



PLANNING COMMISSION REGULAR SESSION AGENDA

Monday, May 24, 2021 - 7:00 PM

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

This will be a hybrid meeting, which means that it will be held electronically, via Zoom, with a limited number of people (up to 15) allowed to attend in-person. The meeting will be live-streamed at <https://newportoregon.gov>, and broadcast on Charter Channel 190.

Anyone interested in making public comment is allowed to attend in-person, subject to congregant limitations (up to 15).

Anyone wishing to provide real-time, virtual public comment should make a request at least four hours prior to the meeting, at publiccomment@newportoregon.gov, and request the Zoom meeting information.

Anyone wishing to provide written public comment should send the comment to publiccomment@newportoregon.gov. The e-mail must be received at least four hours prior to the scheduled 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, and pursuant to the municipal code.

1. CALL TO ORDER AND ROLL CALL

Jim Patrick, Bill Branigan, Lee Hardy, Bob Berman, Jim Hanselman, Gary East, and Braulio Escobar.

2. APPROVAL OF MINUTES

2.A Approval of the Planning Commission Regular Session Meeting Minutes of May 10, 2021.

3. 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.

4. ACTION ITEMS

- 4.A Initiate Legislative Process to Amend the Newport Zoning Ordinance Related to Food Cart.**

5. PUBLIC HEARINGS

- 5.A File 4-CUP-21: Conditional Use Permit to Allow the Operation of a Historical Themed Photography Booth Studio in a W-2/"Water-Related" Zone.**

[File 4-CUP-21 Staff Report.pdf](#)

[Attachment A.pdf](#)

[Attachment B.pdf](#)

[Attachment C.pdf](#)

[Attachment D.pdf](#)

[Attachment E.pdf](#)

[Attachment F.pdf](#)

[Attachment G.pdf](#)

[Attachment H.pdf](#)

[Attachment I.pdf](#)

[Attachment J.pdf](#)

[Attachment K.pdf](#)

[File 4-CUP-21 Draft Final Order.pdf](#)

[File 4-CUP-21 Draft Findings.pdf](#)

- 5.B (Continuation) File 1-NB-21 / 2-CUP-21: Design Review and Conditional Use Permit For a 25 Guest Room Hotel With Office, Dining and Lobby Space Identified as The Whaler at Nye Beach.**

[Staff Memo.pdf](#)

[Michael Abbott Email 5.17.21.pdf](#)

[Updated Whaler at Nye Beach Plan Set 5.17.21.pdf](#)

[File # 1-NB-21 -- 2-CUP-21 Final Order.pdf](#)

[File # 1-NB-21 -- 2-CUP-21 Findings.pdf](#)

6. DIRECTOR COMMENTS

7. ADJOURNMENT

Draft MINUTES
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers by Video Conference
May 10, 2021

Planning Commissioners Present by Video Conference: Jim Patrick, Bob Berman, Jim Hanselman, Lee Hardy, and Bill Branigan.

Planning Commissioners Absent: Braulio Escobar (*excused*), and Gary East.

City Staff Present by Video Conference: Community Development Director (CDD), Derrick Tokos; and Executive Assistant, Sherri Marineau.

1. **Call to Order & Roll Call.** Chair Patrick called the meeting to order in the City Hall Council Chambers at 7:02 p.m. On roll call, Commissioners Hanselman, Branigan, Berman, Hardy, and Patrick were present.

2. **Approval of Minutes.**

A. **Approval of the Planning Commission Regular Session Meeting Minutes of April 26, 2021.**

MOTION was made by Commissioner Berman, seconded by Commissioner Hanselman to approve the Planning Commission Regular Session Meeting Minutes of April 26, 2021 as written. The motion carried unanimously in a voice vote.

3. **Citizen/Public Comment.** None were heard.

4. **Action Items.**

Commissioner Hardy reported that she had reviewed the materials for both action items in order to give her vote.

A. **File 1-NCU-21: Final Order and Findings.**

MOTION was made by Commissioner Branigan, seconded by Commissioner Berman to approve the Final Order and Findings for File 1-NCU-21 with conditions. The motion carried unanimously in a voice vote.

B. **File 2-NCU-21: Final Order and Findings.**

MOTION was made by Commissioner Branigan, seconded by Commissioner Berman to approve the Final Order and Findings for File 2-NCU-21 with conditions. The motion carried unanimously in a voice vote.

5. **Public Hearings.** None were heard.

6. **New Business.** None were heard.

7. **Unfinished Business.**

A. **Updated Planning Commission Work Program.**

Tokos pointed out the change on the work program that picked up the second joint City Council and Planning Commission meeting on May 17th concerning the Transportation System Plan (TSP). There

were five Commissioners who said they could attend which gave them a quorum. Tokos reported he would have the rest of the summer meeting dates added to the work program at the next meeting. Patrick requested the joint meeting documents be given to the Commission ahead of the meeting.

8. Director Comments.

A. Yaquina Head Traffic Study Public Involvement Plan Draft (Informational).

Tokos noted that the study was informational and to help the Commission be aware it was a smaller companion study that would follow the TSP. It would be focused on the Yaquina Head Natural Area and would have a heavy bike/pedestrian focus in terms of Lighthouse Drive. This would open up the Federal Lands Access dollars. It was rare to access these funds because BLM was the only land Newport had that was relevant. This program could provide quite a bit of money for a project. If the lighthouse to lighthouse connection with the multiuse path on the west side of Highway 101 became a priority, these funds could help pay for the north end of this as it tied into the natural area.

Berman noted the makeup of the oversight committee wasn't indicated on the draft. Tokos explained the oversight committee was a technical committee. He would be the person in the group from the City of Newport. James Feldman with the Department of Transportation served in a similar capacity in the group. Tokos reported that a lot of the people in the group would be BLM and other Federal Highways individuals.

Berman thought the section in the draft on public meetings and outreach was weak for the minority communities. He thought this should be brought up to the committee. Tokos reported he said something about this and he would be looking for this to be included in the revised draft.

Tokos reported the August meeting would be pushed out to sometime in the fall. Berman asked that the Commission be informed when the meetings would happen.

9. Adjournment. Having no further business, the meeting adjourned at 7:12 p.m.

Respectfully submitted,

Sherri Marineau
Executive Assistant

Case File: #4-CUP-21
 Date Filed: April 19, 2021
 Hearing Date: May 24, 2021/Planning Commission

PLANNING STAFF REPORT

Case File No. 4-CUP-21

- A. **APPLICANT:** Steve Palmer (applicant) and Jason S Asch Separate Property Trust, Jason S Asch Trustee (owner).
- B. **REQUEST:** Approval per Chapter 14.03.080(18)/“Water-Dependent and Water-Related Uses” of the Newport Municipal Code (NMC) for a conditional use permit to allow the operation of a historical themed photography booth studio.
- C. **LOCATION:** Gear Shed Shops, 342 SW Bay Blvd Suite “H.”
- D. **LEGAL DESCRIPTION:** Lots 3 and 4, Block 5, Plan of Newport (Assessor’s Map 11-11-08-DB, Tax Lots 00500).
- E. **LOT SIZE:** Approximately 7,405.2 sq. ft. per Lincoln County Tax Assessor records.
- F. **STAFF REPORT**

1. **REPORT OF FACT**

- a. **Plan Designation:** Yaquina Bay Shoreland.
- b. **Zone Designation:** W-2/“Water-Related.”
- c. **Surrounding Land Uses:** Tourist-oriented retail.
- d. **Topography and Vegetation:** The developed portion of the property, facing Bay Blvd is flat. The rear of the property slopes up steeply to a parking lot.
- e. **Existing Structures:** The existing building is a 6,664 sq. ft. former fishing gear shed that began to transition to multi-tenant retail in the mid-1990’s.
- f. **Utilities:** All are available to the site.
- g. **Development Constraints:** Tsunami Hazard Overlay.
- h. **Past Land Use Actions:** File No. 4-CUP-96 – Authorized use of a 324 square foot (5%) portion of an existing fishing gear shed as a gift shop. Approved 4/26/96.

File No. 8-CUP-98. Permitted conversion of the balance of the building to retail use. Approved 10/26/98.
- i. **Notification:** Notification to surrounding property owners and to city departments/public agencies was mailed on April 30, 2021, and notice of the May 24, 2021 public hearing was published in the Newport News-Times on May 14, 2021.

j. **Attachments:**

Attachment "A" – Application Form
 Attachment "B" – Lincoln County Assessor Property Report
 Attachment "C" – Lincoln County Assessor Map
 Attachment "D" – Business Plan for Sunbreak Studios
 Attachment "E" – Applicant's Signage Plan
 Attachment "F" – Aerial Image Showing Applicant's Lease Space
 Attachment "G" – Exterior Elevation of Building (File No. 8-CUP-98)
 Attachment "H" – Interior Floor Plan of Building (File No. 8-CUP-98)
 Attachment "I" – Zoning and Utility Map
 Attachment "J" – Uses in the W-2 Zoning District
 Attachment "K" – Public Hearing Notice

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

The applicant is requesting the conditional use permit to operate an historic costume-based photography studio geared towards tourists. It will include costumes for 1920's Flapper/Gangsters, 1920's style swimwear, vintage fisherman/women's apparel, and 1960's hippie themes. The applicant notes that themes will include hats, costumes, props and backdrops, and that the studio will include a small gift shop.

Photographic studios are listed as a personal service retail use, which is not a permitted use in the C-2 zone district (NMC 14.03.060(C)(2)(b)(iii)). However, studios in a generic sense are listed as a type of entertainment-oriented retail use that is permitted outright in the C-2 zone district (NMC 14.03.060(C)(2)(b)(iv)), meaning such a use can be permitted in the W-2 zone district if approved as part of a conditional use permit (NMC 14.03.080(18)).

The Planning Commission is charged with interpreting the zoning ordinance in circumstances that require factual, policy or legal discretion (NMC 14.52.030(B)(9)). In this case the discretion is whether or not this business model fits as an entertainment-oriented retail use as opposed to a personal service use. Given the themed nature of this particular photographic studio, it would be reasonable for the Commission to find that it is more entertainment oriented, and would complement the blend of uses in a tourist destination such as the Bayfront.

3. **Evaluation of the Request:**

- a. **Comments:** No comments have been received in response to the notice mailed to surrounding property owners and to city departments/public agencies on April 30, 2021 or legal ad published in the Newport News-Times on May 14, 2021.
- b. **Conditional Use Criteria (NMC Chapter 14.34.050):**
- (1) The public facilities can adequately accommodate the proposed use.
 - (2) The request complies with the requirements of the underlying zone or overlay zone.

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

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

c. **Staff Analysis:**

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

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

Public facilities are defined in the Zoning Ordinance as sanitary sewer, water, streets and electricity. All public facilities are available and presently serve the property. As noted on the aerial image included with the application (Attachment "F"), the applicant will be occupying an existing tenant space.

Given the above, it is reasonable for the Planning Commission to find that the public facilities can adequately accommodate the use.

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

This criterion addresses requirements of the underlying or overlay zone. Each zoning district includes "intent" language. For the W-2 district, it includes the following:

"All conditional uses in a W-2 district shall also comply with the following standard: In areas considered to be historic, unique, or scenic, the proposed use shall be designed to maintain or enhance the historic, unique, or scenic quality."
(NMC 14.03.040)

The Bayfront has historically included a blend of tourist-oriented retail, restaurants, and entertainment venues. Ripley's Believe It or Not is located a short distance to the east and the sea lion dock is across the street. It would be reasonable for the Commission to find that this character themed photographic studio will maintain the historic and unique quality of the area.

(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.

As depicted on the aerial image included with the application (Attachment "F") and interior floor plan (Attachment "H"), the photographic studio will be located within

the interior of the building in an existing tenant space where it would have little, if any, impact on nearby properties.

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

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

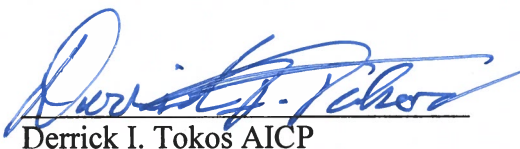
The only exterior modifications attributed to this proposal is the signage, which will consist of fascia signage and a hanging sign under the awning and a sandwich board sign (Attachment "E"). This is consistent with the theme that was approved with the 1998 conditional use permit approval (ref: hanging sign illustration, Attachment "G").

Given the above, it is reasonable for the Planning Commission to find that the use will be consistent with the overall development character of the neighborhood regarding building size and height.

4. **Conclusion:** If the Planning Commission finds that the applicant has met the criteria established in the Zoning Ordinance for granting a conditional use permit, then the Commission should approve the request. The Commission can attach reasonable conditions that are necessary to carry out the purposes of the Zoning Ordinance and the Comprehensive Plan. If the Commission finds that the request does not comply with the criteria, then the Commission should deny the application.

G. **STAFF RECOMMENDATION:** As outlined in this report, this application to allow a historical themed photography booth studio as an entertainment-oriented, as opposed to a personal service, retail use can satisfy the approval criteria for a conditional use provided conditions are imposed as outlined below. Accordingly, the Commission should approve this request, subject to the following:

1. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to 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.



Derrick I. Tokos AICP
Community Development Director
City of Newport

May 21, 2021

City of Newport Land Use Application

Attachment "A"
File #4-CUP-21

PLEASE PRINT OR TYPE • COMPLETE ALL BOXES • USE ADDITIONAL PAPER IF NEEDED

Applicant Name(s): <div style="text-align: center;">Steve Palmer</div>	Property Owner Name(s): <i>If other than applicant</i> <div style="text-align: center;">Jason Asch</div>
Applicant Mailing Address: <div style="text-align: center;">927 SW 11th Street, Newport, OR</div>	Property Owner Mailing Address: <i>If other than applicant</i>
Applicant Telephone No.: <div style="text-align: center;">541-351-5751 steve@sunbreakstudio.com</div>	Property Owner Telephone No.: <i>If other than applicant</i> <div style="text-align: center;">1323-394-2525</div>
E-mail: <div style="text-align: center;">E-mail: steve@sunbreakstudio.com</div>	
Authorized Representative(s): <i>Person authorized to submit and act on this application on applicants behalf</i> <div style="text-align: center;">Steve Palmer</div>	
Authorized Representative Mailing Address: <div style="text-align: center;">927 SW 11th Street Newport, OR 97365</div>	
Authorized Representative Telephone No.: <div style="text-align: center;">541-351-5751</div>	E-Mail: <div style="text-align: center;">steve@sunbreakstudio.com</div>

Project Information

Property Location: <i>Street name if address # not assigned</i> <div style="text-align: center;">342 SW Bay Blvd. Suite H</div>	
Tax Assessor's Map No.: <div style="text-align: center;">11-11-08-DB</div>	Tax Lot(s): <div style="text-align: center;">500</div>
Zone Designation: <div style="text-align: center;">W-2</div>	Legal Description: <i>Add additional sheets if necessary</i>
Comp Plan Designation: 	
Brief Description of Land Use Request(s): <div style="text-align: center;">Historical themed photography with vintage backdrops & props for tourists. Mostly Newport related.</div>	
Examples: 1. Move north Property line 5 feet south, or 2. Variance of 2 feet from the required 15-foot front yard setback	
Existing Structures: <i>If any</i> 	
Topography and Vegetation: 	

APPLICATION TYPE (please check all that apply)

<input type="checkbox"/> Annexation <input type="checkbox"/> Appeal <input type="checkbox"/> Comp Plan/Map Amendment <input checked="" type="checkbox"/> Conditional Use Permit <div style="margin-left: 20px;"><input checked="" type="checkbox"/> APC</div> <div style="margin-left: 20px;"><input type="checkbox"/> Staff</div> <input type="checkbox"/> Design Review <input type="checkbox"/> Geologic Permit	<input type="checkbox"/> Interpretation <input type="checkbox"/> Minor Replat <input type="checkbox"/> Partition <input type="checkbox"/> Planned Development <input type="checkbox"/> Property Line Adjustment <input type="checkbox"/> Shoreland Impact <input type="checkbox"/> Subdivision <input type="checkbox"/> Temporary Use Permit	<input type="checkbox"/> UGB Amendment <input type="checkbox"/> Vacation <input type="checkbox"/> Variance/Adjustment <div style="margin-left: 20px;"><input type="checkbox"/> PC</div> <div style="margin-left: 20px;"><input type="checkbox"/> Staff</div> <input type="checkbox"/> Zone Ord/Map Amendment <input type="checkbox"/> Other _____
---	---	---

FOR OFFICE USE ONLY

Date Received: <div style="text-align: center;">4/16/21</div>	File No. Assigned: <div style="text-align: center;">4-CUP-21 625-21-00016-PLNG</div>	Date Accepted as Complete: _____
Received By: <div style="text-align: center;">[Signature]</div>	Fee Amount: <div style="text-align: center;">\$836-</div>	Accepted By: _____
Receipt No.: <div style="text-align: center;">4892</div>		

(SEE REVERSE SIDE)

Community Development & Planning Department • 169 SW Coast Hwy, Newport, OR 97365 • Derrick I. Tokos, AICP, Director

I understand that I am responsible for addressing the legal criteria relevant to my application and that the burden of proof justifying an approval of my application is with me. I also understand that this responsibility is independent of any opinions expressed in the Community Development & Planning Department Staff Report concerning the applicable criteria.

I certify that, to the best of my knowledge, all information provided in this application is accurate.

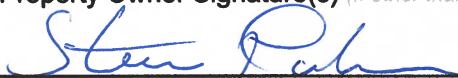


Applicant Signature(s)

4-16-21

Date Signed

Property Owner Signature(s) (If other than applicant)



Authorized Representative Signature(s) (If other than applicant)

Date Signed

4-16-21

Date Signed

Please note application will not be accepted without all applicable signatures.

Please ask staff for a list of application submittal requirements for your specific type of request.

Lincoln County Property Report

Account # & Prop. Info		Account Details		Owner & Address	
Account #:	R144652	Neighborhood:	N216	Owner and	ASCH JASON S TSTEE
Map Taxlot:	11-11-08-DB-00500-00	Property Class:	201	Mailing Address:	4910 W JEFFERSON BLVD LOS ANGELES, CA 90016
Tax Map:	11s11w08DB			Site Address(es):	342 SW BAY BLVD
Web Map:	View Map				
Info:	NEWPORT, BLOCK 5, LOT 3 & 4, DOC201906755				
Document:	DOC201906755				
Tax Code:	104				
Acres:					

Improvements							
Description	Area	Yr Built	Found	Heat	Plumb	BDMS	Value
MAIN AREA	6664 sq ft	1985			HB		\$303,700

[Foundation Code List](#) [Heating/AC Code List](#) [Plumbing Code List](#)

Value History					
Year	Imp.	Land	Total Market	Total Assessed	Levied Tax
2020	303,700	269,000	572,700	460,230	8,486.12
2019	303,700	269,000	572,700	446,830	8,122.47
2018	240,430	269,000	509,430	433,820	7,872.70
2017	240,430	269,000	509,430	421,190	7,802.67
2016	230,300	269,000	499,300	408,930	7,637.39
2015	230,300	269,000	499,300	397,020	7,080.55
2014	230,300	269,000	499,300	385,460	6,921.25
2013	192,340	232,000	424,340	374,240	6,563.45
2012	216,380	232,000	448,380	363,340	6,299.96

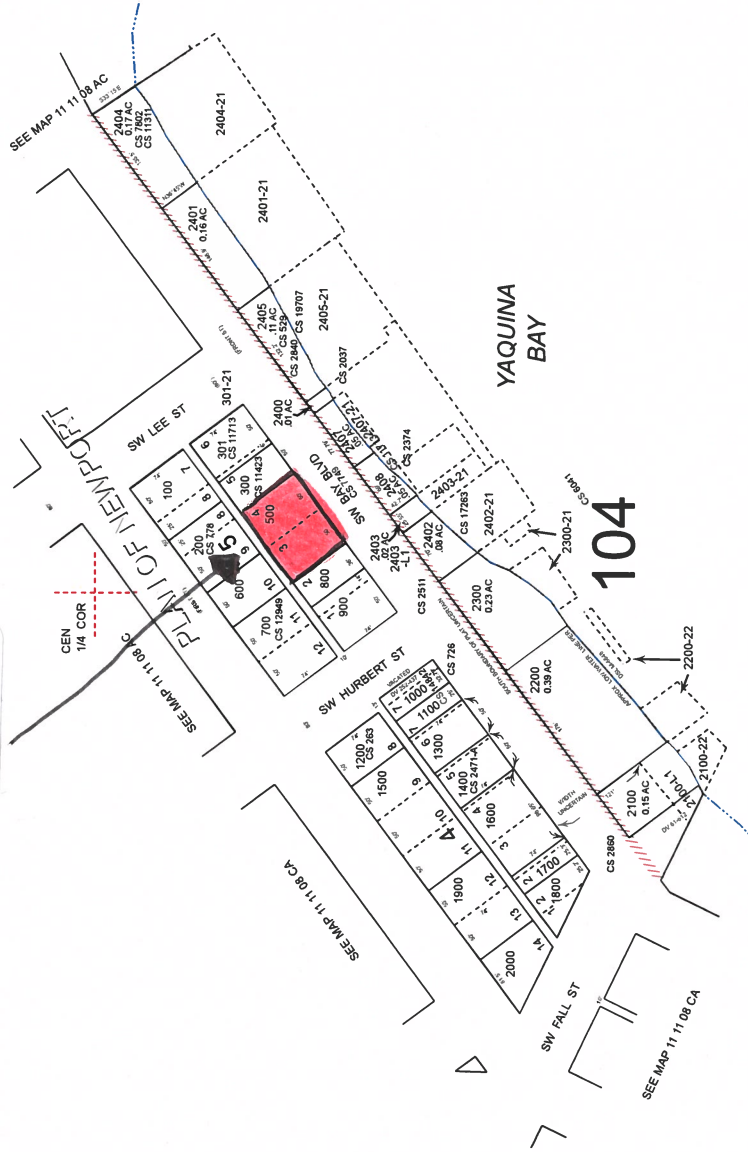
Sales History				
Sale Date	Price	Document	Type	Code
07/19/2019	\$950,000	201906755	27	WD
08/31/1998	\$525,000	MF364-2196	33	WD

Land			Related Accounts	Disclaimer
Description	Acres	Market Value	Special Use Value	For assessment purposes only. Lincoln County makes no warranty as to the accuracy of the information provided. Users should consult with the appropriate City, County or State Department or Agency concerning allowed land uses, required permits or licenses, and development rights on
COMMERCIAL DEV SITE	0.17	259,000		
COMMERCIAL SITE		10,000		
DEVELOPMENT				

Cancelled
2100-21
2101
2101-21
2200-21
2200-23
2300-22
2400-21
2400-22
2400-23
2400-24
2400-25
2401-22
2404-22
2404-23
2406

Subject Property

File No. 4-cup-21



Business Plan for Sunbreak Studio

1. Sign lease and repaint leased space at 342 Bay Blvd Suite H, Newport, OR for specific vintage studio needs geared toward tourists in early 2021.
2. Get costumes designed for historic photography themes.
Themes will include: 1920's Flapper/ Gangsters, 1920s vintage swimwear which are funny and fun, Vintage fishermen/women apparel and late 1960's hippie theme. All history themes will include hats, costumes, props and backdrops according to what theme each tourist chooses.
3. Advertise to bring tourists to the area on company website with Newport keywords and with brochures at chamber of commerce and other places.
4. Bring fun to the bayfront and Newport.
- 5 Have a small gift shop in the front area of the studio with mostly local art.

