



PLANNING COMMISSION REGULAR SESSION AGENDA
Monday, June 08, 2020 - 7:00 PM
City Hall, Council Chambers, 169 SW Coast Hwy, Newport, OR 97365

The meeting location is accessible to persons with disabilities. A request for an interpreter for the DEAF AND HARD OF HEARING, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Peggy Hawker, City Recorder at 541.574.0613.

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.

1. CALL TO ORDER AND ROLL CALL

2. APPROVAL OF MINUTES

2.A Approval of the Planning Commission Work Session Meeting Minutes of May 26, 2020.

[Draft PC Work Session 05-26-2020.pdf](#)

2.B Approval of the Planning Commission Regular Session Meeting Minutes of May 26, 2020.

[Draft PC Reg Session Minutes 05-26-2020.pdf](#)

3. CITIZENS/PUBLIC COMMENT

A Public Comment Roster is available immediately inside the Council Chambers. Anyone who would like to address the Planning Commission on any matter not on the agenda will be given the opportunity after signing the Roster. Each speaker should limit comments to three minutes. The normal disposition of these items will be at the next scheduled Planning Commission meeting.

4. ACTION ITEMS

4.A File 1-CUP-20 Final Order and Findings: Conditional Use Permit for Construction of the Newport Basics Public Market at the Old Apollos Site.
[Final Order and Findings](#)

4.B Approval of the City Council Letter for the Nye Beach Core Zone Proposal and Other Potential Changes to the Nye Beach Design Review Overlay.

[Memorandum](#)

[Draft Letter](#)

[Public Testimony-Wendy Engler pt 1](#)

[Public Testimony-Wendy Engler pt 2](#)

[Public Testimony-Jan Kaplan](#)

5. PUBLIC HEARINGS

5.A File 2-NCU-20: Alteration of a Nonconforming Use to Allow a Licensed Nonconforming Short-Term Rental to Change From a Two-Bedroom Rental Unit to Three-Bedrooms.

[Staff Report](#)

[Attachment A](#)

[Attachment B](#)

[Attachment C](#)

[Attachment D](#)

[Attachment E](#)

[Attachment F](#)

[Attachment G](#)

[Attachment H](#)

[Attachment I](#)

[Public Comment-Wendy Engler](#)

[Additional Testimony - Samer Abufadil](#)

[2A - First Parking Spot \(Length\)](#)

[2B - First Parking Spot Measurement \(Length\)](#)

[3A - Second Parking Spot \(Length\)](#)

[3B - Second Parking Spot Measurement \(Length\).pdf](#)

[3C - 1st and 2nd Parking Spot \(Width\)](#)

[3D - 1st and 2nd Parking Spot Measurement \(Width\)](#)

[4A - 3rd Parking Spot \(Length\)](#)

[4B - 3rd Parking Spot Measurement \(Length\)](#)

[4C - 3rd Parking Spot \(Width\)](#)

[4D - 3rd Parking Spot Measurement \(Width\).pdf](#)
[5 - Width of asphalt driveway as it crosses past parking spot](#)
[1 - Map of property from Google](#)
[Site plan to scale showing parking](#)

5.B File 1-CP-18: Amendment to the Storm Drainage Facilities Section of the Public Facilities Chapter of the Newport Comprehensive Plan.

[Memorandum](#)

[Attachment A](#)

[Attachment B](#)

[Attachment C](#)

6. NEW BUSINESS

7. UNFINISHED BUSINESS

7.A Updated Planning Commission Work Program.

[Updated PC Work Program](#)

8. DIRECTOR COMMENTS

9. ADJOURNMENT

Draft MINUTES
City of Newport Planning Commission
Work Session
Newport City Hall Council Chambers by Video
May 26, 2020
6:00 p.m.

Planning Commissioners Present by Video: Jim Patrick, Lee Hardy, Bob Berman, Gary East, Jim Hanselman, and Mike Franklin.

Planning Commissioners Absent: Bill Branigan (*excused*).

PC Citizens Advisory Committee Members Present by Phone: Dustin Capri , Braulio Escobar, and Greg Sutton.

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

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.
- A. **Tentative Planning Commission Work Program.** Tokos reviewed the updated work program with the Commission and no questions were asked.
- B. **Nye Beach Core Zone Proposal or Other Potential Changes to the Nye Beach Design Review Overlay.** Tokos noted the email from Berman that he submitted. Tokos reviewed his response letter with the Commission and reviewed Bob's revisions.

Berman noted that the original letter was more general to say the City Council may want to look at the changes. He thought Nye Beach was the only defined neighborhood that had an overlay and had a potential for a different vision. Berman rewrote the letter to include visioning. He agreed with Tokos' notes and Berman wanted the Commission to address Engler's additional comments. He noted here was typo and thought the word "to" should not be redlined after the words "we encourage".

Hanselman was glad to see the inclusion. Even though they looked at the 2015 Ad Hoc Committee work, they might have missed out on concepts the City Council wanted the Commission to pursue. He wanted to see the work expanded and to have the 2040 Vision group as a productive way to move.

Berman noted that Engler's letter brought up a point on requiring a conditional use permit for compatible enterprises. He asked if the Commission could look at it on their own or how that would proceed. Tokos said they could look on their own. The reason it was structured this was because a call was made when doing a full restructuring of the commercial and industrial codes to not try to specify every personal use that would be potentially permissible and made it a staff level review. It could be revisited but didn't think it was an impediments but something they could look at. Berman asked if there was a fee for this. Tokos yes. Berman questioned if the fees would be a slight impediment. Franklin asked how much the fees were. Tokos reported that the fee were around \$600-700 dollars. Berman thought it was substantial and he didn't know how to get around it without opening up the code and listing permissible uses. Tokos said this was a challenge because you would need to go through all the potential perspective uses, but it could be done. He thought it could be put on a work session meeting to look at.

Berman asked for an example of what was inappropriate use. Tokos gave an example of a real estate company that made the argument that they were tailored to tourists and why they wanted to be in Nye Beach. The question is if this was the best used in this area or if it should be more general. Berman wanted to see this on the list of potential work session topics in the future. East asked about the timeline for City Council. Berman

noted this was a different topic. Patrick was okay with looking into it and wanted to look at adjusting the fees. He didn't like the list of what approved uses compared to what wasn't if it was a staff level decision.

Tokos asked if there was a general consensus, the typo would be fixed and he would bring it forward to the June 8th Planning Commission meeting for adoption and forward it to the City Council. He noted that personal services could be placed on a Work Session meeting. The Commission was in general consensus to move forward with the letter. Tokos confirmed that the final form would be shown to the Commission on June 8th.

3. New Business.

- A. **HB 2001 Medium City Model Code and Rule Making Process Update.** Tokos reviewed the PowerPoint presentation with the Commission and explained the rule making decision on the administrative rules. Hanselman asked if any of the previous programs for tax abatement played into the communities efforts for housing. He thought that HB 2001 seemed to be a one size fits all. Tokos reported that the City adopted tax incentives for multi-family housing. There was one program for lower density housing that hasn't been adopted. He didn't know how it played into it. He noted they needed to adopt the changes by the end of the fiscal year. If they were to submit it for an extension it would need to be done by the end of the year, but didn't think that was necessary.

Tokos reviewed the six major rulemaking decisions. He walked through the model code and unreasonable cost and delay information. Tokos thought they would be hard pressed to come up with something different for duplexes. He reviewed the definition of duplexes and explained that the changed boiled down to if they wanted to allow three dwelling units on a lot. Patrick asked if this needed to be done when adopting the rules. Tokos said the code needed to be adopted by June 30, 2020, otherwise they would have to adopt the State's code.

East thought there should be a few more work sessions on this issue. Tokos said there would be more opportunities when this was put in the code. He thought there would be some policy choices relative to how they dealt with accessory dwelling units (ADUs) and policy choices on parking. Patrick was of the opinion that there shouldn't be three dwellings per lot. Berman and Escobar agreed. Hanselman thought there were streets that made it more difficult to traverse and it would be hard to get emergency vehicles get through them due to more parking on streets.

Tokos reviewed off-street parking. Berman asked how the code would apply for short-term rentals when they couldn't require more than two parking spaces. Tokos would look at it and explained that the language was more for a commercial activity and not subject to this legislative. He noted that there was flexibility to adopt off-street parking but they had to make sure they adopted a code before June of 2021 that was compliant with the administrative rule. East asked if duplexes could be required to have garages. Tokos thought garages and driveways were off-street and didn't think they needed to get into the issues of requiring garages with these unit. Berman wanted more discussion on this topic. Patrick said he was looking for objections on this legislature for the code or if they needed to have something . Tokos noted the Rules Advisory Committee was metrocentric with people from larger communities that don't represent Newport. He explained how the rules gave flexibility to require off-street parking. Berman's explained that his main concern was with short-term rentals.

Tokos reviewed the next steps and adoption schedule. He would get back to the Commission on the short-term rentals on June 8th and could get back to the City Council at that time. Berman asked if comments were required from specific communities. Tokos said all comments were accepted.

- B. **COVID-19 Small Business Assistance Grant Program Update.** Tokos gave an update on the grant program. He reported that one million dollars would be used from the South Beach Urban Growth Boundary funds for grant. Applications were due by 5pm on Friday, May 29th and the City had received around 130 applications so far. Patrick asked how this was advertised. Tokos noted this was done through the Chamber, the Rotary, and business organizations. The Small Business Center at OCCU was advertising and there was also a press release.

Berman asked why the grant was open to any business in the Urban Grown Boundary and not just the city limits. Tokos explained that it was because they were pulling the money from the South Beach UGB and felt the area should be included. A good portion of the incorporated areas outside of city limits is in South Beach. Berman didn't agree with this.

Tokos reviewed the eligibility for the businesses by reviewing the overview of the grant program with the Commission. This was about helping business going again. Tokos hoped to get awards out by the first week of June. Patrick asked for a report back on grant awards. Franklin asked if golf course in city limits. Tokos explained it fell in the UGB so eligible. Capri asked about the limit of 30 employees for restaurants. Tokos explained this was the equivalent of 30 fulltime employees

Escobar asked if there was a timeline on when the app knew when they got the grant awards. Tokos said this would be in the middle of June. Greg asked who made the decision. Tokos said City manager after committee scored applications. They may make a recommendation on if applications should get prorated amounts to so more businesses received awards.

- C. **Furlough and Proposed Fiscal Year 20/21 Staffing Reductions.** Tokos explained that current events impacted revenue in local government and therefore we had to make changes. The City was in a position to have to deal with a mild structural deficit already and the compounding short term impacts of COVID 19 affected room tax and other things. All employees that are full time would take 12 furlough days. City Hall would be closed on Fridays from June 5th through August 28th. There would be no inspections on Fridays during this time. Tokos noted that the City would not be filling the permit tech potion and the department would be operating at a minus. This position gave administrative support and things would be tight without the position being filled. The City was committing to what was in the hopper and nothing new. The Transportation System Plan was being reworked because we couldn't do outreach because of the COVID-19.

Patrick wanted to commend the City on how they were taking a hit and handling things. Tokos said to expect the furloughs across the board in governments and agencies.

4. **Adjourn.** The meeting adjourned at 6:58 p.m.

Respectfully submitted,

Sherri Marineau,
Executive Assistant

Draft MINUTES
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers by Video
May 26, 2020

Planning Commissioners Present by Video: Jim Patrick, Lee Hardy, Bob Berman, Gary East, Jim Hanselman, and Mike Franklin.

Planning Commissioners Absent: Bill Branigan (excused).

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

1. **Call to Order & Roll Call.** Chair Patrick called the meeting to order in the City Hall Council Chambers at 7:00 p.m. On roll call, Commissioners East, Hardy, Berman, Franklin, Hanselman, and Patrick were present.

2. **Approval of Minutes.**

A. Approval of the Planning Commission Work and Regular Session Meeting Minutes of April 13, 2020.

Commissioner Berman submitted minor corrections to the April 13, 2020 Regular Session meeting minutes.

MOTION was made by Commissioner Berman, seconded by Commissioner East to approve the Planning Commission Work and Regular Session Meeting Minutes of April 13, 2020 with minor corrections. The motion carried unanimously in a voice vote.

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

4. **Action Items.** None were heard.

5. **Public Hearings.** At 7:32 p.m. Chair Patrick opened the public hearing portion of the meeting.

Chair Patrick read the statement of rights and relevance. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. Franklin, Hanselman and Patrick reported site visits. Patrick called for objections to any member of the Planning Commission or the Commission as a whole hearing this matter; and none were heard.

A. **File 1-CUP-20.**

Tokos reviewed his staff report. He noted the public testimony that was submitted by Charlotte Boxer, and Stephen Webster. Tokos reviewed the criteria and explained how the applicants have met the criteria. Tokos noted that the business would not be considered a grocery store, but a boutique store. He noted there may be minor changes

Berman asked about the ancillary use compared to the boat operations. Tokos explained it was a little different and subjected to conditional use permit so the Commission could scale based on what was coming into the area. This area was more scaled toward retail and something to think about. Berman asked if the angled parking on Bay Blvd would be affected by the project. Tokos would have the applicant speak to this.

Proponent: Dustin Capri entered the meeting by phone. Berman asked for comments on the angled parking and to address Charlotte Boxer's concerns. Capri noted that where the existing curb cut was it not modified to allow access for Boxer. There would be a curb cut to the west and two spaces would be moved. Tokos noted that currently it was used as an overly wide driveway and didn't need to be as wide as it was now. If

the driveway was shifted to the west, parking spaces would be striped on the east side. The driveway would become narrower and there would be sufficient room on east side to add them back. Capri didn't know if owner had an clear objection to the barrier that Boxer asked about. Hanselman hoped that the Eggert wanted to be a good neighbor could work something out with Boxer. Capri noted both parties had talked and would work it out.

Berman asked about the 4-foot setback on the retaining wall and if this would create a space open for trash or homeless people. Capri explained this was a concern they had and was a part of the design. One side of wall would have a barrier to prevent people from going in that area. Capri noted the egress could be used to maintain the area. Berman asked if the wall belonged to the property. Capri thought it was built for the apartment building to the north. He thought it was more of an encroachment and built under the old owner. Capri guessed that it was encroaching due to a lack of a survey.

Patrick asked if the manufacturing on the property would have any biological load. Capri said they met with Tim Gross in Public Works. They discussed how the potential requirements would be addressed in the Civil plan submittal.

A discussion on what type of retail would happened at the property, with Capri listing what would be sold. East noted that Basics had three other locations and their information was available online for reference.

Charlie Egger entered the meeting by phone. He shared that they had a farm in the Willamette Valley and produced milk, beef, pork, and chicken products. The intention was to provide these products in the market.

Hanselman asked if they would be looking into selling seafood. Egger explained that they were resistant because of other markets on the bayfront and they didn't necessarily want to compete with them. There may be fish but would partner with someone local.

Berman noted that the Tualatin store sold beer and wine and asked if they would be doing this and if so, would it be a major or minor focus. Egger explained they wanted to do so as a minor option. They don't want to serve onsite alcohol, but would be a takeaway. Patrick asked if the restaurant would have service. Egger explained that they didn't intend to have full restaurant and it would be more of a grab and go take out instead of a full scale restaurant. Patrick asked how they felt about the condition that the food manufactured onsite would be principally marketed onsite. Egger said their intention was to sell as much as they could in the market. They couldn't guarantee the percentage and might sell some of the product at other locations.

Hanselman asked if business plan could include small classes for cheese making. Egger reported that they sometime did cooking classes and other topics in some of the stores. They don't have a space in this project but it could be done. Hanselman liked the idea of doing classes.

East asked if the scaling of the Newport location was similar of other locations or smaller. Egger said all locations are unique and this would be first manufacturing with retail. He noted the business would be one of the middle sized locations.

Stephen Webster entered the meeting by phone and read the letter he submitted into the record.

Opponents: None were heard.

The hearing was closed at 7:51 p.m.

East thought this was a great addition to the Bayfront. Parking was always a concern there and there needed to be some input by the owner on how to manage parking for staff. He was in favor of approving. Hardy thought it was a good proposal and had no objections.

Berman agreed that it would be good and was concerned about parking. He asked of this area would be slotted for metering. Tokos confirmed it would be in a location where they would be implementing meters.

Berman thought employee parking would be an issue, but he was in favor of approving. Franklin had no problems with approving.

Hanselman thought it was a good use of the property even though the parking would be a problem in general. He noted that Webster's comment on the appearance on the Bayfront had always been a concern for hi. He didn't like the 4-foot signs they had, but thought branding would be important and was okay with approving. Patrick thought it met with the conditions and had no problems with it.

MOTION was made by Commissioner Franklin, seconded by Commissioner Berman to approve File No. 1-CUP-20 with conditions. The motion carried unanimously in a voice vote.

B. File 1-CP-18 / 3-Z-20.

Tokos gave his staff report. He noted the public comments received by Julia Romero that had questions on how the changes related to hospice care and her concerns on the City and State activities on nearby properties. Tokos reported that he had received questions on existing day cares, the Montessori School, and the ambulance company in Nye Beach on whether or not they could continue operating. He explained that they could but the operations would become nonconforming.

Berman noted that on Page 3 of the Staff Memo in the first paragraph on the second line it said "multi-family" with a comma. He thought the comma should be removed. Derrick noted this was in the staff report and would correct it moving forward. Berman noted that on the first line of Page 61 the word "syc" should be taken out if correcting the text. He asked what the quotes were before each paragraph on Page 68. Tokos explained it was a function of how the chapter was formatted and could adjust it.

Berman wanted confirmation that there was general consensus with the Commission didn't want to require a disclosure on properties in the zone. Hardy objected to this and asked what the rationale was to not acquire a disclosure. Tokos confirmed there was a general agreement with the Commission at a previous works session meeting not to require it. Hardy noted that one of the excuses was they would have to get legal review and that would be an obstacle. Tokos asked for what purpose would they need a disclosure. Hardy explained it would be for safety and welfare, and should be the goal. Tokos noted that this was required under O.R.S. 93 that anybody buying property had a responsibility to go to the City of Newport and understand what the land use regulations were. If the overlay was put in place, it would be part of the land use regulations. This would then create a built in disclosure statement that is on the deed document. Hardy noted that a lot of people didn't follow through on this. Patrick noted they couldn't hold everybody's hands and there were certain legal ramifications for trying to move property with disclosure statements. He thought the City should stay out of requiring a disclosure. Hardy didn't think it would make the City liable. Franklin asked if there were disclosures for tsunami and earthquake zones. Tokos explained that there was a long discussion on disclosures when reviewing the geologic hazards zones that had a lot of public outcry on having disclosures added. This was why it wasn't included. Tokos reported that the standard real estate disclosure had an addition for geologic hazards added to it, just like flood plains. Patrick asked if there was any will of the Commission to add a disclosure. Only Hardy was in favor.

Berman noted on Page 92 of the packet that number 11 on the first list was the same as number 4 on the second list. He didn't think it needed to be on the second list. Tokos explained both dealt with different things and why they were both on there. They applied to different uses in the different sections. Tokos did note that it should say sub-sections. He explained that number 11 applies to uses 1-10 in the XXL and B.4 applies 1, 2, and 3 of sub-section B. Berman didn't agree that it needed to be repeated. Tokos would run this by the City Attorney to see if there was a better way to reword it. Berman said he would let this go.

Berman asked about on Page 95 of the packet, what was the definition of an assembly area. Tokos explained it was on the Tsunami evacuation maps and was where people were supposed to go if there was the Cascadia earthquake. Berman asked if the property owned by the Grusing's, who submitted public comment, was in the tsunami hazards zone. Tokos said it was impacted and in the XXL zone. Berman asked if there was a safe place for the uses when only part of the property was in the XXL zone. Tokos explained that he thought their property was entirely in the XXL zone. If a property wasn't entirely in the tsunami zone, and a portion

of the property was outside of the zone and was developable, the owners wouldn't be subject to the limitation of the overlay zone.

Patrick asked if the graphics on Pages 85-89 could have updated graphics. Tokos said these were legislatively adopted and would take a legislative change, and update the shoreland rules. Tokos noted they could duplicate the areas and try to get it cleaner. As long as they didn't modify the boundaries of the regulatory areas, they would be okay.

MOTION was made by Commissioner Berman, seconded by Commissioner Franklin to forward a favorable recommendation to the City Council for File No. 1-CP-18 and 3-Z-20 to incorporate Section 14.46 in the Newport Municipal Code to establish a Tsunami Hazard Overlay Zone. The motion carried in a voice vote. Hardy was a nay.

C. File 2-Z-20.

Tokos gave his staff report. He noted the additional public testimony received by Wendy Engler and Jan Kaplan. Tokos noted that he had talked to neighbors who were in favor of the changes.

Berman asked what the blue line were. Tokos explained they were tax lot lines. Berman asked what the stripe was. Tokos said he didn't know and would have to look into it. He thought there was probably some history with it.

MOTION was made by Commissioner Berman, seconded by Commissioner Hanselman to forward a favorable recommendation for File 2-Z-20 for the City Council review. The motion carried in a voice vote. Hardy abstained.

Hardy didn't think street improvements would preclude somebody building a large house on property they owned. She didn't understand the correlation between putting too much money in the street to allow that to happen. Tokos explained that Cliff Street was designed to be a mixed pedestrian/travel roadway that facilitates a little more density with residential on top of commercial. The street didn't need to be robust and detailed if looking to have single family homes built there. Hardy thought construction of SFD would take a lot of pressure off of inadequate parking in the Nye Beach area, as opposed to the shops that are located there now. She didn't think it made sense that the street needed to have commercial with apartments above.

6. New Business. None were heard.

7. Unfinished Business. None were heard.

8. Director Comments. Tokos thanked everyone for their patience doing a video conference meeting. He didn't know if the June 8th would be the same type of meeting and would keep them in the loop.

Berman expressed interest in seeing the applicants in the video meetings. He thought it would have more meaning to see the participants. Tokos didn't have a problem with this and would prefer it. He noted that the City's IT Department had concerns on this and would check back in with them on this.

9. Adjournment. Having no further business, the meeting adjourned at 8:36 p.m.

Respectfully submitted,

Sherri Marineau
Executive Assistant

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

**IN THE MATTER OF PLANNING COMMISSION)
FILE #1-CUP-20, A CONDITIONAL USE PERMIT) FINAL
APPLICATION FOR BASICS NEWPORT PUBLIC) ORDER
MARKET)**

ORDER APPROVING A CONDITIONAL USE PERMIT, per Newport Municipal Code Sections 14.03.080(18) and 14.03.080(19)“Water-dependent and Water-related Uses,” for a new 11,859 square foot mixed use building. The new building will include 3,000 square feet of retail market space, 2,000 square feet of restaurant space, and 6,859 square feet of light industrial space for food production. The property is located at 836, 838, 844, 846, 848, 852, & 856 SW Bay Blvd, Newport, Oregon 97365. It is identified as Lots 2, 3, & 4, Block 1, Plan of Newport, including a portion of a vacated alley, together with Parcels 1 and 2 of Partition Plat 1999-18 (Assessor’s Map 11-11-08-CA, Tax Lots 2500, 2501, 2800, and 3300).

WHEREAS:

- 1.) The Planning Commission has duly accepted the application filed consistent with the Newport Municipal Code; and
- 2.) The Planning Commission duly held a public hearing on the request, with such hearing occurring on May 26, 2020; and
- 3.) At the public hearing on said application, the Planning Commission received testimony and evidence; and
- 4.) At the conclusion of said public hearing, after consideration and discussion, upon a motion duly seconded, the Planning Commission **APPROVED** the request.

