



**PLANNING COMMISSION REGULAR SESSION AGENDA**  
**Monday, October 28, 2024 - 7:00 PM**  
**Council Chambers, 169 SW Coast Hwy, Newport, Oregon 97365**

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

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

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

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

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

**2. APPROVAL OF MINUTES**

**2.A Approval of the Planning Commission Regular Session Meeting Minutes of October 14, 2024.**

[Draft PC Reg Session Minutes 10-14-2024](#)

[10-14-24 PC Work Session Meeting Video Link](#)

**3. CITIZENS/PUBLIC COMMENT**

*A Public Comment form 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 submitting a form. Each speaker should limit comments to three minutes. The normal disposition of these items will be at the next scheduled Planning Commission meeting.*

**4. ACTION ITEMS**

**4.A File #3-NCU-24: Final Order and Findings of Fact for the Nonconforming Use Permit to Install a New Cold Box System to More Effectively Convert Natural Gas to a Liquid at the NW Natural LNG Plant.**

[Final Order](#)

[Findings of Fact](#)

**4.B File #2-SUB-24: Final Order and Findings of Fact for the 4-Lot Townhouse Subdivision on Nye Street.**

[Final Order](#)

[Findings of Fact](#)

**4.C File #1 & 2-PD-24 / 1-SUB-24 / 2-TIA-24: Final Order and Findings of Fact for the Wilder Remainder Phase (Planned Development, Final Development, Preliminary Subdivision Plat, and Traffic Impact Analysis).**

[Final Order](#)

[Findings of Fact](#)

**5. DIRECTOR COMMENTS**

**6. ADJOURNMENT**

City of Newport  
Draft Planning Commission Regular Session Minutes  
October 14, 2024

<b>LOCATION:</b> CITY COUNCIL CHAMBERS, NEWPORT CITY HALL 169 SW COAST HIGHWAY NEWPORT	
<b>Time Start:</b> 7:00 P.M.	<b>Time End:</b> 8:57 P.M.

**ATTENDANCE LOG/ROLLCALL**

COMMISSIONER/ ADVISORY MEMBER	STAFF
Chair Bill Branigan	Derrick Tokos, Community Development Director
Commissioner Bob Berman	Sherri Marineau, Community Development Dept.
Commissioner Jim Hanselman	Nina Vetter, City Manager
Commissioner Gary East	
Commissioner Braulio Escobar	<b>PUBLIC MEMBERS PRESENT</b>
Commissioner John Updike	Michael Smith, Norwest Engineering
	Cal Blake, CGC VI, LLC
	Dan McLaughlin
	Bonnie Serkin, Landwaves Inc.
	Peter Anderson, DOWL

AGENDA ITEM	ACTIONS
<b>REGULAR MEETING</b>	
<b>CALL TO ORDER AND ROLL CALL</b>	
a. Roll Call	None.
<b>APPROVAL OF THE MINUTES</b>	
a. Meeting minutes of Work Session Meeting on September 23, 2024	Motion by Berman, seconded by Updike, to approve the work session meeting minutes of September 23, 2024 as written. Motion carried unanimously in a voice vote.
b. Meeting minutes of Regular Session Meeting on September 23, 2024	Motion by Berman, seconded by Updike, to approve the regular session meeting minutes of September 23, 2024 as written. Motion carried unanimously in a voice vote.
<b>CITIZEN/PUBLIC COMMENT</b>	None.
<b>NEW BUSINESS</b>	
Meet City Manager Nina Vetter.	City Manager, Nina Vetter introduced herself to the Commission. Vetter and the Commission commented on the outstanding work the Community Development performed.

## PUBLIC HEARINGS

### **File #3-NCU-24: Nonconforming Use Permit to Install a New Cold Box System to More Effectively Convert Natural Gas to a Liquid at the NW Natural LNG Plant.**

a. PUBLIC HEARING OPEN

7:07 p.m.

b. STAFF REPORT - DERRICK TOKOS

Mr. Tokos reviewed the staff report.

c. PUBLIC COMMENT

Applicant Michael Smith with Norwest Engineering, representative for the applicant, addressed the Commission. Commissioners asked questions concerning the cold box system and the size and position of the equipment.

d. PUBLIC HEARING CLOSED

7:18 p.m.

e. COMMISSION DECISION

Updike was comfortable and supportive of the request. East, Berman, and Hanselman agreed. Escobar noted that NW Natural had been good neighbors and didn't have a problem with the request. Branigan didn't object.

Motion was made by Escobar, seconded by Berman, to approve File #3-NCU-24 to authorize the construction of the Cold box system at the Northwest Natural LNG plant in Newport, consistent with the staff report. Motion carried unanimously in a voice vote.

### **File #2-SUB-24: 4-Lot Townhouse Subdivision on Nye Street.**

a. PUBLIC HEARING OPEN

7:21 p.m.

b. STAFF REPORT - DERRICK TOKOS

Tokos reviewed the staff report and criterion for the condition of approval.

Berman questioned the contour lines on the aerial image, and the staff report note concerning the substandard street that didn't meet the city sidewalk standards.

Escobar questioned how many lots would be created. Tokos confirmed it was three townhomes with a lot for common elements.

c. PUBLIC COMMENT

Applicant Cal Blake, with CGC VI, LLC, addressed the Commission. The Commission asked questions concerning the height of the townhomes; how viable the workforce housing pricing for units would be for the developers; the storage unit location and use; and



<p>d. PUBLIC HEARING CLOSED</p> <p>e. COMMISSION DECISION</p>	<p>traffic impact analysis and how the increased population pressure to get a traffic light would increase the flow of traffic down the hill. He wanted it recognized that they needed another way off of the hill in an emergency. Tokos reported there was a gravel road that served as an emergency access and a second exit. They were also working to get a traffic light on 40th Street and US 101.</p> <p>Julie Eckman, Newport, expressed concerns about parking in the neighborhood in areas where people didn't have room to park in their garages and chose to park on the street.</p> <p>8:40 p.m.</p> <p>Berman thought the concept was great but had issues with the parking. He appreciated the detailed presentation and asked the applicants to consider dark sky lighting and conduit for electric charging as well. Escobar liked that they were making more housing and didn't have a problem with them.</p> <p>Updike was in favor. He noted he thought there might be problems with parking on the hammer head portion of the street located at the end lot. He questioned how much the fence height would affect the decision, and why the six inch addition was critical.</p> <p>East thought the first phase of Wilder worked well. He was in support. Hanselman was also in support. Branigan had a issue with the alley by 37th Street. He thought the pathway should be extended out for the houses at the end, but was in support of the request.</p> <p>Motion was made by Updike, seconded by Escobar, to approve File #1 &amp; 2-PD-24 / 1-SUB-24 / 2-TIA-24 as noted in the staff report, including the alternate condition G, that the peak height of any structure of lots one through 156, shall not exceed 35 feet; and amending Condition D, to allow for an engineering solution to properly address the vehicular circulation necessary at the interface of Alley C and the multi-use path, at the director's discretion. Motion carried unanimously in a voice vote.</p>
<p><b>DIRECTORS COMMENTS</b></p>	<p>Tokos reported the City Council would be taking action on the FEMA requirements at their second meeting in November, and would approved the Estuary amendments which would be effective in 30 days.</p> <p>Updike questioned if the City had a specific code to require Dark Sky compliance. Tokos explained the dark sky compliance was something the City Council was</p>

	working on, but it was a challenge to put the requirements on private property owners.
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Submitted by: \_\_\_\_\_

Sherri Marineau, Executive Assistant

DRAFT

**10-14-2024 - Planning Commission Regular Session Meeting Video Link:**

[https://thecityofnewport.granicus.com/player/clip/1342?view\\_id=2&redirect=true](https://thecityofnewport.granicus.com/player/clip/1342?view_id=2&redirect=true)



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

**IN THE MATTER OF PLANNING COMMISSION** )  
**FILE # 3-NCU-24, APPLICATION FOR ALTERATION** )  
**AND EXPANSION OF A NONCONFORMING USE,** ) **FINAL**  
**AS SUBMITTED BY NW NATURAL GAS COMPANY** ) **ORDER**  
**(MIKE SMITH, NORWEST ENGINEERING, AUTHORIZED** )  
**REPRESENTATIVE)** )

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**ORDER APPROVING** a request per Section 14.32/“Nonconforming Uses, Lots, and Structures” of the Newport Municipal Code, of the Newport Municipal Code, to install a new cold box system to more effectively convert natural gas to a liquid at the NW Natural LNG Plant. Improvements will include a foundation, process piping, and a new cold box. The subject property is located at 1702 SE Bay Boulevard and is identified as Tax Lot 01600 of Lincoln County Tax Assessor’s Map 11-11-09.

**WHEREAS:**

- 1.) The Planning Commission has duly accepted the application filed consistent with the Newport Municipal Code; and
- 2.) The Planning Commission has duly held a public hearing on the request, with a public hearing a matter of record of the Planning Commission on October 14, 2024; and
- 3.) At the public hearing on said application, the Planning Commission received testimony and evidence; and
- 4.) At the conclusion of said public hearing, after consideration and discussion, upon a motion duly seconded, the Planning Commission **APPROVED** the request.

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

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

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

Accepted and approved this 28<sup>th</sup> day of October, 2024.

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Bill Brannigan, Chair  
Newport Planning Commission

Attest:

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Derrick I. Tokos, AICP  
Community Development Director

## EXHIBIT "A"

Case File # 3-NCU-24

### FINDINGS OF FACT

1. NW Natural Gas Company (Mike Smith, Norwest Engineering, authorized representative) applied on September 10, 2024, per Chapter 14.32 ("Nonconforming Uses, Lots, and Structures") of the Newport Municipal Code, to install a new cold box system to more effectively convert natural gas to a liquid at the NW Natural LNG Plant. Improvements will include a foundation, process piping, and a new cold box.
2. The subject property is located at 1702 SE Bay Boulevard (Lincoln County Assessor's Tax Map 11-11-09, Tax Lots 1600). The property is approximately 21.62 acres in size.
3. Staff reports the following facts in connection with the application:
  - a. Plan Designation: Shoreland.
  - b. Zone Designation: W-1/"Water Dependent."
  - c. Surrounding Land Uses: An estuary to the south and east. Water dependent and industrial zoned land border the property to the north and west. Property to the north is being positioned for industrial development. A disposal site for dredge materials is situated to the west.
  - d. Topography and Vegetation: The subject property is flat and elevated just above the adjoining estuary. Riprap embankments exist along the perimeter of the site. Upland areas are vegetated with grass.
  - e. Existing Structures: A large natural gas tank, control building, process building and other small buildings surrounded by a security fence.
  - f. Utilities: All are available to the site.
  - g. Development Constraints: Portions of the property, namely along the perimeter of the site, are within the 100-year floodplain and tsunami hazards overlay.
  - h. Past Land Use Actions: File 1-NCU-23, approved the construction of a 9-ft diameter, 40-ft tall enclosed flare, process piping, and foundation that will be an addition to the existing Natural Gas Pre-treatment process at the LNG Plant facility. File 3-NCU-22, approved replacement and upgrades to electrical equipment. The new equipment will be placed on pile supported foundations near the existing electrical building. There will also be new underground conduit and cable trays. File 2-NCU-21, approved the construction of three concrete equipment foundations on a vacant portion of the LNG Plant facility. The foundations support equipment, pressure vessels, process piping and a cable tray that are part of a Pretreatment Regen Optimization project. File 2-NCU-18, approved the replacement of an existing glycol cooling system, which cool the compressors that maintain the natural gas as a liquid. The new equipment was placed on pile at two pad sites near the existing system, between the existing process building and the existing electrical building. New piping, a small oil cooler and a cable tray were also approved. File 1-NCU-17, approved construction of for a new

natural gas pre-treatment system to more effectively remove water, carbon dioxide, trace constituents and natural gas liquids from the domestic natural gas before it is delivered to the liquefaction plant. File 2-NCU-15, approved the replacement of an existing office building (a.k.a. "Control Building") with a new, 3,893 sq. ft., single story office building.

4. Upon acceptance of the application, the Community Development (Planning) Department mailed notice of the proposed action on September 16, 2024, to affected property owners required to receive such notice by the Newport Municipal Code, and to various city departments, agencies, and public utilities. The notice referenced the criteria by which the application was to be assessed. The notice required that written comments on the application be submitted by 3:00 pm on the date of the hearing, or be submitted in person at the hearing. The notice was also published in the Lincoln County Leader on October 2, 2024. No comments were received in response to the notice.

