



## **PLANNING COMMISSION REGULAR SESSION AGENDA**

**Monday, January 09, 2023 - 6:00 PM**

**City Hall, Council Chambers, 169 SW Coast Hwy, Newport, OR 97365**

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

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

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

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### **1. CALL TO ORDER AND ROLL CALL**

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

### **2. APPROVAL OF MINUTES**

**2.A Approval of the Planning Commission Regular Session Meeting Minutes of December 12, 2022.**

[Draft PC Reg Session Minutes 12-12-2022](#)

**3. CITIZENS/PUBLIC COMMENT**

*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.*

**4. ACTION ITEMS**

**4.A Annual Organizational Meeting.**

**5. PUBLIC HEARINGS**

**5.A File 4-CUP-22: Conditional Use Permit for the Toyota of Newport Dealership / Service Building.**

[Staff Report](#)

[Attachment A](#)

[Attachment B](#)

[Attachment C](#)

[Attachment D](#)

[Attachment E](#)

[Attachment F](#)

[Attachment G](#)

[Attachment H](#)

[Attachment I](#)

**5.B File 3-AX-22 / 7-Z-22: South Beach Church Property Annexation and Zoning Map Designation.**

[Staff Report](#)

[Attachment A](#)

[Attachment B](#)

[Attachment C](#)

[Attachment D](#)

[Attachment E](#)

[Attachment F](#)



[Attachment G](#)  
[Attachment H](#)  
[Attachment I](#)  
[Attachment J](#)  
[Attachment K](#)  
[Attachment L](#)

**5.C File 5-Z-22: Public Hearing on Draft Ordinance No. 2202 - Short-Term Rental Work Group Recommendations.**

[Staff Memorandum](#)  
[Attachment A](#)  
[Attachment B](#)  
[Attachment C](#)  
[Attachment D](#)

**6. NEW BUSINESS**

**6.A 1886 Building and City Limitations on the Demolition of Historic Structures.**

[Memorandum](#)  
[Vicinity Map](#)  
[1886 Building Background Information and Photos](#)  
[History Chapter of the Newport Comprehensive Plan](#)  
[NMC Chapter 14.23 Historic Buildings and Structures](#)  
[Sample Historic Structures Codes](#)

**7. UNFINISHED BUSINESS**

**7.A Planning Commission Work Program Update.**

[PC Work Program 01-05-23](#)

**8. DIRECTOR COMMENTS**

**9. ADJOURNMENT**

**Draft MINUTES**  
**City of Newport Planning Commission**  
**Regular Session**  
**Newport City Hall Council Chambers**  
**December 12, 2022**

**Planning Commissioners Present:** Jim Patrick, Bob Berman (*by video*), Braulio Escobar, Jim Hanselman, Gary East, Bill Branigan (*by video*), and John Updike.

**City Staff Present:** Community Development Director (CDD), Derrick Tokos; and Executive Assistant, Sherri Marineau.

1. **Call to Order & Roll Call.** Chair Patrick called the meeting to order in the City Hall Council Chambers at 6:00 p.m. On roll call, Commissioners Patrick, Branigan, East, Hanselman, Berman, Escobar, and Updike were present.

2. **Approval of Minutes.**

Commissioner Branigan noted minor changes to both sets of minutes.

A. **Approval of the Planning Commission Work Session Meeting Minutes of November 28, 2022.**

**MOTION** was made by Commissioner Branigan, seconded by Commissioner Updike to approve the Planning Commission Work Session Meeting Minutes of November 28, 2022 with minor corrections. The motion carried unanimously in a voice vote.

A. **Approval of the Planning Commission Regular Session Meeting Minutes of November 28, 2022.**

**MOTION** was made by Commissioner Branigan, seconded by Commissioner Updike to approve the Planning Commission Regular Session meeting minutes of November 28, 2022 with minor corrections. The motion carried unanimously in a voice vote.

3. **Action Items.**

A. **File 2-CUP-22-A: Final Order and Findings of Fact Approving an Appeal of a Denial to Allow a Real Estate Office in the C-2 Zone District.**

**MOTION** was made by Commissioner Berman, seconded by Commissioner East to approve File 3-CUP-22 Final Order and Findings of Fact. The motion carried in a voice vote. Commissioners Hanselman and Escobar were a nay.

Berman asked if there was a requirement to send out notices for the approval of the final order and findings. Tokos reported that they were required to notice for the hearings, not the action on the final orders.

4. **Public Comment.** None were heard.

5. **Public Hearings.** None were heard.

6. **New Business.** None were heard.

7. **Unfinished Business.** None were heard.

8. **Director Comments** Tokos reported that Annie McGreenery submitted her resignation as a Citizen Advisory member. The Commission expressed how much they appreciated her work with them. Tokos reported the plan was to advertise the openings for a new Commission member and Citizen Advisory member openings. Patrick reported that he would be stepping down as Commission member and Chair, but he would be sticking around until January or February to help out. The Commission thanked him for his service. Berman expressed appreciation for the local knowledge that Patrick always brought to the Commission.

9. **Adjournment.** Having no further business, the meeting adjourned at 6:09 p.m.

Respectfully submitted,

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Sherri Marineau  
Executive Assistant

Case File: #4-CUP-22  
 Date Filed: November 29, 2022  
 Hearing Date: January 9, 2023/Planning Commission

## PLANNING STAFF REPORT

### Case File No. 4-CUP-22

- A. **APPLICANT:** Paul Kurth (Jo Ann Pacheco, authorized representative)(Steven Jackson, Jackson Automotive Group, owner).
- B. **REQUEST:** Application for approval of a Conditional Use Permit to construct a 26,000+/- sq. ft. auto dealership with a showroom and vehicle repair. Existing buildings are to be removed.
- C. **LOCATION:** 3234 SW Coast Highway.
- D. **LEGAL DESCRIPTION:** Lots 4, 5 and 6, Plat of Sunset Dunes (Assessor's Map 11-11-17-DB, Tax Lots 02000, 02100 and 02200).
- E. **LOT SIZE:** 3.74 acres.
- F. **STAFF REPORT**

#### 1. **REPORT OF FACT**

- a. **Plan Designation:** Commercial.
- b. **Zone Designation:** C-1/"Retail and Service Commercial."
- c. **Surrounding Land Uses:** Vacant commercial, OMSI Camp Gray, and mixed residential use to the west; retail to the south; mixed light-industrial and retail to the east; and vacant commercial to the north.
- d. **Topography and Vegetation:** The property is relatively flat, paved, and largely devoid of vegetation.
- e. **Existing Structures:** An auto dealership and repair building at the north end of the site and industrial warehouse/storage buildings on the south half of the property (five buildings total).
- f. **Utilities:** All are available to the site.
- g. **Development Constraints:** Tsunami Hazard Overlay.
- h. **Past Land Use Actions:**

File No. 1-CP-22/2-Z-22 – Amended the Comprehensive Plan Map from Industrial to Commercial and rezoned the property from I-1 to C-1. Highway setbacks were reduced and landscaping standards were amended.

File No. 1-SUB-13 – Plat of Sunset Dunes. Created the three lots in their current configuration, realigned SW Abalone Street, and vacated SW Anchor Way once Abalone/SW 35<sup>th</sup> Street connected to US 101.

- i. **Notification:** Notification to surrounding property owners and to city departments/public agencies was mailed on December 9, 2022, and notice of the January 9, 2022 public hearing was published in the Newport News-Times on December 30, 2022 (Attachment "H").
- j. **Attachments:**
  - Attachment "A" – Application Form
  - Attachment "B" – Lincoln County Assessor Property Record Card
  - Attachment "C" – Lincoln County Assessor Map
  - Attachment "D" – Applicant's Narrative
  - Attachment "E" – Site Plan and Elevations by LRS Architects, dated 11/4/22
  - Attachment "F" – Zoning and Utility Map
  - Attachment "G" – Plat of Sunset Dunes
  - Attachment "H" – Public Hearing Notice
  - Attachment "I" – Memo from Kittelson and Associates, dated 11/7/22
2. **Explanation of the Request:** In their narrative, the applicant indicates that they are seeking conditional use approval for the existing and continued use of a vehicle retail sales and service operation, including on-site vehicle storage and display, as currently operated on the subject property. In addition, the applicant proposes a new one-story auto dealership and enclosed service building. Inventory parking is proposed at the north end of the property. The facility is scheduled to be open Monday thru Saturday during normal business hours. Customers can purchase vehicles and drop-off vehicles for service on-site. Indoor customer waiting areas will be provided. Construction will be phased to allow continued business operations during construction (Attachment "D").

Per Newport Municipal Code (NMC) Section 14.03.070(2)(b), auto sales are classified as a bulk-retail use that requires conditional use approval in the C-1/"Retail and Service Commercial" zone district. Vehicle repair is also a conditional use in the zone (NMC 14.03.070(4)). The applicant intends to replace the existing, single-story auto dealership and repair shop with a new 26,000 +/- sq. ft., single-story dealership and repair facility. Accordingly, conditional use review is required. All existing buildings will be removed, access will be consolidated along US 101 from three driveways to one, two driveways will serve the site from SW 35<sup>th</sup>, and paved parking and landscaping will be installed as depicted on the site plan prepared by LRS Architects, dated November 4, 2022 (Attachment "E").

3. **Evaluation of the Request:**
  - a. **Comments:** No comments have been received in response to the notice.
  - b. **Conditional Use Criteria (NMC Chapter 14.34.050):**
    - (1) The public facilities can adequately accommodate the proposed use.
    - (2) The request complies with the requirements of the underlying zone or overlay zone.

(3) The proposed use does not have an adverse impact greater than existing uses on nearby properties; or impacts can be ameliorated through imposition of conditions of approval.

(4) A proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.

c. **Staff Analysis:**

To grant the permit, the Planning Commission must find that the applicant's proposal meets the following criteria.

(1) **The public facilities can adequately accommodate the proposed use.**

The applicant points out that existing and continued use will not significantly alter or increase traffic to the site. Vehicle traffic will continue to be served by existing access from US 101 and SW 35<sup>th</sup> Street. Off-street parking is provided on-site to customers and employees. New storm water runoff will be treated and connected to existing storm drains. All other existing utilities can adequately serve the existing and continued use (Attachment "D").

Public facilities are defined in the Zoning Ordinance as sanitary sewer, water, streets and electricity. All public facilities are available and presently serve the property. Water service is available via a 12-inch main along SW 35<sup>th</sup> Street. Wastewater service is available from 8-inch mains in SW 35<sup>th</sup> and SW 32<sup>nd</sup> Street. A structured storm drainage system directs run-off into a water quality treatment swale on the east side of US 101, opposite the property or a piped system running along US 101 and 35<sup>th</sup> Street. A zoning and utility map shows the location of the services relative to the applicant's property (Attachment "F").

Given the above, it is reasonable for the Planning Commission to find that the public facilities can adequately accommodate the use.

(2) **The request complies with the requirements of the underlying zone or overlay zone.**

The applicant notes that, per City of Newport Ordinance No. 2196, Chapter 14.03.070, the use is allowed as a conditional use, in the C-1 zone. The site will include Retail Sales and Service: Sales-Oriented, Bulk Retail and Vehicle Repair. The use as an auto dealership is existing and will continue similar activities in the proposed scope of work (Attachment "D").

Compliance with the underlying zone or overlay zone includes other elements of the Zoning Ordinance applicable to the proposed use. This includes satisfying height limitations (NMC Chapter 14.10), setback requirements (NMC Chapter 14.11), density limitations (NMC Chapter 14.13), parking and loading requirements (NMC

Chapter 14.14), clear vision areas (NMC Chapter 14.17), landscaping standards (NMC Chapter 14.19), transportation standards (NMC Chapter 14.44), traffic analysis (NMC Chapter 14.44), vehicular access and circulation (NMC Chapter 14.46) and pedestrian access (NMC Chapter 14.47).

Applicant's site plan and elevation drawings (Attachment "E") and memo from Kittelson and Associates (Attachment "I") illustrate that the project satisfies these requirements, with the following exceptions:

The project is substantially compliant with the City's parking and loading requirements of NMC Chapter 14.14; however, there are a few additional details that need to be addressed. This chapter of the code applies to required parking. As indicated in Section 14.14.030, required parking must be available to customers and employees and does not include spaces for storage or sale of merchandise. An automotive dealership is a bulk retail use, and the applicant accurately notes that such uses require one parking space for every 600 square feet of floor area. For a 26,000 sq. ft. facility, that equates to 44 spaces. Applicant provides the required parking east and south of the building. The balance of the parking is dedicated to inventory and service use. Section 14.14.050 requires that accessible and electric vehicle parking be provided consistent with the Oregon Structural Specialty Code. The location of accessible parking is shown on the site plan; however, it is not clear how the electrical vehicle requirements will be met. Per ORS 455.417 (HB 2180) this project will be required to address the electrical service and conduit needs for at least 20 percent of the required parking.

Section 14.14.090(E) of the parking chapter requires that lighting from parking lots be designed and located as to not glare onto neighboring residential properties. The closest residential properties are to the northwest, and given the distance the applicant could address this standard by shielding lighting so that it is downward directed.

Section 14.14.090(I) notes that parking areas that have designated employee parking and more than 20 parking spaces must provide at least 10% of the employee parking spaces as preferential carpool/vanpool spaces. Such spaces must be located closer to the building than other spaces (except ADA). The site plan identifies employee parking areas; however, it is not clear that they will be formally designated as such. If they are, then this standard will need to be addressed.

Landscaping standards for parking areas are not limited to required parking, but apply to all parking areas provided on a property (NMC Section 14.19.050(D)). This code section requires that landscape islands or planting areas with trees be installed to breakup parking areas into rows of not more than 12 contiguous parking spaces. Landscape islands or planters must be a minimum of 48 sq. ft. in size with a minimum dimension of 6-feet. An additional island/planter is needed for inventory parking facing US 101 and the interior inventory parking area immediately to the west. Three additional planting areas are needed for inventory parking next to vacated SW Anchor Way.

Section 14.44.050(A) requires that streets adjacent to a development satisfy the requirements of Section 14.44.060. US 101 was recently rebuilt adjacent to the subject property, with sidewalk and bike lanes. While the Transportation System Plan calls for a separated bike facility between the bridge and 35<sup>th</sup> Street, that project should be constructed as part of a future highway improvement to avoid creating safety issues for motorists. Accordingly, the City can accept a non-remonstrance agreement in lieu of requiring the improvement at this time (Section 14.44.050(D)). Sidewalk is required and needed along the property's SW 35<sup>th</sup> Street frontage (Section 14.44.060(I)). There is sufficient area within the right-of-way and easements to place the sidewalk, and the site plan needs to be modified to show the improvement.

It would be reasonable for the Planning Commission to find that it is feasible the applicant can modify their proposal to address the issues outlined above and that a revised plan be provided with building permit application. Conditions of approval for each item are included below and, as conditioned, the Commission could conclude that this conditional use criterion has been satisfied.

- (3) The proposed use does not have an adverse impact greater than existing uses on nearby properties; or impacts can be ameliorated through imposition of conditions of approval.

In their narrative, the applicant notes that the existing and continued use will improve the area by increasing activity within the building and site. Site improvements will be designed to meet current jurisdiction requirements. These include minimum landscaping areas, landscaping along frontages, and landscape islands within parking areas. A traffic engineer has determined that the traffic impact on the site will be minimal. Pending city approval, the traffic engineer suggests that no trip-based thresholds are triggered to require a full traffic study. The proposal will reduce the number of driveways on the highway, which meets ODOT traffic management principles. Additionally, the surrounding properties on all sides are zoned with the same commercial zone designation and are therefore complementary with this use (Attachment "D").

With respect to whether or not the project triggers the City's traffic analysis requirements, Section 14.45.010(C) requires the analysis for proposals that generate 500 or more average daily trips or 50 PM peak hour trips. The memo from Kittelson and Associates (Attachment "I") shows that when deducting the impact of the existing dealership use, the project will add 394 new daily trips and 34 PM peak hour trips, meaning that the project falls below the threshold that would require traffic analysis.

Given the above, it is reasonable for the Planning Commission to find that this criterion has been satisfied.

- (4) A proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.



The applicant notes that, per City of Newport Ordinance No. 2196, Chapter 14.13.010, the property will adhere to density requirements stated in Table "A". The proposed building height is approximately 27'-6" (50'-0" max). The building setback is greater than the minimum requirement of 15'-0" from US 101 with no setback requirements along the side and rear. The height of the proposed building is complementary to the surrounding one to three story buildings.

Further, the applicant points out that per City of Newport Ordinance No. 2196, Tax Lots 02000, 02100, and 02200 were changed from Industrial to Commercial and Zoning Map from I-1/"Light Industrial" to C-1/"Retail & Service Commercial". This amendment states: "In addition to the map amendment, the Commission found that vehicle repair uses should be conditionally allowed in the C-1 zone as opposed to the use being prohibited (its current status). Vehicle sales is conditional in the C-1 zone and vehicle repair is often paired with that use. The Commission concluded that vehicle repair enclosed within a building, can be compatible with the C-1 zone district and that a conditional use process is an appropriate mechanism for determining if a project involving vehicle repair is, or is not, compatible." The proposed building use satisfies the required parameters listed above (Attachment "D").

South Beach includes a mix of commercial and industrial buildings of various sizes. At 26,000 sq. ft. the building will be larger than many in the immediate vicinity of the site; however, it is well below the size of some structures such as Rogue Brewery to the north, the Oregon Coast Aquarium to the east and the former Central Lincoln maintenance facility to the southeast.

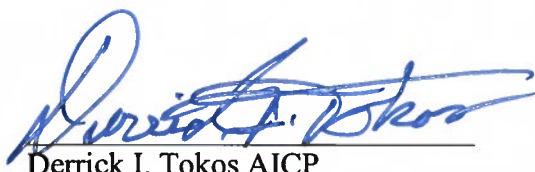
Signage included on the applicant's site plan appears to exceed the 200 square foot maximum display area per street frontage for non-exempt signs other than mural signs (NMC 10.10.085(G)). This is with regards to the east facing elevation, considering the wall and monument signage. It is feasible that the signage can be adjusted to conform with this requirement, and City review and approval of a sign permit is an appropriate mechanism for confirming compliance.

Given the above, it is reasonable for the Planning Commission to find that the use will be consistent with the overall development character of the neighborhood regarding building size and height.

4. **Conclusion:** If the Planning Commission finds that the applicant has met the criteria established in the Zoning Ordinance for granting a conditional use permit, then the Commission should approve the request. The Commission can attach 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.

- G. **STAFF RECOMMENDATION:** As outlined in this report, this application for an auto dealership with a showroom and vehicle repair can satisfy the approval criteria for a conditional use provided conditions are imposed as outlined below. Accordingly, the Commission should approve this request, subject to the following:

1. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to the staff report. No use shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the applicant/property owner to comply with these documents and the limitations of approval described herein.
2. Applicant shall provide an updated set of plans with the building permit submittal that demonstrates the following requirements have been satisfied:
  - a. Consistent with Newport Municipal Code (NMC) Section 14.14.050, electric vehicle charging infrastructure shall be provided consistent with the Oregon Structural Specialty Code, including rules implementing HB 2180 (2021).
  - b. Light fixture details shall be provided, and pole placement locations identified, to establish that exterior lighting of parking areas will not glare onto neighboring residential properties (Section 14.14.090(E)).
  - c. Preferential carpool/vanpool spaces shall be identified on the site plan in a manner consistent with Section 14.14.090(I) if parking areas are to include designated employee parking spaces.
  - d. Landscape islands or planting areas with trees are to be installed to breakup parking areas into rows of not more than 12 contiguous parking spaces (Section 14.19.050(D)). Such islands or planters are to be a minimum of 48 sq. ft. in size with a minimum dimension of not less than 6-feet. Areas where additional island/planters are needed to satisfy this requirement include the inventory parking area facing US 101, the interior inventory parking area immediately to the west, and inventory parking areas that face vacated SW Anchor Way.
  - e. The property owner shall sign consent to participate in any local improvement districts that the parcels abutting US 101 would be part of once those districts are formed, for the purpose of constructing a separated bicycle lane along US 101 between the Yaquina Bay Bridge and 35<sup>th</sup> Street. Said consent and agreement shall be a separate document recorded upon the subject lots. The document shall be recorded by the property owner prior to occupancy.
  - f. Sidewalk shall be added along SW 35<sup>th</sup> Street beginning at the 35<sup>th</sup>/US 101 intersection, and extending west to end of the property frontage (Section 14.44.060(I)). Such sidewalk shall be installed and accepted by the Newport Public Works Department prior to occupancy.
3. A sign permit shall be obtained establishing that the signs shown comply with the requirements of Chapter 10.10 of the Newport Municipal Code, including the provision limiting each street frontage to no more than 200 sq. ft. of display area for all non-exempt signs other than mural signs (Section 10.10.085(G)).



Derrick I. Tokos AICP  
Community Development Director  
City of Newport

December 21, 2022



## City of Newport Land Use Application

Applicant Name(s):	Property Owner Name(s) <i>if other than applicant</i>
<b>Paul Kurth</b>	<b>Steven Jackson</b>
Applicant Mailing Address:	Property Owner Mailing Address:
<b>720 NW Davis, Suite 300, Portland, OR</b>	<b>1250 E Interstate 30, Rockwall, TX 75087</b>
Applicant Phone No.	Property Owner Phone No.
<b>503-265-1553</b>	<b>469-402-1300</b>
Applicant Email	Property Owner Email
<b>pkurth@lrsarchitects.com</b>	<b>sjackson266@yahoo.com</b>
Authorized Representative(s): <i>Person authorized to submit and act on this application on applicant's behalf</i>	
<b>Jo Ann Pacheco</b>	
Authorized Representative Mailing Address:	
<b>1250 E Interstate 30, Rockwall, TX 75087</b>	
Authorized Representative Telephone No.	
<b>469-402-1647</b>	
Authorized Representative Email. <b>joannp@jacksonautomotivegroup.com</b>	

### Project Information

Property Location: <i>Street name if address # not assigned</i>	
<b>3234 SW Coast Hwy. Newport, OR 97366</b>	
Tax Assessor's Map No.: <b>11 11 17 DB</b>	Tax Lot(s): <b>02000, 02100, 02200</b>
Zone Designation: <b>C-1</b>	Legal Description: <i>Add additional sheets if necessary</i>
Comp. Plan Designation:	
Brief description of Land Use Request(s):	
<i>Examples:</i> 1. Move north property line 5 feet south 2. Variance of 2 feet from the required 15-foot front yard setback	
<b>New dealership showroom and vehicle repair in C-1 zone.</b>	
Existing Structures: if any	
Topography and Vegetation:	

### Application Type (please check all that apply)

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

File No. Assigned: <b>4-Cup-22</b>		
Date Received: <b>11/29/22</b>	Fee Amount: <b>\$903-</b>	Date Accepted as Complete:
Received By: <b>sm</b>	Receipt No. <b>6437</b>	Accepted By:
City Hall 169, SW Coast Hwy Newport, OR 97365 541.574.0629		



## City of Newport Land Use Application

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

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

11.28.2022

Applicant Signature(s)

Date

11/29/2022

Property Owner Signature(s) (if other than applicant)

Date

11/29/2022

Authorized representative Signature(s) (if other than applicant)

Date

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

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

## LINCOLNPROD PROPERTY RECORD CARD

## Attachment "B"

4-CUP-22

Tax Year: 2023

Run Date: 12/20/2022 3:59:57 PM

Property ID: R18822

Map and Taxlot: 11-11-17-DB-02000-00

**PROPERTY SITUS ADDRESS**  
3234 S COAST HWY  
Maintenance Area: 4-13

**OWNER NAME AND MAILING ADDRESS**  
SJ AUTOMOTIVE REAL ESTATE  
STEVEN J JACKSON  
INVESTMENTS LLC  
1250 EAST I 30  
ROCKWALL, TX 75087

**LEGAL DESCRIPTION**  
SUNSET DUNES, LOT 4, ACRES 2.02,  
DOC201807456

Acres: 2.02      Sqft: 88000  
Effective Acres: 2.02

**GENERAL PROPERTY INFORMATION**  
Prop Class: 231  
NBH Code: S166  
Prop Type Code: COM  
Prop Code: Z5: COMMERCIAL NEWPORT & LINC  
Next Appr Date:  
Next Appr Reason:  
Last Appr Date: 10/30/2012  
Appraiser: PAB, BD  
Zoning: I-1  
Code Area: 124  
Related Accts: P107330, P407423, P522322,  
P525420, P531163, P531186

**VALUE HISTORY**

Year	Land RMV	Imp RMV	Total RMV	Total AV	LSU Value
2022	726,830	505,070	1,231,900	1,025,160	0
2021	672,310	417,650	1,089,960	995,310	0
2020	587,520	378,810	966,330	966,330	0
2019	587,520	378,810	966,330	960,500	0
2018	605,690	378,810	984,500	932,530	0
2017	605,690	531,390	1,137,080	1,115,070	0

**ASSESSMENT INFORMATION**

Land Non-LSU:	Improvement:	Non-LSU RMV Total:	Land LSU:	RMV Total:	Prior MAV:	Prior MAV Adj:	Prior AV:	Prior AV Adj:	AV +3%:	Except RMV:	CPR:	EX. MAV:	LSU:	New M50 AV:
726,830	505,070	1,231,900	0	1,231,900	1,025,160	0	1,025,160	0	1,055,915	0	0	0	0	1,055,910

**SALES INFORMATION**

Date	Type	Sale Price	Adj Sale Price	Validity	Inst. Type	Sale Ref
07/31/2018	18			SALE	SWD SPECIAL WAR	201807456
09/11/1992	07			SALE	WD WARRANTY DEE	MF250-0776
	37			SALE	MISC MISCELLANE	M-2663

**BUILDING PERMITS AND INSPECTIONS**

Type	Appraiser	Issue Date	Date Checked	% Comp	Comment
RT: APPRAISAL RED T KATHY		01/01/2023		0	DESC: DEMO OF POOLE BLDG 36X84
ELEC: ELECTRIC				0	DESC: INSTALL 3 EV STATIONS

**PARCEL COMMENTS**  
GenFlag- M\_13C,M\_15C  
GenCom- 2015-16 JV#155 REMAPPED, LESS PTN OF ROADS, PLUS PTN OF TL2100 & TL 2200, ENTERED 1-26-15.  
Prop-Note- 96YES,OWNER,TOBY MURRY MOTORS  
Land- TOBY MURRAY MOTORS, PTO 1201 & 1300.

**EXEMPTIONS**

Code	Exempt RMV
RC	
LL	

**Exceptions**

Code	Year	Amount	Method
RC	2018	-209,700	4
LL	2015	-81,940	4

**MARKET LAND INFORMATION**

Type	Table	Method	Acres	Base Value	Adjustment Code - %	NBHD %	Total Adj %	Final Value
IS: INDUSTRIAL DEV SITE	4SBIA	A	2.020	184,000	S-80,LOC-200	1.200	1.920	713,630
ISD: IND SITE DEVELOPMENT	SOSC	LT	0.000	11,000		1.200	1.200	13,200
<b>Total Acres:</b>			<b>2.020</b>			<b>Total Market Land Value:</b>		<b>726,830</b>

**LAND SPECIAL USE**

Code	SAV	Unt	Pr	MSAV	Unt	Pr	LSU
<b>Total LSU:</b>							<b>0</b>

**LINCOLNPROD PROPERTY RECORD CARD**

**Property ID:** R18822

**Map and Taxlot:** 11-11-17-DB-02000-00

**Tax Year:** 2023

**Run Date:** 12/20/2022 3:59:57 PM

**COMMERCIAL IMPROVEMENTS**

No.	Inst. ID	OAA Seg	Business Name	Occupancy	Class	Occ %	Stories	Hgt	Rank	Yr Blt	Eff Yr	Area	Perim	Adjustment Code-%	NBHD %	Total Adj %	RCNLD	MS Depr %	RMV
1.1	2235683	MA		528-Service		100	1		2.0	1800		10,978			1.560	1.560	272,658	0	425,350
1.2	2235685	MPS		528-Service		100	1		2.0	1800		480			1.560	1.560	2,000	0	3,120
1.3	2235687	AS		163-Site Imp		100	1		2.0	1800		29,500			1.560	1.560	20,134	0	31,410
1.4	2235688	GPB		528-Service		100	1		2.0	1800		1,500			1.560	1.560	26,466	0	41,290
1.5	2235689	MPS		528-Service		100	1		2.0	1800		984			1.560	1.560	2,500	0	3,900
<b>Total RMV:</b>																			505,070

**COMMERCIAL ADDITIONS**

No.	Instance ID	Type	Desc	Value
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**COMMERCIAL BASEMENTS**

No.	Instance ID	Bsmt Type	Area	Depth
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**COMMERCIAL COMMENTS**

LINCOLNPROD PROPERTY RECORD CARD

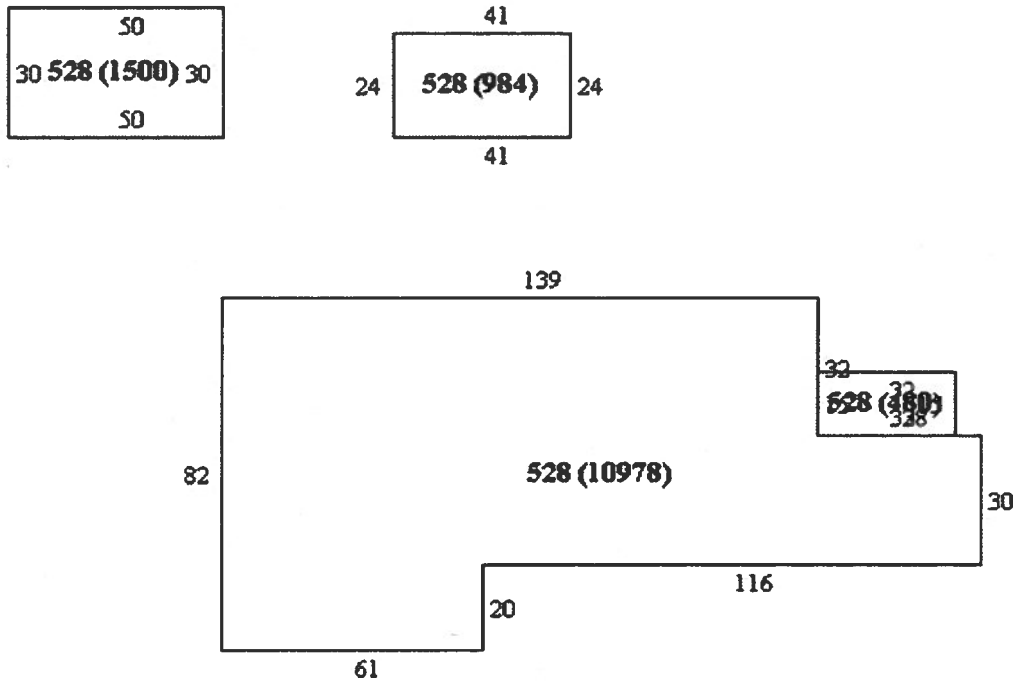
Property ID: R18822

Map and Taxlot: 11-11-17-DB-02000-00

Tax Year: 2023

Run Date: 12/20/2022 3:59:57 PM

Situs: 3234 S COAST HWY



No Image Available

SKETCH VECTORS: A0CR61U20R116U30L38U32L139D82,A0R61U20R116U30L38CU15R32D15L32,A0U120CL50U30R50D30,A0U120R40CR41U24L41D24

SKETCH COMMENTS:

**LINCOLNPROD PROPERTY RECORD CARD**

Property ID: R21185

Map and Taxlot: 11-11-17-DB-02100-00

Tax Year: 2023

Run Date: 12/20/2022 4:00:18 PM

**PROPERTY SITUS ADDRESS**

3441 SW ANCHOR WAY  
Maintenance Area: 4-13

**GENERAL PROPERTY INFORMATION**

Prop Class: 231  
NBH Code: S166  
Prop Type Code: COM  
Prop Code: Z5: COMMERCIAL NEWPORT & LINC  
Next Appr Date:  
Next Appr Reason:  
Last Appr Date: 04/02/2018  
Appraiser: PAB, KL  
Zoning: I-1  
Code Area: 124  
Related Accts: P530439

**OWNER NAME AND MAILING ADDRESS**

SJ AUTOMOTIVE REAL ESTATE  
STEVEN J JACKSON  
INVESTMENTS LLC  
1250 EAST I 30  
ROCKWALL, TX 75087

**LEGAL DESCRIPTION**

SUNSET DUNES, LOT 6, ACRES 0.74,  
DOC201807456

**VALUE HISTORY**

Year	Land RMV	Imp RMV	Total RMV	Total AV	LSU Value
2022	155,350	229,740	385,090	310,840	
2021	143,700	189,980	333,680	301,790	0
2020	125,580	172,310	297,890	293,000	0
2019	125,580	172,310	297,890	284,470	0
2018	129,460	172,310	301,770	276,190	0
2017	118,460	0	118,460	118,460	0

**ASSESSMENT INFORMATION**

Land Non-LSU:	155,350	Prior MAV:	310,840	Except RMV:	
Improvement:	229,740	Prior MAV Adj:		CPR:	
Non-LSU RMV Total:	385,090	Prior AV:	310,840	EX. MAV:	
Land LSU:		Prior AV Adj:		LSU:	
RMV Total:	385,090	AV +3%:	320,165	New M50 AV:	320,160

**SALES INFORMATION**

Date	Type	Sale Price	Adj Sale Price	Validity	Inst. Type	Sale Ref
07/31/2018	18			SALE	SWD SPECIAL WAR	201807456
09/11/1992	07			SALE	WD WARRANTY DEE	MF250-0776

Acres: 0.74 Sqft:

Effective Acres: 0.74

**BUILDING PERMITS AND INSPECTIONS**

Type	Appraiser	Issue Date	Date Checked	% Comp	Comment
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**PARCEL COMMENTS**

GenFlag- M\_13C,M\_18C  
GenCom- 2015-16 JV#155 REMAPPED,PTN TO AND FROM ROADS, ENTERED 1-26-15.  
Land- TOBY MURRAY MOTORS, PTO 1200 & 1300.

**EXEMPTIONS**

Code	Exempt RMV
------	------------

**Exceptions**

Code	Year	Amount	Method
RC	2018	152,170	4
DV	2015	128,760	7

**MARKET LAND INFORMATION**

Type	Table	Method	Acres	Base Value	Adjustment Code - %	NBHD %	Total Adj %	Final Value
IS: INDUSTRIAL DEV SITE	4SBIA	A	0.740	184,000	S-87	1.200	1.044	142,150
ISD: IND SITE DEVELOPMENT	SOSC	LT		11,000		1.200	1.200	13,200
Total Acres:			0.740			Total Market Land Value:		155,350

**LAND SPECIAL USE**

Code	SAV Unt Pr	MSAV Unt Pr	LSU
Total LSU:			



**LINCOLNPROD PROPERTY RECORD CARD**

**Property ID:** R21185

**Map and Taxlot:** 11-11-17-DB-02100-00

**Tax Year:** 2023

**Run Date:** 12/20/2022 4:00:18 PM

COMMERCIAL IMPROVEMENTS																			
No.	Inst. ID	OAA Seg	Business Name	Occupancy	Class	Occ %	Stories	Hgt	Rank	Yr Blt	Eff Yr	Area	Perim	Adjustment Code-%	NBHD %	Total Adj %	RCNLD	MS Depr %	RMV
1.1	2274901	GPB		528-Service		100	1		2.0	1800		3,024			1.560	1.560	47,409		73,960
1.2	2274903	GPB		528-Service		100	1		2.0	1800		3,024			1.560	1.560	47,409		73,960
1.3	2274904	GPB		528-Service		100	1		2.0	1800		3,024			1.560	1.560	47,409		73,960
1.4	2274905	AS		163-Site Imp		100	1		2.0	1800		6,000			1.560	1.560	5,040		7,860
Total RMV:																			229,740

COMMERCIAL ADDITIONS					COMMERCIAL BASEMENTS				COMMERCIAL COMMENTS	
No.	Instance ID	Type	Desc	Value	No.	Instance ID	Bsmt Type	Area	Depth	

LINCOLNPROD PROPERTY RECORD CARD

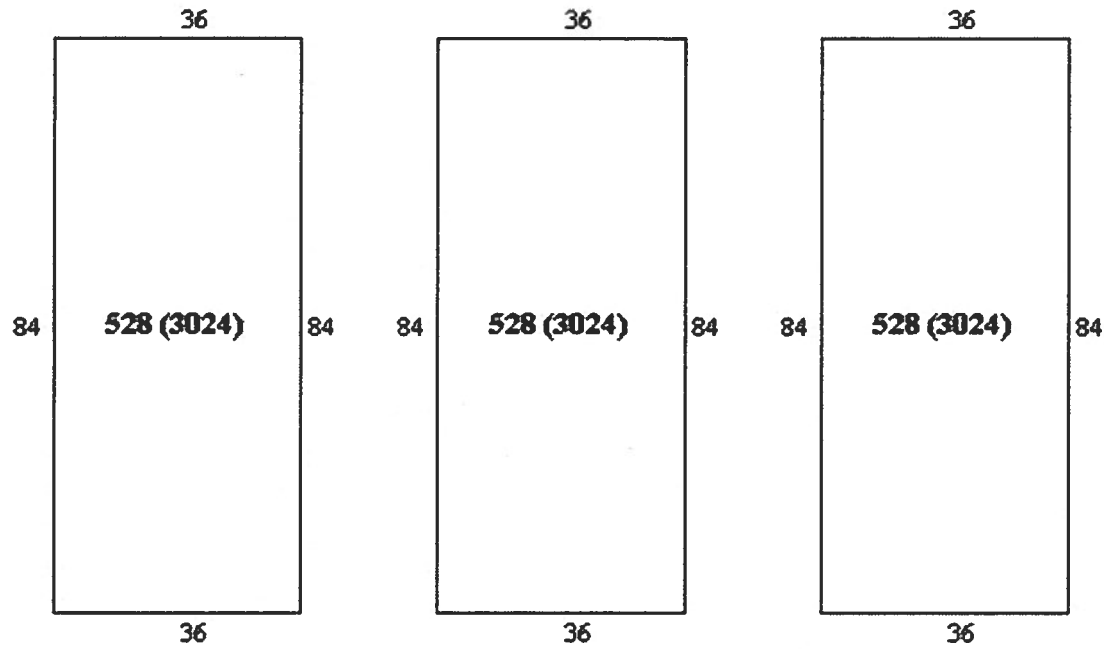
Property ID: R21185

Map and Taxlot: 11-11-17-DB-02100-00

Tax Year: 2023

Run Date: 12/20/2022 4:00:18 PM

Situs: 3441 SW ANCHOR WAY



No Image Available

SKETCH VECTORS: A0CR36U84L36D84,A0R56CR36U84L36D84,A0R112CR36U84L36D84

SKETCH COMMENTS:

## LINCOLNPROD PROPERTY RECORD CARD

Property ID: R23537

Map and Taxlot: 11-11-17-DB-02200-00

Tax Year: 2023

Run Date: 12/20/2022 4:00:35 PM

**PROPERTY SITUS ADDRESS**  
3414 S COAST HWY  
Maintenance Area: 4-13

**OWNER NAME AND MAILING ADDRESS**  
SJ AUTOMOTIVE REAL ESTATE  
STEVEN J JACKSON  
INVESTMENTS LLC  
1250 EAST I 30  
ROCKWALL, TX 75087

**LEGAL DESCRIPTION**  
SUNSET DUNES, LOT 5 PTN, ACRES 0.98,  
DOC201807456 LESS DOC202003152

Acres: 0.98      Sqft:  
Effective Acres: 0.98

**GENERAL PROPERTY INFORMATION**  
Prop Class: 231  
NBH Code: S166  
Prop Type Code: COM  
Prop Code: Z5: COMMERCIAL NEWPORT & LINC  
Next Appr Date:  
Next Appr Reason:  
Last Appr Date: 04/02/2018  
Appraiser: PAB, KL  
Zoning: I-1  
Code Area: 124  
Related Accts:

**VALUE HISTORY**

Year	Land RMV	Imp RMV	Total RMV	Total AV	LSU Value
2022	229,580	101,350	330,930	246,480	
2021	212,370	83,810	296,180	239,310	0
2020	185,580	76,010	261,590	232,340	0
2019	189,150	76,010	265,160	257,680	0
2018	195,000	76,010	271,010	250,180	0
2017	184,000	0	184,000	184,000	0

**ASSESSMENT INFORMATION**

Land Non-LSU:	229,580	Prior MAV:	246,480	Except RMV:
Improvement:	101,350	Prior MAV Adj:		CPR:
Non-LSU RMV Total:	330,930	Prior AV:	246,480	EX. MAV:
Land LSU:		Prior AV Adj:		LSU:
RMV Total:	330,930	AV +3%:	253,874	New M50 AV:
				253,870

**SALES INFORMATION**

Date	Type	Sale Price	Adj Sale Price	Validity	Inst. Type	Sale Ref
07/31/2018	18			SALE	SWD SPECIAL WAR	201807456
09/11/1992	07			SALE	WD WARRANTY DEE	MF250-0776
	37			SALE	MISC MISCELLANE	M-2663

**BUILDING PERMITS AND INSPECTIONS**

Type	Appraiser	Issue Date	Date Checked	% Comp	Comment
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**PARCEL COMMENTS**  
GenFlag- M\_13C,M\_15C,M\_18C,M\_20C  
GenCom- 20/21 JV#168 0.02AC TO ROAD, ENT 04/24/20. 2015-16 JV#155 REMAPPED, PTN TO AND FROM ROADS, ENTERED 1

**EXEMPTIONS**

Code	Exempt RMV
------	------------

**Exceptions**

Code	Year	Amount	Method
LL	2020	232,340	8
RC	2018	57,530	4
DV	2015	200,000	7

**MARKET LAND INFORMATION**

Type	Table	Method	Acres	Base Value	Adjustment Code - %	NBHD %	Total Adj %	Final Value
IS: INDUSTRIAL DEV SITE	4SBIA	A	0.980	184,000		1.200	1.200	216,380
ISD: IND SITE DEVELOPMENT	SOSC	LT		11,000		1.200	1.200	13,200
Total Acres:			0.980			Total Market Land Value:		229,580

**LAND SPECIAL USE**

Code	SAV Unt Pr	MSAV Unt Pr	LSU
Total LSU:			

**LINCOLNPROD PROPERTY RECORD CARD**

**Property ID:** R23537

**Map and Taxlot:** 11-11-17-DB-02200-00

**Tax Year:** 2023

**Run Date:** 12/20/2022 4:00:35 PM

**COMMERCIAL IMPROVEMENTS**

No.	Inst. ID	OAA Seg	Business Name	Occupancy	Class	Occ %	Stories	Hgt	Rank	Yr Blt	Eff Yr	Area	Perim	Adjustment Code-%	NBHD %	Total Adj %	RCNLD	MS Depr %	RMV
1.1	2314344	GPB		528-Service		100	1		2.0	1800		3,024			1.560	1.560	47,409		73,960
1.2	2314345	AS		163-Site Imp		100	1		2.0	1800		20,900			1.560	1.560	17,556		27,390
<b>Total RMV:</b>																			101,350

**COMMERCIAL ADDITIONS**

No.	Instance ID	Type	Desc	Value
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**COMMERCIAL BASEMENTS**

No.	Instance ID	Bsmt Type	Area	Depth
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**COMMERCIAL COMMENTS**

LINCOLNPROD PROPERTY RECORD CARD

Property ID: R23537

Map and Taxlot: 11-11-17-DB-02200-00

Tax Year: 2023

Run Date: 12/20/2022 4:00:35 PM

Situs: 3414 S COAST HWY



**No Image Available**

SKETCH VECTORS: A0CR84U36L84D36

SKETCH COMMENTS:



# TOYOTA OF NEWPORT

## CONDITIONAL USE SUBMITTAL

### DATE

November 28, 2022

### DISTRIBUTION

City of Newport, Department of Community Development

Derrick Tokos, Director

### PROJECT

221417

TOYOTA OF NEWPORT  
Newport, OR

Project Address: 3234 SW Coast Highway, Newport, OR 97366

The Responses below follow the checklist on the Application Submittal Requirements for Conditional Use. City checklist items are followed by the project team's response.

### CHECKLIST

1. Site plan, drawn to scale, showing the dimensions and arrangement of the proposed development on the applicant's lot.
  - **RESPONSE:** See sheet A002 for the proposed development.
2. Building elevations.
  - **RESPONSE:** See sheet A501 for the proposed building elevations.
3. A sign plan.
  - **RESPONSE:** See sheet A502 for additional proposed building elevations and signage elevations and calculations.
4. A current 18" x 24" Lincoln County Assessor's tax map showing the subject property and the notification area.
  - **RESPONSE:** See attached Assessors Map dated 4/21/2020, and a color copy of the Map labeled "Properties Within 200 Feet." The owners of applicable properties are shown and correspond to the list of addresses.
5. A list of names and addresses of property owners, as shown in the records of the Lincoln County Assessor, within the notification area.
  - **RESPONSE:** See attached list of addresses.
6. For commercial activities that are conditional, a proposed plan of business operation.
  - **RESPONSE:** The Applicant requests Conditional Use be granted for the existing and continued use of a vehicle retail sales and service operation, including on-site vehicle storage and display, as currently operated on the subject property. In addition, the Applicant proposes a new one-story auto dealership and enclosed service building. Inventory parking is proposed at the north end of

the property. The facility is scheduled to be open Monday thru Saturday during normal business hours. Customers can purchase vehicles and drop-off vehicles for service on-site. Indoor customer waiting areas will be provided. Construction will be phased to allow continued business operations during construction.

**7. Written findings of fact addressing the following criteria**

- a. **That the public facilities can adequately accommodate the proposed use.**
  - **RESPONSE:** The existing and continued use will not significantly alter or increase traffic to the site. Vehicle traffic will continue to be served by existing access from Hwy. 101 and SW 35<sup>th</sup> Street. Off-street parking is provided on-site to customers and employees. New storm water runoff will be treated and connected to existing storm drains. All other existing utilities can adequately serve the existing and continued use.
- b. **That the request complies with the requirements of the underlying zone or overlay zone.**
  - **RESPONSE:** Per City of Newport Ordinance No. 2196, Chapter 14.03.070, the use is allowed as a conditional use, in the C-1 zone. The site will include Retail Sales and Service: Sales-oriented, bulk retail and Vehicle Repair. The use as an auto dealership is existing and will continue similar activities in the proposed scope of work.
- c. **That the proposed use does not have an adverse impact greater than existing uses on nearby properties, or impacts can be ameliorated through impositions of conditions of approval.**
  - **RESPONSE:** The existing and continued use will improve the area by increasing activity within the building and site. Site improvements will be designed to meet current jurisdiction requirements. These include minimum landscaping areas, landscaping along frontages, and landscape islands within parking areas. A traffic engineer has determined that the traffic impact on the site will be minimal. Pending city approval, the traffic engineer suggests that no trip-based thresholds are triggered to require a full traffic study. The proposal will reduce the number of driveways on the highway, which meets ODOT traffic management principles. Additionally, the surrounding properties on all sides are zoned with the same Commercial zone designation and are therefore complementary with this use.
- d. **If the application is for a proposed building or building modification, that it is consistent with the overall development character of the area with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.**
  - **RESPONSE:** Per City of Newport Ordinance No. 2196, Chapter 14.13.010, the property will adhere to density requirements stated in Table "A". The proposed building height is approximately 27'-6" (50'-0" max). The building setback is greater than the minimum requirement of 15'-0" from US 101 with no setback requirements along the side and rear. The height of the proposed building is complementary to the surrounding one to three story buildings.



8. Statement describing the nature of the request.

- RESPONSE: Per City of Newport Ordinance No. 2196, Tax Lots 02000, 02100, and 02200 were changed from Industrial to Commercial and Zoning Map from I-1/"Light Industrial" to C-1/"Retail & Service Commercial". This amendment states:  
 "In addition to the map amendment, the Commission found that vehicle repair uses should be conditionally allowed in the C-1 zone as opposed to the use being prohibited (its current status). Vehicle sales is conditional in the C-1 zone and vehicle repair is often paired with that use. The Commission concluded that vehicle repair enclosed within a building, can be compatible withing the C-1 zone district and that a conditional use process is an appropriate mechanism for determining if a project involving vehicle repair is, or is not, compatible."

The proposed building use satisfies the required parameters listed above.

9. Fee

- RESPONSE: The fee is to be submitted with application.

Respectfully submitted by:

**Paul Kurth, Architect**

PRELIMINARY  
NOT FOR  
CONSTRUCTION

CONSULTANT:

PROJECT NUMBER: 221417

**JACKSON  
TOYOTA OF  
NEWPORT**

3234 SW COAST HWY  
NEWPORT, OR 97366

SHEET TITLE:  
**OVERALL  
ARCHITECTURAL  
SITE PLAN**

DRAWN BY: SKH

SHEET:

**A002**  
DESIGN DEVELOPMENT  
11/04/2022

LRS Architects, Inc. © 2022

## GENERAL NOTES

### USE

VEHICLE REPAIR AND SALES-ORIENTED BULK RETAIL  
(CONDITIONAL USE)

### ZONING SETBACKS

ZONE: C-1 COMMERCIAL

FRONT: 15 FT  
SIDE: 0 FT  
REAR: 0 FT  
MAX. BUILDING HEIGHT: 50 FT

### LANDSCAPE REQUIREMENTS

10% OF TOTAL SURFACE AREA IN PARKING AREAS TO  
BE LANDSCAPED.

TOTAL SITE LANDSCAPE AREA REQUIRED: 10%  
(INCLUDES THE RIGHT-OF-WAY BETWEEN CURB AND  
PROPERTY LINE)  
LANDSCAPE AREA PROVIDED: 18.5%

### VEHICLE PARKING REQUIREMENTS

USE: BULK RETAIL (14.14.030)  
RATE: 1 SPACE PER 600 SF  
REQUIRED STALLS: 44 (26,000 SF/600 = 44)  
PROVIDED STALLS: 72  
(DOES NOT INCLUDE INVENTORY STORAGE)  
DRIVE AISLES: 25 FT MIN. AT 90° PARKING,  
MANUFACTURER REQUIREMENT  
TYPICAL PARKING STALL: 9 FT X 20 FT

### BICYCLE PARKING REQUIREMENTS

TABLE 14.14.070: 26 TO 50 VEHICLES STALL PROVIDED  
REQUIRED: 2 BICYCLE PARKING STALLS  
PROVIDED: 2 BICYCLE PARKING STALLS

### LOADING ZONES

TABLE 14.14.110: 20,000-79,000 SF

REQUIRED: 1 LOADING ZONE  
(35 FT X 10 FT X 14 FT IN HEIGHT)

PARKING TYPES	
TYPE	# OF STALLS
CUSTOMER	21
EMPLOYEE	24
INVENTORY (NOT REQUIRED)	89
SERVICE	19
Grand total	153

## GENERAL NOTES

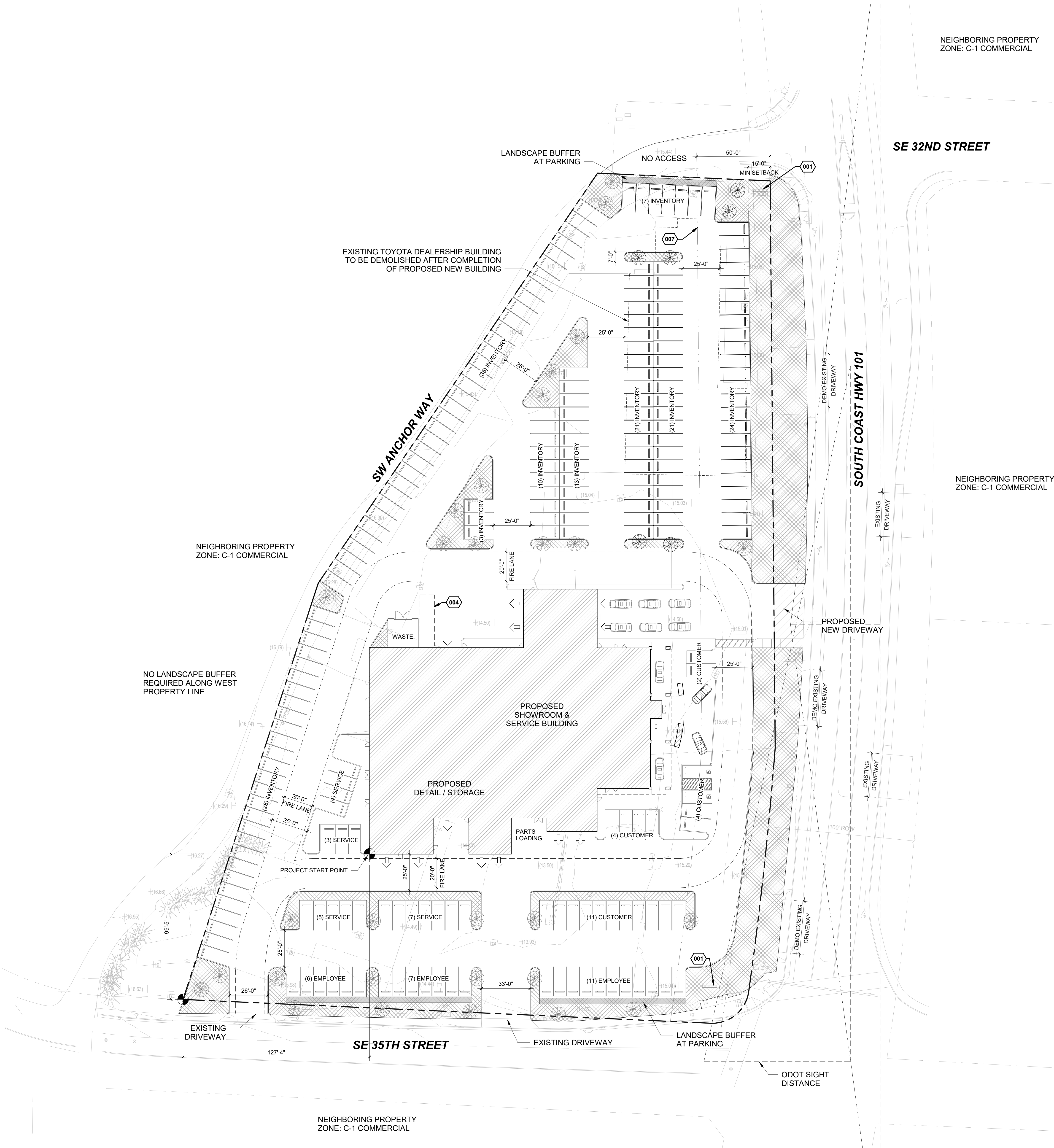
- SITE INFORMATION IS BASED ON OWNERS SURVEY  
DATED 02.11.2022 BY K&D ENGINEERING.
- ALL FINISH EXISTING FLOOR ELEVATIONS WERE  
BASED ON SURVEY DATED XXX BY XXX.
- REFER TO CIVIL PLANS FOR MORE DEMOLITION  
INFORMATION.
- COORDINATE WITH SURVEYOR DISCONNECTION OF  
ALL PRIVATE AND PUBLIC UTILITIES IF REQUIRED.
- ALL SURVEY INFORMATION INDICATING ALL EXISTING  
CONDITIONS ARE SHOWN FOR REFERENCE ONLY.
- SEE A1001 FOR STANDARD ACCESSIBILITY  
REQUIREMENTS.
- ALL PARKING SPACE DIMENSIONS ARE TO ASPHALT  
SIDE OF CURB. PARKING SPACES ARE 9'-0" OC UNO.
- STREET, PARKING, DRIVE CUTS, AND/OR PUBLIC  
RIGHT OF WAY INFORMATION ARE SHOWN FOR  
REFERENCE ONLY. SEE CIVIL DRAWINGS FOR  
DETAILED INFORMATION.
- DIMENSIONS SHOWN ON THIS PLAN ARE FOR  
GENERAL LAYOUT OF THE BUILDINGS AND SITE  
ELEMENTS.
- REFER TO THE LEGAL SURVEY (PROVIDED BY  
OTHERS) FOR PROPERTY LINE DIMENSIONS AND  
EXACT LOCATIONS OF EXISTING SITE ELEMENTS.
- SEE CIVIL FOR TYPICAL DIMENSIONS UNO.
- TYPICAL CURB RADIUS IS 3'-0" AT ASPHALT SIDE OF  
CURB UNO.
- SEE SHEET A502 FOR ADDITIONAL SIGNAGE  
INFORMATION AND SIGNAGE CALCULATIONS.

