PLANNING COMMISSION REGULAR SESSION AGENDA
Monday, February 28, 2022 - 7:00 PM
City Hall, Council Chambers, 169 SW Coast Hwy, Newport, OR 97365

This meeting will be held electronically. The public can livestream this meeting at https://newportoregon.gov. The meeting will also be broadcast on Charter Channel 190. Public comment may be made, via e-mail, up to four hours before the meeting start time at publiccomment@newportoregon.gov. 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.

Anyone wishing to make real time public comment should submit a request to publiccomment@newportoregon.gov. at least four hours before the meeting start time, and a Zoom link will be e-mailed.

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1. CALL TO ORDER AND ROLL CALL

Commission Members: Jim Patrick, Bill Branigan, Lee Hardy, Bob Berman, Jim Hanselman, Gary East, and Braulio Escobar.

A public hearing, if scheduled, will be conducted utilizing the Zoom video-conference platform. There are a few ground rules:

*A. Individuals wishing to speak may raise their hand proper or use the raise hand feature, which can be found by clicking on the "Participants" button on the bottom of a computer screen, the "Raise Hand" button on the bottom of a smartphone, or by dialing *9 on a landline. The Chair will call out the order of testimony in cases where multiple hands are raised.*

*B. Please keep your microphone muted unless you are speaking. Press *6 to mute and unmute a landline.*

C. For persons participating by video or phone, the City can make the shared screen feature available for those that wish to make a presentation. Information shared with the

Planning Commission in this manner is part of the record, and a copy of the materials will need to be provided to staff.

D. *For those persons who have elected to attend the hearing in person, a computer has been setup so that they may provide testimony using the video-conference platform.*

2. APPROVAL OF MINUTES

2.A Approval of the Planning Commission Regular Session Meeting Minutes of February 14, 2022.

Draft PC Reg Session Minutes 02-14-2022

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 Initiate the Legislative Process for the Newport Transportation System Plan.

4.B File 1-NB-22: Final Order and Findings of Fact for the Design Review Modifications to The Whaler @ Nye Beach Hotel.

File 1-NB-22 Final Order and Findings

5. PUBLIC HEARINGS

5.A WITHDRAWN - File No. 2-MISC-21

6. NEW BUSINESS

6.A Update on the City's COVID Policies.

Memorandum

COVID-19 Temporary Public Meeting Policy

6.B March 7th HCA/HPS Project Kickoff.
Memorandum

7. UNFINISHED BUSINESS

7.A Update on Yaquina Bay Estuary Management Planning Process.
Progress on Yaquina Bay EMP Update

8. DIRECTOR COMMENTS

8.A Ordinance Change to the Recreational Marijuana Spacing Requirements.
Ord. 2192

9. ADJOURNMENT

***Draft* MINUTES**
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
February 14, 2022

Planning Commissioners Present by Video Conference: Jim Patrick , Bob Berman, Lee Hardy, Braulio Escobar, Jim Hanselman, Gary East, and Bill Branigan.

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

Public Present by Video Conference: Dan McCrae, Gina McCrae, Kristin Yuille, Tim Johnson, Curtis Landers, Russell Schutte, Ric Rabourn, John Rogers, and Greg Sutton.

1. Call to Order & Roll Call. Chair Patrick called the meeting to order in the City Hall Council Chambers at 7:01 p.m. On roll call, Commissioners Patrick, Branigan, Berman, Hardy, Escobar, and East were present.

MOTION was made by Commissioner Berman, seconded by Commissioner Escobar to move the Public Comment agenda item after the Action Items section of the agenda. Hardy was a nay. The motion carried in a voice vote.

2. Approval of Minutes.

Berman reported one minor correction to the work session meeting minutes.

A. Approval of the Planning Commission Work Session Meeting Minutes of January 24, 2022.

MOTION was made by Commissioner Berman, seconded by Commissioner Escobar to approve the Planning Commission Work Session Meeting Minutes of January 24, 2022 with a minor correction. The motion carried unanimously in a voice vote.

B. Approval of the Planning Commission Regular Session Meeting Minutes of January 24, 2022.

MOTION was made by Commissioner Berman, seconded by Commissioner Escobar to approve the Planning Commission Regular Session Meeting Minutes of January 24, 2022 as written. The motion carried unanimously in a voice vote.

3. Action Items.

A. File No. 7-CUP-21: Final Order and Findings for Conditional Use Permit to Allow the Construction and Operation of an Animal Shelter Facility and Storage at the Subject Property That is Located in a P-1/"Public Structures" Zone.

Patrick asked if any Commissioners had ex parte contacts concerning the action item. Hardy reported she had been contacted by Gina McCrea who had concerns about the vote. Hardy

suggested going forward that McCrea either contact an attorney or talk to Tokos. Branigan reported he volunteered for Sheriff's Department. No other contacts were reported.

Patrick noted there had been a discussion on what constituted an emergency to hold large animals at the facility. Berman explained that when he made the motion it was simply that there be no large animals unless a governmental agency declared an emergency. He noted that Tokos expanded on this to include Federal, State or local authorities declaring an emergency, and also added that they not be located on the premises for more than a 24 hour period. Berman stated that this was not his intent when making the motion for the condition. His motion was that there be no large animals or livestock at the facility unless there had been a formally declared emergency. Berman's reasoning for this was that once you made an exception like this it became standard operating procedures, especially because there was no enforcement mechanism. He was concerned about the safety of the animals and handlers. Large animals didn't handle large noises well and could easily panic resulting in harm to the animal or handler. Berman thought this was inappropriate. He noted that for the last couple of years something was being done for these animals for short-term care and the County seems to be getting along just fine. Berman suggested they drop the phrase "for more than a 24 hour period" or use alternate wording that Tokos presented. Tokos noted the alternate said this. Berman didn't like the word "boarding" and didn't think they should be on location at all because it was a danger.

Patrick acknowledged that Hanselman had entered the meeting at 7:08 p.m. and asked him to declare any ex parte contacts. Hanselman reported he had a contact with Dan McCrea. He added that he agreed with what Berman had described at the last meeting. Hanselman's understanding was that there would be no large animals at all at the facility and thought this was the intent of the Commissioners.

Branigan submitted an alternative to Berman's alternative that said that there be no large animals unless there was a state of emergency, except in some unusual circumstances such as where there was a large animal that got loose and Animal Control captured the animal and needed a place to house the animal overnight until they could move the animal the next morning. Branigan wanted to add that under unique or unusual circumstances they be allowed to do this under the direction of the Sheriff of Lincoln County who controlled the animal shelter, and it would only be for the period of time where they could relocate the animal the following day.

Escobar supported Branigan's comments. In the past, when the Sheriff had to take control of a large animal, they would typically locate another farm to place them at, not the animal shelter. Escobar thought they should defer and trust the Sherriff's Department not to place animals at risk at the airport. He supported Branigan's alternative motion.

East thought in an extreme emergency, where they couldn't find optional facilities for large animals, he didn't see an issue with a very brief and temporary housing at the shelter. They would have to make sure to move the animals the following day.

Hardy suggested they find out how easy it had been to find alternative housing for those large animals before they jumped to the conclusion that it might be easy to keep them overnight and move them the next day. Patrick remined that the hearing was not open and they couldn't ask this.

