



## **PLANNING COMMISSION REGULAR SESSION AGENDA**

**Monday, May 23, 2022 - 7:00 PM**

**City Hall, Council Chambers, 169 SW Coast Hwy, Newport, OR 97365**

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

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

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

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

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

### **2. CITIZENS/PUBLIC COMMENT**

*A Public Comment Roster is available immediately inside the Council Chambers. Anyone who would like to address the Planning Commission on any matter not on the agenda will be*

*given the opportunity after signing the Roster. Each speaker should limit comments to three minutes. The normal disposition of these items will be at the next scheduled Planning Commission meeting.*

### **3. ACTION ITEMS**

#### **3.A File #1-CUP-22, Final Order and Findings of Fact Approving a Conditional Use Permit for an Industrial Park at the Municipal Airport**

[File 1-CUP-22 Final Order.pdf](#)

[File 1-CUP-22 Findings.pdf](#)

### **4. DIRECTOR COMMENTS**

### **5. ADJOURNMENT**

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

<b>IN THE MATTER OF PLANNING COMMISSION</b>	)	
<b>FILE #1-CUP-22, A CONDITIONAL USE PERMIT</b>	)	<b>FINAL</b>
<b>APPLICATION BY MARK WATKINS AND ALAN</b>	)	<b>ORDER</b>
<b>WELLS (LINSEY MCLANE-GODWIN, MSS, INC.,</b>	)	
<b>REPRESENTATIVE, CITY OF NEWPORT, OWNER)</b>	)	

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**ORDER APPROVING A CONDITIONAL USE PERMIT**, to allow an industrial park with a range of light-industrial and commercial uses, on a portion of the Newport Municipal Airport designated for Non-Aeronautical Development. The concept includes a potential live work option for tenants. The subject site is a 10.8-acre undeveloped lease area northwest of Runway 2-20, on property identified as Tax Lot 200 of Lincoln County Tax Map 11-11-32-00.

**WHEREAS:**

- 1.) The Planning Commission has duly accepted the application filed consistent with the Newport Municipal Code; and
- 2.) The Planning Commission duly held a public hearing on the request, with such hearing occurring on May 9, 2022; 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 the staff report. No use shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the applicant/property owner to comply with these documents and the limitations of approval described herein.
2. Applicant shall be responsible for constructing water and wastewater service to the proposed lease area as necessary to support the industrial park. This may include improvements that will be shared by, or benefit other users, in which case applicant's share of the costs is to be limited to that which is roughly proportional to the impact of their project.

3. Storm drainage attributed to the industrial park and associated impervious and semi-pervious surfaces shall be managed on-site, with such improvements having the capacity to handle the volume and velocity of run-off attributed to a 25-year, 24-hour storm event. On-site drainage basins or other water impoundments may not exceed a quarter acre in size. All drainage improvements are to be complete and operable prior to occupancy of the first building.
4. Applicant shall be responsible for constructing the access road from SE 84<sup>th</sup> Street north to the turnaround as depicted on the site plan for “Newport Airport Village” by MSS, Inc., dated 4/20/22. A right-of-way permit for the road approach onto SE 84<sup>th</sup> Street shall be obtained from the Newport Public Works Department before the roadway work is commenced and the road shall be completed prior to occupancy of the first building.
5. Traffic impact analysis will be required for any use that triggers the need for such analysis pursuant to NMC Chapter 14.45. The cumulative number of vehicle trips generated by development at the industrial park shall be used when determining whether or not traffic impact analysis is required and if mitigation measures are needed. The initial round of traffic impact analysis shall then establish when subsequent analysis is warranted.
6. A landscape plan shall be included with each building permit submittal that identifies the location, species and anticipated peak height of all trees that are to be planted. In preparing the plan, emphasis should be given to tree species that will not exceed 50-feet in height at maturity.
7. Outdoor lighting fixtures are to be downward directed and shielded. Specifications for the fixtures are to be included with each building permit application.
8. Glare producing material, including but not limited to unpainted metal or reflective glass shall not be utilized on exterior surfaces of the proposed structures. Treatment of any exterior metal surfaces shall be called out on the elevation drawings included with building permit submittals, along with the reflectivity rating of exterior windows.
9. Any industrial use that generates emissions (e.g. smoke, dust, steam, etc.) as part of its regular operations shall be located inside a structure with a ventilation system designed to ensure such emissions will not obscure airplane visibility.
10. Applicants shall include with building permit applications, written confirmation from the Seal Rock Water District that they have capacity to meet the domestic water supply needs of the intended use.
11. No new or expanded radio, radiotelephone, television transmission facilities, and electric transmission lines are to be located within the industrial park unless the ODOT Aeronautics Division indicates, in writing, that the use will not cause or create electrical interference with navigational signals or radio communications between an airport and aircraft.
12. A sign permit(s) shall be obtained consistent with the requirements set forth in NMC Chapter 14.10 for the industrial park monument sign(s) at the time of the first building permit submission.

13. The applicant shall comply with all applicable building codes, fire codes, and other public health and safety regulations to ensure that the use will not be detrimental to the safety and health of persons in the neighborhood. The applicant is responsible for obtaining the necessary approvals and permits pertaining to the proposed use. If the applicant must materially modify the size or height of the building to comply with these codes, then a conditional use permit shall be submitted to establish that the changes are consistent with the overall development character of the neighborhood.
14. Consistent with NMC 14.52.140, building permits for structures envisioned as part of the three development phases shall be obtained within 5-years of the date this land use decision is final.

**BASED UPON THE ABOVE**, the Planning Commission determines that this request for a Conditional Use Permit 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 23<sup>rd</sup> day of May, 2022.

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James Patrick, Chair  
Newport Planning Commission

Attest:

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Derrick I. Tokos, AICP  
Community Development Director

## **EXHIBIT "A"**

Case File No. 1-CUP-22

### **FINDINGS OF FACT**

1. The applicants Mark Watkins and Alan Wells, by and through their representative Linsey McLane-Godwin, MSS, Inc., applied on February 25, 2022, for approval of a Conditional Use Permit to allow an industrial park project, with a range of light-industrial and commercial uses, on a portion of the Newport Municipal Airport designated for Non-Aeronautical Development. The concept includes a potential live work option for tenants.