## KEYNOTES

- 001 TOYOTA PYLON SIGN #829 (QTY: 2)  
004 LOADING SPACE 35 FT X 10 FT  
007 FORMER 50' HWY 101 SETBACK FOR I1 ZONE

## LEGEND

- SITE EASEMENTS
- SITE SETBACKS
- SITE PROPERTY BOUNDARY
- PROPOSED BUILDING
- EXISTING BUILDING
- PROPOSED CONCRETE SIDEWALK
- EXISTING CONCRETE SIDEWALK
- SITE EGRESS PATH TO RIGHT OF WAY
- ENTRY/EXIT ACCESS TO ACCESSIBLE  
MEANS OF EGRESS
- PUBLIC ENTRY ON ACCESSIBLE  
ROUTE
- SITE POLE LIGHTING
- BOLLARD LIGHTING
- EXISTING SITE LIGHTING
- NO. OF PARKING SPACES IN GROUP
- TRAFFIC ARROW
- FIRE HYDRANT
- EXISTING FIRE HYDRANT
- FIRE DEPARTMENT CONNECTION
- SPOT GRADE ELEVATION
- FINISH FLOOR ELEVATION



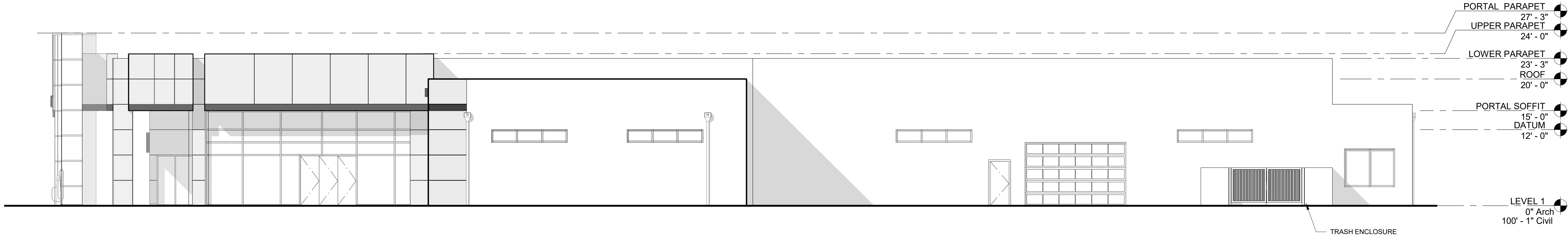
## 1. OVERALL SITE PLAN

A002 SCALE: 1" = 30'-0"

0 15' 30' 60'



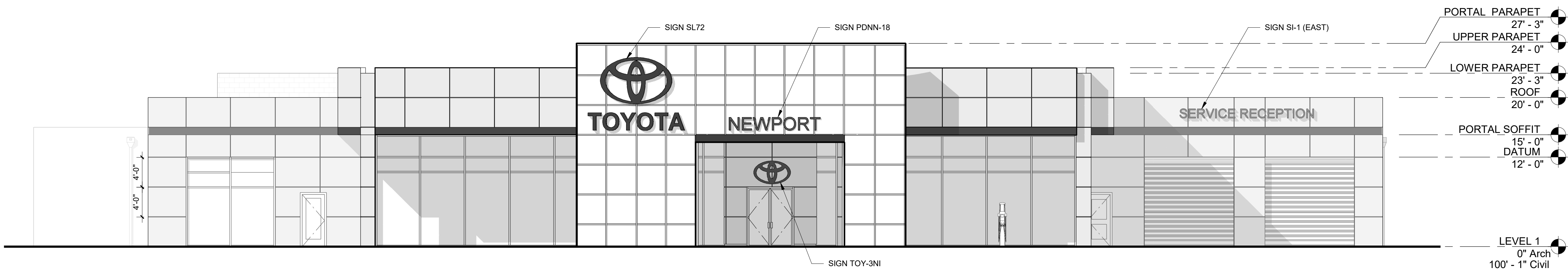
11/23/2022 1:23:33 PM Autodesk Docs/221417 - Toyota of Newport/221417\_Toyota\_Newport\_ARCH\_R22\_B360.rvt



1. NORTH ELEVATION

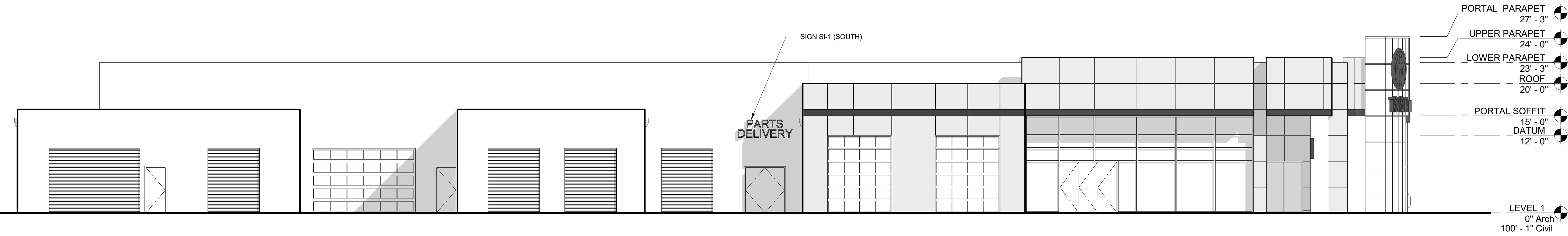
A501 SCALE: 1/8" = 1'-0"

NO SIGNS ON THIS ELEVATION



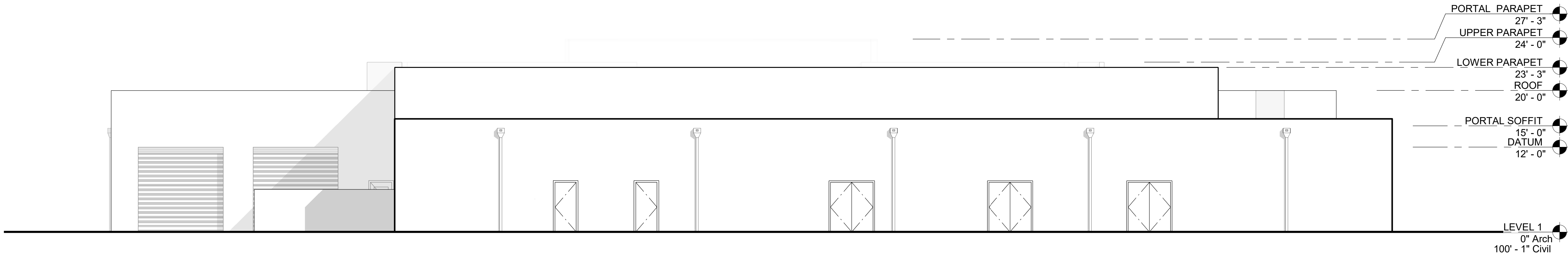
2. EAST ELEVATION

A501 SCALE: 1/8" = 1'-0"



3. SOUTH ELEVATION

A501 SCALE: 1/8" = 1'-0"



4. WEST ELEVATION

A501 SCALE: 1/8" = 1'-0"

NO SIGNS ON THIS ELEVATION

GENERAL NOTES

- SEE WALL SECTIONS FOR PARTIAL ELEVATIONS NOT SHOWN.
- SEE 1/8" FLOOR PLANS FOR EXTERIOR DOOR AND WINDOW TYPES.
- SEE DOOR AND WINDOW TYPES / SCHEDULES FOR ADDITIONAL INFORMATION.
- PAINT ALL NON-NOTED MISCELLANEOUS ITEMS TO MATCH ADJACENT MATERIAL OR FINISH COLOR UNO.
- REFER TO RCP'S FOR FINISH MATERIALS OF SOFFIT AREAS.

PRELIMINARY  
NOT FOR  
CONSTRUCTION

KEYNOTES

CONSULTANT:

PROJECT NUMBER: 221417

**JACKSON  
TOYOTA OF  
NEWPORT**

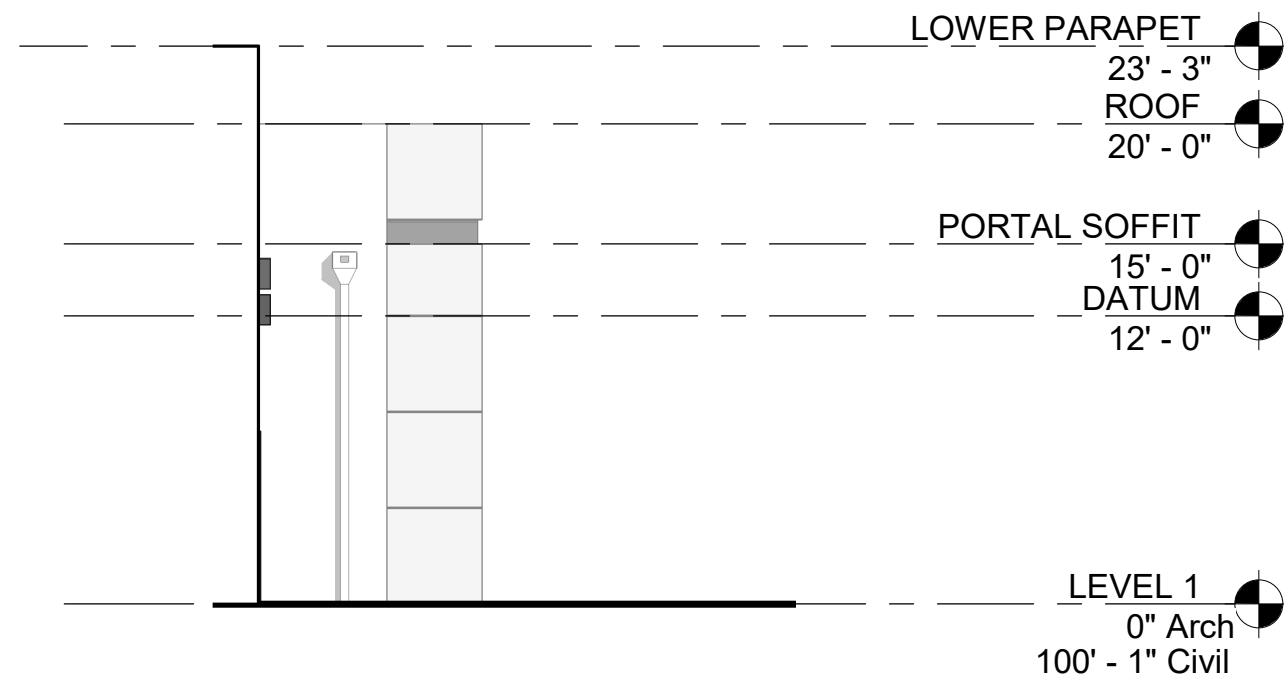
3234 SW COAST HWY  
NEWPORT, OR 97366

SHEET TITLE:  
**EXTERIOR  
ELEVATIONS**

DRAWN BY: Author

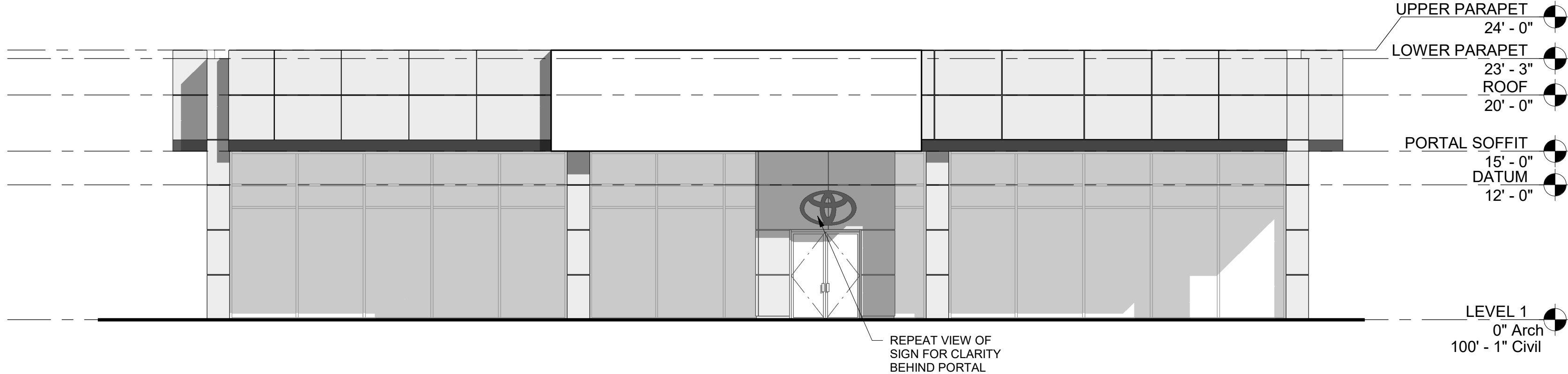
SHEET:  
**A501**  
DESIGN DEVELOPMENT  
11/04/2022

11/23/2022 1:23:36 PM Autodesk Docs/221417 - Toyota of Newport/221417\_Toyota\_Newport\_ARCH\_P22\_B360.rvt



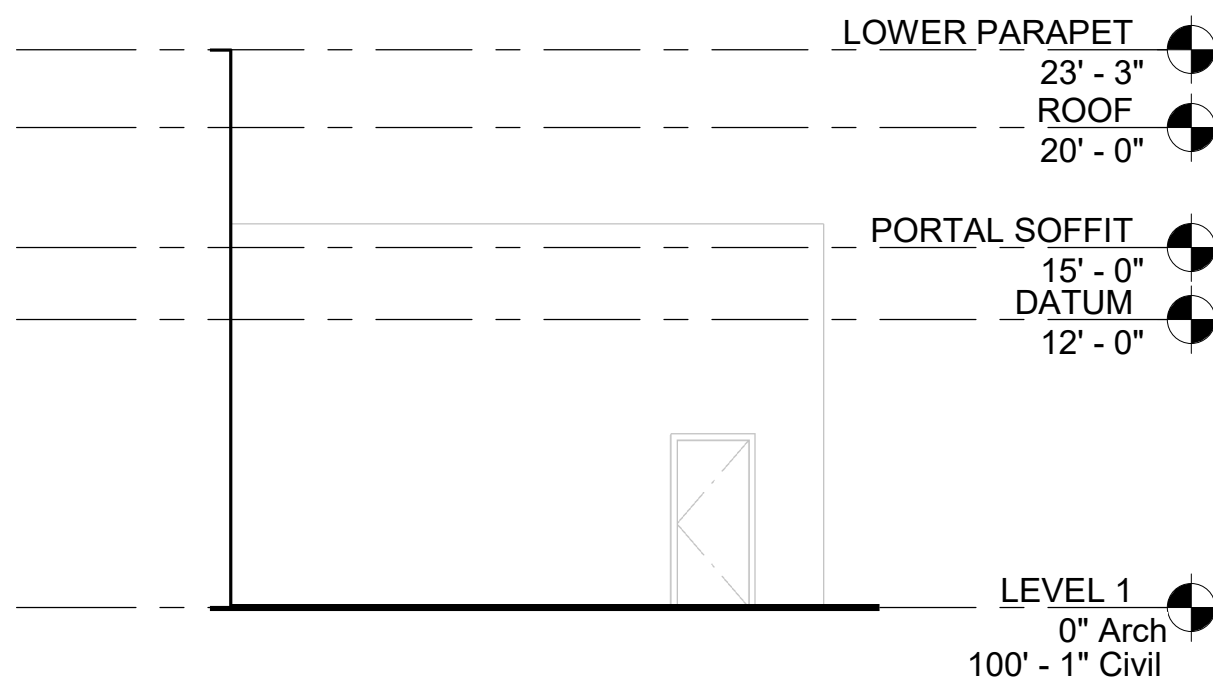
1. PARTIAL WEST ELEVATION AT VEHICLE DELIVERY

A502 SCALE: 1/8" = 1'-0"



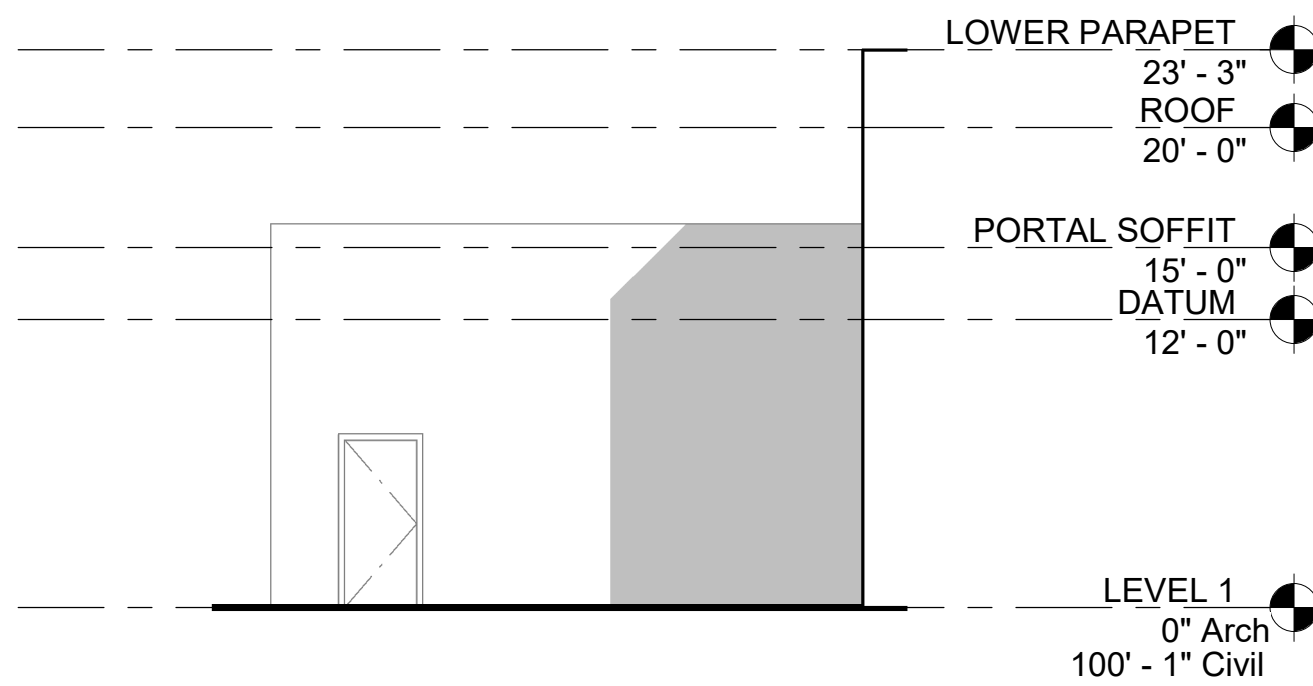
2. PARTIAL EAST ELEVATON AT SHOWROOM

A502 SCALE: 1/8" = 1'-0"



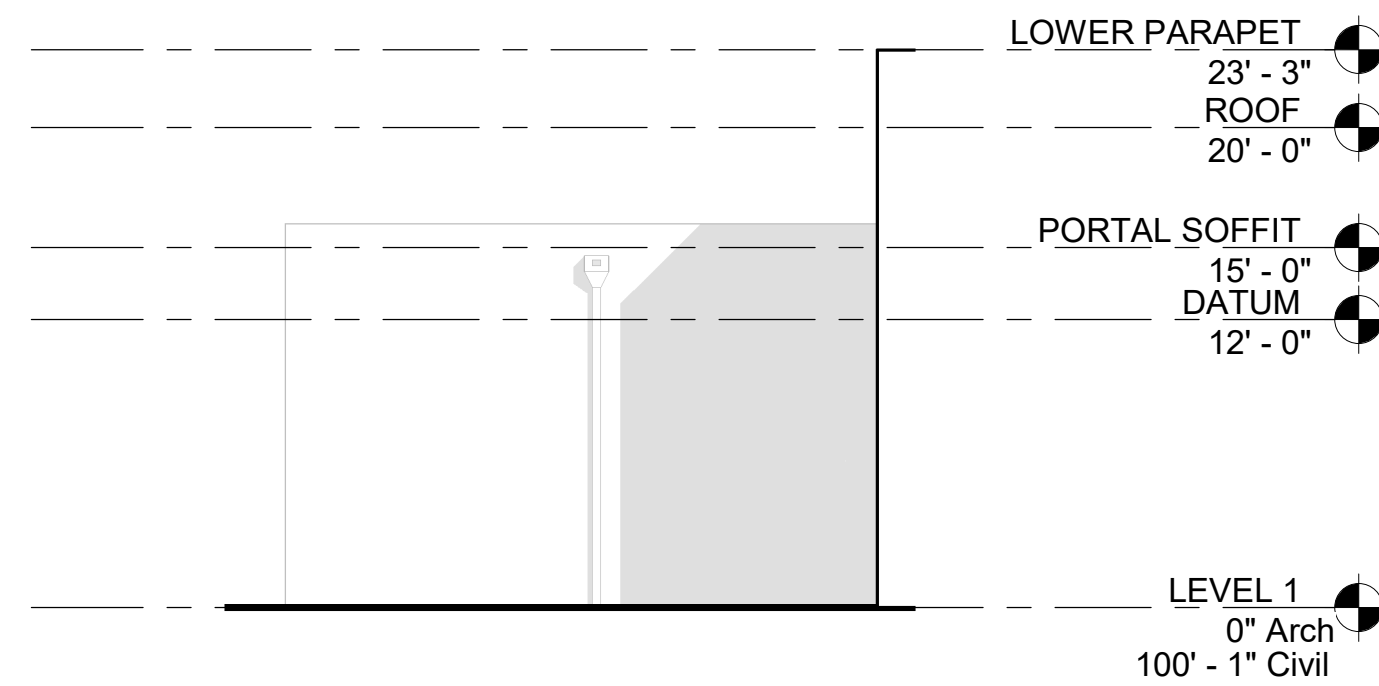
3. PARTIAL WEST ELEVATION AT DETAIL BAY

A502 SCALE: 1/8" = 1'-0"



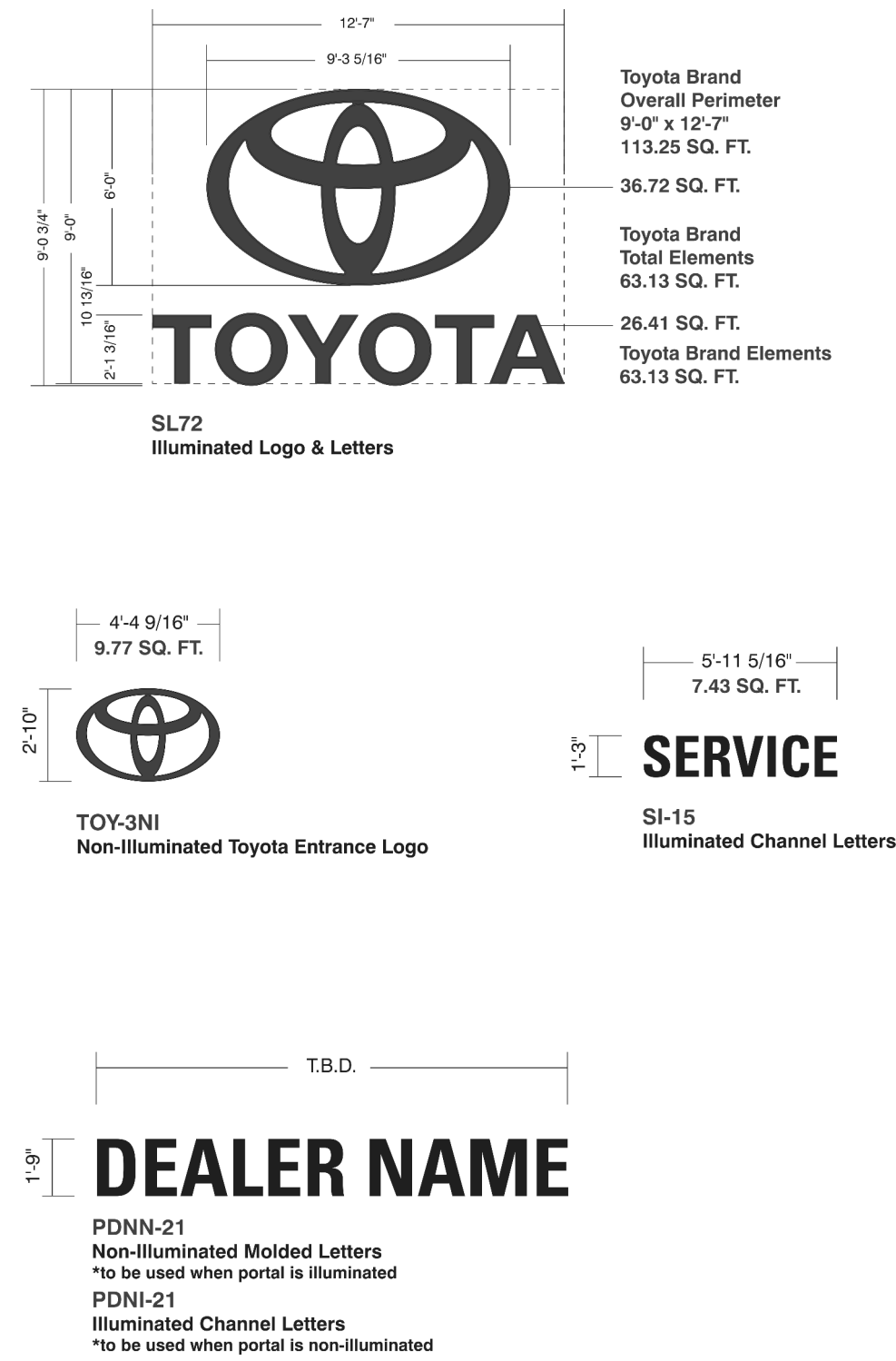
4. PARTIAL EAST ELEVATION AT DETAIL/WASH BAY

A502 SCALE: 1/8" = 1'-0"

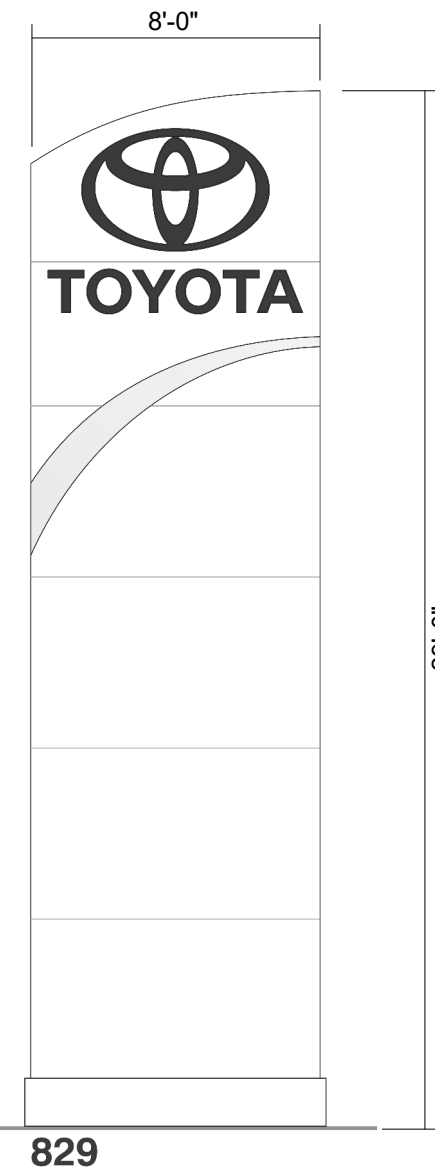


5. PARTIAL EAST ELEVATION AT DETAIL BAY

A502 SCALE: 1/8" = 1'-0"



SIGN TYPES



#### SIGNAGE CALCULATIONS

##### SIGNAGE AREAS - EAST FACADE / FRONTAGE

NAME	TYPE	LOCATION	SQ FT	QTY	DISTANCE FROM PROPERTY LINE	CHARGED TO ALLOWABLE (SECTION 10.10.085)
SL72	WALL	EAST FACADE	113.25	1	60'-0"	113.25
TOY-3NI	WALL	EAST FACADE	9.77	1	77'-2"	7.28
PDNN-18	WALL	EAST FACADE	21.91	1	60'-0"	21.91
SI-15	WALL	EAST FACADE	22.75	1	120'-8"	1.93

TOTAL 144.37 SF

\*TOTAL MAXIMUM SIGN AREA FOR WALL SIGNAGE EQUALS 2 SF FOR EACH LINEAL FEET OF STREET FRONTAGE (10.10.085.A). 554 LINEAL FEET OF STREET FRONTAGE IS PROVIDED, THEREFORE 1,108 SF OF WALL SIGNS IS ALLOWED. 144.37 SF IS WITHIN THE AREA ALLOWABLE ON THIS FACADE/FRONTAGE.

829	FREESTANDING SIGN	EAST FRONTAGE	272	1	1'-6"	272
			TOTAL		272 SF	

\*TOTAL MAXIMUM SIGN AREA FOR FREESTANDING SIGNS EQUALS 1 SF FOR EACH LINEAL FEET OF STREET FRONTAGE (10.10.085.B). 554 LINEAL FEET OF STREET FRONTAGE IS PROVIDED, THEREFORE 554 SF OF WALL SIGNS IS ALLOWED. 272 SF IS WITHIN THE AREA ALLOWABLE ON THIS FACADE/FRONTAGE.

##### SIGNAGE AREAS - SOUTH FACADE / FRONTAGE

NAME	TYPE	LOCATION	SQ FT	QTY	DISTANCE FROM PROPERTY LINE	CHARGED TO ALLOWABLE (SECTION 10.10.085)
SI-15	WALL	SOUTH FACADE	24.57	1	134'-0"	0
			TOTAL		0 SF	

\*TOTAL MAXIMUM SIGN AREA FOR WALL SIGNAGE EQUALS 2 SF FOR EACH LINEAL FEET OF STREET FRONTAGE (10.10.085.A). 361 LINEAL FEET OF STREET FRONTAGE IS PROVIDED, THEREFORE 722 SF OF WALL SIGNS IS ALLOWED. 0 SF IS WITHIN THE AREA ALLOWABLE ON THIS FACADE/FRONTAGE.

829	FREESTANDING SIGN	SOUTH FRONTAGE	272	1	24'-5"	272
			TOTAL		272 SF	

\*TOTAL MAXIMUM SIGN AREA FOR FREESTANDING SIGNS EQUALS 1 SF FOR EACH LINEAL FEET OF STREET FRONTAGE (10.10.085.B). 361 LINEAL FEET OF STREET FRONTAGE IS PROVIDED, THEREFORE 361 SF OF WALL SIGNS IS ALLOWED. 272 SF IS WITHIN THE AREA ALLOWABLE ON THIS FACADE/FRONTAGE.

#### GENERAL NOTES

- SEE WALL SECTIONS FOR PARTIAL ELEVATIONS NOT SHOWN.
- SEE 1/8" FLOOR PLANS FOR EXTERIOR DOOR AND WINDOW TYPES.
- SEE DOOR AND WINDOW TYPES / SCHEDULES FOR ADDITIONAL INFORMATION.
- PAINT ALL NON-NOTED MISCELLANEOUS ITEMS TO MATCH ADJACENT MATERIAL OR FINISH COLOR UNO.
- REFER TO RCP'S FOR FINISH MATERIALS OF SOFFIT AREAS.

PRELIMINARY  
NOT FOR  
CONSTRUCTION

#### KEYNOTES

CONSULTANT:

PROJECT NUMBER: 221417

**JACKSON**  
**TOYOTA OF**  
**NEWPORT**

3234 SW COAST HWY  
NEWPORT, OR 97366

SHEET TITLE:

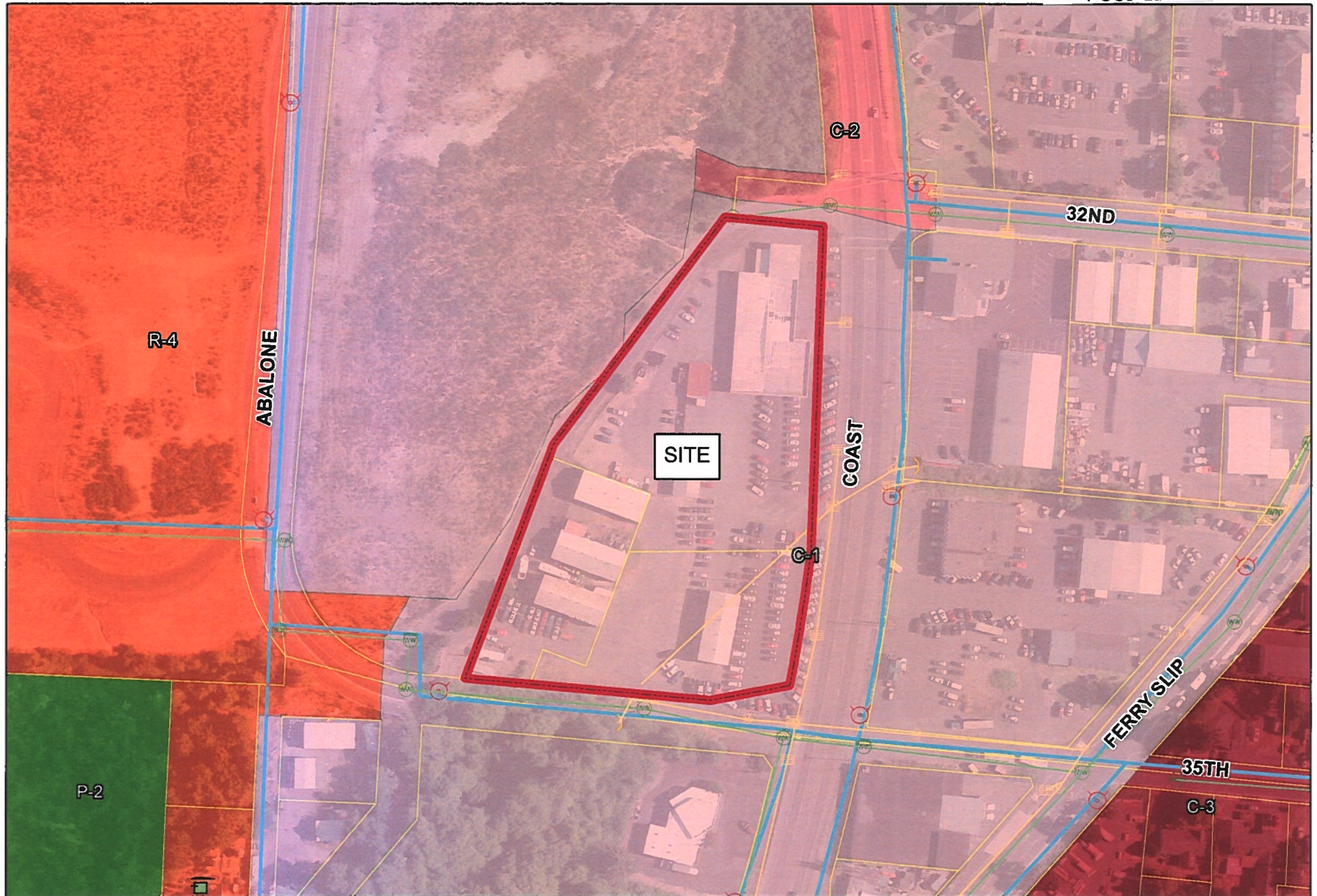
**EXTERIOR**  
**ELEVATION**

DRAWN BY: SKH

SHEET:

**A502**  
DESIGN DEVELOPMENT  
11/04/2022





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

### Toyota of Newport - Zoning and Utilities (Water (blue), Sewer (green), Storm (orange))

Image Taken July 2018  
4-inch, 4-band Digital Orthophotos  
Quantum Spatial, Inc. Corvallis, OR

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

0 75 150 300 Feet



SHEET 1 OF 5

PLAT OF:  
SUNSET DUNES

A REPLAT OF A PORTION OF THE PLAT OF WAGGONER'S ADDITION TO SOUTH BEACH AND A PORTION OF THE PLAT OF HARBORTON, LOCATED IN THE SOUTHWEST AND SOUTHEAST ONE-QUARTERS OF SECTION 17, TOWNSHIP 11 SOUTH, RANGE 11 WEST, WILLAMETTE MERIDIAN IN LINCOLN COUNTY, OREGON.

ASSESSOR'S MAPS: 11-11-17 CA & 11-11-17 DB  
DSI-4313  
AUGUST 1, 2014

INDEX

SHEET 1: DECLARATION, ACKNOWLEDGMENTS AND APPROVALS  
SHEET 2: SURVEYORS NARRATIVE, CERTIFICATE  
SHEET 3: PLAT BOUNDARY, LOTS 1 AND 2  
SHEET 4: LOTS 3, 4, 5 AND 6, EASEMENTS  
SHEET 5: ROAD CENTERLINE, IMPROVEMENTS

ACKNOWLEDGMENT:

STATE OF OREGON

S.S.

COUNTY OF Jackson

ON THIS 10 DAY OF December, IN THE YEAR 2014, BEFORE ME, Susan E. Person, THE SIGNED NOTARY PUBLIC, PERSONALLY APPEARED, ERIC G. BUNN, MANAGER OF INVESTORS XII, LLC PERSONALLY KNOWN TO ME (OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THIS INSTRUMENT, AND ACKNOWLEDGED THAT HE EXECUTED IT ON BEHALF OF INVESTORS XII, LLC. WITNESS MY HAND AND OFFICIAL SEAL.



Susan E. Person 488131  
NOTARY SIGNATURE COMMISSION NUMBER  
Susan E. Person May 21, 2015  
NOTARY PUBLIC - OREGON MY COMMISSION EXPIRES:

ACKNOWLEDGMENT:

STATE OF OREGON

S.S.

COUNTY OF Jackson

ON THIS 10 DAY OF December, IN THE YEAR 2014, BEFORE ME, Nicole E. Fels, THE SIGNED NOTARY PUBLIC, PERSONALLY APPEARED, REGINALD P. BREEZE, MANAGER OF INVESTORS XII, LLC PERSONALLY KNOWN TO ME (OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THIS INSTRUMENT, AND ACKNOWLEDGED THAT HE EXECUTED IT ON BEHALF OF INVESTORS XII, LLC. WITNESS MY HAND AND OFFICIAL SEAL.



Nicole E. Fels 926055  
NOTARY SIGNATURE COMMISSION NUMBER  
Nicole E. Fels March 12, 2015  
NOTARY PUBLIC - OREGON MY COMMISSION EXPIRES:

ACKNOWLEDGMENT:

STATE OF OREGON

S.S.

COUNTY OF Multnomah

ON THIS 5th DAY OF December, IN THE YEAR 2014, BEFORE ME, Karen K. Black, THE SIGNED NOTARY PUBLIC, PERSONALLY APPEARED, NANCY STUEBER, AS PRESIDENT OF OREGON MUSEUM OF SCIENCE & INDUSTRY, PERSONALLY KNOWN TO ME (OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THIS INSTRUMENT, AND ACKNOWLEDGED THAT SHE EXECUTED IT ON BEHALF OF OREGON MUSEUM OF SCIENCE & INDUSTRY. WITNESS MY HAND AND OFFICIAL SEAL.



Karen K. Black 457697  
NOTARY SIGNATURE COMMISSION NUMBER  
Karen K. Black 4-17-15  
NOTARY PUBLIC - OREGON MY COMMISSION EXPIRES:

ACKNOWLEDGMENT:

STATE OF OREGON

S.S.

COUNTY OF Multnomah

ON THIS 5th DAY OF December, IN THE YEAR 2014, BEFORE ME, Karen K. Black, THE SIGNED NOTARY PUBLIC, PERSONALLY APPEARED, TROND INGVALDSEN, BOARD CHAIR OF OREGON MUSEUM OF SCIENCE & INDUSTRY, PERSONALLY KNOWN TO ME (OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THIS INSTRUMENT, AND ACKNOWLEDGED THAT HE EXECUTED IT ON BEHALF OF OREGON MUSEUM OF SCIENCE & INDUSTRY. WITNESS MY HAND AND OFFICIAL SEAL.



Karen K. Black 457697  
NOTARY SIGNATURE COMMISSION NUMBER  
Karen K. Black 4-17-15  
NOTARY PUBLIC - OREGON MY COMMISSION EXPIRES:

SURVEY BY:  
DENISON SURVEYING, INC.  
720 SW ANGLE ST.  
NEWPORT, OREGON 97365  
(541) 265-9308



RENEWAL DATE:  
JUNE 30, 2015

I, RUSSELL JOHNSON CERTIFY THAT THIS IS A TRUE AND EXACT COPY OF THE ORIGINAL.

STATE OF OREGON

S.S.

COUNTY OF LINCOLN

I, HEREBY CERTIFY THAT THIS SUBDIVISION PLAT WAS RECEIVED FOR RECORD ON THE 24th DAY OF December, 2014 AT 1:30 P.M. O'CLOCK P.M. AND RECORDED AS BOOK 19, PAGE 10, LINCOLN COUNTY RECORDS.

BY: [Signature] 12/24/2014  
COUNTY CLERK/DEPUTY

DECLARATION:

KNOW ALL PEOPLE BY THESE PRESENTS, THAT RICHARD G. MURRY, JR., REGINALD P. BREEZE AND ERIC G. BUNN, MANAGERS OF INVESTORS XII, LLC AN OREGON LIMITED LIABILITY COMPANY AND NANCY STUEBER, PRESIDENT OF OREGON MUSEUM OF SCIENCE & INDUSTRY AND TROND INGVALDSEN, BOARD CHAIR OF OREGON MUSEUM OF SCIENCE & INDUSTRY, AN OREGON NON-PROFIT PUBLIC BENEFIT CORPORATION, OWNERS OF THE LAND REPRESENTED ON THIS SUBDIVISION PLAT AND MORE PARTICULARLY DESCRIBED IN THE ACCOMPANYING SURVEYOR'S CERTIFICATE HAVE CAUSED THE SAME TO BE SURVEYED AND PLATTED INTO LOTS, ROAD RIGHTS OF WAY AND EASEMENTS AS SHOWN AND NOTED ON THE ATTACHED MAP AND TO BE DEDICATED AS "SUNSET DUNES", AND DOES HEREBY DEDICATE TO THE PUBLIC WITHOUT RESERVATION OR RESTRICTION, THE LAND FOR ROAD RIGHTS OF WAY AS SHOWN ON THE ATTACHED MAP. EASEMENTS, AS SHOWN ON THIS PLAT ARE GRANTED AS PUBLIC UTILITY EASEMENTS TO THE CITY OF NEWPORT FOR ALL MANNER OF UTILITIES AS MAY BE DEEMED NECESSARY. THESE EASEMENTS GRANT INGRESS AND EGRESS FOR THE CONSTRUCTION, MAINTENANCE, OR REPLACEMENT OF UTILITIES AND SERVICE EQUIPMENT.

APPROVALS:

[Signature] 12-01-2014  
CITY OF NEWPORT PLANNING COMMISSION, CHAIR DATE

Edith D. Nicely 12-17-2014  
LINCOLN COUNTY SURVEYOR Deputy DATE

Linda Wilson 12-24-14  
LINCOLN COUNTY TAX COLLECTOR DATE

Rob Thomas 12-24-14  
LINCOLN COUNTY ASSESSOR DATE

Long H. Ph 12/23/14  
LINCOLN COUNTY COMMISSIONER DATE

[Signature] 12-22-14  
LINCOLN COUNTY COMMISSIONER DATE

Bill Hall 12-12-14  
LINCOLN COUNTY COMMISSIONER DATE

Richard G. Murry, Jr.  
RICHARD G. MURRY, JR.  
OREGON COAST BANK, BENEFICIARY OF A TRUST DEED, RECORDED IN DOCUMENT 2013-03096 OF THE LINCOLN COUNTY RECORDS, HAVE GIVEN THEIR APPROVAL TO SUBDIVIDE, IN AFFIDAVITS RECORDED IN DOCUMENT No. 2014-08736 LINCOLN COUNTY RECORDS.

Eric G. Bunn  
ERIC G. BUNN, MANAGER OF INVESTOR XII, LLC  
Reginald P. Breeze  
REGINALD P. BREEZE, MANAGER OF INVESTOR XII, LLC

Nancy Stueber  
NANCY STUEBER - PRESIDENT OF OREGON MUSEUM OF SCIENCE & INDUSTRY  
Trond Ingvaldsen  
TROND INGVALDSEN - BOARD CHAIR OF OREGON MUSEUM OF SCIENCE & INDUSTRY

ACKNOWLEDGMENT:

STATE OF OREGON

S.S.

COUNTY OF LINCOLN

ON THIS 3 DAY OF December, IN THE YEAR 2014, BEFORE ME, Susan E. Person, THE SIGNED NOTARY PUBLIC, PERSONALLY APPEARED, RICHARD G. MURRY, JR., PERSONALLY KNOWN TO ME (OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THIS INSTRUMENT, AND ACKNOWLEDGED THAT HE EXECUTED IT. WITNESS MY HAND AND OFFICIAL SEAL.

Susan E. Person 932886  
NOTARY SIGNATURE COMMISSION NUMBER  
Susan E. Person 10/2/18  
NOTARY PUBLIC - OREGON MY COMMISSION EXPIRES:



PLAT OF:  
**SUNSET DUNES**

A REPLAT OF A PORTION OF THE PLAT OF WAGGONER'S ADDITION TO SOUTH BEACH AND A PORTION OF THE PLAT OF HARBORTON, LOCATED IN THE SOUTHWEST AND SOUTHEAST ONE-QUARTERS OF SECTION 17, TOWNSHIP 11 SOUTH, RANGE 11 WEST, WILLAMETTE MERIDIAN IN LINCOLN COUNTY, OREGON.

ASSESSOR'S MAPS 11-11-17 CA & 11-11-17 DB

DSI-4313  
AUGUST 1, 2014

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SHEET 4: LOTS 3, 4, 5 AND 6, EASEMENTS  
SHEET 5: ROAD CENTERLINE, IMPROVEMENTS

**SURVEYOR'S NARRATIVE:**

THE PURPOSE OF THIS SUBDIVISION PLAT IS TO RECONFIGURE THREE PROPERTIES AS DESCRIBED IN MICROFILM 250-0776 (MURRY), DOCUMENT NO. 2003-21895 (INVESTORS XI) AND DOCUMENT NO. 2011-10432 (ONSI), LINCOLN COUNTY FILM RECORDS INTO LOTS AND BLOCKS, AS INDICATED ON THE ACCOMPANYING DRAWING. THE EXTERIOR BOUNDARIES OF THE ENTIRE TRACT WERE DERIVED BY HOLDING THE LINES AND CORNERS AS ESTABLISHED IN LINCOLN COUNTY SURVEY NO. 19,635, BY THIS FIRM. THE INTERIOR CORNERS WERE DERIVED PER OUR CLIENT'S REQUEST - THE CITY OF NEWPORT. THIS PROCESS INCLUDED SEVERAL STREET VACATIONS WITHIN THE PLAT OF WAGGONER'S ADDITION TO SOUTH BEACH, THE CREATION OF SW 30TH STREET, THE REALIGNMENT OF SW ABALONE STREET, THE VACATION OF SW ANCHOR WAY, AS WELL AS WIDENING SW 35TH STREET. THIS PLAT ALSO CREATED SEVERAL EASEMENTS, AS INDICATED ON THE PLAT. THE MONUMENTS WERE SET AS INDICATED ON THE ACCOMPANYING SURVEY DRAWINGS. THIS SURVEY WAS PERFORMED WITH A WILD T1610 AND A WILD DISTOMAT D11001 EDM.

**PLAT NOTES: STREET VACATIONS**

- (1) STREETS VACATION LOCATED IN PROPOSED LOT 1  
PER CITY ORDINANCE # 2068
- (2) STREETS VACATION LOCATED IN PROPOSED LOT 2  
PER CITY ORDINANCE # 2068
- (3) SW ANCHOR WAY VACATION PER CITY ORDINANCE # 2068

**EASEMENTS CREATED BY THIS PLAT**

PUBLIC UTILITY EASEMENTS  
SEE: DETAILS "1", "2" AND "3".  
28 FOOT UTILITY EASEMENT LOT 2, SEE: SHEET 4  
A TEMPORARY PUBLIC ACCESS AND UTILITY EASEMENT OVER EXISTING SW ANCHOR WAY, THAT WILL TERMINATE ONCE 35TH STREET IS CONSTRUCTED BETWEEN THE FORMER ANCHOR WAY AND US HWY 101. SHOWN ON SHEET 3 OF THE ACCOMPANYING PLAT

**MONUMENT DESCRIPTIONS**

- ① FOUND: 5/8" IRON ROD W/CAP (C.S. 18,864) JOHNSON
- ② FOUND: 5/8" IRON ROD W/CAP (C.S. 9893) BURRELL
- ③ FOUND: BRASS CAP OSHD (C.S. 14,397) ODOT
- ④ FOUND: 5/8" IRON ROD W/CAP (C.S. 12,882) DENISON
- ⑤ FOUND: ALUMINUM CAP OSHD (C.S. 9816) FREDRICKSON
- ⑥ FOUND: 1 1/2" IRON PIPE (C.S. 3950) SIMPSON
- ⑦ FOUND: PK NAIL W/BRASS WASHER (C.S. 16,022) JOHNSON
- ⑧ FOUND: 5/8" IRON ROD W/ALUMINUM CAP (C.S. 18,606) HAMILTON

**SURVEYOR'S CERTIFICATE:**

I, RUSSELL JOHNSON, CERTIFY THAT I HAVE CORRECTLY SURVEYED AND MARKED WITH PROPER MONUMENTS THE LAND REPRESENTED ON THIS SUBDIVISION PLAT OF 'SUNSET DUNES', THE BOUNDARIES BEING DESCRIBED AS FOLLOWS:

BEGINNING AT THE INITIAL POINT, WHICH IS A 5/8 INCH IRON ROD AT THE SOUTHEAST CORNER OF LOT 12, PLAT OF '30TH STREET TOWNHOUSES', RECORDED IN BOOK 18, PAGE 29, LINCOLN COUNTY PLAT RECORDS; THENCE NORTH 00°01'10" WEST TO THE SOUTHERLY RIGHT OF WAY OF SW 30th STREET, A DISTANCE OF 99.92 FEET TO A 5/8 INCH IRON ROD; THENCE NORTH 89°51'23" EAST, ALONG SAID SOUTHERLY RIGHT OF WAY TO THE EASTERLY RIGHT OF WAY OF SW BRANT STREET, A DISTANCE OF 30.00 FEET TO A 5/8 INCH IRON ROD; THENCE NORTH 00°03'03" EAST, ALONG SAID EASTERLY RIGHT OF WAY, A DISTANCE OF 60.08 FEET TO A 5/8 INCH IRON ROD; THENCE NORTH 89°46'32" EAST TO THE EASTERLY RIGHT OF WAY OF SW ABALONE STREET (DESCRIBED AS DAVIS STREET IN THE PLAT OF HARBORTON), A DISTANCE OF 334.08 FEET; THENCE NORTH 00°00'46" WEST, ALONG SAID EASTERLY RIGHT OF WAY TO THE NORTHWEST CORNER OF A TRACT AS DESCRIBED IN DOCUMENT NO. 200321895, LINCOLN COUNTY FILM RECORDS (SAID CORNER ALSO BEING THE NORTHWEST CORNER OF LOT 9, BLOCK 7, PLAT OF HARBORTON), A DISTANCE OF 179.04 FEET; THENCE NORTH 57°00'11" EAST, ALONG THE NORTHERLY BOUNDARY OF SAID TRACT, A DISTANCE OF 55.77 FEET; THENCE ALONG THE ARC OF A 45 FOOT RADIUS CURVE RIGHT (THE LONG CHORD OF WHICH BEARS S 84°13'09" E, 52.74'), A DISTANCE OF 56.35 FEET, SAID POINT BEING ON THE SOUTHERLY RIGHT OF WAY OF SW ABALONE STREET - TIE ROAD, AS DEPICTED ON OREGON DEPARTMENT OF TRANSPORTATION (ODOT) DRAWING NO. 88-30-15 IN APRIL 1964; THENCE CONTINUING ALONG SAID SOUTHERLY RIGHT OF WAY ALONG THE ARC OF A 311.48 FOOT RADIUS CURVE LEFT (THE LONG CHORD OF WHICH BEARS S 65°02'28" E, 179.21'), A DISTANCE OF 181.78 FEET TO STATION 'A 240+32.81 PSC'; THENCE CONTINUING ALONG SAID SOUTHERLY RIGHT OF WAY ON A 250 FOOT SPIRAL CURVE OFFSET 25 FEET TO THE SOUTH, ON A CHORD OF NORTH 82°19'27" EAST, 241.65 FEET, TO STATION 'A 237+82.81 PS' AND THE WESTERLY RIGHT OF WAY OF OREGON HIGHWAY 101, AS DEPICTED ON ODOT DRAWING NO. 28-23-22, SAID POINT BEING THE NORTHEAST CORNER OF THE TRACT DESCRIBED ABOVE; THENCE SOUTH 28°56'17" EAST, ALONG SAID WESTERLY RIGHT OF WAY, A DISTANCE OF 93.40 FEET; THENCE CONTINUING ALONG SAID RIGHT OF WAY ALONG THE ARC OF A 2635.76 FOOT RADIUS CURVE RIGHT (THE LONG CHORD OF WHICH BEARS S 09°43'22" E, 422.88'), A DISTANCE OF 423.33 FEET TO THE INTERSECTION WITH THE NORTHERLY RIGHT OF WAY OF SW 32nd STREET (PLATTED AS FOURTH STREET-PLAT OF HARBORTON); THENCE NORTH 87°24'46" WEST, ALONG SAID NORTHERLY RIGHT OF WAY, A DISTANCE OF 106.07 FEET; THENCE SOUTH 03°07'25" WEST TO THE NORTH LINE OF A TRACT AS DESCRIBED IN MICROFILM 250-0776 (MURRY), LINCOLN COUNTY FILM RECORDS, A DISTANCE OF 49.92 FEET; THENCE SOUTH 87°24'46" EAST, ALONG SAID NORTH LINE TO THE WESTERLY RIGHT OF WAY OF OREGON HIGHWAY 101, A DISTANCE OF 108.08 FEET AND A 5/8 INCH IRON ROD WITH AN ALUMINUM CAP; THENCE SOUTH 00°30'34" EAST, ALONG SAID HIGHWAY 101 RIGHT OF WAY TO THE SOUTHEAST CORNER THEREOF, A DISTANCE OF 387.88 FEET; THENCE CONTINUING ALONG SAID RIGHT OF WAY ALONG THE ARC OF A 2635.76 FOOT RADIUS CURVE RIGHT (THE LONG CHORD OF WHICH BEARS S 06°41'43" W, 210.51'), A DISTANCE OF 210.56 FEET TO THE NORTHERLY RIGHT OF WAY OF PLATTED SW 35th STREET (PLATTED AS FIFTH STREET-PLAT OF HARBORTON); THENCE NORTH 87°24'46" WEST, ALONG SAID NORTHERLY RIGHT OF WAY TO THE WESTERLY RIGHT OF WAY OF SW ANCHOR WAY (PLATTED AS RHODODENDRON DRIVE-PLAT OF HARBORTON), A DISTANCE OF 479.44 FEET; THENCE SOUTH 00°07'04" EAST, ALONG SAID WESTERLY RIGHT OF WAY TO THE SOUTHEAST CORNER OF LOT 13, BLOCK 9, PLAT OF HARBORTON, A DISTANCE OF 39.87 FEET; THENCE NORTH 89°57'46" WEST, ALONG THE SOUTH LINE OF SAID LOT 13 TO THE EASTERLY RIGHT OF WAY OF PLATTED SW ABALONE STREET, A DISTANCE OF 116.99 FEET; THENCE NORTH 00°12'32" EAST, ALONG SAID EASTERLY RIGHT OF WAY TO A POINT OPPOSITE AND 30 FEET EASTERLY OF THE SOUTHEAST CORNER OF A TRACT AS DESCRIBED IN DOCUMENT NO. 2011-10432, LINCOLN COUNTY FILM RECORDS, A DISTANCE OF 36.99 FEET; THENCE NORTH 89°58'15" WEST, A DISTANCE OF 30.00 FEET TO SAID SOUTHEAST CORNER AND A 5/8 INCH IRON ROD; THENCE SOUTH 89°59'54" WEST, ALONG THE SOUTH BOUNDARY OF SAID TRACT TO THE SOUTHWEST CORNER THEREOF, A DISTANCE OF 999.88 FEET TO A 5/8 INCH IRON ROD; THENCE NORTH 00°00'40" WEST, ALONG THE WEST BOUNDARY OF SAID TRACT TO THE NORTHWEST CORNER THEREOF, A DISTANCE OF 801.72 FEET TO A 5/8 INCH IRON ROD; THENCE SOUTH 89°59'41" EAST, A DISTANCE OF 127.12 FEET TO A 5/8 INCH IRON ROD; THENCE NORTH 89°47'53" EAST TO THE WESTERLY RIGHT OF WAY OF SW CORD STREET, A DISTANCE OF 150.06 FEET TO A 5/8 INCH IRON ROD; THENCE NORTH 88°56'01" EAST TO THE EASTERLY RIGHT OF WAY OF SW CORD STREET, A DISTANCE OF 60.55 FEET TO A 1 1/2 INCH IRON PIPE; THENCE NORTH 89°47'44" EAST, A DISTANCE OF 328.01 FEET TO THE INITIAL POINT.