Steve Palmer
Sunbreak Studio

Signs for Sunbreak Studio

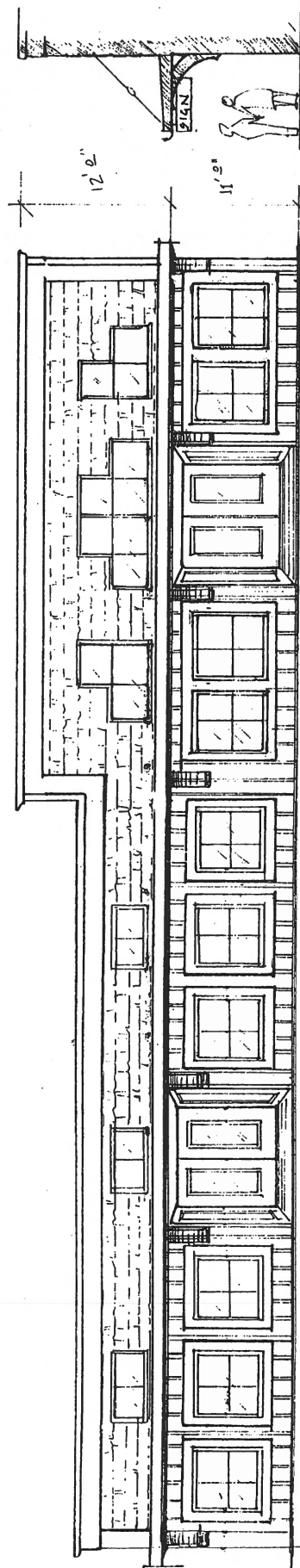
342 Bay Blvd Suite H. Newport, OR

- 1 sign above 1st door in hall 2 ft w x 18"h**
- 1 sign above 2nd door in hall 2 ft w x 18"h**
- 1 sign in front with other tenant signs 2 ft w x 8"h**
- 1 sign hanging under awning with other tenants 20"w x 10"h**
- 1 sandwich sign 15"w x 32" h**

4-15-21

Steve Palmer

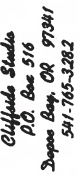




1/8" SCALE

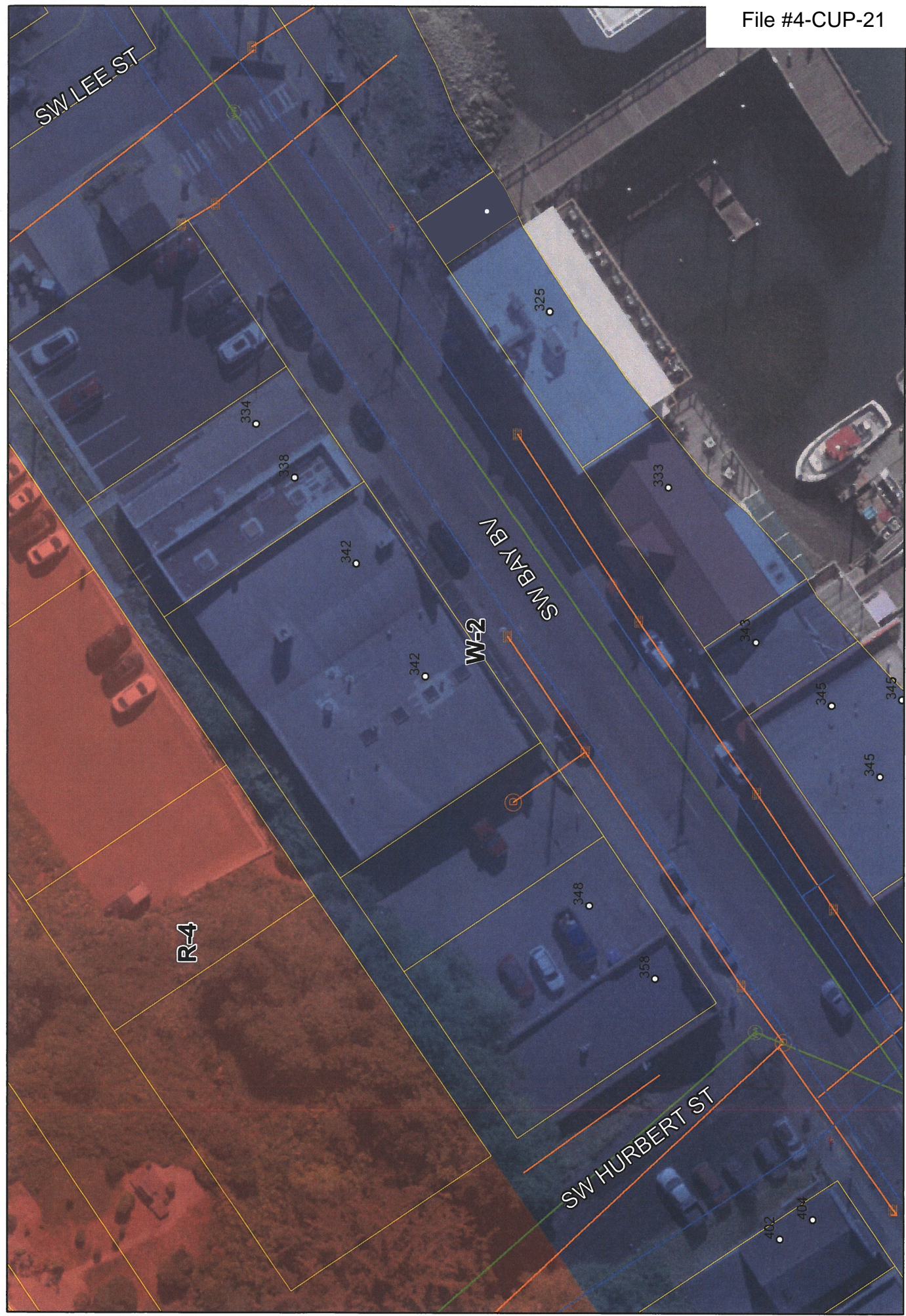
GEAR SHED BUILDING
ALTERNATIVE 'D'

Cliffside Studio
P.O. Box 516
Dungen Bay, OR 97341
541-765-3282



SCALE: 3/32

GEAR SHED BUILDING
SPACE LAYOUT ALTERNATIVE 'D'



**Zoning and Utilities - 342 SW Bay Blvd
(water - blue, sewer - green, storm - orange)**

Image Taken July 2018
4-inch, 4-Band Digital Orthophotos
Quantum Spatial, Inc. Corvallis, OR

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

W-1/"Water Dependent"

Permitted Uses:

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

Conditional Uses:

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

W-2/"Water Related"

Permitted Uses:

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

Conditional Uses:

Uses Permitted Outright in the C-2 District

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

**CITY OF NEWPORT
PUBLIC NOTICE¹**

Attachment "K"
File #4-CUP-21 21

This meeting will be a hybrid meeting conducted by video-conference and a limited number of people (up to 15) are allowed to attend in person. Please contact the Community Development Department at the phone number or email listed below for options on how you can participate by video-conference or in person in the hearing.

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

File No. 4-CUP-21:

Applicants & Representatives: Steve Palmer (Jason Asch, owner).

Request: Approval of a request per Section 14.03.080/"Water-Dependent and Water-Related Uses" of the Newport Zoning Ordinance, for a conditional use permit to allow the operation of a historical themed photography booth studio at the subject property that is located in a W-2/"Water-Related" zone.

Location/Subject Property: 342 SW Bay Blvd, Newport, OR 97365 (Tax Map 11-11-08-DB, Tax Lot 500).

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

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

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

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

Time/Place of Hearing: Monday, May 24, 2021; 7:00 p.m.; City Hall Council Chambers (address above in "Reports/Application Material").

MAILED: April 30, 2021.

PUBLISHED: May 14, 2021/News-Times.

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

267 SW BAY BLVD LLC
113 SE BAY BLVD
NEWPORT, OR 97365

ALLBERRY MONTE &
ALLBERRY DOLORES
1212 SW LEE ST
APT 6
NEWPORT, OR 97365

ANDERSON MICHAEL J TSTEE &
ANDERSON SUSAN L TSTEE
1212 SW LEE ST
UNIT 11
NEWPORT, OR 97365

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

ASCH JASON S TSTEE
4910 W JEFFERSON BLVD
LOS ANGELES, CA 90016

BAY KNOLL HOMEOWNERS
ASSOCIATION THE
1212 SW LEE
NEWPORT, OR 97365

CITY OF NEWPORT
CITY MANAGER
169 SW COAST HWY
NEWPORT, OR 97365

COLLINS RONALD WAYNE
1212 SW LEE ST
UNIT 10
NEWPORT, OR 97365

CONN WILLIAM B TSTEE
ATTN JACQUELINE STEPHENS CPA
330 EAST WARM SPRINGS RD
LAS VEGAS, NV 89119

CS PROPERTIES HOLD CO LLC
ATTN DEBBIE SELLERS
PO BOX 1230
NEWPORT, OR 97365

DRUBA RANDOLPH
404 SW BAY BLVD
NEWPORT, OR 97365

GOPEN HANS &
GOPEN JANELL
611 SE 3RD ST
NEWPORT, OR 97365

GOPEN HANS &
GOPEN JANELL
611 SE 3RD ST
NEWPORT, OR 97365

HAIRE LANI M TRUSTEE &
JORDAN SARAH J TRUSTEE
829 NW ERMINE PLACE
CORVALLIS, OR 97330

HISTORIC BARGE INN LLC
ATTN JAY HULBERT DAHLKE
403 E COUNTRY CLUB LN
WALLINGFORD, PA 19806

LEUTHAUSER JAMES &
CHAPIN CHRISTINA
1212 SW LEE ST
#8
NEWPORT, OR 97365

MARINER ENTERPRISES INC
DBA MARINERS SQUARE
250 SW BAY BLVD
NEWPORT, OR 97365

OCEANS EDGE LLC
ATTN MATHEWS DON & FRANCES
345 SW BAY BLVD
NEWPORT, OR 97365

ONEEL WESLEY G &
ONEEL ZETA D
1788 NE REAGAN DR
ROSEBURG, OR 97470

PICKENS STANLEY S TRUST
PICKENS STANLEY S TRUSTEE
PO BOX 128
NEWPORT, OR 97365

PORT OF NEWPORT
600 SE BAY BLVD
NEWPORT, OR 97365

ROBERTS JOHN L COTTEE &
ROBERTS PATTI A COTTEE
1012 MATADOR DR SE
ALBUQUERQUE, NM 87123

RTH RENTALS LLC
PO BOX 501
NEWPORT, OR 97365

PALMER STEVE
927 SW 11TH ST
NEWPORT, OR 97365

Exhibit "A"
Adjacent Property Owners Within 200 Ft

File 4-CUP-21

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

Charter Communications
ATTN: Keith Kaminski
355 NE 1st St
Newport OR 97365

CenturyLink
ATTN: Corky Fallin
740 State St
Salem OR 97301

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

Email: Lisa Phipps
DLCD Coastal Services Center
lisa.phipps@state.or.us

****EMAIL****
odotr2planmgr@odot.state.or.us

Joseph Lease
Building Official

Rob Murphy
Fire Chief

Chris Janigo
Public Works

Beth Young
Associate Planner

Jason Malloy
Police Chief

Mike Murzynsky
Finance Director

Laura Kimberly
Library

Michael Cavanaugh
Parks & Rec

Spencer Nebel
City Manager

Clare Paul
Public Works

Derrick Tokos
Community Development

EXHIBIT 'A'
(Affected Agencies)

(4-CUP-21)

267 SW BAY BLVD LLC
113 SE BAY BLVD
NEWPORT, OR 97365

ALLBERY MONTE &
ALLBERY DOLORES
1212 SW LEE ST
APT 6
NEWPORT, OR 97365

ANDERSON MICHAEL J TSTEE &
ANDERSON SUSAN L TSTEE
1212 SW LEE ST
UNIT 11
NEWPORT, OR 97365

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

ASCH JASON S TSTEE
4910 W JEFFERSON BLVD
LOS ANGELES, CA 90016

BAY KNOLL HOMEOWNERS
ASSOCIATION THE
1212 SW LEE
NEWPORT, OR 97365

CITY OF NEWPORT
CITY MANAGER
169 SW COAST HWY
NEWPORT, OR 97365

COLLINS RONALD WAYNE
1212 SW LEE ST
UNIT 10
NEWPORT, OR 97365

CONN WILLIAM B TSTEE
ATTN JACQUELINE STEPHENS CPA
330 EAST WARM SPRINGS RD
LAS VEGAS, NV 89119

CS PROPERTIES HOLD CO LLC
ATTN DEBBIE SELLERS
PO BOX 1230
NEWPORT, OR 97365

DRUBA RANDOLPH
404 SW BAY BLVD
NEWPORT, OR 97365

GOPLEN HANS &
GOPLEN JANELL
611 SE 3RD ST
NEWPORT, OR 97365

GOPLEN HANS &
GOPLEN JANELL
611 SE 3RD ST
NEWPORT, OR 97365

HAIRE LANI M TRUSTEE &
JORDAN SARAH J TRUSTEE
829 NW ERMINE PLACE
CORVALLIS, OR 97330

HISTORIC BARGE INN LLC
ATTN JAY HULBERT DAHLKE
403 E COUNTRY CLUB LN
WALLINGFORD, PA 19806

LEUTHAUSER JAMES &
CHAPIN CHRISTINA
1212 SW LEE ST
#8
NEWPORT, OR 97365

MARINER ENTERPRISES INC
DBA MARINERS SQUARE
250 SW BAY BLVD
NEWPORT, OR 97365

OCEANS EDGE LLC
ATTN MATHEWS DON & FRANCES
345 SW BAY BLVD
NEWPORT, OR 97365

ONEEL WESLEY G &
ONEEL ZETA D
1788 NE REAGAN DR
ROSEBURG, OR 97470

PICKENS STANLEY S TRUST
PICKENS STANLEY S TRUSTEE
PO BOX 128
NEWPORT, OR 97365

PORT OF NEWPORT
600 SE BAY BLVD
NEWPORT, OR 97365

ROBERTS JOHN L COTTEE &
ROBERTS PATTI A COTTEE
1012 MATADOR DR SE
ALBUQUERQUE, NM 87123

RTH RENTALS LLC
PO BOX 501
NEWPORT, OR 97365

PALMER STEVE
927 SW 11TH ST
NEWPORT, OR 97365

Exhibit "A"
Adjacent Property Owners Within 200 Ft

File 4-CUP-21

**CITY OF NEWPORT
NOTICE OF A PUBLIC HEARING**

This meeting will be a hybrid meeting conducted by video-conference and a limited number of people (up to 15) are allowed to attend in person. Please contact the Community Development Department at the phone number or email listed below for options on how you can participate by video-conference or in person in the hearing.

The City of Newport Planning Commission will hold a public hearing on Monday, May 24, 2021, at 7:00 p.m. in the City Hall Council Chambers to consider File No. 4-CUP-21, a request submitted by Steve Palmer (Jason Asch, owner) per Section 14.03.080/"Water-Dependent and Water-Related Uses" of the Newport Zoning Ordinance, for a conditional use permit to allow the operation of a historical themed photography booth studio at the subject property that is located in a W-2/"Water-Related" zone. The property is located at 342 SW Bay Blvd, Newport, OR 97365 (Tax Map 11-11-08-DB, Tax Lot 500). The applicable criteria per NMC Chapter 14.34.050 are that: 1) The public facilities can adequately accommodate the proposed use; 2) the request complies with the requirements of the underlying zone or overlay zone; 3) the proposed use does not have an adverse impact greater than existing uses on nearby properties, or impacts can be ameliorated through imposition of conditions of approval; and 4) a proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright. Testimony and evidence must be directed toward the criteria described above or other criteria in the Comprehensive Plan and its implementing ordinances which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal (including to the Land Use Board of Appeals) based on that issue. Submit testimony in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. Letters sent to the Newport Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 12:00 p.m. (Noon) the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. The hearing will include a report by staff, testimony (both oral and written) from the applicant and those in favor or opposed to the application, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Pursuant to ORS 197.763 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. The staff report may be reviewed or a copy purchased for reasonable cost at the Newport Community Development (Planning) Department (address above) seven days prior to the hearing. The application materials (including the application and all documents and evidence submitted in support of the application), the applicable criteria, and other file material are available for inspection at no cost; or copies may be purchased for reasonable cost at the above address. Contact Derrick Tokos, Community Development Director, (541) 574-0626, (address above).

FOR PUBLICATION ONCE ON FRIDAY, May 14, 2021.

Friday Edition: 5:00pm Tuesday PRIOR

BUDGET COMMITTEE MEETING

East Lincoln County Fire Rescue, Wednesday May 26th, 2021 6PM 285 NE Burgess Road TOLEDO OREGON 97391 A public meeting of the Toledo Rural Fire Protection District Budget Committee will be held at 6 pm Wednesday May 26th, 2021 at the Toledo Fire Station training room, 285 NE Burgess Road, Toledo, Oregon 97391. Note: We will be observing all social distancing requirements during the Covid 19 response. MY14 MY21 (02-21)

NOTICE TO INTERESTED PERSONS

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF LINCOLN Case No. 21PB03170: In the Matter of the Estate of STEVEN WILLIAM SINGLER, Deceased. NOTICE IS HEREBY GIVEN that Stephanie Alene Singler has been appointed personal representative of the Estate of Steven William Singler. All persons having claims against the estate are required to present them, with vouchers attached, to the personal representative through the personal representative's attorney at PO Box 1987, Newport, OR 97365, within four months after the date of first publication of this notice, or the claims may be barred. All persons whose rights may be affected by the proceedings may obtain additional information from the records of the Court, the personal representative, or the attorney for the personal representative, Traci P. McDowell, Dated and first published on May 7, 2021. YAGUINALAW, LLC /s/ Traci P. McDowell, Traci P. McDowell, OSB #184063 Attorney for Personal Representative PERSONAL REPRESENTATIVE: Stephanie Alene Singler 1137 SW 8th St, Newport, OR 97365 LAWYER FOR PERSONAL REPRESENTATIVE: Traci P. McDowell, OSB #184063 PO Box 1987 Newport, OR 97365 Telephone: (541) 272-5500 Fax: (541) 265-7633 Email: traci@yagualaw.com MY7 MY14 MY21 (95-21)

**NOTICE TO
INTERESTED PERSONS**
In the Circuit Court of the State of Oregon for the County of Lincoln, Probate Department. In the Matter of the Estate of Ann Werner, Deceased. Notice is hereby given that Hetta Quade has been appointed personal representative. All persons having claims against the estate are required to present them, with vouchers attached, to the personal representative in care of her attorney, Ginger Skinner, at Skinner Law, 9600 SW Barnes Rd., Ste 125, Portland, OR 97225, within four months after the date of first publication of this notice, or the claims may be barred. All persons whose rights may be affected by the proceedings may obtain additional information from the records of the Court, the personal representative, or the attorney for the personal representative. Dated and first published on May 7, 2021. MY7 MY14 MY21 (94-21)

**NOTICE TO
INTERESTED PERSONS**
IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF LINCOLN PROBATE DEPARTMENT In the Matter of the Estate of John R. Davis, Case No. 20PB08257: NOTICE IS HEREBY GIVEN that Arron Davis has been appointed administrator. All persons having claims

affected by the proceedings may obtain additional information from the records of the court, the administrator, or the attorneys for the administrator, Brian Haggerty, OSB #880588, Minor, Bardonis & Haggerty, P.C., PO Box 510, Newport, OR 97365, (541) 265-8888. Dated and first published May 7, 2021. MY7 MY14 MY21 (92-21)

NOTICE OF A PUBLIC HEARING

CITY OF NEWPORT: This meeting will be a hybrid meeting conducted by video-conference and a limited number of people (up to 15) are allowed to attend in person. Please contact the Community Development Department at the phone number or email listed below for options on how you can participate by video-conference or in person in the hearing. The City of Newport Planning Commission will hold a public hearing on Monday, May 24, 2021, at 7:00 p.m. in the City Hall Council Chambers to consider File No. 4-CUP-21, a request submitted by Steve Palmer (Jason Asch, owner) per Section 14.03.080 "Water-Dependent and Water-Related Uses" of the Newport Zoning Ordinance, for a conditional use permit to allow the operation of a historical themed photography booth studio at the subject property that is located in a W-2 "Water-Related" zone. The property is located at 342 SW Bay Blvd, Newport, OR 97365 (Tax Map 11-11-08-DB, Tax Lot 500). The applicable criteria per NMC Chapter 14.34.050 are that: 1) The public facilities can adequately accommodate the proposed use; 2) the request complies with the requirements of the underlying zone or overlay zone; 3) the proposed use does not have an adverse impact greater than existing uses on nearby properties, or impacts can be ameliorated through imposition of conditions of approval; and 4) a proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright. Testimony and evidence must be directed toward the criteria described above or other criteria in the Comprehensive Plan and its implementing ordinances which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal (including to the Land Use Board of Appeals) based on that issue. Submit testimony in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. Letters sent to the Newport Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 12:00 p.m. (Noon) the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. The hearing will include a report by staff, testimony (both oral and written) from the applicant and those in favor or opposed to the application, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Pursuant to ORS 197.763 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. The staff report may be reviewed or

5:00 pm or online at www.waldportoregon.gov. This budget is for an annual budget p that is the same as the preceding year.