2. The subject site is a 10.8-acres undeveloped lease area situated northwest of Runway 2-20 on property identified by the Lincoln County Assessor as Tax Lot 200, on Tax Map 11-11-32-00.

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

- a. Plan Designation: Public.
- b. Zone Designation: P-1/"Public Structures" subject to the City of Newport's Airport Development Zone Overlay.
- c. Surrounding Land Uses: Single-family home sites to the west, airport fixed based operator to the east, undeveloped airport property to the north, and airplane hangars and the U.S. Coast Guard Station (helipad) to the south.
- d. Topography and Vegetation: The lease area encompasses the gradually sloped property immediately north of the airport entrance driveway from SE 84<sup>th</sup> Street. Much of the site has been cleared and is maintained as a mowed open area. A line of mature trees and understory vegetation along the west line of the lease area provides a visual buffer between the property and US 101.
- e. Existing Structures: None.
- f. Utilities: All can be provided to the site. While the lease area is large enough to accommodate an individual septic system, the intent is for the development to utilize a larger shared system, to be located in between the runways, that the applicant would pump effluent to for treatment. Water service will be provided by the Seal Rock Water District.
- g. Development Constraints: None known.
- h. Past Land Use Actions: None related to the lease area.

4. Upon acceptance of the application, the Community Development (Planning) Department performed a completeness review of the request identifying, in a March 24, 2022 letter, additional information that was needed in order for the Planning Commission to consider the matter at a public hearing. The applicant's representative, Linsey McLane-Godwin with MSS, Inc. ("MSS,

Inc.”), provided the requested information on April 20, 2022. That same day, notice of a May 9, 2022 public hearing before the Newport Planning Commission to consider the subject request was mailed to affected property owners required to receive such notice by the Newport Municipal Code (NMC), 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 12:00 noon on the date of the hearing, or be submitted in person at the hearing. The notice was also published in the Newport News-Times on January 14, 2022. One comment was received in response to the notice. It was an email from City Engineer, Aaron Collett, dated 4/29/22 (Attachment "O") and is more specifically addressed in the findings below.

5. A public hearing was held on May 9, 2022. At the hearing, the Planning Commission received the staff report, provided the applicant an opportunity to make a presentation and opened the floor to testimony in favor or opposition to the request. The recording of the May 9, 2022 hearing is hereby incorporated by reference. The Planning Staff Report with Attachments is hereby incorporated by reference into the findings. The Planning Staff Report Attachments included the following:

- Attachment "A" – Application Form
- Attachment "B" – Lincoln County Assessor Property Report
- Attachment "C" – Application Narrative, 2/25/22
- Attachment "D" – Application Narrative Addendum, 4/20/22
- Attachment "E" – Applicant’s Site Plan & Profile Drawings by MSS, Inc., dated 4/20/22 (Exhibits 1 to 4)
- Attachment "F" – Lease Agreement with the City of Newport
- Attachment "G" – Public Hearing Notice
- Attachment "H" – Phase 3 Project List, SB URA Resolution No. 3943
- Attachment "I" – Excerpt from Supplemental Budget Resolution #3947
- Attachment "J" – FY 22/23 Draft Budget, LOSS Capital Project #AP-5
- Attachment "K" – 2018 Airport Master Plan On-Airport Land Use Map
- Attachment "L" – 2018 Airport Master Plan Airport Airspace Plan (Part 77)
- Attachment "M" – 2018 Aerial Image with Wetlands and Topography
- Attachment "N" – Email from Adam Denlinger, SRWD, dated 1/19/22
- Attachment "O" – Email from City Engineer Aaron Collett, dated 4/29/22
- Attachment "P" – City Council Final Order & Findings File #7-CUP-21
- Attachment "Q" – Table B105.1(2), Appendix B, 2019 Oregon Fire Code
- Attachment "R" – Airport Transitional Surface Map

6. **Explanation of the Request:** This conditional use permit application identifies a range of permissible light industrial and commercial uses and provides a conceptual development plan for a new industrial park on a portion of the Newport Municipal Airport designated for Non-Aeronautical Development. The proposal includes a potential live work option for light industrial/commercial tenants.

MSS, Inc. prepared a detailed narrative describing the project with the February 25, 2022 submittal (Attachment "C") and supplemented the narrative with a memo prepared April 20, 2022 (Attachment "D"). MSS, Inc. notes that their client, Mark Watkins, has entered into a long term

lease with the City of Newport for approximately 10.8- acres of “Non-Aeronautical Development Area.” The site is situated immediately north of the access driveway at SE 84th Street, between US 101 and the Airport’s Fixed Base Operator (FBO) Building. It is part of a larger, 273.11 acre, City of Newport owned property identified by the Lincoln County Assessor’s Office as Tax Lot 200 of Tax Assessor’s Map 11-11-32-00 (Attachment "B"). A copy of the lease agreement is also enclosed (Attachment "F").

MSS, Inc. points out that the leased area is currently vacant and that multiple official City documents, reports and master plans identify a general vision for how this Non-Aeronautical Development Area should develop. They summarize that vision as a desire to see commercial and industrial development and emergency services that support on-airport operations and bring in additional revenue for the city and for the airport. MSS, Inc. further notes that public capital improvement projects have been identified and put into motion to provide improved water, fire and septic infrastructure to support development of Non-Aeronautical Development Areas.