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

1. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to the staff report. No use shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the applicant/property owner to comply with these documents and the limitations of approval described herein.
2. Onsite manufacturing of food and food-related goods shall supply, and be principally oriented to, the operations of the market and restaurant uses.
3. The applicant shall comply with all applicable building codes, fire codes, and other public health and

safety regulations to ensure that the use will not be detrimental to the safety and health of persons in the neighborhood. The applicant is responsible for obtaining the necessary approvals and permits pertaining to the proposed use. If the applicant must materially modify the size or height of the building to comply with these codes, then a conditional use permit shall be submitted to establish that the changes are consistent with the overall development character of the neighborhood.

BASED UPON THE ABOVE, the Planning Commission determines that this request for a Conditional Use Permit is in conformance with the provisions of the Comprehensive Plan and the Zoning Ordinance of the City of Newport, and the request is therefore granted.

Accepted and approved this 8th day of June, 2020.

James Patrick, Chair
Newport Planning Commission

Attest:

Derrick I. Tokos, AICP
Community Development Director

EXHIBIT "A"

Case File No. 1-CUP-20

FINDINGS OF FACT

1. Dustin Capri, AIA, Capri Architecture, LLC (applicant), on behalf of Charles Eggert in an individual capacity and as manager of Elsinore Investments, LLC (owners), applied on February 20, 2020, for approval of a Conditional Use Permit to replace the former Forinash Gallery, Shark's Restaurant, M&P Thai Restaurant and Apollo's Night Club with a new 11,859 square foot mixed use building. The new building will include 3,000 square feet of retail market space, 2,000 square feet of restaurant space, and 6,859 square feet of light industrial space for food production.

2. The subject property is located at 836, 838, 844, 846, 848, 852, & 856 SW Bay Blvd, Newport, Oregon 97365. It is identified as Lots 2, 3, & 4, Block 1, Plan of Newport, including a portion of a vacated alley, together with Parcels 1 and 2 of Partition Plat 1999-18 (Assessor's Map 11-11-08-CA, Tax Lots 2500, 2501, 2800, and 3300). The property is approximately 17,424 sq. ft. in size per Lincoln County Tax Assessor records.

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

- a. Plan Designation: Yaquina Bay Shoreland.
- b. Zone Designation: W-2/"Water-Related."
- c. Surrounding Land Uses: Tourist-oriented retail (north), tourist-oriented retail and fish processing (east), condominiums (west), and Coast Guard operations (south).
- d. Topography and Vegetation: The property is relatively level having been cleared for development in the past. A large retaining wall exists near the west property boundary, with the finished grade of the condominiums to the west being 20-25 feet above that of the subject site. A small amount of landscaping exists at the southwest corner of the property. Otherwise, the property is largely devoid of vegetation.
- e. Existing Structures: Forinash Gallery (1,224 sq. ft.), Shark's Restaurant (978 sq. ft.), and Apollo's Night Club/M&P Thai Restaurant (8,256 sq. ft.)
- f. Utilities: All are available to the site.
- g. Development Constraints: Geologic hazards area.
- h. Past Land Use Actions: *File No. 1-TSP-11* - Approval of a temporary structures permit for a 20-ft x 30-ft tent and fenced area to expand Apollo's footprint during the Seafood and Wine Festival. Approved 2/7/11. *File No. 4-CUP-07* - Permitted a 335 sq. ft. portion of the Apollo's Nightclub building for use of a real estate office. Approved 6/4/07. *File No. 4-CUP-06* - Permitted 600 sq. ft. of the Apollo's Night Club building

for use as a retail gift shop. Approved 4/24/06. *File No. 9-CUP-03* - Approved use of the building at 836-848 SW Bay Blvd as a restaurant and bar (i.e. Apollo's Night Club). *File No. 6-PAR-99* - Approved a partition creating the parcels upon which Forinash Gallery and Shark's Restaurant are situated. Affects 852, & 856 SW Bay Blvd. Approved 8/4/99. *File No. 2-CUP-91* - Permitted the remodeling and retail use of buildings located at 852 & 856 SW Bay Blvd. Approved 3/11/91.

4. The application was made complete on March 12, 2020. The original hearing date of April 13, 2020 was cancelled due to the COVID-19 pandemic. A new hearing date was set for May 26, 2020. Notification to affected property owners required to receive such notice by the Newport Zoning Ordinance, and to various city departments, agencies, and public utilities was mailed on May 6, 2020. The notice referenced the criteria by which the application was to be assessed. The notice required that written comments on the application be submitted by 5:00 p.m., May 26, 2020, or individuals could call into the hearing to testify in person. Notice of the hearing was published in the Newport News-Times on May 15, 2020. Two letters were received in response to the notice, both of which were in favor of the application.

5. A public hearing was held on May 26, 2020. At the initial hearing, the Planning Commission received the staff report and heard testimony from the applicant. A project proponent also testified by reading their written comments into the record. The minutes of the May 26, 2020 hearing are hereby incorporated by reference. The Planning Staff Report with Attachments is hereby incorporated by reference into the findings. The Planning Staff Report Attachments included the following:

- Attachment "A" – Application Form
- Attachment "B" – Lincoln County Assessor Property Reports
- Attachment "C" – Lincoln County Assessor Map
- Attachment "D" – Proposed Business Plan
- Attachment "E" – Application Narrative
- Attachment "F" – Response to Completeness Review / Updated Site Plan
- Attachment "G" – Survey of the Existing Property
- Attachment "H" – Renderings of the Proposed "Basics Market"
- Attachment "I" – Architectural Elevations of the Proposed "Basics Market"
- Attachment "J" – Signage Concepts for "Basics Market"
- Attachment "K" – Zoning Map of the Area
- Attachment "L" – Aerial and Topographic Map of the Area
- Attachment "M" – 2013 Aerial Photograph
- Attachment "N" – Uses in the W-2 Zoning District
- Attachment "O" – Public Hearing Notice

Additionally, the following testimony was submitted after the staff report was prepared:

- Letter from Charlotte Boxer, owner of 818 SW Bay Blvd, dated May 22, 2020
- Letter from Stephen Webster, Front Street Marine, LLC, dated May 24, 2020

6. **Explanation of the Request:** The applicant is requesting the conditional use permit to construct a new 11,859 square foot mixed-retail, light industrial building. The facility will include 3,000 sq. ft. of retail market space, 2,000 sq. ft. of restaurant space, and 6,859 sq. ft. of industrial space for food production. Retail market and restaurant uses are permitted outright in a C-2 zone district (NMC 14.03.070(2)(a) and (2)(d)). Manufacturing in conjunction with a use permitted outright in a C-2 zone district requires conditional use approval (NMC 14.03.080(19)). The applicant indicates that manufacturing will be for food production that will, in part, occur to support the restaurant and market activities. Some of the manufactured goods will be distributed off-site. The Planning Commission is charged with interpreting the zoning ordinance in circumstances that require factual, policy or legal discretion (NMC 14.52.030(B)(9)). The extent to which goods manufactured in conjunction with a use permitted outright in a C-2 zone must be directed to support the permitted uses (i.e. the market and restaurant operations) fits within the Commission's interpretive purview.

In their business plan, the applicant notes:

Basics, LLC will create and construct the region's first Public Market located on Bay Boulevard in Newport's waterfront district. The space will be designed for use as an open-air public market featuring locally produced products with accessible prices. This concept may feature a USDA compliant food production space with additional ODA compliant hot and cold foods stations.

"The open-air marketplace will allow for tastings and purchases.

Our public space business hours will be regular retail hours with potential for 7 days a week: 10a - 8p, hours may vary. Production facility may be in operation outside public business hours.

The public market does not anticipate heavy odor or noise from the site.

The public market objective is to provide jobs and enhance community gathering in the Coastal communities of Lincoln County. Target design is open air warehouse/marketplace and partial food manufacturing facility. We will leverage current brand status of Basics, LLC and Wild Rose Foods by introducing product lines to Newport customers.

Offering public market style philosophies, we may open the conversation with our neighbors about everything from soil management to the weather and how it all coalesces at Basics Public Market on Bay St. to offer "just what you need" to get your "nourishment from the ground up!"

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

NMC 14.52.030(B)(9) indicates that a Type III decision-making procedure, with review and approval by the Planning Commission, is required for interpretations of the Zoning Ordinance that involve factual, policy or legal discretion. The Zoning Ordinance allows manufacturing in conjunction with uses permitted outright in a C-2 zone, but does not specify the extent to which

the manufacturing operations must be linked to the permitted use. Policy discretion is involved in determining how much of a link is needed between the market/restaurant and manufacturing activities; therefore, Planning Commission review is required.

8. **Applicable Criteria:** The applicable criteria for the conditional use request are found in NMC Section 14.34.050:

- a. The public facilities can adequately accommodate the proposed use.
- b. The request complies with the requirements of the underlying zone or overlay zone.
- c. The proposed use does not have an adverse impact greater than existing uses on nearby properties; or impacts can be ameliorated through imposition of conditions of approval.
- d. A proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.

CONCLUSIONS

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

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

1. Public facilities are defined in the Zoning Ordinance as sanitary sewer, water, streets and electricity. All public facilities are available and serve the property.
2. The applicant notes that the current site consists of three separate buildings that are currently in poor condition. One building was used as a nightclub, restaurant, retail space and office building. The second building was being used as a restaurant and the final building was used as an art gallery. These uses represented significant impacts with large occupancies and therefore represent a considerable historical impact to the public facilities along Bay Boulevard. The applicant indicates that the new proposed use is a slightly larger building but represents a significantly smaller impact on the public facilities and infrastructure.
3. As shown on the applicant's site plan (Attachment "F") and the aerial map (Attachment "L"), street and sidewalk access to this developed site is available off SW Bay Boulevard. This public street is a fully improved, paved collector roadway. The Planning Commission accepts this information as sufficient evidence that street and sidewalk access to the property is adequate. The City provides water service to the site via a 12-inch main in SW Bay Boulevard. Sewer service is provided by a 10-inch gravity line in SW Bay Boulevard. Storm drainage is collected in catch basins and directed under SW Bay Boulevard to the bay. The existing facility utilizes these services. The services have been sized to accommodate regional development in the area, including industrial users such as the fish plants along SW Bay Boulevard and the Commission can rely upon the presence of these utilities to establish that the water, sewer, and storm drainage services are adequate to support the proposed uses. Electric service is available to the existing building.

4. Considering the above, the Planning Commission concludes that the public facilities can adequately accommodate the remodel and expansion with the conditions noted.

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

1. This criterion addresses special requirements of the underlying or overlay zone beyond the standard zoning ordinance requirements. Each zoning district includes “intent” language. For the W-2 district, it includes *“All conditional uses in a W-2 district shall also comply with the following standard: In areas considered to be historic, unique, or scenic, the proposed use shall be designed to maintain or enhance the historic, unique, or scenic quality.”* (NMC 14.03.040)

2. The applicant has provided architectural renderings, elevation drawings, and signage details (Attachments “H,” “I,” and “J”). This provided Planning Commission members a clear sense of how the new building will look when it is completed.

3. The applicant acknowledges that the Bayfront area falls into this category, as it is historic, unique, and scenic. They believe that the proposed building contributes to the spirit and overall design concept of a unique working waterfront. They have incorporated space for a mural, on the south facing elevation, to complement and build upon the visual art present on other buildings along the Bayfront (Attachment “I”). Additionally, the building height maintains a lower profile that is sensitive to upslope residential users, and comparable to many buildings along the same side of the street.

4. The applicant asserts, and the Commission accepts, that the proposed project will enhance the southern part of the Bayfront by replacing existing buildings that are in disrepair, and by providing a new facility to help promote local food production and a new public market. The applicant has indicated that the food production component will largely focus on the production of cheese and dairy products. Additionally, they point out that the existing parcels and buildings do not comply with city landscaping requirements, which they will rectify with 197 sq. ft. of landscape area and 61 sq. ft. of landscape planters. The applicant points out that they are committed to ensuring that the new building will comply with the parking requirements, building height, lot coverage, building setbacks, bicycle storage, and landscaping standards of the Newport Municipal Code. For these reasons, the Planning Commission finds that the new building compliments the unique qualities of the Bayfront.

6. An additional aspect of the W-2 zone district that the Planning Commission considered is the provision that allows “manufacturing in conjunction with a use permitted outright in a C-2 zone district” subject to conditional use approval (NMC 14.03.080(19)). The application materials loosely discuss the relationship between the food production manufacturing component of the operation and the restaurant and market uses, and the Commission finds that further clarity is needed as to how closely these aspects of the operation need to be related. The applicant testified that they have structured the business such that food production is necessary to supply the market and restaurant, with off-site sales being an ancillary activity. The retail orientation of the proposed market compliments other retail establishments along the Bayfront, and food distribution, at a limited scale is also compatible with this working waterfront. Accordingly, the Commission is comfortable that manufacturing at this scale is compatible at this location. A business that is principally oriented to off-site sales and distribution would be more appropriate to a light industrial area. The Commission is satisfied the applicant’s proposal is not of that nature, and notes that it is unlikely a business principally oriented to off-site sales and distribution would locate along the Bayfront given the tourist

and retail orientation of the area. That said, it is appropriate, for clarity, that a condition of approval be imposed stipulating that manufacturing of food and food-related goods are to supply, and be principally oriented to, the operations of the market and restaurant uses.

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

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

1. This criterion relates to the issue of whether the proposed use has potential "adverse impacts" greater than existing uses and whether conditions may be attached to ameliorate those "adverse impacts." Impacts are defined in the Zoning Ordinance as including, but not being limited to, the effect of nuisances such as dust, smoke, noise, glare, vibration, safety, and odors on a neighborhood. Adequate off-street parking, or the lack thereof, may also be considered by the Commission under this criterion.

2. The applicant indicates that they believe the proposed replacement building will not adverse impact nearby properties. Their narrative (Attachment "E") includes a chart listing the parking credit associated with the former uses of the property. Using City parking ratios listed in NMC Chapter 14.14, the site is credited with 49 spaces. By the same measure, the proposed use generates a demand for 29 parking spaces.

3. Parking at the existing site is situated along the north side of the property. The former Apollos night club claimed parking to the rear of the building; however, that space is effectively a narrow, dead-end alley that was of marginal use for that purpose. A 2013 aerial image of the property illustrates this point (Attachment "M").

4. The applicant's site plan shows between 5-7 parking spaces, depending upon whether the loading dock is in use. This is a modest reduction in off-street parking when compared to what was functionally available at the Apollo's site. However, parking demand attributed to the new use is significantly lower than what previously existed, and the Planning Commission finds that, for this reason, the proposal will result in no greater adverse impact relative to the demand for vehicle parking.

5. The applicant's property, and the parcel to the north, have shared the use of the existing SW Bay Blvd curb cut. This arrangement is illustrated on the 2013 aerial photograph. The applicant's site plan illustrates a parking arrangement that will prevent the property to the north from using the driveway as they have historically, and they may need to reconfigure improvements on their own property as a result. When asked about the access arrangement, the applicant's attorney responded that there is no recorded cross-access easement in place giving the owner to the north a right to cross his client's property to access SW Bay Blvd (Attachment "F"). Since there is no information in the record indicating that a recorded easement exists, the Commission finds that the proposed parking arrangement will not adversely impact adjacent property owners right-of-access onto SW Bay Blvd. That said, Ms. Boxer, the owner of the neighboring property, points out in her letter dated May 22, 2020, that both she and the applicant would benefit from there being a more defined boundary between the two properties, and the Commission encourages the applicant to work with Ms. Boxer on a mutually acceptable solution.

6. The applicant notes that use of the building will be consistent with the current restaurants and general retail businesses that have historically occupied this property. They point out that the historic bayfront has multiple industrial food production facilities and that the industrial food production that will occur at this site is consistent in appearance and use with the neighboring fish processing facilities. Noise from the market and production component will occur from within an enclosed structure, and the applicant expects that they will be minimal and certainly less intrusive than the previous Apollo's night club. The applicant indicates that all food production equipment and cooking facilities will comply with the requirements of the Oregon Health Department, Oregon Structural Specialty Code and Oregon Department of Agriculture, which protect air quality and noise. A condition of approval is enclosed requiring the applicant comply with such requirements. Lastly, the applicant indicates that they believe the new modernized facility will benefit the surrounding businesses and not have any adverse impacts and that, overall, the project will contribute to the thriving tourism and food production spirit of the Newport Bayfront.

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

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

1. The applicant notes that, regarding the building height, great care was taken to design a structure that would have minimal impact on the adjacent properties. The roof height on the western facade (back of building) starts at approximately 15'-6" and peaks at the eastern facade (Bay Boulevard) at approximately 25' tall. This is significantly lower than the maximum allowable building height of 35'. This was achieved by utilizing a 1" / 12" roof slope to minimize the height of the building and keep it at a community scale. The existing retaining wall on the back of the property will be maintained and not altered as a part of the project. The geotechnical engineer and structural engineer will determine the precise setback to ensure the existing retaining wall is unaltered. In terms of the building shape, the structure is consistent with the frontage of the existing structures and will be similar in massing to the existing structures in this location. The nature of the building is to attract tourists, provide a public market for the community, and provide space for local food production. The design reflects this, with exciting details and views to experience the food production components from the public market. The Bayfront area, as a whole, strives to attract tourists, promote industry and employment for the community and this building will support those goals.

2. The applicant may need to adjust aspects of the exterior design to comply with building codes, fire codes, and other public health and safety regulations, including accessibility requirements. It is unlikely though that such changes would materially impact size or height of the building. If that does happen, then a new conditional use permit would be needed, and a condition to that effect is included below.

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

OVERALL CONCLUSION

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

1. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to the staff report. No use shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the applicant/property owner to comply with these documents and the limitations of approval described herein.
2. Onsite manufacturing of food and food-related goods shall supply, and be principally oriented to, the operations of the market and restaurant uses.
3. The applicant shall comply with all applicable building codes, fire codes, and other public health and safety regulations to ensure that the use will not be detrimental to the safety and health of persons in the neighborhood. The applicant is responsible for obtaining the necessary approvals and permits pertaining to the proposed use. If the applicant must materially modify the size or height of the building to comply with these codes, then a conditional use permit shall be submitted to establish that the changes are consistent with the overall development character of the neighborhood.

Memorandum

To: Planning Commission

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

Date: May 21, 2020

Re: Letter to the City Council Regarding the Nye Beach Core Zone Proposal and Other Potential Changes to the Nye Beach Design Review Overlay

Attached is a draft letter that reflects the concepts discussed at the March 9, 2020 work session and general consensus of the Planning Commission following the May 26, 2020 work session. A motion is needed to approve the letter and authorize Chair Patrick to sign the document. The letter would then be presented to the City Council at its June 15, 2020 regular meeting.

An ordinance amending land use regulations along the west side of NW Cliff Street will go before the City Council that same evening. The ordinance will be presented at a public hearing; whereas, this letter will be placed on the Council's agenda under Communications.

The Planning Commission should consider if it wants a representative to present the letter to the City Council. The June 15th meeting is likely to be conducted by videoconference, with participants being dialed in for their agenda items.

CITY OF NEWPORT
 169 SW COAST HWY
 NEWPORT, OREGON 97365



phone: 541.574.0629
 fax: 541.574.0644
<http://newportoregon.gov>

COAST GUARD CITY, USA

mombetsu, japan, sister city

June 8, 2020

Newport City Council
 169 SW Coast Highway
 Newport, OR 97365

RE: Nye Beach Core Zone Proposal and Other Potential Changes to the Nye Beach Design Review Overlay

Dear Council Members,

At your request, the Planning Commission took up the question of whether concepts in the "Core Zone Proposal," developed by a group of citizens in 2015, should be implemented or other changes made to the Nye Beach Design Review Overlay.

The Core Zone Proposal would set a hard limit of 32-ft as the maximum building height for tourist commercial zoned areas in the heart of Nye Beach, with 72-ft as a maximum width/length of a building and no more than two lots being combined. These concepts were brought forward out of a concern that the mass and height of buildings being developed are out of character with the predominant architectural style of buildings in the area.

After carefully considering the concepts, and accepting public feedback at a March 9, 2020 work session, there was consensus amongst the Commission that adjustments made to the Nye Beach Design Review Overlay in 2015 provide an adequate framework for addressing concerns related to the mass and height of buildings. That framework allows buildings up to 35-ft in height and 65-ft in width/length subject to compliance with clear and objective design standards. This is an administrative (staff level) approval process. Proposals for buildings between 35-ft and 50-ft in height, or more than 65-ft in width/length are subject to discretionary design guidelines, and must be approved by the Commission following a public hearing. The commercial core area of Nye Beach includes buildings that, if proposed today, would be subject to the public hearings process, and such buildings may be compatible with appropriate site design and architectural treatment. The existing framework allows for height and mass of larger buildings to be evaluated on a case-by-case basis, with the public being afforded an opportunity to provide testimony as to whether they are architecturally compatible in Nye Beach. It is our view that this approach is the best way to address the matter.

After looking at several case examples, there was general agreement that a 45-foot maximum building height may be appropriate in Nye Beach. It is not pressing that a code

amendment be drafted immediately, as any proposal for a building over 45-ft in height would be subject to Commission approval at a public hearing where the issue of height compatibility can be addressed. From time-to-time, the City initiates comprehensive updates to its land use rules, either on its own or in response to changes in state law. It would be reasonable for the building height change to be addressed as part of such a process.

Outside of the "Core Zone Proposal," design of residential dwellings in Nye Beach is an area that may require attention moving forward. State law requires that cities provide clear and objective approval standards for residential development. Newport established clear and objective design standards for Nye Beach development in 2003, and refined those standards in 2015. A conscious effort has been made to provide developers with guidance as to the types of building designs and architectural treatment appropriate to the area, while also giving them flexibility, recognizing that each property is unique in terms of its size and configuration. How effectively these tools are utilized varies, and the recent development at Olive and Coast suggests that more prescriptive design standards may be needed. This is something the City should build into its work program, and budget for in the future as resources allow.

We want to acknowledge comments made by members of the public who would like to see the City engage the Nye Beach community to develop a fresh vision for the neighborhood. The studies and policies that led to the establishment of the Nye Beach Design Review Overlay, and related infrastructure investments, are 20-30 years old so it is understandable that there is such interest. Initiating a visioning effort of this nature will require a significant investment of city resources, even if outside assistance is obtained, and given the existing work program we have committed to, and fiscal constraints related to the pandemic, we are not confident that the City has the capacity to undertake such a project at this time. It is our understanding that the Vision 2040 Committee is working with community partners to facilitate implementation of strategies outlined in the Vision 2040 plan. We encourage the Council to refer a question to the Committee about whether "neighborhood-scale" visioning is a logical next step in the evolution of that plan. Several Nye Beach residents and business owners have expressed interest. This makes Nye Beach an excellent candidate neighborhood, as it will take a grass roots effort to make a "neighborhood-scale" vision a reality.

Thank you for giving us the opportunity to share our thoughts on these issues.

Respectfully,

Jim Patrick, Chair
On behalf of the Planning Commission

Sherri Marineau

From: Wendy Engler <wendy.engler@yahoo.com>
Sent: Monday, June 08, 2020 3:41 PM
To: Sherri Marineau
Subject: 6/8/2020 PC Meeting - Item 4B
Attachments: 2020-06-08_151632.pdf

Good Evening Planning Commissioners,

The Vision 2040 Plan is a high community priority. The founding goals of the Nye Beach Overlay dovetail with the Vision 2040 Plan Strategies (see attached chart).

As has been pointed out, the Nye Beach vision is outdated. It is urgent that it be updated while there is still opportunity for development and re-development.

I am writing to request that you add wording in your letter to City Council that recommends actively pursuing a mechanism for a Nye Beach visioning effort. While the 2040 Committee is not charged with neighborhood visioning, a pilot project that includes endorsing a grant for visioning should be explored this year.

Thank you in advance for being more proactive on Nye Beach visioning.

