



**PLANNING COMMISSION WORK SESSION AGENDA**

**Monday, April 12, 2021 - 6:00 PM**

**City Hall, Conference Room A, 169 SW Coast Hwy, Newport, OR 97365**

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This meeting will be held electronically. The public can live-stream this meeting at <https://newportoregon.gov>. The meeting will also be broadcast on Charter Channel 190. Public comment may be made, via e-mail, up to two hours before the meeting start time at [publiccomment@newportoregon.gov](mailto:publiccomment@newportoregon.gov).

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

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**1. CALL TO ORDER**

**2. NEW BUSINESS**

**2.A Yaquina Bay Estuary Management Plan Update.**

[Memorandum](#)

[PowerPoint Presentation by Lisa Phipps, dated April 5, 2021](#)

**2.B Newport Beach Access Resiliency Plan Evaluation Memo.**

[Memorandum](#)

[Evaluation Memo by KPFF Engineering, dated March 19, 2021](#)

**3. UNFINISHED BUSINESS**

**3.A Review Initial Draft of Code Amendments Related to Operation of Food Carts.**

[Memorandum](#)

Email from Janet Webster, dated 3-26-21  
Email from Susannah Montague, dated 4-6-21  
Materials from Ms. Montague presented at the 3-15-21 City Council meeting  
Additional Public Comment - Janet Webster  
Mobile Vending Regulatory Concepts 04-12-21

**4. ADJOURNMENT**

# Memorandum

To: Planning Commission/Commission Advisory Committee

From: Derrick I. Tokos, AICP, Community Development Director 

Date: April 7, 2021

Re: Yaquina Bay Estuary Management Plan Update

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Lisa Phipps, DLCD North Coast Regional Representative, will be attending the work session to brief the Planning Commission on a long overdue update to the Yaquina Bay Estuary Management Plan. That Plan, adopted almost 40 years ago, included natural resource and land use inventories to inform where conservation and development areas should be established. It also served as a technical resource to support the development of local policies and regulations that influence how in-water work is to be performed.

Ms. Phipps will provide an overview of the project, its goals, and the process their agency has set out for completing the plan update. A similar presentation was made to the City Council at its April 5, 2021 meeting.

This work session has been scheduled to introduce you to the planning effort and you will have an opportunity to ask questions. A Policy Advisory Committee will be formed, which includes seats for representatives from the City Council and Planning Commission. Councilor Parker will be representing the City Council. There will be an opportunity for the Planning Commission to appoint a representative at the regular meeting following the work session.

Attachments

PowerPoint Presentation by Lisa Phipps, dated April 5, 2021

# Yaquina Bay Estuary Management Plan Update



April 5, 2021

Lisa Phipps  
North Coast Regional Representative



# What are Estuary Management Plans?

Statewide Planning Goal 16 provides the principal guidance for the planning and management of Oregon's estuaries.

The overall objective of Goal 16 is to "to recognize and protect the unique environmental, economic and social values of each estuary and associated wetlands; and to protect, maintain, where appropriate develop, and where appropriate restore the long term environmental, economic and social values, diversity and benefits of Oregon's estuaries".

To accomplish this, the goal establishes detailed requirements for the preparation of plans and for the review of individual development projects and calls for coordinated management by local, state and federal agencies that regulate or have an interest in activities in Oregon's estuaries.



# What are Estuary Management Plans? (con't)

The goal requires individual estuary plans to designate appropriate uses for different areas within each estuary based on biological and physical characteristics and features, and to provide for review of proposed estuarine alterations to assure that they are consistent with overall management objectives and that adverse impacts are minimized.

Most Goal 16 requirements are implemented through locally adopted estuary plans, but some are applied by state agencies through their review of various permit applications.

Lincoln County implements the estuary management plan in coordination with the City of Newport and the City of Toledo.



# The Values of Estuaries

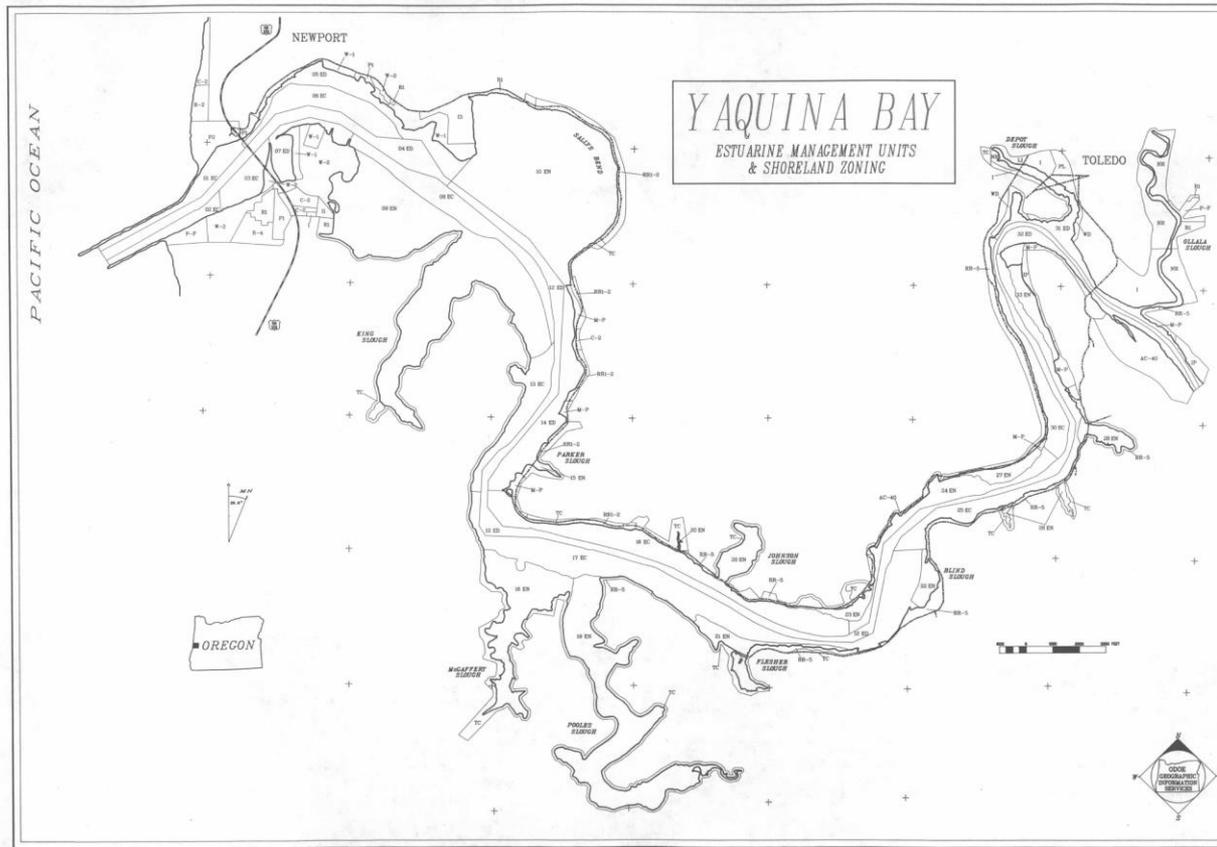
Estuaries impact all  
levels of a community:

Social

Economic

Environmental

# Why Update?





# Why Update?

Estuary management plans and zoning are part of coastal communities comprehensive plans. Estuary management plan allows local jurisdictions the ability to manage its estuaries for the benefit of the public and natural resources in a way that meets the needs of the community.

At almost 40 years old in most places, updating estuary management plans is timely.

We have updated mapping, a better understanding of ecosystem processes, a better understanding of how estuaries fit into communities and their needs, and 40 years of implementing the plans that can help inform what is working, what is no longer relevant, and what did we miss or not anticipate in the original estuary management planning.

## My Map



Many agencies, individuals and organizations have contributed data for this habitat compilation, including ODFW, EPO, USFWS, Ducks Unlimited and others.  
| Esri, NASA, NGA, USGS | State of Oregon GEO, Esri Canada, Esri, HERE, Garmin, SafeGraph, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, USDA | State of Oregon GEO, Esri Canada, Esri, HERE, Garmin, SafeGraph, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, USDA

# Why Yaquina Bay?

Yaquina Bay is a perfect site to establish a pilot project to update an estuary management plan. It is relatively small, it is actively utilized for a number of economic and social activities, it is ecologically significant, and there is a group of interested and collaborative partners to work with.





# The Project

The Oregon Coastal Management Program (OCMP) secured funding through NOAA for a Project of Special Merit to update the Yaquina Bay Estuary Management Plan.