The applicant is looking to market the property to prospective tenants and is finding that prospect challenging without a framework that provides certainty as to the permissible types of commercial and industrial development. MSS, Inc. points out that the current zoning, P-1 Public Structures limits use of the property almost entirely to publicly owned or operated uses, with the exception of “Recreation equipment” and “Trails, paths, bike paths, walkways, etc.”. They note that since the current zoning does not allow commercial or industrial development, and it is unknown what uses will be approved, no future tenants have committed to leasing building(s) at the subject site. They further indicate that a clear development plan cannot be created until the applicant knows with certainty what uses will be allowed. This application addresses the problem by identifying a set of permissible commercial and industrial uses, consistent with Newport Development Code Section 14.22.100(E)(4) and (E)(5).

MSS, Inc. indicates that the Lessee anticipates implementing up to three (3) phases that would be completed within 5 years from city approval. This phasing will depend heavily on the success of bringing in businesses to provide rental income during the first phase to fund the subsequent phases.

They note that the project is intended to provide building spaces for businesses that are supportive of airport and emergency services activities and uses, need airport access as part of their operations, or need general industrial or commercial space. Additionally, the Lessee is a member of the Airport Advisory Committee, which has been tasked with finding ways for the airport to be more financially self-sufficient. MSS, Inc. asserts that the subject site is well positioned to create a “Fly in Village” with spaces for services to support pilots and their families coming to the airport and spending time in Newport. These visitors will need short-term overnight accommodations, recreation equipment rentals, travel support services (showers, washers/dryers), car rentals, and recreational opportunities that they believe that the “Fly in Village” can satisfy. On-site recreational activities may include a dog park and a disc golf course. These amenities would benefit local residents as well as tourists. A conceptual site plan illustrates potential building placement for each project phase (Attachment "E").

Lessee anticipates that there will likely be two freestanding, monument signs associated with the development. One sign is to located on the northeast corner of the intersection of Hwy 101 and SE 84th Street (exact location to be determined in coordination with the Airport Advisory Committee and City of Newport) and the other at the northwest corner of the intersection of SE 84th Street and the access road that leads to the site (see Attachment "E," Exhibit 2). Though these signs have not been designed yet, MSS, Inc. notes they will be designed to meet all the criteria listed in Newport Municipal Code Chapter 10. Additionally, they point out that example sign design and materials are included in Attachment B of the application narrative (Attachment "C"). MSS, Inc. notes that lighting associated with this signage will be shielded and limited to the minimum required for legibility.

7. **Conditional Use Review Required (NMC Chapter 14.22.100(E))**: Per NMC 14.22.110(E), Conditional Uses, the following conditional uses replace the permitted uses identified in the underlying zone district.

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4. Aviation dependent or related commercial, industrial, or public uses not otherwise listed as permitted uses.

5. Non-aviation related residential, commercial, industrial or public uses in areas designated for non-aeronautical use on the "On-Airport land Use" map identified as Sheet 15.2 of the Newport Municipal Airport Master Plan, prepared by WHPacific (dated February 2018).

A copy of that map, enclosed as Attachment "K," shows that the proposed lease area for the industrial park is located on airport property designated for non-aeronautical use and is; therefore, permissible subject to conditional use review.

8. **Conditional Use Approval Authority (NMC 14.34.030)**: Per NMC 14.34.030(A), Approval Authority, an application for approval of a Conditional Use shall be processed and authorized using a Type II decision making procedure where specifically identified as Newport Municipal Code eligible for Type II review elsewhere in this Code or when characterized by the following:

1. The proposed use generates less than 50 additional trips per day as determined in the document entitled Trip Generation, an informational report prepared by the Institute of Traffic Engineers; and

2. Involves a piece(s) of property that is less than one (1) acre in size. For an application involving a condominium unit, the determination of the size of the property is based on the condominium common property and not the individual unit.

Per NMC 14.34.030(B) all other applications for Conditional Uses shall be processed and authorized as a Type III decision-making procedure.

The City of Newport's Type III decision-making procedure is outlined in NMC 14.52.020(C), and designates the Planning Commission as the decision-making authority after notice and a public hearing. Notice must be provided by mail at least 20-days in advance of the hearing to all record owners of property within 200-feet of the subject parcel (NMC 14.52.060(C)). Notice of the hearing must also be published at least once in a newspaper of general circulation at least 5-days and no more than 20-days prior to the date set for the public hearing (NMC 14.52.060(F)).

The property the applicant has leased is 10.8-acres in size as depicted on the site plan (Attachment "E") and lease (Attachment "F"); therefore, Planning Commission review and approval is required per NMC 14.34.030(B). Evidence of public notice, included as Attachment "G," demonstrates that the May 9, 2022 public hearing has been duly noticed consistent with the requirements of NMC 14.52.060.

9. **Standard Conditional Use Criteria:** 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.

10. **Supplemental Conditional Use Criteria:** Since the property is within the Airport Development Zone Overlay, the following supplemental criteria for the conditional use request apply as outlined in NMC Section 14.22.100(F):

- a. Demonstrate that the uses will not create a safety hazard or otherwise limit existing and/or approved airport uses.

## **CONCLUSIONS**

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

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

1. NMC Section 14.01.020 of the Newport Municipal Code defines "Public Facilities" as sanitary sewer, water, streets (including sidewalks), stormwater and electricity.
2. With respect to the question of whether or not sanitary sewer service can adequately accommodate the use, MSS, Inc. indicates that the service will be provided by the City of Newport

via a community system that is in the planning stage. They cite to analysis performed by the engineering firm Murraysmith, included with the recently completed South Beach / US 101 Refinement Plan, that assessed the effluent needs for the airport at anticipated buildout, and rely upon the analysis as evidence that a Large On-site Septic System (LOSS) is a viable option to meet the project's sanitary sewer needs. A copy of the Murraysmith memo is included with the applicant's narrative (Attachment "C"). MSS, Inc. notes that once the community sewer system is constructed, pumps will be installed at each development site to pump the waste up a collector to the septic system's location. They further indicate that if the LOSS is not in place when their client is prepared to develop, then a holding tank(s) will be installed onsite to meet their needs and that a service will be used to remove waste from the tank and dispose of it properly offsite. MSS, Inc. points out that the Lessee understands they will need to provide a pump station and make the necessary connections to the LOSS once the system goes online.

