



AGENDA & Notice of Planning Commission Work Session Meeting

The Planning Commission of the City of Newport will hold a work session meeting at **6:00 p.m., Monday, October 28, 2013**, at the Newport City Hall, Conference Room "A", 169 SW Coast Hwy., Newport, OR 97365. A copy of the meeting agenda follows.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Peggy Hawker, City Recorder, 541-574-0613.

The City of Newport Planning Commission reserves the right to add or delete items as needed, change the order of the agenda, and discuss any other business deemed necessary at the time of the work session.

NEWPORT PLANNING COMMISSION Monday, October 28, 2013, 6:00 P.M.

AGENDA

A. New Business.

1. Discussion about developing concepts to kick off a new North Side Urban Renewal District.

B. Adjournment.

Memorandum

To: Newport Planning Commission/Advisory Committee
From: Derrick Tokos, Community Development Director *DT*
Date: October 24, 2013
Re: Feasibility Study for Urban Renewal District North of the Bridge

For this work session, I would like to get your feedback on a potential approach to preparing a feasibility study for forming a new urban renewal district north of the bridge. The scope of work would likely include evaluating the financial feasibility of up to three potential urban renewal area boundaries, including high/medium/low projections of assessed value growth. The analysis would not look at detailed project costs, but instead would show a potential borrowing plan and debt service schedule, assuming bond issues every five years or so, and allocating those bond proceeds to broad categories of potential projects. This analysis would be summarized in a memo, including an estimate of the financial impacts to other taxing districts. Concepts would then be vetted with the taxing districts and their feedback would inform the Planning Commission and City Council on which approach to pursue.

ECONorthwest would be retained to assist in preparing the maps and financial figures. The budget would be \$10,000, and work could start as early as December 1, 2013. The Community Development Department has funds budgeted for this purpose. This feasibility study would be followed by a second phase of work, which would include the development of an urban renewal plan. That plan would include findings of blight, more robust public involvement, detailed projections of development activity, and more refined project cost estimates.

Attached is a document titled "An Overview of Urban Renewal," prepared by Tashman Johnson, LLC, dated October 2000. It provides additional details about this type of two-step process for putting an urban renewal district in place. Also enclosed are excerpts from a report by Elaine Howard Consulting, LLC titled "Urban Renewal in Oregon 2002-2012." This document includes information on districts that have been formed and closed throughout the state over the last decade. It also summarizes key legislative changes to urban renewal statutes. Lastly, I have attached policies from the 2012 Newport Economic Opportunity Analysis that calls for this feasibility study and recommends that it be focused along the US 101 and US 20 corridors.

Taxing districts likely to be affected include:

Lincoln County, Lincoln County Schools, Linn-Benton-Lincoln Education Service District, Lincoln County Extension Service, Oregon Coast Community College, Hospital District, Port of Newport, and Lincoln County Transit.

ORS 457.420 restricts the size of urban renewal districts to not more than 25% of the total assessed value within the city limits and 25% of the city's land area. The 2012 tax rolls show that about 12.8% of the city's assessed value is within the boundary of the South Beach Urban Renewal District. That number will change a little bit with the new rolls that are about to be released, but it is fair to say that about half of the "assessed value" capacity is available for a north-side district. With respect to acreage, the South Beach Urban Renewal District is approximately 1,169 acres in size. This leaves about 600 acres for a north-side district. That figure increases to 677 once the 309 acres of city reservoir property is annexed. If the city were to also annex the 340 acres of unincorporated land that it surrounds in South Beach, then the acreage allowance for a new north-side district would increase to about 762 acres. ORS 457.190 caps maximum indebtedness for each urban renewal plan at \$50 million (Note: maximum indebtedness for the South Beach Plan is \$38,750,000).

I will plan to bring to the meeting some concept maps for what a new north-side district might look like given these limitations. I look forward to the discussion.



Tashman Johnson LLC
Consultants in Policy, Planning & Project Management

AN OVERVIEW OF URBAN RENEWAL

Tashman Johnson LLC

October, 2000

Jeffrey Tashman 503.245.7828 • Nina Johnson 503.245.7416 • Fax 503.245.3171
6585 S.W. Parkhill Drive • Portland, Oregon 97201
Email: tash81@home.com

I. URBAN RENEWAL SUMMARY

A. What Is Urban Renewal?

The purpose of urban renewal is to improve specific areas of a city that are poorly developed or underdeveloped. These areas can have old deteriorated buildings and bad streets and utilities or the areas can lack streets and utilities altogether.

Urban renewal provides three types of authority that are not otherwise available to local governments.

- First it allows for the use of tax increment financing (explained below) to finance improvement projects.
- Second, it allows for special powers to buy and assemble sites for development or redevelopment, if that is desired.
- And third, it allows for special flexibility in working with private parties to complete development projects.

For a city to use urban renewal, it must establish an urban renewal agency and it must adopt an urban renewal plan.

B. What is an Urban Renewal Agency?

Urban renewal agencies are created by state law (ORS Chapter 457) but are specifically "activated" by the city council. The agencies are separate legal bodies from the council, but in most cases the urban renewal agency board is composed of members of the city council.

C. What are Urban Renewal Plans?

To do urban renewal projects with tax increment financing, the projects must be authorized in an Urban Renewal Plan. The plan applies to a specific geographic area of the city, which is called the Urban Renewal Area. In adopting the Plan, the city council must find that the area is eligible for urban renewal because of existing "blight," which is defined as conditions such as deteriorated buildings and lack of adequate infrastructure.

D. How is an Urban Renewal Plan Adopted?

To adopt an urban renewal plan:

First, the city council or urban renewal agency decides that it wants to consider an area for a possible plan. This decision is usually in response to interest in the community in revitalizing the area.

Then the eligibility and feasibility of the area as an urban renewal area is studied. This "feasibility study" includes information about property values, development conditions, availability and condition of streets and utilities and other key factors.

If the area is found eligible by the Council and it wishes to proceed with urban renewal, an urban renewal plan and report is prepared. The planning must involve citizens at

every stage, and especially when it comes to determining what projects and activities are to be undertaken.

An urban renewal plan must be presented to the Planning Commission for its recommendations and then must be adopted by the City Council after a public hearing is held. Notice of the public hearing must be sent to each individual household in the city.

E. What Can Happen Under An Urban Renewal Plan?

Urban renewal agencies can do certain projects or activities under an adopted urban renewal plan. These activities include:

1. Construction or improvement of streets, utilities and other public uses.

The most common type of urban renewal project is infrastructure development, including streets and utilities. Urban renewal also commonly funds parks, plazas and pedestrian facilities.

2. Rehabilitation or conservation of existing buildings

An urban renewal agency can assist in rehab projects of any type (residential, commercial, industrial) typically through loans and grants to private property owners.

3. Acquisition and improvement of property

An urban renewal agency can acquire property, typically for re-sale for private or a combination of public/private development. The agency has the power of eminent domain (condemnation) for redevelopment purposes, which is not a clear power of cities or counties themselves. The agency must identify properties to be acquired in the urban renewal plan. Properties must be acquired at fair market value. Once acquired, urban renewal agencies can clear and improve the properties prior to resale or lease. Any persons or businesses displaced by agency acquisition are entitled to relocation assistance.

4. Re-sale or lease of property

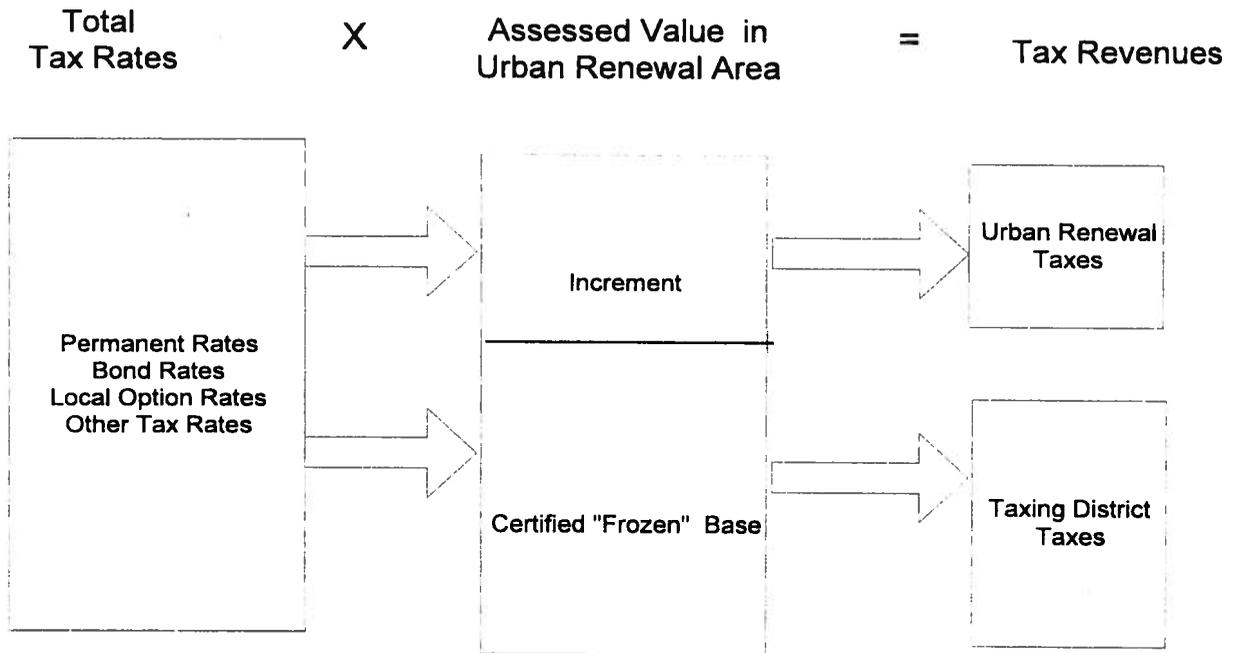
An urban renewal agency can sell or lease property it owns for redevelopment. Unlike cities and counties, the agency can legally sell for less than fair market value. Property can be sold for its "fair re-use value" which is the value for a specified use required in the urban renewal plan.

F. How are Urban Renewal Plans Financed?

Urban renewal is unique in that it can be financed by urban renewal taxes or tax increment financing. Urban renewal taxes are the taxes generated by the *increase* in total assessed values in the urban renewal area from the time the urban renewal area is first established. The assessed value of an urban renewal area at the time the plan is adopted is called the "frozen base". Growth above the base is called the "increment."

The diagram below shows how this works.

Urban Renewal Taxes for New Urban Renewal Plans



II. HOW TO ESTABLISH AN URBAN RENEWAL PROGRAM

Many communities wish to approach the establishment of an urban renewal program in two stages or phases. The first phase consists of a feasibility study that provides the governing body with a factual basis for deciding whether and/or how to proceed. The second phase consists of preparing an urban renewal plan and report and going through the adoption process. The tasks that commonly are included in the two phases are described below.

A. Phase One: Urban Renewal Feasibility Study

A feasibility study may include the following tasks:

1. Review Existing Plans and Studies

Review comprehensive plan, facilities plans (Water, Sanitary Sewer, Storm Sewer, Transportation, Parks) and other relevant documents.

2. Meet with City Council/County Commission, Staff, Planning Commission Members and Others to Discuss Urban Renewal

Meet with representatives of the governing body, Planning Commission, property and business owners and others to gain a better understanding of the community. This could also be an opportunity to talk about urban renewal and discuss how it has been used in other municipalities.

3. Assess Conditions of "Blight" Required to Establish Urban Renewal Area

Within an overall study area, generally assess conditions of "blight" which must be found by the governing body in order to establish an Urban Renewal Area. Blighted conditions include substandard buildings, inadequate streets or utilities and underutilized property, as evidenced by the value of improvements to the value of land.

4. Determine Tentative Urban Renewal Area Boundary in Conformance with Assessed Value and Area Limitations

Based on the general assessment of conditions and discussion with the City regarding identified project needs, make a preliminary recommendation of an urban renewal boundary that meets statutory limits on assessed value and area (no more than 25% of the city total in either).

5. Estimate Potential Revenue Capacity of Urban Renewal Area

Prepare a preliminary estimate of urban renewal tax revenues from the tentatively defined area.

6. Evaluate Options for Proceeding

Based on the previous work, evaluate options for proceeding with an urban renewal plan.

B. Phase Two: Urban Renewal Plan and Report

State law [ORS 457.085(2)and(3)] describes in detail the required contents of an urban renewal plan and urban renewal report. Only the plan itself is adopted by the municipal-

An Overview of Urban Renewal

ity; the report accompanies the plan and provides background information, analysis and support for the findings that must be made in adopting a plan. The urban renewal agency must provide for public involvement in all stages of the preparation of an urban renewal plan.

1. Urban Renewal Plan Contents

An urban renewal plan is required to contain:

- A description of each urban renewal project to be undertaken
- An outline of the major project activities planned for the urban renewal area or areas. (A "project" may be a site specific undertaking, a series of related undertakings or a program of activities.)
- A map and legal description of the urban renewal area.
- An explanation of how the plan relates to local objectives, such as relevant objectives of the comprehensive plan, target area plans and other public policy statements.
- An indication of proposed land uses (which must conform to the comprehensive plan and zoning code).
- A description of relocation methods for residents or businesses that must move because of Agency projects
- If public acquisition of property is required by the plan, a description of property to be acquired by the Agency (if any) and how it will be disposed of (e.g. sale or lease), along with a schedule for acquisition and disposition.
- If the plan calls for the use of tax increment financing, a limit on the maximum amount of indebtedness to be issued to carry out the plan.
- A description of what types of changes to the plan are to be considered substantial amendments. Substantial amendments must be adopted using the same process as the adoption of the original plan. The following amendments must be considered substantial: (1) expanding the urban renewal area by more than one percent; and (2) increasing the maximum amount of indebtedness that may be issued.
- If the plan calls for the development of a public building (e.g. a fire station), an explanation of how the building serves or benefits the urban renewal area.

2. Urban Renewal Report Contents

An urban renewal report must contain:

- A description of the physical, social and economic conditions within the urban renewal area and the impact of the plan, including fiscal impacts, in terms of increased population and the need for additional public services.
- The reasons why the urban renewal area (or areas) was selected.
- The relationship between each urban renewal project and the conditions within the area.
- The estimated costs of the projects and the sources of project funding.
- The completion date for each project.
- The amount of tax increment funds that are estimated to be required and the year in which the Agency plans to pay off all outstanding tax increment indebtedness.

An Overview of Urban Renewal

- A financial analysis that shows the plan to be financially feasible.
- An analysis of the impact on the tax rates and/or revenues of the taxing districts that overlap the urban renewal area; and
- A relocation report which includes
 - an analysis of businesses or residents that may be required to relocate
 - a description of the methods to be used in the relocation program; and
 - an analysis (number and cost range) of the existing housing units that may be destroyed or altered and the housing units that may be added.

3. Procedural Requirements for Adoption of an Urban Renewal Plan

There are various procedural requirements that relate to adopting an urban renewal plan. In addition, as mentioned above, the Agency must provide for public involvement in all stages of the development of the plan.

a) Planning Commission Review

If the municipality has a planning commission, the plan and report must be presented to the commission for its recommendation before the plan may be presented to the city council or county commission for adoption.

b) Affected Taxing Districts

The plan and report must be sent to the governing body of any taxing district that is affected by the plan. (Taxing districts that levy taxes within the urban renewal area are usually considered to be the affected taxing districts.) Any written recommendations of these taxing districts must be accepted, rejected or modified by Council in adopting the plan.

c) Presentation to County

A City proposing to adopt an urban renewal plan must present the proposed Plan to the County Board of Commissioners for their comment. No action is required of the County Commission.

d) Approval of the Plan

To take effect, the plan (not including the report) must be approved by Council by non-emergency ordinance. There is no statutory requirement for a vote on the plan. There are requirements for notice of the hearing at which the ordinance is considered; requirements for the contents of the ordinance; and requirements for a notice after the ordinance is adopted.

e) Notice Requirements

Direct notice of the public hearing on the ordinance adopting the plan must be mailed to each individual or household in any one of the following groups within the city and any portion of the urban renewal area that extends beyond the city: real property owners; registered voters; utility customers; or postal patrons.

The notice must state in plain language:

- the time and location of the hearing;
- that the plan may affect property tax rates;
- that debt may be issued up to a maximum amount;

An Overview of Urban Renewal

- that the ordinance adopting the plan may be referred to the voters; and;
- that a copy of the ordinance, plan and report are available for review by contacting a designated person.

f) Public Hearing

At the public hearing on the ordinance, Council should hear the report and recommendations of the urban renewal agency, take public testimony and consider the recommendations, if any, of the planning commission and of affected taxing districts. Any written recommendations of the affected taxing districts must be formally accepted, rejected, or modified.

g) Ordinance Requirements

The ordinance must be a non-emergency ordinance and it must incorporate the plan (not the report) by reference. During the period between the adoption of the ordinance and its effective date, the adoption ordinance can be referred to voters for their approval.

The ordinance must contain findings, supported by the contents of the urban renewal report, that:

- Each urban renewal area is blighted;
- The rehabilitation and redevelopment of the area(s) is necessary to protect the public health, safety or welfare.
- The plan conforms to the comprehensive plan and economic development plan, if any, of the municipality and that the plan provides an outline of planned urban renewal projects.
- That relocation requirements have been met.
- That any property acquisition called for in the plan is necessary to achieve the objectives of the plan.
- That the plan is economically sound and feasible.
- That the city or county will assume any responsibilities given to it under the plan.

h) Notice of Adoption of Ordinance

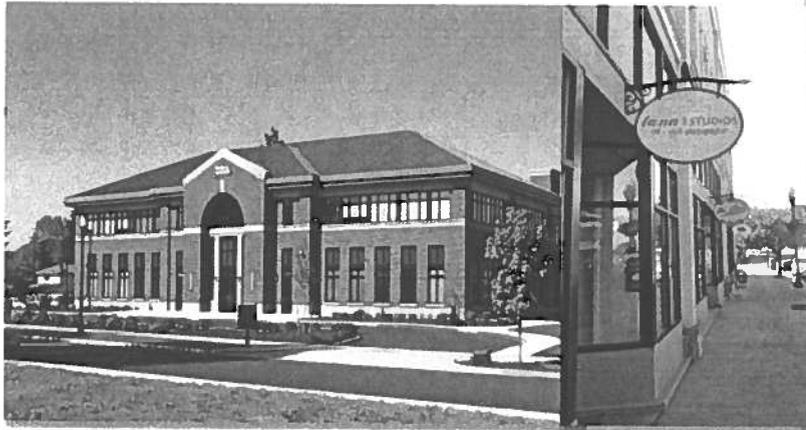
Within four days of adoption of the ordinance adopting the plan, Council must publish a notice that the ordinance has been approved and that 90 days after adoption of the plan, the plan will be conclusively presumed valid.

III. POSSIBLE TIME LINE

Phase I	4 months
Phase II	9 months

If a plan is adopted by the Council with an ordinance effective by the end of September, 2001, then the "frozen base" will be calculated using property values from FY 2000/2001. If the Plan is adopted and effective prior to December 31, 2001, the first tax increment revenues would be received in FY 2002/2003.

Urban Renewal in Oregon 2002-2012



 **ELAINE HOWARD**
CONSULTING, LLC

JM Launer
Jeanette M. Launer Attorney

Association of Oregon Redevelopment Agencies

The Association of Oregon Redevelopment Agencies (AORA), formed in 1987, represents established urban renewal agencies in Oregon. Urban renewal agencies may be initiated by cities or counties, and their boards can be the municipal governing body or a housing authority, or members may be appointed by the governing body.

Leadership of AORA is vested in a board of three officers, which includes a President, Vice-President, and Secretary/Treasurer. In addition, the executive committee includes one elected executive committee member at-large, and the immediate past president also serves. AORA holds at least two general membership meetings each year, one of which is at the League of Oregon Cities' annual conference. Other meetings are convened on an as-needed basis. AORA is a resource for urban renewal agencies and public and private redevelopment professionals that:

- Promotes urban renewal 'best practices' among the state's urban renewal agencies;
- Provides a forum for discussion with professional colleagues throughout the state on issues pertinent to redevelopment;
- Provides education and information to the Legislature and state agencies on issues related to redevelopment and tax increment financing;
- Evaluates and coordinates urban renewal agency responses to litigation on urban renewal and redevelopment; and
- Assists the League of Oregon Cities.

2010-2012 AORA EXECUTIVE COMMITTEE

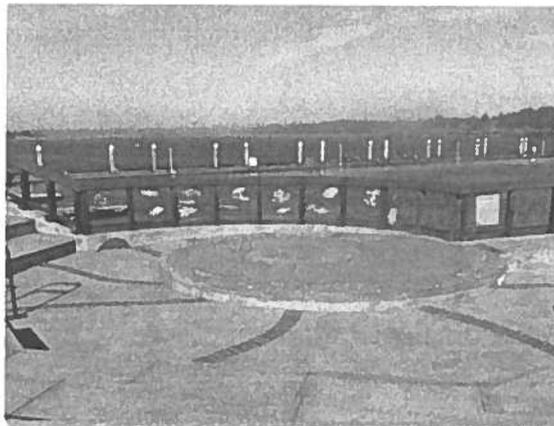
Barbara Cartmill, President barbc@co.clackamas.or.us

Kate Porsche, Vice-President kate.porsche@cityofalbany.net

Heather Richards, Secretary/Treasurer heather.richards@ci.redmond.or.us

Marla Cates, Member At-Large execdir@talenturbanrenewal.com

Doug Rux, Past President drux@cityofsalem.net



Bandon crabbing dock

Table of Contents

Association of Oregon Redevelopment Agencies.....	i
2010-2012 AORA Executive Committee.....	i
Introduction.....	6
Legislative History Bullets	11
2003	11
2006	11
2007	11
2009	11
2011	14
Urban Renewal Oversight Committee	15
Substantial Amendments Increasing Maximum Indebtedness Since 2009 Legislation	16
Tualatin: Central Urban Renewal District.....	16
Eugene: Downtown Urban Renewal Area.....	17
Philomath: Philomath Urban Renewal Area	18
Keizer: North River Road Urban Renewal Area	18
Redmond: Downtown Urban Renewal Plan	19
Sherwood: Sherwood Urban Renewal Area	19
Bandon: Bandon Area II.....	20
Tillamook: Tillamook Urban Renewal Area	21
Lebanon: Northwest Lebanon Urban Renewal Area	21
New Plans Since Passage of HB3056	22
Beaverton: Central Beaverton Urban Renewal Area	22
Hood River: Hood River Heights Business District Urban Renewal Area.....	22
Lake Oswego: Lake Grove Village Center Urban Renewal Area	22
Central Point: Downtown and East Pine Street Corridor Revitalization Area	23
Underlevy	24
Wilsonville.....	24
La Grande	24
Lebanon.....	24
Keizer.....	24

Requests for Underlevy	25
Case Studies: New Issues	26
Leveraging.....	26
Lake Oswego: East End Redevelopment District.....	27
Lebanon: North Gateway Urban Renewal Area	31
Innovative Urban Renewal Plans.....	34
Wilsonville: SW 95 th Avenue Urban Renewal Area.....	35
Florence: Florence Urban Renewal Area	38
Keizer: North River Road Urban Renewal Area	40
Portland: Neighborhood Development Initiatives	42
Public Process.....	45
Beaverton: Central Beaverton Urban Renewal Area	45
Substantial Amendments	49
Redmond: Downtown Urban Renewal District	49
Non-Traditional Investments.....	54
Astoria: Astor East Urban Renewal Area.....	54
Case Study Updates	60
Portland: South Auditorium	60
Eugene: Downtown.....	60
Newport: North Side and South Beach	64
Tualatin: Central Urban Renewal District.....	69
Lincoln City: Year 2000 Development Plan	72
Gresham: Rockwood-West Gresham Renewal.....	77
Hillsboro: Ronler Acres.....	81
The Dalles: Columbia Gateway Downtown	82
Jackson County/White City	85
Canby.....	87
Future Issues and Policy Implications.....	90
Special Districts.....	90
Fire Districts.....	90
School Districts.....	92

Compression.....	94
Opposition to Urban Renewal and Referendums on Limiting Urban Renewal	97
Troutdale.....	97
Corvallis	97
Stayton.....	97
Clackamas County.....	98
Estacada.....	98
Oregon City	98
Albany	99
Bandon/Coos County	99
Continuation of Legal Points	101
Post-Shilo: Related Legal Action	101
Measure 39 – Elimination of Eminent Domain for Private Redevelopment.....	102
Genesis of Measure 39: The Kelo Case	102
Public Action	103
The Election	103
Impact on Urban Renewal and Redevelopment Activities	104
Prevailing Wage Rates Applied to Private Redevelopment (2007)	105
Portland Development Commission v. State of Oregon, 216 Or App 72, 171 P3d 1012 (2007)	106
<i>Ste ex rel Gardner v. City of Salem</i> , 219 P. 3d 32, 231 Or App. 127 (2009).....	107
2007 Attempts to Cooperate.....	107
Oregon Land Use Board of Appeals Weighs In.....	108
2009 – Impacts of HB 3056.....	110
Appendix A: Map of Urban Renewal Areas in Oregon.....	111
Appendix B: Memorandum of Understanding.....	112
Appendix C: Tualatin Valley Fire and Rescue Policy on Urban Renewal	117

Photo Credits

Astoria, Beaverton, Canby, Carestream, Eugene, Florence, Gresham, Hillsboro, Lake Oswego, Lebanon Lincoln City, Tillamook, Newport, Portland Development Commission, Redmond, The Dalles, Tualatin, White City, and Kathryn Fong Stephens provided photos for this document. The remainder of the photos were provided by Elaine Howard Consulting, LLC.

The small photos on the pages are all from urban renewal districts throughout Oregon. Although not all of the projects were funded with urban renewal financing, they all add to the positive atmosphere in each urban renewal area.

Document Credits

A sincere thank you to all of the representatives of urban renewal agencies and individuals who were interviewed and who provided content for this report.



Portland Pearl District park

Elaine Howard Consulting, LLC
Elaine Howard
James Vanden Bos
Leslie Vanden Bos
Jeannette M. Launer, Attorney
Editing by Leslie Vanden Bos
Design by Mad Bird Design, LLC

Elaine Howard Consulting, LLC
705 Terrace Drive
Lake Oswego, Oregon 97034
elaine@elainehowardconsulting.com
Cell: 503.975.3147 Office: 503.635.2783
www.elainehowardconsulting.com

Jeannette Launer, Attorney
5216 SW Burton Drive
Portland, Oregon 97221
jmlauner@comcast.net
503.502.1030

Introduction

This document is an update to Urban Renewal in Oregon: History, Case Studies, Policy Issues, and Latest Developments, which was prepared for AORA by Tashman Johnson, LLC in 2002. The original document was written in honor of Lyle Stewart's pioneering work in the field of urban renewal in Oregon and can be found on the AORA website at <http://www.orurbanrenewal.org/>.

This update contains four main parts. First is an update of legislative events that have impacted urban renewal, including the impacts of HB 3056, the 2009 legislation changes. The most complicated provision regards maximum indebtedness of plans, in both the adoption of substantial amendments and in setting the original maximum indebtedness for new plans. Second, nine new case studies are presented that highlight the issues of importance to urban renewal in 2012. These new case studies focus on urban renewal agencies that are leveraging their urban renewal dollars with private investments, are innovative in their use of urban renewal to address local concerns and needs, and have engaged in substantial public involvement. Included in the studies is also a story about a successful substantial amendment (post-2009 legislation) and a case study on non-traditional urban renewal investing. In the second section, the case studies from the 2002 document have also been updated. Third, critical issues that urban renewal agencies face now and will face in the future are examined. The last section is a summary of legal events that have had an impact on urban renewal.

Urban renewal in Oregon is continually evolving. As of 2012, there are 75 urban renewal agencies in Oregon with 109 different urban renewal areas. The urban renewal agencies throughout the state are making important strides in their communities, leveraging investments, making infrastructure improvements, helping to spur development that will increase the assessed values in the community, and creating jobs. Innovative uses of urban renewal are setting examples for other communities to follow. To further share information about the successes of urban renewal, AORA is encouraging urban renewal agencies to gather and produce information about the results of their activities.