# The Project “WHY”

The purpose of the project is to update the Yaquina Bay estuary plan using a hazards and climate change lens and utilize the process as a pilot to develop guidance that can be used by other jurisdictions during their respective estuary plan update processes.



# The Project “How”

This will be accomplished through extensive coordination, hazards and resources data assessment, plan drafting, outreach and engagement, development of plans and associated ordinances, and the development of planning guidance. This project will not only look at natural resource data developed for Oregon estuaries, but also assess and incorporate coastal hazards and climate change into the plan evaluation and analysis.



# The Project “Who”

OCMP is in the process of working with the Steering Committee to contract with a consultant. The Steering Committee is currently comprised of representatives from Lincoln County, Newport, Toledo, the Ports of Toledo and Newport, and the Confederated Tribes of the Siletz Indians have been invited to be a SC member. The Steering Committee will be fully integrated into the entire scope of the project and guiding the work of the consultant.

A Technical Advisory Committee will also be formed comprised of a diverse group of stakeholders, including elected official representation, to support the process. The Technical Advisory Committee will be engaged at various points in the process to provide input and expertise into products as they are generated.



# The Project “What”

We are anticipating a 12-month process although there is an opportunity for a one-time extension of 12 months.

The Consultant, working with the Steering Committee and Technical Advisory Committee will provide review and input that include:

- a. Incorporating updated resource inventory information,
- b. Updating and revising, as needed, overall plan policies and standards
- c. Updating and revising, as needed, management unit descriptions and policies
- d. Updating and revising, as needed, plan maps
- e. Other plan revisions identified by the Task Force and/or the jurisdictions



# The Project “What” (con’t.)

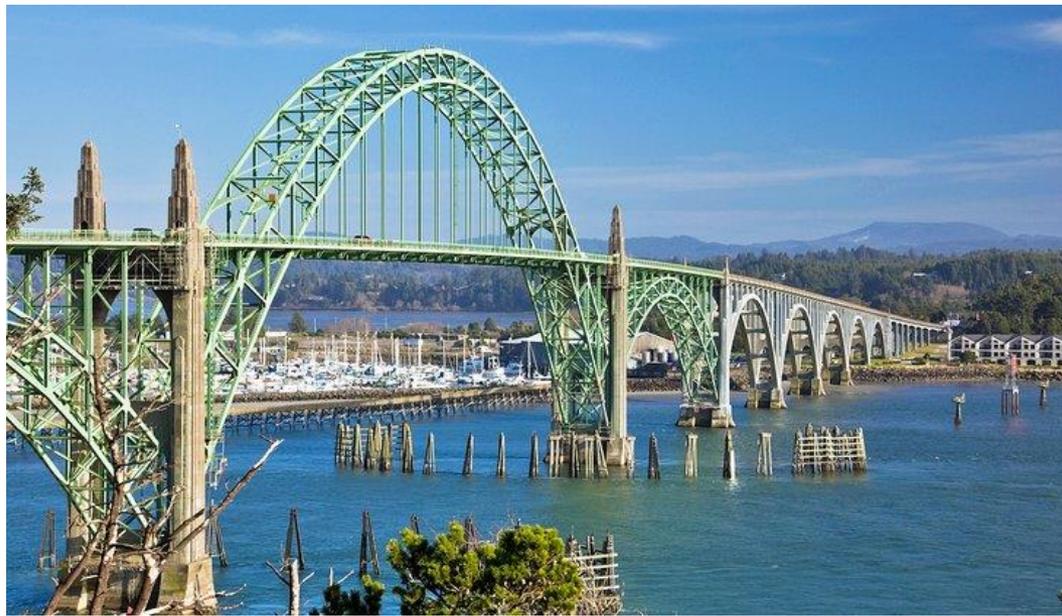
- f. Recommendations for implementing code/ordinance revisions
- g. Review of draft plan updates

## ***Desired Outcome(s):***

Adoption-ready updates to the Yaquina Bay Estuary Management Plan

Comprehensive Plan and possible ordinance amendments

Development of a Draft Estuary Plan Update Guidance Document.



**DLCD**

Department of  
Land Conservation  
& Development

Lisa Phipps  
North Coast Regional Representative  
503-812-5448  
[Lisa.Phipps@state.or.us](mailto:Lisa.Phipps@state.or.us)

Any  
questions  
?

# Memorandum

To: Planning Commission/Commission Advisory Committee  
From: Derrick I. Tokos, AICP, Community Development Director   
Date: April 7, 2021  
Re: Newport Beach Access Resiliency Plan Evaluation Memo

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KPFF Consulting Engineers has been retained by the Department of Land Conservation and Development to evaluate beach access locations within the City of Newport to identify 2-3 locations best suited for seismic improvements and to provide recommendations on the scope and nature of such improvements. Their work can then be used by the City to secure funding to implement the recommendations, increasing the likelihood that the improved access points will be passable as points of egress following a nearshore Cascadia earthquake.

KPFF visited beach access points north of the Yaquina Bay Bridge, and reviewed available geotechnical documentation. Enclosed is a memo outlining their findings. They have recommended the Nye Beach Turnaround, Agate Beach State Recreation Site, and Schooner Creek at NW 68<sup>th</sup> Street as candidate sites for retrofits. The memo goes on to explain why these three sites are more suitable than other locations. City staff (myself and Chief Murphy) and Meg Reed reviewed the document and concur with the analysis. KPFF is now developing a package of retrofit options for the three locations and expect to have concept drawings prepared within the next couple of weeks.

This project is fully funded with a grant from the National Oceanic and Atmospheric Administration. Work must be completed by the end of the fiscal year.

This work session is an opportunity for you to ask questions about the assumptions and recommendations contained in the memo, and the project in general. I would be happy to pass along any feedback you provide to KPFF and DLCD for their consideration.

Attachments

Evaluation Memo by KPFF Engineering, dated March 19, 2021

# NEWPORT BEACH ACCESS RESILIENCY PLAN

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## EVALUATION MEMO

MARCH 19, 2021

SUBMITTED TO

CITY OF NEWPORT  
169 SW COAST HWY  
NEWPORT, OR 97365

SUBMITTED BY

KPFF CONSULTING ENGINEERS  
111 SW 5<sup>TH</sup> AVENUE, SUITE 2600  
PORTLAND, OR 97204



## Introduction

The Oregon Department of Land Conservation and Development (DLCD) has retained a team led by KPFF to evaluate existing beach access points north of Yaquina Bay in Newport, OR. This evaluation will identify three access points to develop concept level seismic improvements for, to withstand shaking from a Cascadia Subduction Zone earthquake and allow evacuation of pedestrians from the beach to existing Tsunami Evacuation Routes before the arrival of a local tsunami. This study is provided to the DLCD and City of Newport (City) for review prior to development of the concept improvements.

For each access point, the team will provide a concept level seismic evaluation. KPFF is supported by GRI, who will provide a concept level geotechnical assessment, and Greenworks, who will provide an assessment of connectivity to City streets and the Tsunami Evacuation Routes.

This evaluation is based on a limited visual observation of existing conditions and a limited evaluation of available geotechnical documentation. No engineering analysis has been performed in the development of this assessment.

## Executive Summary

On February 23, 2021, eleven beach access sites were visited by Derrick Tokos – City of Newport Community Development Director, Rod Black – City of Newport Fire Department, Stuart Finney – KPFF, Jason Bock – GRI, and Paul Agrimis – GreenWorks. These access points are identified in Figure 1 on the following page.

Considerations briefly discussed on site included location along the beach, accessibility, adjacent slope stability, structural stability, emergency vehicle access, community connectivity and relative retrofit complexity.

This report contains the KPFF team initial assessment of each access point and recommendations for further, more detailed evaluation of the following three access points:

- Nye Beach Turnaround
- Agate Beach State Recreation Site
- Schooner Creek at NW 68<sup>th</sup> Street

These sites have been selected for further evaluation based on:

- Lack of, or limited impact from, local landslides
- Geographic spread along the north portion of Newport's beach
- Lower anticipated cost of seismic improvements relative to other sites
- Proximity to popular beach and community areas

A detailed description of each access location is included below.

## Regional Seismicity

Newport is located in an area of high seismicity along the Oregon Coast and is expected to experience significant ground shaking in the event of a Cascadia Subduction Zone earthquake (CSZE). This earthquake is expected to result in a tsunami reaching the Oregon Coast as soon as 15 minutes after

the initial shaking. The CSZE is expected to result in widespread structural damage and landslides along the Oregon Coast, potentially damaging beach access structures and blocking exit points from the beach.

