



AGENDA & Notice of Planning Commission Work Session Meeting

The Planning Commission of the City of Newport will hold a work session meeting at **6:00 p.m., Monday, September 24, 2012**, at the Newport City Hall, Conference Room "A", 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 work session.

NEWPORT PLANNING COMMISSION Monday, September 24, 2012, 6:00 P.M.

AGENDA

A. Unfinished Business.

1. DLCD Training: Oregon Land Use System – final part.

B. Adjournment.

Memo

To: Newport Planning Commission/Commission Advisory Committee

From: Derrick Tokos, Community Development Director 

Date: September 20, 2012

Re: Oregon Land Use Planning Online Training – Final Round

For the September 24th work session, I'll have video equipment setup to run through Chapters 7 through 9 of the online training materials for local officials put together by the Department of Land Conservation and Development (DLCD). They cover coastal shorelands, beaches and dunes, and ocean resources. The training information is available on the web at www.coastalatlantlas.net/training. Please feel free to explore the materials in advance.

Also, with ocean resources in mind, attached is a draft of the Newport area visual assessments prepared as part of the State's effort to update the Territorial Sea Plan. Bob and I participated, along with Mayor McConnell, Councilor Roumagoux, and Onno Husing with the County. If time permits, we could debrief how it went and I can provide you with an update with where they are at in the planning effort.

Thanks, and see you on Monday!

Visual Resource Inventory Baseline Report: County and Locally Managed Viewpoints

In support of the Oregon Territorial Sea Plan Amendment Process

August, 2012

Note: Provisional Results

*Results have not been fully reviewed by local governments.
Treat as draft field results.*

DRAFT

To support the update of the Oregon Territorial Sea Plan, the Department of Land Conservation and Development (DLCD) is collecting new information on the important views and viewpoints along the coast. This is called the Visual Resource Inventory Assessment (VRIA). The process involves visits to the viewpoints with a team to evaluate the importance and quality of the view. This provides a score for the view, and a map of the area the view covers. This information will play a role in any future requests for ocean energy development.

Two teams are performing assessments. The first team is evaluating views from Oregon State Parks. This team is made up of Oregon Parks and Recreation Department (OPRD) staff. They have started assessments and are moving from south to north along the coast. The second team is evaluating the sites that are not in State Parks. This team is managed by DLCD and is conducted with the participation of local jurisdictions along the coast. The goal is to complete the field assessments in the summer of 2012 and to provide data and results to the planning process for plan updates this fall.

Site Selection

DLCD staff starts with a list of views collected from the aesthetics resources that are identified in existing plans such as those found in the inventories of county or city comprehensive plans under their Goal 5 or Goal 17 sections. For selection as an assessment location the sites should be on public land with a public access, and serve to fill in gaps that the OPRD locations do not survey adequately.

This list is then mapped in GIS and shared with local cities and counties for their review. The list is then updated based on their review. Once in the field the team may also add or change the list of locations based on access or distribution of the viewpoints. For many counties, a

majority of the viewpoints are located in Oregon State Park property and will be evaluated by the OPRD assessment team.

Who participates in the assessments?

DLCD teams are composed of three state staff members and three to four local representatives. The local representatives are either city or county elected officials or planning staff, and are selected by the local jurisdiction.

How is the assessment conducted?

The assessment is done on site in the field at the viewpoint. The team assembles at the viewpoint and decides on the vantage point to stand at. The team then scores the view across seven categories. These categories include measures the landforms, color, vegetation, water features in addition to the ocean, human impacts and the context of the view. These are scored on a scale from zero to five. These scores are then summed to provide a total view shed site score. The scores fall into three classes, from A to C based on how high they score. Class A views are the most scenic and Class C the least. Most of the sites that have been surveyed thus on the Oregon coast fall into either Class A or Class B.

Next Steps

Once the assessment teams have collected data from the field, the results are shared with the local governments. The local governments then decide on the type of review process to undertake. This may involve a public hearing or a commission meeting to review and comment on the results.

Once the results are reviewed, they will be converted into spatial data tools to support decision making for the Territorial Sea Plan and future permitting. The spatial analysis will model how far out to sea the views extend, and what types of objects may show up within that view. This

information will then be used in any future permit application process for ocean energy development. Conducting an analysis of proposed uses in the future will require unique modeling to address each permit applicant's particular design details and how these interact with views.

Data Status

Results presented in this report have not been reviewed fully by local governments and should be treated as provisional contingent on that review. These results also do not include views from Oregon State Parks.

For More Information

Participate in public meetings or visit the planning website at: <http://oregonocean.info>

You can also contact Paul Klarin at (503) 373-0050 ext. 249 or paul.klarin@state.or.us

DRAFT

SITE NAME Moolack Beach	SITE ID:	COMMUNITY/LOCATION: Unincorporated, Lincoln County
DESCRIPTION The viewpoint was taken on the beach at the southern pull out for Moolack Beach, near the Moolack Shores Motel. The view includes a long broad beach with a mix of cobble and sand adjacent to bluffs. Offshore rocks and small streams are distributed along the beach. The viewpoint looks south to Yaquina Head and north to Cape Foulweather. While the assessment was performed vessels from the Northwest National Marine Renewal Energy Center were working at the test facility.		
Panorama Photos		
		
SCORING		
ATTRIBUTE	SCORE	DESCRIPTION
Landform	5	Long and broad cobble and sandy beach framed by bluffs. Cape Foulweather to the north and Yaquina Head to the south. Offshore rocks including Schooner Rock, Whaleback Rock. At low tide petrified stumps are revealed. Moderate levels of driftwood.
Vegetation	3	Shore pines, salal, spruce, beach grass in the foreground. Distant meadows and forests on headlands.
Water	3.5	Viewpoint adjacent to a small stream. Offshore rocks have waves breaking over them. Water impounded by receding tide pools on the beach.
Color	4	Offshore rocks white with guano in summer. Rocks dark basalt, red bluffs on headlands, cobble a mix of darks. Mudstone and sandstone adding greys, browns and reddish color. Light blue ocean colors.
Adjacent	0	Utility lines along highway. 2-3 houses visible, and motel adjacent to viewpoint. Radio, cellphone towers and clearcuts distant to the north. Otherwise bluffs and vegetation screen highway well.
Scarcity	4.5	Lighthouse, NNMREC test site and headlands add to the scarcity of the view.
Cultural	1	Lighthouse adds to the view, NNMREC and other development also present.
Total	21	Class A view

SITE NAME Nye Beach		SITE ID:	COMMUNITY/LOCATION: Newport, Lincoln County
DESCRIPTION Viewpoint is at the developed parking lot and viewing area at the end of Beach Drive. The site includes a concrete wall, developed beach access and is situated in dense development. The view includes the wide beach with the jetty and Yaquina Head visible in the distance.			
Panorama Photos			
			
SCORING			
ATTRIBUTE	SCORE	DESCRIPTION	
Landform	3	The jetty to the south and Yaquina Head to the north frame the broad beach view. Rocks offshore and outfall jetty nearby. Bluffs along the beach and nearby taller features like old Jumpoff Joe Arch remnants.	
Vegetation	2	Forests on headland, some beach grass and shrubs on bluffs.	
Water	2.5	Nye Creek on the beach and wave action on jetties and outfall.	
Color	3	Red flowering shrubs on bluff, light green grasses and shrubs. Blue contrasts in the ocean. Mix of browns and greens from meadows on headlands. Uniform tan sand color on beach.	
Adjacent	3	Parking lot and dense development around the viewpoint. Historic character, lighting and architectural elements. Seawall and walkway cast in concrete. Regulatory signs for users.	
Scarcity	3.5	Lighthouse view and jetty add to uniqueness.	
Cultural	.5	Riprap on bluffs, jetty, fencing, residences and hotels, and distant lighthouse balance out overall.	
Total	17.5	Class B view	

SITE NAME Thiel Creek Beach		SITE ID:	COMMUNITY/LOCATION: Newport, Lincoln County
DESCRIPTION The viewpoint is accessed from an unmarked pullout off of Highway 101. The pullout has a series of social trails to the beach through pines and shrubs. The viewpoint is higher on the beach and provides a more remote or undeveloped experience. Access trail ownership is unclear, maybe private though heavily used.			
Panorama Photos			
			
SCORING			
ATTRIBUTE	SCORE	DESCRIPTION	
Landform	2	Jetty and Yaquina Head visible in the distance to the north. Seal Rocks are also visible and closer here. Broad sandy beach backing up to rolling shrub and forestlands. Medium driftwood.	
Vegetation	1	Distant vegetation on headlands. No vegetation in foreground.	
Water	3	Thiel Creek comes out at viewpoint and distant wave action on jetty.	
Color	2.5	Tan sand, grey cobble higher on beach. Bleached white driftwood. Blue ocean and brown water in wave action.	
Adjacent	3	Natural setting with one well screened house visible. Utility lines visible along highway behind the forest.	
Scarcity	2	Natural setting, creek and broader, long beach.	
Cultural	0	No features in the fore or middle ground.	
Total	13.5	Class B view	

SITE NAME Canyon Drive	SITE ID:	COMMUNITY/LOCATION: Lincoln City, Lincoln County
DESCRIPTION The viewpoint is just below a small parking area on Canyon Drive. The access sits in the low spot in the bluff where Agnes Creek comes through. The viewpoint includes Nelscott Reef and the area is used during surf events. During the site visit, beach recreation use was high.		
Panorama Photos		
		