5. A public hearing was held on October 14, 2024, at which the Planning Commission received the staff report and allowed for testimony on the request. The minutes of the October 14, 2024 meeting are hereby incorporated by reference. The Planning Staff Report with Attachments is hereby incorporated by reference into the findings. The Planning Staff Report Attachments included the following:

- Attachment "A" – Application Form
- Attachment "A-1" – Applicant's Narrative
- Attachment "A-2" – County Assessor Information
- Attachment "A-3" – Site Plan & Detail Drawing, Norwest Eng., dated 8/7/24
- Attachment "B" – Zoning Map of the Area
- Attachment "C" – Public Hearing Notice and Map

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

The applicant own property identified as Tax Lot 1600 on Tax Map 11-11-09. The property contains a Liquefied Natural Gas (LNG) storage tank, process buildings and a control building. The property appears to have been acquired by NW Natural in 1974 and the plant was commissioned in 1977. In their written narrative, the applicant states that they will be constructing a new cold box, process piping, foundation and will be an addition to the existing Natural Gas process. NW Natural is installing a new cold box system to more effectively convert natural gas to a liquid. This will modernize the existing facility. The new cold box has no emissions and will be monitored when in use. The equipment will improve the site's reliability, which ensures NW Natural can supply customers in the area with gas during any supply constraints. This addition to the Natural Gas process will be located to the south of the existing process building and generally be blocked from public view (from the street). The work area is shown on the applicant's site plan (Attachment "A-3").

7. **Verification of Status of Nonconforming Use or Structure:** Pursuant to NMC Section 14.32.060, upon receiving an application to alter, expand, or replace a nonconforming use or

structure, the approval authority shall determine that the use or structure is nonconforming. Such determination shall be based on findings that:

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

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

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

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

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

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

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

- (7) The comparative hours of operation;
- (8) The comparative effect on solar access and privacy;
- (9) Other factors that impact the character or needs of the neighborhood.

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

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

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

### CONCLUSIONS

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

- (1) The applicant's property is located in a W-1/"Water-Dependent" zoning district (Attachment "B"). Utility facilities, such as the LNG Plant, are not permitted uses in this district (NMC 14.03.080).
- (2) Consistent with NMC 14.32.040, the applicant submitted a completed application form, narrative, names and addresses of property owners within the notification area, site plan, and structural details. In sum, this constitutes substantial evidence upon which the Planning Commission can decide as to whether or not the new improvements satisfy the City's standards for the alteration and expansion of a non-conforming use.
- (3) With respect to NMC 14.32.060, regarding the non-conforming status of the LNG Plant, the applicant has previously provided assessment information indicating that the property was acquired in 1974 and evidence that the facility has been continuously maintained since it was commissioned in 1977. Per the Newport Zoning Ordinance, the LNG Plant is non-conforming if it is established that the facility existed and has been continuously maintained since September 7, 1982. Considering the above, it would be reasonable for the Planning Commission to find, as it has with the last six decisions (File Nos. 1-NCU-23, 3-NCU-22, 2-NCU-21, 2-NCU-18, 1-NCU-17 and 2-NCU-15), that there is substantial evidence in the City records that the LNG plant qualifies as non-conforming.
- (4) After verification of the status of a non-conforming use, pursuant to NMC 14.32.070, the approval authority may authorize alteration, expansion, or replacement of any nonconforming use or structure when it is found that such alteration, expansion or replacement will not result in a greater

adverse impact on the neighborhood. In making this finding the Planning Commission shall consider the factors listed below.

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

- i. The applicant notes that the property has been utilized in continuous use as an LNG peak-shaving facility since its inception in June of 1977.
- ii. The applicant further states that the addition of the cold box and related improvements is in keeping with the character of the other existing equipment and buildings on the site and surrounding neighborhood. The existing buildings on the site consist of metal paneling exterior walls and standing seam metal gabled roofs, and the proposed new buildings will be of similar construction and visual appearance to existing plant facilities.
- iii. The surrounding properties are largely undeveloped. Lands to the north and west will likely develop in an industrial manner in the coming years, to complement the Port of Newport's International Terminal. This would be consistent with the water dependent or heavy industrial zoning that is in place. These types of uses would orient toward Bay Boulevard for the transport of goods and materials by truck or toward the bay for barge or shipping out of the terminal site. In either case, the properties would orient away from the LNG Plant facility.
- iv. The alteration/expansion to the non-conforming use relates to the construction of a new cold box, process piping, and foundation. It will be an addition to the existing Natural Gas process, and NW Natural is installing the new cold box system to more effectively convert natural gas to a liquid. The equipment is situated in close proximity to the existing LNG storage tank, roughly 190-feet from the north property line and 324-feet from the west property line, within the fenced enclosure (Attachment "A-3"). Accordingly, there does not appear to be an increased risk to neighboring properties associated with the development.
- v. The applicant provides community access to the estuary and portions of its property for recreational purposes. They are not required to do so, and the new cold box and related equipment does not impact these areas as it is located within the perimeter of the security fence.
- vi. Considering the above, the Planning Commission concludes that the new cold box and related improvements are consistent with the character and history of development in the area given that the change will not further exacerbate the nonconforming situation.

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

- i. The applicant notes that the proposed cold box and related improvements are not anticipated to create any additional significant vibration, dust, odor, fumes, glare, noise or smoke. They further point out that the new equipment is comparable in design and function to other existing equipment on site.
- ii. Nearby water-dependent and heavy industrial properties are envisioned to develop with uses that generate noise, vibration, dust, odor, fumes, glare, or smoke in excess of anything that could be attributed to the LNG Plant facility.

iii. Considering the above, the Planning Commission concludes that the cold box and related improvements will not create noise, vibration, dust, odor, fumes, glare, or smoke in a manner that would result in a greater adverse impact on the neighborhood.

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

i. The applicant explains that the existing infrastructure to the site from SE Bay Blvd is adequate and will accommodate use of the new equipment. Access to the equipment is available via an existing gravel roadway (Attachment "A-3"). The proposed development does not place any additional demands on on-site water and wastewater infrastructure.

ii. Considering the above, the Planning Commission concludes that the cold box and related improvements will not cause any greater adverse impact on the neighborhood as it relates to the adequacy of infrastructure to serve the use.

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

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

ii. Considering the above, the Planning Commission concludes that the cold box and related improvements will not cause any greater adverse impact on the neighborhood relative to this criterion.

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

i. The applicant indicates that, per the zoning ordinance, there is no minimum / maximum number of parking spaces required for this development and that a loading area is not required. This is attributed to the nature of the improvements, which are a component of the gas processing operation that do not generate demand for additional staff or service trips that cannot otherwise be accommodated with existing on-site parking and service areas.

ii. The applicant's site plan illustrates where the cold box and related work is to be performed (Attachment "A-3"). It is an operational component of the LNG Plant facility that is secured to a foundation and is not being stored on-site.

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

f. The comparative visual appearance.

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

ii. Applicant's site plan and detail drawing provides the Commission with a clear sense of the mass and height of the cold box and related improvements, and shows that the scale of the improvements is modest when compared to the adjacent 122-ft tall LNG tank (Attachment "A-3").



ii. Considering the above, the Planning Commission concludes that the cold box and related improvements will not cause any greater adverse impact on the neighborhood as it relates to comparative visual appearance.

g. The comparative hours of operation.

- i. The applicant notes that the existing LNG Plant facility is in operation 24/7 and that the new cold box and related improvements are anticipated to be in operation on the same schedule.
- ii. Based on the above, the Planning Commission concludes that the cold box and related improvements will not cause any greater adverse impact on the neighborhood as far as comparative hours of operation.

h. The comparative effect on solar access and privacy.

- i. The applicant notes that the cold box and related improvements will be set a considerable distance from the adjacent neighbors. They further indicate that, at this time, no additional staff is anticipated to be needed and that they do not believe the project will have an effect on solar access or privacy.
- ii. Given the above, the Planning Commission concludes that the proposed cold box and related improvements satisfy this criterion.

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

- i. The applicant asserts, and it would be reasonable for the Commission to accept, that there are no other factors that will impact the character or needs of the neighborhood. They point out that the new cold box and related improvements are of like kind to the longstanding and existing use of the property; that no additional vehicle or pedestrian traffic, visual or environmental impacts are anticipated; and that the proposed construction will not affect current public use of the surrounding area.

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

- i. The LNG plant is in a W-1 zoning district and is nonconforming because utility facilities are not permitted in this zone district. The purpose of the W-1 zone is to protect Yaquina Bay shoreland areas for uses that need contact with or use water for water-borne transportation, recreation, energy production or water supply (NMC 14.03.040). The LNG Plant facility is not dependent upon the bay for any of the factors listed.
- ii. The LNG Plant facility was constructed before the W-1 zoning was in place, and most of the applicant's property is dedicated to this use. In fact, it appears that the confines of the secure facility have remained more or less static. The new cold box and related improvements are being placed within the fence line, in close proximity to existing buildings and the LNG tank. Therefore, the addition of the equipment will not reduce the amount of land available for water-dependent development.

iii. Based on the above, the Planning Commission concludes that the cold box and related improvements will not result in a greater adverse impact on the neighborhood relative to the objectives of the current zoning provisions.

### **OVERALL CONCLUSION**

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

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

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

<b>IN THE MATTER OF PLANNING COMMISSION</b>	)
<b>FILE NO. 2-SUB-24, APPLICATION FOR TENTATIVE</b>	)
<b>SUBDIVISION PLAT APPROVAL FOR A FOUR LOT</b>	) <b>FINAL</b>
<b>SUBDIVISION AS SUBMITTED BY CGC VI, LLC (CAL</b>	) <b>ORDER</b>
<b>BLAKE AND LACH LITWER, AUTHORIZED</b>	)
<b>REPRESENTATIVES)</b>	)

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**ORDER APPROVING** the request for the tentative subdivision plat for a four-lot townhouse development. The property is located at 655 NW Nye Street (Tax Lot 3800 of Lincoln County Assessor's Tax Map (11-11-05-CD)). It is approximately 8,712 sq. ft. in size per Lincoln County Assessor's records.

**WHEREAS:**

- 1.) The Planning Commission has duly accepted the application filed consistent with the Newport Municipal Code; and
- 2.) The Planning Commission has duly held a public hearing on the request for the planned development, with a public hearing a matter of record of the Planning Commission on October 14, 2024; and
- 3.) At the public hearing on said application, and subsequent open record period, the Planning Commission received evidence and recommendations from the applicants, interested persons, and Community Development (Planning) Department staff; and
- 4.) At the conclusion of said public hearing and open record period, after consideration and discussion, the Newport Planning Commission, upon a motion duly seconded, approved the request for the tentative subdivision plat, geologic permit, and variance with conditions of approval.

**THEREFORE, LET IT BE RESOLVED** by the City of Newport Planning Commission that the attached findings of fact and conclusions (Exhibit "A") are adopted in support of approval of the request for a tentative subdivision plat with the following conditions of approval:

1. Approval of this tentative subdivision plat is based on the submitted written narrative and plan listed as attachments to the staff report. No use shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the applicant/property owner to comply with these documents and the limitations of approval described herein.
2. Each townhouse unit shall be served by separate utilities that are to be installed and available for connection prior to recording of the final plat (NMC 14.31.020(G) and 14.48.035(A)).
3. The entryway of each townhouse unit shall be recessed a minimum of 3-feet (NMC 14.31.040(A)(2)).

4. A minimum of 15 percent of the area of each townhouse unit's street-facing facade shall include windows or entrance doors (NMC 14.31.040(A)(3)).

5. The applicant shall provide the Community Development Director with copies of any deed restrictions, covenants and conditions, and joint maintenance agreement applicable to shared parking or other common areas within the townhouse development. Such documents shall be approved by the City Attorney prior to the final plat being recorded (NMC 14.31.080 and NMC 14.46.050).

6. The property owner shall record a joint use easement (or equivalent) with the deed of each of the resulting townhouse lot allowing joint use and cross access between adjacent properties. The owners of the properties agreeing to joint use of the driveway shall record a joint maintenance agreement with the deeds, defining the maintenance responsibilities of the owners. A fully executed copy of the agreement shall be provided to the City prior to recording of the final plat (NMC 14.46.050).

7. The applicant shall construct the following public improvements prior to the recording of the final plat:

A. Remove the southernmost driveway approach, and rebuild the northern driveway approach. The new approach shall be constructed in concrete (NMC 14.46.020, 14.46.030(D), and 14.46.030(S)); and

B. Replace the existing sidewalk along the project's NW Nye Street frontage with a new concrete walkway that is at least six feet in width. The new concrete sidewalk is to be separated from the curb by a three foot landscape strip (NMC 14.44.060(I)); and

C. If storm runoff from the townhouse units and parking area is to be directed to the structured storm drainage system in NW Nye Street, then the applicant shall replace the existing curb along the property frontage so as to accommodate weep holes to convey run-off for each of the units. Storm inlets and drain lines tying into the public system will be required if run-off from the parking area is to be directed to the street (NMC 14.48.035(A)(2)).

8. Public improvements are to be designed and built to design standards adopted by the City, unless an alternative is approved by the City Engineer. A right-of-way permit shall be obtained from the Public Works Department before work is initiated, and the public improvements shall be constructed under the inspection and to the satisfaction of the City Engineer (NMC 14.46.020 and 14.46.030(C)).

9. All utility lines within the boundary of the proposed land divisions, including, but not limited to, those required for electric, telephone, lighting, and cable television services and related facilities shall be placed underground, except surface-mounted transformers, surface-mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, high capacity electric and communication feeder lines, and utility transmission lines operating at 50,000 volts or above. The subdivider shall make all necessary arrangements with the serving utility to provide the underground service (NMC 14.48.045(A)).