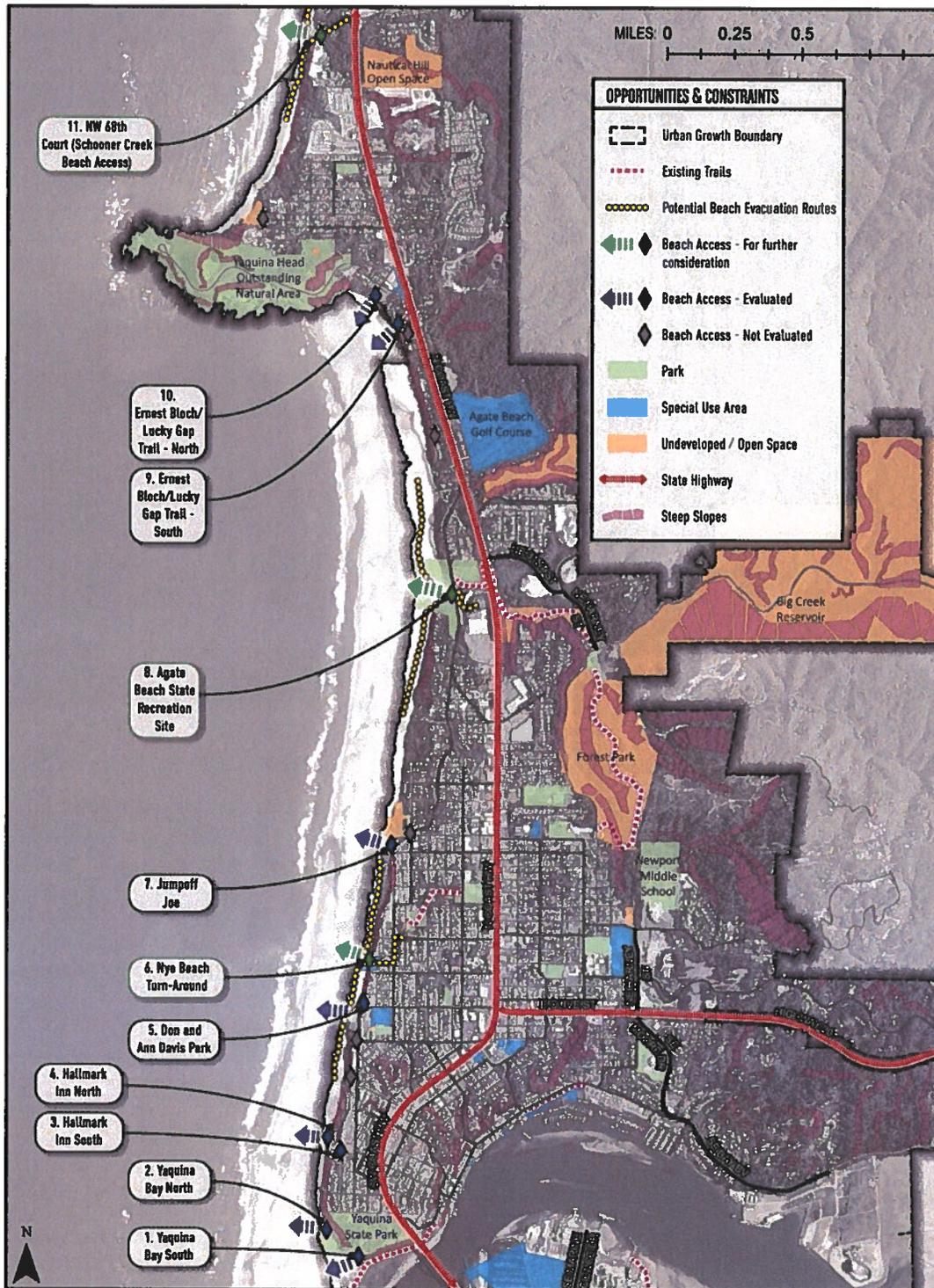


Figure 1: Newport Beach Access Points

## Geological Conditions

Available geologic literature and GRI's experience in the area indicate the Newport coastline is typically comprised of three units, Pleistocene age marine terrace sand, Miocene age Astoria Formation, and Micoene age Nye Mudstone. In general, marine terrace sand is found at the ground surface and is underlain by a sandstone/siltstone unit of the Astoria Formation which is then underlain uncomfortably by the Nye Mudstone. The depth of the contact between the Astoria Formation and the upper weathered portions of the Nye Mudstone varies along the coastline. This variability directly correlates with the presence of active and prehistoric landslides. Where these contacts are relatively shallow and steep exposures (steeper than about 1.5H:1V) of Astoria Formation are present, episodic erosional slope movements are often seen. There are four primary landslides along the Newport coastline, and these are the Mark Street landslide, Jumpoff Joe landslide, Yaquina Head landslide, and Schooner Creek landslide.

## Beach Access Evaluations

### 1 - Yaquina Bay South

This site is identified by the Oregon Parks and Recreation Department (OPRD) as Beach Access 60. The site was posted as closed due to seasonal flooding.

The access is located on the north side of Yaquina Bay, adjacent to the North Jetty. The beach access trail consists of a relatively steep asphalt trail with occasional sets of on grade stairs. Elevations of the trail range from approximately 90 feet at the parking lot to 20 feet at the toe of the slope.

Slopes are generally steep, and review of available geologic information and the visual reconnaissance indicate the upper portions of the slope are comprised of marine terrace sands and the lower portions are comprised of Astoria Formation. While no obvious indications of slope movement were observed, the presence of the near surface uncemented marine terrace sands as well as the relative steepness and height of the slope, present a risk of movement during a design level earthquake associated with the CSZ.

Highwater filled the landward interdunal depression – this wetland was inundated either by backwater from the Yaquina River or seasonal high groundwater.

**Evaluation:** This site is not recommended for further consideration due to:

- Potential for lateral slope deformation.
- Steep access and significant elevation difference along the trail.
- Substantial reconstruction needed to stabilize existing trail/retaining walls and to construct an elevated walkway to allow egress from the beach during periods of interdunal depression inundation.

### 2 - Yaquina Bay North

This site is also identified by OPRD as beach access 60.

The Yaquina Bay State Park north access is located near the north side of Yaquina Bay, adjacent to the North Jetty. The beach access trail consists of a relatively steep asphalt trail and has several small

retaining walls supporting both the trail and the slope above the trail. Elevations of the trail range from approximately 80 feet at the parking lot to 20 feet at the toe of the slope.

Slopes are generally steep, and review of available geologic information and the visual reconnaissance indicate the upper portions of the slope are comprised of marine terrace sands and the lower portions are comprised of Astoria Formation. No obvious indications of significant slope movement were observed, however, localized movements of the trail (cracked and deformed asphalt) as well as reverse batter of several retaining walls indicate active surficial movement of the near surface uncemented marine terrace sands. Considering the observed surficial movements as well as the relative steepness and height of the slope, a risk of movement during a design level earthquake associated with the CSZ is present.

Highwater in the landward interdunal depression (same deflation plain as Yaquina Bay South) came up to the edge of a small sand embankment recently constructed by OPRD that allows ingress and egress during highwater periods.

**Evaluation:** This site is not recommended for further consideration due to:

- Potential for lateral slope deformation
- Steep access and significant elevation difference along the trail
- Substantial reconstruction needed to stabilize existing retaining walls

### 3 - Hallmark Inn South

The Hallmark Resort Access #1 is located on the south side of the Hallmark Resort near the intersections of SW Bay Street and SW Elizabeth Street. The trail is comprised of an improved gravel slope starting at an elevation of approximately 80 feet and extending down to approximately elevation 70 feet followed by an elevated timber staircase traversing a relatively steep portion of the slope down to about elevation 15 feet.

The timber staircase appears to be founded on concrete piers embedded into the slope. As-built information regarding the piers is currently not available, however erosion of the near surface soils has exposed a steel pipe around the concrete pier in one of the upper slope foundations. Slopes are generally steep with an average slope of approximately 1.3 to 1.4H:1V which is slightly steeper than the approximate angle of repose (static stability) for tertiary sedimentary rocks (Astoria Formation) and marine terrace sands.

Based on review of available geologic maps, the site is mapped within an area of active slope movement known as the Mark Street landslide and indicates a dip of approximately 3.5° at the interface between the partially cemented marine terrace sands overlying the Astoria Formation.

**Evaluation:** This site is not recommended for further consideration due to:

- Potential for lateral slope deformation.
- Substantial costs to strengthen the existing stair structure remain operable immediately after a CSZE.