The attached documents relate to the Vision 2040 and Housing plans that would be of use in guiding compatible development in Nye Beach.

Thank you,
Wendy Engler
255 NW Coast St.
Newport, OR

Sent from my iPad

Prepared by Leslie Palotas, VISION 2040 Coordinator

PROJECT NAME:	Nye Beach Overlay Plan Document Showing Vision Strategy Alignments			
PROJECT LEAD, PARTNERS, AND SUPPORTERS:	Wendy Engler			
FOCUS AREAS:	Total number of Strategies in Focus Area	Number of Strategies Addressed by Project	Percentage of Focus Area Addressed by Project	Focus Area Strategies Addressed by Project
A. Enhancing a Livable Region	18	16	88.89%	A2. A4. A5. A6. A7. A8. A9. A10. A11. A12. A13. A14. A15. A16. A17. A18.
B. Preserving & Enjoying Our Environment	9	4	44.44%	B1. B3. B5. B6.
C. Creating New Businesses & Jobs	15	9	60.00%	C2. C3. C5. C6. C7. C8. C9. C12. C13.
D. Learning, Exploring, & Creating New Horizons	12	6	50.00%	D1. D3. D4. D5. D6. D12.
E. Improving Community Health & Safety	13	3	23.08%	E5. E6. E7.
F. Fostering Collaboration & Engagement	11	11	100.00%	F1. F2. F3. F4. F5. F6. F7. F8. F9. F10. F11.
Total of all Focus Areas	78	49	62.82%	

Character-Compatible, Space-Efficient Housing Options for Single-Dwelling Neighborhoods

May 2016



Sherri Marineau

From: Wendy Engler <wendy.engler@yahoo.com>
Sent: Monday, June 08, 2020 3:41 PM
To: Sherri Marineau
Subject: 6/8/2020 Item 4B: Vision 2040 Strategy Codes Moved Forward with Nye Beach Overlay Plan
Attachments: Vision 2040 Strategy Codes Moved Forward with Nye Beach Overlay Plan.pdf

Hello Sherri,

Please include this document in the public record with item 4B.

Thank you,
Wendy Engler
255 NW Coast St.
Newport OR

Sent from my iPad

THE NYE BEACH OVERLAY PLAN & NEWPORT'S VISION 2040 PLAN

The Nye Beach Overlay Plan can play an important role in furthering Newport's Vision 2040 Plan. The Vision 2040 Plan is divided into 6 Focus Areas (A through F) with Strategies listed for each. The following 2040 Strategies will be moved forward with implementation of the Nye Beach Overlay Plan:

FOCUS AREAS & STRATEGIES:

A. ENHANCING A LIVABLE REGION

A2. Housing Supply

Increase supplies of affordable and workforce housing, including rentals and for sale units at prices that are accessible to a broad range of the general public.

- *There are many future infill and re-development opportunities in Nye Beach that could increase housing supply under the existing Overlay regulations. New policies that encourage more density are consistent with Overlay goals and purpose. A useful tool for developers that the City could use is the State publication, "Character-Compatible, Space-Efficient Housing Options for Single-Dwelling Neighborhoods" .*

A4. City Wide Beautification

Promote citywide beautification, generating a fresh yet familiar look for Newport through streetscaping, improvements to building façades, and ocean friendly landscaping.

- *The public spaces in Nye Beach offer multiple opportunities for enhancing and developing the existing streetscape and other public spaces such as the Performing Arts Center (PAC), Visual Arts Center (VAC), Turnaround, Skatepark, Jump-Off Joe and adjacent trails. Ocean-friendly landscaping is a priority.*

A5. City Center Revitalization

Develop a City Center improvement strategy that expands options for living, shopping, working, and dining in the area by promoting walkability, mixed-use development, and refurbishment of historic buildings.

- *Improving walking, bike and transit routes that connect Nye Beach and the Bayfront with City Center will greatly enhance City Center as well as the other districts.*

A6. Mixed-Use Development

Promote mixed-use neighborhoods in appropriate areas of the city, incorporating a blend of commercial uses, employment, and residential development that create a distinct sense of place.

- *The mixed-use neighborhood strategy description are exemplified in the founding documents of the Nye Beach Overlay: the Urban Peninsula Design Plan and The Nye Beach Study. The 1999 TGM Streetscaping Grant created a plan for future development patterns by designating pedestrian-friendly streets and amenities.*

A7. Housing Development Incentives

Implement incentives to lower development costs and encourage construction and renovation of an array of housing types to augment the supply of affordable, quality, energy-efficient units.

- *There are many opportunities for infill and re-development that would benefit from incentives that encourage renovation and construction of housing.*

A8. Vacation Rentals

Assess the growth and distribution of vacation rentals and take longer-term actions that may be required to address impacts on neighborhoods and the community.

- *Addressing the long-term impacts of Vacation Rentals in Nye Beach may include creation of regulations specific to the Nye Beach Overlay to preserve the Overlay goals related to mixed use neighborhood. Maintaining spacing standards is critical to neighborhood cohesion.*

A9. Understanding Impacts of Seasonal Housing

Gain a better understanding of the impacts that seasonal housing, including second homes and vacation rentals, has on the availability and affordability of housing and the provision of public services within the community.

- *See A8. Provision of public services, such as a shuttle connecting Nye Beach, Bayfront, City Center and hotels in the summer could lessen traffic and parking issues in all districts.*

A10. Street, Highway and Bridge Improvements

Engage the State of Oregon and community partners to identify bridge alternatives and future street and highway improvements that meet local needs while mitigating congestion and accommodating future growth and increased traffic.

- *The official Oregon Coast Bike Route runs through the heart of Nye Beach. It is connected to Spring Street and Oceanview to the north and Elizabeth street to the south. Improvements to this route will mitigate congestion and accommodate future growth and increased traffic.*

A11. Bicycle and Pedestrian Safety and Amenities

Work to improve the safety of bicyclists and pedestrians throughout Newport. Plan, fund, and develop improvements to bicycle and pedestrian amenities in strategic areas of the city, including sidewalks, crosswalks or overpasses, "traffic calming," bike racks, and planned bicycle and pedestrian routes.

- *Safety and amenities for bicyclists and pedestrians will create more and safer active transportation opportunities in the Nye Beach neighborhood and along the Oregon Coast Bike Route.*

A12. Multiuse Paths and Trails

Maintain and expand the multiuse path and trail system.

- *Improvements to the trail behind the Skate Park and the trail from NW 8th St. to Jump Off Joe will further this goal. Connections to potential multiuse paths and trails throughout the region are essential, such as the Lucky Gap/Rails-to-Trails project west of Oceanview Drive.*

A13. Strategic Investments and Partnerships

Pursue strategic investments and partnerships to adequately meet the needs of the community as it grows and develops.

- *This strategy is broad enough to apply in multiple projects, including: endowments for programming, landscaping and building maintenance at the PAC and VAC.*

A14. Developable Land

Ensure an adequate supply of buildable land by first encouraging redevelopment of underutilized and redevelopable properties. Extend infrastructure to undeveloped land that is zoned for development-related uses.

- *There are numerous opportunities for infill and redevelopment that should be encouraged to further the Nye Beach Overlay goals of a mixed-use neighborhood.*

A15. Complete Streets

Design neighborhoods around streets that are well integrated with local transit, are ADA Accessible, and accommodate "active transportation" such as cycling, walking, and wheelchair moving.

- *Streets that are safe and useable are obviously important. Being realistic and practical is also important. In certain situations, allowing alternatives to the official "Complete Streets" definition is paramount if our town is to thrive. In certain cases, "Complete Streets" requirements can hamper development. Relief for some cases may be appropriate, though ADA accessibility should be maintained and improved.*
- *Integrating with local transit and active transportation is essential to the vibrant, dense neighborhood envision by the Peninsula Urban Design Plan.*

A16. Public Transit Improvements and Expansion

Develop targeted improvements to the local transit system, including better scheduling, signage, and plans for system expansion. Work with Lincoln County to upgrade bus service in Newport and surrounding areas, with improved routes and more frequent service.

- *Transit routes run through Nye Beach. Better signage and scheduling would improve service. Adding a local summer trolley that serves the Bay Front, Nye Beach, City Center and hotels is often mentioned as a solution to parking and traffic issues. A previous attempt at this was not very well-used so it needs study (and a grant?).*
- *Increased transit use could be of great value in reducing traffic and easing parking problems.*

A17. Transit Reliability and Promotion

Develop and promote transit as a robust and reliable alternative to driving within the Greater Newport Area.

- *see A16, above.*

A18. Telecommunication Technology

Promote universal, high-speed Internet access throughout the city. Expand community and business access to new telecommunication technologies.

- *Good telecommunication technology is critical to attracting businesses and allowing people to live here and telecommute. It promotes the mixed-use neighborhood concept by opening up opportunities for more endeavors.*

B. PRESERVING AND ENJOYING OUR ENVIRONMENT

B1. Sewer and Stormwater Management

Maintain, upgrade, and modernize stormwater and sewer infrastructure to reduce overflows, keep our waterways and beaches clean, and minimize flooding in a manner that is both fiscally responsible and environmentally friendly.

- Issues with high bacteria warnings at the Nye Beach Turnaround are legendary as is the flooding that has occurred on NW Coast Street and the Turnaround businesses. While some of the flooding issues have been addressed, the bacteria counts continue. The Turnaround is Newport's only handicapped-accessible beach access, is busy with lots of people and we need to continue to try to solve the bacteria contamination. Surfrider's Blue Water Task Force is helping but the sources of contamination are still a mystery.

B3. Parks and Recreation Needs and Upgrades

Engage the community in identifying priorities and future needs related to open space, trail, and park and recreation assets. Make recommendations for future park upgrades, planning, and development, paying particular attention to funding maintenance.

- *The recently designated "Don and Ann Davis Park" engaged the community in the preliminary design for a sculpture park. Further community involvement in the creation of the park is still to come.*

Other parks and recreation opportunities in Nye Beach include Coast Park, Newport's Skatepark, Sam Moore Park, the Turnaround and the oceanfront trail to Jump Off Joe. We need to engage the community in future plans and maintenance.

- *The recent Skatepark renovation was a notable cooperative effort of the City, Dreamland Skateparks and Rogue Brewery. This cooperation will hopefully be continued in future maintenance and development of the Skatepark.*

B5. Green Building and Development

Promote and incentivize environmentally responsible, resource-efficient building and development techniques, including onsite stormwater management, permeable pavement, energy-efficient buildings, ecological landscaping, and native plantings.

- *With many upcoming opportunities for infill and redevelopment, Nye Beach is a prime neighborhood to promote green building and development strategies. One new project that is leading the way is The Inn at Nye Beach that has LEED Platinum certification.*

B6. Environmental Conservation Partnerships

Prioritize conservation of significant open spaces and natural resource areas, including beaches and headlands, midcoast watersheds, the Yaquina Bay Estuary, rivers, streams, forests, and fish and wildlife habitat. Partner with local environmental organizations and agencies to expand and strengthen programs to protect and restore natural areas and resources and preserve environmental quality.

- Long-lasting and productive environmental partnerships are exemplified by the efforts of Surfrider's Foundation's Blue Water Task Force and SOLV's beach cleanups. These programs contribute greatly to promoting a healthy environment, at the same time educating the public.

- The Nye Beach Turnaround and other public places are underutilized places to offer interpretive programming or displays in partnership with the Oregon Coast Aquarium, Surfrider, Hatfield and the history museum.

People live and visit the Oregon Coast because of its natural beauty. Preservation of views at street ends and maintaining open space near the ocean is a goal in the Nye Beach Study. This included minimizing signage that interrupts ocean views.

C. CREATING NEW BUSINESSES AND JOBS

C2. Science Economy

Expand Newport's science and marine economy, promoting it nationally and internationally as a hub for scientific research, ocean observation, education, and utilization and conservation activities.

- OSU's Marine Studies Initiative is a multi-disciplinary program that integrate science with other disciplines, including the arts. There have been a few exhibits at the VAC that combine art and wildlife. The VAC and PAC location near the ocean offer great opportunities for multi-disciplinary programming and exhibits that partner with marine science.

C3. Living-Wage Jobs

STRATEGY DESCRIPTION

Partner with new and existing businesses to retain, expand, and create jobs that pay living wages, providing at least a minimum income necessary so that workers can meet their basic needs..

- A vibrant neighborhood that allows retail, restaurants and cottage industry to flourish is an important step towards providing living wage jobs. Of course, affordable housing is another important factor in providing a "living wage". (Continued next page)

- *A neighborhood that allows entrepreneurs the opportunity to live and/or work can be a chance for them to create a living wage job for themselves and employees. Allowed uses in the Nye Beach C-2 zone need adjusting to encourage entrepreneurs.*

C5. Marine Economy and Economic Development

Link Oregon State University's Marine Studies Initiative and the area's marine economy into economic development planning.

- *The PAC and VAC opportunities for visual, performing and literary arts link well with this strategy.*

C6. Tourism Diversification

Diversify Newport's tourist industry by promoting expansion of ecotourism as well as interpretive programs based on Newport's maritime industries.

- *Bike tourism could be expanded and celebrated in Nye Beach as the the Oregon Coast Bike Route runs through the neighborhood. Adventure sports tourists have been attracted to Newport's Skate Park in Nye Beach with improvements completed by world-renowned Dreamland skate park designers. This is an example to build on. The oceanfront location and facilities of Nye Beach offer many possibilities for recreation and interpretive programming, including display and signage.*

C7. Arts and Cultural Destination

Promote the Greater Newport Area as a major arts and cultural destination.

- *With the PAC and VAC, this strategy is a natural to develop and promote arts and cultural offerings, such as our highly acclaimed Newport Symphony and the Paper Arts festival.*

C8. Local Businesses Support

Support and retain existing local businesses.

- *An important element of the Nye Beach plan was the diverse small-scale businesses and cottage industries. There are many ways to promote the small businesses in Nye Beach. Two critical issues in supporting and retaining local businesses are allowing greater flexibility in allowed uses and parking needs need to be addressed.*

C9. Small Business Development

Expand training and education for small business development and entrepreneurial skills, including resources for artists, craftspeople, trades, and technology start-ups.

- *The artsy character of Nye Beach is just one area that is fertile ground for education and training, but allowed uses need to include small schools, such as the Thundering Seas Jewelry School and the Technology and the Arts training programs that were originally envisioned to be located in the neighborhood.*

C12. Diversified Agricultural Economy

Promote the production, marketing, and direct sales of seafood, value added wood products, and local agricultural products.

- The small businesses, pedestrian-friendly atmosphere and tourist traffic are great opportunities for selling local products such as canned albacore tuna, locally crafted wood benches, etc. Festivals and other events are good opportunities for selling products. The tourist friendly, pedestrian atmosphere in Nye Beach make add to the appeal.

C13. "Shoulder Season" Attractions and Festivals

Develop new attractions, festivals, and marketing to sustain tourism through the shoulder season.

- The PAC, VAC and Merchants Association are established organizations that, under the right circumstances, can develop any number of "Shoulder Season". Attractions and festivals. Past such festivals that could be revived include: Culture Shock, Nye Beach Clambake and the Mystery Weekend. See also C12, above.

D. LEARNING, EXPLORING, & CREATING NEW HORIZONS

D1. Funding for Schools

Develop creative, diverse, and alternative sources of funding for educational facilities, classes, programs, and extracurricular activities in the Greater Newport Area schools, including consideration for pre-K and early childhood education.

- An example of this is the Nye Beach Banner Project that funds children's arts classes and workshops. This concept could be expanded in many directions and possible to the performing and literary arts.

D3. Art in Public Spaces

Integrate the arts as a key element of the city's identity, including expanding the presence of public art throughout the community.

- Public art is already a part of Nye Beach's identity. The Nye Beach Banner Project has brought original art banners to lithe neighborhood for over a decade. A future art park is in the planning stages for the Don and Ann Davis Park. Newport's Public Arts Committee is overseeing the Art in Public Spaces program which is growing every year. We have a good public arts foundation to expand upon.

D4. Expanded and Upgraded Arts Footprint

Invest in improvements to performing and visual arts venues, including the Performing Arts Center and Visual Arts Center, to increase their capacity to accommodate arts and cultural events.(see next page)

- *Yes - the PAC & VAC are important to the identity of Nye Beach and investment in programming, building maintenance and landscaping are on-going needs.*

D5. Summer Arts Offerings

Expand outdoor summer arts events and offerings, such as music and theater.

- *Coordinating arts offerings and events with public transportation and/or trolley to parking and lodging facilities will increase chances of success. The PAC and the VAC are poised for expanding summer offerings, given the right circumstances.*

D6. Schools and Local Talent

Promote increased partnerships between schools and local talent, including scientists, artists, craftspeople, and tradespeople who share their knowledge with area classes and students.

- *If the Nye Beach Overlay were to allow and small schools and studios for local talent, these people in turn might partner with local schools. The PAC and VAC, again, play a role in this strategy. For example, local theater and dance groups have been a training ground for aspiring performers who have gone onto professional performing careers.*

D12. Access to the Arts

Increase the availability of, and access to, lower cost arts venues and performances while supporting new, innovative opportunities, including workshops, film, and student work.

- *The Nye Beach venues of the PAC and VAC are in a good position to promote this strategy by expanding their current programming.*

E5. Disaster Preparedness

Expand disaster preparedness and self-reliance programs and activities, focusing on neighborhood level organizing, and including multilingual information, training, and assistance.

- *Nye Beach, like most neighborhoods, has a strong disaster planning framework to build on. Disaster preparedness trainings and publications, the CERT program and street markings and signage contribute to an informed public. Expanding neighborhood*

organizing could include utilizing neighborhood Apps to connect residents (other cities do this), repeat trainings and establishing a neighborhood cache.

E. IMPROVING COMMUNITY HEALTH & SAFETY

E6. Proactive Police and Fire Services

Support police and fire services in meeting and addressing growth and changing community needs. Support improved community policing practices that promote positive interactions between public safety officers and the public.

- This strategy dovetails with disaster plans as is important in a mixed-use neighborhood that includes residents and tourists. Emergency preparedness training and positive relations with public safety officers promote neighborhood networking that benefits both residents and tourists in times of need.

E7. Homelessness Solutions

Implement proactive solutions to expand services and resources for people who are homeless, including homelessness prevention and other programs and partnerships to help the area's homeless population obtain stable housing.

- The beach adjacent to Nye Beach is not the solution to homelessness. It is a common situation and creates unhealthy conditions.. Programs and partnerships to find alternatives should be part of a neighborhood plan. The City recently established a multi-jurisdiction Homelessness Task Force that could help.

E14? - The Vision 2040 Committee may want to add another Strategy: Active Transportation.

- This is an important tool for a healthy community that is facilitated by the centrally-located, pedestrian friendly Nye Beach neighborhood. The more walking and biking opportunities are available, the healthier the community, physically and mentally.

F. Fostering Collaboration and Engagement Strategies

F1. Transparency and Communication

Encourage and support continued open communication, transparency, and accountability on the part of City leaders and staff.

- This strategy is addressed when City Committees, Council and Staff identify and document Vision 2040 strategies that support the decisions and actions that they take.

F2. Vision as Foundational Document

Ensure Greater Newport's 2040 Vision serves as the foundation for ongoing public processes, planning, and decision-making.

- Connecting the Vision 2040 Strategies to City plans, decisions and actions will keep the document useful as an on-going foundation into the future.

F3. Vision-Focused Council and Community

Promote key elements of Greater Newport's 2040 Vision through the Newport City Council, City staff, Greater Newport Area partners, and Vision advocates who engage with community partners.

- Identifying and promoting Vision 2040 Strategies in all City and Greater Newport Area plans will maintain focus on the Vision. City promotion of the 2040 plan should be carried through to all levels of citizen engagement.

F4. Community Engagement

Develop new avenues for Greater Newport Area residents and businesses to engage and participate in the development of plans and policies, and to contribute to the decision-making process.

- Creating and advertising opportunities for community input to the Nye Beach Overlay planning process will address this goal, as well as F7, F8, F9, F10 (see below). The recent citizen suggestion for refreshing the Nye Beach Vision as an effective tool to facilitate decision making is an opportunity to develop a new avenue to engage residents and businesses in creating the future of the neighborhood and Newport as a whole.

F5. Culturally Competent and Inclusive Outreach

Develop new forms of culturally competent outreach, such a Spanish-language publications and public service announcements, to reach out to and involve the entire community.

- Spanish language publications and out-reach at the Council level have increased and Nye Beach is an opportunity to further this effort. Increasing affordable housing and other community opportunities in an equitable and inclusive manner will broaden outreach.

F6. Model Communities

Research the best practices of other communities that have been successful in implementing vision plans and strategic community objectives and learn from their successes.

- *Using the Vision 2040 Strategies in Nye Beach Overlay planning is the first step in our vision planning that will give us the experience to compare notes with other successful communities and learn from their successes (Astoria, Hood River, Bend?)*
-

F7. Collaboration and Partnerships

Sustain positive relationships and high levels of civic collaboration between public, private, faith-based, civic, neighborhood, and community-based organizations and the community at large.

- *Taking the first step with neighborhood vision planning in Nye Beach will get the ball rolling on this strategy. On-going meetings, events and neighborhood projects will sustain the collaboration. Forming a neighborhood organization may provide structure for meetings as well as emergency preparedness.*

F8. Community Forums

Develop community forums that bring people of different backgrounds and cultures together to discuss issues and share solutions.

- *Equitable and inclusive outreach in Nye Beach planning will start the ball rolling on this. Regular meetings and events can sustain the relationships.*

F9. Youth Involvement

Work through the schools, Oregon Coast Community College, and Oregon State University to increase involvement of younger generations in current affairs and community issues, local government, volunteerism, long-range planning, and decision-making.

- *The youth art classes offered at the VAC include increasing class participants creating banners for the Nye Beach Banner project. The classes may include public presentations and exhibits. One class was creation of a neighborhood plan.*

F10. Retiree Involvement

Encourage area retirees to become more active in civic life, contributing their skills, time, energy, and resources to address community needs, mentor young people, and promote their own health and engagement.

- The Nye Beach Overlay goal of an active, mixed use neighborhood with cottage industries and artists and others who live and work in the neighborhood, has attracted retirees who volunteer at the PAC and VAC. Youth are involved in many of the same programs. The more “livable” (see the AARP definition of livable communities) the Nye Beach neighborhood becomes, the more opportunities there will be for retiree involvement. Retirees and youth can engage in the PAC and VAC programs, park beautification, Skate Park maintenance, perhaps interpretive programming for the public at the Turnaround, and any number of other opportunities one might dream up, including internships.

F11. Volunteerism

Cultivate the community’s spirit of collaboration and engagement to create meaningful opportunities for public involvement and volunteerism for all ages.

-
- The PAC and VAC have relied on volunteers since their inception and will continue to offer meaningful opportunities for as long as they exist.*
- The Vision 2040 strategies are the framework that will cultivate the community’s spirit of collaboration and engagement. Civic engagement that is transparent and produces tangible outcomes is essential.*
- Neighborhood activities such as the Nye Beach Banner project, emergency preparedness training and PAC and VAC programs foster public involvement and usually need volunteer help!*

June 8 2020

Public Comment to Newport Planning Commission

RE: Draft of Letter to City Council about potential changes to the Nye Beach Design Review Overlay.

Preserving and Fostering the Urban Village

I am requesting that the Planning Commission consider additional changes to the draft letter to City Council. Specifically, I request a direct recommendation that the City Council commit to empowering a body and process to **definitively** review and update the Historic Nye Beach Design District plan.

I believe that it is in the best interest of the City and its residents to commit to the review and update. Since the resources are not currently available, a further commitment to pursuing resources is needed. The present draft seems to have the same intent, but I fear that the mission is beyond the scope and authority of the Vision 2040 Committee.