10. Installation of public improvements, including excavation in the excess of 100 cubic yards, shall not occur until plans have been checked for adequacy and approved by the City, and shall not be commenced until after the City is notified (NMC 14.48.035(B)).

11. A final plat shall be submitted within two years of the tentative plat (i.e. concept map) approval. The developer shall finalize the survey, secure the signatures on the plat from all impacted owners, and prepare necessary conveyance documents to ensure that the lot configuration, ownership, and rights-of-way are established as illustrated on the tentative plat. The final plat shall be in conformance with the approved tentative plan, this chapter, ORS Chapter 92, and standards of the Lincoln County Surveyor.

**BASED UPON THE ABOVE**, the Planning Commission determines that the request is in conformance with the provisions of the Comprehensive Plan and the Municipal Code of the City of Newport.

Accepted and approved this 28<sup>th</sup> day of October, 2024.

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Bill Branigan, Chair  
Newport Planning Commission

Attest:

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

## **EXHIBIT "A"**

**File No. 2-SUB-24**

### **FINDINGS OF FACT**

1. On August 29, 2024, the property owner CGC VI, LLC (Cal Blake and Lach Litwer, authorized representatives) applied for approval of a four-lot townhouse development.

2. The property is located at 655 NW Nye Street (Tax Lot 3800 of Lincoln County Assessor's Tax Map (11-11-05-CD)). It is approximately 8,712 sq. ft. in size per Lincoln County Assessor's records.

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

- (a) Plan Designation: Low Density Residential.
- (b) Zone Designation: R-2/"Medium Density Single-Family Residential."
- (c) Surrounding Land Uses: Single family residential development.
- (d) Topography and Vegetation: The property is level and clear of structures.
- (e) Existing Structures: None.
- (f) Utilities: All utilities are available to the site.
- (g). Development Constraints: None known.
- (h). Past Land Use Actions: None.
- (i) Notice: Public notice of the application and public hearing was mailed to surrounding property owners within 200 feet of the subject property and public entities and agencies on September 16, 2024. Notice of the public hearing was also published in the Lincoln County Leader on October 2, 2024.
- (j) Pre-application Meeting: An initial pre-application meeting between the applicant and city staff was held on May 9, 2024.

4. The applicant, CGC VI, LLC, Owner, is requesting approval of a tentative subdivision plat to create four townhouse lots. Three of the lots will be developed with townhouses and the fourth will be encumbered by shared elements, including the parking and drive isle, storage, and trash enclosures.

5. A public hearing was held on October 14, 2024. At the public hearing, the statement of rights and relevance and applicable criteria were read. The Planning Commission disclosed any ex parte contact, conflicts of interest, and/or bias. No objections were made to any of the Planning

Commissioners hearing the matter. The Planning Commission received the staff report and heard testimony from proponents and opponents of the proposal. The minutes of the October 14, 2024, meeting are hereby incorporated by reference into the findings. The Planning Staff Report with Attachments is hereby incorporated by reference into the findings. The Planning Staff Report Attachments included the following:

- Attachment "A" – Application form
- Attachment "B" – Applicant Narrative
- Attachment "C" – Assessor's Property Record
- Attachment "D" – Western Title Public Record Report
- Attachment "E" – Applicant's Site Plan
- Attachment "F" – Zoning Map of the Property
- Attachment "G" – City Engineer Confirmation of Service Letter, 8/13/24
- Attachment "H" – Central Lincoln PUD Confirmation of Service, 7/16/24
- Attachment "I" – Century Link Confirmation of Service, 8/2/24
- Attachment "J" – Public Notice

6. The application must be consistent with the approval criteria set forth in Newport Municipal Code (NMC) Chapter 14.31, townhouses and cottage clusters, NMC Chapter 14.44, transportation standards, NMC Chapter 14.46, vehicular access and circulation, and NMC Chapter 14.48, for tentative subdivision plat approval.

### CONCLUSIONS

After consideration of the application materials, staff report and the testimony in the record, the Planning Commission concludes as follows in regard to the criteria established in Newport's Municipal Code for approving the requested tentative subdivision plan for the four lot residential subdivision:

7. Compliance with NMC Chapter 14.31, Development Standards for Townhouses and Cottage Clusters. The criteria for approval of a tentative subdivision plat for townhouses has been addressed as follows:

- (a) *NMC Section 14.31.020(A), Perimeter Requirements. Minimum lot area, lot width, setbacks, lot coverage and building height requirements for a townhouse project or cottage cluster project shall be as specified in NMC 14.13.020, Table A. Such standards apply to the perimeter of the lot, parcel, or tract upon which the townhouse project or cottage cluster project is to be constructed. Front and 2nd front setbacks for a townhouse project or cottage cluster project shall be 10-feet, except that garages and carports shall be setback a distance of 20-feet consistent with NMC 14.11.030.*

NMC 14.13.020, Table A establishes a minimum lot size of 2,500 sq. ft. of lot area for each townhouse unit. Being a little over 8,700 sq. ft. in size, the applicant's property can accommodate three townhouses. Applicant's site plan illustrates the location of each townhouse unit (Attachment "E"). Setbacks apply to the perimeter of the parent property, and the site plan shows how they will be met, with a 15-foot front yard setback applying off of NW Nye Street, 5-foot setbacks to the north and south property lines, and a 10-foot rear yard setback off of the west property line. A 30-foot maximum building height can be met. The parent property satisfies the minimum lot width requirement of 50-ft and coverage limitation of 57 percent. The project does not include garages or carports. This requirement is met.

- (b) NMC Section 14.31.020(B)(1), Maximum Townhouse Density. *One dwelling unit for every 3,750 sf of land in the R-1 zone district, one unit for every 2,500 sf of land in the R-2 zone district, and one unit for every 1,250 sf of land in R-3 and R-4 zone districts.*

As noted above, the 8,700+ sq. ft. parent property is large enough to accommodate three townhouse units. This requirement is met.

- (c) NMC Section 14.31.020(D), Off-Street Parking Requirements. *As specified in Section 14.14.*

NMC 14.14.030(A)(23) established that 1.5 off-street parking spaces are required for each townhouse unit. This rounds up to 5 parking spaces, and the applicant's site plan illustrates how each space can be constructed in conformance with the parking standards. This requirement is met.

- (d) NMC Section 14.31.020(F), Minimum Outdoor Open Space/Patio Area. *150 sf per townhouse unit.*

The applicant's site plan illustrates that there is sufficient area on the property for this open space/patio requirement to be satisfied (Attachment "E"). This requirement is met.

- (e) NMC Section 14.31.020(G), Utilities. *Each dwelling unit shall be served by separate utilities.*

The confirmation of service letter from the City Engineer notes that adequate water, wastewater, and storm drainage infrastructure is in place along NW Nye Street (Attachment "G"). The applicant's site plan shows that each townhouse unit will front the street, so it is plausible that each dwelling unit can be served by separate utilities. As conditioned, this requirement is met.

- (f) NMC Section 14.31.030, Number of Units in Building. *No building in a townhouse project may exceed six townhouse dwelling units.*

The applicant's site plan shows that only three townhouses will be built. This requirement is met.



- (g) NMC Section 14.31.040(A)(1), Townhouse Design Standards, Entry Orientation. *The main entrance of each townhouse must (a) be within 8 feet of the longest street-facing wall of the dwelling unit; and (b) either (i) face the street, (ii) be at an angle of up to 45 degrees from the street, (iii) face a common open space or private access or driveway, or (iv) open onto a porch that is at least 25 square feet in area and has at least one entrance facing the street or has a roof.*

The applicant's site plan shows that the main entrance of each townhouse unit will be within 8-feet of the longest street facing wall of the dwelling unit, and that each unit faces NW Nye Street (Attachment "E"). This requirement is met.

- (h) NMC Section 14.31.040(A)(2), Unit Definition. *Each townhouse must include at least one of the following on at least one street facing: (a) a roof dormer a minimum of 4 feet in width, or (b) a balcony a minimum of 2 feet in depth and 4 feet in width and accessible from an interior room, or (c) a bay window that extends from the facade a minimum of 2 feet, or (d) an offset of the facade of a minimum of 2 feet in depth, either from the neighboring townhouse or within the facade of a single townhouse, or (e) an entryway that is recessed a minimum of 3 feet, or (f) a covered entryway with a minimum depth of 4 feet, or (g) a porch meeting the standards of subsection (1)(b)(iv) of this section.*

In their narrative, the applicant indicates that they will satisfy this requirement by ensuring that all entryways are recessed a minimum of 3 feet (Attachment "B"). This requirement is met, as conditioned.

- (i) NMC Section 14.31.040(A)(3), Windows. *A minimum of 15 percent of the area of all street-facing facades on each individual unit must include windows or entrance doors. Half of the window area in the door of an attached garage may count toward meeting this standard.*

In their narrative, the applicant indicates that windows will exceed the minimum 15 percent of area of the street-facing facade. (Attachment "B"). This requirement is met, as conditioned.

- (j) NMC Section 14.31.040(A)(4)(a), Driveway Access and Parking, Standards. *Townhouses with frontage on a public street shall meet the following standards: Garages on the front facade of a townhouse, off-street parking areas in the front yard, and driveways in front of a townhouse are prohibited unless the following standards are met:*

- i. Each townhouse lot has a street frontage of at least 15 feet on a local street; and*
- ii. A maximum of one (1) driveway approach is allowed for every townhouse. Driveways may be shared; and*
- iii. Outdoor on-site parking and maneuvering areas do not exceed 12 feet wide on any lot; and*

- iv. *The garage width does not exceed 12 feet, as measured from the inside of the garage door frame. For the purposes of this section, "driveway approach" means the edge of a driveway where it abuts a public right-of-way.*

The applicant's site plan shows that there are no garages, and off-street parking and the driveway are not located in front of the townhouses (Attachment "E"). The site plan further illustrates that each townhouse has at least 15-feet of street frontage, and that the project is served by a single driveway with parking and maneuvering areas that do not exceed 12-feet in width. This requirement is met.

- (k) NMC Section 14.31.040(A)(4)(b), Driveway Access and Parking, Alternatives to the Standards. *The following standards apply to driveways and parking areas for townhouse projects that do not meet all of the standards in subsection (a) above: (i) off-street parking areas shall be accessed on the back façade or located in the rear yard. No off-street parking shall be allowed in the front yard or side yard of a townhouse; and (ii) a townhouse project that includes a corner lot shall take access from a single driveway approach on the side of the corner lot; and (iii) townhouse projects that do not include a corner lot shall consolidate access for all lots into a single driveway. The driveway and approach are not allowed in the area directly between the front façade and front lot line of any of the townhouses; and (iv) a townhouse project that includes consolidated access or shared driveways shall grant appropriate access easements to allow normal vehicular access and emergency access.*

As noted above, the project was designed to satisfy the above standards. It is also responsive to the alternative requirements that call for townhouse projects that do not include a corner lot to consolidate access for all lots into a single driveway. Additionally, they have designed the project to avoid placing the driveway and approach directly between the front façade and front lot line of any of the townhouses. This requirement has been met.

- (l) NMC Section 14.31.060, Access. *The parent lot shall have a minimum of 25 feet of frontage onto a street. For purposes of this section, a street can be either a public or private way dedicated for street purposes. Townhouse or cottage cluster lots are not required to have frontage on a street, but in no case may a townhouse or cottage cluster lot be further than 100 feet from a street. For townhouse and cottage cluster projects where street frontage for individual lots is not provided, an adequate turnaround is required, as determined by the Fire Marshal. In addition, townhouse or cottage cluster lots with no frontage shall have a perpetual easement across any and all lots that have frontage and any intervening lot.*

The applicant's site plan shows that the parent property possesses at least 25-feet of frontage along NW Nye Street, and each townhouse lot will possess street frontage (Attachment "E"). This requirement has been met.

- (m) NMC Section 14.31.080, Deed Covenant and Maintenance Agreement. *The developer of a townhouse or cottage cluster project shall provide the City with copies of any deed restrictions, covenants and conditions, and any maintenance agreements to the Community*

*Development Director prior to final plat approval. Such documents shall be approved by the City Attorney and Community Development Director to assure that adequate provisions are contained in those documents for maintenance of buildings, utilities, landscaping, parking areas, common areas, private streets or drives, and other items held in common.*

The fourth townhouse lot will include common elements, including a shared driveway and parking area with storage sheds and landscaping; therefore, this requirement is applicable. These documents are typically prepared at the same time as the final plat. That allows for any unanticipated issues that come up during the course of construction to be picked up. As conditioned, this requirement is met.

- (n) NMC Section 14.31.090, Subdivision Required. *Townhouse and cottage cluster projects will require a segregation of lots, a partition or subdivision, as applicable, will be required with its appurtenant requirements as per the City of Newport Subdivision Ordinance (No. 1285, as amended).*

This application is for a four lot subdivision, consistent with this requirement.

