



# Meeting Notice

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Please note that there will not be a 6:00 p.m. Newport Planning Commission work session meeting held prior to the regular 7:00 p.m. session on **Monday, September 22, 2014.**

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## AGENDA & NOTICE OF PLANNING COMMISSION MEETING

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The Planning Commission of the City of Newport will hold a meeting at **7:00 p.m. Monday, September 22, 2014**, at the Newport City Hall, Council Chambers, 169 SW Coast Hwy., Newport, OR 97365. A copy of the meeting agenda follows.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Peggy Hawker, City Recorder, 541-574-0613.

The City of Newport Planning Commission reserves the right to add or delete items as needed, change the order of the agenda, and discuss any other business deemed necessary at the time of the meeting.

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### NEWPORT PLANNING COMMISSION Monday, September 22, 2014, 7:00 p.m. AGENDA

**A. Roll Call.**

**B. Approval of Minutes.**

1. Approval of the Planning Commission regular meeting minutes of July 28, 2014, and the work session minutes of September 8, 2014.

**C. Citizens/Public Comment.**

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

**D. Consent Calendar.**

**E. Action Items.**

**F. Public Hearings.**

1. File No. 4-CUP-14. Consideration of a request submitted by Great American Yogurt & Food Co, dba Mt. Angel Sausage Co (Jim Hoke) (Chris Minor, authorized representative) (Jack's Seafood, Inc., property owner) per Chapter 14.03.080(18)/ "Water-dependent and Water-related Uses" of the Newport Municipal Code (NMC) for a conditional use permit in order to expand a 200 square-foot restaurant into a 325 square-foot storage area historically used as a smokehouse and for storage of seafood products; and also to expand 247 square feet into the public right-of-way for patio use. Since restaurant uses are permitted outright in a C-2 district, they are allowed in the W-2 district following issuance of a conditional use permit. The property is located at 458 SW Bay Blvd (Assessor's Map 11-11-08-DB; Tax Lot 1800).

**G. New Business.**

**H. Unfinished Business.**

**I. Director Comments.**

**J. Adjournment.**

**Draft Minutes**  
**City of Newport Planning Commission**  
**Regular Session**  
**Newport City Hall Council Chambers**  
**Monday, July 28, 2014**

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

**Commissioners Absent:** Mike Franklin and Gary East (*excused*).

**City Staff Present:** Community Development Director Derrick Tokos and Executive Assistant Wanda Haney.

**A. Roll Call.** Chair Patrick called the meeting to order in the Council Chambers of Newport City Hall at 6:00 p.m. On roll call, Hardy, Berman, Croteau, Patrick, and Branigan were present. Franklin and East were absent, but excused.

**B. Approval of Minutes.**

1. Approval of the Planning Commission regular session meeting minutes of July 14, 2014. Berman and Croteau noted a couple of minor vocabulary corrections.

**MOTION** was made by Commissioner Croteau, seconded by Commissioner Branigan, to approve the Planning Commission minutes as corrected. The motion carried unanimously in a voice vote.

**C. Citizen/Public Comment.** No comments on non-agenda items.

**D. Consent Calendar.**

1. **Final Order for File No. 1-SUB-13:** Final Order approving a subdivision plat initiated by the Newport Urban Renewal Agency (OMSI, Investors XII, LLC, and Dick Murry, property owners) to subdivide portions of Waggoner's Addition to South Beach Subdivision, Harborton Subdivision, and certain unplatted property, as the plat of "Sunset Dunes." The Planning Commission held a public hearing on this matter on July 14, 2014.

Berman said that he thought the Commission voted to approve the subdivision at the last meeting. It was explained to him that tonight's action is to adopt the final order and findings. Tokos said that we want the findings to reflect the public input. That is why they weren't available at the last meeting.

**MOTION** was made by Commissioner Berman, seconded by Commissioner Croteau, to adopt the Final Order approving subdivision File No. 1-SUB-13 as presented. The motion carried unanimously in a voice vote.

Tokos further explained that if the proposal is very straightforward and there is a good chance that nobody will testify, he will draft a final order and findings for the initial meeting. If only the applicant testifies, we don't have to amend the findings; otherwise we would have to adjust them to reflect the testimony. Patrick added that also sometimes our timelines are short. When asked how he would know if nobody will testify, Tokos said if he doesn't have any comments from anybody and it's a modest request then it's likely that no one will. He noted that for this request, we had to send out a lot of notices in South Beach. Also, we had just done the Town Hall meeting. But if it's a small request and just a handful of people received notices and he doesn't hear anything, chances are nobody will show up to the hearing.

**E. Action Items.** No items requiring action.

**F. Public Hearings.** No public hearings.

**G. New Business.** No new business.

**H. Unfinished Business.** No unfinished business.

**I. Director's Comments.**

1. Tokos said that the workforce housing is a go. The City Council voted 5-1 to go ahead with the MOU. There were a number of questions raised; but in the end, the Council was satisfied. The Trust has to get an executive director position filled. Once that is filled, we will move into discussion of the projects. Something that involves Newport property will be vetted through the Planning Commission. Berman asked who will be in charge of expenditures from the revolving loan fund. Tokos explained that it will be

authorized by the City Council who will be looking for a recommendation from the Planning Commission. So it will come through the Planning Commission to provide a recommendation.

2. Tokos noted that the next Nye Beach work group meeting will be August 20<sup>th</sup>. SERA Architecture has been hired, and we are looking at them to provide guidelines on architectural technique as a tool for getting at mass and scale. Questions that came up have been passed along to SERA, and they will meet with the group, then SERA will finalize a recommendation memorandum on the architectural side of things. That will be passed on to the group to work with in getting a recommendation to the Planning Commission.

3. Tokos said that the UGB amendment for the reservoir is final. We are now in the process of pursuing annexation. It will probably hit the Planning Commission in the September or October timeframe. Lincoln County has to finish legalizing Big Creek Road. The legal description for the annexation has to tie to the work they are doing.

4. Tokos noted that medical marijuana is adopted by the City Council. The moratorium will be lifted August 20<sup>th</sup>. There is a business license endorsement process in effect.

5. Tokos noted that the Planning Commission's first meeting in August, the 11<sup>th</sup>, will be cancelled. He said that things will pick up in the fall; but there's not a whole lot moving right now for Planning Commission consideration.

6. Croteau asked if at the City Council meeting, didn't they approve going forward with the electronic sign at the corner of 101 and Hurbert. He asked if that isn't privately funded but will be a city project. Will that be coming through the Planning Commission? Tokos said yes, the City Center folks want an electronic reader sign. It will only come before the Planning Commission if there are modifications to the rules at all; and he doesn't know if there will be any related to this. He noted that we also had the PAC looking at getting an electronic sign in place. It's currently not permitted there because it is in a Public zone. When the electronic message signs went into effect, it was only limited to commercial and industrial zones; we didn't allow them in Public zones. The PAC is pushing to amend that to allow them on the Public zoned property. Patrick said we have one now at the High School. Tokos said yes, the school has had one historically. Berman wondered if they were coordinating in the design with the Chamber. Tokos said yes, but the City Center merchants want a free-standing sign. Berman said that he meant the PAC. He thought that one logical thing on that City Center sign would be performing arts things. Tokos said the PAC is thinking about getting the capability of electronic messaging at their existing monument sign on their property. He is sure they would be looking to get placed on the one on 101. Patrick said the PAC does get events on the Chamber's sign anyway. He's not sure why the Chamber didn't put an electronic reader board on their sign. Tokos said that the Chamber couldn't because they are in a Public zone there. Patrick said that he doesn't see a reason why it wouldn't be allowed just as it is in the other zones; as long as they follow the rules. Berman said he can see why they wouldn't be allowed in residential. Tokos said that those two Public zones stand out, but we do have some Public in areas where you probably wouldn't want to see them. Patrick said maybe we could make it a conditional use in the Public zone. That would allow it to go through a hearing. He said he hoped it wasn't flashing. Tokos said that would change the code. He noted that they are unhappy with the turnover time. He said a lot of folks like these signs and a lot hate them. We established a 5-minute turnover time. The Commission looked at a video from different communities; and it's not about that particular sign, it's more stacking up. We are starting to see a few, and more will pop up as people get the useful life out of their existing signs. They will be looking for something more efficient or what better meets their needs. With five to ten signs stacked up, the turnover has more effect. Patrick said the flashing on the High School sign is kind of annoying, but it's not in a high traffic area. When it's up, the street is blocked off. If you stick that same sign on 101 doing that same thing, he thinks it is a problem. Tokos said that any change in the sign code addressing those issues will come before the Planning Commission.

7. Going back to the annexation, Patrick asked if it was just the city property; and the privately-owned is just in the UGB. Tokos said yes, it's about 310 of the 345 acres. We are taking Big Creek Road. The only private property is on the north side. We have to have the alignment legalized so we know where to call to. Branigan asked if we will be responsible for Big Creek Road. Tokos said at the end of the day, we will be incurring additional costs. The Council has been made aware of that. With getting property, there is a price to pay.

8. Patrick wondered if we need to be concerned about AirBnB that was discussed prior to the meeting. It had been mentioned that there are several Newport locations that show up on there. Tokos said that we can take a look at that website and have a discussion with code enforcement.

**K. Adjournment.** Having no further business to discuss, the meeting adjourned at 6:15 p.m.

Respectfully submitted,

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Wanda Haney  
Executive Assistant

Draft MINUTES  
City of Newport Planning Commission  
Work Session  
Newport City Hall Conference Room A  
September 8, 2014

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

**Citizens Advisory Committee Members Absent:** Suzanne Dalton and Dustin Capri (*both excused*).

**City Staff Present:** Community Development Director (CDD) Derrick Tokos and Executive Assistant Wanda Haney.

**Guest:** Wendy Engler (Nye Beach Design Review Ad Hoc Work Group member).

Chair Patrick called the Planning Commission work session to order at 6:02 p.m. and turned the meeting over to CDD Tokos.

**A. Unfinished Business.**

1. Update on progress of the Nye Beach Design Review Ad Hoc Work Group. Tokos noted that included in the packet was some information about where the ad hoc committee is at. He noted that the two Commissioners who sit on that committee are present; and Wendy Engler, a member of the Ad Hoc Work Group, was also present. Tokos said the group is progressing. There are different points of view and perspectives; as we knew when the group was put together. Tokos said the boundary piece has been more or less addressed; and they have discussed height, mass, and architectural guidelines. SERA Architects were brought in to help the group understand how architectural guidelines can be used to influence the design in Nye Beach. SERA gave a presentation and heard from the group. SERA put their recommendation in a memo, which the group will dig into at their meeting on September 18<sup>th</sup>. Tokos believes that then there will be two to three meetings to formulate the group's recommendation to the Planning Commission. He hopes to mock up something by putting into baskets what can be done near term and what issues come out that we can't handle now but warrant further discussion. Tokos said the work that SERA did has been helpful. It gave the members an understanding of design standards. Tokos said that one thing he can do is bring back a more coherent set of standards so people understand what is being asked of them; not the wholesale changes some people want to see, which will end up in a basket for later on. Tokos said there was discussion to further restrict the size of buildings to force a more cottage-style development as opposed to buildings with larger mass with architectural treatments used historically. Historically you see big and small buildings. What's there today is not what was there in 1920. Part of this is getting our heads around what we see as the character of Nye Beach; it's not what it was in the 20s. It's the aspects of the architecture that are there; including more modern developments such as Archway Place. Croteau asked if SERA will stay with the process. Tokos said this was all they were to do. It was a really targeted piece. If there's another round with another basket, there may be the discussion at the Planning Commission level whether far more detailed analysis is necessary. Then there can be the discussion with the City Council of how to fund it. Franklin noted that historically there have been very large structures in Nye Beach like the Sylvia Beach Hotel and the Nicolai if we do go forward in keeping with the character. He thought that the point system SERA brought up is brilliant if we can capture that where a development has to meet a certain point scale.

Hardy asked if anyone has thought of taking a survey of all property owners. Franklin felt that the side that is for the current guidelines hasn't had a voice yet. That's not the voice we are hearing. Tokos said folks on the other side are the ones that showed up at the public hearing and told the City Council some work needs to be done. Hardy asked if that really represents the people down there and wondered if there had been thought of an outreach. Tokos said that's a good point. It's not been done yet. There's not a current set of questions to be posed. Hardy said with HOAs they try to get everybody to express an opinion even if it's confidential. Franklin said maybe a letter being sent out asking for input from every property owner is a good idea. Tokos said we would have to give some thought of how to do it. Typically you get more feedback when there's structure to what you are asking rather than having it open-ended. He said maybe at a point of time moving forward with the actual changes we can say: "Here is what we did. Here are the near-term recommendations and some long-term needs that we haven't made changes for. What do you think of the near-term recommendations and out of the long-term, what is the most important to you?" Patrick agreed that we have to give them something to look at in order to get their opinions. He said Nye Beach has two separate things running at the same time; commercial and residential needs. Engler thought that because it's mixed-use, some will overlap. Patrick said there are some weird rules that were made, which drives some things in commercial. It is Nye Beach trying for whatever it's trying for. Those that live in the neighborhoods around the commercial are totally on a different page than everyone else. He said that is why he's having a hard time picking out what we can do there. Croteau felt that we need to keep the urban design people involved all the way through. It's an outside opinion, and both sides will respect what they have to say about options. He thought these people did a good job. He suggested maybe keeping them involved.