3. With its decision in File 7-CUP-21, for an animal shelter project on airport property that would be served by this same LOSS, the Planning Commission found that Murraysmith's analysis was sufficient to establish that a LOSS could accommodate the effluent demand from that project and other airport uses, and that the presence of four separate septic systems on airport property, serving the FBO building, FedEx building, U.S. Coast Guard building, and the Airport Rescue and Firefighting (ARFF) building, is evidence that soil conditions are such that it is feasible a LOSS can be built on airport property. That particular decision by the Planning Commission was appealed to the City Council, and the Council concurred with the Commission's reasoning (Attachment "P").

4. City Engineer, Aaron Collett, in a 4/29/22 email, notes that the LOSS project is not fully underway. MSS, Inc. acknowledges that the timing for construction of the LOSS and their client's need to move forward with the industrial park project might not align, in which case they are prepared to construct a holding tank to address effluent needs in the interim. This is a reasonable alternative offered by the applicant. The Newport Urban Renewal Agency is reserving \$2 million in South Beach Urban Renewal District funding to address wastewater needs at the airport (Attachment "H"). Planning level cost estimates by Murraysmith show that this amount is sufficient to fund the LOSS or a package treatment plant. The City Council, with Supplemental Budget Resolution #3947, advanced \$75,000 of urban renewal funding into the current FY 21/22 fiscal year budget so that the LOSS design work could be initiated with the balance of the construction funding, \$640,000 in total, being included in the proposed FY 22/23 budget (Attachments "I" and "J"). FAA review of the LOSS is required to ensure that it does not impede airport operations if it is to be built in between the runways, which is the preferred location. Staff has had preliminary discussions with the FAA, and they have identified issues the City will need to address as the design moves forward. There is a good chance that the LOSS will be in place to serve applicant's initial phase of development and, if not, they have identified a holding tank(s) as an interim solution. The Commission is charged with determining whether or not it is feasible sanitary service can be provided to adequately accommodate the proposed use, and the above analysis and information in the record is sufficient to support such a finding.

5. With respect to water service, the subject site lies within the Seal Rock Water District (SRWD) which maintains a water main along US 101. The City has a master meter with the District that feeds the airport's internal water distribution system. That internal system includes an 8-inch city

line that runs along SE 84th Street adjacent to the site as depicted on a 2018 aerial of the property (Attachment "M"). MSS, Inc. notes that Lessee intends to utilize the City of Newport water service that is currently serving the airport. They point out that the site will tie onto this line and run a main up the proposed road to serve the new development as shown on the site plan (Attachment "E," Exhibit 2). This project proposes a range of uses that can be scaled such that they can be supported by the available water supply. With its decision in File 7-CUP-21, for the animal shelter project, the Commission accepted an email from the SRWD indicating that they could meet the demand of that 12,000 sq. ft. facility which was projected to be 1,331 Gal/Day (Attachment "N"). The Commission can accept that same email as evidence the SRWD has the capacity to meet the domestic water needs of moderately sized commercial/industrial development, with similar requirements as the shelter. Since the water demands of a particular user can vary significantly, the Commission finds that a condition of approval is needed requiring the applicant obtain a capacity to serve letter from the SRWD with each phase of development once the end users have been identified.

6. Adequacy of water pressure for fire suppression can be an issue with large commercial or industrial buildings. MSS, Inc. included a letter with their application narrative (Attachment "C"), dated August 12, 2020, from the Newport Fire Department indicating that the airport's water distribution system will support hydrant flows between 1700-1800 gallons per minute flow tested as 20 PSI. The letter goes on to identify a range of commercial building types and sizes that those fire flows can support. Fire flow requirements for new construction are governed by Table B105.1(2), Appendix B, of the 2019 Oregon Fire Code (Attachment "Q"). The table further shows that flow requirements drop substantially (i.e. typically by 75%) if a structure is fitted with an automatic sprinkler system. The City will be automating its intertie with SRWD, a step that is expected to improve fire flows at the hydrant from 1,750 to 2,250 gallons per minute. That project is included in the upcoming FY 22/23 draft budget (Attachment "J"). Taken collectively, the Commission accepts this as evidence the fire flows will support a range of commercial or industrial building construction types and sizes in the locations shown on the applicant's conceptual site plan (Attachment "E").

7. Currently the subject property has uncontrolled vehicular access from a shared airport drive off of SE 84th Street, which is a turnoff from US 101. According to city staff, this road meets city and fire standards and no further road improvements will be required as part of the development of the subject site. A driveway from this existing road will be constructed by the Lessee within the subject site and design and constructed to city and fire department standards.

8. With respect to stormwater management, MSS, Inc. indicates that onsite run-off will be collected and routed to the creek at the north end of the lease area by way of a combined rain garden and detention facility. They note that the facility will have vegetation at the bottom and a filtration medium for treating the storm runoff. A perforated pipe will be installed to route the treated water to the outfall. The system will have enough storage to detain the two, five and ten-year storm to its pre-development flows. The sizing for detention and water quality was determined with a preliminary model based on an 85% impervious surface development of the site in Autodesk's Storm and Sanitary Analysis, a stormwater modeling program. MSS, Inc. notes that the size of the system as a whole will be about 10,000 square feet (Attachment "E," Exhibit 2) with about four feet of storage depth and one foot of freeboard. This system will either be one

system of treatment and detention, or multiple systems with similar areas and volumes. They point out that the system will drain the stormwater to the creek to the North of the Property, Grant Creek, and understand that drainage of the stormwater to the creek may require permitting through DEQ and a joint permit from Department of State Lands and Army Corps of Engineering.

9. Policy 1, Goal 2, Storm Drainage, Public Facilities Element of the Newport Comprehensive Plan requires that drainage analysis for development with new impervious surfaces demonstrate that run-off can be managed on-site or that the downstream conveyance system has capacity for the volume and velocity of stormwater attributed to a 25-year, 24-hr storm. Applicant's concept can satisfy that requirement; however, they will need to document the adequacy of the system in more exact terms once the final end uses are identified. However, for the purpose of this conditional use permit, the Planning Commission finds that it is feasible that the applicant's proposal will be sufficient to manage runoff for the design storm.