Tokos noted that there were two different versions of Condition 2. He cautioned against any condition that was discretionary or was left open where different people could have different

perspectives on what the language meant. This made it very difficult to enforce the terms of the conditional use permit. They wanted to make the conditions as clear and objective as possible so there was no confusion by anybody as to what the language means. Patrick saw there being three options: 1) no boarding of large animals at all; 2) boarding of large animals under emergency conditions; and 3) boarding large animals under emergency conditions and possibly overnight because of inability to place them elsewhere.

Branigan thought that anything overnight require the express approval of the Sherriff of Lincoln County as the senior officer and deferring to their expert judgement. Patrick asked if this made it discretionary or if it was reasonable. Tokos noted this would rely on a third party to make a decision and he questioned how they would enforce that particular provision. He thought it seemed a little loose. Berman noted this was part of his initial point because they didn't have an enforcement mechanism. As soon as you allowed a discretionary option it could become routine. Berman didn't think this was what they wanted to happen.

Hanselman asked what the Sherriff had been doing in the last two years for large animals. Berman reminded they couldn't ask this because the hearing was closed.

Tokos reviewed Condition 2 on the final order alternate which had the 24 hour language removed. He noted that for the emergency issue Branigan brought up, they had a loading area for when they needed to bring in a large animal for a brief period for either vet care or transition it elsewhere. This area was closed and within the building but it wasn't appropriate to board large animals there for a long time. Patrick liked this condition and wasn't worried about large animals in a livestock trailer overnight because this was only in a state of emergency. Berman still didn't agree and thought a livestock trailer could mean the animal could injure itself with loud noises. He thought from the testimony they had heard this could be a problem. Soundproofing would probably not block the sounds of large machines. Berman still thought they should get rid of the phrase "that cannot be boarded entirely within the animal shelter building" and say "livestock and other large animals should not be located on the premises unless a state of emergency had been declared by Federal, State or local authorities."

MOTION was made by Commissioner Berman, seconded by Commissioner Hanselman that they remove from Condition 2 of the alternate document the words "that cannot be boarded entirely within the animal shelter building,". East, Berman, and Hanselman were a yea. Branigan, Escobar, Hardy, and Patrick were a nay. The motion failed by voice vote.

MOTION was made by Commissioner Branigan, seconded by Commissioner Escobar to approve Condition 2 of the alternate document to say "livestock and other large animals that cannot be boarded entirely within the animal shelter building shall not be located on the premises unless a state of emergency had been declared by Federal, State or local authorities." Escobar, Hardy, Branigan, and Patrick were a yea. Hanselman, Berman, and East were a nay. The motion carried in a voice vote.

MOTION was made by Commissioner Branigan, seconded by Commissioner Escobar to approve the Final Order and Findings of Facts for File No. 7-CUP-21 with the correction to Condition 2 that states "livestock and other large animals that cannot be boarded entirely within the animal shelter building shall not be located on the premises unless a state of emergency had been declared by Federal, State or local authorities." Escobar, Branigan, Berman, Hanselman, and Patrick were a yea. Hardy, and East were a nay. The motion carried in a voice vote.

4. <u>Citizen/Public Comment</u>. Dan McCrea addressed the Commission. He reported that he had written a letter that he wanted to discuss about the animal shelter project, but it would have to wait until a later date. McCrea thought that having meetings through Zoom made it difficult for people to attend because they didn't understand how to do it. He was disappointed to have one session on a project like this. McCrea explained he had found out about the hearing by happenstance and that he wasn't prepared at the hearing. He felt the Commission was making decisions on the community based off of not having all the information. McCrea noted that a lot of the comments for other people at the hearing were inaccurate and he didn't get an opportunity for rebuttal. The comments he had would be saved for his appeal.

Gina McCrea noted she found out about the hearing the day after the meeting. She had been trying to find out background information for an appeal. McCrea wanted to know how this project came about and who she should talk to so she could get more information. Patrick suggested she talk to the County directly on their proposal and the people who presented it to the Commission. Berman thought the Sherriff would have background with the entire process. McCrea noted that she watched the video from the hearing and saw that Commission East stated he wanted to hear more input from pilots and also from the public. She asked if there was any option for this or if it was strictly for an appeal. Patrick reported it would have to be with an appeal with the City Council.

5. <u>Public Hearings</u>. At 7:36 p.m. Chair Patrick opened the public hearing portion of the meeting.

Chair Patrick read the statement of rights and relevance. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. None were heard. Patrick called for objections to any member of the Planning Commission or the Commission as a whole hearing this matter; and none were heard.

A. File 1-NB-22.

Tokos reviewed his staff report and the modifications to the previously approved design review.

Applicant: Ric Rabourn with Hallmark Resorts addressed the Commission. He noted that all of the changes were architectural in nature and he was present to answer questions.

Berman pointed out that that the narrative said that the two crosswalks would be textured but on Attachment A5 and A6 it didn't show them. He questioned where the location of the second crosswalk was. Rabourn noted that there was a cross walk across Olive Street to Dolphin St. Russell Schutte noted the site plan presented only had the new items. Berman noted that A5 showed a crosswalk across Elizabeth Street but didn't show the other one. He thought the drawings didn't represent what was described in the text. Schutte noted the cutout was already there to have a crosswalk at Olive Street and it was more about getting safely across Dolphin Street. Berman recalled Dolphin Street wouldn't be a through street but would provide emergency access. He asked if this was still the case. Schutte confirmed it was and the more they looked at it with City staff they realized that a lot of repainting and other issues would happen. They were leaving it there for the future to take this on. It was obvious that emergency access was crucial for future use. They were designing what they could to have the northside pedestrian access, and there would be a new sidewalk leading out to the west to the ocean.

Opponents: John Rogers addressed the Commission. He reported that he was an adjacent property owner. Rogers asked if the 25 new units would be pet friendly and if there was an animal waste plan for animals to stay there. He also asked what the timeline from start to finish was going to be to get the project completed. Rogers also wanted to know what the parking impacts on Olive Street would be. He wondered if parking would be eliminated or the same amount on the north side of Olive Street. Rogers also asked about trash handling and how garbage trucks could get into the area next to the swimming pool.

Rabourn noted that Rogers' questions weren't about the amendments they submitted. He noted that some of the units would be pet friendly and there would be a designated pet area on the south side of the new building. Rabourn reported the project would start when the funding came through. They were moving forward with everything they could possibly do but they were waiting on financing to move forward. Rabourn thought that the parking questions could be answered by Tokos on how the parking regulations worked in Nye Beach.

Schutte noted that the timeline would be to the submittal for permits by April and start construction around June. They hoped that it would take around 14 months construction time. Schutte reported there was also a huge amount of lead time to obtain a number of items for construction. He noted that at that time they weren't asking for any additional parking. Tokos noted that in the Nye Beach District there was an allowance for new development to take advantage of adjacent parking spaces on a one to one ration with what they were required to provide for off-street parking. At this point The Whaler had met their parking needs for off-street parking. Tokos reported they were putting in a low grade parking area and some additional surface parking spaces. They weren't relying upon available on street parking spaces adjacent to the property to meet their parking needs.