- 8. Compliance with NMC Chapter 14.44, Transportation Standards. Applicable provisions of the City's Transportation Standards have been addressed as follows:

- (a) NMC Section 14.44.050(A). Street Improvement Requirements. *Streets within or adjacent to a land division, development of new streets, and planned improvements to existing streets shall satisfy the requirements of Section 14.44.060, and public streets shall be dedicated to the applicable road authority.*

NW Nye Street is adjacent, and provides access to the applicant's property. There are no new streets planned with this project. Compliance with relevant provisions of NMC Section 14.44.060 is addressed below.

- (b) NMC Section 14.44.050(B). Substandard streets. *Substandard streets adjacent to existing lots or parcels shall be brought into conformance with the standards of Section 14.44.060 when new development or redevelopment of the lots or parcels will place additional demands on the streets and related city utilities.*

NW Nye Street is designated in the Newport Transportation System Plan as a non-commercial major collector roadway in the Newport Transportation System Plan. It is paved to 40-feet in width, which is sufficient to accommodate two 12-foot travel lanes and 8-ft parking bays on each side of the road. This satisfies the minimum roadway and parking requirements for a major collector (NMC 14.14.060(B)). The street is substandard; however, as it relates to the sidewalks. A minimum 6-foot width with a three foot cleared area (i.e. landscape strip) is required, per the table below. The existing sidewalk appears to be 4-5 feet in width.

- (c) *NMC Section 14.44.060(I). Sidewalks. Sidewalks in conformance with the city's adopted sidewalk design standards are required as outlined in the adopted Transportation System Plan and Table 14.44.060(C) below. Any modifications to the sidewalk standards require approval pursuant to the requirements of Section 14.33.100 – Transportation Mitigation Procedure. Requests for modifications involving ODOT facilities will require review and approval by ODOT.*

Table 14.44.060-C. Minimum On-Street Parking and Roadway Widths

Roadway Classification	Arterial Street <sup>1</sup>	Major Collector (Commercial)	Major Collector (Non-Commercial)	Neighborhood Collector	Local/Yield Street <sup>3</sup>
Edge	1-4 ft.	0 ft.	0 ft.	0 ft.	0 ft.
Pedestrian Throughway	5-10 ft.	8 ft. <sup>4</sup>	6 ft.	6 ft.	5 ft.
Furnishings/Landscape (including curb)	5.5-6.5 ft.	3 ft.	3 ft.	0.5 ft.	0.5 ft.
Min. Walkway Width	Variable <sup>5</sup>	11 ft.	9 ft.	6.5 ft.	5.5 ft.
Minimum Buffer (Pedestrian Throughway to Vehicle Travel Way) <sup>2</sup>	Variable <sup>5</sup>	3 ft.	3 ft.	0.5 ft.	0.5 ft.

As noted, a 6-foot sidewalk with a 3-foot landscape strip is required along the property frontage. It would replace the existing sidewalk that is fairly old, and appear to have been built when the previous homes on this property were constructed. The two homes were demolished in 2018. Installation of the sidewalks can occur at the time the townhouses are built and would need to be in place before a final plat is recorded. As conditioned, this requirement is met.

9. Compliance with NMC Chapter 14.46, Vehicular Access and Circulation. Applicable provisions of the City's Vehicular Access and Circulation standards have been addressed as follows:

- (a) *NMC Section 14.46.020, Permit Required. Vehicular access to a public street (e.g., a new or modified driveway connection to a street or highway) requires a right-of-way permit, pursuant to NMC Chapter 9.10. In addition, approval by Lincoln County is required for connections to county roads within the city limits, and authorization from the Oregon Department of Transportation is required for connections onto US 101 or US 20.*

The applicant's site plan shows that they intend to utilize a driveway cut at the northeast corner of the property. The driveway cut is within the NW Nye Street road right-of-way and it will need to be improved to existing City standards for roadway approaches. A right-of-way permit will be required for that work. As conditioned, this requirement is satisfied.

- (b) NMC Section 14.46.030(A), Approach and Driveway Development Standards, Access from a Public Street. Access to parking lots shall be from a public street or alley. Access to loading and unloading areas shall be from a public street, an alley, or a parking lot.

The applicant's site plan (Attachment "E"), shows that access to their parking lot will be from a public street. This requirement is met.

- (c) NMC Section 14.46.030(C), Approach and Driveway Development Standards, City Engineer Approval. All accesses shall be approved by the City Engineer or designate.

This requirement is addressed with a condition of approval.

- (d) NMC Section 14.46.030(D), Approach and Driveway Development Standards, Access Consolidation. Accesses shall be consolidated unless demonstrated to be unfeasible as determined by the City Engineer.

The property currently has two driveway approaches. The applicant intends to use the approach at the north east corner of the property. The approach at the southeast corner of the property will need to be removed. This can occur prior to the final plat being recorded. As conditioned, this requirement is met.

- (e) NMC Section 14.46.030(P), Approach and Driveway Development Standards, Approach Widths. Approaches and driveways shall be a minimum of twelve (12) feet for a one-way drive and twenty (20) feet for a two-way drive. Approaches and driveways shall not be greater than 150% of the minimum, with the exception of those that serve industrial uses and heavy commercial uses which may be up to 35 feet.

The applicant's site plan (Attachment "E") shows that the driveway will meet the 12-foot minimum. This requirement is met.

- (f) NMC Section 14.46.030(S), Approach and Driveway Development Standards, Driveway Aprons. Where sidewalks or walkways occur adjacent to a roadway, driveway aprons constructed of concrete shall be installed between the driveway and roadway edge.

A condition of approval is included requiring the new driveway apron be constructed with concrete.

- (g) NMC Section 14.46.050, Joint Use Access Easement and Maintenance Agreement. Where the city approves a joint use driveway, the property owners shall record an easement with the deed allowing joint use of and cross access between adjacent properties. The owners of the properties agreeing to joint use of the driveway shall record a joint maintenance agreement with the deed, defining maintenance responsibilities of property owners. The applicant shall provide a fully executed copy of the agreement to the city for its records.

The fourth lot in the subdivision is being setup for joint use, including the drive isle, parking, storage, and trash management. Accordingly, a joint use easement (or equivalent)

and maintenance agreement will be required before the plat is recorded. As conditioned, this requirement is met.

10. Compliance with NMC Chapter 14.48, Criteria for Approval of the Tentative Subdivision Plat. The criteria for a tentative subdivision plat have been addressed as follows:

(a) NMC Section 14.48.010(A), Application Requirements. *A person seeking approval of a land division shall submit the following to the Community Development Department:*

- 1. A completed city application form signed by the owner of the property or an authorized agent. If the application form is signed by an authorized agent, it must be accompanied by a document signed by the property owner authorizing the agent to act for the owner in the land division process.*
- 2. A tentative plan containing the information identified in Section 14.48.010(C).*
- 3. A narrative listing each applicable approval criterion or standard and an explanation as to how the criterion or standard is met.*
- 4. A vicinity map showing existing subdivisions and unsubdivided land ownerships adjacent to the proposed subdivision and showing how proposed streets and utilities will be extended to connect to existing streets and utilities and may be connected to future streets and utilities.*
- 5. Proposed deed restrictions, if any, in outline form.*
- 6. Approximate center line profiles with extensions for a reasonable distance beyond the limits of the proposed subdivision showing the finished grade of streets and the nature and extent of street construction.*
- 7. A plan for domestic water supply lines and related water service facilities.*
- 8. Proposals for sewage disposal, storm water drainage, and flood control, including profiles of proposed drainage ways.*
- 9. If lot areas are to be graded, a plan showing the nature of cuts and fills and information on the character of the soil.*
- 10. Where geologic hazards are known to exist on part or all of the property in question based on adopted maps of the City of Newport, a geologic hazard report is required and shall be provided in accordance with the requirements of Chapter 14.21. The report must clearly state what measures will be taken to safeguard against existing hazards.*
- 11. Written letters from public facilities (water, sewer, storm water, and streets) and utilities (electric and phone) identifying requirements for providing service to the land division.*
- 12. An application fee in an amount set by City Council resolution.*

*13. A Trip Assessment Letter, if required by Chapter 14.43.*

*14. A Traffic Impact Analysis, if required by Chapter 14.45.*

*15. Other materials that the applicant believes relevant or that may be required by the city.*

The applicant has provided the requisite information. This requirement is met.

- (b) *NMC Section 14.48.010(B). The tentative plan of a land division shall be drawn such that the dimensions can be verified with the standard tick marks depicted on an Engineer's or Architects scale.*

The site plan has been drawn using an architect's scale. This requirement is met.

- (c) *NMC Section 14.48.010(C). The following general information shall be shown on the tentative plan of the land division:*

*1. If a subdivision, the proposed name of the subdivision. This name shall not duplicate or resemble the name of another subdivision in the county and shall be approved by the Planning Commission.*

*2. Date, northpoint, and scale of the drawing.*

*3. Appropriate identification of the drawing as a tentative plan.*

*4. Location of the property being divided sufficient to define its location and boundaries, and a legal description of the entire property being divided.*

*5. Names and addresses of the owner, the applicant if different from the owner, and the engineer and/or surveyor.*

*6. The following existing conditions shall be shown on the tentative plan:*

*a. The location, widths, and names of existing streets and undeveloped rights of way within or adjacent to the tract, any existing easements, and other important features such as section lines, section corners, city boundary lines, and monuments.*

*b. Contour lines related to some established bench mark or other datum approved by the city and having minimum intervals as follows:*

*i. For slopes of less than 5 percent: show the direction of slope by means of arrows or other suitable symbols, together with not less than four (4) spot elevations per acre, evenly distributed.*

*ii. For slopes of 5 percent to 15 percent: five (5) feet.*

*iii. For slopes of 15 percent to 20 percent: 10 feet.*

*iv. For slopes of over 20 percent: 20 feet.*

*c. The location and direction of water courses and the location of areas subject to flooding.*

*d. Natural features such as wetlands, tidelands, marshes, or any natural resource identified as a protected Statewide Land Use Planning Goal 5 or Goal 17 resource on maps adopted by the city shall be identified. Other features, such as rock outcroppings, wooded areas, and isolated trees that serve as the basis of any requested modifications to the land division standards shall also be identified.*

*e. Existing uses of the property and location of existing structures to remain on the property after platting.*

*f. The location within the land division and in the adjoining streets and property of existing sewers, water mains, culverts, drain pipes, and utility lines.*

*7. The following information shall be included on the tentative plan of a subdivision.*

*a. The location, width, names, approximate grades, and radii of curves of proposed streets and the relationship of proposed streets to streets shown in the Transportation System Plan. Streets in existing adjacent developments and approved subdivisions and partitions shall also be shown, as well as potential street connections to adjoining undeveloped property.*

*b. The location, width, and purpose of proposed easements.*

*c. The location and approximate dimensions of proposed lots and the proposed lot and block numbers.*

*d. Proposed sites, if any, allocated for purposes other than single-family dwellings.*

The applicant's site plan (Attachment "E") and zoning map (Attachment "F") contain the requisite information. This requirement has been met.

- (d) NMC Section 14.48.010(D). *If the land division proposal pertains to only part of the property owned or controlled by the owner or applicant, the city may require a sketch of a tentative layout for streets in the undivided portion.*

As noted in the "Public Record Report for New Subdivision or Land Partition" from Western Title (Attachment "D"), the entire property is owned by the applicant. This requirement is met.

- (e) NMC Section 14.48.020, Blocks.

*A. Blocks created in land divisions shall be consistent with the standards in Table 14.48.020-A. Modifications to the standards may be made by the approving authority pursuant to the standards in Chapter 14.33 if the street is adjacent to an arterial street, the location of adjoining streets, or other constraints identified in Section 14.33.100 justify the modification.*

*B. Mid-block pedestrian and bicycle connections must be provided when the block length exceeds 300 feet to ensure convenient access for all users. Midblock pedestrian and bicycle connections must be provided on a public easement or right-of-way every 300 feet, unless*



*the connection is impractical due to topography, inadequate sight distance, high vehicle travel speeds, lack of supporting land use, or other factors that may prevent safe crossing; or a rational nexus to the proposed development is not established and the connection is not roughly proportional to the impacts created by the proposed land division.*

The applicant's proposal will not create any new subdivision blocks.

(f) NMC Section 14.48.025(A), Easements.

*A. Utility Lines. Easements for sewers and water mains shall be dedicated to the city wherever a utility is proposed outside of a public right-of-way. Such easements must be in a form acceptable to the city. Easements for electrical lines, or other public utilities outside of the public right-of-way shall be dedicated when requested by the utility provider. The easements shall be at least 12 feet wide and centered on lot or parcel lines, except for utility pole tieback easements, which may be reduced to six (6) feet in width.*

The service confirmation letters from the City Engineer (Attachment "G"), Central Lincoln PUD (Attachment "H") and Century Link (Attachment "I") indicate that services are available within the NW Nye Street right-of-way. Easements should not be needed. If in the course of construction there is an identified need for an easement, then the easement can be depicted and dedicated on the final plant. This requirement is met.

(g) NMC Section 14.48.025(B), Utility Infrastructure. *Utilities may not be placed within one foot of a survey monument location noted on a subdivision or partition plat.*

As noted above, there should not be a need for new utilities to be installed.

