



PLANNING COMMISSION REGULAR SESSION AGENDA
Monday, April 22, 2019 - 7:00 PM
City Hall, Council Chambers, 169 SW Coast Hwy, Newport, OR 97365

The meeting location is accessible to persons with disabilities. A request for an interpreter for the DEAF AND HARD OF HEARING, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Peggy Hawker, City Recorder at 541.574.0613.

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

1. CALL TO ORDER AND ROLL CALL

2. APPROVAL OF MINUTES
 - 2.A Approval of the Joint City Council/Planning Commission Work Session Meeting Minutes of April 1, 2019.
[Joint CC-PC Meeting Minutes April 1 2019.pdf](#)
 - 2.B Approval of the Planning Commission Work Session Meeting Minutes of April 8, 2019.
[Draft PC Work Session 04-08-19.pdf](#)
 - 2.C Approval of the Planning Commission Regular Session Meeting Minutes of April 8, 2019.
[Draft PC Minutes 04-08-19.pdf](#)

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

5. PUBLIC HEARINGS

- 5.A File No. 2-CUP-19: Approval of a Request to Grant Relief of the Five Off-Street Parking Spaces Required to Operate Three Vacation Rental Units That Include One (1) One-bedroom Vacation Rental and Two (2) Two-bedroom vacation rentals.**

[File No 2-CUP-19.pdf](#)

6. NEW BUSINESS

7. UNFINISHED BUSINESS

8. DIRECTOR COMMENTS

9. ADJOURNMENT

April 1, 2019
3:00 P.M.
Newport, Oregon

JOINT CITY COUNCIL
AND PLANNING COMMISSION
WORK SESSION

CALL TO ORDER AND ROLL CALL

The City Council met in a joint work session with the Planning Commission on the above date and time in Conference Room A of the Newport City Hall. In attendance from the City Council were Allen, Goebel, Hall, Jacobi, Sawyer, and Botello. In attendance from the Planning Commission were Franklin, Branigan, Berman, Croteau, and Patrick.

Staff in attendance was Spencer Nebel, City Manager; Peggy Hawker, City Recorder/Special Projects Director; Steve Rich, City Attorney; and Derrick Tokos, Community Development Director. Rob Murphy, Fire Chief, and Jason Malloy, Police Chief, arrived at approximately 4:45 P.M.

Also in attendance was Madeline Shannon from the Newport News-Times, Lon Brusselback, Ellen Bristow, Norm Ferber, Wendy Engler, Adam Springer, Mona Linstromberg, Carla Perry, and Mike Huff.

Vacation Rental Dwelling Discussion. Nebel reported that on November 6, 2017, Council initiated amendments to Chapter 14.25 of the Newport Municipal Code related to short-term rentals. He stated that this matter was referred by Council to the Planning Commission to conduct public outreach, and develop a set of potential revisions for Council consideration.

Nebel reported that as directed by Council on November 6, the Planning Commission appointed an ad hoc committee with a broad and diverse range of community representation. He stated that this ad hoc committee forwarded a draft package of code amendments to the Planning Commission in October 2018. He added that the committee was unable to reach consensus on a number of key policy topics, and in those areas, the group forwarded a series of policy options which they expected policy-makers to resolve.

Nebel reported that after the first Planning Commission public hearing, Tokos provided a recommendation to the Commission identifying policy options that should be retained, and those that should be dropped, along with a rationale to support those choices. He stated that this occurred at the Planning Commission's November 26, 2018 work session, and that the Planning Commission agreed with some of the recommendations and not others, and asked that its set of preferred policy options be prepared for public review.

Nebel reported that at the second public hearing, on December 10, 2018, the Planning Commission took testimony from the public on its package of preferred alternatives. He stated that testimony was also offered regarding the staff recommendation. He noted that the Commission closed the hearing and continued its deliberation to January 14, 2019.

Nebel reported that the Commission met in a work session on January 8, 2019 to discuss preferred refinements to the ordinance before it reconvened to make a recommendation to Council.

Nebel reported that on January 14, 2019, the Planning Commission completed its deliberations, and forwarded recommendations to Council for review, modification, and eventual approval. He stated that it elected not to reopen the hearing to take testimony on the final draft because the revisions it made were within the scope of what was before the public at the December 10, 2018 public hearing.

Nebel reported that Council conducted a public hearing on February 19, 2019, and held work sessions on March 4 and March 8. He stated that Council made modifications to sections of the recommended ordinance, and held a continued public hearing on those modifications on March 18.

Nebel reported that following the continued public hearing, Council scheduled a joint work session with the Planning Commission to review comments on the proposed ordinance, as revised by Council, to make any further changes prior to an ordinance coming back for public comment and possible adoption.

Nebel reported that during the public hearing, there was discussion as to how these proposals relate to the Greater Newport Area Vision 2040. He stated that there are several key strategies that relate directly to this issue, including: Strategy A2-Housing Supply "Increase supplies of affordable and work force housing, including rentals and for-sale units at prices that are accessible to a broad range of the general public;" A8-Vacation Rentals "Assess the growth and distribution of vacation rentals and take longer-term actions that may be required to address impacts on neighborhoods and the community;" and A9-Understand Impacts of Seasonal Housing "Gain a better understanding of the impacts that seasonal housing, including second homes and vacation rentals, has on the availability and affordability of housing, and the provision of public services within the community."

Nebel reported that both of proposals address parts of the key strategies related to housing, vacation rentals, and seasonal homes. He stated that this, coupled with key strategy C8-Local Business Support, "Support retain existing local businesses" suggests, as indicated in the 2040 Vision Plan, finding an appropriate balance achieving "...an entrepreneurial, livable community that feels like home to residents and visitors alike."

Nebel reported that both proposals are also in line with the housing components of the Newport Comprehensive Plan. He stated that Housing Goal 1 calls for the city to provide for the housing needs of the citizens in adequate numbers, price ranges, and rent levels commensurate with the financial capabilities of Newport households. He added that when viewed in the context of the city's limited housing supply, with many competing demands, it is reasonable to address this aspirational goal through the imposition of a cap or a zoning overlay.

Nebel reported that there were questions raised at the public hearing about the legal impacts of the Planning Commission or Council draft of short-term rental regulations. He stated that the specific issues shared by legal counsel during the executive session regarding litigation, or litigation likely to occur, are confidential. He added that it is important to note that either plan would be legal for Council to implement, but there are potential legal consequences to such implementation. He noted that both plans have possible risks for being challenged by property owners. He stated that the more restrictive that zoning changes are on existing property owners, the greater the risk is of a claim and

potential liability under a Measure 49 challenge. He noted that Section 14.25.030 of version five of Ordinance No. 2144, provides an avenue for administrative relief if there are any challenges regarding impacts to property values from any zoning changes.

Nebel reported that a question was raised as to whether the current permitting process implies a guarantee that a permit will continue from year to year. He stated that the current draft ordinance would provide that property owners can renew their short-term rental business license endorsement each year, provided they continue to meet the requirements of the ordinance. He noted that in draft Section 14.25.030, Non-Confirming Short-Term Rentals, vacation rental units located within, or adjacent to, a commercial or water-related zone, would be allowed to sell and maintain a vacation rental, regardless of the waiting list provisions or spacing limitations. He added that if there is a change in ownership in residential-zoned areas, properties not meeting the spacing requirements would not be allowed to operate as a vacation rental until such time other vacation rentals discontinue operations, so spacing requirements could be met. He stated that if a cap has been reached, and a wait list started, the buyer would not be allowed to operate the residence as a vacation rental which would provide a gradual transition in neighborhoods where vacation rental densities are greatest, and ensure that once a dwelling is used as a vacation rental, it will not always be a vacation rental.

Nebel reported that a question was asked whether the proposed policy would settle the long-term home shortage problem. He stated that there are a number of competing factors that make this analysis somewhat difficult, but under either the Council draft or Planning Commission proposal, the impact on available housing would be about the same for the first five years after an ordinance is adopted. He noted that in the Planning Commission version, vacation rentals would be phased out after five years in areas outside a designated zone. He added that the variable with any analysis as to how this could impact work force housing, relates to how many of these homes would be used for seasonal purposes versus permanent housing. He stated that staff is performing additional analysis of the values of the housing currently used as vacation rentals to determine how much of the housing would be work force housing (or affordable housing) from the vacation rentals that would cease being vacation rentals and/or seasonal homes.

Nebel reported that there was a question about providing a more detailed map showing multiple unit vacation rentals. He stated that the packet contains an amended map showing where these multiple units are located. He added that Tokos has included in the packet additional information on the maps including relative value of the structures being used or vacation rentals.

Nebel reported that there were also discussions regarding the process to bring this ordinance to conclusion, with suggestions to Council to refer the matter back to the Planning Commission, and/or that the ordinance be referred to the voters.

Nebel reported that there has been misinformation regarding the timing and processes that lead to the Planning Commission recommendation. He stated that Tokos provided a timeline in his report.

Nebel reviewed the suggested process for this joint work session. He proposed that after his report, each Planning Commissioner share their perspective on the issue. He suggested that following Planning Commissioner comments, Council would have an opportunity to ask questions of Planning Commissioners. He stated that following questions, a review of each of the outstanding issues based on the draft ordinance would be in order. He added that it could be determined, through this review, whether Council

would like to change any parts of the draft ordinance. He noted that finally, a discussion regarding next steps would be appropriate.

Nebel reported that version five of Ordinance No. 2144 includes direction given to staff at the March 4 and March 8 work sessions. He noted that this version modified version four that represented the recommendation from the Planning Commission to Council. He added that changes to the version four include the following:

1. 4.25.010(H) Definition of Sale or Transfer. A definition of sale or transfer has been added to ensure that persons owning vacation rentals, which are subject to a license cap, cannot avoid triggering the need for a new license by allowing a purchaser to assume a license from an ownership structure as a business entity.

2. 4.25.030(C)(7) Proof of Use. Proof of use language has been changed to indicate that the unit must be rented at least 12 days within a 12-month fiscal year.

3. 4.25.030(D)(2) Guest Registry. Language has been changed for guest registry to indicate that in addition to emergency responders, Finance Department personnel, when requested for enforcement or audit purposes, may obtain registry information, with that information treated as confidential to the extent allowed by law.

4. 14.25.010(I) Sale or Transfer. The same definition for sale or transfer has been added to this section as added to Chapter 4.25.

5. 14.25.020 Allowed Locations. The language establishing a vacation rental overlay zone has been removed from the Planning Commission recommended code changes, and replaced with language allowing short-term rental use in all residential, commercial, and water-related zoning districts to implement the cap provisions.

6. 14.25.025(A) Density. Establishes a cap by ordinance which shall not exceed 5% of the total number per dwelling units listed in the most current publically available US Census Bureau publication. Furthermore, it provides that Council shall establish by resolution, a specific cap number for vacation rentals that shall fall at, or below, the 5% threshold established in this section, and further provides that a waiting list will be established on a first-come, first-served basis for vacation rental applications, over and above the cap established by resolution of Council.

7. 14.25.030(A) Non-Conforming Use Provisions. Non-conforming use provisions are created for all short-term rentals licensed, or in process, prior to the date of the ordinance, except for the rentals located within or adjacent to a commercial or water-related zone, may be sold or transferred for continued use as a vacation rental, regardless of the waiting list provisions of the ordinance, with all other vacation rentals being subject to the density and spacing limitations and the cap, should they be sold. This provision would allow those units to continue as vacation rentals, up until the time they are sold. Once sold, they would be required to meet all spacing and cap requirements of the code.

8. 14.25.030(B) Administrative Relief. Provides for administrative relief if a property owner demonstrates with credible evidence that these zoning provisions have created a reduction in fair-market value of their property. This provides for a possible administrative resolution, prior to the property owner pursuing litigation to resolve a dispute regarding property value issues.

Nebel reported that there is general agreement by all parties that effective code enforcement is a necessity. He stated that as part of this effort, he authorized Tokos to solicit proposals from third party vendors who provide critical support to enforcement efforts for Council review. He added that these services can include location of vacation

rentals, 24/7 call centers for complaints, contacts to property agents related to complaints, and other similar types of services.

Nebel reported that items 1 - 6 are the items that relate to the fundamental difference between the Planning Commission recommendation and the City Council draft ordinance on cap and spacing, versus the overlay zone, and phase-out of vacation rentals in residential areas outside the overlay zone. He added that this is where the bulk of the differences exist in testimony taken to date.

Nebel reported that for provisions 2, 3, and 8, there was no specific testimony against those changes. He stated that for item 7, Non-conforming Use of Provisions, concerns were expressed regarding allowing non-conforming uses within commercial areas or adjacent to commercial areas, to be grandfathered as non-conforming uses in the Nye Beach area. He added that this provision was included both in the Planning Commission and in the City Council draft ordinances.

Nebel reported that a number of options suggested to Council on the draft ordinance at the last public hearing, include using the Planning Commission model, except extending the phase-out period from five years to a higher number, outside the overlay zone; reducing the citywide cap level to three percent as a maximum; restricting vacation rentals from single and two-family residential districts with a phase-out of vacation rentals that are currently existing in that location at time of sale.

Nebel reported that there are several other issues that need to be addressed related to short-term rentals. He stated that if the Council version proceeds forward, Council will need to determine, by resolution, a specific cap on the number of vacation rentals under the five percent threshold that is in the current draft ordinance. He added that the last reported number of vacation rentals was 212 existing licensed units with another 25 in process.

Nebel reported that if Council sets the number of vacation rentals at 250, that would allow a smoother transition based on the current number of VRDs and the existing applications. He stated that Council could set this at a lower or higher number. He added that there has been an increase in the number of licensed vacation rentals since the time discussions were initiated on short-term rentals. He noted that it is unclear as to what percentage of new licensees are legalizing existing unlicensed vacation rentals, how many applications have been made to preserve the right to have a vacation rental based on speculation of the rules changing, and/or how many are new vacation rentals based on growth of the vacation rental industry.

Nebel reported that if Council retains the cap as the method to control vacation rentals, then it will be necessary to set a fixed cap number by resolution. He stated that a cap significantly below 250 will result in the development of a waiting list once current applications are processed. He added that Council will need to set fees by resolution.

Nebel reviewed short term rental fees from throughout the state. He suggested that Council consider a one-time application fee, including inspection of \$250 with an annual renewal rate of \$225. He added that Council should include, in a resolution, any financial penalties for violations outlined in Chapter 4.25.

Nebel reviewed next steps. He reported that Council has scheduled the continuation of the public hearing to May 6, 2019. He stated that following the work session, if there is consensus on either the existing draft Council version, or a modified version of this ordinance, then it would be beneficial for Council to formally propose this ordinance at the April 15, 2019 Council meeting. He noted that this would provide plenty of notice to

property owners and residents regarding the current status of the ordinance prior to the continued public hearing.

Patrick reported that he thought that the Planning Commission version was workable with better enforcement. He added that he believes there have been good licensing provisions, but not good behavior enforcement. He added that he believes that short-term rentals are compatible with single family housing.

Hanselman stated that Newport is a two population town - those with VRDs in neighborhoods, and those without VRDs in neighborhoods. He added that the problem was created by the 2012 decision of the Planning Commission and City Council to open the R-1 and R-2 districts to VRD uses. He noted that these zoning designations formerly had zoning protections, and many people purchased homes knowing that the neighbors would be static. He stated that this is a takings of residential property rights, and that the City Council has thrown property owners under the bus. He urged Council to take heed of those near homeowners with a stream of transients that do not bring benefits to neighborhoods, but bring trouble. He asked whether VRD owners could use other's property to meet parking requirements.

Franklin reported that there is no guarantee for great neighbors. He stated that he grew up in Sun River where the police department deals with complaints, and property managers have established relationships with the neighbors. He added that he agrees with the City Manager and caps. He noted that he does not agree with an overlay zone. He recommended third party enforcement. He suggested grandfathering existing VRDs in commercial zones. He noted that the minimum requirement is too low, and the fees are too low. He recommended enforcement to determine whether it would resolve some of the issue. He noted the possibility of conditional use permits to address parking issues. He stated that as homes sell, the problem will resolve itself.

Croteau reported that he lives in north Agate Beach, and that area is heavily impacted by VRDs. He stated that he would prefer one bad neighbor rather than 500. He added that at least some R-1 and R-2 zoned district neighborhoods should be preserved. He noted that prior to 2012, there were limitations on VRDs in residential neighborhoods. He proposed that there be no additional licenses in the R-1 and R-2 zoning districts, and phase the VRDs out over five years, or to let them operate until sold, and terminate the right. He stated that this would allow R-1 and R-2 business owners to continue to operate until the property is sold, and then would allow single family zones to return.

Berman read the following letter: "My concern is with VRDs in residential neighborhoods. You have heard lots of testimony about the negative impacts of these "commercial activities" on the character and livability of affected neighborhoods.

At this point, my primary emphasis is to urge that the new ordinance does not allow the current situation to get worse. If past mistakes cannot be reversed, as the Planning Commission draft proposed, at least stop or severely limit the expansion in residential areas. In my neighborhood, which is not even among those most severely impacted, we are already at eight percent saturation. The current draft ordinance would allow that to increase to 16%. Your stated target is an average of no more than five percent citywide.

I would like you to consider three options:

First, do not allow any new licenses in residential neighborhoods. Phase out existing VRDs over some number of years.

Second, do not allow any new licenses in residential neighborhoods. Allow existing VRDs to operate until the property is sold. This should eliminate the concerns of those owners who plan to someday occupy the homes themselves.

Third, if neither of these is acceptable, Councilor Jacobi requested, and I provided, language to strengthen the spacing requirements in residential areas to one VRD per street segment; the current draft allows one VRD on each side of a street segment.

Options 1 and 2 would achieve the objective of not making Newport's VRD situation worse.

A citywide cap would also provide relief from future exacerbation of the problems. I would like Derrick to clarify how many of the 25 pending applications he expects to be approved so the current VRD base can be accurately factored in when deciding on a specific cap number.

On the subject of the guest registry, the Community Services Officer should be allowed to request access to help them in the enforcement of the ordinance. Specifically, the guest registry would be key to enforcement of the occupancy limits. I do not believe the CSO is classified as an emergency responder.

One final point. The decision to discuss the legal issues surrounding this ordinance in executive session was, I believe, ill-advised and unnecessary. The League of Oregon Cities, Guide to Executive Sessions states: "even when a topic or issue is permitted to be discussed during an executive session, a governing body may choose to discuss the issue during an open public meeting." The decision to go into executive session essentially cut off any debate about the likelihood of Measure 50 litigation. The City Attorney's opinion on the legal issues involved is probably the only one you heard; there are knowledgeable people with differing opinions on the subject.

