1)
Channel Letters - Pan Mounted
Scale: 3/32" = 1' (148.5 SQ FT)



FRONT ELEVATION - Existing Conditions



Quality Craftsmanship Since 1993

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Holmes, Pa. 19043

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HARBOR FREIGHT

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DATE:	09/17/20
DRAWN BY:	PFD
SALES:	JM
P.M.:	PFD

REVISIONS

RED LINE NOTES

Customer Approval
SIGNATURE _____
DATE _____

Landlord Approval
SIGNATURE _____
DATE _____

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All Spelling, Punctuation And Colors
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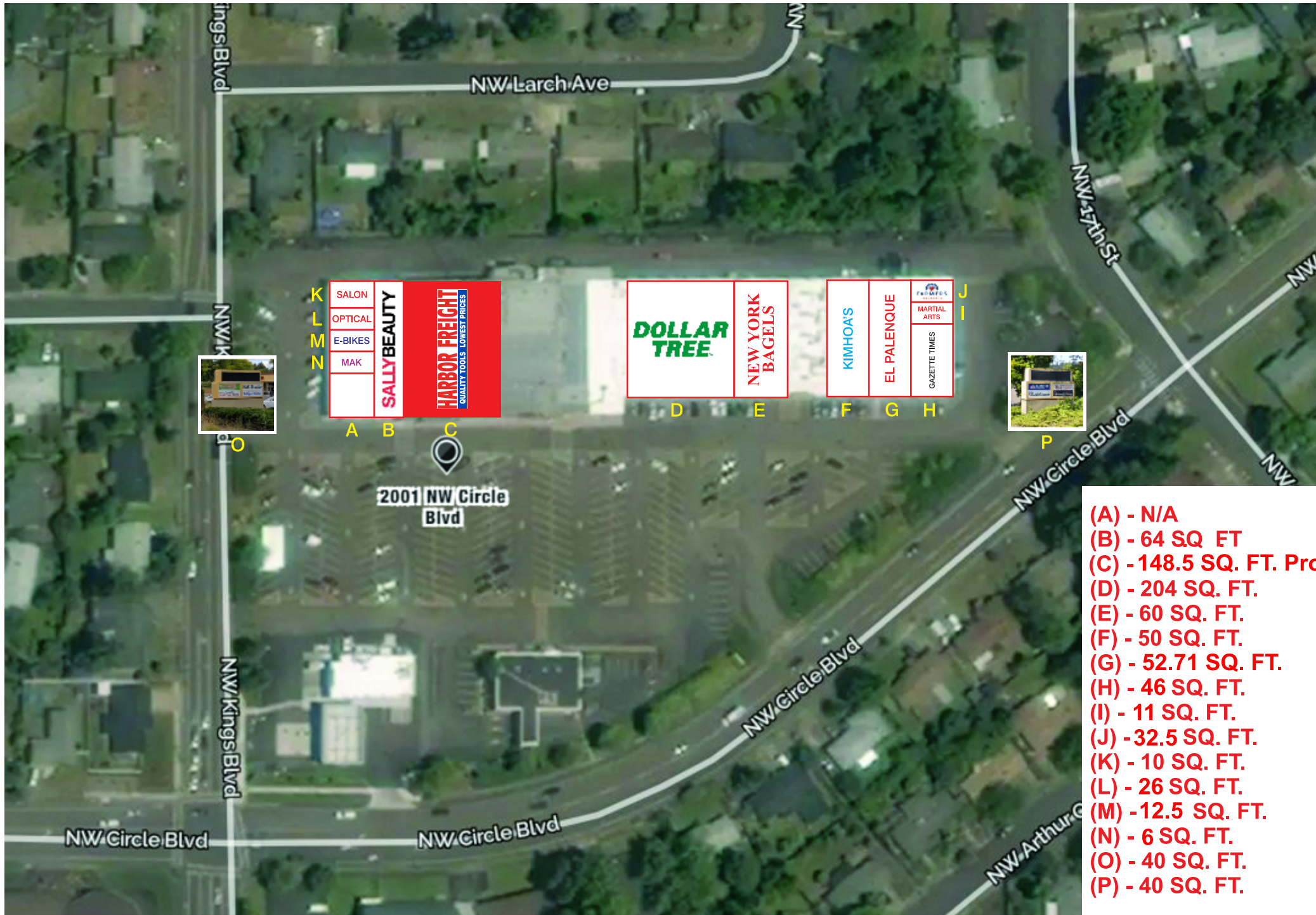
All Designs Property Of
Urban Neon.
Unauthorized Use
Not Permitted.