(h) NMC Section 14.48.025(C), Water Course. *If a tract is traversed by a water course such as a drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of the water course, and such further width as will be adequate for the purpose. Streets or parkways parallel to the major water courses may be required.*

The property is not traversed by a water course.

(i) NMC Section 14.48.030(A), Size. *The size (including minimum area and width) of lots and parcels shall be consistent with the applicable lot size provisions of the Zoning Ordinance, with the following exception:*

*Where property is zoned and planned for business or industrial use, other widths and areas may be permitted at the discretion of the Planning Commission. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.*

As shown on the applicant's site plan (Attachment "E"), each new townhouse lot meets the applicable dimensional requirements in the R-2 zoning district. The subject property is not

zoned or planned for business or industrial use. This requirement is met.

- (j) NMC Section 14.48.030(B), Street Frontage. *Each lot and parcel shall possess at least 25 feet of frontage along a street other than an alley.*

As shown on the applicant's site plan (Attachment "E"), each lot has at least 25 feet of frontage along NW Nye Street. This requirement is met.

- (k) NMC Section 14.48.030(C), Through Lots and Parcels. *Through lots and parcels are not allowed. Modifications may be made by the approving authority where they are essential to provide separation of residential development from major traffic arteries or adjacent nonresidential activities or to overcome specific disadvantages of topography and orientation. The approving authority may require a planting screen easement at least 10 feet wide and across which there shall be no right of access. Such easement may be required along the line of building sites abutting a traffic artery or other incompatible use.*

As shown on the applicant's site plan (Attachment "E"), no through lots will be created with this townhouse subdivision. This requirement is met.

- (l) NMC Section 14.48.030(D), Lot and Parcel Side Lines. *The side lines of lots and parcels shall run at right angles to the street upon which they face, except that on curved streets they shall be radial to the curve. Modifications to this requirement may be made by the approving authority where it is impractical to do so due to topography or other conditions or when the efficient layout of the land division has the lines running as close to right angles (or radial) as practical.*

The applicant's site plan shows that all lots run approximately at right angles to NW Nye Street (Attachment "E"). This requirement is met.

- (m) NMC Section 14.48.030(E), Special Setback Lines. *All special building setback lines, such as those proposed by the applicant or that are required by a geological report, which are to be established in a land division, shall be shown on the plat, or if temporary in nature, shall be included in the deed restrictions.*

All applicable setback lines are shown on the applicant's site plan (Attachment "E"). This requirement is met.

- (n) NMC Section 14.48.030(F), Maximum Lot and Parcel Size. *Proposed lots and parcels shall not contain square footage of more than 175% of the required minimum lot size for the applicable zone. Modifications to this requirement may be made by the approving authority to allow greater square footage where topography or other conditions restrict further development potential or where the layout of the land division is designed and includes restrictions to provide for extension and opening of streets at intervals which will permit a subsequent division into lots or parcels of appropriate size for the applicable zone designation.*

There is no minimum lot size for a town house development (NMC 14.31.020(C)). In the

R-2 zoning district, one townhouse is allowed for every 2,500 square feet of lot area. The subject property is approximately 8,712 sq. ft., and the applicant's site plan shows that they will maximize the number of units they are permitted to construct). This requirement is met.

- (o) NMC Section 14.48.030(G), Development Constraints. *No lot or parcel shall be created with more than 50 % of its land area containing wetlands or lands where the city restricts development to protect significant Statewide Land Use Planning Goal 5 or Goal 17 resources, except that areas designated as open space within a land division may contain up to 100% of a protected resource. Modifications to this requirement may be made by the approval authority if the approval authority determines that the proposed lot or parcel contains sufficient land area to allow for construction on the lot or parcel without impacting the resource or that a variance or other permit has been obtained to allow for impacts on the identified resource.*

No wetlands or other Goal 5 or Goal 17 resources have been identified on the subject site. This requirement is met.

- (p) NMC Section 14.48.030(H), Lots and Parcels within Geological Hazard Areas. *Each new undeveloped lot or parcel shall include a minimum 1000 square foot building footprint within which a structure could be constructed and which is located outside of active and high hazard zones and active landslide areas (See NMC Chapter 14.21 for an explanation of hazard zones). New public infrastructure serving a lot or parcel shall similarly be located outside of active and high hazard zones and active landslide areas.*

The subject property is not within a Geologic Hazard Area. This requirement is met.

- (q) NMC Section 14.48.035(A)(1), Streets. *All streets, including alleys, within the land division, streets adjacent but only partially within the land divisions, and the extension of land division streets to the intersecting paving line of existing streets with which the land division streets intersect, shall be constructed in accordance with the standards set forth in Chapter 14.44. Street width standards may be adjusted subject to the provisions of Section 14.33.070.*

Project compliance with relevant standards contained in NMC Chapter 14.44 have been addressed earlier in the report. This requirement will be met.

- (r) NMC Section 14.48.035(A)(2) Surface Drainage and Storm Sewer System. *Drainage facilities shall be provided within the land division and to connect the land division drainage to drainage ways or storm sewers outside the land division. Design of drainage within the land division shall consider the capacity and grade necessary to maintain unrestricted flow from areas draining through the land division and to allow extension of the system to serve such areas.*

The service confirmation letter from the City Engineer indicates that drainage from the project can be directed to the structured storm drainage system along NW Nye Street

(Attachment "G"). This would require the construction of weep holes in a replacement curb along the property frontage. Storm inlets would be required to rain the parking lot into the public, structured system. This can be accomplished concurrent with the construction of the townhouses. As conditioned, this requirement has been met.

- (s) NMC Section 14.48.035(A)(3), Sanitary Sewers. *Sanitary sewers shall be installed to serve each lot or parcel in accordance with standards adopted by the City, and sewer mains shall be installed in streets as necessary to connect each lot or parcel to the city's sewer system.*

The service confirmation letter from the City Engineer (Attachment "G"), indicates that sanitary service is available from an 8-inch or 15-inch concrete sanitary sewer mains along NW Nye Street. Services must be installed to each townhouse lot before the final plat is recorded. As conditioned, this requirement is met.

- (t) NMC Section 14.48.035(A)(4), Water. *Water mains shall be installed to allow service to each lot or parcel and to allow for connection to the city system, and service lines or stubs to each lot shall be provided. Fire hydrants shall be installed as required by the Uniform Fire Code. The city may require that mains be extended to the boundary of the land division to provide for future extension or looping.*

The service confirmation letter from the City Engineer (Attachment "G"), indicates that water service is available from 6-inch water main on the east side of NW Nye Street. Services must be installed to each townhouse lot before the final plat is recorded. As conditioned, this requirement is met.

- (u) NMC Section 14.48.035(A)(5), Sidewalks. *Sidewalks. Required sidewalks shall be constructed in conjunction with the street improvements except as specified below:*

*a. Delayed Sidewalk Construction. Where sidewalks are designed contiguous with the curb in residential areas, the subdivider may delay the placement of concrete for the sidewalks until such time as driveway aprons are established and constructed on individual lots. In such cases, sidewalks shall be installed and accepted by the city engineer prior to issuance of a certificate of occupancy.*

Sidewalk that will need to be constructed at this location cannot be built curb tight per the transportation standards of NMC Chapter 14.44; therefore, a deferred sidewalk improvement agreement is not permitted. Sidewalk improvements will need to be completed prior to the recording of the final plat.

- (v) NMC Section 14.48.035(B), Public Improvement Procedures.

*B. Public Improvement Procedures. In addition to other requirements, public improvements installed by a developer that is dividing land, whether required or voluntarily provided, shall comply with this chapter, and with any public improvement standards or specifications adopted by the city. The following procedure shall be followed:*

*1. Improvement work, including excavation in the excess of 100 cubic yards, shall not be commenced until plans have been checked for adequacy and approved by the city. To the extent necessary for evaluation of the proposal, the plans shall be required before approval of the tentative plan of a subdivision or partition.*

*2. Improvement work shall not commence until after the city is notified, and, if work is discontinued for any reason, it shall not be resumed until after the city is notified.*

*3. Public improvements shall be constructed under the inspection and to the satisfaction of the city engineer. The city may require change in typical sections and details in the public interest if unusual conditions arise during construction to warrant the change.*

*4. Underground utilities, sanitary sewers, and storm drains installed in streets shall be constructed prior to the surfacing of the streets. Stubs for service connection for underground utilities and sanitary sewers shall be placed to allow future connections without disturbing the street improvements.*

*5. A map showing public improvements as built shall be filed with the city upon completion of the improvements.*

*6. Public improvements shall not be commenced until any appeals of the subdivision approval are resolved.*

The scope of public improvements with this project is likely to be limited to the installation of sidewalk, curb, the closure of a driveway approach and the reconstruction of the other approach. Minor utility improvements may be needed where the applicant connects to public utilities. This requirement can be met.

*(w) NMC Section 14.48.040, Adequacy of Public Facilities and Utilities.*

*A. Tentative plans for land divisions shall be approved only if public facilities and utilities (electric and phone) can be provided to adequately service the land division as demonstrated by a written letter from the public facility provider or utility provider stating the requirements for the provision of public facilities or utilities (electric and phone) to the proposed land division:*

*B. For public facilities of sewer, water, storm water, and streets, the letter must identify the:*

*1. Water main sizes and locations, and pumps needed, if any, to serve the land division.*

*2. Sewer mains sizes and locations, and pumping facilities needed, if any, to serve the land division.*

*3. Storm drainage facilities needed, if any, to handle any increased flow or concentration of surface drainage from the land division, or detention or retention*

*facilities that could be used to eliminate need for additional conveyance capacity, without increasing erosion or flooding.*

*4. Street improvements outside of the proposed development that may be needed to adequately handle traffic generated from the proposed development.*

The service confirmation letter from the City Engineer (Attachment "G"), indicates that the City's water, wastewater, and storm drainage facilities are adequate to the proposed land division. As previously noted, the street is also adequate with the exception of the sidewalks, which will need to be replaced. This requirement is met.

- (x) NMC Section 14.48.045(A), Underground Utilities and Service Facilities, Undergrounding. *All utility lines within the boundary of the proposed land divisions, including, but not limited to, those required for electric, telephone, lighting, and cable television services and related facilities shall be placed underground, except surface-mounted transformers, surface-mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, high capacity electric and communication feeder lines, and utility transmission lines operating at 50,000 volts or above. The subdivider shall make all necessary arrangements with the serving utility to provide the underground service.*

Compliance with this requirement can be addressed with a condition of approval.

- (y) NMC Section 14.48.45(B), Underground Utilities and Service Facilities, Non-City-Owned Utilities. *As part of the application for tentative land division approval, the applicant shall submit a copy of the preliminary plat to all non-city-owned utilities that will serve the proposed subdivision. The subdivider shall secure from the non-city-owned utilities, including but not limited to electrical, telephone, cable television, and natural gas utilities, a written statement that will set forth their extension policy to serve the proposed land division with underground facilities. The written statements from each utility shall be submitted to the city prior to the final approval of the plat for recording.*

Service provider letters from non-city-owned utilities (Central Lincoln PUD and Century Link) are included in Attachments "H" and "I". Both confirmed that they can support the development and the steps required to obtain service. This requirement is met.

## OVERALL CONCLUSION

Based on the staff report, the application material, and other evidence and testimony in the record, the Planning Commission concludes that the request as presented in the application materials complies with the criteria established for approval of a tentative subdivision plan, and the request is hereby **APPROVED** with the conditions listed below.

1. Approval of this tentative subdivision plat is based on the submitted written narrative and plan listed as attachments to the staff report. No use shall occur under this permit other than that

which is specified within these documents. It shall be the responsibility of the applicant/property owner to comply with these documents and the limitations of approval described herein.

2. Each townhouse unit shall be served by separate utilities that are to be installed and available for connection prior to recording of the final plat (NMC 14.31.020(G) and 14.48.035(A)).

3. The entryway of each townhouse unit shall be recessed a minimum of 3-feet (NMC 14.31.040(A)(2)).

4. A minimum of 15 percent of the area of each townhouse unit's street-facing facade shall include windows or entrance doors (NMC 14.31.040(A)(3)).

5. The applicant shall provide the Community Development Director with copies of any deed restrictions, covenants and conditions, and joint maintenance agreement applicable to shared parking or other common areas within the townhouse development. Such documents shall be approved by the City Attorney prior to the final plat being recorded (NMC 14.31.080 and NMC 14.46.050).

6. The property owner shall record a joint use easement (or equivalent) with the deed of each of the resulting townhouse lot allowing joint use and cross access between adjacent properties. The owners of the properties agreeing to joint use of the driveway shall record a joint maintenance agreement with the deeds, defining the maintenance responsibilities of the owners. A fully executed copy of the agreement shall be provided to the City prior to recording of the final plat (NMC 14.46.050).

