



PLANNING COMMISSION REGULAR SESSION AGENDA

Monday, May 10, 2021 - 6:00 PM

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

This will be a hybrid meeting, which means that it will be held electronically, via Zoom, with a limited number of people (up to 15) allowed to attend in-person. The meeting will be live-streamed at <https://newportoregon.gov>, and broadcast on Charter Channel 190.

Anyone interested in making public comment is allowed to attend in-person, subject to congregant limitations (up to 15).

Anyone wishing to provide real-time, virtual public comment should make a request at least four hours prior to the meeting, at publiccomment@newportoregon.gov, and request the Zoom meeting information.

Anyone wishing to provide written public comment should send the comment to publiccomment@newportoregon.gov. The e-mail must be received at least four hours prior to the scheduled meeting.

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

1. CALL TO ORDER AND ROLL CALL

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

2. APPROVAL OF MINUTES

2.A Approval of the Planning Commission Regular Session Meeting Minutes of April 26, 2021.

3. CITIZENS/PUBLIC COMMENT

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

4. ACTION ITEMS

4.A File 1-NCU-21: Final Order and Findings for the Expansion of a Non-Conforming Mobile Home Park from 14 to 16 Spaces.

[Final Order and Findings](#)

4.B File 2-NCU-21: Final Order and Findings for the Expansion of a Non-Conforming Natural Gas Facility.

[Final Order and Findings](#)

5. PUBLIC HEARINGS

6. NEW BUSINESS

7. UNFINISHED BUSINESS

7.A Updated Planning Commission Work Program.

[PC Work Program 5-7-21](#)

8. DIRECTOR COMMENTS

8.A Yaquina Head Traffic Study Public Involvement Plan Draft (Informational).

[Draft Public Involvement Plan](#)

9. ADJOURNMENT

Draft MINUTES
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers by Video Conference
April 26, 2021

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

Planning Commissioners Absent: Lee Hardy (*excused*).

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

Public Members Present In Person: Ric Rabourn, and Mike Smith.

Public Members Present by Video Conference: Tim Emery, Beki Hueth, Michael Abbott, Adam Springer, Catherine Briggs, Chis Mastrandrea, Jan Kaplan, Wendy Engler, and Terry Lacaden.

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 Hanselman, Branigan, Berman, Escobar, East, and Patrick were present.

2. **Approval of Minutes.**

A. **Approval of the Planning Commission Work and Regular Session Meeting Minutes of April 12, 2021.**

MOTION was made by Commissioner Berman, seconded by Commissioner Branigan to approve the Planning Commission Work and Regular Session Meeting Minutes of April 12, 2021 with minor corrections. The motion carried unanimously in a voice vote.

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

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

5. **Public Hearings.** At 7:02 p.m. Chair Patrick opened the public hearing portion of the meeting.

Chair Patrick read the statement of rights and relevance. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. Berman reported a site visit to the manufactured home park and a drive by of the hotel and natural gas facility. Hanselman reported a drive by of the manufactured home park and the hotel. Branigan reported a drive by of the hotel and natural gas facility. Patrick called for objections to any member of the Planning Commission or the Commission as a whole hearing this matter; and none were heard.

A. **File 1-NCU-21.**

Tokos reviewed the staff memorandum and explained that the application was for an approval to expand a non-conforming 14-unit mobile home park by adding two additional mobile home sites.

Proponents: Adam Springer, attorney for the applicant addressed the Commission. He noted that the two additional spaces would be served by the same infrastructure as the rest of the park, and would meet the required setbacks and spacing.

Berman noted that the area was currently vegetated and asked if they would have to cut down trees to add the spaces. Springer didn't believe there were any trees that needed to be taken down for these spaces. Berman asked if the city had specific restrictions on vegetation clearing. Tokos reported there wasn't anything that specific. He noted that the conversation would get more difficult if in a few more years there was another application to add more units, and these units were to go in an area where it was currently wetlands. It would also be harder for the Commission to show that the conditions had been met because it would go further away from the light industrial designation.

Patrick asked about the detail that said that Oregon limited the park to 15 units, and if this was the State code. Springer reported it was all they applied for and there was plenty of space at the park to install more units.

Opponents: None were heard.

Chair Patrick closed the hearing at 7:20 p.m.

Berman reported he didn't have a problem with the application. Escobar had no problems with proposal. He thought it added doors and didn't change the character of the neighborhood. Branigan didn't have a problem with the proposal and thought it should be approved. Hanselman found everything to be acceptable to approve. East agreed with the other Commissioners and wanted to see it approved. Patrick didn't see any problems.

MOTION was made by Commissioner Escobar, seconded by Commissioner Berman to approve File 1-NCU-21 with the three conditions. The motion carried unanimously in a voice vote.

B. File 2-NCU-21.

Tokos reviewed the staff memorandum and explained that the application was for an alteration/expansion of a nonconforming use to expand a natural gas facility by constructing three new concrete equipment foundations within the existing fenced compound. The new foundations will support equipment, pressure vessels, process piping and a new cable tray.

Proponents: Mike Smith with Norwest Engineering addressed the Commission. He explained that the new equipment would be consistent with what was already on site. Branigan asked if the equipment would be new and not replacing anything. Smith confirmed this was correct.

Chair Patrick closed the hearing at 7:26 p.m.

East thought they should approved the request with the staff recommendations. Hanselman was fine with the project and okay with the process. Branigan didn't have any problems with improvements to the property. Escobar thought NW Natural was a good neighbor and he would had problems approving. Berman agreed. Patrick agreed and wished they could avoid having to do these types of hearings.

MOTION was made by Commissioner Berman, seconded by Commissioner Escobar, to approve File 2-NCU-21 with conditions. The motion carried unanimously in a voice vote.

C. File 1-NB-21 / 2-CUP-21.

Tokos acknowledge the additional public testimony that was received after the packet was distributed from Jan Kaplan, Wendy Engler, and the Oregon Shores Conservation Coalition. He noted the Coalition requested that the record be left open for seven days. Tokos explained that because this was an evidentiary hearing the Commission had to grant that request. There would be a seven day open record period to May

3rd, a seven day rebuttal period to May 10th, seven days for final applicant arguments to May 17th, and then it would come back for Commission deliberation and a decision on May 24th.

Tokos explained that the application was for a conditional use permit and design review under the design guidelines for the Historic Nye Beach Design Review District to construct a 25-guest room hotel with a café, bar, office and lobby space (identified as “The Whaler at Nye Beach”). Two (2) existing single-family dwellings would be removed.

Tokos reported that the letter from the Oregon Shores Conservation Coalition voiced concerns about the geologic hazards in this area. He reviewed an aerial image with the Commission that displayed the geologic hazard areas and showed how this property was outside of the area.

Tokos noted the email from Wendy Engler complimented the applicant’s request but voiced concerns about sidewalks. The challenge was the existing standard called for a five foot sidewalk on each side. Tokos explained that the standard for the collector streets would change possibly when the Transportation System Plan was updated. He thought that a five foot sidewalk could fit, but a seven to eight foot sidewalk would be difficult.

Berman asked about the written testimony concerning the area to the north. He asked if the work the Commission did to preempt a larger mansion being built in this area alleviated public concerns for this type of development migrating to the north to the Nye Beach turnaround. Tokos explained that this depended on how the remaining properties were cobbled together for further development. The rules allowed a hotel/motel to come in, meaning they could see a building of some significant size. This would have to go through a design review and the Commission would have a chance to take a look at it. Given where this project was located at the far west corner of the Nye Beach Overlay, the Commission had more cause to say it was consistent with properties to the south and east that included the Whaler, Elizabeth Inn, and the Performing Arts Center. When looking at a consistency with the character of the area they had some flexibility with this to define what that was and make that something short of the entire Nye Beach Overlay. They had tools to address this under the conditional use standards. Berman asked if they should be looking at some change so they didn’t have to do this. Tokos thought that was a different conversation they should have at another meeting.