SCORING		
ATTRIBUTE	SCORE	DESCRIPTION
Landform	2.5	Narrow sandy beach against steep bluffs. Cascade Head and Roads End headland visible to the north. Offshore rocks distant to the south. Some cobble on the beach at the stream outlet.
Vegetation	1.5	Forest and grasslands distant on the headlands.
Water	1	Agnes Creek on the beach, some offshore rocks with wave action. Not visible during visit, but the Nelscott Reef wave break offshore of the viewpoint.
Color	2	Headlands have some muted browns and green from meadows and forests. Very clear water with greens and blues.
Adjacent	2	Dense development and parking lot right at access point. Seawalls and riprap along bluff toe. Regulatory signs at the access.
Scarcity	1.5	Common view, though Cascade Head and Nelscott Reef add to uniqueness.
Cultural	0	Roads end development in the distance to the north.
Total	10.5	Class C view

SITE NAME Nelscott Parking Lot		SITE ID:	COMMUNITY/LOCATION: Lincoln City, Lincoln County
DESCRIPTION This viewpoint is from a developed viewing area on top of a seawall at a parking lot off of Anchor Drive. The site is surrounded by dense residential development and hotels. It provides beach access for a larger broad beach.			
Panorama Photos			
			
SCORING			
ATTRIBUTE	SCORE	DESCRIPTION	
Landform	3	Offshore rocks are close to beach. Distant headlands to the north and south with Cascade Head and Boiler Bay visible. Bluffs and exposed cliffs along beaches.	
Vegetation	1	Beach grass to the north, some distant forests on the headlands. Limited to no vegetation in the foreground.	
Water	2	Baldy Creek to the south flows from a culvert in the seawall. Offshore rocks with wave action.	
Color	2	Greens and blues in the ocean. Tan sands with some variations in contrast. Red sandstone in the bluff and greens from grass along the bluffs.	
Adjacent	1	Developed viewsite includes cast park benches, decorative wall and signage. Dense development and hotel next to site. The development captures historic 1930's cottage design.	
Scarcity	2	Offshore rocks, especially at low tide make this site more diverse that other locations nearby.	
Cultural	1	Developed viewpoint amenities, fence and walkway add to view.	
Total	12	Class B view	

SITE NAME Pointe Park	SITE ID:	COMMUNITY/LOCATION: Lincoln City, Lincoln County
DESCRIPTION The viewpoint is from a small city owned park on the bluff overlooking the mouth of the Siletz River. The site includes some parking and is in a residential neighborhood. The view is primarily to the south and partially filtered through trees.		
Panorama Photos		
		
SCORING		
ATTRIBUTE	SCORE	DESCRIPTION
Landform	5	Mouth and estuary of the Siletz River includes spit, tidal flats, and islands. Bluff view includes foothills of Coast Range, headland at Boiler Bay. Dunes and mudflats at base of bluff viewpoint.
Vegetation	4	Flowering shrubs, shore pine, beach grass and salal in foreground and on spit. Dark and tan sands. Forests on distant ridges and heads.
Water	4.5	Many mixing currents and wave actions at the mouth of the river including standing waves, tidal streams, and complex wave shapes. River and estuary contribute greatly to the view.
Color	3.5	Mix of dark to bright green colors on the spit. Distant forests of dark green. Mixing river and ocean water, colors of brown, green and blue. Sand is dark and tan, and dark brown mudflats. Foreground vegetation provides orange, greens and reds.
Adjacent	0	Residential development, lots cleared for building.
Scarcity	5	Very unique view of the mouth of the river and spit. Sweeping southern view. Very unique wave action at the mouth of the river.
Cultural	-5	Development on the spit, and chainlink fence and distant logging detract some from view.
Total	21.5	Class A view

SITE NAME Oceanlake/NW 21 st Street	SITE ID:	COMMUNITY/LOCATION: Lincoln City, Lincoln County
DESCRIPTION This viewpoint is taken from a public staircase that connects NW 21 st Street to the beach. The staircase is several hundred feet long and includes viewpoints from landings. The access includes a small parking lot between hotels on top of the bluff. The view provides a high vantage point to sea and a sweeping view of the beach. Assessment performed from highest landing on staircase just below top.		
Panorama Photos		
		
SCORING		
ATTRIBUTE	SCORE	DESCRIPTION
Landform	3.5	Tall and steep bluffs line the beach. Distant views of Cascade Head and head at Roads End. Offshore rocks near and far from beach are visible. Long sandy beach.
Vegetation	3	Flowering shrubs on bluff in foreground. Blackberry, shore pine, beach grass, morning glory and salal on the bluff. Distant forest and meadows on Cascade Head.
Water	1	Offshore rocks provide some additional features with breaking waves.
Color	3	Flowers provide yellows and whites. Sand is tan and brown. Dark brown rock at base of bluffs. Ocean uniformly blue.
Adjacent	1.5	Dense hotel development, but developed staircase and point on the landing screens some of the development.
Scarcity	2	Relatively common beach view. Height is an added feature.
Cultural	0	Riprap, cars on the beach to the south and regulatory signs are a slight negative, but staircase is slight positive.
Total	14	Class B view

SITE NAME Roads End		SITE ID:	COMMUNITY/LOCATION: Unincorporated, Lincoln County
DESCRIPTION Viewpoint is on the beach accessed from a small parking lot between NE 72 nd and NE 74 th off Roads End. The viewpoint was taken from the beach with a view of the beach up to the headland to the north and south along the development.			
Panorama Photos			
			
SCORING			
ATTRIBUTE	SCORE	DESCRIPTION	
Landform	4	Roads End headland and Pauly Rock offshore. The Thumb headland clearly in the middle ground view. Curving beach as it meets the headland, creating a cove. Bluffs along the shore of varying height. Boiler Bay distant to the south.	
Vegetation	1.5	Limited vegetation in the foreground. Some washed up kelp. Distant forests on headlands.	
Water	2.5	Outfall creek at the viewpoint, waves on the rocks offshore and on the headlands.	
Color	2.5	Headland provides reds and browns with exposed rocks and soil. Bluffs have tan and yellow sandstone exposed. Tan sands.	
Adjacent	0	Heavily armored bluffs with seawalls. Single home development dense along the bluff. Forests in the background.	
Scarcity	3	Headland view and cove at the end of the beach is unique.	
Cultural	0	Development distant to the south in Lincoln City.	
Total	13.5	Class B view	

SITE NAME	SITE ID:	COMMUNITY/LOCATION:
Yaquina Head, South View		Newport, Lincoln City
DESCRIPTION		
BLM Outstanding Natural Area site with developed access, interpretive signs, and viewing platforms. The view is high above the rocky coastline providing sweeping views out to sea and back along the coastlines. This viewpoint is from a viewing area above the offshore rocks on the southside of the head. View includes lighthouse to north.		
Panorama Photos		
		
SCORING		
ATTRIBUTE	SCORE	DESCRIPTION
Landform	4.5	View from cliff of many offshore rocks, bluffs and the Newport area. The beach below is rocky and full of coarse cobbles. Columnar basalt in offshore rocks. Rocky intertidal area.
Vegetation	4	Meadows and dominant grasslands on the head. Some trees mixed in. Aquatic vegetation on offshore rocks and kelp forest just below viewpoint. Distant forest behind Newport.
Water	3	Wave action on the offshore rocks. Swirling waves and currents among the rocks.
Color	4.5	Reds, greens, yellows and browns in the grasslands on the head. Water deep blue and red-brown of kelp forest. White guano and browns on offshore rocks.
Adjacent	3	Park setting with meadow. Roadway and infrastructure visible. Lighthouse in the view.
Scarcity	4.5	Very unique vantage and setting. Sweeping view from out in the water.
Cultural	1.5	Lighthouse adds greatly. Newport in the distance.
Total	25	Class A view

SITE NAME Yaquina Head, North-West View		SITE ID:	COMMUNITY/LOCATION: Newport, Lincoln County
DESCRIPTION BLM Outstanding Natural Area site with developed access, interpretive signs, and viewing platforms. The view is high above the rocky coastline providing sweeping views out to sea and back along the coastlines. This viewpoint is from base of the lighthouse on a paved viewing area overlooking the ocean.			
Panorama Photos			
SCORING			
ATTRIBUTE	SCORE	DESCRIPTION	
Landform	4	Offshore rocks, bluffs, Coast Range, Cape Foulweather, Gull Rock, and islets all visible. Sweeping view of beach to the north. Cape Perpetua visible to the south and parts of South Beach.	
Vegetation	4	Low lying mature shrubs and grasses. Moss and lichen on rocks. Kelp and algae among the rocks offshore. Distant forests on headlands and mountains.	
Water	2.5	Wave action on the rocks and beach breakers visible from behind.	
Color	2.5	Guano on rocks provide whites, dark basalt rock. Yellow and green flowers in shrubs. Ocean colors are deep green and blues viewed from above. Beaches and bluffs provide tan and reddish colors.	
Adjacent	4	Immediately at the base of the lighthouse. Developed park setting with interpretive signs and viewing area. Meadows on the knoll behind the lighthouse and Newport in the distance.	
Scarcity	4.5	Unique view from the tip of the headland and next to lighthouse. Sweeping views north and south.	
Cultural	-5	Development on the bluffs to the north, logging and cell towers also to the north. NNMREC site offshore. Highway 101 in view from this point.	
Total	22	Class A view	

Table 2. Scenic Quality Inventory and Evaluation Chart (modified from BLM, 1980a)