Schutte noted that having the trash in a parking garage created problems for trucks. Leaving it in the current location showed how the rerouting of the parking would be a loop. It meant the trucks would be able to go right next to the trash and then pull out the other side of the street. Rabourn noted that part of this required redevelopment of the south end of Dolphin Street, and having room for trash trucks to turn around there was a big part of the discussion.

Berman noted the dog area was next to two heavily used public areas. He asked if they could seriously encourage people to use bags for picking up after dogs so they didn't end up with the City responsible for taking care of it. Rabourn noted they already provided bags as part of the pet welcome for guests. They also had them for free at the front desk for pick up and had dispensers at the pet areas as well.

Chair Patrick closed the hearing at 7:58 p.m.

Branigan thought the revisions had been explained and he didn't have any issues. He would be in favor. Escobar agreed and thought they have been good citizens of Newport. He felt the plan was in fine form and he was in favor of approval. East liked the changes and agreed to approve. Berman agreed. Hardy agreed. Hanselman was good with the request. Patrick thought it met the standards.

MOTION was made by Commissioner Escobar, seconded by Commissioner Branigan to approve File 1-NB-22 with conditions. The motion carried unanimously in a voice vote.

Patrick requested that the Zoom script for public meetings be published on the Commission's packets so the public would know how the meetings would work. Tokos would include this in the packets.

Berman asked if it was okay for a few people to show up in person at the meetings. If that was still the case, they needed to make it clear to the public that they could attend in person. This needed to be added to the public notices. Tokos would review the notices to include the language. Berman thought this would eliminate confusion with Zoom meetings.

6. New Business.

A. Annual Statement of Economic Interest (SEI) Filing. Tokos noted this agenda item was a reminder to file the SEI forms. Generally around mid-March they would send out reminders with a link. Tokos noted this was included on the agenda to keep it in Commission's minds.

7. Unfinished Business. None were heard.

8. Director Comments. Tokos reported the City Council agreed to initiate the South Beach island annexation process. They would be engaging the County and going forward to get the process started. Tokos reported they would soon be firing up the housing study and had hired a consultant. The Council had also impaneled the Parking Advisory Committee. Branigan was one of the members and they had a few vacancies for Nye Beach and City Center. Tokos encourage the Commissioners to invite people to apply.

Tokos reported that the Council couldn't send the animal shelter decision back to the Commission because it was quasi-judicial, not legislative. They would have to decide the appeal and if either party didn't like it they could go to the Land Use Board of Appeals. Tokos reported that the Council would have to hold an on the record hearing unless they believed there was a significant procedural error, in which case they could bump it to a full evidentiary hearing. The chances were they would hold their hearing on the appeal and decide based on the same set of facts that the Commission made their decision.

Escobar asked if there would be an ordinance coming up concerning the parking lot on 9th and Hurbert Streets, and if it would come to the Commission or straight to the Council. Tokos noted it would most likely just go to Council because there wasn't a land use piece to the regulations. It was largely about how the City would enforce the parking rules relative to people who are homeless and living in vehicles, or for camping in public places. The League or Oregon Cities (LOC) was putting out some guidance on an ordinance. The City was working on language and waiting to see what came from the LOC before they decide on what to do with it. Patrick asked Tokos to keep the Commission up to date on this.

9. Adjournment. Having no further business, the meeting adjourned at 8:08 p.m.

Respectfully submitted,

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Sherri Marineau
Executive Assistant

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

IN THE MATTER OF PLANNING COMMISSION FILE NO.	)	
1-NB-22, AN APPLICATION TO MODIFY THE DESIGN	)	**FINAL**
REVIEW APPROVAL FOR "THE WHALER AT NYE BEACH,"	)	**ORDER**
AS SUBMITTED BY RIC RABOURN (HALLMARK INNS &	)	
RESORTS (OWNER))	)	

ORDER MODIFYING DESIGN REVIEW APPROVAL under the design guidelines for the Historic Nye Beach Design Review District for a 25-guest room hotel with a café, bar, office and lobby space (identified as "The Whaler at Nye Beach"). The subject property is identified on Lincoln County Assessor's Tax Map 11-11-08-BB as Tax Lots 15902 & 15903 (33 SW Elizabeth St; 39 SW Elizabeth St; and 41 SW Elizabeth St). The site is 26,000+/- sq. ft. in size.

WHEREAS:

1.) The Planning Commission has duly accepted the application filed consistent with the Newport Zoning Ordinance (No. 1308, as amended); and

2.) The Planning Commission has duly held a public hearing on the request to modify the design review approval, with a public hearing a matter of record of the Planning Commission on February 14, 2022; and

3.) At the public hearing on said application, the Planning Commission received testimony and evidence, including testimony and evidence on behalf of the applicant, general public, and Community Development Department staff; and

4.) At the conclusion of said deliberations, after consideration and discussion, the Planning Commission, upon a motion duly seconded, **APPROVED** the requested modifications.

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

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/owner shall construct concrete textured crosswalks at the mid-block crossing of SW Elizabeth Street, opposite Don and Ann Davis Park, and at the intersection of SW Dolphin Street and W Olive Street, in a manner that is substantially similar to existing crosswalks at Cliff/Olive Streets and Coast/Olive Streets as depicted on the updated building plans and elevation drawings by Abbott Architecture, dated 5/17/21.

3. Applicant/owner shall incorporate stamped concrete as a specialty paving element into the building plans for the internal pathways, veranda, and porte-cochere as depicted on the updated building plans and elevation drawings by Abbott Architecture, dated 5/17/21.

4. Acorn style light poles shall be installed within public rights-of-way adjoining the subject property for safety and security purposes in locations deemed appropriate by the City Engineer.

5. Applicant/owner shall improve SW Dolphin Street in a manner that conforms with the City of Newport's street standards and is roughly proportional to the impact of the development on the City's transportation system. This may include minor modifications to the scope and nature of the frontage improvements depicted on Attachment "A6." All required public improvements shall be completed prior to occupancy.

6. The applicant shall comply with all applicable building codes, fire codes, and other public health and safety regulations to ensure that the use will not be detrimental to the safety and health of persons in the neighborhood. The applicant is responsible for obtaining the necessary approvals and permits pertaining to the proposed use. If the applicant must materially modify the size or height of the building to comply with these codes, then a conditional use permit shall be submitted to establish that the changes are consistent with the overall development character of the neighborhood.

7. Applicant/owner shall install tsunami hazard wayfinding signage in a format and location approved by the City prior to occupancy. Further emergency evacuation information shall be posted in hotel common areas to alert employees and guests to the tsunami threat.

Accepted and approved this 28th day of February, 2022.

_____
James Patrick, Chair
Newport Planning Commission

Attest:

_____
Derrick I. Tokos, AICP
Community Development Director

EXHIBIT "A"

Case File No. 1-NB-22

FINDINGS OF FACT

1. This application is for a modification to the design of a new 25-room hotel that was previously found to have satisfied the design guidelines for the Historic Nye Beach Design Review District (File No. 1-NB-21).

2. Ric Rabourn, 5 Centerpointe Dr., Suite 590, Lake Oswego, OR 97035 (Hallmark Inns & Resorts (owner)) submitted an application on January 18, 2022. The application was deemed complete on the date that it was submitted.

