



## **PLANNING COMMISSION WORK SESSION AGENDA**

**Monday, May 24, 2021 - 6:00 PM**

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

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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](mailto:publiccomment@newportoregon.gov), and request the Zoom meeting information.

Anyone wishing to provide written public comment should send the comment to [publiccomment@newportoregon.gov](mailto: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.

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### **1. CALL TO ORDER**

*Jim Patrick, Bill Branigan, Lee Hardy, Bob Berman, Jim Hanselman, Gary East, Braulio Escobar, Dustin Capri, and Greg Sutton.*

### **2. UNFINISHED BUSINESS**

#### **2.A Status Update SB / US 101 Corridor Refinement Plan.**

[Memo - SB - US 101 Corridor Refinement Plan Update.pdf](#)

[Draft Opportunity and Constraints Report 5.17.21.pdf](#)  
[Project Schedule.pdf](#)

**2.B Review DLCD/City Evaluation of Beach Access Points Prioritized for Resiliency Retrofit.**

[Memo - Beach Access Resiliency.pdf](#)  
[2021-05-14\\_Newport Beach Access Resilience Plan\\_DRAFT.PDF](#)

**2.C Review of Draft Code Amendments Related to Food Trucks & Carts.**

[Memo - Draft Food Truck and Food Cart Amendments.pdf](#)  
[NMC Chapter 4.10 Amendments - Vending on Public Property.pdf](#)  
[NMC Chapter 14 Amendments.pdf](#)  
[Relevant Provisions of OAR Chapter 333, Divisions 150 and 162.pdf](#)  
[Mobile Vending Regulatory Concepts 04-12-21.pdf](#)  
[Prior City Ordinances and Resolutions Related to Food Carts and Food Trucks.pdf](#)  
[Planning Commission Work Session Minutes.pdf](#)  
[Beaverton and Corvallis Sample Codes.pdf](#)  
[Public Comment from Prior Work Sessions.pdf](#)  
[Janet Webster Email.pdf](#)

**3. ADJOURNMENT**

# Memorandum

To: Planning Commission/Commission Advisory Committee  
From: Derrick I. Tokos, AICP, Community Development Director   
Date: May 21, 2021  
Re: Update on South Beach / US 101 Commercial-Industrial Corridor Refinement Plan

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This is an informational update on the progress of the refinement planning effort that will inform the final phase of project work in the South Beach Urban Renewal Plan before it closes to new projects at the end of 2025. The work includes an assessment of infrastructure projects that can be reasonably completed within the remaining life of the district, land acquisition opportunities, and land use changes that may be needed to complement Agency investments. Additionally, this planning process will evaluate redevelopment opportunities for the 2.3-acre Agency owned property at the northeast corner of 35<sup>th</sup> and US 101 so that it can be positioned for resale once the current intersection and highway improvements are completed.

The consultants have completed an initial round of stakeholder engagement, a draft opportunity and constraints report (enclosed), and are developing a set of online survey questions for a public survey that will launch towards the end of June. A Spanish language video-conference discussion session will be held as well.

Staff will meet with the consultants on May 24<sup>th</sup> to provide feedback on the draft opportunities and constraints report before it is presented to the Newport Urban Renewal Agency at its June 21, 2021 meeting. There are placeholders in the report for wastewater management options at the airport. That information will be plugged into the document prior to the Agency's June 21<sup>st</sup> meeting.

A project schedule is enclosed. The code audit component of the project will begin in mid-June, and the Planning Commission will have a role in shaping those outcomes. The entire project is slated to wrap up in November. As this is an informational update, no action is being requested of the Commission; however, any comments you would like to provide are certainly welcome.

#### Attachments

Draft Opportunities and Constraints Report, dated 5/17/21  
Project Schedule



# Newport South Beach

## Opportunities and Constraints Assessment

May 2021

Prepared for: Newport Urban Renewal Agency

**Draft** Report

**ECON**orthwest  
ECONOMICS • FINANCE • PLANNING



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# 1. Purpose & Background

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Nestled on the south side of the Yaquina Bay Bridge, Newport's South Beach provides a distinct mix of regional institutions, recreational facilities, neighborhoods, and retail businesses. The area has come a long way since 1983, when the City of Newport established an urban renewal district in the area to address the area's lack of transportation connections, urban infrastructure, and public amenities. Since then, the Agency has helped to complete the area's transportation network, fund the creation of a wastewater treatment plant, spur the development of the popular Oregon Coast Aquarium, and as of 2021, is in the process of making improvements to US 101 that will reconfigure key intersections to ease congestion. In addition to the Aquarium, the area features a mix of institutions, including the Hatfield Marine Science Center, OMSI's Camp Gray, Oregon Coast Community College, Newport Municipal Airport, and the Port of Newport's South Beach Marina and RV Park.

However, while the Agency has made progress in solidifying the area as a functional district within the city, several constraints remain:

- While Highway 101 runs through the area as the key transportation spine, South Beach's most charming attractions are hidden from view.
- South Beach's many bike paths provide an alternative to car transport, but the network feels patchy in places.
- Residents, visitors, and employees in the area point to a lack of retail services in the area, requiring them to cross the Yaquina Bay Bridge for any good or service they might need.
- Traffic congestion remains a concern, especially at 40<sup>th</sup> Street, which is poised to see growth as the Wilder residential area builds out.
- At the southern end of the district, a lack of sewer infrastructure limits development opportunities on industrial and commercial properties near the Newport Municipal Airport.

The Agency is at an inflection point: it has between \$5 million and \$9 million left of funding capacity that it must spend before 2025. Its goal is to do so in the most effective way possible that provides the greatest benefit to area residents, visitors, and employees while also helping to remove development barriers on the remaining underutilized parcels in the area.

The purpose of this report is to serve as a background document that organizes key issues within South Beach alongside ideas for how to address the area's constraints. The document also provides a decision-making framework that helps to prioritize limited remaining urban renewal funding from 2022 to 2025. This document is the first step in a larger process that will ultimately recommend a prioritized list of projects for Agency investments, based on stakeholder feedback and technical analysis.

## Values/Guiding Principles

The objectives<sup>1</sup> of the South Beach Urban Renewal Plan (1983) are to:

- Preserve forest, water, wildlife and other natural resources
- Identify sites for public uses such as the OSU Marine Science Center
- Complete a Port facilitated marine recreation area
- Encouraging marine oriented activities on the northern Shorelands
- Assure the development of complementary uses adjacent to the Airport
- Plan new sewer, water, and transportation capacity
- Allocate a major part of South Beach to heavy commercial and light industrial uses

The Plan was created to reduce or eliminate blighted conditions in the district, including:

Sub-standard street improvements, rights of way and traffic signalization and management

Incomplete pedestrian/bicycle circulation systems and Tsunami evacuation routes

Inadequate water storage capacity and distribution lines

Under sized or absent sanitary sewer collection service lines

Incomplete winter storm water management systems

Inadequate neighborhood recreation facilities and open space

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<sup>1</sup> Substantial Amendment Five to the South Beach Urban Renewal Plan 5 The Benkendorf Associates Corp September 2008

The following guiding principles establish a framework for how the Agency will prioritize project investments in the remaining life of the urban renewal area. They are based on conversations to date with stakeholders, the Staff Technical Advisory Committee (composed of key public works, planning, and management staff), and the Agency, and also reflect broader City priorities as part of the Newport Vision 2040.

- Promote a sense of place for local residents and visitors that reflects the South Beach identity
- Improve multi-modal connectivity to South Beach destinations.
- Attract new development that can meet the service and retail needs of South Beach residents
- Invest in overcoming market and development barriers on underutilized sites
- Reduce infrastructure barriers to enabling job creation on industrial lands near the airport
- Invest in improvements that promote long-term community resiliency

“In 2040, the Greater Newport Area is an enterprising, livable community that feels like home to residents and visitors alike. We have carefully planned for growth with well-maintained infrastructure, affordable housing for all income levels, robust public transportation, diverse shopping opportunities, and distinct, walkable districts and neighborhoods.”

Source: Newport Vision 2040  
[https://www.newportoregon.gov/dept/cdd/documents/Vision2040/Vision2040\\_Brochure.pdf](https://www.newportoregon.gov/dept/cdd/documents/Vision2040/Vision2040_Brochure.pdf)

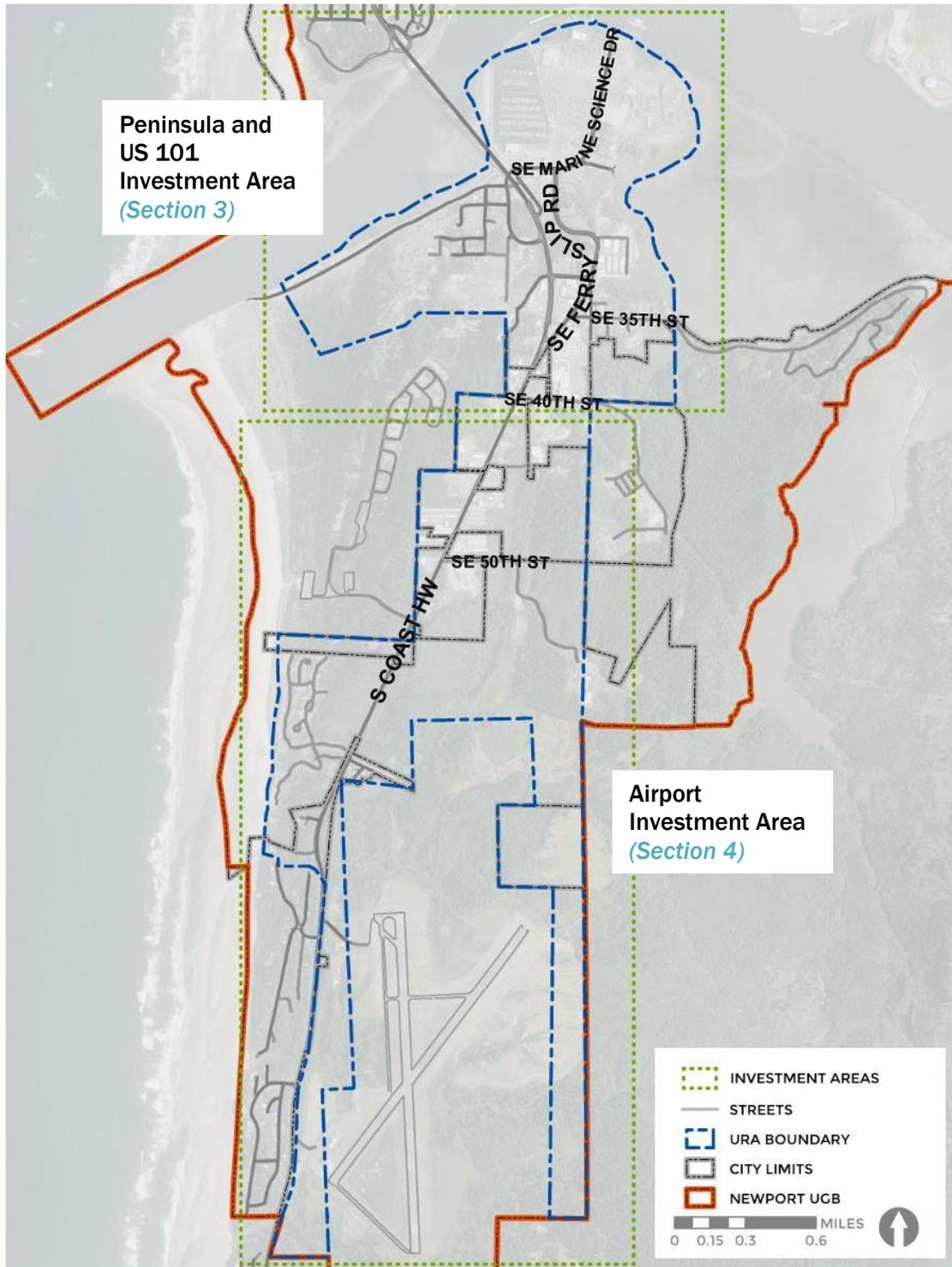
## Investment Areas

South Beach features two interconnected but distinct geographies which have different investment needs. In this report, we have divided the district into two investment areas:

- The Peninsula / US 101 Investment Area is home to the area’s major institutions, attracts visitors from around the United States and Beyond, and also is home to the area’s retail establishments and hotels.
- The Airport Investment area includes the Municipal Airport, but it also publicly and privately owned land that is zoned for industrial development.

Exhibit 1 provides an overview of the two investment areas.

Exhibit 1. Investment Areas



NEWPORT SOUTH BEACH / US 101 REFINEMENT PLAN



## Approach and Methods

We used multiple methods to understand the current opportunities and constraints for revitalization and development in South Beach:

- **Market Analysis:** To understand who South Beach serves, we conducted market research using data gathered from ESRI Business Analyst, U.S. Census OnTheMap, CoStar, and South Beach State Park. Due to the size and location of South Beach, it is challenging to obtain data that accurately reflects current market conditions in the area, so we relied heavily on stakeholder outreach to fill in the gaps.
- **Plan Review:** We also researched local plans to ensure that our work was informed by, and coordinated with, these local plans which included the TGM Refinement Plan and the Sewer Master Plan among others.
- **Stakeholder Outreach:** We conducted interviews with a variety of stakeholders in Spring 2021. The interviewees represent local business and property owners, real estate brokers and developers, community members, and economic development professionals. These interviews helped us understand current market conditions in South Beach as well as community priorities and key opportunities and constraints for development and associated investments.

ECONorthwest and SERA Architects interviewed the following individuals and committees in April 2021. Additional interviews will take place with other stakeholders starting in June 2021.

### Exhibit 2. Stakeholder Interview List

Interviewee	Affiliation
Alan Wells	Commercial Real Estate Broker
Bret Fox	Developer
Bob Cowen	Hatfield Marine Science Center
Paula Miranda	Port of Newport
Ann Armstrong	OMSI's Camp Gray/Yaquina Bay Economic Foundation
Bonnie Serkin	Developer
Jeff Bertuleit	Bertuleit Donald J Trustee
Carrie Lewis	Oregon Coast Aquarium
Mark Watkins	Property Owner
Committees	Airport Committee Public Arts Committee

## 2. Who Does South Beach Serve?

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This section summarizes key demographic, economic, and visitor trends in South Beach. It identifies sources of demand for future commercial development along the US 101 and serves as a basis for identifying which investments the urban renewal agency should make with its remaining funding capacity. It provides an overview of the current development conditions rather than an in-depth market analysis for the area.

This section relies primarily on data from ESRI Business Analyst as well as South Beach State Park visitor data, and U.S. Census On the Map data.

South Beach is home to a variety of landmarks and institutions with a diverse employment base. There are also a variety of residential neighborhoods in the area, including RV parks with a high rate of turnover and a population that peaks in the summer months. In addition, the area serves thousands of visitors each year at the Aquarium and its ancillary uses, the Hatfield Center for Marine Science, South Beach State Park, and water-serving uses at the marina, boat launch, and fishing pier.

### Residents

**South Beach is home to a relatively small share of Newport’s overall permanent population, but many residents may not be captured in official data.<sup>2</sup>**

In 2020, the estimated population in South Beach was 961, and is projected to grow by 7% to 1,031 people in 2025.<sup>3</sup> Newport overall has a population of 10,396, which is projected to grow by 4% to 10,803 over the same 5-year period. The full population base of South Beach may not be captured in official population estimates, because many residents are temporary, with a permanent address elsewhere.

- South Beach’s population is generally older than Newport’s population, with a median age of 55 and compared to Newport’s 45.
- The average household size in South Beach is smaller (2.04) than Newport (2.27). There are about 470 households in South Beach and 4,431 in Newport overall.

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<sup>2</sup> Those that live in transitory locations, such as RV parks and campgrounds, are not captured in the data. However, the Census Bureau has increased their efforts to include this population, and the 2020 Census should provide a more accurate picture of this population.

<sup>3</sup> ESRI population data and projections based on US Census data for South Beach (Census Block Group 9512.002) and Newport (Place)

- Households in South Beach have a higher median income than Newport overall (\$80,093 vs. \$50,062). Nearly 17% of South Beach’s population makes less than \$25,000, while about 36% make over \$100,000.

## Marine Hatfield Science Center

**The Marine Hatfield Science Center is expanding its on-site housing which will increase the number of residents that rely on alternative transportation options.**

The Marine Hatfield Science Center, which currently has on-site housing for up to 100 students, instructors and researchers is expanding its housing to accommodate an additional 300. As noted in stakeholder interviews, greater than half the student population lack cars and are reliant on carpools, public transit, and biking/walking. These students currently must cross the bridge to access many services, including groceries and restaurants, which requires planning and coordination. Stakeholders indicated that to ensure student safety it is important to provide services that students can access via multimodal methods, including places where students can walk or bike that are nearby and well lit.

## Wilder

**Wilder is a growing community in South Beach that is attracting a younger, workforce-oriented population including families with children.**

Wilder is a new neighborhood in South Beach that currently has forty houses as well as twenty-eight apartments and a commercial building. This neighborhood is designed to be a sustainable, walkable neighborhood that is developed in phases, with each phase being developed as the need for new housing grows. Twenty-six new houses are expected to be built in Wilder this year. However, it will likely be decades for full buildout. Wilder is attracting a wide demographic to South Beach, including younger, workforce-oriented couples and families with children. While outside of the Urban Renewal Boundary, residents of Wilder will contribute to and benefit from South Beach services.

## Workers

**South Beach has a diverse employment base.** Key employers in the area include:

- **Hatfield Marine Science Center (HMSC)** is Oregon State University’s coastal campus and functions as an oceanographic research base for six state and federal agencies. According to stakeholder interviews, the center employs between 400-450 people although there are plans in place to expand the center which would increase the number of employees.
- **National Oceanic and Atmospheric Administration (NOAA)** is a U.S. government agency that studies the conditions of oceans, the atmosphere, and major waterways. Four primary NOAA-based research centers are located on the HMSC campus.

According to stakeholder interviews there are approximately 100 scientists and staff working at these centers with an additional 75 on NOAA ships.

- **Rogue Brewery** has its world headquarters in Newport which includes a two-story brewpub, a distillery, barrel works and a tasting room. According to stakeholders, the brewery has an interest in expanding.
- **The Newport Aquarium** is a top tourist attraction and educational resource for the state committed to promoting ocean literacy, conservation, and animal rehabilitation. According to Carrie Lewis, Oregon Coast Aquarium president and CEO, the aquarium typically employs around 100 people, with closer to 130 in the summer months. As of Spring 2021, the aquarium employed around 50 people, but numbers are expected to return to normal in the future.

As of 2018, the US Census reported about 773 employees in the South Beach area. The top industry in South Beach is Educational Services, which makes up 19% of total jobs, mainly at the Hatfield Center for Marine Science. Arts, Entertainment, and Recreation is the second largest industry followed by Manufacturing, Public Administration and Accommodation and Food Services.

**Exhibit 3. South Beach Employment by Industry, 2018**

Source. United States Census On the Map, Census Block 9512.002

Sector/Industry	Jobs	% of Total Jobs
Educational Services	146	19%
Arts, Entertainment, and Recreation	98	13%
Manufacturing	94	12%
Public Administration	88	11%
Accommodation and Food Services	85	11%
Retail Trade	58	8%
Other Services (excluding Public Administration)	50	6%
Professional, Scientific, and Technical Services	44	6%
Wholesale Trade	27	3%
Real Estate and Rental and Leasing	22	3%
Construction	21	3%
Transportation and Warehousing	14	2%
Admin, Support, Waste Management and Remediation	14	2%
Health Care and Social Assistance	10	1%
Information	1	0.1%
Agriculture, Forestry, Fishing and Hunting	1	0.1%
<b>Total</b>	<b>773</b>	<b>100%</b>

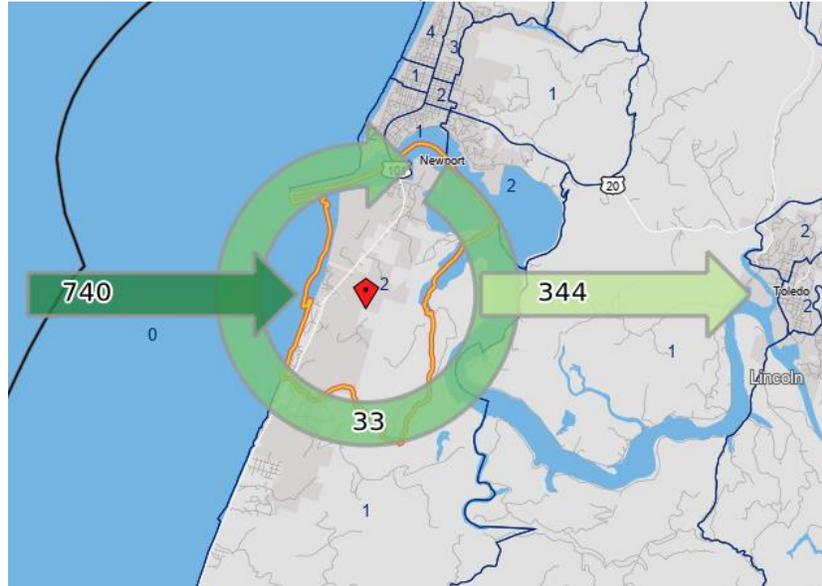
**South Beach imports workers who may benefit from additional services proximate to their workplace.** Most workers commute into South Beach from Newport and beyond. Given the stated expansion plans of several major employers, the number of regular daytime visitors is likely to increase. These workers may benefit from additional services proximate to their workplace.

**Most workers in South Beach commute into the area for work.**

740 people commute into South Beach for work, and 344 people living in South Beach commute out of the area for work. 33 people live and work in South Beach.

**Exhibit 4. Commuting Flows, South Beach, 2018**

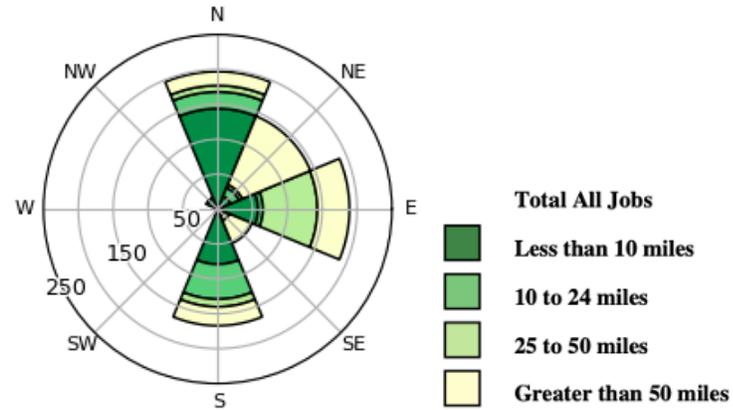
Source: United States Census On the Map, Census Block 9512.002



**73% of workers who commute from the north travel less than 10 miles to work compared to 16% to the south.**

**Exhibit 5. Distance/Direction from Home for South Beach Workers, 2018**

Source: United States Census On the Map, Census Block 9512.002



**About 42% of people who work in South Beach travel 10 miles or less to get to work**

About 30% of people travel over 50 miles to work in South Beach.

**Exhibit 6. Distance from Home for South Beach Workers, 2018**

Source: U.S. Census Bureau, Census On the Map.

42%	13%	15%	30%
<10 mi	10-24 mi	25-50mi	>50 mi

## Visitors

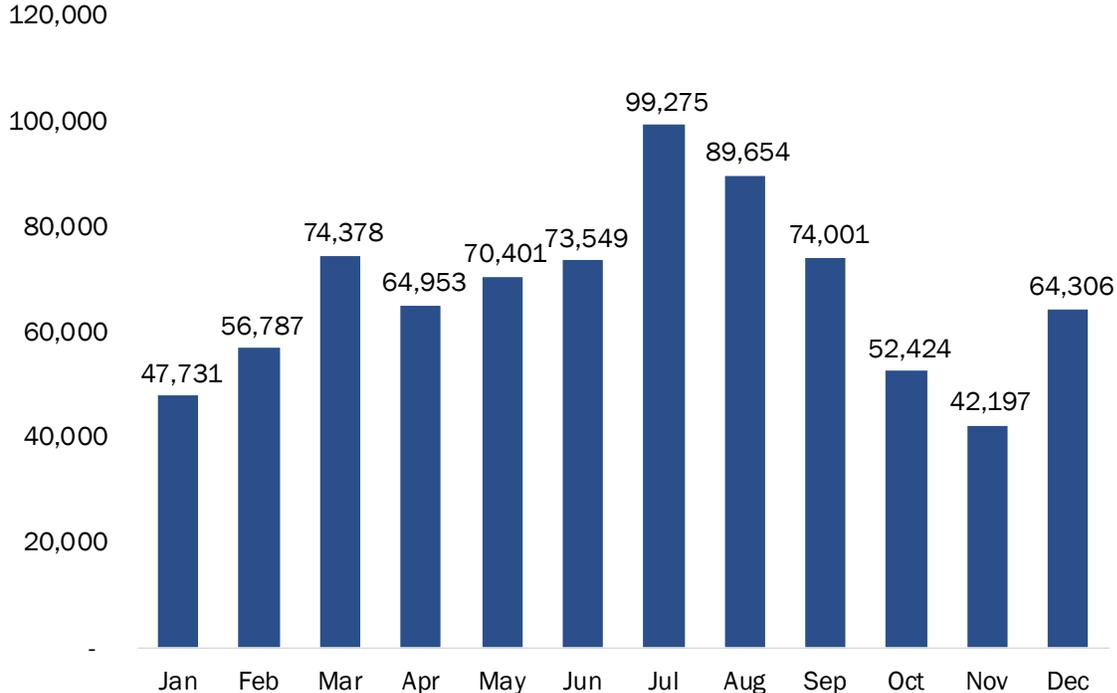
**South Beach has several attractions and events that draw visitors to the area.** Understanding what brings visitors to South Beach can help the Urban Renewal Agency invest in projects that will improve visitor experience in the future.

### South Beach State Park

South Beach State Park attracts visitors year-round, with the highest number of visitors in July and August. November is typically the slowest month for park visitation. Nearly 100,000 people visit the park on average in July. The State Park also contains about 314 year-round campsites<sup>4</sup> and accommodates about 1,300 guests per night on weekends in the summer (June through September) and about 850 guests per night on weekdays.<sup>5</sup>

#### Exhibit 7. Average Monthly Visits to South Beach State Park, 2016 - 2019<sup>6</sup>

Source: Oregon Parks and Recreation Department, visitation data



<sup>4</sup> Oregon State Parks website. Retrieved 5/05/2021

<https://stateparks.oregon.gov/index.cfm?do=park.profile&parkId=149>

<sup>5</sup> Goettel & Associates inc. 2013. Newport Safe Area "Safe haven Hill" Benefit-Cost Analysis Report. – While these numbers are from 2013, this was the most consolidated readily available data we could find, and conditions have not changed significantly.

<sup>6</sup> 2020 data was not included in the analysis due to COVID which caused variation in visitation patterns

## Port Facilities

The Port currently owns and operates a marina, boat launch, two RV parks, and a fish cleaning station. The RV parks contain 144 fully equipped campsites (many designed for large RVs) and 80 dry campsites. An interview with the Port indicated that many people stay the whole summer in the RV Park with the length of stay capped at six months. Many of those staying at the RV Park also have a boat and enjoy having the marina nearby which has approximately 522 slips. Much of the peninsula's western side is covered by parking lots which serve recreational uses associated with the marina and RV park. These lots are also used for community events including the annual Seafood and Wine festival which attracts about 20,000 visitors annually.<sup>7</sup> Parking is challenging in the area and becomes an even bigger problem during Halibut season and during the Seafood and Wine festival with people parking in nearby lots or along the road.

## Oregon Coast Aquarium

The Oregon Coast Aquarium is a one of South Beach's top tourist attractions as well as an educational resource, drawing between 375,000 and 450,000 visitors annually, 40,000 of which are students.<sup>8</sup> The aquarium has plans to make capital improvements including adding a children's play area as well as increasing vantage points to the estuary and creating an amphitheater near the nature trail. They also have a new admissions annex currently under construction, which will allow for expansion of their lobby, cafe and bistro, exhibits and galleries which could draw more visitors throughout the year. A future phase of improvements, currently slated for 2022, will include the construction of a wildlife rehabilitation center south of the existing Aquarium facilities along Ferry Slip Rd.

## OMSI's Camp Gray

OMSI's Coastal Discovery Center at Camp Gray is a 20-acre marine science camp located adjacent to South Beach State Park. The camp provides residential three or five day experiences March 1st through Halloween with programs for 2nd graders all the way up through high school. The camp accommodates 3,000 to 5,000 students (and chaperones) annually with its busiest months April through May where it reaches its capacity of 150 visitors per night. The camp currently uses about half of its 20-acre property and would like to expand both its visitor and staff housing in the future.

## Hatfield Marine Science Center

The Hatfield Marine Science Center also operates a Visitor Center which includes exhibits, hands-on activities, and other opportunities to learn about marine animals and coastal issues. This Center attracts about 150,000 visitors annually.<sup>9</sup>

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<sup>7</sup> <https://www.coastexplorermagazine.com/features/newport-seafood-and-wine-festival-features-oregons-bounty>

<sup>8</sup> Stakeholders provided the annual visitation numbers. The number of students was retrieved from the Aquarium's website on 5/10/2021 <https://aquarium.org/about/>

<sup>9</sup> Marine Science Center website. Retrieved on 05/12/2021 from <https://seagrant.oregonstate.edu/visitor-center>

### 3. Peninsula and US 101 Investment Area

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This investment area is home to some of Newport's most visited institutional and recreational uses. The National Oceanic and Atmospheric Association (NOAA) located to the Peninsula in May 2011 and has made investments into the area including multi-use path improvements. It leases property from the Port of Portland and has the potential to expand onto more Port property. The Oregon Coast Aquarium was founded in 1992 and is currently undergoing capital improvements. The Hatfield Marine Science Center also has plans for expansion of its student base while the Port of Portland considers adding a permanent indoor/outdoor structure on the same land that the Seafood and Wine Festival takes place. Rogue, another staple on the Peninsula, leases land from the Port of Portland to operate a production facility and dine-in restaurant. Rogue is also interested in expanding on the site. Each of these plans for growth provide opportunities for South Beach, but also raise concerns about current capacity.

The Oregon Department of Transportation (ODOT) owns and maintains US 101 which runs through South Beach and is the main route in and out of the area. It is busy as the main road for tourists and trucks alike. The highway can become congested especially during the summer, and stakeholders noted numerous constraints turning left. Current work is underway to move a traffic signal to 35<sup>th</sup> to alleviate some congestion and provide a better route for trucks. Signalization at 40<sup>th</sup> is also a high priority. Overall US 101 is the gateway into Newport, but the road lacks wayfinding and welcoming signage to make it appealing to visitors.

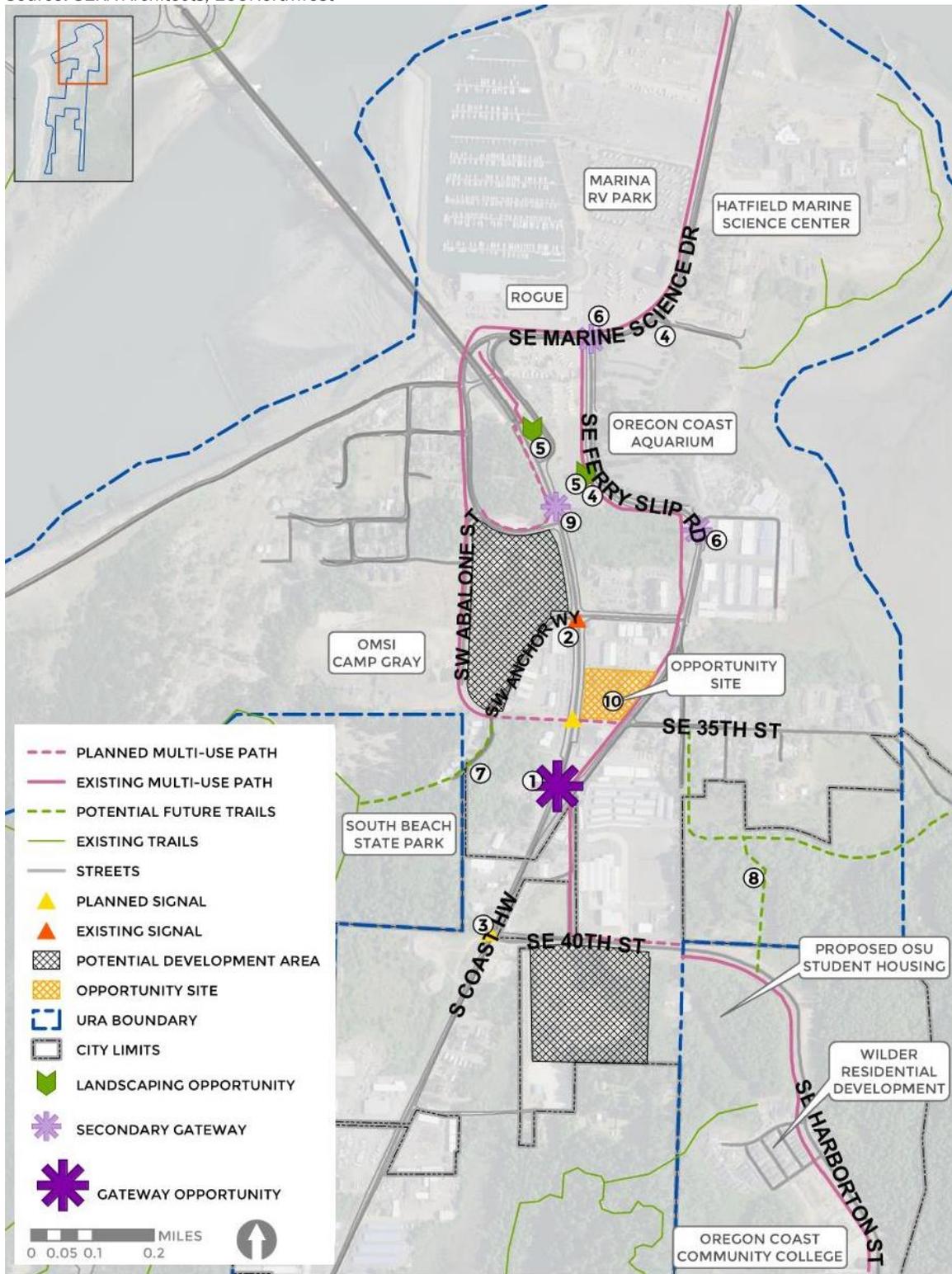
South Beach is going to continue to grow. Wilder has plans to expand with twenty-six houses being added this year. Camp Gray is also hoping to expand soon. This growth along with growth of key tourist attractions and employment centers means that there is great opportunity to invest in the area. In each of the following sections, we provide a summary of key opportunities and constraints discussed in the stakeholder interviews, along with observations from the consulting team.

#### Summary of Opportunities and Constraints

Exhibit 7 highlights key opportunities and constraints of the Peninsula and US 101 investment areas based on stakeholder interviews and consultant team observations.

# Exhibit 8. US 101 / Peninsula Opportunities and Constraints

Source: SERA Architects, ECONorthwest



NEWPORT SOUTH BEACH / US 101 REFINEMENT PLAN



Site	Opportunity	Existing Conditions
1	<p><b>South Beach Gateway Opportunity.</b> The connection from US 101 to Ferry Slip Rd. will be closed off, providing space to create a gateway into South Beach. This may require property acquisition to accommodate the desired development program and gateway features.</p>	
2	<p><b>Traffic Signal Move.</b> The traffic signal currently located at the intersection of US 101 and Anchor Way will be moved south to the intersection of U S 101 and 35th St. A new street crossing and multi-use path connection is also planned for this intersection.</p>	
3	<p><b>New Traffic Signal Installation.</b> A new traffic signal is planned to be installed at the intersection of US 101 and 40th St to improve safety and ease of access to the Wilder development, Oregon Coast Community College, and the planned OSU student housing development.</p>	
4	<p><b>Aquarium Crossing Improvement Opportunity.</b> There are several opportunities to improve safe access to the aquarium through pedestrian crossing improvements. Key opportunities include both entrances to the RV parking lot on Ferry Slip Rd. and the crossing to the north entrance of the aquarium off of Marine Science Dr.</p>	
5	<p><b>Landscaping and Pedestrian Amenity Improvement Opportunities.</b> At the multi-use path trailhead along Ferry Slip Rd., there are opportunities to improve the landscaping, seating, waste receptacles, and other amenities like public art or interpretive signage.</p>	
6	<p><b>Aquarium Arrival Experience &amp; Secondary Gateway Opportunity</b> Both the north and south arrival points for the aquarium could be improved to clearly alert visitors they are arriving at the aquarium.</p>	
7	<p><b>Planned Trail Connection to South Beach State Park</b> There is a planned trail connection between the South Beach multi-use path and the trail system at South Beach State Park which would improve the overall connectivity of the South Beach area.</p>	

Site	Opportunity	Existing Conditions
8	<p><b>Planned Trail Connection to Wilder Development/OCCC</b></p> <p>The planned trail connection between the existing trail network and the Wilder area would improve accessibility of Wilder and the overall connectivity of the South Beach area.</p>	
9	<p><b>Wayfinding Improvement &amp; Secondary Gateway Opportunity</b></p> <p>To improve area wayfinding, the exit ramp from US 101 onto Abalone St. could be a secondary gateway with wayfinding signage that clearly directs visitors to key South Beach destinations after they exit the iconic Yaquina Bay Bridge.</p>	
10	<p><b>Urban Renewal Agency Opportunity Site</b></p> <p>This site is owned by the South Beach Urban Renewal Agency and provides an opportunity for development that serves the residents and visitors of South Beach. In combination with adjacent parcels, the area could serve as a gateway to South Beach.</p>	
11	<p><b>Yaquina Bay Water Pipeline</b></p>	

## How can Agency investments promote a sense of place and visitor experience in South Beach?

**Stakeholders identified opportunities to improve South Beach through an overhaul of the area’s visual identity, signage consolidation, and multimodal improvements.** Opportunities exist along U.S. 101, the Peninsula, and the overall study area to improve a sense of place and visitor experience in South Beach. Key challenges and opportunities are detailed below in Exhibit 9.

**Exhibit 9. Key Challenges and Opportunities for Public Sector Investment – Stakeholder Feedback**

Key Challenges	Initial List of Potential Agency Investments based on Stakeholder Feedback
Visibility of South Beach destinations from U.S. 101	<ul style="list-style-type: none"> <li>• Consolidate wayfinding signage, which is often confusing, to create a cohesive navigation assistance and South Beach branding.</li> <li>• Catalyze redevelopment of City owned parcels and/or the US 101 Ferry Slip road closure to create a southern gateway.</li> </ul>
Traffic flow through the peninsula is not straightforward	<ul style="list-style-type: none"> <li>• Define Ferry Slip Rd. as a primary route through the Peninsula with a multi-use median, landscaping improvements, and additional/improved pedestrian crossings.</li> <li>• Add to and clarify Aquarium wayfinding signage</li> </ul>
Billboards detract from sense of place and dilute the impact of visual gateway elements	<ul style="list-style-type: none"> <li>• Buyout billboards to remove visual clutter.</li> </ul>
Destinations are compelling, but there is little district-level sense of place	<ul style="list-style-type: none"> <li>• Enhance multi-use trail to develop an iconic and easily identifiable wayfinding element that serves as a connector between the different areas/districts within South Beach.</li> <li>• Potential non-Agency actions: public art investments</li> </ul>
Getting around as a pedestrian or cyclist can be challenging, with several unsafe crossings and a patchy path network	<ul style="list-style-type: none"> <li>• Upgrade multi-use trail to improve circulation and safety for bicyclists/pedestrians and provide stronger wayfinding throughout South Beach. Integrating wayfinding signage and public art elements would help make this trail an iconic landmark.</li> <li>• Potential non-Agency actions: public art investments</li> </ul>
Finding parking, especially during events	<ul style="list-style-type: none"> <li>• Potential non-Agency actions: Shared parking strategies, limited paid parking on peninsula lots</li> </ul>
Limited activities for families/kids beyond the aquarium.	<ul style="list-style-type: none"> <li>• Potential non-Agency actions: Promote a family-friendly environment by emphasizing family destinations with a focus on children’s activities.</li> </ul>
Limited options for food/dining, especially during peak periods.	<ul style="list-style-type: none"> <li>• Attract casual dining or grab and go options to South Beach.</li> </ul>

## How can the City emphasize a sense of place?

Several design elements can help to establish a distinct sense of place, including architectural style, landscape and connection to unique ecological features. Reinforcing sub-areas through distinct design of buildings, pathways, gateways, and landscape can help visitors navigate from place to place, while unifying and well-connected pathways and gateways can help give a sense of arrival and interconnectedness to the area as a whole.