Key factors	Rating Criteria and Score		
Seascape/ Landform	High vertical relief as expressed in prominent headlands, large rock outcrops, or severe surface variation; or detail features dominant and exceptionally striking and intriguing. 5	Variety in size and shape of landforms; or detail features which are interesting though not dominant or exceptional. 3	Few or no interesting seascape features. 1
Vegetation	A variety of vegetative types as expressed in interesting forms, textures, and patterns. 5	Some variety of vegetation, but only one or two major types. 3	Little or no variety or contrast in vegetation. 1
Water	Water is a dominant factor in the seascape. There are interesting and dominant water feature(s) (e.g., rivers, streams, waterfalls on cliffs, waves crashing on rocks) in addition to the ocean as part of the seascape. 5	Flowing, or still, but not dominant in the seascape. There may be additional features but they are not dominant. 3	There are no additional water features in the seascape. 0
Color	Rich color combinations, variety or vivid color; or pleasing contrasts in the soil, rock, vegetation, and water. 5	Some intensity or variety in colors and contrast of the soil, rock and vegetation, but not a dominant scenic element. 3	Subtle color variations, contrast, or interest; generally mute tones. 1
Influence of adjacent scenery	Adjacent scenery greatly enhances visual quality. 5	Adjacent scenery moderately enhances overall visual quality. 3	Adjacent scenery has little or no influence on overall visual quality. 0
Scarcity	One of a kind; or unusually memorable, or very rare along the coast. * 5+	Distinctive, though somewhat similar to others along the coast. 3	Interesting within its setting, but fairly common along the coast. 1

Cultural modifications	Modifications add favorably to visual variety while promoting visual harmony. <p style="text-align: right;">2</p>	Modifications add little or no visual variety to the area, and introduce no discordant elements. <p style="text-align: right;">0</p>	Modifications add variety but are very discordant and promote strong disharmony. <p style="text-align: right;">-4</p>
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NOTE: Values for each rating criteria are maximum and minimum scores only. It is also possible to assign scores within these ranges. * A rating of greater than 5 can be given but must be supported by written justification.

Scenic quality overall rating: A = 19 or more, B = 12-18, C = 11 or less.

Consider variety, vividness, order and uniqueness of all of these individual factors as well as the harmony of the seascape and uniqueness of the whole view.

Table 5. Visual Resource Classes (modified from BLM, 1980a)

		Visual sensitivity					
		High		Medium		Low	
Special Areas		I	I	I	I	I	I
Scenic Quality	A	I	I	I	II	II	II
	B	II	III	III*	III	IV	IV
	C	III	IV	IV	IV	IV	IV
		f/m	b	s/s	f/m	b	s/s
		Distance zones					

* If adjacent areas is Class III or lower assign Class III, if higher assign Class IV

Note: The only change made to the original BLM visual resource classes table (BLM, 1980a) was to move high sensitivity/high scenic quality (A) sites to Class I that were originally noted as Class II. This change was meant to accommodate highly sensitive and highly scenic sites within coastal state parks that may not have a previous designation specifically geared toward scenic values.

Objectives for Visual Resource Classes (BLM, 1980a):

- **Class I:** The objective of this class is to preserve the existing character of the seascape. This class provides for natural ecological changes; however, it does not preclude very limited management activity. The level of change to the characteristic seascape should be very low and must not attract attention.
- **Class II:** The objective of this class is to retain the existing character of the seascape. The level of change to the characteristic seascape should be low. Management activities may be seen, but should not attract the attention of the casual observer. Any changes must repeat the basic elements of form, line, color, and texture found in the predominant natural features of the characteristic seascape.
- **Class III:** The objective of this class is to partially retain the existing character of the seascape. The level of change to the characteristic seascape should be moderate. Management activities may attract attention but should not dominate the view of the casual observer. Changes should repeat the basic elements found in the predominant natural features of the characteristic seascape.
- **Class IV:** The objective of this class is to provide for management activities which require major modifications of the existing character of the seascape. The level of change to the characteristic seascape can be high. These management activities may dominate the view and be the major focus of viewer attention. However, every attempt should be made to minimize the impact of these activities through careful location, minimal disturbance, and repeating the basic elements.



AGENDA & NOTICE OF PLANNING COMMISSION MEETING

The Planning Commission of the City of Newport will hold a meeting at **7:00 p.m. Monday, September 24, 2012**, 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.

NEWPORT PLANNING COMMISSION Monday, September 24, 2012, 7:00 p.m. AGENDA

- A. Roll Call.**
- B. Approval of Minutes.**
 - 1. Approval of the Planning Commission work session and regular session meeting minutes of September 10, 2012.
- 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.**
 - 1. Final Order for File No. 2-CUP-12. Approval of a request submitted by Yaquina Bay Baptist Church (Darrin Goodrick, authorized representative) (Newport Elks Lodge BPOE 2105, owner (Bill Bain, authorized representative)) for a conditional use permit in order for The Yaquina Bay Baptist Church to conduct their church operation in the lower level of the Newport Elks Lodge building located at 45 SE John Moore Rd. The Planning Commission held a public hearing on this matter on September 10, 2012.
- E. Public Hearings.**
- F. New Business.**
- G. Unfinished Business.**
- H. Director Comments.**
- I. Adjournment.**

Draft MINUTES
City of Newport Planning Commission
Work Session
Newport City Hall Conference Room 'A'
Monday, September 10, 2012

Planning Commissioners Present: Jim Patrick, Jim McIntyre, Mark Fisher, Rod Croteau, and Bill Branigan.

Planning Commissioners Absent: Gary East and Glen Small (*excused*).

Citizens Advisory Committee Members Present: Lisa Mulcahy, and Bob Berman.

Citizens Advisory Committee Members Absent: Bob Berman (*excused*).

DLCD Representative Present: Patrick Wingard.

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

Chair Patrick called the Planning Commission work session to order at 6:03 p.m. and turned the meeting over to CDD Tokos.

A. Unfinished Business.

1. DLCD Training: Oregon Land Use System – Part 2. Tokos said that from the on-line training found at www.coastalatlantlas.net/training we will be picking up where we left off in May and should be able to cover three more chapters at tonight's meeting.

Chapter 4 was about making land use decisions. There are three main types of local land use decisions: legislative, quasi-judicial, and ministerial. Public notice is required in most cases. Staff decisions are subject to appeal to the Planning Commission; and some Planning Commission decisions can be appealed to the City Council. All can be appealed to LUBA. All decisions must be consistent with state statutes, statewide planning goals, case law, and other applicable legal requirements.

Legislative land use decisions establish local land use policies and typically become part of the Comprehensive Plan or Zoning Code. Legislative map changes are applicable to broad geographical areas rather than specific sites. Legislative changes are heard first by the Planning Commission, then by the City Council. Quasi-Judicial decisions are when existing policies or regulations or map changes are applied to specific sites or development proposals. Examples are conditional use permits, variances, partitions, subdivisions, annexations, or street vacations. Ministerial decisions are made by local planning staff and do not require a public notice or hearing. Building permits would be an example.

There are also limited land use decisions and expedited divisions. Limited land use decisions are done by the locally-designated decision-maker. Examples are tentative partitions, tentative subdivisions, and design review. They are subject to notice requirements outlined by state statute. Expedited divisions are made by planning staff after notice and are also subject to requirements outlined in state statute. There is no hearing. The decision must be made within 63 days of the application. Appeals are to a referee hired by the local government and finally to the State Court of Appeals.

Regarding the process for land use decisions, the procedures for legislative and quasi-judicial decisions are outlined in statutes. Legislative decisions are more flexible because they deal with broad public issues. Quasi-judicial decisions are more complex and require "due process". For quasi-judicial decisions, Planning Commission members should avoid communications outside the public hearing process. Members are required to declare such contact. The local government must maintain a record of the proceedings and adopt findings of fact regarding the reasons for their decision. Within UGBs the process must be completed within 120 days. For land use applications, legislative land use decisions are subject to post acknowledgement plan amendment (PAPA) requirements contained in state statutes. For quasi-judicial decisions, the 120-day review process begins after the planning staff received required application forms and supporting information.

For public notices, notice for legislative actions must be provided to the public as outlined in local procedures and must be forwarded to the DLCDD Director. For quasi-judicial actions, specific parties (including the applicant, property owners within 100 feet of the property if within the UGB, and any neighborhood or community organization) must be notified 20 days prior to the public hearing. For legislative decisions, the Planning Commission holds the initial hearing before forwarding a recommendation to the City Council. Final action is by the City Council following a hearing. Legislative hearing procedures are relatively flexible and there are no limitations on outside contact between decision makers and the public. For quasi-judicial actions, the Planning Commission holds a hearing before forwarding a recommendation to the City Council. At the

hearing, the chair summarizes the procedures, and the planning director describes the applicable criteria and staff recommendations. The applicant presents their case, and others may testify in support. Opponents can then challenge. All parties have the right to present and rebut evidence. Failure to raise an issue orally or in writing in advance of or during the hearing precludes appeal to LUBA on that issue; which is commonly referred to as the “raise it or waive it” requirement.

Regarding the decision and findings, legislative decisions require a record and findings. The requirements are less rigorous than for quasi-judicial decisions. The record must show that the legislative action is within the legal authority of the jurisdiction and that applicable procedures were followed. Legislative decisions must be consistent with requirements in state statutes and the statewide planning goals. For quasi-judicial decisions, the Planning Commission makes its decision after hearing the staff report and public testimony. There are four courses of action from which to choose: approve the application; approve the application subject to specific conditions; deny the application; or continue the review process to obtain additional information. The final decision must include findings of fact and conclusions that are adequate to explain the basis of the action. The adoption of findings may occur immediately following the hearing, or the final version of the findings may be adopted at a separate meeting. The final decision must be based on what is known as “substantial evidence” that a reasonable person would rely on in reaching the decision.