#### 4 - Hallmark Inn North

The Hallmark Resort – Access #2 is located near the central portion of the Hallmark Resort near the intersections of SW Case Street and SW Elizabeth Street. The trail starts as two individual trails at an elevation of approximately 75 feet. Both trails start as elevated staircases with the southern staircase being approximately 10 feet tall and the northern staircase being approximately 35 feet tall. Following the staircases, the trail is comprised of sand with both trails intersecting at about elevation 40 feet and continuing down to the beach at about elevation 15 feet. The timber staircase foundations were not visible; however, we anticipate they are likely founded on small concrete piers, like Access #1. Based on review of available geologic maps, the site is mapped within an area of active slope movement known as the Mark Street landslide and indicates a dip of approximately 3.5° at the interface between the partially cemented marine terrace sands overlying the Astoria Formation.

**Evaluation:** This site is not recommended for further consideration due to:

- Potential for lateral slope deformation
- Substantial costs to strengthen the existing stair structure remain operable immediately after a CSZE.

#### 5 - Don and Ann Davis Park

The Veterans Park beach access is located at Don and Ann Davis Park which is located at the intersection of W Olive Street and SW Elizabeth Street. The beach access trail consists of an improved path constructed of pavers with a relatively short retaining wall (about 4 feet tall) located on the upslope side of the trail. The beach access trail terminates on a section of rip rap boulders placed at the toe of the slope. The trail starts at an elevation of approximately 80 feet and terminates at the beach at about elevation 15 feet.

Review of geologic information and site observations indicated the upper portions of the slope consist of marine terrace deposits overlying the Astoria Formation. Portions of the slope above the trail consist of a near vertical exposure of moderately cemented marine terrace sand. Heights of the vertical exposure vary from approximately 0 to about 8 to 10 feet in height. These exposed near vertical faces exhibited moderate weathering and several large fractures. While global stability of the access route appears stable, the upper, near vertical portions of the slope present a hazard of surficial block failures during a design earthquake. These risks could be reduced by regrading the upper portions of the slope to the angle of repose (about 1.5H:1V) or regular inspection/scaling of the slope.

**Evaluation:** This site is not recommended for further consideration due to:

- Potential of surficial block failures
- Near proximity to the preferred Nye Beach access

#### 6 - Nye Beach Turnaround

This site is identified by OPRD as beach access 59. It is an active area with nearby shops and restaurants. There is a gentle asphalt ramp to the beach and a clear marking to a safe gathering area. There is an adjacent stone wall that is thought to be associated with an early-20<sup>th</sup> Century Natatorium facility that existed at the site. The stability of that wall during the CSZE would need to be evaluated

to determine the likelihood of failure and then blocking the ramp with debris. This site does not meet ADA requirements, but could provide utility to mobility impaired people.

The western extent of the loop road is supported on a concrete wharf founded on siltstone of the Astoria Formation with the remaining portions of the road supported on Holocene age alluvial soils overlying marine terrace deposits and the Astoria Formation. The slope of Beach Drive is relatively gentle with an average slope of approximately 7H:1V. The surrounding slopes near the beach access are typically steep to moderately steep (up to 1.5H:1V) and are less than the angle of repose except for a retaining wall located on the north side of the access loop road. Details of the retaining wall construction are currently unknown; however, due to the width of the access route, emergency egress could route to the south side of the loop to avoid hazards associated with the wall.

**Evaluation:** This site is recommended for further consideration due to:

- Its active use by a relatively high number of visitors.
- The good condition of existing surfaces.
- Favorable slope conditions and foundation soils.
- Limited costs to re-align access away from historic wall.
- Limited costs to connect this route to the Sam Moore Parkway Trail and provide additional pedestrian circulation benefits supporting passive recreation for residents as well as for potential tourism value.

#### 7 - Jumpoff Joe

The Jumpoff Joe beach access consists of a moderately steep gravel/wood chip trail located near the intersection of NW Spring Street and NW 12<sup>th</sup> Street. Based on review of geologic mapping, the beach access is located within the currently active Jumpoff Joe Landslide.

**Evaluation:** This site is not recommended for further consideration due to:

- Existence of an active landslide

#### 8 - Agate Beach State Recreation Site

This site is identified by OPRD as beach access 58a and is located along NW Oceanview Drive approximately 900 feet north of NW 25<sup>th</sup> Street. The beach access consists of a short gravel approach that drops approximately 10 feet from elevation 25 feet in the parking lot to elevation 10 feet on the beach. Big Creek is located directly north of the beach access path.

Based on review of historical photographs, the path of Big Creek changes substantially over time with the current path following the edge of the beach to the north before entering the Pacific Ocean near Yaquina Head. Based on geologic mapping and onsite observations, the beach access is situated on a combination of Quaternary beach sand, Marine Terrace sand, as well as fill likely placed during construction of NW Oceanview Drive.

A small bridge would be required to provide year-round access. There is ready access on an asphalt road leading to the identified tsunami evacuation gathering area at the nearby Walmart. This site does not meet ADA requirements, but could provide utility to mobility impaired people.

**Evaluation:** This site is recommended for further consideration due to:

- Relatively low risk of slope movements.
- Its active use by a relatively high number of visitors.
- Existing connection to a nearby gathering area.
- Minimal changes to function as an evacuation route.
- Oregon State Parks may be willing to share in funding some of the improvements, which could support a stronger connection (identified as an opportunity in the Park System Master Plan) to the adjacent Ocean to Bay Trail.

#### 9 - Ernest Bloch/Lucky Gap Trail South

The Ernest Bloch/Lucky Gap south access trail is located south of Yaquina Head. The south trail is located near the intersection of NW Woody Way and NW Gilbert Way. The trails consist of a combination of paved surfaces and an elevated staircase. A culvert is located at the upper portions of the trail as it crosses Little Schooner Creek, and a retaining wall is located on the downslope side of the trail approximately midway down. The trails start at an elevation of approximately 100 feet and descends to the beach at an elevation of approximately 15 feet. Portions of the trail indicated movements likely associated with erosion along the creek, including the mid-slope retaining wall, beginning to fail. Additional review of LIDAR indicates the potential for relatively recent slope movements along and on the slopes directly above the beach near the base of the trail.

**Evaluation:** This site is not recommended for further consideration due to:

- The presence of active slope movement
- Steep access and significant elevation difference along the trail
- Substantial reconstruction needed to stabilize existing retaining walls

#### 10 - Ernest Bloch/Lucky Gap Trail North

The Ernest Bloch/Lucky Gap south access trail is located south of Yaquina Head. The north trail is located near the intersection of NW Gilbert Way and NW Agate Way. The trails consist of a combination of paved surfaces, gravel path, stairs, and a section of boulders/rip-rap. The trails start at an elevation of approximately 100 feet and descends to the beach at an elevation of approximately 15 feet and the City indicated high use by surfers.

Based on review of geologic mapping and the site reconnaissance, active slope movements were observed along the trail. Geologic maps indicate the trail is located entirely within a zone of historical and active landslide.

**Evaluation:** This site is not recommended for further consideration due to:

- The presence of active slope movement
- Steep access and significant elevation difference along the trail

#### 11 - Schooner Creek

The NW 68<sup>th</sup> Street beach access route is located along NW 68<sup>th</sup> Street at the intersection with US101. NW 68<sup>th</sup> Street intersects US101 at an elevation of approximately 95 feet and terminates in a paved

parking lot at an elevation of approximately 30 feet. A dirt and gravel path extends from the parking lot and terminates on the beach at an elevation of approximately 15 feet.

The current beach access is directly adjacent to Schooner Creek and consists of large angular rock (pit run) to likely limit erosion due to the presence of the creek. The slopes adjacent to the access trail are typically 10 feet tall near vertical banks cut into the conglomerate overlying Astoria Formation.

Observations while on site indicate regular erosional wear of the bank likely due to storms and/or king tides and would need to be considered for any permanent structures located in this location.

This location is a moderately active use area near Yaquina Head. The existing surfaces are in good condition. However, the debris flow materials onsite and the adjacent Schooner Creek Landslide present increased risks and raise a question about what improvements might need to be made so that this access could serve as an effective evacuation route. Should the assessment of landslide vulnerability be favorable, making improvements here would tie in nicely with the following opportunities identified in the Park System Master Plan: proposed Highway 101 undercrossing and connection to Nautical Hill Open Space, and via a potential future trail back to the Ernest Bloch/Lucky Gap Trail.