My observation over the years is that as issues arise (i.e. vacation rentals, C-2 use, parking, building dimensions) there has been a lack of context or vision to guide the Council and the Commission. A forward-looking vision with guidelines is necessary to assure that the District remains an asset and resource to the community

That's the gist of my recommendation. I'm including some background and observations below for your interest while recognizing that too many words are not always helpful.

- **Nye Beach is a Village.** My wife and I have owned a home in Nye Beach since 2005. We lived here from 2005-2010 and moved back into the house in November 2019. Professional and family obligations caused us to live elsewhere for the intervening years but we have continuously considered Nye Beach to be our home. Our home is in the "Urban Village" that was envisioned for Nye Beach. That vision and design commitment made several decades ago has resulted in a unique neighborhood in Newport where:
 - There is a village center
 - There is a village identity
 - Businesses (including entertainment, the arts, unique restaurants) and compatibly designed residences are integrated as a community.
 - Outside visitors are drawn both to stay overnight as well as to visit and shop. It is a tourist attraction known throughout Oregon and beyond.

- **Clarification of Design District is needed.**
 - The draft you are considering notes "design of residential dwellings is an area that may require attention moving forward."

- The Nov. 12 Planning Commission Work Session notes “general agreement that the group (PC) should further engage with the Nye Beach community possibly in the spring or in partnership with City Council sponsored event.”
- The current draft is in response to a referral from City Council seeking the Planning Commission to review the overall Design District.

- **Resources are a real issue.**
 - As the staff has noted, the City does not have the resources that were anticipated at the time that Council referred the issue to the Commission.

- **Bottom Line:**
 - **The need for review and updating has not diminished- There is no question that it is needed.**
 - **Current resources do not exist to meet this need.**

- **Solutions needed:**
 - **Definitively articulate the need, and**
 - **Seek the needed resources- most likely through grant funding and/or further exploring resources available to the city that can get the job completed.**

Thank you for your consideration.

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PLANNING STAFF REPORT
Case File No. 2-NCU-20

- A. **APPLICANT/OWNERS:** Samer and Miyoko Abufadil.
- B. **REQUEST:** Approval of a request per Section 14.32/“Non-conforming Uses, Lots, and Structures” of the Newport Municipal Code, for an alteration of a non-conforming, licensed short-term rental from a two-bedroom to a three-bedroom unit.
- C. **LOCATION:** 736 NW 3rd Street
- D. **LEGAL DESCRIPTION:** Tax Lot 10600 of Lincoln County Assessor’s Tax Map 11-11-05-CC, in the City of Newport, County of Lincoln, Oregon.
- E. **LOT SIZE:** Approximately 4,356 sq. ft.
- F. **STAFF REPORT**

1. **REPORT OF FACT**

- a. **Plan Designation:** Commercial.
- b. **Zone Designation:** C-2/“Tourist Commercial” and Historic Nye Beach Design review Overlay.
- c. **Surrounding Land Uses:** A mix of single- and multi-family residential, commercial, and public uses.
- d. **Topography and Vegetation:** The existing dwelling is setback from NW 3rd Street, being situated on a bluff overlooking Beach Drive and the Nye Beach Turnaround. The property is elevated a few feet above NW 3rd Street, with a low, concrete retaining wall adjacent to the sidewalk. The site is landscaped, with shrubs and groundcover running along the retaining wall.
- e. **Existing Structures:** Single-family residence.
- f. **Utilities:** All are available to the site.
- g. **Development Constraints:** None known.
- h. **Past Land Use Actions:** File No. 9-CU-85 – authorized construction of a single-family home in a C-2 zoning district. Conditional use review was required at the time because the City had a shortage of commercial property. The residence was constructed in 1986.

File No. 15-NB-99– Nye Beach Design Review Committee found the remodel of the residence to be consistent with the requirements of the Historic Nye Beach Design Review Overlay.

- i. **Notification:** Notification to surrounding property owners and to city departments/public agencies was mailed on May 20, 2020; and the notice of public hearing was published in the Newport News-Times on May 29, 2020.

- j. **Attachments:**

Attachment "A" – Application form

Attachment "B" – Lincoln County Property Report

Attachment "C" – Record of Survey No. 20789, dated June 2018

Attachment "D" – Applicant’s cover letter and narrative

Attachment "E" – Applicant’s site plan

Attachment "F" – Applicant’s business license and endorsement

Attachment "G" – Aerial image and zoning map

Attachment "H" – Photo of the driveway and residence, dated June 2, 2020

Attachment "I" – Public hearing notice

- 2. **Explanation of the Request:** Pursuant to Section 14.32.070/“Alteration, Expansion, or Replacement of Non-conforming Uses and Structures” of the Newport Municipal Code, after verification of the status of a non-conforming use pursuant to Subsection 14.32.060, the approval authority may authorize alteration, expansion, or replacement of any non-conforming use or structure when it is found that such alteration, expansion, or replacement will not result in a greater adverse impact on the neighborhood.

The applicant indicates that they recently remodeled the home and expanded it to three bedrooms and would like to expand their short-term rental occupancy from a two-bedroom (6-person maximum) to a three-bedroom (8-person maximum). They note that their residence is within the area where vacation rentals are permitted, and state that they have parking spaces for three cars, so parking in the neighborhood would not be impacted (Attachment “D”).

- 3. **Evaluation of the Request:**

- a. **Comments:** No comments were received in response to the public notice.
- b. **Application Submittal Requirements:** Pursuant to NMC 14.32.040, applications must include a completed application form, scaled site plan, names and addresses of property owners within the notification area, survey work if structures will not satisfy setback requirements and exterior architectural elevations if structures will exceed building height limitations.
- c. **Verification of Status of Non-conforming Use or Structure:** Pursuant to NMC Section 14.32.060, upon receiving an application to alter, expand, or replace a non-conforming use or structure, the approval authority shall determine that the use or structure is non-conforming. Such determination shall be based on findings that:

- The use or structure was legally established at the time the Zoning Ordinance was enacted or amended; and
- The use has not been discontinued for a continuous 12-month period.

The approval authority may require the applicant provide evidence that a use has been maintained over time. Evidence that a use has been maintained may include, but is not limited to, copies of utility bills, tax records, business licenses, advertisements, and telephone or trade listings

The approval authority shall verify the status of a non-conforming use as being the nature and extent of the use at the time of adoption or amendment of the Zoning Code provision disallowing the use (September 7, 1982). When determining the nature and extent of a non-conforming use, the approval authority shall consider:

- Description of the use;
- The types and quantities of goods or services provided and activities conducted;
- The scope of the use (volume, intensity, frequency, etc.), including fluctuations in the level of activity;
- The number, location, and size of physical improvements associated with the use;
- The amount of land devoted to the use; and
- Other factors the approval authority may determine appropriate to identify the nature and extent of the particular use.

A reduction of scope or intensity of any part of the use as determined under this subsection for a period of 12 months or more creates a presumption that there is no right to resume the use above the reduced level. Non-conforming use status is limited to the greatest level of use that has been consistently maintained since the use became non-conforming. The presumption may be rebutted by substantial evidentiary proof that the long-term fluctuations are inherent in the type of use being considered.

- d. **Applicable Criteria (Section 14.32.070):** After verification of the status of a non-conforming use pursuant to Subsection 14.32.060, the approval authority may authorize alteration, expansion, or replacement of any non-conforming use or structure when it is found that such alteration, expansion, or replacement will not result in a greater adverse impact on the neighborhood. In making this finding, the approval authority shall consider the factors listed below. Adverse impacts to one of the factors may, but shall not automatically, constitute greater adverse impact on the neighborhood.

- (1) The character and history of the use and of development in the surrounding area;
- (2) The comparable degree of noise, vibration, dust, odor, fumes, glare, or

- smoke detectable within the neighborhood;
- (3) Adequacy of infrastructure to accommodate the use. For the purpose of this subsection, infrastructure includes sewer, water, and streets;
- (4) The comparative numbers and kinds of vehicular trips to the site;
- (5) The comparative amount and nature of outside storage, loading, and parking;
- (6) The comparative visual appearance;
- (7) The comparative hours of operation;
- (8) The comparative effect on solar access and privacy;
- (9) Other factors that impact the character or needs of the neighborhood.

The approval authority must consider the purpose of the current zoning provisions that cannot be satisfied when determining whether the alteration, expansion, or replacement of a non-conforming use or structure will have a greater adverse impact on the neighborhood.

To the extent there is a rational nexus, and the City can establish that needed improvements are roughly proportional to proposed development, and alteration, expansion, or replacement of a non-conforming use or structure shall be brought into compliance with provisions of the Zoning Ordinance that relate to:

- (1) Surfacing or parking areas and landscaping;
- (2) Exterior design of structures;
- (3) Outdoor displays, storage, and signage.

e. **Staff Analysis:**

To grant the permit, the Planning Commission must find that there is substantial evidence that the Commission can rely upon to verify the nature and extent of the existing non-conformity, and that the expansion will not result in a greater adverse impact on the neighborhood considering the criteria listed under NMC 14.32.070. With that in mind, staff offers the following analysis:

- (1) The nature and extent of the existing non-conforming use is that of a 2-bedroom vacation rental, operated out of a 900 sq. ft. single family residence. The home was built in 1986 at a time when residential use at street grade required conditional use approval (File No. 9-CU-85). Exterior modifications, made to the residence in 1999 were found to be compliant with the requirements of the Nye Beach Design Review Overlay (File No. 15-NB-99).
- (2) The current owner acquired the property on July 17, 2018. They obtained a license to operate a two-bedroom vacation rental with a maximum occupancy of six on October 2, 2018 (Endorsement No. 261), under land use regulations then in effect. The unit became non-conforming with the passage of Ordinance No. 2144, effective May 7, 2019. The ordinance limits vacation rental use to a single building on a lot, or group of lots, that abut a street segment (Ref: NMC 14.25.030(B)). A zoning map of the area shows that there are

presently two buildings containing vacation rentals along the subject segment of NW 3rd Street. Both were in existence prior to the effective date of Ordinance No. 2144, and enactment of the ordinance rendered them non-conforming. One of the buildings contains the Archway Place condominiums at the corner of NW 3rd and Coast Street and the other is the applicant's property (Attachment "G"). The applicant renewed their license for a two-bedroom, non-conforming vacation rental effective July 1, 2019 and the license is effective through June 30, 2020 (Attachment "F"). This is sufficient evidence for the Commission to conclude that use of the vacation rental has not been discontinued.

(2) The Planning Commission must find that expansion of the non-conforming short-term rental from two-bedrooms to three-bedrooms will result in no greater adverse impact on the neighborhood, relative to the following:

(a) The character and history of the use and of development in the surrounding area.

- (i) The applicant believes that the character and history of the use and of development in the surrounding neighborhood will remain unaltered as they have no plans to change the existing structure or the current business to have a three-bedroom rental; it is already a three-bedroom house and two-bedroom rental.
- (ii) Nye Beach is a mixed-use neighborhood with tourist commercial venues, such as restaurants and retail stores, near the applicant's property. Further, short-term rentals have a long history in Nye Beach, with many having existed for decades. These are some of the reasons why short-term rentals are permitted in this portion of the City, subject to limitations, and it would be reasonable for the Planning Commission to find that the fact that the dwelling is located within the permissible area boundary (as opposed to an area where short-term rentals are being slowly phased out) is a compelling factor in finding this criterion to be satisfied.
- (iii) Based on findings and testimony regarding the character and history of the use and of development in the surrounding area, it would be reasonable for the Planning Commission to conclude that a change from a two-bedroom to a three-bedroom rental will not cause any greater adverse impact on the neighborhood relative to this criterion.

(b) The comparable degree of noise, vibration, dust, odor, fumes, glare, or smoke detectable within the neighborhood.

- (i) The applicant explains that the degree of noise, vibration, dust, odor, fumes, glare or smoke detectable will remain unaltered as there will be no new construction or expansion on the property with this proposal.

- (ii) The proposal involves the transient (i.e. short-term) residential occupancy of a dwelling. Increasing in the number of occupants results in a higher level of use; however, it is still residential and unlikely to have any measurable impacts relative to these factors, which tend to be more relevant to non-conforming commercial or industrial uses.
- (iii) Based on findings and testimony regarding the comparable degree of noise, vibration, dust, odor, fumes, glare, or smoke detectible within the neighborhood, it would be reasonable for the Planning Commission to conclude that expansion of the short-term rental use would not cause any greater adverse impact on the neighborhood relative to this criterion.

(c) Adequacy of infrastructure to accommodate the use (including sewer, water, and streets).

- (i) The applicant states that infrastructure is already adequate to accommodate a three-bedroom home and the home size is not being altered for this request.
- (ii) Based on findings and testimony regarding the adequacy of infrastructure, it would be reasonable for the Planning Commission to conclude that expansion of the short-term rental use would not cause any greater adverse impact on the neighborhood relative to this criterion.

(d) The comparative numbers and kinds of vehicular trips to the site.

- (i) The applicant notes that the vehicular trips to the site should not be impacted to any significant degree because they already accommodate three vehicles and anticipate that they will not have an increase in the number of vehicles beyond that.
- (ii) The comparative number of vehicle trips associated with a two-bedroom versus a three-bedroom short-term rental, when viewed in the context of the larger mixed-use neighborhood, is a very minor change, and it would be reasonable for the Planning Commission to find that this is not a compelling factor considering that the streets in this portion of the City are fully developed.
- (iii) Based on findings and testimony regarding the comparative numbers and kinds of vehicular trips to the site, it would be reasonable for the Planning Commission to conclude that expansion of the short-term rental use would not cause any greater adverse impact on the neighborhood relative to this criterion.

(e) The comparative amount and nature of outside storage, loading, and parking.

- (i) The applicant states that the amount and nature of outside storage, loading and parking will remain unaltered. They further assert that there is adequate parking already and no need to expand parking beyond the three spaces that are available.
- (ii) For their existing license, the applicant relied upon the paved concrete apron in front of the home for two off-street parking spaces. Given the size of the apron area, it does not appear that a third space can be provided without modifications.
- (iii) The site plan provided by the applicant suggests that the existing driveway can accommodate vehicles (Attachment “E”). However, as illustrated on the 2018 survey (Attachment “C”) and photographs (Attachment “H”), the driveway straddles a common property line with the parcel to the east and is painted “no parking,” presumably so the tenants can access the respective dwellings. About 6-7 feet of the driveway appears to be on the applicant’s property, given the location of the survey pin (see red circled area on photos). Such width is not sufficient to accommodate vehicle parking.
- (iv) The applicant can demonstrate that there will be no greater adverse impact on the neighborhood relative to the comparative number and nature of parking spaces if they (a) provide legal documentation showing that they control the entire driveway and can use it for parking or (b) submit a scaled site plan showing that they can provide three, 9-ft x 18-ft off-street parking spaces without obstructing the neighbors use of the driveway. A recommended condition of approval to this affect is included below.
- (v) Based on findings and testimony regarding the comparative amount and nature of outside storage, loading, and parking, it would be reasonable for the Planning Commission to conclude that expansion of the short-term rental use would not cause any greater adverse impact on the neighborhood, as conditioned.

(f) The comparative visual appearance.

- (i) The applicant states that the visual appearance of the structure will not be altered; it is a three-bedroom home and they will not be altering it in any way for this proposal.

- (ii) Based on findings and testimony regarding the comparative visual appearance, it would be reasonable for the Planning Commission to conclude that expansion of the short-term rental use would not cause any greater adverse impact on the neighborhood relative to this criterion.

(g) The comparative hours of operation.

- (i) The applicant notes that the hours of operation will remain identical for a three-bedroom rental as for a two-bedroom rental.
- (ii) Based on findings and testimony regarding the comparative hours of operation, it would be reasonable for the Planning Commission to conclude that expansion of the short-term rental use would not cause any greater adverse impact on the neighborhood relative to this criterion.

(h) The comparative effect on solar access and privacy.

- (i) The applicant notes that there will be no effect on solar access or privacy since no new construction is proposed and the structure will remain unaltered.
- (ii) Based on findings and testimony regarding the comparative effect on solar access and privacy, it would be reasonable for the Planning Commission to conclude that expansion of the short-term rental use would not cause any greater adverse impact on the neighborhood relative to this criterion.

(i) Other factors which impact the character or needs of the neighborhood.

The applicant indicates that they could not identify any other factors that impact the character or needs of the neighborhood, and it would be reasonable for the Planning Commission to conclude that no such factors exist.

(j) The approval authority must consider the purpose of the current zoning provisions that cannot be satisfied when determining whether the alteration, expansion, or replacement of a non-conforming use or structure will have a greater adverse impact on the neighborhood.

- (i) The current spacing standard of one building being dedicated to vacation rental use per street segment is not met. The applicant's proposal; however, does not exacerbate the situation. That is there are two buildings dedicated to vacation rental use now, and the same would be true if the applicant's proposal is approved.

- (ii) A condition of approval can be imposed to require one off-street parking space per room dedicated to vacation rental use, which is the current standard.
- (iii) Based on findings and testimony regarding the purpose of the current zoning provision that cannot be satisfied, it would be reasonable for the Planning Commission to conclude that expansion of the short-term rental use would not cause any greater adverse impact on the neighborhood.
- (k) To the extent there is a rational nexus, and the City can establish that needed improvements are roughly proportional to proposed development, and alteration, expansion, or replacement of a non-conforming use or structure shall be brought into compliance with provisions of the Zoning Ordinance that relate to:
 - (1) Surfacing or parking areas and landscaping;
 - (2) Exterior design of structures;
 - (3) Outdoor displays, storage, and signage.
 - (i) There is no evidence that improvements are needed in conjunction with expansion of the short-term rental use.

4. **Conclusion:** If the Planning Commission finds that expansion of the non-conforming use will not result in a greater adverse impact on the neighborhood, and the applicant has met the criteria established in the Zoning Ordinance for authorizing alteration/expansion of a non-conforming use, then the Commission should approve the request. The Commission can attach reasonable conditions that are necessary to carry out the purposes of the Zoning Ordinance and the Comprehensive Plan. If the Commission finds that the request does not comply with the criteria, then the Commission should deny the application.

G. **STAFF RECOMMENDATION:** As outlined in this report, this application to expand a non-conforming short-term rental can satisfy the approval criteria provided conditions are imposed as outlined below. Accordingly, the Commission should approve this request, subject to the following:

1. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to this report. No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner to comply with these documents and the limitations of approval described herein.
2. The applicant shall either (a) provide legal documentation showing that they control the entire driveway and can; therefore, use it for parking or (b) submit a scaled site plan showing that they can provide three, 9-ft x 18-ft off-street parking spaces without obstructing the neighbors use of the driveway. Such evidence shall be submitted to the Community Development Department before a change to the license, from two-bedrooms to three-bedrooms is approved

A handwritten signature in blue ink, appearing to read "Derrick I. Tokos".

Derrick I. Tokos AICP
Community Development Director
City of Newport

June 3, 2020

RECEIVED

MAR 2 2020

CITY OF NEWPORT



City of Newport
Land Use Application

Applicant Name(s):	Property Owner Name(s) if other than applicant
Samer and Miyoko Abufadil	Samer and Miyoko Abufadil
Applicant Mailing Address:	Property Owner Mailing Address:
1033 SW Ardmore Ave, Portland, OR	1033 SW Ardmore Ave, Portland 97205
Applicant Phone No.	Property Owner Phone No.
503 984-3124 or 503 984-4068	503 984-3124 or 503 984-4068
Applicant Email	Property Owner Email
samer_abufadil@yahoo.com	samer_abufadil@yahoo.com
Authorized Representative(s): <i>Person authorized to submit and act on this application on applicant's behalf</i>	
Same as above	
Authorized Representative Mailing Address:	
Authorized Representative Telephone No.	
Authorized Representative Email.	

Project Information

Property Location: <i>Street name if address # not assigned</i>	
736 NW 3rd Street; Newport, OR 97205	
Tax Assessor's Map No.: 11-11-05-cc-10600-00	Tax Lot(s): 10600
Zone Designation: C2	Legal Description: <i>Add additional sheets if necessary</i>
Comp. Plan Designation:	
Brief description of Land Use Request(s): <i>Examples:</i>	
1. <i>Move north property line 5 feet south</i>	Short term rental alteration 2 bdrm to 3 bdrm
2. <i>Variance of 2 feet from the required 15-foot front yard setback</i>	
Existing Structures: if any	
Already existing 3 bedroom home with 3 parking spaces	
Topography and Vegetation:	
level lot in the front, steep drop in the back; all grass/shrubs with parking and patio	

Application Type (please check all that apply)

- | | | |
|--|---|--|
| <input type="checkbox"/> Annexation | <input type="checkbox"/> Interpretation | <input type="checkbox"/> UGB Amendment |
| <input type="checkbox"/> Appeal | <input type="checkbox"/> Minor Replat | <input type="checkbox"/> Vacation |
| <input type="checkbox"/> Comp Plan/Map Amendment | <input type="checkbox"/> Partition | <input type="checkbox"/> Variance/Adjustment |
| <input type="checkbox"/> Conditional Use Permit | <input type="checkbox"/> Planned Development | <input type="checkbox"/> PC |
| <input type="checkbox"/> PC | <input type="checkbox"/> Property Line Adjustment | <input type="checkbox"/> Staff |
| <input type="checkbox"/> Staff | <input type="checkbox"/> Shoreland Impact | <input type="checkbox"/> Zone Ord/Map |
| <input type="checkbox"/> Design Review | <input type="checkbox"/> Subdivision | <input type="checkbox"/> Amendment |
| <input type="checkbox"/> Geologic Permit | <input type="checkbox"/> Temporary Use Permit | <input checked="" type="checkbox"/> Other <i>Alteration to Nonconforming</i> |

FOR OFFICE USE ONLY

File No. Assigned: 2-NCU-20 <i>625-20-000 015-PLNG</i>		
Date Received: 3/2/2020	Fee Amount: 802	Date Accepted as Complete:
Received By: CC	Receipt No. 3936	Accepted By:

City Hall
169, SW Coast Hwy
Newport, OR 97365
541.574.0629

RECEIVED



City of Newport Land Use Application

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

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

 Applicant Signature(s)	2/28/20 Date
Property Owner Signature(s) (if other than applicant)	Date
Authorized representative Signature(s) (if other than applicant)	Date

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

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

Lincoln County Property Report

Account # & Prop. Info		Account Details		Owner & Address	
Account #:	R310087	Neighborhood:		Owner and	ABUFADIL SAMER &
Map Taxlot:	11-11-05-CC-10600-00	N51I		Mailing Address:	ABUFADIL MIYOKO MUNEYUKI 1033 SW ARDMORE AVE PORTLAND, OR 97205
Tax Map:	11s11w05CC	Property Class:	121	Site Address(es):	736 NW 3RD ST
Web Map:	View Map				
Info:	NYE AND THOMPSON ADDN.-NEWPORT, BLOCK 12, LOT 1,PTN OF, DOC201806914				
Tax Code:	104				
Acres:					

Improvements							
Description	Area	Yr Built	Found	Heat	Plumb	BDMS	Value
MAIN AREA	672 sq ft	1986	CONC	BB	B	2	\$60,290
FINISHED ATTIC	168 sq ft	1986					\$12,670
COVERED PORCH	56 sq ft	1986					\$1,480
ACCESSORY IMPROVEMENTS	1 sq ft						\$2,600

Foundation Code List Heating/AC Code List Plumbing Code List

Value History					
Year	Imp.	Land	Total Market	Total Assessed	Levied Tax
2019	77,040	190,560	267,600	163,940	2,980.12
2018	79,770	211,730	291,500	159,170	2,888.53
2017	69,750	188,210	257,960	154,540	2,862.91
2016	47,390	235,260	282,650	150,040	2,802.21
2015	48,070	259,950	308,020	145,670	2,597.92
2014	48,330	258,950	307,280	141,430	2,539.46
2013	43,310	258,950	302,260	137,320	2,408.33
2012	63,920	271,300	335,220	133,330	2,311.82