Contact: Daniel D Cutter, City Manager/Budget Officer Telephone: (541) 563-3561 x7 Email:

FINANCIAL SUMMARY - RESOUR

TOTAL OF ALL FUNDS	Budgeted Amount FY 2019-2020
Beginning Fund Balance/Net Working Capital	1,473
Fees, Permits, Fines & Charges for Services	1,751
Federal, State Allocations, Grants and Donations	592
Interfund Transfers, Internal Service Reimbursements	1,258
Revenue from Bonds and Other Debt	31
All Other Resources Except Current Year Property Taxes	44
Current Year Property Taxes Estimated to be Received	592
Total Resources	5,744

FINANCIAL SUMMARY - REQUIREMENTS BY OB

Personnel Services	1,506
Materials and Services	2,184
Capital Outlay	69
Debt Service	270
Interfund Transfers	14
Contingencies	10
Unappropriated Ending Balance and Reserved	84
Total Requirements	5,74

FINANCIAL SUMMARY - REQUIREMENTS BY ORGANIZ

Name of Organizational Unit or Program	Full-Time Equivalent Employees (FTE) by program
Administration	48
FTE	15
Land Use Planning	
FTE	37
Public Safety, Court Services	
FTE	30
Library Services	
FTE	5
Parks & Recreation	
FTE	12
Community and Economic Development	
FTE	1
Consolidate Debt Service	
System Development Funds	
Public Works	
FTE	
Water Fund	
FTE	
Wastewater Fund	
FTE	
Streets Fund	
FTE	4,15
Non-Departmental	
Total Requirements	5,7
Total FTE	

STATEMENT OF CHANGES IN ACTIVITIES AND S

Consolidated several departments under General Fund, broke staff into appropriate departments. Schools Grant of \$1.6 million. Broke out departments on the reporting form for better clarity.

PROPERTY TAX LEVIES

	Rate or Amount Ap
Permanent Rate Levy (rate limit \$2.3328 per \$1,000)	\$2.3328
Levy For General Obligation Bonds	\$86,053

STATEMENT OF INDEBTED

LONG TERM DEBT	Estimated Debt Outstanding July 1, 2021
General Obligation Bonds	\$879,622
Other Bonds	\$613,211
Other Borrowings	\$609,976
Total	\$2,102,809

a copy purchased for reasonable cost at the Newport Community Development (Planning) Department (address above) seven days prior to the hearing. The application materials (including the application and all documents and evidence submitted in support of the application), the applicable criteria, and other file material are available for inspection at no cost; or copies may be purchased

for reasonable cost at the above address. Contact Derrick Tokos, Community Development Director, (541) 574-0626, (address above). MY14 (89-14)

RFP FOR BUSINESS PLAN FOR RECREATION SERVICES - CITY OF NEWPORT

The City of Newport is seeking proposals for business plan for recre-

ation services. A copy of the request for proposals is located on the city website at www.newportoregon.gov, or via e-mail at m.cavanaugh@newportoregon.gov. Hard copies are also available by contacting Mike Cavanaugh at 541.574.5453. The deadline for receipt of proposals is June 11, 2021, at 4:00 P.M. PDT. A30 MY7 MY14 MY21 MY28 J4 (86-00)

SEC

The City Sanitation Director input on dissolve site of treatment the dist done by the Inn Homes on sep Board (not have

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

IN THE MATTER OF PLANNING COMMISSION)	
FILE #4-CUP-21, A CONDITIONAL USE PERMIT)	FINAL
APPLICATION FOR STEVE PALMER (JASON S ASCH)	ORDER
SEPARATE PROPERTY TRUST, OWNER))	

ORDER APPROVING A CONDITIONAL USE PERMIT, per Newport Municipal Code Sections 14.03.080(18) and 14.03.080(19)/“Water-dependent and Water-related Uses,” to allow the operation of a historical themed photography booth studio in Suite “H” of the Gear Shed Shops at 342 SW Bay Blvd. It is identified as Lots 3 and 4, Block 5, Plan of Newport (Assessor’s Map 11-11-08-DB, Tax Lots 00500). The property is approximately 7,405.2 sq. ft. in size per Lincoln County Tax Assessor records.

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 24, 2021; 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.

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 24th day of May, 2021.

James Patrick, Chair
Newport Planning Commission

Attest:

Derrick I. Tokos, AICP
Community Development Director

EXHIBIT "A"

Case File No. 4-CUP-21

FINDINGS OF FACT

1. Steve Palmer (applicant) and Jason S Asch Separate Property Trust, Jason S Asch Trustee (owner), applied on April 19, 2021, for approval of a Conditional Use Permit to allow the operation of a historical themed photography booth studio in Suite “H” of the Gear Shed Shops at 342 SW Bay Blvd.
2. The subject property is identified as Lots 3 and 4, Block 5, Plan of Newport (Assessor’s Map 11-11-08-DB, Tax Lots 00500). The property is approximately 7,405.2 sq. ft. in size per Lincoln County Tax Assessor records.
3. Staff reports the following facts in connection with the application:
 - a. Plan Designation: Yaquina Bay Shoreland.
 - b. Zone Designation: W-2/“Water-Related.”
 - c. Surrounding Land Uses: Tourist-oriented retail.
 - d. Topography and Vegetation: The developed portion of the property, facing Bay Blvd is flat. The rear of the property slopes up steeply to a parking lot.
 - e. Existing Structures: The existing building is a 6,664 sq. ft. former fishing gear shed that began to transition to multi-tenant retail in the mid-1990’s.
 - f. Utilities: All are available to the site.
 - g. Development Constraints: Tsunami Hazard Overlay.
 - h. Past Land Use Actions: File No. 4-CUP-96 – Authorized use of a 324 square foot (5%) portion of an existing fishing gear shed as a gift shop. Approved 4/26/96. File No. 8-CUP-98. Permitted conversion of the balance of the building to retail use. Approved 10/26/98.
4. Upon acceptance of the application, the Community Development (Planning) Department mailed notice of the proposed action on May 24, 2021, to affected property owners required to receive such notice by the Newport Municipal Code, and to various city departments, agencies, and public utilities. The notice referenced the criteria by which the application was to be assessed. The notice required that written comments on the application be submitted by 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 May 14, 2021. No comments were received in response to the notice.
5. A public hearing was held on May 24, 2021. 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 minutes of the May 24, 2021 hearing are hereby incorporated by reference. The Planning Staff Report with Attachments is hereby

incorporated by reference into the findings. The Planning Staff Report Attachments included the following:

- Attachment "A" – Application Form
- Attachment "B" – Lincoln County Assessor Property Report
- Attachment "C" – Lincoln County Assessor Map
- Attachment "D" – Business Plan for Sunbreak Studios
- Attachment "E" – Applicant's Signage Plan
- Attachment "F" – Aerial Image Showing Applicant's Lease Space
- Attachment "G" – Exterior Elevation of Building (File No. 8-CUP-98)
- Attachment "H" – Interior Floor Plan of Building (File No. 8-CUP-98)
- Attachment "I" – Zoning and Utility Map
- Attachment "J" – Uses in the W-2 Zoning District
- Attachment "K" – Public Hearing Notice

6. **Explanation of the Request:** The applicant is requesting the conditional use permit to operate an historic costume-based photography studio geared towards tourists. It will include costumes for 1920's Flapper/Gangsters, 1920's style swimwear, vintage fisherman/women's apparel, and 1960's hippie themes. The applicant notes that themes will include hats, costumes, props and backdrops, and that the studio will include a small gift shop.

Photographic studios are listed as a personal service retail use, which is not a permitted use in the C-2 zone district (NMC 14.03.060(C)(2)(b)(iii)). However, studios in a generic sense are listed as a type of entertainment-oriented retail use that is permitted outright in the C-2 zone district (NMC 14.03.060(C)(2)(b)(iv)), meaning such a use can be permitted in the W-2 zone district if approved as part of a conditional use permit (NMC 14.03.080(18)).

The Planning Commission is charged with interpreting the zoning ordinance in circumstances that require factual, policy or legal discretion (NMC 14.52.030(B)(9)). In this case the discretion is whether or not this business model fits as an entertainment-oriented retail use as opposed to a personal service use. Given the themed nature of this particular photographic studio, it would be reasonable for the Commission to find that it is more entertainment oriented, and would complement the blend of uses in a tourist destination such as the Bayfront.

7. **Conditional Use Permit Required:** Pursuant to Chapter 14.03.080(18)/"Water-dependent and Water-related Uses" of the Newport Municipal Code (NMC), a retail use that is permitted outright in a C-2/"Tourist Commercial" zoning district requires a conditional use permit to be in a W-2/"Water-Related" zoning district.

NMC 14.52.030(B)(9) indicates that a Type III decision-making procedure, with review and approval by the Planning Commission, is required for interpretations of the Zoning Ordinance that involve factual, policy or legal discretion. The Zoning Ordinance allows entertainment-oriented studios as an outright permitted use in the C-2 zone; however, photographic studios are also identified as a type of personal service use that is not permitted in the C-2 district. Policy discretion is required to establish which use classification is the best fit for the proposed business; therefore, Planning Commission review is required.

8. **Applicable 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.

CONCLUSIONS

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

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

1. Public facilities are defined in the Zoning Ordinance as sanitary sewer, water, streets and electricity. All public facilities are available and presently serve the property. As noted on the aerial image included with the application (Attachment "F"), the applicant will be occupying an existing tenant space.
2. Considering the above, the Planning Commission concludes that the public facilities can adequately accommodate the remodel and expansion with the conditions noted.

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

1. This criterion addresses special requirements of the underlying or overlay zone beyond the standard zoning ordinance requirements. Each zoning district includes "intent" language. For the W-2 district, it includes "*All conditional uses in a W-2 district shall also comply with the following standard: In areas considered to be historic, unique, or scenic, the proposed use shall be designed to maintain or enhance the historic, unique, or scenic quality.*" (NMC 14.03.040)
2. The Bayfront has historically included a blend of tourist-oriented retail, restaurants, and entertainment venues. Ripley's Believe It or Not is located a short distance to the east and the sea lion dock is across the street.
3. Given the above, the Planning Commissions concludes that this character themed photographic studio will maintain the historic and unique quality of the area.

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. As depicted on the aerial image included with the application (Attachment “F”) and interior floor plan (Attachment “H”), the photographic studio will be located within the interior of the building in an existing tenant space where it would have little, if any, impact on nearby properties

2. Given the above, the Planning Commission concludes that the proposed use does not have an adverse impact greater than existing uses on nearby properties.

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

1. The only exterior modifications attributed to this proposal is the signage, which will consist of fascia signage and a hanging sign under the awning and a sandwich board sign (Attachment “E”). This is consistent with the theme that was approved with the 1998 conditional use permit approval (ref: hanging sign illustration, Attachment “G”).

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

OVERALL CONCLUSION

Based on the application material, the Planning Staff Report, and other evidence and testimony in the record, the Planning Commission concludes that the above findings of fact and conclusions demonstrate compliance with the criteria for a conditional use permit found in Section 14.34.050 of the Newport Municipal Code (NMC); and, therefore, the requested conditional use permit 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.

City of Newport

Community Development Department

Memorandum

To: Planning Commission

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

Date: May 21, 2021

Re: Design Review & Conditional Use Deliberation - The Whaler at Nye Beach

At the close of the April 26, 2021 public hearing the Planning Commission, at the request of the Oregon Shores Conservation Coalition, left the record open to allow for the submission of additional written testimony in accordance with NMC 14.52.090(D) and ORS 197.763(6). The Commission closed the public hearing and continued its deliberations to May 24, 2021. All parties were given seven (7) days to provide comment, with the record closing to new testimony at 5:00 pm on May 3, 2021. This was followed by a seven (7) day rebuttal period where responses to the new testimony would be accepted, and an additional seven (7) days for the applicant's final argument.

No new testimony was received by the 5:00pm May 3, 2021 deadline. The applicant chose to use their final argument as an opportunity to address conditions recommended in the staff report. Included with this memo is an email from the applicant's architect, Michael Abbott, identifying changes that were made to the building plans and architectural elevations. An updated plan set is also enclosed.

The record is now closed, and this meeting is an opportunity for the Planning Commission to deliberate and decide whether or not the approval criteria have been met. If the Commission is inclined to approve the application, then staff has prepared a set of findings and final order that can be used for that purpose. The findings and final order conform substantially to the staff report that was presented at the April 26, 2021 public hearing.

Attachments

May 17, 2021 email from Michael Abbott, Abbott Architecture

Updated building plans and architectural elevations by Abbott Architecture, dated May 17, 2021

Draft Final Order and Findings

Derrick Tokos

From: Michael Abbott <michael@abbott-architecture.com>
Sent: Monday, May 17, 2021 5:46 PM
To: Derrick Tokos
Cc: Ric Rabourn; Terry Lacaden; Keeley O'Brien; Chris Mastrandrea
Subject: WHALER @ NYE BEACH-5-17-21-LUDR-REV1

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

Hi Derrick:

Please see the link below for your use and review of the Whaler @ Nye Beach-Revision-1 drawing set for LUDR/CU dated 5-17-21

These include the conditions (that can be shown in drawings) per your staff report dated April 22, 2021. Revised items have been clouded in the drawing set and listed below by sheet location.

Dropbox transfer link:

<https://www.dropbox.com/t/bQcA5SA7tvpBoMr9>

Revision sheets listed with noted updates:

A001- Cover Sheet:

1. Parking calculation to reflect parking garage stall reconfiguration and garbage room.
2. Parking calculation now reflects compact stalls at 40% of total stalls per condition #7
3. Note added for Tsunami hazard signage per condition #8

A100- Architectural Site Plan

1. New crosswalk paving now shown as stamped concrete 'Brick Herringbone' pattern to match existing Nye Beach crosswalk standards per condition #2
2. New hotel building paving at veranda, walkways and porte-cochere showing stamped concrete 'block' patterns per condition #3
3. Sidewalk 'alcoves' added along Elizabeth and Olive streets per neighborhood meeting comments.

A101- First Floor Plan

1. New crosswalk paving now shown as stamped concrete 'Brick Herringbone' pattern to match existing Nye Beach crosswalk standards per condition #2
2. New hotel building paving at veranda, walkways and porte-cochere showing stamped concrete 'block' patterns per condition #3
3. Sidewalk 'alcoves' added along Elizabeth and Olive streets per neighborhood meeting comments.

A105- Parking Garage Plan

1. Show 'trash room' location.
1. Updated stall count to 27 stalls due to added trash room.

L200- Exterior Lighting Plan-Schedule

1. Added 'Acorn' style street light poles to lighting schedule per condition #4

2. Added note that 'Acorn' street lights to be located by city engineer per condition #4
3. Added reference image of 'Acorn' style street lights from adjacent Nye Beach location.

Please confirm successful download of the above referenced Revision-1 drawing set named "WHALER @ NYE BEACH-5-17-21-LUDR-REV1-1.pdf"

Best Regards,
Michael

Michael Abbott, AIA, NCARB
Architect

206.778.7008

www.abbott-architecture.com

ABBOTT
ARCHITECTURE



WHALER AT NYE BEACH

Newport • Oregon • USA

ZONING ORDINANCE DATA:

NEWPORT MUNICIPAL CODE - CHAPTER 14 - ZONING	
ZONE:	C-2 (TOURIST COMMERCIAL)
OVERLAY:	NYE BEACH DESIGN REIVEN DISTRICT ("DESIGN GUIDELINES" USED)
USE:	HOTEL (PERMITTED)
LOT STANDARDS (PER TABLE "A" 14.13.020 NMC- CH-14 - ZONING)	
MINIMUM LOT AREA:	5,000 SF (3,000 SF NYE BEACH OVERLAY)
LOT COVERAGE:	85-90%
MAX BUILDING HEIGHT:	50 FEET
SETBACKS:	FRONT: 0 FEET (5' ALONG W. OLIVE) SIDE: 0 FEET REAR: 0 FEET
DENSITY PER UNIT:	N/A

PARKING:	1 SPACE PER GUEST UNIT (HOTEL) 1 SPACE FOR MANAGER (HOTEL)
TOTAL REQUIRED:	26 STALLS
TOTAL SHOWN:	30 STALLS (INCLUDES 3 SURFACE ADA)
COMPACT STALLS:	12 STALLS (40% PER ALLOWABLE)
TRASH LOCATION:	SUB-BUILDING PARKING GARAGE

TSUNAMI NOTE:
OWNER IS REQUIRED THE INSTALLATION OF TSUNAMI HAZARD WAY-FINDING SIGNAGE IN A FORMAT AND LOCATION APPROVED BY CITY PRIOR TO OCCUPANCY. FURTHER EMERGENCY EVACUATION INFORMATION SHALL BE POSTED IN HOTEL COMMON AREAS TO ALERT EMPLOYEES AND GUESTS TO THE TSUNAMI THREAT.

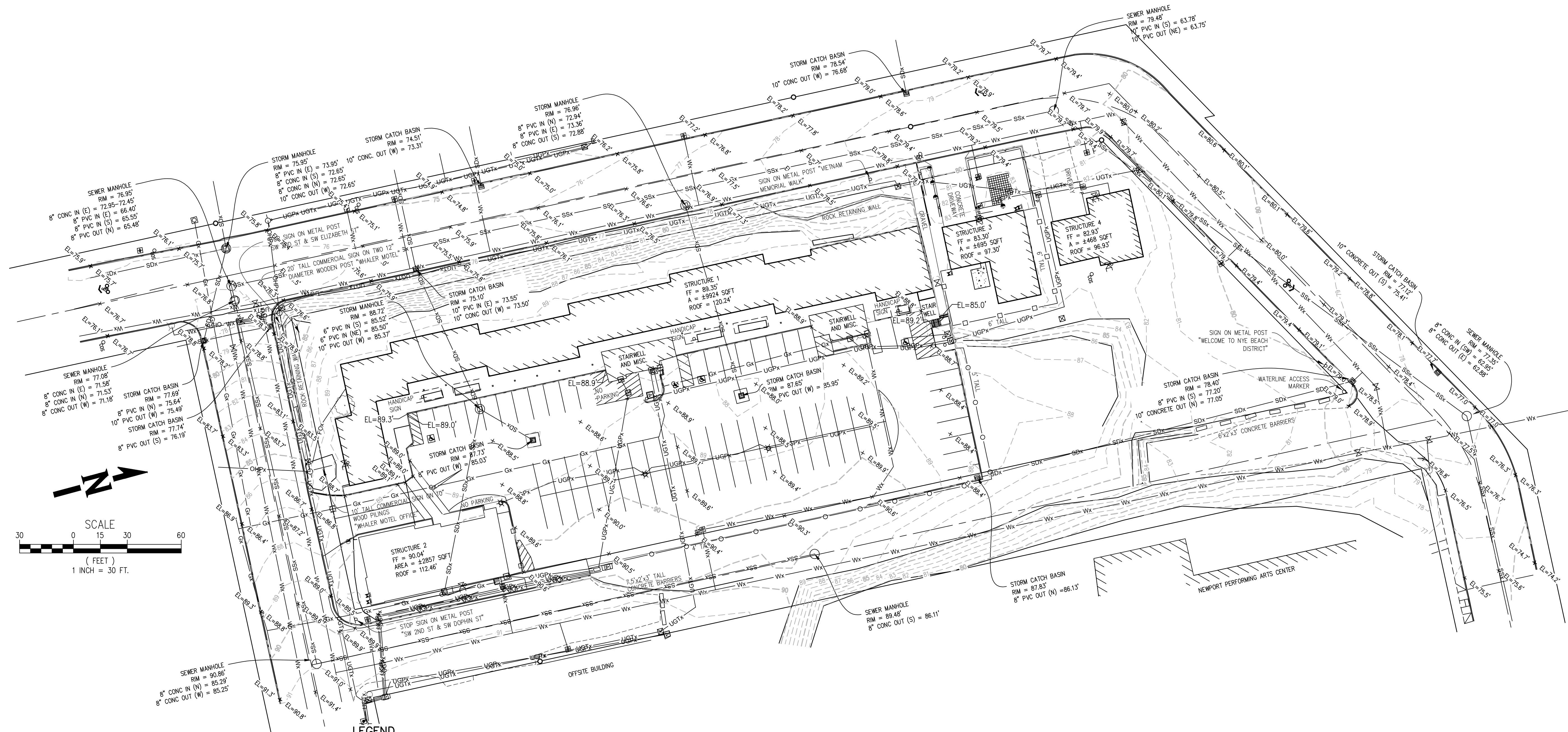
PROJECT DATA:

GUEST UNITS	
PROPOSED GUEST UNITS	25
PARKING	
SURFACE PARKING ADA STALLS	3
SUB-BUILDING PARKING STALLS	27
TOTAL PARKING STALLS	30
COMPACT STALLS (40% OF TOTAL)	12
AREA CALCULATIONS	
MAIN FLOOR	9,737 SF
2ND FLOOR	7,428 SF
3RD FLOOR	8,504 SF
TOTAL INTERIOR	25,669 SF
PARKING AREA	8,635 SF
PARKING LOBBY	864 SF
MECH/B.O.H.	1,611 SF
TOTAL GARAGE	11,110 SF
OCEANSIDE EXTERIOR VERANDA	3,395 SF

SHEET INDEX

A001	COVERSHEET - PROJECT DATA
C001	TOPOGRAPHIC SURVEY
A100	ARCHITECTURAL SITE PLAN
A101	1ST FLOOR PLAN
A102	2ND FLOOR PLAN
A103	3RD FLOOR PLAN
A104	ROOF PLAN
A105	PARKING GARAGE PLAN
A201	EXTERIOR 3D VIEWS
A202	EXTERIOR 3D VIEWS
A203	EXTERIOR 3D VIEWS
A204	EXTERIOR ELEVATIONS
A205	EXTERIOR ELEVATIONS
L100	LANDSCAPE PLAN
L200	EXTERIOR LIGHTING
C001	CIVIL DIAGRAMs

TOPOGRAPHIC SURVEY
155 SW ELIZABETH STREET
A PORTION OF BARLOWS BLOCK AND BLOOMERS ADDITION,
LOCATED IN THE CITY OF NEWPORT,
COUNTY OF LINCOLN,
STATE OF OREGON



THIS SURVEY IS BASED UPON FIELD WORK COMPLETED BY WHPACIFIC NOVEMBER 8, 2019.