South Beach currently has multiple sub-areas with varying uses and character: the Peninsula with its working waterfront and major destinations like the Oregon Coast Aquarium, OSU Hatfield Science Center, and Rogue Brewery; OMSI Camp Grey and the tsunami refuge hill with its strong connection to the natural landscape; the Wilder development and Oregon Coast Community College (OCCC) which is set in a coastal forest setting; and the Newport Municipal Airport to the south.

Visitors access each of these sub-areas from US 101, an Oregon Department of Transportation (ODOT) facility, which is a primary auto and trucking route that connects coastal cities and towns in Washington, Oregon, and California. US 101 through South Beach is designed to move cars quickly and efficiently, and the adjacent properties along its length are largely one-story industrial structures surrounded by surface parking. Billboard advertisement are among the most visually prominent elements of the US 101 corridor and provide no sense of place or arrival. Currently, only standard roadway destination signage signals the approach to South Beach and its primary destinations.



US 101 northbound approaching the intersection with Ferry Slip Rd.

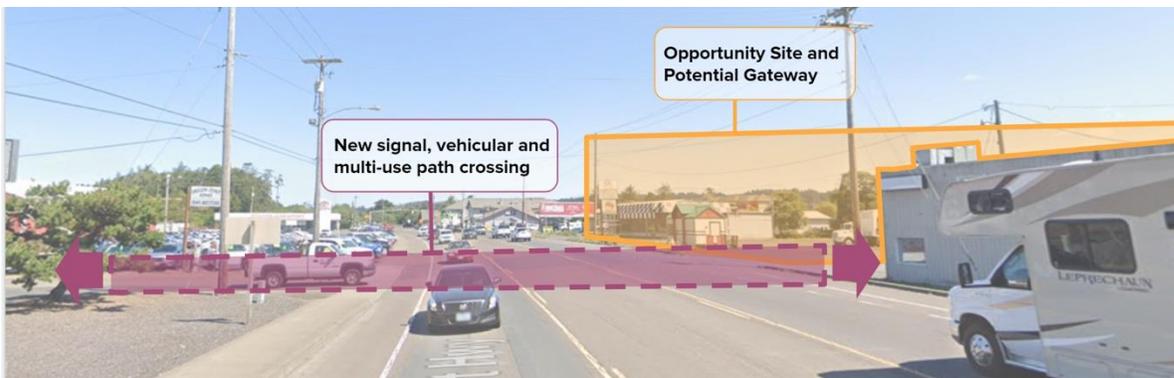


US 101 northbound approaching the intersection of SE 40th St., access to Wilder and the OCCC

While the design of US 101 itself remains within ODOT control and may be difficult to change, there are more immediate opportunities to improve adjacent properties and landscape elements in key locations and introduce new gateways to South Beach.

### Opportunity Site at US 101/35<sup>th</sup>

The City-owned property at US 101 and SE 35<sup>th</sup> St. offers an opportunity to not only introduce needed uses/destinations in South Beach, but with its visually prominent location along US 101, it has the opportunity to become an iconic gateway and offer a sense of arrival for northbound travelers. The planned new signal and vehicular/multi-use path crossing at US 101 and SE 35<sup>th</sup> St will reinforce the importance of this site. Gateway opportunities could be further enhanced with acquisition of the parcels south of the current opportunity site, extending the redevelopment and gateway area from 35<sup>th</sup> south to Ferry Slip Rd.



City-owned opportunity site at US 101 and SE 35<sup>th</sup> St with new signal and street crossing

## Gateways

Gateways are elements in the built environment that indicate entrance into a distinct and different area. They can take the form of unique buildings and development, landscape features, public art, signage, or literal gateway features. The opportunity site at US 101 and SE 35<sup>th</sup> St. offers a key opportunity for the introduction of a gateway in South Beach which could be enhanced with the acquisition of the southern parcels extending to Ferry Slip Rd., as well as the planned infill of the US 101/Ferry Slip Rd. connection which would eliminate the vehicular connection in that area.



**Zipper Building - Portland, OR**  
Distinct buildings can serve as gateway features and make the most of irregular lot shapes.



**Downtown Wayfinding & Gateway Signage - Littleton, CO**  
Signage at a variety of scales provides wayfinding for automobiles and pedestrians. Wayfinding signs coupled with public art can serve as a gateway.



**Gateway Sign - Hickory, NC**  
Gateway signs can serve as a public art piece that incorporate the culture and identity of the community.



**Arched Gateway Sign - North Kansas City, MO**  
Arched gateway signs are a prominent way to signal arrival to a town or district, with design elements that reflect the identity of the community.

## Multi-Use Path Improvements

In addition to US 101, the other primary access and connectivity element is the existing multi-use path. In many areas, the path is distinct from the sidewalks and approximately 6' in width, allowing pedestrians and bicyclist use. There are a few locations where the pathway connections are needed, and other locations where improvements to the landscape and introduction of public art, and signage integration could enhance the path's wayfinding elements. With these improvements, the multi-use path could connect the South Beach destinations while becoming an iconic wayfinding element and South Beach landmark.



Left: Existing multi-use path along Ferry Slip Rd.; Right: Indianapolis Cultural Trail is a 3 mile trail connecting Downtown Indianapolis with integrated art and landscaping.

Prominent identifying elements like wayfinding signage and public art would improve the navigability of South Beach, leading people to key destinations. More passive wayfinding elements like landscaping improvements and a cohesive pallet of other amenities (benches, trash cans, water stations, etc.) create a sense of place and make the path a safe, inviting, and active way to travel through South Beach. Educational signage, public art, and other elements could be incorporated along the path to create a sense of mystery and encourage visitors to further explore the area.



Low-maintenance landscaping and purposefully places amenities like benches create a distinct path edge that is easy to identify from other connections, creating a subtle wayfinding system.



Thematic, educational signage along the multi-use path provides a wayfinding opportunity and reinforces the identity of the area. Art elements could be integrated into the path itself or alongside the path to punctuate significant locations and destinations.

## Potential Opportunity: Removing Billboards

There are several large billboards at the gateway to the South Beach area that have the potential to detract from any gateway investment or wayfinding projects. Having large billboard signage at US 101 and 35<sup>th</sup> will significantly detract from attempts to utilize that site as a visible gateway to South Beach and Newport as a whole for northbound travelers. The presence of billboards on the site may also deter development prospects. Working with property owners to identify possible buyout opportunities is one idea that emerged from the opportunities and constraints analysis.



Large billboards at US 101 / 35<sup>th</sup> intersection in South Beach.



Before and after outdoor signs were removed from development in São Paulo, Brazil.



Billboard removal in Poland has made way for the integration of public art.

## What commercial development concepts along the US 101 can best serve area residents, workers, and visitors?

**South Beach lacks services for residents, workers, and visitors.** Stakeholder interviews combined with market analysis reveal key service gaps that could be addressed on Agency-owned sites including grocery stores, gas stations, general retail, and restaurants.

### Key Challenges

- **Residents/workers need to cross the bridge for everything** - one key challenge identified by stakeholders was the limitation of having to cross the bridge to access services. This is a pain point for visitors and residents alike. One stakeholder noted that running an errand generally requires crossing the bridge which in the summer can mean 30 to 40 minutes added to a trip. Additionally, needing to cross the bridge for basic services presents a resiliency concern. If an earthquake or other event damages the bridge, people in South Beach could be unable to access basic needs.
- **A lot of traffic, especially on weekends/summer days** - Traffic further limits mobility increasing the time it takes to commute or run errands. Limited ability to access options through walking/biking increases traffic congestion further. Additionally, limited parking, especially during events, leads to street parking and other challenges.
- **No gas station in South Beach** - South Beach stakeholders noted the challenges of travelling across the bridge or south to Waldport for gas stations.
- **No place to buy groceries** - South Beach Grocery, a mini market with limited food selection is currently the only grocery market in South Beach. Residents and visitors alike are forced to travel across the bridge to obtain groceries. This is especially challenging for those with limited access to cars which, as noted in section 2, includes 50% or more of the student population.
- **Few places for casual dining or grab-and-go food options** - Residents and visitors have limited dining options. Current restaurant options are generally full service such as Rogue and may not be meeting the needs of those who need quicker options. Grab-and-go could appeal to boaters from the marina, RV park campers and general visitors who are looking for a quick meal on their way to/from the beach and other destinations as well residents. More casual dining such as a pizza parlor or taqueria may also be attractive to visitors and residents especially as the student population grows in the area.

## Potential Development Concepts

### Interviews and available data suggest unmet demand for additional retail.

Residents, employees, and visitors must leave South Beach for their retail needs and most basic services, including groceries and gasoline. A retail gap analysis (detailed in Appendix A) found that general merchandise stores, gas stations, health & personal care stores, clothing & clothing accessories stores, and grocery stores are retail areas that might be beneficial to develop in South Beach. Stakeholders interviews further narrowed down potential concepts to:

- A grocery store
- Gas station
- General merchandise store
- Casual restaurant (including grab and go)

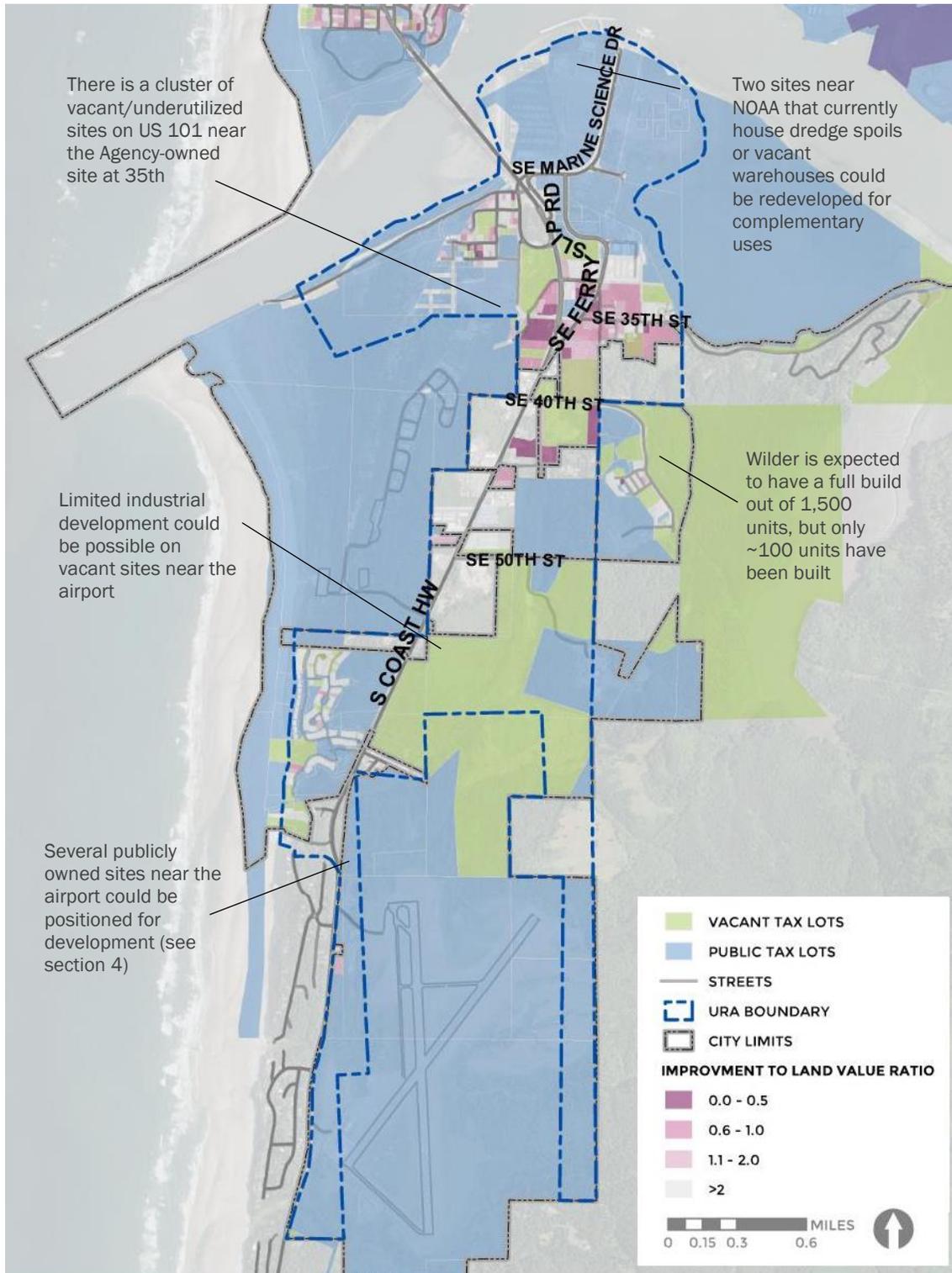
### Where are opportunities for development in South Beach?

South Beach has several important potential opportunity sites for new development. All of the sites in the tsunami evacuation zone could be developed with commercial uses, while sites in the upland areas out of the evacuation zone (including near Wilder) could be developed with housing. Future demand drivers for the area include an increase in student housing, expansion plans for the Wilder residential area, and other sites that might draw new employers near the airport. The new residents and employees are going to drive a changing retail demand landscape.

Site underutilization can be illustrated by measuring a site's building improvements divided by its land value (per County assessor data) to get a ratio. If a building is assessed at \$10,000 but the land is assessed at \$100,000, the ratio would be 0.1, and the site would be considered underutilized.

One way to measure which sites might be ripe for an increased intensity of use is by looking at the ratio of a site improvements to its land value. Underutilized sites are focused on US 101 in the northern part of the URA. In addition, South Beach has a number of publicly-owned sites which the City or other public sector partners could position as development catalysts for the area. These include the Agency-owned site at 35<sup>th</sup> Avenue and City-owned sites near the Municipal Airport. Exhibit 10 provides an overview of developed, underutilized, and vacant sites in South Beach.

## Exhibit 10. Potential Development Opportunities



### NEWPORT SOUTH BEACH / US 101 REFINEMENT PLAN



## What are the opportunities and constraints for potential development concepts?

While commercial real estate data is lacking because there's not a lot of new development for many project types in Newport, stakeholders have indicated that there is interest in development in the South Beach area. Additionally, Newport generally has low vacancy rates because it's a destination location with very little new development, so space is constrained. While there is opportunity to rent smaller spaces for retail or office, large spaces are challenging to find. Stakeholders have indicated that there is limited industrial/quasi-industrial space available for rent. The opportunity site at US 101 and 35<sup>th</sup> is most suitable for retail and service-oriented concepts. The airport sites discussed in Section 4 are better suited for low intensity industrial uses.

Other challenges that span the development spectrum include high construction costs which is due in part to limited suppliers (ex. asphalt has only one supplier in the valley) and limited builders. Stakeholders also indicated that the Newport lacks commercial real estate brokers.

**Exhibit 11. Demand, Supply, and Operating Considerations for Potential Uses along US 101 Commercial Corridor**

	<b>Demand</b>	<b>Current Supply</b>	<b>Operating Considerations</b>
<b>Grocery Store</b>	<ul style="list-style-type: none"> <li>• Students (limited mobility), residents, demand from the South</li> <li>• something bigger than 7-11 - Green Zebra, Grocery Outlet</li> </ul>	<ul style="list-style-type: none"> <li>• Closest full grocery stores are across the bridge</li> <li>• Currently South Beach Grocery, a mini market, is the only grocery in South Beach</li> </ul>	<ul style="list-style-type: none"> <li>• Challenges with bringing in merchandise due to freight route (winding and slow) and traffic (tourists).</li> <li>• Labor and seasonality</li> <li>• Store isolation - lack of nearby retailers</li> <li>• Limited population growth</li> <li>• Site too small for low grocery margin</li> </ul>
<b>Gas Station</b>	<ul style="list-style-type: none"> <li>• Visitors including the RV park, residents</li> </ul>	<ul style="list-style-type: none"> <li>• Closest gas station is across the bridge or in Waldport</li> </ul>	<ul style="list-style-type: none"> <li>• Is it the right use to provide a “welcome to South Beach”? Local stakeholders expressed a need for a gas station in South Beach but raised concerns about having it at this location.</li> </ul>
<b>General Merchandise</b>	<ul style="list-style-type: none"> <li>• Visitors, residents, boaters from the marina</li> </ul>	<ul style="list-style-type: none"> <li>• No general merchandiser in South Beach; must travel across the bridge</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of anchor that attracts business</li> <li>• Bringing in merchandise - challenges with freight route (winding and slow) and traffic (tourists)</li> <li>• Labor and seasonality</li> </ul>
<b>Restaurants</b>	<ul style="list-style-type: none"> <li>• Focus on grab-and-go for beach/marina visitors and residents</li> </ul>	<ul style="list-style-type: none"> <li>• Most restaurants in South Beach are full service such as Rogue</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of anchor that attracts business labor and seasonality</li> </ul>

## What are key development considerations in the area?

### Natural Hazards

Planning and development efforts in South Beach should consider the variety of natural and geologic hazards for which the area is at risk and factor in potential resiliency tools to help mitigate the impacts of those potential disasters. Key areas of concern for the South Beach area are seismic and flood resiliency. Various systems (electric, sanitary sewer, etc.) may be impacted by a tsunami or other seismic event. Upgrades these systems or new projects should take resiliency into consideration.

The Yaquina Bay Bridge is of particular concern – in the event of bridge damage due to a natural disaster, the residents of South Beach would be cut off from all the essential services and resources north of the bridge. Development of essential services (access to food, fuel, and/or healthcare) in South Beach would provide some fundamental resiliency to the area if the bridge is impassible. New development in South Beach should also consider proximity and accessibility of a tsunami refuge area from the development, as the majority of South Beach is in the tsunami inundation zone.

The City already has several resiliency initiatives, including a recently adopted Tsunami Hazard Overlay to improve resiliency of new development, a utility undergrounding project currently underway to remove potential for downed utility line hazards along US 101 and SE Ferry Slip Rd, and a Beach Access Resiliency Study. Additionally, the City and partners in the area have made investments including the Safe Haven Hill evacuation assembly area and the vertical evaluation refuge at the Marine Studies Building at the Hatfield Marine Science Center.

### Zoning

The Urban Renewal Boundary contains a variety of zoning classifications including commercial, industrial, residential, and public use. The 35<sup>th</sup> and 101 opportunity site is zoned as Light Industrial (I-1) which will allow a variety of commercial and industrial uses including office, retail sales and services, and light manufacturing. The potential development site (Investors XII) between SW Abalone Street and SW Anchor Way is zoned Tourist Commercial (C-2) and the potential site south of 40<sup>th</sup> is zoned Heavy Industrial (I-3). Potential airport development sites are zoned public use (P-1) with an overlay that allows commercial and industrial uses that complement airport operations. The land surrounding the industrial and commercial zones includes high and medium density residential (R-4, R-3, and R-2) as well as water dependent zones (W-1 and W2) and public use zones (P-2 and P-1).

The major zoning classifications are detailed below. Zoning maps of the entire study area which include ownership of parcels can be found in Appendix X. This is meant to provide an overview of current zoning and not an analysis of zoning potential. JET will be completing a zoning audit this summer.

## Exhibit 12. Study Area Zoning Description

Source: City of Newport Chapter 14 Zoning Ordinance

Development Site	Zone	Description
Investors 12 Site	Tourist Commercial (C-2)	<ul style="list-style-type: none"> <li>• Meant to provide for tourist needs as well as the entertainment needs of permanent residents</li> </ul>
US 101 and 35th Site; Airport Sites	Light Industrial (I-1)	<ul style="list-style-type: none"> <li>• Meant to provide for commercial and industrial uses that can be located near residential or commercial zones</li> </ul>
Industrial Site South of 40th	Heavy Industrial (I-3)	<ul style="list-style-type: none"> <li>• Intended to provide industrial uses that involve production and processing activities generating noise, vibration, dust, and fumes</li> </ul>
Adjacent Uses	Retail and Service Commercial (C-1)	<ul style="list-style-type: none"> <li>• Intended to supply personal services and goods to the average person</li> </ul>
	Public Structures (P-1) and Public Parks (P-2)	<ul style="list-style-type: none"> <li>• Intended for public uses. P-1 allows all types of public buildings while P-2 is limited to parks, open space, trails and supporting facilities</li> </ul>
	Medium Density Single-Family Residential (R-2)	<ul style="list-style-type: none"> <li>• Intended to provide for low density, smaller lot size residential development and serve as a transitional area between the low-density residential district and higher density residential districts.</li> </ul>
	Medium Density Multi-Family Residential (R-3)	<ul style="list-style-type: none"> <li>• Intended for medium density multi-family residential development. It is planned for areas that can accommodate the development of apartments.</li> </ul>
	High Density Multi-Family Residential (R-4)	<ul style="list-style-type: none"> <li>• Intended to provide for high density multi-family residential and some limited commercial development.</li> </ul>
Water Dependent (W-1) and Water Related (W-2)	<ul style="list-style-type: none"> <li>• Intended to protect areas of the Yaquina Bay Shorelands for water-dependent, water-related uses</li> </ul>	

## Transportation

Transportation remains a key consideration for planning in South Beach. While Newport is in the process of completing a new Transportation System Plan (TSP), the TSP is focused north of the bridge. South Beach is still relying on the 2010 Refinement Plan which was transportation

focused. The urban renewal agency has invested in several projects to improve transportation connectivity in South Beach, especially along the peninsula. Current budgeted projects include:

- US 101 – SE 32<sup>nd</sup> to SE 35<sup>th</sup> signal relocation and streetscape enhancement project
- SE Ferry Slip/US 101 utility undergrounding
- SE 50<sup>th</sup> and 62<sup>nd</sup> row acquisition
- SE Chestnut Trail easement
- US 101 Corridor Refinement Plan

Key issues that remain and were indicated throughout the engagement process or through observations by the consultant team include:

- **Signalization at South 40<sup>th</sup>** - widening the intersection at US 101 and 40th to add channelization and install a traffic signal was noted in the 2012 TSP update and will be receiving an updated cost estimate in 2021.
- **Multimodal access** - while there are many multimodal pathways, sidewalks, and bike lanes in the area, South Beach lacks a cohesive, signed multimodal network. This makes it difficult for pedestrians and people on bikes to move through the area to key destinations. Exhibit 18 shows the transportation network in South Beach, with a focus on existing and planned multimodal paths.
- **Congestion** – during peak periods like summer weekends and during festivals, the area can experience gridlock, including access to and across the Yaquina Bay bridge and accessing key points along the peninsula. Parking is also an issue, and many motorists circle the area looking for the sparse parking options. A water ferry that operates throughout the summer may be an option alleviate traffic and parking concerns along the Peninsula.
- **Bridge resiliency** – The iconic Yaquina Bay Bridge is a lifeline for South Beach to goods and services. In the event of an earthquake the bridge may fail, leaving South Beach residents without vital access to the goods and services they need.

## 4. Airport Investment Area

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Note to Derrick: This section is awaiting analysis results from MurraySmith which we expect the week of 5/24. Thus, it will not be ready in time for our meeting with the Staff TAC. Feel free to provide feedback on what we have so far, but we're wanting to look at the content as a whole once we get receive Murraysmith's info.

The city-run Newport Municipal Airport provides many benefits to the city and the county overall, including providing services to recreational and corporate pilots, accommodating air ambulance flights that provide a critical link to trauma facilities in more distant cities, and serving as a critical coastal resource for emergency response in the event of a major earthquake and tsunami event.

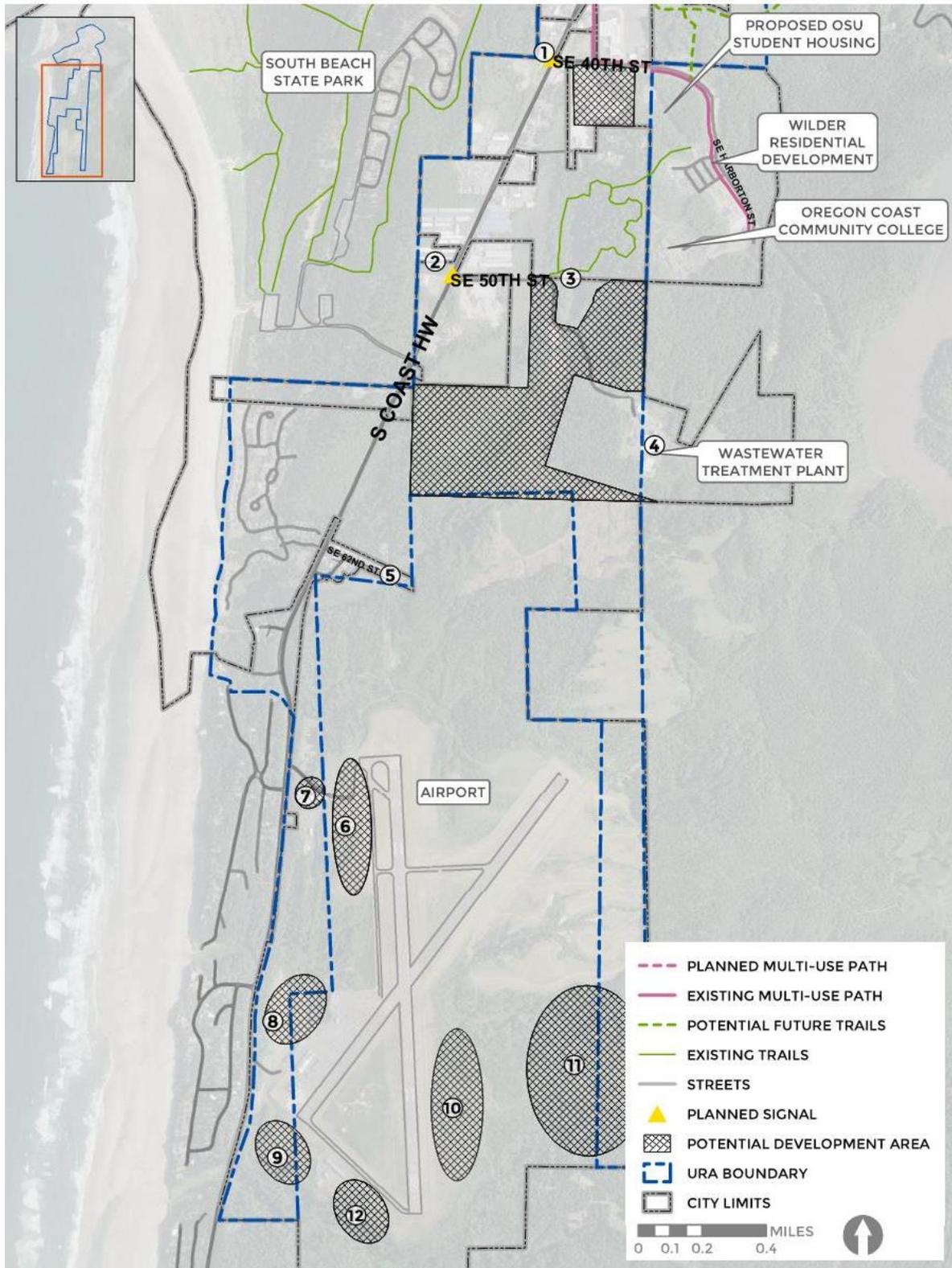
Because the airport currently runs with a deficit, the City is interested in making the airport more financially self-sustaining by providing opportunities for industrial development. This would help improve current public perception of the airport while generating economic benefits for the area.

To allow development on the site, the City recently rezoned the airport from a park to industrial zoning designation. Additionally, the City has made investments in water infrastructure to the site, which addressed previous issues with fire safety. The City also has a long-term plan to extend sewer to the site as noted in the Sewer Master Plan's 20-year buildout scenarios (Future Developments 17-20). The key questions this section addresses are: **Is there a reason to use Urban Renewal funds to do this now? Is this the best use for the remaining Urban Renewal funds?**

### Summary of Opportunities and Constraints

Exhibit 13 provides an overview of key opportunities and constraints in the Airport Investment Area.

Exhibit 13. Summary of Opportunities and Constraints



NEWPORT SOUTH BEACH / US 101 REFINEMENT PLAN



#### Exhibit 14. Opportunities and Constraints Map Key

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1	Proposed signal at 40 <sup>th</sup>
2	Proposed signal at 50 <sup>th</sup>
3	Current sewer main stops at 50 <sup>th</sup>
4	Wastewater treatment plant
5	Proposal to make 62 <sup>nd</sup> a loop to 98 <sup>th</sup>
6	Northwest aeronautical development area
7	North Hwy 101 non-aeronautical development area
8	South Hwy 101 non-aeronautical development area
9	Coast Guard expansion area
10	Southeast aeronautical development area
11	East Airport non-aeronautical development area
12	Non-aeronautical development area, proposed animal shelter

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## What are the developable parcels in this area?

There are seven developable parcels located on the airport site, all of which are located within city limits. While the parcels are largely located outside of the Urban Renewal boundary, the sewer line itself would be within the boundary which means that urban renewal dollars can be used to extend sewer service to the site. Any investment into the area must meet the goals of the urban renewal agency. The city is interested in making these sites appealing for private development rather than developing themselves. The 2017 Airport Master Plan describes the sites as follows:

- **North Highway 101 Development Area (4.8 acres)** This site was previously identified as a non-aeronautical development area in the 2004 Airport Master Plan Update. With additional planning and coordination this site could be extended farther north along Highway 101 to create additional opportunities for non- aeronautical development.
- **South Highway 101 Development Area (10.8 acres)** This site was previously identified as a non-aeronautical development area in the 2004 Airport Master Plan Update. This site is relatively flat and with the relocation of the access road could serve as either an aeronautical expansion area or non-aeronautical development area.
- **Northwest Development Area (13.5 acres)** The site is relatively flat and provides direct access to the airfield. There is also existing access off of Highway 101. This area formerly included the first FBO and early airport hangars.
- **Southeast Development Area (14.1 acres)** This site was identified as the preferred area for long-term aeronautical expansion in the 2017 Airport Master Plan Update. Obtaining access to this site could be difficult and will require additional planning and coordination locally.

- **East Airport Property Area** (71 acres) Due to access constraints and topography, this area is ideally suited to be a Non-Aeronautical Development Area consisting of approximately 71 acres available for future development.
- **Oregon Army National Guard Site** (4.3 acres) The site identified for the Oregon Army National Guard consists of relatively flat ground accessible from the hangar access road. The site is limited to non-aeronautical uses, however the site identified does not need to be reserved solely for the National Guard.
- **Coast Guard Expansion Area** (1 acre) aeronautical land adjacent to existing Coast Guard Facilities was reserved for future Coast Guard expansion.

Possible uses for the site along with barriers and potential investment scenarios are detailed below.

## What are the barriers to development?

**The airport site has some key barriers to development including limited infrastructure (no sewer, road access), developer uncertainty and negative public perception**

### Key Barriers

- **Dealing with effluent** – Currently the sewer main stops at 50<sup>th</sup> and there is not sewer access to the airport. This limits the types of industries that can function on the site. Stakeholders noted the need to generate enough demand which might include including adjacent neighborhoods in the sewer extension.
- **Site accessibility** – Numerous stakeholders noted the challenges of turning left on US 101. This limits the ability to access the airport site. Additionally, many of the vacant airport properties that are being considered for development have limited or no road access. Signalization at 40<sup>th</sup> would allow access to vacant properties and allow the to develop.
- **Regulatory barriers** - the city's "swiss cheese" boundaries that lead to lack of predictability for development and infrastructure provision. Additionally, there may be other zoning code barriers to development which will be explored in a code audit which will be conducted in the summer
- **Developer uncertainty** – Developers are uncertain about the city's plans for the site and whether they will be able to build what they want if they invest in property. There is also market uncertainty in understanding what is practical and useful near the airport.
- **Public perception** – Stakeholders indicated that the public perceives the airport as a burden - "get the airport self-sustaining." It may be challenging to invest in the area if the public does not see the benefits of this investment.

## What are the possible uses for development at the Airport?

Some of the industrial uses that have been considered for build out on the airport site require sewer while others do not. The range of possible uses as discussed in stakeholder interviews included:

- Airport hangars (t-hangars, residential hangars)
- Flex warehouse (including cold storage)
- Industrial condominiums
- Prefabricated home factory
- Human Composting
- Glamping
- Golf

Parceling out the sites could further help end users envision the full potential of uses that could take place on the site.

Development Concepts	Water Demand?
Airport hangar (t-hangars, residential hangars)	
Flex warehouse (could include cold storage)	
Industrial condominiums	
Prefabricated home factory	
Human composting	
Glamping	
Golf	

The City tested for a range of buildout scenarios for the sites which included:

What is the buildout

What kind of effluent would there be?

## What investments are needed to open up development at the airport?

What are the options for these investments?

Murrysmith/ECO will provide a 1-2 page narrative with a map that shows key infrastructure constraints in the area. Outline opportunities for projects that meet multiple objectives and can unlock development opportunities and provide precedent imagery that we could include. When assessing infrastructure investment opportunities, the baseline will be the final, and as yet uncommitted, phase of South Beach Urban Renewal Plan projects and infrastructure projects identified in the City's facility plans that are within the TIF District. DKS and MurrySmith will use technical data from City's existing facility plans, although some targeted storm drainage modeling may be needed.

SERA is also having some internal discussions around resiliency and infrastructure that we would like to throw into the mix. We will send these to ECO for discussion with MurrySmith.

Is there something short of building out the full wastewater – package treatment or larger septic system

Would you have to get the rural residential properties to help the system function properly?

Alternative	Timeline	Regulatory Hurdles	Expandability (growth)	Ease of Operation and Maintenance	Private Property Impacts (Easements)	Total
Weight	20%	20%	20%	20%	20%	
Expand Airport LOSS						
Score						
Sewer Extension 1: Gravity to SB PS and new FM to IPS						
Score						
Sewer Extension 2: PS at Surfland and new FM to IPS						
Score						
New Onsite WWTP (Package Plant w/ Land Application)						
Score						

How much development could those investments support?

Murrysmith/ECO  
 What implications for timeline?

## 5. What Funding Is Available to Support Revitalization?

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### TIF Dollars

Established in 1983, the South Beach Urban Renewal Plan has an original maximum indebtedness of \$38,750,000. Key recent milestones include:

- **2009:** The URA was extended at a reduced size for the purpose of upgrading the infrastructure and acquiring land to support economic development. With public input, a new project list was developed with the 2009 extension, to be funded with revenue bonds over three six-year phases.
- **2018:** The Urban Renewal Agency completed a substantial amendment of this plan to move the deadline for awarding projects from December 31, 2020 to December 31, 2025. This amendment extends the date after which no bonded indebtedness can be issued with respect to the Plan.

When considering how to spend money on project priorities in the Urban Renewal Area, the Agency will need to consider:

- **Level of Funding:** The Agency makes its last debt payment in FY 2024/25 and cannot obligate new projects after 2025. By the end of FY 2023/24, the Agency should have around \$4.25 million.<sup>10</sup> However, the urban renewal area will still be accruing increment for two additional years after FY 2023/24. If the Agency secure a short-term bank loan to leverage those final two years of increment before 2025, then the Agency would have an additional \$4 to \$5 million in funding<sup>11</sup> that would be available for projects in the Area.
- **Timing:** The Agency must make all project investment decisions prior to 2025, per the 2018 substantial amendment.
- **Adherence to Guiding Principles:** Part of the Refinement Plan process is to develop a set of guiding principles to help the Agency align its investments with priorities in the Area.

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<sup>10</sup> Remaining URA Increment – Working Document, 2021.

<sup>11</sup> These funding estimates show tax increment generated in the Urban Renewal Area only, and do not account for delinquent taxes, rents/leases, and interest on investments, which would be additional available revenue.

## Known Projects and Costs

**Error! Not a valid bookmark self-reference.** provides an overview of projects that the Urban Renewal Agency has already identified to be funded in the final project phase (through 2025).

**Exhibit 15. Known South Beach Urban Renewal Area Priorities for Final Project Phase - Unfunded**

Project	Cost Estimate (2012)	Notes
US 101 / 40 <sup>th</sup> Signalization	\$1,750,000	DKS Associates will be providing an updated cost estimate in 2021. Potential partnerships with private property owners.
Install redundant Yaquina Bay Water Pipeline Crossing	\$2,800,000	MurraySmith will be providing an updated cost estimate in 2021. Agency can likely leverage partner funding to fund this project.
Extend sewer service to Newport Municipal Airport	\$3,000,000	MurraySmith will be providing updated costs for potential sewer infrastructure options in 2021 which will likely be less than this amount, allowing for investments in other projects.

## Potential Partnership Funding

The following is an initial list of potential partnership funding that the Agency could explore to match its investments in priority projects.

- **Federal:** The Agency should explore grant funding for projects where it could leverage its own money for federal dollars, and where it could do so before 2025.
  - **FEMA Grants**, for projects that align with hazard mitigation and resiliency goals
  - **Economic Development Agency Public Works Program**, to fund large infrastructure projects in areas that could use an economic boost to support jobs and diversification, making Water Avenue improvements possible candidates for funding.
  - **American Rescue Plan (ARPA)**. The City of Newport will be receiving federal funding through ARPA, and the potential Infrastructure Plan might also have some funding that could help to advance priorities in South Beach.
- **State Funding Sources:**
  - ODOT, including the Community Paths Grant, Congestion Mitigation and Air Quality Fund, All Road Transportation Safety Program, and Multimodal Active Transportation Fund multimodal (but need to discuss timing issues with STIP)
  - Oregon Parks and Recreation Foundation Fund Grant
  - Land and Water Conservation Fund
  - Oregon Department of Fish and Wildlife Conservation and Recreation Fund
- **Private or Foundation Support:**

- Grants (Meyer Memorial Trust, AARP Community Challenge Grant, Collins Foundation, International Mountain Biking Association, PeopleForBikes, PGE Better Together Resilient Communities Grant Program)
- Advertising/Naming Rights/Sponsorships
- Crowdfunding

## 6. Conclusion

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### Implications for Public Action and Investment

South Beach is well-positioned for growth but needs targeted investments to reach its potential.

While South Beach area is already a major destination for visitors and employees, it is underserved for retail and other daily needs and lacks a cohesive identity. Investments in placemaking, wayfinding and mobility will help improve quality of life for residents as well as visitor experience.

The area's transportation infrastructure is an impediment to successful growth.

The area is growing, adding both residents and employers that will increase demand. Without interventions, the transportation constraint on US 101 in both directions across the bridge will become more severe as more visitors, employees, and residents come to the area.

Investments in sewer infrastructure at industrial properties near the airport may be needed to help to catalyze new land for industrial or other commercial developments.