LDTT
000.0

Sheet Size (8.5" X 14")

DRAWING #
12285PFDREV7

PAGE# 5



- (A) - N/A
- (B) - 64 SQ. FT.
- (C) - 148.5 SQ. FT. **Proposed**
- (D) - 204 SQ. FT.
- (E) - 60 SQ. FT.
- (F) - 50 SQ. FT.
- (G) - 52.71 SQ. FT.
- (H) - 46 SQ. FT.
- (I) - 11 SQ. FT.
- (J) - 32.5 SQ. FT.
- (K) - 10 SQ. FT.
- (L) - 26 SQ. FT.
- (M) - 12.5 SQ. FT.
- (N) - 6 SQ. FT.
- (O) - 40 SQ. FT.
- (P) - 40 SQ. FT.

URBANNEON
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 Holmes, Pa. 19043
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DATE:	09/17/20
DRAWN BY:	PFD
SALES:	JM
P.M.	PFD

REVISIONS

RED LINE NOTES

Customer Approval
 SIGNATURE _____
 DATE _____

Landlord Approval
 SIGNATURE _____
 DATE _____

Customers Signature Authorizes
 Urban Neon To Produce Design
 As Specified.
All Spelling, Punctuation And Colors
 Have Been Reviewed And Approved.

All Designs Property Of
 Urban Neon.
 Unauthorized Use
 Not Permitted.
 LDTT
 000.0

Sheet Size (8.5" X 14")

DRAWING #
12285PFDf 106⁷

PAGE# **6**

5/16" TEK SCREWS THRU
PAN & ALUMINUM ANGLE
MOUNTING FRAME

1/8" ALUMINUM BREAK FORMED
PAN PTD WHITE

3/8" X 6" STAINLESS
STEEL TOGGLE BOLT.
3' ON CENTER (18 TOTAL)

.040 PRE-FINISHED ALUMINUM
BLACK RETURNS W/ BLACK
JEWELITE TRIMCAP

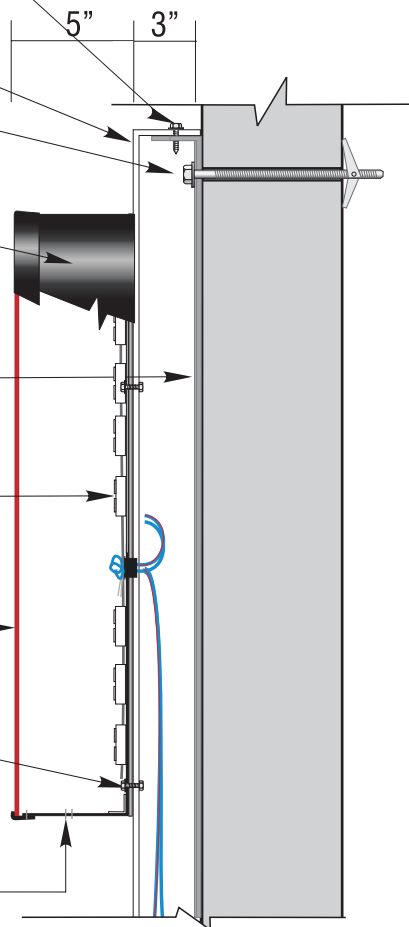
1.5" ALUMINUM ANGLE MOUNTING
FRAMES - MILL FINISH

RED L.E.D.'S
(BITRO)

3/16" RED ACRYLIC
#2793

1/8" DIBOND BACK W/ 1/4"
STAINLESS STEEL BOLTS
THRU DIBOND & PAN

1/4" DIA DRAIN HOLE
(2 PER LTR)