I do not believe there is any Oregon case law related to Measure 50 and vacation rentals, but we cannot even ask that simple question of the City Attorney.

I would suggest that in the future, you carefully consider the necessity of going into executive session in a circumstance like this one. This is especially true because there is no current litigation and the likelihood of future litigation will depend on the specific content of the ordinance you are trying to develop."

Branigan reported that he has been a resident for 12 years. He stated that he has no association with any VRDs. He noted that he supports the Planning Commission recommendation. He added that he attended many meetings of the citizen's group, and the recommendations to the Planning Commission were not unanimous. He stated that when the Planning Commission deliberated, it broke down along the same lines. He added that whatever Council comes up with will not satisfy everyone. He asked whether the homeowner has an inherent right to have a VRD, or whether the neighbors have an inherent right to enjoy the neighborhood. He stated that the city will take a stance to minimize lawsuits. He asked whether the city would really have VRD enforcement. He reviewed statistics from other states. He noted that some states, including Michigan and Pennsylvania, do not allow VRDs in residential zones. He added that according to the IRS, VRDs are businesses. He noted that the city could passively administer VRDs as businesses with licensing and the imposition of transient room taxes. He stated that VRDs impact affordable housing. He added that the Nye Beach Overlay zone was created with promises to residents. He suggested the city support what it came up with when this zone was developed.

Sawyer reported that Lee Hardy had sent a letter as she was unable to attend this meeting. Hardy's letter follows: "As a member of the Newport Planning Commission, I have participated in the recent work sessions and public hearings held by the Planning Commission regarding the VRD issues. I am unable to attend the joint work session due to the date and time which is a very busy time of the month for me.

I have been a property manager in Newport for 36 years and have managed both vacation rentals and long term rentals during that time, vacation rentals since 1987. I currently directly manage one vacation rental in Newport, but have in the past managed a number of them. Within the last several years, my inventory of vacation rentals has dwindled to just one although I do assist one VRD owner with his paperwork. I do not compete well with those who do on-line bookings, so I am not seeking any more units to manage as vacation rentals. I prefer dealing with my customers one on one, and that is becoming very uncommon these days. Therefore, the outcome of the VRD discussion will not impact me or my business.

Regarding the issues raised by citizens who are discussing the impact of vacation rentals, I do have some observations and comments. Many appear to feel that the impact of VRDs is adverse with no benefit to the community. Many of the arguments are subjective rather than objective. I would prefer to see the process go forward with a more objective discussion.

First, establish legally defensible definitions for such things as "commercial" versus "residential" uses and "character" of neighborhoods. Character has never been defined, but the implication is that some neighborhoods are "better" in some way than others and, therefore, more deserving of consideration. That is an elitist attitude. Also acknowledge that, although a person does reside in Newport full time, their participation in the requirements of home ownership, such as paying property taxes does have beneficial impact on the community. And recognize that there are such things as property rights by virtue of which any property owner has the right to protect their investment and their right to buy, sell, use, and rent their properties.

For example, owners of long term residential rentals have to obtain a Newport business license unless they own just one rental unit (single family home). Does that make owners of multiple single family residents in Newport commercial operations? If they have a business license, and if having a business license makes them a commercial operation, how are they different from owners of vacation rentals? But there are those that want to treat them differently.

If it is appropriate for an owner of commercial property that generates income to live outside of Newport, what does that mean for the owners of Walmart, Fred Meyer, and Safeway? Those entities collect money from locals and visitors alike and pay a lot of property taxes. VRD rental owners also pay a lot of property taxes as well as room taxes which benefit all sectors of the Newport population.

Do individuals have an inherent right to know their neighbors? This issue has been put forth again and again. It was also part of the discussion of a variance to height restriction requested by a developer who wanted to build apartments just west of Lakewood Hills. Neighbors there were appalled at the possibility of people they did not know walking down the street to the reservoir. Seems like a silly concern to me.

Parking is a big issue. For some reason, it is perfectly OK that Newport residents park on the street, but vacation rental tenants cannot without special permission. Occupancy concerns are legitimate in terms of keeping overnight occupancies to a level that does not

violate fire or safety codes, but to limit the use of the yard to only the number of permitted occupants of the dwelling does not seem reasonable. Residents park on the streets all over Newport, and they even have backyard barbecues or picnics with visitors who do not live on the property. I do not believe that many understand the parking enforcement process and the time it takes to actually enforce the parking ordinance already in place. I understand it due to my own personal experience in filing a complaint within the last year. It does not take place overnight, and there is currently apparently one single parking enforcement officer who likely does not work 24/7.

Third party liability is a concern. If a person is violating an ordinance, law enforcement is the objective entity that should be citing that person and following through with enforcement. Punishing the property owner from whom the violator is renting seems inappropriate especially since rules are posted in the VRDs. Is a long-term rental landlord liable if a tenant breaks the law without the knowledge of the landlord? Enforcement is the elephant in the room. Rules that are not enforceable objectively without having to rely purely on second or third hand reports should not be part of the plan. And differential enforcement against different classes of people (who all comprise the “public”) should not be allowed. On the other hand, is the city going to be able to enforce operational standards on managers who may be lax in performing their duties of care and fiduciary responsibility on behalf of their clients? It was disappointing to me to see so little input from law enforcement especially regarding their ability in terms of manpower and funding to perform effective enforcement of the ordinances. It does not seem helpful to make rules that will not be enforced effectively and fairly. I have strong doubts that a distant third party enforcement entity will be effective other than in maybe tracking down unlicensed VRDs.

Affordable or workforce housing also became part of the discussion. Given the very small percentage of VRDs compared to the entire housing inventory in Newport, the impact of VRDs is pretty small if there is any impact at all. The main problem with the “lack of affordable housing” meme is that people fail to realize that seasonal housing shortages have occurred for decades. The biggest problem is that local wages sometimes do not facilitate funding a rental that the applicant can afford over the long term. Low wages in the service and other industries, poor credit (frequently caused by inability to pay medical bills), and criminal histories are major driving forces here. If there were a livable minimum wage requirement, and if individuals were hired for year round jobs, there would not be so much of a problem with people affording to pay rent here. The tourist and fishing industries contribute to the seasonal housing shortages for obvious reasons. Not only that, but an active sales market also impacts the availability of rental units. But no one is acknowledging that! Don't vilify landlords for needing to get a reasonable return of and on their real estate investments or second home owners for wanting to reserve the occasional use of their properties for themselves. After all, most landlords with long-term rentals will prefer a long term tenant without seasonal vacancies for obvious reasons. Why should that landlord subsidize local seasonal businesses at his or her own expense? And, if a second homeowner wants to partially support his or her purchase with short term rentals, what is wrong with that?

In summary, I would like to see the development of an objective rationale starting with legally defensible definitions, clear and fair enforcement practices, and including a respect for a person's right to use, rent, or sell their property. Such an ordinance would not single out certain classes of people for differential enforcement. And, lastly, maybe the city should seriously consider sponsoring the establishment of a trade school in Newport to

enhance the employment prospects for our young people along with requiring a livable wage.”

Jacobi reported that she had talked with a Planning Commissioner and asked whether there was room for a compromise, and was told no. She noted that she would like to hear whether there is room for compromise on the phase down time. She added that she likes the term phase down rather than phase out. Allen stated that he would not like to change terms as there are both different.

Allen reported that he met with Wendy Engler and Carla Perry today, and discussed the option of the most recent VRDs being the first to relinquish the right to operate. Tokos noted that for the newest VRD license holders would have to meet spacing standards on the sale of the unit.

Allen asked whether established VRDs are considered differently. He stated that he supports the overlay in the Nye Beach area. He added that the Planning Commission recommendation would allow continued use of the establishment, even if it was sold, and asked whether spacing standards would apply.

Tokos stated that with the Planning Commission recommended overlay, if VRDs are outside the overlay, they would be phased out; inside the overlay, they would be grandfathered unless the use as a VRD was discontinued for a 12 month period. He noted that there could be additional language related to VRDs in tourist/commercial zones being subject to spacing standards.

Botello asked about the frequency of use requirement, noting that the City Council recommended that the 30 day requirement be reduced to a 12 day requirement.

Allen noted that the cap number would be included in the ordinance, but the cap would be set annually through Council resolution.

Goebel noted that the cap would be set by Council resolution. Tokos stated that the cap could be a “not to exceed” number such as five percent. Allen asked about the possibility of setting the cap at a 4% or 4.5% not to exceed amount in the ordinance. Tokos reported that 5% provides Council with flexibility, adding that it is currently between 4% and 4.5%.

Croteau stated that the cap and spacing are compatible.

Allen asked whether spacing standards can be differentiated in the R-1 and R-2 zones, and at sale, the right would go to the bottom of the waiting list. Tokos noted that a property that is sold, if the cap is reached, would be subject to the cap and spacing standards.

Goebel suggested that there could be merit to different spacing standards in residential and commercial zones. Tokos noted that the spacing standards could be expanded.

Goebel asked how Tokos viewed the issue of one VRD per street segment versus two VRDs per street segment. He added that he is concerned about Nye Beach and whether the problem can be solved with spacing standards.

Hanselman noted that the 5% is arbitrary. He added that there was no consensus of the ad hoc group on this issue. He stated that 5% is for the entire city, and that a big number of neighborhoods will never be impacted by VRDs, as most VRDs are on the west side of Highway 101, and south of Highway 20. He noted that to use the excluded population of houses as part of the cap is wrong. He questioned why the 5% would be applied to the entire city when it is only a burden to a few neighborhoods.

It was suggested that all VRDs in R-1 and R-2 be phased out.

Goebel noted that rather than forcing a 30-day rental requirement, and using a 12-day rental requirement, would lessen the impact on neighborhoods. Hall asked what would happen if a unit was not rented for 30 days. Croteau stated that 30 days annually is not too much for this privilege to exercise the license. He noted that there is a possibility of a contingency. Allen asked how the 30-day rental requirement was arrived at during Planning Commission discussions.

Branigan asked what would happen, in an R-1 or R-2 zone, if someone gifts a house that is a VRD. Allen noted that if there is no conveyance, it might not be considered a sale. Rich added that this would depend on the ordinance language.

Franklin asked about the potential of a minimum nightly requirement that is greater in the commercial zone. Tokos noted that there are possible scenarios that could be considered in the final draft.

Hanselman asked the group to think about how all things interrelate. He stated that the cap and spacing requirements will shove VRDs to the other side of the highway.

Branigan noted that Nye Beach was envisioned as a mixed use neighborhood with business and residential, but that there is a lack of parking.

Nebel reported that the public hearing on this issue would continue on May 6. He asked for Council direction on the caps and overlay.

Allen stated that he would be comfortable with an overlay with a longer phase-out period (10 years or more), and grandfathering transferability in the C-2 zones. He added that he preferred grandfathering in the exclusion area until sale; and no new VRDs in the exclusion areas. He asked for clarity regarding whether children can inherit houses and continue the VRD use.

Sawyer reported that he supports the cap, but opposes the overlay. He added that he supports the phase down with a longer period, and also supports transferability.

Jacobi reported that she supports the overlay with more protections so that 70% of the homes in a neighborhood are not VRDs.

Goebel stated that he supports the cap, but is concerned with the concentration of VRDs in certain areas.

Hall reported that she supports the overlay, and prefers a slowdown and phase down. She recommended a committee be developed to review VRD applications and enforcement issues, and to determine who the applicants are, and how they are participating.

Nebel noted that there are four Councilors in support of the overlay zone versus caps, and the phase out of VRDs outside the overlay zone. He asked for Council's opinion on the phase out outside the overlay.

Allen suggested grandfathering those outside the overlay zone until they are sold and/or ten years, and reiterated that the inheritability issue still needs to be clarified.

Sawyer recommended grandfathering VRDs outside the overlay zone for ten years.

Jacobi suggested extra consideration for Nye Beach particularly in non-conforming areas. She recommended grandfathering for ten years and beyond.

Goebel stated that he would not support the overlay.

Hall stated that she supports a ten year phase-down, and reiterated the need for clarification on inheritability.

Botello stated that she supports a ten year phase-out with clear transfer language. She asked about buildings with multiple units. Tokos noted that the target is the building, rather than each of the multiple units.

Nebel noted that the majority of Council concurs with a 30-day minimum rental requirement. He asked whether Council wished to include an overall city cap. Allen stated that he would like to look into this issue and see how various options and scenarios would apply.

Nebel asked whether there was support for exploring a cap in the overlay zone or city-wide. Goebel suggested that if this is done, the VRDs should be concentrated in the overlay zone. Nebel noted that the majority of Council supports the exploration of a cap and its ramifications in both the overlay zone and city-wide.

Nebel asked for Council thoughts on transferability in commercial and waterfront zones. Allen noted that he supports the Planning Commission recommendation and transferability. Jacobi asked whether there are other businesses that transfer uses. Tokos explained that in some instances, the use runs with the land. Hall suggested a review process for non-conforming uses. Jacobi stated that she is undecided. Goebel asked about transferability in the overlay zone. Allen stated that a new owner would have to apply for a VRD endorsement within a 12-month period. Botello stated that she agrees with transferability. Hall added that she does not favor transferability. Tokos explained non-conforming uses.

Nebel reported that he would synthesize the comments from this meeting and have a report on the latest consensus for the April 15 meeting. It was noted that the final ordinance is still evolving.

Emergency Response Overview. Murphy made a PowerPoint presentation regarding major emergency response, and the city's Emergency Operations Plan. It included: objectives; the history of the Incident Command System; the definition of an Incident Command System; common elements of an Incident Command System; key concepts of the Incident Command System; Incident Command System structure; basic Incident Command System components; command staff; general staff; personnel; common Incident Command System facilities; emergency operations center; Level 1 emergency operations center organization; Level 2 emergency operations center organization; the city's Emergency Operations Plan; emergency declarations; emergency situation as defined in 1.70.020 of the Newport Municipal Code; effects of an emergency declaration; the definition of a limited emergency declaration; the responsibilities of Council during a major emergency; the City Manager's responsibilities during an emergency; the role of the city's Emergency Preparedness Coordinator during an emergency; the responsibilities of city department heads in an emergency; and training opportunities for Councilors. Murphy responded to Council questions.

EXECUTIVE SESSION

MOTION was made by Allen, seconded by Hall, to enter executive session pursuant to ORS 192.660(2)(e), regarding real property transactions. The motion carried unanimously, and Council entered executive session at 5:52 P.M.

ADJOURNMENT

Having no further business, the meeting adjourned at 6:02 P.M.

Draft MINUTES
City of Newport Planning Commission
Work Session
Newport City Hall Conference Room A
April 8, 2019

Planning Commissioners Present: Jim Patrick, Lee Hardy, Bob Berman, Mike Franklin, Rod Croteau, and Bill Branigan.

Planning Commissioners Absent: Jim Hanselman (*excused*).

PC Citizens Advisory Committee Members Present: Dustin Capri.

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

1. **Call to Order.** Chair Patrick called the Planning Commission work session to order at 6:00 p.m.
 2. **Unfinished Business.** No unfinished business.
 3. **New Business.**
- A. **Draft Tree Manual and Pruning/Tree Removal Ordinance.** Tokos reviewed the tree manual and ordinance draft. He explained that the thoughts was that these updates would happen with the Transportation System Plan (TSP).

Cotton addressed the Commission and reviewed the coastal planting list. Berman asked for clarification on what “Street Trees” were on Table 1. Cotton explained that trees in the right-of-way were street trees. Franklin asked how street trees would apply to subdivisions with green belt planting strips, and what the width requirements were for them. Cotton said there was a reference in the ordinance on how wide those strips were and what could be planted in them. Tokos said as part of the Transportation System Plan (TSP) they would be looking at some of the street section options. There would be a brochure created to help educate the public. Franklin was concerned that the three feet minimum for small trees wouldn’t be accurate. Hardy saw there being conflicts unless they were clearly defined by diagrams in the code. Cotton confirmed this would be included in the code. Patrick suggested links on the document that directed the user to information on what each of the listed plants were. Hardy disagreed that there was such a thing as “salt air” and thought it should be removed. Cotton would look into this.

Berman asked if the Surf View Village apartment development was grandfathered in and if the rules wouldn’t apply to them. Cotton said yes. Croteau suggested adding Viburnum to the list of plants. Cotton noted that there had been a lot of experts in the field who looked at the list. Also, the Park System Advisory Committee would be making revisions to the document. Branigan asked if there would be anything done with new residential development. Tokos explained how the plan wasn’t structured for infill development on preexisting lots, but was structured to apply to something like a 8-10 lot subdivision when the developer wanted to put street trees in. Not all subdivisions would have street trees.

Hardy suggested clarifying which plant species were more water tolerant. Cotton thought this could be added to the notes. Branigan wondered why eucalyptus trees where included. Cotton noted this would be taken out. She explained how she sorted the list of trees by height and the other plants were sorted by botanical name. Patrick suggested the list be a live document so people could sort and search it as needed. Cotton noted she would be adding links to websites on the PDF document. Patrick wanted it obvious to people that there might be areas where the public right-of-way was a big area outside of people’s lot lines.

Cotton reviewed the ordinance draft. She noted the Parks and Rec Advisory Committee would serve as the Tree Board. Berman asked if people would have to go through the Tree Board when they wanted to plant a

tree at their property in a location that was part of the right-of-way. Tokos confirmed they would not. This ordinance was more about severe pruning of removal of trees. Hardy asked if the city would be liable if they didn't allow someone to remove a tree and it fell on their house. Tokos explained that these instances would be reviewed on a case by case basis.

Cotton reviewed the definitions. Branigan asked if there were definitions of what the stump height should be when cutting down a tree. Cotton reported this wasn't discussed and let Branigan know he could make a recommendation on this. Branigan felt it was important to have it defined. Tokos said they could take a look at it. Patrick suggested adding that trees and shrubs should not block the sidewalk. Cotton thought this could be included in the clear vision discussion.

Cotton reviewed the permit application section next. A discussion ensued regarding a potential addition to the language to say that if someone took a tree out they would have to plant another one on the property. Franklin expressed his concerns about the arborist requirement. Cotton explained this could be someone certified or someone designated by the City. Tokos suggested adding language to say a "certified arborist or a tree specialist". Berman asked if the city would make a list of these professionals. Tokos said they would. Cotton would work on the language. Patrick wanted clarification on what was required when there was storm damage to trees. Cotton said if they were doing minor pruning they wouldn't need a permit.