To begin an urban renewal area, the locality first designates the area. Once that area is designated, the county assessor allocates the increased taxes in that area to the urban renewal agency for use on projects and programs within the area. As property values rise, projects are completed by the urban renewal agency that further enhance private development and economic prosperity in the area. Once an urban renewal area has completed the projects and reached its maximum indebtedness it is terminated. The resulting increase in assessed values has increased the property tax base, thereby increasing taxes for all taxing jurisdictions.

Several urban renewal plans have been terminated since 2002, and have added over \$1.5 billion in assessed value to the Oregon property tax rolls.

Table 1 – Urban Renewal Areas That Have Closed Since 2002

Locality	Urban Renewal Area	Frozen Base	Excess value at Closing
Clackamas County	Government Camp	\$23,856,470	\$135,756,313
Cottage Grove	Row River	\$7,641,993	\$35,076,778
Grants Pass	Grants Pass Parkway	\$67,117,103	\$159,849,022
Jackson County	White City	\$199,936,047	\$504,065,859
Lebanon	Lebanon I	\$1,808,007	\$12,762,338
Newberg	Newberg	\$139,638,471	\$3,385,844
Newport	Newport North Side	\$9,910,265	\$33,666,500
Oregon City	Oregon City Hilltop	\$5,352,090	\$59,103,413
Redmond	South Airport Industrial	\$725,425	\$62,615,277
Salem	Pringle Creek	\$18,977,000	\$40,184,890
Tualatin	Leveton	\$3,660,924	\$255,489,075
Tualatin	Central	\$14,067,089	\$180,221,311
Waldport	Waldport 1	\$16,319,563	\$23,965,007
<i>Total Excess Assessed Value</i>			<i>\$1,506,141,627</i>

New urban renewal districts are being formed with measurable success, as shown by the Growth in Assessed Value (defined as Excess Value by County Assessors) column in Table 2.

Table 2 – New Urban Renewal Areas Formed 2002-2011

Locality	Urban Renewal Area	Frozen Base	Growth in Assessed Value
Astoria	Astor West	\$21,843,363	\$31,964,793
Bend	Juniper Ridge	\$13,752,568	\$74,873,298
Bend	Murphy Crossing	\$66,271,530	\$4,667,286
Boardman	Central Boardman	\$2,756,350	\$392,990
Carlton	Carlton	\$14,535,207	\$2,583,923
Clackamas County	North Clackamas Revitalization	\$392,816,387	\$90,372,043
Coburg	Coburg	\$15,462,696	\$21,930,532
Culver	Culver	\$7,241,905	\$1,293,220
Dallas	Dallas	\$25,137,464	\$8,166,797
Depoe Bay	Depoe Bay	\$14,255,390	\$11,925,150
Estacada	City of Estacada	\$21,489,369	\$7,250,847
Florence	Florence	\$81,000,000	\$25,252,874
Garibaldi	Garibaldi	\$17,922,850	\$3,558,736

Locality	Urban Renewal Area	Frozen Base	Growth in Assessed Value
Gresham	Rockwood-West Gresham	\$437,507,294	\$184,731,016
Hillsboro	Downtown Hillsboro	\$425,000,000	\$9,531,373
Hood River	Waterfront	\$11,872,754	\$8,489,267
Hood River County	Windmaster	\$31,159,753	\$9,096,959
Jacksonville	Jacksonville	\$37,371,452	\$20,662,780
Klamath Falls	Town Center	\$3,917,950	\$12,581,390
Lebanon	North Gateway	\$8,365,939	\$11,188,310
Madras	Madras	\$41,853,156	\$21,942,895
Molalla	Molalla	\$44,915,940	\$14,907,026
Monmouth	Monmouth	\$34,718,870	\$9,473,228
North Plains	North Plains	\$20,226,429	\$6,934,129
Pendleton	Pendleton	\$73,535,650	\$29,809,127
Portland	Willamette Industrial	\$481,400,000	\$46,606,563
Reedsport	Reedsport	\$30,843,739	\$5,128,924
Salem	Mill Creek	\$1,012,524	\$46,686,682
Salem	South Waterfront	\$23,799,930	\$18,229,558
Salem	McGilchrist	\$103,001,366	\$31,530,961
Silverton	Silverton	\$66,643,849	\$24,034,044
Sisters	Downtown Sisters	\$4,109,868	\$9,230,009
Springfield	Glenwood	\$106,986,910	\$20,975,016
Springfield	Springfield Downtown	\$124,231,412	\$12,447,849
Tigard	Tigard	\$66,510,860	\$26,128,485
Tillamook	Tillamook	\$62,100,000	\$23,666,157
Troutdale	Troutdale Riverfront	\$19,177,950	\$4,927,204
Waldport	Waldport 2	\$683,340	\$2,713,940
Warrenton	Warrenton	\$60,136,994	\$43,451,283
Wilsonville	Westside	\$14,972,924	\$162,247,689
Winston	Winston	\$13,934,239	\$4,835,859
Wood Village	Wood Village	\$38,346,200	\$1,564,688
Yachats	Yachats	\$26,475,995	\$19,153,495
Total		\$3,136,405,096	\$1,145,858,018

Urban renewal areas established in 2012 with frozen bases not yet determined by county assessors are shown in Table 3.

Table 3 – Urban Renewal Areas Formed 2012

Locality	Urban Renewal Area	Estimated Frozen Base
Portland	Neighborhood Prosperity	New areas: no estimates
Lake Oswego	Lake Grove Village Center	\$150,834,268
Hood River	Heights Business District	\$49,465,955
Central Point	Central Point	\$131,424,528
Beaverton	Central Beaverton	\$782,678,336
<i>Total</i>		<i>\$1,114,403,087</i>

It is clear that many localities value the ability to focus investments within their communities through the use of urban renewal. This tool has evolved since the 2002 Urban Renewal in Oregon: History, Case Studies, Policy Issues, and Latest Developments document.

Perhaps the most influential piece of legislation for urban renewal in recent history, House Bill (HB) 3056, was adopted in 2009 (specifics will be discussed later in this document). As of this writing in 2012, the impacts of this bill are just becoming apparent. With the local political climate always in mind, communities are making decisions on how best to proceed under the new legislation. For the few urban renewal agencies that have increased the maximum indebtedness of their plans since the passage of this legislation (7% of the existing urban renewal areas), the increases are either staying specifically within the limits prescribed by the statute, or, if they exceed the statutory limitations, the requests come with extensive outreach to the impacted taxing jurisdictions and the community at-large.

Since the passage of HB 3056, there has been a marked increase in interaction between communities and the affected taxing jurisdictions. The tightened economy has caused all taxing jurisdictions to become more vigilant about protecting resources and, as a result, they have become more aware of the factors impacting those resources. Some cities and counties are also asking their urban renewal agencies to underlevy,¹ another new provision of the 2009 legislative action. Some school districts, which historically have not objected to urban renewal, as they are said not to be *directly* impacted by urban renewal but to instead be *indirectly* impacted because of the State School Funding Formula, are becoming more involved in urban renewal planning.

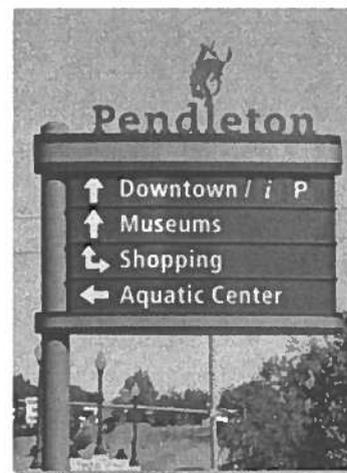
The downturn in the economy in the last few years has heightened awareness of the temporary effects of urban renewal on taxing jurisdictions. The termination of urban renewal in California in 2012 is causing some concern in Oregon that the ideas behind the California legislation might creep across the border. A few “watch dog” groups and anti-urban renewal activists have sprung up around the state, and some have already had success in limiting urban renewal powers in some communities.

¹ To underlevy is to ask for less than the full division of taxes allowed for in an urban renewal area.

Each urban renewal area in Oregon is different, and each is creating an individual and unique identity for its respective community. Cities and counties make sure to tailor their investments to suit their needs; while investments in non-profits or city facilities are not reasonable expenditures in some areas, they are good examples of facilitating private investment in others. There is no checklist to determine the success of urban renewal, but this document will provide examples of communities throughout Oregon that have made decisions locally about how this funding mechanism can help facilitate growth and vitality in their community.



Silverton signage



Legislative History Bullets

In the 2002 document, a chronology of significant legislative events concerning urban renewal was compiled. That history tells the legislative history of urban renewal in Oregon from 1949-2002. Below is an update to that section, bringing the chronology current to the publication of this document.

2003

HB 2187 was passed at the request of the Oregon Department of Revenue (DOR) for statutory changes related to the implementation of the Supreme Court decision in the *Shilo* case. HB 2187 states that all urban renewal division of tax revenues, including those resulting from the division of school bonds, local option levies, or general obligation (GO) bond taxes are to be considered general government taxes for the purpose of applying the Measure 5 limits. **This means that all taxpayers in a locality that has urban renewal see urban renewal as a line item on their tax statements, even though it is not an additional tax.** This may also impact compression calculations, as school taxes that are in an urban renewal area are now shifted to the general government category, both relieving pressure in the schools category and adding pressure in the general government category.

HB 2589 was passed, adding urban renewal agencies to housing authorities as agencies that may **choose to not disclose records that are submitted by applicants for loans, grants, and tax credits.** These records are exempt in the hands of an urban renewal agency unless “public interest requires disclosure in a particular instance.”²

2006

Voter approval of **Ballot Measure 39**, which, as stated in the official title, “**Prohibits Public Body From Condemning Private Real Property if Intends to Convey to Private Party.**”³ In general, the measure prevents a government from condemning property (that is, requiring the owner of private property to sell it to the government) if the government plans to then sell the property to another private owner for development.

2007

Passage of **HB 2140**, codified as ORS 279C.880-.870, substantially changed the **application of prevailing wage laws to public-private development projects.** (More on this in the [Continuation of Legal Points.](#))

2009

Passage of **HB 3056**, codified in various sections of ORS Chapter 457, **introduced several new and significant concepts** that relate to the



Hood River streetscape

²ORS 192.500(1)(a)
³ORS 279.015-018

calculation of tax increment collections (including tax increment financing (TIF) sharing). HB 3056 also added **limitations on maximum indebtedness** for new urban renewal plans and substantial amendments to urban renewal plans that change a plan's maximum indebtedness. HB 3056 also changed the standard for discontinuing the collection of TIF. Now, when an urban renewal agency finds that the urban renewal debt service fund (which holds TIF collections attributable to a plan) has sufficient funds to pay off the maximum indebtedness of that plan (not the outstanding indebtedness for the plan as under the former law), the agency must inform the county assessor of that fact and the assessor will discontinue collection of TIF. HB 3056 also allows an agency to underlevy its TIF collections in any one year, or for the remaining years during TIF collection. Lastly, HB 3056 changed timeline requirements for the filing of an urban renewal annual report.

The major principles of HB 3056, as applied outside of Portland,⁴ are:

1. Initial Maximum Indebtedness Limits

Limits on initial amount of maximum indebtedness (MI) in an urban renewal plan adopted after January 1, 2010:

- a. If total frozen base is \$50 million or less, total maximum indebtedness may not exceed \$50 million;
- b. If total frozen base is more than \$50 million, but less than or equal to \$150 million, then maximum indebtedness may not exceed \$50 million, plus 1/2 of difference between \$50 million and \$150 million;
- c. If total frozen base is greater than \$150 million, total maximum indebtedness may not exceed \$100 million, plus 35% of amount over \$150 million.

2. Maximum Indebtedness Increases

Increases in maximum indebtedness may not exceed an aggregate of 20% of the original

maximum indebtedness of the plan, but with an "indexing" of the original maximum indebtedness from July 1, 1999, or 1 year after the plan was initially approved, whichever is later. "Index" is the same index the urban renewal agency uses to estimate project costs in setting maximum indebtedness for the plan. The indexing only happens once.



Redmond streetscape

⁴ The City of Portland is governed by alternate provisions in ORS Chapter 457.170 as to these matters.

3. Revenue Sharing

Possibility of TIF sharing with overlapping taxing districts:

- a. Applies only to plans adopted after January 1, 2010, OR plans that are substantially amended to increase maximum indebtedness after January 1, 2010;
- b. Begins in the later of the 11th year after initial plan adoption OR when TIF collections equal or exceed 10% of the initial maximum indebtedness;
- c. For any year when TIF collections equal or exceed 10% of the initial maximum indebtedness, but are less than 12.5% of the initial maximum indebtedness, the urban renewal agency receives that 10%, plus 25% of the TIF between the 10% and 12.5%. Overlapping taxing districts receive 75% of the TIF between the 10% and 12.5%; and
- d. For any year when TIF collections equal or exceed 12.5% of the initial maximum indebtedness, the urban renewal agency receives that 12.5%. Any TIF collections greater than 12.5% are distributed to the overlapping taxing districts.

4. Concurrence

Any of the provisions summarized in paragraphs 1-3 immediately above may be changed if the municipality obtains the **written concurrence of the overlapping taxing districts that impose at least 75% of the taxes imposed under permanent rate limits in the urban renewal area in the year immediately prior to the municipality action approving or amending a plan.**

5. Underlevy

Agencies may direct the county assessor to collect less than all the TIF generated by “divide the taxes,”⁵ either on an annual basis or permanently. If an agency notifies the assessor on Form UR50 that it wishes to take less than the full amount of revenue that would be available under the normal allocation of TIF dollars, the assessor will allocate the funds not requested back to the taxing districts.

6. Indebtedness v. Maximum Indebtedness

The measurement for discontinuing the collection of TIF is now whether or not the urban renewal agency “debt service fund” that holds TIF collections has sufficient funds to repay the plan’s **maximum indebtedness, not the then outstanding indebtedness.**



Springfield signage

⁵ Divide the taxes is the terminology used to define how urban renewal funds are collected by the assessor. [The State of Oregon’s website](#) states: Division of tax revenue is calculated by splitting local government property taxes between the local governments that levied the taxes and the urban renewal agency. The split is recalculated each year based on value growth within the plan area. This tax splitting may have a couple different effects depending on the levy type. For operating (permanent rate) levies that are levied at a particular rate, division of tax does not change the tax rate or cause much change in the overall amount of tax billed, but it does reduce the amount that gets distributed to the local governments.

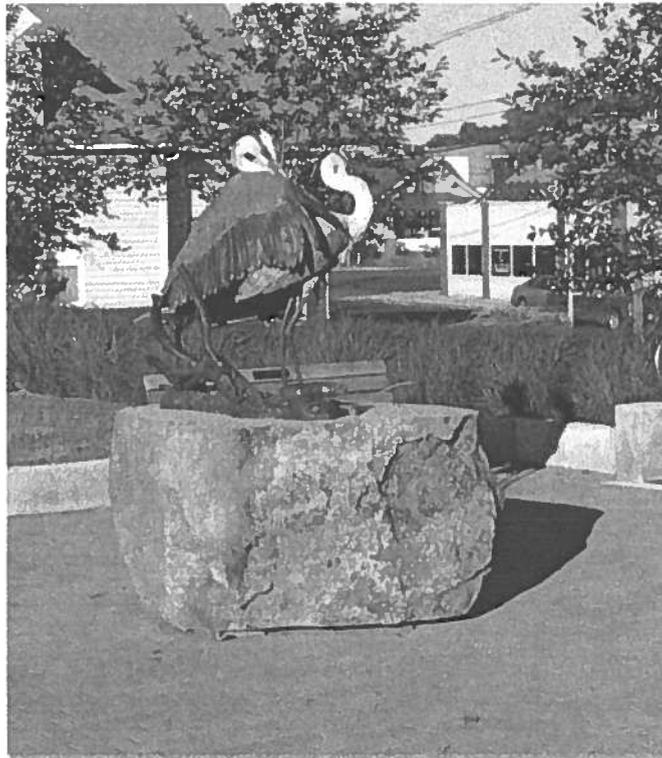
This change should eliminate the need for “du jour”⁶ bonds to keep a plan in debt on an annual basis.

7. Annual Reports

An urban renewal agency now has until January 31st of the year after the end of the urban renewal agency’s fiscal year to prepare its annual report, thus allowing the agency to use audited financials. The former date was August 1st.

2011

No successful legislation, but first testing in the legislature of the “Cooperation Agreement.” The “Cooperation Agreement” is the agreement forged between the Special Districts Association of Oregon (SDAO) and AORA in 2009 to not bring changes to urban renewal law to the legislature until January 2017.



Pendleton art

⁶ In urban renewal, du jour bonds are bonds that are placed to satisfy the need to create debt. They are typically placed with a local lending institution and are a transaction that takes place in a day or overnight.

COMPRESSION

Compression is an Oregon tax system issue that reduces the amount of taxes that can be collected in a given year if the collection amount is going to exceed the pre-set maximum established by Measure 5 and adjusted by Measure 50. The calculations, causes, and effects of compression are extremely complicated. If real market values and assessed values are converging, urban renewal can cause increases in compression. However, urban renewal can also be a tool to help facilitate growth that ultimately reduces compression.

The recession of the 2000's, by decreasing the real market value of many properties, has caused compression losses to increase throughout Oregon. Compression occurs when tax rates exceed tax limitations and assessed values and real market values inch closer together. Measure 5, as adjusted by Measure 50, imposed tax rate limits of \$10 per \$1,000 of real market value for General Government categories and \$5 per \$1,000 for Education categories. Urban Renewal is calculated in the General Government category. This classification reallocates the Education portion of taxes within an urban renewal district from Education and moves it into the General Government category.¹¹⁹ Urban renewal taxes divided from levies to repay general obligation bonds that are exempt from Measure 5 are also included in the General Government category. This has the effect of increasing the General Government tax rate, but reducing the Education and Exempt tax rate.

The Measure 5 tax rate limits are exceeded in many areas in the state, but this did not cause significant reductions in taxes collected (compression) until the difference between assessed values and real market values decreased. Compression occurs first on local option levies, then on permanent rate levies. While compression is a concern for all taxing jurisdictions, it is especially a concern for special districts that have local option levies, as those are compressed before any other levies are compressed.

An example of how compression works is shown below. In the first scenario a house with a real market value of \$200,000 and assessed value of \$190,000 experiences compression while a house with a real market value of \$250,000 and assessed value of \$190,000 does not experience compression.

¹¹⁹ This transfer of tax rates from education to general government can be a benefit for schools when dealing with compression. See page 17 of this document for the Lane County Assessor's analysis of compression for Eugene Schools.

1. Scenario I

Assessed Value (AV) \$190,000

Taxes levied

Real Market Value (RMV) \$200,000

Actual tax rates:

General Government taxes (\$12.50 per \$1,000 of AV) \$2,375

Education taxes (\$6.50 per \$1,000 of AV) \$1,235

Tax rate limits:

General Government tax limit (\$10 per \$1,000 of RMV) \$2,000

Education tax limit (\$5 per \$1,000 of RMV) \$1,000

Compression General Government (M-5 loss) \$(375)

Compression Education (M-5 loss) \$(235)

In this scenario, both the general government and education taxes have to be compressed. In this situation, taxing jurisdictions are scheduled to collect \$610 (\$375 + \$235) over the established taxation limit. To ensure the limit is not exceeded, the actual taxes collected are compressed down to the maximum \$2,000 and \$1,000 limits, and the taxing jurisdictions lose out on \$610 of revenue.

If the real market value is higher (i.e. assessed value is a lower percentage of the real market value), compression is less likely to occur. In the scenario below, compression does not occur as the real market value of \$250,000 allows enough capacity to levy the full amount of the taxes for tax rates in excess of the Measure 5 limits. This example is still based on a \$190,000 assessed value.

2. Scenario II

Assessed Value (AV) \$190,000

Taxes levied

Real Market Value (RMV) \$250,000

Actual tax rates:

General Government taxes (\$12.50 per \$1,000 of AV) \$2,375

Education taxes (\$6.50 per \$1,000 of AV) \$1,235

Tax rate limits:

General Government tax limit (\$10 per \$1,000 of RMV) \$2,500

Education tax limit (\$5 per \$1,000 of RMV) \$1,250

Compression General Government (M-5 loss) \$0

Compression Education (M-5 loss) \$0

As shown above, there are two variables to watch when considering compression, the tax rates and the relationship of the RMV to AV of properties. The effect of the recession can be seen in the two scenarios above. The property in these scenarios provides \$3,610 to local taxing jurisdictions when its real market value is \$250,000, however, when that value drops to \$200,000 (similar to what many properties have done throughout the recession), the taxes on the property are compressed down to \$3,000, and the taxing jurisdictions are faced with declining revenues. Also, new local option levies can exacerbate the situation when they are passed, as they increase the tax rates, but not the tax limits.



Tillamook renovation

The only ways to reduce compression are to reduce tax rates, increase the real market values of properties, or raise the taxing limitations, which would take a statewide vote. However, there are not that many plan areas around the state that are within areas where the total general government tax rate is under \$10 and therefore there is no compression at all. According to data from the Oregon Department of Revenue, of the 102 plan areas that received division of tax revenue in 2011-12, 22 suffered no compression loss and another 31 had compression losses of under \$100. For the special levies, out of a statewide total of 22, 10 had no loss and 5 had losses of under \$100.¹²⁰ According to Tom Linhares, Executive Director of the Multnomah County Tax Supervising commission, The City of Portland has 92% of all of the compression losses statewide.¹²¹

Urban renewal can help eliminate or offset the effects of compression in two ways, by raising the real market values of properties and by encouraging new development. Increasing real market values are dependent on a strong real estate market, which typically follows a strong economy. New development is an obvious benefit to taxing jurisdictions as it provides another source upon which to levy taxes. New development is also beneficial to school districts that are using the construction excise tax. It is the desire of many special districts and urban renewal agencies that the impact of urban renewal help facilitate growth in the community that will increase its economic vitality and both increase the real market values of properties and add new development to the tax rolls.

¹²⁰ Tom Linhares, Executive Director, Multnomah County Tax Supervising Commission, 30 August 2012. Personal email.

¹²¹ Linhares, 30 August 2012.

OPPOSITION TO URBAN RENEWAL AND REFERENDUMS ON LIMITING URBAN RENEWAL

Although there is always scrutiny on how tax dollars are allocated, the recent slow economy has only served to heighten sensitivity. With the reduction in overall taxes received by local governments, special districts are not the only groups that have become watchdogs for the use of tax funds. Vocal conservative tax groups, some of whom call themselves “tea partyists,”¹²² have organized to curtail urban renewal activities in different communities throughout Oregon. They are doing this by initiative or referendum petition efforts to limit the authority of urban renewal agencies. Opposition groups have had success, as identified below.

Troutdale

After failing to gain voter approval in a 2002 citizen initiative to overturn an urban renewal plan (plan was overturned by a 73% to 27% vote), Troutdale officials placed an urban renewal plan on the ballot in May of 2006. This was approved by a 63% to 37% margin. More public involvement was involved in the 2006 plan preparation.

Corvallis

The citizens of Corvallis voted on a potential Downtown Corvallis Urban Renewal Plan in May of 2009. The plan had a proposed maximum indebtedness of \$33.3 million and would assist in the implementation of the Downtown Corvallis Strategic Plan and the Corvallis 2020 Vision. Vote was required by a city charter. The plan was not approved by the voters by a 55% to 45% vote.

Stayton

The City of Stayton had prepared a new urban renewal plan that was placed on the May 2010 ballot through a citizen referendum. The ballot measure to approve urban renewal in Stayton was defeated by 51.87%. A key opponent was the fire chief who testified that the fire board voted unanimously to oppose the district.¹²³ Shannon Tureck, a business owner in Stayton, indicted he thought the fire district’s vocal opposition to the measure caused it to fail.¹²⁴ The Plan had a proposed maximum indebtedness of \$10 million with the proposed funding to assist in the implementation of the Downtown Transportation and Revitalization Plan.

¹²² The anti-urban renewal group in Bandon is led by a self-proclaimed “tea-partyist.”

¹²³ Ken Cartwright. “Stayton’s Urban Renewal Plan on Hold.” Salem-News.com, 22 July 2009. http://www.salem-news.com/articles/july222009/stayton_council_7-22-09.php

¹²⁴ Denise Rutton. “Proposal for Stayton’s Urban Renewal appears to be failing.” *Statesman Journal*, 19 May 2010. <http://www.statesmanjournal.com/article/20100520/NEWS/5200350/Proposal-Stayton-urban-renewal-appears-failing>

Clackamas County

Two initiatives to limit urban renewal were placed on the Clackamas County ballot in November of 2011. One of the initiatives, Measure 386, proposed a countywide vote on any new or substantially amended urban renewal district in unincorporated Clackamas County.¹²⁵

Clackamas County Commissioners thought this would be unfair since it required approval on urban renewal decisions in the unincorporated areas by all voters in Clackamas County, both incorporated and unincorporated. To respond to this initiative, Clackamas County Commissioners drafted a second initiative – Measure 388. Measure 388 would have required a vote to approve an urban renewal plan of only the people who live *inside* the proposed urban renewal district, not a countywide vote. At the election, Measure 386 received more votes (56,269 votes) than Measure 388 (50,819 votes), so Measure 386 has become law.¹²⁶ This result severely limits Clackamas County's ability to plan new urban renewal areas or complete substantial amendments to urban renewal areas in Clackamas County.

Estacada

In March of 2012, a citizen-led initiative in a special election passed with approval of 80.5% of the voters. The measure requires voter approval of activation or substantial changes to the city's urban renewal plan. The Estacada Urban Renewal Agency is also now required to send public notices for any additional urban renewal indebtedness to be incurred under its plan.



La Grande renovation

Oregon City

An initiative was placed on the November 2012 ballot in Oregon City that will have limitations for the issuance of urban renewal bonded indebtedness. The proponents felt the initiative would "plug a loophole that has allowed city officials to put taxpayers on the hook for millions of dollars for questionable projects."¹²⁷ This follows controversy in Oregon City over a proposed urban renewal project that would have assisted the developer CenterCal Properties to develop a \$200 million mall in the Oregon City urban renewal area.

¹²⁵ Rob Manning, "Urban Renewal Measures Battle On The Clackamas Ballot," *Oregon Public Broadcasting*, 3 November 2011. <http://news.opb.org/article/urban-renewal-measures-battle-clackamas-ballot/>

¹²⁶ Yuxing Zheng, "Clackamas County elections: Voters call for countywide approval of urban renewal; pass public safety levy," *The Oregonian*, 8 November 2011. http://www.oregonlive.com/oregon-city/index.ssf/2011/11/clackamas_county_elections_vot.html

¹²⁷ Steve Mayes, "Oregon City Urban Renewal Measure Qualifies for November Ballot," *The Oregonian*, 30 July 2012. http://www.oregonlive.com/oregon-city/index.ssf/2012/07/oregon_city_urban_renewal_meas.html

Albany

In Albany, a small group of urban renewal opponents filed a number of initiatives with the City of Albany, the final of which were filed in February of 2012, all with intention of limiting urban renewal. The initiatives were to:

1. Require voter approval for any new urban renewal plan or expansion of an existing urban renewal plan. This voter approval would be of the majority of all registered voters, not just those voting.¹²⁸
2. Repeal the \$56 million maximum indebtedness limit and prohibit the Albany urban renewal agency from incurring any new debt after February 28, 2012.
3. Limit the total City of Albany debt to that which was in effect on February 28, 2012.¹²⁹



Albany streetscape

The City of Albany reviewed the petitions and rejected the second filing, referenced above. The City's attorney prepared the ballot titles for the other two filings. The petitioner challenged the City's action.¹³⁰ The Linn County Circuit Court upheld the City's rejection of filing #2, and rewrote ballot titles for filings #1 and #3. The petitioner is currently gathering the signatures required to place the measures on the City ballot.

Bandon/Coos County

Bandon began an effort to complete a substantial amendment that would increase their maximum indebtedness in 2011. The amendment was passed in 2012 after obtaining taxing district concurrence. During the process of gaining the concurrence, a citizen's group, Coos County Watchdog, began a campaign in opposition to urban renewal. Coos County Watchdog is a self-proclaimed, "network of individuals concerned with the growth of local government in Coos County. We are



Bandon signage

¹²⁸ Kate Porsche, 31 May 2012, personal email.