3. The subject property is identified on Lincoln County Assessor's Tax Map 11-11-08-BB, Tax Lots 15902 & 15903 (33 SW Elizabeth St; 39 SW Elizabeth St; and 41 SW Elizabeth St). The site is roughly 26,000 sq. ft. in size.

4. Staff reports the following facts:

a) Plan Designation: Commercial

b) Zone Designation: C-2/HNBO/"Tourist Commercial (Historic Nye Beach Design Review District (HNBO))".

c) Surrounding Land Uses: Don and Ann Davis Park to the west, the Newport Performing Arts Center to the east, Whaler Motel to the south and Don and Ann Davis Park and Pacific Kitchen at Nye Beach (affiliated with Hallmark Inns) to the north.

d) Existing Structures: Two-existing single-family residences operated as vacation rental dwellings.

e) Utilities: All are available to the site.

f) Development Constraints: Tsunami Hazards Overlay Zone.

g) Past Land Use Actions: File No. 1-NB-21 – 2-CUP-21, dated 5/24/21, Historic Nye Beach Design Review District and Conditional Use Permit approval for a 25-guest room hotel with a café, bar, office and lobby space (identified as "The Whaler at Nye Beach"). File No. 2-TEP-05, dated 3/24/05, at 39 SW Elizabeth Street. Authorized installation of retaining walls within the public road right-of-way.

5. Upon acceptance of the application, the Community Development (Planning) Department mailed notice of the proposed action on January 25, 2022, to affected property owners required to receive such notice by the Newport Municipal Code, and to various city departments, agencies, and public utilities. The notice referenced the criteria by which the application was to be assessed. The notice required that written comments on the application be submitted by 12:00 noon on the date of the hearing, or be submitted in person at the hearing. The notice was also published in the Newport News-Times on February 4, 2022. As of February 10, 2022, one comment was received from

Wendy Engler, who sought clarification on certain aspects of the proposed modifications, which the applicant and staff responded to on February 7, 2022.

6. A Planning Staff Report on the application was prepared for the Planning Commission and was available to the public on February 10, 2022. The Planning Staff Report and attachments are hereby incorporated by reference into the findings. The Planning Staff Report attachments included the following:

Attachment "A" – Application Form
Attachment "A1" – Applicant's Revised Narrative
Attachment "A2" – Revised Building Plans and Elevation Drawings *
Attachment "A3" – Revised Landscaping Plan for Expansion *
Attachment "A4" – Landscaping Adjacent to Existing Whaler *
Attachment "A5" – Site Plan for Whaler Expansion *
Attachment "A6" – Overall Site Plan (Includes Existing Whaler) *
Attachment "B" – Final Order and Findings for File #1-NB-21/2-CUP-21
Attachment "C" – Public Notice
Attachment "D" – Email from Wendy Engler with Response
Attachment "E" – Nye Beach Design Review Guidelines and Illustrations.

* Note: Reduced for copying purposes. Full size plans available at the Community Development Department.

7. At its February 14, 2022 meeting, the Planning Commission held a public hearing and took testimony on the application. Chair Patrick asked for declarations of ex-parte contact, bias, or conflict of interest. No challenges to the jurisdiction of the Commission were made. The minutes of the February 14, 2022 hearing are hereby incorporated by reference into the findings.

8. The following individuals testified in person during the course of the public hearing: Ric Rabourn, Hallmark Inns & Suites (applicant), Russell Schutte, Architect (applicant's representative), and John Rogers (neighboring landowner). The applicant and applicant's representative described the design changes and fielded questions. Mr. Rogers asked questions about various aspects of the project. No comments were provided in opposition to the project. A summary of the testimony is included in the hearing minutes.

9. The applicant is seeking approval to modify architectural and site plan elements of a new 25-unit hotel project, which the Planning Commission found to be compliant with the design guidelines for the Historic Nye Beach Design Review District (File No. 1-NB-21). Applications for a modification must be submitted and processed in the same manner as the original application (NMC 14.30.110). The design review permit being modified (File No. 1-NB-21) was originally approved by the Planning Commission under a Type III review process (NMC 14.52.030(B)).

Proposed changes include an alteration to the building footprint that results in a portion of the structure being 5-feet further away from W. Olive Street (to improve waterproofing); relocation of mechanical equipment to the top of the building; removal of exterior stairs adjacent to W. Olive Street (for security); relocation of the elevator shaft interior to the building; adjustments to the location of certain decks, balconies, and windows; reconfiguration of sidewalk/frontage

improvements along SW Dolphin Street; and the elimination of one planned off-street parking space.

10. The proposed project required design review approval by the Planning Commission because the building exceeds 35-ft in height and 65-ft in length, which is the limit that can be approved ministerially by staff under the design standards (NMC 14.30.060(B)(1)). Since the Planning Commission is the designated approval body, a Type III review is required (NMC 14.52.030(B)). To obtain design review approval the applicant must demonstrate that the proposed development is consistent with Design Guidelines No. 1 through No. 9 of the document entitled "Newport Design Review: Guidelines and Standards," effective July 29, 2015 and incorporated by reference by Newport Municipal Code (NMC) Section 14.30.030.

CONCLUSIONS

1. With regard to guidelines established for the Historic Nye Beach Design Review Overlay District for approving the design review request, the Planning Commission makes the following conclusions:

A.) ***Design Guideline 1: Contextually-Appropriate Design***

Intent: *For residential development, the architectural heritage of the Nye Beach area - as documented in historical photos and drawings or by photographs presented in support of the development - shall be maintained.*

Approaches:

- *New development should utilize roof types common to the district, such as steep pitched gable, multiple lower pitched gable, or hip.*
- *New development should include in the design common main facade elements (such as porches, verandas, sunrooms and/or other architectural/design features as identified in the design standards or as documented to exist within the design review district).*
- *Buildings shall feature variety in building shape, height, roof lines, setbacks, and design features consistent with the design guidelines.*
- *For multiple family development (greater than 2 units), trash collection areas shall be screened.*

Reference: *Illustrations #2, #3, #4, #5, and #7.*

i.) This guideline applies to residential development, and is not applicable to the project.

ii.) Considering the above, the Commission concludes that this guideline has been met.