Proponents: Ric Rabourn with Hallmark Inns and Resorts addressed the Commission. He acknowledged that Michael Abbott, Chris Mastrandrea, and Beck Hueth were present to answer questions. Rabourn explained the current urban renewal agreement from when the Whaler purchased the property in 1992 required them to submit a design review by July 2021, to submit for building permits by July of 2025, and to be up and running by July of 2027, or the City had the right to come back and repurchase the land from them at a lower cost. This meant there was incentives to get the project done.

Michael Abbott, the architect of the project, addressed the Commission. He reviewed his experience designing in coastal communities which he explained helped him when designing this project. Abbot reported that when they started the design they reviewed and followed the design guidelines. He shared an image of the site plan for the project and highlighted the important aspects of the design guidelines that they used.

Berman asked if they considered a cross walk on the north side to get to Don Davis Park. Abbot reported that they worked with Tokos initially on where the crosswalks would go and Elizabeth Street was the most ideal location. Berman wanted it noted that there would be people walking across Olive Street to get to Don Davis Park. He asked if they would have any EV charging stations. Rabourn explained they would be installing them but that they hadn’t determined the exact number and their locations. Berman asked if the Fire Marshall had reviewed the designs. Abbott reported they had a Fire Marshall review a year before and they were informed. Berman asked if they planned to have Dolphin Street be a through street. Rabourn explained that they would participate in whatever this would be. During the community meeting, it was

determined that it was unanimous that neighbors didn't want a through street and only wanted an emergency access road. Rabourn noted this still needed to be determined.

Branigan asked if the food and prep area would be a full scale restaurant. Rabourn explained it would be a lobby restaurant, not a full scale restaurant. This would be a lobby area where people could order food and drinks, but not a traditional restaurant. It would have living room and veranda seating. Branigan asked if there would be a bar area seating. Rabourn said the lobby would be multi-use for food, drinks and lounging. Branigan noted that the majority of vehicles in Newport tended to be pickup trucks and he didn't think they would fit in the parking spaces designed. He asked if they could accommodate all of these larger vehicles. Rabourn reported that they were proposing the expansion as an individual project but the existing Whaler Motel parking was available. They would go back and address the parking spaces that were requested. Rabourn pointed out that they didn't count the on-street parking in their proposal. They were allowed to use the parking credits because there were in the Nye Beach Parking District, but they chose to provide their own parking instead.

Hanselman asked if the ground level was at street level or elevated above the street. Abbott explained that the ground level was the living room and cafe. This would be approximately a four to five foot level change down to the street on the veranda area. Abbott explained it was four to five feet around the corner and a little lower on the Dolphin Street side.

Escobar asked if it was necessary to have the people parking in the exist parking lot be able to go through the Whaler and then exit on Dolphin Street. Rabourn explained they would exit on the north and the south sides. The concerns were about having it be a through street. The north end would be developed as shown and the south would just be an exit.

Patrick noted that Dolphin Street was going to be difficult for ADA access. Rabourn explained that if this was true the ADA access would be done through the lobby and it would be open to the public. Hanselman asked if the walkways from Olive Street up to the lobby area would be ramps instead of stairs. Abbott clarified they would be stairs because the ramps would take away all of the landscape area. They provided the ADA requirement for accessible means in from the side and the walkway between the exiting Whaler and the new expansion. Hanselman thought signage would be a great idea for this.

Berman asked if the two existing buildings that were being demolished were short-term rentals, and if their licenses would be closed because of this. Tokos conformed this was correct.

Proponents: Marineau read the testimony from Jan Kaplan and Wendy Engler into the record.

Wendy Engler addressed the Commission and expressed her thankfulness that the owners had engaged with the neighborhood. She wanted the Commission to consider the sidewalk width. She felt the standards would be changed at some point in the future and asked them to accommodate a foot or two for sidewalks. Engler also thought there should be a passing lane on the sidewalks in certain areas to allow people to get out of each other's way when passing each other.

Berman asked for Engler's opinion on the encroachment north of this location and if she saw any potential problems they should be addressing. He noted this was separate from this property. Engler believed that the Commission had endorsed that they needed to address the vision of the area, but the Vision 2040 Committee wouldn't take this on. She thought that the minutes said that the Commission would take this on if it didn't find fertile ground with the Vision Committee. Engler felt a revisioning would be helpful. She thought that if 50 foot buildings were built on the narrow streets with many small buildings, it would be the kiss of death for any remnant for the heart of Nye Beach. As long as there was a 50 feet height limit there would be a possibility there could be high rises.

Jan Kaplan addressed the Commission and echoed what Berman, Norm Ferber and Engler were talking about. He stated he wasn't opposed to this project, but thought there needed to be a way for the Commission to approve this and also make it clear that they weren't setting a precedence. In the long term they needed visioning and to consider the impact so they could be friendly to developers but not give our homes to them.

Tim Emery addressed the Commission and wasn't opposed the building itself but was opposed to the certain regulations that were set in place to protect the height and length restrictions of the building without having to get a variance. He thought the building could be beneficial to the community. Emery felt that if they kept it to 35 feet it would set precedence for future development.

Catherine Briggs addressed the Commission and noted she went to the community meeting and thought the architect and developers did a good job of explaining what they wanted to do. She had the same concerns with Engler about moving north with the same scale. Briggs wasn't sure Dolphin Street should be improved all the way to the south end and questioned if it could be a partial street.

Rebuttal: Rabourn noted that the sidewalks had been discussed after the community meeting and they would like to widen the sidewalks where it was available. There were easements and landscaping requirements that needed to be worked out, though.

Tokos reported that when they received testimony to leave the record open, State law required them to allow anyone to present additional testimony. The local hearings authority would grant such request by continuing the public hearing.

MOTION was made by Commissioner Branigan, seconded by Commissioner Berman to continue the hearing to May 24, 2021. There will be an open comment period that closed at 5 p.m. on May 3, 2021, then a seven day rebuttal that closed at 5 p.m. on May 10, 2021, then final arguments that closed at 5 p.m. on May 17, 2021, and a hearing to begin deliberations and considerations on May 24, 2021. The motion carried unanimously in a voice vote.

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

7. **Unfinished Business.**

A. **Updated Planning Commission Work Program.**

Tokos pointed out that the joint work session with the City Council would be held on May 3rd and the Transportation System Plan would be reviewed on a work session. He noted that they needed to be add the May 10th meetings back in order to do the final orders for adoption. Berman requested that the work program dates be extended past June. Tokos would do this.

8. **Director Comments.** None were heard.

9. **Adjournment.** Having no further business, the meeting adjourned at 8:52 p.m.

Respectfully submitted,

Sherri Marineau
Executive Assistant

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

**IN THE MATTER OF PLANNING COMMISSION)
FILE # 1-NCU-21, APPLICATION FOR VERIFICATION,) FINAL
ALTERATION, & EXPANSION OF A NONCONFORMING) ORDER
USE, AS SUBMITTED BY DENNIS ANDERSON, OWNER)**

ORDER APPROVING a request per Chapter 14.32 (“Nonconforming Uses, Lots, and Structures”) of the Newport Municipal Code (NMC) to add two additional mobile homes sites to a 14-unit mobile home park. The subject property is located at 4263 South Coast Highway. It is identified as Tax Lot 00500 of Lincoln County Assessor’s Tax Map 11-11-20-AB). The property is approximately 3.01 acres in size per County Survey Record #20279, and the mobile home park is known as Surf Sounds Court.