¹²⁹ Hasson Herring, "CARA opponent files three new petitions." *Albany Democrat Herald*, 24 February 2012. http://democratherald.com/news/local/cara-opponent-files-three-new-petitions/article_d595d676-5eb5-11e1-879b-001871e3ce6c.html

¹³⁰ "Proposed ballot titles irk CARA petitioner." *Albany Democrat Herald*, 10 March 2012. http://democratherald.com/news/local/proposed-ballot-titles-irk-cara-petitioner/article_01204fbc-6a6a-11e1-8ab7-001871e3ce6c.html

citizens determined to protect our sovereign right to own and control our property.”¹³¹ The group has a website and is actively engaged in trying to eliminate urban renewal in Coos County. In Bandon, after attending and testifying at many of the meetings of the taxing districts on the question of approving the maximum indebtedness increase, the group decided to challenge the amendment through the referendum process. They circulated a petition that received signatures, but when the signatures were verified, there were not sufficient numbers from the citizens of Bandon to refer the issue to a vote. Some of the signatures on the petition were from citizens of other neighboring cities. After the failed attempt to stop the amendment, the same group proposed a city initiative petition to limit urban renewal in the City of Bandon. Bandon's city manager reviewed the petition and determined that the proposal did not meet the one subject requirement of the Oregon Constitution, and the proposal was therefore rejected. The Coos County Watchdogs have stated that they intend to file this same petition in Coos Bay, North Bend, and Coquille.¹³²

Coos County Watchdog has also proposed an initiative to require voter approval of substantial amendments to existing urban renewal plans and new urban renewal plans in Coos County. The proposed legislation also stipulates that an urban renewal plan in Coos County will cease once all current debt is retired. The legislation is similar to that passed in Clackamas County in the November 2011 election.



¹³¹ "Coos County Watchdog." <http://www.cooscountywatchdog.com/about-us.html>

¹³² "Coos County Watchdog." <http://www.cooscountywatchdog.com/1/post/2012/05/initiatives-referendums-referrals-oh-my.html>

SUPPLY OF COMMERCIAL AND INDUSTRIAL LAND

Goal: Provide an adequate number of sites of suitable sizes, types, and locations to accommodate a variety of economic opportunities over the planning period

Newport wants to provide enough land to accommodate employment growth over the 20-year planning period. Newport will need employment sites with a range of characteristics, such as different sizes, locations, access to transportation, access to the waterfront, and zoning designations. Newport wants to ensure that the City has an adequate number of sites to allow market choice for businesses in its four targeted industries, as well as for other economic opportunities.

Strategic considerations

Newport has more than 928 acres of land for commercial and industrial uses with development capacity, of which about 408 acres are unconstrained and suitable for employment uses. In addition, Newport has a substantial amount of underutilized⁹ with redevelopment potential.

- Newport's commercial and industrial land base has substantial constraints, such as steep slopes, that will prohibit development. These constraints are an issue and will require careful siting of businesses. While these constraints will create additional challenges for development in many instances, they do not necessarily preclude development.
- Newport has no commercial sites over 20 acres, two sites between 10 and 20 acres (with a total of 24 acres) and two sites between 5 and 10 acres (with a total of 16 acres). Both sites over 10 acres are located in the Wolf Tree destination resort area and are not currently serviced. No sites over five acres are available north of Yaquina Bay. Newport's industrial zone allows commercial uses outright—which could address part of the deficit. Some of this deficiency could potentially be addressed through redevelopment.
- Newport has a limited amount of unconstrained vacant or partially commercial land with development capacity (about 62 acres). Newport has a substantial amount of underutilized commercial properties, with about 90 acres that have an improvement to land ratio less than 1.00. Much of the underutilized commercial properties are along Highway 101 or just off of the Highway. These commercial properties have redevelopment potential, although it is not clear which of these sites will redevelop over the next 20-years.

⁹ Broadly, underutilized land can be consider land that is not meeting its full economic potential. In short, it is land that is not in its highest and best use. In the context of the state land use system, the terminology is a little confusing. OAR 660-009-0005(1) defines redevelopment as follows: "Developed Land" means non-vacant land that is likely to be redeveloped during the planning period. For the purpose of clarity, we use the term developed to mean land committed to existing productive employment uses and redevelopable as lands that have potential for redevelopment during the planning period.

- Encouraging redevelopment of the commercial properties may require investments from the City. The City does not have sufficient funding to invest in redevelopment of all the underutilized commercial properties at once. The City should select a few areas with higher redevelopment potential to focus redevelopment efforts on. This could include strategies to aggregate parcels, or strategies to reduce infrastructure costs.
- Land with development capacity in South Beach is limited. The City will need to work with businesses in the marine and ocean observing research and education cluster to identify other locations for new or expanded businesses, especially those that do not require close proximity to the waterfront (i.e., research offices or fabrication of marine research equipment and instruments). In some instances, the City may want to negotiate development agreements with property to better ensure that development is consistent with the City's economic development vision.
- There is land with development capacity near the International Terminal, along and near the Bay Front. The City should work with its partners and the land owner to determine what uses are appropriate for this area, which will be important for development of marine-related industries given the limited amount of developable land along the waterfront.
- Newport has a reasonably large supply of land around the Airport. This land presents opportunities for development, especially for employment uses related to or dependent on aviation. While the land is not currently serviced, the City has identified strategies to service the land, given a business or developer who wanted to partner with the City on developing around the Airport.

Strategies and actions

Given the strategic considerations outlined above, what actions can the City and its partners take to make the best use of Newport's commercial and industrial land base? What should the City do to encourage redevelopment of commercial land, given the limited amount of vacant and partially vacant commercial? How can the City best use its existing land base to support the targeted industries, especially given the very limited land supply in South Beach? These actions should take into account the limited resources available for public investment in infrastructure and efforts to support economic development. In short, the city needs a clearly articulated strategy for the management of waterfront properties.

Policy 6. The City shall encourage better use of underutilized and/or blighted commercial sites.

Action 6.1. Evaluate creation of an urban renewal district north of Yaquina Bay

Description: The URD should address the issues of underutilized commercial and industrial properties and infrastructure deficiencies. The housing needs analysis made a similar recommendation focused on reducing housing cost by addressing infrastructure deficiencies in certain areas as identified by the city. The specific purpose should be developed through a broader set of discussions.

The URD would potentially allow the city to use the additional tools offered by the URD including flexibility to resell land, land acquisition, land assembly, loans, upgrading or razing dilapidated commercial structures, facilitating the purchase or sale of land, and other tools. The URD could also address highway corridors, sign clutter, business facades, overhead lines, etc.

The City will also need to determine the extent of the URD boundary. The TAC suggested starting with properties that are adjacent to the Highway 101 and Highway 20 corridors.

Rationale: A URD would provide the city with additional tools for land acquisition and potentially funding for economic development and infrastructure projects through the bonding authority created by the district.

Who does it: City of Newport.

Possible funding sources: Urban Renewal District.

When: Evaluation of the URD should occur in Year 1; steps to establish the district, should it have council support should occur in Year 2. Implementation would occur in subsequent years.

Benchmarks: Evaluation of URD; establishment of URD; completion of projects.

Policy 7. The City shall ensure an adequate supply of commercial and industrial sites

Action 7.1 Develop strategies to prioritize target industry uses on opportunity sites

Description: Once opportunity sites are identified for employment and business growth of the target industries, develop land use strategies to reserve these sites for use by organizations in this cluster.

The initial emphasis in site identification should be on sites that are suitable for water-related and water-dependent uses, international shipping, fishing and seafood processing, and tourism. The implementation of this strategy would be on a voluntary basis—the City is not proposing additional land use regulations to implement this strategy. Rather, the City, working with other economic development partners, will engage with individual property owners to negotiate development agreements.

According to the Municipal Research and Services Center of Washington a development agreement:

“is a contract between a local jurisdiction and a person who has ownership or control of property within the jurisdiction. The purpose of the agreement is to specify the standards and conditions that will govern development of the property. The development agreement provides assurance to the developer that he/she may proceed to develop the project subject to the rules and regulations in effect at the time of approval - the development will not be subject to subsequent changes in regulations. Development agreements should also benefit the local

jurisdiction. The city or county may include conditions (mitigation measures) that must be met to assure that a project at a specific location does not have unacceptable impacts on neighboring properties or community infrastructure. The agreement may clarify how the project will be phased, the required timing of public improvements, the developer's contribution toward funding system-wide community improvements, and other conditions. The agreement can also facilitate enforcement of requirements, since it is a contract that details the obligations of the developer and local jurisdiction."¹⁰

ORS 94.504 provides the legal basis for development agreements in Oregon. The statute allows a city to enter into a development agreement "with any person having a legal or equitable interest in real property for the development of that property." The statute requires development agreements include specific information (ORS 94.504(2) through (7)). The statute also requires that the agreement is consistent with local regulations and that the local government approve the agreement after notice and hearing.

To initiate this task, the City should identify the desired outcomes of the agreements and develop a list of potential elements of the development agreements. The agreements should place limitations on the use of properties to those that are consistent with the target industries. The agreement may also spell out any improvements that the city is willing to make to support development of the cluster, and under what conditions those improvements will be made. Once the general framework is established, the city should contact select property owners in areas targeted for marine research and ocean observing. The agreements should initially be targeted to properties in the South Beach area and should consider parcel size as a factor.

Rationale: Current policies allow development of sites consistent with outright allowed or conditional uses as defined in the Newport Development Code. For example, some commercial uses are allowed in the I-1 zone. Rather than use regulatory approaches, this strategy will look to voluntary and incentive based strategies. Negotiating development agreements is a way to voluntarily engage property owners without land use regulation. Having resources to assist in business recruitment (the business growth and recruitment coordinator) provides incentive for property owners to work with the City on development agreements.

Who does it: The City Community Development Department works with economic development partners to identify key provisions of the development agreements, then contacts property owners and negotiates development agreements. The economic development partners will provide support as appropriate.

Possible funding sources: City of Newport; Urban renewal funds.

When: Develop key provisions in year two; negotiate agreements in years 3-5.

¹⁰ <http://www.mrsc.org/subjects/planning/lu/developagreements.aspx>

Benchmarks: Identification and adoption of development agreements.

Action 7.2: Develop an annexation strategy for commercial and industrial properties in South Beach

Description: This action would result in an annexation strategy for commercial and industrial property in South Beach. The project would work with property owners in the unincorporated areas of the UGB to determine issues such as infrastructure provision outside of the city limits. The project ultimately will result in an Urban Growth Management Agreement (UGMA) between the City of Newport and Lincoln County that includes the South Beach area. The Newport City Council has a goal of accomplishing this in the next five years.

Rationale: Having a defined annexation strategy will ensure efficient provision of municipal services, as well as adequate sites for businesses. This strategy may also address the issue of limited number of larger commercial sites.

Who does it: City of Newport Community Development, Lincoln County Planning.

Possible funding sources: City funds; state planning grants.

When: Initiate work in year 1 or 2.

Benchmarks: Adoption of UGMA.

INFRASTRUCTURE AND PUBLIC FACILITIES

Goal: Make investments in infrastructure and public facilities to support the target industries

Newport wants to improve economic conditions and promote growth of businesses in the target industries. High quality infrastructure and public facilities are important to support economic growth. The City has limited funds to support maintenance of existing infrastructure and public facilities. The City wants to leverage the limited funds available for infrastructure and public facility maintenance and improvements through working with local partners and the State to make strategic investments.

Strategic considerations

Newport provides a range of public infrastructure: municipal water system, wastewater system and treatment, local street system, stormwater system, street lighting, multi-use paths, and parks. Newport also has a range of public facilities: recreation center, performing arts center, library, Abby Street pier, a boardwalk, and public parking lots. The City has limited funds available to maintain existing infrastructure and public facilities. Recent upgrades to the City's water and wastewater systems have been made, in part, by leveraging local funds with funds from external sources.

The information below describes the issues related to Newport's infrastructure and public facilities.

- Newport's municipal water system and wastewater treatment plan have recently been (or are in the process of being) upgraded. The City has sufficient water treatment capacity and wastewater treatment facility capacity to accommodate expected growth, including growth of industries with high water or wastewater demands. The City will need to work with existing and new businesses to meet changing demands for water and wastewater usage, such as changes to regulation of wastewater effluent temperatures or new needs of marine-based industries for wastewater treatment.
- The City has limited funds to maintain existing infrastructure and facilities and very little financial capacity to make strategic investments. Existing funds are generally used for basic maintenance.
 - The distribution system (e.g., pipes or pumps) for the water and wastewater systems are deteriorating. While the City has plans to upgrade parts of the distribution system, the needs for replacement are greater than the City's resources for maintenance. The City is heavily reliant on outside sources of revenue to maintain the systems, such as grants and loans.
 - The City has a considerable number of public facilities, some of which are important to growth of the target industries (e.g., the Abby Street pier). The City has no dedicated funds to maintain these facilities. Where appropriate, the City has used funds from the transient lodging tax revenues or business license revenues to maintain public facilities.



AGENDA & NOTICE OF PLANNING COMMISSION MEETING

The Planning Commission of the City of Newport will hold a meeting at **7:00 p.m. Monday, October 28, 2013**, at the Newport City Hall, Council Chambers, 169 SW Coast Hwy., Newport, OR 97365. A copy of the meeting agenda follows.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Peggy Hawker, City Recorder, 541-574-0613.

The City of Newport Planning Commission reserves the right to add or delete items as needed, change the order of the agenda, and discuss any other business deemed necessary at the time of the meeting.

NEWPORT PLANNING COMMISSION Monday, October 28, 2013, 7:00 p.m. AGENDA

A. Roll Call.

B. Approval of Minutes.

1. Approval of the Planning Commission work session and regular session meeting minutes of September 23, 2013.

C. Citizens/Public Comment.

1. A Public Comment Roster 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 signing the Roster. Each speaker should limit comments to three minutes. The normal disposition of these items will be at the next scheduled Planning Commission meeting.

D. Consent Calendar.

E. Public Hearings.

Quasi-Judicial Hearings:

1. File No. 2-NCU-13. Consideration of a request submitted by Douglas & Verna Fitts (Dennis Bartoldus, authorized agent) for approval of a request per Section 14.32/"Nonconforming Uses, Lots, and Structures" of the Newport Municipal Code, for the alteration and expansion of a nonconforming use. The property is currently being used as a mobile home park (Surfside Mobile Village). Specifically, the applicants are requesting to be allowed to have 24 permanent spaces and 3 RV spaces; expand the park for a screened storage area; and to be able to replace mobile homes with "park model" homes. The property is located at 392 NW 3rd St (Lincoln County Assessor's Map 11-11-05-CD; Tax Lots 10500, 10600, 10501, 10700, 10800, 10300, 10200, 10100, 9900, 9800, 9700, and 9500).

F. New Business.

G. Unfinished Business.

H. Director Comments.

I. Adjournment.

Wanda Haney

From: Derrick Tokos
ent: Wednesday, October 02, 2013 11:00 AM
To: Wanda Haney
Subject: FW: Notes from Planning training

Please include this in the packet materials for the next Commission meeting.

Derrick

-----Original Message-----

From: William Branigan [mailto:phantom41@gmail.com]
Sent: Wednesday, October 02, 2013 10:02 AM
To: Derrick Tokos
Cc: Wanda Haney
Subject: Notes from Planning training

As a new Planning Commissioner, I found the training beneficial. and would recommend it to all new commissioners.

As the junior member Mark Fisher delegated to me the note taking...sort of his caddy for the afternoon.

1. First on the agenda was Tim Ramis a lawyer who represents many of the Metro cities.

Discussion on the difference between the quasi judicial and legislative functions of the Planning Commission

a. Quasi judicial function should be based SOLELY on the criteria already adopted. As in a court

xtraneous matters should play no part in the decision making capabilities.

b. Legislative is broader in scope and is adopting new rules for the city.

Discussion of objections to a hearing

a. Objection to the notice...continue with the hearing because they are there and got the notice..purely a delaying tactic

b. Asking for a continuance...Try to negotiate a new schedule for new evidence. Do so in writing. Give them 1 week and get concurrence that the 120 day clock is on hold.

c. Time line delay tactics....if applicant won,t agree to 120 day extension get the hearing done in time otherwise the matter goes to a circuit court and you lose control. At the circuit court the burden shifts to the city to prove why the applicant is wrong.

d. Behavior break down....chairman should gavel the meeting and remind people that this is a court

e. Panel member is accused of bias...deal with at the beginning of the hearing

Other items

a. Members should not go out and investigate on their own. Read and hear the evidence and stick to criteria already adopted to make an independent decision.

b. Do not have consultation with other members about a quasi judicial matter..be independent like a judge.

Mike Robinson a lawyer on an update on current cases before LUBA.

The will email to Wanda the handout which was in short supply

In 2013 80 cases have been heard by LUBA so far. Of these 35 were dismissed, with 5 being transferred circuit court. The rest were reversed or remanded generally for errors that could be corrected.

LUBA has a website where the cases can be reviewed in greater detail.

Jennifer Donnelly....DLDC representative for the Metro.

A discussion of the DLDC and what they do

a. They are a resource to cities and work almost exclusively with city staff.

b They review 19 state goals on land use...When making a legislative change on one of the goals

DLDC should get a copy of the change to make sure there is compliance.

c. Discussion of House bills 2253 and 2254...Portland State doing population studies that will be used for Urban Growth Boundary expansions.

d. DLDC policy agenda is on their website

e. Discussion on their lack of funding which impacts their response to the cities.

Planning Commission Panel discussion

Made up of Commissioners from Beaverton, West Linn, Tualatin, Sherwood.

each faces.

a. Anecdotal stories about tough decisions, behavior issues etc. Discussion on current issues

carts in the metro.

1. Topics were Walmart requests, the water pipeline in Lake Oswego, West Linn, food

SDC, storm runoff, parking.

2. Q and A from audience. Hot topic was how to manage food carts including permits,

Draft MINUTES
City of Newport Planning Commission
Work Session
Newport City Hall Conference Room 'A'
Monday, September 23, 2013

Planning Commissioners Present: Jim Patrick, Bill Branigan, Rod Croteau, Mark Fisher, Glen Small, and Jim McIntyre.

Planning Commissioners Absent: Gary East (*excused*).

Citizens Advisory Committee Members Present: Lee Hardy, Suzanne Dalton, and Bob Berman.

City Staff Present: Community Development Director (CDD) Derrick Tokos and Executive Assistant Wanda Haney.

Audience Members: Roy MacMillan (*Embarcadero Unit Owner*), Keith Turner (*Nye Sands Unit Owner*), Loren Joling (*Dolphin Realty*), and Patricia Patrick-Joling (*Dolphin Realty*).

Chair Patrick called the Planning Commission work session to order at 6:00 p.m. and turned the meeting over to CDD Tokos.

A. New Business.

1. Further discussion regarding changes to NMC Section 12.15.065 (SDC Credits). Tokos noted that the Commission had held a previous work session on this. He put together some changes that he hopes reflects in a manner that the Commissioners are comfortable with. He had included a draft in the packet. Looking at the mark-up copy for the SDC code, Tokos noted that we now have essentially two paths for credits; one for redevelopment if SDCs were paid in some manner, and one if SDCs were never paid but there was something on the property in the last thirty years. The League of Oregon Cities model code from 2010, a copy of which was included in the packet, doesn't bother to go down that path. They simplify it to what is on the property when redevelopment occurs. This is how he drafted it and only went back ten years. The revisions address further inequities. The existing code reads that if a house was built in 1983, and you want to replace it, SDCs would have been paid for everything but stormwater (which went into effect in 2008). Technically you would have to pay the stormwater SDC. He said that's not equitable. Today, we haven't been charging stormwater SDCs by themselves; if they paid SDCs previously, they didn't pay now. The existing code technically breaks it into categories. This cleans that up by eliminating that distinction and the thirty years, which is difficult to administer. Berman pointed out a typographical error in A(1) where the second word in the third line should be "then". Tokos continued that he eliminated the transfer. He noted that this is generally not used for the most part, and there is an administrative issue of trying to track them. He said that most jurisdictions don't allow them generally because the impact to the system in one area may be different than in another. Patrick said that was thrown in the existing code because there were some developers in the room, but it doesn't sound like we use it a lot. Berman asked then if development in one location has a different impact than in another, for the same exact commercial building would the SDCs be computed differently. Tokos said they are development-based; it depends on the scope of development. Patrick said it was set up that way because of a case in Portland where somebody moved across the street and was stuck with \$50-60 thousand of SDCs. He said they were trying to set it up so that if a restaurant wanted to move across town they could. He said we generally don't have that circumstance; it's usually redevelopment of the same property or removal and replacement. Fisher wondered if in that case, a person could appeal to the Planning Commission or City Council and ask that to be forgiven. Tokos said not really. He said the most recent example of a restaurant moving is Sadas on the Bay Front. They paid the SDCs in the new location. The old location still gets the benefit, and based on how it's written there will be the benefit of a restaurant in the new location. Tokos said that most restaurants are leasing the property, and the property owner retains the fact that there was a restaurant use in their location. Patrick said there are some applications for the transfer, but we haven't really used it. Tokos said we have to balance those trackable credits with the cost of administration; and when we are trying to track those, it starts increasing costs.

Tokos said he is proposing a different approach with storm drainage. No credit shall be given for impervious surfaces that exist. They may be given if they have a design to reduce the impact of runoff. If they are reducing the impervious surface, or providing detention so they are managing stormwater on site; then they are eligible for the credit. This was discussed in the methodology but was never implemented. Stormwater SDCs just started in 2008. As was previously discussed, many times it is impossible to capture when impervious surfaces are being put down. We don't really want to get into the requirement of SDCs being paid for things that don't require permits. The simplest way is not to give stormwater SDC credit unless they are reducing the impact on the system. Patrick brought up the large remodel project that Gold Motors recently did and asked if they would have paid for all the pavement that exists there. Tokos said they would, but they never paid for that impact to begin with. Patrick asked that even though the work they did on the roof and the façade has nothing to do with the impervious surface. Then anybody for any permit will pay SDCs if they haven't paid before. He asked Tokos if he was looking forward to that. Tokos said that is an option. If the Commission is uncomfortable with that, they can think of something else. Maybe we can pro-rate it. He said that right

now the assessment is broken, and we are not collecting in an equitable way if at all. Fisher asked why we would get into that if their project hasn't changed the amount of water run-off. Patrick said looking at it from the point-of-view of credits, Gold might pave the rest of their lot before they come to get a permit so that when they come in to get their assessment, they wouldn't be assessed for it because it's already there even though they added it. Fisher asked that if they haven't changed where the water goes why put a fee on it now. He said that doesn't seem fair at all. They are better not improving the roof or windows if now they have to pay for pavement. He said it just seems unfair. Tokos said that the other argument is that our drainage system isn't static; it doesn't last forever. Also, there are federal requirements that the City upgrade our system to get better at pollution control. He said to take the approach that because asphalt is there now, they should always be able to have to not pay into the system is narrow-minded as well. Fisher said they are paying water fees every month, which is supposed to be for maintaining the water system. Patrick said that has nothing to do with stormwater. Fisher said he doesn't pay a separate storm drain fee on his monthly bill. Patrick said you were going to get assessed on how much impervious surface you have on your property, and that is why Gold and Sunwest were there. Tokos said that is in part why Walmart decided to take out part of their asphalt. He said a piece of this too is the incentive for other methods that reduce the impact on the system. He said maybe we need to scale this; a percentage of re-investment or something. At some point of substantial redevelopment, this can trigger. It's not often that they will rip asphalt out. Berman said that if two properties side by side had the same surface, one could sit for twenty to thirty years and not pay a dollar if they never get a permit; yet they have the same impact on the system. Tokos said if they are just leaving it as is and not redeveloping, they are sitting status quo and not getting hit; but if they tear it down and rebuild, they are good for another sixty years. There was some additional discussion about Gold's re-roofing and how they didn't change the impact to the total system. Small thought this is setting up a path that discourages improvement. If there are extra fees for improvements; rather than be penalized, they will leave things the way they are and let them deteriorate. Tokos said that SDCs are fees on new development and many times redevelopment. A retail use going to a restaurant will pay because of the impact to the system. McIntyre noted that if they redo a roof a permit is needed, and now they have to pay; yet they didn't increase or change the impact to the system. It was noted that there is a lot of asphalt going down without permits; and why should they get credit for asphalt put down without a permit. Fisher said that if in the development they have not put asphalt down, it seems unfair that you are going to charge them for it anyway.

Tokos said that one approach would be to scale it. The investment needs to be 50% of the current value of the property. Then at least it would be a substantial investment. The rationale being stormwater SDCs haven't been paid by much. It was just put in place in 2008. A building constructed in the 50s, 60s, or 70s is being torn down and they are rebuilding. They just extended the life of the impact on the system another sixty years. He asked if it is reasonable to say that the drainage system will last that long without improvement. He said no. He is trying to come up with something reasonable so that we don't have to drive around to find out where asphalt is being put down when there is no permit required. Fisher said this would be fair if they were putting down asphalt; but not if they are not putting it down. Patrick noted that the City owns half the impervious surfaces in town. Berman asked if you have to have a permit to lay asphalt; and it was noted that presently not. Tokos said something like a church paves its parking lot; that doesn't get caught. Dalton asked what other cities of comparable size do, or is it worth checking. Tokos said he has. Not all give credits across all categories. For stormwater, some don't but others do. They are all over the place. He said that when there is redevelopment, that is the time to reduce the impacts of stormwater runoff; and it is not an incentive if there is no charge in the first place. Patrick said that we are trying to catch the person paving their back lot versus someone like Gold. Tokos asked what about Walgreens. If there were an incentive, he bets they would have put in stormwater management. That is the time to incentivize that. Fisher agreed with that, but didn't agree with charging them when nothing happens. Patrick said he could see charging when something is being torn down and they are starting from scratch. Any addition will still get caught. A house gets caught on stormwater but nothing else. Berman asked if it would be practical to maybe require permits for impervious surface additions. Tokos said it isn't under the building code. We would have to come up with some justification for it and have some training of the public. Patrick said either that or do the 50% thing. He thought that if we do that, we will be lighting a fire storm sooner or later. Tokos said that he could write it that if there is redevelopment of 50% or more of the assessed value for now. That would be talking about a substantial reconstruction. The question was raised if 50% is the right amount. Tokos said he could scale it and research it a little bit for the Commissioners. Patrick said we need to do some work on that. He wants feedback before we do it. McIntyre noted that even if they pave the entire piece of property that is an improvement to that property and adds some value to the property. It also impacts the system. He agrees that is an area that definitely needs to be investigated. Berman noted that if we did this, then the City could encourage the use of other kinds of surfaces. Patrick said we could tie it to the geo hazard too where you want to be careful of on-site water disposal.

Tokos noted that the back end of this is a little more general. Incentive credits can be received by doing a retention system as opposed to infiltration on site; it is an option in either case. Detention is controlled release of water from a property. Tokos will bring back modified language. Then the last part is language that credits shall not be transferred, and then the maximum assessment. Patrick thought it was good and will also help with stormwater. He asked Tokos if he could bring back numbers of what the SDC fees would be if you were to impose it so that the Commissioners can have an idea of what numbers we are talking about. Tokos said right now for commercial it is \$0.30 per square foot. Patrick asked if it's set up so that it is scaled, would that only apply to stormwater; and Tokos confirmed that it would be. For a replacement house that is the only one you pay. Tokos said that the code says the SDC can't exceed 10% of the construction value. He noted that the maximum assessment thing came

about as a result of the coffee house scenario where you are enclosing a deck and creating year-round restaurant seating. Right now for a house, it is a flat rate of \$813. Tokos noted that the Commissioners would like to see scenarios on that.

Branigan asked if someone receives a credit for stormwater management, is the credit little or big. Tokos said it is determined on a case-by-case basis. It has to, depending on what they are doing; it is hard to put in black and white. He said that is probably why it wasn't implemented in the first place. Bill asked if there was a way to put language in there. Tokos said it could possibly be linked to the reduction of impact on the system. Developers will weigh it out. Patrick said a lot of it is that you have to force them to do the water detention because it costs a lot more than the fee.

Tokos said that he got just the two things that the Commissioners would like to see when this comes back; 1) provide scaled option on storm water with revised language proportionate to the reduction of the impact; and 2) some scenarios. Tokos said if the Commissioners are comfortable with this tonight, then they could indicate through a motion at the regular session to initiate the amendment process at an upcoming meeting.