Cotton reviewed the criteria for tree removal requests. Berman asked who the "City" was under "A" for requests. Cotton said it was Public Works. She covered the criteria for what the Tree Board would review. Hardy was concerned that "habitat" was based on emotions and was subjective and uninformed. She asked what the qualifications were for members on the Tree Board to make the decisions on a scientific basis that superseded perception. Cotton said the Tree Board represented different interests. Berman was concerned about a "tree is generally healthy and of sound structure" warranting a denial. Cotton said it could be too ambiguous and wasn't a scientific definition, but was a factor to consider. Capri suggested changing the word "likely" to say "may" in both headings for warrant of approval in section B.1 and B.2.

Hardy asked if Public Works could go against the recommendation. Cotton said they could. Hardy asked what they would base it on. Cotton explained it would be at their own discretion and there would be an option to appeal. Tokos said the question the Commission needed to ask was if the Advisory Committee would be giving a final decision as opposed to a recommendation. He also noted that under "Exceptions" there needed to be language to say that they weren't routing the development that was authorized through a right-of-way permit through the Tree Board.

Cotton reviewed the section on tree removal and replacement. Capri asked if it mattered what the diameter needed to be for the replacement tree. Cotton explain the tree needed to be at least a 1 inch diameter and 4 feet above ground. Patrick was concerned about how to calculate the number of tree that needed to be added when a large old tree was removed. Cotton asked for the Commissioner's thoughts on what the number of trees that needed to be planted should be. Hardy didn't think there should be a requirement to replace anything. A discussion ensued regarding local trees and what should be replaced. Tokos thought they could review ratios in the language. Capri suggested requiring that they needed to add only one tree. Croteau suggested adding "up to" a certain number a trees and up to a "25 inch" tree. Capri asked if there were funds for this. Cotton said there was a discussion to have a tree fund but it was overly complicated for this ordinance. There might be an option for the City to go out and plant their own replacement trees. Croteau asked if this was something the Tree Board would be involved in. Cotton thought that people would come in with a simple one for one replacement. If there was anything outside of this that required mitigation, they could present an alternate landscaping scenario that would be approved by the Tree Board. Hardy asked what the driving force was for the Tree Plan. Tokos said the City Council voted to be part of the Tree City USA designation and this was a way to be a part of it.

- B. Transportation System Plan Advisory Committee/Desired Outcomes.** The Commission agreed to hold the discussion on the Transportation System Plan Advisory Committee and desired outcomes at the evening's regular session meeting.

4. **Director's Comments.** No Director comments.

5. **Adjournment.** Having no further discussion, the meeting adjourned at 6:57 p.m.

Respectfully submitted,

Sherri Marineau,
Executive Assistant

Draft MINUTES
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
April 8, 2019

Planning Commissioners Present: Jim Patrick, Lee Hardy, Bob Berman, Mike Franklin, Rod Croteau, and Bill Branigan.

Planning Commissioners Absent: Jim Hanselman (*excused*).

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 7:00 p.m. On roll call, Commissioners Hardy, Berman, Croteau, Patrick, Franklin, and Branigan were present.

2. **Approval of Minutes.**

A. Approval of the Planning Commission work and regular session meeting minutes of February 25, 2019.

MOTION was made by Commissioner Croteau, seconded by Commissioner Berman to approve the Planning Commission work and regular session meeting minutes of February 25, 2019 with minor corrections. The motion carried unanimously in a voice vote.

Patrick asked what the practice was for approving joint Planning Commission/City Council meeting minutes. Tokos would confirm this with the City Recorder and report back to the Commission.

3. **Citizen/Public Comment.** None were heard.

4. **Action Items.** None were heard.

5. **Public Hearings.** At 7:03 p.m. Chair Patrick opened the public hearing portion of the meeting.

A. **File No. File 1-MISC-19.**

Tokos gave his staff report. He acknowledged the handouts given to the Commission of public comments submitted by Katey Townsend, Rich Waller, Kathy Kowtko, Blair Bobier, Lucinda Taylor, Cathey Briggs, Haley Emerson, and Elise Jordan who were all in support of the project.

Branigan asked if there were any covenants to prevent the developer from selling the property before the 10 years were up. Tokos explained that for the city's purposes the developer just needed to provide that the units were available at 60 percent median threshold. He explained that the project had a high degree of subsidy from the State and would therefore be tied up tightly in contracts with the Oregon Housing Community Services. For the city program's purposes as long as they were making the units available at 60 percent or lower it would meet the requirements. If anything happened and the rents were at market rate, the tax exemption would go away. Tokos didn't expect this to happen.

Berman asked if their application had anything to do with a reduction in System Development Charges (SDC). Tokos said there wasn't a program to reduce or waiver SDCs and these fees were something the

developer had worked into their overall development costs and public improvement costs. Berman asked if the property tax exemptions included the property taxes such as ESD and School District taxes. Tokos said once the County signed on, between their four taxing districts and the city taxes, it put them over 51 percent of the overall assessed authority. Once the total went over 51 percent, then all of the other ones are participating by statute.

Proponents: Lola Jones with the Samaritan House addressed the Commission. She attested that low income housing was greatly needed in Newport. She reported that there were many families that were super low income and 30 percent area median income. This type of housing was very important for these families because it might be their only option for housing. Jones suggested that renters who were more high risk were being shunted out the bottom of the housing spectrum. This development might be the only option for these families. She invited the Commissioners to consider the housing crises in the community when considering their decision.

Hardy objected to Jones' suggestion that tenant selection was being done by cherry picking applicants. They would choose the first best qualified applicant and there were other factors that qualified or disqualified an applicant. She asked that Jones not overgeneralize. Jones said she stood corrected.

Daryn Murphy, with Commonwealth Development addressed the Commission. He said he wanted to thank staff for their work on the application and how they worked through the process. When his company was considering this development, the incentives the City had were part of the consideration. Murphy hoped this project would make a dent in affordable housing.

Croteau asked how many projects the developers had done like this. Murphy figured about 50 projects nationwide. Patrick asked what the \$189,000 in subsidies were. Murphy said the LIFT program was \$99,000 per unit. The balance of the subsidies were a Federal Tax Credit program which was around \$75,000.

Berman asked if the rent matrix based on the number of bedrooms was based on the current 60 percent and how often this was revised. Murphy said it was the current median for the county. They would typically raise rents when the county median was published. Berman asked what tenant selection process they used. Murphy said they followed the fair housing guidelines and generally it is a first come, first serve basis. They had a strict income screening processing and looked at certain criminal convictions.

Croteau asked what the developer would be doing for playgrounds and recreational facilities. Murphy said there would be a community room and play structures onsite. This development was a workforce project and they would tend to do more amenities for these types of projects.

Branigan asked if every tenant would be required to have a month's rent in advance. Murphy said they would have to pay the first month's rent along with a small deposit. Branigan asked what the typical turnover was. Murphy didn't have the statistics on hand but suspected there would be less turnover in Newport.

Franklin asked how the decision was made to designate the number of one and two bedroom units in the development and asked if they had talked to local nonprofits. Murphy said they talked to nonprofits and the feedback was that they should do as many one bedroom units as possible. The reason they didn't do as many one bedroom units as the community would like was because of an economic equation to balance the development budget, financing sources and uses. It was more challenging to do this with all one bedrooms.

Patrick asked what their timeline was. Murphy reported that they hoped to break ground in May 2019 and it would be a 12-14 month turnaround.

Berman asked if they had any plans to do a flashing light crosswalk in the area for residents to get across Highway 101. Murphy said not at that time but it was something they could consider talking to the city and

Public Works about. Croteau noted there was going to be more people crossing the highway with this development and something they should give serious thought to.

Berman asked about the plan for the access at the 60th Street north end, and if there would be a physical barrier to keep people from accessing this location. Murphy said there would be an emergency barrier there to keep the public from accessing that entrance, and it wouldn't be an access point for residents.

Opponents: None heard.

Hearing was closed at 7:37 p.m.

Branigan was moved by Jones' presentation and felt the project was needed in the community. He would vote to approve. Franklin was surprised at how fast tracked the project was and felt it should be approved. Croteau felt the standards were met. Berman was skeptical at first on how the program would work, but felt this project was a whole other level and supported it. Hardy felt it would be a positive experiment with the process. She didn't think that alone it would solve the perceived affordable housing problem because there was a problem with income levels. Hardy wanted to see an adjunct to this in terms of a required livable minimum wage, retraining, and a reorientation of adults to be responsible citizens. She felt this was a good start. Patrick liked the project and was glad to see the program working.

MOTION was made by Commissioner Croteau, seconded by Commissioner Branigan to approve a recommendation to the City Council for File No. 1-MISC-19. The motion carried unanimously in a voice vote.

6. Unfinished Business.

A. Transportation System Plan Advisory Committee / Desired Outcomes.

Chair Patrick reopened the discussion on the Transportation System Plan Advisory Committee (TSPAC) from the Work Session meeting. Tokos reviewed the staff report and discussed how stakeholders would be chosen as representatives on the TSPAC. He asked the Commission to give comment on the structure of the TSPAC.

Berman referred to the part of the Parks Plan that was deferred to the TSP and asked if that would be covered by the Bike and Pedestrian Committee. Tokos confirmed it would. Patrick noted he couldn't think of anyone else to add to the list of stakeholders. Branigan asked if the Port of Newport would get involved. Tokos said they would be engaged through the process but they wouldn't need to be on the TSPAC. Croteau said when looking for volunteers there should be one or two sentences on what was involved with being an TSPAC member. Berman noted that he was interested in serving as the Commission representative on the TSPAC.

MOTION was made by Commissioner Croteau, seconded by Commissioner Franklin to nominate Bob Berman as the Planning Commission representative on the Transportation System Plan Advisory Committee. The motion carried unanimously in a voice vote.

Tokos reviewed the "desired outcomes" for the project and noted they were looking for a bullet list of things that needed to be accomplished. These included some assurance that the Yaquina Bay Bridge would be replaced in its location or another site; a desired downtown streetscape to revitalize the area; and a pallet of acceptable streetscapes/cross sections and how to deviate from the typical streetscapes. Patrick suggested adding a tool for what to do with existing streets. Tokos said that other outcomes included refinements to information requirements; short term improvements that could be made before the big Urban Renewal funding projects hit; signal timing on Highway 101; and the three face signal addition on Hubert Street. Tokos asked the Commission for their thoughts on other desired outcomes to add to the list.

Patrick wanted the existing list to be prioritized to see what should be kept. He gave an example of the sidewalk from the hospital to Elizabeth Street that was on the list but was never done. Berman wanted to see a list of pedestrian safety improvements to reduce pedestrian accidents. Patrick wanted to see rules added to require people to use existing cross walks. Berman wanted clarification on what would be happening with Hurbert Street. Branigan thought they needed to consider adding beautification to the list.

Berman wanted to see specifics on how maintaining the two significant highways in Newport would be handled by the city and ODOT. Tokos said the TSP covered all of the streets and the bulk of the streets were Newport's responsibility. He wasn't sure how much ODOT would be willing to commit to anything for the TSP and maintenance, but thought the TSP should acknowledge maintenance.

Franklin asked if ODOT would be responsible for putting traffic signals into place and wondered how this would be addressed for the traffic from the new Surf View Village apartment complex project. Tokos said that project went through a partial traffic impact analysis and they looked at the signalization issue but it wasn't warranted. He explained that the State's signal warrant process was daunting. The city had reserved funds for signalization in certain areas. It would be good for locals to get more signals on Highway 101, but it was difficult to get the State to agree to allow signalization on Highway 101 because the side traffic was so low that it wouldn't meet their warrants. Franklin voiced his concerns about the safety of people crossing traffic on Highway 101 without signals.

Tokos noted he would be sharing an outline of the public engagement program for the TSP process with the Commission at another a work session meeting. Berman asked if the Commission was the lead organization for the TSP update. Tokos explained it was a city/state partnership and ODOT was the lead in terms of the administration of the contract. The city would have a lot of influence in the process and the Commission would have a significant role in the transportation planning component of the TSP. Croteau asked who would be a part of the Advisory Committee. Tokos reported the committee would be appointed by the City Council.

7. **Director Comments.** None were heard.

8. **Adjournment.** Having no further business, the meeting adjourned at 7:58 p.m.

Respectfully submitted,

Sherri Marineau
Executive Assistant

Case File: #2-CUP-19
 Date Filed: April 1, 2019
 Hearing Date: April 22, 2019/Planning Commission

PLANNING STAFF REPORT

Case File No. 2-CUP-19

- A. **APPLICANT:** Rogue Ales and Spirits (Mo Properties, LLC, Cindy McEntee, Judith and Kevin Dixon, et al, owners).
- B. **REQUEST:** Approval per Chapter 14.25.020(E)/“Bed and Breakfast and Vacation Rental Facilities – General Provisions” of the Newport Municipal Code (NMC) for a conditional use permit to grant relief from the five off-street parking spaces required to operate one (1) one-bedroom vacation rental and two (2), two-bedroom vacation rentals.
- C. **LOCATION:** 746 to 760 SW Bay Boulevard, Newport, Oregon 97365
- D. **LEGAL DESCRIPTION:** Lots 1 and 2, Block 2, Plan of Newport (Book 1, Page 2, Lincoln County Plat Records). Tax Lots 3800 and 4100, Assessor’s Map 11-11-08-CA.
- E. **LOT SIZE:** Approximately 8,400 sq. ft. per Lincoln County Tax Assessor records.
- F. **STAFF REPORT**
1. **REPORT OF FACT**
 - a. **Plan Designation:** Shoreland
 - b. **Zone Designation:** W-2/"Water-Related."
 - c. **Surrounding Land Uses:** Tourist-oriented commercial uses and public parking on the landward side of SW Bay Boulevard. A mix of tourist oriented retail and fish processing on the bay side of the street. Residential to the west on the bluff overlooking the Bayfront.
 - d. **Topography and Vegetation:** The existing building is built into the bluff. Most of the property is flat, developed with a mixed-use building and concrete patio. The western most portion of the property is an undeveloped portion of the bluff that is grown over with shrubs.
 - e. **Existing Structures:** An existing two-story building. Rogue Ales micro-brewery and restaurant occupies the main floor and there are three apartments on the second floor.
 - f. **Utilities:** All are available to the site.
 - g. **Development Constraints:** Property is within the City’s Geologic Hazards Overlay.

h. **Past Land Use Actions:**

File No. 14-CU-90. Authorized expanded seating for the micro-brewery and restaurant.

File No. 3-CU-89. Approved a micro-brewery and restaurant use of the main floor of the building.

File No. 19-CU-87. Amended the previously approved conditional use permit to allow a third apartment on the second floor of the building.

File No. 10-CU-87/12-VAR-87. Approved construction of a mixed-use building, with a tavern/deli, two retail areas, warehouse and cold storage use on the main floor, and two apartments on the second floor. The variance granted relief from landscaping and the setback/landscape buffer requirement between the building and upslope residential area. The building replaced the “Pub Tavern,” which was torn down.

- i. **Notification:** Notification to surrounding property owners and to city departments/public agencies was mailed on April 2, 2019; and the notice of public hearing was published in the Newport News-Times on April 12, 2019 (ref: Attachment “H”).

j. **Attachments:**

Attachment "A" – Completed application form

Attachment "B" – Application cover letter and narrative

Attachment "C" – Lincoln County Assessor property reports

Attachment "D" – Exterior building architectural elevations and floorplan for the apartments (File No. 10-CU-87)

Attachment "E" – Zoning map of the property

Attachment "F" – Ordinance No. 2020 creating a Bayfront parking district

Attachment "G" – Prior land use approvals

Attachment "H" – Public notice of the hearing

2. **Explanation of the Request:** Pursuant to Chapter 14.25.020(E)/“Bed and Breakfast and Vacation Rental Facilities – General Provisions” of the Newport Municipal Code (NMC), if one or more of the standards required under Section 14.25.050 cannot be met, an owner may seek approval of a vacation rental or bed and breakfast use as a Conditional Use, pursuant to 14.34.010. A Conditional Use Permit may allow relief from one or more of the endorsement standards of 14.25.050, but does not excuse the general endorsement requirements of 14.25.010.

With this application, the applicant is seeking approval of a conditional use permit because the apartments the applicant wants to use as short-term rentals lack off-street parking and there is no room on the property to construct off-street parking.

When the mixed-use building was approved in 1987 (ref: Attachment No. “G”), the Planning Commission at the time acknowledged that the property, which had accommodated a tavern and retail space, was too small to provide all of its required off-street parking. The decision provided that six off-street spaces were to be constructed (four in the warehouse and two outside) with nine more going into what at that time was an alternate option for a property owner to pay a fee in lieu of providing the parking. Later, as the brewery restaurant was expanded, more required spaces went the way of the payment in lieu option. As it stands today, there are no off-street parking spaces on the property, as the warehouse is being fully utilized for that purpose and the area outside that would have been available for parking has been configured into patio seating. With Ordinance No. 2020, the City terminated the “payment in lieu” program, in favor of a parking district where businesses pay an annual fee, with the proceeds being dedicated to maintaining and improving public parking assets (ref: Attachment “F”). This includes the adjacent Abbey Street parking lot. Current use of the property appears to be consistent with how it was being used when Ordinance No. 2020 was adopted.

3. **Evaluation of the Request:**

a. **Comments:** All surrounding property owners and affected city departments and public utilities were notified on April 2, 2019. The notice was published in the Newport News-Times on April 12, 2019. No written comments were received in response to these 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:**

In order 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.

- i. Public facilities are defined in the Zoning Ordinance as sanitary sewer, water, streets (including parking) and electricity. The zoning map includes an aerial image showing that the mixed-use building is located in a developed commercial area where these public services are available (ref: Attachment “E”).
- ii. In their findings (ref: Attachment “B”), the applicant points out that the apartments they want to license as vacation rentals are located immediately adjacent to the Abbey Street public parking lot, which they believe provides ample parking in the event that the five spaces would be needed.
- iii. The aerial photograph of the property from 2018 (ref: Attachment “E”) illustrates that paved public parking is available at the Abbey Street public lot, along SW Bay Boulevard, and within the adjoining Case Street right-of-way.
- iv. It is not uncommon for residential, commercial, and industrial uses along the Bayfront to lack off-street parking. When assessing applications for relief from off-street parking standards, the Planning Commission has considered whether or not (a) it is feasible for the owner to construct off-street parking and (b) on-street parking assets are adequate to meet anticipated demand.

With regards to the first point, the size and configuration of the building relative to the property is such that it would be reasonable for the Commission to conclude that it is not feasible for the requisite number of off-street parking spaces to be provided. City records show that this property has always relied upon nearby public parking to meet its needs. Even when off-street spaces were required, they were placed in locations where it was not intuitive (e.g. four spaces in a warehouse) and difficult to ascertain which uses they were associated with. With that in mind, it is not surprising that the off-street spaces were phased out, presumably in favor of the payment in lieu option.