WHEREAS:

- 1.) The Planning Commission has duly accepted the application filed consistent with the Newport Municipal Code; and
- 2.) The Planning Commission has duly held a public hearing on the request, with a public hearing a matter of record of the Planning Commission on April 28, 2021; and
- 3.) At the public hearing on said application, the Planning Commission received testimony and evidence; and
- 4.) At the conclusion of said public hearing, after consideration and discussion, upon a motion duly seconded, the Planning Commission **APPROVED** the request.

THEREFORE, LET IT BE RESOLVED by the City of Newport Planning Commission that the attached findings of fact and conclusions (Exhibit "A") support the approval of the requested nonconforming use permit.

BASED UPON THE ABOVE, the Planning Commission determines that the request to verify, alter, or expand a nonconforming use is in conformance with the provisions of the Comprehensive Plan and the Municipal Code of the City of Newport; and the request is, therefore, granted subject to the following conditions:

- 1. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to this report. No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner to comply with these documents and the limitations of approval described herein.
- 2. The applicants shall comply with all applicable building codes, fire codes, zoning ordinance

requirements, and other public health and safety regulations to ensure that the use will not be detrimental to the safety and health of persons in the neighborhood. The applicants are responsible for obtaining the necessary approvals and permits pertaining to the proposed use.

- 3. Prior to issuance of placement permits for the two new mobile homes, a scaled site plan shall be provided illustrating the location of the pad sites and parking areas relative to the property boundary, driveway, and nearest existing units. Such plan shall be accompanied with a narrative explaining how each pad site complies with the ORS 446.100.

Accepted and approved this 10th day of May, 2021.

Jim Patrick, Chair
Newport Planning Commission

Attest:

Derrick I. Tokos, AICP
Community Development Director

EXHIBIT "A"

Case File # 1-NCU-21

FINDINGS OF FACT

1. Dennis B. Anderson, owner (Adam Springer, authorized agent) submitted an application on March 23, 2021, per Chapter 14.32/“Nonconforming Uses, Lots, and Structures” of the Newport Municipal Code, to add two additional mobile homes sites to a 14-unit mobile home park.

2. The subject property is located at 4263 South Coast Highway. It is identified as Tax Lot 00500 of Lincoln County Assessor’s Tax Map 11-11-20-AB). The property is approximately 3.01 acres in size per County Survey Record #20279, and the mobile home park is known as Surf Sounds Court.

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

- a. Plan Designation: Industrial.
- b. Zone Designation: I-1/“Light Industrial.”
- c. Surrounding Land Uses: A mix of light-industrial and residential uses.
- d. Topography and Vegetation: The developed portion of the property is level and cleared with scattered landscaping. The balance of the site is a wetland with vegetation consistent with that type of setting.
- e. Existing Structures: 14 mobile homes.
- f. Utilities: All are available to the site.
- g. Development Constraints: Wetlands.
- h. Past Land Use Actions: File No. 1-AX-19/3-Z-19 – owners petition to annex into the city limits as a nonconforming, 14-unit mobile home park was approved with Ordinance No. 2158. Light-industrial zoning was applied to the property with that ordinance, consistent with the “Industrial” Comprehensive Plan designation for properties in this portion of South Beach situated along US 101.

4. Upon acceptance of the application, the Community Development (Planning) Department mailed notice of the proposed action on March 29, 2021 to affected property owners required to receive such notice by the Newport Municipal Code, and to various city departments, agencies, and public utilities. The notice referenced the criteria by which the application was to be assessed. The notice required that written comments on the application be submitted by 12:00 noon on the day of the hearing, or be submitted in person at the hearing. The notice was also published in the Newport News-Times on April 16, 2021. No comments were received in response to the public notice.

5. At the April 26, 2021 public hearing, the Planning Commission received the staff report and allowed for testimony on the request. The minutes of the April 26, 2021 meeting are hereby incorporated by reference. The Planning Staff Report with Attachments and written testimony submitted at the hearing are hereby incorporated by reference into the findings. The Planning Staff Report Attachments included the following:

- Attachment "A" – Application form
- Attachment "A-1" – Applicant narrative
- Attachment "A-2" – Applicant’s site plan

- Attachment "A-3" – Applicant's evidence of prior use
- Attachment "B" – Lincoln County Assessor Property Report
- Attachment "C" – Survey of the property (Record #20279)
- Attachment "D" – Zoning map of the property
- Attachment "E" – Aerial map of the property showing utilities and wetlands
- Attachment "F" – Public hearing notice
- Attachment "G" – Ordinance No. 2158

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

The applicant is seeking approval to expand the 14-unit mobile home park by adding two additional mobile home sites. They note in their narrative (Attachment "A-1") that the two spaces have been Recreational Vehicle (RV) pads in the past, complete with electric, sewer, and water hook-ups. They further note that the Park has been licensed by the State for 15 units in the past. Ingress and egress onto US 101 will remain the same. The applicant has roughly sketched in where the units would be placed on an aerial photograph included as part of their application (Attachment "A-2").

7. **Verification of Status of Nonconforming Use or Structure:** Pursuant to NMC Section 14.32.060, upon receiving an application to alter, expand, or replace a nonconforming use or structure, the approval authority shall determine that the use or structure is nonconforming. Such determination shall be based on findings that:

- The use or structure was legally established at the time the Zoning Ordinance was enacted or amended; and
- The use has not been discontinued for a continuous 12-month period.

The approval authority may require the applicants provide evidence that a use has been maintained over time. Evidence that a use has been maintained may include, but is not limited to, copies of utility bills, tax records, business licenses, advertisements, and telephone or trade listings.

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

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

of the particular use.

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

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

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

CONCLUSIONS

In order to grant the permit, the Planning Commission must find that there is substantial evidence that the Commission can rely upon to verify the nature and extent of the existing nonconformity, and that the expansion will not result in a greater adverse impact on the neighborhood considering the criteria listed under NMC 14.32.070.

1. The nature and extent of the existing non-conforming use was established in 2019 when the City annexed the 14-unit mobile home park and applied an I-1/"light-industrial" zoning designation to the property that does not allow residential uses (Attachment "G"). The 2018 aerial image of the property, which serves as the base map for the applicant's site plan (Attachment "A-2") and City generated zoning and utility maps (Attachments "D" and "E") illustrate the location of the units.

2. After verification of the status of a nonconforming use pursuant to Subsection 14.32.060, the Planning Commission may authorize alteration, expansion, or replacement of any nonconforming use or structure when it is found that such alteration, expansion, or replacement will not result in a greater adverse impact on the neighborhood. Findings addressing the criteria for a "no greater adverse impact" determination are as follows:

a. The character and history of the use and of development in the surrounding area.

- i. The applicant notes, in their narrative, that the property has been used as a mobile home park for more than 40 years and that it is bordered by another mobile home park to the north. They further point out that residential uses exist to the south and that the site is separated from uses to the east by an established wetland.
- ii. The applicant's site plan shows that the two (2) mobile homes are to be placed on the east side of the portion of the property that has been developed as a mobile home park. This is the area the applicant indicates had been previously dedicated to RV use
- iii. Based on findings and testimony regarding the character and history of the use and of development in the surrounding area, expansion of the use will not cause any greater adverse impact on the neighborhood.

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

- i. The applicant explains that expanding the mobile home park to include two additional units within the developed footprint will not noticeably increase noise, vibration, dust, odor, fumes, glare, or smoke within the neighborhood.
- ii. Based on findings and testimony regarding the comparable degree of noise, vibration, dust, odor, fumes, glare, or smoke detectable within the neighborhood, expansion of the use will not cause any greater adverse impact on the neighborhood relative to this criterion.