Patrick asked if there is no change to the area, will there still be some fee. Tokos said the Commission wants to see a scaled option. If there is substantial enough renovation, you will not get credit for the amount of impervious surface already there. If you are essentially doing a big renovation or a wholesale redevelopment, you will have to deal with the impervious surface or reduce the impact; tear it out or modify the impact. Patrick said there is either 50% or scaled. Tokos said he can possibly give A and B options. McIntyre said it should be if there is an increase in impervious area; if they add additional roof over what used to be pervious land, then that is different. Tokos noted that we have a lot of impervious surfaces that never paid SDCs; and even after we had stormwater SDCs, there are a lot that haven't paid. Patrick said the Commission will take a crack at it. Tokos said the Commissioners could initiate the process and it would be brought back in the hearing process so they can consider it then.

2. Discussion about interpretation of code requirement for safety-glazed windows for VRD inspections. Tokos said this has come up in a few different scenarios. It has to do with the window glazing requirement in our endorsement code. He included a copy of the code in the packet. The vacation rental dwellings code has a list of health and safety standards that the rental must meet. This is in the zoning code; not the building code per se. The checklist items were borrowed from the building code; and where interpretation is needed is about the standard that says "windows within a 24-inch arc of doors shall be safety glazed." There have been a number of people that have swapped out windows to meet that standard. Tokos noted that there have been close to 80 fully-permitted vacation rentals that addressed those issues. The question is whether or not this applies to sliding doors as opposed to hinged doors. State building code indicates that it applies to both. The concept is that if the door were slammed, the glass could shatter and be a safety hazard. That is why this item is on the list. Tokos said that the Commission may receive a formal request for an interpretation. He wanted to get the Commissioners' thoughts on this standard; whether that makes sense or whether it's something that needs to be further clarified.

Hardy said the International Building Code, the Residential Code, and the Oregon Specialty Code all address the same thing differently. There are no diagrams showing a sliding glass door. She said it's okay if the window is 5 feet off the floor and breaks and stabs someone in the neck; but not at 18 inches where it could drop broken glass on their foot. She found a bunch of inconsistencies in talking to different building inspectors. When she first talked to the state, they said no it doesn't apply to sliding doors, and then they turned around and said yes. The International code says if there is a solid wall between the two it is okay. She said it is vague and very open to interpretation. Within inspections there have been variable interpretations; some units have been passed, and some have not. She said one facility built two years after the code didn't have safety glazing and passed. She said it is a consistency issue and needs to be one way or the other.

Tokos said that our inspectors are applying the State Building Official's interpretation that it applies to the moving part of a patio door or a hinged door. The code has more vague language just saying within a 24-inch arc of doors. This is implemented by the zoning ordinance, and we are free to write this language however we want; we are not implementing the building code in this case. This is about making vacation rentals safer. That is what this whole exercise has been about. He said if the Commission thinks this falls in the basket to make things safer for a facility that is rented, then you want to keep it a standard. If you think it's not needed, the Commission can ask or suggest that it be changed. These are standards put in place to make vacation rental units safer for guests.

Fisher recalled that we wanted this to be simple and clear; fire extinguishers, fire alarms, and things like that. If what we present is not easy for the common person to understand and follow, then we haven't done it right. He said if it's enforced differently, that isn't right either. We have an obligation to see that it's done consistently. McIntyre said we are talking about safety for guests. The guests aren't the ones that need to know if it's safe. Fisher said if glazing on windows by sliding doors isn't needed, why even put it in there.

Regarding the Embarcadero, Patrick said that when it was built, if they put bars in front of the windows they didn't have to put in tempered glass. One or two may still have bars; but others don't. Where these bars were protecting those windows, these owners are getting caught for the windows next to the doors having the original glass. Most glass companies won't replace these

windows without tempered glass; but that doesn't stop the Embarcadero crew from putting it in. Fisher said that if inspections are done by Hargie, someone out of Eugene, and the Fire Marshal fills in from time to time, we won't have consistency if we don't have one entity trained how we want it done. All three are looking at it differently, which isn't fair. Patrick said it is up to the Commission to interpret this in some manner. Fisher thought we want one type of trained inspector. Tokos said the issue for us is that is not always practical; we can't always have one person available when we want inspections. If you look at any kind of inspection, we don't expect consistency 100% of the time. But, enough stuff is getting caught that the value is still there. The unit is going to be safer because the inspection occurred. We do construction inspections all the time; and Hargie's not going to pick up the same thing on every house construction. The building code is so thick and contains so much. Tokos noted that VRD inspections cost \$125 and \$75 for re-inspections. Many people didn't have to pay. They had credit for being in operation prior to the code. The fees go into the general fund. State law doesn't allow the building fund to subsidize these types of activities.

Croteau said that the issue is that if the standard is ambiguous, we need an interpretation to clarify that ambiguity. If it's a safety issue, there is a purpose. Does it apply to sliding doors; if not then say hinged doors. The issue is to clarify to the extent we can what the inspector can say. Tokos said that is spot on. He said that right now the inspectors are basically applying the code to hinged doors and the moveable part of sliding doors. Even though the VRD code isn't that specific, that's the building code. Small said that toward that end it seems reasonable to require it for both doors. What is the down side of saying sliding doors? Berman said the down side is cost. Hardy said that when talking about meeting certain standards, she is unsure if they are safe for the people using them. She said there is a certain element of trying to level the playing field. Treat them like a hotel or motel that is inspected regularly. It's almost impossible to guarantee they remain safe unless they are inspected every year. She said it's not leveling the playing field; it's tipped it the other way and made it less competitive for the people that invest in vacation rentals. She suggested maybe a more moderate approach; maybe another approach for the way the rules are applied. She said there are safety conditions that aren't even addressed.

Audience member Roy MacMillan said that Tokos mentioned that the building code is so thick. The VRD checklist is only one page. Consistency is easy to achieve on the check list. He noted a unit that the Fire Marshal passed, and the inspector from Eugene failed one right next door. MacMillan said that the building code states that if it is a kitchen unit, then the bedrooms must have ground fault and arc flash capability. That is a big issue that these inspections don't address. Arc flash is a life and safety issue. The arc flash is changed out in the panel and senses if an arc is happening, where ground fault is the electric plug. He mentioned a situation where there was a treadmill in the basement that caught on fire and totaled the house and left three people dead. If there had been an arc flash, it would have tripped. It's the next generation. Patrick said the problem is that arc flash costs something like \$40 a breaker. The other problem is that a lot of appliances, like some vacuums, will cause them to trip. Some plasma TVs will trip them. That's why in some high end houses people end up ripping them out because they can't keep anything operating. It is a good idea, but a little bit ahead of its time. They aren't refined yet. Croteau said if it's part of the building code, then it's appropriate. Patrick agreed that GFCIs are relatively inexpensive, handrails need to be there, and there should be accessible windows in the bedrooms.

McIntyre said this comes down to the interpretation. A window within 24" of a swinging door is fine. Is it necessary for a sliding door? Branigan said yes, from his experience. It has happened to him. Tokos said that is where the state building code is right now. Croteau agreed that students at Washington State slammed sliding doors and broke the windows all the time. Tokos said we can add verbiage to the check list and avoid doing a code revision. We can put in language that it is "from hinged doors and the sliding portion of patio doors".

From the audience, Loren Joling asked what timeframe is allowed for people to get corrections made before they can be issued a permit. Tokos noted that the language in the code gives the building official the option of allowing a unit to be used for vacation rental purposes if they put together a reasonable schedule to get it done. Tokos was asked the definition of reasonable, and he said the building official is dealing with it on a case-by-case basis. He noted that there were a number of units at the Embarcadero with the same issue; so the City went with a more extended schedule because Embarcadero is working it into a maintenance schedule. He said if it's one house or condos and things are minor, then maybe they don't need a year; maybe six months. Berman noted that the code says 30 days if they are already renting; and if it's a new unit, there is no timeframe. Tokos said but it does also say or "an alternative time acceptable to the building official". So it's up to him. He is looking at it on a case-by-case basis. It's not always the same issue. Berman asked if there are things the inspector notices that aren't on the list, if he will note them. Tokos said there are times when the inspector notes that even though it may not be one of the requirements, they suggest that the owner may want to address it.

Audience member Patricia Patrick-Joling said because they manage a lot of properties it is frustrating for them when one person gets approved and others don't. She noted that at the Embarcadero people are constantly coming in and out of the rental pool. They sold four or five Embarcadero units that were pulled out of the rental pool and then put back in after they sold. She said it constantly fluctuates. She said one way to tell if they were in operation prior to 2012 is to have them show their room tax revenues. Joling added that it costs the City to do these inspections, yet those in existence prior to 2012 were exempted from paying that inspection fee. Tokos said there was a time limit, which has passed. It was extended for the Embarcadero because

the City Council changed the code. The City allowed Embarcadero to come in without paying the fee even though it was past October because it wasn't fair to them that the code was changed. He said most are in.

McMillan said there were two units at the Embarcadero where one passed and one didn't and the owner couldn't figure it out. He said what is going on doesn't seem fair. Audience member Keith Turner felt the same. McMillan said the Embarcadero has no plan for making remedy; there is no plan to replace the handrails. Tokos said we have been assured a plan is coming. Joling asked what the timeline of the plan is. Tokos said five years, but we don't have the schedule yet. He said there are two separate pieces; the window egress issue and the safety-glazed glass. He believes one is to be three years, and one five. Things like the GFCIs, smoke detectors, and carbon monoxide alarms have to be done immediately.

C. Adjournment. Having no further time for discussion, the work session meeting adjourned at 7:06 p.m.

Respectfully submitted,

Wanda Haney
Executive Assistant

Draft Minutes
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
Monday, September 23, 2013

Commissioners Present: Jim Patrick, Jim McIntyre, Glen Small, Rod Croteau, Mark Fisher, and Bill Branigan.

Commissioners Absent: Gary East (*excused*).

City Staff Present: Community Development Director Derrick Tokos and Executive Assistant Wanda Haney.

A. Roll Call. Chair Patrick called the meeting to order in the Council Chambers of Newport City Hall at 7:10 p.m. because the work session ran a little long. On roll call, McIntyre, Small, Croteau, Patrick, Fisher, and Branigan were present; with East absent but excused.

B. Approval of Minutes.

1. Approval of the Planning Commission work session and regular session meeting minutes of August 12, 2013.

MOTION was made by Commissioner Fisher, seconded by Commissioner Croteau, to approve the Planning Commission minutes as presented. The motion carried unanimously in a voice vote.

C. Citizen/Public Comment. No comments on non-agenda items.

D. Consent Calendar. Nothing on the consent calendar.

E. Public Hearings.

Patrick opened the public hearing portion of the meeting at 7:12 p.m. by reading the statement of rights and relevance. He asked the Commissioners for declarations of conflicts of interest, bias, ex parte contacts, or site visits. Fisher, McIntyre, and Patrick all noted that they often drive by the site, but haven't stopped at the site. Patrick asked for objections to any of the Commissioners or the Commission as a whole hearing this matter; and none were heard.

Legislative Actions:

1. **File No. 2-AX-13/3-Z-13:** Consideration of a request submitted by Spy, LLC to annex approximately 3.063 acres consisting of property currently identified as Tax Lot 1400 of Assessor's Tax Map 11-11-20-BD (4535 S Coast Hwy) and Tax Lot 1300 of Map 11-11-20-BA (4541 S Coast Hwy) and a portion of US 101 right-of-way within the existing UGB into the Newport city limits; (2) amend the City of Newport Zoning Map to establish an I-1/"Light Industrial" zoning designation for the subject property consistent with the existing Newport Comprehensive Plan designation of Industrial (which allows for either I-1, I-2/"Medium Industrial", or I-3/"Heavy Industrial"); and (3) withdraw said territory from the Newport Rural Fire Protection District and the Lincoln County Library District. The Planning Commission will make a recommendation on this matter to the City Council.

Patrick opened the public hearing for File No. 2-AX-13/3-Z-13 at 7:14 p.m. by reading the summary of the file from the agenda; and he called for the staff report. Tokos noted that the staff report in the packet outlines the relevant criteria. He clarified that the property is approximately 3.063 acres instead of 3.03 as shown on the agenda. He noted that the legal description is included. An aerial photo showing the boundary of the annexation area is included. The standards for annexation coming from ORS 222 are essentially that the City receives the required consents. The consents have been filed by the property owner. Tokos noted that a little bit of highway right-of-way is included to get over to the right side of the highway where the state property is so that the annexation is contiguous to the city limits. As noted in the staff report, state law doesn't require the City to acquire consents from ODOT or any entity with road right-of-way because they are not paying taxes on it. Tokos has contacted ODOT, and they indicated that they have no issues. Tokos said that, as Chair Patrick pointed out, the property is within the UGB and has an industrial Comprehensive Plan designation that provides for a range of zoning designations. In this case, I-1 would be applied, which allows a range of uses consistent with what the owner intends to do with this property. Tokos said that the catalyst for the request is the extension of city sewer; and once the annexation is done, the owner intends to connect to city services.

Patrick asked if this included annexing both sides of the highway. Tokos referred to the aerial image in Attachment C and said to imagine a flag pole to get across to connect with the red line that is the city limits. It is shown by the yellow going across the highway. Tokos said this whole pocket is surrounded by the city; but to be contiguous, which is a requirement for annexation, it had to reach across the highway at this location. Patrick mentioned the comment from Police Chief Miranda with the area of the highway

he was suggesting be annexed shown in green. Tokos said that where the Chief is coming from is that he would like all of Highway 101 to be in city limits. The solution to that would be down the road that we pick up the rest of that pocket. We would have to engage those owners as well. If we did that now, it would impact their accesses. Taking in all of those pockets in South Beach would be the solution to Chief Miranda's wish. That is a goal of the City Council. It is their policy call whether to annex them or surround them by the city.

Patrick asked if I-1 is the right designation for this property. Tokos said yes, it fits well with our goals. It is consistent with what this corridor already within the City is designated.

Fisher said that part of the request is to withdraw from some districts and asked why we would do that. Tokos said they would be replaced by city taxes that meet the same purpose. It pulls them out of the rural districts and goes into the city. Tokos said he did contact the County to confirm those were the right districts to pull out of.

Proponents: Greg Paulser, 2560 NW Pacific St, Newport. Paulser said that he is looking forward to getting the property into the City so he can hook up to the sewer.

Opponents or Interested Parties: There were no opponents or interested parties present to testify, so there was no rebuttal.

Patrick closed the hearing at 7:21 p.m. for Commission deliberation. Branigan said he would recommend the annexation go forward. He doesn't see a downside to going forward with what has been proposed. Fisher agreed. Croteau saw no issues. Small agreed and said that his questions about the rural districts had been answered. He said it is pretty straight forward and thought that it is a good thing. McIntyre had no questions and agreed with the rest of the Commissioners. Patrick agreed also and said it is good to see something like this for a change.

MOTION was made by Commissioner Fisher, seconded by Commissioner Small, to forward a recommendation to the City Council to grant the annexation as requested in File No. 2-AX-13/3-Z-13. The motion carried unanimously in a voice vote. Tokos informed Paulser that the City Council hearing will be October 7th.

F. New Business.

1. Initiate Text Amendments to NMC Section 12.15 (System Development Charges) Subsection 12.15.065 (Credits). Tokos noted that as discussed at work session, the Planning Commission could elect to move forward with the SDC code amendments they have been discussing.

MOTION was made by Commissioner Croteau, seconded by Fisher, to initiate and move forward the amendments to the NMC SDC Credits section (12.15.065) with the changes discussed at work session. The motion carried unanimously in a voice vote.

G. Unfinished Business.

1. Tokos said that he is still waiting for a hearing date with the County Board of Commissioners for the UGB expansion. He said it's moving very slowly. He noted that the same goes for the TSP changes adopted quite some time ago. We are still waiting for a Board of Commissioners hearing date.

2. Regarding the Teevin Bros. appeal, the appellants had to file their brief September 10th or 11th. We took a look at it, and they are arguing three things: 1) the City should have required a geologic permit; 2) the analysis that was prepared for Teevin had insufficient analysis of intersections; and 3) the analysis was insufficient to establishing that the roads were sufficient for that traffic. Tokos said it is addressed in the record why a geologic permit wasn't required for this project. He said the other two really fall to Teevin. They were advised what the requirements were, and they modified their analysis to address those things. Tokos thinks they did it adequately. There is information on the intersecting road. The analysis on the big stuff showed that they were capable of handling the traffic. By doing that the traffic engineer determined that translated to the small roads, and they will be just fine. For the structural integrity, Stuntzner Engineering did a whole new supplemental analysis between the original staff-level decision and the Planning Commission hearing that was ordered on appeal where they did a full analysis against current standards. The analysis stated that the road was not new but suitable to handle the traffic at this point. The City Council has elected not to file a brief but will sign on to the brief filed by Teevin's attorney showing we are in support of their defense of the decision. That probably saves the City \$20 thousand on filing briefs. The response briefs will be followed by oral testimony at LUBA. Then LUBA has a period of time to make a decision. LUBA doesn't commonly have a hearing. Presentations by attorneys with questions and answers is usually what happens. If an appeal is filed against LUBA's decision, that goes to the Oregon Court of Appeals. Tokos thinks there are really only two things that could come out of LUBA. He believes most likely they will affirm the City's decision. It's less likely they will remand on one of those items, and Teevin has to supplement their reports. Then the City would have to make a decision on that. Tokos said that what is important to point out here is that the firm the appellants hired didn't provide an alternative. They only pointed out that certain things were not in Teevin's report; which Teevin then turned around and attempted to address. LUBA only has one set of technical analysis. Greenlight Engineering didn't do anything but throw darts at Teevin's analysis. LUBA will affirm the City's decision or remand it for lack of information in Teevin's analysis. It's Tokos' understanding that Teevin isn't

going to move forward until the appeals are done, but they are still committed to the project. He said it's not uncommon for the City not to file a brief. Cities don't typically defend permits; the third party is the one that asked for it.

3. Regarding the OMSI development, Tokos noted that OMSI has hired an architect and engineering team to begin design of their facility. They are still working on the schedule. Through urban renewal, the City invested in the preliminary subdivision plat that will end up before the Planning Commission for approval. The City will be reworking the right-of-way and will partner with OMSI to construct the road. Also on a related note, Tokos said that we found out that money we are looking for from ODOT for 35th and 101 and Ferry Slip projects will be approved. The final list has been selected, and we are on it. That is a \$3.5 million project with \$1.5 million from Urban Renewal and \$2 million from the State. This is a big project finishing off Ferry Slip with bicycle, pedestrian, and full street improvements from 40th to Marine Science Drive. On Ferry Slip, it will be a multi-use path on the west side all the way up. It also includes the new street at 35th connecting across and a signal. The signal at 32nd will be eliminated, and it will be right-in/right-out. There will be sidewalk from the bridge to 35th. This is on the 2015-2018 STIP. OMSI, unless their schedule slips because of fundraising, wants to open early 2016. It could run right into this project; and we could be looking to realize savings by bidding both Abalone and 35th/101 at the same time. On the STIP side, the State says they will put it in whatever year we need it to line up with OMSI. Tokos noted that this was about a 46% match. In the past typically the minimum for grant applications to STIP was 10-27%. Across our entire region, this average was like 35%. What this is telling us is that jurisdictions are clocking in with more cash trying to get high on the list because there is less money available. Tokos said that a conversation staff is having with the Infrastructure Task Force is that we need to make sure we are bringing a reasonable amount of money to the table. It is more competitive now. We can't just come in with in-kind or minimum match.

4. Tokos said that right now the City has a lot of projects with Federal funding: Highway 101 crosswalks that we are hoping to get done this winter; Agate Beach wayside under a grant agreement with ODOT, which is in consultant selection; Safe Haven Hill, which just finished Phase 1 analysis, and construction should be in the next year to year and a half. He said that there are a number of things with grant funds moving through the pipeline. We haven't submitted a new one for a major project; but they want options for the next legislative session. The next for us is consideration of a 9th Street couplet redirecting northbound traffic on 101. It would take it on 9th by the hospital and by City Hall and connect at Highway 20 at Benton by the Rec. Center. More likely as it comes around that curve, through where some houses are there, to tie into Coos. There would be a signal, and that would be further away from the signal at the Highway 101 and 20 intersection. For traffic that is continuing north, they would then turn left and then go right to go on up 101. Tokos said that is in the TSP. The State wants projects, so they will get a big project on that list from us. That is the one thing we will put on the table. The timing ties into the formation of a new North Side Urban Renewal District for matches. This would add a couple of blocks of viable commercial. That would allow a narrow-down on 101 and to widen the sidewalks; so city-center becomes more useable. Tokos said the thought is that 101 at 20 has the capacity for handling traffic; it is the run south of it. A connection at Highway 20 and Coos with a signal will manage it.

5. Tokos noted that one small thing we are looking to add in with the crosswalks is placement of a raised median at 101 and 20. Adding to the north would extend the left turn pocket for those trying to turn on Highway 20. Patrick noted that would take away an entry to JC Market. Tokos said that as long as they still have access, they are not entitled to anything beyond that. He noted that one crosswalk by City Hall at Angle will have pedestrian-activated lights. Each one of those is \$30 thousand. They can be retrofitted in the future.

H. Director's Comments. Tokos said that, as mentioned in work session, the City Council will have further discussion on October 7th about the consideration of selling the Visual Arts Center.

I. Adjournment. Having no further business to discuss, the meeting adjourned at 7:45 p.m.

Respectfully submitted,

Wanda Haney
Executive Assistant

PLANNING STAFF REPORT
Case File No. 2-NCU-13

- A. **APPLICANT:** Douglas & Verna Fitts (Surfside Mobile Village) (Dennis L. Bartoldus, authorized representative).
- B. **REQUEST:** Approval of a request per Section 14.32/“Nonconforming Uses, Lots, and Structures” of the Newport Municipal Code, for the alteration and expansion of a nonconforming use. The property is currently being used as a mobile home park (Surfside Mobile Village). Specifically, the applicants are requesting to be allowed to have 24 permanent spaces and 7 RV spaces; expand the park for a screened storage area; and to be able to replace mobile homes with “park model” homes.
- C. **LOCATION:** 392 NW 3rd St.
- D. **LEGAL DESCRIPTION:** Lincoln County Assessor’s Tax Map 11-11-05-CD, Tax Lots 10500, 10600, 10501, 10700, 10800, 10300, 10200, 10100, 9900, 9800, 9700, and 9500 in the City of Newport, County of Lincoln, Oregon.
- E. **LOT SIZE:** Approximately 100,000 square feet (2.3 acres) according to the applicant’s findings.
- F. **STAFF REPORT**
1. **REPORT OF FACT**
 - a. **Plan Designation:** High Density Residential.
 - b. **Zone Designation:** R-4/“High Density Multi-Family Residential”.
 - c. **Surrounding Land Uses:** A mix of single- and multi-family residential, commercial, and public uses.
 - d. **Topography and Vegetation:** The subject property is generally flat except on the north side where it slopes upward and is level again along NW 5th Street. There is also a slope along the west and north of Tax Lot 10700. There is some vegetation on the hillsides, but the property is primarily cleared and used for the mobile home park.
 - e. **Existing Structures:** The property contains the Surfside Mobile Village consisting of 28 sites (21 permanent residences and 7 for vacation trailers), a restroom/laundromat, and an office/storage facility.
 - f. **Utilities:** All are available to the site.
 - g. **Development Constraints:** None known. Fill material has been placed adjacent to NW 5th Street, which may impact the development of those properties.

- h. **Past Land Use Actions:** File No. 4-CUP-73 – authorized expansion of the Glenwood Cottages and Trailer Park to 18 trailer parking spaces. Approved February 12, 1973.
- i. **Notification:** Notification to surrounding property owners and to city departments/public agencies was mailed on September 26, 2013; and the notice of public hearing was published in the Newport News-Times on October 18, 2013.
- j. **Attachments:**

Attachment "A" – Applicant’s Written Statement Describing the Request & Findings of Fact in Support

Attachment "A-1" – Photographs of the Park and Surrounding Streets

Attachment "A-2" – Depiction of a Park Model Home

Attachment "A-3" – Site Plan

Attachment "B" – Public Hearing Notice and Map

Attachment "C" – Zoning Map of Area

Attachment "D" – October 18, 2013, letter from Brad & Linda Capshaw

Attachment "E" – Conditional Use Permit 4-CUP-73

Attachment "F" – 2007 Aerial Photograph of the Property

Attachment "G" – City Map Showing Water and Sewer Easements

Attachment "H" – Chapter 11, Fire and Life Safety, 2010 Oregon Manufactured Dwelling Installation Specialty Code

- 2. **Explanation of the Request:** Pursuant to Section 14.32.070/“Alteration, Expansion, or Replacement of Nonconforming Uses and Structures” of the Newport Municipal Code, after verification of the status of a nonconforming use pursuant to Subsection 14.32.060, the approval authority may authorize alteration, expansion, or replacement of any nonconforming use or structure when it is found that such alteration, expansion, or replacement will not result in a greater adverse impact on the neighborhood.

The applicants own property identified as Tax Lots 9500, 9700, 9800, 9900, 10100, 10300, 10500, 10501, 10600, 10700 and 10800 on Tax Map 11-11-05-CD. Tax Lot 10500 contains the Surfside Mobile Village mobile home park. The applicants indicate that the property has been used as a mobile home park since 1972. In 1973, the Newport Planning Commission approved a conditional use permit to allow the trailer park to be expanded to 18 spaces. The applicants note that the park has been used continuously as a trailer (mobile home) park since that time. The original approval was for 18 sites. The applicants note that 11 of the sites were for permanent tenancy, and 7 for vacation trailers. The original approval noted that the property included cabins, which have since been removed. At some point in time, units were added to Tax Lot 10600 and Tax Lot 10800. The applicants indicate that there are presently 28 sites, with 21 for permanent residences and 7 for vacation trailers. The applicants note that they have owned the property since the 1970s, and at that time they purchased it there were 28 permanent living units consisting of 18 mobile homes, 10 cabins, and 7 RV sites.

In their written narrative, the applicants state that they are seeking approval to have 24 permanent spaces and 3 RV spaces. A site plan, submitted on October 21, 2013, shows 31 spaces, 7 of which are for RV use. This staff report assumes the number of spaces identified on the site plan (Note: the site plan scale is 3/8” = 10’ not the 3/8” = 1’ that is listed).

Three new, permanent spaces would be located on property identified as Tax Lot 10700 and Tax Lot 10501 on Tax Map 11-11-05-CD and the property is proposed to be consolidated into Tax Lot 10500. The applicants are also requesting that land identified as Tax Lots 9500, 9700, 9800, 9900, 10100, 10300 on Tax Map 11-11-05-CD become part of the park. No additional mobile home or trailer sites are proposed for those lots. The existing house or its replacement would remain on Tax Lot 9500. The remainder of those tax lots would be used as storage area that would be screened.

Most of the mobile homes presently on the property are older homes and although they are in a very neat and clean condition, they will need to be replaced. The applicants are requesting that as they replace the present mobile homes that they may do so with what are commonly described as “park model” homes that have approximately 400 square feet of living area or single-wide mobile homes or RVs. A picture of a “park model” home is included as Attachment “A-2”. This is a 55 and older community where most of the mobile homes are presently owner-occupied, and that policy will be continued.

The subject property is bounded on the south by NW 3rd Street, on the west by NW Hubert Street, and on the north by NW 5th Street and partly on the east by NW Lee Street. The applicants own all the property within the boundary created by these streets with the exception of four tax lots.

3. **Evaluation of the Request:**

- a. **Comments:** All surrounding property owners and affected city departments and public utilities were notified on September 26, 2013. The notice was published in the Newport News-Times on October 18, 2013. A letter and photographs were received on October 18, 2013 from Brad and Linda Capshaw, 353 NW 5th Street. The Capshaws expressed opposition to the portion of the request pertaining to construction of outdoor screened storage on NW 5th Street.
- b. **Application Submittal Requirements:** Pursuant to NMC 14.32.040, applications must include a completed application form, scaled site plan, names and addresses of property owners within the notification area, survey work if structures will not satisfy setback requirements and exterior architectural elevations if structures will exceed building height limitations.
- c. **Verification of Status of Nonconforming Use or Structure:** Pursuant to NMC Section 14.32.060, upon receiving an application to alter, expand, or replace a nonconforming use or structure, the approval authority shall determine that the use or structure is nonconforming. Such determination shall be based on findings that:
 - The use or structure was legally established at the time the Zoning Ordinance was enacted or amended; and
 - The use has not been discontinued for a continuous 12-month period.