The Urban Renewal Agency's land holdings can help to catalyze new development.

Agency-owned properties provide an important opportunity to push the market to provide the kind of retails and other services that the area needs to thrive, decrease pressure on US 101 for local transportation, and that the market might not provide on its own.

The Agency will need to be nimble to make all of its investments by 2025

There is not enough money to address all possible improvements, so the Agency should aim to leverage funding from regional, state, and federal partners as grant dollars might be available. If the Agency is to execute on its priority investments by 2025, it will need to be strategic about the choices it makes and be poised to take action quickly.

### Initial Framework for Public Action

- **Who:**
  - **Lead:** Urban Renewal Agency
  - **Partners:** Bringing new private investment into the community is a key goal of this Action Plan, requiring the coordinated efforts of many partners. Successful implementation will require time and energy from many partners within the City. Some of the projects necessary to spur development and improve conditions in the South Beach URA will not be led by the Agency, but by other partners.

- **Where:** The projects will be broken into two investment areas:
  - The Peninsula and US 101 Investment Area
  - The Airport Investment Area
- **Why/How:**
  - Through the course of this project, ECONorthwest will work with the agency to develop a set of evaluation criteria by which the Agency can prioritize its investments. Those could include:
    - *Timing:* Can the Agency award the project by 2025? Per the urban renewal plan, projects are expected to be awarded no later than December 31, 2025 and completed in a timely manner.
    - *Meet Area Guiding Principles:* Does the project advance at **least three** of the Agency's guiding principles for South Beach?
      - Promote a sense of place for local residents and visitors that reflects the South Beach identity.
      - Improve multi-modal connectivity to South Beach destinations.
      - Attract new development that can meet the service and retail needs of South Beach residents.
      - Invest in overcoming market and development barriers on underutilized sites.
      - Reduce infrastructure barriers to enabling job creation on industrial lands near the airport.
      - Invest in improvements that promote long-term community resiliency

## Next Steps

Over the summer of 2021, ECONorthwest will document a list of actions that are emerging through stakeholder conversations, and then work with the Agency to prioritize them using weighted criteria. We will likely develop a set of evaluation criteria based off the guiding principles and use the public / stakeholder involvement process to help us weight the importance of different projects.

In addition, we will be completing the following analyses:

- A zoning audit completed by JET Planning, which will explore how the area's current zoning regulations might impact future development activity.
- A vision and feasibility study for the Agency-owned opportunity site at US 101 / 35<sup>th</sup> Street. This analysis will explore a set of alternative development options for the site, as well as whether the Agency acquire other properties for development to make this area function better,



# Appendix A. Stakeholder Outreach

The following table compares key priorities identified in the 2010 TGM Plan to what our team has heard from

**Exhibit 16. Key Priorities for US 101 and Peninsula Stakeholders**

	<b>Key Transportation Priorities from 2010 TGM Refinement Plan</b>	<b>Key Placemaking and Development Opportunities in 2021</b>
<b>Aquarium</b>	<ul style="list-style-type: none"> <li>• district-wide sidewalks and pathways</li> <li>• improved wayfinding and signage</li> </ul>	<ul style="list-style-type: none"> <li>• continue multi-use path improvements and connectivity with a particular focus on ADA considerations</li> <li>• improved connections from parking to Aquarium</li> <li>• visual improvements - entrance to the peninsula, benches and trash areas, vantage points to estuary</li> <li>• improved wayfinding, signage, and branding</li> <li>• family friendly environment</li> <li>• support grocery and restaurants in South Beach</li> <li>• support family friendly uses/destinations in South Beach</li> <li>• EV charging stations</li> </ul>
<b>Hatfield Center</b>	<ul style="list-style-type: none"> <li>• Improved bike and pedestrian connections to and throughout the peninsula.</li> </ul>	<ul style="list-style-type: none"> <li>• support grocery and restaurants in South Beach</li> <li>• improved multimodal connections throughout the peninsula (including safety considerations like lighting)</li> <li>• improved wayfinding, signage, and branding</li> </ul>
<b>Rogue</b>	<ul style="list-style-type: none"> <li>• Maintain the efficiency of their operations</li> <li>• Traffic-related safety on the peninsula, particularly truck and pedestrian interactions near the tourist boat dock</li> </ul>	<ul style="list-style-type: none"> <li>• improved wayfinding and signage</li> <li>• expansion of Rogue</li> <li>• improved parking</li> </ul>
<b>Port of Newport</b>	<ul style="list-style-type: none"> <li>• Ensure a parking supply that can meet the needs of its users</li> <li>• Improve bike and pedestrian circulation on the peninsula, to allow for tourists/RV owners to get around without a car.</li> <li>• Water taxi to provide a connection between the peninsula and destinations across the bay.</li> </ul>	<ul style="list-style-type: none"> <li>• Ensure a parking supply that can meet the need of its users</li> <li>• Events</li> <li>• support grocery and gas station</li> <li>• small areas for development</li> <li>• improved parking signage</li> </ul>
<b>South Beach State Park</b>	<ul style="list-style-type: none"> <li>• Improve bicycle/pedestrian connectivity between the State Park and destinations on the peninsula.</li> <li>• Improve wayfinding signage.</li> </ul>	<ul style="list-style-type: none"> <li>• N/a</li> </ul>

<b>Public Arts Committee</b>	<ul style="list-style-type: none"> <li>• N/a</li> </ul>	<ul style="list-style-type: none"> <li>• Billboard removal is a high priority</li> <li>• More continuity in development</li> <li>• Create a unique identity for South Beach</li> <li>• Cohesive arts program tied into the landscape and existing assets in the area</li> </ul>
<b>OMSI Camp Gray</b>	<ul style="list-style-type: none"> <li>• N/a</li> </ul>	<ul style="list-style-type: none"> <li>• Support grocery and gas station</li> <li>• Consider tsunami hazards when planning; consider adding additional capacity for evacuation and improving the resiliency of the Yaquina Bay Bridge</li> <li>• Improved sidewalk connectivity to the beach and accessibility for people with a focus on ADA considerations</li> </ul>

## Appendix B. Retail Analysis

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This appendix summarizes information on consumer preferences and spending in the Primary Market area of South Beach (Census Block 9512.002) and the Secondary Market area which was determined by using approximate 15-minute drive times north of Yaquina River and 30-minute drive times south of the river.<sup>12</sup> We used two reports from ESRI Business Analyst to complete this analysis, the Retail Marketplace Profile and the Retail Market Potential Report described in more detail below.

### Retail Gaps

**Residents, employees, and visitors must leave South Beach for their retail needs and most basic services, including groceries and gasoline.**

Understanding South Beach’s “retail gap,” or how much money residents spend outside of the study area, can provide insight into the types of new businesses that South Beach could support.

- A **positive retail gap** shows that local sales are lower than demand and represents an area of potential for the city
- A **negative retail gap** shows areas that exceed local demand and meet the needs of people from outside South Beach

South Beach’s Retail Trade gap is nearly \$1 million, meaning South Beach residents spend \$1 million outside of South Beach to meet their needs. The industries with the largest retail leakage include general merchandise stores, gas stations, and health & personal care stores, clothing & clothing accessories stores, and grocery stores. Food & drink, on the other hand, has a surplus of \$1.7 million meaning that people are travelling to South Beach to obtain these services. Specialty food stores which include meat markets, fish and seafood markets as well as confectionary, nut and baked goods stores among other specialty items, are also considered to have a surplus. The South Beach Fish Market is an example of a specialty food store. These retail gaps align with findings from stakeholder interviews specifically the need for a grocery store and gas station in South Beach.

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<sup>12</sup> We included locations in the Secondary Market area that could be accessed in an approximate 15-minute drive time north of Yaquina River and 30-minute drive time south of Yaquina River. This is based on stakeholder input and observation that people will be less likely to travel north over the bridge for services. However, people from as far south as Yachats may find value in services in South Beach.

## Exhibit 1. Summary of Retail Gap and Leakage Factor, Primary Market Area, 2017

Source: ESRI Business Analyst Retail Marketplace Profile Report.<sup>13</sup>

Retail Category	Demand (Retail Potential)	Supply (Retail Sales)	Retail Gap	Number of Businesses	Implications for Retail Opportunities in South Beach
Motor Vehicle & Parts Dealers	\$3,585,878	\$8,846,277	-\$5,260,399	4	Retail Sales exceed local demand, capturing sales
Food Services & Drinking Places	\$1,299,766	\$3,013,497	-\$1,713,731	6	by customers living
Specialty Food Stores	\$160,274	\$1,241,578	-\$1,081,304	3	outside South Beach
Miscellaneous Store Retailers	\$781,165	\$976,521	-\$195,356	5	
Beer, Wine & Liquor Stores	\$117,613	\$0	\$117,613	0	
Bldg Materials, Garden Equip. & Supply Stores	\$1,205,540	\$1,056,728	\$148,812	2	
Nonstore Retailers	\$219,187	\$49,631	\$169,556	1	
Electronics & Appliance Stores	\$426,129	\$158,599	\$267,530	1	Local demand is greater than existing stores can meet, creating retail opportunities in South Beach
Sporting Goods, Hobby, Book & Music Stores	\$456,864	\$86,471	\$370,393	1	
Furniture & Home Furnishings Stores	\$405,993	\$0	\$405,993	0	
Grocery Stores	\$2,168,463	\$1,736,538	\$431,925	2	
Clothing & Clothing Accessories Stores	\$579,966	\$0	\$579,966	0	
Health & Personal Care Stores	\$993,414	\$0	\$993,414	0	
Gasoline Stations	\$1,633,570	\$0	\$1,633,570	0	
General Merchandise Stores	\$2,402,052	\$0	\$2,402,052	0	
<b>Total Expenditures</b>	<b>\$16,435,874</b>	<b>\$17,165,840</b>	<b>-\$729,966</b>	<b>25</b>	
<b>Retail Trade</b>	<b>\$15,136,108</b>	<b>\$14,152,343</b>	<b>\$983,765</b>	<b>19</b>	
<b>Food and Drink</b>	<b>\$1,299,766</b>	<b>\$3,013,497</b>	<b>-\$1,713,731</b>	<b>6</b>	

## Consumer Preferences

### South Beach residents prefer to buy American products and value quality over price.

Another method for understanding South Beach’s retail demand is by evaluating consumer preferences. Residents of South Beach are more likely to shop at convenience stores than those in the secondary market area and the US overall (Exhibit 2).<sup>14</sup> This is unsurprising as residents must leave South Beach to meet their retail needs, including groceries. South Beach residents are also more likely to dine at a restaurant and more likely to note that buying American is important, that quality is more important than price, and that price is more important than brand. When considering future commercial development along US 101, considering consumer preferences is important. A preference for American made and quality over price may indicate that a smaller retail shop versus a large chain may fare better in the area.

<sup>13</sup> This analysis is based on ESRI Business Analyst’s Retail Marketplace Profile, which relies on 2017 consumer spending data and 2020 demographic information. This discrepancy in years can lead to some inconsistencies which are best addressed through stakeholder outreach. Retail gaps are calculated by subtracting “retail sales” from “consumer expenditures” and can be negative or positive.

<sup>14</sup> ESRI Business Analyst summarizes data collected in a national household survey (2020) and uses its demographic information to forecast potential. Consumer behaviors that have a Market Potential Index (MPI) of over 100 are higher than the US average.

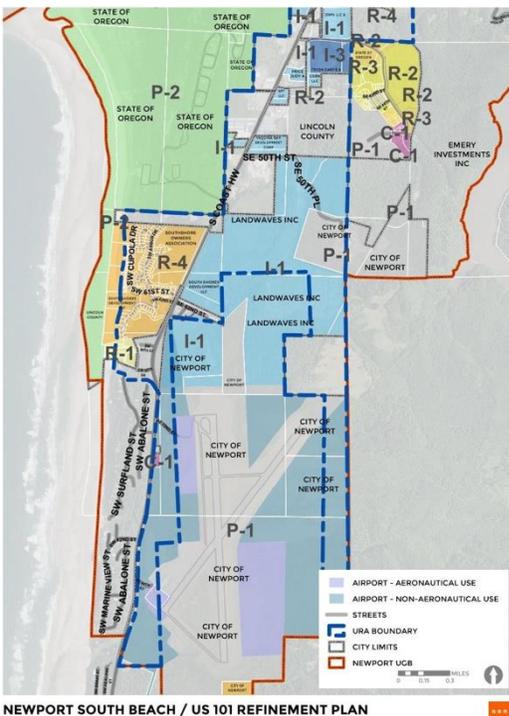
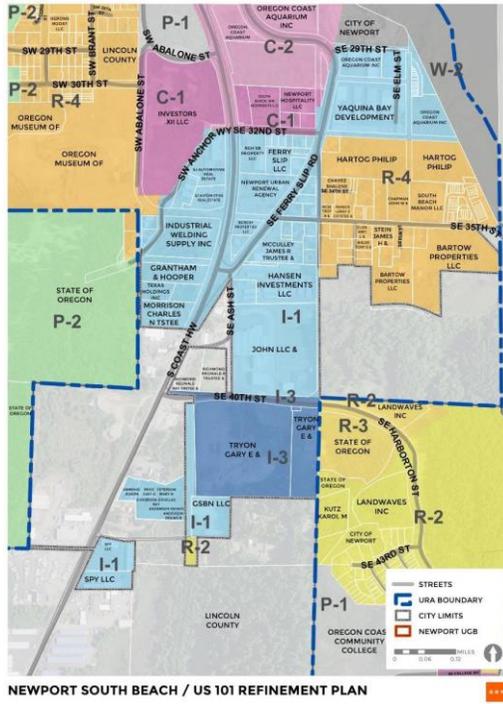
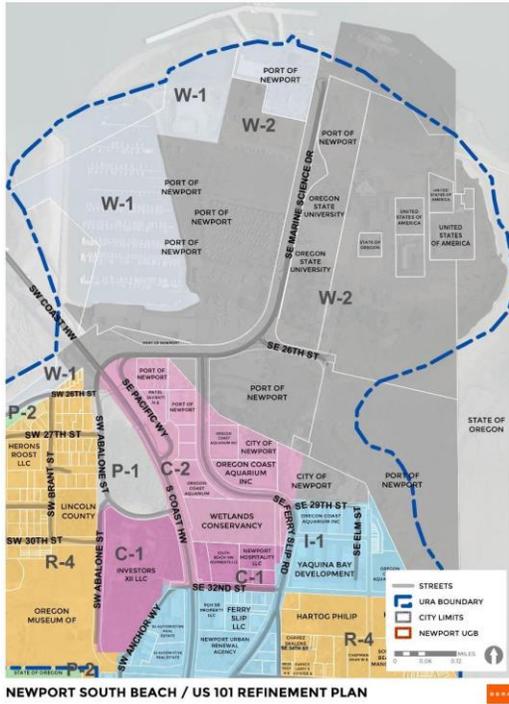
## Exhibit 2. Selected Retail Market Potential, Primary and Secondary Market Areas, 2020

Source: ESRI Business Analyst Retail Market Potential Report

Product/Consumer Behavior	Primary Market Area			Secondary Market Area		
	Expected Number of Adults or HHs	Percent of Adults/HHs	MPI	Expected Number of Adults or HHs	Percent of Adults/HHs	MPI
<b>Convenience Stores (Adults)</b>						
Bought gas at convenience store in last 30 days	371	46.7%	<b>125</b>	9,199	43.0%	<b>115</b>
Spent at convenience store in last 30 days: \$40-\$50	74	9.3%	<b>117</b>	1,875	8.8%	<b>110</b>
Spent at convenience store in last 30 days: \$100+	210	26.4%	<b>116</b>	5,189	24.2%	<b>107</b>
<b>Entertainment (Adults)</b>						
Dined out in last 12 months	445	56.0%	<b>110</b>	11,150	52.1%	<b>103</b>
<b>Home (Households)</b>						
HH did any home improvement in last 12 months	148	31.5%	<b>115</b>	3,358	29.8%	<b>109</b>
<b>Psychographics (Adults)</b>						
Buying American is important to me	461	58.0%	<b>157</b>	10,592	49.5%	<b>134</b>
Usually buy based on quality - not price	155	19.5%	<b>106</b>	3,882	18.1%	<b>99</b>
Price is usually more important than brand name	265	33.3%	<b>119</b>	6,702	31.3%	<b>112</b>
Usually use coupons for brands I buy often	138	17.4%	<b>109</b>	3,908	18.3%	<b>114</b>

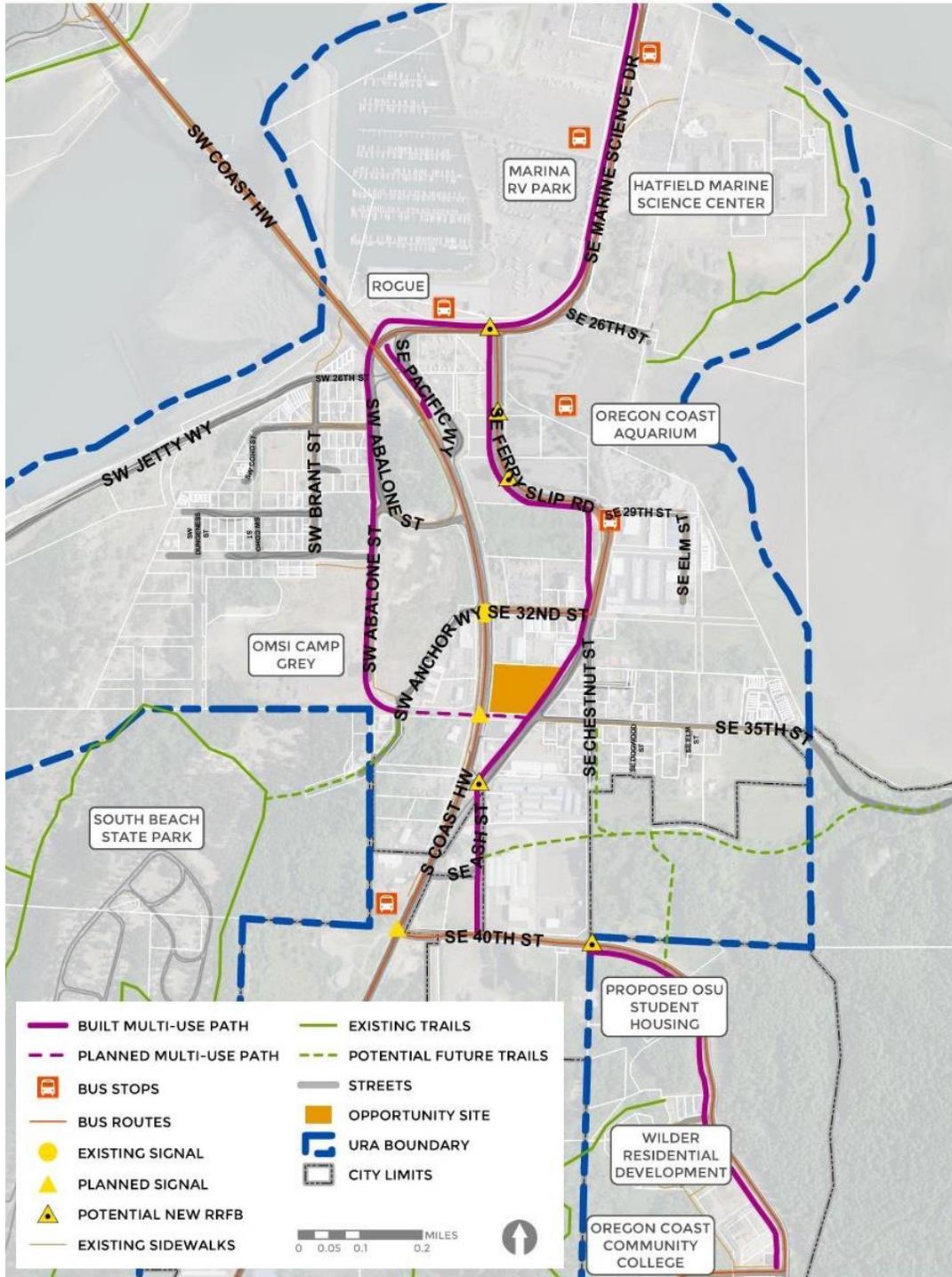
# Appendix C. Existing Conditions - Zoning, Transportation, Natural Hazards

**Exhibit 17. Zoning in South Beach**  
Source: City of Newport.



### Exhibit 18. Transportation Network in South Beach

Source: City of Newport.

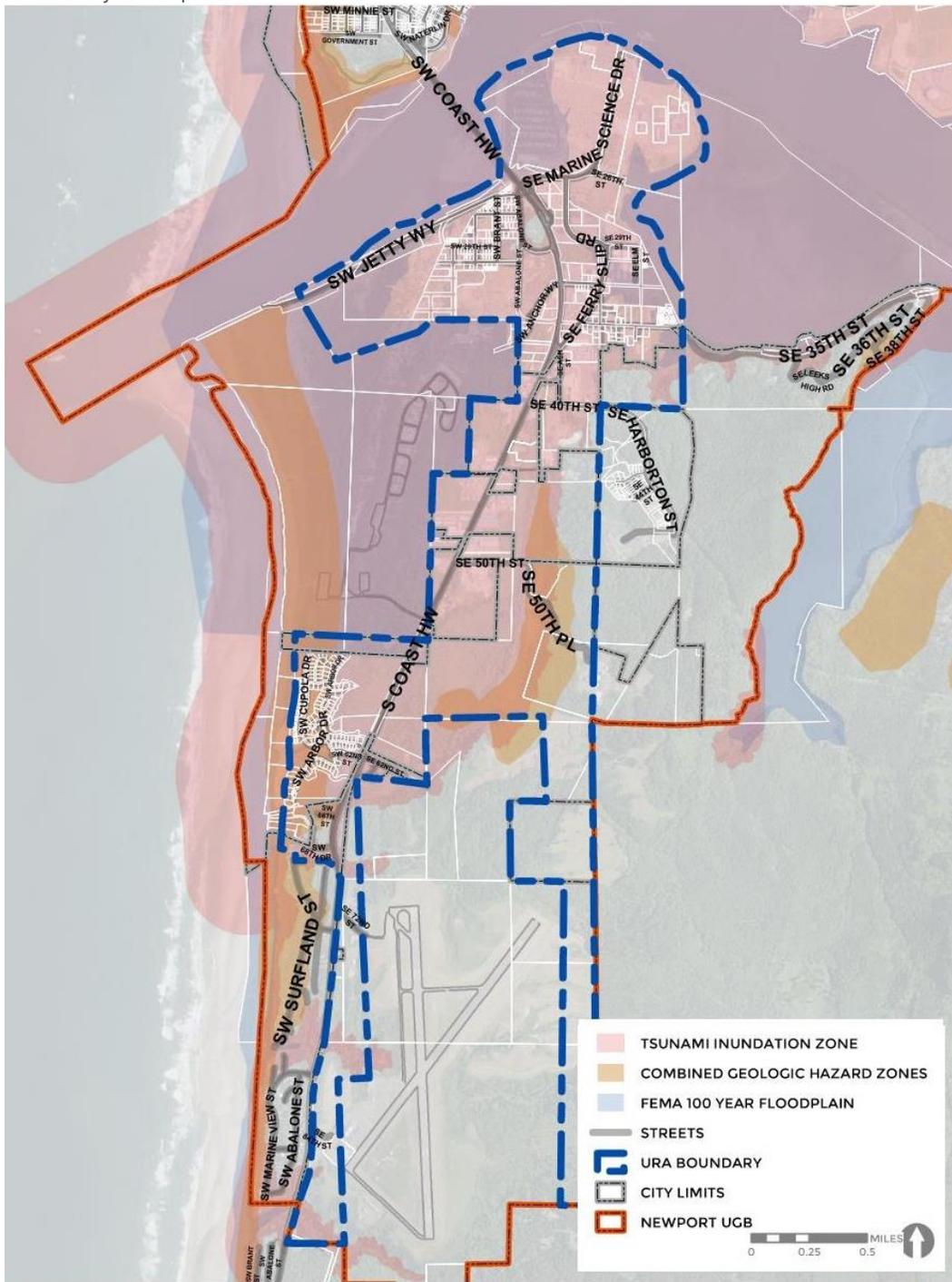


### NEWPORT SOUTH BEACH / US 101 REFINEMENT PLAN



### Exhibit 19. Natural Hazards in South Beach

Source: City of Newport.



NEWPORT SOUTH BEACH / US 101 REFINEMENT PLAN



		Meetings	Task 3 Pub Eng	Task 4 Ops Const	Task 5 Proj Concepts	Task 6 Code Audit (JET)	Task 7 Site Redev	Task 8 Final Report
Feb	1							
	8							
	15							
	22	24: Internal prep26: Project Kickoff (confirmed)						
Mar	1							
	8	12: Driving tour		Draft outline				
	15							
	22		Finalize interview list					
Apr	29		interview scheduling; first inte	Discuss outline with subs				
	5		Pub eng plan					
	12		<i>interviews</i>					
	19	22: Biweekly Check in	<i>interviews</i>					
May	26			write up interview themes; lorelei review				
	3	May 6: Biweekly Check In: survey, ops/cons map	Review survey framework	May 7: Final maps from SERA				
	10			finalize content, materials to Murraysmith from City				
	17	May 20: Biweekly Check In	Send survey to city	<b>May 17: DRAFT to City</b>				
June	24	<b>24: Staff TAC Mtg 1</b>	finalize survey	Comments back; copyedit; <b>ECO sending infrastructure section from MurraySmith</b>				
	31	May 4: Biweekly Check in		<b>May 31: Survey for inclusion in UR Agency packet</b>				
	7	<i>June 7: UR Agency - Derrick reviews survey with URA</i>	translate survey					
	14	June 17: Biweekly check in	re-finalize survey	<b>June 14: Packet to UR Agency: report and slides</b>				
July	21	<b>June 21: UR Agency briefing June + Remote Workshop</b>	Survey open			Part I: Code vs. existing conditions		
	28	Biweekly check in	Survey open					
	5		Survey open					
	12	Biweekly check in	close survey; summarize results					
Aug	19							
	26	Biweekly check in		Finalize draft				
	2					Part II: Recommendations		
	9	Biweekly check in						
Sep	16	<b>Staff TAC Mtg 2 (early to mid Aug)</b>			Draft to City			
	23	Biweekly check in	TBD: Survey content to City		Comments			
	30	<b>UR Agency briefing TBD - Remote Workshop</b>	Survey open		Final Draft			
	6		Survey open					
Oct	13		Survey open			Draft to City	Draft to City	
	20					Comments	Comments	
	27	<b>Staff TAC Mtg 3 (TBD) (Sep)</b>				Final Draft	Final draft	
	4							
Nov	11							
	18							
	25							
	8							Draft to City
Nov	15							Comments
	22	<b>UR Agency final presentation - placeholder, scope add</b>						Final draft to City
	29							

# Memorandum

To: Planning Commission/Commission Advisory Committee  
From: Derrick I. Tokos, AICP, Community Development Director   
Date: May 18, 2021  
Re: Newport Beach Access Resiliency Project Recommendations

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On April 12<sup>th</sup> you received a draft assessment by KPFF Engineering, where they evaluated beach access locations within the City of Newport to identify 2-3 locations best suited for seismic improvements. KPFF visited public beach access points north of the Yaquina Bay Bridge and reviewed available geotechnical documentation before concluding that the Nye Beach Turnaround, Agate Beach State Recreation Site, and Schooner Creek at NW 68th Street were the best candidate sites for retrofits.

The next step in their scope of work was to provide recommendations on what is needed at each location. Attached is a memo outlining the improvement concepts. It has undergone an initial round of review by city and state staff, including the Oregon Parks and Recreation Department, and we have an opportunity to provide one additional round of comments. Please take a moment to review the document as we would appreciate your thoughts on whether or not the project concepts appear realistic and, if implemented, would increase the likelihood that the access points will be passable following a nearshore Cascadia earthquake. Once the document is finalized, the project concepts can be worked into the City's Comprehensive Plan and used to leverage state or federal funds to help pay for more detailed design and construction.

Meg Reed with DLCD is planning to attend the work session. She is the project lead and KPFF's work was fully funded with a grant from the National Oceanic and Atmospheric Administration. The project must be completed by the end of the fiscal year.

Attachments

Newport Beach Access Resiliency Plan, dated May 14, 2021

# NEWPORT BEACH ACCESS RESILIENCY PLAN

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**DRAFT**

**MAY 14, 2021**

SUBMITTED TO

CITY OF NEWPORT  
169 SW COAST HWY  
NEWPORT, OR 97365

SUBMITTED BY

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



## Introduction

The Oregon Department of Land Conservation and Development (DLCD) retained a team led by KPFF to evaluate existing beach access points north of Yaquina Bay in Newport, OR. This team recommended three beach access points for seismic improvements in the March 19, 2021 Beach Access Resiliency Plan Evaluation Memo (Appendix A).

The three access points recommended for improvements are:

- Nye Beach Turnaround
- Agate Beach State Recreation Site
- Schooner Creek at NW 68th Street

This report contains concept level designs and estimated construction costs for each of the three locations as well as discussion of structural, geotechnical, site design and regulatory/permitting considerations. The designs are concept level and are based on a general assumption of soil conditions and approximate site grades. No engineering modelling/analysis, survey, or geotechnical investigations have been performed in the development of these concept designs.

## Nye Beach Turnaround

### Site Design Considerations

This site design is driven by the following factors:

1. The approximately 12-foot differential between the Nye Beach turnaround and the beach.
2. Potential for the adjacent existing masonry wall (associated with an early-20<sup>th</sup> Century Natatorium facility that existed at the site) to fail during a large earthquake and partially or fully obscure the existing access ramp.
3. The location of a storm drain outfall to the south of the turnaround.
4. This is a popular area and has potential to provide access for a large number of people.
5. This site could also be connected to the Sam Moore Parkway Trail to provide additional pedestrian circulation benefits supporting passive recreation for residents as well as for potential tourism value.

The proposed access would be a reinforced concrete structure with a 10-foot-wide pedestrian path consisting of four ADA-compliant ramps, five landings, and a section nearest the beach running at five percent. Total length is approximately 250 feet. The lowest section would land approximately two feet below grade to provide resilience to shoreline erosion. The structure would be designed to wrap around the existing wall and present consistently in terms of matching existing materials. Additional evacuation signage is recommended on the streets to guide people out of the Tsunami Inundation Zone efficiently.

### Geotechnical Considerations

Subsurface conditions observed at the Nye Beach access indicate new foundations for the concrete walkway/ramp can likely be founded on shallow spread footings bearing on the native siltstones currently exposed at the base of the existing wall. Foundations would need to be sufficiently embedded to provide both lateral passive resistance as well as below the anticipated depth of scour.

In general, the exposed siltstone soils have low to moderate erosion/scour potential compared to the beach sand nearby. Additional geotechnical site investigation would be necessary to verify that the siltstone exposed is sufficiently thick as well as verify its presence where obscured by near surface beach sand.

### **Structural Design Considerations**

The new reinforced concrete walkway would be designed to remain operational after a major seismic event. Stabilization or reconstruction of the adjacent existing concrete wall at the perimeter of the turnaround roadway may also be necessary, as its current seismic resilience is unknown and it may present a hazard to life safety and the operation of the new access ramp if it were to fail.

Reconstruction of the existing wall could be accomplished with a conventional reinforced concrete wall at the same height and in the same location as the existing wall. Replacement of the existing wall would affect the adjacent turnaround roadway during construction. Alternatively, strengthening could be accomplished by using the new access ramp to buttress the existing wall.

### **Permitting/Regulatory Considerations**

Several sensitive resources are thought to exist in the general vicinity of the Nye Beach Turnaround. National Wetland Inventory (NWI) mapping shows a creek as well as an estuarine and marine wetland in the project vicinity. FEMA floodplain mapping shows flood zone VE (coastal floodplain) in the project area. Threatened and endangered species protected by the Endangered Species Act (ESA) may occur in the general vicinity of the project. City of Newport maps show the project area as being in a geologic hazard area, within the SB 379 tsunami inundation line, within the 100-year floodplain, and within a wetland area. The masonry wall associated with an early-20th century natatorium may be an historic resource.

Clean Water Act Section 401 and 404 permits may be required if there are impacts to wetlands or waters of the United States. If there is a federal nexus (need for a federal permit or federal funding), impacts to ESA-listed species and cultural resources will need to be addressed. If there are impacts below the line of statutory vegetation or actual vegetation line, an Ocean Shore Permit through Oregon Parks and Resources Department (OPRD) will be required. Impacts to waters of the state (wetlands or waters) above the line of statutory vegetation or actual vegetation line may trigger the need for a Removal-Fill Permit through the Oregon Department of State Lands (DSL). The project will need to show consistency with the Coastal Zone Management Act (CZMA). City of Newport regulations concerning geologic hazards, SB 379 Tsunami Inundation Line, 100-year floodplain, and wetlands may need to be addressed. Nye Beach is located within the City of Newport design review overlay area.

### **Alternative Design Options**

The proposed new access structure consists of a cast-in-place concrete structure. This material offers advantages over wood or steel framed structures, due to its durability in a marine environment.

The new concrete walkway structure can also be used to buttress the existing wall that separates the turnaround from the beach. The proposed solid concrete structure allows this buttress to be accomplished with simple gravel backfill between the new structure and the existing wall. A steel or wood framed structure would not provide the same level of protection for the existing wall.

It is relatively straightforward to reinforce the proposed concrete structure to provide seismic resiliency. A wood or steel framed structure can also be designed to provide seismic resiliency. However, both structure types would likely require significantly more maintenance over a simple concrete structure due to the coastal environment.

### Proposed Concept Design

The proposed access retrofit concept and suggested improvements to Tsunami Evacuation signage are shown in Figures 1 and 3 with a concept level structural section included in Figure 2.

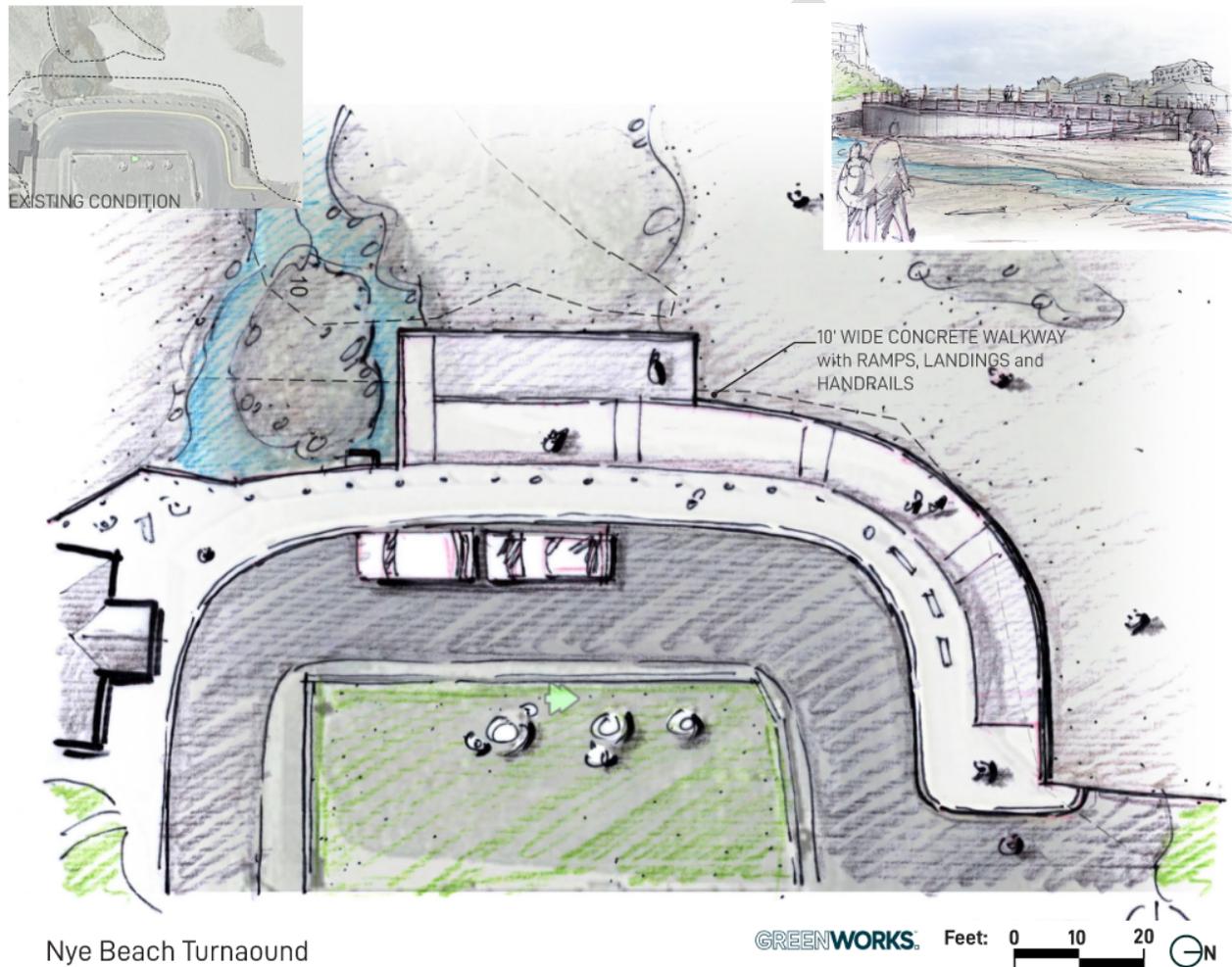


Figure 1

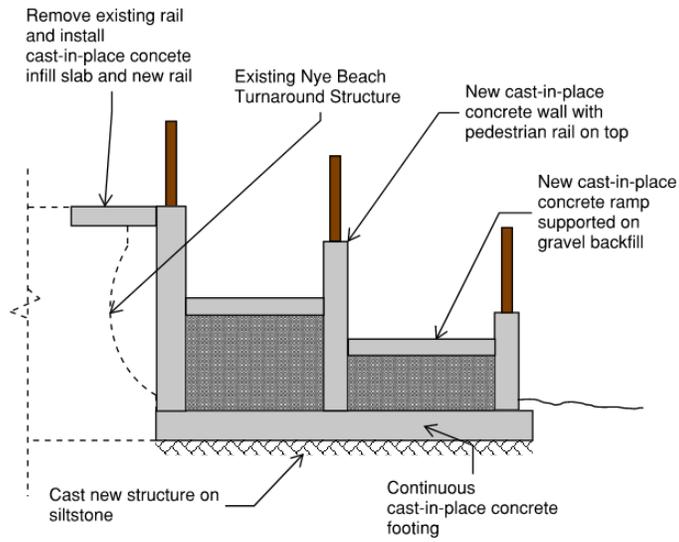


Figure 2

BEACH EVACUATION ZONE SIGNAGE

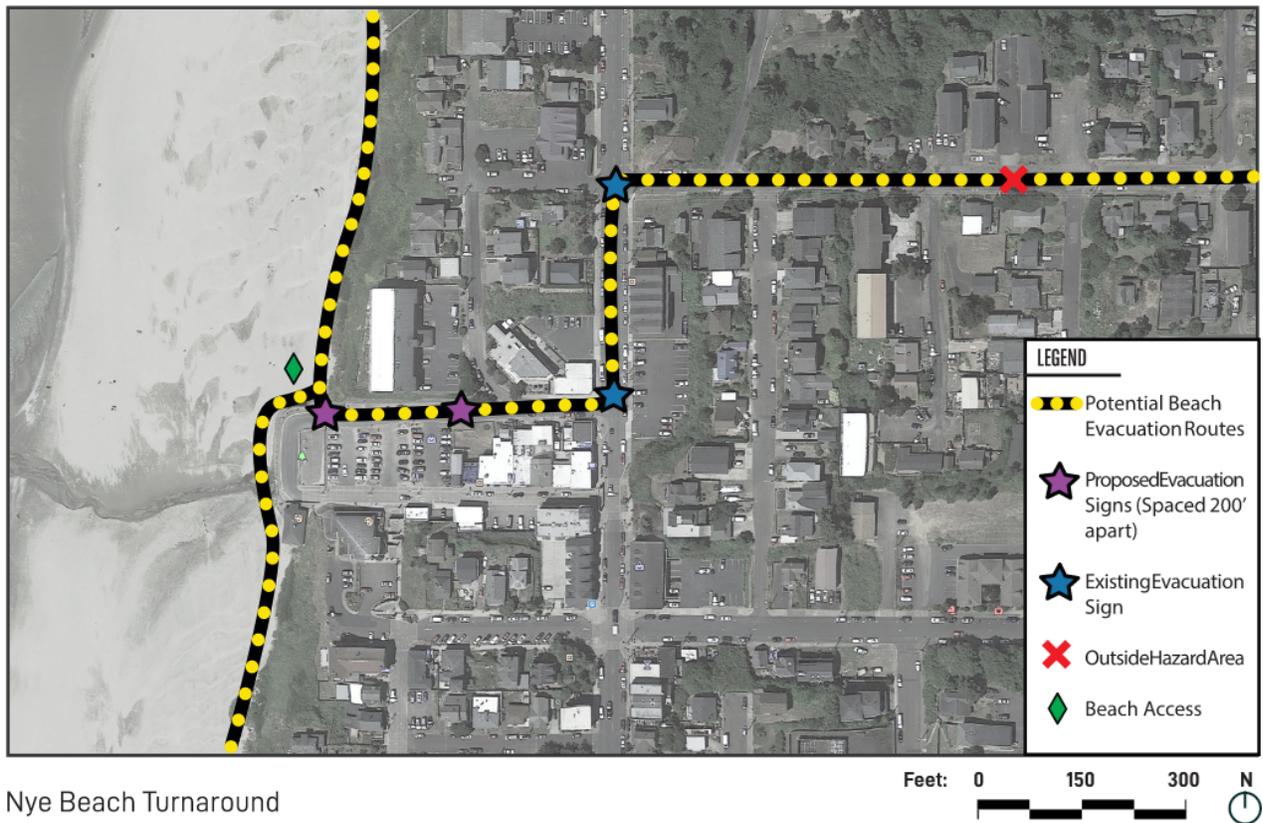


Figure 3

## Agate Beach State Recreation Site

### Site Design Considerations

This site design is driven by the following factors:

1. Minimal grade issues at this site.
2. The slough coming from the south that drains to Big Creek, as well as a wetland between the existing ramp and the beach.
3. This is a popular area and has potential to provide access for a large number of people.
4. Oregon State Parks may be willing to share in funding some of the improvements which could support a stronger connection (identified as an opportunity in the Park System Master Plan) to the adjacent Ocean to Bay Trail for residents and tourists alike

The proposed access would be a steel framed boardwalk with a 14-foot-wide path beginning at the end of the existing ramp and running approximately 120 feet. The boardwalk would serve mobility-impaired users. The structure could be designed in a Cascadian architectural style to blend materially with nearby state park facilities. Additional evacuation signage is recommended to guide people across Ocean Avenue and out of the Tsunami Inundation Zone efficiently.