Local ordinances specify the process for appeals. Only parties that have stated their case before the local government have 21 days to file a “Notice of Intent to Appeal” with LUBA. Following such filing, there is a prescribed time period for the local jurisdiction to provide the complete record of proceedings; briefs are filed; and LUBA hears oral arguments from the parties and issue a written opinion that either affirms, reverses, or remands the decision for additional consideration. LUBA’s decision may be appealed to the Court of Appeals; or finally, to the Oregon Supreme Court. Mediation is an alternative to a formal appeal.

Discussing staff’s role, the presentation explains that the planning staff are the first individuals the applicant meets. Staff is responsible for explaining all requirements, reviewing the application for completeness, and preparing the staff report. Staff presents its report and recommendation to the decision-maker. Staff generally prepares the final decision documents and findings of fact documenting the reasoning to support the decision. Staff prepares a public notice that describes the location of the subject property, the nature of the application, and the proposed use. The notice also explains the applicable criteria; the date, time, and location of the public hearing; the name of a local government contact; and requirements for public testimony and how the hearing is conducted. When a staff report is prepared, it must be made available to all interested parties seven days prior to the public hearing.

Ex parte contact occurs when a decision-maker receives information, discusses the land use application, or visits the subject site outside the formal public hearing. Such contact must be disclosed on record at the hearing, and any new evidence introduced through the contact must be presented. Bias occurs when a decision-maker has prior judgment of the case that prevents them from making an objective decision based on the facts. Such decision-makers should excuse themselves from the proceedings. A conflict of interest occurs if any action by public officials results in financial gain or loss to themselves, a relative, or a business associate. That must be disclosed. There are two types of conflicts of interest: actual and potential. An actual conflict is one that *would* occur as a result of the decision. If that is likely, the decision-maker must disclose it and not participate in the decision. A potential conflict is one that *could* occur as a result of the decision. In that case, disclosure is still required, but the decision-maker may participate in the decision. To determine legal issues with any of the above, decision-makers should consult with their local legal counsel if there are any questions or concerns. Tokos noted that if any of the Commissioners ever encounter a circumstance where they have one of the above and feel it may be problematic for them to hear a case and want feedback from legal counsel, to just sent Tokos an email. Tokos added that this applies to quasi-judicial hearings, which are a whole lot stricter and much more formal.

Patrick asked about the summary of the procedure that is required and noted that he doesn’t give that. Tokos said that there are specific requirements of what needs to go into the public notices, and we do include that in there. Tokos said that if a quasi-judicial action is particularly contentious, he may bring in a stricter script for Patrick to read at the hearing. He thinks that the Planning Commission hearing script may need some updates. Wingard asked if Newport requires Commissioners to describe site visits or just note them for the record. Tokos said site visits just have to be noted for the record, but the Commissioners can always add whatever they feel is important. He added that these are visits specifically to the site to think about the proposal.

Chapter 5 was an overview of the Oregon Coastal Management Program (OCMP), which is comprised of the statewide planning goals and requirements along with local government comprehensive plans and land use regulations. Local plans address Goal 16 (estuaries), Goal 17 (shorelands), and Goal 18 (beaches and dunes). The presentation stated that Goal 19 is the responsibility of the state and federal governments rather than local communities; but Wingard said he was making a note that that statement is not quite accurate, and Tokos agreed that it’s not only the state. The comprehensive plans of coastal cities must meet coastal Goals 16, 17, and 18 to ensure that Oregon’s coastal resources are protected; restored; and where appropriate, developed.

The mission of the OCMP is to “conserve and protect Oregon’s outstanding coastal resources by assisting local governments to develop livable, resilient coastal communities and knit together the programs and activities of local, state, and federal agencies on the Oregon coast.” The OCMP has authority over all areas within the state’s Coastal Zone, which extends from the crest of the Coastal Mountain Range to three nautical miles out to sea. The purpose of this state program, which is housed in DLCD, is to assist the work of the communities and agencies involved in planning on the coast. The OCMP helps ensure that coastal goals are integrated into city and county plans and regulations. The OCMP provides coastal communities with financial, planning, and technology assistance. More information about the OCMP is available at www.oregon.gov/LCD/OCMP.

Many state agencies are involved in coastal management. The State Land Board holds the submerged and submersible lands of the coast in trust for the public and has oversight over tidelands, the seafloor within three nautical miles of shore, the beds and banks of rivers, and wetlands. The Oregon Department of State Lands is the administrative arm of the State Land Board and manages all the coastal assets. The Oregon Parks and Recreation Department owns and manages more than 35,000 acres of land in more than 100 state parks in the coastal zone and also has jurisdiction over public use of the ocean beach. The Oregon DEQ is the state’s lead agency for protecting air, water, and land quality. ODFW manages fish and wildlife resources to protect their habitats. The Oregon Water Resources Department administers state law regulating the use of surface and groundwater and issues water rights. The Oregon Economic Development Department (Business Oregon) assists local governments to plan for and promote economic development. The Oregon Marine Board (OMB) uses revenues from boat license fees to help coastal communities build docks, boat ramps, and associated facilities. The Oregon Forestry Department manages more than 600,000 acres of three state-owned forests in the coastal zone and regulates timber harvest on private lands. The Oregon Health Division monitors the water quality of public water systems. The Oregon Department of Agriculture regulates oyster cultivation as a commercial activity within estuaries and leases state tidelands for commercial shellfish production.

In 1977, NOAA approved the OCMP as meeting federal requirements under the national Coastal Zone Management Act. Two benefits of that are funding assistance and authority to review federal actions for consistency with Oregon’s coastal rules and regulations. More than a third of the coastal zone is owned and managed by the federal government; principally the US Forest Service and the BLM. The Corps of Engineers is responsible for building and maintaining jetties, channels, and other navigation structures and is the lead federal agency for waterway management; including public waters and wetlands. The BLM manages nearly 500,000 acres of primarily timberland in the coastal zone; and the US Forest Service is a major landowner and manager of timberlands in the coastal zone. The US Fish and Wildlife Service is the lead federal agency for protection of fish and wildlife habitat and species through the Endangered Species Act. The National Marine Fisheries Service (a division of NOAA) regulates open fisheries and also implements the federal Endangered Species Act. The EPA is the lead agency for air and water pollution control; designates dredged material disposal sites in the ocean; and, through the Clean Water Act, delegates jurisdiction to the state DEQ. The US Coast Guard is responsible for maintaining safe navigation and vessel operation and is the federal lead agency for oil spill prevention, response, and cleanup. Tokos discussed the requirement that local jurisdictions sign off on land use compatibility statements. These are handled at staff level; but would come to Planning Commission if appealed or if they required local action such as a conditional use permit.

Chapter 6 dealt with Goal 16 (Estuarine Resources). Estuaries are bodies of water partially enclosed by land and connected with the ocean. Each estuary includes channels that are continually submerged, tideflats and tidal salt marshes that are covered by tidal waters twice a day, and associated freshwater wetlands and rivers affected by the tide. Since 1970, coordinated state and local planning has been required to protect estuaries’ long-term health. All coastal local governments with estuarine resources have adopted comprehensive plans and land use regulations that meet Goal 16; and amendments to those plans and regulations must comply with that goal. The objective of Goal 16 is to protect the long-term values, diversity, and benefits of estuaries and associated wetlands and also to provide for appropriate restoration and development. The goal relies on a classification system that specifies the level of development allowed in each estuary. All local governments with authority over an estuary must adopt a management plan and land use regulations according to four classifications: Deep-draft development for estuaries with maintained jetties and channels more than 22 feet deep; Shallow-draft development for estuaries with maintained jetties and channels up to 22 feet deep; Conservation for estuaries without a maintained jetty or channel within or adjacent to an urban area with altered shorelines; Natural for estuaries without a maintained jetty or channel not adjacent to an urban area and with little development. Oregon has 22 major estuaries; 3 are classified as deep-draft development, 8 are shallow-draft development, 6 are conservation, and 5 are natural estuaries. Seventeen other estuaries are considered minor estuaries and are classified as natural or conservation.

Each estuarine area contains management units whose boundaries are determined by the types of resources in the area and the extent of past alterations; these are natural, conservation, and development units. Within each, particular uses and activities are promoted, encouraged, protected, or enhanced; and others are discouraged, restricted, or prohibited. Certain uses are considered permissible for each unit, while others uses may be allowed if they meet the Goal 16 resource capability test. Natural units are managed to protect natural resources, such as areas with significant fish and wildlife habitat; especially those that are the least altered or developed. Permissible uses include low-intensity water-dependent recreation, research, passive

restoration, bridge crossings, and limited use of riprap. Uses that may be allowed under the resource capability test include boat ramps, aquaculture, habitat restoration, pipelines or other utility crossing, and bridge crossing support structures. The conservation unit is applied to areas that have been altered from their natural state. A variety of development is allowed as long as there are no major alterations. Uses that may be allowed under the resource capability test include high-intensity water-dependent recreation, marinas, certain water surface uses that do not require dredging or filling, and aquaculture. Development units are reserved for areas with fewer natural resources that have been the most altered. These are typically applied to deep-water areas close to shore, navigation channels and subtidal areas suitable for disposal of dredged materials. In addition to uses permitted in natural and conservation management units, permissible uses include dredging and filling, water-dependent commercial activities, and dredged navigation channel and water storage areas that support industry, commerce, and recreation. Resource capability uses include non-water-dependent or related uses and mining. Each Oregon estuary is managed according to a local estuary management plan that is part of the comprehensive plan. Permissible uses are generally consistent with Goal 16. Resource capability uses are conditional uses subject to the criteria in Goal 16.

