



PLANNING COMMISSION REGULAR SESSION AGENDA
Monday, August 26, 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 Planning Commission Work Session Meeting Minutes of August 12, 2019.

[Draft PC Work Session 08-12-19](#)

2.B Approval of the Planning Commission Regular Session Meeting Minutes of August 12, 2019.

[Draft PC Reg Session 08-12-19](#)

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. 1-ADJ-19: Adjustment to Allow a 33 Foot 7.5 Inch Average Maximum Building Height for Construction of a Single Family Dwelling on Property Located Within an R-2 Zone District.

[File 1-ADJ-19.pdf](#)

[File 1-ADJ-19 -Public Comment-Kelly Grace](#)

6. NEW BUSINESS

7. UNFINISHED BUSINESS

8. DIRECTOR COMMENTS

9. ADJOURNMENT

Draft MINUTES
City of Newport Planning Commission
Work Session
Newport City Hall Conference Room A
August 12, 2019

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

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.**
- A. **Continued Review of the Framework for a New Tsunami Hazard Overlay Zone.** Cotton reviewed the changes that were done since the last time the Commission saw the land use provisions. A discussion ensued regarding the requirement for a tsunami hazard acknowledgement and disclosure statement for new development in tsunami hazard areas. Topics included why the city would want to take responsibility and an example that released the city from any and all claims. Hanselman was concerned that the City would take responsibility if they were asking for waivers. A discussion ensued on why the City should ask for waivers. Cotton asked if the Commission wanted to remove Item 4 on the disclosure form. Franklin suggested saying the City would not be responsible for any claims. Cotton explained the disclosure would let people know they were building in a geologic hazards area, there was a life safety risk, and the property owner assumed the risk.

A question was raised on what would happen with new development in the flood plain. Tokos explained that if the property was within the 100 year floodplain, the owner was required to get flood insurance. New construction would have to be built one foot above base flood elevation, and a real estate disclosure form would be required. He noted the legislative change concerning the disclosure form was built into State law. Cotton asked for the Commission's input on the disclosure statement. A discussion ensued on the four items on the disclosure statement. The Commission was in general agreement to not include Item 4. Tokos questioned if the Commission saw a use for a disclosure statement at all. He thought that if they were going to do the statement, there needed to be engagement with the local insurance agencies to see if it was valuable. Cotton noted that the insurance agents she had talked to said they didn't take anything into account concerning tsunamis unless the owner asked about flood insurance. She would talk to more insurance agents about the disclosure statement.

Cotton reviewed the changes to Section 1.110. Berman thought that the capacity for "special occupancy structures" for colleges, adult education schools, and medical facilities with residents should have lower numbers than what was listed. He also suggested removing Section 6.h. from the list. Cotton would take off Section 6.h. and look into the occupancy for OCCC to see if it was greater than 500, and talk to Meg Reed of the DLCDC about the scalability of the provisions.

Cotton reviewed the prohibited uses in different magnitude events. Her thoughts were to include new build uses that the City wouldn't want to rebuild in the case of a major event. Berman asked how the OMSI building fit on the list. Cotton thought it would fit as a public assembly with a capacity greater than 300. A discussion ensued regarding the reasoning on how child care and medical facilities fit in their magnitude zones, and how complicated it was to evacuate occupants at these facilities. Cotton said what she was hearing was to move Section 4.a. Items iv, v, vi, and vii to the "M" magnitude events list, move Section 4.b. Items ii, iii, iv, and vi to the "XXL" magnitude events list, and take out Section 4.b.v.

Cotton asked if the Commission wanted to include an addition to say that childcare should be prohibited in Section 4 as an accessory to a prohibited use, be allowed in “M”, and be prohibited in an “XXL”. Patrick was inclined to permit childcare centers in “XXL” if they had a good evacuation plan in place. Cotton said she would add to Section 4.c. that childcare centers would be allowed when they were an accessory to a permitted use provided adequate evacuation measures would be provided such that life safety risk to building occupants was minimized. Tokos suggested avoiding the use of “adequate” and use “provide exclusively” instead. For the sake of time, the Commission was in agreement to move the discussion to that night’s Regular Session meeting.

3. New Business.

- A. Amendments to NMC Section 14.16.050, Development Standards for Accessory Dwelling Units.** Tokos reviewed the amendments. He said the deadline to do the amendments was determined by Section 7 of HB 2001 that stated it was due by January 1, 2020.

Berman pointed out that Chapter 14.16.050(H) said that Accessory Dwelling Units (ADU) shall share connections with the primary dwelling and questioned if they needed to continue to be on the same connection. A discussion ensued regarding ADUs sharing services with the main dwelling and if the Commission wanted to delete Item H. The Commission was in general agreement to remove Item H. Franklin question if the maximum floor area was the footprint of the ADU. Tokos said it was the habitable floor area of the living area. Hanselman asked if setbacks would be changed. Tokos said this only applied to non-habitable structures such as garden sheds.

Berman asked if someone built an ADU that they wanted to later rent, would they be required to have a parking space. Tokos said they would only need to provide off-street parking if it was a short-term rental. A discussion ensued regarding the recommendation by the State to allow one or two ADUs per dwelling unit on a parcel and how ADUs should be limited in Newport. The Commission was in general agreement to limit one ADU per parcel. Tokos said he would bring this option in the language to the Commission.

- B. Updated Planning Commission Work Program.** For the sake of time, the work program discussion was moved to the Planning Commission regular session 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
August 12, 2019

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

City Staff Present: Community Development Director (CDD), Derrick Tokos; Associate Planner, Rachel Cotton; 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, Franklin, Hanselman, Branigan, and Patrick were present.

2. **Approval of Minutes.**

A. Approval of the Planning Commission Work and Regular Session Meeting Minutes of July 22, 2019.

Commissioners Berman and Branigan noted minor corrections.

MOTION was made by Commissioner Berman, seconded by Commissioner Branigan to approve the Planning Commission work and regular session meeting minutes of July 22, 2019 with minor corrections. The motion carried unanimously in a voice vote.

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

4. **Action Items.**

A. **Motion to Initiate the Legislative Process for the Accessory Dwelling Unit Provisions.**

MOTION was made by Commissioner Branigan, seconded by Commissioner Franklin to initiate the legislative process for the Accessory Dwelling Unit provisions. The motion carried unanimously in a voice vote.

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

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

A. **File No. 3-CP-19.**

Tokos gave his staff report. He noted the Park System Master Plan (PSMP) hadn't been updated since 1993 which warranted making the changes. City staff, Rachel Cotton, addressed the Commission. She noted what was presented at the hearing was the plan the Commission had seen previously with minor changes. She gave a synopsis of the plan and pointed out that the PSMP was a blue print on where the City wanted to go and how to get there.

Hardy asked why private properties were included on the list. Cotton said one of the City's goals was to require that destination resorts were planned for in conjunction with the Park System. Tokos explained that the destination resort overlay adopted in the late 1980's required a certain amount investment to be made for development, which included recreational amenities. If a destination was to happen, they would be required to have recreational amenities and was why it was included in the inventory. Hardy was concerned that recreational amenities would be the responsibility of the property owner. Tokos said the City was under no obligation to pay for any of the projects on the list and often private money would come into play to be able to move forward with a project. Sometimes it went hand in hand with a residential development and there would be many amenities the developer would be expected to complete. Cotton explained it was more about identifying areas in the City that are underserved and would need future recreational amenities. Tokos noted the City didn't know when the Wolf Tree destination was going to be developed. When it was developed there would be public input that would include how to tie in with trails. Tokos pointed out that the Nautical Hills project would be fully funded, and the pollinator habitat project would have a nonprofit who would be funding the project.

Franklin asked what the basis was for the charges for the projects. Cotton said this was done by the consultants to give a range for what the bare bones to the most extensive projects would cost. This was based on a conceptual range.

Branigan asked if the two boat launches were the same. Cotton explained they were not. She noted that many of the projects on the list that didn't list costs and weren't a trail, often meant the City wouldn't be on the hook to pay for the projects.

Berman said he was on the Advisory Committee for the PSMP and agreed with the project. He expressed his concerns with the revenues and management of the Parks and Rec Department. Berman felt addressing the operational costs over revenues was the more immediate problem than any additions or improvements.

Proponents: Julie Garran, Lisa King and Terese Davis address the Commission and asked if there would be another opportunity for public input to the changes to the PSMP. Cotton said they could address their concerns at the current meeting or at the City Council hearing. Tokos reminded that the projects in the PSMP were just concepts. Anytime there was a rollout on projects, there would be community engagement and a time to do further refinements.

Garran noted that dog park had water near the road and wanted there to be water in the park. She was concerned that there was a divisional fence line in the park for small and big dogs. She suggested putting in gates on the division line so that if there weren't small dogs on one side, the gate could be opened and the big dogs could roam freely. Garran suggested that the gates needed to be wide enough for city mowers to mow both sides. She also requested more seating and noted that the public was willing to donate seating.

King reported that accessibly to the dog park was difficult. She thought there could be a smoother transition to get in to the park.

Davis preferred having grass instead of bark in the dog park. She thought the direction of the dividing line should be changed so that there was a shaded side for both sizes of dogs. Davis also agreed that there should be water inside of the park for the dogs.

Cotton explained that the concept wasn't set in stone and a lot of the details hadn't made it into the project. There would be communications to the community in the future on how to give input. Patrick noted that the City Council would do the implementation of the PSMP and suggested the group address the Council to get some action. He noted that accessibility was already included in the plan.

Haven and King suggested there be a venue for people to donate to the parks. Cotton said gifts and donations were noted in the plan and was an important aspect of it. Patrick noted the plan had something included for water for citizens but they should add pet fountains.

Hearing closed at 7:39 pm

Hardy was impressed with the importance assigned to the recreational facilities available to the citizens. Berman thought it was an excellent effort by City staff and the consultant and was worth forwarding to the City Council. Franklin thought the plan was a good road map for the city. Hanselman thanked Cotton for her work. He thought it was going to be difficult to divide up funds for the projects. He wanted the City to work harder to find funding for parks. Branigan thanked Cotton. He noted there had been a lot of citizen involvement and thought the Commission should send it to the City Council. Patrick was happy to see the plan be done because it had been in discussion for many years.

MOTION was made by Commissioner Branigan, seconded by Commissioner Franklin to approve File No. 3-CP-17 and forward a favorable recommendation to the City Council to modify the Comprehensive Plan and include the Park System Master Plan. The motion carried in a unanimous voice vote.

6. New Business. Tokos reported there would be an open house on Tuesday, August 13th at 6pm at City Hall to discuss implementing a multi-use trail around Big Creek Reservoir.

7. Unfinished Business.

A. Upcoming FEMA Community Assistance Visit and Flood Insurance Workshops.

Tokos noted that FEMA had notified the City that they would be doing visit to review the City code and operations. He explained he wouldn't be moving the maps forward and wouldn't know what these would be until the visit. Tokos reported that FEMA was provided the existing code and records. The Commission would be getting an overview of what FEMA would like to see as amendments.

Franklin asked if this would derail the timeline. Tokos reported that FEMA felt confident it wouldn't. He noted that he had shared with the local real estate agents that FEMA was visiting. FEMA would be doing touring sessions on the same day of the visit with realtors to give them a chance to talk to the pros about flood insurance.

8. Director Comments. Tokos noted that he provided a work program to the Commission at the work session but didn't get to review it at the meeting.

Tokos reported there had been one interview for the Commission's open position and the City Council would be doing another interview before voting for a new member.

9. Adjournment. Having no further business, the meeting adjourned at 7:48 p.m.

Respectfully submitted,

Sherri Marineau
Executive Assistant

PLANNING STAFF REPORT
File No. 1-ADJ-19

- A. **APPLICANT(S) & OWNER(S)**: Scott and Mary Rogers, owners.
- B. **REQUEST**: An adjustment to Section 14.10.010 (Height Limitations) of the Newport Municipal Code (NMC) to allow a new single family residence to be constructed to 33-feet, 7.5-inches in height, which is a 12% increase over the 30-foot maximum building height. The request is an adjustment between 10-40% and requires a Planning Commission decision pursuant to NMC Section 14.33.030(B).
- C. **LOCATION**: 844 SE Crescent Place (Lot 21, Block 2, The Harbor Crescent Subdivision. Assessor's Map 11-11-09-CA, Tax Lot 5700.
- D. **LOT SIZE**: 5,227.20 square feet per Assessor's records.
- E. **STAFF REPORT**:
1. **REPORT OF FACT**:
 - a. **Plan Designation**: Low Density Residential.
 - b. **Zone Designation**: R-2/PD "Medium Density Single-Family Residential/Planned Development."
 - c. **Surrounding Land Uses and Zoning**: Low and high density residential uses. The Harbor Crescent Subdivision, within which the lot is located, is a partially developed single-family residential subdivision. Single-family residential homes exist to the east, undeveloped residential land exists to the west, the harbor village mobile home park is situated to the north and northwest, and the Embarcadero is situated to the south, opposite SW Bay Blvd.
 - d. **Topography**: The property slopes away from SE Crescent Place. The developed portion of the road is about 20-feet east of the property line. The terrain is gradually sloped from the property line, extending west a distance of 20-25 feet. From there, the elevation drops steeply down to the west property line.
 - e. **Existing Structures**: None.
 - f. **Utilities**: All are either currently available or can be made available concurrent with the development of this project.
 - g. **Past Land Use Actions**: 1-PD-84/3-SUB-84, approval of The Harbor Crescent Planned Development and subdivision.
 - h. **Notification**: All affected property owners within 200 feet, applicable city departments, and other agencies were notified on July 29, 2019. See Planning Staff Report Attachment "P" (Public Hearing Notice and Map). The public hearing notice was published in the Newport News-Times on August 16, 2019.

i. **Attachments:**

- Attachment "A" – Application Form
- Attachment "B" – Letter from Scott and Mary Rogers, dated July 18, 2019
- Attachment "C" – Letter from Scott and Mary Rogers, dated July 27, 2019
- Attachment "D" – Aerial Photograph of the Lot
- Attachment "E" – Photographs of the Owner's Lot and Neighboring Properties
- Attachment "F" – Site Plan Prepared by Adair Homes (Figure 3, GEO Consultants Northwest Report, dated March 2019)
- Attachment "G" – Exterior Elevations by Adair Homes, dated 5/6/19
- Attachment "H" – Planning Commission Findings Approving the Harbor Crescent Planned Development (File No. 1-PD-84)
- Attachment "I" – Final Plat for "The Harbor Crescent Subdivision," Sheet 1 of 2
- Attachment "J" – Final Development Plan for the Harbor Crescent Planned Development, dated February 1985
- Attachment "K" – Letter from the Harbor Crescent HOA Board, received 8/16/19
- Attachment "L" – Email from Wen-Tai Chen, received 8/19/19
- Attachment "M" – Email from David Yang, received 8/19/19
- Attachment "N" – Letter from Ken Brant, received 8/19/19
- Attachment "O" – Aerial Image of the Property
- Attachment "P" – Public Hearing Notice and Map

2. **Explanation of the Request:** The applicant is proposing to construct a single family home to a height of 33-feet, 7 ½ inches, which is a 12.1% increase over the 30-foot maximum building height limitation established with the Final Development Plan for the Harbor Crescent Planned Development (Attachment "J"). The applicant provided a site plan showing where the home will be located on the property (Attachment "F") and exterior architectural elevations illustrating the height of the residence (Attachment "G").

3. **Evaluation of the Request:**

- a. **Written Comments:** As of August 19, 2019, the Community Development Department has received four written comments related to the application. All of the comments were from property owners within the Harbor Crescent Planned Development, and they are requesting the Commission deny the request namely because of the impact the height adjustment would have on their views of the bay.
- b. **Planning Commission Review Required (NMC Section 14.33.030(B); Approval Authority:** A deviation of greater than 10%, but less than or equal to 40%, of a numerical standard shall satisfy criteria for an Adjustment as determined by the Planning Commission using a Type III decision-making procedure.
- c. **Applicable Criteria (NMC Section 14.33.050); Criteria for Approval of an Adjustment:**
- i. That granting the adjustment will equally or better meet the purpose of the regulation to be modified; and
 - ii. That any impacts resulting from the adjustment are mitigated to the extent practical; and
 - iii. That the adjustment will not interfere with the provision of or access to appropriate utilities, nor will it hinder fire access; and

- iv. That if more than one adjustment is being requested, the cumulative effect of the adjustments results in a project that is still consistent with the overall purpose of the zoning district.

d. **Staff Analysis:**

The applicant's site plan and architectural renderings (Attachments "F" and "G") show that they are requesting a 12.1% adjustment to the building height limit; therefore, Planning Commission approval is required. In order to grant the adjustment, the Planning Commission must review the application to determine whether it meets the criteria. With regard to those criteria, the following analysis can be made:

Criterion #1. That granting the adjustment will equally or better meet the purpose of the regulation to be modified:

- i. In regard to this criterion, the Planning Commission must consider whether the applicant has sufficiently demonstrated that granting the adjustments will equally or better meet the purpose of the regulation to be modified.
- ii. Height limits are imposed to protect neighboring properties from view obstruction, avoid solar loss, promote privacy, and to ensure safety relative to local fire protection capabilities. The City of Newport recognizes that numerical development standards, such as height limits, cannot always be met, and created this review process to provide a degree of flexibility in recognition of the wide variation in property size, configuration, and topography within the city limits, and to allow reasonable and economically practical development of a property (ref: NMC 14.33.010)
- iii. The applicant's indicate that they are requesting this height adjustment because of the challenging topography of the lot (Attachment "B"). They note that it slopes steeply downward from east to west, that there is a cross slope from south to north, and that the lot is narrow. The applicant's further point out that lots to either side of theirs are developed and that, in sum, these factors make it difficult for them to position the house such that it meets the 30-foot height limit.
- iv. In their narrative, the applicant speaks to steps they took to try and meet the 30-foot height limit. They considered raising the final grade at the basement level via placement of fill against the foundation wall; however, their builder advised them that it would require a retaining wall be installed on the north side of the home to support the backfill (Attachment "C"). This would presumably be too costly. The applicant also considered lowering the house on the property; however, they decided against that option out of a concern that the driveway would slope too steeply toward the house, causing drainage issues that could lead to water intrusion into the garage. Lastly, the applicant notes that the narrow configuration of the lot limits their options for repositioning the home on the property.
- v. The applicant acknowledges, in their narrative (Attachments "B" and "C"), that development of this property could impact the views other properties have of Yaquina Bay, but assert that any impact would be negligible because the height of their home would be roughly the same as the height of the homes immediately to

the north and south, and that properties to the east, which would be most directly impacted, are at a higher elevation, meaning that homes on those lots would still have a view of the bay looking over the top of their residence.