**Evaluation:** This site is recommended for further consideration due to:

- The need for a beach access point north of Yaquina Head
- Moderate grade when compared to nearby access locations

## Conclusion and Next Steps

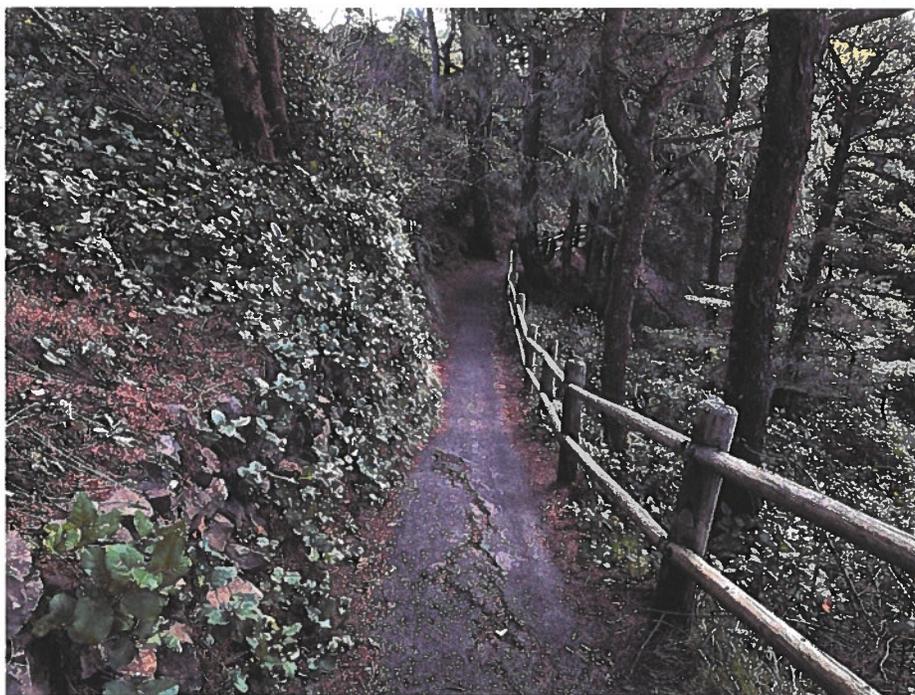
We anticipate the three access points that we have proposed for further evaluation will be reviewed and agreed upon by DLCD and the City, after which, the KPFF team will begin development of concept level seismic resiliency improvements at the three selected locations.

## Appendix A. Photos

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**Photo 1: Access Site 1 – Steep Slopes Adjacent to Trail**



**Photo 2: Access Site 2 – Steep Slopes Adjacent to Trail**



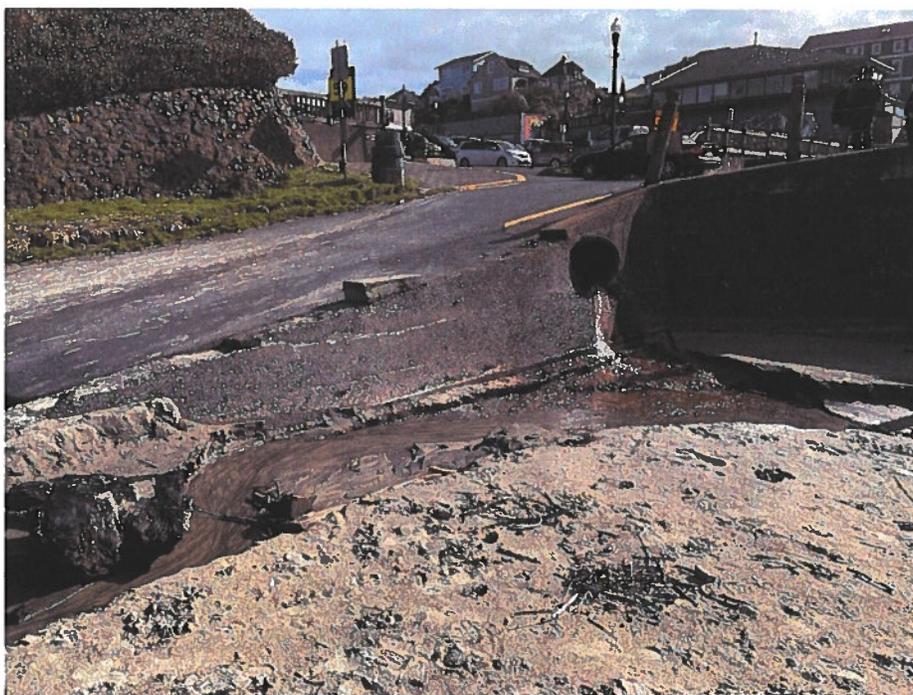
**Photo 3: Access Site 3 – Access Structure on Steep Slope**



**Photo 4: Access Site 4 – Access Structure on Steep Slope**



**Photo 5: Access Site 5 – Paved Walkway Adjacent to Steep Slope**



**Photo 6: Access Site 6 – Ramp to Beach Adjacent to Retaining Walls**



**Photo 7: Access Site 7 – Gravel Trail to Beach**



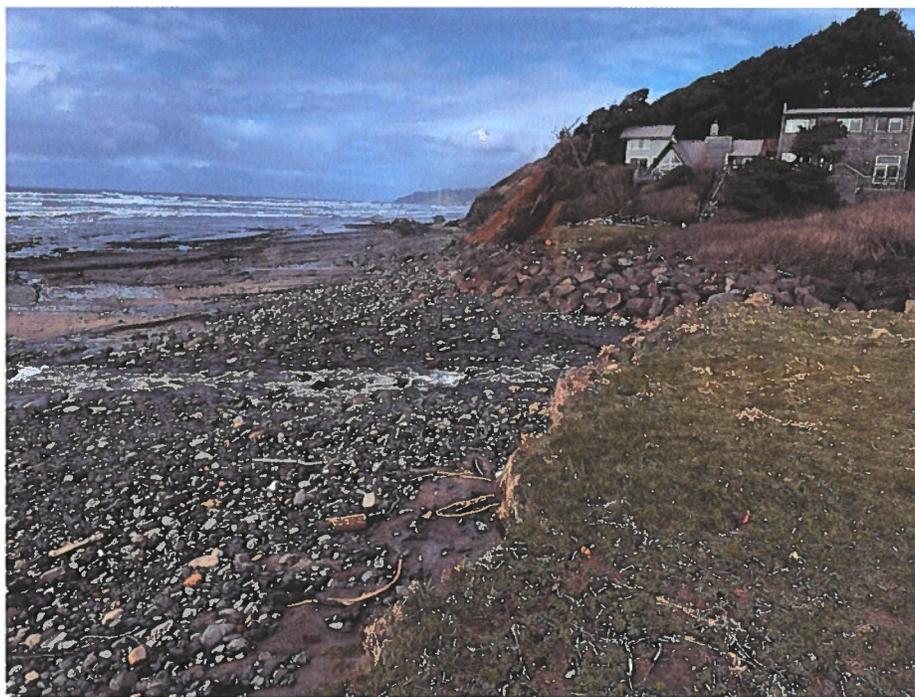
**Photo 8: Access Site 8 – Ramp and Creek Crossing**



**Photo 9: Access Site 9 – Steep Slopes Adjacent to Trail**



**Photo 10: Access Site 10 – Access Along Steep Slope**



**Photo 11: Access Site 11 – Adjacent to Creek Outlet**

# Memorandum

To: Planning Commission/Commission Advisory Committee  
 From: Derrick I. Tokos, AICP, Community Development Director   
 Date: April 9, 2021  
 Re: Review Initial Draft of Code Amendments Related to Operation of Food Trucks & Food Carts

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I don't yet have a draft set of code amendments for your review. My plan at this time is to present changes in a PowerPoint presentation that will be distributed at the meeting. This is an initial review, so there will be at least one, if not more additional work sessions where the Commission will have an opportunity to work through the necessary changes.

At the last meeting, you had expressed an interest in hearing from vendors to better understand their operational needs. Susannah Montague had reached out to the City Council asking if it could prioritize amendments to the City's ordinance related to mobile food carts. I included what she had submitted to the Council in the packet from your last meeting and have re-attached the materials to this memo. She is planning to dial in to the meeting to share her thoughts with the group. I'll also be reaching out to our local food truck operator to see if he would be willing to attend a future meeting.

Janet Webster provided comments as a follow-up to the Commission's March 22<sup>nd</sup> work session. A copy of her email is enclosed. She makes a good point about walking the Bayfront and Nye Beach. It is something you might want to think about as you consider locations for fixed based vendors on public property, and other aspects of the proposed revisions.