B.) ***Design Guideline 2: Building Scale***

Intent: *Commercial building elements oriented towards a public or private street shall incorporate specific elements that contribute to the established scale of the district and support an active streetscape.*

Approaches:

- *Commercial buildings (excluding portions of a hotel/motel where guest rooms are on the ground floor) shall support retail visibility and appropriate district scale by utilizing banks of windows with multiple small windows (less than 20 square feet) and/or large windows with multiple panes along all sides abutting a public right-of-way.*
- *The contextual scale of new large commercial buildings over two stories shall be reduced by using horizontal or vertical divisions and stepped roof lines.*
- *Buildings greater than one story in height shall be designed with canopies, balconies, offsets in the building facade along each public right-of-way, or other architectural/design features that reduce the building's vertical emphasis.*
- *Buildings greater than 2 stories, and/or longer than forty feet (40') shall include two or more of the following elements to break down the scale of the building:*
    - *A significant offset (3' minimum depth, 8' minimum width) in the full building massing (Illustration # 10).*
    - *A step-back (6' minimum) of floors above the second floor.*
    - *Subdivision into a series of distinct building masses, articulated as separate structures.*
    - *Multiple ground floor entries at 30' maximum spacing.*

Reference: *Illustrations #6, # 7 and #8.*

i.) The public oriented café veranda still allows public access but only on the SW side of the patio, which connects directly to the new crosswalk leading to Nye Beach. The northern stair has been removed to provide additional security for the ground floor sleeping units.

ii.) The applicant's updated architectural elevations illustrate how this design guideline has been satisfied (Attachment "A2"). Changes from the previously approved set of plans are shown in red. Large multi-pane windows have been incorporated into ground floor elevations abutting public rights-of-way even though portions of the structure are exempt from that requirement because they include guestrooms on the ground floor. The applicant has reduced the contextual scale of the building by varying the roof line across three distinct segments of the structure and by incorporating into the design multiple, stepped roof lines. Balconies have been incorporated where the building faces public rights-of-way and the structure is subdivided into distinct building masses with significant off-sets to reduce massing.

iii.) Considering the above, the Commission concludes that this guideline has been met.

C.) ***Design Guideline 3: Roof Design***

Intent: *Roofs should have similar configuration and character to historic styles in the district.*

Approaches:

- *Roof slopes on commercial projects shall be between 5:12 and 12:12 unless there is a flat roof with parapet.*
- *Mechanical equipment shall be screened and integrated into the roof design.*

- *Roof shapes shall be consistent with traditional styles found in the neighborhood.*
- *A standing seam is recommended for metal roofs.*
- *Gable and hip roof forms are recommended.*
- *Parapet walls shall be integrated into the building.*

Reference: *Illustrations #2, #5, #6 and #7*

i.) Some mechanical will need to be placed on the roof as bringing the ductwork through the buildings concrete floor slab and needing louvers to be added in the retaining walls facing Olive would be unsightly and expensive. The newly adjusted roof (see on sheet A1.05, Attachment "A2") allows for a hidden mechanical well to take fresh air to the main portion of the building from above.

ii.) The 6:12 gable roof pitch is common in Nye Beach and within the slope range that is permitted. The rooftop mechanical equipment enclosure is modest in size relative to the overall mass of the building and does not materially impact the visual appearance of the roof. Further, parapet walls are integrated into the design as an accent.

iii.) Considering the above, the Commission concludes that this guideline has been met.

D.) ***Design Guideline 4: Commercial Buildings Define Continuous Street Edge***

Intent: *Support safe and "walkable" streets by creating a traditional town pattern of commercial buildings lining public streets. Create high visibility between commercial interiors and public ways.*

Approaches:

- *In commercial areas, commercial buildings shall abut the front property line. Allowable exceptions to the requirement to abut the front property line include areas where the existing buildings adjacent to the property are set back from the property line, where a pedestrian oriented feature such as a courtyard, patio, landscaped area with seating or outdoor cafe seating is included, or where severe topography or an easement precludes the building abutting the front property line.*
- *Commercial buildings shall abut a side yard property line where possible except to allow access for parking or fire egress, the side abuts a zoning district which requires a side yard, or a setback is required for ocean front lots.*
- *Separation between building walls at the street level shall be avoided except for pedestrian and parking access, or a pedestrian oriented feature such as a courtyard, patio, landscaped area with seating or outdoor cafe seating is included.*
- *Front and side yard setbacks, where they exist, shall be fully landscaped or shall provide a pedestrian oriented feature as described previously.*
- *On commercial, institutional, public, and multiple family residential (with three or more units) buildings, a primary entrance to the building shall face the frontage street. Entries from off-street parking lots shall not be made more prominent than the entrance from the street.*
- *Trash collection areas shall be screened.*

i.) Access to trash bins in the parking structure would be compromised due to space constraints and a maximum clearance height of 9'-0". Applicant propose the trash facilities stay in its current location next to the Pool building to better accommodate service truck access.

ii.) This guideline requires commercial buildings abut front property lines. An exception is provided where a pedestrian oriented feature is incorporated between the front lot line and building. This includes courtyards, patios and outdoor café seating. The applicant has incorporated a patio/veranda with café seating between the building and front lot lines along SW Elizabeth and W Olive Streets in keeping with this requirement (Sheet A101, Attachment "A2"). Moving the building footprint 5-feet back from Olive Street does not materially change the pedestrian oriented nature of this feature. A corner of the building abuts SW Dolphin Street, which is also a front lot line. Shifting the building footprint required they notch out a small portion of the corner of the structure to avoid a property line encroachment. This provides a degree of visual relief. The project still provides separation between the existing Whaler Hotel and new development, and a pedestrian walkway is incorporated to enhance connectivity. Entrances to the hotel lobby face SW Dolphin Street and West Olive Street. As noted by the applicant, trash collection will be collocated with the existing Whaler Motel near the existing pool building instead of being located in the sub-grade garage of the expansion. This means that no trash collection areas will be located within the portion of the project that is subject to design review. The applicant's landscape plan for the hotel expansion (Attachment "A5") illustrates that the setback areas will be fully landscaped.

iii.) Considering the above, the Commission concludes that this guideline has been met.

E.) ***Design Guideline 5: Consistency with Predominant Styles and Features***

Intent: *Buildings shall generally be compatible in design and appearance with other buildings in close proximity by including similar types of architectural features and materials.*

Approaches:

- *Proposed buildings shall include design features that are consistent with the design standards and are similar in nature to buildings in direct proximity to the site.*
- *Where the surrounding buildings predominately do not include architectural features found in the design standards, the proposed building subject to design review shall include architectural features that are common to the district as identified in the design standards or by findings documenting similar architectural features found within the design review district.*
- *Where the surrounding buildings predominately do not include architectural features found in the design standards or in the design review district, innovation and creativity in design may be allowed consistent with the design guidelines.*
- *In keeping with traditional styles, where a transition is made in the building's siding material, the transition should occur at an inside corner, rather than an outside corner.*

Reference: *Illustrations # 7, #8, and #11*

i.) The applicant notes that their building elevations have been updated to show changes to the deck railing and window layouts. Materials are staying the same (see Sheets A3.01, A3.02, G0.10, Attachment "A2").

ii.) The applicant's updated site plan and architectural elevation illustrate that the design changes to the exterior of the new hotel building continue to incorporate architectural features common to the district, and constitute substantial evidence that the Commission can rely upon in finding that this guideline has been satisfied.

iii.) Considering the above, the Commission concludes that this guideline has been met.

F.) ***Design Guideline 6: Parking Orientation and Building Form***

Intent: *For commercial and multiple family residential (greater than 2 dwelling units) projects, the building massing shall not be shaped by off-street parking. Building massing should generally take traditional forms that are observed in the district, the historical record of Nye Beach, or that can be demonstrated to be consistent with the dominant architectural styles of the district.*

Approaches:
On-site parking shall be at the rear or side of the building or below street grade underneath the building with access via alleys or interior streets unless, based on review of the project, the review authority determines that topography such as steep slopes precludes side or rear parking. Parking garages shall utilize similar architectural details as the main building. Shared parking facilities are allowed and are encouraged. Views of parking areas from adjacent residential and commercial uses shall be screened through the use of landscaping and/or fencing. Pedestrian paths shall be clearly defined. Textured pavings are preferred over painted stripes for defining walkways.