- vi. The potential for view obstruction is the primary factor that the Planning Commission will want to consider when determining whether or not this adjustment should be granted. It is unlikely that solar access or privacy will be impacted in a meaningful way by the height adjustment, considering the reduced expectations for both attributed to the narrow lot widths and reduced setbacks authorized with this Planned Development. Fire safety concerns can be an issue at times, particularly in circumstances where the height adjustment would create additional habitable space that is difficult for emergency personnel to reach. That is not the case here, and given the degree to which emergency personnel have vehicle access to the property (from the east and west) and physical access to all sides of the building, fire safety is not a significant factor relative to this request.
- vii. Comment letters were submitted by individuals that own developed and undeveloped lots east of the applicant's property (ref: Attachments "L" through "N"). The applicant's lot is situated between their properties and the bay, and they all oppose approval of the adjustment out of a concern that the new home will impede their views. The Harbor Crescent Homeowners Association ('HOA') also submitted a letter requesting that the adjustment be denied (Attachment "K"). The HOA points out that the configuration and topography of the applicant's lot is not unusual, and that similarly situated lots have been developed with homes that meet the height limit. Given this information, it is their view that there is no legitimate reason to grant an adjustment.
- viii. The Harbor Crescent Planned Development was approved in 1984. It was originally envisioned as a mixed density development, but has been built out with single-family detached housing. Variances were granted to the building height and setback requirements of the R-2 zone district. The variances apply to some, but not all of the lots. A review of the Planning Commission's findings and final order from 1984 shows that preservation of bay views, both within and outside of the Planned Development, were a significant factor in establishing which lots received a height variance and those that did not (Attachment "K"). Height allowances, by lot, are shown graphically in the Final Development Plan for Harbor Crescent, which was completed in 1985 (Attachment "J"). The applicant's lot, and the other nine (9) lots along the west side of SE Crescent Place, did not receive a variance, meaning they are required to meet a 30-foot maximum building height. Of the ten (10) lots subject to the height limit, nine (9) have been developed and City records show that all of them were able to proceed without a height adjustment or height variance. The applicant's property is one of the lots that received a setback variance that allows construction up to the property line; however, private covenants and building code considerations require homes be at least six (6) feet apart from one another.
- ix. Considering the above, it would be difficult for the Planning Commission to conclude that granting the adjustment will equally or better meet the purpose of the regulation to be modified. The Harbor Crescent HOA correctly notes that the topography on the subject lot is comparable to other lots on the same side of SW Crescent Place that are subject to the 30-foot height limitation. The other lots

have been developed without the need for a height adjustment or variance. While it is understandable that the applicant has a preferred set of house plans, the benchmark for determining whether or not the lot can be “reasonably developed” with the 30-foot height limit is not restricted to an applicants preferred design. The fact that other similarly situated lots have been developed in conformance with the 30-foot height limit is compelling evidence that the height limitation is not preventing reasonable development of the lot. Additionally, it is evident that much consideration was given to view preservation when this Planned Development was originally approved, and the Commission may want to proceed cautiously on site specific requests to deviate from the height limits given this history.

Criterion #2. That any impacts resulting from the adjustment are mitigated to the extent practical:

- x. For height adjustments, mitigation is typically achieved by providing additional setback distance between structures, reducing overall building mass, or leveraging terrain to reduce the visible height of a building. The applicant has not proposed any mitigation because they believe the adjustment will not impact views of the bay from nearby properties.
- xi. The Harbor Crescent HOA, and owners of three properties within the subdivision that possess views of the bay over this lot, have expressed concern that a height adjustment, if approved, will at least partially impede their views and thus negatively impact the value of their property.
- xii. The proposed home is at a comparable elevation to nearby homes, meaning that a height adjustment to 33-feet, 7 ½ inches would result in a roof line that is higher than other homes along the west side of SE Crescent Place. The site plan prepared for the applicant (Attachment "F"), shows that the driveway on the applicant’s site plan extends into the property about 30-feet from the curb line of SE Crescent Place. This means the garage would be situated slightly closer to the street than the homes immediately to the north and south. Its front building line would be very similar to the home two lots to the south. The rear of the building is roughly coterminous with the southwest corner of the home to the north, and about 10-15 feet upslope of the home to the south.
- xiii. A scaled drawing prepared by staff, with an aerial image and property lines (Attachment "O"), when compared to the applicant’s site plan, illustrates that the new home could be placed further to the west, possibly as much as 10-feet, without impacting the slope of the driveway in a meaningful way. The break in slope on the lot is roughly in line with the front of the garage to the south. Grass on the property is mowed back to where the slope steepens and that break line is visible on the aerial image. Given the evidence in the record, it is unclear if moving the home back on the lot would fully mitigate for the additional building height.
- xiv. Considering the above, it would be difficult for the Commission to accept the applicant’s assertion that the height adjustment will not adversely impact views of the bay from nearby lots. The argument is speculative, and would require more analysis and mapping than was submitted or is otherwise available. Sufficient

information is available for the Commission to determine that there is an impact, meaning the applicant has an obligation to mitigate the impacts to the extent practical. This mitigation requirement has not been fully addressed.

Criterion #3. That the adjustment will not interfere with the provision of or access to appropriate utilities, nor will it hinder fire access:

- xv. In their narrative, the applicant points out that the height of the house will not affect access to other properties in the area. They further note that it will not interfere with the sewer, water, storm drainage, streets, electricity, natural gas, telephone or cable services of the neighbors' homes.
- xvi. Aerial images of the property, submitted by the applicant and staff (Attachments "D" and "O") show that emergency service providers can access the lot from the east and west, and the site plan (Attachment "D") illustrates that the applicant has positioned the home such that emergency service providers will have access to all sides of the dwelling. City utilities are in place to serve the property from the abutting streets.
- xvii. Given the above, it is reasonable for the Planning Commission to conclude that granting the adjustment will not interfere with utility or fire access.

Criterion #4. That if more than one adjustment is being requested, the cumulative effect of the adjustments results in a project that is still consistent with the overall purpose of the zoning district:

- xviii. The adjustment to the maximum building height is the only adjustment being requested for the project.

4. **Conclusion:** If the Planning Commission finds that the applicant has met the criteria established in the Zoning Ordinance for granting an adjustment, then the Commission should approve the request. The Commission may attach reasonable conditions of approval necessary to carry out the purposes of the Ordinance if necessary to address the adjustment criteria. The conditions of approval would need to have a nexus with the request and must be roughly proportional to the impact of the request. If, on the other hand, the Commission finds that the request does not comply with the criteria, then the Commission should make findings for denial.


- F. **STAFF RECOMMENDATION:** It is staff's view that there is insufficient evidence in the record to support approval of the height adjustment. Other nearby lots that are subject to the same height limitation, with similar topography, have been developed without the need for the adjustment and it may be that the applicant needs to select a different house plan to comply with the requirement. The applicant might also explore whether or not they could shift the house further downslope to see if that would mitigate the need for the adjustment.

Notwithstanding the staff recommendation, if the Planning Commission decides to approve the request, after reviewing the information and considering public testimony at the hearing, then staff would recommend the following condition(s) of approval:

1. Approval of this land use permit is based on the submitted written narrative, site plan and architectural elevation drawings 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 applicant to comply with these documents and the limitations of approval described herein.

2. The applicant shall submit a statement, signed and stamped by a surveyor licensed in the State of Oregon, that the as-built size and height of the dwelling is consistent with this adjustment approval. Such statement shall be submitted prior to occupancy.
3. Pursuant to Section 14.52.140/"Expiration and Extension of Decision" of the Newport Zoning Ordinance, this approval shall be void after 18 months unless all necessary building permits have been issued. An extension may be granted by the Community Development Director as provided in this section provided it is sought prior to expiration of the approval period.



Derrick I. Tokos AICP
Community Development Director
City of Newport
August 22, 2019

City of Newport Land Use Application

Attachment "A"

1-ADJ-19

15

PLEASE PRINT OR TYPE • COMPLETE ALL BOXES • USE ADDITIONAL PAPER IF NEEDED

Applicant Name(s): <p style="text-align: center;">Scott & Mary Rogers</p>	Property Owner Name(s): <p style="text-align: center;">same</p>
Applicant Mailing Address: <p style="text-align: center;">Perrysburg, Ohio 43551</p>	Property Owner Mailing Address:
Applicant Telephone No.: <p style="text-align: center;">419-308-0220; srogers@bgsu.edu</p>	Property Owner Telephone No.:
E-mail:	E-mail:
Authorized Representative(s):	
Authorized Representative Mailing Address:	
Authorized Representative Telephone No.:	E-Mail:

Project Information

Property Location: <p style="text-align: center;">SE Crescent Place, Newport, Oregon</p>	
Tax Assessor's Map No.: 11s11w09CA	Tax Lot(s): 11-11-09-CA-05700-00
Zone Designation:	Legal Description:
Comp Plan Designation:	Harbor Crescent, Block 2, Lot 21
Brief Description of Land Use Request(s): <p style="text-align: center;">Height variance application. The current average height regulation is 30 feet. We request an average height of 33 feet 7.5 inches.</p>	
Existing Structures: <p style="text-align: center;">None</p>	
Topography and Vegetation: <p style="text-align: center;">Sloped residential lot with no trees.</p>	

APPLICATION TYPE (please check all that apply)

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

FOR OFFICE USE ONLY

Date Received: <u>7/22/19</u> Received By: <u>SM</u>	File No. Assigned: <u>2-ADJ-19</u> Fee Amount: <u>617</u> Receipt No.: <u>3403</u>	Date Accepted as Complete: <u>7/29/19</u> Accepted By: <u>DT</u>
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(SEE REVERSE SIDE)

Community Development & Planning Department • 169 SW Coast Hwy, Newport, OR 97365 • Derrick I. Tokos, AICP, Director

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 & 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)

7/24/2019
Date Signed

Property Owner Signature(s)

Date Signed

Authorized Representative Signature(s)

Date Signed

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.

July 18, 2019

City of Newport
c/o Building Permits
169 SW Coast Highway
Newport, Oregon 97365

Dear City of Newport,

With this letter, we are applying for a 12.1% variance of the height requirement for our home that we are building on 5700 SE Harbor Crescent Place [Lot 21, Block 2, The Harbor Crescent]. The current maximum average height regulation is 30'. Our house would have an average height of 33' 7.5" after the final grade is completed. We are requesting this variance due to the challenging topography of the lot. It slopes steeply downward from east to west (towards the bay). But it also slopes considerably from south to north. It is a narrow lot with homes on either side. Because of this, it is difficult to position the house so that the measurements are below 30'. We talked with the builder and it is not possible to backfill by 2 feet on the bottom of the house because the land slopes considerably on the north side and any fill would just drain down the hill without any retaining wall. Also, repositioning the house on the lot is not possible because it is a narrow lot and there must be enough space between homes for fire/safety concerns.

If the average height of our house is 33' 7.5" (as requested), it would be no taller than the homes on either side. Similar to the homes on that street, it is a 2-story home with a garage and a basement. We thought that one remedy might be to lower the house on the property. However, the driveway already is inclined toward the house by 2' over a length of 20'. Increasing the slope of the driveway would create a potential water drainage issue during rainy periods, in that there may be water intrusion into the garage.

The final height of the house will not affect the adjoining houses, because our house will be roughly the same heights as theirs. Both of the adjacent houses have the same number of floors as our home, and are situated on their lots in roughly the same orientation and depths as ours. The only house across the street is much higher in elevation than ours, partially because of the slope of the land. Their garage floor will be approximately 6-10' above the elevation of our garage floor, and their living space (consisting of 3 stories) begins above the garage. Therefore, our home will not interfere with their view of the bay.

Our home will not interfere with the view or utilities of any of the neighboring homes. The height of our house will not affect access to other properties in the area. We would have a conventional driveway, similar to the neighbors. It will not affect drainage

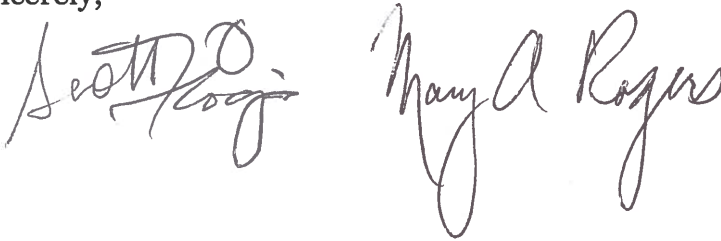
or privacy of adjoining houses. This height adjustment will not interfere with the sewer, water, storm drainage, streets, electricity, natural gas, telephone or cable services of the neighbors' homes.

Our proposed house is a conventional suburban-looking home that fits the standards in the neighborhood. After the home is finished, we will landscape the lot to provide a nice view from both the bay side as well as the cul-de-sac side.

Therefore, we ask for this variance, because it will cause no negative effects to any of the surrounding properties. Enclosed is a diagram of our home with measurements. Also enclosed is the \$617.00 fee.

If there is additional information that you need from us, please do not hesitate to contact us. Thank you very much for your assistance.

Sincerely,

Handwritten signatures of Scott O. Rogers and Mary A. Rogers. The signature for Scott O. Rogers is on the left, and the signature for Mary A. Rogers is on the right.

Scott O. Rogers

Mary A. Rogers

Scott's cell phone: 419-308-0220

Mary's cell phone: 419-308-5698

Email (Scott): srogers@bgsu.edu

Email (Mary): rogersfamily4@roadrunner.com

July 27, 2019

City of Newport
c/o Building Permits
169 SW Coast Highway
Newport, Oregon 97365

Dear City of Newport,


- We are applying for a height variance for our home that we are building on SE Harbor Crescent Place [Lot 21, Block 2, The Harbor Crescent].
- This is a narrow residential lot with a steep slope from east to west (towards the bay), but also with a slope from south to north. There are existing homes on either side.
- We chose to customize a standard builders design which accommodated the narrow width of the lot. It has a main floor with garage, an upstairs, and an unfinished basement.
- It is our understanding that the current maximum average height regulation is 30'. The measurements are taken from the finished grade to the highest roofline at each of the 4 corners of the house. (Note that our home does not have visible pillars but rather foundation walls.)
- Our calculations indicate that our house would have an average height of 33' 7.5" after the final grade is completed. This is because the house will sit on foundation walls on the bay side to accommodate the downward slope. We are attaching the home design with exterior elevations.
- We attempted to find a solution by raising the final grade at the basement level. However, the builder indicated that, because of the north-south slope of the lot, we would need to build a retaining wall on the north side to support the backfill.
- We also attempted to find a solution by lowering the house on the property. However, the driveway already is inclined toward the house by 2' over a length of 20'. Increasing the slope of the driveway would create a potential water drainage issue during rainy periods, in that there may be water intrusion into the garage.
- Additionally, the neighbor's driveway is partially on our lot, so joining the two driveways would not be possible if the slope of the driveway was further increased.
- We also considered the possibility of repositioning the house on the lot. However, this is not possible because it is a narrow lot and there must be enough space between homes for fire/safety concerns. Repositioning would not solve this particular issue.

- Therefore, we are respectfully asking for a variance on the height requirement because of the challenging topography of the lot.
- Similar to the home on the north and the home on the south side of our lot, we chose a home with the same number of levels. Our home has a main story, an upstairs, and an unfinished basement. See attached file.
- The only house across the street (cul-de-sac) is higher in elevation than ours, partially because of the slope of the land. Their garage floor will be approximately 6-10' above the elevation of our garage floor, and their living space (consisting of 3 stories) begins above the garage. Therefore, our home will not interfere with their view of the bay.
- The height of our house will not affect access to other properties in the area. It will not affect drainage or privacy of adjoining houses. This height adjustment will not interfere with the sewer, water, storm drainage, streets, electricity, natural gas, telephone or cable services of the neighbors' homes.
- Our home will not interfere with the existing trees on the neighbor's lot on the south side.
- Our proposed house is a conventional suburban-looking home that fits the standards in the neighborhood. After the home is finished, we will landscape the lot to provide a nice view from both the bay side as well as the cul-de-sac side.

We are greatly looking forward to returning to Oregon. I (Scott) am a native Oregonian and my family lives in the valley (Corvallis, Salem, Portland, Crescent City, etc). I used to work at OSU and would often come to Newport to collect samples. Newport is a great little city.