### Geotechnical Considerations

Existing access at Agate Beach consists of a relatively gently sloped on grade path down to the beach. Due to the presence of shallow/standing water at times and relatively loose sands at the surface, liquefaction is a hazard at this site for a CSZ earthquake. Considering the seismic hazard and review of available geological maps, we anticipate the boardwalk would be supported on driven or drilled piles such as pipe piles, helical piles, or similar founded in the underlying dense sands and/or siltstone. Foundations would likely need to extend sufficiently deep to provide lateral resistance during shaking, resist downdrag, as well as mitigate scour potential from the adjacent creek. Additional geotechnical site investigation would be necessary to confirm the depth to dense sand/siltstone as well as constructability considerations for various foundation types.

### Structural Design Considerations

The structural design of the boardwalk will need to consider partial inundation during high water, the corrosive marine environment, as well as the need to remain operational after a major seismic event. Reinforced concrete piers and galvanized steel framing would accomplish this goal. The deck would likely be a concrete deck to support pedestrian and vehicular traffic (emergency vehicles and beach maintenance vehicles).

The design of the pedestrian rail should consider long term durability, cost, and the aesthetics of the surrounds as key considerations.

The structure would be subject to tidal energy and loading from large wood debris washing up on the beach. The structural design will need to accommodate this additional loading.

### Permitting/Regulatory Considerations

Several sensitive resources are thought to exist in the general vicinity of the Agate Beach State Recreation Site. NWI mapping shows Big Creek and wetlands (R1UBV - riverine tidal unconsolidated bottom, permanently flooded-tidal and M2USP - marine intertidal unconsolidated shore, irregularly

flooded). FEMA floodplain maps show flood zone VE (coastal floodplain) in the project area. threatened and endangered species protected by the ESA may occur in the general vicinity of the project. City of Newport maps show the project area as being in a geologic hazard area, within the SB 379 tsunami inundation line, within the 100-year floodplain, and within a wetland area.

Clean Water Act Section 401 and 404 permits may be required if there are impacts to wetlands or waters of the United States. If there is a federal nexus (need for a federal permit or federal funding), impacts to ESA-listed species and any cultural resources will need to be addressed. If there are impacts below the line of statutory vegetation or actual vegetation line, an Ocean Shore Permit through OPRD will be required. Impacts to waters of the state (wetlands or waters) above the line of statutory vegetation or actual vegetation line may trigger the need for a Removal-Fill Permit through the DSL. The project will need to show consistency with the CZMA. City of Newport regulations concerning geologic hazards, SB 379 Tsunami Inundation Line, 100-year floodplain, and wetlands may need to be addressed.

### **Alternative Design Options**

The proposed structure consist of steel beams supporting a concrete deck – providing a resilient, durable structure, capable of supporting pedestrian and vehicular loads. A wood framed structure is not recommended, due to the significant maintenance required for a structure of this type in a coastal environment.

An on grade ramp with retaining walls along the edges would block passage of Big Creek and result in a large environmental footprint in comparison with the proposed steel framed structure that sits on individual foundations.

The creek that the boardwalk crosses varies in width and depth of water. Recognizing that this area is likely subject to liquefaction, there may be uneven grade post-earthquake and a structure would provide an access that could efficiently allow people to exit whether the creek was full or not. A no-boardwalk solution would likely not function as well when the slough was full.

The boardwalk location can vary easily from that shown in this report and could be relocated to the south of the beach entrance to improve vehicular access.

### **Proposed Concept Design**

The proposed access retrofit concept and suggested improvements to Tsunami Evacuation signage are shown in Figures 4 and 6 with a concept level structural section included in Figure 5.

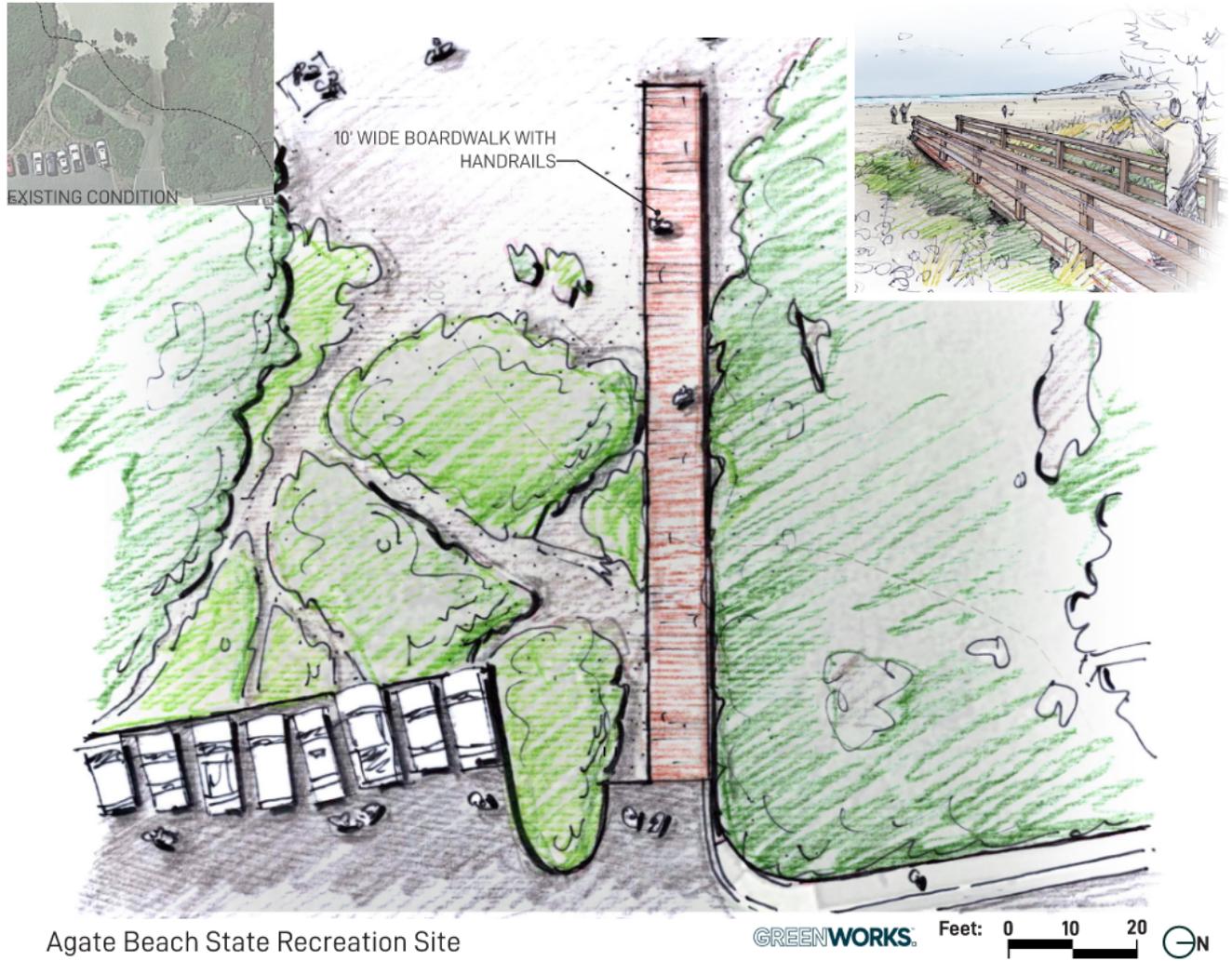


Figure 4

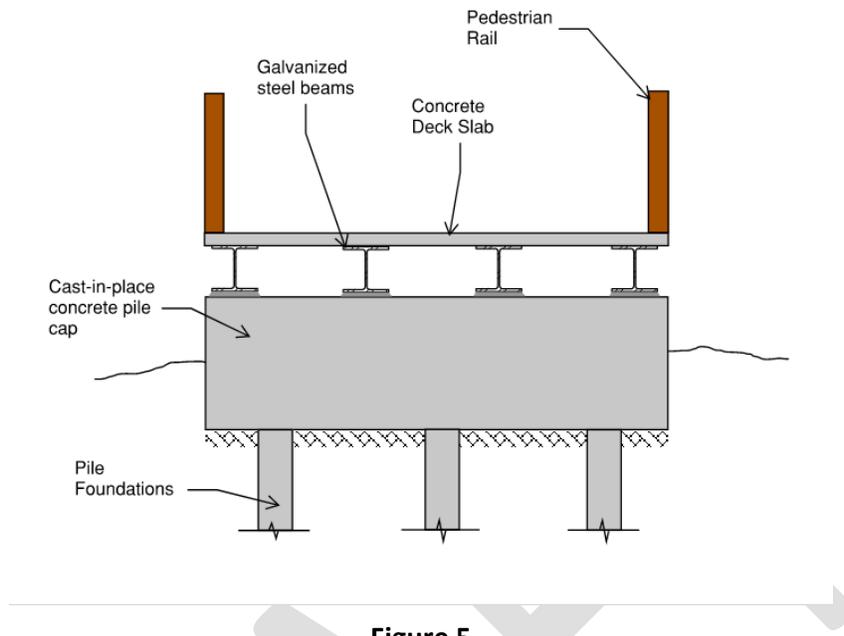


Figure 5

BEACH EVACUATION ZONE SIGNAGE

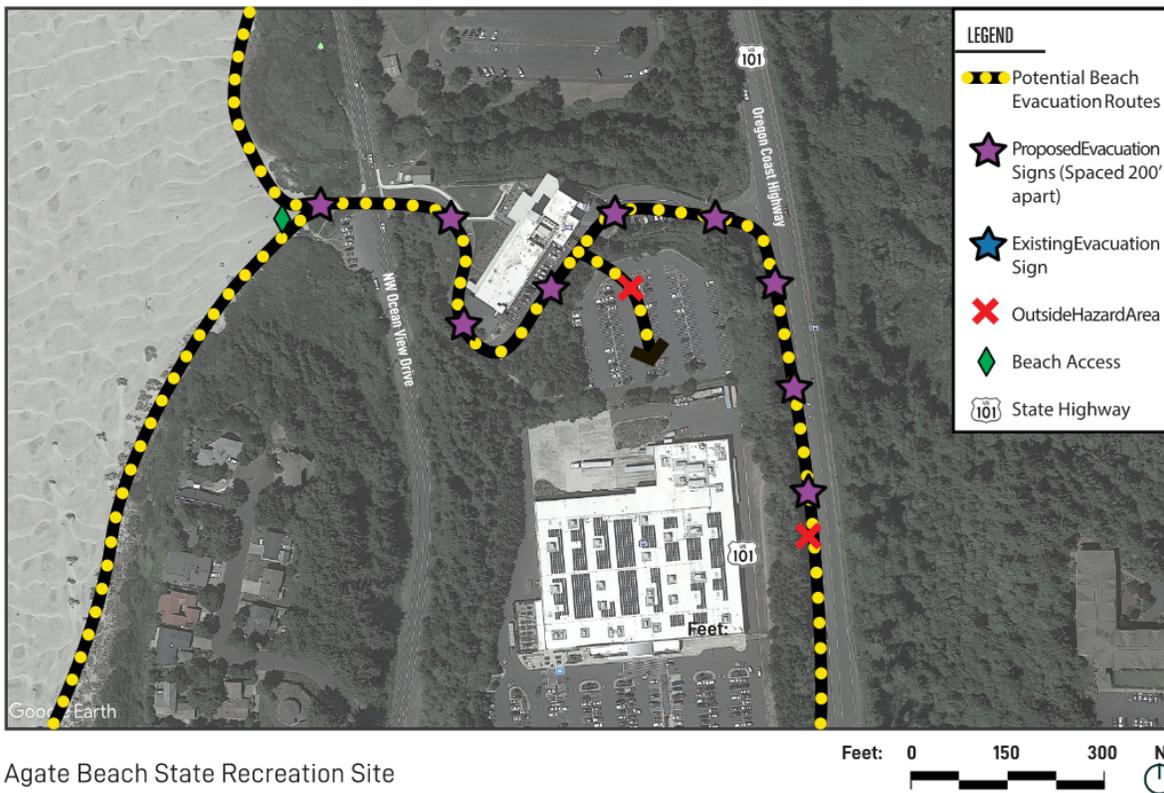


Figure 6

## Schooner Creek at NW 68<sup>th</sup> Street

### Site Design Considerations

This site design is driven by the following factors:

1. Schooner Creek running immediately north of the existing rough ramp and potential for debris flow during a Cascadia Subduction Zone Earthquake that could partially or fully obscure the existing access.
2. Tightly constrained public right-of-way.
3. An approximately eight-foot grade difference between the existing gravel turnaround and the beach.
4. This is a popular area and has potential to provide access for a large number of people.
5. Making improvements here would tie in nicely with the following opportunities identified in the Park System Master Plan: proposed Highway 101 undercrossing and connection to Nautical Hill Open Space, and via a potential future trail back to the Ernest Bloch/Lucky Gap.

The proposed access would be a 10-foot wide path (potentially a reinforced concrete walking surface) adjacent to a rock/boulder retaining wall. The lowest section would land approximately two feet below grade to provide resilience to shoreline erosion. The proposed path is steeper than 5% to minimize right-of-way impacts and will incorporate a log jam structure to protect the access point from debris that may flow from Schooner Creek.

### Geotechnical Considerations

The 68<sup>th</sup> Court beach access location, while geographically important, presents additional considerations with regard to the presence of existing debris flow derived conglomerate overlying siltstone/sandstone. Considering the potential for incremental movement of the conglomerate during a seismic event, we recommend the ramp be supported by a rock/boulder retaining wall or gabion basket wall – both of which are generally considered to have increased tolerance of movement compared to traditional concrete wall structures. The wall should be founded and embedded sufficiently in the underlying siltstone/sandstone to limit such movements, provide lateral resistance, and mitigate scour potential. Additionally, existing conglomerate underlying the existing proposed walkway should be removed and replaced with crushed aggregate. Explorations are recommended to further evaluate the potential for movement of the existing conglomerate as well as verify the consistency of the exposed siltstone soils.

### Structural Design Considerations

This on-grade walkway is supported behind rock/boulder or gabion walls. The walls can accommodate the potential movements of the underlying soils. In addition to resisting future soil movements, the walls should be sufficiently embedded to accommodate future scouring of the surrounding grade.

Gabion basket wire gage and coating should consider the corrosive marine environment and any pedestrian rails should consider long term durability, cost, and the aesthetics of the surrounds as key considerations.

### **Permitting/Regulatory Considerations**

Several sensitive resources are thought to exist in the general vicinity of the Schooner Creek at the NW 68<sup>th</sup> Street project site. NWI mapping shows Schooner Creek, freshwater wetlands, and estuarine and marine wetlands in the project vicinity. FEMA floodplain mapping shows flood zone VE (coastal floodplain) in the project area. Threatened and endangered species protected by the ESA may occur in the general vicinity of the project. City of Newport maps show the project area as being in a geologic hazard area, within the SB 379 tsunami inundation line, within the 100-year floodplain, and within a wetland area.

Clean Water Act Section 401 and 404 permits may be required if there are impacts to wetlands or Waters of the United States. If there is a federal nexus (need for a federal permit or federal funding), impacts to ESA-listed species and any cultural resources will need to be addressed. If there are impacts below the line of statutory vegetation or actual vegetation line, an Ocean Shore Permit through OPRD will be required; this project may require both an Access Way & Other Miscellaneous Projects Permit and a Shoreline Protection Structure Permit. Per Meg Reed at the Department of Land Conservation and Development (DLCD), this location is not eligible for beachfront protection under Statewide Planning Goal 18, therefore, the City would need to be granted an exception in order to construct beachfront protection in this area. Impacts to waters of the state (wetlands or waters) above the line of statutory vegetation or actual vegetation line may trigger the need for a Removal-Fill Permit through the DSL. The project will need to show consistency with the CZMA. City of Newport regulations concerning geologic hazards, SB 379 Tsunami Inundation Line, 100-year floodplain, and wetlands may need to be addressed.

### **Alternative Design Options**

Several options were considered for the Schooner Creek access point including construction of a rigid concrete structure, MSE or gravity retaining structures, and slope reinforcement. The potential for deformations from the active landslide at the Schooner Creek access point could damage a rigid concrete structure. As a result, it would likely require deep foundations or other restraining system to maintain tolerable deformations. While slope reinforcement is a potential, it would likely require the installation of shear piles and/or slope anchors such as soil nails to stabilize movement. This option would likely require property acquisitions to accomplish as well as carrying a relatively high cost for the mitigations.

Due to narrow available right-of-way, a longer walkway would require significant right-of-way acquisition.

### **Proposed Concept Design**

The proposed access retrofit concept and suggested improvements to Tsunami Evacuation signage are shown in Figures 7 and 9 with a concept level structural section included in Figure 8.

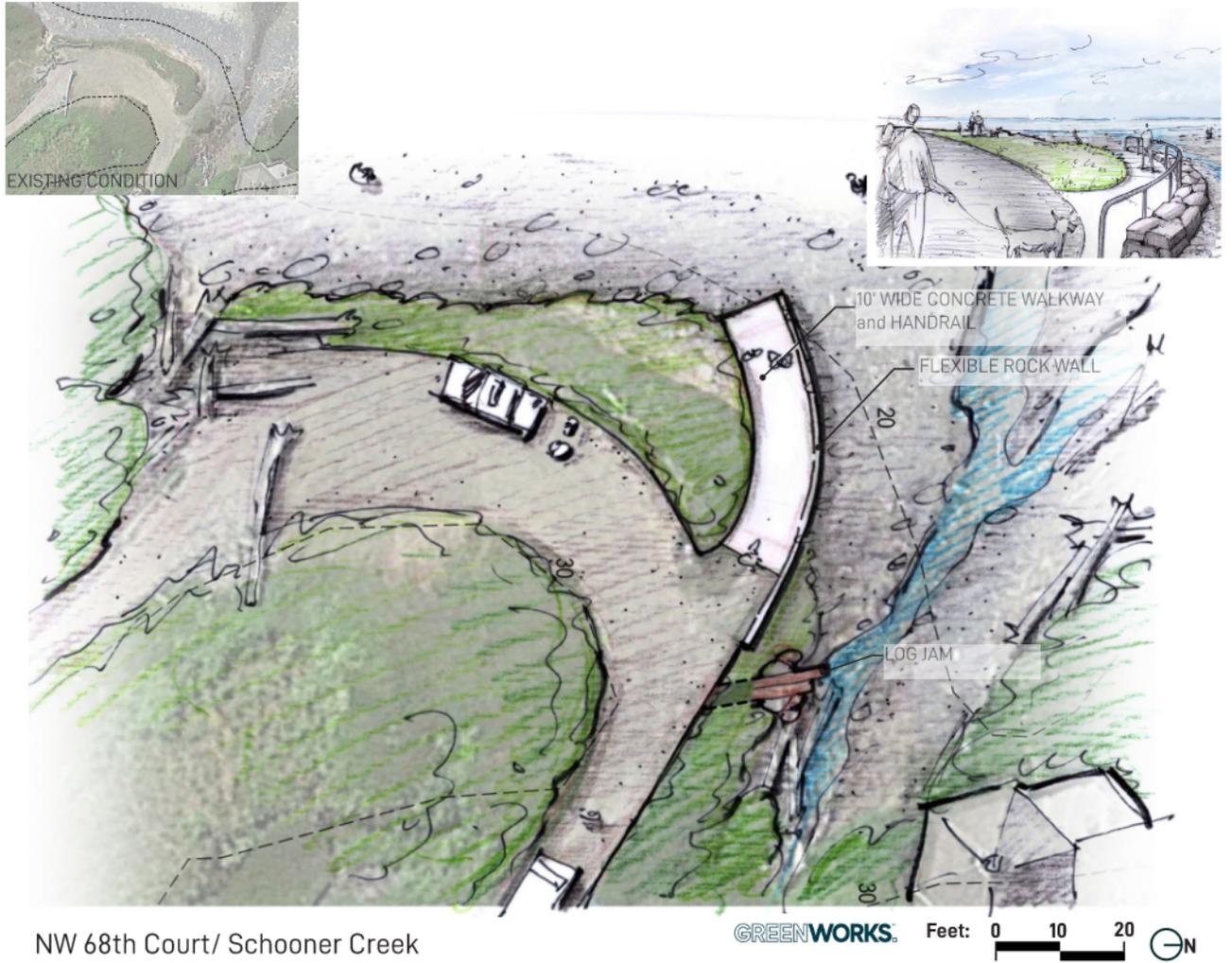


Figure 7

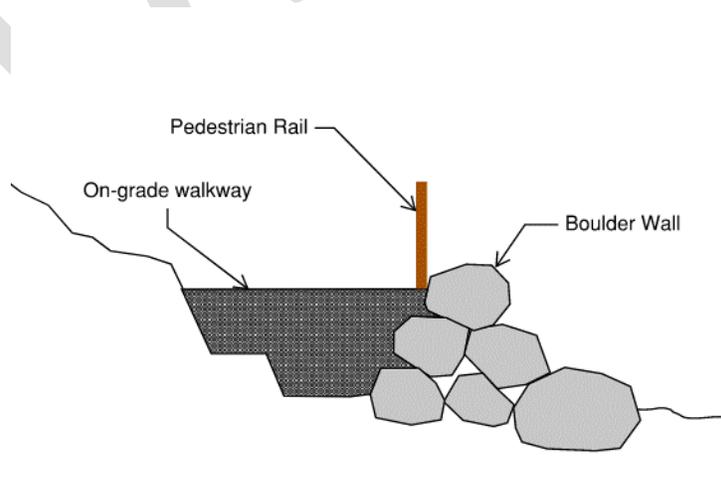


Figure 8

BEACH EVACUATION ZONE SIGNAGE

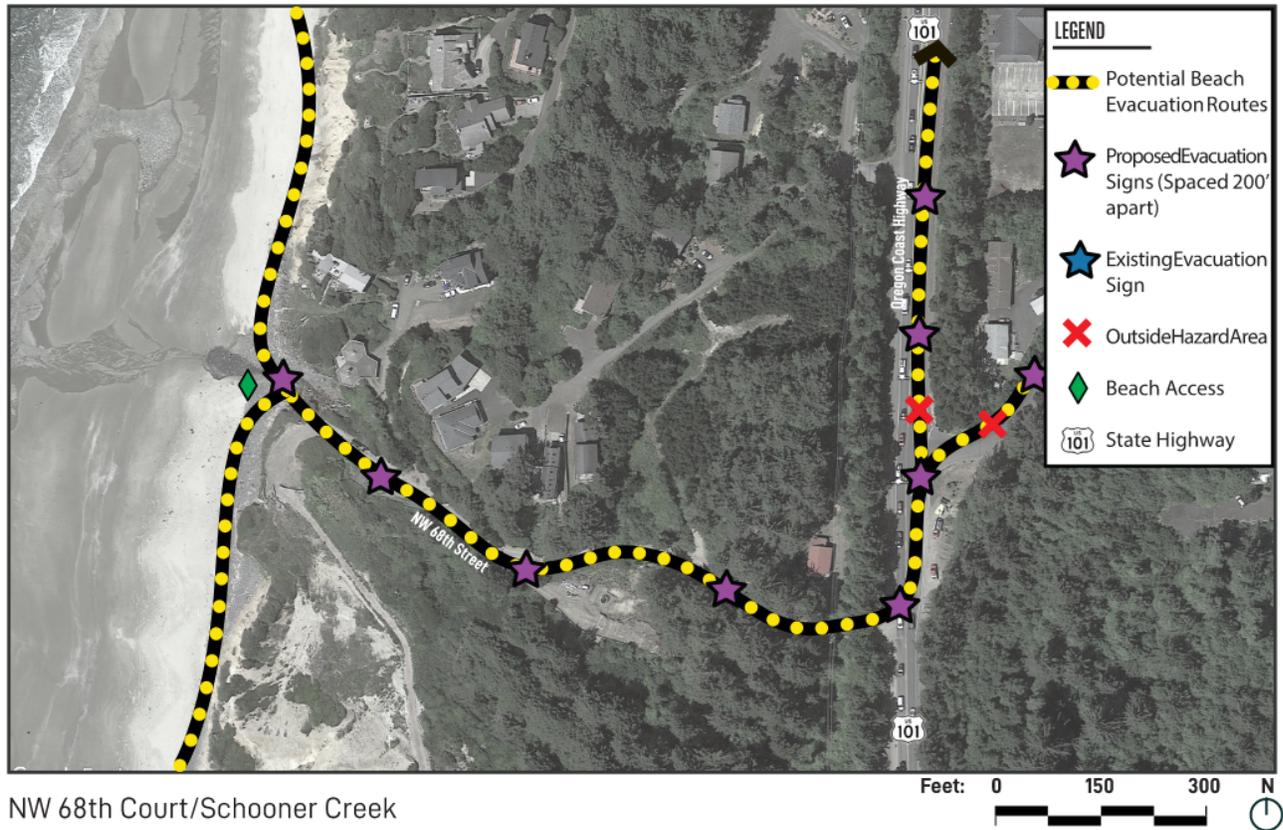


Figure 9

## Estimated Costs and Possible Funding Sources

### Estimated Costs

The following tables show estimated costs for each of the proposed improvements.

The costs are based on calendar year 2021 unit prices and should be escalated by an appropriate amount for the anticipated year of construction. The costs do not include the following items:

- State/City project management and administration costs
- Permitting costs
- Utility relocation
- Right-of-way acquisition
- Signage and wayfinding

### Nye Beach Turnaround

Item Number	Item	Cost
1	250-foot-long x 10-foot-wide walkway structure	\$750,000
2	750-foot pedestrian rail	\$150,000
3	Backfill and cap existing Nye Beach wall	\$50,000
4	Contingency (40%)	\$380,000
5	Engineering fees (40%)	\$532,000
<b>ESTIMATED TOTAL</b>		<b>\$1,900,000</b>

### Agate Beach State Recreation Site

Item Number	Item	Cost
1	150-foot-long x 14-foot-wide walkway structure	\$630,000
2	300-foot pedestrian rail	\$60,000
3	Contingency (40%)	\$276,000
4	Engineering fees (40%)	\$386,000
<b>ESTIMATED TOTAL</b>		<b>\$1,350,000</b>

### Schooner Creek at NW 68<sup>th</sup> Street

Item Number	Item	Cost
1	70-foot -long x 10-foot-wide walkway structure	\$140,000
2	140-foot pedestrian rail	\$28,000
3	Log jam structure	\$50,000
5	Contingency (40%)	\$87,000
5	Engineering fees (40%)	\$122,000
<b>ESTIMATED TOTAL</b>		<b>\$430,000</b>

### Potential Funding Sources

This list of potential funding sources is not an exhaustive list. Funding programs evolve over time, so this list is subject to change. These funding strategies can potentially be used for all sites as appropriate.

#### Revenue Sources

- SDCs (System Development Charges) – Transportation SDCs can be used both on and off-street facilities.
- LIDs (Local Improvement Districts) – Money used to fund and construction local projects.
- CETs (Construction Exercise Tax) – Money can be used for non-housing purposes.
- Urban Renewal – Money used to improve poorly underdeveloped areas.
- State Highway Fund
- Federal/State/Local Gas Tax
- Transient Room Taxes
- Property Tax

## State Grants and Loans

- ODOT Bike-Pedestrian Program –  
<https://www.oregon.gov/odot/programs/pages/bikeped.aspx>
- ODOT Transportation Safety Grant Program -  
<https://www.oregon.gov/odot/Safety/Pages/Grantee.aspx>
- Oregon Special Public Works Fund –  
<https://www.orinfrastructure.org/Infrastructure-Programs/SPWF/>
- ODOT Funding Options - <https://www.oregon.gov/ODOT/LocalGov/Pages/Funding.aspx>
- All Roads Transportation Safety (ARTS) – the ARTS Program is designed to address safety needs on all public roads in Oregon <http://www.oregon.gov/ODOT/Engineering/Pages/ARTS.aspx>
- Oregon Community Paths Program –  
<http://www.oregon.gov/ODOT/Programs/Pages/OCP.aspx>
- Travel Oregon Grants – matching grants for projects with a tourism purpose  
<http://www.Industry.TravelOregon.com/Grants>

## Federal Grants and Loans

- FEMA Mitigation Assistance Grants/Building Resilient Infrastructure and Communities (BRIC) –  
<http://www.ema.gov/grants/mitigation/building-resilient-infrastructure-communities>
- Surface Transportation Block Grant Program (STBG) –  
<http://www.fhwa.dot.gov/specialfunding/stp>
- Transportation Alternatives Program (TA funds) – Transportation Alternatives is a set-aside within STBG. Bike-ped projects including recreational trails and safe routes projects are eligible  
[http://www.fhwa.dot.gov/environment/transportation\\_alternatives](http://www.fhwa.dot.gov/environment/transportation_alternatives)
- Federal Fixing America's Surface Transportation (FAST) Act –  
<https://www.fhwa.dot.gov/fastact/funding.cfm>
- Federal Lands Access Program (FLAP) – The Access Program supplements State and local resources for public roads, transit systems, and other transportation facilities, with an emphasis on high-use recreation sites and economic generators  
<https://highways.dot.gov/federal-lands/programs-access>
- National Coastal Resilience Fund – This program supports competitive grants that restore or expand natural features such as coastal wetlands, dunes, and coral reefs to protect coastal communities from flooding and provide habitat for fish and wildlife.  
<https://coast.noaa.gov/resilience-grant/>

# APPENDIX A

March 19, 2021 : Beach Access Evaluation Memo

# NEWPORT BEACH ACCESS RESILIENCY PLAN

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## EVALUATION MEMO

MARCH 19, 2021

SUBMITTED TO

CITY OF NEWPORT  
169 SW COAST HWY  
NEWPORT, OR 97365

SUBMITTED BY

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



## Introduction

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

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

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

## Executive Summary

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

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

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

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

These sites have been selected for further evaluation based on:

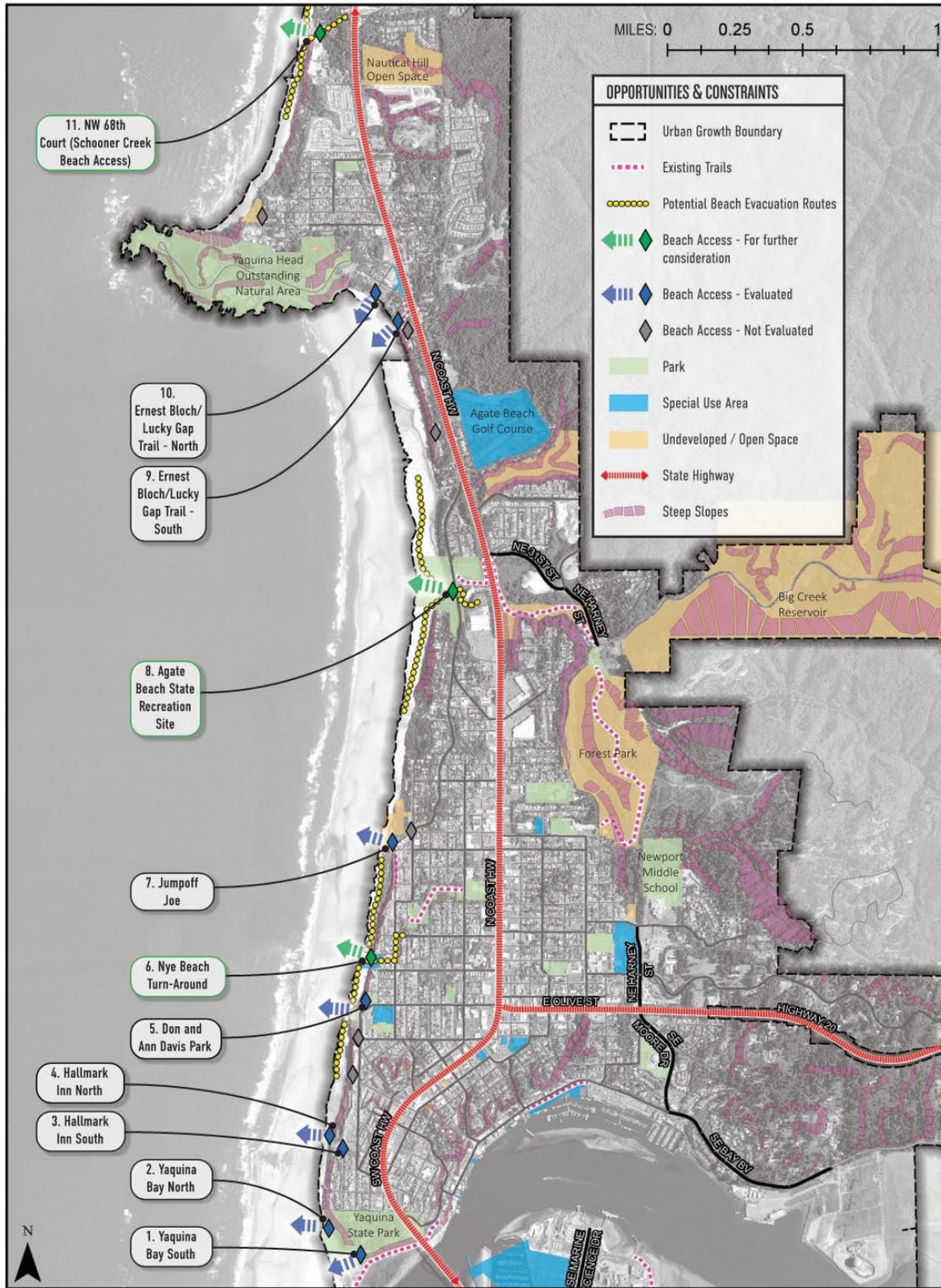
- Lack of, or limited impact from, local landslides
- Geographic spread along the north portion of Newport’s beach
- Lower anticipated cost of seismic improvements relative to other sites
- Proximity to popular beach and community areas

A detailed description of each access location is included below.

## Regional Seismicity

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

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



**Figure 1: Newport Beach Access Points**

## Geological Conditions

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

## Beach Access Evaluations

### 1 - Yaquina Bay South

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

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

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

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

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

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

### 2 - Yaquina Bay North

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

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

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

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

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

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

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

### 3 - Hallmark Inn South

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

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

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

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

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

#### 4 - Hallmark Inn North

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

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

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

#### 5 - Don and Ann Davis Park

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

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

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

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

#### 6 - Nye Beach Turnaround

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

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

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

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

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

## 7 - Jumpoff Joe

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

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

- Existence of an active landslide

## 8 - Agate Beach State Recreation Site

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### 11 - Schooner Creek

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

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

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

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

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

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

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

## Conclusion and Next Steps

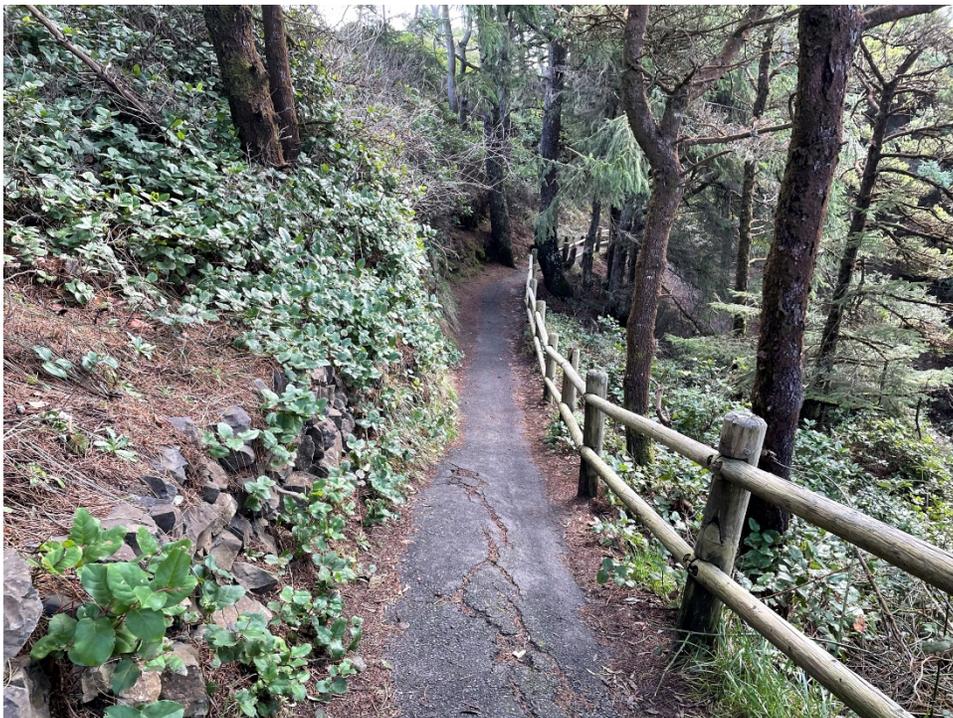
We anticipate the three access points that we have proposed for further evaluation will be reviewed and agreed upon by DLCD and the City, after which, the KPFF team will begin development of concept level seismic resiliency improvements at the three selected locations.