Sales History				
Sale Date	Price	Document	Type	Code
07/12/2018	\$287,000	201806914	33	WD
05/05/2014	\$237,500	201403736	27	WD

Land	Related Accounts	Disclaimer

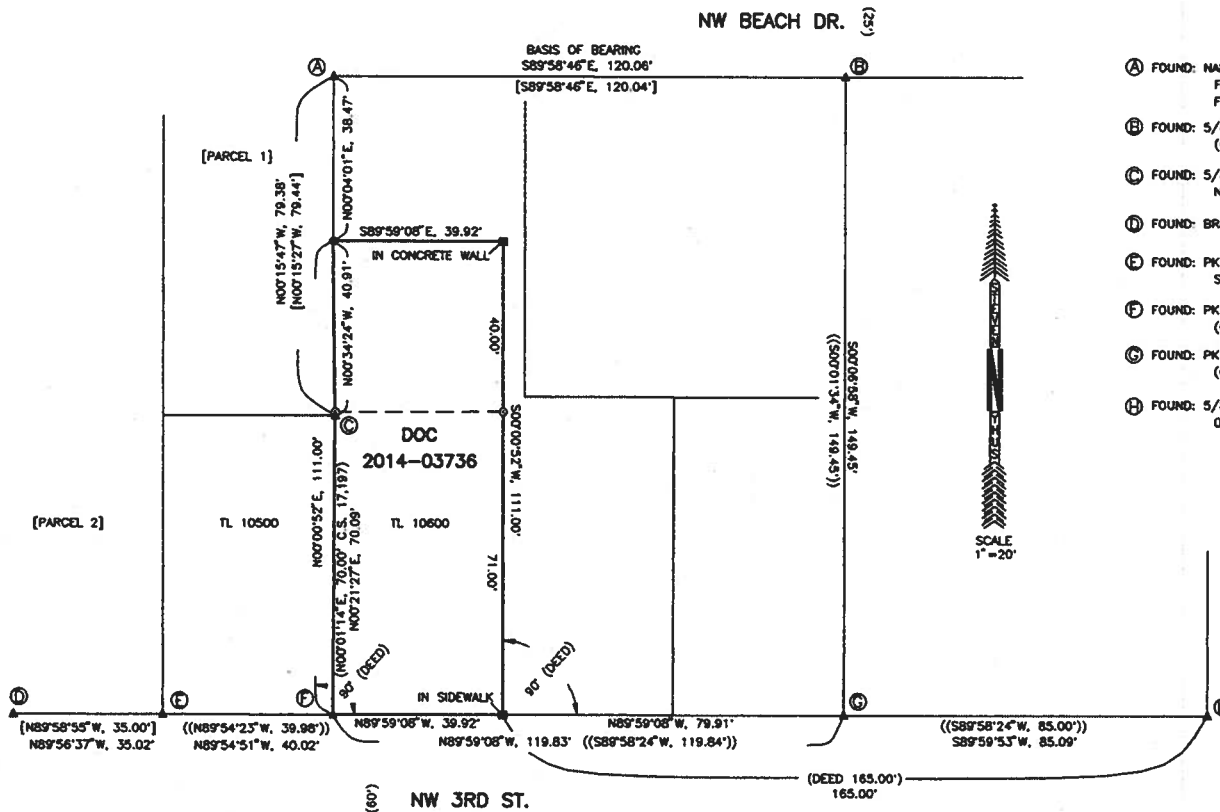
Description	Acres	Market Value	Special Use Value
COM DEV OCEANVIEW SITE	0.1	180,030	
SITE DEVELOPMENT		10,530	

For assessment purposes only. Lincoln County makes no warranty as to the accuracy of the information provided. Users should consult with the appropriate City, County or State Department or Agency concerning allowed land uses, required permits or licenses, and development rights on specific properties before making decisions based on this information.
Tax data exported 10/2019.

Today's Date: 06/02/2020

C.S. # 20789
FILED 19 June 2018
LINCOLN COUNTY SURVEYOR

SURVEY PREPARED FOR
LAURIE AND WENDY BUDGAR
A PORTION OF BLOCK 12, "NYE AND THOMPSON'S ADDITION"
LOCATED IN THE SW 1/4 - SW 1/4 OF SECTION 5, T11S, R11W, W.M.
CITY OF NEWPORT, LINCOLN COUNTY, OREGON
(11-11-05-CC TAX LOT 10600)
MAY 21, 2018



MONUMENT DESCRIPTIONS

- (A) FOUND: NAIL AND WASHER, PAINTED OVER FLUSH IN TOP OF CURB (PP 2013-9) FROM WHICH: FOUND: 5/8" IRON ROD WITH YELLOW PLASTIC CAP MARKED, "RLS 1994", FLUSH, (C.S. 18,411) BEARS SOUTH 00°53' EAST. 0.84 FEET
- (B) FOUND: 5/8" IRON ROD WITH YELLOW PLASTIC CAP MARKED, "FERGUSON PLS 2279", FLUSH (C.S. 18,061)
- (C) FOUND: 5/8" IRON ROD WITH DAMAGED YELLOW PLASTIC CAP MARKED, "DENSON SURV NEWPORT OR", 0.2' ABOVE GRADE (C.S. 17,197)
- (D) FOUND: BRASS NAIL AND WASHER MARKED, "NYHUS LS 2515", FLUSH IN SIDEWALK (PP 2013-9)
- (E) FOUND: PK NAIL AND STEEL WASHER MARKED, "DENSON SURVEYING" (EXTRA Y IS STAMPED ON WASHER), FLUSH IN SIDEWALK (C.S. 17,197)
- (F) FOUND: PK NAIL AND STEEL WASHER MARKED, "DENSON SURVEYING", FLUSH IN SIDEWALK (C.S. 17,197)
- (G) FOUND: PK NAIL AND STEEL WASHER MARKED, "PLS 2400", IN TOP OF RETAINING WALL (C.S. 18,245)
- (H) FOUND: 5/8" IRON ROD WITH YELLOW PLASTIC CAP MARKED, "DENSON SURV NEWPORT OR", 0.1' ABOVE GRADE (C.S. 18,245)



REGISTERED PROFESSIONAL LAND SURVEYOR
Steven E. Nyhus
OREGON SEPTEMBER 03, 2008
STEVEN E. NYHUS
BS440015
RENEWAL DATE:
DEC. 31, 2018

NARRATIVE

THE PURPOSE OF THIS SURVEY IS TO LOCATE AND MONUMENT THE CORNERS OF THE TRACT DESCRIBED IN LINCOLN COUNTY DEED DOCUMENT 2014-03736. I FOUND AND HELD MONUMENTATION FROM LINCOLN COUNTY SURVEYS 17,197, 18,061, 18,245 AND LINCOLN COUNTY PARTITION PLAT 2013-9 TO CONTROL THIS SURVEY. I HELD DEED RECORD DISTANCE FROM THE SOUTHEAST CORNER OF BLOCK 12, "NYE AND THOMPSON'S ADDITION TO NEWPORT" ALONG THE SOUTHERLY BOUNDARY OF SAID BLOCK TO CALCULATE THE SOUTHEAST CORNER OF THE SUBJECT TRACT. I THEN TURNED DEED RECORD 90 DEGREES OFF OF THE SOUTHERLY BOUNDARY OF SAID BLOCK 12 AND WENT DEED RECORD DISTANCE FROM THE SOUTHERLY BOUNDARY OF SAID BLOCK 12 AND WENT DEED RECORD DISTANCE FROM THE SOUTHERLY BOUNDARY OF SAID BLOCK 12 TO CALCULATE THE NORTHERLY CORNERS OF SAID TRACT. BEARINGS AS SHOWN ARE BASED ON LINCOLN COUNTY PARTITION PLAT 2013-9 RECORD BETWEEN MONUMENTS (A) AND (B). THIS SURVEY WAS PERFORMED USING A LEICA TS11 TOTAL STATION (3" ANGULAR PRECISION, 1 MM ± 1.5 PPM DISTANCE PRECISION).

LEGEND

- MONUMENT SET: 5/8" X 3/4" RE-BAR WITH YELLOW PLASTIC CAP MARKED "NYHUS SURVEYING"
- ▲ MONUMENT FOUND: HELD FOR CONTROL, AS NOTED
- MONUMENT SET: BRASS NAIL WITH WASHER MARKED "NYHUS SURVEY"
- CALCULATED POSITION ONLY
- () RECORD INFORMATION, AS NOTED
- [] RECORD: PARTITION PLAT 2013-9
- (()) RECORD C.S. 18,245

NYHUS SURVEYING INC.
GARY NYHUS / STEVEN NYHUS
PROFESSIONAL LAND SURVEYOR
P.O. BOX 206
740 E. THISSELL RD. TIDEWATER, ORE 97390
(541) 528-3234
DRAWN BY: GM MAPPING -GREG MURRY- (541) 528-7082 / 372SRV

CHECKED BY:	SEN
DRAWN BY:	GAM
DATE:	5-18-2018
SCALE:	1" = 20'
PROJECT:	18045

To the City of Newport Land Use Commission:

We are requesting approval for land use alteration for a current short-term rental. We currently have a business license to rent a 2-bedroom home as short-term rental on 3rd street in Nye commercial center. We have recently remodeled the home and expanded to a 3 bedroom. We would like to update the business license to reflect the ability to have a 3-bedroom rental.

As a 3-bedroom rental, this will have no impact on current conditions in any way. We currently are in the overlay zone and should not be phased out. We have parking space for 3 cars and would not be impacting the parking at Nye in any way. We are not adding more units to the spacing regulations as we are already approved for rental in that location.

We appreciate your consideration in this matter.

Thank you

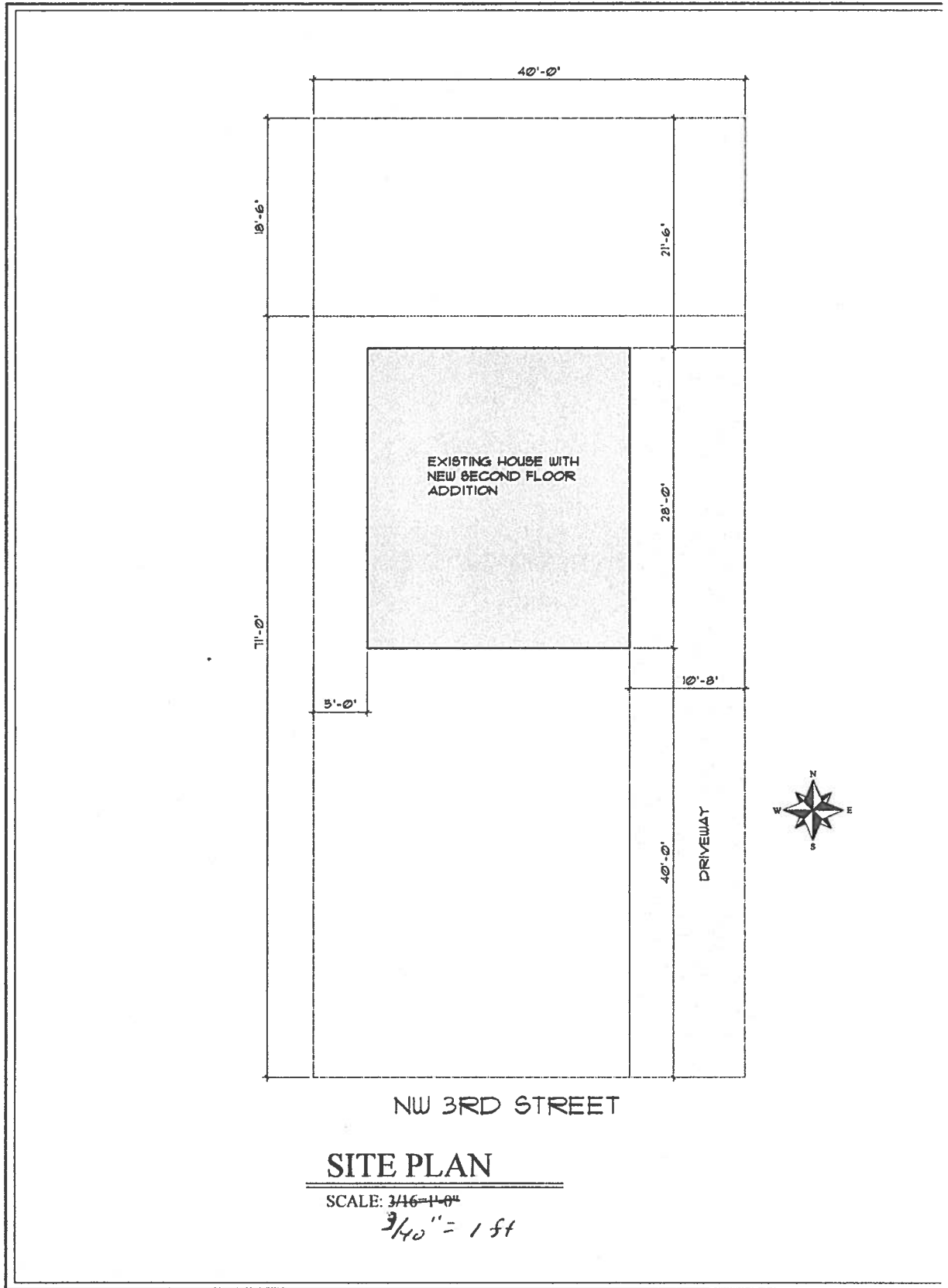
A handwritten signature in black ink, appearing to read 'Samer and Miyoko Abufadil', written in a cursive style.

Samer and Miyoko Abufadil

Findings of Fact for 736 NW 3rd St proposal:

- A- The character and history of the use and of development in the surrounding neighborhood will remain unaltered as there are no plans to change the existing structure or the current business in order to have a 3-bedroom rental; it is already a 3-bedroom house and 2-bedroom rental.
- B- The degree of noise, vibration, dust, odor, fumes, glare or smoke detectable will remain unaltered as there will be no new construction or expansion on the property with this proposal.
- C- The infrastructure is already adequate to accommodate a 3-bedroom home and the home size is not being altered for this request.
- D- The vehicular trips to the site should not be impacted to any significant degree as we can already accommodate 3 vehicles and I anticipate that we will not have an increase in the number of vehicles beyond that.
- E- The amount and nature of outside storage, loading and parking will remain unaltered. There is adequate parking already and no need to expand parking beyond the 3 spaces that are available.
- F- The visual appearance of the structure will not be altered; it is a 3-bedroom home and we will not be altering it in any way for this proposal.
- G- The hours of operation will remain identical for a 3-bedroom rental as for a 2-bedroom rental.
- H- The effect on solar access and privacy is changed as there is no new construction for this proposal; the structure remains unaltered.
- I- There are no factors that we can determine will impact the character or needs of the neighborhood. Our proposal is simply to take an existing 3-bedroom home and use it as a 3-bedroom rental instead of having one room locked off. This will give guests a more comfortable area to sleep instead of a sleeper sofa as the extra bed.

Architectural drawing
scaled 40% to fit (for 736 NW 3rd St,



CITY OF NEWPORT
169 S.W. COAST HWY
NEWPORT, OR 97365
Telephone: (541) 574-0611
Fax: (541) 574-3355

CITY OF NEWPORT ORDINANCE NO. 1604
BUSINESS LICENSE

LOCATION OF BUSINESS:

736 NW 3rd St

NAME AND ADDRESS OF BUSINESS:

Seamist Cottage at Nye
1033 SW Ardmore Ave
Portland OR 97205

LICENSE EFFECTIVE:

FROM: July 1, 2019
TO: June 30, 2020

LICENSE NO: 6137
CUSTOMER: 6137

License Fee:	\$ 495.00
Balance:	

CLASSIFICATION: VACATION RENTAL

THIS IS TO CERTIFY that the Licensee has paid the required License Fee and is entitle to conduct business as indicated within the City of Newport, in a lawful manner and subject to the provisions of all ordinances in effect. This License is non-transferable, except through the Finance Department as the ordinance directs.

THIS LICENSE MUST BE POSTED IN A CONSPICUOUS PLACE ON THE PREMISES

NOTE: INFORMATION ON THIS FORM WILL BE RELEASED FOR LISTING ON AN INTERNET DATABASE

**CITY OF NEWPORT
BUSINESS LICENSE ENDORSEMENT
FOR VACATION RENTAL OR BED & BREAKFAST FACILITY**

The City of Newport, Oregon, does hereby certify that the residence located at 736 NW 3rd Street has made application, passed inspection, and is authorized to operate as a vacation rental or Bed and Breakfast facility under the requirements of Newport Municipal Code (NMC) Chapter 14.25.

Dated this 2nd Day of October, 2018.

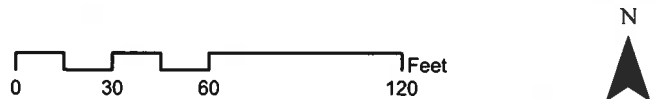
Occupancy Limit:6

This BL Endorsement shall be located within the VRD or B&B: the location of which shall be posted inside the unit's primary entrance. Other information to be provided shall include occupancy limits; a phone number & address for the designated contact; a diagram of the premises with parking locations; the maximum number of vehicles that can be parked on-site; instructions for trash pick-up, storage & recycling; emergency information; and the noise limitations of NMC Section 8.15.015. This information shall be maintained & current at all times.





**Zoning Map - 736 NW 3rd Street
 (Pink Dots Represent Short-Term Rentals)**



This map is for informational use only and has not been prepared for, nor is it suitable for legal, engineering, or surveying purposes. It includes data from multiple sources. The City of Newport assumes no responsibility for its compilation or use and users of this information are cautioned to verify all information with the City of Newport Community Development Department.





**CITY OF NEWPORT
PUBLIC NOTICE¹**

Attachment "I"
2-NCU-20

NOTICE IS HEREBY GIVEN that the Planning Commission of the City of Newport, Oregon, will hold a public hearing to consider the following Nonconforming Use Permit request:

File No. 2-NCU-20:

Applicant: Samer and Miyoko Abufadil, 1033 SW Ardmore Avenue, Portland, OR 97205.

Request: Approval of a request per Section 14.32/“Nonconforming Uses, Lots, and Structures” of the Newport Municipal Code, for an alteration of a nonconforming use to allow a licensed nonconforming short-term rental to change from a two-bedroom rental unit to three-bedrooms.

Location: 736 NW 3rd Street (Lincoln County Assessor’s Map 11-11-05-CC; Tax Lot 10600).

Applicable Criteria: Pursuant to NMC Section 14.32.060(A), the approval authority shall determine that the structure was legally established at the time the Zoning Ordinance was enacted or amended, and that the use has not been discontinued for a continuous 12-month period. The approval authority must also verify the nature and extent of the nonconforming use, considering (1) a description of the use; (2) The types and quantities of goods or services provided and the activities conducted; (3) The scope of the use (volume, intensity, frequency, etc.) including fluctuations in the level of activity; (4) The number, location and size of physical improvements associated with the use; (5) The amount of land devoted to the use; and (6) Other factors the approval authority may determine appropriate to identify the nature and extent of a particular use (NMC Section 14.32.060(B)). Pursuant to NMC Section 14.32.070, after verification of the status of a nonconforming use pursuant to subsection 14.32.030, the approval authority may authorize alteration, expansion, or replacement of any nonconforming use or structure when it is found that such alteration, expansion, or replacement will not result in a greater adverse impact on the neighborhood when considering the following factors: (A) (1) The character and history of the use and of development in the surrounding area; (2) The comparable degree of noise, vibration, dust, odor, fumes, glare, or smoke detectable within the neighborhood; (3) Adequacy of infrastructure, including sewer, water, and streets, to accommodate the use; (4) The comparative numbers and kinds of vehicular trips to the site; (5) The comparative amount and nature of outside storage, loading, and parking; (6) The comparative visual appearance; (7) The comparative hours of operation; (8) The comparative effect on solar access and privacy; (9) Other factors which impact the character or needs of the neighborhood. (B) The approval authority must consider the purpose of the current zoning provisions that cannot be satisfied when determining whether or not the alteration, expansion, or replacement of a nonconforming use or structure will have a greater adverse impact on the neighborhood. (C) To the extent there is a rational nexus, and the City can establish that needed improvements are roughly proportional to proposed development, an alteration, expansion, or replacement of a nonconforming use or structure shall be brought into compliance with provisions of the Zoning Ordinance that relate to: (1) Surfacing of parking areas and landscaping; (2) Exterior design of structures; and (3) Outdoor displays, storage, and signage.

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

Reports/Application Material: The staff report may be reviewed or a copy purchased for reasonable cost at the

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

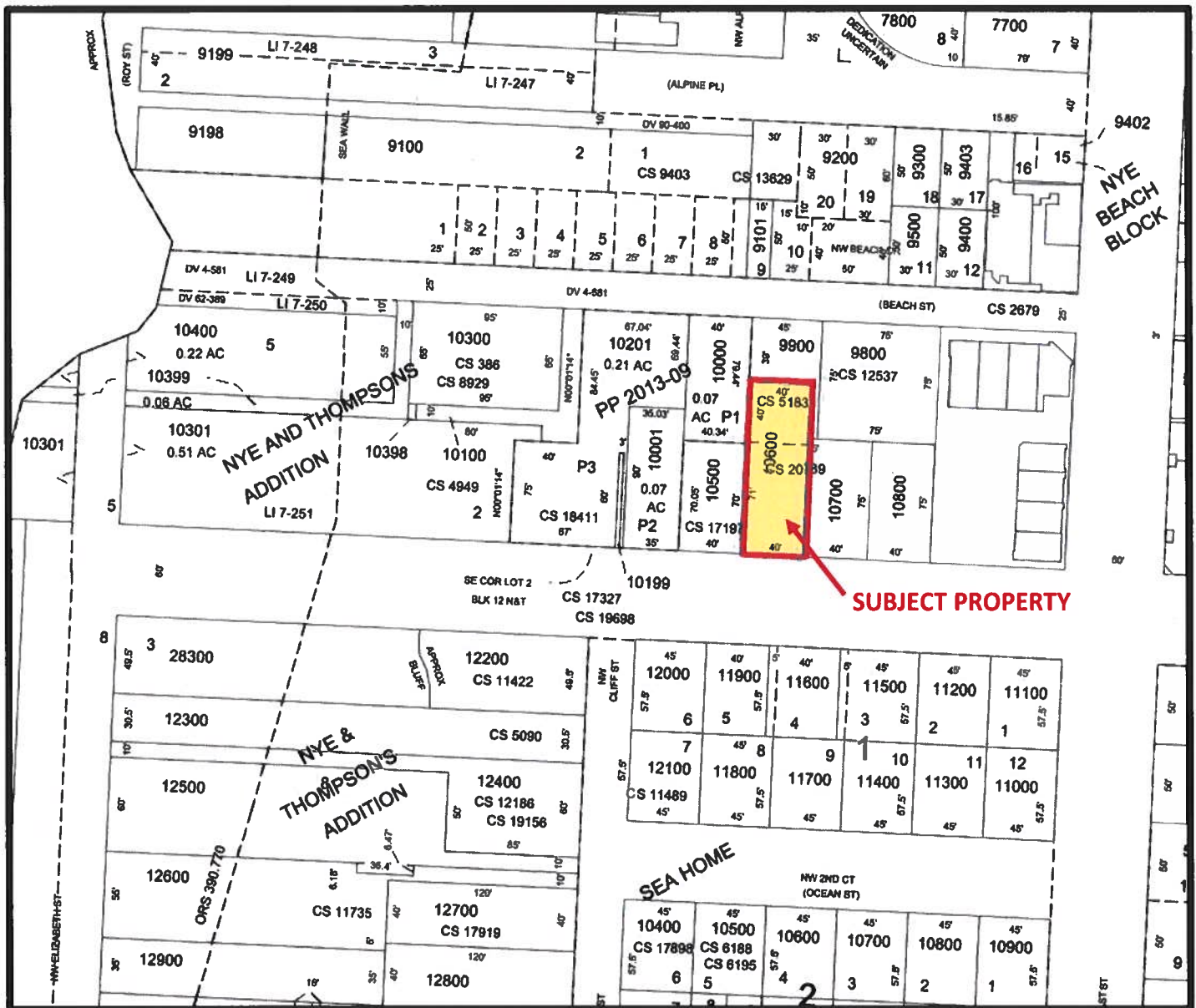
Newport Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, Oregon 97131, seven days prior to the hearing. The application materials (including the application and all documents and evidence submitted in support of the application), the applicable criteria, and other file material are available for inspection at no cost; or copies may be purchased for reasonable cost at this address.