7. The applicant shall construct the following public improvements prior to the recording of the final plat:

A. Remove the southernmost driveway approach, and rebuild the northern driveway approach. The new approach shall be constructed in concrete (NMC 14.46.020, 14.46.030(D), and 14.46.030(S)); and

B. Replace the existing sidewalk along the project's NW Nye Street frontage with a new concrete walkway that is at least six feet in width. The new concrete sidewalk is to be separated from the curb by a three foot landscape strip (NMC 14.44.060(I)); and

C. If storm runoff from the townhouse units and parking area is to be directed to the structured storm drainage system in NW Nye Street, then the applicant shall replace the existing curb along the property frontage so as to accommodate weep holes to convey run-off for each of the units. Storm inlets and drain lines tying into the public system will be required if run-off from the parking area is to be directed to the street (NMC 14.48.035(A)(2)).

8. Public improvements are to be designed and built to design standards adopted by the City, unless an alternative is approved by the City Engineer. A right-of-way permit shall be obtained from the Public Works Department before work is initiated, and the public improvements shall be

constructed under the inspection and to the satisfaction of the City Engineer (NMC 14.46.020 and 14.46.030(C)).

9. All utility lines within the boundary of the proposed land divisions, including, but not limited to, those required for electric, telephone, lighting, and cable television services and related facilities shall be placed underground, except surface-mounted transformers, surface-mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, high capacity electric and communication feeder lines, and utility transmission lines operating at 50,000 volts or above. The subdivider shall make all necessary arrangements with the serving utility to provide the underground service (NMC 14.48.045(A)).

10. Installation of public improvements, including excavation in the excess of 100 cubic yards, shall not occur until plans have been checked for adequacy and approved by the City, and shall not be commenced until after the City is notified (NMC 14.48.035(B)).

11. A final plat shall be submitted within two years of the tentative plat (i.e. concept map) approval. The developer shall finalize the survey, secure the signatures on the plat from all impacted owners, and prepare necessary conveyance documents to ensure that the lot configuration, ownership, and rights-of-way are established as illustrated on the tentative plat. The final plat shall be in conformance with the approved tentative plan, this chapter, ORS Chapter 92, and standards of the Lincoln County Surveyor.



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

<b>IN THE MATTER OF PLANNING COMMISSION FILE</b>	)	
<b>NO. 1-PD-24/2-PD-24/1-SUB-24/2-TIA-24, APPLICATION FOR</b>	)	
<b>MODIFICATION OF THE PRELIMINARY DEVELOPMENT</b>	)	<b>FINAL</b>
<b>PLAN, FINAL DEVELOPMENT PLAN, TENTATIVE SUBDIVISION</b>	)	<b>ORDER</b>
<b>PLAT, AND TRAFFIC IMPACT ANALYSIS FOR “REMAINDER</b>	)	
<b>PHASE” OF WILDER, AS SUBMITTED BY BONNIE SERKIN,</b>	)	
<b>LANDWAVES INC. (OWNER), PETER ANDERSON, DOWL,</b>	)	
<b>(AUTHORIZED REPRESENTATIVE)</b>	)	

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**ORDER APPROVING** an amendment to the Wilder Preliminary Development Plan and a Final Development Plan, Traffic Impact Analysis, and Tentative Subdivision Plat for the portion of the Wilder Planned Development previously identified as the “remainder lot”, located east of SE Harborton Street. Amendments to the overall Wilder Planned Development alter the fence height standards such that 42 inch high fences will be allowed in the front yard, with a height limit of 72 inches for side and rear yards. Further modifications are proposed to alter the clear vision requirements at street intersections throughout Wilder, allowing 42” fences within the vision triangle except for those certain lots which fall within the clear vision triangle area adjacent to SE Harborton St. This application also modifies the previously approved ADU standards (#3-PD-15) to defer to the city’s adopted ADU code standards. Lastly, expansion of SE Harborton Street to the southeast extent of Wilder is proposed to accompany “future development” instead of the development of Phase 3, Lot 48.

The Final Development Plan, Traffic Impact Analysis, and Tentative Subdivision Plat for the “remainder lot” will facilitate construction of 56 single family dwellings and 20-30 multi-family housing units. Buildings will be oriented to face new streets and are designed to avoid steep slopes that are present along the eastern boundary. Three (3) open space tracts - which will contain a City park and multi-use paths – are also proposed, along with the expansion of SE 43rd and SE 46th Streets and the creation of new “Hillside” Streets and urban alleys.

**WHEREAS:**

- 1.) The Planning Commission has duly accepted the application filed consistent with the Newport Zoning Ordinance (NZO) (No. 1308, as amended); and
- 2.) The Planning Commission has duly held a public hearing on the request for the final development plan modification, with a public hearing a matter of record of the Planning Commission on October 14, 2024; and

- 3.) At the public hearing on said application, the Planning Commission received evidence and recommendations from the applicants, interested persons, and Community Development (Planning) Department staff; and
- 4.) At the conclusion of said public hearing, after consideration and discussion, the Planning Commission, upon a motion duly seconded, approved the request to modify the Preliminary Final Development Plan, Final Development Plan, Tentative Subdivision Plat, and Traffic Impact Analysis with conditions of approval.

**THEREFORE, LET IT BE RESOLVED** by the City of Newport Planning Commission that the attached findings of fact and conclusions (Exhibit "A") are adopted in support of approval of this request:

- A. Conditions from prior City approvals of the Wilder planned development remain in effect, except as modified herein.
- B. Approval of these land use permits is based on the submitted written narrative and plans listed as Attachments and Appendices to the staff report. No use shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the applicant/property owner to comply with these documents and the limitations of approval described herein.
- C. For the multi-family development, at least one accessible pedestrian route, no more than 150-feet in length, shall be provided between an accessible building and the enclosure to ensure adequate access for disabled persons. Such route shall conform to design standards listed in the Oregon structural specialty code (NMC 14.11.060(C)).
- D. Applicant shall provide a vehicle turn around at the terminal end of Urban Alley C so that ingress/egress to proposed Lots 35, 36 and 37 can be accomplished without the need for vehicles to backup or utilize the adjacent multi-use path (NMC 14.35.100(D) and (J)).
- E. Mailboxes shall be placed in a manner that does not obstruct sidewalks or narrow them below the approved minimum sidewalk width (NMC 14.44.060(I)).
- F. Bollards or similar barriers shall be installed at the south end of Urban Alley C and other locations where the multi-use path intersects with streets to prevent vehicles from accessing the pathways (NMC 14.44.060(P))
- G. The peak height of any structure on Lots 1-56 of this Final Development Plan shall not exceed 35-feet (NMC 14.35.070(J) and 14.46.030(K)).
- H. ADA complaint crossings shall be constructed at the intersections of SE Harborton Street and the proposed extension of SE 43rd and SE 46th Streets. Further, ADA compliant crossing are to be installed at the access points to the multi-family parking area (NMC 14.46.030(T))
- I. Applicant/owner may modify the alignment of the pathways in response to terrain constraints and user needs provided the scope of improvements is consistent with the natural trail design concepts in the Wilder "Kit of Parts." Once the trail is complete, and the improvements are accepted by the

City Engineer, then the tracts shall be dedicated to the City of Newport so that they can be maintained as part of the public trail system.

- J. Public improvements are to be designed and built in accordance with the approved Wilder “Kit of Parts” or City of Newport design standards, as applicable, unless an alternative approach is authorized by the City Engineer. A right-of-way permit shall be obtained from the Public Works Department before work is initiated, and the public improvements shall be constructed under the inspection and to the satisfaction of the City Engineer. All public improvements shall be accepted by the City Engineer prior to approval of the final plat for recording, unless an improvement agreement is executed (NMC 14.46.020, 14.46.030(C), and NMC 14.48.060(C)).
- K. Applicant shall modify the design of the proposed utilities to address comments provided by Peter Coffman, HHPR, on behalf of the City of Newport, in an email dated September 18, 2024 (NMC 14.48.040).
- L. Fire hydrants are to be placed in the locations identified in the mark-up set of the Conceptual Development Plan included with comments provided by Peter Coffman HHPR, dated 9/18/23.
- M. Extension of SE Harborton Street need not occur with the development of Wilder Phase 3, Lot 48 provided access to Lot 48 can be obtained from SE College Way.
- N. Installation of public improvements, including excavation in the excess of 100 cubic yards, shall not occur until plans have been checked for adequacy and approved by the City, and shall not be commenced until after the City is notified (NMC 14.48.035(B)(1)).
- O. Underground utilities, sanitary sewers, and storm drains installed in streets shall be constructed prior to the surfacing of the streets. Stubs for service connection for underground utilities and sanitary sewers shall be placed to allow future connections without disturbing the street improvements (NMC 14.48.035(B)(4)).
- P. A map showing public improvements “as-builts” shall be filed with the city upon completion of the improvements (NMC 14.48.035(B)(5)).
- Q. All utility lines within the boundary of the proposed land divisions, including, but not limited to, those required for electric, telephone, lighting, and cable television services and related facilities shall be placed underground, except surface-mounted transformers, surface-mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, high capacity electric and communication feeder lines, and utility transmission lines operating at 50,000 volts or above. The subdivider shall make all necessary arrangements with the serving utility to provide the underground service (NMC 14.48.045(A)).
- R. Utilities shall not be placed within one foot of a survey monument location noted on a subdivision or partition plat (NMC 14.48.025(B)).

- S. Upon completion of street improvements, the applicant shall ensure that monuments are reestablished and protected in monument boxes at every street intersection and all points of curvature and points of tangency of street center lines (NMC 14.48.055(C)).
- T. A final plat shall be submitted within two years of the tentative plat (i.e. concept map) approval. The developer shall finalize the survey, secure the signatures on the plat from all impacted owners, and prepare necessary conveyance documents to ensure that the lot configuration, ownership, and rights-of-way are established as illustrated on the tentative plat. The final plat shall be in conformance with the approved tentative plan, this chapter, ORS Chapter 92, and standards of the Lincoln County Surveyor (NMC 14.48.060(A)).

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

Accepted and approved this 28<sup>th</sup> day of October, 2024.

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Bill Branigan, Chair  
Newport Planning Commission

Attest:

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

## EXHIBIT "A"

**File No. 1-PD-24/2-PD-24/1-SUB-24/2-TIA-24**

### **FINDINGS OF FACT**

1. **APPLICANT:** Bonnie Serkin, Landwaves, Inc. (owner), Peter Anderson, DOWL (authorized representative).
2. **REQUEST:** File No. 1-SUB-24: Approval of a tentative subdivision plan for the portion of the Wilder Planned Development previously identified as the “remainder lot”, located east of SE Harborton Street, to facilitate construction of 56 single family dwellings and 20-30 multi-family housing units. Buildings will be oriented to face new streets and are designed to avoid steep slopes that are present along the eastern boundary.

File No. 1-PD-24: Major modifications to the approved Final Development Plan for Wilder (Case file #2-PD-09, #6-PD-09, #2-PD-10, #2-PD-14, #3-PD-15, #1-PD-18, #1-PD-21). The Final Development Plan proposes detailed development including streets, buildings, landscaping, open space, etc., within the portion identified as the “Remainder Parcel”, located on the east side of SE Harborton Street. This includes the creation of 57 lots within the identified “Remainder Parcel,” of which 56 are single-family residential lots (including 26 narrow lot homes) within the R-2 portion of the site, and one (1) is a multifamily residential lot within the R-3 portion of the site. Three (3) open space tracts - which will contain a City park and multi-use paths – are also proposed, along with the expansion of SE 43rd and SE 46th Streets and the creation of new “Hillside” Streets and urban alleys.

File No. 2-PD-24: Major modifications to the approved Preliminary Development Plan (most recently modified in case file #1-PD-16) seek to alter the fence height standards for all lots within Wilder, including the proposed “Remainder Phase” subdivision. Fence heights are proposed to be 42 inches in the front yard, as defined in the application, and a height of 72 inches for side and rear yards. Further modifications are proposed to alter the clear vision requirements at street intersections throughout Wilder, allowing 42” fences within the vision triangle except for those certain lots which fall within the clear vision triangle area adjacent to SE Harborton St. This application also proposes to modify the previously approved ADU standards (#3-PD-15) to defer to the city’s adopted ADU code standards. Additionally, expansion of SE Harborton Street to the southeast extent of Wilder is proposed to accompany “future development” instead of the development of Phase 3, Lot 48.

File No. 2-TIA-24: Traffic Impact Analysis evaluating the vehicle trips associated with buildout of the above described Final Development Plan.

3. **LOCATION:** The subject property is identified as Tax Lot 00100 of Lincoln County Assessor’s Tax Map 11-11-20-00.
4. **LOT SIZE:** Approximately 28 acres.