I, RUSSELL JOHNSON CERTIFY THAT THIS IS A TRUE AND EXACT COPY OF THE ORIGINAL.

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Russell Johnson*  
JULY 16, 1989  
OREGON  
RUSSELL JOHNSON  
2400

RENEWAL DATE:  
JUNE 30, 2015

SURVEY BY:  
DENISON SURVEYING, INC.  
720 SW ANGLE ST.  
NEWPORT, OREGON 97365  
(541) 265-9308

SHEET 3 OF 5

PLAT OF:  
**SUNSET DUNES**

A REPLAT OF A PORTION OF THE PLAT OF  
WAGGONER'S ADDITION TO SOUTH BEACH AND A  
PORTION OF THE PLAT OF HARBORTON, LOCATED IN  
THE SOUTHWEST AND SOUTHEAST ONE-QUARTERS OF  
SECTION 17, TOWNSHIP 11 SOUTH, RANGE 11  
WEST, WILLAMETTE MERIDIAN IN LINCOLN COUNTY,  
OREGON.

ASSESSOR'S MAPS: 11-11-17 CA & 11-11-17 DB  
DSI-4313  
AUGUST 1, 2014

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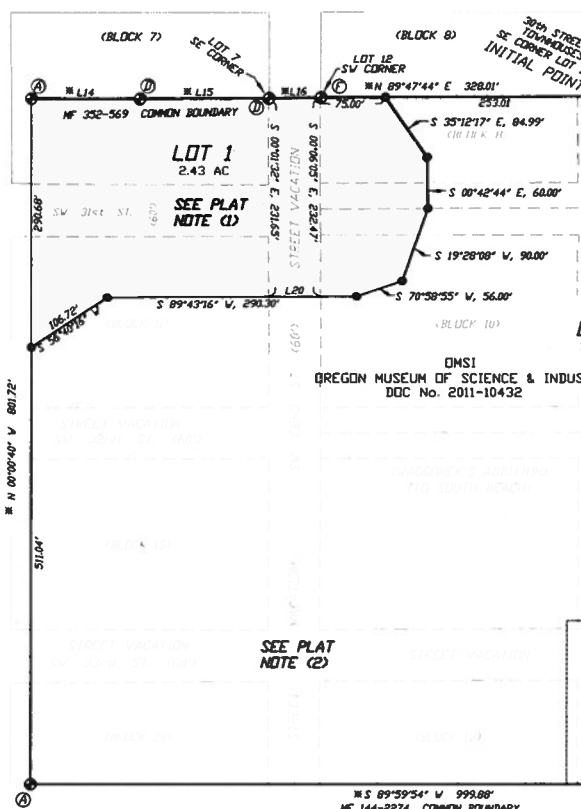
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- SHEET 2: SURVEYORS NARRATIVE, CERTIFICATE
- SHEET 3: PLAT BOUNDARY, LOTS 1 AND 2
- SHEET 4: LOTS 3, 4, 5 AND 6, EASEMENTS
- SHEET 5: ROAD CENTERLINE, IMPROVEMENTS

SCALE: 1" = 100'



(BLOCK 4) (BLOCK 3)

SV 30th ST. (60')



CURVE TABLE				
CURVE	ARC	DELTA	RADIUS	CHORD BEARING
C1	56.25	71°44'50"	45.00	S 84°13'09" E
C2	181.78	33°26'17"	311.49	S 65°02'28" E
C3	423.33	09°12'09"	2635.76	S 09°43'22" E
C4	218.36	04°34'38"	2635.76	S 06°41'43" W
C5	179.83	44°47'33"	230.00	S 20°00'55" E
C6	266.45	89°48'08"	170.00	N 42°30'42" W
C7	48.48	86°55'43"	30.00	N 43°35'00" E

**BASIS OF BEARING**  
BETWEEN MONUMENTS ① AND ②  
N 00°00'46" W, 965.75'  
ON 00°00'46" W, 965.75'  
(C.S. 18,864)

LINCOLN COUNTY  
SOUTH BEACH  
CEMETERY  
DV 44-347

(HARBORTON)  
INVESTORS XII LLC  
DOC No. 2003-21895  
**LOT 3**  
SEE SHEET 4  
10.81 AC

**LOT 4**  
SEE SHEET 4

**LOT 6**

**LOT 5**

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N 00°00'00" W	95.32
L2	N 09°51'22" E	30.00
L3	N 00°02'00" E	60.00
L4	N 09°46'52" E	30.00
L5	N 57°00'11" E	55.77
L6	S 89°56'37" E	93.40
L7	N 07°54'46" V	106.07
L8	S 83°07'25" W	49.98
L9	S 07°24'46" E	108.09
L10	S 00°07'04" E	59.87
L11	N 09°57'46" V	116.59
L12	N 00°02'00" E	36.99
L13	N 09°58'03" V	30.00
L14	S 09°59'41" E	127.12
L15	N 09°47'53" E	150.06
L16	N 08°56'01" E	60.55
L17	S 00°12'30" W	35.48
L18	S 09°43'16" W	60.42
L19	S 58°14'23" W	61.46

SURVEY BY:  
**DENISON SURVEYING, INC**  
720 SW ANGLE ST.  
(541) 265-9308

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Russell Johnson*  
JAN 31, 1999  
RUSSELL S. JOHNSON  
2400

RENEWAL DATE:  
JUNE 30, 2015

I, RUSSELL JOHNSON CERTIFY THAT  
THIS IS A TRUE AND EXACT COPY  
OF THE ORIGINAL.

LEGEND:

- MONUMENT SET: 5/8" X 30" IRON ROD  
WITH YELLOW PLASTIC CAP MARKED  
"DENISON SURVEYING, NEWPORT OR"
- MONUMENT HELD: 5/8" IRON ROD  
WITH YELLOW PLASTIC CAP MARKED  
"DENISON SURVEYING, NEWPORT OR",  
UNLESS NOTED (C.S. 19,635)
- MONUMENTS FOUND - HELD FOR CONTROL
- RECORD CS 19,635, MEASURED SAME AS  
RECORD, UNLESS NOTED



## SUNSET DUNES

A REPLAT OF A PORTION OF THE PLAT OF WAGGONER'S ADDITION TO SOUTH BEACH AND A PORTION OF THE PLAT OF HARBORTON, LOCATED IN THE SOUTHWEST AND SOUTHEAST ONE-QUARTERS OF SECTION 17, TOWNSHIP 11 SOUTH, RANGE 11 WEST, WILLAMETTE MERIDIAN IN LINCOLN COUNTY, OREGON.

ASSESSOR'S MAPS: 11-11-17 CA & 11-11-17 DB

DSI-4313  
AUGUST 1, 2014

## INDEX

- SHEET 1: DECLARATION, ACKNOWLEDGMENTS AND APPROVALS  
SHEET 2: SURVEYORS NARRATIVE, CERTIFICATE  
SHEET 3: PLAT BOUNDARY, LOTS 1 AND 2  
SHEET 4: LOTS 3, 4, 5 AND 6, EASEMENTS  
SHEET 5: ROAD CENTERLINE, IMPROVEMENTS

CURVE	ARC	DELTA	RADIUS	CHORD LENGTH	CHORD BEARING
C1	56.35	71°44'30"	43.00	50.74	S 64°13'09" E
C2	181.78	33°26'17"	311.48	179.21	S 63°06'28" E
C3	423.33	09°12'09"	2635.76	482.80	S 09°43'22" E
C4	210.56	04°34'38"	2635.76	210.51	S 06°41'43" V
C5	266.43	89°48'08"	170.00	240.00	N 48°30'42" V
C6	32.41	79°01'01"	38.00	48.35	N 39°29'43" E
C7	41.35	32°38'41"	43.00	39.91	S 74°39'43" E
C8	167.72	03°38'45"	2635.76	167.69	S 06°13'41" V
C9	36.80	04°32'01"	25.00	32.63	S 50°19'14" V

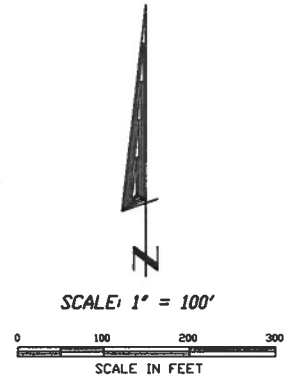
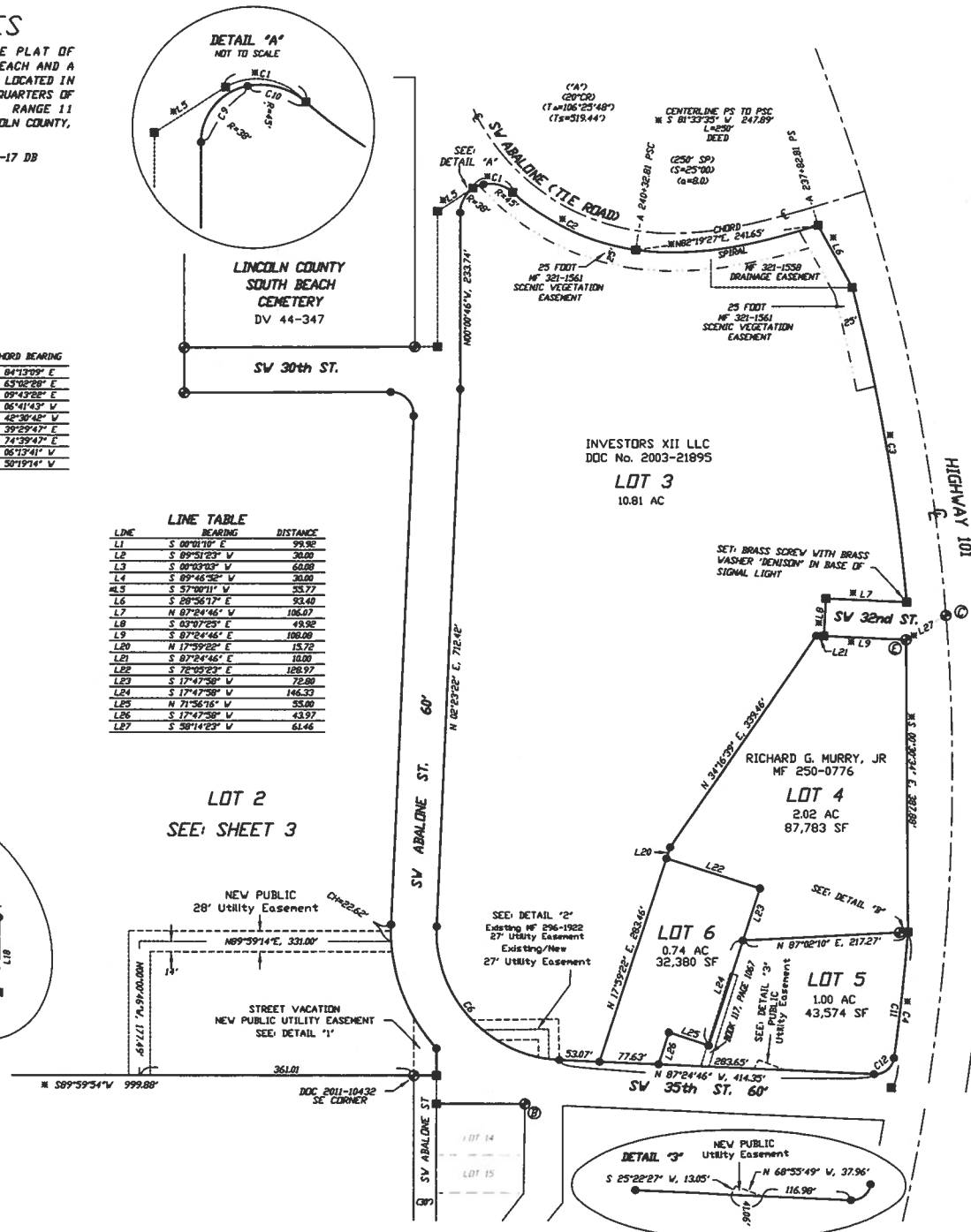
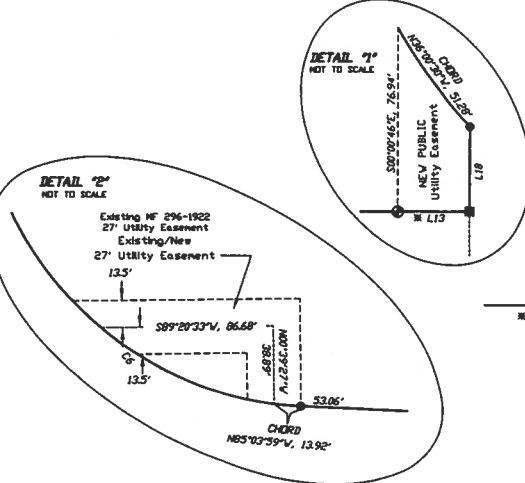
## EASEMENTS OF RECORD

- BOOK 296, PAGE 1918, IN FAVOR OF CITY OF NEWPORT, TEMPORARY 40 FOOT CONSTRUCTION EASEMENT  
BOOK 296, PAGE 1922, IN FAVOR OF CITY OF NEWPORT, 27 FOOT UTILITY EASEMENT, AS SHOWN  
BOOK 321, PAGE 1558, IN FAVOR OF STATE OF OREGON DRAINAGE EASEMENT, AS SHOWN  
BOOK 321, PAGE 1561, IN FAVOR OF LINCOLN COUNTY 25 FOOT SCENIC VEGETATION EASEMENT, AS SHOWN  
BOOK 84, PAGE 354, IN FAVOR OF WEST COAST POWER FOR POWERLINES, UNKNOWN LOCATION  
BOOK 141, PAGE 170, IN FAVOR OF LENA McKEVITT FOR WATERLINE, UNKNOWN LOCATION  
BOOK 29, PAGE 889, IN FAVOR OF STATE OF OREGON DRAINAGE EASEMENT, UNABLE TO LOCATE  
BOOK 117, PAGE 1076, IN FAVOR OF CENTRAL LINCOLN P.L.D. 10 FOOT OVERHEAD POWERLINES, AS SHOWN ON SHEET 4.  
EASEMENTS FOR EXISTING PUBLIC UTILITIES IN VACATED STREET AREA, IF ANY.

## LINE TABLE

LINE	BEARING	DISTANCE
L1	S 80°01'10" E	99.90
L2	S 89°51'23" V	30.00
L3	S 89°03'02" V	60.00
L4	S 89°46'52" V	30.00
L5	S 57°00'11" V	55.77
L6	S 28°56'17" E	93.40
L7	N 87°24'46" E	106.07
L8	S 87°07'25" E	49.52
L9	S 87°24'46" E	106.00
L10	N 17°59'22" E	15.72
L11	S 87°24'46" E	10.00
L12	S 76°59'23" E	106.97
L13	S 17°47'58" V	72.80
L14	S 17°47'58" V	146.53
L15	N 71°56'16" V	55.00
L16	S 17°47'58" V	43.97
L17	S 58°14'23" V	61.46

LOT 2  
SEE: SHEET 3



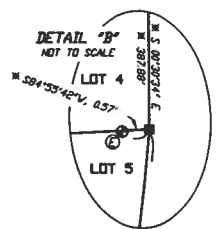
REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Russell Johnson*  
OREGON  
JUL 26, 1989  
RUSSELL JOHNSON  
2400

RENEWAL DATE:  
JUNE 30, 2015

I, RUSSELL JOHNSON CERTIFY THAT  
THIS IS A TRUE AND EXACT COPY  
OF THE ORIGINAL.

SURVEY BY:  
DENISON SURVEYING, INC  
720 SW ANGLE ST.  
(541) 265-9308



## LEGEND

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- MONUMENT HELD: 5/8" IRON ROD WITH YELLOW PLASTIC CAP MARKED 'DENISON SURVEYING, NEWPORT OR', UNLESS NOTED (CS 19,635)
- MONUMENTS FOUND - HELD FOR CONTROL
- RECORD CS 19,635, MEASURED SAME AS RECORD, UNLESS NOTED

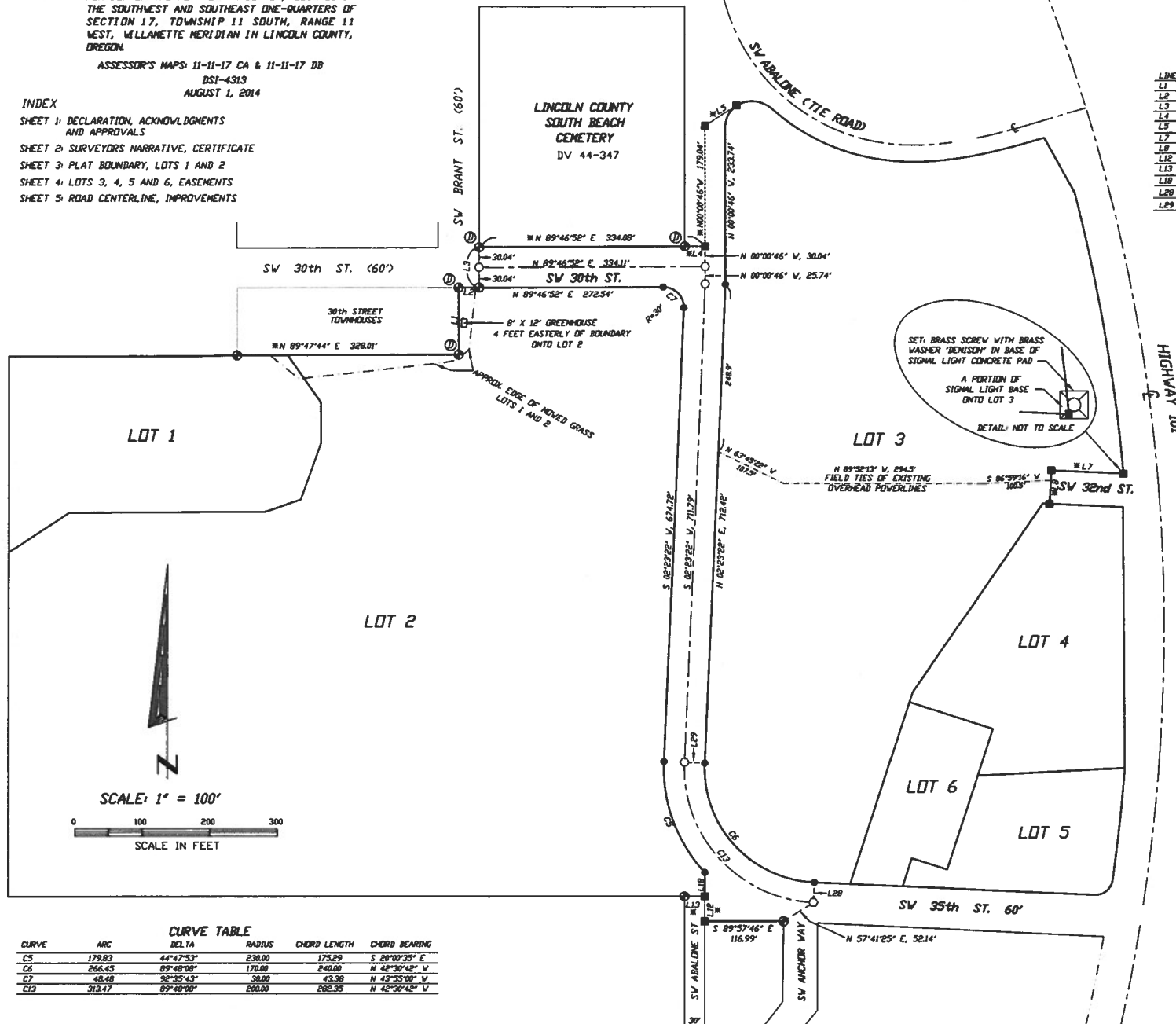
PLAT OF:  
**SUNSET DUNES**

A REPLAT OF A PORTION OF THE PLAT OF WAGGONER'S ADDITION TO SOUTH BEACH AND A PORTION OF THE PLAT OF HARBORTON, LOCATED IN THE SOUTHWEST AND SOUTHEAST ONE-QUARTERS OF SECTION 17, TOWNSHIP 11 SOUTH, RANGE 11 WEST, WILLAMETTE MERIDIAN IN LINCOLN COUNTY, OREGON.

ASSESSOR'S MAPS: 11-11-17 CA & 11-11-17 DB  
DSI-4313  
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SURVEY BY:  
**DENISON SURVEYING, INC**  
720 SW ANGLE ST.  
(541) 265-9308

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Russell Johnson*  
OREGON  
JULY 26, 1989  
RUSSELL JOHNSON  
E400

RENEWAL DATE:  
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- MONUMENT HELD: 5/8" IRON ROD WITH YELLOW PLASTIC CAP MARKED "DENISON SURVEYING, NEWPORT OR", UNLESS NOTED (CS 19,635)
- ⊙ MONUMENTS FOUND - HELD FOR CONTROL
- RECORD CS 19,635, MEASURED SAME AS RECORD, UNLESS NOTED
- CALCULATED CENTERLINE POINTS TO BE SET AFTER CONSTRUCTION

**CITY OF NEWPORT  
PUBLIC NOTICE<sup>1</sup>**

**Attachment "H"**  
**4-CUP-22**

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

**File No. 4-CUP-22:**

**Owner & Applicant:** Steve Jackson, SJ Automotive Real Estate Investment LLC, owner (Jo Ann Pacheco, representative) & Paul Kurth, LRS Architecture, agent.

**Request:** Approval of a request per Chapter 14.03.070 "Commercial and Industrial Uses" to allow the existing and continued use of a vehicle retail sales and service operation, and to build a new one-story auto dealership and enclosed service building in a C-1/"Retail and Service Commercial" zoning district.

**Location/Subject Property:** 3234 S Coast Hwy, 3441 SW Anchor Way, & 3414 S Coast Hwy (Tax Map 11-11-17-DB, Tax Lots 2000, 2100, & 2200).

**Applicable Criteria:** NMC Chapter 14.34.050: (A) The public facilities can adequately accommodate the proposed use; B) the request complies with the requirements of the underlying zone or overlay zone; C) the proposed use does not have an adverse impact greater than existing uses on nearby properties, or impacts can be ameliorated through imposition of conditions of approval. For the purpose of this criterion, "adverse impact" is the potential adverse physical impact of a proposed Conditional Use including, but not limited to, traffic beyond the carrying capacity of the street, unreasonable noise, dust, or loss of air quality; and D) a proposed building or building modification is consistent with the overall development character of the area with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.

**Testimony:** Testimony and evidence must be directed toward the criteria described above or other criteria in the Comprehensive Plan and its implementing ordinances which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal (including to the Land Use Board of Appeals) based on that issue. Submit testimony in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. Letters sent to the Community Development (Planning) Department (address below under "Reports/Application Material") must be received by 2:00 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 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 (address above in "Reports/Application Material").

**Time/Place of Hearing:** Monday, January 9, 2023; 6:00 p.m.; City Hall Council Chambers (address above in "Reports/Application Material").

**MAILED:** December 9, 2022.

**PUBLISHED:** December 30, 2022 / News-Times.

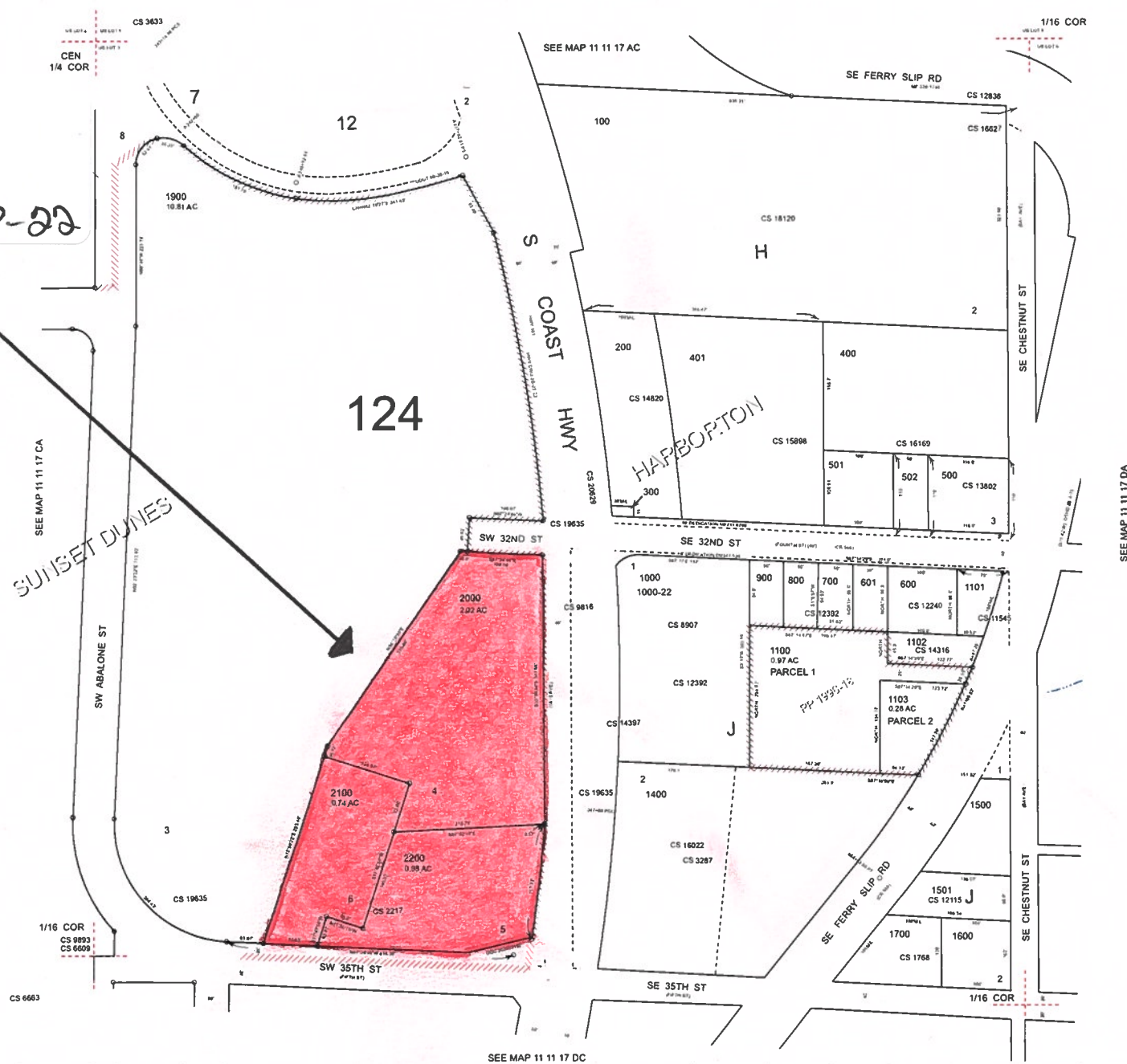
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<sup>1</sup> Notice of this action is being sent to the following: (1) Affected property owners within 200 feet of the subject property according to Lincoln County tax records; (2) affected public utilities within Lincoln County; and (3) affected city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

Cancelled  
1000-21  
1200  
1201  
1300  
1400-L1  
1401  
1800

## Subject Properties

File No. 4-CUP-22



Revised: SAO  
04/21/2020

NEWPORT  
11 11 17 DB

BUNGAY PROPERTIES LLC  
PO BOX 1448  
SANTA FE,NM 87504

INDUSTRIAL WELDING SUPPLY INC  
PO BOX 20340  
SALEM,OR 97307

INVESTORS XII LLC  
100 E MAIN  
STE A  
MEDFORD,OR 97501

NEWPORT URBAN RENEWAL AGENCY  
169 SW COAST HWY  
NEWPORT,OR 97365

OREGON DEPT OF TRANSPORTATION  
TECHNICAL LEADERSHIP CTR  
RIGHT OF WAY SECTION MS#2  
4040 FAIRVIEW IND DR SE  
SALEM,OR 97302

RGH SB PROPERTY LLC  
PO BOX 501  
NEWPORT,OR 97365

STEVEN JACKSON  
SJ AUTOMOTIVE REAL ESTATE  
INVESTMENTS LLC  
1250 EAST I 30  
ROCKWALL,TX 75087

SOUTH BEACH INN VESTMENTS LLC  
45 SE 32ND ST  
NEWPORT,OR 97365

WARD PAUL S COTSTEE & WARD  
JUDITH A COTSTEE  
241 SW BIRCH ST  
DALLAS,OR 97338

OREGON DEPARTMENT OF  
TRANSPORTATION  
TECHNICAL LEADERSHIP CTR  
4040 FAIRVIEW IND DR SE  
SALEM, OR 97302

JO ANN PACHECO  
JACKSON AUTOMOTIVE GROUP  
1250 EAST I 30  
ROCKWALL,TX 75087

PAUL KURTH  
LRS ARCHITECTS  
720 NW DAVIS  
SUITE 300  
PORTLAND, OR 97209

Exhibit "A"

File No. 4-CUP-22

Property Owners Within 200 Feet

NW Natural  
ATTN: Dave Sanders  
1405 SW Hwy 101  
Lincoln City, OR 97367

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

CenturyLink  
ATTN: Corky Fallin  
740 State St  
Salem OR 97301

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

Charter Communications  
ATTN: Keith Kaminski  
355 NE 1<sup>st</sup> St  
Newport OR 97365

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

Pioneer Telephone Co-Op  
Attn: Karen Tompkins  
PO Box 631  
Philomath OR 97370

Joseph Lease  
Building Official

Rob Murphy  
Fire Chief

Aaron Collett  
Public Works

Beth Young  
Associate Planner

Jason Malloy  
Police Chief

Steve Baugher  
Interim Finance Director

Laura Kimberly  
Library

Michael Cavanaugh  
Parks & Rec

Spencer Nebel  
City Manager

Clare Paul  
Public Works

Derrick Tokos  
Community Development

David Powell  
Public Works

Lance Vanderbeck  
Airport

**EXHIBIT 'A'**  
(Affected Agencies)

**(4-CUP-22)**

## Sherri Marineau

---

**From:** Sherri Marineau  
**Sent:** Friday, December 09, 2022 10:39 AM  
**To:** Derrick Tokos; Spencer Nebel; Robert Murphy; Joseph Lease; Jason Malloy; Laura Kimberly; Michael Cavanaugh; Beth Young; Clare Paul; David Powell; Aaron Collett; Lance Vanderbeck; Steve Baugher  
**Subject:** Conditional Use Permit 4-CUP-22  
**Attachments:** Notice - File 4-CUP-22.pdf

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

### Sherri Marineau

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



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

## Sherri Marineau

---

**From:** Sherri Marineau  
**Sent:** Friday, December 09, 2022 10:39 AM  
**To:** 'odotr2planmgr@odot.state.or.us'; Brett Estes  
**Subject:** Conditional Use Permit 4-CUP-22  
**Attachments:** Notice - File 4-CUP-22.pdf

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

### Sherri Marineau

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



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## NOTICE OF PUBLIC HEARING

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***(FOR PUBLICATION ONCE ON Friday, December 30, 2022)***



the exemplary personalities shown to the public.

"The only real facts are that these three men went camping and at some point, they left the others who had gone with them," Prescott said. "They weren't gone for more than a couple of hours. This is what they likely talked about during

the question things that are relevant today. I really think the audience is going to enjoy it — both the very deep, dramatic scenes and also the comic relief."

While directing is new to him, Prescott has been acting since he was 6, when he had a role in a church play. When he moved from Eugene to

"This play is a bit different from the norm," he said. "Usually we do a romantic or zany comedy, but this one is a lot more dramatic. And it's rare that we have an all-male cast."

Prescott has acted in "The Cocktail Hour" and "Marjorie Prime" at Theatre West, as well as in a variety of productions at

watching the actors become their parts," he said. "And I like the aspect of being in control. It's a great feeling to be able to tell the actors my suggestions about how to do things."

"I want to pick a play each season and direct it," he added.

Prescott is also pleased with the idea that the

time since the play. The play, which offers open seating on a first come, first basis.

"That's a great way to keep social distancing as possible," Gruber said. "Theatre West is happy to be up and running after the pandemic," Gruber said. "We're

## PUBLIC NOTICES

12/30/2022

### LEGAL DEADLINES:

Wednesday Edition:  
5:00pm  
Thursday  
PRIOR

Friday Edition:  
5:00pm  
Monday  
PRIOR

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and potential buildings allowable as uses permitted outright. Testimony and evidence must be directed toward the criteria described above or other criteria in the Comprehensive Plan and its implementing ordinances which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal (including to the Land Use Board of Appeals) based on that issue. Submit testimony in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. Letters sent to the Community Development (Planning) Department (address below under "Reports/Application Material") must be received by 2:00 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 testimony regarding the application. 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 (mail-

ing address above). D30 07-30

**NOTICE TO INTERESTED PERSONS IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF LINCOLN** In the Matter of the Estate of: Lee Roy Murray, Deceased Case # 22PB11296. NOTICE IS HEREBY GIVEN that Teresa Lee Murray has been appointed personal representative of the Estate of Lee Roy Murray. All persons having claims against the estate are required to present them, with vouchers attached, to the personal representative at P.O. Box 1270, Newport, OR, 97365, within four months after the date of first publication of this notice, or the claims may be barred. All persons whose rights may be affected by the proceedings may obtain additional information from the records of the Court, the personal representative, Macpherson, Gintner & Diaz, PO Box 1270, Newport, Oregon 97365. PERSONAL REPRESENTATIVE: Teresa Lee Murray 909 SE Bay Blvd, Newport, OR 97365. ATTORNEY FOR PERSONAL REPRESENTATIVE: Corey G. Blake, OSB No. 051688 P.O. Box 1270 Newport, Oregon 97365 Telephone 541-265-8881 Fax No. 541-265-3571 Email Address: blake@mogdglaw.com D30, J6, J13 23-13

**NOTICE TO INTERESTED PERSONS** Claims against the Estate of Elizabeth Sela Griffith, Deceased, Lincoln County Circuit Court Case No. 22PB10926, are required to be presented to the Personal Representative, Jonathan Klein, c/o Alan Lanker, 810 SW Madison Ave., Corvallis, OR 97333, within four (4) months from December 28, 2022, the date of first publication, or such claims may be barred. Any person whose rights may be affected by the proceeding may obtain additional information from the records of the court, the Personal Representative, or the attorneys for the Personal Representative. MAREK & LANKER, LLP, Attorneys. D30, J6, J13 22-13

### ADVERTISEMENT FOR BIDS

City of Newport/Lincoln County, Oregon SCHOONER LANDING SEWER BYPASS PROJECT The City of Newport, OR (Owner) is requesting bids for the construction of the following project: SCHOONER LANDING BYPASS PROJECT Proposals must be received by the City by 2:00 pm, January 24, 2023 and then at said office publicly opened and read aloud. Bids received after this time will not be accepted. All interested parties are invited to attend the bid opening. A brief description of the scope of work is provided below: The sewer bypass-system project consists of the installation of a pump station that will be connect to an existing upstream 8" sewer pipe. Downstream from the pump station, a short force main and gravity overflow pipe will discharge to a terminal manhole. From the terminal manhole an 8" HDPE gravity sewer line will be installed and connected to an existing downstream manhole. The following are major items that are required to complete the project: • Furnish and install one (1) prefabricated pump station and accessories. • Furnish extra pump to the City of Newport for future use. • Furnish and install one (1) 48" diameter terminal manhole. • Furnish and install approx. 320 lineal feet of 8" HDPE pipe. • Furnish and install approx. 20 lineal feet of 2" HDPE force main. • Furnish and install approx. 100 lineal feet of 3" electrical conduit. • Trench excavation and backfill for piping. • Excavation and backfill for structures. • Concrete curb, AC Pavement, and landscaping removal and replacement. • Connections to existing pipe and manhole. Bidding documents may be examined and downloaded at the OregonBuys website at: <https://oregonbuys.gov/> following registration. Pre-bid inquiries shall be directed to Chris Beatty, Senior Project Manager, at 541-574-3376 or c.beatty@newportoregon.gov No bid will be considered unless fully completed in the manner provided in the Instructions to Bidders, and accompanied by a bid security,

executed in favor of the Owner, in the amount not less than 10% of the total amount of the bid. This contract is for public work and is subject to ORS 279C.800 to 279C.870 regarding prevailing wage rates. Licensing under ORS 468A.710 is not required. The contracting agency may cancel the procurement or reject any or all bids in accordance with ORS 279B.100. An optional pre-bid conference will be held at 2:00 p.m., January 10, 2023 at the Newport City Hall Council Chamber, 169 SW Coast Highway, Newport, OR 97365. Dated this 22nd day of December, 2022. By order of: Chris Beatty, PE, Senior Project Manager, City of Newport. D28, D30, J6 21-06

### PRIVATE SALE NOTICE OF REAL PROPERTY

Lincoln County hereby gives notice according to ORS 275.225 that it is offering the following parcel of land for private sale located within the Toledo Cemetery Association which has a real market value of \$100.00 11-10-08-BA-00500-00 D28, D30 16-30

**NOTICE TO INTERESTED PERSONS IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF LINCOLN** In the Matter of the Estate of DENNIS MARC JOHNSON, Deceased. Case No. 22PB10871 NOTICE TO INTERESTED PERSONS NOTICE IS HEREBY GIVEN that Duane Johnson has been appointed personal representative of the Estate of Dennis Marc Johnson. All persons having claims against the estate are required to present them, with vouchers attached, to the personal representative through the personal representative's attorney at PO Box 1987, Newport, OR 97365, within four months after the date of first publication of this notice, or the claims may be barred. All persons whose rights may be affected by the proceedings may obtain additional information from the records of the Court, the personal representative, or the attorney for the personal representative, Traci P. McDowell. Dated and first published on December 23 2022.

YAQUINA LAW, LLC /s/ Traci P. McDowell Traci P. McDowell, OSB #184063 Attorney for Personal Representative YAQUINA LAW, LLC 380 SW 2ND ST., PO BOX 1987 NEWPORT, OR 97365 (541) 272-5500 PERSONAL REPRESENTATIVE: Duane Johnson 7701 19th Place SE, Lake Stevens, WA 98258. LAWYER FOR PERSONAL REPRESENTATIVE: Traci P. McDowell, OSB #184063 PO Box 1987 Newport, OR 97365 Telephone: (541) 272-5500 Fax: (541) 265-7633 Email: [traci@yaquinawalaw.com](mailto:traci@yaquinawalaw.com) D23, D30, J6 15-06

**NOTICE TO INTERESTED PERSONS IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF LINCOLN** Probate Department In the Matter of the Estate of Betty J. Taunton, Deceased. No. 22PB10063 NOTICE TO INTERESTED PERSONS Notice is hereby given pursuant to ORS 113.155 that the undersigned has been appointed and has qualified as the co-personal representatives of the estate. All persons having claims against the estate are hereby required to present the same, with proper vouchers, within four months after the date of the first publication of this notice, as stated below, to the co-personal representatives at: Phil Taunton, P.O. Box 1049, Depoe Bay, OR 97341, Neil Taunton, P.O. Box 1234, Depoe Bay, OR 97341 or they may be barred. All persons whose right may be affected by the proceedings in this estate may obtain additional information from the records of the court, the co-personal representatives or the attorney for the co-personal representatives. Date first published: 12/23/2022 /s/ Neil Taunton, co-personal representatives. D23, D30, J06 14-06

### CITY OF NEWPORT NOTICE OF A PUBLIC HEARING

The City of Newport Planning Commission will hold a public hearing on Monday, January 9, 2023, at 6:00 p.m. in the Council Chambers at City Hall to review File No. 3-AX-22 / 7-2-22, a request for annexation, and zone designation submitted by South Beach Church

(Tim Gr Engineer tive). TI will make tion to t on this re then hold ing at a l of that t be provic is to (1) mately 11 property property, fied as T 1400 of Map 11- the Newp (2) amen Newport an R-3/" Multi-Farr zoning c the prop with the e Comprehe igation and (3) wi ritory fro Rural Fire trict, the S District, a County L The appl for annex Newport (NMC) Sec are that th sents hav with the ci to be ann the ackno growth bc and the t annexed to the ex its. The c Map Amen NMC Sect are that zoning is c the Compr Map, furt necessity, the general mony and be directe criteria des or other c Newport C Plan and f ing ordinant son believ the decisio raise an is- ficient speci the city an an opportun to that iss an appeal the Land L Appeals) b: issue. Te: be submitt or oral form written testi taken during of the pul Letters to nity Develop ning) Depa Hall, 169 SW Newport, OF





851 SW 6th Avenue, Suite 600  
Portland, OR 97204  
P 503.228.5230

**Attachment "I"**  
**4-CUP-22**

November 7, 2022

Project #: 27664

Mr. Derrick I. Tokos, AICP  
City of Newport – Community Development Department  
169 SW Coast Highway  
Newport, Oregon 97365

RE: Toyota of Newport Reconstruction Trip Generation Estimate

Dear Derrick:

Jackson Automotive Group proposes to expand the Toyota of Newport on their existing site located at 3234 SW Coast Highway (US 101) and property to the west. This letter documents the proposed site and access changes as well as site trip generation estimates. This information has been prepared to help inform City and Oregon Department of Transportation (ODOT) review requirements. The proposed changes are estimated to generate fewer than 500 new daily vehicular trips and less than 50 peak hour trips after accounting for existing site uses to be removed with the site reconstruction.

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## Project Overview

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The proposed new Toyota of Newport building will replace the existing 11,355 square foot main show room and service building with a new building encompassing 26,080 square feet. Three existing 3,060 square foot buildings located along SW Anchor Way on the project site previously served storage and manufacturing uses operated by others and will also be removed. A conceptual proposed site plan illustrating the changes is attached.

Today, the site is accessible to vehicles at five locations (inclusive of the off-site existing buildings along SW Anchor Way that will be removed). These access points include a curbless portion of the site frontage along SW Anchor Way, three driveways on US 101 and a curbless unpaved portion of SW 35<sup>th</sup> Street at the southern end of the site. As part of the site changes, the applicant proposes to:

- Abandon and vacate the existing access to SW Anchor Way;
- Abandon and vacate the existing right-in-right-out driveway on US 101 near the northern portion of the site;
- Relocate the existing full movement driveway on US 101 near the center of the site to the north;
- Abandon and vacate the existing southernmost driveway on US 101; and
- Reconstruct and extend SW 35<sup>th</sup> Street west from US 101 to SW Anchor way and provide two driveways to the site on SW 35<sup>th</sup> Street.

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## Trip Generation Estimates

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Table 1 summarizes trip estimates prepared for the existing buildings (to be removed) and the proposed new building using trip rates obtained from the *Trip Generation Manual*, 11<sup>th</sup> Edition published by the Institute of Transportation Engineers in 2021. Trip estimates were prepared using average rates for based on building size.

Table 1: Trip Generation Estimates

Land Use	ITE Code	Size (Square Feet)	Daily Trips	Weekday AM Peak Hour			Weekday PM Peak Hour		
				Total	In	Out	Total	In	Out
Existing Buildings									
Automobile Sales (New)	840	11,355	316	21	15	6	27	11	16
Warehousing	150	9,180	16	2	2	0	2	1	1
Total Existing		20,535	332	23	17	6	29	12	17
Proposed Toyota of Newport									
Automobile Sales (New)	840	26,080	726	49	36	13	63	25	38
Proposed - Existing			394	26	19	7	34	13	21

## Next Steps

Newport Municipal Code Section 14.45.010.A indicates that the City shall require a Traffic Impact Analysis under several circumstances including 1) when the proposal may generate 500 or more average daily trips or 50 PM peak-hour trips or more and 2) when the proposal may increase use of any adjacent street by 10 vehicles or more per day that exceeds 26,000 pound gross vehicle weight. The ODOT Change of Use criteria includes similar trip thresholds, finding a "change of use" has occurred when the number of peak hour trips increases by 50 or more AND it represents a 20% or more increase in trips; or the number of average daily trips increases by 500 or more AND it represents an increase of 20% or more; or daily use of the connection by large vehicles with gross vehicle weight rating of 26,000 pounds or more increase by 10 or more vehicles. Delivery trucks to the site are not anticipated to exceed the truck thresholds.


The proposed redevelopment trip generation shown in Table 1 does not exceed any of the City or ODOT trip-based thresholds for requiring a traffic study. Further, the consolidation and closure of existing access points along US 101 moves in the direction of furthering access management principles. As such, it appears that no further traffic analysis may be required.


We request that you review the trip estimates above and share them with City and ODOT Region 2 staff as appropriate.

We would then appreciate direction City and/or ODOT staff may have as it relates to potential additional traffic study or driveway permitting requirements.

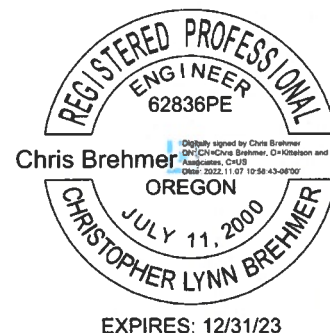
Please contact us if you have questions or need further information as you complete your review.

Sincerely,  
**KITTELSON & ASSOCIATES, INC.**

  
 Chris Brehmer, PE  
 Senior Principal Engineer

  
 Julia Kuhn, PE  
 Senior Principal Engineer

Cc: Jo Ann Pacheco, Jackson Automotive Group  
 Byron Balogh and Paul Kurth, LRS Architects





Case File No: 3-AX-22/7-Z-22  
 Date Filed: November 21, 2022 (deemed completed December 8, 2022)  
 Hearing Date: January 9, 2023/Planning Commission

**PLANNING STAFF REPORT**  
**Case File No. 3-AX-22 / 7-Z-22**

- A. **APPLICANT:** South Beach Church, owner (Tim Gross, PE, Civil West Engineering Services, Inc., authorized representative).
- B. **REQUEST:** Consideration of requests to: **(1) annex approximately 11.98 acres of real property** (consisting of property currently identified as Tax Lots 01201 an 01400 of Assessor's Tax Map 11-11-17-DD) into the Newport city limits; **(2) amend the City of Newport Zoning Map to establish an R-3/"Medium Density Multi-Family Residential" zoning designation for the entire property** consistent with the existing Newport Comprehensive Plan designation of "High Density Residential;" and **(3) withdraw said territory from the Newport Rural Fire Protection District, Lincoln County Library District, and Seal Rock Water District.**
- C. **LOCATION:** North of SE Harborton Street approximately 1,100 feet east of the SE 40<sup>th</sup> Street and US 101 intersection (Assessor's Map 11-11-17-DD, Tax Lots 01201 an 01400).
- D. **PROPERTY SIZE:** 11.98 acres.
- E. **STAFF REPORT:**
1. **REPORT OF FACTS:**
    - a. **Plan Designation:** The subject territory is within the Newport Urban Growth Boundary and is designated as "High Density Residential" on the Newport Comprehensive Plan Map.
    - b. **Zone Designation:** City of Newport zoning is established at time of annexation. The R-3/"Medium Density Multi-Family Residential" and R-4/"High Density Multi-Family Residential" designations are consistent with a Comprehensive Plan designation of "High Density Residential." The applicant is requesting R-3 zoning, which aligns with the designation applied to property within the City, situated immediately to the south.
    - c. **Surrounding Land Uses:** A wetland separates the property from mixed residential uses to the north. Light industrial uses exist downslope to the west. Undeveloped residential property is situated to the south and land to the east is forested and outside the city limits.
    - d. **Topography and Vegetation:** The central portion of the property is relatively flat, with steep slopes forming the west, north and east sides of the site. The property is forested with understory vegetation.
    - e. **Existing Residences/Buildings:** None.

- f. **Utilities:** Water and wastewater service can be extended into the property from SE 40<sup>th</sup> Street via an existing curb cut in the SE Chestnut Street right-of-way (southwest corner of the property).
- g. **Development Constraints:** None.
- h. **Past Land Use Actions:** None known.
- i. **Notification:** Required notice to the Department of Land Conservation and Development was provided on November 30, 2022. For the Planning Commission public hearing, notification in accordance with the NMC Section 14.52.060(C) requirements included mailing notice to surrounding property owners, City departments and other public agencies and utilities, and other individuals on December 9, 2022. A notice of public hearing was published in the Newport News-Times on December 30, 2022.
- j. **Attachments:**
  - Attachment "A" – Application Form
  - Attachment "B" – Statutory Warranty Deed Vesting the Church with Ownership
  - Attachment "C" – Completed Consent to Annex Form
  - Attachment "D" – Legal Description and Map of Area to be Annexed
  - Attachment "E" – Newport Comprehensive Plan Map
  - Attachment "F" – Newport Zoning and Aerial Map
  - Attachment "G" – Uses allowed in zones
  - Attachment "H" – Intent of Zoning Districts
  - Attachment "I" – Public Notice
  - Attachment "J" – OAR 660-012-0040
  - Attachment "K" – Copy of ORS 222.170 through 222.183
  - Attachment "L" – Copy of ORS 222.460 through 222.465 and ORS 222.524

2. **Explanation of the Request:** Pursuant to NMC Section 14.52.030(A) (Approving Authorities), all actions that have the City Council as the approving authority (with the exception of withdrawals) shall first be referred to the Planning Commission for review and recommendation.

The applicant is requesting that the City Council incorporate the subject property into the city limits of Newport, and change the zoning designation of the property to R-3/“Medium Density Multi-Family Residential.” Getting the property into the city limits will provide the applicant an opportunity to apply for a conditional use permit to establish a church on the site, which is their ultimate goal. For annexations, a hearing is required before the Planning Commission who makes a recommendation to the City Council. A second hearing is required before the Council.

Concurrent with the annexation, and as provided for in Oregon Revised Statutes (ORS) 222.524, the subject property will be withdrawn from the Newport Rural Fire Protection District, Lincoln County Library District, and Seal Rock Water District. The City of Newport will provide these services to the annexed properties. With respect to the Seal Rock Water District, the City is required to reimburse the District for the outstanding bond debt attributed to the annexed properties that was incurred before the City started providing water service to the area ORS 222.520(2).

### 3. Evaluation of the Request:

a.) Comments: No comments were received in response to the public notice.

b.) Applicable Criteria:

(1) Annexation/Withdrawal:

Newport Municipal Code (NMC) Section 14.37.040: The required consents have been filed with the City; the territory to be annexed is within the acknowledged urban growth boundary (UGB); and the territory to be annexed is contiguous to the existing city limits.

The Newport Municipal Code does not have criteria for withdrawals from a district. Withdrawals are done in conjunction with an annexation, because it is at that time that the City becomes the service provider for the property. Per ORS 222.524(1) the governing body must determine if the withdrawal is in the best interest of the city.

(2) Zone Map Amendment:

Zone Map Amendments (as per NMC Section 14.36.010): Findings that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare.

(3) Transportation Planning Rule (OAR 660-012-0060):

OAR 660-012-0060(1) Plan and Land Use Regulation Amendments. If an amendment to a zoning map significantly affects an existing or planned transportation facility, then the local government must put in place measures to mitigate the impact, unless the amendment is allowed under section (3), (9) or (10) of the rule. In this case, section (9) is applicable and it reads as follows:

(9) Notwithstanding section (1) of this rule, a local government may find that an amendment to a zoning map does not significantly affect an existing or planned transportation facility if all of the following requirements are met.

(a) The proposed zoning is consistent with the existing comprehensive plan map designation and the amendment does not change the comprehensive plan map;

(b) The local government has an acknowledged TSP and the proposed zoning is consistent with the TSP; and

(c) The area subject to the zoning map amendment was not exempted from this rule at the time of an urban growth boundary amendment as



permitted in OAR 660-024-0020(1)(d), or the area was exempted from this rule but the local government has a subsequently acknowledged TSP amendment that accounted for urbanization of the area.

c.) **Staff Analysis:**

*(1) Annexation: Newport Municipal Code (NMC) Section 14.37.040: The required consents have been filed with the city; the territory to be annexed is within the acknowledged urban growth boundary (UGB); and the territory to be annexed is contiguous to the existing city limits.*

A. The required consents have been filed:

Pursuant to Oregon Revised Statutes (ORS) 222.170(2), the City need not hold an election on the annexation of contiguous territory if it receives the consent of more than 50 percent of the owners of land in the territory, and such owners own more than 50 percent of the land area within the territory.

The applicant, South Beach Church, owns the subject territory as evidenced by a Statutory Warranty Deed, recorded November 3, 2022 under Instrument #2022-10388 (Attachment "D"). The South Beach Church filed a completed "consent to annex form" demonstrating their desire to have the property annexed by the city (Attachment "B"). This is sufficient evidence to establish that the requisite consent has been granted and that the city may proceed with the annexation without an election.

B. territory to be annexed is within the acknowledged urban growth boundary (UGB);

City records show that the property is within the Urban Growth Boundary of the City of Newport.

C. territory to be annexed is contiguous to the existing city limits.

The south and west boundary of the subject territory is contiguous to the existing city limits (Attachment "F").

*(2) Zone Map Amendment: Zone Map Amendments (as per NMC Section 14.36.010): Findings that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare.*

The applicant is requesting an R-3/"Medium Density Multi-Family Residential" zoning designation. The Comprehensive Plan designation for the property is High Density Residential (Attachment "E"). It is implemented by either the R-3/"Medium Density Multi-Family

Residential” or R-4/ “High Density Multi-Family Residential” zoning designations. Property adjacent to the north and south is under the same Comprehensive Plan designation (Attachment "E"). Property to the north is zoned R-4 and property to the south is within an R-3 zone district (Attachment "F"). A list of uses permitted outright and conditionally in the R-3 and R-4 zones is included as Attachment "G." The intent of the R-3 and R-4 zoning districts is included as Attachment "H."

The Newport Comprehensive Plan identifies a need for housing and annexing this property adds to the city’s land base available for housing development. As noted, the applicant intends to construct a church on the property. Churches fall under the category of Religious Institutions/Places of Worship in the Newport Zoning Ordinance and they are allowed conditionally in the City’s four residential zones (Attachment "G"). While the applicant intends to seek conditional use approval of a church, that is not the question before the Planning Commission at this time. The question before the Commission is whether or not annexing 11.98 acres of land and placing it in an R-3/“Medium Density Multi-Family Residential” zone district furthers a public necessity and promotes the general welfare. Given the City’s well documented housing needs, it is reasonable for the Planning Commission to conclude that this bar has been met.

(3) Transportation Planning Rule Compliance (OAR 660-012-0060). Findings showing that the zoning map amendment is allowed per OAR 660-012-0060(9) and; therefore, does not significantly affect an existing or planned transportation facility.

OAR 660-012-0060(9) provides that a local government may find that an amendment to a zoning map does not significantly affect an existing or planned transportation facility if all of the following requirements are met.

(a) The proposed zoning is consistent with the existing comprehensive plan map designation and the amendment does not change the comprehensive plan map;

(b) The local government has an acknowledged TSP and the proposed zoning is consistent with the TSP; and

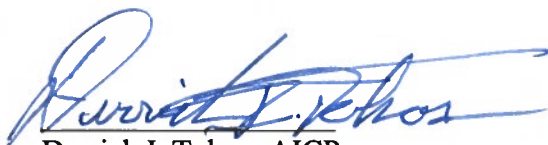
(c) The area subject to the zoning map amendment was not exempted from this rule at the time of an urban growth boundary amendment as permitted in OAR 660-024-0020(1)(d), or the area was exempted from this rule but the local government has a subsequently acknowledged TSP amendment that accounted for urbanization of the area.

This requirement is satisfied in that (a) the proposed R-3/“Medium Density Multi-Family Residential” zoning is consistent with the High

Density Residential Comprehensive Plan Map designation; (b) Newport updated its Transportation System Plan (TSP) in 2011 (Ordinance No. 2045) and again in 2022 (Ordinance No. 2199) and the requested zoning is consistent with the urban scale of development that the TSP assumes will be generated from the property; and (c) the subject property was exempted from the Transportation Planning Rule because it predated the rule, being included in the City's original UGB in 1982 however, as noted, the City has subsequently adopted TSP amendments that account for the urbanized area.

4. **Conclusion:** If the Commission finds that the request meets the criteria, then the Commission should recommend approval of the application with any reasonable conditions it deems necessary for compliance with the criteria. Additionally, the Commission should recommend to the City Council whether or not the zoning designation for the property should be R-3 or R-4. If, on the other hand, the Commission finds that the request does not comply with the criteria, then the Commission should identify the portion(s) of the criteria with which the annexation request is not in compliance.

**F. STAFF RECOMMENDATION:** Based on the information received as of December 21, 2022, the applicant appears to be able to meet the applicable criteria for the annexation request and zoning map amendment, and staff recommends the Commission provide a favorable recommendation to the City Council.