Under Goal 16, unless the local jurisdiction fully addresses a proposed action that may alter the estuarine ecosystem in its comprehensive plan, the applicant must undertake an impact assessment that considers: size, scale, and location of the proposed activity or development; resources present at the site and those that it will affect; effects on other existing uses of the estuary; expected impacts on water quality, physical conditions, or biologic resources; and ways to avoid or reduce such impacts. Before a decision is made, the local government applies the Goal 16 resource capabilities test to determine whether the proposed impacts on the estuary are significant or whether they can be accommodated without harm. In addition, some activities are subject to the dredge, fill, and other alterations test; which requires the local government to assess need, consider upland alternatives, and minimize adverse impacts. In addition to approval through the local process, proposed actions involving removal or filling of material in an estuary are subject to the requirements of other agencies. The Oregon DSL must approve any proposed removal or fill under state law; and the US Army Corps of Engineers has ultimate jurisdiction over any removal or fill under federal law. Other agencies, such as Oregon DEQ and the National Marine Fisheries Service have approval authority over certain aspects of the proposed activity.

The function and habitats of Oregon's estuaries have been significantly affected by the disposal of dredged materials from construction and maintenance of navigation channels and harbors. Goal 16 requires local estuary plans to avoid further loss by planning for the appropriate disposal of dredged materials. Each local management plan must have a dredged material disposal plan with enough capacity to hold material expected to be dredged over the next 20 years. When dredging or filling results in the loss of significant habitat or ecosystem functions in one area of an estuary, equivalent habitat or function must be created, restored, or enhanced in another area. This mitigation is required as a condition of approval by the appropriate state and federal agencies.

Riprap is a layer, facing, or protective mound of stones randomly placed against shorelands or dunes to prevent erosion. It is permitted in natural management units to protect development that existed on or before October 7, 1977, when the goals were approved. It is also allowed for certain other structures or uses, such as a historically-designated building. Riprap is allowed in conservation units and development units when: it protects an existing or permitted use; land management or nonstructural measures are not sufficient protection; and it minimizes adverse effects on water currents, erosion, and accretion. It is also allowed in conservation units when it is consistent with the resource capabilities of the area and the purpose of the conservation management unit.

Goal 16 requires local estuary management plans to be based on an inventory. The DLCDC ensures that data from various agencies and other sources are compatible and usable by local governments. Much of the inventory information underlying many local estuary plans is out of date or has been superseded by more accurate and current information, particularly in digital format for use in a GIS. Local governments are encouraged to use the Periodic Review process or the next planning cycle to work with resource agencies to ensure that their estuary plans are based on the most current and accurate data.

In 1972, Congress passed the Coastal Zone Management Act, which empowers states with coastal management programs that meet the requirements of the Act to review certain federal actions, including licenses and permits that are consistent with the enforceable policies identified in the state's federally-approved coastal management program. In 1977, Oregon became the second state whose coastal management program was approved. DLCDC applies consistency requirements to federal actions affecting the state's coastal zone. Coastal local governments' land use plans and ordinances are included as enforceable policies of the Oregon Coastal Management Program.

Tokos added that the Commission didn't really work on that as part of the zoning code comprehensive update. He said that we have a thorough estuarine chapter, which we will probably come back to in the future. The state is working on some effort to update estuarine plans for different estuaries along the coast. Feedback is needed to better differentiate what the role of the local government is as opposed to state government. We are asked to do some of the same things that the state is already going to be doing. It would be nice to get that sorted out a little bit so that it is clearer. In addition, there is the Endangered Species Act having to do with wetlands that we will be working through as well.

Branigan asked if NOAA permits were reviewed by the City. Tokos said that the Port was the applicant, and we issued several estuarine permits on that. He said most areas in the Bay are development areas. There are a few conservation areas. We do have jurisdiction on development happening in the water in the Bay. Tokos added that it is hard to get approved for riprap, but we do have the review function if riprap is permissible.

B. Adjournment. Having no further time, the work session meeting adjourned at 7:00 p.m.

Respectfully submitted,

Wanda Haney
Executive Assistant

Draft Minutes
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
Monday, September 10, 2012

Commissioners Present: Jim Patrick, Rod Croteau, Mark Fisher, Bill Branigan, and Jim McIntyre.

Commissioners Absent: Glen Small and Gary East (*both 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 7:02 p.m. On roll call, McIntyre, Croteau, Patrick, Fisher, and Branigan were present. Small and East were absent but excused.

B. Approval of Minutes.

1. Approval of the Planning Commission work session and regular session meeting minutes of August 27, 2012.

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

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

D. Consent Calendar. Nothing on the consent calendar.

E. Public Hearings.

Patrick opened the public hearing portion of the meeting at 7:05 p.m. by reading the statement of rights and relevance. He asked the Commissioners for declarations of conflicts of interest, bias, ex parte contact, or site visits. Fisher declared site visits but no discussion with anyone. Croteau declared a site visit to look at the parking lot. Patrick called for challenges to any of the Planning Commissioners or the Commission as a whole hearing these matters; and no objections were raised.

Quasi-Judicial Actions:

1. **File No. 2-CUP-12.** A request submitted by Yaquina Bay Baptist Church (Darrin Goodrick, authorized representative) (Newport Elks Lodge BPOE 2105, owner (Bill Bain, authorized representative)) per NMC Chapter 14.03.50(D)(8)/“Residential Uses” for approval of a conditional use permit in order for The Yaquina Bay Baptist Church to conduct their church operation in the lower level of the Newport Elks Lodge building located at 45 SE John Moore Rd. (Lincoln County Assessor’s Map 11-11-09-BB, Tax Lot 100), which is located in an R-1 zoning district where a church use is allowed pursuant to approval of a conditional use permit.

Patrick opened the hearing for File No. 2-CUP-12 at 7:06 p.m. by reading the summary of the file from the agenda. He called for the staff report. Tokos noted that there is a case record before the Commissioners with all the application materials. The staff report goes through the application with some detail, but Tokos wanted to touch on the criteria. He identified the NMC chapter where the criteria can be found. Going through the criteria, he noted that with respect to criterion one, it relates to water sewer, power, and streets being able to accommodate the use. He noted that John Moore is a minor arterial and is built to handle a lot of traffic, so it is reasonable for the Commission to find that the public transportation is adequate. As far as water, sewer, and power, the building has been designed with this type of organization in mind, so it is reasonable to find that the public facilities are adequate. Regarding criterion two, there’s no issue because there is no overlay zone applicable to the property and it complies with the underlying zone. Regarding criterion three related to adverse impacts, Tokos noted that the developments provided for off-street parking. There is a fair amount of off-street parking provided on this site as shown on the site plan provided by the applicant. Tokos said that, based on occupancy as posted by the Fire Department for the building itself, there is enough parking for both uses independently but not if both uses are being used at the same time. As Tokos pointed out in the report, if the parking lot is full and parking is spilling out onto the street, there would be adverse impact. He believes that can be addressed with the conditions of approval. First is a shared parking agreement between the two bodies so they map out how the site would be used so there is no conflict. Second is that the lower lot be striped consistent with the zoning code, and that the handicap space be signed so it conforms to state code. Tokos said those are the conditions he would encourage the Planning Commission to include if they choose to approve the application. Fisher asked if this approval is specific to the Lodge and this church; or if the church closes or moves to another location, if this permit would allow the Lodge to then rent their facility to another religious group or if the approval would die. Tokos explained that this is an approval for a church use, not a particular church; and if another church were

to use this facility, the permit would cover that. Branigan noted that the applicant is proposing no change of signage; but asked if another church were to come in and wanted to add signage, does that conditional use come back for review. Tokos said that if a new church were proposing building modifications not proposed as part of this application, then they would certainly have to come back. This permit provides some signage; and if the new request was similar, that would be fine. A free-standing sign gets into a gray area of the code. It could be handled under the sign code if it's allowed in the R-1 zone, which is pretty limited.