As for the second point, it is reasonable for the Commission to find that the Bayfront Parking District provides a sufficient management structure to ensure that on-street parking assets will be adequate to meet the need. The District was established to actively manage the supply of on-street and public parking lot spaces with parking time limitations, and it is acknowledged as an acceptable alternative to the typical off-street parking requirements established in the Zoning Ordinance (NMC 14.14.100). Apartments are typically required to have three off-street spaces (NMC 14.14.030(21)). Use of the

apartments as vacation rentals will generate a demand for two additional spaces. Section 8 of Ordinance No. 2020 notes that redevelopment is only required to provide new off-street parking when it generates a demand for more than five (5) parking spaces. Therefore, this proposal is the type of limited expansion that the ordinance anticipated on-street/lot parking to accommodate.

v. Taken as a whole, it appears that there is adequate parking available along the public street, and adjacent public lot, to accommodate the needs of all users and that this request for relief from the five off-street parking space requirement will not result in an increased demand on parking facilities or any other public facilities. Therefore, it is reasonable for the Commission to conclude that public facilities can adequately accommodate the use of the apartments as vacation rentals.

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

i. This criterion addresses special requirements of the underlying or overlay zone beyond the standard zoning ordinance requirements. The subject property is zoned W-2/“Water-Related.” The applicant, in their findings, points out that this zone district allows tourist-oriented commercial uses, and residential uses above street-grade, through a conditional use process. That is how the existing mixed-use building was approved. The brewery and restaurant is popular with tourists and it is reasonable for the Commission to view use of the upstairs units as “Bed ‘n’ Beer” vacation rentals to be a complementary component of the business.

ii. Given the above, the Planning Commissions concludes that this criterion is 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.

i. This criterion relates to the issue of whether or not the proposed use has potential “adverse impacts” greater than existing uses and whether conditions may be attached to ameliorate those “adverse impacts.” Impacts are defined in the Zoning Ordinance as the effect of nuisances such as dust, smoke, noise, glare, vibration, safety, and odors on a neighborhood.

ii. The applicant’s findings note that the Rogue location on the Bay

Boulevard has functioned as an integral part of the historic Bayfront community for many years without problems or impacts. The Bayfront is a heavily trafficked area, frequented by tourists, locals, and employees of the fish processing plants and retail businesses. Any adverse impact associated with the rentals will be dwarfed by the level of activity occurring on these nearby properties.

iii. Given the above, the Planning Commission concludes that this criterion has been satisfied.

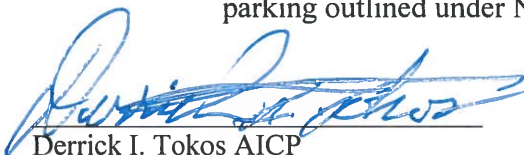
(4) A proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.

i. The applicant is not proposing to modify the building; therefore, it is reasonable for the Planning Commission to conclude that this approval standard is not applicable.

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 seeking relief from five off-street parking spaces typically required to operate one (1), one-bedroom and two (2), two-bedroom vacation rentals satisfies 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. The applicant/owner shall make applications for vacation rental business license endorsements pursuant to NMC Chapter 14.25, and is subject to inspection by the Building Official or designee to determine conformance with basic health and safety elements and the endorsement standards of 14.25.050, except the requirements for parking outlined under NMC 14.25.050(C).



Derrick I. Tokos AICP
Community Development Director
City of Newport

April 18, 2019

2-CUP-19



City of Newport Land Use Application

Applicant Name(s):	Property Owner Name(s) <i>if other than applicant</i>
ROGUE ALES + SPIRITS	MO PROPERTIES LLC
Applicant Mailing Address:	Property Owner Mailing Address:
2320 SE OSU DRIVE, NEWPORT OR 97365	622 SW BAY BLVD, NEWPORT OR 97365
Applicant Phone No.	Property Owner Phone No.
541.867.3660	541.270.0232
Applicant Email	Property Owner Email
MMERRITTC ROGUE.COM	GABE@MOSCHOWDER.COM
Authorized Representative(s): <i>Person authorized to submit and act on this application on applicant's behalf</i>	
MATTHEW MERRITT	
Authorized Representative Mailing Address:	
- same as above -	
Authorized Representative Telephone No.	
- same as above -	
Authorized Representative Email.	
- same as above -	

Project Information

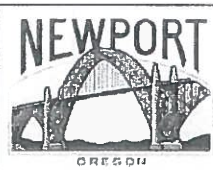
Property Location: <i>Street name if address # not assigned</i>	
748 SW BAY BLVD, NEWPORT, OR 97365	
Tax Assessor's Map No.: 11-11-08-CA	Tax Lot(s): 04100
Zone Designation: W-2	Legal Description: <i>Add additional sheets if necessary</i> attached
Comp. Plan Designation:	
Brief description of Land Use Request(s): <i>Examples:</i>	
<ol style="list-style-type: none"> 1. Move north property line 5 feet south 2. Variance of 2 feet from the required 15-foot front yard setback 	
Existing Structures: if any	
2-STORY BUILDING (FRONT + CASE BLDG) HOLDING ROGUE BAYFRONT PUB and RED 'N' BEER	
Topography and Vegetation:	
N/A	

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
---	---	---

FOR OFFICE USE ONLY

File No. Assigned: 2-CUP-19		
Date Received: 4/1/19	Fee Amount: \$802 -	Date Accepted as Complete:
Received By: sm	Receipt No. 3093	Accepted By:
City Hall 169, SW Coast Hwy Newport, OR 97365 541.574.0629		



City of Newport Land Use Application

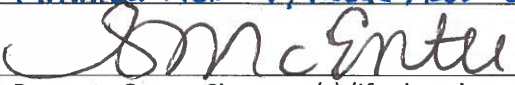
I understand that I am responsible for addressing the legal criteria relevant to my application and that the burden of proof justifying an approval of my application is with me. I also understand that this responsibility is independent of any opinions expressed in the Community Development and Planning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

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


Applicant Signature(s)

4/1/19
Date

MATTHEW MERRITT, ROGUE ALBS + SPIRITS


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

4/1/19
Date

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.

ROGUE

2320 OSU Drive
Newport, OR 97365

541.867.3660
fax 541.867.3260

brewdawg@rogue.com
www.rogue.com

April 1, 2019

BY HAND

City of Newport
Attn: Sherri Marineau
169 SW Coast Highway
Newport, OR 97365

*Re: Rogue Bed 'n' Beer, 748 SW Bay Blvd.
Application for Conditional Use*

Dear Sherri:

Enclosed please find an application for conditional use for the three vacation rental units located at 748 SW Bay Blvd, a/k/a the Rogue Bed 'n' Beer. Please consider this letter the written statement describing the nature of the request.

We seek relief from the requirement in Newport Municipal Code 14.25.050(C) that there be five off-street parking spaces associated with the Bed 'n' Beer. The Bed 'n' Beer has operated without dedicated off-street parking spaces with no discernible impact on the surrounding area. We see no reason to suddenly apply this requirement, and a conditional use is warranted.

In support of this application, enclosed please find:

- Site plan
- Current Lincoln County Assessor tax map
- List of property owners within 200' notification area
- Written findings of fact
- Check for \$852 (\$802 application fee + \$50 returned check fee)

Please let me know if any additional information is needed.

Sincerely,


Matthew Merritt
Oregon Brewing Company

748 SW Bay Blvd
Rogue Bed 'n' Beer
Conditional Use Application
Written findings of fact

Below are written findings of fact in support of an application for relief from Newport Municipal Code ("N.M.C.") 14.25.050(C)'s requirement of five off-street parking spaces for the Rogue Bed 'n' Beer.

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

Public facilities can adequately accommodate the proposed use. The Bed 'n' Beer is located next to a large City-owned parking lot that provides ample parking for the Bed 'n' Beer. Even when fully booked, it is exceedingly rare that five spaces would ever be needed for the Bed 'n' Beer in any event. There has been, and continues to be, more than adequate parking for the Bed 'n' Beer.

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

This request complies with the requirements of the underlying zone. The Bed 'n' Beer is located in a W-2 Water Related zoning district, which allows Residences on Floors Other than Street Grade as a conditional use in two ways: N.M.C. 14.03.080 #18 (as a use permitted outright in a C-2 district), and N.M.C. 14.03.080 #21 (directly).

Further, N.M.C. 14.03.040 provides that proposed uses shall be designed to maintain or enhance the historic, unique, or scenic quality of the area. The Bed 'n' Beer is located in the historic Front & Case building on the Bayfront. Granting this conditional use will not change the historic, unique, or scenic aspects of the building in any way. To the contrary, allowing the conditional use will ensure that the Bed 'n' Beer continues to generate revenue necessary for ongoing maintenance in order to maintain and preserve the building's character.

(c) The proposed use does not have an adverse impact greater than existing uses on nearby properties.

Relief from N.M.C. 14.25.050(C) will not have any adverse impact greater than existing uses on nearby properties. The Rogue location on Bay Boulevard has functioned as an integral part of the Historic Bayfront community for many years without problems or impacts. The proposed use – excepting the Bed 'n' Beer from the parking requirement – will simply allow business to continue as usual.

(d) A proposed building or building modification is consistent with the overall development character of the area...

N/A – this application is not for a proposed building or building modification.

Lincoln County Property Report

Account # & Prop. Info		Account Details		Owner & Address	
Account #:	R411499	Neighborhood:	N216	Owner and	MCENTEE CINDY M &
Map Taxlot:	11-11-08-CA-03800-00	Property Class:	201	Mailing Address:	DIXON JUDITH A & DIXON KEVIN ETAL 622 SW BAY BLVD NEWPORT, OR 97365
Tax Map:	11s11w08CA			Site Address(es):	760 SW BAY BLVD ;754 SW BAY BLVD ;758 SW BAY BLVD
Web Map:	View Map				
Info:	NEWPORT, BLOCK 2, LOT 1, DOC201703459				
Tax Code:	104				
Acres:					

Improvements							Value History				
Description	Area	Yr Built	Found	Heat	Plumb	BDMS	Value	YearImp.	Land	Total Market	Total Assessed
MAIN AREA	0 sq ft	1988					\$494,630				
Foundation Code List Heating/AC Code List Plumbing Code List											
								2018	494,630	152,000	646,630
								2017	494,630	152,000	646,630
								2016	473,800	152,000	625,800
								2015	473,800	152,000	625,800
								2014	473,800	152,000	625,800
								2013	395,700	131,000	526,700
								2012	445,160	131,000	576,160
							Sales History				
							No Sales Data				

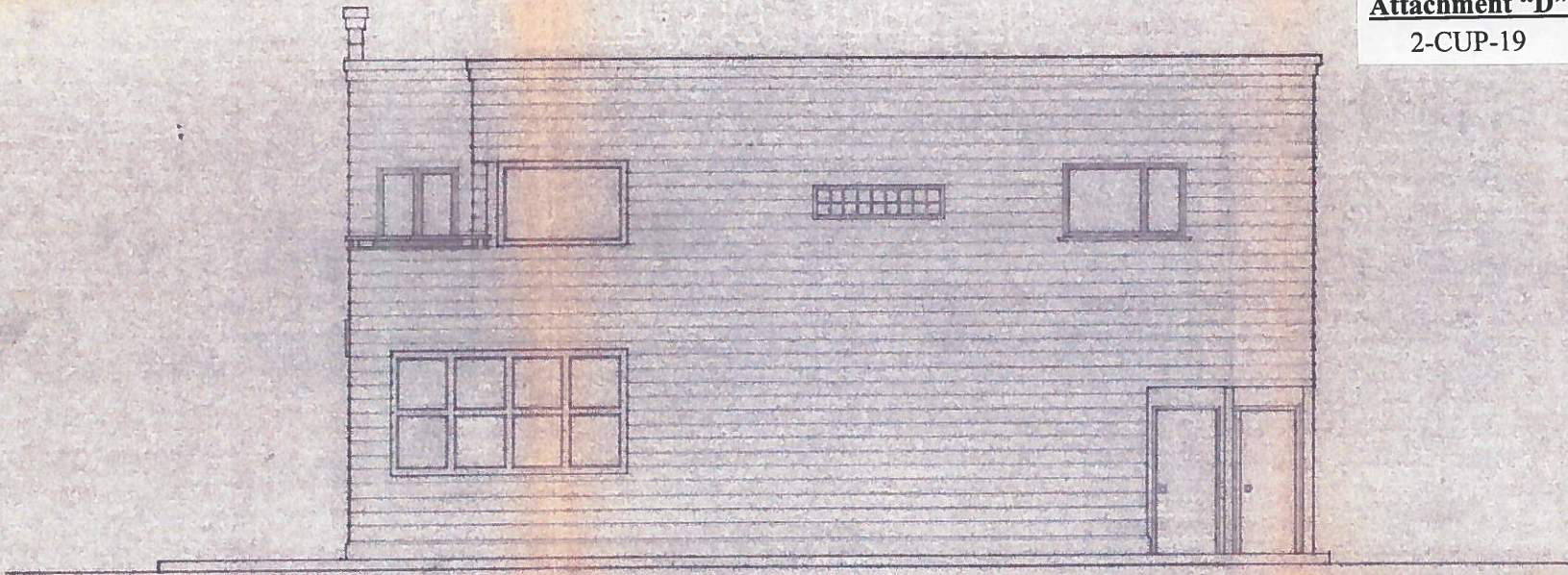
Land				Related Accounts	Disclaimer
Description	Acres	Market Value	Special Use Value		
COMMERCIAL DEV SITE	0.1	147,000			For assessment purposes only. Lincoln County makes no warranty as to the accuracy of the information provided. Users should consult with the appropriate City, County or State Department or Agency concerning allowed land uses, required permits or licenses, and development rights on specific properties before making decisions based on this information. Tax data exported 10/2018.
COMMERCIAL SITE DEVELOPMENT		5,000			
Today's Date: 04/18/2019					

Lincoln County Property Report

Account # & Prop. Info		Account Details		Owner & Address	
Account #:	R418503	Neighborhood:	N216	Owner and	MO PROPERTIES LLC
Map Taxlot:	11-11-08-CA-04100-00	Property Class:	201	Mailing Address:	622 SW BAY BLVD NEWPORT, OR 97365
Tax Map:	11s11w08CA			Site Address(es):	748 SW BAY BLVD ;746 SW BAY BLVD
Web Map:	View Map				
Info:	NEWPORT, BLOCK 2, LOT 2, DOC201804214				
Tax Code:	104				
Acres:					

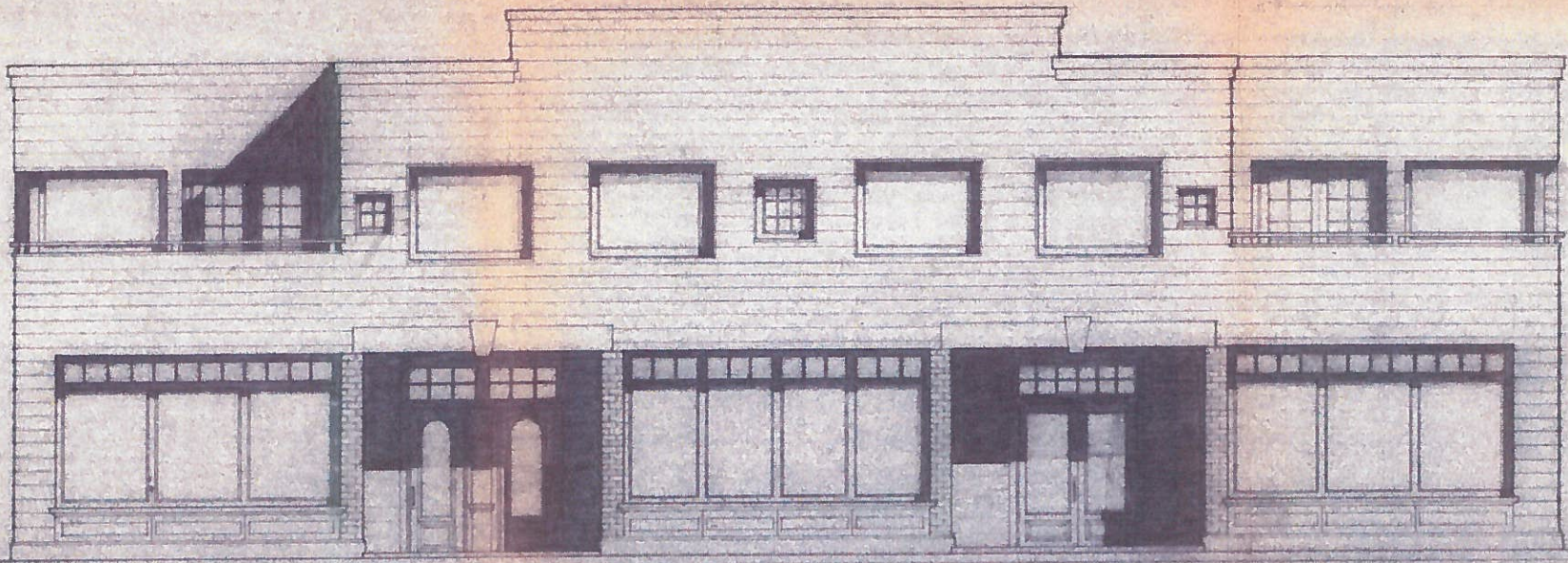
Improvements	Value History			
No Inventory	Year	Imp. Land	Total Market	Total Assessed
	2018 0	152,000	152,000	116,560
	2017 0	152,000	152,000	113,170
	2016 0	152,000	152,000	109,880
	2015 0	152,000	152,000	106,680
	2014 0	152,000	152,000	103,580
	2013 0	131,000	131,000	100,570
	2012 0	131,000	131,000	97,650
	Sales History			
No Sales Data				

Land				Related Accounts	Disclaimer
Description	Acres	Market Value	Special Use Value		For assessment purposes only. Lincoln County makes no warranty as to the accuracy of the information provided. Users should consult with the appropriate City, County or State Department or Agency concerning allowed land uses, required permits or licenses, and development rights on specific properties before making decisions based on this information. Tax data exported 10/2018.
COMMERCIAL DEV SITE	0.1	147,000			
COMMERCIAL SITE DEVELOPMENT		5,000			
Today's Date: 04/18/2019					