The approval authority may require the applicant provide evidence that a use has been maintained over time. Evidence that a use has been maintained may include,

but is not limited to, copies of utility bills, tax records, business licenses, advertisements, and telephone or trade listings

The approval authority shall verify the status of a nonconforming use as being the nature and extent of the use at the time of adoption or amendment of the Zoning Code provision disallowing the use (September 7, 1982). When determining the nature and extent of a nonconforming use, the approval authority shall consider:

- Description of the use;
- The types and quantities of goods or services provided and activities conducted;
- The scope of the use (volume, intensity, frequency, etc.), including fluctuations in the level of activity;
- The number, location, and size of physical improvements associated with the use;
- The amount of land devoted to the use; and
- Other factors the approval authority may determine appropriate to identify the nature and extent of the particular use.

A reduction of scope or intensity of any part of the use as determined under this subsection for a period of 12 months or more creates a presumption that there is no right to resume the use above the reduced level. Nonconforming use status is limited to the greatest level of use that has been consistently maintained since the use became nonconforming. The presumption may be rebutted by substantial evidentiary proof that the long-term fluctuations are inherent in the type of use being considered.

d. **Applicable Criteria (Section 14.32.070):** After verification of the status of a nonconforming use pursuant to Subsection 14.32.060, the approval authority may authorize alteration, expansion, or replacement of any nonconforming use or structure when it is found that such alteration, expansion, or replacement will not result in a greater adverse impact on the neighborhood. In making this finding, the approval authority shall consider the factors listed below. Adverse impacts to one of the factors may, but shall not automatically, constitute greater adverse impact on the neighborhood.

- (1) The character and history of the use and of development in the surrounding area;
- (2) The comparable degree of noise, vibration, dust, odor, fumes, glare, or smoke detectable within the neighborhood;
- (3) Adequacy of infrastructure to accommodate the use. For the purpose of this subsection, infrastructure includes sewer, water, and streets;
- (4) The comparative numbers and kinds of vehicular trips to the site;
- (5) The comparative amount and nature of outside storage, loading, and parking;
- (6) The comparative visual appearance;
- (7) The comparative hours of operation;
- (8) The comparative effect on solar access and privacy;
- (9) Other factors that impact the character or needs of the neighborhood.

The approval authority must consider the purpose of the current zoning provisions that cannot be satisfied when determining whether or not the alteration, expansion, or replacement of a nonconforming use or structure will have a greater adverse impact on the neighborhood.

To the extent there is a rational nexus, and the City can establish that needed improvements are roughly proportional to proposed development, and alteration, expansion, or replacement of a nonconforming use or structure shall be brought into compliance with provisions of the Zoning Ordinance that relate to:

- (1) Surfacing or parking areas and landscaping;
- (2) Exterior design of structures;
- (3) Outdoor displays, storage, and signage.

e. **Staff Analysis:**

In order to grant the permit, the Planning Commission must find that the applicants have provided a complete application, that there is substantial evidence that the Commission can rely upon to verify the nature and extent of the existing nonconformity, and that the expansion will not result in a greater adverse impact on the neighborhood considering the criteria listed under NMC 14.32.070. With that in mind, staff offers the following analysis:

(1) Additional site plan information and detail drawings are needed for the Planning Commission to understand the full scale of development and its ramifications. The site plan included in the application does not identify where storage is to occur, how the storage areas are to be accessed, what materials will be used to screen the storage area and where the screening materials are to be placed. A creek drainage cuts through the property. Its alignment is depicted on the original 1973 site plan (ref: Attachment "E"). The City also possesses 12-foot and 20-foot sewer easements (ref: Attachment "G"). The location of the drainage and easements should be depicted on the site plan, so that the Commission can confirm that drainage and sewer infrastructure is accessible. The plan should also show how vehicle access will be provided for the three units that are to be placed on Tax Lot 10700.

(2) Minimal information has been provided for the Planning Commission to verify the nature and extent of the existing nonconforming trailer park. The applicants' written statement of the request and findings of fact note that the 1973 conditional use permit approved a trailer park with 18 sites on the property, and that the site has been used continuously as a trailer (mobile home) park since then. The aerial photograph (ref: Attachment "F") shows the extent of the trailer park in 1973 in yellow. Tax Lots 10600 and 10800, shown on the aerial photograph in red, were later added to the park and, as the applicants note, there are now 28 sites. The applicants should be afforded the opportunity to submit information explaining why the Commission should find the additional 10 units and development on Tax Lots 10600 and 10800 to be a part of the non-conforming trailer park or, in the alternative, why those expansions should be approved at this time.

(3) The Planning Commission must find that alteration and expansion of the nonconforming trailer park will not result in a greater adverse impact on the neighborhood. Assuming the Commission can verify the nonconforming trailer park to be essentially what exists today, the applicants have provided findings addressing the criteria for a “no greater adverse impact” determination:

(i) The character and history of the use and of development in the surrounding area.

The applicants explain that the Surfside Mobile Village has been in existence since 1972. It is a 55 and older community where most all the residences are occupied on a full-time basis. The findings state that that, as the submitted photos show, that the park has been maintained in excellent condition. The findings indicate that to the west of the park across Hurbert Street is a commercial office building, a vacant lot, a duplex, and a single-family resident. To the north of 5th Street are single-family residences, some of which are on lots of less than 3,000 square feet in size. There is only one house south of 5th Street that is not owned by the applicants. There is a hill at the north edge of the area that is currently used as the park. Therefore, the house along 5th Street looks over the park, and the park is largely shielded from the view of many houses along 5th Street. The findings note that the area proposed for expansion along 5th Street will only be used for storage and will be screened, and there will be very little traffic or activity in that area. There is only one house along the easterly edge of the park that is not owned by the applicants, and that house sits higher than the park and looks over it. A portion of the property to the east of the park is city-owned open space. The area to the south across 3rd Street is residential. However, the south side of 3rd Street is a large hill that slopes up and any residences are set back a distance from 3rd Street. The houses are not readily visible from the park. Generally the area west of the property can be described as the Nye Beach Commercial area. The applicants own all the property within the boundary created by NW 3rd, NW Hurbert, NW 5th, and NW Lee Streets with the exception of four tax lots. The total area not owned by the applicants within those parameters is approximately 23,000 square feet, whereas the applicants owns approximately 100,000 square feet. The property is only one and a half blocks west of Highway 101 and 3rd Street, which abuts the subject property to the south, is a major route from Highway 101 to Nye Beach on which the City is just finishing significant improvements. To the east of the property is an adjustable income apartment building, a commercial fueling station, and the former city sewer plant where the fire training tower is built.

(ii) The comparable degree of noise, vibration, dust, odor, fumes, glare, or smoke detectable within the neighborhood.

The applicants explain that the use of the property does not result in noise, vibration, dust, odor, fumes, glare, or smoke other than what would exist if the property were used as a residential use that is allowed outright in the zone. The

roads in the park are paved so there is little if any noise from any vehicles moving in the park. The uses do not cause dust, odor, fumes, glare, or smoke. The applicants explain that to the extent that there will be storage along 5th Street, there may be a slight use of that street; but the use will be far less than if single-family residences or apartments (both of which are allowed uses) were built along the street.

(iii) Adequacy of infrastructure to accommodate the use (including sewer, water, and streets).

The applicants state that all sewer and water is already in place in the park. Three units will be added to Tax Lot 10700, but those units will be served by utilities already existing on the lot. The entrances to the residential and RV spaces are off 3rd Street and Hurbert Street, both of which are paved city streets. There are two entrances/exits on 3rd Street and two along Hurbert Street. NW 5th Street is a gravel city street with a 20-foot right-of-way. However, there are no residential units within the park along 5th Street other than the house that has long existed on Tax Lot 9500. No ingress or egress is needed on 5th Street for any units other than the existing house on Tax Lot 9500, and it will only be used occasionally by the park when something is moved in or out of storage.

Insufficient information has been provided for the Commission to reasonably ascertain the adequacy of water, sewer, and storm drainage infrastructure within the park. If existing infrastructure is inaccessible or outside of established easements then it is questionable whether or not it can be maintained to support existing and expanded park use. Vehicle access to three new units on Tax Lot 10700 will come off NW 3rd Street. The property is grade separated from the rest of the manufactured dwelling park, so it is likely that a driveway serving these dwellings will be independent of the rest of the internal roadways. The site plan does not show how vehicle access will be provided to the units, and while it is plausible that the applicants will be able to construct a driveway that provides adequate street access, it is not possible for the Commission to confirm that to be the case given the information that has been submitted. The driveway should include a turnaround sufficient for emergency vehicle use. NW 5th Street is a narrow gravel roadway within a 20-foot right-of-way. The park does not currently rely upon this access; however, that will change if the expansion proposal is granted for storage use since the area at issue can only be accessed from this street. The Commission will need to determine if the street is adequate for the intended use "as-is," if additional right-of-way is needed, or if street improvements are warranted. A recommendation can be obtained from the City Engineer, once the applicants provide a clearer picture of the nature and extent of the proposed storage use.

NW 3rd Street provides access to the park. This public street is improved with a paved surface and sidewalk. NW Hurbert Street also provides access to the park. This street is paved but lacks sidewalks. The Commission may want to consider whether or not the scale of the expansion warrants requiring that

sidewalk be installed. It is reasonable for the Commission to find a nexus between adding additional units and use of a walkway by park patrons. Proportionality, that is the cost of the improvement relative to the scale of the expansion, is another factor to consider. A requirement that the applicants sign a non-remonstrance agreement consenting to participate in a local improvement district should one be formed in the future to install the sidewalks is another option that the Commission could pursue.

(iv) The comparative numbers and kinds of vehicular trips to the site.

The applicants note that the addition of three spaces on what is now Tax Lot 10700 will add a minor amount of traffic. However, the additional traffic will be on NW 3rd Street, which has just been improved and is already a primary access to the Nye Beach business area. Further, the trips to the site will be residential in nature. The placement of three park models on this tax lot will be fewer units than could be allowed by an apartment building, which is an allowed use on the property.

The expansion area for “storage use” is only accessible from NW 5th Street. The manufactured dwelling park does not currently take access off of this street so this proposal, if approved, will result in park related traffic being directed into a residential area where it has not historically occurred. This is distinguishable from the expansion onto Tax Lot 10700, which like the balance of the park is oriented toward NW 3rd Street. Development that has occurred on Tax Lots 10600 and 10800 is similarly oriented in a manner that is comparable to the original park. It is reasonable for the Commission to consider these distinctions in determining whether or not this standard has been satisfied.

(v) The comparative amount and nature of outside storage, loading, and parking.

The applicants’ findings state that parking is provided on site and off the streets within the park. There is virtually no loading or unloading given the primary residential nature and use of the property. The applicants note that there is some outside storage; but it will be on only a small area of the property and will be screened.

As previously noted, the application is vague in terms of the nature and extent of the proposed storage use and it is reasonable for the Commission to require that additional information be provided regarding the scope and nature of the proposed outdoor storage use and how the area will be screened. The relative visibility of the site from NW 5th Street and NW 3rd Street should be factored into a screening plan.

(vi) The comparative visual appearance.

The applicants state that there will be little change in the visual appearance

from what currently exists. There will be three park units added on what is now Tax Lot 10700. As older mobile homes are replaced, they will be replaced with park model or new single-wide homes or RVs for permanent living that will be more attractive and newer. The applicants' findings indicate that a sight-obscuring fence will be built along NW 5th Street; but no illustration of this was provided. It is reasonable for the Commission to require additional site plan and detail drawings to ascertain visual impacts attributed to the park expansion, particularly as it relates to NW 5th Street since there are no elements of the park that are at that ground elevation. The Commission may also want information describing and/or illustrating the extent to which outdoor storage would be visible from NW 3rd Street.

(vii) The comparative hours of operation.

The applicants note that the hours of operation will not change. These are primarily residential units. There are only seven RV spaces.

(viii) The comparative effect on solar access and privacy.

The findings indicate that there will be no effect on solar access. The park sits lower than adjoining property, and the replacement units that are proposed are single-story units so solar access to adjoin property will not be affected. Since the units sit lower than the surrounding property, there will be no impact on privacy on adjoining property. The area along NW 5th Street will only be used for storage; and the applicants asserts that the storage use will not impact privacy. While that may be the case, additional information is needed regarding the nature and extent of the storage use for the Commission to confirm that neighboring property owners will not be adversely impacted.

(ix) Other factors which impact the character or needs of the neighborhood.

In their findings, the applicants list the following other factors to be considered:

- a) The park has been in existence in close to its present form and operation since the 1970s. It is maintained in excellent condition. Under the proposal, the area of the park would increase, but the number of living units in the park would decrease from 1970s numbers.
- b) The new park models will be an enhancement to the property.
- c) The geographical features of the area tend to separate the property from other residential uses in the area.
- d) The approval of this proposal will assist in providing safe, clean, and affordable housing for those 55 and older.

(x) The approval authority must consider the purpose of the current zoning provisions that cannot be satisfied when determining whether or not the alteration, expansion, or replacement of a nonconforming use or structure will have a greater adverse impact on the neighborhood.

Other than their findings for the other criteria, the applicants did not specifically address this standard. The manufactured dwelling park is zoned R-4/“High Density Multi-Family Residential.” This same zoning was in place when the park was expanded in 1973. A manufactured dwelling park is a permitted use, subject to specific standards listed under Chapter 14.6 of the Municipal Code. The standards require that the placement of manufactured dwellings comply with the Oregon Manufactured Dwelling and Park Specialty Code, as amended. That code, last updated in 2010, contains requirements for the installation of footings (to current seismic standards), drainage improvements, skirting, underfloor ventilation, and standards for electrical, plumbing, and mechanical connections that many of the units may not meet. The code also implements fire separation requirements for manufactured dwellings listed under ORS 446.100, including standards that require dwellings be spaced at least 10-feet apart, be at least 5-feet from a property line, and be on a space that is at least 30-feet wide by 40-feet long. It appears that most of the units in the park meet these fire life safety standards, with the possible exception of Unit No. 25.

The Commission may want to consider requiring that new units placed within the park, including those that are to be constructed on Tax Lot 10700, adhere to the provisions of the Oregon Manufactured Dwelling and Park Specialty Code, as amended. It may also want to require that all units (existing and new) satisfy fire and life safety standards of ORS 446.100.

Another requirement of Chapter 14.6 of the Municipal Code is that recreational vehicle spaces be connected to the manufactured dwelling park’s water, sewer, and electrical systems. The Commission may want to have the applicants confirm that to be the case.

(xii) To the extent there is a rational nexus, and the City can establish that needed improvements are roughly proportional to proposed development, and alteration, expansion, or replacement of a nonconforming use or structure shall be brought into compliance with provisions of the Zoning Ordinance that relate to:

- (1) Surfacing or parking areas and landscaping;
- (2) Exterior design of structures;
- (3) Outdoor displays, storage, and signage.

Other than their findings for the other criteria, the applicants did not specifically address this standard.

4. **Conclusion:** At this time, staff does not believe that the applicants have provided sufficient

evidence for the Planning Commission to approve the application. Additional site plan and written information is needed in order for the Commission to fully understand how the storage concept would work and its potential impacts on the surrounding neighborhood. Further, the applicants must demonstrate that the nature and extent of the trailer park today is consistent with what was there when the site was rendered nonconforming in 1982 and that the scale of the operation has been maintained over time. Particular emphasis should be given to portions of the park that extend over Tax Lots 10600 and 10800. This evidence need not be exhaustive, but should provide the Commission with a picture of what has occurred over time. The site plan should be amended to show the location of water, sewer, and storm drainage infrastructure within the park relative to existing units and easements of record so that the Commission can confirm that the infrastructure can be reasonably maintained. Vehicle access to three new units on Tax Lot 10700 should be depicted on the plan to establish that it can be provided in a manner that meets the needs of both the users and emergency responders and the Commission may want to see adjustments to the layout of the park units to address fire safety requirements of ORS 446.100 (namely with respect to Unit No. 25).

G. **STAFF RECOMMENDATION:** Staff recommends the Commission open the hearing, take testimony, and continue the hearing to a date certain. This would give the applicants an opportunity to speak to the missing information identified by staff, consider any feedback provided by the Commission and public, and then put together the additional information for consideration at a future meeting.

Should the Commission determine that sufficient evidence exists to render a decision and that the application should be approved, it may impose reasonable conditions that are necessary to carry out the purposes of the Zoning Ordinance and the Comprehensive Plan. If the Commission finds that the request does not comply with the criteria, then the Commission should deny the application.



Derrick I. Tokos AICP
Community Development Director
City of Newport
October 23, 2013

WRITTEN STATEMENT DESCRIBING THE NATURE OF THE REQUEST

This application submitted by Douglas and Verna Fitts as trustees of their trust is for the alteration of a nonconforming use on property owned by the Fitts at NE 3rd and Hurbert Street in Newport.

The property is described as tax lots 10500, 10600, 10501, 10700, 10800, 10300, 10200, 10100, 9900, 9800, 9700 and 9500 on Lincoln County Assessor's Map 11-11-05-CD. The property is zoned R-4. The property is bounded on the south by NW 3rd Street, on the west by NW Hurbert Street, on the north by NW 5th and partly on the east by NW Lee. The total property consists of approximately 100,000 square feet or 2.3 acres.

The property is currently being used as a mobile home park. It is known as Surfside Mobile Village. The property has been used as a mobile home park since 1972. In 1972, the Newport Planning Commission approved a conditional use for a trailer park at the site. It has been used continuously as a trailer (mobile home) park since that time. The original approval was for 18 sites. Of those 18 sites, 11 were for permanent tenancy and 7 sites were for vacation trailers. Presently, there are 28 sites. Of those, 21 are for permanent residences and 7 are for vacation trailers.

Mr. and Mrs. Fitts have owned the property since the 1970s. At the time they purchased the property, there were 28 permanent living units consisting of 18 mobile homes and 10 cabins and 7 RV sites.

Specifically, what Mr. and Mrs. Fitts are requesting is to allow a total of 24 permanent spaces and 3 RV spaces. Three permanent spaces would be located on tax lot 10700. Tax lot 10700 (and 10501) would be consolidated with tax lot 10500.

They are also requesting that tax lots 9500, 9700, 9800, 9900, 10100, 10200, and 10300 become part of the park. No additional mobile home or trailer sites are proposed for those lots. The existing house or its replacement would remain on tax lot 9500. The remainder of those tax lots would be used as storage area that would be screened.

They are requesting that they be able to replace the present mobile homes with what are commonly described as "park model" homes that have approximately 400 square feet of living area or single wide mobile homes or RVs. A picture of a "park model" home is enclosed with this application.

Most of the mobile homes presently on the property are older homes and are owner occupied and although they are in a very neat and clean condition, they will need to be replaced. All occupied mobile homes and RV's in the park are owner occupied. That policy will be continued. The Fitts are proposing that as they are replaced, "park models," single wide mobile homes or RVs be allowed to be placed. Seven spaces would continue to be retained for vacation trailers or short-term rentals. Those spaces are shown on the diagram, which is enclosed.

The permanent units are occupied by adults 55 and older, thereby making this a "senior" community. This occupancy group would continue. The park has paved roads, an office, storage building and a bath/laundry building.

The roads are 20 feet in width and each permanent space is at least 1800 square feet.

Parks such as the one operated by the Fitts are a critical component of providing safe and clean affordable living units for seniors in Newport.

FINDINGS OF FACT IN SUPPORT OF ALTERATION OF NONCONFORMING USE

The Newport Zoning Ordinance, Section 14.32070 provides that after verification of the nonconforming use status, the approval authority may authorize alteration, expansion or replacement if it will not result in a greater adverse impact on the neighborhood. The ordinance lists nine factors to be considered in making this determination. These nine criteria and the findings that support a finding of no greater adverse impact are as follows:

(a) The character and history of the use and of development in the surrounding neighborhood.

1. The Surfside Mobile Village has been in existence since 1972. It is a "55 and older" community where most all the residences are occupied on a full-time basis. There are 7 RV or temporary spaces.

2. The Park has been maintained in excellent condition. The photos submitted with the application show the condition of the Park.

3. Immediately to the west of the park across Hurbert Street, there is a commercial office building, a vacant lot, a duplex and a single family residence.

4. North of 5th Street are single family residences, some of which are on lots of less than 3000 square feet. There is only 1 house south of 5th Street just off the northeast corner of the subject property that is not owned by the applicant.

5. There is a hill at the north edge of the area that is currently used as the park. Therefore, the house along 5th Street looks over the park and the park is largely shielded from the view of many houses along 5th Street.

6. The area proposed for expansion along 5th Street will only be used for storage and will be screened. Therefore, there will be very little traffic or activity in that area.

7. There is only one house along the easterly edge of the park that is not owned by the applicant. The house sits higher than the park and looks over it. A portion of property to the east of the park is open space owned by the city.

8. The area to the south across 3rd Street is residential. However, the south side of 3rd Street is a large hill that slopes up and any residences are set back a distance from 3rd Street. The houses are not readily visible from the park.

9. Generally, the area west of the property can be described as the Nye Beach Commercial area.

10. The applicants owned all the property within the boundary created by NW 3rd, NW Hurbert, NW 5th and NW Lee with the exception of 4 tax lots. The total area not owned by

the applicant within those parameters is approximately 23,000 square feet, whereas the applicant owns approximately 100,000 square feet.

11. The property is only 1½ blocks west of Highway 101 and 3rd Street, which abuts the subject property on the south, is a major route from Highway 101 to Nye Beach on which the City is just finishing significant improvements.

12. To the east of the property is an adjustable income apartment building, a commercial fueling station and the former city sewer plant where the fire training tower is built.

(b) The comparable degree of noise, vibration, dust, odor, fumes, glare or smoke detectable.

1. The use of the property does not result in noise, vibration, dust, odor, fumes, glare or smoke, other than what would exist if the property were used as a residential use that is allowed outright in the zone.

2. The roads in the park are paved, so there is little if any noise from any vehicles moving in the park. The uses do not cause dust, odor, fumes, glare or smoke.

3. To the extent that there will be storage along 5th Street, there may be a slight use of that street, but the use will be far less than if single family residences or apartments, both of which are allowed uses, were built along that street.

(c) Adequacy of infrastructure (sewer, water and streets) to accommodate the use.

1. All sewer and water is already in place for the park.

2. Three units will be added on tax lot 10700, but those units be served by utilities already existing on the lot.

3. The entrances to the residential and RV spaces are off 3rd Street and Hurbert Street, both of which are paved city streets.

4. There are two entrances/exits on 3rd Street and two along Hurbert Street.

5. NW 5th Street is a graveled City street with a 20-foot Right-of-Way. However, there are no residential units within the park along 5th Street other than the house that has long existed on tax lot 9500. 5th Street is not needed for ingress or egress to any units other than the existing house on tax lot 9500. It will only be used occasionally by the park when something is moved in or out of storage.

(d) The comparative numbers and kinds of vehicular trips to the site.

1. The addition of 3 spaces on what is now tax lot 10700 will add a minor amount of traffic. However, the additional traffic will be on NW 3rd Street, which has just been improved and is already a primary access to the Nye Beach business area.

2. The trips to the site will be residential in nature. The placement of 3 “park models” on this tax lot will be fewer units than could be allowed by an apartment building, which is an allowed use on the property.

(e) The comparative amount and nature of outside storage, loading and parking.

1. Parking is provided on site and off the streets within the park.

2. There is virtually no loading or unloading given the primary residential nature and use of the property.

3. There is some outside storage, but it will be on only a small area of the property and will be screened.

(f) The comparative visual appearance.

1. There will be little change in the visual appearance from what currently exists. There will be 3 park units added on what is now tax lot 10700.

2. As older mobile homes are replaced, they will be replaced with park model or new single wides or RVs for permanent living that will be more attractive and newer.

3. A sight obscuring fence will be built along NW 5th Street.

(g) The comparative hours of operation.

1. The hours of operation will not change. These are primarily residential units. There are only 7 RV spaces.

(h) The comparative effect on solar access and privacy.

1. There will be no effect on solar access. The park sits lower than adjoining property and the replacement units that are proposed are single story units so solar access to adjoining property will not be affected.

2. Since the units sit lower than the surrounding property, there will be no impact on privacy on adjoining property. The area along NW 5th will only be used for storage and therefore, there will be no impact on privacy.

(i) Other factors which impact the character or needs of the neighborhood.

1. The park has been in existence in close to its present form and operation since the 1970s. It is maintained in excellent condition. Under the proposal, the area of the park would increase, but the number of living units in the park would decrease from 1970s numbers.
2. The new park models will be an enhancement to the property.
3. The geographical features of the area tend to separate the property from other residential uses in the area.
4. The approval of this proposal will assist in providing safe and clean affordable housing for those 55 and older.