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

December 21, 2022



## City of Newport Land Use Application

Applicant Name(s):	Property Owner Name(s) <i>if other than applicant</i>
South Beach Church	
Applicant Mailing Address:	Property Owner Mailing Address:
PO BOX 950 Newport, OR 97365	
Applicant Phone No.	Property Owner Phone No.
541-272-3377	
Applicant Email	Property Owner Email
southbeachchurch@gmail.com	
Authorized Representative(s): <i>Person authorized to submit and act on this application on applicant's behalf</i>	
Timothy Gross, Civil West Engineering Services, Inc.	
Authorized Representative Mailing Address:	
609 SW Hurbert Street, Newport, OR 97365	
Authorized Representative Telephone No.	
541-961-7489	
Authorized Representative Email. tgross@civilwest.net	

### Project Information

Property Location: <i>Street name if address # not assigned</i>		
SE 40th Street		
Tax Assessor's Map No.: 11-11-17-DD	Tax Lot(s): 01400, 01201	
Zone Designation: R-1,UGB	Legal Description: <i>Add additional sheets if necessary</i>	
Comp. Plan Designation: high-density residential Lots 01201 and 01400 of the S.E. 1/4, of 1		
Brief description of Land Use Request(s):		
<i>Examples:</i> 1. Move north property line 5 feet south      annexation 2. Variance of 2 feet from the required 15-foot front yard setback		
Existing Structures: if any		
none		
Topography and Vegetation:		
trees/open space		
<b>Application Type (please check all that apply)</b>		
<input checked="" type="checkbox"/> Annexation <input type="checkbox"/> Appeal <input type="checkbox"/> Comp Plan/Map Amendment <input type="checkbox"/> Conditional Use Permit <input type="checkbox"/> PC <input type="checkbox"/> Staff <input type="checkbox"/> Design Review <input type="checkbox"/> Geologic Permit	<input type="checkbox"/> Interpretation <input type="checkbox"/> Minor Replat <input type="checkbox"/> Partition <input type="checkbox"/> Planned Development <input type="checkbox"/> Property Line Adjustment <input type="checkbox"/> Shoreland Impact <input type="checkbox"/> Subdivision <input type="checkbox"/> Temporary Use Permit	<input type="checkbox"/> UGB Amendment <input type="checkbox"/> Vacation <input type="checkbox"/> Variance/Adjustment <input type="checkbox"/> PC <input type="checkbox"/> Staff <input type="checkbox"/> Zone Ord/Map <input type="checkbox"/> Amendment <input type="checkbox"/> Other
FOR OFFICE USE ONLY		

File No. Assigned: 3-AX-22 / 7-Z-22		
Date Received: 11/21/22	Fee Amount: 903	Date Accepted as Complete:
Received By: DT	Receipt No. 6433	Accepted By:
City Hall 169, SW Coast Hwy Newport, OR 97365 541.574.0629		
625-22-000074-PLNG		



## City of Newport Land Use Application

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

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

Applicant Signature(s)

11-18-2022

Date

Property Owner Signature(s) (if other than applicant)

Date

11-18-22

Authorized representative Signature(s) (if other than applicant)

Date

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

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

**Attachment "B"**



3-AX-22 / 7-Z-22

**WT0243259-AMM****RECORDING COVER SHEET (Please Print or Type)**

This cover sheet was prepared by the person presenting the instrument for recording. The information on this sheet is a reflection of the attached instrument and was added for the purpose of meeting first page recording requirements in the State of Oregon, ORS 205.234, and does NOT affect the instrument.

**AFTER RECORDING RETURN TO:**

Luke Frechette  
South Beach Church  
PO Box 950  
Newport, OR 97365

Lincoln County, Oregon		<b>2022-10388</b>
11/03/2022 01:27:03 PM		
DOC-COR/WD	Cnt=1 Pgs=7 Stn=12	
\$35.00 \$11.00 \$10.00 \$60.00 \$7.00		\$123.00
I, Dana W. Jenkins, County Clerk, do hereby certify that the within instrument was recorded in the Lincoln County Book of Records on the above date and time. WITNESS my hand and seal of said office affixed.		
 Dana W. Jenkins, Lincoln County Clerk		

**1. TITLE(S) OF THE TRANSACTION(S) ORS 205.234(a)**

Statutory Warranty Deed

**2. DIRECT PARTY / GRANTOR(S) ORS 205.125(1)(b) and 205.160**

David E. Stocker

**3. INDIRECT PARTY / GRANTEE(S) ORS 205.125(1)(a) and 205.160**

South Beach Church, an Oregon non-profit corporation

**4. TRUE AND ACTUAL CONSIDERATION**

ORS 93.030(5) - Amount in dollars or other

\$0.00 ☐ Other

**5. SEND TAX STATEMENTS TO:**

NO CHANGE

**6. SATISFACTION of ORDER or WARRANT**

ORS 204.125(1)(e)

CHECK ONE: ☐ Full  
(If applicable) ☐ Partial

**7. The amount of the monetary obligation imposed by the order or warrant. ORS 205.125 (1)(c)**

\$ 0.00

**8. If this instrument is being Re-Recorded, complete the following statement, in accordance with ORS 205.244: "RERECORDED AT THE REQUEST OF WESTERN TITLE TO CORRECT CORRECT LEGAL DESCRIPTION PREVIOUSLY RECORDED IN BOOK \_\_\_\_\_ AND PAGE \_\_\_\_\_ OR AS FEE NUMBER 2022-10311."**

WT0243259-AMM  
RECORDING REQUESTED BY:

**Western** Title & Escrow

255 SW Coast Highway, Suite 100  
Newport, OR 97365

**GRANTEE'S NAME:**  
South Beach Church

**AFTER RECORDING RETURN TO:**

Order No.: WT0243259-AMM  
Luke Frechette  
South Beach Church  
PO Box 950  
Newport, OR 97365



**SEND TAX STATEMENTS TO:**

South Beach Church  
PO Box 950  
Newport, OR 97365

APN: R391861  
R389494

Map: 11-11-17-DD-01400  
11-11-17-DD-01201

APN/Parcel ID(s) R391861 and R389494 as well as Tax/Map ID(s)  
11-11-17-DD-01400 and 11-11-17-DD-01201

Lincoln County, Oregon	<b>2022-10311</b>
11/01/2022 11:45:03 AM	Cnt=1 Pgs=5 Stn=10
DOC-WD	\$25.00 \$11.00 \$10.00 \$60.00 \$7.00
	\$113.00
I, Dana W. Jenkins, County Clerk, do hereby certify that the within instrument was recorded in the Lincoln County Book of Records on the above date and time. WITNESS my hand and seal of said office affixed.	
	
Dana W. Jenkins, Lincoln County Clerk	

SPACE ABOVE THIS LINE FOR RECORDER'S USE

## STATUTORY WARRANTY DEED

David E. Stocker, Grantor, conveys and warrants to South Beach Church, an Oregon non-profit corporation, Grantee, the following described real property, free and clear of encumbrances except as specifically set forth below, situated in the County of Lincoln, State of Oregon:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

THE TRUE AND ACTUAL CONSIDERATION FOR THIS CONVEYANCE IS ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00). (See ORS 93.030).

**Subject to:**

SEE EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

WT0243259-AMM  
RECORDING REQUESTED BY:

 **Western** Title & Escrow

255 SW Coast Highway, Suite 100  
Newport, OR 97365

**GRANTEE'S NAME:**  
South Beach Church

**AFTER RECORDING RETURN TO:**

Order No.: WT0243259-AMM  
Luke Frechette  
South Beach Church  
PO Box 950  
Newport, OR 97365

**SEND TAX STATEMENTS TO:**

South Beach Church  
PO Box 950  
Newport, OR 97365

APN: R391861  
R389494

Map: 11-11-17-DD-01400  
11-11-17-DD-01201

APN/Parcel ID(s) R391861 and R389494 as well as Tax/Map ID(s)  
11-11-17-DD-01400 and 11-11-17-DD-01201

SPACE ABOVE THIS LINE FOR RECORDER'S USE

## STATUTORY WARRANTY DEED

**David E. Stocker**, Grantor, conveys and warrants to **South Beach Church**, an Oregon non-profit corporation, Grantee, the following described real property, free and clear of encumbrances except as specifically set forth below, situated in the County of Lincoln, State of Oregon:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

THE TRUE AND ACTUAL CONSIDERATION FOR THIS CONVEYANCE IS ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00). (See ORS 93.030).

**Subject to:**

SEE EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF

**BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.**



# STATUTORY WARRANTY DEED

(continued)

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.

Dated: October 31, 2022

David E. Stocker

David E. Stocker

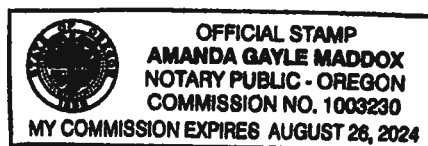
State of Oregon  
County of Lincoln

This instrument was acknowledged before me on October 31, 2022 by David E. Stocker.

Amanda Gayle Maddox

Notary Public - State of Oregon

My Commission Expires: Aug 26, 2024



## EXHIBIT "A"

### Legal Description

#### PARCEL I:

Beginning at an iron pipe set for the Southwest corner of the Southeast quarter of the Southeast quarter of Section 17, Township 11 South, Range 11 West, Willamette Meridian, in Lincoln County, Oregon; thence South 87° 17' East, along the South line of said Section 17, 599.12 feet to an iron rod; thence North 676.5 feet; thence West 209 feet, more or less, to a point that is South of the Southwest corner of the John Bartow tract as described in Book 104, page 209, Deed Records; thence North 38 feet, more or less, to said Southwest corner of the John Bartow tract and said point being also on the Northerly right of way line of the abandoned Spruce Production Railroad; thence Westerly along the said Northerly right of way line of said railroad and along the South line of a tract as described in Book 175, pages 556 and 557, Deed Records, 393 feet, more or less, to the West line of the Southeast quarter of the Southeast quarter of said Section 17; thence South 0° 12' East, along said West line, 628 feet, more or less, to the point of beginning.

~~EXCEPTING THEREFROM any portion lying within the abandoned Spruce Production Railroad that was vacated in 1943 by Lincoln County Commissioners Journal 19-500.~~

#### PARCEL II:

Commencing at an iron pipe set for the Southwest corner of the Southeast quarter of the Southeast quarter of Section 17, Township 11 South, Range 11 West, Willamette Meridian, in Lincoln County, Oregon; thence South 87° 17' East, along the South line of said Section 17, 599.12 feet to an iron rod, and the true point of beginning; thence North, 420 feet to an iron rod; thence East, 309 feet, more or less, to the West line of the L. G. English tract; thence South, along the West line of said tract, 420 feet to the South line of said Section 17; thence West, 209 feet, more or less, to the point of beginning.

## EXHIBIT "B"

### Exceptions

**Subject to:**

The Land has been classified as Designated Forestland, as disclosed by the tax roll. If the Land becomes disqualified, said Land may be subject to additional taxes and/or penalties.

Affects: Parcels I and II

Regulations, levies, liens, assessments, rights of way and easements of Seal Rock Water District.

Subject property is either situated within the urban renewal boundaries or within the shared area of South Beach and is subject to the terms and provisions thereof, as outlined by Resolution No. 3943

Recorded: February 14, 2022

Document No.: 2022-01594

Affects: Parcels I and II

Rights of the public to any portion of the Land lying within the area commonly known as roads and highways.

Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

Entitled: Warranty Deed  
Recording Date: September 9, 1957  
Recording No: Book 187, page 90  
Affects: Parcel I

Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

Entitled: Warranty Deed  
In favor of: South Beach Water District, a Municipal Corporation  
Purpose: as set forth therein  
Recording Date: July 13, 1953  
Recording No: Book 159, page 156  
Affects: Parcel II-Exact location unknown

Covenants, conditions, restrictions and easements but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, source of income, gender, gender identity, gender expression, medical condition or genetic information, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth in the document

Recording Date: July 13, 1953  
Recording No: Book 159, page 156  
Affects: Parcel II

(The above document contains reversionary provisions.)

Terms, provisions and conditions, including, but not limited to, maintenance provisions, and a covenant to share the costs of maintenance, contained in Conveyance and Agreement for Easement

Recording Date: April 5, 2006  
Recording No.: 200605221  
Affects: Parcel I

**EXHIBIT "B"**  
**Exceptions**

Terms, provisions and conditions, including, but not limited to, maintenance provisions, and a covenant to share the costs of maintenance, contained in Driveway Access and Maintenance Easement

Recording Date: August 30, 2007  
Recording No.: 200712513  
Affects: Parcels I and II

Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Central Lincoln People's Utility District  
Purpose: as set forth therein  
Recording Date: September 25, 2008  
Recording No: 200811292  
Affects: Parcel I

Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Central Lincoln People's Utility District  
Purpose: as set forth therein  
Recording Date: September 26, 2008  
Recording No: 200811411  
Affects: Parcel I

**Consent to Annex to the City of Newport  
Electorate**

Per ORS 222.170, we, the undersigned, being legal electorate residing on property not presently a part of the corporate limits of the City of Newport, Oregon, do hereby consent to the annexation of said property to the City of Newport and petition the City of Newport to annex said property and to determine the appropriate zoning designation, effective upon annexation, pursuant to Chapter 14.37 of the Newport Municipal Code (NMC).

Legal description of Property *(attach additional sheets if necessary)*:

(see attached)

Tax Assessor's Map and Lot Number: Tax Lots 01201 and 01400 of Assessors Map 11-11-17-DD

Signature: \_\_\_\_\_



Luke Frechette

Date: \_\_\_\_\_

12.15.22

State of \_\_\_\_\_ )

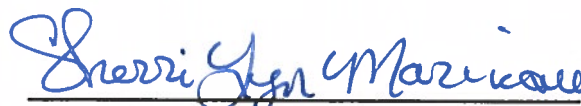
Oregon

County of \_\_\_\_\_ ) ss.

Lincoln

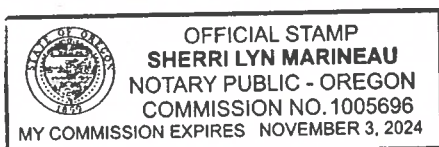
Personally appeared before me Sherri Lyn Marineau and  
acknowledged the foregoing instrument to be his/her voluntary act and deed.

Before me:



Notary Public

My commission expires: 11/03/2024



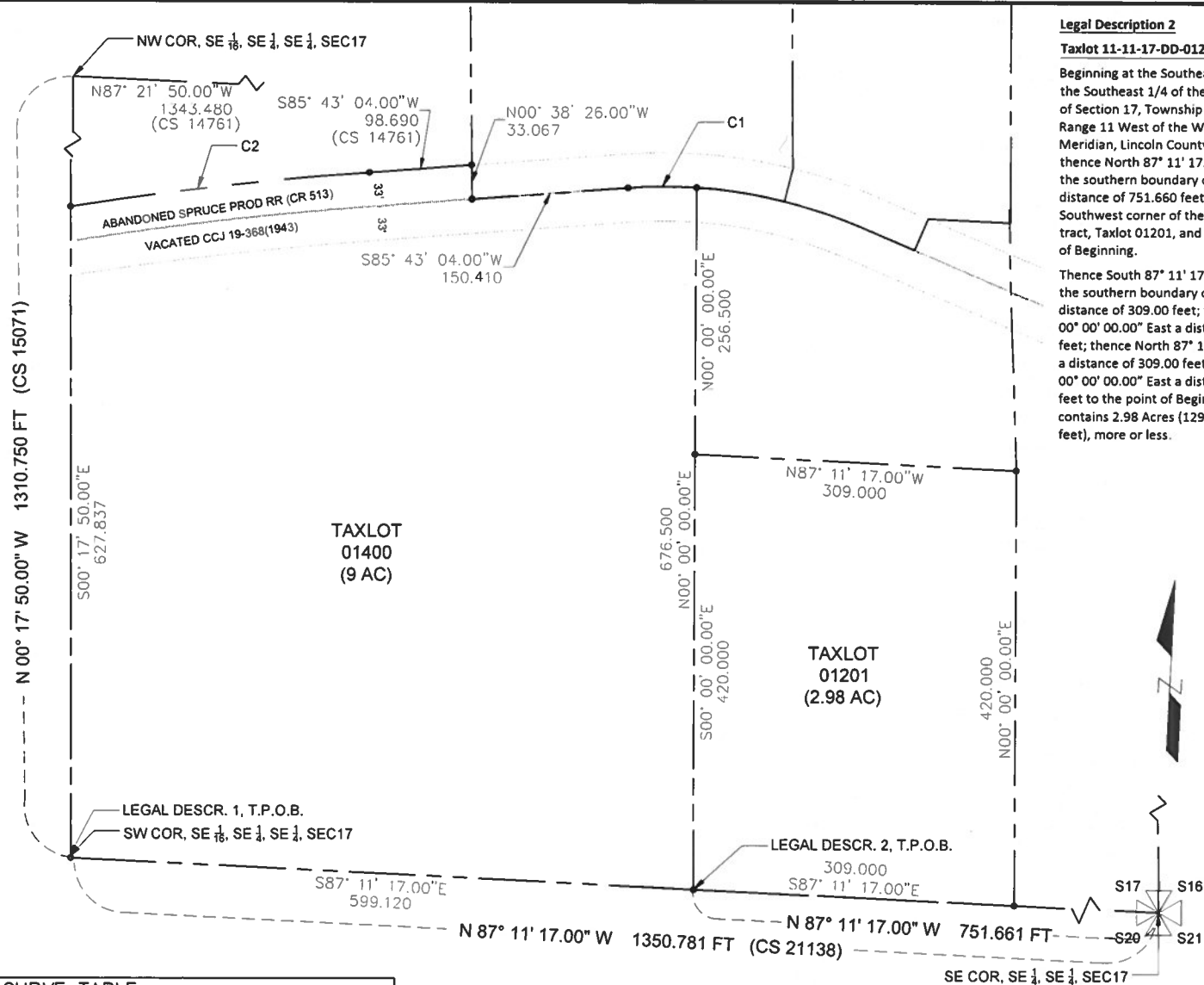
DATE: 12/02/22 FILE: D:\CIVIL\Projects\2204\Map\Private\Engineering\WMA2204-14-SEC 5a Development\3 Preliminary Design\Drawings\Boundary Dwg 12-02-22.dwg

### Legal Description 1

#### Taxlot 11-11-17-DD-01400-00:

Beginning at the Southeast corner of the Southeast 1/4 of the Southeast 1/4 of Section 17, Township 11 South, Range 11 West of the Western Meridian, Lincoln County, Oregon; thence North 87° 11' 17.00" West along the southern boundary of Section 17, a distance of 1,350.781 feet to the Southwest corner of the Southeast 1/16 of the Southeast 1/4 of the Southeast 1/4 of Section 17, the Southwest corner of the described tract, Taxlot 01400, and the True Point of Beginning.

Thence South 87° 11' 17.00" East along the southern boundary of Section 17, a distance of 599.120 feet; thence North 00° 00' 00.00" East a distance of 676.500 feet to the centerline of the abandoned Spruce Production Railroad as described in Book 122, page 89 as recorded in the Lincoln County Recorder's Office; thence westerly along the centerline of the abandoned Spruce Production Railroad along a left curve of length 65.964 feet with a radius of 476.340 feet whose chord length is 65.912 feet along a bearing of South 89° 40' 07.44" West; thence South 85° 43' 04.00" West a distance of 150.410 feet, more or less, to a point that is South of the Southwest corner of the John Bartow tract as described in Book 104, page 209, Deed Records; thence North 00° 38' 26.00" West a distance of 33.067 feet, more or less, to the northern boundary of the abandoned Spruce Production Railroad; thence South 85° 43' 04.00" West along the northern boundary of the abandoned Spruce Production Railroad a distance of 98.690 feet; thence westerly along a left curve of length 288.970 feet with a radius of 3,556.609 feet whose chord length is 288.903 feet along a bearing of South 83° 22' 06.84" West; thence South 00° 17' 50.00" East a distance of 627.837 feet to the Point of Beginning. Said tract contains 9.00 Acres (391,554 square feet), more or less.



### Legal Description 2

#### Taxlot 11-11-17-DD-01201-00:

Beginning at the Southeast corner of the Southeast 1/4 of the Southeast 1/4 of Section 17, Township 11 South, Range 11 West of the Western Meridian, Lincoln County, Oregon; thence North 87° 11' 17.00" West along the southern boundary of Section 17 a distance of 751.660 feet to the Southwest corner of the described tract, Taxlot 01201, and the True Point of Beginning.

Thence South 87° 11' 17.00" East along the southern boundary of Section 17 a distance of 309.00 feet; thence North 00° 00' 00.00" East a distance of 420.00 feet; thence North 87° 11' 17.00" West a distance of 309.00 feet; thence South 00° 00' 00.00" East a distance of 420.00 feet to the point of Beginning. Said tract contains 2.98 Acres (129,808 square feet), more or less.

TAXLOT  
01400  
(9 AC)

TAXLOT  
01201  
(2.98 AC)

### CURVE TABLE

NUMBER	LENGTH (L)	RADIUS (R)	CHORD BEARING	CHORD LENGTH
C1	65.964'	476.340'	S89°40'07.44"W	65.912'
C2	288.970'	3556.609'	S83°22'06.84"W	288.903'



SOUTH BEACH CHURCH  
LINCOLN COUNTY, OR

APPLICATION FOR ANNEXATION

PROPERTY BOUNDARY AND LEGAL DESCRIPTION

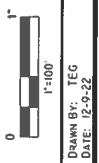
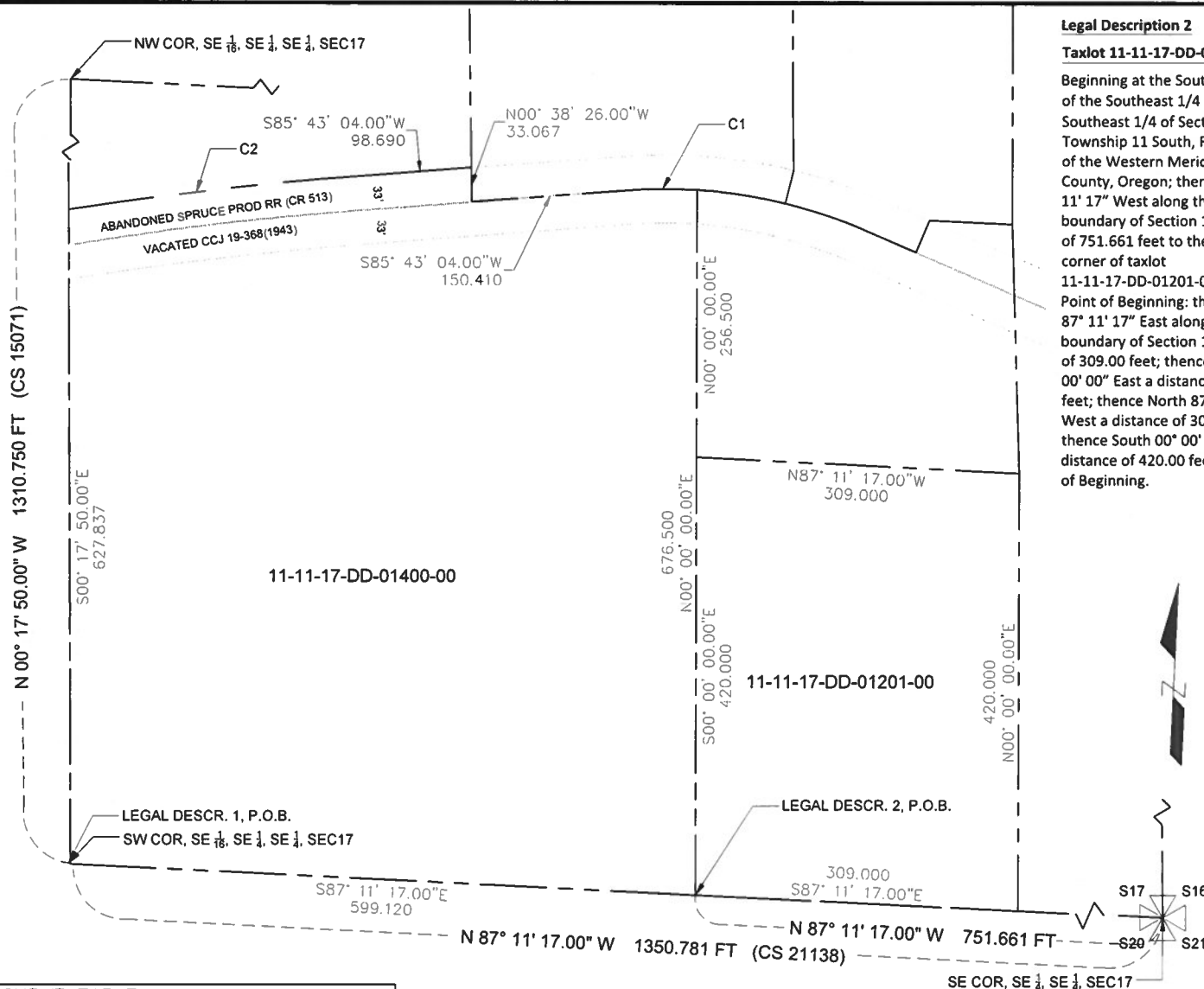


FIGURE  
1

**Legal Description 1****Taxlot 11-11-17-DD-01400-00:**

Beginning at the Southeast corner of the Southeast 1/4 of the Southeast 1/4 of Section 17, Township 11 South, Range 11 West of the Western Meridian, Lincoln County, Oregon; thence North 87° 11' 17" West along the southern boundary of Section 17 a distance of 1,350.781 feet to the Southwest corner of the Southeast 1/16 of the Southeast 1/4 of the Southeast 1/4 of Section 17, the Southwest corner of taxlot 11-11-17-DD-01400-00, and the Point of Beginning; thence South 87° 11' 17" East along the southern boundary of Section 17 a distance of 599.120 feet; thence North 00° 00' 00.00" East a distance of 676.50 feet to the centerline of the abandoned Spruce Production Railroad; thence westerly along the centerline of the abandoned Spruce Production Railroad along a curve of length 65.964 feet with a radius of 478.340 feet whose chord length is 65.912 feet along a bearing of South 89° 40' 07.44" West; thence South 85° 43' 04.33" West a distance of 150.410 feet; thence North 00° 38' 26.00" West a distance of 33.067 feet to the northern boundary of the abandoned Spruce Production Railroad; thence South 85° 43' 04.00" West along the northern boundary of the abandoned Spruce Production Railroad a distance of 98.690 feet; thence westerly along a curve of length 288.970 feet with a radius of 3,556.609 feet whose chord length is 288.903 feet along a bearing of South 83° 22' 06.84" West; thence South 00° 17' 50.00" East a distance of 627.837 feet to the Point of Beginning.

**CURVE TABLE**

NUMBER	LENGTH (L)	RADIUS (R)	CHORD BEARING	CHORD LENGTH
C1	65.964'	478.340'	S89°40'07.44\"W	65.912'
C2	288.970'	3556.609'	S83°22'06.84\"W	288.903'

**Legal Description 2****Taxlot 11-11-17-DD-01201-00:**

Beginning at the Southeast corner of the Southeast 1/4 of the Southeast 1/4 of Section 17, Township 11 South, Range 11 West of the Western Meridian, Lincoln County, Oregon; thence North 87° 11' 17" West along the southern boundary of Section 17 a distance of 751.661 feet to the Southwest corner of taxlot 11-11-17-DD-01201-00 and the Point of Beginning; thence South 87° 11' 17" East along the southern boundary of Section 17 a distance of 309.00 feet; thence North 00° 00' 00" East a distance of 420.00 feet; thence North 87° 11' 17" West a distance of 309.00 feet; thence South 00° 00' 00.00" East a distance of 420.00 feet to the point of Beginning.



SOUTH BEACH CHURCH  
LINCOLN COUNTY, OR

APPLICATION FOR ANNEXATION

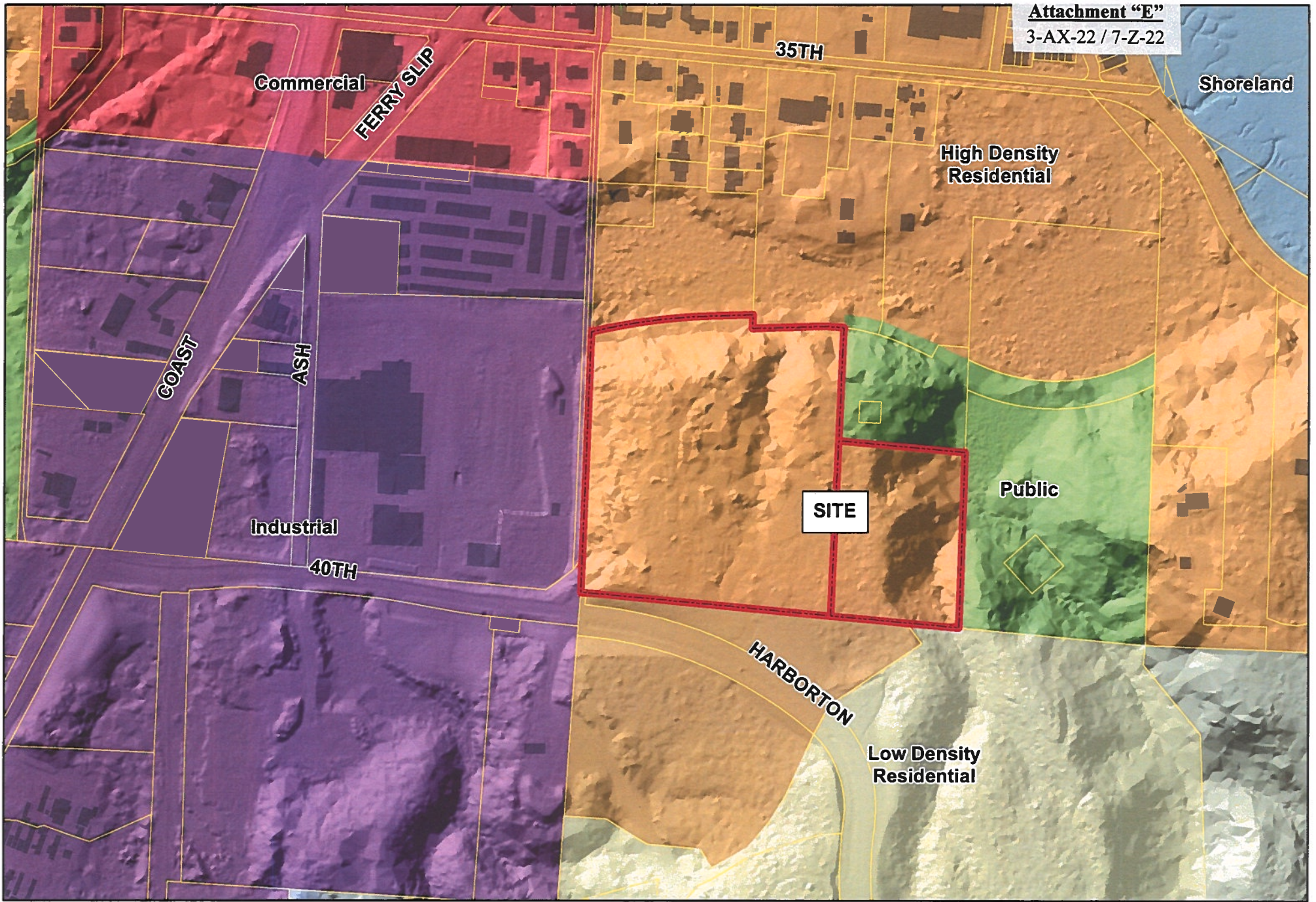
PROPERTY BOUNDARY AND LEGAL DESCRIPTION



Scale: 1\"/>

FIGURE  
1





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

**Comprehensive Plan Map Designations  
South Beach Church Annexation (File 3-AX-22/7-Z-22)**

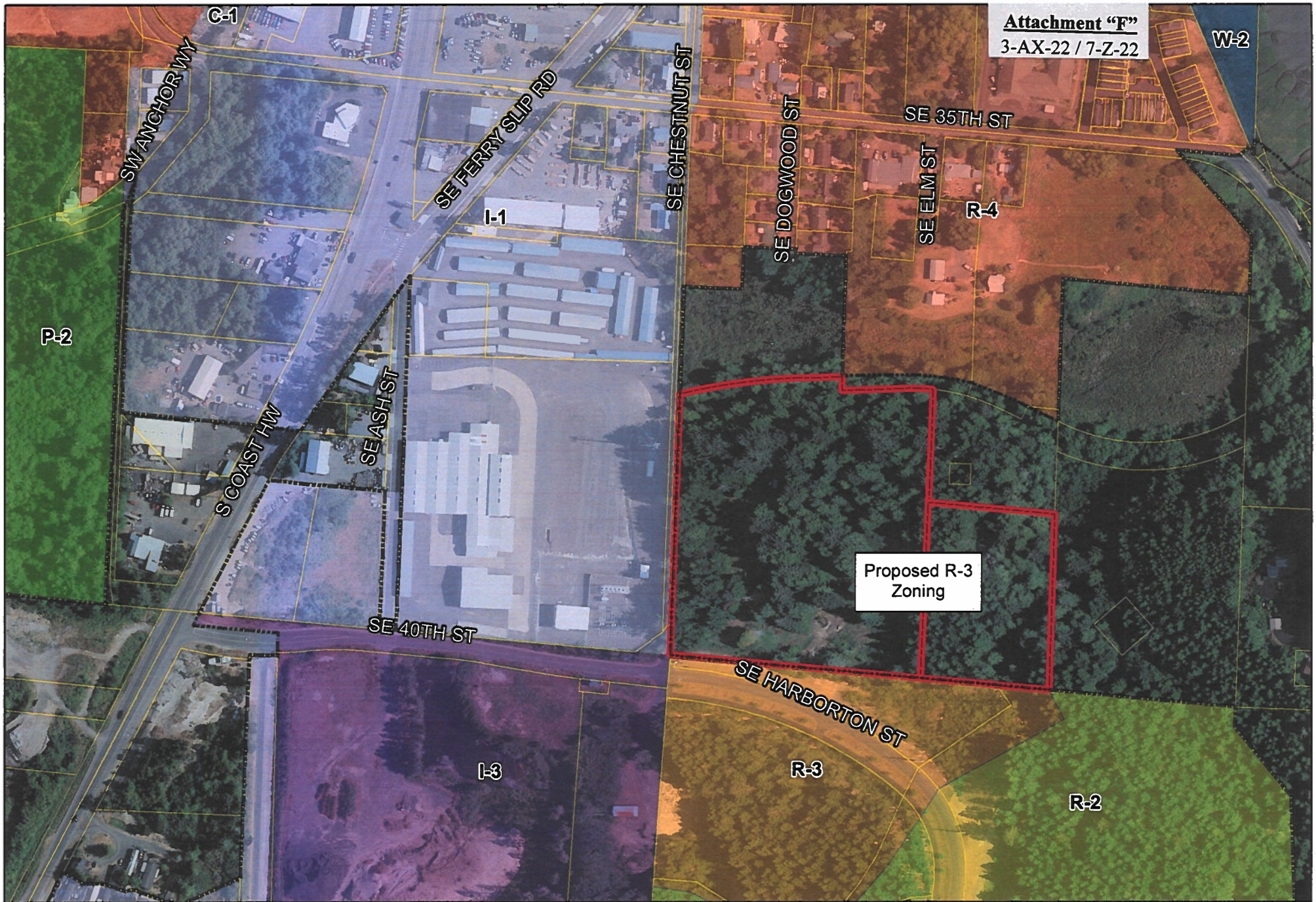
Image Taken July 2018  
4-inch, 4-band Digital Orthophotos  
Quantum Spatial, Inc. Corvallis, OR

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

0 150 300 600 Feet







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

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

### Existing/Proposed Zoning - Aerial Map South Beach Church Annexation (File 3-AX-22/7-Z-22)

Image Taken July 2018  
4-inch, 4-band Digital Orthophotos  
Quantum Spatial, Inc. Corvallis, OR

0 150 300 600 Feet





In areas considered to be historic, unique, or scenic, the proposed use shall be designed to maintain or enhance the historic, unique, or scenic quality.

#### 14.03.050 Residential Uses.

The following list sets forth the uses allowed within the residential land use classification. Uses not identified herein are not allowed. Short-term rentals are permitted uses in the City of Newport's R-1, R-2, R-3 and R-4 zone districts subject to requirements of [Section 14.25](#).

"P" = Permitted uses.

"C" = Conditional uses; permitted subject to the approval of a conditional use permit.

"X" = Not allowed.

		R-1	R-2	R-3	R-4
A.	Residential				
	1. Single-Family	P	P	P	P
	2. Two-family	P	P	P	P
	3. Townhouse	X	P	P	P
	4. Cottage Cluster	X	X	P	P
	5. Multi-family	X	X	P	P
	6. Manufactured Homes <sup>1</sup>	P	P	P	P
	7. Manufactured Dwelling Park	X	P	P	P
B.	Accessory Dwelling Units	P	P	P	P
	(B. was added on the adoption of Ordinance No 2055 on June 17, 2013; and subsequent sections relettered accordingly. Effective July 17, 2013.)				
C.	Accessory Uses	P	P	P	P
D.	Home Occupations	P	P	P	P
E.	Community Services				
	1. Parks	P	P	P	P
	2. Publicly Owned Recreation Facilities	C	C	C	C
	3. Libraries	C	C	C	C
	4. Utility Substations	C	C	C	C
	5. Public or Private Schools	C	C	C	P
	6. Family Child Care Home	P	P	P	P
	7. Child Care Center	C	C	C	C
	8. Religious Institutions/Places of Worship	C	C	C	C
F.	Residential Care Homes	P	P	P	P
G.	Nursing Homes	X	X	C	P
H.	Motels and Hotels <sup>3</sup>	X	X	X	C
I.	Professional Offices	X	X	X	C
J.	Rooming and Boarding Houses	X	X	C	P

K.	Beauty and Barber Shops	X	X	X	C
L.	Colleges and Universities	C	C	C	C
M.	Hospitals	X	X	X	P
N.	Membership Organizations	X	X	X	p
O.	Museums	X	X	X	P
P.	Condominiums <sup>2</sup>	X	P	P	P
Q.	Hostels	X	X	X	C
R.	Golf Courses	C	C	C	X
S.	Recreational Vehicle Parks	X	X	X	C
T.	Necessary Public Utilities and Public Service Uses or Structures	C	C	C	C
U.	Residential Facility*	X	X	P	P
V.	Movies Theaters**	X	X	X	C
W.	Assisted Living Facilities***	X	C	P	P
X.	Bicycle Shop****	X	X	X	C
Y.	Short-Term Rentals (subject to requirements of Chapter 14.25)	P	P	P	P
Z.	Transportation Facilities	P	P	P	P

<sup>1</sup> Manufactured homes may be located on lots, parcels or tracts outside of a manufactured dwelling park subject to the provisions listed in NMC 14.06.020.

<sup>2</sup> Condominiums are a form of ownership allowed in all zones within dwelling types otherwise permitted pursuant to subsection (A).

<sup>3</sup> Hotels/motels units may be converted to affordable housing provided they are outside of the Tsunami Hazard Overlay Zone.

*(14.03.050 amended by the adoption of Ordinance No. 2194 on May 16, 2022; effective June 15, 2022.)*

*(Section 14.03.050 was amended by Ordinance No. 2182 adopted on May 17, 2021; effective June 16, 2021.)*

*(Section 14.03.050 was amended by Ordinance No. 2144, adopted on May 6, 2019; effective May 7, 2019.)*

#### 14.03.060 Commercial and Industrial Districts.

The uses allowed within each commercial and industrial zoning district are classified into use categories on the basis of common functional, product, or physical characteristics.

*\* Added by Ordinance No. 1622 (10-7-91).*

*\*\* Added by Ordinance No. 1680 (8-2-93).*

*\*\*\* Added by Ordinance No. 1759 (1-21-97).*

*\*\*\*\* Added by Ordinance No. 1861 (10-6-03).*

#### 14.03.040 Intent of Zoning Districts.

Each zoning district is intended to serve a general land use category that has common locations, development, and service characteristics. The following sections specify the intent of each zoning district:

R-1/"Low Density Single-Family Residential." The intent of the R-1 district is to provide for large lot residential development. This district should also be applied where environmental constraints such as topography, soils, geology, or flooding restrict the development potential of the land.

R-2/"Medium Density Single-Family Residential." The intent of this district is to provide for low density, smaller lot size residential development. It is also the ambition of this district to serve as a transitional area between the low density residential district and higher density residential districts.

R-3/"Medium Density Multi-Family Residential." This district is intended for medium density multi-family residential development. It is planned for areas that are able to accommodate the development of apartments. New R-3 zones should be near major streets, on relatively flat land, and near community or neighborhood activity centers.

R-4/"High Density Multi-Family Residential." This district is intended to provide for high density multi-family residential and some limited commercial development. New R-4 zones should be on major streets, on relatively flat land, and near commercial centers.

C-1/"Retail and Service Commercial." The intent of the C-1 district is to provide for retail and service commercial uses. It is also intended that these uses will supply personal services or goods to the average person and that a majority of the floor space will be devoted to that purpose. Manufacturing, processing, repair, storage, or warehousing is prohibited unless such activity is clearly incidental to the business and occupies less than 50% of the floor area.

**CITY OF NEWPORT  
NOTICE OF A PUBLIC HEARING <sup>1</sup>**

**Attachment "I"**  
**3-AX-22 / 7-Z-22**

**NOTICE IS HEREBY GIVEN** that the Planning Commission of the City of Newport, Oregon, will hold a public hearing on Monday, January 9, 2023, to review the following request for annexation, zone designation, and withdrawal, and to make a recommendation to the City Council on this request. A public hearing before the City Council will be held at a later date and notice will be provided for the Council hearing.

**File No. 3-AX-22 / 7-Z-22**

**Applicant:** South Beach Church (Tim Gross, Civil West Engineering Services, Inc., representative).

**Request:** Consideration of requests to: **(1) annex approximately 11.98 acres of real property** (consisting of property currently identified as Tax Lots 1201 & 1400 of Assessor's Tax Map 11-11-17-DD) into the Newport city limits; **(2) amend the City of Newport Zoning Map to an R-3/"Medium Density Multi-Family Residential" zoning designation for the property** consistent with the existing Newport Comprehensive Plan designation of Residential; and **(3) withdraw said territory from the Newport Rural Fire Protection District, the Seal Rock Water District, and the Lincoln County Library District.**

**Applicable Criteria:** (1) Annexations (as per Newport Municipal Code (NMC) Section 14.37.040): The required consents have been filed with the city; the territory to be annexed is within the acknowledged urban growth boundary (UGB); and the territory to be annexed is contiguous to the existing city limits. (2) Zone Map Amendments (as per NMC Section 14.36.010): Findings that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare.

**Location:** Lincoln County Assessor's Map 11-11-17-DD, Tax Lots 1201 & 1400.

**Testimony:** Testimony and evidence must be directed toward the criteria described above or other criteria in the Newport Comprehensive Plan and its implementing ordinances that a person believes applies to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal (including to the Land Use Board of Appeals) based on that issue. Testimony may be submitted in written or oral form. Oral and written testimony will be taken during the course of the public hearing. Letters to the Community Development (Planning) Department (address below in "Reports/Application Material") must be received by 2:00 p.m. the day of the hearing or must be submitted to the Planning Commission in person during the hearing. The hearing will include a report by staff, testimony (both oral and written) from the applicant, those in favor or opposed to the application, and questions and deliberation by the Planning Commission. Pursuant to ORS 197.797 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application.

**Reports/Application Materials:** The staff report may be reviewed or 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, 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](mailto:d.tokos@newportoregon.gov) (mailing address above in "Reports/Application Materials").

**Time/Place of Planning Commission Hearing:** Monday, January 9, 2023; 6:00 p.m.; City Hall Council Chambers (address above in "Reports/Application Materials").

**MAILED:** December 9, 2022

**PUBLISHED:** Friday, December 30, 2022/News-Times.

<sup>1</sup> This notice is being sent to the applicant, the applicant's authorized agent (if any), affected property owners within 200 feet of the subject property (according to Lincoln County tax records), affected public/private utilities/agencies within Lincoln County, and affected city departments.



Cancelled  
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1000  
1499



**Subject Properties**  
File 3-AX-22/7-Z-22

Revised: SEB  
11/03/2004

NEWPORT  
11 11 17 DD

**NW Natural  
Account Services  
Attn: Annexation Coordinator  
250 SW Taylor St  
Portland, OR 97204-3038**

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

**CenturyLink  
ATTN: Corky Fallin  
740 State St  
Salem OR 97301**

**Lincoln County Assessor  
Lincoln County Courthouse  
225 W Olive St  
Newport OR 97365**

**Lincoln County Surveyor  
880 NE 7<sup>th</sup> St  
Newport OR 97365**

**Charter Communications  
ATTN: Keith Kaminski  
355 NE 1<sup>st</sup> St  
Newport OR 97365**

**Lincoln County Clerk  
Lincoln County Courthouse  
225 W Olive St  
Newport OR 97365**

**Lincoln County Commissioners  
Lincoln County Courthouse  
225 W Olive St  
Newport OR 97365**

**WVCC  
911 Emergency Dispatch  
555 Liberty St SE Rm P-107  
Salem OR 97301-3513**

**Lincoln County School District  
ATTN: Superintendent  
PO Box 1110  
Newport OR 97365**

**OR Parks & Recreation Dept.  
ATTN: Steve Williams  
5580 S Coast Hwy  
South Beach OR 97366**

**Secretary of State  
136 State St Capitol  
Salem OR 97310**

**US Post Office  
ATTN: Postmaster  
310 SW 2<sup>nd</sup> St  
Newport OR 97365**

**Seal Rock Water District  
PO Box 190  
Seal Rock OR 97365**

**Pioneer Telephone Co-Op  
PO Box 631  
Philomath OR 97370**

**Lincoln County Planning Dept  
210 SW 2<sup>nd</sup> St  
Newport OR 97365**

**OREGON DIVISION OF STATE  
LANDS  
775 SUMMER ST NE  
SALEM OR 97310-1337**

**ATTN: PLAN AMENDMENT SPECIALIST  
DEPT OF LAND CONSERVATION &  
DEVELOPMENT  
635 CAPITOL ST NE STE 150  
SALEM OR 97301-2540**

**Lincoln County Library District  
PO Box 2027  
Newport OR 97365**

**Newport Rural Fire Protection  
District  
PO Box 923  
Newport OR 97365**

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

**ODOTR2PLANMGR@ODOT.STATE.US**

**Jason Malloy  
Police Chief**

**David Powell  
Public Works**

**Joseph Lease  
Building Official**

**Laura Kimberly  
Library**

**Spencer Nebel  
City Manager**

**Rob Murphy      Lance Vanderbeck  
Fire Chief          Airport**

**Beth Young  
Associate Planner**

**File 3-AX-22 / 7-Z-22**

**Aaron Collett      Clare Paul  
Public Works          Public Works**

**Steve Baugher  
Interim Finance Director**

**EXHIBIT 'A'  
(Affected Agencies)**

CITY OF NEWPORT  
CITY MANAGER  
169 SW COAST HWY  
NEWPORT,OR 97365

HANSEN INVESTMENTS LLC  
4676 COMMERCIAL ST SE  
#335  
SALEM,OR 97302

LANDWAVES INC  
2712 SE 20TH AVE  
PORTLAND,OR 97202

RJLL LLC  
PO BOX 538  
NEWPORT,OR 97365

SOUTH BEACH BUSINESS PARK LLC  
2113 SE 98TH ST  
SOUTH BEACH,OR 97366

SOUTH BEACH CHURCH  
PO BOX 950  
NEWPORT,OR 97365

STATE OF OREGON, OREGON STATE  
UNIVERSITY  
LEASING & STRAT REAL PROP MGT  
850 SW 35TH ST  
CORVALLIS,OR 97333

TRYON GARY E & TRYON VERNON &  
TRYON ROBERT & TRYON LOREN  
PO BOX 975  
WALDPORT,OR 97394

YECK FRED ARTHUR TRUSTEE  
PO BOX 352  
NEWPORT,OR 97365

FAIRCHILD J SCOTTY  
3603 SE CHESTNUT ST  
SOUTH BEACH,OR 97366

BRATENG KHLOELLA A (TOD)  
3529 SE CHESTNUT ST  
SOUTH BEACH,OR 97366

HOWE CHARLES R  
3558 SE DOGWOOD ST  
SOUTH BEACH,OR 97366

SAVAGE JOHN MARSHALL & SAVAGE  
KIM ELAINE  
3561 SE DOGWOOD ST  
SOUTH BEACH,OR 97366

TIM GROSS  
CIVIL WEST ENGINEERING  
SERVICES INC  
609 SW HURBERT ST  
NEWPORT,OR 97365

Exhibit "A"

File No. 3-AX-22 / 7-Z-22

Adjacent Property Owners



## Sherri Marineau

---

**From:** Sherri Marineau  
**Sent:** Friday, December 09, 2022 10:41 AM  
**To:** 'odotr2planmgr@odot.state.or.us'; Brett Estes  
**Subject:** Annexation File 3-AX-22 / 7-Z-22  
**Attachments:** File 3-AX-22 -- 7-Z-22 Notice - PC.pdf

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

### Sherri Marineau

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



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

## Sherri Marineau

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**From:** Sherri Marineau  
**Sent:** Friday, December 09, 2022 10:41 AM  
**To:** Derrick Tokos; Spencer Nebel; Robert Murphy; Joseph Lease; Jason Malloy; Laura Kimberly; Michael Cavanaugh; Beth Young; Clare Paul; David Powell; Aaron Collett; Lance Vanderbeck; Steve Baugher  
**Subject:** Annexation File 3-AX-22 / 7-Z-22  
**Attachments:** File 3-AX-22 -- 7-Z-22 Notice - PC.pdf

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

### Sherri Marineau

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



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

## Sherri Marineau

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**From:** Clare Paul  
**Sent:** Monday, December 12, 2022 11:46 AM  
**To:** Sherri Marineau; Derrick Tokos; Spencer Nebel; Robert Murphy; Joseph Lease; Jason Malloy; Laura Kimberly; Michael Cavanaugh; Beth Young; David Powell; Aaron Collett; Lance Vanderbeck; Steve Baugher  
**Subject:** RE: Annexation File 3-AX-22 / 7-Z-22

At the moment, there are no water or sewer mains immediately adjacent to these lots. They are separated from SE Harborton by another private property. The western boundary of this proposed annexation is the 20 foot wide SE Chestnut St. Consideration should be given to extending water and sewer through SE Chestnut.

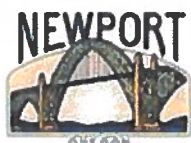
Clare C. Paul, PE  
 Assistant City Engineer  
 City of Newport  
 169 SW Coast Hwy, Newport, OR 97365  
 P 541-574-3370  
[c.paul@newportoregon.gov](mailto:c.paul@newportoregon.gov)

---

**From:** Sherri Marineau <[S.Marineau@NewportOregon.gov](mailto:S.Marineau@NewportOregon.gov)>  
**Sent:** Friday, December 09, 2022 10:41 AM  
**To:** Derrick Tokos <[D.Tokos@NewportOregon.gov](mailto:D.Tokos@NewportOregon.gov)>; Spencer Nebel <[S.Nebel@NewportOregon.gov](mailto:S.Nebel@NewportOregon.gov)>; Robert Murphy <[R.Murphy@NewportOregon.gov](mailto:R.Murphy@NewportOregon.gov)>; Joseph Lease <[J.Lease@NewportOregon.gov](mailto:J.Lease@NewportOregon.gov)>; Jason Malloy <[J.Malloy@newportpolice.net](mailto:J.Malloy@newportpolice.net)>; Laura Kimberly <[L.Kimberly@NewportLibrary.org](mailto:L.Kimberly@NewportLibrary.org)>; Michael Cavanaugh <[M.Cavanaugh@NewportOregon.gov](mailto:M.Cavanaugh@NewportOregon.gov)>; Beth Young <[B.Young@NewportOregon.gov](mailto:B.Young@NewportOregon.gov)>; Clare Paul <[C.Paul@NewportOregon.gov](mailto:C.Paul@NewportOregon.gov)>; David Powell <[D.Powell@NewportOregon.gov](mailto:D.Powell@NewportOregon.gov)>; Aaron Collett <[A.Collett@NewportOregon.gov](mailto:A.Collett@NewportOregon.gov)>; Lance Vanderbeck <[L.Vanderbeck@NewportOregon.gov](mailto:L.Vanderbeck@NewportOregon.gov)>; Steve Baugher <[S.Baugher@NewportOregon.gov](mailto:S.Baugher@NewportOregon.gov)>  
**Subject:** Annexation File 3-AX-22 / 7-Z-22

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

**Sherri Marineau**  
 Executive Assistant  
 City of Newport  
 Community Development Department  
 169 SW Coast Highway  
 Newport, OR 97365  
 ph: 541.574.0629, option 2  
 fax: 541.574.0644  
[s.marineau@newportoregon.gov](mailto:s.marineau@newportoregon.gov)



## AFFIDAVIT OF MAILING OF NOTICE OF LAND USE ACTION

**STATE OF OREGON       )**  
**)ss.**

**County of Lincoln** )

**File No(s).** 3/AX-22 / 7-Z-22

I, Sherri Marineau, duly appointed Executive Assistant of the City of Newport, do hereby certify that the notice of a land use action attached hereto and by this reference made a part hereof is a true and complete copy of the original of such notice, and that said original was deposited in the United States mails at Newport, Oregon, with first-class postage thereon prepaid, addressed to each of the persons owning property and entitled to receiving notice, as said persons are named in Exhibit "A", attached hereto and by this reference made a part of hereof, at the last known address of each person as shown by the records of the Lincoln County Assessor at Newport, Oregon, on the ***9th*** day of ***December, 2022.***

Sherri Mariner

**Sherri Marineau**  
Executive Assistant

SUBSCRIBED AND SWORN to before me this 9 day of December, 2022.



Melanie Nilsen

**Notary Public of Oregon**

My Commission Expires: 9/12/25



...vant today. I re-  
k the audience is  
o enjoy it — both  
y deep, dramatic  
nd also the comic

directing is new  
Prescott has been  
since he was 6,  
e had a role in a  
-play. When he  
from Eugene to

ferent from the norm,"  
he said. "Usually we do a  
romantic or zany comedy,  
but this one is a lot more  
dramatic. And it's rare  
that we have an all-male  
cast."

Prescott has acted in  
"The Cocktail Hour" and  
"Marjorie Prime" at The-  
atre West, as well as in a  
variety of productions at

watching the actors be-  
come their parts," he said.  
"And I like the aspect of  
being in control. It's a  
great feeling to be able  
to tell the actors my sug-  
gestions about how to do  
things."

"I want to pick a play  
each season and direct it,"  
he added.

Prescott is also pleased  
with the idea that the

time since the pandem-  
ic. The play, which has a  
15-minute intermission,  
offers open seating, on  
a first come, first served  
basis.

"That's a great way to  
keep social distancing  
possible," Gruber said.

"Theatre West is so  
happy to be up and run-  
ning after the pandemic,"  
Gruber said. "We're slow-

adults, \$18 for seniors  
age 60 and over, and \$12  
for students under age 12.  
Visit theatrewest.com for  
more information.

Coming up next at  
Theatre West will be  
"The Champagne Char-  
lie Stakes in March, "A  
Night of Agatha Chris-  
tie" in April, "The Dining  
Room" in May, and "Pop-  
corn Falls" in August.