Contact: Derrick Tokos, Community Development Director, (541) 574-0626, d.tokos@newportoregon.gov (mailing address above under "Reports/Application Material").

Time/Place of Hearing: Monday, June 8, 2020; 7:00 p.m.; City Hall Council Chambers (address above in "Reports/Application Material").

MAILED: May 20, 2020.

PUBLISHED: May 29, 2020 / News-Times.



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

The City of Newport Planning Commission will hold a public hearing on Monday, June 8, 2020, at 7:00 p.m. in the City Hall Council Chambers to consider File No. 2-NCU-20. The request submitted by Samer and Miyoko Abufadil is for approval of a request per Section 14.32/“Nonconforming Uses, Lots, and Structures” of the Newport Municipal Code, for an alteration of a nonconforming use to allow a licensed nonconforming short-term rental to change from a two-bedroom rental unit to three-bedrooms. The subject property is located at 736 NW 3rd Street (Lincoln County Assessor’s Map 11-11-05-CC; Tax Lot 10600). Pursuant to NMC Section 14.32.060(A), the approval authority shall determine that the structure was legally established at the time the Zoning Ordinance was enacted or amended, and that the use has not been discontinued for a continuous 12 month period. The approval authority must also verify the nature and extent of the nonconforming use, considering (1) a description of the use; (2) The types and quantities of goods or services provided and the activities conducted; (3) The scope of the use (volume, intensity, frequency, etc.) including fluctuations in the level of activity; (4) The number, location and size of physical improvements associated with the use; (5) The amount of land devoted to the use; and (6) Other factors the approval authority may determine appropriate to identify the nature and extent of a particular use (NMC Section 14.32.060(B)). Pursuant to NMC Section 14.32.070, after verification of the status of a nonconforming use pursuant to subsection 14.32.030, the approval authority may authorize alteration, expansion, or replacement of any nonconforming use or structure when it is found that such alteration, expansion, or replacement will not result in a greater adverse impact on the neighborhood when considering the following factors: (A) (1) The character and history of the use and of development in the surrounding area; (2) The comparable degree of noise, vibration, dust, odor, fumes, glare, or smoke detectable within the neighborhood; (3) Adequacy of infrastructure, including sewer, water, and streets, to accommodate the use; (4) The comparative numbers and kinds of vehicular trips to the site; (5) The comparative amount and nature of outside storage, loading, and parking; (6) The comparative visual appearance; (7) The comparative hours of operation; (8) The comparative effect on solar access and privacy; (9) Other factors which impact the character or needs of the neighborhood. (B) The approval authority must consider the purpose of the current zoning provisions that cannot be satisfied when determining whether or not the alteration, expansion, or replacement of a nonconforming use or structure will have a greater adverse impact on the neighborhood. (C) To the extent there is a rational nexus, and the City can establish that needed improvements are roughly proportional to proposed development, an alteration, expansion, or replacement of a nonconforming use or structure shall be brought into compliance with provisions of the Zoning Ordinance that relate to: (1) Surfacing of parking areas and landscaping; (2) Exterior design of structures; and (3) Outdoor displays, storage, and signage. Testimony and evidence must be directed toward the criteria described above or other criteria in the Comprehensive Plan and its implementing ordinances that the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal (including to the Land Use Board of Appeals) based on that issue. Testimony may be submitted in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. Letters sent to the Newport Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 5:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. The hearing will include a report by staff, testimony (both oral and written) from the applicant and those in favor or opposed to the application, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Pursuant to ORS 197.763 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. The staff report may be reviewed or a copy purchased for reasonable cost at the Newport Community Development Department (address above) seven days prior to the hearing. The application materials, the applicable criteria, and other file material are available for inspection at no cost; or copies may be purchased for reasonable cost at this address as well. Contact Derrick Tokos, Community Development Director, (541) 574-0626, d.tokos@newportoregon.gov (mailing address above).

(FOR PUBLICATION ONCE ON FRIDAY, MAY 29, 2020)

LEGAL DEADLINES:

Wednesday Edition: 5:00pm Thursday PRIOR

Friday Edition: 5:00pm Tuesday PRIOR

NOTICE TO INTERESTED PERSONS

IN THE CIRCUIT COURT FOR THE STATE OF OREGON FOR THE COUNTY OF LINCOLN, Probate Department. In the Matter of the Estate of Donato Luis Ariaga, Case No. 20PB01874, Notice: The Circuit Court of the State of Oregon, for the County of Lincoln, has appointed the undersigned as the Personal Representative of the Estate of Donato Luis Ariaga, deceased.

NOTICE OF BUDGET COMMITTEE MEETING

A public meeting of the Budget Committee of the Yachats Rural Fire Protection District (YRFPD), Lincoln County, State of Oregon, to discuss the budget for the fiscal year July 1, 2020 through June 30, 2021, will be held electronically. The meeting will take place on June 8th, 2020 at 10:30 AM.

NOTICE OF A PUBLIC HEARING

The City of Newport Planning Commission will hold a public hearing on Monday, June 8, 2020, at 7:00 p.m. in the City Hall Council Chambers to review and make a recommendation to the Newport City Council on a Comprehensive Plan text amendment (File No. 2-C-P-18).

legislative amendment is to the "Storm Drainage Facilities" section of the "Public Facilities" element of the Newport Comprehensive Plan. Amendments will replace the current "Storm Sewer Facilities" section in its entirety with the "Storm Drainage Facilities" section, and will identify a list of System Development Charge eligible capital projects in the project list.

against the estate are required to present them with vouchers attached to the administrator's PO Box 64, Tidewater, OR 97390, within four months after the date of first publication of this notice, or the claims may be barred.

NOTICE OF A PUBLIC HEARING

CITY OF NEWPORT: The City of Newport Planning Commission will hold a public hearing on Monday, June 8, 2020, at 7:00 p.m. in the City Hall Council Chambers to consider File No. 2-NCU-20. The request submitted by James and Mikko Abufadil is for approval of a request per Section 14.32/Nonconforming Uses, Lots, and Structures of the Newport Municipal Code, for an alteration of a nonconforming use to allow a licensed nonconforming short-term rental to change from a two-bedroom rental unit to three bedrooms.

FORM LB - 1

NOTICE OF BUDGET HEARING

A public meeting of the BOARD OF COMMISSIONERS will be held on June 11, 2020 at 4:00 p.m. at 1037 NW Grebe St., Seal Rock, Oregon. The purpose of this meeting is to discuss the budget for the fiscal year beginning July 1, 2020 as approved by the SEAL ROCK WATER DISTRICT Budget Committee.

Contact: Joy S King Telephone number: (541) 563-3599 E-mail: info@srwd.org

FINANCIAL SUMMARY - RESOURCES

Table with 4 columns: Actual Amounts 2018-19, Adopted Budget This Year 2019-20, Approved Budget Next Year 2020-21. Rows include Total of All Funds and various fund categories like Beginning Fund Balance, Fees, Licenses, etc.

FINANCIAL SUMMARY - REQUIREMENTS BY OBJECT CLASSIFICATION

Table with 4 columns: Actual Amounts 2018-19, Adopted Budget This Year 2019-20, Approved Budget Next Year 2020-21. Rows include Personnel Services, Materials and Services, Capital Outlay, Debt Service, etc.

FINANCIAL SUMMARY - REQUIREMENTS AND FULL-TIME EQUIVALENT EMPLOYEES (FTE) BY ORGANIZATIONAL UNIT OR PROGRAM

Table with 4 columns: Name of Organizational Unit or Program, FTE for Unit or Program, 2018-19, 2019-20, 2020-21. Rows include Administration, Operations, Total Requirements, Total FTE.

STATEMENT OF CHANGES IN ACTIVITIES AND SOURCES OF FINANCING*

Table with 4 columns: Rate or Amount Imposed, Rate or Amount Imposed, Rate or Amount Approved. Rows include Permanent Rate Levy, Local Option Levy, Levy for General Obligation Bonds.

STATEMENT OF INDEBTEDNESS

Table with 3 columns: Long Term Debt, Estimated Debt Outstanding on July 1, Estimated Debt Authorized, but not Incurred on July 1. Rows include General Obligation Bonds, Other Bonds - Revenue, Other Borrowings - LOC & IFA, Total.

a nonconforming use or structure will have a greater adverse impact on the neighborhood. (C) To the extent there is a rational nexus, and the City can establish that needed improvements are roughly proportional to proposed development, an alteration, expansion, or replacement of a nonconforming use or structure shall be brought into compliance with provisions of the Zoning Ordinance that relate to: (1) Surfacing of parking areas and landscaping; (2) Exterior design of structures; and (3) Outdoor displays, storage, and signage.

form. Oral testimony and written testimony will be taken during the course of the public hearing. Letters sent to the Newport Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97385, must be received by 5:00 p.m. the day of the hearing or must be personally presented during testimony at the public hearing.

Newport Community Development Department (address above) seven days prior to the hearing. The application materials, the applicable criteria, and other file material are available for inspection at no cost; or copies may be purchased for reasonable cost at this address as well. Contact Derrick Tokos, Community Development Director, (541) 574-0828, d.tokos@newportoregon.gov (mailing address above). M29 (88-29)

NOTICE TO INTERESTED PERSONS Notice is hereby given that the undersigned has been appointed Personal Representative of the ESTATE OF LESTER DONALD WAINE, DECEASED, Lincoln County, Oregon, Circuit Court Case No. 20PB02779. All persons having claims against said estate are required to present them, with proper vouchers, within four months after the date of first publication of this notice, as stated below, to the Personal Representative at 285 Highway 101/P.O. Box 700, Waldport, Oregon 97394-0700.

ings, plaintiffs) vs. Doe 1 and Doe 2, being the occupants of or parties in possession or claiming any right to possession of the Real Property commonly known as 620 SW Ferry Ave, Siletz, Oregon 97380; Doe 3 and Doe 4, being the unknown heirs and devisees of Mary Ellen West and also all other persons or parties unknown claiming any right, title, lien, or interest in the property described in the Complaint herein; Joshua Ryan Billy; Matthew B. West; State of Oregon Department of Human Services, Senior and Disabled Services Division; and State of Oregon, Department of Revenue, defendant(s). This is a public auction to the highest bidder for cash or cashier's check, in hand. For more details go to http://www.oregon-sheriffsauctions.org/county/lincoln/ M22 M29 J5 J12 (64-12)

LEGAL DEADLINES: WEDNESDAY EDITION: 5:00pm Thursday FRIDAY EDITION: 5:00pm Tuesday

Sherry Marineau

From: Wendy Engler <wendy.engler@yahoo.com>
Sent: Monday, June 08, 2020 3:13 PM
To: Sherry Marineau
Subject: June 8 PC Meeting, Agenda Item 5A: 2-NCU-20

Greetings Planning Commissioners.

I am requesting answers to the following questions regarding 2-NCU-20:

Attachment "D":

1. In a letter you recently sent to the City of Newport Land Use Commission, you state:

"We have recently remodeled the home and expanded to a 3 bedroom. We would like to update the business license to reflect the ability to have a 3-bedroom rental."

Did you consider asking permission to update the business license before you remodeled?

Regarding Parking:

2. - Where are the 3 off-street parking places?

- How do they function?

- Are your guests encouraged to use the off-street parking? If so, how?

Thank you,
Wendy Engler

Sent from my iPad

Sherri Marineau

From: Samer <samer_abufadil@yahoo.com>
Sent: Monday, June 08, 2020 7:26 AM
To: Derrick Tokos
Cc: Sherri Marineau
Subject: Re: File 2-NCU-20 Scanned File
Attachments: 2A - First Parking Spot (Length).JPG; 2B - First Parking Spot Measurement (Length).JPG; 3A - Second Parking Spot (Length).JPG; 3B - Second Parking Spot Measurement (Length).JPG; 3C - 1st and 2nd Parking Spot (Width).JPG; 3D - 1st and 2nd Parking Spot Measurement (Width).JPG; 4A - 3rd Parking Spot (Length).JPG; 4B - 3rd Parking Spot Measurement (Length).JPG; 4C - 3rd Parking Spot (Width).JPG; 4D - 3rd Parking Spot Measurement (Width).JPG; 5 - Width of asphalt driveway as it crosses past parking spot.JPG; 1 - Map of property from Google.pdf; Site plan to scale showing parking.pdf

Mr. Tako

I was not certain how best to get information regarding the parking to you and the committee. Therefore, I am emailing you photo's and a site plan that you and the committee can review.

We are a bit unclear as to how the parking does not qualify, as we had already submitted for and received approval for the inspection; I believe it was Joseph that came out. However, I would like to explain the asphalt drive and the photos I have attached (they are numbered and labeled).

The first photo (1A) is from google earth. I wanted to show this overview from the sky. You can see that the asphalt driveway and the neighbor's house to the east angle a bit to the east widening the driveway as you go up (I verified this with measurements). Also, on that photo, the lighter grey looking area is the cement parking. The end of that area is exactly 36ft from the western side of our property (enough for two parking spaces). In the google photo, you will see that there is a car on the driveway that has enough space to pass that area.

Photo's 2A and 2B are of the cement parking area with length measurement of the first parking spot.

Photo's 3A and 3B are of the same area showing the second parking spot with length measurement.

Photo's 3C and 3D are of the 1st and 2nd parking area widths with measurements.

Photo's 4A and 4B are of the length of the 3rd parking spot that is gravel with measurements.

Photo's 4C and 4D are of the 3rd parking spot width with measurements.

Photo 5 shows the actual measurement of the asphalt driveway as it crosses past the cement parking spot.

Finally, the last attachment is my site plan draw to scale based on measurements I took this weekend of the property and clearances.

We hope this satisfies the request showing that we can provide parking for three 9ft X18ft off site spaces without obstructing any shared access.

We would appreciate it if you are able to share this info with the committee so we can address any concerns during the meeting this evening. If necessary, I would be happy to meet anyone on site for inspection of the designated parking spots.

Thank you for your time and efforts.

Samer and Miyoko

On Wednesday, June 3, 2020, 10:08:11 AM PDT, Derrick Tokos <d.tokos@newportoregon.gov> wrote:

Good morning,

Attached is a copy of the staff report for the public hearing on Monday. Please review the report and let me know if you have questions.

The hearing will be conducted by videoconference, and will start at 7:00 pm. It will be livestreamed and you can follow along on the City's website at: <https://www.newportoregon.gov/citygov/comm/pc.asp>

Commission members will want to speak with you when the agenda item comes up. At that time we will call you and bridge the call into the meeting. We will use the 503-984-3124 number included in your application, unless you provide a different number that you prefer we use.

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

From: Sherri Marineau
Sent: Wednesday, June 03, 2020 8:29 AM
To: Derrick Tokos <D.Tokos@NewportOregon.gov>
Subject: File 2-NCU-20 Scanned File

Sherri Marineau

City of Newport

Community Development Department
169 SW Coast Highway
Newport, OR 97365
ph: 541.574.0629 fax: 541.574.0644
s.marineau@newportoregon.gov





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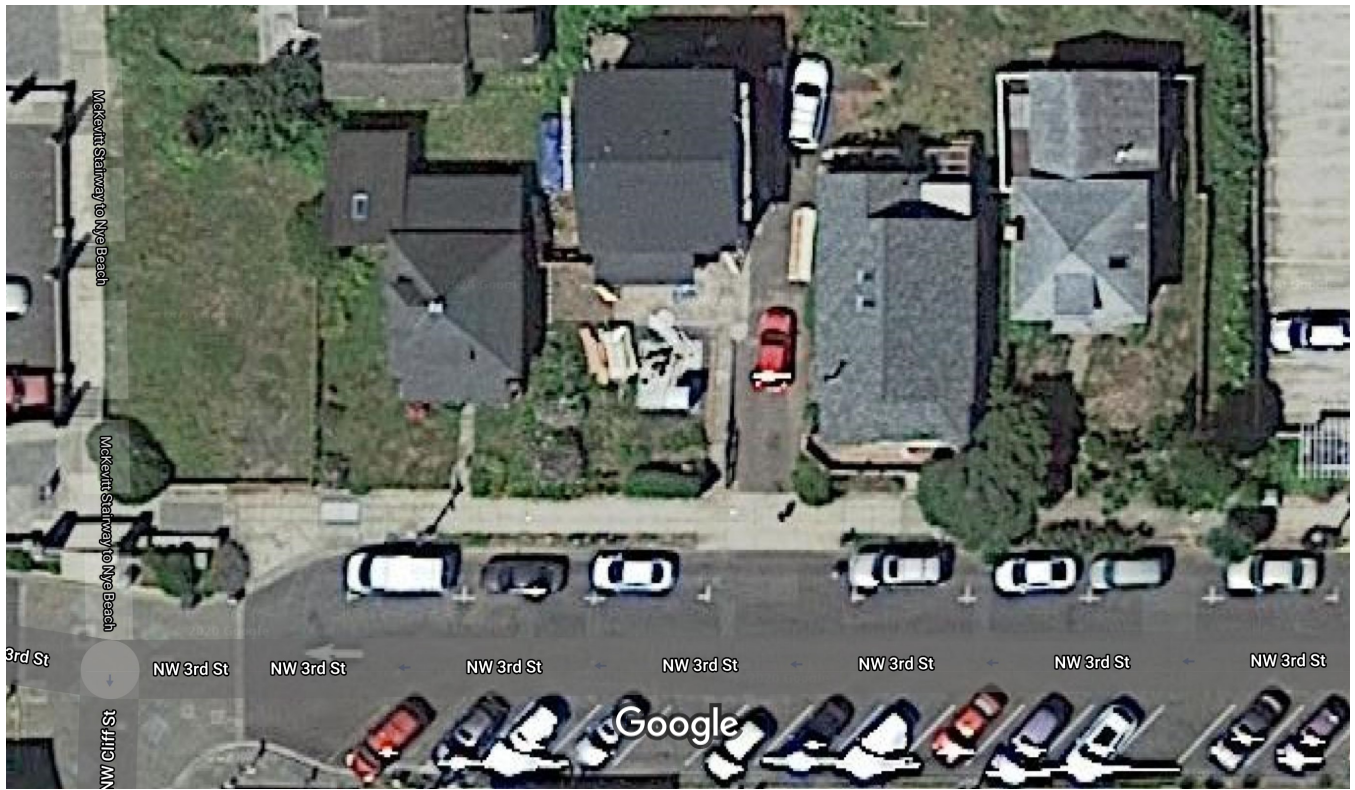


17F 11" 215 18F 1" 216 18F 2" 217 18F 3" 218 18F 4" 219 18F 5" 220 18F 6" 221 18F 7" 222 18F 8" 223 224 18F 9" 225 18F 10" 226 18F 11" 227

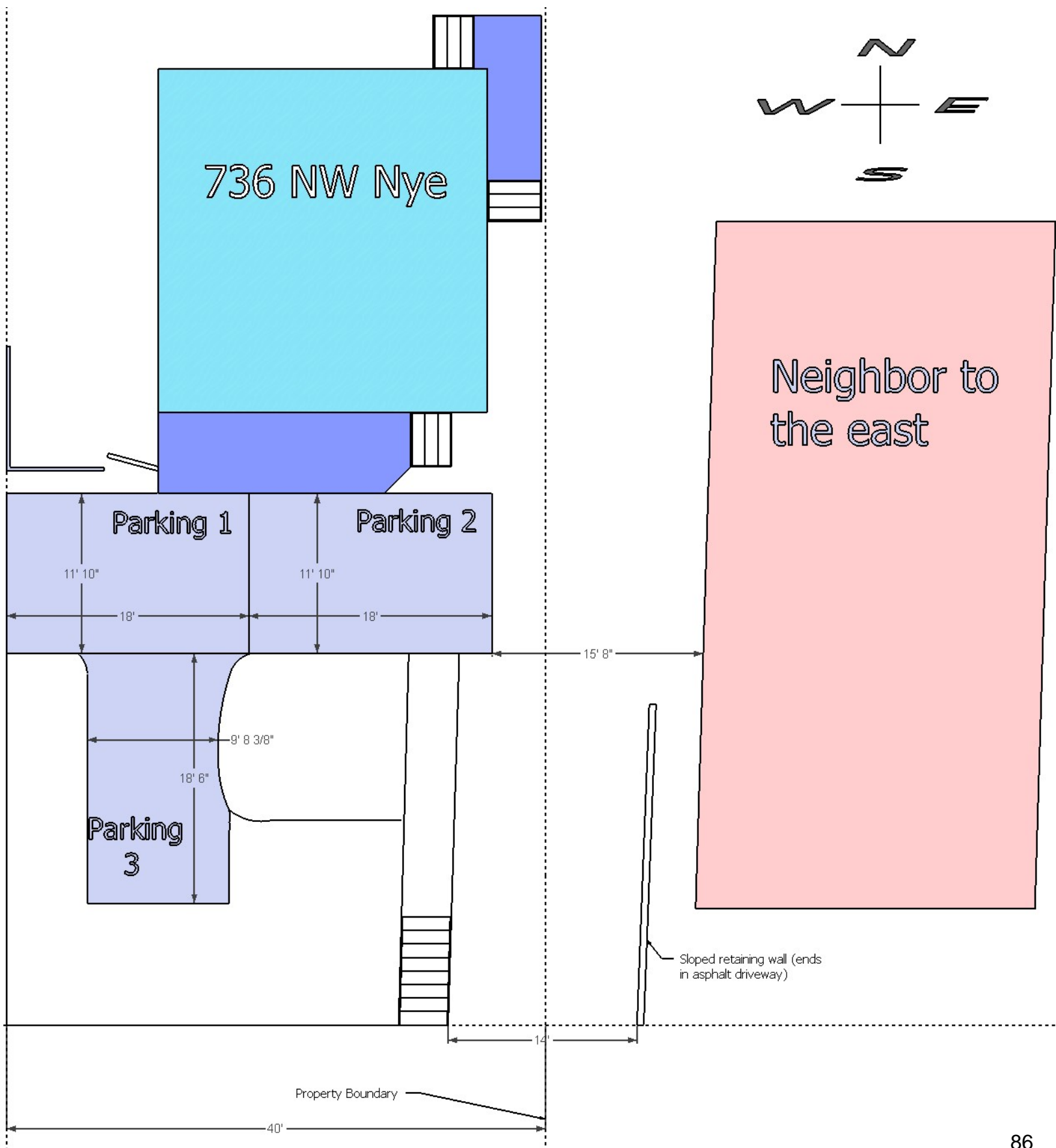








Map data ©2020 , Map data ©2020 20 ft



PLANNING STAFF MEMORANDUM
FILE No. 2-CP-18

I. Applicant: City of Newport. (Initiated pursuant to authorization of the Newport Planning Commission on March 9, 2020).