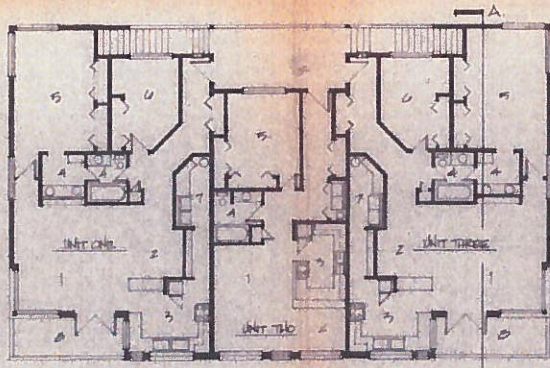
EAST ELEVATION
PROPOSED PLAN

1/4" = 1'-0"



SOUTH EAST KAY BLVD. ELEVATION (SOUTH)
PROPOSED PLAN

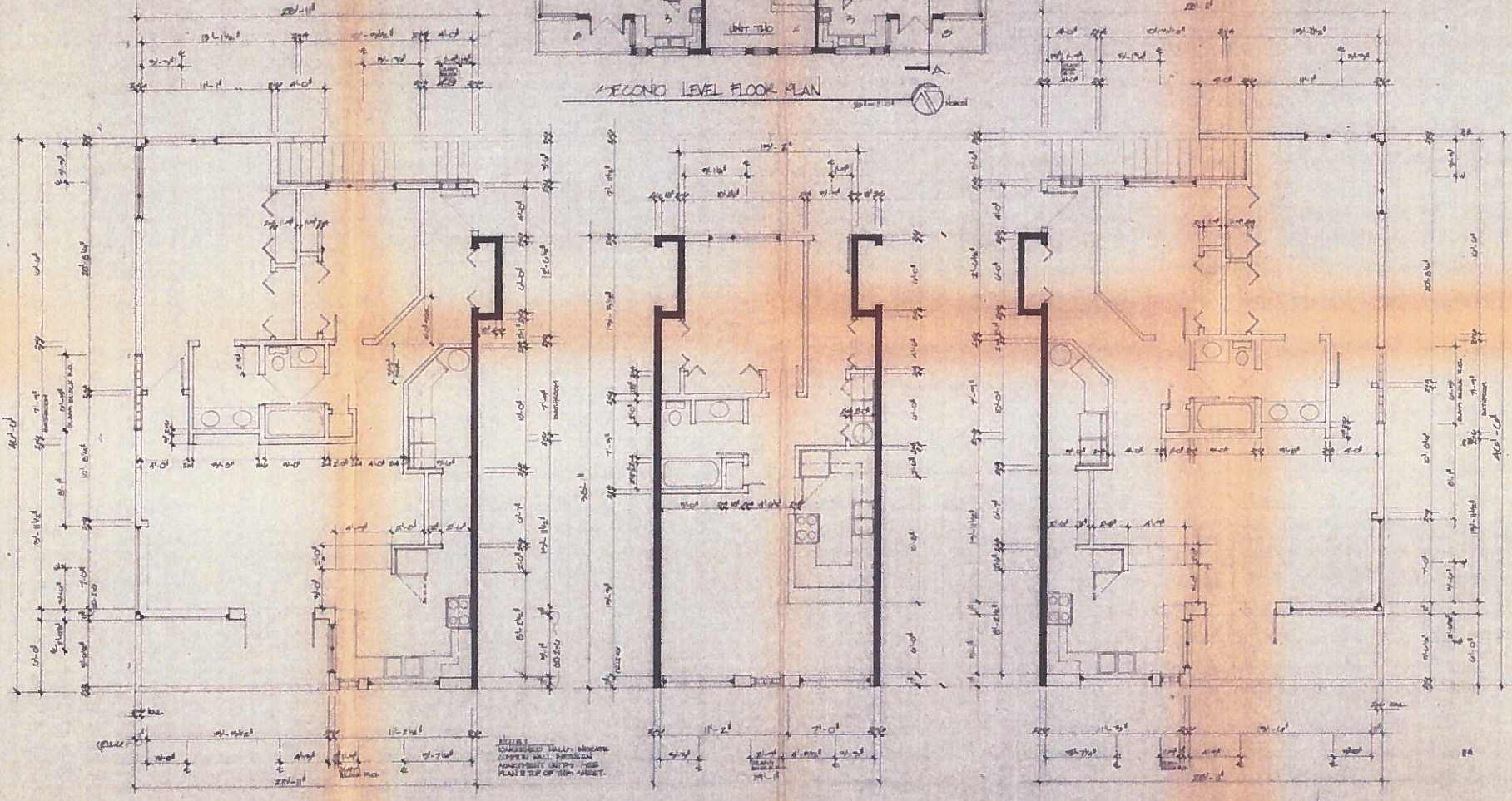
1/4" = 1'-0"



ROOM LEGEND

LIVING AREA	1
DINING AREA	2
KITCHEN	3
BATHROOM	4
MASTER BEDROOM	5
SECOND BEDROOM	6
UTILITY ROOM	7
DECK	8

SECOND LEVEL FLOOR PLAN



UNIT ONE (1)

UNIT TWO (2)

UNIT THREE (3)

NOTE: DIMENSIONS SHALL BE BASED ON CENTER LINE UNLESS OTHERWISE NOTED. THIS PLAN IS 1/4" OF 1/8" SCALE.

EDWARD MIYAKAWA
ARCHITECT
8610 Highway 101
Walport, Oregon 97146
(503) 865-3871

Revisions

Drawn	
Date	
Job No.	
Scale	

PRELIMINARY
DRAWINGS
NOT FOR CONSTRUCTION
DATE NOV 05 1987

9E



SW HARBOR DR

SW 13TH ST

R-3

SITE

W-2

SW BAY BV

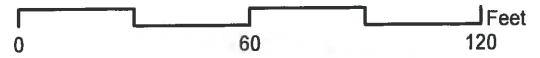
W-1



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

Zoning Map 746 to 760 SW Bay Boulevard

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

CITY OF NEWPORT
ORDINANCE NO. 2020

AN ORDINANCE ESTABLISHING AN ECONOMIC IMPROVEMENT DISTRICT IN THE BAY FRONT AREA FOR PARKING SYSTEM IMPROVEMENTS AND IMPOSITION OF A BUSINESSLICENSE SURCHARGE FEE PURSUANT TO ORS 223.144 AND NEWPORT ORDINANCE 2013

WHEREAS, the Newport Zoning Ordinance (NZO) allows businesses in the Nye Beach, Bay Front, and City Center areas to pay an annual fee of \$175 per space "in lieu" of providing an off-street parking space that would otherwise be required for new development or redevelopment that increases the demand for parking on a property (Section 2-3-6.050).

WHEREAS, the payment in lieu option was put in place in the 1980's and the annual fee has not changed over time.

WHEREAS, the Mayor appointed a Payment in Lieu of Parking Task Force, confirmed by City Council, to evaluate the fee charged with the payment in lieu of parking program. The Task Force held a series of public meetings in 2006 and 2007, which resulted in a recommendation to change the annual fee of \$175 per space to a one-time charge of \$7,500 per space. The Planning Commission and City Council held hearings on the Task Force recommendations, and the Council adopted the recommendations in February of 2008.

WHEREAS, during the hearings, a number of individuals expressed an interest in forming parking districts as an alternative to the existing payment in lieu approach, which they viewed as outdated, and the Task Force recommendations, which they viewed as untenable for many businesses. Council directed staff to assist them in developing concepts and, on February 4, 2008, temporarily set aside the Task Force recommendations to allow the work to proceed.

WHEREAS, the City subsequently sponsored workshops on the basics of forming parking districts and City staff met with interested individuals in the Bay Front area to answer questions and assist in preparing materials. This effort led to the development of an economic development plan, prepared by an ad hoc group of individuals representing tourism, fishing, and economic development interests along the Bay Front, which was offered to the City as the basis for forming an economic improvement district for parking system improvements.

WHEREAS, proponents of the Bay Front area's economic development plan contend that a parking district with a modest assessment on area businesses and contribution

from the Port of Newport provides a source of revenue to fund incremental improvements to the parking system while at the same time facilitating economic growth. They further view such an approach to be more effective and equitable than the existing payment in lieu of parking program.

WHEREAS, the City Council met on April 4, 2011 to consider an initial draft of the economic development plan and business license surcharge fee and chose to initiate the process of forming an economic improvement district in the Bay Front area for parking system improvements by adopting Ordinance No. 2013.

WHEREAS, the City Council held a public hearing on May 16, 2011 at which affected persons could appear to support or object to the proposed parking system improvements and business license surcharge fee. The Council accepted the proposal that businesses within the district bear the cost of the improvements unless the Council otherwise determines that it is appropriate to allocate funding from other sources. The Council further encouraged business owners, fisherman and other interested parties to refine the economic development plan into the concept that has been incorporated into this ordinance.

WHEREAS, ORS 223.141, et seq., authorizes imposition of a "business license fee" to fund certain economic improvements within districts created pursuant to procedural and substantive requirements. The terms "business license surcharge fee" and "business license surcharge" as used herein are synonymous with this statutorily allowed "business license fee." The term "surcharge" is used to distinguish this economic improvement fee from the City's general business license fee imposed pursuant to Newport Municipal Code Section 4.05.

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1: Findings: The City Council hereby adopts the above recitals and the following findings of fact as the basis for this Ordinance:

- A. The City Council held public hearings on May 16, 2011 and September 6, 2011 regarding the establishment of an economic improvement district for parking improvements in the Bay Front area, as more specifically described on the map attached as Exhibit A, and incorporated herein by this reference;
- B. Written notice to the affected property owners was mailed no less than thirty (30) days prior to each hearing announcing the Council's intent to form the district and to impose a business license fee upon persons conducting business within the district to pay for the improvements;
- C. Notice of said hearings included the amount of the proposed surcharge and time and place of the hearing at which affected persons could appear to support or object to the formation of a district and proposed business license fee;

- D. Fewer than 33 percent of persons conducting business within the boundaries of the proposed district who will be subject to the business license surcharge submitted written objections to the fee;
- E. Lands within the boundaries of the proposed district include properties that are zoned for commercial or industrial use;
- F. A preliminary estimate of the probable cost of the economic improvements to be funded pursuant to Section 2 of this Ordinance is between \$19,000 and \$20,000 per year, and the proposed schedule for apportioning costs is set forth in Section 3 of this Ordinance;
- G. The business license surcharge to be assessed, and contribution from the Port of Newport, is in proportion to the benefit that each business, the Port and other affected parties may derive from the district.

Section 2: Establishment of a Bay Front Commercial Parking District.

- A. The City Council hereby approves and creates the "Bay Front Commercial Parking District" ("District"). The boundaries of the District as depicted on Exhibit A to this ordinance correspond with water-dependent and water-related zoning in the Bay Front area.
- B. The District is created for the purpose of making economic improvements as defined in ORS 223.141(4), and in particular, for the purpose of the improvement in parking systems in the Bay Front area as allowed under ORS 223.141(4)(e). The economic improvement projects to be undertaken or constructed include:
 1. Parking improvements on available public or private land and undeveloped right-of-way;
 2. Leasing private parking lots for public or employee use with a focus on lots that are underutilized;
 3. Improving signage and striping;
 4. Enhancing the streetscape and sidewalks to encourage pedestrian access;
 5. Supporting transportation alternatives such as shuttles, bus systems and bicycles;
 6. Developing and/or enhancing seasonal pay parking and time limitations in select areas; and
 7. Other activities identified by the District Advisory Committee organized under Section 5 of this Ordinance, as needed to improve the availability or functionality of parking in the Bay Front District.

- C. When identifying projects authorized under subsection 2(b), above, the District Advisory Committee shall consider impacts the projects will have on existing users. Projects that disproportionately impact a particular user group should only be pursued if the District Advisory Committee concludes that reasonable accommodations have been made to offset those impacts.
- D. The District Advisory Committee may identify one or more projects that are outside of the District boundaries if, in the opinion of the Advisory Committee, the project(s) primarily benefit businesses within the District.

Section 3: Enactment of a Business License Surcharge Fee.

- A. Businesses within the District shall be assessed a business license surcharge that is based upon the number of persons employed by the business, as follows:
 - 1. Fewer than 5 employees: \$150.00
 - 2. 5 to 20 employees: \$300.00
 - 3. More than 20 employees: \$600.00
- B. The business license surcharge set forth in subsection 2(a), above, shall be reduced to \$100 for those businesses that provide off-street parking for their customers.
- C. Business license surcharge fees shall be assessed annually upon renewal of a business license pursuant to the schedule set forth in Newport Municipal Code Section 4.05.
- D. For new businesses, a surcharge shall be prorated on a monthly basis, unless such surcharge was paid by the prior occupant, in which case a surcharge is not due until the next business license renewal period.
- E. Businesses shall be assessed a surcharge for each location at which they operate within the District. City will provide businesses in multiple locations with a single invoice listing the fees attributed to each location.
- F. City shall establish a separate account into which shall be paid all revenues from the business license surcharge, and such monies shall be reserved and managed for exclusive use of the District.
- G. Annual surcharges shall apply to businesses that are otherwise exempt from business license fees. Such payments shall be made annually, pursuant to the schedule for business license renewals set forth in Newport Municipal Code Section 4.05.

Section 4: Contribution from the Port of Newport.

- A. Pursuant to an Intergovernmental Agreement between the Port of Newport and City of Newport dated October 6, 2011, the Port of Newport will make an annual monetary contribution to the Bay Front Commercial Parking District in an amount of \$6,000. As a potentially impacted party, the Port of Newport is voluntarily participating in the district on behalf of the fisherman and other Port users and its payments shall be considered a contribution from both the Port, as well as from fisherman and other individuals mooring at Port facilities.
- B. Payment from the Port shall be due at the end of each fiscal year.
- C. Port payments shall be made out to the City of Newport, and City shall place such monies into the same account as the business license surcharge fees established under Section 3(f), above.

Section 5: Establishment of a District Advisory Committee.

- A. Council hereby establishes an advisory committee to develop a plan for the completion of improvements per Section 2(b) (Plan) and to allocate expenditure of monies for activities within the scope of the Plan.
- B. In appointing members to a committee, the Council shall include at least one person conducting business within the District, one individual that represents fishing interests, and one representative from the Port of Newport.
- C. The Advisory Committee shall consist of an even number of individuals. The specific number of individuals to serve on the Committee shall be determined by the Council. In making Committee appointments, the Council shall seek to ensure that neither tourism nor fishing business interests are disproportionately represented.
- D. An association of persons conducting business within the District ("Association") may be designated to serve in the capacity of an advisory committee, provided it includes a representative from the Port of Newport. If this occurs, the City and the Association will execute an agreement describing each party's respective responsibilities regarding the District. After entering into an agreement with the City, the Association may enter into agreements with third parties to perform improvements identified in the Plan established under Section 5(a) of this ordinance.
- E. The Advisory Committee or Association may request that the City perform Plan improvements. Should the City elect and be allowed by law to perform Plan improvements, such services will be charged in the amount and manner allowed by law and will be paid for through revenues from the Bay Front Commercial Parking District or augmented with other City funds identified by the City Council if the Council determines that City should bear a portion of the improvement costs.

Section 6: Reporting Requirements: An Association or Advisory Committee shall maintain records of all expenditures made towards the completion of economic improvements and shall provide such records to the City upon request.

Section 7: Availability of Parking Fund Revenues:

- A. In addition to monies generated through a business license surcharge and Port of Newport contribution, an Association or Advisory Committee may develop an improvement plan and make a recommendation on the expenditure of funds the City specifically budgets for use by parking districts. Authorization for the use of such funds shall be subject to City Manager approval and public contracting requirements.
- B. The City Manager is authorized to provide an Association appointed by the Council to serve as the advisory committee, with up to \$1000 of parking fund revenues, to prepare the Association to perform its advisory responsibilities.

Section 8: Payment of Fees in Lieu of Parking.

- A. As allowed under NZO Section 2-3-6.050, the Council hereby waives the requirement for commercial and industrial properties within the District to pay fees in lieu of parking, as of the date this District is formed.
- B. City shall provide notice of conditional use permit applications to the District Advisory Committee. Written comments that the District Advisory Committee elects to provide on an application in regards to the suitability or availability of parking shall be construed by the City decision making authority as expert testimony.
- C. All agreements for payment of fees in lieu of parking between the City and existing businesses within the District shall terminate as of July 1, 2012.
- D. City shall provide a final invoice to each existing business with a balance due for payment of incurred fees in lieu of parking, prior to July 1, 2012. Notwithstanding the termination of any agreement as set forth in subsection (b) above, the City reserves the right to collect all sums due to the City as reflected on the invoice.
- E. For new development, redevelopment or building expansions that generate a demand for more than five (5) new off-street parking spaces, such off-street parking spaces shall be provided in accordance with applicable provisions of the Newport Zoning Ordinance. The City shall determine the amount of off-street parking a business must provide.

Section 9: City Approval Required: City approval is required for economic improvements within public rights-of-way.

Section 10: Exemptions. The provisions of this Ordinance shall not apply to the following:

- A. Residential real property or any portion of a structure used primarily for residential purposes; or

- B. Businesses operated on an occasional basis for not more than one or two days per week or one month a year.
- C. Persons mooring boats at Port of Newport facilities, as their contribution is covered by the Port's annual payments to the District pursuant to the Intergovernmental Agreement referenced under Section 4(a) of this ordinance.

Section 11: Duration. The District shall be in effect for five (5) consecutive years, commencing upon the effective date of this ordinance. Council may extend the duration of the District, after following the public notice procedure outlined in ORS 223.147. In the event the District is not renewed, then payment in lieu of parking shall apply to the extent provided for in the Newport Zoning Ordinance in effect at the time the District is dissolved.


Section 12: Severability. The sections of this ordinance are severable. The invalidity of a section or part of a section shall not affect the validity of the remaining sections or parts of sections.

Section 13: Effective Date: This ordinance shall take effect 30 days after passage.

Date adopted on initial vote and read by title only: September 19, 2011.

Date adopted on final roll call vote: October 3, 2011.

Signed by the Mayor on 10-14, 2011.