12/30/2022

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07-30

**NOTICE TO  
INTERESTED PERSONS  
IN THE CIRCUIT COURT  
OF THE STATE OF ORE-  
GON FOR THE COUNTY  
OF LINCOLN** In the Matter  
of the Estate of: Lee Roy  
Murray, Deceased Case  
# 22PB11296. NOTICE  
IS HEREBY GIVEN that  
Teresa Lee Murray has  
been appointed personal  
representative of the  
Estate of Lee Roy Murray.  
All persons having claims  
against the estate are  
required to present them,  
with vouchers attached,  
to the personal represen-  
tative at P.O. Box 1270,  
Newport, OR, 97365,  
within four months after  
the date of first publica-  
tion of this notice, or the  
claims may be barred.  
All persons whose rights  
may be affected by the  
proceedings may obtain  
additional information  
from the records of the  
Court, the personal repre-  
sentative, or the attorneys  
for the personal represen-  
tative, Macpherson, Gint-  
ner & Diaz, P.O. Box 1270,  
Newport, Oregon 97365.  
**PERSONAL REPRESENTATIVE:** Teresa Lee Murray  
909 SE Bay Blvd, New-  
port, OR 97365. ATTOR-  
NEYS FOR PERSONAL  
REPRESENTATIVE: Corey  
G. Blake, OSB No. 051888  
P.O. Box 1270  
Newport, Oregon 97365  
Telephone 541-265-8881  
Fax No. 541-265-3571  
Email Address: blake@  
mkgdlaw.com D30, J6,  
J13 23-13

**NOTICE TO  
INTERESTED PERSONS**  
Claims against the Estate  
of Elizabeth Sela Griffith,  
Deceased, Lincoln Coun-  
ty Circuit Court Case No.  
22PB10926, are required  
to be presented to the  
Personal Representative,  
Jonathan Klein, c/o Alan  
Lanker, 810 SW Madison  
Ave., Corvallis, OR 97333,  
within four (4) months from  
December 28, 2022, the  
date of first publication,  
or such claims may be  
barred. Any person whose  
rights may be affected  
by the proceeding may  
obtain additional informa-  
tion from the records of  
the court, the Personal  
Representative, or the  
attorneys for the Personal  
Representative. MAREK &  
LANKER, LLP, Attorneys.  
D30, J6, J13 22-13

#### ADVERTISEMENT FOR BIDS

City of Newport/Lincoln  
County, Oregon SCHOON-  
ER LANDING SEWER  
BYPASS PROJECT The  
City of Newport, OR  
(Owner) is requesting  
bids for the construction  
of the following project:  
SCHOONER LANDING  
BYPASS PROJECT Propo-  
sals must be received  
by the City by 2:00 pm,  
January 24, 2023 and  
then at said office publicly  
opened and read aloud.  
Bids received after this  
time will not be accepted.  
All interested parties are  
invited to attend the bid  
opening. A brief descrip-  
tion of the scope of work  
is provided below: The  
sewer bypass-system  
project consists of the  
installation of a pump sta-  
tion that will be connect  
to an existing upstream 8"  
sewer pipe. Downstream  
from the pump station,  
a short force main and  
gravity overflow pipe will  
discharge to a terminal  
manhole. From the termi-  
nal manhole an 8" HDPE  
gravity sewer line will be  
installed and connected  
to an existing downstream  
manhole. The following  
are major items that are  
required to complete the  
project: • Furnish and  
install one (1) prefabric-  
ated pump station and  
accessories. • Furnish  
extra pump to the City of  
Newport for future use.  
• Furnish and install one  
(1) 48" diameter terminal  
manhole. • Furnish and  
install approx. 320 lineal  
feet of 8" HDPE pipe. •  
Furnish and install approx.  
20 lineal feet of 2" HDPE  
force main. • Furnish and  
install approx. 100 lineal  
feet of 3" electrical conduit.  
• Trench excavation and  
backfill for piping. •  
Excavation and backfill  
for structures. • Concrete  
curb, AC Pavement, and  
landscaping removal and  
replacement. • Connec-  
tions to existing pipe and  
manhole. Bidding docu-  
ments may be examined  
and downloaded at the  
OregonBuys website at:  
<https://oregonbuys.gov/>  
following registration.  
Pre-bid inquiries shall be  
directed to Chris Beatty,  
Senior Project Manager,  
at 541-574-3376 or  
[c.beatty@newportoregon.gov](mailto:c.beatty@newportoregon.gov)  
No bid will be consid-  
ered unless fully com-  
pleted in the manner pro-  
vided in the Instructions  
to Bidders, and accom-  
panied by a bid security,

executed in favor of the  
Owner, in the amount not  
less than 10% of the total  
amount of the bid. This  
contract is for public work  
and is subject to ORS  
279C.800 to 279C.870  
regarding prevailing wage  
rates. Licensing under  
ORS 468A.710 is not  
required. The contracting  
agency may cancel the  
procurement or reject any  
or all bids in accordance  
with ORS 279B.100. An  
optional pre-bid confer-  
ence will be held at 2:00  
p.m., January 10, 2023  
at the Newport City Hall  
Council Chamber, 169 SW  
Coast Highway, Newport,  
OR 97365. Dated this  
22nd day of December,  
2022. By order of: Chris  
Beatty, PE, Senior Project  
Manager, City of Newport.  
D28, D30, J6 21-06

**PRIVATE SALE NOTICE  
OF REAL PROPERTY**  
Lincoln County hereby  
gives notice according  
to ORS 275.225 that it is  
offering the following par-  
cel of land for private sale  
located within the Toledo  
Cemetery Association  
which has a real market  
value of \$100.00 11-10-  
08-BA-00500-00 D28,  
D30 16-30

**NOTICE TO  
INTERESTED PERSONS  
IN THE CIRCUIT COURT  
OF THE STATE OF ORE-  
GON FOR THE COUNTY  
OF LINCOLN** In the Mat-  
ter of the Estate of DEN-  
NIS MARC JOHNSON,  
Deceased. Case No.  
22PB10871 NOTICE TO  
INTERESTED PERSONS  
NOTICE IS HEREBY  
GIVEN that Duane John-  
son has been appointed  
personal representative of  
the Estate of Dennis Marc  
Johnson. All persons  
having claims against  
the estate are required  
to present them, with  
vouchers attached, to  
the personal representa-  
tive through the personal  
representative's attorney  
at P.O. Box 1987, New-  
port, OR 97365, within  
four months after the  
date of first publication of  
this notice, or the claims  
may be barred. All per-  
sons whose rights may be  
affected by the proceed-  
ings may obtain addi-  
tional information from  
the records of the Court,  
the personal representa-  
tive, or the attorney for  
the personal representa-  
tive, Traci P. McDowell.  
Dated and first published  
on December 23 2022.

YAQUINA LAW, LLC /s/  
Traci P. McDowell Traci P.  
McDowell, OSB #184063  
Attorney for Personal  
Representative YAQUINA  
LAW, LLC 380 SW 2ND  
ST., PO BOX 1987 NEW-  
PORT, OR 97365 (541)  
272-5500 PERSONAL  
REPRESENTATIVE: Duane  
Johnson 7701 19th Place  
SE, Lake Stevens, WA  
98258. LAWYER FOR  
PERSONAL REPRESENTATIVE:  
Traci P. McDowell, OSB  
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Newport, OR 97365  
Telephone: (541) 272-  
5500 Fax: (541) 265-7633  
Email: [traci@yaquinlaw.com](mailto:traci@yaquinlaw.com)  
D23, D30, J6 15-06

**NOTICE TO  
INTERESTED PERSONS  
IN THE CIRCUIT COURT  
OF THE STATE OF ORE-  
GON FOR THE COUNTY  
OF LINCOLN** Probate  
Department In the Matter  
of the Estate of Betty J.  
Taunton, Deceased. No.  
22PB10063 NOTICE TO  
INTERESTED PERSONS  
Notice is hereby given  
pursuant to ORS 113.155  
that the undersigned  
has been appointed and  
has qualified as the co-  
personal representatives  
of the estate. All persons  
having claims against  
the estate are hereby  
required to present the  
same, with proper vouch-  
ers, within four months  
after the date of the first  
publication of this notice,  
as stated below, to the  
co-personal representa-  
tives at: Phil Taunton, P.O.  
Box 1049, Depoe Bay, OR  
97341, Neil Taunton, P.O.  
Box 1234, Depoe Bay,  
OR 97341 or they may be  
barred. All persons whose  
rights may be affected by  
the proceedings in this  
estate may obtain addi-  
tional information from  
the records of the court,  
the co-personal representa-  
tives or the attorney for  
the co-personal representa-  
tives. Date first pub-  
lished: 12/23/2022/s/ Neil  
Taunton, co-personal rep-  
resentatives. D23, D30,  
J06 14-06

#### CITY OF NEWPORT NOTICE OF A PUBLIC HEARING

The City of Newport Plan-  
ning Commission will hold  
a public hearing on Mon-  
day, January 9, 2023, at  
6:00 p.m. in the Council  
Chambers at City Hall to  
review File No. 3-AX-22  
/ 7-Z-22, a request for  
annexation, and zone  
designation submitted by  
South Beach Church

(Tim Gross, Civil West  
Engineering, representa-  
tive). The Commission  
will make a recommenda-  
tion to the City Council  
on this request, which will  
then hold a public hear-  
ing at a later date. Notice  
of that hearing will also  
be provided. The request  
is to (1) annex approxi-  
mately 11.98 acres of real  
property (consisting of  
property currently identi-  
fied as Tax Lots 1201 &  
1400 of Assessor's Tax  
Map 11-11-17-DD) into  
the Newport city limits;  
(2) amend the City of  
Newport Zoning Map to  
an R-3/"Medium Density  
Multi-Family Residential"  
zoning designation for  
the property consistent  
with the existing Newport  
Comprehensive Plan des-  
ignation of Residential;  
and (3) withdraw said ter-  
ritory from the Newport  
Rural Fire Protection Dis-  
trict, the Seal Rock Water  
District, and the Lincoln  
County Library District.  
The applicable criteria  
for annexations (as per  
Newport Municipal Code  
(NMC) Section 14.37.040)  
are that the required con-  
sents have been filed  
with the city; the territory  
to be annexed is within  
the acknowledged urban  
growth boundary (UGB);  
and the territory to be  
annexed is contiguous  
to the existing city lim-  
its. The criteria for Zone  
Map Amendments (as per  
NMC Section 14.36.010)  
are that the proposed  
zoning is consistent with  
the Comprehensive Plan  
Map, furthers a public  
necessity, and promotes  
the general welfare. Testi-  
mony and evidence must  
be directed toward the  
criteria described above  
or other criteria in the  
Newport Comprehensive  
Plan and its implement-  
ing ordinances that a per-  
son believes applies to  
the decision. Failure to  
raise an issue with suf-  
ficient specificity to afford  
the city and the parties  
an opportunity to respond  
to that issue precludes  
an appeal (including to  
the Land Use Board of  
Appeals) based on that  
issue. Testimony may  
be submitted in written  
or oral form. Oral and  
written testimony will be  
taken during the course  
of the public hearing.  
Letters to the Commu-  
nity Development (Plan-  
ning) Department, City  
Hall, 169 SW Coast Hwy,  
Newport, OR 97365, must

be received by 2:00 p.m.  
the day of the hearing or  
must be submitted to the  
Planning Commission in  
person during the hearing.  
The hearing will include a  
report by staff, testimony  
(both oral and written)  
from the applicant, those  
in favor or opposed to  
the application, and ques-  
tions and deliberation by  
the Planning Commis-  
sion. Pursuant to ORS  
197.797 (6), any person  
prior to the conclusion of  
the initial public hearing  
may request a continu-  
ance of the public hearing  
or that the record be left  
open for at least seven  
days to present additional  
evidence, arguments, or  
testimony regarding the  
application. The staff  
report may be reviewed  
or purchased for reason-  
able cost at the Newport  
Community Development  
(Planning) Department  
(address above) seven  
days prior to the hearing.  
The application materials,  
applicable criteria, and  
other file materials are  
available for inspection at  
no cost or copies may  
be purchased for reason-  
able cost at this address.  
Contact Derrick Tokos,  
Community Development  
Director, (541) 574-0626;  
[d.tokos@newportoregon.gov](mailto:d.tokos@newportoregon.gov)  
(address above). D30  
09-30

#### NOTICE OF SHERIFF'S SALE #22-1024

On January 19, 2023, at  
the hour of 10:00 a.m.,  
at the Lincoln County  
Courthouse, 225 W Olive  
St., Room 203, in the  
City of Newport, Oregon,  
the defendant's interest  
will be sold, subject to  
redemption, in the real  
property described as:  
Lot 80, Block 4, BAY-  
SHORE DIVISION No. 6,  
in the County of Lincoln  
and the State of Oregon.  
The court case number  
is 19CV50693, BARBARA  
NELSON, plaintiff(s)  
vs. 32 PARTNERS LLC,  
JOHN GIST, PRESTON  
C. HIEFIELD III, AMER-  
ICAN EQUITIES, INC., a  
Washington corporation,  
and BAYSHORE BEACH  
CLUB INC. defendant(s).  
This is a public auction  
to the highest bidder for  
cash or cashier's check,  
in hand. For more details  
go to <http://www.oregon-sheriffssales.org/county/lincoln/>  
D16, D23, D30,  
J6 08-06



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

The City of Newport Planning Commission will hold a public hearing on Monday, January 9, 2023, at 6:00 p.m. in the Council Chambers at City Hall to review File No. 3-AX-22 / 7-Z-22, a request for annexation, and zone designation submitted by South Beach Church (Tim Gross, Civil West Engineering, representative). The Commission will make a recommendation to the City Council on this request, which will then hold a public hearing at a later date. Notice of that hearing will also be provided. The request is to (1) annex approximately 11.98 acres of real property (consisting of property currently identified as Tax Lots 1201 & 1400 of Assessor's Tax Map 11-11-17-DD) into the Newport city limits; (2) amend the City of Newport Zoning Map to an R-3/"Medium Density Multi-Family Residential" zoning designation for the property consistent with the existing Newport Comprehensive Plan designation of Residential; and (3) withdraw said territory from the Newport Rural Fire Protection District, the Seal Rock Water District, and the Lincoln County Library District. The applicable criteria for annexations (as per Newport Municipal Code (NMC) Section 14.37.040) are that the required consents have been filed with the city; the territory to be annexed is within the acknowledged urban growth boundary (UGB); and the territory to be annexed is contiguous to the existing city limits. The criteria for Zone Map Amendments (as per NMC Section 14.36.010) are that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare. Testimony and evidence must be directed toward the criteria described above or other criteria in the Newport Comprehensive Plan and its implementing ordinances that a person believes applies to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal (including to the Land Use Board of Appeals) based on that issue. Testimony may be submitted in written or oral form. Oral and written testimony will be taken during the course of the public hearing. Letters to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 2:00 p.m. the day of the hearing or must be submitted to the Planning Commission in person during the hearing. The hearing will include a report by staff, testimony (both oral and written) from the applicant, those in favor or opposed to the application, and questions and deliberation by the Planning Commission. Pursuant to ORS 197.797 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. The staff report may be reviewed or purchased for reasonable cost at the Newport Community Development (Planning) Department (address above) seven days prior to the hearing. The application materials, applicable criteria, and other file materials 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](mailto:d.tokos@newportoregon.gov) (address above). D30 09-30

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

The City of Newport Planning Commission will hold a public hearing on Monday, January 9, 2023, at 7:00 p.m. in the Council Chambers at City Hall to review File No. 3-AX-22 / 7-Z-22, a request for annexation, and zone designation submitted by South Beach Church (Tim Gross, Civil West Engineering, representative). The Commission will make a recommendation to the City Council on this request, which will then hold a public hearing at a later date. Notice of that hearing will also be provided. The request is to (1) annex approximately 11.98 acres of real property (consisting of property currently identified as Tax Lots 1201 & 1400 of Assessor's Tax Map 11-11-17-DD) into the Newport city limits; (2) amend the City of Newport Zoning Map to an R-3/"Medium Density Multi-Family Residential" zoning designation for the property consistent with the existing Newport Comprehensive Plan designation of Residential; and (3) withdraw said territory from the Newport Rural Fire Protection District, the Seal Rock Water District, and the Lincoln County Library District. The applicable criteria for annexations (as per Newport Municipal Code (NMC) Section 14.37.040) are that the required consents have been filed with the city; the territory to be annexed is within the acknowledged urban growth boundary (UGB); and the territory to be annexed is contiguous to the existing city limits. The criteria for Zone Map Amendments (as per NMC Section 14.36.010) are that the proposed zoning is consistent with the Comprehensive Plan Map, furthers a public necessity, and promotes the general welfare. Testimony and evidence must be directed toward the criteria described above or other criteria in the Newport Comprehensive Plan and its implementing ordinances that a person believes applies to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal (including to the Land Use Board of Appeals) based on that issue. Testimony may be submitted in written or oral form. Oral and written testimony will be taken during the course of the public hearing. Letters to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 2:00 p.m. the day of the hearing or must be submitted to the Planning Commission in person during the hearing. The hearing will include a report by staff, testimony (both oral and written) from the applicant, those in favor or opposed to the application, and questions and deliberation by the Planning Commission. Pursuant to ORS 197.797 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. The staff report may be reviewed or purchased for reasonable cost at the Newport Community Development (Planning) Department (address above) seven days prior to the hearing. The application materials, applicable criteria, and other file materials 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](mailto:d.tokos@newportoregon.gov) (address above).

***(For Publication once on Friday, December 30, 2022)***

**Derrick Tokos**

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**From:** DLCD Plan Amendments <plan.amendments@dlcd.oregon.gov>  
**Sent:** Wednesday, November 30, 2022 10:09 AM  
**To:** Derrick Tokos  
**Subject:** Confirmation of PAPA Online submittal to DLCD

**[WARNING]** This message comes from an external organization. Be careful of embedded links.

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**Newport**

Your notice of a proposed change to a comprehensive plan or land use regulation has been received by the Oregon Department of Land Conservation and Development.

Local File #: 3-AX-22 / 7-Z-22

DLCD File #: [006-22](#)

Proposal Received: 11/30/2022

First Evidentiary Hearing: 1/9/2023

Final Hearing Date: 2/6/2023

Submitted by: dtokos

If you have any questions about this notice, please reply or send an email to [plan.amendments@dlcd.oregon.gov](mailto:plan.amendments@dlcd.oregon.gov).




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Writer Login](#)

# Land Conservation and Development Department

## Chapter 660

### Division 12

### TRANSPORTATION PLANNING

660-012-0060

#### Plan and Land Use Regulation Amendments

(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

- (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);
- (b) Change standards implementing a functional classification system; or
- (c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection. If a local government is evaluating a performance standard based on projected levels of motor vehicle traffic, then the results must be based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or

(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

(2) If a local government determines that there would be a significant effect, then the local government must ensure that allowed land uses are consistent with the performance standards of the facility measured or projected at the end of the planning period identified in the adopted TSP through one or a combination of the remedies listed in subsections (a) through (e) below, unless the amendment meets the balancing test in subsection (e) or qualifies for partial mitigation in section (11) of this rule. A local government using subsection (e), section (3), section (10) or section (11) to approve an amendment recognizes that additional motor vehicle traffic congestion may result and that other facility providers would not be expected to provide additional capacity for motor vehicles in response to this congestion.

(a) Adopting measures that demonstrate allowed land uses are consistent with the performance standards of the transportation facility.

(b) Amending the TSP or comprehensive plan to provide transportation facilities, improvements, or services adequate to support the proposed land uses consistent with the requirements of this division. Such amendments shall include a funding plan or mechanism consistent with section (4) or include an amendment to the transportation finance plan so that the facility, improvement, or service will be provided by the end of the planning period.



(c) Amending the TSP to modify the performance standards of the transportation facility.

(d) Providing other measures as a condition of development or through a development agreement or similar funding method, including, but not limited to, transportation system management measures or minor transportation improvements. Local governments shall, as part of the amendment, specify when measures or improvements provided pursuant to this subsection will be provided.

(e) Providing improvements that would benefit modes other than the significantly affected mode, improvements to facilities other than the significantly affected facility, or improvements at other locations, if:

(A) The provider of the significantly affected facility provides a written statement that the system-wide benefits are sufficient to balance the significant effect, even though the improvements would not result in consistency for all performance standards;

(B) The providers of facilities being improved at other locations provide written statements of approval; and

(C) The local jurisdictions where facilities are being improved provide written statements of approval.

(3) Notwithstanding sections (1) and (2) of this rule, a local government may approve an amendment that would significantly affect an existing transportation facility without ensuring that the allowed land uses are consistent with the performance standards of the facility where:

(a) In the absence of the amendment, planned transportation facilities, improvements, and services as set forth in section (4) of this rule would not be adequate to achieve consistency with the performance standard for that facility by the end of the planning period identified in the adopted TSP;

(b) Development resulting from the amendment will, at a minimum, mitigate the impacts of the amendment in a manner that avoids further degradation to the performance of the facility by the time of the development through one or a combination of transportation improvements or measures;

(c) The amendment does not involve property located in an interchange area as defined in paragraph (4)(d)(C); and

(d) For affected state highways, ODOT provides a written statement that the proposed funding and timing for the identified mitigation improvements or measures are, at a minimum, sufficient to avoid further degradation to the performance of the affected state highway. However, if a local government provides the appropriate ODOT regional office with written notice of a proposed amendment in a manner that provides ODOT reasonable opportunity to submit a written statement into the record of the local government proceeding, and ODOT does not provide a written statement, then the local government may proceed with applying subsections (a) through (c) of this section.

(4) Determinations under sections (1)–(3) of this rule shall be coordinated with affected transportation facility and service providers and other affected local governments.

(a) In determining whether an amendment has a significant effect on an existing or planned transportation facility under subsection (1)(c) of this rule, local governments shall rely on existing transportation facilities and services and on the planned transportation facilities, improvements and services set forth in subsections (b) and (c) below.

(b) Outside of interstate interchange areas, the following are considered planned facilities, improvements, and services:

(A) Transportation facilities, improvements or services that are funded for construction or implementation in the Statewide Transportation Improvement Program or a locally or regionally adopted transportation improvement program or capital improvement plan or program of a transportation service provider.

(B) Transportation facilities, improvements or services that are authorized in a local transportation system plan and for which a funding plan or mechanism is in place or approved. These include, but are not limited to, transportation facilities, improvements, or services for which: transportation systems development charge revenues are being collected; a local improvement district or reimbursement district has been established or will be established prior to development; a development agreement has been adopted; or conditions of approval to fund the improvement have been adopted.

(C) Transportation facilities, improvements, or services in a metropolitan planning organization (MPO) area that are part of the area's federally-approved, financially constrained regional transportation system plan.

(D) Improvements to state highways that are included as planned improvements in a regional or local transportation system plan or comprehensive plan when ODOT provides a written statement that the improvements are reasonably likely to be provided by the end of the planning period.

(E) Improvements to regional and local roads, streets or other transportation facilities or services that are included as planned improvements in a regional or local transportation system plan or comprehensive plan when the local government(s) or transportation service provider(s) responsible for the facility, improvement or service provides a written statement that the facility, improvement, or service is reasonably likely to be provided by the end of the planning period.

(c) Within interstate interchange areas, the improvements included in paragraphs (b)(A)–(C) are considered planned facilities, improvements, and services, except where:

(A) ODOT provides a written statement that the proposed funding and timing of mitigation measures are sufficient to avoid a significant adverse impact on the Interstate Highway system, then local governments may also rely on the improvements identified in paragraphs (b)(D) and (E) of this section; or

(B) There is an adopted interchange area management plan, then local governments may also rely on the improvements identified in that plan and which are also identified in paragraphs (b)(D) and (E) of this section.

(d) As used in this section and section (3):

(A) Planned interchange means new interchanges and relocation of existing interchanges that are authorized in an adopted transportation system plan or comprehensive plan;

(B) Interstate highway means Interstates 5, 82, 84, 105, 205, and 405; and

(C) Interstate interchange area means:

(i) Property within one-quarter mile of the ramp terminal intersection of an existing or planned interchange on an Interstate Highway; or

(ii) The interchange area as defined in the Interchange Area Management Plan adopted as an amendment to the Oregon Highway Plan.

(e) For purposes of this section, a written statement provided pursuant to paragraphs (b)(D), (b)(E) or (c)(A) provided by ODOT, a local government or transportation facility provider, as appropriate, shall be conclusive in determining whether a transportation facility, improvement, or service is a planned transportation facility, improvement, or service. In the absence of a written statement, a local government can only rely upon planned transportation facilities, improvements, and services identified in paragraphs (b)(A)–(C) to determine whether there is a significant effect that requires application of the remedies in section (2).

(5) The presence of a transportation facility or improvement shall not be a basis for an exception to allow residential, commercial, institutional, or industrial development on rural lands under this division or OAR 660-004-0022 and 660-004-0028.

(6) If a local government is determining whether proposed land uses would affect or be consistent with planned transportation facilities as provided in sections (1) and (2) using a performance standard based on projected levels of motor vehicle traffic, then the local government shall give full credit for potential reduction in vehicle trips for uses located in mixed-use, pedestrian-friendly centers, and neighborhoods as provided in subsections (a)–(d);

(a) Absent adopted local standards or detailed information about the vehicle trip reduction benefits of mixed-use, pedestrian-friendly development, local governments shall assume that uses located within a mixed-use, pedestrian-friendly center, or neighborhood, will generate 10 percent fewer daily and peak hour trips than are specified in available published estimates, such as those provided by the Institute of Transportation Engineers (ITE) Trip Generation Manual that do not specifically account for the effects of mixed-use, pedestrian-friendly development. The 10 percent reduction allowed for by this subsection shall be available only if uses that rely solely on auto trips, such as gas stations, car washes, storage facilities, and motels are prohibited;

(b) Local governments shall use detailed or local information about the trip reduction benefits of mixed-use, pedestrian-friendly development where such information is available and presented to the local government. Local governments may, based on such information, allow reductions greater than the 10 percent reduction required in subsection (a);

(c) Where a local government assumes or estimates lower vehicle trip generation as provided in subsection (a) or (b), it shall ensure through conditions of approval, site plans, or approval standards that subsequent development approvals support the development of a mixed-use, pedestrian-friendly center or neighborhood and provide for on-site bike and pedestrian connectivity and access to transit as provided for in OAR 660-012-0045(3) and (4). The provision of on-site bike and pedestrian connectivity and access to transit may be accomplished through application of acknowledged ordinance provisions which comply with OAR 660-012-0045(3) and (4) or through conditions of approval or findings adopted with the plan amendment that ensure compliance with these rule requirements at the time of development approval; and

(d) The purpose of this section is to provide an incentive for the designation and implementation of pedestrian-friendly, mixed-use centers and neighborhoods by lowering the regulatory barriers to plan amendments that accomplish this type of development. The actual trip reduction benefits of mixed-use, pedestrian-friendly development will vary from case to case and may be somewhat higher or lower than presumed pursuant to subsection (a). The commission concludes that this assumption is warranted given general information about the expected effects of mixed-use, pedestrian-friendly development and its intent to encourage changes to plans and development patterns. Nothing in this section is intended to affect the application of provisions in local plans or ordinances that provide for the calculation

or assessment of systems development charges or in preparing conformity determinations required under the federal Clean Air Act.

(7) Amendments to acknowledged comprehensive plans and land use regulations that meet all of the criteria listed in subsections (a)–(c) shall include an amendment to the comprehensive plan, transportation system plan, the adoption of a local street plan, access management plan, future street plan, or other binding local transportation plan to provide for on-site alignment of streets or accessways with existing and planned arterial, collector, and local streets surrounding the site as necessary to implement the requirements in OAR 660-012-0020(2)(b) and 660-012-0045(3):

(a) The plan or land use regulation amendment results in designation of two or more acres of land for commercial use;

(b) The local government has not adopted a TSP or local street plan that complies with OAR 660-012-0020(2)(b) or, in the Portland Metropolitan Area, has not complied with Metro's requirement for street connectivity as contained in Title 1, Section 3.08.110 of the Regional Transportation Functional Plan; and

(c) The proposed amendment would significantly affect a transportation facility as provided in section (1).

(8) A "mixed-use, pedestrian-friendly center or neighborhood" for the purposes of this rule, means:

(a) Any one of the following:

(A) An existing central business district or downtown;

(B) An area designated as a central city, regional center, town center, or main street in the Portland Metro 2040 Regional Growth Concept;

(C) An area designated in an acknowledged comprehensive plan as a transit-oriented development or a pedestrian district; or

(D) An area designated as a special transportation area as provided for in the Oregon Highway Plan.

(b) An area other than those listed in subsection (a) which includes or is planned to include the following characteristics:

(A) A concentration of a variety of land uses in a well-defined area, including the following:

(i) Medium to high density residential development (12 or more units per acre);

(ii) Offices or office buildings;

(iii) Retail stores and services;

(iv) Restaurants; and

(v) Public open space or private open space that is available for public use, such as a park or plaza.

(B) Generally include civic or cultural uses;

(C) A core commercial area where multi-story buildings are permitted;

(D) Buildings and building entrances oriented to streets;

(E) Street connections and crossings that make the center safe and conveniently accessible from adjacent areas;

(F) A network of streets and, where appropriate, accessways and major driveways that make it attractive and highly convenient for people to walk between uses within the center or neighborhood, including streets and major driveways within the center with wide sidewalks and other features, including pedestrian-oriented street crossings, street trees, pedestrian-scale lighting and on-street parking;

(G) One or more transit stops (in urban areas with fixed route transit service); and

(H) Limit or do not allow low-intensity or land extensive uses, such as most industrial uses, automobile sales and services, and drive-through services.

(9) Notwithstanding section (1) of this rule, a local government may find that an amendment to a zoning map does not significantly affect an existing or planned transportation facility if all of the following requirements are met.

(a) The proposed zoning is consistent with the existing comprehensive plan map designation and the amendment does not change the comprehensive plan map;

(b) The local government has an acknowledged TSP and the proposed zoning is consistent with the TSP; and

(c) The area subject to the zoning map amendment was not exempted from this rule at the time of an urban growth boundary amendment as permitted in OAR 660-024-0020(1)(d), or the area was exempted from this rule but the local



government has a subsequently acknowledged TSP amendment that accounted for urbanization of the area.

(10) Notwithstanding sections (1) and (2) of this rule, a local government may amend a functional plan, a comprehensive plan, or a land use regulation without applying performance standards related to motor vehicle traffic congestion (e.g. volume to capacity ratio or V/C), delay, or travel time if the amendment meets the requirements of subsection (a) of this section. This section does not exempt a proposed amendment from other transportation performance standards or policies that may apply including, but not limited to, safety for all modes, network connectivity for all modes (e.g. sidewalks, bicycle lanes) and accessibility for freight vehicles of a size and frequency required by the development.

(a) A proposed amendment qualifies for this section if it:

(A) Is a map or text amendment affecting only land entirely within a multimodal mixed-use area (MMA); and

(B) Is consistent with the definition of an MMA and consistent with the function of the MMA as described in the findings designating the MMA.

(b) For the purpose of this rule, "multimodal mixed-use area" or "MMA" means an area:

(A) With a boundary adopted by a local government as provided in subsection (d) or (e) of this section and that has been acknowledged;

(B) Entirely within an urban growth boundary;

(C) With adopted plans and development regulations that allow the uses listed in paragraphs (8)(b)(A) through (C) of this rule and that require new development to be consistent with the characteristics listed in paragraphs (8)(b)(D) through (H) of this rule;

(D) With land use regulations that do not require the provision of off-street parking, or regulations that require lower levels of off-street parking than required in other areas and allow flexibility to meet the parking requirements (e.g. count on-street parking, allow long-term leases, allow shared parking); and

(E) Located in one or more of the categories below:

(i) At least one-quarter mile from any ramp terminal intersection of existing or planned interchanges;

(ii) Within the area of an adopted Interchange Area Management Plan (IAMP) and consistent with the IAMP; or

(iii) Within one-quarter mile of a ramp terminal intersection of an existing or planned interchange if the mainline facility provider has provided written concurrence with the MMA designation as provided in subsection (c) of this section.

(c) When a mainline facility provider reviews an MMA designation as provided in subparagraph (b)(E)(iii) of this section, the provider must consider the factors listed in paragraph (A) of this subsection.

(A) The potential for operational or safety effects to the interchange area and the mainline highway, specifically considering:

(i) Whether the interchange area has a crash rate that is higher than the statewide crash rate for similar facilities;

(ii) Whether the interchange area is in the top ten percent of locations identified by the safety priority index system (SPIS) developed by ODOT; and

(iii) Whether existing or potential future traffic queues on the interchange exit ramps extend onto the mainline highway or the portion of the ramp needed to safely accommodate deceleration.

(B) If there are operational or safety effects as described in paragraph (A) of this subsection, the effects may be addressed by an agreement between the local government and the facility provider regarding traffic management plans favoring traffic movements away from the interchange, particularly those facilitating clearing traffic queues on the interchange exit ramps.

(d) A local government may designate an MMA by adopting an amendment to the comprehensive plan or land use regulations to delineate the boundary following an existing zone, multiple existing zones, an urban renewal area, other existing boundary, or establishing a new boundary. The designation must be accompanied by findings showing how the area meets the definition of an MMA. Designation of an MMA is not subject to the requirements in sections (1) and (2) of this rule.

(e) A local government may designate an MMA on an area where comprehensive plan map designations or land use regulations do not meet the definition, if all of the other elements meet the definition, by concurrently adopting comprehensive plan or land use regulation amendments necessary to meet the definition. Such amendments are not subject to performance standards related to motor vehicle traffic congestion, delay, or travel time.

(11) A local government may approve an amendment with partial mitigation as provided in section (2) of this rule if the amendment complies with subsection (a) of this section, the amendment meets the balancing test in subsection (b) of this section, and the local government coordinates as provided in subsection (c) of this section.

(a) The amendment must meet paragraphs (A) and (B) of this subsection.

(A) Create direct benefits in terms of industrial or traded-sector jobs created or retained by limiting uses to industrial or traded-sector industries.

(B) Not allow retail uses, except limited retail incidental to industrial or traded sector development, not to exceed five percent of the net developable area.

(C) For the purpose of this section:

(i) "Industrial" means employment activities generating income from the production, handling, or distribution of goods including, but not limited to, manufacturing, assembly, fabrication, processing, storage, logistics, warehousing, importation, distribution and transshipment, and research and development.

(ii) "Traded-sector" means industries in which member firms sell their goods or services into markets for which national or international competition exists.

(b) A local government may accept partial mitigation only if the local government determines that the benefits outweigh the negative effects on local transportation facilities and the local government receives from the provider of any transportation facility that would be significantly affected written concurrence that the benefits outweigh the negative effects on their transportation facilities. If the amendment significantly affects a state highway, then ODOT must coordinate with the Oregon Business Development Department regarding the economic and job creation benefits of the proposed amendment as defined in subsection (a) of this section. The requirement to obtain concurrence from a provider is satisfied if the local government provides notice as required by subsection (c) of this section and the provider does not respond in writing (either concurring or non-concurring) within 45 days.

(c) A local government that proposes to use this section must coordinate with Oregon Business Development Department, Department of Land Conservation and Development, area commission on transportation, metropolitan planning organization, and transportation providers and local governments directly impacted by the proposal to allow opportunities for comments on whether the proposed amendment meets the definition of economic development, how it would affect transportation facilities and the adequacy of proposed mitigation. Informal consultation is encouraged throughout the process starting with pre-application meetings. Coordination has the meaning given in ORS 197.015 and Goal 2 and must include notice at least 45 days before the first evidentiary hearing. Notice must include the following:

(A) Proposed amendment.

(B) Proposed mitigating actions from section (2) of this rule.

(C) Analysis and projections of the extent to which the proposed amendment in combination with proposed mitigating actions would fall short of being consistent with the performance standards of transportation facilities.

(D) Findings showing how the proposed amendment meets the requirements of subsection (a) of this section.

(E) Findings showing that the benefits of the proposed amendment outweigh the negative effects on transportation facilities.

**Statutory/Other Authority:** ORS 197.040

**Statutes/Other Implemented:** ORS 195.025, ORS 197.230, ORS 197.245, ORS 197.610 – 197.625, ORS 197.628 – 197.646, ORS 197.712, ORS 197.717, ORS 197.732 & ORS 197.798

**History:**

[LCDD 3-2022, amend filed 08/17/2022, effective 08/17/2022](#)

[LCDD 2-2022, temporary amend filed 06/01/2022, effective 06/01/2022 through 11/27/2022](#)

LCDD 7-2016, f. 7-29-16, cert. ef. 8-1-16

LCDD 11-2011, f. 12-30-11, cert. ef. 1-1-12

LCDD 3-2005, f. & cert. ef. 4-11-05

LCDD 6-1999, f. & cert. ef. 8-6-99

LCDD 6-1998, f. & cert. ef. 10-30-98

LCDC 1-1991, f. & cert. ef. 5-8-91

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**222.170 Annexation by consent before public hearing or order for election;**

**proclamation of annexation.** (1) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if more than half of the owners of land in the territory, who also own more than half of the land in the contiguous territory and of real property therein representing more than half of the assessed value of all real property in the contiguous territory consent in writing to the annexation of their land in the territory and file a statement of their consent with the legislative body on or before the day:

(a) The public hearing is held under ORS 222.120, if the city legislative body dispenses with submitting the question to the electors of the city; or

(b) The city legislative body orders the annexation election in the city under ORS 222.111, if the city legislative body submits the question to the electors of the city.

(2) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if a majority of the electors registered in the territory proposed to be annexed consent in writing to annexation and the owners of more than half of the land in that territory consent in writing to the annexation of their land and those owners and electors file a statement of their consent with the legislative body on or before the day:

(a) The public hearing is held under ORS 222.120, if the city legislative body dispenses with submitting the question to the electors of the city; or

(b) The city legislative body orders the annexation election in the city under ORS 222.111, if the city legislative body submits the question to the electors of the city.

(3) If the city legislative body has not dispensed with submitting the question to the electors of the city and a majority of the votes cast on the proposition within the city favor annexation, or if the city legislative body has previously dispensed with submitting the question to the electors of the city as provided in ORS 222.120, the legislative body, by resolution or ordinance, shall set the final boundaries of the area to be annexed by a legal description and proclaim the annexation.

(4) Real property that is publicly owned, is the right of way for a public utility, telecommunications carrier as defined in ORS 133.721 or railroad or is exempt from ad valorem taxation shall not be considered when determining the number of owners, the area of land or the assessed valuation required to grant consent to annexation under this section unless the owner of such property files a statement consenting to or opposing annexation with the legislative body of the city on or before a day described in subsection (1) of this section. [Amended by 1955 c.51 §2; 1961 c.511 §2; 1971 c.673 §1; 1973 c.434 §1; 1983 c.350 §36; 1985 c.702 §11; 1987 c.447 §117; 1987 c.737 §4; 1999 c.1093 §12]

**222.173 Time limit for filing statements of consent; public records.** (1) For the purpose of authorizing an annexation under ORS 222.170 or under a proceeding initiated as provided by ORS 199.490 (2), only statements of consent to annexation which are filed within any one-year period shall be effective, unless a separate written agreement waiving the one-year period or prescribing some other period of time has been entered into between an owner of land or an elector and the city.

(2) Statements of consent to annexation filed with the legislative body of the city by electors and owners of land under ORS 222.170 are public records under ORS 192.311 to 192.478. [1985 c.702 §20; 1987 c.737 §5; 1987 c.818 §8]

**Note:** 222.173 to 222.177 were added to and made a part of ORS chapter 222 by legislative action but were not added to any smaller series therein. See Preface to Oregon

Revised Statutes for further explanation.

**222.175 City to provide information on taxes and services when soliciting statements of consent.** If a city solicits statements of consent under ORS 222.170 from electors and owners of land in order to facilitate annexation of unincorporated territory to the city, the city shall, upon request, provide to those electors and owners information on that city's ad valorem tax levied for its current fiscal year expressed as the rate per thousand dollars of assessed valuation, a description of services the city generally provides its residents and owners of property within the city and such other information as the city considers relevant to the impact of annexation on land within the unincorporated territory within which statements of consent are being solicited. [1985 c.702 §21; 1987 c.737 §6; 1987 c.818 §9]

**Note:** See note under 222.173.

**222.177 Transmittal of annexation records to Secretary of State.** When a city legislative body proclaims an annexation under ORS 222.125, 222.150, 222.160 or 222.170, the recorder of the city or any other city officer or agency designated by the city legislative body to perform the duties of the recorder under this section shall transmit to the Secretary of State:

- (1) A copy of the resolution or ordinance proclaiming the annexation.
- (2) An abstract of the vote within the city, if votes were cast in the city, and an abstract of the vote within the annexed territory, if votes were cast in the territory. The abstract of the vote for each election shall show the whole number of electors voting on the annexation, the number of votes cast for annexation and the number of votes cast against annexation.
- (3) If electors or landowners in the territory annexed consented to the annexation under ORS 222.125 or 222.170, a copy of the statement of consent.
- (4) A copy of the ordinance issued under ORS 222.120 (4).
- (5) An abstract of the vote upon the referendum if a referendum petition was filed with respect to the ordinance adopted under ORS 222.120 (4). [1985 c.702 §4; 1987 c.737 §7; 1987 c.818 §10]

**Note:** See note under 222.173.

**222.179 Exempt territory.** The amendments to ORS 222.210, 222.230, 222.240 and 222.270 made by chapter 702, Oregon Laws 1985, do not apply in territory subject to the jurisdiction of a local government boundary commission. [1985 c.702 §27]

**Note:** 222.179 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 222 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**222.180 Effective date of annexation.** (1) The annexation shall be complete from the date of filing with the Secretary of State of the annexation records as provided in ORS 222.177 and 222.900. Thereafter the annexed territory shall be and remain a part of the city to which it is annexed. The date of such filing shall be the effective date of annexation.

(2) For annexation proceedings initiated by a city, the city may specify an effective date that is later than the date specified in subsection (1) of this section. If a later date is specified under this subsection, that effective date shall not be later than 10 years after the date of a

proclamation of annexation described in ORS 222.177. [Amended by 1961 c.322 §1; 1967 c.624 §15; 1973 c.501 §2; 1981 c.391 §5; 1985 c.702 §12; 1991 c.637 §9]

**222.183 Notice of annexation when effective date delayed for more than one year. (1)**

If the effective date of an annexation is more than one year after the date of a proclamation of annexation, the city, through its recorder or other city officer or agency performing the duties of recorder under this section, shall send notice to the county clerk of each county within which the city is located. The notice shall be sent not sooner than 120 days and not later than 90 days prior to the effective date of the annexation.

(2) The notice described in subsection (1) of this section shall be in addition to any other notice or filing required under ORS 222.010 to 222.750. [1995 c.607 §67]

**Note:** 222.183 was added to and made a part of 222.010 to 222.750 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

## WITHDRAWAL OF TERRITORY

**222.460 Procedures for withdrawal of territory; contents of resolution; hearing; election; taxes and assessments.** (1) Except as expressly prohibited by the city charter, when the legislative body of a city determines that the public interest will be furthered by a withdrawal or detachment of territory from the city, the legislative body of the city, on its own motion, may order the withdrawal of territory as provided in this section.

(2) A withdrawal of territory from the city shall be initiated by a resolution of the legislative body of the city.

(3) The resolution shall:

(a) Name the city and declare that it is the intent of the legislative body of the city to change the boundaries of the city by means of a withdrawal of territory;

(b) Describe the boundaries of the affected territory; and

(c) Have attached a county assessor's cadastral map showing the location of the affected territory.

(4) Not later than 30 days after adoption of the resolution, the legislative body of the city shall hold a public hearing at which the residents of the city may appear and be heard on the question of the withdrawal of territory. The legislative body of the city shall cause notice of the hearing to be given in the manner required under ORS 222.120 (3).

(5) After receiving testimony at the public hearing, the legislative body of the city may alter the boundaries described in the resolution to either include or exclude territory. If the legislative body of the city still favors the withdrawal of territory pursuant to the resolution, as approved or modified, it shall enter an order so declaring. The order shall set forth the boundaries of the area to be withdrawn. The order shall also fix a place, and a time not less than 20 nor more than 50 days after the date of the order, for a final hearing on the resolution. The order shall declare that if written requests for an election are not filed as provided by subsection (6) of this section, the legislative body of the city, at the time of the final hearing, will adopt a resolution or ordinance detaching the territory from the city.

(6) An election shall not be held on the question of withdrawal of the affected territory from the city unless written requests for an election are filed at or before the hearing by not less than 15 percent of the electors or 100 electors, whichever is the lesser number, registered in the territory proposed to be withdrawn from the city.

(7) At the time and place set for the final hearing upon the resolution for withdrawal, if the required number of written requests for an election on the proposed withdrawal have not been filed, the legislative body of the city shall, by resolution or ordinance, declare that the territory is detached from the city.

(8) If the required number of requests for an election are filed on or before the final hearing, the legislative body of the city shall call an election in the city upon the question of the withdrawal of the affected territory.

(9) If an election is called and a majority of the votes cast at the election is in favor of the withdrawal of the designated area from the city, the legislative body of the city shall, by resolution or ordinance, declare that the territory is detached from the city. If the majority of the votes cast is against the withdrawal, the legislative body of the city shall enter an order declaring the results of the election and that no withdrawal shall occur.

(10) The described area withdrawn shall, from the date of entry of the order, be free from assessments and taxes levied thereafter by the city. However, the withdrawn area shall remain subject to any bonded or other indebtedness existing at the time of the order. The proportionate

share shall be based on the assessed valuation, according to the assessment roll in the year of the levy, of all the property contained in the city immediately prior to the withdrawal. [1985 c.702 §2; 1989 c.1063 §13]

**Note:** 222.460 and 222.465 were added to and made a part of ORS chapter 222 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**222.465 Effective date of withdrawal from domestic water supply district, water control district or sanitary district.** Notwithstanding any provision of this chapter or ORS chapter 199 which provides a different effective date, when territory is withdrawn by a city from a domestic water supply district organized under ORS chapter 264, a water control district organized under ORS chapter 553 or a sanitary district organized under ORS chapter 450, if the ordinance, annexation or incorporation that results in the withdrawal is enacted or approved after March 31 in any year, the effective date of the withdrawal of territory shall be July 1 in the following year. However, if the ordinance, annexation or incorporation that results in the withdrawal is enacted or approved before April 1 in any year, the effective date of the withdrawal of territory shall be July 1 in the same year. When less than the entire area of a domestic water supply district organized under ORS chapter 264, a water control district organized under ORS chapter 553 or a sanitary district organized under ORS chapter 450 is annexed by or incorporated into a city, the district shall, for purposes of administration, operation and the collection of service charges, continue to operate that portion of the district separately until the effective date of the withdrawal of territory as determined under this section. This section does not limit any agreement between a city and a district under ORS 222.530 (5), 222.540 (4) or 222.560 (4). [1985 c.702 §4a]

**Note:** See note under 222.460.

## ANNEXATION OF PUBLIC SERVICE DISTRICTS

**222.510 Annexation of entire district; transfer of assets, liabilities and functions to city; exceptions.** (1) Whenever the entire area of a rural fire protection district, a water district, including a domestic water supply corporation, a park and recreation district, a highway lighting district, a county service district, a special road district, a road assessment district or a sanitary district or authority, lawfully organized and existing, becomes incorporated in or annexed to a city in accordance with law, the district is extinguished and the city shall, upon the effective date of the incorporation or annexation, succeed to all the assets and become charged with all the liabilities, obligations and functions of the district. The district officers shall forthwith deliver to the city officers the district assets and records. Uncollected taxes theretofore levied by the district become the property of the city and must be delivered to it by the county treasurer upon collection.

(2) Notwithstanding subsection (1) of this section, a rural fire protection district, a water district, including a domestic water supply corporation, a park and recreation district, a highway lighting district, a county service district, a special road district, a road assessment district or a sanitary district or authority, lawfully organized and existing, the entire area of which becomes incorporated in a city, may continue to provide services if the continuation is proposed by petitioners in a petition for incorporation that is subsequently approved by voters in an incorporation election. At any time after incorporation, a city may cause a district to be

extinguished and succeed to all the assets and become charged with all the liabilities, obligations and functions of the district if:

(a) The governing body of the city holds a public hearing on the question of the extinguishment, hears objections to the extinguishment at the hearing, determines that the extinguishment is in the best interest of the city and adopts an ordinance extinguishing the district;

(b) After the hearing, the governing body of the city refers the ordinance extinguishing the district to the electors of the city; and

(c) The majority of all votes cast favors that the district be extinguished.

(3) For the public hearing required in subsection (2)(a) of this section, the governing body shall fix a date, time and place for the hearing and cause notice of the date, time, place and purpose of the hearing to be published once each week for two successive weeks prior to the date of the hearing in a newspaper of general circulation in the city, and shall cause notices of the hearing to be posted in four public places in the city for a like period. [Amended by 1955 c.471 §1; 1963 c.347 §1; 1965 c.509 §1; 1967 c.365 §1; 1967 c.624 §16; 1969 c.78 §1; 1971 c.13 §5; 2007 c.420 §1; 2010 c.41 §1]

**222.520 Annexation of less than entire district; assumption of obligations by city conditional.** (1) Whenever a part less than the entire area of a district named in ORS 222.510 becomes incorporated as or annexed to a city in accordance with law and the city, after the incorporation or annexation, will provide for the service to the part of the district that the district provided before the incorporation or annexation, the city may cause the part to be withdrawn from the district in the manner set forth in ORS 222.120 or at any time after the incorporation or annexation in the manner set forth in ORS 222.524. Until withdrawn, the part of the district incorporated as or annexed to the city shall continue to be a part of the district.

(2) The part withdrawn pursuant to subsection (1) of this section is not relieved from liabilities and indebtedness previously contracted by the district. For the purposes of paying the liabilities and indebtedness of the district, property in the part withdrawn shall continue to be subject to assessment and taxation uniformly with property in the area remaining in the district. The city of which it became a part shall, however, assume such obligations if the obligations assumed do not bring the total of the city's obligations above any applicable limitations prescribed by statute. When the city assumes the obligations it shall be liable to the district for one of the following, at the option of the city:

(a) The amount of taxes that otherwise would be extended each year for the obligations against the property in the part withdrawn; or

(b) Payment annually, as the bonds of the district that were outstanding on the effective date of the withdrawal mature, of the same proportion of the outstanding bonds, and the interest on the bonds, as the assessed valuation of the part withdrawn bears to the assessed valuation of the entire district on the effective date of the withdrawal. After the city agrees to make payments under this paragraph, neither the city nor the part withdrawn shall be charged by the district with any future liabilities, obligations or functions of the district. [Amended by 1955 c.471 §2; 1957 c.401 §1; 1963 c.347 §2; 1965 c.509 §2; 1967 c.624 §17; 1985 c.702 §13; 2013 c.277 §1]

**222.524 Procedure for withdrawal of part of district from district.** (1) If as authorized by ORS 222.520 the governing body of the city elects to cause the withdrawal from a district named in ORS 222.510 of that part of such district theretofore incorporated in or annexed to the city, it shall hold a public hearing on the question of such withdrawal. At the hearing, the



governing body of the city shall hear objections to the withdrawal and shall determine whether such withdrawal is for the best interest of the city.

(2) The governing body shall fix a date, time and place for the hearing and cause notice of the date, time, place and purpose of the hearing to be published once each week for two successive weeks prior to the date of the hearing in a newspaper of general circulation in the city, and shall cause notices of the hearing to be posted in four public places in the city for a like period.

(3) After the hearing, the governing body of the city may by ordinance declare that the part of the district which was theretofore incorporated as or annexed to the city is withdrawn from the district.

(4) The ordinance referred to in subsection (3) of this section is subject to referendum.

(5) The city may withdraw from all of such districts at the same time in one proceeding under this section or may withdraw from each district in separate proceedings at different times.

(6) The public hearing and ordinance referred to in this section may be the same as the public hearing and ordinance in ORS 222.120. [1957 c.401 §3; 1963 c.347 §3; 1965 c.509 §3; 1985 c.702 §14]

## **PLANNING STAFF MEMORANDUM**

### **FILE No. 5-Z-22**

**I. Applicant:** City of Newport. (Initiated by motion of the Newport City Council at its October 17, 2022 regular meeting).

**II. Request:** Amendments to Newport Municipal Code (NMC) Chapter 4.25, Short-Term Rental Business License Endorsements; and Chapter 14.25, Short-Term Rental Land Use Regulations, implementing recommendations of the Short-Term Rental Ordinance Implementation Work Group (hereafter "Work Group"). Revisions (a) add a grace period for individuals or entities that purchase vacation rental properties in areas where they can immediately begin to use them for vacation rental purposes, so they can rent the property while working through the process to obtain a license; (b) codify the process the City is using to administer the waiting list for the issuance of short-term rental business license endorsements; (c) tighten up code violation language by noting that any act occurring on real property that results in a civil infraction, be it related to the short-term rental or not, is a "strike" against the owner's short-term rental endorsement; and (d) eliminate the option that allows the City Council to adjust the cap on the number of available vacation rental licenses by resolution as long as the cap figure does not exceed 200. On May 6, of 2019, with Resolution No. 3850, the City Council established the current cap at 176 licenses.

Only one of these amendments relates to the City's land use regulations, which are contained in NMC Chapter 14.25. It is the recommendation to eliminate language that allows the City Council to adjust the vacation rental license cap by resolution. The new language codifies the 176 license limitation established with Resolution No. 3850.

**III. Planning Commission Review and Recommendation:** The Planning Commission reviews proposed amendments to land use regulations and provides a recommendation to the City Council. It may conduct multiple public hearings before making a recommendation. After the Commission provides a recommendation, the City Council will hold one or more public hearings before making a final decision on the amendments.

**IV. Findings Required:** This is a legislative action whereby the City Council, after considering a recommendation by the Planning Commission, must determine that the changes to the Newport Municipal Code are necessary and further the general welfare of the community (NMC 14.36.010).

**V. Planning Staff Memorandum Attachments:**

Attachment "A" Work Group Recommendation Letter, dated September 30, 2022  
 Attachment "B" Draft Ordinance No. 2202  
 Attachment "C" Minutes from the October 17, 2022 City Council Meeting  
 Attachment "D" Notice of Public Hearing

**VI. Notification:** The Department of Land Conservation & Development was provided notice of the proposed legislative amendment on November 23, 2022. Notice was further sent by email to 286 individuals/entities that had previously expressed an interest in being informed of potential changes to the City's short-term rental regulations, and it was published in the Newport News-Times on January 4, 2023 (Attachment "D").

**VII. Comments:** No comments have been received as of the date of this report.

**VIII. Discussion of Request:** With Resolution No. 3857, the City Council established the Work Group to collect and evaluate information related to the implementation of short-term rental regulations enacted in 2019 with Ordinance No. 2144. The Work Group was further tasked with summarizing its observations as to the ordinance's effectiveness in achieving policy objectives, including whether or not it should be revised or its implementation improved, and to provide periodic status reports to the Planning Commission and City Council.

The Work Group met on a quarterly basis from August of 2019 through September of 2022, carrying out its assigned responsibilities. Over that period of time, it became evident to the Work Group that Ordinance No. 2144 has, for the most part, achieved the desired policy objectives. They have; however, identified several steps the City can take to improve its implementation, and a handful of code amendments that will enhance the ordinance's overall functionality and effectiveness. The Work Group's recommendations are outlined in a September 30, 2022 letter (Attachment "A") and are summarized as follows:

Steps that the Work Group recommends the City take to improve implementation of the ordinance include:

- Automating the annual renewal process for business license endorsements and payment of transient room taxes.
- Implementing an auditing program for payment of transient room taxes.
- Filling the code enforcement position authorized in the FY 22/23 budget so that code enforcement staff will be available to respond to incidents on weekends.
- Coordinating with the Municipal Court to identify steps that can be taken to adjudicate citations in a timely manner.

Code changes recommended by the Work Group, outlined in draft Ordinance No. 2202 (Attachment "B"), include:

- Establishing a grace period for individuals or entities that purchase vacation rental properties in areas where they can immediately begin to use them for vacation rental purposes, so they can rent the property while working through the process to obtain a license.
- Codifying the process the City is using to administer the waiting list for the issuance of short-term rental business license endorsements.
- Tightening up code violation language by noting that any act occurring on real property that results in a civil infraction, be it related to the short-term rental or not, is a "strike" against the owner's short-term rental endorsement.
- Eliminating the option in the ordinance that allows the City Council to adjust the cap on the number of available vacation rental licenses by resolution. The current language allows the license limit to be increased or reduced by resolution provided it does not exceed a maximum of 200 dwelling units. The proposed language sets a hard cap by ordinance at 176 licenses.

The Work Group also notes that some work may be needed to clarify rules related to short-term rental trash management. Pursuant to Resolution No. 3931, the Work Group was to provide its final report no later than September 30, 2022, which it has done. That resolution also set the Work Group's term to expire at the end of the calendar year.

**IX. Conclusion and Recommendation:** The Planning Commission should review the proposed amendments and make a recommendation to the City Council as to whether or not they are necessary and further the general welfare of the community. This would be done by motion and vote of the Commission members present.

If the Commission is not prepared to make a recommendation, or desires additional information or code revisions before it does so, then it may continue the hearing to a date certain. The Commission's next regular meeting hearing date/time is January 23, 2023 at 7pm. If the Commission wishes to hold a work session before conducting a second hearing, then February 13, 2023 at 7pm would be the earliest date for a continued hearing, with the work session being held on January 23, 2023 at 6pm.




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Derrick I. Tokos AICP  
Community Development Director  
City of Newport

January 4, 2023

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To: Newport City Council

From: Short-Term Rental Ordinance Implementation Work Group

Date: September 30, 2022

**RE: Final Report of the Short-Term Rental Ordinance Implementation Work Group**

Dear Council Members,

With Resolution No. 3857, you established our Short-Term Rental Ordinance Implementation Work Group (hereafter "Work Group") to collect and evaluate information related to the implementation of the short-term rental regulations enacted with Ordinance No. 2144. You further tasked the Work Group with summarizing its observations as to the effectiveness of Ordinance No. 2144 in achieving policy objectives, including whether or not the ordinance should be revised or its implementation improved, and to provide periodic status reports to the Planning Commission and City Council.