THIS SURVEY DOES NOT CONSTITUTE A BOUNDARY SURVEY AND SHOULD NOT BE CONSTRUED AS SUCH. PROPERTY LINES SHOWN ARE BASED UPON EXISTING SURVEY MONUMENTS, DEED DOCUMENTS, AND PLATS OF RECORD.

ELEVATION:
THE BASIS OF COORDINATES FOR THIS SURVEY WAS ESTABLISHED RTK OBSERVATIONS AT NGS TENCH BENCH MARK, PID-QE1210. ELEVATION = 121.29 FEET (NAVOD88)

BASIS OF BEARING:
NORTH AMERICAN DATUM OF 1983 (NAD83) (EPOCH 2010), OREGON COORDINATE SYSTEM NORTH ZONE, INTERNATIONAL FEET.
ESTABLISHED BY REAL TIME KINEMATIC (RTK) SURVEY OBSERVATIONS AT PROJECT POINTS 10 & 11, THE RTK OBSERVATIONS WERE CALIBRATED USING THE NATIONAL GEODETIC SURVEY (NGS) PASSIVE CONTROL AND LINCOLN COUNTY GEODETIC CONTROL POINTS; PID-QE1210, PID-QE2626, PID-QE1612, CS-17326, CS-18474, AND CS-19689.

THE BEARING BETWEEN PROJECT POINTS 10 & 11 BEING:
NORTH 57°20'22" WEST

DISTANCE BETWEEN SAID POINTS BEING:
2653.37 FT (GROUND)

(ALL PROJECT DISTANCES ARE GROUND DISTANCES)

BASIS OF COORDINATES:
THE BASIS OF COORDINATES FOR THIS SURVEY WAS ESTABLISHED AT PROJECT POINT 31, BEING A SET NAIL IN CONCRETE WITH PINK FLAGGING.

N. 373724.265 FT
E. 7274963.806 FT
COMBINED SCALE FACTOR: 0.999999951
CONVERGENCE ANGLE: -2°31'37.062"

LEGEND

	AC UNIT		SEWER CLEAN OUT
	FLAG POLE		SEWER MANHOLE
	MAILBOX		STORM TYPE 1 CATCH BASIN
	0.6'x0.6' BUILDING COLUMN		STORM CLEAN OUT
	BOLLARD		STORM MANHOLE
	SIGN (ON POST)		SQUARE STORM INLET DRAIN
	GAS METER		TELEPHONE JUNCTION BOX
	GAS VALVE		TELEPHONE PEDESTAL
	SPRINKLER CONTROL BOX		TELEPHONE VAULT
	SPRINKLER VALVE		GUY ANCHOR
	IRRIGATION HEAD		UTILITY POLE
	POWER JUNCTION BOX		UTILITY POLE WITH DROP
	POWER METER		UTILITY POLE WITH LIGHT
	POWER TRANSFORMER		FIRE DEPT. CONNECTION
	POWER VAULT		FIRE HYDRANT
	YARD LIGHT		WATER METER
			WATER SPIGOT
			WATER VALVE
			WATER VAULT

	BUILDING LINE (LIMITS)
	EXISTING GAS LINE
	EXISTING OVERHEAD POWER LINE
	EXISTING UNDERHEAD POWER LINE
	EXISTING UNDERGROUND TELECOMMUNICATIONS LINE
	EXISTING SANITARY SEWER LINE
	EXISTING STORM LINE
	EXISTING WATER LINE
	FENCE - CHAIN LINK
	FENCE - WOOD
	RETAINING WALL
	YELLOW DASHED LINE STRIPING
	RIGHT-OF-WAY LINE
	CENTERLINE OF ROAD LINE

POINT TABLE:

POINT ID	NORTHING	EASTING	ELEVATION	DESCRIPTION
1	373770.69	727508.19	88.39	SET MAG NAIL WITH PINK FLAGGING IN CONCRETE CURB
4	369722.95	727517.20	121.29	FOUND 2-1/2" BRASS DISC "STATE HIGHWAY DEPARTMENT, ELEVATION ABOVE SEA LEVEL, Y1 1936 BENCHMARK" PID-QE1210
5	369702.73	7275682.19	121.13	FOUND 2-1/2" BRASS DISC "OREGON STATE HIGHWAY DEPARTMENT, ELEVATION ABOVE SEA LEVEL, Y1 1936 BENCHMARK" PID-QE2626
10	374691.40	7275263.68	65.77	FOUND 1" IRON ROD IN MONUMENT BOX WITH MISSING LID PER CS-19689
11	373265.99	727501.66	140.17	FOUND 2-1/2" BRASS DISC "LINCOLN COUNTY SURVEYOR, N 1/16, S8, 2003, PLS 1816"
12	371762.11	727455.82	88.43	FOUND 1/8" IRON ROD IN CONCRETE IN MONUMENT BOX PER CS-17326
21	368819.88	7278925.86	13.01	FOUND 3-1/2" BRASS DISC "14.15 USGS ELEV 10.35 STAN MONUMENT NO.3" PID-QE1612
31	373724.26	7274963.81	78.39	SET MAG NAIL WITH PINK FLAGGING IN CONCRETE SIDEWALK
32	373381.82	7274847.57	75.90	SET MAG NAIL WITH PINK FLAGGING IN CONCRETE SIDEWALK
33	373358.67	7275140.40	92.03	FOUND 2" BRASS DISC IN CONCRETE SIDEWALK "NEWPORT CITY BENCHMARK 11"
34	373592.15	7275078.25	90.64	SET MAG NAIL WITH PINK FLAGGING IN ASPHALT PARKING LOT
35	373664.093	7274972.74	80.35	SET MAG NAIL WITH PINK FLAGGING IN CONCRETE SIDEWALK
101	373464.46	7275004.23	89.08	SET SCRIBE IN CONCRETE SIDEWALK

REVISIONS	NO.	BY	DATE	REMARKS

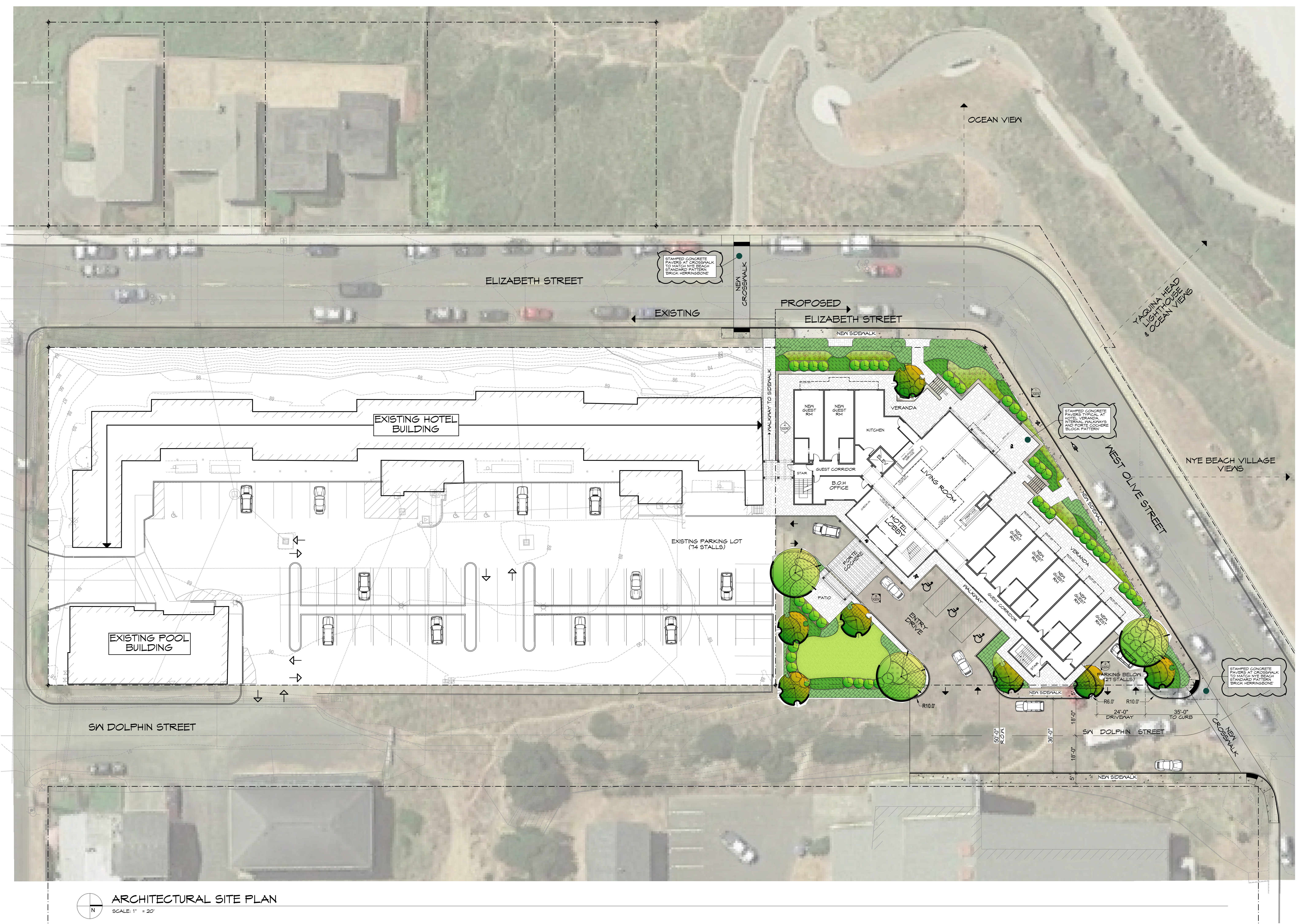
SHEET INFO	SURVEYED	ARS	DRAWN	ARS	CHECKED	JR	APPROVED	KMB	LAST EDIT	11/28/2019	PLOT DATE	1/28/2019	SUBMITTAL
------------	----------	-----	-------	-----	---------	----	----------	-----	-----------	------------	-----------	-----------	-----------

SCALE
1" = 30'

TOPOGRAPHIC SURVEY
HALLMARK INN & RESORT
NW 1/4, NW 1/4, SEC 08, T. 11 S., R. 11 W., W.M.
CITY OF NEWPORT, LINCOLN COUNTY, OREGON
PROJECT NUMBER C000106.01
DRAWING FILE NAME C000106.01_V-TS00

SHEET NUMBER

1 OF 1



ARCHITECTURAL SITE PLAN
SCALE: 1" = 20'

REGISTERED ARCHITECT
MICHAEL SCOTT ABBOTT
SEATTLE, WA
STATE OF OREGON

ABBOTT
ARCHITECTURE

WHALER AT NYE BEACH

Newport • Oregon • USA

DATE	5/17/2021	PROJECT	1803	DESIGN BY	MA	ARCHITECTURAL SITE PLAN
LUDR-SUBMITTAL - 4/15/2021	LUDR-SUBMITTAL - 5/17/2021					
A100						



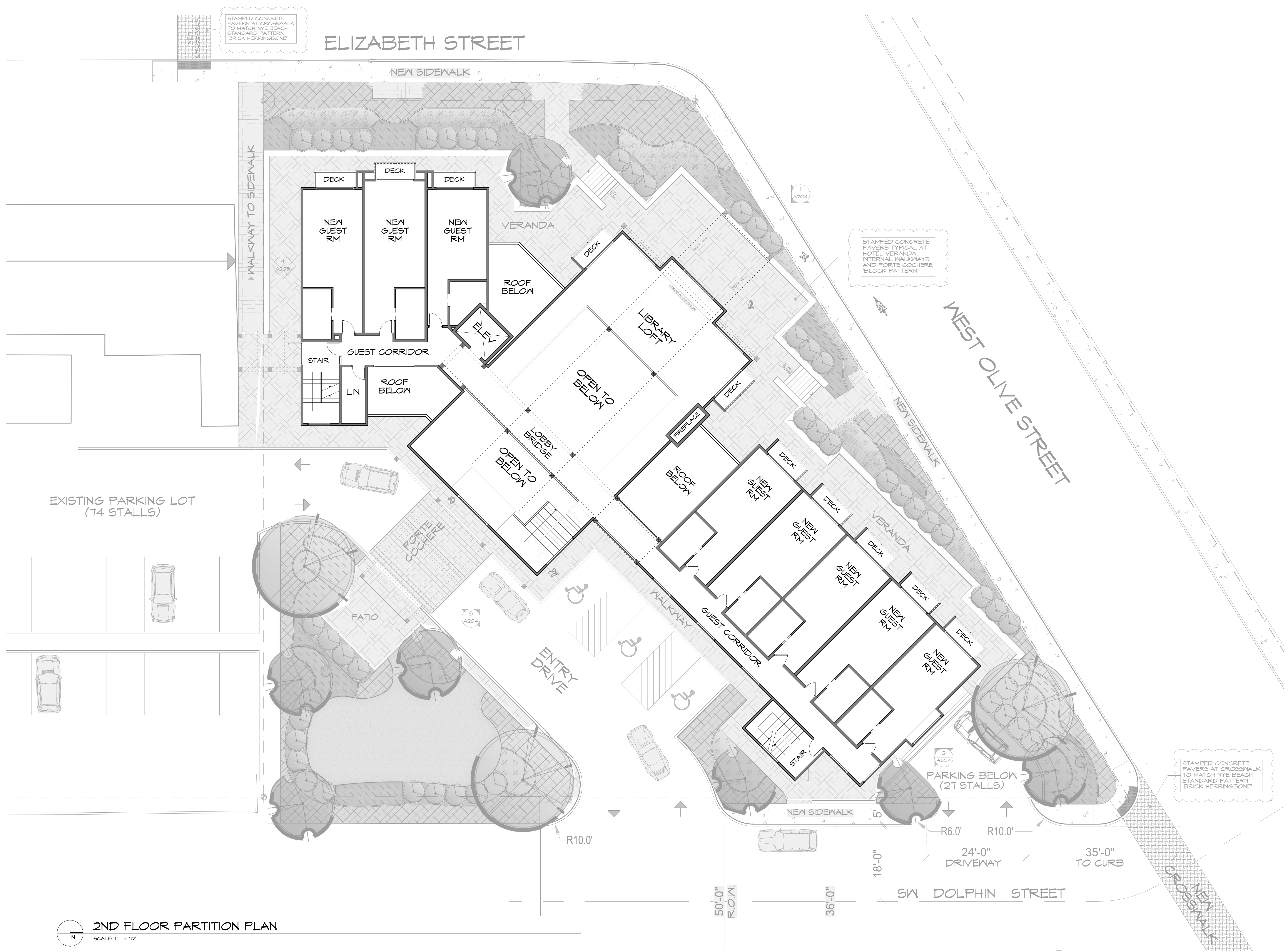
REGISTERED ARCHITECT
MICHAEL SCOTT ABBOTT
SEATTLE, WA
STATE OF OREGON

ABBOTT
ARCHITECTURE

WHALER AT NYE BEACH

Newport • Oregon • USA

DATE	5/17/2021	PROJECT	1803	DESIGNED BY	MA	LAYOUT NAME	1ST FLOOR PLAN
A101							



2ND FLOOR PARTITION PLAN
SCALE: 1" = 10'

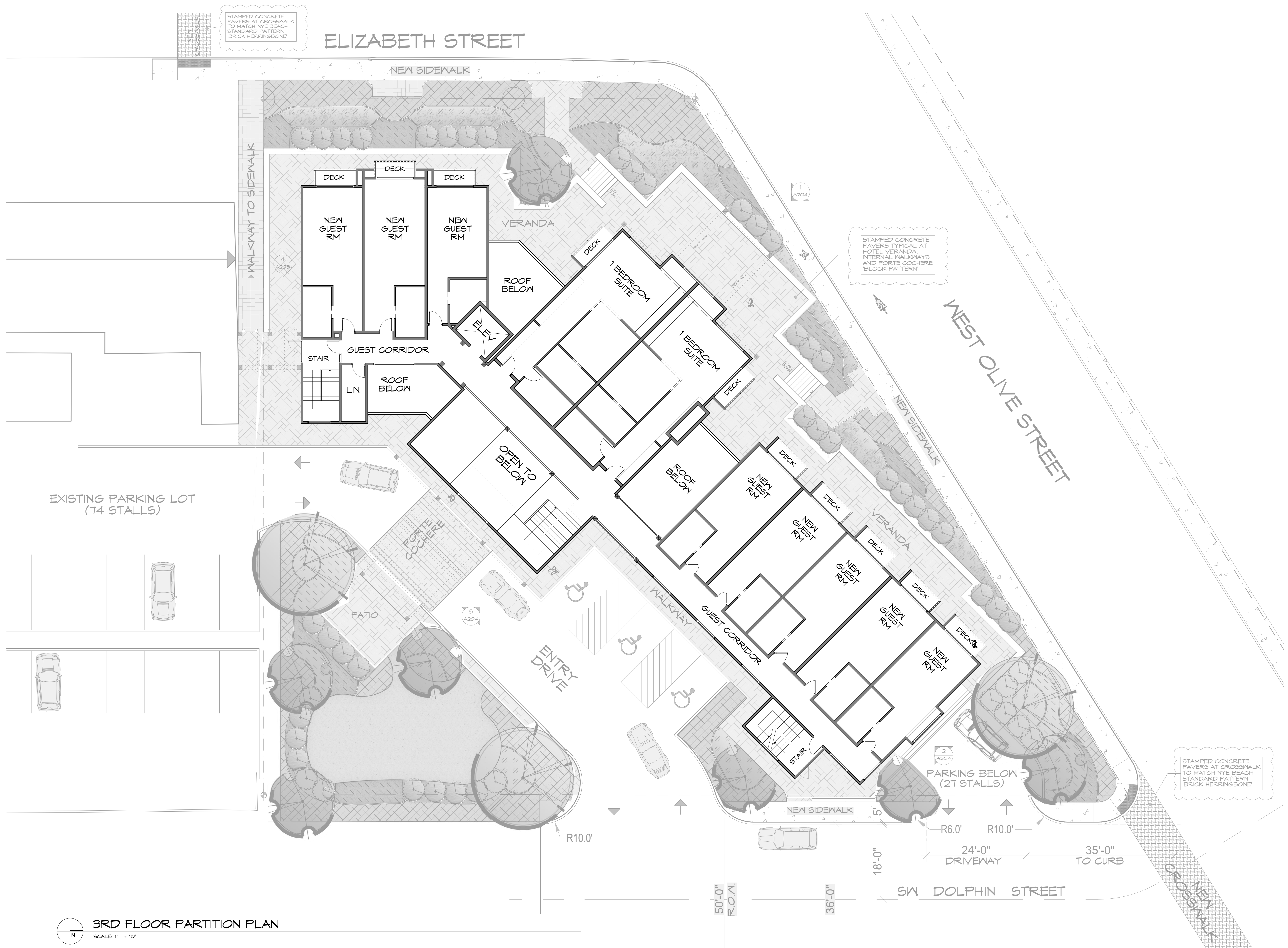
REGISTERED ARCHITECT
MICHAEL SCOTT
ABBOTT
SEATTLE, WA
STATE OF OREGON

ABBOTT
ARCHITECTURE

WHALER AT NYE BEACH

Newport • Oregon • USA

LUDR-SUBMITTAL - 4 / 15 / 2021			
LUDR-SUBMITTAL - 5 / 17 / 2021			
DATE	5/17/2021	PROJECT	1803
DRAWN BY	MA	DATE	5/17/2021
LAYOUT NAME	2ND FLOOR PLAN		
A102			



3RD FLOOR PARTITION PLAN
SCALE: 1" = 10'