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

- i. The applicant points out that the property is on city sewer and water, and that its vehicle entry point is US 101. They further indicate that, once on the property, the mobile homes are accessed over a gravel road that is 20-feet at its narrowest, and approximately 40-feet wide towards the back of the property where the two new units are to be placed. They note that the existing driveway will be extended to reach the new sites.
- ii. Sewer service is provided by an 8-inch gravity main that parallels the property's US 101 frontage. Accessing sewer service was the reason the owner annexed into the City. Water service is provided by way of a 12-inch main that is also on the east side of the highway. Both services are more than adequate to serve two additional mobile home units (Attachment "E").
- iii. US 101 is a paved public highway designed to accommodate a substantial volume of vehicle traffic.
- iv. Based on findings and testimony regarding the adequacy of infrastructure, expansion of the use will not cause any greater adverse impact on the neighborhood relative to this criterion.

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

- i. The applicant indicates that two (2) additional units will not create a noticeable increase in the number of vehicle trips to the site. They expect a 14% increase in the number of trips and

that there will be no change in the kind of trips (i.e. trips would be residential in nature with occasional service and delivery calls)

ii. Based on findings and testimony regarding the comparative numbers and kinds of vehicular trips to the site, expansion of the use will not cause any greater adverse impact on the neighborhood relative to this criterion.

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

i. Parking is to be provided on site. The applicant notes that each of the new mobile home sites will have two parking spots with limited outdoor storage areas. They point out that the existing driveway can be used for loading and unloading.

ii. The applicant's site plan (Attachment "A-2") is so rough that it is difficult to understand where the parking is to be provided and how it is to function. From the plan, it is evident that there is ample area for parking; however, it would be prudent for the Commission to impose a condition requiring the applicant provide a scaled drawing of the pad sites and parking areas to ensure that the locations selected complement the existing parking arrangement.

iii. Based on findings and testimony regarding the comparative amount and nature of outside storage, loading, and parking, expansion of the use will not cause any greater adverse impact on the neighborhood.

f. The comparative visual appearance.

i. The applicant states that the visual appearance will be largely unaffected as the new sites are consistent with the current use. The units will be located at the east end of the developed portion of the property and are unlikely to be visible from neighboring properties as a result of vegetation, or in the case of US 101, other mobile homes.

ii. Based on findings and testimony regarding the comparative visual appearance, expansion of the use will not cause any greater adverse impact on the neighborhood relative to this criterion.

g. The comparative hours of operation.

i. The applicant notes that the hours of operation are unaffected.

ii. Based on findings and testimony regarding the comparative hours of operation, expansion of the use will not cause any greater adverse impact on the neighborhood relative to this criterion.

h. The comparative effect on solar access and privacy.

i. The applicant does not anticipate solar access or privacy issues. The site plan shows the new units spaced at intervals roughly equivalent to existing units. This suggests that the new units will enjoy comparable solar access and will not impact the extent to which each unit in the park enjoys a degree of privacy.

ii. Based on findings and testimony regarding the comparative effect on solar access and privacy, expansion of the use will not cause any greater adverse impact on the neighborhood relative to this criterion.

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

Oregon Revised Statute (ORS) Chapter 446.100 sets forth a limited number of standards for siting mobile homes. It prohibits a dwelling from being placed closer than five (5) feet from a property line, it requires that pad sites for new units be at least 30-feet in width and 40-feet in length, and it stipulates that individual units be at least 10-feet apart unless additional separation is required by the Oregon Fire Code or the homes are separated by one-hour fire resistive walls. These are clear and objective standards the applicant can demonstrate compliance with prior to issuance of placement permits for the units, and a condition to that effect has been imposed.

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

i. The I-1“light-industrial zone” does not allow residential uses. The high traffic volumes along US 101 provide good business exposure and the expectation is that existing, residential uses along the highway will eventually be redeveloped with commercial or industrial uses. That said, this application is an infill project where the owner is adding two units within the existing built envelope of the park (as opposed to enlarging the overall footprint of the park) and, as such, it will not result in a greater adverse impact on the neighborhood relative to the objectives of the zoning.

ii. Based on findings and testimony regarding the purpose of the current zoning provision that cannot be satisfied, expansion of the use will not cause any greater adverse impact on the neighborhood.

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

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

i. There is no evidence that improvements are needed or justified for the expansion of the park by two additional spaces.

OVERALL CONCLUSION

Based on the application material, the Planning Staff Report, and other evidence and testimony in the record, the Planning Commission concludes that the above findings of fact and conclusions demonstrate compliance with the criteria for the verification, alteration and expansion of a nonconforming use found in Chapter 14.32 of the Newport Municipal Code (NMC), subject to the following:

1. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to this report. No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner to comply with these documents and the limitations of approval described herein.
2. The applicants shall comply with all applicable building codes, fire codes, zoning ordinance requirements, and other public health and safety regulations to ensure that the use will not be detrimental to the safety and health of persons in the neighborhood. The applicants are responsible for obtaining the necessary approvals and permits pertaining to the proposed use.
3. Prior to issuance of placement permits for the two new mobile homes, a scaled site plan shall be provided illustrating the location of the pad sites and parking areas relative to the property boundary, driveway, and nearest existing units. Such plan shall be accompanied with a narrative explaining how each pad site complies with the ORS 446.100.

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

**IN THE MATTER OF PLANNING COMMISSION)
FILE # 2-NCU-21, APPLICATION FOR ALTERATION)
AND EXPANSION OF A NONCONFORMING USE,) FINAL
AS SUBMITTED BY NW NATURAL GAS COMPANY) ORDER
(MIKE SMITH, NORWEST ENGINEERING, AUTHORIZED)
REPRESENTATIVE))**

ORDER APPROVING a request per Chapter 14.32 (“Nonconforming Uses, Lots, and Structures”) of the Newport Municipal Code (NMC) to expand the facility by constructing three new concrete equipment foundations within the existing fenced compound. The new foundations will support equipment, pressure vessels, process piping and a new cable tray. The subject property is located at 1702 SE Bay Boulevard and is identified as Tax Lot 01600 of Lincoln County Tax Assessor’s Map 11-11-09.

WHEREAS:

- 1.) The Planning Commission has duly accepted the application filed consistent with the Newport Municipal Code; and
- 2.) The Planning Commission has duly held a public hearing on the request, with a public hearing a matter of record of the Planning Commission on April 26, 2021; and
- 3.) At the public hearing on said application, the Planning Commission received testimony and evidence; and
- 4.) At the conclusion of said public hearing, after consideration and discussion, upon a motion duly seconded, the Planning Commission **APPROVED** the request.

THEREFORE, LET IT BE RESOLVED by the City of Newport Planning Commission that the attached findings of fact and conclusions (Exhibit "A") support the approval of the requested nonconforming use permit.

BASED UPON THE ABOVE, the Planning Commission determines that the request to alter and expand a nonconforming use is in conformance with the provisions of the Comprehensive Plan and the Municipal Code of the City of Newport; and the request is, therefore, granted subject to the following conditions:

1. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to this report. No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner to comply with these documents and the limitations of approval described herein.

Accepted and approved this 10th day of May, 2021.