II. Request: Amend the Storm Drainage Facilities section of the Public Facilities Chapter of the Newport Comprehensive Plan to update the City's inventory of storm drainage assets, amend existing and add new policies for the provision of stormwater services, and identify future stormwater capital project needs in a manner consistent with OAR 660, Division 11. The amendments build upon, and draw from, recommendations contained in a "Stormwater Master Plan for the City of Newport," by Civil West Engineering Services, completed in October of 2016.

III. Planning Commission Review and Recommendation: The Planning Commission reviews proposed amendments to the Comprehensive Plan and provides a recommendation to the City Council. At a later date, the City Council will hold an additional public hearing prior to any decision on the amendments.

IV. Findings Required: The Newport Comprehensive Plan Chapter entitled "Administration of the Plan" (p. 288-289) allows amendments of this nature if findings can be made that there is (a) a significant change in one or more conclusions; or (b) a public need for the change; or (c) a significant change in community attitudes or priorities; or (d) a demonstrated conflict with another plan goal or policy that has a higher priority; or (e) a change in a statute or statewide agency plan. Revisions must comply with applicable Statewide Planning Goals.

V. Planning Staff Memorandum Attachments:

- Attachment "A" Draft Wastewater Facilities Element to the Newport Comprehensive Plan
- Attachment "B" Notice of public hearing
- Attachment "C" Minutes from the 2/20/20 and 3/9/20 Planning Commission meetings

A full copy of the Stormwater Master Plan, by Civil West Engineering Services, dated October 2016 is not enclosed, but can be viewed online at: <https://newportoregon.gov/dept/cdd/default.asp>.

VI. Notification: Notification for the proposed amendments included notification to the Department of Land Conservation & Development (DLCD) in accordance with the DLCD requirements on March 3, 2020. Notice of the Planning Commission hearing was also published in the Newport News-Times on May 29, 2020 (Attachment "B").

VII. Comments: No comments were received in response to the notice.

VIII. Discussion of Request: Statewide Planning Goal 11 addresses public facilities planning, and that goal is implemented in OAR Chapter 660, Division 11. The administrative rule calls for certain elements of public facilities plans to be adopted into a Comprehensive Plan, namely a list of the identified capital projects (OAR 660-011-0045). System Development Charge eligible capital projects should also be identified in the project list. The consulting firm, Civil West Engineering Services completed a

Stormwater Master Plan for the City of Newport, effective October, 2016, so it is timely for the City to update the stormwater element of the Comprehensive Plan to include the projects and recommendations contained in the Plan.

The proposed amendments update the City's inventory of stormwater facility assets; revise existing stormwater service policies; establish new stormwater service policies; and identify stormwater capital projects likely to be needed over the next 20-years. Capital projects are organized in three tiers, with Group A being a high priority, Group B being a medium priority, and Group C being a low priority. The projects are further identified by the conditions they intend to address, those being existing capacity issues (i.e. overflows), conflicts with buildings, or to accommodate future development.

Guidance is provided for how the City should prioritize project implementation. Improvements that address known capacity issues are given the highest priority. This is followed by projects that respond to chronic downstream flooding, those that eliminate public storm drain lines underneath buildings, improvements that correct age related deficiencies, and those that align with available funding or other planned projects. The amendment also summarizes funding sources for stormwater infrastructure. A stormwater utility fee is used to maintain the storm drainage system for existing users. These funds may be used directly to fund projects, or they can be used to secure revenue bonds to pay for projects. System Development Charge (SDC) fees are collected from new development, and may be used to pay for projects required to support new development. The Federal Emergency Management Agency (FEMA) Pre-Disaster and Flood Mitigation Assistance Programs may also be tapped into to fund stormwater improvements.

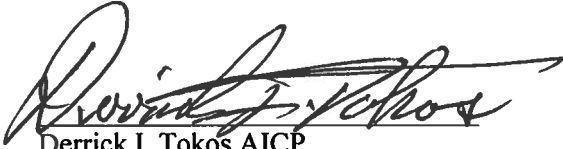
New policies have been prepared to implement existing Goal 1, to develop a storm drainage system with sufficient capacity to meet current and future needs of the Newport urbanizable area. Those policies commit the City to (a) assessing the condition of its storm drainage system every 20-years; (b) maintaining and implementing a Capital Improvement Plan (CIP) to address deficiencies in the system; (c) requiring that development projects manage storm run-off from new impervious areas to minimize downstream impacts; (d) ensuring that storm run-off attributed to new development in geologically hazardous areas is evaluated by qualified professionals; and (e) pursuing a range of financing options to achieve these stated objectives.

A new Goal 2 has been prepared that indicates the City will seek to put in place a stormwater regulatory framework that emulates Oregon Department of Environmental Quality Phase II requirements, as such requirements will eventually be mandatory. Policies implementing the goal speak to the components of the framework, including (a) establishing a consistent methodology for downstream drainage analysis required of new development; (b) developing boilerplate storm drainage management options for small scale development projects; (c) establishing pre and post development erosion control requirements; (d) encouraging use of pervious pavement, porous pavers, infiltration trenches and other methods of on-site stormwater management; and (e) establishing a set of "good housekeeping" policies for City property that limit pesticide, herbicide, and fertilizer use.

A new Goal 3 is established, emphasizing the City's desire to collaborate with local and regional partners to establish water quality standards that meet State and Federal Requirements. Policies that support this goal include the development of a mid-coast Total Daily Maximum Load (TMDL) Implementation Plan and coordination with stakeholders to detect and eliminate illicit discharges into drainageways, Yaquina Bay, and the Pacific Ocean.

IX. Conclusion and Recommendation: The Planning Commission should review the recommended amendments to the Newport Comprehensive Plan and make a recommendation to the City Council. As

this is a legislative process, the Commission may recommend changes to the amendments. If the Commission provides a favorable recommendation, then an ordinance for the Comprehensive Plan amendments will be prepared identifying that there is a public need for the change, which is one of the factors that justifies a Comprehensive Plan Amendment. Such ordinance would further include the requisite goal findings for the City Council's consideration. The Council may also make changes to the proposal prior to, or concurrent with, the adoption of an implementing ordinance.



Derrick I. Tokos AICP
Community Development Director
City of Newport

June 3, 2020

STORM DRAINAGE FACILITIES

The City of Newport (City) provides stormwater collection services for more than 10,000 people and businesses across 43 separate drainage basins. Stormwater collected from within the City is typically piped in developed areas and discharged into the nearest natural water body (i.e. local streams, the bay or sloughs, etc.) In many cases, existing storm drains have been designed and constructed with the intent to serve only specific developing areas within the City, without consideration of future improvements that might occur upstream.

The characteristics of the City's storm drainage system in areas north of the Yaquina Bay are different from what exists to the south. Areas north of the bay are more steeply sloped, with ravines and hilly areas that were excavated and filled to create level areas for development. Within these areas the storm drain system normally was large diameter pipe conveying runoff at the natural elevation and along the original alignment of whichever creek/stream or waterway that was being covered. In many cases, the cover (i.e. fill) was over 25 feet deep.

As the alignment of these systems was not dictated by lot lines, or typical planning parameters, many of these pipes currently run under existing structures. The second type of system is those that were put in place within areas that maintained a similar topography to the natural landscape. The storm drain systems in these areas are typically small diameter pipe networks that follow natural grading flow paths to the nearest hillside, or ravine draining to a nearby creek or stream.

Beginning in the 1970's, the City annexed areas south of Yaquina Bay, commonly referred to as "South Beach." This area extended approximately 5 miles South of Yaquina Bay, and as much as 2.5 miles inland. Significant portions of South Beach are undeveloped, with storm drainage following whatever path the natural ground would dictate to get to Yaquina Bay, or the Pacific Ocean. Given that this area is relatively flat, and that the natural terrain affords many areas for water storage, (wetlands) it can be difficult to model how the storm water flows through these undeveloped areas. The majority of the storm drain system within South Beach is comprised of roadside ditches, culverts along HWY. 101, a piped system which outfalls east of SW 32nd St., and pipes which convey storm runoff under the Airport.

Detailed information on the historical, functional, and environmental factors relevant to the City's stormwater system can be found in the document entitled, "Stormwater Master Plan, City of Newport, Lincoln County Oregon," by Civil West Engineering, dated October 2016 (hereinafter, the "Stormwater Master Plan").

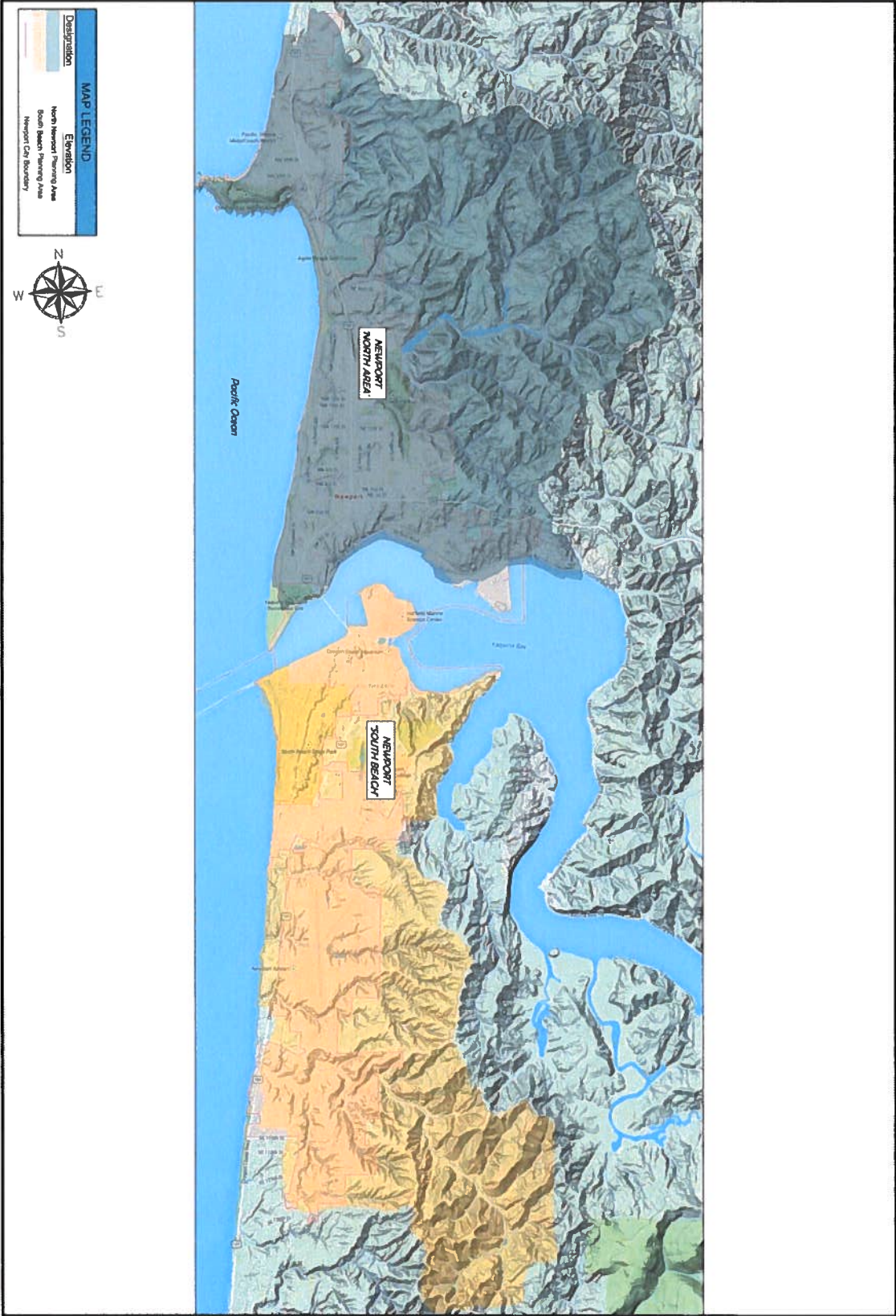
Existing Stormwater System:

The existing storm drain system within the 43 basins includes approximately 32 miles of gravity piping in a range of sizes from 6-inches to 144-inches diameter and consisting of a variety of materials including concrete, corrugated steel, polyvinyl chloride (PVC), high density polyethylene (HDPE), and others. Detailed information is provided in the Stormwater Master Plan regarding the specific amounts of the various sizes of pipe in the various basins. Systems within the basins are typically one of three types, as listed below:

1. Large diameter pipes following the elevation and alignment of natural drainage ways with significant fill above the pipe.
2. Small diameter pipes which drain straight to a nearby creeks, or streams.
3. Natural topography draining to creeks, and streams which are conveyed under HWY. 101 by means of a large culvert.

The downtown area is mixture of system types 1 and 2, while much of the far north and south are a mixture of system types 2 &3.

Study Area



Planning Period:

The timeframe for preparation of this Master Plan was 2013/2014, but due to numerous updates and review periods, the final Master Plan is dated October 2016. The planning period for this Storm Water Master Plan is 20 years. The period must be short enough for current users to benefit from system improvements, yet long enough to provide reserve capacity for future growth and increased demand. Existing residents should not pay an unfair portion for improvements sized for future growth, yet it is not economical to build improvements that will be undersized in a relatively short period of time. Thus, it is appropriate to calculate the storm water flow increase caused by development over the next 20 years, which is a typical planning period for storm water master plans. The end of the planning period is the year 2035.

Identification of Deficiencies and Development of Improvement Alternatives:

All of the existing storm drain system components were analyzed for deficiencies that exist presently. Facilities also have been evaluated for deficiencies that are expected to occur within the 20-year planning period. Deficiencies were identified related to the age of infrastructure, anticipated development, and capacity.

As part of this planning effort, calculations were made to estimate the peak stormwater flows that could be expected from each basin under existing and future development conditions. Runoff calculations for the various storm drainage basins were performed using a method developed by the Soil Conservation Service (SCS) now called the National Resources Conservation Service (NRCS) for relating rainfall to runoff. The method is described in length in Technical Release 20 (TR-20) published by the SCS. The TR-20 method is based upon unit hydrograph theory and the runoff curve number method of calculating direct runoff from the rainfall occurring over specified areas. It considers an entire watershed with a variety of land uses and soil types. The TR-20 method also allows watershed areas (basins) to be divided into sub-basins for analysis purposes, with drainage routes of one or more sub-basins running through other sub-basins downstream. This provides for the calculation of an overall peak discharge from a basin that may or may not equal the sum of the peak discharges from the individual sub-basins.

Recommended Stormwater Projects:

The table on the next page identifies a number of projects to address deficiencies within the storm drainage system over the next 20-years. Individual projects are grouped into three priority classifications. Each classification group is loosely defined as follows:

Group A: These are the highest priority projects that should be undertaken as soon as adequate funding is available. These projects should be undertaken within the next 5 years.

Group B: These projects, while not of the highest priority, should be on the City's capital improvement planning window beyond the 5-year horizon. As Group A projects are completed, Group B projects should be moved to Group A status. System degradation or failures, project coordination, or other occurrence may require the movement of Group B projects to Group A status ahead of schedule. New projects that are developed that are not critical, should be grouped in Group B until funding is available.

Group C: Group C projects are either of low priority or are dependent on development. If development in an area necessitates the implementation of a Group C improvement, the project should be moved to Group A. Some projects may remain in Group C indefinitely if the need for the project or the development requiring it never arises.

Project Rating	Project Number	Project Description	Improvement Conditions			Total Project Cost
			Overflow	Under Structures	Future Develop.	
A	1	X1 1456' of 12", and 18" SD pipe along SW 9th St.	X			\$526,162
	2	X2 571' of 18", and 24" pipe along SW 10th St.	X			\$213,816
	3	X3 1663' of 12", 24", 30", and 36" SD pipe along SW Minnie St.	X			\$793,155
	4	U4 Re-alignment of Pipe under Cash and Carry	X	X		\$2,710,875
	5	U2 739' of 54" SD pipe along NW 3RD Street & NW Coast St.	X			\$612,539
	6	T2 921' of 36" SD pipe along NW Coast St.	X			\$490,012
	7	T4 Re-alignment of Pipe under Sunwest Honda/Mazda building		X		\$1,109,013
	8	AL1 170' of 36" SD pipe crossing Hwy. 101 (Jack and Bore)	X			\$102,117
	9	N1 1200' of 12", 24", 30", and 35" SD Pipe along Hwy. 101	X			\$553,428
B	10	Q1 890' of 12", 18" , and 24" SD pipe along NW Nye St.	X			\$291,848
	11	T6 Re-alignment of Pipe under Church of the Nazarine building		X		\$598,801
	12	T5 Re-alignment of Pipe under Ford Dealership building		X		\$271,188
	13	U5 Re-alignment of Pipe under local residence	X	X		\$79,355
	14	C1 525' of 24" along NE 73rd St.	X		X	\$229,316
	15	AA1 675' of 18", and 24" SD pipe along SE Avery St.	X			\$212,022
	16	AF1 1515' of 12", 18", and 24" pipe along SW 29th and SW Brant St.			X	\$640,902
	17	F1 124' of 30" SD pipe North of NW 60th St.	X		X	\$67,398
	18	T3 665' of 12", 18", and 24" SD pipe along NW Spring St.	X			\$264,614
	19	U3 1699' of 18", and 24" pipe along SW Cliff Street	X			\$664,079
	20	U6 553' of 12", and 18" SD pipe along SW 2nd St.	X	X		\$169,797
	21	AJ1 55' of culvert crossing SE 35th St.	X			\$37,156
	22	U1 753' of 18", and 24" SD pipe along NE Douglas Street	X			\$304,978
	23	R1 675' of 12", and 18" SD pipe along NW Spring St.	X			\$227,522
	24	Y1 497' of 12" SD pipe along SW 13th St.	X			\$163,653
C	25	V1 533' of 18" and 24" SD pipe along SW Fall St.	X			\$308,322
	26	AG1 Drainage ditch development and Rehabilitation	X		X	\$1,693,568
	27	K1 270' of 12" & 18" SD pipe along NE Lucky Gap St.	X			\$102,214
	28	H1 305' of 12" and 18" SD pipe along NW 54th St.	X			\$103,677
	29	N2 240' of 18" SD pipe along NE Iler St.	X			\$86,500
	30	T1 161' of 12" SD pipe along NW Nye St.	X			\$50,766
	31	AC1 655' of Culverts crossing Yaquina Bay Blvd.			X	\$208,698
	32	AG2 1551' of 15", 18", and 24" SD pipe along SW 35th St.			X	\$459,808
Total						\$14,347,295

Project Prioritization:

When considering stormwater conveyance projects, priority should be given to the following:

1. Areas where there is an identified lack of capacity within the system to handle flows attributed to existing and future conditions.
2. Components of the storm drainage system run-off (controlled or otherwise) has repeatedly caused problems for the City and for residents.
3. Opportunities to relocate public storm drainage components from underneath existing structures.
4. Age related deficiencies that could result in structural failure of piping sections.
5. The extent to which a project aligns with available funding.
6. Coordination with other planned improvements (water, sewer, streets, etc.).

Although all of these factors were taken into account when formulating the priority of projects, three carried the most weight in the development of priorities. These three dominant influences were listed as 1 through 3, and were weighed so heavily because flooding and large pipe failures under structures will have the largest impact on public safety and welfare.

Financing:

There are a number of potential sources of funding. The City has a monthly 'Stormwater Utility' fee that is designated to pay for stormwater services, including the operation, maintenance, repair, necessary replacement, and improvement of the system. That fee is based upon the amount of impervious surface on a given property. Federal, state and local gas taxes can also be used to improve stormwater facilities when such work is in conjunction with street projects. The current fees do not have the capacity to pay for all of the capital improvements outlined above. Property owners that benefit from a potential stormwater improvement may petition for the formation of a local improvement district, whereby they would be assessed a proportional share of the project cost. The City Council may also initiate a local improvement district on its own motion.

Additionally, grant and non-grant sources of funding are potentially available, including but not limited to FEMA Pre-Disaster Mitigation Program, FEMA Flood Mitigation Assistance Program, Clean Water State Revolving Loan Fund, general obligation bonds, revenue bonds, and system development charges (SDCs). Although grant programs exist, there is no way to guarantee that grant funding will be available to fund needed projects. Revenue bonds supported by user fees and complimented by SDCs are a more reliable means of programming needed funding over a series of years.

GOALS AND POLICIES PUBLIC FACILITIES ELEMENT

Storm Water Drainage

~~Goal: To provide a storm water drainage system with sufficient capacity to meet the present and future needs of the Newport urbanizable area.~~

~~Policy 1: The city will comply with state and federal laws concerning water quality.~~

~~Policy 2: The city will use existing, natural drainage systems to the greatest extent possible.~~

Goal 1: Provide a storm water drainage system with sufficient capacity to meet the present and future needs of the Newport urbanizable area.

Policy 1: Assess the condition of the City's stormwater drainage system and identify needed capacity improvements for a 20-year planning period through periodic updates to the City's Stormwater Master Plan.

Policy 2: Maintain and implement a Capital Improvement Plan to address deficiencies in the storm drainage system.

Policy 3: Address deficiencies in storm drainage conveyance system when reconstructing existing streets.

Policy 4: Require that new development projects manage storm run-off from new impervious surfaces to minimize impacts to the downstream drainage system.

Policy 5: Provide that storm run-off attributed to new development in geologically hazardous areas is evaluated by qualified professionals to minimize impacts to the subject, or nearby properties.

Policy 6: Pursue a range of options for financing priority storm drainage improvement projects, including (a) revenue bonds that leverage utility fees; (b) general obligation bonds; (c) clean water state revolving loan funds; (d) FEMA hazard and flood mitigation grants (e) urban renewal funds; and (f) system development charges.

Goal 2: Develop a stormwater regulatory framework that emulates DEQ Phase II permitting standards, so that the City is positioned to comply with such requirements when required.

Policy 1: Amend the City's ordinances to require drainage analysis for development with new impervious surfaces that demonstrates run-off can be managed on-site, or that the downstream conveyance system has capacity for the volume and velocity of stormwater attributed to a 25-year, 24-hr storm event.

Policy 2: Develop boilerplate storm drainage management options for small scale development projects to alleviate the need for site specific hydraulic analysis.

Policy 3: Adopt pre and post development erosion control requirements.

Policy 4: Encourage the use of pervious surfaces as a method of managing storm run-off, such as porous pavement/concrete, porous pavers, retention/detention facilities, and infiltration trenches.

Policy 5: Establish a set of “good housekeeping” policies for City property and facilities that limit pesticide, herbicide, and fertilizer use, and provide such policies as best practices guidelines for private property owners.

Goal 3: Collaborate with local and regional partners to establish water quality standards that meet State and Federal requirements.

Policy 1: Support efforts to develop a mid-coast Total Daily Maximum Load (TMDL) Implementation Plan.

Policy 2: Coordinate with stakeholder groups to detect and eliminate illicit discharges into drainage ways, Yaquina Bay, and the Pacific Ocean.