Our Work Group met on a quarterly basis from August of 2019 through September of 2022, coordinating with staff, taking testimony from the public, and providing periodic reports to the Commission and Council. Over that period of time, it has become evident that Ordinance No. 2144 has, for the most part, achieved the desired policy objectives. It has provided a clear and understandable administrative framework for licensing the annual operation of short-term rentals that ensures the safety and convenience of renters, owners, and neighboring property owners; protects the character of residential neighborhoods; preserves the City's supply of needed housing; and addresses potential negative effects such as noise, overcrowding, illegal parking, and nuisances. Further, it has struck a reasonable balance between the need to limit short-term rental operations within neighborhoods to ensure compatibility, while also recognizing the benefits of short-term rentals in providing recreation and employment opportunities, as well as transitional housing for tourists, employees of businesses, and others in need of housing for a limited duration.

While Ordinance No. 2144 has had its desired effect, there are steps the City can take to improve its implementation. This includes the following, in no particular order of priority:

- Automating the annual renewal process for business license endorsements and payment of transient room taxes.
- Implementing an auditing program for payment of transient room taxes.
- Filling the code enforcement position authorized in the FY 22/23 budget so that code enforcement staff will be available to respond to incidents on weekends.
- Coordinating with the Municipal Court to identify steps that can be taken to adjudicate citations in a timely manner.

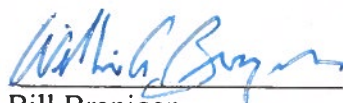
Additionally, we have identified a few areas where Ordinance No. 2144 could be amended to improve its overall functionality and effectiveness. They include the following:

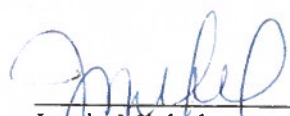
- Establishing a grace period for individuals or entities that purchase vacation rental properties in areas where they can immediately begin to use them for vacation rental purposes, so they can rent the property while working through the process to obtain a license.
- Codifying the process the City is using to administer the waiting list for the issuance of short-term rental business license endorsements.
- Tightening up code violation language by noting that any act occurring on real property that results in a civil infraction, be it related to the short-term rental or not, is a “strike” against the owner’s short-term rental endorsement.
- Eliminating the option in the ordinance that allows the City Council to adjust the cap on the number of available vacation rental licenses by resolution. The current language allows the license limit to be increased or reduced by resolution provided it does not exceed a maximum of 200 dwelling units. The proposed language sets a hard cap by ordinance at 176 licenses.


The details of each of these changes are included in draft Ordinance No. 2202, included as an attachment to this letter. Some work may be needed to clarify rules related to short-term rental trash management. This is an issue that can be more thoroughly evaluated should the City Council initiate the legislative adoption process. One final recommendation that we would offer the Council is that it should consider asking staff to provide periodic reports on how the City’s short-term rental regulations are working so that it can stay informed and make changes, as needed, moving forward. An annual report in the fall would make sense as that would be after the annual license renewal process wraps up and is well in advance of the next summer season should there be a need to adjust the requirements.


Impacts and issues involving short-term rentals will continue to be a topic of discussion in the community and there will be challenges ahead as industry, technology, visitor preferences, and neighborhood dynamics evolve and change. The City will need to keep pace, and these recommendations are one step in that direction. Thank you for your time and consideration.

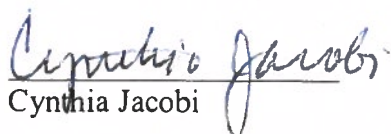
Sincerely,

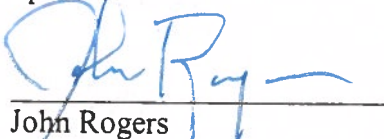
  
Bill Branigan

  
Jamie Michel

  
Dietmar Goebel

  
Spencer Nebel

  
Cynthia Jacobi

  
John Rogers

  
Sandra Roumagoux



## CITY OF NEWPORT

## ORDINANCE NO. 2202

AN ORDINANCE AMENDING TITLE IV AND TITLE XIV  
OF THE NEWPORT MUNICIPAL CODE RELATING TO  
SHORT-TERM RENTALS

(Newport File No. 5-Z-22)

WHEREAS, with Resolution No. 3857, the City Council established a Short-Term Rental Ordinance Implementation Work Group (hereafter "Work Group") to collect and evaluate information related to the implementation of new short-term rental regulations enacted with Ordinance No. 2144; and

WHEREAS, the Work Group was further tasked with summarizing its observations as to the effectiveness of Ordinance No. 2144 in achieving policy objectives, including whether or not the ordinance should be revised or its implementation improved, and to provide periodic status reports to the Planning Commission and City Council; and

WHEREAS, the Work Group met on a quarterly basis from August of 2019 through September of 2022, coordinating with staff, taking testimony from the public, and providing periodic reports to the Commission and Council; and

WHEREAS, in the course of performing these tasks, the Work Group determined that a targeted set of amendments to Ordinance No. 2144 is needed to improve its overall functionality and effectiveness; and

WHEREAS, the Work Group's recommendations, outlined in draft Ordinance No. 2202, were forwarded to the City Council for its consideration at a public meeting on October 17, 2022, after which the Council, by motion, elected to initiate the process set forth in Newport Municipal Code (NMC) Chapter 14.36 to amend city regulations put in place with Ordinance No. 2144; and

WHEREAS, the Planning Commission held a public hearing on January 9, 2023 to consider draft Ordinance No. 2202, at which the public was afforded an opportunity to provide testimony on the proposed amendments. After considering testimony and due deliberation, the Commission voted to [recommend or not recommend] the amendments be adopted; and

WHEREAS, the City Council held a public hearing on \_\_\_\_\_ regarding the question of the proposed amendments and, after considering the recommendation of the Planning Commission and evidence and argument in the record, adopted the ordinance, concluding that it is necessary and furthers the general welfare of the community; and

[Note: Council could also elect to further amend or choose not to adopt the ordinance.]

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

**THE CITY OF NEWPORT ORDAINS AS FOLLOWS:**

**Section 1.** Findings. The findings set forth above are hereby adopted in support of amendments to Ordinance No. 2144, as codified in Titles IV and XIV of the Newport Municipal Code, and further described in Sections 2 and 3 of this Ordinance.

**Section 2.** Municipal Code Amendment. Chapter 4.25, Title IV, of the Newport Municipal Code is hereby amended as set forth in Exhibit "A".

**Section 3.** Municipal Code Amendment. Chapter 14.25, Title XIV, of the Newport Municipal Code is hereby amended as set forth in Exhibit "B".

**Section 4.** Effective Date. This ordinance shall take effect 30 days after passage.

Date adopted and read by title only: \_\_\_\_\_

Signed by the Mayor on \_\_\_\_\_, 2023.

\_\_\_\_\_  
Dean H. Sawyer, Mayor

ATTEST:

\_\_\_\_\_  
Erik Glover, Asst. City Manager/City Recorder

October 17, 2022

6:04 P.M.

Newport, Oregon

### **CITY COUNCIL MEETING**

The Newport City Council met on the above date and time in the City Council Chambers of the Newport City Hall. On roll call Sawyer, Goebel, Hall, Jacobi, Parker (via Zoom), Botello were present.

City Staff in attendance were: Spencer Nebel; City Manager, Erik Glover; Assistant City Manager/City Recorder, Derrick Tokos; Community Development Director, Steve Baugher; Acting Finance Director, David Allen, City Attorney, Aaron Collett; City Engineer, Chris Beatty; Senior Project Manager, Clare Paul; Assistant City Engineer, Brent Gainer; Operations Lieutenant Newport Police Department, Rob Murphy; Fire Chief, Tom Sakaris; Assistant Fire Chief/Fire Marshal

### **PLEDGE OF ALLEGIANCE**

Council, staff, and the audience participated in the Pledge of Allegiance.

### **PUBLIC COMMENT**

Glover read a letter pertaining to homeless in Newport from JD/Volosity Himura into the record.

Traci Flowers with Grace Wins Haven spoke said she wanted to throw out a couple of things for consideration. Flowers reported over the last couple weeks following the camping ordinance adoption, she has dealt with tons of people complaining about the ordinance. Flowers reported she was concerned the Council put in the ordinance under non-permitted locations, areas within 200 feet from homeless services, which includes her building. Flowers reported that homeless folks in-front of Grace Wins are vulnerable. Flowers detailed homeless residents with medical challenges, those that are waiting for Social Security Disability payments, and some that are unable to drive or walk to Grace Wins Haven to procure services. Flowers advised that Grace Wins is a life-saving operation for some people, and they can't make it to Grace Wins if they have to move, but she appreciates the work Council has done on the ordinance, and their assistance to Grace Wins in general.

Goebel inquired as to if the proximity to Highway 20 is the restriction? Flowers reported that sleeping within 200 feet of Grace Wins Haven is not-permitted, the Avery building is also out, and school areas have a restriction on camping as well. Flowers reported as a result basically all of First Street is not available, it would be ok if people are not vulnerable people, but the folks in-front of her building are vulnerable. Hall reported that she didn't recall Flowers bringing this item to Council attention during previous public hearing. Hall reported that a few on the Council went to a League of Oregon Cities homeless workshop all day today in Newport, and the Council recognizes penalizing where people sleep or lie or rest, but this effort is fluid and they are trying to get a sense of how to nuance everything in. Flowers reported that until last meeting she had not heard the homeless services buffer

restriction, and people have been flooding to her once it was adopted. Sawyer reported that ordinances are not set in stone, they can, and are frequently dialed in via revision, to match needs.

### **PROCLAMATIONS, PRESENTATIONS, AND SPECIAL RECOGNITIONS**

**Oath of Office - Firefighter- Brian Heisler, Luke Richcreek, Steve Moody, William Priser, Christopher Gilbert.** Glover introduced the agenda item. Murphy advised it was an exciting first in the history of the department, swearing in five firefighters at once. Murphy reported that Council has provided authorization for three additional staff, one candidate is in background investigations so the five firefighters tonight are five out of the six authorized fire fighters. Murphy reported he was excited for the new energy, staff effectively doubling in a few months and current employees are very excited to have the new members of the team.

Glover administered the oath of office and swore in Firefighter Brian Heisler, Luke Richcreek, Steve Moody, William Priser, and Christopher Gilbert.

Murphy spoke about the hiring process, and training process. He reported that training involves Sakaris and the Captains, includes quizzes on practical applications, policies and procedures, the new Firefighters will have a one-year probation period followed by a final evaluation, before moving over to regular employment.

### **CONSENT CALENDAR**

Glover introduced the consent calendar and explained it consisted of the following items:

Approve Minutes of the Regular Session of October 03, 2022;  
 Approve Minutes of the Work Session of October 03, 2022;  
 Approve Minutes of the Executive Session of October 03, 2022;  
 Favorably Recommend to the Oregon Liquor Control Commission (OLCC) the Approval of an OLCC Full On-Premise License for Kaizen Sushi Corporation, dba Asiatico Waterfront Sushi Located at 875 SW Bay Boulevard;  
 Ratification of the Mayor's Appointments of Terrie Murphy and Vicki Bock to Fill Vacant Seats on the 60+ Advisory Committee for Two-year Terms which will Expire January 2024;  
 Receipt of Approved Committee Minutes consisting of the:  
 Planning Commission Regular Minutes of August 22, 2022;  
 Planning Commission Work Session Minutes of August 22, 2022;  
 Planning Commission Work Session Minutes of September 12, 2022;  
 Planning Commission Work Session Minutes of September 26, 2022  
 Library Advisory Committee Meeting Minutes of October 10, 2022

MOTION was made by Goebel, seconded by Jacobi to approve the consent calendar. The motion carried unanimously in a voice vote.

## PUBLIC HEARING

### Public Hearing and Potential Adoption of Ordinance No. 2203, an Ordinance Amending NMC 9.50.030 Notice of Campsite Clean-up

Glover introduced the agenda item. Nebel presented the written City Manager Report saying on October 3, 2022, the City Council adopted Ordinance No. 2198, an ordinance repealing and replacing Chapter 9.50, and amending Section 6.25.010, of the Newport Municipal Code (NMC) related to camping. Ordinance No. 2203 is a technical amendment to clarify the current practice for a 72-hour written notice under the camping ordinance adopted on October 3. The amendment clarifies that the telephone number for retrieving items picked up from campsites will be included in the 72-hour written notice posted and distributed under subsection (B) in Section 9.50.030 of the Newport Municipal Code.

#### Recommendation:

I recommend that the Mayor conduct a public hearing on Ordinance No. 2203, an ordinance amending Section 9.50.030 of the Newport Municipal Code related to Notice of Campsite Cleanup.

Following the public hearing and after considering any comments made, I further recommend the Council consider the following motion:

I move to place for final passage and read by title only Ordinance No. 2203, an ordinance amending Section 9.50.030 of the Newport Municipal Code related to Notice of Campsite Cleanup.

The Mayor will then ask for a voice vote on whether to adopt the ordinance. If the motion passes, the City Recorder will read the ordinance by title only.

A roll call vote on the final passage of the ordinance will then be requested by the Mayor and taken by the City Recorder.

Fiscal Effects: None.

#### Alternatives:

Do not approve the motion, refer to City administration for further refinement, or as suggested by City Council. Section 16 - Ordinance Adoption of the City Charter provides that "at the request of any Council member, the roll call vote shall be at a separate Council meeting. Any amendments from the printed version circulated at the Council meeting shall be read in full at the time of the reading of the ordinance by title, unless Council by unanimous vote waives reading of the amendments."

Nebel advised that this ordinance doesn't change practice of the City, it makes code match practice, ordinances are not etched in stone and this effort will be a constant review process as the City moves forward.

Sawyer opened the public hearing at 06:29 P.M. for public comment, none was heard and Sawyer closed the public hearing at 06:29 P.M.

Goebel inquired as to if the camping ordinance can be brought up in a future work session regarding Grace Wins Haven earlier shared concerns. Nebel advised that Staff was happy to meet with Grace Wins to discuss the issue and obtain further information.

MOTION was made by Goebel, seconded by Jacobi to move to place for final passage and read by title only Ordinance No. 2203, an ordinance amending Section 9.50.030 of



the Newport Municipal Code related to Notice of Campsite Cleanup. The motion carried. Glover read Ordinance 2203 by title only, and conducted a roll call voice vote. The motion carried unanimously in a roll call voice vote.

Botello shared that she was curious about the display of the camping prohibited map, and the 72 hour notice posting for cleanups process saying not everyone has a phone, and wondered if posting at stores, and the Newport may be appropriate. Nebel advised that the 72 hour notice is also physically posted at each site where a cleanup is done.

Nebel advised that Councilor Kaplan raised an issue of showing the map in a better/more clear way. Tokos advised that the camping prohibited map was put together for those that are helping homeless persons find places to camp. He said he understands that many homeless folks don't have access to technology, but they would be of use to Traci Flowers/Grace Wins Haven, or perhaps Legal Aid/Blair Bobier or members of the faith-based community to review locations with houseless folks. Tokos reported the web based map will allow zooming in to a parcel level view, and the police department, will have a map available to them as well.

Nebel reported that this is an act of refinement, in a challenging situation, following suggestion from Blair Bobier/Legal Aid the City Council has made an adjustment in the initial ordinance drafted some time ago. Nebel advised that the process is going to be an ongoing process, problems or mistakes will take place and refinement will occur, as the situation is a complicated and very challenging issue.

Allen reported that one struggle with the map is clarity regarding buffer zones, parks are well designated, as is the idea of visual site of a trail, and city owned facilities is another clearly defined area.

Hall reported that at a recent League of Oregon Cities Conference, it was shared to post signs at every entrance to a camp, before a cleanup and check the signage frequently during that period because it may get torn down etc. Nebel advised that as a matter of practice Community Service Officers check signs, and repost if they are down, the ordinance or discussion today, has not changed anything currently being done by the City.

Allen advised that the correction made it to make it clear that the ordinance, matches State law. Botello inquired about the follow up process, after posting/securing possessions during a cleanup. Nebel advised that the City collect materials and stores them for 30 days, there is a notice telling folks to contact the Police Department, and collection instructions, if they are not collected they are disposed of.

Botello inquired as to if Police Department or City personnel, provide guidance on where folks can go in the community? Nebel shared that the City does not tell folks where they can go, because then the City accepts liability for it being a safe place for them to go, as such the City provides info on where folks cannot go, and it is up to independent judgement following that. Nebel advised the City would like to be more helpful in that regard, but as a City organization it is not tenable, due to liability as mentioned. He said that the whole homeless crisis is mind boggling to figure out how to appropriately navigate all these various issues, and be fair and reasonable going forward. Nebel reported that there was hope of a constructive path with HB 4123, developing a comprehensive regional plan.

Nebel shared information on a recent meeting with other Cities regarding the homeless crisis, it consisted of many folks from coastal communities, Portland suburbs

and the valley. He said every community is not very proud of their individual efforts in responding to the crisis, with most realizing it will take combining resources to better respond.

Jacobi inquired about City liability, and if the City directed camping on a certain street, the City has liability insurance. Nebel advised that if the City tells someone where to go, the City imposes potential liability on themselves. Allen reported that he sent everyone a guidance document, a few months back, which was put together by a group of attorneys that laid out the different issues. Allen shared there are new nuances coming out of State of California, regarding government response to homelessness. Allen advised that the bottom line is if the City starts telling folks where they can go or put up a tent, there is liability via that, and City insurance company will not support that. He reported that an insurer wants risk managed not increasing it.

Sawyer advised that it seems likely for example, if the City said someone is allowed to camp in a certain area, and then they get hit by an automobile, the City would be liable.

Allen reported that the City approach is difficult, ideally other organizations are implementing or researching what the City put in place, to provide guidance, which does not impact City liability.

Hall detailed a story of a homeless person getting run over in Salem, by a drunk driver. Allen reported that scenarios like that were considered by the City, Tokos did a great job marking off certain streets due to high traffic and liability for folks on curbs, the map shifts folks from higher liability areas which create a greater danger for themselves. He shared lots of thought went into this framework, but it may need some work around the edges to make it better.

Nebel reported that whereas clauses are seeming to play a big role in court cases, so they spending extra time and attention on those in the future was important. Tokos advised that made senses as the whereas clauses tell the story, of what the local government was thinking when they put an ordinance together.

Botello inquired as to how soon the change would happen for Grace Wins Haven? Nebel advised that the City would be meeting with Grace Wins Haven soon, to discuss the situation and possible expedient solutions.

**Public Hearing and Potential Approval of a Lease Agreement with Purchase Option between the City of Newport and Pacific Seafood - Newport, LLC for City-owned Docks and Upland Areas Adjacent to the Public Parking Lot on Bay Boulevard across from Fall Street**

Glover introduced the agenda item. Nebel presented the written City Manager Report saying the City of Newport owns a small section of dock and adjacent upland areas which has been leased for seafood processing businesses continuously since 1957. The current lease is with Pacific Seafood - Newport, LLC which was entered in to in 2016. Pacific Seafood owns the land and docks on the waterfront on both sides of the City property. That lease expired June 7, 2022, and has been continued under a holdover provision of the agreement. Since the lease contains a purchase option, a public hearing is required prior to City action on entering in to a new lease. The proposed lease is for a three-year period with an option for the company to extend the lease two additional years. An inflationary adjustment has been applied to the lease rate, increasing it from \$3,000 per month to \$3,500 per month. If the lease is extended, then an inflationary adjustment would be applied to the rental fee at that time.

Pacific Seafood is continuing to work on long-term redevelopment plans for its properties. The lease provides a provision that gives the company an exclusive right to negotiate acquisition of the City's parcel, if it is redevelopment, plans include an investment of at least \$1 million into the properties, including the lease land. Section 2.B provides an exclusive right for Pacific Seafood to purchase the property being leased, provided the company makes a total investment of at least \$1 million on the site that includes the leased premise. Should Pacific Seafood pursue purchase of this property, negotiations of good faith would take place for up to 90 days, to reach mutually acceptable terms. The terms of the sale would be subject to a second public hearing prior to Council deciding to move forward with the sale.

Recommendation: I recommend that the Mayor conduct a public hearing regarding the issuance of a new lease to Pacific Seafood-Newport, LLC which includes an exclusive right to purchase the property for the City-owned dock and upland areas adjacent to the public parking lot located on Bay Boulevard across from Fall Street. Following the public hearing and considering any comments made, I recommend the Council consider the following motion: I move to authorize the City Manager to execute a lease agreement with purchase option between the City of Newport and Pacific Seafood-Newport, LLC for docks and upland areas adjacent to the public parking lot on Bay Boulevard across from Fall Street owned by the City, and after, determine that the property is surplus for City uses, and the sale provision in the lease is in the public interest.

Fiscal Effects: The City will receive \$3,500 per month in rental fees with Pacific Seafood also covering the annual Oregon Department of State Lands (DSL) in water lease area payments.

Nebel advised that Pacific Seafood has docks, this property is more or less in between both of their properties.

Sawyer opened the public hearing at 06:58 P.M to receive public comment, none was heard. Sawyer closed the public hearing at 06:58 P.M.

Goebel advised that the City owns a parking lot area there as well. Nebel advised there are some leased lands, the dock area Pacific Seafood pays for in the inwater area, but there are some upland areas too. Tokos reported there is a bit of a storage area, basically a fenced area on the Yaquina Bay side, the the parking lot itself is not included in the lease. Goebel inquired as to if parking area will still be public? It was indicated the parking lot will remain public. Nebel reported the parking plan will address this in the future, Pacific Seafood can ask to use the area for temporary storage on occasion and the City will review any temporary use at that time.

MOTION was made by Hall, seconded by Goebel to move to authorize the City Manager to execute a lease agreement with purchase option between the City of Newport and Pacific Seafood-Newport, LLC for docks and upland areas adjacent to the public parking lot on Bay Boulevard across from Fall Street owned by the City, and after, determine that the property is surplus for City uses, and the sale provision in the lease is in the public interest. The motion carried unanimously in a voice vote.

## **COMMUNICATIONS**

### **Final Report of the Short-Term Rental Ordinance Implementation Work Group**

Glover introduced the agenda item, Nebel read the written City Manager Report saying the City Council established a Short-term Rental Ordinance Implementation Work Group (Work Group) to collect and evaluate information related to the implementation of short-term rental regulations enacted in 2019 through Ordinance No. 2144. This work group was created in 2019 to review the new code requirements addressing various aspects of short-term rentals within the City of Newport. This ordinance made several significant changes to the way short-term rentals are regulated in the city, including: • Creating an overlay zone that provides where new short-term rentals may exist. • Create a cap and spacing requirements in accordance with the zoning ordinance to eliminate any concentration of homes for vacation rentals in the overlay zone. • Grandfathered in existing uses outside of the overlay zone until sold. • Required each vacation rental to be appropriately signed. • Provided for a system of compliance and outlined the consequence of violating certain aspects of the ordinances. In addition to the ordinance, the City contracted with LodgingRevs who has since been acquired by Gov.OS who monitors advertising activity for vacation rentals within the City. Gov.OS identifies any unlicensed vacation rentals that are advertising in the City, provides for a 24-hour hotline to report any complaints regarding vacation rentals, and has the capability of providing information as to the relative activity of each vacation rental to help monitor the payment of room tax coming from each property. This could be used in conjunction with an auditing program for payment of transient room taxes. One significant challenge with auditing vacation rentals is that third-party intermediaries, such as Airbnb do not report room taxes on an individual property basis, but as a composite for the City. Local jurisdictions in the state of Oregon have not been successful in having these online booking companies provide individual tax revenues per property.

The Work Group has provided several administrative recommendations, and recommended code changes for the City Council to consider. They are outlined in the attached letter from the Work Group. Overall, the Work Group has concluded that over time, Ordinance No. 2144 achieved the desired policy objectives for licensing and regulating the operation of vacation rentals and framework that ensures the safety for renters, owners and neighboring property owners. It protects the character of residential neighborhoods by eliminating a concentration of vacation rentals in residential areas within the zoning overlay, and prohibits new vacation rentals outside the overlay zone. It also recognizes the benefits of short-term rentals in providing recreation and employment opportunities, as well as transitional housing for tourists, employees of businesses and others who need housing for a limited duration. The specific recommendations can be found in the attached letter and staff report for your review.

Recommendation: I recommend the City Council consider the following motions: I move to initiate amendments to the City of Newport's Short-term Rental Regulations as recommended by the Short-Term Rental Ordinance Implementation Work Group and as detailed in draft Ordinance No. 2202, and refer the matter to the Planning Commission to hold one or more public hearings and provide a recommendation to the City Council on adoption of the code changes. I further recommend Council concur with the administrative recommendations, including automating the annual renewal process for business license endorsements and payment of transient room taxes, implementing an auditing program,

filling the budgeted code enforcement position for weekend coverage, and coordinate with the Municipal Court to identify steps to address adjudicated citations in a timely matter.

Fiscal Effects: None directly by accepting this report. Alternatives: Modify recommendations, or as suggested by the City Council.

Sawyer inquired as to if this item would be one or two motions? Nebel advised it was done as two motions, one to provide direction to the Planning Commission and one to direct the Administration.

Jacobi shared she was pleased with the implementation work group, suggestions were garnered and it seemed like things are now going forth smoothly, with a reduction in neighborhood/community complaints. Jacobi reported that it seems most calls received are for situations in which folks are unable to obtain access into their rental, and the call the City.

Goebel reported that he thinks another Community Services Officer would be great, most issues are complaint driven items, such as parking, or noise etc. Nebel advised that one position was created, and one part time position to provide enforcement on weekends. He shared that complaints are so limited, that Community Service Officers have been dealing with other issues, where there is plenty to do so efforts are not only towards vacation rentals.

Goebel shared that he feels the City of Newport has handled the short-term rental item better than some other jurisdictions. Nebel shared that he wanted to thank Tokos, who has been married to this issue for a number of years now.

Botello inquired as to how many folks were on the waiting list? Tokos reported the numbers were in the low 80's, but at present the City has thirty-six available slots, renewals just took place so wait list folks are being contacted. we just did renewal and now we are reaching out to those on wait list. Tokos reported that the City was at forty-six or forty-eight waiting, but now only has thirty-six. Tokos advised that research found that sometimes it was folks who never fully acted, some who chose to no longer offer short term rentals, house is being sold, purchased with the intent to retire and they can now retire and no longer use it for short term rentals. He said the often times during a phone call to move off the wait list, folks are indicating they have houses rented long term, they are happy with those tenants and don't wish to move to short term rentals.

MOTION was made by Jacobi, seconded by Hall to move to initiate amendments to the City of Newport's Short-term Rental Regulations as recommended by the Short-Term Rental Ordinance Implementation Work Group and as detailed in draft Ordinance No. 2202, and refer the matter to the Planning Commission to hold one or more public hearings and provide a recommendation to the City Council on adoption of the code changes. The motion carried unanimously in a voice vote.

MOTION was made by Jacobi, seconded by Hall to move to further recommend Council concur with the administrative recommendations, including automating the annual renewal process for business license endorsements and payment of transient room taxes, implementing an auditing program, filling the budgeted code enforcement position for weekend coverage, and coordinate with the Municipal Court to identify steps to address adjudicated citations in a timely matter. The motion carried unanimously in a voice vote.



## CITY MANAGER'S REPORT

### Report on the Status of the Traffic Study for NW Oceanview Drive

Glover introduced the agenda item, Nebel presented the written City Manager Report saying at the October 3 Council meeting, the Council asked for an update on the traffic study for Oceanview Drive. At the September 6, 2022 Council meeting, staff provided a detailed summary of work the City has performed and the next steps to be taken, including the initiation of a request for proposals for traffic engineering expertise, to find ways to improve traffic and safety on Oceanview Drive for all modes of transportation. Funding was appropriated in the current year budget of \$150,000 to handle various traffic analyses that may be necessary through the course of the year. Two proposals were received on September 23 and the Engineering Department is going through its due diligence process to recommend a firm for award by the City Council. The work items will be done by task orders for each of the studies done. The first project that will be accomplished will be a comprehensive review of Oceanview Drive. It is anticipated that this contract will be awarded by Council at the November 7 City Council meeting. Both firms indicated that they could start on Oceanview Drive immediately after a contract is executed.

Recommendation: None.

Fiscal Effects: The City has appropriated \$150,000 for necessary traffic studies for this next fiscal year. The cost of the traffic study on Oceanview Drive could range between \$40,000 to \$70,000. This would be identified in a task order negotiated with the consultant retained by the City to address traffic study issues through the course of this fiscal year.

Alternatives: None recommended.

Collett spoke reporting that the Request for Proposal was released, as reported in the September 6, 2022 Council meeting, and sent to three firms. He shared two responded while Staff was in Washington D.C on the Big Creek Dam lobbying trip. Collett advised the scores are close, he expected the winning firm would be selected in the next few days. Collett reported the plan was to phase work, \$150,000 in budget for Engineering in general, but including Oceanview and other areas with accidents. Phase 2 would be all the other stuff.

Botello inquired as to if the full budget is \$150,000? Collett reported that was correct as Staff wasn't sure on price, phase 1 was from \$40,000-70,000 with Oceanview and next couple intersections first, and other tasks over rest of year. Botello inquired as to if priority is in areas with accidents? Collett reported yes, this is how they come to attention, one of which is off Benton, someone drove into a fence, City has been monitoring it and it seems critical enough, it is unique enough that the option to turn into a four-way intersection may be option, but Staff wanted study firms to evaluate them all and provide professional advice. Collett reported that the traffic study firm was also asked to look at evaluating City street related detail standard design, so that they are industry standard, folks are used to working with. Goebel inquired as to if the work was study only, or if it included public meetings? Collett shared the firms have different approaches, minimum was a City Council public education workshop, one bid proposed public meetings, but it was possible to be in scope of work, and the education is important either way.

Collett reported that if it comes back that a street on Oceanview Drive shouldn't have a stop sign, the City wanted other solutions presented. He shared that he requested the

responding firms were requested to drive Oceanview Drive, themselves, on site, in person, to see the conditions.

Jacobi thanked Collett for the effort, and shared that she saw a post placed on Oceanview Drive, will the installation of the radar speed sign have to wait until the traffic study comes back? Collett reported that the installation would not have to wait, it was an internal project. Jacobi reported that the post had been installed for over a month. Collett reported the sign install, is pending and will be installed when the install crew has time available. Nebel requested that a follow up with Chief Malloy take place. Collett reported that he expected the radar speed sign to be installed any day on Oceanview Drive.

**Report on Feasibility for Infilling Sidewalk from Don and Ann Davis Park to Government Street Along Elizabeth Street.**

Glover introduced the agenda item. Nebel presented the written City Manager Report saying Council Goal A-5(a) requested that a feasibility study be conducted to develop preliminary costs for infilling sidewalk from Don and Ann Davis Park to Government Street along Elizabeth Street. The Engineering Department has identified various options and has determined that providing infill on the west side of the road would be the most costeffective approach toward addressing a continuous walkway to this location. The estimated cost for this project would range from \$380,000 to \$570,000. This cost assessment does not include the cost for upgrading existing non-compliant sidewalks located on the west side of Elizabeth Street. Constructing sidewalk on the east side would be much more expensive due to topography issues requiring retaining walls and would require more much extensive sidewalk construction due to lack of sidewalks on the east side. If Council is interested in proceeding with the survey work, \$50,000 has been appropriated for design purposes in the current fiscal year. Additional funding would need to be appropriated to fully complete the design in this fiscal year. Council will need to consider ways to pay for the sidewalk, which could include appropriation of existing funding for potentially creating a local improvement district to help offset a portion of these costs. Following discussion by the Council of this report, we will bring more specific recommendations. If Council wants additional information on costs, we can provide that at a later meeting, as well.

Recommendation: None at this time.

Fiscal Effects: None.

Alternatives: Direct staff to seek proposals for design work relating to the infill sidewalk project, or as suggested by the City Council.

Beatty and Collett spoke on the proposal. In the written engineering report Beatty reported

No motion, informational report only. Per Council goal A-5(a) - Conduct feasibility and develop preliminary costs for infilling sidewalk from Don Davis Park to Government Street along Elizabeth Street. (Vision Strategy A11), the Engineering Department would like to inform City Council and Administration about the feasibility for sidewalk infill on SW Elizabeth Street, from Don Davis Park to SW Government Street.

The estimated cost for the project ranges from \$380,000 to \$570,000. Background Information: Current conditions on SW Elizabeth Street include two-way vehicle travel and parking on both sides of the roadway. Sidewalk is present on the east side of Elizabeth Street but only at scattered locations. Providing sidewalk infill on the east side would be much more expensive than infill on the west side. This is due to the overall length of sidewalk infill required and challenging terrain (retaining walls required) at some locations.

Sidewalk is present on the west side of Elizabeth from Don Davis Park to SW Park Street. Minimal sidewalk exists from SW Park Street to SW Government Street on the west side. Many areas of the existing sidewalk, driveways, and pedestrian ramps on the west side are not ADA compliant. For this feasibility study we felt that sidewalk infill on the west side of Elizabeth Street would be the most cost-effective approach since the project corridor for the west side would be much shorter in length than the corridor length on the east side. The conceptual cost estimate was prepared for sidewalk infill on the west side of Elizabeth Street from SW Park Street to SW Government Street only. Considerations and assumptions for the estimate are as follows: 1. The estimate did not include costs for upgrading existing, non-compliant infrastructure between Don Davis Park and SW Park Street. 2. The estimate includes survey and engineering services and bid items/quantities that were obtained from field investigation and conceptual drawings.

The estimate is based on 2022 prices. 4. The sidewalk on the west side would be 5' wide separated from the curb with a 4' wide planter to avoid utility pole relocations. 5. The right-of-way distance from the existing curb line is approx. 9' wide. Sidewalk easements may be required at some locations to provide clearance around existing utility poles. Fiscal Notes: This project (number 25-22035) for the fiscal year 2022 - 2023 has an adopted budget of \$50,000. This budget still remains as this feasibility study was prepared by City staff, so this budget is available if additional studies for alternatives listed below are desired by City Council. If no further studies are desired, the \$50,000 could be used to begin survey and design by an engineering consultant. The estimated cost for survey and engineering is approx. \$80,000. Additional funding would be required to complete that work.

Alternatives: 1. Design and construct the sidewalk on the east side of Elizabeth Street from SW Park Street to SW Government Street. These improvements would be nearly the same overall length as the west side, however would be less pedestrian friendly due to having to cross Elizabeth Street where the existing sidewalk terminates on the west side. Overall costs would be similar to the west side conceptual estimate. Finding a crossing location at an intersection would prove difficult due to existing hotel driveways on the west side. 2. Upgrade all non-compliant infrastructure on the west side of Elizabeth Street for Don Davis Park to SW Park Street along with the suggested improvements on the west side of Elizabeth from SW Park Street to SW Government Street. 3. Provide sidewalk infill on the east side of Elizabeth Street from Don Davis Park to SW Government Street. 4. Provide sidewalk infill on Elizabeth Street on both the west and east sides. 5. Do not move forward with the design and construction of the sidewalk infill project. For items 1 - 5 above, additional cost estimating may be required

Beatty reported that Engineering initially looked at the infill goal, on the west side primarily dealing with a lot of ramps, next to hotels etc. Beatty noted there were approximately twenty-five driveways that are not ADA compliant they are not included. He shared the east side was evaluated and it has few more complications having to cross from west side to east side, and challenged with retaining walls.

Parker reported the west side in his view, was the best use of funds crossing at the wide area on Elizabeth Street with connex containers there. Parker noted another is a right of way issue at the south end near Government street junction, with a telephone pole in the way to make it a gentler curve.

Jacobi inquired as to if Bicycle and Pedestrian Committee was going to be asked for input, a couple members had asked her about crosswalks. Beatty reported crosswalks

were included. Jacobi shared that maybe transit stops could be included. Beatty reported it was possible to look at that, Engineering anticipated a setback sidewalk due to utility poles, so they leaned towards moving sidewalk closer to houses as the better idea given the Right of Way is about nine foot from back of curb, four-foot planter with five foot sidewalk, which may require a sidewalk easement in a few areas. Jacobi inquired as to if any trees were going to be installed in the median? Beatty reported that this could be a consideration. Nebel advised that the City does not have the money for those kind of upgrades at present, and this project is not within an Urban Renewal District, and it was important to manage expectations here.

Nebel reported the suggestion was to do sidewalks first. Hall reported that she saw a challenge with areas not being paved, as it is a tourist area. Nebel reported that as it stands the City will have to stretch to find suitable funding, Local Improvement Districts can be considered for major projects. Hall shared she felt the scope is beyond a Local Improvement District, in her view it was tied to tourism in a big way via Lighthouse to Lighthouse Project, and the City is all underfilled on staff which would indicate funding may be available. Hall reported the section by the Shilo Inn didn't seem very safe.

Collett reported Beatty did the work in house saving the City funds, they were not expended, perhaps funds could be repurposed towards survey work and preliminary design? Nebel reported the discussion was about Council expectation for sidewalk on east or west side, and better numbers could be had for budget process. Collett reported that if Engineering obtained an updated design, a better cost estimate could be had.

Hall reported that she expected traffic increases with the new Whaler Motel. Parker reported that the City was still waiting for Integrated Pest Management plan, hoping that if all the money is spent on sidewalk, maintenance is considered.

Nebel reported that the City had some preliminary internal discussions on responsibility for maintenance etc. but is not super clear in the code. Nebel shared the City could clarify code or look at additional resources, if property owners are not responsible for the maintenance activity.

Nebel reported that he understood the Council consensus to be placement of the sidewalk on west side, with spot clean ups in a couple of areas. Botello inquired about how long it would take to get notices out? Nebel the reported an issue the City faces all the time is with folks putting stuff close to Right of Way lines, think we should contact all property owners to get feedback, as anytime we do things we haven't done before, it can cause neighborhood excitement. Beatty reported the west side is better as there are less cross streets too. Goebel inquired as to if the Staff thought it would be worthwhile to get the project shovel ready? Collett reported that he thought it would be good to maximize staff time elsewhere, use a straightforward Request for Proposal, as \$50,000 wouldn't cover full design but could go as far as possible. Collett shared if funding for survey, and preliminary work for thirty percent of the project that would be great, as the City could do outreach while awaiting funds.

## **LOCAL CONTRACT REVIEW BOARD**

### **Notice of Intent to Award the Design and Construction Engineering Services Contract for a Water Treatment Plant Excess Recirculating System (XR) to Stantec Consulting Services, Inc. in the Amount of \$436,341.00**

Glover introduced the agenda item, and Sawyer opened the Local Contract Review Board at 07:46 P.M. Nebel presented the written City Manager Report saying during the summer of 2020, the City experienced problems with the fouling of the microfiltration membranes which are used to filter raw water as part of the processes for creating safe drinking water for the City of Newport. The result was a critical shortage of water during the peak summer and demand in the city which required that the City of Newport limit all uses of water, and specifically, halt industrial use of water for a thirteen-day period. Two recommendations came out of the review of this water emergency. The first one was adding another bank of filters at the water treatment plant. This work has been completed. The second recommendation was to install an excess recirculation system (XR) that will allow optimal water flows and reduce the need for chemical cleanings. An XR system provides a surface scouring flow that allows the fibers to be cleaned from the outside to complement the existing inside out back wash cleaning process. Staff solicited competitive proposals from qualified engineering firms. Two proposals were received. They were evaluated for their response to the RFP.

The review indicated that the proposal from HDR Engineering was not as complete and responsive to the request. Further, the HDR team is not experienced with XR system retrofits. Their proposal also included minimal direct involvement from PALL Water who is the manufacturer of the microfiltration membranes. The concern with this proposal is that there may be additional costs and efficiencies that may be missed as part of the construction project that would proceed with this work.

Staff is recommending that the contract be awarded to Stantec Consulting Services for engineering services, including site surveying, design, construction engineering and inspection, testing, start up and commissioning of the project.

Recommendation: I recommend that the City Council, acting as the Local Contract review Board, consider the following motion: I move to issue a notice of intent to award the water treatment plant XR system design and construction management project to Stantec Consulting Services, Inc., in the amount of \$436,341 and contingent upon no protest within seven days authorize the award for the design and construction management project to install and direct the City Manager to execute the contract on behalf of the City of Newport.

Fiscal Effects: There are sufficient funds for the engineering services. The amount of \$749,750 is appropriated. Additional funds will be need to be appropriated for actual construction that will likely take place in Fiscal Year 2023-2024.

Alternatives: Do not award this contract to Stantec, or as suggested by the City Council.

Nebel reported the XR system is recirculating which is means more effective cleaning of filters, and helps to eliminate potential water production concerns.

Paul reported that this project was advertised on Oregon Buys, two responses were received one from Stantec and one from HDR. The review panel was cost blind, and evaluated based upon proposal, then cost. Paul reported Stantec scored highest on proposal score, and despite the higher cost the panel recommended they received the bid. Collett reported that the water curtailment took place under the right conditions, and



in theory it could happen again. His expectation was that that this would extend the life of the system by having more filters, and not abusing it. This particular system was already mentioned to the City by HDR and the newest installed unit already has the functionality built in.

Parker inquired as to if this replacement schedule is included in the water treatment plant master plan, and would new expense be impacted by any piping or rerouting of stuff when a potential new Big Creek Dam is installed. Collett reported that he didn't believe XR system would have been part of master plan, because that conditions that caused the failure and curtailment hadn't been experienced before, and suspected there shouldn't be any real major change with the new Dam installation. Paul reported that she thought it may involve a new pipeline, but the plant location will likely be fine. Nebel reported that initially the water plant project wanted to install these filters, but project scope had to be dialed back due to cost overruns. Parker inquired as to what the alternative of the XR system would be? Nebel reported the alternative is the water plant won't be able to make sufficient water. Collett reported this system is insurance against conditions which arose previously leading to a water curtailment.

MOTION was made by Goebel, seconded by Parker to move to issue a notice of intent to award the water treatment plant XR system design and construction management project to Stantec Consulting Services, Inc., in the amount of \$436,341 and contingent upon no protest within seven days authorize the award for the design and construction management project to install and direct the City Manager to execute the contract on behalf of the City of Newport. The motion carried unanimously in a voice vote. Sawyer closed the Local Contract Review Board at 07:57 P.M.

### **REPORT FROM MAYOR AND COUNCIL**

Sawyer reported on recent Council attendance at the League of Oregon Cities Conference in Bend, Oregon, saying last week was wonderful and the Council learned a lot. Sawyer advised that the conference was well attended, by around 400 people from 200 Oregon cities, and another 200 in attendance for staff and vendors. Sawyer also advised that he was most excited to meet Councilor Jacobi's Sister.

Hall reported that she would like to Diversity, Equity and Inclusion conversations to a future City Council Work Session. She shared recent attendance in DEI sessions with Hawker and Botello, indicating that those conversations are something the City should be keeping updated on, and likely all working together towards over the next two years. Hall advised the League of Oregon Cities had a Diversity, Equity and Inclusion Library that may provide some good information. She added that she appreciated the combination of Tokos and Malloy serving as Acting City Manager for Nebel during the conference.

Nebel reported that Hawker won the Herman Kehrli award, and the League of Oregon Cities made two awards this year, due to the fact no awards were given out during Covid. He advised that Peggy's husband also was a Kehrli award winner in years past, and they are the only husband and wife duo ever to win the prestigious award.

Goebel advised that camping was no longer taking place on City Hall grounds, and was curious as to if the provided notice was the reason for that? Allen advised that it was because of the notice, and a discussion of the issues the group left.

Parker reported on the League of Oregon Cities Conference and sessions on homeless and housing saying that Newport does not operate at the same budgetary basis as Bend, Oregon. He advised that most of the presented scenarios are not currently applicable, but a discussion of tiny homes, or pallet houses seems feasible in Newport. Parker shared that some of the housing options were senior focused, Bend could serve as a potential template for Newport, and he requested personnel from Bend, Oregon be brought to Newport to present on the topic, at a future work session of the Council. Nebel reported that seemed possible, Jacobi is on the housing needs analysis group so it would seem to fit into that discussion.

Jacobi advised she went on a housing tour, including a site which was low barrier for felons and sex offenders who can't find anyone to rent to them. She advised she also attended another site, for Veterans at an eighteen-unit tiny home site, with a community room in the center, with a large kitchen and places to gather and an outdoor barbecue pit. Jacobi shared overall it was nice and tidy, the Housing Needs Analysis has a list of various actions which can be implemented, with an impact statement. She said tiny homes have a low impact on homeless because you can't build very many of them, they had eighteen in Bend. Botello advised it would be nice to talk about tiny houses going forward. Botello reported that community reach and engagement is important, and it would be nice to obtain information from the community on what media methods they want the City to utilize for outreach.

Sawyer reported that the Long Road Veterans group will be arriving in Newport towards the end of November, and all roads in Yellowstone National Park are finally reopened.

### **ADJOURNMENT**

Having no further business, the meeting was adjourned at 08:11 P.M.

**Derrick Tokos**

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**From:** DLCD Plan Amendments <plan.amendments@dlcd.oregon.gov>  
**Sent:** Wednesday, November 23, 2022 4:43 PM  
**To:** Derrick Tokos  
**Subject:** Confirmation of PAPA Online submittal to DLCD

**[WARNING]** This message comes from an external organization. Be careful of embedded links.

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**Newport**

Your notice of a proposed change to a comprehensive plan or land use regulation has been received by the Oregon Department of Land Conservation and Development.

Local File #: 5-Z-22

DLCD File #: [005-22](#)

Proposal Received: 11/23/2022

First Evidentiary Hearing: 1/9/2023

Final Hearing Date: 2/6/2023

Submitted by: dtokos

If you have any questions about this notice, please reply or send an email to [plan.amendments@dlcd.oregon.gov](mailto:plan.amendments@dlcd.oregon.gov).

## Sherri Marineau

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**From:** Sherri Marineau  
**Sent:** Wednesday, December 21, 2022 5:07 PM  
**Subject:** Notice of Public Hearing - Newport Short-Term Rental Ordinance Amendments  
**Attachments:** File No. 5-Z-22 Notice.pdf

**Importance:** High

Hello,

You are receiving this notice because you have asked to be notified of any City of Newport Short-Term Rental issues.

On **Monday, January 9, 2023** the Newport Planning Commission will hold a public hearing at **6:00 p.m.** in the City Hall Council Chambers to consider draft Ordinance No. 2202 (File No. 5-Z-22), amendments to Newport Municipal Code (NMC) Chapter 4.25, Short-Term Rental Business License Endorsements; and Chapter 14.25, Short-Term Rental Land Use Regulations, implementing recommendations of the Short-Term Rental Ordinance Implementation Work Group. Revisions (a) add a grace period for individuals or entities that purchase vacation rental properties in areas where they can immediately begin to use them for vacation rental purposes, so they can rent the property while working through the process to obtain a license; (b) codify the process the City is using to administer the waiting list for the issuance of short-term rental business license endorsements; (c) tighten up code violation language by noting that any act occurring on real property that results in a civil infraction, be it related to the short-term rental or not, is a "strike" against the owner's short-term rental endorsement; and (d) eliminate the option in the ordinance that allows the City Council to adjust the cap on the number of available vacation rental licenses by resolution (locking it into the current 176 license limit). With respect to proposed amendments to NMC Chapter 14, Section 14.36.010 requires a finding that the amendments to the Newport Municipal Code are required by public necessity and the general welfare of the community.

Additional information is included on the City's website at: <https://www.newportoregon.gov/dept/cdd/default.asp>

You may also contact Derrick Tokos, Community Development Director (541) 574-0626 or [d.tokos@newportoregon.gov](mailto:d.tokos@newportoregon.gov) with your questions.

City of Newport  
 Community Development Department  
 169 SW Coast Highway  
 Newport, OR 97365



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

# AFFIDAVIT OF MAILING OF NOTICE OF LAND USE ACTION

STATE OF OREGON )

)ss.

County of Lincoln )

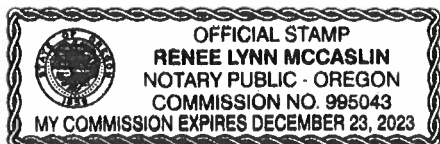
File No(s). 5-Z-22

I, Sherri Marineau, duly appointed Executive Assistant of the City of Newport, do hereby certify that the notice of a land use action attached hereto and by this reference made a part hereof is a true and complete copy of the original of such notice, and that said original was distributed through email on the *21st* day of *December, 2022* to each of the 286 persons that have asked the City of Newport to inform them of any proposed changes to the Short-Term Rental regulations. Email distribution list is included in the record.

*Sherri Marineau*

Sherri Marineau  
Executive Assistant

SUBSCRIBED AND SWORN to before me this *5th* day of *January*, 20*23*.



*Renee McCaslin*

Notary Public of Oregon

My Commission Expires: *12/23/23*



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

The Newport Planning Commission will hold a public hearing on Monday, January 9, 2023 at 6:00 p.m. in the City Hall Council Chambers to consider draft Ordinance No. 2202 (File No. 5-Z-22), amendments to Newport Municipal Code (NMC) Chapter 4.25, Short-Term Rental Business License Endorsements; and Chapter 14.25, Short-Term Rental Land Use Regulations, implementing recommendations of the Short-Term Rental Ordinance Implementation Work Group. Revisions (a) add a grace period for individuals or entities that purchase vacation rental properties in areas where they can immediately begin to use them for vacation rental purposes, so they can rent the property while working through the process to obtain a license; (b) codify the process the City is using to administer the waiting list for the issuance of short-term rental business license endorsements; (c) tighten up code violation language by noting that any act occurring on real property that results in a civil infraction, be it related to the short-term rental or not, is a “strike” against the owner’s short-term rental endorsement; and (d) eliminate the option in the ordinance that allows the City Council to adjust the cap on the number of available vacation rental licenses by resolution (locking it into the current 176 license limit). With respect to proposed amendments to NMC Chapter 14, Section 14.36.010 requires a finding that the amendments to the Newport Municipal Code are required by public necessity and the general welfare of the community. Testimony and evidence must be directed toward the request above or other criteria, including criteria within the Comprehensive Plan and its implementing ordinances, which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal, including to the Land Use Board of Appeals, based on that issue. Testimony may be submitted in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. The hearing may include a report by staff, testimony from the applicant and proponents, testimony from opponents, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Written testimony sent to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 2:00 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 proposed code amendments, additional material for the amendments, and any other material in the file may be reviewed or a copy purchased at the Newport Community Development Department (address above). Contact Derrick Tokos, Community Development Director (541) 574-0626 (address above).

***(FOR PUBLICATION ONCE ON WEDNESDAY, January 4, 2023)***




1/4/2023

2A-3 Valley Coast Conference game Tuesday at home against Monroe before they're slated to travel Friday for a league game at Oakridge.



### Memorandum

To: Planning Commission  
From: Derrick I. Tokos, AICP, Community Development Director   
Date: January 5, 2023  
Re: 1886 Building and City Limitations on the Demolition of Historic Structures

The 1886 Building, located at 618 SW Bay Boulevard, is one of 16 sites that the City of Newport has identified as historically significant, and subject to Planning Commission review of alterations or modifications to assure maintenance of the historic value of the structure. It is listed as Site No. 12 in the historic inventory included in the History Chapter of the Newport Comprehensive Plan (enclosed). A vicinity map is also attached.

In response to a complaint regarding the condition of the building, Newport Building Official Joseph Lease inspected the premises and determined the structure to be a dangerous building under the ICBO Uniform Code for the Abatement of Dangerous Buildings adopted by the City pursuant to NMC 11.05.080(K). On March 17, 2022, Mr. Lease issued a notice and order to then owner Richard Welton advising him of the determination. The notice and order states:

*“various significant structural deficiencies exist that could lead to partial collapse of the building to include, but not limited to the following: 1. The exterior siding is missing and structural wall framing is severely deteriorated due to water damage in various locations; 2. Exposed beams in the retail area that support the second floor are severely deteriorated and failing or have been altered without a building permit; 3. The east wall is listing out of plumb, particularly at the upper stories; and 4. The eyebrow appendage of the front 3<sup>rd</sup> level is deteriorated, etc.*

Additionally, Mr. Lease notes that due to the general dilapidation of the structural elements of the building, an engineer should be consulted to review the condition of the building and to prepare a plan of remediation and repair of the structural force resisting systems. The notice and order was accompanied by photographs of the problematic areas, and Mr. Welton was given until April 17, 2022 to abate the nuisance by repair or demolition.

On April 7, 2022, Mr. Lease was contacted by Daniel Reynolds, with the law firm Saalfeld Griggs, who indicated that Mr. Welton had passed away and that one of his clients, a sibling of Mr. Welton, was only recently appointed by the Lincoln Circuit Court as Personal Representatives of the Estate (hereafter “Estate”). He further pointed out that Mr. Welton’s siblings live out of state and were unfamiliar with the condition of the building. He asked for a 120-day extension to afford the Estate adequate time to move forward, a request that was granted by Mr. Lease via an email dated April 13, 2022. While the City did not post the building as unsafe to occupy, Mr. Reynolds indicated in his April 7<sup>th</sup> letter that the Estate had stopped all business and retail operations at the property and closed public access to the storefront.

On May 11, 2022, Karyn Kimball, PE, with Peterson Structural Engineers, Inc., contacted Mr. Lease to indicate that they would be inspecting the premises. This was followed by a report, dated June 21, 2022, outlining their observations as to the condition of the building. The report includes several repair recommendations with suggested maximum repair timelines. It concludes that, at the time of the inspection, the building did not appear to be an imminent life safety concern but that it is not fit for habitation. This conclusion included several caveats, with the engineer’s noting that their observations were limited to visually accessible areas, and that additional damage and/or deterioration is likely elsewhere on the premises. They

further emphasized that recommended repairs should be performed within the specified timelines, and that failure to do so will lead to additional deterioration that could lead to the development of an imminent hazardous condition.

On July 5, 2022, an attorney for the Estate notified Mr. Lease that their client was entering into a purchase and sale agreement to sell the building to a neighboring property owner, and inquired as to what the next steps would be in this situation. Mr. Lease responded, in a July 7, 2022 email, indicating that the structural issues and repairs identified in the notice and order still needed to be addressed. He noted that since the engineer's report determined the building is not currently an imminent threat of collapse, the City would work with their client or a potential buyer on a mitigation plan and timeline for demolition or repair. In expectation of this, he granted an additional 90-day extension to October 17, 2022.

The neighboring property owner was Mo's Enterprises, Inc. and they officially took possession of the premises on October 7, 2022 (Deed Instrument #2022-09567). On December 14, 2022, they applied for and obtained a demolition permit from the City to remove the building and a neighboring shed. Because the property is listed on the City's historic inventory, any exterior alteration to a building other than a repair that restores the structure to its original character requires conditional use review by the Planning Commission (NMC 14.23.040). The Commission is charged with ensuring that proposed changes will not detract from or destroy the building or the architectural features that led to it being listed as significant. The conditional use rules do not provide for demolition of the entire structure. With that in mind, the demolition permit issued to Mo's Enterprises, Inc. was amended to limit the activities to the removal of asbestos siding, and asbestos laden materials from within the building. This will allow them to move forward with planned abatement work without incurring a financial penalty for rescheduling. Removal of asbestos laden siding (the only exterior work to be performed) qualifies as a repair, since the permitted work does not foreclose the possibility of the building being restored to its original character (NMC 14.23.030(A)).

The modified demolition permit was issued to Mo's Enterprises, Inc. on December 20, 2022, and an email from myself to Celeste McEntee outlining the reason for the change was sent that same day. A copy of the permit, email, and other materials referenced above is attached as background information.

This agenda item has been scheduled to provide the Planning Commission an opportunity to consider whether or not it might be willing to (a) remove the 1886 building from the City's historic inventory given its deteriorated condition or (b) amend the City's Comprehensive Plan policies to allow demolition of historic buildings in certain circumstances with language being added to the Newport Municipal Code outlining parameters for when demolition may be warranted. Enclosed are sample codes regarding the demolition of historic structures from the cities of Salem, Bend, McMinnville, and Astoria.

A representative from Mo's Enterprises, Inc. could not attend this meeting due to a scheduling conflict; however, they have indicated that it is their desire to demolish the structure and construct a new building that is consistent with the architectural character of the Bayfront. Further, given the deteriorated condition of the building, a circumstance that they did not create, they do not believe that it would be cost effective to attempt to repair or move the structure. Ms. McEntee mentioned that they may have information to share with the Commission, which we will pass along for your consideration if it is submitted prior to the meeting.

City staff contacted the State Historic Preservation Office and they have indicated that historic designation of this property is a local matter. The site is not listed on a state or national historic registry. If the Commission is willing to consider new plan and code language that could allow for eventual demolition of the building, then staff can bring it forward for your review at your January 23, 2022 work session. Considering the condition of the building, it would be prudent for the Commission to initiate the legislative process by motion, as required by NMC 14.36.020, so that staff can provide the Oregon Department of Land Conservation and Development with the required 35-day notice prior to a public hearing.