Reference: *Illustrations #6 and #9.*

i.) Looking at the sub-level parking count, due to the previous design having no structural elements in it (columns) we lost 3 stalls. By shifting the larger block of units 5'-0" south we were able to re-gain 2 stalls (net loss of 1). We were able to pick up a stall on the surface at the entry and may need to add a few street parking stalls into the overall calculation (street parking was not previously included).

ii.) The bulk of the required off-street parking continues to be provided in a below grade garage, and landscaping is proposed such that the entrance to the parking garage will be screened from view (particularly as the landscaping matures). Textured paving is preferred over painted stripes for defining walkways. The applicant has agreed to install two crosswalks where textured pavers will be used versus striping so that the visual appearance aligns with crosswalks elsewhere in the Historic Nye Beach Overlay District (HNBO). One is the mid-block crossing of SW Elizabeth Street, opposite Don and Ann

Davis Park, and the other is a crossing at the intersection of SW Dolphin Street and W Olive Street. The crosswalks at Cliff /Olive Streets and Coast/Olive Streets are an example of the textured walkways used in the district.

iii.) Considering the above, the Commission concludes that this guideline has been met.

G.) ***Design Guideline 7: Connected Pedestrian Network***

Intent: *Maintain and reinforce the walking environment of Nye Beach with a network of public sidewalks and private paths.*

Approaches:

- *For commercial projects, provide pedestrian paths to create linkages between adjoining public and private spaces.*
- *Circulation routes shall be continuous and integrated into the larger pedestrian circulation network.*
- *Specialty paving is encouraged.*

Reference: *Illustrations #6 and #9.*

i.) A few updates have been made to the site plan including a new sidewalk connecting Elizabeth with the new Dolphin Street improvements. Both the North and South entrances for Dolphin will be brought up to current standards with connecting fire lane access and landscaping per previous city discussions.

ii.) The applicant's overall site plan (Attachment "A6") illustrates how integrated pedestrian pathways will be constructed in both the public and private space. Like the previous guideline, use of specialty paving is encouraged. New public sidewalk along W Olive, SW Elizabeth, and SW Dolphin Streets will be concrete, consistent with the City's sidewalk standards. The applicant has more flexibility in how they incorporate specialty paving within the interior of the property, including the pathways, veranda, and porte cochere, and the applicant has agreed to include such elements in their final design. The fire lane that is to be built in the undeveloped portion of SW Dolphin Street will be paved, and is to double as a multi-use path.

iii.) Considering the above, the Commission concludes that this guideline has been met.

H.) ***Design Guideline 8: Exterior Lighting and Glare Avoidance***

Intent: *Provide a well-lit public environment, while minimizing the incidence of glare.*

Approaches:

- *Exterior permanent lighting for commercial projects shall be restrained by using lighting features that minimize the impact of lighting such as full-cut off fixtures, low wattage bulbs, and/or recessed or shielded lighting, such that no direct glare occurs onto public right-of-way or adjacent property.*
- *Where building-mounted lighting – wall sconces, awning-mounted downlights, etc. -*

is used to illuminate an adjacent public sidewalk, the lighting source itself should be recessed or screened to avoid uplight and glare. Targeted uplighting may be used to draw attention to a specific design element provided it is directed at that feature.

- *Areas used extensively at night shall only be illuminated to the extent necessary for safety and security.*
- *On-site lighting shall be related to the site and retained on the site by directing the light downward, recessing the light, and/or shielding the light. Lighting fixtures shall complement the architectural character of the building.*
- *If landscape lighting is used, the landscape lighting shall be restrained by using lighting techniques (i.e. recessing the light, shielding the light, using low wattage bulbs) that minimize the impact of light.*
- *The use of light poles similar in appearance to the light poles installed as part of the Nye Beach Streetscape Project is acceptable for parking lot lighting and other lighting for which a light pole is used.*

i.) The applicant notes that no changes are proposed to the overall lighting plan, and that, if anything, some improvements may occur with the building being pushed back 5'-0". They further noted in the response to Ms. Engler that a combination of bollard and landscape lighting will be used along paths, and that acorn type street lighting similar to the Don and Ann Davis Park lighting will be included in their final plans.

ii.) Building mounted and accent lighting options were included with the application materials upon which the previous approval was based, and the applicant is not proposing changes with this application. The fixtures will be shielded and/or recessed consistent with the guideline requirements and are oriented such that they will not direct glare onto public rights-of-way or adjacent property. No light poles are proposed; however, a pole(s) may be needed for safety purposes, particularly at the intersection of SW Dolphin and Olive Streets. The guideline calls for light poles to match the Nye Beach Streetscape Project, which in this case would be acorn style lighting, the nearest example of which is at Cliff and Olive Streets. The applicant accepted a condition requiring acorn style lighting with the previous approval.

iii.) Considering the above, the Commission concludes that this guideline has been met.

I.) ***Design Guideline 9: Requirements for solar access***

Intent: *Ensure new development projects do not excessively shade neighboring properties.*

Approaches:

- *Commercial and multi-family buildings shall be massed to avoid casting a direct shadow onto the public sidewalk across a bordering street.*
- *The third story on a commercial or multi-family building shall be stepped back to minimize shadowing of adjoining properties.*
- *Solar impacts shall be assessed for the following times*
  - *Time of year: between February 21 and October 21*
  - *Time of day: between 10:00 am and 2:00 pm*
- *Projects of greater than 2 stories shall submit a simple solar shading sketch that shows conformance with this standard.*

Reference: *Illustration #12.*

i.) The applicant notes that new changes to the building will not impact solar access.

ii.) The building modifications are minor enough that the solar impact analysis provided with the previous application continues to serve as evidence that this standard has been satisfied. That analysis demonstrated that the shadow patterns attributed to the three-story hotel building will not extend so far that they would shadow walkways on the far side of a bordering street nor will they impact neighboring properties.

iii.) Considering the above, the Commission concludes that this guideline has been met.

OVERALL CONCLUSION

Based on the staff report, the application material, and other evidence and testimony in the record, the Planning Commission concludes that the request complies with the design guidelines established for HNBO design review with the same conditions imposed with the Final Order for File No. 1-NB-21/2-CUP-21. The request is; therefore, **APPROVED** 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/owner shall construct concrete textured crosswalks at the mid-block crossing of SW Elizabeth Street, opposite Don and Ann Davis Park, and at the intersection of SW Dolphin Street and W Olive Street, in a manner that is substantially similar to existing crosswalks at Cliff/Olive Streets and Coast/Olive Streets as depicted on the updated building plans and elevation drawings by Abbott Architecture, dated 5/17/21.

3. Applicant/owner shall incorporate stamped concrete as a specialty paving element into the building plans for the internal pathways, veranda, and porte-cochere as depicted on the updated building plans and elevation drawings by Abbott Architecture, dated 5/17/21.

4. Acorn style light poles shall be installed within public rights-of-way adjoining the subject property for safety and security purposes in locations deemed appropriate by the City Engineer.