If there is additional information that you need from us, please do not hesitate to contact us. Thank you very much.

Sincerely,



Scott O. Rogers
 Mary A. Rogers
 Scott's cell phone: 419-308-0220
 Mary's cell phone: 419-308-5698
 Email (Scott): srogers@bgsu.edu
 Email (Mary): rogersfamily4@roadrunner.com



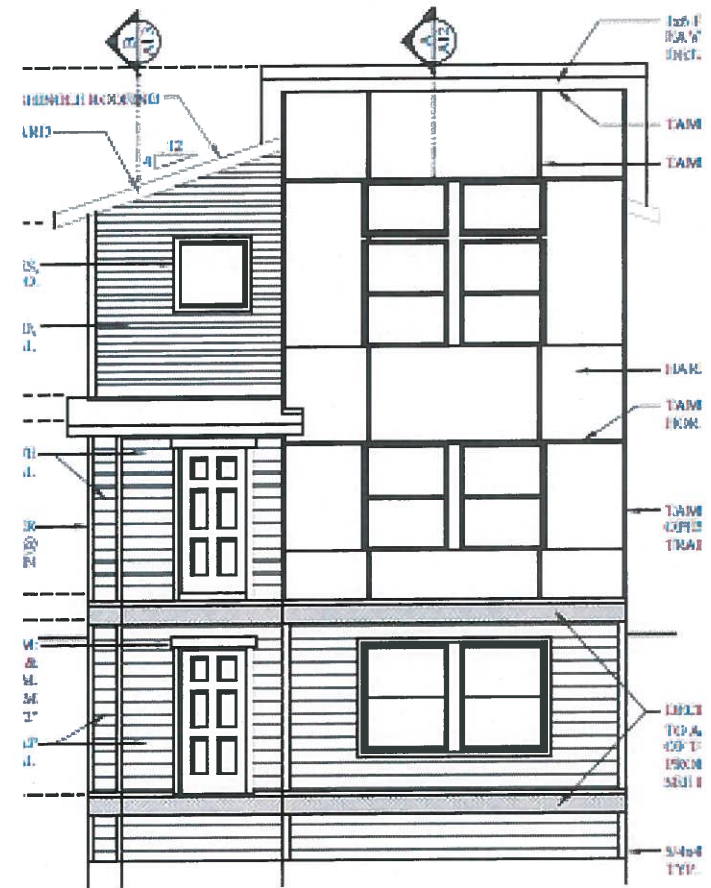
Rogers Lot



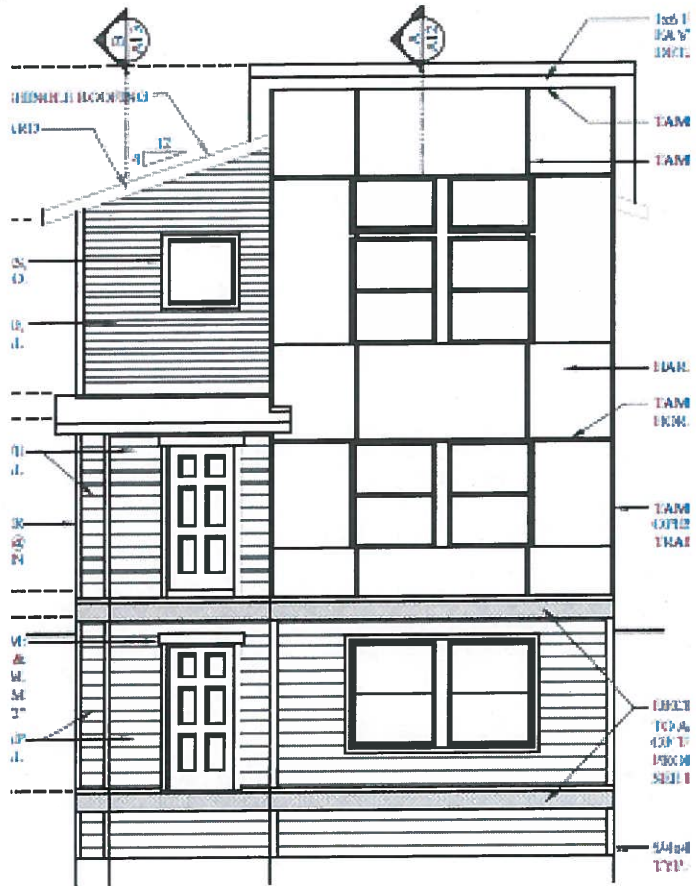
North side Neighbor



Rogers Home

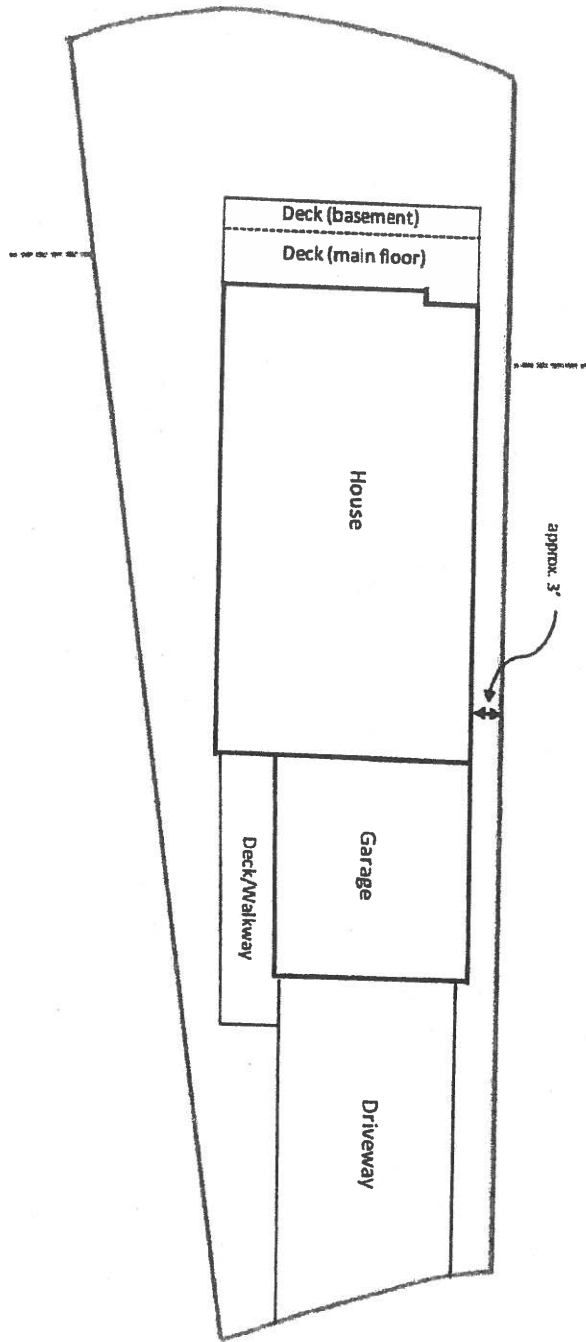


Rogers Home



South side Neighbor

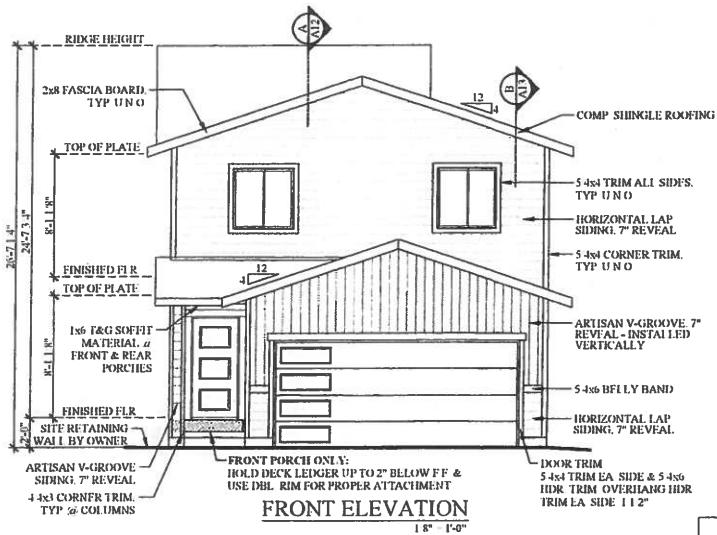




BASE DRAWING "CONCEPTUAL PLAN" PREPARED BY ADAIR HOMES, DATE CREATED UNKNOWN.

SCALE: 1 INCH = 20 FEET

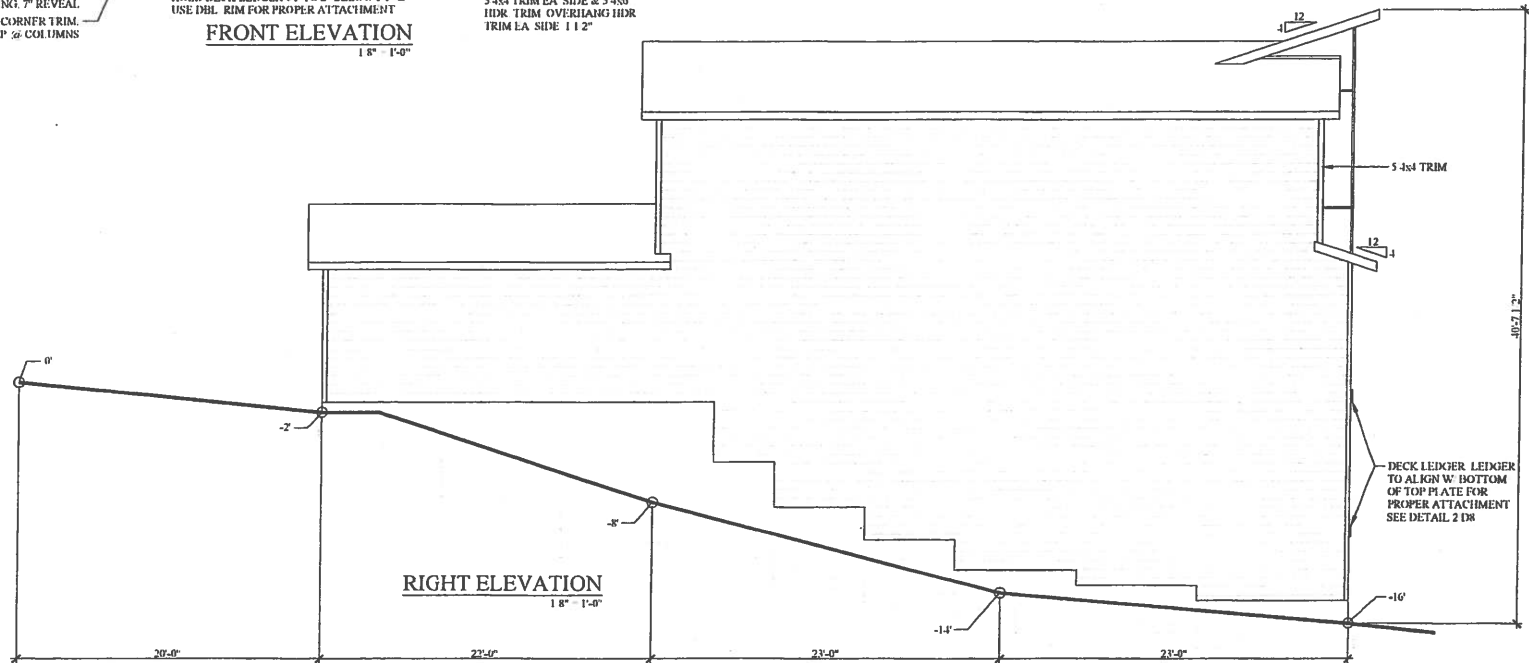
GEO CONSULTANTS NORTHWEST	PROJECT 1422	ROGERS RESIDENCE TL 5700, SE CRESCENT PLACE	
2839 SE Milwaukie Avenue Portland, OR 97202	MAR 2019 Drawn By: TAC	CONCEPTUAL PLAN	FIGURE 3



NOTE:
 EXTERIOR ELEVATIONS ARE DRAWN W/
 ESTIMATED GRADES. ONCE SITE
 CLEARING & EXCAVATION IS COMPLETE,
 SOME ADJUSTMENTS MAY BE NECESSARY.

HIGH WIND EXPOSURE:
 UPGRADED STRUCTURAL HARDWARE,
 HAND TABBED ROOF SHINGLES,
 HI-WIND GARAGE DOOR, PREMIUM
 VINYL WINDOW UPGRADE & OTHER
 REQUIREMENTS TO MEET LOCAL CODE.

CORROSIVE ENVIRONMENT PKG.:
 STAINLESS STEEL FLASHING &
 NAILS, PLASTIC ROOF VENTS &
 STAINLESS STEEL 200amp
 UNDERGROUND ELEC. METER BASE

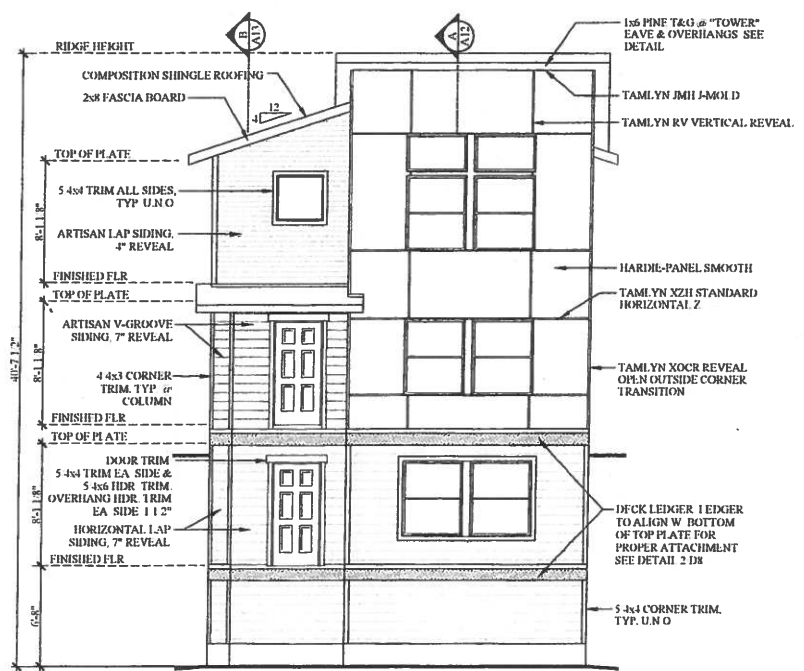
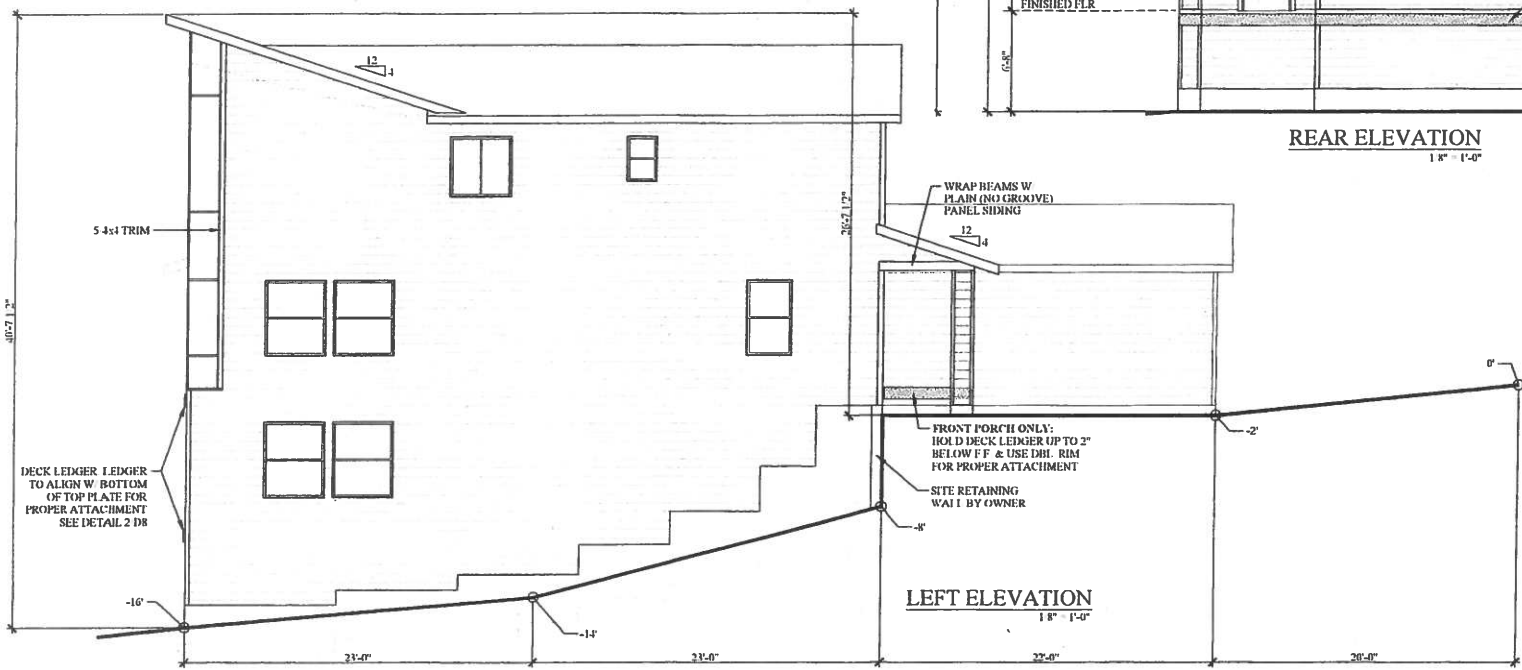