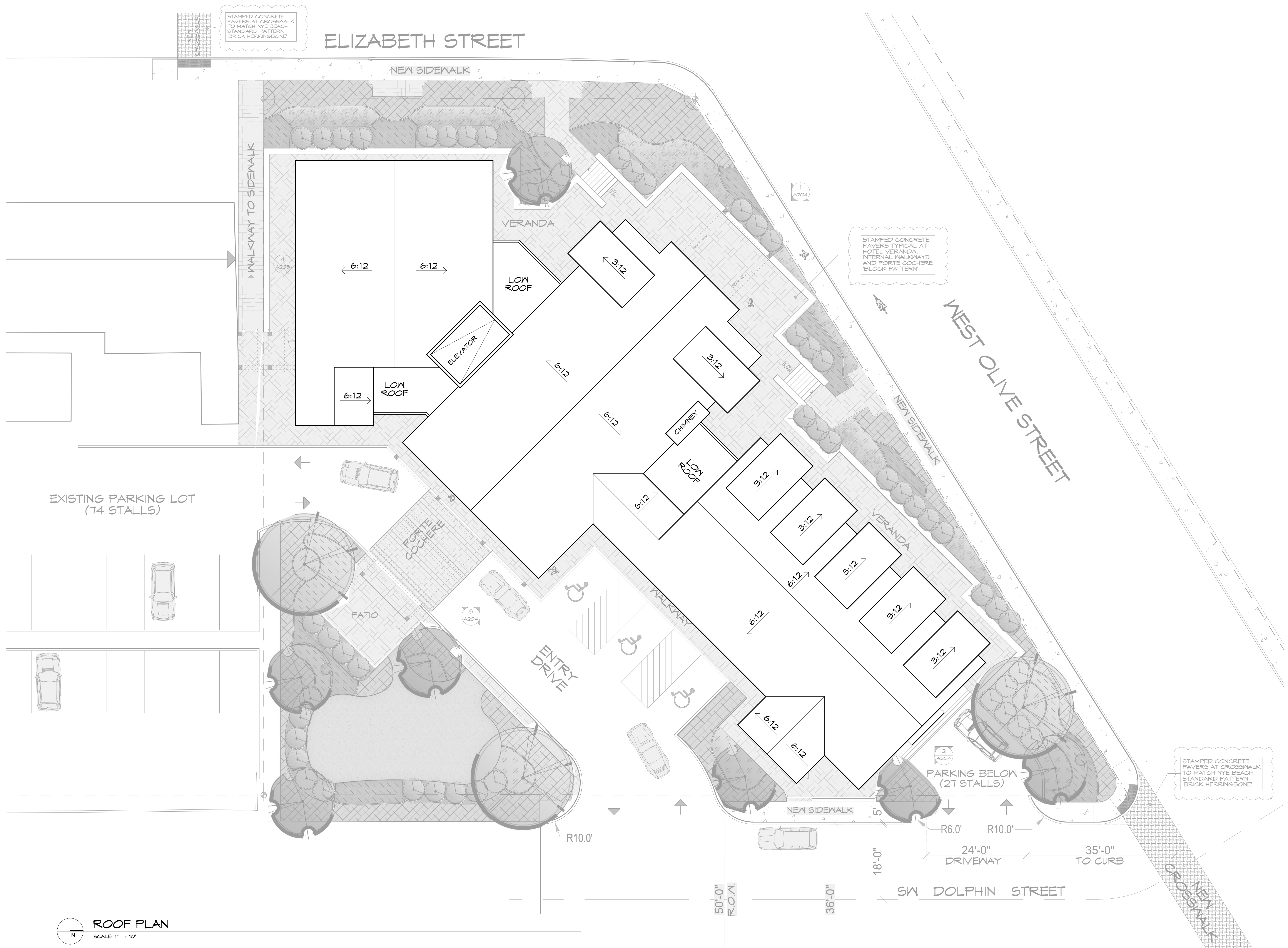
REGISTERED ARCHITECT
MICHAEL SCOTT ABBOTT
SEATTLE, WA
STATE OF OREGON

ABBOTT
ARCHITECTURE

WHALER AT NYE BEACH

Newport • Oregon • USA

DATE	5/17/2021	PROJECT	1803	DRAWN BY	MA	LAYOUT NAME	3RD FLOOR PLAN
A103							



REGISTERED ARCHITECT
MICHAEL SCOTT ABBOTT
SEATTLE, WA
STATE OF OREGON

ABBOTT
ARCHITECTURE

WHALER AT NYE BEACH

Newport • Oregon • USA

LUDR-SUBMITTAL - 4 / 15 / 2021				
LUDR-SUBMITTAL - 5 / 17 / 2021				
DATE	5/17/2021	PROJECT	1803	DRAWN BY
				MA
				LABOR NAME
				15 ROOF PLAN
A104				



Newport • Oregon • USA

DATE	5/17/2021	LUDR-SUBMITTAL - 4/15/2021
PROJECT	1803	LUDR-SUBMITTAL - 5/17/2021
DRAWING #	MA	
LAYER NAME	PARKING GARAGE	
	1ST FLOOR PLAN	

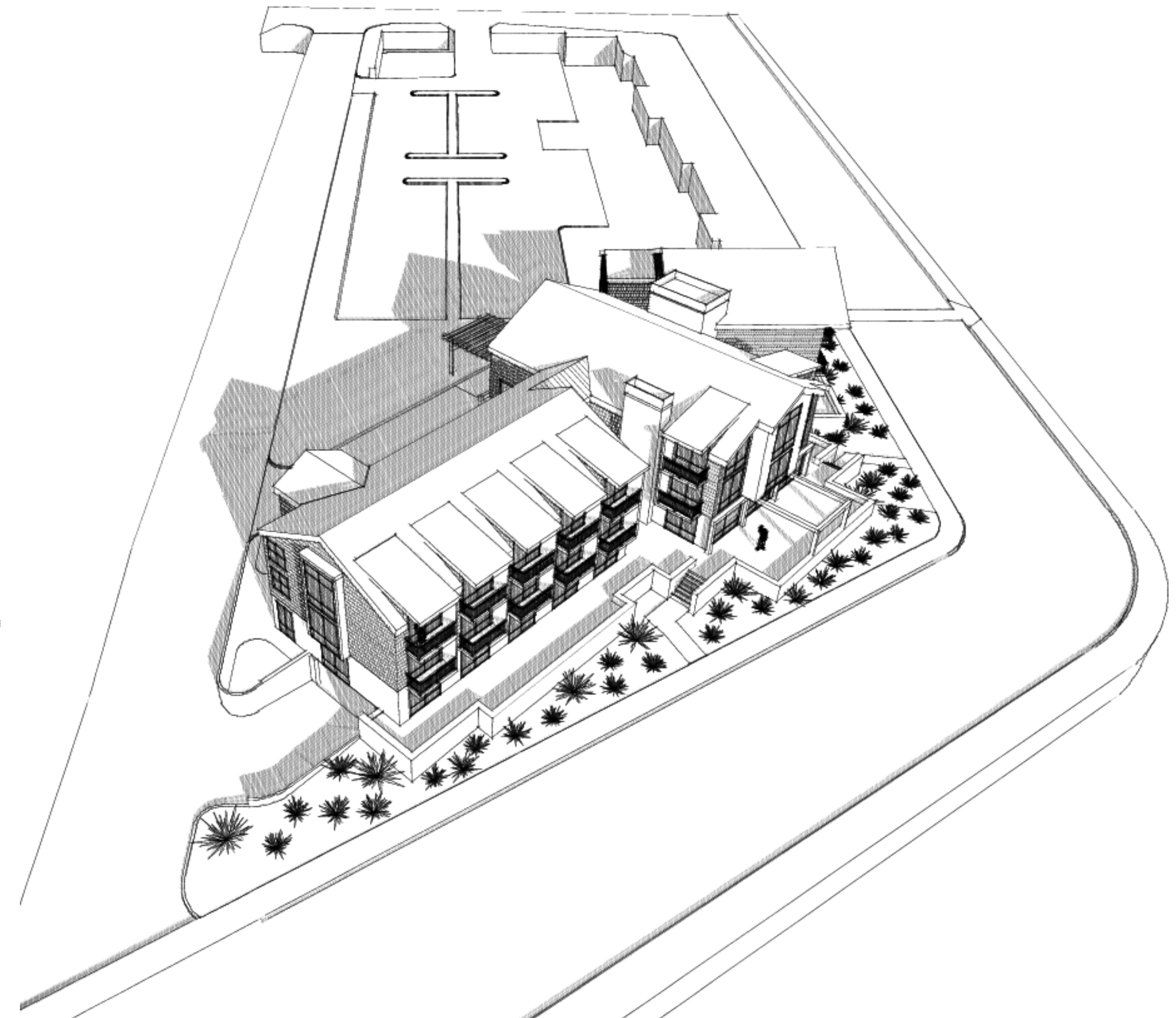




VIEW FROM OCEANSIDE



VIEW FROM OCEANSIDE



BIRD'S EYE VIEW OF OCEANSIDE



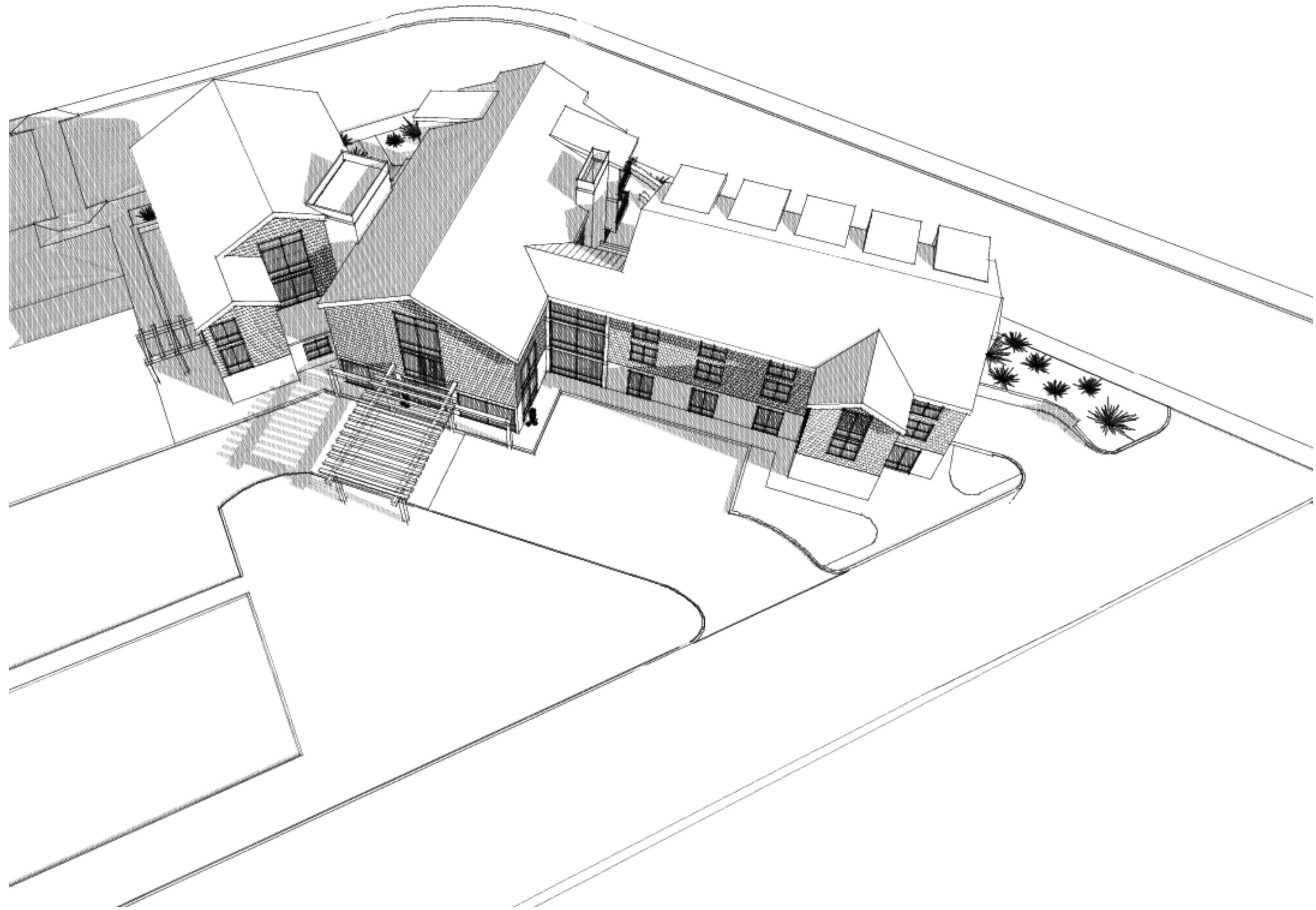
ABBOTT
ARCHITECTURE

WHALER AT NYE BEACH

Newport • Oregon • USA

DATE	5/17/2021	PROJECT	1803	DRAWN BY	MA	LAYOUT NAME	3D MODEL VIEWS
LUDR-SUBMITTAL - 4 / 5 / 2021							
LUDR-SUBMITTAL - 5 / 17 / 2021							

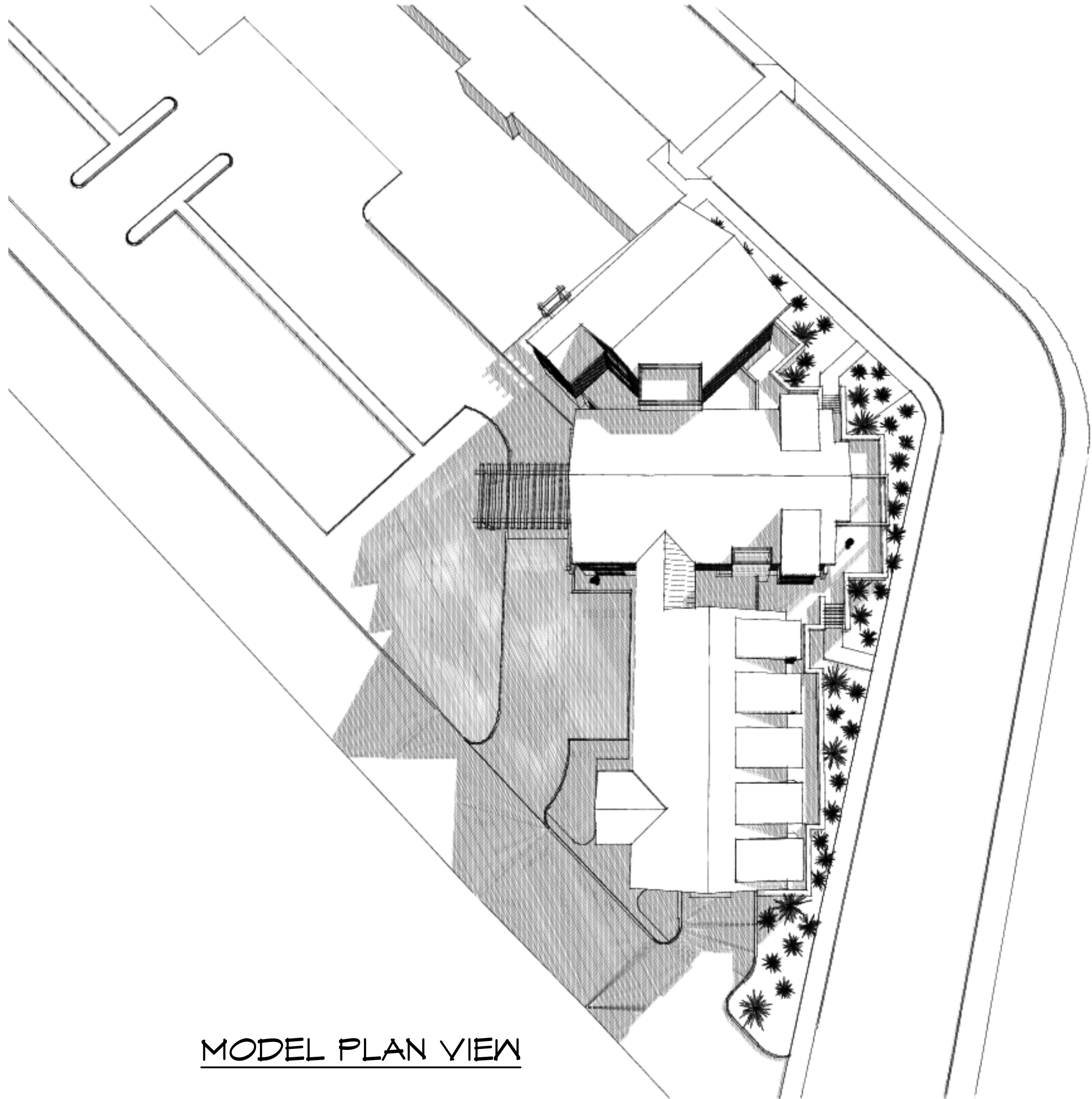
A201



BIRD'S EYE VIEW OF ENTRY SIDE



VIEW FROM ENTRY



MODEL PLAN VIEW



VIEW FROM OCEANSIDE



COLOR RENDERING VIEW FROM OCEANSIDE

WHALER AT NYE BEACH

Newport • Oregon • USA



1 WEST ELEVATION - OCEANSIDE
SCALE: 1/8" = 1'-0"



R-1 : COMP ROOFING - COLOR: BLACK OAK
ND-1 : TIMBER POSTS & BEAMS



S-1 - SHAKE SIDING - CHARCOAL STAIN



S-2 - PLANK SIDING - CLEAR STAIN



C-1 - BOARD FORMED SITE WALL - COLOR: STONE



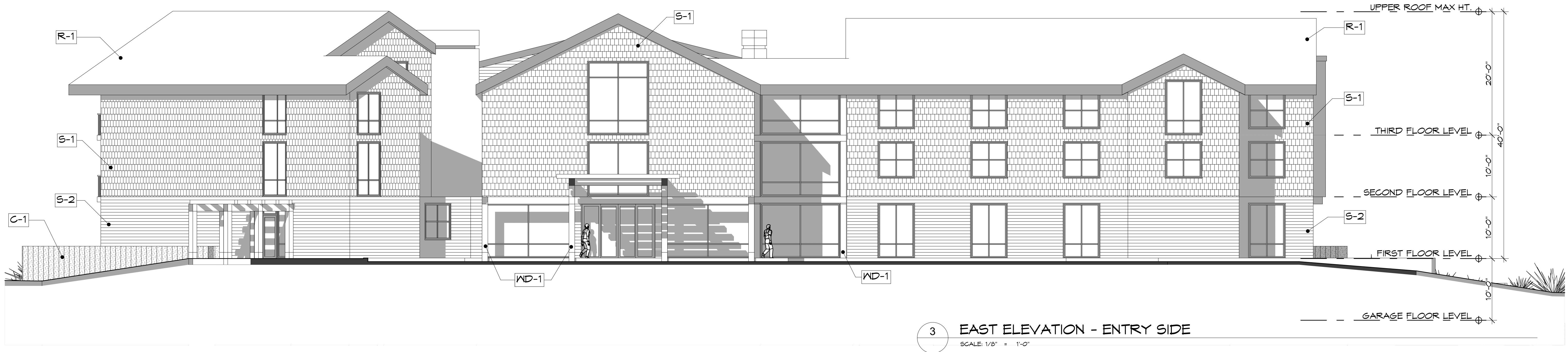
2 NORTH ELEVATION - DOLPHIN STREET
SCALE: 1/8" = 1'-0"