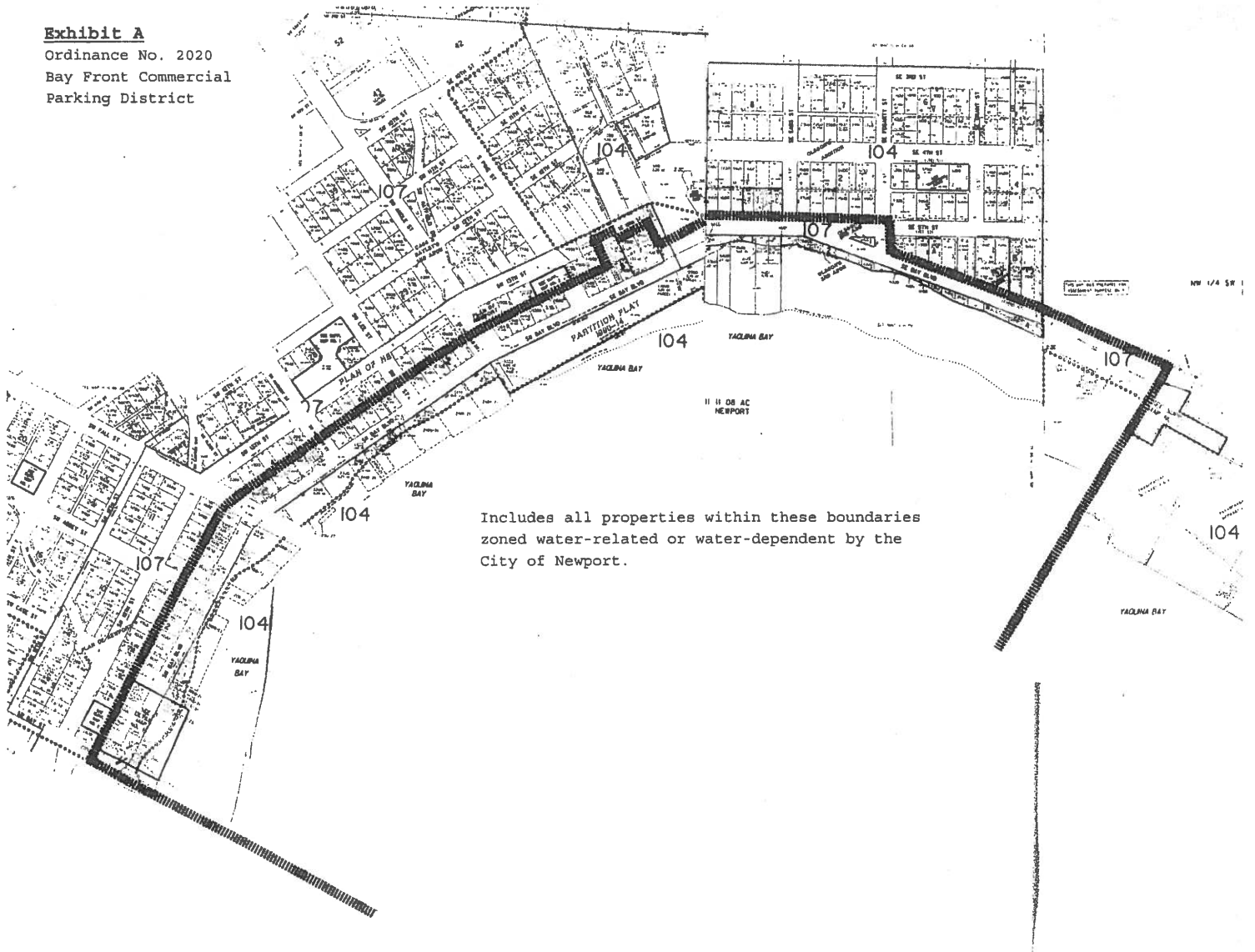
 Mark McConnell, Mayor

ATTEST:



 Margaret M. Hawker, City Recorder

Exhibit A
Ordinance No. 2020
Bay Front Commercial
Parking District



Includes all properties within these boundaries
zoned water-related or water-dependent by the
City of Newport.

10-CUP-87

12-VAR-87

BEFORE THE NEWPORT PLANNING COMMISSION

STATE OF OREGON

IN THE MATTER OF THE CONDI-)	APPLICANT'S PROPOSED
TIONAL USE AND VARIANCES)	FINDINGS OF FACT
REQUESTED BY MO'S ENTERPRISES,)	
INC. LOCATED AT 754 SW BAY)	
BOULEVARD)	

1. Kaino and Mohava Niemi are the owners of property described as Lots 1 and 2, Block 2, Plan of Newport (aka tax lots 3800 and 4100 of tax map 11-11-8CA and 754 SW Bay Boulevard).

2. Under the Newport Comprehensive Plan, the property is planned Yaquina Bay shoreland and is zoned W-2, water-related.

3. Mo's Enterprises, Inc. has filed an application with the City of Newport for a conditional use permit to allow a restaurant, retail store and apartments on the property. These uses would be combined with a cold storage facility and warehouse space which are outright uses in the W-2 zone. Mo's Enterprises, Inc. has also filed a variance request to allow a variance from section 2-4-4.015 of the City zoning ordinance which requires a ten-foot setback and landscape buffer where a nonresidential and a residential zone abut. Mo's has also requested a variance from section

2-4-5.005 which requires fifteen percent of a nonresidential lot under 20,000 feet to be landscaped.

4. A public hearing was held on July 13, 1987, before the Newport Planning Commission. All interested parties were given an opportunity to present testimony.

5. The property on which the conditional use and variances are sought was the previous location of the PUB Tavern. The building which housed the PUB is still standing, but is in a deteriorating condition and is not currently in use. There is also a smaller structure located on the property which houses the Village Woolen Shop. The applicant is proposing to build a structure which has a cold storage unit, warehouse space, two retail stores, a restaurant and two apartments.

6. The lot on which the building is proposed has 100 feet of frontage along Bay Boulevard and is 84 feet in depth.

7. The lot is level in front, but rises to a steep hill in the back which is covered with brush.

8. Southwest Case Street is immediately adjacent to the property to the west.

9. Cold storage facilities, warehouses, and marine equipment sales are allowed as outright uses in the W-2 zone. Retail shops, restaurants, and residential uses are allowed as conditional uses in the W-2 zone.

10. The building proposed for the property is two-story structure. The dimensions of the building will be 98 feet in length and 82 feet in depth. The cold storage unit and the warehouse will be to the rear of the building and the restaurant and retail shops will be on the lower level along Bay Boulevard. The apartments will be located above the retail shops and restaurant.

11. There is a ten-foot alley at the rear of the property which is located in the steep hillside. It is extremely unlikely that this will ever be opened as an alley because of its narrow width and steep topography.

12. Since the property has historically been used as a tavern, the use for retail shops and a restaurant are consistent with the established historical use. There historically has not been a strictly water-related use on the property.

13. Section 1-3-2.215 of the Newport Comprehensive Plan states, "Major development and rehabilitation of the Old Town Bayfront on the north side of Yaquina Bay should occur."

14. Section 1-3-2.235 of the City Comprehensive Plan states, "It is the City's policy to maintain a mix of tourist uses (especially those oriented to the amenities of a waterfront location) along with water-dependent and water-related uses."

15. Section 1-3-2.170 of the Newport Comprehensive Plan indicates that a mix of uses on the waterfront are important to maintain the vitality of the area.

16. Section 1-3-2.145 of the Comprehensive Plan which categorizes the uses along the Bayfront as of February, 1982, indicated that there were nine restaurants, five shops and shop complexes, three marine supply shops and three taverns. The use being proposed by this conditional use is consistent with the uses which exist along the bayfront.

Findings of fact relating to the requested variance from the ten-foot setback and landscape buffer where a nonresidential and residential zone abut.

17. The property in which the variance is requested is zoned W-2. The property to the north of the subject parcel is zoned R-3. A ten-foot alley separates the subject property from the private ownership to the north. The zone line runs down the middle of the alley.

18. The normal rear yard setback in a W-2 zone is zero feet.

19. There are exceptional or extraordinary conditions applying to the property that do not apply, generally, to other properties in the same zone or vicinity which conditions are a result of lot size or shape, topography, or other circumstances over which the applicant has no control.

- a. There is a steep hillside rising from the rear of the property which affects this property to a more substantial degree than other properties in the area.
- b. The only place in which the alley between the residential zone and the W-2 zone is not vacated along this area is directly behind the applicant's property.
- c. The residential use is at the top of the hill and the hillside serves as a buffer from the uses in the W-2 zone at the base of the hill.

20. The variance is necessary for the preservation of a property right of the applicant substantially the same as is possessed by owners of other property in the same zone or vicinity, which conditions are a result of lot size or shape, topography, or other circumstances over which the applicant has no control.

- a. Other property owners in the area in the W-2 zone have obtained more property by virtue of having the alley behind their properties vacated.
- b. Other property owners in the area have built retaining walls to maximize use of their property. Other owners have either built to the lot line or to the base of the hill.
- c. The steep hillside interferes with the use of the lot.

21. The authorization of the variance shall not be materially detrimental to the purposes of this ordinance, be injurious to property in the zone or vicinity in which the property is located, or be otherwise detrimental to the objectives of any city development or policy.

- a. A vegetative buffer of brush will still exist on the hillside even if the retaining wall is built along the property line.
- b. The purpose of the vegetative buffer is to screen the nonresidential use from the residential use. Here, the hillside and brush on the hillside act as a natural buffer which fulfills the purpose of the requirement.
- c. The economic vitality of the bayfront is important to Newport's economy and economic utilization of the property is important to the city as a whole.
- d. Granting the variance will not be injurious to any other property owner but will be substantially similar to the development which has taken place along Bay Boulevard in this vicinity.

22. The variance requested is the minimum variance from the provisions and standard of this ordinance which will alleviate the hardship.

- a. In order to provide adequate space for the cold storage and warehouse facilities, which are

allowed as outright uses, it is necessary to provide as much room on the property as possible for parking a truck and unloading goods. In order to obtain this room, it is necessary to build along the rear property line to maximize the use of space.

The following findings of fact relate to the variance requested from section 2-4-5.005 of the zoning ordinance pertaining to a fifteen percent landscaping requirement of a residential lot under 20,000 square feet.

23. Exceptional or extraordinary conditions apply to the property that do not apply, generally, to properties in the same zone or vicinity which conditions are the result of lot size or shape, topography or other circumstances over which the applicant has no control.

a. The back of the property is a very steep hillside, thus reducing the flat part of the property available for development. In order to economically develop the lot, it is necessary to clear the back of the property and build a retaining wall.

b. Other properties in the vicinity have fully utilized lots without providing landscaping.

24. The variance is necessary for the preservation of a property right of the applicant substantially the same as

is possessed by owners of other property in the same zone or vicinity which conditions are the result of lot size or shape, topography, or other circumstances over which the applicant has no control.

- a. Other properties along the bayfront have built to the practical limits of the lot and have not provided landscaping.
- b. If the alley behind the property was vacated, the same as other lots in the vicinity, the applicant would have approximately 500 additional square feet. However, the applicant does not enjoy this extra square footage as is enjoyed by the other lots in the vicinity.

25. The authorization of the variance shall not be materially detrimental to the purposes of this ordinance be injurious to property in the zone or vicinity in which the property is located, or be otherwise detrimental to the objectives of any city development or policy.

- a. The applicant is proposing to place planter boxes along the sidewalk.
- b. Other uses along Bay Boulevard have either minimal or no landscaping whatsoever.
- c. Providing planter boxes along the sidewalk will be aesthetically pleasing the meet the purpose of the zoning ordinance.

d. Since more landscaping will be provided on this lot than other lots in the vicinity, there will be no injury to other property in the vicinity.

26. The variance requested is the minimum variance from the provisions and standards of this ordinance which will alleviate the hardship.

a. In order to provide adequate area for the vehicles which will be loading and unloading at the cold storage and warehouse site, it is necessary to place the building as close as possible to the rear lot line in order to make sure the vehicle is off the street and will not block traffic.

CONCLUSIONS

1. The Newport Planning Commission hereby concludes from the foregoing Findings of Fact that the conditional use permit for a restaurant, retail shops and ^{two}apartments should be and hereby is granted.

2. The Planning Commission concludes that the requested variance to eliminate the 10-foot vegetative buffer should be and hereby is granted.

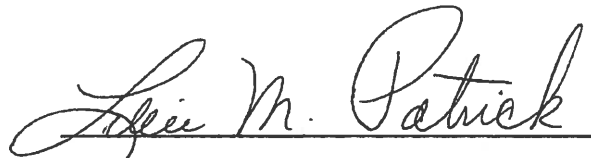
3. The Planning Commission concludes that the requested variance to provide for planter boxes in front of the building in lieu of landscaping fifteen percent of the lot should be and hereby is granted.

4. The conditional use and variances requested by Mo's Enterprises, Inc. are granted subject to the following conditions:

- a. Mo's Enterprises, Inc. shall obtain a geological report from a licensed Engineering Geologist stating that the building proposed for the subject property can be safely constructed without damage to surrounding properties. Any retaining ~~walls~~ ^{structure} constructed by the applicant or its contractors or agents shall be designed by a licensed Civil Engineer. Construction of any retaining wall shall be supervised by a licensed Civil Engineer and a licensed Engineering Geologist.
- b. If any ~~wall~~ ^{structure} is built into the hillside, an adequate drainage plan shall be designed by a Civil Engineer or Engineering Geologist and installed by the applicant.
- c. Mo's Enterprises, Inc. shall indemnify the City from any physical damages caused to City property or other property by construction of the retaining wall on the subject property.
- d. If it is necessary to build any portion of the rear wall of the structure in the City alley right-of-way behind the property, the applicant shall obtain the necessary permits and consents from the City.

- e. Mo's Enterprises, Inc. shall provide four parking spaces inside the warehouse in addition to the two outside the warehouse. The spaces inside shall be designated for tenants of the building and employees working in the building.

Dated this 27th day of July, 1987.



Planning Commission Chairman

10-607-87

754 SW 156 3A4

SUPPLEMENTAL INFORMATION SUPPORTING A REQUEST BY MO'S ENTERPRISES, INC. FOR A CONDITIONAL USE AND VARIANCE FOR PROPERTY LOCATED AT 754 SW BAY BOULEVARD

Mo's Enterprises, Inc. is applying for a conditional use permit to build a multi-purpose structure at 754 Bay Blvd. The property is legally described as Lots 1 and 2, Block 2, Plan of Newport. The tract is 100 feet in length and 84 feet in depth. At the rear is a steep hillside which is covered with brush.

There is currently an old structure located on the property which was previously the PUB Tavern. That business has been closed. The building is deteriorating and would require extensive work to renovate. There is also a small building which houses the Village Woolen Store.

Mo's is proposing to tear down the existing buildings and replace them with a well-designed building which would contain a cold storage unit and warehouse in back and a restaurant/~~tavern~~, and two small retail shops in front. The second floor would contain two to three apartments. The retail stores will probably be the Village Woolen Store described above and a store selling marine oriented supplies.

The warehouse and cold storage units and the marine shop are outright uses in the W-2 zone. The restaurant/~~tavern~~, other retail store and residential uses are conditional uses in the W-2 zone. If approved, the new building will be an attractive addition to the Newport bayfront and comply with the Newport Comprehensive Plan, Section 1-3-2.170 which indicates that a mix of uses on Newport's waterfront is important for the area.

The Planning Department has indicated that three variances are necessary to proceed with the proposed use.

The first variance requested is to modify the 15% landscaping requirement. Rather than landscape 15% of the lot, Mo's is proposing to place planter boxes along the sidewalk in front of the building. This requested modification is both practical and beneficial. The lot has a limited flat area on which to build. The rear of the lot is a base of a steep hillside. When area is so limited, it

is not practical to use it for landscaping when a sound alternative method is available. Landscaping the hillside would not be beneficial to anyone since the area cannot be seen and one of the purposes of the landscaping requirement is to provide aesthetically pleasing views. It is suggested that the best way to provide an aesthetically pleasing view which could be enjoyed by most of the public would be to place planter boxes along the sidewalk in front of the stores where they will be seen by the largest number of people.

It should also be noted that the lots on which the proposed structure would be built are smaller than other lots in the vicinity. Other lots which are similarly situated have had the alley which passes behind the lots vacated. This has added additional square footage to each of the original lots. However, the alley behind the subject lots has not been vacated and, therefore, the lot size is approximately 250 square feet per lot less than other similarly situated lots. If the alley behind the lots were vacated, 500 square feet would be added to the property. This would almost provide the area to meet the strict ordinance requirement. The requested variance is not materially detrimental to the purposes of the ordinance, is not injurious to property in the zone or vicinity in which the property is located, and is not otherwise detrimental to the objectives of any city developing or policy. One of the primary policies of the landscaping requirement is to provide aesthetically pleasing views. Here, planter boxes along the sidewalk would be more appropriate than trying to landscape a steep hillside which no one would see. Furthermore, other businesses along the bayfront have virtually no landscaping and, therefore, allowing a modification to the requirement in this instance does not affect other businesses along the bayfront. In fact, it is suggested that the proposal submitted by Mo's will provide more landscaping on this lot than almost any other business along the bayfront. The proposal which has been submitted is consistent with the growth and development of the bayfront.

The variance which has been requested is the minimum variance from the provisions and standards of the ordinance which will alleviate the hardship. Trying to provide landscaping on the lot other than has been proposed will be a very expensive proposition given the topography and other building constraints on the lot.