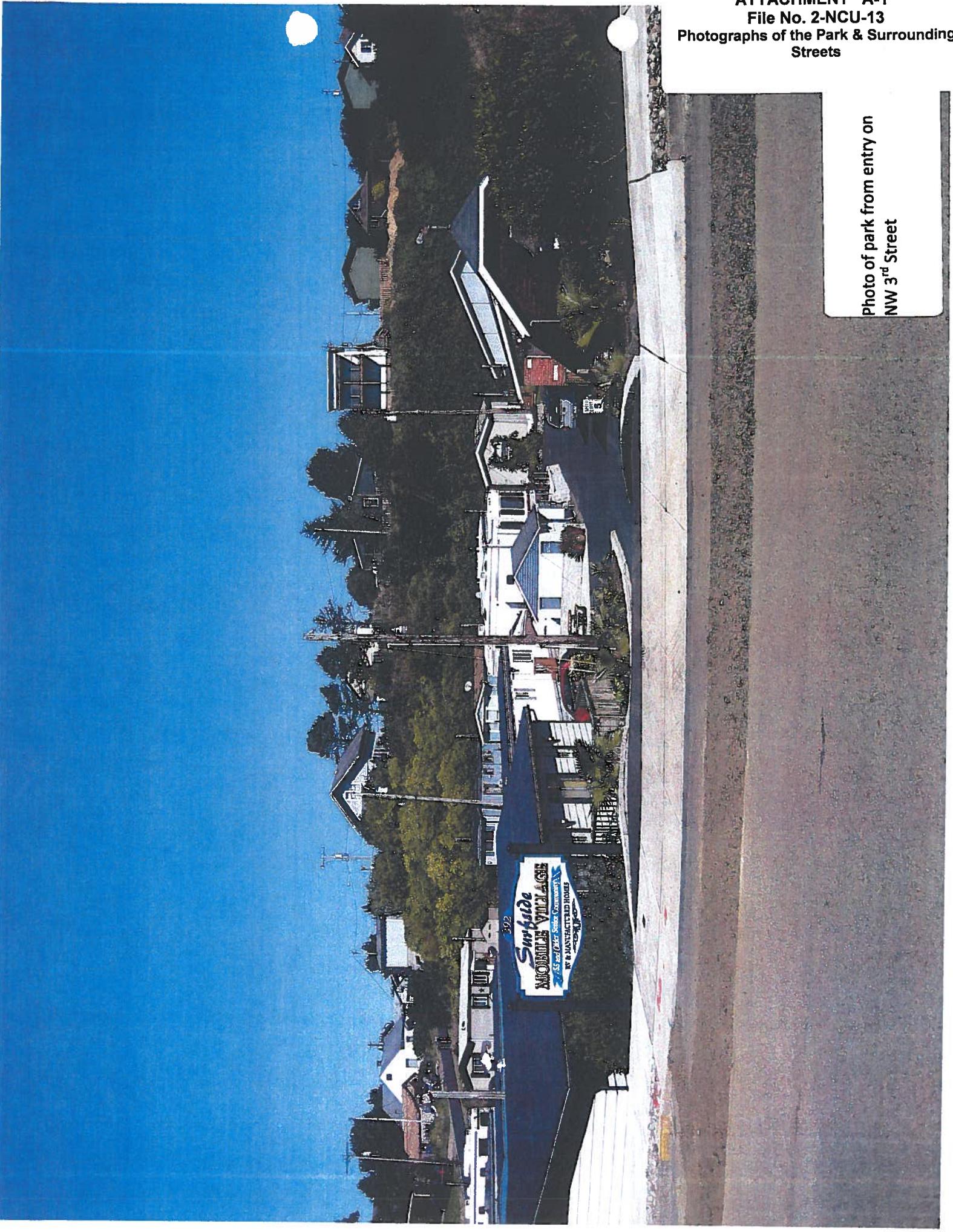
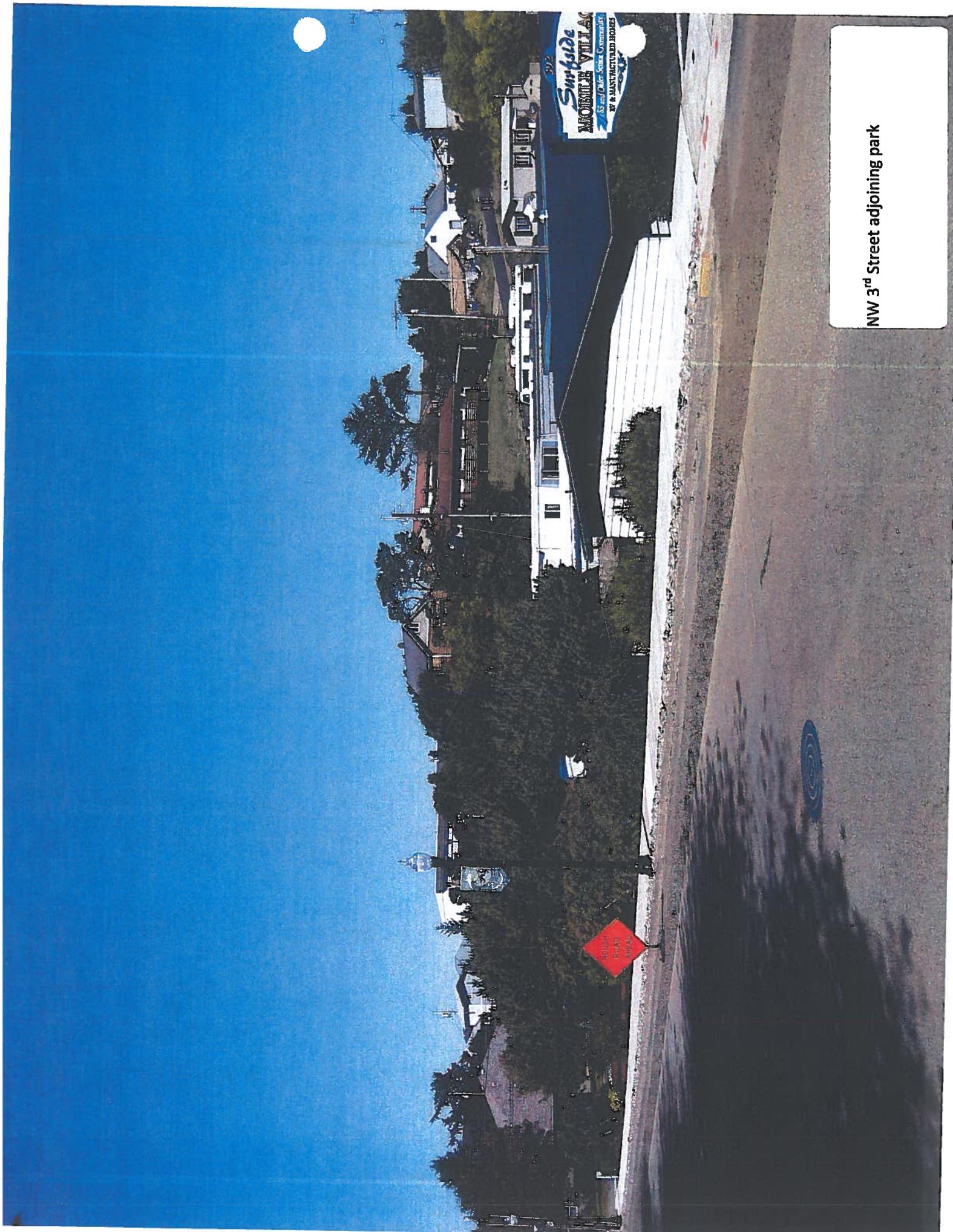


Photo of park from entry on
NW 3rd Street



NW 3rd Street adjoining park

392

Surfside
MOBILE VILLAGE

55 and Older Senior Community

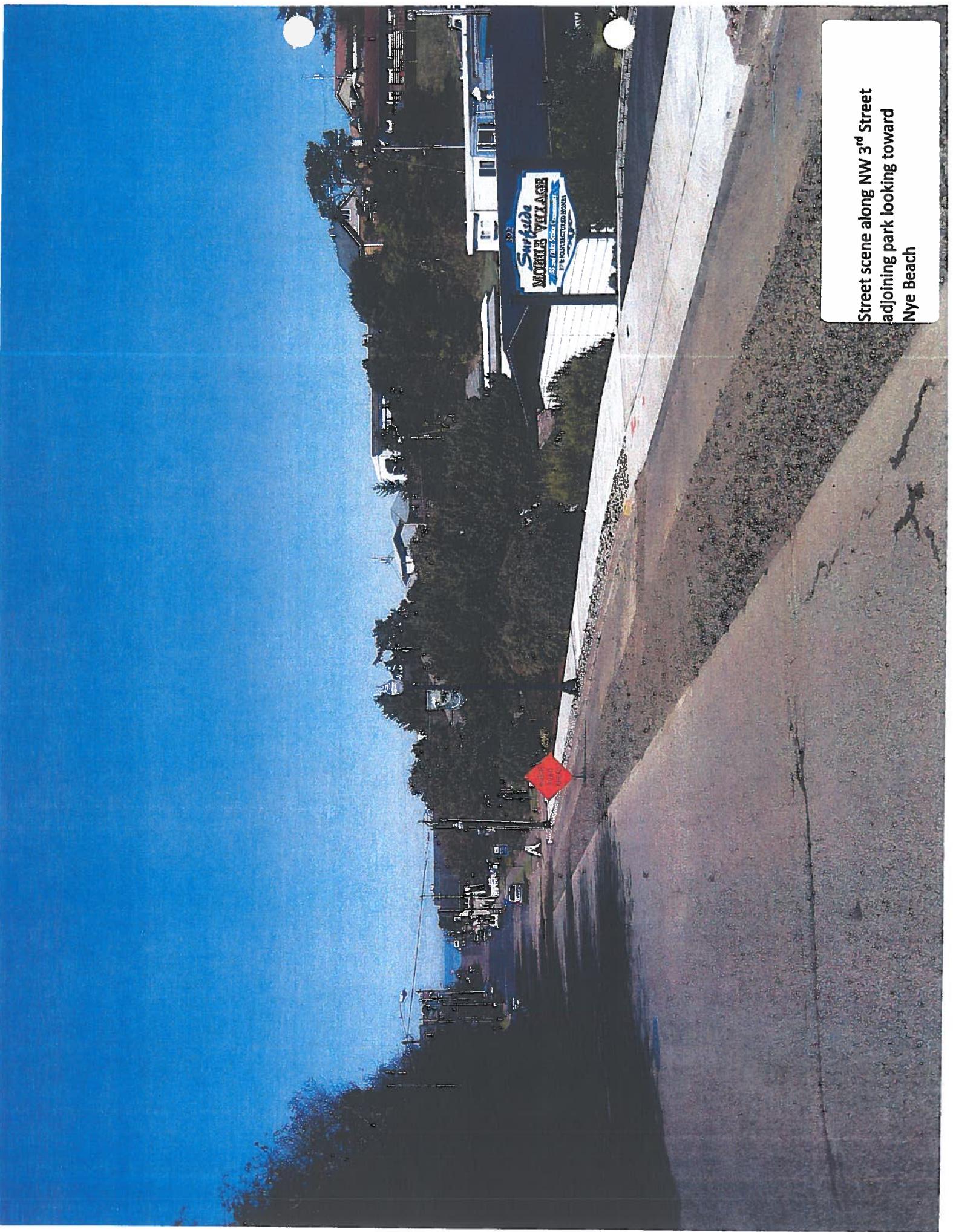
RV & MANUFACTURED HOMES



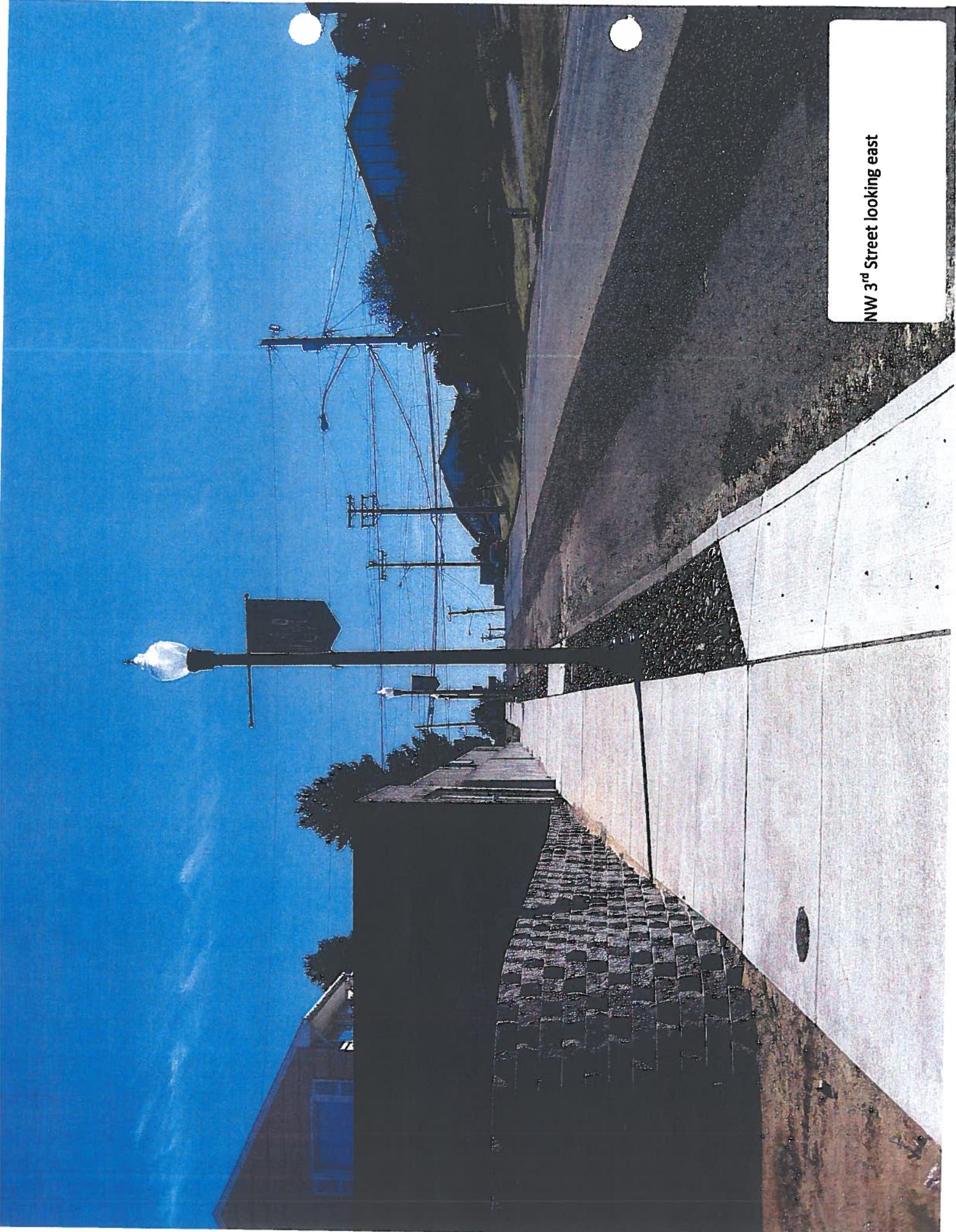
Entry sign to park on NW 3rd Street



Office and storage unit in park



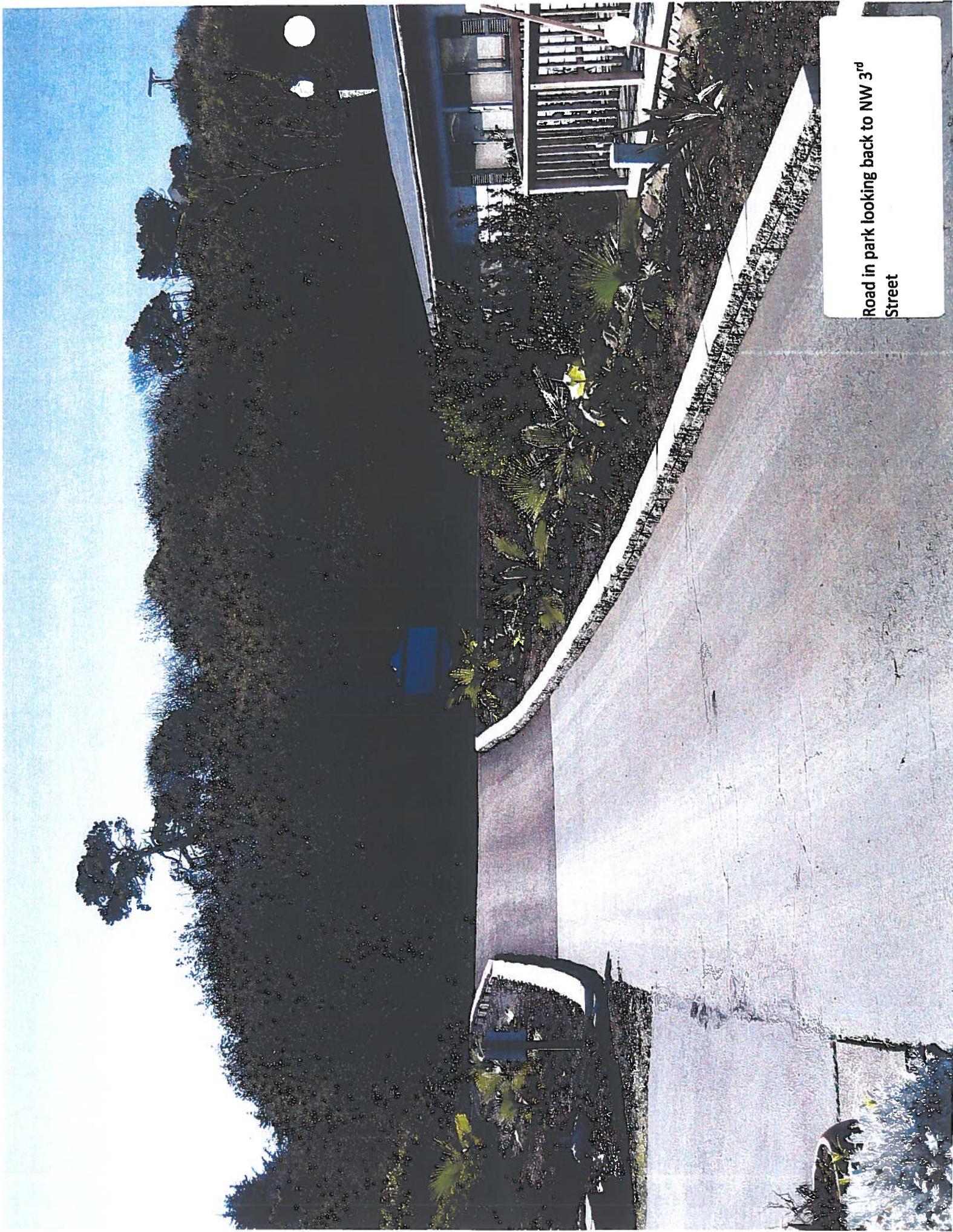
Street scene along NW 3rd Street
adjoining park looking toward
Nye Beach



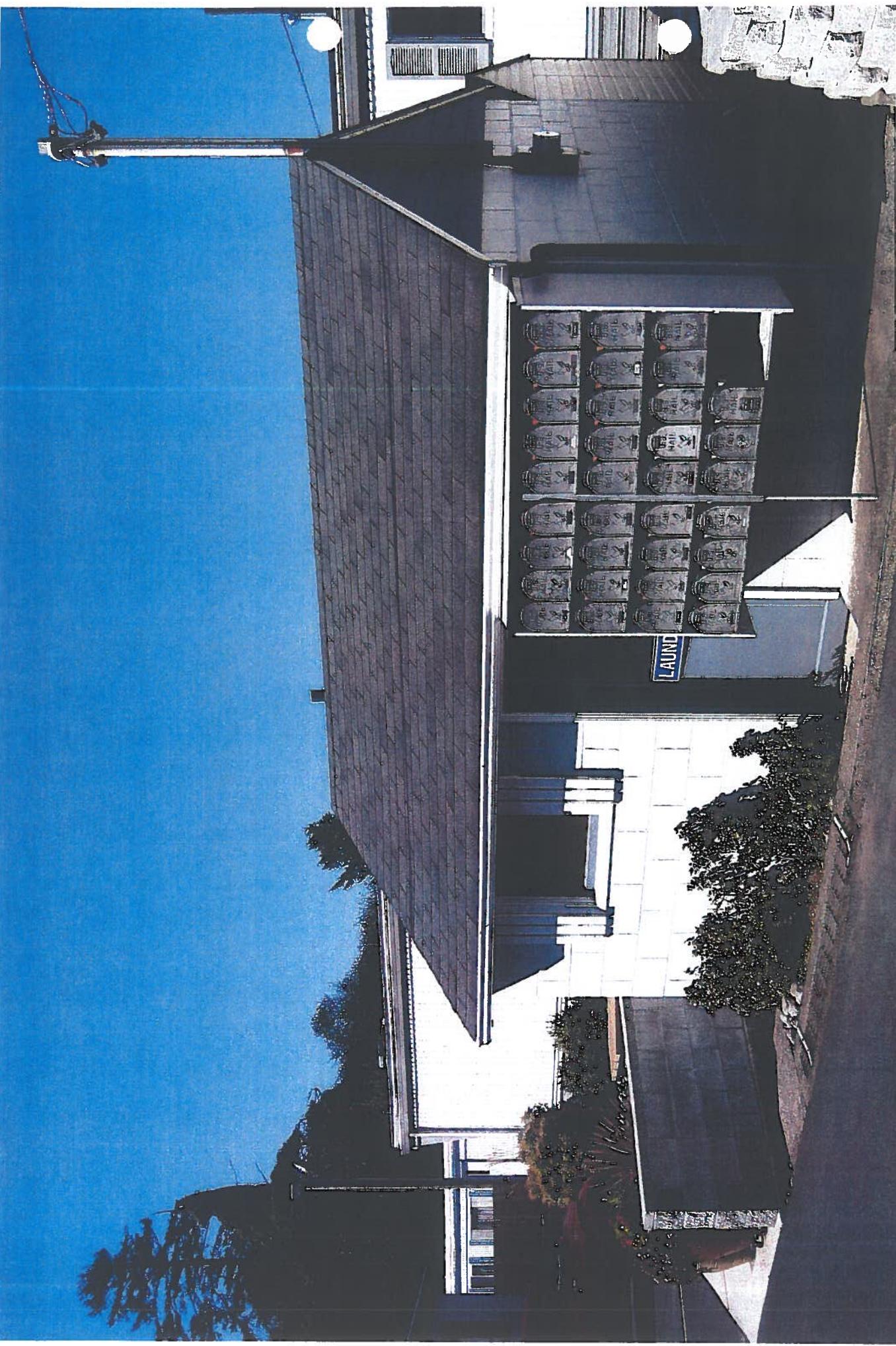
NW 3rd Street looking east



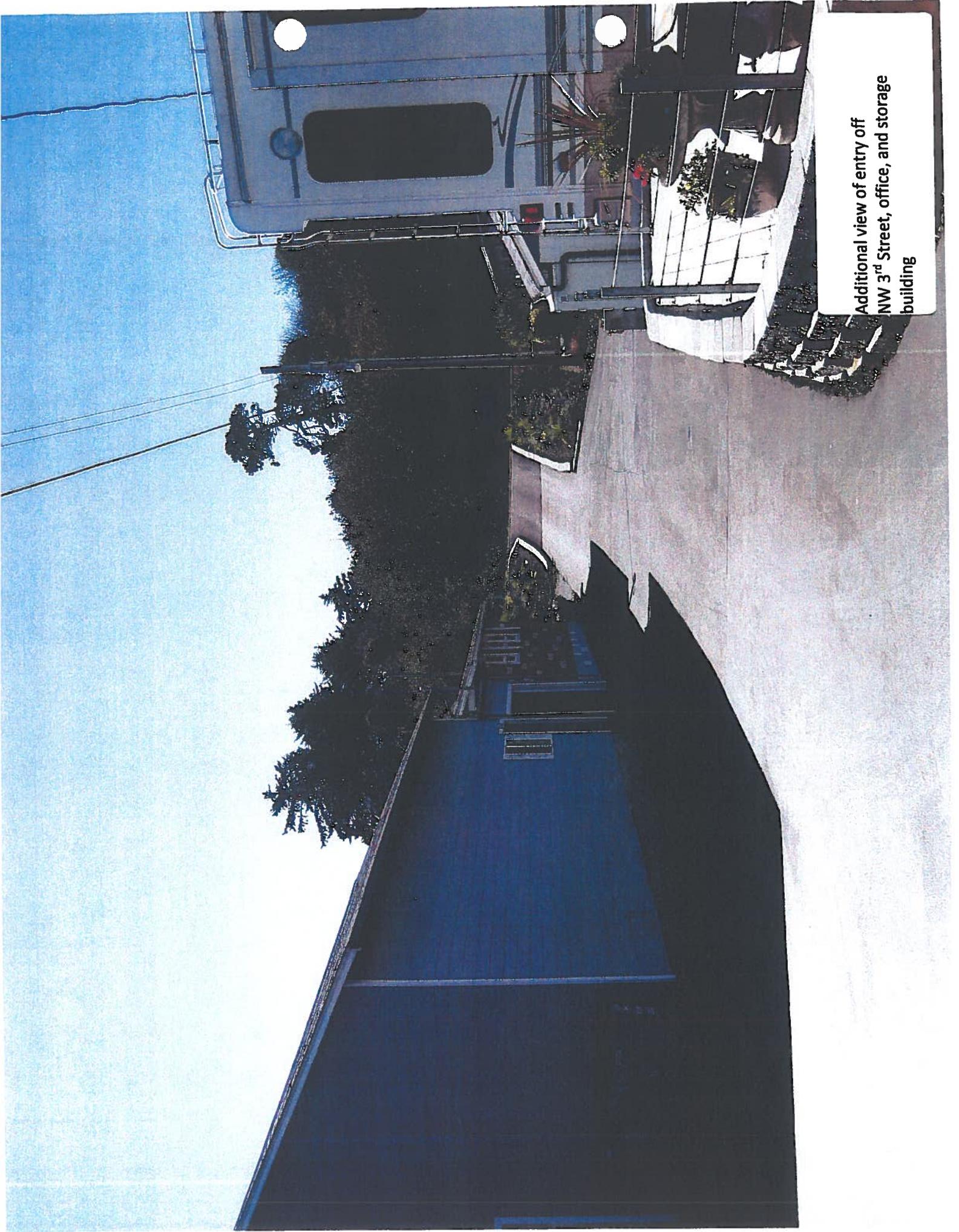
Property along NW 3rd Street
where 3 park model homes
would be located



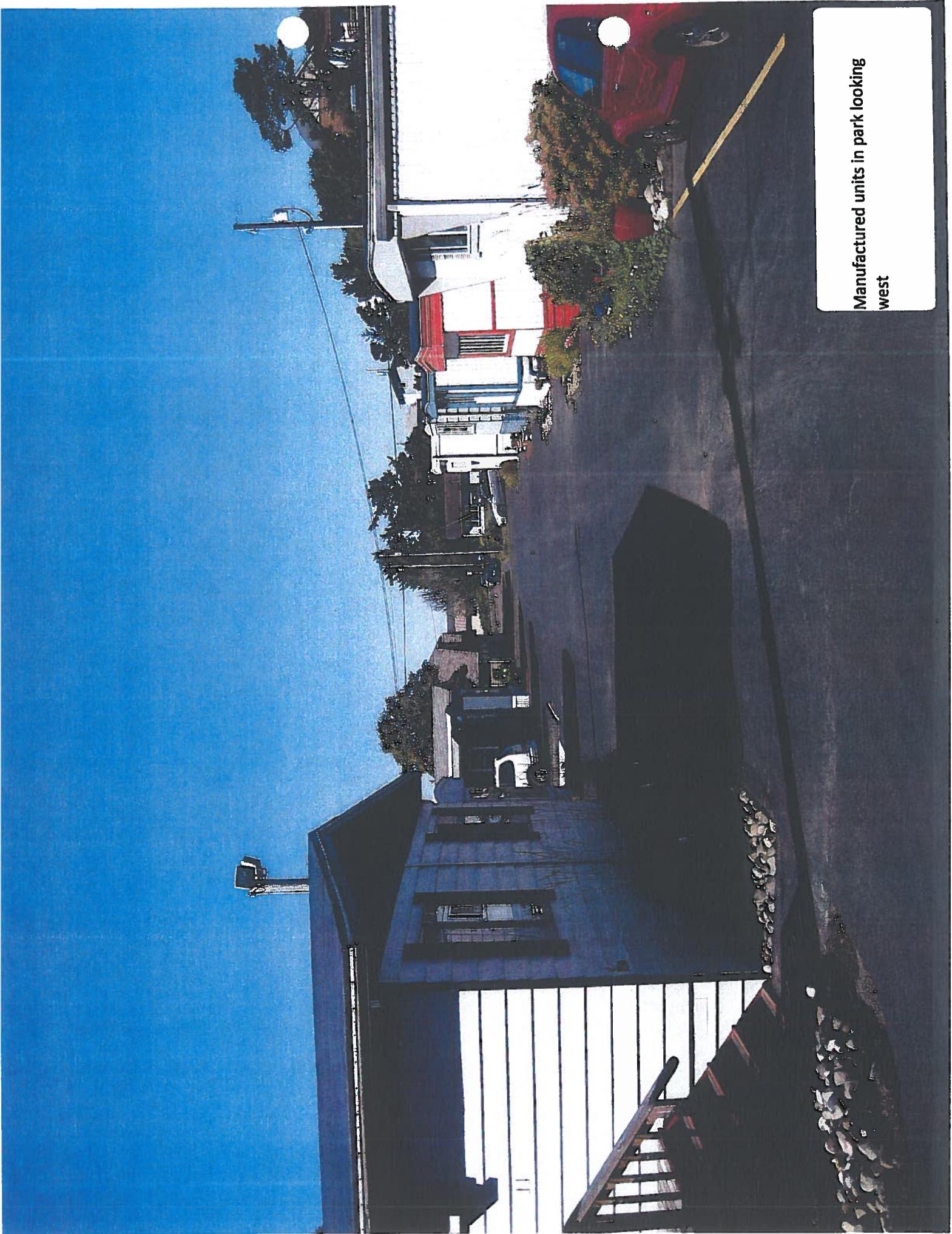
Road in park looking back to NW 3rd Street