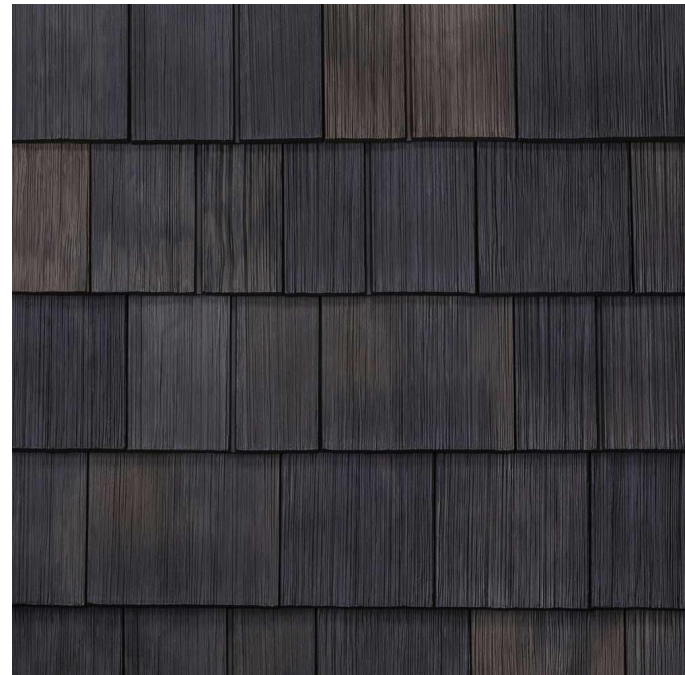
WHALER AT NYE BEACH

Newport • Oregon • USA

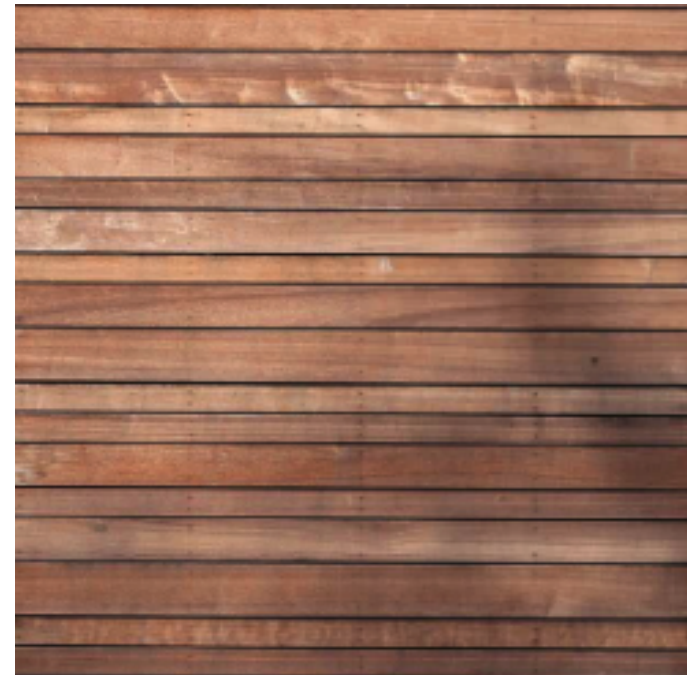
DATE	5/17/2021	PROJECT	1803	DESIGN BY	MA	LAUNCH NAME	EXTERIOR ELEVATIONS
A204							



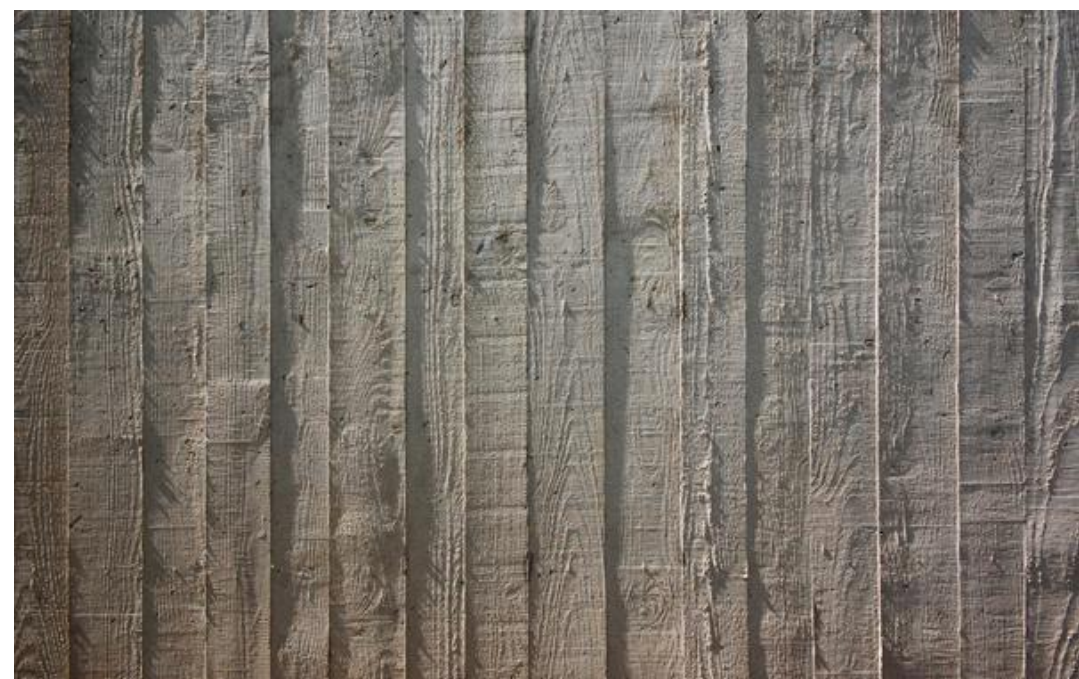
R-1 : COMP ROOFING - COLOR: BLACK OAK
WD-1 : TIMBER POSTS & BEAMS



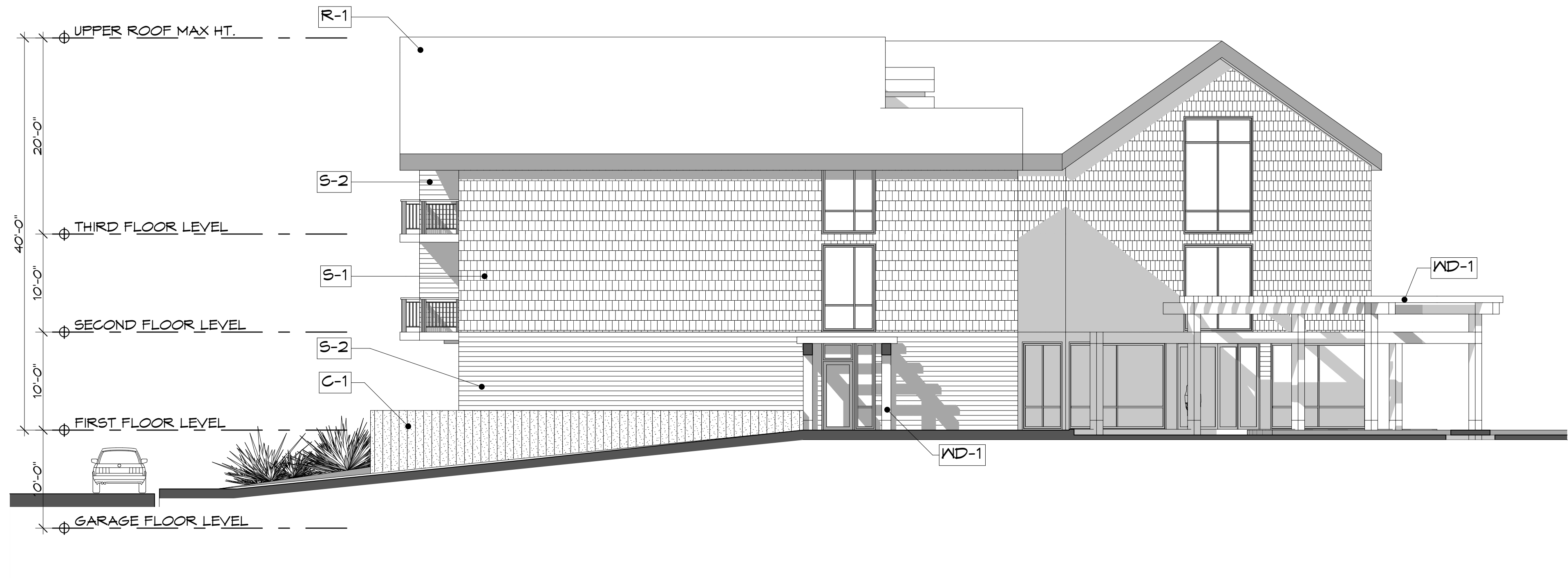
S-1 - SHAKE SIDING - CHARCOAL STAIN



S-2 - PLANK SIDING - CLEAR STAIN



C-1 - BOARD FORMED SITE WALL - COLOR: STONE



4 SOUTH ELEVATION - WALKWAY TO BEACH
SCALE: 1/8" = 1'-0"

WHALER AT NYE BEACH

Newport • Oregon • USA



CONCEPT LANDSCAPE PLAN
SCALE: 1" = 10'

PLANTING LEGEND

POTENTIAL SPECIES (PER CITY OF NEWPORT ACCEPTABLE SPECIES):

TREES		
MEDIUM TREES		
SCIENTIFIC NAME	COMMON NAME	SIZE
CARPINUS BETULUS 'FASTIGIATA'	EUROPEAN HORNBEAM	2"
ZELKOVA SERRATA	JAPANESE ZELKOVA	2"
PRUNUS EMARGINATA	BITTER CHERRY	1.5"
RHAMNUS PURSHIANA	CASCARA	1.5"
SMALL TREES		
SCIENTIFIC NAME	COMMON NAME	SIZE
MYRICA CALIFORNICA	PACIFIC WAX MYRTLE	1.5"
PRUNUS SERRULATA	FLOWERING CHERRY	1.5"
MALUS FUSCA	PACIFIC CRABAPPLE	1.5"
SHRUBS		
LARGE SHRUBS		
SCIENTIFIC NAME	COMMON NAME	SIZE
ARCTOSTAPHYLOS COLUMBIANA	HAIRY MANZANITA	5 GAL.
CEANOTHUS THYRSIFLORUS	BLUE BLOSSOM	5 GAL.
GAULTHERIA SHALLON	SALAL	5 GAL.
MAHONIA NERVOSA	DWARF OREGON GRAPE	5 GAL.
SMALL SHRUBS		
SCIENTIFIC NAME	COMMON NAME	SIZE
ARCTOSTAPHYLOS UVA-URSI	KINNIKINNICK	2 GAL.
JUNIPERUS CONFERTA	BLUE PACIFIC SHORE JUNIPER	2 GAL.
ROSA NUTKANA	NOOTKA ROSE	2 GAL.
FORBS/HERBS		
SCIENTIFIC NAME	COMMON NAME	SIZE
CALLUNA SP.	HEATHER (VARIETIES)	1 GAL.
CAMASSIA LEICHTLINII	LARGE CAMAS	1 GAL.
ERIGERON GLAUCUS	BEACH ASTER / FLEABANE	1 GAL.
FRAGARIA CHILOENSIS	BEACH STRAWBERRY	1 GAL.
GALIUM ODORATUM	SWEET WOODRUFF	1 GAL.
LUPINUS LITTORALIS	SEASHORE LUPINE	1 GAL.
THYMUS PSEUDOLANUGINOSUS	WOOLY THYME	1 GAL.
GRASSES		
SCIENTIFIC NAME	COMMON NAME	SIZE
CALAMAGROSTIS ACUTIFLORA	FEATHER REED GRASS	1 GAL.
DESCHAMPSIA CESPITOSA	OREGON TUFTED HAIR GRASS	1 GAL.
SISYRINCHIUM IDAHOENSE	BLUE-EYED GRASS	1 GAL.
LAWN		
SUNMARK SEEDS FIDO TURF: TURFNET PERENNIAL RYEGRASS (50%), ALLSTAR III PERENNIAL RYEGRASS (21%), SEALINK SLENDER CREEPING RED FESCUE (28%), AND SEASIDE II CREEPING BENTGRASS (1%). APPLICATION RATE: 5 PLS LBS PER 1,000 SQUARE FEET.		



EXTERIOR BUILDING/LANDSCAPE LIGHTING SCHEDULE				
MARK	SYMBOL	TYPE	MFR	MODEL
L-1		LED WALL SCONCE	HINKLEY	ARIA 2307KZ-LL (BUCKEYE BRONZE)
L-2		LED RECESSED WALL/STEP LIGHT	HINKLEY	LUNA LED STEP 12V (15508BZ)
L-3		LANDSCAPE SPOT ACCENT	HINKLEY	SMALL SPOT LIGHT 75W (BRONZE)
L-4		LANDSCAPE PATH LIGHT	HINKLEY	HARDY ISLAND 24" (BRONZE)
L-5 *		'ACORN' STREET LIGHT	CITY SPEC	TO MATCH CITY STANDARD - NYE BEACH

* = ACORN STREET LIGHTS TO BE LOCATED BY CITY ENGINEER

L-1

ARIA
2307KZ-LL
MODERN WALL MOUNT LANTERN
ARIA is a contemporary style wall sconce that complements the modern look of any exterior. It features a stainless steel mesh shade. ARIA high clip and low maintenance comes standard with 3-year warranty.

DETAILS	
FINISH	Brushed Bronze
DETAILS	Brushed Bronze

DIMENSIONS	
HEIGHT	23.5"
WIDTH	11.5"
BACK PLATE	7.25" x 4.25"
DEPTH	3.5"
TOP TO OUTLET	2.5"

LIGHT SOURCE	
LED SOURCE	LED Lamp
LED NAME	2307KZ-LL
WATTAGE	14-watt LED Lamp
VOLTAJE	12V
WARRANTY	3 Year
MANUFACTURER	HINKLEY
QUANTITY	115
REMARKS	See CL Type Drawing

SHIPPING	
PACKING	12/12
PACKING	12/12
PACKING	12/12
PACKING	12/12

PRODUCT DETAILS:

- Suitable for use in wet exterior direct splash and outdoor direct rain or sprinkler locations as defined by NEC and CEC, Means United States, UL, Underwriters Laboratories & CSA Canadian Standards Association Product Safety Standards
- Fixture is ETL listed and complies with standards and guidelines listed in the manufacturer's literature.
- LED Lamp carry a 3-year limited warranty.
- Angular finish. ARIA finish and material details create an industrial edge with the use of the light.
- Bold and robust design finish.

HINKLEY

HINKLEY

15000 15000 15000 15000

15000 15000 15000 15000

15000 15000 15000 15000

L-2

LUNA LED STEP 120V
54080BZ
LUNA LED STEP LIGHT 120V HORIZONTAL
The Luna LED Step Light is the perfect addition to any interior or exterior lighting plan and complements the modern look of any exterior. It features a stainless steel mesh shade. LUNA high clip and low maintenance comes standard with 3-year warranty.

DETAILS	
FINISH	Brushed Bronze
DETAILS	Brushed Bronze

DIMENSIONS	
HEIGHT	2.5"
WIDTH	2.5"
DEPTH	2.5"
TOP TO OUTLET	2.5"

LIGHT SOURCE	
LED SOURCE	LED Lamp
LED NAME	54080BZ
WATTAGE	14-watt LED Lamp
VOLTAJE	120V
WARRANTY	3 Year
MANUFACTURER	HINKLEY
QUANTITY	115
REMARKS	See CL Type Drawing

SHIPPING	
PACKING	12/12
PACKING	12/12
PACKING	12/12
PACKING	12/12

PRODUCT DETAILS:

- Suitable for use in wet exterior direct splash and outdoor direct rain or sprinkler locations as defined by NEC and CEC, Means United States, UL, Underwriters Laboratories & CSA Canadian Standards Association Product Safety Standards
- Fixture is ETL listed and complies with standards and guidelines listed in the manufacturer's literature.
- LED Lamp carry a 3-year limited warranty.
- Angular finish. LUNA finish and material details create an industrial edge with the use of the light.
- Bold and robust design finish.

HINKLEY

HINKLEY

15000 15000 15000 15000

15000 15000 15000 15000

15000 15000 15000 15000

L-3

75W SM. SPOT LIGHT
54080BZ
75W SPOT LIGHT BRASS
A strong light is supplied.

DETAILS	
FINISH	Brushed Bronze
DETAILS	Brushed Bronze

DIMENSIONS	
HEIGHT	2.5"
WIDTH	2.5"
DEPTH	2.5"
TOP TO OUTLET	2.5"

LIGHT SOURCE	
LED SOURCE	LED Lamp
LED NAME	54080BZ
WATTAGE	14-watt LED Lamp
VOLTAJE	120V
WARRANTY	3 Year
MANUFACTURER	HINKLEY
QUANTITY	115
REMARKS	See CL Type Drawing

SHIPPING	
PACKING	12/12
PACKING	12/12
PACKING	12/12
PACKING	12/12

PRODUCT DETAILS:

- Suitable for use in wet exterior direct splash and outdoor direct rain or sprinkler locations as defined by NEC and CEC, Means United States, UL, Underwriters Laboratories & CSA Canadian Standards Association Product Safety Standards
- Fixture is ETL listed and complies with standards and guidelines listed in the manufacturer's literature.
- LED Lamp carry a 3-year limited warranty.
- Angular finish. LUNA finish and material details create an industrial edge with the use of the light.
- Bold and robust design finish.

HINKLEY

HINKLEY

15000 15000 15000 15000

15000 15000 15000 15000

15000 15000 15000 15000

L-4

HARDY ISLAND LG. CLASSIC 24" PATH LIGHT
54080BZ
HARDY ISLAND LARGE CLASSIC LED PATH LIGHT
The Hardy Island Large Classic LED Path Light is the perfect addition to any interior or exterior lighting plan and complements the modern look of any exterior. It features a stainless steel mesh shade. HARDY high clip and low maintenance comes standard with 3-year warranty.

DETAILS	
FINISH	Brushed Bronze
DETAILS	Brushed Bronze

DIMENSIONS	
HEIGHT	24"
WIDTH	24"
DEPTH	24"
TOP TO OUTLET	24"

LIGHT SOURCE	
LED SOURCE	LED Lamp
LED NAME	54080BZ
WATTAGE	14-watt LED Lamp
VOLTAJE	120V
WARRANTY	3 Year
MANUFACTURER	HINKLEY
QUANTITY	115
REMARKS	See CL Type Drawing

SHIPPING	
PACKING	12/12
PACKING	12/12
PACKING	12/12
PACKING	12/12

PRODUCT DETAILS:

- A strong light is supplied.
- Suitable for use in wet exterior direct splash and outdoor direct rain or sprinkler locations as defined by NEC and CEC, Means United States, UL, Underwriters Laboratories & CSA Canadian Standards Association Product Safety Standards
- Fixture is ETL listed and complies with standards and guidelines listed in the manufacturer's literature.
- LED Lamp carry a 3-year limited warranty.
- Angular finish. LUNA finish and material details create an industrial edge with the use of the light.
- Bold and robust design finish.

HINKLEY

HINKLEY

15000 15000 15000 15000

15000 15000 15000 15000

15000 15000 15000 15000



WHALER AT NYE BEACH

Newport • Oregon • USA

LUDR-SUBMITTAL - 4 / 5 / 2021

LUDR-SUBMITTAL - 5 / 17 / 2021

DATE

5/17/2021

PROJECT

1803

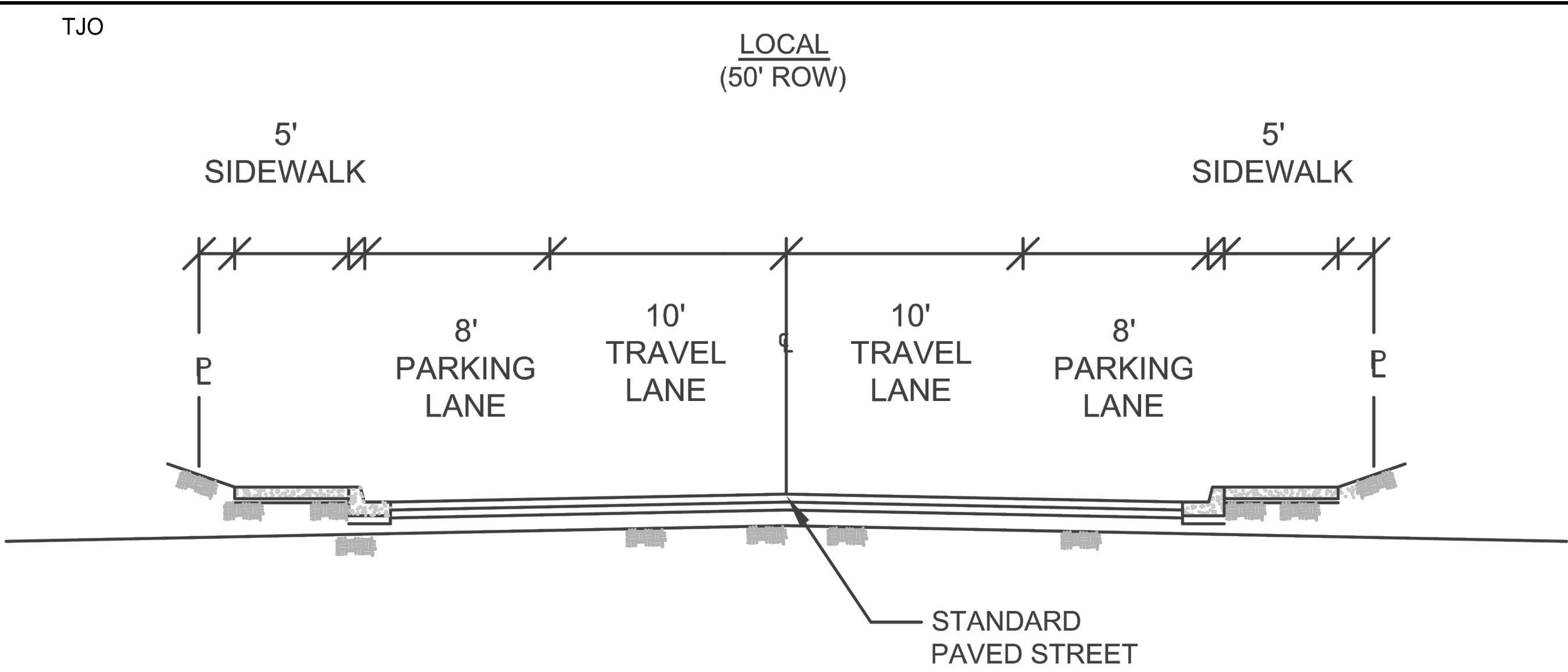
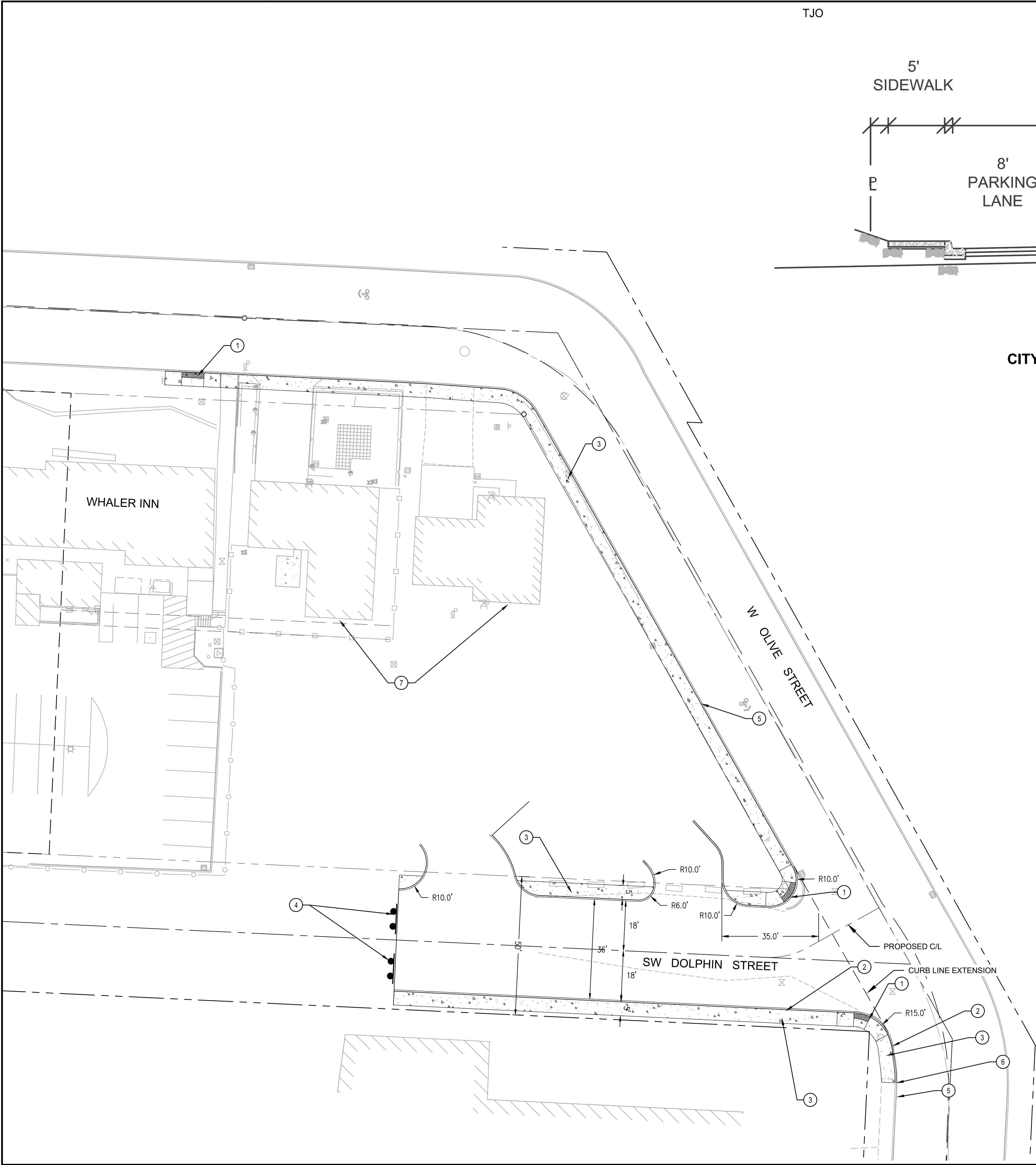
DRAWN BY