Franklin also liked SERA's recommendation about a step down with commercial, light commercial, and residential; which is kind of how it's set up but set some boundary that guides that environment in the future. It's not historical Nye Beach where as far as size and mass, they were all over the place. Engler said the most traditional dwelling may have been a tent. Hardy said that she remembers the pup tents and the little Blue Bonnet Cottages. She said it has come a long way so be careful of what you refer to as the character of Nye Beach. It has changed dramatically and has had a wide swing. Branigan asked what percentage of houses there are owner-occupied. Patrick said it's a big district. Branigan said it might not be a vacation rental but just rental units. If you are dealing with commercial versus homeowners, people who own and occupy their homes will have a totally different opinion of what to do. Croteau said we have to listen to them and try for a consensus. Branigan said if it's not owner-occupied, they will just want to maintain what it is. Berman said that in order to get any kind of consensus, you need to have something to start with to discuss. You could talk about the general look and feel, but you have to have something on paper. Hardy added, objective criteria. Berman said have alternatives and have it written down. Croteau agreed, something to respond to; not an open-ended survey. Engler said that one thing that Mike Shoberg did originally was have a visual preference survey. It's a good way to get people thinking about design and do you want this or this. She said that maybe Eric Ridenour could do that. Tokos thought that visuals are critical for design issues. He noted that the work group has been working off visuals all the way.

Tokos said as far as next steps, the work group is meeting again on September 18<sup>th</sup> to go through SERA's memo. At that meeting, the exercise will be to decide what they think we can deal with near-term versus what goes into the longer-term basket. The work group will put together some recommendation in the next couple of meetings to deal with the near-term issues and try to prioritize the long-term into relative priorities; or maybe they will just tell the Commission that the group couldn't come to a consensus on some issues. Tokos will bring that recommendation back to the Planning Commission in a work session. Maybe we can pick up the conversation about at what point a survey would be appropriate, if it's even necessary for the near-term, or maybe just for the long-term as we prepare for the next round. Berman asked what the end product is. Tokos said it will be some changes to our guidelines and code in Nye Beach and the boundary of the district. There will be a zoning map amendment and a package of changes to the Nye Beach design review code. Patrick said the purpose is to get a better set of standards that the Commission can make decisions on. It's a little vague right now. He noted that the Moon Shadow development failed on its own merits. For Archway Place the Commission did a variance for filling in a stairway, but everything else met our standards. With better standards, the developer can make a decision with pretty good certainty of making the project fly. Tokos said some of this is not controversial; it's just cleaning up the code so it's easier to apply. Developers and property owners will know what standards apply and what they need to do for their development. It will put some guidance so when the Planning Commission is faced with something controversial, you'll know how you should be going about deciding it. It will put some meat behind it and be less fuzzy. Tokos said there are bigger issues too. The building mass piece is one of the biggest ones; and he doesn't know if there is a consensus. Franklin said that he agrees that the building owner should be the ones that have a voice in that. Tokos said if we make changes that further restrict the use of their property, we have a legal obligation to notify them. Engler noted that they were contacted for the December hearing. Tokos said if we push forward with changes further restricting the uses or the building size, we will send out notices saying "here is what we are proposing."

Patrick said that he feels the Nye Beach guidelines have made the area viable. Prior to that, in order to build you had to combine lots. If a structure burned down, it was gone. As a side benefit, it made Newport meet the density standards for the state. We are still meeting that because of what they are doing in Wilder. He doesn't want to lose our ability to do that. He thought the guidelines did a good thing down there.

Tokos said the process is going slower than we thought it would. The work group is being deliberate, and everything is being sorted through. Berman asked if in the whole effort is there any relationship between the level of effort and what goes into the "can do right now" list. Is the part we can't get to right now because of content? Tokos said it's both. He said there is some general consensus. There's a level of effort beyond what we can do right now. Others might be more content; and there's just not a consensus. Tokos said it will be how he packages it to the work group so they can deal with it in an organized way and provide feedback up to the Planning Commission. Engler thought that after the meeting on the 18<sup>th</sup>, the group will probably know a lot more and should be able to have a few more ideas of where they want to go from there. Tokos said he is hoping for three meetings for the group to wrap it up and move it on to the Planning Commission.

## **B. New Business.**

1. Grant request for funds to develop strategies for promoting the construction of student housing. Tokos said he is getting requests for quotes out, which are being reviewed by Lincoln County and OSU. This effort is moving forward. It will be targeted. He noted that many of the Commissioners had been involved in the housing work the City did in 2011. He said that 500 students at OSU wasn't on our radar at that time, and it isn't clear what that would mean to our rather limited housing supply (at least rentals). Tokos said that one reason this is being pushed really hard from the County is that they want to get in front of this as OSU faces the Legislature for funding. As they approach the Legislature and are asked how they are dealing with housing, what they would like to be able to say is "here is how." "Here are the targeted areas." In more technical means, we would be developing some map amendments to build inventory and new policies in our Comprehensive Plan. At some point we would

take it through the legislative process. It's not going to happen by November. We are starting from scratch. We can get to the point where we have a draft that could be circulated with the Legislature and formed into a plan later in January.

Patrick asked if this is a research grant to develop strategies. Tokos said the City will hire a consultant like ECO to research what strategies have been used, partnerships being done, and incentives implemented to drive private investment in multiple-family development. He gave an example of Eugene, which waived property taxes for six years for multi-family development. These are things being done to create this kind of housing. Patrick said this is supposed to be student-driven; but the vacancy rate in Newport is zip. Franklin asked if this housing would be dedicated just to students. Tokos thought both student and incentivized multi-family in general. Hardy asked if Tokos knew of any colleges that contracted to pay rents where they guarantee rents and will collect it from the students so you don't have the risk factor perception. Engler asked if these students are going to be graduate students. Croteau said that we need to get the demographics. What's it going to be; mixed, single, married, small families? He suggested talking to the planning department in Pullman. They experienced student increase of 1,000 a year. They did develop pretty good student housing at the edge of the campus. It was private developers in conjunction with the university; there was a partnership. Tokos said that is what this study will explore; a dynamic. Croteau said the planning was good. They had a consolidated parking area, a community center, public transportation, bike racks. They took a holistic look. Somebody looked at it. Some was on university land. Tokos said that can be seen at most of the larger universities. Croteau said they have looked at some mechanism to do this. Patrick said that OSU wants to get what student housing they have now out of the tsunami zone. If it's just for daytime use is not as big a deal.

Franklin wondered where there is any land in Newport for this. Berman said that the City has a buildable lands inventory and asked if the County does. Tokos said probably not as up-to-date as ours. He said but realistically the housing is going to be in the city. Franklin said it makes sense to have it on the South Beach side. East said the Wilder piece is one area. Tokos said that he is pretty sure they will identify that as one of the sites. East asked what ever happened to that 200-unit apartment complex that Slaydon was going to do on NE 35<sup>th</sup> Street. Tokos said that he hasn't heard from them in a while, but that is another area. Branigan said that he assumes OSU isn't building a dormitory. He thought a lot of the students would be undergraduates. Croteau didn't think it was a big enough program to support undergraduates. Branigan said that his niece is among fifty of them that are coming to study at Hatfield. Tokos said that's another question, how long will they be here; a semester at a time or two years. Croteau said you won't get freshmen. Engler said they can't all be in one place. Tokos said, assuming it's university-controlled housing; a dormitory. Hardy said, or they contract with the private sector for income guarantee. Franklin said the Embarcadero would be a good place to house them. Patrick said there would probably be 150-200 professors as well, and those people don't move around. Branigan said some would commute from Corvallis. Tokos said it will take time for them all to get here. Croteau said the more it's centralized, the more there is a need for services in that location. East said that Wilder is the closest thing to that. Landwaves wanted to do apartments, but it just wasn't cost-effective. But, if they were getting some additional student funding, it would make it more so. They are building those micro-small houses at 800-900 square feet a pop. The question was asked about Wilder's commercial area. Tokos said Landwaves is trying to get a coffee shop in where the dog park is at. Engler said if you are thinking outside the box, there could be some really cool development in the city center. It would be like with old warehouses in Seattle. She noted that from the top of the Mazatlan building there are terrific views.

Tokos said there will be an advisory committee pulled together. It would be good to have Planning Commission representation on there. He would like to get at least one. Patrick said that he wouldn't mind being on it. Croteau said that he wouldn't mind as soon as he is finished with the Business License committee. Franklin expressed interest. Tokos put Franklin and Croteau on this committee and hoped that Hardy would consider it from the rental property side.

2. Amendments to Title X of the Newport Municipal Code to allow electronic message signs on Public-zoned property. Tokos noted that this had been kicked down to the Planning Commission from the City Council. Patrick said it started from the downtown wanting to put a message board at the corner there at the intersection by the light, and it was decided that would be a bad place to have a sign with those optics. Now the PAC would like to have something. If so, we would have to make it so these signs can be on Public-zoned property. If the Chamber of Commerce wanted to, they are in a Public zone. Tokos said that is why the Chamber doesn't have one. They updated their sign, but electronic message signs weren't permissible there. Croteau asked what was behind this. Tokos said he didn't think there was a driving desire for it. This context didn't come from the public; it came from Walgreens just asking for it in Heavy Commercial. The Planning Commission said if we tackle this issue, we will open it up to a range of properties, but not others; and specifically not in Nye Beach or the Bay Front, which that part came from the City Council. The general consensus was that it may be a good thing, but the philosophical piece was how to allow these signs. Tokos had taken videos from different jurisdictions showing what it looks like at night so the Planning Commission had a chance to see; especially when considering the timing. The Commission put in 5-minute change time, no flashing or blinking, and off when the business is closed. There were a number of different standards. These signs were also used as an incentive to reduce the height of monument signs, and only one free-standing sign is allowed. So there were some tradeoffs.

Croteau said that he's not thrilled about commercial signs, but he sees public good from informational signs at the PAC and the Chamber. They can't change plywood signs all the time. Advertising what they are offering at the Pac and a summary of the

Chamber events is in the public interest to the citizens and the tourists coming through. He sees it useful to the public for that. Tokos said the City Council did too; and that is why they directed this down. They also recognized that you can use tradeoffs. Tokos said we had 40 different temporary signs for the quilt show. Which raises the question, can we also reduce sign clutter by doing this. With temporary signs, staff needs to be making sure they are not being placed where they obstruct pedestrian traffic or are causing problems for vehicles; which with 40 is a pretty stiff burden.

Franklin asked if the sign at the PAC would be where it is existing. Tokos said probably within the same sign area. He said just visualize a similar border with an electronic board. Franklin wasn't sure he liked it in Nye Beach with the bright light. He said that if you are replacing the sign, make it something more inviting. He suggested something on the front of the PAC like at movie theaters; boxes where they have a poster inside and a reader board below giving the time and dates, and it's out of the elements. He said there's still the question of who is going to maintain it. Tokos said that would have to be sorted out; but he's unsure that has to be resolved for the sign code. This is more time, place, and manner. That is what we are charged with.

Berman said with a sign like Walgreens' in front of the PAC, how do you pare that back and make it Nye Beach specific. What about height and length on other public property like the high school. Can you make those kinds of distinctions? Tokos said that is time, place, and manner. As long as we stay out of content because that would be a violation of free speech. Tokos said it is tricky. You would have to tie it to something you are trying to accomplish in the Nye Beach design review. East said that Walgreens' sign outside of the framework is not really that big. Maybe use a different color for down in Nye Beach. He thinks it's a benefit too.

Engler asked if anyone has seen an alternative to the standard electronic-looking signs; something that you get the changing events but doesn't look so much like a regular electronic sign. Branigan said there are those electronic billboards that use LED lights. Tokos said there is not a whole lot from the industry that shows variation in these electronic message signs. Patrick said a lot of them are like Walgreens' or the LED billboards. There are some other ones that are really old-school black and white signs with chunky-style graphics still floating around. He said that his problem is how much Nye Beach is going to buy into having a lighted sign at the end of Nye Beach without asking first. He can see the Port and the Chamber having them as long as they are not high. The PAC is the one that asked about it; but he wants to ask the residents first. Franklin thought if the sign were against the building, people would pull into the parking lot to investigate and look. Croteau said the corner location is good because of the cross streets. If it were on the building, it would have to be large enough to see.

Tokos said if the Commission is comfortable with the standards put in place for commercial zones already adopted with the specific parameters, it's relatively straightforward to work into an allowance on Public-zoned land and set a hearing and send notices out to Nye Beach specifically. He said specifically for the PAC, you would set parameters for it. Invite the community to come in and testify. Make it clear that no decisions will be made at that meeting. Patrick said that would at least give a starting point. He thought we also need to cover the other bases; one is the PAC, but also the Chamber and the Bay Front. He thought the Port could use a sign listing who's selling what down there as opposed to sandwich boards. They could rent space out on it. Patrick said the other location is the entry signs that Newport has. Croteau said it sounds like we have to revisit it in a broader context. Tokos said a recommendation the Commission may want to send up to the Council that they may want to address contractually rather than in the code is if you have an electronic sign on 101 or 20 frontage, you have to agree to no temporary signs for this event. He would suggest doing it that way as opposed to putting something in the code to control electronic signs for public outreach. It gets convoluted putting it in the code. That is, if this is an option the Commission wants to do. Patrick said maybe with one caveat in the situation of directional signs directing people to where the quilt show is; where the recreational center is. Tokos said it seems like most acting troops put up temporary signs on the highway to advertise their plays. Those would go away. Tokos said there has been some discussion about having an electronic message sign at City Hall. That would be more appropriate than city center. Patrick asked if we also want to make it a conditional use and have a hearing on it before they can put the public ones in. Tokos said it's harder to do a conditional use permit for a sign; you have to have standards. It can't be a discretionary decision. Patrick tried to list the entities he could think of on Public-zoned land and talked about the locations. Tokos said that the school district has to do work on their sign at the high school, so it will be good to have something set up in the code. Croteau thought the Commission should bite the bullet and take a look at all Public-zoned properties. He said we should do it now, or we will be revisiting this time and time again.