#### Attachments

Vicinity Map, 1886 Building Background Information and Photos, History Chapter of the Newport Comprehensive Plan, NMC Chapter 14.23 Historic Buildings and Structures, and Sample Historic Structures Codes





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

## 1886 Building at 618 SW-620 SW Bay Blvd Vicinity Map

Image Taken July 2018  
4-inch, 4-band Digital Orthophotos  
Quantum Spatial, Inc. Corvallis, OR

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

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City of Newport  
Community Development Department

169 SW Coast Hwy, Newport, Oregon

Ph: 541.574.0629 Fax: 541.574.0644

<http://newportoregon.gov>

## Notice and Order

Address/Location of Violation: 618-620 SW Bay Blvd Tax Lot No.: 11-11-08-CA-05100-00

Owners Name: Richard C Welton

Current Tenant: Old Bayfront Bazaar

Mailing Address: PO Box 44, Depoe Bay, OR 97341

618 SW Coast Hwy, Newport, OR 97365

Please be advised that pursuant to the City of Newport Municipal Code (NMC), Section 11.05.080 I, you are hereby notified that the above referenced building has been determined to be a **Dangerous Building** for the reasons described below:

Uniform Code for the Abatement of Dangerous Buildings, Section 302, Subsections 5, 7, 8, and 10. **Various significant structural deficiencies exist that could lead to partial collapse of the building to include, but not limited to the following: 1. The exterior siding is missing and structural wall framing is severely deteriorated due to water damage in various locations; 2. Exposed beams in the retail area that support the second floor are severely deteriorated and failing or have been altered without a building permit; 3. The east wall is listing out of plumb, particularly at the upper stories, 4. The eyebrow appendage of the front 3<sup>rd</sup> level is deteriorated, etc.**

The following permits are required: ☐ Demolition ☒ Building ☐ Electrical ☐ Plumbing ☐ Mechanical

☐ Other: \_\_\_\_\_

☒ Plans Required \_\_\_\_\_

Additional Comments: Due to the general dilapidation of the structural elements of the building an engineer should be consulted to review the condition of the building and to prepare a plan of remediation and repair of structural force resisting systems. The exterior siding is in disrepair allowing water intrusion resulting in structural damage.

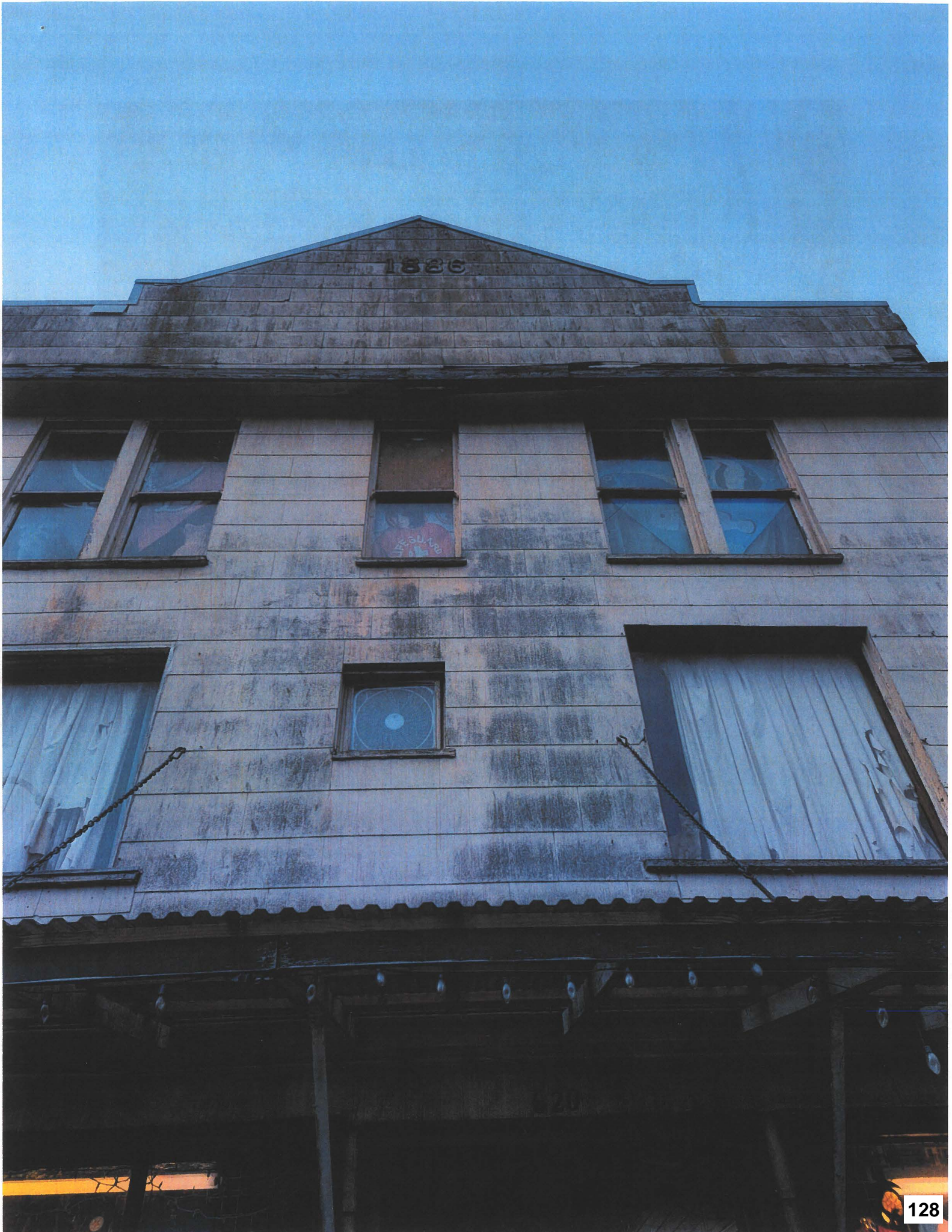
You are hereby ordered to abate this public nuisance by repair or demolition by **April 17, 2022**. Failure to comply with this Order is an Infraction punishable by a Civil Penalty not to exceed \$1000 per violation per day. If you wish to **appeal** this Order a written appeal, stating the grounds therefore and the redress sought, must be submitted to the Department within 15 days of the date of this order.

Building Official: Joseph Lease Signature: [Signature] Date: March 17, 2022

Phone: (541) 574-0627

Y:CDD/Building/Forms/Notice and Order10\_2016









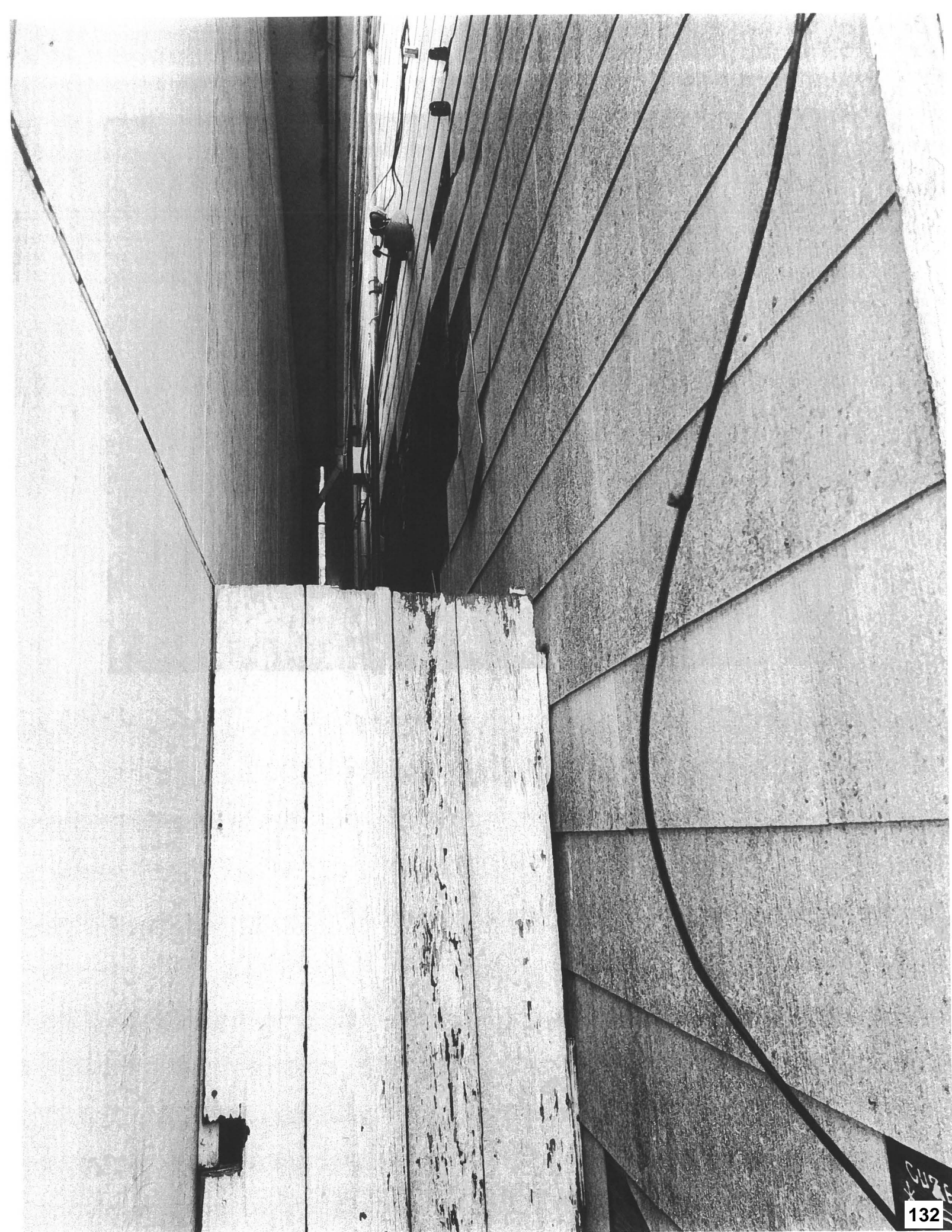






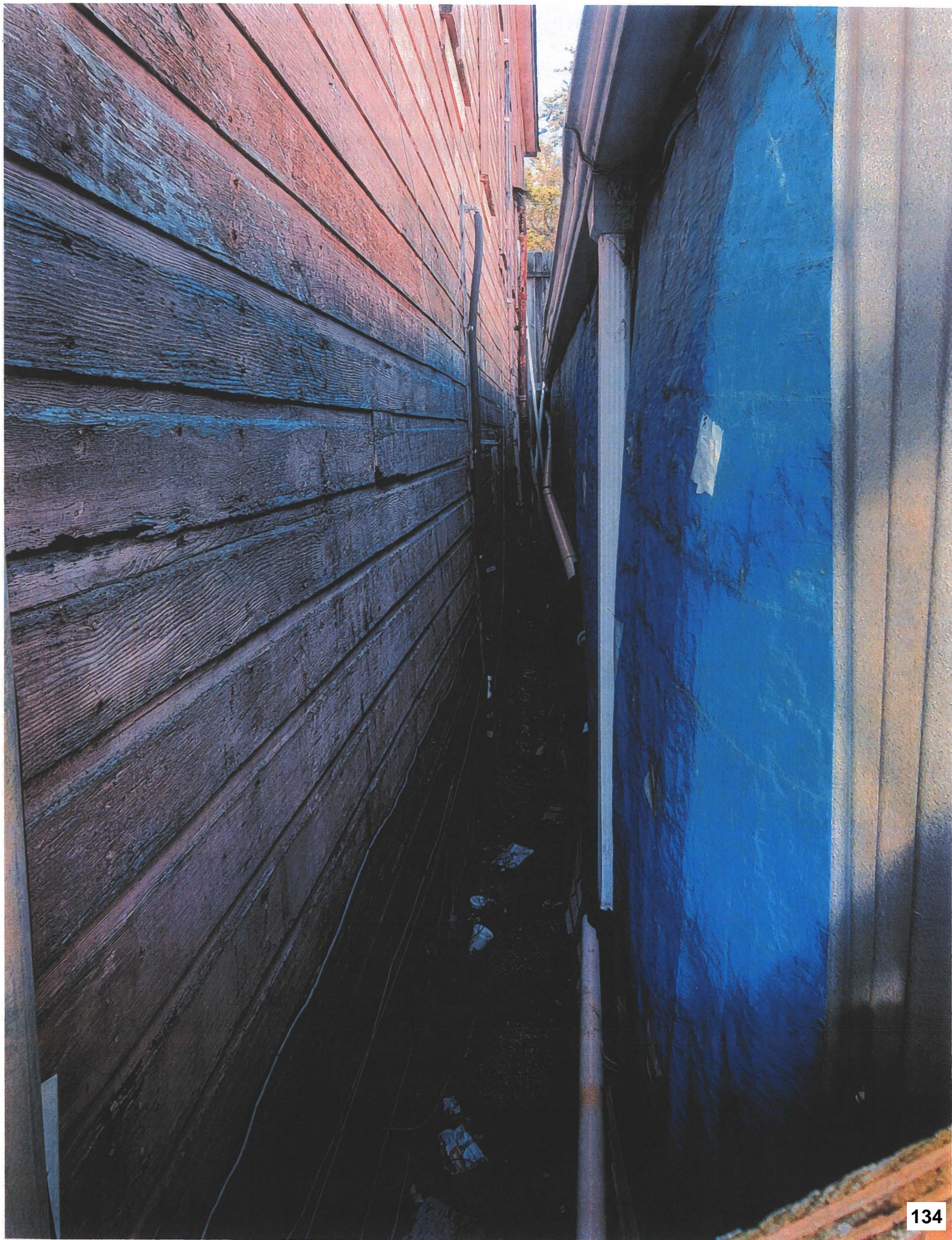




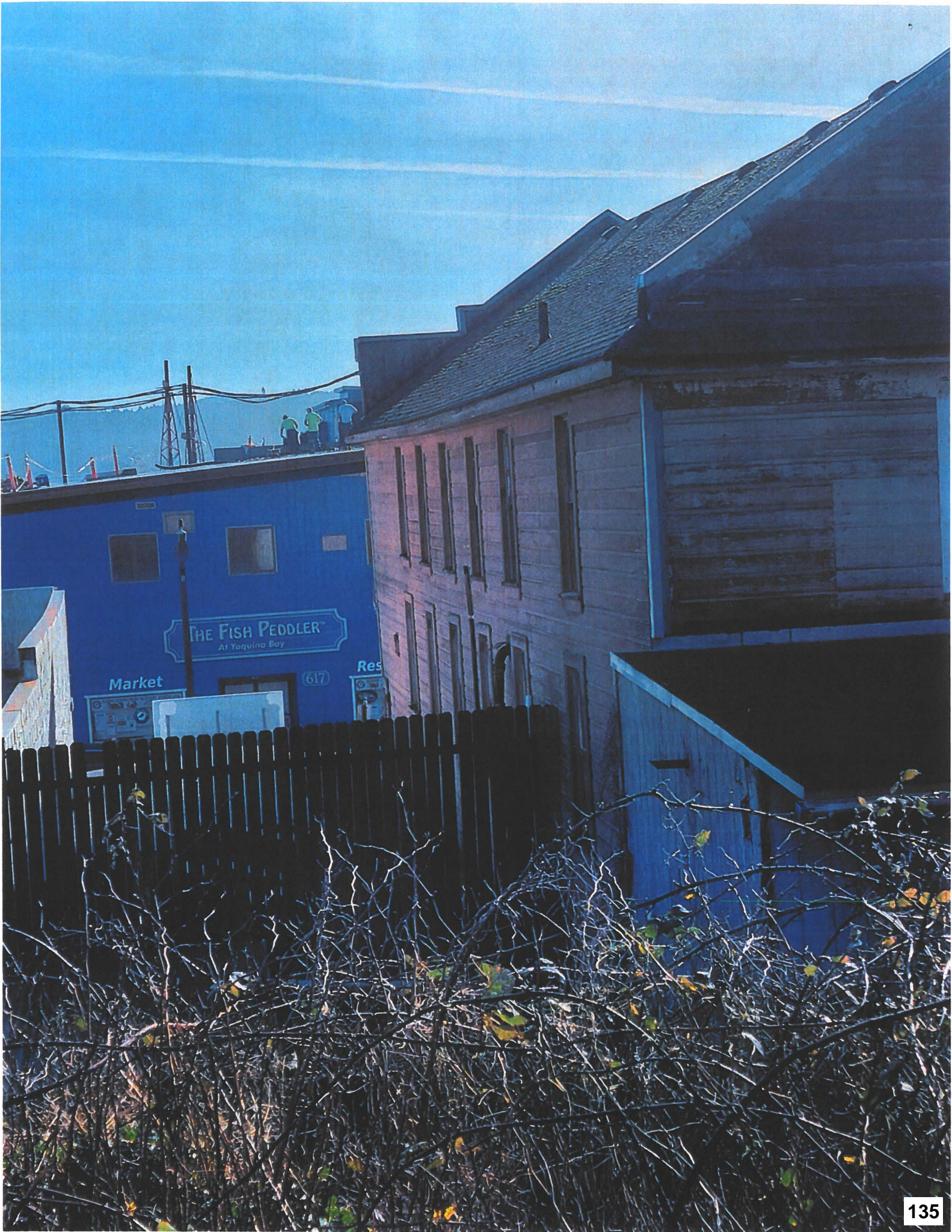




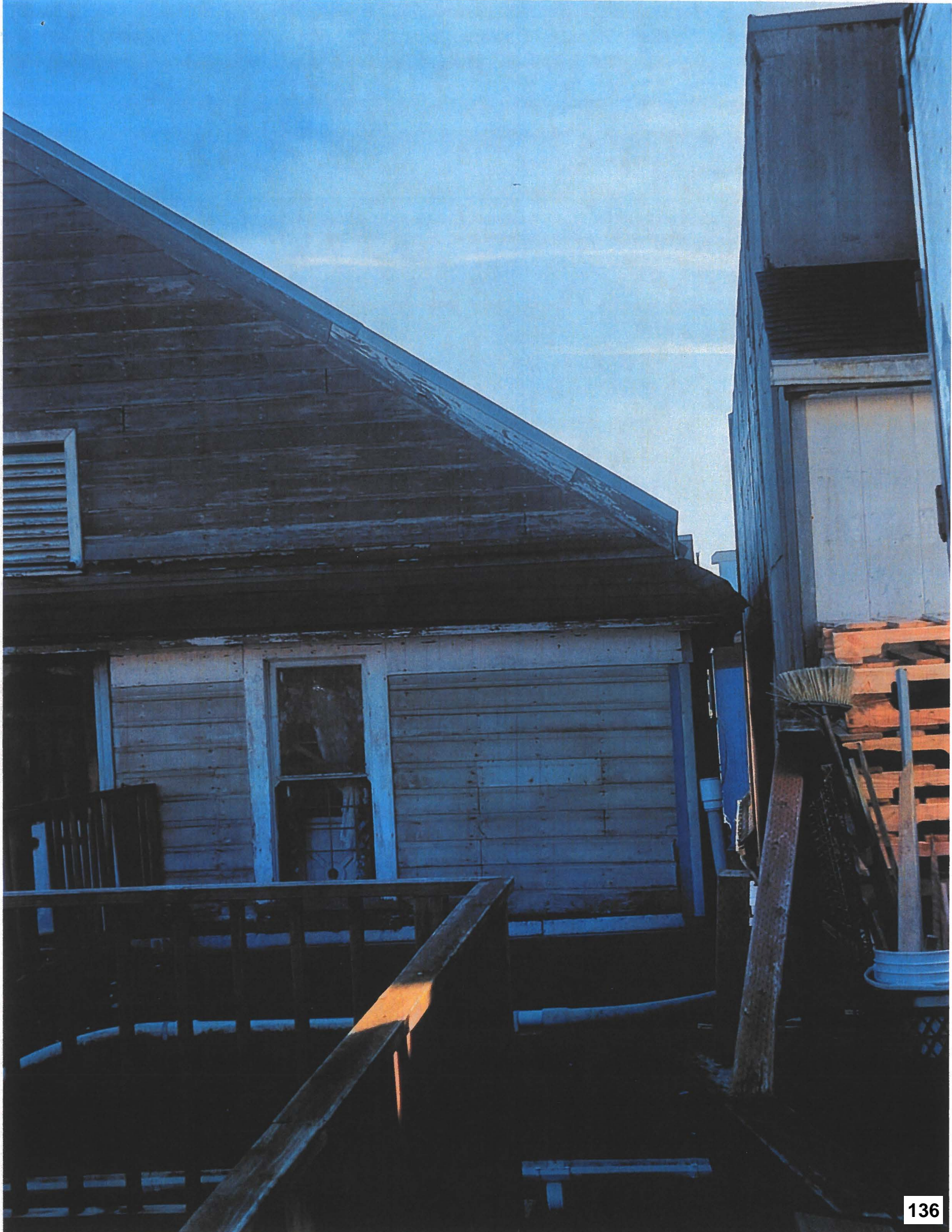




















April 7, 2022

**VIA FACSIMILE: (541) 574-0644**

*Original to follow via first class mail*

City of Newport  
Community Development Department  
Attn: Joseph Lease, Building Official  
169 SW Coast Hwy  
Newport, OR 97365

**RE: REQUEST FOR EXTENSION TO COMPLY WITH NOTICE AND ORDER**

Property Address: 618-620 SW Bay Blvd., Newport, OR  
Former Property Owner: Richard C. Welton  
Our File No.: 41615-00001

Dear Mr. Lease:

This office represents Bruce Welton and Jane McClellan, as Personal Representative of the Estate of Richard C. Welton (the "Estate"). Our clients provided us with a copy of the City of Newport's Notice and Order dated March 17, 2022 (the "Notice") concerning the storefront located at 618-620 SW Bay Blvd., Newport, OR 97365 (the "Property"). For the reasons discussed below, our clients respectfully request an extension of time to comply with the Notice.

Ms. McClellan and Mr. Welton are the siblings of Richard Welton, the former owner of the Property. The Estate now holds title to the Property. After suffering from a debilitating illness for five years, Mr. Welton passed away a few months ago. A few days ago, on March 31, 2022, Ms. McClellan was appointed as Successor Personal Representative of her brother's Estate, in Lincoln County Circuit Court Case No. 22PB01129. Ms. McClellan resides in Washington and Mr. Welton lives in Texas. Until they received the Notice, our clients were unfamiliar with the condition of the Property and the concerns identified by the City.

Park Place, Suite 200  
250 Church Street SE  
Salem, Oregon 97301

Post Office Box 470  
Salem, Oregon 97308

tel 503.399.1070  
fax 503.371.2927

[www.sglaw.com](http://www.sglaw.com)

The Estate takes this matter very seriously. Promptly upon receiving the Notice, the Estate took reasonable steps to protect the public and employees. In particular, the Estate immediately stopped all business and retail operations at the Property and closed public access to the storefront. All employees have been transferred to other locations and all entry points have been locked to prevent improper access. The Estate is actively removing inventory from the store and transferring it to other locations, upon completion of which there will be no further activity at the Property.

In addition, the Estate is diligently working to address the issues listed in the Notice, including engaging one or more contractors and/or engineers to evaluate the Property and develop a corrective action plan. However, as you may know, it is difficult to engage qualified professionals and complete this work, especially on short notice. This issue is compounded by our clients' obligations to comply with the court probate procedure when dealing with Estate assets, which often slow things down. In addition, as noted above, our clients were not aware of these issues until they received the Notice very recently. It will take some time to familiarize themselves with the Property and determine the best course of action that complies with both the Notice and the Court's probate rules. Nonetheless, the Estate is committed to fully resolving this situation and doing so as soon as practicable.

In light of these circumstances, the Estate respectfully requests an extension of time to comply with the Notice and resolve the issues at the Property. At this time, we believe an extension of 120-days will afford the Estate with adequate time to move forward. This request is reasonable, given that the Estate has stopped all commercial activity and public access to the Property and it will take time to engage the professionals necessary to develop a plan that will safely and effectively respond to the issues in the Notice. Given the pending deadline of April 17, 2022, we respectfully ask for a response to this request as soon as possible. My office will also follow-up with you via a phone call.

We appreciate the City's consideration of this request and attention to this matter. If you have any questions or would like to discuss further, please let us know.

Sincerely,

DANIEL S. REYNOLDS  
dreynolds@sglaw.com  
Voice message #326

DSR:klt  
cc: Clients (via email only)



## Joseph Lease

---

**From:** Joseph Lease  
**Sent:** Wednesday, April 13, 2022 11:13 AM  
**To:** 'Garrett T. Urrutia'  
**Cc:** Derrick Tokos  
**Subject:** RE: McClellan Property 618-620 SW Bay Blvd., Newport, Oregon 97365

Hello Garret,

I would just add that if the Engineer finds any imminent hazards that he/she also provide recommendations on temporary measures to mitigate the hazards, and that the Estate takes appropriate steps to implement the mitigation measures.

Thanks,

*Joseph Lease*, Building Official  
Community Development Department  
169 SW Coast Highway  
Newport, Oregon 97365  
[j.lease@newportoregon.gov](mailto:j.lease@newportoregon.gov)  
(541) 574-0627

---

**From:** Garrett T. Urrutia <[gurrutia@sglaw.com](mailto:gurrutia@sglaw.com)>  
**Sent:** Wednesday, April 13, 2022 10:14 AM  
**To:** Joseph Lease <[J.Lease@NewportOregon.gov](mailto:J.Lease@NewportOregon.gov)>  
**Cc:** Daniel S. Reynolds <[DReynolds@sglaw.com](mailto:DReynolds@sglaw.com)>; Kayla Franz <[KFranz@sglaw.com](mailto:KFranz@sglaw.com)>  
**Subject:** McClellan Property 618-620 SW Bay Blvd., Newport, Oregon 97365

**[WARNING]** This message comes from an external organization. Be careful of embedded links.

---

Mr. Lease,

Thank you for the phone call this morning. As we agreed, I am following up that conversation with this email memorializing what we discussed.

The city is concerned about the structural integrity of our client's building. You specifically mentioned the east side wall is out of plum and the building is leaning. You further expressed that the neighboring property is concerned that if our client's building were to fall, it could potentially damage the neighboring building.

I expressed to you that our client is making efforts to comply with the City of Newport's Notice and Order dated March 17, 2022, but is requesting additional time to engage professionals to develop a corrective action plan.

Ultimately, you agreed to grant an extension of 120 days for our client to comply with the Notice and Order. You further agreed that a complete corrective action plan would not be necessary, so long as our client engages the services of an engineer, who prepares and submits to you a structural integrity analysis. You specified that a complete structural

analysis would not be necessary, but the engineer's assessment must address whether there is a potential that the building could collapse and a determination of whether the building has a foundation, and if so, its condition.

If I failed to mention or misstated any of the terms that we discussed or agreed to, please let me know.

Otherwise, if you have any other questions, please don't hesitate to contact our office.

Thank you,

**Garrett Urrutia**

Lawyer - Business Litigation & Employment Law



Saalfeld Griggs PC

Park Place, Suite 200 | 250 Church Street SE | Salem, Oregon 97301

office: 503.399.1070 | fax: 503.485.5641

[Email](#) | [Web](#) | [Bio](#) |

Paralegal | Kayla Franz | [kfranz@sglaw.com](mailto:kfranz@sglaw.com)

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## Joseph Lease

---

**From:** Garrett T. Urrutia <gurrutia@sglaw.com>  
**Sent:** Wednesday, April 13, 2022 11:20 AM  
**To:** Joseph Lease  
**Cc:** Derrick Tokos; Daniel S. Reynolds; Kayla Franz  
**Subject:** RE: McClellan Property 618-620 SW Bay Blvd., Newport, Oregon 97365

Joseph,

Thank you for the follow up and the clarification. We will pass that along to our client as well.

Thanks,

**Garrett Urrutia**

Lawyer - Business Litigation & Employment Law



Park Place, Suite 200 | 250 Church Street SE | Salem, Oregon 97301  
office: 503.399.1070 | fax: 503.485.5641  
[Email](#) | [Web](#) | [Bio](#) |

Paralegal | Kayla Franz | [kfranz@sglaw.com](mailto:kfranz@sglaw.com)

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Thanks,

*Joseph Lease*, Building Official  
Community Development Department  
169 SW Coast Highway  
Newport, Oregon 97365  
[j.lease@newportoregon.gov](mailto:j.lease@newportoregon.gov)  
(541) 574-0627

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**Subject:** McClellan Property 618-620 SW Bay Blvd., Newport, Oregon 97365

**[WARNING]** This message comes from an external organization. Be careful of embedded links.

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If I failed to mention or misstated any of the terms that we discussed or agreed to, please let me know.

Otherwise, if you have any other questions, please don't hesitate to contact our office.

Thank you,

**Garrett Urrutia**

Lawyer - Business Litigation & Employment Law



Park Place, Suite 200 | 250 Church Street SE | Salem, Oregon 97301  
office: 503.399.1070 | fax: 503.485.5641  
[Email](#) | [Web](#) | [Bio](#) |

Paralegal | Kayla Franz | [kfranz@sglaw.com](mailto:kfranz@sglaw.com)

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## Joseph Lease

---

**From:** Microsoft Outlook on behalf of (458) 240-2160  
**Sent:** Wednesday, May 11, 2022 11:31 AM  
**To:** Joseph Lease  
**Subject:** Voice Mail (49 seconds)  
**Attachments:** (458) 240-2160 (49 seconds) Voice Mail.wav

**[WARNING]** This message comes from an external organization. Be careful of embedded links.

---

Hi Joseph my name is Corrine Campbell I'm with peterson's structural engineer.

I am calling in balance a structure located at -- 6:18 through 6:20 southwest eight boulevard -- I see a notice in order for and I'm out to this building and structural damage I was wondering if I could call and just make sure that I had a understanding of what you needed from the owner if you wanna give me a call back my phone number is 458 -- 240-2157 again this is Corrine Campbell from Peter Petersen structural.

(458) 240-2157 I look forward to hearing from you.

Preview provided by Microsoft Speech Technology. [Learn More...](#)

---

**You received a voice message from (458) 240-2160**

Caller-Id: (458) 240-2160

*Corrine Kimbel  
ENGINEER TO REVIEW  
Bldg on 5-20-22*



Eugene Office  
4710 Village Plaza Loop  
Suite 170  
Eugene, OR 97401  
458.240.2160

June 21, 2022

Jane McClellan  
Personal Representative for the Richard Welton Estate  
1406 NW Oceania Drive  
Waldport, OR 97394  
503.985.2699

Project #: 2204-0017

RE: **618-620 SW Bay Blvd Newport Evaluation** – Condition Evaluation

Dear Jane-

Per your request, the following memorandum has been generated to detail Peterson Structural Engineers' (PSE) site visit observations, and repair recommendations for the building located at 618-620 Bay Boulevard in Newport, Oregon. It is our understanding that the City of Newport has identified this structure as a "Dangerous Building" and requires that an engineer observe the condition of the building. In addition, the city requires that an engineer prepares a plan of remediation and repair of the structural force resisting system to address any imminent hazards. It is PSE's understanding that a complete structural analysis of the building is not necessary and that a complete repair and remediation plan is also not required at this time.

#### Background

Based on conversations with the client, it is our understanding that the building was originally built in circa 1887 and that it may have originally been constructed at a different location and relocated to its current location. It is also rumored that the building may not be founded on a foundation.

#### Observations

PSE's observations are based on a site visit performed on May 20<sup>th</sup>, 2022, during which the exterior and interior of the structure were observed. Our site observations were limited to visible and accessible portions of the structure. During the site visit, we observed the interior and exterior of the structure from ground level, elevated loading dock, or upper story floors. We did not use lifters or ladders to observe areas of the structure not visible from grade, elevated loading dock, or upper story floors. At the time of our site visit interior and exterior finishes were in place throughout most of the building and access to the North and South sides of the building was limited due to fencing; therefore, we were unable to observe some areas of the structure that are likely to have additional undocumented damage. We did not access the attic of the structure or any potential crawl space areas due to lack of any evident access. Additionally, we were not provided historical construction or design documents, and we have not performed any structural analysis or design checks of the building per current building code.

The subject structure is a three-story light wood framed commercial building located on Newport's Historic Bayfront. The original structure appears to be a rectangular three-story structure with a gable roof with storefront parapets. It appears that a two-story addition was added to the original structure at the west wall. This addition has a monoslope roof. Based on our observations, the gravity force resisting system is comprised

of wood joists, beams, posts and bearing walls. Due to finishes we were unable to ascertain if the exterior walls were balloon framed or platform framed. The lateral force resisting system is most likely comprised of horizontal lumber sheathing barring any unknown past renovations or upgrades.

The east exterior wall is parallel to SW Bay Blvd. This exterior wall has an attached awning located at approximately the base of the second story. This exterior wall also has an architectural 'eyebrow' appendage at approximately the top of the third story. Both the south and north exterior walls are located in close proximity to adjacent buildings (approximately 3-5 ft clear). A multi-story structure is closely adjacent to the south exterior wall and a single-story structure closely adjacent to the north exterior wall. The east exterior walls back up to a slope and an elevated loading dock with walkway allows access to the third story of the building. Observation and evaluation of the loading dock was outside of PSE's scope of work.

While on site, PSE checked the plumbness of all the exterior walls using a 4-foot level. All observed exterior walls were plumb at the locations they were checked and also appeared to be plumb. Interior walls were also checked for plumbness and though some interior walls were found to be out of plumb, PSE believes that this is likely due to poorly installed or buckling finishes. Widespread deterioration and evidence of water intrusion, likely due to multiple decades of deferred maintenance, was observed. At the exterior of the building missing and deteriorating siding was observed as was failing paint.

There is widespread deterioration of the eyebrow appendage at the east wall of the building. During our site visit small debris impacted the awning at the east wall, presumably dislodged from this deteriorating eyebrow appendage. Vegetative growth on the eyebrow appendage was also observed. In its current condition, the eyebrow appendage poses a falling debris risk. The awning at the east exterior wall showed signs of mild corrosion and failing paint at the awning supports. Significant loss of section of these supports was not observed.

A hole approximately 10-feet in width and 5-feet in height was observed at the south wall of the structure. This hole extended through the exterior siding and sheathing. Due to lack of access at this wall of the structure we were unable to determine if the wall studs at this location had been damaged but based on the condition of the siding and sheathing, damage of the studs is likely. Vegetative growth in the neighboring buildings gutters suggest that these gutters are blocked and may overflow during a rain event and direct rainwater towards the south wall of the subject structure at the location of the hole. This hole potentially compromises the gravity force resisting system and reduces the capacity of the lateral force resisting system.

A second story floor beam was observed to be crushing on the column seat. Though it appears at some point two additional columns were added to support this beam near the location where the crushing occurred, based on conversations with the clients it is unlikely that this repair was an engineered design. The crushing of this beam indicates that the beam may be undersized or that the floor above may have historically been overloaded. Poorly executed repairs along the same beamline were also observed as were checked and/or splitting posts.

While on site, a small investigative hole was dug at the south-east corner of the building and no foundation was observed. At the interior of the first story at the north wall a hole in the finishes was discovered that allowed observation of the exterior wall and interior concrete slab interface. At this location it appeared that the concrete slab at the first story was poured between the wall framing. Based on these observations PSE believes it is likely that the building is not founded on a competent foundation. If true, this could lead to water intrusion and deterioration of structural members in contact with soil.

At the 2<sup>nd</sup> and 3<sup>rd</sup> stories the floors were sloping at multiple locations. This indicates possible differential settlement or failure of gravity force resisting elements below. Due to the apparent lack of competent foundation, differential settlement is a likely cause.

### Recommendations

We have not performed any detailed structural analysis or design of the building per current building codes. The recommendations detailed herein are based on engineering judgment and experience with similar structures.

Based on our limited visual observations, we have generated the following repair recommendations with suggested maximum repair timelines.

1. Removal of and/or repair of the eyebrow appendage at the east exterior wall of the building to alleviate the hazard of falling debris. PSE recommends completing this repair as soon as possible, but no longer than two months from the date of this report.
2. Removal of building contents at upper levels to reduce loading on the gravity force resisting system. PSE recommends completing this remediation as soon as possible, but no longer than six months from the date of this report.
3. Investigation and repair of the hole in the east exterior wall. PSE recommends completing this repair as soon as possible, but no longer than six months from the date of this report.
4. Investigation and repair of beamline supporting the second story floor. PSE recommends completing this repair as soon as possible, but no longer than six months from the date of this report.
5. Further investigation into the presence and/or condition of the foundation and repair and/or remediation of foundation as appropriate. PSE recommends completing this repair as soon as possible, but no longer than six months from the date of this report.
6. Completion of deferred maintenance including repairs to siding, paint, and waterproofing. PSE recommends that these repairs be completed as soon as possible, but no longer than six months from the date of this report.

### Conclusions

Based on our observations and limited visual inspection, at the time of our site visit the building does not appear to be an imminent life safety concern. Although PSE has not identified any imminent life safety concerns. It is our opinion that the structure is not fit for habitation. Repairs to the structure are required and should be completed in accordance with the timelines stated previously. As previously noted, our observations were limited to visually accessible areas, and it is our opinion that additional damage and/or deterioration is likely in many areas once finishes are removed that will need to be remediated. Failure to address the observed damaged and deteriorated areas and properly waterproof the structure will lead to additional deterioration and would pose a potential for an imminent hazardous condition to develop. If any movement or changes to the structure are observed prior to repairs, then the building should be further evaluated at that time.

Please note that these recommendations are based solely on our observations at the structure and engineering opinions. No calculations or analysis have been performed.



Richard Welton Estate

Thank you for requesting our services for evaluation of this building. Please don't hesitate to contact our office with any questions or comments

Sincerely,



Karryn Kimball, PE  
Project Manager  
Peterson Structural Engineers, Inc.



Sent via email to Jane McClellan on 6/21/2022 nwraven1951@aol.com

**Photographic Appendix**

**Photo 1**

Showing east exterior wall with awning, eyebrow appendage, and adjacent structures.



**Photo 1**

Showing west exterior wall with loading dock and two-story addition.





**Photo 3**

Showing  
deteriorating  
and missing  
siding and  
failing paint.



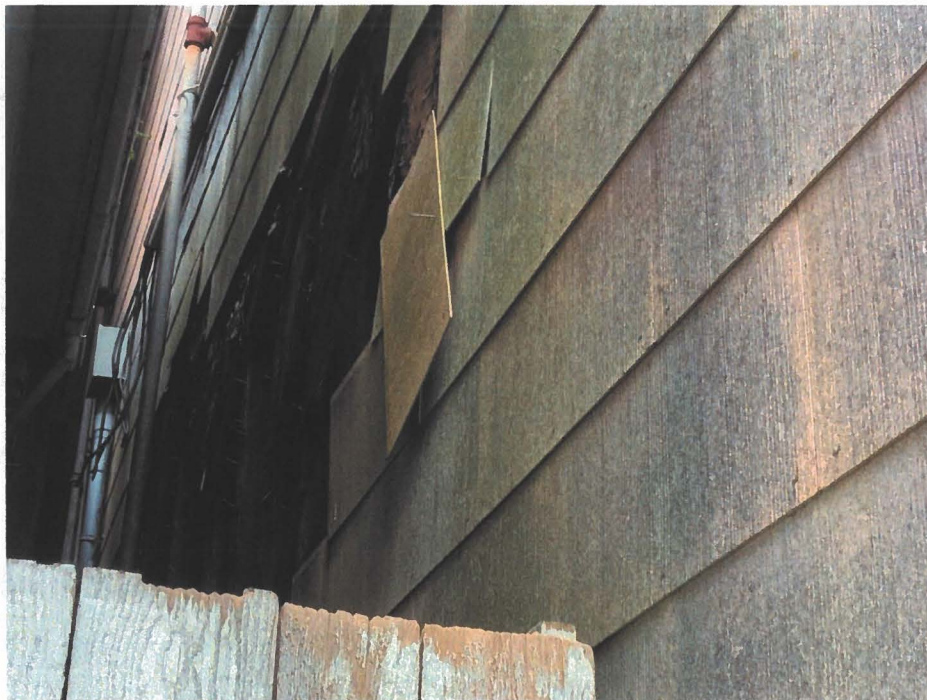
**Photo 4**

Showing  
deteriorating  
eyebrow  
appendage with  
vegetative  
growth.



**Photo 5**

Showing hole in south wall and vegetative growth in adjacent gutters.



**Photo 6**

Showing 2<sup>nd</sup> story floor beam crushing at column seat.





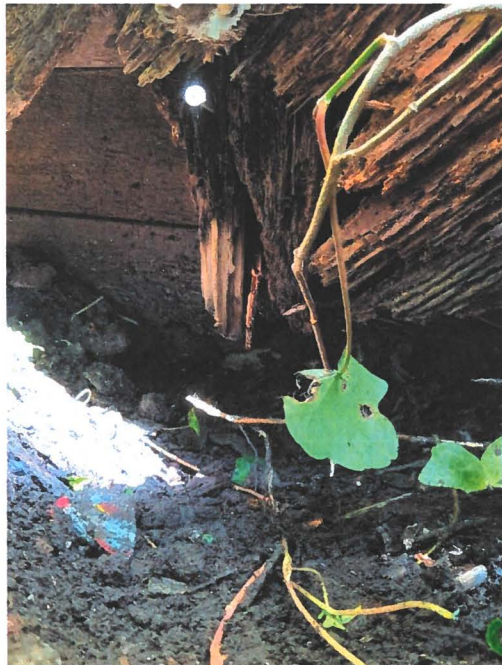
**Photo 7**

Showing poorly  
execute repairs  
at 2<sup>nd</sup> story  
floor beam.



**Photo 8**

Showing base  
of south  
exterior wall.



<p><b><u>Photo 9</u></b></p> <p>Showing interior wall to interface with interior concrete slab.</p>	
---	--

## Joseph Lease

---

**From:** Joseph Lease  
**Sent:** Thursday, July 07, 2022 10:17 AM  
**To:** 'Margaret Gander-Vo'  
**Subject:** RE: FW: McClellan Property 618-620 SW Bay Blvd., Newport, Oregon 97365

Hello Margaret,

Since there are structural issues and repairs are still needed action is still required to address the Notice of Violation. The engineer's report was somewhat limited in scope as noted in the report as there were areas where the engineer was not able to gain access to make observations of the structural conditions. This being said, since the engineer's report determined the building is not currently an imminent threat of collapse, the City will work with the owners or any potential buyer on a mitigation plan and timeline for demolition or repair. In expectation of this we are providing an additional 90 day extension to October 17, 2022.

The Notice should not impede the sale. Full disclosure should be provided to the buyer to the extent provided by law. The City has not filed any Notice of Pendency relating to this matter, and we generally don't as long as parties are working towards a solution.

I hope this answers your questions.

Thanks,

*Joseph Lease*, Building Official  
Community Development Department  
169 SW Coast Highway  
Newport, Oregon 97365  
[j.lease@newportoregon.gov](mailto:j.lease@newportoregon.gov)  
(541) 574-0627

---

**From:** Margaret Gander-Vo <Margaret@SGLAW.com>  
**Sent:** Tuesday, July 05, 2022 11:18 AM  
**To:** Joseph Lease <J.Lease@NewportOregon.gov>  
**Subject:** RE: FW: McClellan Property 618-620 SW Bay Blvd., Newport, Oregon 97365

Hello Joseph:

I'm following up on my previous email below. The Owner is entering into a PSA to sell the building to a neighboring property owner. Can you please confirm what the next steps would be in this situation?

Thank you,

**Margaret Y. Gander-Vo**

Lawyer – Real Estate and Land Use



Park Place, Suite 200 | 250 Church Street SE | Salem, Oregon 97301  
tel: 503.485.4271 | fax: 503.371.2927

[Email](#) | [Web](#)

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---

**From:** Margaret Gander-Vo  
**Sent:** Tuesday, June 21, 2022 3:45 PM  
**To:** 'Joseph Lease' <[J.Lease@NewportOregon.gov](mailto:J.Lease@NewportOregon.gov)>  
**Cc:** Garrett T. Urrutia <[gurrutia@sglaw.com](mailto:gurrutia@sglaw.com)>; Daniel S. Reynolds <[dreynolds@sglaw.com](mailto:dreynolds@sglaw.com)>  
**Subject:** FW: FW: McClellan Property 618-620 SW Bay Blvd., Newport, Oregon 97365

Hello Joseph,

My office represents the Estate of Richard C. Welton, the Owner of the property commonly known as 618-620 SW Bay Blvd., Newport, Oregon 97365. You previously spoke with Garret Urrutia in my office regarding a Notice and Order issued by the City against this property and agreed to grant an extension of 120 days to comply with the Notice and Order issued by the City against the property, which will lapse on July 17, 2022. I believe the expectation was to allow my client to engage an engineer to determine whether there is a risk of potential collapse and perform an analysis of the structural integrity of the property, although a complete structural analysis was not required at that time.

Attached is an Observation Memo prepared by a licensed engineer which establishes that the building is not currently at risk of an imminent collapse and recommending repairs. My client is in negotiations with a neighboring property owner for the sale of the property with the understanding that the building would be demolished by the prospective purchaser. As there are not any imminent threats, but there are suggested short term and long term repairs, can you clarify what the City's expectations are for the next steps in the enforcement action?

Thank you,  
**Margaret Y. Gander-Vo**  
Lawyer – Real Estate and Land Use



Park Place, Suite 200 | 250 Church Street SE | Salem, Oregon 97301  
tel: 503.485.4271 | fax: 503.371.2927  
[Email](#) | [Web](#)

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---

**From:** Joseph Lease <[J.Lease@NewportOregon.gov](mailto:J.Lease@NewportOregon.gov)>  
**Sent:** Wednesday, April 13, 2022 11:37 AM  
**To:** Garrett T. Urrutia <[gurrutia@sglaw.com](mailto:gurrutia@sglaw.com)>  
**Cc:** Derrick Tokos <[D.Tokos@NewportOregon.gov](mailto:D.Tokos@NewportOregon.gov)>; Daniel S. Reynolds <[DReynolds@sglaw.com](mailto:DReynolds@sglaw.com)>; Kayla Franz <[KFranz@sglaw.com](mailto:KFranz@sglaw.com)>  
**Subject:** RE: McClellan Property 618-620 SW Bay Blvd., Newport, Oregon 97365

Garrett,



The new suspense date will be July 17, 2022.

Thanks,

*Joseph Lease*, Building Official

Community Development Department

169 SW Coast Highway

Newport, Oregon 97365

[j.lease@newportoregon.gov](mailto:j.lease@newportoregon.gov)

(541) 574-0627

---

**From:** Garrett T. Urrutia <[gurrutia@sglaw.com](mailto:gurrutia@sglaw.com)>

**Sent:** Wednesday, April 13, 2022 11:20 AM

**To:** Joseph Lease <[J.Lease@NewportOregon.gov](mailto:J.Lease@NewportOregon.gov)>

**Cc:** Derrick Tokos <[D.Tokos@NewportOregon.gov](mailto:D.Tokos@NewportOregon.gov)>; Daniel S. Reynolds <[DReynolds@sglaw.com](mailto:DReynolds@sglaw.com)>; Kayla Franz <[KFranz@sglaw.com](mailto:KFranz@sglaw.com)>

**Subject:** RE: McClellan Property 618-620 SW Bay Blvd., Newport, Oregon 97365

Joseph,

Thank you for the follow up and the clarification. We will pass that along to our client as well.

Thanks,

**Garrett Urrutia**

Lawyer - Business Litigation & Employment Law



Saalfeld Griggs

Park Place, Suite 200 | 250 Church Street SE | Salem, Oregon 97301  
office: 503.399.1070 | fax: 503.485.5641

[Email](#) | [Web](#) | [Bio](#) |

Paralegal | Kayla Franz | [kfranz@sglaw.com](mailto:kfranz@sglaw.com)

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**From:** Joseph Lease <[J.Lease@NewportOregon.gov](mailto:J.Lease@NewportOregon.gov)>  
**Sent:** Wednesday, April 13, 2022 11:13 AM  
**To:** Garrett T. Urrutia <[gurrutia@sglaw.com](mailto:gurrutia@sglaw.com)>  
**Cc:** Derrick Tokos <[D.Tokos@NewportOregon.gov](mailto:D.Tokos@NewportOregon.gov)>  
**Subject:** RE: McClellan Property 618-620 SW Bay Blvd., Newport, Oregon 97365

Hello Garret,

I would just add that if the Engineer finds any imminent hazards that he/she also provide recommendations on temporary measures to mitigate the hazards, and that the Estate takes appropriate steps to implement the mitigation measures.

Thanks,

*Joseph Lease*, Building Official

Community Development Department

169 SW Coast Highway

Newport, Oregon 97365

[j.lease@newportoregon.gov](mailto:j.lease@newportoregon.gov)

(541) 574-0627

---

**From:** Garrett T. Urrutia <[gurrutia@sglaw.com](mailto:gurrutia@sglaw.com)>  
**Sent:** Wednesday, April 13, 2022 10:14 AM  
**To:** Joseph Lease <[J.Lease@NewportOregon.gov](mailto:J.Lease@NewportOregon.gov)>  
**Cc:** Daniel S. Reynolds <[DReynolds@sglaw.com](mailto:DReynolds@sglaw.com)>; Kayla Franz <[KFranz@sglaw.com](mailto:KFranz@sglaw.com)>  
**Subject:** McClellan Property 618-620 SW Bay Blvd., Newport, Oregon 97365

**[WARNING]** This message comes from an external organization. Be careful of embedded links.

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Mr. Lease,

Thank you for the phone call this morning. As we agreed, I am following up that conversation with this email memorializing what we discussed.

The city is concerned about the structural integrity of our client's building. You specifically mentioned the east side wall is out of plum and the building is leaning. You further expressed that the neighboring property is concerned that if our client's building were to fall, it could potentially damage the neighboring building.

I expressed to you that our client is making efforts to comply with the City of Newport's Notice and Order dated March 17, 2022, but is requesting additional time to engage professionals to develop a corrective action plan.

Ultimately, you agreed to grant an extension of 120 days for our client to comply with the Notice and Order. You further agreed that a complete corrective action plan would not be necessary, so long as our client engages the services of an engineer, who prepares and submits to you a structural integrity analysis. You specified that a complete structural analysis would not be necessary, but the engineer's assessment must address whether there is a potential that the building could collapse and a determination of whether the building has a foundation, and if so, its condition.

If I failed to mention or misstated any of the terms that we discussed or agreed to, please let me know.

Otherwise, if you have any other questions, please don't hesitate to contact our office.

Thank you,

**Garrett Urrutia**

Lawyer - Business Litigation & Employment Law



Park Place, Suite 200 | 250 Church Street SE | Salem, Oregon 97301  
office: 503.399.1070 | fax: 503.485.5641

[Email](#) | [Web](#) | [Bio](#) |

Paralegal | Kayla Franz | [kfranz@sglaw.com](mailto:kfranz@sglaw.com)

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RECORDING REQUESTED BY:

  
**Western** Title & Escrow

255 SW Coast Highway, Suite 100  
Newport, OR 97365

AFTER RECORDING RETURN TO:

Dylan McEntee

Mo's Enterprises, Inc.

*657 SW Bay Blvd  
Newport OR 97365*

SEND TAX STATEMENTS TO:

Mo's Enterprises, Inc.

*Same As Above*

R430336 and 11-11-08-CA-05100-00

Lincoln County, Oregon

10/07/2022 03:41:02 PM

DOC-PRD

**2022-09567**

Cnt=1 Pgs=2 Stn=10

\$10.00 \$11.00 \$10.00 \$60.00 \$7.00

\$98.00

I, Dana W. Jenkins, County Clerk, do hereby certify that the within instrument was recorded in the Lincoln County Book of Records on the above date and time. WITNESS my hand and seal of said office affixed.



Dana W. Jenkins, Lincoln County Clerk



SPACE ABOVE THIS LINE FOR RECORDER'S USE

**PERSONAL REPRESENTATIVE'S DEED**

Jane M. McClellan, the duly appointed, qualified and acting personal representative of the estate of Richard Charles Welton, deceased, pursuant to proceedings filed in Circuit Court for Lincoln County, Oregon, Case No. 22PB01129, Grantor, conveys to Mo's Enterprises, Inc., Grantee, all the estate, right and interest of the above named deceased at the time of the deceased's death, and all the right, title and interest that the above named estate of the deceased by operation of law or otherwise may have acquired afterwards, in and to the following described real property:

Lot 5, Block 3, NEWPORT, in the City of Newport, County of Lincoln and State of Oregon.

EXCEPTING THEREFROM the Northeasterly 16 1/3 feet as conveyed to C.A. Gregory, et ux, by deed recorded April 4, 1945 in Book 103, page 410, Deed Records.

The true consideration for this conveyance is Four Hundred Forty-Six Thousand Two Hundred Fifty And No/100 Dollars (\$446,250.00).

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

# PERSONAL REPRESENTATIVE'S DEED

(continued)

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.

The Estate of Richard Charles Welton

By: Jane M. McClellan 9/29/2022  
Jane M. McClellan, Successor Peronal Representative Date

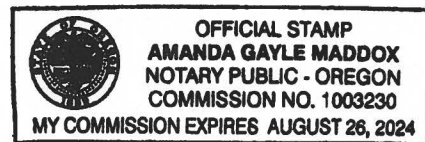
State of OREGON

County of Lincoln

This instrument was acknowledged before me on Sept 29, 2022 by Jane M. McClellan, as Successor Peronal Representative for The Estate of Richard Charles Welton.

Amanda Maddox  
Notary Public - State of Oregon

My Commission Expires: Aug 26, 2024



## Derrick Tokos

---

**From:** Derrick Tokos  
**Sent:** Tuesday, December 20, 2022 1:49 PM  
**To:** 'Celeste McEntee'  
**Cc:** 'Celeste McEntee'; 'Celeste McEntee'  
**Subject:** Reissued Demolition Permit for 618 SW Bay Blvd  
**Attachments:** 625-22-000856-DEMO.pdf; historic inventory.pdf; NMC Chapter 14.23.pdf  
  
**Importance:** High

Hi Celeste,

Per our discussion, attached is an amended demolition permit that limits activities to the removal of asbestos siding, and asbestos laden materials from within the building that I understand relates to portions of the flooring. This will allow you to move forward with the abatement that you have scheduled for 1/3/23 without incurring a financial penalty for rescheduling. We can view the abatement as a repair, since the permitted work does not foreclose the possibility of the building being restored to its original character (NMC 14.23.030(A)).

This building is one of the oldest in Newport and is included in the City's adopted inventory of historic buildings. Conditional use review by the Planning Commission is required to alter the building, and the Commission is charged with ensuring that proposed changes will not detract from or destroy the building or the architectural features that led to it being listed as significant (NMC 14.23.040).

The conditional use rules do not provide for demolition of the entire structure, even though it may be warranted in certain circumstances. This is an issue that I am prepared to bring to the Commission's attention at its January 9<sup>th</sup> meeting to see if they would be willing to modify the City's rules to either (a) remove the building from the City's historic inventory given its deteriorated condition or (b) add language to the Municipal Code to allow demolition of historic buildings in circumstances where the condition of the structure is such that it is a health/safety hazard that cannot be practicably remedied. If the Commission is prepared to move forward with one of these options then it will take 90-120 days to work the changes through a legislative process with hearings before the Commission and Council. This means that the earliest full demolition could occur (assuming the legislative changes are adopted) would be the April/May timeframe. The City would issue a new demolition permit at that point in time.

I understand that you cannot attend the January 9<sup>th</sup> Commission meeting, but that you have some information you would like me to share with the Commission regarding the compromised condition of the building and your plans for redeveloping the property. Please send it to me by January 5<sup>th</sup> so that we can include it in the meeting packet.

Attached for your reference is the City's historic building inventory and NMC Chapter 14.23 that sets out the conditional use review process for alterations to historic structures.

Let me know if you have any questions.