FASCIA SECTION @ CHANNEL LETTER

SCALE: NOT TO SCALE



SIGN COMP NARROW SINGLE
FACE BODY #2021 PAINTED PMS 294C

SIGN COMP BLEED FRAME RETAINER
COVER#2021 PAINTED PMS 294C

SIGNCOMP BLEED RETRO FRAME
#2105

FLEX FACE W/APPLIED
BRISTOL BLUE VINYL
GRAPHICS

LED POWER SUPPLY

1/2" SEALTIGHT CONNECTOR
W/ SEALTIGHT

WHITE BITRO LED

1/8" DIBOND BACK W/ 1/4"
STAINLESS STEEL BOLTS
THRU DIBOND & PAN

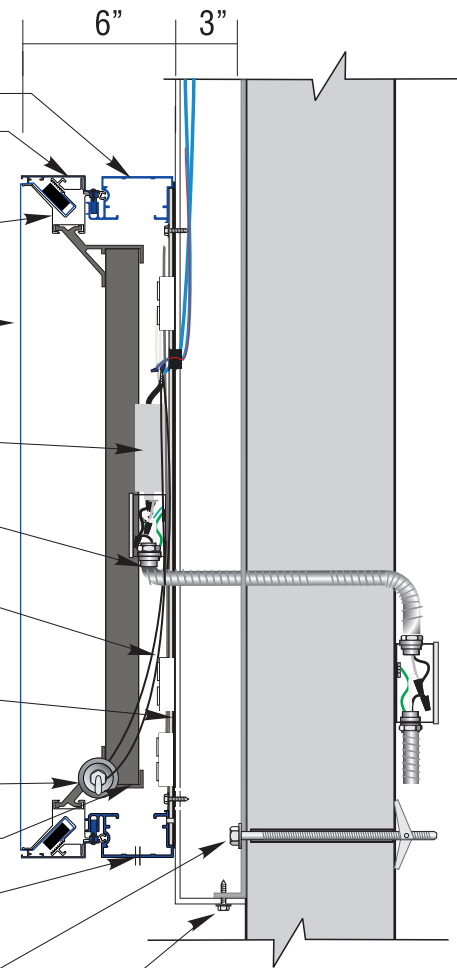
DISCONNECT SWITCH

SIGNCOMP FRAME BRACE#5350

1/4" DRAIN HOLE

3/8" X 6" STAINLESS
STEEL TOGGLE BOLT.
3' ON CENTER (18 TOTAL)

5/16" TEK SCREWS THRU
PAN & ALUMINUM ANGLE
MOUNTING FRAME



FASCIA SECTION @ ILLUM. CABINET

SCALE: NOT TO SCALE



URBANNEON

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Holmes, Pa. 19043

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SALES:	JM
P.M.:	PFD

REVISIONS

RED LINE NOTES

Customer Approval

SIGNATURE

DATE

Landlord Approval

SIGNATURE

DATE

Customers Signature Authorizes
Urban Neon To Produce Design
As Specified.

All Spelling, Punctuation And Colors
Have Been Reviewed And Approved.

All Designs Property Of
Urban Neon.
Unauthorized Use
Not Permitted.

LDTT

000.0

Sheet Size (8.5" X 14")

DRAWING #
12285PFDREV7

PAGE# **3**

URBANNEON

Sign, Lighting & Graphics Company

Quality Craftsmanship Since 1993

500 Pine St. – Suite 3A

Holmes, PA 19043

610-522-5555

I, (Please Print) GARY BONA AS AGENT OF THE (Owner/Landlord) give permission to Urban Neon & Foress Signs to apply for sign permits & install Harbor Freight Tools signage on our building / property located at NW Circle Blvd. Corvallis, OR 97330. Please note that no signs shall be installed until (a), signed lease agreement has been reached and (b), a sign permit has been approved and, (c) the new store front has been completed.

The signs will read Harbor Freight w/ a tagline cabinet underneath reading Quality Tools Lowest Prices mounted flush to the wall. Furthermore, I give Foress Signs & Urban Neon permission to replace faces in two monument signs located on the same property. Lastly, permission is granted to Foress Signs & Urban Neon for any other permits, variances, and or work needed to permit and install Harbor Freight signs on the property.

Foress Signs

30255 OR-34

Albany, OR 97321

(541) 928-5858

Signature _____



Date _____

9-24-2020

Tentative Planning Commission Work Program

(Scheduling and timing of agenda items is subject to change)



February 26, 2024 Work Session

- Planning Commission FY 24/25 Goal Setting Session
- City Zoning Requirements for Public/Private Schools

February 26, 2024 Regular Session

- Final Order and Findings File No. 1-CUP-24, Coffee Shop at 146 SW Bay Blvd
- Public Hearing on File No. 3-Z-23, Removing Regulatory Barriers for Needed Housing

March 11, 2024 Work Session

- Discuss Implementation Steps for SB 1537 “Governors Housing Bill” (Enrolled)
- Finalize Planning Commission FY 24/25 Goals

March 11, 2024 Regular Session

- Approval of Commission’s FY 24/25 Goals

March 25, 2024 Work Session

- Review of Draft Comprehensive Plan Amendments to Implement the Estuary Management Plan

April 8, 2024 Regular Session

- Public Hearing on File No. 1-VAR-24, Harbor Freight Sign Variance

April 22, 2024 Work Session

- Review Updated Comp Plan Amendments & Draft Land Use and Map Amendments to Implement Updated Estuary Management Plan
- Discuss Updated Schedule and Outreach for City Center Revitalization Plan
- Status of South Beach Island Annexation Project

April 22, 2024 Regular Session

- Initiate Legislative Process to Amend the City’s Comprehensive Plan and Zoning Code to Implement the Updated Estuary Management Plan

May 13, 2024 Work Session

- Overview of Comprehensive Plan Refinement Project (Beth Young)
- Scope of Work for Updating Newport’s System Development Charge Methodology
- Review Draft amendments to Implement SB 1537

May 13, 2024 Regular Session

- Placeholder for Setback Variance for Residential Addition at 5259 NW Rocky Way
- Placeholder for Public Hearing on Next Phase of Wilder Planned Development

May 28, 2024 CANCELLED

June 10, 2024 Work Session

- Review Draft Comprehensive Plan Refinement Project Plan Amendments (Beth Young)
- Scope of Work for Water System Master Plan Update

June 10, 2024 Regular Session

- Hearing on Comp Plan/Zoning Amendments Implement the Updated Estuary Mgmt Plan
- Initiate legislative process on Draft Comprehensive Plan Refinement Project Plan Amendments