ADAIR HOMES INC. © COPYRIGHT 2019 	ROGERS		2017 ORSC
	GARAGE CONFIGURATION FRONT	PLAN ORIENTATION STANDARD	JOB NUMBER LO-26652
ADAIR HOMES, INC 1311 SE CARDINAL COURT SUITE 100 VANCOUVER, WA 98683		EXTERIOR ELEVATIONS	

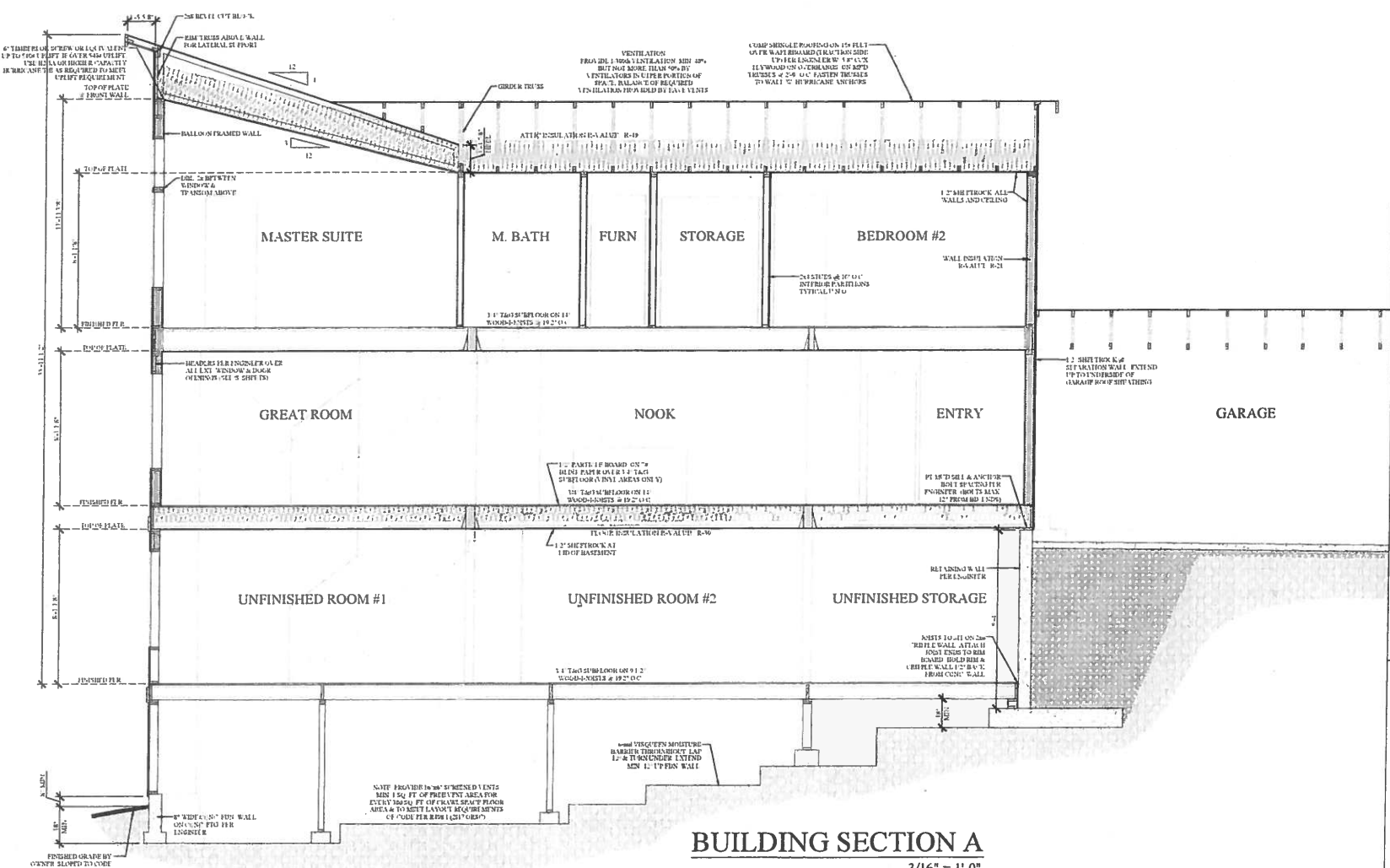
NOTE:
EXTERIOR ELEVATIONS ARE DRAWN W/
ESTIMATED GRADES. ONCE SITE
CLEARING & EXCAVATION IS COMPLETE,
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HIGH WIND EXPOSURE:
UPGRADED STRUCTURAL HARDWARE,
HAND TABBED ROOF SHINGLES,
HI-WIND GARAGE DOOR, PREMIUM
VINYL WINDOW UPGRADE & OTHER
REQUIREMENTS TO MEET LOCAL CODE.


CORROSIVE ENVIRONMENT PKG.:
STAINLESS STEEL FLASHING &
NAILS, PLASTIC ROOF VENTS &
STAINLESS STEEL 200amp
UNDERGROUND ELEC. METER BASE



ADAIR HOMES INC. © COPYRIGHT 2019 ADAIR HOMES, INC 1311 SE CARDINAL COURT SUITE 100 VANCOUVER, WA 98683	ROGERS	2017 ORSC	SCALE: 1/8" = 1'-0" DATE: 05/06/2019 DRAFTED BY: KH REV:
	GARAGE CONFIGURATION FRONT	PLAN ORIENTATION STANDARD	JOB NUMBER LO-26652
EXTERIOR ELEVATIONS			

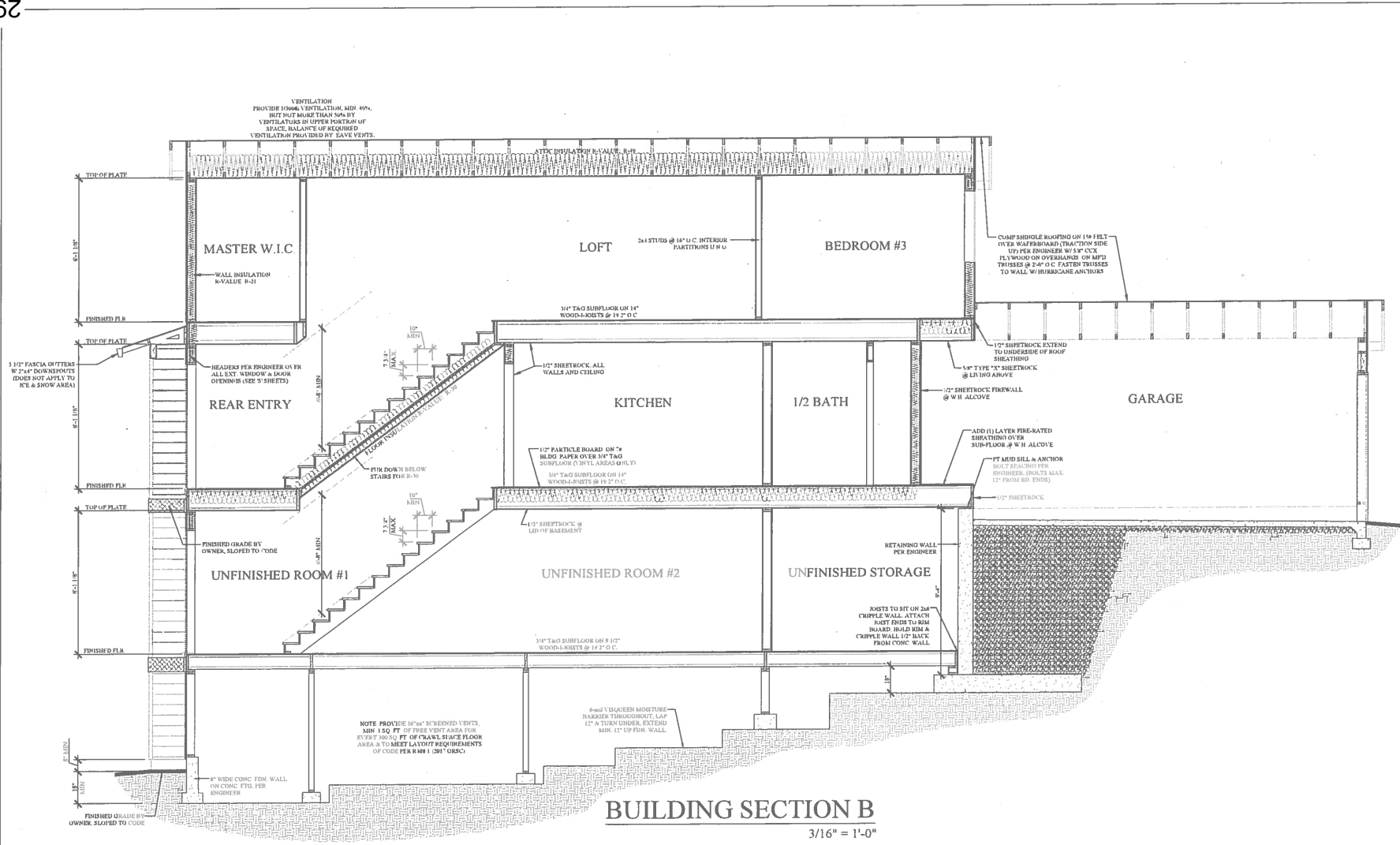


BUILDING SECTION A
 3/16" = 1'-0"


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	GARAGE CONFIGURATION FRONT	PLAN ORIENTATION STANDARD
BUILDING SECTION A		
ADAIR HOMES, INC 1311 SE CARDINAL COURT SUITE 100 VANCOUVER, WA 98683		

SCALE: 3/16" = 1'-0"
 DATE: 05/06/2019
 DRAFTED BY: KH
 REV.

PAGE
A12



BUILDING SECTION B
 3/16" = 1'-0"

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<p>ADAIR HOMES, INC 1311 SE CARDINAL COURT SUITE 100 VANCOUVER, WA 98683</p>	<p>GARAGE CONFIGURATION: FRONT</p> <p>PLAN ORIENTATION: STANDARD</p> <p>JOB NUMBER: LO-26652</p> <p>BUILDING SECTION B</p>	<p>SCALE: 3/16" = 1'-0" DATE: 05/06/2019 DRAFTED BY: KH REV:</p>

BEFORE THE PLANNING COMMISSION OF THE CITY OF NEWPORT
STATE OF OREGON

IN THE MATTER OF A PLANNED
DEVELOPMENT AND VARIANCE REQUESTS
BY HARBOR CONSTRUCTION, LTD.

FINDINGS OF FACT AND
CONCLUSIONS APPROVING
TENTATIVE PLANNED
DEVELOPMENT & VARIANCES

As a result of hearings held August 13, August 27, and September 10, 1984, at the hour of 7:30 P.M. in the council chambers of the City of Newport, before the Newport Planning Commission, the applicant submits the following Findings of Fact and Conclusions based on evidence presented at the hearing.

JURISDICTION

1) Conclusion - The application of Harbor Construction, Limited for a planned development and variances on the subject property was duly and properly filed and properly heard before the planning commission. (Hearings Record and Commission File)

2) Conclusion - The Newport Planning Commission had jurisdiction to decide the questions of planned development and variances, and the meeting was properly convened and conducted. (Hearings Record and Commission File)

COMPREHENSIVE PLAN DESIGNATION

1) Finding - The current designation is low density residential.

ZONING MAP DESIGNATION

1) Finding - The current zone is R-2, low density residential.

PROPERTY OWNERSHIP

1) Finding - The property is being purchased by Land Sale Contract by Harbor Construction Ltd. from C. H. Meester and Margo Walker Eastman. The parcel is set forth on the survey by R. W. Fail, filed June 12, 1984, attached hereto as "Exhibit A," and incorporated herein by this reference.

PROPERTY CHARACTERISTICS

1) Finding - The site for the project has characteristics which have influenced and constrained the design of applicant's proposal. The most significant of these are geological and topographical.

In 1964 there was earth movement in the vicinity of the applicant's site which included land along Vista Drive. Two studies were done for Dutch Property Construction, Inc. in 1978 and 1979 by Willamette Geotechnical, Inc. Theoretical limits of earth movement were defined in these studies.

Applicant has retained the services of Rohleder and Associates, Inc., registered professional geologists and certified engineering geologists, license no. E265, to review the Phase A and Phase B reports prepared by Willamette Geotechnical and more recently acquired information to insure that the planned development adequately addresses all of the issues raised therein. A geological constraints map is attached to these findings as "Exhibit B" and the same is incorporated herein.

The site exists on a hillside which constrains, to some degree, the development potential of this site. (Application, City Planner, Hearings Record)

COMPLIANCE WITH CONDITIONAL USE PROVISIONS OF THE ZONING ORDINANCE

1) Finding - The proposed planned development falls within the R-2 Zone, as defined in Section 2-2-2 of the City's zoning ordinances.

The purpose of the R-2 low density residential district is to provide for low density, smaller lot size residential development. In general uses which generate excessive traffic, noise or other characteristics which negatively affect this zone are strictly controlled. 2-2-2.005

The uses permitted outright include single family dwellings and duplexes. 2-2-2.010. The number of dwellings which would be permitted outright upon the site without taking into consideration the uniqueness of the site would be fifty-two (52) dwellings. The proposed planned development recommends forty-nine (49) units for the site. (Application and Zoning Ordinance)

2) 2-5-3.020. Standards Governing Conditional Uses, provides that "A conditional use shall ordinarily comply with the standards of the zone concerned for the use permitted outright except as specifically modified by the planning commission granting the conditional permit."

Finding - The commission determines that the uses requested by the applicant include single family custom homes, condominiums and custom garden town houses in a configuration and number as set forth in the application submitted by applicant and the modified appendices thereto.

Conclusion - While applicant's proposal would not fall within a conditional use generally allowed within an R-2 zone because of the multifamily nature of the condominiums, applicant's request for planned development approval coupled with the overall density development proposed for the site is in general compliance with the conditional use provisions as they apply to this site. (Application, Hearings Record)

Finding - Applicant's request for preliminary planned development approval addresses this variation from general conditional use standards.

Conditional uses which would be permitted in this zone include public and private schools, libraries, college service clubs, lodges, and churches... 2-2-1.020.A. (Application, Hearings Record)

Conclusion - The commission determines that the planned development proposed by the applicant is in fact more in keeping with the R-2 zoning designation than the conditional uses which could be allowed upon the proposed site subject to City Planning Commission approval.

COMPLIANCE WITH PLANNED DEVELOPMENT PROVISIONS OF ZONING ORDINANCE

2-5-4.010 - Purpose. Conclusion - The proposed planned development consisting of six (6) custom home sites, nineteen (19) condominium units, and twenty-four (24) custom garden town houses in the configuration set forth on applicant's site plan and as described in the application submitted by applicant conforms with the purposes set forth for planned development in that it assists in achieving economics in land development, maintenance, street systems, utility networks, safe circulation and improved traffic patterns.

(Application, Hearings Record.)

Conclusion - The planned development proposed by the applicant addresses the geological and topographical constraints existent upon the site. The planned development promotes a harmonious variety of uses utilizing an economy of shared uses and facilities.

(Application, Hearings Record)

Finding - The condominium units are placed at the lowest point of the site. The system of roads is to be privately owned and maintained, but will be open to the public. (Testimony at hearing, Application.)

Conclusion - Putting condominiums at the lowest point of the site will decrease traffic traveling through the site.

Conclusion - This development is equal to or better than a traditional lot by lot land use development because it places all condominium units, garden town house and single family units outside of the geological hazards zone.

Conclusion - The proposed plan attempts to maximize the potential for the site taking into consideration the special features of geography, topography, size and shape existent at the site;

Conclusion - Height and bulk characteristics of the proposed units as addressed in the variance sections of these findings vary slightly from those normally allowed but create a ratio of site area to dwelling units less than that which would be allowed outright on the site while maintaining openness of the site all of which will be in harmony with the area in which the proposed development is located. (Application and Hearings Record)

2-5-4.015 Permitted Uses. Conclusion - The proposed planned development consists of residential uses which would be permitted in the underlying district, with only minor variations in the form of slightly increased density condominium units which are of a minor nature, necessary for the appropriate development and maximization of the site potential and which are compatible with other uses in the district and the surrounding area. (Application and Hearings Record)

2-5-4.020 - Findings for Project Approval. Conclusion - The planned development will satisfy the following standards:

A) The proposed planned development is an effective and unified treatment of the development possibilities on the project site and remains consistent with the comprehensive plan. The proposed planned development has no natural features such as streams and shorelines, wooded cover and rough terrain which should be preserved but addresses the geological and topographical natural features which exist on the site by appropriate placement of units and utilities and open space. (Application and Hearings Record)

B) The planned development will be compatible with the area surrounding the project's site and will create no greater demand on public facilities and services other than authorized uses for the land. (Application and Hearings Record)

C) While financial assurance or bonding may be required to assure completion of the streets and utilities in a development prior to final approval, the commission finds that since the

utilities and streets in Phase A will be in place prior to the sale of any units and the streets and utilities will be private, not public and that the applicant has submitted proposed homeowners association bylaws, declaration, and protective covenants which apply to the site, all of which properly regulate the appropriate management and maintenance of the common areas of the proposed planned development, no bond or financial commitment is necessary and none shall be required. (Application and Hearings Record.)