10. For street access, MSS, Inc. notes that the Lessee will be responsible for constructing a road access from SE 84th Street to the site. A conceptual alignment of the roadway is depicted on the applicant's site plan (Attachment "E," Exhibit 2). They note that within the site, each sub-tenant will be responsible for access improvements, which includes the connecting driveways and parking areas.

11. Since the specific tenants are not known, MSS, Inc. indicates that their client is prepared to address potential traffic impacts by obtaining a traffic impact analysis permit for each new use that is established. This would include implementing improvements recommended by the analysis. NMC Chapter 14.45 sets out the City's traffic impact analysis requirements. It provides that an applicant must conduct the analysis if their project will generate 10 or more heavy truck trips per day or 100 or more PM peak hour trips onto city streets such as SE 84th Street (NMC 14.45.010(C)). Considering the range of impacts that different uses can have, the Commission finds that a condition of approval should be imposed identifying the need for traffic impact analysis to be performed as tenants are identified, and that such analysis should consider the cumulative impacts of traffic generated by the industrial park.

12. Lastly, with regards to the provision of electrical service, MSS, Inc. notes that Central Lincoln People's Utility District (CLPUD) provides power to the airport property as a whole. They further indicate that CLPUD did not express any concern with providing power to the site when asked; however, they stated no specific information will be available until a request for service is obtained. Electrical service is available to the site, crossing the southern end of the lease area as shown on the applicant's site plan (Attachment "E," Exhibit 2) and MSS, Inc. indicates that their client will coordinate with CLPUD to obtain service. Capacity of the available power supply can be a limiting factor for certain industrial/commercial users. That said, the Commission finds that the presence of power onsite is sufficient evidence that electric service can be made available to prospective users.

13. MSS, Inc. notes that all necessary public facilities are or will be available for the subject property, and will be extended or modified as necessary to serve the subject property. They further point out that all utility design and layout information will be included as part of the building permit process and work will be completed as part of the project's construction.

14. Given the above, the Planning Commission concludes that the public facilities can adequately accommodate development of the proposed industrial park.

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

1. This criterion addresses requirements of the underlying or overlay zone. MSS, Inc. notes that the site is located within the Airport Development Zone Overlay and the Public Structures (P-1) Zone. There are no specific requirements of the underlying P-1/“Public Structures” zone district that are relevant to the project. The maximum building height limitation of the P-1 zone exceeds that of the Airport Development Zone Overlay and there are no setback limitations. With regard to the Airport Development Zone Overlay, MSS, Inc. notes that NMC 14.22.100(E)(4) and 14.22.100(E)(5) allow commercial and industrial uses to be authorized in areas designated for non-aeronautical use, such as the subject site, through a conditional use permitting process. MSS, Inc. indicates that the uses being requested are those uses permitted in either the C-1/“Retail-Service Commercial” or the I-1/“Light Industrial” zones, as identified in Table 1 below.

**Table 1: Requested Uses**

Uses	C-1 Zone	I-1 Zone
Office		P
Retail Sales and Service - Sales-oriented, general retail		P
Retail Sales and Service – Sales-oriented, bulk retail		P
Retail Sales and Service – Entertainment (RV Parks, subject to 14.06.060 and “other temporary lodging with an average length of stay less than 30 day”		P
Retail Sales and Service – Repair-oriented		P
Vehicle Repair		P
Self-Service Storage		P
Parking Facility		P
Contractors and Industrial Service		P
Manufacturing and Production - Light Manufacturing		P
Warehouse, Freight Movement, & Distribution		P
Wholesale Sales		P
Community Service		P
Trade/Vocational Schools/Other		P
Communication Facilities		P
Residences on Floors Other than Street Grade	P	

2. MSS, Inc. believes that the proposed uses are consistent with the City’s Refinement Plan, Goals and Objectives, Master Plans and Adopted Budget, which all state that the purpose of the Non-Aeronautical Development Areas is for commercial/industrial development. This conditional use permitting process is an opportunity to provide a clearer understanding of development authorized in these areas. MSS, Inc. notes that the Lessee has selected uses listed as “outright permitted uses” from the City’s commercial and industrial zones because these uses have been identified by the City as appropriate for areas intended for light industrial and commercial activities without need for additional site specific review.

3. The purpose of the Airport Restricted Area and Airport Development overlays is to encourage and support the continued operation and vitality of the Newport Municipal Airport by establishing compatibility and safety standards to promote air navigational safety and to reduce potential safety hazards for persons living, working or recreating near the airport (ref: NMC 14.22.010). Those compatibility and safety standards are specifically identified in NMC Chapter 14.22, and the applicant has addressed the first of the standards, regarding height limitations, as follows:

A. NMC Section 14.22.060, entitled “Height Limitations on Allowed Uses in Underlying Zones,” states that all uses permitted by the underlying zone shall comply with the height limitations in this Section. When height limitations of the underlying zone are more restrictive than those of the Airport Restricted Area Zoning Overlay, the underlying zone height limitations shall control. It further notes:

i. Except as provided in subsections B and C of this Section, no structure or tree, plant or other object of natural growth shall penetrate an airport imaginary surface.

ii. For areas within airport imaginary surfaces but outside the approach and transition surfaces, where the terrain is at higher elevations than the airport runway surfaces such that existing structures and permitted development penetrate or would penetrate the airport imaginary surfaces, the City of Newport may authorize structures up to 35 feet in height.”

B. The term “Airport Imaginary Surfaces” is defined under NMC 14.22.020(D) as imaginary areas in space and on the ground that are established in relation to the airport and its runways. Imaginary areas are defined by the primary surface, runway protection zone, approach surface, horizontal surface, conical surface and transition surface.