Tokos said he can take the existing standards and just expand what has already been allowed in order to extend them to Public zones. Have a public hearing. It will be a change to the Municipal Code, which specifies rules for management of public signs. For the PAC there is a public process on what the design is as opposed to Walgreens. It's not that the City is free to do what it wants to, there is public engagement. That will be for the PAC renovations as well, not only the sign. Patrick asked what would the Port do, and what about the Fairgrounds. Tokos said he would think if it's the Fairgrounds, they would try to have US 20 frontage through a partnership.

Croteau said there also needs to be something about how the entry signs are dealt with. Patrick thought that the one on Highway 20 might be in the highway right-of-way. He talked about the locations of the others. Tokos said that he can take a look at that

and bring that back as part of the package so the Commission has the context. It doesn't affect the rule so much; unless there is a prohibition in the highway right-of-way, in which case we would have to write it in.

Tokos said we will go ahead and bring this forward with a notice of hearing for public outreach and noting that there will be no decision that evening but asking the public to please come and share their thoughts.

**C. Director Comments.** Because there was no regular session, Tokos had some updates he wanted to share during work session. He noted that the City Council approved the street vacation in South Beach. We are going forward with the plat for Sunset Dunes that was raised up at the Commission's last meeting. Negotiations are complete; and the final plat is being prepared for recording. It is moving right along.

Tokos had sent out the notice of a Planning Commission training on September 25<sup>th</sup> in Eugene. He hadn't heard from anyone, so he assumed there was no interest. There were no takers.

Franklin asked if Tokos had heard anything about the FEMA 100-year floodplain from our feedback on the LIDAR. Tokos said he's had no formal feedback. They are working on Nye Beach, they will make some changes on 35<sup>th</sup> Street by Neolha Point, and the state is working on stuff in the Big Creek area. It probably will not come back before they release the plans for public comment. What the Commissioners saw before was for feedback from entities. The preliminary draft for public comment is where the Commissioners comments will be captured.

Regarding a new Urban Renewal District, Tokos said the City just wrapped up conversations with the hospital, the County, and the Port; and will have a conversation with the school district in a couple of weeks. Tokos expects to bring back in October what those conversations were. He said it's been very positive at this point.

Tokos said that we received a TGM grant we submitted for integrating a local improvement districts code with the land use code, making LIDs more meaningful as a way to fund transportation improvements. The City has collected remonstrance agreements where people agreed to participate if ever a district is formed. The City hasn't formed a district of any size for many years. It's pretty much been a lack of knowledge of how they function; the responsibilities and the tracking. TGM agreed to assist the City in updating the codes and providing informational materials for public outreach. They will be taking a couple of areas for case studies for LIDs and work through it so the City could take it and move along. Tokos said it's encouraging. We had \$15 thousand budgeted, and \$65 thousand is provided from the State. He will be meeting with TGM at the start of the next calendar year and will work on specifics.

Tokos said that the beachfront protective structures will probably come back to the Commission in October.

Tokos noted that the Commission does have a public hearing on a conditional use permit scheduled for the second September meeting. There will probably be some work session items as well.

**D. Adjournment.** Having no further discussion, the work session meeting adjourned at 7:05 p.m.

Respectfully submitted,

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Wanda Haney  
Executive Assistant

## Derrick Tokos

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**From:** Kevin Greenwood <[kgreenwood@portofnewport.com](mailto:kgreenwood@portofnewport.com)>  
**Sent:** Wednesday, September 17, 2014 4:56 PM  
**To:** Derrick Tokos; 'Chris Torp'; 'Gary Ripka'; 'Janet Webster'; 'Mike Pettis'; 'Laura Anderson'  
**Cc:** Wanda Haney  
**Subject:** RE: Mt Angel Sausage Co Conditional Use Permit

Looks good from my scan.

Kevin Greenwood  
(541) 265-7758  
(503) 812-6804 Cell

**From:** Derrick Tokos [<mailto:D.Tokos@NewportOregon.gov>]  
**Sent:** Wednesday, September 17, 2014 4:50 PM  
**To:** 'Chris Torp'; Kevin Greenwood; 'Gary Ripka'; 'Janet Webster'; 'Mike Pettis'; 'Laura Anderson'  
**Cc:** Wanda Haney  
**Subject:** Mt Angel Sausage Co Conditional Use Permit

Good afternoon everyone,

On Monday, the Planning Commission will consider a Conditional Use Application from Mt Angel Sausage Company to expand the restaurant/retail use at the corner of Fall Street and Bay Boulevard. The Bay Front Parking District Ordinance calls for this type of application to be forwarded to the parking district for potential comment on parking issues.

Please take a look at this and direct any comments you may have to my attention via email or letter and I'll hand deliver them to the Commission on Monday evening. You are also welcome to attend the hearing. It will be held at 7:00 pm here at City Hall.

The parking impacts discussion starts on page 7 of the staff report. Given the modest size of the expansion I have advised the Commission that the additional demand for off-street spaces is covered by the five (5) spaces Mt Angel receives "gratis" with the business license surcharge that they pay for being in the parking district.

Also, as an FYI to everyone, the City Council appointed Laura Anderson to fill the vacancy on the parking district.

Welcome aboard Laura!

Thanks,

Derrick I. Tokos, AICP  
Community Development Director  
City of Newport  
169 SW Coast Highway  
Newport, OR 97365  
ph: 541.574.0626  
fax: 541.574.0644  
[d.tokos@newportoregon.gov](mailto:d.tokos@newportoregon.gov)

## PLANNING STAFF REPORT

### Case File No. 4-CUP-14

- A. **APPLICANT:** Great American Yogurt & Food Co, dba Mt. Angel Sausage Co (Jim Hoke) (Chris Minor, authorized representative) (Jack's Seafood, Inc., property owner).
- B. **REQUEST:** Approval per Chapter 14.03.080(18)/"Water-dependent and Water-related Uses" of the Newport Municipal Code (NMC) for a conditional use permit in order to operate a 526 sq. ft. restaurant, with an additional 247 sq. ft. of outdoor patio space in the W-2 zoning district. Since a restaurant use is a use that is permitted outright in a C-2 district, it is allowed in the W-2 district following issuance of a conditional use permit.
- C. **LOCATION:** 460 SW Bay Blvd.
- D. **LEGAL DESCRIPTION:** Lincoln County Assessor's Tax Map 11-11-08-DB, Tax Lot 1800.
- E. **LOT SIZE:** Approximately 3,484.8 sq. ft. per Lincoln County Tax Assessor records.
- F. **STAFF REPORT**
1. **REPORT OF FACT**
- a. **Plan Designation:** Yaquina Bay Shoreland.
- b. **Zone Designation:** W-2/"Water-Related."
- c. **Surrounding Land Uses:** A mix of commercial, tourist-oriented uses including eating and drinking places and retail shops, seafood processing related businesses, Port facilities, US Coast Guard facilities, and residential uses.
- d. **Topography and Vegetation:** The property is developed, with site grades that are relatively level where construction has occurred. The hillside slopes upward steeply to the west.
- e. **Existing Structures:** A building containing a commercial restaurant, storage area, and patio. The building was originally constructed in 1912.
- f. **Utilities:** All are available to the site.
- g. **Development Constraints:** None known.

- h. **Past Land Use Actions:** None specific to the subject property.
- i. **Notification:** Notification to surrounding property owners and to city departments/public agencies was mailed on August 26, 2014; and the notice of public hearing was published in the Newport News-Times on September 12, 2014.
- j. **Attachments:**
  - Attachment "A" – Applicant’s Written Statement in Support of Application
  - Attachment "A-1" – Site Plan
  - Attachment "A-2" – Uses in the W-2 Zoning District
  - Attachment "A-3" – Uses in the C-2 Zoning District
  - Attachment "B" – Photographs of the Property
  - Attachment "C" – Zoning Map of the Area
  - Attachment "D" – Aerial Image of the Property
  - Attachment "E" – Copy of Ordinance No. 2020 – Bayfront Parking District
  - Attachment "F" – Public Hearing Notice

- 2. **Explanation of the Request:** Pursuant to Chapter 14.03.080(18)/“Water-dependent and Water-related Uses” of the Newport Municipal Code (NMC), a retail/restaurant use that is permitted outright in a C-2/ “Tourist Commercial” zoning district requires a conditional use permit to be located in a W-2/“Water-related” zoning district.

The applicant, Great American Yogurt & Food Co, dba Mt. Angel Sausage Co (“Mt Angel”), leased the premises on June 1, 2014. The applicant’s business falls under the City’s sales-oriented, general retail and entertainment-oriented retail sales and service categories. It’s their intent to use the subject property as part of their operation for restaurant/retail. Mt. Angel will sell sausages and other food products it produces. The patio area will be used as a place for customers to eat the food. The storage area will be used for cold storage of food products, a dry storage area, and for night storage of patio furniture. The applicant further states that this proposed use is highly consistent with the overall tourist nature of the area, is consistent with the size and past use of the leased premises, and is similar in nature with the other businesses in the area.

- 3. **Evaluation of the Request:**

- a. **Comments:** All surrounding property owners and affected city departments and public utilities were notified on August 26, 2014. The notice was published in the Newport News-Times on September 12, 2014. No comments have been received in response to these notices. The Bay Front Parking District received notice of the application on September 17, 2014, consistent with Newport Ordinance No. 2020 and any comments received from the Parking District will be distributed to the Commission members at the September 22, 2014 hearing.

b. **Conditional Use Criteria (NMC Chapter 14.34.050):**

- (1) The public facilities can adequately accommodate the proposed use.
- (2) The request complies with the requirements of the underlying zone or overlay zone.
- (3) The proposed use does not have an adverse impact greater than existing uses on nearby properties; or impacts can be ameliorated through imposition of conditions of approval.
- (4) A proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.

c. **Staff Analysis:**

NMC 14.34.040(A) requires that applications include a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development on the lot. The applicant's site plan, prepared by Pariani Land Surveying, shows the patio area; however, it does not show the other areas that will be part of the restaurant use. Since this is an existing building, photographs of the property (Attachment "B") provide the Commission with enough information to evaluate the application. However, it would be prudent for the Commission to require the applicant provide a scaled site plan showing all areas dedicated to restaurant use so there is a clear record of what is or is not addressed by this application.

NMC 14.34.030 indicates that a Type III decision-making procedure, with review and approval by the Planning Commission, is required for any use that generates more than 50 additional vehicle trips per day, as determined in the document entitled "Trip Generation," an informational report prepared by the Institute of Traffic Engineers (ITE). For fast food restaurants without a drive through, (ITE Code 933), a restaurant that is 773 sq. ft. in size will generate 553 daily trips. Using the number of proposed patio seats, twelve (12), is an alternate method of calculating the number of daily trips. Under that method, an additional 505 trips will be created. In either case, the number of new daily trips exceeds 50; therefore, this application must be approved by the Planning Commission. A copy of the notice for this hearing (Attachment "F") is enclosed establishing that notice was provided to property owners within 200-feet of the property and that it was published in a newspaper of general circulation at least five (5) and not more than fourteen (14) days prior to the hearing, as required (NMC 14.52.060).

The applicant notes that Mt. Angel began leasing the subject property on June 1, 2014. Since then, they have been operating out of a 202 sq. ft. retail space addressed at 460 SW Bay Boulevard where the City has a record of prior retail use. Previous tenants include Jeff's Place and Sandra Palmer's Products. The applicant indicates that the landlord purchased the property, which includes the leased premises, in 1978. The applicant further indicates that the leased premises consist of three separate areas, a general retail/restaurant sales area (i.e. the 202 sq. ft. area noted above), a 324 sq. ft. storage area, and a 247 sq. ft. open patio. The applicant's site plan, prepared by Pariani Land Surveying, shows that the open patio area is within the public road right-of-way. The site plan is dated July 16, 2014, after the applicant entered into the lease, so presumably at the time the lease was drafted the owner did not know that the patio was not on their property.

All three of the use areas are involved in this application for a conditional use permit. As noted, the City has business license records showing that the retail/restaurant sales area has been historically used for retail purposes. It may be non-conforming; however, the applicant has elected to include it in this application. By doing so, they will resolve any question as to whether or not retail uses are permitted at this location.

The applicant wants to use the storage area for the foreseeable future as a product storage area (both freezer and dry storage) and night storage for the furniture it uses on the patio. This area was originally permitted in 1975 as a seafood smokehouse and has been used more recently by the owner for personal storage. The applicant notes that they are prepared to work with the City Building Official after approval of this application to determine the changes that need to be made to the storage area to allow for these activities, and that the storage area would not be used until the building code requirements have been satisfied. In the future, the applicant may wish to expand its use of the storage area to include other normal restaurant activities. If and when that occurs, the applicant will contact the City and obtain the permits required for the proposed expanded use.

The applicant asserts that the cement patio area has been used for the consumption of food purchased from previous tenants of the leased premises for over 20 years; however, evidence backing up the assertion was not included with the application. Because the patio is within the public right-of-way an encroachment agreement will be needed. Those agreements ensure that, as a matter of record, the owner acknowledges that they may have to remove all or a portion of the improvements upon notice from the City. Requirements for an encroachment permit are outlined in Newport Municipal Code (NMC) Chapter 9.15. The Planning Commission is not an approval authority for encroachment permits.

There does not appear to be any record of a land use approval for the areas subject to this application. A Conditional Use Permit was granted in 1994 for a portion of the second story of the building (File No. 1-CUP-94). The permit authorized retail use of the space. A photograph of the property (Attachment "B") illustrates the boundary of that approval. Jambo World Craft leases space at this location.

In order to grant the permit, the Planning Commission must find that the applicant's proposal meets the following criteria.