James Patrick, Chair
Newport Planning Commission

Attest:

Derrick I. Tokos, AICP
Community Development Director

EXHIBIT "A"

Case File # 2-NCU-21

FINDINGS OF FACT

1. NW Natural Gas Company (Mike Smith, Norwest Engineering, authorized representative) submitted an application on March 24, 2021, per Chapter 14.32 (“Nonconforming Uses, Lots, and Structures”) of the Newport Municipal Code, to expand the facility by constructing three new concrete equipment foundations within the existing fenced compound. The new foundations will support equipment, pressure vessels, process piping and a new cable tray.
2. The subject property is located at 1702 SE Bay Boulevard (Lincoln County Assessor’s Tax Map 11-11-09, Tax Lots 1600). The property is approximately 21.62 acres in size.
3. Staff reports the following facts in connection with the application:
 - a. Plan Designation: Shoreland.
 - b. Zone Designation: W-1/“Water Dependent.”
 - c. Surrounding Land Uses: An estuary to the south and east. Water dependent and industrial zoned land border the property to the north and west. Property to the north is proposed to be developed with a log yard. A disposal site for dredge materials is situated to the west.
 - d. Topography and Vegetation: The subject property is flat and elevated just above the adjoining estuary. Riprap embankments exist along the perimeter of the site. Upland areas are vegetated with grass.
 - e. Existing Structures: A large natural gas tank, control building, process building and other small buildings surrounded by a security fence.
 - f. Utilities: All are available to the site.
 - g. Development Constraints: Portions of the property, namely along the perimeter of the site, are within the 100-year floodplain.
 - h. Past Land Use Actions: File 2-NCU-18, approved the replacement of an existing glycol cooling system, which cool the compressors that maintain the natural gas as a liquid. The new equipment was placed on pile at two pad sites near the existing system, between the existing process building and the existing electrical building. New piping, a small oil cooler and a cable tray were also approved. File 1-NCU-17, approved construction of for a new natural gas pre-treatment system to more effectively remove water, carbon dioxide, trace constituents and natural gas liquids from the domestic natural gas before it is delivered to the liquefaction plant. File 2-NCU-15, approved the replacement of an existing office building (a.k.a. “Control Building”) with a new, 3,893 sq. ft., single story office building.
4. Upon acceptance of the application, the Community Development (Planning) Department mailed notice of the proposed action on March 29, 2021, to affected property owners required to receive such notice by the Newport Municipal Code, and to various city departments, agencies, and public utilities. The notice referenced the criteria by which the application was to be assessed. The notice

required that written comments on the application be submitted by 12:00 noon on the date of the hearing, or be submitted in person at the hearing. The notice was also published in the Newport News-Times on April 16, 2021. No comments were received in response to the notice.

5. A public hearing was held on April 26, 2021, at which the Planning Commission received the staff report and allowed for testimony on the request. The minutes of the April 26, 2021 meeting are hereby incorporated by reference. The Planning Staff Report with Attachments is hereby incorporated by reference into the findings. The Planning Staff Report Attachments included the following:

- Attachment "A" – Application Form
- Attachment "A-1" – Applicant’s Narrative
- Attachment "A-2" – County Assessor Information
- Attachment "A-3" – Site Plan and Schematic Drawings
- Attachment "B" – Public Hearing Notice and Map
- Attachment "C" – Zoning Map of Area

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

The applicants own property identified as Tax Lot 1600 on Tax Map 11-11-09. The property contains a Liquefied Natural Gas (LNG) storage tank, process buildings and a control building. The property appears to have been acquired by NW Natural in 1974 and the plant was commissioned in 1977. In their written narrative, the applicant states that they are seeking approval to construct three new concrete equipment foundations on a vacant portion of the LNG Plant facility. The new foundations will support equipment, pressure vessels, process piping and a new cable tray that are part of a Pretreatment Regen Optimization project (Attachment “A-1”). The foundations and equipment will be located in the vicinity of the process building (Sheet S-100, Attachment “A-3”).

7. **Verification of Status of Nonconforming Use or Structure:** Pursuant to NMC Section 14.32.060, upon receiving an application to alter, expand, or replace a nonconforming use or structure, the approval authority shall determine that the use or structure is nonconforming. Such determination shall be based on findings that:

- The use or structure was legally established at the time the Zoning Ordinance was enacted or amended; and
- The use has not been discontinued for a continuous 12-month period.

The approval authority may require the applicants provide evidence that a use has been maintained over time. Evidence that a use has been maintained may include, but is not limited to, copies of utility bills, tax records, business licenses, advertisements, and telephone or trade listings.

The approval authority shall verify the status of a nonconforming use as being the nature and extent of the use at the time of adoption or amendment of the Zoning Code provision disallowing the use

(September 7, 1982). When determining the nature and extent of a nonconforming use, the approval authority shall consider:

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

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

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

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

CONCLUSIONS

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

1. The applicant's property is located in a W-1/"Water-Dependent" zoning district (Attachment "C"). Utility facilities, such as the LNG Plant, are not permitted uses in this district (NMC 14.03.080).

2. Consistent with NMC 14.32.040, the applicant submitted a completed application form, narrative, names and addresses of property owners within the notification area, site plan, and structural details.

In sum, this constitutes substantial evidence upon which the Planning Commission can decide as to whether or not the new foundations and associated equipment satisfy the City's standards for the alteration and expansion of a non-conforming use.

3. With respect to NMC 14.32.060, regarding the non-conforming status of the LNG Plant, the applicant has previously provided assessment information indicating that the property was acquired in 1974 and evidence that the facility has been continuously maintained since it was commissioned in 1977. Per the Newport Zoning Ordinance, the LNG Plant is non-conforming if it is established that the facility existed and has been continuously maintained since September 7, 1982. Considering the above, the Planning Commission finds, as it has with the last three decisions (File No. 2-NCU-18, 1-NCU-17 and 2-NCU-15), that there is substantial evidence in the City records that the LNG plant qualifies as non-conforming.

4. After verification of the status of a nonconforming use pursuant to Subsection 14.32.060, the Planning Commission may authorize alteration, expansion, or replacement of any nonconforming use or structure when it is found that such alteration, expansion, or replacement will not result in a greater adverse impact on the neighborhood. In making this finding, the Planning Commission shall consider the factors listed below.

a. The character and history of the use and of development in the surrounding area.

i. The applicant notes that the property has been utilized in continuous use as an LNG peak-shaving facility since its inception in June of 1977.

ii. The applicant further states that proposed Pretreatment Regen equipment is in keeping with the character of the other existing equipment and buildings on the site and surrounding neighborhood. The existing buildings on the site consist of metal paneling exterior walls and standing seam metal gabled roofs. The proposed new equipment will be of similar construction and visual appearance to existing plant facilities.

iii. The surrounding properties are largely undeveloped. Lands to the north and west will likely develop in an industrial manner in the coming years, to complement the Port of Newport's International Terminal. This would be consistent with the water dependent or heavy industrial zoning that is in place. These types of uses would orient toward Bay Boulevard for the transport of goods and materials by truck or toward the bay for barge or shipping out of the terminal site. In either case, the properties would orient away from the LNG Plant facility.

iv. The alteration/expansion to the non-conforming use is the addition of Pretreatment Regen equipment on three new concrete foundations. The equipment is situated in close proximity to the existing process building in a secure area; therefore, there does not appear to be any increased risk to neighboring properties from volatile liquids being stored onsite.

v. The applicant provides community access to the estuary and portions of its property for recreational purposes. They are not required to do so, and the new Pretreatment Regen equipment does not impact these areas as it is located within the perimeter of the security fence.

vi. Considering the above, the Planning Commission concludes that the addition of Pretreatment Regen equipment is consistent with the character and history of development in the area given that the change will not further exacerbate the nonconforming situation.