C. The Airport Airspace Plan (Part 77) shows that the subject property falls within the transitional surface of both runways; however, it is closest to Runway 2-20 (Attachment "L"). This is a surface that extend upward and outward at 90-degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the runway approach surfaces to the point of intersection with the horizontal and conical surfaces. The horizontal distance from the Runway 2-20 visual approach surface to the lease area varies, with it being roughly 300-feet at its closest point (Attachment "R"). This translates to 42.8-feet of vertical height, with the transitional surface increasing as it extends north across the lease area. The applicant has committed to a 35-foot maximum building height as illustrated with the profile drawings included with the site plan (Attachment "E," Exhibits 3 and 4). This evidence is sufficient for the Commission to find that the buildings will not breach the transitional surface consistent with the height limits outlined in NMC 14.22.060.

4. NMC 14.22.080 Land Use Compatibility Requirements, addresses the balance of the compatibility and safety standards. It provides that applications for land use or building permits for properties within the boundaries of the Airport Restricted Area Zoning Overlay shall comply with the requirements of this chapter as provided herein. MSS, Inc. addressed each of those standards as follows:

A. NMC 14.22.080(A), Outdoor Lighting, stipulates that no new or expanded industrial, commercial or recreational use shall project lighting directly onto an existing runway or taxiway or into existing airport approach surfaces except where necessary for safe and convenient air travel. Lighting for these uses shall incorporate shielding in their designs to reflect light away from airport approach surfaces. No use shall imitate airport lighting or impede the ability of pilots to distinguish between airport lighting and other lighting.

MSS, Inc. notes that any lighting associated with on-site signage will be shielded and limited to the minimum required for legibility. Parking area and exterior building lighting will be oriented toward the ground, shielded and limited to the minimum brightness and coverage required for safety. A condition of approval is imposed to ensure compliance with this requirement.

B. NMC 14.22.080(B), Glare, provides that no glare producing material, including but not limited to unpainted metal or reflective glass, shall be used on the exterior of structures located within an approach surface or on nearby lands where glare could impede a pilot's vision.

MSS, Inc. points out that building materials will be low maintenance and highly durable and will be chosen based on their ability to last in the harsh coastal environment. All materials and colors chosen will have low reflectivity and not create glare. Building exterior walls will be made of one or more of the following or similar non-reflective materials: concrete, CMU blocks, fiber cement siding, metal panel, rock or brick, and wood siding. Building roofs will be made of either standing seam metal roofing or asphalt shingle roofing. Building design and materials will be reviewed by city staff at the time of building permit submittal. A condition of approval is imposed to ensure compliance with this requirement.

C. NMC 14.22.080(C), Industrial Emissions, states that no new industrial, mining or similar use, or expansion of an existing industrial, mining or similar use, shall, as part of its regular operations, cause emissions of smoke, dust or steam that could obscure visibility within airport approach surfaces, except upon demonstration, supported by substantial evidence, that mitigation measures imposed as approval conditions will reduce the potential for safety risk or incompatibility with airport operations to an insignificant level. The review authority shall impose such conditions as necessary to ensure that the use does not obscure visibility.

MSS, Inc. notes that all proposed uses will be contained within structure(s) such that no emissions of smoke, dust or steam that could obscure visibility within airport approach surfaces will occur. A condition of approval is imposed to ensure compliance with this requirement.

D. NMC 14.22.080(D), Communications Facilities and Electrical Interference, Proposals for the location of new or expanded radio, radiotelephone, television transmission facilities, and electric transmission lines shall be coordinated with the ODOT Aeronautics Division to ensure that the use will not cause or create electrical interference with navigational signals or radio communications between an airport and aircraft.

MSS, Inc. indicates that the applicant is prepared to coordinate with the ODOT Aeronautics Division to ensure that any proposed communication facilities will not cause or create electrical interference with navigational signals or radio communications between an airport and aircraft. A condition of approval is imposed to ensure compliance with this requirement.

E. NMC 14.22.080(E), Limitations on Water Impoundments, provides that no new water impoundments of one-quarter acre or larger shall be allowed less than 5,000 feet from the end of a runway within an approach surface or on land owned by the airport or airport sponsor where the land is necessary for airport operations. An exception exists in cases where the impoundment is for a storm water management basin established by the airport.

MSS, Inc. points out that this standard is not applicable to their project because the industrial park site is just outside the area where it would apply. The industrial park is situated outside of the Runway 2-20 approach surface and is not on land that is necessary for airport operations. In order to reduce the chance of attracting birds, however, the applicant agrees to limit any surface retention or detention facilities to one-quarter acre size or design the detention to be underground.

F. NMC 14.22.080(F), Prohibited Uses within a Runway Protection Zone (RPZ), provides that new residential development, schools, hospitals, nursing homes, theaters, auditoriums and other public assembly facilities are prohibited within the RPZ.

MSS, Inc. notes that this standard is not applicable because the industrial park site is located outside of the runway protection zones.

G. NMC 14.22.080(G), Limitations on Landfills, states that new landfills are prohibited within 10,000 feet of any airport runway.

MSS, Inc. points out that the standard is not applicable because a landfill will not be situated within the industrial park.

5. Given the above, the Planning Commission concludes that this criterion has been 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. MSS, Inc. indicates that due to the conceptual nature of the site plan and the unknown status of what uses will be allowed on this property, they have elected to use a maximum building floor area to determine the number of required parking space for site build out. They note that the most likely use of the property will be industrial warehouse with some office space and bulk retail space. Industrial uses require 1 parking space per 2,000 square feet gross floor area and both general office space and bulk retail space requires 1 parking space per 600 square feet gross floor area. Our estimate is that 80% of the space would be warehouse, 10% would be general office and 10% would be bulk retail. Each building would have a sidewalk in front of it of between 4 and 6 feet and the drive aisles will be at least 24 feet wide.