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

Public facilities are defined in the Zoning Ordinance as sanitary sewer, water, streets and electricity. All public facilities are available and serve the property.

The applicant's findings indicate that the public facilities can adequately accommodate the proposed use. The applicant's note that the proposed business uses are consistent with the W-2 and C-2 zoning designations that apply to the property and assert that they are consistent with the past use of the leased premises. The applicant proposes to put approximately two picnic tables seating a total of approximately 12 people on the patio area. They further assert that the patio area can more than accommodate this number of people.

The applicant's findings state that the patio area has existed for at least 30 years and has been used as a space with tables for serving fast food for at least 20 years. The applicant believes that it is necessary for the applicant to conduct its business at the leased premises. Because the existing patio encroaches upon the public right-of-way, the applicant has submitted an application to the Community Development Department for a temporary encroachment permit (File No. 1-TEP-14).

The question before the Commission is whether or not the public facilities consisting of sanitary sewer, water, streets and electricity are adequate to serve the proposed restaurant use. The period of time that a patio has or has not existed at this location need not be addressed. As depicted with the photographs of the property (Attachment "B") and aerial image of the site (Attachment "D"), street and sidewalk access to this developed site is available off of SW Bay Boulevard and SW Fall Street. SW Bay Boulevard is designed as a collector roadway, and SW Fall Street is a local road. Both are fully improved and paved. This is sufficient evidence for the Commission to rely upon in order to establish that street access to the property is adequate. The City provides water service to the site via 6-inch and 12-inch water mains in SW Fall Street and SW Bay Blvd, respectively. Sewer service is provided via an 18-inch main in SW Fall Street and a 12-

inch line in SW Bay Boulevard. Storm drainage is handled via a 24-inch line along SW Fall Street. The existing development is connected to these services. The services have been size to accommodate regional development in the area, including industrial users such as the fish plants along SW Bay Boulevard. The specific location of the services is depicted on City as-built drawings for the SW Bay Boulevard sidewalk, lighting, and paving project completed in 2009 and can be relied upon by the Commission to establish that the services are adequate to accommodate this restaurant use. The as-built utility drawings show that there are no City maintained utilities near the patio. Electric service is available to the existing building. City as-built utility drawings do not show the location of the power lines; however, the encroachment permit process is structured to ensure that utility providers will have adequate access to maintain any services they have in the vicinity of the patio area.

Given the above, it is reasonable for the Planning Commission to find that the public facilities can adequately accommodate the restaurant/retail use provided a condition is imposed requiring that the owner obtain an encroachment permit for the patio.

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

This criterion addresses special requirements of the underlying or overlay zone beyond the standard zoning ordinance requirements. The Zoning Ordinance requires that in all areas that are considered to be historic, unique, or scenic waterfront communities, proposed conditional uses shall be designed to maintain or enhance the historic, unique, or scenic quality of the area. The Bay Front, in which the proposed use will be located, is considered a historic and unique waterfront community by the adopted Bay Front Plan, thereby, requiring the preservation and enhancement of its characteristics.

The applicant notes that there will not be any change to the size or shape of the leased premises (ref: Photographs, Attachment "B"), and the overall development character of the area will not be changed. Lincoln County Assessment records indicate that the structure was originally built in 1912.

The applicant's findings indicate that their request complies with the requirements of the underlying zone or overlay zone. The leased premises are zoned W-2 with uses permitted in C-2 being conditional. Those zoning regulations allow sales-oriented general retail businesses, including businesses selling food, and entertainment businesses, including restaurants. The applicant's business is a restaurant/retail business that complies with these zoning requirements. The applicant's use of the storage

area for the storage of patio furniture and freezer storage for food products is consistent with the zoning regulations. The use of the cement patio as a place for outdoor eating is also consistent with the zoning regulations. Any expanded use to include other normal restaurant activities will also be consistent with zoning regulations.

Given the above, it is reasonable for the Planning Commission to find that this criterion has been satisfied.

- (3) The proposed use does not have an adverse impact greater than existing uses on nearby properties; or impacts can be ameliorated through imposition of conditions of approval.

This criterion relates to the issue of whether or not the proposed use has potential "adverse impacts" greater than existing uses and whether conditions may be attached to ameliorate those "adverse impacts." Impacts are defined in the Zoning Ordinance as including, but not being limited to, the effect of nuisances such as dust, smoke, noise, glare, vibration, safety, and odors on a neighborhood. Adequate off-street parking, or the lack thereof, may also be considered by the Commission under this criterion.

The applicant indicates that the proposed use does not have an adverse impact greater than the existing uses on nearby properties. The area around the leased premises is zoned for "Tourist Commercial" uses. The businesses around the leased premises are varied, but include retail sales businesses and restaurants. The applicant further notes that the businesses that are next door and upstairs to the leased premises are Bowwow meow (retail), Jamba (retail), and Rae Rae's (restaurant). Additionally, the applicant asserts that the proposed business uses will not adversely impact the amount of vehicle or pedestrian traffic that use the area's streets and sidewalks or increase the noise levels that are consistent with a tourist use that already exists.

This property is within the Bay Front Commercial Parking District (ref: Ordinance No. 2020, Attachment "E"). Chapter 14.14 of the Newport Municipal Code sets out the City of Newport's parking requirements. NMC 14.14.030 notes that off-street parking must be provided in conjunction with new and/or expanded uses in a manner consistent with the provisions of the chapter. Later on, NMC 14.14.100 indicates that the off-street parking requirements of the chapter may be superseded in the Bay Front area if a parking district is formed. That is the case here, as Ordinance No. 2020 contains provisions addressing when new off-street spaces must be constructed. Specifically, Section 8(E) of that ordinance indicates that new development, redevelopment or building expansions that generate a demand for more than five (5) new off-street parking spaces must provide additional off-street spaces in accordance with the Newport Zoning Ordinance (i.e. NMC

Chapter 14.14). City business license records show that the 202 sq. ft. retail space currently being utilized by Mt Angel has been used as restaurant/retail space by prior uses (e.g. Jeff's Place and Sandra Palmer's Products). Occupancy of this space for this purpose predates the adoption of Ordinance No. 2020 and, for this reason, it is reasonable for the Commission to find that the current use of this space does not constitute "new development, redevelopment, or a building expansion"<sup>1</sup>. Converting the storage area into restaurant space will require a change of occupancy that will potentially trigger the need for structural changes to meet building code. It is reasonable for the Commission to view this as a building expansion. Similar, it is appropriate for the Commission to view the patio as an expansion given that the owner (i.e. the City of Newport) has never authorized use of the public right-of-way for this purpose. Combined, the storage area and patio amount to 571 sq. ft. of restaurant space. The Newport Municipal Code requires one off-street parking space for every 150 sq. ft. of gross floor area resulting in a demand for 3.8 or effectively 4 spaces ((NMC 14.14.030(7)). This is less than the five (5) off-street spaces Mt Angel receives as "gratis" for the annual business license surcharge that they pay under Ordinance No. 2020; therefore, the Commission can reasonably conclude that no new off-street parking spaces are needed in conjunction with the expanded restaurant use.

Given the above, it is reasonable for the Planning Commission to find that this criterion has been satisfied.

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

The applicant asserts that any required modifications are consistent with the overall development character of the area. The applicant will inquire with the City Building Official once this application is approved to determine if any changes are required to be made to the existing improvements. Any changes that are necessary will be made. The applicant believes that none of these alterations will change the size or shape of the leased premises, and the overall development character of the area will not be changed.

While it is unlikely that conversion of the storage area will require modifications to the height or size of the building, it is a possibility. With that in mind, it would be prudent for the Commission to impose a condition of approval requiring a new conditional use permit be submitted to address this

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<sup>1</sup> There was no business at the 460 SW Bay Blvd address at the time Ordinance No. 2020 was adopted and the address is not listed on the business license surcharge "Revenue Estimate" developed at that time. However, City business license records show retail businesses at this address prior to the November 3, 2011 effective date of the ordinance and Mt Angel has paid the business license surcharge.

criterion in the event that exterior modifications of this nature are needed.

Given the above, it is reasonable for the Planning Commission to find that the use will be consistent with the overall development character of the neighborhood with the condition noted.

4. **Conclusion:** If the Planning Commission finds that the applicant has met the criteria established in the Zoning Ordinance for granting a conditional use permit, then the Commission should approve the request. The Commission can attach reasonable conditions that are necessary to carry out the purposes of the Zoning Ordinance and the Comprehensive Plan. If the Commission finds that the request does not comply with the criteria, then the Commission should deny the application.
- G. **STAFF RECOMMENDATION:** As outlined in this report, this application to operate a restaurant/retail use at 460 SW Bay Boulevard within the W-2 zoning district can satisfy the approval criteria for a conditional use provided conditions are imposed as outlined below. Accordingly, the Commission should approve this request, subject to the following:
1. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to this report. No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner to comply with these documents and the limitations of approval described herein.
  2. The applicant shall submit a scaled site plan to the Community Development Department showing all areas dedicated to restaurant use.
  3. The applicant shall comply with all applicable building codes, fire codes, and other public health and safety regulations to ensure that the use will not be detrimental to the safety and health of persons in the neighborhood. The applicant is responsible for obtaining the necessary approvals and permits pertaining to the proposed use. If the applicant must modify the size or height of the building in order to comply with these codes, than a conditional use permit shall be submitted to establish that the changes are consistent with the overall development character of the neighborhood.
  4. The property owner shall obtain an encroachment permit pursuant to Chapter 9.15 of the Newport Municipal Code prior to utilizing the patio area for restaurant use.



Derrick I. Tokos AICP  
Community Development Director  
City of Newport

September 17, 2014

WRITTEN STATEMENT IN SUPPORT OF  
APPLICATION FOR CONDITIONAL USE PERMIT

1. Introduction.

Applicant, Great American Yogurt & Food Company, dba Mount Angel Sausage Company ("Mt. Angel"), submits this written statement in support of its application for a conditional use permit on property it has leased from Jack's Sea Food, Inc., in the Bay Front area of the City of Newport. On June 1, 2014, Mt. Angel entered into a lease agreement for use of property located at 458 SW Bay Blvd., in Newport (the "Leased Premises"). The Leased Premises consist of three areas: a retail/restaurant area where applicant prepares and sells its food products, a storage area and a patio. The Leased Premises are currently zoned W-2 "Water Related." Available conditional uses are those permitted in a C-2 "Tourist Commercial" zoning designation. Such C-2 Zoning designation allows for sales-oriented general retail businesses, including the sale of food products and restaurant operations. Mt. Angel's business falls within both of these zoning designations: specifically the operation of a retail sales business and a restaurant business selling the sausages and other food products it produces. This proposed use is highly consistent with the overall tourist nature of the area, is consistent with the size and past use of the Leased Premises, and is similar in nature with the other businesses in the area. The patio area of the Leased Premises has been used as a patio for the eating of food for over 20 years by at least three previous tenants. Thus, Mt. Angel's proposed use of the patio as a place for their customers to eat their food is a consistent historical use for that area. The storage area has been historically used for storage and for the sale of food products. Applicant wishes to use the storage area of the Leased Premises for the night storage of its patio furniture, cold storage of its food products, and a dry storage area. In the future, Applicant may wish to expand its use of the storage area to include other normal restaurant activities.

2. Terms and Definitions.

For the purposes of this application, the following are used as defined terms:

Applicant: Mt. Angel Sausage Co., an assumed business name for Great American Yogurt and Food Company, an Oregon Corporation.

Landlord: Jacks Sea Food, Inc., an Oregon Corporation.

Leased Premises: A portion of the property located at 458 SW Bay Blvd., described as:

Lots 1 and 2, Block 4, Newport, in Lincoln County, Oregon.  
Excepting therefrom those portions of said Lot 2 conveyed to  
Robert E. Davey and wife by deeds recorded in Book 84, page 114,  
and Book 85, page 217, Deed Records.

3. History.

Landlord purchased the property which includes the Leased Premises in 1978, and it has been used as retail business space ever since. The Leased Premises consist of three separate areas, a general retail/restaurant sales area, a storage area and a patio. All three of these areas are involved in this application for a conditional use permit. Applicant wants to use the storage area for the foreseeable future as a product storage area (both freezer and dry storage) and night storage for the furniture it uses on the patio. Applicant will contact the Building Department of the City of Newport after the approval of this Application to determine the changes which need to be made to the storage area to allow for these activities. The proposed conditional use would not be implemented in the storage area until the building code requirements have been satisfied. In the future, Applicant may wish to expand its use of the storage area to include other normal restaurant activities. If and when that occurs, Applicant will communicate with the City of Newport and obtain the permits required for the proposed expanded use.

The Leased Premises are zoned W-2 "Water Related," with conditional use as permitted in a C-2 "Tourist Commercial" zoning designation. Applicant's business plan is to operate a Restaurant/Retail business in the Lease Premises (Exhibit E). Applicant's business use complies with the conditional uses of W-2 zoning regulations.

As discussed above, the cement patio has been used for the consumption of food purchased from previous tenants of the Leased Premises for over 20 years. Applicant's proposed use of the patio area is consistent with this previous use.

4. Site Plan.

Attached in an Encroachment Permit Sketch map concerning the Leased Premises prepared by Pariani Land Surveying (Exhibit F) in connection with an encroachment permit application, which also shows the site.

5. Assessor's Tax Map and Notification Area.

See Exhibits C and D (including mail labels prepared by Stewart Title).

6. Applicant's Proposed Findings of Fact.

(a) The public facilities serving the Leased Premises can adequately accommodate the proposed use. Applicant's proposed business uses are consistent with the W-2 and C-2 zoning designations that apply to the property and are consistent with the past use of the Leased Premises. Applicant proposes to put approximately two picnic tables seating a total of approximately 12 people on the patio area. This patio area can more than accommodate this number of people.