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

i. The applicant notes that the proposed Pretreatment Regen equipment is not anticipated to create any additional significant vibration, dust, odor, fumes, glare, noise or smoke. The new equipment is comparable in design and function to other existing equipment on site.

ii. Nearby water-dependent and heavy industrial properties are envisioned to develop with uses that generate noise, vibration, dust, odor, fumes, glare, or smoke in excess of anything that could be attributed to the LNG Plant facility.

iii. Considering the above, the Planning Commission concludes that the Pretreatment Regen equipment will not create noise, vibration, dust, odor, fumes, glare, or smoke in a manner that would result in a greater adverse impact on the neighborhood.

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

i. The applicant explains that the existing infrastructure to the site from SE Bay Blvd. is adequate and will accommodate use of the new equipment. A gravel roadway has been extended to the proposed process equipment site. It was installed and used for truck delivery and loading during construction of the recently built Control Building, and is sufficient for installation and maintenance of the Pretreatment Regen equipment. The existing LNG Plant facility utility infrastructure is adequate and no additional utilities are anticipated for the proposed development.

ii. Considering the above, the Planning Commission concludes that the addition of the Pretreatment Regen equipment will not cause any greater adverse impact on the neighborhood as it relates to the adequacy of infrastructure to serve the use.

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

i. The applicant notes that no additional vehicular trips to the site are anticipated as a result of the Pretreatment Regen equipment.

ii. Considering the above, the Planning Commission concludes that the addition of the equipment will not cause any greater adverse impact on the neighborhood relative to this criterion.

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

i. The applicant indicates that, per the zoning ordinance, there is no minimum / maximum number of parking spaces required for this development and that a loading area is not required.

This is attributed to the nature of the improvements, which are a component of the gas processing operation that do not generate demand for additional staff or service trips that cannot otherwise be accommodated with existing on-site parking and service areas.

ii. The applicant's site plans and schematic drawings illustrate where the Pretreatment Regen equipment is to be installed (Attachment "A-3"). The equipment is to be an operational component of the LNG Plant facility that is secured to concrete pads and footings and is not being stored on-site.

iii. Given the above, the Planning Commission concludes that the Pretreatment Regen equipment will not cause any greater adverse impact on the neighborhood with respect to comparative amount and nature of outside storage, loading, and parking.

f. The comparative visual appearance.

i. The applicant states that the construction work will visually match the existing structures in color and general appearance, and surroundings so as to ensure good general visual appearance of the area.

ii. Considering the above, the Planning Commission concludes that the Pretreatment Regen equipment will not cause any greater adverse impact on the neighborhood as it relates to comparative visual appearance.

g. The comparative hours of operation.

i. The applicant notes that the existing LNG Plant facility is in operation 24/7 and that the new Pretreatment Regen equipment is anticipated to be in operation on the same schedule.

ii. Based on the above, the Planning Commission concludes that the Pretreatment Regen equipment will not cause any greater adverse impact on the neighborhood as far as comparative hours of operation.

h. The comparative effect on solar access and privacy.

i. The applicant notes that the Pretreatment Regen equipment will be set along the northwest side of the property, a considerable distance from the adjacent neighbors. They further indicate that, at this time, no additional staff is anticipated to be needed and that they do not believe the project will have an effect on solar access or privacy.

ii. Given the above, the Planning Commission concludes that the proposed Pretreatment Regen equipment satisfies this criterion.

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

i. There are no other apparent factors.

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

i. The LNG plant is in a W-1 zoning district and is nonconforming because utility facilities are not permitted in this zone district. The purpose of the W-1 zone is to protect Yaquina Bay shoreland areas for uses that need contact with or use water for water-borne transportation, recreation, energy production or water supply (NMC 14.03.040). The LNG Plant facility is not dependent upon the bay for any of the factors listed.

ii. The LNG Plant facility was constructed before the W-1 zoning was in place, and most of the applicant's property is dedicated to this use. In fact, it appears that the confines of the secure facility have remained more or less static. The new Pretreatment Regen equipment is being placed within the fence line, in close proximity to existing buildings and the LNG tank. Therefore, the addition of the equipment will not reduce the amount of land available for water-dependent development.

iii. Based on the above, the Planning Commission concludes that the Pretreatment Regen equipment will not result in a greater adverse impact on the neighborhood relative to the objectives of the current zoning provisions.

OVERALL CONCLUSION

Based on the application material, the Planning Staff Report, and other evidence and testimony in the record, the Planning Commission concludes that the above findings of fact and conclusions demonstrate compliance with the criteria for the expansion of a nonconforming use found in Chapter 14.32 of the Newport Municipal Code (NMC); and, therefore, the requested alteration or expansion of a nonconforming use as described in the applicant's findings and supporting documents as submitted, is hereby approved with the following conditions:

1. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to this report. No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner to comply with these documents and the limitations of approval described herein.

Tentative Planning Commission Work Program

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



April 12, 2021

Work Session

- Yaquina Bay Estuary Management Plan Update (Presentation/Discussion)
- Review Initial Draft of Code Amendments Related to Operation of Food Trucks & Food Carts
- KPFF Assessment of Beach Accesses for Resiliency Retrofit (Informational)

April 12, 2021

Regular Session

- Hearing on File 4-Z-20 Implementing HB 2001 Duplex, Townhouse, and Cottage Cluster Standards

April 26, 2021

Regular Session

- File 1-NB-21/2-CUP-21, Design Review Hearing on Hallmark's Whaler Motel Expansion
- File 1-NCU-21, Expansion of Non-Conforming Mobile Home Park from 14 to 16 Spaces (4263 S Coast Hwy)
- File 2-NCU-21, Expansion of Non-Conforming Natural Gas Facility (1702 SE Bay Blvd)

May 3, 2021

Special Joint Commission/City Council Work Session

- Transportation System Plan Draft Solutions Discussion, 2nd Round Public Outreach – Part 1

May 10, 2021

Regular Session

- Final Order/Findings, Expansion of Non-Conf. Mobile Home Park from 14 to 16 Spaces (4263 S Coast Hwy)
- Final Order/Findings, Expansion of Non-Conforming Natural Gas Facility (1702 SE Bay Blvd)

May 17, 2021

Special Joint Commission/City Council Work Session

- Transportation System Plan Draft Solutions Discussion, 2nd Round Public Outreach – Part 2

May 24, 2021

Work Session

- Status Update SB / US 101 Corridor Refinement Plan
- Review DLCDCity Evaluation of Beach Access Points Prioritized for Resiliency Retrofit
- Review of Draft Code Amendments Related to Food Trucks & Carts

May 24, 2021

Regular Session

- Deliberations and Decision on File 1-NB-21/2-CUP-21, Design Review Hearing on Hallmark's Whaler Motel Expansion (Final Order and Findings will be available for potential adoption)
- File 4-CUP-21, Public Hearing for an Historic Themed Photo Studio in the W-2 Zone (342 SW Bay Blvd)
- Initiate Legislative Process to Amend the Newport Zoning Ordinance Related to Food Cart

June 14, 2021

Work Session

- Review TSP Tech Memo #8 (Detailed Solutions) and Tech Memo #10 (Transportation Standards)
- Review TGM Grant Application to Update Land Use Regulations along US 101/20 Corridor and Develop Business Façade Improvement Program to Complement Recommendations in the TSP (App Due in July)

June 14, 2021

Regular Session

- File 2-Z-21, Public Hearing on Change to Allow Personal Service Uses, like Real Estate Offices, as Conditional Uses in W-2 Zoned Areas
- File 1-ADJ-21, Setback Adjustment for New SFD on SW 58th Street in Southshore (Tentative)