The second variance requested is to section 2-4-4.015 which states that a ten-foot setback and landscape buffer is to be provided between a non-residential zone and a

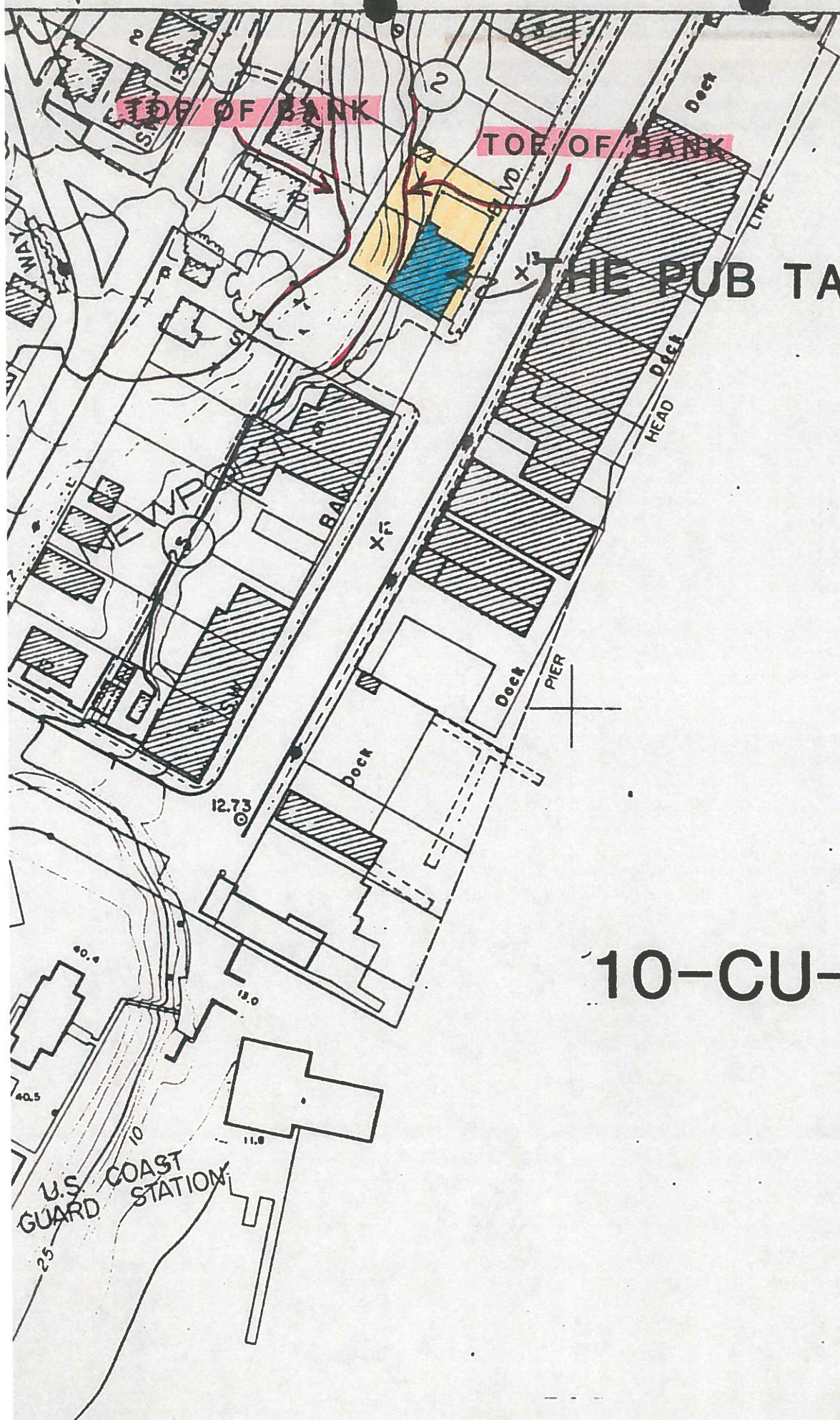
residential zone. The purpose of this ordinance is to provide for a transition between non-residential and residential uses. In this instance, no such buffer is necessary because a natural barrier has already been provided. The proposed structure and use is located at the base of the hill and residential use at the top of the hill. The slope is very steep and residential lots at the top of the hill cannot see the back of the building. Thus, the hill serves as the transition area. The vegetation on the hillside also further serves to buffer the residential area from the business uses along the bayfront. It should also be noted that other similarly located businesses have not been required to provide a 10-foot vegetative barrier. Actually, the buffer between the lots proposed for development and the residential area at the top of the hill is greater in this instance because the ten-foot alley behind the applicant's lots have not been vacated. Because of the steeping of the slope, it is unlikely that the alley will ever be constructed and the vegetative buffer will probably remain in place.

Because the purpose of the ordinance is being met through the natural vegetative buffer and the separation created by the hill, the requested variance will not be materially detrimental to the purposes of the ordinance or be injurious to other property owners or to the City objectives generally.

The third variance requested is to the on-site parking requirement. Actually, this should not be construed strictly as a regular variance because the zoning ordinance provides an alternative to providing on-site parking. Mo's is seeking to proceed under the alternative of making a payment in lieu of providing parking.

Section 2-3-6.030(B) provided that, "When the use of property is changed, and the owner shall believe that special circumstances exist constituting a hardship and making it unreasonably difficult to provide such additional parking required by the change...such person may apply to the City planner for authority to participate instead in the provision of public parking and/or mass transit services within the City of Newport by payment to the City of Newport...". It is calculated that for the use proposed on the property, Mo's will need approximately 15 parking spaces. Mo's can provide six on-site spaces and, therefore, will need to provide for nine additional spaces by the alternative method provided for in the ordinance.

Because of the small lot size, it is very difficult to provide all parking spaces on-site for an economically viable business without utilizing the provisions of the alternative method.



THE PUB TAVERN

10-CU-87

BEFORE THE CITY OF NEWPORT PLANNING COMMISSION

COUNTY OF LINCOLN, STATE OF OREGON

IN THE MATTER OF PLANNING FILE NO.)
 19-CU-87, APPLICATION FOR AN)
 AMENDMENT TO A CONDITIONAL USE) FINAL ORDER
 PERMIT, SUBMITTED BY MO'S)
 ENTERPRISES, INC.)

ORDER granting approval of an application to Mo's Enterprises, Inc., for an amendment to a conditional use permit to allow an additional apartment on the second floor of a proposed structure (located at 754 S.W. Bay Boulevard) within a W-2/Water-Related zoning district, as provided for in the City of Newport Zoning Ordinance (No. 1308, as amended).

WHEREAS:

1. The Planning Commission has duly accepted the application filed in accordance with the Zoning Ordinance, Section 2-5-3.025/"Filing of Conditional Use Petitions" and Section 2-5-3.005/"Authorization to Grant or Deny Conditional Uses".
2. The Planning Commission has duly held a public hearing on the matter of an application for an amendment to an approved conditional use permit to allow three (3) instead of two (2) apartments on the second floor of a proposed building located at 754 S.W. Bay Boulevard within a W-2/Water-Related zoning district, with a public hearing a matter of record of the Planning Commission on January 11, 1988.
3. At that public hearing on said application, evidence and recommendations were received and presented by the staff, the applicant's representative, and affected property owners.
4. At the conclusion of said public hearing after consideration and discussion, the Newport Planning Commission, upon a motion duly seconded, granted the amendment to the conditional use permit and directed staff to prepare a final order with all conditions and findings set forth for the granting of the conditional use permit.

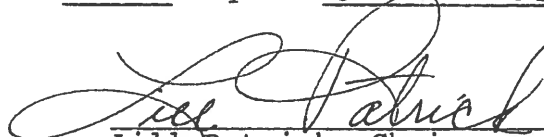
THEREFORE LET IT BE HEREBY ORDERED that the application of Mo's Enterprises, Inc., stands approved.

-2

AND LET IT FURTHER BE OF RECORD, that the action of the Planning Commission in approving this application for an amendment to a conditional use permit is hereafter supported by the findings attached and labeled "Exhibit A".


BASED UPON THE ABOVE, it is the finding of the Newport Planning Commission that the addition of an additional apartment will not be detrimental to the general welfare to persons residing or working in the neighborhood, and the request is the most appropriate use of the land.

Accepted and approved this 11th day of January, 1988.



Lill Patrick, Chairman
Newport Planning Commission

Attest:



Michael A. Shoberg
Assistant Planning Director

BEFORE THE NEWPORT PLANNING COMMISSION

STATE OF OREGON

In the Matter of the)	
Conditional Use Permit)	APPLICANT'S PROPOSED
Requested by Mo's)	FINDINGS OF FACT
Enterprises, Inc. located)	
at 754 S.W. Bay Blvd.)	

1. Kaino and Mohava Niemi are the owners of property described as Lots 1 and 2, Block 2, Plan of Newport (aka Tax Lots 3800 and 4100 on Tax Map 11-11-8-CA, and 754 S.W. Bay Blvd.).

2. Under the Newport Comprehensive Plan, the property is planned Yaquina Bay shoreland and is zoned W-2, water related.

3. Mo's Enterprises, Inc. was previously granted a conditional use permit on July 13, 1987 for construction of a building containing a restaurant, retail stores, apartments, cold storage and warehouse space.

4. Under the previous conditional use permit which was granted, the applicant was given approval for two apartment units on the second floor of the building.

5. Since the initial plans were drawn, the plans have been revised, and the plans for the building which have been finalized now include three apartment units rather than two apartment units. However, the overall size of the building has been reduced.

6. Based upon the request to change the number of apartments from two to three, this matter has been re-submitted for approval of the third apartment. Other than this change, the uses earlier proposed will remain basically the same.

7. It has been determined by the Planning Department that the number of parking spaces required for this project are 12. Since the parking requirements of this project are no greater than the requirements for the uses previously existing on the property, the applicant will not be required to apply for any additional off-street parking.

8. Under the revised plans which have been submitted, the overall building to be constructed on the site is smaller than the building on which the conditional use was previously granted.

9. An increase from two apartments to three apartments on the second story will have no material impact on the surrounding area, and is not a material change to the project.

10. A public hearing was held on January 11, 1988 before the Newport Planning Commission. All interested parties were given an opportunity to present testimony.

11. Except as modified by these findings allowing an increase of one apartment unit on the second story, the findings of fact adopted by the Planning Commission on July

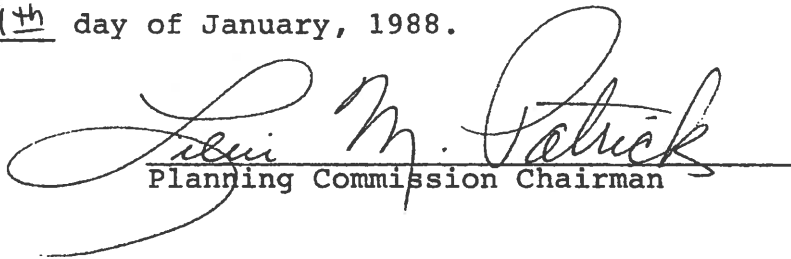
13, 1987 are incorporated herein and made a part of these findings.

CONCLUSIONS

1. The Newport Planning Commission hereby concludes from the foregoing findings of fact that the conditional use permit allowing three apartment units on the second story of the proposed structure should be and hereby is granted.

2. Except as modified by the findings herein, the conditions applying to the previously granted conditional use permit for this property on July 13, 1987 shall remain in effect.

DATED this 11th day of January, 1988.



Planning Commission Chairman

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

IN THE MATTER OF PLANNING COMMISSION FILE NO.)
3-CU-89, APPLICATION FOR A CONDITIONAL USE PERMIT) FINAL ORDER
AS SUBMITTED BY MO'S ENTERPRISES, INC.)

ORDER granting a request for an amendment to conditional use permit File No. 10-CU-87 to allow the operation of a micro-brewery and restaurant on a piece of property located at 748 S.W. Bay Boulevard (further described as Lots 1 and 2, Block 2, PLAN OF NEWPORT; Tax Assessor's Map 11-11-8CA, Tax Lots 3800 and 4100).

WHEREAS:

1. The Planning Commission has duly accepted the application filed consistent with the Newport Zoning Ordinance (No. 1308, as amended); and
2. The Planning Commission has duly held a public hearing on the request for the amendment, with a public hearing a matter of record of the Planning Commission on February 27, 1989; and
3. At the public hearing on said application, the Planning Commission received evidence and recommendations from the applicant, interested persons, and Planning Department staff; and
4. At the conclusion of said public hearing, after consideration and discussion, the Newport Planning Commission, upon a motion duly seconded, granted the request for a amendment to a conditional use permit.

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

Prior to the issuance of a business license, the micro-brewery shall enter into a parking agreement with the City of Newport for seven (7) spaces.

BASED UPON THE ABOVE, the Planning Commission determined that the request for a conditional use permit is in conformance with the provisions of the Comprehensive Plan and the Zoning Ordinance of

the City of Newport.

Accepted and approved this 27th day of February, 1989.

Ken Johnson, Vice
~~Lilli Patrick, Chairman~~ Chairman
Newport Planning Commission

Attest:

Michael A. Shoberg
Michael A. Shoberg
Assistant Planning Director

BEFORE THE NEWPORT PLANNING COMMISSION

STATE OF OREGON

In the Matter of the) Conditional Use Requested) by Mo's Enterprises, Inc.) <hr/>	APPLICANT'S PROPOSED FINDINGS OF FACT
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1. Kaino Niemi and Mohava Niemi are the owners of property described as Lots 1 and 2, Block 2, Plan of Newport (aka Tax Lots 3800 and 4100 of Tax Map 11-11-8-CA).

2. Under the adopted Newport Comprehensive Plan, the property is planned Yaquina Bay Shoreland and is zoned W-2, water-related, under the Newport Zoning Ordinance.

3. Mo's Enterprises, Inc., the owner of the building located on the above described property, has filed an application with the City of Newport for a conditional use permit to allow placement of a micro-brewery on the property described above. The micro-brewery would be located in the warehouse portion of the building.

4. Previously, the City of Newport Planning Commission granted a conditional use permit to Mo's Enterprises, Inc. to construct the building. The initial approval was granted July 27, 1987 under case file 10-CU-87. The approval granted was for two retail areas, a tavern/deli, a cold storage area, a warehouse, parking area and two apartments.

5. After the initial approval, Mo's Enterprises, Inc. filed an application for an amendment to the conditional use permit to allow an additional apartment on the second floor of the structure. The Planning Commission held a public hearing on this request and the amendment was granted on January 11, 1988.

6. As currently constructed, the building has three retail areas on the main floor, three apartments on the second floor, and a warehouse area in the rear of the building. Two of the retail shops are currently occupied by Village Woolens and Rickert Galleries. A "British public house" is proposed in the remaining retail area on the first floor which is located on the east end of the building. The use will be similar to the tavern/deli approved in the original application in July of 1987. The proposed public house will serve such items as pizza, Rueben sandwiches, chili, and other similar items. Beer and wine will be served. The establishment will be open to families and will

not be restricted to persons over 21. The general hours of operation are expected to be 10:00 a.m. to 11:00 p.m. weekdays, and 10:00 a.m. to midnight or 1:00 a.m. on weekends.

7. The beer served on the premises will be brewed in a micro-brewery proposed for a portion of the warehouse space in the back of the building, and therefore the applicant filed a request for a conditional use for the micro-brewery.

8. A public hearing on the request was held on February 27, 1989 before the City of Newport Planning Commission after due notice. All interested parties were given an opportunity to testify.

9. A window is proposed for the wall between the retail shop and the warehouse which would allow visitors to view the operation of the brewery.

10. The only outside installation from the current building would be a cooling unit which would be set just to the rear of the building. The unit would be out of sight from adjoining properties and would make very little, if any, noise. The location behind the property in relation to the hillside and walls of the building will not allow noise to be heard off the confines of the property.


11. The seating area of the public house will consist of approximately 1052 square feet, and will probably have on premises approximately three employees at any one time. Currently, the building has six on-site parking spaces. The placement of the micro-brewery would start approximately 20 feet from the east wall of the warehouse portion of the building and would extend to the west wall of the building. There will be four parking spaces in the warehouse portion of the building. Two will be regular size spaces and two will be designated as compact spaces. Since the Newport Zoning Ordinance requires one parking space for every 200 square feet of seating space in eating and drinking establishments plus one space per two employees, a total of seven spaces will be required for the public house. This means a total of seven parking spaces will be purchased from the City pursuant to Section 2-3-6.030 of the City of Newport Zoning Ordinance.

12. The conditional use requested herein is consistent with the original approval granted in July of 1987.

CONCLUSION

The proposed micro-brewery in conjunction with the other uses of the building does not significantly change the original approval granted by the Planning Commission in 1987, and the placement of the micro-brewery and public house are hereby granted subject to the provision that the applicant or the lessee purchase seven spaces from the City pursuant to Section 2-3-6.030 C(1).

DATED this 27th day of February, 1989.



Planning Commission ~~Chairman~~ Vice Chairman

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

IN THE MATTER OF PLANNING COMMISSION FILE NO.)
14-CU-90, APPLICATION FOR A CONDITIONAL USE) FINAL ORDER
PERMIT AS SUBMITTED BY OREGON BREWING COMPANY)

ORDER granting a request for a CONDITIONAL USE PERMIT to allow the expansion of the seating area for the Oregon Brewing Company dba Bayfront Brewery and Public House.

WHEREAS:

- 1.) The Planning Commission has duly accepted the application filed consistent with the Newport Zoning Ordinance (No. 1308, as amended); and
- 2.) The Planning Commission has duly held a public hearing on the request for a conditional use permit, with a public hearing a matter of record of the Planning Commission on August 13, 1990; and
- 3.) At the public hearing on said application, the Planning Commission received evidence and recommendations from the applicant, interested persons, and planning department staff; and
- 4.) At the conclusion of said public hearing, after consideration and discussion, the Newport Planning Commission, upon a motion duly seconded, granted the request for a conditional use permit.

THEREFORE, LET IT BE RESOLVED by the City of Newport Planning Commission that the attached findings of fact, Exhibit "A" (staff report), support the approval of the request for a conditional use permit with the following conditions:

- > The applicant shall enter into a parking agreement with the City of Newport for four (4) parking spaces.
- > The historic appearance of the building shall be maintained.
- > Since the door formerly used by the Rickert Gallery will become an "exit" door, an alarm is to be installed

on that door signalling its use.

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

Accepted and approved this 14th day of August, 1990.

Lill Patrick
Lill Patrick, Chairman
Newport Planning Commission

Attest:

Michael A. Shoberg
Michael A. Shoberg
City Planner

**CITY OF NEWPORT
PUBLIC NOTICE¹**

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

File No. 2-CUP-19:

Applicant & Owner: Matthew Merritt, Rogue Ales & Spirits, 2320 OSU Dr, Newport, OR 97365, authorized representative (Mo Properties LLC, 622 SW Bay Blvd, Newport, OR 97365, owner)

Request: Approval of a request per Section 14.25.020(E) "Bed and Breakfast and Vacation Rental Facilities" for a conditional use permit to grant relief of the five off-street parking spaces required to operate three vacation rental units at the property that include one (1) one-bedroom vacation rental and two (2) two-bedroom vacation rentals. The subject property does not possess any off-street parking spaces.

Location/Subject Property: 748 SW Bay Blvd, Newport, OR 97365 (Assessor's Map 11-11-08-CA, Tax Lot 4100).

Applicable 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; and 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.

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 5:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. The hearing will include a report by staff, testimony (both oral and written) from the applicant and those in favor or opposed to the application, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Pursuant to ORS 197.763 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or 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, April 22, 2019; 7:00 p.m.; City Hall Council Chambers (address above in "Reports/Application Material").

MAILED: April 2, 2019.

PUBLISHED: April 12, 2019/News-Times.