5. Applicant/owner shall improve SW Dolphin Street in a manner that conforms with the City of Newport's street standards and is roughly proportional to the impact of the development on the City's transportation system. This may include minor modifications to the scope and nature of the frontage improvements depicted on Attachment "A6." All required public improvements shall be completed prior to occupancy.

6. The applicant shall comply with all applicable building codes, fire codes, and other public health and safety regulations to ensure that the use will not be detrimental to the safety and health of persons in the neighborhood. The applicant is responsible for obtaining the necessary approvals and permits pertaining to the proposed use. If the applicant must materially modify the size or height of the building to comply with these codes, then a conditional use permit shall be submitted to establish that the changes are consistent with the overall development character of the neighborhood.

7. Applicant/owner shall install tsunami hazard wayfinding signage in a format and location approved by the City prior to occupancy. Further emergency evacuation information shall be posted in hotel common areas to alert employees and guests to the tsunami threat.

City of Newport

Community Development Department

Memorandum

To: Planning Commission

From: Derrick I. Tokos, AICP, Community Development Director

Date: February 25, 2022

Re: COVID-19 Meeting Protocols

At its February 22, 2022 meeting, the City Council elected to return to hybrid meetings beginning in April. All city committees will be required to do the same. City IT staff is updating the equipment in the Council Chambers so that meetings can be conducted in-person with persons electing to participate by Zoom being visible on the audio/video equipment in the room.

The Council has asked that the City Manager put together a policy outlining the hybrid meeting protocols, and they will be reviewing it at one of their March meetings. The policy will replace the existing virtual meeting policy (attached). A copy of the hybrid meeting policy will be distributed once it is adopted.

Attachments
COVID-19 Temporary Public Meeting Policy

COVID-19 TEMPORARY PUBLIC MEETING POLICY

Purpose

Due to COVID-19, and until further notice, the City of Newport will hold all its public meetings virtually utilizing the Zoom platform. This includes City Council, Planning Commission, and all of the city's standing advisory committees.

Types of Meetings

Virtual Meetings - virtual meetings will be held in the City Council Chambers of the Newport City Hall. These meetings will be livestreamed and televised on Charter Channel 190. Most attendees will be attending virtually with a limited number of staff and committee members present in the City Council Chambers.

All meetings are subject to Oregon Public Meeting Law.

Access to Watch a Virtual City Council or Committee Meeting

All virtual public meetings of the City of Newport are livestreamed and televised on Charter Channel 190. To access the livestream, visit the City of Newport website at www.newportoregon.gov. Once there, click on "City Government;" then click on "City Council" or "Committees (depending on the meeting of interest); click on the name of the committee; then an "in progress" note will appear if the meeting is underway; click on the "in progress" link to watch the livestream. It is not possible to get into a meeting that will be livestreamed before the meeting starts.

Public Comment during a Virtual or Hybrid Meeting

1. **Written Comment**.

   To submit a written public comment for any City of Newport meeting, send the written comment to publiccomment@newportoregon.gov. For City Council and Planning Commission meetings, the e-mail must be received by noon on the scheduled date of the City Council or Planning Commission meeting. For standing committee meetings, the 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.

   For City Council meetings, written comments received by the above noted deadlines will be included in the meeting materials, i.e., agenda packet. These comments will be acknowledged, at the appropriate time, by the Mayor or Council President, in the absence of the Mayor. If a specific request is made to read written public comment

into the record during a meeting, the City Recorder, or designee, will be provided a maximum of three minutes to read the comment during the meeting.

2. **Virtual Meeting - Committee Guidelines**.

As a reminder, members of the City Council, Planning Commission, or any standing committee, should not be exchanging e-mails, texts, or communicating privately during the meeting in any way. This also applies to the chat feature of Zoom. The goal of this reminder is to prohibit side conversations which could violate public meetings law and/or trigger public records law related to retention and access/disclosure.

3. **Virtual Comments during a Meeting**.

If you wish to make a "real time" comment during a meeting, a request to speak should be made by 2:00 P.M. on the scheduled date of a City Council or Planning Commission meeting. The request to speak should include the agenda item on which the requestor wishes to speak. If the comments are not related to a particular agenda item, the request to speak should include a notation that the request is for general public comment, and the general topic. The request should be e-mailed to publiccomment@newportoregon.gov. For standing committee meetings, the request to speak should 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 a request to speak is 11:00 A.M. If a meeting is scheduled to occur before noon, the request to speak must be submitted by 5:00 P.M. the previous day. Once a request to speak has been received, staff will send the requestor the Zoom meeting link. This link will allow a requestor to participate via video or telephone. Speakers receiving the Zoom meeting link should expect to remain in the waiting room until the item on which they wish to speak occurs in the agenda.

4. **General Virtual Meeting Participation Guidelines**.

All public participants attending virtual meetings will be muted until it is their turn to speak. The participant will be muted at the conclusion of their comments. Public meeting participants are encouraged to remain on the Zoom meeting in the event the public body has follow-up questions. In that situation, the participant will be unmuted for the follow-up response.

5. **Public Hearings**.

Individuals wishing to offer testimony during public hearings should utilize the process in Sections 1. and 3. above.

6. **Municipal Court**.

The Newport Municipal Court will continue in-person sessions.

City of Newport

Community Development Department

Memorandum

To: Planning Commission

From: Derrick I. Tokos, AICP, Community Development Director

Date: February 25, 2022

Re: March 7th HCA/HPS Project Kick-off

Staff with ECONorthwest will be in Newport on March 7th to kick-off the Housing Capacity Analysis (HCA) / Housing Production Strategy (HPS) project. They will tour residential areas to get a feel for the type and condition of housing in the city and will meet with community stakeholders to hear from them about issues they need to be thinking about as the project begins.

I'd like to get a sense of how many of you would be available on March 7th to meet with them. The City Council will be meeting with the consultants at 4:00 pm and perhaps we can set this up as a joint Commission/Council work session.

From:	Nicole Maness
To:	Megan Hoff; Onno Husing; Derrick Tokos; Paula Miranda; Lorna Davis; Matt Spangler; Judy Richter; John O"Leary; Stan van de Wetering; Andrea Sumerau
Cc:	Ethan Brown; SNOW Patty * DLCD; PHIPPS Lisa * DLCD; Melissa Graciosa; Michael Howard
Subject:	Progress on Yaquina Bay EMP Update
Date:	Friday, February 25, 2022 11:20:44 AM

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

Hello Steering Committee Members,

We wanted to report that we had a productive first meeting with the Advisory Group on Tuesday (February 22). We had participation from 21 AG members in addition to Stan, Andrea, Megan, Matt, and Lisa who attended from the Steering Committee. We also had the IPRE student team join us for the meeting.

We spent some time bringing the group up to speed on the process and timelines for updating the EMP, presented the datasets being collected, and then facilitated the asset-based discussion on Yaquina Bay.

- You can view the list of those participating on the Advisory Group here
- You can view our presentation slides here
- You can view the raw "data" or inputs into the asset-based brainstorming session here
- You can view a brief summary of the meeting here

The next step will be to review and synthesize all of the information we collected through the asset mapping exercise. We will share that with you in the next few weeks and will look to schedule a Steering Committee meeting with you in mid-March to present our progress to date and get feedback.