## Appendix A. Photos

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



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



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



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



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



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



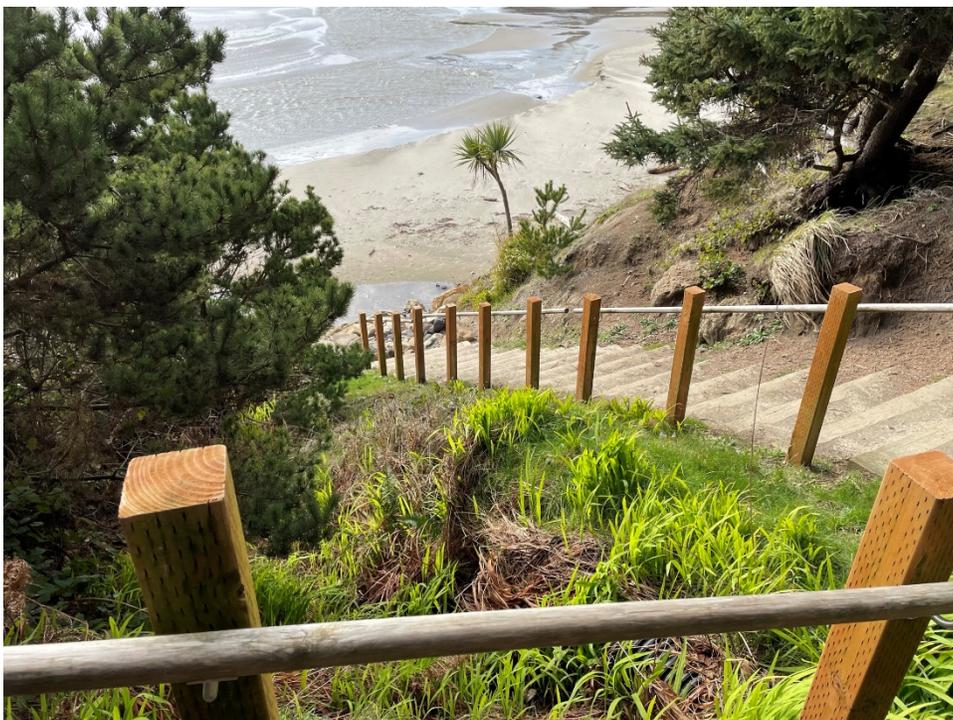
**Photo 7: Access Site 7 – Gravel Trail to Beach**



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



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



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



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

# Memorandum

To: Planning Commission/Commission Advisory Committee  
 From: Derrick I. Tokos, AICP, Community Development Director   
 Date: May 21, 2021  
 Re: Draft of Code Amendments Related to Operation of Food Trucks & Food Carts

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Enclosed is a set of proposed revisions to NMC Chapter 4.10, relating to vending on public property, and NMC Chapter 14 that applies to temporary vending on private property. Food trucks and carts are defined as mobile food units by the Oregon Health Authority, and that is how they are referred to in the draft amendments. The amendments build upon concepts and sample codes reviewed by the Planning Commission at March 22<sup>nd</sup> and April 12<sup>th</sup> work sessions. In addition to these changes, amendments are being made to the following additional sections of the Municipal Code:

## CHAPTER 11.05 BUILDING CODES

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### 11.05.180 Exemptions

~~Temporary Vending Carts~~ Mobile Food Units that are permitted in accordance with ~~the Newport Zoning Code and Ordinance section 2-2-29.030 Municipal Code Chapter 14.09 and~~ are not permanently attached to a foundation, ~~they~~ are considered vehicles (not a building or structure), and the Oregon Structural Specialty Code does not apply.

## CHAPTER 12.15 SYSTEM DEVELOPMENT CHARGES

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### 12.15.060 Exemptions

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A. The following actions are exempt from payment of SDCs:

1. Additions to multi-family and other dwelling units that are assessed SDCs on an Equivalent Dwelling Unit basis, provided the addition does not result in a new dwelling unit.
2. An alteration, addition, replacement, change in use or permit or connection that does not increase the parcel's or structure's use of a public improvement system is exempt from payment for the SDC payment applicable to that type of improvement. Some redevelopment may be subject to some types of SDCs and not to others.
3. Temporary and seasonal uses, including special events, ~~vending carts~~ mobile food units (other than pods), and patio or deck seating associated with eating or drinking establishments.

This work session is an opportunity for the Planning Commission to review and provide feedback on the draft amendments, including suggested edits, before the legislative process is initiated and a public hearing scheduled. If the language is acceptable "as is" or with minor amendments, then the Commission may want to initiate the legislative process at its regular session so that staff can provide the Oregon Department of Land Conservation and Development the 35-day notice required prior to the first public hearing. Such notice is needed for the NMC Chapter 14 amendments because they are land use regulations. If this occurs, then a public hearing could be held on July 12, 2021. Notice of the changes would also be sent to brick and mortar eating and drinking establishments and other potentially interested parties.

Attachments

Draft Amendments to NMC Chapter 4.10  
Draft Amendments to NMC Chapter 14 (Newport Zoning Ordinance)  
Relevant Provisions of OAR Chapter 333, Divisions 150 and 162  
April 12, 2021 Mobile Food Unit Regulatory Concepts  
Prior City Ordinances and Resolutions Related to Vending on Public Property  
Minutes from the March 22<sup>nd</sup> and April 12<sup>th</sup> Work Sessions  
Beaverton and Corvallis Mobile Food Unit Codes (Not previously reviewed by the Commission)  
Previous Public Testimony

(Unless otherwise specified, new language is shown in double underline, and text to be removed is depicted with ~~strike through~~. Staff comments, in *italics*, are for context and are not a part of the revisions.)

## CHAPTER 4.10 VENDING ON PUBLIC PROPERTY

### 4.10.005 Findings and Purpose

- A. The primary purpose of the public streets and sidewalks is for use by vehicular and pedestrian traffic.
- B. Unrestricted vending on public streets, sidewalks and other public places would interfere with the primary use of those public areas. However, vending on the public streets and sidewalks and upon certain public property that is limited to times and locations that minimize interference with public use promotes the public interest by contributing to an active and attractive pedestrian environment.
- C. The purpose of this chapter is to preserve the ability to use streets, sidewalks and other public places for their primary purposes while allowing limited vending in those areas to protect the public health, safety, and welfare.

### 4.10.010 Definitions

The following definitions apply within this chapter.

**Business Vending Area**. Public property determined by the City Council by resolution to be areas where vendors may sell or offer to sell food, beverages, merchandise or services from a stand.

**Stand**. Any table, showcase, bench, rack, pushcart, or wagon or other vehicle used for the displaying, storing or transporting of articles offered for sale by a vendor, or otherwise used in connection with any activities of a vendor. Stand does not include any item carried by a vendor and not placed on the ground or pavement for use or display.

**Mobile Stand**. A stand that is moved from place to place and that is engaged in vending from a single location in the public right of way for no more than 15 minutes in residential areas or up to 2 hours at a time elsewhere in the city.

**Fixed standStand**. A stand at which vending occurs for more than 15 minutes in residential areas or more than 2 hours at a time in a single location elsewhere in the city. Even if a stand

is easily movable, it is a fixed stand if it remains in place for more than 15 minutes in a residential area or 2 hours elsewhere in the city in the course of a vending activity. For purposes of the definitions of “~~mixed-mobile~~ stand” and “fixed stand,” single location includes s 100 feet in all directions.

**Vending.** The activity of selling or offering for sale any food, beverage, merchandise or service on public property, streets or sidewalks from a stand, from the person or otherwise.

**Vendor.** Any person engaged in the activity of vending, whether directly or indirectly.

*Staff: The City last amended this section with Ordinance No. 2112, an ordinance that was adopted in May of 2017. That ordinance included a sunset clause that required further City Council action, a step that did not occur, meaning the changes were revoked as of January 1, 2018. Ordinance No. 2112 changed the transition point from mobile to fixed stands from 15 minutes to 30 minutes to better accommodate food trucks. The proposed change extends that timeframe further to two (2) hours. A two (2) hour transition point aligns with Oregon Health Authority Regulations that require access to an accessible restroom within 500-feet of the food truck. An endorsement for mobile vending authorizes a user to lawfully park for short periods of time on public streets throughout the city. Introducing a restroom verification requirement isn't something that could be reasonably done accomplished in this context. Retaining the 15-minute transition point for residential areas effectively limits vending in those areas to the traditional, transient operators such as ice cream sales.*

#### 4.10.015 Vending On Public Property

- A. It shall be unlawful to engage in any vending activity upon any street, sidewalk, or other public property of the city except as specifically allowed by a vending endorsement on a business license or an exemption allowed by Subsections B. or C. of this section.
- B. Vending on any city-owned or city-administered property other than rights of way or business vending areas is prohibited without a Special Event Permit issued pursuant to NMC Chapter 9.80~~written agreement with the city~~. Any vending ~~by written agreement with the city~~authorized by a Special Event Permit is exempt from the prohibition on vending stated in Subsection A. of this section.

- C. Vending on sidewalks by persons under 13 years of age with the permission of the adjacent property owner is exempt from the provisions of this chapter, provided that the vending activity cannot block the sidewalk. The sole remedy under this section shall be the relocation of the activity so that the sidewalk is not blocked.

*Staff: Any private activity conducted wholly or partly on public property requires a Special Event Permit. That clarification was made with Ordinance No. 2170. Therefore, this section of the code should direct individuals to the Special Event permitting process.*

#### 4.10.020 Application

An application for a business license with a vending endorsement shall contain the following additional information:

- A. The names, residence and business addresses and residence and business telephone numbers of each person who may be engaged in operating such business or stand.
- B. A description of the type of food, beverage, merchandise or service to be sold or offered for sale as part of the vending operation.
- C. The location(s) where any stand(s) will be located.
- D. A description and photograph or drawing of any stand to be used in the operation of the business. The requirement for a drawing or photograph may be waived for stands operated on sidewalks adjacent to the place of business of the license holder.
- E. Proof of liability insurance covering personal injury and property damage, with coverage limits of at least ~~\$500,000~~2,000,000, naming the city as an additional insured.

*Staff: Insurance requirement is updated to align with current City practice. This was noted in the regulatory concept memo distributed at the 4/12/21 work session.*

#### 4.10.025 Vending Locations

- A. Fixed stands are permitted only within:
  - 1. Business vending area locations, or
  - 2. The sidewalk area immediately adjacent to the applicant's place of business and the standards of Section 4.10.035 are met. Stands authorized under this agreement must be operated by the operator of the adjacent business.
- B. The vending endorsement for a fixed stand shall specify the location where the fixed stand may be located and is valid only for that location.
- C. The Council may, by resolution, limit the number of fixed stands at each business vending area. If the applications for a vending endorsement for fixed stands in a business vending area exceed the maximum number of fixed stands, endorsements shall be awarded by lot from the applications received by May 31 for the period beginning July 1.
- D. Vending other than from fixed stands are not specific to a location but are subject to the restrictions in [Section 4.10.035\(A\)](#).
- E. Vending endorsements for stands at business vending area locations are limited to one stand. Vending endorsements for areas adjacent to a permanent place of business may include more than one stand.

#### 4.10.030 Fees

- A. ~~An endorsement application surcharge of \$10.00 or such other amount as may be established by Council resolution shall be~~ A surcharge shall be added to the business license application fee ~~if a vendor's endorsement is applied for to recover the city's administrative costs for processing vending endorsement applications.~~ An entity exempt from payment of the business license fee is exempt from payment of the endorsement application surcharge.
- B. An additional fee ~~of \$50.00 per calendar month of operation~~ shall be charged for each fixed stand in a

business vending areas and for each mobile stand. The endorsement shall list the months that the stand may operate. Endorsements may be amended to add months, but no refunds shall be given if the licensee does not exercise all rights under the endorsement.

- C. An additional fee ~~of \$50.00 per calendar month, not to exceed a total of \$250.00 per calendar year,~~ shall be charged to holders of endorsements to operate stands adjacent to the business, as permitted by Section [4.10.025\(A.\)\(2.\)](#). The endorsement shall list the months that the stands may operate. Endorsements may be amended to add months, but no refund shall be given if the licensee does not exercise all rights under the endorsement.

D. Vending endorsement fees shall be established by resolution of the City Council.

*Staff: This section has been amended to remove references to specific dollar amounts in favor of having the fees set by resolution. It is a housekeeping change that the City has been making as sections of the Municipal Code are amended.*

#### 4.10.035 Restrictions

- A. No vendor shall:
1. Vend within 500 feet of the grounds of any elementary ~~or secondary~~ school during the period commencing one-half hour prior to the start of the school day and ending one-half hour after dismissal at the end of the school day;
  2. Vend between the hours of 9:00 P.M. and 6:00 A.M.
  3. Leave any stand unattended.
  4. Sell food or beverages for immediate consumption if litter receptacles are not available within 25 feet of the vendor.
  5. Leave any location without first picking up, removing and lawfully dispersing of all trash or refuse remaining from sales made by the vendor or otherwise resulting from the vendor's activities.

6. If vending is from a stand, allow any items relating to the operation of the vending business to be placed anywhere other than in, on, or under the stand.
  7. If the license includes a stand, expand the stand beyond what is described in the application and allowed in the permit.
  8. Vend anything other than that which the vendor is licensed to vend;
  9. Violate any city ordinance regulating sound or noise.
  10. Vend within any portion of any vehicle travel lane portion of any street other than at times when the street is closed to allow vending. This prohibition does not prohibit the use of mobile stands legally parked and selling to persons not within the vehicle use portion of a street.
  11. Operate a stand without displaying a copy of the business license with the vending endorsement on the stand or engage in other vending activity without having the business license with vending endorsement immediately available for inspection.
- B. No vendor selling other than at a fixed stand shall vend at any location where the sidewalk is not at least eight feet in width, or within 10 feet of an entrance way to any building or within 20 feet of any crosswalk or intersection. No vendor shall block or allow customers to block a sidewalk.
- C. No vendor shall allow his or her stand or any other item relating to the operation of the vending business to lean against or hang from any building or other structure without the owner's permission.
- D. Vending activities, whether from a stand or otherwise, shall be conducted in such a way as to not block pedestrian use of a sidewalk. Pedestrian use is considered blocked if two persons cannot pass each other walking in opposite directions.

*Staff: You received testimony from Janet Webster that the City needs to address the provision barring vending within 500-feet of an elementary or secondary school (ref: 3/26/21 email and 4/12/21). Her concern namely relates to its*

*potential impact on private property that she and her husband own that is not impacted by these regulations, since the Chapter 4.10 provisions are limited to public rights-of-way and property. The Commission can amend the prohibition as it relates to secondary schools (i.e. the middle and high school) as shown, reduce the distance listed or even lift the provision entirely. My recommendation would be to leave the language as is, considering that these code changes open up a substantial amount of right-of-way to food trucks throughout the city and that there are privately owned commercial properties in the area that could meet the demand. Also, it would be prudent to vet any change to this provision with the School District before it is adopted.*

#### 4.10.040 Vending Stands

- A. Vending stands licensed for business vending areas shall not exceed ~~five-sixteen (16)~~ feet in length and ~~five-ten (10)~~ feet in height, excluding canopies and umbrellas.
- B. Umbrellas and canopies shall be a minimum of seven feet above the sidewalk. Umbrellas or canopies may not exceed 100 square feet in area.
- C. Vending stands on sidewalks adjacent to the licensee's place of business are permitted only in the following areas:
  1. On SW Coast Highway between SW Angle Street and SW Fall Street.
  2. On SW Bay Boulevard between SW Bay Street and SE Eads Street.
  3. On Hurbert Street between SW 7<sup>th</sup> Street and SW 9<sup>th</sup> Street.
  4. In the area bounded by Olive Street on the south, NW 6<sup>th</sup> Street on the north, NW High Street and NW Coast Street on the east and the Pacific Ocean on the west, including both sides of each named street. For purposes of this section, "Olive Street" means both Olive Street and the area that Olive Street would occupy if it continued straight to the Pacific Ocean west of SW Coast Street.
  5. Any other location designated by the Council by resolution.

*Staff: Options for fixed vending areas are quite limited, with two licenses being available at the Hatfield Drive/SW Bay Blvd pump station site and three licenses at the Nye Beach Turnaround. Use of all other public properties outside of rights-of-way are handled with Special Event Permits. The change above expands the size of a stand to accommodate a trailer or small food truck. It is the same change that was made in Ordinance No. 2112. Current stand size limitations are sufficient to accommodate push carts, but not trailers. The Commission should consider how it wants to proceed.*

#### 4.10.045 Denial and Revocation

- A. A vendor's endorsement may be denied or revoked for any of the following causes:
1. Fraud or misrepresentation contained in the application for the business license with vending endorsement.
  2. Fraud or misrepresentation made in the course of carrying on the vending business.
  3. Conduct of the vending business in such manner as to create a public nuisance or constitute a danger or hazard to the public health, safety, or welfare.
  4. Violation of any provision of this subchapter or of any other law or regulation relating to the vending business.
  5. Felony convictions or misdemeanor convictions involving moral turpitude. In deciding whether to deny an application for a past conviction, the city may consider the length of time since the conviction, whether the applicant appears to have been successfully rehabilitated, and the risk to the public.
  6. Failure to obtain or maintain liability insurance covering personal injury and property damage, with policy limits of at least ~~\$500,000.00~~\$2,000,000 and naming the city as an additional insured.

*Staff: The liability insurance amount has been increased to align with the change that was made to Section 4.10.020.*

#### 4.10.050 Appeal

If an application is denied or a license is revoked, the license holder may appeal by filing a written appeal with the city manager. The deadline for an appeal of a denial is 15 days after a denial is mailed, and the deadline for an appeal of a revocation is two days after the revocation is delivered. A revocation sent by mail shall be deemed delivered two business days after the date of mailing. The Council shall hear and decide the appeal at its next regular meeting held at least 10 days after the filing of the appeal. The decision of the Council shall be final.

#### 4.10.055 Violation

Violation of any provision of this chapter is a civil infraction, with a maximum penalty of \$500.00. Each day during which a violation shall continue is a separate offense. Violations of separate provisions are separate infractions.

## CHAPTER 14.01 PURPOSE AND DEFINITIONS\*\*

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### 14.01.020 Definitions

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**Mobile Food Unit.** Any vehicle that is self-propelled or that can be pulled or pushed down a sidewalk, street, highway or waterway, on which food is prepared, processed or converted or which is used in selling and dispensing food to the ultimate consumer.

**Mobile Food Unit Pod.** Three or more mobile food units on the same lot, parcel, or tract.

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**Temporary Structures.** Trailers, mobile ~~homes~~food units, prefabricated buildings, or other structures that can readily be moved or which are not attached in a permanent manner to a permanent foundation and are used for residential or business purposes.

~~**Temporary Vending Carts.** A trailer or other vehicle that does not exceed 16 feet in length, has functional wheels, an axle for towing, is not attached in a permanent manner to a permanent foundation and is self-contained for sanitary sewer. A temporary vending cart may be mobile (i.e. does not remain stationary for longer than a few hours), or remain stationary, as permitted by Section 14.08.050.~~

*Staff: Definition of mobile food unit aligns with language contained in OAR Chapter 333, Division 150, which contains Oregon Health Authority food sanitation rules. City has discretion as to what constitutes a "Pod" where additional requirements are triggered. These definitions replace the definition for "temporary vending carts," which is deleted. Definition of temporary structures is being modified to eliminate outdated reference to mobile homes and adds reference to mobile food units.*

## CHAPTER 14.09 TEMPORARY ~~STRUCTURES PERMITS~~USES

### 14.09.010 Purpose

The purpose of this section is to provide some allowance for short-term uses that are ~~truly~~ temporary in nature, where no permanent improvements are made to the site, and the use can be terminated and removed immediately. Temporary activities include special events as defined in [9.80.010](#) of the Newport Municipal Code, temporary living quarters, construction trailers, leasing offices, ~~vending carts~~mobile food units, kiosks, storage buildings, and similar structures.

*Staff: Chapter title is being changed from structures to uses, which is more consistent with the purpose statement. Mobile food units are introduced as a type of temporary use, which is appropriate given that they are vehicles.*

### 14.09.020 Special Events Structures

Placement of special events structures is regulated under [Chapter 9.80](#) of the Newport Municipal Code.

### 14.09.030 Temporary Living Quarters

Notwithstanding any other restrictions and prohibitions in this code, a recreational vehicle may be used as a temporary living quarters subject to the following conditions:

- A. The request for temporary living quarters must be in conjunction with a valid, active building permit.
- B. The time limit shall be no longer than one (1) year from issuance. After the expiration of the time limit, the recreational vehicle used for the temporary living quarters must no longer be used for on-site living purposes.
- C. The recreational vehicle used as the temporary living quarters must be self-contained for sanitary sewer.
- D. Temporary living situations for non-residential projects may use a job shack or other such structure instead of a recreational vehicle as the living quarters and may have a portable toilet instead of a self-contained unit.
- E. The location of the temporary living quarters on the site shall satisfy the vision clearance requirements as set forth in [Section 14.21](#) of the zoning code.

- F. Prior to the issuance of a temporary living quarters permit, the applicant shall sign an agreement that the applicant shall comply with the provisions of this subsection.

#### 14.09.040 Temporary Structures for Other Than Special Events

Notwithstanding any other restrictions and prohibitions in this code, a temporary structure not associated with a special event may be erected subject to the following:

- A. The permit, if approved, shall be issued for a period not to exceed two (2) years. Upon like application and approval, the permit may be renewed for up to an additional (1) year.
- B. Temporary structures are limited to ~~commercially and industrially~~commercial, industrial, water-related, or water-dependent zoned properties.
- C. No permanent changes will be made to the site in order to accommodate the temporary structure.
- D. Permission is granted by the property owner.
- E. Sanitary facilities will be made available to the site.
- F. The structure does not interfere with the provision of parking for the permanent use on the site.
- G. The structure satisfies the vision clearance requirements of the zoning code.
- H. Approval is obtained from the City Building Official if the structure is to be erected for 180 days or longer.
- I. For temporary structures that are to be placed in one location for 12 or more consecutive months, a bond or cash deposit for the amount required to remove the temporary structure, if not removed in the required time frame, shall be placed in an interest-bearing account in the name of the applicant and the City of Newport. Any bond or cash deposit must be in a form approved by the City Attorney.

*Staff: Revision is housekeeping in nature. City has previously interpreted that commercial and industrial includes water-related and water-dependent zoned areas. This change makes it explicit.*

#### ~~14.09.050 — Temporary Vending Carts~~

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

- ~~A. Temporary vending carts may be located on commercially-zoned property that is at least ½ mile from a permanent eating and drinking establishment.~~
- ~~B. Temporary vending carts and any accessory improvements (such as seating) are limited to privately-owned properties, and may encroach onto public property or public right-of-way only if the city consents to the encroachment as provided in Chapter 4.10 of the Newport Municipal Code.~~
- ~~C. The items available for sale from temporary vending carts are limited to food and beverages for immediate consumption. Requests to have a different item or service considered shall be submitted in writing to the City Manager, who shall determine if the item or service:
  - ~~1. Can be vended from a regulation size temporary vending cart;~~
  - ~~2. Not lead to or cause congestion or blocking of pedestrian traffic on the sidewalk;~~
  - ~~3. Involve a short transaction period to complete the sale or render the service;~~
  - ~~—4. Not cause undue noise or offensive odors; and~~
  - ~~—5. Be easily carried by pedestrians.~~~~
- ~~D. A permit for a temporary vending cart, if approved, shall be issued for a period not to exceed two (2) years. Upon expiration of a permit, a temporary vending cart must immediately cease operation, and must be permanently removed within seven (7) days.~~
- ~~E. At least one trash and one recycling receptacle will be made available to the public.~~
- ~~F. The City of Newport receives a signed statement that the permittee shall hold harmless the City of Newport, its officers and employees, and shall indemnify the City of~~

~~Newport, its officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activities of the permittee. Permittee shall furnish and maintain public liability, products liability, and property damage insurance as will protect permittee, property owners, and city from all claims for damage to property or bodily injury, including death, which may arise from operations of the permittee. Such insurance shall provide coverage of not less than \$1,000,000 per occurrence. Such insurance shall be without prejudice to coverage otherwise existing, and shall name as additional insured the City of Newport, their officers and employees, and shall further provide that the policy shall not terminate or be canceled prior to the completion of the contract without 30 days written notice to the City Recorder of the City of Newport.~~

~~G. A bond or cash deposit for the amount required to remove the temporary vending cart, if not removed in the required time frame, shall be placed in an interest-bearing account in the name of the applicant and the City of Newport. Any bond or cash deposit must be in a form approved by the City Attorney.~~

*Staff: This section is being replaced by Sections 14.09.050 and 14.06.060 below.*

#### 14.09.050 Mobile Food Units

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

- A. The lot, parcel or tract upon which the mobile food unit will be placed is zoned for commercial, industrial, or water-related use; and
- B. Written consent is obtained from the property owner where the mobile food unit is to be placed and from the owners of each adjoining lot or parcel; and
- C. The mobile food unit is placed such that it or any associated structure does not occupy required landscaping or obstruct a sidewalk, drive isle, fire lane, clear vision area or accessible parking; and

- D. 10-feet of clearance is maintained between each mobile food unit and between such units and existing or proposed buildings; and
- E. Mobile food unit service windows are to be oriented to pedestrians (i.e. no drive thru windows) and if directed toward a public right-of-way shall maintain a minimum five (5) foot separation from the right-of-way; and
- F. Electrical connection(s) are placed on the ground and covered with a cable protection ramp or equivalent where crossing drive isles or pedestrian paths; and
- G. Any power generating equipment separate from and external to the mobile food unit is located at least 10-feet from other mobile food units and buildings and is fully screened from view; and
- H. Signage associated with each mobile food unit is limited to that which is permanently affixed to the vehicle in accordance with NMC 10.10.070, and one portable a-frame sign that complies with the parameters outlined in NMC 10.10.060(E); and
- I. Awnings, if any, are fully attached to the mobile food unit and located entirely on the subject lot, parcel, or tract; and
- J. A minimum of one (1) trash receptacle per mobile food unit is located on the lot, parcel, or tract for every two (2) mobile food units with at least 10-feet of separation between the receptacle(s) and combustible fuel tanks; and
- K. Cooking equipment exterior to a mobile food unit is limited to a single outdoor smoker situated no less than 10-feet from the unit and any building; and
- L. Mobile food units parked for more than two (2) hours or that provides customer seating shall be situated within 500-feet of an accessible restroom with handwashing facilities.
- M. The permit, if approved, shall be issued for a period not to exceed two (2) years. Upon like application and approval, the permit may be renewed for additional (2) year intervals.

*Staff: The provisions above apply to the placement of mobile food units on private property (as opposed to the provisions of Chapter 4.10 that apply to public rights-of-way). They draw*

*from the code concepts discussed at the April 12, 2021 work session and sample codes reviewed at that March 22, 2021 work session. Some of the concepts also borrow from codes adopted by the City's of Beaverton and Corvallis. This is structured as a ministerial action with review and approval by the Community Development Department without notice, which is consistent with how other temporary uses are handled. As a ministerial action, the standards must be clear and objective.*

*The requirement that written consent be obtained from property owner is a given; however, if the Commission is concerned about the impact a mobile food unit may have on a a brick and mortar eating or drinking establishment than I have included optional (highlighted) language that would require sign-off from owners of adjoining properties. Generators are permissible but must be screened and they would be subject to decibel limitations of the City's noise ordinance.*

*A number of the provisions also integrate with Oregon Health Authority requirements outlined in OAR Chapter 333, Divisions 150 and 162 (enclosed) and requirements of the Oregon Building and Fire Codes.*

#### 14.09.060 Mobile Food Unit Pods

In addition to complying with the provisions of NMC 14.09.050, a mobile food unit pod may be located within the City of Newport subject to the following:

A. The mobile food units include a sheltered common customer seating area that conforms with the following parameters:

1. Has a maximum of 50 percent of the structure enclosed with walls or sides. Membrane structures may be fully enclosed; and
2. Are not more than 15-feet in height.

B. Each mobile food unit is connected to city sanitary sewer service, water, and a permanent power source located on the lot, parcel, or tract; and

C. Existing uses on the lot, parcel or tract upon which the mobile food unit pod is to be located possess off-street parking that satisfies the requirements of NMC Chapter 14.14; and

D. One off-street parking space is provided for each mobile food unit plus one space for every 150 square feet of seating; and

E. The lot, parcel, or tract shall be landscaped in accordance with NMC Chapter 14.19; and

F. Areas occupied by customers are illuminated when mobile food units operate during hours of darkness, with fixtures that are downward directed and shielded to prevent glare on abutting properties; and

G. Use of generators is prohibited.

Staff: Mobile food unit pods are defined as three or more units on a lot, parcel, or tract. This can be adjusted. The concept is that at this density they need to move closer towards standards that would apply to brick and mortar eating and drinking establishments. This is where the requirement that seating be provided comes into play. Given Newport's climate, a requirement that the seating be sheltered is reasonable. The limitation that a non-membrane shelter be no more than 50% enclosed helps facilitate continuity of the Pod by ensuring visibility between mobile food units and seating areas and it avoids triggering assembly occupancy and related provisions of the Oregon Structural Specialty Code that could significantly drive up the cost of a project. Connection to public water and sewer will trigger SDCs, a cost that is similarly borne by brick and mortar establishments. Use of a permanent power source alleviates the need for generators, which could be a noise issue when several are running in a concentrated area.

Off-street parking and landscaping requirements trigger for a pod; whereas, they are not a consideration for sites with one or two mobile food units. Brick and mortar eating and drinking establishments must satisfy these same requirements.

#### 14.09.060070 Permits Not Transferable Unless Approved

Permits authorized by this section are not transferable to another person or location unless approved by the Community Development Director.

14.09.~~070080~~ Approval Authority

Unless otherwise provided, placement of temporary structures is subject to review and approval by the Community Development Director as a ministerial action.

14.09.~~080090~~ Application Submittal Requirements

In addition to a land use application form with the information required in [Section 14.52.080](#), applications for temporary ~~structures~~ uses shall include the following:

- A. A site plan, drawn to scale, showing:
1. The proposed location of ~~the~~ temporary structures, mobile food units, seating areas, and amenities, as applicable.
  2. Existing buildings.
  3. Existing parking.
  4. Access(es) to the parking areas.
  5. Any additional structures, seating areas, and amenities associated with the ~~temporary structure~~ use.
  6. The location and size of trash receptacles.
  7. Utilities.
  8. Existing signs and signs associated with the ~~temporary structure~~ use.
  9. ~~Temporary structure~~ Building elevations or photos of proposed temporary structures or mobile food units.
  10. ~~The location of drive-up windows~~ (The location of an accessible restroom with handwashing facilities, if applicable).
- B. A signed agreement stating that the applicant is aware of the limitations and conditions attached to the granting of the permit and agrees to abide by such limitations and conditions.
- C. A description of the types of items sold or services rendered, if applicable.

- D. A valid copy of all necessary permits required by State or local health authorities, and other required licenses or permits, such as business license or sign permit obtained by the applicant and maintained on site.

*Staff: The submittal requirements have been updated to account for mobile food units as an application type.*

14.09.~~090~~100 Fire Marshal Inspection

Prior to the issuance of any permit, the Fire Marshal shall inspect and approve any temporary structure to assure conformance with the provisions of the Fire Code.

14.09.~~100~~110 Construction Trailer Exemption

Construction trailers located on the site upon which construction is to occur that are used during the course of the construction project are exempt from the process outlined in this section and may be permitted at the time of building permit approval provided said structures comply with the building code and the vision clearance requirements of the zoning code.



# Oregon Health Authority

## Public Health Division - Chapter 333

### Division 162

### MOBILE FOOD UNITS, COMMISSARIES AND WAREHOUSES

#### 333-162-0020

#### Mobile Food Units, General Requirements

(1) Mobile food units shall comply with the applicable requirements in OAR 333-150-0000 and these rules. The Authority may impose additional requirements to protect against health hazards related to the conduct of the mobile food unit operation and may prohibit the sale of potentially hazardous food.

(2) There are four types of mobile food units:

(a) Class I. These mobile food units can serve only intact, packaged foods and non-potentially hazardous beverages. No preparation or assembly of foods or beverages may take place on the unit. Non-potentially hazardous beverages must be provided from covered urns or dispenser heads only. No dispensed ice is allowed;

(b) Class II. These mobile food units may serve foods allowed under Class I and provide hot and cold holding display areas from which unpackaged foods are displayed. Self-service by customers of unpackaged foods is not allowed. Preparation, assembly or cooking of foods is not allowed on the unit;

(c) Class III. These mobile food units may serve any food item allowed under Class I and II mobile food units, and may cook, prepare and assemble food items on the unit. However, cooking of raw animal foods on the unit is not allowed;

(d) Class IV. These mobile food units may serve a full menu.

(3) Mobile food units must be maintained and operated as originally designed and approved during the plan review process. Units licensed prior to February 1, 2020 must meet this requirement by January 1, 2023.Pf

(4)(a) Mobile food units must be designed and constructed to move as a single piece. Mobile food units may not consist of multiple components that are assembled at the operating location. This requirement applies to mobile food units designed, constructed or extensively remodeled after February 1, 2020.Pf

(b) Notwithstanding subsection (4)(a) of this rule, a mobile food unit that must be assembled at the operating location because the unit will be in a building or structure that prevents the unit from being moved in one piece may be allowed if the assembly is part of the initial licensing process. Examples of this include a unit located in the upper floors of a high-rise building that cannot be transported through the front entrance or in an elevator.

(5) Notwithstanding OAR 333-150-0000 Section 5-305.11 (D) and subsections (a) and (b) of this section, all operations and equipment shall be an integral part of the mobile food unit. A mobile food unit may use folding shelves or small tables that are integral to the unit for display of non-potentially hazardous condiments and customer single use articles. The shelves or small tables must be designed and installed so that they do not impede the mobility of the unit when retracted.Pf

(a) A Class IV mobile food unit may use one cooking unit that is not integral to the mobile food unit. The cooking unit, may only be used under the following conditions: Pf

(A) The cooking unit must be limited to the use of a barbecue, smoker, hearth oven or similar cooking device that can be transported in conjunction with the mobile food unit. The use of equipment such as flat-top grills or griddles, woks, steamtables, stovetops, ovens or other cooking, storage or holding devices is not allowed.Pf

(B) It must be located adjacent to the mobile food unit; Pf

(C) The cooking unit may only be used for cooking and not for processing, portioning, preparation, or assembly of food; Pf and

(D) A handwashing system shall be provided adjacent to the cooking unit as specified in OAR 333-150-0000 section 5-203.11(C).Pf



(b) Mobile food units may display packaged, non-potentially hazardous food items, such as cans of soda or bags of chips, off the unit if they are limited to what could be sold during a typical meal period.

(6) Mobile food unit operators may provide seating for customers if a readily accessible restroom and sufficient refuse containers with lids or covers are provided. The restroom must have a handwashing facility that provides hot and cold running water and meets the requirements of OAR 333-150-0000 sections 6-301.11, 6-301.12, 6-301.20 and 6-302.11.

(7) Auxiliary storage may be provided if it is limited to impervious, nonabsorbent and covered containers that are stored and located in a manner to preclude contamination or infestation. Overhead protection may be required if necessary to protect auxiliary storage from contamination.Pf

(a) Auxiliary storage must be limited to items necessary for that day's operation and must be moved from outside the unit and stored inside the unit or at a licensed warehouse or commissary during hours the unit is not in operation.Pf

(b) No self-service, assembly or preparation activities may occur from auxiliary storage containers. Auxiliary storage may not be used as a substitute for hot and cold holding facilities on the mobile food unit.Pf

(c) Refrigerators or freezers used for auxiliary storage may not be placed outside of the unit and must be located inside a licensed commissary or warehouse. An ice merchandiser that is used to store packaged ice from a commercial source may be allowed if the ice merchandiser is licensed as a warehouse and secured when the unit is not in operation.Pf

(d) Units licensed prior to February 1, 2020 must meet the requirements of section (7) by January 1, 2023.Pf

**Statutory/Other Authority:** ORS 624.355

**Statutes/Other Implemented:** ORS 624.355

**History:**

PH 11-2020, amend filed 01/30/2020, effective 02/01/2020

PH 12-2012, f. 8-30-12, cert. ef. 9-4-12

PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

HD 10-1997, f. & cert. ef. 7-8-97

HD 7-1994, f. & cert. ef. 2-24-94

**333-162-0030**

**Mobile Unit Operation, General**

(1) Mobile food units must remain mobile at all times during operation. The wheels must be functional and appropriate for the type of unit and not be removed from the unit at the operating location. A removable tongue may be allowed if the tongue can be removed with the use of only simple tools and the tools are available on the unit at all times. Units licensed prior to February 1, 2020 in which the wheels, axels and associated equipment were removed prior to that date are not required to meet this requirement.Pf

(2) A mobile food unit may not be used in lieu of a properly designed and constructed kitchen for a restaurant or other food service establishment.P

(3) Catering and Delivery:

(a) Except as provided in subsection (c) of this section, a mobile food unit that does not have a licensed restaurant or commissary as a base of operation may not provide catering services or sell food wholesale.P

(b) Mobile food units must sell or dispense food directly from the point of sale on the unit to the ultimate consumer.Pf

(c) A mobile food unit that does not have a licensed restaurant or commissary as a base of operation may provide catering services if:P

(A) The unit is equipped with commercial-grade refrigeration equipment that meets or is the equivalent to the requirements of OAR 333-150-0000 Section 4-205.10;

(B) The unit has obtained a variance from the Oregon Health Authority; and

(C) The unit provides only single-use articles for use by consumers.

(d) Mobile food units may utilize third-party delivery services and offer online ordering through the Internet.

**Statutory/Other Authority:** ORS 624.355

**Statutes/Other Implemented:** ORS 624.355

**History:**



PH 11-2020, amend filed 01/30/2020, effective 02/01/2020  
 PH 14-2006, f. 6-27-06, cert. ef. 7-1-06  
 HD 10-1997, f. & cert. ef. 7-8-97  
 HD 7-1994, f. & cert. ef. 2-24-94

### **333-162-0036**

#### **Mobile Food Units Operating as Single-Event Temporary Restaurants**

A licensed mobile food unit operating as a single-event temporary restaurant as specified under ORS 624.650 may utilize off-unit tables and display areas for non-potentially hazardous foods and dispensed beverages, condiments, and single-service articles such as napkins and utensils. The unit may also utilize off-unit freezers if the food is maintained frozen as required in OAR 333-150-0000 Section 3-501.11. The off-unit tables and display areas allowed under this rule may not be used to conduct activities such as food preparation, assembly or cooking. The display or dispensing of potentially hazardous foods is not allowed.