Attachments

Email from Janet Webster, dated 3/26/21

Email from Susannah Montague, dated 4/6/21

Materials from Ms. Montague presented at the 3/15/21 City Council meeting

## Derrick Tokos

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**From:** Janet Webster  
**Sent:** Friday, March 26, 2021 5:56 PM  
**To:** Derrick Tokos  
**Subject:** Re: Comments on March 22 work session

Thanks. You might ask planning commission members to walk the bay front and Nye Beach to get an idea of the locations that are currently authorized and see the flow of traffic and people.

-Janet

On Mar 26, 2021, at 5:37 PM, Derrick Tokos <[D.Tokos@NewportOregon.gov](mailto:D.Tokos@NewportOregon.gov)> wrote:

Hi Janet... will keep your comments in mind as we move forward, and I'll see that the Planning Commission receives a copy of your email.

*Derrick I. Tokos, AICP*

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

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**From:** Janet Webster  
**Sent:** Friday, March 26, 2021 10:55 AM  
**To:** Derrick Tokos <[D.Tokos@NewportOregon.gov](mailto:D.Tokos@NewportOregon.gov)>  
**Subject:** Comments on March 22 work session

**[WARNING]** This message comes from an external organization. Be careful of embedded links.

Hi Derrick,

You were asking the Planning Commission for input on the revision of the W-2 zoning code and the food cart ordinances. I have a couple of comments to add to the mix.

On the code change of allowable uses in the C-2: as parking is no longer a decider on the Bay Front, I would suggest that trash handling is. Businesses must have adequate space or a plan for handling their trash. A parking space in front of the business does not count. I also wonder what affect the proposed change would have on Nye Beach where conditional uses have not been well enforced. The Commission may want to consider the ramification city-wide of a change in the C-2 allowable uses.

One food trucks:

- Developing property for a pod would include SDC charges as any development.

- Nothing is currently allowed on private property if within the 1/2 mile. Defining permanent eating and drinking establishment would be helpful. The owner of the Cub Cave objects to anyone coming that area even though that is a seasonal, part-time establishment.
- A five hour time limit on the Bay Front could cover two shifts of fish plant workers as they start at 6 am when working at full steam.
- You need to address the provision barring a food truck within 500' of an elementary and secondary school. That prohibits a food truck pod anywhere off of Hwy 20 where there is some flat ground including our lots on 3rd St and the county fairgrounds.
- I reiterate my comment that I submitted that the Commission needs to plan for residents as well as tourists.
- You may want to look at Tillamook's food cart pod and how that was initiated. It's very useful for both locals and people passing through Tillamook.
- There's really only one food truck in Newport. If the Commission wants to hear from Mr. Canales, I suggest that you meet with him prior to a more formal meeting with the Commission. He lives in Lincoln City and may be available for an evening meeting.

-Janet Webster

## Derrick Tokos

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**From:** Susannah Montague  
**Sent:** Tuesday, April 6, 2021 6:02 PM  
**To:** Derrick Tokos  
**Subject:** Re: Contact Us - Web Form

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hi Derrick! Thank you for getting back to me! I would love the link to be able to attend the meeting on Monday, and I'd love a draft of the code language too. Thank you so much for including me! I'll be looking forward to Monday.

Susannah

On Tue, Apr 6, 2021 at 1:42 PM Derrick Tokos <[D.Tokos@newportoregon.gov](mailto:D.Tokos@newportoregon.gov)> wrote:

Hi Susannah,

Thanks for reaching out and sharing your thoughts. I'll make sure to pass your comments along to the Planning Commission. With regards to your plans and county approval documents, I have a copy of what you submitted to the City Council. The Planning Commission will be holding a second work session on Monday at 6:00 pm. You are welcome to attend, as I am sure the Commission members would love to hear your perspective on the issue. The meeting will be held by video-conference, and I can follow-up with the link if that time works for you.

I am putting together some draft code language for the Commission to review. It should be ready by the end of the day on Thursday and I would be happy to send you a draft.

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

-----Original Message-----

**From:** \_\_\_\_\_  
**Sent:** Tuesday, March 30, 2021 6:18 PM  
**To:** Derrick Tokos <[D.Tokos@NewportOregon.gov](mailto:D.Tokos@NewportOregon.gov)>  
**Subject:** Contact Us - Web Form

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City of Newport, OR :: Contact Us - Web Form

The following information was submitted on 3/30/2021 at 6:18:00 PM

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To: Derrick Tokos  
Name: Susannah Montague

Subject: Food Trucks

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Message: Good evening, Derrick!

I just got a chance to watch the video of the Planning Commission's work session on 3/22/2021. Thank you for talking through this with the Commission! I just had a couple of questions and information I think might be pertinent. The Commission mentioned the Bay Front and Nye Beach areas many times, but I actually do not want to be located in either, they are busy enough. I'm much more interested in the Deco District or the Wilder Complex, which also came up and I think could benefit from more development. You mentioned a 5 hour limit before moving, since mine is a fixed stand/trailer, if I were to be open for less than 5 hours in a day, would that meet that potential requirement?

A couple other issues that came up such as access to a restroom and waste disposal are actually already addressed and required by the county. The county requires a restroom within 500 feet, my plan got county approval by including a lease and regular service of a Port-a-Potty. Proper waste disposal and access to trash cans and recycling containers are also already required.

Did you receive a copy of my plans, design and county approval when I presented to the City Council? If not, I would love to get them to you for reference if you are interested.

Lastly, how would you suggest I stay involved and up to date while the Planning Commission and City Council move forward with this? Any advice would be greatly appreciated!

Thank you so much for your time and work on this!

Susannah Montague

**From:** [Melanie Nelson](#)  
**To:**  
**Cc:** [Gloria Tucker](#)  
**Subject:** RE: City Ordinances  
**Date:** Monday, March 08, 2021 4:38:24 PM

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From: **Susannah Montague**  
Date: Tue, Mar 2, 2021 at 8:11 AM  
Subject: City Ordinances  
To: [s.nebel@newportoregon.gov](mailto:s.nebel@newportoregon.gov) <[s.nebel@newportoregon.gov](mailto:s.nebel@newportoregon.gov)>

Good Morning Mr. Nebel,

My name is Susannah Montague, my husband and I both live and work in the Newport area. I've worked for Cafe Stephanie for over 4 years and my husband is a commercial fisherman and local boat owner. I'm hoping to start the process of requesting to adopt ordinances in Newport and it is my understanding that you're the person to contact! I'd like to open a fish and chips food cart using the fish my husband catches on our fishing boat, the Jo El, which fishes salmon and albacore tuna out of Newport. I think it is time for Newport to explore food carts as an easy and inexpensive option to showcase the sea food our city has to offer. You might be familiar with the ordinance changes Lincoln City recently adopted to allow for food carts in their city limits. Most other tourist destinations along the Oregon coast have them and are enjoying the vibrance they bring to their communities. Astoria, Seaside, now Lincoln City, Waldport, Yachats, Coos Bay, and Brookings all have thriving food carts that are contributing to their cities' revenues. I'm hoping to help Newport join them soon.

I've spoken with restaurant workers, citizens, city and county staff and all have shown support for allowing food carts.

I've attached the plans I have approved by the county so you can see what I'm working on.

The specific ordinances I'm referring to are: Newport Municipal Codes 4.10.010 - Requiring a mobile stand to move every 15 minutes and 14.09.050(A) Temporary vending carts may be located on commercially-zoned property that is at least ½ mile from a permanent eating and drinking establishment.

I think we can find ways to ease concerns people may have about food carts and generate revenue for the city through occupancy taxes and other means. Just as most restaurant owners welcome other businesses near them to create more draw and foot traffic, I think food carts will only add to Newport's growing and vibrant food scene.

With over 18 years experience in the food industry, 6 of which with food trucks, I am happy to help start this process for our city. Please consider this my formal request to place a proposed ordinance change on the City Council agenda for Council consideration. Please let me know how best to move forward and any questions or suggestions you may have for me. I'm really looking forward to talking with you and working with you! Thank you for your time.

Susannah Montague



Health and Human Services Department  
Public Health Division - Environmental Health  
36 SW Nye Street (Mailing)  
255 Oregon Coast Hwy, Suite 203A  
Newport, Oregon 97365

Telephone: (541) 265-4127  
Fax: (541) 574-6252  
TTY: 711



February 16, 2021

Susannah Montague  
9191 NW Seal Rock St  
Seal Rock, Oregon 97376

RE: Plan Review For: JoElle's Fish & Chips (LLC)

Dear Susannah,

Thank you for discussions held via phone to review your plans for JoElle's Fish and Chips Class 4 Mobile Unit. The plans you have submitted have been approved subject to stated conditions. Please note that the county and city municipalities in Lincoln County have different rules and ordinances pertaining to the operation of mobile units in their jurisdictions. Each will need to be contacted before conducting operations in that area.