Feel free to reach out with any questions.

Many thanks, Nicole

Nicole Maness (*she/hers*)
Partner, Resilient Habitat & Working Lands | Willamette Partnership
1300 SE Stark Street, Suite 212, Portland, OR 97214
News: willamettepartnership.org
Follow Us on Twitter @Willamette_P and LinkedIn

On Mon, Feb 21, 2022 at 9:26 PM Nicole Maness <maness@willamettepartnership.org> wrote:

> Hello Steering Committee Members,
>
> Another quick progress report on our work to convene the technical sub-group and full Advisory Group in support of the Yaquina Bay EMP update.

The **Technical Sub-Group met** on February 14 (meeting #1 of two to three meetings). Megan Hoff, Andrea Sumerau, and Stan van de Wetering participated in the meeting from the Steering Committee as did Lisa Phipps. The primary objective of the meeting was to bring the group up to speed on the process and timelines for updating the EMP, present the data collected to date, and request support in identifying other sources of data, as well as ways to interpret, visualize or represent that data.

- You can view the list of those participating on the Technical Sub-Group here
- You can view our presentation slides here
- You can view the spreadsheet with existing and desired datasets here. Members of the Technical Sub-Group are helping us to identify and locate all of this data.

The full **Advisory Group is meeting on February 22 from 230-400PM** (meeting #1 of two to three meetings). The Zoom meeting link is on the attached document if you would like to join this meeting. Megan Hoff and Andrea Sumerau (and possibly Stan) are attending this meeting, as is Lisa Phipps. The objectives of this meeting will be to bring the group up to speed on the process and timelines for updating the EMP, present the data collected to date, and then begin work with this group to identify the different values (ecological, economic, cultural, recreation, scenic, etc) that are important to the Yaquina Bay community. We will be using an asset-based approach which is a tool used in planning to work with a broad base of community stakeholders that focuses on community/place-based strengths and assets rather than on deficits or problems.

- You can view the list of those participating on the Technical Sub-Group here

We plan to reconven the Steering Committee in early March to present and discuss findings/progress with you all.

Please let us know if you have any questions.
Many thanks,
Nicole

Nicole Maness (*she/hers*)
Partner, Resilient Habitat & Working Lands | Willamette Partnership
1300 SE Stark Street, Suite 212, Portland, OR 97214
News: willamettepartnership.org
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CITY OF NEWPORT

ORDINANCE NO. 2192

AN ORDINANCE AMENDING SECTION 4.20.040 OF THE NEWPORT MUNICIPAL CODE RELATED TO SPACING REQUIREMENTS BETWEEN RECREATIONAL MARIJUANA FACILITIES AND CHILD CARE FACILITIES

WHEREAS, on January 18, 2022, the Newport City Council received public testimony asking that it revisit its local regulations requiring recreational marijuana facilities be at least 1,000 feet from child care facilities and the Council agreed to review said provisions; and

WHEREAS, City of Newport's regulation of recreational marijuana facilities was put in place following the passage of Measure 91, in 2014, which legalized the sale and consumption of marijuana subject to Oregon law; and

WHEREAS, Measure 91 included a phase-in period to provide the Oregon Liquor Control Commission (OLCC) and local governments time to adopt rules for regulating the various types of marijuana businesses, including retail sale of marijuana for recreational use; and

WHEREAS, Newport elected to put in place a set of local regulations with Ordinance No. 2089, adopted December 7, 2015, that requires recreational marijuana facilities be located at least 1,000 feet from each other, and that they be at least 1,000 feet from child care facilities. State law at the time required that marijuana retailers be located at least 1,000 feet from schools; and

WHEREAS, in 2017, with House Bill 2198, the Oregon Legislature amended the 1,000 foot spacing requirement from schools, allowing marijuana retailers as close as 500 feet if OLCC determined that there is a physical or geographic barrier capable of preventing children from traversing to the premises of the marijuana retailer; and

WHEREAS, the following year, with SB 1544, the Oregon Legislature further amended the 1,000 foot school spacing requirement to allow a marijuana retailer to be as close as 500 feet, irrespective of whether or not there is a physical or geographic barrier, provided they were established before August 1, 2017 in accordance with a city or county ordinance adopted to implement Measure 91; and

WHEREAS, when adopting Ordinance No. 2089, the City Council determined that a 1,000 foot spacing requirement should be put in place between recreational marijuana facilities and established child care facilities because the children at such facilities are just as impressionable as those that attend an elementary or secondary school where the State imposed a 1,000 foot spacing requirement; and

WHEREAS, considering that the State of Oregon has since amended its 1,000 foot spacing requirement between recreational marijuana facilities and schools it is appropriate that the City of Newport make a change to its 1,000 foot spacing requirement between recreational marijuana facilities and child care facilities; and

WHEREAS, aligning the spacing requirements between recreational marijuana facilities and schools and child care facilities simplifies the process of identifying available sites, and increases the number of potential properties where recreational marijuana

facilities can be located; and

WHEREAS, the City Council held a public hearing on February 22, 2022 regarding the question of the proposed revisions and voted in favor of their adoption after considering the evidence and argument in the record.

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. The above findings are adopted as support for the amendments, below.

Section 2. Section 4.20.040(A)(8) presently states:

In cases where a Recreational Marijuana Facility is involved in retail sales of marijuana items, such facility is located at least 1,000 feet from an established child care facility identified and depicted on a map prepared by the City of Newport titled "Child Care Facilities in the City of Newport.["]

Section 4.20.040(A)(8) is amended to read as follows:

In cases where a Recreational Marijuana Facility is involved in retail sales of marijuana items, such facility is located at least 1,000 feet from an established Child Care Facility identified and depicted on a map prepared by the City of Newport titled "Child Care Facilities in the City of Newport," except that it may be located as close as 500 feet if either of the following exist:

a. The City Manager, or designee, determines that there is a physical or geographic barrier capable of preventing children from traversing to the premises of the Recreational Marijuana Facility; or

b. The Recreational Marijuana Facility was licensed by the City of Newport prior to August 1, 2017.

Section 3. Section 4.20.040(B) presently states:

For the purpose of determining the distance between marijuana retailers or a marijuana retailer and child care facility, to establish compliance with the requirements of section 4.20.040(A) of this Title, "within a 1,000 feet" means a straight line measurement in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property of an established marijuana retailer or child care facility and the closest point of the licensed premises.

Section 4.20.040(B) is amended to read as follows:

For the purpose of compliance with the requirements of section 4.20.040(A) of this Title, the distance between Recreational Marijuana Facilities, or a Recreational Marijuana Facility and a Child Care Facility, shall be determined by way of a straight line measurement in a radius extending in any direction from the closest point anywhere on the boundary line of the real property of an established Recreational Marijuana Facility or

Child Care Facility and the closest point of the licensed premises.

Section 4. This ordinance shall take effect 30 days after its adoption.

Date adopted and read by title only: February 22, 2022.

Signed by the Council President on February 22, 2022.

Cynthia Jacobi, Council President

ATTEST:

Margaret M. Hawker, City Recorder