**Statutory/Other Authority:** ORS 624.355

**Statutes/Other Implemented:** ORS 624.355

**History:**

PH 11-2020, adopt filed 01/30/2020, effective 02/01/2020

### **333-162-0040**

#### **Base of Operation**

- (1) Mobile food units and vending machines shall operate from a licensed restaurant, commissary or warehouse.P
- (2) If a mobile food unit sells only packaged goods, a warehouse may be accepted in lieu of a commissary.
- (3) Notwithstanding section (1) of this rule, self-contained mobile food units may not be required to have a base of operation if the unit contains all the equipment and utensils necessary to assure the following:
  - (a) Maintaining proper hot and cold food temperatures during storage and transit;
  - (b) Providing adequate facilities for cooling and reheating of foods;
  - (c) Providing adequate handwashing facilities;
  - (d) Providing adequate warewashing facilities and assuring proper cleaning and sanitizing of the unit;
  - (e) Obtaining food and water from approved sources;
  - (f) Sanitary removal of waste water and garbage at approved locations.
- (4) The ability to operate without a base of operation shall be determined by the regulatory authority.
- (5) A mobile food unit may not serve as a commissary or warehouse for another mobile food unit.
- (6) A private home kitchen or a home kitchen licensed by the Oregon Department of Agriculture may not be used as a commissary.

**Statutory/Other Authority:** ORS 624.355

**Statutes/Other Implemented:** ORS 624.355

**History:**

PH 11-2020, amend filed 01/30/2020, effective 02/01/2020  
 PH 14-2006, f. 6-27-06, cert. ef. 7-1-06  
 HD 10-1997, f. & cert. ef. 7-8-97  
 HD 17-1993, f. & cert. ef. 10-14-93  
 HD 20-1986, f. 12-22-86, ef. 2-2-87

### **333-162-0280**

#### **Food Transportation, General**

- (1) During transportation, food and food utensils shall be kept in covered containers or completely wrapped or packaged to be protected from contamination. Foods in original individual packages do not need to be overwrapped or covered if the original package is sealed.



(2) Food shall be maintained at required temperatures at all times during transport. Mobile food units that do not maintain food at temperatures required in OAR 333-150-0000 section 3-501.16 may be required to provide an on-board power source, such as a battery or generator, to assure maintenance of food at proper temperatures during transit.

(3) After February 1, 2020, mobile food units that serve a complex menu and have never been licensed in Oregon may not utilize cold plates that do not have an associated power source, such as a battery, generator or propane tank, as the sole means for temperature control.

(4) Transport vehicles shall not be used in activities incompatible with safe and sanitary food service operations.

**Statutory/Other Authority:** ORS 624.355

**Statutes/Other Implemented:** ORS 624.355

**History:**

PH 11-2020, amend filed 01/30/2020, effective 02/01/2020

PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

HD 10-1997, f. & cert. ef. 7-8-97

**333-162-0680**

**Exterior and Overhead Protection**

(1) Mobile food units must be secured and protected from contamination when not in operation. This exterior protection may consist of moving the unit to an enclosed location, closing all exterior openings or covering the unit in a secure fashion. Units licensed prior to February 1, 2020 must meet this requirement by January 1, 2023.

(2) Overhead protection shall be provided for mobile food units that are operated outdoors and where food is not covered at all times. The overhead protection may consist of, but not be limited to, roofing, ceilings, awnings, or umbrellas. Overhead protection is not required for cooking units that have a lid or covering that will protect foods from contamination. The overhead protection must be easily cleanable.

**Statutory/Other Authority:** ORS 624.355

**Statutes/Other Implemented:** ORS 624.355

**History:**

PH 11-2020, amend filed 01/30/2020, effective 02/01/2020

PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

HD 10-1997, f. & cert. ef. 7-8-97

**333-162-0880**

**Licensing Procedure**

(1) All procedures shall be in accordance with ORS chapter 624 in the licensure of mobile food units, commissaries and warehouses. Any license issued by the Authority pursuant to ORS 624.320 shall expire and may be reinstated on December 31 of each year.

(2) A permanent license number shall be assigned each operator of mobile food units by the regulatory authority.

(3) Each mobile food unit shall be clearly marked with the licensee's name or a distinctive identifying symbol. The lettering shall be at least two inches in height and of a color contrasting with the background color. If a symbol is used, it shall be at least 12 inches in diameter or of an equivalent size. An accurate scale drawing or photograph of the symbol shall be filed with the regulatory authority.

(4) Each mobile food unit shall be clearly marked with a number for purposes of identifying each unit on inspection reports and other communications.

(5) Stored units are not subject to licensure.

(6) All vehicles used as mobile food units shall be kept in good repair and in a sanitary condition while in use.

(7) The license shall be posted in the mobile food unit in public view.

**Statutory/Other Authority:** ORS 624.355

**Statutes/Other Implemented:** ORS 624.355

**History:**

PH 11-2020, amend filed 01/30/2020, effective 02/01/2020

PH 12-2012, f. 8-30-12, cert. ef. 9-4-12



PH 14-2006, f. 6-27-06, cert. ef. 7-1-06  
 HD 10-1997, f. & cert. ef. 7-8-97

### **333-162-0890**

#### **Inspection and Enforcement Procedures**

Mobile food units shall comply with the inspection and enforcement procedures in OAR 333-157-0000, 333-157-0010, 333-157-0020, 333-157-0025, 333-157-0027, 333-157-0030 and 333-157-0040.

**Statutory/Other Authority:** ORS 624.355

**Statutes/Other Implemented:** ORS 624.355

#### **History:**

PH 11-2020, amend filed 01/30/2020, effective 02/01/2020

PH 12-2012, f. 8-30-12, cert. ef. 9-4-12

PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

HD 10-1997, f. & cert. ef. 7-8-97

### **333-162-0920**

#### **Plan Review**

(1) Newly constructed or extensively remodeled mobile food units, commissaries and warehouses must undergo plan review and a pre-operational inspection. Mobile food units that have been modified after plan review approval or licensing may be required to revert to the design and construction that was initially approved if required by the regulatory authority. Mobile food units having the sanitary approval of a recognized qualified, independent testing laboratory, or approved by the Authority may be accepted without the submission of plans.Pf

(2) Approval from the administrator to operate after the plan review process does not preclude obtaining required permits or approvals from other agencies or jurisdictions of concern.

(3) Mobile food unit operators must obtain approval from the administrator to add to or change menu items served from the mobile food unit;P

(4) Mobile food units that operate on a fixed route must provide an itinerary to the regulatory authority prior to licensure and at the beginning of each licensing period. Mobile food units operating at specific or multiple locations shall provide a list of all locations to the regulatory authority.

**Statutory/Other Authority:** ORS 624.355

**Statutes/Other Implemented:** ORS 624.355

#### **History:**

PH 11-2020, amend filed 01/30/2020, effective 02/01/2020

PH 12-2012, f. 8-30-12, cert. ef. 9-4-12

PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

HD 10-1997, f. & cert. ef. 7-8-97

### **333-162-0940**

#### **Warehouses**

(1) A licensed warehouse may be used only for the storage of unopened packaged foods, single-service articles, utensils and equipment. All other activities are prohibited.Pf

(2) A warehouse may not be used for the following activities:

(a) Cooling or storage of foods that have been prepared on a mobile food unit;

(b) Preparation, assembly, portioning, handling or service of unpackaged foods; and

(c) Ice making or warewashing;

(3) Activities prohibited in a warehouse in this section must be conducted in a licensed restaurant or commissary.

(4) Warehouses shall be required to meet only those rules necessary to prevent the contamination of stored foods, single-service articles, utensils and equipment. In general, warehouses shall be exempt from the rules relating to finished walls, ceilings or storage bases, light colored surfaces, restrooms, lavatories and utility facilities, provided foods are protected from contamination from dust, insects, rodents, flooding, drainage, or other contaminants.



(5) An ice merchandiser that is used to store packaged ice from a commercial source may be allowed if the ice merchandiser is licensed as a warehouse and secured when the unit is not in operation.

(6) The Assistant Director may impose additional requirements as deemed necessary to prevent the contamination of stored foods, single-service articles, utensils, and equipment.

(7) A warehouse licensed prior to February 1, 2020 that is not in compliance with the provisions of this rule must meet these requirements by January 1, 2023.

**Statutory/Other Authority:** ORS 624.355

**Statutes/Other Implemented:** ORS 624.355

**History:**

PH 11-2020, amend filed 01/30/2020, effective 02/01/2020

PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

HD 10-1997, f. & cert. ef. 7-8-97

**333-162-0950**

**Memorandum of Commissary or Warehouse Usage/Verification**

A Memorandum of Commissary or Warehouse Usage/Verification shall be on file with the administrator for mobile units using a licensed food service facility as a commissary or warehouse. This memorandum shall be on a form approved by the Authority, and be updated at least once per year.

**Statutory/Other Authority:** ORS 624.390

**Statutes/Other Implemented:** ORS 624.390

**History:**

PH 12-2012, f. 8-30-12, cert. ef. 9-4-12

PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

HD 10-1997, f. & cert. ef. 7-8-97

**333-162-1005**

**Civil Penalties**

(1) The Authority or a Local Public Health Authority may impose civil penalties on any person for the following willful violations:

(a) Operation of a mobile food unit, commissary, or warehouse without a current license to do so from the Authority or Local Public Health Authority;

(b) Failure to cease operation of a mobile food unit, commissary, or warehouse that has been closed due to uncorrected priority item violations. This authority shall be limited to those priority item violations identified as creating an imminent or present danger to public health and defined in OAR 333-150-0000 section 1-201.10(B).

(2) For the purposes of section (1) of this rule, the term 'willful' means intentional or deliberate.

(3) The maximum civil penalty for each of the violations listed in section (1) of this rule is \$500 per day of violation.

(4) Civil penalties shall be imposed in the manner provided by ORS Chapter 183 or the equivalent.

**Statutory/Other Authority:** ORS 624.992

**Statutes/Other Implemented:** ORS 624.992

**History:**

PH 12-2012, f. 8-30-12, cert. ef. 9-4-12

PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

HD 10-1997, f. & cert. ef. 7-8-97



(E) For mobile food units:

(i) On board toilet facilities are not applicable to most mobile food units. If the unit is not so equipped, then the mobile food unit must operate within one-quarter mile or a five-minute walk of an accessible restroom facility. New mobile food units first licensed on or after February 1, 2020 must be located within 500 feet of an accessible restroom. Mobile food units that operate on a designated route that do not stop at a fixed location for more than two hours during the workday, or are operating in conjunction with an event are exempt from this subparagraph.

(ii) Mobile food units that do not provide on board restroom facilities must have restroom facilities that shall be accessible to employees during all hours of operation. The restroom facilities must have a handwashing system that meets the requirements of sections 5-202.12, 6-301.11, 6-301.12, 6-301.20 and 6-302.11. Employees may use a restroom located in a private home or a portable toilet to satisfy this requirement.



## April 12, 2021 Newport Planning Commission Work Session

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

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

## CITY OF NEWPORT

## ORDINANCE NO. 2112

AN ORDINANCE AMENDING  
CHAPTER 4.10 OF THE NEWPORT MUNICIPAL CODE  
PERTAINING TO VENDING ON PUBLIC PROPERTY

WHEREAS, the City of Newport Charter provides that the City has all powers that the constitutions, statutes, and common law of the United States and Oregon expressly or impliedly grant; and

WHEREAS, the above referenced grant of power has been interpreted as affording the City all legislative power under the home rule provisions of the Oregon Constitution; and

WHEREAS, this ordinance makes targeted changes to City standards that apply to persons seeking permission to vend on public property, providing mobile vendors additional time to vend within the public right-of-way before they are required to move, allowing larger carts within designated fixed vending locations, and allowing fees the City collects for the purpose of processing vending applications to be set by Council resolution; and

WHEREAS, the purpose of this ordinance is to preserve the ability to use streets, sidewalks and other public places for their primary purposes while allowing limited vending in those areas to protect the public health, safety, and welfare; and

WHEREAS, the changes proposed with this ordinance provide a reasonable degree of added flexibility for persons desiring to vend on public property while respecting the purpose of the ordinance as described herein.

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. Chapter 4.10 of the Newport Municipal Code is hereby amended as shown in the attached Exhibit A.

Section 2. This ordinance will sunset on December 31, 2017 with subsequent review by the City Council at the first regular meeting in January of 2018.

Section 3. This ordinance being necessary for immediate preservation of the public peace, health, and safety, an emergency is declared to exist, and this ordinance takes effect immediately upon passage.

Adopted by the Newport City Council on the 15th day of May, 2017.

  
Sandra N. Roumagoux, Mayor

ATTEST:

  
Margaret M. Hawker, City Recorder

APPROVED AS TO FORM:

  
Steven E. Rich, City Attorney

## 5-8-17 Revisions to Newport Municipal Code Chapter 4.10, Vending on Public Property

(Note: New language is shown with double underline, deleted language is shown in ~~strikethrough~~. Staff comments are in *italics* and are not a part of the proposed amendments.)

## CHAPTER 4.10 VENDING ON PUBLIC PROPERTY

## 4.10.005 Findings and Purpose

- A. The primary purpose of the public streets and sidewalks is for use by vehicular and pedestrian traffic.
- B. Unrestricted vending on public streets, sidewalks and other public places would interfere with the primary use of those public areas. However, vending on the public streets and sidewalks and upon certain public property that is limited to times and locations that minimize interference with public use promotes the public interest by contributing to an active and attractive pedestrian environment.
- C. The purpose of this chapter is to preserve the ability to use streets, sidewalks and other public places for their primary purposes while allowing limited vending in those areas to protect the public health, safety, and welfare.

## 4.10.010 Definitions

The following definitions apply within this chapter.

**Business Vending Area**. Public property determined by the City Council by resolution to be areas where vendors may sell or offer to sell food, beverages, merchandise or services from a stand.

**Stand**. Any table, showcase, bench, rack, pushcart, or wagon or other vehicle used for the displaying, storing or transporting of articles offered for sale by a vendor, or otherwise used in connection with any activities of a vendor. Stand does not include any item carried by a vendor and not placed on the ground or pavement for use or display.

**Mobile Stand**. A stand that is moved from place to place and that is engaged in vending from a single location in the public right of way for no more than ~~15~~30 minutes at a time.

**Fixed stand**. A stand at which vending occurs for more than ~~15~~30 minutes at a time in a single location. Even if a stand is easily movable, it is a fixed stand if it remains in place for more than ~~15~~30 minutes in the course of a vending activity. For

5-8-17 Revisions to Newport Municipal Code Chapter 4.10, Vending on Public Property

purposes of the definitions of “~~mixed mobile stand~~” and “fixed stand,” single location include 100 feet in all directions.

**Vending.** The activity of selling or offering for sale any food, beverage, merchandise or service on public property, streets or sidewalks from a stand, from the person or otherwise.

**Vendor.** Any person engaged in the activity of vending, whether directly or indirectly.

*Staff: The proposed change provides a more realistic timeframe for food trucks or other mobile vendors serving employees at fish processing facilities and other areas of employment. A typographical error in the definition of “fixed stand” has also been corrected.*

4.10.015 Vending On Public Property

- A. It shall be unlawful to engage in any vending activity upon any street, sidewalk, or other public property of the city except as specifically allowed by a vending endorsement on a business license or an exemption allowed by Subsections B. or C. of this section.
- B. Vending on any city-owned or city-administered property other than rights of way or business vending areas is prohibited without a written agreement with the city. Any vending by written agreement with the city is exempt from the prohibition on vending stated in Subsection A. of this section.
- C. Vending on sidewalks by persons under 13 years of age with the permission of the adjacent property owner is exempt from the provisions of this chapter, provided that the vending activity cannot block the sidewalk. The sole remedy under this section shall be the relocation of the activity so that the sidewalk is not blocked.

4.10.020 Application

An application for a business license with a vending endorsement shall contain the following additional information:

- A. The names, residence and business addresses and residence and business telephone numbers of each

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person who may be engaged in operating such business or stand.

- B. A description of the type of food, beverage, merchandise or service to be sold or offered for sale as part of the vending operation.
- C. The location(s) where any stand(s) will be located.
- D. A description and photograph or drawing of any stand to be used in the operation of the business. The requirement for a drawing or photograph may be waived for stands operated on sidewalks adjacent to the place of business of the license holder.
- E. Proof of liability insurance covering personal injury and property damage, with coverage limits of at least \$500,000, naming the city as an additional insured.

4.10.025 Vending Locations

- A. Fixed stands are permitted only within:
  - 1. Business vending area locations, or
  - 2. The sidewalk area immediately adjacent to the applicant's place of business and the standards of Section 4.10.035 are met. Stands authorized under this agreement must be operated by the operator of the adjacent business.
- B. The vending endorsement for a fixed stand shall specify the location where the fixed stand may be located and is valid only for that location.
- C. The Council may, by resolution, limit the number of fixed stands at each business vending area. If the applications for a vending endorsement for fixed stands in a business vending area exceed the maximum number of fixed stands, endorsements shall be awarded by lot from the applications received by May 31 for the period beginning July 1.
- D. Vending other than from fixed stands are not specific to a location but are subject to the restrictions in Section 4.10.035A.

5-8-17 Revisions to Newport Municipal Code Chapter 4.10, Vending on Public Property

- E. Vending endorsements for stands at business vending area locations are limited to one stand. Vending endorsements for areas adjacent to a permanent place of business may include more than one stand.

4.10.030 Fees

- A. ~~An endorsement application surcharge of \$10.00 or such other amount as may be established by Council resolution shall be~~A surcharge shall be added to the business license application fee if ~~to recover the city's administrative costs for processing vending endorsement applications~~ vendor's endorsement is applied for. An entity exempt from payment of the business license fee is exempt from payment of the endorsement application surcharge.
- B. An additional fee of ~~\$50.00 per calendar month of operation~~ shall be charged for each fixed stand in a business vending areas and for each mobile stand. The endorsement shall list the months that the stand may operate. Endorsements may be amended to add months, but no refunds shall be given if the licensee does not exercise all rights under the endorsement.
- C. An additional fee of ~~\$50.00 per calendar month, not to exceed a total of \$250.00 per calendar year,~~ shall be charged to holders of endorsements to operate stands adjacent to the business, as permitted by Section 4.10.025(A.)(2.).The endorsement shall list the months that the stands may operate. Endorsements may be amended to add months, but no refund shall be given if the licensee does not exercise all rights under the endorsement.
- D. All vending endorsement fees shall be established by resolution of the City Council.

*Staff: This section has been amended to remove references to specific dollar amounts in favor of having the fees set by resolution. It is a housekeeping change that the City has been making as sections of the Municipal Code are amended.*

4.10.035 Restrictions

- A. No vendor shall:

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1. Vend within 500 feet of the grounds of any elementary or secondary school during the period commencing one-half hour prior to the start of the school day and ending one-half hour after dismissal at the end of the school day;
  2. Vend between the hours of 9:00 P.M. and 6:00 A.M.
  3. Leave any stand unattended.
  4. Sell food or beverages for immediate consumption if litter receptacles are not available within 25 feet of the vendor.
  5. Leave any location without first picking up, removing and lawfully dispersing of all trash or refuse remaining from sales made by the vendor or otherwise resulting from the vendor's activities.
  6. If vending is from a stand, allow any items relating to the operation of the vending business to be placed anywhere other than in, on, or under the stand.
  7. If the license includes a stand, expand the stand beyond what is described in the application and allowed in the permit.
  8. Vend anything other than that which the vendor is licensed to vend;
  9. Violate any city ordinance regulating sound or noise.
  10. Vend within any portion of any vehicle travel lane portion of any street other than at times when the street is closed to allow vending. This prohibition does not prohibit the use of mobile stands legally parked and selling to persons not within the vehicle use portion of a street.
  11. Operate a stand without displaying a copy of the business license with the vending endorsement on the stand or engage in other vending activity without having the business license with vending endorsement immediately available for inspection.
- B. No vendor selling other than at a fixed stand shall vend at any location where the sidewalk is not at least eight feet in

5-8-17 Revisions to Newport Municipal Code Chapter 4.10, Vending on Public Property

width, or within 10 feet of an entrance way to any building or within 20 feet of any crosswalk or intersection. No vendor shall block or allow customers to block a sidewalk.

- C. No vender shall allow his or her stand or any other item relating to the operation of the vending business to lean against or hang from any building or other structure without the owner's permission.
- D. Vending activities, whether from a stand or otherwise, shall be conducted in such a way as to not block pedestrian use of a sidewalk. Pedestrian use is considered blocked if two persons cannot pass each other walking in opposite directions.

4.10.040 Vending Stands

- A. Vending stands licensed for business vending areas shall not exceed ~~five sixteen (16)~~ feet in length and ~~five ten (10)~~ feet in height, excluding canopies and umbrellas.
- B. Umbrellas and canopies shall be a minimum of seven feet above the sidewalk. Umbrellas or canopies may not exceed 100 square feet in area.
- C. Vending stands on sidewalks adjacent to the licensee's place of business are permitted only in the following areas:
  - 1. On SW Coast Highway between SW Angle Street and SW Fall Street.
  - 2. On SW Bay Boulevard between SW Bay Street and SE Eads Street.
  - 3. On Hurbert Street between SW 7<sup>th</sup> Street and SW 9<sup>th</sup> Street.
  - 4. In the area bounded by Olive Street on the south, NW 6<sup>th</sup> Street on the north, NW High Street and NW Coast Street on the east and the Pacific Ocean on the west, including both sides of each named street. For purposes of this section, "Olive Street" means both Olive Street and the area that Olive Street would occupy if it continued straight to the Pacific Ocean west of SW Coast Street.

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5. Any other location designated by the Council by resolution.

*Staff: These changes accommodate larger vending carts. Trailer hitched vending carts cannot meet the 5-foot maximum length limitation and the 5-foot maximum height limit prohibits enclosed carts. The sixteen (16) foot maximum length allowance also matches up with the definition of "temporary vending cart" in the definition section of NMC Chapter 14, which applies to vending on private property. That definition reads:*

*"Temporary Vending Carts. A trailer or other vehicle that does not exceed 16 feet in length, has functional wheels, an axle for towing, is not attached in a permanent manner to a permanent foundation and is self-contained for sanitary sewer. A temporary vending cart may be mobile (i.e. does not remain stationary for longer than a few hours), or remain stationary, as permitted by Section 14.09.050."*

4.10.045 Denial and Revocation

- A. A vendor's endorsement may be denied or revoked for any of the following causes:
  1. Fraud or misrepresentation contained in the application for the business license with vending endorsement.
  2. Fraud or misrepresentation made in the course of carrying on the vending business.

CITY OF NEWPORT  
RESOLUTION NO. 3776

RESOLUTION ESTABLISHING FEES FOR  
VENDING ON PUBLIC PROPERTY

WHEREAS, the Newport City Council adopted Ordinance No. 2112, pertaining to vending on public property, on May 15, 2017; and

WHEREAS, Ordinance No. 2112 provides for a charge to be added to business license application fees to recover the City's administrative costs for processing vending endorsement applications; and

WHEREAS, Ordinance No. 2112 further requires that an additional fee be charged for each fixed stand in a designated vending area, for each mobile stand, and for each holder of an endorsement to operate a stand on public property adjacent to their business.

THE CITY OF NEWPORT RESOLVES AS FOLLOWS:

Section 1. The vending endorsement application fee shall be \$10.00.

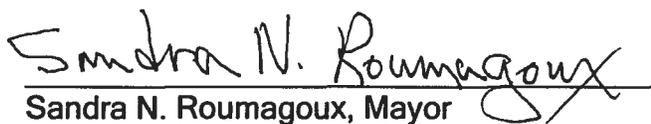
Section 2. The fee for each fixed stand in a business vending area, and for each mobile stand, shall be \$50.00 per calendar month of operation.

Section 3. The fee charged to holders of endorsements to operate stands on public property adjacent to their business shall be \$50.00 per calendar month, not to exceed \$250 per calendar year.

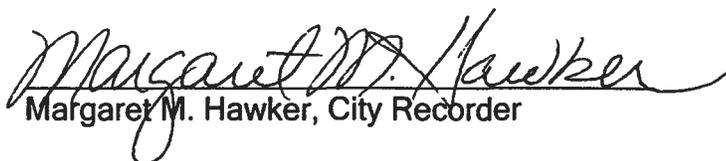
Section 4. This resolution shall become effective immediately upon passage.

Adopted by the Newport City Council on May 15, 2017.

Approved by the Mayor on May 16, 2017

  
Sandra N. Roumagoux, Mayor

ATTEST:

  
Margaret M. Hawker, City Recorder

**CITY OF NEWPORT  
RESOLUTION NO. 3777**

**RESOLUTION ESTABLISHING BUSINESS VENDING AREAS  
ON PUBLIC PROPERTY WITHIN THE CITY OF NEWPORT**

**WHEREAS**, Newport Municipal Code Chapter 4.10 sets out standards for vending along streets, sidewalks and other public places; and

**WHEREAS**, such standards provide that the City Council, by resolution, may establish designated business vending areas and limit the number of fixed stands permitted within a given area; and

**WHEREAS**, it has been more than 30-years since the City Council adopted a resolution amending the list of designated business vending areas (Resolution No. 2680); and

**WHEREAS**, designated business vending areas, established with Resolution No. 2680, include public property that has since been developed with other uses such that it is no longer suitable for vending; and

**WHEREAS**, it is necessary that the City Council update the list of designated business vending areas so that interested parties have a clear understanding of the locations within the City where vending from a fixed stand is potentially permissible.

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

Section 1. Designated business vending areas shall be limited to that portion of the Nye Beach Turnaround and the Hatfield Drive Pump Station Property depicted on Exhibit A.

Section 2. The number of vending endorsements which may be issued for such areas shall be as follows:

- (a) Nye Beach Turnaround – Three (3) licenses.
- (b) Hatfield Drive Pump Station Property – Three (3) licenses.

Section 3. This resolution supersedes and replaces all prior resolutions establishing designated business vending areas on public property.

Section 4: This resolution shall become effective immediately upon passage.

Adopted by the Newport City Council on May 15, 2017.

Approved by the Mayor on \_\_\_\_\_, 2017.

\_\_\_\_\_  
Sandra Roumagoux  
Mayor

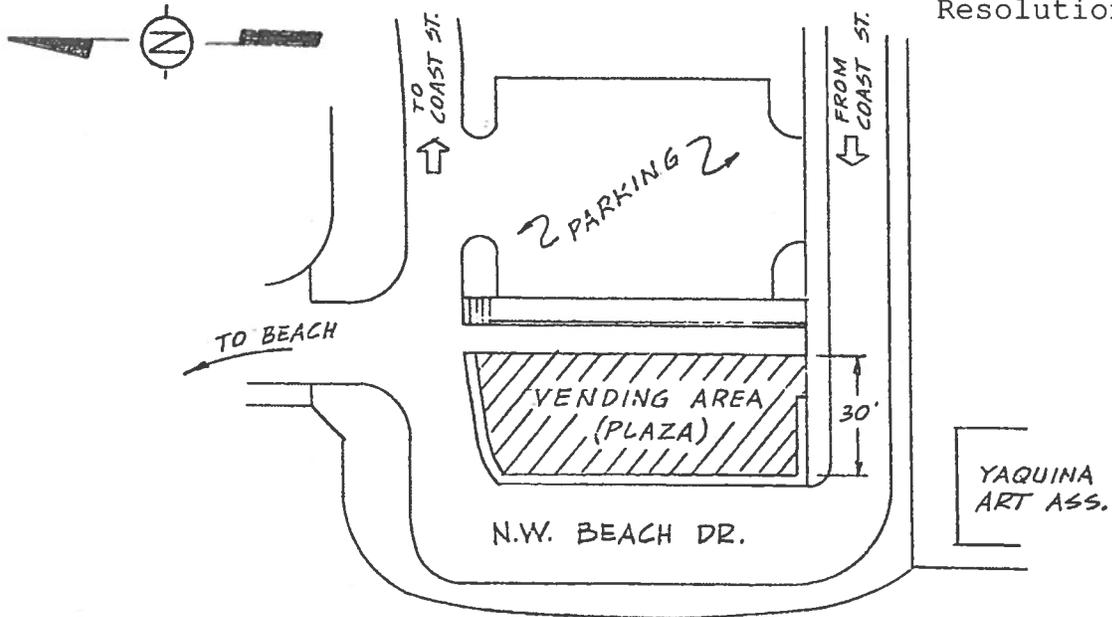
ATTEST:

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

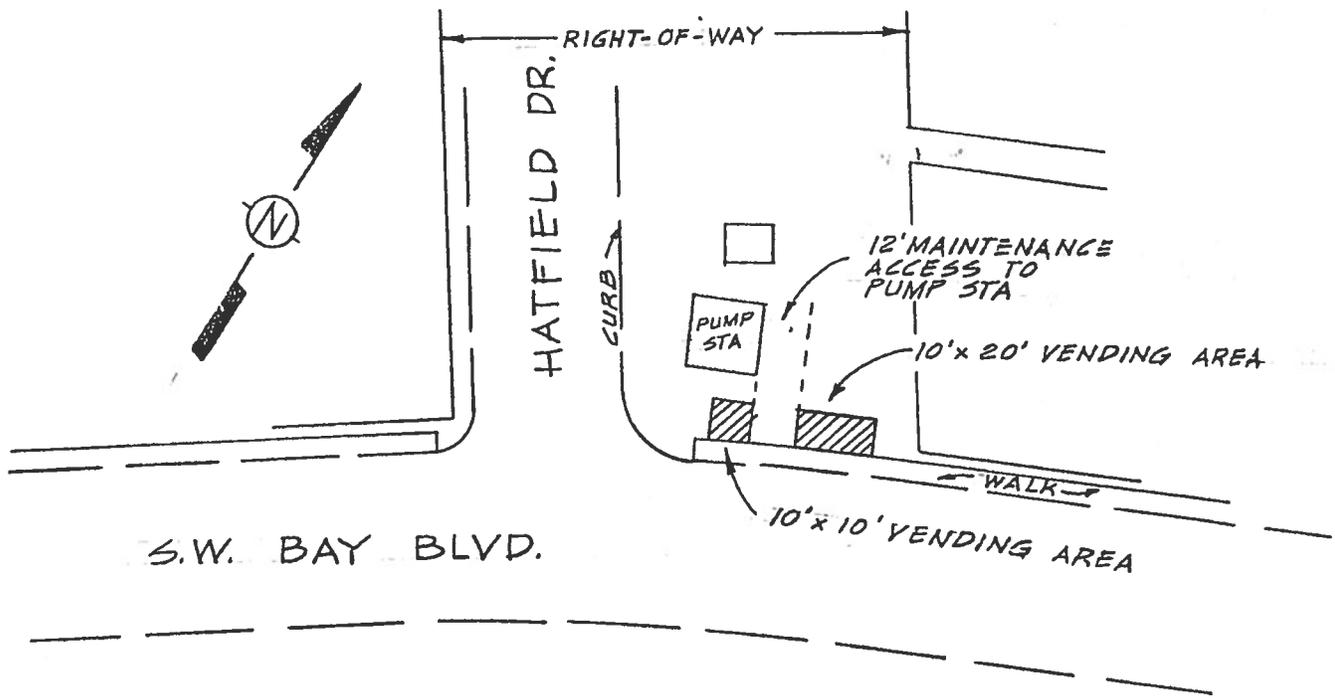
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**Exhibit A**

Resolution No. 3777



NYE BEACH TURNAROUND  
VENDING AREA  
 SCALE: 1" = 50'



VENDING AREA  
 SCALE: 1" = 50'

CITY OF NEWPORT

RESOLUTION NO. 2680

A RESOLUTION AMENDING RESOLUTION NO. 2348 OF THE CITY OF NEWPORT, ENTITLED "A RESOLUTION DETERMINING LICENSE FEES AND BUSINESS VENDING AREAS IN ACCORDANCE WITH THE PROVISION OF CITY OF NEWPORT ORDINANCE NO. 1305."

WHEREAS, City of Newport Ordinance No. 1305 provides for the establishment, by Resolution, of certain designated business vending areas, and,

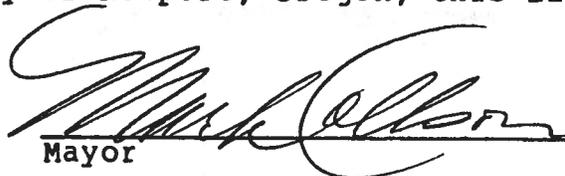
WHEREAS, on or about July 6, 1982, Resolution No. 2348 of the City of Newport was adopted designating certain locations as designated business vending areas, and

WHEREAS, it has been determined that business vending in that area described as the "Case Street End" is not in the best interests of the public,

NOW, THEREFORE, BE IT RESOLVED that Resolution No. 2348 of the City of Newport be amended by deleting therefrom Subsection (D) of Section 3 of said Resolution.

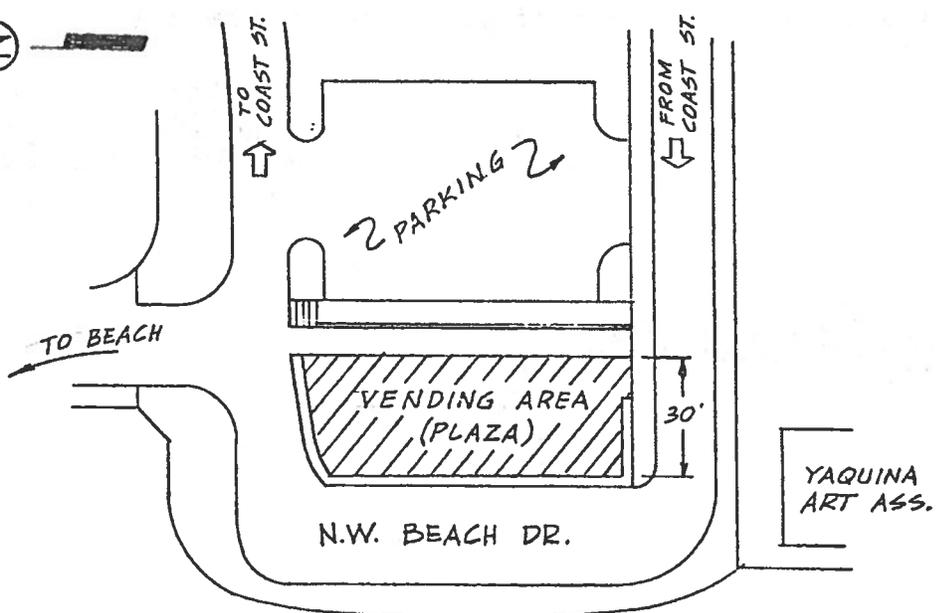
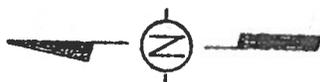
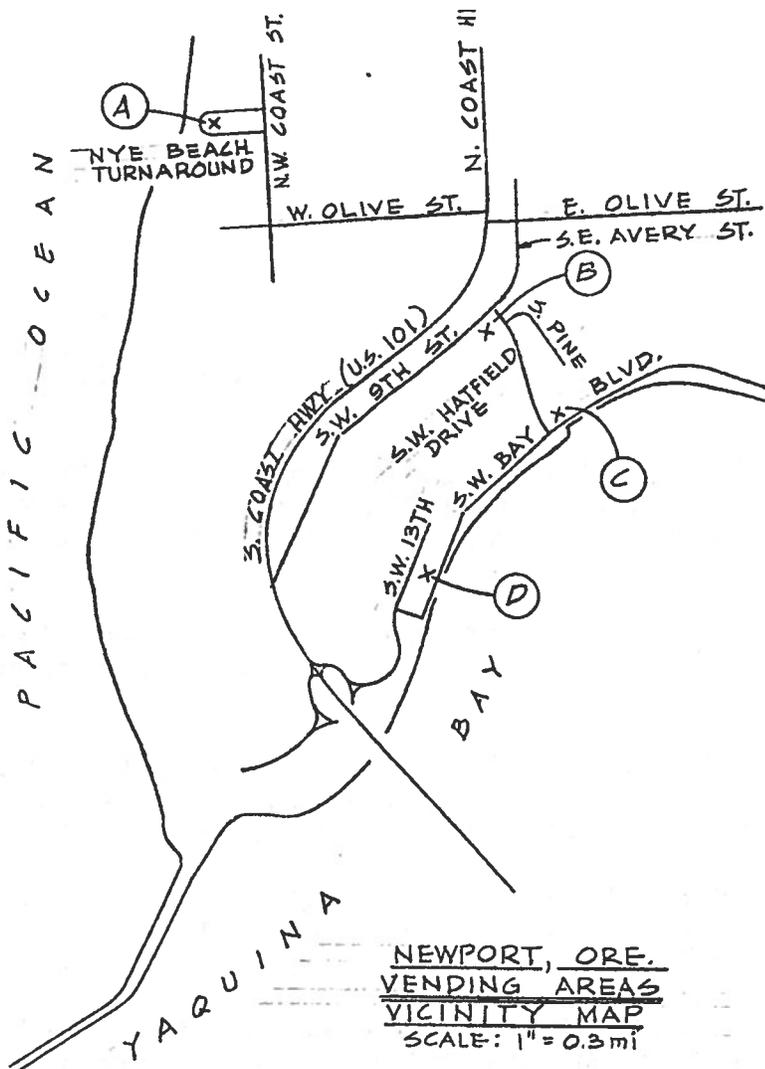
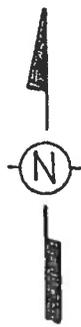
Adopted by the Common Council of the City of Newport, Oregon, this 21st day of July, 1986.

Approved by the Mayor of the City of Newport, Oregon, this 21st day of July, 1986.