2-5-4.025 Size of Planned Development.

A) Finding - The planned development is on a tract of land at least two acres in size and in a low density residential area.

2-5-4.030 - Dimensional and Bulk Standards.

A) Conclusion - The minimum lot area, width, frontage and yard requirements which normally apply to individual buildings in the zone which the planned development is proposed are not applicable within the proposed planned development for those variances and exceptions which have been specifically applied for.

B) Conclusion - The space in between the town house units is not equivalent to the spacing which would be required between buildings similarly developed under this ordinance on separate parcels. Other design features such as fire walls and architectural design have been included in the proposed plan and development which provide light, ventilation, and fire safety which will be provided through the unified building code.

C) Conclusion - The buildings, off-street parking, open space, landscaping and screening for the proposed planned development provide protection outside the boundary lines of the development comparable to that otherwise required by development in the R-2 zone.

D) Conclusion - The maximum building height of some of the proposed condominium and town house units exceeds the building height prescribed in the zone in which the planned development is proposed. However, as more fully set forth in the variance sections of these findings a greater height is acceptable since surrounding open space within the planned development, building locations and setbacks and other design features are used to avoid any undue impact which might result due to the greater height.

E) Finding - The building coverage for the proposed planned development does not exceed that which is permitted for other construction in the R-2 zone.

2-5-4.035 - Project Density.

A) Finding - The proposed planned development does not result in a density in excess of the density which would otherwise be permitted within the zone.

2-5-4.040 - Common Open Space.

A) The common open space contained within the proposed planned development meets the following requirements:

1. Conclusion - The location, shape, size and character of the common open space is suitable for the planned development;
2. Conclusion - The common open space is for amenity purposes and the uses authorized are appropriate to the scale and character of the proposed planned development taking into consideration its size, density, expected population, topography and the number and type of dwellings provided;
3. Conclusions - The common open space will be suitably improved for its intended use. There will be no buildings in the common space and the improvements will consist primarily of plants and landscaping which are appropriate to the uses which are authorized for the common open space;
4. Conclusions - The development schedule consists of six (6) phases, the first of which is to begin immediately upon approval of the proposed planned development and the last of which is to be completed in the Fall of 1987. These phases are tentative and may be adjusted to meet market conditions. The development plan coordinates the improvement of the common open space with the construction of the residential dwellings in the planned development;
5. Conclusion - Since buildings or other structures are not to be included in the common open space and the improvements consist primarily of landscaping and planting within the open space, the applicant shall not be required to provide a bond.

B) Conclusion - The land shown in the proposed development plan and in any final development plan as common open space shall be conveyed in accordance with the bylaws, declarations, and covenants to an association of owners created as a non profit corporation under the laws of the State of Oregon, which shall adopt and impose said declaration of covenants and restrictions on the common open space. Such association shall be formed and continued for the purpose of maintaining the common open space.

C) Conclusion - No common open space shall be put to a use other than that currently specified by the applicant in his proposed declarations which shall be the part of any final development plan, unless the final development plan is first amended to permit the use. However, no change of use may be considered as a waiver of any of the covenants limiting the use of the common open space areas, and all rights to enforce these covenants against any use permitted or expressly reserved are granted to the City as set forth in Article X, CITY ENFORCEMENT, set forth in said declaration.

D) Conclusion - The common open space is not to be conveyed to a public agency. The covenants governing the use, improvement and maintenance of the common open space authorize the City to enforce their provisions by Article X, CITY ENFORCEMENT, set forth in said declarations.

2-5-4.045 - Accessory Uses In Planned Development. Finding -
Aside from off street parking, lawn and garden area there are no other accessory uses proposed as part of the planned development.
(Application, Hearings Record)

2-5-4.047 - Preapplication Conference. Based on representations of the City Planner and the applicant, the commission finds that the the preapplication conference has been held to the satisfaction of the Planning Director and other city officials.

2-5-4.050 - Application Submission. The commission finds that the applications have been submitted for the approval of a preliminary development plan in conformance with this section.

2-5-4.055 - Procedure for Approval of Preliminary Development.

A) Conclusion - The application submitted adequately addresses items 1, 2, 3, 4, 5 and 6 of .055 A (see below for 7, 8 & 9)

7. Finding - A development Schedule has been submitted by the applicant and is incorporated in his application. Based on the application and the testimony of the applicant, the commission finds that the approximate date of construction of Phase A of applicant's proposed planned development will be as soon as practicable after the final approval of the planned development Phase A by the Planning Commission and that the proposed planned development will be completed in six (6) phases with the final phase tentatively to be completed in the Fall of 1987.

(Application and Hearing Record)

8. Finding - The applicant has submitted proposed Bylaws for the unit Owner's Association, declarations and covenants and restrictions which will govern the use, maintenance and continued protection of the planned development and any of its common open space areas. (Application and Hearing Record)

9) Finding - The applicant in its application, testimony and the exhibits attached thereto and submitted addresses problems of traffic, parking, landscaping and economic feasibility.

A) Conclusion - The site plan attached to applicant's application as Appendix 3 shows off-street parking.

B) Finding - Applicant has provided a circulation diagram which indicates the proposed movement of vehicles and pedestrians within the planned development and to and from thoroughfares. Special engineering features and traffic regulation devices needed to facilitate or to insure the safety of this circulation pattern are shown on the site plan attached to applicant's application as Appendix 3 and on the streets and storm drains diagram set forth in Appendix 8. (Application)

10) Conclusion - The application for the proposed planned development submitted by applicant provides enough information on the area surrounding the proposed development to show the relationship of the planned development to adjacent uses, both existing and proposed. Based on applicant's specific representation, that he will work with surrounding property owners and the City in providing utility easements as necessary to appropriately serve the surrounding area without detrimental impact on the proposed planned development adequately satisfies this section and supplies the City with assurance that easement will be included in final planned development where determined necessary by the City Manager.

2-5-4.060 - Separate approval of the preliminary development plan

A) The commission finds that a public hearing was held in accordance with Section 2-6-3 of the Zoning Ordinance on August 13, and August 27, 1984, and that at the hearing, findings and recommendations of the City Engineer relating to the planned development were heard.

B) The commission finds that the provisions of this section have been addressed by the applicant and concludes that the applicant is entitled to approval of the proposed planned development as submitted subject to these findings and conclusions, and the additional conditions attached imposed by the City which are attached hereto as "Exhibit C," signed by the City and the applicant and incorporated herein by this reference.

VARIANCE 1 - NUMBER OF UNITS ON A CUL-DE-SAC

Finding - The current ordinance allows eighteen (18) units with access from a road that ends on a cul-de-sac. The applicant requests nineteen (19) units on its proposed cul-de-sac.

2-5-2.010 - Conditions for Granting a Variance.

A) The commission finds that exceptional or extraordinary conditions apply to the proposed site which do not generally apply to other properties in the same vicinity, which conditions are a result of topography and geology over which the applicant has no control. (Application, Hearings Record)

B) Conclusion - The variance requested by the applicant is necessary for the preservation of the property right of the applicant substantially the same as is possessed by owners of other property in the same zone or vicinity and these conditions are as a result of topography and the geology over which the applicant has no control.

C) Conclusion - The authorization of this variance shall not be materially detrimental to the purposes of this ordinance, will not be injurious to property in the zone or vicinity in which the property is located and will not otherwise be detrimental to the objectives of any city development plan or policy.

D) Conclusion - The variance requested is the minimum variance from the provisions and standards of this ordinance which will alleviate the hardship. Even with the variance the density upon the proposed site will be less than would be allowed outright on said site if there were no geologic hazards present.

VARIANCE 2 - CONDOMINIUM HEIGHT

Finding - Applicant requests a height variance of a maximum of ten (10) feet for the roofs of condominium units C-3 and C-4.

Conclusion - The conditions for granting a variance as set forth in variance request 1 above are met.

Finding - The condominiums are located at the lowest possible point on the property and the height variance will allow increased view of Yaquina Bay without impacting the view of other units proposed for the planned development or surrounding property units.

The site proposed for condominium development is adjacent to the Embarcadero condominiums. The steep banks above and below the site will screen the area from the impacts of the variance. Obstruction of the lowest floors by the Embarcadero buildings will reduce the apparent height from across the bay. (Application and Hearings Record.)

VARIANCE 3 - TOWNHOUSE HEIGHT

Finding - Applicant requests a maximum of eight (8) feet height variance for proposed town house units on Lots T 2 - T 8 and T 10 - T 14. (Application and Hearings Record)

Conclusion - The conditions for granting variances set forth in Variance 1 above apply to this variance and are satisfied.

Finding - Town houses on Lots T 10 - T 14 are not in or above horizontal site lines to the bay from any of the homes above the site. (See profiles AA' and BB'). Town houses on Lots T 1 and T 3 - T 8 are well below these lines. The grade at the town house sites is forty-five (45) to sixty-five (65) feet below the foundation grade of the homes above. The eye level of a person in one of these homes is even higher. (Applicant's Testimony and contour map of Newport.)

Conclusion - The overall design, placement and setbacks result in a design that allows better utilization of the view.

VARIANCE 4 - LOT LINE SETBACK

Applicant requests a variance from standard lot line setbacks to a zero lotline setback on all sides for town house lots and lot C-1, except for the exterior boundaries of the planned development.

Finding - Applicant's request is based on similar geological topographical, aesthetic and economic considerations as in the preceding three requested variances. (Application and Hearings Record)

Finding - Applicant has presented a tentative plan which, while not requiring a zero lot line setback on all sides for proposed condominium units and townhouses, requires additional work to precisely locate specific sites or permissible areas of construction which would be best done as each building is planned. The zero lot line setback variance is one method of addressing the problem of views, solar access, common wall construction and narrow lots without restricting the applicant. The zero lot line set back will assist in maximizing solar energy. (Hearings Record, City Planner)

Conclusion - The conditions for granting a variance as set forth in the variance request 1 above are satisfied and a zero lot line set back on all sides for town house lots and Lot C-1 is allowed except for the exterior boundaries of the planned development. The originally submitted building outlines have been removed from the Applicant's exhibits.

COMPLIANCE WITH THE COMPREHENSIVE PLAN

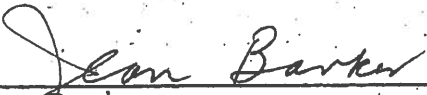
Conclusion - The commission concludes that the proposed planned development and variance requests as embodied in these findings and conclusions satisfies the City's zoning ordinances and comprehensive plan and that the applicant is entitled to approval of his preliminary development plan and the granting of 4 variances as contained herein.

Conclusion - Applicant is allowed tentative approval of its planned development as modified.

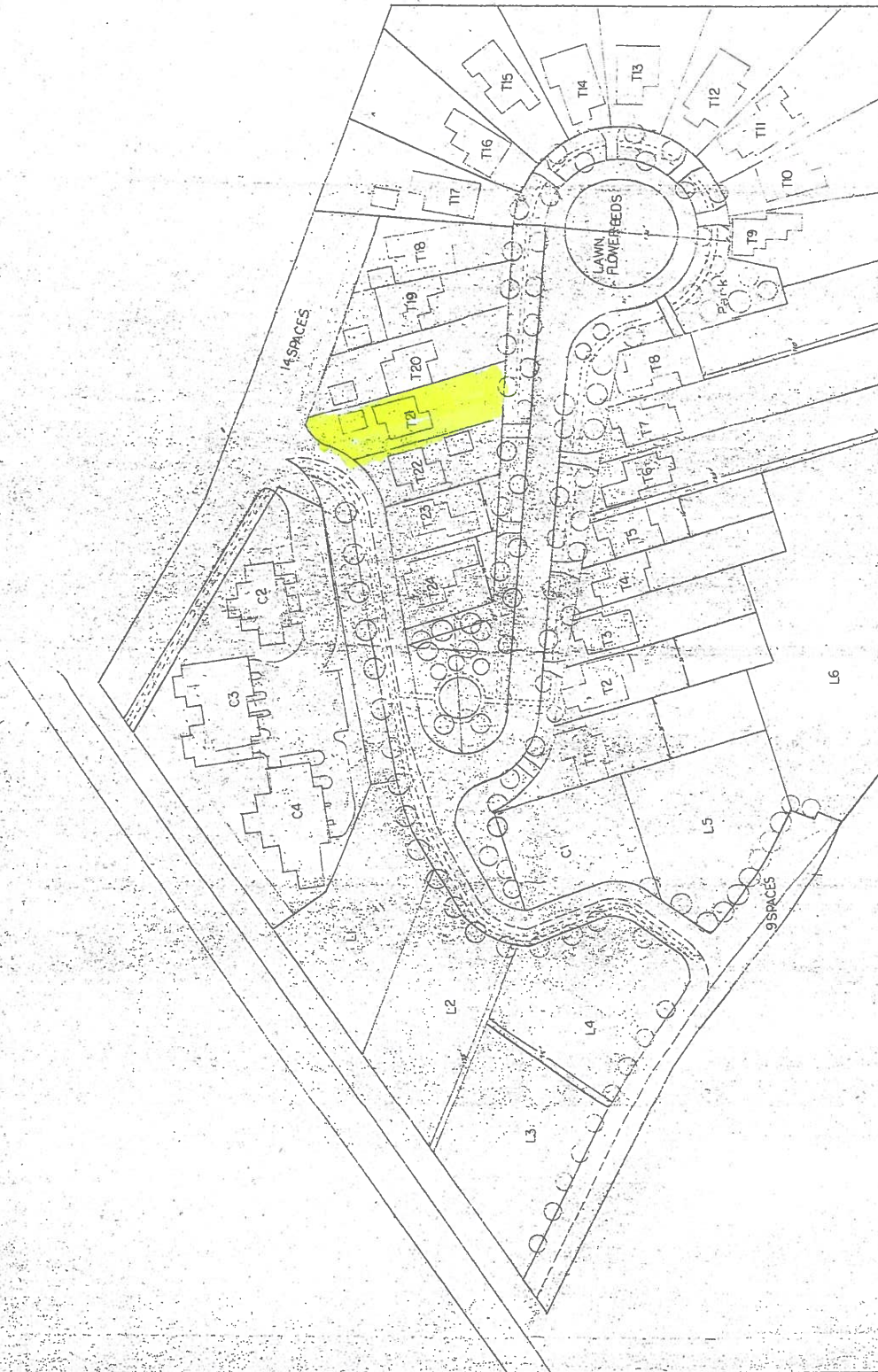
Conclusion - Applicant is granted the four (4) variances requested herein.

Conclusion - Based on Applicant's modification of his Phase A proposal deleting lots L-5 and L-6 and including T-1 as shown on Exhibit B which has been initiated by the Applicants agent, Applicant is granted final approval for Phase A of the planned development.

Dated this 15th day of ~~September~~ ^{October}, 1984.



Jean Barker
Chairman of the Planning Commission



The Harbor Crescent

HARBOR CONSTRUCTION, LTD.
Box 657
South Beach, OR 97366
(503) 867-4577

Site Plan

Date: 6-20-84
Drawn by: UAB/SAO

FILED

AUG 1985

4:44 P
Sub Register

SHEET 1 of 2

THE HARBOR CRESCENT

IN THE SW 1/4 OF SECTION 9
TOWNSHIP 11 SOUTH, RANGE 11 WEST
OF THE WILLAMETTE MERIDIAN
CITY OF NEWPORT, OREGON
FEBRUARY, 1985

DEDICATION:

Know all men by these presents that Harbor Construction, Ltd., an Oregon Corporation, owners of the property described in the accompanying SURVEYOR'S CERTIFICATE did cause said property to be surveyed and platted as shown on the accompanying map of THE HARBOR CRESCENT. That the streets shown on the accompanying map of THE HARBOR CRESCENT are private streets. That the utility easements as described elsewhere on this plat shall be considered a part of this dedication.

Harbor Construction, Ltd. (Declarant) in recording this plat of THE HARBOR CRESCENT has designated certain areas of land as common areas. The designated areas are not dedicated hereby for use by the general public, but are dedicated to the common use and enjoyment of the homeowners in THE HARBOR CRESCENT as more fully provided in the protective covenants, conditions, declarations and restrictions for THE HARBOR CRESCENT. Said protective covenants, conditions, declarations and restrictions are hereby incorporated and made part of this plat. The fee title to any lot bounded by any common area shall not extend upon such common area. The fee title to such common areas is reserved to the grantor to be conveyed to THE HARBOR CRESCENT HOMEOWNERS ASSOCIATION, for the common use and enjoyment of the homeowners of THE HARBOR CRESCENT.

In witness whereof, we do hereby set our hand this day of _____, 1985.

William R. Buchanan
William R. Buchanan
President, Harbor Construction, Ltd.
J. R. Balich
J. R. Balich
Secretary, Harbor Construction, Ltd.

STATE OF OREGON }
County of Lincoln } ss

Subscribed and sworn before me this 5th day of August, 1985.

George E. Skye
GEORGE E. SKYE
NOTARY PUBLIC
1-10-86

Carl A. Sanders ROB
County Assessor - I hereby certify that this plat is signed by the owners of record.

Mary Kneupli
County Treasurer - I hereby certify that all taxes on the within described property are paid as of this date.