(b) Applicant's request complies with the requirements of the underlying zone or overlay zone. As stated above, the Leased Premises is zoned W-2 with conditional uses permitted in a C-2 "Tourist Commercial" zoning designation. These zoning regulations allow sales oriented general retail businesses including businesses selling food and entertainment businesses including restaurants. Applicant's business is a "Restaurant/Retail" business that complies with these zoning requirements. Applicant's use of the storage area for the storage of patio furniture and freezer storage for its food products is consistent with the zoning regulations. Applicant's use of the cement patio as a place for outdoor eating is also consistent with the zoning regulations. Any expanded use to include other normal restaurant activities will also be consistent with zoning regulations.

(c) The proposed use does not have an adverse impact greater than the existing uses on nearby properties. The area around the Leased Premises is zoned for "Tourist Commercial" uses. The businesses around the Leased Premises are varied, but include retail sales businesses and restaurants. In fact, the businesses that are next door and upstairs to the Leased Premises are Bowwow meow (Retail), Jamba (Retail) and Rae Rae's (Restaurant). Additionally, applicant's proposed business uses will not adversely impact the amount of vehicle or pedestrian traffic that use the area's roads and sidewalks, or increase the noise levels that are consistent with a tourist use that already exists.

(d) Any required building modifications are consistent with the overall development character of the area. Applicant will inquire with the Building Department of the City of Newport once this application is approved to determine if any changes are required to be made to the existing improvements. Any changes that are necessary will be made. None of these alterations will change the size or shape of the Leased Premises and the overall development character of the area will not be changed.

7. Exhibits.

Exhibit A: Copy of City of Newport W-2 Permitted Uses.

Exhibit B: Copy of City of Newport C-2 Permitted Uses.

Exhibit C: Copy of Lincoln County Assessor's Tax Maps showing the Leased Premises and the prescribed notification area.

Exhibit D: A list of names and addresses of property owners within the notification area.

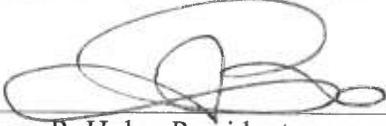
Exhibit E: Applicant's proposed plan of business operations.

Exhibit F: Encroachment Permit Sketch Map prepared by Pariani Land Surveying.

8. Conclusion.

Applicant's conditional use application should be granted since the proposed business uses are consistent with the conditional use criteria under the applicable zoning regulations, the existing public facilities can adequately accommodate the proposed uses, the proposed uses will not have an adverse impact on the existing uses of nearby properties, and any building modifications will be consistent with the overall character of the area.

GREAT AMERICAN YOGURT & FOOD COMPANY,  
DBA MOUNT ANGEL SAUSAGE COMPANY

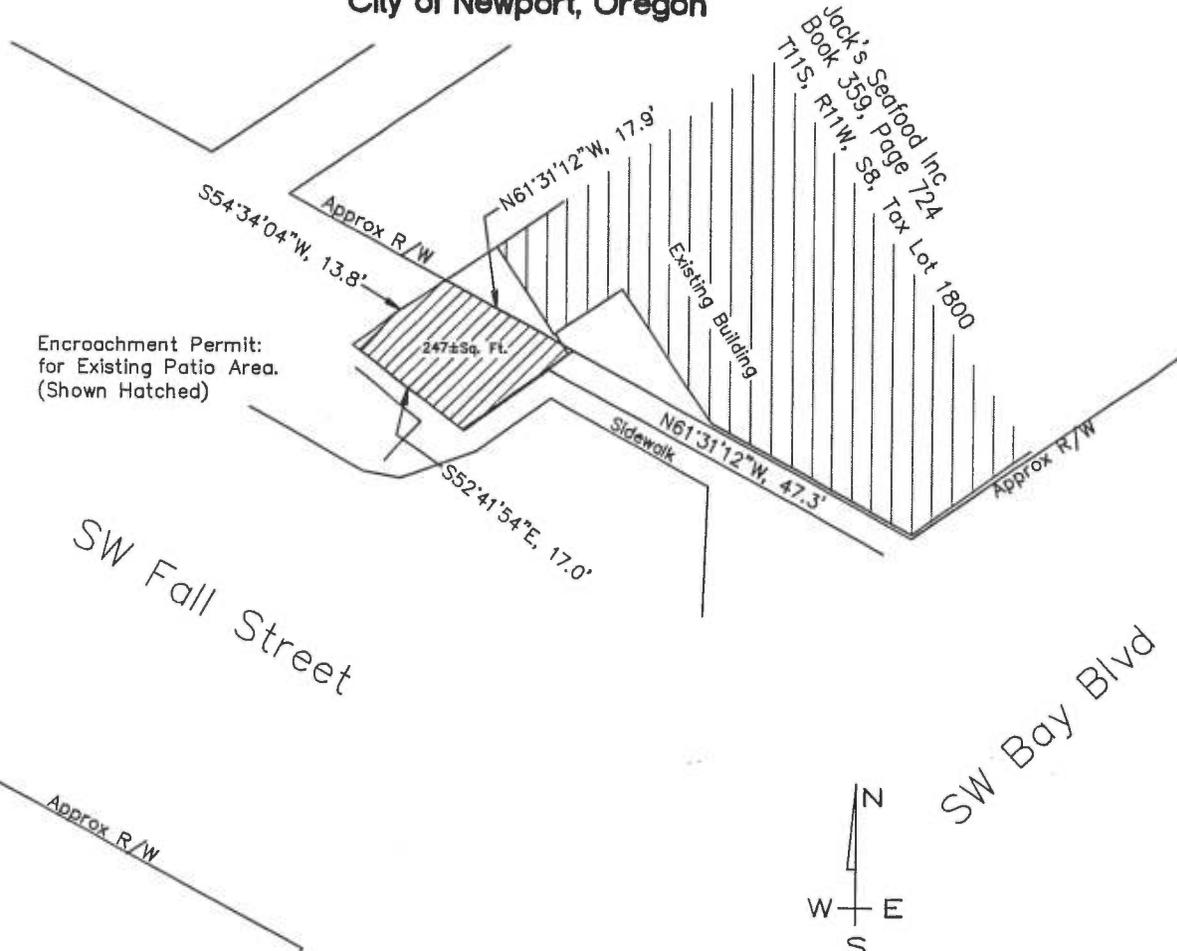


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James R. Hoke, President

# Exhibit B

Located:  
 T11S, R11W, SE 1/4 Section 8, W.M.  
 City of Newport, Oregon



Encroachment Permit:  
 for Existing Patio Area.  
 (Shown Hatched)

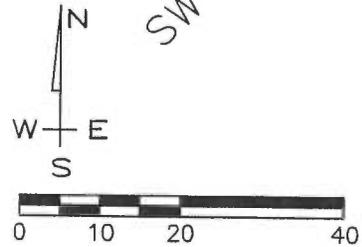
Jack's Seafood Inc  
 Book 359, page 72A  
 T11S, R11W, S8, Tax Lot 1800

SW Fall Street

SW Bay Blvd



Encroachment Permit Area



This map does not represent or imply that a boundary survey has been performed. Boundary lines are approximate.

Encroachment Permit Sketch Map

## Pariani Land Surveying

136 West Main Street  
 Eagle Point, Oregon  
 541-890-1131

REGISTERED  
 PROFESSIONAL  
 LAND SURVEYOR

Preliminary Copy

OREGON  
 July 13, 1999  
 JOHN R. PARIANI  
 #51382

Renews: December 31, 2014

Date: July 16, 2014	Scale: 1" = 20'	Job No.: 2012-095	Sheet: 1 of 1
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T11S, R11W, S8 TL1800

**CITY OF NEWPORT**  
**USES IN THE WATER DEPENDENT AND RELATED ZONING DISTRICTS**

---

**W-1/"Water Dependent"**

**Permitted Uses:**

Aquaculture  
Boat Rentals, Sport Fishing, and Charter Boat Services  
Docks, Wharves, and Piers  
Dry Docks, Boat Repair, Marine Services, and Marine  
Railway Facilities  
Fuel Facilities for Boats or Ships  
Marinas and Port Facilities  
Seafood Processing and Packaging Plants  
Terminal Facilities for Loading and Unloading Ships and  
Barges  
Marine Research and Education Facilities of Observation,  
Sampling, Recording, or Experimentation On Or Near the  
Water

**Conditional Uses:**

Ice Production and Sales, Refrigeration Repair, and Cold  
Storage To Serve the Seafood Industry  
Boat Building and Marine Equipment Manufacture  
Parking Lots  
Warehouses  
Uses Allowed in the Adjacent Estuarine Management Unit  
Water-Dependent Uses That Meet the Intent of the W-1  
District

**W-2/"Water Related"**

**Permitted Uses:**

Aquaculture  
Boat Rentals, Sport Fishing, and Charter Boat Services  
Docks, Wharves, and Piers  
Dry Dock, Boat Repair, Marine Services, and Marine  
Railway Facilities  
Fuel Facilities for Boats or Ships  
Marinas and Port Facilities  
Seafood Processing and Packaging Plants  
Terminal Facilities For Loading and Unloading Ships and  
Barges  
Marine Research and Education Facilities of Observation,  
Sampling, Recording, or Experimentation On Or Near the  
Water  
Ice Production and Sales, Refrigeration Repair, and Cold  
Storage to Serve the Seafood Industry  
Boat Building and Marine Equipment Manufacture  
Parking Lots  
Warehouses  
Uses Allowed in the Adjacent Estuarine Management  
Unit  
Water-Dependent Uses That Meet the Intent of the W-1  
District  
Bait, Tackle, and Sporting Goods Stores Specializing in  
Water-Related Merchandise  
Seafood Markets

**Conditional Uses:**

Uses Permitted Outright in the C-2 District  
Offices Not on the Ground Floor of an Existing Building  
Residences (prohibited at street grade; for floors other  
than street grade, residences allowed subject to issuance of  
a conditional use permit; density limitations same as R-4;  
see Section 2-4-1 of the Zoning Ordinance).

CITY OF NEWPORT  
C-2/"TOURIST COMMERCIAL" ZONING DISTRICT USES

**PERMITTED USES**

**Retail Sales & Service**

**Sales-oriented, general retail**

(examples: consumer, home, & business goods including art, art supplies, bicycles, books, clothing, dry goods, electronic equipment, fabric, pharmaceuticals, plants, printed material, stationery & video; food; vehicle service (but not repair of vehicles).)

**Entertainment**

(examples: restaurants (sit-down & drive-thru); cafes; delicatessens; taverns & bars; hotels, motels & other temporary lodging (w/ avg. length of stay < 30 days); athletic, exercise & health clubs or gyms; bowling alleys, skating rinks, game arcades; pool halls; dance halls, studios & schools; theaters; indoor firing ranges; miniature golf facilities, golf courses & driving ranges.)

**Parking Facility**

(examples: short & long-term fee pkg. facilities; commercial district shared pkg. lots; commercial shuttle pkg.; park-&-ride lots.)

**Basic Utilities & Roads**

(examples: water & sewer pump stations; sewage disposal & conveyance systems; electrical substations; water towers & reservoirs; water quality & flow control devices; water conveyance systems; stormwater facilities & conveyance systems; telephone exchanges; suspended cable transportation systems; bus stops or turnarounds; local, collector & arterial roadways; highway maintenance.)

**CONDITIONAL USES**

**Retail Sales & Service**

**Personal Services**

(examples: bank branches; urgent medical care; laundromats; photographic studios; photocopy & blueprint svcs.; printing, publishing & lithography; hair, tanning & personal care svcs.; tax preparers, accountants, engineers, architects, real estate agents, legal, financial svcs.; art studios; art, dance, music, martial arts & other recreational or cultural classes/schools; taxidermists; mortuaries;

**(CONDITIONAL USES CONTINUED)**

veterinarians; kennels (limited to boarding & training w/no breeding); animal grooming.)

**Major Event Entertainment**

(examples: fairgrounds; sports complexes; ball fields; exhibition & meeting areas; coliseums or stadiums; equestrian centers & animal arenas; outdoor amphitheater; theme or water parks.)

**Waste & Recycling Related**

(examples: sanitary landfills; limited-use landfills; waste composting; energy recovery plants; sewer treatment plants; portable sanitary collection equipment storage & pumping; hazardous waste collection sites.)

**Utility, Road & Transit Corridors**

(examples: highways; rail trunk & feeder lines; regional electrical transmission lines; regional gas & oil pipelines.)

**Community Service**

(examples: churches; libraries; museums; senior centers; community centers; publicly-owned swimming pools; youth club facilities; hospices; police stations, fire & ambulance stations; drug & alcohol centers; social service facilities; mass shelters or short-term housing (when operated by a public or non-profit agency); soup kitchens; surplus food distribution centers.)

**Daycare Facility**

(examples: preschools, nursery schools, latch key programs (more than 12 children under age 13 outside their homes); adult daycare programs.)

**Educational Institutions**

**Elementary & Secondary Schools**

(examples: elementary, middle & high schools.)

**Hospitals**

(examples: hospitals & medical complexes that include hospitals or emergency care facilities.)

➤ Within the Historic Nye Beach Design Review District, uses in excess of 2,000 square feet of gross floor area are conditional uses.

**PROHIBITED USES****Office**

(examples: financial (lenders, brokers, bank hdqtrs.); data processing; professional svcs. (lawyers, accountants, engineers, architects, sales); government; public utilities; TV & radio studios; medical & dental clinics and labs; contractors (if equipment not kept on site).)