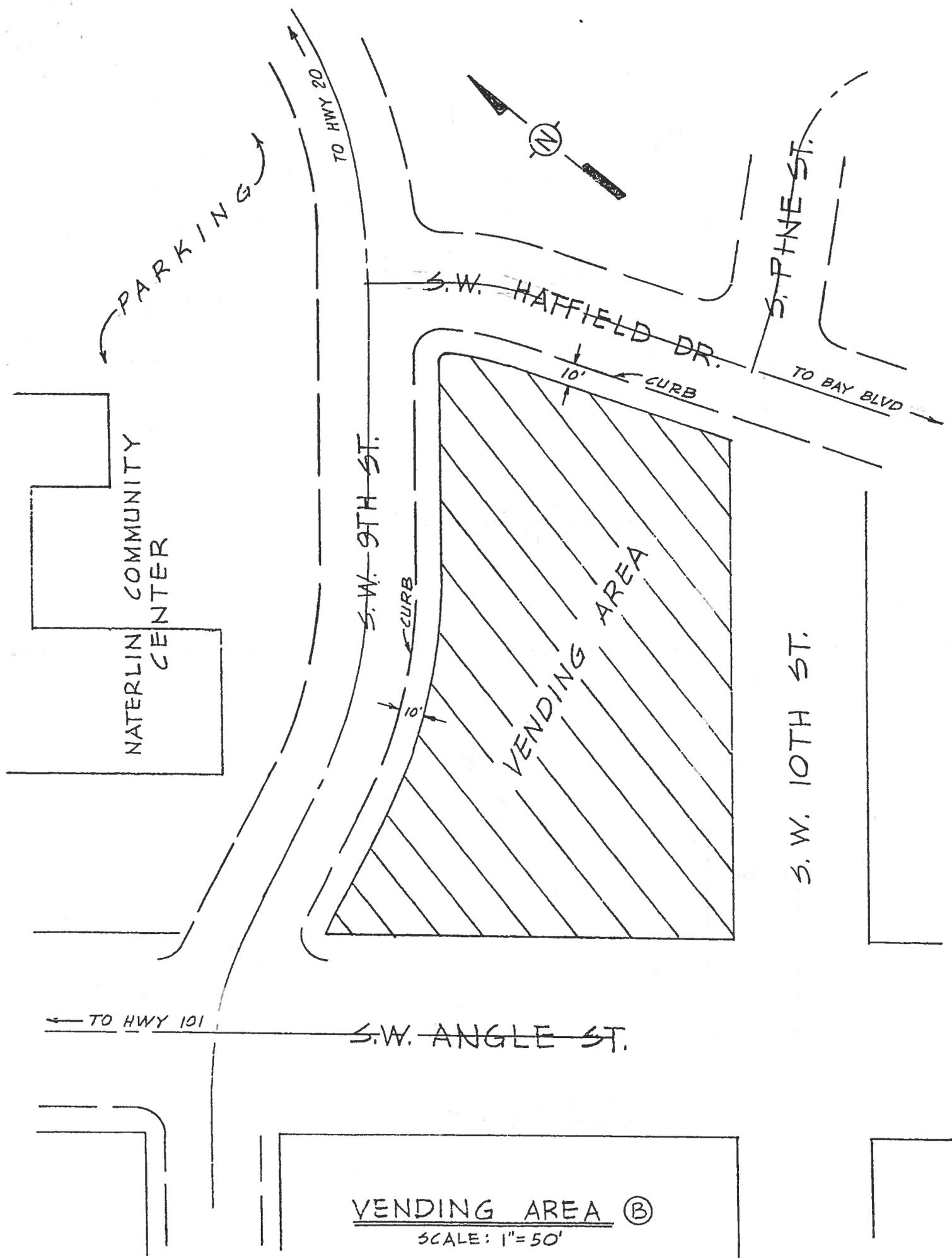
  
Mayor

ATTEST:

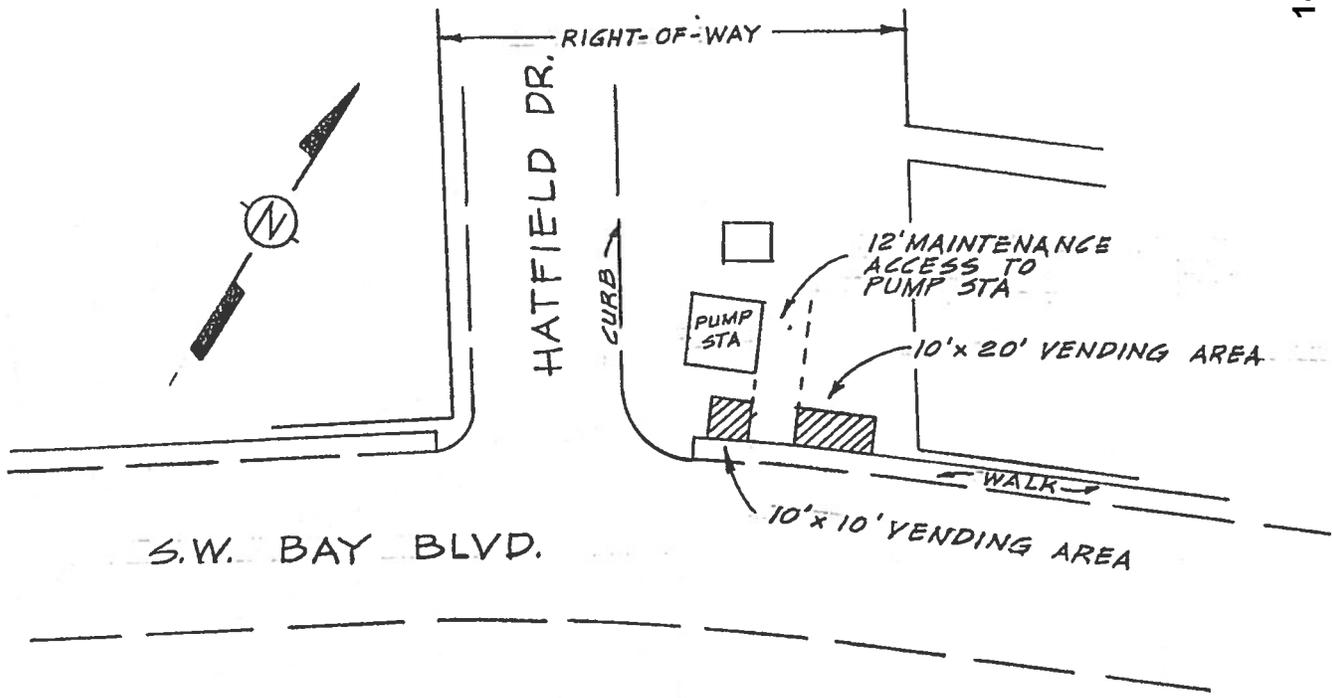
  
City Recorder



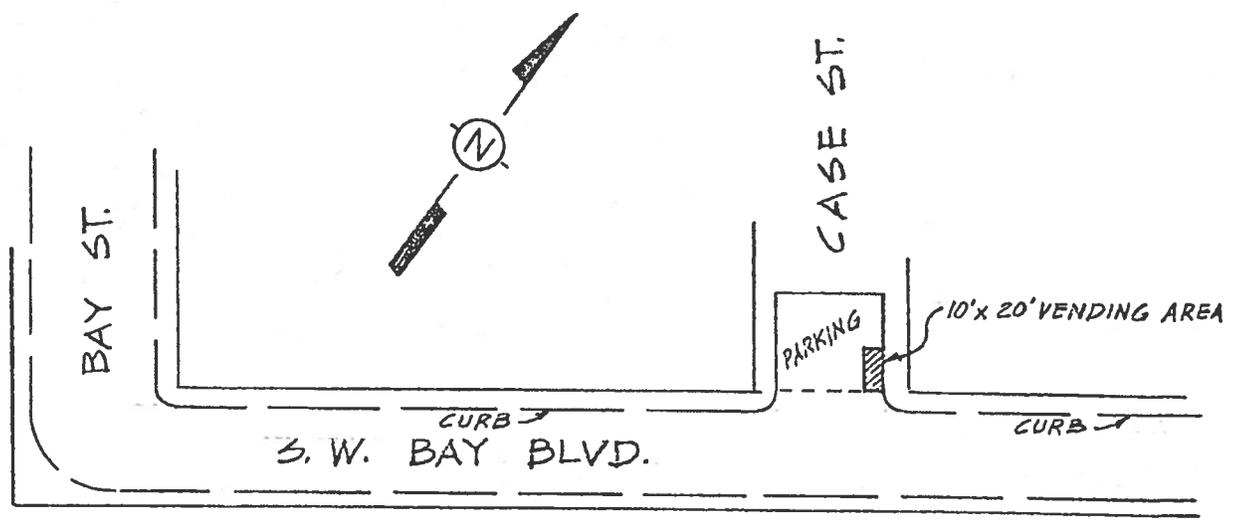
NYE BEACH TURNAROUND  
 VENDING AREA (A)  
 SCALE: 1" = 50'



VENDING AREA (B)  
SCALE: 1"=50'



VENDING AREA C  
SCALE: 1" = 50'



VENDING AREA D  
SCALE: 1" = 100'

CITY OF NEWPORT

RESOLUTION NO. 2348

A RESOLUTION DETERMINING LICENSE FEES AND BUSINESS VENDING AREAS IN ACCORDANCE WITH THE PROVISIONS OF CITY OF NEWPORT ORDINANCE NO. 1305.

WHEREAS, City of Newport Ordinance No. 1305 has been duly approved and adopted this 6th day of July, 1982, which Ordinance provides for the establishment of certain designated business vending areas and certain fees,

NOW, THEREFORE,

BE IT RESOLVED:

- 1. The annual licensing fee for a vending license as in said Ordinance No. 1305 described shall be \$35.00.
- 2. The additional fee to be paid monthly for a license to conduct vending activities in a designated business vending area shall be \$20.00 per month.
- 3. Business vending areas and the number of licenses which may be issued for such areas shall be as follows:
  - (a) Nye Beach Turnaround (see description attached hereto and by this reference made a part hereof) 3 licenses.
  - (b) Waterlin East Parking Lot (description attached hereto and by this reference made a part hereof)/no present limitation as to the number of licenses authorized.
  - (c) Hatfield Drive Pump Station (description attached hereto and by this reference made a part hereof) 3 licenses.
  - (d) Case Street end (description attached hereto and by this reference made a part hereof) 2 licenses.

ADOPTED this 6th day of July, 1982.

APPROVED:

  
MAYOR

ATTEST:

  
City Recorder

**CITY OF NEWPORT**  
**ORDINANCE NO. 2001**

**AN ORDINANCE AMENDING THE NEWPORT ZONING ORDINANCE  
(ORDINANCE NO. 1308, AS AMENDED) AND NEWPORT MUNICIPAL CODE  
RELATING TO TEMPORARY VENDING CARTS NOT ASSOCIATED WITH  
SPECIAL EVENTS AND TEMPORARY PORTABLE SIGNS  
WITHIN PUBLIC RIGHTS-OF-WAY**

**Findings:**

1. Section 2-2-29 of the City of Newport Zoning Ordinance (No. 1308, as amended) contains criteria for allowing short-term uses that are temporary in nature, where no permanent improvements are made to a site. Such uses are subject to a temporary structures permit.
2. Bonnie Serkin, on behalf of Landwaves Inc., submitted an application proposing amendments to Section 2-2-29 to allow temporary vending carts in certain portions of the city. The request also includes amendments to Chapter 10.10 (Signs), Chapter 11.05 (Buildings), and Chapter 12.15 (System Development Charges) of the Newport Municipal Code. Changes to the sign code include an allowance for portable signs within rights-of-way in portions of South Beach for more than five consecutive days and more than 10 total calendar days and clarify that one portable sign is allowed per business rather than just one sign per property. Amendments to the building and system development charges section of the code add exemptions for vending carts, considering that they are not permanently affixed to a foundation and are temporary in nature.
3. In conjunction with this request, standards for the placement of temporary structures in conjunction with special events are being deleted from Section 2-2-29 of the Zoning Ordinance. This is being done because the standards have been incorporated into Chapter 9.80 of the Newport Municipal Code.
4. The Newport Planning Commission and Planning Commission Citizens Advisory Committee reviewed the proposed changes to the Newport Zoning Ordinance and Newport Municipal Code (Newport File No. 13-Z-09) at a work session on January 11, 2010. Following a public hearing on February 22, 2010, the Planning Commission voted unanimously to recommend the adoption of the proposed amendments.
5. The City Council held a public hearing on March 15, 2010 regarding the question of the proposed revisions (Newport File No. 13-Z-09), and voted in favor of their adoption after considering the recommendation of the Planning Commission and evidence and argument in the record.
6. Information in the record, including affidavits of mailing and publication, demonstrate that appropriate public notification was provided for both the Planning Commission and City Council public hearings.

Based on these findings,

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

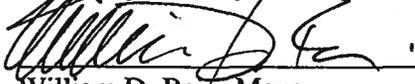
**Section 1.** Section 2-2-29 of Ordinance No. 1308 (as amended), Temporary Structures Permits, is repealed in its entirety and replaced with a new Section as shown in Exhibit "A".

**Section 2.** Section 10.10.040, Signs in Public Rights-of-Way, Section 10.10.070, Partially Exempt Signs, Chapter 11.05, Building Codes, and Section 12.15.060, Exemptions, of the Newport Municipal Code are amended as shown in Exhibit "B".

**Section 3.** This ordinance shall take effect 30 days after passage.

Date adopted on initial vote and read by title only: March 15, 2010

Signed by the Mayor on March 16, 2010.

  
\_\_\_\_\_  
William D. Bain, Mayor

ATTEST:

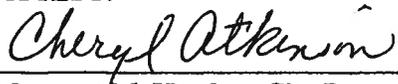
  
\_\_\_\_\_  
~~Margaret M. Hawker, City Recorder~~  
Cheryl Atkinson, Exec. Assistant  
Office of City Manager/City Attorney

Exhibit A to Ordinance No. 2001, Amending the Newport Zoning Ordinance (Ordinance No. 1308, as Amended) to provide criteria for temporary vending carts not associated with special events, and to delete standards for temporary structures in conjunction with special events.

**2-1-1.101. Definitions.** As used in this ordinance, the masculine includes the feminine and neuter, and the singular includes the plural. The following words and phrases, unless the context otherwise requires, shall mean:

\* \* \*

**Temporary Vending Carts.** A trailer or other vehicle that does not exceed 16 feet in length, has functional wheels, an axle for towing, is not attached in a permanent manner to a permanent foundation and is self contained for sanitary sewer. A temporary vending cart may be mobile (i.e. does not remain stationary for longer than a few hours), or remain stationary, as permitted by Section 2-2-29.027.

\* \* \*

**Section 2-2-29. TEMPORARY STRUCTURES PERMITS \***

**2-2-29.005. Purpose.** The purpose of this section is to provide some allowance for short-term uses that are truly temporary in nature, where no permanent improvements are made to the site, and the use can be terminated and removed immediately. Temporary activities include special events as defined in NMC 9.80.010, temporary living quarters, construction trailers, leasing offices, vending carts, kiosks, storage buildings, and similar structures.

**2-2-29.010. Special Events Structures.** Placement of special events structures is regulated under Chapter 9.80 of the Newport Municipal Code.

**2-2-29.015. Temporary Living Quarters.** Notwithstanding any other restrictions and prohibitions in this code, a recreational vehicle may be used as a temporary living quarters subject to the following conditions:

- A. The request for temporary living quarters must be in conjunction with a valid, active building permit.
- B. The time limit shall be no longer than one (1) year from issuance. After the expiration of the time limit, the recreational vehicle used for the temporary living quarters must no longer be used for on-site living purposes.
- C. The recreational vehicle used as the temporary living quarters must be self-contained for sanitary sewer.
- D. Temporary living situations for non-residential projects may use a job shack or other such structure instead of a recreational vehicle as the living quarters and may have a portable toilet instead of a self-contained unit.
- E. The location of the temporary living quarters on the site shall satisfy the vision clearance requirements as set forth in section 2-4-3 of the zoning code.
- F. Prior to the issuance of a temporary living quarters permit, the applicant shall sign an agreement that the applicant shall comply with the provisions of this subsection.

**2-2-29.025. Temporary Structures for Other Than Special Events.** Notwithstanding any other restrictions and prohibitions in this code, a temporary structure not associated with a special event may be erected subject to the following:

- A. The permit, if approved, shall be issued for a period not to exceed two (2) years. Upon like application and approval, the permit may be renewed for up to an additional one (1) year.
- B. Temporary structures are limited to commercially and industrially zoned properties.
- C. No permanent changes will be made to the site in order to accommodate the temporary structure.
- D. Permission is granted by the property owner.
- E. Sanitary facilities will be made available to the site.
- F. The structure does not interfere with the provision of parking for the permanent use on the site.
- G. The structure satisfies the vision clearance requirements of the zoning code.
- H. Approval is obtained from the City Building Official.
- I. A bond or cash deposit for the amount required to remove the temporary structure, if not removed in the required time frame, shall be placed in an interest bearing account in the name of the applicant and the City of Newport. Any bond or cash deposit must be in a form approved by the City Attorney.

**2-2-29.030. Temporary Vending Carts.** Notwithstanding any other restrictions and prohibitions in this code, a temporary vending cart, not associated with a special event, may be located within the City of Newport subject to the following:

- A. Temporary vending carts may be located on commercially zoned property that is at least ½ mile from a permanent eating and drinking establishment.
- B. Temporary vending carts and any accessory improvements (such as seating) are limited to privately owned properties, and may encroach onto public property or public right-of-way only if the City consents to the encroachment as provided in Chapter 4.10 of the Newport Municipal Code.
- C. The items available for sale from temporary vending carts are limited to food and beverages for immediate consumption. Requests to have a different item or service considered shall be submitted, in writing, to the City Manager, who shall determine if the item or service:
  - (1) Can be vended from a regulation size temporary vending cart;
  - (2) Not lead to or cause congestion or blocking of pedestrian traffic on the sidewalk;
  - (3) Involve a short transaction period to complete the sale or render the service;
  - (4) Not cause undue noise or offensive odors; and

- (5) Be easily carried by pedestrians.
- D. A permit for a temporary vending cart, if approved, shall be issued for a period not to exceed two (2) years. Upon expiration of a permit, a temporary vending cart must immediately cease operation, and must be permanently removed within seven (7) days.
- E. At least one trash and one recycling receptacle will be made available to the public.
- F. The City of Newport receives a signed statement that the permittee shall hold harmless the City of Newport, its officers and employees and shall indemnify the City of Newport, its officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activities of the permittee. Permittee shall furnish and maintain public liability, products liability, and property damage insurance as will protect permittee, property owners, and City from all claims for damage to property or bodily injury, including death, which may arise from operations of the permittee. Such insurance shall provide coverage of not less than \$1,000,000 per occurrence. Such insurance shall be without prejudice to coverage otherwise existing, and shall name as additional insured the City of Newport, their officers and employees, and shall further provide that the policy shall not terminate or be canceled prior to the completion of the contract without 30 days written notice to the City Recorder of the City of Newport.
- G. A bond or cash deposit for the amount required to remove the temporary vending cart, if not removed in the required time frame, shall be placed in an interest bearing account in the name of the applicant and the City of Newport. Any bond or cash deposit must be in a form approved by the City Attorney.

**2-2-29.035. Permits Not Transferable Unless Approved.** Permits authorized by this section are not transferable to another person or location unless approved by the Community Development Director.

**2-2-29.040. Approval Authority.** Unless otherwise provided, placement of temporary structures is subject to review and approval by the Community Development Director using a Type I decision making process.

**2-2-29.045. Application Submittal Requirements.** In addition to a land use application form with the information required in Section 2-6-1.020, applications for temporary structures shall include the following:

- A. A site plan, drawn to scale, showing:
  - (1) The proposed location of the temporary structure, seating areas, and amenities, as applicable.
  - (2) Existing buildings.
  - (3) Existing parking.
  - (4) Access(es) to the parking areas.
  - (5) Any additional structures, seating areas, and amenities associated with the temporary structure.
  - (6) The location and size of trash receptacles.
  - (7) Utilities.

- (8) Existing signs and signs associated with the temporary structure.
  - (9) Temporary structure building elevations or photos.
  - (10) The location of drive-up windows (if applicable).
- B. A signed agreement stating that the applicant is aware of the limitations and conditions attached to the granting of the permit and agrees to abide by such limitations and conditions.
- C. A description of the types of items sold or services rendered, if applicable.
- D. A valid copy of all necessary permits required by State or local health authorities, and other required licenses or permits, such as business license or sign permit obtained by the applicant and maintained on site.

**2-2-29.050. Fire Marshal Inspection.** Prior to the issuance of any permit, the Fire Marshal shall inspect and approve any temporary structure to assure conformance with the provisions of the Fire Code.

**2-2-29.055. Construction Trailer Exemption.** Construction trailers located on the site upon which construction is to occur that are used during the course of the construction project are exempt from the process outlined in this section and may be permitted at the time of building permit approval provided said structures comply with the building code and the vision clearance requirements of the zoning code.

Exhibit B to Ordinance No. 2001, Amending the Newport Municipal Code to clarify criteria for portable signs within the public right-of-way and establishing exemptions to building code and system development charges for temporary vending carts not associated with special events.

## **CHAPTER 10.10 SIGNS**

### **10.10.040 Signs in Public Rights-of-Way**

\* \* \*

B. Permits are required for temporary or portable signs within rights of way and may be issued only if authorized in this section.

\* \* \*

2. Permits for portable signs within rights of way for more than five consecutive days and more than 10 total calendar days in a year may be granted if the portable sign is placed adjacent to a business location operated by the permittee, the sign is removed at all times when the business is not open, and the sign is within the following areas:

\* \* \*

f. In that portion of the South Beach area of Newport, east of Highway 101, west of Kings Slough, south of the intersection of Highway 101 and 40<sup>th</sup> Street and north of the intersection of Highway 101 and 50<sup>th</sup> Street.

### **10.10.070 Partially Exempt Signs**

\* \* \*

E. One temporary portable sign per business placed on private property is permitted. Temporary portable signs shall be made of permanent, durable materials and shall be maintained in a good condition. Temporary signs (portable and attached) in the aggregate may not exceed 24 square feet for all display area surfaces on a single property. Temporary signs shall not be included in the calculation of total maximum display area. All portable signs shall be weighted, anchored or constructed so that they will not move or collapse in the event of wind, or otherwise create a hazard.

## **CHAPTER 11.05 BUILDING CODES**

\* \* \*

### **11.05.180 Exemptions**

Temporary Vending Carts that are permitted in accordance with Newport Zoning Code and Ordinance section 2-2-29.027 are not permanently attached to a foundation, they are considered vehicles (not a building or structure), and the Oregon Structural Specialty Code does not apply.

**CHAPTER 12.15 SYSTEM DEVELOPMENT CHARGES****\* \* \*****12.15.060 Exemptions**

A. The following actions are exempt from payment of SDCs:

**\* \* \***

4. Temporary Vending Carts that are permitted in accordance with Newport Zoning Code and Ordinance section 2-2-29.027

**MINUTES**  
**City of Newport Planning Commission**  
**Work Session**  
**Newport City Hall Council Chambers by Video Conference**  
**March 22, 2021**  
**6:00 p.m.**

**Planning Commissioners Present by Video Conference:** Jim Patrick, Lee Hardy, Bob Berman, Jim Hanselman, Braulio Escobar, Gary East, and Bill Branigan.

**PC Citizens Advisory Committee Members Present by Video Conference:** Dustin Capri.

**PC Citizens Advisory Committee Members Absent:** Greg Sutton.

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

**Public Members Present by Video Conference:** Brodie Becksted and Heidi Rogers.

1. **Call to Order.** Chair Patrick called the Planning Commission work session to order at 6:00 p.m.
  2. **Unfinished Business.** None were heard.
  3. **New Business.**
- A. **Citizen Proposal to Amend the W-2" Water-Related" Zone District to Allow Personal Service Retail Uses Subject to Conditional Use Approval.** Tokos reviewed the Water-Related and Water-Dependent Zoning map. He noted the Becksted was interested in establishing real estate office in the W-2 zone which would need a text amendment to the city's zoning code.

Brodie Becksted and Heidi Rogers addressed the Commission. Becksted gave the history of the property on the Bayfront, sharing how it started as a dwelling and how it was converted into a commercial property. There had been different businesses in it over the years and they currently wanted to do a real estate office at the location. Becksted thought this would be a good use because it would be owner occupied and not so seasonal. He asked for the Commission's thoughts.

Berman noted there was a reason for the original zoning on the Bayfront so they would not end up with a lot of businesses that weren't typically tourist in this area. This was the same in Nye Beach. Becksted reported that the majority of their business was based online and mobile. He thought they could do something different in this area because it wasn't in the thick of all the retail. Rogers added that they thought it would be a popular place and would attract other real estate agents to the area. She thought that real estate use would add energy to the Bayfront. Becksted agreed and gave an example of how Hawaii allowed real estate offices in popular tourist areas. He noted that they wanted to invest in Newport and thought this would fill a void in a vacant area.

Escobar asked where their staff would park. Becksted explained that this use would need less parking than retail. This had been one of their concerns and noted they were also concerned about parking metering being implemented on the Bayfront. Capri thought that the demand on parking from their office would be for one or two employees. Becksted reported they had 13 brokers in their office, and one or two were in the office each day. Everything was pretty mobile for them. Becksted thought the parking demand would be less than the previous tenant who had done a tasting room for a winery. He also noted that he owned Newport Brewing and thought it would be nice to do tastings at this site and comingle with the real estate office to promote both businesses. Capri thought this was a great idea. Becksted thought it would be a good spot to have tastings and get more exposure, but noted this would be a small amount of use. Branigan thought it was a good idea.

Tokos added that effectively what the Commission would be looking at was the conditional use process where personal service uses would be permissible anywhere in the W-2 zone, and wasn't site specific.

East asked if Becksted would be doing a small retail area for their brewery at this location. Becksted gave an overview of how they would operate offering drinks to go and taps at the location. He noted it would mainly be real estate services. Capri thought that this was a safer bet because W-1 and W-2 land was at a premium, and the risk of other professional service industries going in there was pretty low. Becksted noted that trying to find a tenant in a property like this was tough because of the cost of renting the property. He wanted to put energy in the area to try to promote it. Branigan agreed and didn't see an issue with this. Patrick noted the list of what they could do there wouldn't be viable at the price range. This property was at the dead end and he would be happy with anything that would work in this area.

East thought it was a good idea and there wasn't a whole lot on that end that would restrict what they wanted to do. Patrick reminded that this would be a conditional use process and happy with it being this way. Berman thought it was something to look at but noted they needed to look at the bigger consideration. He was into looking at a proposal. Berman asked if it became a conditional use, what criteria would they have to meet. Tokos noted they would look at consistency with the area as one of the criteria to meet. There was more wiggle room on this standard than the others. Becksted reported this location could be a marijuana store but didn't think this would be a good use for it.

Hardy asked what the vacancy rate was. Becksted reported that the west and east sides of the Bayfront were pretty vacant but the middle was great. The ends of the Bayfront needed something different.

Hanselman had a problem making decisions based on one property. He didn't like expanding conditional uses in any zone and thought it was a can of worms because they couldn't predict what would come of it. He would much rather have this be an overall change of the Bayfront rather than focusing on one property.

Tokos thought they should do is next steps and work on what the language would look like for the application. There would be a public hearing before the Planning Commission to take into consideration any testimony. They would provide a recommendation to the City Council, who have a public hearing and make a change by ordinance.

Capri thought they should be looking at Becksted's project as a side note. He explained that with every project on the Bayfront, the second floor was the biggest challenge. It was difficult to do a second floor as commercial. There were a lot more potential uses when there was commercial on the ground floor with administrative or professional services above.

**B. Background and Initial Discussion of Options for Redrafting Food Cart Rules.** Tokos acknowledged the public comment that Janet Webster submitted to the Commission. This discussion fell under a City Council goal to update the food trucks, which had received some attention in recent years. This would be broken up into two pieces. The first would pertain to uses for mobile units in public rights-of-way (ROW) in contained units. The City of Newport's current mobile vendor rules fit the mobile food trucks like ice-cream trucks where they were only allowed to stop for no more than 15 minutes. The second part would be for fixed based vendors/stands which were limited to locations where the Council determined it was appropriate to allow them. The location by the Nye Beach Turn around was one of these locations and the location next to the Hatfield Pump Station at Hatfield Drive and Bay Blvd. Tokos reported that there had been growing interest in having mobile food trucks in Newport. He reviewed the two ideas that were included in the packet. There were different ways this could happen and he was hoping to get the general sense on what issues the Commission wanted to see addressed.

Hanselman asked for a clarification on the rules that restricted food carts from being located within a half mile perimeter from a food establishment. Tokos explained that around 2010, Wilder put together a proposal and submitted an application to amend the city's code to allow food carts on private properties. They were sensitive to the potential conflict with brick and mortar restaurants who had fixed biased costs such as system

development fees. They set up the proposed amendments such that food trucks were allowed as long as they were a half mile from a brick and mortar restaurant. The city adopted this but Wilder was never able to attract anyone at their location. The issues with food pods and mobile vehicles was a little different and had a few different nuances to them. This was why they were being addressed as a two different options. Berman asked if the half mile rules stemmed from one specific request, not in the insistence of restaurant owners. Tokos confirmed this was true. Because of this he didn't think they really needed engage or do outreach with the restaurant community because they would be so far away from them it really wouldn't be competition. Tokos noted there would be a public hearing notice process sent out to fixed based restaurant operators which would give them an opportunity to give testimony.

Branigan asked how long a mobile food truck could park at a given location and if there should be a time limit for them. Tokos thought there should be a around a five hour time limit. This would allow them to cover thing like shift workers on the Bayfront, and baseball tournaments in the field. Tokos noted this wasn't for food trucks that were permanent on private property because they would be connecting into the city services, have parking areas, and have some sort of enclosure for seating. This was something you would typically see in a pod configuration. Branigan asked if they would want to restrict how many food trucks could be at a specific location. Tokos would take a look at provisions like this, and how jurisdictions tackled it and why.

Capri didn't like allowing food trucks on public properties. He thought private properties made more sense because these businesses supported Newport every day through property taxes and all the fees they paid to operate their businesses. Tokos noted there were jurisdictions that don't allow trucks to park within public ROWs and required them to park on parking lots. He noted these may be public lots, though. Tokos would bring back examples of this. Escobar thought if they were at baseball fields they would already have permission beforehand. Tokos agreed and would be his expectation as well. He noted these were already accommodated by the city through special event permits.

Berman asked if someone could currently do a food truck at the Nye Beach turnaround. Tokos explained they couldn't because they were bigger than the size limitation. The hot dog cart that had been there previously was just a trailer and fit in the size limitations. Tokos thought they needed to be sensitive to the size of the spaces that they allowed food trucks to be located at as well. Hanselman thought big trucks were a problem and did take up a lot of space even if they were in a public ROW. He thought there could be private property owners who would be interested in these. Food courts in other cities seemed to do pretty well and were accepted by the community if they were located in an accessible locations. This came down to where were the tourist when they were in Newport. Hanselman reminded they were limited on where they could do food trucks in Newport and he wasn't opposed to introducing these to private properties. Branigan asked if they should limit where food trucks could park for five hours. Tokos noted that there was currently timed parking limits in the City Center, Nye Beach and the Bayfront.

Capri asked if pods were currently allowed on private properties in the city. Tokos explained that the half mile separation requirement pretty much put an end to that. This could and would be changed. You would find that to do pods with any kind of seating, necessitated having restrooms on site. If they weren't providing seating, they might not have to have a restroom onsite. East thought that an area like the old Undersea Gardens was an area to do this. He thought the area for trucks to park in town were limited.

Escobar noted that in Toledo there was a small hotdog stand. They were open from 11 a.m. to 3 p.m. and this seemed to work well. He thought five hours in a public space was excessive and he would be more supportive of a pod concept. Using a public street for five hours should have a lot of consideration and he thought there needed to be a tighter timeframe.

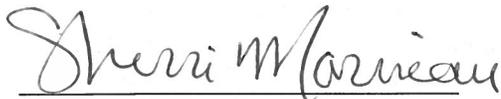
Berman thought it was important to separate out the semi fixed pods from the trucks. Tokos noted that with respect to pods some jurisdictions were using overhead power lines to accommodate them, which was a safety hazard. Because of this, some jurisdictions required power to be below ground and something to consider. Prohibition of outside generators, trash receptacles, the linkage with seating and onsite restrooms, and restrictions on blocking sidewalks were other things to think about.

Capri expressed concerns about how parking was going to be enforced. East noted that most of the traffic on the Bayfront was walking traffic, and it was easier to get quick and easy meals in this area. He didn't think anyone would be going there to specifically eat at these trucks and taking over parking. East didn't think parking would be an issue but thought it should be included. Capri thought it shouldn't be included because they couldn't enforce it. Tokos thought this should be different for pods and mobile food trucks.

Hanselman thought they should discuss the 15 minute limit for mobile food trucks. They needed a chance to make a living, and 15 minutes wasn't enough time to set them up. Tokos would bring options relative to how other jurisdictions were tackling the mobiles and how much time they were giving them. He noted that most jurisdictions didn't allow these in residential areas and asked for the Commission's thoughts. The Commission was in general agreement that they shouldn't be in residential. Branigan thought it would be nice to talk to a mobile food truck owner to understand what their business model was and get some insight on how to craft the rules and regulations. Tokos would look into inviting a mobile food truck owner to participate in another work session. He would be looking at the number of trucks at a specific location, parking on the ROW, general limitations other jurisdictions were doing for private properties, and options on the time limits for the mobile, and language on preserving residential areas.

- C. **Results of the Transportation System Plan Regulatory Review (Tech Memo #3)**. The discussion was deferred to the next work session meeting.
- D. **Updated Planning Commission Work Program**. No discussion was heard.
- 4. **Adjourn**. The meeting adjourned at 7:00 p.m.

Respectfully submitted,



Sherri Marineau,  
Executive Assistant

**MINUTES**  
**City of Newport Planning Commission**  
**Work Session**  
**Newport City Hall Council Chambers by Video Conference**  
**April 12, 2021**  
**6:00 p.m.**

**Planning Commissioners Present by Video Conference:** Jim Patrick, Bob Berman, Jim Hanselman, Braulio Escobar, Gary East, and Bill Branigan.

**Planning Commissioners Absent:** Lee Hardy (*excused*).

**PC Citizens Advisory Committee Members Present by Video Conference:** Dustin Capri, and Greg Sutton.

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

**Public Members Present by Video Conference:** Lisa Phipps, and Susannah Montague.

1. **Call to Order.** Chair Patrick called the Planning Commission work session to order at 6:00 p.m.
2. **New Business.**
  - A. **Yaquina Bay Estuary Management Plan Update.** Tokos introduced Lisa Phipps, the Department of Land Conservation and Development (DLCD) North Coast Regional Representative. Phipps presented a PowerPoint presentation concerning the Yaquina Bay Estuary Management Plan Update. She gave an overview of the project, its goals, and the process their agency had set out for completing the Plan update. The Plan, adopted almost 40 years before, included natural resource and land use inventories to inform where conservation and development areas should be established. It also served as a technical resource to support the development of local policies and regulations that influence how in-water work was to be performed. Phipps noted they built some dollars into the project to go to jurisdictions to assist with this process. They hoped that by providing some financial compensation for the jurisdiction's time it would help mitigate some of the challenges.

Capri entered the meeting at 6:03 p.m.

Branigan asked if the intent of the project was for local jurisdictions, was there any intent for this to become a legislative issue for the State. Phipps reported there wasn't and it was intended to address local needs. Berman asked what the adoption process would be, and if it would lay out requirements for the individual authorities to comply with the documents once it was adopted. Phipps explained the City of Newport already has an estuary plan. If changes were made to update the Comprehensive Plan, Ordinance, or both, then it would become the policy the city would follow. Tokos noted the city wasn't obligated to adopt anything, but thought there might be something in this plan the city would want to adopt. This would happen through a legislative process. Berman asked if Newport decided to adopt this, and the Port of Newport did not, how do conflicts get resolved. Phipps reported that the Port did not have to adopt this. The Port could agree on their own to adopt some of the polices, but this was a land use process for the city and the county.

Hanselman asked what kind of scientific expertise would be a part of the project. Phipps reported the consultants and stake holders would have a lot of expertise. The stakeholders included the Oregon Department of Fish and Wildlife, the Department of State Lands, NOAA Fisheries, and the Army Corp of Engineers. They were bringing in a lot of resource experts, industry representatives, natural resource groups, and political perspectives, as wells as the consultants. Hanselman asked if the old plan was available to review. Phipps thought the City had it available, and the Estuary Management Plan was available on the DLCD's website.

Hanselman and Sutton expressed interest in being a representative on the committee. Tokos reminded there would need to be a motion made to designate the representative at that night's regular session meeting.

- B. Newport Beach Access Resiliency Plan Evaluation Memo.** Tokos reviewed his memorandum and explained how KPFF Consulting Engineers had been retained by the DLCD to evaluate beach access locations within the City of Newport to identify two to three locations best suited for seismic improvements and to provide recommendations on the scope and nature of such improvements. Their work could then be used by the City to secure funding to implement the recommendations, increasing the likelihood that the improved access points will be passable as points of egress following a nearshore Cascadia earthquake.

KPFF visited beach access points north of the Yaquina Bay Bridge, and reviewed available geotechnical documentation. They recommended the Nye Beach Turnaround, Agate Beach State Recreation Site, and Schooner Creek at NW 68th Street as candidate sites for retrofits. City staff and Meg Reed reviewed the document and concurred with the analysis. KPFF was developing a package of retrofit options for the three locations and expected to have concept drawings prepared within the next couple of weeks. This project was fully funded with a grant from the National Oceanic and Atmospheric Administration. Work had to be completed by the end of the fiscal year.

Patrick noted the descriptions of the Yaquina Bay North and South were listed as the same thing as well as the Lucky Gap North surfer access. Tokos noted they looked at both access points at the surfer access and walked both locations. There had been some difficulty at the access to the north side of this location to hold the toe of the stairs at this location when it came to creating an easier access from the stairs. The sand had eroded at this area, which made it difficult to access it and create a stable landing.

Berman asked how much the State Parks would be involved and what their policies were for maintaining access points. He thought there seemed to be a conflict on what was described in the memo and what State Parks insisted on. Tokos explained they had conveyed to KPFF that any retro fit working being done below the vegetation line, that would be subject to State Park jurisdiction, would had to be vetted with them before it landed in a final report to make sure there were no issues should those solutions be pursued in the future. Berman asked if this went through, did it mean a permanent bridge would be installed at Agate Beach to get over the creek. Tokos thought this might be a possibility. He noted this work would be completed by the end of the fiscal year because of the time limit on the NOAA funds. He would bring back their recommended solutions so the Commission had a chance to look at it.

### **3. Unfinished Business.**

- A. Review Initial Draft of Code Amendments Related to Operation of Food Carts.** Tokos introduced Susannah Montague, a food cart owner who had made a presentation to the City Council on food carts. Montague explained that as far as the five hour time limit went, she thought it was reasonable for a fixed stand to be open for five hours shifts in lieu of moving the food cart every five hours. Her thoughts were to be open from 11 a.m. to 3 p.m. at the same location. Montague explained that for the location rules, she was okay with being a part of a pod but wasn't pursuing it at that time. She noted that the County standards to operate a food cart were already set high for them to get approved. She thought that using the County's existing requirements took a lot of the burden off of the Commission to insure only quality food carts and operators were in Newport. Montague also noted that the County required restrooms to be within five feet on the food cart and she met this standard with porta potties.

Berman asked Montague if she considered a trailer that was a permanently parked to be a mobile or fixed stand. Montague thought this should be a fixed stand. Berman asked for her thoughts on generator sounds. Montague noted that her current plan was to have a generator, but the more she thought of it she would need a location where they could plug into electricity and not use generator. Escobar asked if there was any reason for a five hour limit if they were to be a semi-permanent stand. Montague explained that she was trying to see how she could operate under the five hour time limit. She thought she could do this by being open for a total of five

hours. She would be happy with operating five hours or less a day, but didn't want to have to move her food cart every five hours.

Capri thought this made a lot of sense. He asked if someone was able to currently put a food truck on a privately owned property in Newport. Tokos noted that what they were currently addressing was if they could place a food cart on a private property in Newport. The five hour limit was a part of the initial discussion. Capri thought that if someone owned private property, and it was zoned for it, why would the City be against allowing them. Tokos reminded that this was what they were working on currently. He reviewed how the food truck rules came into play because of a request in the past for one to be placed at the Wilder development. Capri thought they should give consideration to trucks that wanted to buy a property and put a food truck there permanently. Escobar thought standalone food carts in Newport could benefit from this. Hanselman noted he was fine with food trucks being close to a brick and mortar restaurant, but thought a permanent truck on a private property would start to feel like a brick and mortar. A discussion ensued regarding the differences between brick and mortar restaurants and permanently fixed food trucks. Capri asked if people weren't allowed to do a pod on a private property in Newport under the current ordinance. Tokos confirmed this was correct.

Tokos acknowledged the public comment that was submitted by Janet Webster. She had a specific concepts she wanted to do on a property she had that was next to the School District. There was a separate vending code that prohibited vending close to schools. Tokos reminded the Commission that this was something they needed to take a look at.

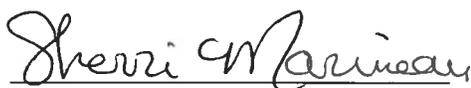
Tokos reviewed the concepts for mobile food trucks and cart regulatory changes with the Commission. Berman asked if more than one definition for mobile food trucks was needed. Tokos explained this was defined by the County and the State, and he was trying to use the same terminology throughout.