Laundry room and mailboxes



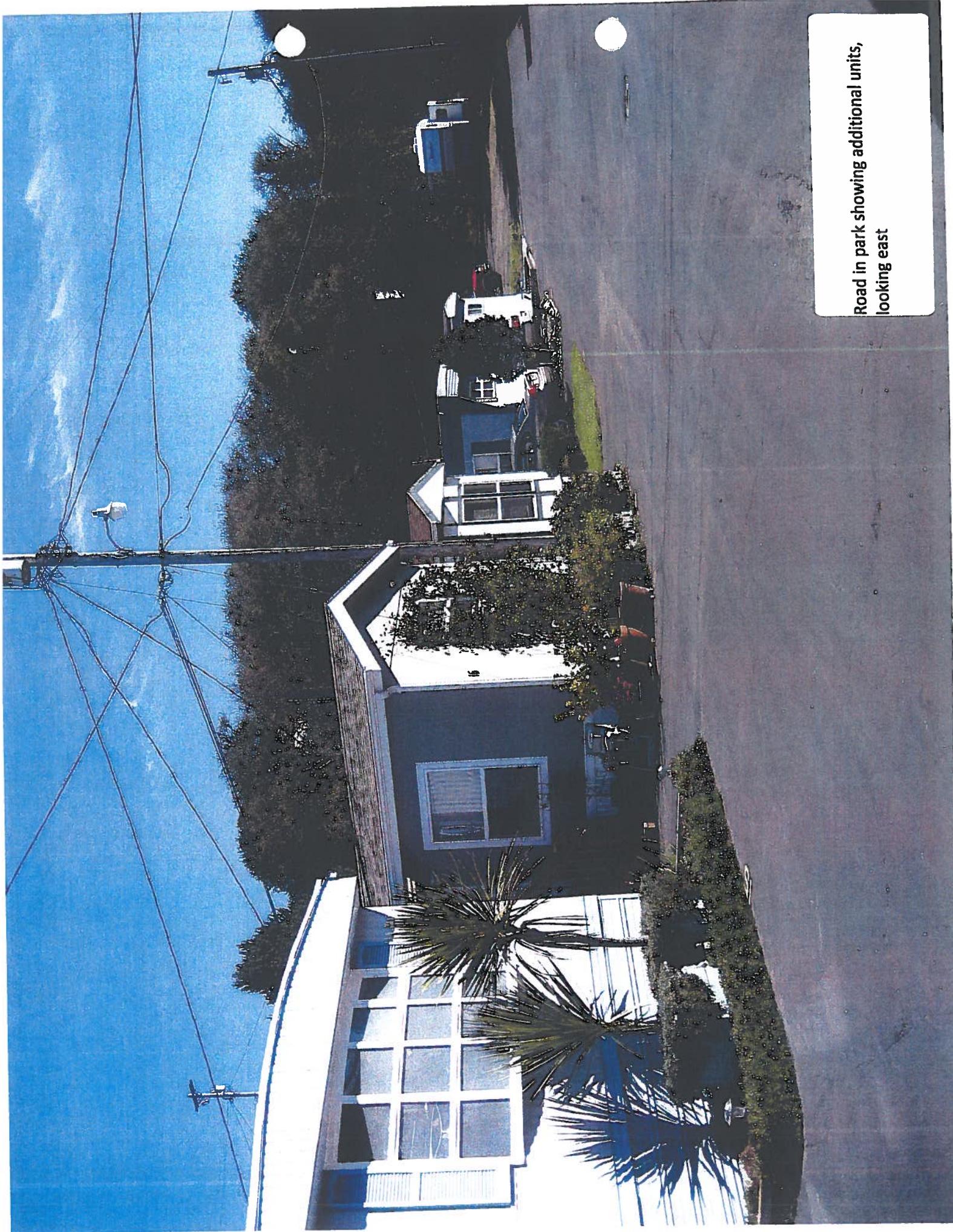
Additional view of entry off
NW 3rd Street, office, and storage
building



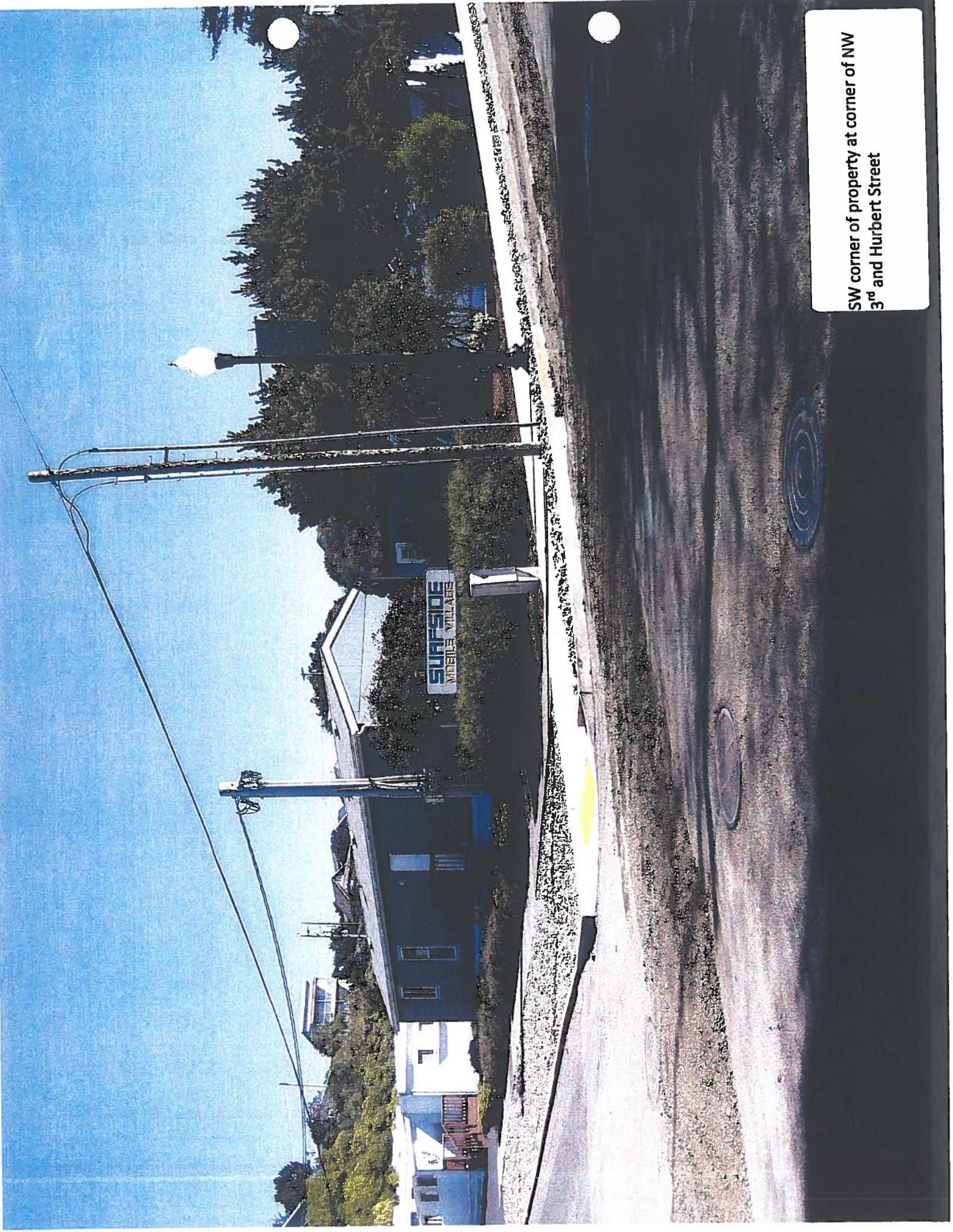
Manufactured units in park looking west



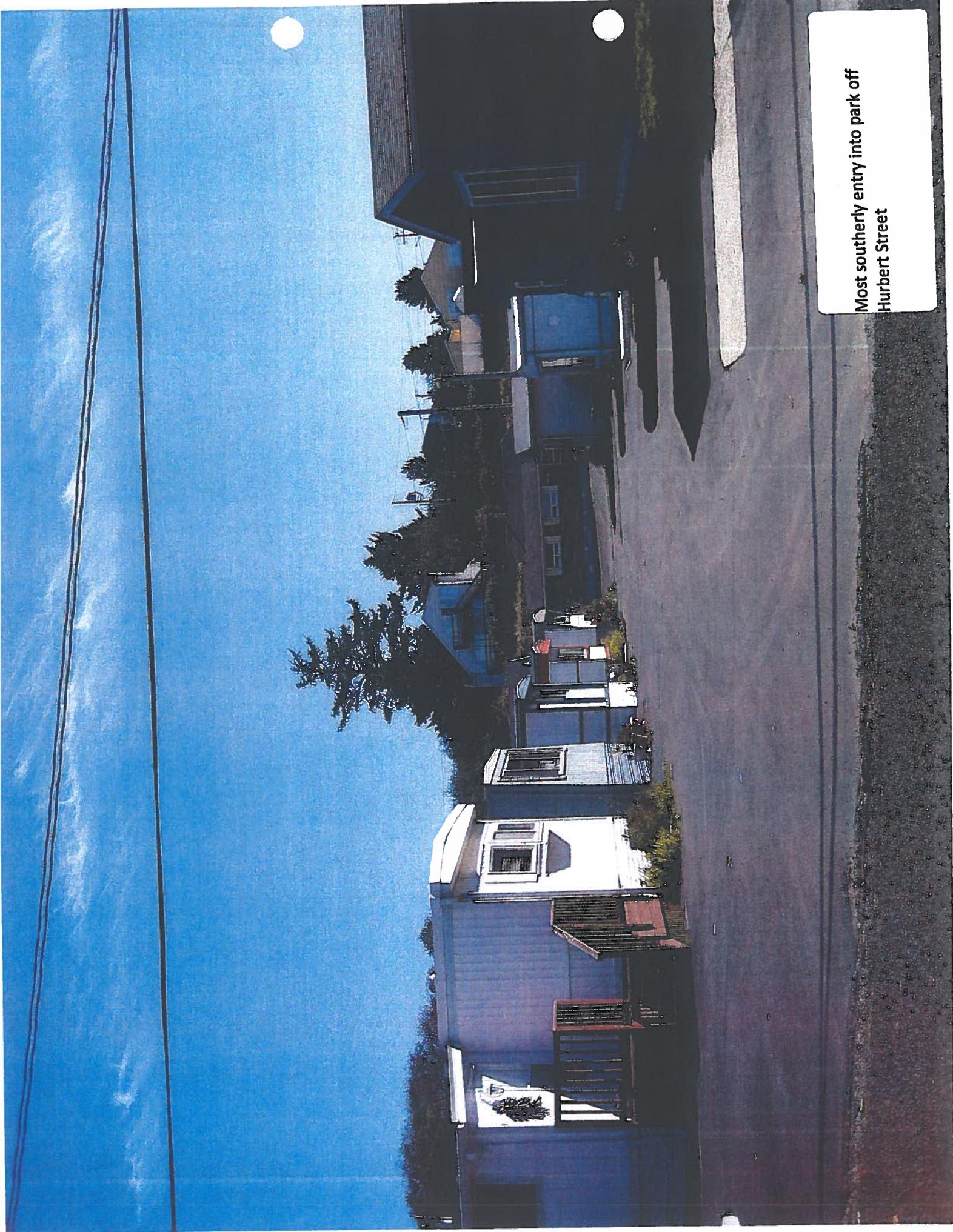
NE corner of property



Road in park showing additional units,
looking east



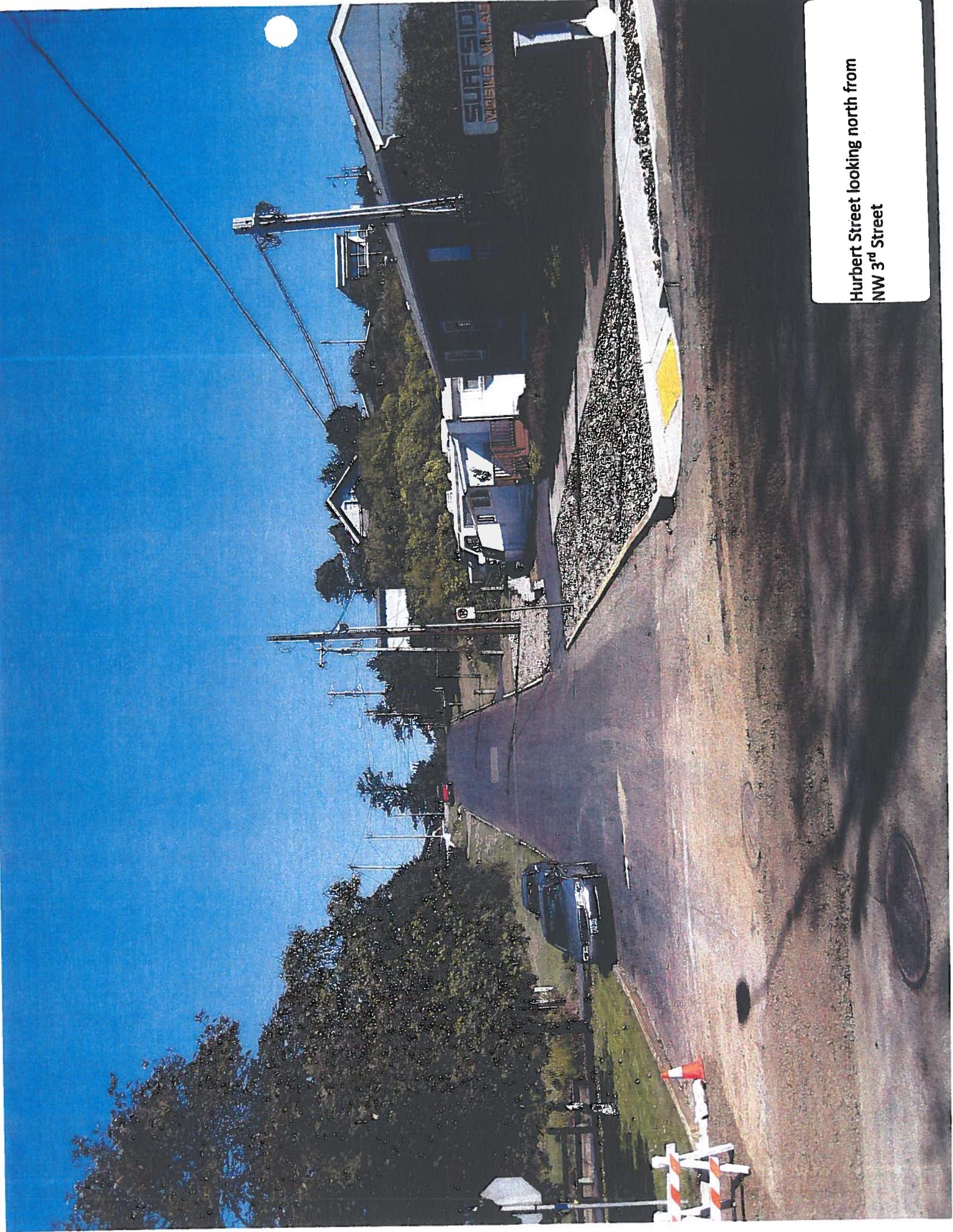
SW corner of property at corner of NW
3rd and Hurbert Street



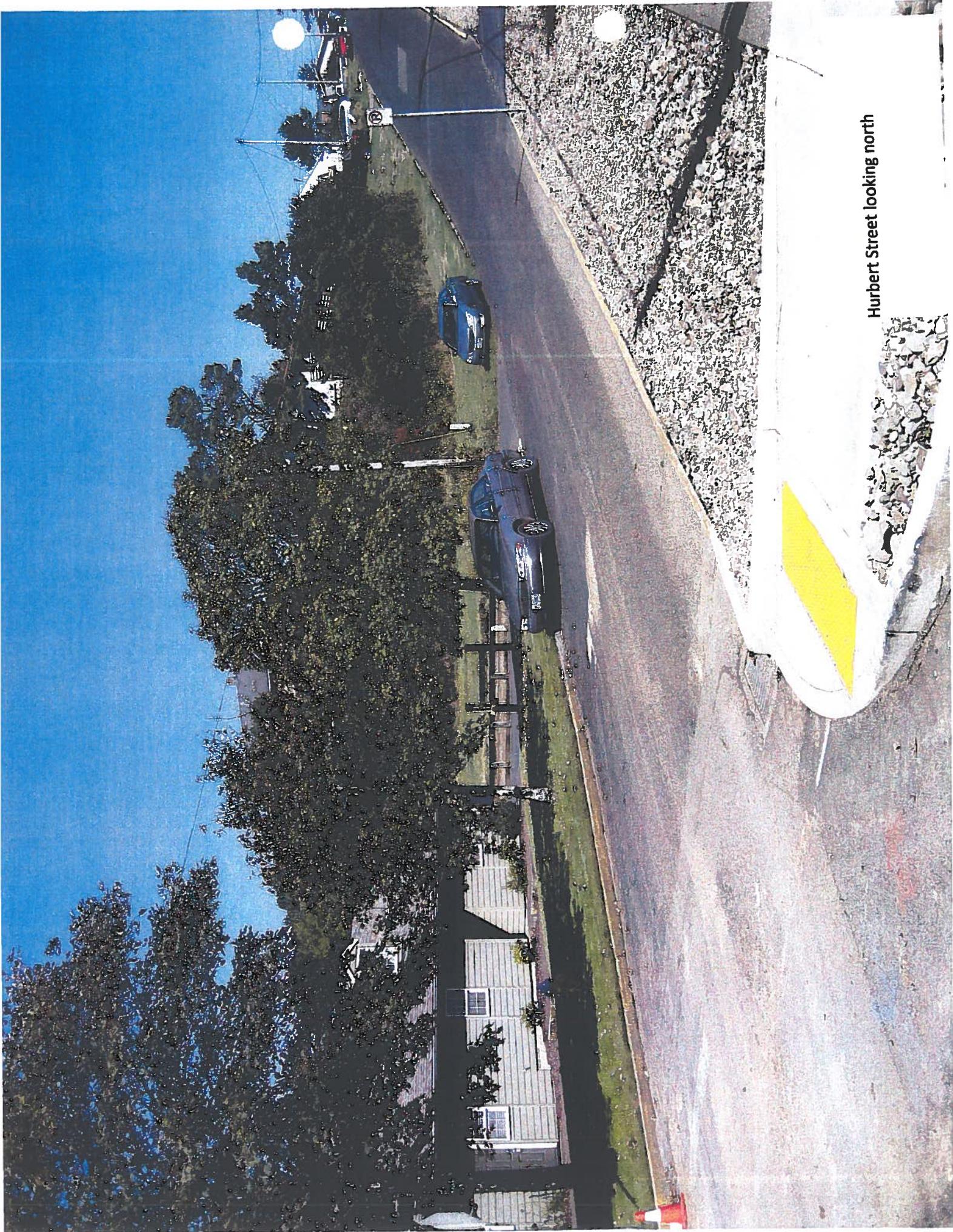
Most southerly entry into park off
Hurbert Street



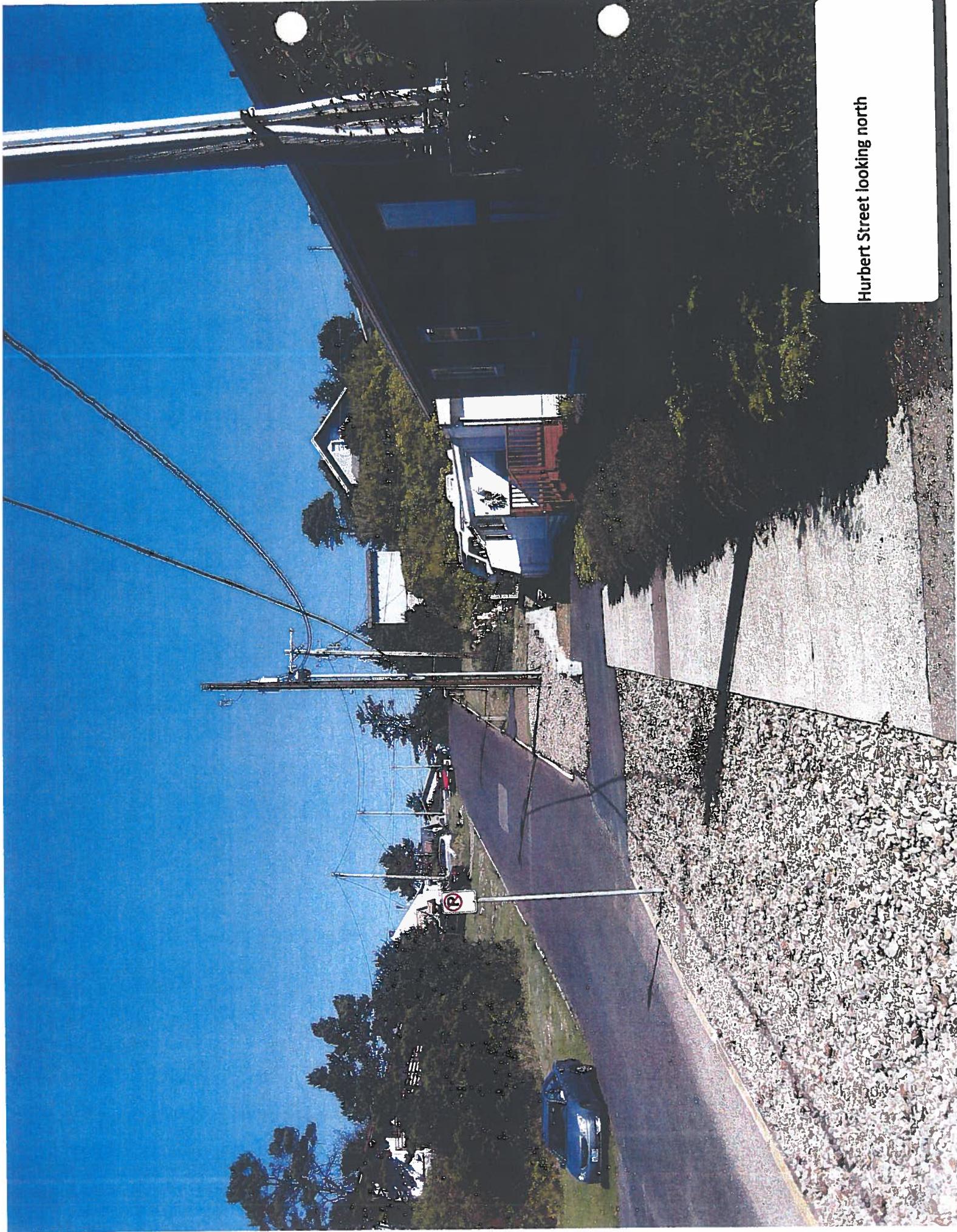
Most northerly entry into park off
Hurbert Street



Hurbert Street looking north from
NW 3rd Street



Hurbert Street looking north



Hurbert Street looking north



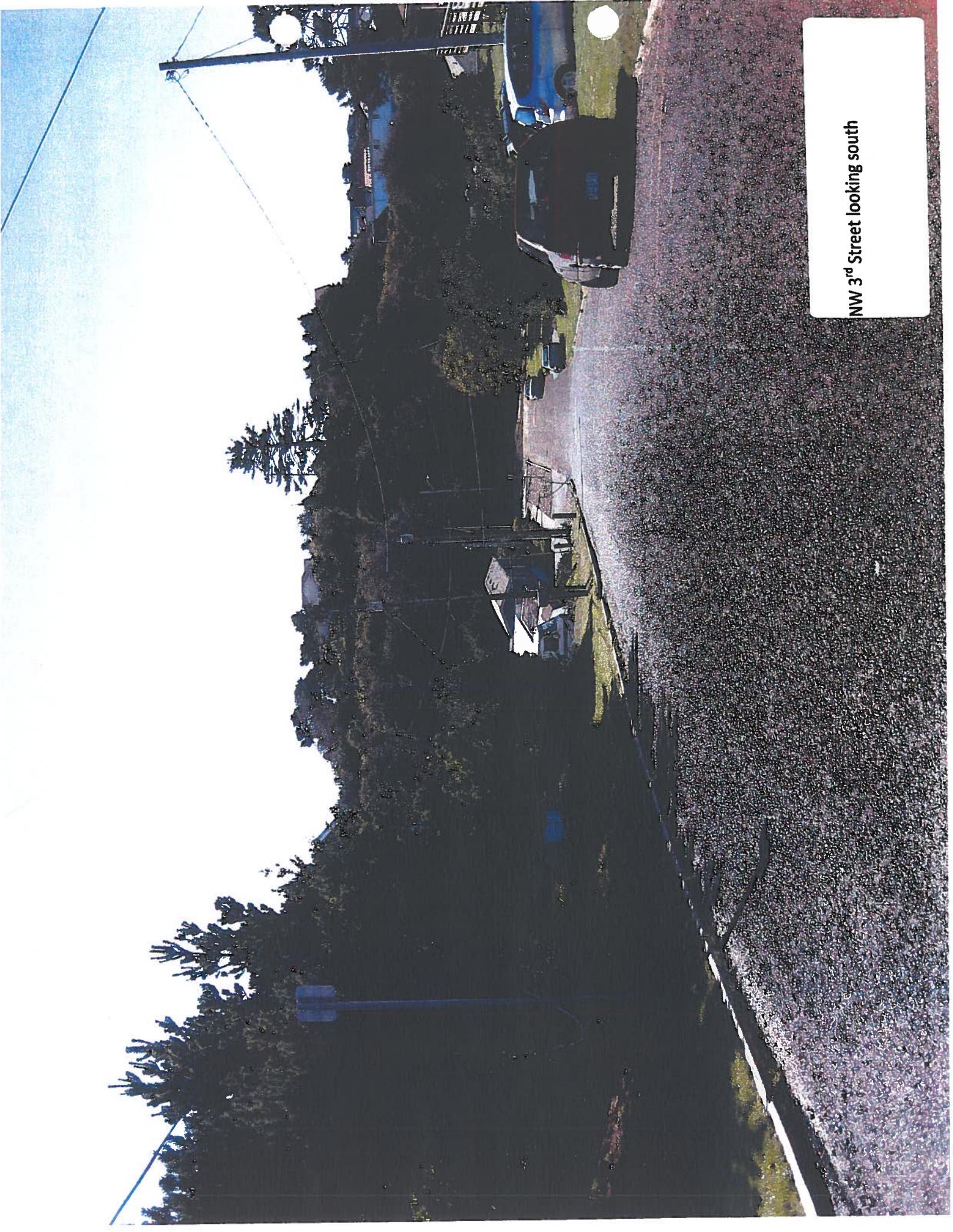
Looking over park from Hurbert Street



NW 5th Street along north side of park



NW 5th Street looking east



NW 3rd Street looking south



NW 5th Street looking east

Palm Harbor Homes

Presents



The Cabin Series PARK MODEL HOMES

Depiction of Park Model Home

NW 5TH ST

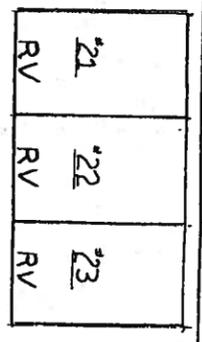
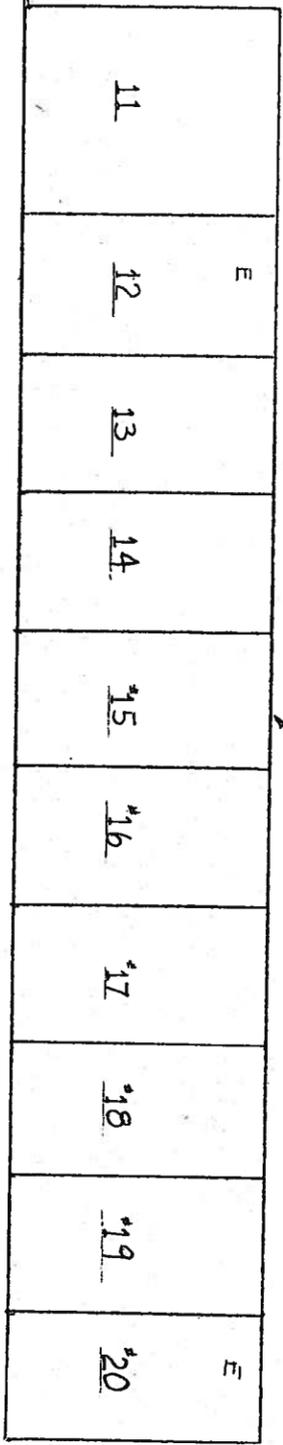
HUBERT ST

390'

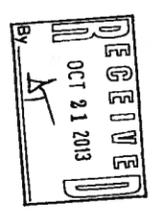
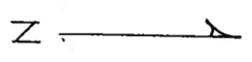
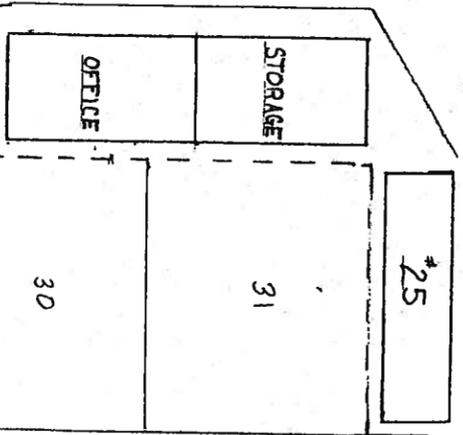
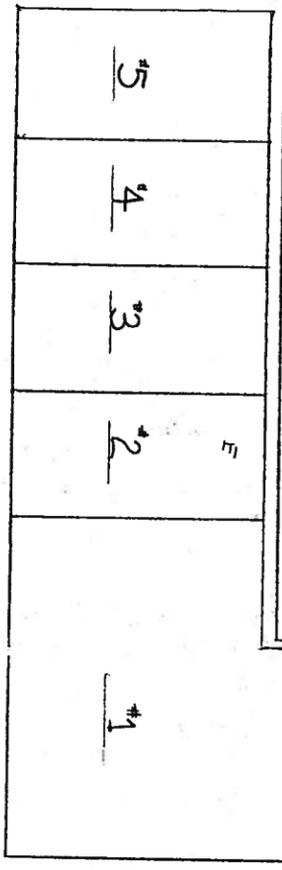
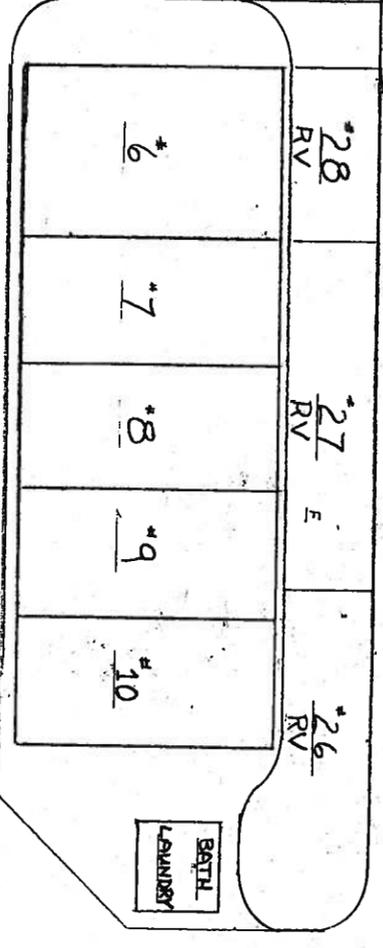
235'

NW 3RD ST

MOBILE SPACES 30' X 60'



120'



SURFSIDE MOBILE VILLAGE
 SCALE: 3/8" = 1'
 DATE: 4-2013
 APPROVED BY: [signature]
 DRAWN BY: FITTS
 REVISIONS

DRAWING NUMBER

CITY OF NEWPORT
PUBLIC NOTICE¹

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

File No. 2-NCU-13:

Applicant: Douglas E & Verna L Fitts, Trustees, 392 NW 3rd St, Newport, OR 97365 (Dennis L. Bartoldus, Attorney at Law, PO Box 1510, Newport, OR 97365).