**Retail Sales & Service****Sales-oriented, bulk retail**

(examples: stores selling large consumer home & business goods including appliances, furniture, hardware, home improvements; sales or leasing of consumer vehicles including passenger vehicles, motorcycles, light & medium trucks & other recreational vehicles.)

**Repair-oriented**

(examples: repair of TVs, bicycles, clocks, watches, shoes, guns, appliances & office equipment; photo or laundry drop-off; quick printing; recycling drop-off; tailor; locksmith; upholsterer.)

**Vehicle Repair**

(examples: vehicle repair; transmission or muffler shop; auto body shop; alignment shop; auto upholstery shop; auto detailing; tire sales & mounting.)

**Self-Service Storage**

(examples: single-story & multi-story facilities that provide individual storage areas for rent (aka mini warehouses).)

**Contractors & Industrial Service**

(examples: welding shops; machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; sales, repair, storage, salvage, or wrecking heavy machinery, metal, & building materials; towing & vehicle storage; auto & truck salvage & wrecking; heavy truck servicing & repair; tire re-treading or recapping; truck stops; building, heating, plumbing, or electrical contractors; printing, publishing & lithography; exterminators; recycling operations; janitorial & building maintenance svcs.; fuel oil distributors; solid fuel yards; research & development labs; dry-docks & repair or dismantling of ships & barges; laundry, dry-cleaning & carpet cleaning plants; photofinishing labs.)

**Manufacturing & Production****Light Manufacturing**

(examples: light industrial uses that do not generate excessive noise, dust, vibration, or fumes including processing food & related products (where activities are wholly contained w/in a structure) such as

**(PROHIBITED USES CONTINUED)**

bakery products, canned & preserved fruits & vegetables, sugar & confectionary products & beverages; catering establishments; breweries, distilleries & wineries; manufacture of apparel or other fabricated products made from textiles, leather, or similar materials; woodworking including furniture & cabinet making; fabrication of metal products & fixtures; manufacture or assembly of machinery equipment or instruments including industrial, commercial & transportation equipment, household items, precision items, photographic, medical & optical goods, artwork, jewelry & toys; manufacture of glass, glassware & pressed or blown glass; pottery & related products; printing publishing & lithography production; sign-making; movie production facilities.)

**Heavy Manufacturing**

(examples: industrial uses that should not be located near residential areas due to noise, dust, vibration, or fumes including processing food & related products (where some portion of the materials are stored or processed outdoors) such as dairies, slaughter houses, or feed lots; leather tanning & finishing; weaving or production of textiles; lumber mills, pulp & paper mills & other wood products mfg.; production of chemicals, rubber, structural clay, concrete, gypsum, plaster, bone, plastic, or stone products; primary metal industries including blast furnaces, foundries, smelting & rolling & finishing metal products; production & refinement of fossil fuels; concrete batching; asphalt mixing; mfg. of prefabricated structures including mobile homes.

**Warehouse, Freight Movement & Distribution**

(examples: separate warehouses used by retail stores such as furniture & appliance stores; household moving & general freight storage; cold storage plants including frozen food lockers; storage of weapons & ammunition; major wholesale distribution centers; truck, marine, or air freight terminals; bus barns; parcel services; major post offices; grain terminals; stockpiling sand, gravel, or other aggregate materials.)

**Wholesale Sales**

(examples: sale or rental of machinery, equipment, heavy trucks, bldg. materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment & store fixtures; mail-order houses; wholesalers of food, clothing, auto parts, bldg. hardware & office supplies.

**(PROHIBITED USES CONTINUED)****Educational Institutions****College & Universities****Trade/Vocational Schools/Other**

*(examples: universities, liberal arts colleges, community colleges, nursing & medical schools (not accessory to a hospital), seminaries, public & private daytime schools, boarding schools, military academies, trade/vocational schools.)*

**Courts, Jails & Detention Facilities**

*(examples: courts, prisons, jails, probation centers, juvenile detention homes.)*

**Mining****Sand & Gravel****Crushed Rock****Non-Metallic Minerals****All Others**

*(examples: sand & gravel extraction; excavation of rock; mining of non-metallic minerals.)*

**Communication Facilities**

*(examples: broadcast towers, communication/cell towers, point-to-point microwave towers.)*

➤ **Within the Historic Nye Beach Design Review District, Recreational Vehicle Parks are prohibited.**

ATTACHMENT "B"  
File No. 4-CUP-14  
Photographs of the Property

Permitted as smokehouse  
for seafood in 1974. Used  
by owner for storage.

Extent of 1-CUP-94  
Permitted 2nd floor retail.

247 sq. ft. patio  
expansion area within  
public right-of-way.





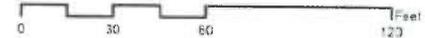


City of Newport  
Community Development Department  
189 SW Coast Highway  
Newport, OR 97365  
Phone: 1.541.574.0829  
Fax: 1.541.574.0844

### Zoning Map for 458 SW Bay Boulevard Mt. Angel Sausage Company Conditional Use Permit (4-CUP-14)

Image Taken July 2013  
4-inch, 4-Band Digital Orthophotos  
David Smith & Associates, Inc. Portland, OR

This map is for informational use only and has not been prepared for, nor is it suitable for legal, engineering, or surveying purposes. It includes data from multiple sources. The City of Newport assumes no responsibility for its completion or use and users of this information are cautioned to verify all information with the City of Newport Community Development Department.



Vicinity Map - 458 SW Bay Boulevard  
Mt. Angel Sausage Company  
Conditional Use Permit (4-CUP-14)



Printed 09/12/2014

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ATTACHMENT "C"  
 File No. 4-CUP-14  
 Zoning Map of the Area

OREGON  
**City of Newport**  
 Community Development Department

**Legend**

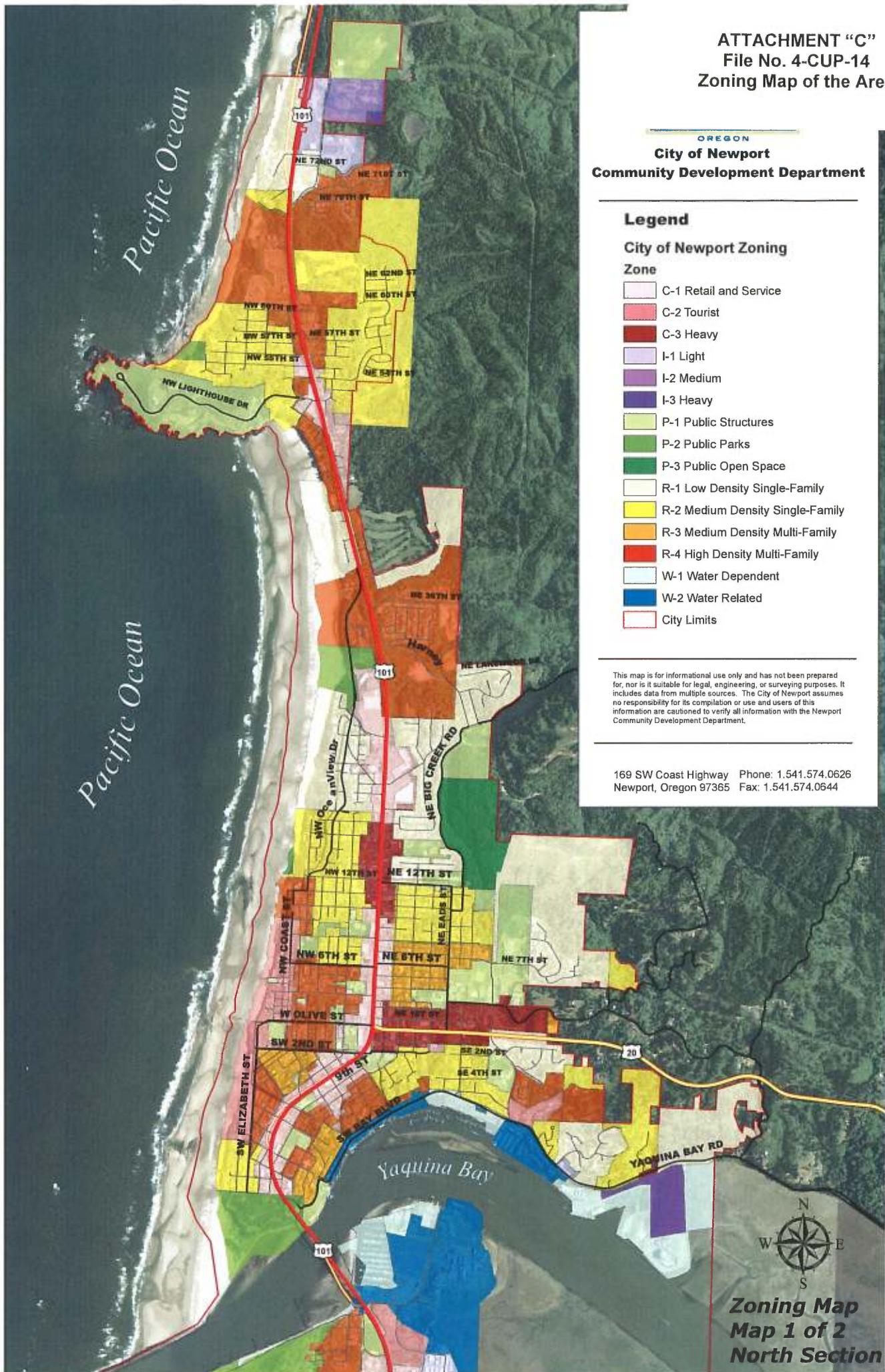
**City of Newport Zoning**

**Zone**

- C-1 Retail and Service
- C-2 Tourist
- C-3 Heavy
- I-1 Light
- I-2 Medium
- I-3 Heavy
- P-1 Public Structures
- P-2 Public Parks
- P-3 Public Open Space
- R-1 Low Density Single-Family
- R-2 Medium Density Single-Family
- R-3 Medium Density Multi-Family
- R-4 High Density Multi-Family
- W-1 Water Dependent
- W-2 Water Related
- City Limits

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169 SW Coast Highway Phone: 1.541.574.0626  
 Newport, Oregon 97365 Fax: 1.541.574.0644





CITY OF NEWPORT  
ORDINANCE NO. 2020

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

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

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

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

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

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

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

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

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

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

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

**THE CITY OF NEWPORT ORDAINS AS FOLLOWS:**

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

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

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

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

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

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

### Section 3: Enactment of a Business License Surcharge Fee.

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

### Section 4: Contribution from the Port of Newport.

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

**Section 5: Establishment of a District Advisory Committee.**

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

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

**Section 7: Availability of Parking Fund Revenues:**

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

**Section 8: Payment of Fees in Lieu of Parking.**

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

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

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

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

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

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

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

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

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

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

Signed by the Mayor on 10-14, 2011.

  
\_\_\_\_\_  
Mark McConnell, Mayor

ATTEST:

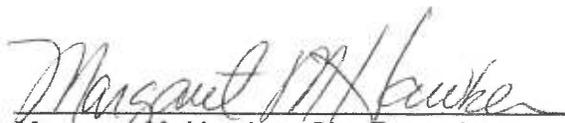
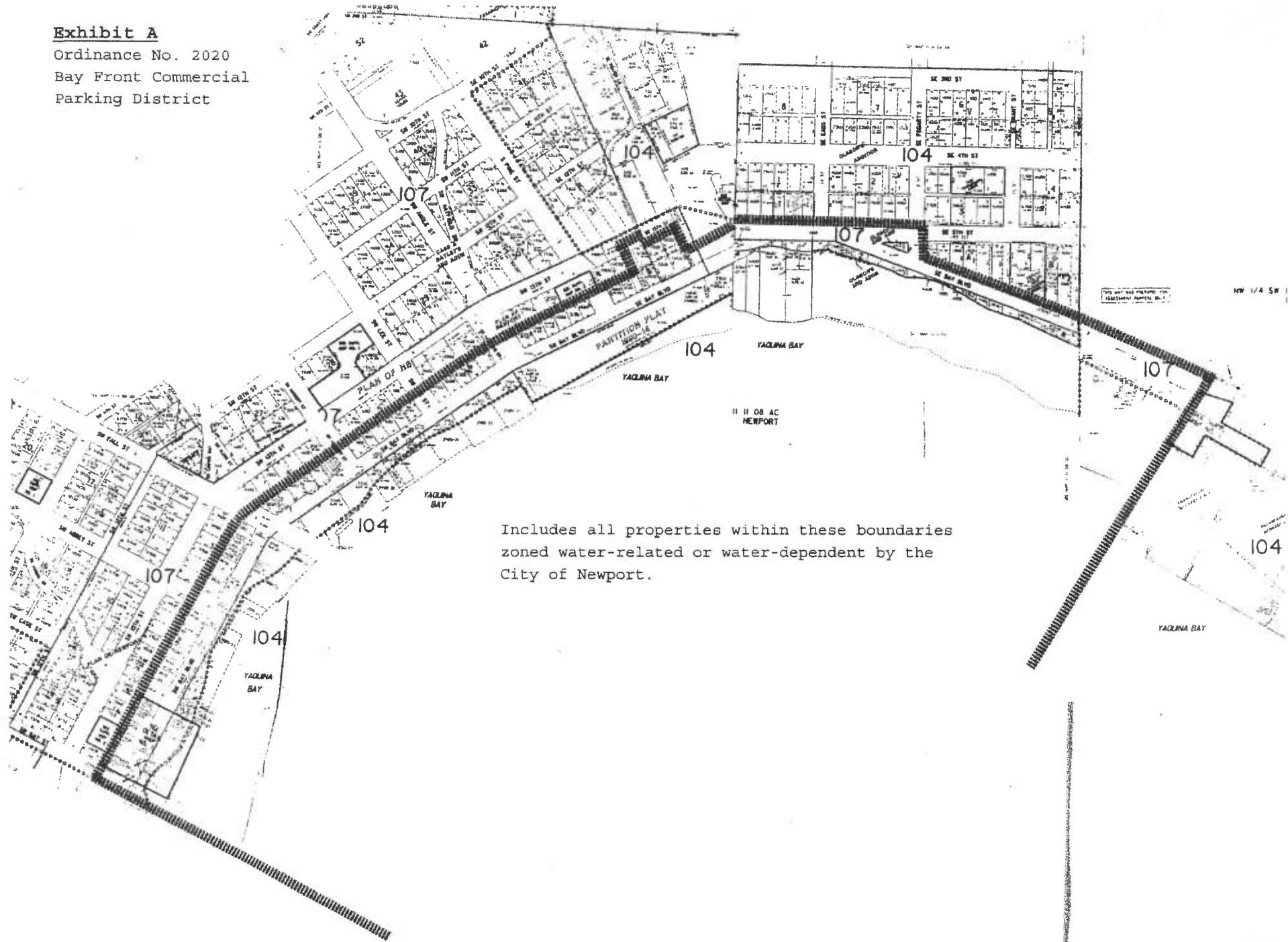
  