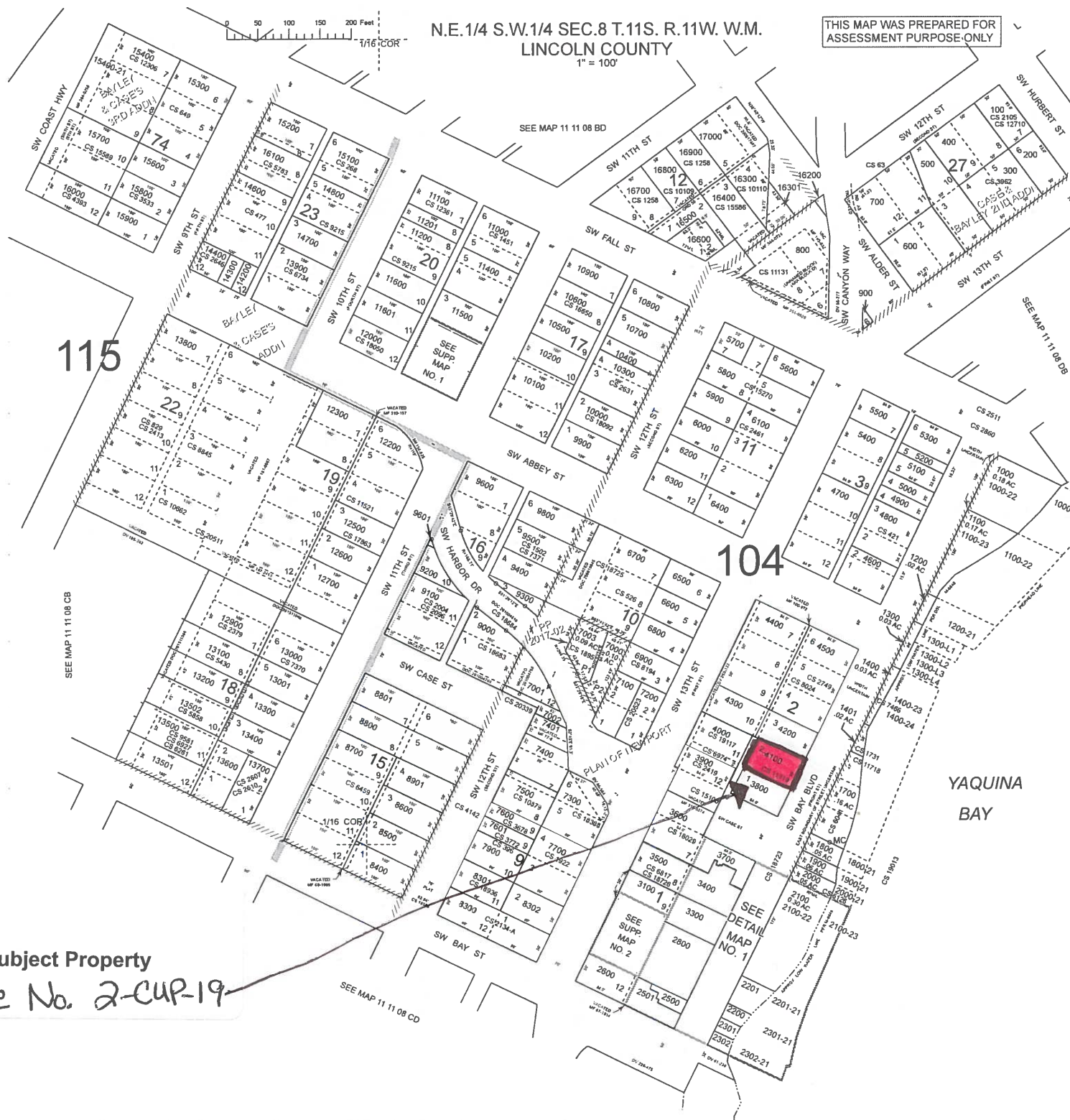
¹ Notice of this action is being sent to the following: (1) Affected property owners within 200 feet of the subject property according to Lincoln County tax records; (2) affected public utilities within Lincoln County; and (3) affected city departments.

N.E. 1/4 S.W. 1/4 SEC. 8 T. 11S. R. 11W. W.M.
LINCOLN COUNTY
1" = 100'

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

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NEWPORT

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115

104

Subject Property
File No. 2-CUP-19

YAQUINA
BAY

Revised: 02/21/74

NEWPORT
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LEGAL NOTICES

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Friday

Monday

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Paul B.
610632;
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O Box
1 Main
97391-
36-2257
E-mail:
idlaw.

com. DATED AND FIRST PUBLISHED: 03/29/2018, 2019; /s/ Cathy Jo Farey Personal Representative. M29; A05; A12 (66-12)

PUBLIC AUCTION

Pursuant to ORS Chapter 819: Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 4/16/2019. The sale will be held at 10:00AM by CAR GARE TOW PRO INC., 2795 SE 23rd DR., LINCOLN CITY, OR. 2015 Nissan Versa VIN#3N1CN7APXFL894896 Amount due on lien \$4,798.00 Reputed owner(s) KRISTINA TRIFNOVA; Nissan Motor Acceptance A05 A12 (65-12)

NOTICE OF ACTION

NOTICE OF ACTION BROUGHT FOR EXONERATION FROM OR LIMITATION OF LIABILITY: MARY B II Notice is hereby given that F/V MARY B II LLC, as owner and operator of the MARY B II (NO. 274604), a forty-two-foot wood hulled commercial fishing vessel, has filed a complaint pursuant to the Shipowner's Limitation of Liability Act, 46 U.S.C. §§ 30501-30512, claiming the right to exoneration from or limitation of liability for all claims against it for injury, death, or other damage arising out of or in connection with the voyage which concluded with the January 8, 2019 sinking of MARY B II off the north jetty at Yaquina Bay, Oregon. All persons claiming damages for any and all loss, destruction, damage, injury, or death arising out of or connected with the voyage which concluded with the January 8, 2019 sinking of MARY B II must file their claims, consistent with Rule F of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions of the Federal Rules of Civil Procedure, with the Clerk of Court for the U.S. District Court for the District of Oregon in the case identified as Civil Action No. 6:19-cv-00233-MC.

All such claims must be filed on or before June 4, 2019, unless cause is shown for why the Court should extend the deadline. A copy of any such claims must also be served on F/V MARY B II LLC's attorney, W.L. Rivers Black, Nicoll Black & Feig, 1325 Fourth Ave., Suite 1650, Seattle, WA 98101, on or before June 4, 2019, unless cause is shown for why the Court should extend the deadline. A claimant's failure to file and serve his or her claims on or before June 4, 2019 may result in the default of such claims. Separately, any claimant who wishes to contest the right of F/V MARY B II LLC to exoneration from liability or to limitation of liability must file and serve an answer to the F/V MARY B II LLC's Complaint, as required by Rule F of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions of the Federal Rules of Civil Procedure, unless such answer is included as part of his or her claim. Any answer, whether included as part of a claim or presented separately, must be filed with the Clerk of Court and served on F/V MARY B II LLC's attorney at the address listed above on or before June 4, 2019, unless cause is shown for why the Court should extend this deadline. Pursuant to the Order issued by the U.S. District for the District of Oregon in Civil Action No. 6:19-cv-00233-MC on March 27, 2019, and except as provided for above, the prosecution of all suits, actions, or proceedings of any nature or description whatsoever against F/V MARY B II LLC, its agents, servants, or employees, or against the vessel MARY B II, with respect to any claim arising out of or in connection with the voyage that concluded with the January 8, 2019 sinking of the MARY B II, is enjoined. This Notice is issued by the U.S. District Court for the District of Oregon pursuant to Rule

F(4) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions of the Federal Rules of Civil Procedure. A05 A12 A19 A26 (71-26)

PUBLIC SALE

Safe-Lock Storage located at 3639 SE Ash St, South Beach, OR 97366 will hold a public foreclosure sale on Saturday, April 27 at 10:00 AM. Personal property of the following people will be sold: B16 - Scott Harrick; C03 - Michelle Lee; C17 - Stephanie Miller; F14 - Debra Webster; K01 - Karin Peterson; M15 - Dennis & Lea Geer; R05 - Donna Smith; S32 - Brittany Omasters. The persons mentioned above may contact us prior to the sale at (541) 867-4607. A05 A10 A12 A17 (73-17)

NOTICE OF BUDGET COMMITTEE MEETING

A public meeting of the Budget Committee of the Seal Rock Water District, Lincoln County, State of Oregon, to discuss the budget for the fiscal year July 1, 2019 to June 30, 2020 will be held at 1037 NW Grebe Street, Seal Rock, OR 97376. The meeting will take place on the 18th of April 2019 at 6:00 P.M. The purpose of the meeting is to receive the budget message and to receive comment from the public on the budget. This is a public meeting where deliberation of the Budget Committee will take place. Any person may appear at the meeting and discuss the proposed programs with the Budget Committee. A copy of the budget document may be inspected or obtained on or after April 15, 2019 at 1037 NW Grebe St., between the hours of 8:00 A.M. to 4:00 P.M. M29 A12 (67-12)

NOTICE OF A PUBLIC HEARING

CITY OF NEWPORT: The City of Newport Planning Commission will hold a

public hearing on Monday, April 22, 2019, at 7:00 p.m. in the City Hall Council Chambers to consider File No. 2-CUP-19, a request submitted by Matthew Merritt, Rogue Ales & Spirits, 2320 OSU Dr, Newport, OR 97365, authorized representative (Mo Properties LLC, 622 SW Bay Blvd, Newport, OR 97365, owner), per Section 14.25.020(E) "Bed and Breakfast and Vacation Rental Facilities" for a conditional use permit to grant relief of the five off-street parking spaces required to operate three vacation rental units that include one (1) one-bedroom vacation rental and two (2) two-bedroom vacation rentals at 748 SW Bay Blvd, Newport, OR 97365 (Assessor's Map 11-11-08-CA, Tax Lot 4100). The applicable criteria per NMC Chapter 14.34.050 are that: 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; and 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. 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, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 5:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. The hearing will include a report by staff, testimony (both oral and written) from the applicant and those in favor or opposed to the application, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Pursuant to ORS 197.763 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. The staff report may be reviewed or a copy purchased for reasonable cost at the Newport Community Development (Planning) Department (address above) 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 the above address. Contact Derrick Tokos, Community Development Director, (541) 574-0626, (address above). A12 (72-12)

INVITATION TO BID

Sealed bids for the 2019 Street Improvements will be received by the City of Yachats ("Owner") by Shannon Beaucaire, City Manager, City of Yachats, at City of Yachats, City Hall, 441 Highway 101 N, #2, Yachats, OR 97498, until the bid closing time

of 2:00 p.m. local time on Thursday, May 9, 2019. Bids will be publicly opened (at the above address) and the applicable information read aloud immediately after the bid closing time, but written bid tabulations will not be finalized until after 4:00 p.m. (the submittal deadline for the "First-Tier Subcontractor Disclosure Form"). Bids shall be clearly marked "Bid for the 2019 Street Improvements" showing the date and time of the public bid closing, as well as the Bidders name, and shall be delivered to the location specified above, by or before the above bid closing time. By no later than 4:00 p.m. local time on Thursday, May 9, 2019, (i.e. 2 working hours after the bid closing), each bidder shall deliver to Shannon Beaucaire, City Manager, City of Yachats, at the same address as the bids were delivered to, the "First Tier Subcontractor Disclosure Form" contained in the bidding documents. This form shall be submitted regardless of the bid total. Bidders who fail to submit the required disclosure form will be considered non-responsive, and their bid will not be considered for award. The disclosure form shall either be submitted in the same envelope as the bid, or shall be submitted in a separate sealed envelope clearly marked "Disclosure Form for the 2019 Street Improvements" showing the date and time of the disclosure submittal deadline, as well as the Bidders name. The work includes the following: Grading, curbs, paving and storm drainage improvements to ±250 feet of West 1st Street and ±300 feet of East 2nd Street. Copies of the Bid Documents (Contract Terms, Conditions, Specifications and Drawings) may be examined at: Westech Engineering, Inc., 3841 Fairview Industrial Dr. SE, Suite 100, Salem, OR 97302 (phone 503/585-2474)

City of Yachats, City Hall, 441 Highway 101 N, #2, Yachats, OR 97498 Paper sets of the bid documents will not be available for purchase from Westech Engineering for bidding purposes. Complete digital (pdf) copies of Bid Documents (including drawings) are available at <http://www.westech-eng.com> (under the Currently Bidding tab). The digital Bid Documents may be downloaded for a non-refundable payment of \$25 by inputting QuestCDN eBidDoc Number listed on the project information sheet available through the website link above. Assistance with free QuestCDN registration, document downloading or working with the project information may be obtained at QuestCDN.com, at 952-233-1632, or via email at info@questcdn.com. This contract is for a public works project subject to ORS 279C.800 to 279C.870 (state prevailing wages) as applicable. This project was funded in part with a financial award from the ODOT Small City Allotment Grant program. Dated April 4, 2019. /s/ Raymond C. Engel, P.E. Project Manager A10 A12 (78-12)

LEGAL NOTICE

The Pacific Communities Health District Board of Directors will hold a Regular meeting on Monday, April 15, at 4:00 p.m. in the Education Conference Room at Samaritan Pacific Communities Hospital located at located at 930 SW Abbey St., Newport, Oregon. The meeting agenda includes meeting minutes, financial reports and facility reports. /s/Lisa Ely, Recorder. PACIFIC COMMUNITIES HEALTH DISTRICT. For additional information contact 541-574-1803 or www.pchd-district.org. A12 (81-12)

NOTICE OF BUDGET COMMITTEE MEETING

A public meeting of the Budget Committee of the Greater Toledo Pool

Recreation District, Lincoln County, State of Oregon, to discuss the budget for the fiscal year July 1, 2019 to June 30, 2020, will be held at the Toledo Public Library, 173 NW 7th St, Toledo. The meeting will take place on Tuesday May 14nd at 6:00 p.m. The purpose of the meeting is to deliver the budget message and to receive comment from the public on the budget. This is a public meeting where deliberation of the Budget Committee will take place. Any person may appear at the meeting and discuss the proposed programs with the Budget Committee. A copy of the budget document may be inspected or obtained on or after Friday May 15th at the Greater Toledo Pool between the hours of 8:00 a.m. and 5:00 p.m. Greater Toledo Pool Recreation District www.greatertoledopool.org A12 (86-12)

REQUEST FOR PROPOSALS - AUDITOR

The City of Toledo is soliciting proposals from qualified professional firms to conduct the Financial and Compliance Audit of the City for fiscal year ending June 30, 2019. It is the City's intent to negotiate a three year (3) contract with the second and third year contingent upon successful, timely completion of the previous year(s) contract. Interested individuals and/or firms are encouraged to visit the City website at www.cityoftoledo.org for complete details on how to submit proposals for consideration. Submittals are due by 5:00 PM Friday May 10, 2019 and it is desirable that a contract may be awarded on May 15, 2019. The City reserves the right, at its sole discretion, to accept the proposal most favorable to the City's interest and the right to waive minor irregularities in proposal. A12 A17 (87-17)

4/12/19

CITY OF NEWPORT NOTICE OF A PUBLIC HEARING

The City of Newport Planning Commission will hold a public hearing on Monday, April 22, 2019, at 7:00 p.m. in the City Hall Council Chambers to consider File No. 2-CUP-19, a request submitted by Matthew Merritt, Rogue Ales & Spirits, 2320 OSU Dr, Newport, OR 97365, authorized representative (Mo Properties LLC, 622 SW Bay Blvd, Newport, OR 97365, owner), per Section 14.25.020(E) “Bed and Breakfast and Vacation Rental Facilities” for a conditional use permit to grant relief of the five off-street parking spaces required to operate three vacation rental units that include one (1) one-bedroom vacation rental and two (2) two-bedroom vacation rentals at 748 SW Bay Blvd, Newport, OR 97365 (Assessor’s Map 11-11-08-CA, Tax Lot 4100). The applicable criteria per NMC Chapter 14.34.050 are that: 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; and 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. 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, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 5:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. The hearing will include a report by staff, testimony (both oral and written) from the applicant and those in favor or opposed to the application, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Pursuant to ORS 197.763 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. The staff report may be reviewed or a copy purchased for reasonable cost at the Newport Community Development (Planning) Department (address above) 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 the above address. Contact Derrick Tokos, Community Development Director, (541) 574-0626, (address above).

FOR PUBLICATION ONCE ON FRIDAY, April 12, 2019.

BAY BLVD LLC
ATTN CHARLOTTE BOXER
4627 N CONGRESS AVE
PORTLAND, OR 97217

CAPRI DUSTIN &
CAPRI AMANDA
747 SW 13TH
NEWPORT, OR 97365

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

DULCICH REALTY ACQUISITION LLC
ATTN PACIFIC SHRIMP CO
ATTN DEBBIE SELLERS
PO BOX 1230
NEWPORT, OR 97365

ELM STREET LLC
ATTN CHARLOTTE BOXER
4627 N CONGRESS AVE
PORTLAND, OR 97217

ERLANDER MILLER AURORA
3821 SE 101ST AVE
PORTLAND, OR 97266

FRONT ST MARINE LLC
ATTN STEPHEN A WEBSTER
JANET G WEBSTER
113 SE BAY BLVD
NEWPORT, OR 97365

MCENTEE CINDY M &
DIXON JUDITH A &
DIXON KEVIN ETAL
622 SW BAY BLVD
NEWPORT, OR 97365

MCENTEE WILSON GABRIELLE
PO BOX 717
NEWPORT, OR 97365

MCVEA EDWARD T &
MCVEA PEGGY L
732 SW 13TH ST
NEWPORT, OR 97365

MO PROPERTIES LLC
622 SW BAY BLVD
NEWPORT, OR 97365

NEWPORT TOWNHOMES LLC
ATTN JAMES D VICK
698 12TH ST SE
SUITE 230
SALEM, OR 97301

REED CRAIG B &
REED LISA M
3841 N STRATFORD ST
LAKE HAVASU, AZ 86404

STARLIGHT ONE LLC
ATTN BORNSTEIN SEAFOODS INC
ATTN RICH GRIFFITH
PO BOX 188
BELLINGHAM, WA 98255

TESAR JONATHAN E
2902 S MORAIN PL
KENNEWICK, WA 99337

Exhibit "A"
Adjacent Property Owners Within 200 Ft

File No. 2-CUP-19

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

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

CenturyLink
 ATTN: Corky Fallin
 740 State St
 Salem OR 97301

Central Lincoln PUD
 ATTN: Randy Grove
 PO Box 1126
 Newport OR 97365

Email: Lisa Phillips
DLCD Coastal Services Center
lisa.phillips@state.or.us

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

Joseph Lease
 Building Official

Rob Murphy
 Fire Chief

Tim Gross
 Public Works

Rachel Cotton
 Associate Planner

Jason Malloy
 Police Chief

Mike Murzynsky
 Finance Director

Laura Kimberly
 Library

Jim Protiva
 Parks & Rec

Spencer Nebel
 City Manager