Proponents: The representative for the owners (the Elks Lodge) Bill Bain of 4910 NW Woody Way, and the applicant, Darrin Goodrick of 275 SE 130th Ct, came forward to testify. Bain asked that the Commissioners take a look at the letter of agreement between the church and the Elks that he had brought in this evening and provided a copy for each Commissioner. Bain said they have no argument with the recommendations of the planning staff with respect to striping the parking lot. He said the plan is that, in the unlikely event that both organizations would have a capacity crowd at the same time, they would certainly talk to each other and take care of any conflict. Bain said that time is of the essence for them. He said had they anticipated they would ever have had a problem; they would have been in before. They actually conducted the lease between them assuming that the property was in a commercial use. Being a grandfathered nonconforming, they thought the church would not cause a problem if the property were zoned as a commercial lot; which he said it apparently was prior to the Elks constructing the building. He said that the zoning which has been applied came along after the building was constructed. It got changed. He said that during the six years he served on the Planning Commission, he kept trying to figure out a way to get some areas of the city rezoned; and this one specifically. He said it isn't appropriate for a full C-1 commercial, but many communities have a cushion or transition zone that fits between residential R-1 and commercial. They call it RP (residential/professional), which allows for attorneys' offices, etc. He said he never got to the point of fishing those things out before he moved to the City Council and didn't think further of it. Bain wanted to tell the Commission that churches by application are property-tax-exempt under one statute and the Elks Lodge under a different statute. When the church came and was listed on the property, in order to continue the tax-exempt status, they had to apply for tax exemption on that portion of the building. Bain said the lease rate is occasion to reflect the fact that there are no taxes to be paid. It is below market rent. That is part of the statute for the church to apply for exemption. He noted that the reason this got triggered is that when the Assessor's office reviewed the application, they checked into whether a church was a proper use according to the zone. He said that is why they are here. He thinks this type of cushion zoning as a buffering tool is something the Commission could look at for other areas of the city as well. Bain said that one thing they would like to ask is mentioned in the second to the last paragraph of the letter he submitted tonight. They have asked for immediate approval with a performance guarantee that they will put the striping down. He said this is to get through the tax-exempt application process. They don't want to delay it any longer. McIntyre asked if the parking plan laid out on the illustration Bain present tonight has been approved. Bain said this is a proposal; and it could be that or anything else in order to come up with that number of spaces. He said he had added those yellow lines with his computer mouse. McIntyre noted that this is a one-way drive-through; and as drawn, there will be traffic going against each other. Bain said they could do just the opposite. They will be mindful and compliant with what the code says. Spaces will be as wide and as deep as they need to be, and the traffic pattern will be appropriate. He noted that there is a handicap space in the very last northwest space already marked on the pavement. The lines have just worn off. Bain said that he personally restriped the lot upstairs last year. Bain said another comment he wanted to make was that the Fire Marshal has been very generous in the capacity numbers he assigned. He doesn't know that they would ever come close to reaching what he has proposed. He said he personally feels they are unrealistic. Branigan asked if Bain would have any problem getting the restriping done within 60 or 90 days. Bain said he would probably have it done within two weeks. He would have to lay it out so that he has the right spaces and the circulation makes sense. He will be working with Darrin on that because the church use is what is going to happen there, and he wants to make it usable for them. McIntyre noted there was no signage plan and asked if they have no plans for signage. Bain said not that isn't there already. He said there is no need to apply for anything because all signage is in the windows or painted on the face of the building.

There were no other proponents, opponents, or interested parties present wishing to testify.

Patrick closed the public hearing at 7:25 p.m. for Commissioner deliberation. McIntyre thought the request was pretty straight forward. He said it looks like there is adequate parking with the overflow above with the Elks' parking. He said that the letter submitted tonight clearly defines that there should not be any conflict between the times of the uses. McIntyre said he is in favor of it. Croteau thought that with the parking conditions, any issues are taken care of. He said he has no issue with the request. Fisher concurred. Branigan thought the staff report analysis is well done. He said that Bain has handled that issue in a very timely manner, but he would like to see in the letter the date when the striping will get done; 60-90 days, whatever is reasonable. Branigan said that, other than that, he concurs. Tokos said that he would recommend for the Commission not to lift the occupancy threshold. He understands the church's circumstances, but the department could maybe work with the Assessor's office. As a matter of practice, as required in the building code, the city doesn't issue a building permit if the land use has not been complied with. It would be inconsistent for the Planning Commission to take that stance. The department could provide the County with approval from the Planning Commission. It would be sufficient to inform them that the Planning Commission determined the applicant demonstrated compliance with the land use. The final order will be brought back at the next meeting. In the meantime, Tokos can provide the Assessor's office with the minutes from this meeting. Our building permit is a way to insure that the land use is satisfied. Patrick agreed that the striping has to be done before they can get occupancy. Patrick said he would consider a motion for approval with the conditions.

MOTION was made by Commissioner Croteau, seconded by Commissioner McIntyre, to approve case File No. 2-CUP-12 with the conditions indicated regarding parking. The motion carried unanimously in a voice vote.

Legislative Actions:

File No. 3-CP-11. Proposed legislative amendment is to the “Economy” section of the Newport Comprehensive Plan. The update serves to: (1) update the City’s economic data, (2) develop a cohesive economic strategy and vision for the community, and (3) better define the City’s role in helping to achieve community economic development aspirations through specific policies and implementation measures.

Patrick opened the public hearing for File No. 3-CP-11 at 7:29 p.m. by reading the summary of the file from the agenda. He asked for the staff report. Tokos noted that the Commission had gone through a lengthy presentation on this file at work session a couple of weeks ago to go through all of the elements. He noted that there have been some minor adjustments with ECO adding in the maps that weren’t in properly prior to this. He explained that this is a comprehensive update of the Economy section of the Comprehensive Plan and accomplishes a couple of things. One is to make sure we are doing what we are legally obligated to do by providing a 20-year supply of commercial and industrial land and having appropriate ranges of sizes of lots available. This has been demonstrated through the EOA. This showed that what we have a potential for is to use underutilized properties, which led to exploring an urban renewal district on the north side. There are also some recommendations with respect to annexation on the south side where there is a fair amount of industrial land within the UGB but outside the corporate city limits. Where the city is supplying sewer, we need to think about our annexation strategy down there. The City Council targeted this as a goal this year. Tokos said the other major piece was how the City would be participating with its partners in economic development so we are all working toward the same goal. There was a fair amount of discussion about the City’s role compared to the other partners. There is a recommendation in here that the City needs to support a business recruitment and coordination function. That is not going to be housed at the City. The group didn’t feel that was appropriate. It could be something that is contracted with a firm in the metro area, or it could be partially or fully positioned at the Chamber or with the Economic Development Alliance. At this point, there is a recommendation that the TAC be reconvened to put together a work plan for how that position should function. Croteau asked where funding would come from. Tokos said that he didn’t know that the City would fully fund it, but probably would be a partner. There may be some general fund, and maybe some room tax. Tokos said outside of that, there are a number of recommendations relative to the targeted industries. The existing chapter doesn’t provide what the City should do on that part. The existing code even goes so far as to say we can’t provide a 20-year land supply. He acknowledged that we don’t have a lot of larger lots, which is a hindrance to some retailers. We have a sufficient amount of acreage within the UGB. We need to focus on areas underutilized. Forming an Urban Renewal District with those tools goes a long way to get us to a point where we can tackle those properties and be a more effective partner. The focus on marine industries, tourism, and the Port are not in our existing plan. This hones down what industries we are trying to attract and what are here that we want to foster, and it provides a good outline for how we want to go about doing this. Tokos noted that the city attorney did look at this, and from a very technical side, there are some things she asked be put in here. ECO is doing that. He added that they are not relevant to any of the policies, but just need to be included in the report.

McIntyre wondered if, in order to provide property adequate for economic redevelopment, the City would consider street abandonment. He said that in driving around the City there are probably not over six parcels of 2 acres in size; most are small parcels. He noted from experience that a typical shopping center takes a minimum of 8 acres. Tokos said that is fair game. The City did that with Walgreens where there is a public easement shifting further to the south; which gave them what they needed. Urban Renewal is about giving resources to help bring the City and property owners together. We could potentially vacate streets and bring in alternative accesses. He said that some of those tools are critical for us to successfully do that. Tokos said issues with properties along the highway corridor tend to be that they are too small, poorly configured, or have poor access. McIntyre asked about funding. Tokos said it depends on how much we want to carve out of revenue sources for the economic position. We could probably tap a portion of the local gas tax, the state gas tax, room taxes, and some general fund money that gets applied to infrastructure projects. We need most of that for maintaining what we have, but we can carve out a little bit. Croteau mentioned the improvement to land value ratio. He noted that most of those are a bunch of small lots, and it would take some effort to meld that into a usable redevelopment strategy. McIntyre added that there are topography problems. He gave an example of five parcels where, with some street abandonment, we are able to come up with a larger parcel; but three of those might be higher than the other two. Tokos said there is recognition by retailers that space is a premium here. He said that for their expansion, Fred Meyer couldn’t get the land they wanted so they had to do the more-expensive

mezzanine expansion. Tokos said that he wouldn't be surprised that as Newport becomes more attractive, they will make do with what parcels they have.

Testimony: Patrick Wingard, DLCD field representative, 4301 3rd St, Tillamook, OR spoke briefly. He wanted to commend Tokos. He said he was impressed with the Committee and how engaged everybody was. There was no wasted time because everyone came to work. He said it would be a model to use going forward. Wingard said DLCD is fully supportive in the direction the City is going and will continue to support in any way they can.