I, Stephen L. Swinehart, Registered Professional Land Surveyor in the State of Oregon, being first duly sworn, do hereby depose and say that I accurately surveyed and marked with proper monuments as provided in O.R.S. 92.060 the lands represented on the attached map of THE HARBOR CRESCENT situated in the Northeast 1/4 of the Southwest 1/4 of Section 9, Township 11 South, Range 11 West of the Willamette Meridian, Lincoln County, Oregon; the boundary of which is described as follows: Beginning at the Initial Point, a 2"x36" galvanized iron pipe set over a 5/8" iron rod and driven 5" below the surface of the ground, said Initial Point being 3055.46 feet South and 1662.50 feet East of the Northwest corner of Section 9; thence North, 470.11 feet; thence S 88°57'30" W, 285.73 feet; thence S 19°32'30" W, 322.25 feet; thence S 88°57'30" W, 122.22 feet to the Northeastly right of way of County Road 515; thence along said right of way S 32°40'48" E, 360.33 feet; thence continuing along said right of way along the arc of a 793.51 foot radius curve left (the long chord of which bears S 36°30'47" E, 106.09 feet); thence N 26°58'30" E, 176.52 feet; thence N 39°12'00" E, 26.00 feet; thence N 50°48' W, 10.00 feet; thence N 39°12' E 185.37 feet to the Initial Point.

I, Stephen L. Swinehart, further certify that in accordance with O.R.S. 92.070 Section 2 that the interior monuments for this plat will be set on or before the 31st day of December, 1985.

Stephen L. Swinehart

STATE OF OREGON }
County of Lincoln } ss

Subscribed and sworn before me this 5th day of August, 1985.

George E. Skye
GEORGE E. SKYE
NOTARY PUBLIC
1-10-86

APPROVALS:

Donald A. Davis
City Manager (City Surveyor)

Robert L. Halverson
Planning Commission Chairperson

Bob Perkins
County Commissioner - Chairperson

Calvin D. Jenty
County Commissioner

Olivia A. McEwen, Co. Clerk
Barbara Henderson, Deputy
County Clerk

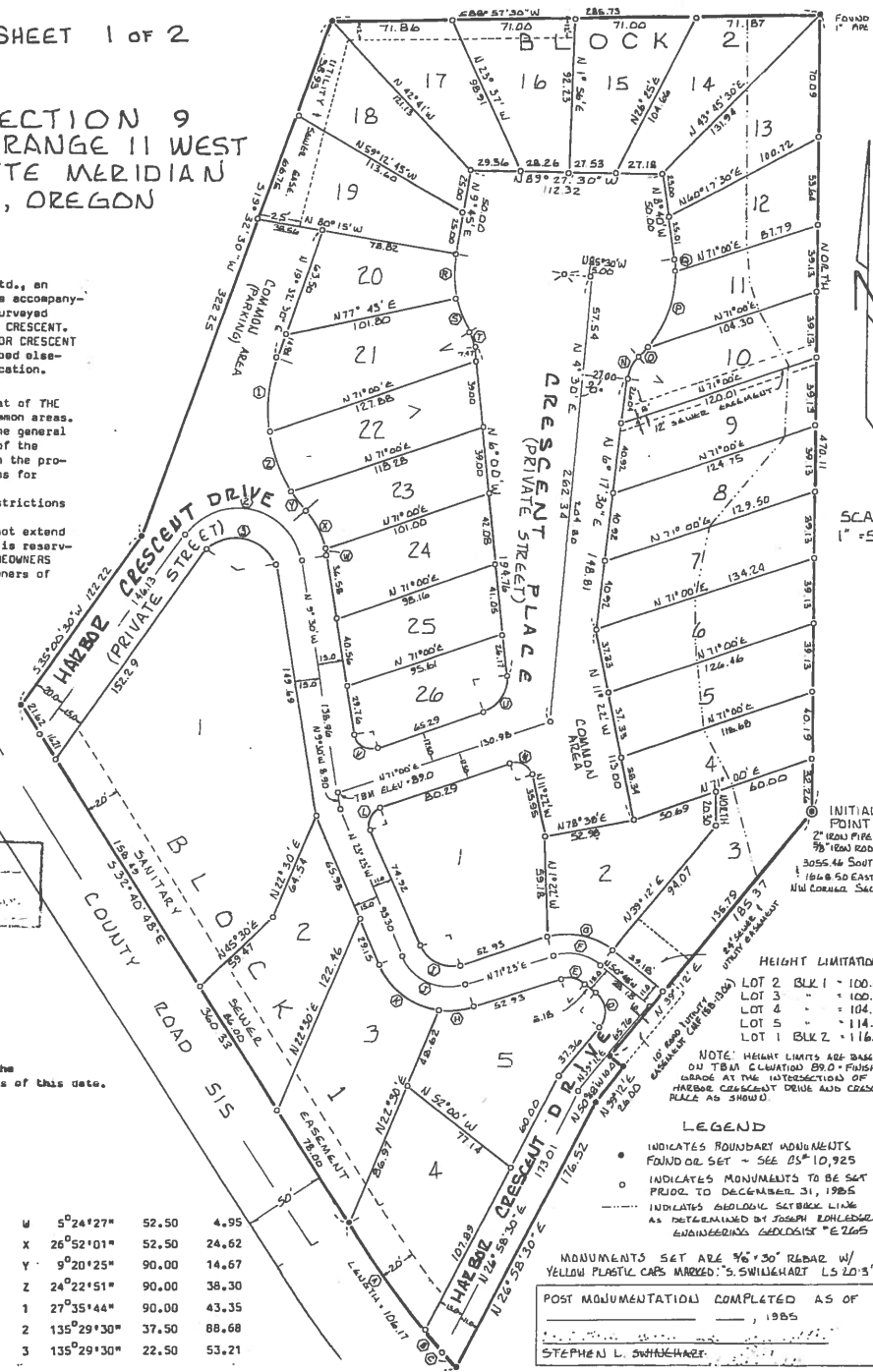
Alberta Bergant
County Commissioner

SEWER AND UTILITY EASEMENT:

A perpetual easement is reserved for sewer and utility installation, maintenance and replacement over and under the ground in the private streets, common areas, and easements shown on this plat. This reservation shall include the right of ingress and egress in any manner necessary for the purpose of construction, maintenance, replacement or removal of sewer or utility equipment, provided that the party using the easement shall restore the property as near as possible to the conditions prior to said installation or maintenance. Maintenance shall include the right to remove trees, limbs, undergrowth or other obstructions that overhang or otherwise endanger utility equipment.

The use of the sewer and utility easement over Lots 19, 18, 17 and 16 Block 2, is restricted to the lots over which it crosses and Lot 15 Block 2.

CURVE DATA		K	59°17'50"	45.00	46.57		
○	Delta	Radius	Arc	L	94°23'00"	10.00	16.47
A	5°36'55"	793.51	77.77	M	97°38'00"	10.00	17.04
B	1°11'13"	793.51	16.44	N	41°23'22"	20.00	14.45
C	0°51'49"	793.51	11.96	D	7°04'53"	65.00	8.03
D	90°00'00"	15.00	23.56	P	42°32'32"	65.00	48.26
E	57°49'00"	15.00	15.14	Q	6°43'04"	65.00	7.62
F	57°49'00"	30.00	30.27	R	22°02'00"	65.00	25.00
G	57°49'00"	41.00	41.37	S	19°50'00"	65.00	22.50
H	25°56'11"	45.00	20.37	T	26°07'00"	20.00	9.12
I	85°14'00"	19.00	28.26	U	77°00'26"	20.00	26.88
J	85°14'00"	30.00	44.63	V	99°30'00"	10.00	17.37
				W	5°24'27"	52.50	4.95
				X	26°52'01"	52.50	24.62
				Y	9°20'25"	90.00	14.67
				Z	24°22'51"	90.00	38.30
					27°35'44"	90.00	43.35
					135°29'30"	37.50	88.68
					135°29'30"	22.50	53.21



HEIGHT LIMITATIONS
LOT 2 BLK 1 - 100.0
LOT 3 - 100.0
LOT 4 - 104.0
LOT 5 - 114.0
LOT 1 BLK 2 - 116.0
NOTE: HEIGHT LIMITS ARE BASED ON TBM ELEVATION 89.0' FINISH GARAGE AT THE INTERSECTIONS OF HARBOR CRESCENT DRIVE AND CRESCENT PLACE AS SHOWN.

LEGEND
● INDICATES BOUNDARY MONUMENTS FOUND OR SET - SEE DS# 10,925
○ INDICATES MONUMENTS TO BE SET PRIOR TO DECEMBER 31, 1985
--- INDICATES GEOLOGICAL SETBACK LINE AS DETERMINED BY JOSEPH ENGLISH ENGINEERING GEOLGISTS
MONUMENTS SET ARE 3/8" X 30" REBAR W/ YELLOW PLASTIC CAPS MARKED "S. SWINEHART 15.925"
POST MONUMENTATION COMPLETED AS OF _____, 1985
STEPHEN L. SWINEHART

THE HARBOR CRESCENT

FINAL PLANNED DEVELOPMENT PLAN

IN THE SW 1/4 OF SECTION 9
TOWNSHIP 11 SOUTH, RANGE 11 WEST
OF THE WILLAMETTE MERIDIAN
CITY OF NEWPORT, OREGON
FEBRUARY, 1985

Attachment "J"
1-ADJ-19

49

DEDICATION:

Know all men by these presents that Harbor Construction, Ltd., an Oregon Corporation, owner of the property described in the accompanying SURVEYOR'S CERTIFICATE did cause said property to be surveyed and plotted as shown on the accompanying map of THE HARBOR CRESCENT. That the streets shown on the accompanying map of THE HARBOR CRESCENT are private streets. That the utility easements as described elsewhere on this plat shall be considered a part of this dedication.

Harbor Construction, Ltd. (Dedicator) in recording this plat of THE HARBOR CRESCENT has designated certain areas of land as common areas. The designated areas are not dedicated hereby for use by the general public, but are dedicated to the common use and enjoyment of the homeowners in THE HARBOR CRESCENT as more fully provided in the protective covenants, conditions, declarations and restrictions for THE HARBOR CRESCENT.

Said protective covenants, conditions, declarations and restrictions are hereby incorporated and made part of this plat. The fee title to any lot bounded by any common area shall not extend upon such common area. The fee title to such common areas is reserved to the grantor to be conveyed to THE HARBOR CRESCENT HOMEOWNERS ASSOCIATION for the common use and enjoyment of the homeowners of THE HARBOR CRESCENT.

In witness whereof, we do hereby set out hand this day of _____, 1985.

William R. Buchanan
President, Harbor Construction, Ltd.

J.R. Gellison
Secretary, Harbor Construction, Ltd.

STATE OF OREGON) 55
County of Lincoln)

Subscriber and sworn before me this day of _____, 1985.

I, Stephen L. Swinehart, further certify that in accordance with the provisions of the Oregon Revised Statutes, Chapter 31, Section 31.020, that the interior monuments for this plat will be set on or before the 31st of December, 1985.

I, Stephen L. Swinehart, further certify that in accordance with the provisions of the Oregon Revised Statutes, Chapter 31, Section 31.020, that the interior monuments for this plat will be set on or before the 31st of December, 1985.

STATE OF OREGON) 55
County of Lincoln)

Subscriber and sworn before me this day of _____, 1985.

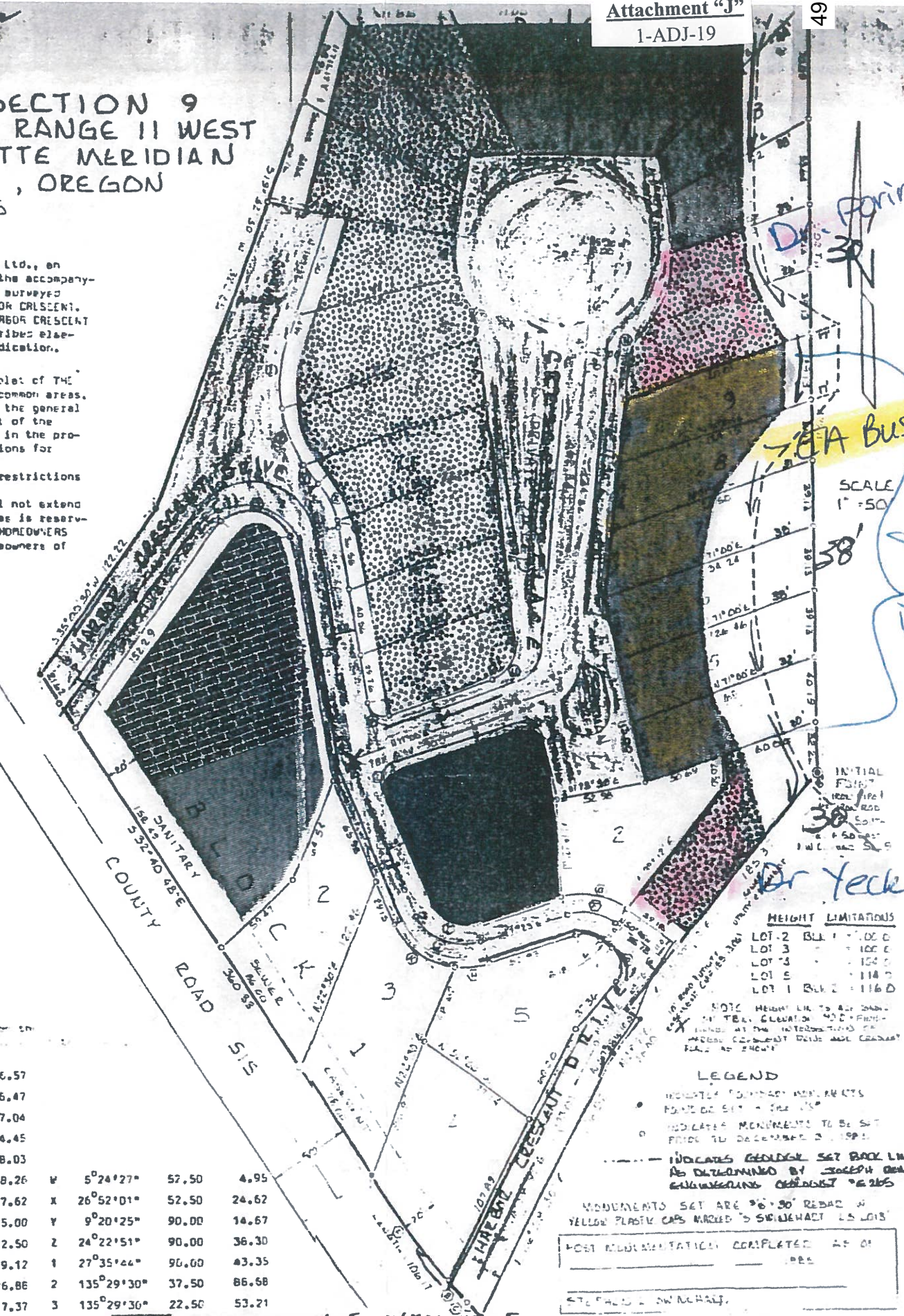
City Surveyor
Planning Commission Chairperson
County Commissioner
County Commissioner

SEWER AND UTILITY EASEMENT:
A perpetual easement is reserved for sewer and utility installation, maintenance and replacement over and under the ground in the private streets, common areas, and easements shown on this plat. This reservation shall include the right of ingress and egress in any manner necessary for the purpose of construction, maintenance, replacement or removal of sewer or utility equipment, provided that the party using the easement shall restore the property as near as possible to the conditions prior to said installation or maintenance. Maintenance shall include the right to remove trees, limbs, undergrowth or other obstructions that overhang or otherwise endanger utility equipment. The use of the sewer and utility easement over Lots 19, 18, and 17, Block 2, is restricted to the lots over which it crosses and Lot 16, Block 2.

LIMITS OF BUILDING ENVELOPES:
HEIGHTS ARE FROM AVERAGE GRADE AT FOUNDATION
MAX HEIGHT 30', 1 DWELLING PER LOT
(IN FRONT OF DR. JOHNSON)
Dwellings

CURVE DATA		K	59°17'50"	45.00	46.57		
A	5°36'55"	793.51	77.77	M	94°23'00"	10.00	16.47
B	1°11'13"	793.51	16.44	N	97°36'00"	10.00	17.04
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I	85°14'00"	19.00	26.26	U	27°07'00"	20.00	9.12
J	85°14'00"	30.00	44.63	V	77°00'26"	20.00	26.86
				W	99°30'00"	10.00	17.37
				X	5°24'27"	57.50	4.95
				Y	26°52'01"	52.50	24.62
				Z	9°20'25"	90.00	14.67
				1	24°22'51"	90.00	36.30
				2	27°35'44"	90.00	43.35
				3	135°29'30"	37.50	86.68
				4	135°29'30"	22.50	53.21

15 DWELLINGS PER LOT, 40 FT MAX HEIGHT OF PEAKS OF INHIB ROOF BALS N 71° E 36' SOUTHERN DWELLERS, 30' REMAINDER OF BUILDING
MAX HEIGHT 30', 1 DWELLING PER LOT
(IN FRONT OF E.A. BUSSEY)



HEIGHT LIMITATIONS

LOT 2	BLK 1	100.00
LOT 3		100.00
LOT 4		100.00
LOT 5		114.00
LOT 1	BLK 2	114.00

NOTE: HEIGHT LIMIT TO 40' MAXIMUM FOR ALL BUILDINGS. HEIGHTS TO BE SET AT THE INTERSECTION OF THE HARBOR CRESCENT DRIVE AND SANITARY ROAD.