MA

LAYOUT NAME

LIGHTING PLAN - SCHEDULE

L200



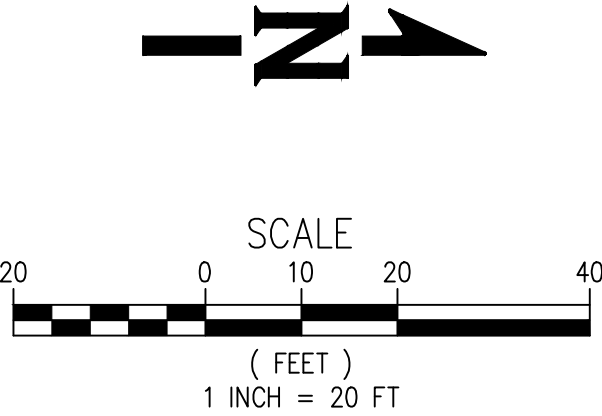
CITY OF NEWPORT TYPICAL ROADWAY LAYOUT
(T-052)

CONSTRUCTION NOTES

- 1 INSTALL PARALLEL ADA RAMP
- 2 INSTALL STANDARD CURB & GUTTER
- 3 INSTALL CONCRETE SIDEWALK
- 4 INSTALL BARRICADE
- 5 EXISTING CURB TO REMAIN
- 6 MATCH EXISTING SIDEWALK
- 7 EXISTING BUILDING TO BE REMOVED

LEGEND

- BARRICADE
- CONCRETE
- RDW LINE
- CENTERLINE



WHPacific

9755 SW Barnes Rd, Suite 300
Portland, OR 97225
503-626-0435 Fax 503-526-0775
www.whpacific.com

REGISTERED PROFESSIONAL ENGINEER
81692PE
No For Construction
J. J. OTT
EXPIRES: 12/31/2020

REVISIONS		REMARKS	
NO.	BY	DATE	REMARKS

SHEET INFO		SUBMITTAL	
DRAWN	EDL	APPROVED	LAST EDIT

SITE PLAN
WHALER INN

NEWPORT, OREGON

PROJECT NUMBER
229219

DRAWING FILE NAME
XR-SITE

SCALE
1"= 20'

SHEET NUMBER
1 of 1

1 of 1

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

IN THE MATTER OF PLANNING COMMISSION FILE NO.)	
1-NB-21/2-CUP-21, AN APPLICATION FOR DESIGN REVIEW)	FINAL
AND CONDITIONAL USE PERMIT APPROVAL FOR “THE)	ORDER
WHALER AT NYE BEACH,” AS SUBMITTED BY RIC RABOURN)	
(HALLMARK INNS & RESORTS (OWNER)))	

ORDER APPROVING DESIGN REVIEW AND A CONDITIONAL USE PERMIT under the design guidelines for the Historic Nye Beach Design Review District and Conditional Use Permit approval criteria for a 25-guest room hotel with a café, bar, office and lobby space (identified as “The Whaler at Nye Beach”). Two (2) existing single-family dwellings will be removed. The new hotel will have a footprint of close to 10,000 square feet. It is designed as a three-story, multi-sectional structure with a below grade parking garage. The hotel will have a total finished floor area of 25,669 square feet. Mechanical equipment will be housed in the parking garage, which along with 29 parking spaces and a parking lobby encompass an additional 11,110 square feet. Three (3) at-grade ADA accessible parking spaces will be provided adjacent to the hotels main entrance, internal to the property. The subject property is identified on Lincoln County Assessor’s Tax Map 11-11-08-BB as Tax Lots 15902 & 15903 (33 SW Elizabeth St; 39 SW Elizabeth St; and 41 SW Elizabeth St). The site is 26,000+/- sq. ft. in size.

WHEREAS:

- 1.) The Planning Commission has duly accepted the application filed consistent with the Newport Zoning Ordinance (No. 1308, as amended); and
- 2.) The Planning Commission has duly held a public hearing on the request for a design review and conditional use permit, with a public hearing a matter of record of the Planning Commission on April 26, 2021; and
- 3.) At the public hearing on said application, the Planning Commission received testimony and evidence, including testimony and evidence on behalf of the applicant, general public, and Community Development Department staff; and
- 4.) Upon request by a party to the proceeding, the Commission provided an open record period before concluding its deliberations on May 24, 2021; and
- 5.) At the conclusion of said deliberations, after consideration and discussion, the Planning Commission, upon a motion duly seconded, **APPROVED** the request for a design review and conditional use permit.

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 request 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/owner shall construct concrete textured crosswalks at the mid-block crossing of SW Elizabeth Street, opposite Don and Ann Davis Park, and at the intersection of SW Dolphin Street and W Olive Street, in a manner that is substantially similar to existing crosswalks at Cliff/Olive Streets and Coast/Olive Streets as depicted on the updated building plans and elevation drawings by Abbott Architecture, dated 5/17/21.
3. Applicant/owner shall incorporate stamped concrete as a specialty paving element into the building plans for the internal pathways, veranda, and porte-cochere as depicted on the updated building plans and elevation drawings by Abbott Architecture, dated 5/17/21.
4. Acorn style light poles shall be installed within public rights-of-way adjoining the subject property for safety and security purposes in locations deemed appropriate by the City Engineer.
5. Applicant/owner shall improve SW Dolphin Street in a manner that conforms with the City of Newport's street standards and is roughly proportional to the impact of the development on the City's transportation system. This may include minor modifications to the scope and nature of the frontage improvements depicted on Attachment "A-2." All required public improvements shall be completed prior to occupancy.
6. 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.
7. Applicant/owner shall install tsunami hazard wayfinding signage in a format and location approved by the City prior to occupancy. Further emergency evacuation information shall be posted in hotel common areas to alert employees and guests to the tsunami threat.

Accepted and approved this 24th day of May, 2021.

James Patrick, Chair
Newport Planning Commission

Attest:

Derrick I. Tokos, AICP
Community Development Director

EXHIBIT "A"

Case File No. 1-NB-21/2-CUP-21

FINDINGS OF FACT

1. This application for design review and conditional use permit approval within the Historic Nye Beach Design Review District involves a 25-guest room hotel with a café, bar, office and lobby space (identified as “The Whaler at Nye Beach”). Two (2) existing single-family dwellings will be removed. The new hotel will have a footprint of close to 10,000 square feet. It is designed as a three-story, multi-sectional structure with a below grade parking garage. The hotel will have a total finished floor area of 25,669 square feet. Mechanical equipment will be housed in the parking garage, which along with 29 parking spaces and a parking lobby encompass an additional 11,110 square feet. Three (3) at-grade ADA accessible parking spaces will be provided adjacent to the hotels main entrance, internal to the property.

2. Ric Rabourn, 5 Centerpointe Dr., Suite 590, Lake Oswego, OR 97035 (Hallmark Inns & Resorts (owner)) submitted an application on April 2, 2021. The application was deemed complete on the date that it was submitted.

3. The subject property is identified on Lincoln County Assessor’s Tax Map 11-11-08-BB, Tax Lots 15902 & 15903 (33 SW Elizabeth St; 39 SW Elizabeth St; and 41 SW Elizabeth St). The site is roughly 26,000 sq. ft. in size.

4. Staff reports the following facts:

- a) Plan Designation: Commercial
- b) Zone Designation: C-2/HNBO/"Tourist Commercial (Historic Nye Beach Design Review District (HNBO))".
- c) Surrounding Land Uses: Don and Ann Davis Park to the west, the Newport Performing Arts Center to the east, Whaler Motel to the south and Don and Ann Davis Park and Pacific Kitchen at Nye Beach (affiliated with Hallmark Inns) to the north.
- d) Existing Structures: Two-existing single-family residences operated as vacation rental dwellings.
- e) Utilities: All are available to the site.
- f) Development Constraints: Tsunami Hazards Overlay Zone.
- g) Past Land Use Actions: File No. 2-TEP-05, dated 3/24/05, at 39 SW Elizabeth Street. Authorized installation of retaining walls within the public road right-of-way.

5. Upon acceptance of the application, the Community Development (Planning) Department mailed notice of the proposed action on April 6, 2021, to affected property owners required to receive such notice by the Newport Municipal Code, and to various city departments, agencies, and public utilities. The notice referenced the criteria by which the application was to be assessed. The notice

required that written comments on the application be submitted by 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 April 16, 2021. As of April 20, 2021, one comment was received from Robin Beckwith who resides in a home southeast of the proposed development (Attachment "H"). The applicant also held a voluntary neighborhood meeting on April 22, 2021 to solicit feedback from individuals living and working in the surrounding area.

6. A Planning Staff Report on the application was prepared for the Planning Commission and was available to the public on April 22, 2021. The Planning Staff Report and attachments are hereby incorporated by reference into the findings. The Planning Staff Report attachments included the following:

Attachment "A" – Application Form
Attachment "A-1" – Applicant's Narrative
Attachment "A-2" – Building Plans and Elevation Drawings of the Proposed Addition *
Attachment "A-3" – Invitation to Neighborhood Meeting (Optional, Applicant Initiated)
Attachment "B" – Public Hearing Notice
Attachment "C" – Zoning Map of HNBO
Attachment "D" – Aerial Map of Property Showing Utilities
Attachment "E" – Aerial Map Showing Tsunami Hazard Overlay Zone
Attachment "F" – HNBO Design Review Guidelines and Standards
Attachment "G" – HNBO Design Review Glossary and Illustrations
Attachment "H" – Email from Robin Beckwith, dated 4/10/21

* Note: Reduced for copying purposes. Full size plans were available online at: <https://www.newportoregon.gov/dept/cdd/default.asp> or at the Community Development Department.

7. The Planning Commission received and reviewed written comment from the individuals listed below after the Planning Staff Report was prepared. Their testimony is hereby incorporated by reference into the findings:

- Email from Norm Ferber, dated 4/22/21
- Email and letter from Jan Kaplan, dated 4/26/21
- Email from Wendy Engler, dated 4/26/21
- Letter from Oregon Shores Conservation Coalition. Dated 4/26/21

8. At its April 26, 2021 meeting, the Planning Commission held a public hearing and took testimony on the application. Chair Patrick asked for declarations of ex-parte contact, bias, or conflict of interest. No challenges to the jurisdiction of the Commission were made. The minutes of the April 26, 2021 hearing are hereby incorporated by reference into the findings.

9. The following individuals testified in person during the course of the public hearing: Ric Rabourn, Hallmark Inns & Suites (applicant), Michael Abbott, Architect (applicant's representative), Wendy Engler, Jan Kaplan, Tim Emery, and Catherine Briggs. A summary of their testimony is included in the hearing minutes.

10. In their written testimony, the Oregon Shores Conservation Coalition requested the Planning Commission leave the record open to allow for the submission of additional evidence, argument, or testimony. When such requests are received the Planning Commission is obligated to continue the hearing for at least seven days pursuant to NMC 14.52.090(D) and ORS 197.763(6). After taking testimony, the Commission closed the public hearing and continued its deliberations to May 24, 2021. The Commission further provided that written testimony would be accepted for seven (7) days (i.e. until 5:00pm on May 3, 2021), followed by a seven (7) day rebuttal period where responses to the new testimony would be accepted, and an additional seven (7) days for applicant's final argument. No new testimony was received by the 5:00pm May 3, 2021 deadline. The applicant chose to use their final argument as an opportunity to address conditions recommended in the staff report. This consisted of the following information, which is incorporated by reference into the findings.

- Email from Michael Abbott summarizing the plan revisions, dated 5/17/21
- Updated building plans and elevation drawings by Abbott Architecture, dated 5/17/21

11. The applicant is seeking design review and conditional use permit approval to construct a 25-unit hotel with a common area, office, and food services. The project is identified as "The Whaler at Nye Beach." The property is situated immediately north of the existing Whaler Hotel. Two existing single-family residences, operated as vacation rentals, will be removed. The new hotel will have a footprint of close to 10,000 square feet. It is designed as a three-story, multi-sectional structure with a below grade parking garage. The hotel will have a total finished floor area of 25,669 square feet. Mechanical equipment will be housed in the parking garage, which along with 29 parking spaces and a parking lobby encompass an additional 11,110 square feet. Three (3) at-grade ADA accessible parking spaces will be provided adjacent to the hotels main entrance, internal to the property. Vehicle access is available from SW Dolphin Street with an initial driveway access to the parking garage and an at-grade driveway that connects with the existing Whaler Hotel parking lot.

Guestrooms face northwest and west, across Olive and Elizabeth Streets and Don and Ann Davis Park. New sidewalk will be constructed along the south side of Olive and east side of Elizabeth Street, with a new mid-block crosswalk to align with the pathway entrance to the Park. A crosswalk will also be constructed at the intersection of SW Dolphin Street and Olive. The perimeter of the property will be landscaped and a veranda for a main floor café is incorporated between the building and street, with connections to pedestrian paths. Upper floor units include decks. The main roof of the building sections is at a 6:12 pitch, broken up with dormers at a more gradual 3:12 pitch. The peak height of the building is 40-feet from finished grade. The building is composed of three sections. Its southern component is roughly 55-ft x 40-ft in size and is oriented in an east-west fashion. This portion of the hotel includes eight (8) guestrooms, a kitchen, and office space. The middle component of the hotel is approximately 45-ft x 72-ft in size, with a northwesterly to southeasterly orientation. This area includes the hotel lobby, living room, fireplace, with a second-floor library loft and two (2) large guestroom suites on the third floor. The northern component of the hotel is 90-ft x 40-ft in size, and is positioned in a northeasterly to southwesterly orientation. This portion of the hotel includes 15 guest rooms and a main floor bar. A site plan and architectural elevations illustrating the proposed improvements is enclosed as Attachment "A-2".

12. The proposed project requires design review and conditional use permit approval by the Planning Commission because the building exceeds 35-ft in height and 65-ft in length, which is the limit that can be approved ministerially by staff under the design standards (NMC 14.30.060(B)(1)). Since the Planning Commission is the designated approval body, a Type III review is required (NMC 14.52.030(B)). A Type III Conditional Use Permit is also required because the hotel is a commercial use that exceeds 2,000 square feet of gross floor area (NMC 14.30.090(A)(1)). To obtain design review approval the applicant must demonstrate that the proposed development is consistent with Design Guidelines No. 1 through No. 9 of the document entitled "Newport Design Review: Guidelines and Standards," effective July 29, 2015 and incorporated by reference by Newport Municipal Code (NMC) Section 14.30.030. Criteria for the conditional use permit are found in NMC Section 14.34.050.

CONCLUSIONS

1. With regard to guidelines established for the Historic Nye Beach Design Review Overlay District for approving the design review request, the Planning Commission makes the following conclusions:

A.) Design Guideline 1: Contextually-Appropriate Design

Intent: For residential development, the architectural heritage of the Nye Beach area - as documented in historical photos and drawings or by photographs presented in support of the development - shall be maintained.

Approaches:

- *New development should utilize roof types common to the district, such as steep pitched gable, multiple lower pitched gable, or hip.*
- *New development should include in the design common main facade elements (such as porches, verandas, sunrooms and/or other architectural/design features as identified in the design standards or as documented to exist within the design review district).*
- *Buildings shall feature variety in building shape, height, roof lines, setbacks, and design features consistent with the design guidelines.*
- *For multiple family development (greater than 2 units), trash collection areas shall be screened.*

Reference: Illustrations #2, #3, #4, #5, and #7.

- i.) This guideline applies to residential development, and is not applicable to the project.
- ii.) Considering the above, the Commission concludes that this guideline has been met.

B.) Design Guideline 2: Building Scale

Intent: Commercial building elements oriented towards a public or private street shall incorporate specific elements that contribute to the established scale of the district and support an active streetscape.

Approaches:

- *Commercial buildings (excluding portions of a hotel/motel where guest rooms are on the ground floor) shall support retail visibility and appropriate district scale by utilizing banks of windows with multiple small windows (less than 20 square feet) and/or large windows with multiple panes along all sides abutting a public right-of-way.*
- *The contextual scale of new large commercial buildings over two stories shall be reduced by using horizontal or vertical divisions and stepped roof lines.*
- *Buildings greater than one story in height shall be designed with canopies, balconies, offsets in the building facade along each public right-of-way, or other architectural/design features that reduce the building's vertical emphasis.*
- *Buildings greater than 2 stories, and/or longer than forty feet (40') shall include two or more of the following elements to break down the scale of the building:*
 - o A significant offset (3' minimum depth, 8' minimum width) in the full building massing (Illustration # 10).*
 - o A step-back (6' minimum) of floors above the second floor.*
 - o Subdivision into a series of distinct building masses, articulated as separate structures.*
 - o Multiple ground floor entries at 30' maximum spacing.*

Reference: *Illustrations #6, # 7 and #8.*

i.) The hotel building has a contextual scale by incorporation of horizontal and vertical divisions including multiple stepped roof lines. The overall building massing has been designed to break apart multiple forms along the elevations and plan. The strategy of breaking the building into three separate building forms with independent gable roofs achieves the massing breakdown necessary to establish scale with the district. The hotel building also utilizes canopies and balconies along the public right of way. The hotel building incorporates a public oriented central café veranda to further support an active streetscape along Elizabeth & Olive Streets. This central veranda has two pathways from the sidewalk and will encourage public use for café seating.

ii.) The applicant's architectural elevations illustrate how this design guideline has been satisfied (Sheets A201 – A205, Attachment "A-2"). Large multi-pane windows have been incorporated into ground floor elevations abutting public rights-of-way even though portions of the structure are exempt from that requirement because they include guestrooms on the ground floor. The applicant notes that they have reduced the contextual scale of the building by varying the roof line across three distinct segments of the structure and by incorporating into the design multiple, stepped roof lines. Balconies have been incorporated where the building faces public rights-of-way and the structure is subdivided into distinct building masses with significant off-sets to reduce massing.

iii.) Considering the above, the Commission concludes that this guideline has been met.

C.) Design Guideline 3: Roof Design

Intent: *Roofs should have similar configuration and character to historic styles in the district.*

Approaches:

- *Roof slopes on commercial projects shall be between 5:12 and 12:12 unless there is a flat roof with parapet.*
- *Mechanical equipment shall be screened and integrated into the roof design.*
- *Roof shapes shall be consistent with traditional styles found in the neighborhood.*
- *A standing seam is recommended for metal roofs.*
- *Gable and hip roof forms are recommended.*
- *Parapet walls shall be integrated into the building.*

Reference: Illustrations #2, #5, #6 and #7

i.) The hotel roof plan (Sheet A104, Attachment "A-2") shows the main roof as 6:12 in pitch with multiple dormer breaks. Some lower roofs are treated with roof parapets to help give the building a smaller massing effect. All mechanical equipment will be located in non-rooftop locations within the building forms. Roof configuration is that of a traditional gable with multiple dormers. The gable ends break into smaller forms and cross-gables to further reduce the scale of the roof. Parapet walls are integrated into the building and are strategically located to break up the massing of the overall building form.

ii.) As noted by the applicant, the 6:12 gable roof pitch is common in Nye Beach and within the slope range that is permitted. Mechanical equipment will be housed below the structure (Sheet A105, Attachment "A-2"). Further, parapet walls are integrated into the design as an accent.

iii.) Considering the above, the Commission concludes that this guideline has been met.