Request: Approval of a request per Section 14.32/"Nonconforming Uses, Lots, and Structures" of the Newport Municipal Code, for the alteration and expansion of a nonconforming use. The property is currently being used as a mobile home park (Surfside Mobile Village). Specifically, the applicants are requesting to be allowed to have 24 permanent spaces and 3 RV spaces; expand the park for a screened storage area; and to be able to replace mobile homes with "park model" homes.

Location: Lincoln County Assessor's Map 11-11-05-CD; Tax Lots 10500, 10600, 10501, 1070, 10800, 10300, 10200, 10100, 9900, 9800, 9700, and 9500 (392 NW 3rd St).

Applicable Criteria: Pursuant to NMC Section 14.32.060(A), the approval authority shall determine that the structure was legally established at the time the Zoning Ordinance was enacted or amended, and that the use has not been discontinued for a continuous 12 month period. The approval authority must also verify the nature and extent of the nonconforming use, considering (1) a description of the use; (2) The types and quantities of goods or services provided and the activities conducted; (3) The scope of the use (volume, intensity, frequency, etc.) including fluctuations in the level of activity; (4) The number, location and size of physical improvements associated with the use; (5) The amount of land devoted to the use; and (6) Other factors the approval authority may determine appropriate to identify the nature and extent of a particular use (NMC Section 14.32.060(B)). Pursuant to NMC Section 14.32.070, after verification of the status of a nonconforming use pursuant to subsection 14.32.030, the approval authority may authorize alteration, expansion, or replacement of any nonconforming use or structure when it is found that such alteration, expansion, or replacement will not result in a greater adverse impact on the neighborhood when considering the following factors: (A) (1) The character and history of the use and of development in the surrounding area; (2) The comparable degree of noise, vibration, dust, odor, fumes, glare, or smoke detectable within the neighborhood; (3) Adequacy of infrastructure, including sewer, water, and streets, to accommodate the use; (4) The comparative numbers and kinds of vehicular trips to the site; (5) The comparative amount and nature of outside storage, loading, and parking; (6) The comparative visual appearance; (7) The comparative hours of operation; (8) The comparative effect on solar access and privacy; (9) Other factors which impact the character or needs of the neighborhood. (B) The approval authority must consider the purpose of the current zoning provisions that cannot be satisfied when determining whether or not the alteration, expansion, or replacement of a nonconforming use or structure will have a greater adverse impact on the neighborhood. (C) To the extent there is a rational nexus, and the City can establish that needed improvements are roughly proportional to proposed development, an alteration, expansion, or replacement of a nonconforming use or structure shall be brought into compliance with provisions of the Zoning Ordinance that relate to: (1) Surfacing of parking areas and landscaping; (2) Exterior design of structures; and (3) Outdoor displays, storage, and signage.

Testimony: Testimony and evidence must be directed toward the criteria described above or other criteria in the Comprehensive Plan and its implementing ordinances that 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 testimony and written testimony will be taken during the course of the public hearing. Letters sent to the Newport Community Development (Planning) Department (address below under "Reports/Application Material") must be received by 5:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. The hearing will include a report by staff, testimony (both oral and written) from the applicant and those in favor or opposed to the application, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Pursuant to ORS 197.763 (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

¹Notice of this action is being sent to the following: (1) Affected property owners within 200 feet of the subject property (according to Lincoln County tax records); (2) affected public/private utilities/agencies within Lincoln County; and (3) affected city departments.

testimony regarding the application.

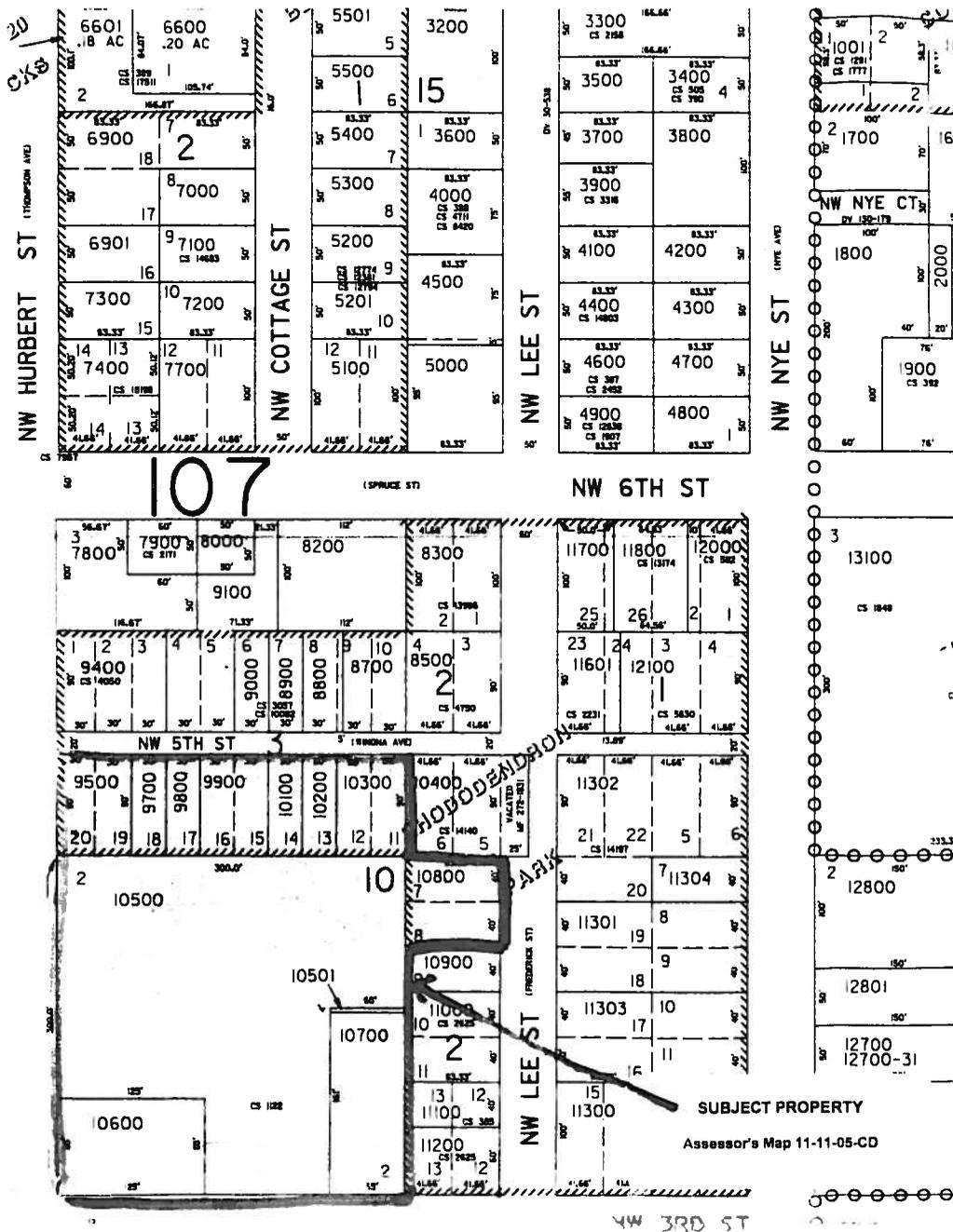
Reports/Application Material: The staff report may be reviewed or a copy purchased for reasonable cost at the Newport Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, Oregon 97365, seven days prior to the hearing. The application materials (including the application and all documents and evidence submitted in support of the application), the applicable criteria, and other file material are available for inspection at no cost; or copies may be purchased for reasonable cost at this address.

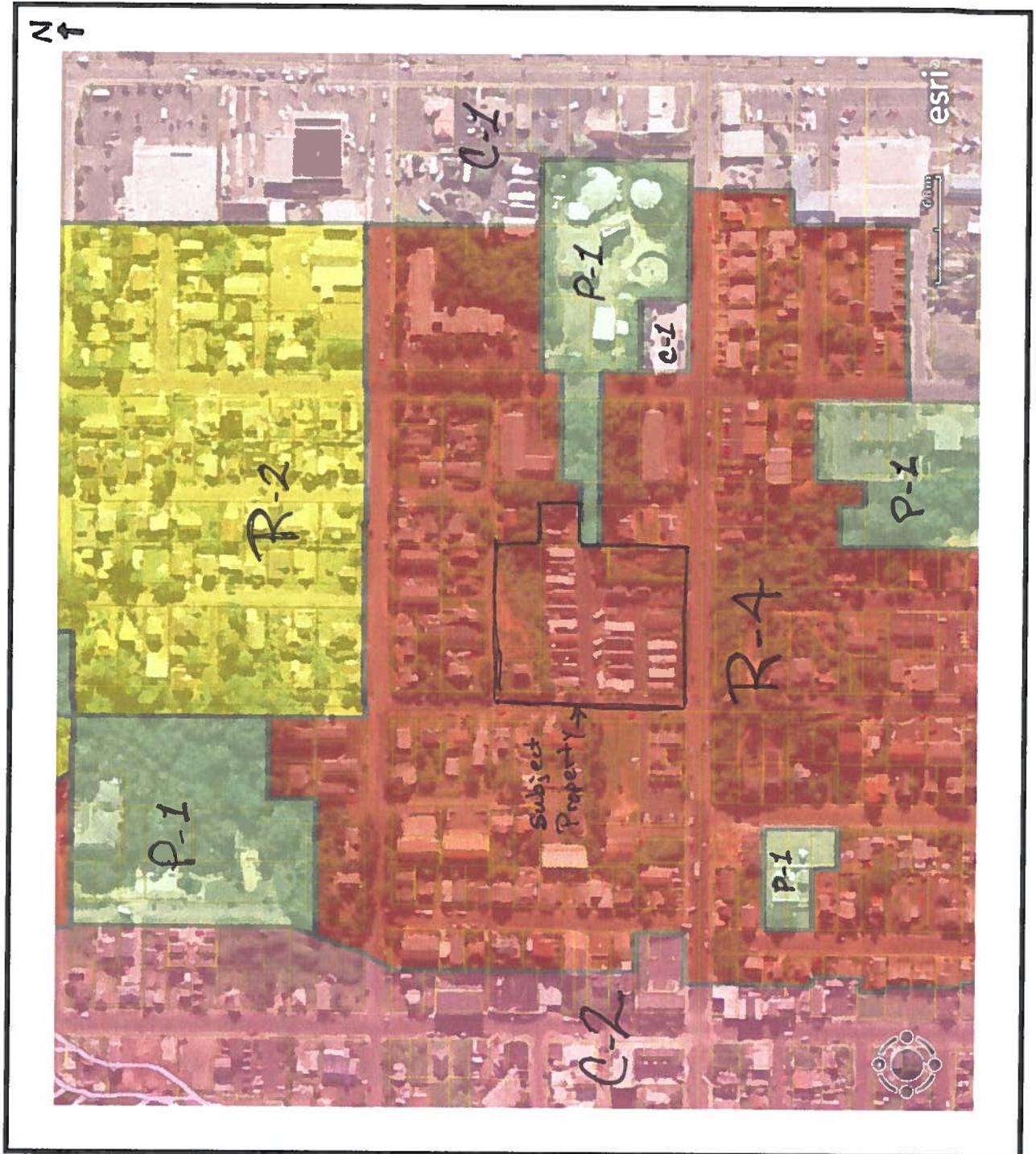
Contact: Derrick Tokos, Community Development Director, (541) 574-0626, d.tokos@newportoregon.gov (mailing address above under "Reports/Application Material").

Time/Place of Hearing: Monday, October 28, 2013; 7:00 p.m.; City Hall Council Chambers (address above in "Reports/Application Material").

MAILED: September 26, 2013.

PUBLISHED: October 18, 2013/News-Times.





10-16-13

To: Derek Tokos, Community Development Director

In reference to File No. 2 – NCU – 13 Request for Non-Conforming Uses, Lots, and Structures requested by Douglas and Verna Fitts.

As owner residents of tax lots 10400 cs 14140 with our home at 353 NW 5th St., we object to the portion of the request pertaining to construction of outdoor screened storage on 5th street.

The bulk of the property included in the trailer park is on 3rd street and does not impinge upon residences on 5th street. We can clearly see the trailer park situated on 3rd street from all of the rooms on the south side of our home and from our deck as the park is at a lower elevation than our home. This does not constitute a problem for us. While we do look down into the park, the addition of three additional spaces / units is acceptable as long as these and all of the units are kept in good condition.

The area we reside in is a gravel street with single-family homes along the street. Other than the apartment complex on 5th and Nye, there are no multiple family dwelling units, businesses, or industrial buildings including permanent storage facilities along this street. This has been a neighborhood street of single-family homes for many years, some of which have been in these families since or before the 1970's. Building a screened storage area along the south side of 5th street is highly objectionable to us. We look directly out to the west on the area in question and would be able to clearly see anything stored behind a fence as well as having to see the fenced area. It is highly unlikely that screening would be solid to block views of stored items at street level, so we would still be able to see these items.

Anything stored behind an 8 foot fence would still be visible to us and all of the other homes on the north side of 5th street as most are two storey homes. The houses on the north side of the street are at a higher elevation than the street as the hill continues to rise to the north above 5th street. This makes anything stored in the proposed area even more easily visible, even from the single storey homes.

We have a semi-ocean view home overlooking part of Nye Beach. The placement of a storage area on 5th street would have a negative impact on the value of our property. If a person were to look at the ocean from our home, you would also be looking directly at the proposed storage area. We find this highly objectionable.

This area is zoned for residential use. Anything built along 5th street should be residential, and not storage.

In summary, we have a nice home, can see the ocean, do not want to look at storage and have our property value decreased.

Brad and Linda Capshaw
353 NW 5th St.





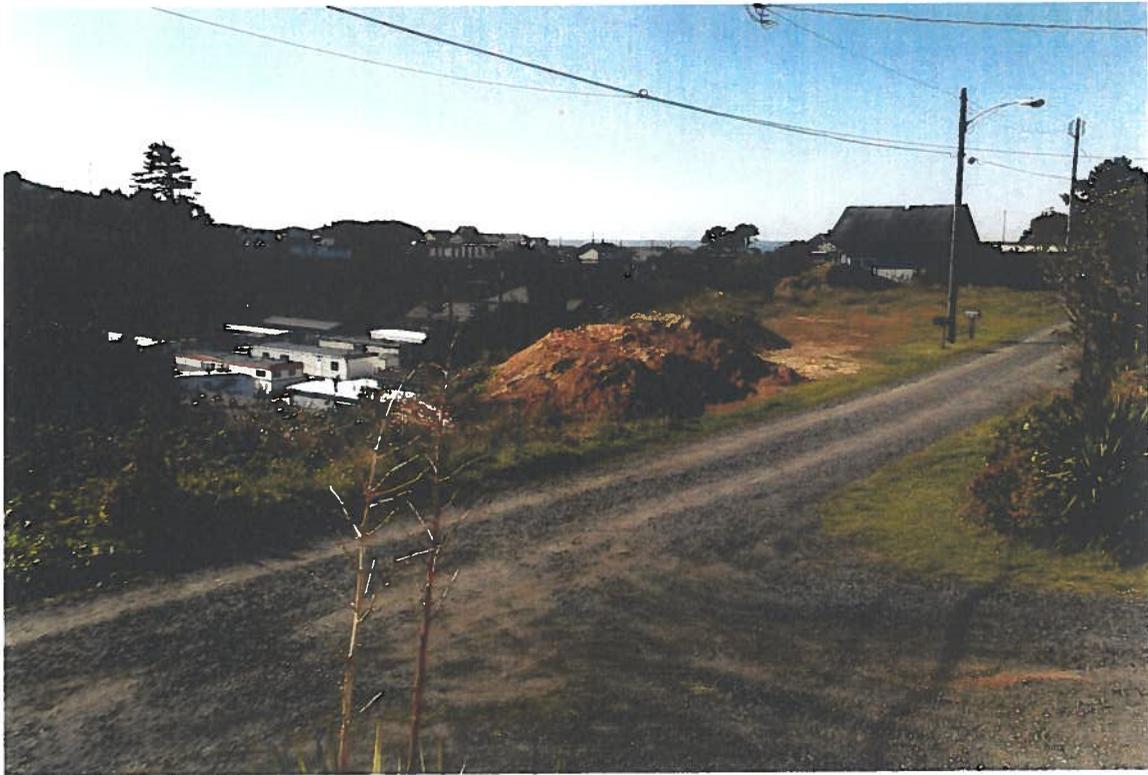
Representative views toward ocean overlooking
proposed storage area. We actually have a
broader ocean distant view than it appears in the
photos





Representative views of trailer park





View from neighboring home.
This is also what we see from the street in front
of our home

4-CUP-73
APPROVED
2/12/73
EXPANSION
OF TRAILER P.

NOTICE OF PUBLIC HEARING
RELATIVE TO
PROPOSED CONDITIONAL USE

NOTICE is hereby given that the Planning Commission of the City of Newport, Oregon, is considering granting a Conditional Use Permit to Mr. Clayton E. Hursh, owner of Glenwood Cottages and trailer park, to enlarge his trailer park to 18 trailer parking spaces pursuant to the provisions of Sections 10 and 24 of Ordinance #731 as amended, on the following described real property situated in Lincoln County, Oregon, to-wit:

Nye and Thompsons Addition to Newport, Block 10, Lot 2,
Tax lot 10500.

The Planning Commission of said city at the regular meeting to be held in the Council Chambers on the 12th day of February, 1973, at 8:00 P.M., P.S.T., will afford all persons particularly interested and the general public an opportunity to be heard relative to the granting of said conditional use permit.

NEWPORT PLANNING
COMMISSION
/s/ Ron Benfield, Chairman

Publish: February 1, 1973.

NEWPORT PLANNING COMMISSION
Lincoln County, Oregon

Application for a Conditional Use Permit

No. 4

I, Clayton E. Hurch, hereby make application for a conditional use permit, to secure authorization for the enlarging of a Trailer Court in an R4 zone, as provided for by Section 24 of the Newport Zoning Ordinance No. 731.

The property upon which this use would be situated is described to-wit:
assessor map # 11-11-5-CD, Tax Lot 10500, or 392 N.W. 3rd
Newport, Or.
Lot 2, Block 10, N & T additions.

The following material is submitted in accompaniment of this application, as required by Section 24 of the Newport Zoning Ordinance:

- (1) A site plan, drawn to scale, which shows the dimensions and arrangement of the proposed development;
- (2) Names and addresses of the property owners within the area enclosed by lines parallel to and 300 feet from the exterior boundaries of the above described property, as shown in the records of the county assessor;
- (3) _____
- () _____
- () _____

I also acknowledge that I am familiar with the standards and limitations that may be imposed upon such use by the Newport Planning Commission, as provided by the Newport Zoning Ordinance No. 731.

Dated Jan. 3, 1973
P.O. Box 1134, Newport Ore.
mailing address

Signed Clayton E. Hurch
BY _____
his authorized agent

Receipt of Application and Fee

No. _____

I hereby certify that a completed application for a conditional use permit, application no. _____, submitted by _____, is received for filing with the Newport Planning Commission on this, _____ day of _____, 19____. A public hearing, as required by the provisions of the Newport Zoning Ordinance has been set for _____ 19____, upon which date the planning commission will hear proponents and opponents of said application. The receipt of a fee in the sum of \$15.00, as established by the Newport Zoning Ordinance, is hereby acknowledged.

Dated _____

Secretary of the Planning Commission
BY _____
his duly authorized agent

Surfside Mobile Village
(2007 Aerial Image)



**CHAPTER 11
FIRE AND LIFE SAFETY**

11-1 Smoke Alarms.

11-1.1. As required by **24 CFR 3280 (MHCSS)** manufacturers shall provide instructions on how to inspect and retest each smoke alarm during initial installation of the home, and provide homeowners with operating and testing information from the smoke alarm manufacturer.

11-1.2. When a manufactured dwelling is relocated, each smoke alarm, as required in **ORS 479.260** and **OAR 837-045-0050**, shall be tested to assure it is connected and in working order.

ORS 479.260 is not part of this code but is reproduced here for the reader's convenience:

479.260 Transfer of dwelling unit or lodging house without smoke alarm or smoke detector prohibited. (1) A person may not convey fee title to any real property that includes a dwelling unit or lodging house, or transfer possession of any dwelling unit or lodging house pursuant to a land sale contract, unless there is installed in the dwelling unit or lodging house a smoke detector or the required number of approved smoke alarms, installed in accordance with the state building code and rules of the State Fire Marshal adopted under **ORS 479.295**. The smoke alarms required by this subsection must meet the requirements of **ORS 479.297**.

(2)(a) A person may not convey ownership or transfer possession of any manufactured dwelling, as defined in **ORS 446.003**, unless there is installed in the manufactured dwelling the required number of approved smoke alarms or smoke detectors, installed in accordance with the state building code or with the federal manufactured dwelling construction and safety standards adopted under **ORS 446.155**.

(b) A smoke alarm installed in a manufactured dwelling that is resold by a person other than the manufacturer or authorized dealer must meet the requirements of **ORS 479.297**.

OAR 837-045-0050 is not part of this code but is reproduced here for the reader's convenience:

837-045-0050

Installation and Location of Smoke Alarms and Smoke Detectors

(1) All smoke alarms or smoke detectors shall be installed and located in accordance with the listing and manufacturer's instructions and **OAR 837-045-0045** through **837-045-0060**.

(2) Dwelling Units:

(a) Smoke alarms and smoke detectors in dwelling units shall be installed in each sleeping room as per

the applicable requirements of the State Building Code at the time of construction and in the corridor or area giving access to sleeping areas according to the manufacturer's instructions. Where sleeping areas are located on an upper level, the smoke alarm or smoke detector shall be installed in an accessible location as close as practical to the center of the ceiling directly over the stairway. Where sleeping areas are widely separated (i.e., on different levels or opposite ends of the dwelling unit) and/or where a single smoke alarm or smoke detector will not adequately service all sleeping areas, a smoke alarm or smoke detector shall be installed adjacent to each sleeping area.

(b) When activated, the installed smoke alarm(s) or smoke detector(s) shall produce an alarm sound audible in the dwelling unit, guestroom(s) and sleeping area(s).

(3) Efficiency Dwelling Units, Lodging Houses and Hotels:

(a) In an efficiency dwelling unit, lodging house guestroom or hotel room or suite, the smoke alarm or smoke detector shall be installed on the ceiling or a wall of the main room or sleeping area.

(b) When activated, the smoke alarm(s) or smoke detector(s) shall produce an alarm sound audible in the main room and sleeping area(s).

11-2 Fire Separation Distances.

11-2.1. Fire separation distances shall comply with the requirements of this code and where not specific, to the **State Building Code**.

11-2.2. Fire separation distances outside a manufactured dwelling park shall be in accordance with the **Oregon Residential Specialty Code**, Section **R302**, or the requirements of the municipality, whichever is more stringent.

11-2.3. Fire separations within a manufactured dwelling park shall be as required **Table 11-2.3**, as per **ORS 446.100**, and where not specific, to the **Oregon Residential Specialty Code**.

ORS 446.100 is not part of this code but is reproduced here for the reader's convenience:

446.100 Prohibited acts in connection with construction and use of parks; rules for spacing of units. (1) A person may not:

(a) Construct a mobile home or manufactured dwelling park at a place that is unsuitable due to swampy terrain, lack of adequate drainage or proximity to the breeding places of insects or rodents.

(b) Install a manufactured dwelling closer than five feet from a property boundary line.

(c) Construct in a mobile home or manufactured dwelling park a manufactured dwelling space less than 30 feet in width or less than 40 feet in length.

(2) The Director of the Department of Consumer

and Business Services shall adopt rules pursuant to the rulemaking provisions of ORS chapter 183 specifying minimum distances between adjacent manufactured dwellings and between manufactured dwellings and other structures. In adopting these rules, the director shall take into consideration the standards established by the National Fire Protection Association and standards recommended by the State Fire Marshal.

(3) Except as provided in this subsection, the rules adopted by the director under subsection (2) of this section must provide for at least 10 feet of space between manufactured dwellings. The director may adopt a rule allowing less than 10 feet of space between manufactured dwellings that are separated by a one-hour fire-resistive wall. A standard established by the director for a one-hour fire-resistive wall separating manufactured dwellings must be at least as stringent as the equivalent standard, if any, for a fire-resistive wall in a two family dwelling under the Low-Rise Residential Dwelling Code.

11-3 Fire Sprinkler Systems.

11-3.1. Fire sprinkler systems, if provided, shall have a water supply system that complies with NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes.

11-4 Fire Department Access and Fire Protection Water Supply.

Sections 503 and 508 of the Oregon Fire Code are not part of this code but are referenced here for informational purposes only.

The provisions of the Oregon Fire Code, Section 503 Fire Apparatus Access Roads and Section 508 Fire Protection Water Supplies specify where fire department access and fire protection water supplies are required.

Table 11-2.3 Minimum Setbacks and Fire Separation Inside Parks

	Manufactured Dwellings	Accessory Buildings	Accessory Structures
Property Line	5 ft.	5 ft.	5 ft.
Park Street	5 ft.	5 ft.	5 ft.
Park Sidewalk	2 ft.	2 ft.	0 ft.
Manufactured Dwelling on Same Lot	See Note (1) & (2)	3 ft.	0 ft.
Manufactured Dwelling on Adjacent Lot	10 ft.	6 ft.	6 ft.
Buildings on the Same Property	10 ft.	6 ft.	6 ft.
Accessory Buildings on Same Lot	3 ft.	3 ft.	0 ft.
Accessory Building on Adjacent Lot	6 ft.	6 ft.	6 ft.
Accessory Structures on Same Lot	0 ft.	0 ft.	0 ft.
Accessory Structures on Adjacent Lot	6 ft.	6 ft.	6 ft.

NOTES:

- (1) The building official may approve reduced setbacks and clearances than those dimensions in this table with the use of fire resistive construction according to the prescriptive requirements in the **Oregon Residential Specialty Code**.
- (2) Additional requirements in OAR 918-500-0530 may be applicable.
- (3) Setbacks from perimeter property lines and public streets may be greater than those dimensions shown in this table if the municipality adopted local amendments by ordinance.
- (4) Setbacks and clearances addressed in this table shall be measured to the exterior wall of the structure and shall not include the eave overhangs except for awnings and carports.