**Table 2: Calculations of Area for Each Use to Determine Maximum Floor Area**

Use	SF Area Per Parking Space	Area of 1 parking Space & 6ft Sidewalk	Area of Adjacent Roadway	% of Site	Portion of 10 acre site	Number of parking spaces	Max Use Area of Site
Warehouse	2,000 sf	216 sf	108 sf	80%	348,480 sf	150	300,000 sf
General Office	600 sf	216 sf	108 sf	10%	43,560 sf	48	28,800 sf
Bulk Retail	600 sf	216 sf	108 sf	10%	43,560 sf	48	28,800 sf

2. Using the above table, the maximum floor area of the site at full build out would be 300,000 square feet of warehouse space, and 28,800 square feet each of general office and bulk retail space, for a total of 357,600 square feet of building space. In total with these uses, 246 parking spaces would be required. These calculations are theoretical, would require extremely efficient road aisle design and do not consider landscaping space, stormwater detention or the irregular shape of the development site. However, MSS, Inc. notes that the analysis indicates that even at max build out there would be sufficient space for the required parking for these uses.

3. They further note that the conceptual site plan shows a mix of uses similar to the theoretical calculation above with 78% of the building gross floor area used for warehouse space, 9% used for general office space and 13% used for bulk retail space. The total gross floor area of all these uses is 164,473 square feet (requiring 124 parking spaces), assuming each building is only one story. If each building was two stories, the gross floor area would be 328,946 square feet (requiring 248 parking spaces). MSS, Inc. notes that while parking striping is not shown on phases 2 and 3 of the conceptual site plan, space for a sidewalk and parking has been provided along the entire front of each building. As a result, the conceptual site plan will accommodate a total of approximately 267 parking spaces, which exceeds the required parking for both the theoretical maximum floor area and the conceptual site plan with two story buildings. Uses with higher parking requirements will be limited to smaller building footprints. The parking requirements for the final site design will be reviewed and approved as part of the building permit process.

4. In conclusion, MSS, Inc. points out that the development site will provide more than the required amount of parking for the anticipated uses. All uses with the potential to create unreasonable amounts of dust or odor will be enclosed within the buildings. Buildings will be designed with noise mitigation and ventilation systems as needed for loud uses or uses that produce significant amounts of particulates to meet DEQ standards. They further note that each building will be reviewed at the time of building permit review for use/occupancy and available parking. Uses with higher parking requirements will be limited in floor area in relation to the availability of space for parking.

5. MSS, Inc. points out that existing uses at the airport include airport hangar space, warehouse space, car-rentals, emergency services and a welcome center. Proposed uses such as parking facility, vehicle repair, and bulk retail may include the outdoor storage of vehicles (cars, trucks, recreational vehicles, etc.). This type of vehicular storage is compatible with the airport as

evidenced by the existing car rental facility at the airport and the existing storage of work vehicles associated with airport operations. In order to address potential traffic impacts, MSS, Inc. notes that a traffic impact analysis permit will be required for each new use if the threshold for requiring such analysis is met.

6. MSS, Inc. notes that the overall proposed mix of commercial and industrial uses is consistent with the existing uses, particularly in regards to anticipated traffic and parking needs, and similar types of outdoor storage. Uses with the potential to create unreasonable amounts of dust or odor will be contained and have no adverse impact due to unreasonable noise, dust or loss of air quality.

7. They point out that the subject site is a small portion of a large property that contains the Newport Municipal Airport. Further MSS, Inc. notes that the request is an extension of the city's effort to establish commercial/industrial development within the Non-Aeronautical Development Areas of the airport. The Airport Master Plan specifically identified the subject site as being appropriate for commercial and industrial uses. While all commercial and industrial uses may not be appropriate adjacent to the airport, MSS, Inc. notes that light commercial and industrial uses, such as those proposed, have been deemed appropriate next to residential areas and have minimal offsite impacts in general.

8. MSS, Inc. notes that the Lessee is also interested in creating a "Fly-In Village" to support the tourists arriving at the airport. This portion of the leased area would be limited to a maximum of 2 acres of the total leased area. This village could include temporary overnight accommodations in the form of yurts or cabins with supporting buildings housing showers, bathrooms, washers and dryers. Other services could include recreation equipment and car rentals. They point out that these types of amenities have the potential to increase the number of visitors to the airport and establish it as a sought-after travel destination due to the full support services. Phase 2, where the "Fly-In Village" is proposed, is identified in the Newport Airport Master Plan as a moderate noise impact zone at 55 to 65 decibels (ref: 2018 Airport Master Plan Off-Airport Land Use Map, Sheet 15.1, prepared by WHPacific). While the City did not adopt noise mitigation standards as part of the Airport Development Zone Overlay, there are building code standards that the City applies in noise sensitive areas that may limit the types of construction available for temporary overnight accommodations.

9. Given the above, the Planning Commission concludes that this criterion has been satisfied.

*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. MSS, Inc. notes that all buildings will conform to the required design standards. They point out that the overall character of the airport area visible from SE 84th Street consists of one and two story painted, primarily metal buildings. There does not appear to be a consistent color scheme, with buildings ranging from beige/tan/taupe to blue/gray to barn red and white. The uses of these buildings are airport-focused, according to the Newport Airport website (<https://www.newportoregon.gov/dept/onp/>) specifically there are buildings for reception and

customer service (Fixed Base Operations), grounds maintenance, building maintenance, office maintenance, Hertz Rental Car rentals, and airplane hangars.

2. They further note that building materials will be low maintenance and highly durable and will be chosen based on their ability to last in the harsh coastal environment. All materials and colors chosen will have low reflectivity and not create glare. Building exterior walls will be made of one or more of the following or similar non-reflective materials: concrete, CMU blocks, fiber cement siding, metal panel, rock or brick, and wood siding. Building roofs will be made of either standing seam metal roofing or asphalt shingle roofing. Examples of building types, colors and materials are included with the applicant's narrative (Attachment "C"). MSS, Inc. points out that building design and materials will be reviewed by city staff at the time of building permit submittal.

3. Given the above, the Planning Commission concludes that the industrial park will be consistent with the overall development character of the neighborhood regarding building size and height.