5. **STAFF REPORT:**

A. **REPORT OF FACTS**

- i. **Plan Designation:** Low Density Residential, High Density Residential, and Commercial.
- ii. **Zone Designation:** R-2/"Medium Density Single-Family Residential", R-3/"Medium Density Single-Family Residential", and C-1/"Retail and Service Commercial".
- iii. **Surrounding Land Uses:** Land uses in the area near the subject property include a mix of developed and undeveloped industrial land, residential zoning that allows for single-family and multi-family uses, a trailer park, a mix of commercial uses, an electric substation facility, South Beach Church (under development to the northwest), Oregon State University student housing (under development to the west), and public uses such as the Oregon Coast Community College (OCCC) Campus and Mike Miller Park.
- iv. **Topography and Vegetation:** The subject property contains a mix of moderately sloped developable areas and steeply sloped drainages. Most of the site is forested.
- v. **Existing Structures:** None.
- vi. **Utilities:** Water, sewer, transportation, natural gas, electrical power, and communications infrastructure is in place along SE Harborton Street to serve the development.
- vii. **Development Constraints:** Portions of the property contain steep slopes. There are also isolated pockets of wetlands, the locations of which have been delineated.
- viii. **Past Land Use Actions:**

File No. 1-PD-23. Amendment to the Final Development Plan for Phase 4 of Wilder Phase 1, to include a single, three-story building with 77 apartment-style student housing residential units along with associated parking, landscaping, and amenities. A nature trail will be dedicated to the City concurrent with development of the proposed project. An adjustment was also approved to the Wilder Planned Development's requirement that 1.3 parking spaces be provided per unit, such that 81 parking spaces be fully improved, with 20 additional spaces being surfaced in gravel, or reinforced turf for use as overflow parking.

File No. 1-PD-21/1-SUB-21. Amendment to the Preliminary and Final Development Plans, and Tentative Subdivision Plat for "Phase 1 of Wilder" Development to reduce the travel lane clear widths for local streets from 24-feet to 20-feet, excluding parking, swales, and sidewalks. This will be accomplished by adding three new types of street sections to the "Kit of Parts" identified as a "20-foot Neighborhood Local Road," a "20-foot Utility Alley," and a "20-foot Hillside Street." A previous approval

mandated 24-foot wide travel lanes and clear widths of 24-feet. Additionally, this decision adjusts approval standards that apply to duplexes and accessory dwelling units so that they comply with recent changes to state law. This Planned Development is approximately 62 acres in size, and while the proposed revisions to the Preliminary and Final Development Plans apply to the entire site, they are most pertinent to undeveloped properties, including those identified as Tax Lots 3200, 3300, and 3900 of Tax Map 11-11-20-AD, Tax Lots 2000 and 2100 of Tax Map 11-11-20-AA, and Tax Lot 100 of Tax Map 11-11-20.

File No. 1-PD-20. Modified the Final Development Plan for Phase 4 of Wilder Phase 1, to include five (5), two-story duplex-style dormitory buildings and a community center with a manager's apartment. The facility will accommodate up to 120 students. The prior concept, approved in 2018 (File No. 1-PD-18), envisioned a single, 63-unit dormitory building with the potential for two additional comparably sized buildings in future phases. The subject property is located at 4030 SE Harborton Street, and is further identified as Tax Lot 01900 of Assessor's Map 11-11 -20-AA. It is legally described as Lot 41 of the Wilder Phase 2 Subdivision Plat. For purposes of the Planned Development, the site is known as Phase 4 of the Preliminary and Final Development Plan for Wilder Phase 1.

File No. 1-PD-18. Modified the final development plan approved by the Newport City Council (File No. 2-CP-16/1-Z-16/1-SUB-16/1 & 2 PD-16) in order to construct a single, multi-family building with 63 sleeping units, 106 parking stalls, and outdoor space for residents. Two additional buildings of comparable size were envisioned as future phases. The previous concept envisioned a cluster of eleven multi-family buildings.

File No. 1-SUB-16/1 & 2 PD-16/2-CP-16/1-Z-16. Revised the Newport Comprehensive Plan Map from "Low-Density Residential" to "High Density Residential" for Phase 4 and Phase 6. This involves approximately 8.1 acres of land. The proposal further revised the Newport Zoning Map for Phase 4 and Phase 6 from R-2/"Medium Density Single-Family Residential" to R-3/"Medium Density Multi-Family Residential." Additionally, the Comprehensive Plan Map was amended from "High Density Residential" to "Low-Density Residential" in the southerly portion of Phase 5. This involves approximately 2.2 acres of land. The Newport Zoning Map for the same southerly portion of Phase 5 was revised from R-3/"Medium Density Multi-Family Residential" to R-2/"Medium Density Single-Family Residential." This amendment also adjusted the range of development in the preliminary and final development plan to reflect inclusion of additional multifamily units in Phase 4 and Phase 6 with corresponding decrease in single-family units. A "Multi-Family: Clustered" architectural style was added to the "Kit of Parts" to describe intended building form and design for student housing in Phase 4. A variance was also granted to the City's parking standard for clustered multifamily residential uses, decreasing required spaces by approximately

13% relative to City code standards. The preliminary development plan was modified to show a revised mix of single-family and multifamily development in future phases east of Harborton Street and 'Day Care' and additional supporting Community Service uses were added as allowed uses in the R-3 Medium-Density Multifamily zone to facilitate colocation of support services for affordable housing residents in Phase 6. Amendments were adopted with Ordinance No. 2103 on September 6, 2016.

File No. 2-PD-15/3-PD-15/1-SUB-15. The preliminary planned development plan was amended to include a change to the zoning district boundary between R-3 Multi-Family Residential and C-1 Commercial zones that expanded the commercial area along the full length of College Way and increased the range of allowed uses in the C-1 zoned Village Center area to include retail sales and services, offices, lodging, community services like churches, educational institutions, and day care. The revised preliminary planned development plan also included a variance to the Zoning Ordinance satellite and shared parking regulations to permit future shared parking arrangements between Village Center users and the Oregon Coast Community College. The range of development anticipated in the preliminary and final planned development plans was amended to reflect completed build-out, current market conditions, and revised predictions and Accessory Dwelling Units (ADUs) were added as a development option in Phases 2-4 subject to conditions approved by Newport Planning Commission. The Final Development Plan included a detailed site design for Phases 2-4, with updated street names and cross-section drawings. New street cross-sections and a micro-cottage development type were added to the "Kit of Parts." Amendments were adopted by final order on June 24, 2015.

File No. 1-PD-14/2-PD-14. A minor amendment to the Preliminary Development Plan and Final Development Plan for Phase 1 of Wilder. Changes to the Preliminary Development Plan were limited to the Village Center commercial area, including authorization for required parking to extend across zoning boundaries when provided on the same lot or parcel as the proposed use and an allowance that on-street spaces count against off-street parking requirements provided the spaces are located within 200-feet of the lot or parcel upon which the use is located. The Final Development Plan included a layout for three commercial buildings in the Village Center. Amendments were adopted by final order on February 11, 2015.

File No. 2-PAR-14. Partitioned property identified as Tax Lot 100 of Lincoln County Assessor's Tax Map 11-11-20 into two separate parcels. Additional right-of-way was also dedicated along College Way and adjacent to Harborton Street. The partition was approved by final order on September 15, 2014.



File No. 1-PD-10/2-PD-10/1-SUB-10. Modified the plans approved in File No. 5-PD-09/6-PD-09/3-SUB-09 by (1) modifying setbacks, (2) revising lot coverage standards, (3) adjusting lot size and densities for commercial and residential uses, (4) updating street, tract and housing category names, and (5) updating the subdivision lot configurations. The number of multi-family units was increased from a maximum of 120 to 150, bringing the total for all Phase 1 dwelling units to 383. The maximum commercial square footage was increased from 25,000 square feet to 36,000 square feet. Amendments were adopted by final order on June 28, 2010.

File No. 5-PD-09/6-PD-09/3-SUB-09. Modified the preliminary planned development plan to refine proposed residential areas, local street and pedestrian circulation patterns, open space and other tracts within sub phases 1A, 1B, and 1C; modified the final planned development plan illustrating the changes requested in File 5-PD-09; modified the tentative subdivision plat showing lots for mixed use and single and multi-family development, as well as various tracts for common open space and other common elements, and dedication of right-of-way and easements for public streets, pathways, and utilities. Amendments were adopted by final order on July 27, 2009.

File No. 1-PD-09/2-PD-09/3-PD-09/1-SUB-09. Modified the preliminary planned development plan to adjust land use designations consistent with Comprehensive Plan and Zoning Map amendments, revised the preliminary plan due to site conditions, and removed a portion of property that was being transferred to an abutting residential property owner; modified the final planned development plan to reflect Comprehensive Plan and Zoning Map amendments and adjusted the boundary and size of the OCCC site; approved the final planned development plan for a portion of Phase 1; and tentative subdivision plan for a portion of Phase 1. Amendments were adopted by Final Order on March 30, 2009.

File No. 4-CP-08/2-Z-08. Modified the zoning designations of the approximate 86 acres annexed in 2007 to allow more flexibility and to reflect the OCCC parcel by Ordinance No. 1968 adopted December 1, 2008.

File No. 5-PAR-07. Partitioned the annexed property so that a portion could be conveyed to OCCC for construction of their central campus by final order adopted September 11, 2007.

File No. 1-AX-07/2-Z-07. Annexed property, which included the subject property, into the City and established zoning to allow the implementation of the South Beach Plan by Ordinance No. 1922 adopted June 18, 2007, and amended by Ordinance No. 1931 adopted August 6, 2007.

File No. 2-PD-07. Approved final development plan for OCCC central campus by final order adopted May 29, 2007.

File No. 1-PD-07. Approved tentative Plan for "South Beach Village"

Phase 1 mixed use development and OCCC central campus by final order adopted May 29, 2007.

File No. 1-CP-06/1-UGB-06/2-CP-06/2-Z-06. (South Beach Neighborhood Plan as adopted in December 2006 by Newport Ordinance No. 1899) (concurrence with Urban Growth Boundary adjustment by Lincoln County Ordinance No. 447 adopted April 18, 2007).

- ix. **Notice:** Public notice of the application and public hearing was mailed to surrounding property owners within 200 feet of the subject property and public entities and agencies on September 16, 2024. Notice of the public hearing was also published in the Lincoln County Leader on October 2, 2024.

- 6. A public hearing was held on October 14, 2024. At the public hearing, the statement of rights and relevance and applicable criteria were read. The Planning Commission disclosed any ex parte contact, conflicts of interest, and/or bias. No objections were made to any of the Planning Commissioners hearing the matter. The Planning Commission received the staff report and took testimony on the application. Minutes from the October 14, 2024 public hearing are hereby incorporated by reference. The Planning Staff Report with Attachments is hereby incorporated by reference into the findings. The Planning Staff Report Attachments included the following:

Attachment "A" – Wilder Preliminary Development Plan, Preliminary Subdivision Plat, and Final Development Plan Modification, by DOWL, dated August 2024

Appendix "1" – Conceptual Development Plan

Appendix "2" – Application Form

Appendix "3" – Wetland Delineation Documents

Appendix "4" – Wilder Kit of Parts

Appendix "5" – Traffic Impact Analysis

Appendix "6" – Geotechnical Report

Appendix "7" – Drainage Design Memorandum

Appendix "8" – Utility Letters

Appendix "9" – Preliminary Title Report

Attachment "B" – Dept. State Lands Approval of Wetland Delineation, 9/26/24

Attachment "C" – Email and comments from HHPR, dated 9/18/23

Attachment "D" – Fire Truck Turning Radius Diagram, submitted 10/8/24

Attachment "E" – Email from Rob Murphy, Fire Chief, dated 10/10/24

Attachment "F" – Public Hearing Notice

- 7. **Explanation of the Request.** The Wilder Planned Development includes three components, a Preliminary Development Plan, a Preliminary Subdivision Plat, and a Final Development Plan. The Preliminary Development Plan applies to all of Wilder. It will be amended in two-ways. First, the applicant wishes to repeal its Accessory Dwelling Unit (ADU) standards approved with File No. 3-PD-15, as they prefer to apply the City's adopted ADU code standards. The other change relates to permissible fence height. Wilder currently relies upon the City's fence height limitations, which limit such structures to 36-inches in front yards and clear vision triangle areas at street intersections. This proposal will allow

a 42-inch maximum fence height in these same areas, except for clear vision triangle area adjacent to SE Harborton Street. The proposal would also establish a 72 inch maximum fence height for side and rear yards. The City does not have a side or rear yard fence height limit.

The applicant's Preliminary Subdivision Plat and Final Development Plan apply to the residentially zoned portions of the Wilder "remainder lot," located east of SE Harborton Street (Tax Lot 11-11-20-00-00100). They intend to construct 56 single family dwellings and 20-30 multi-family housing units. Buildings will be oriented to face new public streets and are designed to avoid steep slopes present along the eastern boundary of the parcel. A Conceptual Development Plan is included as Appendix 1. The new single-family dwellings will be located within the Low Density Residential (R-2) zone, and all multi-family residential buildings will be located within the High Density Residential (R-3) zone. The Retail and Service Commercial (C-1) zoned portion of the property is relatively small, being situated south of SE College Way. That portion of the property is to be dedicated to the City as a public open space and potential location for a future park.