NOTICE OF A PUBLIC HEARING

The City of Newport Planning Commission will hold a public hearing on Monday, June 8, 2020, at 7:00 p.m. in the City Hall Council Chambers to review and make a recommendation to the Newport City Council on a Comprehensive Plan text amendment (File No. 2-CP-18). A public hearing before the City Council will be held at a later date, and notice of that hearing will also be provided. The proposed legislative amendment is to the "Storm Drainage Facilities" section of the "Public Facilities" element of the Newport Comprehensive Plan. Amendments will replace the current "Storm Sewer Facilities" section in its entirety with the "Storm Drainage Facilities" section, and will identify a list of System Development Charge eligible capital projects in the project list. Amendments further update and amend policies including a new policy related to management of stormwater in geologically hazardous areas. The Newport Comprehensive Plan Section entitled "Administration of the Plan" (pp. 434-435) requires findings regarding the following for such amendments: A. Data, Text, Inventories or Graphics Amendment: 1) New or updated information. B. Conclusions Amendment: 1) Change or addition to the data, text, inventories, or graphics which significantly affects a conclusion that is drawn for that information. C. Goal and Policy Amendments: 1) A significant change in one or more conclusions; or 2) A public need for the change; or 3) A significant change in community attitudes or priorities; or 4) A demonstrated conflict with another plan goal or policy that has a higher priority; or 5) A change in a statute or statewide agency plan; and 6) All the Statewide Planning Goals. D. Implementation Strategies Amendments: 1) A change in one or more goal or policy; or 2) A new or better strategy that will result in better accomplishment of the goal or policy; or 3) A demonstrated ineffectiveness of the existing implementation strategy; or 4) A change in the statute or state agency plan; or 5) A fiscal reason that prohibits implementation of the strategy. Testimony and evidence must be directed toward the request above or other criteria, including criteria within the Comprehensive Plan and its implementing ordinances, which the person believes to apply to the decision. Testimony may be submitted in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. The hearing may include a report by staff, testimony from proponents, testimony from opponents, and questions and deliberation by the Planning Commission. Written testimony sent to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 5:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. Material related to the proposed amendment may be reviewed or a copy purchased at the Newport Community Development (Planning) Department (address above). Please note that this is a legislative public hearing process and changes to the proposed amendment may be recommended and made through the public hearing process and those changes may also be viewed or a copy purchased. Contact Derrick Tokos, AICP, Newport Community Development Director, (541) 574-0626, email address d.tokos@newportoregon.gov (mailing address above).

(For Publication Once on Friday, May 29, 2020)

LEGAL DEADLINES:

Wednesday Edition: 5:00pm Thursday PRIOR Friday Edition: 5:00pm Tuesday PRIOR

NOTICE TO INTERESTED PERSONS IN THE CIRCUIT COURT FOR THE STATE OF OREGON FOR THE COUNTY OF LINCOLN... A public meeting of the Budget Committee of the Yachats Rural Fire Protection District (YRFPD), Lincoln County, State of Oregon...

NOTICE OF BUDGET COMMITTEE MEETING A public meeting of the Budget Committee of the Yachats Rural Fire Protection District (YRFPD), Lincoln County, State of Oregon...

NOTICE OF A PUBLIC HEARING The City of Newport Planning Commission will hold a public hearing on Monday, June 8, 2020, at 7:00 p.m. in the City Hall Council Chambers to review and make a recommendation to the Newport City Council on a Comprehensive Plan Text amendment (File No. 2-CP-18).

legislative amendment is to the "Storm Drainage Facilities" section of the "Public Facilities" element of the Newport Comprehensive Plan. Amendments will be made to the "Storm Sewer Facilities" section in its entirety with the "Storm Drainage Facilities" section, and will identify a list of System Development Fund-eligible capital projects in the project list.

NOTICE OF A PUBLIC HEARING CITY OF NEWPORT The City of Newport Planning Commission will hold a public hearing on Monday, June 8, 2020, at 7:00 p.m. in the City Hall Council Chambers to consider File No. 2-NCU-20. The request submitted by Samer and Miyoko Abufaidi is for approval of a request per Section 14.32/Nonconforming Use - Lots and Structures of the Newport Municipal Code...

NOTICE TO INTERESTED PERSONS IN THE CIRCUIT COURT FOR THE STATE OF OREGON FOR THE COUNTY OF LINCOLN PROBATE DEPARTMENT. In the Matter of the Estate of Betty Ann Harness, Case No. 20PB0171. NOTICE IS HEREBY GIVEN that Bruce Harness has been appointed administrator.

against the estate are required to present them with vouchers attached to the administrator at PO Box 84, Tidewater, OR 97390, within four months of the date of first publication of this notice...

NOTICE OF A PUBLIC HEARING

against the estate are required to present them with vouchers attached to the administrator at PO Box 84, Tidewater, OR 97390, within four months of the date of first publication of this notice, or the claims may be barred. All persons whose rights may be affected by the proceedings may obtain additional information from the records of the court, the administrator, or the attorneys for the administrator, Brian Haggerty, OSB #80598, Milnor, Sandolis & Haggerty, P.C., PO Box 110, Newport, OR 97365, (541) 265-8888. M29 J5 J12 (73-12)

FORM LB - 1 NOTICE OF BUDGET HEARING

A public meeting of the BOARD OF COMMISSIONERS (Governing Body) will be held on June 11, 2020 (Date) at 4:00 p.m. at 1037 NW Grebe St. Seal Rock, Oregon. The purpose of this meeting is to discuss the budget for the fiscal year beginning July 1, 2020 as approved by the SEAL ROCK WATER DISTRICT Budget Committee.

Contact: Joy S King Telephone number: (541) 563-3599 E-mail: info@srwd.org

Table with 4 columns: Item, Actual Amounts 2018-19, Adopted Budget This Year 2019-20, Approved Budget Next Year 2020-21. Section: FINANCIAL SUMMARY - RESOURCES. Total of All Funds: 3,094,470 / 3,317,700 / 10,825,700.

Table with 4 columns: Name of Organizational Unit or Program, FTE for Unit or Program, Rate or Amount Imposed, Rate or Amount Approved. Section: FINANCIAL SUMMARY - REQUIREMENTS BY OBJECT CLASSIFICATION.

Table with 4 columns: Name of Organizational Unit or Program, FTE for Unit or Program, Rate or Amount Imposed, Rate or Amount Approved. Section: STATEMENT OF CHANGES IN ACTIVITIES AND SOURCES OF FINANCING*.

Table with 4 columns: Name of Organizational Unit or Program, FTE for Unit or Program, Rate or Amount Imposed, Rate or Amount Approved. Section: STATEMENT OF INDEBTEDNESS.

nonconforming use or structure will have a greater adverse impact on the neighborhood. (C) To the extent there is a rational nexus, and the City can establish that needed improvements are roughly proportional to proposed development, an alteration, expansion, or replacement of a nonconforming use or structure shall be brought into compliance with provisions of the Zoning Ordinance that relate to: (1) Surfacing of parking areas and landscaping; (2) Exterior design of structures; and (3) Outdoor displays, storage, and signage.

LEGAL DEADLINES: WEDNESDAY EDITION: 5:00pm Thursday FRIDAY EDITION: 5:00pm Tuesday

MINUTES
City of Newport Planning Commission
Work Session
Newport City Hall Conference Room A
February 24, 2020
6:00 p.m.

Planning Commissioners Present: Jim Patrick, Lee Hardy, Bob Berman, Gary East, Jim Hanselman, Mike Franklin, and Bill Branigan.

Planning Commission Citizens Advisory Committee Members Present: Braulio Escobar, and Greg Sutton.

Planning Commission Citizens Advisory Committee Members Absent: Dustin Capri (*excused*).

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

1. **Call to Order.** Chair Patrick called the Planning Commission work session to order at 6:00 p.m.
2. **Unfinished Business.**
- A. **Update on City Council Direction to Initiate Targeted Nye Beach Code Amendments.** Tokos gave an update on the direction the City Council gave on the February 18th meeting to initiate targeted Nye Beach code amendments that would restrict residential on street grade along the west side of NW Cliff Street. He reviewed a draft of the NMC Chapter 14.30 amendments that were handed out to the Commissioners.

Hanselman asked if the amendments applied to just single family residential. Tokos explained it applied all residential. Berman asked if the amendments would undo what the Commission had already worked on. Tokos reported that this change only affected Cliff Street and brought the rules back to where they were prior to the updates that happened in 2008. Hardy questioned why there was resistance towards building large homes on Cliff Street. Tokos explained that because there was a lot of money spent on the Cliff Street improvements, building large houses on that street would be inconsistent with the infrastructure that had already been put in place. Franklin asked if this would be a "taking" issue. Tokos explained the City would have to provide the required Measure 56 notice to the property owners on Cliff Street because the residential right at street grade granted to them in 2008 was being taken away. He noted that the City Council wanted the Commission to consider this modification and also ask themselves if there were more significant changes that needed to be added for Nye Beach.

3. **New Business.**
- A. **Review Updated Set of Tsunami Hazard Overlay Zone Amendments / Hazard Mitigation Plan.** Tokos reviewed his staff memorandum and he handed out a copy of an email from Meg Reed at the DLCD to the Commission. He explained that the draft copy of amendments to the Natural Features Section of the Newport Comprehensive Plan included a rationale, background, and policies for guiding development within tsunami inundation areas. Tokos reviewed the draft ordinance establishing a Tsunami Hazards Overlay Zone and explained that the overlay expressly limited certain uses in tsunami inundation areas in a manner comparable to provisions contained in ORS Chapter 455 that were removed with the passage of HB 3309 (2019). He noted that HB 4119 was likely to be approved during the Oregon Legislature's short session. This was a refinement of HB 3309 that would require certain structures in tsunami inundation areas be designed to higher standards. Tokos noted that the City would update its building codes to comply with the law if this was passed. It would not impact the proposed amendments, but would be a supplemental set of standards that would apply to certain projects.

Tokos asked for the Commissioner's comments on the document. Branigan noted that if the spelling of McLean was correct the "[sic]" should be removed. Hardy asked why the dates of events in Table 1 were deleted. Tokos explained that since it cut off in 1957, there was enough of an explanation that they didn't need to go beyond this. Hardy thought that including it would give a cleaner perspective based on what actually happened rather than the assumption that it was going to be 500 years. Tokos explained that specific events were best left in background documents. This was because the City would have to otherwise replicate documents and there wasn't enough time to go back and research everything that had happened.

Berman noted that the last sentence on page 8 had two extra hyphens that needed to be removed. He also questioned on page 9 if saying the tectonic plates were "westward-moving" was correct. He thought the words should be taken out. Patrick didn't think it should be removed because the Atlantic was in fact pushing the plates west. Branigan noted that the actual jurisdiction names needed to be adding in the last sentence of paragraph 2. He also pointed out that the first sentence in paragraph 4 of page 9 should be changed to said that the Department of Geology of Mineral Industries "has" developed Tsunami Inundation Maps. Hanselman thought that the argument on the first two sentences on page 14 of the document were wrong. He had concerns that they were referencing old science and not a net zero drift. Tokos thought this was fair and explained that there were items in the Natural Features section that needed to be updated that were separate from this project. This could be done at some point but it would be a different project and a little bit more involved to tackle.

Tokos reviewed the additions to the Natural Features Goals/Policies next. Hardy questioned why the tsunami hazard and disclosure statement for new development in hazard areas had been removed. Tokos explained that the Commission could discuss adding it back in but it would have to be run through legal review to understand what purpose it served. Berman thought that in previous Commission minutes there was general agreement that they wanted the disclosure statement included. Tokos said there needed to be legal review to decide if the document would reside in the planning file, or if it was something that was recorded for the property. A discussion ensued regarding the value of a disclosure statement, if a statement should be filed away or recorded, and how a disclosure statement would affect development. Hardy was in favor of requiring a disclosure statement. Hanselman reminded the Commission that a lot of buyers didn't know what the natural hazards were and didn't do the proper due diligence. He felt a disclosure statement would inform buyers. Tokos explained that the question the Commission should answer was where would the disclosure statements be held and referenced. Franklin didn't see how the disclosure statement would help any more than the public education that was already happening in the area through signage and news reports. Tokos explained that Goal 2 delved into the public education aspect of this. It extended the requirement to advise guests in short-term rentals to hotels. The Commission was in general agreement to go ahead with the education goal. Berman requested that the syntax be consistent in structure throughout all of the policies.

Patrick requested there be a link online to see the hazard maps. Berman asked what the maps that started on Page 27 of the document were. Tokos explained that they represented the natural features of Newport and noted that they needed to be updated. Berman asked if Chapter 14.46.020(B) was referencing the City or the Urban Growth Boundary of Newport. Tokos explained this was the City limits because they could only apply zoning inside the City.

Berman suggested that Chapter 14.46 say "the latest version" of the maps instead of specifically the 2015 maps. Tokos agreed it should be the latest version and said they would do conscious updates when there were changes in the inundation areas. Franklin asked how the "Emergency vehicle shelters and garages" prohibition in Chapter 14.46.050(A)(3) affected the current ambulance service in Nye Beach. Tokos explained this change would make the current ambulance service nonconforming, and when they went away they wouldn't be allowed to come back. Berman asked why tanks had been repeated in Prohibited Uses A and B. Tokos said the tanks supported the other uses in the same zone. This addressed situations such as when a tank was located in the inundation area but the facility was outside of the inundation area. Berman thought it was redundant. He noted that the first tank reference said "section" and the second said "sub-section". This needed to be the same wording.

Berman questioned if “adult day care” should be included in the list. Tokos thought this was the same as assisted living facilities. Berman explained that it was different. Tokos suggested a definition be added to synch up to State terminology.

Hanselman asked how many local schools had 250 children. Tokos thought the high school and middle school had this many. Hanselman suggested the number be adjusted because he didn’t want to see smaller schools left out. Tokos didn’t think numbers should be included in B.1 and B.3. He wanted it clear that this didn’t apply to the new OSU MSI education building because it was a tsunami evacuation structure. Franklin asked if a trade school would be prohibited if the numbers were taken out. Tokos explained they would unless the trade school was tailored toward water-related trades. This type of trade school would be exempt because it was considered necessary for work in the water related zones. Berman asked if 14.46.080 applied to water related zones. Tokos believed it would but would change it to make it expressly clear that it did.

Tokos asked the Commission if they were good with the scope of changes to the Tsunami Hazards Overlay Zone. The Commission was in general agreement that they were.

- B. Review Amendments to the Stormwater Facilities Element of the Comprehensive Plan.** Tokos reviewed his staff memorandum and the final draft of proposed changes to the Storm Drainage Element of the Newport Comprehensive Plan. He explained that the Statewide Planning Goal 11 addressed public facilities planning, and this goal was implemented in OAR Chapter 660, Division 11. The administrative rule called for certain elements of public facilities plans to be adopted into a Comprehensive Plan, namely a list of the identified projects (OAR 660-011-0045). System Development Charge eligible capital projects would also be identified in the project list. The current draft responded to issues raised by Commission and Advisory Committee members to make sure the projects and recommendations were appropriately added to the Comprehensive Plan. Language was also clarified and a new Policy 5 has been added under Goal 1 related to the management of stormwater in geologically hazardous areas.

Tokos reviewed the Goals and Policies section of the Public Facilities Element. He explained that regulations would need to be developed on how the City would be handling impacts to the system in an equitable manner on a project by project basis. Berman asked if Policy 5 needed to have a term that related back to the geologic hazards. Tokos thought that saying “City designated” would suffice. Patrick suggested adding LIDS to the policies. Berman didn’t like limiting Goal 2, Policy 5 to City properties and wanted to see good housekeeping policies that anyone could adhere to. He wanted the policies made available to anyone doing development. Hanselman noted that the Civil West review had omitted properties. He asked that the City request Civil West provide the findings from Oceanview Drive up to 48th Street on the west side of Hwy 101 that were relative to what the storm sewer was to those neighborhood. Tokos would look into this.

Tokos asked the Commission if it was acceptable to initial the legislative process at the next meeting. The Commission was in general agreement to do so.

- 4. Adjourn.** The meeting adjourned at 7:13 p.m.

Respectfully submitted,



Sherri Marineau,
Executive Assistant

<p>MINUTES City of Newport Planning Commission Regular Session Newport City Hall Council Chambers March 9, 2020</p>
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Planning Commissioners Present: Gary East, Lee Hardy, Bob Berman, Mike Franklin, Jim Hanselman, Bill Branigan, and Jim Patrick.

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

1. **Call to Order & Roll Call.** Chair Patrick called the meeting to order in the City Hall Council Chambers at 7:31 p.m. On roll call, Commissioners East, Hardy, Berman, Franklin, Hanselman, Branigan, and Patrick were present.

2. **Approval of Minutes.**

A. Approval of the Planning Commission Work and Regular Session Meeting Minutes of February 10, 2020 and Regular Session Meeting Minutes of February 24, 2020.

Commissioner Berman submitted minor corrections to the February 10, 2020 Work Session meeting minutes.

MOTION was made by Commissioner Berman, seconded by Commissioner Franklin to approve the Planning Commission Work and Regular Session Meeting Minutes of February 10, 2020 and Regular Session Meeting Minutes of February 24, 2020 with minor corrections. The motion carried unanimously in a voice vote.

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

4. **Action Items.**

A. **Initiate Amendments to the C-2 Zoned Areas in Nye Beach to Prohibit Residential on Street Grade on the West Side of NW Cliff Street.**

MOTION was made by Commissioner Berman, seconded by Commissioner Branigan to initiate amendments to the C-2 zoned areas in Nye Beach to prohibit residential on street grade on the west side of NW Cliff Street. The motion carried in a voice vote. Hardy was a nay.

B. **Initiate Amendments to the City Comprehensive Plan and Zoning Ordinance to Establish a Tsunami Hazards Overlay.**

MOTION was made by Commissioner Branigan, seconded by Commissioner Franklin to initiate amendments to the City Comprehensive Plan and Zoning Ordinance to establish a Tsunami Hazards Overlay. The motion carried unanimously in a voice vote.

C. **Initiate Amendments to Update the Storm Drainage Element of the Comprehensive Plan.**

MOTION was made by Commissioner Hardy, seconded by Commissioner Berman to Update the Storm Drainage Element of the Comprehensive Plan to include a disclosure that the section of Newport existing west of Highway 101, between Oceanview Drive and NW 48th Street, be added to the plan, and an explanation be given as to why it and other projects weren't included. The motion carried unanimously in a voice vote.

5. **Public Hearings.** At 7:36 p.m. Chair Patrick opened the public hearing portion of the meeting.

Chair Patrick read the statement of rights and relevance. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. Commissioner Berman and Branigan reported a site visit. Patrick called for objections to any member of the Planning Commission or the Commission as a whole hearing this matter; and none were heard.

A. **File 3-CP-18.**

Tokos reviewed the staff report and explained why the amendments were required. He the element addressed in these changes was for the distribution system. Tokos reviewed the criteria for the needed changes. He explained the policy changes firmed up the requirement that owners would have to annex into the City when they wanted to connect to the sewer system, if they owned a property adjacent to the city limits and in the urban growth boundary. The policies also confirmed that if a property in an existing development inside of the city limits was within 250 feet of a new sewer system extension, they would be required to connect to the system. There was also language added to address the City prioritizing projects that would address known conditions or capacity issues.

Patrick asked how the new State directive that allowed accessory dwelling units (ADUs) on residential lots would affect the capacity of the existing system if a significant portion of the City started using these rules. Tokos explained that he was on the Rules Advisory Committee developing the rules for extension opportunities. Jurisdictions would be able to ask for additional time before they had to put rules in place that allowed for additional density because of infrastructure deficiencies. The direction the Committee was going was that jurisdictions would have to have a deficiency in the next three years to qualify. In capitol planning that meant that jurisdictions had a deficiency right now. Tokos thought that things would happen incrementally and the City would have sufficient time to address issues. He explained how at Agate Beach, on Rocky Way near Lighthouse Drive, there was a pressure zone problem currently for the water system. This meant lots couldn't be developed in the area unless they put their own private pump station in. The City could argue that this was a deficiency and therefore not have to change the zone to allow duplexes. Tokos noted that even if there was an infrastructure deficiency, as long as there was a plan to address it in some reasonable amount of time, jurisdictions would be alright.

A discussion ensued regarding Lincoln County Sanitary and the way Lincoln County managed and inspected septic systems in the City and surrounding area.

MOTION was made by Commissioner Branigan, seconded by Commissioner Franklin to approve File 3-CP-18 and forward a favorable recommendation to the City Council as presented. The motion carried unanimously in a voice vote.

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

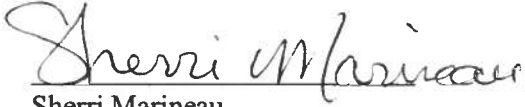
7. **Unfinished Business.** None were heard.

8. **Director Comments.** Tokos reported that the City Council approved the parking facilities changes to the Comprehensive Plan with a minor tweak to Nye Beach. The changes made it clearer that the City was not implementing meters in Nye Beach. Tokos reported that the Council hadn't put the Parking Advisory Committee in place yet because they wanted to work on its composition to make the number of members a little bigger. The Council was looking to change it from seven members to eleven. They wanted to add a couple of at large positions to allow the Council to have a little flexibility if they had difficulty filling a position. Once the Advisory Committee was determined the group would be refining the meter/timed parking/permit parking on the Bayfront and working on some changes to the zoning code to lift off street parking requirements. This would come back to the Planning Commission for review.

Tokos reported that the City Council had a memorandum of understanding with Central Lincoln PUD to sell them an easement through the reservoir for a high voltage transmission line.

9. **Adjournment.** Having no further business, the meeting adjourned at 7:53 p.m.

Respectfully submitted,



Sherri Marineau
Executive Assistant

Tentative Planning Commission Work Program (Scheduling and timing of agenda items is subject to change)



March 23, 2020 Regular Session (Cancelled – COVID-19)

- File 1-CUP-20 Hearing on Conditional Use Permit for Newport Basics (former Apollos Site)
- File 1-Z-20 Hearing on amendments related to car camping

April 13, 2020 Work Session (Cancelled – COVID-19)

- Recommendation to Council Regarding Need for Further Changes to Nye Beach Design Overlay
- Review updated draft amendments related to tiny homes and MFDs on individual lots

April 13, 2020 Regular Session (Phone mtg – hearings to be continued)

- File 1-CP-18 / 3-Z-20 Hearing on amendments to Comprehensive Plan and Zoning Ordinance to Establish a Tsunami Hazard Overlay Zone
- File 2-Z-20 Hearing on text amendments to NMC Chapter 14.30 Prohibiting Residential at Street Grade on the West-side of NW Cliff Street in Nye Beach

April 27, 2020 Work Session (Cancelled – COVID-19)

April 27, 2020 Regular Session (Cancelled – COVID-19)

May 11, 2020 Work Session (Cancelled – COVID-19)

May 11, 2020 Regular Session (Cancelled – COVID-19)

May 26, 2020 Work Session (held by video conference)

- Recommendation to Council Regarding Need for Further Changes to Nye Beach Design Overlay
- Update on HB 2001 Medium City Model Code and Rulemaking Process
- COVID-19 Small Business Assistance Grants
- Newport COVID-19 Furlough Program

May 26, 2020 Regular Session (held by video conference)

- Rescheduled Hearing for 1-CP-18 / 3-Z-20 Hearing on amendments to Comprehensive Plan and Zoning Ordinance to Establish a Tsunami Hazard Overlay Zone
- Rescheduled Hearing for File 2-Z-20 Hearing on text amendments to NMC Chapter 14.30 Prohibiting Residential at Street Grade on the West-side of NW Cliff Street in Nye Beach
- Rescheduled Hearing for File 1-CUP-20 Hearing on Conditional Use Permit for Newport Basics at the former Apollos Site (Day 75 of 120 clock)

June 8, 2020 Work Session (Cancelled)

June 8, 2020 Regular Session

- File 2-CP-18 Hearing on amendments to the Stormwater Element of the Comprehensive Plan
- File 2-NCU-20 alteration of a non-conforming short-term rental at 736 NW 3rd Street, within the permissible area overlay (Day 98 of 120 day clock)

June 22, 2020 Work Session

- Review and Comment on TGM Grant Application for Newport City Center Revitalization Project
- Discuss tentative work program for first half of FY 20-21
- COVID-19 Related Amendments to TSP Public Outreach Program and Schedule
- Report on Small Business Assistance Grant Awards

June 22, 2020 Regular Session

- Placeholder for Public Hearing on OSU Student Housing Planned Development Amendments