Mobile Cart is a 12 ft. by 8 ft. trailer. Generator and propane tanks are mounted on the tongue of the trailer. Cart owner has a commercial fishing boat that will supply fish for cart. Inspector verified with Department of Agriculture that this is an approved source.

List of Equipment:

Three Sink  
Hand Sink  
Double Fryer with Type 1 Hood  
27' Prep Table  
24' Griddle  
Beverage Air- B118 HC Stand Up Refrigerator  
Beverage Air SPE27HC-B Elite Prep Cooler  
Beverage Air WTF27AHC-23 Freezer

1. Mobile units must be capable of being mobile at all times of operation. The removal of wheels is prohibited.

2. Only foods prepared on the mobile unit or from an approved source may be served on the mobile unit. The plans, as submitted, qualify your mobile unit to be licensed as a Class 4 mobile food unit. Class 4 mobile units may cook raw foods like chicken, pork or fish.
3. Mass cooling of foods are not allowed on Mobile Cart/Trucks.
4. There is a three- sink noted on the plans that will be indirectly wasted into a floor sink. When conducting dish washing you need to assure you wash, rinse and sanitize with a solution of 50-100 ppm chlorine or 200-400 ppm quaternary ammonia.
5. A chlorine or quaternary ammonia test kit must be available to test the concentration of wipe cloth sanitizing solution.
6. A plumbed hand washing sink is available. The hand washing sink must have hot (+100F)/cold running water, soap, and disposable towels at all times.
7. The water heater is required to provide hot water at the hand sink and dishwashing at all times the facility is open. The water heater must provide hot water of at least 100°F at the handwashing sink and 110 F at the three-sink area.
8. The refrigerator unit must be equipped with a thermometer. Potentially hazardous foods must be kept at 41° F or less at all times, including during transportation.
9. A probe thermometer must be available and utilized for the purpose of checking internal temperatures of hot and cold foods.
10. All surfaces must be smooth, durable, sealed, non-absorbent, and easily cleanable.
11. All openings to compartments where food and beverage might be stored shall be equipped with closures which effectively exclude dust, dirt, insects, and rodents.
12. All cleaning supplies and toxic items must be stored separately from food, paper goods, and utensils.
13. All storage of food, drink, utensils, equipment, etc. must be at least 6'' off the floor.
14. Fuel tanks, tools, pumps, etc. must be located so that they are sealed from food service, storage, and preparation areas.
15. Any self-service of food or condiment must be protected from contamination through use of approved dispensers and/or sneeze guard. (During COVID self-service is not allowed)
16. A covered refuse receptacle will be provided at each location where food is served. Garbage will be disposed of daily on the mobile unit.

17. All liquid wastes must drain into the wastewater tank. The wastewater retention tank must be a permanently installed tank and must be sized 15 percent larger in capacity than the water supply tank. You have indicated that the potable water tank is 65 gallons and the gray water tank is 80 gallons. Tanks must be assessable for cleaning and inspections.
18. All water used on the mobile unit must come from an approved public water system. You plan to use water from approved PWS Seal Rock Water District. All liquid wastes from the wastewater tank must be properly disposed of in the sanitary sewer. **You plan to use RV dump station located at South Beach RV Dump.**
19. The water hose and couplings for filling the potable water tanks must be constructed of materials approved for drinking water and labeled for “potable water use only”, to ensure there is no confusion as to its only use and avoid cross contamination.
20. Compressed gas bottles must be fastened securely to a wall or stationary object at all times in such a manner as to prevent damage to the valve mechanism.
21. The mobile unit must be clearly marked: **JoElle’s Fish and Chips**. The lettering must be at least 2” in height and of a color contrasting with the background.
22. **All employees are required to have a current and valid food handlers’ card within 30 days of hire. All employees are excluded from work when the following symptoms are present: vomiting, diarrhea, fever, sore-throat accompanied by fever, jaundice.** This exclusion is in place as long as these symptoms are present and for 24 hours after symptoms have ended. During COVID, food staff must wear masks at all times.
23. A double hand wash (20 seconds each time) is required after using a restroom, touching bodily fluids (eyes, nose, mouth), coughing, or sneezing. Prevent food borne illness outbreaks by adhering to the following practices: no sick food handlers working on mobile unit; eliminate bare hand contact with ready to eat foods through the use of gloves/utensils; proper hand washing practices including when a double hand wash is required.
24. This mobile unit and its operations must meet all the Oregon rules applying to mobile units in the Oregon Revised Statutes, Chapter 624 and the Oregon Administrative Rule, Chapter 333.

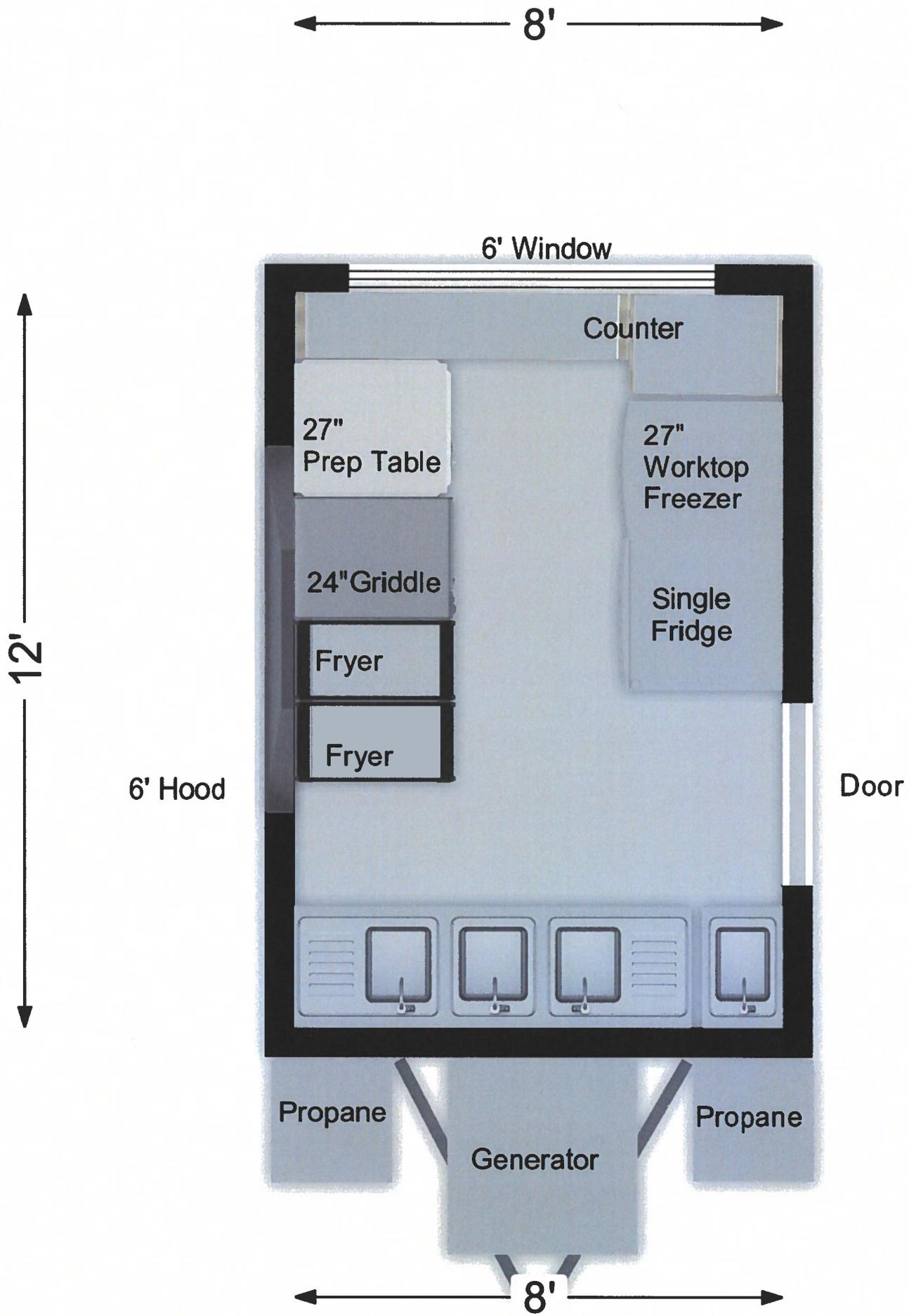
You are approved to move forward with the construction of your cart. When cart is complete please call to schedule a pre-opening inspection. Once your inspection is approved you will be able to apply for licensure.