\_\_\_\_\_  
Margaret M. Hawker, City Recorder

Exhibit A  
Ordinance No. 2020  
Bay Front Commercial  
Parking District



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

## Revenue Estimate: Proposed Bay Front Parking District

Business Name	Address	Current Annual Base Business License Fee	Proposed Business License Surcharge
Apollo's	836 SW Bay Blvd	\$150	\$100
Auntie Belinda's Candies	640 SW Bay Blvd	\$75	\$150
Bang Kok Thai Restaurant	855 SW Bay Blvd	\$75	\$150
Barge Inn	358 SW Bay Blvd	\$75	\$100
Bay 839	839 SW Bay Blvd	\$150	\$300
Bay Haven Inn	608 SW Bay Blvd	\$150	\$300
Bay Latte	673 SW Bay Blvd	\$75	\$150
<i>Bay Market - closed</i>	<i>644 SW Bay Blvd</i>	<i>\$0</i>	<i>\$0</i>
Bay Street Gallery	859 SW Bay Blvd	\$75	\$150
Bayscapes Gallery	333 SW Bay Blvd	\$75	\$150
Bohemian Candles	342 SW Bay Blvd	\$75	\$150
Bornstein's Seafood	813 SW Bay Blvd	\$300	\$600
BowWow Meow	546 SW Bay Blvd	\$75	\$150
Breach the Moon	434 SW Bay Blvd	\$75	\$150
Candy Shoppe	440 SW Bay Blvd	\$75	\$150
Capt Reel Deep Sea Fishing	343 SW Bay Blvd	\$75	\$150
Chi Boogie	836 SW Bay Blvd	\$75	\$150
Chidish Tendencies	342 SW Bay Blvd	\$75	\$150
Crossover Tattoo	338 SW Bay Blvd	\$75	\$150
Doodle Bug	334 SW Bay Blvd	\$75	\$150
Fish Peddler's Market/Pacific Shrimp	617 SW Bay Blvd	\$600	\$600
Forinash Gallery	856 SW Bay Blvd	\$75	\$150
Front Street Marine LLC	113 - 213 SE Bay Blvd	\$75	\$100
Hallmark Fisheries	361 - 367 SW Bay Blvd	\$75	\$150
Harpoon Hannah's	452 SW Bay Blvd	\$150	\$300
Harry's Bait and Tackle	404 SW Bay Blvd	\$75	\$150
Inscapes Gallery	818 SW Bay Blvd	\$75	\$150
Jambo's World Crafts	458 SW Bay Blvd	\$75	\$150
Kelli's Treasures	342 SW Bay Blvd	\$75	\$150
Latta's Fused Glass	673 SW Bay Blvd	\$75	\$150
Leatherworks	410 - 412 SW Bay Blvd	\$75	\$150
Local Ocean Seafood	213 SE Bay Blvd	\$300	\$600
Made in Oregon	342 SW Bay Blvd	\$75	\$150
Main Sail	338 SW Bay Blvd	\$75	\$150
Marine Discovery Tours	345 SW Bay Blvd	\$150	\$300
Mo's Annex	657 SW Bay Blvd	\$300	\$600
Mo's Main Restaurant	622 - 626 SW Bay Blvd	\$300	\$600
Newport Candle	424 SW Bay Blvd	\$75	\$150
Newport Tradewinds	653 SW Bay Blvd	\$75	\$150
Noodle Café	837 SW Bay Blvd	\$75	\$150
Northwest Kitchens	420 SW Bay Blvd	\$75	\$150
Ocean Blue @ Gino's	808 SW Bay Blvd	\$75	\$150
Oceanic Arts	444 SW Bay Blvd	\$75	\$150
Old Bayfront Bizarre	620 SW Bay Blvd	\$75	\$150
Oregon Undersea Gardens	267 SW Bay Blvd	\$300	\$100
Ozone Art Gallery	673 SW Bay Blvd	\$75	\$150
Pacific Shrimp Co. (@ Pacific Choice Seafood)	209, 213, and 245 SW Bay Blvd	\$300	\$600
Pizza Pot	342 SW Bay Blvd	\$75	\$150
Port Dock 1 Inc	325 SW Bay Blvd	\$150	\$100
Port Dock Marina	P.O. Box 635 Newport	\$75	\$150
Ripley's Believe It or Not	250 SW Bay Blvd	\$150	\$100
Rogue Ales	748 SW Bay Blvd	\$150	\$300
Round Trip Clothing	602-B SW Bay Blvd	\$75	\$150
Sada's Restaurant	250 SW Bay Blvd	\$150	\$300
Saffron Salmon	859 SW Bay Blvd	\$150	\$300
Sail Inn	134 SW Bay Blvd	\$75	\$100
Schiewe Marine	103 SE Bay Blvd	\$75	\$150
Shark's Seafood Bar	852 SW Bay Blvd	\$75	\$150
The Coffee House	156 SW Bay Blvd	\$75	\$150
The Wax Works	250 SW Bay Blvd	\$75	\$100
Trident Seafood	623 SW Bay Blvd	\$300	\$600
Up Our Alley	602 SW Bay Blvd	\$75	\$150
<i>Vacant (next to Sail Inn)</i>	<i>146 SW Bay Blvd</i>	<i>\$0</i>	<i>\$0</i>
<i>Veal Connection Corp (next to Coast Guard)</i>	<i>875 SW Bay Boulevard</i>	<i>\$0</i>	<i>\$0</i>
Wind Drift	414 SW Bay Blvd	\$75	\$150

Notes:

Shaded businesses provide off-street parking for customers.

All figures are subject to adjustment based upon actual on-site conditions.

Total Surcharge: \$13,100

Port Contribution: \$6,000

Estimated Annual Revenue: \$19,100

CITY OF NEWPORT  
PUBLIC NOTICE<sup>1</sup>

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

**File No. 4-CUP-14:**

**Applicants & Owners:** Great American Yogurt & Food Co. dba Mt. Angel Sausage Co., ATTN: Jim Hoke, PO Box 1067, Mt. Angel, OR 97362 (Chris Minor, Minor, Bandonis & Haggerty, PC, PO Box 510, Newport, OR 97365, authorized representative) (Jack's Seafood, Inc., John E. Gesik, President, 155 SW Dolphin St, Newport, OR 97365, property owner) .

**Request:** Approval of a request per Chapter 14.03.080(18) "Water-dependent and Water-related Uses" of the Newport Municipal Code (NMC), for a conditional use permit in order to expand a 200 square-foot restaurant into a 325 square-foot storage area historically used as a smokehouse and for storage of seafood products; and also to expand 247 square feet into the public right-of-way for patio use. Since restaurant uses are permitted outright in a C-2 district, they are allowed in the W-2 district following issuance of a conditional use permit.

**Location/Subject Property:** 458 SW Bay Blvd. (Assessor's Map 11-11-08-DB; Tax Lot 1800).

**Applicable Criteria:** NMC Chapter 14.34.050: (1) The public facilities can adequately accommodate the proposed use; 2) the request complies with the requirements of the underlying zone or overlay zone; 3) the proposed use does not have an adverse impact greater than existing uses on nearby properties, or impacts can be ameliorated through imposition of conditions of approval; and 4) a proposed building or building modification is consistent with the overall development character of the area with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.

**Testimony:** Testimony and evidence must be directed toward the criteria described above or other criteria in the Comprehensive Plan and its implementing ordinances which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal (including to the Land Use Board of Appeals) based on that issue. Submit testimony in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. Letters sent to the Community Development (Planning) Department (address below under "Reports/Application Material") must be received by 5:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. The hearing will include a report by staff, testimony (both oral and written) from the applicant and those in favor or opposed to the application, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Pursuant to ORS 197.763 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application.

**Reports/Application Material:** The staff report may be reviewed or a copy purchased for reasonable cost at the Newport Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, Oregon, 97365, seven days prior to the hearing. The application materials (including the application and all documents and evidence submitted in support of the application), the applicable criteria, and other file material are available for inspection at no cost; or copies may be purchased for reasonable cost at this address.

**Contact:** Derrick Tokos, Community Development Director, (541) 574-0626 (address above in "Reports/Application Material").

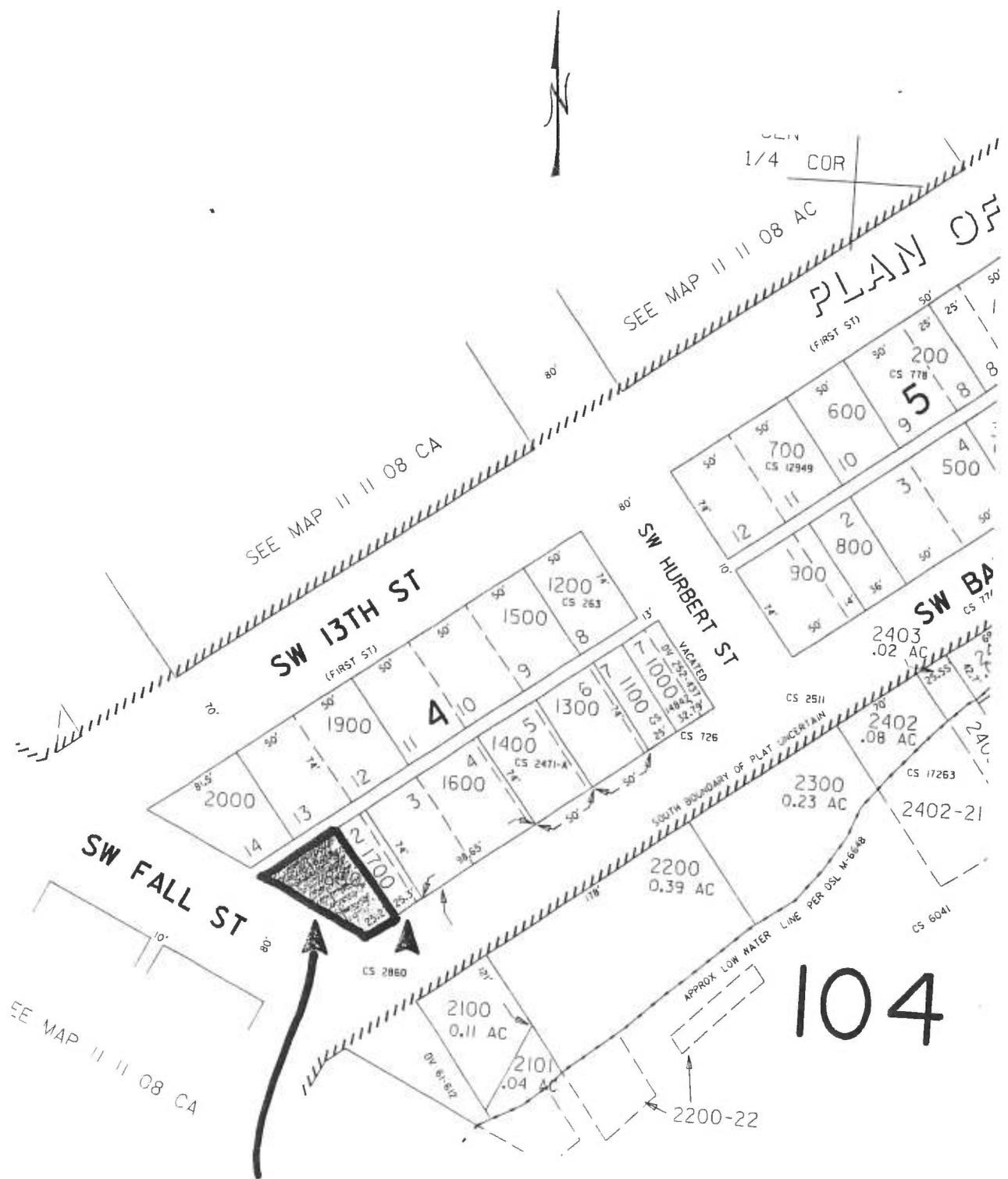
**Time/Place of Hearing:** Monday, September 22, 2014; 7:00 p.m.; City Hall Council Chambers (address above in "Reports/Application Material").