Patrick closed the public hearing at 7:40 p.m. for Commissioner deliberation. Branigan noted that Tokos had said the attorney still needs to make some changes and wondered if this is the final draft. Tokos said the policies and strategies recommended are all final; those won't change. There is some technical language up front related to recent litigation on the EOA that relates to the findings but is not material to the recommendations. Branigan thought it was a very good document and that they hit the mark. Fisher had no further comments to add. Croteau agrees that it is a really good document that really sets out things to shoot for. He was impressed. He said it was important to have it done. McIntyre had one more question. He noted that in reviewing this document, our scope seems to be centered on the existing industries of lumber, the Bay (shipping & water uses), and tourism. He wondered if there isn't room for other items such as going after, for example, some electronic development firms and things like that; major names in manufacturing, electronics, or internet providers or servers. Tokos said that the TAC looked at the full scope and range of types of businesses that could potentially be attracted to Newport. We have limited resources for what we should actively attract. He said that's not to say that if these showed up, we wouldn't work on it. These were identified as strategic to Newport, and it's best to attract given what we have on the ground today. McIntyre noted that it does mention the bridge as being an issue. He thinks that is something we need to approach and get resolved because that will limit the growth; especially to the south where the major portion of available buildable land is located. Fisher said that Newport and Tillamook are similar in that they are extremely unattractive for physical commerce. Trucking is impossible to get there from the Valley. We have higher gas prices. He said that if Intel wants to come here, we have the problem of land, water, and what to do with the discharge. Fisher said it may be difficult to build up industry here. Croteau added that there are workforce limitations for high tech industries. McIntyre was thinking of other types of industries that manufacture items that could use skilled workers. He said that his point is not to let ourselves be limited to a very small field. Fisher said that he has lived in Oregon most of his life, and here for nineteen years. For years he has been asking why we don't do some planning about the bridge. He agreed that we don't have the money to build it; but one day there is going to be an earthquake and the bridge will be red-flagged. He said we have all talked about it. Tokos said this point gets into the Transportation Plan and in the Economy section as well, which gives us a tool to bring ODOT in here and ask why they can't initiate some planning work. We can also work with our coastal caucus to put pressure on that agency. Those are the steps we can take. Fisher noted that we have one of the best engineering schools just a little to the east where students have to do intern projects; and that could cover a lot of work that needs to be done. Patrick said that if we come across something else, he didn't think this plan eliminates it. If we focus our efforts, it needs to be on what we can sell the best. He said he didn't have a problem with that. He thought, however, that we are still basing commercial development on magic. We are processing the magic, but it doesn't go beyond that. He said we have been here before. Twenty years ago we said we are going to redevelop downtown. Until we get some kind of tool, like an Urban Renewal District, it won't happen. Tokos said the big recommendation in here is to start the ground work to sell that to other taxing entities. The TAC was generally in favor of this. Once this gets approved, there are two things we have to do rather quickly. One is to reconvene the TAC to come up with a work program for the next budget cycle. The other is to program in funds to put together clear concepts of what an Urban Renewal District would look like. If this gets adopted by the Council, we need to have a clear plan for where we want to go and be able to say, "Here is what we might want it to look like. Here is Option A, and here is Option B." This will involve working with partners and taxing entities, and that will take a good 12-18 months. Croteau said that he thought the tool we are looking for is money; in essence that is where the process has to start. Patrick said that he had no problem approving this, but strongly urged that the TAC be reconvened to get started on what economic development goals they want done. Second, he urged consideration to do an Urban Renewal District in order to get funds. Branigan asked who is going to own it and try to sell it. Tokos said that the way this would probably work is to go out and see if there is a headhunter firm that has connections with the firms we want to attract. We probably wouldn't hire someone if there are firms out there with reasonable fees. We still need resources to take to those firms; so the City has to put together a portfolio of properties and work with owners so that we have that to draw from. One thing Tokos thinks we are facing is that Business Oregon's recruitment side is focused on the Valley, and they don't really try to attract businesses to small communities. This recommendation is saying we need to go do that for ourselves and not rely on anybody else. Patrick said that he likes

the TAC setting up what they want done and setting benchmarks; then there is something to measure so whoever they hire knows what needs to be done.

MOTION was made by Commissioner Branigan, seconded by Commissioner Croteau, to forward case File No. 3-CP-11 on to the City Council. Patrick wondered if there should be something added about reconvening the TAC, and Tokos said that a recommendation that the TAC be reconvened is in there. The motion carried unanimously in a voice vote.

F. New Business. No new business to discuss.

G. Unfinished Business. No unfinished business to discuss.

H. Director's Comments. Tokos had no director comments.

Patrick wondered if the Commission should look at an R-P zone as Bain had suggested. Tokos noted that establishing a new zone is a pretty big effort. He said the Elks Lodge could always seek rezoning on their property.

Croteau asked about how serious conversation was about making Newport a cruise ship destination. Tokos said that with the International Terminal being close to being finished and that potential there, this may need to be pursued again. Fisher noted that conversation was likely dropped because the Port has had so many other things on its plate and there are some others that are so opposed. Tokos said it likely will be discussed when the Port picks up their strategic planning work. There was some further discussion regarding cruise ships. McIntyre raised a question about rail service, and there was some brief discussion on that.

I. Adjournment. Having no further business to discuss, the meeting adjourned at 8:10 p.m.

Respectfully submitted,

Wanda Haney, Executive Assistant

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

**IN THE MATTER OF PLANNING COMMISSION)
FILE #2-CUP-12, APPLICATION FOR A)
CONDITIONAL USE PERMIT AS SUBMITTED)
BY YAQUINA BAY BAPTIST CHURCH (DARRIN) **FINAL**
GOODRICK, AUTHORIZED REPRESENTATIVE) **ORDER**
(NEWPORT ELKS LODGE BPOE 2105, PROPERTY)
OWNER) (BILL BAIN, AUTHORIZED)
REPRESENTATIVE))**

ORDER APPROVING A CONDITIONAL USE PERMIT per Chapter 14.03.050(D)(8)/“Residential Uses” of the Newport Municipal Code (NMC), in order for the Yaquina Bay Baptist Church to conduct their church operation in the lower level of the Newport Elks Lodge building located at 45 SE John Moore Road.

WHEREAS:

- 1.) The Planning Commission has duly accepted the application filed consistent with the Newport Municipal Code; and
- 2.) The Planning Commission has duly held a public hearing on the request, with a public hearing a matter of record of the Planning Commission on September 10, 2012; and
- 3.) At the public hearing on said application, the Planning Commission received testimony and evidence; and
- 4.) At the conclusion of said public hearing, after consideration and discussion, upon a motion duly seconded, the Planning Commission **APPROVED** the request.

THEREFORE, LET IT BE RESOLVED by the City of Newport Planning Commission that the attached findings of fact and conclusions (Exhibit "A") support the approval of the requested conditional use permit with the following condition(s):

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/owner 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.
3. The applicant and owner shall submit an amended shared parking agreement that includes a commitment by both parties to restrict the scale of their respective operations to ensure that demand does not exceed available off-street parking, in the event that both uses are occupying the site at the same time.
4. The applicant and/or owner shall stripe the lower parking lot in a manner consistent with Newport Municipal Code requirements for sizing parking stalls and drive isles (NMC 14.14.060 and 14.14.090), and with the accessibility requirements of the Oregon Structural Specialty Code to ensure adequate access for disabled persons (NMC 14.14.050). The parking lot work shall be coordinated with city staff and completed prior to issuance of an occupancy permit for the church use.

BASED UPON THE ABOVE, the Planning Commission determines that the request for a Conditional Use Permit to authorize a church use for the lower floor of the Elks Lodge is in conformance with the provisions of the Comprehensive Plan and the Zoning Ordinance of the City of Newport, and the request is therefore granted.

Accepted and approved this 24th day of September, 2012.

James Patrick, Chair
Newport Planning Commission

Attest:

Derrick I. Tokos, AICP
Community Development Director

EXHIBIT "A"

Case File No. 2-CUP-12

FINDINGS OF FACT

1. Yaquina Bay Church (Darrin Goodrick, authorized representative) (Newport Elks Lodge BPOE 2105, owner (Bill Bain, authorized representative)) submitted an application on August 13, 2012, for approval of a Conditional Use Permit, per Chapter 14.03.050(D)(8)/"Residential Uses" of the Newport Municipal Code, in order for the Yaquina Bay Baptist Church to conduct their church operation in the lower level of the Newport Elks Lodge building.
2. The subject property is located at 45 SE John Moore Road (Lincoln County Assessor's Map 11-11-09-BB, Tax Lot 100). The parcel is approximately 1.72 acres per the Assessor's records.
3. Staff reports the following facts in connection with the application:
 - a. Plan Designation: Low Density Residential.
 - b. Zone Designation: R-1/"Low Density Single-Family Residential".
 - c. Surrounding Land Uses: Uses include single-family residential to the east and southeast. A church resides to the west, school to the south, and heavy commercial exists to the north on the opposite side of US 20.
 - d. Topography and Vegetation: The property slopes gradually to south and west. The site is fully developed and landscaped.
 - e. Existing Structures: Elks Lodge building.
 - f. Utilities: All are available to the site.
 - g. Development Constraints: None known.
 - h. Past Land Use Actions: None known.
4. Upon acceptance of the application, the Community Development (Planning) Department mailed notice of the proposed action on August 16, 2012, to affected property owners required to receive such notice by the Newport Zoning Ordinance, and to various city departments, agencies, and public utilities. The notice referenced the criteria by which the application was to be assessed. The notice required that written comments on the application be submitted by 5:00 p.m., September 10, 2012, or be submitted in person at the hearing. The notice was also published in the Newport News-Times on August 31, 2012. No written comments were received prior to the hearing.
5. A public hearing was held on September 10, 2012. At the hearing, the Planning Commission received the staff report and heard testimony from the applicant's agent and the owner's agent. The minutes of the September 10, 2012, hearing are hereby incorporated by reference. The Planning Staff Report with Attachments is hereby incorporated by reference into the findings. The Planning Staff Report Attachments included the following:

Attachment "A" – Applicant's Written Findings of Fact

Attachment "A-1" – Aerial Photograph of Property (serves as Site Plan)

- Attachment "A-2" – Photographs of Property
- Attachment "B" – Public Hearing Notice
- Attachment "C" – Assessment Printouts of Property
- Attachment "D" – Assessment Map of the Property
- Attachment "E" – Zoning Map of the Area

6. Pursuant to Chapter 14.03.050(D)(8)/“Residential Uses” of the Newport Municipal Code, a church is a type of community service use that may be permitted in an R-1/“Residential-Low Density Single-Family” zoning district if it satisfies the approval criteria for a conditional use permit. With this application, the Yaquina Bay Baptist Church is seeking approval of a conditional use permit to occupy the lower floor of the Elks Lodge building as illustrated on the applicant’s site plan (Attachment "A-1"). Lincoln County Assessment records indicate that this is about 33% of the buildings total floor area, or 5,867 sq. ft. (Attachment "D").