June 28, 2021

Work Session/Regular Session Cancelled

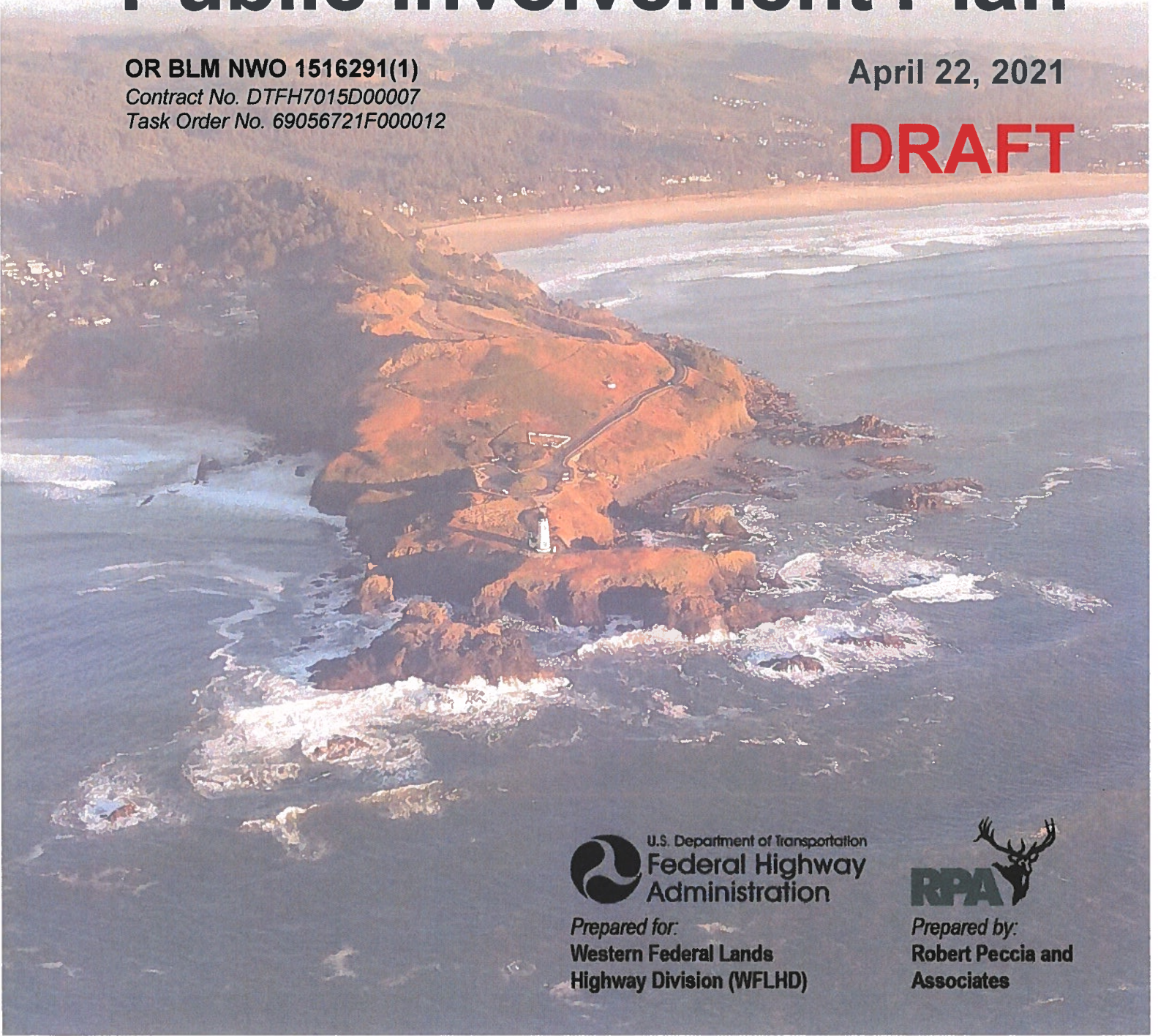
Yaquina Head Traffic Study

Public Involvement Plan

OR BLM NWO 1516291(1)
Contract No. DTFH7015D00007
Task Order No. 69056721F000012

April 22, 2021

DRAFT



Prepared for:
Western Federal Lands
Highway Division (WFLHD)



Prepared by:
Robert Peccia and
Associates



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OR BLM NWO 1516291(1)
Task Order No. 69056721F000012

ABBREVIATIONS/ACRONYMS

ADA	Americans with Disabilities Act
BLM	U.S. Bureau of Land Management
FHWA	Federal Highway Administration
OC	Oversight Committee
ODOT	Oregon Department of Transportation
PIP	Public Involvement Plan
RPA	Robert Peccia and Associates
WFLHD	Western Federal Lands Highway Division
YHONA	Yaquina Head Outstanding Natural Area

1.0. INTRODUCTION

The Federal Highway Administration Western Federal Lands Highway Division (FHWA) has initiated a study to evaluate the Yaquina Head Outstanding Natural Area (YHONA) and determine what improvements can be made to address identified needs while considering public and stakeholder input, environmental constraints, constructability challenges, and financial feasibility. The *Yaquina Head Traffic Study* will identify site needs, determine potential improvements to address those needs, develop a funding strategy, and forecast a development timeline. The study will be a collaborative process with WFLHD, the U.S. Bureau of Land Management (BLM), Oregon Department of Transportation (ODOT), the City of Newport, stakeholders, and the public to identify needs and potential solutions.

The planning process involves early communication with interested parties to help identify needs, constraints, and opportunities to determine reasonable improvements given available resources and local support. Community, stakeholder, agency, and other interested party involvement are important components in any successful planning process. For this study, several strategies are proposed to disseminate information and elicit meaningful participation. These opportunities will include:

- providing information on critical elements and observations within the study area;
- seeking input and answering questions throughout the planning process; and
- presenting findings and recommendations.

1.1. Purpose of the PIP

Education and public outreach are essential parts of fulfilling the responsibility to inform the public about the planning process. Public involvement is critical to ensure the study reflects visitor and local community needs, issues, and values. Comments and input from the public foster cooperation and help planning staff, consultants, and local officials make informed decisions.

An initial step in the planning process is to develop a *Public Involvement Plan* (PIP) to guide public input opportunities throughout the planning process. The PIP outlines key audiences, proposed public participation strategies, and opportunities for engagement with members of the public and stakeholders. The goal of the PIP is to facilitate ongoing public engagement throughout the planning process. The PIP describes the information and input opportunities that will be provided as part of the development of the study.

2.0. AUDIENCES

Active participation and input will be encouraged at every stage of the planning process. Development of the plan will be overseen by an oversight committee (OC) that will guide work, review deliverables, and provide general oversight on all matters related to the study. The following sections discuss the study contacts, oversight committee, anticipated key stakeholders, and other interested parties to be included in the planning process.

2.1. Study Contacts

The following contact information for FHWA, BLM, and RPA representatives will be provided in all published information. These individuals will serve as main points of contact for the study.



OR BLM NWO 1516291(1)
Task Order No. 69056721F000012

Helen Oppenheimer, PE

FHWA Project Manager

610 East Fifth Street

Vancouver, WA 98661

(360) 619-7881

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Matt Betenson

Yaquina Head Site Manager – BLM

750 NW Lighthouse Drive

Newport, OR 97365

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Sarah Nicolai, PE, PTP

Consultant Project Manager

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Helena, MT 59601

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snicolai@rpa-hln.com

2.2. Oversight Committee

The OC will guide work and review deliverables produced by the consultant team. Regular OC meetings will be held to discuss planning milestones, review materials, and provide feedback. RPA's project manager and support staff will facilitate meetings to present updates on the work effort. The meetings will track progress and address study development issues and questions. The meetings are important for the exchange of technical information and ideas during the development of the study. Up to eight (8) meetings will be held using both in-person and virtual formats. The following topics are anticipated to be covered at the OC meetings.