**MAILED:** August 26, 2014.

**PUBLISHED:** September 12, 2014/News-Times.

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



**SUBJECT PROPERTY**

Assessor's Map 11-11-08-DB

## Wanda Haney

---

**From:** Wanda Haney  
**Sent:** Tuesday, August 26, 2014 2:35 PM  
**To:** Elwin Hargis; Jim Protiva; Mark Miranda; Mike Murzynsky; Rob Murphy; Spencer Nebel; Ted Smith; Tim Gross; Victor Mettle  
**Subject:** Conditional Use Permit File No. 4-CUP-14  
**Attachments:** DOC000.pdf

Attached is a public notice concerning a land use request. The notice contains a brief explanation of the request, a property description and map, and a date for a public hearing. You may want to review this information to determine if you see any effects to your department and if you would like to make comments. We must receive your comments at least 10 days prior to the hearing period in order for them to be considered. **Should no response be received, a "no comment" will be assumed.**

Thanks,

*Wanda Haney*

Executive Assistant

City of Newport

Community Development Department

541-574-0629

FAX 541-574-0644

w.haney@newportoregon.gov

# MEMO

City of Newport  
Community Development Department



**\*\*Distributed Via Email\*\***

**Date:** August 26, 2014

**To:** Spencer Nebel, City Manager  
Tim Gross, Public Works  
Rob Murphy, Fire  
Mark Miranda, Police  
Mike Murzynksy, Finance  
Jim Protiva, Parks & Rec.  
Ted Smith, Library  
Victor Mettle, Planner/Code Administrator  
Elwin Hargis, Building Official  
Public Utilities

**From:** Wanda Haney, Executive Assistant

**RE:** Conditional Use Permit # 4-CUP-14

---

I have attached a copy of a public notice concerning a land use request. The notice contains a brief explanation of the request, a property description and map, and a date for a public hearing. You may want to review this information to determine if there are any effects to your department and if you would like to make comments.

We must have your comments at least 10 days prior to the hearing period in order for them to be considered. **Should no response be received, a "no comment" will be assumed.**

wh

Attachment

GREAT AMERICAN YOGURT & FOOD CO  
DBA MT ANGEL SAUSAGE CO  
ATTN: JIM HOKE  
PO BOX 1067  
MT ANGEL OR 97362

JACK'S SEAFOOD INC  
155 SW DOLPHIN ST  
NEWPORT OR 97365

CHRIS MINOR  
MINOR BANDONIS & HAGGERTY PC  
PO BOX 510  
NEWPORT OR 97365

JAMES V SHEPHERD  
MINOR BANDONIS & HAGGERTY PC  
PO BOX 510  
NEWPORT OR 97365

WILLIAM TODD ARMITAGE &  
BARCLAY MARC ARMITAGE  
21288 S LELAND RD  
OREGON CITY OR 97045

GERALDINE HOBSON &  
GARY L & MARSHA M HETTMAN  
3010 NE MOSSY LN  
TOLEDO OR 97391

ALLAN WAYNE KIGERL &  
KATHERINE L LARRABEE  
3674 SW SPRING GARDEN CT  
PORTLAND OR 97219

RICHARD C WELTON  
PO BOX 44  
DEPOE BAY OR 97341

CINDY M MCENTEE  
TRUSTEE &  
JUDITH & KEVIN DIXON ET AL  
622 SW BAY BLVD  
NEWPORT OR 97365

628 BAY LLC  
PO BOX 1172  
NEWPORT OR 97365

DULCICH REALTY ACQUISITION LLC  
ATTN: PACIFIC SHRIMP CO  
PO BOX 1230  
NEWPORT OR 97365

TRIDENT SEAFOODS CORP  
ATTN: ROBERT L DALLY  
5303 SHILSHOLE AVE NW  
SEATTLE WA 98107

RTG LLC  
ATTN: RALPH GOODWIN  
PO BOX 455  
JOHN DAY OR 97845

KENNETH S RIPLEY  
9211 124<sup>TH</sup> ST NE  
ARLINGTON WA 98223

BUGGATTO OREGON PROPERTIES INC  
505 BEACH ST STE 200  
SAN FRANCISCO CA 94133

\*\*NO NEED TO MAIL\*\*

*CITY OF NEWPORT*

**Adjacent Property Owners**

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

DLCD COASTAL SVCS CTR  
810 SW COAST HWY STE B  
NEWPORT OR 97365

CenturyLink  
ATTN: Corky Fallin  
740 State St  
Salem OR 97301

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

Charter Communications  
ATTN: Keith Kaminski  
355 NE 1<sup>st</sup> St  
Newport OR 97365

Elwin Hargis  
Building Official

Rob Murphy  
Interim Fire Chief

Tim Gross  
Public Works

Victor Mettle  
Code Administrator/Planner

Mark Miranda  
Police Chief

Mike Murzynsky  
Finance Director

Ted Smith  
Library

Jim Protiva  
Parks & Rec

Spencer Nebel  
City Manager

EXHIBIT 'A'  
(Affected Agencies)

(CUP)

## NOTICE OF PUBLIC HEARING

The City of Newport Planning Commission will hold a public hearing on Monday, September 22, 2014, at 7:00 p.m. in the City Hall Council Chambers to consider File No. 4-CUP-14, a request submitted by Great American Yogurt & Food Co, dba Mt. Angel Sausage Co, Jim Hoke (Chris Minor, authorized representative) (Jack's Seafood, Inc., property owner) per Chapter 14.03.080(18) "Water-dependent and Water-related Uses" of the Newport Municipal Code (NMC), for a conditional use permit in order to expand a 200 square-foot restaurant into a 325 square-foot storage area historically used as a smokehouse and for storage of seafood products; and also to expand 247 square feet into the public right-of-way for patio use. Since restaurant uses are permitted outright in a C-2 district, they are allowed in the W-2 zoning district following issuance of a conditional use permit. The property is located at 458 SW Bay Blvd (Assessor's Map 11-11-08-DB; Tax Lot 1800). The applicable criteria per NMC Chapter 14.34.050: (1) The public facilities can adequately accommodate the proposed use; 2) the request complies with the requirements of the underlying zone or overlay zone; 3) the proposed use does not have an adverse impact greater than existing uses on nearby properties, or impacts can be ameliorated through imposition of conditions of approval; and 4) a proposed building or building modification is consistent with the overall development character of the area with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright. Testimony and evidence must be directed toward the criteria described above or other criteria in the Comprehensive Plan and its implementing ordinances which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal (including to the Land Use Board of Appeals) based on that issue. Submit testimony in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. Letters sent to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 5:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. The hearing will include a report by staff, testimony (both oral and written) from the applicant and those in favor or opposed to the application, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Pursuant to ORS 197.763 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. The staff report may be reviewed or a copy purchased for reasonable cost at the Newport Community Development (Planning) Department (address above) seven days prior to the hearing. The application materials (including the application and all documents and evidence submitted in support of the application), the applicable criteria, and other file material are available for inspection at no cost; or copies may be purchased for reasonable cost at this address. Contact Derrick Tokos, Community Development Director, (541) 574-0626; [d.tokos@newportoregon.gov](mailto:d.tokos@newportoregon.gov) (address above).

*(FOR PUBLICATION ONCE ON Friday, September 12, 2014)*

<b>3158</b> <small>OFF MSRP</small> <b>87</b> 1 at this Price	<b>3998</b> <small>OFF MSRP</small> <b>\$21,987</b> 1 at this Price	<b>4498</b> <small>OFF MSRP</small> <b>\$24,987</b> 1 at this Price	<b>8923</b> <small>OFF MSRP</small> <b>\$32,987</b> 1 at this Price
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**30th Anniversary Edition**  
**UConnect Hands Free Group**  
**Blacktop Package**  
 W09350/VinER476294

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 Wilson Discount -\$1498

**5-Spd. Automatic**  
 DL12DS/EH249841

MSRP \$29,485  
 Mfg. Rebate -\$2500  
 Wilson Discount -\$1998

**8-Spd. Transmission**  
**UConnect**  
**8.4 Touch Screen**  
 RU5985/VinES380008

MSRP \$41,910  
 Mfg. Rebate -\$5000  
 Wilson Discount -\$3923

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**BUY from the BEST**

*Newer - James  
 file 9/21/14*

**WEDNESDAY EDITION: 5 p.m. Thursday Prior**  
**FRIDAY EDITION: 5 P.M. Tuesday Prior**

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States of America, Beneficiary, by Seterus, Inc., its Attorney-in-Fact, its successors in interest and/or assigns, plaintiff vs. Unknown Heirs of Martin David Lewis aka Martin D. Lewis; JPMorgan Chase Bank successor in interest to Washington Mutual Bank; Corey D. Lewis, individually; Corey D. Lewis, as personal representative of the Estate of Martin David Lewis; Pacific Beachview Owner's Association; State of Oregon; Occupants of the Premises; and the Real Property located at 1923 Northwest Harbor Avenue, Lincoln City, Oregon 97367 defendants. This is a public auction to the highest bidder for cash or cashier's check, in hand. For more details go to <http://www.oregonsheriffs.com/sales-lincoln.htm>. A-29, S-5, 12, 19 (18-19)

**PUBLIC SALE**  
 The following storage units will be sold at public auction on Saturday, September 20, 2014 at 10:00 AM for non-payment of rent and other fees. Auction is pursuant to Auction Rules and Procedures of Lincoln Storage 4809 S Coast Hwy South Beach, OR 97366 541-867-6550. Rules are available upon inquiry. Unit

343 - Fernando Hernandez, Unit 354 - Doug & Marissa Medici McCall, Unit 530 - Brad Taylor. S-12, 19 (28-19)

**PUBLIC NOTICE**  
 The PCHD Board of Directors will meet in regular session on Monday, September 15th, 2014 at 4:00pm in the Education Conference Room at 930 SW Abbey St. in Newport, Oregon. The regular meeting agenda includes monthly financial reports, legal and facilities reports. Jamie Kraft, Recorder, PACIFIC COMMUNITIES HEALTH DISTRICT. For additional information contact 541-574-1803. S-12 (29-12)

**IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF LINCOLN U.S. BANK NATIONAL ASSOCIATION, PLAINTIFF, V. ROGER A. FLESCHER, JESSICA STEENKOLK FKA JESSICA KITTEL, JENNA M. FLESCHER, OCCUPANTS, DEFENDANTS. CASE NO.: 142497 SUMMONS BY PUBLICATION NOTICE TO DEFENDANTS READ THESE PAPERS**

**CAREFULLY!** You must "appear" in this case or the other side will win automatically. To "appear" you must file with the court a legal paper called a "motion" or "answer." The "motion" or "answer" must be given to the court clerk or administrator within 30 days of the date of first publication, 9/12/2014, along with the required filing fee. It must be in proper form and have proof of service on the Plaintiff's attorney or, if the Plaintiff does not have an attorney, proof of service on the Plaintiff. The subject of this a judicial foreclosure of real property commonly known as 340 SW Range Drive, Waldport, OR 97394 for non-payment of mortgage debt. If you have questions, you should see an attorney immediately. If you need help in finding an attorney, you may call the Oregon State Bar's Lawyer Referral Service at (503) 684-3763 or toll-free in Oregon at (800) 452-7636. DATED: September 4, 2014. By: /s/ Katrina E. Glogowski, OSB #035386, Allegiant Law Group, 506 2nd Ave Ste 2600, Seattle, WA 98104 (206) 903-9966. Fax (206) 405-2701. S-12, 19, 26, O-3 (30-03)

**REFRIGERATOR BID REQUEST**  
 Community Services Consortium's Weatherization Assistance Program is requesting bids for the supply and installation of Refrigerators in Linn, Ben-

ton, and Lincoln counties. Bids are due by 4:30 p.m. on Tuesday, October 7th, 2014. For bid packets contact: Kathleen Rendich at 541-758-2618 or [krendich@communityservices.us](mailto:krendich@communityservices.us). S-12 (31-12)

**NOTICE OF PUBLIC HEARING**  
 The City of Newport Planning Commission will hold a public hearing on Monday, September 22, 2014, at 7:00 p.m. in the City Hall Council Chambers to consider File No. 4-CUP-14, a request submitted by Great American Yogurt & Food Co, dba Mt. Angel Sausage Co, Jim Hoke (Chris Minor, authorized representative) (Jack's Seafood, Inc., property owner) per Chapter 14.03.080(18) "Water-dependent and Water-related Uses" of the Newport Municipal Code (NMC), for a conditional use permit in order to expand a 200 square-foot restaurant into a 325 square-foot storage area historically used as a smokehouse and for storage of seafood products; and also to expand 247 square feet into the public right-of-way for patio use. Since restaurant uses are permitted outright in a C-2 district, they are allowed in the W-2 zoning district following issuance of a conditional use permit. The property is located at 458 SW Bay Blvd (Assessor's Map 11-11-08-DB; Tax Lot 1800). The applicable criteria per NMC Chapter

14.34.050: (1) The public facilities can adequately accommodate the proposed use; (2) the request complies with the requirements of the underlying zone or overlay zone; (3) the proposed use does not have an adverse impact greater than existing uses on nearby properties, or impacts can be ameliorated through imposition of conditions of approval; and 4) a proposed building or building modification is consistent with the overall development character of the area with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright. Testimony and evidence must be directed toward the criteria described above or other criteria in the Comprehensive Plan and its implementing ordinances which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal (including to the Land Use Board of Appeals) based on that issue. Submit testimony in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. Letters sent to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received

by 5:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. The hearing will include a report by staff, testimony (both oral and written) from the applicant and those in favor or opposed to the application, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Pursuant to ORS 197.763 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. The staff report, may be reviewed or a copy purchased for reasonable cost at the Newport Community Development (Planning) Department (address above) seven days prior to the hearing. The application materials (including the application and all documents and evidence submitted in support of the application), the applicable criteria, and other file material are available for inspection at no cost; or copies may be purchased for reasonable cost at this address. Contact Derrick Tokos, Community Development Director, (541) 574-0626; [d.tokos@newportoregon.gov](mailto:d.tokos@newportoregon.gov) (address above). S-12 (32-12)

*file 4-CUP-14*