7. The applicant notes that the aerial image of the site shows the existing building and site improvements. They are not proposing to make any changes to the property in conjunction with this request. Parking for the church is available from the lower parking lot, which is estimated to contain 22 spaces. The lot is accessed from SE 1st Street. An additional 85 spaces are available in the upper parking area which serves the Elks Lodge. This lot is accessed from SE John Moore Road and SE 1st Street.

8. A revised site plan was provided at the hearing showing 21 spaces in the lower parking lot. This difference of one space is not material to the findings and conclusions contained in this report and has; therefore, not been factored into the analysis.

9. Church services will be held on Sundays, with small group and office activities occurring on other days.

10. No fascia or freestanding signage is proposed.

11. The applicable criteria for the conditional use request are found in NMC Section 14.34.050:

- a. The public facilities can adequately accommodate the proposed use.
- b. The request complies with the requirements of the underlying zone or overlay zone.
- c. 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.
- d. 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.

CONCLUSIONS

Regarding the applicable criteria for the conditional use request, the following conclusions can be made:

A. *Criterion #1. The public facilities can adequately accommodate the proposed use.*

1. Public facilities are defined in the Zoning Ordinance as sanitary sewer, water, streets, and electricity. The applicant's findings indicate that streets, water, and sewer can adequately accommodate the proposed use, as the use is no more intense than the previous use pattern in the lower level. The modest increase in use of the building associated with the church use is on days that do not conflict with other activities at the Elks Lodge, so it should not be a burden on facilities or public services.

2. At the public hearing on September 10, 2012, the applicant and owner provided a letter of agreement between the two that presented the hours of operation for the two uses and indicated that the two entities would cooperate to avoid parking conflicts. There are no conditions proposed to prevent the uses from overlapping at some point in time. With that said, it isn't necessary that the Commission look to prevent an overlap if it can find the public facilities to be adequate to serve the uses should they occur concurrently.

3. The subject property adjoins SE John Moore Road and is accessed directly from this road or via SE 1st Street, which is an intersecting local street. SE John Moore Road has been designed and constructed to serve as a minor arterial, with two 14 foot paved travel lanes, 8 foot parking/bike lanes and sidewalk. A minor arterial roadway is intended to handle large volumes of traffic from connecting residential, shopping, employment and recreational areas.¹ Traffic associated with these uses, when considered in isolation or collectively, is consistent with what is envisioned for this type of facility. Water, sewer, and electric service have been extended to the site. They are scaled for a fraternal organization, with spaces for large group gatherings. A church use has a similar footprint in terms of how the space and services are utilized.

4. Given the above, the Planning Commission concludes that the public facilities can adequately accommodate the church use. Availability of off-street parking may necessitate the imposition of occupancy limitations; however, such parking areas are not public facilities so it would be inappropriate to address that issue under this criterion.

B. *Criterion #2. The request complies with the requirements of the underlying zone or overlay zone.*

1. This criterion addresses special requirements of the underlying or overlay zone beyond the standard zoning ordinance requirements.

2. There are no special requirements in the underlying zone that apply to this application.

¹ Definition of Functional Classification System, City of Newport Transportation System Plan, prepared by Parsons Brinkerhoff, dated June 1997.

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

C. Criterion #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.

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

2. The applicant states that the proposed use does not have any adverse impact greater than the existing use on nearby properties, either by any traffic generation or by any noise, dust or loss of air quality.

3. Nearby uses, include a church, school, single family homes, and heavy commercial uses opposite US 20. Proposed activities will occur within an enclosed structure and are not of a nature that generates dust, smoke, noise, glare, vibration or odors at levels different then what is typical of adjoining uses.

4. The issue of safety though requires more careful evaluation, specifically as it relates to the adequacy of off-street parking. Nearby uses provide off-street parking appropriate to the use. This ensures that there is not excessive congestion and reduces the chance of traffic conflicts which can create safety hazards for vehicles, bicyclists and pedestrians.

5. Assessment records indicate that the Elks Lodge is 17,780 square feet in size considering both floors. Unlike many uses though, which have an off-street parking ratio that keys off of square footage, the City of Newport's parking code requires that church or fraternal organizations provide 1 off-street space for every 4 seats in the main auditorium (NMC 14.14.030(36)). There are no prior land use decisions that speak to parking for this property. The upper floor of the Elks Lodge includes a lounge, dining room, bar, and ballroom. The Newport Fire Department has set maximum occupancies for each of these areas; however, the ballroom would constitute the "main auditorium" for purposes of determining needed parking spaces. The maximum occupancy for the ballroom is 364 persons if the area is setup for chairs only. Applying the parking ratio requires that 91 off-street spaces be made available. The applicant's site plan notes that approximately 85 spaces exist in the upper lot and 22 in the lower lot, so there appears to be an adequate number of off-street spaces for the fraternal organization.

6. Unlike the upper floor, that has distinct usable areas, the lower floor is one large space. The Fire Department has set a maximum occupancy for this area at 435 persons if it is setup with chairs only. Applying the parking ratio requires that 109 off-street spaces be made available. The applicant's site plan shows that they have approximately 107 and given the size of the property it is not unreasonable to assume that a couple of additional spaces could be added if needed. Therefore, when considering both the upper and lower lots, the amount of off-street parking available for the church use, by itself, appears to be in line with City of Newport requirements. It is relevant to note that if both floors of the building were occupied by the Elks Lodge, then the lower floor area would be the "main auditorium" for purposes of determining required off-street parking.

7. With this application, occupancy of the building is split into two separate uses. The Newport Fire Department provides lower occupancy limits if auditorium spaces are setup with tables and chairs (170 for the upper floor and 203 for the lower). It is also unlikely that maximum use of both the upper and lower floors would occur at the same time. However, the information above points out that the capacity for use of the auditorium space on both floors and corresponding demand that it places on available off-street parking is great enough that the Yaquina Bay Baptist Church and the Elks Lodge need to define how the parking will be shared. This can be as simple as a letter describing how the hours of operation of the respective uses will not overlap, or if they do how occupancy will be managed to ensure that there will be a sufficient number of off-street spaces available to both uses. Such an approach is consistent with the City's requirements for shared parking arrangements (NMC 14.14.080) and can be readily incorporated as a condition of approval of a final order. In fact, this approach may be the only way to ensure that the City's off-street parking standards are met in terms of available spaces.

8. The applicant and the owner have signed a letter of agreement dated September 10, 2012, in order to comply with the staff recommendation regarding parking on the subject site. This letter was provided at the hearing on September 10, 2012, and is incorporated by reference into the findings. While helpful, the letter does not constitute a commitment by both parties to limit the scale of use to ensure availability of off-street parking in the event that both uses are occupying the site at the same time.

9. The Newport Municipal Code describes how parking stalls and drive isles need to be sized, including the provision of handicapped spaces (NMC 14.14.050, 060 and 090). This ensures that it is safe to maneuver in and out of the parking spaces and, in the case of persons with disabilities, that individuals can reasonably and safely access the building. Striping for the lower parking area is so faded that it is very difficult to identify the locations of the drive isles and stalls. The applicant can remedy this by restriping the area and the Commission finds that this can reasonably occur as a condition of occupancy. At the hearing the applicant provided an example of how the lot can be striped. This striping plan is preliminary and no assurances were given that it meets the City's dimensional requirements for sizing drive isles and parking areas. The applicant will need to work with the City to ensure that those standards are met before installing the striping.

10. The applicant indicates that they have no plans to make modifications to the structure. An occupancy permit is required though under the Oregon Structural Specialty Code and it is unclear at this time whether or not that will necessitate changes. With that in mind, it is appropriate that a condition of approval be imposed requiring the applicant comply with building, fire, zoning and other public health and safety regulations should renovations be needed or desired. This ensures that the use will not have a detrimental impact on the surrounding neighborhood.

11. Given the above, the Planning Commission concludes that this criterion has been satisfied with the conditions outlined.

D. Criterion #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.

1. The applicant states that no building modifications are proposed.
2. Given the above, the Planning Commission concludes that a church use of the lower floor of the Elks Lodge will be consistent with the overall development character of the neighborhood.

OVERALL CONCLUSION

Based on the application material, the Planning Staff Report, and other evidence and testimony in the record, the Planning Commission concludes that the above findings of fact and conclusions demonstrate compliance with the criteria for a conditional use permit found in Section 14.34.050 of the Newport Municipal Code (NMC); and, therefore, the requested conditional use permit to authorize a church use for the lower floor of the Elks Lodge can satisfy the approval criteria for a conditional use and is hereby approved with the imposition of the following conditions of approval:

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/owner 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.
3. The applicant and owner shall submit an amended shared parking agreement that includes a commitment by both parties to restrict the scale of their respective operations to ensure that demand does not exceed available off-street parking, in the event that both uses are occupying the site at the same time.
4. The applicant and/or owner shall stripe the lower parking lot in a manner consistent with Newport Municipal Code requirements for sizing parking stalls and drive isles (NMC 14.14.060 and 14.14.090), and with the accessibility requirements of the Oregon Structural Specialty Code to ensure adequate access for disabled persons (NMC 14.14.050). The parking lot work shall be coordinated with city staff and completed prior to issuance of an occupancy permit for the church use.