**If any future changes are necessary, it will be required that those changes are approved by Lincoln County Environmental Health Department prior to making any changes.**

Congratulations on your new business in Lincoln County.

Sincerely,

Kaline Chavarria, REHS  
Lincoln County Environmental Health



Thank you for your time and consideration. My name is Susannah Montague, my husband and I live and work in the Newport area. I've worked at a local restaurant for 5 years and my husband is a commercial fisherman. We own the fishing vessel Jo El. I'm here tonight to ask you to consider ordinance changes to allow for food carts or trucks in Newport. Most other tourist destinations on the Oregon Coast are enjoying the benefits of allowing food trucks in their cities. Astoria, Seaside, most recently Lincoln City, Walport, Yachats, Coos Bay and Brookings all have food trucks contributing to their cities revenues and food scenes. I hope Newport can join them soon. Food trucks offer an easy and inexpensive way to showcase our cities' seafood and regional specialties to tourists and locals. I've heard that a concern about food trucks is their effect on brick and mortar restaurants - With limited to no seating, and being somewhat seasonal or weather dependent, they won't interfere or threaten our established restaurants, in fact most restaurant owners welcome other businesses and eateries near them to generate more draw and foot traffic. Over the past 5 years I have watched every summer in Newport get busier and busier and watched our tourist season expand into almost year round. I think there is plenty of business and opportunity here for food trucks without taking any from established restaurants. There are many areas of town I think could benefit from the foot traffic and interest a food cart would create. For example, the Deco District, Dock Seven, Highway 101 frontage, in South Beach across from the Toyota Dealership and the Wilder Complex.

The specific ordinances I'm referring to are 14.09.050A and B. A. Temporary vending carts may be located on commercially-zoned property that is at least ½ mile from a permanent eating and drinking establishment. B. Temporary vending carts and any accessory improvements (such as seating) are limited to privately-owned properties, and may encroach onto public property or public right-of-way only if the city consents to the encroachment. I bring up section B because if the City were to lease property, or small sections of property, for example an under used parking lot, to a food cart, that could mean additional and continuous revenue for the City.

4.10.010 which defines Mobile Stands and Fixed Stands. A Mobile stand is defined as "A stand that is moved from place to place and that is engaged in vending from a single location in the public right of way for no more than 15 minutes at a time." While a "fixed stand" is a stand at which vending occurs for more than 15 minutes at a time in a single location. Even if a stand is easily movable, it is a fixed stand if it remains in place for more than 15 minutes in the course of a vending activity.

Ideally, a parked food cart that is not intruding in the public right of way could be categorized as a fixed stand and not required to move every 15 minutes, but could rather lease it's location from either the city or if it were on private property, from that owner, and remain there where customers can count on it.

I know that in Lincoln City, a concern was raised about how food trucks could contribute to a city's revenues. I hope food trucks can contribute to Newport's revenue through occupancy taxes and fees like I mentioned previously. The requirements to get approval from the county and the current city ordinances ensure that all food trucks and carts would be clean, well maintained and that they are not disruptive to the area in which they are parked.

With over 18 years in the food service industry, over 6 of which with food carts, I'd love to opportunity to help the Council in starting them in our city.

If you'd like to hear a little bit about the food cart I'd like to start I'd be happy to share that with you or I'd also be happy to try to address any more concerns you might have about food carts in Newport.

Thank you again for your time.

These are the specific ordinances I'd like to address with the Counselors during the March 15th City Council Meeting:

#### 4.10.010

**Mobile Stand.** A stand that is moved from place to place and that is engaged in vending from a single location in the public right of way for no more than 15 minutes at a time.

**Fixed stand.** A stand at which vending occurs for more than 15 minutes at a time in a single location. Even if a stand is easily movable, it is a fixed stand if it remains in place for more than 15 minutes in the course of a vending activity. For purposes of the definitions of "mixed stand" and "fixed stand," single location include 100 feet in all directions.

#### 14.09.050 Temporary Vending Carts

Notwithstanding any other restrictions and prohibitions in this code, a temporary vending cart, not associated with a special event, may be located within the City of Newport subject to the following:

A. Temporary vending carts may be located on commercially-zoned property that is at least ½ mile from a permanent eating and drinking establishment.

B. Temporary vending carts and any accessory improvements (such as seating) are limited to privately-owned properties, and may encroach onto public property or public right-of-way only if the city consents to the encroachment as provided in Chapter 4.10 of the Newport Municipal Code.

**April 11, 2021**

To: Newport Planning Commission

From: Janet Webster

RE: Item 3.A. of the April 12, 2021 Planning Commission Work Session

### **Considerations Concerning Food Carts in Newport**

In 2018, my husband and I had conversations with Spencer Nebel, Derrick Tokos and Peggy Hawker concerning the placement of food carts on private property. We were interested in developing property at 634 NE 3<sup>rd</sup> St in Newport. As part of the concept, we wanted to accommodate food service. Rather than construct a commercial kitchen, we wanted to encourage food carts and vendors to use space as places where their customers can order from the cart and eat in a covered area with access to restrooms. The location lends itself to serving the high school community and local work establishments.

Those conversations did not result any movement towards addressing changes in the code that would allow food carts on private property in Newport. I have outlined the main issues that I had found in the city code that prevent us from accommodating food carts.

- The siting restrictions:
  - According to Section 14.09.050 of Newport’s Municipal Code, “*A. Temporary vending carts may be located on commercially zoned property that is at least ½ mile from a permanent eating and drinking establishment.*” Our property has several such establishments within ½ mile. Possibilities include limiting carts to certain zones (eg. C3, C1, Industrial zones) or shrinking the ½ mile to 200 feet.
  - What is a “*permanent eating and drinking establishment*”: Does this include coffee stands and seasonal establishments?
  - Are restrictions concerning proximity to schools still relevant? Do these apply to both public and private property? *4.10.035 Restrictions: Vend within 500 feet of the grounds of any elementary or secondary school during the period commencing one-half hour prior to the start of the school day and ending one-half hour after dismissal at the end of the school day;*
- Definition of a regulation size temporary vending cart: *Can be vended from a regulation size temporary vending cart.* What is a regulation vending cart?
- The permit is only good for two years. There doesn’t appear to be a means to extend or re-apply. *A permit for a temporary vending cart, if approved, shall be issued for a period not to exceed two (2) years. Upon expiration of a permit, a temporary vending cart must immediately cease operation, and must be permanently removed within seven (7) days.*

Thank you for addressing this issue.

## April 12, 2021 Newport Planning Commission Work Session

### Concepts for Mobile Food Truck and Cart Regulatory Changes

- ✚ Transition definitions to “Mobile Food Unit” to align with terminology used by County Health Department and Oregon Health Authority. Pickup four categories from Class 1 (no food prep) to Class 4 (full menu). Develop separate definitions for non-food related vending
- ✚ Mobile Food Unit Pod = 2 or more Mobile Food Units
- ✚ Transient = less than 2 hours at a particular location. May want to limit to 2-3 at a particular spot
- ✚ Non-transient = more than two hours (aligns with OAR restroom requirement for employees)
- ✚ Authorization = written permission of owner
- ✚ Allowed Locations
  - Commercial, Industrial, or water-related zone.
  - Paved/striped lot
    - Transient can use private parking stall relied upon by other uses (Public ROW option?)
    - Non-transient dedicated private parking (not relied upon by other uses)
  - Avoid sidewalks, drive isle obstruction, vehicle line of sight issues
  - Prohibited on required landscape areas
  - Lift restrictions on proximity to restaurants and schools
- ✚ Clearance from existing structures and other units transient and non-transient = 10-feet
- ✚ Waste receptacle required for transient and non-transient (within 25-feet sufficient?)
- ✚ Owner authorization required transient and non-transient
- ✚ Utilities for transient and non-transient
  - Power cords strung across ground with cable protector (no overhead)
  - Generators screened/protected from public (prohibit due to noise?)
- ✚ Signage as mounted on unit, plus one secured A-frame
- ✚ Exterior cooking limited to one outdoor smoker
- ✚ Insurance for transient and non-transient on public land \$2mil Commercial General Liability
- ✚ Awning allowed if attached to unit
- ✚ Seating, tables, heating, related for non-transient only subject to site review
  - Accessible restroom with handwashing required within 500-feet per OARs
- ✚ ADA accessible pathway required from parking to unit for non-transient
- ✚ Prohibited activities
  - Cannabis sales
  - Drive up windows (walk up windows are fine)
- ✚ SDC fee exemption transient only. SDCs payable for non-transient unit or pod