E. *Criterion #5. Demonstrate that the uses will not create a safety hazard or otherwise limit existing and/or approved airport uses.*

1. MSS, Inc. notes that the subject site has been specifically identified by the City and the 2017 Airport Master Plan as an appropriate place to locate aeronautical-related and non-aeronautical-related commercial/industrial development. They further point out that future buildings will have a maximum height of 35 feet and consist of non-reflective building materials. Parking area and exterior building lighting will be oriented toward the ground, shielded and limited to the minimum brightness and coverage required for safety.

2. They note that heavy manufacturing is a use that has not been requested for this site due to the potential to create noise, dust, vibration or fumes incompatible with airport uses. In contrast, Light Manufacturing as defined in the Newport Municipal Code 14.03.060(D)(2)(b)(i), is described as allowing uses that do not "generate excessive noise, dust, vibration or fumes, such that they can be located near residential and commercial zones without creating nuisance impacts." MSS, Inc. points out that the airport is more industrial and commercial in nature than residential and itself generates some noise, dust, vibrations and fumes. In this way the proposed uses will not limit the existing or potential future airport uses. Further, the subject site is separated from the airport by SE 84th Street, trees and shrubs, and two or more fences. MSS, Inc. notes that limits on hazardous materials will be enforced at the time of building permit review, where the application will be required to conform to building code and fire code. A condition of approval is imposed to ensure compliance with those codes.

3. Landscape plants that provide food or shelter to large birds, small birds that congregate into large flocks, as well as small mammals that may attract raptors will be avoided to decrease wildlife hazards around the airport. Specific guidelines include avoiding:

A. Evergreen trees or shrubs, including, but not limited to Junipers, Spruces, Pines, Yews and Arborvitae.

B. Densely branched or densely foliated trees to avoid nesting. This includes, but is not limited to, Maples, Linden and Cypress.

C. Trees, shrubs and plants that produce wildlife edible fruit and seeds or provide palatable forage for grazing animals. Non-fruiting or male plants of a given species may be satisfactory in some instances.

4. The trees, shrubs, perennials and grasses contained in the applicant's narrative (Attachment "C") provide a list of plant species that will be avoided for landscaping within the subject property. Considering the properties location within the transitional surface of both runways, the Commission finds that a condition of approval is needed requiring the applicant identify the mature height of proposed landscaping with each building application. That way, the City can confirm that the landscaping is not likely to breach the transitional surface at some point in the future.

5. Given the above, the Planning Commission concludes that this criterion has been satisfied.

### **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 outlined herein; and, therefore, the requested conditional use permit 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 the staff report. No use shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the applicant/property owner to comply with these documents and the limitations of approval described herein.
2. Applicant shall be responsible for constructing water and wastewater service to the proposed lease area as necessary to support the industrial park. This may include improvements that will be shared by, or benefit other users, in which case applicant's share of the costs is to be limited to that which is roughly proportional to the impact of their project.
3. Storm drainage attributed to the industrial park and associated impervious and semi-pervious surfaces shall be managed on-site, with such improvements having the capacity to handle the volume and velocity of run-off attributed to a 25-year, 24-hour storm event. On-site drainage basins or other water impoundments may not exceed a quarter acre in size. All drainage improvements are to be complete and operable prior to occupancy of the first building.
4. Applicant shall be responsible for constructing the access road from SE 84<sup>th</sup> Street north to the turnaround as depicted on the site plan for "Newport Airport Village" by MSS, Inc., dated 4/20/22. A right-of-way permit for the road approach onto SE 84<sup>th</sup> Street shall be obtained from the Newport Public Works Department before the roadway work is commenced and the road shall be completed prior to occupancy of the first building.

5. Traffic impact analysis will be required for any use that triggers the need for such analysis pursuant to NMC Chapter 14.45. The cumulative number of vehicle trips generated by development at the industrial park shall be used when determining whether or not traffic impact analysis is required and if mitigation measures are needed. The initial round of traffic impact analysis shall then establish when subsequent analysis is warranted.
6. A landscape plan shall be included with each building permit submittal that identifies the location, species and anticipated peak height of all trees that are to be planted. In preparing the plan, emphasis should be given to tree species that will not exceed 50-feet in height at maturity.
7. Outdoor lighting fixtures are to be downward directed and shielded. Specifications for the fixtures are to be included with each building permit application.
8. Glare producing material, including but not limited to unpainted metal or reflective glass shall not be utilized on exterior surfaces of the proposed structures. Treatment of any exterior metal surfaces shall be called out on the elevation drawings included with building permit submittals, along with the reflectivity rating of exterior windows.
9. Any industrial use that generates emissions (e.g. smoke, dust, steam, etc.) as part of its regular operations shall be located inside a structure with a ventilation system designed to ensure such emissions will not obscure airplane visibility.
10. Applicants shall include with building permit applications, written confirmation from the Seal Rock Water District that they have capacity to meet the domestic water supply needs of the intended use.
11. No new or expanded radio, radiotelephone, television transmission facilities, and electric transmission lines are to be located within the industrial park unless the ODOT Aeronautics Division indicates, in writing, that the use will not cause or create electrical interference with navigational signals or radio communications between an airport and aircraft.
12. A sign permit(s) shall be obtained consistent with the requirements set forth in NMC Chapter 14.10 for the industrial park monument sign(s) at the time of the first building permit submission.
13. The applicant shall comply with all applicable building codes, fire codes, and other public health and safety regulations to ensure that the use will not be detrimental to the safety and health of persons in the neighborhood. The applicant is responsible for obtaining the necessary approvals and permits pertaining to the proposed use. If the applicant must materially modify the size or height of the building to comply with these codes, then a conditional use permit shall be submitted to establish that the changes are consistent with the overall development character of the neighborhood.
14. Consistent with NMC 14.52.140, building permits for structures envisioned as part of the three development phases shall be obtained within 5-years of the date this land use decision is final.