Montague noted that for the discussion on transient versus non-transient vendors, she was speaking as a non-transient vendor. She noted that a generator was a part of her current plan but she might not need one. Montague reported that the County and Portland did allow generators. The newer generators were quieter and less stinky. She offered to research these and report back to the Commission.

Hanselman asked Montague what size of generator was required for a food truck. He thought that if they were regulated by sound or size that could be a solution to allowing generators. Montague wanted to look into this before the Commission made a decision. Capri asked if there was a noise ordinance for the City. Tokos confirmed there was one with a certain decibel level requirement. Berman thought they needed to look at requiring generators to comply with the noise ordinance. Tokos would bring information on the noise ordinance back to the Commission.

4. **Adjourn.** The meeting adjourned at 7:00 p.m.

Respectfully submitted,



Sherri Marineau,  
Executive Assistant



# Building Code Considerations for Mobile Food Carts

## (Valid for 2019, Check for Annual Updates)



Food Cart businesses contemplating moving into the City of Beaverton need to be aware of a number of things. City staff are available to meet informally or through a pre-application meeting prior to design/construction in order to offer feedback, etc.

**Business Assistance:** For assistance finding a location, starting your business, or learning about resources available to businesses in Beaverton, contact the Economic Development Division 503-526-2456.

[www.BeavertonOregon.gov/EconomicDevelopment](http://www.BeavertonOregon.gov/EconomicDevelopment)

**Land Use and Zoning:** The first thing a business owner needs to do is verify their specific business is compatible with the property zoning. Contact the Planning Division to verify the allowed business uses at the specific property. Food Cart Regulations for Land Use and Zoning are found in Section 40.32 and 60.11 of the Development Code

[www.BeavertonOregon.gov/dc](http://www.BeavertonOregon.gov/dc). For more information, please call 503-526-2420. [www.BeavertonOregon.gov/Planning](http://www.BeavertonOregon.gov/Planning)

**Contact County Health Department:** Health regulations for food services are handled by the Washington County Health Department. Contact the county for information, please call 503-846-8722.

[www.co.washington.or.us/HHS/EnvironmentalHealth/FoodSafety/index.cfm#](http://www.co.washington.or.us/HHS/EnvironmentalHealth/FoodSafety/index.cfm#)

**City Business License:** Each business is required to have a valid City Business License. Business licenses can be obtained through the City Finance Department. For more information, please call 503-536-2255. [www.BeavertonOregon.gov/BLicense](http://www.BeavertonOregon.gov/BLicense)

**Building Plan Review and Permits:** For information on building permit applications, plan review requirements and fees, etc., please call 503-526-2403. [www.BeavertonOregon.gov/Building](http://www.BeavertonOregon.gov/Building)

**State Building Code (SBC):** The current SBC includes: The 2014 edition of the Oregon Structural Specialty Code (OSSC); the 2014 Oregon Mechanical Specialty Code (OMSC); the 2014 Oregon Plumbing Specialty Code (OPSC); the 2014 Oregon Electrical Specialty Code (OESC). To review these codes online, please go to: [www.cbs.state.or.us/external/bcd/programs/online\\_codes.html](http://www.cbs.state.or.us/external/bcd/programs/online_codes.html)

**Permanent Prefabricated Food Carts:** A Food Cart to be permanently anchored to a foundation must bear the State of Oregon Prefabricated Structures approval label for use as a Group B Occupancy. For information on the permit and approval process for prefabricated trailers, please contact State of Oregon Prefabricated Structures at 503-378-4133.

[www.oregon.gov/bcd/permit-services/Pages/prefab-services.aspx](http://www.oregon.gov/bcd/permit-services/Pages/prefab-services.aspx)



### BUILDING CODE INFORMATION

The information listed below is specific State Building Code (SBC) Requirements. For more information about how these requirements apply to a Food Cart business, please contact the Building Division, 503-526-2403.

**Semi-Permanent Structures:** Prefabricated trailers for coffee/food service or similar uses intended to be placed on a site and not be moved on a regular basis (moved off-site on a daily basis), must comply with the requirements for a Mobile Food Unit. The Food Cart must maintain its portability, which includes keeping the wheels and towing tongue on the unit. Skirting is allowed to be placed to cover the wheels and tongue.

**Building Permit Required:** A building permit is required for permanent Food Carts. Scaled drawings are required that indicates: the location of unit on the property (including distances from property lines and other food carts, buildings or structures); the size of the Food Cart (and the size of any other food carts on the property); details for the set-up/support of the unit; details for the skirting; details for how steps, landings, decks providing access to the unit are to be constructed; location of non-permanent electrical, water and if applicable, sanitary sewer connections. Food Carts shall be located on a hard surface (such as asphalt or concrete) that drains storm water to an approved location (i.e., storm water catch basin), or the plans shall show how storm water runoff from the roofed or other impervious surface areas will be discharged to an approved location.

**Location on Property:** Food Carts shall be located not less than 10 feet from a property line (6 feet from a property line abutting a public right-of-way). Food Carts shall be set back from other buildings on the same property as required by the State Building Code. Where a group of two or more Food Carts (Pod) are located on the same property, the total floor area of the Food Carts in the Pod, including canopies, awnings, and roofed areas cannot exceed 9,000 square feet. Where more than one cart is located on a site, carts shall be separated by a minimum of 6 feet (including permanent roof structures, canopies or similar).

**Canopies, Awnings:** Construction of canopies, awnings, and other structures greater than 120 square feet in area require a building permit. This includes fabric covered canopies that are in place for more than six-months.

**Electrical Connection:** The Food Cart shall be connected to an underground electrical system in an approved manner (see note below). The City Development Code Section 60.11 requires utilities serving a food cart to be installed

underground. This is to mean that an approved electrical connection point adjacent to each food cart is required, so the connecting electrical cord does not cross driveways, walkways, access points or create a tripping hazard. Generators are prohibited.

No permanent connection to an electrical, water or sewer system is allowed. Electrical service to the Food Cart must be by an approved electrical cord/plug without use of extension cords, connecting to a circuit with the correct amperage to serve the trailer/vehicle. The electrical cord must be protected from physical damage. An electrical permit is required for installing an outlet.

**Water Supply:** The Food Cart may be connected to an potable water system in an approved manner (see next paragraph), or the cart must connect to approved above ground or in-cart potable water tanks to supply fresh water to the cart, consistent with Section 5-3 of the Oregon Health Authority's 2012 Food Sanitation Rules. This means that an approved potable water connection point or tank adjacent to each food cart must be available, so the connecting piping does not cross driveways, walkways, access points or create a tripping hazard. Holding tanks shall be screened from view of the right-of-way by fully sight obscuring fencing.

The potable water supply shall be by an approved fixture (such as a yard hydrant or hose bib) with an approved backflow device. A plumbing permit is required for installing a fixture and/or backflow device. The water supply shall be by an approved potable water hose with a 'quick disconnect' type connection and protected from physical damage and freezing weather by an approved heat tape and insulation. If any additional plumbing fixtures outside of the food cart are connected to the potable water supply, they need to be identified and may require individual backflow devices.

**Sewage Disposal:** The Food Cart shall **either** be connected to an underground sanitary sewer system in an approved manner (see next paragraph), or the cart shall connect to individual or community wastewater holding tanks. Tanks shall be owned and serviced by an Oregon Department of Environmental Quality licensed pumper. A copy of the contract shall be provided to the City before any food carts are located on site. Holding tanks shall be screened from view of the right-of-way by fully sight obscuring fencing. Indirect discharge or leakage draining into the storm water system is prohibited.

Disposal cannot be to a storm catch basin or sewer cleanout. The connecting piping must be located so they do not cross driveways, walkways, access points or create a tripping hazard.

The connection of the food cart sanitary sewer outlet to the approved sanitary sewer system may be by a flexible or solid pipe that is approved for conveying sanitary waste. The connection to an approved sanitary sewer receptor must be in a non-permanent manner. The sewer pipe must be protected from physical damage. A plumbing permit is required for installing the sewer pipe and an approved sanitary sewer receptor.

**Grease Interceptors:** Food service areas are required to provide a method to collect fats, oils and grease from entering into the public sewer system. This is in the form of a grease interceptor as required by the State Plumbing Code. This requires a Plumbing Permit that is obtained through the Building Division. Food Carts connected to the sanitary sewer must be provided with an approved grease interceptor.

**Utility Screening:** All utilities shall be placed or otherwise screened, covered, or hidden from view from the right-of-way as to minimize visual impacts and prevent tripping hazards or other unsafe conditions.

**Number of Restrooms:** The carts shall be provided with access to a toilet and hand wash facilities on the same property where the Food Cart is located. If access to a toilet and hand wash facilities is in an adjacent building, proof of access from the property owner for use by employees and customers during the Food Cart business hours is required. The size of the food service business dictates how many toilets and lavatory sinks are required. Chapter 29 of the SBC allows a single (unisex) toilet and lavatory if the total occupant load of both customers and employees is 30 or less. Separate toilet facilities are required for male and female if over 30 total occupants (employees and customers). The occupant load is determined by the square foot area of the spaces (kitchen, offices, seating area, etc.) divided by the occupant load factor from Chapter 10 of the SBC. The minimum number of toilets and lavatories is also based on the occupant load. New fixtures may have System Development Charges (SDC Fees). See also 'Fees' for sanitary sewer fees.

**Plumbing Fixtures:** Every business must have access to a minimum number of plumbing fixtures (toilets and sinks). Chapter 29 of the SBC is used to determine the minimum number necessary. Depending on the nature of the business, additional fixtures may need to be added.

**Propane/Fuels:** Location and use of propane tanks or other fuels shall be determined as required by the Tualatin Valley Fire and Rescue Fire Marshal. For more information contact 503-649-8577.

**Accessibility (Americans with Disabilities Act (ADA)):** Any alterations to a building or space (new walls, rooms, doors, bathroom, etc.) will need to meet the accessibility code requirements from Chapter 11 of the SBC. In addition, Chapter 34 of the SBC requires any ADA barriers that exist elsewhere in the building to be removed at a cost not to exceed 25% of the value of the overall project. For example: if a project has a cost of \$20,000 for the new work, up to an additional \$5,000 must be spent in removing ADA barriers. If it only costs \$1,000 to eliminate all the remaining barriers, the whole \$5,000 would not need to be spent. If there are no remaining ADA barriers, then no additional money needs to be spent.

**Fees:** Aside from the various permit fees that will be required, new businesses must pay system impact fees or SDC Fees. Each Food Cart is required to pay: a CleanWater Services sanitary sewer (SDC) fee (if connected to the sanitary sewer) of \$2,825; a Transportation Development Tax (TDT) of \$5,680; and a Park SDC of \$270. Storm SDC fees and Water SDC fees may apply if additional impervious surface is created and/or a water meter is needed.

The information provided is not all inclusive. The details provided serve as an overview of common issues related to the proposed business type. For more information, please contact the appropriate entity noted above.

**Accessibility Information:** This information can be made available in alternative formats such as large print or audio tape. To request alternative formats, please call 503-526-2493 or email [cddmail@BeavertonOregon.gov](mailto:cddmail@BeavertonOregon.gov) and reference Building Division, Code Considerations for Food Carts.

## 60.11. Food Cart Pod Regulations

### 60.11.05. Purpose.

The purpose of these regulations is to establish criteria for the placement of food cart pods in the City of Beaverton. Food carts provide the community a wider choice of eating and drinking options. Food cart pods shall comply with all applicable City, County and State standards.

### 60.11.10. Site Design.

#### 1. Site Design Standards for Food Cart Pods:

- A. Food carts and amenities shall be located on a paved or concrete surface.
- B. Food cart pods shall not occupy pedestrian walkways or required landscaping.
- C. Food cart pods shall not occupy or obstruct bicycle or vehicle parking required for an existing use.
- D. Carts and/or objects associated with the food cart use shall not occupy fire lanes or other emergency vehicle access areas.
- E. Front yard setbacks for food carts shall be a minimum of 6 feet.
- F. Rear and side yard setbacks for food carts and amenities shall be the same as the zone in which it is located, except when a side or rear yard abuts a residential zoning district. Any side or rear yard abutting a residential zoning district must meet the setbacks 60.11.10.1.G below.
- G. Rear and/or side yards abutting residentially zoned property shall have a minimum setback of 20 feet or the minimum setback for the zone in which it is located, whichever is greater. This setback may be reduced to 10 feet by meeting the buffering requirements for a B-3 buffer in section 60.05.25.13.D of the Development Code but may not be less than the minimum allowed in the zoning district of the food cart pod.
- H. Carts shall not be located or oriented in a way that requires customers to queue in a driveway.
- I. Uses shall not create tripping hazards in pedestrian and vehicular circulation areas with items including, but not limited to, cords, hoses, pipes, cables, or similar materials.
- J. Where more than one cart is located on a site, carts shall be separated by a minimum of 6 feet.
- K. Food carts shall not be located in the Vision Clearance Area as described in the *Engineering Design Manual*.
- L. Fences shall be constructed consistent with Section 60.05.25.9.

#### 2. Standards for amenities within a food cart pod:

- A. All food cart pods which provide seating for customers shall have restrooms with hand washing facilities available. Restrooms must have handwashing facilities with hot and cold running water, soap and paper towels or air dryers. Restrooms must either be on site or on an adjacent parcel. Restrooms shall be screened from view of the public right of way and abutting residentially zoned properties.
- B. Required restrooms shall be available during Food Cart Pod operating hours.
- C. All food carts and customer amenities within a food cart pod shall be served by a minimum 5-foot-wide hard surface walkway.
- D. Waste and recycling receptacles shall be provided for customer and business waste. Receptacles shall be screened from view of the right of way and abutting residentially zoned properties and serviceable by the applicable waste-hauler.
- E. Storage structures accessory to food carts shall be less than 120 square feet in size and no greater than 15 feet in height. Storage structures shall be set back a minimum of 20 feet from public rights-of-way.
- F. Structures used to provide shelter to customers may be membrane structures such as tents or canopies or permanent structures.
  - a. Structures providing shelter and/or cover to patrons shall not exceed the following standards without Adjustment or Variance approval:

- a) Cover 200 square feet or less in area.
- b) Have a maximum of 50 percent of the structure enclosed with walls or sides. Membrane structures may be fully enclosed.
- c) Are 15 feet in height or less, as measured to the highest point.

### **60.11.15. Individual Food Cart Design Standards.**

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1. All Food carts shall be subject to the design standards listed below:
  - A. Food carts shall enclose or screen from view of the right of way and abutting residentially zoned property all accessory items not used by customers, including but not limited to, tanks, barrels, or other accessory items.
  - B. The wheels and tongues must remain on the food cart. Wheels must remain inflated.
  - C. Carts shall not have missing siding or roofing.
  - D. Food carts shall be kept in good repair and maintained in a safe and clean condition.
  - E. Food carts shall not be longer than 26 feet, as measured from wall to wall.
  - F. Food carts shall obtain and keep current a City Business License.
  - G. Food carts shall maintain all required licenses by the appropriate State and/or local agency, including Washington County Health.
  - H. If provided, cart awnings shall have seven (7) feet of clearance between the ground and awning for safe pedestrian circulation.
  - I. Food Carts shall not exceed 15 feet in height without Adjustment or Variance approval.

### **60.11.20. Utilities.**

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1. Wastewater shall be addressed in one of the following two ways:
  - A. Food carts shall connect to the sanitary sewer consistent with applicable state plumbing codes and will include an approved grease separator for the disposal of fats, oils and grease. Indirect discharge or leakage draining into the storm water system is prohibited.
  - B. Food carts shall connect to individual or community wastewater holding tanks. Tanks shall be owned and serviced by an Oregon Department of Environmental Quality licensed pumper. A copy of the contract shall be provided to the City before any food carts are located on site. Holding tanks shall be screened from view of the right-of-way by fully sight obscuring fencing. Indirect discharge or leakage draining into the storm water system is prohibited.
2. Potable water shall be addressed in one of the following two ways:
  - A. Food carts shall connect to a permanent water source in conformance with applicable state plumbing codes.
  - B. Food carts shall be connected to a potable water tank consistent with Section 5-3 of the Oregon Health Authority's 2012 Food Sanitation Rules.
3. Food carts and amenities shall connect to a permanent power source. Power connections may not be connected by overhead wires to the individual food carts. Generators are prohibited.
4. All utilities shall be placed or otherwise screened, covered, or hidden from view from the right of way as to minimize visual impacts and prevent tripping hazards or other unsafe conditions.

### **60.11.25. Parking.**

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1. Food Cart Pods in Commercial and Industrial zoning districts must provide a minimum of one (1) parking space per approved food cart. Food Cart Pods in Multiple Use Zoning districts are exempt from parking requirements.

### **60.11.30. Signs.**

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1. Signage on individual food carts shall be limited to signs on the face of the food cart.
2. Freestanding signs for food cart pods are subject to provisions of Chapter 60.40.35.3.

### **60.11.35. Lighting.**

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1. Food cart pods shall have lighting to ensure safe environment for customers and employees that complies with the following:
  - A. At minimum, areas to be occupied by customers shall be illuminated when carts operate during hours of darkness.
  - B. No direct light source shall be visible from the property line.
  - C. Lighting fixtures shall be oriented and/or shielded to prevent glare on abutting properties.



# **DEVELOPMENT CODE OF THE CITY OF BEAVERTON**

## **CHAPTER 90 - DEFINITIONS**

The following words and phrases shall be construed to have the specific meanings assigned to them by definition.

Words used in present tense include the future tense, and the singular includes the plural, unless the context clearly indicates the contrary.

The term "shall" is always mandatory and the words "may" and "should" are permissive.

The masculine gender includes the feminine and neuter. [ORD 4224; September 2002] [ ORD 4659; June 2015]

**Food Cart.** A mobile vehicle, such as a food truck, trailer or cart, from which service of food and/or beverages is provided to walk-up customers.



# **DEVELOPMENT CODE OF THE CITY OF BEAVERTON**

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## **CHAPTER 90 - DEFINITIONS**

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The following words and phrases shall be construed to have the specific meanings assigned to them by definition.

Words used in present tense include the future tense, and the singular includes the plural, unless the context clearly indicates the contrary.

The term "shall" is always mandatory and the words "may" and "should" are permissive.

The masculine gender includes the feminine and neuter. [ORD 4224; September 2002] [ ORD 4659; June 2015]

**Food Cart Pod.** A site containing one or more food carts and associated amenities on private property.

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that this is crucial for ensuring transparency and accountability in the organization's operations.

2. The second part of the document outlines the various methods and tools used to collect and analyze data. It highlights the need for consistent data collection procedures and the use of advanced analytical techniques to derive meaningful insights from the data.

3. The third part of the document focuses on the role of technology in data management and analysis. It discusses how modern software solutions can streamline data collection, storage, and analysis processes, thereby improving efficiency and accuracy.

4. The fourth part of the document addresses the challenges associated with data management, such as data quality, security, and privacy. It provides strategies to mitigate these risks and ensure that the data remains reliable and secure throughout its lifecycle.

5. The fifth part of the document concludes by summarizing the key findings and recommendations. It stresses the importance of a data-driven approach in decision-making and the need for continuous monitoring and improvement of data management practices.

### Section 8.13.050 - Permit application.

- 1) Application for a permit to allow siting of one or more mobile food units on a private property shall be made at the Development Services Division on a form provided by the Building Official. Application for a permit will minimally contain:

- a) A completed application;
- b) A scaled plan of the proposed area for mobile food unit to be located, with dimensions shown to include at a minimum:
  - Total square foot area of area proposed for mobile food unit use and circulation,
  - Total number and locations of mobile food units on the site,
  - Consistency with all setback and separation requirements as specified in [Section 8.13.060](#), below,
  - ADA clearances into and throughout affected areas of the property,
  - Size, location, and clearances of customer seating areas, if proposed,
  - Number and location of waste receptacles,

- 2) Information shall be provided as required by the Building Official to carry out the purpose hereof.

(Ord. 2013-10 § 1, 06/03/2013; Ord. 2011-15 § 1, 10/03/2011)

### Section 8.13.060 - Location rules and review criteria.

- 1) The Building Official shall review the application for its compliance with the following criteria:
- a) The siting of one or more mobile food units year round is limited to private properties which are located in the Central Business (CB) Zone or Riverfront (RF) Zone.
  - b) Mobile food units that orient the service window toward the public right-of-way shall maintain a minimum 2 foot setback from the public right-of-way. For mobile food units that orient the service window away from the public right-of-way, there is no minimum setback requirement. Mobile food units must maintain a minimum separation of 10 feet between units on a property. A minimum 10 foot separation is required between mobile food units and permanent common outdoor eating areas. Individual temporary seating areas, such as a table and chairs, may be placed near a mobile food unit, but must maintain a minimum four foot accessible clearance area between the seating area and the mobile food unit, and must be oriented so that the relief valves on any propane tanks associated with mobile food units are facing away from the seating area. Tables and chairs or benches used for individual seating areas must be constructed of non-flammable materials.
  - c) The property owner shall secure written permission from an adjacent business or property owner within 1/4 mile of the subject site allowing mobile food unit operators and patrons to access restroom facilities. Alternatively, where a property owner can show that there is a public restroom facility located within 1/4 mile of the subject site, the requirement for written permission shall be waived. The property owner shall provide information as to the location of approved restroom access in the same location as the posted approved site plan.
  - d) Trash receptacles shall be provided on site, and must be emptied and maintained. Trash receptacles shall be provided at a rate of one (1) receptacle for every two (2) mobile food units, or a minimum on of one (1) per lot. Where the property owner proposes to provide a common seating area a minimum of one (1) trash receptacle shall be provided in the common seating area. All trash receptacles shall be located a minimum of ten (10) feet from combustible fuel tanks on mobile food units.
  - e) Accessible routes into, throughout, and adjacent to a property with one or more mobile food units shall be maintained in accordance with Chapter 11 of the Oregon Structural Specialty Code.
  - f) Each mobile food unit may provide awnings for shelter to customers. The awnings must be fully attached to the unit, have a minimum of seven (7) feet of vertical clearance, and be able to be closed or removed. Awnings shall not be subject to setback requirements, but in no case shall awnings extend over the adjacent sidewalk or public right-of-way. All awnings must be flame resistant per Oregon Fire Code.
  - g) Decks, patios, and similar structures are not permitted to be located within ten (10) feet of

a mobile food unit. Where property owners propose a common seating area, any structures that require building permits shall be subject to such permitting and applicable sections of Chapter 11 of the Oregon Structural Specialty Code. Park or picnic benches are permitted but must be maintained at least ten (10) feet from mobile food units. Common seating areas shall be maintained on the subject property and shall not obstruct the adjacent public sidewalk or public right-of-way.

- h) Signage permanently affixed to a mobile food unit is permitted and is exempt from sign standards in Land Development Code (LDC) Chapter 4.7 - Sign Regulations. Notwithstanding provisions in LDC Section 4.7.80.04, one (1) temporary sign per mobile food unit is permitted to be placed on the subject site. Temporary signs may be no larger than six (6) square feet, may only be placed on private property, and must not obstruct pedestrian pathways. Notwithstanding LDC Chapter 4.7 or Municipal Code, no temporary sign advertising a vendor may be placed on public right of way.
- Temporary signs authored under this Section may only be present on the property during the mobile food unit operating hours. Permanent signs assigned to the subject property (not temporary signage) must conform to all applicable standards in LDC Chapter 4.7.
- i) Mobile food units that are fully contained; i.e., units that provide their own water, power, and waste disposal, are permitted with no additional utility considerations beyond the permitting process and site plan approval described herein. Units that require a water source, power source, or waste disposal location are permitted only where the Building Official has approved site plans that show safe access and location of the aforementioned provisions. Such provisions are subject to all applicable building permits and SDC requirements.

(Ord. 2013-10 § 1, 06/03/2013; Ord. 2011-15 § 1, 10/03/2011)

### **Section 8.13.070 - Forms and conditions of permit.**

The permit issued shall be in a form deemed suitable by the Building Official. In addition to naming the mobile food unit owner as permittee and other information deemed appropriate, the permit shall contain the following minimum conditions.

- 1) *Permit requirements:*
  - a) Each permit issued shall terminate December 31st of the year in which issued.
  - b) The permit issued shall be personal to the permittee only and is not transferable in any manner. The permittee will be responsible for compliance with all conditions of approval.
  - c) The permit is specifically limited to the area approved or as modified by the Building Official, and will include a site plan as required by [Section 8.13.050](#) indicating the area approved for the operation of one or more mobile food units and the location of common seating areas, if provided.
- 2) *Requirements for properties containing one or more mobile food units:*
  - a) The property containing one or more mobile food units and all things placed thereon shall at all times be maintained in a clean and orderly condition. Only those things authorized by the permit and shown on the site plan may be stored in the affected areas on the subject property.
  - b) The permittee shall notify the Building Official in writing when operation of one or more mobile food units on the subject property commences.
  - c) No use of City fixtures will be allowed.
  - d) Council has the right to repeal or amend this Chapter and thereby terminate or modify all year-round mobile food unit operations on private property.
  - e) Hours of operation of mobile food units will discontinue by 3:30 am, daily.
- 3) *Additional licensing requirements:* All mobile food units shall be appropriately licensed and approved for operation in Benton County as a Class 1 - 4 mobile food unit. Additionally, each mobile food unit shall be inspected by the Corvallis Fire Department once per calendar year, as enforced by Corvallis Fire Department. All mobile food units are subject to any and all applicable city, county, and state regulations.

(Ord. 2013-10 § 1, 06/03/2013; Ord. 2011-15 § 1, 10/03/2011)

### **Section 8.13.080 - Denial, revocation or suspension of permit.**

- 1) The Building Official may deny, revoke, or suspend the permit upon finding that any provision herein or condition of approval will be or has been violated.
- 2) Upon denial, revocation, or suspension the Building Official shall give notice of such action to the applicant or permittee in writing stating the action which has been taken and the reason therefore. The action shall be effective immediately.

(Ord. 2011-15 § 1, 10/03/2011)

### **Section 8.13.090 - Penalties.**

In addition to the remedies set out below, violations of the provisions of this section may be subject to other appropriate legal or equitable actions to restrain, correct, or abate the violations. These remedies are intended to be cumulative and not exclusive. The following violations are infractions punishable by a penalty in accordance with this section. Any violation of this section may be prosecuted as a Class A infraction under the procedures of ORS Chapter 153 and Corvallis Municipal Code [Section 1.01.120](#). The City Manager or person designated by the City Manager is authorized to issue a citation or written notice of violation to any person violating the provisions herein. In addition:

- 1) Any mobile food unit found to be operating without a valid permit for the year shall be notified by the City that it is in violation of [Section 8.13.020](#), and will be allowed up to ten (10) business days to file an application.
  - a) If no application is filed within ten (10) days, the property owner shall be notified of continued operation in violation and a civil penalty of \$500 per day shall be levied on the property owner.
  - b) If, after making application, the property owner fails to complete all application requirements necessary to obtain a permit, including, without limitation, payment of all application fees within thirty (30) days of the noticed application submittal deadline, the City shall issue a removal notice notifying the property owner that the unapproved operation must cease within five (5) business days unless the property owner complies with the provisions of this section. If the property owner fails to comply with the removal notice a civil penalty of \$500 per day shall be levied on the property owner, in addition to any and all other remedies available to the City.
- 2) Any property containing mobile food units operating year round with a valid license, but found by the City to have a substantiated instance of failing to be in compliance with any other provision of this section of the Corvallis Municipal Code shall be given up to two (2) written notices per year, warning that it is operating out of compliance and in violation of this section. On the third investigated and substantiated instance of non-compliance, notice of the non-compliance may be delivered and penalties may be levied as follows:
  - a) First levy (third substantiated violation): \$500;
  - b) Second levy (fourth substantiated violation): \$1,000;
  - c) Third levy (fifth substantiated violation): \$1,500.
  - d) Penalties shall continue to accrue in \$500 increments for each additional substantiated violation.
- 3) In accordance with [Section 8.13.080](#), the Building Official may deny, revoke, or suspend the permit upon finding more than three (3) separate instances of substantiated violations that result in fines.
- 4) Levies of civil penalties and revocations of permits may be appealed to the municipal court judge within ten (10) days of date written notice of the levy of penalty or revocation is deposited in the United States Mail with first class postage addressed to the property owner or posted on the property. If no appeal is filed within ten (10) days of the notice, the levy of penalty shall be final and failure to pay the levy shall be a separate violation of this section.
- 5) Any appeal must be in writing, signed by the mobile food unit operator, and must state the grounds for the appeal. The appeal must be accompanied by a deposit in the amount of the levy and an appeal fee of \$50. The appeal must be filed with the municipal court. The

appeal must be served upon the City Attorney. Failure to comply with any of these requirements within ten (10) days of the date of notice shall result in a dismissal of the appeal, a forfeiture of the appeal fee, and entry of judgment in the amount of the levy by the municipal court in its register.

- 6) Rules of conduct for hearing and final order. The Municipal Judge shall develop any rules, procedures or regulations that may be necessary for the proper conduct of the appeal. The only issue to be decided by the Municipal Judge is a determination of whether or not the property owner was in violation of CMC [8.13.090\(1\)](#) or (2) as alleged in the notice of penalty. If the Municipal Judge finds that it is more likely than not that the property owner was in violation as specified in the notice of penalty, the Municipal Judge shall issue an order affirming the levy of penalty and enter a judgment for the amount of the levy of penalty into the register of the Municipal Court. The order and judgment shall contain a provision for court costs to be paid by the violator in the amount of \$250. If the Judge finds that it is more likely than not that the property owner was in compliance and not in violation as specified in the notice of penalty, the Judge shall void the notice of penalty. The Judge's order is final and is not subject to appeal. It shall not be a defense that the property owner did not receive notice of the penalty if mailed to the address of the property owner, as obtain from Benton County Assessor's records or an application for permit. It shall not be a defense that the property owner was not aware of the permit requirements. The Judge may not reduce or suspend any portion of the amount of the levy of penalty if the Judge finds that it is more likely than not that the property owner was in violation as specified in the notice of penalty.
- 7) Failure to pay levy of penalty. Unless the full amount of the levy of penalty is paid within ten (10) days after notice of penalty or the order becomes final by operation of law, or after appeal, each day that the penalty is not paid shall constitute a further violation.

(Ord. 2013-10 § 1, 06/03/2013; Ord. 2011-15 § 1, 10/03/2011)

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

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

Good Morning Mr. Nebel,

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

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

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

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

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

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

Susannah Montague



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

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



February 16, 2021

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

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

Dear Susannah,

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

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

List of Equipment:

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

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

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

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

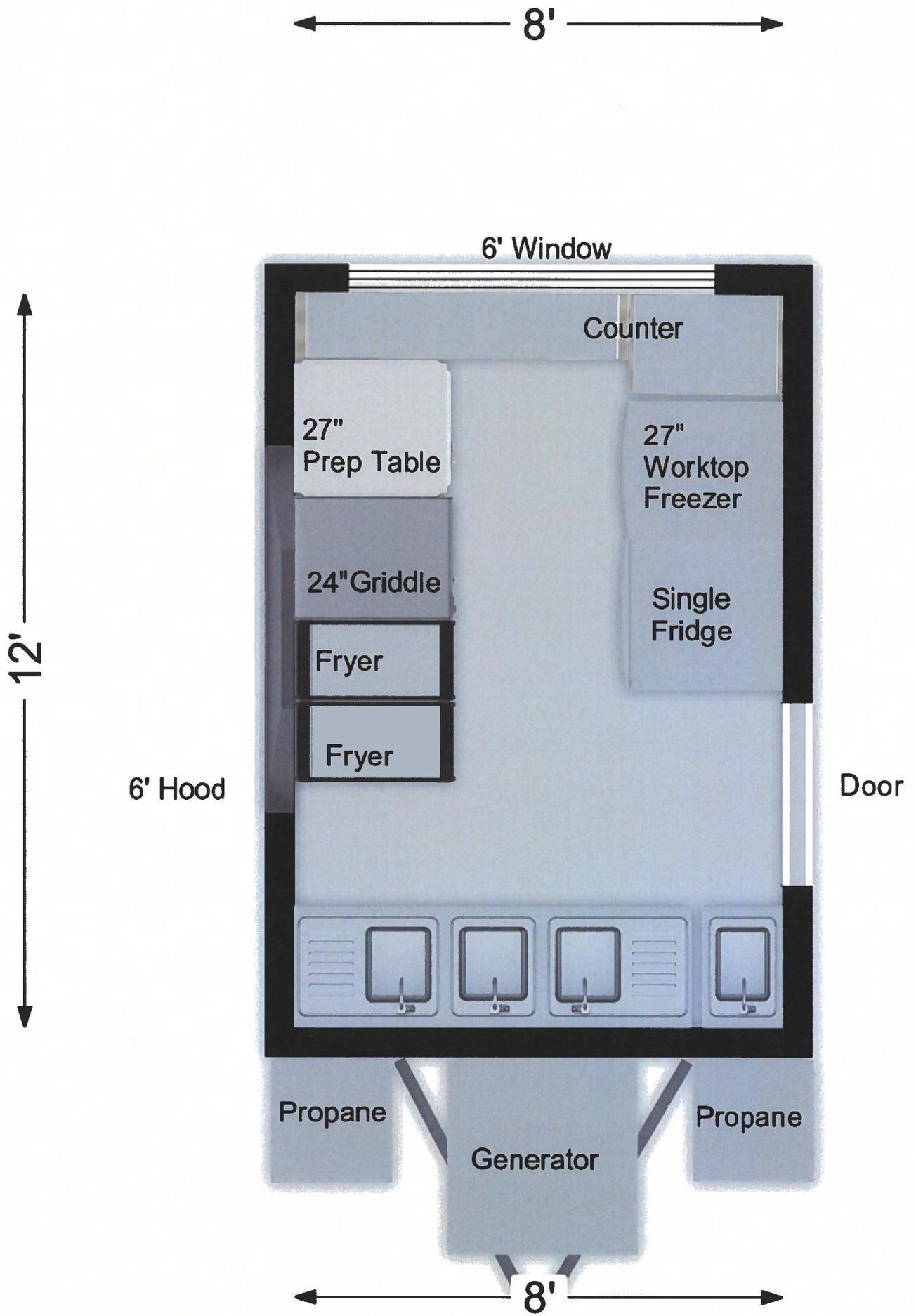
You are approved to move forward with the construction of your cart. When cart is complete please call to schedule a pre-opening inspection. Once your inspection is approved you will be able to apply for licensure.

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

Congratulations on your new business in Lincoln County.

Sincerely,

Kaline Chavarria, REHS  
Lincoln County Environmental Health



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

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

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

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

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

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

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

Thank you again for your time.

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

#### 4.10.010

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

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

#### 14.09.050 Temporary Vending Carts

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

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

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

## Derrick Tokos

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

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

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

Susannah

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

Hi Susannah,

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

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

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

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

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

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

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

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To: Derrick Tokos  
Name: Susannah Montague

Subject: Food Trucks

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Message: Good evening, Derrick!

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

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

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

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

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

Susannah Montague

## **Sherri Marineau**

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**From:** Janet Webster  
**Sent:** Monday, March 22, 2021 9:58 AM  
**To:** Public comment  
**Subject:** Comments on food carts for the March 22 Work Session

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March 22, 2021  
RE: Discussion on Redrafting Food Cart Regulations

Dear Planning Commission,

A revision of Newport's food cart regulations is overdue. The current regulations were drafted to address a specific situation and do not resonate with the current environment. During this past year, many residents and visitors would have welcomed more options to eat outdoors. Food carts present a simple way to accommodate social distancing while providing a variety of food at affordable prices.

Private property owners should be allowed to have food carts on their property if properly zoned and health standards maintained. This is almost impossible in most of Newport given the half mile restriction. "Permanent eating and drinking establishment" is not defined in the code. We have explored having a food cart pod on property we own across from the high school. This location would give students and teachers food options without driving or leaving the area. We are currently prohibited from moving forward on this due to the half mile restriction and the 500 foot restriction from a secondary school.

Too often, the City plans for tourists rather than considering the daily needs of residents. Food carts offer an alternative to chain fast food restaurants. They can be a way for a local entrepreneur to incubate a business. Locating them in areas that locals will use may alleviate the perception of competition with existing restaurants. Competition can be healthy as local people will go where the food is good and affordable.

I encourage you to look beyond simply identifying additional public right-of-ways and public property in high traffic areas. Consider what locals may want and what would add to the overall quality of life in Newport. I suggest starting over when drafting regulations as many cities have addressed the food cart issue and may have model ordinances that would work for Newport.

Sincerely,  
Janet Webster  
Newport, OR

**April 11, 2021**

To: Newport Planning Commission

From: Janet Webster

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

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

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

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

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

Thank you for addressing this issue.

## Sherry Marineau

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**From:** Derrick Tokos  
**Sent:** Monday, May 24, 2021 8:18 AM  
**To:** Jim Patrick; 'Bob Berman'; Lee Hardy; jim & Joann Hanselman; Gary East; 'Braulio Escobar'; Bill Branigan; 'wgsbend@gmail.com'; 'Dustin J.I. Capri'  
**Cc:** Sherry Marineau  
**Subject:** FW: Comments on March 22 work session

FYI

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**From:** Janet Webster <janet.webster@charter.net>  
**Sent:** Saturday, May 22, 2021 1:44 PM  
**To:** Derrick Tokos <D.Tokos@NewportOregon.gov>  
**Subject:** Re: Comments on March 22 work session

Hi Derrick,

I cannot participate due to other commitments. Here are my comments/questions.

On the Vending on public property - how do you define elementary school? In Newport, the middle school at times has blended activities with the high school. Perhaps the definitions are outdated in this case. Better to use age groups of concern?

14.09.050 - Mobile Units

B. How do you define "adjoining lots"? Is this a shared property line?

K. You allow an "outdoor smoker" but there may be other equipment that is better used outside of the food truck. Perhaps less prescriptive language.

14.09.060 - Pods

B. The connection to city sewer and individual power are not needed if the trucks may move. Are you defining a pod as trucks that don't move? If you have a cluster of three or more that come and go, are the requirements for permanent hookups necessary?

D. Parking is always an issue. Is there any allowance for use of adjacent parking? The requirement seems high given that many pods cater to walk-up customers who are parking elsewhere in the area and eating as part of the day.

I appreciate the revisions. They are an improvement on the old ordinance.

-Janet

On May 21, 2021, at 5:08 PM, Derrick Tokos <[D.Tokos@NewportOregon.gov](mailto:D.Tokos@NewportOregon.gov)> wrote:

Hi Janet... the Planning Commission will be meeting in work session on Monday to review a draft set of Food Truck/Food Cart regulations. Here is a link to the meeting materials: <https://www.newportoregon.gov/citygov/comm/pc.asp>. If it goes well, they will initiate the formal legislative process at their regular session that evening, with an initial public hearing in July.

Let me know if you want to participate and we will send you a video-conference link.

Thanks,

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

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**From:** Janet Webster <[janet.webster@charter.net](mailto:janet.webster@charter.net)>  
**Sent:** Friday, March 26, 2021 5:56 PM  
**To:** Derrick Tokos <[D.Tokos@NewportOregon.gov](mailto:D.Tokos@NewportOregon.gov)>  
**Subject:** Re: Comments on March 22 work session

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

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

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

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

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

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Hi Derrick,

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

On the code change of allowable uses in the C-2: as parking is no longer a decider on the Bay Front, I would suggest that trash handling is. Businesses must have adequate space or a plan for handling their trash. A parking space in front of the business does

not count. I also wonder what affect the proposed change would have on Nye Beach where conditional uses have not been well enforced. The Commission may want to consider the ramification city-wide of a change in the C-2 allowable uses.

One food trucks:

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

-Janet Webster