*Derrick I. Tokos, AICP*  
Community Development Director  
City of Newport  
169 SW Coast Highway  
Newport, OR 97365  
ph: 541.574.0626 fax: 541.574.0644  
[d.tokos@newportoregon.gov](mailto:d.tokos@newportoregon.gov)



City of Newport

169 SW Coast Hwy

Newport, OR 97365

541-574-0629

Fax: 541-574-0644

## Building Permit

### Commercial Demolition

**Permit Number: 625-22-000856-DEMO**

IVR Number: 625014608659

Web Address: [www.newportoregon.gov](http://www.newportoregon.gov)

Email Address: [permits@newportoregon.gov](mailto:permits@newportoregon.gov)

**Permit Issued:** December 14, 2022

**Application Date:** December 14, 2022

#### TYPE OF WORK

**Category of Construction:** Commercial

**Type of Work:** Demolition

**Submitted Job Value:** \$0.00

**Description of Work:** Removal of Asbestos Siding and Asbestos Laden Material From Within the Building. (This amended permit issued on December 20, 2022 replaces permit issued December 14, 2022 with description of: Demo building and small temp shed next to building)

#### JOB SITE INFORMATION

**Worksite Address**

618 SW BAY BLVD

Newport OR

**Parcel**

11-11-08-CA-05100-00

**Owner:**

MOS ENTERPRISES INC

**Address:**

657 SW BAY BLVD

NEWPORT, OR 97365

#### LICENSED PROFESSIONAL INFORMATION

**Business Name**

STATON COMPANIES - Primary

**License**

CCB

**License Number**

3371

**Phone**

541-726-9422

#### PENDING INSPECTIONS

**Inspection**

1999 Final Building

**Inspection Group**

Struct Com

**Inspection Status**

Pending

#### SCHEDULING INSPECTIONS

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

Schedule or track inspections at [www.buildingpermits.oregon.gov](http://www.buildingpermits.oregon.gov)

Call or text the word "schedule" to 1-888-299-2821 use IVR number: 625014608659

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

#### PERMIT FEES

Fee Description	Quantity	Fee Amount
Demolition permit fee - large commercial structure >4,000 sqft		\$250.00
<b>Total Fees:</b>		<b>\$250.00</b>

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

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

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

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

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

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





## **HISTORY**

### **Early History:**

"Local Indian tribes were the first known residents of the Oregon Coast. Although they had many similarities, individual tribes occupied separate and sometimes separated areas. Thus, by the time the first explorers landed, the Indians had developed differing customs and varying levels of attainment in use of available natural resources, including well-developed religious and political systems. This was particularly true along the Oregon coast, where a temperate climate and plentiful food supplies, particularly anadromous fish, supported large groups living in relatively close proximity to each other.

"Juan Cabrillo, a Spanish explorer, is believed to have reached the southern Oregon Coast in 1542. By 1594, Spain was systematically exploring the northwest coast. In the late 1700's, Spain made thorough, systematic, and accurate surveys of the area, and claimed sovereignty over portions of the coast. Heceta Head, in the mid-Coast subarea, is named for one of the Spanish explorers.

"In March of 1778, Captain James Cook, in a search for the supposed Northwest Passage, made the first landfall of his voyage near Yaquina Bay, also in the Mid Coast subarea; and in 1787, Captain Meares identified points along the Oregon coast. Also about that time, an American, Captain Robert Gray, entered [the] Columbia River and explored its lower reaches, but made no claims of possession for the United States.

"In 1805, Captains Meriwether Lewis and William Clark, after leaving St. Louis, Missouri, in 1804, reached the Pacific Coast and wintered near the Columbia River. Following Lewis and Clark came increasing numbers of trappers, traders, and settlers, both Canadian and American. Fort Astor was established on the Columbia River by John Jacob Astor, an American; in 1821 it was acquired by Hudson's Bay Company and moved inland to a site in what is now the State of Washington. In 1825, the fort was renamed Fort Vancouver.

"By the middle 1830's, exploration was largely completed, Indian tribes and their complex social systems were experiencing severe adjustments to accommodate the increasing number of settlers, and disease was sharply reducing their numbers."<sup>1</sup>

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<sup>1</sup> Pacific Northwest River Basins Commission, The Oregon Coast Level B Study of the Water and Related Land Resources (Oregon State Study Team, 1976), p. 15.

The Pacific Northwest would never be the same.

### **Recent History:**

"The Yaquina Bay area was originally settled in the 1850's. Newport was named in 1866 and subsequently incorporated in 1882. Lack of access generally stifled any significant growth until the 1880's when construction on the railway was begun. The first train made the trip from Corvallis to Yaquina in 1885. The construction of the railway first to Elk City and then to Toledo significantly improved access and stimulated growth in the Newport area. Newport began to develop as a tourist community. Yaquina Bay was the only bay on the Oregon Coast connected to the Willamette Valley by railway. People coming to Newport would take the train from Albany and Corvallis to Elk City and down the Yaquina River on a ferry to Newport, docking on what is now Bay Boulevard.

"In the 1890's, Newport had a permanent population of approximately 120 people. In a brochure advertising the recreational attraction of the Newport area, promoters claimed to have had hotel and boarding house accommodations for 400 to 500 people plus unlimited camping space available.

"While Newport experienced relatively slow growth, the cities up the river involved in lumbering and other industries thrived. Steam boats and schooners often came in and out of the bay to pick up a load of lumber or Yaquina oysters, and deliver supplies to the settlers. Before it burned, Yaquina City had a population of over 2,000.

"Commercial fishing was also an important industry and provided settlers with food as well as a source of income.

"During World War I, the United States Government established the largest spruce mill in the world at Toledo, to provide wood for the construction of airplanes. This also served to stimulate growth in the Newport area.

"Newport continued to be the primary coastal tourist center for the Willamette Valley until the late 1920's when construction began on the Coast Highway and other areas of the coast were opened up to motorists.

"In 1936 the Yaquina Bay Bridge was built. With the building of other bridges and completion of the coast highway, the full length of the Oregon Coast was opened to travelers. While tourists no longer came exclusively to Newport, the construction of the coast highway and bridges allowed many more people to vacation on the coast and Newport continued to grow.

"With the growth of tourism, fishing, and lumbering and continued improved access after 1936, Newport began to grow fairly rapidly until the late 1950's and early 1960's. Then many of the mills in the area closed down, resulting in many families leaving the area. More recently with increasing numbers of people traveling the Coast Highway, Newport is again growing." <sup>2</sup>

During the 1970's and 1980's, Newport experienced sharp swings in the local economy. Still dependent on the tourism, lumber, and fishing industries, the drastic fluctuations in energy costs, interest rates, and commodity prices severely affected the amount and type of growth.

### **Historical and Archaeological Resources:**

The historical and archaeological heritage of the Oregon coast is irreplaceable both to the people of the coast and the entire State of Oregon. It offers present and future generations educational and scientific opportunities to better understand the ways, values, and traditions of the past coastal peoples. These historical and archaeological resources also have value to the coastal economy for their attraction to tourists and potential residents. Thus, it is important to inventory and protect those resources that have been identified as having historic or archaeological significance.

As the competition for land has grown, some of these sites have become desirable for other uses; they will convert to those uses unless they're protected by some method. The job of concerned citizens through their public officials is to determine which of these resources are too valuable to be lost and then to implement methods for their protection.

In determining historical or archaeological significance of districts, sites, buildings, structures, and objects, the following characteristics can serve as a guide:

#### **Historic Sites:**

- (a) Have character, interest, or value as part of the development heritage or cultural characteristics of the city, state or nation;
- (b) Are the site of an historic event with an effect upon society;

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<sup>2</sup> City of Newport, Oregon, 1980-2000 Newport Comprehensive Plan, 1982.



- c) Are identified with a person or group of persons who had some influence on society; or
- d) Exemplify the cultural, political, economic, social, or historical heritage of the community.

Archaeological Sites:

- (a) Have material evidence of human life and culture of the prehistoric past that may be recovered and studied; or
- (b) Are identified as potential archaeological sites by a recognized archaeological organization.

Considering the above criteria, and in view of the historical significance of Newport as one of the first coastal recreation communities, the Lincoln County Historical Society has identified the following sites within the Newport urban growth boundary as being of historical significance:

1.) Cape Foulweather Lighthouse/Yaquina Head Lighthouse:

Constructed by the U.S. Lighthouse service in 1862, this is the second oldest lighthouse on the Oregon Coast<sup>3</sup> and was built to replace the light at the entrance to Yaquina Bay. Apparently, the lighthouse was originally to have been erected on Cape Foulweather, but the supplies were mistakenly landed at Yaquina Head, so it was built there. The Oregon Coastal Zone Management Association (OCZMA) has classified the site as being of natural historic significance, and it is marked with a Lincoln County Historical Society marker, as well as being listed on their map. The National Register of Historic Places also lists the site.

Owner: U.S. Bureau of Land Management.

Current Use: Automated lighthouse, wildlife refuge, and a scenic and natural area.

Conflicting Use: None.

Site of Special Historic Significance: Yes.

Building of Special Historic Significance: Yes (lighthouse only).

Conclusion: The site and lighthouse should be preserved. Other out buildings are not significant and are not worth

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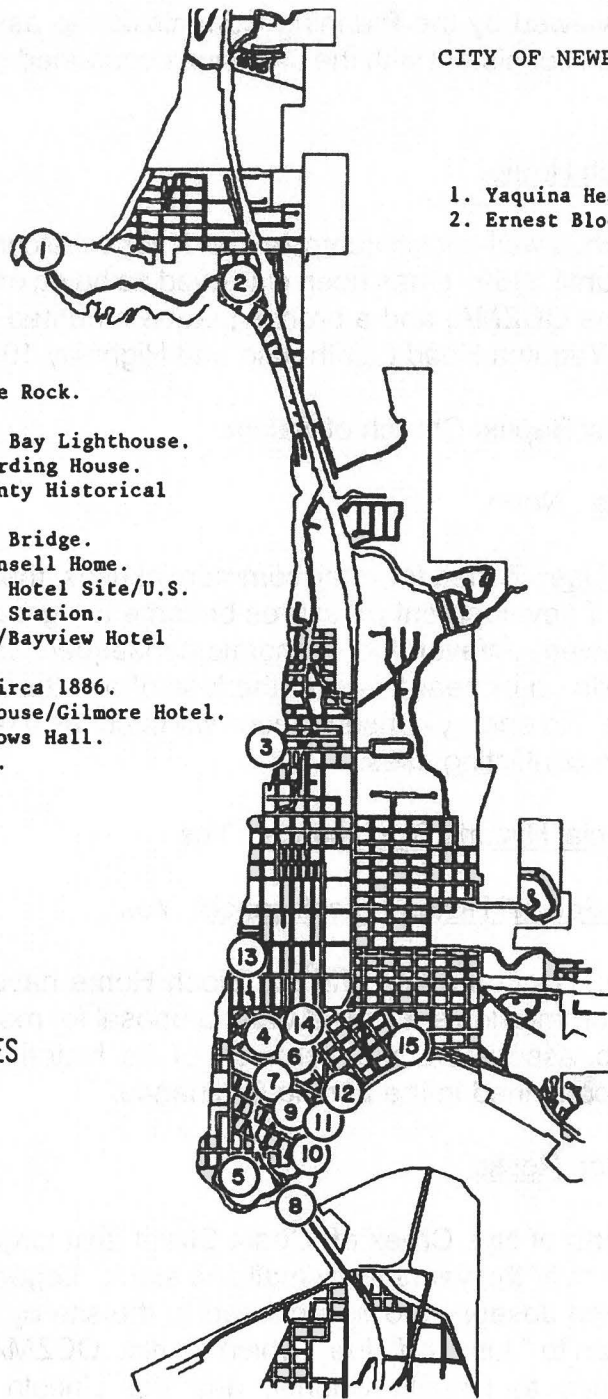
<sup>3</sup> The first is the old Yaquina Bay Lighthouse (number 5 on this list).

CITY OF NEWPORT

1. Yaquina Head Lighthouse.
2. Ernest Bloch Home.

3. Jump-Off Joe Rock.
4. The Castle.
5. Old Yaquina Bay Lighthouse.
6. Burrows Boarding House.
7. Lincoln County Historical Museum.
8. Yaquina Bay Bridge.
9. Royal A. Bensell Home.
10. Ocean House Hotel Site/U.S. Coast Guard Station.
11. Abbey Hotel/Bayview Hotel Site.
12. The Grand/Circa 1886.
13. New Cliff House/Gilmore Hotel.
14. Old Oddfellows Hall.
15. Scott House.

HISTORIC AND  
CULTURAL  
RESOURCE SITES



the preservation effort. Any modification or alteration to the lighthouse or the site shall be reviewed by the Planning Commission to assure the maintenance of its historic value consistent with the provisions contained in the City of Newport Zoning Ordinance.

2.) Ernest Bloch Home:

Ernest Bloch, a well-known composer and orchestra conductor, occupied this house from 1941 until 1959. It has been classified as being of historical importance to the nation by the OCZMA, and a bronze plaque mounted on a boulder located at the junction of Yaquina Head Lighthouse and Highway 101 marks the site.

Owner: First Baptist Church of Salem.

Current Use: None.

Conflicting Use: Zoned for retail commercial uses, there could be negative results for the site if development pressures become too great. If retail commercial uses are not allowed, unfavorable economic consequences could occur. If conflicting uses develop on or near this site, the loss of a cultural resource could be socially detrimental. No energy consequences will occur as a result of either allowing or not allowing the conflicting uses.

Site of Special Historic Significance: Yes.

Building of Special Historic Significance: Yes.

Conclusion: Both the site and the Bloch Home have significance such that the Planning Commission shall review any proposal for modification or alteration to the structure to assure the maintenance of its historic value consistent with the provisions contained in the Zoning Ordinance.

3.) Jump-Off Joe Rock:

Located north of Nye Creek off Coast Street, this large Nye Sandstone formation has eroded over the years to a small sea stack. Legend attributes the name to an Indian named Joseph who was chased to the site by men and was advised by a Siletz woman to "Jump off, Joe", which he did. OCZMA classifies the site as being of importance to Lincoln County, and the Lincoln County Historical Society distinguishes the site with both a marker and being shown on their map.

The Jump-Off Joe landslide area is an example of a detached mass sliding on a seaward-dipping bedding plane. Both north and south of Jump-Off Joe the heads of slides have moved

land forward several hundred feet and have cut off roads, damaged or destroyed houses, and disrupted the ground surface. More than 16 acres of land have been involved in the Jump-Off Joe landslide area. While this is a dramatic example of a catastrophic slide potential, because so much of Lincoln County's development is along the margin of the marine terrace where soft soil and weathered rock is being undermined by erosion at a rapid rate, catastrophic landslides are a potential hazard in many areas.<sup>4</sup> Thus, the city has concluded that while this particular slide area must be mentioned as a geologic hazard, it has not been found to be scientifically significant.

Owner: State of Oregon.

Current Use: Natural area.

Conflicting Use: None (site is in the ocean).

Site of Special Historic Significance: Yes.

Conclusion: State ownership protects the site. The inshore area is City of Newport park land, which contributes to site protection.

#### 4,) The Castle:

Located on S.W. Alder Street just west of U.S. Highway 101, and now divided into three apartments, this house was built by Charles A. and Teresa Roper in 1912.<sup>5</sup> The site is listed on the National Register of Historic Places.

Owner: Jeff Ouderkirk.

Current Use: Residential (apartments).

Conflicting Use: None (zoned for residential use).

Site of Special Historic Significance: No.

Building of Special Historic Significance: Yes.

Conclusion: The building is worth preserving. Any modification or alteration to the building or the site shall be reviewed by the Planning Commission to assure that its

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<sup>4</sup> State of Oregon Department of Geology and Mineral Industries, Bulletin 81: Environmental Geology of Lincoln County, Oregon, 1973.

<sup>5</sup> Charles Roper was the mayor of Newport from 1921-23.



historic value is maintained consistent with the provisions contained in the Zoning Ordinance.

5.) Old Yaquina Bay Lighthouse:

Built in 1871, this was the first lighthouse on the Oregon Coast. It is classified as being of historical importance to the nation by the OCZMA, and the Lincoln County Historical Society distinguishes the site on their map and with a marker. The National Register of Historic Places also lists the site. The lighthouse is on property owned by the Oregon State Parks Department, which maintains it as a museum. It is open to the public during the summer months.

Owner: Oregon State Parks Department.

Current Use: Museum.

Conflicting Use: None.

Site of Special Historic Significance: Yes.

Building of Special Historic Significance: Yes.

Conclusion: The building and site are worth preserving, and they are adequately protected by the Oregon State Parks Department. Any modification or alteration to the lighthouse or the site shall be reviewed by the Planning Commission to assure the maintenance of its historic value consistent with the provisions contained in the Zoning Ordinance.

6.) Burrows Boarding House:

This building was originally located west of Highway 101 at the site of the Bank of Newport. Originally used as a boarding house and then as the Bateman Funeral Home, the Lincoln County Historical Society moved it in 1976 to S.W. 9th Street next to their museum to serve as a museum annex. Photographs in 1889 show the Queen Anne style building as a boarding house. OCZMA has rated the house as being of historical significance to the City of Newport.

Owner: Lincoln County Historical Society (the land is owned by the City of Newport).

Current Use: Museum.

Conflicting Use: None (zoned for public buildings).

Site of Special Historic Significance: No.

Building of Special Historic Significance: Yes.

Conclusion: The building and site are worth preserving, and they are adequately protected by both the Lincoln County Historical Society and the City of Newport. Any modification or alteration to the building or the site shall be reviewed by the Planning Commission to assure the maintenance of its historic value consistent with the provisions contained in the Zoning Ordinance.

7.) Lincoln County Historical Museum:

A log building on S.W. 9th Street, the museum has one of the finest Indian interpretive exhibits on the Coast.

Owner: Lincoln County Historical Society (the land is owned by the City of Newport).

Current Use: Museum.

Conflicting Use: None (zoned for public buildings).

Site of Special Historic Significance: No.

Building of Special Historic Significance: No.

Conclusion: The building is a replica of a early log cabin and contains important historic exhibits and artifacts. Change, expansion, removal, or replacement of the building by the Historical Society, as needed, shall be allowed.

8.) Yaquina Bay Bridge:

Completed in 1936 after two years of construction, the bridge replaced the Yaquina Bay Ferry and was a key portion of the coast highway system. The bridge led to development of the business district along Highway 101 in Newport, dramatically increasing tourism on the Oregon Coast. OCZMA has categorized the bridge as having importance to the state.

Owner: State of Oregon.

Current Use: Bridge.

Conflicting Use: None.

Site of Special Historic Significance: Yes.

Structure of Special Historic Significance: Yes.

Conclusion: If necessary to expand the bridge, it should be in the same corridor. Any expansion shall preserve the bridge silhouette by locating on the west side. Any modification or alteration to the bridge or the site shall be reviewed by the Planning Commission to assure the maintenance of its historic value consistent with the provisions contained in the Zoning Ordinance.

9.) Royal A. Bensell Home:

Located at 757 S.W. 13th Street, this home was built in 1885 by Royal A. Bensell, an infantryman to the Grande Ronde Reservation in the Civil War. He was a co-owner of a steam sawmill at Depot Slough and was involved in direct lumber shipments to San Francisco. Bensell served as a representative to the State Legislature from Western Benton County from 1868-1882, and was justice of the peace and collector of customs for the Yaquina District in the 1880's. Mr. Bensell also served as mayor of Newport from 1908-10, 1915-17, and part of 1921. The OCZMA notes this home as being of historical importance to the county.

Owner: Dr. Russell Guiss.

Current Use: Residence.

Conflicting Use: Yes.

Site of Special Historic Significance: Yes.

Building of Special Historic Significance: No.

Conclusion: The structure has undergone wholesale structural and aesthetic changes during the last 25 years through the efforts of the current owners, Dr. and Mrs. Russell Guiss. These alterations have irrevocably altered the original appearance and character of the house by commingling contemporary building materials and designs with the original.

10.) Ocean House Hotel Site and U.S. Coast Guard Station:

The Ocean House Hotel was built in 1866-67 by James R. Bayley<sup>6</sup> and Samuel Case. Case, the proprietor, came to the area as an infantryman to serve at the Siletz Reservation. The present U.S. Coast Guard Station is located on the Ocean House Hotel Site and was built in about 1935. The OCZMA has listed the site as having historical importance to the

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<sup>6</sup> Mayor of Newport from 1884-85, 1892-93, and 1897-99.

county. A Lincoln County Historical society marker identifies the Ocean House site, and it is shown on their map.

Owner: U.S. Coast Guard.

Current Use: Coast Guard Station.

Conflicting Use: None.

Site of Special Historic Significance: Yes.

Building of Special Historic Significance: Yes.

Conclusion: The historic marker for the site should be maintained, as should the typical 1930's Coast Guard style. This is a significant anchor to the original town site. Any modification or alteration to the building or the site shall be reviewed by the Planning Commission to assure the maintenance of its historic value consistent with the provisions contained in the Zoning Ordinance.

11.) Abbey Hotel/Bayview Hotel Site:

Peter Morton Abbey was one of Newport's pioneer settlers in 1867. He built the Bayview Hotel in 1871 on the waterfront and moved it back against the hill in 1911. The hotel was torn down in 1935. The Abbey Hotel, built in 1911 at 704 S.W. Bay Boulevard, operated until it burned in 1964. It was a three-story wooden building with 45 rooms. George Bahr, the owner in 1964, replaced the hotel with a restaurant-bar called "The Abbey," which was subsequently torn down for a parking lot in 1986. The OCZMA has recognized the site as having historic importance.

Owner: City of Newport.

Current Use: Public parking lot and rest rooms.

Conflicting Use: Yes (zoned for water-related uses).

Site of Special Historic Significance: Yes.

Building of Special Historic Significance: No.

Conclusion: Preservation of neither site is required. A sidewalk marker may be appropriate.

12.) The Grand:

This two and one-half story wooden structure at 618 S.W. Bay Boulevard is one of the oldest structures, if not the oldest, on the Newport waterfront. It was built in 1886 as an



Oddfellows or Masonic Lodge in Olsonville (about a half a mile up the bay from its present location) and was established as a boarding house. It is now known as "Circa 1886," a gift shop. The building has historic significance to the county according to the OCZMA.

Owners: Richard C. Wilton.

Current Use: Gift shop.

Conflicting Use: While the building's location provides much of its historical significance, the designation of the area for water-related uses could pose a conflict. Because the building is one of the city's few historic buildings, its loss would have adverse social consequences. Its preservation would not have an adverse economic impact, as long as the character of the bayfront remains a mix of tourist and water-related uses. No significant energy consequences are likely to occur as a result of the preservation of this building or the identified conflicting uses.

Site of Special Significance: No.

Building of Special Significance: Yes.

Conclusions: The Planning Commission review of alterations or modification of this building will assure maintenance of historic value of the structure. The provisions contained in the Zoning Ordinance shall govern any review.

13.) New Cliff House/Gilmore Hotel:

Located on the ocean at the end of N.W. 3rd Street, this hotel was completed in 1913 by W.D. Wheeler. He and Peter Gilmore traded businesses in 1921, Gilmore taking over the hotel and Wheeler taking on Gilmore's chicken ranch outside of town. The Gilmore is the last of the turn-of-the-century oceanfront resort hotels in Newport still standing. Completely restored, it is currently operating as the Sylvia Beach Hotel.

Owner: Sylvia Beach Hotel, Inc.

Current Use: Hotel.

Conflicting Use: No (zoned for tourist commercial).

Site of Special Historic Significance: Yes.

Building of Special Historic Significance: Yes.

Conclusion: The structure is restored. The Planning Commission shall review any future alterations to assure the maintenance of the historic value. Such review shall be consistent with provisions contained in the Zoning Ordinance.

14.) Old Oddfellows Hall:

Located on the southwest corner of S.W. Hurbert Street and U.S. Highway 101, this large wooden frame structure was completed in 1912. Besides the Oddfellows, it has also housed Newport's U.S. Post Office and various retail businesses. A restaurant is currently in operation there.

Owner: Charles Thompson.

Current Use: Restaurant and other retail businesses.

Conflicting Use: Yes. The building has been substantially altered. The area is zoned for retail commercial uses but has a parking problem.

Site of Special Historic Significance: No.

Building of Special Historic Significance: No.

Conclusion: Neither the site nor the building should be preserved.

15.) Scott House:

Located on S.E. Bay Boulevard across from Port Dock 5, this house was built in 1928 by General Ulysses S. Grant McAlexander, a World War I veteran known as the "Rock of Marne." The house was built on the foundation of Dr. James R. Bayley's mansion and has been partially rehabilitated. Since this house is not the original structure and has been altered, it has no special historic significance. The site itself has been significantly altered in anticipation of commercial development.

Owner: Magna Corporation.

Current Use: Restaurant and lounge (Gracie's at Smuggler's Cove).

Conflicting Use: Yes (zoned for high density residential).

Site of Special Historic Significance: No.

Building of Special Historic Significance: No.

Conclusion: The building and the site are not significant and not worth any preservation effort.

16.) Oar House Bed and Breakfast:

The Oar House Bed and Breakfast is located at 520 S.W. 2nd Street. Built in approximately 1900 for Mrs. C.H. Bradshaw as "The Bradshaw," a rooming house, it has functioned in that capacity for 75 of its 88 years. On the corner of S.W. 2nd and S.W. Brook Streets, it is an L-shaped cross-gabled Craftsman style building. Although altered by the addition of some auxiliary structures, wall openings, and room partitions, the building retains most of its original fabric and function. Photographs dated 1907 and 1910 indicate little change to the main structure configuration except for the addition of the cupola in 1981.

Owners: Jan G. LeBrun.

Current Use: Bed and breakfast and residence.

Conflicting Use: No (zoned for high density residential and is developed residentially).

Site of Special Historic Significance: Yes.

Building of Special Historic Significance: No (building has been substantially altered).

Conclusion: The building and site do have the potential to be of special historic significance, but alterations to the building have compromised the historic quality. This site will need to be looked at closer to make a final determination of its significance.

Besides the above sites and structures, the bayfront and the Nye Beach areas are two potential historic districts. No specific study and determination has been made, but the importance of those two areas for their historic significance suggests that the city should explore the possibility of designating them as historic districts.

As for archaeological sites, all of the Newport Planning area falls within the "high density" archaeological site density classification shown in the 1976 Lincoln County Statewide Inventory of Historic Sites and Buildings<sup>7</sup>. In addition, the state archaeologist has said that areas as far as five miles upstream

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<sup>7</sup> State of Oregon Department of Transportation (Parks and Recreation Division), State of Oregon Inventory of Historic Sites and Buildings, 1974.

on all streams and rivers emptying into the ocean are archaeological sensitive areas.

**Conclusions:**

- 1.) The Newport planning area contains several historic sites and buildings and two potential historic districts.
- 2.) Many of the sites and buildings are worth preserving, whereas some alterations and remodels have destroyed the historic qualities.
- 3.) While there are no conflicting uses among the sites currently listed, the inventory of historical-cultural sites developed thus far does contain several structures that are in precarious physical condition. Those sites may also be subject to a use change that could diminish their historic value.
- 4.) All of the Newport planning area is archaeologically sensitive.

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**GOALS/POLICIES**  
**HISTORY**

**Goals:** To maintain and preserve identified historic and cultural resources, to encourage private and public efforts aimed at preservation, to provide public information concerning the city's historic resources, and to provide public access to important historic-cultural sites where appropriate and possible.

**Policy 1:** The City of Newport shall work with the Lincoln County Historical Society and the State Advisory Committee on historic preservation, as well as with local residents to maintain and update the inventory of historically and culturally significant resources.

**Policy 2:** The City of Newport shall cooperate with the Lincoln County Historical Society and the Chamber of Commerce in the establishment of historical markers and information to increase awareness of Newport's historic background.

**Policy 3:** The City of Newport may consider the creation of historic districts, property acquisition, ordinance provisions, tax benefits, and other incentives to facilitate the preservation of an historic area.



**Policy 4:** The City of Newport shall encourage property owners making alterations to identified historic structures to maintain their historic value. The Planning Commission shall review all proposals for modification or alteration to structures designated in the inventory as having historical significance. In determining whether or not the proposal complies with this policy, the following shall be considered by the Planning Commission in their review:

- (a) Whether or not the proposed use or alteration is compatible with the historic nature of the structure.
- (b) Whether or not the proposed alteration to the exterior of the structure will maintain its historic value.

**Policy 5:** The bayfront and the Nye Beach areas will be considered for historic district status. The Goal 5 analysis and possible ordinance development will be completed by the next regularly scheduled periodic review.

**Policy 6:** The City of Newport shall protect Mike Miller Park and allow conflicting uses as outlined in this section.

## CHAPTER 14.23 HISTORIC BUILDINGS AND SITES

### 14.23.010 Purpose

The purpose of this Section is to assure that alteration, removal, conflicting uses, and energy and environmental consequences are carefully considered when such changes are proposed.

### 14.23.020 Notice

Notice of intent shall be published for two consecutive weeks in the News-Times or other local newspaper prior to a hearing by the Planning Commission.

### 14.23.030 Hearing Required

In addition to the provisions of this [Section 14.23](#), the Planning Commission shall conduct a public hearing in accordance with the provisions of [Section 14.33](#), Conditional Uses, and [Section 14.52](#), Procedural Requirements.\*

- A. Any exterior alteration involving structural changes, or changes which would detract or destroy historic architectural features (such as changes in windows, doors, siding, or roofing) shall require a public hearing. Such hearing shall only be required for buildings or structures listed in the Comprehensive Plan as being significant historical resources which should be preserved. Painting of a structure or repair using materials which restore the building to its original character shall not require a public hearing. Interior alterations shall not require a public hearing unless such changes would be evident on the exterior of the structure.
- B. Where such changes would have a negative effect on a significant historical resource, a delay of up to 60 days may be required by the Planning Commission so that alternative solutions may be examined.

### 14.23.040 Alterations Prohibited\*\*

No changes shall be made if the Planning Commission determines that such changes would detract from or

destroy historic buildings or architectural features of a building determined to be of substantial and significant architectural importance. (See Chapter 2, Physical and Historical Characteristics, of the Comprehensive Plan.)

*(\*Amended by Ordinance No. 1989 (1-1-10).*

*\*\*Amended to correct scrivener's error by Ordinance No. 1790 (7-6-98).)*

**Sec. 230.090. - Demolition of primary historic structures.**

- (a) *Applicability.* Prior to the issuance of a permit for the demolition of a historic contributing building within a local or National Register Historic District or individually listed local or National Register [historic] resource, the owner must obtain historic resource demolition approval pursuant to this section.
- (b) *Procedure type.* Historic resource demolition is processed as a Type III procedure under SRC chapter 300.
- (c) *Submittal requirements.* In addition to the submittal requirements for a Type III application under SRC chapter 300, an application for historic resource demolition shall include:
  - (1) A statement of the historic value and significance of the building or resource to the community from the listing document (Local, National Register listing) as well as any relevant supportive documentation from a preservation professional, taking into consideration its designation as a local landmark, individually listed historic contributing building on the National Register, or its location within a National Register Historic District;
  - (2) Documentation confirming that the property owner has owned the property for at least one year prior to applying for historic resource demolition; and
  - (3) Documentation of economic hardship demonstrating the property is incapable of generating a reasonable economic return, including, but not limited to:
    - (A) The purchase price of the building or resource;
    - (B) Assessed value for the two years immediately preceding the application;
    - (C) Current fair market value of building or resource as determined by appraiser;
    - (D) Real estate taxes for the two years immediately preceding the application;
    - (E) The annual gross income generated from the building or resource for the last two years;
    - (F) The debt associated with the building or resource including a profit and loss statement for the two years immediately preceding the application; and
    - (G) Any expenditures associated with the building or structure during the two years immediately preceding the application.
  - (4) Documentation demonstrating good faith efforts of the property owner to sell, rent, or lease the building or resource, including, but not limited to:
    - (A) All real estate listings for the building or resource for the past two years, including prices asked/offers received; and
    - (B) All real rental listings for the building or resource for the past two years including rental prices and number of rental applications received.
  - (5) Analysis of the proposed adaptive reuse of the building or resource, including, but not limited to:
    - (A) Report from structural engineer on the condition of building or resource;
    - (B) Estimate of cost for rehabilitation of building or resource with an existing use;
    - (C) Report from real estate or other market professional identifying potential alternative uses allowed for development of the building or resource with existing zoning. The report should include a market analysis evaluating need for alternative uses as well as the number of existing alternative uses already present within the zone;
    - (D) Estimate of cost for rehabilitation of building or resource for at least two other identified uses; and
    - (E) Report identifying available economic incentives for adaptive reuse of the building or resource, including any federal tax credits available for rehabilitation of National Register properties.
  - (6) A determination of historic resource relocation feasibility pursuant to SRC 230.084.
  - (7) A proposed plan for deconstruction of the resource, including provisions to salvage historic material for sale, donation, or reuse on the site.
  - (8) A proposed plan for redevelopment of the site on which the building or resource is located.
- (d) *Criteria.* An application for a historic resource demolition shall be granted if the following criteria are met:



- (1) The value to the community of the proposed use of the property outweighs the value of retaining the designated historic resource on the present site.
- (2) The designated historic resource is not capable of generating a reasonable economic return and the demolition is economically necessary.
- (3) The owner has made a good faith effort to sell or relocate the designated resource.
- (4) No prudent and feasible alternative exists to rehabilitate and reuse the designated resource in its present location.
- (5) The applicant has demonstrated that the resource will be deconstructed and historic material will be salvaged at the time of demolition.

(Prior Code, § 230.090; Ord. No. 34-10; Ord. No. 12-20, § 1(Exh. A), 10-26-2020, eff. 11-25-2020)

**Editor's note—** Ord. No. 12-20, § 1(Exh. A), adopted 10-26-2020, changed the title of § 230.090 from "Demolition" to read as herein set out.

## Sec. 230.095. - Demolition of historic accessory structure.

- (a) *Applicability.* Prior to the issuance of a permit for the demolition of a historic accessory structure the owner must first obtain a historic accessory structure demolition approval pursuant to this section.
- (b) *Classes.*
  - (1) Class 1 historic accessory structure demolition is the demolition of a historic accessory structure located at the rear of the property and not visible from the right-of-way.
  - (2) Class 2 historic accessory structure demolition is the demolition of a contributing historic accessory structure visible from the right-of-way.
- (c) *Procedure type.*
  - (1) Class 1 historic accessory structure demolition is processed as a Type I procedure under SRC chapter 300.
  - (2) Class 2 historic accessory structure demolition is processed as a Type III procedure under SRC chapter 300.
- (d) *Submittal requirements.* In addition to the submittal requirements set forth under SRC chapter 300, an application for Class 1 or Class 2 historic accessory structure demolition shall include:
  - (1) Site plan. A site plan, of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing the following information:
    - (A) The total site area, property lines with dimensions, and orientation relative to north.
    - (B) The location, width, and names of all existing streets, alleys, flag lot accessways, and public accessways abutting the perimeter of the subject property.
    - (C) The location and distance to property lines of all existing primary and accessory structures and other improvements including fences, walls, driveways, off-street parking areas, off-street loading areas, vehicle turnaround areas.
  - (2) A summary of the estimated real market value of the structure, estimated costs to repair the accessory structure, any efforts to repair the structure and a statement regarding why repair is not feasible.
  - (3) A report from a structural engineer as to the soundness of the structure and the feasibility of repair.
- (e) *Criteria.*
  - (1) An application for Class 1 historic accessory structure removal shall be granted if the accessory structure lacks structural integrity and would be cost prohibitive to repair on site.
  - (2) An application for Class 2 historic accessory structure removal shall be granted if the following criteria are met:
    - (A) The historic accessory structure is not individually significant nor comprised of distinctive stylistic features or examples of skilled craftsmanship that contribute significantly to the historic value of the primary historic structure on the site.
    - (B) The historic accessory structure lacks structural integrity and would be cost prohibitive to repair on site; and
    - (C) No feasible alternative exists to rehabilitate the historic accessory structure.

( Ord. No. 12-20, § 1(Exh. A), 10-26-2020, eff. 11-25-2020)

## Sec. 230.085. - Historic resource relocation.

- (a) *Applicability.* No historic contributing building within a local or National Register Historic District or individually listed local or National Register historic resource shall be relocated without obtaining historic resource relocation approval pursuant to this section.
- (b) *Procedure type.* Historic resource relocation is processed as a Type III procedure under SRC chapter 300.
- (c) *Submittal requirements.* In addition to the submittal requirement for a Type III application under SRC chapter 300, an application for historic resource relocation shall include the following:
  - (1) Site plan and vicinity map of the proposed new location.
  - (2) A determination of historic resource relocation feasibility pursuant to SRC 230.084.
  - (3) A plan for transporting the building or resource on the public street right-of way from its current location to the proposed new location.
- (d) *Criteria.* An application for historic resource relocation shall be granted if the following criteria are met:
  - (1) The proposed new location is within the City limits; or a reasonable attempt has been made to locate the resource in a jurisdiction that has the ability to designate the resource as a historic resource.
  - (2) A reasonable attempt has been made to relocate the resource within an existing local or National Register Historic District.
  - (3) The structural integrity of the building or resource is such that transporting it on the public street right-of-way will not result in the reasonable likelihood of collapse and will not otherwise endanger public health, safety, and welfare.
- (e) *Historic resource designation.* If the proposed new location is within the City limits and the original requirements relating to the historic integrity of the resource under SRC 230.010(e)(3) are met after the building or resource has been relocated, the applicant shall initiate redesignation of the building or resource pursuant to SRC 230.010 prior to obtaining Certificate of Occupancy at the new location. If, however, the original requirements relating to the historic integrity of the resource are not met after the building or resource has been relocated, the applicant shall initiate removal of local historic resource designation pursuant to SRC 230.015.

( Ord. No. 12-20, § 1(Exh. A), 10-26-2020, eff. 11-25-2020)

## Sec. 230.100. - Demolition by neglect.

- (a) No owner of a historic contributing building or an individually listed resource shall maintain and keep such building or resource in a manner that promotes or allows deterioration, dilapidation and decay of any portion of the building or resource, or that would, if the building or resource is vacant, allow open entry by unauthorized persons. Violation of this subsection is hereby declared to be a public nuisance which may be abated as provided in this section.
- (b) Criteria. An owner violates subsection (a) of this section, if the owner promotes or allows any of the following to occur to, or exist in, the historic contributing building or individually listed resource:
  - (1) Faults, defects, or other conditions which render the building or resource structurally unsafe or not properly watertight including any condition which allows the building or resource to allow standing water.
  - (2) Deterioration of walls or support members due to damage caused by pests or animals, failure to paint, or otherwise maintain the building or resource.
  - (3) Failure to secure the building or resource and prevent entry by unauthorized persons.
  - (4) Failure to maintain parts of the resource so they are securely attached and will not fall or injure persons or property.
  - (5) Deterioration to the foundation.
  - (6) Deterioration to floor supports such that they cannot carry imposed loads with safety.
  - (7) Deterioration to members of walls, or other vertical supports in such a manner to prevent splitting, leaning, listing, buckling, or becoming insufficient to carry imposed loads with safety.
  - (8) Deterioration of members of ceiling, roofs, ceiling and roof supports, or other horizontal members to the extent that they sag, split, or buckle.
  - (9) Deterioration of ceilings, roofs, or their supports, or other horizontal members such that they become insufficient to carry imposed loads with safety.
  - (10) Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration.
- (c) Abatement. When the code enforcement official has reasonable grounds to believe that a violation of this section has occurred or is occurring, the code enforcement official may initiate enforcement proceedings by issuing an enforcement order, as provided in SRC 20J.090. Enforcement proceedings, and appeals thereof, shall follow the procedures set forth in SRC 20J.090 through 20J.430.
- (d) Nothing in this section shall prevent the summary abatement of unsafe or dangerous condition of a historic resource that constitutes an imminent and serious threat to public safety.

(Prior Code, § 230.095; Ord. No. 34-10; Ord. No. 12-20, § 1(Exh. A), 10-26-2020, eff. 11-25-2020)

**Editor's note—** Ord. No. 12-20, § 1(Exh. A), adopted Oct. 26, 2020, renumbered § 230.095 as § 230.100.



**10.20.070 Removal of Historic Resource Designation.**

- A. If any historic resource has been demolished or destroyed, no longer possesses the charter-defining features related to its architectural significance for which it was recognized or an error in documentation occurred, the City Council, upon recommendation of the Landmarks Commission, may remove the historic resource designation from the site.
- B. If the designation is proposed to be removed from any historic resource, the same process and criteria shall be used as upon the designation as a historic resource.
- C. In accordance with ORS 197.772, a property owner shall be allowed to remove a historic designation imposed on the property by the City. [Ord. NS-2236, 2015; Ord. NS-2226, 2014; Ord. NS-1970, 2005]

**10.20.080 Demolition or Moving of Historic Structures.**

The following regulations apply to the demolition and moving of contributing and noncontributing historic resources:

- A. The owner shall apply for approval to demolish or move a historic resource to the City of Bend. A pre-application meeting with the City is required.
- B. At least 30 days prior to submitting an application to move or demolish a designated historic resource, the applicant shall provide mailed notice of the intended demolition or removal to the Deschutes County Historical Society and State Historical Preservation Office. The letters shall include the historic name of the resource, the date of construction or significant event associated with the property, a statement of its cultural or historic significance, and the reason for the proposed removal or demolition. Copies of the two mailed notices shall be submitted by the applicant with the demolition or removal application.
- C. As part of the pre-application meeting, staff will provide the applicant information regarding financial incentives for historic preservation and adaptive reuse projects including but not limited to the Oregon Special Assessment Program, donations of facade easements, the Federal Investment Tax Credit, the "Preserving Oregon" grants, the "Preserving America's Treasures" grants and special provisions in the International Building Code and International Existing Building Code available for designated historic resources. The applicant shall acknowledge in writing that he/she is aware of the above incentives.
- D. At least 30 days before submitting an application for demolition or removal of a historic structure, the applicant shall post a notice on the property notifying the public that the applicant is considering applying to move or demolish a historic structure. The notice shall also invite purchasers and tenants to make written offers to purchase and/or rent the structure. The notice posted on the property shall be placed at a conspicuous location easily visible from the adjacent street. A copy of the notices shall be submitted with the removal or demolition application.
- E. An application to move or demolish a historic resource shall contain the following information, if available:

1. The first list of submittal requirements applies to all historic resources, both contributing and noncontributing resources.
  - a. Proof of ownership of the property.
  - b. Whether or not the structure could be adaptively reused.
  - c. Records of how the structure has been used over time.
  - d. Date property was acquired and status of the property under this chapter at the time of acquisition, e.g., whether the property had been designated as a historic resource.
  - e. Statement of the necessity of the action requested.
  - f. Whether or not there is a viable economic or public use for the structure as it exists.
  - g. Alternatives to the requested action that have been studied.
  - h. Records of the current owner's efforts to maintain and rehabilitate the structure in the past five years or since purchasing the structure, if ownership has been for a period of less than five years.
  - i. The information used in the original designation of the property or structure as a historic resource as filed in the Deschutes County Historical Landmarks Commission Historic Sites file or applicable National Register of Historic Places nomination.
  - j. Evidence of structural maintenance including maintenance records for the past five years or since the current owner purchased the building, and whether the current owner has neglected the structure thereby deliberately leading to demolition by neglect.
  - k. Records of applications for any available historic preservation or energy efficiency grants or tax incentives.
  - l. Whether or not the structure poses a threat to the public health or is a safety or fire hazard and whether or not there is a technically feasible means of alleviating the public health, safety, or fire hazard.
  - m. Current photographs of the structure and its setting showing all exterior sides of the structure.
2. The following applies to contributing resources only:
  - a. Records of efforts to sell the property during the past 18 months to a party interested in preserving or adaptively reusing the structure.
  - b. Records of advertisements for tenants for the structure.
  - c. Evidence prepared by parties of comparable lease or rental rates for the structure.
  - d. Architectural plans and construction drawings of the historic structure.

- e. Copies of all attempts to market the property, such as advertisements, notices, and news articles in magazines, newspapers, and the local historical society newsletter.
  - f. Evidence that the owner(s) are willing to consider in good faith, in the interest of preserving the structure, all reasonable offers to purchase, rent or lease the property and whether the owners have made a good faith effort to locate a tenant or a buyer for the property.
  - g. Reports of registered structural engineers, registered architects or historic preservation contractors with historic preservation experience about the feasibility of rehabilitation, restoration or an adaptive reuse project.
  - h. The importance of the historic structure to the identity of the neighborhood and the importance to the appearance of the built environment and architectural diversity and texture of Bend.
- F. The Landmarks Commission shall make a decision on whether a resource may be demolished or moved based on the following criteria:
- 1. The request is consistent with relevant State Administrative Rules and statutes; and
  - 2. The request is consistent with relevant General Plan policies; and
  - 3. There is no viable economic alternative to demolition.
- G. The Commission may attach conditions to the decision regarding historic artifacts and/or regarding the future development of the location if other historic resources will be affected by the proposed development.
- H. If the City approves the application for demolition, a building permit may not be issued until all appeals have been exhausted or waived.
- I. The Building Division shall notify the Landmark Commission staff of abatement of dangerous buildings involving historic structures. Landmark Commission staff may work with property owners to remedy the cause for the abatement notice. The Building Division shall entertain requests for extensions of time in processing such abatements to enable the property owner to remedy such dangerous conditions; provided, that the public safety is maintained.
- J. The same procedures as stated in this section for demolition shall apply to moving a building or structure. The setting is an important component of the historical context. The site to which the building or structure is moved shall be as similar as is possible to the original setting.
- K. When the Landmarks Commission approves the demolition of a historic resource inventoried in the Bend Area General Plan it shall make a recommendation to the City Council regarding whether or not the landmark or historical status should be removed from the General Plan. In making this recommendation the Commission shall consider the following factors among others: the historic resource was part of an ensemble designated as a historic landmark; or the site of the historic resource itself was designated as a significant feature of a historic landmark; or other buildings, structures, or objects on the property are historic resources.
- L. Notice of the demolition of a historic resource shall be given to the State after the resource is removed.

M. If a designated historic resource is to be demolished, if it is practical and if funds are available, the Landmarks Commission shall keep a pictorial and graphic history of the historic building or site and obtain artifacts from the building or site which it deems worthy of preservation. [Ord. NS-2236, 2015; Ord. NS-2226, 2014; Ord. NS-1970, 2005. Formerly 10.20.110 – 10.20.130]

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**The Bend Code is current through Ordinance NS-2456, passed October 19, 2022.**

Disclaimer: The city recorder's office has the official version of the Bend Code. Users should contact the city recorder's office for ordinances passed subsequent to the ordinance cited above.

City Website: [www.bendoregon.gov](http://www.bendoregon.gov)

Code Publishing Company



1. Has retained ownership since the time of designation; and
  2. Can demonstrate that the owner objected to the designation on the public record; or
  3. Was not provided an opportunity to object to the designation; and
  4. Requests that the Historic Landmarks Committee remove the resource from the inventory.
- F. Except as provided in Section 17.65.030 (E), the Historic Landmarks Committee shall base each decision regarding deletions from the inventory on the following criteria:
1. The resource has lost the qualities for which it was originally recognized; or
  2. Additional information shows that the resource no longer satisfies the criteria for recognition as a historic resource or did not satisfy the criteria for recognition as a historic resource at time of listing; or
  3. The Building Official declares that the resource poses a clear and immediate hazard to public safety and must be demolished to abate the unsafe condition.

17.65.040 Certificate of Approval Process. A property owner shall obtain a Certificate of Approval from the Historic Landmarks Committee, subject to the procedures listed in Section 17.65.050 and Section 17.65.060 of this chapter, prior to any of the following activities:

- A. The alteration, demolition, or moving of any historic landmark, or any resource that is listed on the National Register for Historic Places;
  1. Accessory structures and non-contributing resources within a National Register for Historic Places nomination are excluded from the Certificate of Approval process.
- B. New construction on historical sites on which no structure exists;
- C. The demolition or moving of any historic resource.

17.65.050 Demolition, Moving, or New Construction. The property owner shall submit an application for a Certificate of Approval for the demolition or moving of a historic resource, or any resource that is listed on the National Register for Historic Places, or for new construction on historical sites on which no structure exists. Applications shall be submitted to the Planning Department for initial review for completeness as stated in Section 17.72.040 of the McMinnville Zoning Ordinance. The Historic Landmarks Committee shall meet within thirty (30) days of the date the application was deemed complete by the Planning Department to review the request. A failure to review within thirty (30) days shall be considered as an approval of the application.

- A. The Historic Landmarks Committee may approve, approve with conditions, or deny the application.
- B. The Historic Landmarks Committee shall base its decision on the following criteria:
  1. The City's historic policies set forth in the comprehensive plan and the purpose of this ordinance;
  2. The economic use of the historic resource and the reasonableness of the proposed action and their relationship to the historic resource preservation or renovation;
  3. The value and significance of the historic resource;

4. The physical condition of the historic resource;
  5. Whether the historic resource constitutes a hazard to the safety of the public or its occupants;
  6. Whether the historic resource is a deterrent to an improvement program of substantial benefit to the City which overrides the public interest in its preservation;
  7. Whether retention of the historic resource would cause financial hardship to the owner not outweighed by the public interest in the resource's preservation; and
  8. Whether retention of the historic resource would be in the best interests of a majority of the citizens of the City, as determined by the Historic Landmarks Committee, and, if not, whether the historic resource may be preserved by an alternative means such as through photography, item removal, written description, measured drawings, sound retention or other means of limited or special preservation.
- C. If the structure for which a demolition permit request has been filed has been damaged in excess of seventy percent (70%) of its assessed value due to fire, flood, wind, or other natural disaster, the Planning Director may approve the application without processing the request through the Historic Landmarks Committee.
- D. The Historic Landmarks Committee shall hold a public hearing to consider applications for the demolition or moving of any resource listed on National Register consistent with the procedures in Section 17.72.120 of the McMinnville Zoning Ordinance.
- E. Any approval may be conditioned by the Planning Director or the Historic Landmarks Committee to secure interior and/or exterior documentation of the resource prior to the proposed action. Required documentation shall consist of no less than twenty (20) black and white photographs with negatives or twenty (20) color slide photographs. The Historic Landmarks Committee may require documentation in another format or medium that is more suitable for the historic resource in question and the technology available at the time. Any approval may also be conditioned to preserve site landscaping such as individual plants or trees or to preserve selected architectural features such as doors, windows, brackets, mouldings or other details.
- F. If any proposed new construction is located in the downtown core as defined by Section 17.59.020 (A) of the McMinnville Zoning Ordinance, the new construction shall also comply with the requirements of Chapter 17.59 (Downtown Design Standards and Guidelines).

**17.65.060 Exterior Alteration or Remodeling.** The property owner shall submit an application for a Certificate of Approval for any exterior alteration to a historic landmark, or any resource that is listed on the National Register for Historic Places. Applications shall be submitted to the Planning Department for initial review for completeness as stated in Section 17.72.040 of the McMinnville Zoning Ordinance. The Planning Director shall determine whether the proposed activities constitute an alteration as defined in Section 17.65.020 (A) of this chapter. The Historic Landmarks Committee shall meet within thirty (30) days of the date the application was deemed complete by the Planning Department to review the request. A failure to review within thirty (30) days shall be considered as an approval of the application. Within five (5) working days after a decision

**6.080 DEMOLITION AND MOVING**

1. Certificate of Appropriateness. No person, firm, or corporation shall move, demolish, or cause to be demolished any structure listed or identified as a Historic Landmark as described in Section 6.040 without first obtaining a Certificate of Appropriateness. In obtaining a Certificate of Appropriateness, the applicant shall file an application on a form provided for that purpose with the Community Development Department.
2. Criteria for Immediate Approval. The Historic Preservation Officer shall issue a Certificate of Appropriateness for moving or demolition if any of the following conditions exist:
  1. The structure has been damaged in excess of 70% of its assessed value by fire, flood, wind, or other natural disaster or by vandalism; or
  2. The Building Official finds the structure to be an immediate and real threat to the public health, safety and welfare. All other requests will be reviewed by the Historic Landmarks Commission.
3. Historic Landmarks Commission Review Criteria. Those demolition/moving requests not meeting the conditions for immediate approval shall be reviewed by the Historic Landmarks Commission following receipt of an applicant's request. In reviewing the request, the Historic Landmarks Commission shall consider and weigh all of the following criteria:
  1. The structure cannot be economically rehabilitated on the site to provide a reasonable income or residential environment compared to structures in the general area.
  2. There is demonstrated public need for a new use, if any is proposed, which outweighs the benefit which might be served by preserving the subject building(s) on the site due to the building's contribution to the overall integrity and viability of the historic district.
  3. The proposed development, if any, is compatible with the surrounding area considering such factors as location, use, bulk, landscaping, and exterior design.
  4. If the building is proposed to be moved, the new site and surrounding area will benefit from the move.

Any review shall be completed and a decision rendered within 75 days of the date the City received a complete application. Failure of the Historic Landmarks Commission to meet the time lines set forth above shall cause the request to be referred to the City Council for review. All actions of the Historic Landmarks Commission can be appealed to the City Council. The Historic Landmarks Commission will follow the procedural requirements set forth in Article 9.

4. Conditions for Demolition Approval. As a condition for approval of a demolition permit, the Historic Landmarks Commission may:
  1. Require photographic documentation, and other graphic data or history as it deems necessary to preserve an accurate record of the resource. The historical documentation materials shall be the property of the City or other party determined appropriated by the Commission.
  2. Require that the property owner document that the Historic Preservation League of Oregon or other local preservation group has given the opportunity to salvage and record the resource within 90 days.
5. Appeal - Extension of Review Period. On appeal or referral, the City Council may extend the review period for demolition/moving requests a maximum of an additional 120 days from the date of receipt of an application upon a finding that one of the following conditions exists:
  1. The applicant has not submitted sufficient information to determine if an immediate demolition or moving should be allowed.

2. There has been little or no activity, within a reasonable amount of time, by the permit applicant to explore other viable alternatives.
3. There is a project under way which could result in public or private acquisition of the historic building or site and the preservation or restoration of such building or site, and that there is reasonable grounds to believe that the program or project may be successful.

If, at the end of an extended review period, any program or project is demonstrated to the City Council to be unsuccessful and the applicant has not withdrawn his/her application for a moving or demolition permit, the Community Development Director shall issue the permit if the application otherwise complies with the code and ordinances of the City.

6. Exception. In any case where the City Council has ordered the removal or demolition of any structure determined to be dangerous, nothing contained in this chapter shall be construed as making it unlawful for any person without prior approval of the Historic Landmarks Commission, pursuant to this chapter, to comply with such order.

#### HISTORY

*Amended by Ord. 22-01 on 11/7/2022*



# Tentative Planning Commission Work Program

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



## November 28, 2022 Work Session

- Discussion with Thompson Sanitary Regarding Trash Enclosure Standards for Multi-Family Dev
- Overview of Updated Zoning Web Maps
- Review of Camping Related Land Use Amendments (Follow-up from 9/26/22 WS)

## November 28, 2022 Regular Session

- File 2-CUP-22-A Continued Hearing on Appeal of CUP Denial of Real Estate Office in C-2
- File 3-CUP-22 Final Order and Findings for Remodel of the Ernest Bloch House
- Initiate Legislative Amendment Process for Camping Related Land Use Amendments

## December 12, 2022 Regular Session

- File 2-CUP-22-A Final Order and Findings on Appeal of CUP Denial of Real Estate Office in C-2

## January 9, 2023 Regular Session

- Annual Organizational Meeting
- File 5-Z-22 Public Hearing on Draft Ordinance No. 2202 – STR Work Group Recommendations
- File 3-AX-22/7-Z-22 Public Hearing on South Beach Church Annexation & Zone Change
- File 4-CUP-22 Public Hearing on Conditional Use Permit for Toyota of Newport
- Potential Amendments Related to 1886 Building and City Historic Structure Demo Restrictions

## January 23, 2023 Work Session

- Placeholder for Review of Draft Multi-Family/Commercial Trash Enclosure Standards
- Review Draft Amendments to Special Parking Area Regulations (Follow-up to 9/26/22 WS)
- Placeholder for Work Session on Draft Ord. No. 2202 – Considering Feedback from 1/9/23
- Placeholder for Amendments to Allow Demolition of Historic Structures Subject to Standards

## January 23, 2023 Regular Session

- File 4-CUP-22 Final Order and Findings Toyota of Newport Conditional Use Permit
- File 1-CP-21 Public Hearing on Housing Capacity Analysis Portion of Housing Study (Part I)
- File 4-Z-22 Public Hearing on Camping Related Land Use Amendments
- File 5-CUP-22 Public Hearing on Conditional Use for Relief from STR Spacing Standards
- Initiate Legislative Amendment Process for Special Parking Area Amendments

## February 13, 2023 Work Session

- Review Draft Housing Production Strategy Component of Housing Study (Part II)
- Review Options for Updating the City's Erosion Control and Stormwater Mgmt Standards
- Update on Status of South Beach Island Annexation Process
- FY 23/24 Goal Setting Session

## February 13, 2023 Regular Session

- File 5-Z-22 Placeholder for Hearing #2 on Ord. No. 2202 – STR Work Group Recommendations
- Placeholder Public Hearing on Amendments to Allow Limited Demolition of Historic Structures

## February 27, 2023 Work Session

- Placeholder for Review of Amendments Related to Yaquina Bay Estuary Plan Update
- Placeholder for City Center Revitalization Project Update (Consultant to be hired by 1/23)

## February 27, 2023 Regular Session

- Placeholder to Review County Changes to Boston Timber Opportunities UGB Land Swap