- **OC Meeting 1** (May 2021, in person): Work Tasks, Data Gaps, Public Involvement Plan, Schedule
- **OC Meeting 2** (July/August 2021, in person): Data Collection, Public Meeting #1
- **OC Meeting 3** (September/October 2021, in person): Existing and Projected Conditions, Preliminary Issues and Concerns, Public Meeting #1 Summary
- **OC Meeting 4** (November 2021, virtual): Existing and Projected Conditions Memorandum
- **OC Meeting 5** (January 2022, in person): Concept Identification, Public Meeting #2
- **OC Meeting 6** (February 2022, virtual): Concept Refinement, Public Meeting #2 Summary
- **OC Meeting 7** (March 2022, virtual): Draft Feasibility Report, Public Review Period
- **OC Meeting 8** (May 2022, virtual): Public Comments, Final Report

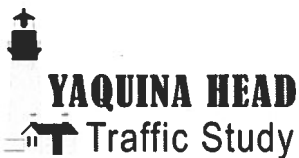
2.3. Stakeholders

A stakeholder contact list will be developed to include individuals or groups identified in coordination with the OC and through the public involvement process. Input from a diverse range of stakeholders is important to the planning process and the outcome of the plan update. Stakeholders will include adjacent and nearby property owners and residents, state and local governments including the Oregon Parks and Recreation Department, educational and non-profit organizations including Friends of Yaquina Lighthouses, the surfing community and recreational interest groups, business and tourism interests, and other interested parties. Areas of concern will be identified through stakeholder outreach and may include visitor safety, conflicts between user types, site access, right-of-way encroachment, and alignment with statewide and local planning efforts. Specific stakeholder representatives will be identified building from the initial list identified above.

All stakeholders will be extended an invitation to the public meetings. To ensure a broad range of stakeholder input, outreach through direct emails, phone calls, and other forms of communication may also be used.

2.4. Public Contacts

Members of the public representing both local and visitor perspectives will be invited to participate in the study. Public comments and input will be solicited throughout the planning process. Additionally, an official comment period will be provided after the release of the draft *Yaquina Head Traffic Study*.



All public comments will be directed to FHWA. Comments will be forwarded to RPA to catalog, collate, characterize and form draft responses to comments received. FHWA will provide final responses to all public comments.

3.0. OUTREACH AND ENGAGEMENT

Information will be provided in multiple formats, and public and stakeholder input will be solicited and encouraged at every stage of the planning process. Several public engagement strategies are proposed to reach a broad audience and elicit meaningful participation. This section provides an overview of the outreach methods that will be used to gather input from stakeholders and the public.

3.1. Outreach Strategies

Targeted outreach is intended to obtain meaningful input and dialogue about the planning process, to share information, and to identify important considerations. Anticipated targeted outreach events and strategies are described in the following sections.

Mailing List

A contact list of email and physical addresses will be maintained and updated throughout the planning process for those wishing to receive periodic updates. The list will include members of the public who have expressed interest in the study and all identified stakeholders, including landowners directly adjacent to the study area. The list will be developed in coordination with partner agencies including BLM and the City of Newport building from known contacts from previous planning studies or projects in the same geographic area. Outreach to the contact list will include distribution of newsletters, meeting announcements, and other important information regarding the planning process.

News Releases

Before the public meetings, news releases will be developed, reviewed and approved by FHWA and BLM, and distributed to local media outlets to be identified in coordination with the oversight committee, potentially including the *Newport News Times*, *Oregon Coast Daily News*, *Oregon Coast Today*, *News Guard*, and local radio stations. In addition to announcing the meeting location, time, date, and format, the releases will explain the study purpose and key issues.

Stakeholder Outreach

Targeted stakeholder outreach will be conducted before public meetings to provide information about the events and encourage stakeholder participation. Stakeholder outreach methods may include email and telephone contacts.

Public Meetings

Two public meetings will be held for this study. The first meeting will occur during the 2021 summer field data collection period and will be formatted as an outside event near the YHONA Interpretive Center. The purpose of this meeting will be to explain the planning process and discuss preliminary issues and concerns relating to the site. Members of the public will have an opportunity to view exhibits, talk with members of the study team, provide feedback about issues and concerns at the site, and obtain printed copies of study materials. The goal of the meeting will be to share information about the study and gather feedback from visitors about site needs based on their observations and experiences and the site.



At the second meeting, study team members will share existing conditions information, key findings, and preliminary improvements concepts. The meeting will be held during a 2022 winter site visit and will be formatted as an open house event enabling drop-in participation at the public's convenience. The meeting location will be determined in coordination with the oversight committee in the vicinity of the City of Newport and the YHONA. Members of the public will have an opportunity to view exhibits, talk with members of the study team, provide feedback about key findings and proposed solutions for the site, and obtain printed copies of study materials.

Public meetings are proposed to be held in person, however the format may be modified as needed based on health and safety restrictions. Supporting materials will be developed for each meeting and may include a combination of exhibits, informational sheets, and newsletters. Exhibits will display the study area and the surrounding vicinity, site photographs, proposed plans as they are developed, and the study schedule. Printed and digital versions of the materials will be provided.

Newsletters

Two study newsletters will be developed corresponding with each of the two public meetings to be held during the planning process. The newsletters will include background information about the study, identified needs, observations and findings, proposed solutions, public involvement activities, planned schedules, and a feedback mechanism to elicit comments from the recipients. Following review and approval by BLM, up to 300 printed copies will be mailed to the study contact list, and a digital version will be developed for distribution to the study email list and to partner agencies.

3.2. Access and Visibility

The study team will strive to provide convenient, accessible opportunities for the public and stakeholders to participate in the planning process. The following measures will be used.

Published Materials

All published study information will be developed in compliance with applicable federal accessibility regulations, including the Americans with Disabilities Act (ADA) and Section 508 of the Rehabilitation Act. Alternative formats will be available upon request. Contact information for WFLHD, BLM, and RPA representatives will be provided with all published materials.

Consideration of Public and Stakeholder Input

All input and comments from stakeholders and the public will be considered by the OC throughout the planning process. Public comments received on the draft *Yaquina Head Traffic Study* will be documented and included as an appendix.

Considerations for Traditionally Underserved Populations

Additional efforts are necessary to involve traditionally underserved segments of the population, including disabled, minority, and low-income individuals. The following steps will help with these efforts.

- **Plan Meetings Carefully** – In-person public meetings will be held in locations that are accessible and ADA compliant. Alternative accommodations will be available upon request.
- **Seek Help from Community Leaders and Organizations** – To facilitate involvement of traditionally underserved populations, community leaders and organizations that represent these groups will be consulted about how to reach their members most effectively.

- Be Sensitive to Diverse Audiences – At public meetings, the planning team will attempt to communicate as effectively as possible. Presenters will avoid using overly technical language and will explain concepts in simple terms.

4.0. OUTREACH SUMMARY AND SCHEDULE

This PIP establishes guidelines and procedures for encouraging public participation. The following communication strategies and techniques will be used to share information and to seek public and stakeholder input.

- A mailing list will be developed to contact interested stakeholders and members of the public.
- News releases will be prepared to announce public events and provide status updates.
- Stakeholder outreach will include targeted invitations to attend public events.
- Two public meetings will be held to learn about issues and concerns and to share proposed concepts.
- Newsletters will be developed in advance of public meetings.
- Public comments and input will be collected and considered throughout the planning process.

The proposed schedule for public and stakeholder involvement activities is illustrated below.