LEGEND
INDICATES CORNER MONUMENTS
INDICATES MONUMENTS TO BE SET PRIOR TO DECEMBER 31, 1985
INDICATES GEODOLITE SET BACK LINE AS DETERMINED BY JOSEPH P. ROLLEDER ENGINEERING CONSULTANTS 22 FEB 1985

MONUMENTS SET ARE 36" 30' REBAR W/ YELLOW PLASTIC CAPS MARKED "S" SWINEHART 1.5.1985
POST MONUMENTATION COMPLETED AS OF _____ 1985
STEPHEN L. SWINEHART

ENGINEERING GEODOLITE & SETBACK
by Joseph P. Rolleder 22 FEB 1985
Joseph P. Rolleder 22 FEB 1985

EIA BUSSEY
SCALE 1"=50'

INITIAL POINT
Dr. Yeck

Testimony to the Newport Planning Commission Public Hearing, August 26, 2019
Regarding File: 1-ADJ-19

Submitted by William Chadwick, 872 SE Crescent Place, Newport, on behalf of the Board of the Harbor Crescent Homeowners Association, August 16, 2019

We request that the Newport Planning Commission **DENY** the applicants' request for an adjustment to Section 14.10.010 (Height Limitations) of the Newport Municipal Code (NMC), authorizing a 33 foot 7.5 inch average height for new home construction on a lot in an R-2 zone district, where the standard height limit is 30 feet.

We argue that the application **fails the Applicable Criteria** for the following reasons:

Criterion A: "Granting the adjustment will equally or better meet the purpose of the regulation to be modified"

The purpose of zoning in the NMC is generally "To implement the Comprehensive Plan; to encourage the most appropriate use of the land; to conserve and stabilize the value of property...". Chapter 14.10.010 of the Newport Municipal Code on Height Restrictions states that "A building ... erected shall not exceed the height listed", which is 30 feet for areas zoned R-2, except if an adjustment or variance is granted.

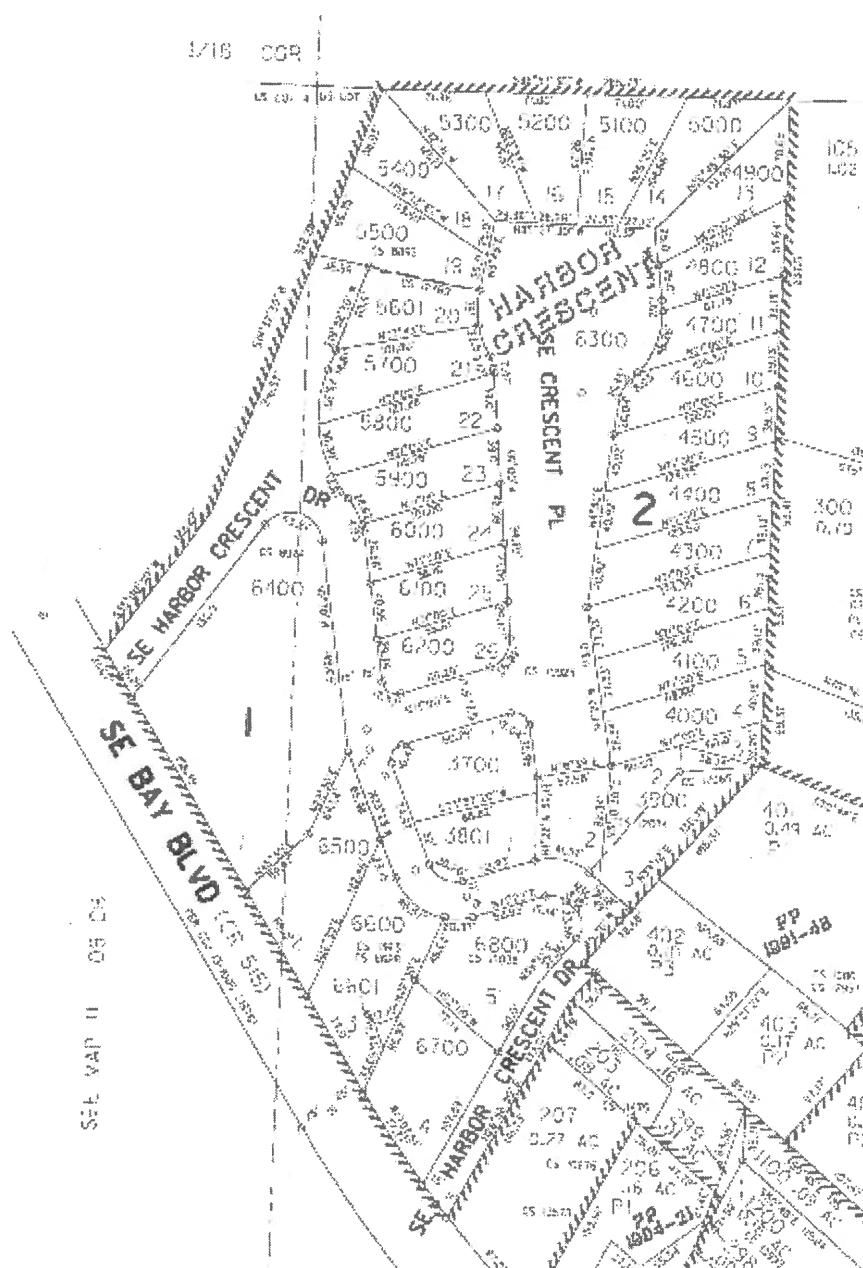
The purpose of such Adjustments (from Chapter 14.33 of the NMC) is to "provide flexibility ... in recognition of the wide variation in property size, configuration, and topography within the City of Newport and to allow reasonable and economically practical development of a property."

We argue that the applicants' lot is not an unusual property within the Harbor Crescent subdivision and therefore there is no legitimate reason to grant an adjustment in this case. For example, the applicants' property is one of ten lots in a row on the west side of SE Crescent Place (the cul-de-sac road in the Harbor Crescent subdivision), but **no other houses** in that row have been granted an adjustment or variance to the height restrictions in the NMC. All the other lots have been able to have houses built that are consistent with the zoning restrictions. This makes it clear that an exception to the height limit is not necessary to construct a house on this lot that reasonably meets the NMC standards.

Therefore, granting the adjustment would certainly **NOT** "equally or better meet the purpose" of the height limit regulation, because there is no legitimate reason why an exception is required for building a house on this lot. It has similar size, configuration, and topography as the adjacent lots, which were able to have houses built on them within the regulations.

It could also be argued that granting such an adjustment to the height restriction could do the opposite of "conserve and stabilize the value of property" (Criterion A) on **surrounding** properties. As explained above, the northern part of the Harbor Crescent Subdivision consists of two rows of houses on either side of SE Crescent Place, which is oriented roughly north-

south. The view of Yaquina Bay and the Highway 101 bridge to the west is a big part of the value of these lots. Since the row of houses on the west side of SE Crescent Place (including the lot in question) are between the view and the houses on the east side of the street, their height is of utmost importance. They must effectively keep "down-in-front", like people in a stadium or a theater to allow everyone to see the game or the show. Patrons who bought tickets in the back rows have a reasonable expectation that people in the front rows are not going to defy the rules and block their view. The same is true in the Harbor Crescent Subdivision. The property owners on the east side of SE Crescent Place have a reasonable expectation that the City will enforce the existing NMC on the west side of the street (including the height restrictions on the lot in question) to "conserve and stabilize the value" of their property.



Criterion B: *"Any impacts resulting from the adjustment are mitigated to the extent practical"*

As stated above, a primary value of the properties in the Harbor Crescent Subdivision is their views of Yaquina Bay and the Highway 101 Bridge. The views from the lots on the **east** side of SE Crescent Place are significantly affected by the heights of the houses on the **west** side of this street. An obvious impact of granting an exception to the height limit for the new house proposed by the applicants is that it will significantly reduce the views from at least six lots to the **east** of the applicants' lot. This is a serious impact that could affect the property values of the affected lots and would diminish their enjoyment of the existing views. Those lot owners bought and developed their properties with the reasonable expectation that the regulations in the NMC would be followed to protect their investments. In sum, if the proposed adjustment were granted, it would only have **negative** impacts which would be impossible to mitigate. And as emphasized above, there is no legitimate need to grant the exception, because the lot can easily be built upon while conforming to the regulations.

In addition to the points above, we would like the Planning Commission to consider the following:

The lot in question is part of the **Harbor Crescent Home Owners Association** (HOA; created and submitted to the Lincoln County Deed Records, August 28, 1987). Within the current HOA Covenants, Conditions & Restrictions (CC&Rs) it is specified that the Board of Directors of the HOA has the authority to review and approve development plans on the lots within the subdivision. In the section on "Improvement Control" the CC&Rs state (page 38) that "All improvements ... shall ... be subject to ... specific guidelines for situs, shape, size, color, design, height, impairment of the view ... and any other effect on the enjoyment of other lots." The Harbor Crescent CC&Rs are available on the HOA web site at this URL: <https://sites.google.com/view/harborcrescent/>

The applicants purchased the lot in question in September 2017. Reasonable due diligence on their part would have revealed the existence of the Harbor Crescent HOA and its CC&Rs. In any case, they were informed of the Harbor Crescent HOA and were given a copy of the current CC&Rs in the summer/fall of 2018 (a year ago) when they first contacted a member of the HOA Board. Therefore, they were informed about the existing height limitations in the NMC and the section of the HOA CC&Rs describing the "Operation of Review" that describes the process for the approval of their design by the HOA Board. In that section of the CC&Rs there is a reference to "such plans and specifications for the proposed work as the committee may require", and "material required by the committee may include, but is not necessarily limited to ... drawings showing elevations".

On January 22, 2019, the applicants sent a member of the HOA Board initial plans for their house and asked for HOA comments. The Board member replied that the HOA needed additional information because while their plans showed the footprint and elevations of the house, they did not specify the actual siting of the house on the lot and the heights of the house relative to the actual grade or topography of the lot.

The applicants replied on January 26, 2019, with some additional narrative, but did not include drawings of the footprint of the building on the lot nor requested height information relative to the grade. The Board member replied and asked for additional information about the heights of the structure, but this information was not subsequently provided to the HOA Board. The materials the applicants provided in their application for an exception to the NMC height limitations is the first time the HOA Board has seen the proposed house plans and elevation drawings in relation to the lot and the grade, from which the allowable height is calculated.

The Harbor Crescent HOA Board urges the Newport Planning Commission to **DENY** the application for an exception to the height restriction for this lot. The applicants were informed of the height limitations in the NMC and the existence of the HOA and its CC&Rs at least over a year ago, if not before they purchased the lot. Therefore, they had the information about the limitations of the lot they purchased. There is no legitimate reason that a house conforming to the existing height standards cannot be built on the lot. In their petition, the applicants state that they “chose to customize a standard builders design” to fit on the lot, but they need the exception to the height restriction to make the design work on that lot. Neither the Newport Planning Commission nor the Harbor Crescent HOA Board should be responsible for rescuing them from the consequences of that decision. Instead, the obvious solution is for them to pick an alternative house design that will work on the lot within its existing zoning restrictions. All the other houses in the Harbor Crescent neighborhood have done so, and there is no good reason why they cannot do the same. Granting an exception would have a negative impact on surrounding properties, which had a reasonable expectations that existing code would be enforced. If the Planning Commission approves their request for an exception, we feel they would be setting a bad precedent for approving exceptions to city code with very little justification.

Sincerely,

The Harbor Crescent Home Owners Association Board of Directors

William Chadwick, 872 SE Crescent Pl., Newport, OR, 97365

Stan Shell, 895 SE Crescent Pl.

John Vanderbeck, 854 SE Crescent Pl.

Bernadette Solano, 836 SE Crescent Pl.

Eric Knutson, 840 SE Crescent Pl.

Attachment "L"

1-ADJ-19

stan shell

From: "stan shell" <tobyss@q.com>
Date: Sunday, August 18, 2019 11:48 AM
To: "*Stan Shell" <tobyss@q.com>
Subject: Fw: Needs attention please

From: [Wen-Tai Chen](#)
Sent: Saturday, August 03, 2019 7:44 PM
To: daiweiyang@gmail.com ; [stan shell](#)
Cc: *Ken Brandt ; *Cliff and Wendy Adams ; [Wen-Tai Chen](#)
Subject: Re: Needs attention please

Dear Stan,

Sorry for the late response, I am Wen-Tai Chen, the owner of lots 4700 and 4600, I do not agree with the variance due to the water view would be diminished.

Thanks for the information.

Thanks,
Wen-Tai Chen

CITY OF NEWPORT

AUG 19 2019

RECEIVED

8/18/2019

Attachment "M"

1-ADJ-19

stan shell

From: "stan shell" <tobyss@q.com>
Date: Sunday, August 18, 2019 11:49 AM
To: "*Stan Shell" <tobyss@q.com>
Subject: Fw: Needs attention please

From: [David Yang](#)
Sent: Sunday, August 11, 2019 2:25 PM
To: [Stan Shell](#)
Cc: [Wen-Tai Chen](#) ; [PJ Pei-Jen Shen](#) ; [kim chen](#) ; [kenorb@yahoo.com](#)
Subject: Re: Needs attention please

Stan,

I received this public hearing note for meeting on August 26 last Friday. From the back is the map where my lot is 4900 and Rogers' 5700, are both on the line of sight to the bridge I think. I have the same concern and agree with Wen-Tai on NOT allowing the variance change due to the blocking of view.

Thanks,
Dave Yang

Sent from my iPhone

On Aug 5, 2019, at 01:07, David Yang <daiweiyang@gmail.com> wrote:

Glad that you guys got in touched.

Dave

Sent from my iPhone

CITY OF NEWPORT

AUG 19 2019

RECEIVED

8/18/2019


Testimony to the Newport Planning Commission
Public Hearing, August 26, 2019
Regarding File: 1-ADJ-19

My name is Ken Brant. I live at 813 SE Crescent Place. My lot is diagonally across the street from Lot 5700 and is currently offering me a quality view of Yaquina Bay. The owners of lot 5700 are currently requesting a height variance.

My house is a tall three story house. As viewed from the top floor the projected house would have minimal impact. However, from my main living area where I entertain, eat, cook, watch TV and generally look at the beautiful view, my view will most certainly be adversely affected.

All members of our small HOA are very aware of the value of the views from our properties and know they should respect the views of others and follow our standards for tall vegetation (none blocking water views) and established height restrictions. I strongly request the Planning Commission DENY the application for an exception to the height restriction for lot 5700.

Thank you in advance.


Ken Brant

CITY OF NEWPORT

AUG 19 2019

RECEIVED

**CITY OF NEWPORT
NOTICE OF A PUBLIC HEARING¹**

NOTICE IS HEREBY GIVEN that the Planning Commission of the City of Newport, Oregon, will hold a public hearing on August 26, 2019, to consider approval of the following request:

File No. 1-ADJ-19

Applicant and Owner: Scott & Mary Rogers

Request: Approval of an adjustment to Section 14.10.010 (Height Limitations) of the Newport Municipal Code (NMC) authorizing a 33 foot 7.5 inch average maximum building height for construction of a single family dwelling on property located within an R-2 zone district. This constitutes a 12% increase to the 30-foot building height limit. The request is an adjustment between 10-40% and requires a Planning Commission decision pursuant to NMC Section 14.33.030(B).

Location: 844 SE Crescent Pl (Assessor's Map 11-11-09-CA, Tax Lot 5700).

Applicable Criteria: Newport Municipal Code (NMC) 14.33.050; Criteria for Approval of an Adjustment: (A) Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and (B) Any impacts resulting from the adjustment are mitigated to the extent practical; and (C) The adjustment will not interfere with the provision of or access to appropriate utilities, nor will it hinder fire access; and (D) If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project that is still consistent with the overall purpose of the zoning district.

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. Testimony may be submitted in written or oral form. Oral and written testimony will be taken during the course of the public hearing. Letters to the Community Development/Planning Department (address under "Reports/Materials") must be received by 5:00 p.m. the day of the hearing or be personally entered into the record during the hearing. The hearing will include a report by staff, testimony (both oral and written) from 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 is left open for at least seven days to present additional evidence, arguments, or testimony regarding the application.

Reports/Materials: The staff report may be reviewed or a copy purchased at the Newport Community Development Department, City Hall, 169 SW Coast Hwy, Newport, Oregon, 97365 seven days prior to the hearing. The application materials and the applicable criteria are available for inspection at no cost or copies may be purchased at this address.

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

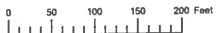
Time/Place of Hearing: Monday, August 26, 2019; 7:00 p.m.; City Hall Council Chambers (address above in "Reports/Materials").

MAILED: July 29, 2019.

PUBLISHED: August 16, 2019/News-Times.

¹This notice is being sent to affected property owners within 200 feet of the subject property (according to Lincoln County tax records), affected public utilities within Lincoln County, and affected city departments.