D.) Design Guideline 4: Commercial Buildings Define Continuous Street Edge

Intent: Support safe and “walkable” streets by creating a traditional town pattern of commercial buildings lining public streets. Create high visibility between commercial interiors and public ways.

Approaches:

- *In commercial areas, commercial buildings shall abut the front property line. Allowable exceptions to the requirement to abut the front property line include areas where the existing buildings adjacent to the property are set back from the property line, where a pedestrian oriented feature such as a courtyard, patio, landscaped area with seating or outdoor cafe seating is included, or where severe topography or an easement precludes the building abutting the front property line.*
- *Commercial buildings shall abut a side yard property line where possible except to allow access for parking or fire egress, the side abuts a zoning district which requires a side yard, or a setback is required for ocean front lots.*
- *Separation between building walls at the street level shall be avoided except for pedestrian and parking access, or a pedestrian oriented feature such as a courtyard, patio, landscaped area with seating or outdoor cafe seating is included.*
- *Front and side yard setbacks, where they exist, shall be fully landscaped or shall provide a pedestrian oriented feature as described previously.*

- *On commercial, institutional, public, and multiple family residential (with three or more units) buildings, a primary entrance to the building shall face the frontage street. Entries from off-street parking lots shall not be made more prominent than the entrance from the street.*
- *Trash collection areas shall be screened.*

i.) The hotel building abuts the front property line along Elizabeth & Olive Streets. The incorporation of a patio/veranda directly engages with the pedestrian sidewalk along the street edges. The hotel incorporates a central veranda that has direct pedestrian access from the sidewalks along both Elizabeth & Olive Streets. This central veranda will incorporate café seating and a firepit feature to enhance the community experience upon walking past and/or arrival. The hotel yard along the south elevation includes a new ‘accessible’ pedestrian walkway that connects the east side of the property to the street. The addition of a pedestrian crosswalk further connects to Don Davis Park across Elizabeth Street. The hotel yard along Dolphin Street has incorporated improved pedestrian access via a sidewalk. Portions of this yard are utilized for parking access to the sub-building garage and vehicle access to the hotel porte-cochere entry. All yards are fully landscaped including pedestrian lighting. Trash collections for the hotel building will be incorporated into the sub-building garage area out of view from the exterior.

ii.) This guideline requires commercial buildings abut front property lines. An exception is provided where a pedestrian oriented feature is incorporated between the front lot line and building. This includes courtyards, patios and outdoor café seating. The applicant has incorporated a patio/veranda with café seating between the building and front lot lines along SW Elizabeth and W Olive Streets in keeping with this requirement (Sheet A100, Attachment "A-2"). A corner of the building abuts SW Dolphin Street, which is also a front lot line. As noted by the applicant, where there is a separation between the existing Whaler Hotel and new development, a pedestrian walkway has been incorporated to enhance connectivity. Entrances to the hotel lobby face SW Dolphin Street and West Olive Street. Trash collection will be located in the sub-grade garage so that it is screened from view from public areas by the new building. The applicant’s site plan (Sheet A100) illustrates that the setback areas will be fully landscaped.

E.) Design Guideline 5: Consistency with Predominant Styles and Features

Intent: *Buildings shall generally be compatible in design and appearance with other buildings in close proximity by including similar types of architectural features and materials.*

Approaches:

- *Proposed buildings shall include design features that are consistent with the design standards and are similar in nature to buildings in direct proximity to the site.*
- *Where the surrounding buildings predominately do not include architectural features found in the design standards, the proposed building subject to design review shall include architectural features that are common to the district as identified in the design standards or by findings documenting similar architectural features found within the design review district.*

- *Where the surrounding buildings predominately do not include architectural features found in the design standards or in the design review district, innovation and creativity in design may be allowed consistent with the design guidelines.*
- *In keeping with traditional styles, where a transition is made in the building's siding material, the transition should occur at an inside corner, rather than an outside corner.*

Reference: Illustrations # 7, #8, and #11

i.) The hotel building utilizes traditional building forms such as gable roofs, cross gable features and multiple dormers. The hotel building features the traditional design strategy of 'base, middle and top' along the elevations. Along the street edge a building 'base' is in the form of a solid stone wall supporting the patio/veranda and central café veranda. The building 'middle' is made up of the first-floor walls that separates from the upper hotel floors by use of a siding material and color break along with traditional trim feature at floor level. The building 'top' 2 floors is then made up of traditional shake siding which further breaks the building into smaller forms found within the design district. See exterior elevations on Sheet A205. The primary building materials used are those found around the district including: Stone, Cedar horizontal plank siding (clear) and cedar shake (charcoal grey). The roof will be an architectural comp roof in black oak. See finish samples on Sheet A205. The hotel window fenestration is composed of traditional vertical and square oriented windows. Larger windows along the middle public spaces of the hotel have been broken down by mullions to also fit with the scale of the district. Windows and doors will be traditionally trimmed in wide casement to also fit within the traditional detailing of northwest coastal architecture. The hotel will also feature timber trellising at entryways and above the central café veranda. The timber will be stained with a tint similar to local buildings. See exterior elevation sheets A201 – A205 for graphic representation of all of the above strategies.

ii.) The applicant's narrative, site plan (Sheet A100, Attachment "A-2") and architectural elevation Sheets A201 – A205 illustrate that the new hotel building has been designed in a manner that incorporates architectural features common to the district as required by this guideline.

iii.) Considering the above, the Commission concludes that this guideline has been met.

F.) Design Guideline 6: Parking Orientation and Building Form

Intent: *For commercial and multiple family residential (greater than 2 dwelling units) projects, the building massing shall not be shaped by off-street parking. Building massing should generally take traditional forms that are observed in the district, the historical record of Nye Beach, or that can be demonstrated to be consistent with the dominant architectural styles of the district.*

Approaches:

On-site parking shall be at the rear or side of the building or below street grade underneath the building with access via alleys or interior streets unless, based on review of the project, the review authority determines that topography such as steep slopes precludes side or rear

parking. Parking garages shall utilize similar architectural details as the main building. Shared parking facilities are allowed and are encouraged. Views of parking areas from adjacent residential and commercial uses shall be screened through the use of landscaping and/or fencing. Pedestrian paths shall be clearly defined. Textured pavings are preferred over painted stripes for defining walkways.

Reference: *Illustrations #6 and #9.*

i.) The hotel building primary orientation is towards the street frontages of Elizabeth and Olive Streets. The hotel incorporates a central café veranda that engages with pedestrian sidewalks along both streets. The street side of the hotel will have this entrance as secondary to guest to hotel but primary to a passing pedestrian. The primary hotel guest entry will be along the porte-cochere side of the building for a more traditional hotel guest experience. The porte-cochere entry is directly engaged with the public street side by use of direct site lines through the interior lobby of the hotel. This will further enhance the hotel guest experience by direct building engagement to the public street and Nye Beach beyond. The hotel incorporates a sub-building garage which eliminates the impact of onsite surface parking. This strategy benefits the hotel guests and keeps the pedestrian oriented feel of this property from views from the Nye Beach district. See ‘Architectural Site Plan’ on Sheet A100 for locations of above.

ii.) Off-street parking is provided in a below grade garage except as required to conform with ADA requirements, and landscaping is proposed such that the entrance to the parking garage will be screened from view (particularly as the landscaping matures). Textured pavings are preferred over painted stripes for defining walkways. The crosswalks at Cliff /Olive Streets and Coast/Olive Streets are an example of the textured walkways used in the district. The applicant’s amended Architectural Plans identify that they are prepared to install textured crosswalks to align with these examples and the Commission agrees that such a change is conforms with the guidelines.

iii.) Considering the above, the Commission concludes that this guideline has been met.

G.) *Design Guideline 7: Connected Pedestrian Network*

Intent: *Maintain and reinforce the walking environment of Nye Beach with a network of public sidewalks and private paths.*

Approaches:

- *For commercial projects, provide pedestrian paths to create linkages between adjoining public and private spaces.*
- *Circulation routes shall be continuous and integrated into the larger pedestrian circulation network.*
- *Specialty paving is encouraged.*

Reference: *Illustrations #6 and #9.*

i.) This hotel project will reinforce the pedestrian network by adding new public sidewalks along the street edges of Elizabeth and Olive Streets. The development will also be adding two new public crosswalks from the sidewalks to create a new connection to Nye Beach district and Don Davis park. Further pedestrian enhancement will be extension of the sidewalk to the performing arts center at the East side of the property. Pedestrians will also be able to engage the public street of the hotel by the addition of an accessible pathway along the South edge of the building. New sidewalks on both sides of Dolphin street will give further access around all sides of the new hotel building. Pedestrian pathways have been incorporated along all sides of the hotel building to create a safe human scale feel to the site. See 'Architectural Site Plan' on Sheet A100 for locations of above.

ii.) The applicant's site plan (Sheet A100, Attachment "A-2") illustrates how integrated pedestrian pathways will be constructed in both the public and private space. Like the previous guideline, use of specialty paving is encouraged, and the applicant's updated building plans and elevation drawings illustrate that the veranda, walkways and porte-cochere will be treated with stamped concrete pavers. The Commission concurs that this type of treatment is consistent with the guideline. New public sidewalk along W Olive, SW Elizabeth, and SW Dolphin Streets will be concrete, consistent with the City's sidewalk standards (WHPacific Sheet, Attachment "A-2").

iii.) Considering the above, the Commission concludes that this guideline has been met.

H.) *Design Guideline 8: Exterior Lighting and Glare Avoidance*

Intent: Provide a well-lit public environment, while minimizing the incidence of glare.

Approaches:

- *Exterior permanent lighting for commercial projects shall be restrained by using lighting features that minimize the impact of lighting such as full-cut off fixtures, low wattage bulbs, and/or recessed or shielded lighting, such that no direct glare occurs onto public right-of-way or adjacent property.*
- *Where building-mounted lighting – wall sconces, awning-mounted downlights, etc. - is used to illuminate an adjacent public sidewalk, the lighting source itself should be recessed or screened to avoid uplight and glare. Targeted uplighting may be used to draw attention to a specific design element provided it is directed at that feature.*
- *Areas used extensively at night shall only be illuminated to the extent necessary for safety and security.*
- *On-site lighting shall be related to the site and retained on the site by directing the light downward, recessing the light, and/or shielding the light. Lighting fixtures shall complement the architectural character of the building.*
- *If landscape lighting is used, the landscape lighting shall be restrained by using lighting techniques (i.e. recessing the light, shielding the light, using low wattage bulbs) that minimize the impact of light.*
- *The use of light poles similar in appearance to the light poles installed as part of the Nye Beach Streetscape Project is acceptable for parking lot lighting and other lighting for which a light pole is used.*

i.) The hotel site lighting design considers a well-lit, warm and welcoming feel. The hotel site lighting fixtures have been carefully selected as no-glare and/or dark-sky compliant. See drawing Sheet L200 for lighting locations and types.

ii.) Building mounted and accent lighting options shown on Sheet L200, Attachment "A-2" are shielded and/or recessed consistent with the guideline requirements and are oriented such that they will not direct glare onto public rights-of-way or adjacent property. No light poles are proposed; however, a pole(s) may be needed for safety purposes, particularly at the intersection of SW Dolphin and Olive Streets. The guideline calls for light poles to match the Nye Beach Streetscape Project, which in this case would be acorn style lighting, the nearest example of which is at Cliff and Olive Streets. The applicant has added a detail to their plan set for this type of lighting, and the Commission agrees that such lighting should be installed where needed for safety purposes.

iii.) Considering the above, the Commission concludes that this guideline has been met.

I.) *Design Guideline 9: Requirements for solar access*

Intent: Ensure new development projects do not excessively shade neighboring properties.

Approaches:

- *Commercial and multi-family buildings shall be massed to avoid casting a direct shadow onto the public sidewalk across a bordering street.*
- *The third story on a commercial or multi-family building shall be stepped back to minimize shadowing of adjoining properties.*
- *Solar impacts shall be assessed for the following times*
 - o *Time of year: between February 21 and October 21*
 - o *Time of day: between 10:00 am and 2:00 pm*
- *Projects of greater than 2 stories shall submit a simple solar shading sketch that shows conformance with this standard.*

Reference: Illustration #12.

i.) The hotel building sits by itself across from neighboring Nye Beach properties and buildings. Mid-day shade on neighboring buildings does not exist. The hotel building will only shade public sidewalks to the West and North along Elizabeth and Olive Streets at mid-day during fall to spring. See the attached graphic analysis of building shading at public sidewalks during Summer Solstice, Spring and Fall Equinox at the Noon hour (3 graphic pages attached).

ii.) The three graphics referenced by the applicant are included in the last three pages of their narrative (Attachment "A-1"). They demonstrate that the shadow patterns attributed to the three-story hotel building will not extend so far that they would shadow walkways on the far side of a bordering street nor will they impact neighboring properties.

iii.) Considering the above, the Commission concludes that this guideline has been met.

2. With regard to the criteria for approving a Conditional Use Permit, the Planning Commission makes the following conclusions:

A.) NMC 14.35.050(A), Criteria for Approval of a Conditional Use Permit, the public facilities can adequately accommodate the proposed use.

i.) Public facilities include city water sewer and street services. City water service is available via 8-inch lines located within W Olive Street, a portion of SW Elizabeth Street, and SW Dolphin Street. A fire hydrant is in place at the east corner of the intersection of W Olive and SW Dolphin Street, proximate to the development site. Wastewater service is available via 8-inch gravity mains along SW Elizabeth Street, W Olive Street, and SW Dolphin Street, although the main in SW Dolphin Street would need to be extended north for it to be a viable option. A structured storm drainage system is in place along W Olive Street and SW Elizabeth Streets. The location of the utilities is depicted on an aerial map of the project site (Attachment "D").

ii.) Street access is available to the property by way of an extension of underdeveloped SW Dolphins Street and the applicant's site plan shows how that could be accomplished (Sheet A100, Attachment "A-2"). The applicant's development generates sufficient traffic that there may be justification in requiring they contribute toward the construction of SW Dolphin as a through street. The city owns much of the property on the east side of the undeveloped street, and a proportional, joint funding agreement would need to be worked out for the connection to become a reality. Terrain constraints are another consideration. The applicant/owner and City are in discussions regarding what a through street design would look like and how to equitably pay for its construction. That issue need not be resolved with this permit. The bar for conditional use approval is that public facilities can adequately accommodate the proposed use. With respect to water, sewer, and stormwater services, there are ample connection points to serve the development. For streets, the SW Dolphin Street right-of-way is available to meet the developments needs and it can be improved to adequately accommodate the proposed use. The developer is responsible for improving the street in a manner that is roughly proportional to the impact of the project and a condition of approval to that effect has been incorporated into the decision.

iii.) Considering the above, the Commission concludes that this standard has been met.

B.) NMC 14.35.050(B), the request complies with the requirements of the underlying zone or overlay zone.

i.) The underlying zone that the subject property is located in is a C-2/"Tourist Commercial" District. Overlay zones that apply to the property include the Historic Nye Beach Design Review District (HNBO) and the Tsunami Hazards Overlay Zone (Attachments "C" and "E"). Compliance with HNBO requirements is addressed with the design guideline analysis above.

ii.) The C-2 district has a zero-lot line setback, with a lot coverage allowance of up to 85% of the parcel size. The minimum parcel size is 5,000 square feet (3,000 sq. ft. in the HNBO), the maximum building height is 50-feet, and the density limit for hotels/motels is 750 square

feet of land area per unit. These density and dimensional standards are listed in Table "A," NMC 14.11.010 and NMC 14.13.010. A requirement of 50 sq. ft. of patio space per hotel unit is met with the proposed veranda (NMC 14.11.020). The applicant's site plan and architectural elevations illustrate how these standards are being satisfied (Attachment "A-2").

iii.) Off-street parking standards for hotel/motel units is one space per unit, plus a space for the manager, meaning 26 spaces are required (NMC 14.14.030(25)). Two of the spaces must be ADA compliant, with one being van accessible with an access isle (NMC 14.14.050). The HNBO allows new development to claim an on-street parking credit that reduces the number of required off-street parking spaces by one space for every on-street space abutting the property, with some limitations (NMC 14.30.100(A)(6)). The applicant is not pursuing an on-street parking credit, even though a credit could be an option along SW Elizabeth Street. The applicant's revised plans show 27 off-street spaces in a below grade garage. Three additional ADA spaces are shown outside the building, near the entrance to the lobby. As drawn, the applicant is showing exactly 40% of the total spaces as compact, which is the maximum percentage that the City will allow (NMC 14.14.060). Given the above, the Commission has sufficient evidence before it to conclude that it is feasible the applicant can meet the parking standards.

iv.) A total of 10% of the lot area is required to be landscaped with an emphasis on it being placed along a street or other property frontage. The applicant's landscaping plan (Sheet L100, Attachment "A-2") illustrates how this standard is being met.

v.) The Tsunami Hazard Overlay Zone requires commercial development provide all weather pedestrian access from the buildings to adjacent public rights-of-way, and the applicant's site plan illustrates how pedestrian linkages, both external and internal to the property, will be enhanced with this development (Sheet A100, Attachment "A-2"). Developments must also provide wayfinding signage in a format and location approved by the City and they must place emergency evacuation information in common areas to alert employees and guests to the tsunami threat. The applicant, with their resubmittal, has expressed a willingness to address these requirements and it is appropriate that conditions of approval be imposed to ensure that they are implemented.

vi.) Considering the above, the Commission concludes that this standard has been met.

C.) NMC 14.35.050(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. For the purpose of this criterion, "adverse impact" is the potential adverse physical impact of a proposed Conditional Use including, but not limited to, traffic beyond the carrying capacity of the street, unreasonable noise, dust, or loss of air quality.

i.) There are a number of hotels in the vicinity of the subject site, including the existing Whaler Hotel, the Elizabeth Street Inn, and Shilo Inns. It is reasonable to rely upon the presence of such uses to conclude that the proposed hotel will not have adverse impacts greater than existing uses in the area relative to noise, dust, air quality, etc. SW Elizabeth and W Olive Streets are collector roadways designed to handle large volumes of vehicle traffic, and the applicant site plan (Sheet A100, Attachment "A-2") illustrates how they will

be improving pedestrian mobility as a result of the project. SW Dolphin Street will need to be improved by the applicant to accommodate the planned development and the applicant's plans serve as evidence that they are prepared to make a substantial investment in the roadway. Further, as previously noted, a condition requiring the applicant/owner improve the street commensurate to the impact of the project will ensure that this standard is met.

vi.) Considering the above, the Commission concludes that this standard has been met.

D.) NMC 14.35.050(D), a proposed building or building modification is consistent with the overall development character of the area with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.

i.) In evaluating the application for compliance with this standard, the Planning Commission considered existing and potential development that can occur in Nye Beach. This parcel is situated at the far southwest corner of the HNBO, bordered by the existing Whaler Hotel to the south, which is just outside of the overlay, and the Newport Performing Arts Center to the east, which is inside the HNBO but was constructed in the late 1980's before the overlay was established. The Performing Arts Center is larger than the proposed development with an average peak height in excess of 46-ft. The existing Whaler Hotel, which is three stories in height, is roughly 35-ft in height and is narrower and more linear than the proposed development.

ii.) The palette of exterior construction materials is depicted on Sheet A 204, Attachment "A-2" is consistent with what is found on other commercial properties in the district, including the Inn at Nye Beach, which was the last project approved using the design guidelines. That project has a peak height of 47 feet, 3 inches and is more linear than the proposed development, in part because the design guidelines were updated to require that large buildings be segmented. Other comparable commercial development in the district with respect to size and height include the Sylvia Beach Hotel (also three stories facing the street), the Archway Place mixed use development at 42.25-ft in height, and the three-story commercial property at 107 SW Coast at 39-ft in height.

iii.) Considering the above, the Commission concludes that the proposed building at 40-ft in height, with three distinct building segments that break up its visible mass, is consistent with the overall development character of the area with regard to building size and height.

OVERALL CONCLUSION

Based on the staff report, the application material, and other evidence and testimony in the record, the Planning Commission concludes that the request complies with the design guidelines established for HNBO design review and conditional use permit approval. The request is; therefore, **APPROVED** subject to 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/owner shall construct concrete textured crosswalks at the mid-block crossing of SW Elizabeth Street, opposite Don and Ann Davis Park, and at the intersection of SW Dolphin Street and W Olive Street, in a manner that is substantially similar to existing crosswalks at Cliff/Olive Streets and Coast/Olive Streets as depicted on the updated building plans and elevation drawings by Abbott Architecture, dated 5/17/21.
3. Applicant/owner shall incorporate stamped concrete as a specialty paving element into the building plans for the internal pathways, veranda, and porte-cochere as depicted on the updated building plans and elevation drawings by Abbott Architecture, dated 5/17/21.
4. Acorn style light poles shall be installed within public rights-of-way adjoining the subject property for safety and security purposes in locations deemed appropriate by the City Engineer.
5. Applicant/owner shall improve SW Dolphin Street in a manner that conforms with the City of Newport's street standards and is roughly proportional to the impact of the development on the City's transportation system. This may include minor modifications to the scope and nature of the frontage improvements depicted on Attachment "A-2." All required public improvements shall be completed prior to occupancy.
6. 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.
7. Applicant/owner shall install tsunami hazard wayfinding signage in a format and location approved by the City prior to occupancy. Further emergency evacuation information shall be posted in hotel common areas to alert employees and guests to the tsunami threat.