A total of 57 lots will be created, of which 56 are single-family residential lots (including 26 narrow lot homes) within the R-2 portion of the site, and one (1) is a multifamily residential lot within the R-3 portion of the site. Three (3) open space tracts will be created, all of which would be dedicated to the City. Two of the tracts will be developed with a multi-use path that serves the proposed development, and ties into the larger pathway network in Wilder. New public streets will serve the proposed lots. These include the expansion of SE 43rd and SE 46th Streets and the creation of new "Hillside" Streets and urban alleys, the design parameters for which will adhere to the existing approved Wilder "Kit of Parts" (Appendix "4").

Lastly, the applicant is looking to tie the expansion of SE Harborton Street to future phases that will rely upon the road for access, as opposed to Phase 3, Lot 48 where the dog park is currently located. Lot 48 fronts SE College Way, a developed roadway, therefore it may not need to access an "extended" SE Harborton Street.

8. Comments: Written comments were provided by Peter Coffman, PE, with HHPR, a private engineering firm that the City contracts with to perform the engineering review of projects of this nature (Attachment "C"). Chief Rob Murphy, with the Newport Fire Department, reviewed the plans and sent an email confirming the size of the City's fire engines that would respond to this area if called (Attachment "E").

Mr. Coffman was asked to review the plans for any fatal flaws that might necessitate a redesign of the Preliminary Subdivision Plat or Final Development Plan. He notes in his comments that no fatal flaws were identified. He then goes on to identify a number of refinements that should be made to the plan, including the addition of ADA compliant crossings at certain intersections internal to the project, at 43<sup>rd</sup> and Harborton Street, and at 46<sup>th</sup> and Harborton Street. He also identified appropriate fire hydrant locations, potential ADA conflicts between mailboxes and sidewalks, and several minor corrections that will need to be made to the proposed utility system.

Chief Murphy reviewed the fire truck turn radius diagram and was comfortable with it, noting that the City's vehicle is smaller than the one used by the applicant. The Chief did ask that a firm peak building height be set at 35-feet for Lots 1-56, since any structure taller than that would necessitate the use of a ladder truck, which would not be able to navigate the streets serving those lots. He was comfortable with a 45-foot maximum building height for the multi-family units, as the applicant demonstrated that the drive isles adjacent to that portion of the project will be wide enough for the ladder truck to be deployed.

At the public hearing, testimony was received Dan McLaughlin, Newport, addressed the Commission. He asked for confirmation that the new fence standards would not be retroactive and that his preference would be to see the fence height limitations stay the same. Further, Mr. McLaughlin expressed concerns about the additional traffic attributed to the project and that there needed to be another way down the hill in an emergency (i.e. an alternative to SE 40<sup>th</sup>/Harborton). Testimony was also provided by Julie Eckman, Newport, who expressed concerns about parking in the neighborhood in areas where people didn't have room to park in their garages and chose to park on the street.

9. Applicable Criteria: Criteria for approval of a Preliminary Development Plan are listed in NMC Sections 14.35.020, 14.35.030, and 14.35.070 and criteria for Final Development Plans are listed in Section 14.35.100. The criteria for tentative subdivision plat approval are listed in Chapter 14.48 of the Newport Municipal Code, with cross references to Chapters 14.44 and 14.46. Traffic Impact Analysis Standards are listed in NMC Chapter 14.45.
10. Evaluation of the Request: Applicant's draft findings of compliance with the above listed criteria are included with their application (ref: Attachment "A" and listed Appendices). The Planning Commission finds that, on balance, the applicant's findings establish that the approval criteria have been satisfied. Conditions of approval will be needed to ensure that the criteria are met, as outlined below.

The applicant's narrative is unclear as to the extent to which accessible units will be provided in the multi-family component of this Wilder phase. The City added trash enclosure requirements to its Municipal Code that require an accessible route, no more than 150-feet in length, between an accessible building and the enclosure to ensure adequate access for disabled persons (NMC 14.11.060(C)). A condition of approval is included to address the issue. The orientation of the enclosures is such that they will be limited to roll out carts, as there is insufficient drive isle space for the City's franchise hauler to adequately service dumpsters or compactors. The applicant is aware of this limitation.

The overall design of the Preliminary Subdivision Plat and Final Development Plan does an excellent job of addressing the approval criteria. One area where the Commission had concerns though, is the dead-end portion of Urban Alley C, as its design limits access to proposed Lot 35, 36 and 37. It is unclear that these lots can be reasonably accessed by vehicles without the use of a portion of the adjacent multi-use path or having to back out to the intersection of Urban Alley's C and D. The criteria for a final development plan call for accesses to be designed to cause minimum interference with traffic movement on abutting streets (NMC 14.35.100(D)) and that streets are adequate to serve anticipated traffic (NMC 14.35.100(J)). If vehicles have to back down the street or use the multi-use

path to access the lot, then these standards wouldn't be satisfied. A condition of approval is included requiring the applicant provide a means for vehicles to turnaround at the end of this dead-end road. This is a relatively minor adjustment to the layout that will not necessitate the need for further review by the Planning Commission (i.e. it can be addressed on the final plat). On a related note, it is evident that bollards or similar barriers will be needed at the intersection of the alley and the multi-use path, and in other areas where the path intersects with streets, to prevent vehicles from driving onto the pathways. The City's design standards for paths do not anticipate that they will need to accommodate vehicles (NMC 14.44.060(P)). A condition is included to address this issue.

It is possible that the alignment of the multi-use path may need to shift due to terrain constraints. The Planning Commission has recognized this possibility with other decisions involving the Wilder development, and it is appropriate to include a condition of approval authorizing design flexibility when it comes to pathway construction.

Peter Coffman, an engineer with the private consulting firm HHPR, reviewed the application for compliance with the City's public works requirements. He identified a number of issues that will need to be addressed before a final plat is filed. Mailboxes are located in areas where they would constrain the width of sidewalks, impeding movement (NMC 14.44.060(I)). There are also a number of locations where ADA compliant crossings will be needed that are not currently shown on the drawings (NMC 14.46.030(T)). These shortcomings can be readily remedied, and conditions of approval are included addressing both of them. The applicant's drainage design memorandum outlines how the project will meet the City's storm drainage standards (ref: Appendix 7). Mr. Coffman identified some minor changes that will need to be made to that system and other utilities as the project moves forward in design, and a condition of approval addressing the matter is included below.

Mr. Coffman identified suitable locations for fire hydrants as part of his comments. They were reviewed by Chief Murphy, who confirmed that the location and number of hydrants identified would meet their needs. The hydrant locations need to be added to the plan, and a condition of approval is recommended to address that issue. The Fire Chief confirmed that the turn radius diagram provided by DOWL is sufficient to show that the roads and private drives are sized to accommodate their equipment. He did express a concern though that building heights not exceed 35-feet for proposed lots 1-56, and the Commission shares that concern. The City's ladder truck would be required to respond to structures taller than 35-feet, and that vehicle will not be able to navigate the streets that serve those lots. The applicant demonstrated that a ladder truck can navigate the streets and private drive isles serving the multi-family units, so a 45-foot maximum building height is suitable for that portion of the project. A condition of approval addressing the height limitations is included below.

Staff recommended, and the Commission concurs, that additional conditions of approval are needed to ensure that requirements of the City's land division code (NMC Chapter 14.48) that the applicant has indicated they will address, will in fact be satisfied as the project moves forward to construction and the filing of a final plat. Those conditions are listed below.

With respect to public testimony received at the hearing, the Commission carefully considered the applicant's request to increase front yard fence height limits from 36-inches to 42-inches, except at street intersections along SE Harborton Street. These types of limitations are put in place for safety purposes, so that vehicles have adequate line of sight of approaching pedestrians, cyclists or vehicles. The Commission concludes that a 42-inch fence height, in the locations proposed, will not impede line of sight to the point that it is a safety issue. As for the secondary access, the City possesses an emergency access easement over private roads that will allow people to use SE 50<sup>th</sup> Street in the event of an emergency, providing an alternative to SE 40<sup>th</sup> and Harborton. Lastly, while parking congestion can at times be an issue, the Commission is satisfied that the applicant's plans include enough off-street and on-street parking spaces to accommodate anticipated demand.

## OVERALL CONCLUSION

Based on the staff report, the application material, and other evidence and testimony in the record, the Planning Commission concludes that the request as presented in the application materials complies with the criteria established in the Newport Municipal Code for granting a modification to the preliminary development plan, final development plan, traffic impact analysis, and tentative subdivision plat; and the request is hereby **APPROVED** with the conditions listed below.

- A. Conditions from prior City approvals of the Wilder planned development remain in effect, except as modified herein.
- B. Approval of these land use permits is based on the submitted written narrative and plans listed as Attachments and Appendices to the staff report. No use shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the applicant/property owner to comply with these documents and the limitations of approval described herein.
- C. For the multi-family development, at least one accessible pedestrian route, no more than 150-feet in length, shall be provided between an accessible building and the enclosure to ensure adequate access for disabled persons. Such route shall conform to design standards listed in the Oregon structural specialty code (NMC 14.11.060(C)).
- D. Applicant shall provide a vehicle turn around at the terminal end of Urban Alley C so that ingress/egress to proposed Lots 35, 36 and 37 can be accomplished without the need for vehicles to backup or utilize the adjacent multi-use path (NMC 14.35.100(D) and (J)).
- E. Mailboxes shall be placed in a manner that does not obstruct sidewalks or narrow them below the approved minimum sidewalk width (NMC 14.44.060(I)).
- F. Bollards or similar barriers shall be installed at the south end of Urban Alley C and other locations where the multi-use path intersects with streets to prevent vehicles from accessing the pathways (NMC 14.44.060(P))
- G. The peak height of any structure on Lots 1-56 of this Final Development Plan shall not exceed 35-feet (NMC 14.35.070(J) and 14.46.030(K)).

- H. ADA complaint crossings shall be constructed at the intersections of SE Harborton Street and the proposed extension of SE 43<sup>rd</sup> and SE 46<sup>th</sup> Streets. Further, ADA compliant crossing are to be installed at the access points to the multi-family parking area (NMC 14.46.030(T))
- I. Applicant/owner may modify the alignment of the pathways in response to terrain constraints and user needs provided the scope of improvements is consistent with the natural trail design concepts in the Wilder “Kit of Parts.” Once the trail is complete, and the improvements are accepted by the City Engineer, then the tracts shall be dedicated to the City of Newport so that they can be maintained as part of the public trail system.
- J. Public improvements are to be designed and built in accordance with the approved Wilder “Kit of Parts” or City of Newport design standards, as applicable, unless an alternative approach is authorized by the City Engineer. A right-of-way permit shall be obtained from the Public Works Department before work is initiated, and the public improvements shall be constructed under the inspection and to the satisfaction of the City Engineer. All public improvements shall be accepted by the City Engineer prior to approval of the final plat for recording, unless an improvement agreement is executed (NMC 14.46.020, 14.46.030(C), and NMC 14.48.060(C)).
- K. Applicant shall modify the design of the proposed utilities to address comments provided by Peter Coffman, HHPR, on behalf of the City of Newport, in an email dated September 18, 2024 (NMC 14.48.040).
- L. Fire hydrants are to be placed in the locations identified in the mark-up set of the Conceptual Development Plan included with comments provided by Peter Coffman HHPR, dated 9/18/23.
- M. Extension of SE Harborton Street need not occur with the development of Wilder Phase 3, Lot 48 provided access to Lot 48 can be obtained from SE College Way.
- N. Installation of public improvements, including excavation in the excess of 100 cubic yards, shall not occur until plans have been checked for adequacy and approved by the City, and shall not be commenced until after the City is notified (NMC 14.48.035(B)(1)).
- O. Underground utilities, sanitary sewers, and storm drains installed in streets shall be constructed prior to the surfacing of the streets. Stubs for service connection for underground utilities and sanitary sewers shall be placed to allow future connections without disturbing the street improvements (NMC 14.48.035(B)(4)).
- P. A map showing public improvements “as-builts” shall be filed with the city upon completion of the improvements (NMC 14.48.035(B)(5)).
- Q. All utility lines within the boundary of the proposed land divisions, including, but not limited to, those required for electric, telephone, lighting, and cable television services and related facilities shall be placed underground, except surface-mounted transformers, surface-mounted connection boxes and meter cabinets which may be placed above ground,

temporary utility service facilities during construction, high capacity electric and communication feeder lines, and utility transmission lines operating at 50,000 volts or above. The subdivider shall make all necessary arrangements with the serving utility to provide the underground service (NMC 14.48.045(A)).

- R. Utilities shall not be placed within one foot of a survey monument location noted on a subdivision or partition plat (NMC 14.48.025(B)).
- S. Upon completion of street improvements, the applicant shall ensure that monuments are reestablished and protected in monument boxes at every street intersection and all points of curvature and points of tangency of street center lines (NMC 14.48.055(C)).
- T. A final plat shall be submitted within two years of the tentative plat (i.e. concept map) approval. The developer shall finalize the survey, secure the signatures on the plat from all impacted owners, and prepare necessary conveyance documents to ensure that the lot configuration, ownership, and rights-of-way are established as illustrated on the tentative plat. The final plat shall be in conformance with the approved tentative plan, this chapter, ORS Chapter 92, and standards of the Lincoln County Surveyor (NMC 14.48.060(A)).