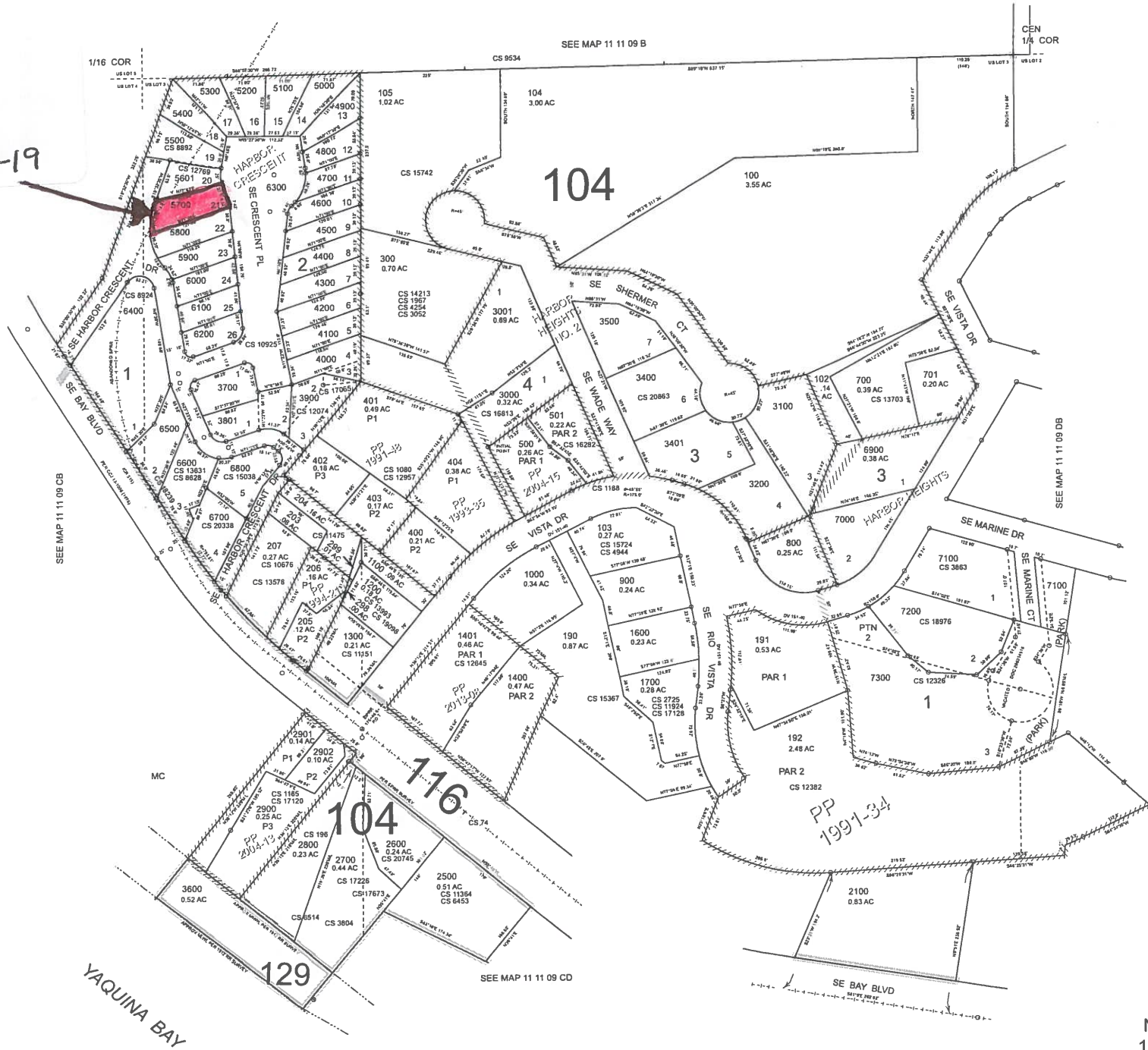
THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY



N.E.1/4 S.W.1/4 SEC.9 T.11S. R.11W. W.M. LINCOLN COUNTY 1" = 100'

11 11 09 CA NEWPORT

Subject Property File No. 1-ADJ-19



- Cancelled
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- 189
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- 201
- 202
- 600
- 1101
- 1500
- 1800
- 1900
- 2000
- 2200
- 2300
- 2400
- 3300
- 3701
- 3800
- 4001
- 5600
- 6601

ADAMS WENDY KRISLEN &
ADAMS CLIFTON E
38077 TENAX PL
CORVALLIS, OR 97339

BRANT KENNETH N
813 SE CRESCENT PL
NEWPORT, OR 97365

C&L INVESTMENT COMPANY
45021 COUGAR CIRCLE
FREMONT, CA 94539

CHADWICK WILLIAM W JR &
ATWILL TERESA M
872 SE CRESCENT PL
NEWPORT, OR 97365

COYLE F J &
COYLE BARBARA
850 SE CRESCENT PL
NEWPORT, OR 97365

EKMAN WILLIAM
200 SW FERRY ST SW
ALBANY, OR 97321

GRACE KELLY
7 CAPTAIN DR
APT C 213
EMERYVILLE, CA 94608

HARBOR CRESCENT HOMEOWNRS
ASSN
882 SE CRESCENT PL
NEWPORT, OR 97365

KNUTSON ERIC HENRY TTEE &
KNUTSON PATRICIA JANE TTEE
840 SE CRESCENT PL
NEWPORT, OR 97365

OLSON LLOYD G JR &
SEAGER LAURA M
882 SE CRESCENT PL
NEWPORT, OR 97365

PURCELL DOUGLASS L &
WARNER LANI L
862 SE CRESCENT PL
NEWPORT, OR 97365

RAICHL J KEVIN &
RAICHL NATALIE
20257 KNIGHTSBRIDGE PL
BEND, OR 97702

ROGERS SCOTT O &
ROGERS MARY A
10440 NEIDERHOUSE RD
PERRYSBURG, OH 43551

SOLANO JOSE &
SOLANO BERNADETTE
836 SE CRESCENT PL
NEWPORT, OR 97365

STARTZELL CAROLYN
824 SE CRESCENT PL
NEWPORT, OR 97365

VANDERBECK JOHN G &
VANDERBECK KARMEN J
854 SE CRESCENT PL
NEWPORT, OR 97365

WELLS ROGER L &
WELLS MARTHA
2610 NW WESTMINSTER WAY
ALBANY, OR 97321

WILSON RICHARD C &
WILSON LIZA A
PO BOX 928
CORVALLIS, OR 97339

YANG DAVID DAI WEI
PO BOX 3701
SARATOGA, CA 95070

FORINASH EUNICE G TRUST &
FORINASH EUNICE G TRUSTEE
PO BOX 1533
NEWPORT, OR 97365

HARBOR HARBOR VILLAGE MHP LLC
6305 SEASIDE WALK
LONG BEACH, CA 90803

Exhibit "A"
Property Owners Within 200 Ft

File No. 1-ADJ-19

NW Natural Gas Co
1405 SW Highway 101
Lincoln City OR 97367

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

CenturyLink
ATTN: Corky Fallin
740 State St
Salem OR 97301

CENTRAL LINCOLN PUD
ATTN: RANDY GROVE
PO BOX 1126
NEWPORT OR 97365

Charter Communications
355 NE 1st St
Newport OR 97365

Laura Kimberly
Library

Tim Gross
Public Works

Rob Murphy
Fire Chief

Jason Malloy
Police Chief

Mike Murzynsky
Finance Director

Joseph Lease
Building Official

Spencer Nebel
City Manager

Rachel Cotton
Associate Planner

EXHIBIT 'A'
Affected Agencies
File No. 1-ADJ-19

Jim Protiva
Parks & Rec.

CITY OF NEWPORT NOTICE OF A PUBLIC HEARING

The Planning Commission of the City of Newport, Oregon, will hold a public hearing on Monday, August 26, 2019, at 7:00 p.m. in the City Hall Council Chambers to consider a request (File No. 1-ADJ-19) submitted by Scott & Mary Rogers authorizing a 33 foot 7.5 inch average maximum building height for construction of a single family dwelling on property located within an R-2 zone district. This constitutes a 12% increase to the 30-foot building height limit. The request is an adjustment between 10-40% and requires a Planning Commission decision pursuant to NMC Section 14.33.030(B). The property is located at 844 SE Crescent Pl (Assessor's Map 11-11-09-CA, Tax Lot 5700). Per Newport Municipal Code (NMC) 14.33.050, the criteria for approval of an adjustment are: That granting the adjustment will equally or better meet the purpose of the regulation to be modified; and that any impacts resulting from the adjustment are mitigated to the extent practical; and that the adjustment will not interfere with the provision of or access to appropriate utilities, nor will it hinder fire access; and that if more than one adjustment is being requested, the cumulative effect of the adjustments results in a project that is still consistent with the overall purpose of the zoning district. 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. Testimony may be submitted in written or oral form. Oral and written testimony will be taken during the course of the public hearing. Letters to the Community Development/Planning Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 5:00 p.m. the day of the hearing or be personally entered into the record during the hearing. The hearing will include a report by staff, testimony (both oral and written) from 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 is 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 at the Newport Community Development Department seven days prior to the hearing. The application materials, the applicable criteria, and other file materials 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, d.tokos@newportoregon.gov (mailing address above).

FOR PUBLICATION ONCE ON FRIDAY, AUGUST 16, 2019



8/16/19

PUBLIC NOTICES

LEGAL DEADLINES:

**Wednesday Edition:
5:00pm Thursday
PRIOR**

**Friday Edition:
5:00pm Tuesday
PRIOR**

NOTICE TO INTERESTED PERSONS IN THE CIRCUIT COURT OF THE STATE OF OREGON, FOR THE COUNTY OF LINCOLN in the Matter of the Estate of Karel Anne Richards, Laufenberg, Deceased. Case No. 19PB03378. NOTICE IS HEREBY GIVEN that Kristin Karns has been appointed personal representative of the above estate. All persons having claims against the estate are required to present them, with vouchers attached, to the personal representative at P.O. Box 1144, Newport, OR 97365, within four months after the date of first publication of this notice, or the claims may be barred. All persons whose rights may be affected by the proceedings may obtain additional information from the records of the court, the personal representative, or the attorney for the personal representative, Jeff Waarvick, P.O. Box 1144, Newport, OR 97365. Dated and first published August 02, 2019. A02 A09 A16 (22-16)

NOTICE OF A PUBLIC HEARING CITY OF NEWPORT: The Planning Commission of the City of Newport, Oregon, will hold a public hearing on Monday, August 26, 2019, at 7:00 p.m. in the City Hall Council Chambers to consider a request (File No. 1-ADJ-19) submitted by Scott & Mary Rogers authorizing a 33 foot 7.5 inch aver-

age maximum building height for construction of a single family dwelling on property located within an R-2 zone district. This constitutes a 12% increase to the 30-foot building height limit. The request is an adjustment between 10-40% and requires a Planning Commission decision pursuant to NMC Section 14.33.030(B). The property is located at 844 SE Crescent Pl (Assessor's Map 11-11-09-CA, Tax Lot 5700). Per Newport Municipal Code (NMC) 14.33.050, the criteria for approval of an adjustment are: That granting the adjustment will equal or better meet the purpose of the regulation to be modified; and that any impacts resulting from the adjustment are mitigated to the extent practical; and that the adjustment will not interfere with the provision of or access to appropriate utilities, nor will it hinder fire access; and that if more than one adjustment is being requested, the cumulative effect of the adjustments results in a project that is still consistent with the overall purpose of the zoning district. 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. Testimony may be submitted in written or oral form. Oral and written testimony will be taken during the course of the public hearing. Letters to the Community Development/Planning Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 5:00 p.m. the day of the hearing or be personally entered

into the record during the hearing. The hearing will include a report by staff, testimony (both oral and written) from 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 is 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 at the Newport Community Development Department seven days prior to the hearing. The application materials, the applicable criteria, and other file materials 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, d.tokos@newportoregon.gov (mailing address above). A16 (27-16)

TRUSTEE'S NOTICE OF SALE

The Trustee under the terms of the Trust Deed described herein, at the direction of the Beneficiary, hereby elects to sell the property described in the Trust Deed to satisfy the obligations secured thereby. Pursuant to ORS 86.771, the following information is provided: **PARTIES:** Grantor: JAMES M BELCHER Trustee: WESTERN TITLE COMPANY Successor Trustee: NANCY K. CARY Beneficiary: UMPQUA BANK **DESCRIPTION OF PROPERTY:** The real property is described as follows: Lot 3, Block 2, CREST LINE ESTATES, in the City of Waldport, Lincoln County,

Oregon. **RECORDING.** The Trust Deed was recorded as follows: Date Recorded: June 27, 2013 Recording No. 2013-06339 Official Records of Lincoln County, Oregon. **DEFAULT.** The Grantor or any other person obligated on the Trust Deed and Promissory Note secured thereby is in default and the Beneficiary seeks to foreclose the Trust Deed for failure to pay: Monthly payments in the amount of \$1,211.00 each, due the first of each month, for the months of October 2018 through January 2019; plus monthly payments at the new rate of \$1,210.86 each, due the first of each month, for the months of February 2019 through March 2019; plus late charges and advances; plus any unpaid real property taxes or liens, plus interest. **AMOUNT DUE.** The amount due on the Note which is secured by the Trust Deed referred to herein is: Principal balance in the amount of \$153,862.40; plus interest at the rate of 3.750% per annum from September 1, 2018; plus late charges of \$193.68; plus advances and foreclosure attorney fees and costs. **SALE OF PROPERTY.** The Trustee hereby states that the property will be sold to satisfy the obligations secured by the Trust Deed. A Trustee's Notice of Default and Election to Sell Under Terms of Trust Deed has been recorded in the Official Records of Lincoln County, Oregon. **DATE:** August 15, 2019 **TIME:** 11:00 a.m. **PLACE:** Lincoln County Courthouse, 225 W. Olive, Newport, Oregon **RIGHT TO REINSTATE.** Any person named in ORS 86.778 has the right, at any time that is not later than five days before the Trustee conducts the sale, to have this foreclosure dismissed and the Trust

Deed reinstated by payment to the Beneficiary of the entire amount then due, other than such portion of the principal as would not then be due had no default occurred, by curing any other default that is capable of being cured by tendering the performance required under the obligation or Trust Deed and by paying all costs and expenses actually incurred in enforcing the obligation and Trust Deed, together with the trustee's and attorney's fees not exceeding the amount provided in ORS 86.778. **NOTICE REGARDING POTENTIAL HAZARDS** (This notice is required for notices of sale sent on or after January 1, 2015.) Without limiting the trustee's disclaimer of representations or warranties, Oregon law requires the trustee to state in this notice that some residential property sold at a trustee's sale may have been used in manufacturing methamphetamines, the chemical components of which are known to be toxic. Prospective purchasers of residential property should be aware of this potential danger before deciding to place a bid for this property at the trustee's sale. You may reach the Oregon State Bar's Lawyer Referral Service at 503-684-3763 or toll-free in Oregon at 800-452-7636 or you may visit its website at: www.osbar.org. Legal assistance may be available if you have a low income and meet federal poverty guidelines. For more information and a directory of legal aid programs, go to <http://www.oregonlawhelp.org>. Any questions regarding this matter should be directed to Lisa Summers, Paralegal, (541) 686-0344. (TS #30057.31100). **DATED:** March 22, 2019. Nancy K. Cary, Successor Trustee, Hershner Hunter, LLP, P.O. Box 1475, Eugene, OR 97440. AU9 AU16 AU23 AU30 (29-30)

NOTICE TO INTERESTED PERSONS IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF LINCOLN PROBATE DEPARTMENT ESTATE OF LINDA MARIE MCPHEE DECEASED; CASE No. 19PB05993. Notice is given pursuant to ORS 113.155 that Arend F. Hall has been appointed personal representative of the above estate. All persons having claims against the estate are required to present them within four (4) months after the date of the first publication of this Notice, or their claims may be barred. Claims are to be presented at the address of the attorney for the personal representative, set forth below. All persons whose rights may be affected by this estate proceeding may obtain additional information from the records of the Circuit Court, the personal representative, or Jeffrey C. Hollen, attorney for the personal representative. Date of first publication: August 16, 2019. Jeffrey C. Hollen, OSB #761757. Attorney for Personal Representative Ouder Kirk & Hollen F. O. Box 1167 615 SW Hurbert Street, Suite A, Newport, OR 97365. A16 A23 A30 (40-30)

PUBLIC NOTICE - ONLINE OPEN HOUSE

The City of Waldport is currently working with the Oregon Department of Transportation (ODOT) to update the Waldport Transportation System Plan (TSP), which is a long-range plan that guides the development of the City's transportation system over a 20-year period. As part of the planning and public engagement process, the City is seeking input on the transportation improvement projects and priorities via an online open house on the project website (www.waldportsp.com). The online open house will provide citizens with the oppor-

PU ONLI

Waldport Transport House #3. The City Department of Transportation System Plan development of the As part of the planning input on the transportation online open house. The online open house comment on the project modes within Waldport also provide citizen on transportation. Please attend Online help guide the City

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

844 SE Crescent Place
Image Taken July 2018



CITY OF NEWPORT

AUG 22 2019

RECEIVED

August 21, 2019

RE: Lot 5700 Variance Request

To Whom It May Concern, / NEWPORT PLANNING / FILE# - ADJ - 19
AUGUST 26TH, 2019 PUBLIC HEARING

I own a home in Crescent Place HOA, I received a notice of a proposed variance to the 30' height restriction concerning lot 5700.

I object to the City or County allowing this variance, it will adversely impact my view, my property values, and neighborhood. This will establish a precedence that my home was not allowed to exceed. I respectfully ask you to follow the current rules limiting the 30' height restriction.

Thank you for your attention to this matter.

Respectfully Submitted,

Kelly Grace
820 SE Crescent Place
Newport Or 97365